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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANTHONY SCIRICA,

Defendant.

- - - - - x

Criminal Action No.  
1:21-cr-00457-CRC-1  
Thursday, January 20, 2022  
10:04 a.m.

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TRANSCRIPT OF SENTENCING HEARING  
HELD BEFORE THE HONORABLE CHRISTOPHER R. COOPER  
UNITED STATES DISTRICT JUDGE

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APPEARANCES:

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P R O C E E D I N G S

THE COURTROOM DEPUTY: Your Honor, we're on the record for Criminal Case 21-457, *United States of America vs. Anthony Scirica*.

Counsel, please identify yourselves for the record starting with the government.

MS. ALBINSON: Good morning, Your Honor; Grace Albinson for the United States.

THE COURT: Good morning, Ms. Albinson.

MS. ALBINSON: Good morning.

MR. JONES: Good morning, Your Honor; Mark Jones for Anthony Scirica. I'm here with Mr. Scirica in Winston-Salem, North Carolina.

THE COURT: Okay. Good morning, gentlemen.

Mr. Scirica, I can see you. Can you see and hear me okay?

THE DEFENDANT: Yes, sir, I can.

THE COURT: I've granted your motion to appear this morning by video. Do we still have your consent to appear by video?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And we have someone from probation?

THE PROBATION OFFICER: Good morning, Your Honor; Hana Field with probation.

THE COURT: So the Court has reviewed the

1 presentence investigation report, the government's  
2 sentencing memo, as well as the electronic exhibits that the  
3 government provided to the sentencing memo.

4 Mr. Jones, I did not receive a sentencing memo  
5 from you or any other associated material; is that correct?

6 MR. JONES: That's correct. Only argument today,  
7 sir.

8 THE COURT: If there are any guests or family  
9 members listening in, the Court welcomes everyone.

10 All right. Let's start with the factual findings  
11 in the presentence investigation report. Any objections to  
12 the factual findings with respect to the circumstances of  
13 the offense or the defendant's background?

14 MR. JONES: No, Your Honor.

15 MS. ALBINSON: No, Your Honor.

16 THE COURT: Has Mr. Jones reviewed the presentence  
17 investigation report with you?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And have you been satisfied with his  
20 services in this case so far?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Hearing no objections, the Court will  
23 accept the factual findings in the presentence investigation  
24 report and adopt those facts for purposes of this  
25 sentencing.

1 All right. This is a Class B misdemeanor so the  
2 sentencing guidelines do not apply. The offense of  
3 conviction carries a maximum of six months in prison, a  
4 period of supervised release of up to two years, I believe,  
5 a \$5,000 fine, and a \$10 special assessment. Any objections  
6 for the record?

7 MR. JONES: No, Your Honor.

8 MS. ALBINSON: No, Your Honor.

9 THE COURT: The government in this case has  
10 recommended a sentence of incarceration of 15 days, I  
11 believe. The probation office has made a recommendation of  
12 24 months probation and a \$500 fine.

13 Ms. Albinson, would you like to address the  
14 3553(a) factors as they relate to Mr. Scirica.

15 MS. ALBINSON: Yes, Your Honor. Thank you.

16 The government asks that this Honorable Court  
17 sentence Anthony Scirica to 15 days imprisonment for the  
18 crime he committed on January 6th. The government  
19 understands that 15 days imprisonment is a significant  
20 sentence for a misdemeanor crime, but this is not a normal  
21 crime and does not merit a normal sentence.

22 The crime that Mr. Scirica committed and the  
23 crimes of thousands of other rioters on January 6th were  
24 unique and significant to our country's history, and the  
25 riot would not have occurred were it not for the actions of

1 thousands of individual rioters, including Mr. Scirica.

2 January 6th was not merely an attack on our  
3 nation's Capitol Building, it was an attack that went to the  
4 heart of our democracy, to fair democratic elections, and  
5 the peaceful transfer of power. For general and also  
6 specific deterrent purposes, it's important to send a  
7 message that just because an election does not go your way  
8 does not mean that you can violently take over a government  
9 building without punishment. The government is also asking  
10 for this significant sentence because of specific  
11 aggravating factors that are present for this defendant.

12 First, the defendant entered the Capitol Building  
13 through the Senate Wing door shortly after the first breach.

14 Second, the defendant played a leadership role in  
15 directing and leading rioters through Statuary Hall in the  
16 direction of the House Chamber doors.

17 Third, the defendant observed violence inside the  
18 Capitol Building but remained inside and took video with his  
19 cell phone.

20 Finally, this defendant expressed no remorse when  
21 interviewed by the FBI.

22 Your Honor, this was not just a momentary lapse of  
23 judgment or a bad day for this defendant. His actions were  
24 deliberate and controlled on that day. Mr. Scirica told the  
25 FBI that he moved to the front of the crowd outside of the

1 Capitol Building because he, quote, wanted to see what was  
2 happening with his own eyes. And, in fact, Mr. Scirica was  
3 one of the early rioters to enter the building. He entered  
4 at 2:24 p.m., 11 minutes after the first breach.

5 Before entering, he admitted to the FBI that he  
6 heard people yelling and shouting and alarms going off, a  
7 window breaking. These were clear signs of violence, Your  
8 Honor.

