

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CR No. 21-139
	)	Washington, D.C.
vs.	)	December 20, 2021
	)	11:00 a.m.
RACHAEL LYNN PERT,	)	
DANA JOE WINN,	)	
	)	
Defendants.	)	
_____	)	

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

APPEARANCES:

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Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription

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

2 COURTROOM DEPUTY: All rise.

3 THE COURT: Good morning.

4 COURTROOM DEPUTY: Good morning, everyone.

5 Please be seated and come to order.

6 Your Honor, this is Criminal Case 21-139,  
7 United States of America versus Rachael Lynn Pert and  
8 Dana Joe Winn.

9 Counsel, please come forward to identify  
10 yourselves for the record, starting with the government.

11 And sorry. On the phone, Probation Officer  
12 Aidee Gavito.

13 MR. REGAN: Good morning, Your Honor.  
14 Brandon Regan on behalf of the United States.

15 THE COURT: Good morning, Mr. Regan.

16 MR. ORENBURG: Good morning, Your Honor.  
17 Allen Orenberg for Dana Joe Winn, who's present.

18 THE COURT: Good morning, Mr. Orenberg;  
19 good morning, Mr. Winn.

20 MS. HANANIA: Good morning, Your Honor.  
21 Waffa Hanania on behalf of Ms. Pert, who is also present.

22 THE COURT: Good morning, Ms. Hanania; and  
23 good morning, Ms. Pert.

24 All right. We're here for the sentencing of the  
25 Defendants Rachael Pert and Dana Joe Winn, who have both

1 pled guilty to one count of entering and remaining in a  
2 restricted building or grounds, in violation of 18 U.S.C.  
3 1752(a)(1).

4 It looks to me like the Presentence Reports for  
5 both defendants are substantially identical, really.

6 So I guess I'm inclined to do the sentencings  
7 together.

8 Mr. Regan, do you have any objection to that?

9 MR. REGAN: No objection to that, Your Honor.

10 THE COURT: Ms. Hanania?

11 MS. HANANIA: No, Your Honor.

12 THE COURT: And Mr. Orenberg?

13 MR. ORENBERG: No, Your Honor.

14 THE COURT: Okay.

15 I've received and reviewed the presentence  
16 investigation reports, the sentencing recommendation, and  
17 sentencing memoranda from all parties. Are there any other  
18 documents or materials that I should have reviewed?

19 Mr. Regan?

20 MR. REGAN: Nothing from the government,  
21 Your Honor.

22 THE COURT: Ms. Hanania?

23 MS. HANANIA: No, Your Honor.

24 THE COURT: And Mr. Orenberg?

25 MR. ORENBERG: No, Your Honor.

1 THE COURT: Ms. Pert and Mr. Winn, this sentencing  
2 hearing will proceed in four steps, some of which may seem a  
3 bit mechanical to you, but I want you to keep in mind why we  
4 are here today and the gravity of the situation.

5 You've committed federal crimes. Today's  
6 proceeding is a serious matter, as it is about the  
7 consequences that you will face because of your decision to  
8 engage in criminal behavior, in violation of federal law.

9 The first step of today's hearing is for me to  
10 determine whether you've reviewed the presentence reports  
11 and whether there are any outstanding objections to them,  
12 and if, so, to resolve those objections.

13 The second step is to determine what sentencing  
14 guidelines and sentencing range applies to your case based  
15 upon your criminal history and considering any mitigating or  
16 aggravating factors that may warrant a departure under the  
17 Sentencing Guidelines manual.

18 The third step is to hear from the government,  
19 from your counsel, and you, if you wish to be heard, about  
20 sentencing in this case.

21 And the final step requires me to fashion a just  
22 and fair sentence in light of the factors Congress set forth  
23 in 18 U.S.C. 3553(a). As part of this last step, the Court  
24 will actually impose the sentence, along with the required  
25 consequences of the offense.

1 All right. The final Presentence Investigation  
2 Report and sentencing recommendations were filed in both  
3 defendants' cases on December 13th, 2021, and all parties  
4 submitted their memoranda in aid of sentencing the same day.  
5 Both defendants also submitted letters in their support.

6 Mr. Regan, does the government have any objection  
7 to any of the factual determinations set forth in the  
8 presentence report?

9 MR. REGAN: We do not, Your Honor.

10 THE COURT: Ms. Hanania, have you and Ms. Pert  
11 read and discussed the presentence report?

12 MS. HANANIA: We have, Your Honor.

13 THE COURT: Does the defendant have any objections  
14 to any of the factual statements set forth in the  
15 Presentence Report?

16 MS. HANANIA: Your Honor, the only correction we  
17 would offer is that the --

18 COURT REPORTER: Please come to the lectern.

19 MS. HANANIA: Your Honor, the only correction we  
20 would note, on page 26 when we laid out some information,  
21 the PSR indicates that -- or seems to infer that Ms. Pert  
22 and Mr. Winn were gassed and then chose to enter the  
23 building.

24 I just wanted to note, in terms of the chronology,  
25 when they entered, there was no such gassing or any other

1 indication of anything like that. Just before they exited  
2 the building, there was an area near them where gas was  
3 deployed against the people inside the building. And so  
4 just in terms of the chronology, we think it's significant  
5 for Your Honor in fashioning a sentence, that we make that  
6 notation to the facts.

7 THE COURT: Okay.

8 MS. HANANIA: Other than that, we have no other  
9 objections to the facts set out in the PSR.

10 THE COURT: Okay.

11 And I'll tell you, my impression was that your  
12 clients had left the building during the gassing, not that  
13 it happened beforehand.

14 MS. HANANIA: Thank you, Your Honor.

15 THE COURT: And, ma'am, are you expecting any  
16 witnesses today?

17 MS. HANANIA: No, Your Honor.

18 Though, of course, Ms. Pert's family is very  
19 supportive of her; they didn't have the financial ability to  
20 travel, so that's why we submitted a number of letters.

21 THE COURT: Okay. Which, of course, is just fine.

22 Mr. Orenberg, have you and Mr. Winn read and  
23 discussed the presentence report?

24 MR. ORENBURG: Yes, we have, Your Honor.

25 THE COURT: Does your client have any objection to

1 any of the factual statements set forth in it?

2 MR. ORENBERG: No, unless -- I apologize, I'm  
3 quickly looking through the presentence report. If there's  
4 something similar to what Ms. Hanania has said about  
5 Ms. Pert, then we would just make the same -- or point out  
6 the same chronology to the Court.

7 THE COURT: Okay.

8 And do you have witnesses present in the  
9 courtroom?

10 MR. ORENBERG: Well, Your Honor, I would like to  
11 introduce my client's family, immediate family is here,  
12 they're sitting together, the three of them. On the Court's  
13 far left is his mother, Debbie Whytmer, from Sarasota,  
14 Florida. And in the middle is his daughter-in-law,  
15 Amanda Mincery, from, I believe, the Middleburg area of  
16 Florida. And then on the far right of that row is Zachary  
17 Covington, his son, who's married to Ms. Mincery, also of  
18 Middleburg, Florida.

19 They may or may not want to address the Court,  
20 Your Honor. They want to see how things progressed before  
21 they make a final decision.

22 THE COURT: Okay.

23 Well, if they do, it can be brief.

24 MR. ORENBERG: Thank you.

25 THE COURT: Ms. Pert, could you come forward,



1 please?

2 Ma'am, are you fully satisfied with your attorney  
3 in this case?

4 DEFENDANT PERT: Yes, Your Honor.

5 THE COURT: Do you feel you've had enough time to  
6 talk to her about the Probation Office's Presentence Report  
7 and the papers the government filed in connection with  
8 sentencing?

