

FILED

SEP 9 - 2022

Clerk, U.S. District and
Bankruptcy Courts

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

UNITED STATES OF AMERICA	:	Case No.: 21-cr-73 (BAH)
	:	
v.	:	18 U.S.C. § 1512(c)(2)
	:	
NICHOLAS R. OCHS,	:	
	:	
Defendant.	:	
	:	

STATEMENT OF OFFENSE

Pursuant to Fed. R. Crim. P. 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, **NICHOLAS R. OCHS**, with the concurrence of his attorney, agree and stipulate to the below factual basis for the defendant's guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

The Attack at the U.S. Capitol on January 6, 2021

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured twenty-four hours a day by U.S. Capitol Police (USCP). Restrictions around the Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the Capitol.

2. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public.

3. On January 6, 2021, a joint session of the United States Congress convened at the Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the Capitol to certify the vote count of the Electoral College of the 2020

Presidential Election, which had taken place on Tuesday, November 3, 2020. The joint session began at approximately 1:00 p.m.. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

4. As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the Capitol. Temporary and permanent barricades, as noted above, were in place around the exterior of the Capitol, and USCP officers were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

5. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades. Officers of the USCP were forced to retreat and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks as required by USCP officers or other authorized security officials.

6. At such time, the certification proceedings were still underway, and the exterior doors and windows of the Capitol were locked or otherwise secured. Members of the USCP attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the Capitol, requiring the expenditure of more than \$1.4 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 p.m., members of the House of Representatives and of the Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. on January 6, 2021. In light of the dangerous circumstances caused by the unlawful entry to the Capitol—including the danger posed by individuals who had entered the Capitol without any security screening or weapons check—Congressional proceedings could not resume until after every unauthorized occupant had been removed from or left the Capitol, and USCP confirmed that the building was secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

NICHOLAS OCHS' Participation in the January 6, 2021, Capitol Riot

8. OCHS is the founder of the Hawaii chapter of the Proud Boys.¹ As of January 6, 2021, he was also an “Elder” within the Proud Boys. Elders had a senior leadership role within the Proud Boys, with responsibilities including the approval of new chapters.

9. In January, 2021, OCHS was living in Honolulu, Hawaii. On January 4, 2021, OCHS flew from Honolulu to Washington, D.C, arriving January 5. That night, he stayed at the Fairfield Inn in Alexandria, Virginia, with Nicholas DeCarlo, who had traveled from Texas. DeCarlo and OCHS had planned to go to Washington, D.C. together because, in OCHS' words, “the president asked and said it was gonna be wild and that people should wear body cameras.”

¹ The Proud Boys describes itself as a “pro-Western fraternal organization for men who refuse to apologize for creating the modern world; aka Western Chauvinists.”

10. On the morning of January 6, 2021, DeCarlo and OCHS drove to Washington, D.C. and attended the "Stop the Steal" rally in support of President Trump. They then began marching together from the area of the rally to the Capitol with other individuals who had been attending the protest.

11. As they crossed onto Capitol Grounds and approached the Capitol Building, OCHS said, "the steal is in fact right here and we are going to stop it." DeCarlo said, "this is where they are going to steal it. And they called on us. They called on us to stop it. We are putting an end to it. They said calling all patriots. And our MVPs. Our MVP VIPs. Nick Ochs and Dick NeCarlo. Live on the scene. We're going to put the kibosh on this."

12. OCHS and DeCarlo arrived at the West Front, near scaffolding in place for the inauguration. OCHS said to DeCarlo, "we're not supposed to be here, this is beyond the fence." DeCarlo said, "we're all felons, yeah!" Flash bangs were audible. It was clear to OCHS that access was restricted to the area where he and DeCarlo were.

13. OCHS and DeCarlo began to walk through the scaffolding, and then turned back and returned to the West Front, where a line of police were attempting to keep rioters away from the inaugural stage. DeCarlo looked around, and then he threw a smoke bomb at the police line. OCHS did the same. DeCarlo told OCHS that he had neglected to "pull the pin" before throwing the bomb.

14. At approximately 2:12 p.m., DeCarlo and OCHS climbed stairs to the Upper West Terrace. At approximately 2:23 p.m., OCHS and DeCarlo entered the Capitol through the Senate Wing Doors. They walked down a hallway, through an atrium, and arrived at the Crypt of the Capitol at approximately 2:26 p.m.

15. OCHS and DeCarlo stopped in the Crypt to smoke cigarettes and take pictures of themselves doing so, which OCHS posted to social media with the caption "Hello from the Capital lol," and which were shared in an encrypted chat being used by members of the Proud Boys. DeCarlo noted that Congress had gone into lockdown. DeCarlo yelled, "Where's Nancy?" and "Where you at, Nancy?"

