

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	.	
	.	
Plaintiff,	.	CR No. 21-0328 (TSC)
	.	
v.	.	
	.	
ROBERT SCOTT PALMER,	.	Washington, D.C.
	.	Friday, December 17, 2021
Defendant.	.	12:36 p.m.
.	

TRANSCRIPT OF SENTENCING HEARING
BEFORE THE HONORABLE TANYA S. CHUTKAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	ROBERT C. JUMAN, AUSA U.S. Attorney's Office 500 E. Broward Blvd. Ft. Lauderdale, FL 33132 (786) 514-9990
For the Defendant:	BJORN E. BRUNVAND, ESQ. Bjorn Brunvand, P.A. 615 Turner Street Clearwater, FL 33756 (727) 446-7505
Court Reporter:	BRYAN A. WAYNE, RPR, CRR U.S. Courthouse, Room 4704-A 333 Constitution Avenue NW Washington, DC 20001 (202) 354-3186

Proceedings reported by stenotype shorthand.
Transcript produced by computer-aided transcription.

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

2 THE DEPUTY CLERK: Your Honor, calling criminal case
3 No. 21-328, the United States of America versus Robert Scott
4 Palmer. This is an in-person proceeding. Mr. Palmer is
5 present and in the courtroom. The probation officer present
6 for these proceedings is Officer Robert Walters. Counsel for
7 the government is Mr. Robert Juman, and the counsel for the
8 defendant is Mr. Bjorn Brunvand.

9 THE COURT: All right.

10 Mr. Palmer, good afternoon. How are you doing?

11 THE DEFENDANT: Pretty good, Judge. Thank you.

12 THE COURT: All right. And, Mr. Brunvand, you
13 said Mr. Palmer has family members in the audience?

14 MR. BRUNVAND: Yes, Your Honor. Present in the
15 audience is his daughter, Shannon Palmer, and his son,
16 Robert Palmer.

17 THE COURT: All right. Before we get any further,
18 let he tell anyone who is calling in that it is strictly
19 prohibited by federal and local court rules to broadcast,
20 record any portion of this hearing. And I don't have to
21 mention screenshots, because we are doing this in person.

22 Okay. We are here for the sentencing of the defendant,
23 Robert Palmer, who has pleaded guilty to Count Three of the
24 indictment against him: Assaulting, Resisting, or Impeding
25 Certain Officers Using a Dangerous Weapon, in violation of

1 18 U.S.C. Sections 111(a) and (b).

2 In preparation for this hearing, I have received and
3 reviewed the following, the presentence report and the
4 sentencing recommendation from the Probation Office, and I've
5 also reviewed and received the following documents submitted
6 by counsel in advance of the hearing:

7 The plea agreement and statement of offense signed by
8 Mr. Palmer; sentencing memoranda from the government and
9 from Mr. Palmer including Mr. Palmer's motion for a downward
10 variance; a letter from Mr. Palmer and 18 letters of support
11 from family, friends, neighbors, and former customers; as
12 well as a forensic psychological evaluation of Mr. Palmer.
13 I've read all of these materials.

14 Is there anything else that I'm missing, Mr. Juman?

15 MR. JUMAN: No, Your Honor.

16 THE COURT: Mr. Brunvand.

17 MR. BRUNVAND: Yes, Your Honor. The only document
18 that I don't believe you mentioned that was attached to the
19 sentencing memo was the U.S. Marshal report detailing the
20 conditions of the local detention facility.

21 THE COURT: Just a minute. I think I did see that.
22 Hold on. Is there a document number for that?

23 MR. BRUNVAND: It's an Exhibit A or B to the sentencing
24 memo, Your Honor.

25 THE COURT: To your sentencing memo?

1 MR. BRUNVAND: Yes, Your Honor.

2 THE COURT: Okay. Hold on. Then I must have seen it.
3 Oh, and I've also received a letter from Mr. Palmer, which
4 I've also had a chance to read.

5 THE DEPUTY CLERK: 31-1, Your Honor.

6 THE COURT: I see it, yes. Is that the memo regarding
7 the conditions at the jail?

8 MR. BRUNVAND: That's correct.

9 THE COURT: Yes. I have previously seen that, and
10 I saw it when it was attached.

11 MR. BRUNVAND: Yes, Your Honor.

12 THE COURT: All right. Other than that, anything
13 I'm missing?

14 MR. JUMAN: No, Your Honor.

15 THE COURT: Okay. Good.

16 All right. Let me begin first with the presentence report.
17 The final presentence report and sentencing recommendation
18 were filed on December 10, 2021. Mr. Palmer has raised three
19 objections: (1) to the cover page, (2) to paragraphs 31, 32,
20 and 42, and (3) to paragraph 139. I shall address these in
21 order.

22 The cover page -- I believe your objection to the cover
23 page is to the inclusion of Robert Feitel?

24 MR. BRUNVAND: Yes, Your Honor. It has no bearing
25 on the sentencing, but Mr. Feitel was kind enough to do a

1 pro hac vice motion when I first became involved in this case.
2 I then became a member of the bar. He never filed a notice
3 of appearance. And I know he gets copied on a regular basis,
4 but his sole involvement was to file the pro hac vice motion.

5 THE COURT: Yeah. The Probation Office's response
6 to that is Mr. Feitel is still listed as an attorney of record
7 on ECF, and it's their practice to include all attorneys of
8 record in the presentence report.

9 MR. BRUNVAND: That's fine, Your Honor.

10 THE COURT: It's not incorrect. It's not factually
11 incorrect. So I'm going to leave it, but obviously your
12 position is in the record.

13 Mr. Juman, do you have anything you want to add to that?

14 MR. JUMAN: No, Your Honor. We think it's fine to
15 keep it in there.

16 THE COURT: Because this is a purely administrative
17 matter and Mr. Feitel is still listed as an attorney of record
18 for Mr. Palmer in the ECF, the contents of the presentence
19 report cover page will remain unaltered.

20 With regards to paragraphs 31, 32, and 42 with regard
21 to acceptance of responsibility, I believe that is the subject
22 of your motion for downward departure, and I will address
23 that. At this point, I'm simply asking for objections to
24 the facts.

25 MR. BRUNVAND: That's correct. We're not disputing

1 the fact that the government and Probation relies on for
2 purposes of their position that acceptance of responsibility
3 should not be provided.

4 THE COURT: Okay. With regard to paragraph No. 139,
5 that's the conclusion of the Probation Office that it has not
6 identified any factors that would warrant a variance from the
7 applicable guideline range based on the factors outlined in
8 18 U.S.C. § 3553(a). Again, that's not factual. That goes to
9 what you're going to argue with regard to your motion for a
10 downward variance.

11 MR. BRUNVAND: Yes, Your Honor.

12 THE COURT: These are the subjects of the motion,
13 and I will address these later.

14 The Probation Office certainly is entitled to come to
15 whatever conclusion they come to, and their conclusion is
16 certainly supported by the facts in the record, and I will
17 not alter paragraph 139. So I will adopt the paragraphs
18 as presented in the presentence report.

19 As you know, as I told you at your plea, I'm not bound
20 by the Probation Office's recommendation. That is simply
21 their calculation for my benefit.

22 Mr. Juman, does the government have any further objections
23 not yet addressed to any of the factual determinations set
24 forth in the presentence report?

25 MR. JUMAN: No, Your Honor.

1 THE COURT: Mr. Brunvand?

2 MR. BRUNVAND: No, Your Honor. Thank you.

3 THE COURT: All right. I assume, Mr. Juman, that
4 you don't expect an evidentiary hearing? You have no
5 witnesses present?

6 MR. JUMAN: We do not have any witnesses present,
7 and we do not expect to need any. We do have argument if
8 the Court will allow.

