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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 ESTATE OF ASHLI BABBITT and
12 AARON BABBITT, individually and
13 on behalf of the ESTATE OF ASHLI
14 BABBITT,

15 Plaintiffs,

16 v.

17 UNITED STATES OF AMERICA,

18 Defendant.

Case No. 3:24-cv-00033-BAS-DDL

**DECLARATION OF ROBERT
PATRICK STICHT IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION TO
TRANSFER VENUE**

Hearing Date: April 8, 2024

Honorable Cynthia A. Bashant
Courtroom 12B (12th Floor)

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24 I, Robert Patrick Sticht, state:

25 1. I am an attorney licensed to practice law in California and am counsel of
26 record for Plaintiffs Estate of Ashli Babbitt and Aaron Babbitt, individually and on
27 behalf of the Estate of Ashli Babbitt. I am making this declaration in support of
28 Plaintiffs' opposition to Defendant's motion to transfer venue to the District of

1 Columbia. I have personal knowledge of the facts contained in this declaration and if
2 called as a witness could, and would, competently testify to those facts.

3 2. Exhibit 1 to this Declaration is a true and accurate copy of the official
4 transcript of the June 5, 2023 sentencing hearing (Part 1) in the U.S. District Court for
5 the District of Columbia in *United States v. Daniel Goodwyn*, Docket No. 1:21-cr-
6 00153-RBW.

7 3. Exhibit 2 to this Declaration is a true and accurate copy of the official
8 transcript of the June 6, 2023 sentencing hearing (Part 2) in the same case.

9 I declare under penalty of perjury pursuant to the laws of the United States of
10 America that the foregoing is true and correct.

11 Executed this 25th day of March, 2024.

12
13 /s/ Robert Patrick Sticht.
14 ROBERT PATRICK STICHT
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EXHIBIT 1

P R O C E E D I N G S

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2 THE COURTROOM DEPUTY: This is criminal matter
3 21-153, United States of America versus Daniel Goodwyn. May I
4 have counsel and probation approach the lectern and state your
5 appearance for the record, beginning with the government.

6 MR. HAAG: Good afternoon, Your Honor. Andrew Haag
7 for the United States. My colleague Brian Brady will not be
8 present, so it is just me today.

9 THE COURT: Good afternoon.

10 MS. STEWART: Good afternoon, Your Honor. Carolyn
11 Stewart here for Daniel Goodwyn.

12 THE COURT: Good afternoon.

13 MS. REICHLER: Good afternoon, Your Honor. Jessica
14 Reichler on behalf of United States Probation Office.

15 THE COURT: Good afternoon. Okay. This matter is
16 here before the Court today for sentencing. In preparation for
17 the sentencing, I did review again the plea agreement; also the
18 presentence investigation report and also the sentencing
19 recommendation made by the probation department; also the
20 defendant's notice and incorporated objections to the
21 presentence investigation, along with three exhibits that were
22 submitted with that submission; also the government's
23 sentencing memorandum, which was accompanied by eight exhibits;
24 also the defendant's memorandum in aid of sentencing along with
25 24 exhibits, I think there were 23 letters and also a chart

1 indicating the sentences that have been imposed in these
2 January 6 cases and other cases; also, again, the criminal
3 complaint that was filed; also the pretrial services agency
4 violation report dated July 27th, 2021; and also an order
5 issued by the Court on March 7th, 2022.

6 Is there anything else that I should have reviewed in
7 preparation for this sentencing, Government counsel?

8 MR. HAAG: Nothing further, Your Honor.

9 THE COURT: Defense counsel?

10 MS. STEWART: Nothing further, Your Honor. But I
11 have a question besides --

12 THE COURT: You need to come up here so she can hear
13 you.

14 MS. STEWART: Beside the presentence investigation
15 report, was there a separate recommendation from probation for
16 sentencing?

17 THE COURT: Yes. I did say -- I did indicate I did
18 review --

19 MS. STEWART: I did not receive that for some reason.

20 THE COURT: Did you make a request for it?

21 MS. STEWART: No. I didn't know I should.

22 THE COURT: Yeah. That is generally not provided
23 unless there is a request for it. But I did indicate that the
24 document had been filed, so if you want to see it, you can see
25 it.

1 MS. STEWART: All right. Thank you, Your Honor.

2 THE COURT: Do you have a copy for her to read?

3 Do you have a copy for her?

4 MS. REICHLER: I just showed her.

5 THE COURT: Do you need to read it?

6 MS. STEWART: Your Honor, that was fine. I saw what
7 they recommended.

8 THE COURT: Okay. There were a number of objections
9 that were raised regarding the report. And, specifically, page
10 2, the release status, and also paragraph 14 of the report that
11 I guess relates to the time that purportedly he was in
12 detention. Does the government have a position about how long
13 he was in detention?

14 MR. HAAG: I defer to the Court and probation, Your
15 Honor.

16 THE COURT: Because the defense claims it was 21
17 days. It seems to me at most it is conceivably 14 days, but I
18 will hear from the defense as to why you believe it is 21 days.

19 MS. STEWART: Your Honor, that is based on when he
20 was arrested and the day he was let out. So it was 21 days
21 from --

22 THE COURT: He was arrested on January 29th, 2021.
23 There was a detention hearing on February 12th, 2021. And it
24 says he was placed on personal recognizance on February 18th.

25 This indicates the official appearance was on

1 February 18th, 2021. And at that time, he was placed on
2 personal recognizance. Obviously, there were conditions
3 imposed.

4 Probation, are you sure that he was, in fact,
5 detained from January 29th until February 18th, 2021?

6 MS. REICHLER: Your Honor, we are relying on the
7 response to the objections on page 28 of the final presentence
8 report.

9 THE COURT: Okay.

10 MS. REICHLER: It indicates the defendant had a
11 detention hearing on February 12th in the Eastern District of
12 Texas and was released on personal recognizance on
13 February 18th, 2021 and had initial appearance on March 10th,
14 2021 in the District of Columbia and was released on personal
15 recognizance on March 12th, 2021.

16 THE COURT: So are your calculations consistent with
17 defense counsel's calculation that he was detained for 21 days?

18 MS. REICHLER: Let me see. Hold on a moment.

19 Your Honor, we are in agreement it was 21 days.

20 THE COURT: Very well.

21 MS. REICHLER: The US Probation Officer from Des
22 Moines, Iowa was the one who completed the presentence report
23 also.

24 THE COURT: And the government doesn't take exception
25 with that?

1 MR. HAAG: No, Your Honor.

2 THE COURT: Very well. And the next objection I
3 think was resolved regarding whether the word information
4 should be substituted for indictment.

5 So Defense Counsel, I assume you are satisfied with
6 that change?

7 MS. STEWART: Yes, Your Honor.

8 THE COURT: Next, was page 11 regarding his prior
9 history and whether he has a prior reportable conviction. As I
10 understand, he entered or at least nolo contendere plea was
11 entered on his behalf in that case. And probation
12 represents -- and it would appear to be the case -- that a nolo
13 contendere under the guidelines is, in fact, counted. Although
14 in the context of this case, it wouldn't make any difference
15 regarding what his guideline sentence is.

16 But, Defense Counsel, what is your position as to why
17 the probation officer's contention about that nolo contendere
18 being counted and why that is incorrect?

19 MS. STEWART: Yes, Your Honor. So on document ECF
20 102.1, that was our objection. We included the order from the
21 judge. He never entered -- and it was also in the other
22 exhibits. In this particular type of prosecutorial deferment,
23 he signs a plea, but it is never entered. And the documents
24 that we entered within 102.1 show that the Court only took nolo
25 contendere under advisement. It was never entered. As a part

1 of a prosecutorial deferment, it is a silver bullet. It is one
2 time. You get put on a period of observation and if you are
3 good, then it is dismissed. So the charge was dismissed. And
4 the exhibit we provided shows, as signed by the state judge,
5 that the count is terminated as defendant completed what we
6 will call terms of probation. That was an observation
7 probation. It was not a sentence. And this order constitutes
8 a dismissal of all proceedings against the defendant without
9 any adjudication of guilt and is not a conviction for any
10 purpose.

11 And as I wrote a memo to the prosecution, this is
12 different than the cases where 4A1 that they refer to allow
13 someone on a deferred sentencing. In those cases, the person
14 goes to trial or they actually plead in open court and it is
15 accepted, whereas Mr. Goodwyn's plea was never accepted. He
16 never pled anything but not guilty in this type of process he
17 was part of. In the processes where the defendant pleads
18 guilty or is convicted, there is another deferment before
19 sentencing. And in that type of deferment, they go through a
20 probationary period also. And then they don't get sentenced.

21 The way the people or the -- those who do the US
22 sentencing guidelines looked at it -- and this is well noted --
23 if you were convicted in a proceeding, then this is just
24 desserts, it should count. But in the process that Mr. Goodwyn
25 was in, it never got to proceeding. The proceeding is

1 suspended. We go for 6 months, a year, however long they
2 determine and then everything is dismissed. It never is -- so
3 in that 102, the proceedings were suspended. The judge said, I
4 will take this under advisement, but there never was an entry
5 of guilty or nolo contendere plea. And this is a -- it is a
6 state law. And many states have this, such as Texas, my
7 college deferred adjudication. We are not going to trial, we
8 are not going to do any of that.

9 And if you go through this -- and it is felonies in
10 Texas, that could go for 10 years. But that is what happened
11 here, Your Honor. So it should not count as a point. And
12 under USSG 4A1.2(f), it is very clear, deferred prosecution is
13 never to be counted. The -- what happens if the prosecution
14 went to 4A1.2(c) and said, oh, look, this looks like
15 trespassing, it is similar to being on the Capitol grounds, you
16 should count it. You never get to what the prosecution did
17 with 4A1.2(c) because F says you never count deferred
18 prosecution. Does that answer your question, Your Honor?

19 THE COURT: Well, I am looking at the documentation.
20 And the order -- it says order suspending proceedings,
21 nonetheless does have nolo contendere circled as to Count 1,
22 which was the trespassing count. And it also indicates
23 defendant plea of nolo contendere is hereby under advisement.

24 MS. STEWART: Right. It never was entered as a plea.
25 It was just taken -- that is how they do it in Wyoming. They

1 never enter it. The plea that remained, if he had gone to
2 trial, Your Honor, would have been not guilty. That was the
3 only plea on the record.

4 THE COURT: What is probation's position on this?

5 MS. REICHLER: Your Honor, we're relying on the
6 response from the USPO from Iowa who did the presentence report
7 on page 28.

8 THE COURT: On what, 28 you said?

9 MS. REICHLER: Yes, of the final. Pursuant to USSG
10 4A1.2(f), it states that diversionary disposition resulting
11 from a finding or admission of guilt or a plea of nolo
12 contendere in a judicial proceeding is counted as a sentence
13 under 4A1.1(c) even if a conviction is not formally entered,
14 except that diversion from juvenile court is not counted. The
15 defendant pled nolo contendere to criminal trespass and was
16 sentenced to a 1-year term of probation. This offense is
17 considered a criminal conviction for purposes of the
18 defendant's criminal history calculation, regardless of whether
19 the state court documents reflect that it is not a conviction.

20 For the above reason, the report remains unchanged
21 and the objection is noted for the record.

22 THE COURT: Okay. Well, there appears, like I say,
23 to have been a plea of nolo contendere entered on his behalf.
24 And I think the defense position is set forth as to why the
25 defense believes that it should not count. I would not

1 disagree with probation that it does count, especially in light
2 of the fact that it really doesn't make any difference in
3 reference to what the guideline sentence is, because it only
4 results in 1 point and accordingly would not impact on what the
5 guideline sentence is. So over objection, I will not require
6 that that be altered.

