

APPEAL,CAP,CAT B,CLOSED

**U.S. District Court
District of Columbia (Washington, DC)
CRIMINAL DOCKET FOR CASE #: 1:21-cr-00508-BAH-1**

Case title: USA v. BENDER

Magistrate judge case number: 1:21-mj-00542-RMM

Date Filed: 08/04/2021

Assigned to: Judge Beryl A.
Howell

Defendant (1)

LUKE WESSLEY BENDER

represented by **Christopher Macchiaroli**
SILVERMAN, THOMPSON, SLUTKIN & WHITE
1750 K Street, NW
Suite 810
Washington, DC 20006
(202) 539-2444
Fax: (410) 547-2432
Email: cmacchiaroli@silvermanthompson.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Emma Mulford
SILVERMAN THOMPSON SLUTKIN WHITE
400 East Pratt Street
Suite 900
Baltimore, MD 21202
(410) 385-6249
Fax: (410) 547-2432
Email: emulford@silvermanthompson.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Dwight E. Crawley
LAW OFFICE OF DWIGHT CRAWLEY
1300 I. Street, NW
Suite 400e
Washington, DC 20005
202-580-9794
Fax: 888-804-1806
Email: yadclawyer@gmail.com
TERMINATED: 02/24/2022
Designation: CJA Appointment

Pending Counts

18:1512(c)(2); TAMPERING WITH A WITNESS, VICTIM OR INFORMANT; Obstruction of an Official Proceeding
(1)

18:1752(a)(1); TEMPORARY RESIDENCE OF THE PRESIDENT; Entering and Remaining in a Restricted Building or Grounds
(2)

18:1752(a)(2); TEMPORARY RESIDENCE OF THE PRESIDENT; Disorderly and Disruptive Conduct in a Restricted Building or Grounds
(3)

40:5104(e)(2)(A); VIOLENT ENTRY AND DISORDERLY CONDUCT ON CAPITOL GROUNDS; Entering and Remaining on the Floor of Congress
(4)

40:5104(e)(2)(D); VIOLENT ENTRY AND DISORDERLY CONDUCT ON CAPITOL GROUNDS; Disorderly Conduct in a Capitol Building
(5)

40:5104(e)(2)(G); VIOLENT ENTRY AND DISORDERLY CONDUCT ON CAPITOL GROUNDS; Parading, Demonstrating, or Picketing in a Capitol Building
(6)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Defendant sentenced to a concurrent term of twenty-one (21) months incarceration followed by a concurrent term of thirty-six (36) months of supervised release and ordered to pay a \$100.00 special assessment and a \$2,000.00 restitution to be disbursed to the Architect of the Capitol.

Defendant sentenced to a concurrent term of twelve (12) months incarceration followed by a concurrent term of twelve (12) months of supervised release and ordered to pay a \$25.00 special assessment.

Defendant sentenced to a concurrent term of twelve (12) months incarceration followed by a concurrent term of twelve (12) months of supervised release and ordered to pay a \$25.00 special assessment.

Defendant sentenced to a concurrent term of six (6) months incarceration and ordered to pay a \$10.00 special assessment.

Defendant sentenced to a concurrent term of six (6) months incarceration and ordered to pay a \$10.00 special assessment.

Defendant sentenced to a concurrent term of six (6) months incarceration and ordered to pay a \$10.00 special assessment.

Disposition

Highest Offense Level
(Terminated)

None

Complaints

Disposition

COMPLAINT in Violation of
18:1512(c)(2), 18:1752(a)(1);
18:1752(a)(2), 40:5104(e)(2)(A),
40:5104(e)(2)(D) and
40:5104(e)(2)(G)

Plaintiff

USA

represented by **Lucy Sun**
DOJ–USAO
595 Main Street
Worcester, MA 01608
508–368–0103
Email: lucy.sun@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Assistant U.S. Attorney

Jordan Andrew Konig
U.S. DEPARTMENT OF JUSTICE
Civil Trial Section – Northern Region
P.O. Box 55
Ben Franklin Station
Washington, DC 20044
(202) 305–7917
Email: jordan.a.konig@usdoj.gov
ATTORNEY TO BE NOTICED
Designation: Assistant U.S. Attorney

Michael Matthew Gordon
DOJ–USAO
Criminal Division, Violent Crimes and
Narcotics Section
400 North Tampa Street
Suite 3200
Tampa, FL 33602
(813) 274–6370
Email: michael.gordon3@usdoj.gov
TERMINATED: 01/24/2023
Designation: Assistant U.S. Attorney

Samantha Ritvo Miller
USAO
USAO Ddc

601 D Street NW
 Washington, DC 20001
 202-252-7014
 Email: samantha.miller@usdoj.gov
ATTORNEY TO BE NOTICED
Designation: Assistant U.S. Attorney

Date Filed	#	Docket Text
07/26/2021	<u>1</u>	SEALED COMPLAINT as to LUKE WESSLEY BENDER (1). (Attachments: # <u>1</u> Statement of Facts) (zstd) [1:21-mj-00542-RMM] (Entered: 07/26/2021)
07/26/2021	<u>3</u>	MOTION to Seal Case by USA as to LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Text of Proposed Order)(zstd) [1:21-mj-00542-RMM] (Entered: 07/26/2021)
07/26/2021	<u>4</u>	ORDER granting <u>3</u> Motion to Seal Case as to LUKE WESSLEY BENDER (1). Signed by Magistrate Judge Robin M. Meriweather on 7/26/2021. (zstd) [1:21-mj-00542-RMM] (Entered: 07/26/2021)
07/29/2021	<u>5</u>	Arrest Warrant Returned Executed on 7/29/2021 in Fairfax, VA as to LUKE WESSLEY BENDER. (bb) [1:21-mj-00542-RMM] (Entered: 07/30/2021)
07/29/2021		Case unsealed as to LUKE WESSLEY BENDER (bb) [1:21-mj-00542-RMM] (Entered: 07/30/2021)
07/29/2021		Arrest of LUKE WESSLEY BENDER in Virginia. (zstd) [1:21-mj-00542-RMM] (Entered: 07/30/2021)
07/30/2021		ORAL MOTION to Appoint Counsel by LUKE WESSLEY BENDER (1). (zpt) [1:21-mj-00542-RMM] (Entered: 08/02/2021)
07/30/2021		ORAL MOTION for Speedy Trial Waiver by USA as to LUKE WESSLEY BENDER (1). (zpt) [1:21-mj-00542-RMM] (Entered: 08/02/2021)
07/30/2021		Minute Entry for proceedings held before Magistrate Judge G. Michael Harvey: VTC Initial Appearance/Detention Hearing as to LUKE WESSLEY BENDER (1) held on 7/30/2021. Oral Motion to Appoint Counsel by LUKE WESSLEY BENDER (1) Heard and Granted. Government does not seek the Defendant's pretrial detention. Oral Motion by the Government for Speedy Trial Waiver as to LUKE WESSLEY BENDER (1) Heard and Granted. Time between 7/30/2021 and 8/16/2021 (17 Days) shall be exclude from calculation under the Speedy Trial Act in the interest of justice X-T. Control Status Hearing/Preliminary Hearing set for 8/16/2021 at 01:00 PM in Telephonic/VTC before Magistrate Judge Robin M. Meriweather.Bond Status of Defendant: Defendant Placed on Personal Recognizance; Court Reporter: FTR Gold FTR Time Frame: CTRM 6 [2:15:29-2:40:21], [3:16:25-3:31:23]; Defense Attorney: Dwight Crawley; US Attorney: Lucy Sun; Pretrial Officer: Dashanta Valentine-Lewis; (zpt) [1:21-mj-00542-RMM] (Entered: 08/02/2021)
07/30/2021	<u>6</u>	ORDER Setting Conditions of Release as to LUKE WESSLEY BENDER (1) Personal Recognizance. Signed by Magistrate Judge G. Michael Harvey on 7/30/2021. (Attachments: # <u>1</u> Appearance Bond) (zpt) [1:21-mj-00542-RMM] (Entered: 08/03/2021)
08/04/2021	<u>7</u>	INDICTMENT as to LUKE WESSLEY BENDER (1) count(s) 1, 2, 3, 4, 5, 6. (bb) (Entered: 08/05/2021)

