

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

UNITED STATES OF AMERICA :

v.

:

1:21-cr-137

:

BRIAN GUNDERSEN

:

NOTICE OF FILING

Undersigned counsel, on behalf of Brian Gundersen, respectfully submits the
attached for filing in the docket.

Respectfully submitted,

A.J. KRAMER
FEDERAL PUBLIC DEFENDER

_____/s/_____
EUGENE OHM
Assistant Federal Public Defender
625 Indiana Ave., NW
Suite 550
Washington, DC 20004
(202) 208-7500
eugene_ohm@fd.org

FEDERAL PUBLIC DEFENDER
DISTRICT OF DISTRICT COLUMBIA

625 Indiana Ave. NW.
Washington, DC 20004
(202) 208-7528
FAX (202) 208-7515

FEDERAL PUBLIC DEFENDER
A.J. KRAMER

Appellate Counsel
Lisa Wright
Rosanna Taomina
Sandra Roland
Tony Axam

ASSISTANT FEDERAL PUBLIC DEFENDERS
CARLOS VANEGAS
DANIELLE JAHN
DAVID BOS
EUGENE OHM
MICHELLE PETERSON
TONY MILES

April 27, 2021

Kevin Birney
Assistant United States Attorney
555 Fourth St. NW
Washington D.C. 20053

Re: United States v. Brian Gundersen, 21-cr-137

Dear Mr. Birney:

I am writing you to request a Bill of Particulars as to Counts 1, 2 and 3 in the Indictment, filed March 5, 2021. A bill of particulars serves to provide a defendant with essential details of the charges against him to ensure that he is adequately “informed of the nature and cause of the accusation” under the Sixth Amendment and can be prepared to meet the charges and avoid surprise. *See Russel v. United States*, 369 U.S. 749, 763 (1962).

In Count One, you charge Mr. Gundersen with Obstruction of an Official Proceeding and Aiding and Abetting, in violation of 18 USC § 1512 (c)(2) and (2). You allege that Mr. Gundersen “corruptly” obstructed, influenced and impeded an official proceeding. Please proffer the facts from which you have charged Mr. Gundersen with an offense that requires proof of corrupt intent.

In addition, please indicate whether you have charged Mr. Gundersen as a principal offender or as an aider and abettor. If you are charging Mr. Gundersen as an aider and abettor, please indicate the individual(s) that you believe Mr. Gundersen aided and abetted and the factual basis underlying your theory that Mr. Gundersen shared the same intent as that individual.

In Counts Two and Three, you charge Mr. Gundersen with Entering and Remaining in a Restricted Building (Count Two) and Disorderly and Disruptive Conduct in a Restricted Building (Count Three) in a restricted area where the Vice President and Vice President-elect were temporarily visiting. Please indicate the nature of the violent conduct you are alleging for Mr. Gundersen. Please also indicate the times that the Vice President and Vice President-elect

were temporarily visiting and the times that you allege that Mr. Gundersen were on Capitol grounds.

I would appreciate a timely response so that I may file a Motion with the Court under Federal Rule of Criminal Procedure 7(f) if you decline to provide a Bill of Particulars.

Please let me know if you have any questions.

Best,

A handwritten signature in black ink, appearing to read 'EO', with a stylized flourish at the end.

Eugene Ohm
Attorney for Brian Gundersen
Assistant Federal Public Defender
Federal Public Defender for the
District of Columbia
625 Indiana Avenue, NW
Washington DC 20004