

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEFFREY ALEXANDER SMITH,

Defendant.

Criminal Action No. 1:21-cr-00290-
RBW

Date: February 22, 2022

Time: 11:30 AM

Judge: Hon. Reggie B. Walton

SENTENCING MEMORANDUM

The defendant, Jeffrey Alexander Smith, by and through his counsel, John J. Rice, hereby submits this sentencing memorandum for consideration to the Court.

INTRODUCTION

Jeffrey A. Smith is a 34-year-old Army veteran, a single father of two minor children, and an aspiring commercial pilot. He also is a party to an acrimonious divorce proceeding that has been pending since 2018, which has caused significant turmoil in his personal life. In 2020, Mr. Smith moved from San Diego, California—his “home” for over 30 years—to Colorado Springs, Colorado to be closer to his children, who had been unexpectedly relocated by their mother in connection with the divorce proceeding. In doing so, Mr. Smith was forced to leave his job and move away from the people he was closest to, including his parents, his girlfriend, and his close friends—in short, his support system.

When Mr. Smith enlisted in the Army in 2010, he took an oath to “support and defend the Constitution of the United States of America against all enemies, foreign and domestic.” For five years, Mr. Smith proudly defended his country—including one tour of active combat duty in Iraq. However, on January 6, 2021, Mr.

Smith participated in a political rally and an ensuing “attack” on American democracy. Mr. Smith understands the impact that the events of January 6, 2021 have had on a global scale and has accepted full responsibility for his role in these events; indeed, in the days that followed, Mr. Smith provided voluntary statements to law enforcement—including admissions of guilt—and cooperated with authorities throughout the investigation. Mr. Smith will be seeking probation for his offense but, regardless of this Court’s decision regarding custody, Mr. Smith will accept his punishment with dignity and respect for the rule of law.

HISTORY AND CHARACTERISTICS OF MR. SMITH

General Background

Mr. Smith was born and raised in Coronado, California. He is the second of five children and has always been close to his two sisters and two brothers, as well as his parents. His father owns and operates a plumbing business where Mr. Smith has worked intermittently for several years. His mother is a homemaker. Mr. Smith’s parents submitted written statements of support.

Mr. Smith’s father describes Alex (who goes by his middle name) as being “driven, clever and good natured” and notes that he is a “dedicated, hardworking, innovative, and compassionate person.” He remarked that Alex has a “passion to rise up and take on healthy opportunities [and] has displayed an immense amount of self-discipline, dedication, and positivity. He has shown he is the type of person who can keep a positive attitude, is dependable, and can handle stressful situations—a demeanor that is often contagious.” (Ex. 1.)

Mr. Smith’s mother, on the other hand, provides that he has “always been smart, funny, and energetic with a very big heart.” She also noted Alex’s unwavering commitment to family (in particular, his two children). Mrs. Smith also explains the psychological and emotional toll that Alex’s divorce and forced separation from his children have had on him. (Ex. 2.)

Military Service

After graduating from high school in 2005, Mr. Smith enrolled in community college in San Diego, California and San Luis Obispo, California. Mr. Smith studied photography and film. Eventually, Mr. Smith realized that working towards a four-year university degree suited neither his talents nor his temperament. In January 2010, at the age of 23, Mr. Smith enlisted in the United States Army as a Calvary Scout.

Mr. Smith initially reported to Ft. Knox, Kentucky for “Boot Camp” and was subsequently assigned to Ft. Riley, Kansas. Just ten months after enlisting, Mr. Smith deployed to Camp Liberty in Baghdad, Iraq, where he saw active wartime combat. His overseas deployment lasted one year and resulted in Mr. Smith receiving, among other commendations, a Combat Action Badge, an Army Commendation Medal, two Army Achievement Medals, Army Meritorious Unit Commendation Medal, Army Good Conduct Medal, National Defense Service Medal, Global War on Terrorism Service Medal, Iraq Campaign Medal, and Non-Commissioned Officer Medal. Mr. Smith was honorably discharged in January 2015 having risen to a final rank of Sergeant.

Three of Mr. Smith’s military colleagues, Christopher Campbell (now a Police Officer in El Mirage, Arizona), Chief Warrant Officer (CWO) Andrew Rose, and Sgt. Demarr Brown (Ret.), submitted letters of support for Mr. Smith. Officer Campbell recognized Mr. Smith as being a “loyal, compassionate and humble person who values family, friendship and country and has always dedicated himself to the service of others” and “is highly regarded by his friends, family and prior service members as a person of great integrity and love for those around him.” (Ex. 3.)

