

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 ----- x
4 THE UNITED STATES OF AMERICA,

Criminal Action No.
1:21-cr-00050-CRC
Thursday, November 4, 2021
10:05 a.m.

5 vs.

6 JENNIFER LEIGH RYAN,

7 Defendant.
8 ----- x

9 TRANSCRIPT OF SENTENCING
10 HELD BEFORE THE HONORABLE CHRISTOPHER R. COOPER
11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

14 For the United States:

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1 P R O C E E D I N G S

2 THE COURTROOM DEPUTY: Good morning, everyone.

3 We're here for a sentencing in Criminal Case 21-50,
4 Defendant No. 1, *United States of America vs. Jennifer Leigh*
5 *Ryan.*6 Starting with counsel for the government, if you
7 could please approach the lectern and identify yourself for
8 the record.9 MR. ROCHLIN: Good morning, Your Honor; Karen
10 Rochlin for the United States, and with me at counsel table
11 is Special Agent Amie Stemen from the Federal Bureau of
12 Investigation.13 THE COURT: Good morning, Ms. Rochlin. You can
14 feel free to remove your mask at the podium, if you're
15 comfortable doing so.

16 MR. ROCHLIN: Thank you, Your Honor.

17 THE COURT: All right.

18 MR. WOMACK: Good morning, Your Honor; Guy Womack
19 for Ms. Ryan.20 THE COURT: Good morning, Mr. Womack. Nice to
21 meet you.

22 Ms. Ryan, good morning. How are you feeling?

23 THE DEFENDANT: All right.

24 THE COURT: All right.

25 MR. WOMACK: Your Honor, while we're sitting here

1 at the table, at counsel table, can we remove our mask as
2 well? I will be easier to talk.

3 THE COURT: You may.

4 MR. WOMACK: Thank you, Your Honor.

5 THE COURTROOM DEPUTY: When you speak, please make
6 sure you hit the microphone if you're going to speak from
7 counsel table.

8 MR. WOMACK: I'm sorry. I couldn't hear you.

9 THE COURTROOM DEPUTY: If you're going to speak
10 from counsel table, make sure your microphone is on. That's
11 all. There's a microphone there.

12 Probation, if you can approach the lectern,
13 please.

14 THE PROBATION OFFICER: Good morning, Your Honor;
15 Crystal Lustig from the probation office.

16 THE COURT: Good morning, Ms. Lustig.

17 All right. The Court has reviewed the presentence
18 investigation report, the memoranda submitted by both sides,
19 including the government's supplemental memorandum, the
20 videos cited in the government's memo, and the letter
21 submitted by Ms. Ryan. Any other written materials for the
22 Court's consideration this morning?

23 MR. ROCHLIN: Not from the United States, Your
24 Honor.

25 THE COURT: And will the government be playing any

1 of the video clips this morning, or no?

2 MR. ROCHLIN: Your Honor, if I can be a little
3 indecisive about that? It was my original plan, but I may
4 just need to see how things go. I'm leaning towards not
5 right now, but if I think it would be of assistance, I may
6 change my mind, if the Court will indulge me.

7 THE COURT: That's up to you.

8 Mr. Womack, any other materials?

9 MR. WOMACK: No, Your Honor.

10 THE COURT: All right.

11 All right. Ms. Ryan, has Mr. Womack reviewed the
12 presentence investigation report with you?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And are you satisfied with his
15 services in this case?

16 THE DEFENDANT: Absolutely.

17 THE COURT: All right. Just to start with the
18 factual summary of the offense and the defendant's
19 background in the PSR, any objections just to the factual
20 submission in the report?

21 I'll tell you what, you all can just -- you can
22 stay at counsel table and just speak into the microphone
23 from counsel table, okay?

24 MR. ROCHLIN: Your Honor, the United States has no
25 objections to the final version of the presentence report.

1 THE COURT: Okay. Mr. Womack?

2 MR. WOMACK: No objection, Your Honor.

3 THE COURT: All right. Ms. Ryan pled guilty to
4 one count of parading, demonstrating, or picketing in the
5 Capitol Building in violation of 40 USC 5104(e)(2)(G). That
6 statute authorizes the Court to impose a term of
7 imprisonment of up to six months and a fine up to a maximum
8 of \$5,000. The statute does not authorize a term of
9 supervised release.

10 Pursuant to the plea agreement, the defendant has
11 agreed to pay restitution in the amount of \$500 to the
12 Architect of the Capitol to help compensate for the damage
13 to the Capitol. The offense is a Class B misdemeanor so the
14 federal sentencing guidelines do not apply.

15 Any objections? Did I get that right, Counsel?

16 MR. ROCHLIN: You did, Your Honor.

17 THE COURT: Okay. Mr. Womack --

18 MR. WOMACK: Yes, Your Honor.

19 THE COURT: -- any objections?

20 All right. We've received a recommendation from
21 the probation office of a sentence of 24 months probation as
22 well as the \$500 restitution payment.

23 Would the government like to address the 3553(a)
24 factors?

25 MR. ROCHLIN: Yes, Your Honor. Thank you.

1 Your Honor, I will try not to replot what I said
2 in the government's sentencing memorandum. There are a few
3 things I will try to emphasize as briefly as I can.

4 The first is the unprecedented nature of what
5 happened on January 6th at the Capitol. While I don't
6 want to belabor it, I do think it is important to note that
7 the facts of this offense -- I am not aware of anything
8 remotely similar in any other jurisdiction or in the recent
9 history of the United States where an angry mob breached the
10 Capitol with the intent of disrupting or overturning the
11 certification of the 2020 Presidential Election. There were
12 multitudes of people on the Capitol grounds and who entered
13 the Capitol. Not all of them were alike, and that is
14 something that I am going to be focusing on as my remarks
15 continue.

16 I'm sure the Court has seen a lot about that day
17 so I won't belabor the specific details of what happened
18 where moment by moment, but regardless of how any individual
19 defendant has been charged, this was a serious event. It
20 was a violent event. It set in motion other events that
21 caused injury and loss of life and what many believe to be a
22 continuing injury to our democratic process, and I think
23 that is something that should be on one's mind when it comes
24 to evaluating the facts of this case.

25 The next thing I would like to emphasize, which is

1 touched on in the government's papers, is the fact that this
2 case is not about the First Amendment. This is not about
3 prosecuting people for any belief that any individual holds
4 regardless of what that belief may be or which side of the
5 political line it lands.

6 The First Amendment is not unrestricted. One can
7 famously not yell "fire" in a crowded theater when there is
8 no fire. One cannot use the First Amendment to make
9 threats, to conspire, to commit a crime, to cause others to
10 commit injury. There are -- or to defame, as this defendant
11 certainly recognizes having filed a defamation suit, which
12 she prevailed in. Words in many contexts have consequences,
13 and the First Amendment is not an exit ramp from
14 accountability.

15 The United States is not prosecuting every single
16 individual who has a particular political point of view
17 associated with the events on January 6th. We are
18 prosecuting people who broke the law based on evidence to
19 support that conclusion. And it is in that context that we
20 ask the Court to impose a sentence on this particular
21 defendant based on the evidence that addresses not just the
22 offense, but what she did leading up to the offense, during
23 the offense, following the offense as part of her particular
24 history and characteristics, because those actions are one
25 part of a larger picture showing the serious nature of the

1 offense.

2 So when the United States focuses on statements of
3 the defendant, we do not contest the defendant's right or
4 the right of any individual to make certain statements.

