

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

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| UNITED STATES OF AMERICA | : | |
| | : | |
| v. | : | CASE NO. 21-cr-387 (APM) |
| | : | |
| AUDREY ANN SOUTHARD-RUMSEY, | : | |
| a/k/a Audrey Ann Southard, | : | |
| | : | |
| Defendant. | : | |

**GOVERNMENT’S OPPOSITION TO DEFENDANT’S MOTION TO DISMISS
COUNT NINE**

The United States of America, by and through its attorney, United States Attorney for the District of Columbia, hereby respectfully submits this opposition to defendant Audrey Ann Southard-Rumsey’s motion to dismiss Count Nine of the Second Superseding Indictment, charging her with obstruction of an official proceeding and aiding and abetting in violation of 18 U.S.C. §§ 1512(c)(2) and 2 (ECF No. 38). Southard-Rumsey’s motion incorporates the defendant’s motion to dismiss the same charge in *United States v. Seitz*, 21-cr-279, which Judge Friedrich denied in an oral ruling. *Seitz*, Aug. 17, 2022 Hearing Tr., 21-cr-279 (DLF) at 4-9, attached as Exhibit 1. The government hereby incorporates its arguments made in response to the motion in *Seitz*, including (but not limited to) its discussion of the memo written by Bill Barr and Judge Nichols’ opinion in *United States v. Miller*, No. 21-cr-119, 2022 WL 823070 (D.D.C. Mar. 7, 2022). Gov’t. Opp. to Mot. to Dismiss Obstruction Charge, *Seitz*, 21-cr-279 (DLF), ECF No 45 (attached as Exhibit 2).

This Court also rejected similar arguments in *United States v. Caldwell*, No. 21-cr-28 (APM), 2021 WL 6062718 (D.D.C. Dec. 20, 2021). The overwhelming majority of courts in this district have as well. *See, e.g., United States v. Reffitt*, 21-cr-32 (DLF), 2022 WL 1404247 (D.D.C. May 4, 2022); *United States v. Sandlin*, 21-cr-88 (DLF), 2021 WL 5865006 (D.D.C. Dec. 10,

2021); *United States v. McCaughey et al.*, 21-cr-40 (TNM), ECF No. 388 (D.D.C. July 20, 2022); *United States v. Robertson*, 21-cr-34, 2022 WL 2438546 (D.D.C. July 5, 2022); *United States v. Williams*, 21-cr-618 (ABJ), 2022 WL 2237301 (D.D.C. June 22, 2022); *United States v. Fitzsimons*, 21-cr-158 (RC), 2022 WL 1698063 (D.D.C. May 26, 2022); *United States v. Bingert*, 21-cr-91 (RCL), 2022 WL 1659163 (D.D.C. May 25, 2022); *United States v. McHugh*, No. 21-cr-453 (JDB), 2022 WL 296304 (D.D.C. Feb. 1, 2022) and 2022 WL 1302880 (D.D.C. May 2, 2022); *United States v. Puma*, 21-cr-454 (PLF), 2022 WL 823079 (D.D.C. Mar. 19, 2022); *United States v. Grider*, 21-cr-22 (CKK), 2022 WL 392307 (D.D.C. Feb. 9, 2022); *United States v. Nordean*, 21-cr-175 (TJK), 2021 WL 6134595 (D.D.C. Dec. 28, 2021); *United States v. Montgomery*, 21-cr-46 (RDM), 2021 WL 6134591 (D.D.C. Dec. 28, 2021); *United States v. Mostofsky*, No. 21-cr-138 (JEB), 2021 WL 6049891 (D.D.C. Dec. 21, 2021). Finally, the government notes that Southard-Rumsey's motion is untimely, coming well after the October 14, 2022, deadline for pretrial motions. Order, ECF No. 36. Following its own sound reasoning in *Caldwell*, Judge Friedrich's decision in *Seitz*, and the decisions of many other judges in this district, the Court should deny the motion to dismiss.

Respectfully submitted,

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

By: /s/ Alexis J. Loeb
ALEXIS J. LOEB
Assistant United States Attorney, Detailee
CA Bar No. 269895
450 Golden Gate Ave., 11th Floor
San Francisco, CA 94102
Alexis.loeb@usdoj.gov
(415) 436-7168