

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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1		)	
2		)	
3	UNITED STATES OF AMERICA,	)	Criminal Action
4		)	No. 21-00361
5	Plaintiff,	)	
6		)	
7	vs.	)	
8		)	
9	MICHAEL TIMBROOK,	)	Washington, D.C.
10		)	May 20, 2022
11	Defendant.	)	9:07 a.m.
12		)	
13	* * * * *	)	

TRANSCRIPT OF SENTENCING HEARING  
BEFORE THE HONORABLE TREVOR N. McFADDEN,  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: BENJAMIN E. KRINGER, ESQ.  
UNITED STATES ATTORNEY'S OFFICE  
FOR THE DISTRICT OF COLUMBIA  
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FOR THE DEFENDANT: MARIA JACOB, ESQ.  
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FOR U.S. PROBATION: SHERRY BAKER

REPORTED BY: LISA EDWARDS, RDR, CRR  
Official Court Reporter  
United States District Court for the  
District of Columbia  
333 Constitution Avenue, Northwest  
Room 6706  
Washington, D.C. 20001  
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1 THE COURTROOM DEPUTY: This is Criminal Case  
2 21-361, the United States of America versus Michael  
3 Timbrook.

4 From Probation, Officer Sherry Baker.

5 Counsel, please come forward to identify  
6 yourselves for the record, starting with the Government.

7 MR. KRINGER: Good morning, your Honor. Benjamin  
8 Kringer on behalf of the Government.

9 THE COURT: Good morning, Mr. Kringer.

10 MS. JACOB: Good morning, your Honor. Maria Jacob  
11 appearing on behalf of Mr. Timbrook, who is present here.

12 THE COURT: Good morning, Ms. Jacob.

13 Good morning, Mr. Timbrook.

14 We're here for the sentencing of the Defendant,  
15 Michael Timbrook, who's pleaded guilty to one count of  
16 parading, demonstrating or picketing in a Capitol building  
17 in violation of 40 USC 5104.

18 I've received and reviewed the presentence  
19 investigation report and sentencing recommendation from the  
20 probation office as well as the sentencing memoranda and  
21 exhibits from both the Government and Mr. Timbrook.

22 Are there any other documents or materials that I  
23 should have reviewed? Mr. Kringer?

24 MR. KRINGER: Nothing from the Government, your  
25 Honor.

1 THE COURT: And Ms. Jacob?

2 You can just stand there, actually, folks, for  
3 these.

4 MS. JACOB: No, your Honor. Nothing further.

5 THE COURT: And I should say, in light of the  
6 guidance from the CDC, I do not require people to wear masks  
7 in my courtroom. You, of course, are welcome to do so if  
8 you wish to.

9 Mr. Timbrook, this sentencing hearing will proceed  
10 in three steps, some of which may seem a bit mechanical to  
11 you. But I want to keep in mind why we are here today and  
12 the gravity of the situation. You've committed a federal  
13 crime. Today's proceeding is a serious matter as it is  
14 about the consequences that you will face because of your  
15 decision to engage in criminal behavior in violation of  
16 federal law.

17 The first step of today's hearing is for me to  
18 determine whether you've reviewed the presentence report and  
19 whether there are any outstanding objections to it and, if  
20 so, to resolve those objections.

21 The second step is to hear from the Government,  
22 from your counsel and from you, sir, if you wish to be heard  
23 about sentencing in this case.

24 And the final step requires the Court to fashion a  
25 just and fair sentence in light of the factors Congress set

1       forth in 18 USC 3553(a).

2               As part of this last step, the Court will actually  
3       impose the sentence along with the other required  
4       consequences of the offense.

5               So turning to that first step now, the final  
6       presentence investigation report was filed on May 13th,  
7       2022. The probation office filed its final sentencing  
8       recommendation on the same day.

9               Does the Government have any objection to any of  
10       the factual determinations set forth in the presentence  
11       report? Mr. Kringer?

12              MR. KRINGER: No, your Honor.

13              THE COURT: And, Ms. Jacob, have you and  
14       Mr. Timbrook read and discussed the presentence report?

15              MS. JACOB: Yes, we have.

16              THE COURT: Does the Defendant have any objections  
17       to any of the factual statements set forth in it?

18              MS. JACOB: No, your Honor.

19              THE COURT: Mr. Timbrook, could you come to the  
20       podium, sir.

21              THE DEFENDANT: (Complies.)

22              THE COURT: Sir, are you fully satisfied with the  
23       services of your attorney in this case?

24              THE DEFENDANT: Yes, I am, your Honor.

25              THE COURT: Do you feel you've had enough time to

1 talk with her about the probation office's presentence  
2 report and the papers the Government filed in connection  
3 with sentencing?

4 THE DEFENDANT: Yes, I have, your Honor.

5 THE COURT: Thank you, sir. You may have a seat.

6 The Court will accept the facts as stated in the  
7 presentence report. The presentence report will serve as my  
8 findings of fact for purposes of this sentencing. And I'd  
9 like to thank Officer Baker for her work on this matter.