9 DEFENDANT PERT: Yes, Your Honor.

10 THE COURT: All right. Thank you, ma'am.

11 And, Mr. Winn, could you come forward, please.

12 Mr. Winn, do you feel you've had enough time --  
13 well, let me ask you, sir: Are you fully satisfied with  
14 your attorney in this case?

15 DEFENDANT WINN: Yes, Your Honor.

16 THE COURT: And do you feel you've had enough time  
17 to talk to him about the Probation Office's Presentence  
18 Report and the papers the government filed in connection  
19 with sentencing?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right. Thank you, sir. You may  
22 be seated.

23 The Court will accept the facts as stated in the  
24 Presentence Reports. The Presentence Reports will serve as  
25 my findings of fact for purposes of this sentencing, and I'd

1 like to thank the probation officer for her work on this.

2           The Presentence Report lays out the Probation  
3 Office's calculation of the advisory guideline range that  
4 applies in this case. And as I said, I think the  
5 information is identical here for both defendants.

6           I'll attempt to summarize the calculation as  
7 follows:

8           Congress has imposed a statutory maximum sentence  
9 for this offense of one year of imprisonment. The  
10 Probation Office says that under Guideline 2B2.3, the Base  
11 Offense Level is 4.

12           Further, pursuant to the same guideline, the  
13 offense level is increased by 2, as the trespassing occurred  
14 at a secured government facility. The government recommends  
15 a two-level reduction for acceptance of responsibility under  
16 guideline 3E1.1, bringing us back to a total offense level  
17 of 4.

18           Is there any objection to the calculation of the  
19 offense level, Mr. Regan, as to either defendant?

20           MR. REGAN: Your Honor, one thing I would point  
21 out, the government addressed it in the sentencing  
22 memorandum, as the Court just stated, the PSR applies the  
23 specific offense characteristic for the trespass at a secure  
24 government facility in accordance with 2B2.3; however, the  
25 specific offense characteristic that applies is the

1 restricted building or grounds. It's the same offense  
2 level, so there's no change to the guideline score. I just  
3 wanted to note that for the record, Your Honor.

4 THE COURT: Okay. Thank you, sir.

5 Ms. Hanania, any objections to that calculation on  
6 behalf of your client?

7 MS. HANANIA: No, Your Honor.

8 THE COURT: And Mr. Orenberg?

9 MR. ORENBERG: No, Your Honor.

10 THE COURT: Okay.

11 Turning next to criminal history, the Presentence  
12 Report estimates that both defendants have an estimated  
13 criminal history point of 1, giving each of them a Criminal  
14 History Category I.

15 The parties agree, based on the total offense  
16 level of 1 and a Criminal History Category of I, the  
17 Guidelines applicable for each defendant is zero to  
18 six months.

19 Any objection to this calculation, Mr. Regan?

20 MR. REGAN: No objection, Your Honor.

21 THE COURT: Ms. Hanania?

22 MS. HANANIA: No, Your Honor.

23 THE COURT: And Mr. Orenberg?

24 MR. ORENBERG: No, Your Honor.

25 THE COURT: I will now discuss the remaining

1 applicable penalties, which include fines, supervised  
2 release, probation, and restitution.

3           The maximum fine the Court may impose for this  
4 offense is \$100,000. The Court may also impose a term of  
5 supervised release of not more than one year.

6           There's also a mandatory special assessment of  
7 \$25.

8           The Guidelines Range for a fine is \$500 to \$9,500.

9           Each defendant is eligible for up to five years'  
10 probation because the offense is a misdemeanor. Under the  
11 Guidelines if probation is imposed, the term shall be no  
12 more than three years, because the offense level is five or  
13 less.

14           Since the applicable Guidelines Range is in Zone A  
15 of the sentencing table, a condition requiring a period of  
16 community confinement, home detention, or intermittent  
17 confinement may be imposed but is not required. And that's  
18 from Guideline 5B1.1.

19           And I should say, Mr. Regan, I'm happy to hear  
20 from you when the time comes. But as I've suggested in  
21 other cases, I'm not inclined to give home detention.

22 I would be interested in your views as to whether  
23 intermittent confinement, i.e., weekends in jail, is  
24 appropriate. So you can be thinking about that.

25           Under 18 U.S.C. 3663(a), restitution in the total

1 amount of \$500 shall be ordered against each defendant.

2 Have I stated accurately the statutory and  
3 guidelines framework under which we are operating in regard  
4 to this case?

5 Mr. Regan?

6 MR. REGAN: Yes, Your Honor.

7 THE COURT: Ms. Hanania?

8 MS. HANANIA: Yes, Your Honor.

9 THE COURT: Mr. Orenberg?

10 MR. ORENBERG: Yes, Your Honor.

11 THE COURT: I also believe I'm correct in saying  
12 that no party is seeking a departure in this case.

13 Mr. Regan?

14 MR. REGAN: That's correct, Your Honor.

15 THE COURT: Ms. Hanania?

16 MS. HANANIA: That's correct, Your Honor.

17 THE COURT: And Mr. Orenberg?

18 MR. ORENBERG: Correct, Your Honor.

19 THE COURT: Before I discuss the other sentencing  
20 factors that will bear on my final decision, I will, at this  
21 point, share the particular sentence the Probation Office  
22 has recommended, taken into account the Guidelines sentence,  
23 the available sentences, and all of the factors set forth in  
24 3553(a).

25 Probation has recommended a sentence of no time in

1 prison, no supervised release, three years of probation, no  
2 fine, \$500 in restitution, and \$25 fine. And that's the  
3 same for both defendants.

4           The recommendation of the Probation Office is  
5 based solely on the facts and circumstances contained in the  
6 Presentence Report.

7           I must now consider the relevant factors that  
8 Congress set out in 18 U.S.C. 3553(a) to ensure that the  
9 Court imposes a sentence that is sufficient but not greater  
10 than necessary to comply with the purposes of sentencing.  
11 These purposes include the need for the sentence imposed to  
12 reflect the seriousness of the offense, to promote respect  
13 for the law, and to provide just punishment for the offense.  
14 The sentence should also afford adequate deterrence to  
15 criminal conduct, protect the public from future crimes of  
16 the defendant, and promote rehabilitation.

17           In addition to the Guidelines and policy  
18 statements, I must consider the nature and circumstances of  
19 the offense, the history and characteristics of the  
20 defendant, the need for the sentence imposed, the guideline  
21 ranges, the need to avoid unwarranted sentence disparities  
22 among defendants with similar records who have been found  
23 guilty of similar conduct, and the types of sentences  
24 available.

25           All right. I would like to hear from the

1 attorneys in a moment, but, Mr. Orenberg, I think if one of  
2 the family members would like to speak, now is the time.

3 MR. ORENBERG: Where should he come?

4 THE COURT: He can approach the podium.

5 Good morning, sir.

6 MR. COVINGTON: Good morning.

7 THE COURT: Could you state your name for the  
8 record, sir.

9 MR. COVINGTON: Zachary Covington.

10 THE COURT: Okay.

11 And remind me of your relation to Mr. Winn.

12 MR. COVINGTON: He's my father.

13 THE COURT: Okay.

14 MR. COVINGTON: I just want to point out, even  
15 though, you know, he should not have went into the building,  
16 he has done a lot of great things for his community. He's  
17 been a wrestling coach for my high school I went to.  
18 A couple of the other programs I was in, he did a lot of  
19 work with a bunch of kids, teaching them how to do a bunch  
20 of -- helping them out with school. You know, getting  
21 them -- there were some kids that weren't on a good path in  
22 life, pretty much got them straightened out.