7 Okay. The next matter is regarding the defendant's
8 compliance with the conditions of pretrial release. And I
9 distinctly remember when we had the issue regarding him not
10 wearing a mask and the Pretrial Services Agency having a
11 problem with that. It seems to me the appropriate thing to do
12 in this regard is to add language indicating that Pretrial
13 Services records reflect the defendant has not complied with
14 all court-ordered conditions and release, but add, but he has
15 been in full compliance for the past 22 months. And then
16 indicate the defendant's noncompliance involved, one, the
17 arguing -- I guess, the noncompliance was the fact he would not
18 wear the mask. So I would require that the report indicate
19 that he has been in full compliance with the conditions of
20 pretrial release for the past 21 months even though he was
21 initially in noncompliance. Anything else on that? If not,
22 we'll move on then.

23 Okay. Next was paragraph 33. And that relates to
24 paragraph 33, which indicates information regarding a victim
25 impact and there is no human victim that he is accused of

1 having victimized, but there is a claim that there was damage
2 done to the Capitol. Admittedly, he did not do any damage as
3 far as we know. But there was damage done, so what is the
4 defense position as to why that paragraph 33 should be altered
5 or deleted?

6 MS. STEWART: Your Honor, the defense's reading of
7 3663 and 3663(a) is that it requires a human. So it wasn't
8 discussed in the plea agreement. We are not going to do back
9 flips over this, but it is just in our reading of the statute
10 that the probation office added. And I understand they have
11 that duty to provide you with a statute by which you can charge
12 restitution. So we just read the statute as requiring a human
13 victim.

14 THE COURT: Well, again, I would not require that
15 paragraph be changed. The paragraph does not suggest there was
16 a human victim and only reflects the fact that there was damage
17 done on that day and what the amount of damage was, even though
18 it doesn't indicate Mr. Goodwyn had anything to do personally
19 with that and does agree he agreed to pay \$500 in restitution.
20 So over objection, I would not require that be altered.

21 Okay. The next -- what is the next objection,
22 Defense Counsel?

23 MS. STEWART: I have to look at my -- one second to
24 look at my memorandum, Your Honor.

25 THE COURT: It is paragraph 11 and 48. Okay. Next

1 argument.

2 MS. STEWART: That one, Your Honor, if we are at
3 48 -- on 11 that goes back to the same thing as having added a
4 point here, which you have already ruled on.

5 THE COURT: Very well. And I would not require that
6 there be a change in reference to that particular paragraph.

7 What is the next objection? It looks like we are at
8 paragraph 52; is that right?

9 MS. STEWART: Your Honor, two things. So one is
10 the -- item 55 was a typographical error. It is not --

11 THE COURT: Paragraph 55 or item 55?

12 MS. STEWART: I'm sorry. Item 55.

13 THE COURT: I agree, that should be changed. That is
14 a typographical error. So that should be changed consistent
15 with your position, I agree with that.

16 MS. STEWART: And then the next one is -- in the next
17 paragraph or two, I am looking at my objections. And I should
18 have put this in here. But where he objected to the report
19 using the criminal complaint language that he is a
20 self-proclaimed member of the Proud Boys, which he never has
21 been and never did. We just don't know how that got into the
22 complaint. But it was not included in the statement of the
23 offense, because both the prosecution and I agreed that there
24 was no evidence of that.

25 THE COURT: That is true. I don't know how it got

1 into the complaint, but it is in the complaint.

2 MS. STEWART: Yes.

3 THE COURT: Government have any position in reference
4 to whether that should remain in the report?

5 MR. HAAG: Briefly, Your Honor. I am honestly not
6 quite sure how that made it into the criminal complaint. There
7 are references in the evidence of the defendant engaging with
8 Proud Boys, but I don't think that needs to be referenced as
9 being within the criminal complaint.

10 THE COURT: Very well. I will order that be omitted
11 from the report.

12 Next matter.

13 MS. STEWART: I believe that was the last one, Your
14 Honor.

15 THE COURT: Very well. With those changes and the
16 objections that I ruled on, the report remains unchanged. The
17 only change will be the two matters I indicated.

18 If there is not anything else regarding the accuracy
19 of the information contained in the report or the guideline
20 calculations, I will hear from government counsel by way of
21 allocution.

22 MR. HAAG: Thank you, Your Honor. To reiterate the
23 government's recommendation in this case is that the Court
24 sentence Mr. Goodwyn to 90 days incarceration, 12 months of
25 supervised release. There was a typo on the memorandum, not

1 36. It should be 12 months, \$500 of restitution and then as of
2 today that fundraiser that was referenced in the sentencing
3 memorandum. It is now up to \$26,026. So the fine request
4 would be that amount. The reason for that recommendation, in
5 this case is a variety of reasons. There are three primary
6 characteristics of this case that I think warrant a sentence
7 such as that.

8 The first is the offense itself. Next is the
9 defendant's criminal history. And finally the lack of remorse
10 that the defendant has for this case.

11 Starting first with the offense. On January 6,
12 before Mr. Goodwyn went into the senate wing door, he stood
13 outside using a bullhorn where he incited rioters. And I am
14 going to play a portion of the video that shows that now.

15 THE COURTROOM DEPUTY: If you could wait one moment.
16 It is not coming up on the screen just yet.

17 MR. HAAG: I just plugged it in.

18 THE COURT: It will take a minute before it
19 activates.

20 MR. HAAG: I am also using a speaker on the
21 countertop if there are any issues.

22 (Video played.)

23 MR. HAAG: Just for the Court's reference,
24 Mr. Goodwyn is standing with the bullhorn.

25 THE COURT: All right.

1 (Video played.)

2 MR. HAAG: So, Your Honor, what we saw in the clip
3 here was Mr. Goodwyn using that bullhorn. He makes multiple
4 references to the fact that he needs men to go inside, points.
5 Behind him at that point is the senate wing door. He is seen
6 saying that he needs critical mass for this to work. Based on
7 the statements here, it seems that Mr. Goodwyn has some
8 semblance of a plan, some objective that he is trying to do and
9 that he needs additional people in order to make that work.
10 That is why he is using the bullhorn to make it spread
11 throughout the crowd to make sure as many people can hear it as
12 possible, rather than just an errant yell in the middle of the
13 crowd, maybe riling people that way. Here, he is using a
14 bullhorn to really make sure he is heard.

15 And the next factor of the case is Mr. Goodwyn's
16 entry into the Capitol. And I am going to pull up the
17 surveillance footage, which is Government Exhibit 2.

18 Jumping forward 20 seconds. And as Your Honor is
19 aware, there is no audio for this.

20 (Video played.)

21 MR. HAAG: So circling for the Court, you have
22 Mr. Goodwyn here in the red hat just in the middle of the
23 screen where he is currently looking at a police officer. Now
24 what happened at this point is Mr. Goodwyn walked in with a red
25 hat and sunglasses. The officer reached out and touched

1 Mr. Goodwyn. Mr. Goodwyn turned and looked directly at the
2 officer. As you will see in a moment, Mr. Goodwyn does not
3 interact with this officer and keeps moving into the Capitol.

4 (Video played.)

5 MR. HAAG: So, Your Honor, this there shows
6 Mr. Goodwyn's trip inside the Capitol is relatively short, but
7 there are some points that I'd like to highlight for Your
8 Honor. First is that when Mr. Goodwyn saw that officer, again
9 looking directly at the officer, he continued straight into the
10 senate wing door. He kind of slipped by some other rioters as
11 he was making his way through until he ran directly into the
12 line of police officers that is on the left-hand side of the
13 screen there. At that point, those officers grabbed him,
14 notified him that he needs to leave. And Mr. Goodwyn appears
15 to make some kind of recognition of that.

16 At that point, he turns around, sees the same police
17 officer that tried to stop him at the front of the room and he
18 dodges around the officer to the officer's right. And goes
19 around some other officers to the some other rioters to their
20 left and then eventually stops and talks to another rioter.
21 And I am going to pull up the video for that conversation now.

22 MS. STEWART: Objection to the next video, Your
23 Honor, because it does not include Mr. Goodwyn. Unless I
24 received the wrong video. It is just a video of some other
25 people that -- Anthime Gionet also known as Baked Alaska was

1 videoing. And Mr. Goodwyn had no interaction with the people
2 in this video.

3 MR. HAAG: Your Honor, this video does show
4 Mr. Goodwyn. He is about 2 minutes and 40 seconds in. You
5 will see him walk through the lobby area.

6 THE COURT: Very well. As the government is
7 representing he is depicted in the video. I will overrule the
8 objection.

9 MR. HAAG: Jumping forward to 2 minutes and 40
10 seconds.

11 MS. STEWART: Again, Your Honor, I'd like to object
12 because this is just highly prejudicial showing other people's
13 potential violence that Mr. Goodwyn was not with.

14 THE COURT: The government has jumped ahead to
15 another section. Obviously, I won't consider what doesn't
16 depict him on the screen, so I won't consider that.

17 MS. STEWART: Okay.

18 MR. HAAG: Playing now from 2:40.

19 (Video played.)

20 MR. HAAG: So, Your Honor, circling in the middle of
21 the screen here, pausing at 2 minutes and 49 seconds is
22 Mr. Goodwyn wearing the red hat with sunglasses. You could
23 hear just a moment ago towards the left was someone saying hey
24 multiple times. I believe that is a police officer trying to
25 get Mr. Goodwyn's attention after the officer had just reached

1 out in the middle of the screen, here is that one officer that
2 we saw on the surveillance video.

3 THE COURT: Is this another version of what was
4 previously shown, just from a different perspective?

5 MR. HAAG: Yes, Your Honor.

6 THE COURT: Okay.

7 MR. HAAG: So the surveillance video kind of shows
8 pointing towards the window, this is pointing away from the
9 windows at the same time.

10 MS. STEWART: Objection, Your Honor. We did -- a
11 video available that was -- this is from Baked Alaska. And
12 before talking with Mr. Brady, the previous AUSA, he is still
13 on the case, but unfortunately not here due to a family
14 tragedy. What we determined -- Mr. Goodwyn did professional
15 tools on this. And there is no way to isolate that that police
16 officer's voice said anything at that point to -- we did
17 multiple takes, a lot of work, sent the frequency charts to
18 Mr. Brady. So I question any authenticity here to claim that
19 hey there was said by the police officer. We did frequency
20 isolations for voices and could not isolate his.

21 THE COURT: The prior video did clearly show this
22 officer directing his attention towards Mr. Goodwyn.
23 Obviously, if I can't discern what was said, the government can
24 run it back and I will see if can discern what was, obviously,
25 being said. Obviously, if I can't, I won't consider that.

1 MS. STEWART: Thank you, Your Honor. It was loud in
2 there. There are a lot of people talking, so now we are just
3 hearing video from the person who stopped him on the way out.
4 So thank you, Your Honor.

5 THE COURT: Very well. The government can replay it
6 again.

7 (Video played.)

8 THE COURT: It sounded to me like he said, "hey,
9 hey," and then he is indicating the defendant should come to
10 him, so I heard him saying, "hey, hey."

11 Very well.

12 MR. HAAG: And, Your Honor, I do believe that the
13 video speaks for itself at that point. The other thing I want
14 draw to Your Honor's attention is the noise in the background
15 of the video. There is the audible alarm that has been --
16 testimony in these cases has shown was playing the whole day.
17 And here in the video, you can hear a very loud, piercing
18 alarm.

19 THE COURT: I wasn't focusing on that. Can you play
20 it again? I was focusing on whether I could hear what the
21 officer was saying.

22 (Video played.)

23 THE COURT: I can hear it.

24 MR. HAAG: So there is the high-pitched noise,
25 another indication that Mr. Goodwyn should not have been in the

1 senate wing door and had plenty of knowledge that he should not
2 have been there. At this point, I am just going to keep
3 playing at 3:15. At this point Your Honor is going to see on
4 the back end of the interaction that we saw on the surveillance
5 video where he stops for a moment by the exit to the Capitol.

6 (Video played.)

