

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

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| UNITED STATES OF AMERICA | : | |
| | : | |
| v. | : | CASE NO. 1:21-cr-161 |
| | : | |
| DUSTIN THOMPSON, | : | |
| | : | |
| Defendant. | : | |

**NOTICE OF FILING OF JURY INSTRUCTIONS, VOIR DIRE, VERDICT FORM, AND
STIPULATIONS**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby files the attached jury instructions, voir dire, and verdict form. The jury instructions are jointly proposed by the government and Defendant Dustin Thompson, but Defendant reserves the right to submit instructions regarding the public authority defense and any other instruction consistent with lack of mens rea, or avoidance, provided such evidence is permitted to be presented and is adduced at trial. The voir dire questions are jointly submitted, with the exception of the section entitled “Defendant’s Additional Proposed Voir Dire,” which are proposed by the Defendant alone. Word versions of the jury instructions, voir dire, and verdict form will be emailed to the Court’s courtroom deputy.

The government also files the attached stipulations, which have been entered into by the government and defendant Dustin Thompson. The stipulations include personal phone numbers and an email address that have been redacted. The unredacted version of the stipulations will be emailed to the Court’s courtroom deputy.

Respectfully submitted,
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| UNITED STATES OF AMERICA | : | |
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| v. | : | Case No: 21-CR-161 RBW |
| | : | |
| DUSTIN THOMPSON, | : | |
| | : | |
| Defendant. | : | |

PROPOSED JURY INSTRUCTIONS

Pursuant to the Court’s January 27, 2022, minute order, the parties hereby jointly propose the following preliminary and final jury instructions, subject to issues that arise during trial. Defendant reserves the right to submit instructions regarding the public authority defense and any other instruction consistent with lack of mens rea, or avoidance, provided such evidence is permitted to be presented and is adduced at trial.

I. Preliminary Instructions [in addition to the Court’s standard preliminary instructions]

- 1. Definitions: Stipulation of Fact, Redbook 1.103(A) [see proposal below]

II. Final Instructions

- 1. Furnishing the Jury with a Copy of the Instructions, Redbook 2.100
- 2. Function of the Court, Redbook 2.101
- 3. Function of the Jury, Redbook 2.102
- 4. Jury’s Recollection Controls, Redbook 2.103
- 5. Evidence in the Case, Redbook 2.104
- 6. Statements of Counsel, Redbook 2.105

7. Indictment Not Evidence, Redbook 2.106
8. Burden of Proof, Redbook 2.107
9. Reasonable Doubt, Redbook 2.108
10. Direct and Circumstantial Evidence, Redbook 2.109
11. Nature of Charges Not To Be Considered, Redbook 2.110
12. Number of Witnesses, Redbook 2.111
13. Inadmissible and Stricken Evidence, Redbook 2.112
14. Credibility of Witnesses, Redbook 2.200
15. Police Officer's Testimony, Redbook 2.207
16. Right of Defendant Not to Testify, Redbook 2.208 [if applicable after trial]
17. Count One, Obstruction of an Official Proceeding in violation of 18 U.S.C. § 1512(c)(2)
[see proposal below]
 - a. Elements
 - b. "Official Proceeding"
 - c. "Corruptly"
 - d. Attempt
 - e. Aiding and Abetting
18. Count Two, Theft of United States Government Property in violation of 18 U.S.C. § 641,
Redbook 5.351 [see proposal below]
 - a. Elements
19. Count Three, Entering or Remaining in a Restricted Building or Grounds in violation of
18 U.S.C. § 1752(a)(1) [see proposal below]
 - a. Elements

- b. “Restricted Building or Grounds”
 - c. “Knowingly”
- 20. Count Four, Disorderly or Disruptive Conduct in a Restricted Building or Grounds in violation of 18 U.S.C. § 1752(a)(2) [see proposal below]
 - a. Elements
 - b. “Disorderly or Disruptive Conduct”
- 21. Count Five, Disorderly or Disruptive Conduct in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(D) [see proposal below]
 - a. Elements
 - b. “Willfully”
 - c. “Orderly Conduct of a Session of Congress”
- 22. Count Six, Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(D) [see proposal below]
 - a. Elements
- 23. Other Crimes Evidence, Redbook 2.321(B) [see proposal below]
- 24. Proof of State of Mind, Redbook 3.101
- 25. Multiple Counts – One Defendant, Redbook 2.402
- 26. Unanimity—General, Redbook 2.405
- 27. Verdict Form Explanation, Redbook 2.407
- 28. Redacted Documents and Tapes, Redbook 2.500
- 29. Exhibits During Deliberations, Redbook 2.501
- 30. Selection of Foreperson, Redbook 2.502
- 31. Possible Punishment Not Relevant, Redbook 2.505

32. Cautionary Instruction on Publicity, Communication, and Research, Redbook 2.508
33. Communication Between Court and Jury During Jury's Deliberations, Redbook 2.509
34. Excusing Alternate Jurors, Redbook 2.511

STIPULATION OF FACT
(Instruction 1.103(A))

The government and the defendant may stipulate—that is, agree—to certain facts. You should consider any stipulation of fact to be undisputed evidence.

OBSTRUCTION OF AN OFFICIAL PROCEEDING - ELEMENTS
(18 U.S.C. § 1512(c)(2); Seventh Circuit Pattern Criminal Jury Instructions)

Count One of the indictment charges Dustin Thompson with corruptly obstructing an official proceeding, which is a violation of federal law.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following two elements beyond a reasonable doubt:

First, the defendant attempted to or did obstruct or impede any official proceeding.

Second, the defendant acted corruptly.

The government must prove beyond a reasonable doubt only that the defendant attempted to or did either obstruct or impede an official proceeding. The government does not need to prove that the defendant did both of those things. You must unanimously agree either that the defendant obstructed an official proceeding, or that he impeded an official proceeding, or that he did both.

If you find that the government has proved beyond a reasonable doubt all of the elements of this charge, as I have just instructed you, the defendant's motive in acting is not relevant.

