

BEFORE THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, .
Case Number 21-cr-201
Plaintiff, .
vs. .
ZACHARY HAYES MARTIN, .
MICHAEL AARON QUICK, .
STEPHEN BRIAN QUICK, .
KARI KELLEY, . March 17, 2022
11:09 a.m.
Defendants. .
- - - - -

TRANSCRIPT OF SENTENCING HEARING
BEFORE THE HONORABLE DABNEY L. FRIEDRICH
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Proceedings recorded by stenotype shorthand.
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P R O C E E D I N G S

(All participants present via video conference.)

COURTROOM DEPUTY: Your Honor, we are in Criminal Action 21-201, the United States of America versus Zachary Martin, Michael Quick, Stephen Quick, and Kari Kelley.

If I can have the parties identify themselves for the record, beginning with the United States.

MR. KORBA: Good morning, Your Honor. Jack Korba on behalf of the United States, standing in for AUSA Brenda Johnson.

THE COURT: Good morning, Mr. Korba.

MS. JACOB: Good morning, Your Honor. Maria Jacob appearing on behalf of Ms. Kelley, who is present via video.

THE COURT: Good morning to you both.

MR. PASSANISE: Joseph Passanise, counsel for Zach Martin and Stephen and Michael Quick.

THE COURT: All right. Good morning, all. You are all there in the same room?

MR. PASSANISE: We are, Your Honor.

THE COURT: And I see we have a probation officer on the line as well?

PROBATION OFFICER: Yes, Your Honor. Good morning. Aidee Gavito as to all defendants in this case for Probation.

THE COURT: Thank you, all.

So this is -- the pleas in this case were to a petty

1 offense, a class B misdemeanor. So I don't need to make a CARES
2 Act finding in order to do the sentencing by video. Even so, I
3 do want to make sure with respect to each defendant that they do
4 want to appear by video conference rather than wait to do the
5 sentencing in person in the courtroom.

6 So let me start with -- I think the first defendant in this
7 case is Mr. Martin. Is it your desire to appear for sentencing
8 by video rather than do this in the future in the courtroom?

9 DEFENDANT MARTIN: Yes, Your Honor.

10 THE COURT: All right. You understand you have the
11 right to be sentenced in the courtroom?

12 DEFENDANT MARTIN: Yes, I do.

13 THE COURT: All right. How about Michael Quick? Do
14 you also understand that?

15 DEFENDANT M. QUICK: Yes, Your Honor.

16 THE COURT: And Stephen Quick?

17 DEFENDANT S. QUICK: Yes, Your Honor.

18 THE COURT: And Ms. Kelley?

19 DEFENDANT KELLEY: Yes, Your Honor.

20 THE COURT: Okay. I'm also going to ask all four
21 defendants in order again whether you've had adequate time to
22 review the presentence reports and recommendations in this case
23 and had an opportunity to correct any errors in the report,
24 along with your attorney.

25 Mr. Martin, is that the case? You have had a chance to

1 review the PSR and recommendation and make any objections?

2 DEFENDANT MARTIN: Yes, I have, Your Honor.

3 THE COURT: All right. Mr. Michael Quick?

4 DEFENDANT M. QUICK: Yes, I have, Your Honor.

5 THE COURT: All right. Stephen Quick?

6 DEFENDANT S. QUICK: Yes, Your Honor.

7 THE COURT: And Ms. Kelley?

8 DEFENDANT KELLEY: Yes, Your Honor.

9 THE COURT: Sorry, Ms. Kelley. I didn't hear you.

10 DEFENDANT KELLEY: Yes, Your Honor.

11 THE COURT: All right. And then I will ask
12 Mr. Passanise, if you can just confirm, I know there are some
13 unresolved objections we will address in just a minute. But
14 aside from those that are noted in the addendums to the
15 presentence report, are there any remaining factual inaccuracies
16 or objections that the Court needs to address, Mr. Passanise?

17 MR. PASSANISE: No, Your Honor.

18 THE COURT: Okay. And Ms. Jacob?

19 MS. JACOB: No, Your Honor.

20 THE COURT: Okay. Let me just go through for
21 Mr. Martin and Mr. Quick, both Quicks, the PSRs, I see there are
22 some unresolved objections.

23 Before I do that, Ms. Jacob, let me just confirm with you,
24 there are none for Ms. Kelley; correct?

25 MS. JACOB: Correct, Your Honor.

1 THE COURT: Okay. Mr. Passanise -- sorry. I'm going
2 to say your name incorrectly probably all day -- with respect to
3 Mr. Martin, the first objection that you raised has been
4 resolved by Probation. There's this objection that you have
5 made for all three defendants with regard to the information
6 that I believe relates to the January 6 events as a whole, is
7 that correct, the offense conduct listed in paragraphs 14 to 20
8 of the PSR? That's what you're objecting to?

9 MR. PASSANISE: Yes, Your Honor. I will waive the
10 purpose of my objections. I was -- my context was that I
11 understand that the government was bringing those paragraphs in
12 to set the stage for the background, while that behavior was not
13 directly related to my three clients. So I will waive the
14 objection, and we can address anything in allocution.

15 THE COURT: All right. And I was inclined to overrule
16 the objection anyway. I'm not relying on that to sentence these
17 defendants. It just provides helpful context. Obviously, they
18 were a part of a large mob, and to that extent, I think it's
19 relevant and necessary context. But I'm not, and nor do I think
20 the government is attempting to hold them accountable for
21 assault and property damage of others other than to say they
22 were a part of a large mob that made the officers' jobs more
23 difficult that day.

24 With respect to Mister -- it's hard to keep all these PSRs
25 correct. Let me start with Michael Quick. So you had the same

1 objection which you're withdrawing here, but then you also have
2 this objection with regard to Michael Quick, paragraph 64.

3 And I'm just wondering, for the probation officer, why not
4 include this additional job information if this is, in fact,
5 true? I guess if you say that he's been employed, but it
6 appears that there's an additional job he's done. Is there any
7 objection from Probation's standpoint to include this
8 information, or is there a question as to whether it's accurate?

9 PROBATION OFFICER: There is no objection, Your Honor.
10 We -- yeah.

11 THE COURT: Okay. Unless you have reason to think
12 it's not true, I think it's appropriate to add that.

13 PROBATION OFFICER: Yes, Your Honor. We can make --

14 THE COURT: Okay. You can make that --

15 PROBATION OFFICER: We can make that --

16 THE COURT: Okay. And then with regard to paragraph
17 68, Mr. Passanise, is this an issue really? It's pretty --

18 MR. PASSANISE: No, Your Honor. I was just trying to
19 give accurate information to Probation.

20 THE COURT: All right. That one to me did not seem to
21 be that material, but if you think otherwise, let me know.

22 MR. PASSANISE: Yes, Your Honor.

23 THE COURT: With regard to Stephen Quick, however,
24 there is this objection to the criminal history which I want to
25 make sure I understand. Is your objection that this incident

1 never occurred or that he was never charged?

2 MR. PASSANISE: Never charged, Your Honor.

3 THE COURT: All right. Well, I'm -- if he's not
4 objecting to the incident and suggesting this is a different
5 Stephen Quick, I'm inclined to credit what's in here. The
6 records do reflect that he was charged. If I'm remembering
7 correctly, he wasn't convicted but just charged; is that right?

8 MR. PASSANISE: He had a friend that was charged with
9 it, Your Honor. He wasn't charged with it. But I understand --
10 I think in the scheme of things, it was just trying to put
11 context to it.

12 THE COURT: Well, again, if you're telling me that he
13 didn't -- this incident never occurred, then I would be inclined
14 to strike it from the report, but if it did occur -- at least
15 according to the sheriff's office records, there is some
16 indication that he was released and ordered to pay a fine.
17 Given that that's the official records, I'm inclined to leave it
18 in here. Of course, the guidelines don't apply here, but it is,
19 I think, relevant to his criminal history. So I'm not going to
20 ask Probation to remove that.