16. OCHS and DeCarlo then moved to the Crypt's East Lobby, which led toward the to the Capitol Visitor's Center. Crash doors in the area were closing as police attempted to cut off rioters' access to parts of the Capitol. At approximately 2:30 p.m., OCHS and DeCarlo stood next to two individuals who wedged the crash doors open with objects. OCHS and DeCarlo encouraged and recorded the individuals' effort to block the crash doors from closing.

17. Inside the Capitol, DeCarlo and OCHS also traveled through the Capitol Visitor's Center, the East Foyer, the Rotunda, and Statuary Hall. In the East Foyer, at around 2:42 p.m., OCHS and DeCarlo met up with Proud Boys Ethan Nordean, Paul Rae, and at least one other individual. The group hugged. OCHS, Nordean, and Rae headed toward the Rotunda. Nordean paused at the entrance, and OCHS patted his arm as he entered the Rotunda. Less than a minute later, DeCarlo walked from the East Foyer into the Rotunda as well.

18. In the Rotunda, OCHS and DeCarlo continued to interact with Nordean and Rae. OCHS and DeCarlo yelled "Nancy's office!" and pointed toward an exit from the Rotunda, where a crowd of rioters soon gathered. At approximately 3:00 p.m., OCHS and DeCarlo walked out of the Capitol Building through the Rotunda Doors.

19. OCHS and DeCarlo next approached the Chestnut-Gibson Memorial Door to the Capitol, between approximately 3:08pm and 3:12pm. DeCarlo wrote the words "Murder the Media" with a permanent marker on the door as OCHS held up his phone to record DeCarlo doing

so. OCHS and DeCarlo then posed for pictures in front of the Memorial Door. "Murder the Media" was the name of OCHS and DeCarlo's social media channel.

20. DeCarlo and OCHS also rummaged through a U.S. Capitol Police duffel bag by the Memorial Door. DeCarlo took a pair of flexcuffs.

21. At 3:18 p.m., in a chat among Proud Boy Elders on an encrypted messaging application, Individual-1 asked, "@Nick_Ochs you inside? Lol." At 3:19 p.m., OCHS wrote, "Yeehaw."

22. Walking away from the Capitol, with the building visible behind him, OCHS said, "sorry we couldn't go live when we stormed the fuckin' U.S. Capitol and made Congress flee." DeCarlo laughed and flashed a thumbs-up sign.

23. After leaving the Capitol on January 6, 2021, OCHS shared a video in an encrypted messaging application featuring OCHS and DeCarlo on the streets of Washington, D.C. In this video, OCHS stated, "Viewers, . . . we have some good news: . . . We have just, uh, peeked through this window, and on the television the headline reads that Congress stopped the vote when we stormed the Capitol. And, as we've been saying all day, we came here to stop the steal." DeCarlo interjected "we did it," to which OCHS replied, "we were being sarcastic, but we didn't know we were actually going to" DeCarlo then asked, "Wait, you were being sarcastic?" OCHS answered, "I was being a bit facetious," to which DeCarlo replied, "Oh no, that's what I came down here to do. We fucking did it." OCHS then said words to the effect of, "It may resume, but the steal is for now stopped. You're welcome, America!" to which DeCarlo replied "we did our job. We did our job."

Elements of the Offense

24. OCHS knowingly and voluntarily admits to all the elements of obstruction of an official proceeding, in violation of 18 U.S.C. § 1512(c)(2). Specifically, OCHS admits that he attempted to or did obstruct or impede an official proceeding, that is, a proceeding before Congress, specifically, Congress's certification of the Electoral College vote as set out in the Twelfth Amendment of the Constitution of the United States and 3 U.S.C. §§ 15-18. Second, OCHS admits that he intended to obstruct or impede the official proceeding. Third, OCHS admits that he acted knowingly, with awareness that the natural and probable effect of his conduct would be to obstruct or impede the official proceeding. Fourth, OCHS admits that he acted corruptly.

25. OCHS also admits he willfully and knowingly entered the U.S. Capitol Building knowing that that he did not have permission to do so.

Respectfully submitted,

MATTHEW M. GRAVES
United States Attorney
D.C. Bar No. 481052

By: /s/ Alexis J. Loeb
ALEXIS J. LOEB
CA Bar No. 269895
Assistant United States Attorney
Detailee
450 Golden Gate Ave., 11th Floor
San Francisco, CA 94102
(415) 436-7200
Alexis.Loeb@usdoj.gov

DEFENDANT'S ACKNOWLEDGMENT

I, Nicholas R. OCHS, have read this Statement of the Offense and have discussed it with my attorney. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

Date: 29 July, 2022



NICHOLAS R. OCHS
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of the Offense and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: July 30, 2022



EDWARD B. MACMAHON, JR.
Attorney for Defendant