23 And he's helped the community out a lot. He's got  
24 a great job that he has. He does dang good work with all  
25 that.

1 He's an all-around good guy. He's not really the  
2 type of person to get in trouble a lot.

3 I've wrote a letter; I'm not good at speaking.

4 THE COURT: No. I appreciate your letter, and I  
5 appreciate you being here, sir. I'll tell you it's actually  
6 pretty unusual for family members to come to sentencing. So  
7 it speaks well of him and certainly of you and your other  
8 family members.

9 MR. COVINGTON: He's part of the family; you've  
10 got to stick with him.

11 THE COURT: All right. Thank you for being here,  
12 sir.

13 MR. COVINGTON: Yes, sir.

14 THE COURT: Mr. Regan, does the government wish to  
15 be heard on the application of factors set forth under  
16 3553(a), request a variance, or otherwise make a sentencing  
17 recommendation?

18 MR. REGAN: Yes, Your Honor, just briefly.

19 Your Honor, to start, like the government set  
20 forth in our memorandum, we're requesting the Court sentence  
21 both defendants to three months' home detention, 24 months  
22 of probation, 40 hours of community service, and \$500 in  
23 restitution per the plea agreement.

24 To address the Court's question moments ago,  
25 understanding that the Court may not be inclined to issue



1 home confinement, the government is not opposed to a  
2 weekends-in-jail-type sentence; however, the government  
3 thinks it might be more appropriate in this case to have  
4 just a longer period of probation, perhaps 36 months, as  
5 opposed to 24 months, with respect to the actions that they  
6 took on January 6th.

7           As the Court set out, the purpose of sentencing in  
8 18 U.S.C. 3553(a) is to reflect the seriousness of the  
9 offense, to promote respect for the law, to provide a just  
10 punishment, deterrence, and protect the public from further  
11 crimes.

12           The government is not going to belabor the points  
13 we made in our memorandum, just to point a couple of things  
14 out for Your Honor: When talking about the seriousness of  
15 the offense, there's essentially two viewpoints to analyze  
16 in the construct of these cases. The first is January 6th  
17 as a whole, what happened that day, and then the role that  
18 these two defendants specifically played in it.

19           As we state in our memo, the events of January 6th  
20 were incredibly troubling and unlike anything we've seen in  
21 modern American history. The defendants, concededly among  
22 thousands of others, stormed and breached the United States  
23 Capitol, which is the very seat of American democracy, on a  
24 day where that democratic process was doing one of the most  
25 sacred things it can, which is assure the efficient

1 transition of power from one President to the next.

2           And the rioters, to include the defendants,  
3 succeeded in temporarily halting that process: The  
4 Electoral College vote.

5           And what may have started as an event of political  
6 expression for some, quickly turned into an event that  
7 threatened democracy in this country on January 6th.

8           And the government cannot understate the  
9 significance of what happened on January 6th. And each and  
10 every rioter played a role in what happened on January 6th.  
11 And I think as the Court has seen in other cases, what the  
12 government is trying to do now is delineate what each of  
13 those defendants did and sort of what their culpability is  
14 that day.

15           So with respect to these two defendants, the  
16 government was careful to delineate these two specifically,  
17 as opposed to not only other rioters but other rioters  
18 around them, and then the types of misconduct committed by  
19 rioters that day.

20           This included both defendants entering the  
21 building as the riot was ongoing. And I don't disagree with  
22 opposing counsel about there was no tear gassing that the  
23 government knows about as they entered the building, that  
24 was actually while they were exiting the building, walking  
25 through several sections of the Capitol and then exiting the

1 building.

2           Some important facts to note from the government's  
3 brief: The defendants made several statements that day that  
4 are helpful to inform the Court of both their sentencing  
5 decision here today but what was going through the  
6 defendants' minds.

7           After exiting the building, the defendants had the  
8 following exchange: Mr. Pert [sic] stated, they said we  
9 stopped the vote -- excuse me, Ms. Pert stated, they said we  
10 stopped the vote. Mr. Winn stated, we stopped the vote?  
11 Ms. Pert stated, that's what they said. Some people were  
12 saying, we did stop the vote. And Mr. Winn responded:  
13 Isn't that what we were trying to do?

14           Now, the government is not suggesting that these  
15 two individuals had been conspiring and planning for weeks  
16 beforehand and that they were fully informed of the  
17 constitutional process and methods they may have had at  
18 their disposal in order to halt that process.

19           What the government is suggesting, though, is that  
20 these two defendants were not completely naive to what was  
21 happening that day. Maybe they didn't understand the  
22 constitutional import of it, but they were there that day  
23 for a specific reason. And when they made it to the  
24 Capitol, it was known to them what was happening and what it  
25 is that the group of rioters there that day, to include

1 them, was trying to do.

2           When Ms. Pert says, some people were saying, we  
3 did stop the vote, and Mr. Winn replies, isn't that what we  
4 were trying to do, you get a pretty clear snapshot of what's  
5 happening in that moment in time, right after they exit the  
6 building, when they're sort of rejoicing with other rioters  
7 about what had happened.

8           It also provides context to what the defendants  
9 were experiencing during the riot. They were a part of a  
10 large crowd of rioters, admittedly very large crowd inside  
11 the building, and they were in a place in the building where  
12 tear gas had been deployed to get people out of the  
13 building.

14           A clear sign that they were not supposed to be in  
15 the building, that they knew they weren't supposed to be in  
16 the building, and an overall indicator of the chaos  
17 unfolding inside the United States Capitol that day, both  
18 specifically where they were, and then, generally speaking,  
19 the throngs of rioters in the building as law enforcement  
20 struggled to maintain any sense of order.

21           Now, to be clear, the government is not alleging  
22 that either defendant took part in violence or destroyed any  
23 property on January 6th. And the government agrees with  
24 some of the things the defense said in their memorandums  
25 with respect to both defendants were cooperative with law

1 enforcement. They provided voluntary and candid interviews,  
2 and they pled guilty at the first available opportunity, and  
3 the government notes those and believes the Court should as  
4 well.

5 Now, both defendants also have limited criminal  
6 history, and the government considered all of these factors  
7 when trying to fashion a sentence.

8 As the Court can see in the appendix to the  
9 government's sentencing memo, the government has also  
10 considered sentencing recommendations and ultimate sentences  
11 of other rioters with similar factual predicates. And that  
12 is really the largest burden the government has, is trying  
13 to encapsulate all of these cases and then consistently  
14 recommend a consistent sentence based on consistent actions.

15 Now, the government wants to be clear: Every  
16 single case is unique. There are no two cases that are  
17 entirely based on the same factual predicate. And every  
18 defendant is unique, every defendant has different criminal  
19 histories, different reasons for being there that day, at  
20 least stated, and then different actions after the fact,  
21 whether it's levels of contrition, cooperativeness with the  
22 FBI and the government and so forth.

23 All of that to say, the government is making a  
24 concerted effort to be consistent with its sentencing  
25 recommendations in all Capitol riot cases, and we're trying

1 to do that here as well, Your Honor.

2 Here, the government believes its recommendation  
3 of three months' home detention, 24 months of probation, or,  
4 alternatively, 36 months of probation, should the Court deem  
5 home detention not appropriate, in addition to 40 hours of  
6 community service and \$500 in restitution, adequate because  
7 it reflects the seriousness of the offense, both as a group  
8 of January 6th rioters, and then these two individual  
9 defendants; it promotes respect for the law; it provides  
10 just punishment; and, importantly, it provides a certain  
11 measure of both specific deterrence, as well as general  
12 deterrence, which the government believes is exceedingly  
13 important in these cases as we move into another political  
14 cycle where we may again see a transition of power or we may  
15 not.