OBSTRUCTION OF AN OFFICIAL PROCEEDING – “OFFICIAL PROCEEDING”
(18 U.S.C. § 1515(a)(1)(B); Seventh Circuit Pattern Criminal Jury Instructions)

The term “official proceeding” includes a proceeding before the Congress. As used in Count One, the term “official proceeding” means Congress’s Joint Session to certify the Electoral College vote.

An official proceeding need not be pending or about to be instituted at the time of the offense. If the official proceeding was not pending or about to be instituted, the government must prove beyond a reasonable doubt that the official proceeding was reasonably foreseeable to the defendant and that the natural and probable effect of the defendant’s conduct was to obstruct the official proceeding.

OBSTRUCTION OF AN OFFICIAL PROCEEDING – “CORRUPTLY”

(Seventh Circuit Pattern Criminal Jury Instructions; *Arthur Andersen LLP v. United States*, 544 U.S. 696, 706 (2005); *United States v. Gordon*, 710 F.3d 1124, 1151 (10th Cir. 2013); *United States v. Friske*, 640 F.3d 1288, 1291 (11th Cir. 2011); *United States v. Watters*, 717 F.3d 733, 735 (9th Cir. 2013); *United States v. North*, 910 F.2d 843, 883 (D.C. Cir. 1990) *withdrawn and superseded in part by United States v. North*, 920 F.2d 940 (D.C. Cir. 1990))

“Corruptly” means knowingly, with intent to obstruct or impede an official proceeding, and with consciousness of wrongdoing. To act corruptly, the defendant must use unlawful means or act with an unlawful purpose, or both. “Consciousness of wrongdoing” means an understanding or awareness that what the person is doing is wrong or unlawful.

Not all attempts to obstruct or impede an official proceeding involve acting corruptly. For example, a witness in a court proceeding may refuse to testify by invoking his constitutional privilege against self-incrimination, thereby obstructing or impeding the proceeding, but he does not act corruptly. In contrast, an individual who obstructs or impedes a court proceeding by bribing a witness to refuse to testify in that proceeding, or by engaging in other independently unlawful conduct, does act corruptly.

OBSTRUCTION OF AN OFFICIAL PROCEEDING – ATTEMPT

(Redbook 7.101; Seventh Circuit Pattern Criminal Jury Instructions; Third Circuit Pattern Jury Instructions 7.01)

In Count One, Dustin Thompson is charged with attempt to commit the crime of obstructing an official proceeding. The elements of the crime of attempted obstruction of an official proceeding, each of which the government must prove beyond a reasonable doubt, are that:

First, the defendant intended to commit the crime of obstruction of an official proceeding, as I have defined that offense above.

Second, the defendant engaged in conduct that constituted a substantial step toward committing obstruction of an official proceeding, as I have defined that offense above.

You may not find the defendant guilty of attempt to commit obstruction of an official proceeding merely because he made some plans to or some preparation for committing that crime. Instead, you must find that the defendant took some firm, clear, undeniable action to accomplish his intent to commit obstruction of an official proceeding. However, the substantial step element does not require the government to prove that the defendant did everything except the last act necessary to complete the crime.

OBSTRUCTION OF AN OFFICIAL PROCEEDING – AIDING AND ABETTING

(Redbook 3.200; 18 U.S.C. § 2(a); Third Circuit Model Jury Instructions 7.02)

You may find Dustin Thompson guilty of the crime charged in the indictment without finding that s/he personally committed each of the acts that make up the crime or that s/he was present while the crime was being committed. Any person who in some way intentionally participates in the commission of a crime can be found guilty either as an aider and abettor or as a principal offender. It makes no difference which label you attach. The person is as guilty of the crime as he would be if he had personally committed each of the acts that make up the crime.

In this case, the government alleges that the defendant aided and abetted others in committing obstruction of an official proceeding as charged in Count One. In order to find the defendant guilty of obstruction of an official proceeding because he aided and abetted others in committing this offense, you must find that the government proved beyond a reasonable doubt the following four requirements:

First, others committed obstruction or attempted obstruction of an official proceeding by committing each of the elements of the offense charged, as I have explained those elements to you in these instructions.

Second, that the defendant knew that obstruction or attempted obstruction of an official proceeding was going to be committed or was being committed by others.

Third, that the defendant performed some act or acts in furtherance of the offense charged.

Fourth, that the defendant knowingly performed the act or acts for purpose of aiding, assisting, soliciting, facilitating, or encouraging others in committing the specific offense charged and with the intent that others commit that specific offense.

To show that the defendant performed an act or acts in furtherance of the offense charged, the government needs to show some affirmative participation by the defendant which at least

encouraged others to commit the offense. That is, you must find that the defendant's act or acts did, in some way, aid, assist, facilitate, or encourage others to commit the offense. The defendant's act or acts need not further aid, assist, facilitate, or encourage every part or phase of the offense charged; it is enough if the defendant's act or acts further aid, assist, facilitate, or encourage only one or some parts or phases of the offense. Also, the defendant's acts need not themselves be against the law.

In deciding whether the defendant had the required knowledge and intent to satisfy the fourth requirement for aiding and abetting, you may consider both direct and circumstantial evidence including the defendant's words and actions and the other facts and circumstances. However, evidence that the defendant merely associated with persons involved in a criminal venture during the commission of the offense is not enough for you to find the defendant guilty as an aider and abetter. Mere physical presence by the defendant at the place and time the crime is committed is not by itself sufficient to establish his guilt, unless his mere physical presence is intended to help in the commission of the crime. If the evidence shows that the defendant knew that the offense was being committed or was about to be committed, but does not also prove beyond a reasonable doubt that it was the defendant's intent and purpose to aid, assist, encourage, facilitate, or otherwise associate himself with the offense, you may not find the defendant guilty of the obstruction of an official proceeding as an aider and abettor. The government must prove beyond a reasonable doubt that the defendant in some way participated in the offense committed by others as something the defendant wished to bring about and to make succeed.

The government is not required to prove that anyone discussed or agreed upon a specific time or method of committing the crime. Nor need the government prove that the principal offender and the person alleged to be the aider and abettor directly communicated with each other.

