

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,)	Criminal Action
)	No. 21-204-03
vs.)	
)	
BLAKE AUSTIN REED,)	April 14, 2022
)	12:28 p.m.
Defendant.)	Washington, D.C.
)	

* * * * *

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

APPEARANCES:

FOR THE UNITED STATES:

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ALSO PRESENT: ROBERT WALTERS, Probation Officer

Court Reporter: Elizabeth Saint-Loth, RPR, FCRR
Official Court Reporter

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. 21-204-03, United States of America versus
4 Blake Austin Reed.

5 Your Honor, for the record, Probation Officer
6 Robert Walters is joining us via videoconference.

7 THE COURT: All right.

8 THE COURTROOM DEPUTY: Counsel, please state your
9 names for the record, starting with the government.

10 MS. CARTER: Good morning, Your Honor.

11 Good afternoon. Jamie Carter, on behalf of the
12 United States.

13 THE COURT: Yes. Good morning.

14 Good afternoon, Ms. Carter. I usually do these in
15 the morning.

16 MR. BRUNO: Good afternoon, Your Honor.

17 I am Paul Bruno. I am here on behalf of Blake
18 Reed, and he is present in the courtroom.

19 THE COURT: All right. And, Mr. Bruno, are you
20 vaccinated?

21 MR. BRUNO: Yes, Your Honor. Yes, Your Honor. I
22 have been vaccinated, and have one booster.

23 THE COURT: Okay. So then, when you are speaking,
24 you may remove your mask.

25 MR. BRUNO: Okay. Thank you.

1 THE COURT: Is Mr. Reed vaccinated?

2 MR. BRUNO: I don't believe so, Your Honor.

3 THE COURT: Then you will keep your mask on at all
4 times.

5 Okay. So we're here for the sentencing of
6 Mr. Blake Austin Reed, who pleaded guilty to Count 2 of the
7 indictment against him, for entering or remaining in a
8 restricted building or grounds, in violation of 18 U.S.C.
9 Section 1752(a)(1), which is a Class A misdemeanor.

10 So the sentencing hearing is being held in person,
11 but the public access line is being made available for
12 persons to listen to these proceedings remotely, since we're
13 still trying to keep the numbers of people in the courthouse
14 down given the COVID pandemic.

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

24 All right. As I start every sentencing hearing, I
25 am going to start this one, which is: I am going to list

1 all of the materials that I have reviewed in connection with
2 sentencing to make sure I haven't missed anything, and all
3 the parties are all working from the same set of documents.

4 I have reviewed the probation office's presentence
5 investigation report docketed at ECF 165, and the probation
6 office's sentencing recommendation docketed at ECF 166.

7 I have also reviewed the government's sentencing
8 memo docketed at ECF 171, and the 25 videos and photos
9 listed in the government's report itemizing the photo and
10 video evidence referenced in the government's sentencing
11 memorandum; and that notice was docketed at ECF 172.

12 I have also reviewed the defendant's sentencing
13 memorandum docketed at ECF 170, along with the 18 letters of
14 support submitted on the defendant's behalf by his friends
15 and family docketed at ECF 170-1.

16 Does the government have all of those documents?

17 MS. CARTER: Yes, Your Honor.

18 THE COURT: Am I missing anything?

19 MS. CARTER: No, Your Honor.

20 THE COURT: Does the defendant have all of those
21 documents?

22 MR. BRUNO: Yes, Your Honor.

23 THE COURT: Am I missing anything from the --

24 MR. BRUNO: No, Your Honor.

25 THE COURT: Because I didn't -- I don't believe I

1 got a letter submitted by Mr. Reed himself.

2 MR. BRUNO: He did not submit a letter himself; it
3 was our intent for him to allocute, if that's permissible --

4 THE COURT: Okay. That's fine.

5 MR. BRUNO: -- to the Court.

6 THE COURT: That's fine.

7 Okay. So, Mr. Reed, just so you know what's
8 coming up during the course of this hearing, I do my
9 sentencing hearings in four different stages; and I like to
10 tell defendants, at the very outset, how the sentencing
11 hearing proceeds so that you know what is coming up.

12 So the first step is to decide or to determine
13 whether the government or you and your lawyer have any
14 objections to any parts of the presentence investigation
15 report and, if so, I will resolve those objections.

16 The second step is to determine how the federal
17 sentencing guidelines apply in your case. This is a Class A
18 misdemeanor, so the federal sentencing guidelines do apply
19 to both felonies and Class A, unlike Class B misdemeanors;
20 and so I will resolve any objections to how the guidelines
21 apply in this case.

22 The third step is to hear from the government, and
23 then I will hear from your counsel. And then the next step
24 is I will hear from you directly, if you wish to address the
25 Court about sentencing in the case.

1 And then, at the last step, I will explain the
2 sentence I am about to impose, and impose sentence.

3 Do you have any questions about what is going to
4 be happening?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Okay. So let's start with the
7 presentence investigation report and the recommendation,
8 both of which were filed on March 17, 2022.

9 I understand, Ms. Carter, from the PSR, that the
10 government has no objections to any parts of the PSR; is
11 that correct?

12 MS. CARTER: Yes, Your Honor.

13 THE COURT: All right. And, Mr. Reed, could you
14 just stand right where you are?

15 Are you fully satisfied with your attorney in this
16 case?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And do you feel that you have had
19 enough time to talk to your lawyers about the evidence
20 against you, the presentence investigation report, and the
21 papers filed by the government in connection with your
22 sentencing here today?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: All right. You may be seated.

25 All right. For defense counsel -- you are

1 Mr. Evans?

2 MR. BRUNO: I am Paul Bruno, Your Honor.

3 THE COURT: You are Mr. Bruno.

4 Mr. Bruno, okay. I want to keep that straight.

5 So, Mr. Bruno, have you and your client read and
6 discussed the presentence investigation report?

7 MR. BRUNO: Yes, Your Honor, we have.

8 THE COURT: And I understand that you had raised
9 two objections to the final PSR, neither of which affect how
10 the guidelines apply in this case.

11 MR. BRUNO: That's correct.

12 THE COURT: All right. And so let me just turn to
13 the objections. You object to -- step forward to the
14 podium.

15 Thank you.

16 You object, as I understand it, to paragraph 30,
17 which references that: On January 16th, 2021, when the FBI
18 executed the arrest warrant and search warrant on Mr. Reed
19 and on his home, they found a handwritten note on the door
20 that Defendant Reed apparently wrote to law enforcement that
21 states: Please don't break down the door. Both my dogs are
22 inside, in their kennels, and are not aggressive. Please
23 call me if you need in, and I can give you the code for the
24 garage. Thanks.

25 And that was in the PSR. And that also, according

1 to the probation office, and is correct, is what is in the
2 statement of offense underlying the plea in the case.

3 MR. BRUNO: Right.

4 THE COURT: And you indicate that you object to
5 that paragraph because you say -- despite the statement of
6 offense that was agreed to by the defendant at the plea, you
7 say that he left the note for law enforcement on the door
8 the day before the arrest warrant was executed, and prior to
9 the officers' arrival it was removed and placed in the
10 trash.

11 So it's hard for me to -- not only does it not
12 affect the -- doesn't affect the guidelines application
13 here, but it is -- I guess you are trying to mitigate
14 whatever taunting that might be for law enforcement
15 reflected in that note on the door by saying that it
16 actually wasn't on the door, and that he must have removed
17 it before law enforcement got there?

18 What's your point?

19 MR. BRUNO: I can tell you it has nothing to do
20 with taunting. Mr. Reed was aware that law enforcement was
21 coming for him; and he figured that they would be coming to
22 his house to arrest him.

23 On the Saturday evening -- on a Saturday evening
24 he was not home. And he put the note on the door because he
25 didn't want them coming to the door, knocking on the door,

1 nobody answering, and then just busting his door in. So he
2 put a note that says, basically, if you are here, call my
3 number --

4 THE COURT: Well, I just read the note.

5 MR. BRUNO: Right. I will give you the garage
6 code. You don't have to tear up my door on my house. Well,
7 they didn't come on Saturday. So when he returned back
8 home --

9 THE COURT: Surprise.

10 MR. BRUNO: When he didn't -- when he came back
11 home, there was no need to leave the note on the door
12 because he was at home. So he took the note off the door,
13 and the note was found inside the house. It has nothing to
14 do with taunting anybody. It's a matter of: He knows
15 they're coming.

16 And if anybody watches television or anything
17 else, the normal protocol is to blow in somebody's door if
18 they don't answer. And he was trying to prevent them from
19 tearing up his house by saying: If you show up and I am not
20 here, I am going to give you the code. You can just come
21 in, there is no issue.

22 THE COURT: Well, why does the statement of the
23 offense underlying the plea indicate that it was on the door
24 when the FBI arrived?

25 MR. BRUNO: I would have to go back and look.

1 I have to look at the statement of the offense specifically
2 to see if that still says it was on the door because we had
3 multiple discussions with the government about it was not on
4 the door at the time -- that there was entry by law
5 enforcement. I can go back and look --

6 THE COURT: So there is a picture -- there is a
7 picture of the note hanging on the door, and -- that appears
8 to be hanging on the door in the government's sentencing
9 memo.

10 So perhaps I am going to interrupt you and just
11 have the government -- do you have the statement of the
12 offense? And does it say that the note was on the door?

13 MR. BRUNO: That's a picture he took.

14 Law enforcement didn't take that -- my
15 understanding is law enforcement didn't take that picture;
16 he took the picture when he put the note on the door. We
17 subsequently turned over all pictures and videos that he
18 had; and then the government has used that to put that in
19 here. Again, you are seeing a picture of the note on the
20 door; but it's my understanding it's not taken by law
21 enforcement, it's taken by Mr. Reed on his own phone.

22 When we turned over everything to the government,
23 they downloaded it and then they have put that in there.

24 THE COURT: So, on the date that they actually
25 executed the arrest and search warrant, he was there and so

1 he had taken the note down.

2 MR. BRUNO: When he came back Saturday night and
3 nobody had gone into his house, he took the note off,
4 brought it in the house with him. They executed the warrant
5 the next morning, and he was home; and so there was no need
6 to have the note.

7 So the note was on there Saturday, but law
8 enforcement never saw it; never -- it didn't affect them
9 because they didn't show up Saturday. When he came home, he
10 took it off the door because he was at home. They could
11 knock on the door; he could answer the door at that point.

12 So the picture is accurate, that it's a note on
13 the door; but that's not what law enforcement took. They
14 didn't take that picture when they got there; that's off his
15 phone.

16 THE COURT: Okay. Let me hear from Ms. Carter.

17 So does this -- was the statement of offense
18 incorrect?

19 MS. CARTER: I don't believe so.

20 So my understanding of that -- I am going to, with
21 the Court's permission, log into my cell phone, because I
22 think that this photo came from the agent, and that it was a
23 photo of it still on the door.

24 With the Court's permission --

25 THE COURT: Yes.

1 PROBATION OFFICER: Your Honor, this is Officer
2 Walters with probation.

3 THE COURT: Yes.

4 PROBATION OFFICER: If I may, paragraph 30 does
5 not say the note was on the door. It just says they found a
6 note. I don't know if that matters, one way or the other --

7 THE COURT: Oh. They saw a handwritten note.

8 Okay. So perhaps I was combining paragraph 30
9 with the picture, which actually has it hanging on the door.

10 MS. CARTER: So, Your Honor, I received the
11 photograph, which is the government exhibit Your Honor has
12 been referencing on January 17, 2021, at 8:42 a.m., from
13 Agent Daniel Centers [sic]. I did not receive that
14 photograph from the defense; I received it from the agent.

15 And my understanding from the agent is that it was
16 on the door, which is why it's referenced that way in our
17 pleadings.

18 THE COURT: And the picture that was taken was
19 taken by the agent who was participating in the execution of
20 the warrant?

21 MS. CARTER: So this agent, Agent Centers, is a
22 local agent.

23 THE COURT: I see.

24 MS. CARTER: The agents that were there -- I had
25 understood it that the agents that were there sent him this.

1 I could be incorrect. I can go and double-check if Your
2 Honor needs that information. But that is how I received
3 that photograph; it was from Agent Centers when we were
4 communicating about the arrest on January 17th.

5 THE COURT: Well.

6 MR. BRUNO: I can clear it up, Your Honor.

7 THE COURT: Okay.

8 MR. BRUNO: So I thought that it was off the --
9 there are two phones that we're dealing with in this case.
10 When the agents --

11 THE COURT: I am going to get to that.

12 MR. BRUNO: When the agents arrived and they went
13 in the house, they found a phone. According to Mr. Reed, on
14 that phone is the picture of the note on the door, which
15 would make sense because that was the phone that he was
16 using during this time.

17 That phone was confiscated by the agents and the
18 picture would have been on that telephone. So she probably
19 did receive the picture from the agent. But he is as
20 certain as he can be, that's off the phone that they seized
21 in there; that this is not a picture of a sign -- of a note
22 on the door taken by an agent; and she can -- it's easily
23 confirmable.

