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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN CLARENCE WILKERSON, IV,

Defendant.

- - - - - x

Criminal Action No.  
1:21-cr-00302-CRC-1  
Tuesday, November 16, 2021  
2:02 p.m.

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TRANSCRIPT OF SENTENCING  
HELD BEFORE THE HONORABLE CHRISTOPHER R. COOPER  
UNITED STATES DISTRICT JUDGE

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APPEARANCES:

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P R O C E E D I N G S

THE COURTROOM DEPUTY: Your Honor, we're on the record for Criminal Case 21-302, *United States of America vs. John Clarence Wilkerson, IV.*

Counsel, please approach the lectern and identify yourselves for the record.

MR. JUMAN: Good afternoon, Your Honor; Robert Juman for the United States.

THE COURT: Good afternoon, Mr. Juman.

MR. RIPKE: Good afternoon, Your Honor; Booth Ripke on behalf of Mr. Wilkerson, who is sitting at defense counsel table.

THE COURT: Okay. Good afternoon, Mr. Ripke.

Mr. Wilkerson, good to see you.

Just a couple of ground rules before you get started. If you have not been vaccinated or would simply prefer to wear your mask, please wear your mask when addressing the Court. Otherwise, feel free to take it off when addressing the Court.

If you do wear your mask, just be sure to speak clearly and slowly so the court reporter can pick up everything you say, okay?

All right. Are you ready to proceed?

MR. JUMAN: Yes, Your Honor.

THE COURT: Can you all hear me? I'm not sure

1 that this mic is working properly. Great.

2 All right. The Court has read the submissions,  
3 the presentence investigation report, the sentencing  
4 memoranda from both sides, the letter from the defendant's  
5 father, and I've recently received a letter from an  
6 acquaintance, Mr. Brown, which I have reviewed. Any other  
7 materials for the Court's consideration?

8 MR. JUMAN: No, Your Honor.

9 MR. RIPKE: No, Your Honor.

10 THE COURT: Okay. And, Counsel, if you're going  
11 to speak from the table, just speak into the mic and make  
12 sure the green light is on.

13 MR. JUMAN: Yes, Your Honor. The microphone here  
14 is not working so I'll try to go to the lectern.

15 THE COURT: Just approach the lectern.

16 All right. Let's start with the presentence  
17 investigation report. I note that there were some  
18 objections that seem all to have been resolved by probation.  
19 Any objections to the factual narrative in the report that  
20 have not been satisfactorily resolved?

21 MR. JUMAN: No objections from the government,  
22 Your Honor.

23 MR. RIPKE: No objections from the defense, Your  
24 Honor.

25 THE COURT: Okay. Mr. Wilkerson, is that mic

1 working over there?

2 Okay. Sir, has Mr. Ripke reviewed the presentence  
3 investigation report with you?

4 THE DEFENDANT: Yes, he has, Your Honor.

5 THE COURT: And have you been satisfied with his  
6 services in this case?

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

8 THE COURT: All right. Hearing no objections, the  
9 Court will accept the factual findings in the PSR regarding  
10 the circumstances of the offense; and, therefore, those  
11 facts as stated in the PSR will be adopted by the Court for  
12 purposes of this sentencing.

13 Mr. Wilkerson has pled guilty to one count of  
14 parading inside the Capitol Building in violation of 40 USC  
15 5104(e) (2) (G). That statute authorizes me to impose a term  
16 of imprisonment of up to six months and a fine up to a  
17 maximum of \$5,000. The statute does not authorize a term of  
18 supervised release. Pursuant to his plea agreement, the  
19 defendant has agreed to pay restitution of \$500 to the  
20 Architect of the Capitol to help compensate for the damage  
21 to the Capitol. The offense is a Class B misdemeanor so the  
22 federal sentencing guidelines do not apply.

23 Have I stated the circumstances of the plea and  
24 the governing statute correctly?

25 MR. JUMAN: Yes, Your Honor.

1 THE COURT: Mr. --

2 MR. RIPKE: Mr. Ripke, on behalf of Mr. Wilkerson,  
3 yes, you have, Your Honor.

4 THE COURT: Okay. The probation office has  
5 submitted a recommendation of a period of 36 months  
6 probation along with the \$500 agreed-upon restitution.

7 Mr. Juman, would you like to address the 3553(a)  
8 factors?

9 MR. JUMAN: Thank you, Judge, yes. I don't have  
10 much to add beyond what's in our papers. I think we laid it  
11 out, but I do want to respond briefly to some points the  
12 defense has made.

13 First, the defendant takes a sort of granular look  
14 at a number of the other Capitol riot cases; and the  
15 government agrees, and we are analyzing these misdemeanor  
16 cases very carefully in order to avoid any sentencing  
17 disparities, but I guess I want to point out there's a limit  
18 to how precise these comparisons can be.

19 The goal here is consistency, not identity. Given  
20 the number of defendants in these cases, there are going to  
21 be endless permutations of mitigating and aggravating  
22 factors that can be used to compare to the defendants, but  
23 we can't say, for example, that this many minutes inside the  
24 Capitol requires one sentence and this many minutes requires  
25 another sentence or that a mitigating factor like voluntary

1 surrender equals or is in opposite to the aggravating factor  
2 of a social media post.

3 The point is the government's putting these cases  
4 on a spectrum, identifying the most serious and the least  
5 serious, and making sure as a whole that the government's  
6 being consistent with its recommendations.

7 As we laid out in our papers --

8 THE COURT: And just out of curiosity, I've  
9 inquired of other government counsel concerning this as  
10 well, but mechanically, how has the government been going  
11 about doing that? Is there a committee? Is there -- you  
12 know, how are you all assuring yourselves that there is  
13 rough consistency across all the cases?

14 MR. JUMAN: Yes, Your Honor.

15 I think it's fair to say there's not a formal  
16 committee. Every sentencing memorandum is run through the  
17 same procedure. There are certain AUSAs who have been  
18 designated to focus on this who have experience with all of  
19 the sentencings. There's also a role for the supervisor to  
20 play.