9 Here's a video that the defendant took when he  
10 entered through the Senate Wing door. You can see from this  
11 video that Mr. Scirica focuses his camera on the broken  
12 window that was the site of the first breach of the Capitol,  
13 and you can hear yelling and alarms going off.

14 (Pause)

15 THE COURT: Ms. Albinson, are you sharing your  
16 screen with us?

17 MS. ALBINSON: Yes, one moment, Your Honor. I  
18 apologize.

19 (Audio playing)

20 MS. ALBINSON: Your Honor, were you able to hear  
21 that?

22 THE COURT: I heard the audio. I was not able to  
23 see the video, but I have reviewed all of the exhibits.

24 MS. ALBINSON: Okay. I apologize.

25 Once inside the Capitol, the defendant did not

1 play the role of a mere follower. Instead, he took it upon  
2 himself to lead a large group of rioters through Statuary  
3 Hall to just outside the House Chamber doors where they were  
4 met with a line of law enforcement officers blocking entry  
5 to the House Chamber.

6 Here's a video from the defendant's phone where he  
7 directs the crowd to go, quote, through there and points in  
8 the direction of Statuary Hall which led to the House  
9 Chamber doors.

10 (Audio playing)

11 MS. ALBINSON: In his own words to the FBI, Your  
12 Honor, he led a crowd to where he thought the, quote,  
13 electors were located.

14 Once he passed through Statuary Hall and got to  
15 the front of the House Chamber doors violence ensued as at  
16 that point the crowd pushed through a line of police  
17 officers in order to gain access to the House Chamber, which  
18 thankfully they were not able to do that day. Mr. Scirica  
19 was feet away from the front of the line as the crowd pushed  
20 and broke through the police line to proceed to the House  
21 Chamber doors.

22 Instead of leaving after witnessing this violence,  
23 Mr. Scirica recorded this video on his phone of rioters  
24 banging on the House Chamber doors.

25 (Audio playing)

1 MS. ALBINSON: Despite seeing violence and tear  
2 gas that had been detonated by the police in the area of the  
3 House Chamber doors, and despite being near the Speaker's  
4 Lobby at the time of the shooting of Ashli Babbitt, the  
5 defendant remained inside of the Capitol Building.

6 He has not shown an ounce of remorse for his  
7 decisions and actions that day. That's how we know this  
8 wasn't just a bad day. But what we don't know is whether  
9 the defendant will take it upon himself to behave this way  
10 again if another election doesn't go his way.

11 A recording of the defendant's interview with the  
12 FBI shows the defendant was very unaffected as he spoke  
13 about his actions on January 6th. I'll play a short clip of  
14 that interview.

15 (Audio playing)

16 MS. ALBINSON: I'm sorry. I wasn't able to get to  
17 the point in the video that I wanted to share, but when the  
18 defendant is asked about whether or not he regrets his  
19 actions on that day, he says he doesn't know, and this could  
20 be a good story for the grand kids.

21 For the reasons I've just stated and the reasons  
22 in the government's sentencing memo, we respectfully ask  
23 this Honorable Court to sentence the defendant to 15 days  
24 incarceration.

25 THE COURT: Okay. Your recommendation is 15 days

1 incarceration. Probation has recommended two years of  
2 probation. Those seem to be the two options available to  
3 the Court as appropriate to impose in this case. If you are  
4 concerned -- and I will say that the statute, as I read it,  
5 does not allow the Court to impose a period of incarceration  
6 followed by a period of supervised release as a felony  
7 statute or Class A statute or misdemeanor statute would.

8 So given that, and if your concern is what  
9 Mr. Scirica might do or, you know, whose call he might heed  
10 in the next election, why wouldn't probation, where he was  
11 under some form of court supervision, be a more appropriate  
12 sentence than a period of incarceration that cannot be  
13 followed by supervised release, if you follow me?

14 MS. ALBINSON: Your Honor, I do believe that a  
15 split sentence is allowed on a petty misdemeanor, which is  
16 what Mr. Scirica pled guilty to.

17 But to answer your question, I think that this  
18 defendant merits jail time not only towards specific  
19 deterrent purposes but general deterrent purposes. A  
20 sentence of jail time would send a message to other would-be  
21 rioters in future elections that this will not be accepted  
22 even if what you do is enter the building and you don't  
23 engage in violence yourself. I think that 15 days jail time  
24 will be enough to specifically deter Mr. Scirica as well,  
25 even though it does not include monitoring after that time.

1           A jail sentence is a strong message to send to  
2 someone, and I believe that that would sufficiently deter  
3 Mr. Scirica.

4           THE COURT: Okay. Ms. Field, would you mind --  
5 can you shed some light on whether the Court would be  
6 authorized to order both incarceration followed by a term of  
7 supervised release on this offense?

8           THE PROBATION OFFICER: Your Honor, it was our  
9 understanding, because this is a petty offense, that a --  
10 and it's a Class B misdemeanor, that a custodial sentence  
11 can be ordered but that supervised release is not  
12 applicable.

13           It was brought to my attention that -- I believe  
14 the interpretation of the statute is subject to legal  
15 argument and that we are aware of a couple of cases before  
16 this Court where I believe the government has recommended  
17 and advocated for the split sentence, for a jail term to be  
18 followed by a period of probation. I don't have any  
19 additional information to provide as to any updates on that,  
20 but our position is that we would not be recommending this  
21 type of split sentence.

