

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA CR No. 1:21-cr-00349-TJK-1

v. Washington, D.C.
Thursday, February 24, 2022
2:00 p.m.
JEFFREY REGISTER,
Defendant.

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TRANSCRIPT OF SENTENCING
HELD BEFORE THE HONORABLE TIMOTHY J. KELLY
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Proceedings recorded by machine shorthand; transcript
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P R O C E E D I N G S

1
2 THE DEPUTY CLERK: Your Honor, this is Criminal
3 Matter 21-349, United States of America v. Jeffrey Register.

4 Present for the Government is William Dreher;
5 present from the United States Probation Office appearing by
6 Zoom is Kelli Willett; present for the defendant is Cara
7 Halverson; also present is the defendant, Mr. Register.

8 THE COURT: All right. Well, good afternoon --
9 actually, hmm. Ms. Harris, I'm not getting -- test, test.

10 (Brief pause.)

11 Oh, there we go. There was -- I had the
12 technological savvy to actually figure it out which is a
13 minor miracle.

14 THE DEPUTY CLERK: Someone's been tinkering with
15 your stuff.

16 THE COURT: Pardon me?

17 THE DEPUTY CLERK: I said someone's been tinkering
18 with your stuff.

19 THE COURT: Yeah, the judge mic was muted.

20 THE DEPUTY CLERK: Okay.

21 THE COURT: In any event, good afternoon,
22 everyone.

23 We are here for the sentencing of Mr. Register,
24 who has pled guilty to Count 4 of the information charging
25 him with parading, demonstrating, or picketing in a Capitol

1 building, in violation of Title 40 United States Code
2 Section 5104(e)(2)(G).

3 I have received and reviewed the presentence
4 report and the sentencing recommendation from the Probation
5 Office -- thank you, Ms. Willett -- and the sentencing
6 memoranda from the Government and the defendant. Are there
7 any other -- I guess I should also add, I have also the
8 stipulation that the Government filed and may enter into
9 this proceeding. Other than that, are there any other --
10 and, of course, I've received the video exhibits that the
11 Government proffered, as well.

12 Are there any other documents or materials for me
13 to review, Mr. Dreher?

14 MR. DREHER: I believe, Your Honor, you likely
15 also have Exhibit-A to the Government's sentencing
16 memorandum which is technically a 302 -- an FBI 302 --

17 THE COURT: Correct. I do have that, as well.

18 MR. DREHER: That's it from the Government.

19 THE COURT: All right. Ms. Halverson, anything
20 further for me to review?

21 MS. HALVERSON: Your Honor, you did receive the
22 personal character letters in regards to Mr. Register, as
23 well?

24 THE COURT: Correct, and including one that is
25 under seal --

1 MS. HALVERSON: Correct. Yes.

2 THE COURT: So -- and, of course, I have all of
3 those.

4 And let me make one other statement while we are
5 here. What -- are -- Ms. Halverson, are you vaccinated for
6 COVID-19?

7 MS. HALVERSON: I am, Your Honor.

8 THE COURT: All right. And, Mr. Dreher, are you
9 vaccinated?

10 MR. DREHER: (Indicates affirmatively.)

11 THE COURT: All right. I see thumbs-up.

12 MR. DREHER: I am.

13 THE COURT: All right. So I don't have any
14 problem with either of you, whether you're going to be
15 addressing me where you are sitting, with taking off your
16 mask when you're -- particularly when you're speaking, but
17 if -- and also, particularly if you come up to this podium,
18 that's fine, as well.

19 My understanding from the presentence report is
20 that Mr. Register is not vaccinated; is that correct?

21 MS. HALVERSON: That is correct.

22 THE COURT: All right. So that is why -- and I
23 don't know if Ms. Harris mentioned this at all -- but that
24 is why we set up the podium where it is. So he will -- if
25 he chooses to address me, he should remove his mask, because

1 I do want to see his face, but he'll do so from there which
2 will give a little bit of an extra buffer between himself
3 and the court personnel and me.

4 All right. Mr. Register, this sentencing hearing
5 is going to proceed in four steps, and all the while, I want
6 you to make -- I want you to keep in mind the seriousness of
7 why we are here. You committed and pled guilty to a federal
8 crime, and today's proceeding is about the consequences
9 you'll face as a result of your decision to commit that
10 crime.

11 The first step of today's hearing is for me to
12 determine whether you and your counsel have reviewed the
13 presentence report and whether there are any outstanding
14 objections to that report and, if so, to resolve those
15 objections.

16 The second step is usually for me to determine
17 what sentencing guidelines and sentencing range applies in
18 your case based on your criminal history and considering any
19 aggravating or mitigating factors that may warrant a
20 departure under the sentencing guidelines manual, but
21 because you have pled to a misdemeanor, a particular type of
22 misdemeanor also, the sentencing guidelines do not apply in
23 this case, but even so, I'll take that opportunity to
24 clarify the sentencing framework we're operating under, what
25 the maximum sentence is, what the -- and with regard to

1 incarceration or any other consequences of a conviction.

2 The third step is for me to hear from you, your
3 lawyer, and the Government counsel in -- and from you if you
4 wish to be heard -- about sentencing in this case.

5 And the last step is -- requires me to fashion a
6 just and fair sentence in light of the Congress -- the
7 factors that Congress has set forth in statute in 18 United
8 States Code 3553(a), and as part of that last step, I will
9 actually impose the sentence along with the other required
10 consequences of the offense.

11 So moving to step one, the final presentence
12 report and sentencing recommendation were filed in this
13 matter on February 15th, 2022.

14 Mr. Dreher, does the Government have any objection
15 to any of the factual determinations set forth in the
16 presentence report?

17 MR. DREHER: No, Your Honor.

18 THE COURT: All right. Ms. -- and then I'll turn
19 to Ms. Halverson. Have you and your client read and
20 discussed the presentence report?

21 MS. HALVERSON: We have, Your Honor.

22 THE COURT: And do you have any objection to any
23 of the factual statements set forth in the report?

24 MS. HALVERSON: With the addition of the
25 qualifications made in Paragraph 19 on Page 6 of the report

1 which talks about a 302 being in dispute between the
2 parties, we have no other objections to the presentence
3 investigation report.

4 THE COURT: All right. But you do -- you do want
5 to -- let me just look at the exact paragraph you're talking
6 about. Is it -- yeah, there we go. The allegations --
7 right. So it does -- the report does say that you disagree
8 about the statements in Paragraph 22. I guess the question
9 is -- so are the parties going to put on evidence about this
10 and have me determine whether Mr. Register made those
11 statements through evidence you plan on putting on or do you
12 -- are you planning -- are the parties simply planning on
13 arguing to me that he did not say it for one reason or
14 another?

15 MS. HALVERSON: Your Honor, I think part of -- and
16 I don't know if I should stand or not stand. What do you
17 prefer?

18 THE COURT: You can sit. That's fine.

19 MS. HALVERSON: Okay.

20 THE COURT: All right.

21 MS. HALVERSON: I'm not used to being at this
22 seat -- at the table here.

23 So I think the point of the stipulation that was
24 entered in this case was to, sort of, remove the evidence
25 fact-finding part of that inquiry. I think we're firmly on

1 the grounds with these facts of agree to disagree, and so I
2 had not intended to put on evidence one way or the other or
3 really address it. I think it's important for the Court to
4 know that it's out there and that is a fact that's in
5 dispute, but I don't know what the Government's plan is as
6 far as their -- if they want to be putting on evidence.

7 THE COURT: Well, presumably -- I mean, they went
8 through the trouble of proffering a -- the parties agreed on
9 a stipulation. So I assumed that was in lieu of putting
10 on -- an agent on the stand and I assumed the parties had
11 agreed on that. I suppose it's not something -- the --
12 since the guidelines here don't apply, it's not something I
13 have to, maybe, resolve at this stage because it doesn't --
14 the question of whether he said this -- these words or not
15 or whether they're taken out of context or whatever the case
16 may be doesn't affect his guideline calculation because
17 there is no guideline calculation. So that's fine. And if
18 you all want to just say, Okay, you know -- I have that
19 stipulation, I've received it, and I'm not, you know -- you
20 can proceed however you want, Ms. Halverson, whether you
21 want Mr. Register, at some point, to be sworn and to swear
22 to something other than that or you just want to argue to
23 me, for whatever reason, they -- this was taken out of
24 context -- or he did say those things but not exactly in
25 that way; it was taken out of context, whatever, but I take,

1 then -- I think what we've arrived at here is that, number
2 one, I -- at this stage in our proceeding, there's no reason
3 for me to resolve this fact that may be disputed but really
4 isn't anything pertinent to the guidelines, and then you all
5 will just argue to me -- I have the stipulation, and you all
6 will argue to me one way or the other what I should make of
7 all this; is that fair?

8 MS. HALVERSON: That was my understanding, Your
9 Honor.

10 THE COURT: All right.

11 MR. DREHER: Your Honor, I think your instinct is
12 correct that when we obtained the stipulation, it was in
13 lieu of us actually presenting agent testimony which is what
14 we would have done. I think the Government's position is
15 certainly that based on that stipulated testimony, in the
16 absence of any countervailing evidence, you know, it would
17 be more than sufficient evidence before the Court, as in any
18 sort of trial where there's stipulated testimony, for the
19 Court to resolve that factual dispute, but I do agree that
20 if the Court does not think resolving that factual dispute
21 is necessary to its sentence in this case, then it does not
22 need to do that.

23 THE COURT: Well, I don't -- I think it's not
24 necessary, you know -- typically, when we're going through
25 the presentence report, it's usually -- the question of

1 whether there's a factual dispute usually links up in some
2 way to the guideline calculation. Now, I do think it could
3 be -- I mean, depending on what Ms. Halverson, I suppose,
4 argues, if the argument is -- but -- let me back up -- but I
5 do think that it might be relevant to my sentence as opposed
6 to my -- the guideline calculation which doesn't exist here.
7 So I do think I'm going to end up resolving that question
8 one way or the other, and I'm going to have the stipulation
9 and I'm going to have Ms. Halverson's argument and I'm going
10 to have to resolve it, I think, unless -- again, I'll wait
11 to hear Ms. Halverson address it. We're really, kind of,
12 talking about something a little more mushy and whether it
13 was, you know -- this was, sort of, taken out of context as
14 opposed to it was never said. Let's put it that way. But
15 if there truly is a direct factual dispute, you're right. I
16 could decide it doesn't matter, but if I think it might
17 matter, I think I do need to resolve it, but I guess my
18 point is I can resolve it after hearing you argue this, I
19 think, down the line, and I see both heads nodding and I
20 think that's what I'm going to do, then.

21 All right. Very well. So with that factual
22 dispute, sort of, noted and, sort of, with the -- with
23 everyone understanding we're going to come back to that,
24 with that, then, stipulation, I guess, what I'll go ahead
25 and do is just -- well, let me inquire, then, of

1 Mr. Register before we move further.

2 Mr. Register, have you had enough time to talk
3 with your attorney about the presentence report and the
4 papers the Government filed in connection with this
5 sentencing?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And are you fully satisfied with
8 Ms. Halverson as your attorney in this case?

9 THE DEFENDANT: One hundred percent.

10 THE COURT: All right, then. I will accept --
11 with the caveat about Paragraph 22, I believe it was, I will
12 accept, other than that, the facts as stated in the
13 presentence report and the presentence report will be my
14 findings of fact for the purpose of this sentencing with the
15 caveat that we're going to have to -- I will make a factual
16 determination regarding these outstanding matters once the
17 parties have an opportunity to address them.

18 Next, we would go to step two which would
19 ordinarily be the determination of the guidelines. The
20 presentence report lays out the statutory sentencing
21 framework that applies in this case. So let me go ahead and
22 attempt to summarize it.

23 As far as a statutory maximum goes, first, as a
24 preliminary matter, Congress has imposed a statutory maximum
25 sentence for the offense to which Mr. Register has pled

1 guilty. The statutory maximum is six months. As far as
2 supervised release goes, supervised release is not
3 applicable under 18 United States Code Sections 19 and
4 3583(b)(3). As far as probation goes, the defendant is
5 eligible for up to five years of probation because the
6 offense is a misdemeanor. That's under 18 United States
7 Code Section 3562 -- 61(c)(2). And as far as a fine goes,
8 the maximum fine for this offense is \$5,000. There's also a
9 special -- mandatory special assessment of \$10 under 18
10 United States Code Section 3013(a).

11 So let me ask both counsel whether I've accurately
12 stated the statutory framework on which we are operating in
13 regard to this case.

14 Mr. Dreher?

15 MR. DREHER: I believe so. Yes, Your Honor.

16 THE COURT: Ms. Halverson?

17 MS. HALVERSON: Yes, Your Honor. The only
18 question I have for Your Honor about the statutory framework
19 is whether or not this Court has reached a decision about
20 whether or not, if active incarceration is imposed, that
21 probation is also lawful under the statutes.

22 THE COURT: So I think -- the answer to that
23 question is I haven't had the -- I haven't had a reason to
24 make that decision yet, and I think I'm going to leave aside
25 that question for the moment and see if, in this case, I

1 feel like I need to answer it.