24 MS. CARTER: I am happy to step out and ask the
25 agent. That is not my understanding of where we got this.

1 But I can call the agent right now and come right back into
2 the Court if Your Honor would like that information
3 confirmed.

4 THE COURT: Well, it's too bad the agent isn't
5 here.

6 MS. CARTER: Yes, Your Honor.

7 THE COURT: Since, I mean, this is -- I mean, I am
8 not -- I have to resolve objections to the presentence
9 investigation report; that's my job.

10 So, I mean, my view is -- with probation office's
11 assistance, it doesn't say that the note was actually
12 hanging on the door, despite what the picture says. It says
13 that they saw a handwritten note. Presumably, they did see
14 it. I don't know.

15 Did they see the handwritten note?

16 They certainly saw a photograph of it, so they saw
17 a handwritten note. And with clarification -- so I don't
18 think that there is anything to correct in paragraph 30. It
19 doesn't say it was hanging on the door at the time of the
20 execution, although the picture does suggest that, and the
21 government's sentencing memo does suggest that.

22 MS. CARTER: Yes, Your Honor.

23 THE COURT: And I thought the statement of
24 offense -- which, for some reason, I just can't put my hands
25 on right now -- did say it was hanging on the door when they

1 went to execute the search warrant.

2 Do you have that?

3 Hold on one second.

4 Yes. Paragraph 19 of the statement of offense
5 reads as follows: On January 19th, 2021, FBI executed an
6 arrest warrant for Blake Reed in the case and also executed
7 a search warrant of his home.

8 Upon the FBI's arrival to Reed's residence, they
9 saw a handwritten note that Reed wrote to law enforcement:
10 Please don't break down the door -- et cetera -- that I have
11 already read.

12 So it certainly suggested --

13 MS. CARTER: Yes.

14 THE COURT: -- that the FBI saw it when they
15 arrived at the residence. They didn't wait to see it when
16 they got a phone; and that was already sworn to.

17 But whether it was on the door of the residence,
18 whether they saw it someplace when they went inside, or
19 whether they just saw it on the phone, whether that
20 photograph in the government's sentencing memo -- which
21 suggested that it was taken by law enforcement when they saw
22 it actually came from the phone, I don't think it makes any
23 particular difference.

24 The point is the defendant wrote the note; the
25 defendant had put it on his door when he wasn't there,

1 and -- or while he was there, I don't know; and the PSR
2 doesn't make any more definitive statement about when it was
3 found.

4 But in the future, when there is an objection to a
5 report of the PSR, I would like the government to compare it
6 with the evidence to demonstrate how I am supposed to
7 resolve that --

8 MS. CARTER: Yes, Your Honor. I will.

9 THE COURT: -- because this was not particularly
10 helpful.

11 But thanks to the careful crafting of the PSR by
12 our probation office, I don't think that there is anything
13 to correct here.

14 MS. CARTER: Yes, Your Honor.

15 THE COURT: I think, for purposes of the hearing,
16 this is just a clarification.

17 MR. BRUNO: That's exactly what it is.

18 My memory is, I think the government and I
19 negotiated that language because I think initially it was --
20 said "on the door"; and that was the contention.

21 We don't dispute the fact that they arrived and
22 that they went in and saw the note; that's not in dispute.

23 What the dispute was is: If it comes up and it
24 says that it's on the door when they arrived, that's the
25 dispute. So I think the specific language in the statement

1 of offense and specific language in the PSR is correct.

2 They did arrive; they went in, and they saw the note. But
3 the issue was the note was not on the door when they
4 arrived.

5 I know it doesn't affect the calculations. And
6 perhaps post hearing if the -- I would be interested if the
7 government can confirm where that picture came from
8 specifically just for my knowledge, I would appreciate it.
9 Because Mr. Reed is adamant of how this happened and where
10 that picture came from and who took that picture; that it
11 was not on the door when they arrived.

12 THE COURT: I think when this case is sentenced,
13 the government is going to move on to a lot of other things.
14 So your curiosity of where they got the photograph will
15 remain one of the mysteries of this case.

16 All right. So to the extent that the defendant is
17 asking for any change in paragraph 30, which is how I had
18 understood the objection, denied. It's -- as written, it's
19 just going to stand as consistent with the statement of
20 offense.

21 The other -- the second objection that I
22 understood the defendant had was to different references in
23 the PSR about not signing -- the defendant not signing
24 release forms to enable the probation office to request
25 records from educational institutions, medical providers, or

1 employers. And I think the defense position is that they
2 sent -- they sent those release forms to the probation
3 office on February 19th.

4 MR. BRUNO: There's multiple references in the PSR
5 that due to the defendant's failure to sign a release they
6 couldn't verify things. Well, I have the email with me.
7 Whereas we --

8 THE COURT: Okay. Let me just ask the probation
9 officer.

10 So why are those references in the PSR to not
11 receiving the release forms when defense counsel says that
12 he did submit the release forms?

13 PROBATION OFFICER: Your Honor, I am looking
14 through my email right now. That -- I was not aware of that
15 objection; it wasn't made as part of the receipt -- of my
16 receipt of acknowledgment, unless I overlooked it.

17 THE COURT: No, you didn't. It's in his -- it's
18 in the sentencing memorandum docketed at ECF 170, on page 5,
19 which says: One final issue that needs to be addressed.
20 And it was not indicated as an objection to the PSR. It was
21 in his sentencing memo.

22 MR. BRUNO: To help him, the email date is
23 February 19th, at 1:35 central time.

24 PROBATION OFFICER: I will look into that.

25 THE COURT: When the release forms were sent to

1 the probation office on February 19th, 2022, was that within
2 any deadlines that were set by the probation office for
3 receipt of the release forms so that you could complete the
4 presentence investigation report on a timely basis?

5 PROBATION OFFICER: So I am looking now. I had --

6 THE COURT: It's -- the original, I guess,
7 presentence investigation report was prepared on
8 February 23.

9 PROBATION OFFICER: The information was requested
10 by February 15th. It was, as Mr. Bruno said, sent on
11 February 19th. And I am looking now. And, yes, they
12 weren't actual, like, PDF documents; they're unopenable
13 files.

14 MR. BRUNO: They're what? I missed that.

15 PROBATION OFFICER: I am pulling them now, that's
16 what is taking so long. They're nearly crashing my computer
17 trying to open them -- but I will stop the responding.

18 Yes. They stopped responding. So they're not --
19 they're not PDFs; they're not usable documents.

20 THE COURT: So you're saying that the release
21 forms in whatever format the defendant's counsel sent them
22 to you were not accessible?

23 PROBATION OFFICER: It looks like they were sent
24 through a Google Drive link rather than a usable PDF. And,
25 of course, I will -- I don't recall if I responded asking

1 for corrected documents, so I will take the blame for that.

2 But, yes, looking at this, the original documents
3 were sent in an unusable form.

4 THE COURT: I see. All right.

5 PROBATION OFFICER: And, of course, if I would
6 have known this at the time of the receipt acknowledgment, I
7 would -- like I said, it wasn't made as an objection. I
8 would have corrected it then.

9 THE COURT: Okay. And I am looking at the
10 received objections. I am looking on page 23 of the PSR,
11 which lists the objections that the probation office is
12 alerted to to respond to; and this objection about the
13 release forms was not noted.

14 So did you note this in any way to the probation
15 office other than in your sentencing memo to the Court?

16 MR. BRUNO: I did not because, when I went through
17 and I looked for the objections -- at the time I was focused
18 on factual objections, legal objections -- things like that.

19 I did not notice the failure to verify based on
20 not turning over the release.

21 In going back and preparing the sentencing
22 memorandum -- I am going through every single line, I
23 noticed it once, and then I noticed it again and noticed it
24 again. So then I went back and looked at my emails because
25 I was, like: I thought that we had turned that over. And

1 then I noticed it, and then I put it in the sentencing
2 memorandum at that point.

3 What had happened was, we had had a -- he
4 basically had a PSR interview with Mr. Reed --

5 THE COURT: Could you stand closer to the
6 microphone, please?

7 MR. BRUNO: He had done a PSR interview with
8 Mr. Reed and with me via telephone. And subsequent to that
9 he wanted certain things, like a photo ID or a photo that he
10 could use to put in the presentence report for Mr. Reed.
11 Mr. Reed has a business in which he's self-employed, and he
12 wanted information with regard to that; he wanted the
13 releases. And so that's when I sent all of that information
14 back in this email.

15 The answer to your question is: I did not notify
16 him as part of my objections in the normal course of
17 business on the PSR. When I was preparing the sentencing
18 memorandum and I started noticing -- that's when I noticed
19 he's saying that he can't verify because we didn't send
20 releases. I went back to the email. And I wanted to put
21 that in there because I didn't want the Court to think that
22 we were not sending releases for there to be verification.

23 Now, with that said, the things that were to be
24 verified, like college degree, employment -- things like
25 that -- I think most of that is verified through his family.

1 I don't think, in the end, it makes a difference; but I
2 didn't want the Court to come away with the impression that
3 we just blew off releases and weren't going to participate
4 in any way where they could verify.

5 So it was sent. It was sent before the first PSR
6 came out; then, obviously, he had it before the revised PSR
7 came out. But I didn't realize that he couldn't open it
8 because I could open it. In one of my sent emails, I didn't
9 realize he could not open one of the things.

10 THE COURT: All right. So I think the PSR
11 probably needs to be corrected in those parts that reference
12 that no releases were provided.

13 I think the statement that it couldn't be verified
14 continues; but I think it needs to be clarified that the
15 defendant did submit releases that could not be accessed --
16 or something like that -- and that fully reflects what
17 occurred.

18 What is your suggestion for the correction?

19 MR. BRUNO: I am fine with the correction.

20 The more important issue for me was that we didn't
21 walk in here with the Court thinking that we did not provide
22 releases for there to be verification.

23 THE COURT: Right.

24 MR. BRUNO: I think the Court understands we did;
25 that's the issue for me.

1 As far as the wording in the PSR, I will just
2 defer to the Court because that's not really the most
3 important issue to me; it's that the Court knows that we did
4 comply.

5 THE COURT: Right. Well, I think it's on -- there
6 are a number of places that I have counted up where that
7 reference is made.

8 MR. BRUNO: Yes. I think I listed them in the
9 last paragraph --

10 THE COURT: Yes. I think you listed page 12,
11 note 2, paragraphs 68, 70, 72, 75; and page 17, note 8.
12 There is also page 15, note 6 that says the same issue.

13 So I will just direct that the PSR be corrected to
14 add a sentence that the defendant's submission of release --
15 did submit release forms that were not accessible by the
16 probation office; an issue that only came to the attention
17 of the probation office at the time of the sentencing
18 hearing. And that will be a fair reflection, I think, of
19 the record -- an accurate reflection of the record.

20 PROBATION OFFICER: Your Honor, I will make that
21 correction. Yes, Your Honor.

22 THE COURT: Thank you so much.

23 All right. So other than those corrections to the
24 page numbers I have just listed -- and for purposes of the
25 probation officer, I will list them again: Page 12, note 2;

1 page 15, note 6, paragraphs 68, 70, 72, 75; and page 17,
2 note 8.

3 The rest of the presentence investigation report
4 will be accepted as undisputed and as my findings of fact at
5 sentencing, as supplemented by my review of the video
6 exhibits in the case.

7 We're now at the next step of the sentencing
8 hearing to discuss how the federal sentencing guidelines
9 apply here.

10 The parties agree to the guideline calculation
11 that was reflected in the plea agreement; it's also the same
12 one reflected in the PSR.

13 The presentence investigation found that Mr. Reed
14 has no prior criminal convictions, thus, his criminal
15 history score is zero; his criminal history category is 1.

16 The guideline applicable to the defendant's
17 conviction, under 18 U.S.C. Section 1752(a)(1) for entering
18 and remaining in a restricted building or grounds is the
19 guideline at Section 2B2.3, which provides a base offense
20 level of 4, under the guideline at 2B2.3(a); and then two
21 offense levels were added because the trespass occurred at a
22 restricted building or grounds, under the guideline at
23 2.3(b)(1)(A)(vii).

24 An additional two offense levels are added because
25 the defendant willfully obstructed, impeded, or attempted to

1 obstruct or impede the administration of justice with
2 respect to the investigation and prosecution of the instant
3 offense of conviction under the guideline at 3C1.1; and two
4 offense levels are subtracted for his acceptance of
5 responsibility under the guideline at 3E1.1(a); resulting in
6 a total offense level of 6 which, in combination with his
7 criminal history category of 1, results in an advisory
8 sentencing range of zero to 6 months' imprisonment or up to
9 5 years' probation. And if a period of imprisonment is
10 imposed, that may be followed by up to one year of
11 supervised release, which is both the guideline and the
12 statutory maximum; a fine range of 1,000 to \$9500; and a
13 special assessment of \$25 due to the single count of
14 conviction on a Class A misdemeanor; and, here, restitution
15 of \$500.