10 The sentencing guidelines do not apply because  
11 this crime is a Class B misdemeanor. I'll now discuss the  
12 remaining applicable penalties. The maximum jail term the  
13 Court may impose for this offense is six months. The  
14 maximum fine the Court may impose for the offense is \$5,000.  
15 There's also a mandatory special assessment of \$10 under 18  
16 USC 3013.

17 Under 18 USC 3561, Mr. Timbrook is eligible for up  
18 to five years of probation because the offense is a  
19 misdemeanor; and under the parties' plea agreement, the  
20 Court shall order restitution in the amount of \$500.

21 Have I accurately stated the statutory framework  
22 under which we are operating in regard to this case?  
23 Mr. Kringer?

24 MR. KRINGER: Yes, your Honor.

25 THE COURT: And Ms. Jacob?

1 MS. JACOB: Yes, your Honor.

2 THE COURT: Before I discuss the other sentencing  
3 factors that will bear on my final decision, I will at this  
4 point share with the parties the particular sentence the  
5 probation office has recommended, taking into account the  
6 advisory guidelines sentence, the available sentence and all  
7 of the factors listed in Section 3553(a). The probation  
8 office has recommended a sentence of 14 days' incarceration,  
9 no probation, restitution in the amount of \$500 and a  
10 special assessment of \$10.

11 The recommendation of the probation office is  
12 based solely on the facts and circumstances contained in the  
13 presentence report.

14 I must now consider the relevant factors that  
15 Congress set out in 3553(a) to ensure that the Court imposes  
16 a sentence that is sufficient but not greater than necessary  
17 to comply with the purposes of sentencing. These purposes  
18 include the need for the sentence imposed to reflect the  
19 seriousness of the offense, to promote respect for the law  
20 and to provide just punishment for the offense.

21 The sentence should also afford adequate  
22 deterrence to criminal conduct, protect the public from  
23 future crimes of the Defendant and promote rehabilitation.

24 In addition to the guidelines and policy  
25 statements, I must consider the nature and circumstances of

1 the offense, the history and characteristics of the  
2 Defendant, the need for the sentence imposed, the guideline  
3 ranges, the need to avoid unwarranted sentence disparities  
4 among defendants with similar records who have been found  
5 guilty of similar conduct and the types of sentences  
6 available.

7 Does the Government wish to be heard on the  
8 application of the factors set forth in 3553(a), request a  
9 variance or otherwise make a sentence recommendation?

10 MR. KRINGER: Yes, your Honor. Thank you.

11 When looking at the specific factors and the  
12 conduct of Mr. Timbrook on January 6th, there are numerous  
13 factors that led the Government to recommend a sentence of  
14 90 days' incarceration in this case.

15 Since they are described in detail in our  
16 memorandum, I will touch on them briefly here.

17 Starting at the beginning, Mr. Timbrook knew as he  
18 headed towards the Capitol before he entered the grounds  
19 there was a risk of violence. As he has admitted, he joined  
20 a crowd where people were discussing storming the Capitol on  
21 that day.

22 Mr. Timbrook then observed from close proximity  
23 four different breaches of police lines and assaults of  
24 police officers before he entered the Capitol. He also was  
25 teargassed by law enforcement before entering the Capitol.

1           Therefore, Mr. Timbrook, unlike other defendants,  
2           has no argument that he thought he had the right to be  
3           there.

4           It is also important to note that Mr. Timbrook was  
5           part of the first wave to enter the Capitol. Entering  
6           through the Senate wing door two and a half minutes after it  
7           was broken open by rioters, and in fact he was on the Upper  
8           West Terrace before that door was broken open, trying to  
9           find another way in as the rioters massed around that door  
10          and then coming back to that door once it was broken open to  
11          enter.

12          And as he entered, he saw the Senate fire door  
13          broken open by rioters and saw rioters climbing through  
14          broken-out windows.

15          Once again, Mr. Timbrook knew he did not have the  
16          right to enter the Capitol.

17          Once inside the Capitol, Mr. Timbrook was almost  
18          immediately directed to exit out the Senate carriage door.  
19          But he didn't do so. He turned around but was stopped by a  
20          new line of police officers.

21          For five minutes, he stayed by the Senate carriage  
22          door, not exiting. And when rioters finally forced through  
23          that police line, where was Mr. Timbrook? At the front.  
24          There was no one in between him and an officer backed  
25          against a wall, and then one of the leaders of the crowd



1 moving through the hallway as police officers backpedaled,  
2 trying to stay in front.

3 Mr. Timbrook then went to the Columbus door, where  
4 he spent two minutes watching a very violent assault of  
5 police officers as rioters tried to breach and enter through  
6 the Columbus door. And I believe your Honor's requested  
7 that I show it. It's a brief scene. The Court's  
8 indulgence.

9 (Whereupon, segments of Government's Exhibit No.  
10 18 were published in open court.)

11 THE COURT: That's the Defendant in the orange  
12 hat?

13 MR. KRINGER: That is correct, your Honor.

14 As defense counsel notes, Mr. Timbrook does pick  
15 up a sign.

16 You see the police officer being thrown down there  
17 at the top of the screen. Would you like me to replay that?

18 THE COURT: I saw it, sir.

19 (Whereupon, segments of Government's Exhibit No.  
20 18 were published in open court.)