22           THE COURT: Ms. Albinson, anything else?

23           MS. ALBINSON: No, Your Honor. Thank you.

24           THE COURT: Mr. Jones, I'm sorry not to see you in  
25 person. My general philosophy is that if defendants managed

1 to get to Washington last January, then they should be able  
2 to manage to get to Washington this January. I understand  
3 there were some extenuating circumstances related to the  
4 weather, though, which I understand, so I was glad to grant  
5 your motion to appear remotely.

6 MR. JONES: Thank you, Your Honor.

7 THE DEFENDANT: Thank you.

8 MR. JONES: I appreciate that tremendously, and so  
9 does Mr. Scirica.

10 I think I'll pick up first with the question the  
11 Court asked last, which is about a term of supervised  
12 release. I think the law is very clear that supervised  
13 release for a Class B petty offense is not authorized by  
14 statute. The presentence report says that it's not  
15 authorized by statute, and we agree to that. And the  
16 government, on Page 13 of its sentencing memorandum, in  
17 their footnote says that it's not authorized. So I'm not  
18 sure what's warranting the sudden change of heart, but I  
19 think any arguments being put forward now that you can  
20 impose supervised release or probation in addition to  
21 incarceration on this offense is certainly a novel  
22 interpretation, and I would ask the Court to reject it.

23 As to the 3553(a) factors, Your Honor, I believe  
24 that the probation office has it right. You know, I would  
25 say that the Court obviously has discretion to do whatever

1 it believes is appropriate in relation to those factors, and  
2 just because the government has recommended 15 days doesn't  
3 mean that the Court couldn't select a different number of  
4 days for an incarceratory term. So the Court could  
5 obviously select five days or ten days or one day. It's not  
6 bound by the government's recommendation or the probation  
7 office's recommendation.

8           Nevertheless, Your Honor, we think that the  
9 probation office has it correct. They have looked at the  
10 history and characteristics of this defendant, and they are  
11 well aware of the nature and circumstances of the offense,  
12 which the government did a fine job of pointing out in their  
13 sentencing memorandum in their presentation today.

14           But speaking as to how the characteristics of  
15 Mr. Scirica interplay with the 3553(a) factors, the things  
16 that the presentence report notes that I would highlight  
17 about him are that this is his first run-in in any way,  
18 shape, or form with the law. And that doesn't detract from  
19 the severity of it or how the Court should address him, but  
20 it's not a situation in which we have a serial recidivist.  
21 And I think we actually have very low information about his  
22 potential for future recidivism.

23           After January of last year, he reenrolled in  
24 college and finished his degree at the University of North  
25 Carolina. One thing that is notable -- at least in our

1 district -- about this case is that the FBI made the  
2 decision, instead of arresting him, which was common, to  
3 reach out to him and to reach out to us, and he turned  
4 himself in. He turned himself in and spent a day in custody  
5 in June, and he's been on supervision by our pretrial  
6 service officers down here in the Middle District of North  
7 Carolina successfully now for about seven or eight months.  
8 So we have good reason to think that another period of  
9 probation would be completed successfully.

10 He has a strong history of employment and staying  
11 busy with lawful pursuits. When he took a break from  
12 college around 2019 and '20, the presentence report notes  
13 that he had some mental health issues that were  
14 appropriately addressed with counseling, but during that  
15 time he worked first at a pet hospital and then for the  
16 American Red Cross where he developed some expertise in  
17 phlebotomy and apheresis, the separation of the platelets  
18 and the plasma.

19 He has, while on pretrial release, found a job,  
20 steady employment, with a law firm here in town doing legal  
21 work and title work in the Debtor/Creditor Relations Board,  
22 and so I have a concern that -- you know, he is an entry-  
23 level employee, but that any period of incarceration,  
24 particularly one of 15 days or so, would exceed the days of  
25 paid time off that he has and very well could result in him

1 losing that employment.

2 The Court has options within the probation context  
3 that it can use if it needs or feels that it needs to send a  
4 stronger signal to others for the purposes of general  
5 deterrence. The Court can impose inside the probationary  
6 term a period of home detention, and were the Court to do  
7 that, we would ask only that he be allowed to travel outside  
8 of the home for work and then for medical and legal  
9 appointments.

10 You know, the Court has options here. I do  
11 believe that his age, his compliance, his -- with pretrial  
12 release, his current employment, and his efforts to better  
13 himself should be accounted for in the Court. I believe the  
14 probation office did that, took all those things into  
15 account and was fully aware of the nature of the offense  
16 when it reached its recommendation of 24 months probation.

17 You know, I'll tell the Court -- and I'm sure  
18 Mr. Scirica will do the same -- you know, the reason why  
19 there's a recording of him talking to the FBI is because  
20 from the very beginning he was cooperative and wanted to be  
21 as helpful as he could, and he voluntarily sat down and  
22 spoke with them even signing a nonattribution agreement  
23 which had the curious clause that they could use --

24 THE COURT: Just to be clear, he did that after  
25 the FBI contacted him and went to his house.

1 MR. JONES: Yes, sir.

2 THE COURT: He didn't volunteer for that, that he  
3 had breached the Capitol, did he?

4 MR. JONES: Oh, no, that's right.

5 THE COURT: Yes.

6 MR. JONES: And the agreement had, you know, an  
7 interesting clause in it, which essentially said we will be  
8 able to use whatever you say against you, you know, as it  
9 has done in this sentencing hearing.

