

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

21 Cr. 204-04 (BAH)

JACK JESSE GRIFFITH

DEFENSE SENTENCING MEMORANDUM

Since June 2021 when I filed my first Sentencing Memorandum for a "Capitol Case" the Government has changed its recommendation for individuals charged with Parading, Demonstrating, or Picketing in a Capitol Building 40 USC § 5104(e)(2)(G), 40 USC § 5109(b) from a request for three years probation to a request for a period of incarceration.

In June 2021 the Office of the United States Attorney, called for a probationary sentence in Cr. 21-164 for a first offender who like Mr. Griffith:

(1) did not engage in any preplanning or coordination prior to entry in the Capitol;

(2) did not personally engage in acts of violence or destruction of property, or incite the same;

(3) only remained in the Capitol for a brief period of time and in a limited area of the building;

(4) cooperated with law enforcement at the time of arrest;

- (5) timely admitted [his] actions and accepted responsibility;
- (6) expressed contrition; and
- (7) does not have a criminal history.

This change in DOJ policy requires counsel to discuss why a non custodial sentence of probation, is a more sagacious response to this misconduct. A term of probation could require the defendant to participate in continued education and to seek appropriate medical treatment. A thirty -six month period of supervision is three times greater than the twelve months of supervised release permitted —were the Court to impose a custodial sentence. In conformance with the provisions of U.S. Code 18 §3553 probation is the appropriate sentence for Jack Jesse Griffith. Any period of incarceration is a punishment greater than necessary to comply with the purposes of sentencing.

What occurred on January 6, 2021 was not a naturally developed political protest. It was, I believe, a coup attempt--fomented intentionally by right wing actors who used data mining and psychological manipulation. Vulnerable individuals were identified and persuaded through the internet that it was their patriotic duty to come to Washington to support Trump. In Washington, they were emboldened and ushered down the avenue to "Stop the Steal" and to storm the Capitol.

It is fitting and appropriate to arrest those who participated in the attempted coup. The difficult question is what is the appropriate sanction for a pawn who personally did no physical damage nor assaulted law enforcement-- but nonetheless participated in the riot. As Fiona Hill recently stated the "main threats" to democracy come from right-wing

actors who are deliberately undermining faith in the “integrity of the election system” and “calling for violence against fellow Americans.” Among the thousands who came to Washington in January and have since been arrested-- few among the arrested are the people described by Ambassador Hill. Of the several individuals I have been appointed to represent—none are informed, intentional political actors. Four of the individuals I represent are very young—were heavily reliant on the internet—were uniformed and misinformed. Two individuals suffer from diagnosed mental diseases. The balance of individuals I have come to know and to respect are vulnerable, politically unsophisticated individuals, who are truly confounded by what is happening in our country. Good people with no criminal history—our neighbors-- who were fed cynical and dangerous misinformation which destroyed their faith in the integrity of the election system. People who wrongly believed they could save America.

The lack of information, the loss of rationality and the loss of civic literacy that led to January 6, 2021 can only be addressed by education, respect and love. To save our Union we must be wise. We must be compassionate. We must listen. We must provide the opportunity for the approximately 550 charged misdemeanants to receive more education, and to encourage each of them to study history and to gain civic literacy. Only knowledge—truth based on facts-- can foster change. At this critical moment of civil discord and domestic contention --if it is still possible to create a more perfect Union --it must be through education. We cannot force people to learn. But during Probation, we can provide the impetus and the opportunity of continuing education.

Criminal sentences serve two purposes. They serve the goal of deterring future crime by both the charged individual and by other individuals contemplating commission of the same crime. A sentence also serves the goal of retribution – on the theory a criminal deserves punishment for having acted criminally. The Sentencing Judge however must impose the least severe sentence that still achieves both goals, while also considering the need for societal protection. 18 U.S.C. § 3553.

To imposing a custodial sentence for an individual as described in subsections (1)-(7) above, would be to impose a sentence greater than necessary to comply with the purposes of §3553. Further, the perception of an unwarranted prison sentence had been imposed, could increase the risk of civil discord, rather than deter future insurgence. We should not make pariahs or martyrs of these men and women. They are our fellow citizens. If one objective of sentencing is to deter future misconduct and to strengthen our civil harmony-- I commend the Court to impose a Sentence of Probation on Jack Jesse Griffith. He has shown he is willing to learn and to revisit his past mistakes. He has shown remorse and new humility.

The Solomonic proverbs are relevant here as they are to every Sentence. Proverbs 10:12 "Hatred stirs up trouble, but love forgives all wrongs.". Proverbs 10:23 "A foolish person enjoys doing wrong, but a person with understanding enjoys doing what is wise."