5 Part of what we are saying is that the remarks, the social
6 media posts, the recordings that the United States has
7 referenced in its memorandum provide a window into the mind
8 of the person who made those statements and signify part of
9 what the ongoing offense of January 6th was all about.

10 THE COURT: So the government has obviously
11 focused on many of Ms. Ryan's social media postings and
12 media interviews after January 6th. She's obviously free to
13 make all of those statements. The government argues that it
14 shows a lack of a true acceptance of responsibility and
15 remorse, and I guess my question is, what is the
16 relationship between those statements temporally and her
17 guilty plea?

18 She has now pled guilty and has accepted
19 responsibility, at least for the elements of that criminal
20 offense. How should the Court view her prior social media
21 and media statements now that she has pled guilty and
22 accepted responsibility for that offense?

23 MR. ROCHLIN: I apologize for the beeping, Your
24 Honor. That was my computer shutting down, and I think I'm
25 going to give up on the technical aspect of my presentation

1 for today.

2 Your Honor, I think the Court should take those
3 statements into consideration for a number of reasons.

4 First, because it is true, and the government has
5 acknowledged that, yes, the defendant has pled guilty, and
6 she has, in what the government would consider to be a
7 limited fashion, accepted responsibility for what she has
8 done.

9 As I read the proffer supporting her plea
10 agreement and the statements of the defendant that were made
11 to probation and in her most recent letter to the Court, she
12 is acknowledging responsibility for her physical presence
13 inside of the United States Capitol. What I don't see
14 acknowledgement of is the full context of the offense and
15 the rest of what she did; and so, therefore, the United
16 States feels it is appropriate to question the extent of
17 that acceptance, whether it is complete and whether -- I
18 think acceptance can be one thing, an admission of what one
19 has done and an acknowledgement of that fact. And remorse
20 for what one -- for the conduct one is accepting is perhaps
21 a related but separate issue. And the government, certain
22 protestations notwithstanding, does not see remorse.

23 So the statements that the government has
24 presented to the Court through its memorandum and through
25 the recordings themselves were made before the defendant's

1 plea of guilty. I cannot point the Court to a -- well, I
2 cannot point the Court to a particular recording that has
3 occurred after the guilty plea. I can point the Court to
4 the letter the defendant has written, which in many respects
5 the United States finds somewhat troubling and not fully
6 truthful. And I would suggest to the Court that one way to
7 view acceptance is, if you'll allow me a metaphor that is
8 somewhat trite, to view it as something of a bubble.
9 Untruths relating to the offense may be something that
10 bursts that bubble. So while there has been some acceptance
11 post-offense, when the defendant has been identified and
12 charged and is facing consequences, it can also be viewed in
13 that context.

14 THE COURT: What in her letter is untrue?

15 MR. ROCHLIN: Your Honor, the defendant insists,
16 for example, that she had no knowledge that there was
17 violence at the Capitol when she went there, and the United
18 States, or at least this prosecutor, simply cannot fathom
19 how that can be true given the evidence that the United
20 States has seen and discussed.

21 One of the reasons why we distinguish Ms. Ryan's
22 case from others is, first, because she went to the Capitol
23 not directly from the rally she attended not knowing what
24 was happening at the Capitol or would occur in the future
25 upon her arrival, but after she got back to her hotel room,

1 after she observed a news broadcast reporting that people
2 were, quote, climbing the walls at the Capitol. She
3 recorded herself in parts of that broadcast and knew and saw
4 that people were climbing up the western side of the
5 building at the what I assume is the lower west terrace,
6 since that's easier to climb up towards the area of the
7 scaffolding on that side of the Capitol. There is, in the
8 recording, very quickly, some visual about the interaction
9 between the climbers and the police, and no right-thinking
10 person at the very least, and giving the defendant every
11 benefit of the doubt, could think that this was a normal way
12 to enter the Capitol, a proper way to enter the Capitol, a
13 peaceful way to enter the Capitol.

14 The defendant had that knowledge; that in effect
15 there was a mob at the Capitol; that there was a riot at the
16 Capitol; that people were not supposed to be at the Capitol;
17 and that is reinforced by a message the defendant received
18 that the United States has also referenced where there was a
19 forwarded text from a commentator describing, in his words
20 that I'm slightly paraphrasing, every barrier to the Capitol
21 has been breached.

22 THE COURT: I saw that. One question. Who sent
23 her that Tweet? Did that come from one of her co-defendants
24 in this case?

25 MR. ROCHLIN: Your Honor, it came from a member in

1 the group that she traveled with, that she attended the
2 rally with, who has not been charged, and that is why the
3 United States has not identified that individual by name.

4 THE COURT: The group was larger than the two co-
5 defendants and the defendant?

6 MR. ROCHLIN: Yes, Your Honor. There were two
7 additional individuals.

8 THE COURT: Very well. And were they all staying
9 at the same hotel?

10 MR. ROCHLIN: Honestly, Your Honor, I don't have
11 direct knowledge if they were all staying at the same hotel.
12 I know the defendant and two others were. And my assumption
13 is they were all staying at the same hotel, but I truly do
14 not want to say that without having something concrete that
15 I can point to.

16 THE COURT: Very well.

17 MR. ROCHLIN: So from the perspective of the
18 United States, Ms. Ryan had an off ramp. She had good
19 reason not to go to the Capitol at all because there were
20 broadcasts of a riot, because while she was still in her
21 hotel room, based on the time stamp for the message, she
22 knew that police were overrun. I think any rational adult
23 person would conclude that if police are being overrun it's
24 because they don't want you going where you're running. She
25 went to the Capitol notwithstanding any of that.

1 She did arrive after a good part of the mob that
2 was engaging in the assault on the Capitol, and it is
3 entirely possible, when she approached the building from the
4 east side, that what she saw from her perspective on the
5 outside in that moment was not violent, was simply a group
6 of people in an area that she had every reason to know no
7 people were supposed to be.

8 THE COURT: All right. She passed a broken window
9 when she went in.

10 MR. ROCHLIN: She passed a broken window, Your
11 Honor. She passed through the sound of audible alarms. She
12 passed people streaming out of the building. And there is
13 at least one audible comment from somebody else referring to
14 pepper spray as people are streaming out and the defendant
15 is entering, and the defendant herself makes comment --
16 makes a comment as she enters and after she enters about
17 tear gas inside of the Capitol, and she's, from the sound of
18 it, concerned because she doesn't have goggles, and she
19 doesn't want to encounter the chemical irritants that the
20 police are deploying.

21 All of those things, Your Honor, again, I submit,
22 are clear indications that this is not someplace where it is
23 lawful or appropriate to be.

24 We also acknowledge that the defendant was not
25 inside the Capitol for a great length of time, although I'm

1 not sure in this context it's the best or strongest or most
2 accurate indicator of culpability because the reason that
3 the defendant herself gives for exiting when she did is,
4 again, because of the chemical irritants. It's not because
5 she's overcome with remorse about being in the Capitol.
6 It's not because she recognizes that it's wrong for her to
7 be there. She is uncomfortable there, and --

8 THE COURT: Well, she's indicated otherwise in
9 other contexts. She says she didn't feel comfortable.
10 She --

11 MR. ROCHLIN: She didn't feel comfortable because
12 of the crowd, which, again, is not a recognition of the
13 impropriety of her presence. It is not a recognition that
14 what she's doing is wrong. It is not a recognition or any
15 kind of acknowledgement that the police are trying to make
16 the people who were there go away. Most of her statements
17 in real time and even after the fact, in later Tweets and
18 other communications apart from the presence of the crowd,
19 reflect that the defendant left because of tear gas.

