

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
vs.)	Case No. 21-cr-201 (DLF)
)	
ZACHARY MARTIN,)	
)	
Defendant.)	

DEFENDANT’S SENTENCING MEMORANDUM

COMES NOW, Defendant Zachary Martin, by and through Counsel, Joseph Passanise and Taylon Sumners of WAMPLER & PASSANISE LAW OFFICE, and moves this Court for a sentence of a fine and twelve months’ probation in accordance with the following Legal Suggestions:

RELEVANT FACTORS IN THE INSTANT CASE

I. Offense Characteristics

Zachary Martin was 45 years old when he Pled Guilty to Count Four of the Criminal Information, for Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 USC § 5104(e)(20)(G) on December 23, 2021 (Pre-Sentencing Investigation Report hereinafter referred to as PSI at page 4, paragraph 7). Martin has remained on Pre-Trial Supervision since January 29, 2021, and has had no violations during the pendency of this case. He has accepted responsibility and been interviewed by the FBI and shared access to his social media. Further, he cooperated with the House Investigative Committee.

On a whim, Martin decided to go to Washington, D.C. for the “Stop the Steal Rally” with three friends: Michael Quick, Stephen Quick, and Kari Kelley. Martin and the Quicks,

specifically, felt compelled as patriots based on the skepticism surrounding the integrity of the 2020 election to be a face in the crowd at the rally.

Martin and the Quick brothers had never participated in a political rally revolving around the 2020 election before January 6, nor donated to political interest groups. The four rented a van to drive to Washington to do what they felt, at the time, was their civic duty. The spur of the moment decision to make the trip from Missouri to Washington had the four concerned at the prospect of even finding a hotel room. Prior to attending the rally upon arriving in Washington, the four made a pact to meet at a monument if they were separated at any point, given the large number of attendees.

Once the rally began, Kelley broke away from the group to use the restroom. Martin and the Quick brothers eventually met at the monument, as with no hope of finding Kelley due to the large crowd and lack of cellphone battery and/or service. Eventually, the three men were advised Kelley was at the Capitol. The three men ventured towards the Capitol, which was never their initial plan in travelling to Washington. The men could **not** have anticipated what was going to happen, nor were they involved in any pre-planning activities.

It is important to understand that Martin had **no** intention of entering the Capitol when the trip was planned, upon arrival in Washington, or even during attendance at the Rally. After getting closer to the Capitol, Martin, along with hundreds of others, chose to enter the Capitol through a window, which had been previously broken. Through **no action** of Martin or any member of his group (PSI at 9:32). Martin, in awe of being inside of the Capitol, made the **regretful** decision to livestream himself during his brief time inside of the U.S. Capitol and posted it to Facebook (PSI at 7:21). This was unusual, as Martin did **not** livestream things to Facebook previously, but rather felt this moment was part of history and recorded the moment.

While inside the Capitol, Martin took the role of an observer, and did **not** participate in chants, deface Capitol property, or encourage others to do so, or try to enter other areas of the Capitol as many other attendees chose to do. Martin, without intent or recognition while in the crowd filmed part of the livestream inside of the Capitol in front of a portrait of Congresswoman Shirley Chisholm. Martin was unaware of who Ms. Chisholm was as a historical figure. Martin and the Quicks were confused, as they witnessed fist-bumping between other attendees and police officers, at the Capitol. Overall, Martin was unaware of where he even was within the Capitol and was only inside of the Capitol at a maximum time of twelve minutes, possibly even less. Martin and the Quick brothers did not touch anything while inside and simply observed, took photos, and walked through in search of an exit. Martin and the Quick brothers reacted quickly and peacefully exiting the building and then travelled back to Missouri.

After January 6, Martin was then reported to the FBI as being present inside of the Capitol building during the January 6 incident by his Facebook “friends” who witnessed the livestream (PSI at 7:21-25). Out of fear for his mere presence at the Capitol on January 6, the harassment he endured for attending, and in the height of the call for the country to report on those at Capitol, Martin **deactivated** his social media accounts. There were allegations that he destroyed evidence, but was never proven and unclear. Further, nothing was hidden as this was public and many viewed and reported the content. When Martin was interviewed by the FBI, he shared access to his phone and social media. Martin was located by the FBI and arrested on January 28, 2021 (PSI at 1).

Martin later sat down voluntarily on **two** separate occasions for at least an hour each time to subject himself to interviews with both the FBI and the House Investigative Committee to assist in the investigation and understanding of the January 6 incident.

Martin is noted as accepting responsibility for this incident (PSI at 10:37). Martin has repeatedly expressed **remorse** and sadness for his actions in entering the Capitol on January 6 and being present for the chaos that occurred, despite **not** participating in any type of damage or injury to the Capitol or those protecting the Capitol. Martin, like the Quick brothers, felt called to be present in Washington to promote election integrity, nothing more. There was no master plan to enter the Capitol on January 6, but rather a **reckless** decision driven by adrenaline and curiosity. The three men could not have anticipated, nor controlled the chaos that occurred. Martin, being a parent of three young children and local business-owner recognizes the shortcomings of his thought process on January 6 and has participated in all ways made available to him to ensure January 6 does not occur again.