16 Are there any objections, for the record, to this
17 guideline determination from the government?

18 MS. CARTER: No, Your Honor.

19 THE COURT: And from the defense?

20 MR. BRUNO: No, Your Honor.

21 THE COURT: All right. We're now at the part of
22 the hearing -- the third step of the hearing, Mr. Reed,
23 where I will hear from the parties about application of the
24 factors, under 18 U.S.C. Section 3553(a), which every
25 sentencing judge is required to consider, and their

1 recommendation for an appropriate sentence in the case.

2 So I will turn first to the government.

3 And just to lay this out, the government's
4 recommending 3 months' incarceration, which is within the
5 advisory sentencing range of zero to six months; followed by
6 12 months' supervised release, which also matches the
7 probation office's recommendation in this case, compared to
8 the defendant's recommendation of a term of probation only.

9 So let's turn to the government first.

10 Ms. Carter.

11 MS. CARTER: Thank you, Your Honor.

12 One note. In preparing yesterday and going back
13 over all of my notes --

14 THE COURT: Ms. Carter, you are fully
15 vaccinated --

16 MS. CARTER: I am.

17 THE COURT: -- so you may, if you feel comfortable
18 only, you may remove your mask if you want; otherwise, you
19 can keep it on. If you are going to keep it on, just speak
20 a little bit more slowly.

21 MS. CARTER: Perhaps if I keep just one; is that
22 okay?

23 THE COURT: Sure.

24 MS. CARTER: That could help a little bit with my
25 volume.

1 THE COURT: That does help.

2 MS. CARTER: When I was going over everything
3 yesterday to make sure that I had all my notes in order, I
4 did want to notify the Court of one correction to a
5 statement in the government's sentencing memorandum.

6 When the -- on page 5, when the defendant's
7 posting on Facebook is referenced, where he says: "Mike,
8 Mike, Mike" -- et cetera -- "Why Mike?" That posting was
9 not actually on the 6th, it was on the very early morning,
10 around 12:40-ish, on the 7th. So to the extent that that
11 matters -- I don't think it's a particularly integral part,
12 but I did want to notify the Court of our error, and
13 apologize.

14 THE COURT: Okay. So this is on page 5, where he
15 posted "Mike, Mike, Mike, Mike, Mike, Mike" -- et cetera --
16 "Why Mike?," that was on the 5th?

17 MS. CARTER: Yes. On the 7th --

18 THE COURT: On the 7th, I see.

19 MS. CARTER: -- in the morning, just past
20 midnight.

21 THE COURT: Okay. Got it.

22 MS. CARTER: Yes. Your Honor, I am happy to go
23 over the factors if that would be helpful to the Court. But
24 I am also happy --

25 THE COURT: Well, let me just ask you some

1 questions here. So the cell phone issue, what was recovered
2 when, and what, and so on.

3 So, as I understand it, the FBI executes a search
4 warrant on January 16th, 2021, at the defendant's home.
5 They seize one cell phone; and they see a charger plugged in
6 for another cell phone which -- or another phone that's not
7 compatible with the phone they seized. And so they know
8 that there might be another phone floating around, but they
9 seized the one single cell phone that they find.

10 I am going to call that Phone Number 1.

11 And from review of Phone Number 1, the FBI
12 determined that this was not the phone the defendant used on
13 January 6th.

14 MS. CARTER: Correct.

15 THE COURT: I have that correct so far, right?

16 MS. CARTER: Yes, Your Honor.

17 THE COURT: And they came to the conclusion that
18 this phone, Number 1, was not the one used on January 6th
19 based on what?

20 MS. CARTER: Based on how new -- my understanding
21 is based on how new the phone was and how little information
22 was on the phone.

23 This was not a phone which he had had in a
24 long-standing capacity. And that was the reason they
25 believed that -- combined with the plugged-in charger that

1 did not match it, led them to believe that he had hidden his
2 original cell phone which he was using on the 6th. That's
3 their basis.

4 THE COURT: So that's interesting because the
5 defendant says he had been using Phone Number 1 for over two
6 and a half years.

7 So, I mean, did the government look at Phone
8 Number 1 and say: There is no usage on this phone prior to
9 January 7th, 2021, or some date close in time to
10 January 16th, 2021, when they seized it? And if that's the
11 case, how am I supposed to reconcile the defendant saying he
12 actually had been using Phone Number 1 for over two and a
13 half years?

14 MS. CARTER: So the defendant's statement that he
15 had been using it for that length of time is inconsistent
16 with my understanding of what our evidence showed.

17 That said, I don't think the defendant's statement
18 actually gives a great deal of detail. So to the extent
19 that he used it with a different SIM card or used it on a
20 different plan -- I know there are burner phones from
21 Walmart, which is, I think, essentially what he has
22 described his phone as -- where you can buy a SIM card,
23 which might have a number of minutes on it; use it, like, in
24 your car as an emergency phone just in case your original
25 phone doesn't work, or what have you.

1 So I think the lack of information as to the
2 capacity in how he was using the phone for that length of
3 time might be where some of the confusion lay; but that was
4 the reason that we thought it was not his phone that he had
5 been actively using.

6 THE COURT: All right. And so then the government
7 says that on January 7th, 2021 -- this was after the
8 execution of the search warrants -- Mr. Reed messaged a
9 friend saying how all the government took was a \$60 phone
10 from Walmart, and implied they didn't have his primary
11 phone.

12 So is that when the government realized that the
13 defendant, in fact, hadn't produced the phone he was using
14 on January 6th, when they saw that message?

15 MS. CARTER: We were suspicion originally based on
16 the evidence I laid out. And then, once we got the Facebook
17 post, which was later, then that did confirm for us that he,
18 in fact, had swapped out one phone for the next.

19 THE COURT: Okay. So now let's turn to the time
20 period after the defendant was indicted.

21 MS. CARTER: Yes, Your Honor.

22 THE COURT: He then turned over a second phone --
23 I am going to call that Phone Number 2. The government
24 contends that Phone Number 2 had no memory card or SIM card.
25 And the FBI has not been able to access that phone,

1 Number 2, despite using the codes provided by the defendant?

2 MS. CARTER: Correct.

3 THE COURT: Do I have that right?

4 MS. CARTER: Yes. That is my understanding.

5 THE COURT: Okay. So yet another puzzle.

6 The defendant says that the SIM card for Phone
7 Number 2 was actually in Phone Number 1, so that's why Phone
8 Number 2 had no SIM card. And, as I understand it, a SIM
9 card simply stores -- you know, just enables a phone to
10 connect to a network.

11 Does a SIM card actually store any information
12 like text messages, pictures, or videos?

13 MS. CARTER: It can.

14 THE COURT: It can. Okay.

15 MS. CARTER: Yes, but it depends on the phone and
16 the SIM card and how you're saving things. And that's based
17 on my personal -- having had past phones, where, like -- I
18 was, like, why did I not get all my stuff back when I
19 switched phones? They were, like, because it wasn't saved
20 on your SIM card; it was saved on your phone. That is why I
21 believe that SIM cards -- depending on where you are saving
22 it -- to your actual physical phone or to a SIM card, that
23 could make a difference.

24 The other alternative -- which, again, we don't
25 know because we are not privy to this information -- would

1 be the potential to delete things off the SIM card before
2 swapping it to a different thing after saving it to another,
3 like, hard drive, computer -- what have you.

4 THE COURT: Okay. So -- but Phone Number 2 didn't
5 have a SIM card. And to the extent Phone Number 2 was the
6 phone he was using on January 6th, and he had saved
7 material -- information or content -- on the SIM card, you
8 would have gotten that already from Phone Number 1 because
9 he says that had the SIM card?

10 MS. CARTER: Assuming that things weren't deleted
11 in such a way that we would not be able to recover them --
12 which I am not -- I don't have that great level of technical
13 knowledge; I know we did a download. But assuming that's
14 not the issue then, yes, we would already have them.

15 THE COURT: All right. Now, Phone Number 2 had no
16 memory card. And is it on the memory card in cell phones
17 that mostly hold the content like texts, pictures, and
18 videos?

19 MS. CARTER: Again, I think that is due to
20 settings in a particular phone, so it would depend on the
21 particular item itself. I am unable to answer based on the
22 defendant's specific phones -- what that would or would not
23 hold, memory versus --

24 THE COURT: Okay. So why should I be concerned
25 if, when he turned over Phone Number 2, it didn't have a

1 memory and it didn't have the SIM card if the SIM card was
2 already in the government's possession because they had it
3 from Phone Number 1, and you're saying that the memory card
4 may not have anything?

5 So why should I be concerned that Phone Number 2,
6 when the defendant turned it over post indictment, didn't
7 have a memory card?

8 MS. CARTER: So if it was turned over
9 effectively -- I'm sorry. Let me back up.

10 If Phone Number 1 had the SIM card as the
11 defendant has stated that was originally in Phone Number 2,
12 and Phone Number 2 was what he used on January 6th, then I
13 would say the absence of the large number of videos and
14 photos from SIM Card Number 1, during that download, is a
15 red flag that the defendant has continued his obstructive
16 practice of deleting and otherwise destroying evidence. So
17 I do think the Court should still consider it as part of a
18 larger pattern.

19 The other thing I would note is that it was not
20 turned over with the communication about that. It was
21 turned over. We reached out and said: Why is there no SIM
22 card, memory card, and the communication that's in it? So
23 it's, again, just a pattern over time and as part of that
24 pattern. In and of itself -- isolated -- I don't think it
25 carries a lot of weight.

1 THE COURT: All right. So with this confusion
2 over -- or maybe it's just confusing to me as to what was
3 missing from which phone and did it make a difference.

4 You know, I then look at the government's list of
5 all of this video and pictures that have been produced in
6 this case, 25 in total, and a number of them have, as a
7 source, defense.

8 So I am presuming that a lot -- a lot of the
9 videos, a number of the videos and pictures came from the
10 defense. And so was the defense source -- I mean, the
11 government doesn't detail precisely what the source is other
12 than a broad category of defense. So were some of those
13 videos and photographs from either Phone 1 or Phone 2?

14 MS. CARTER: Those were from defense counsel.

15 The government indicated to counsel, as part of
16 our plea negotiations, that if he wanted the particular plea
17 that we were negotiating about that, as part of the terms of
18 our agreement, he was responsible for turning over all video
19 and photos. And so those -- that chunk of video and photos
20 that Your Honor sees referenced as from the defense, those
21 are from that disclosure from the defense attorney to us,
22 our office.

23 THE COURT: I see. And do you know where the
24 defense counsel got them?

25 MS. CARTER: Presumably, from his client. Other

1 than that, I do not have specifics. That was my
2 understanding as to any --

3 THE COURT: Well, this is very unusual because the
4 government usually takes the phone so it can forensically
5 examine it and identify precisely what's on there; rather
6 than relying on a go-between to cherry pick -- figure out
7 what they're going to pick to -- produce.

8 So, really, that's how -- that's how the
9 government here investigated this case -- and just relied on
10 defense counsel to go and figure out what he was going to
11 produce to the government?

12 MS. CARTER: We are still actively working on
13 Phone Number 2, trying to get that open and get that
14 information; that is still an ongoing process.

15 But as far as this -- this was based on
16 representations of counsel. And we made very clear that we
17 needed any and all photos, video, or other media that was
18 gathered during January 6th turned over. And so based on
19 the representations of counsel, that's what we have.

20 THE COURT: Well, isn't it part of the limited
21 quasi-cooperation provision in the plea agreement that the
22 defendant is supposed to allow the government to review his
23 cell phones or social media, or is that wrong? Or is it
24 just part of the quasi-cooperation term of the plea
25 agreement that the government is just supposed to accept

1 whatever the defense counsel decides should be turned over?

2 MS. CARTER: We have a provision that we are able
3 to review any posting -- in this case, we have Mr. Reed's
4 Facebook; so that was part of a search warrant return that
5 we already have in our possession, and then any photos and
6 videos. But as far as the means by which that was carried
7 out, it was handled through counsel -- from our office
8 through counsel; that's how things got to us.

9 THE COURT: Okay. And I know you say you are
10 still working on getting access to Phone Number 2, but this
11 defendant is at sentencing here today; so what good is that
12 going to do anything? It's certainly not going to help the
13 sentencing judge figure out if there is additional
14 evidence -- or the government.

15 MS. CARTER: Yes, Your Honor.

16 Mr. Bledsoe is still proceeding to trial in the
17 fall, and so he has not waived his right to discovery; and
18 so because of that we are continuing --

19 THE COURT: I see. And your access troubles with
20 Phone Number 2 are what?

21 MS. CARTER: So we tried the codes that were given
22 to us. My understanding from counsel's representations is
23 that Mr. Reed also tried, at their office, to open the phone
24 unsuccessfully. And so now we're just waiting on whatever
25 machine it is that sits there and tries to unlock the phone

1 for however many months it takes the machine. That is the
2 process that we are in right now.

3 THE COURT: I see. Mr. Reed doesn't remember his
4 access code, is that what is going on?

5 MS. CARTER: That is my understanding, yes. He
6 has provided us with codes; they have not worked.

7 THE COURT: I see. Okay. So you don't know if
8 all of the videos that have been produced are really all of
9 the videos from January 6th based on the FBI's own
10 investigation and examination of original electronic
11 devices; is that correct?

