

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

Holding a Criminal Term

Grand Jury Sworn in on November 10, 2021

UNITED STATES OF AMERICA	:	CRIMINAL NO. 21-CR-73 (BAH)
	:	
v.	:	
	:	VIOLATIONS:
NICHOLAS DeCARLO,	:	18 U.S.C. § 371 (Conspiracy)
also known as "Dick Lambaste,"	:	
also known as "Dick NeCarlo,"	:	18 U.S.C. §§ 1512(c)(2), and 2
	:	(Obstruction of an Official Proceeding and
and	:	Aiding and Abetting)
	:	
NICHOLAS OCHS,	:	18 U.S.C. §§ 1361, and 2
	:	(Destruction of Government Property and
Defendants.	:	Aiding and Abetting)
	:	
	:	18 U.S.C. §§ 641, and 2
	:	(Theft of Government Property and Aiding
	:	and Abetting)
	:	
	:	18 U.S.C. § 1752(a)(1)
	:	(Entering and Remaining in a Restricted
	:	Building or Grounds)
	:	
	:	18 U.S.C. § 1752(a)(2)
	:	(Disorderly Conduct in a Restricted
	:	Building or Grounds)

FIRST SUPERSEDING INDICTMENT

The Grand Jury charges that, at all times material to this Indictment, on or about the dates stated below:

Introduction

The 2020 United States Presidential Election and the Proceedings of January 6, 2021

1. The 2020 United States Presidential Election occurred on November 3, 2020.
2. The United States Electoral College (“Electoral College”) is a group required by the Constitution to form every four years for the sole purpose of electing the president and vice president, with each state appointing its own electors in a number equal to the size of that state’s Congressional delegation.
3. On November 7, 2020, the incumbent president, Donald J. Trump, was projected to have lost the presidential election.
4. On November 7, 2020, in response to a message stating, “it’s civil war either way,” NICHOLAS OCHS replied, “It’s really not. The odds are with us because of the Supreme Court boys. I’m pro violence but don’t blow your load too soon.” He also wrote, “Not to be an anti-murder buzzkill but I really think this ISN’T fucked. Once it is, let’s go wild.” He further commented, “Bush/gore ruling took till December . . . Trump has a MUCH stronger case.” That same day, he wrote, “I’ll still chimp out if I’m wrong about the Supreme Court tho.”
5. On December 14, 2020, the presidential electors of the Electoral College met in the state capital of each state and in the District of Columbia and formalized the result of the 2020 U.S. Presidential Election: Joseph R. Biden Jr. and Kamala D. Harris were declared to have won the sufficient votes to be elected the next president and vice president of the United States.
6. On January 6, 2021, a Joint Session of the United States House of Representatives and the United States Senate convened in the United States Capitol building (“the Capitol”) to certify the vote of the Electoral College of the 2020 U.S. Presidential Election (“Electoral College vote”).

The Incursion at the United States Capitol on January 6, 2021

7. The United States Capitol is secured 24 hours a day by United States Capitol Police (“Capitol Police”). The Capitol Police maintain permanent and temporary barriers to restrict access to the Capitol exterior, and only authorized individuals with appropriate identification are allowed inside the Capitol building.

8. The entire Capitol complex—including the Capitol building, the Capitol Visitor Center, and Capitol grounds to include the entire exterior plaza—was barricaded and off limits to the public on January 6, 2021.

9. On January 6, 2021, at approximately 1:00 p.m., the Joint Session convened in the Capitol building to certify the Electoral College vote. Vice President Michael R. Pence, in his constitutional duty as President of the Senate, presided over the Joint Session.

10. A large crowd began to gather outside the Capitol perimeter as the Joint Session got underway. Crowd members eventually forced their way through, up, and over Capitol Police barricades and advanced to the building’s exterior façade. Capitol Police officers attempted to maintain order and stop the crowd from entering the Capitol building, to which the doors and windows were locked or otherwise secured. Nonetheless, shortly after 2:00 p.m., crowd members forced entry into the Capitol building by breaking windows, ramming open doors, and assaulting Capitol Police officers. Other crowd members encouraged and otherwise assisted the forced entry. The crowd was not lawfully authorized to enter or remain inside the Capitol, and no crowd member submitted to security screenings or weapons checks by Capitol Police or other security officials.

11. Shortly thereafter, at approximately 2:20 p.m., members of the House and Senate (including Vice President Pence)—who had withdrawn to separate chambers to resolve an objection—were evacuated from their respective chambers. The Joint Session and the entire

official proceeding of the Congress was halted while Capitol Police and other law enforcement officers worked to restore order and clear the Capitol of the unlawful occupants.

