

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

PAULINE BAUER,  
Defendant

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Case No. 21-cr-0386-2 (TNM)

SUPPLEMENTAL AUTHORITY IN SUPPORT OF MOTION TO DISMISS

Pauline Bauer, by her undersigned stand-by counsel, hereby submits the following supplement to bring to the Court’s attention recent authority that is relevant to the Motion to Dismiss (ECF 80) filed by stand-by counsel. Namely, Judge Nichols recently issued opinions in two separate cases dismissing charges brought under 18 U.S.C. § 1512(c)(2), the same offense filed against Ms. Bauer which is the subject of the pending motion to dismiss. *See United States v. Garret Miller*, No. 21-cr-119 (CJN) (ECF 72), 2022 WL 823070 at \*15 (D. D.C. 2022) (“§ 1512(c)(2) must be interpreted as limited by subsection (c)(1), and thus requires that the defendant have taken some action with respect to a document, record, or other object in order to corruptly obstruct, impede or influence an official proceeding”); *United States v. Fischer*, No. 21-cr-00234 (CJN) (ECF 64), 2022 WL 782413, at \*4 (D. D.C. 2022)(nothing in the Superseding Indictment “alleges, let alone implies, that Fischer took some action with respect to a document, record, or other object in order to corruptly obstruct, impede or influence Congress's certification of the electoral vote. The Court will therefore grant Fischer's Motion to Dismiss Count Three.”).<sup>1</sup>

With respect to the § 1512(c)(2) charge, the indictments in *Miller and Fischer* and in the instant case track the statutory language without including additional factual allegations.

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<sup>1</sup> Copies of both opinions are attached as Ex. 1.

The arguments found dispositive by Judge Nichols are raised in the pending Motion to Dismiss (ECF 80 at 5-10, 14) and Reply (ECF 107 at 2-3, 8-16). To the extent the arguments set out in the Motion and Reply omit the full statutory analysis set out in Judge Nichol's thorough and erudite analysis, Ms. Bauer respectfully adopts and incorporates by reference the complete statutory analysis set out in the *Miller* and *Fischer* opinions.

Respectfully submitted,

/s/ Carmen D. Hernandez

**Carmen D. Hernandez**

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#### **CERTIFICATE OF SERVICE**

I hereby certify that the Notice of Appeal was served this 25<sup>th</sup> day of March, 2022 via ECF on all counsel of record and a by email to Pauline Bauer.

/s/ Carmen D. Hernandez

**Carmen D. Hernandez**