10 But near the end of that he was asked, you know,  
11 sort of to reflect on it, and he said, "I think this will  
12 make a good story some day." My take on that, Your Honor,  
13 was that it was a failed effort at sardonic humor and one  
14 that fell fully flat.

15 But as to the question of what is the amount of  
16 just punishment, what is the punishment that will be  
17 sufficient but no greater than necessary for this defendant  
18 with these characteristics accounting for his role in the  
19 conduct, I believe the probation office has it right, that a  
20 period of 24 months probation and restitution in the amount  
21 recommended by the plea agreement is appropriate, Your  
22 Honor. I would ask the Court to impose that sentence.

23 THE COURT: Okay. So address, if you would --  
24 you've addressed the government's point regarding lack of  
25 remorse. Address the other aggravating factor that they

1 have emphasized, which is his seemingly leadership role in  
2 igniting and encouraging and pointing others towards where  
3 he thought the electors might be and being -- you know,  
4 being there before a lot of other people, ten minutes after  
5 the initial breach.

6 MR. JONES: Sure. So the way I tallied them down  
7 is the early -- the aggravating factors were that he was in  
8 early, that he was near the front of the crowd, that he  
9 observed violence, and that his behavior was controlled and  
10 measured.

11 I think all of those are explained and were  
12 explained to the FBI agent, and what he said is that his  
13 intention was to bear witness. He wanted to see what was  
14 going on. He wanted to be an observer of what was happening  
15 in the building that day.

16 His intention -- and I don't think there's any  
17 allegation otherwise -- was not to use violence. It was not  
18 to destroy property. And I know that's accounted for  
19 already in the nature of the charge, but it's also important  
20 in thinking about his role in the conduct.

21 So yes, he was early in, and yes, when people were  
22 standing around the Statuary Hall he did say, you know,  
23 "Through there." The presentence report, though, correctly  
24 identifies and notes that he does not have any connections  
25 to any group, and so I don't think the Court should believe,

1 when we say "leadership," that it's leadership of people who  
2 have, you know, any connection to him.

3 None of the people in any of those videos are  
4 known to him. They're all strangers to him. They are all  
5 people that he has had no -- he just doesn't know. He was  
6 there on his own solely as an individual, and I believe he  
7 saw himself there to bear witness as to what was happening.  
8 And while he did stay once he saw people pushing and  
9 shoving, and he did stay while he saw things that he knew  
10 were inappropriate, not once did he engage in any of that  
11 conduct, and I think the government has correctly reached  
12 the right resolution as to this charge with Mr. Scirica.

13 I don't dispute the facts as they say them. I  
14 don't believe, however, when you balance that as part of the  
15 3553(a) factors, that they detract from what I think is the  
16 correct result here, which is the one identified by the  
17 probation office in this case.

18 THE COURT: Okay.

19 All right. Mr. Scirica, anything you want to tell  
20 me before I impose sentence?

21 MR. JONES: You can take your mask off.

22 THE COURT: Let's just have a conversation, okay?

23 THE DEFENDANT: Yes, sir. Sorry, I'm a little  
24 nervous.

25 THE COURT: Take your time. And if you'd like me

1 to start the conversation, I'd be happy to.

2 THE DEFENDANT: Would you, please.

3 THE COURT: All right. So what were you thinking?

4 THE DEFENDANT: Just as what was said, that I  
5 wanted to see what was going on with my own eyes.

6 About the leadership part, I definitely did not  
7 have any kind of connection to anybody; and with the  
8 pointing and everything, I think I was maybe just a little  
9 naive. Excuse me.

10 I guess I was a little naive about the intentions  
11 of the people around me. I guess I sort of thought they  
12 would all be a little bit like me so...

13 I am remorseful now, but...

14 Yes, that's all.

15 THE COURT: So, you know, I listened to your FBI  
16 interview. I read the presentence investigation report. As  
17 Mr. Jones says, you say that you were there just to bear  
18 witness, to see with your own eyes what was happening. You  
19 talked about, you know, recording it and leaving after your  
20 cellphone died.

21 But I look at the videos and I see more than that,  
22 okay? I see you at the -- I understand that you're not a  
23 leader. You're not a Proud Boy. You're not an Oath Keeper.  
24 You don't know those folks. I get that. But I see you  
25 telling people where to go. I see you saying you wanted to

1 find where the electors are. I see you leading the chants  
2 or at least joining in them, pointing people to where you  
3 want them to go. You're at the front of the pack.

4 To me that's not just bearing witness or being a  
5 citizen journalist or satisfying, you know, yourself as to  
6 what was going on. That's being more of a participant.

7 Am I reading that wrong?

8 THE DEFENDANT: No, Your Honor. All of the  
9 material facts I agree with.

10 THE COURT: And so why were you doing those  
11 things? You know, what motivated you to go in and to  
12 participate like you did?

