

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	.	
	.	
Plaintiff,	.	CR No. 21-0165 (TSC)
	.	
v.	.	
	.	
DONA SUE BISSEY,	.	Washington, D.C.
	.	Tuesday, October 12, 2021
Defendant.	.	2:07 p.m.
.	

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE TANYA S. CHUTKAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	JOSHUA S. ROTHSTEIN, AUSA U.S. Attorney's Office 555 Fourth Street NW Washington, DC 20530 (202) 252-7566
For the Defendant:	CARA K. HALVERSON, AFPD Federal Public Defender Office 625 Indiana Avenue NW Suite 550 Washington, DC 20004 (202) 208-7500
Court Reporter:	BRYAN A. WAYNE, RPR, CRR U.S. Courthouse, Room 4704-A 333 Constitution Avenue NW Washington, DC 20001 (202) 354-3186

Proceedings reported by stenotype shorthand.
Transcript produced by computer-aided transcription.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

(Via Videoconference)

THE DEPUTY CLERK: Your Honor, we have Criminal Action 21-165, United States of America versus Dona Bissey. We have Mr. Joshua Rothstein representing the government, Ms. Cara Halverson representing the defendant, all appearing by video, and we also have Ms. Kelli Willett representing Probation, and she's appearing by video as well.

THE COURT: Good afternoon. We're here for the sentencing of Ms. Bissey. Ms. Bissey, can you hear me?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Obviously, it's very important that you be able to hear and you're on camera and see everything that's going on. If at any point you lose video or audio feed, you need to let Mr. Bradley or somebody know so we can halt the proceedings until we can reconnect you. Okay?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Ms. Halverson and Mr. Rothstein, do the parties agree to proceed by videoconference pursuant to the CARES Act given the current global pandemic?

MR. ROTHSTEIN: Yes, Your Honor. Thank you.

MS. HALVERSON: Yes, Your Honor. Thank you.

THE COURT: All right. And just in the event there are parties -- good afternoon, Ms. Willett. Just in the event there are parties calling in or listening in or in any way

1 participating in these proceedings, just a reminder that it
2 is a violation of local and federal court rules to record any
3 portions of this proceeding or take any screenshots or any
4 video recording of these proceedings.

5 Okay. We are here for the sentencing of Ms. Bissey,
6 who has pleaded guilty to Parading, Demonstrating, or Picketing
7 in a Capitol Building, in violation of Title 40 § 5104(e) (2) (G)
8 of the United States Code.

9 In preparation for this sentencing, I have received and
10 reviewed the following materials: The presentence report and
11 sentencing recommendation from the probation department and
12 the following documents submitted by counsel in advance of the
13 hearing.

14 I've looked at the plea agreement signed by Ms. Bissey,
15 the statement of offense signed by Ms. Bissey, the government's
16 sentencing memorandum, Ms. Bissey's sentencing memorandum,
17 Ms. Bissey's letter to the Court, and letters of support for
18 Ms. Bissey from her husband, from Katrina Michael, Kimberly
19 Gooding, Deanna Patterson, Melinda Barnhill, Sondra Thompson,
20 and I've reviewed the presentence investigation report and
21 recommendation. Okay.

22 Am I missing anything, Ms. Halverson or Mr. Rothstein?

23 MR. ROTHSTEIN: No, Your Honor.

24 MS. HALVERSON: No, Your Honor. Thank you.

25 THE COURT: Okay. Let me start with the presentence

1 report. The final presentence report and sentencing
2 recommendation were filed on September 23, 2021. I understand
3 that both parties were able to look at the draft before I saw
4 it and make any objections, but I'll ask on the record now,
5 Mr. Rothstein, does the government have any objection to any of
6 the factual determinations set forth in the presentence report?

7 MR. ROTHSTEIN: No, Your Honor. Thank you.

8 THE COURT: Ms. Halverson?

9 MS. HALVERSON: No, Your Honor.

10 THE COURT: Okay. Are either of you expecting any
11 witnesses at this hearing?

12 MR. ROTHSTEIN: No, Your Honor.

13 MS. HALVERSON: Not from the defense. No.

14 THE COURT: All right. Ms. Bissey, are you fully
15 satisfied with the services of Ms. Halverson as your attorney
16 in this case?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Okay. Do you feel that you've had enough
19 time to talk to her about the presentence report prepared by the
20 probation department and the papers that were filed by the
21 government in connection with your sentencing?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Okay. Ms. Halverson, have you and
24 Ms. Bissey read and discussed the presentence report?

25 MS. HALVERSON: We have, Your Honor.

1 THE COURT: And you've already stated that there are
2 no disputed issues of fact; that is, Ms. Bissey has no objection
3 to any of the factual statements set forth in the presentence
4 report?

5 MS. HALVERSON: Correct.

6 THE COURT: Okay. Hearing no objection from either
7 side, I will accept the factual recitations in the presentence
8 report regarding the circumstances of the offense, and therefore
9 the facts as stated in the report will be my findings of fact
10 for the purpose of this sentencing.

11 Now, Ms. Bissey, because you have pleaded guilty to a
12 misdemeanor offense, the United States Sentencing Guidelines
13 do not apply to your case, but nonetheless, the statute titled
14 18 U.S.C. § 3553(a) requires me to consider a variety of factors
15 including the applicable penal statutes to your case.