2 MS. HALVERSON: Fair enough, Your Honor. Thank
3 you.

4 THE COURT: All right. Very well.

5 All right. Next, we move to, really, what is the
6 heart of the matter in a case like this -- a misdemeanor
7 case -- is consideration of the statutory factors under 18
8 United States Code 3553(a) and the opportunity of the
9 defendant to speak if he so chooses.

10 I have to now consider the relevant factors that
11 Congress set out in 18 United States Code Section 3553(a),
12 and if the defendant would like to speak, he may, and I must
13 ensure that I impose a sentence that is sufficient but not
14 greater than necessary to comply with the purposes of
15 sentencing. These purposes include the need for the
16 sentence imposed to reflect the seriousness of the offense,
17 to promote respect for the law, and to provide just
18 punishment for the offense, and the sentence should also
19 afford adequate deterrence to criminal conduct, protect the
20 public from future crimes of the defendant, and promote
21 rehabilitation. And I must consider the nature and
22 circumstances of the offense; the history and
23 characteristics of the defendant; the need for the sentence
24 imposed to comply with the purposes I just mentioned; the
25 kinds of sentences available; the need to avoid unwanted

1 sentence disparities among defendants with similar records
2 who have been found guilty of similar conduct; and the need
3 to provide restitution to victims of the offense.

4 So I will hear the Government now on application
5 of the 3553(a) factors as well as -- I think, just make it
6 easier -- as well as this disputed issue of fact about
7 whether the defendant made the statements that are in
8 dispute. And you may do it from there if you'd like,
9 Mr. Dreher, or you may come all the way up here. That's --
10 either way is fine with me.

11 I'll -- and let me just -- before I hear from you
12 and from Ms. Halverson, let me give you all a little preview
13 of, kind of, where I'm at on this so you can, kind of,
14 direct your thoughts accordingly.

15 On the one hand, I will say, part of what the
16 parties in this case are arguing about as far as a sentence
17 goes is whether -- the question of whether a custodial
18 sentence is appropriate. And I will say, I've -- and part
19 of the answer to that is what is unique about this case --
20 maybe, not unique -- but what takes this case perhaps --
21 what are the aggravating factors -- let's put it that way --
22 here? And part of it is an argument about what other judges
23 have done in other cases. I would say I have -- I am -- I
24 was going to say impressed, but impressed is not really the
25 right word -- I am struck by three factors here that I think

1 do make this case a little bit different, certainly, in
2 combination, but I think the first one -- different than a
3 lot of cases that I've educated myself on in connection with
4 this proceeding and that do, to me, collectively suggest
5 that a custodial sentence is warranted and, at a minimum,
6 certainly, when I look at other sentences other judges have
7 meted out, don't -- that I think it's fair to say that a
8 custodial sentence in this case would not be outside what
9 other judges have done.

10 Those three factors are, first, that the
11 defendant, in the moment that he began waving the mob in a
12 direction, took a -- I mean, for that moment, he was
13 directing the mob. I haven't seen another misdemeanor
14 case -- put felonies aside. I didn't even look at those to
15 the extent they were even in the parties' sentencing
16 submissions. I don't think I see a case out there so far in
17 which a defendant has been -- which any misdemeanor
18 defendant has been sentenced for conduct that could
19 plausibly be described as directing or leading the mob.
20 Now, I get there are -- within that, there are mitigating
21 factors, but I don't -- I didn't see a case like that.
22 That's number one.

23 Number two, I have -- is -- are the disputed
24 statements. And I think, again, we'll see what --
25 Ms. Halverson, what your argument is on this exactly about

1 whether they're truly disputed or what aspects of them are
2 disputed, but we have a situation where at least the
3 proffered statement is that the defendant knew that what --
4 he was intending to get as close to the House chamber as
5 possible and that -- I'm paraphrasing now -- and that he was
6 doing so because he wanted to affect the proceeding. Maybe
7 for a lot of people who showed up at the Capitol that day,
8 that may have been what they intended. It's hard to know
9 exactly. But here, we have at least the proffered statement
10 as very clear evidence that that was what the defendant was
11 intending to do as opposed to, sort of, milling around and
12 holding up a sign and protesting. That's number two.

13 And number three is the fact that the defendant
14 did destroy potentially relevant evidence on his cell phone.
15 Again, now, I have -- there are cases of that, for sure,
16 and, you know, judges have come out -- I've looked at enough
17 cases to prepare for this that I know that largely -- that
18 as a general matter, that's -- that has come up in a bunch
19 of cases where defendants have -- I can think of a few where
20 defendants have been sentenced to a custodial sentence and
21 others where they have not -- I think, others where they
22 have not. I'm not sure about that.

23 But in any event, look, these are very
24 fact-intensive, fact- -- determinations, and I'm not
25 suggesting any one thing is determinative, but those three

1 things in combination and then particularly the first thing,
2 I guess, in isolation -- the first element -- I think, do
3 make this different and, certainly, as I looked at the
4 sentences judges have meted out, I don't think a custodial
5 sentence would be out of step with what other judges have
6 done. There are, of course, outliers in both directions,
7 but generally speaking. That's, I guess, the first thing
8 I'll say on that.

9 On the other hand, the sentence the Government is
10 asking for here -- the five months -- would be a quantum
11 step above any sentence that a judge -- again, we're talking
12 about misdemeanors here -- a quantum leap above any sentence
13 that any judge has meted out, I think, for a misdemeanor.
14 The Government has asked for three months, four months on
15 occasion in a few isolated cases, and in some of them --
16 those judges have done different things in those cases.
17 Sometimes a custodial sentence, sometimes not. But it is a
18 quantum leap up in request and certainly would be a quantum
19 leap up in actually a sentence imposed if I were to impose
20 it.

21 So you know, my instinct, again, from looking and
22 seeing what other judges have done; from looking at how I
23 view the importance of these aggravating factors, we're
24 going to call them; and then balancing that out against the
25 positive things about Mr. Register, you know, that were part

1 of the defense submission, I think it feels, you know -- I
2 think the Government's going to have some convincing to do
3 for me that this case is so far above what has been -- the
4 sentences that have been meted out here; that the defendant
5 is that much more culpable that we're talking about a
6 sentence -- I think that -- I can't -- I think the longest
7 sentence a judge has given on a misdemeanor case, other than
8 cases where folks had served six months already and it was a
9 sentence of time served -- putting that -- those cases
10 aside -- I think, is three months or so, and I think even
11 that case was, sort of, an outlier.

12 So anyway, that's, kind of, where I am, just to
13 give you all that ahead of time because I think it's
14 helpful. You can, kind of, direct your arguments
15 accordingly. With -- I'll stop talking now and hear from
16 the Government.

17 MR. DREHER: Thank you, Your Honor.

18 Just as an initial matter, the Government does
19 move to dismiss the remaining counts in the information.
20 And we would move to admit the exhibits as well as, I
21 suppose, the stipulation that the Court already has.
22 Obviously, normally, that would, sort of, just be --

23 THE COURT: So any --

24 MR. DREHER: Go ahead.

25 THE COURT: Any objection to me admitting the

1 stipulation, Ms. Halverson?

2 MS. HALVERSON: No objection.

3 THE COURT: All right. And I'm assuming no
4 objection to the dismissal of the remaining counts.

5 MS. HALVERSON: No objection to that. Thank you.

6 THE COURT: All right. So the remaining counts
7 will be dismissed and the stipulation will be admitted with
8 no objection.

9 MR. DREHER: And I think we would also move to
10 admit the video exhibits that are part of this. I would
11 move to admit Exhibit-A which is the 302, but I understand,
12 obviously, the defense, you know, preserves essentially its
13 objection to that portion of the 302 that describes
14 Mr. Register's --

15 THE COURT: Well, you could move to admit it with
16 that understanding that there is an outstanding objection to
17 those particular passages. Let's put it --

18 MR. DREHER: And --

19 THE COURT: -- that way.

20 MR. DREHER: -- at sentencing, in any event, I
21 think we do that typically just to make, sort of, the record
22 extremely clear that --

23 THE COURT: Right.

24 MR. DREHER: -- that has been considered by the --

25 THE COURT: Understood.

1 Ms. Halverson, any objection to any of that?

2 MS. HALVERSON: No, Your Honor.

3 THE COURT: All right. So that -- the video
4 exhibits, of course, will be admitted and the 302 will be
5 admitted subject to, of course, Ms. Halverson's argument
6 that certain statements within that were -- subject to her
7 objection to those statements which I'm going to hear from
8 her about.

9 MR. DREHER: Thank you, Your Honor.

10 I'm not going to -- I'm going to start not with
11 January 6th for the moment but, instead, with something that
12 happened to Mr. Register nine years ago, part of his
13 criminal history. In 2013, Mr. Register gets arrested for a
14 DUI, pleads it down to reckless driving, and he gets
15 probation. The next year, he's caught driving with a
16 suspended license, violated his probation, and he gets 10
17 days in jail for the probation violation and then another 5
18 just for driving with a suspended license.

19 Now, in his submission, Mr. Register called these
20 minor traffic infractions. I'm not sure I would agree with
21 respect to the DUI, but I will agree that driving with a
22 suspended license, standing alone, does not endanger anyone
23 necessarily. It's the same thing he does every time he
24 drives a car. It's just a status offense. And yet, for
25 that, he went to jail for two weeks. And that happens all

1 the time in America. People go to jail for small offenses
2 like unpaid court fines, possession of small amounts of
3 drugs, things like that. And I think that this case is, in
4 part, about the contrast between offenses like that which
5 might be misdemeanor offenses and the conduct -- the offense
6 -- the nature of the offense here. Contrast that kind of
7 offense with what Mr. Register did on January 6th, broke
8 into the Capitol building while Congress is in session. He
9 refused officers' instructions to leave. He sprints around
10 lines of officers that are --

11 THE COURT: Can --

12 MR. DREHER: -- trying to --

13 THE COURT: Can I just stop you right -- I --

14 MR. DREHER: Of course.

15 THE COURT: -- hate to do this, but I just -- when
16 I have something -- I'm going to do it. Mr. Dreher, I --
17 the Government does make a big deal about him not obeying
18 officers at various points in time. I -- how is that really
19 -- I mean, isn't every single person who really went in
20 there -- into the Capitol that day -- aren't -- isn't that
21 -- that doesn't distinguish him, does it? I mean, I take
22 your point, and there may be defendants who show up and try
23 to say, Well, I thought it was perfectly fine, but I
24 generally won't believe those defendants when they do, and I
25 don't know that that piece really distinguishes him from

1 every single person who's going to come in and answer for
2 that -- what they did that day. Is that fair?

3 MR. DREHER: I think it's -- it certainly doesn't
4 distinguish him from the --

5 THE COURT: Okay.

6 MR. DREHER: -- vast majority of defendants.
7 Probably, there are some folks who came in later than
8 Mr. Register --

9 THE COURT: Right.

10 MR. DREHER: -- did, right, who might not --

11 THE COURT: Right.

12 MR. DREHER: -- have encountered --

13 THE COURT: Sure.

14 MR. DREHER: -- law enforcement, but --

15 THE COURT: Okay.

16 MR. DREHER: -- I agree. That's just, you know --

17 THE COURT: Okay.

18 MR. DREHER: -- sort of, one clause. I do think
19 I'll -- as I'll explain later, I think it's relevant to one
20 thing.

21 And, of course, Mr. Register, then, joins this mob
22 which as it, you know -- as Exhibit-B shows, this mob is
23 standing outside the doors to the House chamber, a pretty
24 impressive place. That's where the President walks through,
25 you know, en route to the State of the Union address. And

1 they're chanting, Break it down. Break it down. People are
2 passing up sticks to try to, you know, get their way in.
3 And inside the House chamber, members of Congress are lying
4 on the floor. Some of them are putting gas masks on. The
5 Capitol Police have drawn their weapons because they're
6 ready to shoot and potentially kill rioters who break
7 through those doors; right? And at that crucial moment when
8 they're stymied at those doors, they can't get in,
9 Mr. Register finds himself, you know, 40, 50 yards down the
10 hallway; sees other people; starts shouting, Hey, come this
11 way, come this way. Or I just have to assume that. I can't
12 hear it on the --

13 THE COURT: Right.

14 MR. DREHER: -- CCTV. And he energetically and
15 enthusiastically -- that's the only way I can describe it --
16 joins in that. In fact, I think, runs down closer to the
17 crowd to be like, In case you haven't heard, come this way;
18 right?

19 THE COURT: Mm-hmm.

20 MR. DREHER: He waves them around to a separate
21 entrance where there is -- I mean, just as an indication of
22 the -- both the threat that was perceived, but also how
23 hastily the Capitol Police had to defend these breach
24 points, there's literally furniture, right -- I mean, tables
25 and chairs -- that had been piled up at the Speaker's Lobby

1 entrance. And there are only four officers, less well
2 defended. And when the mob arrives, they can see through --
3 this is on open-source video, and Mr. Register actually
4 admitted this in his interview -- they could see members of
5 Congress literally fleeing down a staircase at the end of
6 that hallway.

