

UNITED STATES DISTRICT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

-v-

WILLIAM PEPE,

Defendant.

Case No. 1:21-cr-000052 (TJK)

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

Defendant, William Pepe (“Mr. Pepe”), 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.

Date: May 11, 2021

Respectfully submitted,

/s/ John M. Pierce
John M. Pierce (*PHV* admitted)
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CERTIFICATE OF SERVICE

I hereby certify that, on May 11, 2021, the forgoing document was filed via the Court's electronic filing system, which constitutes service upon all counsel of record.

/s/ John M. Pierce
John M. Pierce