16 The charge of Parading, Demonstrating, or Picketing in
17 a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(G),
18 carries a statutory maximum penalty of six months of imprisonment.
19 Because you have pleaded guilty to a petty offense, the statutes
20 do not authorize a term of supervised release, and the statute
21 of conviction sets a maximum fine of up to \$5,000.

22 A special assessment of \$10 is mandatory, and the statutory
23 restitution provisions are applicable because there is an
24 identified victim. Under 18 U.S.C. § 3663A and the plea
25 agreement, you have agreed to pay \$500 in restitution to the

1 Clerk of the Court for disbursement to the Architect of the
2 Capitol to compensate for damages that were done to the Capitol
3 during the January 6th riots.

4 Counsel, have I stated accurately the statutory framework
5 here? Mr. Rothstein?

6 MR. ROTHSTEIN: Yes, Your Honor.

7 THE COURT: Ms. Halverson?

8 MS. HALVERSON: Yes, Your Honor.

9 THE COURT: Okay. You all may have already received
10 this information, but before I discuss the statutory sentencing
11 factors -- well, let me ask you, Ms. Halverson, have you
12 received the probation office's sentencing recommendation?

13 MS. HALVERSON: I have, Your Honor. Thank you.

14 THE COURT: Mr. Rothstein, have you?

15 MR. ROTHSTEIN: I have not seen that, Your Honor.

16 THE COURT: Okay. Well, the probation office has --
17 taking into account the available sentences and all the factors
18 under § 3553(a), the probation office recommends a sentence
19 of 18 months of probation, \$500 in restitution, and a special
20 assessment of \$10. The recommendation of the probation office
21 is not based on any facts and circumstances that have not
22 already been revealed to the parties in the presentence report.

23 And, Ms. Bissey, as I told you at your plea hearing, the
24 Court is bound only by the statutory maximum of six months in
25 prison here. The probation office has made its recommendation,

1 the government has made its request for what it believes to be
2 a just sentence, and so has your lawyer. I am not bound by any
3 of these; I am bound only by the statutory maximum. Of course
4 I will consider all the recommendations in this case, but in
5 the end, the decision as to what your sentence will be is mine.
6 Do you understand?

7 THE DEFENDANT: Yes, Your Honor, I do.

8 THE COURT: Okay. Now, at this point I'd like
9 to give the parties an opportunity to address the Court.

10 Mr. Rothstein.

11 MR. ROTHSTEIN: Thank you, Your Honor.

12 Actions have consequences. Rioting to overturn an election
13 has consequences. If you don't want to suffer an economic loss
14 to your business, don't join a riotous mob and then write on
15 social media that "It's the best f'ing day ever."

16 If you don't want to suffer public humiliation, don't
17 storm the Capitol and then write on social media, "I'll never
18 forget it for the rest of my life. I'm glad I was there."

19 And if you don't want to be shunned by your community,
20 don't try to tear down your government and then write on social
21 media, "I'm glad I was a part of it. No shame."

22 So let's focus on the defendant's actions which bring
23 her before the Court today. The defendant and her friend,
24 Anna Morgan-Lloyd, came from Indiana to participate in the
25 January 6th attack on the Capitol, a violent attack that forced

1 an interruption of the certification of the 2021 electoral
2 vote count, threatened the peaceful transfer of power, injured
3 more than 100 members of law enforcement, and resulted in
4 more than a million dollars worth of property damage.

5 After attending the Stop the Steal rally, the defendant
6 and Morgan-Lloyd proceeded to the Capitol. On the way to the
7 Capitol, the defendant took two photographs which she posted on
8 Facebook. Both included rioters in full battle-dress uniform --
9 helmets, gloves, camouflage -- and she wrote "They're here"
10 with a smiley face.

11 After arriving at the Capitol and ascending the steps,
12 the defendant took photos of the riotous mob including those in
13 or around the scaffolding on the western front of the building.
14 The defendant then entered the Capitol building through a door
15 on the western front approximately one minute after it had been
16 breached by rioters that broke windows and pushed back a number
17 of law enforcement officers who had attempted to barricade the
18 entry and had fallen back to defend themselves.

19 The defendant walked through a single hallway and remained
20 in the Capitol for a little over 10 minutes. While inside the
21 building, the defendant posted a photograph with Morgan-Lloyd
22 and two other individuals in a hallway of the Capitol, one of
23 whom is holding a Trump campaign flag. The defendant later
24 posted that photograph on Facebook with caption "Inside the
25 Capitol Building."

1 Later that day, the defendant posted on Facebook,
2 bragging that "This is the first time the U.S. Capitol has been
3 breached since it was attacked by the British in 1814." It's
4 mind-boggling why the defendant was proud to have accomplished
5 something that had only previously been done by a foreign enemy
6 at war with our country.

7 In the same post, the defendant described a fellow rioter
8 as a, quote, "True Patriot and Warrior!!!" The individual the
9 defendant described as a true patriot and warrior and her fellow
10 members of the mob were in fact rioters, breaking windows,
11 destroying government property, and assaulting law enforcement
12 officers.