16 But just generally speaking, what the Court does  
17 in these cases resonates throughout the country, and the  
18 government believes that ordering a sentence that is being  
19 requested here has just that effect, both on these  
20 defendants and the general populous. So the government's  
21 asking for that sentence to help ensure the events of  
22 January 6th are a one-time event, and that these defendants  
23 are punished in accordance with what they actually did that  
24 day. Thank you, Your Honor.

25 THE COURT: Thank you, Mr. Regan.

1 Ms. Hanania, 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. HANANIA: Yes, Your Honor. Thank you.

5 Your Honor, it is Ms. Pert's position, we would  
6 submit to the Court, that the government's recommendation is  
7 greater than necessary to achieve the purposes of  
8 sentencing.

9 I'll be clear, we don't have any objection and are  
10 in agreement with the Court imposing community service  
11 hours. We would submit that that's an appropriate part of  
12 the consequences that Ms. Pert should face as a result of  
13 her actions that day, as well, of course, as paying the \$500  
14 in restitution that she's agreed to do.

15 We would also note for Your Honor's consideration  
16 that that \$500 restitution is a significant penalty for  
17 Ms. Pert to undergo, given her financial situation.

18 She does work full time. She's a very hard  
19 worker. She's worked all her life. She supports two young  
20 children and helps to support an adult son as well.

21 She's now working full time as a construction  
22 worker at Black Creek Builders. Her day consists of getting  
23 up, taking her two young children to school, going to her  
24 boss's house, and they together travel to the construction  
25 site -- the job site for the day.

1 Her day goes from 8:00 to 6:30 or later, and  
2 that's during this season when construction isn't as full  
3 board as it would be. In the spring and summer, that load  
4 goes up.

5 So even with that now full-time job, she,  
6 unfortunately, fell into a bit of a financial hole as a  
7 result of the consequences of her actions of this case,  
8 which is another penalty that she's paid already.

9 She had been working as an assistant manager at a  
10 convenience store. She lost that job as a consequence of  
11 her actions on January 6th.

12 And she unfortunately was several months without  
13 work as a result of that.

14 She has, thankfully, started again full-time  
15 employment, but any additional fine would simply be beyond  
16 her ability to pay. And so that \$500 in restitution, she  
17 will scrimp and save and do everything, she will pay that  
18 off. But I just ask the Court to note that it will be a  
19 significant burden on her to do that. And that is part of  
20 the penalty that she's going to be paying. And she  
21 undertakes that and understands that it's her responsibility  
22 to do that.

23 But as far as the length of supervision that the  
24 government is recommending, whether it be the 24 months or  
25 the 36 months, Your Honor, we would argue that is greater



1 than necessary, given Ms. Pert's particular history and  
2 characteristics, as well as her particular involvement in  
3 this case.

4 In support of that, we would point to the Pretrial  
5 Services Compliance Report. Ms. Pert has, for nearly a year  
6 now, been under the conditions of release which restricted  
7 her freedom in some ways. She reported regularly to a  
8 Pretrial Services Officer. She had to undergo regular  
9 testing. She was required to go through some treatment.  
10 And she has complied fully with all of those.

11 That history of compliance, we would argue,  
12 Your Honor, shows that not only is she going to comply  
13 completely with whatever Your Honor's sentence is in this  
14 case, but also shows that a greater -- another two or three  
15 years on top of the year that she's already served -- or not  
16 served -- complied with the conditions would be greater than  
17 necessary, which is why we're recommending 12 months of  
18 probation with the conditions outlined as part of the  
19 penalty in this case.

20 THE COURT: What's the burden on her, kind of an  
21 ongoing burden in terms of probation? And I guess I've  
22 typically been a little skeptical of long periods of  
23 probation on misdemeanants, but, you know, your client does  
24 have a criminal history; it's not a lengthy criminal  
25 history, but it's certainly not spotless either. And most

1 of the misdemeanants I've sentenced have less.

2 MS. HANANIA: Yes, sir.

3 When you -- and just to make sure that I  
4 understand Your Honor's question, when you ask what the  
5 burden is to her, the concern for her -- if it's simply a  
6 period of probation, Your Honor, without home confinement or  
7 anything else, her entire life revolves around her two  
8 children and -- her two young children and her work. She,  
9 every week, helps lead a Cub Scout group on Thursday nights.

10 In spring and summer, she -- both of her young  
11 children participate in soccer. And so between practices  
12 and games, that's twice a week that -- two times a week, on  
13 Wednesdays and Sundays, she attends church with her  
14 children. And aside from working, that's all she does.

15 The burdens of a lengthy period of probation would  
16 just be in terms of her inability to feel free to do  
17 everything that she needs to do for her children, feel free  
18 to do everything she needs to do in terms of her work, as  
19 well as limits her financial circumstances.

20 THE COURT: I don't think I understand that.

21 MS. HANANIA: In terms of whatever other  
22 additional conditions or additional requirements that  
23 Probation may ask of her, she's stretched so thin already,  
24 that any further output in terms of any regular reporting,  
25 because of where she lives, she'd be supervised from

1 Jacksonville and she lives in Middleburg. It's not an  
2 incredibly long distance, but it is significant travel for  
3 her away from work, away from her children for any reporting  
4 requirements or testing requirements, especially if it were  
5 to go on for more than -- for as long as two years. So  
6 that's what we would submit to Your Honor in terms of the  
7 burden it would impose on her.

8           Your Honor, I would also note that Ms. Pert  
9 certainly did not have an understanding of the electoral  
10 process. I think we laid out in my sentencing memorandum  
11 Ms. Pert's particular motivations.

12           She had no idea in her head that she was even  
13 going to attend the rally. This was something that was  
14 important to Mr. Winn. He had made arrangements to go with  
15 a friend, and when that fell through, she did not want him  
16 to make that trip alone.

17           And so instead of working as she was scheduled to  
18 do, she arranged for coverage of her work shift and arranged  
19 for the care of her children and went on what she thought  
20 was going to be just a fun couple of days. And while their  
21 actions are largely the same, their motivations for being  
22 there are not, and in this context, we would argue that  
23 that's of some significance.

24           As Mr. Regan has noted, she went to the rally  
25 without any plan or purpose other than to go with Mr. Winn

1 and to attend the rally.

2           There had been no prior communication, no social  
3 media, no plan or preparation.

4           And we would reiterate the fact that she did  
5 not -- neither of them did -- engage in any violent act or  
6 destruction of property before they entered, while they were  
7 in there, or on their exit.

8           They were in there for a very short period of  
9 time. And as we've noted, the only indication they had was,  
10 as they were nearing their exit to the building, they walked  
11 through an area in which tear gas had been deployed.

12           Ms. Pert has acknowledged that her actions take  
13 place within a larger context. She knows that there are  
14 many people there with many different reasons to be there.  
15 And I can just submit to Your Honor that she has expressed  
16 her remorse and regret throughout this case, both to me, to  
17 the people in my office, and she's going to do that to  
18 Your Honor.

19           One of the things that she's talked to me about  
20 that she does is to talk with her children about the  
21 consequences of what you do. And she's been honest with  
22 them about this. She's told them why she's here today, in  
23 spite of their age. And she said to them, mommy did a bad  
24 thing, she didn't mean to, but she did a bad thing, and  
25 she's going to go and get whatever the consequences of that

1 are. And that's what you have to remember, is that, for  
2 whatever action you take, there can be good consequences or  
3 bad consequences, and mommy has to go now to face those  
4 consequences, and they might not be good.