21 All right. Have we covered everything in terms of the PSRs
22 such that counsel for any defendant has no objection to me
23 accepting the presentence reports as my findings of fact under
24 Rule 32? Mr. Passanise?

25 MR. PASSANISE: Correct.

1 THE COURT: I'm sorry?

2 MR. PASSANISE: That's correct, Your Honor, yes.

3 THE COURT: Okay. I don't know why, sometimes the
4 microphone's not quite picking you up sometimes.

5 And Ms. Jacob?

6 MS. JACOB: Yes, Your Honor.

7 THE COURT: All right. So again, I will accept the
8 PSRs as my findings of fact under Rule 32.

9 Under 1B1.9 of the guidelines, the guidelines don't apply
10 because it's a petty offense. So I will apply the 3553(a)
11 factors in deciding the appropriate sentence.

12 Let me start with Mr. Korba. Mr. Korba, I know that you're
13 standing in for the AUSA here. So I appreciate that you may not
14 be as intimately familiar with this case as she might have been,
15 but you can see, she filed lengthy sentencing memoranda in this
16 case. I don't know to what extent you're familiar -- I don't
17 think I've had you in any of my cases, but you're familiar with
18 the sentences I've imposed in similar cases.

19 But I certainly appreciate that the government is trying
20 hard to be consistent in these cases and making consistent
21 sentencing recommendations. The judges, too, are trying to be
22 hard in -- I mean trying to do their best to impose consistent
23 sentences in like cases.

24 And if you've reviewed the sentences I've imposed in cases
25 like the instant one where there's no evidence of preplanning

1 that I'm aware of or the government's brought to my attention,
2 there's no evidence of any assault, any, for that matter,
3 encounters with law enforcement, any evidence of property
4 disruption, or really any aggravating factors that I see -- I
5 know there's some social media postings, and I know that a
6 couple of the defendants appeared to sort of minimize their
7 conduct a bit in interviews with law enforcement. But as I read
8 those interviews, they did admit the offense, and whether they
9 went in the window or the door is not that material here, given
10 that they've basically accepted responsibility. I'm not
11 inclined to view that as such an aggravating factor that I would
12 impose something other than a probationary sentence.

13 And just so the government understands where I'm coming
14 from -- I haven't had you, again, in these cases. But I really
15 feel that for deterrence purposes and rehabilitation purposes, a
16 sentence of -- that imposes a period of supervision by the Court
17 is more important than a very short amount of time in prison.

18 And I do -- I've reviewed Judge Lamberth's opinion. I
19 disagree with his reading of those statutes, and I've explained
20 it at length in other cases. For now, I will just simply say
21 that I disagree with his reading of the language in this
22 relevant statute, the same or different offense language. I
23 don't read it the same way he does.

24 And I do think that for Congress to abandon the basic rule
25 that applies in every other instance of the Court being able to

1 impose either probation or a sentence of imprisonment with
2 supervised release, I think it would have spoken more clearly.

3 So I disagree with his ruling, and I don't think I can do
4 both. And given that I can't do both, I'm inclined to impose in
5 these sorts of cases where there are not aggravating
6 circumstances a sentence of probation.

7 So again, I recognize where the government's coming from.
8 I've just had enough of these cases now, probably ten or so,
9 where I've rejected calls for short terms of imprisonment and
10 instead imposed longer terms of probation because I think
11 supervision better furthers the goals of sentencing in these
12 cases where there are not aggravating factors.

13 Mr. Korba, I gave you all of that context so that you know
14 where I'm coming from. And I've reviewed the government's
15 sentencing memorandum at length. So not to totally preempt you,
16 but it's -- you've lost that battle in other cases. So right
17 now, we're really looking at what are the appropriate conditions
18 for each of these defendants.

19 MR. KORBA: Thank you, Your Honor, and I do appreciate
20 Your Honor realizing I'm standing in. However, I have read and
21 digested all of the materials, as well as other cases in which
22 Your Honor, I believe, has sentenced similarly situated
23 defendants, as well as other judges. So if Your Honor has any
24 particular questions, I'm more than happy to attempt to answer
25 them.

1 THE COURT: Okay. Tell me, I saw that the government,
2 you know, drew distinctions from -- with regard to the various
3 defendants here. And I know that some of that stems from
4 conduct while on pretrial release, I would guess some of it from
5 the minimization of conduct and statements to law enforcement.

6 But help me understand how you're drawing these
7 distinctions, and are they ones that really warrant either a
8 longer term of probation for some defendants or, I think,
9 greater conditions certainly with respect to some defendants.
10 So I'm interested in your perspective on that.

11 MR. KORBA: Yes, Your Honor, I do have some points on
12 these particular defendants. Does Your Honor have a preference
13 which defendant I start with?

14 THE COURT: No, it doesn't matter.

15 MR. KORBA: So I will start with defendant Kari
16 Kelley, Your Honor.

17 So I did read the defense sentencing memo as well, and I
18 think one of the aggravating factors the government would point
19 to in Ms. Kelley's situation is, number 1, she was the first of
20 her group to enter the Capitol through the broken window and in
21 the sentencing memo still does appear to try to minimize the
22 behavior enticing or encouraging her co-defendants to come into
23 the building with her.

24 Her explanation is just simply not plausible, in the
25 government's view, as she claims that she lost her co-defendants

1 in the masses and was trying to reunite with them. Your Honor,
2 it just defies logic that someone would try to enter a broken
3 window in the U.S. Capitol, engage and enter the eye of the
4 storm essentially in order to try to reunite with your lost
5 group members. A much more plausible explanation is to distance
6 yourself from that crowd and try to reunite with your companions
7 away from where the large crowd is. So I just don't think that
8 explanation is reasonable and true, quite frankly.

9 And so just comparing that with the sentencing memorandum
10 filed on behalf of her co-defendants, that explanation is
11 inherently inconsistent with her co-defendants as well, who
12 indicate that their rendezvous point was supposed to be one of
13 the monuments, which clearly Ms. Kelley didn't go to, the
14 rendezvous point, according to the other co-defendants. She
15 went to, like I said, the eye of the storm and tried to motion
16 her co-defendants in.

17 So I do believe that act of encouragement does sever her
18 apart from the other co-defendants in this particular situation
19 such that I understand Your Honor's ruling and view of Judge
20 Lamberth's opinion and Your Honor's restrictions here with
21 regard to sentencing, but I would argue that at least some
22 period of home confinement or home detention is warranted.

23 Your Honor, I would just point out as well, while the
24 defense does make a point and the government is sympathetic to
25 the defendant's health concerns that were outlined, however,

1 it's just frankly perplexing and worrisome that knowing she has
2 a compromised health immune system she would enter a defined
3 building with hoards of other people in close proximity. It
4 just, I think, speaks to the defendant's poor judgment as well.

5 And Your Honor, that is further exacerbated by, I think,
6 what is already spelled out in the government's memorandum by
7 the defendant testing positive for illicit substances while on
8 pretrial release in this case, which is quite concerning to the
9 government.

10 So I understand the defendant has offered a generic apology
11 letter, but to set her apart from, for instance, her
12 co-defendant Stephen Quick, the government doesn't see any true
13 example of -- examples of true specific introspection about the
14 day of that event, just really more of a generic apology, but
15 still attempts to try to minimize her behavior and justify her
16 actions in enticing her other co-defendants to enter.

17 So based upon those reasons, Your Honor, the government
18 does believe that Ms. Kelley stands apart and should be
19 sentenced to at least some period of home confinement.

20 THE COURT: Okay. Maybe it makes sense, Ms. Jacob, to
21 have -- unless you have more to add, Mr. Korba, about
22 Ms. Kelley, maybe it makes sense to hear from you, Ms. Jacob, in
23 response to what Mr. Korba has said.

24 But anything aside from the evidence clearly showing
25 Ms. Kelley entering the Capitol first, is there anything more

1 than that that distinguishes her in terms of the offense itself,
2 the way in which it was completed?

3 I mean, she walked around like the other three; right? She
4 didn't do -- she didn't engage with law enforcement. She didn't
5 do any property damage. She didn't prepare for the offense.

