

two other defendants with multiple counts, including obstructing and conspiring to obstruct an official proceeding and making false statements. Dkt. 85. The district court dismissed the indictment. Dkt. 672.

II. Statement of the Facts

A. Legal Background

1. The Appointments Clause of the Constitution provides that officers of the United States shall be appointed by the President with the advice and consent of the Senate. U.S. Const. art. II, § 2, cl. 2. But Congress “may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.” *Id.*

Congress has provided that the Attorney General shall be the “head of the Department of Justice,” to be appointed by the President with the advice and consent of the Senate. 28 U.S.C. § 503. Congress has, with three limited exceptions not relevant here, “vested” in the Attorney General “[a]ll functions of other officers of the Department of Justice,” *id.* § 509—including the power to prosecute “all offenses against the United States,” *id.* § 547(1), and to supervise “the conduct of litigation” on behalf of the United States, *id.* § 516—and has empowered the Attorney General to authorize “any other officer, employee, or agency of the Department of Justice” to perform any of those functions, *id.* § 510. In addition, Congress has authorized the Attorney General