12. Later that night, law enforcement regained control of the Capitol. At approximately 8:00 p.m., the Joint Session reconvened, presided over by Vice President Pence, who had remained hidden within the Capitol building throughout these events.

The Proud Boys

13. Law enforcement and news-media organizations observed that members of an organization known as the Proud Boys were among the individuals and groups who forcibly entered the Capitol on January 6, 2021. The Proud Boys is a nationalist organization with multiple U.S. chapters. The group describes itself as a “pro-Western fraternal organization for men who refuse to apologize for creating the modern world; aka Western Chauvinists.” Proud Boys members routinely attend rallies, protests, and other events, some of which have resulted in violence involving members of the group. The group has an initiation process for new members, which includes the taking of an “oath.” Proud Boys members often wear the colors yellow and black, as well as other apparel adorned with Proud Boys-related logos and emblems.

The Defendants

14. Nicholas DeCarlo, also known as “Dick Lambaste,” also known as “Dick NeCarlo” (“DeCARLO”), was a U.S. citizen residing in Burleson and Fort Worth, Texas.

15. Nicholas Ochs (“OCHS”) was a U.S. citizen residing in Waikiki, Hawaii. He was the founding member of the Proud Boys Hawaii Chapter and has the words “Proud Boy” tattooed on his right arm.

COUNT ONE
(Conspiracy—18 U.S.C. § 371)

16. Paragraphs one through fifteen are re-alleged and incorporated as if fully set forth herein.

The Conspiracy

17. In or about January 2021, within the District of Columbia and elsewhere, the defendants,

**NICHOLAS DeCARLO and
NICHOLAS OCHS,**

did knowingly combine, conspire, confederate, and agree, with each other and others known and unknown to the Grand Jury, to commit an offense against the United States, namely, to corruptly obstruct, influence and impede any official proceeding, that is, a proceeding before Congress, specifically, Congress's January 6, 2021 certification of the Electoral College vote, and attempt to do so, in violation of Title 18, United States Code, Section 1512(c)(2).

Object of the Conspiracy

18. The purpose of the conspiracy was to stop, delay, and hinder Congress' certification of the Electoral College vote.

Manner and Means

19. DeCARLO and OCHS, with others known and unknown, carried out the conspiracy through the following manner and means, among others, by:

- a. Agreeing to participate in the interference of, and taking steps to interfere with, the official Congressional proceeding to certify the vote of the Electoral College of the 2020 U.S. Presidential Election on January 6, 2021;
- b. Traveling to the Washington, D.C., area in advance of January 6, 2021;

- c. Soliciting donations to fund their travel to Washington, D.C.;
- d. Marching to the U.S. Capitol to “stop the steal”; and
- e. Advancing past exterior barricades, Capitol Police, and other law enforcement officers, and entering the U.S. Capitol on January 6, 2021.

Overt Acts

20. In the support of the conspiracy, and in furtherance of the object thereof, the following individuals undertook the following overt acts, among others:

21. In or about January 2021, **DeCARLO** and **OCHS** made plans to travel to Washington, D.C., in order to stop, delay, and hinder the certification of the results of the November 2020 Presidential Election and coordinated their travel.

22. In or about January 2021, **DeCARLO** and **OCHS** attempted to and did raise funds via the Internet to finance their respective travel to Washington, D.C., from Texas and Hawaii.

23. In or about January 2021, **DeCARLO** and **OCHS** publicized their plans to stop, delay, and hinder the certification of the results of the November 2020 Presidential Election.

24. On or about January 4 and 5, 2021, **DeCARLO** and **OCHS** traveled to the Washington, D.C., metropolitan area, from different locations, arriving by January 5, 2021.

25. On or about January 5, 2021, **DeCARLO** and **OCHS** met in the Washington, D.C., area.

26. On or about January 6, 2021, **DeCARLO** and **OCHS** marched to the U.S. Capitol.

27. On or about January 6, 2021, **DeCARLO** and **OCHS**, and other individuals both known and unknown to the Grand Jury, crossed into the restricted area around the U.S. Capitol and entered the Capitol building shortly after it was breached by the first wave of unauthorized persons who entered the Capitol building.

28. On or about January 6, 2021, **DeCARLO** and **OCHS**, and other individuals both known and unknown to the Grand Jury, traveled throughout and occupied the Capitol building after the Capitol had been breached.

