

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	CR No. 21-208
	)	Washington, D.C.
vs.	)	September 1, 2022
	)	2:05 p.m.
THOMAS WEBSTER,	)	
	)	
Defendant.	)	
_____		

TRANSCRIPT OF SENTENCING PROCEEDINGS  
BEFORE THE HONORABLE AMIT P. MEHTA  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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## 1 P R O C E E D I N G S

2 COURTROOM DEPUTY: All rise. The Honorable  
3 Amit P. Mehta presiding.

4 THE COURT: Please be seated, everyone.

5 COURTROOM DEPUTY: Good afternoon, Your Honor.  
6 This is Criminal Case No. 21-208, United States of America  
7 versus Thomas Webster.

8 Brian Kelly and Hava Mirell for the government.

9 James Monroe for the defense.

10 Crystal Lustig on behalf of the Probation Office.

11 The defendant is appearing in person for these  
12 proceedings.

13 THE COURT: Okay. Counsel, good afternoon.

14 Mr. Webster, good afternoon to you, sir.

15 Okay. So we are set and here for sentencing this  
16 afternoon. Are both sides ready to proceed?

17 MS. MIRELL: We are, Your Honor.

18 MR. MONROE: The defense is ready to proceed,  
19 Your Honor.

20 THE COURT: Okay.

21 So let me just give an overview of how I intend to  
22 proceed this afternoon.

23 So I'll go over what I've received and reviewed in  
24 advance of sentencing. I have a couple of preliminary  
25 matters just to raise with the parties, including the notice

1 that I sent out yesterday. Based on those arguments, we'll  
2 go through the Guidelines calculation and then we'll go from  
3 there into the parties' allocutions and then we'll take it  
4 from there.

5 So is there anything preliminarily either side  
6 wants to discuss before we move forward?

7 MS. MIRELL: Not from the government, Your Honor.

8 MR. MONROE: No, not at this early point, Judge.

9 THE COURT: All right. So let me just list what  
10 I've reviewed.

11 So the Presentence Investigation Report at  
12 ECF 102, the Probation Office's recommendation at 103,  
13 government's memorandum in aid of sentencing at ECF 104, the  
14 defendant's memorandum in aid of sentencing at 105, that  
15 includes his records from his service as a Marine, from his  
16 years as a New York Police Department officer. There's also  
17 a letter from residents of a community where he served as an  
18 officer. There's a letter from Dr. Gorovoy, as well as  
19 multiple letters of support. In addition, there were the  
20 supplemental memoranda that I requested at 106 and 107.

21 I have reviewed some of the videos from -- of the  
22 episode with Officer Rathbun. Those are videos that were  
23 provided to me in connection with the detention hearing that  
24 we had saved.

25 I've also read back through Mr. Webster's

1 testimony. And as I noted in my Minute Order, I've looked  
2 at the sentencing materials in four other January 6th cases,  
3 *U.S. versus Reffitt*, 21-CR-32, and *U.S. versus Robertson*,  
4 21-CR-34, *U.S. versus Ponder*, 21-CR-259, and *U.S. versus*  
5 *Palmer* at 21-CR-328.

6 All right. So that's what I've received and  
7 reviewed. Is there anything I should have received that  
8 I did not list already?

9 MS. MIRELL: Nothing from the government,  
10 Your Honor.

11 MR. MONROE: Judge, the only thing that comes to  
12 mind is that among the list of cases that the Court had  
13 taken a look at, there's a more recent decision handed down  
14 by Judge Kollar-Kotelly in the *U.S. versus Richardson* case.

15 THE COURT: I'm sorry, in the *Richardson* case?

16 MR. MONROE: Yeah, *Richardson*.

17 THE COURT: Oh, you know what? Okay.

18 MR. MONROE: And that's also an individual who was  
19 sentenced for having struck a federal officer with a  
20 flagpole.

21 THE COURT: Okay.

22 MR. MONROE: And I think the fact pattern  
23 parallels and may be useful to the Court to take a look at.

24 THE COURT: What's the case number?

25 MR. MONROE: I don't have the case available off

1 the top of my head.

2 MS. MIRELL: 21-CR-721.

3 THE COURT: -71, Ms. Mirell?

4 MS. MIRELL: -721.

5 MR. MONROE: It was handed down about six days  
6 ago, Judge.

7 THE COURT: Okay. Maybe that's why I missed it.

8 And while we're on the subject and I'll take a  
9 look when we take a break, but can anybody tell me what the  
10 offense was, whether defendant went to trial, what the  
11 Guidelines were, and what the ultimate sentence was?

12 MR. MONROE: Yes, it was a plea. Sorry.

13 MS. MIRELL: Your Honor, the defendant pled  
14 guilty. He was charged with 231, 111(a)(1) and (B),  
15 1752(a)(1) and (b)(1)(A), 1752(a)(2), 1752(a)(4),  
16 5104(e)(2)(D), and 5104(e)(2)(F).

17 He pled guilty on April 27th, 2022, the lesser  
18 included violation of Count 2, which is 111(a)(1).

19 THE COURT: So he did not plead to use of a  
20 dangerous weapon?

21 MS. MIRELL: He did not plead to it. It was  
22 included in the government's calculation and the Guidelines.

23 THE COURT: Okay.

24 And what was the Guidelines calculation that Judge  
25 Kollar-Kotelly ultimately --

1 MS. MIRELL: I believe that Judge Kollar-Kotelly  
2 agreed with the government's Guidelines analysis, so that  
3 would get 37 to 46 months, but I would need to double-check  
4 that.

5 THE COURT: Okay. And do you know what her  
6 sentence was?

7 MS. MIRELL: I believe it was 46 months.

8 THE COURT: Okay.

9 All right. Well, I'll take a look at it when  
10 I have a moment, but thank you for bringing that case to my  
11 attention.

12 MR. MONROE: Yes, Judge.

13 THE COURT: Okay.

14 Mr. Monroe, have you and Mr. Webster read and  
15 discussed the Presentence Report?

16 MR. MONROE: We have, sir, in detail.

17 THE COURT: And are there any objections that you  
18 wish to place on the record? Because I noted that you had  
19 not responded to the Presentence Report.

20 MR. MONROE: Not as to the scoring, Judge. We're  
21 going to stand just on the request for a deviation.

22 THE COURT: Okay.

23 All right. One simple -- or I hope is a  
24 straightforward question. In the government's sentencing  
25 memo in its calculation of the Guidelines, just on page 31,

1 Ms. Mirell, and maybe this is an oversight or perhaps I'm  
2 missing something, in Count 3, that's the 1752(a)(1) count,  
3 there's no inclusion of a 6-point enhancement for official  
4 victim. Was there a reason for that or is that an  
5 oversight?

6 MS. MIRELL: That was deliberate, Your Honor.

7 THE COURT: Okay.

8 MS. MIRELL: Do you want the --

9 THE COURT: Yeah, can you just tell me why.

10 MS. MIRELL: Yeah, can I just consult the  
11 Guidelines to refresh my memory?

12 THE COURT: Yeah, of course.

13 The reason I ask is because it was included in the  
14 other 1752.

15 MS. MIRELL: Yes, I remember vetting this with our  
16 appellate team and we deliberately did not include it, but  
17 I have to find my reasonings from a couple of months ago.

18 (Pause)

19 THE COURT: Ms. Mirell, if this something you all  
20 need to make an inquiry of, we can move forward. And if you  
21 get an answer on that --

22 MS. MIRELL: Yes, we're just trying to find it in  
23 our email and our Internet doesn't work so well.

24 THE COURT: That's okay. I mean, look,  
25 ultimately, it's not material to the calculation, but I was



1 just curious.

2 MS. MIRELL: We do have it written up, I just need  
3 to find it, I'm sorry, Your Honor.

4 THE COURT: That's okay.

5 All right. Let's then talk about the other  
6 Guideline matter that I'd raised in a Minute Order a couple  
7 days ago, and that's the application of the four-level  
8 enhancement for use of body armor.

9 It was an unusual enhancement, one that I had not  
10 confronted, and our Probation Office, when I spoke with our  
11 officer, it's not one that she had confronted in 20 years.  
12 So it was unusual and jumped out at me, and so I wanted some  
13 additional information from the parties and I appreciate  
14 your last-minute filings.

15 I've read them. If either side wants to be heard  
16 any further about the enhancement, I'm happy to hear from  
17 you now.

18 MS. MIRELL: Your Honor, I believe that the case  
19 cited by defense counsel actually weighs in favor of  
20 application of enhancement in this case. It goes to show  
21 the enhancement doesn't just apply to drug traffickers  
22 carrying firearms on their person while also donning body  
23 armor. It shows that it applies when someone else uses, in  
24 this instance, their vehicle as a deadly and dangerous  
25 weapon to attack a police officer.

1           And there was no evidence, at least in the record  
2 there, about his mindset going into that day, whereas here  
3 we do have significant evidence about Mr. Webster's mindset  
4 in coming to Washington, D.C. and deciding to bring body  
5 armor and a firearm with him to Washington, D.C. and  
6 deciding to ultimately don that body-worn camera vest as he  
7 came to the Capitol on January 6th.

8           THE COURT: You know, Ms. Mirell, I appreciate you  
9 citing the case, it's a credit to your -- to you as a  
10 lawyer.

11           Actually, I found the case --

12           MR. MONROE: I did, too, sir.

13           THE COURT: -- but I didn't cite it because in my  
14 own mind I thought it was a little different and obviously a  
15 bit of an outlier just in terms of the fact pattern. But  
16 did you want to add anything more to what you've already  
17 submitted?

18           MR. MONROE: You know, what crosses my mind in the  
19 analysis, Judge, and, you know, when I think, as an attorney  
20 when you're tasked by the Court to give them a hand and be a  
21 good advisor and a lawyer, you have to take it whether it's  
22 good or bad. And just because the *Walker* didn't assist the  
23 defendant, I saw an obligation to disclose it to the Court  
24 and the government and that's just fine.

