

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

UNITED STATES OF AMERICA

v.

**CYNTHIA BALLENGER and
CHRISTOPHER PRICE,**

Defendants.

Case No. 1:21-cr-00719 (JEB)

MOTION TO DISMISS THE SUPERSEDING INFORMATION

Comes now Defendant Cynthia Ballenger (Cynthia Price) and Defendant Christopher Price, (together Defendants or the Prices) by and through undersigned counsel, and pursuant to Fed. R. Crim. P. 12(b)(3)(B), and respectfully requests that the Court dismiss the Superseding Information (SI) on several grounds. First, the Court should dismiss the SI under Fed. R. Crim. P. 12(b)(3)(v) because, on its face, the SI, and prior Affidavit associated with the initial Criminal Complaint, fails to state an offense for each count under the cited Federal criminal provisions. *See also* Fed. R. Crim. P. 7(c)(1).

Second, the Court should dismiss the Information, because the counts, given the limited allegations of fact, are vague and lack specificity under Fed. R. Crim. P. 12(b)(3)(iii). *See also* Fed. R. Crim. P. 7(c)(1). The counts in the SI and associated allegations of fact (and lack thereof) lack the constitutional sufficiency needed to allow the Prices to mount a defense and to protect their process rights.

Third, 40 U.S.C. §§5104(e)(2)(G), the basis for Count IV of the SI, is not Constitutional as applied, and, thus, Count IV should be dismissed. Separately, the Prices have filed the Second Motion to Dismiss the Superseding Information facially challenging 40 U.S.C. §§5104(e)(2)(G) and seeking dismissal of Count IV on that basis.

Finally, the Prices argue that the SI should be dismissed because it suffers from problems of multiplicity under Fed. R. Crim. P. 12(b)(3)(ii), as the Government seeks to apply multiple penalties and multiple counts for the same simple conduct.

WHEREFORE, for the foregoing reasons, the Prices respectfully requests that the Court grant this motion to dismiss the Information. The motion is supported by the accompanying memorandum of points and authority in support.

Dated: July 20, 2022

Respectfully submitted,

/s/ Nandan Kenkeremath

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