7 THE COURT: Who they thought were members of
8 Congress.

9 MR. DREHER: Yes.

10 And the mob ends up punching the glass -- and
11 members of this mob ended up punching the glass, obviously,
12 breaking their way through, and while this is happening,
13 Mr. Register is standing there with them; right? I mean,
14 10, 12 feet back, clearly willing to go into the mob -- with
15 that mob into the chamber. And it wasn't until the Capitol
16 Police did deploy deadly force and actually shot and killed
17 someone that Mr. Register left the building, but that wasn't
18 it. He then went -- first of all, he stayed on Capitol
19 grounds for another hour. So this was not some, like, sort
20 of, religious conversion that convinced him that what he had
21 done was wrong, but then he went home and factory reset his
22 phone and then lied to the FBI twice to their faces when
23 they came and asked him whether he had gone inside the
24 Capitol, and he only admitted that he had gone inside the
25 third time when the FBI said, It's really important that you

1 be honest, which any reasonable person in his shoes, if
2 you've denied culpability twice and the FBI reaches out and
3 says, You really have to be honest with us, Mr. Register,
4 everyone knows that that means -- or I should say most
5 reasonable people would suspect the FBI already knows that
6 you were inside. So there shouldn't be much credit given
7 for admitting it at that point.

8 Now, for all of that misconduct, Mr. Register
9 thinks he should get less jail time than he did for driving
10 with a suspended license eight or nine years ago, and the
11 Government finds that comparison somewhat astonishing, but I
12 think that it underscores the way in which sometimes these
13 cases are perceived by the people who need to be deterred.
14 In this case, it's Mr. Register, because that's his own
15 criminal history; right? That's what he knows about the
16 criminal justice system. At -- but it also speaks to
17 general deterrence, members of the public who might see
18 folks go into custody for short periods of time for things
19 that, frankly, probably seem trivial relative to this
20 conduct.

21 Now, at the end of this, I'm going to give the
22 Court, I think, four ways to think about the sentence in
23 this case, all of which, I think, lead to the only
24 conclusion -- the only reasonable conclusion being a
25 sentence of at least -- I should say, at a minimum, five

1 months, but first, to the Court's concerns, let me explain
2 in particular why his misconduct in his case is exceptional
3 relative to other misdemeanor cases.

4 Okay. As the Court knows, we went through a lot
5 of aggravating factors for Mr. Register, but I'm just going
6 to focus on the ones both that the Court identified and that
7 we think really make him exceptional -- or rather, the
8 exception perhaps is a better word.

9 So first and most prominent, yes, in the
10 Government's view, is the fact that Mr. Register, for that
11 moment, actually led and/or directed -- helped lead the mob
12 to another location. And I -- just to be clear, it's not
13 just that; right? It's also, like, consequences matter, and
14 the consequences of what he did was a, you know -- was a
15 fatal confrontation between a rioter and the Capitol Police.

16 THE COURT: True. Let me just stop you there.
17 It's not, though, as if he was a -- like, a but-for cause of
18 that. You would agree there; right? I mean --

19 MR. DREHER: I agree.

20 THE COURT: -- there were --

21 MR. DREHER: There were a lot of --

22 THE COURT: -- other people -- Ms. Halverson is
23 going to step up here and say, There was someone else who
24 did it a micro- -- who waved them over a microsecond ahead.
25 It doesn't, to me -- I mean, that person could have been a

1 few seconds ahead; could have been a few seconds behind.
2 Either way, he did step into that role, and I'm -- I credit
3 the argument there. And, maybe, I, you know -- how I weigh
4 what eventually happened, I think, is -- it has to play a
5 role here. But you'd admit that if -- I mean, if everything
6 had played out exactly the same and Mr. Register wasn't
7 there, it's -- it would have played out the same -- I mean,
8 it would have -- the chances of it playing out the same way
9 would have been the same?

10 MR. DREHER: I think that that's probably fair,
11 given what's on the CCTV. So --

12 THE COURT: Right.

13 MR. DREHER: So my point was a little bit
14 different which is there may be actually other instances of
15 people waving to their friends who are in the Capitol
16 building, calling people over to check out a hallway, but it
17 turns out that the hallway that they go over to check out
18 is, like, the bathrooms or --

19 THE COURT: Right.

20 MR. DREHER: -- the elevators --

21 THE COURT: Right.

22 MR. DREHER: -- right, or they get very close to
23 an exit that they didn't want to go through.

24 THE COURT: Right.

25 MR. DREHER: So my point is it does matter; right?

1 I mean, consequences matter in the criminal law. And --

2 THE COURT: Agreed.

3 MR. DREHER: -- so for Mr. Register, I think it's
4 not just that he's directing the mob, and it's not just that
5 he's helping to direct a mob that he had to have heard
6 chanting these things right outside the House chamber --

7 THE COURT: Right.

8 MR. DREHER: -- but it is that, you know, it led
9 the mob to this less well-defended barricade --

10 THE COURT: Right.

11 MR. DREHER: -- with tragic consequences.

12 THE COURT: Right, and that -- my point is -- I
13 give you, I guess, more credit for the first part than the
14 tragic consequences which, it seems, were more contingent on
15 other things, but I take your point that if -- and, again, I
16 think the defense is going to argue, Well, he didn't know
17 that it was this undefended point. But I don't know, you
18 know? I mean, given -- I mean, we don't know what was in
19 Mr. Register's head at that time precisely, but the
20 excitement with which he waved people over certainly
21 suggested he thought that it was a less defended and a more
22 -- a way of getting wherever they all were trying to go. I
23 grant you that.

24 MR. DREHER: So one thing that I do think, though,
25 is relevant is, without saying that he's only the person

1 that waved the mob around, I actually do think when you see
2 both the CCTV and how few people there were there
3 originally -- if you were to take the class of folks, the
4 group of people who waved them all around, I do think that
5 they are -- they bear some responsibility at least for
6 eventually what occurred, and here's why. Ms. Babbitt,
7 along with about five or six, I think, other rioters, are
8 there at the Speaker's Lobby entrance, but there are four
9 officers, one behind the barricade and three in front at the
10 Speaker's Lobby, and initially, it's a -- that's a pretty
11 manageable situation. It -- frankly, I think it's unlikely
12 that without, sort of, the -- this crush of other people
13 coming up to embolden them, it would have been necessary to
14 use deadly force just to manage five or six rioters. So
15 that's another way, I think, in which the group of people,
16 let's say, who called them over, I think, did create these
17 conditions that were far more dramatic and far more
18 dangerous for everyone involved.

19 But the second thing that I want to emphasize,
20 because I think it's a little bit -- it's an added twist to
21 what this Court said, is it's one thing to direct the mob,
22 but even if Mr. Register had not, he's also one of the first
23 defendants -- misdemeanor defendants to come before the
24 Court -- a court for sentencing who was even part of that
25 mob that was outside of the House chamber. There are a

1 couple others, and I'm going to talk about one comparator
2 case a little bit later, but that alone, again, is a fairly
3 significant aggravating factor. There are people who went
4 inside and went in the Rotunda or there are people who went
5 inside and, kind of, wandered around some hallways and find
6 their way out, and in many ways, you know, what happened at
7 the Speaker's Lobby, it's, sort of, the apex of the
8 incursion on the House side; right? Certainly, a dangerous
9 situation. And what the Government finds telling is he
10 waves them around the corner, he comes around the corner
11 with them, and as you're going to the Speaker's Lobby,
12 there's an exit 20 feet to your left, right out of the
13 building. No officers were there. Some members of the
14 group that he had called over actually go and open those
15 doors, allowing more rioters in, but a different defendant,
16 Virginia Spencer, who was part of that crowd, she made the
17 choice to go out those doors. She got three months. So I
18 think that when we get to comparators, one thing that I
19 think is relevant is the fact that Mr. Register stuck with
20 the mob and stayed with the mob all the way until the
21 shooting of Ms. Babbitt, because when you're there and
22 you're seeing people punch the glass or you're seeing
23 people, you know, screaming and pointing at members of
24 Congress and you stay there, I don't know how that can be
25 interpreted as anything other than a willingness to follow

1 them should they breach through that barricade.

2 THE COURT: What did the Government ask for in
3 that case? It was -- is it -- is --

4 MR. DREHER: Three months.

5 THE COURT: Three months?

6 MR. DREHER: And they got three.

7 THE COURT: Okay. Is it not -- was it -- did it
8 happen after your --

9 MR. DREHER: It happened after our submission --

10 THE COURT: Okay.

11 MR. DREHER: -- yes --

12 THE COURT: Okay. Fair enough.

13 MR. DREHER: -- or the sentencing did, I should
14 say.

15 THE COURT: Right.

16 MR. DREHER: So the -- I -- so what the Government
17 thinks is important is he's a member of this group even
18 apart from, sort of, the leadership role, and that alone
19 distinguishes him from many of the other misdemeanor rioters
20 who came in that day.

21 And the other thing is you know -- this is the one
22 way in which I do think his prior conduct inside the Capitol
23 -- I think it does inform a reasonable interpretation of
24 what he was intending and what he was trying to do when he
25 is standing there with that mob, because if he had entered

1 two minutes before, let's say, you know, from one of these
2 side entrances, maybe, there's a question about what exactly
3 he intended to do, but he didn't. He had been in the
4 building at that point for almost half an hour. It's not
5 very hard to leave the Capitol building if what you want to
6 do is leave the Capitol building. And, you know, the video
7 where he's standing --

8 THE COURT: Correct.

9 MR. DREHER: -- there and actually gets in line,
10 right, with the other rioters and then, sort of, spins away,
11 however -- whether it's directly disobeying officers or just
12 some impulse in him where he did not want to leave, he
13 wanted -- I think the best way to characterize it is he
14 wanted to be there at the action. This was --

15 THE COURT: Well --

16 MR. DREHER: -- exciting.

17 THE COURT: -- and when -- after the woman was
18 tragically shot, he did leave then. So I mean, I -- what
19 struck me is the various -- and I don't know how much this
20 particular factor weighs for me, but the idea that he
21 couldn't get out, well, once he determined, Yeah, maybe, I
22 don't need to be here; someone's been shot, he did find his
23 way out pretty quickly then; right? So anyway, continue.

24 MR. DREHER: I agree.

25 So again, the -- that's the second factor in the

1 Government's view, is just his mere presence with this much
2 smaller subset of rioters. And, of course --

3 THE COURT: How deeply he penetrated into the
4 building and came in proximity to the chamber.

5 MR. DREHER: Came in proximity to the chamber and
6 -- but I think -- and I think hearing the things that were
7 being chanted and said by those folks and knowing --
8 apparently, knowing the proximity to the chamber, I think
9 there's a certain level of violence in the air, you might
10 say, when those things are being chanted and officers are
11 being overwhelmed. I mean, in order to get to the House
12 door, they had to push past -- and this is on Exhibit-B, as
13 well -- they had to push past eight or nine officers just by
14 force; right? The crowd just surges through them. And so
15 yes, I think that it's getting so close to the House chamber
16 doors, but also being there when you're hearing these things
17 that are being said by the mob. There's -- I just --
18 there's no confusion at that point that they're not going in
19 to have a nice chat about the 2020 election with their
20 elected representatives. That's not really what's going on
21 here; right?

22 So the third factor -- and the Court mentioned
23 it -- is that he went home and factory reset his phone;
24 right? And he said it was because he wanted to delete
25 evidence, is what he told the FBI, of him being inside the

1 building. Now, that's what he admitted to the FBI. I have
2 no idea what other evidence there might have been on his
3 phone. And that, I think, is something that's important to
4 make sure that it is framed correctly, because it's a very
5 difficult intellectual exercise to sanction someone based on
6 the possibility of aggravating evidence being found on their
7 device; right? But I do think that it's important that the
8 Court consider it. There may have been pre-planning
9 statements; there may have been statements of intent; there
10 may have been celebratory statements right afterward. And
11 it's hard to do this, but to think about the sentence that
12 the Court would impose had it found some of those things --
13 or the -- I should say, or the charges that Mr. Register
14 might have faced had the Government found those statements.
15 And so the reason that the Government points this out and
16 thinks it is such a big deal is because for defendants like
17 Mr. Register, if they -- if what they get is, you know, a
18 couple extra days in jail for the wholesale resetting of
19 their device for -- admittedly, to delete evidence, there
20 are going to be a lot of defendants who think that that's an
21 attractive option; right? I mean, so there has to be a
22 significant sanction just for doing it so that it doesn't --
23 there is no incentive for defendants -- or at least the
24 incentive is lesser for defendants to walk around deleting
25 evidence when they think there's going to be, you know, a

1 coming investigation or when they recognize that what they
2 did was wrong. So in the Government's view, that
3 destruction of evidence alone should add two, two-and-a-half
4 months, something like that, to what might otherwise be an
5 appropriate sentence just based on his conduct.

6 The fourth factor, this one, I think, is lesser
7 than the first three, but I do think it's, you know,
8 notable, given some of the statements in the Probation
9 recommendation, for example, about Mr. Register's character.
10 He did lie to the FBI twice when they came and asked him
11 what he was doing. He ultimately came clean, but as I
12 said --

13 THE COURT: Is that -- let me stop you there and
14 also just, you know -- I -- sure, I weigh everything. My
15 guess is there -- well, I don't know this, but that also,
16 kind of, like, akin to disobeying the officers' orders,
17 feels like something that's probably going to be there for
18 the overwhelming number of people who are arrested for
19 January 6th; fair? I mean, I just can't imagine -- and,
20 frankly, it's present in the overwhelming number of cases in
21 which a law enforcement officer interviews someone about
22 their criminal conduct before they're charged with that
23 conduct. I'm not saying that means he gets a pass or that
24 means it was perfectly fine. Obviously, you could have --
25 he could have been charged with 1001, in theory. So I take

1 it. But that's not particularly distinguishing for
2 Mr. Register; right?