6 You have no evidence that she came to D.C. intending to go
7 in the Capitol?

8 MR. KORBA: That's correct, Your Honor. The only
9 factual evidence to distinguish them is the act of encouraging
10 the other three to come into the building with her.

11 THE COURT: Okay. And in terms of conditions of
12 probation, aside from the government thinking that the Court
13 should impose a period of home detention or home confinement in
14 terms of -- one condition I'm considering for several defendants
15 is a mental health assessment and treatment, if necessary, in
16 Ms. Kelley's case substance abuse treatment and testing.

17 I know the government has also suggested community service,
18 which I think -- I think that was a part of your recommendation.
19 Am I right about that?

20 MR. KORBA: That's correct, Your Honor.

21 THE COURT: I have imposed it in a number of cases.
22 I'm always concerned, though, I want the priority to be a job
23 and treatment where needed and don't ever want the community
24 service to get in the way of those two things. But that's your
25 position, I should impose community service.

1 What about a fine with regard to Ms. Kelley? It does seem
2 like she does not have the ability to pay a fine.

3 MR. KORBA: I think given the fact that there's an
4 agreement on restitution, Your Honor, I don't think a fine is
5 necessary.

6 But I would agree with Your Honor about the substance abuse
7 assessment and treatment if deemed necessary. I did read in the
8 latest filed pretrial report that I believe her probation in her
9 other matter is terminated. So I think initial substance abuse
10 treatment in this case would be appropriate given the lack of
11 pretrial compliance.

12 THE COURT: And Mr. Korba, I'm wondering whether you
13 agree with me, and I want to hear from Ms. Jacob, too, but it
14 does seem like Ms. Kelley had a really critical period in which
15 she was really struggling and appears from her performance in
16 the other case in Alabama that she successfully completed all of
17 that Court's requirements, which is a good sign, I think, for
18 her compliance on probation with this Court.

19 Do you disagree with that?

20 MR. KORBA: No, Your Honor, I would agree with the
21 Court's assessment. Given her compliance on the last period
22 since her noncompliance in this case, it would bode well.

23 THE COURT: Okay. All right. Ms. Jacob, let me hear
24 first from you. I do have some concerns with Ms. Kelley's, you
25 know, lack of full candor in her interview with the FBI. I know

1 that you suggested that might be misconstrued by them, but, you
2 know, there are a number of different ways that she seemed to
3 attempt to minimize her conduct, one being a suggestion that the
4 FBI deactivated her Facebook account. That doesn't seem
5 credible to me, nor does that she didn't enter first.

6 As I said, she did accept responsibility for at least the
7 elements of the offense, and she seems to have admitted what she
8 did. And so I'm crediting that, but it is a little troubling
9 that she wasn't fully forthcoming with them, and the evidence
10 conflicts with the statements that the FBI said she gave to
11 them.

12 MS. JACOB: Yes, Your Honor. So I will focus first on
13 addressing the Court's concerns about that.

14 I actually inquired to the government whether or not there
15 was an audio recording of that interview, because after talking
16 to Ms. Kelley it just seemed like something was off about the
17 context. And thankfully, the government did provide that audio
18 recording after I filed my sentencing memorandum.

19 And so now after listening to that audio recording, I do
20 see the context, and I do think that Ms. Kelley, you know, since
21 that interview, from the time of that interview until now, she's
22 realized even -- she's realized kind of the gravity of what
23 happened on that date even more.

24 But I do think that the summary, the written report the
25 government relied on to say that she wasn't forthcoming or

1 minimized her conduct is taken a little out of context.

2 THE COURT: Wait. I don't want the public to hear
3 about the tape.

4 MS. JACOB: Right. And I will explain that, Your
5 Honor. I just want to say that's me as her counsel saying that.
6 That's not Ms. Kelley saying it. I just want to make that
7 clear, because the --

8 (Simultaneous speaking.)

9 THE COURT: -- I want your best argument.

10 MS. JACOB: So the context was that she never -- Your
11 Honor, she did discuss losing the group. That was a lot of the
12 interview, that basically she lost them for several hours. She
13 did not mean to -- or I should say, I did not mean to suggest in
14 my memorandum that she only found them, was only reunited at the
15 steps, you know, at the entrance of the Capitol building. No,
16 she was reunited with them on the grounds, and they were -- what
17 Ms. Kelley explained to the FBI is that they were all, the group
18 was all amongst a large, large crowd moving towards the entrance
19 together.

20 And so when she -- she explained to the FBI that when she
21 was on -- when she, you know, was closer to the entrance, she
22 definitely wanted to -- she did want to reunite with them, but
23 that was not said in response to why did you go in the building.
24 So she never said to the FBI, oh, they were in the building
25 first, and that's why I followed. No. I mean, it was -- the

1 conversation didn't go like that. Instead, she said --

2 THE COURT: Okay. What about the deactivating of the
3 Facebook account? Does she admit that she did that?

4 MS. JACOB: In the audio recording, no, Your Honor,
5 but that wasn't really -- it wasn't really discussed in detail.
6 And I don't have anything particularly helpful to offer the
7 Court except for the fact that, you know, regardless of whether
8 the FBI did it or she did it, that's one of her mitigating
9 points, is that she really was not -- you know, she distanced
10 herself from January 6 and the events. She didn't send people
11 messages. She didn't get on other platforms, social media
12 platforms and express some of the views that some of the other
13 Capitol defendants have been expressing. I do think that's
14 actually a mitigating factor.

15 THE COURT: Okay. And I know she had a really rough
16 period of time with her own diagnosis and losing her dad and
17 being a single mom, and there were a lot of demands on her, I
18 think at one point even taking care of her own mom; is that
19 right?

20 MS. JACOB: That's right, Your Honor. And I think
21 that that's -- that's what all culminated to a certain point
22 during her pretrial release, and that all led to the drug use,
23 which she had never been a drug user. I mean, that was a
24 completely isolated time period for her. Losing her father, I
25 mean, her father was everything to her. He took care of her and

1 her son, you know. She relied on him. He raised her primarily,
2 along with her stepmother. And so losing him a few years ago
3 was absolutely devastating to her. On top of that, Your Honor,
4 she had a diagnosis of cancer and endometriosis.

5 Dealing with all of that while raising a son, while being a
6 primary care-giver of her 11-year-old son while working what can
7 be sometimes a very busy job put a lot of stress on Ms. Kelley.
8 And I think that, you know, that's what led to her arrest in her
9 prior offense and that's what led to her drug use. It was very
10 short lived, and she spent five days in jail for that, and she
11 snapped out of her feelings of, you know -- she kind of lost
12 sort of motivation to continue at some point. She's overcome
13 that, and she has -- what's unique about Ms. Kelley and why I
14 think that a lengthier period of supervision is actually not
15 necessary is that she's already gone through a strict condition.
16 She did Narcotics Anonymous classes every day for -- I want to
17 say it was a few months. And she tested negative -- ever since
18 September, she's been testing negative.

19 So she's done everything that's asked of her in that case,
20 and she successfully completed supervision. So she's already
21 shown that she's overcome that period of her life and that she's
22 stable. And so I think that goes in her favor. I don't think a
23 lengthy period of supervision is necessary or a period of home
24 detention. I don't think she's shown that she is any further
25 danger to the community, you know. She's not a danger to the

1 community. She's shown that she's distanced herself entirely
2 from her conduct.

3 Your Honor, she is remorseful for what happened. The
4 government, you know -- I know that the government pointed out
5 concerns that she was sort of minimizing her conduct. But, you
6 know, I didn't get that when I listened to the audio recording.
7 I think that she was explaining -- she was answering the
8 questions honestly, and she sat down with the FBI. And I know
9 that it was after her plea agreement and so was a part of her
10 plea agreement, but if she had not been remorseful, she wouldn't
11 have done that. And she answered all their questions.

12 And she wrote a sincere letter to the Court. I disagree
13 with the government that it's a generic letter. I think it took
14 her a long time to write, and I think it had a lot of sincere
15 words. And, you know, she's going to address the Court today as
16 well.