It is not necessary that all the people who committed the crime be caught or identified. It is sufficient if you find beyond a reasonable doubt that the crime was committed by someone and that the defendant knowingly and intentionally aided and abetted in committing the crime.

THEFT OF UNITED STATES GOVERNMENT PROPERTY – ELEMENTS
(Redbook 5.351)

Count Two of the indictment charges Dustin Thompson with theft of United States government property, which is a violation of federal law. The elements of the offense of theft of United States government property, each of which the government must prove beyond a reasonable doubt, are that:

First, the defendant took a coat rack.

Second, the coat rack belonged to the United States at the time it was taken.

Third, when the defendant took the coat rack he intended to deprive, without right, the owner of the use or benefit of the coat rack.

**ENTERING OR REMAINING IN A RESTRICTED BUILDING OR GROUNDS –
ELEMENTS**

(18 U.S.C. § 1752; *United States v. Jabr*, 4 F.4th 97, 101 (D.C. Cir. 2021))

Count Three of the indictment charges Dustin Thompson with entering or remaining in a restricted building or grounds, which is a violation of federal law.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following elements beyond a reasonable doubt:

First, the defendant entered or remained in a restricted building or grounds without lawful authority to do so.

Second, the defendant did so knowingly.

The government must prove beyond a reasonable doubt only that the defendant either knowingly and willfully entered, or knowingly and willfully remained in, a restricted building or grounds without lawful authority, not that the defendant did both. You must unanimously agree on which of those things the defendant did.

ENTERING OR REMAINING IN A RESTRICTED BUILDING OR GROUNDS –
“RESTRICTED BUILDING OR GROUNDS”
(18 U.S.C. § 1752(c); 18 U.S.C. § 3056)

The term “restricted building or grounds” means any posted, cordoned off, or otherwise restricted area of a building or grounds where a person protected by the Secret Service is or will be temporarily visiting.

The term “person protected by the Secret Service” includes the Vice President, and the immediate family of the Vice President.

ENTERING OR REMAINING IN A RESTRICTED BUILDING OR GROUNDS –
“KNOWINGLY”

(Third Circuit Model Jury Instruction, Criminal, 5.02 (“Knowingly”))

A person acts knowingly if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.

**DISORDERLY OR DISRUPTIVE CONDUCT IN A RESTRICTED BUILDING OR
GROUNDS – ELEMENTS**
(18 U.S.C. § 1752)

Count Four of the indictment charges Dustin Thompson with disorderly or disruptive conduct in a restricted building or grounds, which is a violation of federal law.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following elements beyond a reasonable doubt:

First, the defendant engaged in disorderly or disruptive conduct.

Second, the defendant did so knowingly and with intent to impede or disrupt the orderly conduct of Government business or official functions.

Third, the defendant's conduct was in a restricted building or grounds.

Fourth, the defendant's conduct in fact impeded or disrupted the orderly conduct of Government business or official functions.

The government must prove beyond a reasonable doubt only that the defendant engaged in either disorderly or disruptive conduct, not that the defendant engaged in both. You must unanimously agree on which of those things the defendant did.

Similarly, to find the defendant guilty, you must unanimously agree that the defendant either intended to impede or intended to disrupt the orderly conduct of Government business or official functions. But the government does not need to prove that the defendant intended both of those things.

**DISORDERLY OR DISRUPTIVE CONDUCT IN A RESTRICTED BUILDING OR
GROUNDS – “DISORDERLY OR DISRUPTIVE CONDUCT”**

(Adapted from Redbook 6.643)

“Disorderly conduct” occurs when a person acts in such a manner as to cause another person to be in reasonable fear that a person or property in a person’s immediate possession is likely to be harmed or taken, uses words likely to produce violence on the part of others, is unreasonably loud and disruptive under the circumstances, or interferes with another person by jostling against or unnecessarily crowding that person.

“Disruptive conduct” is a disturbance that interrupts an event, activity, or the normal course of a process.

DISORDERLY OR DISRUPTIVE CONDUCT IN A CAPITOL BUILDING –
ELEMENTS
(40 U.S.C. § 5104)

Count Five of the indictment charges Dustin Thompson with disorderly or disruptive conduct in a capitol building, which is a violation of federal law.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following four elements beyond a reasonable doubt:

First, the defendant was inside the United States Capitol Building.

Second, the defendant uttered loud, threatening, or abusive language, or engaged in disorderly or disruptive conduct.

Third, the defendant acted with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress.

The government must prove beyond a reasonable doubt only that the defendant did one of the following: uttered loud language, uttered threatening language, uttered abusive language, engaged in disorderly conduct, or engaged in disruptive conduct. You must unanimously agree on which of those things the defendant did.

Similarly, to find the defendant guilty, you must unanimously agree either that the defendant intended to impede, or intended to disrupt, or intended to disturb, the orderly conduct of a session of Congress or either House of Congress. But the government does not need to prove that the defendant intended all of those things.

The government is not required to prove that the defendant actually impeded, disrupted, or disturbed the orderly conduct of a session.

DISORDERLY OR DISRUPTIVE CONDUCT IN A CAPITOL BUILDING –
“WILLFULLY”

(Third Circuit Model Jury Instruction, Criminal, 5.05 (“Willfully”))

A defendant acts “willfully” if he knew his conduct was unlawful and intended to do something that the law forbids. That is, to find that defendant acted “willfully,” you must find that the evidence proved beyond a reasonable doubt that the defendant acted with a purpose to disobey or disregard the law. “Willfully” does not, however, require proof that the defendant had any evil motive or bad purpose other than the purpose to disobey or disregard the law.

DISORDERLY OR DISRUPTIVE CONDUCT IN A CAPITOL BUILDING –
“ORDERLY CONDUCT OF A SESSION OF CONGRESS”

I instruct you that, for purposes of Count Five, “the orderly conduct of a session of Congress or either House of Congress” includes all the actions of the Joint Session of Congress convened on January 6, 2021, to certify the Electoral College Presidential Election of 2020.

