

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,	)	Criminal Action
	)	No. 21-278-1
vs.	)	
	)	
ROBERT SCHORNAK,	)	February 18, 2022
	)	9:30 a.m.
Defendant.	)	Washington, D.C.
	)	

\* \* \* \* \*

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

**APPEARANCES:**

FOR THE UNITED STATES:

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ALSO PRESENT: CARMEN NEWTON, Probation Officer  
CHRISTINE SCHUCK, Pretrial Agent

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

Proceedings reported by machine shorthand, transcript  
produced by computer-aided transcription.

**P R O C E E D I N G S**

1  
2 THE COURTROOM DEPUTY: Matter before the Court,  
3 Criminal Case No. 21-278-1, United States of America versus  
4 Robert Schornak.

5 Your Honor, for the record, Probation Officer  
6 Carmen Newton and Pretrial Agent Christine Schuck are  
7 joining us via Zoom.

8 Counsel, please come forward and state your names  
9 for the record.

10 THE COURT: You can do it from your table right  
11 there. When you are talking more, you can come up to the  
12 podium. But, for right now, if you could just state your  
13 name for the record from the microphone at your table.

14 MS. EVE: Good morning, Your Honor.

15 Anita Eve on behalf of the United States.

16 THE COURT: Yes. Good morning, Ms. Eve.

17 MR. OHM: Eugene Ohm on behalf of Mr. Schornak.  
18 Good morning, Your Honor.

19 THE COURT: Good morning, Mr. Ohm.

20 Good morning, Mr. Schornak.

21 THE DEFENDANT: Good morning, Your Honor.

22 THE COURT: All right. We're here this morning  
23 for Mr. Schornak's sentencing.

24 The sentencing hearing, for purposes of the  
25 record, is being held in person, but the public access line

1 is being made available for persons to listen to these  
2 proceedings remotely.

3 The CDC still considers the District of Columbia a  
4 high-transmission area for COVID and so keeping the public  
5 access line is intended to keep the numbers of people  
6 physically present coming into the courthouse down since  
7 people can listen from the public access line.

8 Anyone listening to the sentencing hearing over  
9 the public teleconference line is reminded that, under my  
10 Standing Order 20-20, recording and rebroadcasting of court  
11 proceedings including those held by videoconference is  
12 strictly prohibited. Violation of these prohibitions may  
13 result in sanctions, including removal of court-issued media  
14 credentials, restricted or denial of entry to future  
15 hearings, or any other sanctions deemed necessary by the  
16 presiding judge.

17 All right. I am going to begin just by talking  
18 about all of the documents and submissions that I have read  
19 in connection with the hearing. I like to do this to make  
20 sure everybody is working from the same set of materials.

21 I have reviewed the probation office's presentence  
22 investigation report, docketed at ECF 59; as well as the  
23 probation office's sentencing recommendation, docketed at  
24 ECF 60.

25 I have also reviewed the government's sentencing

1 memorandum and supplemental correction, docketed at ECF 62  
2 and 63. I have reviewed the video evidence that's been  
3 submitted and listed by the government, at ECF 50, and  
4 supplemented, for purposes of sentencing, at ECF 67.

5 I have also reviewed the sentencing memorandum  
6 submitted by Mr. Ohm on Mr. Schornak's behalf that -- along  
7 with Mr. Schornak's letter to me, and 14 other letters from  
8 family members and friends.

9 So does the government have all of those  
10 documents?

11 MS. EVE: Yes, Your Honor.

12 THE COURT: And, Mr. Ohm, do you have all of those  
13 documents?

14 MR. OHM: Yes, Your Honor.

15 THE COURT: I think you were talking over me.

16 MR. OHM: Yes, Your Honor.

17 THE COURT: All right. So, Mr. Schornak --

18 MR. OHM: Sorry.

19 THE COURT: Let me just give you an outline of how  
20 this sentencing proceeding is going to go today.

21 It has four different steps. And I like to tell  
22 people how the hearing proceeds since different judges do  
23 sentencing hearings differently; and I want you to  
24 understand what's coming up next during the course of the  
25 hearing.

1           The first step of the sentencing hearing is to  
2 determine whether the government or you have any objections  
3 to any portions of the presentence investigation report  
4 submitted by the probation office and, if there are any  
5 objections, to resolve them.

6           The second step -- because you have been convicted  
7 of a Class A misdemeanor which is subject to the federal  
8 sentencing guidelines -- is to determine how the guidelines  
9 apply in your case based upon your criminal history and any  
10 mitigating or aggravating factors.

11           The third step is to hear from the government and  
12 then from your counsel and, lastly, from you, if you wish to  
13 be heard about sentencing, if you wish to speak to me  
14 directly about your case. And then the last step requires  
15 the Court to explain the reasons for the sentence imposed  
16 and to impose sentence.

17           Do you have any questions about how this hearing  
18 is going to proceed this morning?

19           THE DEFENDANT: No, Your Honor.

20           THE COURT: All right. So let's start with the  
21 presentence investigation report that was filed on  
22 January 20th, 2022.

23           I understand from the PSR, at page 18, that the  
24 government hasn't submitted any objections to the  
25 presentence investigation report; is that correct?

1 MS. EVE: That is correct, Your Honor. There were  
2 no objections.

3 THE COURT: Okay. But I was a little bit confused  
4 so maybe you can clarify this for me. Because the  
5 government, although it noted no --

6 Excuse me. I'm sorry. You're going to have to  
7 leave. A sentencing hearing is no place for a crying baby  
8 as cute as that baby maybe.

9 THE DEFENDANT: Thank you, Your Honor.  
10 He's normally good. We expected him to be better.  
11 I apologize.

12 (Whereupon, the proceeding pauses.)

13 THE COURT: All right. Ms. Eve, so the  
14 government's sentencing memo says that the adjusted offense  
15 level in the PSR, at paragraph 40, applied a two-offense  
16 level increase under the guideline at 2B2.3(b)(1)(a)(i)  
17 because the trespass occurred at a secured government  
18 facility, and the government believed that it should be --  
19 instead of (i), it should have been (v)(ii), at 7, because  
20 of a restricted building or grounds.

21 Was that paragraph corrected in the PSR, because I  
22 don't see the problem that the government mentions in its  
23 sentencing memo?

24 MS. EVE: Your Honor, we identified it in the  
25 sentencing memorandum.

1 Does the Court want me to stand?

2 THE COURT: Yes. You can come forward --

3 MS. EVE: Yes.

4 THE COURT: -- to speak at the podium.

5 MS. EVE: I am not used to sitting when I address  
6 the Court.

7 THE COURT: Yes, thank you.

8 I am not used to that either, to be honest.

9 MS. EVE: Your Honor, it did not -- when I was  
10 preparing the sentencing memorandum and it was being  
11 reviewed by my supervisors, we noticed what the probation  
12 office relied upon and felt that -- because they did put the  
13 (i) as opposed to the small -- (ii).

14 THE COURT: I think they must have corrected it  
15 because the version that I have -- it doesn't have a (i) --  
16 any (i)s or anything in it.

17 So I don't --

18 MS. EVE: It might have been in --

19 THE COURT: -- in paragraph 40. So I don't -- I  
20 think they must have corrected it.

21 Are you looking at ECF 59, the final --

22 MS. EVE: I think -- well, Your Honor, when I  
23 wrote --

24 THE COURT: -- presentence investigation report?

25 MS. EVE: I think -- well, Your Honor, when I

1 wrote --

2 THE COURT: Don't speak over me. Let me finish my  
3 question.

4 MS. EVE: I'm sorry.

5 THE COURT: Was your comment in your brief  
6 critical of the paragraph 40 -- the paragraph 40 in the PSR  
7 that appears in the final presentence investigation report,  
8 docketed at ECF 59?

9 MS. EVE: Your Honor, when I wrote the sentencing  
10 memorandum, I did not have the final. I was relying on the  
11 draft; and I believe it may have been corrected in the  
12 final.

13 THE COURT: Okay.

14 MS. EVE: And there was no difference in terms of  
15 the application of (i) as opposed to (ii).

16 THE COURT: I understand that.

17 Okay. But if there was a problem in the PSR, I  
18 would have to correct it here; but I don't see any  
19 correction necessary. Is that the government's position  
20 now?

21 MS. EVE: Yes, Your Honor.

22 THE COURT: Okay. Thank you.

23 All right. You may be seated.

24 MS. EVE: Thank you.

25 THE COURT: All right. Mr. Ohm, have you and your



1 client read and discussed the presentence investigation  
2 report?

3 MR. OHM: Yes, Your Honor.

4 THE COURT: And does the defendant have any  
5 objections at all to the PSR?

6 MR. OHM: No, Your Honor.

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

8 Mr. Schornak, please stand right where you are,  
9 and you can move the microphone over to you.

10 Are you fully satisfied with your attorney in this  
11 case?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you feel that you have had enough  
14 time to talk to Mr. Ohm about the probation department's  
15 presentence investigation report, the sentencing  
16 recommendation, and the papers filed by the government in  
17 connection with your sentencing?

18 THE DEFENDANT: Yes, Your Honor.

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

20 Hearing no objection from either side, the Court  
21 accepts the factual portions of the presentence  
22 investigation report as undisputed and as my findings of  
23 fact at sentencing, as supplemented by my own review of the  
24 video exhibits in the case.

25 All right. We're now at the second step of the

1 sentencing hearing where I discuss determination of how the  
2 guidelines apply to your case, Mr. Schornak.

3 The probation office has calculated the guideline  
4 range as follows -- and I concur with the probation office's  
5 guideline determination.

6 The presentence investigation found that  
7 Mr. Schornak has three prior criminal convictions, two DUI  
8 offenses as a young adult, and a disorderly person offense  
9 at age 20; but these do not count towards his criminal  
10 history score and, thus, his criminal history score is zero,  
11 and his criminal history category is 1.

12 The offense of conviction is 18 U.S.C. Section  
13 1752(a)(1), entering and remaining in a restricted building  
14 or grounds. And the guideline that applies to that offense  
15 conduct, under this statute, is the guideline at 2B2.3,  
16 which starts with the base offense level of 4; and then two  
17 offense levels are added because the trespass occurred at a  
18 restricted building or grounds, under 2B2.3(b)(1)(A)(7); and  
19 two levels are subtracted for defendant's acceptance of  
20 responsibility under the guideline at 3E1.1(a); resulting in  
21 a total offense level of 4 which, in combination with his  
22 criminal history category 1, results in an advisory  
23 sentencing range of zero to 6 months' imprisonment.

24 Under this statute, also, it can be also up to --  
25 under the guidelines, up to 3 years of probation; and any

1 period of imprisonment may be followed by up to 1 year of  
2 supervised release; a fine range of \$500 to \$9500, and a  
3 special assessment of \$25 for a single count of conviction,  
4 which is what is triggered here, and a restitution amount  
5 under the plea agreement of \$500.

6 Are there any objections from the government to  
7 this guideline determination?

8 MS. EVE: No, Your Honor.

9 THE COURT: And, Mr. Ohm, any objections to --

10 MR. OHM: No, Your Honor.

11 THE COURT: All right. I will now turn to the  
12 government.

13 Ms. Eve, you can step forward to the podium and --  
14 to discuss application of the factors that are set out in  
15 Section 3553(a).

16 I understand the government's sentencing  
17 recommendation here is 4 to 6 months' imprisonment, plus  
18 1 year of supervised release, and 60 hours of community  
19 service; compared to the defendant's request for a period of  
20 probation and community service, and the U.S. Probation  
21 Office's recommendation of 2 years' probation.

22 So the government's recommending 4 to 6 months'  
23 imprisonment, which is within the advisory guideline range  
24 of zero to 6 months, but at the high end of that guideline  
25 range; is that correct?

1 MS. EVE: That is correct, Your Honor.

2 THE COURT: And most -- I mean, usually -- if you  
3 check the sentencing commission statistics, you know, the  
4 vast majority of sentences within the guideline range are at  
5 the low end of the guideline range not the high end of the  
6 guideline range as the government's recommending here.

7 And I understand that the government's position is  
8 that there is unique circumstances applicable to the offense  
9 conduct in this case that warrants a sentence at the high  
10 end of the applicable guideline range; so I want to give the  
11 government an opportunity to tell me about that.

12 MS. EVE: Yes, Your Honor.

13 Your Honor, we have set forth, in our sentencing  
14 memorandum and the exhibits presented to the Court, the  
15 aggravating circumstances that exist in this case and the  
16 acts undertaken by this defendant, and there are numerous  
17 ones.

