



Civics is all around us. The United States Supreme Court is the highest court in the land. Through its power of judicial review, its decisions have a lasting impact on "We the People". So what is the Court hearing this session and how might the justices rule? Let's help each other expand our civic literacy.

The Case of Obstruction: Individual Intent vs. Individual Action

The Facts of *Fischer v. United States*:

On January 6, 2021, a joint session of the U.S. Congress met to **certify** the 2020 presidential election results. During this process, supporters of the losing candidate, Donald Trump, converged on the U.S. Capitol, overran law enforcement, and stormed into the building. The actions of this mob disrupted the congressional proceedings as they forced members of Congress to stop the certification and flee for safety. At approximately 8:06 pm, six hours after the breach of the Capitol, Congress reconvened to finish certifying the election results.



Inside the U.S. Capitol on January 6, 2021

Following the **events** at the U.S. Capitol, the U.S. Department of Justice **arrested and charged** more than 1,265 individuals in almost all 50 states and the District of Columbia. Criminal charges have ranged from assault, destruction of property, entering or remaining in a restricted federal building, theft, conspiracy, and use of a deadly weapon.

One of the individuals charged for his actions that day is a man from Pennsylvania, Joseph Fischer. Fischer was charged by the Department of Justice with (**among other things**) assaulting a police officer, disorderly conduct in the Capitol, and obstruction of a congressional proceeding. It is this latter charge that Fischer challenges, as he alleges he was only briefly inside the Capitol that day and after Congress was in recess, which is why he is asking the Court to dismiss it.

Fischer argues that the **obstruction statute**, enacted in response to the **Enron scandal**, applies only to evidence spoliation [tampering] involving a congressional inquiry or investigation, [and] Section 1512(c)(2) [of the federal code] does not extend to Mr. Fischer's alleged conduct. [**Petitioner's Brief**, p.8]

However, the federal government believes that the defendant's conduct and mental state rise to the level of establishing proof beyond a reasonable doubt that [he] corruptly obstructed Congress's certification of the election results in the joint session. [**Respondent's Brief**, p.6]

The U.S. District Court for the District of Columbia held that the statute does not apply to assaultive conduct, committed in furtherance of an attempt to stop Congress from performing a constitutionally required duty. The U.S. Court of Appeals for the D.C. Circuit reversed, concluding that the natural, broad reading of that provision is that it applies to forms of obstructive conduct, not just those related to investigations and evidence.

The U.S. District Court for the District of Columbia held that the statute does not apply to assaultive conduct, committed in furtherance of an attempt to stop Congress from performing a constitutionally required duty. The U.S. Court of Appeals for the D.C. Circuit reversed, concluding that the natural, broad reading of that provision is that it applies to forms of obstructive conduct, not just those related to investigations and evidence.

On appeal to the U.S. Supreme Court, the justices granted certiorari on December 13, 2023 and heard oral arguments on April 16, 2024.

The Court is being asked to address one question:

1. Whether 18 U.S.C. 1512(c)(2), which prohibits corruptly obstructing an official proceeding, is limited to acts that impair the integrity or availability of evidence for use in that proceeding.



Ceremonial boxes containing the states' Electoral College certificates after being removed from the Senate chamber by Congressional staffers

Supreme Court Precedent Used in this Case:

- **Begay v. United States** (2008): The Court ruled that DWI convictions did not qualify as "violent felonies" because they were too different from the violent felony examples provided by Congress in the Armed Career Criminal Act (such as burglary, arson and extortion). Therefore, Begay should not have been subject to the mandatory sentencing hike.
- **Marinello v. United States** (2018): The Court ruled that the federal crime of corruptly endeavoring to obstruct or impede the due administration of the tax laws, 26 U.S.C. § 7212(a), requires proof that the defendant acted with knowledge of a pending Internal Revenue Service action.
- **United States v. Aguilar** (1995): The Court held that making false statements to an FBI agent who may or may not testify at trial is not sufficient to support a conviction for obstruction of justice.
- **United States v. Hansen** (2023): The Court ruled that a federal law criminalizing "encouraging or inducing" illegal immigration—forbids only the purposeful solicitation and facilitation of specific acts known to violate federal law and is not unconstitutionally overbroad.
- **Yates v. United States** (1957): The Court ruled that an act that prohibited willfully and knowingly conspiring to teach and advocate the overthrow of the government by force violated the First Amendment when the advocacy and teaching was abstract and not concrete action.

To Think and To Do: During **oral argument**, the justices raised concern over the breadth of the statute's language, especially the meaning of the phrase, "corrupt intent." Perhaps Justice Kagan explains it best when she said, this case comes down to whether Section 1512(c)(2) reads as prohibiting conduct that "otherwise obstructs a proceeding" or as barring conduct that "otherwise spoils evidence." Given the precedents used in this case and the language of **18 U.S.C. 1512(c)(2)**, How do you think the U.S. Supreme Court will rule? Explain.