13 The patriots and warriors were the members of law
14 enforcement who were outnumbered and fought back against
15 thousands of protesters, to protect the Capitol and its public
16 servants running for their safety. It should be noted that all
17 of the photographs that were posted by the defendant and Anna
18 Morgan-Lloyd were taken by the defendant. Her phone appears
19 to be the only source of their photos that were later posted
20 on social media.

21 That evening, in a text message to a friend, when asked
22 if she was scared, the defendant said, "Hell no. We stormed
23 the Capitol, and I'll never forget it for the rest of
24 my life. I'm very glad I was there. God has kept us safe."

25 The next day, the defendant posted on Facebook and wrote,

1 "It was a day I'll remember forever. I'm proud that I was a
2 part of it! No shame. BTW" -- which stands for "by the way" --
3 "turn off the #FakeNews."

4 On January 8, the defendant posted two more photos
5 including one with rioters climbing the scaffolding and one
6 with a rioter holding a broken sign that had been ripped
7 from the wall of the Speaker's office. The defendant wrote,
8 "This really happened!"

9 On January 11, five days after the riot, the defendant
10 continued to be prideful about her unlawful conduct, posting
11 another photo showing rioters walking down the steps of the
12 Capitol.

13 On February 24, 2021, the defendant was arrested
14 outside of Hot Heads Hair salon, which she owned and operated.
15 The defendant agreed to be interviewed by law enforcement.
16 Although she accepted responsibility for her actions, she
17 claimed that she was, quote, shocked by what they saw on
18 the news and did not have any idea of the activities in the
19 Capitol.

20 Most unbelievable was that the defendant claimed that
21 she would not have gone into the Capitol if she had known
22 that she was not allowed. It's not clear why the knocked-
23 over barricades, teargas, broken windows, law enforcement
24 in riot gear and general mayhem did not serve as a sufficient
25 signal that perhaps the Capitol was not welcoming visitors

1 that day. The defendant told the agents that God had told
2 her to go to the Capitol that day.

3 In July 2021, the defendant pleaded guilty to one count
4 of Parading, Demonstrating, or Picketing in a Capitol Building.
5 By way of background, early in this investigation the government
6 made a limited number of plea offers in misdemeanor cases that
7 included an agreement to recommend probation.

8 Here the defendant promptly accepted the government's
9 offer. The government is, therefore, abiding by its prior
10 agreement to recommend probation. Specifically, the government
11 recommends a sentence of three years' probation here.

12 There are a number of factors that the Court should
13 consider in fashioning a sentence. First, the government
14 is not aware of any evidence that the defendant's entry into
15 the Capitol was preplanned or coordinated with anyone else,
16 including any extremist or organized groups.

17 Second, the government is not aware of any evidence that
18 the defendant incited others to commit other acts of violence
19 or destruction.

20 Third, the government is not aware of any evidence that
21 the defendant engaged in any violence towards law enforcement.

22 Fourth, the government is not aware of any evidence that
23 the defendant destroyed or stole any property from the Capitol.

24 Fifth, based on the government's investigation, it appears
25 that the defendant remained in a limited part of the Capitol

1 building for a limited period of time, i.e., one hallway for
2 a little over 10 minutes.

3 The government is not aware of any evidence that the
4 defendant entered any rooms or offices in the Capitol, the
5 Capitol Rotunda, or the Senate or House chamber.

6 Sixth, the defendant cooperated with law enforcement at
7 the time of her arrest including submitting to a voluntary
8 interview.

9 Seventh, the defendant timely admitted to her actions and
10 accepted responsibility.

11 And eighth, the defendant does not have a criminal history.

12 The government believes that these factors all support
13 the recommendation of a sentence of three years' probation,
14 restitution, and community service. The government notes that
15 the defendant has already served two days in jail at the time
16 of her arrest.

17 In addition, the government's recommendation would result
18 in the defendant's conduct being under government supervision
19 for a period of three years. As noted in the government's
20 sentencing memo, the defendant appears to be susceptible to
21 believing outlandish and absurd conspiracy theories. To protect
22 the public, it's important to make sure that she does not fall
23 victim to another lie or conspiracy and act out in a way that
24 again jeopardizes public safety.

25 For instance, as we noted, she's a follower of QAnon and

1 appears to be an avid consumer of associated conspiracy theories
2 including, among other things, that the coronavirus does not
3 exist, specifically that it is a hoax "scamdemic," that the
4 vaccine is part of a plot by the Jewish Illuminati to murder
5 people, and that the pandemic was foreshadowed through, quote-
6 unquote, predictive programming during the opening ceremony
7 at the 2012 London Olympics.

8 Her susceptibility to believing these dangerous conspiracy
9 theories and, more importantly and most relevantly, her
10 willingness to act on it is an important reason why three
11 years of probation is necessary. It's one thing to believe in
12 conspiracy theories in your basement, and it's another thing
13 to act out on them and, for instance, to travel from Indiana
14 to D.C. to storm the Capitol to overturn an election.

15 Had the government requested that the Court impose a term
16 of incarceration, the maximum term of government supervision
17 would have been six months. Under the government's recommendation,
18 the defendant will be under government supervision for an
19 additional 30 months.