5 But she accepts that, because now in hindsight,  
6 having seen everything that occurred, things that she didn't  
7 see while she was there, but having seen everything that  
8 occurred and having understood that her role, no matter how  
9 unintended, helped provide numbers and cover for people who  
10 really truly did have very bad intentions when they entered  
11 that place. And she recognizes that now. And she's so  
12 regretful and so remorseful for her role in providing that  
13 to those people.

14 When they returned home, and having been contacted  
15 by law enforcement, and, of course, by that time, having  
16 seen everything that occurred, they both, but specifically  
17 for my purposes, Ms. Pert, voluntarily agreed to sit down  
18 with law enforcement officers, they answered their questions  
19 candidly and straightforwardly and honestly, they showed  
20 remorse then and accountability and respect for those  
21 officers and for the process of law. And Ms. Pert does so  
22 again here today. She understands she shouldn't have been  
23 there, but she can't undo that at this stage.

24 She will have to live with this for the rest of  
25 her life. She will be -- have this conviction now on her

1 record. And already she's faced the censure of people close  
2 to her for her actions that day.

3 But we would argue that given the entirety of her  
4 history and the entirety of her actions that day, that  
5 12 months of probation with community service and that  
6 restitution is sufficient to address all the purposes of  
7 sentencing here today.

8 She's a devoted mother, a hard worker, an esteemed  
9 member of her community. The letters that we submitted,  
10 Your Honor, show the regard with which she's held within her  
11 own community.

12 And for all of these reasons, we would ask that  
13 Your Honor sentence her to 12 months of probation with the  
14 conditions that I've outlined. Thank you, Your Honor.

15 THE COURT: Thank you, ma'am.

16 Ms. Pert, I'll hear from you now, if you wish to  
17 be heard; you certainly don't need to. But if there's  
18 anything you'd like to tell me before I impose sentence, now  
19 is your opportunity.

20 DEFENDANT PERT: Your Honor, Congress, federal  
21 prosecutor, federal defender, and United States citizens,  
22 I am guilty of the charge set before me.

23 I went into the United States Capitol without  
24 researching current laws and restrictions. It was not my  
25 intentions to cause any damages; however, in hindsight,

1 I did. By my presence, I allowed others to cause damages.  
2 I am saddened and ashamed when I think of my actions and the  
3 actions of others that day.

4 I went to the Stop the Steal rally but did not  
5 intend to go to the Capitol; however, I did. I followed the  
6 crowd up the steps and in through open doors into the  
7 Capitol. I got caught up in the moment and was wrong for  
8 doing so.

9 I have three sons: A 20-year-old, who's grown  
10 into a respectable, honest, hard-working young man, who is  
11 still seeking stability in life; the other two, who are ten  
12 and seven.

13 I have always taught my sons to take  
14 accountability for their actions, but every action has a  
15 reaction or consequence. I have been involved in  
16 volunteering, Boy Scouts, and soccer. I have done my best  
17 to lead by example. I am ashamed that my actions on that  
18 day showed such a bad example to my children.

19 I have raised my children to be honest, no matter  
20 the situation. I've raised them to follow the law.

21 They may not get everything right in life and  
22 often make mistakes, but I accept responsibility for what I  
23 do and teach my children to learn from my mistakes.

24 When the FBI came to my home, my two younger  
25 children were home, as they did not have school that day.

1 They did not understand what was going on. I explained to  
2 my children to the best of my ability what was going on.

3 I know I was wrong for my actions on January 6th  
4 and answered questions, gave items worn, and gave access to  
5 my phone without counsel present.

6 I later turned myself in. I did these things  
7 because I respect the law and law enforcement.

8 The two younger children rely solely upon myself.  
9 They depend on me, they look up to me, it is my job to teach  
10 them right from wrong.

11 I am here today to admit to my wrongdoings. I  
12 should not have gone into the United States Capitol.  
13 I should not have gotten caught up in the rhetoric of the  
14 Stop the Steal rally. I should not have unknowingly  
15 provided cover for the more violent offenders.

16 I cannot undo what is already done. January 6th  
17 is a day I wish had never happened. My two younger children  
18 are scared. They're scared I may go to jail, and they  
19 wonder who is going to take care of them.

20 I have been the only constant in their lives since  
21 birth. I lost my job as assistant manager and was without  
22 work for months. I received harassing phone calls and lost  
23 friends. My social media account was banned, along with my  
24 oldest son's, my bank closed my account, along with my  
25 oldest's son, with no explanation.



1 I do not understand why my oldest son's social  
2 media account and bank account was closed, other than the  
3 fact he is my son.

4 My oldest did not go to D.C., yet he was punished  
5 for my actions. These are things I do not wish to  
6 experience again, nor do I wish for any of my children to  
7 experience.

8 I have learned from my mistakes on that day.  
9 The biggest mistake I made was standing in the way of a  
10 peaceful transition of power from one President to the next.  
11 I know that the peaceful transition of power is to ensure  
12 the common good for our nation and that it is critical in  
13 protecting our country's security needs. I am truly sorry  
14 for my part and accept full responsibility for my actions.

15 I'm hopeful that my sons and others will learn  
16 from my mistakes on January 6th. I am ready to accept my  
17 punishment and any sentence Your Honor chooses to apply.

18 THE COURT: Thank you, ma'am. You may have a  
19 seat.

20 Mr. Orenberg, do you wish to be heard on the  
21 application of factors set forth under 3553(a), request a  
22 variance, or otherwise make a sentencing recommendation?

23 MR. ORENBERG: Yes, Your Honor.

24 It's somewhat of an unusual sentencing when two  
25 co-defendants come together in this kind of posture where

1 they're literally joined at the hip.

2           And I was sitting here and listening to Mr. Regan  
3 and to Ms. Hanania, what they were saying.

4           And I would like to, first of all, say, I want to  
5 thank government counsel for being extremely professional  
6 throughout these proceedings. From the minute I met him in  
7 this case until today, I have nothing but the utmost respect  
8 for government counsel. It's been a pleasure to work with  
9 Ms. Hanania.

10           Also in the same light, I was trying -- I was  
11 prepared to talk -- I am prepared to talk for 10 or 15  
12 minutes about my client, but much of what both of these  
13 wonderful attorneys have said to the Court already directly  
14 apply to my client.

15           So as I was sitting here and thinking about what  
16 they were saying and what I could say that is a little bit  
17 different with respect to Mr. Winn, it drew me back to a  
18 quote that I heard many, many years ago, long before  
19 Lin-Manuel Miranda made *Hamilton*, shall we say, famous in  
20 the last five or six years, there's a quote where Alexander  
21 Hamilton said, "A man of quality is best seen at bad times,  
22 because the clouds that surround him are shades that set off  
23 his good qualities." And that's exactly what's happened  
24 with Mr. Winn here.

25           He made a mistake back on January 6th. He was not

1 naive, okay? He came to Washington to participate in the  
2 rally. And he found himself, along with Ms. Pert, hand in  
3 hand walking to the Capitol, into the Capitol. We're not  
4 disputing the facts; we're not quibbling with what happened  
5 that day.

6           And that was a bad time for Mr. Winn, but should  
7 the rest of his life -- should this man, who's 46 years old,  
8 should the rest of his life be discounted? I say not, as  
9 Alexander Hamilton said, that "there are shades that set off  
10 his good qualities."

11           The Court has already heard a little bit about my  
12 client, not only from Mr. Regan but in my sentencing  
13 memorandum and in the Presentence Report.

14           And the Court also mentioned that it's -- I think  
15 the Court said it's unusual that family shows up at a  
16 sentencing, whether it's a sentencing for a misdemeanor or  
17 it's a sentencing where, perhaps, the client is facing  
18 decades in prison.