7 MR. HAAG: So there was a lot that happened in that
8 clip there. You could see the back end of where Mr. Goodwyn is
9 exiting the Capitol, but then stops to interact with a man
10 whose pseudonym is Baked Alaska, Mr. Gionet who has also been
11 charged in these cases. Mr. Goodwyn stops, has a conversation
12 with Mr. Gionet, identifies himself. And then when prompted,
13 Mr. Goodwyn turns back towards the officer that has been trying
14 to get him out of the senate wing door and calls him an oath
15 breaker and that Mr. Gionet should take his badge number down.

16 So while Mr. Goodwyn was only in the Capitol for just
17 under a minute, there is a lot to this offense that is more
18 than just walking into the Capitol and walking out. There is
19 the information going on outside with the bullhorn, as well as
20 a lot of evasive conduct and insulting conduct that Mr. Goodwyn
21 made towards the officers in this case.

22 Turning next, Your Honor, to Mr. Goodwyn's criminal
23 history. As we were discussing earlier was the trespass case
24 in Wyoming. That case occurred on Mr. Goodwyn's drive from
25 California to Washington, DC on January 6th. On that day, he

1 was stopped in Wyoming. He was stopped for trespass and
2 interfering with a police officer, which was failing to provide
3 his identification. That occurred on January 2nd. And the
4 court records show that the arraignment happened on
5 January 4th, so just two days before January 6th. So
6 presumably at that point, he went from Wyoming on January 4th,
7 made quite a quick trip across the country to Washington, DC
8 where he committed the offense in this case. And where he was
9 released in Wyoming, I don't have the court records for this.
10 I'd assume he was likely on conditions of release to not commit
11 a new offense. So he goes from getting arraigned in Wyoming
12 and then committing the offense in this case.

13 So I think despite the fact that the charges in the
14 Wyoming case are relatively minor, I think it highlights the
15 risk of recidivism for Mr. Goodwyn in this case. The fact he
16 was such a short amount of time between Wyoming and DC
17 committing two offenses is something noteworthy. And I think
18 the Court should take it into consideration when reviewing this
19 case.

20 MS. STEWART: If I may object, Your Honor. I will
21 state there was no adjudication of guilt. A charge that was
22 dismissed with prejudice is what prosecution is talking about.
23 Mr. Goodwyn chose not to go to trial. Had I been his attorney,
24 I would say go to trial, get this all thrown out. But he used
25 his silver bullet. It is not counting here for a criminal

1 history point. But what I am saying is he was not convicted of
2 that. There is an allegation because he walked in a Taco Bell
3 and got into an argument with someone about not wearing his
4 mask.

5 So the recidivism is perhaps related to the fact that
6 due to his Asperger's, he doesn't like to wear masks. And you
7 are aware of that. That is what we talked about, his
8 noncompliance. But I object to this being called a trespass
9 that he was convicted of and that he did it. No, he did not.
10 Thank you, Your Honor.

11 THE COURT: Well, I think it should reflect that
12 there was no nolo contendere, although you say it wasn't
13 actually accepted, the record does reflect that there was a
14 nolo contendere plea entered at that time. So that is what the
15 record reflects and that is what I will rely upon. I won't
16 consider it a conviction, but it was a nolo no plea that was
17 entered.

18 MR. HAAG: Thank you, Your Honor.

19 THE COURT: Okay.

20 MR. HAAG: I think I am having a little issue with
21 the computer.

22 Your Honor, while this loads up, the next point is,
23 the lack of acceptance of responsibility that Mr. Goodwyn has
24 in this case. That stems from an interview that Mr. Goodwyn
25 gave about 6 weeks to 7 weeks after he pled guilty before Your

1 Honor at the end of January. The context of that is that after
2 that plea, Mr. Goodwyn went on to "Tucker Carlson Tonight" on
3 Fox News channel where he gave an interview where he discussed
4 both his conduct on January 6th as well as his experience
5 having been charged for his conduct. And I am going to pull
6 that up. That is Government Exhibit 4.

7 (Video played.)

8 MR. HAAG: And I am going to jump forward to 1:08.

9 So there are two points of that interview segment I
10 want to highlight for Your Honor. First is the minimization of
11 conduct that Mr. Goodwyn did there. There is an opportunity
12 where Mr. Carlson describes Mr. Goodwyn's conduct as walking in
13 and out of the Capitol. And Mr. Goodwyn confirms that is all
14 he did. He ignored the fact that he was outside with the
15 bullhorn inciting people to go in. He ignored the fact that he
16 ignored police commands to leave the Capitol and ignored the
17 fact he didn't comply with the commands after he received them.
18 And second was the last portion of the clip where he
19 characterizes himself a political hostage.

20 MS. STEWART: Objection, Your Honor. And I am going
21 to go to, I think, relevance and also truth of the matter.
22 Mr. Goodwyn didn't run the show. He was asked some questions.
23 It was a 3- or 4-minute segment. So it wasn't his show to
24 start talking about everything else. But he referred to the
25 statement of the offense. He said it is in my papers, whatever

1 I did. So I object to adding embellishment or saying that he
2 could control -- and demand another 3 or 4, 5 minutes to speak
3 on that show.

4 THE COURT: Well, I don't think there is any basis to
5 object. I mean, Mr. Goodwyn could have come clean and
6 indicated exactly what he did when Tucker Carlson was
7 minimizing the extent of what he did. Because he did more than
8 what Tucker Carlson indicated. And he didn't say anything to
9 correct that.

10 MS. STEWART: Your Honor, he did what is in the
11 statement of the offense. And, again, to say he was outside
12 with the bullhorn, that wasn't a question. Because Tucker
13 Carlson didn't have video of that.

14 THE COURT: But Tucker Carlson indicated a version of
15 what purportedly occurred, which was inconsistent with what
16 your client did and your client didn't correct it. And I think
17 that is a significant problem because the misinformation and
18 the propaganda that is sometimes put out by, you know, people
19 in the media, gets people all riled up and causes some of the
20 problems that we are experiencing in our country. And your
21 client could have corrected exactly what occurred. Because he
22 did more than what Tucker Carlson indicated. So people who may
23 be sympathetic to what occurred on January 6 hear what is
24 taking place here and feel the government somehow has treated
25 your client unfairly, based upon what Tucker Carlson, you know,

1 incorrectly indicated your client had done.

2 So I hear your objection. That is noted for the
3 record.

4 MR. HAAG: So, Your Honor, we are turning to the
5 political hostage language. What that is doing is Mr. Goodwyn
6 is characterizing himself as the victim of the January 6th, not
7 the officers that were defending the Capitol, not the lawmakers
8 and their staff that were either cowering in the house gallery
9 or had to evacuate from the building because of the rioters in
10 the building. Mr. Goodwyn sees himself as the victim on
11 January 6th. And describing himself as a political hostage I
12 think is very emblematic of that.

13 And the salience of that idea that he is the victim
14 becomes very clear towards the end of the video where he
15 pitched his fundraiser that I referenced in my memo. So I am
16 jumping to 3:44 of the video where that portion comes up.

17 (Video played.)

18 MR. HAAG: So what just happened here, Your Honor, is
19 the defendant was responding to a question of how people
20 could -- how the viewers of the show could help January 6
21 defendants like Mr. Goodwyn. And that is when he referenced
22 this website called [StopHate.com/J6](https://www.stophate.com/J6). And if Your Honor follows
23 that URL, it takes you to a page of a list of fundraisers where
24 there is a long list of defendants, over 100 January 6
25 defendants that are listed there where people can click on

1 their image and donate to them. However, the list isn't in any
2 particular alphabetical order. It is just an assortment of
3 names familiar with January 6. Mr. Goodwyn's name is listed as
4 the first on that.

5 So while during the segment, there was no indication
6 as to he was soliciting funds for himself. The fact that he is
7 directing people to a page where he is listed as the number 1
8 defendant, it makes it very clear that the defendant during the
9 segment was soliciting contributions, soliciting donations for
10 himself.

11 Now, in his filing Mr. Goodwyn asserts that all of
12 the money that he has received, the over \$26,000 that he has
13 received as part of the fundraiser is strictly for legal fees
14 and that he has no ownership over that money. But that just
15 isn't the case, watching the interview itself, Mr. Goodwyn is
16 making a point that the money goes directly to the defendants.
17 And he is, in fact, one of those defendants. And it is also
18 consistent with prior fundraisers that Mr. Goodwyn has put
19 forward in his life.

20 I briefly mention this on page 5 of my sentencing
21 memorandum that there was a fundraiser for Mr. Goodwyn where he
22 said, help fund my travel from California to Washington, DC.
23 But there is an important part of that. And I am going to pull
24 up the image here. Now, this image is that Give Send Go page
25 that I was just referencing here. At the bottom here there is

1 a link. It is a Give Send Go/GVM9. If Your Honor follows that
2 link, that link takes you to another fundraiser posted by
3 Mr. Goodwyn. That is his website here. And at the top, it
4 says arrested for not wearing a mask on bus in San Francisco.
5 And he provides some facts to describe what happened.

6 MS. STEWART: Objection, Your Honor, relevance.
7 Again, this has nothing to do with January 6.

8 THE COURT: Overruled.

9 MR. HAAG: What it shows here is that the defendant
10 was arrested on September 15 of 2020. These three infractions
11 here are just references to the penal code here. One of them,
12 the last one here, section 148 is the penal code for
13 interference with a law enforcement officer. And then at the
14 end, this is the most salient part of this is hopefully this
15 fundraiser can help me with things such as legal fees, activism
16 and my daily life in San Francisco. So what this shows here is
17 the defendant's state of mind is how he views these
18 fundraisers. Is they are not something that are strictly for
19 legal fees. It is something to fund the way he wants to live
20 his life, the way he wants to fund his activism, the way he
21 wants to fund his daily life back home in San Francisco. The
22 idea of funding his activism is reiterated by the fact if you
23 scroll down, Your Honor, you see the same update of the image
24 that I showed you earlier is the update of him using the
25 fundraiser to solicit dotations to make the drive from

1 California to Washington, DC to go to the January 6 rally. So
2 that point, I think is very important to put together, one, the
3 defendant's idea of victimhood and then using these fundraisers
4 to describe himself as the victim and then using them as a
5 means to solicit contributions. And turning back to the
6 donations he received following the Tucker Carlson, he did, in
7 fact, receive those donations. Looking at the website, he
8 followed the link all of the way through. You click on his
9 picture on the one website cited in the memo and it takes you
10 to this wall. And this kind of lists a lot of the donations.
11 It is not all of the donations. It lists a number of the
12 donations given to Mr. Goodwyn. And you can see here --

13 MS. STEWART: Objection, Your Honor, these are -- he
14 is putting facts that are not in evidence. And there is no
15 foundation for this. Those -- Mr. Goodwyn has no title to this
16 money. This money goes through a third party. So when he is
17 saying Mr. Goodwyn got this, he hasn't gotten anything. Thank
18 you.

19 THE COURT: That may be true, but it seems like the
20 contributions were made in response to his call for them to be
21 made. So whether he used them or not or got them or not, it
22 seems to me, that it is relevant to show that he did, in fact,
23 solicit funds. Overruled.

24 MR. HAAG: So, Your Honor, you'll see in the middle
25 of the screen here, it is dated March 15th, 2023. And this is

1 just immediately after the interview that Mr. Goodwyn gave.
2 And you will see a number of these donations, four just here on
3 the 15th and then a fifth one on the 16th and then another one
4 about a week and a half after that. You can see that his
5 attempt to again treat himself as the victim and use that as a
6 means to solicit contributions worked. He received donations
7 immediately following that interview. So it shows that his
8 idea and his frame of mind going into that interview was that
9 he was trying to solicit contributions and it, in fact, worked.