21 So every sentencing memo gets approved by those  
22 two layers of supervisory approval, and then they get kicked  
23 back to the AUSA to present in court.

24 THE COURT: Okay.

25 MR. JUMAN: So, again, I want to, I guess, sort of

1 focus on that. We've identified in our papers two of the  
2 cases that we think are comparable, but, again, we mention  
3 them not because they mandate a particular sentence in this  
4 case but merely because they show that the government's  
5 recommendation here would not lead to wildly disparate  
6 sentences.

7 Our recommendation in this case is probation with  
8 60 days of home detention, and, again, we're not that far  
9 apart from the defense. The defense is recommending two  
10 years of probation. We're recommending three years. We're  
11 recommending --

12 THE COURT: What would be the terms of home  
13 detention? The defense obviously focuses on his work and  
14 the need for him to continue to work over the next couple of  
15 months. Would he be allowed to work under the government's  
16 conception of home detention or not?

17 MR. JUMAN: Your Honor, that would be up to  
18 obviously the Court. We're not proposing home detention  
19 specifically to deprive the defendant of the ability to  
20 work.

21 I would note that the concern raised in the  
22 defense submission is a bit speculative. He's not  
23 identified a specific job that he'd have to forgo. If the  
24 Court wanted to modify the home detention to knowledge of a  
25 particular assignment in a different location, I don't think

1 that's a problem, and I think that's something that can be  
2 dealt with on a case-by-case basis with probation.

3 THE COURT: Right.

4 MR. JUMAN: I really think our point is that we're  
5 trying to emphasize the need for there to be something more  
6 than just the baseline of probation.

7 THE COURT: Right.

8 MR. JUMAN: I think in our --

9 THE COURT: Why hasn't the government recommended  
10 a fine in this case, particularly if -- I mean, A, would  
11 that not be a better way to acknowledge the seriousness of  
12 his conduct as compared to, you know, sitting at home  
13 watching ESPN and Cable News, particularly if he's allowed  
14 to work?

15 If he's allowed to work, then home confinement is  
16 essentially a curfew to stay home at nights for 60 days,  
17 right? Why wouldn't a fine be a more appropriate sanction  
18 under the circumstances?

19 MR. JUMAN: Your Honor, I can't tell you that it  
20 wouldn't be more appropriate. I think that we were  
21 considering it. I know it was something that I was thinking  
22 about in the initial drafts of the PSR.

23 Ultimately probation, which, you know, received  
24 the financial records, concluded that the defendant doesn't  
25 have the ability to pay a fine. We're not looking to create



1 that kind of an issue with these cases, but it absolutely --  
2 when we say that we think something more than probation is  
3 necessary, that's within -- well within the realm of options  
4 that the Court has, and I wouldn't say that that would be  
5 improper.

6 And, again, I also don't want to suggest that we  
7 think home detention would necessarily allow the defendant  
8 to work. There does need to be some penal component to it.  
9 So if it means, you know, staying at home when he otherwise  
10 would not, that may be a necessary consequence of home  
11 detention.

12 In any event, I really do want to focus on that  
13 aspect to it. Your Honor has the discretion to impose more  
14 than three years of probation. I couldn't say that that  
15 would be improper either. Our point is simply that based on  
16 our analysis we think three years probation and 60 days home  
17 detention is consistent and is appropriate given the facts  
18 of this case.

19 THE COURT: For the record, Ms. Gavito from  
20 probation is present since we have invoked the specter of  
21 probation a couple of times.

22 MR. JUMAN: Right. So I do want to just make  
23 clear why we think that's the appropriate sentence in this  
24 case; but, again, when I say that's the appropriate  
25 sentence, I really do mean something more than just flat

1 probation is appropriate.

2 First, there are the reasons, based on  
3 Mr. Wilkerson's own conduct and his history, the points we  
4 made in our papers, that he left the rally early in order to  
5 be one of the first rioters to enter the Capitol grounds.  
6 He saw and recorded the violence that was happening, and his  
7 statements, although they were not public, they still shed  
8 light on his intent and his lack of remorse, and then there  
9 is that incident described in Paragraph 37 of the PSR which  
10 raises some concerns about his attitude towards law  
11 enforcement.

12 But there are reasons beyond those which are  
13 contemplated by the 3553 factors which the government's  
14 asking the Court to consider.

15 First -- and it's almost become cliché at this  
16 point -- this crime was unique in American history. This  
17 wasn't an attack on a building. It was an attack on an  
18 election. It was an attempt to overturn an election through  
19 force, but it was also an attack on the rule of law.

20 By the time the defendant arrived at the Capitol  
21 along with the other rioters, the ordinary mechanism for  
22 contesting an election -- lawsuits in courts of law -- had  
23 been tried and hadn't succeeded. So the rioters who invaded  
24 were aware they had lost in court, and instead of accepting  
25 those results they were resorting to force.

1           And this really was an attack not just on the  
2 legislature but on the judiciary as well, and the uniqueness  
3 of those targets warrants a similarly unique sentence. And  
4 that's at every level, from the lowest misdemeanors to the  
5 highest felonies.

6           This case also presents a unique need for  
7 deterrence, both general and specific. Specific because the  
8 defendant's statements after January 6th -- bragging about  
9 it being a good day -- and his posts, again private, they  
10 displayed a distressing lack of an understanding as to how  
11 democracy works and the concern that he would act similarly  
12 the next time he's not happy with how an election goes.

13           And general deterrence because --

14           THE COURT: Who did he send those posts to?

15           MR. JUMAN: Your Honor, all we know is that it's a  
16 friend on Facebook.

17           And then also I want to raise general deterrence  
18 because even now, as the Court is, I'm sure, aware, there  
19 are public figures denying that the Capitol riots were a  
20 serious crime, and there are people continuing to spout the  
21 lies that motivated the riot. So this is a uniquely  
22 important consideration in these cases.