13 THE DEFENDANT: Honestly --

14 THE COURT: And more importantly, you know, do you  
15 regret having done that? Honestly.

16 THE DEFENDANT: Honestly, yes, I do. It's much  
17 easier to judge my own actions in retrospect.

18 I will say I got caught up in the moment a little  
19 bit. I had never been in such a circumstance before, and --  
20 I don't know -- I guess my emotions took hold of me more  
21 than I would have liked them to. I wouldn't necessarily say  
22 I was controlled and measured because of that, but I can --  
23 I can understand how it looks certainly.

24 And if there's a question about if I will ever do  
25 that again, the answer is certainly not. I guess I just

1 didn't realize the impact that my actions were having when I  
2 was there.

3 THE COURT: Ms. Albinson mentioned Ashli Babbitt.  
4 She was shot, I believe, at 2:44. Did you hear the gunshot?

5 THE DEFENDANT: Your Honor, I'm sorry, your  
6 microphone broke up, and I didn't hear what you said.

7 THE COURT: Ms. Albinson mentioned Ashli Babbitt.  
8 Do you know who she is?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And she was shot at about 2:44 not too  
11 far from where you were standing. Do you understand that?

12 THE DEFENDANT: Yes, Your Honor, I do.

13 THE COURT: Have you thought about, you know, if  
14 you would have been in a slightly different place either a  
15 little bit before or a little bit afterwards, going through  
16 a door that you didn't know what was on the other side of  
17 that, that could have been you?

18 THE DEFENDANT: I have --

19 THE COURT: Go ahead.

20 THE DEFENDANT: I have thought about that. I  
21 didn't hear the gunshot myself, and honestly, the thought of  
22 true violence like that never crossed my mind at the moment.

23 But in reflection, yes, I definitely have thought  
24 about that, and I've talked a lot about that with my  
25 parents, yes.

1 THE COURT: And do you know how many people died  
2 on January 6th?

3 THE DEFENDANT: I don't. I only knew of  
4 Ms. Babbitt.

5 THE COURT: Four others, either through violence  
6 or through heart attacks or other means.

7 Do you know how many Capitol police officers or  
8 other law enforcement took their own lives after January 6th  
9 because of the trauma that they went through?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Four.

12 Do you know how many congressional staffers were  
13 behind some of those doors that you were passing and  
14 pointing people towards cowering, calling their parents,  
15 calling their spouses, wondering if someone was going to  
16 crash through the door at any minute with a weapon or with  
17 their fists? Have you thought about that?

18 THE DEFENDANT: Have I thought about it? Yes, I  
19 have thought about it. I just, at the time -- I don't know.  
20 I mean, it's totally out of character for me. I've never  
21 been violent a day in my life, and I certainly had no  
22 intentions of anything like that.

23 But yes. I have thought about that, yes.

24 THE COURT: Having thought about all those things  
25 and hearing the statistics, do you still think it will be a

1 cool story to tell your grand kids 50 years from now?

2 THE DEFENDANT: No. That really was just poor  
3 humor. I guess it was a really stressful situation for me  
4 being there with the FBI, and it was more like -- excuse  
5 me -- it was more like gallows humor for myself. Obviously  
6 I shouldn't have said that, but that totally just came off  
7 wrong.

8 THE COURT: But before you said that, the agent  
9 asked you do you regret having been there, and I think your  
10 answer was I don't know. And then you said the joke about  
11 telling your grand kids about it.

12 And so -- and I accept -- I listened to your  
13 interview. You're a highly intelligent guy. You're very  
14 thoughtful. You're very logical. Your answers were very  
15 measured and precise, and I took the last answer as being  
16 genuine; that sitting there today on that day you didn't  
17 know whether you regretted it or not regardless of whether  
18 the joke fell flat or not.

19 THE DEFENDANT: I understand how it sounds, Your  
20 Honor. I mean, I -- all of the statistics you just read,  
21 honestly I didn't know any of those at that time. I just  
22 learned that this morning. All I had known about was the  
23 Ashli Babbitt thing.

24 And, I mean, obviously I knew that the electors  
25 must have been scared, but I really didn't understand the

1 gravity of my personal actions and how they, you know,  
2 played a role in that at the time.

3 THE COURT: You majored in philosophy, I  
4 understand.

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Any particular type that you studied?

7 THE DEFENDANT: I really enjoyed existentialism.  
8 I also thought that metaphysics was very interesting,  
9 although I barely understood it. I thought if I, you know,  
10 spent more time on that I would have gotten that a little  
11 better. But I thought it was interesting, yes.

12 THE COURT: Did you study ethics and political  
13 philosophy?

14 THE DEFENDANT: I, of course, read some, but that  
15 wasn't what I was most interested in, no.

16 THE COURT: You work for a law firm, I understand.

17 THE DEFENDANT: Yes, sir. I started on September  
18 3rd doing mostly kind of like mortgage law stuff.

19 THE COURT: Have you gotten an opportunity to  
20 spend a lot of time with the lawyers at your firm?

21 THE DEFENDANT: No, Your Honor, I haven't.

22 THE COURT: Okay. Well, I would encourage you to  
23 talk with some of them about the importance of complying  
24 with the law and about the rule of law and the role that it  
25 plays in our system of government, okay? And don't just

1 take it from me, but, you know, get to know some of those  
2 folks.

