

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,)	Criminal Action
)	No. 21-435
vs.)	
)	
SAMUEL CHRISTOPHER FOX,)	April 5, 2022
)	10:26 a.m.
Defendant.)	Washington, D.C.

* * * * *

**TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE BERYL A. HOWELL,
UNITED STATES DISTRICT COURT CHIEF JUDGE**

APPEARANCES:

FOR THE GOVERNMENT:

ANTHONY L. FRANKS
DOJ-USAO
Lrm Hurst, Julie
111 S. 10th Street
St. Louis, MO 63102
(314) 539-2200
Email: anthony.franks@usdoj.gov

FOR THE DEFENDANT:

MYTHRI JAYARAMAN
Federal Defender's Office
Eastern District of PA
601 Walnut Street
The Curtis
Suite 540 West
Philadelphia, PA 19106
(215) 928-1100
Email: mythri_jayaraman@fd.org

ALSO PRESENT:

CARMEN NEWTON, Probation Officer

Court Reporter:

Elizabeth Saint-Loth, RPR, FCRR
Official Court Reporter

This hearing was held via videoconference and telephonically and is therefore subject to the limitations associated with the use of technology, static interference, etc.

Proceedings reported by machine shorthand, transcript produced by computer-aided transcription.

P R O C E E D I N G S

1
2 THE COURTROOM DEPUTY: Matter before the Court,
3 Criminal Case No. 21-435, United States of America versus
4 Samuel Christopher Fox.

5 Your Honor, Probation Officer Ms. Carmen Newton is
6 appearing via videoconference.

7 Counsel, please come forward and state your names
8 for the record, starting with the government.

9 MR. FRANKS: Yes. Anthony Franks for the
10 United States.

11 THE COURT: Good morning, Mr. Franks.

12 MR. FRANKS: Good morning.

13 MS. JAYARAMAN: Good morning, Your Honor.
14 Mythri Jayaraman on behalf of Mr. Sam Fox.

15 THE COURT: All right. And I am glad Mr. Fox was
16 able to make it here this morning.

17 THE DEFENDANT: I apologize, Your Honor. I got
18 lost. I was trying to get around -- ended up in
19 northeast -- I ended up northeast instead of northwest, and
20 I was on foot. So I was trying to like -- tried a bad way
21 to get here, I apologize.

22 THE COURT: All right. Well, I am glad you made
23 it to the right building. Usually, people get confused
24 between the federal court and the superior court, which is
25 right across the street; but you complicated your life even

1 more than that this morning.

2 THE DEFENDANT: I understand.

3 THE COURT: All right. Please be seated.

4 All right. So we're here this morning for the
5 sentencing of the defendant, Samuel Fox, who entered a plea
6 of guilty to the petty offense in Count 4 of the information
7 against him for parading, picketing, and demonstrating in
8 the Capitol Building.

9 The sentencing hearing is in person --

10 (High-pitched audio sound interruption.)

11 THE COURT: -- but the public access line is being
12 made available to listen to the proceedings remotely. We're
13 having a lot of trouble with the AT&T public access line.
14 If this happens again, I am going to turn it off -- if
15 anybody is listening.

16 Anyone listening to the sentencing hearing over
17 the public teleconference line is reminded that, under my
18 Standing Order 20-20, recording and rebroadcasting of court
19 proceedings, including those held by videoconference, is
20 strictly prohibited. And violation of these prohibitions
21 may result in sanctions, including removal of court-issued
22 media credentials, restricted, or denial of entry to future
23 hearings, or any other sanctions deemed necessary by the
24 presiding judge.

25 All right. So the first thing I do at a

1 sentencing hearing is to review all of the papers that I
2 have looked at in connection with the sentencing hearing
3 this morning to make sure that I am looking at -- and
4 everybody is looking at all of the same set of documents.

5 I reviewed the probation office's sentencing
6 report -- presentence investigation report docketed at
7 ECF 28; sentencing recommendation docketed at ECF 29; and,
8 also, a number of documents submitted by counsel in advance
9 of the hearing, including the government's sentencing
10 memoranda docketed at ECF 33, and the sentencing memoranda
11 submitted by the defendant docketed at ECF 34.

12 I have also looked at CCTV footage from inside the
13 Capitol Building that was submitted by the government and
14 referenced in the government's submission; and a letter from
15 the defendant sent to the prosecutor -- not the Court --
16 which was attached as Exhibit A to his sentencing memo, and
17 was docketed at ECF 34-1.

18 Does the government have all of those documents?

19 MR. FRANKS: Yes, Your Honor. Thank you.

20 THE COURT: And, Ms. Jayaraman, do you have all of
21 those documents?

22 MS. JAYARAMAN: I do, Your Honor. Thank you.

23 THE COURT: All right. So, Mr. Fox, let me just
24 tell you how the sentencing hearing will proceed. You can
25 stand up right where you are.

1 The sentencing hearing will proceed in three
2 steps. At the first step, I will determine whether the
3 government or you has any objections to any parts of the
4 presentence investigation report; and, if you do, I will
5 resolve those objections.

6 The second step is to hear from the government,
7 then from your lawyer, and then from you -- if you wish to
8 speak to me directly about an appropriate sentence in your
9 case.

10 And then the last step requires that the Court
11 explain the reasons for the sentence imposed and then impose
12 sentence after consideration of the factors set out in the
13 statute at 18 U.S.C. Section 3553(a).

14 Do you have any questions about how the sentencing
15 proceeding is going to move forward?

16 THE DEFENDANT: No, Your Honor. Not at this
17 point.

18 THE COURT: Okay. You may be seated.

19 Okay. We're at the first step.

20 The final presentence investigation report and
21 sentencing recommendation from the probation office were
22 submitted on January 18, 2022. And I understand from the
23 PSR that the government has no objection to any of the
24 factual or other determinations set out in the PSR; is that
25 correct?

1 MR. FRANKS: That is correct, Your Honor.

2 THE COURT: All right. Thank you.

3 You may be seated.

4 Ms. Jayaraman, have you and your client read and
5 discussed the presentence investigation report?

6 MS. JAYARAMAN: We have, Your Honor.

7 THE COURT: And does Mr. Fox have any outstanding
8 objections to any of the factual statements or other parts
9 of the PSR?

10 MS. JAYARAMAN: Your Honor, the probation
11 department did include the corrections that we had
12 submitted. Mr. Fox indicates there is one more correction
13 to be made. On page 3 of the presentence report, towards
14 the top, it has --

15 THE COURT: And you can step forward to the
16 podium, if you wish.

17 MS. JAYARAMAN: Yes, Your Honor.

18 THE COURT: And are you fully vaccinated?

19 MS. JAYARAMAN: I am.

20 THE COURT: Then you may remove your mask.

21 MS. JAYARAMAN: Thank you.

22 On page 3 of the PSR, Your Honor, on the top part
23 where it says identifying data, date of birth, August 6,
24 1989; that is correct. However, a little bit further down
25 where it says aliases, date of birth per NCIC -- where it

1 says August 6, 1987, he wishes to state that he has never
2 given that date of birth; so that could have been a mistake.

3 THE COURT: All right. Who is on from the
4 probation office?

5 MS. NEWTON: Good morning, Your Honor.
6 Carmen Newton.

7 THE COURT: Yes. And could you explain that? I
8 just noticed that myself.

9 MS. NEWTON: Yes, Your Honor.
10 On the record from the National Crime Information
11 Center, this is information that comes and is associated
12 with the defendant's fingerprints; and this is not
13 information that our office inputs. This is typically
14 something that happens during processing or arresting; and
15 it is quite possible that the person that entered the
16 information entered a typo. But this comes from that
17 record.

18 We're not indicating that Mr. Fox actually
19 provided this information. We're just indicating that this
20 is an alias that we found on the National Crime Information
21 Center record.

22 THE COURT: And based on his fingerprint match?

23 MS. NEWTON: Correct. This is based on
24 fingerprint matches and FBI numbers, yes.

25 THE COURT: Okay. Well, it's not something that

1 probation can correct. So --

2 MS. JAYARAMAN: Very well, Your Honor. Thank you.

3 THE COURT: And thank you for bringing that to my
4 attention. I hadn't noticed that before.

5 MS. JAYARAMAN: And no further corrections or
6 objections from the defense.

7 THE COURT: All right. Thank you.

8 Mr. Fox, could you just stand right where you are.

9 And are you fully satisfied with your attorney in
10 this case?

11 THE DEFENDANT: Without having much knowledge of
12 legal issues, I would say yes; I think she's doing great at
13 walking me through.

14 THE COURT: And do you feel that you have had
15 enough time to talk to your attorney about the probation
16 office's presentence investigation report, the sentencing
17 recommendation, and the other documents submitted in
18 connection with your sentencing from the government?

19 THE DEFENDANT: Yes. With the documents, yes.

20 THE COURT: All right. Thank you.

21 You may be seated.

22 All right. Hearing no objection from either side,
23 the Court will accept the factual portions of the
24 presentence investigation report as undisputed and as my
25 findings of fact at sentencing as supplemented with my

1 review of the video exhibit in the case.

2 We're now at the second step of the hearing where
3 I will hear from the parties if they wish to address the
4 appropriate fashioning of a sentence in this case based on
5 consideration of the factors in 18 U.S.C. Section 3553(a).