08/12/2021	<u>10</u>	STANDING ORDER. Signed by Chief Judge Beryl A. Howell on August 12, 2021. (lcbah3) (Entered: 08/12/2021)
08/16/2021		ORAL MOTION by USA to Exclude Time Under the Speedy Trial Act from 8/16/2021 to 8/19/2021 as to Defendant LUKE WESSLEY BENDER. (kk) (Entered: 08/18/2021)
08/16/2021		Minute Entry for Arraignment as to LUKE WESSLEY BENDER held by video before Magistrate Judge Robin M. Meriweather on 8/16/2021 : The defendant agrees to proceed by video. Plea of Not Guilty entered by LUKE WESSLEY BENDER to Counts 1, 2, 3, 4, 5 and 6. Status Hearing set before Chief Judge Beryl A. Howell on 8/19/2021 at 9:45 AM by telephonic/VTC. Oral Motion by USA to Exclude Time Under the Speedy Trial Act from 8/16/2021 to 8/19/2021, with no opposition by the defense, heard and granted in the interest of justice. Bond Status of Defendant: Defendant continued on Personal Recognizance Bond. Court Reporter: FTR Gold – Ctrm. 7; FTR Time Frame: 1:16:20 – 1:21:29. Defense Attorney: Dwight Crawley; U.S. Attorney: Kelly Smith standing in for Lucy Sun; Pretrial Officer: Andre Sidbury. (kk) (Entered: 08/18/2021)
08/17/2021		Set/Reset Hearings as to LUKE WESSLEY BENDER: Status Conference scheduled for 8/19/2021, at 9:45 AM before Chief Judge Beryl A. Howell. (ztg) (Entered: 08/17/2021)
08/18/2021	<u>12</u>	MOTION to Review Detention Order by LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(Crawley, Dwight) Modified event title on 8/24/2021 (znmw). (Entered: 08/18/2021)
08/18/2021	<u>14</u>	Unopposed MOTION to Continue <i>For 60–Days Following the Defendant's Status Conference</i> by USA as to LUKE WESSLEY BENDER. (Sun, Lucy) (Entered: 08/18/2021)
08/18/2021	15	MOTION to Exclude Time Under the Speedy Trial Act by USA as to LUKE WESSLEY BENDER. (See DE <u>14</u> to view document). (bb) (Entered: 08/23/2021)
08/19/2021		Minute Entry for proceedings held before Chief Judge Beryl A. Howell: Status Hearing as to LUKE WESSLEY BENDER held via videoconference on 8/19/2021; the Defendant agreed to participate via videoconference after consultation with counsel. A further Status Hearing is scheduled for 10/29/2021, at 9:00 AM before Chief Judge Beryl A. Howell. Government's <u>14</u> Unopposed Motion to Continue and to Exclude Time Under the Speedy Trial Act, granted. Time excluded under the Speedy Trial Act from 8/19/2021 through 10/29/2021, in the interests of justice and those interests outweigh the interests of the public and the defendant in a speedy trial in order to give the government time to continue production of discovery and the Defendant time to review, discuss and decide a disposition short of trial. Defendant's <u>12</u> Motion for Review of Detention Order, denied for the reasons articulated by the government during proceedings and upon consideration of the Pretrial Report. Bond Status of Defendant: Personal Recognizance under the High Intensity Supervision Program (HISP). Present via videoconference: Defense Attorney: Dwight E. Crawley; US Attorney: Lucy Sun; Pretrial Officer: Christine Schuck (telephonically). Court Reporter: Elizabeth Saint–Loth. (ztg) (Entered: 08/19/2021)
08/30/2021	<u>16</u>	Unopposed MOTION for Protective Order by USA as to LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Text of Proposed Order)(Sun, Lucy) (Entered: 08/30/2021)

08/31/2021		MINUTE ORDER (paperless) GRANTING the government's <u>16</u> Unopposed Motion for Protective Order as to LUKE WESSLEY BENDER. Signed by Chief Judge Beryl A. Howell on August 31, 2021. (lcbah3) (Entered: 08/31/2021)
08/31/2021	<u>17</u>	PROTECTIVE ORDER as to LUKE WESSLEY BENDER. Signed by Chief Judge Beryl A. Howell on August 31, 2021. (lcbah3) (Entered: 08/31/2021)
09/17/2021	<u>18</u>	NOTICE of Filing Attachment "A" by LUKE WESSLEY BENDER re <u>16</u> Unopposed MOTION for Protective Order (Attachments: # <u>1</u> Exhibit)(Crawley, Dwight) (Entered: 09/17/2021)
10/12/2021	<u>19</u>	NOTICE OF ATTORNEY APPEARANCE Jordan Andrew Konig appearing for USA. (Konig, Jordan) (Entered: 10/12/2021)
10/13/2021	<u>20</u>	Unopposed MOTION for Disclosure <i>Items Protected By FRCP 6(e) and Sealed Materials</i> by USA as to LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Text of Proposed Order)(Sun, Lucy) Modified event on 10/15/2021 (znmw). (Entered: 10/13/2021)
10/14/2021		MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER, GRANTING the government's <u>20</u> Unopposed Motion for an Order to Disclose Items Protected by Federal Rule of Criminal Procedure 6(e) and Sealed Materials and AUTHORIZING the government, pursuant to Federal Rule of Criminal Procedure 6(e)(3)(E)(i) and the previously entered protective order governing discovery in this case, to provide to defendant, and any co-defendants who may later be joined, materials protected by Federal Rule of Criminal Procedure 6(e), insofar as such disclosure is necessary for the government to comply with its discovery and disclosure obligations. Signed by Chief Judge Beryl A. Howell on October 14, 2021. (lcbah3) (Entered: 10/14/2021)
10/25/2021	<u>21</u>	NOTICE – <i>United States' Memorandum Regarding Status of Discovery as of October 21, 2021</i> by USA as to LUKE WESSLEY BENDER (Konig, Jordan) (Entered: 10/25/2021)
10/25/2021	<u>22</u>	NOTICE of Filing of <i>Discovery Status Memoranda</i> by USA as to LUKE WESSLEY BENDER (Attachments: # <u>1</u> Memorandum Regarding Status of Discovery as of July 12, 2021, # <u>2</u> Exhibit A – Additional Examples of Defense Discovery Requests, # <u>3</u> Memorandum Regarding Status of Discovery as of August 23, 2021, # <u>4</u> Memorandum Regarding Status of Discovery as of September 14, 2021)(Konig, Jordan) (Entered: 10/25/2021)
10/29/2021		Minute Entry for proceedings held before Chief Judge Beryl A. Howell: Status Hearing as to LUKE WESSLEY BENDER held via videoconference on 10/29/2021; the Defendant agreed to participate via videoconference after consultation with counsel. A further Status Hearing is scheduled for 1/7/2022, at 9:30 AM before Chief Judge Beryl A. Howell. Time excluded under the Speedy Trial Act from 10/29/2021 through 1/7/2022, in the interests of justice and those interests outweigh the interests of the public and the defendant in a speedy trial in order to give the government time to complete discovery and the Defendant time to review the discovery and complete negotiations for a resolution short of trial. Bond Status of Defendant: personal recognizance. Present via videoconference: Defense Attorney: Dwight E. Crawley; US Attorney: Lucy Sun; Pretrial Officer: Christine Schuck (telephonically). Court Reporter: Elizabeth Saint-Loth. (ztg) (Entered: 10/29/2021)
11/05/2021	<u>24</u>	NOTICE – <i>United States' Memorandum Regarding Status of Discovery as of November 5, 2021</i> by USA as to LUKE WESSLEY BENDER (Konig, Jordan)