12 MS. CARTER: Yes. And I can note for the Court
13 there is at least one photograph that appears in Mr. Reed's
14 Facebook that is not found in the photographs that were
15 produced by the defense, so it is possible that we do not
16 have everything.

17 THE COURT: Okay. So let me just now turn to some
18 of the video evidence in the case. There are two files or
19 videos that show the crowd outside the House Chamber door
20 demanding that they be let in, with other photographs that
21 the government has put in its brief, on page 20, that shows
22 lawmakers sheltered in place, as officers stood with guns
23 drawn and barricaded at the door, with the crowd of which
24 Mr. Reed was a part outside -- you know, shouting and trying
25 to break into the House Chamber door.

1 Are the date timestamps on the photographs of the
2 cowering staffers and Congress people, on page 20 --
3 correspond to the times of -- the date timestamps on the
4 videos?

5 MS. CARTER: I apologize, Your Honor.

6 I am just moving back to look at the timestamps
7 because I don't think I realized there were timestamps on
8 the photographs.

9 I can give Your Honor a timeline as I calculated
10 it as to why I believed those two things happened around the
11 same time; although, obviously, second to second I cannot
12 match them up.

13 THE COURT: Well, certainly your briefing
14 indicates that this was all happening at the same time --

15 MS. CARTER: Yes.

16 THE COURT: -- so I thought, perhaps, it was date
17 and timestamped; and I was just so curious about that.

18 MS. CARTER: Yes, Your Honor.

19 So the reason that I believe these two events are
20 occurring during the same time period is based off of the
21 U.S. Capitol Police timeline, combined with the timeline
22 that I created as part of my investigation in this case.

23 So based on those two things, Mr. Reed would have
24 joined the crowd out in the Statuary Hall connector, which
25 is that hallway immediately in front of the door, around

1 2:35 p.m.

2 At 2:37 p.m., per the Capitol Police timeline, the
3 corridor to the House Chamber was breached.

4 At 2:39, U.S. Capitol Police personnel began
5 evacuating members inside the House Chamber.

6 At 2:42, he turns the corner to move towards the
7 east side of the building down the hall; and the shooting
8 occurs in the back of the House Chamber, in a side hall, at
9 2:43.

10 And at 2:43 to 2:44, he turns the corner into the
11 stairwell.

12 At 2:44, there are still 12 to 15 members of
13 Congress in the gallery who have been ordered to shelter in
14 place because SWAT is being dispatched to those people.

15 And then, at 2:49, Mr. Reed exits the building.

16 So based on that timeline, the combined Capitol
17 Police information, and Mr. Reed's information, as I
18 determined based on all of the information I had, those two
19 events were happening at the same time.

20 THE COURT: Okay. And this is during this short
21 period of time where -- I guess it's a defense video that
22 the defense produced, that Mr. Reed took, shows him standing
23 with this mob, one of whom is holding up a big sign, "Stop
24 the Steal"; and they're all chanting loudly, "Stop the
25 Steal."

1 And how far back would you say from the door of
2 the house chamber, with these members and staffers cowering
3 inside under the seats -- how far is this defendant from
4 that door? Would you say 50 feet? Less than that, more
5 than that?

6 MS. CARTER: So if I may, Your Honor -- I am not
7 the best with distances; but I would estimate that where I
8 currently am, which is just past the beginning of counsel's
9 chambers [sic] -- to where Your Honor's bench is, is
10 approximately the distance between where Mr. Reed would have
11 been, in that hallway, and the door into the House Chamber.

12 That would be my estimate.

13 THE COURT: Okay. Well, that's about 20 feet, 25
14 feet.

15 MS. CARTER: I am not good at -- I am not good at
16 distances. I'm sorry.

17 THE COURT: So that was pretty close.

18 MS. CARTER: Yes, Your Honor.

19 THE COURT: All right. So let me just talk about
20 the sentencing scheme here because -- in sentencing other
21 defendants who plainly were susceptible to believing lies
22 about a stolen presidential election and participating in
23 mob action based on those mistaken beliefs to stop the
24 peaceful transition of power -- a number of judges in these
25 cases have thought it would be important to this community

1 in D.C., and the broader American community, to ensure that
2 they have supervision for at least three years through the
3 next mid-term elections and presidential election to make
4 sure that whatever they may believe -- they can believe the
5 moon is made of Swiss cheese -- whatever they believe, fine;
6 they can believe it.

7 But to the extent that they believe political lies
8 and have been demonstrably willing to act on those beliefs,
9 it would be helpful to have them under supervision at least
10 for 36 months.

11 And here, if the defendant is sentenced to the
12 term of imprisonment that the government's recommending, the
13 statutory maximum period of supervised release that could be
14 imposed is only 1 year, not 36 months, not for 3 years. So
15 if you want to ensure that the defendant is supervised for
16 the next 3 years, it requires a period of probation to be
17 imposed because the statute allows up to a 5-year period of
18 probation.

19 So there is this tradeoff in the statutory scheme
20 between harsher punishment with a jail term or longer
21 supervision, but not both, for a Class A misdemeanor.

22 Does the government consider it more important to
23 subject individuals like the defendant to the harsher
24 punishment of a period of incarceration as opposed to
25 keeping them under supervision in the federal criminal

1 justice system for several years?

2 MS. CARTER: I think both have merit in different
3 ways.

4 So for the incarceration, by using that on the
5 front end, we demonstrate that like things only go down from
6 here. And Your Honor is aware of the massive disruption
7 that incarceration causes to a life. So it's a very real
8 and visceral time for three months where the defendant is
9 separated from his job, his family, and his friends; and he
10 is sent to an entirely different location and he surrenders
11 a lot of the freedoms that you have in everyday life. That,
12 I think, carries a lot of weight, to be frank.

13 And, certainly, having a supervised probation
14 officer keeping an eye on, being in close contact with,
15 monitoring a person, certainly, also has its benefits; but
16 remembering that has weight if a person is making future
17 decisions. So I do think they both have good reasoning
18 behind them; but I think that's why we're asking for the
19 time in jail.

20 THE COURT: And I have looked at the government's
21 very helpful and ever-growing chart of other sentences
22 imposed on January 6th cases. And from looking at the chart
23 submitted with the government's sentencing memorandum in
24 this case, it lists 15 cases involving conviction under
25 1752(a)(1), this same Class A misdemeanor. And out of those

1 15 cases, 10 of the defendants were given a period of
2 incarceration, either as a straight term of incarceration or
3 intermittent confinement as a condition of probation.

4 So based on that, is it the government's position
5 that some period of incarceration would not be an
6 unwarranted sentencing disparity in this case?

7 MS. CARTER: I don't think it would be an
8 unwarranted sentencing disparity.

9 As Your Honor knows, I was before you before in
10 two of the other defendants in this case. To some extent,
11 we're still creating what the norms are in these cases.
12 We're very early on. We think 2000 to 2500 people were in
13 the Capitol that day unlawfully, and so we are in the very
14 beginning. And I think, to that extent, one, we're still
15 setting all of those norms.

16 But we offered the Court three people,
17 Mr. Schornak, Tryon, and Bonet, which we thought were
18 applicable -- like analogous to the sort of factors that are
19 here with Mr. Reed. And Your Honor has acknowledged in past
20 sentencings, each person is an individual; and this is one
21 of many factors that the Court has to balance.

22 THE COURT: All right. So let me turn to the two
23 other defendants in this case. Well, let me start with the
24 factors in this case. And the government has also provided,
25 you know, a fairly transparent list of the factors that the

1 government is looking at in making its recommendation for
2 three months of incarceration here. I just want to focus on
3 a couple of those factors to make sure I am understanding
4 them.

5 One of the factors is that the -- that the
6 government cites is that this defendant traveled through
7 many nonpublic areas, including the hall near the Senate
8 wing door, the area around the Memorial door, and the
9 hallways around the House Chamber.

10 When you say "nonpublic areas," you mean those are
11 areas that even, under normal circumstances, tourists are
12 not allowed to go; is that correct?

13 MS. CARTER: Yes.

14 THE COURT: And tourists, even when they have gone
15 through security checks, have been screened for firearms and
16 dangerous weapons, bear spray, and everything else -- even
17 tourists are not allowed to go to these nonpublic areas
18 because they're so sensitive because of staff, elected
19 representatives who are working in and around those areas?

20 MS. CARTER: Correct.

21 THE COURT: Because -- I just want to make that
22 clear because, frankly, on January 6th, the entire Capitol
23 was supposed to be a nonpublic area.

24 MS. CARTER: Correct.

25 THE COURT: The public wasn't allowed anywhere in

1 that building, but these nonpublic areas you have designated
2 are nonpublic even to tourists; is that right?

3 MS. CARTER: Yes.

4 THE COURT: So one of the factors that the
5 government also has highlighted is that this defendant had
6 discussed joining the Proud Boys. And the government
7 describes this, in its memo at page 30, as part of an
8 escalating behavior by the defendant pre-January 6th.

9 And I just want you to explain -- this was before
10 most people in America had ever heard of the Proud Boys, who
11 had gained some prominence or -- infamy, I should say --
12 post January 6th. So why does considering membership of the
13 Proud Boys count as "escalated behavior."

14 MS. CARTER: So the Proud Boys -- leading up to
15 the January 6th event had already had a violent incident or
16 two here in the District, Your Honor will recall.

17 So, in and of itself, their appearances in -- I
18 want to say it was December the year before, but I am not
19 100 percent certain of the exact date. I recall there were
20 incidences of violence, that they were tearing down a banner
21 at a Black church here in town; there were attacks and
22 fights amongst their members and members of our community.
23 So, in and of itself, that is of concern.

24 I would also note that there is the whole
25 "standby" comment that was made by the former President; I

1 would note that as well. And then, also, that they are
2 listed -- that they have similar behaviors as a gang; they
3 have initiation rituals. They have colors that they
4 normally wear; although some of the groups chose not to wear
5 those, chose to go incognito on January 6th.

6 Also, we have asserted, in various papers, that
7 they had planned for January 6th specifically, where they
8 did intend to come and go into the Capitol.

9 THE COURT: And other than this -- I think it's
10 just one email or text exchange --

11 MS. CARTER: Yes.

12 THE COURT: -- where this defendant evidences
13 interest in joining the Proud Boys.

14 Is there any other evidence that the government
15 has uncovered that this defendant pursued that?

16 MS. CARTER: No.

17 THE COURT: All right. Or any other evidence that
18 this defendant engaged in other communications directly with
19 any Proud Boy representatives?

20 MS. CARTER: No. I have no further evidence, just
21 that one piece.

22 THE COURT: But, of course, you have never gotten
23 access to his phone?

24 MS. CARTER: Correct. The phone that we
25 believe -- Phone 2, we have not had access.

1 THE COURT: Phone 2.

2 And the defense counsel didn't voluntarily produce
3 to you any text messages or anything else from that phone
4 that indicated communications with the Proud Boys?

5 MS. CARTER: No, Your Honor.

6 THE COURT: Okay. Did you inquire of defense
7 counsel where he was getting all of the information he was
8 producing to you or to the government?

9 MS. CARTER: I had understood that -- from defense
10 counsel, that Mr. Reed had held on to said video and photos
11 because he wanted to have evidence of his behavior on that
12 day, and he was not sure if we would have video evidence;
13 and that was the reason that he held on to things. That is
14 the extent to which I understand where the photos and videos
15 were. They were with Mr. Reed for purposes of his defense.

16 THE COURT: And you don't understand in what
17 medium -- what kind of electronic device, whatever, Mr. Reed
18 was holding on to it?

19 MS. CARTER: No, Your Honor.

20 THE COURT: Okay. So another factor cited by the
21 government is that this defendant climbed a purloined bike
22 rack and used it as a ladder, and stood on the balustrade of
23 the northwest terrace stairs in the Capitol. And there were
24 thousands of people who were doing that based on the videos
25 I have seen in this case and in other cases.

1 So why is this a particularly aggravating factor?

2 MS. CARTER: So there is actually a separate
3 crime -- and Your Honor will forgive me, I don't remember
4 the exact statute -- for climbing on things you are not
5 supposed to climb on, like statues and balustrades, and
6 other items at the Capitol grounds. You are just not
7 supposed to do it for obvious reasons -- not the least of
8 which is the Capitol itself is historic, and we would like
9 to keep it in one piece for future generations.

10 Aside from that, it could be argued that by
11 purloining the property in order to move it from point A to
12 point B, to put it up there, that you have effectively
13 stolen it; it's a theft charge, potentially.

14 THE COURT: Or conversion.

15 MS. CARTER: Yeah. Conversion, exactly.

16 So with the potential of those two charges, that's
17 why we note it for the Court. We did not choose to go
18 forward with those charges because we came to a plea
19 agreement, but we do think that's an aggravating factor.

20 THE COURT: Okay. And then another factor that
21 the government cites is that he entered the Capitol Building
22 not long after it was violently breached, with the damage
23 visible and the alarms sounding.

