

FILED

MAR 10 2023

Clerk, U.S. District and
Bankruptcy Courts

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No.: 22-cr-86 (BAH)
	:	
MICHAEL LEE ROCHE,	:	
	:	
Defendant.	:	

STATEMENT OF FACTS 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 submit the Elements and Statement of Facts for a Stipulated Trial in this action.

I. Elements

A. Count One: Obstruction of an Official Proceeding.

The essential elements of the offense of obstruction of an official proceeding, in violation of 18 U.S.C. § 1512(c)(2), each of which the government must prove beyond a reasonable doubt, are as follows:

1. The defendant attempted to or did obstruct or impede an official proceeding;
2. The defendant intended to obstruct or impede the official proceeding;
3. The defendant acted knowingly, with awareness that the natural and probable effect of his conduct would be to obstruct or impede the official proceeding; and
4. The defendant acted corruptly.

B. Count Two: Entering and Remaining in a Restricted Building or Grounds.

The essential elements of the offense of entering and remaining in a restricted building or grounds, in violation of 18 U.S.C. § 1752(a)(1), each of which the government must prove beyond a reasonable doubt, are as follows:

1. The defendant entered or remained in a restricted building or grounds without lawful authority to do so; and,
2. That the defendant did so knowingly.

C. Count Three: Disorderly and Disruptive Conduct in a Restricted Building or Grounds.

The essential elements of the offense of disorderly and disruptive conduct in a restricted building or grounds, in violation of 18 U.S.C. § 1752(a)(2), each of which the government must prove beyond a reasonable doubt, are as follows:

1. That the defendant engaged in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds;
2. That such conduct occurred when, or so that, such conduct, in fact, impeded or disrupted the orderly conduct of Government business or official functions; and
3. That the defendant did so knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions.

D. Count Four: Entering and Remaining on the Floor of Congress.

The essential elements of the offense of entering and remaining on the floor of Congress, in violation of 40 U.S.C. § 5104(e)(2)(A), each of which the government must prove beyond a reasonable doubt, are as follows:

1. That the defendant entered or remained on the floor of either House of Congress without authorization; and
2. The defendant acted willfully and knowingly.

E. Count Five: Disorderly Conduct in a Capitol Building or Grounds.

The essential elements of the offense of entering and remaining on the floor of Congress, in violation of 40 U.S.C. § 5104(e)(2)(D), each of which the government must prove beyond a reasonable doubt, are as follows:

1. The defendant engaged in disorderly or disruptive conduct in any of the United States Capitol Buildings;
2. The defendant did so with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress; and
3. The defendant acted willfully and knowingly.

F. Count Six: Parading, Demonstrating, or Picketing in a Capitol Building.

The essential elements of the offense of parading, demonstrating, or picketing in a Capitol building, in violation of 40 U.S.C. § 5104(e)(2)(G), each of which the government must prove beyond a reasonable doubt, are as follows:

1. The defendant paraded, demonstrated, or picketed in any of the United States Capitol Buildings; and
2. The defendant acted willfully and knowingly.

II. Statement of Offense.

A. The Attack at the U.S. Capitol on January 6, 2021.

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured twenty-four hours a day by U.S. Capitol Police (“USCP”). Restrictions around the Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the Capitol.

2. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public.

3. On January 6, 2021, a joint session of the United States Congress convened at the Capitol. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in the Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on Tuesday, November 3, 2020. The joint session is set out in the Twelfth Amendment of the Constitution of the United States at 3 U.S.C. §§ 15-18 and requires a deliberate and legally prescribed assessment of ballots, lists, certificates, and, potentially, written objections. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

4. As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the Capitol. Temporary and permanent barricades, as noted above, were in place around the exterior of the Capitol, and USCP officers were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

5. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades. Officers of the USCP were forced to retreat and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks as required by USCP officers or other authorized security officials.