		(Entered: 11/05/2021)
01/07/2022		Minute Entry for proceedings held before Chief Judge Beryl A. Howell: Status Hearing as to LUKE WESSLEY BENDER held via videoconference on 1/7/2022; the Defendant agreed to participate via videoconference after consultation with counsel. A further Status Hearing is scheduled for 3/11/2022, at 9:30 AM before Chief Judge Beryl A. Howell; parties DIRECTED to submit by 3/9/2022, a notice with a proposed schedule for pretrial motions and three proposed trial dates. Time excluded under the Speedy Trial Act from 1/7/2022 through 3/11/2022, in the interests of justice and those interests outweigh the interests of the public and the defendant in a speedy trial in order to give the defendant and his counsel time to review the discovery and consider the government's plea offer. Bond Status of Defendant: Personal Recognizance under the High Intensity Supervision Program (HISP). Present via videoconference: Defense Attorney: Dwight E. Crawley; US Attorney: Lucy Sun and Jordan A. Konig; Pretrial Officer: Christine Schuck (telephonically). Court Reporter: Elizabeth Saint-Loth. (ztg) (Entered: 01/07/2022)
02/13/2022	<u>27</u>	NOTICE – <i>United States' Memorandum Regarding Status of Discovery as of February 9, 2022</i> by USA as to LUKE WESSLEY BENDER (Konig, Jordan) (Entered: 02/13/2022)
02/18/2022	<u>28</u>	NOTICE OF ATTORNEY APPEARANCE: Christopher Macchiaroli appearing for LUKE WESSLEY BENDER (Macchiaroli, Christopher) (Entered: 02/18/2022)
02/23/2022	<u>29</u>	MOTION to Withdraw as Attorney by Dwight Crawley. by LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Text of Proposed Order)(Crawley, Dwight) (Entered: 02/23/2022)
02/23/2022	<u>30</u>	Unopposed MOTION to Continue <i>Status Hearing</i> by LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Text of Proposed Order)(Macchiaroli, Christopher) (Entered: 02/23/2022)
02/24/2022		MINUTE ORDER granting <u>29</u> Motion to Withdraw as Counsel. Upon consideration of the motion to withdraw, it is hereby ORDERED that Attorney Dwight Crawley be relieved as counsel for Defendant, LUKE BENDER. Signed by Chief Judge Beryl A. Howell on 2/24/2022. (ztg) (Entered: 02/24/2022)
02/24/2022		MINUTE ORDER granting <u>30</u> Defendant's Unopposed Motion to Continue Status Hearing as to LUKE WESSLEY BENDER. Upon consideration of the unopposed motion, it is hereby ORDERED that the Status Hearing currently scheduled for March 11, 2022, shall be CONTINUED to May 20, 2022, at 9:30 AM before Chief Judge Beryl A. Howell; it is FURTHER ORDERED that time under the Speedy Trial Act shall be excluded from March 11, 2022 through May 20, 2022, for the reasons outlined in the motion and in the best interests of justice and those interests outweigh the interests of the public and the defendant in a speedy trial. Signed by Chief Judge Beryl A. Howell on 2/24/2022. (ztg) (Entered: 02/24/2022)
03/03/2022	<u>31</u>	NOTICE OF ATTORNEY APPEARANCE: Emma Mulford appearing for LUKE WESSLEY BENDER (Mulford, Emma) (Entered: 03/03/2022)
05/11/2022		MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER, DIRECTING the parties jointly to file a statement, by noon on May 16, 2022, informing the Court whether any outstanding plea offers will have expired by May 20, 2022 and if so, the parties shall provide the Court with three proposed trial dates, a proposed motions schedule, and an estimated trial duration, so that the Court may set a trial schedule at

		or before the May 20, 2022 hearing. Signed by Chief Judge Beryl A. Howell on May 11, 2022. (lcbah3) (Entered: 05/11/2022)
05/11/2022		Set/Reset Deadlines as to LUKE WESSLEY BENDER: Response to Order of the Court due by noon on 5/16/2022. (ztg) (Entered: 05/11/2022)
05/13/2022	<u>32</u>	Joint MOTION to Modify <i>Court Order</i> , Joint MOTION to Continue <i>Status Hearing</i> , Joint MOTION to Exclude <i>Time Under the Speedy Trial Act</i> by LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Text of Proposed Order)(Macchiaroli, Christopher) (Entered: 05/13/2022)
05/13/2022		MINUTE ORDER granting <u>32</u> Joint Motion to Modify Court Order, Continue Status Hearing, and Exclude Time Under the Speedy Trial Act as to LUKE WESSLEY BENDER. Upon consideration of the joint motion, it is hereby ORDERED that the Status Hearing currently scheduled for May 20, 2022, shall be CONTINUED to June 24, 2022, at 9:15 AM before Chief Judge Beryl A. Howell; it is FURTHER ORDERED that the Court Order entered on May 11, 2022, shall be modified as follows: the parties shall inform the Court whether any outstanding plea offers will have expired by June 24, 2022 and if so, the parties shall provide the Court by noon on June 20, 2022, with three proposed trial dates, a proposed motions schedule, and an estimated trial duration, so that the Court may set a trial schedule at or before the June 24, 2022 hearing; it is FURTHER ORDERED that time under the Speedy Trial Act shall be excluded from May 20, 2022 through June 24, 2022, for the reasons outlined in the motion and in the best interests of justice and those interests outweigh the interests of the public and the defendant in a speedy trial. SO ORDERED. Signed by Chief Judge Beryl A. Howell on 5/13/2022. (ztg) (Entered: 05/13/2022)
05/13/2022	<u>33</u>	MOTION for Joinder by USA as to LUKE WESSLEY BENDER. (Konig, Jordan) (Entered: 05/13/2022)
05/13/2022		MINUTE ORDER as to LUKE WESSLEY BENDER, DIRECTING the Defendant to submit on or before May 20, 2022, any response to the government's <u>33</u> MOTION to Join; any reply by the government in support of its motion shall be submitted on or before May 25, 2022. SO ORDERED. Signed by Chief Judge Beryl A. Howell on 5/13/2022. (ztg) (Entered: 05/13/2022)
05/20/2022	<u>34</u>	Memorandum in Opposition by LUKE WESSLEY BENDER re <u>33</u> MOTION for Joinder (Macchiaroli, Christopher) (Entered: 05/20/2022)
05/23/2022	<u>35</u>	MOTION to Amend/Correct <u>6</u> Order Setting Conditions of Release, by LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Text of Proposed Order)(Macchiaroli, Christopher) (Entered: 05/23/2022)
05/23/2022		MINUTE ORDER granting <u>35</u> Defendant's Motion to Amend/Correct Release Order as to LUKE WESSLEY BENDER. Upon consideration of the Defendant's motion, it is hereby ORDERED that the Order Setting Conditions of Release in this case shall be AMENDED to reflect that the Defendant is permitted to stay at a residence/hotel in the Commonwealth of Virginia that is approved by Pretrial in its discretion so long the Defendant complies with his 10:00 p.m. to 6:00 a.m. curfew requirements. SO ORDERED. Signed by Chief Judge Beryl A. Howell on 5/23/2022. (ztg) (Entered: 05/23/2022)
05/24/2022	<u>36</u>	REPLY TO OPPOSITION to Motion by USA as to LUKE WESSLEY BENDER re <u>33</u> MOTION for Joinder (Konig, Jordan) (Entered: 05/24/2022)

05/24/2022		<p>MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER, GRANTING the government's <u>33</u> Motion to Join ("Gov't's Mot."), over <u>34</u> defendant's opposition ("Def.'s Opp'n"); DIRECTING that this case, Criminal Case No. 21-508, be consolidated for all purposes with <i>United States v. Mitchell</i>, Criminal Case No. 21-717; and FURTHER DIRECTING that all filings in these consolidated cases should be made in Criminal Case No. 21-508. <i>See</i> Fed. R. Crim. P. 13. Joinder is proper when two cases "could have been joined in a single indictment or information," <i>id.</i>, which is the case when multiple defendants "are alleged to have participated in the same act or transaction, or in the same series of acts or transactions, constituting an offense or offenses," <i>id.</i> R. 8(b). The government's allegations against BENDER and LANDON BRYCE MITCHELL, at a minimum, arise from "the same series of acts," given that the two defendants knew each other, came to the former President's rally together, allegedly "climbed scaffolding and unlawfully entered" the Capitol together, navigated the building together, entered the Senate Chamber together, and stood on the Senate Dais together. Gov't's Mot. at 23. Due to the closely contiguous conduct engaged in by these two defendants, the evidence presented against each will be overlapping and therefore joinder of these defendants for trial will promote the interest of efficiency, <i>see United States v. Manner</i>, 887 F.2d 317, 324 (D.C. Cir. 1989), and avoid the "unnecessary waste of judicial, prosecutorial and civic effort, resources, and time" that occurs where separate juries would be presented with the same evidence in separate trials. <i>United States v. Wilkins</i>, 538 F. Supp. 3d 49, 88 (D.D.C. 2021) (quoting <i>United States v. Treadwell</i>, 566 F. Supp. 80, 86-87 (D.D.C. 1983)). These facts not only closely link the two defendants' alleged conduct but also differentiate their conduct from that of hundreds of other defendants with different combinations of activities, locations, and timing. Under the circumstances it is apparent that the indictments are, as the government represents, separate only as an accident of the timing of the relevant investigation and arrests. <i>See</i> Gov't's Mot. at 3.</p> <p>BENDER asserts that joining these cases "will in fact prejudice him," Def.'s Opp'n at 1, but does not convincingly explain why this is so. Given the abundance of video and photo evidence, BENDER notes that the central matter in question is each of BENDER and MITCHELL's respective intent as relevant to the obstruction felony charge, the proof of which may "rely heavily on social media statements and admissions." <i>Id.</i> at 7. BENDER argues that certain of MITCHELL's social media posts "are highly inflammatory and run a significant risk of prejudicial spillover" since BENDER could "be seen by the jury as potentially endorsing [MITCHELL's] statements through his mere association with" MITCHELL. <i>Id.</i> at 78. A jury can readily be instructed, however, to attribute statements only to the speaker, and nothing about the facts of these cases is so complicated as to prevent jurors from disentangling the two defendants' individual actions and statements. Finally, BENDER's Confrontation Clause argument concerning BENDER's statements is meritless, because "his purported statements regarding himself and Mr. Mitchell" supposedly motivating this concern are <i>his own</i> statements, not those of a "nontestifying codefendant." <i>See id.</i> at 8. Even if MITCHELL could raise such a concern with respect to BENDER's statements, notably he does not do so here and has not objected to joinder.</p> <p>Signed by Chief Judge Beryl A. Howell on May 24, 2022. (lcbah3) (Entered: 05/24/2022)</p>
06/17/2022	<u>38</u>	Joint STATUS REPORT by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL (Konig, Jordan) (Entered: 06/17/2022)