24 So what's the government's best estimate of how
25 soon after the initial breach of the Capitol -- which I

1 think happened on at least one Senate wing door around 2:13
2 p.m. -- that this defendant entered?

3 MS. CARTER: Yes.

4 Court's indulgence.

5 Your Honor, my recollection is the same as Your
6 Honor's. At 2:13 p.m., the Senate wing door -- the doors
7 and windows were broken as the crowd was gaining access to
8 the building. And at 2:25 p.m., yes, is when Mr. Reed
9 entered the same door that had been broken open by other
10 rioters.

11 I would note that his codefendant has video. He
12 comes in shortly before Mr. Reed -- not at the exact moment,
13 but I would say within a minute or two minutes. You can
14 actually hear the alarm on that video.

15 THE COURT: Right. Okay. And the government says
16 that this defendant did not plead early like his
17 codefendants. And I wanted to inquire about that because --
18 I mean, early pleas are just sort of one of those normal
19 things that sentencing judges look at, in terms of
20 acceptance of responsibility; so I am looking at that in
21 these cases, how quickly is a defendant accepting
22 responsibility by entering a plea and resolving the cases as
23 a sign of remorse or acceptance of responsibility, and some
24 acknowledgment of what was done on January 6th at the
25 Capitol, to this country.

1 And I look at the plea offer in this case, and I
2 see that it's dated November 12, 2021 -- that's the date on
3 the signed plea agreement; and the defendant signed the plea
4 offer on November 16th, four days later, which seems pretty
5 prompt to me.

6 So I was just wondering why it is, when the
7 defendant signed the plea offer four days after it was
8 offered, why isn't that prompt? Unless the plea offer had
9 been outstanding for some time, which I don't know about.

10 But what is the basis for the government then to
11 say that he did not plead early?

12 MS. CARTER: So there were extensive plea
13 negotiations back and forth, between the parties. And I
14 apologize, I don't have access to my email right now because
15 I don't have Wi-Fi so I can't verify the exact dates. I
16 didn't come prepared with the dates, so I apologize.

17 But it was the extended period of time that we
18 were negotiating back and forth specifics of the various,
19 like, aspects of the plea offer. I recall having -- I
20 recall having finished drafting and going back and forth
21 with defense about language; but I do not recall the exact
22 timing to give Your Honor dates. I'm sorry.

23 THE COURT: Okay. Based on the facts in front of
24 me, it looks like a fairly prompt plea -- acceptance of a
25 plea offer.

1 Okay. The government also says the defendant has
2 demonstrated a complete lack of remorse for his actions and
3 goes on to say: Based on his conduct post riot, including
4 by sharing Facebook posts of his participation and his
5 active steps to conceal his crimes.

6 Did the government [sic] -- as part of his
7 compliance with the quasi-cooperation term in the plea
8 agreement have to agree to an FBI interview in this case?

9 MS. CARTER: He did agree to do it. The FBI
10 declined to do the interview. We reached out to the FBI and
11 offered them the opportunity, and they decided not to.

12 THE COURT: I see. Okay.

13 So when the government says, "The defendant has
14 demonstrated a complete lack of remorse for his actions,"
15 what's the basis for that if the FBI didn't have an
16 opportunity to evaluate Mr. Reed in an interview?

17 MS. CARTER: The basis is his social media posting
18 afterwards. I would specifically reference -- let me get
19 the Court the number of the posting.

20 Court's indulgence.

21 Item No. 22 -- I'm sorry. On page 22, what we had
22 originally turned over as part of the larger disclosure of
23 video and photos, Item 201, which is titled MB6 [sic],
24 photos from tips; that is a posting on Facebook. And having
25 done a little bit of research -- because I am not a Facebook

1 person -- there is a little globe on that item to the right
2 of the Washington, D.C. caption.

3 My understanding, based on that research, is that
4 that is a public posting and not a posting to particular
5 people but, rather, to the world at large via his Facebook
6 account. And he makes the statement: "We the people have
7 spoken, and we are pissed." "No Antifa." "No BLM." "We,
8 the people, took the Capitol." "Every American ethnicity
9 was here." "DEMOCRATIC TYRANNY WILL NOT STAND" -- all in
10 caps. "WE HAVE SPOKEN" -- all in caps, and in various
11 hashtags.

12 That, combined with his communications with his
13 friend regarding the Walmart phone, his arrest, his
14 disregard for the FBI's ability to find things, et cetera,
15 all indicate a lack of remorse. So his postings are the
16 primary way in which I am determining that. I do not have
17 the benefit, as Your Honor has noted, of his words yet.
18 There was no letter submitted, and I do not have an
19 interview.

20 THE COURT: All right. Is there anything else you
21 would like to add?

22 MS. CARTER: No, Your Honor. Thank you.

23 THE COURT: All right. Mr. Bruno.

24 MR. BRUNO: I certainly can answer any of Your
25 Honor's questions. But I can clear up the phone situation,

1 if you want to know what happened to --

2 THE COURT: It's a little late at a sentencing
3 hearing, actually --

4 MR. BRUNO: Well, but you have got a --

5 THE COURT: Go ahead.

6 MR. BRUNO: The government is aware of this; I
7 have told them this many times.

8 He had one phone in the Capitol. You can see him
9 walking around videoing things, and all that kind of stuff.

10 THE COURT: I have seen it.

11 MR. BRUNO: When he came back from D.C. to
12 Tennessee, became aware that the police basically knew he
13 was there and were probably coming for him; he took the SIM
14 card out of that phone. Okay? He wanted to keep that
15 phone. He was not aware of what video was going to be in
16 the Capitol and how all of this was going to play out. But
17 he knew on that phone, videoing all of the stuff, taking
18 pictures -- that it was proof that he walked in there;
19 calmly and peacefully walked all the way through, and walked
20 out. He didn't tear anything up; he didn't threaten
21 anybody. He knew that was on there.

22 Now, he is in there, and he has pled guilty. He
23 didn't know how this was going to play out. He took the SIM
24 card out of the phone.

25 He had another phone. Your Honor refers to that

1 as the phone he had used for two and a half years. The word
2 is he had owned it for two and a half years, not used. He
3 bought that phone in June of '18.

4 When we were discussing the statement of the
5 offense, I made the government aware of that. Instead of
6 putting that in the statement of offense, they just left
7 that out of the statement of offense. So the government was
8 aware that he had purchased that phone in June of '18, two
9 and a half years before January 6th of 2021.

10 He took the SIM card out of the phone that he had
11 at the Capitol and put it in the phone he had owned for two
12 and a half years. Okay? He was using that phone at the
13 time of the search warrant.

14 The original phone was in the house. When the
15 search warrant was conducted, law enforcement found what you
16 referred to as Phone Number 1 and the charger; but they did
17 not locate Phone Number 2 when they left.

18 Phone Number 2 -- also part of Phone Number 2, he
19 had downloaded videos and images, and stuff like this, to a
20 thumb drive.

21 When -- after we were hired, we came in possession
22 of Phone Number 2, and the thumb drive. The government
23 requested that we turn over everything we had. We turned
24 over the phone, and if I am not mistaken, the thumb drive.
25 I think it was two different times an agent had to come to

1 our office to get it. That's how the government got a
2 ton -- a lot of what's in their sentencing memorandum; we
3 turned it over to them. The whole time -- and so that's the
4 explanation between where Phone Number 1 is and Phone Number
5 2 is.

6 The government has been aware that he had Phone
7 Number 1 for two and a half years. But he -- right, wrong,
8 or indifferent, he did not want that phone to be snatched up
9 by law enforcement; don't know what happens to it, and then
10 he can't say: I've got proof of exactly what I did while
11 I'm in the Capitol. Now -- and he has no obligation -- I
12 don't believe -- when law enforcement is there to do a
13 search warrant to say anything, let alone: Here is where
14 everything is. But when requested to turn it over, we
15 turned over the phone; we turned over the thumb drive. So
16 that's the answer to where the phones -- what phone was
17 what, and how they got the information.

18 THE COURT: So you did not cherry-pick which
19 things were going to be produced? You took the thumb drive
20 and turned the whole thing over to the FBI?

21 MR. BRUNO: I turned over the phone as I received
22 it from Mr. Reed. I turned over the thumb drive as I
23 received it from Mr. Reed.

24 THE COURT: Okay.

25 MR. BRUNO: I don't know even know if I would know

1 how to take something off that phone, quite frankly; but I
2 have turned over the phone.

3 THE COURT: Well, that's an important
4 clarification because it was a bit puzzling that the FBI
5 would just let you cherry-pick evidence you wanted to
6 produce.

7 MR. BRUNO: There was no cherry-picking. I turned
8 over that phone exactly as I received it, in the same
9 condition from Mr. Reed.

10 Do you remember the thumb drive?

11 I am 99 percent certain there was a thumb drive --
12 and we turned that over as well -- exactly as I had received
13 it from Mr. Reed; so there was no cherry-picking of turning
14 over anything to the government.

15 We did that --

16 THE COURT: I think, Ms. Carter, are you
17 confirming that?

18 MS. CARTER: We received a thumb drive. I was not
19 aware of the process by which the thumb drive contained the
20 items; but we received a thumb drive. An agent went to his
21 office and picked up the thumb drive.

22 THE COURT: Okay.

23 MR. BRUNO: So that's the answer to how they got
24 everything.

25 THE COURT: Thank you.

1 MR. BRUNO: We did that as part of our obligation
2 to cooperate. And I figured that the government might want
3 as much video and photos as they can get so they can
4 continue to investigate other people, and stuff like that;
5 and lo and behold, it turns up in their sentencing
6 memorandum against us. But that's how they got the
7 information; that's how it came across.

8 So I don't know if --

9 THE COURT: Okay. The government -- I mean, one
10 of the things that the defendant says on December 8, 2020,
11 before January 6th, is he says he absolutely, 100 percent,
12 disagrees with acknowledging Biden being elected anything;
13 and he characterizes the 2020 election as the biggest scam
14 even from statistical data. As I said before, the defendant
15 can believe whatever he wants.

16 MR. BRUNO: Sure.

17 THE COURT: It really is irrelevant in many
18 respects. As I said before, if he wants to believe the moon
19 is green cheese, let him. Really.

20 But for purposes of sentencing, it is my job to
21 protect the public from further crimes by this defendant, so
22 I am tasked with making an assessment of what risk this
23 defendant poses to the community.

24 MR. BRUNO: Yes, Your Honor.

25 THE COURT: And his beliefs which led him to

1 participate in the riot on January 6th, 2021, and violate
2 the law so egregiously, makes his beliefs pertinent in
3 making the assessment of risk.

4 So simple question, does the defendant believe now
5 that there was a massive voter fraud in the 2020
6 presidential election?

7 MR. BRUNO: I don't know. I am going to let him
8 answer that because he is going to allocute. I don't
9 believe that he continues to believe that today. I think
10 when this happened he wholeheartedly believed that.

11 THE COURT: Well, that's clear, that he
12 wholeheartedly believed that.

13 MR. BRUNO: But, quite frankly, I haven't had a
14 recent conversation with him about: Do you still believe
15 that at this point in time?

16 But he is going to allocute; and I will let Your
17 Honor just ask him directly that.

18 My understanding is at the time he wholeheartedly
19 believed that. And that's why he came here -- was to go to
20 the speech, believing that the proof would be shown at the
21 speech; and that's how he ended up in D.C. That was what he
22 believed, and then things --

23 THE COURT: And there was something he heard at
24 that rally on the Ellipse that confirmed his belief, and so
25 that's why he went to the Capitol?

1 MR. BRUNO: Again, I will tell you what he's told
2 me, and then he can answer; but no.

3 He was there; the speech was going on. He noticed
4 a lot of people leaving the speech going towards the
5 Capitol. So he -- basically, out of curiosity, went that
6 way with everybody else.

7 He is not in the front; he is not leading, stuff
8 like that. He goes that way, then everybody gets to the
9 Capitol. He is on the grounds. He sees what is happening
10 and then, obviously, should have stepped away, but did not.
11 He chose to go up and walk in the Capitol, and go in and
12 come out. He can explain that to you in detail, but that's
13 what the situation is with that.

14 Today -- I can't make a representation to the
15 Court because I haven't asked him that question recently.

16 My -- he would have to answer that question for
17 the Court. But I do believe that, when it happened, he
18 wholeheartedly was believing that is what was happening.

19 THE COURT: All right. And the letters that have
20 been submitted -- and there have been a number indicating
21 that Mr. Reed is a helpful friend, a very caring son -- you
22 know, positive letters, as one would expect, you know, from
23 letters submitted about a defendant's character at
24 sentencing.

25 MR. BRUNO: Right.

1 THE COURT: But they all seem, in some way, to
2 deflect responsibility that this defendant had for his own
3 actions; and I will just give you some examples.

4 I mean, you know, his sister wrote: I feel in
5 this case the defendant was in the wrong place at the wrong
6 time. I feel certain he had no intent to harm anyone. He
7 was standing up for what he believed in and ended up being
8 in the crowd and was curious to see what was happening
9 inside, I am sure.

