

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CR No. 21-245
)	Washington, D.C.
vs.)	October 6, 2023
)	3:15 p.m.
SHANE JENKINS,)	
)	
Defendant.)	
_____)	

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

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

2 COURTROOM DEPUTY: All rise.

3 The Court is now in session. The Honorable
4 Amit P. Mehta now presiding.

5 THE COURT: Good afternoon, everyone. Please be
6 seated.

7 COURTROOM DEPUTY: Good afternoon, Your Honor.
8 This is Criminal Case No. 21-245, United States of America
9 versus Shane Jenkins.

10 David Perri and Holly Grosshans for the
11 government.

12 Dennis Boyle on behalf of the defense.

13 Aidee Gavito on behalf of the Probation Office.

14 The defendant is appearing in person for these
15 proceedings.

16 THE COURT: All right. Good afternoon again,
17 everyone.

18 Mr. Jenkins, good afternoon to you, sir.

19 All right. So we're here for sentencing this
20 afternoon. Are both sides ready to proceed?

21 MS. GROSSHANS: Yes, Your Honor.

22 MR. BOYLE: Yes, Your Honor.

23 THE COURT: Mr. Boyle.

24 Let me just sort of preview how we'll proceed this
25 morning.

1 So I'll just go through what I've received and
2 reviewed from the parties. I'll ask Mr. Boyle to confirm
3 that Mr. Jenkins has had the opportunity to review the
4 Presentence Investigation Report. There are a number of
5 preliminary matters relating to the guidelines and a few
6 other aspects of sentencing that we need to discuss.

7 I'll then provide the Guidelines calculation and
8 then we will proceed into the parties' allocutions from
9 there, okay?

10 So let me just start with what I've received and
11 reviewed.

12 So I have the Presentence Investigation Report at
13 83, the Probation Office's recommendation at 84,
14 government's memorandum in aid of sentencing at 85, along
15 with the exhibits that were submitted, as well as Commander
16 Kyle's video victim impact statement.

17 And then I've reviewed and received the
18 defendant's memorandum in aid of sentencing at 86, which
19 included quite a few letters that each of which I've
20 received and reviewed.

21 So is there anything else that I should have
22 mentioned that I did not?

23 Okay. Hearing nothing, then assume I've reviewed
24 everything I've received.

25 Mr. Boyle, can just ask you to please confirm that

1 Mr. Jenkins has had the opportunity to review the
2 Presentence Investigation Report?

3 MR. BOYLE: He has, Your Honor.

4 THE COURT: Okay.

5 All right. So let's then turn to preliminaries.
6 And I understand that -- I'm just now seeing this note, that
7 Mr. Jenkins' brother would like to be heard; is that right?

8 MR. BOYLE: He is present in the courtroom. He
9 would like to speak for two or three minutes at the
10 appropriate time.

11 THE COURT: Okay.

12 Let me just -- now would be the appropriate time.

13 Let me ask the government whether the government
14 has any victim impact statements it wishes to present here
15 in court today?

16 MR. PERRI: We don't have any witnesses,
17 Your Honor. And we don't have any additional impact
18 statements other than the one that we shared with the Court
19 the other day. Thank you.

20 THE COURT: All right. Thank you. Very good.

21 All right. So this would be an appropriate time
22 if Mr. Jenkins' brother would like to approach, I'm happy to
23 hear from him.

24 MR. VANWINKLE: Hello, Your Honor.

25 THE COURT: Hello, sir. How are you?

1 MR. VANWINKLE: I'm well, sir. Thank you.

2 THE COURT: Can I just ask you to state your name
3 so the court reporter knows it and it's on the record.

4 MR. VANWINKLE: I'm Marc Brinn Vanwinkle.

5 THE COURT: Mr. Vanwinkle, there's a microphone
6 there, I'm going to ask you to bring it closer and keep your
7 voice up. Thank you, sir.

8 MR. VANWINKLE: Can you hear me?

9 THE COURT: I can hear you fine.

10 MR. VANWINKLE: I would just like to say, I don't
11 think anybody -- I mean, all of us need a second chance
12 sometimes. Shane is a wonderful person. If anybody spent
13 five minutes talking to him, you'd know what a great person
14 he is. He mentors to at-risk youth in his community.
15 He's -- he walks -- he's an -- I know him to be a Christian
16 and he walks his faith every day.

17 We've already waited two and a half years for him
18 to -- for his, you know, speedy trial to come, and he's been
19 away from us for so long, I just like to ask that y'all give
20 him another chance and not give him a lengthy prison
21 sentence because he's the last one -- he and I are the last
22 ones of our generation of our family and lengthy prison
23 sentence would mean I'll never -- you know, I'll never get
24 to see him again. So I just hope y'all would see clear to
25 do the right thing and give him back to us. Thank you.

1 THE COURT: All right. Thank you, Mr. Vanwinkle.

2 And, Mr. Boyle, if there are others here on behalf
3 of Mr. Jenkins and you'd like to identify them, I'm happy to
4 know who they are.

5 MR. BOYLE: Your Honor, there are a number of
6 people. If I can ask them to rise. These are friends and
7 supporters. Mr. Jenkins' niece is here beside her uncle.
8 Would you like -- I'm sure I know the names of everyone.
9 Would you like the names?

10 THE COURT: If they'd like to --

11 MR. BOYLE: If anybody would like to identify
12 their names of somebody to supports Shane.

13 ALSO PRESENT: Debra Ash.

14 Nicole Breadman.

15 Nicky Woodline, I support Shane.

16 Caroline Hester.

17 Serena Sampson, I support Shane.

18 Elena Gibson, I support Shane.

19 THE COURT: All right. Thank you, all, and
20 thank you, all, for being here.

21 Okay.

22 So anything other sort of witness statements or
23 introductions anybody would like to make before we proceed?

24 Okay.

25 All right. Let's turn to some of the disputed

1 matters, starting with the guidelines.

2 So the first concerns the administration of
3 justice enhancements under 2J1.2(b)(1)(B) and (2), and the
4 defense's argument is that it does not apply to what is a
5 nonjudicial proceeding before Congress.

6 Anybody wish to be heard about that issue?

7 MR. BOYLE: Nothing further from the defense,
8 Your Honor.

9 MR. PERRI: We addressed that in our sentencing
10 memorandum, and nothing else.

11 THE COURT: All right.

12 So I do think it does apply here.

13 Let me -- I have given a longer recitation of why
14 I believe it applies in the Oath Keepers sentencings, the
15 first set of Oath Keepers sentencings, and I believe in the
16 third, and so I'm going to have the record reflect my
17 rationale that is sort of more fulsome, at least, stated in
18 the first Oath Keeper case, that is in the United States
19 versus Stewart Rhodes.

20 But I'll just quickly summarize it here, which is
21 that if one looks at the history of how this Guideline came
22 into existence and tracks it against the development of the
23 statute and the statutory provisions that it covers, that
24 is, what the Guidelines cover.

25 And what I think that analysis does is show fairly

1 clearly that when this guideline was first enacted by the
2 Sentencing Commission, the administration of justice
3 enhancements were already in the Guideline, and the
4 Guideline made clear, through its commentary, that it
5 intended to cover the wide range of conduct that was
6 prohibited by the offenses that are subject to this
7 Guideline; that is, as the commentary indicates, 1503, 1505
8 through 1513.

9 Now, importantly, the Guideline covers expressly
10 1512(c)(2). And when the Guideline was promulgated, that
11 was already defined as including conduct before an official
12 proceeding, and the statute at that point already defined an
13 official proceeding to include a proceeding before Congress.

14 All that history, I think, what it reveals is that
15 when the Guideline came into effect and the way it was
16 drafted and set forth, if importantly recognizes, I think,
17 two things.

18 One is that the administration of justice term was
19 used in a way that was intended to cover all of the -- at
20 least my understanding and interpretation, best
21 interpretation is, it was used to cover all of the types of
22 proceedings that could be subject to an obstruction offense
23 that is sort of through 1503, 1505 through 1513, and
24 certainly would cover obstructive offenses under 1512, and
25 including any obstructive conduct before Congress, because,

1 of course, the proceeding before Congress is included in the
2 definition of an official proceeding.

3 So I've set forth that rationale in a more
4 extended way in other sentencings and I will adopt that here
5 once more. But for summary purposes, I'll let the record
6 reflect incorporation of those earlier proceedings, and
7 that's my explanation for why I do think the administration
8 of justice enhancements apply under 2J1.2 even though this
9 is an official proceeding not involving a judicial function.

10 Okay. Then there is the official victim
11 enhancement that has been objected to.

12 Mr. Boyle, do you wish to be heard about that any
13 further?

14 MR. BOYLE: Your Honor, we will rely upon our
15 previous submissions to the Court.

16 THE COURT: Okay.

17 Does the government wish to be heard?

18 MR. PERRI: We as well, Your Honor.

19 THE COURT: Okay.

20 So as I understand this, the official victim
21 enhancement has been recommended for two different offenses.
22 The first is the 1512(c)(2) offense, and the second is the
23 111(a)(1)(b) offense. It also arguably could apply to some
24 of the 1752 offenses, but it has no material impact on the
25 final score.

1 But I don't think there's any doubt that it
2 applies to Count 3, which is the 111(b) count, as under
3 3A1.2, a six-level enhancement is applicable under 3A1.2(b),
4 if the victim was a government officer or employee and the
5 conviction -- and offense of conviction was motivated by
6 such status.

7 And between the conviction in the civil disorder
8 statute and the conviction for Count 3, that is the
9 assaulting, resisting, and impeding certain officers,
10 I think the 3A1.2(b) elements are satisfied. So at least
11 for Count 3, the official victim enhancement does apply.

12 Now, that's the less important of the two in a
13 sense, because it is the recommended official victim
14 enhancement under 3A1.2(c)(1) that probation has recommended
15 and the government has requested.

16 That enhancement provides that if in any manner
17 creating a substantial risk of serious bodily injury, the
18 defendant or a person whose conduct the defendant is
19 otherwise accountable, knowing or having reasonable cause to
20 believe that a person was a law enforcement officer,
21 assaulted such officer during the course of the offense or
22 immediate flight therefrom.

23 And so I think the defense argument here is that
24 the victim, for purposes of 1512(c)(2) is not an officer but
25 Congress, as the object, is the obstruction of an official

1 proceeding, however I don't read the Guideline to marry up
2 necessarily with the statutory victim; in other words, if
3 during the course of committing the offense that constitutes
4 the offense, even though the particular act may not go at
5 least directly to an element that doesn't require assaultive
6 behavior, I still think the official victim enhancement
7 potentially applies.

8 So to be precise, if somebody commits a violation
9 of 1512(c)(2) and in the course of doing so engages in
10 conduct that could give rise to a substantial risk of bodily
11 injury to someone that the defendant had reasonable cause to
12 believe was a law enforcement officer and then assaulted
13 such officer during the course of the offense, that official
14 victim enhancement could apply.

15 And so applying that here with respect to the
16 1512(c)(2) count, I do think it does apply just as I think
17 it would apply -- 3A1.2(c) would also apply to Count 3,
18 because we do have Mr. Jenkins having reasonable cause to
19 believe a person was a law enforcement officer. The jury
20 certainly so found by virtue of the Count 3 conduct, and
21 so -- you know, the jury certainly found, and I would agree,
22 that he had reason to know that there were police officers
23 and reason to believe that there were police officers in the
24 tunnel, and that he then assaulted such officers during the
25 course of the offense.

1 And specifically, there were at least two objects,
2 if not more, that were hurled in the direction of police
3 officers who were inside the tunnel, that did create a
4 substantial risk of serious bodily injury, at least two.

5 One was the wooden desk drawer that was hurled at
6 the officers. That, at least I theorize and believe by a
7 preponderance of the evidence, came from a piece of
8 furniture that was broken inside the room that was sort of
9 immediately to the left of the tunnel that was protected by
10 the window that Mr. Jenkins and others broke to get access
11 to that room.

12 There's video of materials being passed out of
13 that room, although I don't think there's a video of the
14 desk drawer, but it's hard to imagine where else it would
15 have come from, of the desk drawer, and Mr. Jenkins is seen
16 on video hurling that desk drawer toward the police
17 officers, and if it had, you know, certainly struck any one
18 of them in the head unprotected with a helmet, it could have
19 caused serious bodily injury, certainly created the
20 substantial risk of it.

21 And then there were a number of the items, in
22 particular, I think there was a flagpole that was sort of
23 looked like and thrown like a javelin at the police who were
24 in the tunnel, and certainly the manner in which Mr. Jenkins
25 threw that javelin toward the police -- line of police,

1 created a substantial risk of serious bodily injury.