29. On or about January 6, 2021, **DeCARLO** and **OCHS** filmed their exploits and posted photographs and videos to social media depicting and discussing their actions inside the U.S. Capitol building.

30. On or about January 6, 2021, at some point after entering the Capitol grounds without authorization, **DeCARLO** and **OCHS** defaced the Memorial Door of the Capitol by inscribing the words "MURDER THE MEDIA" on the door.

31. On or about January 6, 2021, at some point after entering the Capitol grounds without authorization, **DeCARLO** and **OCHS** stole a pair of flex handcuffs belonging to the United States Capitol Police.

(In violation of Title 18, United States Code, Sections 371 and 1512(c)(2)).

COUNT TWO

(18 U.S.C. §§ 1512(c)(2), and 2—Obstruction of an Official Proceeding and Aiding and Abetting)

32. Paragraphs one through fifteen and twenty through thirty-one of this Indictment are re-alleged and incorporated as if fully set forth herein.

33. On or about January 6, 2021, within the District of Columbia and elsewhere, the defendants,

**NICHOLAS DeCARLO and
NICHOLAS OCHS,**

attempted to and did corruptly obstruct, influence, and impede an official proceeding; that is, a proceeding before Congress, specifically, Congress's certification of the Electoral College vote as set out in the Twelfth Amendment of the Constitution of the United States and 3 U.S.C. §§ 15-18.

(In violation of Title 18, United States Code, Section 1512(c)(2), and (2))

COUNT THREE

(18 U.S.C. §§ 1361, and 2—Destruction of Government Property and Aiding and Abetting)

34. Paragraphs one through fifteen and twenty through thirty-one of this Indictment are re-alleged and incorporated as if fully set forth herein.

35. On or about January 6, 2021, within the District of Columbia, the defendants,

**NICHOLAS DeCARLO and
NICHOLAS OCHS,**

attempted to, and did, willfully injure and commit depredation against property of the United States, and did aid and abet others to do so; that is, **DeCARLO** and **OCHS** defaced the Memorial Door of the U.S. Capitol Building, causing damage in an amount less than \$1000.

(In violation of Title 18, United States Code, Sections 1361 and 2)

COUNT FOUR

(18 U.S.C. §§ 641, and 2—Theft of Government Property and Aiding and Abetting)

36. Paragraphs one through fifteen and twenty through thirty-one of this Indictment are re-alleged and incorporated as if fully set forth herein.

37. On or about January 6, 2021, within the District of Columbia, the defendants,

**NICHOLAS DeCARLO and
NICHOLAS OCHS,**

did embezzle, steal, purloin, knowingly convert to his use and the use of another, and without authority, sold, conveyed and disposed of any record, voucher, money and thing of value of the United States and any department and agency thereof, that is, flex handcuffs, which have a value of less than \$1000.

(In violation of Title 18, United States Code, Sections 641 and 2)

COUNT FIVE

(18 U.S.C. § 1752(a)(1)—Restricted Building or Grounds)

38. Paragraphs one through fifteen and twenty through thirty-one of this Indictment are re-alleged and incorporated as if fully set forth herein.

39. On or about January 6, 2021, within the District of Columbia, the defendants,

**NICHOLAS DeCARLO and
NICHOLAS OCHS,**

did unlawfully and knowingly enter and remain in a restricted building and grounds, that is, any posted, cordoned-off, and otherwise restricted area within the United States Capitol and its grounds, where the Vice President was temporarily visiting, without lawful authority to do so.

(In violation of Title 18, United States Code, Section 1752(a)(1))

COUNT SIX

(18 U.S.C. § 1752(a)(2)— Disorderly and Disruptive Conduct in a Restricted Buildings or Grounds)

40. Paragraphs one through fifteen and twenty through thirty-one of this Indictment are re-alleged and incorporated as if fully set forth herein.

41. On or about January 6, 2021, within the District of Columbia, the defendants,

**NICHOLAS DeCARLO and
NICHOLAS OCHS,**

did knowingly, and with intent to impede and disrupt the orderly conduct of Government business and official functions, engage in disorderly and disruptive conduct in and within such proximity to, a restricted building and grounds, that is, any posted, cordoned-off, and otherwise restricted area within the United States Capitol and its grounds, where the Vice President was temporarily visiting, when and so that such conduct did in fact impede and disrupt the orderly conduct of Government business and official functions.

(In violation of Title 18, United States Code, Section 1752(a)(2))

A TRUE BILL:

FOREPERSON



United States Attorney in
And for the District of Columbia