6 So I will turn first to Mr. Franks.

7 MR. FRANKS: Thank you.

8 THE COURT: You can step forward to the podium.

9 Oh, hold on just one second.

10 MS. JAYARAMAN: Your Honor, if I can just
11 approach.

12 THE COURT: Yes.

13 MS. JAYARAMAN: Mr. Franks was kind enough to let
14 me look at this.

15 THE COURT: Okay. Thank you.

16 MS. JAYARAMAN: Thank you, Your Honor.

17 THE COURT: Ms. Jayaraman, can you just remind me,
18 where are you located?

19 MS. JAYARAMAN: I am a Federal Defender in
20 Philadelphia, Your Honor.

21 THE COURT: In Philly. I thought you were not
22 really with the FPD here.

23 MS. JAYARAMAN: That's correct.

24 THE COURT: And you have been assisting with these
25 cases, so thank you.

1 MS. JAYARAMAN: Thank you, Your Honor.

2 MR. FRANKS: Good morning, Your Honor.

3 I know that you are very familiar with the
4 sentencing memo that the government provided. One thing
5 that I'd like to point out is: On page 33, there is an
6 error in there. We referenced another case. I apologize if
7 that case was referenced. It's the *Sunstrum* [sic] case at
8 the bottom of page 33.

9 THE COURT: Page 33 of the government's sentencing
10 memo?

11 MR. FRANKS: Yes, Your Honor.

12 THE COURT: Okay. Page 33 of the government's
13 sentencing memo.

14 MR. FRANKS: It was supposed to reference that the
15 defendant in this case pled guilty to Count 4.

16 THE COURT: Okay. Well, I certainly understood
17 that.

18 MR. FRANKS: Okay.

19 THE COURT: Okay.

20 MR. FRANKS: Thank you, Your Honor.

21 What I'd like to start with are the key factors
22 that I know that this Court considers in terms of fashioning
23 the sentence with regard to the January 6th defendants.

24 I will start with the first one, which is
25 preplanning. The defendant here did not come to the Capitol

1 on a whim. He preplanned his trip as early as December of
2 2020. The defendant put on Facebook an ad in which he said
3 that there's two buses that can come -- that can take up to
4 50 travelers to the Capitol for free; he detailed the time
5 in which they can be -- people could be picked up. And then
6 the next day, Mr. Fox also volunteered to take up to five
7 people to the Capitol to protest the election.

8 THE COURT: Well, was he -- was that Facebook post
9 and the January 1 post that you talk about in your memo --

10 MR. FRANKS: Yes.

11 THE COURT: -- were those to go to the rally that
12 the former President was holding --

13 MR. FRANKS: Yes, that is correct.

14 THE COURT: -- rather than going to the Capitol?

15 MR. FRANKS: Yes. That is correct, Your Honor.
16 He was -- yeah. He planned to come to the rally, that is
17 correct.

18 THE COURT: All right. So it wasn't preplanning
19 to go to the Capitol?

20 MR. FRANKS: That is correct, yes.

21 THE COURT: All right. And when I usually look at
22 "preplanning," what is particularly probative is not
23 preplanning to attend the rally that was held, it was --
24 it's preplanning in preparation for encountering violence by
25 collecting gear, by collecting bear spray, knives, guns,

1 wearing bulletproof vests, tactical vests, flak jackets;
2 with other equipment to either break in someplace, mete out
3 violence --

4 MR. FRANKS: Yes. That's correct. He did not --

5 THE COURT: -- or goggles to protect yourself from
6 tear gas if there is violence, ways to continue executing a
7 plan even in the face of resistance or police action to stop
8 violence.

9 And so when you say that there is "preplanning"
10 here, I see preplanning to come to the rally. I don't see
11 the kind of preplanning for violence --

12 MR. FRANKS: Okay.

13 THE COURT: -- that is the real probative factor.
14 I mean, saying that he hopes Trump starts a civil war is not
15 a good statement.

16 MR. FRANKS: That's -- that's what I was going to
17 relate. There is no evidence -- we have no evidence that he
18 had any tactical gear, that he had any weapon -- that he had
19 planned to bring any weapons, but he didn't plan for
20 anything. He -- he said that he hoped Trump would start a
21 civil war.

22 THE COURT: Right.

23 Well, let me turn to one of the things that is --
24 I will be honest, was eyebrow-raising for me when I read the
25 government's memo and sentencing recommendation here,

1 because the government's recommendation here is for a period
2 of probation but with a special condition of 30 days
3 incarceration; is that right?

4 MR. FRANKS: That is correct, Your Honor.

5 THE COURT: And I am just going to put my cards on
6 the table, that's the way I --

7 MR. FRANKS: Okay.

8 THE COURT: -- cut through things here.

9 MR. FRANKS: Yes. Yes.

10 THE COURT: I see this defendant as somebody who
11 had a couple of Facebook posts about coming to the Trump
12 rally, no preplanning in terms of preparing for violence --
13 even though he issued a statement saying he was hoping there
14 would be a civil war -- not good; but he didn't do anything
15 to engage in violence. He comes; he follows the crowd from
16 the Trump rally, I guess, down to the Capitol. He goes into
17 the Capitol for two minutes -- two minutes. Goes in, takes
18 a photo, turns around, walks out, leaves. Not much more
19 than that.

20 So this is a defendant who, for spending two
21 minutes inside the Capitol Building -- clearly unlawful,
22 clearly deserves to be prosecuted and punished. The
23 question here is: How much punishment does two minutes --
24 do two minutes inside of the Capitol, with a couple of
25 Facebook posts about being energized by the former

1 President -- how much punishment does that merit?

2 And you have to understand that last week I had a
3 defendant who came, was -- helped to break down a window in
4 the Capitol -- wasn't charged with a petty offense, charged
5 with a Class A misdemeanor -- helped to break down a window
6 to get into the Capitol, was one of the first 30 people to
7 get in, you know, right after 2:13 p.m. -- so the Senate is
8 still not even evacuated --

9 MR. FRANKS: That's correct.

10 THE COURT: -- the Vice President, I think, is
11 still not evacuated; the first 30 people to get in, confront
12 Officer Goodman inside the Capitol -- this defendant helps
13 part of the crowd that chases Officer Goodman up the stairs
14 until they meet another line of police officers; told to
15 disperse. He leaves, and then he comes back in -- reenters
16 the Capitol twice. For that defendant, the government asked
17 for probation. He was in a total -- both times -- 30
18 minutes. The government's recommendation was probation.

19 So you explain -- as a sentencing judge required
20 by statute to -- in sentencing, to avoid unwarranted
21 sentencing disparities -- how I am supposed to reconcile
22 that?

23 MR. FRANKS: Your Honor, can I speak now?

24 THE COURT: Yes.

25 MR. FRANKS: Yeah. Your Honor, that is one of the

1 reasons why I outline so many cases in the sentencing
2 disparity section. And -- and I put them in detail to
3 distinguish some of the -- the factors in our case from
4 those cases.

5 There are -- there are cases that I cited where
6 the defendants in those cases had been in the Capitol for
7 less than ten minutes, and the government recommended jail
8 time in some of those cases.

9 THE COURT: Well, let me talk a little bit about
10 the -- let's talk a little bit about your chart because --
11 the chart that the government is providing. I am sure I am
12 not the only judge on the bench that finds it very useful --
13 particularly for these petty offenses which are not subject
14 to the federal sentencing guidelines. So we have no
15 statistics from the U.S. Sentencing Commission that helps us
16 make what is a very important evaluation for everybody --
17 the defendants, the public, the judges -- to ensure that
18 they're fashioning a fair sentence and avoiding unwarranted
19 sentence disparities.

20 And by my count, for other Class B petty offenses,
21 the government has recommended probation without home
22 detention for this same charge in a total of, I think,
23 41 cases with the same petty offense of conviction, and the
24 government asked for probation in some form, and no prison
25 time.

1 So the government has asked for less than 30 days
2 in prison in 17 cases which, in combination with all of the
3 other numbers I have been looking at in that chart -- the
4 total number that I have looked at seems that it's a total
5 of 58 petty offense parading cases in which the government
6 has asked for less time than in this case. Leaving only a
7 few -- maybe a handful or a little bit more than a
8 handful -- where the government has recommended 30 days or
9 more, as in this case.

10 And when I look at the facts in this case, with
11 two minutes inside the Capitol Building -- no damage, no
12 tools, no knives, bear spray, no aggravating conduct, no
13 violence or -- no violence against police officers or other
14 persons -- no interactions at all that we can see with
15 police officers, I am finding it somewhat difficult to
16 understand what is so aggravating about two minutes inside
17 the Capitol where he takes a selfie and commits no other
18 damage, no other interactions with law enforcement, that
19 makes this case stand out to warrant a government
20 recommendation of the 30 days in prison. It's a real puzzle
21 to me.

22 MR. FRANKS: One of the -- one of the strongest
23 factors here -- the 3553(a) factor required in a sentence
24 that would promote deterrence -- and, here, Mr. Fox has
25 previously been on probation for a conviction over 12

1 years -- about 12 years ago.

2 And Mr. Fox, in terms of general deterrence, he
3 said that he did this so that he could show his family, show
4 his friends what he did. He saw the violence that was going
5 on before him. He saw the Senate wing door being broken in,
6 and he -- he just pushed past that door -- actually, climbed
7 in a window to make sure that he could prove that he went
8 in -- in the Capitol. And --

9 THE COURT: And he went in about 25 minutes after
10 the other rioters had breached the Senate wing door?

11 MR. FRANKS: Yes. That is correct, Your Honor.

12 THE COURT: So he was --

13 MR. FRANKS: He waited. He saw -- he saw it being
14 broken down. He waited --

15 THE COURT: Yeah. He was not in this first wave
16 of people?

17 MR. FRANKS: No. He could have been. He could
18 have been; but he waited, and he went in. And to his
19 credit, he left within two minutes. But his past criminal
20 history, his time on probation didn't prevent him from
21 taking a picture of himself committing a criminal act,
22 showing it to others; and then, when --

23 THE COURT: But certainly the government is not
24 recommending 30 days of incarceration for all of the members
25 of this mob that breached the Capitol and took a picture of

1 themselves inside?