21 THE COURT: Was that the part you wanted me to  
22 see?

23 MR. KRINGER: Yes, your Honor.

24 THE COURT: I'll tell you, I certainly agree with  
25 you. It's a serious assault. It's a little hard for me to

1 tell what Mr. Timbrook is doing there. I mean, I could  
2 certainly imagine he's telling people, "Step back, get away  
3 from him," that type of thing.

4 I think to the extent you're saying he knew bad  
5 things were happening and should have gotten out, I  
6 completely agree with you there.

7 MR. KRINGER: Understood, your Honor.

8 The Government doesn't want to get bogged down on  
9 this issue. The Government is willing to accept -- sorry.  
10 The Government does not try to say that Mr. Timbrook went  
11 there with the intention of hurting the officer, as we made  
12 clear in the memorandum. And to the extent the Court  
13 credits that Mr. Timbrook intended or wanted to offer help  
14 if it was needed, that is fine.

15 THE COURT: I don't know.

16 MR. KRINGER: The video shows what the video  
17 shows, which is no actual assistance.

18 THE COURT: Okay.

19 MR. KRINGER: Thank you, your Honor.

20 THE COURT: I take your point.

21 MR. KRINGER: After watching this breach,  
22 Mr. Timbrook's sixth breach, and watching an injured officer  
23 being dragged away, Mr. Timbrook stayed in the Capitol for  
24 13 more minutes and went into the Speaker's suite and went  
25 into one of the offices in the Speaker's suite.

1           And finally, once Mr. Timbrook actually left the  
2 Capitol, four days later, five days later, Mr. Timbrook is  
3 online saying he has no remorse, saying he's proud of the  
4 rioters, numerous Facebook posts, where he falsely claims  
5 the riot was orderly and peaceful and, despite the six  
6 breaches he watched, says that there were at most 30 rowdy  
7 rioters.

8           Now, mitigation: Mr. Timbrook does not have --

9           THE COURT: That he was proud of that?

10          MR. KRINGER: And he was proud of that. Correct,  
11 you were. That he was proud of the rioters, proud of his  
12 own conduct. That's what he puts in his Facebook posts.

13          Now, mitigation: Mr. Timbrook does not have a  
14 relevant criminal history. Mr. Timbrook voluntarily met  
15 with the FBI and was generally honest in that meeting. And  
16 Mr. Timbrook has now accepted criminal responsibility in  
17 entering this plea. But the Government would like to note  
18 there is a difference between accepting criminal  
19 responsibility because you believe you are criminally  
20 culpable to get the lowest possible sentence and being  
21 remorseful and believing you did wrong.

22          And the Government reminds this Court that,  
23 following his FBI interview, more than a month after the  
24 riot, Mr. Timbrook wrote: I am not remorseful. I am not  
25 shameful. And he wrote that he believed his criminal

1       conduct was worthy of only a fine.

2               Despite all of these factors, the defense has  
3       requested a probation-only sentence in this case and, in  
4       support, tries to compare Mr. Timbrook to the case of  
5       Danielle Doyle, 21-CR-324, who this Court sentenced to  
6       probation only.

7               And there are some similarities, your Honor. They  
8       both entered through the Senate wing door and they both  
9       spent around 25 minutes inside the Capitol.

10              And in fairness, Ms. Doyle has some additional  
11       aggravating factors. She apparently said something to a  
12       police officer, although the Government introduced no  
13       evidence as to what, if anything, was actually said. And  
14       she posted -- she took photos from the Capitol.

15              However, Ms. Doyle did not march in a crowd where  
16       they discussed storming the Capitol. She did not witness  
17       four breaches before entering the Capitol. She was not  
18       pepper-sprayed before entering the Capitol. She did not  
19       disregard directions to leave the Capitol while inside. She  
20       was not part of the first wave into the Capitol. She did  
21       not watch two additional assaults of police officers inside  
22       the Capitol. And she did not go into the Speaker's suite.

23              Mr. Timbrook has far more and far more serious  
24       aggravating factors than Ms. Doyle.

25              Both the Government and the defense also point to

1 the case of Mr. Ericson, 21-CR-506, whom this Court  
2 sentenced to 20 days of intermittent incarceration. And  
3 again, similarities, your Honor: Mr. Ericson went inside  
4 the Speaker's suite and both Mr. Ericson and Mr. Timbrook  
5 engaged in bad behavior inside that suite. And some of  
6 Mr. Ericson's conduct was worse. He took photos of  
7 himself, posted them online with his feet up on a conference  
8 table. And he also, I believe, was less helpful to law  
9 enforcement in his initial interview.

10 THE COURT: He also had problems in pretrial  
11 release.

12 MR. KRINGER: I believe he missed one call, but it  
13 might be more, your Honor. It's your case. There are  
14 additional factors.

15 But again, there are differences as well.  
16 Mr. Ericson, I believe the evidence indicated he may have  
17 seen one assault, but there was no actual evidence of it.  
18 It was kind of we assume he did, whereas with Mr. Timbrook,  
19 there was video evidence of him by six different law  
20 enforcement assaults.

21 Mr. Ericson also was not pepper-sprayed before  
22 entering the Capitol. He did not disregard the directions  
23 of law enforcement to leave the Capitol. And again, he did  
24 not hear rioters talking about storming the Capitol prior to  
25 entering the building.

