

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

UNITED STATES OF AMERICA :

v.

:

1:21-cr-108

:

MICHAEL FOY

:

NOTICE OF FILING

Undersigned counsel, on behalf of Michael Foy, respectfully submits the attached
for filing in the docket.

Respectfully submitted,

A.J. KRAMER
FEDERAL PUBLIC DEFENDER

_____/s/_____
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April 27, 2021

Emory Cole
Assistant United States Attorney
555 Fourth St. NW
Washington D.C. 20053

Re: United States v. Michael Foy, 21-cr-108

Dear Mr. Cole:

We are writing you to request a Bill of Particulars as to Counts 1 through 7 in the Indictment, filed February 10, 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. Foy with Civil Disorder, in violation of 18 U.S.C. 231 (a)(3). Please indicate the facts that provide the basis for this Count, specifically when the government believes the civil disorder arose, when the government believes Mr. Foy knew about the civil disorder and what acts Mr. Foy committed to obstruct, impede or interfere with officers during the civil disorder.

In Count Two, you charge Mr. Foy with Obstruction of an Official Proceeding and Aiding and Abetting, in violation of 18 USC § 1512 (c)(2) and (2). You allege that Mr. Foy “corruptly” obstructed, influenced and impeded an official proceeding. Please proffer the facts from underlying your allegation that Mr. Foy had corrupt intent. In addition, please indicate whether you have charged Mr. Foy as a principal offender or as an aider and abettor. If you are charging Mr. Foy as an aider and abettor, please indicate the individual(s) that you believe Mr. Foy aided and abetted and the factual basis underlying your theory that Mr. Foy shared the same intent as that individual.

In Count Three, you charge Mr. Foy with Assaulting, Resisting or Impeding Certain Officers and Aiding and Abetting, in violation of 18 U.S.C. 111 (a)(1) and (b). Please indicate the nature of the offense you are alleging that Mr. Foy committed (i.e. assaulting, resisting or

impeding) and the name of the officer that he allegedly assaulted. If you are charging Mr. Foy as an aider and abettor, please indicate the individual(s) that you believe Mr. Foy aided and abetted and the factual basis underlying your theory that Mr. Foy shared the same intent as that individual.

In Counts Four, Five, Six and Seven you charge Mr. Foy with Entering and Remaining in a Restricted Building (Count Four), Entering and Remaining in a Restricted Building (Count Five), Disorderly and Disruptive Conduct in a Restricted Building (Count Six) and Engaging in Physical Violence in a Restricted Building (Count Seven) 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. Foy. Please also indicate the times that the Vice President and Vice President-elect were temporarily visiting and the times that you allege that Mr. Foy were on Capitol grounds.

We would appreciate a timely response so that we 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 us know if you have any questions.

Best,

A handwritten signature in black ink, appearing to be 'Eugene Ohm', written in a cursive style.

Eugene Ohm
Elizabeth Mullin
Attorneys for Michael Foy
Assistant Federal Public Defenders
Federal Public Defender