10 Your Honor, I would note that the request for the
11 \$26,000 fine is outside of the guideline range in this case,
12 which tops out at \$9,500. However, I draw the Court's
13 attention to section 5E1.2 note 4, which allows the Court to
14 impose a higher than guideline sentence if there is a need to
15 effectuate appropriate discouragement of moneys generated as a
16 result of criminal activity. And that is exactly what is
17 happening in this case.

18 MS. STEWART: Objection, Your Honor. Objection.
19 This isn't money coming from drug operations. This is charity.
20 This is not money coming from illegal activity. It is charity,
21 so that statute doesn't apply.

22 THE COURT: Well, again, I don't think someone can
23 engage in criminal behavior, admit they engaged in that
24 criminal behavior and then solicit funds in reference to that
25 criminal behavior. I mean, so I think it is totally

1 appropriate for the government to make the arguments that it is
2 making. What was the provision again?

3 MR. HAAG: That was section 5E1.2 and then note 4.
4 And, Your Honor, I do want to be clear that this -- the request
5 for the fine in this case is for the maximum amount. And the
6 reason why it is for the maximum amount is it is really unclear
7 whether or not the defendant is using any of this money for
8 legal fees.

9 THE COURT: You said commentary what?

10 MR. HAAG: Note 4.

11 MS. STEWART: Again objection, Your Honor. When the
12 prosecution says, it is unclear if he is using money for the
13 legal fees, the probation office doing the investigation report
14 spent quite a bit of time and Mr. Goodwyn showed him a ton of
15 receipts and where money went to his former attorneys -- every
16 penny -- and to other people who loaned money to him. So I
17 don't know why we would be standing up here when the probation
18 officer said he has no money. He did a detailed financial --
19 there is no money in savings accounts. The money didn't go to
20 buy anything else. He accounted for every single penny that he
21 earned. He is in debt. As matter of fact, it said in our
22 sentencing memo -- and I don't know why the government wouldn't
23 read that, he is in debt still for 75- or \$80,000, so they want
24 him to repay --

25 THE COURT: You can make those points when you

1 allocute, but I won't prohibit the government from making the
2 argument it is making. Overruled.

3 MR. HAAG: So, Your Honor, with respect to
4 Mr. Goodwyn's expenses, I draw the Court's attention to section
5 98 of the presentence report. It is on page 18. In that it
6 discusses Mr. Goodwyn's expenses. It notes there is a monthly
7 income from StopHate.com. I understand that is where he works.
8 I don't know if that is related to the fundraiser at all. But
9 it does note there is an income of \$750. Assuming that the
10 money coming in from the fundraiser is this StopHate.com, it is
11 saying that he has \$750 a month coming in from that. And then
12 you go down towards the end of the page which indicates other
13 expenses and legal fees of \$500. So that is a \$250 gap.
14 Again, this is the situation where there is not enough
15 information to conclude that the defendant is actually using
16 all of the money he is getting from StopHate.com for his legal
17 expenses. In fact, the presentence report says there is this
18 \$250 gap, which I think is indicative that there is --
19 Mr. Goodwyn is using not for legal fees in this case. And
20 because there is a lack of clarity, that is why the government
21 is asking for the full \$26,000.

22 And then lastly, Your Honor, there are a few
23 comparison cases that I cited in my sentencing memorandum that
24 I think would be helpful for the Court to look at. But the one
25 I really want to draw the Court's attention to is United States

1 versus William Tyrone, which was a case that Your Honor
2 handled. In that case, the defendant had ample knowledge,
3 shouldn't have been inside the Capitol. Police officer said he
4 used chemical irritant and struck him with a baton. He
5 nonetheless went inside. After coming outside, he went on top
6 of a car and started encouraging rioters there. Also spoke to
7 a journalist and compared the rioters to the people that
8 stormed the beaches in Normandy, the soldiers that stormed the
9 beaches in Normandy. And I think the comparison there of
10 rioters to soldiers kind of echos Mr. Goodwyn's
11 characterization of himself as a victim. It kind of elevates
12 the stature of who the rioters were on January 6, which they
13 claim they were not. In that case, the Court sentenced
14 Mr. Tyrone to 50 days incarceration as well as a \$2,000 fine I
15 believe it was. But this case I think warrants a higher
16 punishment, both because of the lack of acceptance of
17 responsibility on behalf of Mr. Goodwyn and this kind of string
18 of arrests for not complying with a law enforcement officer.
19 You go from taking Mr. Goodwyn on his word that he was arrested
20 for interfering with a police officer in San Francisco then
21 going to Wyoming, being released two days before January 6 and
22 going to Washington, DC to commit the offense in this case, I
23 think does warrant a significant uptick in punishment from what
24 was seen in the Tyrone matter.

25 MS. STEWART: Objection, Your Honor.

1 THE COURT: Overruled.

2 MR. HAAG: If the Court has no further questions.

3 THE COURT: Thank you.

4 Defense.

5 MS. STEWART: Are you able to plug in there?

6 MR. HAAG: Yes.

7 MS. STEWART: Since he already has the video
8 accepted, we'll look at it in a minute. Your Honor, first I'd
9 like to start with I think acquainting people to the human
10 being that Mr. Goodwyn is. He is a very good person. He has a
11 good family. He holds Christian values. He upholds those
12 values. And we'll put January 6th over here because that is an
13 anomaly. He has got a loving family, many who are present here
14 today in support. He has got loving friends. He could have
15 gotten 100 letters, but he attached some 26-odd letters to the
16 memorandum that we put in for the defense.

17 I am dismayed by the government's presentation,
18 because they absolutely refused to go and -- I don't know if
19 that is because Mr. Brady had his family tragedy, there was no
20 turnover. We went through extensive negotiations for the plea
21 that Mr. Goodwyn pled guilty to. And he has pled guilty to
22 that. He has accepted responsibility for that. He has great
23 remorse.

24 He does not like the harm that came to the United
25 States. He doesn't like the violence that injured police. He

1 doesn't like the violence where some protesters died. All
2 around, it was not a good day. And it is not something that he
3 has ever considered himself to be a victim of.

4 When we look at what the government wants here, they
5 want you to take away money that he received in charity. So I
6 will stand here and tell you, I have no idea what his previous
7 lawyers charged him for. But \$110,000 approximately was paid
8 up front. They haven't returned a cent. I have been doing
9 everything since September 30th. I didn't charge him \$110,000.
10 He doesn't need to fundraise for me. But what I am saying is,
11 he has only been able to pay back because other people loaned
12 him money. He has only been able to pay back out of his
13 savings. He still owes \$75,000. And the probation officer
14 knew that. I went through some of these things too. We were
15 on the phone for hours. So there is no question here.
16 Mr. Goodwyn has not enriched himself.

17 And, yes, whether you look at it that way or I look
18 at it that way, but he and his family have suffered. They have
19 suffered where their friends who don't talk to him anymore. He
20 has suffered where he hasn't been able to go back to San
21 Francisco where he considers home. He has been in home
22 confinement for over a year. He has been in third-party
23 custody since the day he was released, so now 27 months,
24 however long he has been in third-party custody. This has not
25 been a good time. He hasn't been able to expand his business.

1 And we had COVID on top of that. Again, with home confinement,
2 very limited.

3 But I am dismayed because, I understand Mr. Brady's
4 tragedy, but there weren't a good turnover of all of those
5 discussions we had. Mr. Goodwyn has high functioning autism.
6 And he has Asperger's. So what he says and how he speaks may
7 not be how neurotypical people would speak, what is in their
8 mind and how they see things. A lot of what he does is on a
9 perception and it is on learned activities.

10 So if we can look at the video outside with the
11 bullhorn. And, again, I have worked with someone who has a
12 degree in, you know, nuclear physics and made it through the
13 Naval Academy. And nobody ever caught that he had Asperger's
14 until he was working in an environment. So I am familiar with
15 that and having gone through with doctors to get him diagnosed
16 as a Navy officer. And in here, part of that is some people
17 with Asperger's don't know their kind of place, like, what is
18 their situation, who is listening to him of what import.

19 But I want to start by saying that the basis for this
20 plea agreement started because the government heretofore would
21 not remove the 1512 obstruction until we proved we had an
22 affirmative defense. I want to start off where the government
23 says he went and he had a plan. No, that is absolutely an
24 embellishment. And with Mr. Brady, we showed him we had an
25 affirmative defense. And 1512 was going to come off the table.

1 And that is where we moved to this being on restricted grounds.
2 But being outside on the restricted grounds -- and, again, when
3 you are dealing with somebody with autism, truth and facts,
4 that is how this plea agreement was arrived at, the statement
5 of the offense. That is why stuff like the Proud Boys came
6 out. Okay. He put a meme up. Everybody was joking. As a
7 matter of fact, people were using that meme to make fun of the
8 president. Stand back and stand by, Proud Boys. It was a
9 joke. But he did that. Factual things are in the statement of
10 the offense. But the embellishment was taken out. The I think
11 he did this and I think he meant that was taken out. Because
12 when you are dealing with somebody with autism, everything is
13 black and white. It is a fact. It is this way or it is not.

14 So when he walked on the grounds and there were no
15 signs, people are praying, they are milling about. He walks up
16 steps. He is on a terrace, taking some pictures out over the
17 the crowd. He didn't see violence. He didn't see a single act
18 of violence. He is on that terrace and people are milling
19 about. So as we first look toward the back of this picture,
20 Your Honor -- and you'll see, there is a whole boatload of
21 cops. And even over in the very left, in the very back, there
22 is one US Capitol Police and also you had Metropolitan PD show
23 up. And they are all there watching. What does an autist
24 need? They need a signal, somebody to come over and tell you,
25 get out, you can't be here. He sees everybody else and he

1 says -- and that is part of the thing with autism, what you see
2 and what you learn that are socially acceptable. Here is
3 everybody. Nobody is committing any violence, which I
4 understand the term riot is thrown around. Maybe by definition
5 by US statute it requires violence. There is no riot here.
6 You just -- right at this still shot, people are standing
7 around talking. Nobody is assaulting a police officer. This
8 is what comes into his eyes and his ears when he is there. I
9 can be here. I can be -- there is nothing that says, I can't
10 be here.

11 Now, maybe I, as a retired military officer, would
12 know, I shouldn't be here. I wouldn't have gone there. I
13 don't see any reason I would have ever gone there. But
14 thousands and thousands of people thought they could be
15 somewhere. And in his area, they were not violent. Nowhere in
16 this lifetime would Mr. Goodwyn ever condone any violence
17 toward law enforcement. It is not happening. He is not --

18 THE COURT: How do you explain what happened in the
19 Capitol itself? I mean, it seemed clear to me that the officer
20 was having discussions with your client. And the officer's
21 conduct would clearly suggest that he was saying to your client
22 he could not come into the building and was trying to get him
23 to leave the building. And your client was defiant, at least
24 for a short period of time, in response to that. So he was
25 given -- he was, it seems to me, given a signal that he was not

1 permitted to enter and was not permitted to be there and he
2 didn't abide by that.

3 MS. STEWART: Your Honor, can we move to that video?
4 Because I -- the point I make here is he yelled on the
5 bullhorn. You have that. If you look through it again, not a
6 single person listened to him, not a person moved toward the
7 door. The door was behind him.

8 THE COURT: I am not talking about that. I am
9 talking about this where it appears the officer is speaking to
10 him --

11 MS. STEWART: Right. So now here -- we can stop
12 here. This is the point -- and we went over and over this with
13 Mr. Brady in determining the plea deal. And this is where
14 Mr. Goodwyn admits guilt, this is. He did not -- the police
15 officer is standing against the wall. If you will note, there
16 is people behind him. There is Baked Alaska. There is all
17 kind of people here. They are allowed to be here. So
18 Mr. Goodwyn is trying to come in. The doors were open. The
19 cops outside were standing there. Nobody yelled, don't go in.