18 I want to point to the most important ones,  
19 beginning with the planning that this defendant engaged in  
20 prior to leaving Michigan. He planned for violence taking  
21 place in the District of Columbia -- not necessarily at the  
22 Capitol, but in the District of Columbia; it just happened  
23 to occur at the Capitol, and it happened to occur with this  
24 defendant.

25 This defendant planned to take a tactical vest; he

1 took a military-style helmet; he took a bullhorn. He  
2 attended the "Stop the Steal" rally and then proceeded  
3 directly to the United States Capitol.

4 Pages 2 and 3 -- particularly page 3, where we  
5 have Image 1, shows Mr. Schornak wearing the tactical vest,  
6 carrying the helmet, carrying the bullhorn.

7 And I will get to this in a minute, but there is  
8 also the social media post that Mr. Schornak made with  
9 regard to his intent of what was going to take place in  
10 Washington. He did not plan for anything to be peaceful.

11 The next aggravating factor that I want to talk  
12 to -- well, the second one I had was the wearing of the  
13 actual tactical vest and the carrying of the helmet and the  
14 bullhorn in Washington, D.C.

15 And as I indicated, the first image, Image 1,  
16 which appears on page 3 of the government's sentencing  
17 memorandum -- you can also see, on page 9 of the  
18 government's sentencing memorandum -- specifically, Image 8  
19 shows the defendant inside the crypt wearing the tactical  
20 vest, carrying a bullhorn, and carrying the helmet.

21 THE COURT: Can I interrupt you for just one  
22 minute, Ms. Eve, because you talked about his social media  
23 post. When I hear about "social media posts," I, sort of,  
24 interpret that to mean public posts for everybody in the  
25 world to see.

1           And -- did he do that, or were his posts on  
2 Facebook, sort of, private messages to friends or family?

3           MS. EVE: Well, Mr. Schornak had people that he  
4 had -- he was friends with on Facebook. So when he posted  
5 the intent, he is sharing those with the people that he's  
6 friends with; that would include his brother; that would  
7 include -- there was another unidentified individual; and  
8 then there was the individual that we have identified in our  
9 sentencing memorandum as C.H.; we only indicated her first  
10 name being "Cindy." So he is sharing this not with the  
11 world, but with the people that he's friends with.

12           THE COURT: All right. And do you think there is  
13 a difference between a person communicating more privately  
14 with specific individuals and private posts or emails or  
15 texts versus someone who is posting more broadly to a much  
16 larger audience of the public, in terms of trying to incite  
17 or encourage or promote a particular activity?

18           MS. EVE: Your Honor, I think it depends on the  
19 circumstances. What you have just identified is that if you  
20 are trying to encourage the masses and if you're making  
21 public posts -- that's not what we're talking about in this  
22 case.

23           THE COURT: Okay. I want it to be clear because I  
24 do think that there is a distinction; and I think that there  
25 is a distinction that I have been drawing in cases in terms

1 of culpability.

2 So I wanted to clarify that when you refer to  
3 social media posts that he made before he came to D.C. --  
4 you are not talking about posts to the public; they were  
5 posts made privately to individuals whom he knew?

6 MS. EVE: That would be correct, Your Honor. And  
7 I will forego saying "social media posts," and just say  
8 "Facebook" --

9 THE COURT: Okay.

10 MS. EVE: -- and to his friends or family.

11 THE COURT: Okay. All right. I wanted to make  
12 sure I had not missed something.

13 MS. EVE: Yes, Your Honor.

14 As I was indicating -- I don't know whether I  
15 completed my thought.

16 Image 8, which appears on page 9 of the  
17 government's sentencing memorandum, shows Mr. Schornak in  
18 the vest with the helmet and with the bullhorn; and he is  
19 inside the crypt. And there was a video that was presented  
20 to the Court that also -- that is the source of the  
21 screenshot that appears on -- that is Image 8.

22 And the discussion on Facebook with regard to the  
23 vest, with regard to where his mind was, in terms of why  
24 he's bringing these items to the Capitol -- he posted on  
25 Facebook. As I indicated, I will get to the Facebook posts

1 in a moment.

2 Now, I want to talk about the defendant's entry  
3 into the Capitol because he entered the Capitol not long  
4 after the Senate wing door had been breached; that door was  
5 breached at approximately 2:20 p.m. on January the 6th.

6 The defendant coursed through the mob that is  
7 depicted in Image 2 on page 4 of the government's sentencing  
8 memorandum. The defendant entered the Capitol at  
9 approximately 2:26 p.m.; a mere six minutes from the time  
10 that that Senate wing door had been breached.

11 As you can see in Image 3, on page 5 of the  
12 government's sentencing memorandum, that's the defendant  
13 entering the Capitol through the Senate wing door -- and I  
14 should say broken Senate wing door. Not broken by this  
15 defendant, but broken by the individuals who first breached  
16 it at approximately 2:20.

17 The next image that I want to bring to the Court's  
18 attention is Image No. 4 which appears on page 6 of the  
19 government's sentencing memorandum. If you look to the far  
20 left center of that image, you will see the defendant is  
21 circled. That image is captured at approximately a minute  
22 or so after the defendant entered the Capitol.

23 So what it shows is the defendant now having  
24 illegally entered the Capitol through the broken Senate wing  
25 door; he is standing in that same lobby area. He is



1 watching -- now law enforcement is stopping the flow of  
2 individuals into the Capitol. He doesn't say to himself:  
3 Oh, let me get out of here; I am not supposed to be in here.  
4 Instead, he stands back and watches other people trying to  
5 get in.

6 The defendant doesn't leave. Instead, the  
7 defendant makes a left and proceeds further into the  
8 Capitol. We know that because, at approximately 2:29 p.m.,  
9 law enforcement officers were attempting to lower a gate; it  
10 goes from the crypt to, I think, the visitor center. It  
11 shows in Images 5 and 6 -- and there is the video that we  
12 provided to the Court --

13 THE COURT: I have seen the video.

14 MS. EVE: Yes. If you recall, Your Honor, it was  
15 an attempt by law enforcement officers to lower this gate;  
16 and there are individuals throwing chairs and other things  
17 at the law enforcement officers. Mr. Gieswein takes a bear  
18 spray can or pepper spray and he sprays the law enforcement  
19 officers; the fumes from this spray are in the air. And  
20 less than a minute after these individuals have tried to  
21 interfere with law enforcement officers, Mr. Schornak  
22 appears.

23 If you will recall from the video, Mr. Schornak  
24 was covering up his mouth and his nose because that irritant  
25 is in the air.

1 Not deterred by what he is witnessing -- the  
2 interaction between the law enforcement officers and the  
3 rioters that he is a part of because he is in the Capitol  
4 with them -- Mr. Schornak, as I indicated, he is marching  
5 through the Capitol; he is in the crypt that's shown in  
6 Image 8.

7 He then travels to Emancipation Hall. And he  
8 meets, in Emancipation Hall, the same individual who has  
9 just pepper-sprayed law enforcement officers. What does he  
10 do? He takes a selfie with this individual. This  
11 individual is now to him a celebrity.

12 But the case against Mr. Schornak and the reason  
13 why we are asking --

14 THE COURT: Ms. Eve. Ms. Eve, I am going to stop  
15 you there because I know that the government spent, you  
16 know, some -- gave some attention to the selfie that  
17 Mr. Schornak took with -- Mr. Gieswein, is that his name?

18 MS. EVE: Mr. Gieswein, correct.

19 THE COURT: -- who, I take it, has been charged in  
20 a case not before me; is that correct?

21 MS. EVE: That's correct, Your Honor.

22 THE COURT: And the government does seem to  
23 suggest that Mr. Gieswein was a friend of Mr. Schornak's or  
24 had some familiarity with Mr. Schornak, which Mr. Schornak  
25 denies. The government doesn't have any evidence other than

1 Mr. Schornak taking a selfie with Mr. Gieswein that he knew  
2 what Mr. Gieswein's conduct had been in spraying bear spray  
3 towards the law enforcement officers when they were trying  
4 to get the gate down and -- I mean, do you? -- that they  
5 were anything other than two people inside the Capitol  
6 unlawfully.

7 MS. EVE: Just circumstantial evidence, Your  
8 Honor. Just given the fact of when the spraying occurred  
9 and Mr. Schornak's appearance on the video in such close  
10 proximity to that time frame.

11 THE COURT: Well, I have looked at that video and,  
12 frankly, Mr. Schornak looks like he's pretty far back. He  
13 comes strolling through. I mean, clearly, the fumes were  
14 affecting lots of people. But it's not clear to me from the  
15 video that he was so close that he could see that violent  
16 interaction between the rioters trying to keep the gate up  
17 and the law enforcement people trying to lower the gate;  
18 that's number one.

19 Number two, in Emancipation Hall, when  
20 Mr. Schornak took a selfie with Mr. Gieswein, just a couple  
21 of seconds -- maybe a minute later, he also is taking  
22 photographs of two other members of this mob who were  
23 standing in Emancipation Hall, you know, taking -- asking  
24 for -- clearly, you can see the interaction, although there  
25 is no sound, asks Mr. Schornak to take a picture of them in

1 their glory inside the Capitol; and he did that too.

2 So it wasn't just Mr. Gieswein that he took a  
3 picture of in Emancipation Hall; it was these two other  
4 individuals as well, right?

5 MS. EVE: I will concede that, Your Honor. I am  
6 just implying that based on the circumstances -- to the  
7 government, there is circumstantial evidence that he was  
8 treating Mr. Gieswein as a celebrity.

9 Mr. Ohm, in his sentencing memorandum, suggested  
10 that, no, he didn't know him; didn't know what he had done;  
11 and just saw that they were dressed alike, and that's the  
12 reason why he took a selfie with him. I am going to leave  
13 that up to the Court to decide; it can go either way.

14 THE COURT: I don't think it can go either way.

15 I don't see any evidence supporting the fact that  
16 they have a closer relationship than any of the other people  
17 who -- the two other people, like Mr. Gieswein, who may have  
18 wanted a picture taken in Emancipation Hall since they were  
19 taking free reign of the Capitol at that point.

20 But I know that one of the aggravating  
21 circumstances that the government has pointed to is this  
22 selfie with Mr. Gieswein and asking the Court to draw an  
23 inference that Mr. Schornak viewed Mr. Gieswein and was  
24 celebrating his actions in having a violent confrontation  
25 with the law enforcement officers who were there. I think

1 that that is an inference that I am not going to draw here  
2 because I just don't see the evidence of that in the  
3 videotapes.

4 MS. EVE: I will accept that, Your Honor; and I am  
5 going to go on to the next thing.

6 THE COURT: Fine.

7 MS. EVE: The next thing that I want to bring to  
8 the Court's attention is the theft of the flag.

9 As depicted in Images 12 and 13 and in the video  
10 exhibit, which is Government Exhibit No. 6, Mr. Schornak is  
11 not with the crowd -- he is all alone. And he goes to an  
12 area in the visitor center and he walks up to a statue; and  
13 according to the Capitol Police he stepped over, like, a --  
14 I would say, like, a velvet rope -- but he walked over a  
15 rope line that was protecting the statue; and he removes the  
16 flag and the flagpole.

17 And as you can see in Images 12 and 13, it took  
18 him -- we got -- well, we captured from 19:35:01 through  
19 19:35:08, in the visitor center upper lobby you can see the  
20 defendant walking without the flag and then, within a matter  
21 of split seconds, the defendant is walking away with the  
22 flag.

23 THE COURT: I don't think there is any dispute  
24 that he stole the flag.

25 MS. EVE: That's right; and he's parading around

1 the Capitol with it. And he has -- in Images 14 and 15, you  
2 see him with the flag.

3 He is now back in the crypt. And in Image 16,  
4 when he is now leaving the Capitol, he is going through the  
5 broken Senate wing window with the flag. And what does he  
6 do with the flag? He goes outside, as depicted in  
7 Images 17, 18, and 19, and he raises the flag; and then he  
8 hands it off to two individuals who are on a scaffold. They  
9 are not there to wash the windows; they are not there to do  
10 any maintenance. They are there as part of the riot and the  
11 insurrection that's taking place on the Capitol.

12 Now, I mentioned earlier that I wanted to get to  
13 the Facebook posts because the Facebook posts tell us about  
14 the mindset of the defendant.

15 He states, and I quote, on page 16 of the  
16 government's sentencing memorandum, "I stole the Senate flag  
17 and took it outside to be waved atop the scaffolding before  
18 I collapsed."