19           And I agree with you, Your Honor. I've been  
20 practicing before this Court and other courts in this area  
21 for many, many years, and it's not every sentencing hearing  
22 that family members show up.

23           And these three family members, they don't live  
24 here in the Washington Metropolitan area. They live in  
25 Florida. His mother lives in Sarasota, Florida. His son

1 and daughter-in-law live in Middleburg. And they -- well,  
2 obviously they love him and they support him. And they made  
3 the long, 10-, 11-hour drive yesterday with him up here so  
4 they could be here today to support him. And they will  
5 continue to support and love him even after today.

6           There are maybe good qualities about Mr. Winn, and  
7 I'm just going to touch on them briefly. He's been  
8 hard-working all of his life. The Court can see from the  
9 report and from my memo that he has been continuously  
10 employed in the -- except for a very short time as a  
11 glassblower for a milk company, making milk bottles, he has  
12 been in the construction business. He works hard.

13           This is the first time I've met Mr. Winn in  
14 person. Obviously, we have talked on the phone; we've done  
15 many Zoom meetings together.

16           And, you know, I think I'm at a point in my career  
17 where I'm able to take the measure of a man right away. But  
18 when I first met Mr. Winn this morning in person for the  
19 first time, is I noticed his hands, and his hands are those  
20 of a hard worker. They're brown, they're ruddy, they're  
21 well-worked. I can tell this man works hard every day. He  
22 goes to work, he supports his family, he takes care of  
23 himself, and he does all the things that a responsible  
24 member of his community should do.

25           You heard from his son, he's well thought of,

1 whether he was a wrestling coach for his son's team and he  
2 contributes to other activities in the community, he's a  
3 very well thought of individual in the Middleburg, Florida,  
4 community.

5 Your Honor, obviously, we're asking for the same  
6 sentence that counsel for Ms. Pert is asking for also:  
7 12 months of probation. He has been under supervision for  
8 the last 11 months now or so. As I pointed out in my  
9 sentencing memoranda, for the first week or eight days, he  
10 was on the GPS monitoring system.

11 And he has been extremely compliant with all  
12 conditions of release. He has shown the Court that he's a  
13 man that can be trusted with whatever conditions this Court  
14 imposes on him, including the fine, the \$500. Even though  
15 he works, he's a hard worker, the \$500 is going to be a  
16 little tough for him also. I'm not saying it's going to be  
17 insurmountable, but he works hard for every dollar that he  
18 earns.

19 I put in my sentencing memoranda, and the  
20 government pointed out several other cases that are similar  
21 in facts and nature to the cases of Mr. Winn and Ms. Pert,  
22 where a period of short probation has been imposed by  
23 members of this Court. In fact, there was one recently a  
24 couple weeks ago, maybe less than two weeks ago, in the  
25 Jennifer Parks case on December 8th, where the government

1 asked for 30 days of home detention, and the Court  
2 imposed -- Judge Nichols imposed a period of 24 months'  
3 probation. There are many other examples. I know this  
4 Court is familiar with all the other sentencings going on in  
5 this courthouse with relation to January 6th cases.

6           We are asking for a short period of probation.  
7 I think that Mr. Winn has shown this Court -- and also, I  
8 failed to mention, he, too, voluntarily was interviewed by  
9 the FBI prior to his arrest in this case, okay? He's been  
10 extremely cooperative with law enforcement at every stage of  
11 the proceedings. There's nothing to suggest that he would  
12 otherwise be a good probationer. And we believe that a  
13 short period of probation is appropriate in this case.  
14 Thank you.

15           THE COURT: Thank you, Mr. Orenberg.

16           Mr. Winn, you have the right to make a statement  
17 or present any evidence -- or any information to mitigate  
18 the sentence. Would you like to say anything that you would  
19 like me to consider before imposing sentence?

20           DEFENDANT WINN: Yes, Your Honor.

21           THE COURT: All right. Approach the podium,  
22 please, sir.

23           DEFENDANT WINN: Your Honor, I do have to start  
24 off with the fact I don't have anything prepared.

25           I was instructed by my attorney to write something

1 out and send it to him; that way he could proofread it. But  
2 I also am the type that, well, I need to say it from my  
3 heart, from who I am, shows judge of character.

4 I do have to start off with saying -- apologizing  
5 to everybody in this room and the American citizens and all.  
6 I did make a mistake on January 6th by entering the Capitol  
7 building. I had no intentions on going into the Capitol.  
8 I did have intentions of coming up and participating in the  
9 Steal rally, you know, come watch Trump. He had no  
10 incitement on me to go into the Capitol in any way, shape,  
11 or form.

12 We did walk over towards the Capitol. And it just  
13 kind of blew my mind when I was standing there in the grass,  
14 as many other people was, all of a sudden, pressure grenades  
15 were going off, I saw people getting shot by rubber bullets.  
16 We were just standing there, not even doing anything. And  
17 then that's when things got heated up. And that's when  
18 everybody just kind of, in the heat of the moment. But then  
19 everybody was also holding the doors open.

20 It definitely was a bad judgment call going in.  
21 And I do apologize. I do hold myself accountable. That's  
22 one thing I was always taught growing up. I had a great  
23 mentor, which was my father. And unfortunately, he's no  
24 longer with us. With my mom, I have a great support through  
25 her as well.

1           And I agree with both Mr. Orenberg and Ms. Hanania  
2 as far as the sentencing part of it. The sooner it's over,  
3 the better. And the reason I say this is, right now  
4 I'm going through the most punishment that anybody can ever  
5 go through.

6           This past February I lost my father. I was with  
7 that man every day for 45 years of my life. And the way I  
8 lost him is -- there's no kind of words for it. I had meant  
9 to bring his medical record with me so I could show it, but  
10 he did end up with COVID, they put him on a ventilator. It  
11 shows in his records that the ventilator was installed  
12 improperly on the 8th of February. And it states in the  
13 record that on the 14th of February, they were going to  
14 re-adjust it. Well, on the 14th of February, which is  
15 Valentine's Day, is when they talked me into taking my dad  
16 off the ventilator and let him pass.

17           Prior to all that, I was calling attorneys all  
18 through the state of Florida trying to invoke the Right to  
19 Try Act of 2018 to try and use other therapeutics and things  
20 like that. I was fighting with the doctors. I need to work  
21 on me again, and I respectfully request to please get this  
22 over as quick as possible.

23           I have no issues paying the \$500 fine. Granted,  
24 my job right now, it's gone from something I love and adore  
25 to complete misery, due to the fact of the whole COVID



1 situation.

2           You know, I'm superintendent for a builder.  
3 Normally I could build a house between 90 and 120 days,  
4 which is pretty good. Now, it's taken anywhere from six  
5 months to a year. So my finances have been dramatically hit  
6 hard.

7           And it's just -- every day, it's misery, misery.  
8 I'm ready for positivity again; I'm ready to get back to  
9 where Dana used to be. And, again, I do apologize for  
10 entering the Capitol. And also it states within our video,  
11 as soon as I crossed that threshold, I said, we're here to  
12 be peaceful, and do not be destroying anything. I used  
13 different choices of words, but I'll keep it court -- for  
14 the Court's, you know.

15           But other than that, I do have a great support  
16 system, as you see behind me. They're trying to get through  
17 this whole thing with my dad. That there is just the  
18 killer. I mean, I just, every day, from the time I wake up  
19 until the time I go to sleep, it's just -- I'm ready to find  
20 Dana again. And I feel like I'm finding him a lot quicker,  
21 the quicker I can get this off my plate and start  
22 concentrating directly on myself.