**PARADING, DEMONSTRATING, OR PICKETING IN A CAPITOL BUILDING –
ELEMENTS**

(40 U.S.C. § 5104; *Bynum v. United States Capitol Police Board*, 93 F. Supp. 2d 50, 58 (D.D.C. 2000))

Count Six of the indictment charges Dustin Thompson with parading, demonstrating, or picketing in a capitol building, which is a violation of federal law.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following three elements beyond a reasonable doubt:

First, the defendant was inside the United States Capitol Building.

Second, the defendant paraded, demonstrated, or picketed.

Third, the defendant acted willfully and knowingly.

The terms “parade” and “picket” have their ordinary meanings. The term “demonstrate” refers to conduct that would disrupt the orderly business of Congress by, for example, impeding or obstructing passageways, hearings, or meetings, but does not include activities such as quiet praying.

The government must prove beyond a reasonable doubt only that the defendant either paraded, demonstrated, or picketed. You must unanimously agree on which of those things the defendant did.

OTHER CRIMES EVIDENCE: INTENT, ABSENCE OF MISTAKE, ACCIDENT, OR KNOWLEDGE
(Redbook 2.321(B))

You have heard evidence that Dustin Thompson was arrested for trespassing in an Ohio state park in June 2020, and that he later paid a fine and wrote a letter of apology as part of a pretrial diversion program. It is up to you to decide whether to accept that evidence.

If you find that those things did occur, you may use this evidence only for the limited purpose of determining whether the government has proved beyond a reasonable doubt that Dustin Thompson acted knowingly and on purpose, and not by mistake or by accident, when he entered or remained in a restricted building or grounds without lawful authority to do so on January 6, 2021, or when he engaged in disorderly or disruptive conduct, or paraded, demonstrated, or picketed, in the U.S. Capitol Building on January 6, 2021.

You may not use this evidence for any other purpose. Dustin Thompson is only on trial for the crimes charged. Dustin Thompson is not charged in this case with any offense relating to trespassing in an Ohio state park in June 2020, and you may not use this evidence to conclude that he has a bad character, or that he has a criminal personality. The law does not allow you to convict Dustin Thompson simply because you believe he may have done bad things not specifically charged as crimes in this case.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

DUSTIN THOMPSON and
ROBERT LYON

Defendants.

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Case No: 21-CR-161 RBW

JOINT PROPOSED VOIR DIRE

Pursuant to the Court’s January 27, 2022, Pre-Trial Scheduling Order, the parties submit the following joint proposed voir dire:

I. Preliminary Questions

1. This is a criminal case entitled *United States v. Dustin Thompson*. The Defendant is charged with the offenses of Obstruction of Justice of an Official Proceeding and Aiding and Abetting; Theft of United States Government Property; Entering and Remaining in a Restricted Building or Grounds; Disorderly and Disruptive Conduct in a Restricted Building or Grounds; Disorderly Conduct in a Capitol Building; and Parading, Demonstrating, or Picketing in a Capitol Building. He was arrested in connection with the events that occurred at the U.S. Capitol on January 6, 2021. Do you know or have you heard anything about this case?

2. The Government in this case is represented by AUSAs William Dreher and Jennifer Rozzoni. The Defendant is represented by Sam Shamansky and Donald Regensburger. The Defendant is Dustin Thompson, who resides in Columbus, Ohio. Do you know any of these people?

3. [Each side will introduce its witnesses by name, general area of residence, and employment.] Do you know any of the witnesses who have been introduced to you?

4. Do you, members of your immediate family, or your close personal friends now work for, or has anyone in that group ever worked for, any law-enforcement agency? This includes any police department in or outside the District, special police officers, prosecutors' offices such as the state's attorney or U.S. Attorney, Park Police, FBI, Department of Justice, Homeland Security, sheriffs' departments, Secret Service, or any other law-enforcement agency.

5. Have you, members of your immediate family, or your close personal friends ever gone to law school, worked as a lawyer, or worked in a law office?

6. Have you, members of your immediate family, or your close personal friends ever been arrested for, convicted of, or charged with a crime or been a victim of or witness to a crime?

7. Do any of you live or work in or near the U.S. Capitol?

8. I will be instructing the jury at the end of the trial that the testimony of a police officer should be treated the same as the testimony of any other witness and that the jury should not give either greater or lesser weight to the testimony of a witness simply because that witness is a police officer. Does anyone have such strong feelings about the police – either positive or negative – that would make it difficult for you to be a fair juror in the case?

9. Have any of you had an experience as a member of a grand jury or as a juror in a previous trial that would affect your ability to be a fair juror in this trial?

i. When you served as a juror in a prior case, was it a criminal case or a civil case?

ii. Did you reach a verdict?

iii. Was there anything about your experience as a juror which would make you not want to serve again?

10. Would serving as a juror in this case be an extreme hardship to anyone [discuss schedule, including anticipated length of the trial]. Also, does anyone have a health or physical problem

that would make it difficult to serve on this jury?

11. Is there is any other reason that would make it difficult for you to sit as a juror in this case? Perhaps you have a religious, moral, or philosophical reason that you believe would make it hard for you to be fair. Is there some other reason that would make it difficult for you to sit as a fair, impartial, and attentive juror in this particular case?

II. Background Questions

1. Please provide the following information:
 - a. What is the highest level of school you completed?
 - b. What is your marital status?
 - c. Do you have children or step-children? If so, how many, and what are their ages?
 - d. What is your current occupation?
 - e. How long have you been at this job?
 - f. What is your current role at work?
 - g. Does your role include supervisory duties?
 - h. What is your spouse's occupation?
 - i. Are you able to read, speak, and understand the English language?
 - j. Do you have any trouble seeing or hearing?
 - k. Do you have trouble paying attention for long periods of time?
 - l. Do you take medication that makes it difficult for you to sit and focus for long periods of time?
 - m. Does jury service raise COVID-19 safety concerns for you?
 - n. Do you hold religious beliefs that prevent you from passing judgment on others?