17 I don't see -- I don't see the -- you know, the government
18 is trying to paint her as being not remorseful. And besides,
19 you know, her interview, I just don't -- I just don't see how
20 from her interview until now she hasn't been remorseful. She's
21 accepted responsibility. She's pled guilty. She's been
22 compliant with Pretrial. She hasn't gone on social media to
23 express any different views.

24 And Your Honor, I just -- I think that the likelihood of
25 recidivism in this case is just extremely low, given what I've

1 just explained.

2 THE COURT: Ms. Jacob, let me hear from you on the
3 conditions. I'm inclined to agree with you on home detention.
4 I'm not inclined to agree with you on the length of probation.
5 I think it's in her interest to be on probation. And as you
6 know, if she's complying with probation in the beginning, the
7 amount of contact she's going to need to have with them will be
8 reduced over time if she's performing well.

9 So my real concern with her is this, even if aberrant,
10 nonetheless worrisome period with the abuse of alcohol and
11 drugs, and there is some family history there. So I would like
12 you to talk about the conditions that Probation is recommending
13 as conditions of release, namely the substance abuse treatment
14 and testing.

15 I take it you don't disagree with that?

16 MS. JACOB: Your Honor, I don't disagree with that,
17 although, you know, I would note that I think that, you know,
18 she has already been through that. But I think she would agree
19 with the Court that, of course, if the Court thinks that that's
20 appropriate, then she's more than willing to do so.

21 I guess I would just suggest that -- I think she's -- the
22 NA classes, I think, she's been attending by Zoom. And so if
23 that can be the treatment rather than her having --

24 THE COURT: I think that's something she works through
25 with Probation, but my understanding is that they're -- correct

1 me if I'm wrong, Probation, but that they want to make this
2 easy.

3 And tell me what she's envisioning in terms of employment.
4 How is she able to -- I know she has a part-time job now. Is
5 that something that she's hoping to ramp up and become more
6 full-time? What are her plans in that regard?

7 MS. JACOB: Your Honor, the way that Ms. Kelley
8 described her job to me was that sometimes it can be part-time
9 and sometimes it can be really busy and be full-time. It's just
10 as an insurance adjuster, I think it depends on what natural
11 disasters and calamities are occurring. And so sometimes it's
12 slow, but sometimes it's really busy. So I think that's just
13 entirely dependent on circumstances, but as far as I know, that
14 is her plan, to continue with her current employment.

15 THE COURT: But given her negative monthly income, is
16 she living off of inheritance? How is she staying afloat?

17 MS. JACOB: Your Honor, she -- I guess the negative
18 monthly income, she had to kind of average it out, because some
19 months -- the months that are busy she'll make more, and the
20 months that are slow, you know, it will be a big hit to her
21 income. And so --

22 THE COURT: Even so, that's problematic over the long
23 run. So what is her cushion, if any? Does she have one?

24 MS. JACOB: Your Honor, I don't know the answer to the
25 Court's question in that regard. Perhaps I can turn to --

1 Ms. Kelley can address that in her statement to the Court, but
2 I'm not sure if she has an additional cushion.

3 THE COURT: Because that's an obvious stressor with a
4 child and paying the bills. It does give me concern that the
5 pressure she felt before that led to this conduct could still be
6 there if she can't pay her bills.

7 MS. JACOB: Right. I understand that, Your Honor.
8 And after -- I've had conversations with Ms. Kelley, and the way
9 that she explained it to me is that she's able to make it work.
10 Obviously, it's tight, but she's been able to make it work being
11 an insurance adjuster, and she really does rely on kind of those
12 busy months to make her overall yearly income work.

13 THE COURT: Okay. So I misspoke. It's a negative
14 total net worth but not a negative monthly income. Okay. No,
15 it is a negative monthly cash flow.

16 All right. Is there anything, Mr. Korba, just with respect
17 to Ms. Kelley you would like to add?

18 MR. KORBA: No, Your Honor. I think Your Honor has
19 covered it all.

20 THE COURT: Okay. All right. Given that we focused
21 first on Ms. Kelley, Ms. Kelley, I didn't intend for you to
22 start first, but given that we've been talking about you, I
23 think if you would like to make a statement, now would be a good
24 time to do so. You don't have to, but this is your opportunity
25 to address me before I impose sentence if you would like to do

1 so.

2 DEFENDANT KELLEY: I do want to say that I am truly
3 sorry, and I have been carrying the weight on my shoulders this
4 past year on what has took place. And I've felt so much guilt
5 this past year on what I did that I really have been putting
6 myself into a position to where there's not enough weight that
7 anybody else can put on my shoulders but myself, because I
8 really have felt so remorseful and so, you know, sorry for what
9 I've done that I can't express it enough.

10 So that's why I have distanced myself and I have cut myself
11 off from the outside world and media, because I don't want to be
12 a part of it. I just -- I don't know.

13 THE COURT: Ms. Kelley, you've been through a lot in
14 the last few years, and for those reasons, I'm inclined to
15 impose as a condition a mental health assessment and treatment
16 as needed. Is that something you're receptive to? It seems
17 like you're carrying a big burden, and there's financial
18 concerns, and all of that could be helpful.

19 DEFENDANT KELLEY: I am receptive to it. However, I
20 do have a 401(k) that I am able to fall back on financially. So
21 I am able to take care of my son. It has been a heavy burden,
22 but that's what's made me stronger. And I am happy. I am a
23 whole person. And I am willing to take responsibility for what
24 I've done and carry that load. And that's why I said that I am
25 truly remorseful, because I have carried that load from day 1

1 after I realized that what I had done was wrong.

2 I don't feel like I'm mentally incapable or that --

3 THE COURT: I'm not suggesting that at all. It's just
4 it's a lot when you have this many major life events come all at
5 once.

6 DEFENDANT KELLEY: It is.

7 THE COURT: Sometimes some support is useful just in
8 getting through a rocky period.

9 DEFENDANT KELLEY: And I'm actually handling that on
10 my own. With talking with family and talking with neutral
11 parties, I am actually addressing that on my own.

12 THE COURT: Okay. All right. I appreciate your
13 remarks, and I do believe that you're genuinely remorseful.

14 I'm kind of inclined, so Ms. Kelley and Ms. Jacob, you
15 don't have to sit through the rest of the sentencing hearing, to
16 go ahead and sentence Ms. Kelley, and then move on to the Quicks
17 and Mr. Martin.

18 Any objection to doing that? Mr. Korba?

19 MR. KORBA: Not from the government, Your Honor.

20 THE COURT: Ms. Jacob?

21 MS. JACOB: No, Your Honor, no objection.

22 THE COURT: Okay. Ms. Kelley, I didn't mean to cut
23 you off. Is there anything else you would like to say before I
24 sentence you?

25 DEFENDANT KELLEY: No, Your Honor.

1 THE COURT: Okay. All right. Well, I do want to say
2 that -- one moment.

3 I have, as I've noted already -- the 3553(a) factors apply
4 here; the guidelines do not. And I have considered all those
5 factors even if I don't list them all here. I'm familiar with
6 them, and I have considered them.

7 Looking first at the nature and circumstances of the
8 offense -- and what I'm about to say with regard to that applies
9 to all four defendants. Although none of these defendants
10 engaged in any acts of violence or property damage on January 6
11 of 2021, they were a part of a large mob that disrupted the
12 peaceful transfer of power. They knew they had no right to be
13 in the Capitol that day, and their mere presence, as I've noted,
14 did make it more difficult for those Capitol police officers and
15 other law enforcement officers to do their jobs defending the
16 Capitol and those inside the building.

17 I recognize there's no evidence that any of these
18 defendants went to D.C. or even to the Mall that day, on
19 January 6, with an intent on entering the Capitol, but even if
20 they didn't appreciate the significance of their actions on that
21 day, still, this is a serious offense that undermines the rule
22 of law.

23 And so looking first at the nature and circumstances of the
24 offense, it's a serious one, and as other judges have said,
25 probation is not to be expected in all of these cases for that

1 reason.