10 His brother says he was not at the Capitol with
11 malicious intent; it was a weakness of impulsivity. He had
12 been diagnosed with ADHD; and he imagines that he would have
13 had a difficult time making a conscience-wise decision to
14 leave the rally.

15 Another friend says: He got caught up in the
16 passion he has for the country, and did a stupid thing.

17 Another one says: He was caught up in the moment,
18 swept along with the emotion and intensity of the crowd. He
19 would never have gone along if he had known people would be
20 hurt and, let alone, lose their lives on that sad day.

21 So they sort of suggest that this is an impulsive
22 act, that he got caught up in a crowd, he can't make a wise
23 decision in the face of seeing people run at police, alarms
24 going -- flash-bang bombs. I mean, what?

25 I actually am finding it very surprising. Perhaps

1 they're believing Mr. Reed, if he's only describing his
2 action as following a peaceful crowd and going peacefully
3 and walking around the Capitol -- just like you sort of
4 described it; and that is not what is observable on those
5 tapes.

6 MR. BRUNO: Okay. So I have read what you have
7 read. But the way I read it --

8 THE COURT: And none of them say this is a man who
9 is a grown-up. He is a grown-up. And he is there
10 videotaping crowds rushing police lines, seeing people tear
11 down scaffolding for the inauguration, climb- -- using bike
12 racks as ladders, going through broken doors and windows,
13 yelling things -- oh my goodness.

14 It is just chilling. The videotape of people
15 walking around the House Chamber yelling: "Nancy, Nancy,
16 Nancy," like this is some kind of game of hide-and-seek,
17 when people are being terrorized inside the House Chamber
18 and sheltering in place. I mean, I'm sorry, but what --
19 this was not just a stupid thing.

20 This was not just an impulsive thing. This
21 defendant was inside the Capitol following in these crowds
22 chanting, taunting -- breaking through police lines in the
23 face of the police being overrun, clearly; going through
24 tear gas clouds to get in.

25 How is that "calmly" -- to quote you -- walking

1 through the Capitol?

2 And is that how he has described his conduct to
3 his friends? -- to reflect this -- their -- that's how it's
4 reflected in their letters.

5 MR. BRUNO: Okay. So I think -- I have read the
6 letters as you have read the letters.

7 I believe that the intent is -- he didn't come to
8 Washington, D.C. to end up in that Capitol. He didn't come
9 here to harm anybody or do any -- he came here to hear the
10 President of the United States explain to him how the
11 election was stolen.

12 THE COURT: Then why did he come with goggles and
13 a gas mask to protect himself from police tear gas?

14 MR. BRUNO: Because in this city -- okay, so the
15 gas mask he has for his work, that respirator that he has.
16 But in this city --

17 THE COURT: He wasn't coming here to work.

18 MR. BRUNO: Prior to that time in this city, law
19 enforcement had deployed tear gas, gas items, during other
20 protests, and other things that had happened in this city.

21 It would not -- with the number of people coming
22 here, with the crowd that was coming here, I don't think it
23 would be -- I don't think it would be something that you
24 might not anticipate might happen at some point with the
25 number of people that were here, given the fact it had

1 happened previously in this city under -- recently, under
2 other circumstances. So I don't think that it would be
3 naïve --

4 THE COURT: There was nothing about --

5 MR. BRUNO: -- for a person to think that given --

6 THE COURT: Let me interrupt you for a second and
7 correct you when you say he was walking through.

8 MR. BRUNO: Okay.

9 THE COURT: There is nothing calm about what
10 happened on January 6th. And there is nothing that I have
11 seen on these videotapes that reflects a calm crowd.

12 MR. BRUNO: I am not referring to the crowd. I am
13 not referring to what happened on January 6th. I am
14 referring to him.

15 And I have watched the video from first foot in
16 the Capitol to last foot out of the Capitol -- him. And
17 from first foot in the Capitol to last foot out of the
18 Capitol, what I see is him walking the entire time -- most
19 of the time by himself, most of the time -- or a lot of the
20 time videoing different things. At one point he looks at
21 himself and he says: There is some really great
22 architecture here.

23 I am talking about him and what he's doing. He is
24 not tearing things up. He is not yelling, "Nancy." He is
25 not yelling "Stop the Steal." He is not threatening people.

1 He is not kicking doors, breaking things, picking up
2 things -- that's not what he is doing.

3 Now, he's guilty of the crime, that's why he's
4 pled guilty. But when I referred to calmly walking through,
5 I am not talking about the rest of the people. I am not
6 talking about what happened on the outside. I am talking
7 about when he entered into a restricted area in the Capitol,
8 you can see -- I am talking about what he did. And I
9 think --

10 THE COURT: All right. And in your sentencing
11 memo, you request probation. And you note that the
12 defendant may be sentenced up to 5 years of probation with
13 conditions associated with probation, but you don't -- how
14 much probation are you recommending?

15 MR. BRUNO: Up to 5 years, if that's what the
16 Court gives, because --

17 THE COURT: Up to 5 years.

18 And you understand that one of the conditions that
19 you acknowledge can be imposed on probation is intermittent
20 confinement?

21 MR. BRUNO: It -- I probably -- I think that the
22 Court can certainly do a home confinement. But as far as if
23 there is intermittent, like, weekend time as a condition of
24 probation, I would have to go back and look at the specific
25 statutes and guidelines on that.

1 But I know you can do house arrest or home
2 detention as a condition of it -- of the probation.

3 THE COURT: But that's not what you are
4 recommending?

5 MR. BRUNO: I am recommending whatever allowable
6 conditions of probation that the Court wants to impose for
7 the Court to impose that. So if the Court says he needs to
8 be on home detention for a period of time -- generally, when
9 I have had other people on home detention, that means: If
10 you have a job, you leave in the morning, be back at a
11 certain time in the afternoon. You go to work, you check
12 in. Sometimes there is some, I think, GPS or electronic
13 monitoring that's associated with that.

14 But I can't sit here and just -- I am not going to
15 sit here and just ask for straight probation and say it
16 would be unfair to put conditions on that, that's -- I don't
17 think that's a reasonable, rational argument.

18 I think the argument for probation with conditions
19 that the Court thinks is appropriate, I think, is a
20 reasonable request in this particular case.

21 And I hit on the point that you hit on about
22 deterrence, and it really goes to specific deterrence. At
23 the end of this, does the government want to have,
24 basically, supervision over him for a year?

25 Or, to further specific deterrence: Does the

1 government want to have supervision over him for a longer
2 period of time, even up to 5 years --

3 THE COURT: That is the conundrum that the
4 sentencing judges in these cases with misdemeanors face
5 because, if it was a felony --

6 MR. BRUNO: Right.

7 THE COURT: -- we could give 36 months of
8 probation, also give straight prison time without question.

9 MR. BRUNO: Right.

10 THE COURT: With misdemeanors -- if it's a Class A
11 misdemeanor, we give straight prison time. We're limited to
12 one year of supervision afterwards --

13 MR. BRUNO: Right.

14 THE COURT: -- which is, perhaps, as I have
15 already said, given the susceptibility that these defendants
16 have already demonstrated --

17 MR. BRUNO: Right.

18 THE COURT: -- of believing people and conspiracy
19 theories, and "the big lie," as people call it --

20 MR. BRUNO: And that goes to the point of --

21 THE COURT: -- you want a longer supervision.

22 MR. BRUNO: Right.

23 THE COURT: And so it's part of the sentencing
24 structure that creates some tension here that, I think, all
25 the judges on this court look at each individual defendant

1 in front of them to figure out: What is the best solution
2 here --

3 MR. BRUNO: Right.

4 THE COURT: -- to protect public safety?

5 Frankly, to be honest, Mr. Reed, it's to protect
6 our democracy from other people like you with beliefs that
7 you at least held on January 6th engaging in the same kind
8 of political violence that shook our democracy and shook the
9 standing of this country in the world. It is paramount that
10 we not have this happen again, so it's the conundrum.

11 MR. BRUNO: It is.

12 I just -- for this type of situation, this type of
13 case, I think that society has more of an interest in
14 monitoring him -- if they're really concerned that he would
15 do something like this again, then the answer to the
16 question is to monitor him and restrict his movement over a
17 period of years more so than it is to, say, go to jail for a
18 period of time --

19 THE COURT: A short period of time.

20 MR. BRUNO: -- I didn't want to say that. But to
21 go to jail, and then come out --

22 THE COURT: Well, it's only a misdemeanor.

23 MR. BRUNO: -- and then come out at that point,
24 and then you are limited in the supervision. I think that
25 society has more of an interest in being able to monitor and

1 restrict his movements over a longer period of time if there
2 is that concern of: Is he likely or possibly going to do
3 something like this again, much better opportunity to keep
4 that from happening with a longer term of supervision?

5 THE COURT: All right. Mr. Bruno, anything else?
6 I would like to hear from Mr. Reed.

7 MR. BRUNO: I think the Court knows exactly where
8 I am at on this. Thank you.

9 THE COURT: Okay. Thank you, and for your
10 clarifications of the record.

11 Mr. Reed, you may step forward.

12 I am willing to listen to anything you have to
13 say.

14 THE DEFENDANT: Yes, Your Honor. Thank you for
15 seeing me today.

16 I would like to apologize for my actions and say
17 that I was caught up in everything that day. I did wander
18 through, I do acknowledge that. I was not supposed to be on
19 those grounds. Curiosity got the better of me; and I wanted
20 to see what was going on.

21 It was almost like I was just watching it through
22 a viewfinder because I was videoing what all was going on,
23 trying to document what was happening, so that I could show
24 other people. I never had any malicious intent towards
25 anybody; I just wanted to document what was going on.

1 I did walk through. And then, when I got out and
2 I got back, I wanted to preserve the evidence that I had
3 that I had not done anything vicious towards anybody,
4 yelling any racial slurs or anything like that.

5 So what I done is took all of the photos and
6 videos off the phone and I loaded them onto a thumb drive to
7 preserve them. I didn't want to lose the phone; so that's
8 when I took the SIM card out and put it in the other phone
9 to use that one so that I could protect the evidence of the
10 other one if it were to end up in a situation like this.

11 Being in -- when they executed, I guess, the
12 warrant, I did go to jail for two days. It was a Sunday
13 morning, and that Monday was a holiday -- it was Martin
14 Luther King Day; so I was in jail for two days. I can say,
15 without a shadow of a doubt, I would not want to have to go
16 back to jail for any period of time; that was enough. I
17 would never have to want to do that again, period; that is
18 enough to deter me from doing anything else in the future.
19 I don't know how to say it any other way than that; but that
20 is the truth. And I'd much rather be on probation or to be
21 watched for any amount of time.

22 THE COURT: So, Mr. Reed, based on your Facebook
23 posts, on January 6th and before January 6th, you clearly
24 articulated your belief that the 2020 presidential election
25 was stolen.

1 Do you still believe that?

2 THE DEFENDANT: No, Your Honor. As of right now,
3 the President of the United States is Joe Biden.

4 THE COURT: And when you took videos of people
5 running around yelling this weird chant of, "Nancy, Nancy,
6 Nancy" -- thank goodness the Speaker of the House had been
7 evacuated because I fear what would have happened had that
8 mob come upon Nancy Pelosi.

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Would you have just videotaped them if
11 they had come across her? It looked like a lynching mob.

12 THE DEFENDANT: Correct. It did. I did see that.

13 And when I approached the Capitol, I guess, from
14 the side -- and they were talking about "hang them high,"
15 the crowd was chanting that -- and at that moment it changed
16 in my mind -- no one, at any given point, deserves to be
17 hung for anything. That's not justice, that's not right.

18 So I knew that if I could watch and observe
19 enough -- if anything like that were to happen, that I would
20 be able to stop something like that from happening.

21 THE COURT: And so when you saw people and you
22 videotaped people -- I had not seen this before, it was on
23 your videotapes I saw this -- that they had taken a sign
24 with Nancy Pelosi's name on it and broke the wood sign --
25 wooden sign.

1 THE DEFENDANT: I did not see that myself, Your
2 Honor. That was not my video.

3 THE COURT: Sorry. Yes?

4 MS. CARTER: Your Honor, that video is from
5 another investigation. They showed -- a portion of it
6 showed Mr. Reed, but that was not Mr. Reed's --

7 THE COURT: Oh. That was not Mr. Reed's
8 videotape.

9 MS. CARTER: Yes.

10 THE COURT: Okay. But he was in that area when
11 the person was taking the Nancy Pelosi sign and breaking it?

12 MS. CARTER: He was in the area of the Statuary
13 Hall connector, which is at the tail end of that video; that
14 was the overlap between his movements and the person who
15 took that video. It was not --

16 THE COURT: I see. Thank you for that
17 clarification.

18 So you don't remember seeing somebody taking the
19 Nancy Pelosi wooden sign and just --

20 THE DEFENDANT: I never saw that, Your Honor.

21 THE COURT: -- and breaking it violently into
22 little pieces?

23 THE DEFENDANT: I never saw that, Your Honor.

24 THE COURT: Okay. All right.

25 Thank you for that clarification.

1 THE DEFENDANT: I also did not -- I watched a
2 documentary on it afterwards. And I didn't know about the
3 actual real violence down in the tunnel. I did not see that
4 until later on, in the documentary. I was, like, "Wow,"
5 that was pretty bad. I mean, like, worse than I was seeing
6 everywhere else; that was much worse in my mind.