20 And when she left, Your Honor -- and this is
21 another distinguishing factor for the United States -- she
22 didn't go back to her hotel. She didn't go to some other
23 part of the city. She remained on the Capitol grounds, and
24 I would submit to the Court it is appropriate to consider
25 that conduct as well in evaluating the 3553(a) factors and

1 what sentence is appropriate in this case.

2 THE COURT: And I reviewed a number of videos
3 yesterday, including the destruction of some of the media's
4 property outside of the Capitol, and the defendant is
5 pictured in that scrum of people. That was after she
6 entered and left; am I correct?

7 MR. ROCHLIN: As best I can place things on the
8 timeline, Your Honor, yes, that is my understanding; that
9 this was after she had left the Capitol, and she and one of
10 her co-defendants encountered the crowd at what was an
11 outdoor media enclosure. And the Court has seen what
12 happened and the results.

13 THE COURT: Okay. And the GoPro video that you
14 submitted, that was for the purpose of establishing her
15 presence at that media enclosure; is that right?

16 MR. ROCHLIN: In the GoPro video, Your Honor,
17 that was for the purpose of establishing what happened
18 at the enclosure. Ms. Ryan's co-defendant does appear
19 briefly in that video at about five minutes and 30 seconds
20 in, give or take a few seconds, and the photograph shows
21 that Ms. Ryan was there observing as well, in a photograph
22 with her co-defendant, as somebody appears to be actively
23 taking it looks like a pole or a flag and jamming it into
24 equipment. So, yes, that is one of the events that occurred
25 after Ms. Ryan left the interior of the Capitol.

1 Other recordings that the United States feels it
2 can place after Ms. Ryan's exit from the Capitol include a
3 recording of a crowd that -- you know, notwithstanding the
4 fact that people have come out, there is a crowd that is
5 trying to go in. And Ms. Ryan is recording that, and she is
6 shouting, "We are pushing our way in." So even after her
7 own exit she seems to be encouraging, promoting, endorsing,
8 if you will, the effort of the crowd to push its way in, to
9 force its way in.

10 She, at one point, as she herself has explained to
11 the Court, is standing on the steps. She is preaching to
12 the crowd. The United States, by referring to this, does
13 not in any way mean to criticize Ms. Ryan for preaching to
14 the crowd that was assembled, but she allows herself to be
15 interrupted by someone who approaches her to report that a
16 window is being broken, and she should film it, which she
17 immediately proceeds to try and do.

18 She goes over to the window. She is shouting
19 slogans. She refers to the -- she refers to Senator Mitch
20 McConnell in a disparaging way. She approaches the window.
21 She films it. By the time she gets to this particular
22 window the people who have damaged it have already finished
23 that particular job, and I can't tell the Court with any
24 accuracy that they're even in the video, but it appears to
25 be the same window that the defendant photographs and Tweets

1 with a caption saying that they're coming for the news media
2 next.

3 THE COURT: You say in your memo that she joined
4 in the "Hang Mike Pence" chant. I looked for that in the
5 video and did not see it. Is that in the video, or no?

6 MR. ROCHLIN: My recollection is that it is in the
7 video, Your Honor, and my notes reflect that as well, and I
8 am -- I strive for accuracy, Your Honor. I am not going to
9 rule out the fact that I could have misinterpreted or
10 misheard. I think the video should speak for itself.

11 I do believe it is still potent evidence, the fact
12 that the defendant, who to this day says she has no
13 knowledge of violence, that she didn't witness any
14 violence -- which seems to be contradicted by the evidence
15 the government has presented -- is, again, present for a
16 chant where the crowd is shouting "Hang Mike Pence." That
17 has relevance even if the defendant did not join in with
18 that. But she joined in with plenty of other chants that
19 I'll refrain from repeating at this moment unless the Court
20 requests.

21 The other kind of stand-out video for the United
22 States is when the defendant acknowledges hearing -- I am
23 not assuming it's the same window as the one in the Tweet or
24 the one she was asked to film, but she announces that she
25 hears windows being broken. And this is at the same time or

1 in the same recording, at least, where knowledge that
2 somebody inside the Capitol, a woman, has been shot with
3 what the defendant refers to as a real bullet, and in that
4 recording you can hear members of the crowd in the
5 background referring to the fact that someone has been shot.
6 The defendant makes note of that in her self-recording, and
7 then she comments on the sound that windows are being
8 broken.

9 She says this is the start of a war, returning to
10 a theme that she has been presenting since approximately
11 7:00 a.m. that morning; that what is happening on January
12 6th, even before anybody has gone to the Capitol, even
13 before there's a mob at the Capitol, that this day is a
14 prelude to war, to paraphrase some of her phrasing. And she
15 comments as well in the aftermath of the reference to the
16 beginning of a war and the breaking of windows essentially
17 "What do you expect to happen?" and "The military isn't
18 going to come," and "Really, we could go in there."

19 And all of this is being not simply said in
20 apparent endorsement and approval of the events taking
21 place. These things are being recorded and broadcast. And
22 many of the recordings the United States has presented in
23 this case I can say with almost near certainty were
24 broadcast on social media because that's how the United
25 States found them. We recovered them from social media.

1 Other recordings were in her phone.

2 But the purpose was clearly to broadcast, to
3 disseminate. And I don't think this was meant to occur in
4 an objective way. I don't think this was meant to be
5 presented as criticism of what was happening. This is
6 someone who said we are going to storm the Capitol, and that
7 is why we came here. This is someone who was advocating to
8 stop the steal. This is someone who was encouraging others
9 to get on their planes. This is someone who said in one
10 recording it's not just about me, it's about all of you, and
11 it wouldn't be just me confronting tear gas, breaking
12 windows.

13 Again, I'm not quoting exactly word for word, but
14 that's the sense of what she says.

15 And this is someone who isn't your Average Joe,
16 Your Honor. This is someone with a significant social media
17 following. This is someone who can take a picture of a
18 broken window, and it will get, rounding upwards a little
19 bit, a quarter of a million likes.

20 So the United States, I would suggest, is
21 rightfully concerned not that this defendant engaged in
22 violence hands on, but that through approving it, through
23 broadcasting it, through, in effect, inciting it, there is a
24 risk in the future, if there are similar setbacks for her
25 political objectives or the objectives of those she joins,

1 that there could be additional violence at some other state
2 house or in this city or wherever some other mob decides it
3 is appropriate to react in that fashion.

4 This is something that concerns the United States,
5 especially when the defendant appears to be in a state of
6 denial about her own conduct and has said so frequently;
7 that she is a martyr; that she deserves a medal; that what
8 she did was noble; that what she did was an act of duty.

9 THE COURT: The Justice Department has the
10 difficult task of trying to distinguish between the hundreds
11 of defendants in these cases -- I think the latest count is
12 upwards of 700 -- both in its charging decisions and in its
13 sentencing recommendations. I know that it is not a
14 science, but give me a sense as to why the department has
15 come up with the recommendation it has made in this
16 particular case.

17 Why not probation? Why not three months? Why not
18 six months? Why the two-month recommendation, to the extent
19 that you can flesh that out?

20 MR. ROCHLIN: It is an art, Your Honor, but let me
21 try and give you a sense of some of the factors the United
22 States has considered in assessing this defendant.

23 First of all is the fact that in effect she was
24 drawn to the riot, unlike many others, all right. She can't
25 say that she walked from the rally directly to the Capitol

1 with a large group of people that became a mob and how could
2 anybody possibly know what would transpire? She saw what
3 was happening in a news broadcast, and she went to the riot.