20 He does not -- again, first, the alarm didn't
21 register, just as when you or I or anybody else first hears
22 that, if there is other sound in video with sound, you don't
23 hear that steady tone. It doesn't sound like an alarm. It is
24 by all safety regulations not recommended to use a tone like
25 that if you are trying to use it for a fire alarm, because

1 somebody would sleep though that. It is a steady tone, just
2 like white noise. It can become white noise.

3 So if you will progress with the video, please. As
4 looks -- if we can stop -- he felt something brush him and he
5 turned. Something brushed him and he turned. But he didn't
6 know what it was. He doesn't see a hat. So you see a head.
7 There are people around. There is a head. I would say that
8 the point where someone said, hey you, hey you, is later. It
9 was not right here. The timing if you overlap the timing of
10 that Baked Alaska video with this, that hey you, hey you timing
11 does not come up here.

12 And if you will progress, please. So Mr. Goodwyn --
13 all right. If you we stop. He is -- there is also crowd
14 behavior. But there is also someone who doesn't want to get
15 pressed against and doesn't want to get a whole bunch of
16 strangers touching them. All right. He moves to an open space
17 and he stops. There is not, he ran into a brick wall of cops.
18 He actually stops. There is other people as you look at the
19 screen from your view, over his right shoulder but it is left
20 on the screen. There is not cops yelling and screaming. They
21 had formed a cordon. Mr. Goodwyn in seeing this says, I was
22 wrong. At that point, there is a cordoned -- and I have
23 notice, I had knowledge, I should not be there. I should not
24 be there.

25 Now, the police officer is way to his right still.

1 And he runs over to get to him. So if you'll proceed, please.
2 Now we see him grabbed. So he grabs him. So if you will stop
3 please and tells him to get out. And Mr. Goodwyn starts to
4 leave. It is after this point that the hey you, hey you comes
5 in. And it is after this point -- and, again, that was Baked
6 Alaska's video. That was his livestream in that other video
7 the prosecution showed. And you hear the hey you, hey you. I
8 don't know. Because when we had that up and we talked with
9 Mr. Brady, we were looking at the back of the officer's head in
10 that video. So I can't see if his lips were moving. He had
11 already told him to get out. Nobody is arguing with that, Your
12 Honor. He was already told to get out. But he stopped and he
13 talked to Baked Alaska. And that is where he disobeyed the
14 police. When the policeman said to get out, he turned, he was
15 grabbed. And, yes, that -- again to somebody with autism and a
16 grabbing, there is a little bit of difference in how the mind
17 can react and how the mouth can react. So he felt he had not
18 harmed anybody, done anything. Other people are being allowed
19 to stay in. What were his words? His words were, "Oath
20 breaker, get his badge number."

21 Now, you could look and say, who would say something
22 like that? I'm sorry. Somebody with autism would. And
23 because in his mind, he would perceive that other people around
24 him see the same thing. That officer grabbed him rudely. He
25 hadn't done anything. Nobody else was being grabbed and pushed

1 around, just him. But he also has Baked Alaska --

2 THE COURT: For whatever reason, the officer clearly
3 at the door had focused his attention on your client.

4 MS. STEWART: He did.

5 THE COURT: And considering the officer's conduct
6 after your client entered, it is clear to me that the officer
7 was saying, you can't be here. And he didn't listen.

8 MS. STEWART: Yes, Your Honor. On the way out. He
9 did not hear him on the way in. He did not.

10 But when he stopped, when we showed where he stopped,
11 and the officer came up and told him, he got it. I am getting
12 out. I am wrong. He stopped and talked to Baked Alaska. He
13 should not have done that either.

14 So he was in there where he shouldn't be and he
15 stopped, because he was being taunted or whatever. By this
16 livestreaming guy who by the way, the police were letting stay
17 inside and livestream. I am just explaining from the video and
18 the view of Mr. Goodwyn, he didn't go in and say, I am dissing
19 the cops. That is not what he did. There is a crowd. He is
20 trying to get to an open space, stop, see where he is, what is
21 going on. And then the cop comes over. He knows he is wrong
22 now. I should go out. He is not denying that, Your Honor.
23 That is --

24 THE COURT: If he knew he was wrong, then why does he
25 then turn to the officer and call him an oath breaker?

1 MS. STEWART: He did that by the door. And I think
2 you -- I am asking you to understand Asperger's and autism.
3 Because in his mind, he was in there to support the process.
4 He had no conspiracy or plan to go stop anything. He was there
5 to use his speech, go guys, go, investigate. I would like to
6 see you object and have an investigation. He is the last
7 person who got anything good out of January 6th in that regard.
8 Because everything stopped and nobody wanted to investigate
9 anymore.

10 That was all lost. So --

11 THE COURT: But then, he appears on Tucker Carlson's
12 show, if you are saying what he understood was wrong, he sure
13 didn't give that projection when he was on Tucker Carlson's
14 show. He was clearly saying he was a political prisoner.

15 MS. STEWART: He called everybody political hostages.
16 And that went to the thought of the thousands, if not
17 million -- but at least for January 6ers that the FBI has now
18 labeled domestic terrorists. And that is a whole different
19 argument. We are not bringing it here. But that was the
20 prosecution cut it off, but that was part of the discussion.
21 Mr. Goodwyn may have had a longer time slot. And it is just
22 ironic. It is not funny. But for the show that night, one of
23 the producer coordinators sent him to the wrong studio. So we
24 were supposed to be on at 8:15 to 8:20 something. But because
25 they sent him, they gave somebody else a longer time. So the

1 slot ended up being about 8:40. It was shorter. So he didn't
2 get to speak. He answered the questions. He didn't get to go,
3 but, you know, I stood outside with a bullhorn that -- we
4 already provided that to the producers. They had all of that.
5 So he didn't get anymore time, Your Honor. If you watch the
6 whole thing, it is like all right, what can we do to help? And
7 he was not speaking to himself. He said, you can go to
8 StopHate.com, which does not take you to a page with a list of
9 people to donate to. It takes you to a page of videos, it
10 takes you to a page where you can go pray. It has a whole
11 bunch of other things. You have to click on a donate. So
12 StopHate.com doesn't open up with January 6 donations. That is
13 an incorrect presentation.

14 And he sincerely wanted people to pray and to ask
15 them to support people who have been in jail for over two years
16 and yet to have a trial. So that is something he was talking
17 about.

18 THE COURT: If he doesn't understand that what took
19 place on that day was one of the worst days in America, that is
20 very troubling. I mean, I think as a country, we are in
21 trouble because if when people lose an election and they don't
22 admit it and they get followers who will then do what happened
23 on this day, we are in trouble as a country. We are in real
24 trouble. Because what -- next time if the democrats lose and
25 they will at some point, they take the same position and all of

1 a sudden, we have anarchy in America.

2 MS. STEWART: Well, Your Honor, nobody is saying it
3 was a good day or not a terrible day.

4 THE COURT: It was a horrible day. It is one of the
5 worst things I have ever seen happen in our country.

6 MS. STEWART: I won't say I agree with that, because
7 I have seen other bad things happen in our country.

8 THE COURT: I said one of the worst. I didn't say it
9 was the only worst. That was a bad day for American democracy.

10 MS. STEWART: All right. And Mr. Goodwyn really,
11 Your Honor, is with you on that. And whether he is able to --
12 and, again, I am going to point you to autism and Asperger's,
13 because the way he may express things is different than you or
14 I or somebody else sitting over here.

15 THE COURT: That is why he should have never gone on
16 the Tucker Carlson show. I don't understand why people do
17 that. I haven't seen anything good come out of people who are
18 charged with criminal offenses, especially once they have
19 already pled guilty going on a television show and basically
20 minimizing the extent of their conduct.

21 MS. STEWART: He had no intent to minimize. Again, I
22 will take Your Honor back to 3 or 4 minutes. Part of it is
23 taken up by Tucker. It is not even Mr. Goodwyn speaking. Part
24 of it -- I mention that there needs to be some focus and
25 investigation on the use of resources for calling all

1 January 6ers domestic terrorists and whether our tax dollars
2 should be going there. But in his portion, he had no intent to
3 minimize anything. He was -- Tucker Carlson got the video. He
4 was -- he went through other parties to contact Mr. Goodwyn.
5 But the question was from Tucker to go on the show is what
6 could he do to help people. So that is an enticement to go on.
7 And I don't think it should be so bad looking at a reference to
8 StopHate.com, because it is not all about giving to January
9 6ers. That is not even all of what StopHate.com is about. So
10 it is its own thing. Mr. Goodwyn does work for that.

11 I would say that the fund and this request for a fine
12 is rather outrageous, because I am not aware that fundraising
13 whether he does it in San Francisco to collect money to go on
14 the trollies. People put in -- first of all, no January 6ers
15 are allowed to go on Go Fund Me. They are already banned. You
16 can't get there from here. So there is Give Send Go or there
17 is Donor Box. There is some other fund sites and fund
18 processes. But I don't think Mr. Goodwyn can go do a Go Fund
19 Me, because I am not sure he could have even have a Stripe
20 account to get the payments. They do not go to him from the
21 donors. They go through a third party, which they gather up
22 every several weeks and they send to him.

23 And I guarantee you, they are going for him to pay
24 back people who donated to pay his other lawyers. And as I
25 said, January 6 has created a legal industry. And there is a

1 lot of money being required by these lawyers. He is -- he
2 is -- he paid out over 110K, so he has no savings. He has no
3 money. Why would we want to make him a pauper. Is he supposed
4 to go in bankruptcy? There is no money. The probation officer
5 went into all of the accounts. And whether he has now an extra
6 \$200 a month, but his income varies, he has still got 75- or
7 \$76,000 he owes people. There are people who might have, I
8 would just say, mortgaged their homes to support him. So this
9 isn't -- this isn't like this money is going anywhere else but
10 there. And then he has still got a lifetime and however long
11 it takes him as he feels obligated to repay those monies. He
12 is not going to declare bankruptcy. But I don't see why we
13 would want to fine him when the probation officer reports that
14 he has no money.

15 And I would go back to, he believed he could be
16 there. And I take that with, again, what he saw as signs. He
17 learns by signs and cues, where he can be, where he shouldn't
18 be and he didn't see any until he got in the building. He is
19 wrong. He admits it, Your Honor. He is remorseful.

20 THE COURT: I don't see how he couldn't have seen.
21 He was looking in the direction of these hoards of police
22 officers that clearly were there for some reason. And that
23 didn't deter him from moving forward.

24 MS. STEWART: And again, Your Honor, we showed you
25 earlier outside the picture, there is police officers standing

1 directly opposite that entry door just standing against the
2 building looking. I am saying, would I think there is
3 something? There is no police outside of those 50 or 100
4 officers walking up and telling people, don't go in that door.
5 I don't know why they weren't saying, get off the terrace at
6 that point. They were just there. I don't know what they were
7 there for. They were not telling anybody to leave. So that is
8 the input. That is the sensory input he had. I can't speak to
9 what happened anywhere else on the grounds at this point today.

10 Nobody outside listened to him on the megaphone. But
11 his call was to support the process. So that is a very
12 different thing than saying he had a plan to do something to
13 obstruct. And, again, Mr. Brady and the government didn't even
14 consider continuing with the 1512 charge because of his
15 affirmative defense and people who would have stood up and said
16 that is why he was there.

17 I think there cannot be an overemphasis on learned
18 rules and signals for somebody with autism and they are high
19 functioning. He goes to therapy. This is a lifelong thing.
20 There is no cure, Your Honor. Again, we see the police
21 standing by on the video. That is what he says. That is what
22 he saw. This is a -- it is level 4 for the misdemeanor. We --
23 I don't want to compare him to people who were fighting in the
24 tunnel. He didn't see that. He was not on his phone. He is
25 not aware of violence anywhere. He didn't go into the crypt.