2 Looking at the next -- another factor that will apply to
3 all of these defendants, and that is, the need to avoid
4 unwarranted sentencing disparities, as I've said already to
5 Mr. Korba, I'm looking at this case in the context of all the
6 other sentences I've imposed in similar cases, and I've also, in
7 imposing this sentence and other sentences, looked at what other
8 judges on our court have done.

9 Though I recognize the government is asking for a sentence
10 of imprisonment and/or home detention, home confinement in this
11 case, I don't think that's necessary. I think a sentence of
12 probation will best fulfill the goals of the Sentencing Reform
13 Act, and I do find this case more analogous to cases like
14 Schwemmer, Harrison, and Wangler than I do some of the other
15 cases like Dillon, who I sentenced to home detention, again for
16 all the reasons I've stated, the lack of aggravating factors in
17 this case.

18 So for that reason, with respect to all these defendants, I
19 am considering imposing a sentence of probation with conditions.

20 With respect to Ms. Kelley, I will not impose a fine,
21 because I don't think she has the ability to pay a fine. I also
22 will not order community service, because I do think that she
23 has a lot on her plate right now, and I do want her to focus on
24 increasing her employment to address her financial burden.

25 And also, I will impose a more extensive period of

1 supervision of three years and substance abuse treatment and
2 testing, as well as I will order a mental health assessment. I
3 understand Ms. Kelley thinks she doesn't need it, and that may
4 well be true, but I think it's prudent, given the way in which
5 she acted, you know, with kind of an aberrant episode of drug
6 and alcohol use, and given the family history, I think it's
7 important to see if there is a need for more support in that
8 regard, not because I think that she can't handle it on her own.
9 I just think she might need more tools to do so through these
10 stressful periods. So I will impose that as well.

11 So let me go ahead and I will read the formal sentence, and
12 before I impose it, I will give both parties an opportunity to
13 object.

14 Pursuant to the Sentencing Reform Act of 1984 and in
15 consideration of the provisions of Title 18 United States Code
16 Section 3553, it is the judgment of the Court that you, Kari
17 Kelley, are sentenced to a term of 36 months, three years,
18 probation. And I note this is consistent with the probation
19 officer's recommendation in this case. And that is on Count 4.

20 In addition, you are ordered to pay a special assessment of
21 \$10.

22 I will authorize supervision of this case to be transferred
23 to the U.S. District Court for the Southern District of Alabama,
24 but I will retain jurisdiction.

25 While on supervision, you will abide by the following

1 mandatory conditions, as well as the standard conditions of
2 supervision which Probation will review with you after this
3 sentencing. The mandatory conditions include not committing
4 another federal, state, or local crime, not unlawfully
5 possessing a controlled substance, refraining from any unlawful
6 use of a controlled substance, submitting to a drug test within
7 15 days of placement on supervision and at least two periodic
8 drug tests thereafter as determined by Probation. You also must
9 make restitution -- that is a part of the plea agreement in this
10 case -- of \$500, and that's payable to the Clerk of Court for
11 the U.S. District Court. The victim is the Architect of the
12 Capitol, and the amount is \$500.

13 You must also provide the probation officer access to any
14 requested financial information and authorize the release of
15 that financial information and not incur new credit charges or
16 open additional lines of credit without the approval of the
17 probation officer.

18 Again, I will impose substance abuse treatment. Probation
19 will supervise your participation. That is, treatment and
20 testing, as well as a mental health assessment and treatment, if
21 necessary.

22 I think I've said already I will not impose a fine.

23 I will advise you, Ms. Kelley, to the extent you have not
24 already validly waived your right to appeal, you do have the
25 right to appeal. To do so, you must file any appeal within 14

1 days after the Court enters judgment, and if you're unable to
2 afford the cost of appeal, you may request permission from the
3 Court to file an appeal without cost to you.

4 Before I impose the sentence, let me ask counsel and also
5 Probation if there are any objections to the sentence that I've
6 said that I will impose.

7 Mr. Korba?

8 MR. KORBA: Not from the government, Your Honor.

9 THE COURT: Ms. Jacob?

10 MS. JACOB: No objection, Your Honor.

11 THE COURT: Okay. Ms. Gavito?

12 PROBATION OFFICER: No objections, Your Honor.

13 THE COURT: Okay. All right. So that is the sentence
14 of the court. I will impose that sentence.

15 And Ms. Kelley, I wish you the best. I hope not to see
16 you, but I will ask for a periodic -- generally, I only see you
17 if there's a problem. But I will ask for a periodic status
18 report, Ms. Gavito, in one year on how Ms. Kelley is performing
19 on probation, and if necessary, I will order a future one after
20 that. But I want to hear that, Ms. Kelley, you've completed the
21 conditions and you're doing well.

22 And if there are issues, Ms. Kelley, if things are too
23 burdensome, reach out to your counsel, talk to Probation.
24 That's the most important thing. And let's have a hearing, if
25 need be. I can make modifications of conditions. But I do want

1 to see a commitment from you that you are doing what you can to
2 help yourself. All right?

3 DEFENDANT KELLEY: Thank you, Your Honor.

4 THE COURT: Okay. Anything else, Ms. Gavito?

5 PROBATION OFFICER: Your Honor, for clarification
6 purposes, was there a motion from the government to dismiss the
7 remaining counts as to Ms. Kelley?

8 MR. KORBA: I'm sorry. Yes. The government would
9 move to dismiss the remaining counts other than Count 4.

10 THE COURT: I will grant that motion. Thank you.

11 All right. So I will excuse Ms. Jacob and Ms. Kelley and
12 move on to Mr. Martin and the Quick brothers.

13 MS. JACOB: Thank you, Your Honor.

14 THE COURT: Sorry, folks. I didn't intend to start
15 with defendant 4, but it just made sense to do that.

16 All right. So Mr. Korba, let's go through Mr. Martin and
17 the Quick brothers.

18 MR. KORBA: Yes, Your Honor. I will start my
19 allocution with Mr. Martin.

20 I completely understand the Court's position on the
21 government's request for incarceration and also the Court's
22 rationale for leaning in the direction of probation without home
23 confinement. I'm going to try to focus on a few factors that we
24 believe is relevant as to Mr. Martin, why the government would
25 still ask for at least a period of home detention.

1 Number 1, defendant Martin does appear to have the most
2 serious criminal history out of all four of the defendants.
3 While the government would acknowledge that some of the
4 convictions are dated, I do believe that one of the convictions
5 appears --

6 THE COURT: Sorry. Aren't they all more than ten
7 years old?

8 MR. KORBA: Yes. I was just going to point out that
9 it does appear that he was under supervision at least until 2015
10 on one case. So that was within the last ten years of the
11 Capitol offense. So that was the only thing I was going to
12 point out with regard to the criminal history.

13 THE COURT: All right.

14 MR. KORBA: Your Honor, with regard to the factors of
15 the case, I do believe some of the items that would stand
16 Mr. Martin apart from his other co-defendants is he did
17 seemingly delete a Facebook video in the days after the riot.
18 And I do -- from the government's perspective and, it seems,
19 from the defense memo, he did that in order to avoid detection.
20 It appears his reasons were out of fear about his presence at
21 the Capitol and out of fear that people were going to report
22 him. So I do believe that's an aggravating factor with regard
23 to him attempting to avoid detection with regard to his presence
24 in the Capitol.

25 Your Honor, I would also submit that it appears Mr. Martin

1 did not demonstrate real genuine remorse with regard to his
2 interview at least to the FBI or law enforcement following the
3 plea agreement. He appears to maintain an irrational belief,
4 from the government's perspective, that the only wrong thing he
5 did was enter through a window as opposed to enter through a
6 door, which of course is completely false because one does not
7 have to enter a broken window or break something in order to
8 commit a trespass-related offense or even a felony-related
9 offense.

10 THE COURT: Clearly not, Mr. Korba, but tell me where
11 you're getting that. That was lost on me a little bit. Is this
12 the 302?