1           Also, I think your Honor took into consideration  
2           Mr. Ericson's relative youth and inexperience in sentencing  
3           him to 20 days' incarceration.

4           Now, while it is not surprising that the  
5           Government and defense counsel have disagreed regarding an  
6           appropriate sentence in this case, the Government wants to  
7           make a few points regarding the memorandum provided by the  
8           defense for clarification.

9           First, the defense wrongly suggests that a 90-day  
10          sentence for a 5104 charge would be the harshest sentence  
11          ever given and only given once. There were two cases where  
12          defendants were incarcerated for six months. Admittedly, it  
13          involved cases where time served was issued, but six months.  
14          Those cases are *U.S. v. Curzio*, 21-CR-41, and *U.S. v.*  
15          *Dresch*, 21-CR-71. There are additional four cases where a  
16          defendant who pled to 5104 was given 90 days, not just one.  
17          And there are two other misdemeanor cases where a defendant  
18          received 90 days' incarceration.

19          Second, the defense argues that the Defendant did  
20          not himself assault officers or damage property and that  
21          these are mitigating factors.

22          The Government's position is that these are  
23          important facts, but they're not mitigating. If the  
24          Defendant -- these are elements of a different offense. If  
25          the Defendant had struck an officer or had broken the Senate

1 wing door open himself, he would not be here today pleading  
2 to a 5104 charge.

3 Not surprisingly, the defense has failed to cite a  
4 single case where a defendant was accused of assault or  
5 broken property and pled to a misdemeanor. The cases cited  
6 talk about shouting. They talk about, you know, bad  
7 behavior. But the Government notes that no court -- that's  
8 just one aggravating factor. And no court has required  
9 shouting for a sentence of incarceration.

10 And this kind of aggressive behavior, the  
11 Government believes it is in this case as well. The  
12 Government would describe Mr. Timbrook's behavior by the  
13 Senate carriage door as aggressive, again, front of the  
14 line, nobody between him and an officer, backed up against  
15 the wall, front of the line moving down the hallway while  
16 officers are backpedaling either trying to get out of the  
17 way or trying to slow people down.

18 Whether this Court considers that as bad as  
19 shouting, it is certainly aggressive.

20 Third, the defense did not address -- and this  
21 appears to give little credence to the fact -- sorry --  
22 little weight to the six different police breaches and  
23 assaults of police officers the Defendant witnessed. That's  
24 not really addressed in the memorandum. The Government  
25 wants to make it clear: These are very serious factors to

1 the Government in recommending 90 days.

2 Each instance was a point in time where the  
3 Defendant should have stopped, should have realized this was  
4 not a peaceful protest. This was not a political rally.  
5 And the fact that after that sixth protest -- sixth breach  
6 the Defendant then stayed in the Capitol and went into the  
7 Speaker's suite of offices, a sensitive, restricted area, is  
8 an indication he did not recognize the import of what he was  
9 seeing and the violence being conducted on officers.

10 And finally, talking about the Speaker's suite  
11 again, it appears the defense gives little weight to his  
12 entrance into the Speaker's suite of offices. The  
13 Government agrees with this Court in the *Ericson* case where  
14 this Court described how staffers were barricading  
15 themselves in offices, terrified of what was going on around  
16 them, and appeared to agree with the other courts of this  
17 district who have found that entering into that sensitive  
18 restricted area warrants a sentence of incarceration.

19 So in conclusion, defendants who have engaged in  
20 conduct similar to that of the Defendant have received  
21 incarceration. And looking at all of Mr. Timbrook's many  
22 aggravating factors, the Government recommends a 90-day  
23 sentence of incarceration.

24 Thank you.

25 THE COURT: Thank you, Mr. Kringer.



1           Ms. Jacob, do you wish to be heard on the  
2           application of factors set forth in 3553(a), request a  
3           variance or otherwise make a sentencing recommendation?

4           MS. JACOB: Yes, your Honor.

5           THE COURT: I guess a variance isn't really  
6           relevant.

7           MS. JACOB: Your Honor, I'd like to first  
8           introduce Mr. Timbrook's wife, who is here. This is Nancy  
9           Timbrook.

10          THE COURT: Welcome, ma'am.

11          MS. JACOB: They've traveled from Tennessee to be  
12          here today.

13                 Your Honor, probation, even despite everything  
14                 that the Government has just mentioned, which Mr. Timbrook  
15                 truly does acknowledge the severity, we still think that  
16                 probation is the appropriate outcome here, considering all  
17                 the 3553(a) factors.

18                 Mr. Timbrook, he did accept responsibility for his  
19                 role on January 6th. He pled guilty to a petty offense:  
20                 parading, picketing in a U.S. building. On that day -- I  
21                 completely disagree with the Government as they characterize  
22                 his conduct as aggressive. When I review the videos and  
23                 when I look at the facts of the case, I think that he's one  
24                 of the, actually, rare individuals who didn't display an  
25                 ounce of aggression, whether it be in the form of yelling at

1 an officer or cheering or, you know, encouraging the crowd.  
2 He just simply didn't do that. He was peaceful the entire  
3 time.