3 MR. DREHER: So I think a couple things. I take
4 the Court's point, A, that, do we see this from defendants a
5 lot? Yes. I will say that, to be frank, in cases where the
6 defendant is facing four, five, six years in prison, it ends
7 up not being a significant thing because they're getting a
8 significant prison sentence and that prison sentence is
9 going to be driven by these other factors, but in a case
10 where there's at least a debate -- there have been two
11 recommendations made for a probationary sentence -- I do
12 think that's a big deal for someone to lie to the FBI. I
13 mean, there's no confusion when the FBI shows up at your
14 door and starts talking to you. Even if it's something that
15 a lot of January 6th rioters have done, I don't think that
16 they can, sort of, collectively insulate themselves from
17 some -- from that being an aggravating factor just by virtue
18 of how common it is, but I do agree that there's been a lot
19 of minimization of what happened during, sort of, initial
20 interviews.

21 But I guess what I would say, though, is there
22 were these initial two statements about, I'm not going in;
23 right? Then he says, Okay. I went inside. He identifies a
24 picture of himself inside. Then you read the rest of the
25 302 and there's some statements, kind of, like, trying to

1 convince the FBI, essentially, that, You misunderstand. I
2 was just there, kind of -- I -- this was -- I didn't -- I
3 think he says, I was never asked to leave by law
4 enforcement. I never ran past any law enforcement officers.

5 THE COURT: Right.

6 MR. DREHER: And then he says at one point, I
7 think, The officers were being cool, like, letting us stay
8 inside. And I think when you watch the video of the, you
9 know -- particularly the mob outside of the House chamber,
10 that's just -- those are clearly minimization efforts by
11 him. So even when he turns the corner and admits being
12 inside, he still is minimizing his conduct.

13 So the Government thinks that, yes, those factors
14 establish a five- or six-month sentence as appropriate, but
15 I'm going to go through some responses to some of the things
16 that are -- that were remarked upon by the defense and
17 Probation. Before I do, though, I just want to note, I
18 think Mr. Register is right when he says in his sentencing
19 memo that -- or when counsel for Mr. Register, who I think
20 has done a great job in this case, notes in the sentencing
21 memo that if one were to truly believe, you know -- if the
22 FBI -- I think it was something like if the FBI really
23 believed the statements that were made by Mr. Register, it
24 would seem like he's stating the intent required for a
25 Section 1512 charge. I tend to agree with Mr. Register on

1 that point that a Section 1512 charge could arguably apply
2 to his conduct. I guess I can say that charge was initially
3 recommended and then debated within the U.S. Attorney's
4 Office and the U.S. Attorneys's Office, I think, is being
5 judicious in how it applies that charge, but the parties, it
6 seems like, seemed to agree that this is clearly at least a
7 borderline or arguable 1512 case. What I don't understand
8 is how that could possibly help Mr. Register; right?

9 Because had that charge been brought and had it, you know,
10 proceeded to a plea, the guidelines range would be 15 to 21
11 months. So Mr. Register has received this, in the
12 Government's view, benefit of not being charged with that
13 felony. And if you're at the upper end of the misdemeanor
14 range and right below the felony range, it would seem like a
15 sentence at the upper end of the misdemeanor sentencing
16 range would be the appropriate outcome.

17 All right. In terms of some of the things and --
18 raised by the defense's sentencing memo, so there is this
19 issue of the disparity with other defendants; right? I do
20 appreciate the Court's attention to it and the fact that the
21 Court clearly has reviewed a lot of the prior sentences.
22 Again, I'm going to flag two that I think, when you think
23 about the conduct, really makes clear that Mr. Register
24 fitting in at five or six months is appropriate.

25 All right. So the first is Virginia Spencer who,

1 as I mentioned, received a three-month sentence. She
2 entered the Capitol through the same entrance as
3 Mr. Register three minutes after he did, 2:19. She walked
4 almost exactly the same path as him --

5 THE COURT: Mm-hmm.

6 MR. DREHER: -- and she ends up with that mob
7 chanting in front of the House chamber. No violence for
8 her; no property destruction for her; but unlike
9 Mr. Register, she didn't help direct or lead the mob in any
10 way. She didn't go to the Speaker's Lobby. She sees this
11 -- she, apparently, exits through, as I said, this exit
12 that's, sort of, on the way to the Speaker's Lobby. And
13 while Register admitted that he wanted to get inside the
14 House chamber, Ms. Spencer did not make that kind of
15 admission. And finally, Mr. Register destroyed evidence,
16 and Ms. Spencer, although she minimized her conduct in an
17 interview with the FBI, did not destroy evidence. So
18 Mr. Register -- as, you know, the Government's previously
19 mentioned, we think the destruction of evidence alone would
20 -- should bump a three-month sentence up to five months.

21 There is one additional aggravating factor that
22 Ms. Spencer had that Mr. Register does not have, and that is
23 that Ms. Spencer came with her family and a child. So that
24 is an aggravating factor in that case that's not present in
25 this case, but, again, I think if you think about some of

1 these rioters who were at this -- the apex of the incursion
2 getting two or three months just for participating in that
3 mob and being present there, I think it's pretty easy, with
4 a leadership role and destruction of evidence and sticking
5 with the mob all the way to the Speaker's Lobby until
6 Ms. Babbitt is shot, to get to a five-month sentence.

7 THE COURT: Can I --

8 MR. DREHER: All right. So --

9 THE COURT: Can I just ask you --

10 MR. DREHER: Of course.

11 THE COURT: -- a few questions about that case.

12 It's Judge Kollar-Kotelly?

13 MR. DREHER: Yes.

14 THE COURT: And is that -- I don't really think
15 it's here nor there. Just so I understand, though, that's
16 one where she did give a split sentence at least from --
17 I --

18 MR. DREHER: Yes, I think that's correct, Your
19 Honor.

20 THE COURT: Where she --

21 MR. DREHER: I think that is --

22 THE COURT: Where --

23 MR. DREHER: I think that is --

24 THE COURT: -- actually, she got -- I mean, again,
25 neither here nor there, but --

1 MR. DREHER: Yes.

2 THE COURT: -- three -- but three -- Ms. Spencer
3 got three months and a probationary sentence going forward;
4 is that right?

5 MR. DREHER: And then -- yes, and then, I believe,
6 Judge Kollar-Kotelly later changed that ruling and then that
7 is now currently on appeal --

8 THE COURT: Well, she changed it about whether it
9 was probation or supervised release, I think, if I remember,
10 but okay. That's that case. Okay. Fair enough.

11 MR. DREHER: Okay. So then the second case that I
12 want to point to is one that, I think, most people are aware
13 of which is Paul Hodgkins. So he pled guilty to a 1512. So
14 he's a felony case, different in that respect, but
15 Mr. Hodgkins didn't engage in violent conduct or property
16 destruction. He comes in not with the first wave of
17 rioters, like Mr. Register, but 40 minutes later, and he
18 enters the Senate floor unimpeded, essentially, stays there
19 for 15 minutes, and then leaves. When he's contacted, he
20 asks to plead guilty. He's one of the -- I think he -- he
21 was the first 1512, is my recollection, but certainly was
22 one of the first felonies, gave a full confession, turns
23 over his phone, and he got eight months. Mr. Register's
24 case is different. The charge is different, certainly, but
25 Mr. Register --

1 THE COURT: Right. But doesn't that -- I mean,
2 the charge -- that's a pretty big difference; right? I
3 mean, the Government has decided that Mr. Hodgkins should
4 plead guilty to a felony and Mr. Register should plead
5 guilty to a misdemeanor. That's a pretty -- that's a --
6 first of all, a decision totally at the discretion of the
7 executive. I get it. But it's a pretty big dividing point
8 in terms of how the Government feels these cases should be
9 handled; fair?

10 MR. DREHER: So I think that it is -- well, I'm
11 not sure, actually, that the Government would necessarily
12 agree with that in the context of January 6th where we have
13 so many defendants, many of whom are receiving misdemeanors
14 for what, I think, we think collectively is, sort of, an
15 incredible series of events. I guess the way that, in my
16 experience, the office has thought about it is, essentially,
17 as a spectrum --

18 THE COURT: Right.

19 MR. DREHER: -- but there are going to be close
20 cases that we decline to charge. There are going to be some
21 1512 cases that are, then, pled down. Mr. Hodgkins was
22 willing to plead to the straight 1512 charge. I think that
23 what the Government typically would focus on in each of
24 these cases is the nature of the conduct, and I think that
25 that is really the driver of our recommendations, certainly,

1 except in cases where the guidelines apply where, obviously,
2 the guidelines are going to play a significant role in what
3 the Government ultimately recommends.

4 Now, Mr. Register's case is different; right? The
5 charges are different. But if you look at the conduct,
6 again, there are some aggravating factors here that were not
7 present there; right? Mr. Hodgkins went on the Senate
8 floor. Mr. Register did not go into the House chamber. But
9 Mr. Hodgkins, as far as I know, did not himself -- he was
10 not himself the person who broke into the Senate chamber.
11 And it's pretty clear from his conduct and his statements
12 that Mr. Register would have gone onto the House floor, I
13 would say, if it was, sort of, an unimpeded access point
14 where he could just walk into the doors and go in with the
15 mob that he was with. It's just that the particular group
16 he was with failed to get inside because there were members
17 currently in there -- so the law enforcement presence was
18 significant -- and because a member -- a rioter was shot by
19 members of law -- by a Capitol Police officer while they
20 were trying to get inside. So in some strange way, again,
21 the -- sort of, the violence and vehemence of the group that
22 he was with led to this resistance or at least contributed
23 to this resistance from law enforcement that ultimately ends
24 up dispersing all those rioters, because within a few
25 minutes after Ms. Babbitt was shot, law enforcement floods

1 that part of the building and everybody's pushed out.

2 So Mr. Register came in early -- earlier, I should
3 say; stayed longer; was there when the group that he was
4 with, you know, sort of, almost got there to these fleeing
5 members of Congress, could see them; and had the same -- I
6 think, in the Government's view, had the exact same intent
7 to go into one of the chambers of Congress; and then he,
8 unlike Mr. Hodgkins, went home and destroyed evidence and
9 lied to the FBI and minimized his conduct. So I think
10 Mr. Hodgkins, you know -- his sentence is eight months. I
11 think a sentence of five months for conduct that has some
12 aggravators that Mr. Hodgkins did not have but is also a
13 misdemeanor is an appropriate -- especially when you, sort
14 of, add to that Ms. Spencer's baseline of three months -- is
15 an appropriate middle ground between those two sentences.

16 There's one other thing that I just wanted to
17 point out, and that is -- it's just another way of thinking
18 about this. It is true that Mr. Register was allowed to
19 plead to the Class B rather than the Class A misdemeanor.
20 That's the -- a plea offer that's been made to most -- I
21 should say, the vast majority of misdemeanants in these
22 cases. But I do think that it is important to remember the
23 choices that Congress made when they created this offense.
24 Congress could have made this a Class C offense with a
25 statutory limit of 30 days or a minor infraction with a

1 statutory limit of 5 days, and when Congress created this
2 offense, they said, No, we think there are going to be
3 instances of demonstrating within the Capitol building that
4 are going to be worth a sentence higher than 30 days,
5 potentially up to 6 months. And I think one way to think
6 about this case is, what else could Congress possibly have
7 thought would merit a six-month sentence than the conduct
8 that occurred -- or I should say, a five-month sentence
9 which is our recommendation -- but than the conduct that
10 occurred in this case? And, again, it -- this is not just
11 people who went into the Rotunda, took pictures, and walked
12 out, right, people who wandered some hallways and walked
13 out. This is someone who helped direct a violent mob while
14 members of Congress were actually in the chamber basically
15 having to run potentially, they're thinking, for their
16 lives. And if -- when Congress said -- or decided in the
17 statute that the most aggravated form of this misdemeanor
18 deserves six months, well, here it is, frankly, in the
19 Government's view.

20 So I think that actually, in some ways -- again, I
21 think the Government's point is it is true that there's a
22 Class A misdemeanor with a higher statutory max and it's
23 true that there's a Section 1512 felony charge out there,
24 but that's the reason Mr. Register's here with just the
25 zero-to-six range; right? And I -- the Government does not

1 think that it further can, sort of, benefit him; by
2 comparison, the fact that either of those might have seemed
3 like appropriate resolutions.

4 All right. Now, there's also a recommendation
5 from the Probation Office. I will say, of course, I think
6 Ms. Willett did a great job on the PSR case and, frankly, I
7 think Probation has a tough job in these cases because they
8 only have access to the information that's conveyed to them;
9 right? The information that's public. That being said, I
10 do think it was -- I was surprised to see that
11 Mr. Register's conduct could be described as minimal or that
12 he's, quote, Essentially accountable for entering and
13 walking around unauthorized. I think that there are
14 offenses like that; right? Somebody who's -- I mean, it's
15 -- if Mr. Register was on a tour of the Capitol and decided
16 to go down a hallway where he was not allowed to access,
17 that's what I would describe as being culpable mostly for
18 entering and walking around unauthorized.