Personal History

Martin was born in Springfield, Missouri on February 18, 1976 as an only child to Robert and Julie Martin (PSI at 14:53). When Martin was only eight years old, his parents divorced, but he remained close with both of them (PSI at 14:53). In 2002, at twenty six years old, Martin was heartbroken to learn that his father had taken his own life (PSI at 14:53). Martin's mother later passed away from chronic obstructive pulmonary disease in 2018 (PSI at 14:55).

Martin was married to Oneta Tamarha Marie Olson Martin for eighteen (18) years, prior to separating in 2020 prior to this incident (PSI at 14:57). Martin has three children with Oneta, including Cayanne (15 years old); Rowan (13 years old); Juniper (9 years old), who he assists in raising jointly with Oneta (PSI at 16:57). Martin strives to be the best father he can and describes his children as his pride and joy. Martin obtained his GED later in life, dropping out of high school in the eleventh grade and currently owns and operates a mobile entertainment business

(established 2002, while also managing an 18-hole disc golf course, which he hopes to continue expanding for patrons (PSI at 15-16:59; 67).

Martin has no current physical or mental health issues (PSI at 15-16:63-65). Martin has completed probationary terms assigned in prior criminal matters, which aside from traffic tickets go back 12 years or longer (PSI at 12-13:41-48). Martin, aside from this incident has had no criminal convictions or pleas of guilty for twelve years and since this incident has not had any issues while on pre-trial supervision. Despite Martins prior criminal matters, Martin's criminal history category is still reported as zero, resulting in Criminal History Category I (PSI at 20:82).

LEGAL SUGGESTIONS

I. 18 U.S.C. § 3553(a) FACTORS APPLIED TO DEFENDANT

Pursuant to 18 U.S.C. § 3553(a)(1), the Court shall consider the nature and circumstances of the offense and the history and characteristics of the Defendant. Under 18 U.S.C. § 3553(a)(2), the factors regarding a need for a sentence to be imposed include: (A) reflecting the seriousness of the offense to promote respect for the law and just punishment; (B) to afford adequate deterrents to criminal conduct; (C) to protect the public from further crimes; and (D) to provide the Defendant with needed education or vocational training, medical care or other correctional treatment in the most effective manner.

In the case-at-bar, Martin was married eighteen years continuing to share custody of his three children and owns and operates at least two successful businesses. All of these factors demonstrate that Martin has a strong sense of responsibility. Further, Martin, despite the devastating loss of both of his parents continues to maintain a strong support system who holds him accountable in his children and friends. This suggests a better chance of leading a productive life after the conclusion of this matter than the average similarly situated Defendant.

In considering 18 U.S.C. § 3553(a)(1), it is important to reiterate that Martin had no planned intention of entering the Capitol and could not have anticipated the chaos that occurred. Martin was only inside of the Capitol for a matter of minutes and did not encourage or participate in damage to any Capitol property or protector. By voluntarily sitting with both the FBI and the House Investigative Committee to be interviewed twice for at least an hour, Martin has exhibited an extraordinary demonstration of acceptance of responsibility in this matter. Further, similarly situated Defendants who have been sentenced for unlawfully entering the Capitol on January 6 have received probation as opposed to incarceration.

Overall, 18 U.S.C. § 3553(a)(A)-(C) would be more than satisfied by a sentence of a fine and probation based on Martin's limited role in the January 6 incident, cooperation with investigative agencies, Martin's responsibility to his children and business, as well as his remorse for entering the Capitol unlawfully.

II. CONCLUSION

Pursuant to 18 USC § 3553(a), to a sentence of a fine and probation is respectfully recommended as sufficient, but not greater than necessary, as it reflects the seriousness of the offense, promotes respect for the law, provides just punishment, serves as a deterrent to criminal conduct, and protects the public from further crimes. Martin's mere presence on January 6 has changed Martin's life over the last year and brought attention unwanted to his family. Such a sentence also takes into consideration the nature and circumstances of the offense and the history and characteristics of Martin. Given Martin's lapse in judgement in entering the Capitol for a matter of minutes without promoting disruption or damaging anything in the Capitol, Martin should receive a sentence of probation, as opposed to the Government's recommendation of incarceration.

WHEREFORE, for each of the above stated reasons and in combination of all of the factors, Defendant respectfully requests probation be granted with special conditions under supervised release and for such other and further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED,

_____/s/ Joseph S. Passanise_____
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Certificate of Service

I hereby certify that on the 11th day of March 2022, I electronically filed the foregoing with the U.S. District Court Clerk for the Eastern District of Missouri using the CM/ECF system which sent notification of such filing to U.S. Attorney, St. Louis, Missouri.

_____/s/ Joseph Passanise_____
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