1 He didn't go into the rotunda. He wasn't in an engagement with
2 Officer Dunn or Goodman or any of the folks that have
3 engagements or testified in other trials. He hasn't enriched
4 himself. He doesn't speak like you or I might. So should he
5 have been on Tucker? He wanted to go help, because that is
6 what Tucker asked to talk about. How can we help January 6ers?
7 Now, Tucker had this footage. And we were very honest. We
8 didn't say, oh, my gosh, we didn't have that, you found
9 something new. We told him that in the beginning, that we had
10 that footage. He did not discover something that had not been
11 given to us. This wasn't like the presentation on Jacob
12 Chansely where there were some discoveries.

13 He has lost his residence in San Francisco. He lost
14 his job there. He is not working with his ministry. He has a
15 decreased income. He has no savings. He owes 75- or \$76,000.
16 He admits he is guilty and he is remorseful. And I would say
17 another thing about people with Asperger's is their facial
18 expressions might not match. There is things -- I wasn't an
19 attorney at the time, but I found some of the doctor's things
20 that I presume were presented to you somewhere around July of
21 2021 when he was first -- with the mask issues. Yes. A mask
22 can be very sensitive to somebody with Asperger's. It -- chew
23 through the mask or whatever is going to happen. That is a
24 particular thing. It is a disability, Your Honor. It is not a
25 mental illness. He is a very smart man. It is not a mental

1 illness. This is a disability.

2 And when you take the totality of the circumstances
3 and what he saw -- so, again, you are saying, he went on
4 Tucker -- the prosecution themselves said, well, he didn't do
5 anything to overturn his plea. Well, let's -- again, we look
6 at what he pled to. He said, yes, I was on the bullhorn. He
7 didn't get a chance to say that on Tucker. But the question
8 was --

9 THE COURT: He did have a chance. I mean, Tucker
10 said to him, Is that all you did? And he said, yes. So he was
11 suggesting or indicating to the public that Tucker Carlson was
12 speaking to that all he did was go into the Capitol for a
13 minute or so and leave. And he left it at that. And, you
14 know, obviously, the objective of that was to make it seem like
15 people on that day are being treated unfairly by the government
16 because they really didn't do anything.

17 MS. STEWART: Your Honor, I don't think he said they
18 didn't really do anything. But, again, Tucker's question --

19 THE COURT: That is what Tucker Carlson was trying to
20 suggest, he didn't do anything of significance that would
21 justify him being prosecuted.

22 MS. STEWART: I think, again, their view of the crime
23 and the charges, that is up for people to debate. Should it be
24 a trespassing fine? What should it be? We are going hard and
25 heavy with the federal statutes here, trying to get people in

1 jail and in prison. That is different than other cases that
2 have been handled in the past. We can go back years. That is
3 not our argument here today though.

4 We are talking about somebody who was nonviolent.
5 And Tucker didn't just say, well, is there anything else? He
6 said, did you? He jumped in. So now Mr. Goodwyn is answering
7 the full question by Tucker, did you break anything? Did you
8 do anything violent? Did you assault police? And he says, no,
9 what I did is in my documents. This -- they received the
10 statement of the offense, Your Honor. So at that point, Your
11 Honor --

12 THE COURT: To be candid, which is why he never
13 should have gone on that show.

14 MS. STEWART: Well, that is a matter of time. Again,
15 it was a poor situation. Because if the person hadn't screwed
16 up and he had been on the original time, there had been a
17 couple more minutes and there had been time to say, wait a
18 minute, let's talk about he was on the bullhorn or this. But
19 it got so compressed that Tucker got to the main point of
20 having him on to begin with, what can people do to help? And
21 his answer wasn't say, oh, point at me and give me money. He
22 is not going to turn it down. I told you. He owes 76,000 or
23 some-odd dollars. He has no money. He is broke. The man is
24 broke.

25 So I also want to say here that January 6 was a bad

1 day, because we are talking about the United States Capitol.
2 We are talking about where our government does business as far
3 as the legislative. And the prosecution is comparing
4 Mr. Goodwyn arguing about wearing a mask in a Taco Bell in
5 Wyoming where the person got offended and called the police,
6 with going inside the US Capitol and the charge of section
7 1752. To people who thought January 6 was a bad day, that is
8 offensive. Somebody went into a Taco Bell and argued with --
9 wait a minute. There is not a sign on the door. Why are you
10 kicking me out? And, again, that is learned behavior. He
11 left. He left. But then the cops came and he wanted to see
12 the law. And the other guy then went and dragged him out of
13 the car and said, we are arresting you for trespassing now on
14 the parking lot. So we don't know what that was. I don't want
15 to talk about Wyoming. We have been over that here multiple
16 times today.

17 So he is very remorseful. January 6 was a bad day.
18 But he took the signs based on his disability, Your Honor. And
19 he messed up on the way out by stopping. And those terms,
20 because of his disability, were agreed to with Mr. Brady as
21 prosecutor and not a lot of embellishment and supposition.

22 Subject to your questions, Your Honor.

23 THE COURT: Thank you. Anything your client would
24 like to say?

25 THE DEFENDANT: Thank you for the opportunity to

1 speak, Your Honor. Firstly, I'd like to express my sincere
2 remorse for my actions. My regret includes the negative impact
3 they have had on the community, my family, friends, the
4 government and the Court.

5 I appreciate dismissal of the inappropriate section
6 1512(c) (2) obstruction charge which carries a 20-year maximum
7 sentence and that the prosecution intimidatingly tried to get
8 me to plead guilty to. Because my intent always was to support
9 the constitutional and statutory process of counting and when
10 used -- the debate over objections. It was difficult to be
11 charged with a crime that was opposite of my acts and intent.
12 I accept full responsibility for entering and remaining in
13 restricted building or grounds in violation of 18 USC section
14 1752(a) (1) and would like to reiterate to the Court that I
15 affirm the statement of offense, ECF 83 and I am ready to face
16 the appropriate consequences.

17 Your Honor, I'm sorry and apologize for violating the
18 law. I understand the broader impact of my actions and have a
19 genuine desire to make amends and contribute positive to the
20 society moving forward. I have learned my lesson from this.
21 And from now on, I will be extra careful to look for an
22 official door with metal detectors before I ever enter in a
23 federal building. Texas has added a communication impediment
24 banner at the bottom of my driver's license. And I believe
25 this along with counseling and training by my autism specialist

1 will help me to avoid conflict with any future law enforcement
2 interactions and help me to continue to learn how to
3 de-escalate misunderstandings in the future. I will be
4 especially cautious before going along with massive crowds.

5 While I take full responsibility for entering and
6 remaining in a restricted building for less than one minute,
7 I'd like to humbly offer some mitigating factors for your
8 thoughtful consideration. First, I humbly submit that I
9 believe it should weigh in my favor that my delay in leaving
10 was shorter than any other known January 6 defendant,
11 particularly considering those who have pleaded to this
12 particular charge. This displays a level of respect for law
13 and order and law enforcement. While it is not illegal to
14 raise one's voice, I agree it was inappropriate for me to shout
15 after the officer told me to exit, where I saw others were
16 being allowed to remain inside. However, I did exit within
17 that same minute.

18 Actions speak louder than words. I don't think it
19 would be fair to evaluate this conduct without viewing it
20 through a lens taking my autism into account. I am on the
21 autism spectrum. Autism is a development disorder that affects
22 social interaction, communication and behavior. I have faced
23 difficulties over the years, including with social
24 interactions, sensory sensitivities and communication barriers.
25 Autistic people often see things very black and white and

1 sometimes get stubborn or have outbursts that are unexpected
2 and not socially normative. The disability has impacted my
3 ability to navigate daily activities, such as work, education,
4 relationships and personal responsibilities. Throughout my
5 life, adjustments and accommodations have been made to cope
6 with challenges associated with it. Because I think and act
7 differently than neurotypical people, at times I can feel very
8 isolated and alone and different than society at large. And
9 due to frequent misunderstandings, which are usually minor, I
10 have a deep longing to be known and understood by others.

11 I am very extroverted which means I get recharged by
12 being around people and drained while being alone. During over
13 a year of home confinement relating to this case, I felt very
14 isolated. And recently I made efforts to seek treatment,
15 therapy and support services to address the challenges
16 associated with autism. Therapy sessions and participation in
17 support groups have helped me cope with the disability. I plan
18 to continue taking steps to improve my quality of life and
19 contribute positively to society, despite the disability.

20 In an effort to be compliant, I had my defense
21 attorney arrange with the government for me to self report.
22 However, before the appointed time to arrive, the FBI-led
23 counterterrorism task force conducted a dramatic, predawn
24 military SWAT team raid, which was very traumatic for me and my
25 family. Additionally, being incarcerated for 21 days in Fannin

1 County Jail and over a year of home confinement, was also very
2 traumatic, especially in light of my disability.

3 Prior to January 6, I was let go from a job where I
4 was making a reasonable income, which resulted in me living
5 paycheck to paycheck based on the cost of living in San
6 Francisco, even with occasional donations from my support base.
7 While I am grateful for the employment that I have now and even
8 had before January 6, it hasn't covered enough for me to be
9 able to finish off paying the crushing legal fees for my
10 previous defense attorney yet. About a quarter of the amount
11 has been raised by people who love and support me, whether
12 strangers, friends or family. Yet the prosecution seeks to
13 have me fined for that amount, even though that money has
14 already gone towards those legal fees. And I virtually have no
15 money to my name right now. Funds going to legal defense can
16 hardly be considered opportunistically profiting off my
17 criminal conduct.

18 For one thing, I am defending myself against a charge
19 that was dropped, the 1512. So some of the money could have
20 been considered going to that and not to this one. I am still
21 making regular payments out of my own money to pay off the
22 remainder of that legal cost. Being subjected to restrictions
23 stemming from my release conditions, combined with the lies
24 about me in the media, I have been able to pursue a more
25 lucrative career path in tech, which I have a degree in and

1 have extensive skills and experience with. Due to my name
2 being dragged through the mud, I will have to expend extra
3 effort and funds to instill trust in my potential clientele,
4 even though my crime did not involve dishonesty, I carry the
5 stigma.

6 Being in limbo since my arrest, has caused me to put
7 my life on hold. I would have liked to have gotten married and
8 started a family by now. And this has delayed that. All of my
9 life, I have been a law-abiding citizen with no criminal
10 history record, devout Christian, churchgoer and ministry
11 volunteer. I have dedicated my life to prayer, worship and
12 church unity in San Francisco as well as missions across the
13 United States and abroad. This includes speaking the truth,
14 working with a servant heart, preaching the gospel, helping the
15 poor and being an active member of my community. I pray that
16 the letters written to Your Honor show that despite some issues
17 caused by my autism, I am known in my family, churches and
18 communities as a wholesome man.

19 In my plea agreement, I agreed to allow law
20 enforcement agents to conduct an interview of me regarding the
21 events in and around January 6, 2021 prior to sentencing, ECF
22 82. I have fully complied with my long list of release
23 conditions. I have agreed to pay restitution to the Architect
24 of the Capitol in the amount of \$500.

25 I have been having counseling sessions with my autism

1 specialist every month and I'd like to continue those, which I
2 won't be able to do if I am incarcerated. I request that you
3 please allow me to become involved in the community in San
4 Francisco again as soon as possible so I can contribute to
5 society as a productive citizen.

6 No matter what happens, I give all glory, honor,
7 power and praise to the Lord, Jesus Christ, who was and is and
8 who is to come. Every knee will bow and every tongue will
9 confess. Amen.

10 THE COURT: When you say that lies have been
11 perpetrated against you in the media, what are you talking
12 about? What lies are you referencing?

13 THE DEFENDANT: Well, Your Honor, people, for
14 example, have said that I am a Proud Boy when I am not a Proud
15 Boys.

16 THE COURT: Other than that?

17 THE DEFENDANT: That is one of the main ones. And,
18 for example, they might assume I am guilty of the other charges
19 which I am not pleading to.