2. How do you get your news?
 - a. Newspapers
 - b. TV
 - c. Radio
 - d. Social media
 - e. Podcasts
 - f. A different way?
3. Do you use social media? If yes, what platform(s) do you use, and what do you use them for?
4. Have you ever filed a lawsuit, or had a lawsuit of any kind filed against you, by anyone in court?
 - a. If the answer is yes, please indicate who brought the lawsuit, what it was about, and the result of the lawsuit.
5. Do you watch courtroom, law-related, or crime-related TV shows? If yes, what do you watch?
6. Do you have any opinions concerning the following which would affect your ability to be a fair and impartial juror?
 - a. Criminal prosecutors
 - b. Criminal defense attorneys
 - c. Police officers
 - d. FBI agents
 - e. The “federal government” in general

If you answered “yes” to any of the prior questions, please describe your opinions and

explain why they would interfere with your ability to be a fair and impartial juror.

7. Are you a member or participant in any organizations (such as neighborhood associations, religious organizations, school organizations, fraternal, sporting, labor, environment, victims' rights, civil rights, prisoners' rights, education reform, law reform, organizations that seek to legalize drugs or any other type of organization)?

- a. What is the name of the organization, and what is its mission or purpose?
- b. When did you become a member?
- c. Does the organization take any position on crime prevention, prosecution of crime or law enforcement?
- d. Can you set aside the views you or the organization espouse, and judge this case solely on the evidence and the Court's instructions?

III. January 6, 2021- Specific Questions

1. Do you or someone you know have any direct or indirect connection to events at the U.S. Capitol on January 6, 2021?
2. How much time do you spend utilizing the internet as a source of news and information?
3. Have you ever watched video of what happened at the U.S. Capitol on January 6, 2021 on the news or on the Internet? If yes, how many times have you seen videos of that event, in whole or in part, on TV or on the internet? (1 time, 2-3 times, 4-5 times, 6 or more times)
4. Have you ever seen any news articles about this defendant, that you can recall?
5. Have you ever watched video of this defendant from January 6, 2021 on the news or on the Internet? If yes, how many times have you seen videos of the defendant, in whole or in part, on TV or on the internet? (1 time, 2-3 times, 4-5 times, 6 or more times)
6. No matter what you have heard or seen about events at the U.S. Capitol on January 6,

2021, and no matter what opinions you may have formed, can you put all of that aside and decide this case only on the evidence you receive in court, follow the law, and decide the case in a fair and impartial manner?

IV. Other Questions

1. Under certain circumstances, the government can obtain authorization from a judge to search a premises or electronic media to obtain evidence including, but not limited to, emails, text messages, video recordings, letters, financial information and other materials or information. The Judge will instruct you that any evidence that is presented to you at trial was obtained legally and you can consider it. Is there any reason why you could not follow this instruction?

2. In what ways, if any, could your political views, or those of your spouse or partner, affect your service as a juror in this case?

3. If you are selected as a juror in this case, the judge will instruct you to avoid all media coverage, including radio, television, podcasts, and social media, and not to use the internet with regard to this case for any purpose. That is, you will be forbidden from reading newspaper articles about this case, listening to radio and podcast stories about this case, watching TV news about this case, googling this case, blogging or tweeting about this case, or reading or posting comments about this case on any social media sites. Do you have any reservations or concerns about your ability or willingness to follow this instruction?

4. Jurors are the sole judges of the facts. However, the jury must follow the principles of law as instructed by the judge. The jury may not follow some rules of law and ignore others. Even if the jury disagrees or dislikes the rules of law or does not understand the reasons for some of the rules, it is their duty to follow them. Do you have any personal beliefs that would make it difficult to follow the Court's legal instructions, whatever they may be?

5. Do you believe that Mr. Thompson should be presumed innocent of all charges unless the government is able to establish each element of the alleged crimes beyond a reasonable doubt?

DEFENDANT'S ADDITIONAL PROPOSED VOIR DIRE

The Defendant additionally proposes the following voir dire questions:

1. Do you believe the United States Attorney indicts innocent individuals?
2. Do you know individuals who you believe have been unduly influenced by information received from social media?
3. Do you believe the 2020 presidential election was stolen?
4. Do you believe former President Trump was truthful when told the American public that the election had been stolen?
5. Do you believe that reasonable people could have believed former President Trump's claims regarding the 2020 presidential election?
6. Do you believe that people place great weight on the words of the President of the United States?
7. Do you believe that citizens of the United States could have reasonably relied and acted upon the words of President Trump on January 6, 2021?
8. If you believe that Donald J. Trump's statements concerning the 2020 presidential election were untrue, will you still fairly evaluate whether Dustin Thompson believed them to be true?
9. Do you or have you ever supported former President Trump's efforts to disrupt the certification of the 2020 presidential election?

Respectfully submitted,

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

UNITED STATES OF AMERICA

v.

DUSTIN THOMPSON

Defendant.

:
:
:
:
:
:
:
:
:

Case No: 21-CR-161 RBW

VERDICT

With respect to the offense of Obstruction of an Official Proceeding on January 6, 2021, as charged in Count One, we the jury unanimously find the Defendant, Dustin Thompson:

GUILTY _____

NOT GUILTY _____

With respect to the offense of Theft of United States Government Property on January 6, 2021, as charged in Count Two, we the jury unanimously find the Defendant, Dustin Thompson:

GUILTY _____

NOT GUILTY _____

With respect to the offense of Entering or Remaining in a Restricted Building or Grounds on January 6, 2021, as charged in Count Three, we the jury unanimously find the Defendant, Dustin Thompson:

GUILTY _____

NOT GUILTY _____

With respect to the offense of Disorderly or Disruptive Conduct in a Restricted Building or Grounds on January 6, 2021, as charged in Count Four, we the jury unanimously find the Defendant, Dustin Thompson:

GUILTY _____

NOT GUILTY _____

With respect to the offense of Disorderly or Disruptive Conduct in a Capitol Building on January 6, 2021, as charged in Count Five, we the jury unanimously find the Defendant, Dustin Thompson:

GUILTY _____

NOT GUILTY _____

With respect to the offense of Parading, Demonstrating, or Picketing in a Capitol Building, on January 6, 2021, as charged in Count Six, we the jury unanimously find the Defendant, Dustin Thompson:

GUILTY _____

NOT GUILTY _____

Dated this _____ day of April, 2022.