2 Again, an officer who could have been struck in
3 the head, specifically in the eye, any number of places in
4 the body with the manner and force with which Mr. Jenkins
5 hurled that object, as well as some of the other objects he
6 hurled, certainly did create a substantial risk of serious
7 bodily injury even though the government's proof did not
8 specifically identify any particular officer as having been
9 injured by the conduct. That's not what was required by the
10 Guideline. It's simply the creation of a substantial risk
11 of serious bodily injury to some law enforcement officer.
12 And I do think the facts, by a preponderance of the
13 evidence, here satisfy 3A1.2(c)(1). So I will apply the
14 six-level enhancement.

15 All right. So then there is the request for the
16 terrorism enhancement under 3A1.4. Anybody wish to be heard
17 about that?

18 MR. PERRI: Nothing further, Your Honor.

19 THE COURT: Mr. Boyle.

20 MR. BOYLE: Your Honor, we've addressed this at
21 page 12 of our sentencing memorandum. I'm sure the Court
22 read that.

23 We just don't believe that this is a sort of
24 circumstance that gives rise to a terrorism enhancement, as
25 we've explained more fully in our brief. I'm prepared to go

1 over that if the Court would like, but I don't think that's
2 necessary.

3 THE COURT: No.

4 So just to step back here, the terrorism
5 enhancement applies -- this is 3A1.4. And what the
6 government here has requested is the application of the
7 terrorism enhancement itself, which is defined as, if the
8 offense is a felony that involved or was intended to promote
9 a federal crime of terrorism, increased by 12 levels, but if
10 the resulting offense level is less than 32, to increase to
11 32.

12 And so that's how the government gets to 32 here,
13 as probation has recommended the same, and as well if that
14 enhancement is applied, Criminal History Category jumps from
15 whatever it is to Category VI.

16 Mr. Jenkins' conviction for destruction of
17 property qualifies as a federal crime of terrorism, and so
18 the Guideline, if the rest of it -- if the other elements
19 are satisfied, applies.

20 So I am not going to apply it; and let me explain
21 why. It's really primarily two reasons. One is, as far as
22 I'm aware, the terrorism enhancement has been applied almost
23 exclusively to one group of defendants; and that is those
24 who have engaged in conspiracies and were convicted of
25 seditious conspiracy and/or convictions of lesser

1 conspiracies, including 1512(c)(2). I've applied it at
2 various degrees in the Oath Keepers cases, not the terrorism
3 enhancement itself, that is, the enhancement that jumps to
4 the 32 level, but, rather, the upward departure provision
5 that's provided for in the notes. I have applied that in
6 those cases. I believe Judge Kelly is the only one to have
7 actually applied the terrorism enhancement to any individual
8 defendant, that is, increasing the terrorism -- excuse me,
9 increasing the base level to a 32.

10 But, of course, Judge Kelly's cases were very
11 different, they involved the Proud Boys, they involved
12 convictions of seditious conspiracy. Mr. Jenkins here, of
13 course, is not charged with any sort of conspiratorial
14 conduct. He is charged as an individual and acting as an
15 individual. And while his conduct certainly created a risk
16 of bodily injury, it was conduct that the jury found was
17 directed at an official proceeding, I don't think it is the
18 type of individual conduct here that was contemplated by the
19 terrorism enhancement. With one -- the enhancement; that is
20 the 32-level increase.

21 Now, I have applied the departure in one other
22 case, and that is to another defendant by the name of --

23 MR. PERRI: Southard-Rumsey.

24 THE COURT: In U.S. versus Southard-Rumsey at
25 21-CR-387.

1 And I will just say, I didn't apply the 32-level
2 enhancement, but did add, I think, a single point as a
3 departure in that case.

4 But Ms. Southard-Rumsey's conduct was vastly
5 different than Mr. Jenkins in important respects. The most
6 important of which is she got inside the building. While
7 she was inside the building, she committed three different
8 assaults on police officers, including, most importantly,
9 finding her way through an assault of a police officer to
10 get to the very door of the House Chamber where she was
11 loudly screaming threats to the members who were in the
12 House Chamber at the time, cowering in fear.

13 There is a very sobering video that is in the
14 record in that case of, I suppose it was a Secret Service
15 agent or some other member of law enforcement with a handgun
16 drawn at the door that can be seen in the video, somebody is
17 filming it on the other side of the door and that's where
18 Ms. Southard-Rumsey stood.

19 Mr. Jenkins doesn't come close to that kind of
20 conduct. Although it is troubling in other respects, he
21 ultimately doesn't get in the building. He has no proximity
22 at all to the actual Members of Congress and to the House
23 Chambers itself. And so I think his conduct sits in a very
24 different position in my mind. And to my knowledge, she is
25 the only person to whom the enhancement has been applied, I

1 may not know of all the others, but that's the only other
2 person that I'm aware of that the departure provision has
3 been applied under Note 4, but I don't think it's warranted
4 in this case for the reasons I've just explained, okay?

5 All right.

6 The next issue concerns Mr. Jenkins' criminal
7 history, and anybody want to be heard about that?

8 MR. PERRI: In what respect, Your Honor?

9 THE COURT: Just anybody want to -- I think there
10 was an issue raised by the defense about it. Or was that
11 resolved?

12 MR. BOYLE: I think that resolves the criminal
13 history issue. I think that without that it's a Criminal
14 History III, as I recall.

15 THE COURT: All right.

16 So I have a correction that I've conferred with
17 probation about concerning the criminal history that does
18 affect the Criminal History score.

19 So the Presentence Investigation Report recommends
20 that two points be assessed for the conviction for resisting
21 arrest, that is set forth in paragraph 65 of the Presentence
22 Investigation Report, and then recommends an additional
23 three criminal history points for the offense that is at
24 paragraph 66. This is the possession of a controlled
25 substance of one gram or more.

1 That two points should not have -- do not count,
2 and the reason is if you compare the information about the
3 two offenses, they occurred on the same day and Mr. Jenkins
4 was sentenced on the same day. You can see that the date of
5 the offenses is the same, December 22nd, 2013, and that he
6 was sentenced on the same day for both offenses, that is,
7 April 7th, 2014. And if you look at the description of the
8 offense, the case numbers are just one digit off.

9 So for whatever reason, the folks in Texas charged
10 these by a separate charging document, but I think the
11 proper inference is that the conduct that's in 65 and 66
12 arose out of the same event, and under -- I don't remember
13 what the guideline number is, but bottom line is --

14 Do you remember what the Guideline provision is?

15 I usually write these down.

16 PROBATION OFFICER: Yes, Your Honor. That's
17 4A1.2.

18 THE COURT: Right.

19 So under 4A1.2 --

20 Thank you, Ms. Gavito.

21 The 4A1.2 offenses that occurred on the same day
22 and offenses that -- in other words, offenses that are not
23 separated by arrest that are sentenced on the same day are
24 treated as a single offense. And I've conferred with
25 probation about this, and probation agrees that the two

1 levels that are identified in 65 should not apply.

2 So the criminal history -- the revised Criminal
3 History score will be a 7 and not a 9, which will drop
4 Mr. Jenkins down to a Criminal History Category IV instead
5 of V, okay?

6 Any questions or objections to that?

7 MR. BOYLE: No, Your Honor.

8 MR. PERRI: No, Your Honor.

9 THE COURT: All right.

10 Let's talk about the fine request. The government
11 has requested a fine of in excess of \$100,000 based upon
12 Mr. Jenkins having raised funds while he's been incarcerated
13 that the government contends essentially capitalizes or
14 takes advantage of his offense conduct.

15 So, Mr. Boyle, let me turn it to you and ask you
16 what your position is on this.

17 MR. BOYLE: Your Honor, our position is that this
18 money that was raised was raised for Mr. Jenkins' criminal
19 defense and other issues associated with that. There's been
20 no financial profit from that.

21 Furthermore, Your Honor, Mr. Jenkins --

22 THE COURT: Well, can you -- hang on. Can you say
23 that definitively?

24 MR. BOYLE: Pardon me?

25 THE COURT: I mean, can you say that definitively?

1 MR. BOYLE: My information, yes, that's my
2 information.

3 THE COURT: You mean the full 100-, and, I think,
4 -11 or so, or was it 118-, or whatever the number was that's
5 north of 110-, has been fully expended between legal fees
6 and other expenses?

7 MR. BOYLE: Can I check with Mr. Jenkins a second?

8 (Defense counsel and defendant conferred off the
9 record.)

10 MR. BOYLE: Your Honor, our understanding is the
11 \$66,000 was raised by Mr. Jenkins in his account, and that
12 was used to pay for attorneys' fees and to support his
13 children during the course of his incarceration.

14 The other 35,000 is not under Mr. Jenkins'
15 control. It never has been, it's not been used for
16 Mr. Jenkins' benefit.

17 He was just a name that was used to raise money as
18 I understand it.

19 THE COURT: Does Mr. Jenkins, does he intend to
20 continue to keep the websites active and attempt to raise
21 either -- receive either donations or sell merchandise that
22 would be a financial benefit to him or others?

23 MR. BOYLE: Your Honor, those websites do not
24 belong to Mr. Jenkins. The money received from those sales
25 has not gone to Mr. Jenkins.

1 THE COURT: All right. So let's -- let me just
2 make sure I understand.

3 I mean, the government has identified a couple of
4 different websites. Let's make sure we're all talking about
5 the same thing here. These are identified on
6 government's -- in the government's memo at 32, 33, and 34.

7 And let me just ask the government first, are
8 you -- is this -- and you've suggested that there are two
9 websites, but I'm not sure whether the images all relate to
10 one website or two websites.

11 MR. PERRI: Yes, Your Honor.

12 So there are two fundraising websites on a
13 platform that's for that purpose called GiveSendGo.

14 And then there is the commercial website, so to
15 speak, called The Real J6, and that's the website where all
16 the merchandise is on. That website is also soliciting
17 donations but it's unclear how much has been raised or
18 really for what purpose.

19 And actually for all of these, we don't see
20 anywhere on any of these where it's indicated that the
21 purpose of raising money is for legal defense. Rather, it
22 seems to be that the defendant is using the very fact that
23 he participated in a violent riot and the very fact that
24 he's being prosecuted for offenses related thereto to garner
25 funds, and he is, in fact, garnering a lot of money. We

1 have the total around \$118,000 total.

2 THE COURT: And how does the government know those
3 numbers?

4 MR. PERRI: Just by looking at the websites.

5 THE COURT: Okay.

6 And --

7 MR. PERRI: We don't have any --

8 THE COURT: I mean, does the government have
9 any -- Mr. Boyle just represented that he doesn't control at
10 least one of them. Do you have a reason to think otherwise?

11 MR. PERRI: We don't have any reason to think that
12 that's true.

13 THE COURT: Well, that may be the case, but I --
14 it's your burden to establish that he it does control the
15 funds, so you can't guess.

16 MR. PERRI: We only have the information that's
17 available on the face of the websites, Your Honor.

18 (Pause)

19 MR. PERRI: We have, as of September, Your Honor,
20 one of the GiveSendGo websites has raised \$66,360, and
21 that's the one that's -- it says Shane Jenkins expenses, and
22 that's really the only indication that we've got from --

23 THE COURT: And is that the one for which you've
24 pasted these images in which he's --

25 MR. PERRI: No, that's from The Real J6,

1 Your Honor.

2 THE COURT: Okay.

3 So which of the two is the one that he controls,
4 Mr. Boyle?

5 MR. BOYLE: Your Honor, the one was 66,300 is the
6 website where money has been raised for him.

7 THE COURT: Okay.

8 MR. BOYLE: He does not control that money. That
9 money is controlled by a third person who uses it to support
10 him. So he is the beneficiary of that \$66,000.

11 The other website he has no connection to, no
12 ownership interest in, and has not benefited from in any
13 way.

14 THE COURT: So then how is it that some of these
15 items, particularly these avatars, at least, those that have
16 been attributed to him, and maybe that's not -- shouldn't be
17 attributed to him, but how is he connected to that website?

18 The government has suggested that he's created
19 these pages, or at least somebody's created them on his
20 behalf, and these avatars are being used to promote products
21 like the backpack that's on page 34.

22 MR. BOYLE: He has in the past created content for
23 that website, but he does not own it or benefit from it and
24 has received no money from it.

25 THE COURT: Okay.

1 Does the government have any reason to believe
2 otherwise?

3 MR. PERRI: May I have just a moment, Your Honor?

4 (Government counsel conferred off the record.)

5 THE COURT: All right, Counsel, what do we know
6 here?

7 MR. PERRI: So there's no way for us to know how
8 much he's raised with The Real J6, Your Honor, or where that
9 money goes or what purpose it's for. We have no access to
10 that.

11 But I would like to mention that I earlier stated
12 that there were two GiveSendGo websites, one of them,
13 entitled "Operation Love Wins," specifically states that it
14 was created by Shane Jenkins and The Real J6. It says that
15 on the home page. And that one has raised a total of
16 \$52,713 as of August 24th, and we submitted this to the
17 probation officer as part of our objections to the
18 Presentence Report.