19 That post gives us a clear indication of what the  
20 defendant was thinking when he stole the flag and what he  
21 intended to do with the flag. He was rallying the rioters  
22 who were there on the Capitol steps. He didn't take it as a  
23 souvenir. I know that there is a case -- I don't think -- I  
24 am not sure if it's before this case -- Wiedrich, where an  
25 individual stole a flag, took it home, and he's keeping it

1 as a souvenir. It's a personal object.

2 For this defendant, he is using this like a  
3 battleground flag, trying to rally the troops there. And he  
4 tells us that that's what he wanted to do.

5 He sent a message to another individual after that  
6 same post and he said, We stormed the Capitol. Wait until  
7 you see it. Yeah, when government fears the people there is  
8 liberty. When the people fear the government there is  
9 tyranny. They were scared today, and I am damn proud of it.  
10 The Capitol has never been breached before. We did it.

11 Your Honor, I highlight a number of the  
12 defendant's messages in the government's sentencing  
13 memorandum. And one of the things that the government has  
14 looked at is not only the post that he made after he left  
15 the Capitol, but what did he say the day after.

16 On January 7, the defendant posted the following  
17 comment on Facebook, I will never apologize for what we did,  
18 ever.

19 Now, this is after the whole world has seen this  
20 insurrection take place before their eyes. It's all over  
21 the media. It's on the television, it's on the internet,  
22 it's on the radio -- it's everywhere. But this defendant,  
23 the day after is saying, I don't intend to apologize for  
24 this.

25 On January 22nd is when he tells his Facebook

1 friend, Hey, Cindy, please erase that post about me at the  
2 Capitol. I really don't want that info out there for  
3 obvious reasons.

4 Now, I know, in the defendant's sentencing memo,  
5 they refer to the government taking things out of context.  
6 We didn't take anything out of context. We quoted the  
7 defendant directly and in time -- the day of, the day after,  
8 and several -- almost 20 -- almost 20 days later, not quite  
9 20 days, but on January 22nd.

10 So he encouraged the destruction of a Facebook  
11 post that he initially made.

12 Now, I know that there have been several cases  
13 that have been prosecuted by my office; and the defendants  
14 learned the fact that they're under investigation, and they  
15 contact the FBI and they say: I want to turn myself in.  
16 This defendant didn't do it. This defendant had to be  
17 arrested.

18 The arrest took place not in his home because the  
19 FBI agents realized that he had a young child. As the  
20 defendant has informed us, in the defendant's sentencing  
21 papers, his son was three months old, I believe, on January  
22 the 6th; just a couple months older when he was arrested, I  
23 believe, in March.

24 The defendant had his constitutional right to have  
25 an attorney present before he made any statements; but the



1 first time that he makes a statement is not until September  
2 of 2021.

3 As the Court is aware, when I filed the initial  
4 sentencing memoranda, I indicated the defendant had not  
5 shown remorse; that's because, in preparation of the  
6 sentencing memorandum, there was discussion that took place  
7 between myself and the case agents because I wanted to know  
8 how did this defendant act when he was debriefed back in  
9 September. And the report that I got was that he was  
10 minimizing his conduct; that he was saying the right words  
11 in terms of expressing remorse, but they doubted the  
12 remorse. They felt that he was not sincere.

13 Now, if you read defendant's sentencing  
14 memorandum, if you read all of the supporting letters from  
15 his family and friends, remorse rings throughout everything,  
16 but there was -- that's because the defendant got caught;  
17 that is because the defendant is going to be standing before  
18 the Court in mere moments expressing remorse because he  
19 wants leniency. He doesn't want to fall into the category  
20 of a defendant who is going to have to go to jail as a  
21 consequence of his actions on January 6th, which is what the  
22 government is asking the Court to do.

23 THE COURT: Well, let me ask you, Ms. Eve, because  
24 I do have a number of questions. And among the various  
25 factors that the government has pointed out to say that

1 Mr. Schornak deserves 4 to 6 months' incarceration and  
2 including the factors you've pointed out, about  
3 demonstrating a prior intent to interfere with congressional  
4 proceedings, preparing for it, and bringing with him --  
5 preparing for violence in D.C., bringing with him a tactical  
6 vest, a military helmet, a bullhorn, stealing the flag, then  
7 using the flag to rally and encourage other rioters outside,  
8 boasting about his unlawful conduct, asking another person  
9 to delete a media post -- but in all of those factors, you  
10 don't talk at all about the fact that the defendant has  
11 spoken with investigators from the House Select Committee.  
12 He has given a transcribed deposition; he has apparently  
13 cooperated with the House Select Committee. And defense  
14 counsel says that he advised the government about this, I  
15 guess, on February 8th -- so not very long ago, and says  
16 that the government's recommendation was made absent that  
17 knowledge.

18 So when the government did submit its sentencing  
19 recommendation and its sentencing memo, were you unaware  
20 that he had been cooperating or making himself available to  
21 talk to investigators with the House Select Committee?

22 MS. EVE: Unaware, Your Honor.

23 THE COURT: And so now knowing that, would you  
24 agree that voluntary cooperation with the House Select  
25 Committee is a reflection of acceptance of responsibility

1 and some remorse and should be given some credit as  
2 cooperating -- if not with the law enforcement arm of the  
3 federal government, but with the congressional arm doing an  
4 investigation of what occurred on January 6th?

5 And, if so, how much credit would the government  
6 recommend giving for that -- making himself voluntarily  
7 available to the House Select Committee?

8 MS. EVE: Your Honor, as Mr. Ohm indicated in his  
9 sentencing memorandum, when Mr. Schornak was approached to  
10 give that testimony, it was with the understanding that it  
11 would not have any impact on his sentencing.

12 We are not treating that in the same way that  
13 somebody would be treated as if they cooperated in a federal  
14 investigation and would be seeking a 5K1.1 motion by the  
15 government. So we are not giv- -- I don't know the  
16 substance of any of his testimony; that's never been made  
17 privy to me or anybody else that I know in the judicial  
18 branch of the government. But it is not something that we  
19 are asking the Court to take into consideration; that is  
20 something that the defendant has chosen to do.

21 I am aware of other defendants in cases that I  
22 have handled -- once they plead guilty, then I know that  
23 there are individuals who are investigating -- who are  
24 involved in the legislative investigation of the January 6th  
25 event. But there is no -- there is no intersection between

1 what we're doing and what they're doing; we're acting  
2 completely independent. And I don't think that it is  
3 something that should be given great weight, in terms of  
4 deciding the sentence for this defendant --

5 THE COURT: Even if it's not great weight, should  
6 it be given some weight, some acknowledgment?

7 MS. EVE: I don't think it should be factored into  
8 the sentence and the guidelines that we're asking.

9 Perhaps -- Your Honor, as we have indicated, we're  
10 asking for 4 to 6; where, at the bottom, is the 4. If  
11 somewhere -- if the Court wants to give him some  
12 consideration to what he has done in terms of his  
13 cooperation with the legislative branch, maybe that's what  
14 is taking him from 6 to 4.

15 THE COURT: Okay. So does the Department of  
16 Justice or the U.S. Attorney's Office not believe that -- is  
17 this a formal position or your particular -- is this a  
18 formal position of the U.S. Attorney's Office, or is this  
19 just your position knowing what you know about the facts of  
20 this case, that January 6th defendants should not be  
21 encouraged, incentivized in any way to cooperate with the  
22 House Select Committee investigating the January 6th events  
23 and that, therefore, the position that the U.S. Attorney's  
24 Office is going to take at sentencing is that any such  
25 cooperation with the House Select Committee should be not

1 considered as a factor?

2 MS. EVE: Your Honor --

3 THE COURT: I just want to understand, sort of,  
4 what the position is.

5 MS. EVE: I am not sure exactly what the position  
6 is. I know that -- as Mr. Ohm indicated, that when he  
7 counseled his client to engage in the cooperative effort  
8 with the legislative branch that he informed Mr. Schornak  
9 that that wasn't something that was going to -- it may not  
10 benefit him in terms of sentencing.

11 I cannot express to the Court what the official  
12 Department of Justice position is -- and I could find that  
13 out for the Court --

14 THE COURT: Well, the sentencing is right now.

15 MS. EVE: I do -- Your Honor, but that -- in terms  
16 of making an argument because of the fact that Mr. Ohm is  
17 aware that it's not something that we are saying to the  
18 Court: Well, this individual, you know, he cooperated with  
19 the House of Representatives' January 6 investigation, we  
20 are asking the Court to reduce his sentence -- that we are  
21 not doing. But I think that it is appropriate and I don't  
22 take issue with Mr. Ohm bringing that to the Court's  
23 attention.

24 THE COURT: All right. Okay. So let me -- let me  
25 just talk about the 3553(a)(6) factor, which requires

1 sentencing judges trying to fashion an appropriate sentence  
2 in a case to avoid unwarranted sentencing disparities among  
3 defendants convicted of similar conduct with similar  
4 criminal histories.

5 And one of the things that I've puzzled over with  
6 this Class A misdemeanor is that I, as have a number of  
7 other judges in this court in these January 6 cases, have  
8 imposed up to 36 months of probation, three years of  
9 probation, to ensure that the supervision of defendants who  
10 have clearly, by their conduct on January 6th, indicated a  
11 propensity to exercise -- engage in unlawful behavior to  
12 promote their own political beliefs. And the supervision  
13 for a period of three years helps ensure some supervision  
14 over the next mid-term elections, presidential election  
15 cycle.

16 If the Court accepts the government's  
17 recommendation here of 4 to 6 months' imprisonment then,  
18 once that term of imprisonment is served, the defendant and  
19 the Court would be limited statutorily, under the  
20 guidelines, to imposing only a one-year term of supervision,  
21 rather than the three years of supervision.

22 And does the government have any concern over  
23 that -- about this choice, if the prison term recommended by  
24 the government is imposed, that the defendant would actually  
25 be under far less supervision for a lesser period than if a

1 period of probation is imposed with some special conditions  
2 which could be intermittent confinement?

3 MS. EVE: Your Honor, I have -- in preparation for  
4 today, I have read through some of the Court's  
5 transcripts -- the *Griffith* case, the *Gruppo* case, and the  
6 *Croy* case; so I understand what the Court's inquiry is with  
7 regard to watching the defendant to make sure that, you  
8 know, he follows the rules, and that's fine, in terms of  
9 following his future behavior.

10 But in this case we're not -- we're seeking  
11 punishment for the subject conduct as well as a one-year  
12 period of supervised release.

13 THE COURT: Even appreciating that imposing a  
14 period of 4 to 6 months' imprisonment would bar a longer  
15 period of supervision?

16 MS. EVE: Yes, Your Honor.

17 THE COURT: And so, in the government's view, it's  
18 more important to mete out a prison term as punishment to  
19 provide deterrence -- both for this defendant and the more  
20 general public -- than to keep this defendant under a longer  
21 period of supervision to protect the public from further  
22 crimes by this defendant?

23 MS. EVE: Your Honor, under the circumstances of  
24 this case, I think that imposing the period of incarceration  
25 that we have recommended to the Court will serve as general

1 deterrence because, far too often, there's instances where a  
2 person is placed on three years' probation, and it creates  
3 the impression that this is just a slap on the wrist as  
4 opposed to a sticking your teeth into the -- basically the  
5 situation that was created here and the actions of the  
6 defendant on January the 6th -- because this defendant has  
7 told you he is not going to do this anymore. He has  
8 changed; he's very remorseful.

9 His sentencing -- the government's -- I'm sorry --  
10 the defense's sentencing memorandum is replete, as I  
11 indicated previously, with regard to remorse and this was,  
12 you know, abhorrent behavior when the facts, as I have  
13 outlined them, show anything but an isolated situation. It  
14 was like there was contemplation on the part of the  
15 defendant as he stood there after entering the Senate wing  
16 door. He stood there and he's watching all of this unfold  
17 in front of him; he's seen the mob out there.

18 He indicated during his plea hearing, Your Honor,  
19 that he had seen violence taking place; he witnessed that.  
20 And --

21 THE COURT: But, in the end, he was in the Capitol  
22 for 12 minutes; is that right? I mean, he went to a bunch  
23 of different places within the Capitol; but wasn't it a  
24 total of about 12 minutes?

25 MS. EVE: I think it was 30 minutes, Your Honor.



1 THE COURT: It was 30 minutes inside the Capitol?

2 MS. EVE: I think so.

3 THE COURT: All right. I don't know why I read 12  
4 minutes somewhere.

5 MS. EVE: I am sure Mr. Ohm will correct me if I'm  
6 wrong about that.

7 THE COURT: Mr. Ohm, was it 12 minutes or 30  
8 minutes?

9 MR. OHM: 12 minutes, Your Honor.

10 THE COURT: It was 12 minutes?

11 MR. OHM: Yes, Your Honor.

12 MS. EVE: I apologize.

13 THE COURT: All right. Well, I'm willing to be  
14 corrected.

15 MS. EVE: Me too.

16 THE COURT: I thought it was 12 minutes from  
17 looking at the entry timestamp and the exit timestamp; so he  
18 did get a lot done in those 12 minutes. He was busy inside  
19 the Capitol.