20 In addition, the government is requesting that the Court
21 impose the following mandatory conditions of probation:

22 (1) that the defendant not commit another federal, state,
23 or local crime during the term of probation;

24 (2) that she not unlawfully possess a controlled substance;

25 (3) that she refrain from the use of controlled substances

1 and submit to at least one drug test within 15 days of release
2 on probation, and at least two periodic drug tests thereafter
3 as determined by the Court for use of a controlled substance;

4 (4) that she make restitution and pay the special assessment;

5 (5) that she notify the Court of any material change in
6 her economic circumstances that might affect her ability to
7 pay restitution, fines, or special assessments.

8 In addition, the government is requesting that the
9 following discretionary conditions be imposed by the Court:

10 (1) that the defendant refrain from possessing a firearm,
11 destructive device, or other dangerous weapon;

12 (2) that she work in community service for 40 hours as
13 directed by the Court;

14 (3) that she report to a probation officer as directed
15 by the Court or Probation;

16 (4) that she permit a probation officer to visit her
17 home or elsewhere as specified by the Court;

18 (5) that she answer inquiries by a probation officer
19 and notify probation promptly of any changes in address or
20 employment;

21 (6) that she notify a probation officer promptly
22 if she's arrested or questioned by law enforcement; and

23 (7) that she satisfy such other conditions that the
24 Court may impose.

25 The government believes that 36 months of these onerous

1 conditions, as well as the two days already spent incarcerated,
2 will serve the goal of both specific and general deterrence.

3 Because of the defendant and her fellow rioters' actions,
4 schoolchildren and tourists who come to the Capitol will visit
5 not just the site where Congress makes laws and presidents
6 deliver their State of the Union and American heroes lie in
7 state, they will now visit a crime scene.

8 When the defendant visited the Capitol that day, she was
9 never a tourist or a peaceful protester. She was a rioter, a
10 member of an angry mob. The defendant's storming of the Capitol
11 is a serious violation of the law, and she must be held
12 accountable. Just as she said she will never forget that day,
13 it is important that she also never forgets the punishment she
14 receives and the consequences for her unlawful actions.

15 For the reasons set forth above and in the government's
16 papers, the United States respectfully requests that the Court
17 impose a term of three years' probation including the mandatory
18 and discretionary conditions described above, restitution in the
19 amount of \$500, and 40 hours of community service.

20 Thank you, Your Honor.

21 THE COURT: Thank you, Mr. Rothstein.

22 Ms. Halverson?

23 MS. HALVERSON: Thank you, Your Honor. So I just
24 want to start with saying that I think we can all agree that
25 January 6 was a day many of us will remember, because I think

1 it broke a lot of our hearts. Many of us were angry, angry that
2 a politician was allowed to run wild and angry that supporters
3 of that politician claiming to be patriots did something so
4 wildly unpatriotic. The United States' seat of government
5 was invaded. It was horrifying to watch. And as the images
6 continued to spill out in the coming weeks, many of us were left
7 aghast.

8 But even with those feelings, Your Honor, I implore the
9 Court to focus its attention on Ms. Bissey as an individual and
10 not as a proxy for that entire day, nor as a symbol of President
11 Trump's supporters. This cannot be about Ms. Bissey's beliefs.
12 As strange or weird as they are, it cannot be about her beliefs.
13 It must be about her actions that day.

14 Ms. Bissey is a new grandmother and a devoted wife to
15 her husband Denny. She is more than her actions on January 6.
16 She is a 53-year-old woman that has spent her entire life in
17 Indiana. She has no interactions with the criminal justice
18 system except for a 30-year-old, alcohol-related incident.
19 She doesn't drink. She doesn't gamble. She doesn't smoke.

20 She takes care of her husband after the pair suffered a
21 devastating motorcycle accident in 2014. She deals with an
22 autoimmune hepatitis disorder the best that she can. She
23 started and maintains her own business and is the powerhouse
24 economic firestorm of her household.

25 She is gregarious. She is warm. She is lively. I can

1 promise you that she is not a monster. She is a woman who
2 made a mistake, and that mistake has already cost her dearly,
3 both emotionally and financially.

4 I wrote a longer history about Ms. Bissey and her life in
5 my sentencing memorandum, but I think that there are four main
6 facts that I want to highlight for Your Honor.

7 The first one is that she did not come to D.C. with any
8 intention other than supporting her president. She had no
9 idea, no ambition, and no plan of storming the Capitol that
10 day. She did not break anything, assault anyone, or steal any
11 property. She was in the building for 10 minutes, took photos,
12 and then left of her own volition.

13 Ms. Bissey's former codefendant, who did the exact same
14 conduct as Ms. Bissey, lock in step, Ms. Anna Morgan-Lloyd,
15 was sentenced to probation already. It would be a grave and
16 unwarranted sentencing disparity if this court were to sentence
17 Ms. Bissey to something different than that.

18 Additionally, the prosecutor, the probation office, and
19 defense are all uncommonly asking the Court not to impose
20 executed incarceration in her case.

21 And the fourth point I want to make, Your Honor, is that
22 she is sorry. She is ashamed of her actions on January 6.
23 I have gotten to know Ms. Bissey over the life of this case,
24 and I cannot tell you the amount of times she has called me,
25 crying, about January 6. She is genuinely remorseful about her

1 actions. She is ashamed that she participated.