6. At such time, the certification proceedings were still underway, and the exterior doors and windows of the Capitol were locked or otherwise secured. Members of the USCP

attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the Capitol, requiring the expenditure of more than \$2.7 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 p.m., members of the House of Representatives and of the Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. on January 6, 2021. In light of the dangerous circumstances caused by the unlawful entry to the Capitol—including the danger posed by individuals who had entered the Capitol without any security screening or weapons check—Congressional proceedings could not resume until after every unauthorized occupant had been removed from or left the Capitol, and USCP confirmed that the building was secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

B. Defendant Michael Lee Roche's Participation in the January 6, 2021, Capitol Riot.

8. In January 2021, the defendant, Michael Lee Roche, lived in Murfreesboro, Tennessee.

9. On January 6, 2021, he was in Washington, D.C., to attend the rally for then-President Donald Trump and to protest the certification of the Electoral College vote for the 2020 Presidential Election. He was wearing a dark jacket with gray sleeves, yellow-tinted glasses, and a red wool cap with the word “Trump” in white letters and a “45” on the front.

10. At approximately 2:42 p.m., a crowd that had amassed outside the Senate Parliamentarian Door (a/k/a the Senate Fire Door) successfully breached open the door allowing rioters to pour into the Capitol. Three minutes later, at approximately 2:45 p.m., Roche entered the Capitol with a crowd of rioters through the Senate Fire Door. *See Ex. 1 at 2:48.*



Ex. 1.1



Ex. 1.2

11. Roche paraded through the Capitol for approximately 15 minutes and made his way to the vicinity of the North Door Appointment Desk by approximately 2:58 p.m. The crowd, of which Roche was a part, was chanting and raising their fists in the air. Initially there were three officers attempting to stop the crowd from moving any further into the Capitol. Then, at least three more officers responded and attempted to contain the crowd. Two of the officers were wearing riot gear. Another two attempted to direct two rioters down a hallway. Those two rioters resisted, and a brief confrontation ensued between the rioters and the officers. *See* Ex. 2 at 0:26. At one point after the confrontation, Roche raised his hand in the air and pointed down one of hallways the officers were blocking. *See* Ex. 2 at 1:28.