13 MR. KORBA: I believe that is in the government's
14 sentencing memo.

15 THE COURT: But I didn't quite track. This is based
16 on his interview with the FBI?

17 MR. KORBA: That is my understanding, Your Honor. I'm
18 again relying on prior counsel. But that is my understanding,
19 that it came from the interview with law enforcement.

20 THE COURT: Yeah. And another thing -- I don't mean
21 to get ahead of ourselves, but with respect to, I think, one or
22 both Quick brothers, there's still this notion coming out
23 through Probation that they had -- it wasn't clear to them that
24 they couldn't enter because so many people were going in and
25 police were fist bumping some of the January 6 rioters, for lack

1 of a better word. So if you can speak to that. I don't know if
2 that's a part of Mr. Martin's mind-set as well.

3 MR. KORBA: Absolutely, Your Honor.

4 THE COURT: But they took a plea in this case, and
5 that does trouble me.

6 MR. KORBA: I completely agree with Your Honor. I
7 believe it is inconsistent with accepting responsibility to
8 somehow portray that day to believe that they were entitled to
9 be there or they weren't trespassing. I think that just kind of
10 flies a little bit in the face of accepting true responsibility
11 for their actions. So I would agree that that is another factor
12 that should weigh against them and against just a straight
13 probationary sentence without home detention.

14 Your Honor, obviously, even in their own statements, their
15 explanations belie the facts that they passed through broken
16 glass, police in riot gear. There's absolutely no rational
17 person who would believe that they were entitled to be in the
18 Capitol that day, the government would submit.

19 Lastly, Your Honor, I know this is already pointed out in
20 the government's sentencing memorandum, but it does appear that
21 Mr. Martin has been missing a couple of his check-ins. I think
22 the latest report actually had a missed check-in the week of
23 March 5th.

24 THE COURT: A total of five.

25 MR. KORBA: Right. So the government is certainly

1 concerned about that. It does appear to -- it does create some
2 concerns about his ability to take serious probation and comply
3 with all the terms of probation and appreciate the consequences
4 of his actions.

5 So for those reasons, the government does believe that a
6 period of home detention at the very least in addition to the
7 lengthy period of probation the government is asking for is
8 appropriate in Mr. Martin's case.

9 THE COURT: All right. Do you want to go ahead and
10 move on to the Quick brothers?

11 MR. KORBA: Sure, Your Honor. Absolutely. Thank you.

12 So with regard to Michael Quick, who I will start with
13 first, Your Honor, I would just reiterate some of the same
14 arguments that the Court pointed out that I made regarding the
15 idea that he didn't know he was trespassing. Again, I just
16 think that is completely contrary to, I believe, his interview,
17 which is cited in the government's memo on page 12. Just prior
18 to those statements, he acknowledges that he passed by broken
19 glass and police in riot gear. And entering through a window, I
20 just don't know how anyone in their reasonable mind would
21 believe that they were okay and lawfully allowed to be at the
22 U.S. Capitol at that point in time.

23 So again, I do see that, the government sees that as a
24 complete minimization of their actions -- his actions and not
25 taking full responsibility.

1 I would just note, Your Honor, that again they claim they
2 didn't see any violence or any destruction, but as his brother
3 points out, Mr. Stephen Quick, he admits that they engaged in
4 the "fight for Trump" chants by the crowd. So I don't really
5 find that explanation plausible either.

6 And again, with regard to Mr. Quick, he is another one of
7 the defendants that the government does not believe is really
8 indicating true remorse. It appears, based upon some of his
9 statements, I believe, in his interview, that he only appears to
10 be sorry that he lost faith with the press after he posted
11 positive things about his experience while participating in the
12 Capitol riot.

13 So for that reason, the government would submit that a
14 period of home detention is appropriate as well as a lengthy
15 period of probation in Mr. Michael Quick's case.

16 THE COURT: Okay. Anything else, Mr. Korba?

17 MR. KORBA: Not with regard to Mr. Michael Quick.
18 Just lastly, I can speak to Mr. Stephen Quick.

19 THE COURT: Yes, please.

20 MR. KORBA: The government personally does see
21 Mr. Stephen Quick in a little bit of a different situation with
22 regard to at least his statements to law enforcement and his
23 expression of remorse. It does appear that he fully
24 acknowledges that he knew bad things were on the horizon and
25 that things were going left and things were feeling strange. It

1 didn't feel right, I believe, were his own words.

2 In some respect, that cuts against him because he still
3 went in the Capitol after realizing all these things. But at
4 least Mr. Stephen Quick was truthful enough and had the candor
5 to acknowledge that he knew something was afoot, something bad
6 was afoot, and that he was not entitled to be in the building.
7 He doesn't make any comments to suggest that he believes he was
8 entitled to be in the building that day.

9 Mr. Stephen Quick did -- does stand apart, I believe, again
10 from his co-defendants in that he immediately in his law
11 enforcement interview expressed disappointment in himself and
12 acknowledged that he was really engaging in mob-like mentality,
13 which I believe that he -- by expressing that view was
14 remorseful about. So he does not, like his co-defendants,
15 appear to make light of his behavior.

16 I note his criminal history is also completely devoid of
17 any criminal convictions whatsoever, and he does appear to be in
18 consistent compliance with Pretrial.

19 So from the government's perspective, he should receive,
20 out of all four of the defendants, some credit for that, perhaps
21 the most lenient sentence out of all four. However, the
22 government would still ask for a lengthy period of probation.

23 THE COURT: All right. Thank you, Mr. Korba.

24 Mr. Passanise, I do want to credit all three defendants for
25 accepting responsibility, at least the elements of the offense,

1 at the time of the plea, but I am concerned with the tension
2 between that and the comments of at least two to Probation. So
3 I would like you to address that. I also am crediting their
4 willingness to be interviewed by the House Select Committee.

5 I just -- obviously, they all showed an incredible lack of
6 judgment on January 6, but help me understand why I should look
7 at this as an in-the-moment lapse of judgment rather than
8 something that needs more, you know, punishment or deterrence in
9 terms of the future. I'm not contemplating a year probation for
10 any of them. I'm looking at two to three with conditions, so
11 just to kind of preview where I am.

12 Tell me why I should go to the lighter rather than the
13 heavier end and your position on home detention.

14 MR. PASSANISE: Yes, Your Honor. My comments
15 collectively with these three, because they were all together
16 that day, first of all, to address the government's concern and
17 the Court's concern about genuine remorse, in particular, the
18 Quick brothers, they were interviewed prior to counsel, prior to
19 being charged, like within days of January the 6th. And not
20 that it's an excuse or a mitigator. I don't think the gravity
21 of their inappropriate behavior had fully set in at that time.

22 As the Court already has indicated, they had no preplanned
23 intent to go into the Capitol. They got sucked into the
24 craziness, so to speak, of the atmosphere. Their behavior was
25 inappropriate. There is no excuse. They have accepted

1 responsibility. They fully cooperated with the FBI, gave access
2 to their social media. The government has done, as you've seen
3 in filing their suggestions, gone to great lengths as to
4 identifying the worst of the worst here for all three
5 individuals what they did as far as social media.

6 The context of the interviews with the Quicks as well as
7 with the Martins was full candor, full honesty, answering the
8 questions. And even in regards to Mr. Martin, same thing.

9 THE COURT: Sorry to interrupt. But Mr. Passanise,
10 what about the remarks to Probation which came post-plea? It
11 did make me concerned about whether they should have pled. I
12 thought that a couple of them said they didn't think they were
13 doing anything wrong to be inside the Capitol. Am I remembering
14 that incorrectly? It's the post-plea remarks to Probation that
15 concern me.

16 MR. PASSANISE: Your Honor, I was on each of the calls
17 with Probation, and to my knowledge, they didn't make any other
18 statements. But --

19 THE COURT: This is Probation summarizing the law
20 enforcement comments? Ms. Gavito, can you speak to that?

21 PROBATION OFFICER: I'm looking to see who said that,
22 Your Honor, with regard to the three defendants. I'm looking
23 for that in the presentence report as to both Mr. Quicks --

24 THE COURT: It appears Michael Quick, paragraph 21.
25 Oh, I see. So this is quoting the complaint, which

1 presumably --

2 MR. PASSANISE: Yes, Your Honor.

3 THE COURT: Okay. I'm sorry. I thought this was in
4 an interview with Probation. But was there not also a separate
5 interview? No, you just agreed to the conduct described in the
6 Statement of Offense. So I was reading those statements as
7 their interview with Probation. So these are pre-plea
8 statements.