2 But I don't think -- and I lay this out in my sentencing
3 memorandum -- I don't think that that hit her right away. So I think
4 that there were some comments that she made and the prosecutor
5 pointed out that she made in the few days after January 6 which
6 show that, at the time, she was proud of her interaction. But
7 over time, and as the images came out and more information was
8 revealed about what happened that day at all the different
9 fronts of the Capitol building, she became horrified that she
10 participated in something like that.

11 As she wrote in her letter to you, she does consider
12 herself to be a patriot, she does love her country, and she did
13 not mean to do something that would cause shame for her or for
14 her family or for her country. She sincerely believes that what
15 she did was wrong, and I have no doubt that she will not repeat
16 something like this.

17 Finally, I'll just note to the Court an update that
18 happened this morning. Mr. Bissey, who is Ms. Bissey's
19 husband, was admitted into the ER because he may have had
20 another ministroke episode, and he's being checked out right
21 now at the ER.

22 I told Ms. Bissey this morning, I said, if we need to seek
23 a continuance for sentencing, I would happily ask Your Honor
24 for that. And she said, "No, no, no, no, no. I just told them
25 not to call me from the ER. I'll find out what happened to him

1 after. It's important that I'm in court." So that should show
2 you a little bit of integrity for Ms. Bissey.

3 Additionally, her daughter-in-law, who just had her first
4 grandchild, is also in the hospital with aortic tears of her
5 heart, which means that the entire family is sort of in crisis
6 mode trying to care for newborn baby Lily. And Ms. Bissey,
7 again, wanting to make sure that she was fully available, made
8 arrangements for the other grandmother to be keeping care of
9 Lily while she is participating in the sentencing today.

10 I say that because in my sentencing memo I talked about
11 how Ms. Bissey was very much needed at home, and I think even
12 more so than when I wrote that, she is needed at home now.

13 So, for all of these reasons and the reasons noted in my
14 sentencing memorandum, for the reasons noted in the government's
15 sentencing memorandum and probation's recommendation, I ask the
16 Court to impose a sentence of probation, no active incarceration
17 beyond the two days that she's already served, the community
18 service, and the restitution order of \$500.

19 THE COURT: Thank you, Ms. Halverson.

20 And, Ms. Bissey, is there anything you'd like to say?
21 I've read your letter, but you're certainly free to address
22 the Court at this point.

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: All right. And I am sorry to hear about
25 your husband and daughter-in-law, and I hope they both make a

1 speedy recovery.

2 THE DEFENDANT: Thank you.

3 THE COURT: All sentencings are difficult for
4 this Court, and I think they're difficult for my colleagues
5 generally, because we are tasked with a grave responsibility
6 of exacting punishment, taking into account the factors that
7 support sentencing and viewing each defendant that comes
8 before us as an individual.

9 And, Ms. Halverson, I fully agree with you. While
10 Ms. Bissey participated in a mob action, her actions are
11 different from others, her background is different from
12 others, and I view her as an individual here and have taken
13 into account all the material I've read and all the letters
14 I've gotten on her behalf.

15 As with all sentencings, I must balance the factors
16 that I have to consider in sentencing, bearing in mind that
17 the sentence that I impose should be sufficient but not greater
18 than necessary to comply with the purposes of sentencing.

19 These purposes include the need for the sentence imposed
20 to reflect the seriousness of the offense, to promote respect
21 for the law, and provide for just punishment. The sentence
22 should also deter criminal conduct, protect the public from
23 future crimes that the defendant might commit, and promote
24 rehabilitation.

25 I must also consider the nature and circumstances of the

1 offense, the history and characteristics of the defendant, the
2 types of sentences available, the need to avoid unwarranted
3 sentence disparities, and the need to provide restitution.
4 I've considered all these factors, some of which have greater
5 relevance than others.

6 Ms. Bissey has already agreed, as part of her plea
7 agreement, to pay restitution. Given her financial situation,
8 I see no reason to impose a fine where she's already stretched
9 thin in that regard.

10 The nature and circumstances of the offense are of
11 particular importance here. I've said it, and so have my
12 colleagues: Without the participation of every single person
13 who entered the Capitol unlawfully on January 6, there would
14 have been no mob, and that mob came dangerously close to
15 accomplishing its goal of preventing the lawful transfer of
16 power, something that has never happened in this nation's
17 history.

18 Ms. Bissey was no inadvertent participant. She and her
19 friend, Ms. Lloyd, drove to Washington from Indiana to protest
20 the fact that their candidate had lost the election, which many
21 of her and her co-protesters believed was somehow stolen from
22 her.

23 Now, I want to make it clear, Ms. Halverson and
24 Mr. Rothstein -- Ms. Halverson has touched on it, but I want
25 to make it clear. This court does not factor Ms. Bissey's

1 political beliefs into the sentence. Ms. Bissey is free
2 to believe whatever she wants to believe and have whatever
3 political philosophy and support whatever candidates she does
4 and she believes. That is the right of every person in America.
5 And it is a right that those people who work in the Capitol
6 were defending that day, and it is a right that I will defend.

7 This case is not about Ms. Bissey's political beliefs.
8 It is about her actions. And that is what the sentence is
9 focused on. Ms. Bissey attended the protest at the Ellipse
10 where several speakers encouraged the crowd to take action.
11 And take action she did.

