

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

UNITED STATES OF AMERICA

v.

MICHAEL LEE ROCHE,

Defendant.

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Case No.: 22-cr-86 (BAH)

JOINT PROPOSED PROCEDURES FOR STIPULATED TRIAL

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, Michael Lee Roche, with the concurrence of his attorney, hereby responds to the Court's January 24, 2023 Minute Order directing the parties to submit joint proposed procedures in advance of the Stipulated Trial to take place in this matter on March 10, 2023.

A. Procedure for Stipulated Trial.

a. The parties agree that the Court should adopt the following procedures from Fed. R. Crim. P. 11 before proceeding with the stipulated trial:

i. Court places defendant under oath, addresses the defendant personally to ensure the defendant is competent, and ensures the defendant's decision to resolve this case by stipulated trial is voluntary and did not result from force, threats, or promises. This includes ensuring the defendant has had enough time to confer with his attorney about the charges against him and the rights he is giving up by proceeding with a stipulated trial. This also includes asking if the defendant is satisfied with the services of defense counsel.

ii. Court addresses the defendant personally to ensure the defendant understands the jury trial rights he is giving up by proceeding with the stipulated trial.

b. The parties agree that the Court should advise the defendant of his appellate rights following the stipulated trial, including the right to appeal any adverse decision made by the Court in this case.

c. After the defendant acknowledges the jury trial rights he is waiving and is advised of his appellate rights, the Court reviews the Joint Statement of Stipulated Facts.

i. Court addresses the defendant personally to ensure the defendant has discussed the Joint Statement of Stipulated Facts with his attorney and to ensure the defendant fully understands the Joint Statement of Stipulated Facts and agrees that the facts set out in the Joint Statement of Stipulated Facts are true and accurate.

ii. Defendant acknowledges that the Court's acceptance of the Joint Statement of Stipulated Facts will result in a finding of guilt against the defendant on all charges in the Indictment.

d. Court addresses the defendant personally to ensure the defendant understands that a guilty verdict may result in the defendant being deprived of certain valuable civil rights.

e. Government counsel reviews elements of the offense of each charge in the Indictment, which it would have to prove beyond a reasonable doubt.

f. Court reviews the statutory penalties that the defendant faces on each count in the Indictment, including the potential to pay a fine and restitution.

g. Government counsel moves to admit exhibits into evidence.

h. Court reviews Joint Statement of Stipulated Facts with the defendant. Court addresses the defendant personally, asking if he agrees that the government is able to meet its burden of proving beyond a reasonable doubt each of the charges against the defendant.

i. Court's finding as to whether the defendant is guilty of the charges in the Indictment.

B. Written Statement Setting Forth the Terms, with Potential Penalties, of any Plea Offer Made to the Defendant, Pursuant to Fed. R. Crim. P. 11, and the Date Such Offer was Made and Lapsed.

On August 6, 2021, the government sent a letter to then-counsel for defendant Roche, Mariah Wooten, Esq., detailing a proposed plea whereby the defendant would plead guilty to Count I of an Information, charging Obstruction of an Official Proceeding in violation of 18 U.S.C. § 1512(c)(2).

This letter advised the defendant that a violation of 18 U.S.C. § 1512(c)(2) carries a maximum sentence of 20 years of imprisonment; a fine of \$250,000 or twice the pecuniary gain or loss of the offense, pursuant to 18 U.S.C. § 3571(b)(3); a term of supervised release of not more than 3 years, pursuant to 18 U.S.C. § 3583(b)(2); and an obligation to pay any applicable interest or penalties on fines and restitution not timely made. The letter also noted a \$100 special assessment per felony would be mandatory under law, and that, pursuant to 18 U.S.C. § 3572 and § 5E1.2 of the United States Sentencing Commission, Guidelines Manual, the Court could also impose a fine that is sufficient to pay the federal government the costs of any imprisonment, term of supervised release, and period of probation. The government preliminarily estimated that the defendant would face a Sentencing Guidelines range of 15 months to 21 months' imprisonment, and a fine of \$4,000 to \$40,000. The defendant would have been required to agree to pay restitution in the amount of \$2,000.

The defendant's proposed offer expired initially on September 10, 2021, but the government re-sent the plea paperwork to the defendant's new counsel on January 8, 2023 to

reopen discussion of a potential plea. Defense counsel subsequently confirmed that the defendant did not wish to enter such an agreement.

Respectfully submitted,

MATTHEW M. GRAVES
United States Attorney
D.C. Bar No. 481052

By: *s/ Christopher D. Amore*
CHRISTOPHER D. AMORE
Assistant United States Attorney
Capitol Siege Detailee
New York Bar No. 5023883
United States Attorney's Office
District of Columbia
601 D Street, NW 20001
Christopher.Amore@usdoj.gov