

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-3086

UNITED STATES OF AMERICA,

Appellee,

v.

STEPHEN K. BANNON,

Appellant.

JOINT MOTION TO GOVERN FURTHER PROCEEDINGS

Pursuant to this Court's July 16, 2026 Order, the parties in the above-captioned case respectfully submit a joint motion to govern further proceedings. Specifically, given the procedural history of this case as outlined below, the parties agree that this Court should remand the case to the United States District Court with instructions to address the pending motion to dismiss the indictment with prejudice pursuant to Fed. R. Crim. P. 48(a).

1. By opinion issued on May 10, 2024, this Court affirmed appellant Bannon's convictions for contempt of Congress in violation of 2 U.S.C. § 192. *See United States v. Bannon*, 101 F.4th 16 (D.C.

- Cir. 2024). This Court denied appellant Bannon’s petition for rehearing en banc on May 27, 2025. *See United States v. Bannon*, No. 22-3086, 2025 WL 1503223 (D.C. Cir. May 27, 2025) (per curiam).
2. On February 9, 2026, the United States filed in the United States District Court an unopposed motion to dismiss the indictment with prejudice pursuant to Fed. R. Crim. P. 48. *See* Government’s Unopposed Motion to Dismiss Indictment, *United States v. Bannon*, No. 21-cr-670 (CJN) (filed Feb. 9, 2026) (ECF 207).
 3. The United States Supreme Court thereafter granted appellant Bannon’s petition for writ of certiorari, vacated this Court’s judgment, and remanded “for further consideration in light of the pending motion to dismiss the indictment.” *Bannon v. United States*, 146 S. Ct. 2155 (2026).
 4. On July 8, 2026, this Court recalled its mandate and ordered the District Court “to return the mandate forthwith.” Order, *United States v. Bannon*, No. 22-3086 (D.C. Cir. July 8, 2026).
 5. “In light of the Supreme Court’s order,” this Court directed the parties to file motions to govern further proceedings on or before

July 30, 2026. *See* Order, *United States v. Bannon*, No. 22-3086 (D.C. Cir. Jul. 16, 2026).

6. Although appellant Bannon's convictions have been vacated, there remains an indictment pending against him. The United States, in its exercise of prosecutorial discretion, does not wish to prosecute the charges in this indictment. Accordingly, this Court should remand the case so that the District Court may address the pending unopposed motion to dismiss the indictment and terminate this prosecution.

CONCLUSION

WHEREFORE, the parties respectfully request that this Court remand the case to the District Court with instructions to address the pending unopposed motion to dismiss the indictment.

Respectfully submitted,

COUNSEL FOR APPELLANT BANNON

/s/ Michael Buschbacher

MICHAEL BUSCHBACHER, ESQ.
Boyden Gray PLLC
800 Connecticut Avenue, N.W.
Suite #900
Washington, D.C. 20006
mbuschbacher@boydengray.com

COUNSEL FOR THE UNITED STATES

/s/ Jeanine Ferris Pirro

JEANINE FERRIS PIRRO
United States Attorney
601 D Street, N.W.
Washington, D.C. 20530
Jeanine.Ferris@usdoj.gov

CERTIFICATE OF COMPLIANCE WITH RULE 27(d)

I HEREBY CERTIFY pursuant to Fed. R. App. P. 32(g) that this motion contains 396 words and therefore complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A). This motion has been prepared in 14-point Century Schoolbook, a proportionally spaced typeface.

/s/ *Michael Buschbacher*

MICHAEL BUSCHBACHER

Counsel for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have caused a copy of the foregoing motion to be served by electronic means, through the Court's CM/ECF system, upon counsel for the United States and counsel for Appellant Stephen K. Bannon.

/s/ *Michael Buschbacher*

MICHAEL BUSCHBACHER

Counsel for Appellant