9 MR. PASSANISE: Correct, Your Honor, in the 302. And
10 the timing of both the Quicks as well as Martin's 302s was -- if
11 you remember, it was a part of the plea agreement that those
12 interviews and access to social media were taken place prior to
13 the Court's acceptance of the plea.

14 Obviously, the one concern is, and I agree with the
15 government in indicating that Mr. Martin deleted his social
16 media. I think it was just shame and remorse. I understand the
17 appearance of it, but when he was interviewed by the FBI, he
18 gave the government access to his phone and his social media.
19 And I also believe the government had access to the Facebook to
20 see if there was any inappropriate posts or angry posts or
21 anything. And to my knowledge, that was not there.

22 As you've already indicated, all three of them not only
23 cooperated with the FBI on the social media, they accepted
24 responsibility, and then all three sat for questioning with the
25 House legislative committee to further cooperate and give

1 insight for their report.

2 So I do take issue a little bit with the government's
3 characterization that it wasn't true remorse by all three. This
4 has been a situation where all three have been embarrassed here
5 in our community. They've been humbled by this process.
6 They've lost family and friends because of their behavior and
7 their actions that day on January the 6th.

8 This was -- all three of them -- if you're interested, all
9 three of them wished had they thought back -- as the Court has
10 alluded, this was such a short window, about 12 to 15 minutes.
11 And there was no confrontation, no disrespect, no property
12 destruction, no violence. They voluntarily left, and they've
13 tried to right the wrong since day 1.

14 So I don't know if you want me to address anything else
15 specifically, Your Honor. I know you know a lot more, as you've
16 done many sentencings on these.

17 THE COURT: Well, no, I appreciate your comments, and
18 I've reviewed the presentence reports carefully and appreciate a
19 lot of what you're saying here in terms of impact of this on
20 their personal lives and their hard work and their jobs, and
21 their -- to the extent they have any criminal record, they are
22 fairly dated.

23 With respect to Mr. Martin and also Mr. Michael Quick, I
24 do, in light of paragraph 53 and 63 of Mr. Martin's PSR, like
25 with Ms. Kelley, I'm inclined to require a mental health

1 assessment. And I'm not suggesting that any have major mental
2 health issues, but I think they've all had struggles that could
3 benefit from at least an assessment. The same for Michael Quick
4 in light of paragraphs 58 through 59. So I will include those
5 conditions on theirs.

6 But I do credit their cooperation with law enforcement and
7 the House Select Committee and do think even though their
8 remorse was a little slow in coming, perhaps, it does seem
9 genuine to the Court. So I am crediting that.

10 But let me give Mister -- let me start with Mr. Martin,
11 unless there's anything you want to add, Mr. Korba, to what
12 Mr. Passanise said. I'm going to hear from each defendant to
13 the extent they want to address the Court. Is there anything
14 else you would like to add?

15 MR. KORBA: No, Your Honor.

16 THE COURT: All right. So I will start with you,
17 Mr. Martin. As you've heard me say to Ms. Kelley, this is your
18 opportunity to address the Court. You don't have to, but if
19 there's anything you would like to say to me before I impose
20 sentence, I welcome it.

21 DEFENDANT MARTIN: Okay. Thank you, Your Honor.

22 I just -- it's just been -- it's just been really hard, and
23 I can't believe that I made the decision to do what I did that
24 day. I just want you to know that I am truly sorry. It is just
25 totally embarrassing to be here right now. I just -- I just

1 appreciate your compassion and, you know, just -- I mean, I
2 don't know what else to say. Thank you.

3 THE COURT: Mr. Martin, I just have a question. I
4 know a lot of the January 6 defendants in that moment, I
5 think -- I think that your sentencing materials, I think you
6 were one of those who felt like there were irregularities in the
7 election and there should be delay, it was either you and/or the
8 Quicks, and you were -- you felt you were there to show support
9 on what you viewed as a wrong, and at the moment, in that
10 moment, so many January 6 rioters, for lack of a better word,
11 felt that what they were doing was fully justified.

12 Looking at this now where you sit, do you see how erroneous
13 that view was?

14 DEFENDANT MARTIN: Yes, I do; yes, Your Honor, I
15 definitely do.

16 THE COURT: All right. Because it did take a little
17 while. I mean, I think even in those post -- those initial
18 statements to law enforcement are not quite what I would like to
19 see in terms of appreciating the severity of the conduct.

20 Can you help me understand what was going through your mind
21 at that point?

22 DEFENDANT MARTIN: It was like a perfect example of
23 curiosity killed the cat. I was just -- I didn't know -- it was
24 just wild and crazy, and I just wasn't thinking straight, you
25 know, when that happened.

1 MR. PASSANISE: You've had a chance to reflect.

2 DEFENDANT MARTIN: I've had a chance to reflect on it,
3 and I'm just super remorseful. I wish I had never gone to the
4 Capitol. I wish we would have left immediately.

5 THE COURT: Okay. All right. Let me move on to
6 Michael Quick, if he would like to make a statement.

7 DEFENDANT M. QUICK: Yes, Your Honor.

8 As far as remorse, yes, I think we've all experienced a
9 great deal of remorse. My statements to the FBI, they were in
10 context of at the time. It was not how I was feeling
11 afterwards. It was after we had gone that we realized the
12 gravity of the situation. We've all been through a lot.

13 That's really all I can say about that. Deeply
14 regrettable. No intentions to go to the Capitol, and if that's
15 a moment we could take back, we would not have went.

16 THE COURT: All right. Stephen Quick, would you like
17 to make a statement?

18 DEFENDANT S. QUICK: Yes. I'm just really embarrassed
19 with our actions. It was totally out of character for us,
20 and --

21 MR. PASSANISE: Sorry.

22 DEFENDANT S. QUICK: -- I am sorry. That's about all
23 I can say. Thank you.

24 THE COURT: All right. Anything more from you,
25 Mr. Korba?

1 MR. KORBA: No, Your Honor.

2 THE COURT: As I said previously, I won't review the
3 nature and circumstances of this offense, which I view is very
4 serious as I explained in sentencing Ms. Kelley for the same
5 acts.

6 Given that these defendants did not plan to go inside the
7 Capitol that day ahead of time, it seemed to be a spur of the
8 moment decision that showed incredibly poor judgment. They did
9 follow Ms. Kelley into the Capitol. I think the evidence shows
10 that. They didn't commit any property damage or any assaults,
11 had no exchanges with law enforcement officers, didn't enter any
12 private areas, did cooperate with law enforcement on at least
13 two occasions, shared evidence with the FBI, cooperated with the
14 House investigative committee. All of that reflects favorably
15 on them.

16 I don't view the deactivation of the social media account
17 in the same way as I view evidence destruction. I think a lot
18 of people who posted things that they later regretted took that
19 down, and I don't know that that's destroying evidence in the
20 same way that some other Capitol defendants did destroy
21 literally photographs and physical evidence. So I view this as
22 different.

23 They were inside a short period of time. It was,
24 obviously, a reckless decision. Based on Mr. Martin's prior
25 record, which though dated is more extensive, and his

1 deactivation of the Facebook account, based on those facts, I am
2 going to impose a longer term of probation in his case of three
3 years. I'm also going to impose for both Quick brothers a
4 period of two years' probation.

5 I will impose for Mr. Martin and Mr. Michael Quick a mental
6 health assessment and treatment as needed. And I think all can
7 afford to pay a fine. So I will impose a \$1,000 fine in
8 addition to the restitution that's ordered. And I will also
9 impose community service, to complete 60 hours in a year.

10 So I will read the sentence with respect to all three and
11 give counsel an opportunity to object and Probation as well
12 before I impose sentence.