23           And, finally, we ask the Court to consider the  
24 victims -- the Capitol Police officers, Metropolitan Police,  
25 other law enforcement officers -- who frankly went through

1 hell that day. And it's not just physical assaults, but  
2 verbal assaults and the fear of being surrounded by a mob.  
3 The defendant did not attack anyone physically, and that's  
4 why he's not charged with a felony, but you can't have a  
5 riot without rioters, and so by making himself a member of  
6 that mob, he added to the burden on law enforcement that  
7 day.

8 So for all of those reasons we submit that  
9 something more than probation is appropriate, and we're  
10 recommending the 60 days of home detention as well as -- I  
11 don't think there's any dispute about this -- the 60 hours  
12 of community service as well as --

13 THE COURT: There seems to be some dispute or at  
14 least a dispute over the characterization of whether he was  
15 in the first wave or the second wave. How many minutes  
16 after the first breach did he enter the Capitol?

17 MR. JUMAN: Your Honor, my understanding is --  
18 well, again, it depends on what you mean by the first  
19 breach. The door he went through was the Senate Wing door.  
20 He entered that location approximately eight minutes after  
21 it had first been -- the window had been broken.

22 THE COURT: Okay.

23 MR. JUMAN: I think the relevance of that really  
24 is limited to the fact that by that time there's glass on  
25 the floor and that piercing alarm is sounding, and that's

1 the environment in which he chose to enter. I don't think  
2 there's a --

3 THE COURT: Did the people who first entered that  
4 door have to overcome law enforcement in order to enter, or  
5 did they just break it down?

6 MR. JUMAN: In order to get to that location there  
7 was a prior -- there were two prior breaches really.  
8 There's a breach that occurs at the Peace Circle at  
9 approximately 12:53, and that's the image that I've put in  
10 the sentencing memo. The defendant is shortly after that  
11 breach at that location close to the Peace Circle.

12 THE COURT: Is it fair to assume that he would  
13 have observed his cohorts overcoming Capitol Police in order  
14 to -- you know, in order to get himself to the Capitol?

15 MR. JUMAN: More than fair, Your Honor. The  
16 second breach is the one that takes place on the West Plaza,  
17 and there we've included in our submission the picture of  
18 the defendant holding up his phone taking a picture, and you  
19 can see in the foreground the officers being confronted by  
20 rioters.

21 Once that breach occurs, then the tide flows up  
22 the steps to the West Senate doors, and that's where he  
23 enters. So that's what I mean by the two breaches that  
24 occurred prior to his entry.

25 THE COURT: Okay. There was a reference in your

1 memo or perhaps in the statement of facts supporting the  
2 arrest warrant that he was on a walkie-talkie as he went in.

3 MR. JUMAN: Yes, Your Honor.

4 THE COURT: Any sense of who he was communicating  
5 with or any argument that he may have been coordinating his  
6 efforts with others?

7 MR. JUMAN: Your Honor, we did see that in the  
8 video, and we have no -- we're not able to derive any  
9 evidence that he was in communication with anyone in  
10 particular. And the agents have, you know, tried to find  
11 that out, but were unsuccessful.

12 We're not alleging that there was anyone else that  
13 he was in communication with.

14 THE COURT: Okay. Thank you.

15 MR. JUMAN: Thank you, Your Honor.

16 THE COURT: Mr. Ripke. Good to meet you in  
17 person.

18 MR. RIPKE: Thank you very much, Your Honor. It's  
19 good to meet you, too. Thank you for your questions as  
20 well, Your Honor. It was helpful to hear them.

21 I -- there were two points that I remembered or  
22 learned after I filed my sentencing memo, which are probably  
23 not major, but I did want to mention them because I failed  
24 to -- I would have mentioned them in my memorandum.

25 One is that he did spend -- as I saw it mentioned

1 in other memoranda that I read from other cases and I didn't  
2 mention in mine, he did spend a night in jail originally  
3 when he was arrested in this case in the basement before he  
4 could be brought up for his -- there was no decision to  
5 detain. It was just a matter of the timing as to when he  
6 could be brought in.

7 So I didn't mention that --

8 THE COURT: The basement of the Capitol or --

9 MR. RIPKE: I believe it was of the courthouse,  
10 Your Honor.

11 I wasn't there. I didn't get hired until  
12 weeks later so -- and I didn't appear for that hearing. But  
13 he did spend the first night overnight before he was  
14 released --

15 THE COURT: Where was he arrested? In D.C.?

16 MR. RIPKE: In Maryland.

17 THE COURT: In Maryland.

18 MR. RIPKE: North of Baltimore, in Harford County,  
19 Maryland. It's about an hour north of here, a little bit  
20 more than that.

21 So that's one point I didn't mention.

22 And since my memo was filed, I'm aware of two more  
23 cases where two other defendants who pled guilty to the same  
24 crime were also sentenced. In those cases -- I'm sure the  
25 Court has got a better -- and the government has a better

1 understanding of all these cases than I do, but the  
2 defendants' names were Sanders in one and Cordon or "Cor-  
3 Doen" in the other one. Those were both cases that the  
4 government requested home detention. I believe one was for  
5 two months and one was for three months.

6 In both cases it's my understanding that the  
7 individuals were sentenced to probation without home  
8 detention in those cases. Other than that, I didn't see  
9 anything unique about them. They fit generally the  
10 narrative that I provided.

11 We are obviously here today because my client made  
12 the decision to go inside the Capitol, and he's guilty, and  
13 he pled guilty. And he pled guilty because he is guilty,  
14 and nothing I said in my memo or want to say today should in  
15 any way distract from that.

16 The government I think correctly noted -- I don't  
17 know if I agree with "granular," but a very specific  
18 approach in my sentencing memorandum. I recognize this is  
19 an extremely serious matter, and you look at those -- if  
20 you're in my position, you become -- you've got access to  
21 see videos and things that the public has not seen, and I  
22 take my burden equally seriously, and what I say is my  
23 burden to prove what I believe is that probation is not  
24 appropriate as the answer in all these cases or universally,  
25 as the government said. I agree with that. And my burden



1 is to show that something like this would never happen again  
2 with this man.