19 One way, I think, to take us out of the frame of
20 thinking about just January 6th, because I appreciate this
21 Court -- sometimes it's almost hard to get your mindset out
22 of that particular context, but just imagine for a moment
23 what we would be saying and what kinds of charges we would
24 have or what outcome we think would be appropriate if
25 hundreds or thousands of people had stormed the White House

1 grounds forcing the President of the United States to put a
2 gas mask on and hide under the Resolute Desk while a mob of
3 individuals, a select group of folks who had made it onto
4 the grounds, were outside the Oval Office chanting, Break it
5 down, break it down, and attempting to enter the office.
6 Secret Service within the Oval Office have their guns drawn
7 and Mr. Register, we're positing, directs -- sees a
8 different entrance or hears about a different entrance and
9 helps directs those individuals to another entrance to the
10 Oval Office where one of them is shot and killed by the
11 Secret Service before they're all subdued. I think it's
12 fair to say, without guessing as to what the outcome would
13 be in those cases, that Mr. Register would be lucky to be
14 facing only six months if that were the conduct at issue.
15 And to be honest, I don't -- I struggle to see a -- there is
16 a distinction between that conduct and this one, but I guess
17 in the Government's view, it's not a huge distinction, and I
18 think that that is one way to help think about the gravity
19 of what was going on right outside the Speaker's Lobby when
20 Mr. Register was there.

21 Now, Probation also received some information from
22 Mr. Register's wife about his job and this is -- obviously,
23 this is very ordinary. His wife calls him the most honest
24 person she knows. Obviously, the Government's view in light
25 of the evidence is that, you know, the one chance he had to

1 be honest about this, he lied; right? Probation also
2 reported that, I think, he was called considerate and well
3 liked by his coworkers. That is totally possible, and it
4 sounds like he has done a good job checking in with
5 Probation -- with Pretrial Services over the last year. The
6 Government, you know, didn't include in its sentencing
7 memorandum because it doesn't like to just, sort of,
8 gratuitously include disparaging information in the
9 memorandum, but there are some text messages that I have
10 informed the defense about that Mr. Register sent to his
11 wife about his coworkers that I will just -- I will just
12 describe them as racist text messages without getting into
13 the specifics or detailing them. So -- and I say that only
14 because I just don't -- given that that was one of the bases
15 for Probation's recommendation, I think it's important for
16 the Court to have at least some context, what limited
17 insight we have into Mr. Register's character in that
18 respect.

19 THE COURT: Well, let me just -- on that last
20 point, I'm not going to consider that in my sentence here
21 today. I don't think -- I mean, I haven't been provided
22 them, but even if I had, I -- if they don't have to do with
23 this offense, I'm not sure -- I'll certainly hear from
24 Ms. Halverson. Why are you saying -- what is your
25 representation about why those texts are relevant?

1 MR. DREHER: I hear the Court and I understand the
2 Court's point. The Government's view was that given that
3 the Probation recommendation made by the Probation Office
4 was based in part on representations from those who know
5 Mr. Register about him being honest and considerate and well
6 liked by his coworkers, we wanted to just make sure that
7 that is not -- the Government is aware that -- or the Court
8 is aware that is not a view necessarily shared by the
9 Government in this case.

10 THE COURT: Well, I --

11 MR. DREHER: That's all.

12 THE COURT: But I don't see the connection between
13 being honest -- all the things you just ticked through and
14 well liked one way or the other by your coworkers -- I mean,
15 I don't know, you know? You can be -- you can have a good
16 relationship with some coworkers and a bad relationship with
17 other coworkers. I don't know. This is so, like,
18 tangential that I just want to make a record that I'm not
19 going to consider that representation one way or the other.

20 MR. DREHER: Okay. I appreciate that, Your Honor.

21 So then let me wrap up by just giving the Court --
22 again, these are the four ways that the Government thinks
23 about this that, in the Government's view, lead to a
24 five-month recommendation; right?

25 So first is specific and general deterrence, the

1 fact that Mr. Register had this prior sentence of two weeks
2 for driving without a license. Now, he's sitting here
3 because the Government caught him after he participated in
4 this violent and unprecedented riot where someone was killed
5 and then he destroyed evidence. If this offense is orders
6 of magnitude or an order of magnitude worse than that one,
7 then the Government thinks an order -- an offense -- or
8 sorry, a sentence an order of magnitude greater --
9 especially since this one, of course, comes after those
10 offenses; right? So he does have a criminal history in this
11 case.

12 Second, in terms of the statutory range -- this is
13 the point that was made earlier -- it's not clear who we're
14 saving the six-month or the five- -- a five-month sentence
15 for in this case other than someone who engaged in this type
16 of conduct here.

17 Third, the White House example where we think that
18 taking it out of this context and thinking about other areas
19 where something like this might have occurred makes clear
20 that a sentence of five or six months would be an
21 appropriate sentence for that type of misconduct.

22 And then fourth are these two other comparable
23 defendants that I mentioned, and I think the Government
24 places significant weight on Ms. Spencer's three-month
25 sentence and Mr. Hodgkins's eight-month sentence and thinks

1 that Mr. Register falling in between those two at five
2 months makes sense, sort of, whether you think about it in
3 comparison to either of those defendants.

4 So last year, obviously, this country saw what
5 happens when at least a segment of our country starts --
6 stops [sic] taking for granted the peaceful transition of
7 power and starts thinking about whether a day of violence
8 and -- or mayhem might be worth the criminal consequences if
9 it means they can somehow prevent an incoming administration
10 that they don't agree with. In this case, the Government
11 thinks that the appropriate sanction, a necessary sanction
12 for the type of egregious misconduct engaged in by
13 Mr. Register on January 6th, is at least five months. There
14 just have to be consequences for that type of misconduct
15 compared to the other folks even who were there that day who
16 themselves, you know -- anybody who went in was engaged in a
17 serious form of misconduct.

18 Thank you, Your Honor.

19 THE COURT: All right. Very well.

20 Ms. Halverson, I'll hear from you.

21 MS. HALVERSON: Thank you, Your Honor.

22 And thank you to Mr. Dreher.

23 You know, despite the fact that Mr. Dreher and I
24 have very different sentencing recommendations for
25 Mr. Register, we did have a good working relationship, and

1 that was very much valued while this case was going on.

2 I don't want to just vomit what I wrote in my
3 sentencing memo back to you. It sounds like you read it.

4 THE COURT: I'm anti-vomit in my courtroom.

5 (Laughter.)

6 MS. HALVERSON: It sounds like you read it pretty
7 thoroughly. And so I don't take it that I need to repeat
8 everything, but there are some points I'll just hit for Your
9 Honor's edification.

10 So I think January 6th was a hard day for many
11 Americans. That day shattered the notion that even when the
12 country is divided, that we would still abide by the tenets
13 of democracy and not mob rule. Many people, including
14 myself, watched horrified as the Capitol was overrun that
15 day, where people were storming the Capitol and the Capitol
16 Police officers were unable and ill prepared to deal with
17 that situation. Mr. Register, as a member of the crowd that
18 participated in that anti-democratic process, was wrong and
19 Mr. Register knows that he's wrong, but perhaps --
20 perhaps -- it's necessary to divorce the feelings of January
21 6th and the hypothetical what-ifs of what could have
22 happened that day and the virulent political divisions that
23 that day magnified for us. Perhaps, as with all sentencings
24 in federal court, it is necessary to look at the actions of
25 Mr. Register that day as well as his personal history and

1 characteristics. Perhaps it is necessary to sentence
2 Mr. Register as an individual and not as a symbol.

3 THE COURT: Not perhaps.

4 MS. HALVERSON: I'll just -- I -- thank you.

5 So Mr. Register did not enter -- or I'm sorry,
6 Mr. Register did enter the Capitol building on January 6th.
7 He did so after attending President Trump's rally. He
8 walked up the steps, and even with evidence to the contrary,
9 he decided to enter a building he knew he should not have
10 entered.

11 When he entered the building, it was through a
12 door that was already breached and there were no law
13 enforcement present. Now, I talk about, in my sentencing
14 memo, the reason that there were no law enforcement present.
15 There were no law enforcement present at the Senate wing
16 doors because they had already, sort of, abandoned that area
17 in order to regroup themselves because they had already had
18 a pretty nasty incursion with people -- with protesters, but
19 from Mr. Register's perspective, at the time that he entered
20 the building, there were no law enforcement members present.
21 It was just other protesters streaming in.

22 He went down a corridor, didn't know where he was
23 going, and as part of these cases, I have been able to take
24 a tour of the Capitol building, and it is very difficult to
25 have any idea where you are in that building. There are not

1 -- there's not a lot of signage and I really -- I mean, my
2 husband would say differently. I think I have a very good
3 sense of direction, but I very much believe that I could
4 wander around in that building for days and not have any
5 idea the orientation of where I was during that. So to
6 argue that Mr. Register knew exactly where he was going in
7 that building, I think, kind of, belies credibility.

8 THE COURT: But hold on. And just to be clear, I
9 don't know that that's what Mr. Dreher argued, and I agree
10 with you to the extent he did argue it. Particularly if you
11 aren't in there regularly, there's no particular reason to
12 think, you know, you would know exactly where you were
13 going. Of course, that doesn't mean, though, again, just
14 based on the evidence that's been submitted to me, that it
15 wasn't very clear to him from the way he reacted and the way
16 he was waving the group over that this wasn't -- that he
17 wasn't aware that this was a clearer path to the mob's --
18 the destination they were seeking. It -- am I wrong in
19 drawing that inference from what's been submitted here?

20 MS. HALVERSON: I don't think you're wrong. And
21 to be honest, when I saw that CCTV footage, I called
22 Mr. Register immediately and said, like, Oh, my God. What
23 were you thinking? And his response to me was, like, Other
24 people were yelling at it. I was excited. So I wanted
25 everybody to come over, too. I don't think it was as

1 calculated as the Government puts out that he saw that, Oh,
2 this is where members of Congress were, and so he was waving
3 people over to members of Congress. I just don't think it
4 was that calculated in that instance.

5 I think, you know -- Mr. Register made the
6 decision to stay in the building. He did. There's nothing
7 I can say about that except that he decided to stay in the
8 building. He didn't go in for four minutes and then leave.
9 He didn't take a selfie and then leave. He stayed in the
10 building. And, you know, he followed a large crowd through
11 Statuary Hall and ended up where we now know was an entrance
12 point to the House chamber, but, again, as somebody that was
13 in the Capitol and was able to view it and watching
14 Mr. Register's movements in the Capitol, it's not at all
15 clear to me that he knew that where the crowd bottlenecked
16 was actually -- the other side of that was the House
17 chambers. There's not a sign that says, Here's the House.
18 Here's the entry point. It's just a corridor. There were
19 people that were bottlenecked into the corridor, and then
20 there was another corridor that led away, and then he
21 decided to move away from the bottlenecked portion into an
22 emptier corridor.

23 THE COURT: Well, this might be a good time -- I'm
24 sorry to interrupt, but I realized Mr. Dreher did not
25 specifically argue -- we -- he didn't specifically make an

1 argument -- and I'll -- I guess I'll give him -- if I give
2 him a moment to rebut you, he can address it then, but you
3 might -- maybe, this is a time for you to address the issue
4 of the statements because, you know, the statements, kind
5 of, interact with the video to some degree in this point
6 you're making when they talk about -- I mean, I think the
7 disputed -- actually, it's not -- it appears to me -- be a
8 portion you disputed in the -- connection with the
9 sentencing memo but not necessarily something the Government
10 reiterated in the stipulation, but the point is there was a
11 -- there's a passage on the second paragraph of the 302:
12 While pushing further into the building, Register came
13 across a secured doorway where he can see what he thought to
14 be members of Congress on the other side, at which point, he
15 thought to himself, We made it. Now, they know we're here.
16 So I -- and then, you know, the other sentence is that, you
17 know -- suggests that he knew they were in the process of
18 certifying the vote -- I don't know why that would be very
19 controversial -- but that he thought that his presence in
20 the Capitol would help affect Congress's decision and he
21 wished they were actually make -- they were actually able to
22 make it to the House chamber to show their support.

23 Talk to me about why -- I mean, you know, because
24 I do think those statements interact with the evidence
25 you're talking about here now about, Well, what the heck was

1 he doing running around waving people here and there if it
2 wasn't -- because certainly, if I accept those statements, I
3 think the contextual evidence is, consistent with those
4 statements -- if I accept those statements, it's an even
5 stronger conclusion, but I -- tell me why -- tell me what
6 your argument is on those statements.

