

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

UNITED STATES OF AMERICA,

V.

ETHAN NORDEAN, et al.,

Defendants.

Case No. 1:21-cr-175-TJK

**DEFENDANT NORDEAN'S NOTICE OF COMPREHENSIVE JANUARY 6
GOVERNMENT PLEA AGREEMENT CHART**

After briefing concluded on Defendant Nordean’s Motion to Dismiss the First Superseding Indictment, a media outlet published a comprehensive database that breaks down all of the government’s January 6 plea agreements through October 13. *100 Capitol Rioters Have Pleaded Guilty. Here’s What They Did And What They’re Facing.* BuzzFeed News, Oct. 13, 2021, <https://www.buzzfeednews.com/article/zoetillman/100-capitol-riot-guilty-pleas>.

Over 640 defendants have been charged. Of the 100 plea agreements, approximately 90 involve defendants who pled guilty to one of the following misdemeanor offenses and who did not plead guilty to a felony offense: (1) parading, demonstrating or picketing in the Capitol Building, 40 U.S.C. § 5104(e)(2)(G); (2) disorderly conduct in the Capitol Building, § 5104(e)(2)(D); or (3) entering a restricted area. 18 U.S.C. § 1752(a)(1). Nordean attaches to this notice an exhibit that charts every one of those misdemeanor guilty pleas by the criterion of offense conduct, i.e., the conduct to which the defendant stipulated in the statement of the offense attached to the plea agreement. Exh. 1.

In connection with Nordean’s vagueness doctrine argument that the government’s interpretation of § 1512(c)(2) provides no notice as to when conduct that constitutes a six-month-

maximum § 5104(e)(2)(G) misdemeanor parading offense transforms into a 20-year-maximum § 1512(c)(2) felony obstruction of justice offense, Nordean would be grateful if the Court would please consider Exhibit 1 attached to this notice and the offense conduct descriptions for the 90 guilty pleas to which the government was a party. The Court will notice that many of those agreements do not contain cooperation provisions, and when they do, cooperation tends to consist of sharing mobile phone photographs with the government.

Dated: October 14, 2021

Respectfully submitted,

/s/ David B. Smith

David B. Smith, D.C. Bar No. 403068
David B. Smith, PLLC
108 North Alfred Street, 1st FL
Alexandria, Virginia 22314
(703) 548-8911 / Fax (703) 548-8935
dbs@davidbsmithpllc.com

Nicholas D. Smith, D.C. Bar No. 1029802
David B. Smith, PLLC
7 East 20th Street, Suite 4R
New York, NY 10003
(917) 902-3869
nds@davidbsmithpllc.com

Counsel to Ethan Nordean

Certificate of Service

I hereby certify that on the 14th day of October, 2021, I filed the foregoing notice with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following CM/ECF user(s):

James Nelson
Assistant United States Attorney
555 4th Street, N.W., Room 4408
Washington, D.C. 20530
(202) 252-6986

And I hereby certify that I have mailed the document by United States mail, first class postage prepaid, to the following non-CM/ECF participant(s), addressed as follows: [none].