4 Other defendants for whom in some cases the United
5 States has also recommended incarceration -- and in this
6 respect I would submit they are not as bad as the
7 defendant -- include the defendant in the *Griffith* case, the
8 *Mazzoco* case, and the *Gallagher* case. This defendant went
9 to the riot, and that is significant in the view of the
10 United States, Your Honor.

11 Other defendants -- this defendant argues that to
12 some extent she has engaged in an effort at cooperation. I
13 would point out to the Court, while we don't fault what
14 cooperation the defendant has provided, for example, by
15 turning over passwords for certain devices, the defendant
16 did not make those devices available, as is written in her
17 memorandum and as she acknowledges in the *Today* show
18 recording, and it's simply a fact. The United States
19 executed search warrants to obtain her computers and her
20 phone.

21 So I would suggest to the Court in that respect
22 this is not fully making devices available. This is the
23 United States went and, under lawful authority, procured
24 them, and so that is something that may distinguish this
25 defendant from others.

1 Other defendants have certainly cooperated more
2 fully. As one example on the cooperative side of the
3 spectrum that exceeds anything this defendant has done, I
4 can point the Court to the case of a defendant named Eliel
5 Rosa, Case No. 21-CR-68, who appeared -- whose case was
6 assigned to Judge McFadden, and approximately two days after
7 January 6th, two or three days, Your Honor -- he wasn't even
8 a suspect -- he self-reported to the FBI and turned himself
9 in. The level of cooperation here is certainly not at that
10 level, and I don't know that that weighs strongly in favor
11 of a lower sentence as opposed to a higher one.

12 THE COURT: And am I correct to conclude that
13 there is some coordination within the department to
14 distinguish between defendants, to make sure that there are
15 not undue disparities in the recommendations that the
16 government is making in all of these cases?

17 MR. ROCHLIN: Absolutely, Your Honor. There is a
18 very dedicated effort. I consider it to be thorough and
19 painstaking, if the Court will indulge me in expressing one
20 prosecutor's opinion, but there is certainly a process.
21 There are efforts to list and compare and contrast the
22 different cases in the process of arriving at a
23 recommendation.

24 There are other factors that make this defendant
25 stand out from various others, including defendants who, on

1 different timelines, immediately expressed remorse and
2 contrition and regret for what they had done. That is not
3 something that happened in this case, and in its papers the
4 United States has cited the comments of your colleagues on
5 the bench who have reviewed expressions of remorse with some
6 skepticism and have decided to attach less weight to such
7 expressions when they have been after the fact, so to speak;
8 after getting caught, after a plea of guilty, when
9 confronting sentencing, at a point in time when there is
10 self-interest in making such expressions of remorse as
11 opposed to -- even when genuine. I think the *Mazzoco* case
12 is one example of that, and I believe that's the one we
13 cited in our papers.

14 What the defendant said at the time of the ongoing
15 riot on January 6th is also striking to the United States
16 because, in the view of the government, this was -- this
17 defendant was an individual advocating violence, even if she
18 did not participate in such violence herself. She endorsed
19 it. She celebrated it. She promoted it. She broadcast it.
20 She broadcast it in such a way that no one could possibly
21 think, as she stands next to a broken window and says we're
22 coming for the news media next, that this was a disincentive
23 to act violently.

24 It was the opposite, and it was done by someone
25 who has every reason to know that words matter and have

1 consequences and every reason to think that she had
2 influence over others because that is what she did. That is
3 what she intended to have over various social platforms.
4 She wanted people to follow her.

5 And I know she disputes that she wasn't asking
6 people to follow her in the sense of urging them to
7 violence, but the government treats many of her remarks with
8 skepticism partly because they appear to have changed over
9 time. This is someone who said she didn't go into the
10 Capitol at all, and then she was at the door frame, and then
11 she was in there for two minutes, which happens to be the
12 truth, the last part.

13 But these are not signs of credibility, Your
14 Honor. This is a defendant who began that morning by
15 speaking of a prelude to war, who indicated that she would
16 be willing to essentially lay down her life to enter the
17 United States Capitol on January 6th because it was that
18 important to her.

19 And when pressed on that point, because the
20 logical assumption is if one is laying down one's life one
21 expects to encounter violence, in an interview the defendant
22 explains that she didn't mean she would be fighting. She
23 was referring to essentially that if somebody shot her it
24 would be worth it. Again, I'm paraphrasing somewhat, but I
25 think that's a fair rendition of the import of her

1 statement.

2 And then now, in her letter, she claims the war
3 she was talking about was an information war, and no
4 violence was intended. And I think that evolution sends a
5 clear signal that there is a lack of credibility in these
6 explanations, which are situational and designed to deflect
7 the true intent that happened in the moment of the events of
8 January 6th because, Your Honor, one doesn't lay down one's
9 life when conducting an information war, and people
10 generally, as this defendant expressed, don't, quote, freak
11 out because they are about to go to war, which was in one of
12 the video clips that the government presented.

13 THE COURT: Okay.

14 MR. ROCHLIN: So given this broadcasting, given
15 this advocacy for violence, the United States puts the
16 defendant in a separate category.

17 Another factor, if the Court will bear with me,
18 that distinguishes this defendant is what the government
19 views as her dishonesty. Again, coming back to the claim
20 that she did not know that a riot was taking place, which
21 was said to probation, which was repeated even more strongly
22 in her letter, that she didn't witness any violence, I think
23 the evidence shows pretty clearly that she did. She heard
24 windows breaking. She was told someone was destroying a
25 window and went to film it. She seemed to think that she

1 was in a situation where the military could come but wasn't
2 going to on this particular day. She saw what happened at
3 the media enclosure. Yet she emphasizes to probation,
4 literally to this Court, that she did not know of any
5 violence, and her letter states she did not witness or
6 observe or participate in violence.

7 Well, the United States will grant she didn't
8 commit violence hands on, but in some sense, as an observer
9 and an encourager, she did participate, and she certainly
10 witnessed and observed and then transmitted the violence of
11 that day.

12 All of these factors, coupled with a lack of
13 remorse, coupled with some concern that the defendant may
14 seek to do this again, make the United States conclude that
15 its sentencing recommendation is appropriate.

16 And, again, in anticipation of First Amendment
17 arguments, Your Honor, the defendant cannot use the First
18 Amendment to incite. The defendant cannot use the First
19 Amendment to further unlawful conduct, and it is not
20 something that strips one of accountability for one's own
21 actions.

22 THE COURT: Great. Thank you.

23 Mr. Womack.

24 MR. WOMACK: Thank you, Your Honor.

25 Your Honor, I agree with what the government said.

1 This case is not about the First Amendment. And the
2 government said that in the very first comment, and then for
3 43 minutes all they talked about was the First Amendment.

4 THE COURT: Well, Counsel, you have spent a lot of
5 time in your memo, and the defendant has in her letter,
6 talking about the First Amendment.

7 MR. WOMACK: Absolutely, Your Honor. We're trying
8 to defend it, and I'm doing that again today.

9 Your Honor asked the government during their
10 speech, if you will, was anything that Ms. Ryan said not
11 protected by the First Amendment, and they conceded, yes, of
12 course it was protected.

13 She's not here for inciting violence; she didn't
14 do that. She's not here for encouraging people to commit
15 violence or destruction; she didn't do that. Her acts,
16 which is what she's charged with and what she pled guilty
17 to, are that on January 6th of this year she and some
18 friends of hers had flown out here from Dallas, Texas, on a
19 private jet to go to a party, a celebration of American
20 freedom.