7 MS. HALVERSON: So let me start by saying that
8 this entire issue did not even come up or register, so to
9 speak, until the sentencing memorandum submitted by the
10 Government and until the PS- -- the draft PSR came out. I
11 had multiple conversations with the Government and this was
12 never raised as an issue that was either going to mitigate
13 or aggravate Mr. Register's sentencing. And, in fact,
14 because he was offered the petty misdemeanor, I did not find
15 it necessary to go through every piece of discovery that was
16 given to me and object or disagree with that. So to be
17 fair, this issue is, sort of, an issue that wasn't expected
18 to be coming out, and when it did come out, the plea had
19 already been entered, of course, and we were getting ready
20 for sentencing. I called Mr. Register immediately --

21 THE COURT: But hold on, Ms. Halverson. When
22 you --

23 MS. HALVERSON: Yeah.

24 THE COURT: -- say you weren't going through every
25 scrap of discovery, okay, fair, but this is, like, the 302

1 of your client. I mean, right? And --

2 MS. HALVERSON: No --

3 THE COURT: And you're right to say -- at some
4 place, I think you said this -- that, you know, it's not --
5 the Government didn't make it a part of the statement of
6 offense. They could have bargained that. They could have
7 said, you know, We won't give him this plea unless he
8 concedes that he said these words, and they didn't, and
9 so okay, but it's not like the presence of the -- so I
10 guess, number one, it being in your client's 302, I would
11 think that it's something that you would have seen, but
12 putting -- put all that aside. You would have recommended
13 that he take a plea to this offense regardless of whatever
14 dispute there might be about this statement, I feel
15 confident, and we would be right back where we are now,
16 right, arguing, like, Well, either he said it or he didn't,
17 and I have to decide to a preponderance whether he did or
18 did not. So I don't think you've been -- I mean, you're --
19 you -- I don't think you've been prejudiced by the way this
20 played out. Do you -- I mean, do you think? I mean, I --
21 he would -- we would be right here in a misdemeanor posture
22 unless the Government decided, No, no, no. Now, we're going
23 yank our plea offer. So -- I don't know. I --

24 MS. HALVERSON: Here's what I'll say. I did see
25 the 302. It didn't seem like it was necessary for me to go

1 back to the Government and dispute it seeing as how it
2 wasn't made part of the plea agreement. Had it come in as
3 part of the plea agreement or statement --

4 THE COURT: Sure.

5 MS. HALVERSON: -- of offense, it would have been
6 a topic of conversation. And I will say that had that come
7 in and it's part of the statement of offense, I'm not
8 sure --

9 THE COURT: Right.

10 MS. HALVERSON: -- that Mr. Register would have
11 agreed to plea --

12 THE COURT: I'll --

13 MS. HALVERSON: -- and agree to that statement of
14 offense.

15 THE COURT: I totally get that and, in fact, given
16 the position you're taking here, I doubt he would have. But
17 who knows? But the point is they didn't make that a -- I
18 mean, I, you know -- again, you -- the fact that now the
19 parties disagree about this statement, it just seems to me
20 the Government could have played some -- like, more hardball
21 about it and said, Well, he either agrees or he won't get
22 this deal, in theory, but they didn't, and your client has
23 been advantaged by that, I mean, arguably -- not arguably --
24 I mean, he has been by being able to plead to this
25 misdemeanor, and it's not uncommon that there be a fact out

1 there in the world that is not -- that the parties just
2 agree to disagree on and, you know, you put on whatever
3 evidence, you make whatever argument, the Court decides, and
4 we all move on. So I don't think that's -- I don't think
5 anybody's been -- certainly, it doesn't seem like your
6 client has been disadvantaged in any way or that anybody's
7 -- I don't know -- playing, you know -- that anybody did
8 anything improper, but I do think it's something I have to
9 consider now that it's been put in front of me, and I think
10 how it interacts with some of this video evidence is
11 important because if he -- if -- I would say this. If he --
12 if he said something along those lines, it casts what the
13 video shows in a different light than if, you know, he --
14 well, I wouldn't say it casts it in a different light. It,
15 sort of, confirms, at least to me -- it, sort of, confirms
16 what I think it would be reasonable to conclude even without
17 it.

18 MS. HALVERSON: So I'll just be very frank, then,
19 and, kind of, go down the list of the statements in the 302
20 and what Mr. Register has proffered to me in response to
21 those statements --

22 THE COURT: Okay.

23 MS. HALVERSON: -- so that we're, sort of, on the
24 same page about where the dispute lies.

25 So I asked Mr. Register about whether or not he

1 saw members of Congress through the doors of the lobby, and
2 he said, No, I didn't see anybody and I never said that.
3 Unequivocal. No. So that's a disputed statement.
4 Mr. Register did not say that he saw members of Congress
5 through the doors.

6 THE COURT: Okay. Or someone he thought was?

7 MS. HALVERSON: Correct.

8 THE COURT: Right. Okay.

9 MS. HALVERSON: Mr. Register did not say that his
10 intention was to disrupt Congress. He said --

11 THE COURT: Well, that's not --

12 MS. HALVERSON: Well --

13 THE COURT: In fairness --

14 MS. HALVERSON: I'm sorry, to affect Congress.

15 THE COURT: Right. I mean --

16 MS. HALVERSON: It's -- what he told the FBI agent
17 when they asked him was that he wanted Congress to do their
18 job. That was the wording that he used that he remembers
19 saying, and whether or not the FBI agent actually wrote that
20 down accurately or not is another matter, but he did not say
21 that, My -- thought that my decision was going to affect
22 Congress. Mr. Register disputes saying that. The
23 implication of whether or not, if you're doing your job,
24 that could affect Congress, maybe, it's there, but he didn't
25 -- that's not a quoted statement from Mr. Register. That

1 sounds like it's an interpretation of a statement that the
2 FBI agent is writing down, and --

3 THE COURT: Why would it be -- I mean, I guess, do
4 you have anything to argue to me, though -- why would it be
5 necessary to be present in the chamber or in the Capitol?
6 Congress -- as far as I know, they may well be doing their
7 job right now. There's no need for anyone to break into the
8 Capitol and be present on the chamber floor to ensure that
9 that happens. So if not to affect the proceeding, why did
10 -- what's the -- what -- why did he feel he needed to be
11 present?

12 MS. HALVERSON: Mr. Register, just to -- the
13 fourth point is he never -- he disagrees that he ever said
14 that his intention was to get into the House chambers or
15 that his -- he wanted to get into the House chambers, and
16 when I asked Mr. Register about that statement, he said,
17 Those aren't even, like, parts of my vocabulary. That's not
18 even something that would ever come out of my mouth. I have
19 no idea where he got that from. I did not say that.

20 And so, again, because this wasn't necessarily
21 relevant information to the plea of demonstrating and
22 parading, you know, I, sort of, pushed it aside a little bit
23 because it just didn't seem -- I mean, it was a disputed
24 fact, but the more that I thought about it and when this
25 became an issue, the more I thought I have all of these

1 other January 6th clients that are charged with a
2 1512(c)(2), and if any of those clients would have said
3 something like the FBI agent said that he said, that would
4 be key slam dunk evidence done for intent, and I cannot
5 understand for the life of me why, if this 302 was to be
6 believed -- which, by the way, was an unrecorded,
7 un-Mirandized statement where the FBI agent went up to
8 Mr. Register at his work, surprised him, and said, Hey, I
9 heard you were a witness to a shooting, and that's how the
10 conversation started -- I just have a hard time believing
11 that the Government would have just ignored that evidence
12 and not pursued it, especially with all of the 1512(c)(2)
13 charges that they have chosen to pursue, given the track
14 record of these cases.

15 I also think that even if we want to make the
16 argument that he was, kind of, a 1512 but, kind of, a
17 misdemeanor, why not push for the misdemeanor that's the
18 Class A misdemeanor that can be supervised release if he was
19 really that bad? I just think, for whatever reason, when
20 the Government was charging this case and when the plea deal
21 was offered, either they missed this to begin with and
22 didn't see it until they started doing the sentencing memo
23 and thought, Oh, jeez. Now, I've got some really good,
24 yummy aggravating facts that I can try to push a really
25 yucky jail sentence, or they saw it to begin with and

1 decided this really isn't credible and it doesn't actually
2 go to his intention.

3 THE COURT: Okay. I could think of some other
4 possibilities, too, but okay. I mean, I understand your
5 view on it. I think -- I will say, then, your -- I think --
6 I wish I -- I don't know what your other cases look like
7 that had been charged as felony 1512 cases. My suspicion is
8 that many of them have more violence associated with them,
9 but you're making it look like, maybe, not. So I don't
10 know, you know? But I will say that I think it is, then,
11 incumbent upon you in -- there are plenty of cases, though,
12 with folks, sort of, wandering around in various, you know
13 -- in Statuary Hall, in the Rotunda. I do think -- again,
14 put the statements aside -- that waving -- the -- that --
15 the -- that video, boy, it looks very intentional; right?
16 It looks very -- it's somebody who's very intentional about
17 getting someplace and is very excited that here is a
18 different, maybe, path toward there. So I mean, I'm -- I'll
19 say, I think that there's at least -- I think you're going
20 to have to, you know, argue to me why it doesn't -- why that
21 -- again, statements aside, why that really isn't what it
22 seems like it could be.

23 MS. HALVERSON: Yeah. I mean, I think the answer
24 to that, Your Honor, is that we were not there at the time.
25 We have CCTV footage that's imperfect. I have the

1 recollections of my client telling me why and how he did it
2 and, maybe, that's unsatisfactory to Your Honor and, maybe,
3 that's unsatisfactory to the Government, but it is
4 Mr. Register's truth and there isn't evidence to the
5 contrary that, I think, is credible.

6 THE COURT: Tell me -- so repeat -- if you've
7 already said it, repeat it to me. I mean, what is the
8 explanation, then?

9 MS. HALVERSON: Mr. Register left the area that
10 was bottlenecked which we now know --

11 THE COURT: Right.

12 MS. HALVERSON: -- was the House chambers,
13 walked --

14 THE COURT: Right.

15 MS. HALVERSON: -- down the corridor, and saw
16 another hallway where there wasn't a bunch of people.

17 THE COURT: Yes.

18 MS. HALVERSON: Seeing the bottlenecked crowd, he
19 thought, We should come over here. Maybe this is a way. I
20 don't know that he knew it was a way into the House's
21 chambers, and I don't know that he had any idea of where
22 exactly he was directing people. It was just an empty
23 corridor where the crowd was no longer bottlenecked if they
24 spread out.

25 THE COURT: Okay.

1 MS. HALVERSON: So --

2 THE COURT: Okay.

3 MS. HALVERSON: And, again, I think it's a
4 mischaracterization, and I am grateful to Your Honor for,
5 sort of, drilling down on the idea that Mr. Register is not
6 a but-for cause of Ashli Babbitt's death. I think there was
7 a variety of circumstances that caused that incident to
8 happen. Somebody -- I'm sure that Your Honor's probably
9 seen the full video. I have seen the full video of that
10 incident. There were decisions and there were seconds where
11 decisions were made, and at the end of it, there was a
12 fatality. There were officers that decided to move away
13 from the doors to let other officers in tactical gear come
14 up the stairs and take over, and it was in that --

15 THE COURT: Right.

16 MS. HALVERSON: -- second that she decided to
17 lurch into the -- that -- the door, and then from the
18 interview that that agent later gave to the news, it was
19 very clear that he had not actually intended to shoot her in
20 the neck. So there was really a constellation of things
21 that happened that resulted in her death, and I just don't
22 think that it's fair to characterize Mr. Register as being
23 somebody that's a cause of it.

24 THE COURT: If it's a cause, it's a pretty
25 attenuated connection. And I'll just say, I don't even

1 think it's -- you've got the things that you're going into
2 here about what happened in that moment. I also think -- I
3 mean, again, given what is shown on that video, he's not
4 even really a but-for cause of that mob being directed in
5 that direction. There were other people, you point out,
6 slightly -- a millisecond before him, but there were other
7 people waving them in that direction, too. So it's not even
8 clear -- I still think that doesn't get him off the hook --

9 MS. HALVERSON: I agree.

10 THE COURT: -- for assuming that -- and I'm not --
11 you're not arguing that -- for assuming that directional
12 role which turned out to be important, and I think it's fair
13 to say that, like, consequences matter in the criminal law,
14 but at a minimum, I think those consequences are that that
15 mob -- he contributed to that mob ending up very close to
16 the House chamber. The -- I think that causal connection,
17 even if it's not but for, he con- -- he certainly wanted
18 that to happen. It did happen. I think the chain of
19 causality starts to fall away a little bit when we start
20 talking about the unfortunate tragedy of that woman losing
21 her life, but continue. Sorry.

22 MS. HALVERSON: Yeah. I am not a tort lawyer.
23 There's a reason I am not --

24 THE COURT: Right.

25 MS. HALVERSON: -- a tort lawyer. But I mainly

1 just pointed to that because when Mr. Register read that
2 part of the Government's sentencing memorandum, he called me
3 very upset and he asked me -- he said, Do you think that I'm
4 a murderer? And I had to explain to him that no, I did not
5 think he was a murderer and I didn't think that he knew what
6 was going to happen when he took those actions. So --

7 THE COURT: Right.

8 MS. HALVERSON: -- I say that for the benefit of
9 Mr. Register mostly.

10 So you know, it -- Mr. Register came home to
11 Florida. He did two things that were dishonest out of pure
12 fear, and I think it's understandable fear. Although it
13 wasn't a -- it wasn't the right thing to do, I think we can
14 all understand being scared seeing the news video of the FBI
15 rounding people up for arrests, and he factory reset his
16 phone, and there's nothing that I can do about that fact for
17 Mr. Register. He did that.