19 THE COURT: Okay.

20 Are those pages still up and do we know whether
21 Mr. Jenkins is receiving funds, any recent funds of those
22 sites?

23 Let me just drop the pretense here.

24 The government has asked for these types of fines
25 in cases, and I understand why and it's not that it's

1 unreasonable to make the request, but it's not, in my
2 estimation, done in a way that is consistent with what the
3 law requires. And that is, the relevant fine statute is 18
4 U.S.C. 3552(a) and it sets forth the factors the Court is to
5 consider when determining a fine amount.

6 The factors, among others, include the defendant's
7 income, earning capacity, and financial resources and the
8 need to deprive the defendant of illegally obtained gains
9 from the offense. I don't think the latter applies because
10 whatever one may think of fundraising off of his conduct,
11 that's not unlawful. Right? That's not unlawful. It may
12 be unseemly, but it's not unlawful.

13 So then the question is, well, what's the
14 defendant's income or earning capacity and financial
15 resources? So the Guidelines speak in terms of ability to
16 pay and whether the defendant, this is Guideline 5E1.2(a),
17 is likely to become able to pay.

18 And I think there's case law to the effects that
19 this is more of a future-looking evaluation that is the --
20 does the defendant have the ability to pay in the future,
21 and that depends upon a couple of things. One is, the
22 defendant's assets at the present time of the sentencing,
23 because certainly those would be available to make fine
24 payments. And then, two, whatever the defendant's sort of
25 future earning capacity is.

1 And if the government's primary contention is that
2 he's raised these funds and pocketed them, I have two
3 concerns. One is, we don't know that for sure, and you've
4 given me some numbers, but it's not clear to me they've gone
5 directly to him.

6 Two, I don't know whether any of it's left.

7 And, three, it's not simply enough to say, look,
8 he's raised money in the past, he's, therefore, going to be
9 able to raise money in the future, which is why I'm asking
10 about whether he's deriving any benefit from these
11 commercial websites. So, you know, that's what I'm --
12 that's sort of the realm in which I'm operating.

13 In fact, the sealed case you all cite from the
14 Third Circuit, 20 F.3d 1279, you know, it does provide the
15 Court can impose a fine based upon a defendant's efforts to
16 capitalize on a crime, but, again, that still requires
17 some -- and I think there it was a book deal -- you know,
18 that requires some estimation of future ability to pay; and
19 Mr. Jenkins, at least from my understanding, doesn't really
20 have much in the way of assets, present assets, and I don't
21 know what's happened to the money and I don't think the
22 government knows what's happened to the money. And so
23 that's kind of the state of play on the record as far as
24 ability to pay.

25 (Pause)

1 THE COURT: All right. Unless there's anything
2 else, I'm prepared to rule.

3 So essentially for the reasons I've just stated,
4 I'm going to deny the request for a fine. The fine request
5 is based largely, if not entirely, upon Mr. Jenkins having
6 raised these funds from the GiveSendGo site.

7 As I said, the statute provides the factors that
8 I'm supposed to consider. Those include the defendant's
9 income, earning capacity and financial resources, and the
10 need to deprive the defendant of illegally obtained gains
11 from the offense.

12 Again, I don't think that applies. You know
13 fundraising, for whatever the reason may be, that's not
14 illegally obtaining gains from the offense.

15 And then the question is with respect to future
16 ability to pay based upon his income, earning capacity and
17 financial resources.

18 So, you know, other than his past fundraising,
19 it's not clear to me the past fundraising is indicative of
20 what he'll be able to raise in the future. And so imposing
21 a fine in the magnitude the government has requested I just
22 don't think can be sustained based upon the evidence before
23 me and the requirements of the statute and the Guidelines.
24 So the government's request then for the \$118,888 fine will
25 be denied.

1 Let's talk about restitution.

2 Mr. Boyle, do you have a position on restitution?

3 MR. BOYLE: We do not, Your Honor. I think the
4 restitution -- I can't recall the restitution figure
5 offhand.

6 THE COURT: It's 5 -- the government's requested
7 \$5,176, which consists of two parts: \$3,176 to repair the
8 window that was damaged; and an additional \$2,000 that the
9 government has been asking for in these cases.

10 MR. BOYLE: We believe that's correct, Your Honor.
11 We've been provided with receipts for the window.

12 THE COURT: Okay.

13 MR. BOYLE: And I know that the other aspect of it
14 has been calculated as well.

15 THE COURT: Okay.

16 And there's no objection to the additional 2,000
17 then?

18 MR. BOYLE: No, Your Honor.

19 THE COURT: All right. So I'll grant the
20 government's request then for a restitution award of \$5,176.

21 Okay. The last issue I wanted to raise is a
22 factual one that the government mentioned in its memorandum,
23 very quickly in passing, as to Mr. Jenkins allegedly having
24 been involved in some kind of assaultive conduct while
25 incarcerated. I'd like to hear more about that if either

1 side wishes to be heard or if probation has any further
2 information about it.

3 MR. PERRI: Your Honor, it's our understanding
4 that on July 10th, 2023, the defendant was one of 11, 12
5 inmates who proceeded across the floor of the pod into a --
6 what they call a TV room, and proceeded to assault another
7 inmate named Toronto, for the reason that this inmate made
8 derogatory comments about Ashli Babbitt and her mother.

9 They, according to the investigation conducted by
10 the corrections officers, they beat him and then left the
11 room.

12 And we have the report of the investigation, I'm
13 happy to provide the Court with a copy, and defense counsel
14 has already seen it. So our position is that the defendant,
15 even while incarcerated, after having been convicted of a
16 crime related to January 6th, has found a way to engage in
17 more violence related to January 6th.

18 (Pause)

19 THE COURT: Okay.

20 So let me just sort of state for the record, the
21 government's provided me with what is an email from an
22 investigator at the Department of Corrections, at least it
23 looks like an email; but it's -- essentially looks like a
24 summary report of an inmate -- assault on an inmate on
25 July 10th of 2023, indicates that a couple of inmates were

1 assaulted in a TV room, one inmate in particular, the other
2 was assaulted while trying to prevent the assault of the
3 other inmate, and apparently it was close to a dozen or a
4 dozen inmates who were involved in the assaultive conduct
5 and through the combination of descriptions of those inmates
6 and surveillance, the investigator identified Mr. Jenkins as
7 one of the 12. And then apparently they've been charged, or
8 at least these 12 have been charged with the charge of
9 fighting.

10 MR. BOYLE: Your Honor, we would note that this is
11 an email that is, we think, secondhand hearsay. The fact of
12 the matter is, no investigation was initiated against
13 Mr. Jenkins, no corrective action was taken against
14 Mr. Jenkins.

15 I have a document from his financial account. He
16 was a trustee.

17 THE COURT: Well, let me -- if I could just make
18 two corrections to what you said.

19 I mean, there was an investigation; this is the
20 reflection of it. We can quibble about how thorough it is,
21 but it's an investigation. Your client was identified, and
22 there were at least some consequences. He was moved to a
23 different housing unit, placed on pre-hearing housing, if
24 this is accurate, and then he was charged with something.
25 Now, I don't know whether, what came of that, I know he gets

1 some process.

2 MR. BOYLE: Your Honor, my understanding is that
3 no charges were ever filed, despite what the document says.

4 THE COURT: Well, this is -- to be clear, I'm not
5 talking about criminal charges. This is an internal, you
6 know, administrative violation that gets adjudicated within
7 that setting.

8 MR. BOYLE: And I understand that, Your Honor.

9 But our point is, Mr. Jenkins was never informed
10 of any charges from the prison. They were moved temporarily
11 to another housing unit for three days, and then they were
12 returned to their original housing unit, where they remain
13 to this day, where he remains to this day. So we don't
14 believe any formal charges or any administrative charges
15 were ever initiated against Mr. Jenkins.

16 We think the facts of this circumstance -- of this
17 altercation were probably investigated more and the prison
18 decided to take no action.

19 THE COURT: Well, let me ask the government and
20 Probation whether they have any further information about
21 any disciplinary charges being brought against Mr. Jenkins
22 and what outcome there was, if any.

23 PROBATION OFFICER: Your Honor, we requested
24 disciplinary records and we never received them.

25 THE COURT: Okay. Does the government have any

1 further information?

2 MR. PERRI: We have no information about whether
3 administrative sanctions were imposed on these individuals
4 other than having them sent to another nearby facility
5 because of it.

6 THE COURT: Okay.

7 MR. BOYLE: Your Honor, we've likewise requested
8 records on any administrative action that was taken and
9 received no information.

10 THE COURT: Okay.

11 MR. BOYLE: The only thing I can represent to the
12 Court is Mr. Jenkins was there, he never received any formal
13 notification. And he served as a trustee both before and
14 after this incident, and our understanding of D.C. DOC
15 policy is that if you've been involved in an altercation,
16 you can no longer be a trustee.

17 THE COURT: What do you mean a trustee?

18 MR. BOYLE: Someone who's trusted by the prison to
19 work for the prison at various capacities.

20 THE COURT: Okay. So he hasn't had any change in
21 his --

22 MR. BOYLE: No. I have the record here if the
23 Court would like to see it. I haven't provided a copy to
24 the government.

25 THE COURT: Sure, I'll take a look at it.

1 This is just sort of a report of his commissary
2 funds, huh?

3 MR. BOYLE: There are certain things that are
4 identified with black dots that indicate when he was paid by
5 the prison as a trustee for his work, and they both precede
6 and are subsequent to the date of this alleged incident.

7 THE COURT: I mean, I'll just note that the record
8 shows what is classified as institutional payroll payments
9 made to Mr. Jenkins' account on July 27th and August 24th.

10 Okay. Anything else anybody would like to add
11 about that issue?

12 MR. PERRI: No, thank you, Your Honor.

13 THE COURT: Okay.

14 So, look, I find it troubling, to say the least,
15 Mr. Jenkins, to have your name associated with something
16 like this. I mean, that's an understatement. But, you
17 know, I've got to -- I'm bound by evidentiary standards.
18 And while this report is before me, it is just that, it is a
19 report.

20 I'm not -- have no information before me of any
21 actual official charges or disciplinary action taken against
22 Mr. Jenkins in connection with this offense and so alleged
23 conduct. And so given the state of the record, I will not
24 make a preponderance finding of Mr. Jenkins' involvement in
25 this and so, therefore, I will not consider it in

1 considering his ultimate sentence.

2 Okay. All right. Is there anything else
3 preliminarily anybody would like to discuss? And I can
4 provide this report.

5 Is this my copy?

6 MR. PERRI: You can have it.

7 THE COURT: Okay. Thank you.

8 Anything preliminarily anybody would like to
9 discuss before I go through the Guidelines calculation?

10 MR. PERRI: Judge, just one thing.

11 Given the Court's ruling on the terrorism
12 enhancement, the defendant ultimately, I guess, is going to
13 be a Criminal History Category IV. We would just note for
14 the record that we don't think that a sentence in that
15 advisory Guidelines Range would be adequate, so we would ask
16 the Court for an upward departure, and we think that that
17 would be necessary to address the 3553 factors and ensure an
18 appropriate and sufficient sentence in this case.

19 THE COURT: So what departure are you -- so I'll
20 just get to the bottom line and I'll go through the
21 calculations momentarily as they are at present. But I've
22 got a final Guidelines Range of Offense Level of 31,
23 Criminal History IV, for 151 to 188 months.

24 MR. PERRI: We thought a sentence of 236 months
25 was appropriate in this case, Your Honor, so we would ask

1 for an upward departure under 4A1.3(a)(1) in that direction.

2 THE COURT: 4A1 --

3 MR. PERRI: 4A1.3(a)(1).

4 THE COURT: Because the criminal history is
5 understated in your view?

6 MR. PERRI: Yes, Your Honor. And I'll talk about
7 that in my allocution.

8 THE COURT: Okay.

9 All right. Well, I guess I'll reserve and hear
10 what the government has to say about a potential upward
11 departure of the guidelines, but any pre-upward departure,
12 the Guidelines calculations will be as follows:

13 With respect to criminal history, the offenses
14 that are scored are those set forth in paragraph 62 for
15 possession of a controlled substance between 1 and 4 grams
16 from 2006. That receives 3 points, because it's within 15
17 years of the offense conduct. There's a DWI offense at 64,
18 which barely falls within the ten years. That gets a point.

19 The -- there is a -- the 65 and 66, which we
20 talked about, both a misdemeanor resisting arrest and a
21 possession of a controlled substance between 1 and 4 grams.
22 That's also 3 points. That's a total of 7 points, for a
23 Criminal History Category of IV.

24 While we're on the subject of criminal history,
25 can anybody just illuminate me about the nature of the drug

1 offenses under Texas law?

2 You know, what these seem to be at first blush is
3 that these are essentially felony possession offenses and
4 their not distribution or possession with intent to
5 distribute offenses, given what is seemingly a low quantity,
6 but I'd be happy to hear if anybody has further thoughts.