2 MR. FRANKS: I'm -- I would guess not, Your Honor.

3 THE COURT: I know not.

4 MR. FRANKS: But also -- but also, Your Honor, he
5 also received accolades from individuals, his friends, and
6 he's asking for probation here. They might be listening
7 now. They commended him. They called him a hero; they said
8 he was the man. They said they wished they were there with
9 him. And what Mr. Fox said is because his mother told him
10 to leave, he left. So I don't know how much longer he would
11 have stayed in the Capitol had his mother not called him.

12 That's one of the strongest reasons the government
13 is asking for time of incarceration followed by probation,
14 because Mr. Fox has had an opportunity to be on probation
15 before, and despite that -- despite all of the chaos that
16 was going on around him, he decided to go into the Capitol
17 just to prove that he was there so that he could get -- get
18 accolades. He -- he got those accolades.

19 And when we had our debrief, what I -- to
20 Mr. Fox's credit, we spoke for a long time. He ended up
21 writing me a letter because we had a very frustrating
22 experience regarding his expression of remorse.

23 To his counsel's credit, we took a number of
24 breaks so that he could try to express being sorry for what
25 he did; and so that is what resulted in him writing his --

1 his letter, which reveals that he is a very smart young man,
2 but he -- nonetheless, he still -- I think he still has some
3 challenges with what he did that day.

4 THE COURT: So, I mean, it's good at the time of
5 sentencing for defendants to have expressed remorse because
6 it reflects an appreciation of the seriousness of their
7 unlawful conduct. And for purposes of the sentencing judge,
8 it indicates having recognized the seriousness of the
9 offense conduct that, in evaluating their risk of
10 recidivism, recommitting other future conduct -- it gives us
11 some comfort that perhaps they have learned their lesson and
12 they're not going to recidivate. But at the same time, a
13 defendant who doesn't show remorse -- maybe accepts
14 responsibility that the conduct the person engaged in for
15 which they're being sentenced was unlawful, but they don't
16 really express remorse -- you still have to fashion a
17 sentence that's appropriate to the unlawful conduct.

18 So, for example, a defendant who, on January 6th,
19 believed that they were engaged in a patriotic act by
20 stopping and disrupting a process that's constitutionally
21 mandated -- and may still believe that today -- they can't
22 necessarily be punished for that belief.

23 I still have to fashion a sentence that's
24 appropriate to what their conduct -- unlawful conduct was on
25 that day. And for people who pose a continued risk of

1 recidivism, the answer is usually longer periods of
2 probation so that they can remain under supervision. It's
3 not necessarily a long period of incarceration; isn't that
4 right?

5 MR. FRANKS: Some judges would think so, yes.

6 THE COURT: Because the period of incarceration
7 has to be commensurate with what their actual unlawful acts
8 were. And here, I have a defendant who walked into the
9 building for two minutes, took a selfie, and then left.

10 And maybe at the beginning of all of these
11 January 6th cases -- if the government was charging for
12 anybody who put their big toe in the Capitol Building, they
13 were only given plea offers and were only charged with
14 felonies, and the government was demanding prison time and
15 those people were being given prison time for putting their
16 big toe inside the Capitol Building no matter what they did
17 inside and no matter how long they stayed inside, because
18 that was a critical unlawful act in connection with a mob
19 that caused the evacuation and the stopping of a
20 constitutionally mandated process -- that would be one world
21 that we're not in.

22 Instead, we are in a world where I have 58 petty
23 offense parading cases on the government's list provided to
24 me where the government asked for less time than in this
25 case for defendants whose conduct on that day -- not what

1 they thought, not what they believed -- their conduct on
2 that day was, as I look at it, far more aggravating, in
3 terms of disobeying police officers, threatening police
4 officers, physically abusing and assaulting police officers,
5 damaging the building, breaking windows, breaking doors,
6 defacing, stealing things from inside the Capitol Building.

7 So, you know, I am left with -- I am left with the
8 world we live in today and a statutory obligation as a
9 sentencing judge to avoid unwarranted sentencing disparities
10 under 18 U.S.C. Section 3553(a) (6).

11 So with that context, I have to evaluate the
12 sentencing recommendations I am getting from both the
13 government and the probation office and the defense. And in
14 that context, I do find that the government's recommendation
15 of 30 days' incarceration quite inconsistent with what I
16 have seen in terms of the government's recommendations in
17 other cases.

18 MR. FRANKS: Okay.

19 THE COURT: So --

20 MR. FRANKS: And to that point, Your Honor, that's
21 why --

22 THE COURT: Is the government changing its mind
23 now --

24 MR. FRANKS: No.

25 THE COURT: -- that everybody who put their big

1 toe in the Capitol now deserves --

2 MR. FRANKS: No.

3 THE COURT: -- deserves prison time?

4 MR. FRANKS: No. It -- it really, I think it goes
5 to the factor of deterrence; what the defendant said in
6 social media, what he said in terms of -- he said: I will
7 do this again, fight me.

8 So -- and with regard to some of those cases that
9 I cited and that the defense cited, the ones where the
10 defendant was given probation -- where the defendant was
11 given probation, and the cases that the defendant cited --
12 those defendants hadn't been on probation before.

13 THE COURT: Those had been what?

14 MR. FRANKS: Those defendants had not served a
15 term of probation before, as opposed to Mr. Fox in this
16 case. So there are a couple of factors and some that we
17 believe support our recommendation, that is, the
18 defendant's --

19 THE COURT: But some of those defendants certainly
20 had --

21 MR. FRANKS: They had criminal -- they had
22 criminal --

23 THE COURT: -- had prior criminal records.

24 MR. FRANKS: That's right.

25 THE COURT: I mean, I just think -- you know, I am

1 just looking at one case before me, actually -- the case of
2 Brian Stenz. He was convicted of the same petty offense for
3 parading in violation of 40 U.S.C. Section 5104(e) (2) (G).
4 He had a significant criminal history, including
5 participating in the breach of the Capitol on January 6th
6 while awaiting resolution of other criminal charges. He was
7 not only on -- he was awaiting criminal charges; he was on
8 pretrial release in another case.

9 He spent eight minutes inside the Capitol where he
10 also went inside to a senator's private office. He was in a
11 total of eight minutes. And in that case, the government
12 recommended 14 days of incarceration, half -- less than half
13 of what it's recommending here with, to my mind, far more
14 aggravating conduct -- and a criminal history that was far
15 more egregious than this defendant's.

16 So I -- you know, as more and more of these cases
17 get sentenced, it's a challenging job for all of us involved
18 in these cases -- the Court, the government, defense
19 counsel -- with growing numbers of comparators. And so I
20 don't -- you know, I -- and every judge takes seriously the
21 recommendations from both sides and how they're supporting
22 it and their views of why the sentencing recommendation that
23 they're making is the best one.

24 And I have to say that, in this case, the
25 sentencing recommendation of 30 days seemed, you know,

1 fairly extraordinary and out of line -- a real outlier
2 compared to the recommendations I have gotten in other cases
3 given the mere two minutes with a selfie inside the Capitol
4 Building.

5 MR. FRANKS: I respect that, Your Honor. Yes.

6 THE COURT: Even if this defendant's expressions
7 of remorse were found by the government and the agents who
8 interviewed him to be less than what one would expect given
9 the aftermath of what occurred that day, but we don't -- we
10 don't punish people for their beliefs unless those beliefs
11 spill over into unlawful action, and that unlawful action
12 combined with the beliefs warrant, you know, punishment that
13 includes a term of incarceration in addition to supervision
14 to make sure they don't do it again given their beliefs.

15 So the plea agreement in this case requires
16 Mr. Fox to allow law enforcement agents to conduct an
17 interview of him regarding the events in and around
18 January 6, 2021, prior to sentencing and also provide access
19 to social media accounts controlled by the defendant.

20 Has the defendant already fully complied with this
21 cooperation provision?

22 MR. FRANKS: One -- one thing I wanted to point
23 out is, as a mitigating factor, the defendant did conduct a
24 long interview with us prior to the sentencing. As detailed
25 in our sentencing memorandum, he told us that he voluntarily

1 took someone with him to the Capitol and that person went
2 into the Capitol with him. So he was forthright in that
3 respect.

4 In another respect, he was cooperative initially
5 with law enforcement. He -- he was arrested, but he did
6 what he can constitutionally do. He asserted his right not
7 to discuss the charges and his activity. He was asked about
8 access to his phone. He denied us access to his -- his
9 passcode, and he did so again during the debrief.

10 THE COURT: He did what?

11 MR. FRANKS: He did so again during our debrief
12 with him.

13 THE COURT: So you have never actually had access
14 to this defendant's phone to see what's on there?

15 MR. FRANKS: We've -- we've had access by way of a
16 search warrant, and the FBI attempted to access it; and they
17 were not able to crack the code, so to speak. And so we
18 asked for Defendant's cooperation with regard to doing that.

19 THE COURT: And he's denied that?

20 MR. FRANKS: That's right, Your Honor.

21 THE COURT: Okay. So has he breached his plea
22 agreement? Has he breached the very limited cooperation
23 provision in the plea agreement by denying access to --

24 MR. FRANKS: I don't think --

25 THE COURT: -- all of his social media accounts,

1 including those that might be reflected on his phone?

2 MR. FRANKS: We -- we actually --

3 THE COURT: Because you haven't -- you're
4 proceeding with the plea [sic] without pursuing --

5 MR. FRANKS: We actually --

6 THE COURT: -- a breach of the plea agreement.

7 MR. FRANKS: We actually obtained a warrant from
8 Facebook and got what we believe was his social media that
9 was on his -- on his phone that was not deleted from
10 Facebook. We still don't know exactly what's on his phone.
11 So I don't -- we are not -- we have not taken a position
12 that he's breached his plea agreement because he did talk
13 with us --

14 THE COURT: Well, you also -- and that's because
15 of -- the plea agreement has not a fulsome -- what I would
16 call a fulsome cooperation provision --

17 MR. FRANKS: No, it's not.

18 THE COURT: -- that we typically see. It's,
19 basically, the most minimal of cooperation provisions that
20 doesn't even require him, as part of his limited
21 cooperation, to turn over his phone; is that right?