9 THE COURT: Oh, yes.

10 Okay. Mr. Brunvand, have you and Mr. Palmer read and
11 discussed the presentence report?

12 MR. BRUNVAND: We have, Your Honor.

13 THE COURT: And do you have any further disputed issues
14 of fact; that is, any further objection not yet mentioned to
15 any of the factual determinations set forth in the presentence
16 report?

17 MR. BRUNVAND: No, Your Honor.

18 THE COURT: Mr. Palmer, are you fully satisfied with
19 the services of Mr. Brunvand in this case?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: You have to speak so that -- you may have
22 to share the microphone because -- there you go.

23 THE DEFENDANT: Yes, ma'am, I am.

24 THE COURT: All right. Do you feel that you've had
25 enough time to talk with him about the presentence report and

1 the papers that were filed in this case?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: All right. Having addressed the defense
4 objections and hearing no further objection, I will accept
5 the factual recitation in the presentence report regarding
6 the circumstances of the offense, and therefore the facts as
7 stated in the presentence report will be my findings of fact
8 for the purpose of this sentencing.

9 Okay. With regard to the guidelines, the presentence
10 report lays out the Probation Office's calculation of the
11 advisory guideline range that applies in this case. This
12 calculation was done using the 2021 guidelines manual and
13 is as follows:

14 The applicable guideline for Count Three, Assaulting,
15 Resisting, or Impeding Certain Officers Using a Dangerous
16 Weapon, in violation of 18 U.S.C. §§ 111(a)(1) and (b),
17 is §2A2.2(a), which has a base offense level of 14.

18 Because dangerous weapons, including a plank and a fire
19 extinguisher, were used in the commission of the charged
20 offense, the offense level is increased by four, for a new
21 total of 18 per §2A2.2(b)(2)(B).

22 Because Mr. Palmer was convicted under 18 U.S.C. § 111(b),
23 the offense level is increased by two points, for a new total
24 of 20 per §2A2.2(b)(7).

25 Because Mr. Palmer's conduct's victim was a government

1 officer or employee, and the offense of his conviction was
2 motivated by that status, the offense level is increased
3 by six, for a new total of 26 per §3A1.2(b).

4 As stated in the presentence report, and I know it's
5 challenged by Mr. Brunvand, the Probation Office has declined
6 to apply the two-level reduction contemplated by §3E1.1(a) for
7 acceptance of responsibility.

8 Therefore, prior to the consideration of any departures or
9 variances, the Probation Office calculates Mr. Palmer's total
10 offense level as 26.

11 Turning to the criminal history category, the presentence
12 investigation has found that Mr. Palmer, although he has
13 prior convictions, he has zero prior convictions that receive
14 criminal history points in the guidelines manual, therefore
15 giving him a criminal history point subtotal of zero and
16 putting him in criminal history category I.

17 Based on the offense level and the criminal history
18 category I've just discussed, the presentence report
19 calculates the guidelines sentencing range to be 63 months
20 to 78 months of imprisonment.

21 Now, having determined the applicable guidelines range,
22 let me consider departures and variances. The presentence
23 report does not include any departure grounds. In the plea
24 agreement, the government has reserved the right to request
25 an upward departure for the promotion of terrorism as set

1 forth in §3A1.4(a) but has not done so. Mr. Palmer has
2 made a motion for a downward variance and has argued that
3 the two-level reduction of acceptance of responsibility,
4 per §3E1.1(a), should apply to his total offense.

5 I'm going to consider the two arguments separately.
6 One is with regard to the presentence report's calculation
7 not giving him the two-level reduction, and then I'll address
8 it again in your motion for a variance. I think that makes
9 sense.

10 So Mr. Palmer objects to the Probation Office's determination
11 to recommend that a two-level downward adjustment in his total
12 offense level not be applied to his sentencing recommendation
13 as per U.S. Sentencing Guideline §3E1.1.

14 The Probation Office declined to apply this adjustment based
15 on an internet posting that was discovered after Mr. Palmer
16 pleaded guilty on October 4, 2021. The posting titled "Help
17 Patriot Rob" was posted on fundraising website GiveSendGo and
18 solicited donations to help pay for Mr. Palmer's legal fees.
19 That posting included the following language:

20 January 6 would never be the same. Hello, my
21 name is Robert. I am a proud father of 4, a once
22 successful business owner, a Christian man, and a
23 proud American patriot who went to the Capitol on
24 January 6 to support our president and to witness
25 the overturn of the election. While protesting

1 the election, I was shot at with rubber bullets
2 and sprayed with tear gas. I didn't even go
3 through the barricade into the Capitol. I did,
4 however, go on the defense and throw a fire
5 extinguisher at the police as I could not believe
6 they had just shot me.

7 And that is a portion of the posting I'm quoting from.
8 Obviously, it's not the entire thing.

9 Section 3E1.1 applies a two-level downward adjustment to
10 a total offense level when a defendant clearly demonstrates
11 acceptance of responsibility for their offense.

12 In determining such a clear demonstration, the Probation
13 Office relies on note 3 to the guideline, which indicates
14 that when a defendant pleads guilty, their truthful admission
15 that they committed the conduct in question constitutes
16 significant acceptance of responsibility.

17 Now, it is true that Mr. Palmer, in his plea of guilty,
18 agreed that the facts outlined and his behavior outlined
19 in the statement of offense is what he did.

20 The Probation Office contacted the government, after
21 discovering the fundraising post, to determine the veracity
22 of Mr. Palmer's claim that he threw the fire extinguisher at
23 police in self-defense. Mr. Palmer's posting, it should be
24 noted, contradicted the statement of offense and contradicted
25 his admission under oath at his plea that he threw the fire

1 extinguisher before he was fired upon by the police with rubber
2 bullets. The Probation Office's exchange with the government
3 revealed this characterization of Mr. Palmer's events on the
4 fundraising website to be false.

5 Accordingly, the Probation Office determined that Mr. Palmer's
6 guilty plea was not truthful and that the two-level downward
7 adjustment -- either Mr. Palmer's guilty plea was not truthful,
8 or Mr. Palmer's fundraising post was not truthful, actually,
9 and that the two-level downward adjustment for acceptance of
10 responsibility should not apply to Mr. Palmer's total offense
11 level.

12 Mr. Palmer responds to this by contending that he may not
13 have been aware -- and by the way, he responds to this through
14 counsel -- that he may not have been aware of the degree to
15 which the complete contents set forth in the post violated the
16 §3E1.1 n.3 standard for truthful admission of conduct.

17 He states that the language was not a false denial of the
18 events, but rather an inaccurate depiction of the time frame
19 or motivation of the events as they occurred. He concedes that
20 he was not shot with rubber bullets until after he threw the
21 fire extinguisher, but also notes that the air was filled with
22 tear gas and pepper spray. Mr. Palmer also notes that when
23 defense counsel became aware of the post, he advised Mr. Palmer
24 to take it down and to refund any monies raised to the
25 respective donors.

1 He also notes his early acceptance of responsibility and
2 his admission of guilt by his plea as further evidence of a
3 truthful admission of guilt. This issue is also the subject
4 of Mr. Palmer's motion for a downward adjustment, to be
5 addressed later.

6 Well, this raises some questions on my part. First of all,
7 I've said it often; I don't know if I said it at your plea
8 hearing: I don't want anyone pleading guilty if they're not
9 guilty. I placed you under oath, Mr. Palmer, at your plea
10 hearing, and I asked you certain questions about your conduct
11 on January 6.

12 You agreed that the events stated in the statement of
13 offense, the facts stated in the statement of offense, were
14 correct. You conceded and admitted that you threw the fire
15 extinguisher and other projectiles at law enforcement before
16 you were fired upon with rubber bullets.