7 MR. PERRI: I have no information on that,
8 Your Honor.

9 MR. BOYLE: Your Honor, I don't want to
10 misrepresent anything to the Court, and I'm not familiar
11 with how Texas treats these statutes, so I --

12 THE COURT: It was a little jarring to me, I will
13 say. It is Texas and it's different, but, you know, for the
14 charge in 2006 for 1 gram or more but less than 4 grams of
15 meth, you know, the punishment was nine years of custody.

16 Now, maybe there's more to it than what the charge
17 indicates, but that was pretty shocking, and particularly in
18 light of the fact that, you know, that same offense, albeit
19 with a different drug, in 2013 got two years of custody and
20 credit for time served. So I couldn't quite make out
21 what -- heads or tails of this.

22 MR. BOYLE: Can I check just one thing?

23 THE COURT: Sure.

24 (Pause)

25 MR. BOYLE: Your Honor, Mr. Jenkins believes that

1 the sentence at paragraph 62 and 63, those two offenses were
2 sentenced at the same time and given the same sentence. One
3 was a much larger quantity of drugs but they were concurrent
4 sentences, as I understand it. So there was no
5 applicable --

6 THE COURT: I see.

7 MR. BOYLE: -- additional punishment.

8 THE COURT: Okay. All right. That makes sense.
9 I appreciate the clarification, Mr. Jenkins. That makes
10 more sense.

11 But to the point, I think what that does, frankly,
12 is underscore my initial observation, which is that, you
13 know, possession of a controlled substance of one gram or
14 more is likely simply what's akin to a felony possession
15 offense in Texas.

16 But in any event -- okay. All right. So Criminal
17 History Category IV, let me just go through the counts,
18 Count 1 for civil disorder, that's a violation of 18 U.S.C.
19 231, controlling Guidelines 2A2.4. The Base Offense Level
20 is a 10. Because a weapon because possessed and it was
21 used, three levels were added.

22 There is a cross-reference applied to 2A2.2
23 because the conduct constituted an aggravated assault
24 because it was committed with the intent to commit another
25 crime, that is the 1512(c)(2) action, another felony,

1 I should say, offense, as well as the 111(a) (1) and (b)
2 offense. That gets cross-referenced to the agg. assault
3 Guideline of 2A.2. And so Count 1, the calculation will be
4 the same as Count 3.

5 Count 2, the Base Offense Level is a 14 for
6 causing or threatening to cause physical injury to a person
7 or property damage in order to obstruct the administration
8 of justice, eight levels. That applies both because of the
9 property damage that Mr. Jenkins caused and was convicted of
10 and because he did cause or threaten to cause physical
11 injury by -- through the 111(b) offense and conviction, and
12 specifically that is hurdling objects, multiple objects,
13 including a desk drawer and a flagpole, among other things,
14 toward police officers, which certainly threatened to cause
15 physical injury.

16 I do think the three level enhancements for
17 substantial interference applies. The conduct alone did not
18 cause this, the conduct in collective action with others did
19 cause the halting of a congressional proceeding, and halting
20 it for quite a long time. That is certainly substantial,
21 and the government did have to expend some amount of funds
22 to get those proceedings back on course. And while
23 Mr. Jenkins is one of thousands who was responsible for
24 that, he nevertheless is responsible for substantial
25 interference.

1 The official victim at 3A1.2 does apply for the
2 reasons I discussed earlier for Count 2. So the total
3 offense level for Count 2 was a 31.

4 Count 3, for assaulting, resisting or impeding
5 certain officers using a dangerous weapon, Base Offense
6 level is 14. A dangerous weapon was used, two levels. And
7 when I refer to dangerous weapons, I'm referring to the
8 variety of objects that Mr. Jenkins used and that the jury
9 ultimately found were dangerous objects.

10 Two levels were added because the conviction was
11 under 111(b) and the official victim enhancement applies for
12 the reasons I discussed so the total offense level is a 26.

13 The destruction of property, Base Offense Level is
14 an 8.

15 The dangerous weapon was brandished, two levels.

16 And then the resulting offense level is less than
17 a 14, so it increases to 14.

18 For the reasons already discussed, I'm not going
19 to apply the terrorism adjustment.

20 Count 6, entering and remaining in a restricted
21 building or grounds with a deadly or dangerous weapon, Base
22 Offense Level is 4. Any restricted building or grounds is a
23 two-level enhancement. Dangerous weapon possession and use
24 is a two-level enhancement.

25 However, because the offense conduct was committed

1 with the intent to commit another felony, it
2 cross-references to the earlier counts.

3 The same is true for Count 7. The Base Offense
4 Level is a 10. Because the conduct involved a dangerous
5 weapon that was possessed or used, the Guidelines ultimately
6 end up getting cross-referenced to the agg. assault
7 Guideline 2A2.2.

8 Count 8, the calculation is the same as Count 7.

9 Counts 9 and 10 are misdemeanor counts to which
10 the Guidelines do not apply.

11 So all of these counts group, that is 1, 2, 3, 5,
12 6, 7, and 8, because the counts embody conduct that's
13 treated as a specific offense characteristic as to other
14 counts, that means the count with the -- had a conviction
15 with the highest offense level is controlling so that is the
16 31 for Count 2.

17 So taking an offense level of 31 and Criminal
18 History Category IV, the Guidelines Range is 151 to 188 --
19 151 to 188 months and a \$30,000 to a \$300,000 fine.

20 I'll just note at this point that the defense has
21 raised concerns about the Guidelines calculation is not
22 reflecting empirical data and not being rooted in sort of
23 empirical evidence and overstating Mr. Jenkins' degree of
24 culpability, and I'll be happy to hear those arguments and
25 take those into account in determining whether a variance is

1 appropriate. Okay?

2 All right. With that, everybody good to go, and
3 I'll hear from the government.

4 MR. PERRI: Your Honor, Mr. Jenkins, in our
5 estimation and our position, is a top tier offender. He's
6 one of the worst January 6th offenders that we've seen and
7 that this Court is probably going to see. And, accordingly,
8 he deserves a sentence that is proportionate with the facts,
9 the circumstances, and his personal attributes, all of which
10 are extraordinary.

11 And with the Court's indulgence, I think it might
12 be helpful to just draw attention to some of the things that
13 we think are extraordinary about this case.

14 First of all, his statements of intent. It's
15 clear from his postings and other messages that he intended
16 the intimidation of and retribution against members of
17 Congress and the Vice President. That's what he intended.

18 And if there was any question as to whether that
19 was intent based on the statements he made before
20 January 6th, the statements he made afterwards cleared that
21 all up.

22 This is somebody who was not just regurgitating
23 rhetoric. This was somebody who understood what was going
24 on in the Capitol that day and the significance of what was
25 going on in the Capitol that day, and he wanted these people

1 drug out. All because they would not stop the certification
2 of the vote and allow for the installation of his preferred
3 losing candidate.

4 Second, the weapon that he brought to the Capitol,
5 Your Honor, extraordinary. It wasn't a pole. It wasn't --
6 I don't know, so many of the can of spray, so many of the
7 common things that we see in these cases. He brought a
8 metal tomahawk, a purely offensive weapon, a nasty weapon.

9 And he used it. He didn't use it on a person but
10 he used it. He talked about bringing it, and he did. And
11 not only did he have it on his person but he put it to use.

12 Third, his efforts to destroy property. This
13 defendant showed preparation and determination in his
14 efforts to destroy that window.

15 Your Honor, these windows are made of special
16 shatter-resistant tempered glass. A simple billy club
17 doesn't do it, and we could see that in one of the videos.
18 There was a guy who had a little billy club and he's kind of
19 like whacking away at it and he could have been there for
20 three and a half hours and still there wouldn't be a crack
21 in it.

22 But a metal tomahawk with a special point on the
23 other side could pierce that, it could start the shattering
24 process. That's exactly what happened.

25 The defendant's conduct at the window is

1 extraordinary, Your Honor.

2 And if we could please play that short clip.

3 (Video played)

4 MR. PERRI: He's even got gloves, Your Honor,
5 that's how prepared he is.

6 (Video played)

7 MR. PERRI: "Are we going in or not?"

8 He's getting the crowd fired up.

9 So he began a process. That window had not been
10 hit before, Your Honor. It was intact. He began a process
11 that was extremely significant, and I'm going to talk about
12 that, because it wasn't just a question of breaking a
13 window, it wasn't just a question of damaging a piece of
14 property, namely a pane of glass. It had more consequences
15 than that, it had more significance than that, and I'm going
16 to talk about that.

17 That breaking of the window allowed other things
18 to happen, it allowed access to the building for lots of
19 rioters. Other rioters came after him and finished the job,
20 they completely broke out that pane. And you can see them
21 pouring in there. What did they do when they got inside?
22 They got access to a very nice office that had very nice
23 furniture, quality, solid wooden furniture. And they got
24 access to a lot of things that could be used as makeshift
25 weapons. That's what they did with it.

1 And that wasn't it, that wasn't the end of it.
2 After they got into that room, they realized that there were
3 doors to other rooms. They broke down those doors. We have
4 a video of that, we shared it with the Court. They broke
5 down those doors, and they ransacked other offices, looking
6 for lord-knows-what to support whatever conspiracy theory
7 they were motivated by.

8 Could we please show No. 7.

9 (Video played continuously)

10 MR. PERRI: That's the window that he broke out,
11 Your Honor. That lamp is from that office.

12 Look at the proximity of the tunnel opening.
13 Pretty soon you're going to see some additional items come
14 out of that window.

15 There's the drawer, Your Honor.

16 There's a chair, Your Honor.

17 It goes a short distance. And we'll see who ends
18 up with that drawer. Right there. He benefited from his
19 own action using one of the makeshift weapons that he made
20 possible to be used.

21 In this way, he exacerbated the level of violence
22 taking place at the tunnel, by providing people that were
23 inclined toward committing acts of violence to be armed with
24 the means of carrying out harm to those police officers.

25 By helping rioters access that room, he gave them

1 access to a trove of makeshift weapons.

2 There are other items, too, the table leg,
3 absolutely nasty. This table leg is, it's substantial,
4 it's like this big, and it's got a metal screw sticking out
5 of the top of it where it attaches to the corner of the
6 table.

7 THE COURT: I know. I sentenced the person that
8 handed it out the window.

9 MR. PERRI: I'm sorry, Your Honor?

10 THE COURT: I know, I sentenced the person that
11 handed it out the window.

12 MR. PERRI: And that table leg, as you could see
13 from some of the photos that we submitted in our sentencing
14 memorandum, made it into the hands of an individual in a
15 pinstriped outfit. And he was just absolutely wailing on
16 the officers in that line, so badly that the screw at one
17 point gets stuck in the shield of an officer, and he's got
18 to wrench it out. That individual was also prosecuted in a
19 January 6th case.

20 The actual tabletop from one of these disassembled
21 tables made it out into the crowd and was heaved into the
22 tunnel. The solid wooden table top.

23 These are people who are trying to get their
24 hands, much like this defendant, on anything they could to
25 throw, and he gave them a whole bunch more ammunition.

1 That's significant, and that's extraordinary, Your Honor.

2 The other thing that's extraordinary is the
3 deliberative, premeditated approach that this defendant
4 took. He contemplated, he planned, he prepared for
5 violence. But when he was there, it wasn't a situation
6 where he was simply caught up in the forward progress of a
7 mob. He thought about what was going on and then he decided
8 to engage in it. You can see him on that window ledge,
9 Your Honor, just watching. Watching what most people would
10 have found horrifying, he thought it was cool, he wanted to
11 be part of that.

12 Could we please play that video.

13 (Video played)

14 MR. PERRI: Stop, please.

15 Right there, Your Honor, I don't know if you
16 noticed, and we can play it again, but right there, there is
17 a rioter punching, repeatedly, an officer in the face, and
18 this defendant is standing there on the ledge watching,
19 taking it all in. Looks great.

20 Can we play that again, please.

21 (Video played)

22 THE COURT: Can I just ask a question. Do you
23 think, is the government's view that this, in terms of the
24 timeline, this is between the breaking of the window and
25 before he throws the items, or is it before the breaking of

1 the window?

2 MR. PERRI: It's before the breaking of the
3 window, Your Honor.

4 But sure enough, he does go over to that tunnel.

5 First he tries to get in by wading through the
6 crowd and pushing and pushing and pushing and trying to get
7 in there. Again, his level of persistence is amazing. He
8 gets sprayed in the face. He gets sprayed in the face in
9 the head probably three, four, five times, and he's not
10 dissuaded, he is not deterred. Apparently when he could
11 absolutely not see anymore or function, he finally drifts
12 back, and that's when he starts engaging in the violence.