25           But I think the point to be made from the *Walker*

1 case is that this gentleman was under surveillance.  
2 Presumably, you know, he was at least suspicious of engaging  
3 in some criminal activity himself, the body armor he's  
4 wearing in the downtown Detroit area when he gets into this  
5 car-chasing crash with the federal authorities.

6           And I think what occurs to me is what comes across  
7 the Court's mind when you think of a case like *Reffitt*.  
8 There, you've got a gentleman, he shows up at the Capitol,  
9 he's got a helmet, he's got a handgun, he's got plastic  
10 cuffs, he's got body armor, and he's got a gun. And we  
11 understand why he didn't get the enhancement because  
12 ultimately he's not convicted of a crime of violence, which  
13 is what the statute calls for.

14           But I think the fact that the body armor  
15 Mr. Webster was wearing on January 6th was merely incidental  
16 to what ultimately occurs later the same day doesn't capture  
17 what the legislature was trying to arrive at, which we can  
18 certainly understand that if you and I are running out of  
19 the bank and we've got guns and our bags in our hands and  
20 I have the body armor on, you don't, is certainly a bigger  
21 threat to the community than yourself because I've got an  
22 ability to evade capture and I can -- may have a little more  
23 courage to get into a firefight than somebody who may not be  
24 protected.

25           So it's the use, I think, is the essence behind

1 here. And I don't -- to the extent that it's not being  
2 employed by Mr. Webster, although the Court may be out on a  
3 case of first impression, I think it's an important  
4 distinction to make, that when Mr. Webster puts his body  
5 armor on before he leaves the hotel that morning, is he  
6 contemplating that he's going to use that body armor to  
7 engage in some type of criminal activity, and at least the  
8 evidence before this Court is no. And so to that extent,  
9 the application of four points is inappropriate.

10 I can say this, and I do this with all candor.  
11 I looked at this issue as I did with all the scoring points,  
12 and I read the statute on its face without going into a  
13 deeper dive as the Court did. But now that the Court takes  
14 us through its analysis, I appreciate why you're considering  
15 it.

16 That's all I have to say on the point, Judge.

17 THE COURT: Okay. Thank you, Mr. Monroe.

18 So, you know, look, it is a novel application, it  
19 seems to me. You know, based on my research -- and I don't  
20 think the parties have really found any cases except for the  
21 one case out in Michigan, the *Walker* decision, where this  
22 enhancement has been applied to anything other than drug  
23 trafficking cases and cases of armed robbery, there were  
24 some Hobbs Act cases and the like -- you know, you sort of  
25 scratch the surface on these things and you find out more

1 than you ever bargained for.

2 But the origin of this enhancement actually dates  
3 back to 2002. There was an act or a section of a -- there  
4 was an act passed by Congress, it's called the James Guelff  
5 and Chris McCurley Body Armor Act of 2002. It is  
6 Section 11009 of Public Law 107-273, which you can find at  
7 116 Stat. 1819.

8 And the sense of Congress was that body armor had  
9 been a -- it had been greater trafficking of body armor;  
10 states were not in a position to enforce and monitor the  
11 trafficking of that body armor. The sense of Congress that  
12 it posed, that is, body armor posed a threat to the  
13 community because criminals who wore body armor during the  
14 commission of a violent crime were a greater threat than  
15 those who were not, and the sort of predicate -- you know,  
16 the preambulatory clauses in the Act referred to several  
17 shootings and murders, actually, of the police officer after  
18 whom the act is actually named.

19 And Congress, it was a sense of Congress that it  
20 directed the Sentencing Commission to add an enhancement,  
21 and that such an enhancement should at least involve two  
22 levels. And they specifically define what body armor meant  
23 and they specifically -- and wanted body armor to apply only  
24 in cases of crimes of violence as they were defined not in  
25 the Guidelines but in 18 U.S.C. 16, which is a slightly

1 broader definition than some of the Guidelines definitions  
2 of crime of violence. And in 2004 -- I think 2003, I take  
3 it back, the Sentencing Commission did just that, they  
4 adopted this Guideline for the first time, went into effect.

5 And, you know, the history of it, it's not  
6 terribly notable other than the fact that it mentions that  
7 Congress had directed the Sentencing Commission to do this.  
8 But they did want to emphasize, the Sentencing Commission  
9 did emphasize in the sort of explanatory notes that the  
10 definition includes offenses that involve the use or  
11 attempted use of physical force against property, as well as  
12 persons. This is a crime of violence, so, you know, oddly  
13 enough, you could be wearing body armor and destroy property  
14 potentially and could be given the enhancement. And, you  
15 know, the emphasis also this is an enhancement that applies  
16 to use; that is, the active employment, as opposed to just  
17 merely possessing it in connection with.

18 And, you know, look on the facts of the case,  
19 I think the enhancement does apply by a preponderance of the  
20 evidence. You know, the facts are that Mr. Webster did  
21 bring the body armor with him to Washington, D.C.; he  
22 brought it with him along with a gun, along with military  
23 rations that he ate. And although he left the gun behind  
24 him that day, he wore the body armor.

25 And his testimony at trial was that he had worn it

1 for warmth but he also wore it -- and these were his  
2 words -- and wore it for his own safety, and you have to  
3 query what his own safety was, and it undoubtedly, at least  
4 in part, was the fear of being shot, whether by what he  
5 thought may be walking the streets of Washington, D.C., bad  
6 elements in Washington, D.C., or something else.

7           And in terms of his use of it during the crime  
8 itself, look, I think a reasonable viewing of the evidence,  
9 plus the testimony, suggests that it did contribute to the  
10 offense in the sense that it emboldened Mr. Webster to  
11 behave the way that he did. He may not have been as  
12 emboldened by his actions that day had he not been wearing  
13 that body armor. You know, he was approaching a line of  
14 police officers. He himself is a former police officer. He  
15 would have known that those police officers had guns with  
16 them, and that charging at, as he ultimately did, attacking  
17 those police officers, could bring gunfire.

18           Did he process all of that in his head? Only he  
19 knows. But certainly the evidence, it seems to me, by clear  
20 and convincing evidence, would establish the use of body  
21 armor. And the government did cite this Ninth Circuit case  
22 that essentially says, look, wearing the body armor  
23 constitutes active employment of the body armor, as opposed  
24 to just mere possession of it.

25           So I think for those reasons, it does apply, and

1 so I am going to apply the four-level enhancement. That  
2 said, I am going to take it into account in terms of how I  
3 ultimately do sentence and whether I vary in the manner that  
4 the defense has requested.

5 I don't think anybody here is suggesting that the  
6 wearing of the body armor here sort of falls within the  
7 heartland of what both Congress and the Sentencing  
8 Commission contemplated. You know, as I said, every Circuit  
9 Court decision I have found involves the use of body armor  
10 either in connection with drug trafficking or in connection  
11 with an armed robbery, and clearly Congress did not  
12 contemplate the use of body armor in the circumstances that  
13 we have here, which is assaultive contact, even albeit with  
14 a dangerous weapon but not a firearm.

15 So for all tho those reasons, I do think the  
16 four-level enhancement does apply. And that said, I do  
17 think -- and I will, as we talk through this, that'll be  
18 reflected in the ultimate sentence as my view that the  
19 enhancement is not only sort of not only heartland conduct,  
20 but as we'll talk about momentarily, the consequence of the  
21 enhancement is extremely draconian.

22 The addition of those four levels in this case  
23 adds, at least by my calculation, six years to nine and a  
24 half -- over nine and a half years to the bottom end of the  
25 Guidelines -- I'm sorry, six and a quarter years to seven



1 years and ten months to the Guidelines Range. Six and a  
2 quarter years is greater than all but two other defendants,  
3 to my knowledge, have gotten in any January 6th prosecution.  
4 So it cannot be that a single enhancement justifies a  
5 sentence whose enhancement is greater than any other  
6 sentence that's imposed so far by any judge in this Court  
7 for any conduct that has been prosecuted and convicted and  
8 sentenced for events arising out of January 6th.

9           So while the ultimate Guidelines here do end up  
10 with a 17 and a half minimum, they're driven in large part  
11 by the six-year increase caused by that four-level  
12 enhancement. And I'm not suggesting that absent that  
13 enhancement, we're talking about light Guidelines, because  
14 it still would result in, I think, an 11 and a half year  
15 bottom end. But, nevertheless, you get a sense of how  
16 impactful the Guidelines are when you sort of think about  
17 actually how many years it adds to the Guidelines  
18 calculation and compare that to the sentences that have been  
19 handed out so far for the conduct surrounding January the  
20 6th. So bottom line is, I will apply the four-level  
21 enhancement, I'll take that into account in terms of the  
22 request for the variance, and so that'll be the ruling of  
23 the Court.

24           All right. Those are the two preliminary issues I  
25 wanted to raise with counsel before I got to the Guidelines

1 calculation. Is there anything else you all wish to raise  
2 about Guidelines calculation before I turn to it?

3 MS. MIRELL: Yes, Your Honor.

4 My tentative response to your question about the  
5 plus six for official victim enhancement for Count 3, I  
6 believe it was, it's our position not to apply that to  
7 1752(a)(1) given that the text of the statute refers only to  
8 entering restricted grounds, and the commentary note 1 to  
9 3A1.2 indicates that it's only appropriate when specified  
10 individuals are victims of the offense.

11 THE COURT: Sorry, say that again.

12 MS. MIRELL: So in 1752(a)(1), it refers only to  
13 the text -- the text of the statute refers only to entering  
14 restricted grounds, and the commentary to 3A1.2,  
15 specifically note 1, says that it's only appropriate when  
16 specified individuals are victims of the offense.

17 THE COURT: Specified in what?

18 MS. MIRELL: An individual, not the Capitol  
19 building or grounds as the victim.

20 For example, Officer Rathbun was the named victim  
21 in 111 and 231, but there's no named victim in 1752(a)(1).

22 THE COURT: Oh, okay.

23 I mean, I wouldn't have read it that way. I mean,  
24 it says the Guideline applies when specified individuals are  
25 victims of the offense.