3 And so I did dig into all of the cases that I  
4 could get my hands on, and I looked at how things -- and  
5 none of it, none of it -- and Mr. Juman -- we worked  
6 excellent -- one of the shining lights of this case is the  
7 FBI agents I worked with and with Mr. Juman in terms of my  
8 personal experience because it was extremely professional.

9 So I'm not here to just repeat all the contents of  
10 my sentencing memorandum, but I did feel like it was not  
11 designed to say the government recommended this here or this  
12 there. The government has recommended home detention in a  
13 number of cases, and the individuals had -- some of them  
14 have been sentenced to home detention and some have been  
15 sentenced to probation. So I did want to look at those  
16 cases and provide the Court with as much information as I  
17 could, obviously from my perspective, on what happened in  
18 those cases, and Your Honor could give it whatever weight  
19 the Court sees fit.

20 One of the things that I asked my client point  
21 blank -- and he spoke with the FBI agents point blank. I  
22 was there for the interview. We went to the FBI  
23 headquarters. We were there for over an hour, four of us in  
24 a room together with masks and a recorder in the middle.  
25 They asked every question that they could. Their approach

1 was systematic. It was methodical. It had a very -- I've  
2 sat in these before. They knew where they were going. And  
3 they asked about the messages. They asked about everything.  
4 And the report I received back -- and I understand that the  
5 agent called Mr. Juman immediately afterwards -- was that he  
6 was completely truthful and honest, and they were satisfied  
7 with his answers.

8 His answers, to me, were similar to what he  
9 said -- he had ten pages of notes with the FBI -- that he --  
10 that those messages, in the first days after this happened,  
11 were him -- examples of him not realizing what was really  
12 going on. And let me tell you what he explained to me about  
13 that because some of us, we try to find, even in a tragedy,  
14 some bright hope or some hope at all. And what he told me  
15 was that one of the good things that came out of this for  
16 him personally is he became unplugged.

17 Where he lives, he doesn't have WiFi. He doesn't  
18 have cable TV. He doesn't have a land line. He doesn't  
19 subscribe to a newspaper. He received his news and  
20 information through his telephone and primarily through apps  
21 like Facebook and other kind of messaging things, and he was  
22 paying attention to that stuff. I'm talking now about the  
23 period of time after the pandemic during the lockdown before  
24 January 6th. And he allowed himself to fall into -- and  
25 he's responsible for this; no one else -- that he allowed

1 himself to fall into this situation where he spent too much  
2 time, an inordinate amount of time, paying attention to and  
3 following information from these sources.

4           What he told me was that after he got arrested,  
5 and they took his phone away, which they imaged, and then he  
6 went home, he had nothing -- or at least initially -- there,  
7 and he didn't go back to Facebook socially for connecting  
8 with people after that at all. And so it was a matter of  
9 weeks when he became disconnected from it where he described  
10 as deprogrammed.

11           He stopped -- he realized that these things that  
12 he was paying attention to had taken up an inordinate amount  
13 of time in his mind and his life and what -- and so he  
14 started to realize the other things that were really more  
15 important: his job, his work, his life, his freedom.

16           THE COURT: Well, I obviously understand that  
17 argument. The challenge for me and my colleagues in this  
18 and many other cases is to distinguish remorse that comes  
19 after an arrest versus true remorse, and that is in many  
20 cases an unknowable and very difficult proposition, right?

21           But that's why I asked Mr. Juman the question what  
22 is it fair to assume that he saw as he was going in? You  
23 know, and if it's fair to assume he saw, you know, his  
24 fellow travelers assaulting police officers and breaking  
25 windows in order to get into the Capitol, yet went in

1        anyway, and then the next day after obviously, you know, or  
2        presumably having seen what unfolded on television sent a  
3        text message saying that was a good day, or, you know, if  
4        there's another rally on the East Coast, I'm there -- and  
5        you know what else he said, right?

6                MR. RIPKE: Uh-huh.

7                THE COURT: You know, were those statements his  
8        true beliefs, or is he now truly remorseful only after he is  
9        being called to account for it? I mean, you know, how do I  
10       assess that in this case as a judge?

11               MR. RIPKE: It's a very fair question, Your Honor.  
12       Let me try to answer it.

13               The -- I think that one way we can tell is this.  
14       He was not arrested or charged, unlike a lot of the cases we  
15       talked about, for more than three months after this incident  
16       happened. So for three months afterwards he hadn't -- a lot  
17       of the other cases were in January and February. He was on  
18       April 7th. For a long time after that he didn't have any  
19       awareness in the moments where other people were getting  
20       arrested and stuff that he was going to get drawn up into  
21       it.

22               The messages we saw were within six days after the  
23       events happened. They were two messages, private text  
24       messages, effectively to one person. They stopped after  
25       that, and there was nothing else that happened. And nothing

1 else happened for 80 days until he got arrested.

2 Something changed. Some message got through even  
3 before the arrest and the conviction and getting locked up  
4 for a night did, and I would take that as a sign.

5 He -- as much as I said -- I'm not trying to  
6 suggest in any way he didn't understand there was a line  
7 that he crossed, and he saw more than enough that he should  
8 have known not to go in there. So I -- that I would offer  
9 to Your Honor.

10 Also, I will say -- I don't know that this is good  
11 for him, but the messages were not truthful. He's never  
12 been to a single rally for a former president or anything  
13 before or after that date. He had never been involved in  
14 any of that stuff before. He had no plans at all to attend  
15 this rally or participate in this thing until the night  
16 before. A friend that he ended up riding down with invited  
17 him about 9:00 or 10:00 p.m. the night before to come along.

18 And so that's why this case is different from many  
19 of the others Your Honor will have seen which contain from  
20 the day after the election, for months or weeks or days,  
21 messages from people about what they intended to do, what  
22 they were going to do, what they wanted to do, and there's  
23 none of that in this case.

24 And, you know, those messages are horrible. The  
25 difference between this one --

1 THE COURT: So was he boasting? Did he really  
2 believe that? Was he trying to convince the recipient of  
3 the message of something that he knew not to be true?