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And you are fortunate to have a job in  
5 a law firm frankly, okay.

6 THE DEFENDANT: I'm very grateful for it, Your  
7 Honor.

8 THE COURT: Okay. Ms. Field, you may not know  
9 the answer to this question, but any idea whether the --  
10 where are -- you're in the Western District of North  
11 Carolina, Mr. Jones?

12 MR. JONES: Middle District of North Carolina.

13 THE COURT: -- whether the Middle District has any  
14 experience with intermittent incarceration?

15 MR. JONES: It does, and I actually reached out  
16 this week to the United States Marshals Service here, which  
17 is based in Greensboro, and the response was, you know, if  
18 the Court orders intermittent confinement to the custody of  
19 the marshals, they absolutely can accommodate that.

20 I'll tell the Court, the Middle District has some  
21 federal territorial lands with a national park, and so we  
22 have misdemeanors that come through on that docket with  
23 frequency, and so intermittent confinement on weekends is  
24 not a foreign concept or practice to our marshals service.

25 THE COURT: Okay. Ms. Albinson, any comments on

1 that?

2 MS. ALBINSON: Your Honor, I believe Mr. Jones is  
3 more familiar with that than I am; I apologize. I'm not  
4 very familiar with that.

5 If you wouldn't mind, could I just clarify the  
6 record on the question that Your Honor asked before about  
7 supervised release? I apologize. I thought that you were  
8 asking about a split sentence, which I do believe is  
9 authorized for a petty misdemeanor. So supervised release  
10 is not authorized, but a split sentence is.

11 THE COURT: You're using the term "split sentence"  
12 in the sense of incarceration for a period and then home  
13 confinement or community detention thereafter? Is that what  
14 you mean by "split sentence"?

15 MS. ALBINSON: I mean incarceration followed by a  
16 period of probation.

17 THE COURT: Okay.

18 THE PROBATION OFFICER: Your Honor, if I may just  
19 clarify? With respect to the intermittent confinement,  
20 because I believe Your Honor asked if I had any experience  
21 with that, I did speak with a U.S. probation officer in the  
22 Middle District of North Carolina. He advised me that they  
23 do have intermittent confinement in the district; however,  
24 it can be difficult due to available jail space, and since  
25 COVID it has been a challenge.

1           He didn't provide any additional information, but  
2           I wanted the Court to have that.

3           THE COURT: Very well. Thank you.

4           All right. Mr. Scirica, each one of these cases  
5           is different. Each defendant's role is different. It's up  
6           to the Court to consider all these factors and do what is  
7           right, and I tried to do that in this case.

8           Mr. Jones is right. You have no criminal record.  
9           You were not a leader of the January 6th insurrection in any  
10          sense. You didn't break anything. You didn't assault  
11          anyone. And the Court obviously has taken that into  
12          account.

13          By the same token, as I said, I don't think that  
14          you were just a passive observer. You were there to  
15          document it to satisfy your own self. I think once you got  
16          there, for whatever reason -- you got caught up in the  
17          moment or perhaps you were truly committed to some cause --  
18          you know, you did more than that. I think you fashioned  
19          yourself as one of the sheep dogs, one of the ones who is  
20          leading the herd in the direction that you think they ought  
21          to go. And for someone as young as you to take a position  
22          like that says something about you. You know, it says that  
23          you view yourself as wanting to be, you know, a leader in  
24          that sense.

25          And regardless of what you did -- and I've told

1 many other defendants this -- as the government has pointed  
2 out, you were part of a bigger and much more dangerous and  
3 serious enterprise, whether you realized it then or not.  
4 And I think given where you were, given what you saw, given,  
5 you know, how smart you are, you know, you should have  
6 realized that, okay? And because of, you know, your  
7 education and your smarts and all that I think you should  
8 have known better. All right?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And you should have not got caught up  
11 in it.

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And we've talked a lot about this in  
14 our conversation, which I do appreciate, and I'm just -- I'm  
15 going to end it there, and I'm going to impose a sentence  
16 consistent with the government's recommendation, but because  
17 you are employed, which I would encourage you to continue to  
18 do, I will impose a sentence of 15 days -- or 14 days --  
19 excuse me, 15 days with credit for the one day that you have  
20 served on an intermittent weekend seven-weekend basis.

21 And we will accommodate a report date that is --  
22 that makes sense with the Middle District based on COVID and  
23 all of the other considerations that they have, okay? So  
24 I'm not ordering an immediate report date.

25 So with that, Mr. Scirica, pursuant to the

1 Sentencing Reform Act of 1984 and in consideration of the  
2 provisions of 18 USC 3553, it is the judgment of the Court  
3 that you are hereby committed to the custody of the Bureau  
4 of Prisons for a term of 15 days incarceration to be served  
5 intermittently on weekends. You're ordered to make  
6 restitution to the Architect of the Capitol in the amount of  
7 \$500. The Court has determined that you do not have the  
8 ability to pay interest and therefore waives any interest or  
9 penalties that may accrue on that balance. Restitution  
10 payments shall be made to the Clerk of the Court for the  
11 United States District Court for the District of Columbia  
12 for disbursement to the Architect of the Capitol, and the  
13 address will be in the judgment.