1 I'm not sure they meant specified in the  
2 indictment. I think what they meant is specified in the  
3 list of victims that are identified in the definition. And  
4 3A1.2(a) identifies who the potential victims -- you know,  
5 as to whom the potential enhancement would apply, and that's  
6 sort of how I read that. But either way, this is all  
7 academic in this case because ultimately it's immaterial, as  
8 I said, to the Guidelines calculations.

9 All right. Let me go ahead and run through the  
10 Guidelines calculation. I think the government is right,  
11 although ultimately there is a bit of an academic quality to  
12 it that I do need to run through the Guidelines calculation  
13 as to each count.

14 So on Count 1, assaulting, resisting, or impeding  
15 certain officers with a dangerous weapon, the Guideline is  
16 2A2.1 and not 2A2.4 because the conduct here does qualify as  
17 an aggravated assault. The jury in this case found that  
18 Mr. Webster had used a flagpole as a dangerous weapon.

19 That, in combination with the injuries that were  
20 suffered, qualify it for application of 2A2.2. For that  
21 Guideline and for that offense, the Base Offense Level is a  
22 14.

23 Because a dangerous weapon was used, four-level  
24 increase. Because the victim, that is, Officer Rathbun,  
25 sustained bodily injury, specifically, bruises to his legs

1 and his arms, an additional three levels are added.

2           The conviction was under 18 U.S.C. 111(b). That  
3 increases the offense level by two.

4           The official victim adjustment applies per  
5 Application Note 4 of 3A1.2. The victim was a government  
6 employee. The conduct was motivated by the status of that  
7 person as a government employee, and the offense of the  
8 conviction does fall within Chapter 2, Part A as an offense  
9 against a person. So the six-level enhancement applies.

10           An additional two-level enhancement applies for  
11 use of physical restraint. I sort of looked at this because  
12 I wasn't sure whether it actually applied in this case.  
13 I didn't find anything in the Circuit. But there is a  
14 recent Third Circuit case called *United States versus Bell*,  
15 947 F.3d at 49 from 2020, which the Circuit there said that  
16 the factors to consider in determining whether physical  
17 restraint was used are to consider the use of physical  
18 force, exerting control over the victim, providing the  
19 victim with no alternative but compliance, focusing on the  
20 victim for some period of time, and, five, placement in a  
21 confined space.

22           I think the first four of those five factors  
23 clearly apply here, given the conduct of which Mr. Webster  
24 was found guilty. He clearly used physical force; he  
25 exerted control over Officer Rathbun for that period of time

1 he held him down to the ground. Officer Rathbun was in no  
2 position other than to comply with that while physical force  
3 was being applied. And clearly there was a direct focus on  
4 Officer Rathbun for some period of time, so I think that  
5 physical restraint applies.

6 And for the reasons I've already discussed, the  
7 four-level enhancement for abuse of body armor applies. And  
8 then the additional two level for obstruction for  
9 administration of justice applies.

10 And let me note here that in terms of the  
11 application of that enhancement, we get there just from the  
12 mere fact that Mr. Webster deleted photographs that he had  
13 taken on that day of the events of January the 6th. I don't  
14 need to make an assessment or an evaluation of his testimony  
15 and whether his testimony rises to the kind of knowingly  
16 false testimony that would otherwise warrant that -- the  
17 application of that enhancement. That said, Mr. Webster's  
18 testimony will certainly be an object of some discussion as  
19 we move forward.

20 So with that, the total offense level for Count 1  
21 is a 37. For Count 2, obstructing officers during a civil  
22 disorder, it too starts with the 2A2.4 -- excuse me, it then  
23 cross-references over to 2A2.2 because there's an aggravated  
24 assault.

25 The same exact calculation applies as the one that

1 I just went through for an offense level of 37.

2 Count 3, start with 2X1.1, and that then reverts  
3 to 2A2.2, which, because of the cross-reference, reverts to  
4 2A2.4.

5 The same calculation applies if we don't include  
6 the victim, official victim adjustment, it's a 24 -- excuse  
7 me, a 27. You know, for present purposes, I can leave it at  
8 a 27, but ultimately it's an immaterial difference.

9 For Count 4, disorderly or disruptive conduct in a  
10 restricted building or grounds, it's the same exact  
11 calculation. Again, starts here with 2A2.4, but the  
12 cross-reference applies because of the aggravated assault at  
13 2A2.2. Same exact calculation as for Count 1, gets us to a  
14 total offense level of 33 in this case.

15 I think I may have misspoke. For Count 2, it's  
16 also 33 and not 37, because it's not a crime of violence.  
17 So for Count 2, 33. Count 3, it's a 27, because, arguably,  
18 the official victim enhancement doesn't apply. Count 4 is  
19 also a 33 because it's not a crime of violence; the body  
20 armor enhancement doesn't apply. Count 5, same thing, start  
21 with 2A2.4, cross-reference to 2A2.2 because of the  
22 aggravated assault. Same exact calculation as Count 1  
23 without the body armor enhancement because it's not a crime  
24 of violence. Results in a 33. All of these counts group  
25 because it involves the same conduct. So we take the

1 highest offense level, which is a 37.

2 We're all in agreement that Mr. Webster has no  
3 prior criminal history score and therefore has a Criminal  
4 History Category of I. Guidelines Range, therefore, is 210  
5 months to ultimately 240 months in this case because the  
6 highest -- the greatest offense carries a 20-year maximum  
7 penalty. So the Guidelines are 210 to 240 months, which is  
8 17 and a half to 20 years.

9 Let me quickly, before we get to the allocutions,  
10 just talk quickly about restitution. Mr. Monroe, did you  
11 wish to be heard or raise any objections about the  
12 restitution request?

13 MR. MONROE: No, Judge, we don't have any  
14 objections to the request for restitution.

15 THE COURT: Okay.

16 So under the mandatory victims restitution act,  
17 I am required to award restitution in the amount of \$60 to  
18 Officer Rathbun for the costs associated with his testimony  
19 in this case and his witness fees or the costs of being a  
20 witness in this case.

21 The government suggests that mandatory victims of  
22 restitution act also applies for the 1752(a)(1); that is,  
23 the knowingly entering or remaining in a restricted  
24 buildings or grounds, because it qualifies as an offense  
25 against property.

1           I don't know. I mean, you know, I looked,  
2 I'm not sure whether mere trespassing in a building  
3 qualifies as an offense against property. The term is not  
4 defined. And, frankly, I didn't find any cases that really  
5 did apply it in this context or any other for that matter.

6           But irrespective of whether it is or is not under  
7 the mandatory victims restitution act, it certainly falls --  
8 the remaining eligible conduct under Title 18, there are at  
9 least four, I think, Title 18 offenses for which he was  
10 convicted for which the victim and witness protection act  
11 applies and which it's discretionary to award restitution.

12           The government has clearly established that there  
13 was injury and harm to the Capitol building. I think the  
14 amount the government is now presently calculating is well  
15 over \$2 million, and I think it is fair to find that  
16 Mr. Webster caused at least \$2,000 in damage as the  
17 government has requested.

18           You know, given the nature of the overall conduct,  
19 you can't have any particular person responsible for all  
20 2 million, but it's certainly safe to say that the  
21 \$2 million in damage could not have happened but for the  
22 collective action of each individual person who was there on  
23 January the 6th. And so everybody who was there in a sense,  
24 whether they directly destroyed property or not, certainly  
25 contributed and caused it, and so I think the amount of



1 \$2,000 that's been requested is fair in terms of a  
2 restitution amount, for a total amount of \$2,060 as  
3 restitution in this case. Okay.

4 All right. With that, let's turn to the parties'  
5 allocutions, and we'll start with the government.

6 Sorry, one more thing I should add.

7 Given that the total offense level is a 37, the  
8 fine range is 40,000 to \$400,000.

9 MR. MONROE: Can I have that number and total one  
10 more time?

11 THE COURT: 40,000 to 400,000. Is that wrong?

12 PROBATION OFFICER: Your Honor, the fine range is  
13 \$40,000 to \$250,000, because the statutory maximum fine for  
14 the counts is \$250,000.

15 THE COURT: Oh, right. It's always good to have  
16 probation officers check your errors.

17 So, yes, that's right, it's 40,000, and the  
18 statutory max of 250,000.

19 MS. MIRELL: Good afternoon, Your Honor. May it  
20 please the Court. I'd like to recognize Metropolitan Police  
21 Department Officer Noah Rathbun, who is in the audience  
22 today. He does not intend to provide a statement at this  
23 time but he would rely on his testimony from trial, as well  
24 as the victim impact statement that he submitted in  
25 connection with the June 2021 bond hearing in this case.

1 THE COURT: Officer Rathbun, welcome.

2 MS. MIRELL: I'd like to begin by providing the  
3 Court with a roadmap of government's allocution today, start  
4 with the nature and circumstances of the offense, as well as  
5 the defendant's trial testimony.

6 Next discuss the defendant's history and personal  
7 characteristics; specifically, his prior service and why  
8 that is an aggravating factor in this case.

9 We'll next address the lack of remorse that  
10 Mr. Webster has demonstrated throughout this entire case,  
11 and finally we'll address sentencing disparities.

12 First, I'd like to discuss the damage that this  
13 defendant has done to the rule of law, not just through his  
14 conduct but through his testimony. And we'll start as we  
15 always have with the body-worn camera; I will ask my  
16 colleague, Mr. Kelly, to help me play.

17 I recognize that this is maybe the 50th time that  
18 the Court and the public has seen this video but it is still  
19 as disturbing and gruesome as the first time you watched it.

20 (Video played)

21 MS. MIRELL: Nothing can explain or justify  
22 Mr. Webster's rage. Nothing can explain or justify his  
23 violence.

24 In previous sentencings, judges within this Court,  
25 including Your Honor, have observed that many of these

1 rioters were misled by former President Trump; that they  
2 were "pawns in a game that was played and directed by people  
3 who should have known better."