21 She went to the rally by President Trump the
22 morning of January 6th. She was full of patriotic vim and
23 vigor and fervor, but she went back to her hotel. No
24 intentions of going to the Capitol. You know, that wasn't
25 part of the plan. But once back at the hotel her friends

1 were watching TV. She wanted to go take a nap, and they
2 said, "Hey, people are in the Capitol. Why don't we go down
3 there."

4 She didn't see any violence. There wasn't any
5 violence that she would have known of, and so they went back
6 to the Capitol --

7 THE COURT: She didn't get the text with the folks
8 scaling the walls of the Capitol or watch the --

9 MR. WOMACK: I don't consider that violent. It's
10 stupid. It's dangerous. You can fall and hurt yourself. I
11 think it would be wrong to be climbing up there even --

12 THE COURT: You don't think that act would elicit
13 violence on behalf of -- by the police who were trying to
14 defend the Capitol?

15 MR. WOMACK: Well, I haven't seen pictures of the
16 police doing anything other than standing there, but if they
17 were fighting police, that's illegal. If they were hitting
18 police, yelling at police, I think that's wrong.

19 Climbing the Capitol, I think it's stupid, but I
20 wouldn't say it was violent, if they're just climbing the
21 Capitol.

22 But it doesn't matter how I interpret it. The
23 fact is she didn't do that.

24 THE COURT: Was it peaceful? Would you
25 characterize that as peaceful protest?

1 MR. WOMACK: I wouldn't, Your Honor. I think it's
2 stupid, and a lot of things they did were stupid.

3 But she didn't participate in any of that. If she
4 saw people climbing up the Capitol, I mean, that was silly.

5 But she went back down there with her friends.

6 She did not push aside barriers. She didn't push police out
7 of the way. She walked into the Capitol with a crowd. She
8 stood -- and the video shows this. The government can see
9 this. She was in the Capitol for about two minutes, and she
10 was never as far away from the door as I am to the bench.

11 She was within eight or ten feet at all times at most.

12 Police officers were sitting nearby. She greeted
13 them. They said hello. No one said, "Don't come in here,
14 darling. Get out of here." Nothing like that.

15 She was standing among the crowd. She walked out.
16 She did not see a broken window going in, but she did see
17 the broken window when she came back out.

18 Remember, she probably came out a different side
19 of the crowd. The crowd was going in on the right. It was,
20 I guess, coming out on the left. When she came back out,
21 you know, she saw the window. She took a picture standing
22 in front of it, and she made comments afterwards about what
23 a great time it was. She was glad she went.

24 Again, in her mind, she was -- this was the kind
25 of experience that she'd had in Texas at a demonstration;

1 the only demonstration she'd ever been to before this. They
2 were protesting something there in Texas, and she and a
3 group walked around the Texas Capitol -- a copy of the
4 nation's Capitol, by the way -- and she walked around that.
5 And there was no destruction, no violence. No one was
6 arrested. It was a completely peaceful demonstration.
7 That's the only demonstration she'd ever been to in her
8 life. It was a good experience.

9 So she came up here on this private jet. She
10 walked in with her friends. She stood in the Capitol for
11 two minutes. She doesn't know what pepper spray smells like
12 or tear gas, but she said it stunk inside the building.

13 THE COURT: Isn't it fair to assume that she left
14 because that tear gas hit her, not because she had second
15 thoughts?

16 MR. WOMACK: No, Your Honor, it's not.

17 THE COURT: Why not?

18 MR. WOMACK: She wasn't hit by -- there is no
19 evidence at all, no suggestion in photographs, that her eyes
20 were watering.

21 I don't know if Your Honor has a military
22 background or not. I'm a retired lieutenant colonel of the
23 Marines. I've been in tear gas chambers half a dozen times.

24 THE COURT: Well, I meant that metaphorically.
25 She clearly experienced the tear gas. She said, "I don't

1 have goggles." She didn't like it. Is that why she left,
2 or did she leave for another reason?

3 MR. WOMACK: She left because -- she says it in
4 the video. "I have nothing to do here."

5 THE COURT: Okay.

6 MR. WOMACK: She had no business being in there so
7 she left, and if she had been close enough to tear gas or --
8 I don't know about pepper spray. If she'd been near tear
9 gas, all of the fluid in her eyes and nose would be running.
10 She'd be a mess. Make-up would be washed off. It would be
11 a complete mess. Physically you would see it. So she
12 wasn't close enough to anything like that. But she left.

13 And, again, she left. She didn't go further in.
14 She didn't go try to find what was going on. She said, "I
15 have no business being here." She walked out.

16 She took a picture of the broken window that had
17 already been broken apparently. She didn't see it broken.
18 Nothing illegal about that. We've probably taken pictures
19 of car wrecks or fires or other things that have happened.
20 She did nothing more than that.

21 The comment, which is what the government is
22 trying to punish her for, is that she was boasting about
23 this. She is a social butterfly. You know, she goes on the
24 Internet and posts things, and she's saying, "Oh, it was a
25 great day. I'm glad I was there." And she was there.

1 And I think she ended up getting an attorney like
2 immediately after she was encountered by the FBI, not me,
3 and the attorney was saying, "Hey, you know, you should go
4 to the press and say President Trump told you to do this,"
5 but that was a lie. But she did agree to some interview and
6 said the things that she said in the interview. That was
7 within days or a week or so of when the event happened.

8 In February, after she had encountered the FBI,
9 she hired me, and of course I said, "Knock off all that
10 stuff. We don't need that. I don't want Your Honor hearing
11 that kind of stuff." She's done nothing like that since
12 then.

13 Let's go over what happened that day. She goes
14 back --

15 THE COURT: Let's focus on the statements. We
16 both know what they are. You've made the point in your memo
17 that, you know, they're protected speech. I agree with
18 that.

19 MR. WOMACK: And it is.

20 THE COURT: She's perfectly entitled to have said
21 what she said, but you would agree that I can still consider
22 those statements for purposes of sentencing when I think
23 about, you know, deterrence and acceptance of responsibility
24 and true remorse and respect for the law. Those are all
25 legitimate purposes of sentencing, correct?

1 MR. WOMACK: I would agree. I would agree.

2 THE COURT: Okay. So you're not saying I
3 shouldn't consider them. You're just saying that she was
4 entitled to make them, right?

5 MR. WOMACK: Exactly.

6 THE COURT: All right.

7 MR. WOMACK: And Your Honor can also consider
8 the fact that since -- well, beginning immediately when she
9 was -- when the FBI came to see her, she gave them her cell
10 phone. They didn't have to show her a warrant. She gave it
11 to them. She gave them the password that protects her cell
12 phone. She gave them her computer, laptop, also other
13 equipment, which the government has I think it was two weeks
14 ago returned to her finally.

15 But she gave them that. She gave them the
16 passwords. She gave up all of that stuff so they could look
17 at it. She told them what website she uses or what, you
18 know, podcasts and blogs she participates in or watches,
19 what news programs she watches. She told them all about
20 that.

21 Very importantly, when she first hired me, I was
22 not then admitted to the District of Columbia. I belong to
23 20 other federal districts, but not this one. So I
24 submitted my application, and it took weeks and weeks to
25 finally get admitted. I think it was March 3rd or something

1 before I was admitted to this Honorable Court. But during
2 those two or three weeks I was applying for admission, I was
3 busy talking to Frances Blake.

4 Frances Blake is an Assistant U.S. Attorney for
5 the Southern District of Texas in the McAllen Division. She
6 was the originally prosecutor on the case. Ms. Rochlin
7 joined the case almost a month ago, October 5th, according
8 to her appearance.

