

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	
	:	Case No.: 21-CR-84-PLF
CODY PAGE CARTER CONNELL & DANIEL PAGE ADAMS,	:	
	:	
Defendants.	:	

**DEFENDANTS' GUIDELINES CALCULATIONS WITH NO CONVICTION FOR
18 U.S.C. §1512(c)**

In response to the Court's Order dated January 18, 2024 (ECF No. 129), Defendants Adams and Connell argue that the proper guideline calculations if they were not convicted of 18 U.S.C. § 1512(c)(2) are as follows:

Count One: Civil Disorder, in violation of 18 U.S.C. § 231(a)(3):

U.S.S.G. § 2A2.4	Base Offense Level ¹	10
U.S.S.G. § 2A2.4(b)(1)	Involved Physical Contact	<u>+3</u>
	Total	13

Count Three: Assaulting Resisting, or Impeding Certain Officers, in violation of 18 U.S.C. § 111(a)(1)

U.S.S.G. § 2A2.4	Base Offense Level	10
U.S.S.G. § 2A2.4(b)(1)	Involved Physical Contact	<u>+3</u>
	Total	13

Count Four: Entering and Remaining in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(1):

U.S.S.G. § 2B2.3(a)	Base Offense Level	4
U.S.S.G. § 2B2.3(b)(1)(A)(vii)	Restricted Building or Grounds	<u>+2</u>
	Total	6

¹ In previous filings, the Government has asserted that the base offense level for Count One should be 14 because of a cross reference to the aggravated assault guideline in U.S.S.G. § 2A2.2. However, without a conviction under 18 U.S.C. § 1512(c)(2), there is no aggravated assault because there can be no intent to commit another felony absent the 18 U.S.C. § 1512(c)(2) conviction.

Count Five: Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(2):

U.S.S.G. § 2A2.4(a)	Base Offense Level	10
U.S.S.G. § 2A2.4(b)(1)	Involved Physical Contact	+3
	Total	13

Count Six: Disorderly and Disruptive Conduct in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(D):

The U.S. Sentencing Guidelines do not apply to Class B misdemeanors, including 40 U.S.C. §§ 5104(e)(2)(D).

Count Seven: Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(G):

The U.S. Sentencing Guidelines do not apply to Class B misdemeanors, including 40 U.S.C. §§ 5104(e)(2)(DG).

Grouping & Multiple Counts

The defense takes the position that these Counts 1, 4, and 5 are grouped under § 3D1.2(b) as they involve substantially the same harm. Count 3 is grouped with the other Counts because one of the counts embodies conduct that is treated as a specific offense characteristic in, or other adjustment to, the guideline applicable to another count under § 3D1.2(c). Therefore, the combined offense level for these offenses is 13 prior to any adjustment for acceptance of responsibility.

Application of U.S.S.G. § 4C1.1

Mr. Adams has zero criminal history points and was not engaged in a continuing criminal enterprise, he should receive a two level reduction in his offense level pursuant to U.S.S.G. § 4C1.1. Accordingly, two (2) levels should be subtracted from the Guidelines calculation.

Acceptance of Responsibility

Because Mr. Adams and Mr. Connell have clearly demonstrated acceptance of

responsibility for the offense, their offense level should be decreased by 2 levels pursuant to U.S.S.G. § 3E1.1(a).

Adams Total Guidelines Calculation

Base Offense Level	13
Zero Criminal History Points	-2
Acceptance	<u>-2</u>
Final Adjusted Offense Level	<u>9</u>

Connell Total Guidelines Calculation

Base Offense Level	13
Acceptance	<u>-2</u>
Final Adjusted Offense Level	<u>11</u>

With a Criminal History Category I, Mr. Adams' Zone B recommended sentence is 4-10 months. With a Criminal History Category II, Mr. Connell's Zone C recommended sentence is 10-16 months.

Respectfully Submitted,

/s/ Gary Proctor
GARY PROCTOR
Counsel for Mr. Adams

/s/ Ned Smock
NED SMOCK
Counsel for Mr. Connell

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of February, 2024 this was served on all parties of record via ECF and the United States Probation Office

_____/S/_____

GARY E. PROCTOR