As the Reverend Martin Luther King said "Love is the only force capable of transforming an enemy into a friend... Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love

can do that." As I watched the riot on January 6, 2021 I experienced fear, tremendous anger, hurt and turmoil. I wanted revenge.

When I was appointed to represent individuals before this Court, I heard different voices. It is true, I have met some people who hold what I consider to be dangerous beliefs, Who are steadfast in their beliefs in Antifa conspiracy. But I have also met people willing to question their beliefs and to seek answers. To read, ask questions and to challenge their earlier ideas. The individual must be willing to change his or her ways. No one can force another to transform. Love is powerful. Listening with respect is powerful. I no longer want revenge.

As Martin Luther King said, ...revenge, aggression and retaliation is an ineffective method that only fuels hate. We must develop and maintain the capacity to forgive. He who is devoid of the power to forgive is devoid of the power to love... Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that."

Jack Jesse Griffith came to Washington and illegally entered the Capitol on January 6, 2021. He screamed. He took a photo with his fist in the air. He posted photos on social media. He participated in a riot. He created much of the evidence the Government has obtained. He was arrested ten days later on January 26, 2021 and has been on Pre Trial Supervision for ten months. He was my first appointed Capitol defendant. He has matured since his incarceration in January. He has learned from his impulsive behavior. He has been in frequent conversation with me for ten months. I think of him as my red and blue haired Tennessee son. I believe his remorse is genuine. I believe he has reached an understanding with himself about the pernicious effects of uninvestigated information from

social media. He understands the necessity to investigate the sources of information. He is currently banned from social media. He says he is now free. Hopefully, once reinstated he will use social media moderately and wisely.

He has written two letters to the Court. He requests permission to address the Court in person and to respond to any questions of the Court. This will afford Your Honor the opportunity to judge his integrity and to evaluate his remorse.

WHEREFORE, we request the Court follow the recommendation of the Office of United States Probation and Sentence Jack Jesse Griffith to a period of Probation with an Order for Restitution of at least \$500.00.

Respectfully submitted,

_____/s/_____

H. Heather Shaner, Esq. DC Bar 273 276
Appointed by the Court for Jack Griffith
1702 S St. N.W.
Washington, D.C. 20009
Tel. 202 265 8210
hhesq@aol.com

Chief Judge Beryl Howell
U.S. District Court for the
District of Columbia

Your Honor,

As someone who has always been an upstanding citizen in my community, it hurts to know that my actions on January 6, 2021 have contributed to such a painful and demoralizing day for the members of Congress, the Capitol Police and the citizens of D.C. and our country. I feel the deepest of sorrows knowing that I participated in an event that led to destruction in the Capitol Building and the death and serious injury of several people. I would never in a hundred million years have gone to D.C. if I had any idea of the harm that would come to our democratic government and the physical harm to police and to citizens that happened --in my name.

I did not go to Washington with the intention of causing trouble or with any thought of unlawfully entering the Capitol. I got swept up in the excitement. My perspective of what was happening at the time--as I stood on the steps outside the Capitol doors—was that I was participating in a peaceful protest.

After I watched what felt like hundreds of people walking in and other people walking out, I was wildly excited and I entered the building. I remained in the area I had entered for about ten minutes. People were interacting with the Capitol Police. When an officer told me where to go in order to exit the building, I

understood he meant it was time to for me to go, and I left. I spoke amicably with the officers.

After leaving the Capitol grounds I headed back to my Air BnB. I had not witnessed any serious violence or injuries or any destruction. I had seen some individuals arguing with law enforcement and I heard lots of yelling and chanting. Had I known about the personal injuries, the deaths, the destruction—I would never have posted my pictures on line. I would never—not now and not then—have wanted to be associated with the violence and the vandalism.

In the last several months I have lost so much. I lost most of my friends. I lost my job. I lost my personal bank account. I was shut off all of my social media. As someone who is a performance artist and makes a living from fans and supporters, this has really hurt. I am currently banned from virtually every social media forum. My name is like “Voldemort.” I have been labeled a domestic terrorist and I am unable to publicly respond or to dispute the allegations.

I understand the social and economic consequences of my actions in January are nothing in comparison to those individuals and officers who suffered trauma, personal injuries and loss of life. They are the result of my own actions. I have learned a lot about my personal responsibility and how I must make more thoughtful decisions. While I have suffered consequences for my actions in January, honestly, I am glad to have suffered consequences. They have helped me to grow into a more mature and thoughtful human being. They have served as a truly humbling learning experience. I understand what actions are reprehensible

and unacceptable if I wish to be an upstanding citizen in my world. I am so sorry for all the people who were injured. How does one apologize to our country? I don't know. I wish that I had never gone to Washington on January, 6th, 2021.