7 One of the things that I did do, as I was going
8 through, right before I exited, there was a guy that was
9 kicking a door. And I mentioned to him, like, "Hey, man,
10 stop kicking in the door." "We don't need to be doing stuff
11 like that here"; and I did deter him from kicking the door
12 in any more.

13 THE COURT: Well, your father wrote in his letter
14 that he raised his children to respect the law.

15 And your youth pastor wrote that you, "Exhibit a
16 respect for authority." And I actually was very surprised
17 by those comments because I saw what you did record when you
18 were outside the building.

19 I saw you filming people just like you did;
20 climbing up the scaffolding and climbing up places that were
21 clearly restricted with, you know, the flash-bangs going and
22 the alarms going, and people taunting the police.

23 How -- how is that respectful -- showing respect
24 for the law?

25 THE DEFENDANT: It was not, Your Honor.

1 I got caught up in the moment. My adrenalin was
2 going. When I first sat down with Paul and Luke, they said:
3 Well, how long do you think you were in the Capitol? I was,
4 like, I don't know. Maybe like four to seven minutes.

5 And then, to go back and look at the pictures and
6 document the time, it was 24 minutes. So, I mean, it was
7 just like everything was happening extremely fast. And I
8 got caught up in the moment, and it was a poor decision; one
9 that I would not make again.

10 THE COURT: All right. Is there anything else you
11 want to say?

12 THE DEFENDANT: No. Just, again, that the two
13 days that I did spend in jail was more than enough. And I
14 absolutely do not want to go back under any circumstances.
15 I'm sorry for my actions, and it will not happen again.

16 THE COURT: All right. Well, you can just remain
17 right where you are.

18 I am going to explain the sentence I am going to
19 impose. You can stand right there.

20 So after considering the parties' sentencing
21 memoranda, the probation department's presentence
22 investigation report, the sentencing recommendations I have
23 received from the government, probation office, and from the
24 defense, I am required to consider the factors set out in
25 18 U.S.C. Section 3553(a) where Congress has directed that

1 all sentencing courts ensure that I impose a sentence
2 sufficient but not greater than necessary to comply with the
3 purposes of sentencing, and those purposes include:

4 The need for the sentence imposed to reflect the
5 seriousness of the offense; promote respect for the law;
6 provide just punishment for the offense; deter criminal
7 conduct; protect the public from future crimes by the
8 defendant; and promote rehabilitation.

9 So having already considered how the guidelines
10 apply and the policy statements of the sentencing
11 guidelines, pursuant to 3553(a), I must consider the nature
12 and circumstances of the offense; your history and
13 characteristics, Mr. Reed; the types of sentences available;
14 the need to avoid unwarranted sentence disparities among
15 defendants with similar records found guilty of similar
16 conduct; and the need to provide restitution to any victims
17 of the offense.

18 I am going to begin with the restitution amount.

19 The plea agreement in the case provides a
20 restitution payment of \$500, which this Court finds is the
21 best available estimate of damages done to identifiable
22 victims, here: The Architect of the Capitol, the House
23 Chief Administrative Officer, the Secretary of the Senate,
24 the Senate Sergeant of Arms, and the Capitol Police on the
25 limited record presented in the case; and I so order this

1 amount pursuant to 18 U.S.C. Section 3663(a)(1)(A).

2 The mandatory restitution provisions under
3 18 U.S.C. Section 3663(a) also apply here. But I can waive
4 application of that mandatory restitution if I find that
5 determining complex issues of facts related to the cause or
6 amount of the victims' loss would complement or prolong the
7 sentencing process to a degree that the need to provide
8 restitution to any victim is outweighed by the burden of the
9 sentencing process. And so I do make that finding here to
10 avoid going into an analysis of restitution with evidence,
11 and so on, beyond the \$500 already fixed by the parties in
12 the plea agreement.

13 Regarding the nature and circumstances of the
14 offense, this defendant has been convicted of entering and
15 remaining in a restricted building or grounds, in violation
16 of 18 U.S.C. Section 1752(a)(1), a Class A misdemeanor.

17 This is a trespass offense. But even for
18 defendants like this one, who didn't engage in overt direct
19 violence against police officers or directly try and damage
20 the building, this was not a garden-variety episode of
21 unlawful entry or merely being unlawfully present in a
22 sensitive place like the Capitol, when the Vice President
23 was present and members of Congress were meeting to perform
24 a constitutionally mandated task.

25 This defendant -- by his conduct starting outside

1 the building in the grounds with a crowd that overwhelmed
2 the police officers from the outset, and then entering and
3 overwhelming the police inside the building -- was
4 successful, actually, in overwhelming law enforcement to
5 such an extent that Congress had to stop its proceedings and
6 ensuring the peaceful transition of power in this democracy,
7 and paused those proceedings for hours so that people could
8 be evacuated. They terrorized -- this defendant was part of
9 a mob that terrorized our elected representatives and
10 elected Vice President.

11 He traveled all the way from Tennessee; came
12 equipped with goggles and a respirator mask. And he first
13 attended the Stop the Steal rally, and then followed the
14 crowd there to the Capitol. This was intentional action.
15 This was not an impulsive jaunt.

16 On December 8th, he posted on Facebook that he was
17 "feeling pissed off"; "absolutely 100% disagree with
18 acknowledging Biden being elect anything." He called the
19 election: "The biggest scam even from statistical data";
20 and threatened if it "doesn't get overturned, you will see
21 the Republican side of this country go into anarchy"...
22 "because we've tried to work with the government, we've
23 tried the court system, and it has utterly failed so far!"
24 And he promised, "The Republican Rebellion is coming soon."

25 Later that same month, he exchanged messages with

1 a friend discussing how they could join the Proud Boys; and
2 there is no other evidence that he did anything else to
3 pursue that.

4 (Whereupon, the defendant confers with counsel.)

5 THE COURT: Mr. Reed, did you want to say
6 something about the Proud Boys?

7 THE DEFENDANT: I wanted to make it clear that I
8 never did join the Proud Boys or any affiliation with them
9 at all, period.

10 THE COURT: All right. But you were interested at
11 one point?

12 THE DEFENDANT: My friend had sent it to me; and I
13 never did go to the website, Your Honor.

14 THE COURT: Are you still friends with that person
15 who was interested and encouraging you to join the Proud
16 Boys?

17 THE DEFENDANT: I do still know them, ma'am, yes;
18 but I am not, you know, in daily conversation --

19 THE COURT: Well, that's a milieu of people who
20 are leading you astray.

21 Do you understand that?

22 THE DEFENDANT: Yes, ma'am. Yes, Your Honor.

23 THE COURT: I would do a double-check on your
24 friends.

25 On January 4th -- but I appreciate you making

1 clear and confirming that the government said they had no
2 evidence of you joining the Proud Boys.

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: On January 4th, 2021, you used
5 Facebook to announce your intent to go to D.C. You asked if
6 anyone else was going. And, in the end, you did go to the
7 Capitol and you went prepared with your goggles and
8 respirator mask, which is a step of preplanning for
9 potential violence; that, if you saw tear gas and police
10 trying to control mobs, you were ready to proceed, as
11 opposed to follow police instructions and not go where you
12 shouldn't be; and that's exactly what you did on
13 January 6th.

14 You went where you were not supposed to be,
15 despite the tear gas, despite the flash-bangs, alarms, and
16 so on; and you went and continuously filmed your progress
17 through the Capitol grounds, into the Capitol Building,
18 capturing the chaos that was occurring -- and threatening
19 behavior occurring that day inside the Capitol.

20 At around 2:09 p.m., you filmed several
21 confrontations between law enforcement and the mob,
22 including instances of rioters attacking law enforcement as
23 they tried to keep the crowd away from the Capitol Building.

24 You filmed a crowd chanting: "Hang 'em high," as
25 the rioters closest to the police hyped up the crowd and

1 attempted to force their way to the building. You continued
2 filming as the police deployed tear gas in a failed attempt
3 to keep the crowd at bay.

4 A tear gas canister actually landed within feet of
5 this defendant; but you remained unbothered, and calmly
6 proceeded by donning your ski goggles and your respirator
7 mask, and continued right on into the Capitol Building.

8 You filmed a section of the crowd pushing down
9 metal crowd-control fences, physically forcing the police to
10 retreat, and then attacking them once the police were
11 cornered.

12 After the rioters had finally overwhelmed the
13 officers holding back the crowd on the stairs, you were very
14 excited. You yelled, "This is insane!" "Whoohooohooo!" --
15 and began making your way into the Capitol Building because
16 the path had been cleared.

17 You used a crowd-control fence as a ladder to gain
18 access to a courtyard on the Capitol's upper west terrace,
19 near the Senate wing entrance, and you made it onto the
20 terrace. And you filmed a large crowd still on the streets
21 taunting Biden about his election votes yelling, "Where's
22 your 80 million now Biden?"

23 Once inside the Capitol, you remained very busy.

24 At this point, members of Congress were not yet
25 evacuated or in a place of safety. They were still trying

1 to do their job.

2 As the videos filmed that day show, you followed
3 the mob in their hunt to find members of Congress. You
4 followed this crowd into the Crypt, up a set of stairs going
5 past Speaker Pelosi's office as the crowd chanted, "Nancy,
6 Nancy," sounding, as I have already said, like a lynching
7 mob. Very chilling. And you recorded this event like it
8 was a game of hide-and-seek, instead of turning around and
9 leaving. This was not a mob or crowd you wanted to be part
10 of; that is not the choice you made -- again, and again, and
11 again.

12 You then joined the mob as they arrived at the
13 door leading to the House Chamber. You witnessed and filmed
14 how members of the mob chanted, "Stop the Steal"; demanded
15 that the remaining members of Congress, who were still
16 sheltering in place inside -- cowering underneath the
17 desks -- with the mob outside shouting, "Open the door."
18 When that demand was not met, the mob began chanting, "Break
19 it down," and attempted to break through the door. This is
20 when members of Congress, as the pictures show in the
21 government's sentencing memo, literally were laying under
22 their tables in fear for their lives.

23 You may not -- you may remember your two days in
24 jail after your arrest for the rest of your life; but I am
25 sure those members of Congress and all those staffers just

1 trying to be good public servants -- I am sure they're going
2 to remember that day also for the rest of their lives -- and
3 that's your fault because you were there helping the mob do
4 that.

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: In total, you spent 24 minutes inside
7 the Capitol, and more than an hour and a half on restricted
8 Capitol grounds.

9 You took pride in your petition -- in your
10 participation in that Capitol riot because you posted a
11 compilation of photos showing the violence and the chaos
12 with you there; saying, "We The People have spoken and we
13 are pissed!" "No Antifa." "No BLM." "We The People took
14 the Capitol" -- which you did. "Democratic tyranny WILL NOT
15 STAND!" "WE HAVE SPOKEN!"

16 And you exchanged messages with your codefendant
17 Bledsoe characterizing the conduct at the Capitol as "good
18 times"; this was after January 6th. When you realized that
19 those "good times" might place you in legal jeopardy, when
20 true American patriots were pretty shocked by what they were
21 witnessing on TV screens across the country on
22 January 6th -- but when you realized that those "good times"
23 might place you in legal jeopardy, you texted your
24 codefendant Bledsoe on January 8th, 2021, saying that you
25 had taken down your Facebook, Instagram, and Twitter

1 accounts which you had used to make posts during and before
2 January 6th. And the next day you texted your codefendant
3 Bledsoe again, claiming that there were no -- there were not
4 any "no trespassing" signs; that you thought you were in a
5 public building where you could document what was going on.
6 We were press, documenting the event for our followers. We
7 never obstructed anything, only documented -- as if you were
8 members of the press as opposed to members of the mob.

9 And on January 12th, you texted your codefendant
10 Bledsoe again, asking if he had removed all the pictures and
11 videos of defendant from his social media. And you took an
12 obstructive conduct further and you put away the cell phone
13 you were using on January 6th when -- in anticipation of the
14 government executing a search warrant on your house.

15 So among the factors that I look at in assessing
16 your role in this overall mob attack on the Capitol on
17 January 6th, as I look at whether you engaged in
18 preplanning, and you did -- you engaged in preplanning for
19 potential violence prior to coming from Tennessee to D.C. by
20 securing protective gear, including goggles and a respirator
21 mask.

22 You entered the Capitol Building very shortly
23 after the building -- the Senate wing door had been broken
24 into, at about 2:13 p.m. You were there at so much of the
25 front of the crowd that all of the members of the House of

1 Representatives had not even been fully evacuated yet and
2 were still in the House Chamber, when you were with the mob
3 circling the House Chamber with the crowd yelling, "Knock
4 the door down."