4 And I understand it is an aggravating factor that  
5 he did watch nonpeaceful events occurring. However, he  
6 himself was peaceful. And I do think that that is something  
7 to be considered.

8 He followed the crowd through the Capitol grounds  
9 and ultimately into the building. And, you know, the way --  
10 and I understand the Court viewing the video today,  
11 Government's Exhibit 18, simply just cannot determine what  
12 the actions were. But in conversations with Mr. Timbrook --  
13 and Mr. Timbrook, you'll hear from him soon -- he was, his  
14 intention was, to try to stand in the way so that no further  
15 harm would come to that officer.

16 And I think that him picking up that sign is a  
17 show of respect for the property inside of the building. He  
18 was -- you know, he will tell the Court later that he wishes  
19 that he had done more. But I don't think that that should  
20 be an aggravating factor, as the Government is suggesting.

21 Your Honor, he left the building 25 minutes later,  
22 drove straight home to Tennessee. He provided a voluntary,  
23 brutally honest interview to the FBI where he actually  
24 provided even more details than the Government would have  
25 ultimately learned. And I think that's important. He's

1 never, ever tried to hide behind his conduct.

2 Your Honor, just a response to a couple of the  
3 points that the Government brought up today: They focus a  
4 lot on, you know, him being teargassed. And I think as your  
5 Honor has seen videos in, you know, multiple cases thus far,  
6 I think you know there's a difference between being  
7 teargassed or Maced in direct response to an officer's  
8 commands or noncompliance with an officer's commands and  
9 being teargassed because everybody is kind of in the line of  
10 fire of everybody else being teargassed. I think that's an  
11 important point to distinguish.

12 Your Honor, he was never directly asked to exit.  
13 And I know that of course we acknowledge that that is an  
14 aggravating factor, that he could have. He had the  
15 opportunity to leave and did not leave. However, he was  
16 never directly told by a police officer to leave.

17 And I know that the police officers could not --  
18 you know, they couldn't go up to every single person and  
19 tell every person, "You have to leave." And there were  
20 clear indications that he should have left. The officers  
21 were funneling people out of the exit. And instead of  
22 Mr. Timbrook going to the right, he went to the left. And  
23 so he acknowledges that as an aggravating factor, but it  
24 is -- can be distinguished from cases where individuals were  
25 actually directly asked to leave.

1 THE COURT: So I guess I'm a little confused. I  
2 thought I remembered that being part of the offense conduct.  
3 Are you saying he wasn't individually asked to leave, but --

4 MS. JACOB: That's right.

5 THE COURT: -- the police officers were telling  
6 the group to leave?

7 MS. JACOB: That's right. So one of the  
8 Government's exhibits -- I'm sorry; I don't have the actual  
9 number -- but it must have been one of the earlier  
10 Government exhibits that show police officers funneling  
11 people to the exit where there's kind of like a security  
12 area. And Mr. Timbrook is seen in the hallway and he's, you  
13 know -- although I don't pretend to know his intentions and  
14 thoughts at that very moment, presumably you would imagine  
15 he would see that and understand that that's an officer's  
16 attempt to get people to leave.

17 But he was never actually funneled himself and he  
18 was never directly asked to leave. And I think that's  
19 important.

20 THE COURT: I see what you're saying. Okay.

21 MS. JACOB: Your Honor, as far as the Facebook  
22 posts that the Government relies on to suggest that he has  
23 no remorse, Mr. Timbrook will tell the Court today that he  
24 was not proud and is not proud of his conduct. That was  
25 written in response to a lot of criticism that he was

1 receiving. He is a human being and he was receiving brutal  
2 and just horrific comments from not only the media, but from  
3 random people from the public who he didn't even know, one  
4 person even saying "I hope you die in prison."

5 I mean, a human being -- I mean, I can certainly  
6 understand that you would lash out, you know, presumably.  
7 Ideally he wouldn't have done that. But at least it's  
8 somewhat relatable that in a moment of frustration and just  
9 being simply hurt that one would try to defend themselves.

10 He is not proud, and he will tell you that he's  
11 not proud of his conduct.

12 I also disagree with the Government's approach  
13 that if one person doesn't express remorse, you know, right  
14 away, then they can never express remorse and it's sort of a  
15 one-shot deal. I just don't think that that's how human  
16 nature works and I don't think that that's how it's been  
17 approached in other types of cases that are not January 6  
18 cases.

19 I think that when people first learn that they had  
20 done something wrong, their instinct is to defend  
21 themselves. Ideally, that wouldn't be the case. But that  
22 happens. And that doesn't mean that he's not remorseful now  
23 and it doesn't mean that he was not remorseful shortly  
24 thereafter. He distanced himself completely after he made  
25 those comments. And he even did make a comment that -- you

1 know, in support of the police officers that day, as you'll  
2 hear him later say to the Court today.

3 Mr. Timbrook is a hardworking, dedicated husband.  
4 He's 57 years old. For his entire life he's been focused on  
5 taking care of his family. He's been married for 24 years  
6 and he, you know, very sincerely told Probation that Nancy  
7 is the best thing that's ever happened to him. They are a  
8 team. They work in tandem and even -- she's been a huge  
9 support for him throughout this whole process.