4 What's the context for those messages?

5 MR. RIPKE: There's nothing -- there's nothing  
6 good -- it was a woman who he was friends with. That's what  
7 it was. And he had -- there's no other content like that on  
8 his, you know, messages with anyone around that time except  
9 for one woman that I know he was trying to impress with a  
10 message at 1:00 in the morning that was a lie. But that's  
11 what it was.

12 I do believe, from talking to him, that he  
13 believed things at that time that are not true and were not  
14 true and he realizes weren't true now. That's part of what  
15 I was saying earlier.

16 As bad as it is, he did make it private, not  
17 public. He did end it on his own 80 days before he got  
18 arrested. There was nothing before that day of any kind  
19 whatsoever, and he was -- he was much -- maybe equal parts  
20 stupid boasting as anything else.

21 Your Honor --

22 THE COURT: What do you make of the events  
23 described in Paragraph 37 of the PSR?

24 MR. RIPKE: Thank you, Your Honor.

25 THE COURT: And does it show a particular

1       disrespect for law enforcement, or no?

2               MR. RIPKE: I don't believe it does, but that's  
3 because I know more about the events.

4               THE COURT: Okay.

5               MR. RIPKE: What happened -- first of all, the  
6 events resulted in all the charges being dropped and  
7 dismissed. There was no conviction. I thought that they --  
8 I wasn't involved. I thought they were expunged. I  
9 understand that we can find stuff even if it's expunged, but  
10 all the charges were dropped and dismissed.

11               At the time there -- my client -- I'm saying this  
12 because it's the truth. My client has a couple of medical  
13 conditions. Some of which were at play that night; none of  
14 which were in play in this case at all. And so I didn't  
15 talk about any of that in the sentencing --

16               THE COURT: It could have ended a lot more  
17 seriously.

18               MR. RIPKE: Yes. Yes.

19               THE COURT: And I'm not talking about charges  
20 being filed, right?

21               MR. RIPKE: He's very lucky. We're all too  
22 familiar with people in a position to be on the road that  
23 night that didn't get their freedom to walk away. I  
24 understood that. I know he understands that.

25               I can tell you that he had a lawyer that presented

1 some medical evidence, that a decision was made by the  
2 prosecutor who reviewed the case that it wasn't worth  
3 prosecuting or presenting to a court, and the charges were  
4 dismissed.

5 THE COURT: Okay.

6 MR. RIPKE: I don't think any of the other  
7 things we've talked -- this particular situation on this  
8 day, Mr. -- January 6th I'm talking about -- Mr. Juman had  
9 one photo of Mr. Wilkerson where he stood. I have another  
10 one where he's standing further back. He was standing  
11 forward and back. He was never standing in the front row.

12 He was never interacting with those police  
13 officers directly. He wasn't -- the things we've heard said  
14 in other cases, even a couple that I've cited where they  
15 were ultimately sentenced to probation only and not home  
16 detention, are people who were in the front row, people who  
17 were interacting directly with the police officers, people  
18 who were making those comments.

19 And we have video of every minute of where  
20 he was when he was in and out of there. I'm not kidding.  
21 Mr. Juman said eight minutes. It was nine minutes. I've  
22 seen them all. I know exactly where he was. He went into  
23 the bathroom, came back out, stood there for a minute and a  
24 half like he's looking for people at the door, and goes back  
25 in.



1           These people had the opportunity to distinguish  
2 themselves one way or the other when they were in there, and  
3 I don't think that 14 minutes is different from 15 or 20. I  
4 don't think any of that stuff. I -- but I think they're  
5 facts, and we try to give the Court as many as we can and  
6 let the Court decide.

7           I wanted to touch on -- on -- well, briefly, I put  
8 some personal circumstances and background for my client in  
9 there that came from his father's letter and from the PSR.  
10 I know the Court's familiar with that. I don't want to  
11 rehash that at all here.

12           He was born on a rural farm in '91. He attended  
13 public school until about fourth grade and was home schooled  
14 after that and worked. He graduated from home schooling at  
15 age 16 and has been working full time since then.

16           The -- I outlined two jobs he had with  
17 construction companies and then formed his own business. In  
18 effect they're all the same. The company he had first  
19 worked for is very much like the company he has now. They  
20 were both subcontractors of another company. They're all  
21 named in the PSR. And that company is the one he worked for  
22 in between.

23           So he worked his way up through these positions,  
24 and one of the -- one of the tragedies of this honestly is  
25 that his time in his life -- he was 29 on January 6th. He

1 was 29 on the day he was arrested. He's 30 now. After 15  
2 years, from age 16 approximately, in that business he had  
3 gotten to the point, notwithstanding the pandemic, where he  
4 was in a position, coming out of the pandemic, that his  
5 business could have really grown.

6 And he made \$60,000 last year. He lost one  
7 contract during his period of supervision, a three-month  
8 contract at an installation, where it would have paid  
9 \$90,000 in three months. And so he couldn't get on the  
10 installation to do the job because of this -- because of his  
11 guilt in this case.

12 So he has -- he's done something that he will  
13 never live down. He's -- this conviction will never go  
14 away. The line of work that he wants to do and he's doing  
15 is -- he's going to have to answer for it on background  
16 checks and other kinds of ways. And he should.

17 There was but a specific example of one three-  
18 month-long assignment that he lost. Mr. Juman was saying I  
19 was less than specific, but Example One, he was working a  
20 job in Richmond, Virginia, during probation. All this stuff  
21 was approved by supervision ahead of time. No problems. He  
22 was down there in Richmond for weeks where he just basically  
23 lives down there and works the job.

24 When we met to meet with the FBI agents here in  
25 Baltimore, he was working -- he worked that evening. After

1 the business closed, then he was going to drive overnight  
2 back to Baltimore to meet with the agents and me, and then  
3 get in the car and drive back down again to Richmond the  
4 next day in order to do the work when the next shift ended.

5 He was in Charleston, West Virginia. He was in  
6 Frederick, Maryland. He was in -- he has not been on the  
7 eastern shore or Delaware during his period of supervision,  
8 but his work area covers those locations as well.

