

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

<b>UNITED STATES OF AMERICA</b>	:	
	:	
v.	:	<b>Case No. 23-cr-143 (APM)</b>
	:	
<b>MICHAEL DANIELE,</b>	:	
	:	
<b>Defendant.</b>	:	

**GOVERNMENT’S MOTIONS TO RECONSIDER  
ORDER GRANTING DEFENSE MOTION FOR BILL OF PARTICULARS  
AND FOR EXTENTION OF TIME TO RESPOND TO DEFENSE MOTION**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby submits its Motion to Reconsider the Court’s Order granting the defendant, Michael Daniele’s (hereinafter “Daniele”), Motion for a Bill of Particulars and accompanying Motion for Extension of Time. In support of its motions, the government relies on the following:

1. On February 22, 2023, Daniele was charged by complaint with one felony and four misdemeanors in connection with his conduct at the Capitol on January 6, 2021. Daniele was arrested on those charged on February 27, 2023, and released pending trial.
2. On January 3, 2024, the government filed an Indictment, which included the complaint and an additional count of 18 U.S.C. 231(a)(3). ECF No. 23. Those charges are:
  - Count One: Civil Disorder in violation of 18 U.S.C. § 231(a)(3)
  - Count Two: Civil Disorder in violation of 18 U.S.C. § 231(a)(3)
  - Count Three: Entering and Remaining in a Restricted Building or Grounds in Violation of 18 U.S.C. § 1752(a)(1)
  - Count Four: Disorderly and Disruptive Conduct in a Restricted Building or Grounds in violation of 18 U.S.C. § 1752(a)(2)

- Count Five: Disorderly Conduct in a Capitol Building in violation of 40 U.S.C. § 5104(e)(2)(D)
  - Count Six: Parading, Demonstrating, or Picketing in a Capitol Building in violation of 40 U.S.C. § 5104(e)(2)(G)
3. At the arraignment/status conference on January 9, 2024, the Court scheduled a trial date for June 12, 2024.
  4. The Court subsequently issued a Pretrial Order setting various pretrial deadlines, including a deadline of April 10, 2024 for defense Rule 12 motions, and a corresponding response deadline of April 17, 2024. ECF No. 27.
  5. On January 15, 2024, Daniele filed a Motion for Bill of Particulars. ECF No. 28. The government did not file a response within 14 days, and the Court granted the defense motion as conceded on February 5, 2024. ECF No. 30.
  6. The undersigned mistakenly interpreted Daniele’s Motion for a Bill of Particulars as a Rule 12(b)(3)(B) motion, alleging a defect in the indictment. *See* Fed. R. Crim. P. 12(b) (“The following defenses, objections, and requests must be raised by pretrial motion if the basis for the motion is then reasonably available and the motion can be determined without a trial on the merits . . . (B) a defect in the indictment or information, including . . . (iii) lack of specificity; and . . . failure to state an offense[.]”). The undersigned therefore believed the government response deadline to be April 17, 2024—the response deadline for Rule 12 motions.
  7. The government respectfully requests that the Court reconsider its February 5, 2024 Order granted Daniele’s Motion for a Bill of Particulars, and allow the government an opportunity to respond so that the Court may rule on the merits of the motion.

8. The government also seeks a brief extension of time, until February 9, 2024, to respond to Daniele's motion. Given that trial is still months away, and Daniele is not detained, a short extension would not prejudice the defendant.

### **CONCLUSION**

For all of the above reasons, the government respectfully requests that the Court reconsider its Order granting Daniele's Motion for a Bill of Particulars, and allow the government a brief extension of time to respond to the motion.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was sent by ECF, this 7th day of February, 2024, to all parties of record.

By: /s/ Sarah C. Martin  
Sarah C. Martin

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**PROPOSED ORDER**

Upon consideration of the government’s Motions to Reconsider Order Granting Defense Motion for Bill of Particulars and for Extension of Time to Respond to Defense Motion, it is this \_\_\_\_ day of February, 2024, hereby

ORDERED, that the government’s motions are GRANTED;

ORDERED, that the Court’s February 5, 2024 Order granting the defendant’s Motion for a Bill of Particulars as conceded is VACATED; and it is further

ORDERED, that the government shall file a response to the defense Motion for Bill of Particulars on or before February 9, 2024.

\_\_\_\_\_  
The Honorable Amit P. Mehta  
United States District Court Judge