18 What I can say about that fact is that he told the
19 FBI he did it. He gave them permission to search his phone
20 anyway and brought his phone to him [sic]. And as far as
21 destruction of evidence, my view of that is a little bit
22 different than the Government's. The Government, in a
23 variety of these cases, has sought search warrants and
24 subpoenas for records, and they did not do that in this
25 case. Perhaps, had they convened a grand jury and asked for

1 a subpoena for his Facebook records or his Twitter account
2 or his Parler account, they would have been able to recover
3 whatever nefarious information they seemed to believe was
4 out there that he deleted on his cell phone, but they chose
5 not to do that, and so to, then, take the next leap and say
6 he destroyed evidence, I just don't think there's proof of
7 that. I think he factory reset his phone because he was
8 scared and he had taken pictures of himself in the Capitol.

9 THE COURT: Okay. But that's evidence --
10 otherwise known as evidence; correct?

11 MS. HALVERSON: Which the Government was able to
12 recover, and he also provided them six additional photos
13 from his trip. He also provided them the sweatshirt that he
14 was wearing. He also provided them with his hotel receipts.
15 He provided them with evidence which, apparently, doesn't
16 seem to have any kind of weight or carry any water with the
17 Government. So I don't think it's necessary to say, Oh, we
18 didn't charge him with the 1512 because we didn't -- he
19 didn't have the actual intention statements, and had he not
20 deleted his cell phone, then it would have been a felony
21 case. I just don't think that bears fruit. I think here,
22 the Government, for whatever reason -- and I don't know why
23 -- they chose not to subpoena that other -- those other
24 informations where they could have found those kinds of
25 statements or nefarious evidence that they were pointing to.

1 And so --

2 THE COURT: I take your point, Ms. Halverson. I

3 -- it's --

4 MS. HALVERSON: Okay.

5 THE COURT: It's a very fair point.

6 MS. HALVERSON: So I also think that it's
7 important for the Court -- you saw the most recent pretrial
8 compliance report that came out about Mr. Register. I think
9 it came out yesterday or the day before yesterday. And in
10 my time in federal defense, I don't see a lot of very, sort
11 of, personalized comments on those reports. I thought the
12 one that Ms. Barrett [ph] put down that was reiterated by
13 D.C. was very telling about Mr. Register, you know? I
14 understand the Government's and the Court's need and want to
15 make sure that January 6th does not happen again. I
16 understand the need and the want to provide both specific
17 and general deterrence in these cases.

18 What I can say about specific deterrence in
19 regards to Mr. Register is that no more is needed. He lost
20 his job of 12 years. He spent months unemployed. He was
21 party to the wrath of his wife who, I will point out, is not
22 here today on his behalf. His wife is still angry with him
23 about his decision to do this. And it has cost her friends
24 and coworkers that she isn't able to -- she's no longer to
25 be -- able to call friends. So he deals with that on the

1 regular at home.

2 Additionally, reporters have hounded him
3 constantly, calling his cell phone, knocking on his door,
4 trying to talk to his daughter. He's faced the fear of
5 prison for over a year and has been on pretrial release for
6 over a year, as well. He had to tell his stepdaughter that
7 he did something illegal which is a horribly embarrassing
8 thing to do as a parent. He had to tell her that he was
9 flawed. He had to tell his new employer of his actions and
10 that he may have to be terminated as a result of this case.
11 He has to live with the memory of the sound of the gunshot
12 that killed Ashli Babbitt. And I would submit that that is
13 enough specific deterrence for Mr. Register. He will not be
14 doing this again.

15 As far as general deterrence is concerned, I would
16 proffer to the Court that the circumstances that created
17 January 6th are unlikely to happen again. It is unlikely
18 that a sitting President will ask his supporters to march to
19 Congress and protest his loss of an election. If that does
20 happen again, Your Honor, and after everything this country
21 has been through as a result of that and people still decide
22 to follow that direction, I submit to the Court that putting
23 Mr. Register in jail for five months will not even cross the
24 minds of those people that would still choose to take that
25 action, much less putting him in jail for five months. If

1 what has happened to the country after January 6th has not
2 deterred those people from doing that again, I don't think
3 that Mr. Register's sentence will. So I don't think putting
4 him in jail for five months will suddenly make the
5 irrational think rational thoughts about whether or not that
6 is a good idea.

7 And I just, again, want to go back to the 3553(a)
8 factors which this Court is responsible for upholding in
9 sentencings. And, you know, Mr. Register is a hard-working
10 man, he's full of integrity, he has so much pride for his
11 family, and he's kind. He deserves the Court's condemnation
12 for his actions. He deserves compassion and mercy, as well.
13 He deserves the opportunity to show the Court that he's
14 sorry and that he won't repeat this behavior again.
15 Probation is appropriate because it will ensure that the
16 Court keeps its finger on him and that the public will also
17 be aware if he re-offends, but I don't think that jail is
18 the appropriate sentence here.

19 Your Honor, I submit to the Court that the most
20 appropriate sentence for Mr. Register, given all the factors
21 enumerated at this sentencing, and also, my sentencing
22 memorandum, is the probationary disposition and a
23 restitution order of \$500.

24 And I think that Mr. Register would like to give a
25 very short statement to Your Honor, if you'll allow it.

1 THE COURT: Of course, I will. He has that right.

2 Mr. Register, you have the right to present any
3 information you want to to me that you think would mitigate
4 your sentence. If you'd go ahead and take the stand there.

5 And I'll just say, I'm not sure -- for the folks
6 in the gallery, I don't -- I'm just noting this for the
7 record. So Mr. Register is addressing me from there because
8 he is unvaccinated against the COVID-19 disease. So if
9 anyone wants to slightly move further away from where
10 they're sitting, you may.

11 I didn't mean to -- Mr. Register, I don't want to
12 belabor the point, but I'm trying to balance hearing from
13 you and being able to see you with the health and safety of
14 everyone else here in the courtroom.

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Sir, you may proceed as long as -- is
17 the microphone there and working?

18 THE DEFENDANT: I have no excuse for my actions.
19 I have no one to blame but myself. If there's anything I
20 can say about my conduct, it is that my actions were
21 completely spontaneous and without thought. To the D.C.
22 Police, members of Congress, and the American people, I
23 truly am sorry.

24 THE COURT: All right. Thank you, sir. You may
25 return to your seat.

1 Let me just ask, Mr. Dreher -- is it Dreher? Is
2 that how you say your name?

3 MR. DREHER: Dreher.

4 THE COURT: Dreher? All right.

5 Mr. Dreher, do you want to just address the issue
6 of the statements? You didn't address it in your original
7 allocution and I brought it up with Ms. Halverson and I just
8 want to give you the opportunity to say whatever you're
9 going to say about that one point, if you'd like.

10 MR. DREHER: Thank you, Your Honor.

11 You know, obviously, the Government went out and
12 got a stipulation to what --

13 THE COURT: Right.

14 MR. DREHER: -- these two agents would testify to,
15 and the reason we did that is because otherwise, we'd have
16 them here. That's the only reason that they're not here,
17 frankly, testifying about what was said. It sounds like
18 there may have been a misunderstanding on the Government's
19 part about exactly which statements were disputed. Our
20 understanding was that the stipulated ones were the ones
21 that were disputed or, said another way, that, essentially,
22 Mr. Register agreed that the agents would come in and
23 testify, you know, that that's their recollection of what
24 was said. He just disputed that that's actually what he
25 said to them.

1 You know, I guess one thing I would say is it's
2 obviously completely normal to have additional evidence and
3 context introduced at sentencing. All the video exhibits,
4 you know, none of them are part of the statement of the
5 offense. They all add context. I think Ms. Halverson just
6 got up and gave a very, you know, impassioned speech that
7 included dozens of statements and thoughts and ideas from
8 the defendant himself. The defendant's not going to take
9 the stand and testify to any of that. So I just -- I don't
10 think that there was, as the Court noted, anything wrong
11 with the way in which this played out. It's actually very
12 common. Some defense counsel insist at the statement of
13 offense phase, frankly, that we limit things to the elements
14 of the offense and say, you know, additional facts can come
15 in at sentencing.

16 So we would say that based on the stipulated
17 testimony of those two FBI agents, no contrary testimony
18 from anybody who's going to get up and testify to these
19 things, that that's fully sufficient for the Court to find
20 that those statements were made, especially, as the Court
21 noted, when the statements seem awfully consistent with the
22 conduct that's found on video and his location; right? I
23 mean, it would be one thing if Mr. Register was at a totally
24 different place in the building and said, I didn't, you know
25 -- I was just confused about where I was, but he was right

1 next to the House chamber with the mob trying to get into
2 the House chamber and waved them around and then later said,
3 I, you know -- I was trying to get into the House chamber.
4 So we think the nexus of those two things is more than
5 sufficient for the Court to rely on those.

6 THE COURT: All right. Ms. Halverson, do you have
7 any response to that? I don't think you would, but I guess
8 I just want to make sure you don't.

9 MS. HALVERSON: No. I think Mr. Register's
10 stipulation speaks for itself. I do think that Mr. Register
11 would agree that the FBI would come in here and say that
12 what they report -- what they put in their report --

13 THE COURT: Right.

14 MS. HALVERSON: -- was true.

15 THE COURT: Right, right, right.

16 MS. HALVERSON: And so that's what we agreed to,
17 but the characterization of that is what's at issue.

18 THE COURT: All right. Very well.

19 All right. Let's take a 15-minute recess, come
20 back at 4:00 o'clock.

21 THE DEPUTY CLERK: All rise. This Honorable Court
22 stands in recess for 15 minutes.

23 (Brief recess taken.)

24 THE COURT: All right. Apologies for keeping
25 everyone waiting a little longer than I anticipated.

1 First, let me just start by resolving the factual
2 questions.

3 I do find by a preponderance of the evidence that
4 Mr. Register did say words to the effect of what's in the
5 302 and -- well, words to the effect of what's in the 302
6 that are also covered by the stipulation the Government has
7 submitted, I think, for a couple of different reasons.

8 One, I think -- and to be clear, those are the
9 words that, quote, Register was aware that Congress was in
10 session and that they were in the progress -- process of
11 certifying the vote. Register felt as though his presence
12 at the Capitol would help affect Congress's decision.
13 Register wished that they were actually able to make it into
14 the House chamber during the certifying process to show
15 their support for President Trump.

16 I think, on the one hand -- I have a stipulation,
17 on the one hand, of sworn testimony from an officer. I
18 don't have anything sworn on the other side. I think those
19 statements are consistent with the video evidence in the
20 case and which I think -- in which Mr. Register very
21 pointedly and excitedly and energetically waves the mob
22 what -- as it turned out, which is toward the entrance to
23 the Speaker's Lobby. And I think I have reason to doubt
24 representations to the contrary, given that Mr. Register was
25 not fully truthful with the FBI at the beginning about his

1 conduct that day.

2 So for all those reasons, I'll resolve the factual
3 question to a preponderance of the evidence in that way.

4 All right. Now, on to the sentencing factors.

5 I have assessed the particular facts of this case
6 in light of the relevant 3553(a) factors, including -- well,
7 in this case, not including the sentencing guidelines. And
8 so, Mr. Register, I'm going to provide my thoughts for the
9 record and for you about the different factors that I have
10 to consider.

11 So let me begin with my considerations with regard
12 to the nature of the offense. And this is really the
13 hardest thing that I and many of my colleagues have to
14 grapple with in these cases. What happened that day was, in
15 some ways, as serious an -- as an offense as there can be,
16 given that it threatened the peaceful transfer of power from
17 one president to another. The damage that was done that day
18 was both tangible and intangible. And, Mr. Register, your
19 role was not the most serious of everyone who was there that
20 day. That's for sure. And we'll get to your exact role,
21 but I want to say a few things about the overall events of
22 January 6th insofar as I have to consider the nature and
23 circumstances of the offense.

24 Mr. Register, our constitution and our laws give
25 you rights that people in other countries would do just

1 about anything for and that many Americans who have come
2 before us have died for. In fact, people are losing their
3 lives right now for these kinds of rights in Ukraine right
4 at this moment right as we're proceeding. You have the
5 right to vote for whoever you want to for President. You
6 have the First Amendment right to speak out in favor of your
7 candidate, to put up signs, to convince your friends and
8 neighbors to vote for that person. If you don't like how an
9 election is being conducted, you can speak about that, too.
10 You can call, you can write, you can try to meet with
11 elected officials in your state or in the Federal
12 Government, you can try to get election laws changed, you
13 can engage in peaceful protest here or in your state
14 capital, and if you think you've been wronged and you think
15 you have a case, you can come in and file a lawsuit in state
16 court or here in federal court, but freedom means that with
17 those rights come responsibilities, and so what you cannot
18 do under any circumstances is become part of a mob that,
19 using violence and the threat of violence, disrupts
20 Congress's ability to fulfill its role to process the
21 certification of the Electoral College for president. What
22 happened that day not only damaged property and injured
23 people; it was a blow against the customs and the practices
24 that helped support the rule of law and the constitution.
25 It snapped our previously unbroken tradition of the peaceful

1 transfer of power, and we can't get that back, Mr. Register.
2 We can't get it back.