9 From the very first conversation with Frances
10 Blake Ms. Ryan was offering to plead guilty. She felt
11 terrible about what she had done. She realizes this wasn't
12 just something fun or something that was celebrating
13 President Trump. This was wrong, to go into the Capitol,
14 even to demonstrate by standing there for two minutes.

15 And so she was wanting to plead guilty, and I
16 related that to the government. I said, "She's also willing
17 to come in and make a proffer. She'll tell you what
18 everybody else did that she knows. There's only a handful
19 of people there that she knew, but she'll tell you all of
20 that."

21 The government didn't take part of that. They
22 said, "Well, we'll wait until we develop the case and get
23 you some more evidence to look at, more discovery." But
24 from literally I think it was 18 February of this year
25 Ms. Ryan was attempting to plead guilty in this case and was

1 telling the government that.

2 Ms. Blake said, "Well, I can't make the decision.

3 This is coming out of Washington." And she started
4 contacting her superiors, whoever that is, and the date that
5 she -- that Ms. Ryan pled guilty, and I forget what it is
6 now, that was the very first date available after they gave
7 her a plea agreement.

8 As soon as they finally came up with a plea
9 agreement that we'd been talking about for months, we
10 contacted the Court. We tried to schedule the plea for
11 immediately, and they did it August, I guess. I forget when
12 it was. But that was the first available date that we could
13 get after she got a plea agreement. But she was asking for
14 that plea agreement back in February before I was even
15 admitted to the District.

16 As late as two weeks ago or one week ago I talked
17 to Ms. Rochlin. She had called me, graciously, and told me
18 she was filing her memorandum. I was at a restaurant
19 somewhere on another case, and I told her that the offer
20 still stands. Ms. Ryan has always offered to meet with the
21 government and talk to them, and no one's taken advantage of
22 that, but it exists today. She's always been willing to do
23 that. And Ms. Rochlin said, "Well, we're not sure if we
24 want to talk to her," and they had valid reasons. They may
25 or may not want to. I'm a former AUSA. I understand her

1 position.

2 THE COURT: So, Counsel, the point is that her
3 decision to plead guilty was earlier than might be inferred
4 from just the docket given the timing?

5 MR. WOMACK: It was in February. Yes, Your Honor.

6 THE COURT: And after she decided to plead guilty
7 in February, did she then go on all those news shows?

8 MR. WOMACK: I'm sorry, what?

9 THE COURT: After she decided to plead guilty in
10 February, did she then go on all those news shows and send
11 out all these Tweets, or those were all before that?

12 MR. WOMACK: They were before that, Your Honor.
13 And she's been nothing but remorseful because she realizes
14 what she thought was protected, to the extent that she was
15 involved, really was wrong, and she should have known that
16 then.

17 And she came in here and said, "Yes, I did
18 demonstrate inside the Capitol by being in there," and she
19 chanted, you know, "USA, USA." She is on video making a
20 biblical quote invoking Jesus's name. She wasn't saying,
21 "Let's burn this" -- "Let's break the place down." She was
22 not part of any insurrection or anything violent, and
23 watching something happen as -- keep in mind when she left
24 the Capitol she saw the broken window.

25 She now had gotten separated from her friends that

1 had flown out here, the party group on that plane, so she
2 left the Capitol premises and walked across to the grass. I
3 call that still on the Capitol grounds, but she's across all
4 the concrete in the grass sitting on a bench. And she sat
5 there for a while waiting for her friends to come back out
6 from whatever they were doing, and they were leaving.

7 And the only, if you'll call it an act of
8 violence -- I would. She saw one of the friends apparently
9 hit at a camera, a tripod or something. She had nothing to
10 do with that. She was not in a position to stop it. She
11 didn't know it was going to happen. It was spontaneous.
12 She saw it at most, did nothing to encourage that. And she
13 would agree that it's illegal to do that. She didn't do
14 that.

15 So her acts, as was pointed out by the probation
16 officer -- not the one we have here in court. The probation
17 officer who wrote the PSR said that Ms. Ryan is among the
18 least culpable, the minimum, of all the defendants in this
19 case. And literally her act for which she committed -- she
20 walked into the Capitol unimpeded, stood for two minutes and
21 eight seconds, I think the government says, and walked out.
22 No damage. No destruction. No violence.

23 And the fact that, you know -- again, she was on
24 social media after that in those ensuing days and said,
25 "Yes, I was part of this great thing." Her acts since then

1 show her remorse. Giving everything to the government
2 without having to have a warrant, giving them passwords that
3 they never would have gotten with a warrant. Let's face it;
4 they wouldn't have gotten it legally. She gave it to them.
5 And she's offered repeatedly, even to this prosecutor, to
6 come in and do a proffer, if they want it. And they haven't
7 accepted it, but they could have. It's been offered, and no
8 one will deny that. And so I think we should look at what
9 she actually did.

10 Probation did consider the 3553 factors and said
11 that there was no reason -- Ms. Ryan doesn't need to be
12 rehabilitated. There was no reason for incarceration in
13 this case. This is a case that probation themselves
14 recommend probation.

15 We agree with that. We think that would be an
16 adequate punishment.

17 THE COURT: Okay.

18 MR. WOMACK: Ms. Blake had offered that as well, I
19 mean, to be unopposed to that, but it was not in writing. I
20 told her, "Look, I understand. I'm a former AUSA. You
21 can't say that."

22 She said, "Washington will tell me what to ask
23 for. But yes, for what she did, I don't mind probation."

24 And that doesn't mean anything except I know
25 that's how she felt, and she had the case for all these

1 months until October 5th.

2 THE COURT: Okay. Anything else?

3 MR. WOMACK: Nothing else, Your Honor.

4 THE COURT: Okay. Thank you, sir.

5 Ms. Rochlin, Mr. Womack mentioned the prior
6 negotiations with the Justice Department and the timing of
7 her plea. Do you want to address that?

8 MR. ROCHLIN: Your Honor, I'm not going to dispute
9 that negotiations may have started sometime before her plea
10 colloquy actually occurred and the plea was accepted by the
11 Court. I'll give counsel that point. I will note sometimes
12 the federal government does move slowly.

13 With respect to his negotiations with Ms. Blake,
14 who is now in private practice, I want to assure the Court
15 that before she left the Department of Justice we spoke
16 several times, and she and I did discuss what would be an
17 appropriate sentence in this case, as I had those
18 discussions with other supervisors, and I was not a witness
19 to conversations with counsel, but based on my
20 conversations, there is no disunity within the United States
21 about what this defendant should receive as a result of the
22 offense that she committed.

23 And I would point out -- and I would ask the Court
24 to indulge me just a little bit on the comment that this
25 defendant is among the least culpable. It's true she was in

1 the Capitol for the two minutes, but that's not the shortest
2 amount of time of any defendant who has been charged for
3 spending time inside of the Capitol.

4 I would also point out that when I looked at other
5 defendants who have been charged --

6 THE COURT: Counsel, I think we covered the
7 landscape in terms of the offense so we don't need to
8 replow.

9 MR. ROCHLIN: Very well, Your Honor. I won't beat
10 a dead horse then, but there are reasons to distinguish this
11 defendant, and I thank the Court for its consideration.

12 THE COURT: Very well.

13 Ms. Ryan, anything you want to tell me before I
14 impose your sentence? Why don't you both come to the
15 microphone.