CWO Rose detailed Mr. Smith’s “leadership” and the positive impact that he had on the platoon’s junior soldiers: “He not only helped junior soldiers, but he also helped his peers with how to properly conduct counseling statements and how to

help not only teach but learn from people to better themselves. SGT Smith was not just a teacher, but a humble enough gentleman to learn from seniors and subordinates alike. He became the ‘go to’ soldier for platoon level tasks.” (Ex. 4.) CWO Rose also valued Mr. Smith on a personal level: “I not only trust him with my life, but also my family and anything I hold dear.”

Sgt. Brown, who served in Iraq with Mr. Smith, described Mr. Smith as being “loyal to his country, his teammates and his friends” and “treated everyone like family regardless of race, religious or belief.” (Ex. 5.)

Like Mr. Smith, Officer Campbell, CWO Rose and Sgt. Brown acknowledge the enormity of what occurred on January 6, 2021 and do not in any way condone Mr. Smith’s behavior. However, they urge the Court to consider the positive traits and contributions they have witnessed from Mr. Smith when determining the proper punishment in this matter.

A Father of Two.

In 2014, while stationed at Ft. Carson, Mr. Smith met a young woman that he later married. Together, they had two children – now ages 7 and 4. Although his relationship with his wife proved difficult, Mr. Smith never let disagreements with his wife interfere with the love and care he provided for his children. Mr. Smith was a hands-on father who was actively involved in his children’s lives: he attended school functions; regularly took his children on excursions to playgrounds and parks like the San Diego Zoo and SeaWorld; celebrated every holiday and special occasion together; and, most importantly, strived to be a positive example and influence on a daily basis.

In November 2018, Mr. Smith’s then-wife filed for divorce in San Diego Superior Court. That proceeding triggered a series of events which had a traumatic effect on Mr. Smith. Most painful for Mr. Smith was an order allowing his ex-wife to move his children from San Diego, California to Colorado Springs, Colorado in

February 2020. In order to maintain contact with his children, one-week later Mr. Smith began commuting from San Diego to Colorado Springs; he made this trip every month in order to see his children. In July 2020, Mr. Smith permanently moved to Colorado Springs. Because this move forced Mr. Smith to leave his family and friends, his girlfriend, and his job, it proved to be a very difficult transition but one he was willing to make for the good of his children.

Mr. Smith is currently limited to supervised visitation of his children pending finalization of the divorce proceeding. To that end, Mr. Smith pays an authorized supervisor an hourly rate of \$30.00-\$50.00 per visit to facilitate his visits with his children. Despite these challenges, Mr. Smith has worked assiduously to be the best father he can be. Attached as **Exhibit 6** is a redacted exemplar of a recent report (November 2021) from the monitor detailing her observations of Mr. Smith as a loving and supportive parent.

Present Day.

Mr. Smith is living in Colorado Springs and is gainfully employed as a Field Supervisor for a plumbing company. In that capacity, Mr. Smith supervises a team of approximately 26 employees across hundreds of job sites. His supervisor, Paul Ferreira, describes Mr. Smith as a “great leader” and that he “shows up early every day, is always one of the last to leave, and is consistently willing to pick up the slack when needed.” (**Ex. 7.**)

Mr. Smith has also been dating his current girlfriend since September of 2019. In her statement, Ms. Richards provides that Mr. Smith was her “friend’s goofy brother—headstrong, yet fun-loving with a heart of gold.” (**Ex. 8.**) She describes Mr. Smith’s struggles with the divorce proceeding and loss of custody of his kids, and his steadfast will to continue providing for his children—even if not in the full-capacity as he desires. Ms. Richards also details the actions undertaken by Mr. Smith to provide for his parents as they prepare for retirement, his personal troubles

notwithstanding. She also recognizes that Mr. Smith “is a kind, loving, generous, thoughtful and loyal person.”

There is no excuse for Mr. Smith’s actions; nor will he attempt to offer one to justify his conduct. To the contrary, Mr. Smith admitted to his crimes and, while he cannot change the past, he can learn from his decision-making and will move on with his rehabilitation as a productive member of society.

NATURE OF THE OFFENSE

Mr. Smith has pled guilty to one misdemeanor count of parading, demonstrating, or picketing in a Capitol Building, in violation Title 40, United States Code, Section 5104€(2)(G). This misdemeanor violation carries a maximum sentence of six months imprisonment and a fine of not more than \$5,000. Mr. Smith is extremely remorseful about his conduct and regrets his involvement in the reprehensible events that transpired at the Capitol Building on January 6, 2021.

