

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 #4:
SECTION 231 IS UNCONSTITUTIONALLY VAGUE**

The Court should dismiss Count Two because Section 231 violates the Due Process Clause as unconstitutionally vague. Specifically, the phrases “any act to obstruct, impede, or interfere,” and “incident to and during the commission of a civil disorder,” don’t give a person of ordinary intelligence a reasonable opportunity to separate lawful from unlawful conduct. Therefore, the Court can’t try Brian Mock under Count Two because it violates the Due Process Clause.

This motion is *not* solely for preservation purposes. However, the defense is aware that this Court, in *United States v. Dennis*, Case No. 21-CR-679 (JEB), 2022 WL 17475401 (D.D.C. Dec. 6, 2022) (Boasberg, J.), reached a

different conclusion. By this motion, the defense encourages this Court to revisit its reasoning on Section 231(a). But the defense also understands that to win this motion it may need to convince the Circuit Court of Appeals.

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

Respectfully submitted,

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