06/20/2022		<p>MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER (1) and LANDON BRYCE MITCHELL (2), ISSUING, in light of and adopting dates suggested in the parties' <u>38</u> Joint Status Report, the following SCHEDULING ORDER:</p> <p>(1) By September 2, 2022, the parties shall file any pretrial motions, including any motions <i>in limine</i>, with any responses due by October 3, 2022, and any replies due by October 28, 2022;</p> <p>(2) By November 7, 2022, the parties shall file their Joint Pretrial Statement, see <u>10</u> Standing Order ¶ 10;</p> <p>(3) A pretrial conference shall be held in person on December 2, 2022, at 10 AM; and</p> <p>(4) Jury selection for a trial in this matter shall begin at 9:00 AM on January 9, 2023.</p> <p>The parties are advised that due to the Court's heavy caseload this fall and winter, compelling reasons must be demonstrated for any extensions from the above deadlines.</p> <p>Signed by Chief Judge Beryl A. Howell on June 20, 2022. (lcbah3) (Entered: 06/20/2022)</p>
06/21/2022		<p>Set/Reset Deadlines/Hearings as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL: Pretrial motions, including any motions in limine, due by 9/2/2022; responses due by 10/3/2022; replies due by 10/28/2022; Joint Pretrial Statement due by 11/7/2022; Pretrial Conference scheduled for 12/2/2022, at 10:00 AM in Courtroom 22A– In Person before Chief Judge Beryl A. Howell; Jury Selection/Jury Trial scheduled for 1/9/2023, at 9:00 AM in Courtroom 22A– In Person before Chief Judge Beryl A. Howell. (ztg) (Entered: 06/21/2022)</p>
06/23/2022	<u>39</u>	<p>Unopposed MOTION to Modify Conditions of Release by LANDON BRYCE MITCHELL. (Attachments: # <u>1</u> Text of Proposed Order)(Mullin, Elizabeth) Modified name of defendant on 6/23/2022 (ztg). (Entered: 06/23/2022)</p>
06/23/2022		<p>MINUTE ORDER as to LANDON BRYCE MITCHELL (2), granting <u>39</u> Mr. Mitchell's Motion to Modify Conditions of Release. Upon consideration of the unopposed motion, it is hereby ORDERED that Defendant LANDON BRYCE MITCHELL shall be allowed to relocate to Montgomery County, Texas, to reside with his mother, Rosanna Montgomery; DIRECTING Pretrial Services for the District of Columbia to make any and all arrangements with Pretrial Services with authority over Montgomery County, Texas, to ensure compliance with release conditions. SO ORDERED. Signed by Chief Judge Beryl A. Howell on 6/23/2022. (ztg) (Entered: 06/23/2022)</p>
06/24/2022		<p>Minute Entry for proceedings held before Chief Judge Beryl A. Howell: Status Hearing as to LUKE WESSLEY BENDER (1), LANDON BRYCE MITCHELL (2) held via videoconference on 6/24/2022; the defendants agreed to participate via videoconference after consultation with counsel. Pretrial Agency's recommendation for increased reporting condition adopted by the Court. The Defendant must report to Pretrial twice per week until further order of the Court. Time excluded under the Speedy Trial Act from 6/24/2022 through 1/9/2023, in the interests of justice and those interests outweigh the interests of the public and the defendant in a speedy trial in order to give the parties time to prepare for trial. Bond Status of Defendants:</p>

		Personal Recognizance. Present via videoconference: Defense Attorneys: #1 Christopher Macchiaroli, #2 Elizabeth A. Mullin; US Attorney: Jordan A. Konig; Pretrial Officer: Christine Schuck (telephonically). Court Reporter: Elizabeth Saint-Loth. (ztg) (Entered: 06/24/2022)
09/02/2022	<u>44</u>	Unopposed MOTION in Limine <i>Regarding Evidence About the Specific Location of U.S. Capitol Police Surveillance Cameras</i> by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL. (Attachments: # <u>1</u> Exhibit 1 – Declaration of Thomas A. DiBiase)(Konig, Jordan) (Entered: 09/02/2022)
09/02/2022	<u>45</u>	Unopposed MOTION in Limine <i>Regarding Cross-Examination of U.S. Secret Service Witnesses</i> by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL. (Konig, Jordan) (Entered: 09/02/2022)
09/02/2022	<u>46</u>	MOTION in Limine <i>to Preclude Improper Defense Arguments and Evidence</i> by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL. (Konig, Jordan) (Entered: 09/02/2022)
09/02/2022	<u>52</u>	MOTION to Dismiss Count <i>One of the Indictment</i> by LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Text of Proposed Order)(Macchiaroli, Christopher) (Entered: 09/02/2022)
09/29/2022	<u>53</u>	NOTICE OF ATTORNEY APPEARANCE Samantha Ritvo Miller appearing for USA. (Miller, Samantha) (Entered: 09/29/2022)
10/03/2022	<u>59</u>	Memorandum in Opposition by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL re <u>52</u> Motion to dismiss count(s), <u>50</u> Motion to dismiss count(s) (Konig, Jordan) (Entered: 10/03/2022)
10/03/2022	<u>60</u>	RESPONSE by LUKE WESSLEY BENDER re <u>46</u> MOTION in Limine <i>to Preclude Improper Defense Arguments and Evidence</i> (Macchiaroli, Christopher) (Entered: 10/03/2022)
10/03/2022	<u>62</u>	RESPONSE by LUKE WESSLEY BENDER re <u>45</u> Unopposed MOTION in Limine <i>Regarding Cross-Examination of U.S. Secret Service Witnesses</i> (Macchiaroli, Christopher) (Entered: 10/03/2022)
10/03/2022	<u>63</u>	RESPONSE by LUKE WESSLEY BENDER as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL re <u>48</u> MOTION to Sever Defendant (Macchiaroli, Christopher) (Entered: 10/03/2022)
10/03/2022	<u>64</u>	RESPONSE by LUKE WESSLEY BENDER as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL re <u>49</u> MOTION to Change Venue (Macchiaroli, Christopher) (Entered: 10/03/2022)
10/03/2022	<u>65</u>	MOTION to Adopt Motions of Codefendant by LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Text of Proposed Order)(Macchiaroli, Christopher) (Entered: 10/03/2022)
10/17/2022	<u>67</u>	NOTICE OF ATTORNEY APPEARANCE Michael Matthew Gordon appearing for USA. (Attachments: # <u>1</u> Certificate of Service)(Gordon, Michael) (Entered: 10/17/2022)
10/28/2022	<u>70</u>	REPLY TO OPPOSITION to Motion by LUKE WESSLEY BENDER re <u>52</u> MOTION to Dismiss Count <i>One of the Indictment</i> (Macchiaroli, Christopher) (Entered: 10/28/2022)