4 But that only goes so far in this case. It could  
5 explain why the defendant ended up in Washington, D.C. on  
6 January 6th. It could also explain why he found himself at  
7 the Capitol, and specifically the lower west plaza on  
8 January 6th.

9 But it cannot explain his rage. It cannot explain  
10 why he, a former police officer, attacked another police  
11 officer with a U.S. Marine Corps flagpole. It cannot  
12 explain why he then, after the officer had retreated,  
13 tackled him to the ground. It also can't explain why the  
14 defendant tried to rip off an officer's gas mask.

15 Webster is one of the rioters who should have  
16 known better. Even if he didn't know better than to believe  
17 Trump's lies, he knew better than to assault a fellow cop,  
18 no matter the circumstances.

19 Something else that stands out about the  
20 defendant's assault is the use of the Marine Corps flag as  
21 the weapon.

22 THE COURT: Ms. Mirell, if I could interrupt you  
23 for a moment.

24 What do you think does explain it?

25 MS. MIRELL: Mr. Webster's attack?

1           I believe there's an element here of  
2 uncontrollable rage that goes to future dangerousness.  
3 I believe there's an element of him assuming that he is the  
4 authority figure here, that, as a former police officer,  
5 that he's empowered to do whatever he wants. I think that's  
6 evidenced further -- as he goes further toward the Capitol,  
7 he actually goes behind a second police line and emerges  
8 with his hand up behind the police line. He feels entitled  
9 to do what he wants as a former police officer, and he's  
10 constantly asserting that while he's engaging with  
11 Officer Rathbun. We think there's a couple elements;  
12 otherwise, I can't really understand it myself, Your Honor.

13           But back to the deadly and dangerous weapon here,  
14 the Marine Corps flag. I believe it was Judge Chutkan  
15 remarked in the Mark Ponder sentencing on the palpable irony  
16 of using a red, white, and blue flagpole to attack an  
17 officer. I submit that irony is even more pronounced in  
18 this case.

19           If you recall, the defendant testified at trial  
20 about how he was going to choose which flagpole he was  
21 taking to Washington, D.C. And he chose not to bring his  
22 American flag because, "If that thing fell on the floor, it  
23 would bother him." Yet he had no compunction about using a  
24 U.S. Marine Corps flag to attack a fellow service member and  
25 a fellow police officer, who was simply doing the job that

1 Webster was once entrusted to do himself; that is, to defend  
2 our democracy.

3 Overall, the defendant's conduct and statements  
4 before, on, and immediately after January 6th show that he  
5 anticipated violence, that he wanted violence, and that he  
6 instigated violence.

7 He brought with him his MREs, his NYPD gun, a  
8 ballistic vest, a military rucksack. He was clearly  
9 anticipating a violent clash.

10 His search history, as we submitted as part of our  
11 supplemental brief in this case, shows that he was looking  
12 to buy ammo for an NYPD-serviced firearm, and that he was  
13 visiting websites that sold body armor. He was reading  
14 websites that talked about how it was going to get wild, and  
15 providing instructions on gun laws, self-defense options,  
16 citizens arrest policy. He ultimately donned that  
17 NYPD-issued bulletproof vest, again, because he anticipated  
18 violence. And when he got to the Capitol on January 6th, he  
19 made that violence happen.

20 Now, I want to turn to the defendant's testimony  
21 and the damage that his testimony specifically has done to  
22 the rule of law in this country.

23 Not only did the defendant testify untruthfully,  
24 but he also damaged the credibility of police everywhere  
25 through his false testimony.

1           As we discussed in our brief, the defendant used  
2 his prior police service as a weapon and a shield. First,  
3 he weaponized the prior service to attack Officer Rathbun.  
4 He called Officer Rathbun a rogue cop at least four times.  
5 And he repeatedly invoked his police experience to critique  
6 Officer Rathbun's training and tactics, as well as the  
7 training and tactics of the NYPD and U.S. Capitol police  
8 officers who were staged on the lower west plaza that day.

9           He then tried to hide behind that same police  
10 service as the reason he should not be held responsible for  
11 his conduct. He tried to claim that, as a police officer,  
12 he had a better appreciation than most for why  
13 Officer Rathbun was such a threat and that why what he was  
14 doing led him to believe that he was in such serious danger  
15 of bodily injury or death.

16           Now, it's worth taking a closer look at Webster's  
17 testimony, because to say it out loud is to expose just how  
18 preposterous it was.

19           First, Webster claimed that Officer Rathbun waved  
20 him over the fence. Never mind the fact that nowhere, not  
21 in the body-worn camera, not in the four videos we have open  
22 source and surveillance, do you see any type of waving  
23 gesture from Officer Rathbun.

24           But Webster actually stuck with this lie and  
25 he said that this phantom waving, "Was obviously

1 Officer Rathbun wanting me to come over the barrier and do  
2 something to him. It was an obvious taunt and a motion for  
3 me to do something that would have been illegal."

4 This is, of course, preposterous. As  
5 Officer Rathbun testified, it would have been absolutely  
6 insane for him to signal or wave someone over that bike rack  
7 when he was outnumbered like that.

8 Officer Rathbun was not interested in starting a  
9 fight and going old school, because he was there to protect  
10 the Capitol, and that would have taken him away from his  
11 mission.

12 At this point, we also just have to stop ourselves  
13 and remember that this is a former cop, this is a guy who  
14 once stood behind those bike racks, who once guarded Gracie  
15 Mansion. And he's really saying that another cop, who was  
16 so clearly outnumbered and in danger, is inviting someone to  
17 come over the barrier and fight? It's absurd. It wasn't  
18 credible then, it's not credible today.

19 He then claims that another reason he was so  
20 intimidated by Officer Rathbun was because Officer Rathbun  
21 looked up at his flag. And he assumed that that look at the  
22 flag meant that Officer Rathbun really wanted to fight him  
23 and that maybe he had something against the Marines. Again,  
24 it's incredible that a former cop would claim that someone  
25 looking at his flag was a signal and an invitation to fight.

1           Mr. Webster knew perfectly well that  
2 Officer Rathbun would have perceived his flag as a weapon  
3 and that might have been the explanation for looking up at  
4 the weapon.

5           Also, the fact that a wrong look at his flag was  
6 enough to provoke him into a vengeful violence should be  
7 concern, especially as a former cop, who, in his own words,  
8 is supposed to be stoic like a statute.

9           Now, after accusing Officer Rathbun of looking at  
10 his flag the wrong way and then giving him this phantom wave  
11 over the bike racks, he proceeded to blame Officer Rathbun  
12 for not doing enough to soothe him and bring down his anger  
13 level. In his words, "I've been in that situation, and  
14 you've got to figure it out, you've got to figure out how to  
15 de-escalate. He had all the answers. I gave him all the  
16 answers. That flag." He then continues, "That guy could  
17 have very easily de-escalated this whole thing and said,  
18 "Hey, dude, I'm a Navy guy." I would have hugged him.  
19 Again, Webster is a former cop. Why should he need  
20 de-escalating? We should expect him, at the very least, to  
21 act with decency and respect toward police; we should expect  
22 him to be able to keep his emotions and anger in check.

23           He then spins an incredible lie about how  
24 Officer Rathbun, after he's now already retreated backwards  
25 from the collapsed police line, somehow runs forward a



1 quarter of the way to Webster and they "Made contact.  
2 He kind of, like, goes to the ground." Officer Rathbun did  
3 not move forward. And he didn't just go to the ground. He  
4 got knocked to the ground by Webster who came at him like a  
5 linebacker.

6           Finally, by far the most incredible part of  
7 Mr. Webster's testimony was his explanation for why he had  
8 his hands on Officer Rathbun's gas mask. In his words, "I'm  
9 trying to protect myself in a manner that doesn't hurt this  
10 officer. I wanted to do something to protect myself without  
11 hurting this cop. Again, I think I described before, he had  
12 this big rubber gas mask on, and I wanted him to see my  
13 hands."

14           Compares it to needing to put your hands on the  
15 wheel during a traffic stop so that officers can see where  
16 your hands are. That was a lie. Here's another way to let  
17 Officer Rathbun see your hands, and it doesn't involve  
18 pulling on his gas mask and choking him.

19           As we say in our sentencing memo, it's abundantly  
20 clear from Webster's conduct and his testimony that the only  
21 person interested in going old school and rogue that day was  
22 Mr. Webster.

23           Now, fortunately, the jury saw right through  
24 Webster's smoke screen, but a lot of our nation has not.  
25 A lot of our nation still believes that the rioters were

1 justified in their actions, that they were patriots, that  
2 the police instigated and provoked this violence, and that  
3 some of the rioters were just mere protesters. And the  
4 defendant, through his testimony, perpetuated that lie. He  
5 tried to make this a referendum on police misconduct when he  
6 knew better than most that Officer Rathbun was acting with  
7 tremendous restraint and professionalism that day.

8           Instead of doing the honorable thing, which is  
9 accepting responsibility for his actions and apologizing,  
10 Mr. Webster has gone as far as one can to the other end of  
11 the spectrum by blaming, shaming, and vilifying his victim.

12           I next want to address Mr. Webster's prior  
13 service. Obviously, Probation views his prior military and  
14 police service as a significant mitigating factor in this  
15 case and recommends that the Court vary 90 months downward  
16 for that reason.

17           The government disagrees. The government views  
18 the defendant's prior police service as an aggravating  
19 factor in this case. Of course, the government does respect  
20 and appreciate Mr. Webster's decades of service, both as a  
21 Marine and as a New York City Police Department officer.

22           But the problem here, as I've already discussed,  
23 is the way in which Mr. Webster leaned on that service to  
24 both attack Officer Rathbun's professionalism and integrity,  
25 and, at the same time, to shield himself from any liability.