20 THE COURT: You are saying that when you were on the
21 bullhorn looking in the direction of a large number of police
22 officers, who clearly had formed a line that was in my view
23 indicating that people were not permitted to go past that
24 location, you are saying that you didn't realize that going
25 past those officers was somehow going to be wrong and you are

1 calling out for people to go in and accomplish whatever I guess
2 your objective was in coming to Washington?

3 THE DEFENDANT: Your Honor, to clarify, like if the
4 door is here, the police were here. So the police were not
5 obstructing the door. So it appeared to me as the people
6 meandering in and out from both directions and throughout the
7 crowd, they weren't even doing crowd control or traffic control
8 outside the building. When I went inside the building then saw
9 the cordon, then you could see that there was an attempt to be
10 made for traffic control. So outside, there was not that
11 impression, Your Honor.

12 THE COURT: Well --

13 THE DEFENDANT: I'd be happy to look at the video
14 again -- probably not the protocol, but I could show you --
15 point to the police or whatever.

16 THE COURT: Well, I am going to have to think about
17 overnight what I am going to do, because I am conflicted as to
18 what the appropriate thing to do is in your case. Because, I
19 mean, I am not an expert when it comes to autism or Asperger's
20 syndrome. But it concerns me what you did here both when you
21 are on the bullhorn calling for people to enter the Capitol --
22 it is hard for me to understand why you didn't appreciate that
23 that was wrong. And from the video, it sure appears to me that
24 that officer was directing his attention to you and telling you
25 that you were not permitted to enter. And his conduct that he

1 engaged in once you enter is totally consistent with that
2 inference for me to draw as to what he was saying to you.
3 Because as soon as you went past him, he went after you, which
4 would indicate that he was telling you, you could not enter.
5 And then you sought to avoid him. And then when he confronted
6 you again and, obviously, was saying something to you that you
7 didn't like, you called him an oath breaker.

8 And, you know, the police officers -- you say you are
9 not anti-police and I hope that is the case. But, you know, to
10 suggest that the only people who died that day were Trump
11 supporters that is just not true.

12 THE DEFENDANT: There were no --

13 THE COURT: There were at least three or four police
14 officers who committed suicide.

15 THE DEFENDANT: That wasn't on January 6th. I am
16 referring to the date specifically. I'm sorry if it is just my
17 autism that parses things very specifically.

18 THE COURT: I don't understand what you are --

19 THE DEFENDANT: So those people didn't die on
20 January 6, they died later. I actually don't think that they
21 died because of January 6th.

22 THE COURT: But you didn't think -- you reference
23 those people, but you didn't seem to have any sympathy for
24 police officers who died. You didn't seem -- there was one
25 officer who died of a heart attack as a result of what took

1 place. And there were three or four --

2 THE DEFENDANT: It was not as a result of what took
3 place.

4 THE COURT: Excuse me?

5 THE DEFENDANT: It actually was not as a result of
6 what took place, if you look at --

7 THE COURT: I understand. But you didn't seem to
8 care about those officers.

9 THE DEFENDANT: I do care.

10 THE COURT: You didn't seem to care about those
11 officers and what happened that day to them, that is my point.

12 THE DEFENDANT: Yes, sir, Your Honor. I do care.

13 THE COURT: I think it is unfortunate anybody died in
14 reference to what took place on that day.

15 THE DEFENDANT: So --

16 THE COURT: But you didn't seem to care about those
17 officers, you cared about the people who were engaging in
18 inappropriate behavior.

19 THE DEFENDANT: I don't believe the people who were
20 killed died because of their inappropriate behavior. And I
21 don't -- I didn't witness any of the police violence either.

22 THE COURT: You really don't have any remorse about
23 what happened that day. You seem to --

24 THE DEFENDANT: Ashli Babbitt did nothing wrong.
25 Rosanne Boyland did nothing wrong. Kenneth Grayson did --

1 THE COURT: You are digging a hole for yourself.

2 THE DEFENDANT: -- nothing wrong. Benjamin Phillips
3 did nothing wrong.

4 THE COURT: You are digging a hole for yourself.
5 Keep on digging.

6 THE DEFENDANT: Your Honor, I respect you. I don't
7 mean to be disrespectful.

8 THE COURT: No. He is digging a hole for himself.
9 It is showing me, contrary to what was indicated in the report,
10 he really doesn't have remorse about what happened that day.

11 MS. STEWART: Your Honor, I, again, want to bring up
12 a point to you about autism and specifics -- so Mr. Goodwyn
13 answers very specific questions. He does -- he has said
14 multiple times -- I don't know how to get it across to you
15 because he is trying to tell you here that he is very
16 remorseful that any police were injured.

17 THE DEFENDANT: I am, yes.

18 MS. STEWART: He prays for them. He prays for their
19 families. He -- his disagreement and believe that was at his
20 plea hearing was because four protesters actually were killed
21 by police and any police who died, died subsequent to January 6
22 starting with Brian Sicknick.

23 THE COURT: Four protestors were killed that day by
24 the police?

25 MS. STEWART: Yes.

1 THE DEFENDANT: Yes, I just named them.

2 THE COURT: I know of one.

3 MS. STEWART: Ashli -- we can name them. They are on
4 StopHate.com. But two of them were hit in the chest or torso
5 or nearby and caused immediate heart attacks on site, Your
6 Honor.

7 THE COURT: I don't think -- I mean, I understand
8 people who feel that what happened that day was all right.
9 They feel consistent with what you are indicating. But, you
10 know, the police were protecting the Capitol.

11 MS. STEWART: Yes, Your Honor --

12 THE COURT: And they were overrun by individuals who
13 were trying to subvert our governmental process. And he
14 doesn't seem to understand that.

15 MS. STEWART: Well, Your Honor, first of all, on
16 January 6, Mr. Goodwyn witnessed no violence, where he was,
17 where he went. He didn't see it until afterwards. And he
18 prayed. He prayed for everybody. He did not like anything as
19 it turned out on January 6th. He is telling you, he is
20 remorseful. So I want to say that. For the people where he
21 saw videos afterwards who died, they were back in the crowd.
22 They weren't up front engaged with police. This is a different
23 issue. It is not where he was. But when he says protesters
24 were killed, I have seen the videos and I concur.

25 But that is not for us. That is for Congress to

1 investigate and I tried to get across in the sentencing memo
2 and ask you not to take against him that he feels remorse for
3 those. Ashli Babbitt was shot by a police officer.

4 THE COURT: When she was coming through a window in
5 close proximity where congressional members. And this man who
6 was protecting the Capitol ends up being called a thug by the
7 former President of the United States. That is -- that is just
8 mind boggling.

9 THE DEFENDANT: He didn't warn her.

10 MS. STEWART: So, again, the Capitol Police cleared
11 him. He didn't warn her. He picked up a gun, he shot her. He
12 shot her in the neck. She is dead. I personally find it
13 offensive. I think it is murder.

14 THE COURT: Well, she shouldn't have been coming
15 through the window.

16 MS. STEWART: She was jumping up and down asking for
17 help after the police --

18 THE COURT: You should not have been -- you cannot
19 convince me that somehow what she was doing was somehow
20 justified and the police did not have a justification for
21 taking the actions that they took. You can't convince me of
22 that.

23 MS. STEWART: Okay. All right. Well, then we won't
24 try.

25 Your Honor, but he wasn't there. What he is saying

1 is he doesn't like that. He has a different view. Many people
2 have a different view. Her mother has a different view. I am
3 not sure if her mother is still here today.

4 THE DEFENDANT: She stepped out.

5 MS. STEWART: She stepped out.

6 THE DEFENDANT: Probably because he pissed her off.

7 MS. STEWART: Because she supports people who did
8 nothing violent and in memory of her daughter comes to many of
9 the court proceedings.

10 So, Your Honor, I ask for your graciousness in this.
11 He doesn't condone any violence. He has never committed a
12 violent act. He answers questions as asked. So --

13 THE COURT: Okay. I heard all of this. I will think
14 about it overnight.

15 MS. STEWART: All right.

16 THE COURT: We'll reconvene at 1:30 tomorrow and I
17 will decide what is the appropriate thing to do.

18 THE DEFENDANT: Thank you, Your Honor.

19 THE COURTROOM DEPUTY: All rise. This Honorable
20 Court is adjourned for the day.

21 (Proceedings concluded at 4:54 p.m.)

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C E R T I F I C A T E

I, SHERRY LINDSAY, Official Court Reporter, certify that the foregoing constitutes a true and correct transcript of the record of proceedings in the above-entitled matter.

Dated this 16th day of June, 2023.



Sherry Lindsay, RPR
Official Court Reporter

EXHIBIT 2

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P R O C E E D I N G S

THE COURTROOM DEPUTY: This is criminal matter 21-153, United States of America versus Daniel Goodwyn. On behalf of probation, we have Jessica Reichler.

May I have counsel approach the lectern and state your appearance, beginning with the government.

MR. HAAG: Good afternoon, Your Honor, Andrew Haag for the United States.

THE COURT: Good afternoon.

MS. STEWART: Good afternoon, Your Honor. Carolyn Stewart for Daniel Goodwyn.

THE COURT: Good afternoon. Okay. I took this matter under consideration and gave a considerable amount of thought on what was the appropriate thing to do in this case and, ultimately, had to look at what occurred here and assess what the appropriate sanction should be. And first of all, the defendant, as unfortunately as so many other of our fellow Americans has accepted the false impression based upon information that has been disseminated about the 2020 presidential election that somehow it was stolen. And there is just no proof whatsoever that that was, in fact, the case. To the extent that there may be some or may have been some irregularities in the electoral process, there has been no indication that those irregularities had any impact on the ultimate outcome of the election.

1 There have been over 60 lawsuits that were brought
2 seeking to challenge the electoral result. None of them have
3 been successful. And judges from all aspects of the bench have
4 made that conclusion. And as with so many other Americans, the
5 defendant accepted the false conclusion that the election had
6 been somehow stolen. And there is no evidence that I have
7 heard that establishes a nexus between him having reached that
8 conclusion and his problem or situation with autism.

9 The defendant with the intention to protest the
10 election results, traveled all of the way across the country to
11 come here as he had a right to do. And it is the American way
12 to protest peacefully, when protest is thought to be
13 appropriate. But here, the protest became more than just the
14 peaceful protest in opposition to something that the American
15 citizenry -- at least some disapprove with. While I can't say
16 to what extent the defendant is associated with the Proud Boys,
17 he clearly online did make statements indicating an association
18 with them and that he made the same statement that the former
19 president made when referencing the Proud Boys indicating stand
20 back and stand by.

21 And, again, there is no evidence that I have heard
22 regarding his autism that would establish a nexus between him
23 having made that statement and the autism from which he
24 suffers. And he, after listening to apparently the former
25 president make his statements at his rally -- he then comes

1 down to the vicinity of the Capitol with a bullhorn. He then
2 is exulting other rioters to find their way into the Capitol.

3 And counsel represents that he needs a clear
4 indication of something in order for him to appreciate what is
5 being expected or what is being denied. And here, according to
6 the evidence that the government showed when he was on the
7 bullhorn, he made statements to the effect that a critical mass
8 was needed in order to accomplish the objective of impeding the
9 certification of the presidential election at a time when it
10 seems clear to me that he would have seen a larger number of
11 police officers who were, in fact, impeding the ability of
12 people to gain access to the Capitol. And that statement, it
13 seems to me, is inconsistent with the suggestion that he had no
14 appreciation that he and others who were a part of the group
15 were not welcome inside of the Capitol.

16 And, again, there is nothing that would indicate that
17 his autism impacted on his perception in that regard. The
18 defendant after he entered a plea of guilty, within several
19 months, then appears on the Tucker Carlson show. And,
20 unfortunately, Mr. Carlson has been a lightning rod and he has
21 said and done things that I think clearly have been divisive.
22 And he, obviously, had an objective in the show that he had
23 when the defendant appeared on that show. And that was to give
24 the impression that individuals who have been charged in
25 reference to the events on January 6th of '21 have been treated

1 unfairly. And I see no evidence that, in fact, was the case.

