

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 #5:
COUNT TWO VIOLATES THE FIRST AMENDMENT**

The Court should dismiss Count Two because Section 231 is facially invalid under the First Amendment. It's invalid because it covers a substantial amount of constitutionally protected speech. Specifically, one can imagine a variety of speech that could interfere with a law enforcement officer's performance of the officer's duties. Voices, noises, and signs can interfere with an officer's ability to detect and prevent crime.

This motion is *not* solely for preservation purposes. Again, 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.), concluded there was no facial overbreadth problem. Again, the defense

encourages this Court to revisit its reasoning on Section 231(a). But the defense also understands that it may only get the relief it requests after a trip to the Circuit Court.

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

Respectfully submitted,

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