FOREPERSON

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

| | | |
|---------------------------------|---|-------------------------------|
| UNITED STATES OF AMERICA | : | |
| | : | |
| v. | : | Case No: 21-CR-161 RBW |
| | : | |
| DUSTIN THOMPSON | : | |
| | : | |
| Defendant. | : | |

TRIAL STIPULATIONS

The United States of America, by and through William Dreher, Assistant United States Attorney and Jennifer Rozzoni, Assistant United States Attorney, and the Defendant, Dustin Thompson, and his attorney, Samuel Shamansky, agree and stipulate as follows.¹

I. Background stipulations.

First, the parties agree and stipulate to the following facts relating to the U.S. Capitol Building and the events of January 6, 2021. The jury may accept the following facts as if they had been proved beyond a reasonable doubt at trial. Neither party shall be prohibited from calling witnesses to testify about, or introducing evidence to establish, any of the facts listed in these stipulations.

1. The U.S. Capitol Building is located at 1 First Street, NW, Washington, D.C., 20510, and is the meeting place of both houses of the United States Congress and the seat of the legislative branch of the United States government.

2. The Capitol Building is surrounded by the Capitol Grounds, which are under the jurisdiction of the Architect of the Capitol. Under Section 5102 of Title 40 of the United States

¹ The Exhibits referenced in these stipulations are those produced by the government to the defendant on February 11, 2022.

Code, the Capitol Grounds include the shaded areas in the map labeled as Government's Exhibit 1.

3. The U.S. Capitol is secured 24 hours a day by the U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the Capitol Building.

4. On January 6, 2021, the Capitol Building and portions of the Capitol Grounds were closed to members of the public. The area that was closed to members of the public is defined by the area within the red border, including the Capitol Building, on the map labeled as Government's Exhibit 2. On the western side of the area shown in Government's Exhibit 2, there were additional temporary barriers, including green snow fencing and signs stating "Area Closed By Order of the United States Capitol Police Board."

5. The entire area within the red border on the map labeled as Government's Exhibit 2 was, on January 6, 2021, a "restricted building or grounds" as that term is used in Section 1752 of Title 18 of the United States Code and is, and was on January 6, 2021, either "in the Grounds" or "in any of the Capitol Buildings" as those terms are used in Sections 5104(e)(2)(D) and 5104(e)(2)(G) of Title 40 of the United States Code.

6. On January 6, 2021, a joint session of the United States Congress convened at the Capitol Building. During the joint session, elected members of the U.S. House of Representatives and the U.S. Senate were meeting in separate chambers of the Capitol Building to certify the vote count of the Electoral College of the 2020 Presidential Election, which took place on November 3, 2020 (the "Certification").

7. The Certification was an "official proceeding" under Section 1512(c)(2) of Title 18 of the United States Code.

8. The joint session began at approximately 1:00 p.m. At approximately 1:30 p.m.,

the House of Representatives and Senate adjourned to separate chambers to resolve a particular objection. Vice President Michael Pence had arrived at the Capitol Building, under the protection of the U.S. Secret Service, at approximately 12:36 p.m. Vice President Pence presided first in the joint session, and then in the Senate Chamber.

9. Between 12:00 p.m. and 1:00 p.m., a crowd of several thousand gathered outside the restricted area of the Capitol Grounds shown in Government's Exhibit 2. Temporary and permanent barricades were in place around that restricted area, and U.S. Capitol Police officers were attempting to keep the crowd outside of the restricted area.

10. Just before 1:00 p.m., these rioters broke through the police lines, toppled the outside barricades protecting the Capitol Grounds, and pushed past U.S. Capitol Police and supporting law enforcement officers. This crowd arrived at a second set of barriers and additional law enforcement officers that blocked the rioters' access to the West Plaza, an area below the Capitol Building's terrace on its western side. Other members of the public formed crowds on the north and east side of the Capitol Building, and also entered the restricted area of the Capitol Grounds.

11. Just before 2:00 p.m., some rioters in the crowd outside the West Plaza forced their way through the barricades and law enforcement officers defending that access point.

12. At approximately 2:11 p.m., the Certification proceedings were still underway, and the exterior doors and windows of the Capitol Building were locked or otherwise secured.

13. At approximately 2:11 p.m., rioters broke into the Capitol Building through doors and windows on the Building's western side, breaking windows and assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. Before entering the

building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police officers or other authorized security officials.

14. Once inside, rioters broke windows and doors, destroyed property, stole property, and assaulted federal police officers. They also confronted members of Congress, Congressional staff, and the media. Some rioters carried weapons, including tire irons, knives, sledgehammers, bear spray, and tasers. The rioters also stole, sometimes by force, officers' equipment, including batons and shields. Several rioters on Capitol Grounds that day carried handguns. The rioters' actions disrupted and ultimately delayed the vote Certification.

15. At approximately 2:11 p.m., Vice President Pence quickly fled the Senate Chamber, accompanied by the U.S. Secret Service.

16. At approximately 2:13 p.m, President Pro Tempore and presiding officer Senator Grassley recessed the Senate.

17. At approximately 2:20 p.m., the U.S. Capitol Police ordered all nearby staff, Senators, and reporters into the Senate chamber and locked it down. The U.S. Capitol Police ordered a similar lockdown in the House of Representatives Chamber.

18. At approximately 2:29 p.m., U.S. Representative Jim McGovern, who was presiding over the House of Representatives, recessed the House.

19. As rioters attempted to break into the House of Representatives Chamber by breaking the windows on the chamber door, law enforcement drew their weapons to prevent the rioters from entering the chamber.

20. By approximately 2:30 p.m., rioters had forced their way into the Capitol Building on its western and eastern side.

21. At around 2:47 p.m., rioters broke into the Senate Chamber.

22. At around 2:48 p.m., Washington, D.C. Mayor Muriel Bowser announced a citywide curfew beginning at 6:00 p.m.

23. At around 2:45 p.m., one rioter was shot and killed while attempting to break into the Speaker's Lobby directly adjacent to the House of Representatives Chamber.