16 THE DEFENDANT: I just want to say that I'm very
17 sorry. I mean, there's really not words to describe. I was
18 foolish, and I made a mistake, and I learned from that
19 mistake, more like a thousand lessons, and I was just -- I
20 made a mistake, and I'm sorry, and you will never see me in
21 this light again. I promise. And it's just not anything
22 that remotely resembles who I am, and I'm sorry.

23 THE COURT: All right. I am not the kind of judge
24 that lectures defendants, and certainly not grown women like
25 yourself, but I do try to, in all cases, explain the reasons

1 why I have come to the sentence that I have, and I will do
2 so in this case and, in the course of doing that, try to
3 address as many of the arguments that Mr. Womack has made
4 and the points that the government has made in its memo.

5 And the starting point is what we call the nature
6 and seriousness of the offense. It's what you did, right?
7 And there is a tendency in these January 6th cases, to lump
8 everybody together. Those people. Those rioters. These
9 people. On both sides of the aisle.

10 But, you know, there are over 700 of these
11 defendants now, and each one of them is different. Each
12 defendant's role is different, and your particular
13 involvement has been discussed at length in the memos and
14 here in court today, and it is true that you played a lesser
15 role in the criminal conduct that took place than many
16 others did. You were not an organizer. You were not a
17 planner. You did not break any windows or knock down any
18 doors or hurt anybody or steal anything, nor did you bring
19 any guns or knives. And we see folks all over the map who
20 have done all of those things.

21 And you didn't make your way onto the Senate floor
22 like many others did. And as your counsel has emphasized,
23 you were only in the building for about two minutes.

24 I think there's a dispute as to why you left. I
25 think it is fair to assume that you may have left not

1 because you had second thoughts but because you didn't want
2 to experience the tear gas that you obviously noticed when
3 you hit the building.

4 But in any event, all those factors explain why
5 you are here on a single misdemeanor count rather than the
6 felony offenses that many others are facing, but that does
7 not mean that you don't have any culpability in what
8 happened that day.

9 Obviously you pled guilty to the count that you
10 did, but beyond that, I think the government is correct by
11 emphasizing that you knowingly took part in something that
12 was much more serious. And I don't doubt that, you know,
13 you probably didn't appreciate the full seriousness of what
14 was going on that day, but it was much more dangerous than
15 just your stepping foot into the Capitol for two minutes.

16 You joined a large group of people who were intent
17 on, in your own words beforehand, storming the Capitol in
18 order to prevent the Senate and the Vice President from
19 performing their constitutional duty to certify the election
20 results. And when you chose to leave your hotel room and
21 march down to the Capitol, I think it's clear that you knew
22 that this was no ordinary peaceful protest. You knew that
23 because you were watching Fox News in real time in your
24 hotel room and commented that they're climbing the walls of
25 the Capitol. You knew it at 12:28 when you got a Tweet

1 saying, quote, Trump supporters are now actively destroying
2 and trying to occupy the Capitol. You claim you don't
3 remember reading that Tweet, but the metadata presented by
4 the government indicates that it was read. You knew it when
5 you walked out of your hotel room and said we're going to
6 war, and we're going to be breaking windows.

7 THE DEFENDANT: I did not say that.

8 THE COURT: Now that may be hyperbolic --

9 THE DEFENDANT: I didn't say that.

10 THE COURT: -- but it's on the video. And you
11 knew it when you got to the Capitol when the riot was still
12 going on. You passed by a broken window. You heard the
13 alarms going off, and you smelled tear gas; so I don't think
14 you could have missed the fact that this was no peaceful
15 protest and that there was violence going on around you.

16 Now, I know you didn't participate in it --

17 THE DEFENDANT: Right.

18 THE COURT: -- but you did celebrate it, and you
19 were a cheerleader. You cheered it on. You posted a Tweet
20 next to the broken window after you left and saying, you
21 know, to the media, "We're coming after you next." And you
22 stood by and Tweeted while folks destroyed the media
23 equipment and the encampment after you left. All right?

24 You didn't have to be there. You could have gone
25 home.

1 THE DEFENDANT: It was already done.

2 THE COURT: You could have gone home.

3 THE DEFENDANT: Yes.

4 THE COURT: Once that tear gas hit you and you
5 realized what was going on and this was not the place to be,
6 you could have gone home; but you didn't, okay?

7 And in any case, even if your own conduct was
8 peaceful, as a number of my colleagues have noted, you still
9 bear at least some degree of responsibility for the tragedy
10 of that day.

11 I believe you. You didn't see any police. You
12 walked right by a police officer. He didn't try to stop
13 you. He didn't say, "Don't go in." I get that.

14 But one reason for that is because they were
15 outnumbered. They were overwhelmed, all right? And it was
16 the presence of the group. There is strength in numbers.
17 It was the presence of the mob that caused law enforcement
18 to be overwhelmed and not to be in a position to stop people
19 from going in. And that makes every person who decided to
20 go in that day -- even if it was somewhat after the fact
21 like you. You weren't the first person in. I get that.
22 But your very presence, your very numbers, mean that you
23 have at least some responsibility for what happened that
24 day.

25 Let me make clear, we've talked about the First

1 Amendment. I will reiterate what the government has said.
2 No one is being prosecuted for coming to Washington, D.C.,
3 that day. No one is being prosecuted for the belief that
4 the election was stolen. If you had the good sense not to
5 leave your hotel room or even to go down there and to stop
6 one foot before you went in, you wouldn't be here today,
7 okay? The only reason that you are here is because you
8 decided to join in and to go into the building.

9 And not to belabor the point, but I think it's an
10 important one. We get protesters all the time in
11 Washington, D.C. I see them from my window virtually every
12 week. Sometimes I don't even know what they're protesting.
13 And that's great. That's part of our democracy. We
14 encourage it.

15 But when folks get unruly, when they break stuff,
16 when they hurt people, the police make arrests, and
17 sometimes those people get charged.

18 A few years ago the U.S. Attorney's Office here in
19 D.C. charged five protesters with disrupting a Supreme Court
20 argument. They didn't like the Supreme Court's decision in
21 *Citizens United*. Do you know what *Citizens United* is?

22 THE DEFENDANT: (No verbal response)

23 THE COURT: It's a Supreme Court decision that
24 permitted or said that corporations and other organizations
25 have a First Amendment right to contribute unlimited sums of

1 money in support of political candidates, okay? And a lot
2 of people didn't like that.

3 THE DEFENDANT: Okay.

4 THE COURT: And most of those folks were on the
5 left. And five folks came, and they stood up and disrupted
6 a Supreme Court argument. Like you, they didn't hurt
7 anybody. They didn't break anything. But they were charged
8 with federal misdemeanors, just like you, all right?

9 So you're not being singled out for your political
10 views or anything like that. And I told them the exact same
11 thing. It's not about the political views that you
12 expressed, but it's how and where you decided to express
13 them. Okay?

14 The next thing I have to consider is you, all
15 right, your particular characteristics. I've read all of
16 the materials. You were dealt some bad cards as a kid, and
17 I don't feel the need -- and in your adult life as well, and
18 I feel no need to go into that on the record. But
19 especially given where you started from, you've obviously
20 had to work very hard, and you've had to hustle for the
21 professional success that you have achieved, both in your
22 real estate business and in your various social media
23 ventures.

24 THE DEFENDANT: Yes.

25 THE COURT: And you should be proud of that, and

1 you can take credit for that.

