

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA**

United States)	
)	
v.)	NO. 1:21cr140
)	
Larry Brock)	
)	
)	
<u>Defendant.</u>)	

**MOTION TO TREAT REQUEST FOR RELEASE PENDING APPEAL AS
UNCONTESTED AND SUPPLEMENT TO ORIGINAL MOTION**

Comes now the defendant Larry Brock and requests that the Court treat his previously filed motion for release pending appeal (ECF 101) as uncontested. Mr. Brock also offers supplementary information in support of his request for release pending appeal.

ARGUMENT

I. Mr. Brock’s Motion for Release Pending Appeal Should be Treated as Uncontested

On March 6, Mr. Brock reached out to the government by email to seek its agreement for release pending appeal. The government indicated on March 7 that it opposed.

On March 28 Mr. Brock filed a motion for release pending appeal. ECF 101. Under local Rule 47(b) the government was required to respond within 14 days which was April 11. The government has not responded or requested more time to respond from counsel or the Court. Under the rule, the Court may therefore “treat the motion as conceded.” Mr. Brock therefore requests the Court to grant his motion as conceded under

the local rule.

Mr. Brock's current reporting date is **April 25, 2023**.

II. The Recent Decision from the Court of Appeals Supports Mr. Brock's Request

Mr. Brock's request for release pending appeal was based in part on the pending § 1512(c) (obstruction of official proceeding) case in the Court of Appeals. The Court issued its decision on April 7. *United States v. Fischer*, 22-3038 (D.C. Cir. 2023). Although the panel reversed this Court's dismissal of the § 1512 count, one member of the panel dissented and the concurring member would have given the § 1512 *mens rea* an interpretation at odds with that applied by this Court in the January 6th cases including Mr. Brock's. The case is most likely headed for *en banc* review.

The fractured *Fischer* decision emphasizes that the continuing validity of Mr. Brock's § 1512(c) conviction remains open to debate. It adds additional support to Mr. Brock's request for relief pending appeal.

CONCLUSION

For the foregoing reasons, Mr. Brock requests that this Court grant his Motion for Release Pending Appeal.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I have served this filing on the government through the ecf system.

Respectfully Submitted,

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