1           THE COURT: Ms. Mirell, if I could interject for a  
2 moment.

3           Is it the government's view that Mr. Webster's  
4 past should not be a mitigating factor at all here? I don't  
5 think anybody would suggest that there's anything in his  
6 past that would suggest conduct that he engaged in that day  
7 by any definition of the term was aberrant behavior as a  
8 Marine 20 years on the NYPD.

9           And I can understand why the government would view  
10 that as something that he used to further his behavior that  
11 day and, in fact, he did, I don't think there's any doubt  
12 about it. But does he get no credit, in the government's  
13 view, for leading a 25-year life of -- 25-year period of  
14 service with that integrity, honor, and accommodation?

15           MS. MIRELL: Your Honor, the government's view is  
16 that it cannot bear the weight of a 90-month variance.  
17 Whether it can bear any weight potentially, it goes to his  
18 personal history and characteristics and is part of his lack  
19 of criminal history, which we think the Court must and  
20 should consider.

21           But this is an unusual case. Had this been a  
22 case, for example, where the defendant -- you know, where he  
23 was a cop and he merely didn't use his better judgment on  
24 January --

25           THE COURT: Ms. Mirell, hang on.

1 (Pause)

2 THE COURT: Go ahead, Ms. Mirell.

3 MS. MIRELL: If it was a situation where he was a  
4 cop, came to January 6th, for example, like *Robertson*, and  
5 he should have known better, that's one situation, and maybe  
6 he's deserving a more mitigating weight in that  
7 circumstance.

8 But here, we have the use of that police service  
9 on the stand under oath in a way that's despicable to the  
10 NYPD and to police officers everywhere, and it does a great  
11 disservice to the reputation and integrity of the police.  
12 So we don't think that it can really bear significant, if  
13 any, mitigating weight in this case.

14 And I have examples of how the defendant did use  
15 that prior service and police service; I have probably  
16 14 quotes of that if the Court would like to hear them. No.  
17 Okay.

18 THE COURT: I sat through the trial.

19 MS. MIRELL: I assume the Court has reviewed the  
20 defendant's transcript, so I will not address them then.

21 THE COURT: I have.

22 MS. MIRELL: Okay.

23 My third topic is the defendant's lack of remorse  
24 here. I don't know if Mr. Webster's going to be making a  
25 steal today, but it may be too little, too late.

1           The representations made in defense counsel's  
2 sentencing submission are obviously very different than what  
3 the defendant said under oath at this trial. And if you  
4 focus on what the defendant said under oath, he was never  
5 once apologetic to Officer Rathbun; he never once accepted  
6 responsibility for his conduct; he was evasive; he often  
7 wouldn't respond to Ms. Nielsen when she asked him, you knew  
8 you were on restricted grounds, you knew by the time that  
9 you crossed that barricade that you were on restricted  
10 grounds, and he was evasive for that. He vilified  
11 Officer Rathbun; he tried to make him out to be a rogue, old  
12 school cop. He's expressed no remorse.

13           In weighing all the 3553(a) factors, including the  
14 defendant's eleventh hour expression of remorse, to the  
15 extent he intends to provide one, the Court must seriously  
16 consider and weigh heavily the sworn statements at trial and  
17 the lack of remorse that he has continued to show to this  
18 day.

19           Finally, I was intending to address the sentencing  
20 disparities but perhaps it might be better to respond to any  
21 of the Court's specific questions in that regard.

22           THE COURT: So I think I previewed one earlier,  
23 which is with respect to the body armor enhancement and the  
24 impact it has on the overall sentencing.

25           Does the government genuinely believe that his

1 sentence ought to be increased by, at a minimum, of six and  
2 a quarter years, which is greater than all but two sentences  
3 that anyone has received thus far, on top of what is already  
4 going to be an 11-plus year Guidelines for wearing that body  
5 armor, it deserves a full six-year additional sentence?

6 MS. MIRELL: Your Honor, the government's position  
7 is that the Guidelines are presumptively reasonable. This  
8 is something -- as Your Honor went through legislative  
9 history here, this is something that was considered  
10 deliberately by Congress and by the Sentencing Commission.

11 THE COURT: Even you would, I hope, concede this  
12 is not heartland use of body armor that either Congress or  
13 the Sentencing Commission contemplated.

14 MS. MIRELL: It may not be heartland, given that  
15 heartland is drug traffickers who carry guns and wear body  
16 armor on the streets, but it is certainly applicable in this  
17 case and it certainly enabled Mr. Webster and empowered him  
18 to commit a vicious assault.

19 As Your Honor said, I question whether he would  
20 have come at Officer Rathbun with the same force if he  
21 didn't know he had a little extra padding to protect him.

22 THE COURT: Look, I guess the other big-picture  
23 question here is, turns out it's harder to make comparisons  
24 for conduct on January 6th than one might think.

25 Mr. Palmer and Mr. Ponder, I know Mr. Ponder --

1 you know, Mr. Ponder twice arms himself with a pole. It  
2 hits an officer twice. The first time the pole breaks only  
3 because the officer has a riot shield. Then he arms himself  
4 with a red, white, and blue pole, runs up to the upper West  
5 Terrace, swings the pole yet again at an officer and strikes  
6 him in the shoulder. And then when he's arrested and  
7 despite instructions to return to the Capitol -- not to  
8 return to the Capitol, he, you know, engages with officers  
9 again.

10 Now, you know, Guidelines are a funny thing  
11 because when you sort of describe and hear that conduct out  
12 loud, you'd say, wow, that's pretty bad stuff. But his  
13 Guidelines were 57 to 71 months. I think that includes a  
14 three-level departure for accepting responsibility, so it's  
15 a little bit skewed.

16 But when you're just comparing apples to apples in  
17 terms of the actual behavior and Mr. Ponder got 63 months,  
18 which some might say is pretty good, although it's within  
19 the Guidelines, how do I give Mr. Webster three-plus times  
20 that much?

21 MS. MIRELL: Well, Your Honor, I think we do try  
22 to draw some distinctions between Mr. Ponder and Mr. Webster  
23 in our sentencing memo. I think some of those factor into  
24 the Guidelines, too, and affect the Guidelines analysis.  
25 For example, there was no reported bodily injury from any of

1 Mr. Ponder's victim.

2 THE COURT: And that seems to me by the grace of  
3 God, nothing else, and a riot shield. The fact that he hit  
4 three different officers with a metal pole -- anyway.

5 MS. MIRELL: It's certainly by the grace of God,  
6 too, Officer Rathbun was not injured, because that pole came  
7 dangerously close to Officer Rathbun as well. And as we all  
8 know, he was the least protected person on that line. He  
9 was not carrying a riot shield, he was not wearing hard  
10 gear. Everyone else around him was.

11 There's also, as the Court noted with Mr. Ponder,  
12 he got minus three for the acceptance of responsibility. He  
13 did not blame his violence on his victims, didn't restrain  
14 his victims and tackle them to the ground. He wasn't  
15 wearing the body armor. Understood the Court's point about  
16 the body armor inflating the Guidelines here. He did not  
17 obstruct justice by deleting evidence from his phone or, in  
18 the government's belief, providing materially false  
19 testimony under oath. I believe there are also some  
20 significant mitigating circumstances in Mr. Ponder's case  
21 that don't exist in this case.

22 So, yes, there were similar assaults with a  
23 flagpole. I just don't think -- I may be confusing myself.  
24 I also don't think that Mr. Ponder was a former cop.

25 THE COURT: No, that was Mr. Palmer.



1 MS. MIRELL: So I think -- that was Mr. Palmer.

2 So I think that is an --

3 THE COURT: He's the one that threw a fire  
4 extinguisher at a police officer.

5 MS. MIRELL: Yes, also horrific.

6 But I think the fact that Ponder was not a former  
7 cop weighs heavily here. No one knows better than a former  
8 cop how dangerous it was on January 6th. And to then use a  
9 deadly and dangerous weapon to attack a cop and then tackle  
10 him to the ground, separate him from his colleagues, and  
11 render him vulnerable on the ground, that's particularly  
12 heinous.

13 THE COURT: Okay.

14 I mean, look, we can have this conversation about  
15 each of the -- and the reason I -- for obvious reasons, the  
16 four I picked and the four I identified, those are the four  
17 highest sentences that have been handed out. Mr. Reffitt  
18 got 87 months, Mr. Robertson got 87 months, Mr. Palmer and  
19 Mr. Ponder each received 63 months. And you're asking me to  
20 sentence Mr. Webster to 210 months.

21 And, look, you know, I think every one of us who  
22 does this who was involved in the criminal justice system  
23 whether on the defense or prosecution side or as judges, the  
24 Guidelines do funny things, and you can look at the  
25 Guidelines at the end of the day and they produce sometimes

1 outcomes that seem, to some, lenient, and then in other  
2 cases, quite draconian. And ultimately what we as judges  
3 are trying to do here is trying to right size all of what  
4 the Guidelines get wrong and sometimes seem arbitrary, like  
5 a four-level enhancement for body armor that results in a  
6 six-year increase of the Guidelines calculation.

7 And I understand the government's position, and  
8 I know why you view his conduct as more culpable than  
9 Mr. Reffitt's and Mr. Robertson's, so don't know that we  
10 need to go through all of it.

11 MS. MIRELL: Okay.

12 So unless the Court has any further questions, the  
13 government would respectfully request that this Court  
14 sentence the Defendant Thomas Webster to 200 months in  
15 prison, three years of supervised release, and \$2,060 in  
16 restitution. Thank you.

17 THE COURT: Yeah. Thank you, Ms. Mirell.

18 That's okay.

19 MS. MIRELL: 310, I'm sorry.

20 THE COURT: That's okay. I know what you meant.

21 Okay. Mr. Monroe.

22 MR. MONROE: Judge, I welcome the chance to speak  
23 to you. I'm going to be brief. I try to be very pragmatic  
24 with the Court's time and the record that we make, the  
25 objections that we assert.

