

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

UNITED STATES OF AMERICA

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§
§

vs.

NO. 1:22-CR-00052-1

NOLAN B. COOKE

SENTENCING MEMORANDUM

TO THE HONORABLE ROYCE C. LAMBERTH, SENIOR UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA:

NOW COMES NOLAN B. COOKE, Defendant in the above-entitled and numbered cause, by and through his undersigned Counsel, Donald H. Flanary, III., and respectfully files this Sentencing Memorandum pursuant to Title 18 United States Code § 3553¹ and for good cause would respectfully show this Honorable Court as follows:

Mr. Cooke requests a sentence of probation. Should the Court not be inclined to grant probation, Mr. Cooke respectfully requests that in the alternative, he be sentenced to home incarceration or one year and one day in custody. Given the Plea Agreement, the 18 U.S.C. § 3553(a) factors outlined in this Memorandum, and the Defendant’s compliance while on pretrial release, this request is reasonable.

I. Mr. Cooke’s Acceptance of Responsibility

Defendant Nolan B. Cooke has taken full responsibility for his actions during the riot at the U.S. Capitol on January 6, 2021. After his arrest on January 21, 2021, he cooperated with law

¹ 18 U.S.C. § 3553 contains factors that warrant a sentence outside the advisory guideline range. The Sentencing Reform Act gives the sentencing court the discretion to depart from the sentencing range in certain circumstances. *United States v. Williams*, 503 U.S. 193, 195-96. Sentencing Courts, “while not bound to apply the Guidelines, must consult those Guidelines and take them into account when sentencing.” *United States v. Booker*, 543 U.S. 220 (2005). Courts of appeals will look to the sentencing under a standard of reasonableness. *Id.* at 264.

enforcement by participating in an interview, during which he discussed the events that took place and his participation in the same. He further allowed law enforcement agents to review his social media accounts. He was released on bond on January 22, 2021.

Mr. Cooke pleaded guilty before this Court on March 9, 2022, to a single Count Information that charged the offense of Acts during Civil Disorder in violation of Title 18 U.S.C. § 231(a)(3), and a written plea agreement was filed that same date (Dkt. No. 47). He has remained on bond without issue since his release nearly a year and half ago.

II. Sentencing Guidelines

Mr. Cooke agrees with the Probation Officer's Sentencing Guideline Calculations, which calculate the total offense level as 11, a criminal history category of I, and a guideline imprisonment range of 8 to 14 months. The Supreme Court has clarified that the federal sentencing guidelines are now advisory only. *See United States v. Booker*, 125 S. Ct. 738 (2005).

III. Requested Sentence

Nolan B. Cooke respectfully requests that this Court sentence him to probation. In the alternative, he requests that he be sentenced to home incarceration or one year and one day in custody. As the Court will see below, there are a number of very important 18 U.S.C. § 3553(a) factors that warrant a variance as well as a downward departure.

IV. Sentencing Factors to Consider

18 U.S.C. 3553 (a)(2) mandates that a sentence (1) “reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;” (2) “afford adequate deterrence to criminal conduct;” (3) “protect the public from further crimes of the defendant;” and (4) “provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.” *See* 18 U.S.C. § 3553. When

considering the totality of the circumstances surrounding Mr. Cooke's case, a sentence of probation is the appropriate punishment.

18 U.S.C. § 3553 (a)(1) directs this Court to consider the "nature and circumstances of the offense and the history and characteristics of the defendant." *See id.*

A. The Characteristics of Defendant Nolan B. Cooke.

Defendant Nolan B. Cooke is now 24 years old and was 22 on the date in question. He was born in Sherman, Texas to his parents, Jeffrey and Teresa Cooke, on March 12, 1998. He has two siblings, Nicholas Cooke (32) and Whitney Wilson (27), and he maintains a close relationship with his parents and both siblings.

Mr. Cooke was born and raised in Texas. He graduated from Savoy High School in Savoy, Texas in the spring of 2016. During high school and after graduation, he was employed as a server at Cheddars restaurant in Sherman, Texas. After leaving the food and beverage industry, he held various positions such as a shelf-stocker at Wal-Mart and at the Dollar General Store, and a machine operator as a subcontractor for Volt Staffing as well as RPM Staffing. In July of 2021, he began working as a cabinet maker for PDQ Cabinet Shop in Savoy, Texas, where he remains employed to this day.