14 You are also ordered to pay a fine in the amount  
15 of \$500. The Court has determined that you do not have the  
16 ability to pay interest and therefore waives any interest or  
17 penalties that may accrue on the balance.

18 You must pay the financial penalty in accordance  
19 with the schedule of payments, a sheet that will be listed  
20 on the judgment. You must also notify the Court of any  
21 changes in economic circumstances that might affect your  
22 ability to pay the financial penalties.

23 Having assessed your ability to pay, payment of  
24 the total criminal monetary penalties is due as follows:  
25 Payment in equal monthly installments of \$200 over a period

1 of five months to commence after the date of this judgment.

2 You have the right to appeal the sentence imposed  
3 by the Court if the period of imprisonment is longer than  
4 the statutory maximum. If you choose to appeal, you must  
5 file any appeal within 14 days after the Court enters  
6 judgment.

7 You also have the right to challenge the  
8 conviction entered or sentence imposed if new and currently  
9 unavailable information becomes available to you or on a  
10 claim that you received ineffective assistance of counsel in  
11 entering a plea of guilty to the offense of conviction or in  
12 connection with this sentencing. If you are unable to  
13 afford the cost of an appeal, you may request permission  
14 from the Court to file an appeal without cost.

15 Any objections for the record?

16 MR. JONES: No objection. One potential  
17 clarification request that might make it easier for  
18 imposition?

19 THE COURT: Yes.

20 MR. JONES: I believe the Court can order that he  
21 serve it in the custody of the United States Marshals  
22 Service, and if he's to be housed in a local jail facility  
23 on the weekends, it would be the Marshals Service that would  
24 have custody of him.

25 The Court had ordered the BOP, but I think the

1 Court can instead, on the judgment form, indicate custody of  
2 the Marshals Service and that would effectuate the  
3 intermittent confinement.

4 THE COURT: Ms. Field, any reaction to that? I  
5 think that's correct.

6 THE PROBATION OFFICER: I think that's correct,  
7 Your Honor. Our only request is that -- we would ask that  
8 the Court order that the defendant start the sentence on a  
9 date on or after to allow for designation purposes because I  
10 think he would still have to be processed through the BOP,  
11 and then the Court could make the recommendation that he  
12 serve that through the United States Marshals Service.

13 But we would ask that the Court order that he  
14 start the sentence on or after a specific date to allow  
15 them -- to allow the BOP time to appropriately designate him  
16 on their own process.

17 THE COURT: All right. We will research that  
18 point. I do think it makes sense to start the sentence on  
19 or after a particular date, and we will research as to  
20 whether he will be committed to the custody of the BOP just  
21 for placement purposes or whether to submit custody to the  
22 Marshals.

23 MR. JONES: Yes, Your Honor. And relatedly to  
24 that, if the Court concludes that the BOP designates this,  
25 we would obviously make a recommendation for a facility as

1 close to his home in North Carolina as possible.

2 THE COURT: We will include that.

3 Ms. Albinson, anything else?

4 MS. ALBINSON: No, Your Honor. Thank you.

5 THE COURT: All right. Mr. Scirica, you're a  
6 young man. I always tell defendants that you shouldn't be  
7 judged by the worst mistake that you've ever made. This was  
8 a really bad mistake, okay?

9 I don't care what your political views are. I  
10 don't care, you know, what issues you advocate. That's not  
11 why we're here, all right? You can't break the law in doing  
12 that, all right?

13 THE DEFENDANT: Yes, Your Honor. Thank you for  
14 your time.

15 THE COURT: Good luck to you, sir.

16 MS. ALBINSON: Your Honor?

17 THE COURT: Yes, I'm sorry.

18 MS. ALBINSON: I need to dismiss Counts 1 through  
19 3 of the information pursuant to the plea agreement.

20 THE COURT: So ordered.

21 All right. We're adjourned. We will get out a  
22 standard judgment and committal order.

23 MR. JONES: Yes, Your Honor. Thank you.

24 MS. ALBINSON: Thank you, Your Honor.

25 (Whereupon the hearing was adjourned until 4:01 p.m.)

1 THE COURTROOM DEPUTY: Good afternoon, Your Honor.  
2 We are back on the record for Criminal Case 21-457, *United*  
3 *States of America vs. Anthony Scirica*.

4 Counsel, please identify yourselves again for the  
5 record.

6 MS. ALBINSON: Grace Albinson for the United  
7 States.

8 MR. JONES: And Mark Jones here in North Carolina  
9 with Anthony Scirica.

10 THE COURT: Okay. Good afternoon again, everyone.  
11 My apologies for bringing everyone back, but following the  
12 initial portion of the hearing this morning my crack staff  
13 advised me -- and this is why federal judges should not try  
14 to improvise -- they reminded me that I am actually not  
15 authorized to impose a sentence of intermittent  
16 incarceration unless it is a condition of either supervised  
17 release or probation.

18 So I could impose -- so, therefore, the sentence I  
19 imposed was actually not authorized so I thought it was --  
20 that I should bring you all back and reopen the hearing from  
21 this morning.

22 I could impose a probationary sentence with  
23 intermittent incarceration as a condition of probation, but  
24 following the hearing I believe probation consulted with the  
25 Eastern District of North Carolina and was advised that it

1 strongly recommends against that approach given COVID and  
2 other logistical difficulties. Is that correct, Ms. Field?