12 At several points along the way, Ms. Bissey could have
13 chosen to disassociate herself from the mob. At every point,
14 she chose not to. She could have left the protest at the
15 Ellipse and returned to where she was staying. She chose not
16 to. She walked with the crowd to the Capitol where she saw
17 people pushing through the fencing at the bottom of the steps
18 and heard a window being broken.

19 Minutes after the Senate doors were breached, while
20 congressional employees were running or hiding in fear for their
21 lives, Ms. Bissey and her friend went inside. Once inside, they
22 wandered around taking photographs, despite the chaos and the
23 violence going on around them.

24 When Ms. Bissey got home, she was not struck with remorse
25 or regret for what she'd done. As Mr. Rothstein has set forth,

1 in the days after the riot, once Ms. Bissey had returned home,
2 she continued to post and brag of her participation: "It is
3 a day I'll remember forever. I'm proud I was a part of it.
4 No shame."

5 On the 8th she posted photos including one with a
6 protester holding a stolen, damaged sign reading "Speaker of
7 the House." She posted a screenshot of a Twitter post that
8 read, "This is the first time the U.S. Capitol has been breached
9 since it was attacked by the British in 1814," bragging.
10 She was celebrating and bragging about her participation in
11 what amounted to an attempted overthrow of the government.

12 It was not until January 22, when she went to apply for
13 a firearm permit and someone recognized her from her pictures,
14 she was questioned by law enforcement and eventually charged.
15 And that is when the remorse sets in.

16 I understand your position, Ms. Halverson, but I
17 cannot help but think that had there been no consequences
18 for Ms. Bissey in terms of getting criminally charged, had
19 there been no public outcry, she would still be proud of her
20 participation in that riot.

21 It wasn't the public images that caused her to rethink
22 her participation. It was the consequences to her, personally.
23 I've read in the submissions you gave me about the consequences
24 that she personally has suffered, from losing her lease, from
25 her business drying up, from the condemnation that she has

1 received from people in the community. So I do question your
2 characterization of her remorse, and it's not, in my opinion,
3 borne out by the record.

4 Now, with regard to Ms. Bissey's history and characteristics,
5 the Court has reviewed the presentence report and the defense
6 submissions, including the letters in support of Ms. Bissey, and
7 despite some minor charges many years ago, she appears to have
8 lived a productive life and has many friends and family members
9 who love and support her. This is to her credit.

10 Also to her credit are the things that Mr. Rothstein
11 mentioned. During the riot, she did not break anything, she
12 didn't destroy anything, she didn't steal anything, she didn't
13 assault law enforcement, and she left of her own volition.
14 These are factors in her favor, and I have considered them in
15 determining my sentence.

16 As to the types of -- and I've said this before, and
17 I'll say this in Ms. Bissey's case: People are complicated.
18 I frequently have defendants in front of me who are loved in
19 their community or who are loved by their families or who are
20 loved by their children. Good people are capable of doing bad
21 things. And Ms. Bissey appears to be a person who's loved by
22 her family, who supports her family, and upon whom her family
23 relies. But she engaged in conduct that was, frankly,
24 regrettable and dangerous.

25 Now, as to the sentences available, Ms. Bissey certainly

1 does not appear to be -- it occurs to me that Ms. Bissey does
2 not necessarily need three years' probation. I agree with
3 Mr. Rothstein that she appears to be particularly susceptible
4 to false conspiracy theories and false information, but again,
5 it's Ms. Bissey's right to believe whatever she wants to believe.
6 That's her right. She has that freedom of choice.

7 She told the presentence report writer that she is --
8 and I'm using the terms from the presentence report -- she's
9 an anti-masker and an anti-vaxxer. That is her right. She
10 absolutely has that right to believe that and an absolute
11 right not to vaccinate herself, take a vaccination.

12 But, Ms. Halverson, I have to say that I find it pretty
13 ironic that you urge -- and you recognize the irony -- that you
14 urge me not to incarcerate Ms. Bissey because she has health
15 conditions that could put her at serious risk of COVID when she
16 appears (a) not to believe in COVID, and (b) has refused to take
17 action which would prevent or at least help to alleviate or
18 minimize the danger posed by a COVID infection. So I find that
19 somewhat puzzling and most certainly inconsistent.

20 MS. HALVERSON: May I respond to that, Your Honor?

21 THE COURT: Yes.

22 MS. HALVERSON: So, first of all, I don't think
23 that -- I don't know if it was Twitter that Mr. Rothstein
24 quoted, but every time that I've talked to Ms. Bissey, she
25 has been very concerned about COVID. So she is not somebody

1 that does not believe that COVID does not exist.

2 THE COURT: Okay.

3 MS. HALVERSON: In fact, when she took her husband to
4 the ER because of his ministrokes, she was on the phone with me
5 complaining about how there were people coming into the ER that
6 appeared to have COVID symptoms, that she was very worried about
7 and very angry that they didn't read the sign saying that they
8 should've come into a different entrance, and was very worried
9 that her husband, who was having ministrokes, was going to then
10 contract COVID.