B. Mr. Cooke's Willingness to Change his Behavior.

As mentioned above, Defendant has been cooperative with law enforcement since his arrest and has remained compliant with all conditions of release for the past year and a half. He is truly remorseful for his actions leading up and during the events that took place on January 6, 2021, as evidenced by the apology he made during his PSR interview and his good conduct since his arrest.

C. Letters from Mr. Cooke's close family friends.

1. Letter from Jamie Pope, a close family friend and current employer of Nolan B. Cooke.

Jamie Pope, a close family friend and Mr. Cooke's current employer, writes a letter to this Court asking for leniency in Mr. Cooke's sentencing. He explains that he has known Mr. Cooke since he was just a young boy. Mr. Pope writes that he hired Mr. Cooke in July of 2021 and that he considers Mr. Cooke to be "a huge asset" to the company. Mr. Pope feels that Mr. Cooke has been upfront about the charges he has pleaded to and that he has learned from his mistakes. *See* Letters from close family friends, *attached* as Exhibit 1.

2. Letter from Rhonda Jaynes, a close family friend of Nolan B. Cooke.

Rhonda Jaynes, close family friend, also writes a letter of support for Mr. Cooke. She writes that she has known Mr. Cooke since he was just four years old. She explains that he went to school with her son and that the two of them played sports together for over ten years. She describes Mr. Cooke as well-mannered and reserved. Ms. Jaynes believes Mr. Cooke is truly remorseful for his actions and asks the Court for leniency in his sentence. *See id.*

D. 18 U.S.C. § 3553.

18 U.S.C. § 3553(a)(6) directs that the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct is also a factor to consider in imposing a sentence.

Recently, other defendants who participated in the Capitol riot on January 6, 2021, have received sentences of probation. For example, a New York man who was turned in to the FBI by a Bumble match was sentenced in May of 2022 to three months of home detention and more than a year of probation for his role in the Capitol riot². Also in May, a federal judge sentenced a U.S.

² *See* Fischer, Jordan. *Man ID'd by Bumble match sentenced to 18 months probation in Capitol riot case.* (May 18, 2022). WUSA 9. Available at: <https://www.wusa9.com/article/news/national/capitol-riots/man-idd-by-bumble-match-sentenced-to-18-months-probation-in-capitol-riot-case-robert-chapman-new-york/65-11cd7247-8fd8-401a-a3e2-3f819a39b08b#:~:text=WASHINGTON%20%E2%80%94%20New%20York%20man.role%20in%20the%20Capitol%20riot.>

Army veteran from Oklahoma to three years probation for his role in the January 6, 2021, riot at the U.S. Capitol³. Likewise, in April of 2022, a Fort Walton Beach resident was ordered to serve two years on probation for his role in riot⁴. In March of 2022, a Florida P.E. teacher who urged others on the right-wing social media site Parler to overthrow the “KABAL” (sic) on January 6, 2021, was sentenced to three years of probation⁵. Also in March of 2022, a Tennessee man, who prosecutors say was one of the first 15 people to breach the Capitol on January 6, 2021, was sentenced to three years of probation, including 60 days of house arrest for his role in the insurrection⁶, and a Louisville man who also participated in the riot was sentenced to three years of probation and 90 days of “home monitoring⁷.” In February of 2022, a South Carolina man was sentenced to 36 months of probation with a condition of home detention and ordered to pay \$500 in restitution for his role in the riot⁸, and a former Pennsylvania insurance salesman who participated in the US Capitol attack was sentenced to six months probation, \$500 in restitution and 60 hours of community service⁹. Earlier, in December of 2021, a former Englewood resident was sentenced to a year probation for trespassing during the riot at the U.S. Capitol building and

³ See Clay, Nolan. *Oklahoma Army veteran gets probation for role in Jan. 6 US Capitol riot*. (May 5, 2022). The Oklahoman. Available at: <https://www.oklahoman.com/story/news/2022/05/05/former-army-veteran-trump-supporter-oklahoma-gets-probation-jan-6-capitol-riot/9645826002/>.