My parents educated me to love my country and to respect the rule of law. I don't know what I was thinking on January 6th. It felt like a giant party. It was a terrible mistake. I got to travel around the world as I grew up as I was a military brat. I have an abiding love for my country. I know that the freedoms I have here, do not exist everywhere in the world. I don't know what else to say.

Yours truly,

Jack Jesse Griffith

Juan Bibiano

Your honor, I write this letter as a response to the government request for incarceration. I recognize that many of the points the prosecutor made are fair and valid. I would like to address these points as best I can. Thank you for your time and consideration

The government attorney claims that I was being arrogant, Quite frankly, at first I was being arrogant and I did take things too lightly. So much so, that my ex completely gave up on me and told me goodbye shortly after picking me up from jail. Honestly, I needed that. For a moment in time, I did make light of my actions and was somewhat proud of what I did. I thought that because I didn't personally partake in any violence or vandalism that somehow I was less culpable. It's does not, however, make me less culpable. I realize that. I was wrong to be there. I was wrong to go in the Capitol.

I honestly never planned on doing anything extreme or even of entering the building. The high I had from the rush of adrenaline and excitement gave me tunnel vision to the bigger picture. I did not realize just how scared and in danger the Capitol Police were that day. While I was inside the building, the Capitol Police seemed so friendly that I was under the impression that our presence was only a minor inconvenience. Looking back on that day, I realize that they were in fact crippled by fear and wildly outnumbered. While some may have agreed with us, most were doing what they could to appease us, while only trying to make it home to their families that day.

I realize that my behavior on January 6th, was incredibly impulsive and completely inappropriate and wrong. Although I may not have personally participated in any violence or vandalism, the fact that I can be seen smiling and gleefully cheering on as our democracy was under attack is downright disgraceful. I am ashamed of the way that I acted. That behavior was unbecoming and totally unacceptable from someone who is known for being a positive person. I should have never

been there that day, and as time passed, and the gravity of the situation sunk in, I realized that I needed to take a huge step back from politics.

After months of working constant overtime just to make ends meet, I have finally gotten a new job that I really like. It also pays a lot more per hour so I no longer have to work 60-80 hours per week just to pay rent. Things are starting to look up in my life. I now have time to think and reflect. I only eat healthy foods. I run at least six miles daily. I am much more focused on improving myself and my personal goals ,instead of being so obsessed with politics. My mind used to be so muddled...clouded by extremist politics. I am free now! And free to focus on all my own hopes and dreams. With some mercy from the court, I hope to keep my newfound freedom.

On top of all that, I found someone who I believes to be the love of my life. Although our bond is new, we have already been there for each other through a lot of difficulties. I can't say I've ever felt this way about anyone else. She inspires me, and she keeps me grounded. Fortunately, she isn't into politics. I need that peace. That safe place.

Honestly, in January most of my friends were people that I had met online. So, when I got banned from all social medias I truly felt all alone, with no family close to me. I decided to get back on social media, Tiktok, to start posting videos. I studied the trends of tiktok and how to go viral. I thought that if I just went viral one more time then I will have friends again and I would feel better. So, I posted a tiktok of Trump at UFC, two trends together that I knew would go viral. Shortly after going viral, I realized that what I was doing wasn't of any real value and I stopped posting. Since being off social media I am in a much better mental and emotional place. I have time to go out and run. To be with my girlfriend. To live peaceably in nature.

I am accused of using the aftermath of January 6th as an opportunity to fundraise for a video game, The reason I felt the need to fundraise, was because I owed people money who had previously invested in my game. I had been working on this game long before I ever went to the Capitol. Even though I knew it would look bad to try to fundraise for the game, I wanted to do what I could to repay the many people who had invested in the game development in the first place.

Due to my demeanor and my personality, I know it may seem as though I don't take things as seriously as I should, but that isn't the case. I have always been known as being the most positive person in the room. I'm known as being the one person who would go out of his way to brighten up the day of everyone else around me. I was always the peace maker in my family. I hide behind my smile. It permits me to overcome problems.

I beg for mercy from the Court. I accept responsibility for my actions, and I have learned my lessons. Without my presence and the presence of thousands of others—there would have not been an attempted coup. Not only have I learned my lesson, but I am grateful to have learned. I am ashamed that this personal growth has come, in part, at the expense of others and has put our country in danger. I am not a violent person, and I do not want to be a danger to society. I will never do anything even remotely similar to my actions on January 6th, and I do not think my actions were okay. As someone who has just finally started to get my life together, I beg to be spared from the cold lonely nights in a prison cell.

Your honor, I am so sorry.

Jack Jesse Griffith