11/01/2022	<u>72</u>	Joint MOTION to Stay <i>Remaining Pretrial Deadlines</i> by LANDON BRYCE MITCHELL as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL. (Shrewsbury, Diane) (Entered: 11/01/2022)
11/02/2022		MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, DENYING the parties' <u>72</u> Joint Motion to Stay Remaining Pretrial Deadlines, and DIRECTING the parties to file, by November 16, 2022, a Joint Status Report apprising the Court whether the parties have finalized an agreement to proceed by stipulated trial, and if so, proposing dates for the stipulated trial. Signed by Chief Judge Beryl A. Howell on November 2, 2022. (lcbah3) (Entered: 11/02/2022)
11/03/2022		Set/Reset Deadlines as to LUKE WESSLEY BENDER (1), LANDON BRYCE MITCHELL (2): Joint Status Report due by 11/16/2022. (hmc) (Entered: 11/03/2022)
11/04/2022	<u>74</u>	Joint MOTION TO PROVIDE STATUS REPORT REGARDING STIPULATED TRIAL & JOINT MOTION REGARDING TRIAL DEADLINES by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL. (Miller, Samantha) (Entered: 11/04/2022)
11/07/2022		MINUTE ORDER granting <u>74</u> Joint Motion Regarding Trial Deadlines as to LUKE WESSLEY BENDER (1), LANDON BRYCE MITCHELL (2). DIRECTING the submission by November 14, 2022, of (A) the parties' Joint Proposed Procedures for Stipulated Trial, (B) the government's proposed Statement of Facts for Stipulated Trial, to which each Defendant will have agreed, and (C) each Defendant's Agreement and Waiver of Jury Rights; AND converting the currently scheduled December 2, 2022, at 10:00 AM, in Courtroom 22A, IN PERSON pre-trial conference date into the date on which the Stipulated Trial will occur; it is FURTHER ORDERED that the currently scheduled November 7, 2022 deadline to file the parties' Joint Pretrial Statement is hereby VACATED. Signed by Chief Judge Beryl A. Howell on 11/7/2022. (ztg) (Entered: 11/07/2022)
11/14/2022	<u>75</u>	NOTICE of Joint Submission Regarding Stipulated Trial by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL re Order on Motion for Miscellaneous Relief,,, Set/Reset Deadlines/Hearings,,, (Miller, Samantha) (Entered: 11/14/2022)
11/22/2022		MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, GRANTING the government's unopposed <u>44</u> Motion in Limine Regarding Evidence About the Specific Locations of U.S. Capitol Police Surveillance Cameras ("Gov't's Mot."). Defendants shall be presumptively barred from "probing, during cross-examination, the exact locations of Capitol Police surveillance cameras or from using" at trial maps of camera locations located inside and surrounding the U.S. Capitol Building. Gov't's Mot. at 2. If at trial defendants identify a specific context where any such evidence is relevant and necessary to their defense, defendants may raise the matter for further consideration in light of the actual proceedings at trial. To be clear, nothing in this order precludes defendants from "prob[ing] what Capitol Police's cameras show, and what they don't, by asking about the general location of each camera." <i>Id.</i> at 4. Accordingly, evidence about the precise locations of Capitol surveillance cameras is presumptively inadmissible as irrelevant under Federal Rule of Evidence 401 and/or its probative value is substantially outweighed by the risk of wasting time and distracting from relevant issues under Rule 403, particularly in light of the government's reasonable interest in maintaining the security of the U.S. Capitol Building and surrounding area. Defendants may attempt to rebut this presumption if evidence at trial unfolds in such a way that any

		more detailed information would be probative. Signed by Chief Judge Beryl A. Howell on November 22, 2022. (lcbah3) (Entered: 11/22/2022)
11/22/2022		MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, GRANTING, in light of Mr. Bender's representation in his <u>62</u> Response that he "does not oppose" the motion so long as relief is limited to the following precluded topics, and the absence of any timely filed opposition by Mr. Mitchell, the government's unopposed <u>45</u> Motion In Limine to Limit Cross-Examination of U.S. Secret Service Witnesses. Defendants shall be precluded at trial from questioning witnesses from the United States Secret Service ("USSS") about the following topics: (1) USSS protocols related to the locations where protectees or their motorcades are taken at the Capitol or other government buildings when emergencies occur; and (2) details about the nature of USSS protective details, such as the number and type of agents the USSS assigns to protectees. Signed by Chief Judge Beryl A. Howell on November 22, 2022. (lcbah3) (Entered: 11/22/2022)
11/22/2022	<u>76</u>	ORDER, as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, GRANTING the government's <u>46</u> Motion in Limine to Preclude Improper Defense Arguments and Evidence about Law Enforcement. Signed by Chief Judge Beryl A. Howell on November 22, 2022. (lcbah3) (Entered: 11/22/2022)
11/22/2022		MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER, granting defendant's <u>65</u> Motion to Adopt Motions of Codefendant, permitting defendant to join codefendant Landon Bryce Mitchell's 47 Motion to Dismiss Counts Two and Three and 51 Motion to Dismiss Count Six. Signed by Chief Judge Beryl A. Howell on November 22, 2022. (lcbah3) (Entered: 11/22/2022)
11/22/2022	<u>77</u>	MEMORANDUM AND ORDER, as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, denying defendants' 47 Motion to Dismiss Counts Two and Three. See Memorandum and Order for further details. Signed by Chief Judge Beryl A. Howell on November 22, 2022. (lcbah3) (Entered: 11/22/2022)
11/22/2022	<u>79</u>	MEMORANDUM AND ORDER, as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, DENYING defendant LANDON BRYCE MITCHELL's 50 Motion to Dismiss Obstruction Charge and defendant LUKE WESSLEY BENDER's <u>52</u> Motion to Dismiss Count One of the Indictment. See Memorandum and Order for further details. Signed by Chief Judge Beryl A. Howell on November 22, 2022. (lcbah3) (Entered: 11/22/2022)
11/22/2022		MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, DENYING defendants' 51 Motion to Dismiss Count Six ("Defs.' Mot."); Def. Bender's <u>65</u> Motion to Adopt Motions of Codefendant (Bender adopting Mitchell's 51 Motion to Dismiss), for the same reasons that Judges on this Court have already rejected similar challenges by other defendants to the same charge, <i>see, e.g., United States v. Nassif</i> , Case No. 21-cr-421 (JDB), 2022 WL 4130841 (D.D.C. Sept. 12, 2022); <i>United States v. Seitz</i> , Case No. 21-cr-279 (DLF), ECF No. 51 (Mot. Hr'g Tr.). Count Six charges defendants with unlawfully parading, demonstrating, and picketing in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(G). Defendants contend that the statute is substantially overbroad and vague, and therefore facially unconstitutional. Defs.' Mot. at 1-11. Section 5104(e)(2)(G) is neither unconstitutionally overbroad nor vague on its face. Generally, invalidation for overbreadth is "strong medicine that is not to be casually employed," requiring that a challenger demonstrate that the statute "prohibits a