17 MR. JUMAN: Your Honor, I apologize for interrupting.
18 Can I address one issue?

19 THE COURT: Yes.

20 MR. JUMAN: Your Honor, at the time we negotiated a
21 plea agreement with the defense, we did not know that the
22 defendant was going to take this position as to the sequence
23 of his being shot --

24 THE COURT: I'm sure you didn't.

25 MR. JUMAN: And we didn't mention him being shot in

1 the statement of offense. So, technically, his statement
2 of offense at the time of his plea made no reference to the
3 attack. I think it is certainly inferential that there was
4 no reference to it as being in self-defense, but I just wanted
5 it to be clear --

6 THE COURT: Thank you.

7 MR. JUMAN: -- that he didn't actually say he did
8 one before the other.

9 THE COURT: Right. And which is the only reason why
10 he's not actually looking at the possibility of prosecution
11 for a false statement.

12 MR. JUMAN: Fair enough, Your Honor.

13 THE COURT: Thank you for pointing that out. The
14 being fired on by the rubber bullets was not -- there was
15 no sequence listed in the statement of offense.

16 But I believe you did not raise a defense of self-defense.
17 Isn't that right, Mr. Brunvand?

18 MR. BRUNVAND: That's correct, Your Honor.

19 THE COURT: So I have to ask you, and I have to make
20 sure of that before I proceed to sentencing: Does Mr. Palmer
21 raise an issue of self-defense at this point?

22 MR. BRUNVAND: Your Honor, he does not. He did not
23 when we first met with law enforcement back in March of 2021.
24 The statement that was made on the fundraising website was
25 false. I believe he will acknowledge that it was false

1 and that he's sorry that he in fact did that. And I can
2 elaborate --

3 THE COURT: Well, I'm going to inquire of your client.

4 Mr. Palmer, can you pull the microphone to you? Make sure
5 you speak loud and clear into it.

6 Mr. Palmer, you pleaded guilty in October to assaulting
7 police officers with a dangerous weapon. Is that still your
8 plea?

9 THE DEFENDANT: Yes, ma'am, it is.

10 THE COURT: Now, after your plea, you posted statements
11 on a fundraising website, stating that you were shot with rubber
12 bullets by the police before you threw the fire extinguisher
13 at them. Is that what you posted?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Were those statements true, or were
16 they false?

17 THE DEFENDANT: No, they were false.

18 THE COURT: When you threw the fire extinguisher
19 and the plank at the police officers, were you acting in
20 self-defense?

21 THE DEFENDANT: No, ma'am, I was not.

22 THE COURT: Mr. Juman, are you satisfied?

23 MR. JUMAN: Your Honor, I think that is consistent
24 with our understanding of the facts.

25 THE COURT: Thank you. But I have to satisfy

1 myself that Mr. Palmer does not have any kind of claim of
2 self-defense, that he understands fully, and there's no factual
3 basis for a claim of self-defense before I accept his plea.

4 MR. JUMAN: I think that's correct, Your Honor.
5 I don't think this is anything that interferes with the
6 validity of the defendant's plea.

7 THE COURT: Mr. Brunvand?

8 MR. BRUNVAND: I agree, Your Honor. Mr. Palmer's
9 tried to get my attention. Am I allowed to go around --

10 THE COURT: At any time. Mr. Palmer, we're not
11 going to rush through this. If you need to consult with
12 your lawyer, just consult with him. Do you need five minutes?
13 Do you want me to take a recess?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. I'll be back.

16 (Recess from 12:56 p.m. to 1:01 p.m.)

17 THE COURT: All right. Mr. Palmer, have you had
18 enough time to talk with your lawyer?

19 THE DEFENDANT: Yes, ma'am. Thank you.

20 THE COURT: Okay. Let's proceed.

21 And by the way, I'm looking at the statement of offense,
22 and, Mr. Juman, thank you for that correction. It does not,
23 in fact, mention that Mr. Palmer was shot with rubber bullets
24 before or after he assaulted the police.

25 All right. With regard to the Probation Office's

1 calculation, in concluding its report, the Probation Office
2 indicates that it has not identified any factors that would
3 warrant a variance from the applicable guideline range based
4 on the factors outlined in 18 U.S.C. § 3553(a), and Mr. Palmer
5 objects, noting that he has presented reasons meriting a
6 downward variance.

7 I agree with the Probation Office's calculation -- and
8 so does the government, I would note -- that the Probation
9 Office finds that Mr. Palmer's posting of the concededly false
10 statements regarding the facts of his offense indicate that, at
11 least at a time after he pleaded guilty, he was still denying
12 his culpability in the offense, and therefore those statements
13 provide a basis on which to deny Mr. Palmer the two-level
14 reduction.

15 I agree with the Probation Office's calculation of that
16 denial of the two-level reduction, and therefore their
17 calculation of the appropriate range will be my finding for
18 purposes of this sentencing. So I do agree with the Probation
19 Office's calculation of Mr. Palmer's total offense level at
20 26, and I do agree that with a criminal history category of I,
21 Mr. Palmer's appropriate sentencing range is 63 months to 78
22 months of imprisonment.

23 The government is asking for a sentence at the low end
24 of that range, and Mr. Brunvand has moved for a variance, a
25 downward variance, which I will then subsequently address.

1 In fact, I'll address it now.

2 In support of his motion for a two-level reduction and a
3 variance in the sentencing range, Mr. Palmer offers that he
4 was one of the first defendants to plead guilty among defendants
5 charged with felony offenses, that he promptly turned himself
6 in to law enforcement when he learned that he was under
7 investigation and admitted his role in the offense after the
8 arrest. He states that the decision to post on the fundraising
9 website was a result of the stress of his incarceration and
10 that he immediately returned all donations once he realized
11 his mistake in posting.

12 In support of the downward variance, Mr. Palmer further
13 refers to the sentencing factors outlined in 18 USC § 3553(a).
14 Specifically, Mr. Palmer asserts that he was motivated to go
15 to the Capitol at the behest of the former president, who had
16 convinced him that the 2020 presidential election was stolen
17 and that his presence was needed at the Capitol to stop the
18 presidential transition.

19 Mr. Palmer argues that his presence at the Capitol on
20 January 6 was the result of his desire to act patriotically
21 and for the good of the nation; this mindset and the, quote,
22 "crowd mob effect" caused him to assault the Capitol Police
23 that day. He also offers that while he accepts and regrets
24 his actions, it is relevant to consider that any purported
25 architects of the January 6 riots have not been charged with

1 any criminal offense and that it would be an imbalance to
2 sentence him to an extended prison term while those actors
3 remain free.

4 With regard to Mr. Palmer's history and characteristics and
5 the need to protect the public, Mr. Palmer details the extremely
6 difficult upbringing that he had, as well as the regular physical
7 and mental abuse he suffered as a child at the hands of his
8 stepmother and other relatives, and these traumas manifested
9 as mental-health and substance-abuse issues as an adult.
10 Mr. Palmer offers that while these issues do not excuse his
11 actions, they contextualize why he believed his presence and
12 actions were necessary and patriotic at the time.

13 Mr. Palmer argues that the objects that he used -- a fire
14 extinguisher, a piece of wood, and a pole -- should not qualify
15 -- I'm going to ask you, Mr. Palmer, not to communicate with
16 members of the audience. This is your sentencing.

17 THE DEFENDANT: Sorry, Your Honor.

18 THE COURT: You should focus on what's happening in
19 court up here.

20 THE DEFENDANT: Yes, ma'am. Sorry.

21 THE COURT: And any attempt to communicate with
22 Mr. Palmer while the Court is going through the sentencing
23 proceeding could result from your being removed from the
24 courtroom.

25 Mr. Palmer argues that the objects he used -- a fire

1 extinguisher, a piece of wood, and a pole -- should not
2 qualify as weapons as they are not equivalent to knives or
3 firearms. And with regard to the need to avoid sentencing
4 disparities, Mr. Palmer notes that any sentence within the
5 guidelines range would be higher than any other defendants
6 as yet sentenced in connection with the Capitol riots.