1           The Court has obviously been an excellent steward  
2 of the law and kept an impeccable record. But as a  
3 practitioner, as we understand that we have to measure this  
4 man against his crimes, right? That's with any case. It's  
5 been a long time since these Guidelines have been mandatory,  
6 although they now stand before us as advisory. But they try  
7 to help shape comparable conduct so we arrive at a sensible  
8 sentence that compares comparable misconduct with others.  
9 No two cases we know are going to be the same, it's not  
10 possible.

11           But it can't be seen, either in this Court or  
12 anywhere else in this country, that the request made by the  
13 government is an act of vengeance as opposed to a prayer for  
14 justice. We know that. We have to protect this Court's  
15 integrity, we have to protect the integrity of the entire  
16 system by making sure that the bad conduct perpetrated by  
17 people, good people like Mr. Webster on January 6th, is  
18 measured against his convictions.

19           Tom was not an organizer. Fact. He hadn't been  
20 in Washington, D.C. in over 20 years. He came down here at  
21 the invitation of our leaders, of a President that was  
22 desperate to retain power. And like many other Americans,  
23 he accepted that invitation. And as we've laid out in our  
24 own papers, the lies and disinformation were sufficient  
25 enough to fool many Americans, especially those who showed

1 up here at the Capitol on January 6th.

2           But when Tom leaves his house and goes to New York  
3 on January 5th, up until that point in time, he's 54 years  
4 old, he's lived, by any measurement, a spectacular life. He  
5 has a beautiful home and a beautiful wife and three very  
6 healthy, successful children. The man is now retired. And  
7 in his retirement, he takes up his obligation as a  
8 contributing member to the family to run his own little  
9 landscaping business. So in his retirement, he's pushing  
10 mowers and shoveling snow to make additional money for the  
11 home.

12           He has spent 20 years, Judge, 20 years with the  
13 New York City Police Department, not one, not one reprimand.  
14 Think about that. The first part of his career was spent in  
15 the Bronx when there was still a Housing Authority before  
16 they got merged into the New York City Police Department.  
17 He was assigned to the worst project the city had, the Gun  
18 Hill Road housing project, and the man was an exceptional  
19 police officer.

20           And then before that, he served the United States  
21 Marine Corps honorably, all the way through his time with  
22 the Marines -- that's what we're showing you, Judge -- all  
23 the time that he spent at the police department, filled with  
24 superlatives of what a good, decent man this has measured  
25 over time, not just the 46 seconds of Mr. Webster's delusion

1 that he could have some say over who's going to be the next  
2 President of the United States.

3 I'll just mention briefly, and truly it goes to  
4 credit Tom and his own character, of the circumstances he  
5 did such a brilliant job of pulling himself out of, right?  
6 How many times do we hear people complain, well, I wouldn't  
7 have done these terrible things but for the fact that I  
8 didn't have such a great home, I didn't have such a great  
9 upbringing, I didn't have that great support.

10 But Tom didn't have any of those things in place.  
11 But he got through high school, he found -- he served his  
12 country honorably in the military, and he did 20 miraculous  
13 years with the New York City Police Department, all by his  
14 own doing. Measurement of character by time, not as the  
15 government wants everyone to believe that we should condemn  
16 Tom for all eternity for those 46 seconds, none of the good  
17 deeds that he was capable of accomplishing, not the  
18 beautiful family he raised, not being a great son to his  
19 parents, not being a wonderful police officer, and a  
20 hardworking Marine, no credit, zero. That is not how we  
21 measure justice. That is revenge. The Court should not  
22 give any countenance to that.

23 THE COURT: So, Mr. Monroe, you've asked for a  
24 time-served sentence. I dare say that's not consistent with  
25 justice either.

1           So in your estimation, and maybe you'll stay with  
2 what you've told me, which is a time-served sentence, what  
3 is consistent with justice, not only for the conduct,  
4 context in which it occurred, and, dare I say, testimony at  
5 trial that the jury rejected, and I'll just leave it at that  
6 for now.

7           MR. MONROE: I'm glad you brought that up, Judge.

8           When we stepped out the door of my office on  
9 February 22nd and headed to the FBI office, we went there  
10 and did something extremely unorthodox. We gave them a full  
11 accounting of what happened that day. The transcript here  
12 is over 50 pages long of Tom giving a statement, as his  
13 lawyer sat right next to him, I authorized it, I encouraged  
14 him to do it.

15           And as much as the government wants to deny it,  
16 but in that statement, he said, you know, even in that  
17 early, early phase, Tom stops the FBI agent and says, you  
18 know, I want to say something to you. You know, I said some  
19 terrible things to that officer. At the time he didn't know  
20 his name because it wasn't disclosed. He says, I called him  
21 some terrible names. I just -- it's not true, I didn't mean  
22 to say that. He's not a traitor, and I feel terrible that I  
23 said it to him. Even at that early stage, it already is  
24 clear to Tom Webster, his level of culpability.

25           And, you know, I think the government is right, in

1 part here --

2 THE COURT: But yet he got up on the stand,  
3 Mr. Monroe -- and, look, you know that I spent my life as a  
4 criminal defense lawyer, I understand. But the decision to  
5 testify is never a light one; in fact, it's probably the  
6 biggest decision any defendant can make and it's the biggest  
7 and most important advice any lawyer can give.

8 But what you just described him saying to the FBI  
9 and what you've now written in your sentencing memo could  
10 not be more at odds with his testimony. And, yes, it's  
11 perhaps not at odds in the sense that he regrets what  
12 he said, but it certainly doesn't reflect any  
13 acknowledgement of culpability or acceptance of  
14 responsibility.

15 MR. MONROE: He loses that from a scoring  
16 standpoint, obviously, because --

17 THE COURT: It's just not scoring. Let's take  
18 this out of the three points; I could care less about the  
19 three points.

20 MR. MONROE: Yeah.

21 Let me just say this. It was always Mr. Webster's  
22 contention that he was responding passionately to what had  
23 happened in his presence. It wasn't accepted by the jury.  
24 Self-defense justification was not accepted. That's a fact.  
25 That's something both myself and Mr. Webster, more

1 importantly, accepts. But that's the man's reasoning for  
2 where he was at when he was sitting giving a full accounting  
3 of what was happening at the Capitol on January 6th when he  
4 was sitting in the FBI's office in Newburg, New York.

5 I have to make this quick point. The time, as  
6 I've said before, tells us a lot about our clients and the  
7 defendants that are before this Court. But he has been  
8 confined to home detention for 421 days, more now, not an  
9 incident, not a complaint, nothing.

10 He went so far as to reach out and get some help  
11 to figure out what to do now that he's made such a  
12 first-class disaster of his life and how it has terribly  
13 impacted not only himself but this decent loving family that  
14 he's committed so much time, energy, emotion, and love to.

15 And if you had a chance to read Dr. Gorovoy's  
16 report, she illustrates how Tom, as her patient, struggled  
17 with the shame and the embarrassment of where Tom's own  
18 conduct has placed him in.

19 Ultimately from Tom's own conduct, Probation no  
20 longer views him as a danger to the community. That was a  
21 hotly contested issue by the government when we were  
22 deciding whether or not this gentleman could be released  
23 pending his trial.

24 I try to lead with my best foot out. I understand  
25 the Court's comments about my request for time served. It's



1 because I just think this gentleman is of such high regard,  
2 he's such a decent guy, that this event on January 6th was  
3 so perfectly out of character for him, that there should be  
4 special exception and consideration given to that.

5           The Court doesn't see a lot of Tom Websters. In  
6 my career, I don't get a chance to represent many Tom  
7 Websters, someone who's had such a sparkling career and  
8 makes such a perfect disaster of his personal and  
9 professional life by seconds of stupidity.

10           And I don't want the Court or anyone in this  
11 courtroom to think that we're offering our former leadership  
12 words that misled my client as an excuse. Tom's here taking  
13 responsibility for what he did. There were many people that  
14 committed crimes on the Capitol on January 6th and Tom was  
15 one of them. Just because we have a misguided leader  
16 telling us to engage in conduct, that we should have known  
17 better. And that's the other shape of this argument that  
18 I have to concede the government's right on.

19           Much of the training that Officer Rathbun had  
20 Tom Webster had. Many of the experiences that  
21 Officer Rathbun was going through when at the rally on  
22 January 6th, Tom was there; many protests that he had to man  
23 a police line in the City of New York. Tom, out of all the  
24 people, as I've argued in my papers, should have known  
25 better to step away from this line, knowing that these men

1 and women had their hands full to keep the Capitol safe that  
2 day. That he doesn't have an excuse for.

3 But that's not the reason that this man should be  
4 condemned, not in the way that the government is asking.  
5 Again, Judge, you have to measure, this fine gentleman not  
6 by that 46 seconds that we've been giving maximum focus to  
7 but by the last 56 years of his life and how this man has  
8 led it, not by just words, not by the voice of lawyers from  
9 the government or his defense counsel but by his own deeds  
10 and conduct.

11 That's all I can offer this man. I hope I've done  
12 my best for him. But he has some words he'd like to share  
13 with the Court, with the Court's indulgence. Thank you.

14 THE COURT: All right.

15 Mr. Webster, would you like to be heard?

16 THE DEFENDANT: Thank you.

17 Your Honor, I respect the jury's decision in my  
18 case and I wish I had never gone to Washington, D.C. I wish  
19 the events of that horrible day never happened, especially  
20 my incident with Officer Rathbun.

21 THE COURT: Go ahead, Mr. Webster.

22 THE DEFENDANT: Unfortunately, I became swept up  
23 in politics and former President Trump's rhetoric.  
24 A picture of voter fraud had been painted.

25 As a veteran, that created panic and fear in my

1 mind. What I witnessed outside the Capitol that day shocked  
2 me, and I was overwhelmed with emotion. I was frustrated,  
3 and I could not figure out a way to stop people from getting  
4 hurt. I became distraught.