13 So pursuant to the Sentencing Reform Act of 1984 and in
14 consideration of the provisions of Title 18 United States Code
15 Section 3553, it is the judgment of the Court that you, Zachary
16 Hayes Martin, also known as Zach Martin, are hereby sentenced to
17 a term of 36 months, three years, of probation on Count 4. And
18 with respect to Michael Quick, you are sentenced to a term of 24
19 months, or two years, of probation on Count 4. And with respect
20 to Stephen Quick, you are sentenced to a term of 24 months, two
21 years, of probation on Count 4.

22 In addition, all three are ordered to pay a special
23 assessment of \$10.

24 The Court will authorize supervision to be transferred to
25 the U.S. District Court for the Western District of Missouri,

1 but the Court will retain jurisdiction over this matter and will
2 order that a status report be filed with respect to all three
3 defendants within one year.

4 While on supervised release, you shall abide by the
5 following mandatory conditions, as well as the standard
6 conditions of supervision which Probation will explain to you.
7 The mandatory conditions include not committing another federal,
8 state, or local crime, not unlawfully possessing a controlled
9 substance, not possessing a firearm, refraining from any
10 unlawful use of a controlled substance, submitting to a drug
11 test within 15 days of placement on supervision, and at least
12 two periodic drug tests thereafter as determined by Probation.

13 You're also ordered to make restitution consistent with the
14 plea agreement in the amount of \$500, and that is to the Clerk
15 of Court, made payable to the Architect of the Capitol.

16 You must provide the probation officer with access to any
17 requested financial information and authorize the release of any
18 financial information. The Probation Office may share that with
19 the U.S. Attorney's Office.

20 I'm also imposing a fine in the amount of \$1,000 with
21 respect to each defendant.

22 And I'm imposing a condition of community service, again 60
23 hours, to be completed within one year.

24 And with respect to Mr. Martin and Mr. Michael Quick, I am
25 ordering a mental health assessment and treatment as needed.

1 And to the extent that you have not validly waived your
2 right to appeal through the plea agreement, you do have the
3 right to appeal, and if you choose to appeal, you must file any
4 appeal within 14 days after the Court enters judgment. And if
5 you're unable to afford the cost of appeal, you may request
6 permission from the Court to file an appeal with no cost to you.

7 Before I impose this sentence, Mr. Korba, do you have any
8 objections?

9 MR. KORBA: No objections, Your Honor. We just move
10 to dismiss the remaining counts.

11 THE COURT: Okay. And I will grant that motion to
12 dismiss the remaining counts.

13 Mr. Passanise, do you have any objections to the sentence
14 imposed? I'm sorry. I couldn't hear that.

15 MR. PASSANISE: None, Your Honor.

16 THE COURT: And Ms. Gavito, any problems with the
17 sentences imposed?

18 PROBATION OFFICER: No problems, Your Honor. The
19 Court has ordered the transfer of supervision to the Western
20 District of Missouri as to all defendants in this case -- as to
21 these three defendants in the case, and the Western District had
22 a request, if the Court will consider a special condition that
23 each defendant shall submit his or her person and any property,
24 house, residence, office, vehicle, papers, computer, other
25 electronic communication or data storage devices or media and

1 effects to a search conducted by a U.S. Probation officer at a
2 reasonable time and in a reasonable manner based upon reasonable
3 suspicion of contraband or evidence of a violation of a
4 condition of release. Failure to submit to a search may be
5 grounds for revocation. The defendants shall warn any other
6 resident that the premises may be subject to searches pursuant
7 to this condition.

8 They asked for this condition --

9 THE COURT: I saw that condition suggested with regard
10 to, I believe, Michael Quick, maybe Stephen Quick as well, but
11 it wasn't with Mr. Martin. I'm interested in the government's
12 position on this.

13 My inclination is not to impose that condition. It's not
14 one we typically impose in this court. And obviously, if
15 there's a lack of compliance or concerns about any of these
16 defendants, I could always consider modifying conditions in the
17 future.

18 But what is the government's position on that?

19 MR. KORBA: I agree with the Court. I'm not familiar
20 with that condition being regularly imposed. If Probation feels
21 it's necessary, they can ask for an amendment.

22 THE COURT: Ms. Gavito, given this isn't a standard
23 condition in our court, I'm not inclined to impose that. Is
24 that something that you think is required in order for them to
25 accept supervision?

1 PROBATION OFFICER: We have been in communication with
2 the supervisor in the Western District of Missouri, and they
3 have expressed that in order for them to take -- to take
4 supervision as to these three defendants, they will require that
5 condition.

6 THE COURT: Why is that not included in all of these
7 defendants' sentencing recommendations by Probation? The Martin
8 one did not have that in there.

9 PROBATION OFFICER: Your Honor, Mr. Martin's
10 recommendation, I prepared the recommendation as to that, and I
11 had not -- I had already disclosed the recommendation prior to
12 receiving notification from the Western District of Missouri.

13 THE COURT: If I refuse to impose this and they don't
14 accept supervision, then what happens?

15 PROBATION OFFICER: I'm not sure what will happen,
16 Your Honor. I'll come back and --

17 THE COURT: I'm not going to impose it. Again, I will
18 reconsider, if necessary, but I don't feel that given that our
19 district does not typically do that and given the facts and
20 circumstances of this case and these defendants, I don't think
21 it's necessary, but I will revisit it if necessary.

22 Mr. Passanise, do you have a view? Would you rather the
23 Court just simply impose it now to ensure that they can be
24 supervised in the Western District of Missouri? Is it your
25 desire that that condition be in here so that we're not,

1 perhaps, back in another hearing to address this issue?

2 MR. PASSANISE: I want to agree with the government,
3 Your Honor. They spoke very eloquently on this condition. I
4 don't know that it's going to be a problem. I have not seen
5 some of this language that they want in this case in other
6 cases. I realize that it's standard language, but I don't think
7 it's going to prevent them from supervision.

8 THE COURT: Yeah, okay. I'm inclined to hold the line
9 here, Ms. Gavito. I can envision a case where that would be
10 appropriate. I just don't see this as one such case and that
11 the degree of supervision that's required would need that.

12 But again, if Probation feels strongly about this and wants
13 to request that the Court modify the conditions, I will consider
14 that.

15 PROBATION OFFICER: Thank you, Your Honor.

16 THE COURT: So anything else aside from that issue?
17 Nothing more, Ms. Gavito?

18 PROBATION OFFICER: No, Your Honor.

19 COURTROOM DEPUTY: Your Honor, I just want to make
20 sure of one thing. The mental health assessment only applies to
21 Mr. Zachary Martin and Mr. Michael Quick; is that correct?

22 THE COURT: That's correct, and it's the assessment
23 and treatment as necessary.

24 COURTROOM DEPUTY: Thank you, Your Honor.

25 THE COURT: All right. So that is the sentence I will

1 impose.

2 Like I said with Ms. Kelley, folks, I hope not to see you
3 all. I wish you the best.

4 And Ms. Gavito, you let me know if there's a need to
5 revisit this.

6 PROBATION OFFICER: Yes, Your Honor. Thank you.

7 THE COURT: All right. Thank you all. Thank you,
8 Mr. Korba, for standing in. We appreciate it.

9 MR. KORBA: Absolutely, Your Honor. Any time.

10 MR. PASSANISE: Judge, please give my best to Judge
11 Leon if you see him.

12 THE COURT: All right. Will do.

13 MR. PASSANISE: Thank you.

14 (Proceedings adjourned at 12:31 p.m.)
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1 CERTIFICATE OF OFFICIAL COURT REPORTER

2
3 I, Sara A. Wick, certify that the foregoing is a
4 correct transcript from the record of proceedings in the
5 above-entitled matter.
6

7 Please Note: This hearing occurred during the
8 COVID-19 pandemic and is, therefore, subject to the
9 technological limitations of court reporting remotely.
10

11
12 /s/ Sara A. Wick

June 1, 2022

13 SIGNATURE OF COURT REPORTER

DATE
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