

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 #3:
ELECTORAL COLLEGE CERTIFICATION IS NOT
AN “OFFICIAL PROCEEDING”**

Brian Mock can’t be tried under Count One because the Electoral College certification is not an “official proceeding” under Section 1512(c)(2). Therefore, since Count One fails to allege each element of the crime, it should be dismissed.

This motion is for preservation purposes only. Judges Pan and Walker agree that the Congress’s certification is an “official proceeding” within Section 1512(c)(2)’s ambit. *Fischer*, 64 F.4th at 342; and *Fischer*, 64 F.4th at 361 (Walker, J., concurring). Thus, this Court must deny this motion. Moreover, the defense acknowledges that this Court reached a similar conclusion in *United States v. Mostofsky*, 579 F.Supp.3d 9, 26 (D.D.C. 2022) (Boasberg, J.).

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

Respectfully submitted,

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