13 And his violence at the tunnel was extraordinary.
14 It's another extraordinary thing about this case.

15 Your Honor, he just didn't throw one object, he
16 threw nine different things. He was throwing whatever he
17 could get his hands on. And several of those things could
18 have really caused harm. That drawer could have really hurt
19 somebody and so could that flagpole. It had a tapered point
20 on it that was like this. It was substantial, it was long;
21 he threw it like a javelin. If that thing had caught one of
22 those officers in the space between his helmet and his
23 shoulders, it would have been bad.

24 He didn't care.

25 A sustained attack on that tunnel. That's

1 extraordinary.

2 Could we please see of the throws, please, just
3 one video.

4 (Video played)

5 MR. PERRI: And that's just a few of the throws.
6 We think that's extraordinary.

7 But that's not it, Your Honor. We also believe
8 that his lack of remorse is extraordinary. As is apparent
9 from the website that he created, that has his image all
10 over it, that he's represented with some sort of cartoon
11 avatar, he just doesn't get it. He thinks that political
12 violence is acceptable. He thinks that what he did is
13 justified.

14 And because he doesn't appreciate the wrongfulness
15 of his actions, he's liable to engage in or to promote
16 political violence again.

17 For example, what happens if his preferred
18 candidate gets convicted of something? How would he react?

19 The defense wants this Court to sentence him
20 lightly because January 6th was a rare event, it's unlikely
21 to happen again. Well, Your Honor, as an American citizen,
22 I'm not willing to take that risk.

23 The defense is asking the Court to roll the dice
24 with this country's Democratic future. He just doesn't get
25 it.

1 He fully embraces the idea of taking violent
2 action for political ends.

3 In his posts after January 6th, he didn't say
4 anything like, oh, geez, you know, that really got out of
5 hand, you know, I hope nobody got hurt. Or, wow, you know,
6 I thought I was doing the right thing, but, you know, maybe
7 it was a bad decision.

8 No, he condoned it, he glorified his own actions.
9 He said it was the most wonderful thing ever. Don't believe
10 the media. It was glorious.

11 And now he's using a website to further glorify
12 the fact that he participated in this horrible event and
13 make money from it, to sell merch, to sell backpacks with
14 his avatar, with logos with crossed axes.

15 That's extraordinary, Your Honor. We've never
16 seen anything like it.

17 It sheds light on his lack of remorse. It sheds
18 light on the fact that he doesn't get it. And if he doesn't
19 get it, he's a danger.

20 Another thing we think is extraordinary is his
21 sheer level of enthusiasm and determination that he
22 exhibited in connection with this event. Wow.

23 Personal commitment, determination at every
24 aspect. Even after he finished hitting the window,
25 Your Honor, he wasn't done helping it get broken, because

1 when another guy was trying to finish the job and was
2 restrained, this defendant restrained the restrainer. "No,
3 no, no, we want -- I want that to finish. We're going in
4 that building whether you like it or not, we paid for it."

5 It's an amazing video. We shared that with the
6 Court. You see him bear-hug this guy from behind to keep
7 him from restraining the guy that's whacking the window.

8 His efforts to get in the tunnel, his persistence
9 at throwing those objects, his posts after the event, an
10 extraordinary level of enthusiasm, personal commitment, and
11 determination.

12 Another thing we think is extraordinary is his
13 criminal history, Your Honor. We talk about this in page 28
14 and 29 of our memorandum. The defendant has five prior
15 convictions stemming from incidents involving physical
16 violence or the threat of physical violence.

17 In addition to that -- so he's got convictions
18 related to physical violence that count for points and then
19 he's got convictions related to physical violence that
20 didn't count for points and then he's got arrests that
21 didn't result in convictions, and all of it relates to
22 violence.

23 Two of the victims of these offenses were police
24 officers whom he violently resisted.

25 This is a pattern, Your Honor. And we would

1 submit, although there is limited evidence, that the pattern
2 continues even with him at the jail in pretrial detention on
3 this offense, whether he was -- regardless of what
4 punishment, if at all, came from that, regardless of what
5 sanctions were imposed, he involved himself voluntarily
6 seeking out a situation where there was going to be
7 violence, he was for it. He went into that room with those
8 other guys.

9 You would think that somebody would say, you know,
10 is that really a good idea? But you can see it on the
11 video. He's one of those guys that went that room, along
12 with a couple other January 6 defendants.

13 And regardless what he did in there or what
14 consequences he suffered because of it, he should not have
15 been there. What the heck are you thinking? That's
16 extraordinary.

17 This defendant is, in our estimation, one of the
18 worst January 6th offenders, and he should be sentenced
19 accordingly.

20 Thank you, Your Honor, for your consideration.

21 THE COURT: Counsel, thank you.

22 Mr. Boyle.

23 MR. BOYLE: May it please the Court.

24 For the past two and a half years, I've been
25 attempting to understand what happened on January 6th. Some

1 conclusions are, I think, obvious. It never should have
2 happened. The former President behaved criminally, using
3 lies and prejudice to tear the country apart to maintain
4 power. Political leaders and media leaders fanned the
5 flames of division for their own personal motives.
6 President Joe Biden won the election, and it was an election
7 that was not particularly close, especially in the Electoral
8 College. And yet many people still refuse to acknowledge
9 even that obvious fact. We are, indeed, in a country that
10 is divided.

11 Like many people, Shane Jenkins believed perhaps
12 the greatest conman of all time. He believed the lies of
13 the alternative media that profited from the nation's great
14 divide and the former President's great lie. And he came to
15 the Capitol to see the former President speak. And then he
16 went to the Capitol because the former President told him to
17 go to the Capitol.

18 The thing about con men is that they bore into the
19 psyche of their victims, in a sense altering reality. In my
20 usual white-collar practice, it's not unusual for fraud
21 victims to continue to believe the fraudster long after the
22 fraud should have become obvious to everybody, and some
23 people never believe it, regardless of evidence.

24 But we're here today, Your Honor, to talk about
25 Shane Jenkins and what he did at the Capitol on January 6th.

1 His offenses are serious and it is important that we not
2 minimize what he -- his conduct.

3 It could be said that he broke a window and threw
4 some debris at police officers who were doing their duty.
5 We believe, Your Honor, that would understate his conduct.

6 He did bring two tomahawks to the Capitol and we
7 acknowledge that, although after breaking the window, he
8 never took the tomahawks out again. Had he truly intended
9 to endanger police officers or harm police officers, he
10 could have been throwing those tomahawks or wielding them in
11 his hand. Instead, the tomahawks were placed back into a
12 backpack and he, like other members in the crowd, threw
13 debris of various forms into the Capitol.

14 Nevertheless, Your Honor, his conduct was serious
15 and we acknowledge the seriousness and we acknowledge that
16 it warrants a substantial sentence.

17 It's also important, however, Your Honor, not to
18 overstate Shane's conduct on January 6th. Much, if not all,
19 of the government's case today related to what other people
20 did, other people who entered the window, other people who
21 threw things, other people who punched police officers.

22 But, Your Honor, the important thing today is that
23 Mr. Jenkins be sentenced for what Mr. Jenkins did, not for
24 the crowd and what the crowd did, not for what other people
25 did or not because the government believes that everybody

1 associated with January 6th should receive a harsh sentence.

2 I've now participated in six of these January 6th
3 sentencings, I believe, and in every single one, the
4 government has said that this particular defendant is the
5 worst of the worst. The fact of the matter is, Shane
6 Jenkins is not the worst of the worst.

7 He's -- we would suggest, Your Honor, that he is
8 typical, although we would certainly defer to the Judge's
9 conduct -- I'm certainly aware the Court has much more
10 experience in sentencing these cases and seen various
11 conduct than we do, and we defer to the Court in determining
12 where the defendant lays -- lies in that range of conduct
13 that occurred on January 6th.

14 But the Sentencing Guidelines themselves and what
15 happened on January 6th are only one aspect of Shane
16 Jenkins' character.

17 18 U.S.C. 3553(a) factors require the Court to
18 consider a variety of factors.

19 We would submit that there are extraordinary
20 aspects of this case, and one of those extraordinary aspects
21 is where Shane Jenkins came from and where he got to.

22 We think it's fair to say that Mr. Jenkins was
23 born into a home of violence and drug abuse. It is perhaps
24 miraculous that he even survived his young adult years.

25 When one looks at his prior criminal record, it's

1 obvious in his early years that he was heavily involved in
2 drugs, assaultive behavior and other inappropriate conduct;
3 however, if one looks at the past ten years, there's a
4 marked change in Mr. Jenkins' criminal record. And if one
5 looks at the letters that were submitted on Mr. Jenkins'
6 behalf, again, there's a marked change in Mr. Jenkins,
7 someone who went from clearly being on the wrong path and
8 headed in the wrong direction, to trying to make amends for
9 society and do things better.

10 Mr. Jenkins will describe his conversion to
11 Christianity and how that impacted him, how he has tried to
12 become a better person, a better human being, a better
13 citizen, a better family member.

14 He will also acknowledge, Your Honor, that on
15 January 6th, he utterly failed in that regard. He
16 understands, and his religion teaches him, that he's
17 supposed to be self-controlled, he supposed to look out for
18 the interests of others, he's supposed to be peaceful in his
19 conduct, and he was not that day, there's no question about
20 that.

21 We can only say, Your Honor, that he got caught up
22 in a lie. He went to the Capitol, he got caught up in a mob
23 mentality. And we don't offer that as an excuse,
24 Your Honor, but, rather, as an explanation.

25 Mr. Jenkins certainly believed that the Congress

1 had the ability to set aside the election and send the case
2 back to the states -- or the votes back to the states to be
3 audited by the election. That's a legal fiction but it's a
4 legal fiction that was promoted by lawyers representing the
5 former President, as well as the former President.

6 THE COURT: Mr. Boyle, can I ask you, if I could
7 interrupt you for a moment.

8 Say I accept much or all of what you say, how does
9 one square that with the conduct after his arrest?

10 MR. BOYLE: The conduct?

11 THE COURT: Conduct after his arrest.

12 And I'm not talking about whatever scapes he may
13 have gotten into in prison, but viewing himself as a
14 political prisoner, selling himself as one, trying to at
15 least benefit someone commercially from those acts and
16 contributing, in his own small way, to the continued lie
17 that you just have so eloquently described.

18 MR. BOYLE: And yet that, Your Honor, is a
19 question I ask myself in this and other cases.

20 I'll go back to what I said in the beginning.
21 I think it's the truthful answer. Some victims of fraud
22 never realize they've been defrauded.

23 Mr. Jenkins has spoken extensively, and he's very
24 sorry about the violence that occurred that day. I would
25 be -- it would be inaccurate for me to say that he has lost

1 all faith in Donald Trump and now supports Joe Biden, that
2 would be a lie.

3 THE COURT: And to be clear, he doesn't need to do
4 that.

5 MR. BOYLE: And I understand that.

6 But there is a reinforcing mechanism out there,
7 there are people out there in the media still, there are
8 politicians still that fan the flames by arguing that these
9 folks are political prisoners. I don't think they know what
10 a political prisoner is. Nobody that I've ever seen in any
11 of these cases has ever been punished because of their
12 political belief. They're punished for crimes that they
13 actually committed, and I think that Mr. Jenkins understands
14 that wholly.

15 He understands that he has to be punished and he
16 understands -- and he's willing to accept any punishment the
17 Court imposes; however, there have been times in the past
18 when he has referred to himself as a political prisoner. We
19 don't believe he's benefited from any of the marketing of
20 any of the products that have been sold, but I would
21 concede, Your Honor, that it is very difficult to understand
22 the psychology of what's happening out there. But what's
23 not hard to understand, though, is where Mr. Jenkins came
24 from and where he was moving to before this.

25 There are a lot of people from predominantly rural

1 areas, I myself from rural Pennsylvania, who seem to be
2 particularly susceptible to these lies and this propaganda.
3 I wish there was a way to overcome that, but I don't know
4 what it is. I'm sorry if I'm not answering the question,
5 the Court's question adequately, I'm just trying to be
6 honest and say what I know.

7 I think, Your Honor, that what's important and
8 what is different about Mr. Jenkins is his faith, as
9 reflected in the letters that the Court has seen.

10 We do not believe there was an incident of
11 violence involving Mr. Jenkins at the prison. We believe
12 that he, in fact, tried to avoid any violence in that case.

13 I believe that he actually made reports to the
14 prison staff indicating that there was a problem with this
15 particular inmate and things could get out of hand, which
16 I think speaks to his credit.

17 He's tried to work with people in the prison in
18 terms of helping them with their faith and helping them to
19 understand what's happening, but --

20 At this point in time, Your Honor, we would ask
21 the Court to consider the letters that have been sent on
22 Mr. Jenkins' behalf, the arguments we've made, the unique
23 nature of January 6th.

24 I think it would be inappropriate to speculate as
25 to what might happen in the future. Certainly I would

1 anticipate that any sentence that Mr. Jenkins receives would
2 probably keep him incarcerated beyond the 2024 election
3 cycle. But we rely upon the Court to fashion a fair
4 sentence.