20 Let me just say that the government has provided a  
21 very helpful chart of other sentences that were imposed in  
22 January 6th cases; and I really appreciate the work that the  
23 government is doing to provide these charts -- I am sure not  
24 just to me, but, in connection with sentencings, to my  
25 colleagues.

1           And this chart lists eight cases involving a  
2 conviction under Section 1752(a)(1), the same statute of  
3 conviction as here. And out of those -- out of those eight  
4 cases, four defendants -- half of them -- were given a  
5 period of incarceration -- one, 50 days; one, 14 days; one,  
6 30 days; and one, 10 days; three defendants got only  
7 probation, and one defendant only got a fine -- no probation  
8 at all, just a \$5,000 fine.

9           So, in some ways, the government asking for 4 to 6  
10 months here, for Mr. Schornak, is asking for more prison  
11 time than any of the other eight defendants convicted of the  
12 same statute of conviction. So, as you can imagine, I am  
13 subject to 3553(a)(6), avoiding unwarranted sentencing  
14 disparities.

15           So what is it that you can explain to me that  
16 warrants more time for this defendant than, let's say, the  
17 other four defendants who received a period of incarceration  
18 for the same statute of conviction? And that would be  
19 Tryon, Ridge, Courtright, and Winn; who got, respectively,  
20 50 days, 14 days, 30 days, and 10 days?

21           MS. EVE: Your Honor -- I'm pausing because I  
22 don't want to interrupt the Court again.

23           THE COURT: Sorry. Go ahead.

24           MS. EVE: I can tell you with regard to Mr. Tryon  
25 because that was one of my cases.

1 THE COURT: Okay. Good. Excellent. I didn't  
2 know that.

3 MS. EVE: So the facts, as I presented them to  
4 Judge Walton, were the defendant celebrated his actions on  
5 the day of January the 6th, and afterwards.

6 Mr. Tryon tried to get into the Capitol. He  
7 was -- he was pepper-sprayed and hit with a baton by law  
8 enforcement. When he saw an individual break a window, that  
9 individual entered the Capitol through that window; came and  
10 opened a door, and Mr. Tryon then went in. So he was  
11 persistent in terms of being inside the Capitol.

12 So in Mr. Tryon's case --

13 THE COURT: Did he steal anything?

14 MS. EVE: He did not, and I was just about to  
15 mention that. He did not steal anything.

16 He did not rally the other -- well, he did rally  
17 the other rioters, too, because he got up on -- after he got  
18 kicked out of the Capitol, he got up on a vehicle and he  
19 started singing, "We're not going to take it," by Twisted  
20 Sister.

21 So there were similarities in terms of the fact  
22 that -- you know, the intent to rally people, just like the  
23 defendant; but the defendant stole something for the purpose  
24 of rallying the rioters.

25 THE COURT: And had you asked Judge Walton for 50

1 days?

2 MS. EVE: I did not, Your Honor. I asked for 30  
3 days. And given the facts that came out during the course  
4 of the sentencing hearing, Judge Walton decided that my  
5 recommendation or the government's recommendation --

6 THE COURT: Was too low?

7 MS. EVE: -- was insufficient.

8 THE COURT: I see. All right.

9 By my looking at your very helpful chart, there  
10 were only two cases where the government asked for as much  
11 time as it's recommending here.

12 In Marquez, where the judge only gave probation,  
13 the government asked for 4 months. In Courtright, where the  
14 judge ultimately gave 30 days, the government had asked for  
15 6 months. So the judges didn't follow the government's  
16 recommended period of incarceration in those two cases. But  
17 putting aside what the judges did, the government's -- I am  
18 more interested in comparing the government's  
19 recommendations.

20 So what -- how are Marquez and Courtright  
21 similarly situated to the defendant here -- because I don't  
22 know that much about the underlying facts in those cases --  
23 to warrant the government's request for as much or more  
24 prison time in this case?

25 MS. EVE: Your Honor, I am looking for it.

1           On page 31 of the government's sentencing  
2 memorandum, I know we talked about the fact -- the  
3 aggravating factors that existed in the Courtright case and  
4 the Ridge case.

5           I did not highlight --

6           THE COURT: Marquez.

7           MS. EVE: -- anything for Marquez.

8           THE COURT: You may not be familiar with that  
9 case, but that's okay. I mean, each defendant is very  
10 unique --

11          MS. EVE: Yes.

12          THE COURT: -- so I don't -- I don't think -- it's  
13 impossible to do a direct comparison; I appreciate that.  
14 But I do want to get, sort of, more of a general sense  
15 because this is among the higher recommended sentences that  
16 I have received from the government, so I am puzzling over  
17 this myself and trying to understand the basis for the  
18 government's differences in recommendations in case I am  
19 missing a particular factor that should be fleshed out or  
20 made more transparent.

21          I mean, in Courtright the defendant also briefly  
22 entered the Senate floor area, so inside the Senate chamber;  
23 is that what you meant by --

24          MS. EVE: Yes, Your Honor.

25          THE COURT: So that was inside the Senate chamber,

1 so that's a whole different ball of wax.

2 MS. EVE: Right.

3 THE COURT: And temporarily seized government  
4 property, break into locked doors, and -- et cetera. Okay.  
5 And in that case the government asked for 6 months, so I can  
6 appreciate that recommendation. And, ultimately, Courtright  
7 got 30 days.

8 All right. Ms. Eve, is there anything further you  
9 want to add? I will give you an opportunity to reply to  
10 Mr. Ohm, unless there is something you want to add now.

11 MS. EVE: No. I think I have covered the  
12 aggravating factors and indicated the differences between  
13 this defendant and some of the other defendants who have  
14 been sentenced.

15 I looked for cases under -- that had been charged  
16 under 1752 for any that the Court may have imposed  
17 sentencing on, and I think this may be your first.

18 THE COURT: It is my first, yes.

19 MS. EVE: It won't be your last, I am sure too.

20 THE COURT: No, but this is my first Class A  
21 misdemeanor.

22 MS. EVE: Yes. But I think that the combination  
23 of aggravating factors that existed here are the reasons why  
24 we have asked for the sentence that we have.

25 THE COURT: One other issue I just realized I

1 wanted to talk about is the restitution amount.

2 The government is still sticking with the May 17,  
3 2021, estimate of approximately \$1,495,326.55 in damages?

4 MS. EVE: Yes.

5 THE COURT: That's 9 months old by this date. The  
6 Architect of the Capitol has not updated that estimate of  
7 damages?

8 MS. EVE: Your Honor, I think after we had a  
9 sentencing -- we had a plea hearing, I believe it was in  
10 December, or either in January; and I did make some  
11 inquiries, and that figure has not been updated.

12 But as the Court is aware, in this particular  
13 case, when the defendant pled guilty, as part of the plea  
14 agreement, we agreed that he would pay \$500 in restitution.  
15 And I think -- I know that the government and the defendant  
16 are bound by that. But in terms of an updated figure, I do  
17 not have that information for the Court.

18 THE COURT: Well, you know, we are -- courts can  
19 only award restitution based on the record in front of them.  
20 And the only thing I have in front of me in terms of the  
21 record is this estimated damages that is now 9 months old.

22 Because this is a Class A misdemeanor, the two  
23 restitution statutes of the Victim and Witness Protection  
24 Act, under 18 U.S.C. Section 3663, and the Mandatory Victims  
25 Restitution Act, at 18 U.S.C. Section 3663(a) -- I think

1 both apply here.

2 Of course, Section 3663 allows for discretionary  
3 restitution and -- but the Mandatory Victims Restitution Act  
4 requires the Court to impose -- figure out what restitution  
5 amount applies, and to impose it.

6 Does the government believe that both restitution  
7 statutes apply here to a charge of entering and remaining in  
8 a restricted building or grounds where there is damage that  
9 results?

10 I mean, the Mandatory Victims Restitution Act  
11 applies, and I quote: To an offense against property under  
12 Title 18. So it seems to me that the mandatory restitution  
13 statute does apply here.

14 MS. EVE: Your Honor, as the Court is aware, in  
15 this particular case, the defendant was not charged under  
16 Title 18, United States Code Section 641, which I think  
17 would be the property offense that the Court is referring  
18 to. I am not sure --

19 THE COURT: No. I'm quoting from the Mandatory  
20 Victims Restitution Act that says that the MVRA applies to,  
21 quote: An offense against property under Title 18.

22 This defendant is charged under Title 18. And so  
23 the real question is: Is a violation of 18 U.S. Section  
24 1752(a)(1) an offense against property for the purposes of  
25 the MVRA? Is it?



1 MS. EVE: I don't know the answer, Your Honor.

2 THE COURT: You don't know the answer to that  
3 question?

4 MS. EVE: I don't want to speculate.

5 THE COURT: All right. Well, I -- if you could  
6 just take it back then for future sentencings under -- for  
7 either a felony or a Class A misdemeanor under Title 18, I  
8 sort of need to know, under the Mandatory Victims  
9 Restitution Act, is the offense a crime against property so  
10 that the MVRA applies.

11 So -- I mean, let me ask you the next question.

12 Determining restitution amounts under the  
13 Mandatory Victims Restitution Act is excused if determining  
14 any additional amount of restitution would require, and I  
15 quote: Determining complex issues of fact related to the  
16 cause or amount of the victim's losses that would complicate  
17 or prolong the sentencing process to a degree that he need  
18 to provide -- to a degree that he need to provide  
19 restitution to any victim is outweighed by the burden on the  
20 sentencing process.

21 Is the position of the government that that excuse  
22 [sic] provision under the Mandatory Victims Restitution Act  
23 applies here and, therefore, the Court is relieved from its  
24 obligation to determine any mandatory restitution amount?

25 MS. EVE: Your Honor, I hate to repeat myself; but

1 I don't know the answer to that question.

2 THE COURT: All right. Well, it has been my  
3 concern from the beginning that the Mandatory Victims  
4 Restitution Act applies here given the amount of damages of  
5 the Capitol which is why, at the time of plea, I ask every  
6 AUSA to please figure this out because I don't want to duck  
7 a statutory obligation, and neither should the government.

8 MS. EVE: Yes, Your Honor.

9 THE COURT: Okay. Anything else, Ms. Eve?

10 MS. EVE: No, Your Honor.

11 THE COURT: All right. Mr. Ohm.

12 MR. OHM: Thank you, Your Honor.

13 As the Court knows, we are asking the Court to  
14 sentence Mr. Schornak to a period of probation. We concur  
15 with the recommendation of U.S. Probation, for a period of  
16 two years' probation, along with a substantial amount of  
17 community service.

18 I think, as the Court has alluded to, there's  
19 obviously been -- there is a wide spectrum of individuals  
20 who are before this Court and before other judges in this  
21 court.

22 Mr. Schornak, although he pleaded guilty to a  
23 misdemeanor, he acknowledges and understands that his  
24 presence and his role played a part in even the worst  
25 behavior. And he acknowledges that some of the behavior

1 that he later learned about is some of the most unpatriotic  
2 behavior that this country and this District has seen; and  
3 he regrets that. He is 100 percent remorseful of that.

4 THE COURT: When did he -- I mean, you know, I am  
5 struck by his statement before his arrest -- I guess it was  
6 on January 7th, where he said he would never apologize for  
7 what we did ever. Clearly, he has changed his mind.

8 MR. OHM: Of course, Your Honor. And  
9 rehabilitation is not a turn on a dime.

10 THE COURT: Right. So I am actually curious, what  
11 made him change his mind?

12 MR. OHM: There is -- I think there is a  
13 combination of things, in talking to his family and reading  
14 their letters; there was an evolution of a process.

15 The biggest factor, Your Honor, was when he was  
16 arrested. Because when he was arrested -- and I was going  
17 to talk about this in the context of deterrence. He was  
18 arrested while he was working. He was arrested -- and while  
19 he was away from the house, the FBI came and raided his home  
20 with his wife and his one month -- one-year-old --

21 THE COURT: I wouldn't say "raid," but they were  
22 executing a search warrant, right, a lawful warrant?

23 MR. OHM: I'm sorry. Certainly, a lawful -- I  
24 think a lot of raids are lawful search warrant, but yes. I  
25 am not saying that there is anything illegal.