7 Mr. Brunvand, have I adequately summarized your position
8 in your motion for downward departure?

9 MR. BRUNVAND: You have, Your Honor.

10 THE COURT: I've reviewed the government's opposition.

11 Now I'm going to deny the motion for a downward departure.
12 I find that despite the factors outlined in Mr. Palmer's
13 motion, the two-level reduction and a downward variance is
14 given -- the two-level reduction is given for acceptance
15 of responsibility. I've already said why I am not giving
16 the two-level reduction, and I find that the factors in
17 Mr. Palmer's motion for a variance do not warrant a variance
18 in this case.

19 Mr. Palmer, it is true, has -- and I'll go into this
20 further when I consider the 3553(a) factors -- has endured
21 a difficult childhood, but he overcame those difficulties,
22 and it is to his credit. His early criminal history
23 notwithstanding, he built a business. He has, by all
24 accounts, been a good father, a good friend, a good neighbor.

25 Therefore, the difficulties that he experienced in his

1 upbringing weren't the cause of why he went to the Capitol.
2 They may have been the cause of why he got those convictions
3 as a younger person, but he seems to have overcome all of
4 those problems, or at least to have dealt with them, and was
5 living an otherwise productive life.

6 He went to the Capitol because, despite election results
7 which were clear-cut, despite the fact that multiple court
8 challenges all over the country had rejected every single one
9 of the challenges to the election, Mr. Palmer didn't like the
10 result. He didn't like the result, and he didn't want the
11 transition of power to take place because his guy lost.

12 And it is true, Mr. Palmer -- you have made a very good
13 point, one that has been made before -- that the people who
14 exhorted you and encouraged you and rallied you to go and
15 take action and to fight have not been charged.

16 That is not this court's position. I don't charge
17 anybody. I don't negotiate plea offers. I don't make
18 charging decisions. I sentence people who have pleaded
19 guilty or have been convicted.

20 The issue of who has or has not been charged is not before
21 me. I don't have any influence on that. I have my opinions,
22 but they are not relevant. And you're correct in that no one
23 who was encouraging everybody to take the Capitol has been
24 charged as of yet, but I don't think that fact means that you
25 should get a lower sentence.

1 The fact is that there are lots of people who agreed with
2 you, who didn't like the results of the election, who perhaps
3 thought the election was stolen in some way. They stayed
4 home. You decided, of your own free will, to leave Florida
5 and come to Washington and go to the rally.

6 That's your right. You're not being sentenced for your
7 political views. When you left that rally and went to the
8 Capitol and saw what was going on and engaged in combat with
9 those law enforcement officers, that's what you're being
10 punished for. So you have a point, that the people who may
11 be the people who planned this and funded it and encouraged
12 it haven't been charged, but that's not a reason for you to
13 get a lower sentence.

14 With regard to your argument that there's a need to
15 avoid sentencing disparity, I will address that issue when
16 I go through the 3553(a) factors in detail. Which is now.

17 Section 3553(a) requires me to consider a variety of
18 factors including the sentencing range that the guidelines
19 prescribe, which I've just discussed, and the applicable penal
20 statutes. The charge of Assaulting, Resisting, or Impeding
21 Certain Officers Using a Dangerous Weapon, in violation of 18
22 U.S.C. §§ 111(a) (1) and (b), is a Class C felony that carries
23 a maximum term of 20 years of imprisonment.

24 The statute provides that Mr. Palmer is eligible for
25 one to five years of probation. Under the guidelines,

1 Mr. Palmer is not eligible for probation.

2 The statutes provide that Mr. Palmer faces a supervised
3 release range following imprisonment of not more than three
4 years per 18 U.S.C. § 3583(b)(2). Under the guidelines, the
5 supervised release range is one to three years.

6 The statute sets a maximum fine of up to \$250,000, and
7 the guidelines range is \$2,000. A special assessment of
8 \$100 per count is mandatory.

9 The statutory and guidelines restitution provisions
10 are applicable because there is an identified victim, and
11 the restitution, per 18 U.S.C. § 3663(a), would be \$2,000,
12 which is what I believe Mr. Palmer has agreed to pay as
13 restitution as part of his plea agreement.

14 Is that correct, Mr. Juman?

15 MR. JUMAN: Yes, Your Honor.

16 THE COURT: All right. Mr. Juman, have I accurately
17 stated the statutory and guidelines framework under which
18 we're operating?

19 MR. JUMAN: Yes, Your Honor.

20 THE COURT: Mr. Brunvand?

21 MR. BRUNVAND: Yes, Your Honor.

22 THE COURT: All right. Before I discuss the other
23 sentencing factors that will bear on my final decision, I
24 will at this point notify the parties -- you may already
25 know this -- of the particular sentence the Probation Office

1 has recommended. The Probation Office, taking into account
2 the guidelines range and the available sentences and all of
3 the factors in § 3553(a), the Probation Office has recommended
4 63 months of imprisonment, 36 months of supervised release,
5 and \$2,000 in restitution.

6 Again, as I have noted to you, Mr. Palmer, that is a
7 recommendation. It is not binding on me. I'm always guided
8 by the Probation Office's recommendation, but I don't always
9 go along with their recommendation. I probably deviate with
10 it more than I go along with it, but it guides my decision.
11 The recommendation of the Probation Office is not based on
12 any facts or circumstances that have not already been revealed
13 to the parties in the presentence report.

14 At this point, I am going to give the parties the
15 opportunity to address the Court. Mr. Juman?

16 MR. JUMAN: Thank you, Your Honor. In light of Your
17 Honor's rulings on the guideline range and the denial of the
18 defendant's motion for downward departure, I don't think I
19 have anything to add, unless the Court has any questions to
20 what's in our sentencing memo, just to say that we agree with
21 the recommendation of Probation.

22 THE COURT: Well, thank you, Mr. Juman. I have no
23 questions. I think your sentencing memorandum was thorough
24 and set forth the facts and circumstances and the government's
25 position very well.

1 All right. Mr. Brunvand.

2 MR. BRUNVAND: Yes, Your Honor. My client's son
3 is present and wanted to make a brief statement, if he may,
4 before I --

5 THE COURT: It has to be brief, but yes. You may
6 approach, state your name for the record, and speak into the
7 microphone. State your name for the record.

8 MR. PALMER: Hi, everyone. I am Robert Scott Palmer, Jr.

9 THE COURT: Good afternoon.

10 MR. PALMER: Hello. I will speak very briefly.
11 I appreciate the Court giving me this opportunity to speak.
12 This is not easy for me, as you can imagine. I'm just here
13 to represent my father's character. I do not in any way
14 condone the actions that took place. I'm also saddened to
15 hear about the fundraising account in October. I've had
16 minimal to no contact with my father since he's been
17 incarcerated. I understand the inconsistencies are a factor.

18 I would just like the Court to keep in mind the pretrial
19 history where he had the zero to one point. That is a reflection
20 of his character throughout that entire time of his life, and
21 I would just hope that the Court understands that the brief
22 instant in time, while it is severe and unacceptable, is just
23 a brief moment in comparison to a long, productive life.

24 And I would just ask that the Court, going forward, give
25 him every opportunity to prove his contrition and accept the

1 consequences for what he did. Thank you.

2 THE COURT: Thank you, Mr. Palmer.

3 Mr. Brunvand?

4 MR. BRUNVAND: Yes, Your Honor. I believe Mr. Palmer
5 would like to make a brief statement.

6 THE COURT: He can. I've read his letter, and he
7 can. But what I usually do is I hear allocution from the
8 government, from counsel, and then the defendant. I mean
9 I can change that up if there's a particular reason for it,
10 but usually I let the defendant hear what the lawyer says,
11 and then he can...