5 Thank you, Your Honor.

6 THE COURT: All right. Thank you, Mr. Boyle.

7 Would Mr. Jenkins like to be heard?

8 Mr. Jenkins, if you'd like to be heard, sir.

9 THE DEFENDANT: I would like to apologize in
10 advance for the length of my allocution, Your Honor.

11 THE COURT: Well, let me interrupt you for a
12 moment. When you say length, how long are you talking
13 about?

14 THE DEFENDANT: It's, I don't know, probably
15 15 minutes.

16 THE COURT: Okay. Let's take a break. I need to
17 give my court reporter a break. That's why. I don't want
18 to dissuade you from speaking, but I do want to give him a
19 break.

20 So let's -- I know it's late in the day, but let's
21 resume in 15 minutes, at just before ten after 5:00.

22 Thank you, everyone.

23 COURTROOM DEPUTY: All rise.

24 This court stands in recess.

25 (Recess taken from 5:00 p.m. to 5:16 p.m.)

1 THE COURT: Please be seated, everyone. Thank you
2 for the break.

3 Mr. Jenkins, why don't you come on up, sir.

4 THE DEFENDANT: Are you ready, Your Honor?

5 Good afternoon, Your Honor. Thank you for the
6 opportunity to address you and the Court today.

7 I'm thankful for everyone in attendance,
8 especially my family, my friends and loved ones.

9 Judge Mehta, I respect what you do and the service
10 you provide to this community. I appreciate what this Court
11 does. I have no ill-will towards the prosecution. They
12 have a job to do and I understand that.

13 I want everyone to know I don't take this
14 personally. I hold no grudges. My heart holds no
15 resentments. I truly am thankful for my attorneys. To
16 everyone here in support of me, thank you so much for
17 enduring this with me. I love you all.

18 This has been a long time coming, thirty-three
19 months to the day since January the 6th. Thirty-one months
20 that I have been incarcerated. This has been an emotional
21 and physically training experience.

22 I want to address my criminal record, Your Honor,
23 because it's been a topic of conversation today. I know
24 it's extensive and I can't change that. What I can do is
25 share some of my life experiences that led me down that

1 path, and some things that have changed my life for the
2 better.

3 I was raised by Bob and Sandy Jenkins. My early
4 life seemed pretty mundane. My seventh year -- my seventh
5 grade year, my mom and dad had a rough path and eventually
6 separated. I was around 13 years old. My sister had come
7 to visit and she and I got into a huge argument. I don't
8 really recall what it was about, I do recall being very
9 upset.

10 My mom was present. My sister said to her, "If
11 you don't tell him, I'm going to tell him." And I kept
12 asking my mom, "Tell me what, tell me what?"

13 Later that evening, my mom and I sat down to talk
14 and she told me that I was adopted. I was dumbfounded,
15 shocked. I felt as if someone had jerked the rug right out
16 from under my feet. I felt the wound of a sister, whom I
17 was extremely close to, who had used this as a weapon to
18 hurt me. I felt betrayal, I felt lied to. I was hurt.
19 I was in the formative years of my life psychologically, and
20 I had just been told my whole life was a lie.

21 In retrospect, I see that how immature of a
22 reaction this was. I'm still thankful for the life and the
23 love my family has given me. I'm sharing all of this with
24 you to give you some insight into my life.

25 At some point, I began to question what was so

1 wrong with me that my own mother didn't even want me, why
2 wasn't I good enough? How could someone who was supposed to
3 love me just throw me away like that?

4 I felt like a throwaway, a piece of trash.
5 I recall looking at my baby pictures, and I feel like I was
6 an adorable little redheaded, blue-eyed, freckled-face kid.
7 I didn't understand how she could do that to me.

8 I'm pretty sure I had an identity crisis at this
9 young age. I remember thinking I had an opportunity to
10 create who and what I thought a man was, at least to an
11 immature boy, which I thought was a tough guy, someone to be
12 feared or respected.

13 From this point forward, the arc of my life
14 changed. Sports and school took a back seat to the wrong
15 friends and drugs and alcohol. I became a hoodlum.

16 My adopted dad also passed way around this time.
17 I was incarcerated from the age of 16 to 19. Upon my
18 release, I moved home. My mom remarried shortly after this.
19 She married a man named Wesley Selman. He was a Vietnam War
20 hero, an addict and an alcoholic, and what we would soon
21 find out is that he was abusive. He went to jail twice for
22 beating my mom. He pulled a gun on me and held one to my
23 friend's head.

24 One night I came home and he told me I needed to
25 leave for good. I refused. He and my mom had had an

1 argument. I intervened and he threatened to kill me whilst
2 a shotgun lay a few feet from his grasp.

3 Later that night I would again hear fighting, a
4 loud thud, followed by a scream. I ran to my mom's room. I
5 had armed myself with my mother's pistol. Fearing for her
6 life, I gently tried the door knob it was locked. I stepped
7 back and listened as she cried and he called her everything
8 you would never want to hear your mother be called. I
9 kicked the door down and came through the entryway alone.
10 As I did, he yelled, "I'm going to kill you motherfucker."

11 The barrel of the shotgun looked like a gaping
12 maw of death as it belched fire. I felt the heat from the
13 flame of the shotgun blast on my face. The shot left of
14 volleyball size hole in the top of the door frame.

15 I ran. I don't think I touched a stair on the way
16 down. I called 911. This was before cordless phones so I
17 was anchored where I was at.

18 As I crouched behind the kitchen counter, my mom
19 came and stood by me and begged me not to call the police.
20 I told her she was crazy and he'd almost blown my head off.

21 It was dark. The only light was moonlight shining
22 through the windows. I heard Wesley's ominous voice saying,
23 "I'm coming to get you, boy. I'm coming to get you,
24 motherfucker."

25 He got almost to the bottom of the stairs,

1 approximately 15 feet from me when I started shooting, I
2 shot seven times and he shot, and I shot six more times. He
3 fell down the stairs and would die on the way to the
4 hospital. I was arrested and charged with murder. I was 20
5 years old.

6 I would eventually be no-billed by a grand jury.
7 You would think that the Court clearing me of any wrongdoing
8 would be the end. That was not the end of it. I was not
9 prepared for the nightmares and for the shame and guilt of
10 taking a man's life, a man I lived with for a year,
11 someone's father, a war hero, my stepdad. Part of me said
12 he was trying to kill you, and he got what he concerned.

13 But the accuser said, you killed a man, murderer.
14 And so the war for my soul began. It tore me apart and I
15 tried to destroy myself.

16 I began to numb everything with drugs, alcohol,
17 women, anything not to feel the anguish and torment in my
18 heart and soul.

19 This would lead me down a very dark path. It's
20 played a major role in my criminal record. I realize there
21 is no excuse for how I live my life.

22 These two experiences were my permission
23 statements. I blame my whole messed up life on these
24 things. They were my reasons to quit, to give up, to use
25 drugs and alcohol, to sell drugs, to run wild, to run from

1 life, and who I was. Most importantly, it allowed me to run
2 from God and who he called me to be.

3 I was in and out of prison from 23 on. I was
4 looking for something to make me whole and looking for
5 something to fill the hole in my heart.

6 My mom died in 2012. I was not prepared for her
7 sudden death. As usual, when life got hard, I turned back
8 to drugs and alcohol. It wasn't long until I was back in
9 prison. Three years in and I had been denied parole three
10 times. They didn't want to let me out because they knew I'd
11 be right back.

12 My wife divorced me around this time in 2016. I
13 had really made a mess of my life and I was falling apart.
14 Not only that, but I had five children and I wasn't being a
15 father to any of them. This is one of my biggest regrets.
16 I have always been so focused on myself, my pain or my
17 needs, that I neglected my children. Something had to give.

18 Still in prison in 2016, I heard about a program.
19 If you got accepted and completed it, you were released from
20 prison.

21 In 2016 I applied for the program. The program is
22 called Prison Fellowship and was started by Charles "Chuck"
23 Colson, the hatchet man for Richard Nixon and the fall guy
24 for Watergate. It was an 18-month program based on the life
25 of Jesus Christ. I got accepted and arrived to the program

1 the day before Thanksgiving in 2016. I wasn't a believer in
2 Christ, I wasn't looking for a savior. However, I was
3 looking for a way out of prison. God is funny like that.

4 Basketball has been a love of mine my whole life
5 from the age of ten. I played in prison. I play every day.
6 Nothing has changed -- nothing had changed in this new
7 prison.

8 A few weeks into my stay the guys told me a
9 ministry was coming to the prison to visit us, and they
10 bring some really good basketball players. I was recruited
11 by the fellow inmates to play against these good players
12 from this ministry.

13 CHARM is the name of that ministry. It stands for
14 Christ, Hope And Reconciliation Ministry. All of the staff
15 and volunteers wore these red shirts so they stand out.

16 About 30 of them came on this day, December 19th,
17 2016. There were some guys 6-foot 6, 6-foot 8, easy, and
18 they came to play basketball. They kicked up our butts up
19 and down the court. Out of eight games, we might have won
20 one. It was all done in love. In between games there was
21 fellowship on the sidelines. People were sharing their
22 stories and their faith. On this day, I wasn't repelled by
23 the mention of Jesus, and my heart happened to be open to
24 him.

25 After the games, we, the inmates, were sent back

1 to our housing units to clean ourselves up. The day wasn't
2 over. CHARM had brought brisket and gumbo. They had be me
3 at brisket.

4 We all in lined up outside the chapel where they
5 had the food. As we came to the entrance, all the guys we
6 had just played against sat eating. I followed the line
7 around to where the food was and there were these women
8 smiling and serving the foods. In that moment it hit me.
9 I was blown away. These volunteers had given their time,
10 their weekends, sacrificed their time away from their
11 friends and family to come to a prison. And they were happy
12 about it. They came to see me.

13 Someone who had laid a path of destruction through
14 his own life, through his children's lives, his family's
15 lives, I felt about one-inch tall.

16 I got my food and went and sat down. As I sat
17 there, something broke inside of me. Tears began to pour
18 down by face. I was overcome by this love I didn't
19 understand. I had a spiritual experience.

20 I remember sitting there and it was as if Jesus
21 Christ was standing behind me, and I hear the words, "Son,
22 I'll never leave you nor forsake you." And when he said,
23 "Son," that mended the wound of my childhood. I was in
24 God's family now and could forgive the wounds of my earthly
25 family. When he said, "I'll never leave you nor forsake

1 you," I knew I would never be alone again. Instant healing
2 that would take years to complete. Salvation is instant.
3 Sanctification is a lifelong process.

4 I had just experienced an encounter with the
5 Master, the King of Kings. After we finished eating, there
6 was a musical performance followed by the gospel message.
7 At the end of the service they asked if anyone wanted to
8 accept Jesus Christ as their Lord and Savior. I did. So I
9 stood and prayed with the volunteers. This was the best
10 decision of my life.

11 In the weeks that followed, God would take the
12 guilt and shame from me for shooting my stepdad. I would
13 learn who God called me to be. He would give me my identity
14 and my purpose. I liken the healing to a backpack full of
15 rocks of different sizes. Every day God had me sit down and
16 chip away at those rocks, or sometimes he would just take
17 them away from me and my backpack got lighter and lighter.

18 One of the greatest gifts I got during the 18
19 months of this program was accountability. I was in a class
20 and a volunteer asked me, "Shane, do you think your past is
21 responsible for your present?"

22 I thought about it for a minute and I said, "Yes."
23 In my mind I was a victim of the adoption issue and I was a
24 victim of the circumstances of my stepdad's situation.
25 I thought that if those things hadn't happened, my life

1 would have been normal.

2 He then told me, "No, your present is a result of
3 your choices."

4 And I know that's not some deep philosophical
5 statement, but it hit me like a ton of bricks. My life was
6 like the prisoner with the big ball and chain attached to
7 his ankle. That metal ball was my past and I could never
8 get away from it. I couldn't change what had happened in my
9 past. As long as I blamed all my failures and everything
10 else on that, I was destined to remain broken. It impacted
11 every daily decision and future decision of my life, excuse
12 me, every future decision I would make because I was at its
13 mercy.

14 After this group ended, it took me three days to
15 digest what the volunteers said and hold myself accountable
16 for all the destruction I had caused. In that moment of
17 healing, I went from victim to victor. I refused to allow
18 my past to dictate who I was. I intended to walk in who God
19 said I was from this point forward. I was no longer bound
20 by my past, not by the State, not by Facebook, or anything
21 else. I didn't need a backpack to carry these things around
22 with me any longer, the weight was gone.

23 The ministry I mentioned earlier, CHARM, has eight
24 transitional discipleship homes in west Houston. I felt God
25 was calling me out of my comfort zone. So I left

1 Dallas/Fort Worth and went to CHARM in Houston.

2 I got out of prison in July of 2018. I became a
3 member of Houston's First Baptist Church. God had taken my
4 old life from me and given me a wonderful new one.