11 It is true, and I laid that out in the sentencing
12 memorandum, that she has not been vaccinated. But I tried
13 to allow the Court some explanation for that. One of I think
14 the problems is that her doctor hasn't told her to get
15 vaccinated. And that is a problem -- that is an ethical
16 responsibility, a problem of her doctor. And Ms. Bissey --

17 THE COURT: Well, I don't have any evidence before
18 me, Ms. Halverson, that her doctor does not recommend it.
19 I mean, what you're sort of telling me is there's an absence
20 of a positive, which is she says her doctor hasn't told her to.
21 She hasn't said her doctor hasn't told her not to.

22 And what I have a problem with -- again, Ms. Bissey's
23 vaccination status does not factor into her sentence. I want
24 to make that absolutely clear. But I cannot use her decision
25 to place herself at a heightened risk of infection as a reason

1 for giving her a lenient sentence. That makes no sense.

2 MS. HALVERSON: I think -- well -- I mean, obviously
3 you're the judge, so you can disagree with my reasoning, but
4 I think given the fact that there is a new report that just
5 came out from the *New York Times* today that says that people
6 that are vaccinated over the age of 50 are at even more risk
7 than unvaccinated children, I don't think that getting the
8 vaccination necessarily means that Ms. Bissey is free from
9 getting through a breakthrough infection. I think I forwarded
10 some of the reports from the CDC about breakthrough infections
11 when there's immunocompromised individuals.

12 THE COURT: Ms. Halverson, you are setting up a straw
13 man. You are setting up a straw man. All I have said is that
14 the science is clear and undisputed that getting a COVID vaccine
15 increases your ability to survive an infection, not that she
16 wouldn't get a breakthrough infection and not that she wouldn't
17 get sick, but that being vaccinated increases the likelihood
18 that you will not suffer serious injury or death that you would
19 if you were unvaccinated.

20 And all I'm saying is that Ms. Bissey seems to be asking
21 me to take into account her health status and her underlying
22 illnesses and susceptibility and the risk of her getting COVID,
23 yet she has not seen fit to help herself do something that would
24 help fight that risk or ameliorate that risk. And her decision
25 not to get vaccinated is, again, absolutely her right and not a

1 factor I'm going to take into sentencing, but it cannot be
2 a reason why I give her a more lenient sentence.

3 MS. HALVERSON: I think my point, Your Honor,
4 is that even if she had gotten vaccinated, I would still
5 be arguing that because of her immunocompromised status --

6 THE COURT: Perhaps.

7 MS. HALVERSON: -- that she shouldn't receive
8 jail time.

9 THE COURT: All right. The issue of sentencing
10 disparity is less of a factor here, because these offenses
11 are unique and there is not a large number of defendants
12 who have already been sentenced.

13 I take into account Ms. Halverson's point that Ms. Lloyd,
14 who did the same conduct, at least on the 6th, as Ms. Bissey,
15 received probation from a different judge in this court.
16 Mr. Rothstein noted that Ms. Lloyd did not continue to post
17 and brag about and gloat about her participation, at least on
18 social media, after the fact, and did not appear to have taken
19 any photographs. But I have considered the need to avoid
20 sentence disparity as a factor, but it certainly is less of
21 a factor with this court than the seriousness of the offense
22 and the need to have deterrence.

23 The Court concludes that this is not an appropriate case
24 for a straight probationary sentence. The Court has taken into
25 consideration Ms. Bissey's positive factors that I've discussed,

1 the fact that she is admired and loved and helps to support her
2 family. But there must be consequences for taking part, even a
3 small part, in a mass attempt to stop the certification of
4 the presidential election and prevent the transfer of power.

5 Even though she didn't commit violence or destroy property,
6 Ms. Bissey walked into the Capitol that day knowing full well
7 that she was not supposed to do so. She was fully aware of the
8 chaos and destruction going on around her, and she had to be
9 aware that her presence lent support to the mob. And when she
10 went home, she bragged about being part of the riots.

11 I have heard a lot, in both writing and in court today, the
12 fact that Ms. Bissey has suffered repercussion from her action.
13 I haven't heard a single word about what the people inside that
14 Capitol were suffering that day, who were just doing their jobs,
15 doing their patriotic duty that day, or the law enforcement
16 officers who were outside, outnumbered, who were fighting with
17 their hands sometimes, to try to keep the Capitol safe.

18 I have heard Ms. Bissey describe herself and others
19 describe her as a patriot, and I don't doubt for a minute her
20 love of her country. But the people inside that Capitol, trying
21 to do their jobs, they were patriots also. And so were the
22 law enforcement officers. And the Court must take into account
23 the seriousness of what Ms. Bissey did and the need to make
24 sure that neither she nor anyone else even thinks about doing
25 something like that again.

1 Therefore, having considered all the factors that I must
2 consider in this case, the Court believes a penalty of 14 days
3 of incarceration and \$500 in restitution, followed by 60 hours
4 of community service, is an appropriate sentence in this case
5 and is sufficient but not greater than necessary to reflect
6 the seriousness of the instant offense, to promote deterrence,
7 to protect the public from future crimes that may be committed
8 by the defendant, and to avoid unwarranted disparities among
9 defendants convicted of similar crimes.

10 I listened to Mr. Rothstein describe the need for probation
11 in this case, and I understand it, but I think a lot of -- I
12 really think that Ms. Bissey -- I don't think probation is going
13 to keep Ms. Bissey from ever doing this again. I think a
14 serious punishment of the incarceration I've given her will
15 bring home the fact that this is something she must never do
16 again.

