

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

_____)	
UNITED STATES OF AMERICA,)	
)	
)	
v.)	Case No. 1:21-cr-138-JEB
)	
AARON MOSTOFSKY,)	
)	
Defendant.)	
_____)	

**DEFENDANT MOSTOFSKY’S NOTICE OF COMPREHENSIVE JANUARY 6
GOVERNMENT PLEA AGREEMENT CHART**

After briefing concluded on Defendant Mostofsky’s Motion to Dismiss Counts One, Two, Five and Six of the Superseding Indictment, a media outlet published a comprehensive spreadsheet that breaks down all of the government’s January 6 plea agreements through October 13. *100 Capitol Rioters Have Pleaded Guilty. Here’s What They Did And What They’re Facing.* BuzzFeed News, Oct. 13, 2021, <https://www.buzzfeednews.com/article/zoetillman/100-capitol-riot-guilty-pleas>.

Over 640 defendants have been charged. Of the 100 plea agreements, approximately 90 involve defendants who pled guilty to one of the following misdemeanor offenses and who did not plead guilty to a felony offense: (1) parading, demonstrating or picketing in the Capitol Building, 40 U.S.C. § 5104(e)(2)(G); (2) disorderly conduct in the Capitol Building, § 5104(e)(2)(D); or (3) entering a restricted area. 18 U.S.C. § 1752(a)(1). Mostofsky attaches to this notice an exhibit that charts every one of those misdemeanor guilty pleas by the category of offense conduct, i.e., the conduct to which the defendant stipulated in the statement of the offense attached to the plea agreement. Exh. 1.

In connection with Mostofsky’s vagueness doctrine argument that the government’s

interpretation of § 1512(c)(2) provides no notice as to when conduct that constitutes a six-month-maximum § 5104(e)(2)(G) misdemeanor offense transforms into a 20-year-maximum § 1512(c)(2) felony offense, Mostofsky would be grateful if the Court would please consider Exhibit 1 attached to this notice and the offense conduct descriptions for the 90 guilty pleas to which the government was a party.

Dated: October 13, 2021

Respectfully submitted,

/s/ David B. Smith

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Counsel to Aaron Mostofsky

Certificate of Service

I hereby certify that on the 13th day of October, 2021, I filed the foregoing notice 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):

Graciela Lindberg
Assistant United States Attorney
555 4th Street, N.W., Room 4408
Washington, D.C. 20530
(202) 252-6986

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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