3 THE PROBATION OFFICER: That's correct, Your  
4 Honor. Just one thing to clarify, it's the Middle District  
5 of North Carolina.

6 THE COURT: So based on that feedback, the Court  
7 is prepared to revise its oral sentence and impose the  
8 recommended sentence by the government, which is 15 days of  
9 straight incarceration with credit for one day of time  
10 served and, as previously stated, a \$500 fine and \$500 in  
11 restitution. Because the oral pronouncement of the sentence  
12 trumps the written sentence in the J&C, the Court thought it  
13 was appropriate to bring everyone back and revise the oral  
14 sentence.

15 Mr. Scirica, I know that this is inconsistent with  
16 what the Court said before, and frankly it is inconsistent  
17 with the way that I would have liked to have imposed the  
18 sentence, but I cannot give an illegal sentence, and I'm not  
19 prepared to give a sentence that the district is  
20 uncomfortable implementing due to all of the factors in  
21 play.

22 So I know that you are working, but I would  
23 suggest to your employer that they obviously should  
24 accommodate this through leave or vacation time or whatever  
25 other accommodations you folks can work out.

1           And, Mr. Jones, you should feel free to convey the  
2 Court's sentiment to the employer, if that is going to be an  
3 issue.

4           MR. JONES: I'll certainly do that. And I don't  
5 want to speak out of turn without the Court's permission,  
6 but I'll tell the Court, you know, in the interim I also  
7 reached out to the Marshals Service about exactly this  
8 question, you know, who confirmed again for me that if  
9 ordered to their custody for intermittent confinement that  
10 it's -- you know, they would do what the Court ordered.

11           And so I think that there is a way to effectuate  
12 what the Court originally pronounced because the Court can  
13 instruct that the Marshals are the people who are engaging  
14 in the conversations with the jail for the purpose of  
15 intermittent confinement, and I think that Mr. Scirica could  
16 be on a term of probation while that's occurring.

17           I mean, I fully appreciate that, you know, it is  
18 usually the Marshals and not the probation who are arranging  
19 for that, and so to the extent there's any doubt, you know,  
20 a call to the Marshals Service may be more appropriate in  
21 finding out how comfortable they are with it than compared  
22 to the probation office.

23           THE COURT: I appreciate that, but I'm going to  
24 stick with the sentence so as not to cause any more  
25 confusion than has already been caused. BOP, I understand,

1 has a contract with a local facility there so they will  
2 likely not have to do a placement. We will recommend a  
3 placement close, but my understanding is that, you know, the  
4 place where he will be may be the same place that the  
5 Marshals have some understanding with. So it will be local,  
6 and we will get it out of the way and move forward. All  
7 right?

8 Anything else, Counsel? Ms. Albinson?

9 MS. ALBINSON: No, Your Honor. I apologize that I  
10 wasn't on to that issue, but thank you.

11 THE COURT: You know, we don't do a lot of  
12 misdemeanor sentencings in federal court here in D.C. given  
13 the nature of our docket and our relationship to the local  
14 court system, but I've actually encountered this issue  
15 before and so I should have flagged it. I apologize for  
16 that as well.

17 Ms. Field, anything else?

18 THE PROBATION OFFICER: Your Honor, just that the  
19 Court -- if the Court could ask Mr. Scirica to please make  
20 himself available by telephone after the hearing so that I  
21 may go over the voluntary surrender instructions for him and  
22 how he'll be notified of where and when he needs to report.

23 THE COURT: Mr. Jones, how much does Mr. Scirica  
24 need to prepare himself for a self-report?

25 MR. JONES: May I consult with him, Your Honor?

1 (Pause)

2 THE COURTROOM DEPUTY: And, Your Honor, one  
3 particular -- one matter, and this is off of Ms. Field's,  
4 are we still imposing the special assessment fee of \$10 in  
5 this matter?

6 THE COURT: Yes.

7 THE COURTROOM DEPUTY: Okay. Thank you.

8 MR. JONES: Your Honor, if the -- after the BOP --  
9 a reporting date within a month should be fine. That should  
10 at least give him the time to attempt to accrue more hours  
11 in hopes of saving that job.

12 THE COURT: The Court will order a report date  
13 after March 1st.

14 Anything else?

15 MS. ALBINSON: No, Your Honor.

16 THE COURT: Okay. We are adjourned. Good luck to  
17 you, Mr. Scirica.

18 THE PROBATION OFFICER: Thank you, Your Honor.

19 MS. ALBINSON: Thank you.

20 (Whereupon the hearing was  
21 concluded at 4:09 p.m.)

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**CERTIFICATE OF OFFICIAL COURT REPORTER**

I, LISA A. MOREIRA, RDR, CRR, do hereby certify that the above and foregoing constitutes a true and accurate transcript of my stenographic notes and is a full, true and complete transcript of the proceedings to the best of my ability.

**NOTE:** This hearing was held remotely by Zoom or some other virtual platform and is subject to the technological limitations of court reporting remotely.

Dated this 26th day of January, 2022.

/s/Lisa A. Moreira, RDR, CRR  
Official Court Reporter  
United States Courthouse  
Room 6718  
333 Constitution Avenue, NW  
Washington, DC 20001