2 On the other side of the coin, your statements and
3 your media appearances after January 6th, I think,
4 demonstrate a certain lack of accountability for your
5 actions, okay? You've played down your role in the events.
6 You've been very up front that you feel no sense of shame or
7 guilt. You've blamed the FBI. You've called this a witch
8 hunt. You've suggested that Antifa was somehow involved
9 despite no evidence whatsoever of that, and perhaps most
10 famously, in words that I'm sure that you regret, you
11 predicted that you wouldn't go to jail because you have
12 blonde hair and white skin.

13 THE DEFENDANT: I was taking up for myself.

14 Someone -- I was being attacked, and I was answering them,
15 and they were saying you're a blonde insurrectionist. So I
16 was taking up for myself. I didn't just Tweet that as a --
17 but of course that was -- I shouldn't have -- I just
18 shouldn't Tweet.

19 I mean, I was really taking up for myself, and I
20 didn't do a great job at that.

21 THE COURT: Okay. And, again, you're free to say
22 all of those things.

23 THE DEFENDANT: Well --

24 THE COURT: But by making those appearances and
25 going on social media, you know, the folks who respond have

1 a First Amendment right to respond even if they do so in
2 completely inappropriate --

3 THE DEFENDANT: They were doing it already.

4 THE COURT: -- ways, okay? But you put yourself
5 out there, all right, and they responded. And if they
6 responded by vandalizing your real estate signs or doxing
7 you or, you know, threatening you, then that is not
8 protected by the First Amendment. But certainly their
9 Tweets are, and, you know, you get yourself into that briar
10 patch, and you've got to live with it, right?

11 THE DEFENDANT: Yes.

12 THE COURT: And as Mr. Womack acknowledged, you
13 know, while you have a right to go on ABC News and say all
14 those things and Tweet, you know, I can't disregard that. I
15 can assess whether you've shown genuine remorse, whether
16 you've truly accepted responsibility beyond just signing
17 that plea document --

18 THE DEFENDANT: Right.

19 THE COURT: -- and whether you have shown, you
20 know, respect for the law and respect for this Court; and
21 it's not about me personally, but about respect for the
22 process. And your actions since January 6th, you know,
23 makes me doubt some of those things.

24 But that brings me to the need for general
25 deterrence, right? And you noted somewhere I read that for

1 better or for worse you've become one of the faces of the
2 January 6th incident, right? Now, I think you may have --
3 you know, that may be part of your responsibility, by being
4 so public in your statements about it, but for whatever the
5 reason your case has generated a fair amount of public
6 interest, and as a result, people will be interested to know
7 what sentence you get, and that sentence will tell them
8 something about how the courts and about how our country
9 responded to what happened on January 6th. And I think that
10 the sentence should tell them that we take it seriously;
11 that it was an assault on our democracy; that it cost the
12 lives of five people; that it had lasting and potentially
13 dangerous effects on our government institutions; and that
14 it should never happen again.

15 That does not mean that everyone who participated
16 should be charged with a felony. That does not mean that,
17 you know, misdemeanant defendants should not get probation
18 in appropriate cases, and I suspect that many of them will,
19 and many of them have thus far.

20 The Justice Department has a very difficult role
21 of balancing all of the competing factors, including the
22 need to just physically process the 700 and growing number
23 of defendants that have been charged thus far. And they
24 have to do that while at the same time reaching
25 individualized charging decisions and sentencing

1 recommendations.

2 Folks are going to second-guess those decisions
3 from both sides. That's only natural. But in this case, at
4 least, I believe that the Department has exercised that
5 responsibility appropriately and has struck the right
6 balance in the sentencing recommendation that it has
7 provided me.

8 So with that, pursuant to the Sentencing Reform
9 Act of 1984 and in consideration of the provisions of 18 USC
10 Section 3553 as well as the advisory sentencing guidelines
11 or at least the factors set forth, it is the judgment of the
12 Court, that you, Jennifer Leigh Ryan, are hereby committed
13 to the custody of the Bureau of Prisons for a term of 60
14 days imprisonment on Count 4. In addition, you are ordered
15 to pay a special assessment of \$10 in accordance with 18 USC
16 3013. The Court will also impose a fine of \$1,000 to be
17 payable within 90 days. You are also ordered to make
18 restitution in the amount of \$500 to the Architect of the
19 Capitol. The Court waives any interest or penalties that
20 may accrue on that balance.

21 Fine and restitution payments shall be made to the
22 Clerk of the Court for the United States District Court for
23 the District of Columbia for disbursements to the following
24 victim: The Architect of the Capitol. And the address will
25 be in the judgment and committal order.

1 Financial obligations are immediately payable to
2 the Clerk of the Court of the United States District Court.
3 Within 30 days of any change of address you shall notify the
4 Clerk of the Court of the change until such time as the
5 financial obligation is paid in full.

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

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

19 The Court will direct -- no issue with self-
20 reporting, Ms. Rochlin?

21 MR. ROCHLIN: No, Your Honor.

22 THE COURT: Okay. The Court will order the
23 defendant to report on a date after January 3rd.

24 Any other objections to the sentence?

25 MR. ROCHLIN: Not from the United States, Your

1 Honor.

2 THE COURT: Mr. Womack?

3 MR. WOMACK: No, Your Honor.

4 THE COURT: Okay. Placement recommendation?

5 Recommend someplace near the Northern District of Texas?

6 MR. WOMACK: Yes, Your Honor. The only facility I
7 believe is in Bryan, Texas, in the southern district. It's
8 not too far from Dallas.

9 THE COURT: Ms. Ryan, we will recommend a
10 placement near your home in Dallas. The Court's
11 recommendation is not binding. The Bureau of Prisons will
12 determine where you will be placed, and you should await
13 further instructions from them, all right?

14 There is no probation or supervised release in
15 this case so I will not see you again.

16 THE DEFENDANT: Okay.

17 THE COURT: Unless you decide to come back to D.C.
18 for some reason.

19 THE DEFENDANT: Never.

20 THE COURT: I know that in your letter you said
21 that you plan to stay away from politics and stick to, as
22 you say, make-up and macaroni and cheese.

23 THE DEFENDANT: Yes. I think that's a good idea.

24 THE COURT: That might be a wise idea, although
25 I -- you know, I encourage everyone to remain, you know,

1 active in political life. I would simply suggest -- and you
2 don't have to take my suggestion -- that if you do so
3 perhaps be a little more discriminating and far-ranging in
4 your selection of news and information sources, okay?

5 THE DEFENDANT: Okay.

6 THE COURT: All right. Good luck to you, ma'am.

7 THE DEFENDANT: Thank you.

8 THE COURTRoom DEPUTY: Your Honor, the remaining
9 charges --

10 THE COURT: The government should dismiss the
11 other charges in the information.

12 MR. ROCHLIN: Yes, Your Honor. Forgive me for
13 being a little slow on the uptake, but the United States so
14 moves.

15 THE COURT: All right. So ordered.

16 Anything else, Counsel?

17 MR. WOMACK: No, Your Honor.

18 THE COURT: Okay. Good luck, Ms. Ryan.

19 THE DEFENDANT: Thank you.

20 (Whereupon the hearing was
21 concluded at 11:22 a.m.)

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1 **CERTIFICATE OF OFFICIAL COURT REPORTER**

2
3 I, LISA A. MOREIRA, RDR, CRR, do hereby
4 certify that the above and foregoing constitutes a true and
5 accurate transcript of my stenographic notes and is a full,
6 true and complete transcript of the proceedings to the best
7 of my ability.

8 Dated this 10th day of November, 2021.

9
10 /s/Lisa A. Moreira, RDR, CRR
11 Official Court Reporter
12 United States Courthouse
13 Room 6718
14 333 Constitution Avenue, NW
15 Washington, DC 20001

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