Ex. 2.1



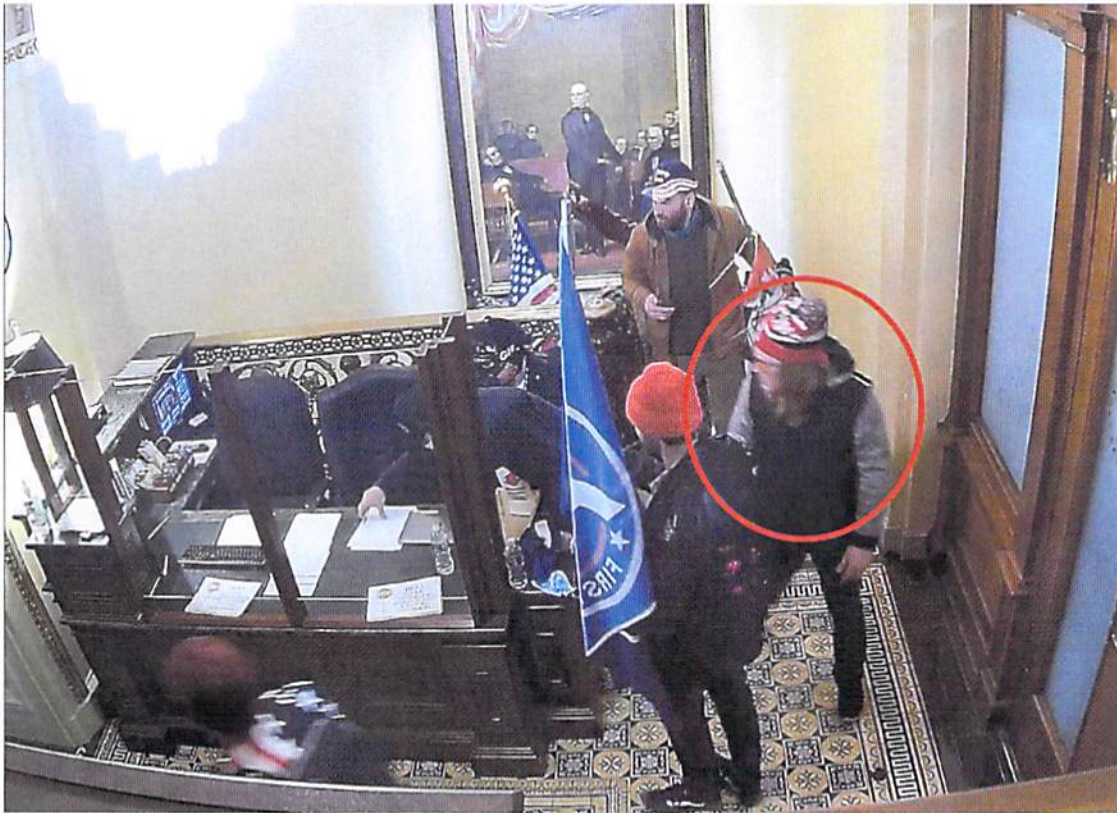
Ex. 2.2



Ex. 2.3

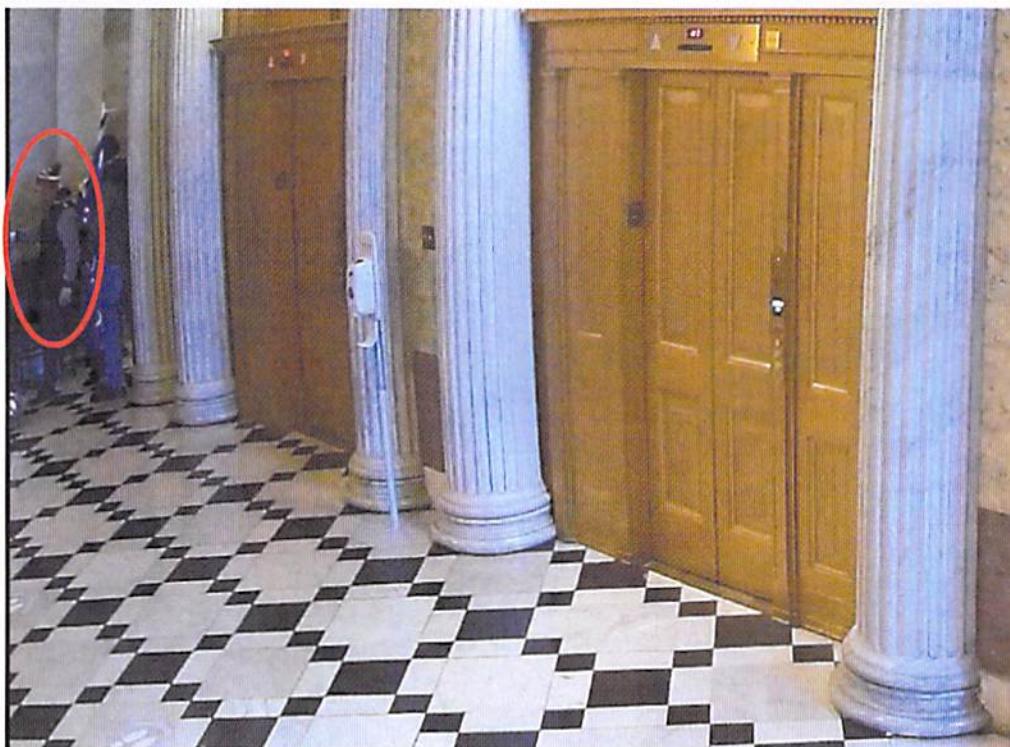
12. After a couple of minutes of shouting between the rioters and the officers, the crowd, including Roche, slowly moved closer to the officers, causing the officers to step back. By approximately 3:01 p.m., the crowd, including Roche, overwhelmed the officers and pushed further down the hallway. *See Ex. 2 at 3:19.*

13. Roche continued through the Capitol, climbing the steps near Senate Office S214 at approximately 3:02 p.m. *See Ex. 3.* As he climbed the steps, he observed others shuffling through papers on a desk near Senate Office S214. *See Ex. 3 at 0:29.*