5 I got to lead a Thursday night basketball youth
6 event every week. It was always 15 to 30 kids from the
7 inner city, west Houston, mostly fatherless children. We
8 played basketball for two hours and then would have a
9 15-minute grown man session, where we talked about scripture
10 or a specific topic, and we would all sit down and eat
11 dinner together. It was something that paid zero, but I was
12 the richest man on Earth on Thursday nights.

13 I'm still thankful for that time at the ministry.
14 I began to work on my relationships with my children. They
15 began to heal and grow. It wasn't easy, but I'm so happy
16 that we all worked at it together and I'm thankful for any
17 time we get to talk or visit together. My children have
18 blessed me more than I can ever earn or think to ask for.
19 I am so proud of them.

20 I would like to say January 6th was a mere few
21 hours, but a page in the book of my life. If I had any
22 inkling things were going to go the way they did, I never
23 would have been there. It's not worth all the pain and
24 suffering I've caused to my friends, family, and to this
25 community.

1 I attended all these speeches at the Ellipse.
2 After I attended those speeches, I accompanied to my friends
3 to their hotel where they went to freshen up in their room.
4 I caught coffee and protein shakes from Starbucks for
5 everyone. After we enjoyed our snacks, we made our way to
6 the Capitol Grounds where a second round of speeches was set
7 to take place. Speeches were not underway when I arrived,
8 something else had happened.

9 During the events of January 6th, I would like it
10 to be noted that I did escort a police officer to safety.
11 Things definitely got out of hand. I do regret not doing
12 more to de-escalate the situation. I did get caught up in
13 the heat of the moment, but I never had a malicious plan or
14 intent. There was never any premeditated anything to
15 January 6th for me.

16 I was not a good ambassador for Christ or a good
17 leader that day. I believe God, people -- places people in
18 positions of authority so I accept whatever it is you decide
19 today, as it is your duty, and I respect that.

20 I would ask that the Court consider my children
21 and the fact that they need their father. Also that this is
22 a unique and politically charged incident. It is not
23 something that I would engage or be a part of ever again.

24 My stepdad was a Vietnam veteran. My adopted dad
25 was a World War II veteran. My brothers' father, AKA

1 grandpa, was a Korean War vet. So to be labeled by the FBI
2 a Tier 1 anti-government extremist or to consider using the
3 terrorist enhancement against me absolutely hurts my heart.
4 I love this country. I was raised by veterans, and I'm not
5 some crazed maniac set out to destroy this nation.

6 Upon my release, I will move back to Houston and
7 continue to serve at CHARM Prison Ministry. I hope someday
8 to build a recreation center in west Houston to serve the
9 same community as I did before.

10 I would ask the Court to consider my service at
11 the D.C. DOC as a detail member or a trustee, as it is
12 called where I'm from. I have been a detail member for
13 two-plus years. I have had zero disciplinaries. I serve
14 the men in the J6 pod and I am a leader there. I have built
15 a rapport with the jail staff and serve as a go-between to
16 keep the tensions down and see that our needs are met.

17 I would also ask the Court to consider potentially
18 helping me be evaluated for PTSD from my life experiences.
19 I don't know that it played a role on January 6th, but I do
20 want to be the best man I can for me and my children, and
21 I believe good mental health goes a long way in that aspect.

22 I will close with a quote from Alan Redpath.
23 "There's nothing -- no circumstance, no trouble, no
24 testing -- that can ever touch me until, first of all, it
25 has gone past God and past Christ right through to me. If

1 it has come that far, it has come with great purpose, which
2 I may not understand at the moment. But as I refuse to
3 become panicky, as I lift my eyes up to Him and accept it as
4 coming from the throne of God for some great purpose of
5 blessing to my own heart, no sorrow will ever disturb me, no
6 circumstance will cause me to fret, for I shall rest in the
7 joy of what my Lord is. That is the rest of victory."

8 I appreciate the Court's time. I appreciate my
9 friends and family for being here, and, again, I appreciate
10 the service that this Court provides to the community. I
11 even saw some jurors in the audience earlier, and I thank
12 them for their service to the community as well.

13 Thank you, Your Honor, and God bless you all.

14 THE COURT: All right. Thank you, Mr. Jenkins.

15 All right, everyone. I'm going to take couple
16 minutes. I just want to collect my thoughts and I will be
17 back.

18 Thank you, everyone.

19 COURTROOM DEPUTY: All rise. This Court stands in
20 recess.

21 (Recess from 5:33 p.m. to 5:44 p.m.)

22 COURTROOM DEPUTY: All rise. This Court is again
23 in session.

24 THE COURT: Please be seated. Thank you,
25 everyone.

1 All right, everyone. Thank you for your patience.

2 So let me just reiterate what I believe to be the
3 final Guidelines. To the extent the government is
4 requesting an upward departure, because the criminal history
5 understates the seriousness of the criminal history, I
6 disagree and I'll explain why when I go through Mr. Jenkins'
7 criminal history momentarily.

8 So the Guidelines will be 151 to 188 months, along
9 with a \$30,000 to a \$300,000 fine. I've already ruled on
10 the fine issue.

11 In addition, I must consider all the factors set
12 forth in 18 U.S.C. 3553(a) and impose a sentence that's
13 sufficient but not greater than necessary to achieve the
14 objectives of sentencing set forth in the statute.

15 The factors I must consider are the nature and
16 circumstances of the offense and the history and
17 characteristics of the defendant; the need for the sentence
18 imposed to reflect the seriousness of the offense; to
19 promote respect for the law, and to provide just punishment
20 for the offense; to afford adequate deterrence; to protect
21 the public; to provide the defendant with any needed
22 educational, vocational training or medical care; the kinds
23 of sentences that are available, and the need to avoid
24 unwanted disparities.

25 Let me just start with the factors about

1 reflecting the seriousness of the offense, promoting respect
2 for the law and providing just punishment. All of those
3 factors weigh here in favor of an incarceral sentence, and
4 I think, as the defense has acknowledged, all of those
5 factors do weigh in favor of a sentence that recognizes the
6 seriousness of the conduct and, frankly, the context of the
7 conduct.

8 In terms of deterrence, specific and general, you
9 know, there is something to be said about general deterrent
10 effect from a high sentence, although it is fair to say
11 that, as the defense has pointed out, that the general
12 deterrent effect has sort of marginally incremental value as
13 the sentence increases.

14 In terms of specific deterrence and deterring
15 Mr. Jenkins, I'll talk about that momentarily, but I do
16 think the sentence should reflect the need to specifically
17 deter Mr. Jenkins specifically to avoid future acts of
18 violence.

19 Let me turn to the history and characteristics of
20 Mr. Jenkins, which he has -- Mr. Jenkins himself has
21 described in a way that I certainly will do no justice to
22 and will try and briefly encapsulate.

23 So he's now 46 years old. I've heard about the
24 challenges that Mr. Jenkins faced during his childhood,
25 between learning of his adoption, the difficulty that

1 brought about in terms of his own emotional and
2 psychological state at a young age; the fact that he then
3 turned to alcohol abuse and drug abuse; the challenge he
4 faced as a juvenile as a result of that; the difficulties
5 that arose obviously after the shooting incident with his
6 stepfather and the saving of his mother's life and his own;
7 the combination of all of those factors, as Mr. Jenkins so
8 eloquently described, set him on a path of self-destruction,
9 which he achieved at many stages.

10 The resulting -- the result of that, as his
11 criminal record reflects, multiple offenses, particularly
12 over the course of his 20s into his 30s, an early aggravated
13 assault at the age of 21; felony drug possession; multiple
14 counts of felony drug possession at the age of 22;
15 possession at 22; assaultive behavior and conduct at 22;
16 again, 24, 24. So, you know, the number of these offenses
17 all occurred before the age of 24.

18 Then in 2006 we get to the misdemeanor evading and
19 felon in possession, felony possession charge, that also
20 included the high quantities, as Mr. Jenkins acknowledged,
21 that resulted in a rather lengthy sentence. DWI at 34, and
22 then another misdemeanor of aiding and felony possession at
23 36.

24 I don't think the criminal history understates
25 Mr. Jenkins' past. You know, the criminal history is not

1 just a function of number, it's a function of type and when
2 things occurred. And as I've just recited, Mr. Jenkins'
3 criminal history is largely when he was 25 and younger. It
4 was a long time ago. A lot happens between the time a young
5 man is 18 and 25, particularly given some of the challenges
6 that he's faced. And so I don't think the Criminal History
7 score is unfair in that regard.

8 In some sense, although I think not inaccurate, in
9 some sense it may even overstate the dangerousness he
10 presents in the sense that his violent acts are really much,
11 very much prior to the age of 25. His more recent offenses
12 are involving narcotics and narcotics trafficking. And
13 while I don't minimize that kind of behavior and that kind
14 of offense, I think it puts into perspective overall where
15 Mr. Jenkins falls, at least in terms of my thinking of
16 what -- how his criminal history plays a role in the Court's
17 ultimate sentence.

18 And to make the point that no one is as bad as
19 their worst days and the worst acts that they've done in
20 their life, you know, Mr. Jenkins seems to have been on a
21 path of redemption and recovery and making contributions,
22 meaningful contributions to his community. He has been a
23 positive influence in the lives of his children, as the
24 letters have so eloquently stated and passionately stated.
25 He has been a real pillar in his community and the

1 contributions he's made to young -- to youth and work with
2 the Prison Ministry does show, I think, that there is
3 redemption and it can be found, notwithstanding what you've
4 done in your past. All of which makes it very difficult to
5 understand why you did what you did on January the 6th.

6 You know, it's one thing, as your lawyer has
7 suggested, to be influenced by propoganda and lies. It's
8 another thing to be so overcome by them to come to the
9 District of Columbia, on an important day in our Democratic
10 tradition, armed and ready for violence.

11 Now, I'm not suggesting you came here with the
12 intent to act conveniently, but the bringing of those
13 tomahawks clearly demonstrates that you were ready for it if
14 it came about, and so were your words.

15 You know, as early as December 28th, you're
16 acknowledging that there would be potential fights and riots
17 on January 6th. January 2nd and 3rd, more statements
18 alluding to violence and bringing of weapons.

19 January 5th, "I'm bringing tomahawks and knives,
20 going full *Braveheart*."

21 And then you came to the District of Columbia with
22 those tomahawks in hand. And regrettably you used them.

23 You arrived at the Lower West Tunnel area just to
24 the left of it facing it, as the government rightly points
25 out. It's not as if you acted immediately once you got

1 there. You actually stood there. You watched. You soaked
2 in everything that was happening around you for at least 45
3 minutes. You could see police officers being assaulted in
4 front of you. And the crowd becoming growingly even more
5 and more chaotic and threatening. And instead of falling
6 back on what you'd learned, your Christian values, your
7 faith in God, for some reason, it left you that day.
8 I don't know why. I don't know why.

9 The conduct as described in the videos or as
10 depicted in the videos is clear as can be. Perhaps it was
11 because of the egging on of the crowd that you pulled that
12 tomahawk out of your backpack and caused to make the first
13 cracks in that window, both literally and figuratively and
14 symbolically.

15 You know, we're all familiar with the imagery of
16 people on the other side, or actually I shouldn't say on the
17 other side, toward the Senate doorways where somebody took a
18 riot shield and was the first one to break that window, and
19 people began pouring in. Somebody breaks -- takes that
20 first crack and creates the first crack that then causes the
21 dam to break, and I dare say in this one part of the Capitol
22 and on January 6th, that was you, Mr. Jenkins.

23 And I am not putting on you the conduct of others,
24 but it is fair to say that without that first crack in the
25 window, there wouldn't have been a second and a third until

1 that window actually did break. Somebody, not you, in fact,
2 another defendant that I'm familiar with, assisted in
3 breaking that out, people went in, did what they did, and
4 weapons came out, and police officers were hurt as a result.

5 The video imagery captures what happened that day
6 in terms of your conduct, further conduct, picking up a desk
7 drawer. And this was not a Ikea desk drawer, this was a
8 wooden desk drawer that, if it had hit a police officer who
9 was not wearing a helmet, could have done real damage,
10 throwing a flagpole in like a javelin. And what is
11 particularly remarkable about the video is that it's not the
12 number, although that in and of itself is pretty
13 significant. It's that it shows you go back for more.

14 You've got what you got, you throw some things in,
15 that's not enough, you go back down the stairs, you find
16 something else, you go up, you throw it, and that happens at
17 least twice. There's a purposefulness and an aggression, an
18 anger, and I don't know where it comes from, I wish I could
19 understand it.

20 You were pepper-sprayed in that line. You know,
21 that did not deter you. Thirty minutes later is when you
22 are throwing these objects at the police.