22 MR. FRANKS: That's right. But we had already
23 obtained it by -- by warrant.

24 THE COURT: But you can't access it.

25 MR. FRANKS: That's correct, Your Honor.

1 THE COURT: And as part of this limited
2 cooperation agreement for this plea agreement to a petty
3 offense, you -- the government has no one else to blame but
4 itself -- right? -- for not requiring, as part of the
5 cooperation to get this plea to a petty offense, a
6 requirement that he provide the passcode to his phone so you
7 can see what else is on there and whether he did engage in
8 more sophisticated, serious preplanning, for example, than
9 what's reflected on his Facebook account?

10 MR. FRANKS: I would -- yes. I would attribute
11 that to it's not in the -- it's not in the document that he
12 signed, that he has to turn over his passcode.

13 THE COURT: A document that the government wrote?

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

15 THE COURT: The government could have required it,
16 but didn't?

17 MR. FRANKS: That's correct, Your Honor.

18 THE COURT: I see. All right.

19 The government has pointed out the defendant's
20 spreading of propaganda relating to the attack on the
21 Capitol is a factor indicating the need for specific
22 deterrence in this case through a custodial sentence, and
23 the government is recommending 30 days.

24 What do you mean by "propaganda"?

25 MR. FRANKS: The defendant said that the police

1 murdered five people that day; he also said that: They let
2 us in.

3 And the defendant knows that that wasn't true
4 because he was right at the precipice of the -- the doors
5 being broken down. So that -- that is the false propaganda
6 that he spread.

7 THE COURT: And how long did he spread that
8 propaganda after January 6th?

9 MR. FRANKS: I think -- I think he did it on the
10 7th; and then I think he rejoined his comments a couple of
11 months later.

12 On April 28th he said that: The doors were open,
13 and only agents provocateur were breaking windows at the
14 protest. Absolutely a lie that anything violent happened
15 there other than a black officer murdering a white woman, is
16 what he said on April 28th.

17 THE COURT: 2021?

18 MR. FRANKS: Yes. Yes, Your Honor.

19 THE COURT: Okay. All right. Anything else,
20 Mr. Franks?

21 MR. FRANKS: No, Your Honor. Thank you.

22 THE COURT: Thank you.

23 Please step forward.

24 MS. JAYARAMAN: Thank you, Your Honor.

25 THE COURT: Sorry.

1 MS. JAYARAMAN: And may Mr. Fox stay where he is?

2 THE COURT: Yes.

3 Maybe I will begin with a question --

4 MS. JAYARAMAN: Very well, Your Honor.

5 THE COURT: -- and then you can proceed with
6 whatever else you would like to add.

7 In the sentencing memo that you submitted on
8 Mr. Fox's behalf, you indicate that he, "Wishes more than
9 anything he could go back in time and be wiser and more
10 circumspect about the conspiracy theories and rhetoric he
11 was swept into."

12 Could you elaborate a little bit on what you were
13 referring to?

14 MS. JAYARAMAN: Yes, Your Honor. There are,
15 certainly, certain beliefs that he --

16 THE COURT: Could you just remove your mask?

17 MS. JAYARAMAN: Yes, Your Honor.

18 THE COURT: Thank you.

19 MS. JAYARAMAN: There are, certainly, some beliefs
20 that he still finds interesting, shall we say, and that
21 he's -- he continues to sort of explore and that he
22 continues to hold. However --

23 THE COURT: Is he a QAnon believer?

24 MS. JAYARAMAN: He is not, Your Honor. But that
25 would be an example of -- and I say that with confidence

1 only because Mr. Fox and I have spent a great deal of time
2 together. He lives around five and a half, six hours from
3 Philly. And I drove out to his -- his home, in a tiny,
4 little town one day.

5 And we just -- we spent time together in his home
6 and talked about what led him to this as a person sort of
7 holistically as opposed to just on that day. And there are
8 certainly worse beliefs that, as he himself says -- he puts
9 it best. He had never been to a Trump rally, and he -- the
10 word he kept using, I had to look it up --

11 THE COURT: So January 6th was his first Trump
12 rally?

13 MS. JAYARAMAN: It was.

14 And one of the things he kept saying was: It
15 seems to be a campy thing; people had campy jokes.

16 And that is certainly newer lingo, so I had to
17 look it up. But -- but I think it means sort of -- it seems
18 to mean sort of a -- almost like an inside joke, some sort
19 of inside -- almost -- almost like a language that -- that
20 insiders could use with one another. And he had never been
21 to a Trump rally; he felt like he couldn't really
22 participate in that.

23 And he wanted to go, one, to see what the hype was
24 about. And, two, because there was a part of him that at
25 that time was being swept into some of that thinking. So

1 while he was not an avowed, quote, member of QAnon, there
2 were some of the writings that he -- I don't know -- I
3 wouldn't say he believed, but he certainly entertained more
4 than he does today.

5 And when I say that he wishes he would have been
6 more circumspect in his -- in some of the conspiracy
7 theories, I would zoom out a little bit and say: Part of
8 that circumspection is not just a question of looking at
9 perhaps those that we know helped fuel the January 6th event
10 or incident; but, rather -- more broadly -- his propensity,
11 frankly, to be swayed by other individuals; to seek
12 recognition, approval from others and -- and buy into
13 whatever trend or whatever belief system kind of gets him in
14 that place. If I --

15 THE COURT: So he's looking for friends and
16 community?

17 MS. JAYARAMAN: Yes. And if I -- if I may -- or
18 if Your Honor has further questions, I'm happy --

19 THE COURT: No. Go ahead.

20 MS. JAYARAMAN: Because I have read -- and I have
21 tried to pay attention to some of Your Honor's sentencings.
22 And I -- I note that one of the things that Your Honor has
23 discussed a lot is -- is the difficulty of apportioning
24 responsibility here and -- and the difficulty of sort of
25 forest through the trees, and who is how guilty.

1 And I am sure --

2 THE COURT: Well, actually, everybody who went
3 into a restricted area on the Capitol grounds and building
4 quite clearly engaged in unlawful conduct.

5 MS. JAYARAMAN: Absolutely.

6 THE COURT: No lack of clarity there. There are
7 differences, people did different things --

8 MS. JAYARAMAN: Yes.

9 THE COURT: -- both before they got there, when
10 they got there, and after they left.

11 MS. JAYARAMAN: Yes, Your Honor.

12 THE COURT: And those are all important
13 considerations and very fact-specific in evaluating and
14 distinguishing among the hundreds of people who were there
15 and are charged. But, believe me, no question, they're all
16 culpable.

17 MS. JAYARAMAN: Yes, Your Honor. And I didn't
18 mean to suggest that they're not all guilty.

19 I just meant to suggest that in -- in sort of
20 determining a sentence, Your Honor has -- has commented on
21 the need to look -- to avoid unwarranted discrepancies but,
22 also, avoid sort of unnecessary or unwarranted similarities
23 where none exist.

24 And I think I probably speak for -- for most
25 Americans when I say that when I saw what was happening on

1 January 6th -- and I think this -- to me, at least -- is
2 part of the difficulty in sort of parsing each individual
3 out, is when I saw, and -- and when my parents watched it --
4 and they don't live in this country, and they were watching
5 it -- they're U.S. citizens, but they were watching it from
6 another country. What we saw was not a group of
7 individuals. It wasn't a crowd of individuals.

8 We saw one organism, right? It looked like one
9 heaving, breathing, organic system because, in a totality,
10 that's exactly what they were.

11 And it -- as I was contemplating how would I sort
12 of specify what distinguishes his behavior from others, I
13 myself struggled with, well, it's like saying: Is the right
14 hand or is the left hand more culpable in a Hobbs Act
15 robbery case? I mean, they are two parts of a whole. They
16 are parts of a whole, and it's difficult.

17 That being said, I do appreciate the government's
18 providing us with sort of a framework they have gone
19 through. And if I could just follow the government's
20 framework and sort of plug and play, if Your Honor will --
21 the first factor the government points to is how the
22 individual entered, whether and when.

23 He certainly entered. He was not the first
24 breach, as Mr. Franks himself has said. And he entered,
25 unfortunately, through a broken window. It was a window

1 that had already been broken; but he knew it was a broken
2 window, and he climbed in nonetheless.

3 Whether he encouraged violence -- he absolutely
4 did not. And I will sort of come back to this when I get to
5 the social media factor, Your Honor. But he absolutely did
6 not encourage violence. Certainly we see, as Your Honor has
7 seen, he enters; he goes -- turns right; about 50 to 100
8 feet later, he is walking out the door.

9 His reaction to acts of violence or destruction --
10 and it's interesting that Mr. Franks notes, well, who knows
11 if his mom hadn't called him what he would have -- you know,
12 how long he would have been there. That's exactly right.
13 So when his mom calls him on the phone and says: I am
14 watching this stuff on TV, get out of there, it's getting
15 crazy. Like, things are bad, things are happening. When he
16 knew that, he left.

17 So it's not that when he found out things were
18 getting rough, or crazy, or wild -- it's not that he said:
19 Oh, well, I wasn't going to leave; then he, in fact, left.

20 And when we talk about preparation, as Your Honor
21 has stated, there is nothing to suggest that -- certainly,
22 nothing to suggest that he was going in prepared for any
23 kind of a -- the rally or going to the Capitol at all. No
24 tactical gear, no helmets, no vests, no premade signs --
25 none of those things.

1 He didn't even have his cell phone charged up,
2 that is how ill prepared he was; and that is how little he
3 had ever given any thought to anything beyond going to the
4 former President Trump's rally. His phone wasn't even
5 charged. And he talks about how he was surprised when his
6 phone suddenly rang and his mom called him.