3 So it was more than extremely serious, what
4 happened that day. It was a national disgrace, and you
5 played a role in that. So let's turn to your role. In some
6 ways, it was quite limited. You weren't a part of any group
7 that came to the Capitol that day. There's no evidence that
8 you engaged in any kind of prior planning. You didn't
9 engage in violence against anyone -- any law enforcement
10 officer, you didn't cause any property damage directly, you
11 didn't bring a weapon there, and you did not engage in any
12 kind of public display of celebration or a public display
13 that you -- you didn't celebrate what happened that day or
14 make it clear that you had no remorse for what happened that
15 day. I don't take too much one way or the other, to be
16 honest, from what the Government recovered from your phone.
17 I just don't think it says much -- anything about you or
18 your views about that day one way or the other.

19 There are three things, though, as I -- where I
20 started that, I think, makes you stand out a little bit,
21 though, from the run-of-the-mill person who might have been
22 caught up in what happened that day, and I'll start with the
23 biggest one first. At a critical point, you stepped into a
24 role to help direct the mob, very enthusiastically -- very
25 enthusiastically -- pointing the mob toward what turned out

1 to be the Speaker's Lobby which is just a few feet away from
2 the House chamber. Other people were waving -- at least one
3 other person -- maybe, there was somebody else, but at least
4 one other person did that, too. I don't know that I -- I
5 mean, I don't weigh that very much. I believe you didn't --
6 you might not have known precisely what you were waving
7 people to. I, you know -- okay. But I do think I can infer
8 you knew you were waving people towards something that would
9 get you all closer to your goal of being as close to the
10 House chamber as possible. Given how excited you were, I
11 don't think -- well, I'll get to that in a second. So I do
12 think I can infer that.

13 Look, that's a pretty minor role when it comes to
14 leadership. There were people who engaged in leadership
15 that day far beyond that. And I believe you that that was a
16 spur-of-the-moment thing, but it is something you did and a
17 role you were willing to play that day. You were not merely
18 willing to, kind of, mill around and be part of a mob. You
19 were willing to help direct it and help direct it in a way
20 that got it much closer toward being a tragedy and
21 someone -- and one of our members of Congress getting
22 killed. Now, as it turned out, someone was killed. I don't
23 weigh that -- I mean, I think the contingent set of things
24 that happened to bring that about -- I don't think you're a
25 murderer and I don't weigh that -- I don't put that too

1 strongly at your feet, but the reality is I do think it's
2 pretty clear that it was something you did to get this mob
3 closer to its goal, and I don't think the explanation
4 proffered by Ms. Halverson that, basically, you were just,
5 sort of, pointing people in a direction that was not so
6 congested; that you were wanting people to be, you know --
7 that you were just, sort of, trying to spread out the crowd,
8 I don't think that's consistent with the video evidence that
9 I see. So that's the first thing that makes you stand out.
10 I think it's -- and I don't think it's anything -- I haven't
11 seen -- and I looked at a lot of cases. A lot. I've
12 sentenced a few and I've seen a lot of people here, and I
13 haven't seen anyone sentenced for a misdemeanor who played a
14 role directing the mob like that.

15 You know, closely related -- maybe, you might even
16 say this is a similar thing -- but I do think, you know,
17 your statements to the FD -- FBI make -- and that I do --
18 that I did find occurred -- whatever the precise nature of
19 your words, I do think you were intent on affecting what
20 happened there that day. I get you haven't been charged
21 with a 1512. You should be -- you should feel very lucky.
22 I don't know what the charging decisions are, but I'll just
23 -- and it's, frankly, none of my business, but, you know,
24 getting the plea you did, I think, reflects some good
25 lawyering on your lawyer's part.

1 And while I'm thinking about it, let me pause and
2 say here that I thought the presentations here, the advocacy
3 to me by both the Government and the defense, were really
4 quite good and quite excellent and I commend you both for
5 that.

6 But anyway, the second part are these statements
7 that, I think -- I get you haven't been charged with an
8 obstruction count, but I've got to weigh that. I've got to
9 weigh that in what I think is appropriate here. You were
10 not someone who wandered in there, I don't think, to simply,
11 kind of, protest or were being led along by someone else. I
12 think you were hoping to affect the outcome, in your own
13 words, and I think that's important.

14 And, third, you -- the reset of your phone. We've
15 -- I think, you know, as, I think, you have to concede, that
16 was done to try to minimize the amount of evidence the FBI
17 could have received from you -- or could have obtained. I
18 take Ms. Halverson's point. They could have -- there could
19 have been other things they did to get that evidence. So
20 I'm not sitting here saying I am presuming that there would
21 have been very incriminating evidence on there because I
22 don't think I can do that, but I can weigh the fact that you
23 took that action, and I think I have to.

24 So I get that you're a misdemeanor ultimately
25 here, but I haven't seen a combination of aggravating

1 factors like that so far, especially, again, the issue of
2 taking on the responsibility of directing the mob.

3 Turning to -- your characteristics as an offender
4 is something else I have to consider, and those things, you
5 know, for the most part, weigh in your favor. I read all
6 the letters -- the character references, and it seems like
7 both from your family life and your employment, you're a
8 valued employee and that you have a family that while, right
9 at the moment, might not be so pleased with you, you have a
10 lot going for you in terms of your family in terms of your
11 wife and your child. That's -- that all weighs, you know,
12 frankly, in your favor. It's -- I would say it's not 100
13 percent -- and I'll mention, also -- I should -- as I
14 should, that your -- you've been great on pretrial release,
15 the Probation Office sings your praises, and that is worth
16 something. You do have a criminal history, although it is,
17 you know, relatively minor in the grand scheme. That's why,
18 I guess, I say -- and it does involve you having served jail
19 time and having your probation revoked. I -- that's not
20 nothing, and that's probably the only reason why these, sort
21 of, offender characteristics don't weigh 100 percent in your
22 favor, but, of course, I have to weigh those.

23 The next factor is that the sentence has to do all
24 these things I ticked through before: reflect the
25 seriousness of the offense, promote respect for the law,

1 provide just punishment for the offense, afford adequate
2 deterrence, protect the public, and promote rehabilitation.
3 I do think that general deterrence is critical here. I've
4 said that -- I've talked about the seriousness of the
5 offense. I think, you know, again, it's something we all
6 struggle with in terms of separating out the collective
7 thing that happened that day from your specific role. I've
8 talked about that. I -- but I do think general deterrence
9 is critical here. We can't ever have that happen again. We
10 just can't. And I have to weigh that in trying to figure
11 out what to do with you.

12 Turning to the types of sentences available, we've
13 talked about this. A sentence all the way up to six months
14 of incarceration is possible in the case. The Probation
15 Office and Mr. Register are asking for probation. The
16 Government is asking for five months of incarceration.

17 Another factor I have to consider is unwanted
18 sentence disparities. And, you know, normally, as counsel
19 know, this is something that largely the guidelines take
20 care of and the courts can look to the guidelines as a, kind
21 of, rough measure of what other courts do with defendants
22 with similar records who have been found guilty of similar
23 conduct. We don't have that here. And so I have the chart
24 the Government provided as part of its memorandum. I have
25 other -- and I've gone through a lot of other cases, maybe,

1 up to 15 or 20 that I looked at in terms of -- and cases
2 that, Ms. Halverson, you brought to my attention in terms of
3 where courts have been making the distinction between jail
4 time and probation. It's not always consistent. You do
5 have outliers on both sides. You're always going to have
6 that. But I did look at those cases to try to get a sense
7 of what courts have been doing -- what this -- my colleagues
8 on this court have been doing to try to take those things
9 into account.

10 And then, last, I have to consider the need to
11 provide restitution. Of course, in this case, the parties
12 have agreed on a restitution amount of \$500.

13 So weighing all of those 3553(a) factors and
14 considering what is sufficient but not greater than
15 necessary to comply with the purposes of sentencing,
16 Mr. Register, I'm going to sentence you to 75 days of
17 incarceration and \$500 in restitution. That is at once both
18 significantly less than the Government asked for but
19 significantly more -- actually, as it turns out, I guess
20 it's right in the middle of -- and significantly more than
21 what your attorney asked for. I won't, you know -- I won't
22 hide from the fact that these cases are really difficult and
23 we're all here trying to do our best to apply all these
24 factors and come up with what we think is sufficient but not
25 greater than necessary to comply with the purposes of

1 sentencing. And I will say, I hope, again, if there's one
2 thing you've taken away -- you will take away from this is
3 that, you know, none of what -- none of -- the objections
4 that any citizen has to how an election comes out, that
5 violence and the threat of violence can never be the answer.
6 It can never be the answer. And, as I said, there are
7 people all around the world, including today -- I think of
8 the people of Ukraine -- who would just absolutely do
9 whatever they could to have a system like we have where we
10 have so many different ways of resolving our disputes that
11 don't involve violence and the threat of violence.

12 All right. I will now impose the sentence which I
13 conclude, after considering all the 3553(a) factors, is
14 sufficient but not greater than necessary to comply with the
15 purposes of sentencing.

16 Pursuant to the Sentencing Reform Act of 1984 and
17 in consideration of the provisions of 18 United States Code
18 3553, it's the judgment of the Court that you, Jeffrey
19 Register, are hereby committed to the custody of the Bureau
20 of Prisons for 75 days on Count 4. In addition, you are
21 ordered to pay a special assessment of \$10 in accordance
22 with 18 United States Code Section 3013. I will authorize
23 the supervision and jurisdiction of this case to be
24 transferred to the United States District Court for the
25 Middle District of Florida. And, sir, you are also ordered

1 to make restitution in the amount of \$500. Restitution
2 payments shall be made to the Clerk of the Court for the
3 United States District Court, District of Columbia, for
4 disbursement to the following victim. The victim is the
5 Architect of the Capitol, Office of the Chief Financial
6 Officer, attention: Kathy Sherrill, CPA, Ford House Office
7 Building, Room H2-205B, Washington, D.C. 20515. The amount
8 of the loss here is \$500. And you must pay the balance of
9 any restitution within 30 days of this sentencing.

10 The financial obligations are immediately payable
11 to the Clerk of the Court of the U.S. District Court, 333
12 Constitution Avenue, NW, Washington, D.C. 20001.

13 Within 30 days of any change of address, you shall
14 notify the Clerk of the Court of the change until such time
15 as the financial obligation is paid in full.

16 The Probation Office shall release the presentence
17 investigation report to all appropriate agencies which
18 includes the United States Probation Office in the approved
19 District of residence. In order to execute the sentence of
20 the Court, treatment agencies shall return the presentence
21 report to the Probation Office upon the defendant's -- the
22 -- well, upon the defendant's completion of his sentence.

23 And, Mr. Register, under certain circumstances,
24 you do have the right to appeal the sentence imposed by the
25 Court. If you choose to appeal, you must file any appeal

1 within 14 days after I enter judgment. And if you're unable
2 to afford the costs of an appeal, you may request permission
3 from the Court to file an appeal without cost to you.

4 Pursuant to the D.C. Circuit's opinion in United
5 States v. Hunter, 809 F.3d 677, decided on January 12th,
6 2016, are there any objections to the sentence imposed that
7 are not already noted on the record?

8 Mr. Dreher?

9 MR. DREHER: No, Your Honor, not from the
10 Government.

11 THE COURT: All right. Ms. Halverson?

12 MS. HALVERSON: No, Your Honor.

13 THE COURT: All right. Obviously, I'm not
14 ordering Mr. Register to be remanded today. He will report
15 as directed by the Probation Office whenever they set a
16 report date.

17 MS. HALVERSON: Your Honor, if I could, I know
18 that it's very important to Mr. Register and Mr. Register's
19 family that he be able to attend his daughter's graduation
20 from high school in May. So I would just ask, if the Court
21 were feeling generous, if you could put in the order that
22 the turn-in date be after June 1st so that he can make sure
23 that he can attend that important event in her life.

24 THE COURT: Let me ask Ms. Willett. How long
25 typically from today will a report -- do you know how long

1 typically a report date would be from today?

2 THE PROBATION OFFICER: Generally, Your Honor, it
3 would be about six weeks, but because of the COVID
4 situation, it could be longer.

5 THE COURT: All right. What's the Government's
6 view on this request?

7 MR. DREHER: That's okay with the Government.

8 THE COURT: All right. It sounds like we'd be
9 pretty close to that anyway perhaps. So this isn't going to
10 really affect -- this isn't really going to affect how
11 things would proceed one way or the other. So I will
12 include in the order that he should report as directed by
13 Probation but no earlier than June 1 of this year.

14 Very well. Anything further from the Government?

15 MR. DREHER: No, Your Honor.

16 THE COURT: All right. Anything further from the
17 defense?

18 MS. HALVERSON: No, Your Honor.

19 THE COURT: All right. Very well. The parties
20 are dismissed.

21 THE DEPUTY CLERK: All rise. This Honorable Court
22 stands in recess.

23 (Proceedings concluded at 4:44 p.m.)

24 * * * * *

25 CERTIFICATE OF OFFICIAL COURT REPORTER

1 I, TIMOTHY R. MILLER, RPR, CRR, NJ-CCR, do hereby certify
2 that the above and foregoing constitutes a true and accurate
3 transcript of my stenographic notes and is a full, true and
4 complete transcript of the proceedings to the best of my
5 ability, dated this 6th day of July 2022.

6 /s/Timothy R. Miller, RPR, CRR, NJ-CCR
7 Official Court Reporter
8 United States Courthouse
9 Room 6722
10 333 Constitution Avenue, NW
11 Washington, DC 20001
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