23 You ultimately leave shortly after that, and it is
24 fair to say celebrate what you did that day, sort of bask in
25 it, saying to someone about the Congressmen and the Vice

1 President, "I'm pretty sure they got the message, it wasn't
2 frivolous, it wasn't for fun, it wasn't vandalism. It was a
3 message. You have to break eggs to make an omelet."

4 January 8th, this is two days later. "No
5 self-reflection. It was the most amazing thing ever, man.
6 Damn what the media says."

7 It's very hard to reconcile that, Mr. Jenkins,
8 with the person that people in the audience here, people in
9 the letters have said you are. I believe that's who you
10 are, but I have a hard time reconciling that with someone
11 who, as early as December, three days after Christmas, was
12 prepared to -- for violence, and then two days after
13 January 6th was still reveling in it.

14 And if that weren't enough, I don't know what to
15 make, Mr. Jenkins, of the characterization, characterizing
16 yourself as a political prison. Maybe you believe it,
17 I don't know. It's hard for me to say what's in a man's
18 heart. What I know is what you've said and what you've
19 done, what you posted and associated yourself with.

20 I've said this at a number of sentencings. I'll
21 say it again. You aren't a political prisoner. Anybody
22 that sat here today this afternoon for two hours and watched
23 the video knows that you aren't incarcerated, you weren't
24 charged, you weren't convicted because of anything you said
25 or anything you believed. It had nothing to do with that.

1 It had everything to do with you taking out a
2 metal object with a sharp edge and trying to break a window
3 to get into a Capitol Building and then finding what you
4 could do to assault police officers. That's why you're here
5 today and for no other reason.

6 And what bothers me about this notion of being
7 political prisoner is it continues to fuel the lie that
8 somehow an election was stolen, that somehow people who are
9 being charged because of their actions and not their beliefs
10 are the victims. That is false.

11 The victims, and unfortunately I didn't even hear
12 you talk about them, are those police officers who were in
13 that tunnel, who for hours, hours fought off a mob of people
14 who were throwing at them everything they could possibly
15 find, throwing their bodies at them, putting -- spraying
16 them with pepper spray, bear spray. I mean, you want to
17 know who went Braveheart? You and the people around you.
18 And those police officers were able to fend you off. They
19 were the victims. Not you, not anybody that's currently
20 incarcerated at the D.C. jail.

21 You want to stand for something? Stand for being
22 accountable, stand for taking responsibility for your
23 actions instead of deflecting blame on others. Recognize
24 that what you've done is not just wrong but contributed to
25 what is a toxic environment and only made it worse.

1 The country should mean more to you than that.
2 Democratic norms, values, institutions should mean more to
3 you than not.

4 There's this notion that somehow folks are coming
5 here to D.C., they're being put in front of D.C. juries,
6 they're being convicted without process. Nothing could be
7 further from the truth. You got all the process you were
8 due. Twelve people looked at the same evidence that people
9 who are here today just saw. And it's hard for me to
10 believe anybody could come to any other conclusion. It's
11 all on video.

12 I agree with the government that the conduct here
13 certainly falls on the more serious side of the spectrum. I
14 agree with the government that some of the conduct and
15 actions after that day and what you've posted and how you
16 tried to capitalize on it is really shameful. I mean,
17 shameful. You know, there's no other way to describe it.

18 But my job is ultimately not to impose a sentence
19 that is retributive. That is not my job. My job is to
20 impose a sentence that is just and that is consistent with
21 the factors that I'm required to by law, and the most
22 important of these that I have been guided by in all of
23 these sentences is trying to right-size people's conduct
24 against the conduct of others.

25 And while Mr. Jenkins' conduct was bad and it

1 falls on the bad end of the spectrum, it's not the worst.
2 And some of the comparators that I have considered and
3 thought about in terms of where Mr. Jenkins falls, there are
4 those who directly, physically harmed police officers, laid
5 hands on them, used weapons against them.

6 We had the individuals who tasered Officer Fanone.
7 We had Mr. Webster, who I sentenced, who tackled a police
8 officer and tried to rip his gas mask off after trying to
9 hit with a flagpole.

10 We have people who were at the front of the line
11 in that west tunnel who caused police officers to get stuck
12 in doors and causing them direct injury as we heard them cry
13 out in pain. That's not you.

14 Those people, like Mr. Head, Mr. McCaughey, were
15 recipients of sentences of about 90 months.

16 Mr. Webster got 120.

17 The government has cited Mr. Schwartz, who I
18 sentenced to 170 months. You're not Mr. Schwartz.
19 Mr. Schwartz assaulted four different police officers using
20 a chair, pepper-sprayed people multiple times, and talk
21 about a criminal history. And that sentence of 170 months
22 was a substantial variance from the Guidelines.

23 So I want to be clear that that's what I -- so
24 there are those folks who've received those types of
25 sentences and then there are the conspirators. You're not

1 in that category. They have received, and deservedly so,
2 sentences that are substantial for conspiring against the
3 United States. You didn't do that. You're not in that
4 category.

5 But the conduct is serious and it is comparable to
6 others who have received serious sentences.

7 Not only because of the assaultive behavior, but
8 also in your case, uniquely, because of the destruction of
9 property.

10 And I'm only aware of one other person who sort of
11 comes close to that, and that was Mr. Gardner, who was on
12 the video, who was the one actually handing out the wooden
13 leg of the desk that he helped destroy. He also
14 pepper-sprayed an officer. He received 55 months, but
15 importantly, he took a plea, had no prior criminal history.

16 You're differently situated than Mr. Gardener,
17 both in terms of criminal history, some of the
18 post-conviction statements, lack of remorse.

19 And so thinking about the right place to put you
20 on that spectrum of conduct, the sentence of the Court will
21 be as follows:

22 You will be committed to the custody of the
23 Bureau of Prisons for a term of 84 months as to Counts 2, 3,
24 5, 6, 7, and 8; a term of 60 months as to Count 1, six
25 months as to Counts 9 and 10, all of those counts are to run

1 concurrently.

2 You are further sentenced to serve 36 months, that
3 is, three years, of supervised release as to each count.
4 Those will run concurrently as well.

5 You're also ordered to pay a Special Assessment of
6 \$720 to the Court.

7 While you are on supervision, you shall abide by
8 the following mandatory conditions as well as all the
9 discretionary conditions recommended by the Probation Office
10 in Part D of the sentencing options of the Presentence
11 Investigation Report, which have been established to --
12 which are being imposed to establish the basic expectations
13 for your conduct while on supervision.

14 Those mandatory conditions, include not committing
15 another federal, state, or local crime, not unlawfully
16 possessing a controlled substance. You must refrain from
17 unlawful use of a controlled substance, and must submit to
18 one drug test within 15 days of placement on supervision and
19 at least two periodic drug tests thereafter as determined by
20 the Court. You must cooperate in the collection of DNA, and
21 you must make restitution. The restitution is in the amount
22 of \$5,176 to the Architect of the Capitol.

23 The restitution amount shall be paid to the U.S.
24 District Court for the District of Columbia for payment to
25 the Architect of the Capitol.

1 You must provide the probation officer with any
2 access to -- with access to any financial information that's
3 requested and authorize the release of the financial
4 information. The Probation Office may share that financial
5 information with the U.S. Attorney's Office.

6 In addition, there will be two additional special
7 conditions. They will be drug testing and treatment and --
8 for both alcohol and any other substances as is recommended
9 by Probation, and I will recommend -- or I will impose a
10 special condition of mental health treatment and counseling
11 as requested -- excuse me, as recommended by the Probation
12 Office.

13 The Court finds that you don't have the ability to
14 pay a fine and, therefore, will not impose a fine.

15 The financial obligations to the Court are
16 immediately payable to the Clerk of the Court of the U.S.
17 District Court at 333 Constitution Avenue. If the amount
18 remains unpaid, within 30 days of any change of address, you
19 shall notify the Clerk of the Court until the change of
20 address until such time as that financial obligation is paid
21 in full.

22 The Probation Office shall release the Presentence
23 Investigation Report to all appropriate agencies, which
24 includes the U.S. Probation Office in the approved district
25 of residence in order to execute the sentence of the Court.

1 Any treatment agency shall return the presentence report to
2 the Probation Office upon the defendant's completion or
3 treatment -- termination from treatment.

4 The Court will authorize the transfer of
5 supervision to the jurisdiction of residence, but I will
6 maintain jurisdiction over the case, which means,
7 Mr. Jenkins, you will be supervised in the district where
8 you will reside, but if any issues arise, it will come back
9 to me.

10 You have the right to appeal your convictions, as
11 well as your sentence. If you wish to file an appeal, any
12 notice of appeal must be filed within 14 days after the
13 entry of judgment or within 14 days of the filing of a
14 notice of appeal by the government.

15 If you are unable to afford the cost of an appeal,
16 you may request permission from the Court of Appeals to file
17 an appeal without cost to you. You also may request
18 court-appointed counsel if you cannot afford one for
19 purposes of your appeal.

20 You also have the right under 28 U.S.C. 2255 to
21 challenge the conviction and the sentences that have been
22 entered to the extent that are permitted by that statute,
23 including its time limitations. You also have reserved the
24 right to raise on appeal, and in any 2255 motion, any motion
25 for based upon ineffective assistance of counsel either in

1 connection with your representation at trial or in
2 connection with your sentencing.

3 All right. So that'll be the sentence of the
4 Court.

5 Is there anything anybody would like to place on
6 the record at this point in terms of additional objections
7 or requests?

8 MR. BOYLE: Your Honor, would the Court consider
9 recommending that the defendant be incarcerated either in El
10 Levo -- El Reno in Oklahoma City or Sizerville in Dallas --
11 Seagoville, I'm sorry, I don't know these facilities -- in
12 Texas. Those are in close proximity to his family.
13 We believe they would assist in his rehabilitation.

14 THE COURT: I'm happy to do that. If you would
15 just make sure Mr. Douyon has the proper spelling of those
16 facilities so that they're reflected in the judgment.

17 MR. BOYLE: I will.

18 PROBATION OFFICER: Your Honor, we just want to
19 clarify for the record that the 36-month supervised-release
20 term is on counts -- all the counts with the exception of 9
21 and 10.

22 THE COURT: Right.

23 PROBATION OFFICER: Thank you, Your Honor.

24 THE COURT: Correct.

25 All right. Anything else, Counsel?

1 MR. PERRI: No, Your Honor.

2 MR. BOYLE: No, Your Honor.

3 THE COURT: All right. Thank you, all, very much.

4 Mr. Jenkins, good luck to you, sir.

5 COURTROOM DEPUTY: All rise. This Court stands in
6 recess.

7 (Proceedings concluded at 6:12 p.m.)

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C E R T I F I C A T E

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

Date: October 13, 2023



William P. Zaremba, RMR, CRR

ALSO PRESENT: [1] 7/13
COURTROOM DEPUTY: [6] 3/2 3/7 60/23 74/19 74/22 91/5
MR. BOYLE: [42] 3/22 5/3 5/8 7/5 7/11 8/7 10/14 14/20 18/12 20/7 20/17 20/24 21/1 21/7 21/10 21/23 24/5 24/8 24/22 29/3 29/10 29/13 29/18 31/10 32/2 32/8 33/7 33/11 33/18 33/22 34/3 37/9 37/22 37/25 38/7 52/23 57/10 57/18 58/5 90/8 90/17 91/2
MR. PERRI: [35] 5/16 8/9 10/18 14/18 16/23 18/8 20/8 22/11 23/4 23/7 23/11 23/16 23/19 23/25 25/3 25/7 30/3 33/2 34/12 35/6 35/10 35/24 36/3 36/6 37/7 42/4 44/4 44/7 45/10 46/9 46/12 47/14 48/2 49/5 91/1
MR. VANWINKLE: [5] 5/24 6/1 6/4 6/8 6/10
MS. GROSSHANS: [1] 3/21
PROBATION OFFICER: [4] 19/16 32/23 90/18 90/23
THE COURT: [82] 3/5 3/16 3/23 5/4 5/11 5/20 5/25 6/2 6/5 6/9 7/1 7/10 7/19 8/11 10/16 10/19 14/19 15/3 16/24 18/9 18/15 19/18 20/9 20/22 20/25 21/3 21/19 22/1 23/2 23/5 23/8 23/13 23/23 24/2 24/7 24/14 24/25 25/5 25/19 28/1 29/6 29/12 29/15 29/19 30/19 31/17 32/4 32/19 32/25 33/6 33/10 33/17 33/20 33/25 34/7 34/13 35/7 35/19 36/2 36/4 36/8 37/12 37/23 38/6 38/8 46/7 46/10 47/22 52/21 57/6 57/11 58/3 60/6 60/11 60/16 61/1 74/14 74/24 90/14 90/22 90/24 91/3
THE DEFENDANT: [3] 60/9 60/14 61/4

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18 U.S.C [3] 38/18 55/17 75/12
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28 [2] 51/13 89/20
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