1           But for Mr. Schornak to come home and recognize  
2           that that had happened, and that was 100 percent his  
3           responsibility, combined with the fact that he lost his  
4           job -- a job that he had had for three years, that he was  
5           doing well at, almost immediately after he was arrested; and  
6           he had to come home and face his family during a pandemic  
7           and not be able to support them anymore.

8           He recognized a number of things. He recognized  
9           that what he did was wrong; that his priorities were a mess.  
10          And he also recognized -- and this took a longer period of  
11          time, Your Honor. But he has talked about -- and I  
12          actually -- it was interesting.

13          I refrained from talking about it too much in my  
14          sentencing memo because I didn't want it to seem like he was  
15          shifting blame; but he recognized that he was duped by the  
16          entire process -- all of the rhetoric that he had been  
17          listening to, by this echo chamber where he had been hearing  
18          all of this "information," "evidence" of election fraud, and  
19          he realized sometime during January of 2021, when President  
20          Biden was inaugurated, that it was all a scam, and it was  
21          all a sham.

22          And -- yeah, I probably -- inappropriately I made  
23          a joke with him recently about former-President,  
24          then-President Trump saying that he would pardon people; and  
25          he said: I want nothing to do with that; they fooled me

1 enough.

2 And Mr. Schornak's position here -- and he doesn't  
3 really engage with politics anymore at all. And he hasn't  
4 posted, either privately or talked about this kind of stuff.  
5 He has stayed away from everything since February of 2021, a  
6 long time.

7 So it was strange to me when the government said  
8 that he wasn't being remorseful as if he was one of these  
9 individuals who continue to be on YouTube and Instagram and  
10 saying -- repeating all of these lies that are being  
11 repeated by so many people in the city about what  
12 January 6th was.

13 Mr. Schornak is here to say it was -- he was -- he  
14 didn't want to be, he didn't know he was going to be, but he  
15 was part of an insurrection; and he acknowledges that. And  
16 he is responsible for that, and he is sorry for that. That  
17 is under no uncertain terms -- and, Your Honor, the  
18 importance of the letters from the family is it really does  
19 demonstrate that those closest to him understood that he was  
20 remorseful since a long time ago; it had nothing to do with  
21 what the government says. It's not a self-serving  
22 statement. And I think that he has proven that by all of  
23 his actions since then.

24 And just to give the Court some context, when I  
25 got the government's sentencing memo, I called up Ms. Eve

1 and I said: It says here that he was not remorseful. It  
2 seems like she did not know about this meeting with the FBI,  
3 number one, and, also, the participation with the select  
4 committee. And I asked her if that was going to change her  
5 allocution at all. And the following day the supplement  
6 came through, and it became clear that it wasn't going to be  
7 taken into consideration. And I can't tell right now if the  
8 United States' position is that it should not be taken into  
9 consideration; it seemed like that's what the government is  
10 arguing here.

11 And I would like to -- I would like to respond  
12 that that doesn't seem like a wise position for the  
13 United States to take. And I say that because I have had  
14 several discussions with the lead investigator who is in  
15 charge of bringing in individuals who were at the Capitol on  
16 January 6th and talking to them so that they can try and  
17 ascertain what it was that happened so they could try and  
18 figure out how to make sure this doesn't happen again. That  
19 individual has told me that I was the only person from the  
20 Federal Defender's Office in the District of Columbia -- and  
21 we cover a lot of cases, as the Court knows; and I am also  
22 the only person in any Federal Defender -- I shouldn't say  
23 "I" -- Mr. Schornak is the only person represented by any  
24 Federal Defender that has spoken to the select committee  
25 because they were so -- they felt rewarded [sic] by his

1 cooperation, they asked him to do it under -- in a  
2 deposition; it was transcribed. I don't believe the  
3 transcription is ready yet and, therefore, I wasn't able to  
4 provide it for the government.

5 And Mr. Schornak did that knowing that the  
6 government -- he didn't know that the government would come  
7 in and say, don't consider it; but knowing that the  
8 government wouldn't give him a specific reward of any sort.  
9 But, again, he wanted to show that he was remorseful and he  
10 wanted to correct his wrong.

11 THE COURT: Okay. So, Mr. Ohm, how would you  
12 articulate -- this is your opportunity to talk to Ms. Eve,  
13 for her to take it back to others in the U.S. Attorney's  
14 Office in the Department of Justice.

15 So you are a very articulate man, you have  
16 appeared in front of me a lot of times -- so how would you  
17 articulate what the benefits would be for the government to  
18 encourage January 6 defendants to voluntarily submit to  
19 interviews and participate in the investigation that's  
20 ongoing by the House Select Committee?

21 MR. OHM: Your Honor, I would tell that them  
22 deterrence is not a narrow concept of the defendant before  
23 them. Deterrence is something that is in the U.S.  
24 Attorney's Office's interest across the board. And one of  
25 the factors of deterrence is for -- is to help other

1 branches of government understand why we are here.

2 To me, you know, the Court has probably heard me  
3 say -- I am sure a lot of other judges have heard me say,  
4 the government incentivizes witnesses to win a case.

5 The government's role here is not just to win a  
6 case. The government's role here is to make sure this kind  
7 of thing doesn't ever happen to this country again.

8 And one of the key factors -- because the reality  
9 is, Your Honor, is that -- unfortunately, if you look at the  
10 newspapers, a lot of people still don't understand what the  
11 heck happened on January 6th, and how we got to this point.  
12 And so it was -- it was very informative to me.

13 I mean, I, frankly, have spent more time with  
14 Mr. Schornak than probably any of my other clients during  
15 the pandemic, because we have had these different sessions  
16 and we have had all of these conversations; and it was  
17 informative to me how we got here. It was certainly  
18 informative to the select committee. And they're doing a  
19 job that is an extremely important job.

20 It is -- I understand that it's important to  
21 punish people. I understand that it's important to  
22 rehabilitate people; but it's also important to rehabilitate  
23 this country from actions that law-abiding Americans -- the  
24 crimes that they committed, sort of, all of a sudden.

25 And I would hope that every branch of government



1 that has authority and that has power would spend some  
2 effort and some energy in making sure that we get to -- we  
3 get more information, that we get to the bottom of what  
4 happened on January 6th, and the days leading up to it. And  
5 I would hope that the U.S. Attorney's Office and the  
6 Department of Justice would encourage individuals to do so.

7 And I know that the individuals that I have spoken  
8 to, the investigators at the select committee, the attorneys  
9 there, that they have struggled. They have struggled to get  
10 people to participate, and that's harmful to their mission  
11 to make sure this doesn't happen again.

12 THE COURT: I agree with you. And I have said it  
13 before with another defendant who, at the time of  
14 sentencing, had also talked to the House Select Committee;  
15 that I do think that it is an important indication of the --  
16 in a concrete way of remorse, acceptance of responsibility  
17 to help if not the executive branch of government, in the  
18 context of cooperating with a law enforcement arm to the  
19 Department of Justice or the U.S. Attorney's Office, to help  
20 another branch of government, a congressional committee  
21 doing an investigation, and I have given credit; I think  
22 that it is an important factor to consider in sentencing.

23 You have won this argument, Mr. Ohm.

24 MR. OHM: Your Honor, I do just want to  
25 acknowledge -- and, obviously, Mrs. Schornak and Max,

1 they're probably outside of these doors -- and she wanted to  
2 be here. She's childcare for them; it's a long drive; they  
3 live in Michigan. So I apologize for -- I don't apologize  
4 for Max; but on behalf of Mr. Schornak, I do apologize.

5 But I want to acknowledge their presence and their  
6 support in particular because it has been a trying time for  
7 their marriage and their family, as one can expect, that  
8 Mr. Schornak's mistakes had these sorts of consequences.

9 It's a young family, Your Honor; they only got married about  
10 two and a half years ago. They just recently started a  
11 family, and the priorities for Mr. Schornak have realigned.

12 There is nothing -- and what he recognizes and he  
13 understands is that there is nothing that he would not do  
14 for his family. And while that is something that new  
15 fathers always say, he saw -- he saw what it would be like  
16 when he -- a mistake that he made would make him absent from  
17 his family. He knew that he would never willingly leave his  
18 family or abandon them; but he got caught up in this thing.

19 He acted and he made this poor decision that led  
20 up to him being here today, and that is something that he  
21 deeply regrets; that is something that he knows he will  
22 never sufficiently be able to apologize to his family for.  
23 And the grave danger of, I mean, essentially homelessness --  
24 because he couldn't find a job; where he had to -- he had to  
25 become a landscaper, even though he is allergic to grass,

1 and he couldn't complain about it. It's not like his wife  
2 was feeling bad for him when he came home with all of these  
3 allergies, because he put himself in that situation.

4 And I am not saying this because -- I am not  
5 trying to make an argument that Mr. Schornak has been  
6 punished, I am not making that argument at all. But I do  
7 want the Court to understand that deterrence for him is not  
8 a question. The same way U.S. Probation said rehabilitation  
9 is not an issue; deterrence and rehabilitation is not an  
10 issue for Mr. Schornak.

11 And to the extent that people think that they're  
12 getting off easy -- people should know, and Mr. Schornak  
13 would be happy to tell them that if you think -- whatever  
14 you think about that, if you want to put yourself at the  
15 risk of being dragged out of your work -- he was in a car --  
16 but to be arrested, to have your wife and your child -- have  
17 the FBI come into their house, and to know that it was  
18 entirely your own fault -- to not be able to have a paycheck  
19 for months when you have a young baby, that should be some  
20 serious deterrence to individuals out there because,  
21 obviously, the government takes these sorts of actions  
22 seriously, and it could ruin lives.

23 I would actually like to segue into the message  
24 that the government says is, sort of, obstructive conduct.  
25 That wasn't a posting that he had publicly made. He was

1 recognizing, at that point in time, that he might get in a  
2 lot of trouble with the community. I mean, it's changed his  
3 life, and substantially for the worse.

4 There were times when -- there is a store that he  
5 goes to down the street where -- every single time there's  
6 looks and glances. You know, one person might say something  
7 that would be congratulatory, and he would have to correct  
8 them and tell them, you know, that's not what I am about  
9 anymore; don't think of it that way.

10 You know, he has a family member who is still  
11 involved in the republican party; this has caused  
12 distress -- and it's an older brother. I would submit, Your  
13 Honor, that a lot of those postings reflect the postings of  
14 a younger brother to an older brother who wants to act like  
15 they're proud of something; but once he had the time to sit  
16 down and reflect, it demonstrated -- and he has demonstrated  
17 by all of his actions that he knows he did wrong, and he  
18 wants to help correct the wrong that he did.

19 THE COURT: So one thing that puzzled me, Mr. Ohm,  
20 is that the defendant declined to provide the probation  
21 office with his net worth statement and his monthly cash  
22 flow statement. And so, as a consequence, the probation  
23 office found that the defendant, quote: Has not  
24 demonstrated the inability to pay a fine as well as  
25 restitution in this case; that's the presentence

1 investigation report, at paragraph 83.

2 When I don't have a basis based on the net worth  
3 statement and monthly cash flow statement and the analysis  
4 by the probation office, with a defendant willing to produce  
5 that documentation, it makes me wonder why I shouldn't  
6 impose a criminal fine here.

7 MR. OHM: Your Honor, I don't have -- I will say  
8 this, I am going to assume that this was my fault. I  
9 don't --

10 THE COURT: I mean, you have talked about his  
11 financial duress, and I read that in the papers, about --  
12 you know, in the presentence investigation report and in  
13 your briefing, that he had lost his job, he was unemployed  
14 for a period; he has taken jobs at a lower pay than he was  
15 accustomed to.

16 I expected to see an analysis documenting that  
17 from the probation office that would show the financial  
18 duress so that imposition of a criminal fine was not  
19 warranted; and I don't have that here. And in this  
20 circumstance where the restitution amount, for example, is  
21 only \$500 given the amount of damages actually at the  
22 Capitol -- you know, a criminal fine is one way to make up  
23 for that. Why shouldn't I impose a fine, say, here -- if  
24 not \$9500, which is the maximum under the guidelines,  
25 \$5,000, or some other amount?

1 MR. OHM: Your Honor, again, I think there was a  
2 miscommunication between the probation officer and me, in  
3 terms of the -- whether that information was going to be  
4 sent directly to Mr. Schornak; I don't -- I can say that.