7 The length that the defendant was inside the
8 building -- we have already gone over that, Your Honor; it's
9 approximately two minutes.

10 Whether during or after the riot -- whether he
11 destroyed evidence. And I want to address the issue with
12 the cell phone. He had a right to refuse; he chose to
13 refuse. I would -- I would suggest to the Court that, as
14 This Honor is aware, there are many, many reasons that a --
15 a young man may be embarrassed or loathe to -- to let others
16 thumb through his personal cell phone. And insofar --

17 THE COURT: The person I fault -- the entity I
18 fault for not getting access to Mr. Fox's cell phone is the
19 government. The government made a plea offer in this case.
20 And as part of that plea offer, they had what they titled a
21 "Cooperation Provision," and they did not require access to
22 the cell phone; the government could have, but didn't. So
23 the government must not think there is anything on that cell
24 phone worth looking at because they could have asked for it.
25 There is no reason to spend anymore time on that.

1 MS. JAYARAMAN: As part of that cooperation aspect
2 of it, Mr. Fox did inform the government not only that he
3 went with another individual, but he actually gave that
4 individual's name; and he gave as much information as he
5 could about that individual. And I believe the government
6 has tried to do something with that information but,
7 frankly, I would leave that sort of for the government
8 to deal with later.

9 My client's statements on social media were
10 absolutely problematic; Your Honor, I am sure, has read some
11 of them. They confirmed that there was no planning, and
12 they -- they are the effect of this desire for accolades; it
13 was puffery. It's -- it's awful, it's disgusting, and it's
14 incredibly harmful. There is certainly a harm that comes
15 from just those posts, and Mr. Fox appreciates that.

16 I will submit, it -- it took Mr. Fox a while to
17 come to that point; but this is not sort of a recently
18 realized something on the eve of sentencing.

19 Before we ever got here, before we ever even got
20 to the -- to the plea, Your Honor, he had already stopped
21 posting anything about -- anything about politics.

22 Interestingly, he is -- he is a registered Green
23 Party voter. He is an avowed -- some type of Hindu --
24 Vedanta Hindu. He's sort of delved into posting about those
25 things, but not politics -- and none of this. And that's

1 well before he ever pled guilty; well before he had an
2 attorney saying, be careful what you are posting. Right?

3 He was -- he supports his two children. He is the
4 primary caretaker of his two children. His fiancée is
5 not -- his fiancée -- he also lives at home with them. She,
6 in fact, came to Washington, D.C., but did not feel that she
7 was wearing court-appropriate attire.

8 She -- I have visited him, as I said. He lives in
9 a modest home that is strewn, littered with toys. It is
10 clear from the moment you get even to that outside gate that
11 his two boys -- his young sons are his life. I can't have a
12 phone call with him without his kids getting on the phone or
13 yelling. He is the sole caretaker -- he is the primary
14 caretaker. He prepares their meals; he gets them out of
15 bed. He -- he sends them to school; he helps them with
16 their homework. He puts them into bed at night. The
17 hardship that would be caused if he were taken away from
18 that home and from that family -- family, I'm sorry, is
19 immeasurable.

20 He also owns his own company; it's Westmoreland
21 Movers. It is a legitimate company on the books; they pay
22 taxes. And he provides employment for seven to eight
23 individuals who work as independent contractors through him.

24 It is -- it is a -- he provides gainful employment
25 in a part of the country, frankly, Your Honor, where there

1 is not that much employment to be found. He provides
2 employment, as he himself has said, to individuals who may
3 find it difficult to get a job elsewhere, so -- either
4 returning citizens or sometimes people who have struggled
5 with certain levels of sort of mental health needs or family
6 needs.

7 So not only would removing him from the streets
8 and incarcerating him have an immeasurable effect on his own
9 personal nuclear family, it would have a devastating effect
10 or potentially devastating effect on other families and
11 other individuals in the community.

12 I did take the liberty, Your Honor, of -- of sort
13 of going through the most recent iteration of the chart
14 which I think came out on March 9th. And I -- I know it's
15 difficult sometimes to compare and contrast with cases.
16 Certainly I can't tell the tone sometimes when I am just
17 looking at something. So I took the liberty of highlighting
18 just some of Your Honor's cases because Your Honor would
19 know better and can -- please correct me if I'm
20 misunderstanding how something ended up coming out in court.

21 But this Court -- and I am just going to highlight
22 a few, Your Honor -- this Court in the matter of James
23 Lollis gave that defendant a sentence of 3 months of home
24 detention; followed by 36 months of probation, including 90
25 days' GPS monitoring; and 100 hours of community service.

1 That individual had no prior record, cooperated with the
2 FBI, but he had -- he drove quite a distance to get there.
3 He took a gun with him to Virginia. He defaced the Capitol
4 Building by leaving his -- a profane sticker on the wall.
5 He posted on social media. And he spent, certainly, much
6 more time in the building, as well as actively taunted law
7 enforcement officers; and then he left one area only to go
8 to yet another area.

9 Jack Griffith -- this Court gave him 3 months of
10 home detention, 36 months of probation. This individual, in
11 fact, later exploited his own prosecution in this matter
12 trying to get attention for some video game he was creating
13 where -- where former President Trump was shooting, I guess,
14 Antifa zombies, and -- and zombie democrats and Antifa
15 individuals. He made light of and mocked the criminal
16 charges. He saw people attack law enforcement -- he saw
17 that and, in fact, he sought to make money off of it and
18 fundraise off of it. That individual got three months of
19 home detention.

20 Eric Torrens, also three months of home detention.

21 Leonard Gruppo, the government argued that his 28
22 years of military service was, in fact, an aggravating
23 factor. He also got three months of home detention. He
24 actually had heard -- presumably heard loud flash-bangs, saw
25 plumes of smoke. He was one of the individuals who actually

1 scaled the retaining wall. He did turn himself in; but he
2 actively disobeyed the police and lied when he was being
3 questioned -- or gave sort of odd excuses when being
4 questioned.

5 And just the last, Your Honor -- Your Honor
6 already went over Brian Stenz, who, in fact, his open matter
7 was for falsifying documents to procure a firearm. And he
8 had sat on a police officer's motorcycle -- and taking
9 photos.

10 And then we have Robert Schornak who got
11 28 intermittent -- days of intermittent incarceration. This
12 is someone who literally said ahead of time that he was
13 going to go and that he did not expect it to be peaceful.
14 He went with a military tactical vest, helmet. He stole a
15 flag while there. And while he pled guilty, he refused to
16 express remorse and refused to cooperate with investigators.

17 And so the only two here that I am seeing that
18 have, in fact, pulled-off-the-street incarceration are two
19 cases that are so wildly different from the facts we have in
20 the case at bar. It doesn't mean that Mr. Fox is any less
21 guilty; but I would submit to the Court that using the
22 government's own rubric it does suggest that Mr. Fox is not
23 the kind of individual who should be -- by their own
24 measure -- their own standards -- who should be pulled off
25 the street, away from his family, away from his employees or

1 contractors and -- and put in a jail cell. It would not be
2 who anyone -- in terms of specific deterrence, that has
3 doubtlessly been achieved here. And I would just like to
4 highlight from the letter he submitted, Your Honor.

5 THE COURT: Has it been achieved here already?

6 Because, as I said, what a defendant continues to
7 believe is important for specific deterrence and helps a
8 judge figure out how long should this person be under
9 supervision --

10 MS. JAYARAMAN: And Your Honor --

11 THE COURT: -- particularly defendants like this
12 one who, as you have described, is susceptible to following
13 conspiracy theories that have zero basis in reality.

14 MS. JAYARAMAN: There are two things I would say
15 to that, Your Honor. One is -- and at least from what I
16 could tell from reading the sentencing memoranda -- I did
17 not see this with many others.

18 Mr. Fox -- this has been a huge wake-up call such
19 that he, on his own -- he wasn't ordered to do so as any
20 kind of pretrial release condition -- on his own sought and
21 continues to get therapy. He saw -- and, in fact,
22 Mr. Franks put it quite -- quite well I think -- very
23 simply, but very well, when we were meeting with Mr. Franks
24 and the agent, and they were asking him, you know: Why did
25 you -- Why did you post this stuff? Why did you post the

1 selfie?

2 And Mr. Franks actually said: Yeah. It felt
3 good. You were kind of getting props.

4 And that's exactly what it was. But he is
5 actively seeking help for that aspect of himself and trying
6 to understand where that need comes from for external
7 validation.

8 The other, I think, unambiguous sign we have that
9 specific deterrence has been achieved is when we look at his
10 own words in the letter that he wrote to the government. He
11 is not only remorseful that he was there, remorseful that he
12 was -- broke the law, sorry he was caught, and sorry to his
13 family -- which we have heard over and over. But he has
14 said and wants to say to everybody else in this situation or
15 contemplating this type of behavior, that he is embarrassed.
16 And his own words bear that out.

17 He said -- he talks about, on page -- I'm sorry,
18 they're not numbered. On the next-to-the-last page, he
19 talks about the unbearable weight of shame.

20 On the last page, he talks about: I am sorry my
21 involvement that day did help facilitate the environment of
22 violence; that is something of great embarrassment and
23 dishonor to myself.

24 Those are not meek words.

25 "I have since been trying to work on myself to go

1 in a new direction."

2 He's -- he talks about the mental health
3 medication he is taking, the treatment. And then perhaps
4 the most important sentence or sentences of all are in his
5 very last paragraph: It is my greatest hope all of the
6 United States learns from this -- from this lesson, as I
7 know I have. So many theories and disrespect towards the
8 other side created a sense of desperation and a disconnect
9 from their fellow citizens. That is the most clear
10 indication we have of Mr. Fox's own evolution and thinking.

