

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 21-cr-444-JEB

BRIAN CHRISTOPHER MOCK,

Defendant.

**DEFENDANT’S MOTION TO DISMISS #1:
COUNT ONE FAILS TO STATE AN OFFENSE**

Brian Mock can’t be tried for Count One because it fails to allege a violation of 18 U.S.C. § 1512(c)(2). Specifically, Count One does not allege that any obstructive conduct related to “a document, record, or other object.” *See* 18 U.S.C. § 1512(c). Since Count One fails to allege all the elements, it should be dismissed under Fed. R. Crim. P. 12(b)(3)(B)(v).

This motion is for preservation purposes only. In United States v. Fischer, 64 F.4th 329 (D.C. Cir. 2023), the Circuit Court held that a Section 1512(c)(2) violation need not allege that a defendant’s conduct involved a document, record, or object. See id. at 350. Although the Fischer appellees have filed a

petition for rehearing, the panel's holdings remain binding on this Court.

Therefore, the Court must deny this motion.

Dated at Madison, Wisconsin, this May 1, 2023.

Respectfully submitted,

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