10 He's been working full-time in construction. It  
11 requires manual labor. It's not easy, but he does enjoy it  
12 and he has found a passion in it.

13 He works hard to provide a stable income and his  
14 wife does work. However, his income -- their family does  
15 rely on Mr. Timbrook's income. And so a period of  
16 incarceration would compromise his ability to provide for  
17 his family. He's been perfect on pretrial release, so I  
18 think that's a good indication that he will not violate the  
19 orders of the Court.

20 There are actually a couple collateral  
21 consequences. I didn't stress -- I would like to emphasize  
22 more today -- I mentioned that he has sleep apnea. But I  
23 wanted to mention to the Court that there are -- I don't  
24 know if the Court is familiar with the CPAP machine that  
25 people have to wear when they have severe sleep apnea. His

1 is severe. His is on the most severe end of the spectrum.  
2 If he doesn't have that machine, he can suffer stroke, heart  
3 attack. So of course that would provide a logistical  
4 difficulty for the jail to be able to accommodate that.

5 Specific deterrence, I would submit, has already  
6 been served here. For a petty offense, he's already  
7 received heavy scrutiny from the media and from the public.

8 He's been on pretrial supervision for over a year  
9 now, which is, you know -- I mean, of course it's a great  
10 opportunity by the Court, but it is also a restriction of  
11 liberty. There's responsibilities that come with it. And  
12 he's done well. He's shown the Court that he can do well.

13 And, your Honor, just to respond briefly to some  
14 of the distinctions that the Government tried to make with  
15 the other cases where, you know, the Court did give  
16 probation and ultimately the *Ericson* case, where the Court  
17 decided that intermittent confinement was appropriate: I do  
18 think while Mr. Ericson was young in age, I actually also  
19 think that that -- someone at the age of 57, I think that is  
20 also kind of a mitigating factor to consider, because he's  
21 gone 57 years with almost no criminal history. He has one  
22 very petty offense from 27 years ago. And so I do think  
23 that that shows that his risk of recidivism is extremely low  
24 here, almost nonexistent.

25 He also, you know, did not, as the Government

1       alleged, you know, disrespect the Capitol Building by  
2       putting his feet up on a desk while drinking beer. I think  
3       that is an extremely aggravating factor. Mr. Timbrook, he  
4       did not cheer. And so, you know, I also think that's  
5       another aggravating factor. He was quiet. He was peaceful  
6       the entire time.

7               For all those reasons, your Honor -- and  
8       Mr. Timbrook does want to address the Court. For all those  
9       reasons, we do think a probationary sentence would  
10      accomplish the goals of sentencing here.

11             THE COURT: Thank you, Ms. Jacob.

12             Mr. Timbrook, you have the right to make a  
13      statement or present any information to mitigate the  
14      sentence. Would you like to say anything that you would  
15      like me to consider before imposing sentence, sir?

16             THE DEFENDANT: Yes, your Honor.

17             THE COURT: If you could approach the podium, sir.

18             THE DEFENDANT: Your Honor, I agree with my  
19      lawyer's statement that the Facebook posts that talk about  
20      being pride -- being proud and not remorseful was hyperbole.  
21      I do indeed regret that statement. But more importantly,  
22      sir, I regret anything that I either did or lacked the  
23      courage to not do or should I say lacked the courage to do  
24      that interfered with the police officers during their duty.  
25      I'm quite ashamed of that. As I've always supported the



1 working class and whatever their role is, in particular the  
2 police and security. It's not in my nature to be  
3 disobedient in that way.

4 I can only say that during the time of the riot  
5 that there was obviously an extraordinary amount of chaos.  
6 And in several instances when I encountered police officers  
7 in distress, while I didn't place my hands on any of the  
8 other people that were, you know, in the process of hurting  
9 them, I did put myself in between the police officers and  
10 the crowd. As a matter of fact, with regards to the whole  
11 pepper spray, that's how much I got sprayed, was putting  
12 myself in between a cloud of pepper spray and a pair of  
13 police officers who were standing on the line who I helped  
14 keep the barricade in place.

15 As far as the fact of me being apparently in so  
16 many places where breaches occurred, at the time I was  
17 completely unaware of the scope and regret most poignantly,  
18 your Honor, anything that I lacked the courage to do.

19 I would like to point out, sir, that the video  
20 that showed me picking that thing up off the ground, there  
21 was a reason why I was standing there, because the police  
22 officer that was ultimately injured was in distress as his  
23 firearm was dangling almost to the ground. And when the  
24 rioter was trying to push him way in, his hand brushed up  
25 against the officer's weapon. And when the officer hit the

1 ground, I placed myself in between him and the crowd in the  
2 hopes of preventing him from firing his weapon into the  
3 crowd and not so much as a matter of protecting the crowd,  
4 sir, but from protecting him from having to live with such  
5 an act. I feel that he would have regretted it.

6 As far as the debt that I'm going to be required  
7 to pay to society for my actions, your Honor, I want you to  
8 know that I fully respect the decision that you have to  
9 make, and whatever decision you make I will comply  
10 wholeheartedly and with the intention of ultimately putting  
11 this whole thing behind me and burrowing into my little  
12 hillside in Tennessee and finishing up what few years I have  
13 left.