5 I understand that the Court doesn't have the  
6 information, and that's the problem. I just want to make  
7 sure the Court isn't assigning any blame to Mr. Schornak  
8 because I don't think it was his fault. If Your Honor would  
9 like to ask questions -- I mean, the presentation of  
10 Mr. Schornak is that the information that -- if there is  
11 information that you need from Mr. Schornak, he is happy to  
12 answer any question of anybody to help. And so if the Court  
13 has questions of Mr. Schornak that would indicate or would  
14 support a finding that the Court needs to make, then we  
15 wouldn't oppose that; and I do apologize if that information  
16 isn't already in the record. I know that that should have  
17 been.

18 THE COURT: It should have been.

19 MR. OHM: Your Honor, I do want to move on to -- I  
20 am going to cut past some of the things that the Court  
21 talked about with the government and focus on the two, I  
22 guess, extenuating circumstances that the government is  
23 relying upon and the Court seems to be, at least, engaged  
24 in, and that is whether he had an intent to commit violence  
25 before he came into the District, and the flag.

1           As far as his intent, we have done our best to try  
2           and show what it was that was going through Mr. Schornak's  
3           mind. And I acknowledge -- and I think the government would  
4           agree -- that in his Facebook communications throughout the  
5           time between the election -- even leading up to the  
6           election, frankly, and January 6, that he would talk about  
7           election fraud and use the word "fight" on a regular basis.  
8           I showed the Court some of the examples where he was using  
9           the word "fight" where he was clearly not indicating  
10          physical violence.

11           Obviously, he looked aggressive, but I would point  
12          out that none of those things that he brought were  
13          offense-related; they were defense-related. He did not  
14          bring any weapons or anything like a pole or a stick or  
15          anything with which he could actually attack anybody.

16           He was concerned -- I think clearly to us --  
17          legitimately about Antifa violence. But he did have, on his  
18          phone, saved in the extraction report, an article that said  
19          in the last protest in Washington, D.C., Antifa was  
20          attacking Trump-supporting protesters.

21           One of the things that -- as the Court knows, I  
22          represent a lot of folks with these sort of offenses. One  
23          of the things that seems to be true throughout all of these  
24          cases is that people actually believed that to be the case.  
25          There are -- there was a lot of internet traffic about what

1 Antifa was going to do. He was getting messages from people  
2 saying, Oh, you are going to go out there? Hey, be careful;  
3 Antifa is going to be out there attacking folks. And that  
4 was one of the concerns his wife had.

5 One of the things that I learned from our  
6 conversations with the select committee is that the echo  
7 chamber that was created by the, sort of, algorithms of the  
8 social media -- they were sort of devastating.

9 I saw an article, Your Honor, on Mr. Schornak's  
10 phone where -- this was after the election but before  
11 January 6th -- where there was an alert from somebody who  
12 purported to be White House staff that said that Trump was  
13 going to attack China within the next 24 hours; that the  
14 White House has been evacuated; that he personally was going  
15 to West Virginia with his family, and that everybody needed  
16 to take precautions; and he was doing this to declare an  
17 emergency because this was part of an election move. And it  
18 occurred to me that there were tens of thousands of people  
19 that, for a day, thought that we were about to go to war  
20 with China. And they thought that it was real because this  
21 was in one of the same formats of Facebook listing that one  
22 of these -- I mean, who knows? I don't even know who would  
23 have the incentive to put that information out there; but  
24 that was the world that Mr. Schornak and so many of these  
25 others individuals are in because, once you look at



1 something or "like" something, you are going to get ten  
2 other things just like that that are going to be thrown at  
3 you just when you open up the app.

4 So I don't -- I think that if we look directly to  
5 what Mr. Schornak said and what he did, that it's clear that  
6 his intent was not to initiate violence; that he -- I mean,  
7 the government is right, there were people who were  
8 acting -- engaging in violence all around him; he did not.  
9 He walked around, so that shows that that wasn't his intent.

10 THE COURT: Well, he is a college-educated man.

11 MR. OHM: Pardon me?

12 THE COURT: He is a college-educated man. He came  
13 with a bullhorn. So instead of engaging in violence, it  
14 looked to me like he was probably ready to lead the crowd  
15 with his bullhorn. I mean, is that why he had a bullhorn?  
16 He carried it around with him all through the Capitol.

17 MR. OHM: Yes. But I thought it was actually  
18 interesting that there was not -- any footage of him using  
19 the bullhorn inside of the Capitol.

20 THE COURT: I know.

21 MR. OHM: His intent to come to Washington, D.C.,  
22 was to attend a rally, to scream his heart out because he  
23 wanted to do that for President Trump. And that's what --  
24 he had a -- there is a letter from the police officer -- of  
25 an individual that he met up with there -- I think they had

1       gone to high school together -- Cliff, I keep on forgetting  
2       his last name. But he -- that officer said that they parted  
3       ways at the Capitol rally. And he -- and Mr. Schornak said  
4       to him: I guess I am going to the Capitol; something to the  
5       effect of: I am going to scream until the walls shake.  
6       Something like that.

7               He was there to protest. He was there to rally.  
8       He was there to support then-President Trump. But he was  
9       not there to commit violence, he did not intend that; and  
10      that was not why he came to Washington, D.C.

11             The other aspect that the government focuses on is  
12      the taking of the flag. And, Your Honor, I don't -- and  
13      Mr. Schornak does not ask me to provide any excuses for  
14      that. I mean, it's shameful, unpatriotic conduct to remove  
15      a flag from a government building and to use it in the way  
16      he did. It was a lapse in judgment -- a lapse in judgment  
17      within several other lapses in judgment; and he is  
18      completely regretful of what he did. He can only hope that  
19      the Court sees his actions since then to demonstrate how bad  
20      he feels for that additional act on top of all that he did.

21             Your Honor, one thing I did want to mention is  
22      that I know the Court is here sentencing Mr. Schornak on a  
23      Class A misdemeanor.

24             Just looking through the different government  
25      sentencing memos in these other cases, it appears that -- it

1 doesn't appear that the conduct necessarily dictates whether  
2 an individual got a petty misdemeanor or a Class A  
3 misdemeanor. There doesn't -- there just is no bright line;  
4 no one can discern that says that one individual should get  
5 this and another should get this, other than the fact that  
6 certain judges don't like the petty misdemeanors and don't  
7 think that they should apply in these sorts of cases. So I  
8 would ask the Court to look at the conduct in all of those  
9 parading cases also where the government offered that.

10 I say that also because -- I cited this in my  
11 memo, that there is another individual sentenced by Judge  
12 Hogan to three months who also took a flag from the Capitol,  
13 but he was facing the 90-day maximum; and he was sentenced  
14 to home detention. That's *United States versus Wiedrich*.

15 THE COURT: Could you say that again? Judge Hogan  
16 sentenced him to what?

17 MR. OHM: Three months home detention in a case  
18 where the defendant there took a flag; and the FBI found the  
19 flag in his home and then the FBI -- at least the government  
20 alleged that he lied to the FBI when he spoke to the FBI  
21 there.

22 I also want to say -- because we're talking about  
23 the conversation with the FBI -- I was stunned that anybody  
24 would say that Mr. Schornak was not being remorseful. I was  
25 there for that conversation; I know Ms. Eve was not. But I

1 did not -- there was no indication to me that there was  
2 anything -- that that debriefing was anything but successful  
3 from everybody's point of view. And I followed up with the  
4 prosecutor, Ms. Linwood, at the time to ask; and she did not  
5 indicate that she had -- that she was displeased in any  
6 which way about how that conversation went.

7 Just because the Court asked the government, I did  
8 want to supplement the record with some facts about the  
9 Marquez facts. In that case the defendant was screaming  
10 encouragement throughout -- I think the most aggravating  
11 factor in that case is that he went into Senator  
12 Merkley's -- what they described as a hideaway office -- and  
13 smoked what appeared to be marijuana there and hung out for  
14 ten minutes in that conference room. And Senator Merkley  
15 also indicated that he felt personally victimized. And he  
16 also entered within seconds of the initial breach, and  
17 posted publicly on YouTube and Instagram for a long period  
18 of time. And that individual, as the Court noted, got a  
19 sentence of probation. If there are other cases that the  
20 Court would like to talk about, I am happy to answer other  
21 questions.

22 THE COURT: And your point is that some of those  
23 people were sentenced -- were offered pleas to the petty  
24 offense of parading, picketing, and demonstrating rather  
25 than to the Class A misdemeanor?

1 MR. OHM: I thought actually Mr. Marquez might  
2 have been one of the --

3 THE COURT: No. He was entering.

4 MR. OHM: Yes. And I did -- I went through  
5 some -- I took some effort in my sentencing memo -- starting  
6 from page 17 -- I don't want to repeat things that I know  
7 the Court has already read. But there were other  
8 aggravating factors that, in our view, far exceeded the  
9 conduct that Mr. Schornak -- his conduct within the Capitol.  
10 And I do want to mention also that his interactions with the  
11 police were very respectful. And he didn't add any --  
12 obviously, his presence added to the overall crime, but he  
13 did maintain a respectful manner with the police as he  
14 walked through; I guess with the exception of perhaps a  
15 selfie, which I don't think the Court needs me to talk  
16 about.

17 Mr. Schornak is -- let me just say this, Your  
18 Honor. As one of the people that probably people like  
19 Mr. Schornak did not like between November 2020 and January  
20 2021, I have approached these cases as a --

21 THE COURT: Did not like for what reason?

22 MR. OHM: Because I am a liberal from the area of  
23 Washington, D.C., who is a public defender.

24 I can say to the Court honestly that I have felt a  
25 level of mistrust from my clients in this situation

1 generally, and it's taken some time to break that mistrust.

2 I will also confess that, from my perspective -- I  
3 don't know if "mistrust" is the right word, but it wasn't --  
4 I didn't feel like I went to law school to necessarily  
5 defend individuals who storm the Capitol. But throughout my  
6 relationship with Mr. Schornak -- and, again, I have spoken  
7 to him many, many times -- I found him to be somebody who is  
8 insightful, who is reflective, and, most of all, just  
9 completely regretful.

10 It was not a struggle. I didn't have to convince  
11 Mr. Schornak to plead guilty. I didn't have to convince  
12 Mr. Schornak -- I have had conversations with other clients  
13 explaining to them why their conduct was wrong and had some  
14 pushback; I haven't had that; it was nothing -- never  
15 anything like that with Mr. Schornak. It was always: What  
16 did I do? Why did I do this? What can I do to make it  
17 right?

18 I know that Mr. Schornak might feel that way  
19 towards Your Honor and towards the District. Maybe Ms. Eve  
20 is right, maybe that's influenced by the fact that he is in  
21 trouble.

22 But I can also say with all sincerity that he  
23 feels that way towards his family and towards himself, and  
24 that is something that's never going to go away. The two  
25 are interweaved in his mind, because being a good person,

1 being a good citizen for him now is also being a good father  
2 and being a good husband; and he knows that he wasn't on  
3 that day, and that hurts him; that hurts him as a member of  
4 his community and as a member of his greater family and all  
5 of those who raised him and cared about him and tried to  
6 teach him the right way. He is not going to do this again.

7 Rehabilitation, as probation said, is not an  
8 issue. And I promise to the Court that deterrence is not an  
9 issue and, therefore, the sentence -- the appropriate  
10 sentence that is sufficient but not greater than necessary  
11 is a period of probation, significant community service, and  
12 the restitution that we discussed in the plea agreement.

13 I did want to note, Your Honor, that I did look at  
14 3663 while I was sitting over there. It looks like it's  
15 crimes against property whether the property was damaged or  
16 lost; so I think that it would be appropriate for the flag  
17 because that's property lost under the statute, but not --  
18 it doesn't seem to cover the additional damage that other  
19 individuals would have inflicted.

20 If the Court doesn't --

21 THE COURT: I don't even have a record of how much  
22 the damage to the flag was. I don't have that in the record  
23 either, so I am sort of -- I am limited by the record  
24 presented by the parties. And you know --

25 MR. OHM: If the Court doesn't have any other

1 questions...

2 THE COURT: Okay. Thank you, Mr. Ohm.

3 Ms. Eve, do you want to respond to anything before  
4 I hear from Mr. Schornak?

5 MS. EVE: No, Your Honor.

6 I feel that -- Your Honor, I feel that if I say  
7 any more I would just be repeating myself.

8 THE COURT: Fine.

9 Mr. Schornak, this is your opportunity to speak to  
10 me, if you wish. You can step forward to the podium.

11 I have read your letter to the Court.

12 THE DEFENDANT: Well, I don't really think I can  
13 add anything more than what I added to my letter. But I did  
14 want to repeat to the court and Your Honor, you know, that I  
15 am very sorry about this.