5 My whole life, my childhood, the Marines, as a  
6 police officer, I've always wanted to help and protect  
7 people who were being injured or in need of assistance.  
8 However, on January 6th, I should have realized that the  
9 police were overwhelmed, outnumbered, and unprepared.  
10 I failed to have the courage to contain myself, turn back,  
11 and just avoid the situation.

12 During my home detention, I took a big step to  
13 improve myself and sought therapy for the first time in my  
14 life.

15 My generation, it was taboo to reach out for help  
16 and speak with professionals, especially as police officers.  
17 I had no idea how much it would help. I've benefited from  
18 those sessions with Dr. Gorovoy. Counseling has helped me  
19 heal and accept that I cannot always stop bad things from  
20 happening. I learned powerful techniques to manage my  
21 emotions and help me with stressful events in my life.

22 Your Honor, up until January 6th, I conducted  
23 myself with dignity and respect for people, and especially  
24 police officers. I raised my kids that way. I can never  
25 look at my kids the same way ever again. The way that they

1 look at me, it's different now.

2 I faithfully served my country and the City of  
3 New York. I'm a man of faith and a good husband and father.  
4 My family has suffered tremendously because of my actions,  
5 yet they've done nothing wrong.

6 One positive thing that has come out of this dire  
7 situation is I'm going to keep my kids and others around me  
8 not to get wrapped up in politically charged environments.

9 My wife of 23 years and I have a loving  
10 relationship, and my actions have negatively impacted her  
11 emotional health.

12 My parents have already lost two sons, and I ask  
13 that you please give mercy on my family as you consider an  
14 appropriate sentence for me.

15 Your Honor, for me, the harshest punishment is not  
16 jail; rather, being in public and experiencing the shame and  
17 humiliation for what I've done. What a ring of people know  
18 who I am, telling my kids as they go off to school. Disown  
19 me if it comes up. I was their hero up until January 6th.

20 Your Honor, I would like to close by saying  
21 I should have not been there on January 6th to protest the  
22 election and I wish the events of that horrible day had  
23 never happened. People would still be alive, people would  
24 not have gotten hurt, and families would not have been  
25 thrown apart. Perhaps our country would not be as divided

1 as it is today.

2 I would like to see our great country united once  
3 again, regardless of political affiliation, and I pray that  
4 God will steer us all back on course.

5 But, most importantly, Officer Rathbun, I'm sorry.  
6 I put myself on the same level as you and that was wrong.  
7 I want to apologize to you, most importantly, your family.  
8 I know how it impacts your family and I'm sorry.

9 Your Honor, that's it.

10 THE COURT: Thank you, Mr. Webster.

11 Okay. Let's take a 15-minute break. It's 3:25  
12 now. We'll come back at 20 of 4:00. Thank you, everyone.

13 COURTROOM DEPUTY: All rise.

14 The Court stands in recess.

15 (Recess from 3:29 p.m. to 3:50 p.m.)

16 DEPUTY CLERK: All rise. The Honorable  
17 Amit P. Mehta presiding.

18 THE COURT: Please be seated, everyone.

19 So I've already calculated the Guidelines, but let  
20 me just reiterate at the starting point, which is where I'm  
21 required to begin.

22 As I said, the total offense level was a 37, no  
23 Criminal History score, Guidelines Range is 210 months to  
24 240 months.

25 In addition to the Guidelines, I'm required by law

1 to consider a host of sentencing factors. Those factors  
2 should be sufficient but not greater than necessary to  
3 achieve the objectives of sentencing set forth in the  
4 statute, to consider the nature and circumstances of the  
5 offense and the history and characteristics of the  
6 defendant, the need for the sentence imposed to reflect the  
7 seriousness of the offense, to promote respect for the law,  
8 and to provide just punishment for the offense, to afford  
9 adequate deterrence, protect the public, and to provide the  
10 defendant with any needed educational, vocational training  
11 or any medical care.

12 I also, as relevant here, should consider any  
13 unwarranted disparities; also, restitution for the victims.

14 Let me just briefly summarize Mr. Webster's  
15 background which we've talked about quite a bit.

16 He's now 56 years old, had a challenging  
17 childhood, but rose above it. Four years in the Marines.  
18 Honorably discharged. Ultimately became a Lieutenant  
19 Colonel, if memory serves. 20 years in the New York Police  
20 Department after that, first working in public housing,  
21 working his way up, weapons training, trainer, up to being  
22 on the -- managed to be on the security detail. To this  
23 day, he suffers health problems from being first responder  
24 after 9/11. For 25 years, Mr. Webster was a public servant  
25 in the truest sense of the word.

1           Married 20-plus years, three children, supported  
2 his wife through some challenging times, speaking to your  
3 character.

4           I've considered, obviously, the letters of  
5 recommendation that speak to you and your character. I've  
6 considered the doctor's report, although, I have to confess,  
7 I don't fully understand it in terms how she explains your  
8 behavior, because the video evidence in my mind sort of is  
9 at odds with her evaluation, that you were reacting to sort  
10 of a fight-or-flight scenario, as the truth is, from the  
11 moment you arrived on scene at that bike rack, you had also  
12 already become quite aggressive, you were already quite  
13 confrontational. The danger that was created was created by  
14 you, not anybody else.

15           I've taken into account the impact this has had on  
16 your family, how this must have affected your wife, affected  
17 your children, and I'm terribly sorry for all of it.

18           If there is an American left, I suppose there are,  
19 who thinks that the events of January the 6th were a mere  
20 political protest, was just a group of people who got out of  
21 control, was something that was aberrant, they're right in  
22 the sense that it was a historic moment, but where they are  
23 wrong is that it was not just one day, it was not just one  
24 moment in time, it is a day that continues to affect the  
25 very fabric of this country, and, for today's purposes,

1 affect lives of real human beings, Americans.

2           We have here in court today somebody who served  
3 his country, who served the people of New York, and as his  
4 lawyer, I think, has put it aptly in 46 seconds, threw all  
5 that away. And if anybody thinks it happens just by chance,  
6 because he's a person who lacks character, because he  
7 believes in a particular political ideology, that, of  
8 course, he must have acted that way, you would be wrong.  
9 Thomas Webster doesn't do what he did that day unless he is  
10 brought to a place where his mind and his otherwise sense of  
11 equilibrium, his patriotism, his sense of self are lost.  
12 And that's what happened. That's what happened.

13           Now, does he bear responsibility for it? Of  
14 course he does. But I said before and I will continue to  
15 say at every one of these sentencings, people who stand  
16 before me to be sentenced and in every other courtroom in  
17 this courthouse are in a sense victims too, and Americans of  
18 all stripes should understand that.

19           No one should be gleeful that Thomas Webster is  
20 sitting here facing a 17 and a half year sentence. No one  
21 should think, well, you know, serves him right for believing  
22 the stuff that he believed. He was an everyday American and  
23 now finds himself looking at an extraordinary amount of time  
24 in jail. People need to ask themselves, what conditions  
25 could have created that to happen, and be honest with



1 yourself when you're asking the question and answering it.

2           Mr. Webster, what you did that day, it is hard to  
3 really put into words. Yeah, I've seen that videotape more  
4 than probably just about any other person other than perhaps  
5 your counsel, government counsel, and I still remain shocked  
6 every single time I see it, shocked not only by what you  
7 did, that's bad enough, but by who you are.

8           You know, I can go through and I actually have it  
9 all written down exactly what you did and I can go through  
10 it, but the video speaks for itself, we all saw it. You  
11 were the first aggressor, no doubt about that. You were the  
12 one who was calling, taunting Officer Rathbun, no doubt  
13 about it.

14           You were the one, with extraordinary force,  
15 brought that flagpole down multiple times in a way that  
16 broke it, could have seriously hurt him and other officers  
17 who were in that space.

18           And then when those barriers opened and parted,  
19 nobody pushed you forward. You ran, you charged ahead. In  
20 your own testimony, it was, "Like a linebacker, I had my  
21 arms crossed."

22           And if that wasn't bad enough, you take him to the  
23 ground, hold him to the ground, and you tried to rip his gas  
24 mask off, gas enters that mask, making it difficult for him  
25 to breathe, he's choking on the strap that's part of that

1 mask. And there's even more.

2           And it's not that you had five seconds on some  
3 video that said, send more patriots, it's that if you look  
4 at the before and after of that video, I'm sure you have, it  
5 was an intact police line at that point. Sure, there were  
6 some people yelling and screaming at the police officers.  
7 There's one person who was actually seeming to have kind of  
8 a jovial interaction with the officers.

9           It's not until you arrive, Mr. Webster, that all  
10 hell broke loose. It was your actions that, at least on  
11 that part of the police line, opened up the police line and  
12 allowed thousands of people through, many of whom ended up  
13 inside that Capitol building, many of whom made their way up  
14 into that Capitol building, who destroyed property, to  
15 intimidate the people who were working there, to occupy a  
16 building that is a symbol of our democracy, and on that day  
17 was doing something -- what was happening in there was  
18 something we have done peacefully for hundreds of years.  
19 You were part of that, and not a small part of it.

20           You know, that context matters. You know, this is  
21 not an instance where there was a fight on a street corner.  
22 This is not an instance where you happen to get in it with a  
23 police officer and lost your calm and your cool. That would  
24 be bad enough. This happened in the context of something  
25 bigger. It happened in the context of a day in which you

1 contributed to one of the darkest days in the history of the  
2 country.

3           You know, Officer Rathbun was a victim that day  
4 for sure, no doubt about it. The other victim was  
5 democracy. And that is not something that can be taken  
6 lightly. And regrettably, Mr. Webster, all the good things  
7 in your life, all the contributions that you've made to  
8 country, community, family, life is fragile, and the  
9 decisions we make, even if we've lost our minds, it can  
10 cause us to lose all of that in a split second, and  
11 regrettably that's what's happened to you.

12           I take no pleasure in doing this. And no one out  
13 there who's listening and who ultimately hears the tail end  
14 of this and the outcome of this sentencing should take no  
15 pleasure in it.