24. At about 3:25 p.m., law enforcement officers cleared the Senate floor of all members of the public.

25. By around 6:30 p.m., law enforcement had cleared the Capitol Building and the Capitol Grounds of all or nearly all rioters.

26. The rioters injured approximately 140 law enforcement officers, including U.S. Capitol Police officers and supporting law enforcement officers, on January 6, 2021. Some officers were hospitalized because of their injuries. The supporting law enforcement officers on duty and present at the U.S. Capitol that day, like those working for the Metropolitan Police Department or Metro Transit Police Department, were lawfully acting under color of law to protect the Capitol Building at the request of the U.S. Capitol Police.

27. Based on these events, 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. Congressional proceedings could not resume until after every unauthorized rioter had left the Capitol Building, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 pm after the building had been secured. Vice President Pence remained in the U.S. Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

28. Beginning around 8:06 p.m., the Senate resumed work on the Certification. Beginning around 9:02 p.m., the House resumed work on the Certification.

29. Both chambers of Congress met and worked on the Certification within the Capitol Building until approximately 3:44 a.m. on January 7, 2021.

II. Stipulations relating to Defendant Dustin Thompson's conduct.

Second, the parties stipulate to the following facts relating to Defendant Dustin Thompson's conduct on January 5th and 6th, 2021. The jury may accept the following facts as if they had been proved beyond a reasonable doubt at trial. Neither party shall be prohibited from calling witnesses to testify about, or introducing evidence to establish, any of the facts listed in these stipulations.

30. On January 5, 2021, Thompson and his co-defendant Robert Lyon drove from Columbus, Ohio to Silver Spring, Maryland, in Lyon's car. Thompson was then 36 years old; Lyon was 27. Lyon parked the car at the Hampton Inn in Downtown Silver Spring.

31. On the morning of January 6, 2021, Thompson and Lyon took an Uber to downtown Washington, D.C.

32. At some point after President Trump's speech, Thompson and Lyon entered the portion of the Capitol Grounds that was a "restricted building or grounds" as that term is defined in Section 1752 of Title 18 of the United States Code. They entered while the Senate was in session attempting to certify the Electoral College vote, and remained in that restricted area for several hours. In so doing, Thompson entered and remained in a "restricted building or grounds" as that term is used in Section 1752 of Title 18 of the United States Code.

33. Thompson was wearing a bulletproof vest when he entered the restricted area. He kept the bulletproof vest on during the entire time he was on Capitol Grounds, including when he was inside the Capitol Building.

34. At 2:48 p.m., Thompson knowingly entered the Capitol Building through the Northwest Side Door. Thompson was not authorized by the U.S. Capitol Police, or any other law enforcement officers or security staff, to enter or remain in the restricted area of the Capitol Grounds or to enter the Capitol Building.

35. At this time, Thompson was wearing a blue and white knit hat with the word “TRUMP” written on it in white lettering; a black sweatshirt with a graphic design of a green hand on the back; a neck gaiter; and sunglasses. Thompson is the individual circled in red in Government’s Exhibit 220.

36. Upon entering the Capitol Building, Thompson walked a short distance down a hallway, and turned into the first office on his right, S-132, also at 2:48 p.m.

37. S-132 was the Senate Parliamentarian’s Office on January 6, 2021. The Senate Parliamentarian assisted the Senate during the Certification when that proceeding was underway. S-132 is the first door on the right of the hallway shown in Government’s Exhibit 220.

38. While Thompson was inside the Senate Parliamentarian’s Office, at least a dozen other rioters were stealing, destroying, or damaging property inside that Office.

39. The rioters looted the Senate Parliamentarian’s Office and caused significant damage, which is shown in Government’s Exhibits 271-287.

40. While inside the Senate Parliamentarian’s Office, Thompson stole two bottles of liquor and left the Capitol Building at 2:52 p.m. through the Northwest Wing Doors. Thompson is the individual circled in red in Government’s Exhibit 221.

41. At 2:56 p.m., Thompson re-entered the Capitol Building with his co-defendant Lyon through the Northwest Wing Doors. Thompson and Lyon both entered S-132, the Senate Parliamentarian’s Office. Lyon was wearing light-colored pants; a blue backpack; a green

hooded sweatshirt; and an orange hat, and was carrying an American flag. Thompson is circled in red, and Lyon is circled in green, in Government's Exhibit 222.

42. While inside the Senate Parliamentarian's Office, Thompson stole a coat rack. This coat rack was the property and thing of value of the United States, and had been assigned to the Senate Parliamentarian. Thompson knew that the coat rack was the property of the United States, and deprived the owner of the coat rack of its use.

43. The coat rack is valued at between \$400 and \$500.

44. Thompson and Lyon then left the Capitol Building through the Northwest Wing Doors at 3:01 p.m., with Thompson carrying the stolen coat rack. Thompson is circled in red, and Lyon is circled in green, in Government's Exhibit 223.

45. After Thompson and Lyon left the Capitol Building, they walked along the northwest terrace to the north terrace of the Building. Thompson left Lyon near Delaware Avenue, as depicted in Government's Exhibit 203, around 3:30 p.m. Lyon waited there until around 3:52 p.m., at which time he walked to the north lawn next to the Capitol Building.

46. Between approximately 3:30 p.m. and 4:15 p.m., Thompson was present at or near the North Doors of the Capitol Building. Government's Exhibit 118 shows the North Doors at around 4:06 p.m., when Thompson was present, and is a photograph taken by Thompson. Government's Exhibits 234-237 all show the scene at or near the North Doors at times when Thompson was present.

47. At around 4:30 p.m., Thompson and Lyon walked down the north lawn of the Capitol Grounds and to the West Plaza, where they watched law enforcement officers' attempts to remove rioters from the area. They later left the Capitol Grounds before 6 p.m.

48. Thompson's conduct, as described in paragraphs 32-34, 36, 38-42, and 44-46, was disorderly and disruptive. When Thompson engaged in that disorderly and disruptive conduct, he intended to and did impede, disrupt, and obstruct the Certification—a joint session of Congress—and the orderly conduct of Government business and official functions. Thompson's conduct also helped and encouraged other rioters in obstructing and impeding the Certification.