14 Thank you for your time and for your tough job  
15 you've got, sir.

16 THE COURT: Thank you, Mr. Timbrook.

17 Sir, you can remain at the podium.

18 Sir, I've assessed the particular facts of this  
19 case in light of the relevant 3553(a) factors and I now want  
20 to provide remarks for the record and for you, sir, about my  
21 considerations in regard to the nature of your offense and  
22 your history and characteristics.

23 Sir, you participated in a shameful event, a  
24 national embarrassment that made us all feel less safe, less  
25 confident that our country can be ruled democratically

1       rather than by mob rule. As compared with the other January  
2       6th misdemeanants who I've sentenced to date, I agree with  
3       the Government that your conduct stands out really more on  
4       the aggravated end.

5               First, I do take very seriously that you entered  
6       the Speaker's office. That is a private area, and your  
7       violation of that space does suggest a certain brazenness  
8       and intentionality that requires consideration in your  
9       sentence.

10              You also could have caused a very dangerous and  
11       fearful scene had the Speaker or her staff still been  
12       present in the office when you and others entered it. There  
13       have been numerous records of Hill staffers cowering behind  
14       locked doors and under desks, afraid that rioters like you,  
15       who were roaming the halls, might find them.

16              Your admission to throwing around papers there  
17       underlines what I take as a wanton disrespect that you  
18       showed to the U.S. Capitol and our nation's leaders. Of  
19       course there's nothing wrong with protesting or disagreeing  
20       with our nation's leaders and their decisions. That's a  
21       right enshrined in the First Amendment.

22              But breaking into the Capitol and into private  
23       offices is something completely different. And I think your  
24       actions on January 6th go beyond the pale.

25              Second, I agree with the Government that your

1 entry into the Capitol, despite seeing officers battle  
2 rioters in your immediate vicinity, trying to prevent them  
3 from entering, is an aggravating factor. It highlights your  
4 knowledge of the dangerousness of the situation and makes  
5 your decision to continue into the Capitol all the more  
6 disturbing. You saw fights; you saw doors being broken;  
7 officers were trying to direct people to leave. You don't  
8 leave. I think those are all aggravating factors.

9 And finally, I agree with the Government that your  
10 online statements about being proud of your actions and the  
11 actions of what you called the rowdy ones suggests a lack of  
12 remorse. While it wouldn't have been apparent to everyone  
13 who was on the Capitol grounds on January 6th, you knew from  
14 what you'd seen that officers were getting injured, that  
15 people were breaking windows, that lawful protest had turned  
16 into a violent riot. You asserted yourself with those bad  
17 actors, and it's hard for me not to associate you with them  
18 in sentencing.

19 As an aside and while this has nothing to do with  
20 my considerations in regard to an appropriate sentence, I  
21 must say how disappointing your online comments invoking God  
22 and your faith were, as if your conduct on January 6th was  
23 somehow justified.

24 Romans -- the Book of Romans says: Let every  
25 person be subject to the governing authorities, for there is

1 no authority except from God, and those who exist have been  
2 instituted by God. Therefore, whoever resists the  
3 authorities resists what God has appointed; and those who  
4 resist will incur judgment.

5 Your actions let down your country, sir, but they  
6 also let down your church. And while that is a matter  
7 between you and God, not me, I hope you see what damage  
8 statements like that does to the values and institutions  
9 that I believe you care about.

10 I know that you didn't assault anyone, that you  
11 didn't damage any property, and I believe you had no intent  
12 of breaking into the Capitol when you woke up on January  
13 6th.

14 I also credit what you were saying about trying to  
15 kind of be concerned about officers' safety and also putting  
16 yourself between them and the crowds. I'll say that your  
17 very concern about that, I mean, it kind of highlights the  
18 danger of mobs, that -- it just kind of creates a situation  
19 that awful things like you suggested, an officer shooting  
20 into a crowd, you know, never would normally happen except  
21 for people like you who associated themselves with this  
22 thing that just got completely out of control.

23 Ultimately, I think these are mitigating factors  
24 in your favor. But I hope you also see that when people  
25 allow themselves to get swept up into a mob, they end up

1 creating chaos and lawlessness that the vast majority of  
2 those people individually never would have caused or chosen  
3 to do. That's the dangerousness of mobs.

4 Based against all of this is your history and  
5 characteristics. You have a strong employment record. I  
6 have reviewed the glowing letters in your support, and you  
7 have only one old misdemeanor conviction. That does put you  
8 in a different category from many January 6 misdemeanants I  
9 have sentenced who have no criminal history, but I still  
10 think on balance your history and characteristics argue in  
11 your favor.

12 I also note that you have been compliant with your  
13 pretrial release conditions in this case, and I agree with  
14 your attorney that you deserve credit for being candid with  
15 the FBI.

16 I also accept what you've said today. I do think  
17 you are remorseful, and I appreciate that.

18 In light of all this, I have minimal concerns  
19 about recidivism here. I think the more pressing factors  
20 are promoting respect for the law and providing just  
21 punishment for the offense. I do believe that the *Ericson*  
22 case, 21-CR-506, is probably the most comparable to this  
23 case, although of course there are some factors that differ  
24 from it. Mr. Ericson had also entered the Speaker's suite;  
25 and as in that case, I think some jail time is necessary

1 here.