	<p>substantial amount of protected speech." <i>United States v. Williams</i>, 553 U.S. 285, 292–93 (2008) (cleaned up). As the government notes, defendants fail to point to a single example of prosecutions under the Section 5104(e)(2)(G) for First Amendment–protected speech, <i>see</i> Gov't's Opp'n at 6, but instead defendants argue that the statute "continues to give rise to" regulations that are unconstitutionally broad, citing the current U.S. Capitol Police Traffic Regulations for the Capitol Grounds, which include regulations regarding demonstrations in which demonstrations are defined to "include virtually all protected First Amendment activity." Defs' Mot. at 6. Merely imposing reasonable time, place, and manner–based regulations on First Amendment–protected speech is not unconstitutional, however, and in any case, defendants fail to demonstrate how the particular statutory provision at issue prohibits protected speech as a result of that U.S. Capitol Police regulation. <i>See also</i> <i>Bynum v. U.S. Capitol Police Bd.</i>, 93 F. Supp. 2d 50, 51–57 (D.D.C. 2000) (holding that the previous codification of Section 5104(e)(2)(G) was constitutional, even while invalidating a U.S. Capitol Police regulation). As to defendants' vagueness challenge, Section 5104(e)(2)(G) is not plagued with the "indeterminacy" of criminal statutes in which conduct is defined by "wholly subjective judgments without statutory definitions, narrowing context, or settled legal meanings." <i>Williams</i>, 553 U.S. at 306. Rather, the provision, when read in light of Section 5104 as a whole, clearly "prohibits taking part in an organized demonstration or parade that advocates a particular viewpoint." <i>Nassif</i>, 2022 WL 4130841 at *6.</p> <p>Finally, defendants' contention that their indictments "fail to state an offense" where the indictments lacked "specifics as to the facts and circumstances of any parading, picketing, or demonstrating," Defs.' Mot. at 12, is unavailing. Although charging documents must "do more than simply repeat the language of the criminal statute," <i>Russell v. United States</i>, 369 U.S. 749, 764 (1962), an indictment—like the ones at issue here—that "echoes the operative statutory text while also specifying the time and place of the offense" have been deemed sufficient. <i>United States v. Williamson</i>, 903 F.3d 124, 130 (D.C. Cir. 2018). Accordingly, defendants' Motion to Dismiss Count Six is denied. Signed by Chief Judge Beryl A. Howell on November 22, 2022. (lcbah3) (Entered: 11/22/2022)</p>
11/22/2022	<p>MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, DIRECTING the government and each defendant to submit, by Monday, November 28, 2022 at 2 p.m., their positions regarding whether each defendant needs to be apprised as to the applicable sentencing guidelines range for each offense at the December 2, 2022 stipulated trial, and if so, setting out the estimated guidelines calculations and sentencing ranges that will apply as to each count of offense. Signed by Chief Judge Beryl A. Howell on November 22, 2022. (lcbah3) (Entered: 11/22/2022)</p>
11/23/2022	<p>Set/Reset Deadlines as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL: Parties' positions regarding applicable sentencing guidelines due by 2 p.m. on 11/28/2022. (hmc) (Entered: 11/23/2022)</p>
11/28/2022	<p>MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, DIRECTING, upon consideration of the parties' <u>75</u> Joint Submission Regarding Stipulated Trial ("Jt. Subm."), that, by December 1, 2022 at 2 PM,</p> <p>(1) the government submit</p> <p>(a) an estimated duration for presentation at the stipulated trial of evidence detailed in the government's Exhibit Lists, <i>id.</i> at 28–30, 55–57;</p>

		<p>(b) summarize which "facts and evidence on which the government relies to prove its case beyond a reasonable doubt" either defendant has "otherwise noted" as not being "true and accurate," <i>id.</i> at 5;</p> <p>(c) a written statement setting forth the terms, with potential penalties, of any plea offer made to either defendant, pursuant to Fed. R. Crim. P. 11, and the date such offer was made and lapsed; and</p> <p>(d) explain whether any plea offer was extended, pursuant to Fed. R. Crim. P. 11(a)(2), permitting either defendant to reserve the right to have an appellate court review an adverse determination of a pretrial motion regarding a conviction of his 18 U.S.C. § 1512(c)(2) charge and, if not, explain why the alternative of a stipulated trial providing each defendant an opportunity for appellate review of all adverse determination(s) of any pretrial motion is preferable; and</p> <p>(2) each defendant submit a written statement from defense counsel indicating (1) the dates on which the terms of any plea offer were communicated to defendant and rejected, <i>see Missouri v. Frye</i>, 132 S. Ct. 1399, 1408 (2012) ("[D]efense counsel has a duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused."). Signed by Chief Judge Beryl A. Howell on November 28, 2022. (lcbah3) (Entered: 11/28/2022)</p>
11/28/2022		Set/Reset Deadlines as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL: Response to Order of the Court due by 2:00 PM on 12/1/2022. (ztg) (Entered: 11/28/2022)
11/28/2022	<u>81</u>	NOTICE of Filing of Defendant's Response to the Court's November 22, 2022 Minute Order by LUKE WESSLEY BENDER (Attachments: # <u>1</u> Exhibit 1)(Macchiaroli, Christopher) (Entered: 11/28/2022)
11/28/2022	<u>83</u>	RESPONSE TO ORDER OF THE COURT by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL re Order,, <i>PRELIMINARY SENTENCING GUIDELINES CALCULATION FOR STIPULATED TRIAL</i> (Miller, Samantha) (Entered: 11/28/2022)
11/29/2022	<u>84</u>	RESPONSE by LUKE WESSLEY BENDER re <u>83</u> Response to Order of the Court (Macchiaroli, Christopher) (Entered: 11/29/2022)
12/01/2022	<u>86</u>	RESPONSE TO ORDER OF THE COURT by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL re Order,,,,,, <i>Regarding Defendants' Stipulated Trial</i> (Miller, Samantha) (Entered: 12/01/2022)
12/01/2022	<u>88</u>	NOTICE of Filing of Defendant's Response to the Court's November 28, 2022 Minute Order by LUKE WESSLEY BENDER (Macchiaroli, Christopher) (Entered: 12/01/2022)
12/02/2022		NOTICE OF RESCHEDULED HEARING as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL. The parties shall take notice that the Stipulated Trial in this matter is RESCHEDULED for 12/7/2022, at 10:00 AM in Courtroom 22A– In Person before Chief Judge Beryl A. Howell. (ztg) (Entered: 12/02/2022)
12/07/2022		Minute Entry for proceedings held before Chief Judge Beryl A. Howell:Stipulated Trial as to LUKE WESSLEY BENDER (1) and LANDON BRYCE MITCHELL (2) held on 12/7/2022. Defendants sworn, Counts 1 through 6 against each defendant read into the record by the government; exhibits as to each defendant moved into evidence without objection; defendants LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL agreed that having reviewed the evidence against them the government was able to meet its burden of proving beyond a reasonable doubt each of the charges

		against them; The Court based on the agreed statement of facts signed by Defendant LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, after consultation with their counsel, found the defendants guilty on all six counts charged in their respective indictments; case referred to the Probation Office for presentence investigation; Sentencing Hearing scheduled for LUKE WESSLEY BENDER for 3/3/2022, at 9:15 AM in Courtroom 22A– In Person before Chief Judge Beryl A. Howell. Sentencing Hearing scheduled for LANDON BRYCE MITCHELL for 3/3/2022, at 10:00 AM in Courtroom 22A– In Person before Chief Judge Howell. Bond Status of Defendants: Personal Recognizance; the defendants shall remain released under their current conditions of release. Present: Defense Attorneys: #1 Christopher Macchiaroli, #2 Elizabeth A. Mullin and Diane A. Shrewsbury; US Attorneys: Samantha A. Miller and Jordan A. Konig; Pretrial Officer: Christine Schuck (telephonically). Court Reporter: Bryan Wayne. (ztg) Modified to add sentencing date on 12/7/2022 (ztg). (Entered: 12/07/2022)
12/07/2022	<u>91</u>	EXHIBIT LIST by USA as to LUKE WESSLEY BENDER. (ztg) (Entered: 12/07/2022)
12/07/2022	<u>93</u>	STATEMENT OF FACTS For Stipulated Trial by USA, LUKE WESSLEY BENDER as to LUKE WESSLEY BENDER (ztg) (Entered: 12/07/2022)
12/07/2022	<u>94</u>	AGREEMENT and WAIVER of Jury Trial Rights as to LUKE WESSLEY BENDER. Approved by Chief Judge Beryl A. Howell on 12/7/2022. (ztg) (Entered: 12/07/2022)
12/07/2022		Set/Reset Hearings as to LUKE WESSLEY BENDER: Sentencing scheduled for 3/3/2023, at 9:15 AM in Courtroom 22A– In Person before Chief Judge Beryl A. Howell. (ztg) (Entered: 01/18/2023)
12/08/2022	<u>97</u>	<p>TRANSCRIPT OF STIPULATED TRIAL in case as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL before Chief Judge Beryl A. Howell held on December 7, 2022; Page Numbers: 1–75. Date of Issuance: 12/8/2022. Court Reporter: Bryan A. Wayne, (202) 354–3186. Transcripts may be ordered by submitting the Transcript Order Form</p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 12/29/2022. Redacted Transcript Deadline set for 1/8/2023. Release of Transcript Restriction set for 3/8/2023.(Wayne, Bryan) (Main Document 97 replaced on 12/12/2022) (zhsj). (Entered: 12/08/2022)</p>
12/12/2022		MINUTE ORDER as to LUKE WESSLEY BENDER (1), LANDON BRYCE MITCHELL (2). VACATING, in light of the Court having found on December 7, 2022, the defendants guilty on all six counts charged in their respective indictments, the Jury Selection/Jury Trial scheduled in this matter for January 9, 2023. It is SO

