

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

UNITED STATES OF AMERICA :
 :
 v. : **Case No. 21-cr-00193-BAH**
 :
GREG RUBENACKER, :
 :
 Defendant. :

**UNITED STATES’ ESTIMATED SUMMARY OF
DEFENDANT’S APPLICABLE SENTENCING GUIDELINES**

On February 7, 2022, the defendant, Greg Rubenacker, notified the Court that he intended to plead to the 10-count Superseding Indictment, docket entry 33. On February 10, 2022, the Court ordered the government, by 5 p.m. today, to submit a summary of defendant’s estimated sentencing range under the U.S. Sentencing Guidelines Manual, including the applicable Guidelines Sections, Specific Offense Characteristics, groupings, and criminal history score and category. This submission provides the information required by the Court’s February 10, 2022, Minute Order.

I. Background

On November 10, 2021, the grand jury returned a 10-count Superseding Indictment in the above-captioned case. ECF No. 33. The Superseding Indictment charged the defendant with Civil Disorder, in violation of 18 U.S.C. § 231(a)(3); Obstruction of an Official Proceeding, in violation of 18 U.S.C. §§ 1512(c)(2) and (2); Assaulting, Resisting or Impeding Certain Officers, in violation of 18 U.S.C. § 111(a)(1); Entering and Remaining in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(1); Disorderly and Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(2); Engaging in Physical Violence in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(4); Disorderly Conduct in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(D), Impeding Passage Through the Capitol

Grounds or Building, in violation of 40 U.S.C. § 5104(e)(2)(E); Acts of Physical Violence in the Capitol Grounds or Building, in violation of 40 U.S.C. § 5104(e)(2)(F); and Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(G). *Id.*

On February 7, 2022, defense counsel notified the Court that the defendant planned to plead to the Superseding Indictment at the Change of Plea Hearing scheduled for February 11, 2022. On February 10, 2022, the Court ordered the government, by 5 p.m. today, to submit a summary of defendant's estimated sentencing range under the U.S. Sentencing Guidelines Manual, including the applicable Guidelines Sections, Specific Offense Characteristics, groupings and criminal history score and category. This submission provides the information required by the Court's February 10, 2022, Minute Order.

II. Estimated Sentencing Range Under the U.S. Sentencing Guidelines Manual

Count One. The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for 18 U.S.C. § 1512(c)(2) is as follows:

U.S.S.G. § 2J1.2(a)	Base Offense Level	14
U.S.S.G. § 2J1.2(b)(2)	Substantial Interference	+3
U.S.S.G. § 2J1.2(b)(1)(B)	Injury/Property Damage to Obstruct	+8
	Total	<u>25</u>

Count Two. The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for 18 U.S.C. § 111(a)(1) is as follows:

U.S.S.G. § 2A2.2	Base Offense Level	14
U.S.S.G. § 3A1.2(b)	Official Victim	+6
	Total	<u>20</u>

Count Three. The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for 18 U.S.C. § 231(a)(3) is as follows:

U.S.S.G. § 2A2.2	Base Offense Level	14
U.S.S.G. § 3A1.2(b)	Official Victim	+6
	Total	<u>20</u>

Count Four. The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for 18 U.S.C. § 1752(a)(1) is as follows:

U.S.S.G. § 2B2.3(a)	Base Offense Level	4
U.S.S.G. § 2B2.3(b)(1)(A)(vii)	Restricted Building or Grounds	<u>+2</u>
	Total	6

Count Five. The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for 18 U.S.C. § 1752(a)(2) is as follows:

U.S.S.G. § 2A2.2	Base Offense Level	14
U.S.S.G. § 3A1.2(b)	Official Victim	<u>+6</u>
	Total	20

Count Six. The estimated sentencing guidelines sections under the U.S. Sentencing Guidelines Manual for 18 U.S.C. § 1752(a)(4) is as follows:

U.S.S.G. § 2A2.2	Base Offense Level	14
U.S.S.G. § 3A1.2(b)	Official Victim	<u>+6</u>
	Total	20

Counts Seven through Ten. The U.S. Sentencing Guidelines do not apply to Class B misdemeanors, including 40 U.S.C. §§ 5104(e)(2)(D)-(G).

Grouping. Pursuant to U.S.S.G. § 3D1.2(c), the government submits that all of the above counts group together into a single group.

Combined Offense Level. Because Count 1, obstruction of an official proceeding, is the most serious count comprising the group—*i.e.*, because it has the highest offense level of the counts in the group—its offense level constitutes the combined offense level for all of the counts to which the defendant is pleading guilty. Therefore, the total combined base offense level is 25.

Acceptance of Responsibility. Per U.S.S.G. § 3E1.1, the defendant's acceptance of responsibility reduces the estimated guidelines range by 3 points, to level 22. Thus, the total base offense level is 22.

III. Criminal History Score and Category

The defendant's criminal history score is zero, resulting in a criminal history category I.

IV. Estimated Sentencing Guidelines Range

Pursuant to U.S.S.G. § 5, Part A, the government submits that the defendant's total combined offense level is 22, criminal history category is I, and his estimated sentencing guidelines range is 41 to 51 months' imprisonment. In addition, pursuant to U.S.S.G. § 5E1.2, should the Court impose a fine, at Guidelines level 22, the estimated applicable fine range is \$15,000 to \$150,000.

The United States reserves the right to amend its position regarding the above sentencing guidelines estimates between now and the time of sentencing—including, but not limited to, the right to request an upward departure pursuant to U.S.S.G. § 3A1.4, n.4.

Respectfully submitted,

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