12 MR. BRUNVAND: The only reason I'm asking him to be
13 able to go first is he's very concerned about -- he's very
14 nervous, and I know what he wanted to say to the Court, and
15 if he misses something, I can then --

16 THE COURT: All right. That's fine.

17 And it's normal to be nervous, Mr. Palmer. Take your time.
18 Take a deep breath.

19 THE DEFENDANT: Your Honor, I'm really, really ashamed
20 of what I did. Excuse me.

21 (Pause)

22 THE COURT: Take your time.

23 THE DEFENDANT: You know, I had this long speech --
24 not speech, but this long thing I was going to say to the
25 Court, you know, but the thing that really changed my mind

1 about what I was going to say is, in jail we've got this thing
2 called the Education Tablet that you can log on and you can do
3 -- get your GED and learn different things. You know.

4 They've got law libraries. It's a very useful tool.

5 I'd logged on, and I saw a clip from MSNBC, Rachel Maddow,
6 and it was featuring my case.

7 THE COURT: Do you -- I don't believe you used to watch
8 MSNBC before you got incarcerated.

9 (Laughter.)

10 THE DEFENDANT: No, ma'am, I did not. Honestly.

11 But, ma'am, I was horrified, absolutely devastated to see
12 myself on there. Just to see the coldness and the calculation
13 going up to the steps with the fire extinguisher and spraying
14 it at those office.

15 I mean, ma'am, I have to tell you, my memory is just not
16 what it should be sometimes, and when I saw that, it just
17 brought back what actually happened. And those officers were
18 just so brave just standing there, just taking all the stuff
19 that people were giving them, all the taunts, all the jeers,
20 everything, and I'm just so ashamed that I was part of that.
21 Very, very ashamed.

22 And, you know, as far as the GiveSendGo, I'm not going
23 to make any excuses, ma'am. I'm not going to. It was a lie.
24 It should've never happened. I'm just very, very sorry.

25 And whatever sentence I get, you know, when I get out

1 there some day, I am going to be the kind of person that I
2 was before, and I will never, ever go to another political
3 rally again. And I just want my family to know that I love
4 them.

5 And I'm so thankful for Mr. Brunvand. He's done so much
6 for me. He has been an awesome lawyer. Ma'am, he even had me
7 out to his house when we did the PSI because he had a medical
8 procedure the next day, and his wife couldn't have been any
9 nicer. They just welcomed me into their home, and it was just
10 so sweet, you know.

11 And, Mr. Juman, I know you're doing your job, and I respect
12 what you're doing for the United States, and the people are
13 really well served having you do that.

14 And I just thank you, ma'am, for taking the time and
15 listening to me, and I know that you're going to be fair
16 and you're going to do what's right, and I thank you for that.

17 THE COURT: Thank you, Mr. Palmer. I'm going to try.
18 That's all I can to. Mr. Brunvand?

19 MR. BRUNVAND: Yes, Your Honor.

20 Your Honor, I have a bunch of notes, but thank you for
21 giving me the opportunity to speak on behalf of my client.
22 You indicated that you recognized that he had a very difficult
23 childhood. In reviewing and reading the presentence report,
24 we read about him being referred to as "a little f'er" by
25 the person who's supposed to provide for him, care for him,

1 provide him security and safety. There were lots of other
2 examples that shouldn't happen to children as they grow up.

3 And I agree, Your Honor, that certainly the fact that he
4 was able to overcome that and have a productive life for quite
5 some time in many ways suggests that he was able to overcome
6 it. As human beings, some of us are stronger than others.

7 I will suggest, however, respectfully, that it's always
8 there. Even if you succeed in life, even if you are able to
9 have a productive life, the absence of love, the absence of
10 care, the absence of safety as a child is always there, and
11 the way we survive and the way we deal with these issues is --
12 unfortunately, one of the ways is self-deception and deception
13 of others. Another way is unnecessary anger.

14 And, Your Honor, I would respectfully suggest that at the
15 Capitol on January 6 and what we witnessed Mr. Palmer do on
16 that particular day is a reflection of an issue that he has
17 that deals with anger, and I would suggest that it does relate
18 back to his childhood. And I would suggest that, as part of
19 his supervision, when he is released from the period
20 of incarceration that Your Honor's going to impose, that it
21 should include mental health evaluation, and it should
22 include mental health treatment and counseling.

23 Mr. Palmer's case came to the forefront of the news when
24 Huffington Post did an article back in -- I believe it was
25 March 5th of this year. I was contacted shortly thereafter,

1 and Mr. Palmer immediately told me he was guilty; he wanted
2 to plead guilty; he wanted to do what he could to try to make
3 right for what he had done. I reached out to the government
4 spoke with the AUSA at a very early stage. We met with agents
5 of the United States at the early stages.

6 Mr. Palmer was out of custody. He was released on
7 supervised release up until his plea hearing on October 4,
8 and as part of the plea agreement we agreed that he needed
9 to be taken into custody and detained at that point.

10 The early days of his being in custody, a couple of things
11 took place that, unfortunately, again because of bad judgment
12 on Mr. Palmer's part, he had decided that it was a good idea
13 to go off his medication for depression and anxiety. His
14 reasoning and what he suggested to me after the fact was it
15 would keep him from going to the psychiatric part of the jail.

16 While incarcerated in the initial part of the local jail,
17 where I guess people are generally housed when they first are
18 detained, which is the part that the Marshals Service talks
19 about --

20 THE COURT: Central Detention Facility.

21 MR. BRUNVAND: Yes, Your Honor. He was having a very
22 difficult time. He was not on his meds. There was a moment
23 when he was coming back from having made a phone call, within
24 a few days of being there, where he had the unfortunate experience
25 of having feces and urine thrown at him. I explained to him

1 that many, many, many decades ago, when I start started as a
2 public defender, unfortunately, these things sometimes happen
3 in jails.

4 THE COURT: They shouldn't, but they do.

5 MR. BRUNVAND: They shouldn't, but they do.

6 They shouldn't, but they do.

7 It is my belief, Your Honor, that the fact that he was not
8 taking his medication, the fact that the conditions were not
9 in any way ideal -- and they're much better where he is now.
10 He's indicated to me that in the medical facility where he is
11 now that --

12 THE COURT: Correctional Treatment Facility? CTF?

13 MR. BRUNVAND: Yes.

14 THE COURT: Yeah. It is better there.

15 MR. BRUNVAND: And he has figured out that you can get
16 by without getting in trouble, without having any issues in
17 that particular location.

18 But I believe that that contributed to his bad judgment
19 in doing what he did as far as the fundraiser. You know, when
20 -- as the Court already knows, he immediately removed the one
21 when I told him to remove it and apologized. Those actions
22 led to him basically -- led to both myself and the government
23 listening to a bunch of phone calls which made it very clear
24 that he certainly was part of authorizing the particular post.

25 There were also statements that were made by Mr. Palmer

1 during those phone calls that were derogatory towards myself.
2 And throughout my representation of Mr. Palmer, from time to
3 time I would receive random text messages from him where he
4 would express his appreciation for not only my representation,
5 but treating him as a fellow human being and as a friend.

6 And as recently as a few days ago, when I met with him
7 via video, he said, you know, there's only four years' age
8 difference between the two of us, but I kind of view you as a
9 father figure. And I appreciate that, and I'm glad that I can
10 contribute to him; and I hope that when he's done serving his
11 sentence that he will be able to have a productive life and
12 not reoffend, and I believe he will. I choose to believe that
13 the derogatory comments is not a reflection of what he really
14 means and who he really is.

15 Your Honor, I was going to go through -- and I'm going
16 to shorten it up. I don't want to take up too much time.
17 But in preparation for today, I did go and I looked at how
18 many arrests there have been for 111(a) and 111(a) and (b)
19 cases up through this past Sunday, and by my calculations
20 there's been 141 arrests and either indictments or pleas to
21 information.