16           Yes, we're here to uphold the rule of law. Yes,  
17 we're here to sentence somebody who engaged in behavior that  
18 so far crossed the line that it's hard not only to explain  
19 but it's hard to mitigate, at least the conduct.

20           You know, Mr. Webster, I have gone back through  
21 your testimony. And, sir, I get it. I know everybody gets  
22 their day in court. But whether, as the government has  
23 suggested, you got up on the witness stand and lied or  
24 whether, as I believe in a more generous way, you  
25 constructed an alternative to truth, there is no doubt in my

1 mind that your conception of what happened that day, and as  
2 you described it, was utterly fanciful and incredible.  
3 I don't need to tell you that because I think you'll avow, I  
4 need to tell you that as just the facts.

5           And Ms. Mirell pointed out areas of your testimony  
6 that were just that, fantastic. I mean, you know, the idea  
7 that you could sit on that witness stand, and you've done it  
8 before under oath, and tell those jurors that the reason you  
9 had your hands on his face mask was to show him your hands,  
10 to show him you're not going to hurt him, is just not  
11 credible.

12           I went back through the testimony. There was a  
13 moment where you were asked to identify what your injury was  
14 and you pointed to the lower left part of your mouth, and  
15 the follow-up question was, well, how did you get the lower  
16 left part of your mouth injured when you were hit on the  
17 right side of your face? And the answer was, well, I was  
18 hit a second time. You never said that on direct  
19 examination.

20           You weren't punched. You were touched. Your face  
21 was touched, but you weren't hit with a freight train, you  
22 didn't stumble, you weren't knocked over.

23           Officer Rathbun, whose name I have not mentioned  
24 here enough, was simply just doing his job, that's all he  
25 was doing. He was trying keep you at bay. He was trying to

1 hold back thousands of people who had no business being  
2 there.

3           And you were the most aggressive of those who  
4 approached him. And it's all he was doing. He put his hand  
5 out. The video does not lie. There's a part in your  
6 testimony where you said, he waved you in, and the actual  
7 question was, "Well, why didn't we see it on the video?"  
8 "Well, that was the one wave that was off the video." The  
9 jury saw through it, I saw through it, it wasn't that hard,  
10 and I'm sorry you thought you could get up there and suggest  
11 otherwise.

12           And, Mr. Monroe, I think you did a terrific job.  
13 I think you're a wonderful lawyer. I think what you've done  
14 for your client is admirable; it is in the best traditions  
15 of defense lawyers in this country. But just one small  
16 piece of advice. It's when you leave a courthouse, make  
17 your statements to the press, assume it's going to get back  
18 to the judge. And don't blame the jury. Don't suggest that  
19 the jury was traumatized, too traumatized to keep an open  
20 mind. It's not how these folks looked at the evidence,  
21 okay? It wasn't because they were traumatized from  
22 January 6th that they convicted your client, it's because  
23 your client was guilty of what he was charged with, plain  
24 and simple.

25           You know, this is one of the cases where we talk

1 about deterrence, respect for the law, seriousness of the  
2 offense, all of that weighs in favor of a strong sentence.  
3 We simply cannot have a country in which when people are on  
4 the losing side of an election, you think you can use  
5 violence and physical force to undo that result. And  
6 whether you were told by someone that that's what happened,  
7 that the election was stolen, or you came to believe it  
8 independently on your own, the country doesn't function  
9 otherwise. We cannot function as a country if people think  
10 they can behave violently when they lose an election.

11 I've considered all of the disparities, as I've  
12 said, Mr. Reffitt's sentence, Mr. Robertson's sentence,  
13 Mr. Palmer's sentence, Mr. Ponder's sentence. I don't need  
14 to go over the ways in which they are similar, dissimilar.  
15 But I will suffice it to say that the conduct here is at  
16 least as culpable and worthy of a stiff sentence, more than  
17 Mr. Reffitt, more than Mr. Robertson, because neither one of  
18 them touched a police officer. The other two gentlemen,  
19 frankly, they just got lucky that they didn't hurt somebody.

20 You know, sentencings are never easy and nobody  
21 should have to sympathize with a judge to have them to do  
22 them because we do this job, we do it voluntarily, it's  
23 something we ask to do. It doesn't make it easy, it doesn't  
24 particularly make it easy in a case like this one, in fact,  
25 it's downright hard.

1           And, Mr. Webster, I have given a lot of thought to  
2 what is appropriate in this case. I too wish you hadn't  
3 come to Washington, D.C. I too wish you had stayed at home  
4 in New York, that you had not come out to the Capitol that  
5 day, because all of us would be far better off, not just you  
6 but your family, the country would all be far better off.  
7 But yet here we are, yet here we are.

8           The sentence of the Court will be as follows:

9           It's the judgment of the Court that you,  
10 Thomas Webster, will be committed to the custody of the  
11 Bureau of Prisons for a concurrent term of 120 months on  
12 each count, Count 1, 3, 4, and 5; a term of 60 months, that  
13 is five years, on Count 2, and six months on Count 6.

14           You are further sentenced to serve 36 months, a  
15 term of supervised release as to each Count 1 through 5, all  
16 such terms to run concurrently.

17           In addition, you're ordered to pay a special  
18 assessment of \$100 per count for each of Counts 1 through 5,  
19 and \$10 for Count 6, for a total of \$510 in accordance with  
20 18 United States Code 3013.

21           While you're on supervision, you shall abide by  
22 the following mandatory conditions, as well as the standard  
23 conditions of supervision which are imposed to establish the  
24 basic expectations for your conduct while on supervision.  
25 They include, you must not commit any other federal, state,

1 or local crime; you shall not possess a controlled  
2 substance; refrain from unlawful use of a controlled  
3 substance; and must submit to drug testing within 15 days of  
4 placement on supervision and at least two periodic drug  
5 tests after.

6           You shall cooperate with the collection of DNA,  
7 and you must make restitution in accordance with 18 U.S.C.  
8 3663 and 63A in the amounts that I've already mentioned,  
9 \$2060, I believe the number was.

10           You also shall comply with the following special  
11 conditions:

12           Mental health treatment. You shall participate in  
13 mental health treatment, and follow the rules and  
14 regulations of that program. The probation officer, in  
15 consultation with the material provider, will supervise your  
16 participation in the program.

17           You also shall participate in inpatient or  
18 outpatient alcohol abuse treatment and follow the rules and  
19 regulations of that program. The Probation Office will  
20 supervise you in participating in the program.

21           You also must provide the Probation Office with  
22 any access to any requested financial information and  
23 authorize the release of any financial information. That  
24 information may be shared with the U.S. Attorney's Office.

25           Within 45 days of your release from incarceration,



1 you will -- I'll ask the Probation Office to contact me for  
2 a Re-Entry Progress Hearing. This won't be the last of you  
3 see of me, Mr. Webster. It is in my interest and  
4 everybody's interest here to do what we can to ensure that  
5 you re-enter the community with all the resources and  
6 supports that you will need.

7 I am not going to impose a fine and I will waive  
8 any interest on any accrual of interest on restitution.

9 I'll ask you to pay your financial commitments to  
10 the Court and restitution in monthly installments of \$100.  
11 That will commence 30 days after the date of entry of  
12 judgment.

13 Financial obligations are immediately payable to  
14 the Clerk of the Court of the U.S. District Court for the  
15 District of Columbia.

16 Within 30 days of any change of address, you shall  
17 notify the clerk of the Court of the change until such time  
18 as the financial obligation is paid in full.

19 The Probation Office shall release the Presentence  
20 Investigation Report to all appropriate agencies, which  
21 includes the U.S. Probation Office in the approved district  
22 or residence in order to execute the sentence of the Court.  
23 The treatment agencies shall return the Presentence Report  
24 to the Probation Office upon the defendant's completion or  
25 termination from treatment.

1           You have the right to appeal the verdict and the  
2 sentence that's been imposed. If you choose to appeal, you  
3 must file any appeal within 14 days after the Court enters  
4 judgment.

5           You also have the right to challenge your  
6 conviction that's been entered or the sentence imposed if  
7 new and currently unavailable information becomes available  
8 to you or on a claim that you have received ineffective  
9 assistance of counsel either in connection with your guilty  
10 plea or in connection with your sentencing. If you're  
11 unable to afford the cost of an appeal, you may request  
12 permission from the Court to file an appeal without cost to  
13 you.

14           Are there any objections either side would like to  
15 put on the record at this point?

16           MS. MIRELL: Not from the government, Your Honor.

17           MR. MONROE: No, not at this time, Judge.

18 Thank you.

19           THE COURT: So the record's clear, I obviously  
20 have varied from the Guidelines. The reasons for that are  
21 primarily to avoid unwarranted disparities and also in  
22 acknowledgement of Mr. Webster's 25 years of service.  
23 I also have given him some credit for accepting  
24 responsibility, albeit belatedly.

25           Mr. Webster, I don't think you're a bad person.

1 I think you were caught up in a moment, and as you well  
2 know, even being caught up in a moment has consequences.  
3 But my hope is that this will not define who you are, that  
4 there will be a time where you can put this behind you and  
5 be the hero to your family that you want to be.

6 Thank you, everyone.

7 COURTROOM DEPUTY: All rise. This Court stands in  
8 recess until the return of court.

9 PROBATION OFFICER: Your Honor?

10 MR. MONROE: Voluntary surrender?

11 THE COURT: I will allow Mr. Webster to voluntary  
12 surrender.

13 Is that what you wanted me to say?

14 PROBATION OFFICER: Yes, Your Honor.

15 THE COURT: He will be permitted to  
16 self-surrender. Thank you.

17 COURTROOM DEPUTY: The Court stands in recess  
18 until the return of court.

19 (Proceedings concluded at 4:18 p.m.)  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I, William P. Zaremba, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-titled matter.

Date: September 6, 2022



William P. Zaremba, RMR, CRR

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