

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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UNITED STATES OF AMERICA,

v.

AARON MOSTOFSKY,

Defendant.

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Case No. 1:21-cr-138-JEB

**DEFENDANT MOSTOFSKY’S UNOPPOSED MOTION TO CONTINUE TRIAL**

Defendant Mostofsky, through his counsel, moves the Court to vacate the trial currently scheduled for January 24, 2021 and to grant a 60-day continuance. The government does not oppose this motion. The trial should be rescheduled for the following reasons:

- As the Court knows, the government has produced, and continues to produce, an unprecedented amount of evidence in the January 6 cases. One of the key discovery platforms, the defense “instance” of Evidence.com, has been down since the week of December 13, due to technical problems.
- One of the central charges in this case is obstruction of an official proceeding, 18 U.S.C. § 1512(c)(2). Although motions to dismiss this charge have been pending for approximately six months in the January 6 cases, only one decision has been filed. Given the ambiguity surrounding what conduct and mental state possibly constitutes an obstruction offense in this novel context, it is difficult to intelligently prepare for trial before these motions are decided. A continuance of the trial until after more of these motions are resolved will facilitate greater efficiency in the resolution of this case through trial or plea bargaining.
- Defense counsel resides in New York City which has seen a recent surge of Covid-19

cases. He was exposed last week to people who subsequently tested positive for the disease.

Counsel is vaccinated but has experienced symptoms consistent with a case of the virus. These interfere with intensive trial preparation.

- The government does not oppose a continuance.

For all these reasons, Mostofsky requests that the Court vacate the current trial date and grant a 60-day continuance.

Dated: December 20, 2021

Respectfully submitted,

/s/ David B. Smith

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*Counsel to Aaron Mostofsky*

**Certificate of Service**

I hereby certify that on the 20th day of December, 2021, I filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following CM/ECF user(s):

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And I hereby certify that I have mailed the document by United States mail, first class postage prepaid, to the following non-CM/ECF participant(s), addressed as follows: [none].

/s/ David B. Smith

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