16 You know, I don't want to make excuses for what I  
17 did because I did it, and that's my fault. The fact that I  
18 did it was bad enough. But the dumb things, you know, that  
19 I said about it afterwards, somehow believing that it was  
20 good, just make me feel even dumber. But, you know, I want  
21 to apologize to the Court, to the Capitol Police, to  
22 Congress, you know, and their staff.

23 I know I said that I would never apologize for  
24 what I did, but I feel it necessary to apologize to everyone  
25 that was involved for wasting -- not "wasting" government



1 time and resources because I don't feel like pursuing  
2 justice against me was a waste of time. Just that wasting  
3 government -- using up government resources and, you know,  
4 taking that away from other things, you know, that they  
5 should be used for is totally against what I believe in.

6 I have no explanation whatsoever for taking the  
7 flag. I just completely lapsed -- a lapse in judgment is  
8 very, very accurate. You know, I additionally feel terrible  
9 about that.

10 You know, I respect the flag, and I disrespected  
11 it that day. You know, I thought what I was doing was  
12 patriotic; and it wasn't too far after when I realized I had  
13 made a mistake. Like I said initially, I thought I had  
14 done, you know, something good because the people around me  
15 had been telling me that, you know, it was somehow good, but  
16 it certainly was not.

17 I want to apologize to my family, friends for  
18 putting them through this; and I am done with politics. I  
19 will certainly never do anything like this ever again. I am  
20 sure my wife will not ever let me think about it, and  
21 rightfully so. The only thing I care about doing for the  
22 rest of my life is taking care of them; and I will do so as  
23 best I can.

24 So thank you for your consideration, Your Honor.

25 THE COURT: All right. And when Mr. Ohm said that

1 you have a family member who is still very politically  
2 involved and that some people still congratulate you in your  
3 community for what you did on January 6th, do you explain to  
4 them that what happened on January 6th was not a patriotic  
5 action?

6 THE DEFENDANT: Yes, Your Honor.

7 I explain that I screwed up royally; you know,  
8 that it's not something to be proud of, that it wasn't a  
9 good thing; you know, that I actually helped participate  
10 going against the very things that I claim to believe in,  
11 and I shouldn't be awarded for that in any way; I shouldn't  
12 be applauded for that in any way.

13 THE COURT: All right. Thank you, Mr. Schornak.

14 Well, one other question because -- in terms of  
15 making ends meet right now, is your wife staying at home  
16 with your son?

17 THE DEFENDANT: Yes. Yes, Your Honor.

18 My wife is still staying at home. She does do,  
19 like, occasional things, like clean a house or DoorDash or  
20 something. So, I mean, she will bring in money from time to  
21 time, but she is a stay-at-home mom; you know, I am the  
22 breadwinner for the family.

23 I apologize about not providing a financial  
24 statement. I didn't realize I was supposed to provide a  
25 financial statement to probation. You know, I would have

1       gladly done so, it wouldn't have been hard.

2               THE COURT: All right. Can I hear from the  
3 probation officer who is on the line?

4               MS. NEWTON: Yes, Your Honor.

5               THE COURT: And how did you communicate the cash  
6 flow statement and net worth statement request for  
7 information to Mr. Schornak?

8               MS. NEWTON: Yes, Your Honor.

9               At the beginning of scheduling the interview with  
10 Mr. Schornak, the defense counsel was provided with all of  
11 the documents that we need him to provide to his client.  
12 And as part of the process, it is explained in the email in  
13 detail that we need this information for preparation of the  
14 presentence investigation report. I believe it was lost in  
15 translation between us communicating with defense counsel  
16 and defense counsel providing this information to  
17 Mr. Schornak.

18               In speaking with him and during my interview, I  
19 have no doubt that if Mr. Schornak had received those  
20 documents from counsel he would have filled them out and  
21 provided them because Mr. Schornak did provide other  
22 documentation that was requested of him during the  
23 interview. So I believe -- I honestly believe that this was  
24 just lost in translation between the parties, and that's the  
25 reason why he failed to submit the documents.

1 THE COURT: All right. So, under these  
2 circumstances, you would not say this is some kind of  
3 willful avoidance of providing the information in order to  
4 avoid imposition of a criminal fine?

5 MS. NEWTON: Correct, Your Honor.

6 Absolutely not. I don't believe that Mr. Schornak  
7 had any intent to not provide that information. Would he  
8 have been given those documents, he would have provided them  
9 back. Yes.

10 THE COURT: All right. Thank you very much.

11 All right. Mr. Ohm and Mr. Schornak, please come  
12 stand at the podium, and I will explain the sentence I am  
13 about to impose and impose sentence.

14 All right. After considering the sentencing  
15 memoranda submitted to the Court in connection with the  
16 sentencing of Mr. Schornak, reviewing the presentence  
17 investigation report and the probation office's sentencing  
18 recommendation, and hearing argument today, I must now  
19 consider the relevant factors set out by Congress at  
20 18 U.S.C. Section 3553(a), and ensure that I impose a  
21 sentence that is sufficient but not greater than necessary  
22 to comply with the purposes of sentencing.

23 These purposes include the need for the sentence  
24 imposed to reflect the seriousness of the offense; promote  
25 respect for the law; provide just punishment for the

1 offense; deter criminal conduct; protect the public from  
2 future crimes by Mr. Schornak; and promote rehabilitation.

3 So pursuant to 18 U.S.C. Section 3553(a), I must  
4 consider the nature and circumstances of the offense; the  
5 history and characteristics of Mr. Schornak; the types of  
6 sentences available; the need to avoid unwarranted sentence  
7 disparities among defendants with similar records found  
8 guilty of similar conduct; and the need to provide  
9 restitution to any victims of the offense.

10 I will begin with the restitution amount owed by  
11 the defendant. As discussed earlier, the plea agreement  
12 provides for a restitution payment of \$500, which this Court  
13 finds is the best available estimate of damage done to the  
14 identifiable victim here, the Architect of the Capitol, and  
15 the limited record presented in this case, and so I will  
16 order this amount pursuant to 18 U.S.C. Section  
17 3663(a)(1)(A).

18 Also, to the extent that the Mandatory Victims  
19 Restitution Act may apply to this case, since it is under  
20 Title 18 and it does involve an offense against property,  
21 the Court finds that determining complex issues of fact  
22 related to the cause or amount of the victim's losses would  
23 complicate or prolong the sentencing process to a degree  
24 that the need to provide restitution to any victim is  
25 outweighed by the burden on the sentencing process under

1 18 U.S.C. Section 3663(a) (C) (3) (B); so the mandatory  
2 restitution provision, subsection 3663(a) do not apply, and  
3 the Court not need endeavor to fix the restitution amount  
4 more precisely than the \$500 amount agreed by the parties.

5           Regarding the nature and circumstances of the  
6 offense, Mr. Schornak has now been convicted of entering and  
7 remaining in a restricted building or grounds, in violation  
8 of 18 U.S.C. Section 1752(a) (1), which is a Class A  
9 misdemeanor.

10           On its face, this is a trespass offense, as  
11 defense counsel, Mr. Ohm, stated in his briefing. But the  
12 word "trespass" falls far short of acknowledging the true  
13 gravity of what happened on January 6th at the Capitol  
14 for -- even for defendants like Mr. Schornak, who did not  
15 engage in overt violence that day. This was not a  
16 garden-variety episode of unlawful entry or even merely  
17 being unlawfully present in a sensitive restricted ground  
18 like the Capitol.

19           The defendant's criminal conduct helped facilitate  
20 a riot that overwhelmed law enforcement and succeeded in  
21 stopping the proceedings of Congress and the most important  
22 of our fundamental pillars of our democratic process, the  
23 peaceful transition of power with the vote -- the counting  
24 of the electoral votes for the 2020 presidential election.

25           The defendant traveled all the way from

1 Michigan -- leaving his wife at home with a son -- coming  
2 equipped with a tactical vest, a helmet, and a bullhorn. He  
3 did join the mob intentionally, and knew following them  
4 inside the Capitol was unlawful. It was not an impulsive  
5 jaunt into the Capitol.

6 More than a week beforehand, on December 29th, he  
7 messaged his brother, "We're obviously going next week, we  
8 can't stay home and watch our republic be stolen. They want  
9 a fight let's have it." His reference to the republic being  
10 stolen was, as he now admits, based on his letter to the  
11 Court and his -- the sentencing memos submitted on his  
12 behalf -- based on what he was hearing in the echo chamber  
13 of his news feed and out of the mouths of certain  
14 politicians and those politicians' hangers-on.

15 On December 30th, 2020, the defendant and his  
16 codefendant, Mr. Herendeen, exchanged Facebook messages  
17 where the defendant mentioned, "Can't stay home, I would not  
18 be able to live with myself." Even though it might be -- in  
19 Mr. Herendeen's words -- "hard to get to D.C." The  
20 defendant responded, "Hard, nothing easy ever worth doing."

21 Before attending the rally, he communicated with  
22 still another person on Facebook seeking to borrow a  
23 bulletproof vest, noting that he didn't expect it to be  
24 peaceful when going to D.C.

25 And a friend and fellow rally attendant, Sergeant

1 Cliff Altobelli, wrote in a letter to the Court that, when  
2 he headed back to his hotel after listening to the former  
3 President speak and the defendant was about to head towards  
4 the Capitol, the defendant mentioned: We're going to be so  
5 loud the walls are going to shake. And he actually had with  
6 him a bullhorn to help contribute his loud voice to the  
7 proceedings that day.

8 In his letter to the Court, defendant has admitted  
9 that things started turning a bit. On the walk down to the  
10 Capitol, he could tell people were really getting stirred up  
11 and that things were starting to get out of hand. And his  
12 response was not to leave but, rather, to get to the front  
13 to see what was going on, where he met a police officer who  
14 was very scared, but then he proceeded to head inside and at  
15 the top -- at the time he thought he was doing something  
16 great.

17 He admitted, during his plea colloquy before the  
18 Court, that when he was in the Capitol Building he could see  
19 that people -- police were gathering and were working  
20 towards getting people out; it was a chaotic situation. And  
21 even before he went inside, he saw that there were people  
22 clashing with the police.

23 But nonetheless, the defendant went all the way  
24 into the Capitol, walked around, walked through the fumes of  
25 tear gas that had been sprayed, so he knew that things were



1 not -- they were beyond -- they were beyond chaotic. The  
2 police were using tools in their toolbox to try and get  
3 people outside. And he went through, and he actually stole  
4 casually -- in the videotape, he casually walked over,  
5 picked up an American flag that was in Emancipation Hall and  
6 walked out with it.

7 He paraded -- he took the flag outside and handed  
8 it to people on a scaffolding so that they could raise it  
9 high above this riotous crowd and -- using that symbol for  
10 our country to undermine the very government it stands for.

11 After leaving the Capitol and regaining phone  
12 service, he sent text messages showing pride in the -- for  
13 his participation in the attack on the Capitol. To his  
14 brother he said, "We stormed that bitch!! Shit was crazy as  
15 fuck!!" And sent a video saying, "This is what a revolution  
16 looks like."

17 Also to his brother he said, "I stole the Senate  
18 flag and took it outside to be waved atop the scaffolding  
19 before I collapsed, tear gas is no joke, man."

20 To someone else he proudly stated, "We stormed the  
21 Capitol!! Wait until you see it!! Yeah, when government  
22 fears the people there's liberty, when the people fear the  
23 government there's tyranny, they were scared today, and I'm  
24 damn proud of it. The Capitol has never been breached  
25 before, we did it."

1           In another Facebook message he said, "Today we  
2           shook the halls of Congress and tried to remind them who  
3           they work for and who they shouldn't fuck with."

4           He was not so proud -- to quote him -- of scaring  
5           people when he wrote to the Court recently and said, "I was  
6           part of a group that scared lots of people and I'm deeply  
7           sorry for all of the pain I've caused."

8           He does seem to have turned -- turned around his  
9           thinking since January 6th, and later in January 2021. But  
10          in looking at assessing his culpability on that day and what  
11          the appropriate punishment should be, among the factors I  
12          look at in assessing the defendant's role in this overall  
13          attack on the Capitol on January 6, 2021, I do look, as the  
14          government does, at the defendant's engaging in some  
15          preplanning before coming to Washington, D.C.: Trying to  
16          acquire a bulletproof vest; coordinating with his  
17          codefendant to decide in advance that they would attend the  
18          event and travel together; and then actually coming to  
19          Washington prepared with this tactical vest and a hard  
20          helmet and his bullhorn.

21          He then entered the Capitol Building knowing his  
22          conduct was not lawful, took advantage of the crowd in order  
23          to walk through the Capitol Building because they had, by  
24          that point, overrun the police.

