

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

Case No.: 1:21-cr-00497-ABJ

ANTHONY ANTONIO,  
Defendant.

**DEFENDANT’S MOTION TO DISMISS COUNT 2:  
OBSTRUCTION OF AN OFFICIAL PROCEEDING**

Defendant, ANTHONY ANTONIO, by and through his counsel, tenders this motion to dismiss the indictment as to Count 2, obstruction of an official proceeding under 18 U.S.C. §1512(c)(2) because the Government has failed to state an essential element of the offense. Where an indictment is defective for failing to state an offense, a pretrial motion to dismiss the defective indictment is warranted and the Court must dismiss an indictment which fails to state all essential elements of the crime charged. Federal Rules of Crim. Pro. 12 (b)(3)(B)(v). As a matter of law, the Electoral College certification in the Capitol building on January 6, 2021 was not an “official proceeding” under 18 U.S.C. § 1512(c)(2) or 18 U.S.C.S. § 1515(a)(1) and thus the charge must be dismissed. A memorandum in support is being simultaneously submitted.

I ASK FOR THIS

ANTHONY ANTONIO  
By Counsel

\_\_\_\_\_/s/\_\_\_\_\_  
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**Certificate of Service**

I hereby certify that I caused a true and accurate copy of the foregoing to be served on all counsel of record via ECF on this January 23, 2023.

\_\_\_\_\_/s/\_\_\_\_\_  
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