/s/ David B. Smith

David B. Smith, VA Bar No. 25930

David B. Smith, PLLC

108 North Alfred Street, 1st FL

Alexandria, Virginia 22314

(703) 548-8911 / Fax (703) 548-8935

dbs@davidbsmithpllc.com

EXHIBIT 1

1/6 Defendant/Case No.	Plea Date	Charge	Offense conduct
Josh & Jessica Bustle, 21cr238	6/14/21	Parading in Capitol ¹	Entered Capitol Building, remained for 20 minutes. Posted on Facebook, "Pence is a traitor. We stormed the capital (sic). . . We need a revolution!"
Bryan Ivey, 21cr267	6/22/21	Parading in Capitol	Entered Capitol Building through a breached window, waving additional rioters into the building, spending 30 minutes inside.
Robert Reeder, 21cr166	6/23/21	Parading in Capitol	Entered Capitol Building twice, threw punch at police outside.
Robert Bauer, Edward Hemenway, 21cr49	6/28/21	Parading in Capitol	Entered Capitol Building, chanting "Stop the Seal!" inside.
Valerie Ehrke, 21cr97	6/30/21	Parading in Capitol	Entered Capitol Building.
Matthew Mazzocco, 21cr54	7/2/21	Parading in Capitol	Entered the Capitol Building, posted on Facebook, "The capital (sic) is ours!"
Michael Curzio, 21cr41	7/12/21	Parading in Capitol	Entered the Capitol Building, refusing to leave when ordered to do so by police.

¹ "Parading in the Capitol" refers to the misdemeanor offense in 40 U.S.C. § 5104(e)(2)(G).
 "Disorderly conduct in the Capitol" refers to the misdemeanor offense in § 5104(e)(2)(D).
 "Entering a restricted area" refers to the misdemeanor offense in 18 U.S.C. § 1752(a)(1).

Danielle Doyle, 21cr324	7/14/21	Parading in Capitol	Entered the Capitol Building by climbing through broken window, remained inside for about 30 minutes.
Donna Bissey, 21cr165	7/19/21	Parading in Capitol	Entered the Capitol Building, posting on social media, "This is the first time the U.S. Capitol has been breached since it was attacked by the British in 1814" and "I'm proud that I was a part of it! No shame."
Andrew Bennett, 21cr227	7/22/21	Parading in Capitol	Entered the Capitol Building, livestreaming the event on his Facebook page for over an hour.
Derek Jancart and Erik Rau, 21cr148, 21cr467	7/23/21	Disorderly conduct in Capitol	Jancart: (1) brought a gas mask and two-way radios to D.C.; (2) penetrated the Capitol Building all the way to the Speaker's conference room; (3) "likely destroyed evidence by deleting videos and message threats from his phone"; (4) posted on social media that he believed a revolution was coming; and (5) stated on Facebook that he "stormed the Capitol," explaining that the protesters "wanted to let the politicians know we

			can get this far anytime we want.”
Lori, Thomas Vinson, 21cr355	7/27/21	Parading in Capitol	Entered the Capitol Building, with one defendant later telling news outlet that her actions were “justified” and that she would “do this all over again.”
Jordan Stotts, 21cr272	7/28/21	Parading in Capitol	Entered the Capitol Building, remained inside for an hour, celebrating with others and taking videos with his cell phone.
Jack Griffith, 21cr204	7/29/21	Parading in Capitol	Entered the Capitol Building, taking celebratory pictures in the Crypt.
Eliel Rosa, Jenny Cudd, 21cr68	7/29/21, 10/13/21	Parading in Capitol, Entering Restricted Area	Entered the Capitol Building.
Karl Kresch, 21cr71	8/4/21	Parading in the Capitol	Entered the Capitol Building, posting on Facebook, “we the people took back our house” and “those traitors know who’s really in charge.”
John Lolos, 21cr243	8/4/21	Parading in the Capitol	Entered the Capitol Building, climbing through a broken window, texting friends, “We’re storming the Capitol now.”
Boyd Camper, 21cr325	8/5/21	Parading in the Capitol	Entered the Capitol Building, filming himself celebrating inside.