11 He is not done yet. He certainly does need
12 supervision; I think he would do well with supervision. But
13 he -- we know that he has been specifically been deterred.
14 And his own goal through his own words is that others be
15 deterred as well. So his own goal is to promote general
16 deterrence.

17 For all of these reasons, I would submit to the
18 Court that an appropriate sentence in this matter would be a
19 term of probation but with conditions of continued mental
20 health treatment as recommended by the professional mental
21 health treatment providers, and medications as recommended
22 by treatment providers.

23 Does Your Honor have any questions for me?

24 THE COURT: No.

25 I am now ready to hear from Mr. Fox.

1 MS. JAYARAMAN: Yes, Your Honor.

2 THE COURT: Mr. Fox, you may step forward.

3 You can stay there also.

4 MS. JAYARAMAN: Yes, Your Honor.

5 THE COURT: Please step forward, Mr. Fox.

6 THE DEFENDANT: Good afternoon, Your Honor.

7 THE COURT: Good afternoon.

8 THE DEFENDANT: Thank you for having me here and
9 tolerating my late...

10 I have been looking forward to this day for -- not
11 looking forward to it -- dreading, I guess, for a long time,
12 and --

13 THE COURT: You have been looking forward to your
14 sentencing date?

15 THE DEFENDANT: No, no, no. I mean, looking
16 forward to it being over with; like, this has been very
17 emotionally exhausting.

18 THE COURT: Have you been vaccinated, Mr. Fox?

19 THE DEFENDANT: No, ma'am. No, Your Honor.

20 THE COURT: All right. Keep your mask on.

21 THE DEFENDANT: I mean, I deal with -- you know,
22 like she said, I have two little kids -- three and six,
23 boys. You know, I run my own business, which is a moving
24 company. A lot of our guys are, you know, blue collar labor
25 level. A lot of them have been in trouble, in jail. And

1 it's certainly impossible for some of those guys to try and
2 find employment afterwards, aside from maybe McDonald's,
3 and --

4 THE COURT: I am not concerned about the other
5 guys who work for you, Mr. Fox.

6 THE DEFENDANT: Okay.

7 THE COURT: I want you to tell me why, when you
8 believed before January 6th -- that you wanted a civil war
9 to start here, and you wanted the former President to start
10 a civil war --

11 THE DEFENDANT: Absolutely not, Your Honor.

12 THE COURT: -- why I shouldn't be concerned that
13 you are still looking for a civil war.

14 THE DEFENDANT: I was never looking for a civil
15 war. It was an overinflated statement of just exasperation,
16 and just -- just tiredness of the whole situation.

17 You know, it really is just such a strange thing
18 that my social media which -- people know me as being sort
19 of darkly sarcastic at times -- and then to have had happen
20 what happened, and then using these as an indicator for how
21 I possibly think is -- yeah, like, it's -- it's -- I mean, I
22 understand why, you know.

23 But it's -- it's just so much to try and say from
24 my point, it's -- you know, it's frustrating for me to be
25 seen as somebody -- when I was posting these things on

1 Facebook, a lot of those times -- a lot of previous years
2 and stuff purely started from 2015; I didn't have a whole
3 lot going for me.

4 And so I was a former politics student; and
5 arguing politics online was just kind of like a passion of
6 mine. They were meant to be inflammatory remarks to provoke
7 a response from the other side, to start a debate or
8 argument of some kind so I could spend all day just yelling
9 at people and -- you know, a major waste of time. You know,
10 I don't think I changed one mind during all of that. I have
11 seen other points of view that I understand now, and -- but
12 I don't think I ever changed a mind doing that. I consider
13 it a blessing that it's over.

14 THE COURT: You have not changed your mind about
15 doing that?

16 THE DEFENDANT: No. I never changed anybody
17 else's mind about --

18 THE COURT: Oh, you never changed --

19 THE DEFENDANT: -- you know what I mean, when I
20 would be, like, arguing with people, and things like that.

21 You know, my view on politics has been fairly
22 consistent from the start. I have been registered Green
23 Party. I always feel like people should -- you know, if we
24 could agree on one thing, it should be the environment. We
25 should have a place to live.

1 The republicanism was not something that was
2 always my idea, it was just fellow travelers with -- you
3 know, when I supported Trump, you know, back in 2015, and
4 then through the years. Mine was more about policy and less
5 about culture. You know, I didn't like the North American
6 Free Trade Agreement, you know. I thought that we should
7 have more of an Ellis Island in Texas rather than open
8 borders. And so a lot of things weren't really being said
9 in the regular media, and then up comes this guy saying
10 these things -- okay, so I support him politically.

11 But there was also some things that came along
12 with this, this other -- this cultural baggage. You know,
13 these labels that kind of came with it that sort of -- you
14 know, people stick onto somebody if they feel like they
15 support him. Well, I don't feel like I was ever any of
16 those things. Like I said, I have statues of Narayana,
17 Lakshmi, Brahma, Saraswati, Durga, and Shiva in, you know,
18 my office. I mean, you know, I identify as Hindu. I go to
19 Sri Venkateswara Temple for --

20 THE COURT: I'm sorry. You are talking to
21 quickly. It's very hard to understand you.

22 THE DEFENDANT: I'm sorry.

23 THE COURT: So could you please slow down.

24 THE DEFENDANT: All right.

25 THE COURT: And you mentioned names that were a

1 blur.

2 THE DEFENDANT: I apologize.

3 Hindu idols. So, like, you know, I -- if I had to
4 identify as a religion, it would be Hinduism. So, like, you
5 know, I don't fit a lot of the labels is what I'm saying. I
6 don't feel like I fit a lot of the labels that people
7 usually throw on for somebody who supports Trump.

8 You know, a lot of the stuff that I thought was
9 for him -- I am conservative in the way that I feel like
10 government should have less role in people's lives and
11 people should have more of a role in their own lives.

12 So, like, I never wanted to attach myself to any
13 of these other --

14 THE COURT: But you went parading into the Capitol
15 on January 6th, and you were protesting something. And you
16 were protesting what on that day?

17 THE DEFENDANT: Well, to be perfectly honest, Your
18 Honor, I didn't know there was going to be a protest that
19 day. I went down there for what I thought was going to be
20 the last President Trump rally because I knew that the
21 election was over, he didn't win; and this was going to be
22 the last time I was going to see him as President, just as a
23 experience --

24 THE COURT: Did you believe -- did you believe the
25 conspiracy theories about some stolen election?

1 THE DEFENDANT: You know, I didn't have an opinion
2 on that either way, and here is why -- because Trump had
3 done so much to make people hate him for four years that
4 it's quite believable that people who had never voted before
5 just up and went, like -- you know: Okay, not that guy, you
6 know, and voted against him.

7 The things that I posted on Facebook -- I was
8 expressing frustration with the mail-in ballots that, you
9 know, I mean, had just really proliferated in 2020. And I
10 was wondering about the security, you know, and safety of
11 that and the efficacy of it being used for, you know,
12 voting, you know what I mean. If it was -- it was safe
13 or -- you know, the more you look into it, there's been
14 voting tampering through the years. But, no, I didn't
15 really associate the coronavirus thing with Donald Trump,
16 you know, being out of office.

17 If you look back through my Facebook posts, you
18 probably --

19 THE COURT: All right. The government talked
20 about some of your friends. And your attorney also talked
21 about how it's important for you to get these accolades for
22 your provocative posts online.

23 So, Mr. Fox, are you still getting those accolades
24 for being a January 6th defendant charged for your conduct
25 on January 6th?

1 THE DEFENDANT: I won't lie to you. People
2 actually say -- you know what I mean? Like: Hey, I support
3 you. Hey, I am there with you.

4 I'm like: I don't think you know what you are
5 saying because I am not the person that you think of --
6 like, I wasn't going in and storming the Capitol, like: Hey
7 take this.

8 I had no -- like, I wanted to see what was
9 happening in there. And I was talking to some people and I
10 saw the riot police forming columns [sic], and I knew that
11 the situation wasn't going to last; and I kind of wanted
12 something to, like, remember the day, you know, and maybe
13 show the grand-kids 40 years from now. It wasn't --

14 THE COURT: So when people cheer you on, Mr. Fox,
15 and say you are a hero --

16 THE DEFENDANT: I don't think anybody is --

17 THE COURT: -- do you tell them they're wrong?

18 THE DEFENDANT: Yeah. Yeah. I mean, I don't
19 think anybody is calling me a hero. But if they say they
20 support me, I say: I'm not sure you are actually supporting
21 me. I'm not sure you actually know what you are really
22 saying.

23 And, you know, if you guys had my Facebook account
24 and knew that I was talking to people, you might have seen
25 me talking to some of my friends, and they said: Hey, man,

1 I wish I could have gone. You know what I mean? I really
2 support you.

3 And I say: Hey, I don't know how I feel about all
4 this, really, you know, without totally just, you know,
5 taking a dive on the other side; and then people just being
6 like, well, okay, he is a turncoat.

7 You know, I told them -- I feel differently after
8 that day; I did. Even driving back, the day afterwards -- I
9 sort of kind of came back and I was feeling frustrated; and
10 that's why I, like, made that post. But immediately
11 afterwards, even on the drive back, I said: I don't feel
12 the same anymore.

13 And these people that I was walking around with
14 and stuff, I am not sure if anybody had a clear clue of what
15 they were -- we were talking about. Everybody had these
16 signs -- every hundredth person had a sign for a YouTube
17 channel; with a megaphone, shouting for attention kind of
18 for themselves. And I am like, you know, weren't we all
19 supposed to be here to be concerned about something
20 legitimate. You know what I mean?

21 We got -- there were bingo floats. There was --
22 you know what I mean? Westboro Baptist pastors just
23 shouting stuff on the street. I mean, it was -- it wasn't a
24 cohesive group; and I didn't feel like it was a coherent
25 group. It was -- you know, it was --

1 THE COURT: So, Mr. Fox, did you write this letter
2 yourself --

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: -- that you sent to the prosecutor?

