

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

**UNITED STATES OF AMERICA**

**v.**

**AARON MOSTOFSKY,**

**Defendant**

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**CASE. NO. 21-CR-138-JEB**

**JOINT STATUS REPORT**

The United States, by and through its attorney, the United States Attorney for the District of Columbia, and Defendant, by and through his attorneys, (collectively, “the Parties”), respectfully submit this status report, as directed by the Court, and state as follows:

1. On February 19, 2021, Defendant was charged by way of indictment with (Count One) Civil Disorder in violation of Title 18 U.S.C. § 231(a)(3); (Count Two) Obstruction of an Official Proceeding in violation of Title 18 U.S.C. §§ 1512(c)(2), 2; (Count Three) Assaulting, Resisting or Impeding Certain Officers in violation of Title 18 U.S.C. § 111(a)(1); (Count Four) Theft of Government Property in violation of Title 18 U.S.C. § 641; (Count Five) Entering and Remaining in a Restricted Building or Grounds in violation of Title 18 U.S.C. § 1752(a)(1); (Count Six) Disorderly and Disruptive Conduct in a Restricted Building or Grounds in violation of Title 18 U.S.C. § 1752(a)(2); (Count Seven) Disorderly Conduct in a Capitol Building in violation of Title 40 U.S.C. § 5104(e)(2)(D); and (Count Eight) Parading Demonstrating, or Picketing in a Capitol Building in violation of Title 40 U.S.C. § 5104(e)(G). ECF 6. On June 25, 2021, Defendant’s indictment was superseded modifying language to Counts Two, Three, and Four where violations remain under the same statutes, 18 USC 1512(c)(2), 18 USC 111(a)(1). and 18 USC 641, respectively. See ECF 25.

2. The Defendant has been out on bond since his initial arrest on January 12, 2021. Defendant remains compliant with conditions of release.

3. December 17, 2020, the Chief Judge issued Standing Order 20-93, governing Court operations due to the COVID-19 pandemic, and excluding time under the Speedy Trial Act until March 15, 2021, except in limited cases, when the Court expected to resume operations. On March 5<sup>th</sup> and again on August 25<sup>th</sup>, 2021, as detailed in Standing Orders 21-10 and 21-47, the Chief Judge again found due to the exigent circumstances created by the COVID-19 pandemic, the time period from March 15 through October 31, 2021, would be excluded in criminal cases under the Speedy Trial Act. Defendant Mostofsky does not agree that his case “cannot be tried consistent with [the] health and safety protocols” outlined in Standing Order No. 21-47.

4. On January 25<sup>th</sup>, March 9<sup>th</sup>, March 24<sup>th</sup>, April 30<sup>th</sup>, June 11<sup>th</sup> and July 26<sup>th</sup>, 2021, the parties appeared for video status conferences in this matter, and the Court ordered the exclusion of time through August 6, 2021 from Speedy Trial calculations. On September 9, 2021, after filings from both parties including an August 16, 2021 filing by the Defendant, the Court scheduled this case for jury trial on January 24, 2022 and excluded from Speedy Trial calculations the period from September 9, 2021 through January 24, 2022, inclusive.

5. Since the last setting, the government has provided the defendant with the following discovery pursuant to protective order: (1) access to reports from U.S. Capitol Police investigations of alleged wrongdoing by Capitol Police officers on January 6, 2021; (2) requested body-worn-camera footage of specific Metropolitan Police officers; (3) the identity of specific Capitol Police officers; (4) investigative reports related to specific Capitol Police officers; (5) reports and documents regarding a Capitol Police Asset Specialist; (6) the Grand Jury witness transcript regarding Mostofsky’s superseding indictment (ECF 25); and (7) approximately 42

Metropolitan Police internal investigation reports and exhibits. The government has also provided the Federal Public Defender (FPD) for the District of Columbia access to approximately 11,176 files of U.S. Capitol Police Close Circuit Video footage and 1,676 files of Metropolitan Police body-worn-camera footage via the defense instance of evidence.com. The FPD has not yet given defense counsel access to these files and no production timeline has been provided. Discovery in this case is ongoing and parties will continue to address discovery matters.

Respectfully submitted,

CHANNING D. PHILLIPS  
Acting United States Attorney  
D.C. Bar No. 415793

/s/  
Graciela R. Lindberg  
Assistant United States Attorney  
Texas Bar No. 00797963  
11204 McPherson Road, Suite 100A  
Laredo, Texas 78045  
956-754-9350  
[graciela.lindberg@usdoj.gov](mailto:graciela.lindberg@usdoj.gov)

/s/  
David B. Smith  
Counsel to Aaron Mostofsky  
D.C. Bar No. 403068  
David B. Smith, PLLC  
108 North Alfred Street, 1<sup>st</sup> FL  
Alexandria, Virginia 22314  
(703) 548-8911 / Fax (703) 548-8935  
[dbs@davidbsmithpllc.com](mailto:dbs@davidbsmithpllc.com)

/s/  
Nicholas D. Smith  
Counsel to Aaron Mostofsky  
D.C. Bar No. 1029802  
David B. Smith, PLLC  
7 East 20<sup>th</sup> Street, Suite 4R  
New York, NY 10003  
(917) 902-3869  
[nds@davidbsmithpllc.com](mailto:nds@davidbsmithpllc.com)