Glen Croy, 21cr162	8/9/21	Parading in the Capitol	Entered the Capitol Building. Chief Judge asked government at plea hearing how parading offense is conceptually different from its obstruction of justice claim under § 1512(c)(2).
Douglas Sweet, Cindy Fitchett, 21cr41	8/10/21	Parading in the Capitol	Entered the Capitol Building, Fitchett filming herself saying, "We are storming the Capitol. We have broken in."
Jennifer Ryan, 21cr50	8/19/21	Parading in the Capitol	Entered the Capitol Building, posting on Facebook, "storm[ing] the Capitol," chanting inside, "Fight for Trump!"
Eric Torrens, 21cr204	8/19/21	Parading in the Capitol	Entered the Capitol Building, taking celebratory pictures in the Crypt.
Mark Simon, 21cr67	8/19/21	Parading in the Capitol	Entered the Capitol Building through broken door, camera footage shows Simon saw broken glass and alarm sirens as he entered.
Rasha Abdual-Ragheb, 21cr42	8/23/21	Parading in the Capitol	Entered the Capitol Building, desiring to demonstrate against Congress.
Jonathan Sanders, 21cr384	8/26/21	Parading in the Capitol	Entered the Capitol Building, intending to protest presidential election.
Kevin, Sean Cordon, 21cr277	8/27/21	Entering restricted area, Parading in the Capitol.	Entered the Capitol Building through broken window, Kevin stating to

			reporter his purpose was “to take back our democratic republic. It’s clear that this election is stolen. . . This is just the beginning.”
Gracyn Courtright, 21cr72	8/30/21	Entering restricted area	Entered the Capitol Building, stepping over broken glass to go inside, chanting, “whose house, our house.”
David Mish, 21cr112	8/30/21	Parading in the Capitol.	Entered the Capitol Building.
Bradley Rukstales, 21cr41	8/31/21	Parading in the Capitol	Entered the Capitol Building, threw chairs at police officers, refused to leave on police orders.
Michael Orangias, 21cr265	8/31/21	Parading in the Capitol	Entered the Capitol Building, taking pictures inside.
John Wilkerson, 21cr302	8/31/21	Parading in the Capitol	Entered the Capitol Building, posting on social media, “today was a good day, we got inside the Capitol.”
Abram Markovsky, Brandon Nelson, 21cr344	9/1/21	Parading in the Capitol	Entered the Capitol Building, Marskovsky texting, “We stormed the Capitol and shut it down. Currently still inside” and “Patriots won’t go down without a fight.”
Jeremy Ryan Sorvisto, 21cr320	9/1/21	Parading in the Capitol	Entered the Capitol Building, taking pictures of himself in the Crypt.

Frank Scavo, 21cr254	9/8/21	Parading in the Capitol	Entered the Capitol Building, recording himself on video saying, “Stormed the f***ing Capitol” and “We f***ing took it back” and “Treason.”
Russell Peterson, 21cr309	9/8/21	Parading in the Capitol	Entered the Capitol Building, livestreaming the event, later posting on Facebook, “stormed the castle, broke into the chambers and smoked a blunt on the couch.”
Andrew Wrigley, 21cr42	9/8/21	Parading in the Capitol	Entered the Capitol Building, taking pictures of himself inside.
Virginia Spencer, Christopher Raphael, 21cr147	9/9/21	Parading in the Capitol	Entered the Capitol Building, into the hallway of offices belonging to the Speaker.
Jacob Hiles, 21-cr-155	9/9/21	Parading in the Capitol	Entered the Capitol Building, taking pictures showing him smoking “an unknown substance” inside.
Douglas Wrangler, Bruce Harrison, 21cr365	9/10/21	Parading in the Capitol	Entered the Capitol Building, taking pictures of themselves inside.
Brandon, Stephanie Miller, 21cr266	9/10/21	Parading in the Capitol	Entered the Capitol Building, steaming video of themselves online.
Terry Brown, 21cr41	9/10/21	Parading in the Capitol	Entered the Capitol Building, disobeyed police order to leave.