5 THE DEFENDANT: Yes, I did.

6 And, yeah, that's -- that's really how I felt.

7 Things got very strange for me that day and -- and afterwards.

8 THE COURT: So you wrote all of this yourself?

9 THE DEFENDANT: Um-hum. Yeah.

10 THE COURT: Okay.

11 THE DEFENDANT: I mean, that's -- that's -- that
12 is how I feel. I do -- if anybody would ask me, even -- you
13 know, I wish I could pull up the Facebook messages. I do
14 feel extremely disheartened, embarrassed. And I would never
15 advocate anybody to have any kind of amount of violence in a
16 democracy. Who would vote for that anyway?

17 THE COURT: And would you agree at least today,
18 and in connection with this case, that the people who went
19 into the Capitol Building on January 6th to stop the
20 Congress from doing their jobs --

21 THE DEFENDANT: Those people were --

22 THE COURT: -- and the Vice President from doing
23 his job were not patriotic Americans; do you agree?

24 THE DEFENDANT: I would agree that those are not
25 patriotic Americans because I did hear patriotic Americans

1 in the crowd when things were getting broken or something,
2 or, you know, shouting like: Hey, we don't know this guy;
3 we don't know this person, you know what I mean? -- and kind
4 of like moving him along.

5 So there were some, but I would say if you were
6 going in -- if I saw anybody attacking a police officer, I
7 would be trying to get them from behind. Like, that's
8 not -- I have family that are police officers, and if I saw
9 any of that, like, I would be trying to help the police
10 officers. That's...

11 No. But I don't know why -- I don't know how
12 people can conflate, like, yeah, we're here to help. Hey,
13 you, police officer at your job, like, take this. You know?
14 Like, it's not -- that's not congruent, and it's not
15 sincere. And that's one of the things I was saying about
16 the group, where it's -- these people are serious about what
17 they are doing?

18 You know, I was telling people on the way down
19 there: Why would you go and -- why would you go start
20 trouble at the Capitol? Like, you are not going to be able
21 to talk to people there. They have underground tunnels; I
22 saw them on a school field trip. They would just leave.
23 You know --

24 THE COURT: All right. Is there anything further
25 that you want to say to me, Mr. Fox?

1 THE DEFENDANT: Just thank you very much for your
2 time, Your Honor. And, you know, I never had the intentions
3 of going in and harming anybody. And I am very sorry for
4 everything that I have done. It is extremely embarrassing;
5 and, you know, I am not going to be telling any future
6 generations about this, if possible.

7 THE COURT: All right. You can just stay right
8 where you are. I am going to explain the sentence I am
9 about to impose and impose sentence.

10 Did you want to say something, Mr. Franks?

11 MR. FRANKS: No, no. I thought you were about to
12 pronounce your sentence.

13 THE COURT: I am. You can stay seated.

14 MR. FRANKS: Okay. Thank you.

15 THE COURT: So after considering the sentencing
16 memoranda, the presentence investigation report, probation
17 department's sentencing recommendations, reading the
18 briefing submitted by the parties, Mr. Fox's letter to the
19 prosecuting attorney here -- usually it's to the Court, but
20 here it was to the government, hearing Mr. Fox's statement
21 here today -- I have to consider the relevant factors set
22 out by Congress in 18 U.S.C. Section 3553(a) to ensure I
23 impose a sentence that is sufficient but not greater than
24 necessary to comply with the purposes of sentencing.

25 And those purposes include: The need for the

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

6 So pursuant to 18 U.S.C. Section 3553(a), I have
7 to consider the nature and circumstances of the offense;
8 Mr. Fox's history and characteristics; the types of
9 sentences available; the need to avoid unwarranted sentence
10 disparities among defendants with similar records who have
11 been found guilty of similar conduct, and the need to
12 provide restitution to any victims of the offense.

13 Beginning with the restitution amount owed by the
14 defendant, the statute of conviction here -- the petty
15 offense -- is not covered by the two general restitution
16 statutes codified at 18 U.S.C. Section 3663 and 3663(a); and
17 the Court has no authority to determine a restitution amount
18 but instead is limited by what the government agrees to in
19 the plea agreement.

20 The plea agreement here provides for a restitution
21 payment of \$500, which this Court will order pursuant to
22 18 U.S.C. Section 3663(a) (3).

23 Regarding the nature and circumstances of the
24 offense, as I have already mentioned, the defendant has been
25 convicted of parading, demonstrating, or picketing in a

1 Capitol Building in violation of 40 U.S.C. Section
2 5104(e) (2) (G), which is a petty offense Class B misdemeanor.

3 And this is -- despite the title of the statute --
4 parading, demonstrating, or picketing -- which might give
5 the impression that it's basically protesting in the wrong
6 place. What happened on January 6th at the Capitol was not
7 protected First Amendment parade or demonstration or a
8 picket or a protest; it was a mass riot that overwhelmed law
9 enforcement so that they were unable to keep people out of
10 the Capitol Building, and, therefore, this mob disrupted the
11 proceedings of Congress to certify the 2020 presidential
12 election, which is a task that the Constitution calls on
13 them to perform every four years for the peaceful transition
14 of power.

15 One thing that I haven't heard from this
16 defendant -- either somewhat in his letter, but certainly
17 not before me, is any appreciation of the seriousness of
18 what happened that day or any particular remorse for helping
19 that mob do what they did, and that's really unfortunate.

20 Everybody who went into the Capitol Building that
21 day to stop Congress from doing its job, they were not
22 patriotic Americans. They may have been Americans, but they
23 were certainly not patriots trying to uphold the
24 Constitution and the rule of law. In this case --

25 THE DEFENDANT: Can I speak on that for a minute?

1 THE COURT: No, you may not. You have had your
2 time to speak, Mr. Fox.

3 Before traveling from Pennsylvania to Washington
4 on January 6th, this defendant made several posts on
5 Facebook indicating that he was ready for civil war and
6 fireworks during his visit to the nation's capital.

7 On December 24, 2020, in a Facebook post, he
8 stated, "The worst part of 2020 was seeing so many people be
9 ok with actual voter fraud and... I hope Trump starts a
10 civil war."

11 In another Facebook post, also before January
12 6th -- this time on January 1, 2021, he wrote, "The next
13 time I see fireworks go off in D.C. I want them attached to
14 traitor politicians. Unrelated but see yinz on the 6th."

15 When the day arrived, on January 6th, this
16 defendant went to the Trump rally and then joined the mob,
17 following the crowd into the Capitol. And he saw rioters
18 break a window on a small white door and observed people who
19 were getting extra rowdy. He knew this was unlawful
20 conduct. And despite witnessing this violence, he didn't
21 turn around to walk away. And in his own words, he said:
22 The scene was tough to watch, but you couldn't look away
23 either. It was going to be big news and a big event.

24 And the reason why he took photos to memorialize
25 his presence among the mob was so that he could show his

1 kids in the future that he was there on January 6th. Now he
2 will be able to show his kids his judgment and conviction
3 order for being there.

4 THE DEFENDANT: Hopefully not now.

5 MS. JAYARAMAN: And, Your Honor, I apologize, but
6 may I just place one thing on the record, please --

7 THE COURT: Yes.

8 MS. JAYARAMAN: -- to correct the record?

9 I understand this Court's position about his
10 expressions of remorse.

11 I would just like to highlight for the Court the
12 same sentence that I had read into the record earlier where
13 he says: I am sorry that my involvement that day did help
14 facilitate to the environmental violence.

15 I just wanted to read that into the record.

16 THE COURT: I have read his letter, and I have
17 also heard him here today.

18 MS. JAYARAMAN: Thank you, Your Honor.

19 THE COURT: There is a big disconnect in space
20 between what he said in his letter and what he was saying to
21 me today --

22 MS. JAYARAMAN: I understand, Your Honor.

23 THE COURT: -- which was a letter to the
24 prosecutor.

25 MS. JAYARAMAN: Yes.

1 THE COURT: All right. The defendant is going to
2 have a permanent federal criminal conviction record to
3 follow him the rest of his days to prove that he was there
4 on January 6th to add to his photos that he took there.

5 He entered the Capitol Building through a broken
6 window in the Senate wing entrance; it was captured on CCTV
7 footage. He is shown taking a selfie that he posted to
8 Facebook; and then he left after spending about two minutes
9 inside the building.

10 Unlike a number of other defendants who went into
11 the Capitol that day unlawfully, he didn't seem to touch
12 anything inside the Capitol; he didn't enter a private
13 office. He didn't even wander around the public corridors;
14 he didn't go into the Senate or House Chambers.

15 So his conduct -- he didn't steal anything; he
16 didn't deface anything. He didn't encounter any law
17 enforcement officers when he was there to taunt, threaten,
18 or push them out of the way as part of a bigger mob. So his
19 conduct -- whatever his belief system that he believed then,
20 that he believes now -- his conduct on that day was far less
21 serious and egregious in compounding his unlawful conduct
22 than a number of other defendants that I have seen before me
23 and are listed in the government's long list -- and growing
24 list of defendants who have been sentenced in connection
25 with their unlawful conduct on January 6th.

1 The day after his participation in the riot, on
2 January 7, 2021, the defendant uploaded to Facebook several
3 photos he took throughout his participation in the Capitol
4 riot, including pictures of other members of this mob
5 attempting to break the Senate wing entrance window and gain
6 access to the building; and he also posted a message about
7 lefties "pissing and moaning," and about taking the building
8 that was ours, and other disparaging remarks about people
9 with whom he does not share the same political beliefs.

10 At least through April -- late April 2021, this
11 defendant continued to make statements on social media
12 promoting lies about the events of January 6th, such that
13 the Capitol -- such like the Capitol riot was a walking
14 tour; that it was, quote: "Absolutely a lie that anything
15 violent happened there other than a black officer murdering
16 a white woman."