9 THE COURT: These charges did not impede him from  
10 completing those jobs, correct?

11 MR. RIPKE: It did not on those.

12 THE COURT: Okay.

13 MR. RIPKE: There's another opportunity that it  
14 might. The company that laid him off when he opened his own  
15 business has offered him a -- well, they're in the process  
16 of going to offer him a job and a promotion if he wanted to  
17 come back, put him in charge of a Midwest region there,  
18 which would be a 30 percent increase in his income from last  
19 year. I think he wants to continue his own business, but,  
20 you know, they would have to reckon with this as well.

21 So I don't have, you know, a specific list of jobs  
22 here today to say this one, this one, this one would work,  
23 this one wouldn't work, but what he's basically done for the  
24 last seven months is give his jobs to his agent on a regular  
25 basis and get permission to travel to these locations and be

1 back when he's supposed to be back. And, you know, he's  
2 been able to do that. That has worked.

3 Your Honor, in the government's presentation  
4 it mentioned the possibility of a fine, and I know the  
5 PSR indicates an inability to pay the fine. If the Court  
6 is interested in something more than probation and is  
7 looking -- the advantage to a fine is you can continue to  
8 work, and you can pay it over time. You don't have to pay  
9 it all today. And I'm aware of what the fines have been in  
10 other similar cases.

11 That would be easier, you know, to handle, quite  
12 frankly. I really presented that stuff as much to show that  
13 there is something different personally for somebody on home  
14 detention versus some of the other ones I've seen where  
15 somebody's retired or somebody works from home or somebody  
16 is unemployed other than in the home doing work. It would  
17 work a material difference here.

18 The final three things, Your Honor. There was  
19 the -- as I looked at it, it's jumped out to me -- was the  
20 differences between some of these was those who had  
21 significant involvement in preplanning, and you could tell  
22 from their messages that they knew what they wanted to do on  
23 January 6th for weeks before they got here. There -- which  
24 is not Mr. Wilkerson.

25 There was the debriefing of the FBI. You know,

1 that's a different situation. That's when you probably have  
2 a lawyer, but you certainly know what you're charged with.  
3 You're informed of your rights. You're making the choice to  
4 walk into the FBI, and there should -- there should be no  
5 confusion about what's going on at that time.

6           Apparently some of these folks who -- some of them  
7 even received probation, but other ones have found a way to  
8 not be able to do that and get through it truthfully; to lie  
9 or misrepresent or minimize or things. And, you know,  
10 that's -- there's numerous places where the rubber hits the  
11 road, but that's one that I think is a significant  
12 difference here that can give the Court confidence on  
13 probation as being sufficient without the need for home  
14 detention.

15           And I've already covered and the Court's well  
16 aware of the activities that day in terms of how it compares  
17 with the other cases. And so I feel like in that sense, all  
18 told, I've tried to present sufficient reasons why, while  
19 probation is not appropriate in the standard case or the  
20 average case, that there are reasons why it is sufficient  
21 under 3553(a) here.

22           THE COURT: Very well. Thank you.

23           MR. RIPKE: Thank you, Your Honor.

24           THE COURT: All right. Mr. Wilkerson, anything  
25 you'd like to tell me before I impose your sentence? Step

1 right up.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: You can join him, if you'd like,  
4 Mr. Ripke.

5 THE DEFENDANT: Good afternoon, Your Honor.

6 THE COURT: Good afternoon.

7 THE DEFENDANT: I just want to apologize if this  
8 doesn't come out very fluid because I'm absolutely riddled  
9 with anxiety right now.

10 First of all, I wanted to apologize for my actions  
11 in the situation; not because I got caught but because I'm a  
12 man of integrity, and I know --

13 THE COURT: Step just a little closer to the  
14 microphone so the court reporter can pick you up. You're  
15 doing fine.

16 THE DEFENDANT: I want to apologize for my actions  
17 not because I got caught, but I am a man of integrity, and I  
18 am a man of honesty, and it is absolutely embarrassing to  
19 have to be here and be a part of this because I know better.  
20 I was raised better. And it just -- every time I think  
21 about it, it just -- I can't help but think how much this is  
22 going to affect me throughout my life in the line of work  
23 that I'm in, and it's just --

24 THE COURT: So apart from the implications for  
25 your life, sitting here now ten months later, I'm sure

1 you've reflected on the events of that day and your role in  
2 them. Still think it was a good day?

3 THE DEFENDANT: No.

4 THE COURT: What are your thoughts about what --

5 THE DEFENDANT: No, Your Honor. It was not a good  
6 day. It's embarrassing; not just for me, but for our  
7 country in light of the entire world.

8 It -- there are ways to -- I wasn't there to be  
9 against the government. I was there to see for my own eyes  
10 what was going to happen.

11 Those comments that I made in the message to the  
12 young woman weren't about the government. It was about the  
13 media.

14 My -- the biggest -- my frustration that I  
15 developed from watching influencers and, you know, being  
16 triggered wasn't about the government. It was about what  
17 was being portrayed, and --

18 THE COURT: And just -- you know, let's just have  
19 a conversation here, right? You know, you said that the  
20 event wasn't being portrayed as it was; that it was much  
21 more diverse; that there were folks from all different walks  
22 of life there; that there was no violence until the Capitol  
23 Police started to set off the percussion bombs. And that  
24 wasn't true, so why did you say that? And do you still  
25 believe that?

1           THE DEFENDANT: I don't believe that it -- the way  
2 I portrayed it in the message of it being, you know, good,  
3 it was not good. What I meant to say or like the things  
4 that I saw were it wasn't as bad as people portrayed it; you  
5 know, people climbing up the walls in the pictures when  
6 there are stairs on both sides, but you only saw like people  
7 climbing up the wall. Like it was -- it was just -- just  
8 everything that --

9           THE COURT: So, you know, whether it was seven  
10 minutes or eight minutes, clearly, you know, you saw broken  
11 glass. You heard the sirens. You know, I assume you saw  
12 folks squaring off with Capitol Police. Did you think twice  
13 and say, well, maybe this isn't such a good idea?