22 THE COURT: They're still coming. I've got one right
23 after this. They're still coming.

24 MR. BRUNVAND: Still coming. I know, Your Honor.
25 I know, Your Honor. I mention it because Mr. Palmer, through

1 his own doing, has lost acceptance, but he was the second
2 person of all these individuals to enter a guilty plea to
3 111(b). He's the first person to be sentenced for 111(b).
4 The people that are charge with 111(a), which is basically
5 a battery or assault of a law enforcement officer, generally
6 are scoring at 24 to 30 months. And it is what it is.
7 The guidelines are what they are. I understand they're
8 discretionary.

9 Your Honor, I'm asking this court to consider all of that
10 and to impose what the Court believes is a just sentence, a
11 sentence that is sufficient for purposes of punishment but
12 not greater than necessary. I'm also asking that you recommend,
13 if you're willing to do so, that he be placed in a Bureau of
14 Prisons facility in Florida.

15 THE COURT: I was going to ask you. Okay.

16 MR. BRUNVAND: Yes. And also, while he's worked on
17 flooring all his life, he has asked for a recommendation
18 that maybe he can get some training in the field of being
19 an electrician, and he's also asking that the Court recommend
20 the intensive drug treatment program and also mental health
21 treatment and evaluation while in the Bureau of Prisons.

22 And, Your Honor, could I just have one moment to check
23 with my client?

24 THE COURT: Yes.

25 (Counsel conferring with Defendant.)

1 MR. BRUNVAND: I just wanted to make sure about
2 the recommendation for RDAP, the intensive program that
3 I requested.

4 THE COURT: Yes.

5 MR. BRUNVAND: I appreciate your time and attention,
6 Your Honor, and I know these are extraordinary cases. It's a
7 very sad chapter in our history. My client can't take back
8 what he's done, but I still think he's a good man. He's loved
9 by his daughter, his son, and I believe that he'll be able to
10 rejoin society -- one of the things that gave me great joy
11 yesterday, and it may seem like a little thing, but it gave me
12 great joy, and that is that he has been resistant to taking
13 the COVID vaccine, which, quite frankly, seems to be something
14 that he shares with a lot of people that were present --

15 THE COURT: Every single defendant who's appeared in
16 front of me.

17 MR. BRUNVAND: Yes. So three days ago, when I talked
18 to him about it, I said to him, you know, are you a doctor?
19 And he said no. And I said, well, then get over it. Take the
20 test. Get the vaccine. Move on. And when I showed up to see
21 him at the jail yesterday, he was late coming out, and I was
22 informed by the guards that the reason he was late coming out
23 was because he was getting his first shot of the COVID vaccine.

24 THE COURT: I am so very glad to hear that.
25 And people are entitled to their beliefs and their actions,

1 and I don't punish you -- I'm not punishing anybody for who
2 they support. You could support the Flying Spaghetti Monster,
3 or whatever your political beliefs are, or whether you want to
4 vaccinate yourself or not. But your actions demonstrate to me
5 in doing that that you are capable of reflection and listening
6 and changing your mind based on the information that you
7 receive, and also that I hope you're motivated not only by
8 your own personal medical safety but the safety of your fellow
9 members of your community. So I'm very happy to hear that.

10 MR. BRUNVAND: Thank you, Your Honor.

11 THE COURT: All right. Thank you all. Everybody
12 has worked very hard in this case, and I'm going to start
13 by mentioning, Mr. Palmer -- and I'm hopeful. You tell me
14 you're watching MSNBC. A steady diet of any one of these
15 cable shows is probably not a good idea for anybody, but some
16 of my colleagues have said to defendants, listen to some other
17 sources of information.

18 And I feel certain that if people would expose themselves
19 to a variety of opinions and sources of information, we might
20 not have had January 6th. But people get very siloed and
21 listen to an echo chamber of information and opinion, and you
22 get a very warped view of what's really going on in the world;
23 and that may be part of it, but in doing so, you fail to see
24 other people as human beings. And that is one of the things
25 I see here as a judge, is there is a failure to acknowledge

1 other people's humanity.

2 You have seen firsthand now how horrible the conditions
3 in the jail are. You've attached the report from the Marshals,
4 who have been very brave and courageous in documenting and
5 trying to correct those conditions. The jail is a horrible
6 place. I was a public defender for a long time, and I spent
7 a lot of time in jail visiting clients; and every time I left,
8 I was so happy to get out of there.

9 But I would wager that you and many of your colleagues
10 and friends probably think that jail is for other people,
11 and if conditions are bad in the jail, then the people somehow
12 deserve them. And you've had a chance firsthand to see that
13 that position fails to take into consideration the humanity of
14 other people.

15 I have, on a regular basis, young men and young women,
16 some older, before me who had horrible childhoods, whose
17 parents were abusive, whose parents were in jail, whose
18 parents had drug problems, and it's not surprising to anyone
19 that they end up in front of me eventually. But many people
20 who are not acquainted with the criminal justice system don't
21 see the humanity in those people. Your lawyer, as a defense
22 lawyer, probably has experience in this as well.

23 And so I am happy that there are people and there are
24 articles talking about the conditions in the jail. I am
25 perhaps a little cynical about why those conditions are

1 receiving such publicity now that there are defendants in
2 the jail who probably have access to political influence that
3 your average jail resident does not. But in any event, I'm
4 glad that attention is being paid.

5 The other thing I wanted to mention to you is what your
6 lawyer talked about, which is none of us are the worst thing
7 we've ever done, and you have made some mistakes in your life.
8 You've committed some crimes early in your life.

9 You got yourself together. You straightened up. The fact
10 that you have children here willing to come and speak on your
11 behalf, who love and support you, is a testament to who you
12 are.

13 I don't know if your remorse now genuine or not. I
14 certainly hope it is. It sounds like it is. Your actions
15 after your plea do undercut that argument, but again you've
16 had some time. But I hope it is true. I hope your remorse is
17 true. I hope your remorse is genuine, and I hope you continue
18 to consider other sources of information as you go forward.

19 After calculating the sentencing guidelines and departures,
20 and hearing the statements made by counsel and by Mr. Palmer,
21 I have to now consider the relevant factors set out by
22 Congress in 18 U.S.C. § 3553(a) and ensure that I impose a
23 sentence sufficient but not greater than necessary to comply
24 with the purposes of sentencing.

25 These purposes include the need for the sentence to reflect

1 the seriousness of the offense, to promote respect for the
2 law, and to provide for just punishment. It should also deter
3 criminal conduct, protect the public from future crimes by the
4 defendant, and promote rehabilitation.

5 I also have to consider the nature and circumstances of
6 the offense, the history and characteristics of the defendant,
7 the types of sentences available, the need to avoid unwarranted
8 sentence disparity, and the need to provide restitution. I've
9 considered all of these factors at some length, and I'll set
10 forth my thinking on some of them now.

11 With regard to the nature of the offense, at the risk of
12 sounding like a broken record, the events of January 6 were
13 unprecedented in this nation's history. It was not a peaceful
14 protest; it wasn't a loud protest. It was a violent attempt
15 to stop the peaceful transition of power. It was a violent
16 attempt to overthrow a duly and lawfully elected government.

17 It resulted in destruction, death, injury - injuries both
18 visible on that day and injuries which many people who were
19 inside the Capitol will carry with them for a very long time.
20 We've had police officers commit suicide since the events of
21 that day.

22 Mr. Palmer traveled to Washington by plane from his home
23 in Florida. He attended the rally, and then he made his way
24 to the Capitol bedecked in political regalia: Florida for
25 Trump hat and Florida flag jacket. At approximately 4 p.m.,

1 Mr. Palmer was on the Upper West Terrace, leaning over the
2 railing, holding a sign stating "Biden is a Pedophile."

3 From his vantage point, Mr. Palmer had an excellent view
4 of the rioters who were attacking police officers who were
5 vastly outnumbered, attacking them with pepper spray, metal
6 rods, and stolen riot shields, among other things, along with
7 group chants of "Pull the cops out" and "Drag them out."