17 He also took to Facebook to celebrate his conduct
18 as a member of the riot and spread lies about what
19 transpired on January 6th. But, again, all of that speech,
20 as disturbing as it is, is not what the unlawful conduct was
21 that he is charged with in connection with his guilty plea
22 which is his deliberate unlawful entry into the Capitol
23 Building, which is a petty offense.

24 So regarding his history and characteristics,
25 starting with his criminal history, he does have three prior

1 convictions for public drunkenness, a DUI, and retail theft;
2 each of which is more than 10 years old, when he was in his
3 early 20s. And for his 2010 DUI conviction, he was
4 sentenced to some intermediate punishment program with a
5 period of probation. He also has a couple more recent
6 traffic infractions to which he pled guilty, but this is a
7 fairly minor and old criminal history.

8 He has been engaged in a stable relationship, and
9 he has two children. He has a history of substance abuse,
10 but has noted that he stopped smoking marijuana when he was
11 arrested on the instant offense; and all of his drug tests
12 while he has been on pretrial release have come back
13 negative.

14 He is educated in terms of -- he has a -- he has
15 graduated from high school; he has two years of
16 undergraduate studies. As he said, political science was
17 something that he studied.

18 He has a moving company where he employs some
19 people. He has a stable relationship, his business
20 pursuits. His commitment to his children is certainly
21 commendable and shows that he has the ability to be a
22 law-abiding, productive citizen, so I am going to take that
23 into account in evaluating the appropriate sentence here.

24 The need for the sentence imposed to deter
25 criminal behavior and protect the public from further crimes

1 by this defendant are significant and critical
2 considerations for every sentencing judge, and the
3 seriousness of the criminal conduct witnessed on January 6th
4 highlights the need for deterrence in some form of
5 sufficient sentence to deter this defendant and others from
6 engaging in the same kind of conduct in the future that
7 would disrupt the peaceful transition of power that -- up
8 until January 6, 2021 -- this country held itself above most
9 others in the world for their ability to perform that
10 function in the change of administrations.

11 So when determining the sentence to impose, the
12 importance of deterring future malcontents from disrupting
13 the peaceful transition of power after an election weighs
14 very heavily on this Court and all of the other judges on
15 this court as we confront these individuals who engaged in
16 unlawful conduct on January 6th.

17 Specific deterrence is also of concern in this
18 case, in light of the defendant's statements on social media
19 before and after the events of January 6th and through late
20 April of 2021, bragging about his conduct and celebrating
21 the rioters as patriots who wanted to knock and talk to
22 Congress. And he would, "Do it again, fight me" -- which is
23 what he said on a January 7, 2021, Facebook post.

24 Regarding the types of sentences available, this
25 was a petty offense. The government has argued here for a

1 term of probation and a term of imprisonment that -- in what
2 we call a "split sentence." And as an alternative to
3 confronting the thorny legal issue of whether a split
4 sentence is available for a petty offense, which has been a
5 matter of some legal debate in my court, the government
6 requests that the Court impose a period of intermittent
7 incarceration, which is permitted as a special condition of
8 probation.

9 In this case, however, given the defendant's
10 concrete unlawful conduct of two minutes inside the Capitol
11 Building, I would -- I do find that it would be an
12 unwarranted sentencing disparity to impose a term of -- any
13 term of incarceration, whether a straight incarceration or
14 for intermittent confinement and, therefore, I do find the
15 specific deterrence will be satisfied with a lengthy period
16 of probation. This is, as I said, due to the statutory
17 requirement that this Court avoid unwarranted sentencing
18 disparities.

19 And, therefore, based on my consideration of these
20 and other factors, I will now state the sentence to be imposed:

21 Pursuant to the Sentencing Reform Act of 1984 and
22 in consideration of the provisions of 18 U.S.C. Section
23 3553, it is the judgment of the Court that you, Samuel Fox,
24 are hereby sentenced to a term of 36 months, 3 years, of
25 probation on Count 4 of the information, with a special

1 condition of 2 months, 60 days, of home detention. In
2 addition, you are ordered to pay a special assessment of \$10
3 in accordance with 18 U.S.C. Section 3013.

4 While on supervision, you shall abide by the
5 following mandatory conditions as well as the standard
6 conditions of supervision which are imposed to establish the
7 basic expectations for your conduct while on supervision.

8 The mandatory conditions include:

9 One, you must not commit another federal, state,
10 or local crime;

11 Two, you must not unlawfully possess a controlled
12 substance, which includes marijuana;

13 Three, you must refrain from any unlawful use of a
14 controlled substance. You must submit to one drug test
15 within 15 days of placement on supervision, and at least two
16 periodic drug tests thereafter, as determined by the
17 probation officer;

18 Four, you must make restitution in accordance with
19 your plea agreement and 18 U.S.C. Section 3663(a) -- 3663 --
20 not (a).

21 You shall comply with the following special
22 conditions: You are ordered to pay a fine.

23 Also, in addition to your restitution amount of
24 \$500, you will also pay a criminal fine in the amount of
25 \$2500. The Court has determined you do not have the ability

1 to pay interest and, therefore, does not waive any -- that
2 you do have the ability to pay interest, and therefore does
3 not waive any interest or penalties that may accrue on the
4 balance.

5 You must submit to home detention for a period of
6 two months as soon as practicable and comply with the
7 location monitoring program as directed by the U.S.
8 Probation Office.

9 You will be restricted to your residence at all
10 times except for employment, education, religious services,
11 medical, substance abuse, and mental health treatment,
12 court-ordered obligations, or any other such time
13 specifically authorized by the U.S. Probation Office.

14 The location-monitoring technology is at the
15 discretion of the U.S. Probation Office, and you must pay
16 the cost of monitoring.

17 Having assessed the defendant's ability to pay,
18 payment of the total criminal monetary penalties is due as
19 follows: Payment in equal monthly installments of \$100 over
20 the period of probation, to commence after the date of this
21 judgment. You must disclose to the probation officer -- you
22 must provide to the probation officer access to any
23 requested financial information and authorize the release of
24 any financial information. The probation officer may share
25 financial information with the U.S. Attorney's Office.

1 You are also ordered to make restitution to the
2 Architect of the Capitol in the amount of \$500; and the
3 Court has determined that you have the ability to pay
4 interest that may accrue on that balance.

5 Restitution payments shall be made to the Clerk of
6 the Court for the U.S. District Court, District of Columbia,
7 for disbursement to the following victim: The Architect of
8 the Capitol, Office of the Chief Financial Officer,
9 attention Kathy Sherrill, CPA, Ford House Office Building,
10 Room H2-205B, Washington, D.C. 20515, in the amount of the
11 restitution loss of \$500.

12 The financial obligations are immediately payable
13 to: The Clerk of the Court for the U.S. District Court, 333
14 Constitution Avenue Northwest, Washington, D.C. 20001.
15 Within 30 days of any change of address, you shall notify
16 the Clerk of the Court of the change until such time as the
17 financial obligation is paid in full.

18 The probation office shall release the presentence
19 investigation report to all appropriate agencies, which
20 includes the U.S. Probation Office in the approved district
21 of residence, in order to execute the sentence of the Court.
22 Treatment agencies shall return the presentence report to
23 the probation office upon the defendant's completion or
24 termination from treatment.

25 The Court also imposes as a special condition of

1 probation that the defendant continue in mental health
2 treatment with any medication that is prescribed for his
3 condition under the direction of the probation office.

4 Pursuant to 18 U.S.C. Section 3742, you have a
5 right to appeal the sentence imposed by the Court if the
6 period of imprisonment is longer than the statutory maximum.
7 If you choose to appeal, you must file any appeal within 14
8 days after the Court enters judgment.

9 As defined in 28 U.S.C. Section 2255, you also
10 have the right to challenge the conviction entered or
11 sentence imposed if new and currently unavailable
12 information becomes available to you or on a claim you
13 received ineffective assistance of counsel in entering a
14 plea of guilty to the offense of conviction or in connection
15 with sentencing. If you are unable to afford the cost of an
16 appeal, you may request permission from the Court to file an
17 appeal without cost to you.

18 Are there any objections to the sentence imposed
19 not already noted on the record from the government?

20 MR. FRANKS: No objections from the government.

21 THE COURT: And from the defense?

22 MS. JAYARAMAN: Court's indulgence.

23 THE DEFENDANT: No objections.

24 MS. JAYARAMAN: No objections, Your Honor.

25 Thank you.

1 THE DEFENDANT: Thank you.

2 THE COURT: You may sit down.

3 Does the government have a motion to dismiss the
4 open counts --

5 MR. FRANKS: Yes, Your Honor.

6 THE COURT: -- of the information against this
7 defendant?

8 MR. FRANKS: The government moves to dismiss
9 Counts 1 through 3 of the information.

10 THE COURT: All right. That motion is granted.
11 Is there anything else to address today from the
12 government?

13 MR. FRANKS: No. Thank you, Your Honor.

14 THE COURT: And from the defense?

15 MS. JAYARAMAN: Nothing further. Thank you.

16 THE COURT: Okay. You are all excused.

17 (Whereupon, the proceeding concludes, 11:57 a.m.)

18 **CERTIFICATE**

19 I, ELIZABETH SAINT-LOTH, RPR, FCRR, do hereby
20 certify that the foregoing constitutes a true and accurate
21 transcript of my stenographic notes, and is a full, true,
and complete transcript of the proceedings to the best of my
ability.

22 This certificate shall be considered null and void
23 if the transcript is disassembled and/or photocopied in any
manner by any party without authorization of the signatory
below.

24 Dated this 11th day of June, 2022.

25 /s/ Elizabeth Saint-Loth, RPR, FCRR
Official Court Reporter

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