		ORDERED. Signed by Chief Judge Beryl A. Howell on 12/12/2022. (ztg) (Entered: 12/12/2022)
12/12/2022		Terminate Hearings as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL: Jury Selection/Jury Trial currently scheduled for January 9, 2023, VACATED. (ztg) (Entered: 12/12/2022)
01/24/2023	<u>102</u>	NOTICE OF WITHDRAWAL OF APPEARANCE by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL (Attachments: # <u>1</u> Certificate of Service)(Gordon, Michael) (Entered: 01/24/2023)
02/13/2023	<u>108</u>	Unopposed MOTION to File Defendant's Sentencing Memorandum Under Seal by LUKE WESSLEY BENDER. (Attachments: # <u>1</u> Text of Proposed Order)(Macchiaroli, Christopher) Modified on 2/14/2023 (zhsj). (Entered: 02/13/2023)
02/14/2023		MINUTE ORDER as to LUKE WESSLEY BENDER (1), GRANTING <u>108</u> Defendant's Unopposed Motion to File Defendant's Sentencing Memorandum Under Seal. Signed by Chief Judge Beryl A. Howell on 2/14/2023. (ztg) (Entered: 02/14/2023)
02/17/2023	<u>113</u>	SENTENCING MEMORANDUM by USA as to LUKE WESSLEY BENDER (Konig, Jordan) (Entered: 02/17/2023)
02/17/2023	<u>115</u>	AMENDED SENTENCING MEMORANDUM by USA as to LUKE WESSLEY BENDER. (Konig, Jordan) Modified Text on 2/21/2023 (zhsj). (Entered: 02/17/2023)
02/22/2023	<u>119</u>	RESPONSE by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL re 117 Sentencing Memorandum – <i>Combined Response to Defendants' Sentencing Memoranda</i> (Konig, Jordan) (Entered: 02/22/2023)
02/28/2023		Set/Reset Hearings as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL: Sentencing Hearing RESCHEDULED for 4/20/2023, at 9:30 AM in COURTROOM 26A, Fourth Floor – In Person before Chief Judge Beryl A. Howell. (ztg) (Entered: 02/28/2023)
02/28/2023	<u>122</u>	ORDER as to LANDON BRYCE MITCHELL (2), GRANTING IN PART and DENYING IN PART 121 Mr. Mitchell's Emergency Motion to Hold Sentencing Hearing on Currently Scheduled Date, March 3, 2023, or Monday, March 6, 2023. Upon consideration of the Defendant's emergency motion, it is hereby ORDERED that given the pressing matters requiring the Court's attention, and although the Court appreciates the financial burden this change presents to the Defendant, the Sentencing Hearing will proceed on the rescheduled date of April 20, 2023, at 9:30 AM in Courtroom 26A, Fourth Floor, in person before Chief Judge Howell; it is FURTHER ORDERED that the U.S. Marshals shall, under 18 U.S.C. 4285, pay for LANDON BRYCE MITCHELL's travel to this district for the sentencing hearing rescheduled for April 20, 2023. Signed by Chief Judge Beryl A. Howell on 2/28/2023. (ztg). Modified title and uploaded a paper order on 3/1/2023 (ztg). (Entered: 02/28/2023)
04/13/2023		MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, DIRECTING the parties, by April 20, 2023 at 12 p.m., to provide their positions whether the photo and video evidence identified in the government's <u>91</u> and 92 Exhibit Lists may be made publicly available without restriction. Signed by Judge Beryl A. Howell on April 13, 2023. (lcbah3) (Entered: 04/13/2023)

04/17/2023	<u>124</u>	SUPPLEMENT by LUKE WESSLEY BENDER as to <u>115</u> Defendant's Sentencing Memorandum. (Macchiaroli, Christopher) Modified on 4/18/2023 to Add Link (zhsj). (Entered: 04/17/2023)
04/19/2023	<u>126</u>	RESPONSE by USA as to LUKE WESSLEY BENDER to Supplement to Defendant Bender's Sentencing Memorandum (Attachments: # <u>1</u> Exhibit A – Online Case Information, # <u>2</u> Exhibit B – Virginia Crimes Against Property Statute)(Konig, Jordan) Modified on 4/19/2023 (zhsj). (Entered: 04/19/2023)
04/20/2023		Minute Entry for proceedings held before Judge Beryl A. Howell: Sentencing held on 4/20/2023 as to LUKE WESSLEY BENDER (1), Counts 1 through 6. Defendant sentenced to serve concurrent terms of incarceration of twenty-one (21) months as to Count 1, twelve (12) months as to Counts 2 and 3, and six (6) months as to Counts 4, 5, and 6; the Defendant is further sentenced to serve concurrent terms of supervised release of thirty-six (36) months as to Count 1, and twelve (12) months as to Counts 2 and 3; he is ordered to pay a special assessment of \$180.00 which consists of \$100.00 as to Count 1, \$25.00 as to Counts 2 and 3, and \$10.00 as to Counts 4, 5, and 6; and \$2,000.00 restitution payable to the Clerk of Court for the U.S. District Court for the District of Columbia for its disbursement to the victim, Architect of the Capitol; imposition of a fine waived. Oral motion by counsel for the Defendant for self-surrender, granted; the Defendant will continue to be released under the same conditions of supervision pending self-surrender. Recommendation by the Court for the Defendant's participation in the Bureau of Prisons' Federal Prisons Industries Program, Occupational Education Program, Challenge Program, Drug Abuse Education Program, Nonresidential Drug Abuse Program and Skill Program. Bond Status of Defendant: Personal Recognizance. Present: Defense Attorney: Christopher Macchiaroli; US Attorneys: Jordan A. Konig and Samantha R. Miller; Probation Officer: Hana Field; Pretrial Officer: Christine Schuck. Court Reporter: Elizabeth Saint-Loth. (ztg) Modified on 4/20/2023 (ztg). (Entered: 04/20/2023)
04/20/2023	<u>130</u>	RESPONSE TO ORDER OF THE COURT by LUKE WESSLEY BENDER re Order, (Macchiaroli, Christopher) (Entered: 04/20/2023)
04/20/2023	<u>131</u>	RESPONSE TO ORDER OF THE COURT by USA as to LUKE WESSLEY BENDER, LANDON BRYCE MITCHELL re Order, (Konig, Jordan) (Entered: 04/20/2023)
04/20/2023	<u>132</u>	JUDGMENT as to LUKE WESSLEY BENDER. Statement of Reasons Not Included. Signed by Judge Beryl A. Howell on 4/20/2023. (zhsj) (Main Document 132 replaced on 4/21/2023) (zhsj). (Entered: 04/21/2023)
04/20/2023	<u>133</u>	STATEMENT OF REASONS as to LUKE WESSLEY BENDER re <u>132</u> Judgment Access to the PDF Document is restricted per Judicial Conference Policy. Access is limited to Counsel of Record and the Court. Signed by Judge Beryl A. Howell on 4/20/2023. (zhsj) (Entered: 04/21/2023)
04/21/2023		MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER and LANDON BRYCE MITCHELL, DIRECTING the government, in light of (1) the government's lack of objection noted in its <u>131</u> Response to Court Order; and (2) defendants' lack of objection noted in MITCHELL's 129 Response to Court's Minute Order and BENDER's <u>130</u> Response to Court Order, promptly to make the video exhibits identified in its <u>91</u> and <u>92</u> Exhibit Lists publicly available without restrictions by providing access using the "drop box" technical solution described in Standing Order 21-28, <i>In re: Media Access to Video Exhibits in Pretrial Capitol Cases</i> . Signed by

		Judge Beryl A. Howell on April 21, 2023. (lcbah3) (Entered: 04/21/2023)
04/21/2023		MINUTE ORDER (paperless), as to LUKE WESSLEY BENDER, DIRECTING defendant to file publicly, by April 28, 2023, a redacted version of his <u>116</u> Sentencing Memorandum. Signed by Judge Beryl A. Howell on April 21, 2023. (lcbah3) (Entered: 04/21/2023)
04/25/2023	<u>137</u>	NOTICE of Filing by LUKE WESSLEY BENDER (Attachments: # <u>1</u> Redacted Memorandum)(Macchiaroli, Christopher) (Entered: 04/25/2023)
04/25/2023	<u>138</u>	NOTICE OF APPEAL – Final Judgment by LUKE WESSLEY BENDER re <u>132</u> Judgment. Filing fee \$ 505, receipt number ADCDC–10025414. Fee Status: Fee Paid. Parties have been notified. (Macchiaroli, Christopher) (Entered: 04/25/2023)
04/26/2023	<u>139</u>	Transmission of the Notice of Appeal, Order Appealed, and Docket Sheet to US Court of Appeals. The Court of Appeals fee was paid on 4/25/2023 as to LUKE WESSLEY BENDER re <u>138</u> Notice of Appeal – Final Judgment. (zhsj) (Entered: 04/26/2023)

United States District Court for the District of Columbia

UNITED STATES OF AMERICA)
)
 vs.) Criminal No. 21-cr-508-01-BAH
)
LUKE WESSLEY BENDER)

NOTICE OF APPEAL

Name and address of appellant:

Luke Wessley Bender
8186 Peakwood Court, Apt. 3
Manassas, Virginia 20111

Name and address of appellant’s attorney:

Christopher Macchiaroli, Esq.
1750 K Street, NW, Suite 810
Washington, D.C. 20006

Offense: Obstruction of an Official Proceeding, in violation of 18 U.S.C. § 1512(c)(2), et al.