8 Along with other rioters, Mr. Palmer cheered on the violent
9 attacks of the police, at one point raising his arm up in
10 the air in support as rioters shoved a large flagpole into
11 the tunnel where law enforcement officers were trying to keep
12 occupants of the Capitol safe, occupants including the vice
13 president and his family.

14 Palmer watched these events happen before he joined in.
15 These rioters were also busy erecting scaffolding, gallows,
16 on the grounds of the Capitol. Mr. Palmer made his way to
17 the front line of the rioters and proceeded to attack the
18 officers. He first threw a wooden plank at officers. Then
19 he sprayed the contents of a fire extinguisher at officers,
20 and when that was empty, he hurled it at the police.

21 He then turned around for additional materials with which
22 he could assault the police, including throwing the fire
23 extinguisher a second time. At this time, after the assault,
24 after he had assaulted the police, he was pepper-sprayed by
25 law enforcement. The pepper spray only deterred him for a

1 short time.

2 A few minutes later, on the West Plaza, Mr. Palmer
3 assaulted another group of law enforcement officers with a
4 four- to five-foot pole. As he threw the pole like a spear
5 at the officers. One of them fired a nonlethal projectile,
6 a rubber bullet, which hit him in the abdomen.

7 He retreated and lay on the ground for a few minutes,
8 and when he got up, he showed his injury off to this crowd,
9 lying to them that he had been shot merely for yelling at
10 the police when in fact he had provoked the injury by his
11 own assault. I've viewed the videotape of that.

12 Thereafter, in statements to a reporter, Mr. Palmer
13 admitted that his goal that day was to subvert a democratic
14 election and that he hoped for military intervention to
15 overturn the election in order to keep the losing candidate
16 in power.

17 I've already gone through Mr. Palmer's false postings
18 after his guilty plea, falsely stating that his assaults
19 on law enforcement were a reaction to, rather than the cause
20 of, his being tear-gassed and shot with rubber bullets.

21 Despite being outnumbered that day, law enforcement
22 officers labored valiantly and tirelessly to protect the
23 Capitol and its occupants from the violent, out-of-control
24 mob -- a mob that erected, as I said, scaffolding outside and
25 indicated their desire to kill the vice president who was

1 supposed to preside over the certification of the election
2 results.

3 Those police officers who were there at the Capitol and
4 who came to the Capitol -- some MPD police officers were doing
5 their regular work in the city, heard the call for help,
6 stopped what they were doing, came to the Capitol, where
7 they almost were killed. They were the patriots that day,
8 Mr. Palmer.

9 Look behind you. See that gentleman and that lady right
10 there? They're U.S. Marshals. That day, U.S. Marshals ran
11 from this courthouse to the Capitol. They put themselves in
12 danger to protect the occupants of that Capitol. That's what
13 they're sworn to do. Everybody else was running away, trying
14 to get away from the violence. They run towards it, because
15 that's what they're sworn to do. That's their job.

16 They're the patriots. They don't consider their safety;
17 they consider the safety of the people they're designed to
18 protect, which include people in that Capitol, and which
19 includes me. They're the patriots. And some of them did
20 not know if they were going to see their children again that
21 night.

22 The people who were inside that Capitol, the men and
23 women working for Congress, the senators, congressmen, they
24 are patriots. They were there doing what the people elected
25 them to do, doing what this government pays them to do despite

1 the conditions, and they didn't know if they were going to
2 see their families again that night. They didn't know if
3 they were going to come out alive that night. They are the
4 patriots.

5 People outside of this city love to point at Washington
6 as a problem, love to somehow imply that this is a swamp, that
7 we're all here wasting the taxpayers' money. Well, let me
8 tell you, the men and women who kept democracy functioning that
9 day and saved lives, they deserve the thanks of this nation.
10 They didn't deserve to have a fire extinguisher thrown at
11 them. They didn't deserve to be called names, to be spat on.

12 And I wonder, Mr. Palmer, whether if some of the people
13 that I see before me on a regular basis in this courtroom,
14 charged with drug offenses and other offenses that are usually
15 the subject of federal charges, if they had tried to storm the
16 Capitol that day, if they would have been met with rubber
17 bullets. And I suspect not.

18 So with regard to the nature of the offense, it was a
19 serious one. It was an unprecedented one. And perhaps now,
20 having seen yourself on videotape and media footage, you
21 understand how terrified the rest of the country must have
22 been and the people inside that Capitol must have been when
23 those events were unfolding.

24 With regard to your characteristics as an offender, I've
25 already discussed the fact that you do have a prior criminal

1 history. You do have some significant hardships that you
2 have suffered in your life. And I agree with Mr. Brunvand
3 that those things stay with you, and so much of what happens
4 to us as children affects how we live our lives, how we
5 respond to pressure, how we deal with anger. And I think
6 Mr. Brunvand is correct that mental health treatment would
7 definitely, I think, help you.

8 But despite those difficulties, despite your earlier
9 convictions, you have managed to live a productive life.
10 You have managed to raise children who love you and support
11 you, and those are -- that's to your credit. You're younger
12 than I am. You're younger than I am, but you still have lots
13 of time before you to continue to live a productive life.

14 Turning to the types of sentences available, as I stated
15 before, the count to which you pleaded guilty carries a
16 maximum term of 20 years of imprisonment with one to five or
17 no more than three years of supervised release, and there's
18 a restitution and a fine of \$250,000. I've considered those
19 factors, and I've also considered the need to avoid the
20 unwarranted sentence disparity that your lawyer talked about.

21 I'll say that that factor is probably less weighty than
22 the others, because this was an unusual and unprecedented
23 case, and these are unusual cases. We have had in this court
24 several defendants sentenced to 41 months and more of time
25 for basically nonviolent offenses, for destruction of property,

1 for coming into the Capitol. So it's very hard to find a
2 range that is comparable.

3 During the last five fiscal years of 2016 to 2020,
4 there were 21 offenders whose primary guidelines of §2A2.2
5 with a final offense level of 26 and a criminal history
6 category of I, after excluding offenders who received a 5K
7 departure, for 20 offenders, 95 percent of those received
8 a sentence of imprisonment in whole or in part. The average
9 length of imprisonment was 66 months, and the median length
10 of imprisonment was 49 months. So that's somewhat of a
11 comparison.

12 The other factors I have to consider that weigh very
13 heavily on me are deterrence. You know, Mr. Palmer, I've
14 talked about your situation. You were allowed to leave the
15 Capitol. You were allowed to go home. You were allowed
16 to talk to law enforcement. You were allowed to come here
17 voluntarily and plead guilty, at which point you were stepped
18 back because that was mandatory under the statute you pleaded
19 guilty to.

20 But you have been allowed a lot of leeway that other
21 violent offenders have not been. You have been given a plea
22 offer to one count when you were charged with several, and
23 the government has allocuted for a sentence at the low end of
24 the guideline range. So I believe you have gotten significant
25 concessions given the seriousness of your actions.

1 But I have to consider deterrence, and I have to make
2 it clear that the actions you engaged in cannot happen again.
3 Every day we're hearing about reports of antidemocratic
4 factions of people plotting violence, the potential threat
5 of violence, in 2024.

6 It has to be made clear that trying to violently overthrow
7 the government, trying to stop the peaceful transition of
8 power and assaulting law enforcement officers in that effort
9 is going to be met with absolutely certain punishment. Not
10 staying at home. Not watching Netflix. Not doing what you
11 were doing before you got arrested in this case. That there
12 are going to be consequences. I am not making an example of
13 you. I am sentencing you for the conduct that you did. But
14 one of the things I need to make clear is this is the
15 consequence of those actions.

