

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 OMNIBUS REPLY BRIEF IN FURTHER SUPPORT OF
MOTIONS TO DISMISS (DE 75-79)**

The government’s omnibus response (DE 80) fairly characterizes Brian Mock’s dispositive motions (DE 75-79). The holding in *United States v. Fischer*, 64 F.4th 329 (D.C. Cir 2023), compels the Court to deny two (DE 75 & 77) of the three motions to dismiss Count 1, a Section 1512(c)(2) charge. *Fischer* tells the Court that Count 1 properly charges the statute’s elements and that the certification was an “official proceeding.”

The remaining Count 1 dismissal motion (DE 76), along with the two Count 2 dismissal motions (DE 78-79), aren’t foreclosed by precedent. But the parties both recognize that the Court has addressed these arguments at some length in *United States v. Mostofsky* and *United States v. Dennis*. Indeed,

the *Mostofsky* memorandum order runs to over 9,000 words. Briefing from the parties here isn't likely to dislodge such considered conclusions.

More broadly, these dismissal motions contemplate success not before this Court but in the Circuit Court because the legal landscape around these charges is hardly settled. After all, *Fischer* arguably generates more confusion than it does certainty. The shifting legal sands counsel that the defense should maintain its legal challenges for the Circuit Court in case its factual challenges don't prevail at trial.

Dated at Madison, Wisconsin, this May 8, 2023.

Respectfully submitted,

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