⁴ See McLaughlin, Tom. *Fort Walton Beach man sentenced to two years probation for role in Jan. 6 Capitol riot*. (April 14, 2022). Nwfdailynews. Available at: <https://www.nwfdailynews.com/story/news/politics/2022/04/14/fort-walton-beach-man-timothy-omalley-2-years-probation-role-capitol-riot-insurrection/7294877001/>.

⁵ See Fischer, Jordan. *Gym teacher who wanted to 'storm the House' sentenced to probation*. (March 30, 2022). WUSA 9. Available at: <https://www.wusa9.com/article/news/national/capitol-riots/florida-gym-teacher-sentenced-to-probation-in-capitol-riot-case-kenneth-reda-parler/65-4685a643-3885-4ac3-bcf4-890265d1226a>.

⁶ See Snodgrass, Erin. *Capitol rioter who said he 'genuinely believed' there was a secret state plot to kill off the human population was sentenced to 3 years of probation*. (March 31, 2022). Business Insider. Available at: <https://www.businessinsider.com/capitol-rioter-prone-to-conspiratorial-thinking-gets-3-years-probation-2022-3>.

⁷ See Kobin, Billy. *Federal judge sentences Louisville man in Jan. 6 Capitol riot case to 3 years of probation*. (March 17, 2022). Courier Journal. Available at: <https://www.courier-journal.com/story/news/crime/2022/03/17/louisville-man-michael-orangias-jan-6-riot-sentenced-three-years-probation/6938750001/>.

⁸ See Boyd, Tamia. *Greer man sentenced to 36 months probation in Jan. 6 Capitol riot case*. (Feb. 18, 2022). Greenville News. Available at: <https://www.greenvilleonline.com/story/news/2022/02/18/greer-sc-man-sentenced-jan-6-capitol-riot-case/6843062001/>.

⁹ See Millman, Andrew. *Man sentenced to probation in US Capitol attack after revealing he lost his job and now delivers pizza*. (Feb. 15, 2022). CNN Politics. Available at: <https://www.cnn.com/2022/02/15/politics/mcalanis-capitol-riot/index.html>.

his girlfriend received two years probation for the same charge¹⁰. These are just a few examples of persons similarly situated to Nolan B. Cooke who also participated and pleaded guilty to conduct surrounding the riot at the U.S. Capitol on January 6, 2021.

V. BOP Designation

Mr. Cooke is a life-long resident of Texas and his friends and family reside in Sherman, Texas. For that reason, he requests that this Court recommend that he be designated to serve any imprisonment in a Bureau Prisons facility near Sherman, Texas.

VI. RDAP

Should Mr. Cooke receive a sentence of imprisonment of more than 9 months, he respectfully requests that this Court make a recommendation that he be admitted into the Bureau of Prisons Residential Drug and Alcohol Treatment Program (RDAP). As outlined in the PSR, Mr. Cooke would benefit from the program because of his substance abuse history that includes alcohol and marijuana.

VII. Conclusion and Prayer

Mr. Cooke readily acknowledges and accepts that he must be punished for his actions in this case but asks the Court to remember that he is defined by much more than the instant offense. As outlined in this Memorandum, Mr. Cooke takes full responsibility for his actions and is capable of remaining a productive member of society as he has during his time before this offense and while on bond.

WHEREFORE, PREMISES CONSIDERED, Defendant Nolan B. Cooke respectfully prays that you take into consideration this Sentencing Memorandum and impose a sentence of

¹⁰ See *Former Englewood man gets probation in Capitol riot case*. (Dec. 30, 2022). Sun Newspapers, ABC 7. Available at: <https://www.mysuncoast.com/2021/12/30/former-englewood-man-gets-probation-capitol-riot-case/>.

probation, or in the alternative, a sentence of home incarceration or one year and one day in custody and for other such relief that this Honorable Court deems just and right.

Respectfully Submitted,

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BY: /s/ Donald H. Flanary, III.

Donald H. Flanary, III.

ATTORNEY FOR DEFENDANT,
Nolan B. Cooke.

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the above and foregoing document was electronically sent *via* CM/ECF to Julie Zimmerman, Assistant United States Attorney, on June 3, 2022.

/s/ Donald H. Flanary, III.

Donald H. Flanary, III.