2 But he sought to try and minimize, not only the
3 conduct of the defendant, but the conduct of others who have
4 been prosecuted as a result of what took place on that day.
5 And counsel suggests that the defendant did not have the
6 opportunity to correct the record. But he made no attempt to
7 correct the record. And when Carlson suggested that all the
8 defendant did was go into the Capitol and walk around for less
9 than a minute and leave, that just wasn't correct.

10 And that misinformation that is disseminated to the
11 American public has contributed to the discord that now exists
12 in our country in reference to the presidential election and
13 what occurred on January 6th. And there are people who are
14 proclaiming that the individuals who have been prosecuted, who
15 are being detained as a result of that are being held as
16 political prisoners. And there is just nothing that supports
17 that proposition.

18 But, nonetheless, it is something that parts of the
19 media have sought to portray. And as a result of that have, in
20 fact, continued to stir up the anger that people have resulting
21 from the misinformation that has been disseminated to the
22 American public about the events that took place on January 6th
23 of '21.

24 And the defendant did not mention the fact that he
25 was on the bullhorn encouraging people to breach the Capitol,

1 which clearly he did when he made his statements. And he did
2 not relate the fact that when he got to the door. And it was
3 clear to me from the evidence that the government submitted,
4 the videos, that when he was at the door, it is clear,
5 considering what took place immediately thereafter, that the
6 police officer who had directed his attention to the defendant,
7 for whatever reason, was saying to the defendant that he could
8 not enter the Capitol. Because as soon as the defendant
9 entered the Capitol, the officer went immediately after him
10 having previously been in contact with him and sought to try
11 and -- the evidence would show have him leave the Capitol.

12 The defendant sought to avoid him. And then when the
13 officer came back in contact with him, again, the defendant had
14 the audacity to call the officer an oath breaker, which clearly
15 was, in my view, an inappropriate statement to make to a police
16 officer who was doing nothing other than carrying out his
17 official duties to protect the Capitol and to protect those at
18 the Capitol he has an obligation to protect. And, again, there
19 is just no evidence whatsoever in the record that would suggest
20 that the defendant's autism caused him to either get on the
21 bullhorn and say the things that he did or to make that
22 inappropriate statement to that police officer.

23 And all of that, obviously, causes me very
24 significant concern, because the argument that has been made is
25 that his autism should be reason for the Court to basically

1 overlook what he did and not impose any punishment as a result
2 of the conduct that he engaged in. And, again, there is just
3 no evidence that would support that was the case. And the
4 defendant, even as of yesterday, still points out his concern
5 about allegedly individuals who were purportedly assaulted by
6 the police, and according to him, have died as a result of
7 those encounters.

8 I have seen no evidence that would indicate to me --
9 and I have seen hours and hours of the videos of what took
10 place that day. I have seen nothing that would indicate that
11 the police did anything that would indicate they were acting
12 excessively. The police were under assault. Several police
13 officers, because of the violent nature of what they
14 experienced have committed suicide, another officer who died as
15 a result of the trauma he experienced as a result of that.

16 And the defendant's concern has been in reference to
17 these individuals who allegedly had a demise as a result of
18 their encounter with law enforcement. Well, those individuals
19 put themselves in that position. All the officers were doing
20 was carrying out their official duty trying to protect the
21 Capitol from those individuals. So to the extent that there
22 were, in fact, individuals who were injured who allegedly died
23 as a result of their injuries -- which I don't know about other
24 than Ms. Babbitt, who is the only person I am familiar with who
25 suffered injuries and died as a result of that. Again, he

1 associates himself with these individuals who were engaged in
2 wrongdoing as compared to the officers who were merely
3 performing their official duty.

4 And, again, that would suggest to me that despite
5 counsel's representations about him being contrite about what
6 he did and his representations about that, that just rings
7 hollow considering those sympathies that he has towards those
8 who created the problem as compared to those who were
9 performing their official duty.

10 And all of that -- and, again, there is nothing that
11 I have heard in the evidence that has been presented to me that
12 shows a nexus between his autism and his perspective about
13 these individuals and their alleged injuries and demise as
14 compared to what happened to the police officers.

15 So having reached all of those conclusions, I just
16 don't see how I can conclude that he should be treated any
17 differently because of his autism as compared to other
18 individuals who engage in similar conduct. And I deemed it
19 appropriate on several occasions to impose something less than
20 a prison sentence on individuals who merely went into the
21 Capitol, did not do any damage to the Capitol and did not
22 engage in assaultive behavior. Under those circumstances, I
23 thought that while I don't in any way condone what they did
24 because they contributed to the mob mentality that resulted in
25 what occurred on January 6th, I nonetheless felt under those

1 circumstances those individuals were entitled to a probationary
2 sentence as compared to a period of detention. For those
3 individuals who have done more, I felt that that wasn't
4 appropriate. And that includes not only what occurred on that
5 day, but things that they did thereafter.

6 And, clearly, one of the problems that we are
7 suffering as a country as it relates to the 2020 election and
8 the events that occurred on January 6th is this information
9 that continues to be disseminated to the American public. And
10 as a result of that, is creating the dissension that exists in
11 America and that is just not good for the future of our
12 country.

13 And the defendant contributed to that by what he did
14 and what he said and didn't do when he appeared on the Tucker
15 Carlson show, because that misinformation that he contributed
16 to, in my view, contributes to what we are still experiencing
17 as a result of what occurred on January 6th of 2021. And
18 absent, again, my conclusion that anything has been shown that
19 his autism should cause him to be treated differently than
20 other individuals, it is my conclusion that a period of
21 detention is therefore appropriate.

22 And then, obviously, the question becomes what is the
23 appropriate amount of time. He has already apparently served
24 21 days. And he should be given credit, obviously, for that.
25 But it is my conclusion that a period of detention for

1 punishment purposes, which is an appropriate factor to consider
2 is appropriate. Also I think it is important that deterrence,
3 both specific and general, be a part of any sentence. And I
4 would hope that individuals in the future would appreciate that
5 if they are going to engage in the type of inappropriate
6 behavior that occurred on January 6th that there are going to
7 be consequences. And those consequences are going to result in
8 their freedom being denied, at least for some period of time,
9 with the hope that will cause individuals not to engage in this
10 type of behavior again. And will send a message to others
11 discouraging them from engaging in such behavior.

12 I don't know if there is anything -- there would not
13 appear to be anything that would need to be done to provide him
14 with the skills and the coping mechanisms to not involve
15 himself in anything of this nature. But I don't know if that
16 is true or not. But I don't think that is really a significant
17 factor to consider. Considering the types of sentences
18 available to me -- obviously, there are a lot of different
19 options. But it has been my position in these cases and the
20 seriousness of these cases and what it has done to our country
21 that a sentence of something less than detention, absent those
22 situations that I explained earlier where someone just went
23 into the Capitol and did not do any damage and did not assault
24 individuals, that those alternative sentences are not an
25 appropriate sentence to impose in this case. And I have

1 considered other individuals who have engaged in similar
2 conduct and what type of sentence they have received to avoid
3 not giving a sentence that is inappropriate -- different from
4 sentences given to other individuals who engaged in similar
5 conduct. It is my view, again, that a period of detention is
6 appropriate. And I would conclude that defendant should be
7 detained for a period of 60 days with credit for any time he
8 has already served.

9 I also would require he serve on supervised release
10 for a period of one year. And that while he is on supervised
11 release, he cannot be rearrested for any reason whatsoever.
12 While he is on release for any offense, he also must fully
13 cooperate with his probation officer, which means he has to
14 meet with that person each and every time he is told to. Also
15 there is no indication of drug use, but he cannot possess or
16 use illegal drugs. He will have to be tested as required at
17 least once within 16 days of his release from his jail sentence
18 to see if he is using drugs. And he also has to provide a
19 sample of his DNA so see if he is involved in further crime
20 that can be used to identify him.

21 I would, consistent with the parties' agreement,
22 require that he pay \$500 in restitution. The probation
23 department has done an assessment of his financial situation.
24 And while I in no way condone the fundraising that he engaged
25 in, it appears that he does not have the money to pay the fine.

1 And, therefore, I would impose a fine, but not the amount that
2 is being requested. I would impose a fine in the amount of
3 \$2,500.

4 Also, I would require that he participate in mental
5 health treatment, if that is deemed to be necessary and that he
6 remain in that treatment until it is no longer felt to be
7 necessary by the probation department. Also until he has
8 satisfied his financial obligations to the Court that he
9 provide any financial information to the probation office that
10 is requested and that he not create any new financial
11 obligations by way of credit obligations until those amounts
12 are paid or he gets authorization to do that from the probation
13 department.

14 I also would impose a restriction that he not possess
15 any firearms or any other dangerous weapons while he is on
16 supervised release and that he maintain employment, if he is
17 able to do so while he is under supervision.

18 And since he has used social media in order to
19 provide what I consider to be disinformation about this
20 situation, I would require that he permit his computer use to
21 be subject to monitoring and inspection by the probation
22 department to see if he is, in fact, disseminating information
23 of the nature that relates to the events that resulted in what
24 occurred on January 6th of 2021.

25 The restitution is to be paid to the Architect of the

1 Capitol. And those payments are to be made to the Court. And
2 the Clerk's Office will then forward that money to the
3 architect. I will also authorize the release of the
4 presentence report to the appropriate entities who need it in
5 order to carry out the orders of the Court.

6 The defendant does have a right to appeal his
7 conviction and his sentence to the Court of Appeals. If he
8 cannot afford to pay for a lawyer to represent him on appeal or
9 if he cannot afford to pay for the papers to be filed with that
10 Court to let the Court know he wants to appeal, those expenses
11 will be paid free of charge by the government.

12 Probation, anything else?

13 MS. REICHLER: Nothing additional at this time, Your
14 Honor. Thank you.

15 THE COURT: Anything else from the government?

16 MR. HAAG: Your Honor, at this time, the defendant
17 having been sentenced, the government moves to dismiss the
18 remaining four counts of the indictment.

19 THE COURT: Very well. That motion is granted.

20 Anything else from the defense?

21 MS. STEWART: Yes, Your Honor. Since you have
22 determined that he should have --

23 THE COURT: I will permit him to self report.

24 MS. STEWART: Excuse me, sir?

25 THE COURT: I will permit him to self report to the

1 facility where he is designated to serve his jail sentence.

2 MS. STEWART: All right. So self reporting. And
3 also I would ask that you notate to the Bureau of Prisons his
4 request for minimum security, which would be a prison camp at
5 Bastrop, Texas, B-A-S-T-R-O-P. And if that is not available,
6 second choice of El Reno; E-L, second word, R-E-N-O. That is
7 in Oklahoma and also a minimum security camp. But the request
8 is for minimum security imprisonment, Your Honor.

9 THE COURT: I will recommend that he be permitted to
10 serve a sentence at a location as close to his family as
11 possible. But I will leave it to the Bureau of Prisons to make
12 an assessment as to what his level of detention should be.

13 MS. STEWART: Your Honor, in other cases it is
14 allowable. I request here that at least we be allowed to enter
15 that his request is for minimum security. It has happened in
16 other cases that the judge enters the minimum security request,
17 noted by the defendant. The Bureau of Prisons doesn't have to
18 listen to us. We understand that.

19 THE COURT: Very well. I will recommend that he be
20 held and detained at a minimum security facility.

21 MS. STEWART: Thank you, Your Honor.

22 (Proceedings concluded at 2:23 p.m.)

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C E R T I F I C A T E

I, SHERRY LINDSAY, Official Court Reporter, certify that the foregoing constitutes a true and correct transcript of the record of proceedings in the above-entitled matter.

Dated this 14th day of June, 2023.



Sherry Lindsay, RPR
Official Court Reporter