

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No.: 1:21-CR-247-TFH

BRADLEY WAYNE WEEKS,

Defendants.

MOTION FOR BILL OF PARTICULARS

Defendant, Bradley Wayne Weeks, by and through undersigned counsel and pursuant to Fed.R.Crim.P. 7(f), hereby moves this Honorable Court for its Order requiring the Government to provide Defendant with a Bill of Particulars. In support thereof, Defendant Weeks states:

1. On or about March 24, 2021, the Grand Jury returned an Indictment (Doc. 17) against Defendant Weeks charging him with Obstruction of an Official Proceeding and Aiding and Abetting, in violation of 18 U.S.C. §§1512(c)(2) and (2); Entering and Remaining in a Restricted Building or Grounds, in violation of 18 U.S.C. §1752(a)(1). (Count Two); Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. §1752 (a)(2) (Count Three); Disorderly Conduct in a Capitol Building, in violation of 40 U.S.C. §5104 (e)(2)(D) (Count Four); and Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. §5104 (e)(2)(G) (Count Five).

2. Count One tracks the statutory language of 18 U.S.C. §1512(c)(2) and alleges that Defendant corruptly obstructed, influenced and impeded a proceeding before Congress “by entering and remaining in the United States Capitol without authority, committing an act of civil disorder, and engaging in disorderly and disruptive conduct.”

3. Similarly, Count Three, charging Defendant with Disorderly and Disruptive Conduct in a Restricted Building or Grounds, tracks the statutory language of 18 U.S.C. §1752(a)(2), alleging that Defendant engaged “in disorderly and disruptive conduct.”

4. Count Four charges Defendant with Disorderly Conduct in a Capitol Building, tracking the statutory language of 40 U.S.C. §5104(e)(2)(D), and alleges that Defendant “engaged in disorderly and disruptive conduct within the United States Capitol grounds and in any Capitol building.”

5. The Indictment fails to allege any facts which describe the conduct of Mr. Weeks which could be deemed “an act of civil disorder” or to support how he engaged in “disorderly and disruptive conduct.”

WHEREFORE, Defendant Weeks respectfully requests that this Honorable Court enter its Order requiring the Government to provide him with a Bill of Particulars setting forth the conduct of Defendant which the Government contends constitutes “an act of civil disorder” and how he engaged in “disorderly and disruptive conduct.”

MEMORANDUM OF LAW

While an indictment need only allege “the essential facts constituting the offense charged, “Fed.R.Crim.P. 7(c)(1), a defendant may request additional information through a Bill of Particulars to “ensure that the charges brought against [him] are stated with enough precision to allow [him] to understand the charges, to prepare a defense, and perhaps also be protected against retrial on the same charges.” *United States v. Butler*, 822 F.2d. 1191, 1193 (D.D.C. Cir. 1987). Unlike a Rule 12 Motion, the court may look beyond the indictment to determine, in its discretion, whether to direct the government to file a Bill of Particulars. *Id.*; *see also* Fed.R.Crim.P. 7(f). “[I]f the indictment is sufficiently specific, or if the requested information is

available in some other form, then a Bill of Particulars” is generally not justified. *Butler*, 822 F.2d. at 1193. “A defendant may not use a Bill of Particulars as a discovery tool or a devise [*sic*] for allowing the defense to preview the government's theories or evidence.” *United States v. Ramirez*, 54 F.Supp.2d. 25, 29 (D.D.C. 1999). Similarly, if the deficiency can be “cured” by “discovery” then a Bill of Particulars is not warranted. *United States v. Mosquera-Murillo*, 153 F.Supp.3d. 130, 152 (D.D.C. 2015).

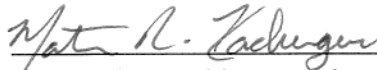
The Indictment fails to allege with any specificity the conduct engaged in by Mr. Weeks which could constitute “an act of civil disorder” or actions which could constitute “disorderly and disruptive conduct.”

Additionally, a review of discovery in this case, at least as it pertains specifically to Mr. Weeks, reveals that on January 6, 2021, Mr. Weeks accompanied by his co-defendant, Jonathan Daniel Carlton, attended then-President Trump’s “Stop the Seal” rally at the ellipse in the morning. At then-President Trump’s urging, Mr. Weeks and Carlton proceeded to walk from the ellipse to the United States Capitol. While outside the Capitol building, Mr. Weeks recorded some brief videos, including himself speaking, wherein he exclaimed such things as “This is our 1776,” and “This is where Tyranny will fall,” on the Capitol’s northwest terrace. At some point, Defendant Carlton, along with others, but not Defendant Weeks, entered the building through the Senate Wing Door at approximately 2:40 p.m. At approximately 3:00 p.m., Defendant Carlton texted Defendant Weeks that he was in the Capitol, and he had injured his leg in doing so. Defendant Weeks then entered the Capitol building through the Senate Wing Door that had previously been breached by others and was open with people freely coming and going from the building at that time. After a few minutes, Mr. Weeks found Mr. Carlton and the two men proceeded to walk through the first floor of the Capitol building, trying to exit the south door on

the first floor. Upon another individual attempting to enter the building through the south door and officers attempt to stop the entry, Mr. Carlton and Mr. Weeks were directed to go back the other way, which they did. Shortly thereafter, Mr. Carlton and Mr. Weeks exited the Senate Wing Door through which they entered at approximately 3:30 p.m. During the course of the day's events, Mr. Weeks did not: break any objects, either in his entry into the Capitol or once inside, threaten or commit an act of violence against any person, including any law enforcement officers, enter any Congressional offices or the chamber of the House of Representatives or Senate, damage any property or steal any property.

Because the Indictment does not plead facts showing how Defendant Weeks allegedly obstructed Congress, engaged in disorderly and disruptive conduct in a restricted building or grounds or engaged in disorderly conduct in a Capitol building, the Indictment does not indicate whether the criminal conduct is limited to Defendant's entry into the Capitol building, some specific act inside that building, or to conduct occurring outside the building, which is arguably protected by the First Amendment. Since the Indictment provides no notice as to what the specific conduct engaged in by Mr. Weeks violates these statutes, Mr. Weeks cannot prepare a defense, minimize surprise at trial, or avoid double jeopardy. Accordingly, the Government should provide a Bill of Particulars identifying the conduct of Mr. Weeks the Government contends was "an act of civil disorder" and "disorderly and disruptive conduct."

Respectfully submitted,

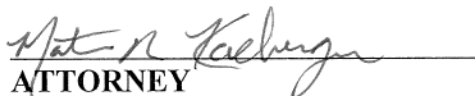


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COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 27, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

**Jamie Carter, Assistant U.S. Attorney
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