5 You were part of the crowd that took advantage of
6 overwhelming the police. You blatantly filmed officers
7 being attacked and confronted by rioters as they attempted
8 unsuccessfully to prevent the mob from entering the
9 building. And even while seeing that, you didn't turn
10 around; you happily followed the mob right into the Capitol
11 Building, among this first wave of very aggressive rioters.

12 You covered a lot of ground during your 24 minutes
13 inside the Capitol. There were some people who were members
14 of the mob who walked in and out within a few minutes, who
15 just stayed in what are totally public corridors where
16 tourists go -- not you; not you, Mr. Reed.

17 You went into the Crypt, the Rotunda, Statuary
18 Hall, and you made it to the nonpublic areas of the House of
19 Representatives in the Capitol, while police were waiting
20 for SWAT teams to come and save the rest of the elected
21 representatives and staff cowering inside the House Chamber.

22 You may not have physically attacked any police
23 officer that day, but you certainly didn't try and stop any
24 of the violence; you contributed to it.

25 Your social media postings surrounding January 6th

1 were very concerning, threatening, before the riot on
2 January 6th, that the country would go into anarchy.

3 On January 6th you posted a video of the crowd
4 marching to the Capitol with the title, "We are coming for
5 you" -- which was so concerning to Facebook that Facebook
6 banned you from Facebook for some period of time.

7 You posted a compilation of photos of the ongoing
8 riot and your presence at the Capitol claiming, "We The
9 People Have Spoken." "We Took The Capitol." "The
10 Democratic tyranny WILL NOT STAND."

11 Even after all you had seen on January 6th inside
12 the Capitol -- all you had seen, you were proud of what had
13 occurred that day.

14 In sum, the nature and circumstances of the
15 offense, and the need for the sentence to reflect the
16 seriousness of the offense and promote respect for the law
17 would favor a custodial sentence. You did more than rioters
18 who briefly wandered in and out of the building and only
19 some public corridors, and for very short periods of time.

20 You did planning for your visit, equipping
21 yourself with goggles and a respirator mask -- which
22 certainly came in handy as you were going through tear gas
23 clouds to go into the Capitol. And you went so near the
24 House Chamber door that police inside were -- had their guns
25 drawn to try and protect members of elected representatives

1 still there in case the mob came in.

2 You have no criminal history, but you have a
3 bachelor's degree in organizational leadership, and you have
4 consistently maintained gainful employment. This only shows
5 that you are college educated. As I said, you are a
6 grown-up engaging in this kind of conduct. You should be
7 better educated about what our system of government and what
8 our democracy is.

9 Your letters from your friends, your family, talk
10 about your work ethic, your respect for authority, your
11 generally helpful demeanor towards family and neighbors --
12 that is very hard to reconcile with what I saw on
13 January 6th and these posts you were making.

14 The need for the sentence imposed to deter
15 criminal conduct and protect the public from further crimes
16 by you are critical considerations for every sentencing
17 judge, including this one. And the criminal conduct we
18 witnessed on January 6th is among the most serious because
19 it threatens not just the people who were there -- the
20 members of Congress and the staff, press -- who were inside
21 the building legitimately; but it threatens all of us who do
22 believe in the rule of law and the foundations of our
23 democracy, where a peaceful transition of power has -- up
24 until January 6, 2021, was always the norm. We want to make
25 sure it stays the norm.

1 As I have made clear, in sentencings of other
2 January 6th defendants, being a crowd follower or an
3 uncritical believer in news and conspiracy theories --
4 regardless of how incredible -- does not absolve a defendant
5 for engaging in criminal activity, when the following of
6 such weird conspiracy theories -- particularly by a
7 college-educated person, amplifies the criminal conduct of
8 others; nor does dissatisfaction with our country's
9 legitimate and peaceful avenues for expression of discontent
10 give any single citizen license to disobey the law and
11 overthrow democratically elected representatives. Anarchy,
12 rebellion -- they're not the answer to disrupt the peaceful
13 transition of power after an election.

14 When determining the sentence to be imposed, the
15 importance of deterring future malcontents from advocating,
16 planning for, and then disrupting the peaceful transition of
17 power after an election weighs very heavily in this Court's
18 consideration.

19 Your decision, at sort of the front of the pack to
20 enter the Capitol at this early stage of the breach --
21 spending a significant 24 minutes inside the building, going
22 into the most highly-secure nonpublic areas of the building,
23 at a time when people were being terrorized inside the House
24 Chamber and as they were being evacuated; being in a crowd
25 that was engaged in looking for Nancy Pelosi, the Speaker of

1 the House, engaging in chants that were only revving each
2 other up and continuing to join that mob -- because it was
3 the numbers that were overwhelming the police -- and not
4 leaving; seeing that chaos and the effects of that chaos,
5 and then posting about your pride and your conduct that day
6 favors imposition of a custodial sentence to promote respect
7 for the law, deter you from future criminal activities that
8 are detrimental to our democracy.

9 The Class A misdemeanor provides a maximum term of
10 imprisonment of 1 year or up to 5 years' probation, which
11 can be subject to some special conditions, including
12 intermittent confinement.

13 Regarding the need to avoid unwarranted sentencing
14 disparities, both probationary and custodial sentences have
15 been imposed on January 6th defendants convicted of the same
16 Class A misdemeanor as you.

17 Most defendants convicted -- the majority of
18 defendants convicted of this Class A misdemeanor have been
19 given some term of incarceration. And given the specific
20 offense conduct of Mr. Reed, I am going to impose a sentence
21 of 3 years of probation, with the special conditions of
22 intermittent custodial sentence totaling 42 days of
23 intermittent confinement, as well as a period of home
24 detention, and a criminal fine.

25 So based on my consideration of these and other

1 factors, I will now state the sentence to be imposed.

2 Pursuant to the Sentencing Reform Act of 1984 and
3 in consideration of the provisions of 18 U.S.C. Section
4 3553, it is the judgment of the Court that you, Blake Austin
5 Reed, are hereby sentenced to a term of 36 months, or
6 3 years, of probation on Count 2 of the indictment, with
7 special conditions of a total of 42 days of intermittent
8 confinement to be served in three increments of 14 days
9 each, and 3 months of home detention.

10 In addition, you are ordered to pay a special
11 assessment of \$25 in accordance with 18 U.S.C. Section 31 --
12 3013, and a criminal fine of \$2500.

13 While on supervision, you shall abide by the
14 following mandatory conditions as well as the standard
15 conditions of supervision, which are imposed to establish
16 the basic expectations for your conduct while on
17 supervision.

18 The mandatory conditions include: One, you must
19 not commit another federal, state, or local crime.

20 Two, you must not unlawfully possess a controlled
21 substance, which includes marijuana -- no matter what your
22 state law is regarding marijuana. You must refrain from any
23 unlawful use of a controlled substance. You must submit to
24 one drug test within 15 days of placement on supervision,
25 and at least two periodic drug tests thereafter as

1 determined by the Court.

2 You must make restitution in accordance with
3 18 U.S.C. Section 3663 and 3663(a) or any other statute
4 authorizing a sentence of restitution. The Court -- you are
5 ordered to make restitution to the Architect of the Capitol,
6 in the amount of \$500. The Court determined you do not have
7 the ability to pay interest and, therefore, waives any
8 interest or penalties that may accrue on the balance of that
9 restitution.

10 You are ordered to pay a criminal fine in the
11 amount of \$2500. The Court has determined you do not have
12 the ability to pay interest and, therefore, waives any
13 interest or penalties that may accrue on the balance.

14 You shall also comply with the following special
15 conditions: Pursuant to 18 U.S.C. Section 3563(b)(10), you
16 must serve a total of 42 days of intermittent confinement.
17 The intermittent confinement shall be served in three
18 periods of 14 days each, within your first year of
19 probation, at a facility designated by the Bureau of
20 Prisons. You must follow the rules and regulations of the
21 facility in which you are designated.

22 You must also submit to home detention for a
23 period of three months as soon as practicable, and comply
24 with the location monitoring program requirement, as
25 directed by the U.S. Probation Office. You will be

1 restricted to your residence at all times, except for
2 employment, education, religious services, medical,
3 substance abuse, and mental health treatment, court-ordered
4 obligations, and any other time specifically authorized by
5 the U.S. Probation Office. The location monitoring
6 technology is at the discretion of the U.S. Probation
7 Office, and you must pay the cost of the monitoring.

8 You must also pay the financial penalty in
9 accordance with the schedule of payments sheet of the
10 judgment. You must also notify the Court of any changes in
11 economic circumstances that might affect the ability to pay
12 this financial penalty.

13 Having assessed the defendant's ability to pay,
14 payment of the total criminal monetary penalties is due as
15 follows: Payment in equal monthly installments of \$200 to
16 commence 30 days after the date of this judgment.

17 You must disclose to the probation officer -- you
18 must provide the probation officer access to any requested
19 financial information and authorize the release of any
20 financial information. The probation office may share
21 financial information with the U.S. Attorney's Office. You
22 must not incur new credit charges or open additional lines
23 of credit without the approval of the probation officer.

24 Restitution payments shall be made to the Clerk of
25 the Court for the U.S. District Court, District of Columbia,

1 for disbursement to the following victim -- the victim's
2 name is: Architect of the Capitol, Office of the Chief
3 Financial Officer; Attention, Kathy Sherrill, CPA, Ford
4 House Office Building, Room H2-205B, Washington, D.C. 20515,
5 in the amount of loss, \$500.

6 The financial obligations are immediately payable
7 to the Clerk of the Court for the U.S. District Court, 333
8 Constitution Avenue, Northwest, Washington, D.C. 20001.
9 Within 30 days of any change of address, you shall notify
10 the Clerk of the Court of the change until such time as the
11 financial obligation is paid in full.

12 The probation office shall release the presentence
13 investigation report to all appropriate agencies, which
14 includes the U.S. Probation Office in the approved district
15 of residence in order to execute the sentence of the Court.

16 Pursuant to 18 U.S.C. Section 3742, you have a
17 right to appeal the sentence imposed by this Court if the
18 period of imprisonment is longer than the statutory maximum
19 or the sentence departs upward from the applicable
20 sentencing guideline range. If you choose to appeal, you
21 must file any appeal within 14 days after the Court enters
22 judgment.

23 As defined in 28 U.S.C. Section 2255, you also
24 have the right to challenge the conviction entered or
25 sentence imposed if new and currently unavailable

1 information becomes available to you or on a claim you
2 received ineffective assistance of counsel in entering a
3 plea of guilty to the offense of conviction or in connection
4 with sentencing. If you are unable to afford the cost of an
5 appeal, you may request permission from the Court to file an
6 appeal without cost to you.

7 Are there objections to the sentence imposed not
8 already noted for the record from the government?

9 MS. CARTER: No, Your Honor. Thank you.

10 THE COURT: And from the defense?

11 MR. BRUNO: No other objections.

12 THE COURT: All right. You may be seated.

13 Does the government have a motion to dismiss any
14 open counts of indictment?

15 MS. CARTER: Yes, Your Honor.

16 We would move to dismiss Counts 3 through 5 as to
17 Blake Austin Reed.

18 THE COURT: And that motion is granted.

19 Is there anything else to deal with today from the
20 government?

21 MS. CARTER: No, Your Honor. Thank you.

22 THE COURT: And from the defense?

23 MR. BRUNO: No, Your Honor.

24 THE COURT: All right. You are all excused.

25 PROBATION OFFICER: Your Honor.

1 Your Honor, this is Officer Walters from the
2 probation office.

3 THE COURT: Yes?

4 PROBATION OFFICER: For purposes of the
5 intermittent confinement and home detention, did you have a
6 preference as to how they should be served; one before the
7 other, concurrently with each other? What is your
8 preference?

9 THE COURT: The home detention should come first
10 because it's going to take some time for the Bureau of
11 Prisons to designate a facility.

12 PROBATION OFFICER: Okay. Yes, ma'am. I will let
13 his district know.

14 THE COURT: And I know that the probation office
15 requested that transfer of jurisdiction of this case be made
16 to Tennessee; and I am not transferring jurisdiction of this
17 case.

18 PROBATION OFFICER: Yes, ma'am. Thank you.

19 THE COURT: All right. Anything further from the
20 probation office?

21 PROBATION OFFICER: One more time, could you tell
22 me how much the monthly payment was for the total --

23 THE COURT: \$200 per month, to begin 30 days after
24 the judgment is entered.

25 PROBATION OFFICER: Thank you, Your Honor.

1 THE COURT: All right. Thank you.

2 You are all excused.

3 (Whereupon, the proceeding concludes, 2:34 p.m.)

4 * * * * *

5 **CERTIFICATE**

6
7 I, ELIZABETH SAINT-LOTH, RPR, FCRR, do hereby
8 certify that the foregoing constitutes a true and accurate
9 transcript of my stenographic notes, and is a full, true,
10 and complete transcript of the proceedings to the best of my
11 ability.

12
13 This certificate shall be considered null and void
14 if the transcript is disassembled and/or photocopied in any
15 manner by any party without authorization of the signatory
16 below.

17
18 Dated this 31st day of May, 2022.

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

21

22

23

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