17 And I think the fact that she subscribes to bizarre
18 conspiracy theories, that's her right, you know? That's
19 something she's allowed to do as an American, and that's what
20 our democracy and our freedom is all about. And I'm not going
21 to impose a probationary sentence on her in this case.

22 I think the probation office is just overworked and
23 overstretched with all the cases that we have backlogged because
24 of the pandemic and the additional over 600 cases that are
25 coming into this court from the Capitol riots, and I think it

1 would be a waste of resources, frankly, to have Ms. Bissey
2 under a further probationary sentence at this time.

3 Therefore, based on my consideration of all the
4 Section 3553(a) factors, I'll state the sentence to be imposed:

5 It is the judgment of the Court that you, Dona Sue Bissey,
6 are hereby sentenced to serve 14 days of incarceration, and you
7 must perform 60 hours of community service, pay a \$10 special
8 assessment. The Court finds that you do have the ability to pay
9 restitution and therefore imposes a special condition, as agreed
10 to in your plea agreement, requiring the payment of \$500 in
11 restitution.

12 The special assessment is immediately payable to the
13 Clerk of the Court for the U.S. District Court of the District
14 of Columbia. Within 30 days of any change of address, you shall
15 notify the Clerk of the Court of the change until such time as
16 the financial obligation is paid in full.

17 You must complete 60 hours of community service. Community
18 service requirement will benefit not only the community but
19 also you as you acquire additional experience and broaden your
20 community of associates. Once you have completed your 60 hours
21 of community service, you should provide that verification to
22 your lawyer, who will provide it to the Court, since you will
23 not be under the supervision of the probation office.

24 Pursuant to 18 U.S.C. § 3742, you have a right to appeal
25 the sentence imposed by this court subject to certain rights of

1 appeal you waived as part of your plea agreement in this case.
2 If you choose to appeal, you must file an appeal within 14 days
3 after the Court enters judgment. If you are unable to afford
4 the cost of an appeal, you may request permission from the Court
5 to file an appeal without cost to you.

6 As set forth in the plea agreement, the government pledged
7 to move to dismiss the remaining counts in the indictment.
8 Mr. Rothstein, do you wish to do so now? I mean in the
9 complaint. Excuse me.

10 MR. ROTHSTEIN: Yes, Your Honor. The government asks
11 that the remaining counts of the information --

12 THE COURT: Information. All right. That motion
13 will be granted. I will allow Ms. Bissey to turn herself in
14 to serve her sentence, and that way she will be able to attend
15 to her family's needs at the moment and deal with the emergency
16 that her husband and daughter-in-law are facing. And then,
17 Ms. Halverson, you can arrange for Ms. Bissey to turn herself
18 in at a time that will be agreed to.

19 Ms. Bissey, I say this in just about every case, and I say
20 this to you, ma'am. We are not the worst thing we've ever done.
21 You are not the worst thing you've ever done. You've lived a
22 productive life. You have many people who love and support you.
23 You have resources.

24 Many people who come in front of me for sentencing don't
25 have the advantage of the support that you have had and you will

1 continue to have. I have no doubt that you're going to continue
2 to live a law-abiding life, and I wish you good luck, ma'am.

3 Is there anything else I need to address today?

4 Ms. Halverson?

5 MS. HALVERSON: Nothing from defense.

6 THE COURT: Mr. Rothstein?

7 MR. ROTHSTEIN: Nothing from the government,
8 Your Honor.

9 THE COURT: Ms. Willett, yes.

10 PROBATION OFFICER: Yes, Your Honor. Thank you.
11 Kelli Willett from the probation office. With regard to
12 Ms. Bissey's self-surrender status, since the Bureau of Prisons
13 will be handling that designation, even though it's a 14-day
14 designation, I would like to ask the Court to consider giving
15 her the opportunity to self-surrender after the new year, after
16 January 1, in order to let her handle her family situation and
17 also consult with her doctor to see his advice on whether or not
18 she should be vaccinated and go forward with that if she decides
19 to go that way, Your Honor.

20 THE COURT: Absolutely. Absolutely. You may turn
21 yourself in after the 1st of the year, Ms. Bissey, and make
22 arrangements both for your family's care and for your own
23 medical care.

24 PROBATION OFFICER: Thank you, Your Honor.

25 THE DEFENDANT: Thank you.

1 PROBATION OFFICER: One other matter. The community
2 service, did the Court want to set a deadline for the community
3 service?

4 THE COURT: The community service needs to be
5 completed by the end of next year, by the end of 2022.

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

7 THE COURT: Thank you all.

8 THE DEFENDANT: Thank you, Your Honor.

9 THE COURT: Good luck, Ms. Bissey.

10 (Proceedings adjourned at 2:54 p.m.)

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, BRYAN A. WAYNE, Official Court Reporter, certify that the foregoing pages are a correct transcript from the record of proceedings in the above-entitled matter. *

/s/ Bryan A. Wayne
Bryan A. Wayne

* PLEASE NOTE:

This hearing was taken via videoconference in compliance with U.S. District Court standing order(s) during the COVID-19 pandemic. Transcript accuracy may be affected by the use of electronic technology, including but not limited to sound distortion or audiovisual interference.