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

UNITED STATES OF AMERICA,

Case No.: 1:21cr00098 TFH

v.

**MEMORANDUM IN AID OF
SENTENCING**

ANDREW HATLEY,

DEFENDANT

COMES NOW, Andrew Hatley, through counsel Joseph Conte, pursuant to Federal Rule of Criminal Procedure 32 to address the sentencing factors of 18 U.S.C. §3553(a) in aid of the defendant’s sentencing and to request that the court impose a sentence of one years probation and community service.

IMPOSITION OF SENTENCE

This court must impose a sentence that is “. . . sufficient but not greater than necessary, to comply with the purposes [of sentencing] set forth in section 2 of 18 U.S.C. §3553(a).”

In determining the sentence to be imposed this court must consider the §3553(a) factors. Those are:

A. The Nature and Circumstances of the Offense.

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1 Mr. Hatley plead guilty Parading, Demonstrating, or Picketing in a
2 Capitol Building in violation of 40 U.S.C. §5104(e)(2)(G). Mr. Hatley had strongly
3 held beliefs after the Presidential election that there had been irregularities in the
4 election that were not proper. He decided to come to D.C. to *peacefully* protest the
5 results of the election and the lack of attention to alleged voting irregularities. He
6 did so with no intent to do anything but add his voice to the vocal protests over the
7 injustice he perceived had happened in the election. He was not armed, and he
8 committed no violent actions in his peaceful protest. Admittedly Mr. Hatley entered
9 the Capitol through a broken window, however, Mr. Hatley did not destroy
10 anything. Mr. Hatley's only desire was to participate in a democratic process that is
11 protected under the 1st Amendment of our Constitution. Unfortunately, going into
12 the Capitol was not part of that democratic process and he now stands before the
13 court having pleaded guilty of parading and demonstrating in the Capitol.
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19 **B. History and Characteristics of the Defendant.**

20 Mr. Hatley is 34 years old and a resident of South Carolina. Mr.
21 Hatley has no criminal record and, in fact, has had no past contact with the
22 criminal justice system. He is employed, full time, as a long-haul truck driver and
23 has been employed by the same company since 2016. He is single with no
24 dependents. Mr. Hatley admitted his involvement to the FBI at the time of his
25 arrest and entered an early guilty plea.
26

27 For all intents and purposes Mr. Hatley lives in his long-haul truck.
28 Mr. Hatley lists his address in South Caroline, however, that address is a friend
who lets him receive mail there and permits him to sleep on his couch.

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2 **C. The Need for the Sentence imposed –**
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5 **1. To Reflect the Seriousness of the Offense, Promote**
6 **Respect for the Law and to Provide Just Punishment for**
7 **the Offense.**

8
9 The offense Mr. Hatley plead guilty to is a misdemeanor. A period of
10 probation will still reflect the seriousness of the offense, promote respect for the law
11 and provide just punishment. As the Supreme Court has noted probation involves a
12 “substantial restriction of freedom.” *United States v. Gall*, 128 S.Ct. 586, 595
13 (2007). “Inherent in the very nature of probation is that probationers ‘do not enjoy
14 the absolute liberty to which every citizen is entitled’” (quoting *Griffin v. Wisconsin*,
15 583 US. 868, 874 (1987)).
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20 **2. To afford Adequate Deterrence to Criminal**
21 **Conduct, and**

22 **3. To Protect the Public from Further Crimes of the**
23 **Defendant.**
24

25 This is Mr. Hatley’s first contact with the criminal justice system and
26 based on his past record of zero contacts with the criminal justice system, his
27 immediate acceptance of responsibility and his remorse for his conduct it is sure to
28 be his last. Even a sentence of probation will ensure that he has no further criminal
conduct and will protect the public from further crimes by Mr. Hatley.

1
2 **4. To Provide the Defendant with Needed Educational**
3 **or Vocational Training, Medical Care, or Other**
4 **Correctional Treatment in the Most Effective**
5 **Manner.**

6 Mr. Hatley is a well-established long-haul truck driver and is not in
7 need of any educational or vocational training. Nor does he require medical care or
8 other correctional treatment.
9

10
11 **D. The Kind of Sentences Available, and**

12 **E. The Kinds of Sentence and the Sentencing Range**
13 **Established**
14 **By the Guidelines.**

15 As this is a Class C misdemeanor the Federal Sentencing Guidelines
16 do not apply. This court is free to impose any sentence that is “. . . sufficient but not
17 greater than necessary, to comply with the purposes [of sentencing] set forth in
18 section 2 of 18 U.S.C. §3553(a).”
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23 **F. The Need to Avoid Unwarranted Sentence Disparities**
24 **Among Defendants with Similar Records Who Have Been**
25 **Found Guilty of Similar Conduct.**
26

27 A sentence of probation would be consistent with other capitol riot
28 defendants similarly situated. *See, e.g., United States v. Valerie Ehrke*, 21--
CR00097 (PLF), 36 months probation; *United States v. Danielle Doyle*, 21-CR-00324
TLM, 2 (two) months probation, \$3,000.00 fine; *United States v. Eliel Rosa*, 21-CR-

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1 00068 TNM, 12 months probation, 100 hours community service; *United States v.*
2 *Thomas Gallagher*, 21-CR-00041 CJN, 24 months probation, 60 hours community
3 service.
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8 **CONCLUSION**
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11 “It has been uniform and constant in the federal judicial tradition for
12 the sentencing judge to consider every convicted person as an individual and every
13 case as a unique study in the human failings that sometimes mitigate, sometimes
14 magnify, the crime and the punishment to ensue.” *Gall v. United States*, 128 S.Ct.
15 586, 598 (2007) citing *Koon v. United States*, 518 U.S. 81, 113 (1996). The
16 defendant’s case is unique. He is a 34 year old first offender caught up in the
17 madness that was January 6. He has no permanent address and lives in the truck
18 that he drives for his living. As set out above a sentence that does not include
19 incarceration or home detention will satisfy the 18 U.S.C. §3553(a) factors.
20

21 Dated: December 7, 2021
22

23
24 Respectfully submitted,
25

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27

28 Joseph R. Conte, Bar #366827
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