Felipe Marquez, 21cr136	9/10/21	Disorderly conduct in the Capitol	Entered the “hideaway” office of Senator Merkley, saying, “We only broke a couple windows.”
Michael Rusyn, 21cr303	9/13/21	Parading in the Capitol	Among the first to enter the Capitol through a certain door, part of a group of people who shouted, “Tell Pelosi we’re coming for that b****,” called police traitors, and shouted “Stop the steal.”
Andrew Hatley, 21cr98	9/14/21	Parading in the Capitol	Entered the Capitol Building, taking pictures with various historical statues.
Nicholas Perretta, Mitchell Vukich, 2cr539	9/15/21	Parading in the Capitol	Entered the Capitol Building, stealing paperwork they found on the floor.
Kenneth Kelly, 21cr331	9/17/21	Parading in the Capitol	Entered the Capitol Building, texting, “inside [Capitol] via breaking in windows. Tree of liberty was watered today!” and “Patriots broke in while Senate was in session.”
Nicholas Reimler, 21cr239	9/17/21	Parading in the Capitol	Entered the Capitol Building, taking pictures of himself and friends.
Tam Pham, 21cr109	9/20/21	Parading in the Capitol	Entered the Capitol Building, took a picture of himself with caption, “Trump – 2020- No More Bullshit.”
Caleb Jones, 21cr321	9/21/21	Parading in the Capitol	Entered the Capitol Building, “walking down numerous

			hallways and into the Capitol Rotunda.”
Andrew Ericson, 21cr506	9/23/21	Parading in the Capitol	Entered the Capitol Building, penetrating all the way to the Speaker’s conference room, stealing a possession of the Speaker’s.
Anthony R. Mariotto, 21cr94	9/24/21	Parading in the Capitol	Entered the Capitol Building, posting on Facebook, “This is our house” under selfie photograph.
Michael Stepakoff, 21cr96	9/24/21	Parading in the Capitol	Entered the Capitol Building, posting on social media after, “The Capitol is OUR house, not theirs.”
Tanner Sells, 21cr549	9/27/21	Parading in the Capitol	Entered the Capitol Building.
Gary Edwards, 21cr366	9/27/21	Parading in the Capitol	Entered the Capitol Building, including Senate office S140.
Zachary, Kelsey Wilson, 21cr578	9/27/21	Parading in the Capitol	Entered the Capitol Building, penetrating all the way to the Speaker’s personal office.
Jennifer Parks, Esther Schwemmer, 21cr363	9/28/21	Parading in the Capitol	Entered the Capitol Building, taking pictures inside.
Anthony Scirica, 21cr457	9/28/21	Parading in the Capitol	Entered the Capitol Building, walking down numerous hallways and into the Capitol Rotunda.
Jackson Kostolsky, 21cr197	9/28/21	Parading in the Capitol	Entered the Capitol Building.

Dawn Bancroft, Diana Santos-Smith	9/28/21	Parading in the Capitol	Entered the Capitol Building through a broken window, Bancroft filming a selfie saying, "WE WERE LOOKING FOR NANCY TO SHOOT HER IN THE FRICKIN' BRAIN BUT WE DIDN'T FIND HER."
Eduardo Gonzalez, 21cr115	9/30/21	Parading in the Capitol	Entered the Capitol, smoking marijuana inside "multiple times."
Leonard Ridge, 21cr406	10/1/21	Entering a restricted area.	Entered the Capitol Building. Ridge previously texted, "I think we are going to try to block the session of [C]ongress." Ridge later texted that he had stormed the Capitol and that "we" had broken down doors to the offices of Senator Mitch McConnell and Nancy Pelosi.
Rachael Pert, Dana Winn, 21cr139	10/4/21	Entering a restricted area.	Entered the Capitol Building, Pert later saying, "We were trying to storm them to stop the vote . . ."
Dominick Madden, 21cr55	10/5/21	Parading in the Capitol	Entered the Capitol Building.
Israel Tutrow, 21cr310	10/6/21	Parading in the Capitol	Entered the Capitol Building with a knife.
James Bonet, 21cr121	10/7/21	Entering a restricted area.	Entered the Capitol Building, posted videos on Facebook

			<p>titled “Smoking at the capital building” (sic). They depict the defendant using a controlled substance inside the Crypt of the Capitol. Another video showed the defendant saying, “We made it in the building bitches! We’re taking it back! We are taking it back!” Bonet entered the office of Senator Jeff Merkley and smoked the controlled substance there.</p>
--	--	--	--