25          He was in the Capitol Building only for one time

1 for about 12 minutes, but he was very busy during that 12  
2 minutes, spending time in the public corridors, the crypt,  
3 Emancipation Hall, and the visitor center; but he did not  
4 enter any private offices or spaces or the Senate or House  
5 Chamber. But he did go into the -- deeply into the Capitol  
6 Building during that time. He didn't physically attack any  
7 police officer or another person, which is to his benefit.

8 The government points out he took a selfie with  
9 Robert Gieswein, who was a fellow rioter. As I said before,  
10 I don't believe that that evidence supports the inference  
11 the government seeks to draw that, with this photo, he can  
12 reasonably be seen as endorsing or rallying any type of  
13 behavior that Gieswein might have taken -- engaged in while  
14 he was in the Capitol.

15 The defendant didn't damage property inside the  
16 Capitol but he did steal property, namely the American flag  
17 from the visitor center area, paraded through the Capitol  
18 with the flag, left the building with the flag, handed it  
19 off to other members to energize the mob outside with the  
20 flag.

21 To his credit, the defendant cooperated with law  
22 enforcement after his arrest, sat down and talked to them;  
23 and, to my mind, has gone further in expressing his remorse  
24 by taking the concrete action of talking to investigators  
25 for the House Select Committee, which is seeking to

1 understand the full scope of how that day happened; and I  
2 will give him credit for that. I think that that kind of  
3 cooperation is helpful to this country and is helpful in  
4 making amends for what occurred on January 6th to the extent  
5 that that House Select Committee is able to be successful in  
6 understanding what happened to ensure that it doesn't happen  
7 again.

8           The nature and circumstances of the offense, the  
9 need for the sentence to reflect the seriousness of the  
10 offense and promote respect for the law would generally  
11 favor a custodial sentence here. The particular  
12 circumstances of defendant's conduct of not physically  
13 engaging in violence puts him in a less troublesome category  
14 than some other more aggressive rioters that day who  
15 actually engaged in physical violence with police, who  
16 actually engaged in serious property damage to the Capitol.

17           At the same time, I do find that Mr. Schornak is  
18 in a more troublesome category than some rioters who only  
19 briefly wandered into the building without doing anything  
20 more, given both his planning for the trip here and the  
21 theft of the flag, and then using that flag to raise it on  
22 scaffolding to continue to incite an already energized crowd  
23 of rioters.

24           Regarding his history and characteristics, he has  
25 a few adult criminal convictions but from incidents around

1 20 years ago that all resolved through small fines and, in  
2 one instance, probation. He hasn't had any interactions  
3 with the criminal justice system for over 15 years before  
4 this.

5 The defendant is an educated man; he holds a  
6 bachelor's degree in psychology and perhaps, ironically,  
7 told me -- at his plea hearing told me he studied prelaw as  
8 well. He has been married since 2019 and he has a young  
9 son, and he is the primary provider for his family. He has  
10 been employed consistently in sales and account management  
11 from 2006 until his arrest in 2021, and resumed employment  
12 in November 2021 as a business developer for a logistics  
13 firm.

14 While the Court is troubled that he was proud of  
15 his actions in the immediate aftermath of the riot and  
16 indicated he would never apologize, he has clearly turned a  
17 corner on that given the statements in his letter to the  
18 Court and in his cooperation with the House Select  
19 Committee. And I also note he hasn't publicly boasted about  
20 his participation since January 6th.

21 In a very thoughtful letter, and in court today,  
22 the defendant has apologized to the Court; to the community;  
23 to the Capitol Police officers and their families; to the  
24 people in Congress, their staff, their loved ones; to the  
25 President and Vice President; and to the country; along with

1 his family. And every court, at sentencing, wants to make  
2 sure that the defendant understands the nature of their --  
3 and seriousness of their crime, but this defendant appears  
4 to have done that.

5 The many sincere letters submitted on the  
6 defendant's behalf speak to his background and character, of  
7 having a solid work ethic, of helping others, and being a  
8 consistent source of support and encouragement, being a good  
9 husband and devoted father to his son -- it is very  
10 unfortunate that these traits and behaviors were not at the  
11 forefront of his mind on January 6th.

12 The need for the sentence imposed to deter  
13 criminal behavior, protect the public from further crimes of  
14 the defendant are critical considerations for every  
15 sentencing judge. And the seriousness of the criminal  
16 conduct we witnessed by a whole -- thousands of people in  
17 this mob, highlights the need for deterrence in the form of  
18 a sufficient sentence to deter not just this defendant, but  
19 others from engaging in this kind of conduct in the future.

20 The defendant essentially claims he was sucked  
21 into a vortex of misinformation and lies surrounding the  
22 2020 election and seemingly got caught up in the fervor of  
23 the crowd. And being a crowd follower and being an  
24 uncritical reviewer of news feeds and theories and  
25 conspiracy theories regardless of how incredible does not

1 create absolution for criminal activity especially when  
2 being a follower facilitates and amplifies the criminal  
3 conduct of many others.

4 This defendant is a grown-up, he is college  
5 educated; he should have known better. There are  
6 consequences to going along with the crowd, for not  
7 scrutinizing the news and what politicians say in order to  
8 ensure and test the facts, and particularly when that leads  
9 to a mob effort to disrupt the peaceful transition of power.  
10 I think punishment is necessary.

11 When determining what sentence to impose, the  
12 importance of deterring future malcontents from disrupting  
13 the peaceful transition of power after an election weighs  
14 heavily in this Court's consideration. He was convicted of  
15 a Class A misdemeanor, which provides a maximum term of  
16 imprisonment of one year. And if a term of imprisonment is  
17 imposed, it has to be followed by no more than one year of  
18 supervised release. He could also be sentenced up to 5  
19 years' probation, under 18 U.S.C. Section 3561(c)(2) which  
20 also can provide for special conditions, that includes  
21 intermittent periods of incarceration, and that's what I  
22 intend to impose here.

23 Regarding the need to avoid unwarranted sentencing  
24 disparities, the Court recognizes that both probationary and  
25 custodial sentences have been imposed on January 6th

1 defendants convicted of the same Class A misdemeanor as this  
2 defendant. The longest period of incarceration imposed thus  
3 far on a Section 1752(a)(1) offender was 50 days; and it is  
4 not clear from that record that that offender engaged in the  
5 kind of cooperation effort that this defendant has done with  
6 the House Select Committee.

7 As the government points out, the particular mix  
8 of aggravating factors in defendant's case was unique, in  
9 any event; and that -- in citing a whole number of specific  
10 factors that I have already reviewed and need not review  
11 anymore.

12 Given the specific offense conduct of  
13 Mr. Schornak, the Court finds that 3 years of probation was  
14 a special condition of limited custodial sentence of  
15 intermittent confinement of a total of 30 days in 14-day  
16 increments, so he won't be away from home that much longer  
17 than a two-week period at any one time, and a period of home  
18 detention will be sufficient.

19 So based on my consideration of these and other  
20 factors, I will now state the sentence to be imposed.

21 Pursuant to the Sentencing Reform Act of 1984 and  
22 in consideration of the provisions of 18 U.S.C. Section  
23 3553, it is the judgment of the Court that you, Robert  
24 Schornak, are hereby sentenced to a term of 36 months,  
25 3 years' probation, on Count 2 of the indictment, with



1 special conditions of 30 days of intermittent confinement to  
2 be served in two separate periods of 14 days each, and two  
3 months of home detention.

4 In addition, you are ordered to pay a special  
5 assessment of \$25 in accordance with 18 U.S.C. Section 3013.

6 You are ordered to make restitution to the  
7 Architect of the Capitol in the amount of \$500. Restitution  
8 payments shall be made to the Clerk of the Court for the  
9 United States District Court, District of Columbia, for  
10 disbursement to the following victim: Architect of the  
11 Capitol, Office of the Chief Financial Officer, attention  
12 Kathy Sherrill, CPA, Ford House Office Building, Room  
13 H2-205B, Washington, D.C. 20515, for the amount of the loss  
14 of \$500.

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

20 The mandatory conditions include: One, you must  
21 not commit another federal, state, or local crime. You must  
22 not unlawfully possess a controlled substance. You must  
23 refrain from any unlawful use of a controlled substance; and  
24 you must submit to one drug test within 15 days of placement  
25 on supervision, and at least two periodic drug tests

1       thereafter as determined by the Court. You must make  
2       restitution in accordance with your plea agreement under  
3       18 U.S.C. Section 3663.

4               You shall comply with the following special  
5       conditions: For intermittent confinement pursuant to  
6       18 U.S.C. Section 3563(b)(10), you must serve a total of 30  
7       days of intermittent confinement. The intermittent  
8       confinement shall be served in two periods of 14 days, each  
9       within your first year of probation, at a facility  
10      designated by the Bureau of Prisons. You must follow the  
11      rules and regulations of the facility in which you are  
12      designated.

13              You must also submit to home detention for a  
14      period of two months as soon as practicable and comply with  
15      a location monitoring program as required by the U.S.  
16      Probation Office.

17              You will be restricted to your residence at all  
18      times except for employment; education; religious services;  
19      medical, substance abuse, and mental health treatment;  
20      court-ordered obligations; and any other times specifically  
21      authorized by the U.S. Probation Office.

22              The location monitoring technology is at the  
23      discretion of the U.S. Probation Office, and the cost of  
24      such monitoring is waived. You must provide the probation  
25      officer access to any requested financial information and

1 authorize the release of financial information. The  
2 probation office may share financial information with the  
3 U.S. Attorney's Office.

4 The financial obligations are immediately payable  
5 to the Clerk of the Court for the U.S. District Court, 333  
6 Constitution Avenue, Northwest, Washington, D.C. 20001.

7 Within 30 days of any change of address, you shall notify  
8 the Clerk of the Court of the change until such time as the  
9 financial obligation is paid in full.

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

14 Pursuant to 18 U.S.C. Section 3742, you have a  
15 right to appeal the sentence imposed by the Court if the  
16 period of imprisonment is longer than the statutory maximum.  
17 If you choose to appeal, you must file any appeal within 14  
18 days after the Court enters judgment.

19 As defined in 28 U.S.C. Section 2255, you also  
20 have the right to challenge the conviction entered or  
21 sentence imposed if new and currently unavailable  
22 information becomes available to you or on a claim that you  
23 received ineffective assistance of counsel in entering a  
24 plea of guilty to the offense of conviction or in connection  
25 with sentencing.

1           If you are unable to afford the cost of an appeal,  
2           you may request permission from the Court to file an appeal  
3           without cost to you.

4           Are there any objections to the sentence imposed  
5           not already noted on the record from the government?

6           MS. EVE: No, Your Honor.

7           THE COURT: Mr. Ohm?

8           MR. OHM: No, Your Honor.

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

10          Does the government have a motion to dismiss the  
11          open counts of the indictment?

12          MS. EVE: Yes, Your Honor. The government moves  
13          for the dismissal of Counts 1, 3, 4, and 5.

14          THE COURT: That motion is granted.

15          Is there anything else to address today from the  
16          government?

17          MS. EVE: No, Your Honor.

18          THE COURT: Mr. Ohm?

19          MR. OHM: Your Honor, I would just ask for a  
20          recommendation for FCI -- I don't know what the BOP does in  
21          terms of designation in the circumstance; but FCI Milan is  
22          the closest to his residence.

23          THE COURT: I will make that recommendation.

24          MR. OHM: Thank you, Your Honor.

25          THE COURT: All right. If there is nothing

1 further, you are all excused.

2 (Whereupon, the proceeding pauses, 11:36 a.m.)

3 THE COURT: Have a seat.

4 I just wanted to correct one statement in the  
5 judgment for the record; that the total amount of time is 28  
6 days, separated by 14 days, not "30" days. So I misspoke on  
7 that, so I wanted to correct that on the record orally  
8 because that's what the judgment order is going to say.

9 All right. Now you are all excused. Thank you.

10 THE DEFENDANT: Thank you, Your Honor.

11 MR. OHM: Thank you, Your Honor.

12 (Whereupon, the proceeding concludes, 11:46 a.m.)

13 **CERTIFICATE**

14

15 I, ELIZABETH SAINT-LOTH, RPR, FCRR, do hereby  
16 certify that the foregoing constitutes a true and accurate  
17 transcript of my stenographic notes, and is a full, true,  
18 and complete transcript of the proceedings to the best of my  
19 ability.

20 This certificate shall be considered null and void  
21 if the transcript is disassembled and/or photocopied in any  
22 manner by any party without authorization of the signatory  
23 below.

24 Dated this 1st day of March, 2022.

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

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