Concise statement of judgment or order, giving date, and any sentence:

Judgment dated April 20, 2023, resulting in a total sentence of 21 months of incarceration and 36 months of supervised release.

Name and institution where now confined, if not on bail: On Bail, Pending BOP Designation

I, the above named appellant, hereby appeal to the United States Court of Appeals for the District of Columbia Circuit from the above-stated judgment.

April 25, 2023
DATE

Luke Wessley Bender
APPELLANT
/s/ Christopher Macchiaroli
ATTORNEY FOR APPELLANT

GOVT. APPEAL, NO FEE
CJA, NO FEE
PAID USDC FEE
PAID USCA FEE

Does counsel wish to appear on appeal? YES NO
Has counsel ordered transcripts? YES NO
Is this appeal pursuant to the 1984 Sentencing Reform Act? YES NO

FILED

APR 20 2023

UNITED STATES DISTRICT COURT

District of Columbia

UNITED STATES OF AMERICA

v.

LUKE WESSLEY BENDER

)
)
)
)
)
)
)
)
)

JUDGMENT IN A CRIMINAL CASE

Clerk, U.S. District and
Criminal Courts

Case Number: 21CR508-01 (BAH)

USM Number: 57891-509

Christopher Macchiaroli

Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) _____

pleaded nolo contendere to count(s) _____
which was accepted by the court.

was found guilty on count(s) 1, 2, 3, 4, 5, 6 - found guilty after a stipulated trial
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC 1512(c)(2)	Obstruction of an Official Proceeding	1/6/2021	1
18 USC 1752(a)(1)	Entering and Remaining in a Restricted Building or Grounds	1/6/2021	2

The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____

Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

4/20/2023

Date of Imposition of Judgment

Beryl A. Howell
Signature of Judge

Beryl A. Howell, U.S. District Judge
Name and Title of Judge

April 20, 2023
Date

DEFENDANT: LUKE WESSLEY BENDER
CASE NUMBER: 21CR508-01 (BAH)

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC 1752(a)(2)	Disorderly and Disruptive Conduct in a Restricted Building or Grounds	1/6/2021	3
40 USC 5104(e)(2)(A)	Entering and Remaining on the Floor of Congress	1/6/2021	4
40 USC 5104(e)(2)(D)	Disorderly Conduct in a Capitol Building	1/6/2021	5
40 USC 5104(e)(2)(G)	Parading, Demonstrating, or Picketing in a Capitol Building	1/6/2021	6

DEFENDANT: LUKE WESSLEY BENDER
CASE NUMBER: 21CR508-01 (BAH)

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: TWENTY-ONE (21) MONTHS, which consists of concurrent terms of TWENTY-ONE (21) MONTHS as to Count 1, TWELVE (12) MONTHS as to Counts 2 and 3, and SIX (6) MONTHS as to Counts 4 through 6.

- The court makes the following recommendations to the Bureau of Prisons:
That he be permitted to participate in the Bureau of Prisons' Federal Prisons Industries Program, Occupational Education Program, Challenge Program, Drug Abuse Education Program, Nonresidential Drug Abuse Program and Skill Program.
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
 - at _____ a.m. p.m. on _____.
 - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - before 2 p.m. on _____.
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: LUKE WESSLEY BENDER
CASE NUMBER: 21CR508-01 (BAH)

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

Concurrent term of THIRTY-SIX (36) MONTHS which consists of THIRTY-SIX (36) MONTHS as to Count 1, and TWELVE (12) MONTHS as to Counts 2 and 3.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: LUKE WESSLEY BENDER
CASE NUMBER: 21CR508-01 (BAH)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: LUKE WESSLEY BENDER
CASE NUMBER: 21CR508-01 (BAH)

ADDITIONAL STANDARD CONDITIONS OF SUPERVISION

Special Assessment - The defendant is ordered to pay a special assessment of \$100.00 on Count 1; \$25.00 on each of Counts 2 and 3; and \$10.00 on each of Counts 4, 5, and 6 for a total of \$180.00 in accordance with 18 USC 3013.

Restitution - The defendant is ordered to make restitution to the Architect of the Capitol in the amount of \$2,000.00. Restitution payments shall be made to the Clerk of the Court for the United States District Court, District of Columbia, for disbursement to the victim: Architect of the Capitol, Office of the Chief Financial Officer, Ford House Office Building, Room H2-205B, Washington, DC 20515. Amount of Loss: \$2,000.00.

DEFENDANT: LUKE WESSLEY BENDER
CASE NUMBER: 21CR508-01 (BAH)

SPECIAL CONDITIONS OF SUPERVISION

Restitution Obligation - The defendant must pay the balance of any restitution owed at a rate of no less than \$100.00 each month, upon completion of his period of incarceration.

Financial Information Disclosure - The defendant must provide the probation officer access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the United States Attorney's Office.

Financial Restrictions - The defendant must not incur new credit charges, or open additional lines of credit without the approval of the probation officer.

Substance Abuse Treatment - The defendant must participate in an inpatient and/or outpatient substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise the defendant's participation in the program (provider, location, modality, duration, intensity, etc.).

Substance Abuse Testing - The defendant must submit to substance abuse testing to determine if he has used a prohibited substance. He must not attempt to obstruct or tamper with the testing methods.

Cognitive Behavioral Treatment - The defendant must participate in a cognitive behavioral treatment program and follow the rules and regulations of that program (provider, location, modality, duration, intensity, etc.). The probation officer will supervise the defendant's participation in the program. Such programs may include group sessions led by a counselor or participation in a program administered by the probation office.

Mental Health Treatment - The defendant must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise the defendant's participation on the program (provider, location, modality, duration, intensity, etc.).

THE COURT FINDS that the defendant does not have the ability to pay a fine and, therefore, waives imposition of a fine in this case.

The financial obligations are immediately payable to the Clerk of the Court for the U.S. District Court, 333 Constitution Avenue, NW, Washington, DC 20001. Within 30 days of any change of address, the defendant shall notify the Clerk of the Court of the change until such time as the financial obligation is paid in full.

The Probation Office shall release the presentence investigation report to all appropriate agencies, which includes the United States Probation Office in the approved district of residence, in order to execute the sentence of the Court. Treatment agencies shall return the presentence report to the Probation Office upon the defendant's completion or termination from treatment.

DEFENDANT: LUKE WESSLEY BENDER
CASE NUMBER: 21CR508-01 (BAH)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 180.00	\$ 2,000.00	\$ 0.00	\$ 0.00	\$ 0.00

The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Architect of the Capitol		\$2,000.00	
Office of the Chief Financial Officer			
Ford House Office Building			
Room H2-205B			
Washington, DC 20515			

TOTALS	\$ _____	0.00	\$ _____	2,000.00
---------------	----------	------	----------	----------

Restitution amount ordered pursuant to plea agreement \$ _____

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: LUKE WESSLEY BENDER
CASE NUMBER: 21CR508-01 (BAH)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A Lump sum payment of \$ 180.00 due immediately, balance due
 - not later than _____, or
 - in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:
The defendant is ordered to pay a \$180.00 special assessment and \$2,000.00 restitution. These amounts are due and payable to the Clerk of the U.S. District Court for the District of Columbia. Restitution shall be disbursed to the victim: Architect of the Capitol, Office of the Financial Officer, Ford House Office Building, Room H2-205B, Washington, DC 20515. He must pay the balance of any restitution owed at a rate of no less than \$100.00 each month, upon completion of his period of incarceration.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
---	--------------	-----------------------------	--

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.