

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 21-cr-00193-BAH
	:	
GREG RUBENACKER,	:	
	:	
Defendant.	:	

DEFENDANT’S NOTIFICATION OF INTENTION TO ENTER A PLEA

The Defendant is hereby notifying this Court that after plea negotiations with the government failed to result in an agreement, it is his intention to enter a plea of guilty to the entire indictment.

FACTUAL BACKGROUND

Defendant is charged via indictment with offenses related to crimes that occurred at the United States Capitol on January 6, 2021. Specifically, Defendant in this case is charged with engaging in acts of civil disorder, in violation of 18 U.S.C. § 231(a)(3); assaulting federal law enforcement officers, in violation of 18 U.S.C. § 111(a)(1); obstructing an official proceeding, in violation of 18 U.S.C. § 1512(c)(2); and unlawfully entering the United States Capitol building and engaging in disorderly conduct, in violation of a series of misdemeanors.

As part of a joint Motion to continue the plea hearing that the parties filed on January 24, 2022, the parties notified the Court that the government and Defendant were unable to reach an agreement and that the Defendant was now considering the possibility of entering a plea to the entire indictment. As a result, the matter was adjourned to February 11, 2022.

ARGUMENT

As Your Honor is aware, the parties had been engaged in plea negotiations. I am writing to Your Honor to provide an update as to where the parties stand in regard to a potential resolution of the case. For several months now, Mr. Rubenacker, after reviewing the information and discovery received from the government, has persisted in the fact that it was his desire to take responsibility for his actions on January 6th and enter into a plea agreement with the government. Unfortunately, after many discussions between myself and the government over the last several weeks, it has become apparent that we will not be able to an agreement.

Initially, the issue that was holding up a plea agreement was the government's position that as a condition of the plea agreement, which still had Mr. Rubenacker pleading to the top two counts contained in the indictment, counsel and Mr. Rubenacker would not be permitted to contest the government's offense-level calculation. Unfortunately, this is not something that we could agree to as it is our position that the government's calculation improperly assesses eight points to Mr. Rubenacker. It is our position that the Defendant should not lose the right to contest the addition of these eight points in his pre-sentence memorandum and the Court should be permitted to make its own determination after hearing the positions of the parties on the issue. As such, Your Honor may recall from the joint Motion to continue the plea hearing filed on January 24, 2022, that Mr. Rubenacker was contemplating entering a plea to the entire indictment.

Since the last Motion for continuance, an additional issue arose where another individual who was facing charges in connection with January 6th was permitted recently to enter a plea agreement where the government was dismissing the same top count that Mr. Rubenacker is facing. It was and remains the Defendant's position that the allegations against Mr. Rubenacker

and the other individual are very similar and as such, we asked the government to reconsider their plea offer to Mr. Rubenacker or explain why the two individuals were being treated differently. After several conversations, the government indicated that they would not be willing to reconsider their offer to Mr. Rubenacker.

I have discussed the situation at length with Mr. Rubenacker and after considering all of the preceding information and the facts of his case, he has reiterated his desire to take responsibility for any acts that he committed on January 6th and is prepared to plead guilty to the entire indictment.

Dated: Melville, New York
February 7, 2022

Very Truly Yours,

MICHAELANGELO MATERA

The Matera Law Firm
560 Broadhollow Road
Suite 202
Melville, NY 11747
mmatera@materalaw.com
(516) 741-6700

Counsel for Greg Rubenacker