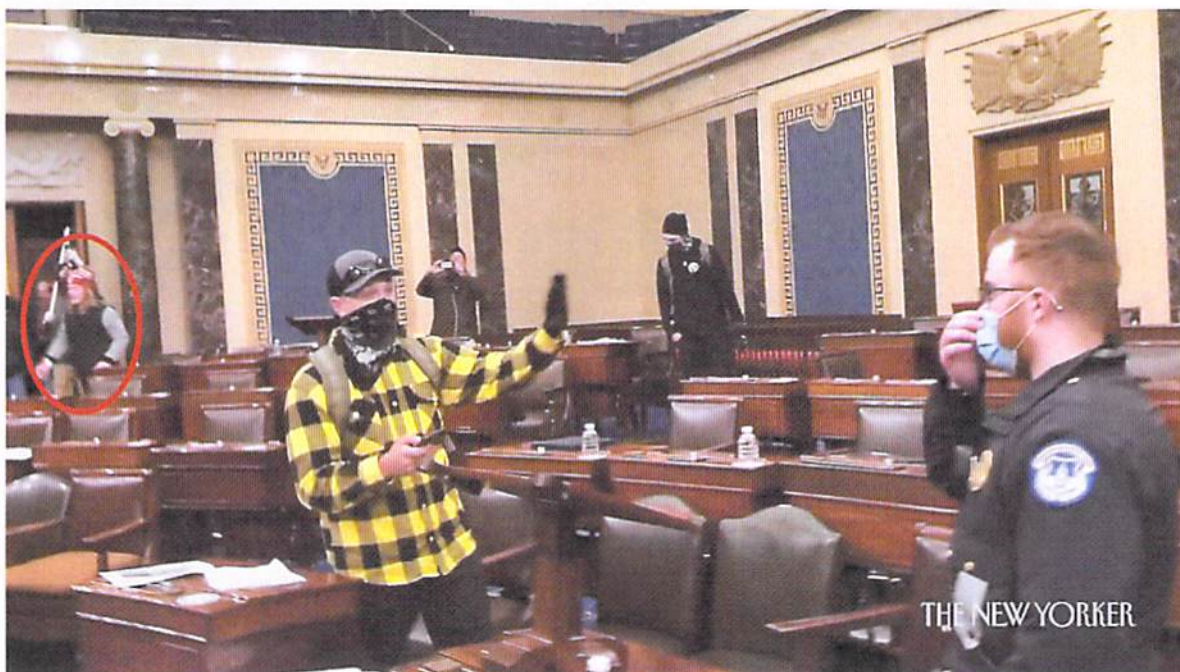
Ex. 3.1

14. Roche then proceeded past the Senate Door Elevators towards the Senate Floor. *See Ex. 4 at 1:52.*



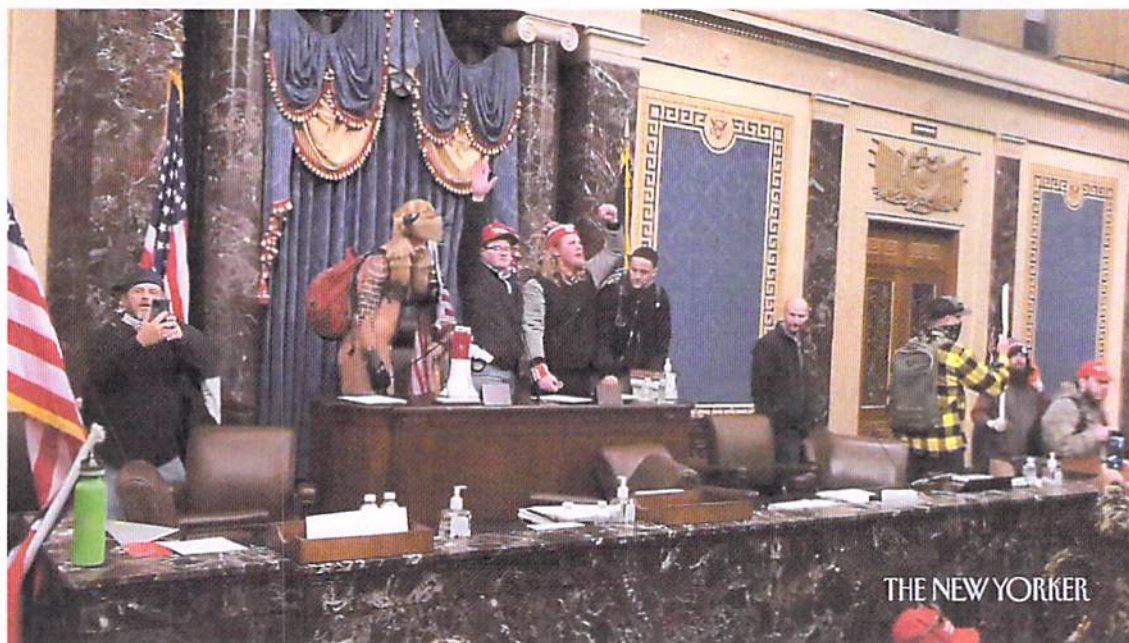
Ex. 4.1

15. At approximately 3:03 p.m., Roche entered the Senate Floor. *See* Ex. 5 at 0:22, Ex. 6 at 0:44. When he walked in, Jacob Chansley (a/k/a the “QAnon Shaman”) was already standing behind the Vice President’s desk, wearing a fur head covering with horns, and holding an American flag and a bullhorn. As soon as Roche entered the Senate Floor, he walked directly behind the Vice President’s desk and stood next to Chansley. *See* Ex. 6 at 0:44. Rioters followed and joined Roche behind the Vice President’s desk. While Roche was behind the Vice President’s desk, rioters on the Senate Floor used their cell phone to take photos and videos and searched through papers on and in various senators’ desks. *See* Ex. 6 at 0:50-1:30.



Ex. 5.1

16. At approximately 3:04 p.m., Roche began shouting and raising his arms in the air. See Ex. 6 at 1:45. His shouting lasted approximately 30 seconds. The end of his shouting can be heard in exhibit 5. He shouted, “Jesus Christ, we invoke your name! Amen!” Ex. 5 at 0:25. Chansley then used a bullhorn to shout to the rioters, giving thanks for the opportunity “to allow us to send a message to all the tyrants, the communists, and the globalists, that this is our nation, not theirs, that we will not allow America, the American way of the United States of America to go down.” Ex. 5 at 0:30-1:50. Chansley went on to say “[t]hank you for allowing the United States of America to be reborn. Thank you for allowing us to get rid of the communists, the globalists, and the traitors within our government.” *Id.* As Chansley was shouting in the bullhorn, Roche bowed his head, raised his arms at times in acknowledgment, and when Chansley was finished, Roche shouted, “Amen!” See *id.*