14           THE DEFENDANT: I did, Your Honor. Before I went  
15 in and I was looking around, it was like that period of time  
16 was so short, but it also felt like an eternity. I was not  
17 thinking to the capacity that I should have been but more of  
18 just observing. And I -- you know, at the time I didn't  
19 know whether to go in, whether to stay outside. I didn't  
20 know where my friends were. That's who I was trying to get  
21 ahold of on the walkie-talkies.

22           I didn't know what to do at that time. I wasn't  
23 thinking in a complete adult manner.

24           Whenever I -- when I was inside, and I saw people  
25 taking signs off of walls and messing things up, that's



1 whenever I knew it was like, okay, I have to go. I have to  
2 get away from all this. This is going to be way worse than  
3 it already is. This is not going to end good at all.

4 THE COURT: Did you have a sense of what the goal  
5 was when you all were walking down there and decided to go  
6 in? What did you think was going to happen?

7 THE DEFENDANT: I didn't -- I don't know. I  
8 didn't know what was going to happen honestly.

9 Whenever I saw people that looked like they had a  
10 goal and they were there for a reason other than just being  
11 there is when I thought --

12 THE COURT: Did you know that the senators were in  
13 the process of certifying the election?

14 THE DEFENDANT: No, I didn't know that.

15 THE COURT: Okay. Did you know that the vice  
16 president was there?

17 THE DEFENDANT: No, I didn't know that.

18 THE COURT: Were you involved in politics at all  
19 before this?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: Anything else?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Okay.

24 All right. Stay up there.

25 The Court has considered all of the factors that I

1 have to consider, and as you know from reading the memos  
2 there are a lot of things that we take into account when  
3 fashioning a sentence, even a misdemeanor sentence, and we  
4 spend a lot of time and effort trying to decide what the  
5 right sentence for each individual person who appears before  
6 us is. And I hope you appreciate the formality and the  
7 dedication with which not just the Court but the attorneys,  
8 probation, my staff devotes to these sentences and these  
9 cases. I mean, this is serious business. It's not just  
10 going to court and paying a traffic ticket, okay?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And that's part of how our government  
13 works, right? This is our particular role in government.  
14 Congress has its goal. The Executive Branch has its goal.  
15 And there are certain rules of the road that we all follow  
16 as part of our democracy, as part of our government, right?  
17 And that's why we take these things, particularly January  
18 6th, so seriously.

19 THE DEFENDANT: Yes, Your Honor. And this has  
20 renewed my faith in the government because I'm -- you know,  
21 if this had happened in any other country, I would probably  
22 be dead. And I realize that, and that's -- you know, that's  
23 one of the reasons why, like I say, I still have my faith in  
24 the federal government because I am appreciative of the fact  
25 that I am alive.

1           THE COURT: Okay. And, you know, each one of  
2 these cases is different, and each one has different  
3 considerations. There are, you know, individual men and  
4 women who stand before us with different stories, with  
5 different levels of involvement, and we try to make  
6 individualized determinations.

7           We start with, you know, the offense and what you  
8 did. And it is true that you played a far lower role or  
9 lesser role than many others that day. You were not an  
10 organizer or a planner. You didn't break any windows. You  
11 did knock down any doors. You didn't steal anything. You  
12 didn't assault any police officers. You didn't bring any  
13 weapons. You didn't make your way to the Senate floor. All  
14 of those factors distinguish you from other folks that we  
15 may see in these cases. And, as Mr. Juman says, that's why  
16 you're here on a single misdemeanor count as opposed to the  
17 felony offenses that many others will face.

18           But, again, that does not mean that you bear no  
19 responsibility for what happened that day. And I take you  
20 for your word that you are remorseful and that you have,  
21 upon reflection, come to understand how dangerous that day  
22 was.

23           And it's also important to note in all of these  
24 sentences that while your conduct may have been nonviolent,  
25 it was the presence of the mob and each and every one of the

1 people who decided to go into the Capitol that led to the  
2 police being overwhelmed and that enabled the violence to  
3 occur and for folks to die that day.

4 And it was not a good day. It was a terrible day.  
5 It was a terrible day primarily for the five people who  
6 died. It was a terrible day for the congressional staffers  
7 who were cowering in their offices waiting for their doors  
8 to be broken down and not knowing who was on the other side.  
9 And it was a terrible day for our democracy generally. And  
10 you may not fully appreciate that, but I would counsel you  
11 to, you know, think about that and to do some reading and to  
12 study the way that our government works and talk to some  
13 people about that to get a better understanding of the  
14 overall effects of what happened that day.

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: I also have to consider you; you know,  
17 your history and your characteristics. I don't know you,  
18 but based on what I've read you strike me as a pretty  
19 average guy, right? High school grad, some college, very  
20 minor prior criminal record, solid employment history -- as  
21 your lawyer said, you've earned a solid living  
22 consistently -- hard worker, employable skills. You started  
23 your own business.

24 You know, the government is focused on whether you  
25 are remorseful or not. It is true you did not express

1 public support for the riot afterwards. You didn't go on  
2 national television. But your texts to your friend were  
3 troubling, okay? And as I acknowledged with your counsel, I  
4 have to determine where that fits in to your overall  
5 expression of remorse.

6 In terms of other folks who have been sentenced,  
7 you know, I agree with Mr. Juman. It is very difficult to  
8 make these fine distinctions between one sentence and  
9 another, particularly when we're dealing with sentences of  
10 weeks and months as opposed to years, and there will be, in  
11 all of these cases, once everything is said and done, some  
12 disparity in how folks are sentenced between different  
13 judges and even by particular judges. And, you know, once  
14 all of these cases are done and dusted that will become  
15 apparent; but that said, we try to generally make sure that  
16 there aren't significant disparities between cases, and my  
17 experience thus far is that the government has tried its  
18 best to, in its recommendations, ensure that similar people  
19 are treated alike.

20 So where does that leave us?

21 I could easily conclude that a short period of  
22 incarceration is appropriate in this case, but because I  
23 think the government is in the best position to broadly  
24 assess all of these cases, not just the ones before me, I  
25 will accept their recommendation and probation's

1 recommendation that a sentence of incarceration is not  
2 necessary in this case.