49. At approximately 6 p.m. on January 6, 2021, two U.S. Capitol Police Special Agents approached Thompson and Lyon while the two men were sitting on the sidewalk at the northwest corner of South Capitol Street and C Street, SW, in Washington, D.C. Thompson still had the coat rack he had stolen from the Senate Parliamentarian's Office in the Capitol Building.

50. Thompson and Lyon told the Special Agents they were waiting for an Uber. The Special Agents directed them to leave the area.

51. When Thompson and Lyon began to leave, Thompson picked up the coat rack. At that point, the Special Agents instructed Thompson to drop the coat rack. Thompson did so, but then ran away on foot. The Special Agents chased Thompson but were unable to locate him that day.

III. Stipulations relating to communications and exhibits.

Third, the parties stipulate the following facts relating to communications involving the Defendant Dustin Thompson. The jury may accept the following facts as if they had been proved beyond a reasonable doubt at trial. Neither party shall be prohibited from calling witnesses to testify about, or introducing evidence to establish, any of the facts listed in these stipulations.

52. Thompson's cell phone number was [REDACTED], and his email address was [REDACTED], from January 1, 2020 through at least January 11, 2021. Lyon's cell phone number was [REDACTED] from January 1, 2020 through at least January 11, 2021. The

cell phone number of Thompson's wife, Sarah Thompson, was [REDACTED] from January 1, 2020 through at least January 11, 2021.

53. Government's Exhibit 100 contains true and accurate copies of SMS and MMS text messages sent by or to Thompson between July 29, 2020 and January 6, 2021.

54. In Government's Exhibit 100, messages sent by Thompson are identified as "Incoming" messages from a user named "Dustin *"; messages sent by Thompson's wife, Sarah Thompson, to Dustin Thompson are identified as "Incoming" messages from a user named "Sarah *"; and messages sent by Lyon to Dustin Thompson are identified as "Outgoing" messages.

55. Government's Exhibits 101 through 124 are true and accurate copies of images or videos that were embedded in SMS or MMS messages included in Government's Exhibit 100 and sent by or to Thompson between July 29, 2020 and January 6, 2021. Each message in Government's Exhibit 100 that included an image or video includes a thumbnail version of that image or video. Each image or video that is a thumbnail to a message sent by a user named "Dustin *" was sent by Thompson. Each image or video that is a thumbnail attached to a message sent by a user named "Sarah *" or to a message identified as an "Outgoing" message was sent to Thompson.

56. Government's Exhibit 123 is a copy of a video Thompson recorded of himself while inside the Senate Parliamentarian's Office. Government's Exhibit 123 is an authentic copy of this video, and fairly and accurately shows Thompson and the inside of the Senate Parliamentarian's Office as each appeared between 2:48 p.m. and 2:52 p.m. on January 6, 2021.

57. The following statements, captured in Government's Exhibit 123, are the statements of Thompson:

- a. “Wooo!”
- b. “This Wiener’s laptop? Find the laptop!”
- c. “Oh shit, they got water, beer . . . holy shit.”

IV. Stipulations relating to exhibits.

Fourth, the parties stipulate to the following facts regarding exhibits. The jury may accept the following facts as if they had been proved beyond a reasonable doubt at trial. Neither party shall be prohibited from calling witnesses to testify about, or introducing evidence to establish, any of the facts listed in these stipulations.

58. Government’s Exhibit 230 shows the scene near the Peace Monument outside Capitol Grounds, including Thompson and Lyon, around 2 p.m. on January 6, 2021.

59. Government’s Exhibits 200-201 show the scene directly inside the Northwest Side Door of the Capitol Building, including the conduct of Thompson and Lyon and other rioters and law enforcement officers.

60. Government’s Exhibits 220-223 are screenshots from Government’s Exhibit 200.

61. Government’s Exhibits 202-214 show Thompson, Lyon, or both outside of the Capitol Building while on Capitol Grounds. Thompson appears in Government’s Exhibits 202, 203, 204, 208-214. Lyon appears in Government’s Exhibits 202, 203, 205-207, 212, and 214.

62. Government’s Exhibit 231 shows the outside of the Capitol Building just outside the Northwest Wing Doors at around 2:47 p.m. on January 6, 2021.

63. Government’s Exhibit 232 shows the inside of the Capitol Building just inside the Northwest Wing Doors from 2:47 p.m. to 2:49 p.m. on January 6, 2021.

64. Government’s Exhibit 233 shows Thompson and Lyon leaving the Capitol Building through the Northwest Wing Doors at 3:01 p.m. on January 6, 2021.

65. Government's Exhibits 234-237 show Thompson and the scene at the North Doors to the Capitol Building around 4 p.m. on January 6, 2021.

66. Government's Exhibits 260-263 were taken by Lyon on January 6, 2021, and show Lyon's surroundings as they appeared at the time he took those photographs and videos on January 6, 2021. Thompson is visible at the 1:07 mark of Government's Exhibit 262.

67. Government's Exhibit 270 shows Lyon as he appeared on the evening of January 6, 2021.

68. Government's Exhibits 271-285 were taken by a U.S. Capitol Police crime scene technician and show the Senate Parliamentarian's Office as it appeared on January 14, 2021.

69. Government's Exhibit 286 shows the Senate Parliamentarian's Office as it appeared on the afternoon of January 6, 2021, after rioters had entered the Office.

70. Government's Exhibit 287 shows the Senate Parliamentarian's Office as it appeared on the evening of January 6, 2021, after the room was secured from rioters.

71. Government's Exhibits 270-286 are authentic copies of photographs that fairly and accurately represent what they depict as of the time they were taken.

72. Government's Exhibits 200-214 are authentic copies of closed-circuit television footage from the U.S. Capitol Building. The timestamps and dates in the upper left corner of these exhibits are accurate. Each of these exhibits fairly and accurately represents what they depict as of the timestamps and dates in the upper left corner of the exhibit.

73. Government's Exhibits 230-235, 238, 261-263, and 287 are authentic copies of videos that fairly and accurately represent what they depict as of the time they were taken.

Respectfully submitted,

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Defendant