23           Thank you, Your Honor. I don't have anything  
24 else.

25           THE COURT: All right. Thank you, sir.

1 Ms. Pert, could you approach; sir, you can remain  
2 at the podium.

3 MR. ORENBURG: Do you want us to remain there?

4 THE COURT: Yes.

5 All right. I've assessed the particular facts of  
6 this case in light of the relevant 3553(a) factors,  
7 including the Sentencing Guidelines, and I now am going to  
8 provide remarks for the record and for each of you about my  
9 considerations in regard to the nature of the offense and  
10 your history and characteristics.

11 As I've said before, I think you participated in a  
12 shameful event, a national embarrassment that made all of us  
13 feel less safe, less confident that our country can be  
14 governed democratically, rather than by mob rule.

15 The government has highlighted several troubling  
16 facts about your particular actions on January 6th. Your  
17 videoed comments right after leaving the Capitol suggest  
18 that you didn't just follow the crowd in, but that you were  
19 trying to storm them to stop the vote, to use Ms. Pert's  
20 words.

21 It is shocking that you believed you had the right  
22 to use force and violence to stop the constitutionally  
23 mandated certification process from being carried out.

24 I understand there were differing views about the  
25 election and who won, and you're entitled to your views.

1 You're not, however, entitled to take the law into your own  
2 hands, and yet that's what you did on January 6th.

3 Second, there's at least some evidence that you  
4 came prepared for violence.

5 Mr. Winn, you suggested that Ms. Pert brought her  
6 flag, that way I can hit Antifa in the head, if need be.  
7 That doesn't sound to me like you're coming just for a  
8 political rally and got swept up into something more  
9 sinister. It sounds to me like you came looking for  
10 trouble.

11 Finally, you both spent over half an hour in the  
12 Capitol building. This sets you apart from several rioters  
13 I've sentenced who entered into the Capitol building and  
14 quickly left, realizing they shouldn't be there. But you  
15 heard the alarms, saw the police, and, to use Ms. Pert's  
16 words, they started tear gassing and forcing you out before  
17 you left. That's another aggravating factor here.

18 On the other hand, I know that you didn't assault  
19 anyone, that you didn't damage any property, and I do  
20 believe you had no intent of breaking into the Capitol  
21 building when you woke up on January 6th.

22 Those are important mitigating factors in your  
23 favor. But I hope you also see that when people allow  
24 themselves to get swept up into a mob, they end up creating  
25 chaos and lawlessness that the vast majority of those people

1 individually never would have caused or chosen to do.  
2 That's the danger of mobs. Ms. Pert, as you said a few  
3 moments ago, I think you did get caught up in the moment,  
4 and unfortunately, people can do some very bad things when  
5 they get caught up in the moment.

6 I've also considered your history and  
7 characteristics. While neither of you have a lengthy  
8 criminal history, this is not your first brush with the law  
9 either. I'm much more inclined to give someone a break who  
10 has no prior convictions, but you both have misdemeanor  
11 convictions, including relatively recent assault  
12 convictions.

13 I've also considered the various facts in your  
14 favor, including the letters and testimonials on your  
15 behalf, suggesting that you're -- that this conduct was an  
16 aberration for you. And I recognize the fact that you're  
17 both gainfully employed and are contributing to society.  
18 I also have taken into account, Mr. Winn, your son's  
19 testimony here today.

20 Finally, I give you credit for early acceptance of  
21 responsibility. I also agree with the attorneys that your  
22 history on pretrial supervision in this case speaks well in  
23 your favor.

24 I am going to give slightly different sentences  
25 here. I think -- I do believe that Mr. Winn was a bit of

1 the protagonist here, at least in suggesting that you come.  
2 And, frankly, I think I detect a greater degree of remorse,  
3 frankly, from Ms. Pert than I do from Mr. Winn.

4 And, finally, I have taken into account your own  
5 desires, and particularly Mr. Winn's desire to get this over  
6 quickly.

7 Having considered all of the 3553(a) factors, I'm  
8 cognizant that I must fashion a sentence that is sufficient  
9 but not greater than necessary to comply with the purposes  
10 of sentencing.

11 I'll now impose the sentences.

12 It is the judgment of the Court that you,  
13 Rachael Pert, are hereby sentenced to a term of 24 months'  
14 probation on Count 2. You're further sentenced to pay \$500  
15 in restitution, and to pay a \$25 Special Assessment.

16 While on probation, you shall abide by the  
17 following mandatory conditions, as well as the standard  
18 conditions of supervision which were imposed to establish  
19 the basic expectations for your conduct while on  
20 supervision.

21 The mandatory conditions include:

22 You must not commit another federal, state, or  
23 local crime; you must not unlawfully possess a controlled  
24 substance; you must refrain from any unlawful use of a  
25 controlled substance, including marijuana; you must submit

1 one drug test within 15 days of placement on supervision,  
2 and at least two periodic drug tests thereafter as  
3 determined by the Court; you must cooperate in the  
4 collection of DNA as directed by the probation officer; you  
5 must make restitution in accordance with 18 U.S.C. 3663 and  
6 3663(a) or any other statute authorizing a sentence of  
7 restitution.

8 I will be authorizing supervision and jurisdiction  
9 of this case to be transferred to the United States  
10 District Court for the Middle District of Florida.

11 You shall comply with the following special  
12 conditions:

13 You must provide the probation officer access to  
14 any requested financial information and authorize the  
15 release of any financial information. The Probation Office  
16 may share financial information with the United States  
17 Attorney's Office.

18 You must not incur new credit charges or open  
19 additional lines of credit without the approval of the  
20 probation officer.

21 You must also complete 100 hours of community  
22 service within the first 12 months of your probation. The  
23 probation officer will supervise the participation in the  
24 program by approving the program. You must provide written  
25 verification of completed hours to the Probation Office.

1           The Court finds that you do not have the ability  
2 to pay a fine, and, therefore, waives imposition of a fine  
3 in this case. However, you are ordered to make restitution  
4 to the Architect of the Capitol in the amount of \$500.

5           The Court determines that you do not have the  
6 ability to pay interest and, therefore, waives any interest  
7 or penalties that may accrue on the balance.

8           Restitution payments shall be made to the Clerk of  
9 the Court for the U.S. District Court for the District of  
10 Columbia for disbursement to the Architect of the Capitol.

11           You shall pay the balance of any restitution owed  
12 at a rate of no less than \$50 each month and provide  
13 verification to the Probation Office.

14           The Probation Office shall release the Presentence  
15 Investigation Report to all appropriate agencies, which  
16 includes the United States Probation Office in the approved  
17 district of residence, in order to execute the sentence of  
18 the Court. Treatment agencies shall return the presentence  
19 report to the Probation Office upon your completion or  
20 termination from treatment.

21           It is the judgment of the Court that you, Dana Joe  
22 Winn, are hereby sentenced to a term of 12 months' probation  
23 as to Count 2. You're further sentenced to pay \$500 in  
24 restitution and to pay a \$25 Special Assessment.

25           As a condition of your probation, you must also

1 serve a total of ten days of intermittent confinement.  
2 The intermittent confinement shall be served on consecutive  
3 weekends at a facility designated by the Bureau of Prisons  
4 within the first year of your probation. You must follow  
5 rules and regulations of your facility in which you're  
6 designated.

7           While on probation, you shall abide by the  
8 following mandatory conditions, as well as the standard  
9 conditions of supervision, which are imposed to establish  
10 the basic expectations of your conduct while on supervision.

