

RECEIVED

FEB 03 2021

Clerk, U.S. District and
Bankruptcy Courts

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

**Holding a Criminal Term
Grand Jury Sworn in on January 8, 2021**

UNITED STATES OF AMERICA	:	CRIMINAL NO.
	:	
	:	
v.	:	MAGISTRATE NO. 21-mj-120
	:	
NICHOLAS DECARLO,	:	MAGISTRATE NO. 21-mj-15
	:	
Also Known As "Dick Lambaste,"	:	VIOLATIONS:
	:	
Also Known As "Dick NeCarlo,"	:	18 U.S.C. § 371
	:	(Conspiracy)
and	:	
	:	18 U.S.C. § 1512(c)(2)
	:	(Obstruction of an Official Proceeding)
NICHOLAS OCHS,	:	
	:	18 U.S.C. §§ 1361, 2
Defendants.	:	(Destruction of Government
	:	Property)
	:	
	:	18 U.S.C. §§ 641, 2
	:	(Theft of Government Property)
	:	
	:	18 U.S.C. § 1752(a)(1), (2), & (4)
	:	(Restricted Building or Grounds)
	:	
	:	18 U.S.C. § 2
	:	(Aiding and Abetting)

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 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 December 14, 2020, the presidential electors of the U.S. 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.
4. 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

5. 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.
6. 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.

7. 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. Vice-President-Elect Kamala D. Harris, in her role as a Senator representing the State of California, was also present.

8. 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.

9. Shortly thereafter, at approximately 2:20 p.m., members of the House and Senate (including Vice President Pence and Vice-President Elect Harris)—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.

10. 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, and attended by

Vice-President-Elect Harris, both of whom had remained within the Capitol building throughout these events.

11. In the course of these events, approximately 81 members of the Capitol Police and 58 members of the Metropolitan Police Department were assaulted. Additionally, one subject was shot and killed while attempting to enter the House chamber through broken windows; many media members were assaulted and had cameras and other news gathering equipment destroyed; and the Capitol suffered millions of dollars in damage—including broken windows and doors, graffiti, and residue of various pepper sprays, tear gas, and fire extinguishers deployed both by crowd members who stormed the Capitol and by Capitol Police officers trying to restore order.

The Proud Boys

12. The Proud Boys is a nationalist organization with multiple U.S. chapters and potential activity in other Western countries. 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 First Amendment-protected events, where certain of its members sometimes engage in acts of violence against individuals whom they perceive as threats to their values. 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

13. 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.

14. 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)

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

The Conspiracy

16. Between November 3, 2020, and January 6, 2021, in 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, to wit, Congress' certification of the Electoral College vote, and to attempt to do so, in violation of Title 18, United States Code, Section 1512(c)(2).

Object of the Conspiracy

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

Manner and Means

18. 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 an operation to stop, delay, and hinder Congress' certification of the Electoral College vote;

- b. Taking steps to plan an operation to stop, delay, and hinder Congress' certification of the Electoral College vote;
- c. Fundraising for this effort;
- d. Traveling from other states to the Washington, D.C., area, in advance of January 6, 2021; and
- e. Forcibly storming past exterior barricades, Capitol Police, and other law enforcement officers, and entering the U.S. Capitol on January 6, 2021.

Overt Acts

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

20. Prior to January 6, 2021, DeCARLO and OCHS agreed to travel to Washington, D.C., in order to stop, delay, and hinder the certification of the results of the November 2020 Presidential Election.

21. Prior to January 6, 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.

22. Prior to January 6, 2021, DeCARLO and OCHS publicized their plans to stop, delay, and hinder the certification of the results of the November 2020 Presidential Election.

23. On January 5, 2021, DeCARLO and OCHS traveled in interstate commerce to the Washington, D.C., metropolitan area, from different locations.

24. On January 6, 2021, DeCARLO and OCHS, and other individuals both known and unknown to the Grand Jury, entered the Capitol building shortly after it was breached by the first wave of unauthorized persons who entered the Capitol building.

25. On 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.

26. On January 6, 2021, DeCARLO and OCHS posted photographs and videos to social media depicting their actions inside the U.S. Capitol building in real time.

27. On 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.

28. On 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)—Obstruction of an Official Proceeding)

29. Paragraphs one through fourteen and nineteen through twenty-eight of this Indictment are re-alleged and incorporated as if fully set forth herein.

30. Between November 3, 2020, and 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, DeCARLO and OCHS forcibly entered the Capitol to stop, delay, and hinder Congress’ certification of the Electoral College vote.

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

COUNT THREE

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

31. Paragraphs one through fourteen and nineteen through twenty-eight of this Indictment are re-alleged and incorporated as if fully set forth herein.

32. On January 6, 2021, in 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, 2—Theft of Government Property)

33. Paragraphs one through fourteen and nineteen through twenty-eight of this Indictment are re-alleged and incorporated as if fully set forth herein.

34. On January 6, 2021, in 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)

35. Paragraphs one through fourteen and nineteen through twenty-eight of this Indictment are re-alleged and incorporated as if fully set forth herein.

36. On January 6, 2021, in 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 and Vice President-elect were 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)

37. Paragraphs one through fourteen and nineteen through twenty-eight of this Indictment are re-alleged and incorporated as if fully set forth herein.

38. On January 6, 2021, in 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 and Vice President-elect were 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))

COUNT SEVEN

**(18 U.S.C. § 1752(a)(4)— Engaging in Physical Violence in a Restricted Buildings or
Grounds)**

39. Paragraphs one through fourteen and nineteen through twenty-eight of this Indictment are re-alleged and incorporated as if fully set forth herein.

40. On January 6, 2021, in the District of Columbia, the defendants,


**NICHOLAS DeCARLO and
NICHOLAS OCHS,**

did knowingly engage in any act of physical violence against any property 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 and Vice President-elect were temporarily visiting.

(In violation of Title 18, United States Code, Sections 1752(a)(4) and 2)

A TRUE BILL:

FOREPERSON


United States Attorney in
And for the District of Columbia