3 That leaves the government's recommendation for a  
4 period of home confinement. I understand where the request  
5 is coming from, but I think that a fine along with community  
6 service is a more appropriate sentence under the  
7 circumstances.

8 I agree with your counsel that it is important for  
9 you to continue to be able to work and earn a living, and  
10 so, you know, a period of home confinement that allowed you  
11 to go work, particularly if it was to stay places at jobs  
12 overnight, would only amount to a curfew, which I'm not sure  
13 is an appropriate message to send under the circumstances.

14 With respect to a fine, I know that probation has  
15 determined that you do not have the ability to pay, but with  
16 due respect to that recommendation, you're a hard working  
17 guy. You've shown, you know, an ability to earn a living.  
18 You have a job. You're reporting positive, you know,  
19 income, even through the pandemic. You don't have any  
20 dependents. You have some liquid assets. So for that  
21 reason I think that a fine is a more appropriate sentence in  
22 this case.

23 In terms of the term of probation, this is more of  
24 an art than a science. I am troubled by the indication in  
25 at least one of your texts that you would show -- you might

1 show up again if some call to action were to come out. I  
2 don't know that that's the case. That might be bluster.  
3 You may just have been trying to impress a friend. Maybe  
4 you've rethought all of that, but in an abundance of caution  
5 I think a longer term of probation is appropriate, and under  
6 the law you can apply for a reduction in your period of  
7 probation at some point, and the Court will assess that if  
8 that request were to come.

9 So with that, pursuant to the Sentencing Reform  
10 Act of 1984 and in consideration of the provisions of 18 USC  
11 3553, it is the judgment of the Court that you, John  
12 Clarence Wilkerson, IV, are hereby sentenced to a term of 36  
13 months of probation on Count 4.

14 In addition, you are ordered to pay a fine of  
15 \$2,500 and to perform 60 hours of community service. In  
16 addition, you are ordered to pay a special assessment of \$10  
17 in accordance with 18 USC 3013.

18 While on supervision, you shall abide by the  
19 following mandatory conditions as well as the standard  
20 conditions of supervision, which are imposed to establish  
21 the basic expectations for your conduct. The mandatory  
22 conditions include you must not commit another federal,  
23 state or local crime. You must not unlawfully possess a  
24 controlled substance. You must refrain from any unlawful  
25 use of a controlled substance.

1 Ms. Gavito, there's a testing provision in here.  
2 Is that appropriate? Is there any history of substance  
3 abuse that would warrant a drug testing condition?

4 THE PROBATION OFFICER: Your Honor, the mandatory  
5 testing condition may be removed, if Your Honor so wants  
6 that.

7 THE COURT: Okay. I did not see any significant  
8 controlled substance history so we're going to -- we're  
9 going to delete the unlawful use of a controlled substance  
10 and the controlled substance testing provision.

11 THE PROBATION OFFICER: Yes, Your Honor.

12 THE COURT: You must make restitution in  
13 accordance with 18 USC 3663 and 3663A or any statute  
14 authorizing a sentence of restitution.

15 The Court authorizes supervision and jurisdiction  
16 of this case to be transferred to the United States District  
17 Court for the District of Maryland.

18 The fine shall be payable within one year of the  
19 judgment.

20 You are ordered to make immediate restitution to  
21 the Architect of the Capitol in the amount of \$500. The  
22 Court waves any interest or penalties that may accrue on the  
23 balance.

24 Restitution payments shall be paid to the Clerk of  
25 the Court of the District of Columbia for disbursement to



1 the following victim: the Architect of the Capitol. And  
2 the address will be indicated in the judgment. The fine  
3 shall be payable to the clerk of this court.

4 You shall also comply with the following special  
5 conditions.

6 Financial information disclosure. You must  
7 provide the probation officer access to any requested  
8 financial information and authorize the release of any  
9 financial information. The probation office shall -- may  
10 share financial information with the U.S. Attorney's Office.

11 Within 30 days of any change of address, you shall  
12 notify the clerk of the court of the change until such time  
13 as the fine obligation is paid in full.

14 The probation office shall release the presentence  
15 report to all appropriate agencies, including the U.S.  
16 Probation Office in the approved district of residence in  
17 order to execute the sentence of the Court.

18 You have the right to appeal the sentence imposed  
19 by this Court if the period of imprisonment is longer than  
20 the statutory maximum. If you choose to appeal, you must  
21 file any appeal within 14 days after the Court enters  
22 judgment.

23 You also have the right to challenge the  
24 conviction entered or the sentence imposed if new and  
25 currently unavailable information becomes available to you

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

7 Any other objections, Counsel?

8 MR. RIPKE: No, Your Honor.

9 THE COURT: Okay. Mr. Wilkerson, you will be  
10 under these conditions. If you were to violate the  
11 conditions, just like your, you know, pretrial conditions, I  
12 will get a report. I'd have to bring you back in, and we'd  
13 have to resolve that, so, you know, don't put me in that  
14 position. Don't put yourself in that position. You've been  
15 compliant with all of the conditions thus far, and I fully  
16 expect that you'll be able to continue to do that, okay?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right. Good luck to you.

19 MR. JUMAN: Your Honor, I'm sorry, at this time  
20 the government moves to dismiss Counts 1 through 3.

21 THE COURT: So ordered.

22 (Whereupon the hearing was  
23 concluded at 3:00 p.m.)  
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**CERTIFICATE OF OFFICIAL COURT REPORTER**

I, LISA A. MOREIRA, RDR, CRR, do hereby  
certify that the above and foregoing constitutes a true and  
accurate transcript of my stenographic notes and is a full,  
true and complete transcript of the proceedings to the best  
of my ability.

Dated this 22nd day of November, 2021.

/s/Lisa A. Moreira, RDR, CRR  
Official Court Reporter  
United States Courthouse  
Room 6718  
333 Constitution Avenue, NW  
Washington, DC 20001