11           The mandatory conditions include: You must not  
12 commit another federal, state, or local crime; you must not  
13 unlawfully possess a controlled substance; you must refrain  
14 from any unlawful use of a controlled substance; you must --  
15 including marijuana; you must submit to one drug test within  
16 15 days of placement on supervision and at least two  
17 periodic drug tests thereafter as determined by the Court;  
18 you must cooperate in the collection of DNA as directed by  
19 the probation officer; you must make restitution in  
20 accordance with 18 U.S.C. 3663 and 3663(a), or any other  
21 statute authorizing a sentence of restitution.

22           I will also be authorizing supervision and  
23 jurisdiction of this case to be transferred to the United  
24 States District Court for the Middle District of Florida.

25           You should comply with the following special



1 conditions:

2           You must provide the probation officer access to  
3 any requested financial information and authorize the  
4 release of any financial information.

5           The Probation Office may share financial  
6 information with the United States Attorney's Office.

7           You must not incur new credit charges or open  
8 additional lines of credit without the approval of the  
9 probation officer.

10           You must complete 100 hours of community service  
11 within the first 12 months of your probation, and your  
12 probation is only for 12 months.

13           The probation officer will supervise the  
14 participation in the program by approving the program.

15           You must provide written verification of completed  
16 hours to the probation officer.

17           The Court finds that you do not have the ability  
18 to pay a fine, and, therefore, waives imposition of a fine  
19 in this case.

20           You're ordered to make restitution to the  
21 Architect of the Capitol in the amount of \$500.

22           The Court determines that you do not have the  
23 ability to pay interest and, therefore, waives any interest  
24 or penalties that may accrue on the balance.

25           Restitution payments shall be made to the Clerk of

1 the Court for the U.S. District Court for the District of  
2 Columbia for disbursement to the Architect of the Capitol.

3           You shall pay the balance of any restitution owed  
4 at a rate of no less than \$50 each month and provide  
5 verification of the same to the Probation Office.

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           Treatment agencies shall return the Presentence  
12 Report to the Probation Office upon your completion or  
13 termination from treatment.

14           I advise both defendants, pursuant to  
15 United States Code 3742, Title 18: You have a right to  
16 appeal the sentence imposed by this Court if you believe the  
17 sentence was imposed in violation of law, was imposed as a  
18 result of an incorrect application of the Sentencing  
19 Guidelines, the sentence departs upward from the applicable  
20 sentencing Guidelines Range, or the sentence was imposed for  
21 an offense for which there's no sentencing guideline and is  
22 plainly unreasonable. If you choose to appeal, you must  
23 file any appeal within 14 days after the Court enters  
24 judgment.

25           As defined in 28 U.S.C. 2255, you also have the

1 right to challenge the conviction entered or sentence  
2 imposed if new and currently unavailable information becomes  
3 available to you or on a claim that you received ineffective  
4 assistance of counsel in entering a plea of guilty to the  
5 offense of conviction or in connection with sentencing.

6 If you're unable to afford the cost of an appeal, you may  
7 request permission from the Court to file an appeal without  
8 cost to you.

9 Pursuant to *United States versus Hunter*,  
10 809 F.3d 677 from the D.C. Circuit, are there any objections  
11 to the sentence imposed that are already not noted on the  
12 record?

13 Mr. Regan?

14 MR. REGAN: No, Your Honor.

15 THE COURT: Do you have a motion, sir?

16 MR. REGAN: Yes, Your Honor. The government moves  
17 to dismiss the remaining counts of the indictment.

18 THE COURT: All right.

19 Ms. Hanania, do you have any objections that are  
20 not noted?

21 MS. HANANIA: No, Your Honor.

22 THE COURT: And do you have any objection to the  
23 government's motion?

24 MS. HANANIA: No, Your Honor.

25 THE COURT: Mr. Orenberg, do you have any

1 objections to the sentence imposed that are not already  
2 noted on the record?

3 MR. ORENBERG: No, Your Honor.

4 THE COURT: And do you have any objection to the  
5 government's motion?

6 MR. ORENBERG: No, Your Honor.

7 THE COURT: All right.

8 I, therefore, am dismissing the remaining counts  
9 of the indictment.

10 Good luck to you, folks. Thank you.

11 MR. ORENBERG: Your Honor?

12 THE COURT: Yes.

13 MR. ORENBERG: I'm sorry, we do have one other  
14 housekeeping matter --

15 THE COURT: Okay.

16 MR. ORENBERG: Just for Mr. Winn.

17 THE COURT: Okay.

18 Thank you, folks.

19 MS. HANANIA: Thank you, Your Honor.

20 MR. ORENBERG: He's asking for the Court's  
21 permission to be with his mother in Sarasota, Florida, which  
22 is, I don't know, 100 miles from Middleburg.

23 DEFENDANT WINN: It's approximately three and a  
24 half hours.

25 MR. ORENBERG: Three and a half hours, yeah, for

1 the Christmas holidays. He's indicated to me that the  
2 probation officer down there said, get permission from the  
3 Judge.

4 THE COURT: Okay.

5 Ms. Gavito, are you still with us?

6 PROBATION OFFICER: Yes, Your Honor, I'm here.

7 THE COURT: Do you have any concern with that?

8 PROBATION OFFICER: Your Honor, I'm going to  
9 contact Mr. Winn. Mr. Winn is the one that requested it,  
10 right?

11 THE COURT: Yes.

12 PROBATION OFFICER: Okay.

13 I'm going to contact Mr. Winn, because, as of  
14 today, he is on probation, he is going to be assigned to a  
15 probation officer.

16 I need to advise him of his conditions of  
17 probation. And he would need to report to his new probation  
18 officer and go through any requirements that that officer  
19 may have. I wouldn't want to speak on behalf of another  
20 officer who's going to get this case assigned.

21 THE COURT: Okay.

22 Do you have any objection, Mr. Regan?

23 MR. REGAN: No, Your Honor.

24 And I'm happy to work with Mr. Orenberg offline  
25 once the probation officer is assigned to try and get that

1 accommodation made for Christmas.

2 THE COURT: Okay.

3 I'm fine with it. I don't know if --

4 MR. ORENBERG: That's fine.

5 I do have one follow-up question. This being the  
6 first sentencing hearing I've had in the pandemic era where  
7 the clients are released from the courtroom, do we still  
8 need to go to the Probation Office here or do we do this all  
9 by telephone?

10 THE COURT: I don't know.

11 Ms. Gavito?

12 PROBATION OFFICER: I am going to contact each  
13 Mr. Winn and Ms. Pert separately and go over their  
14 conditions of probation separately by telephone. They don't  
15 need to go to the Probation Office.

16 MR. ORENBERG: Okay. Thank you.

17 THE COURT: All right.

18 So, Mr. Orenberg, on the request for Christmas,  
19 I'm going to assume you all can work this out. If you  
20 can't, I need specific language that you want me to order  
21 and you can file a motion for that.

22 MR. ORENBERG: Thank you, Your Honor.  
23 I understand.

24 THE COURT: But I think it's better we have that  
25 on the record about an address or what have you.

1 MR. ORENBERG: All right. Got it. Thank you.

2 THE COURT: Thanks, folks. Good luck to you all.

3 COURTROOM DEPUTY: All rise.

4 This Honorable Court will stand in recess until  
5 the return of court.

6 (Proceedings concluded at 12:12 p.m.)

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C E R T I F I C A T E

I, William P. Zaremba, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-titled matter.

Date: December 31, 2021 /S/ William P. Zaremba

William P. Zaremba, RMR, CRR



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**Zone [1]** 12/14  
**Zone A [1]** 12/14  
**Zoom [1]** 36/15