16 You have already agreed to pay \$2,000 in restitution
17 at the government's request, which I think is appropriate.

18 Having considered all of the factors that I must, I believe
19 that a penalty of 63 months of imprisonment, as requested and
20 as recommended by the Probation Office and as requested by
21 the government, is sufficient but not greater than necessary
22 to reflect the seriousness of the instant offense, to promote
23 deterrence, to protect the public from future crimes that
24 may be committed by the defendant, and to avoid unwarranted
25 sentence disparities among defendants convicted of similar

1 crimes. Therefore, based on my consideration of all 3553(a)
2 factors, I'll now state the sentence to be imposed.

3 Can you stand, please.

4 (Defendant complies.)

5 It is the judgment of this court, that you, Mr. Palmer,
6 are hereby committed to the custody of the Bureau of Prisons
7 for a term of 63 months on Count Three. You are further
8 sentenced to serve 36 months of supervised release and to pay
9 a \$100 special assessment. You are also ordered to pay \$2,000
10 in restitution. The Court finds that you do not have the ability
11 to pay a fine and therefore waives imposition of a fine.

12 The Court will recommend to the Bureau of Prisons that you
13 be housed in a Bureau of Prisons facility as close to your
14 home in Clearwater, Florida, as possible. I don't have any
15 authority over the Bureau of Prisons. I can make recommendations.
16 Where they house you is up to them, but I believe they do
17 factor in my recommendation. So I'll recommend that.

18 The special assessment of \$100 is immediately payable
19 to the Clerk of the Court for the U.S. District Court for
20 the District of Columbia. Within 30 days of any change of
21 address, you shall notify the Clerk of the Court of the change
22 until such time as the financial obligation is paid in full.

23 The Court will recommend to the Bureau of Prisons that you
24 be housed at a facility that has a residential drug treatment
25 program, that you be allowed access to such a program, and

1 that you be placed in such a program during your term of
2 imprisonment.

3 The Court will also recommend that you be allowed to obtain
4 training as an electrician. The Court believes that that will
5 help move you forward to a successful rehabilitation.

6 Within 72 hours of release from custody, you shall report
7 in person to the probation office in the district to which
8 you're released. While on supervision, you shall submit to
9 the collectin of DNA. You shall not possess a firearm or
10 other dangerous weapon. You shall not use or possess an
11 illegal controlled substance, and you shall not commit another
12 federal, state, or local crime. You shall also abide by the
13 general conditions of supervision adopted by the U.S.
14 Probation Office as well as the following special conditions
15 that I will now set forth.

16 Because of your history of struggling with substance abuse
17 and addiction, you shall participate in and successfully
18 complete a residential and/or outpatient substance abuse
19 treatment program, which may include drug testing and
20 detoxification services, as approved by and directed by the
21 Probation Office. You shall also submit to substance abuse
22 testing as approved and directed by the Probation Office.
23 You shall also submit to mental health treatment as directed
24 by the Probation Office since the Court believes that that is
25 one of the issues that has perhaps led you to be here today,

1 and mental health treatment is going to be a vital part in
2 your eventual rehabilitation.

3 Probation Office shall release the presentence investigation
4 report to all appropriate agencies in order to execute the
5 sentence of the Court. Treatment agencies shall return the
6 presentence report to the Probation Office upon Mr. Palmer's
7 termination or completion of treatment.

8 Mr. Palmer, pursuant to 18 U.S.C. § 3742, you have a
9 right to appeal the sentence imposed by this court subject
10 to certain rights of appeal you waived as part of your plea
11 agreement in this case. If you choose to appeal, you must
12 file an appeal within 14 days after the court enters judgment.
13 If you are unable to afford the cost of an appeal, you may
14 request permission from the court to file an appeal without
15 cost to you.

16 As set forth in the plea agreement, the government pledged
17 to moved to dismiss the indictment against Mr. Palmer, the
18 remaining counts of the indictment. Does the government wish
19 to do so now?

20 MR. JUMAN: Yes, Your Honor, the remaining counts.

21 THE COURT: All right. The motion is granted.

22 Are there any objections to the sentence imposed not
23 already on the record, Mr. Brunvand?

24 MR. BRUNVAND: No, Your Honor.

25 THE COURT: Mr. Juman?

1 MR. JUMAN: No, Your Honor.

2 THE COURT: Mr. Palmer, you've expressed remorse,
3 and by all appearances, it appears to be genuine. I hope it
4 is. I can't tell. I can't look into your heart or your mind,
5 but what I can tell you is this: The way you conduct your
6 life after this case is going to speak volumes about whether
7 you are truly remorseful.

8 And you may or may not be, and I don't have any control
9 over that. But you have children here, and you appear to be
10 a devoted father, and I will say this to you: How you come
11 back from this -- everyone makes mistakes, some big and some
12 small. And you made a big one. You've made a big one. But
13 your children are here for you, and they are watching you.
14 And they're going to watch to see how you conduct your life
15 after this, and it is the way we pick ourselves up from our
16 mistakes that shows your true character.

17 So I encourage you to make the most of your time, both
18 while incarcerated and after incarceration, just show your
19 children that while we make mistakes and we can do bad things,
20 that does not make us irredeemable people. So good luck to
21 you, sir.

22 THE DEFENDANT: Thank you, Your Honor.

23 PROBATION OFFICER: Your Honor?

24 THE COURT: Yes, Mr. Walters. Come on up.

25 PROBATION OFFICER: Robert Walters with Probation.

1 As to the restitution, I don't believe a payment schedule
2 was ordered, which, if you'd like, Probation can make that
3 determination.

4 THE COURT: I would like that. Thank you.

5 Do you have any objection, Mr. Juman?

6 MR. JUMAN: No, Your Honor.

7 THE COURT: Mr. Brunvand?

8 MR. BRUNVAND: No, Judge.

9 PROBATION OFFICER: However, I would request, so that
10 we can accurately make a determination as to what he can pay,
11 that you order financial disclosure and financial restrictions
12 just so we can have access to his finances to determine what
13 he can in fact pay.

14 THE COURT: Well, I usually impose those in cases where
15 there's been fraud or some kind of financial malfeasance, and
16 Probation did conduct a financial -- did check his accounts
17 with regard to his ability to pay a fine.

18 Mr. Brunvand, do you have a position on this?

19 MR. BRUNVAND: I can tell the Court and Probation that
20 my client has no money.

21 THE COURT: I have waived imposition of a fine. I was
22 told by Mr. Brunvand at the plea that Mr. Palmer has sold all
23 his assets and is prepared -- but wait a second, Mr. Brunvand.
24 I believe you said you had some resources in escrow for
25 payment of the restitution.

1 MR. BRUNVAND: Yes. The 2,000 I have. And I'm leaving
2 for Ukraine on Sunday and then Norway. I won't be back until
3 January, but when I get back from my office, I can mail --

4 THE COURT: All right. It sounds like we don't need a
5 schedule.

6 PROBATION OFFICER: That's fine.

7 THE COURT: So, Mr. Brunvand, when you get back after
8 the holidays, if you could simply make the payment and provide
9 notification to the Probation Office. All right. Thank you.
10 So we don't need to do that. Anything else?

11 MR. JUMAN: Not from the government, Your Honor.

12 MR. BRUNVAND: No, Your Honor.

13 THE COURT: All right. Somebody's waving their hand.
14 Is that your daughter?

15 FAMILY MEMBER: Can I give my dad a hug?

16 THE COURT: That's up to the marshals. I know
17 it's very hard, but the marshals have their rules for our
18 protection, and they can't do it.

19 Good luck, Mr. Palmer.

20 THE DEFENDANT: Thank you, ma'am.

21 (Proceedings adjourned at 1:58 p.m.)
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CERTIFICATE

I, BRYAN A. WAYNE, Official Court Reporter, certify that the foregoing pages are a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Bryan A. Wayne
Bryan A. Wayne