2 I do not agree, however, with the Government's  
3 recommendation of 90 days. I think that's excessive. I  
4 think the probation office's recommendation is closest to  
5 the mark.

6 I'll now impose the sentence.

7 It is the judgment of the Court that you, Michael  
8 Timbrook, are hereby sentenced to serve 12 months of  
9 probation. As a condition of your probation, you must serve  
10 a total of 14 days of intermittent confinement.

11 The intermittent confinement shall be served for  
12 seven consecutive weekends at a facility designated by the  
13 Bureau of Prisons.

14 You must follow the rules and regulations of the  
15 facility in which you are designated. You must also pay  
16 \$500 in restitution and a \$10 special assessment. Full  
17 payment of all financial obligations stated herein is an  
18 explicit obligation of your probation.

19 The \$10 special assessment is immediately payable  
20 to the Clerk of the Court for the U.S. District Court for  
21 the District of Columbia.

22 Restitution payments shall be made to the Clerk of  
23 the Court for the U.S. District Court in the amount of \$500  
24 to be paid to the Architect of the Capitol, Office of the  
25 Chief Financial Officer. You must pay the balance of any

1 financial obligation owed at a rate of no less than \$100  
2 each month.

3 The Court finds that you do not have the ability  
4 to pay a fine, and therefore waives a fine and any interest  
5 owed on the restitution.

6 The probation office shall release the presentence  
7 investigation report to all appropriate agencies, which  
8 includes the United States Probation Office in the approved  
9 district of residence, in order to execute the sentence of  
10 the Court.

11 Pursuant to 18 USC 3742, you have the right to  
12 appeal the sentence imposed by this Court if the period of  
13 imprisonment is longer than the statutory maximum. If you  
14 choose to appeal, you must file any appeal within 14 days  
15 after the Court enters judgment.

16 As defined in 28 USC 2255, you also have the right  
17 to challenge the conviction entered or sentence imposed if  
18 new and currently unavailable information becomes available  
19 to you or on a claim that you received ineffective  
20 assistance of counsel in entering a plea of guilty to the  
21 offense of conviction or in connection with sentencing.

22 If you're unable to afford the cost of an appeal,  
23 you may request permission from the Court to file an appeal  
24 without cost to you.

25 Pursuant to *United States versus Hunter*, 809 F.3d.



1 677, from the D.C. Circuit in 2016, are there any objections  
2 to the sentence imposed that are not already noted on the  
3 record?

4 Mr. Kringer?

5 MR. KRINGER: Nothing from the Government, your  
6 Honor.

7 THE COURT: And Ms. Jacob?

8 MS. JACOB: No, your Honor.

9 THE COURT: Ms. Baker?

10 THE PROBATION OFFICER: Good morning, your Honor.

11 THE COURT: You may have a seat, sir.

12 THE PROBATION OFFICER: Considering that  
13 Mr. Timbrook lives in Tennessee, we would request that his  
14 supervision be transferred to the Middle District of  
15 Tennessee and that his presentence report and all documents  
16 be transferred for supervision purposes. And we're asking  
17 that the Court transfer jurisdiction; but, of course, that's  
18 up to the Court to decide whether they want to transfer  
19 jurisdiction as well.

20 THE COURT: Any objection to that, Mr. Kringer?

21 MR. KRINGER: No, your Honor.

22 THE COURT: Ms. Jacob?

23 MS. JACOB: No, your Honor.

24 THE COURT: I'll transfer both jurisdiction and,  
25 of course, authority for probation.

1 Mr. Kringer, do you have a motion?

2 MR. KRINGER: We move to dismiss the remaining  
3 counts, your Honor.

4 THE COURT: Ms. Jacob?

5 MS. JACOB: No objection.

6 THE COURT: Without objection, the remaining  
7 counts will be dismissed.

8 Mr. Kringer, anything else we should be discussing  
9 today?

10 MR. KRINGER: No, your Honor.

11 THE COURT: Ms. Jacob?

12 MS. JACOB: Just one last point, your Honor; a  
13 request, actually.

14 If the Court is able to in its order direct  
15 whatever facility he is ultimately housed in during the  
16 weekends he has to serve jail time, if the Court could  
17 please make a note as to his CPAP machine, the necessity for  
18 it, just to help accommodate him for those periods of time.

19 THE COURT: Ms. Baker, do you have any thoughts on  
20 that? Is that something we can do?

21 THE PROBATION OFFICER: Your Honor, I don't have  
22 any opposition to it being reflected on the J&C, just to  
23 ensure that BOP is aware. We also will notify Tennessee.  
24 But I don't think that it would hurt in any way that it is  
25 noted on there.

1 THE COURT: Ms. Jacob, maybe you can talk with  
2 Ms. Chaclan about some language to include on my order.

3 MS. JACOB: Yes, your Honor.

4 THE COURT: Thanks, folks.

5 Good luck to you, Mr. Timbrook.

6 (Proceedings concluded.)

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**CERTIFICATE**

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

Dated this 18th day of June, 2022.

/s/ Lisa Edwards, RDR, CRR  
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