Ex. 5.2



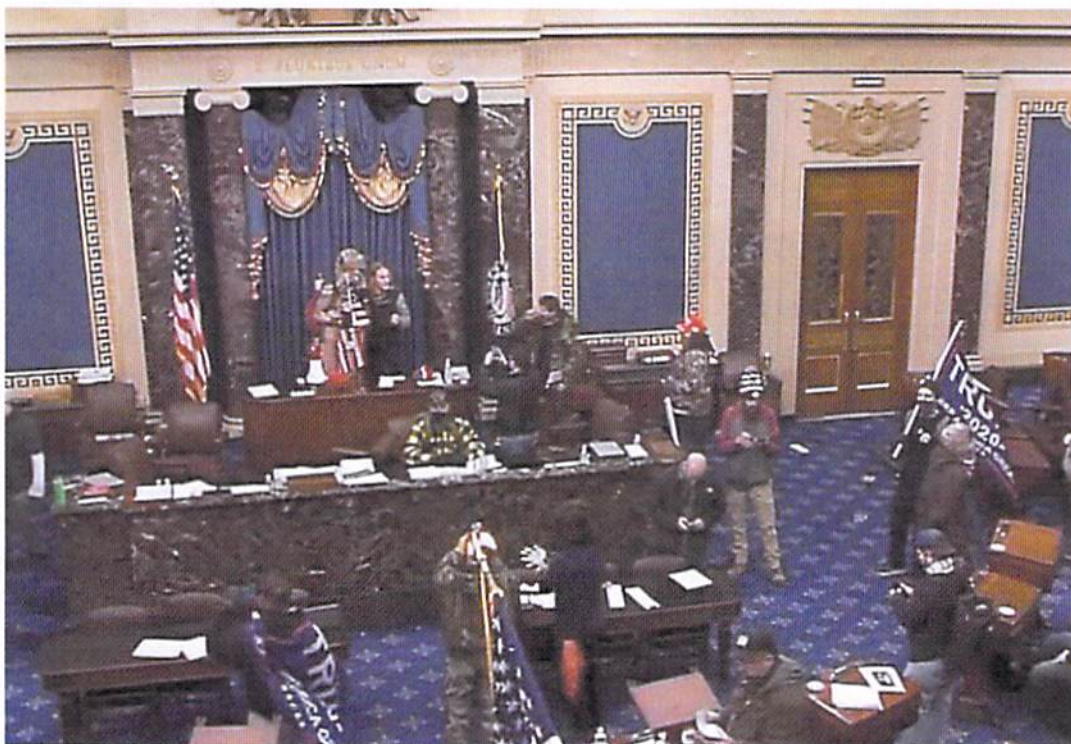
Ex. 5.3

17. Roche remained on the Senate Floor behind the Vice President's desk for approximately seven minutes. At one point, he picked up the bible that was on the desk and held

it up in the air. *See* Ex. 6 at 4:13. Roche then posed for a photo with Chansley while holding the bible. *See* Ex. 6 at 4:50. Roche then put the bible back down on the desk.



Ex. 6.1



Ex. 6.2

18. While Roche was behind the desk, other rioters paraded around the Senate Floor, sat at senators' desks, and posed for photos with their cell phones. At one point, several rioters posed for a photo with Chansley. One rioter picked up the bible that was on the Vice President's desk and held it up for the photo. Roche used another rioter's cell phone to take a photo of the rioters behind the Vice President's desk. *See* Ex. 6 at 5:07.



Ex. 6.3

19. At approximately 3:08 p.m., USCP officers entered the Senate Floor and directed Roche and the other individuals to leave the Chamber.



Ex. 6.4

20. Roche exited the Senate Floor with the other rioters and then exited the Capitol Building through the Senate Carriage Door at approximately 3:10 p.m. See Ex. 7.



Ex. 7.1

21. Outside the Capitol Building, Roche was filmed in a video that was posted to Facebook. *See* Ex. 8. In the video, Roche stated, in part:

My name is Michael Roche. We're here in Washington, D.C. We did get a chance to storm the Capitol. And we made it into the . . . the chamber. . . . We managed to convince the cops to let us through. They listened to reason. And when we got to the chamber, all the people that was in there with me, there's plenty of people, we all started praying and shouting in the name of Jesus Christ, and inviting Christ back into our state capitol. And luckily nobody got hurt. There was somebody else who get hurt, apparently. We don't know too much about that. But, a great day to be alive. And thank you police for the most part doing the right thing and listening to the will of the people.

22. Without waiving any arguments set forth in Roche's Motion to Dismiss Count 1 (ECF No. 39), the parties agree that if the Court finds the existence of these facts beyond a reasonable doubt, the defendant stipulates that this evidence would establish each and every element of the charged offenses for Counts 1 through 6 of the Indictment (ECF No. 33) in light of the Court's ruling on the Motion to Dismiss Count 1 and without waiving objection to the Court's ruling

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. 5032883
United States Attorney's Office
District of Columbia
601 D Street, NW 20001
Christopher.Amore@usdoj.gov

DEFENDANT'S ACKNOWLEDGMENT

I, MICHAEL LEE ROCHE, have read this Statement of Facts for Stipulated Trial and have discussed it with my attorney. I fully understand the elements and the facts that are set forth. I agree and acknowledge by my signature that this Statement of Facts for Stipulated Trial is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of Facts for Stipulated Trial fully.

Date: 03/10/2023

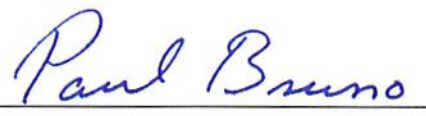


MICHAEL LEE ROCHE
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of Facts for Stipulated Trial and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of Facts for Stipulated Trial as true and accurate.

Date: 3/10/23



PAUL BRUNO, ESQ.
Attorney for Defendant Roche