Mr. Smith entered the Capitol Building by joining a parade of people who were entering through an open and unblocked door. Mr. Smith accepts responsibility for illegally entering and walking throughout the Capitol Building. Once inside the Capitol Building, Mr. Smith joined others in walking throughout the building and trying to see as much of the building as possible. Mr. Smith also moved a bench from in front of a door in an attempt, which was unsuccessful, to help others enter. Mr. Smith also joined in as a large group of people pushed forward helping more rioters enter the Capitol Building. When he saw a discarded police hat, he put it on his head and returned it to the next officer he saw. At the time, Mr. Smith believed that his spontaneous decision to join the throngs of people that had entered the Capitol Building in “protest” was justified and “patriotic.” Later, when Mr. Smith had time to consider the damage that was caused to both people and property by the selfish actions of himself and others, he deeply regretted his involvement. He is ashamed that he took part in a violent incident that attempted to disrupt the peaceful

democratic process which has made him so proud to be an American and led him to serve his country on the field of battle.

Though it in no way justifies his actions, it is notable that Mr. Smith's ill-advised decision to enter the Capitol Building was not something he had pre-planned. Mr. Smith travelled to Washington D.C. to hear President Trump speak, not to disrupt the proceedings at the Capitol Building. His ill-advised decision to enter the Capitol Building was made when he saw hundreds, if not thousands, of others already inside and the doors to the Capitol Building open. While inside for approximately half of an hour, Mr. Smith was not engaged in any violence or property damage.

After the events of January 6th, 2021, Mr. Smith did not engage in any efforts to spread any propaganda on social media about what happened at the Capitol Building. When contacted by law enforcement, Mr. Smith was cooperative and truthful and agreed to interviews with agents of the Federal Bureau of Investigation on multiple occasions. Much to his embarrassment, a search warrant was executed at his parents' home where he was residing at the time. However, the search yielded no evidence that Mr. Smith's actions were anything more than a disastrous lapse of judgement on January 6, 2021. Mr. Smith was arrested and spent a night at the Metropolitan Correctional Center in San Diego before posting bail.

SENTENCING REQUEST

Mr. Smith has pled guilty to a misdemeanor and is eligible for a sentence of probation under the United States Sentencing Guidelines. Mr. Smith urges the Court to impose a sentence of 3 years of probation with 120 hours of community service. The most important thing in Mr. Smith's life remains his two children. In order to continue to be nearby and play an important role in their lives, Mr. Smith moved to Colorado, away from his family and friends. To be an effective father, Mr. Smith

knows that he must continue to work and establish a stable home in Colorado. A custodial sentence in this case would be disastrous to those efforts.

Mr. Smith has not gone unpunished for his actions on January 6, 2021. His case has received extensive media coverage locally and it has hurt his efforts to convince the family court to allow him to spend more time with his children. His ability to qualify for a commercial pilot's license has been jeopardized. And, most importantly, he has to live with the fact that he helped cause real damage to the country he loves and fought for in battle.

In sum, Mr. Smith has learned a devastating lesson that has upended his life and that of his loved ones. He made a foolish decision to enter and remain in the Capitol Building; the images from that day will never go away and will haunt Mr. Smith for the rest of his life. Mr. Smith has been publicly humiliated and his conviction in this case has impacted his ability to be an effective father and build a successful future. He deeply regrets his actions. Mr. Smith's conviction, coupled with a probationary sentence, will serve as a deterrent to both Mr. Smith and others that may, in the future, contemplate being part of a mob intent on betraying the peaceful political process that makes this country great. Requiring Mr. Smith to serve time in custody is unnecessary to prevent him from ever committing another crime. A probationary sentence which includes a significant period of community service will serve as a deterrent as well as providing an opportunity for Mr. Smith to make amends for the damage he caused.

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CONCLUSION

For the reasons stated above, Mr. Smith asks this Court to impose a sentence of three years of probation with 120 days of community service.

DATED: February 17, 2022

HIGGS, FLETCHER & MACK LLP

By:  _____

JOHN J. RICE, ESQ.

Attorneys for Defendant

JEFFERY ALEXANDER SMITH

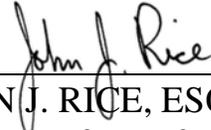
CERTIFICATE OF SERVICE

Counsel for Defendant certifies that the foregoing pleading is true and accurate to the best of his information and belief, and that a copy of the foregoing document has been served this day upon:

- **George Peter Eliopoulos** george.p.eliopoulos@usdoj.gov, usadc.narcotics@usdoj.gov, usadc.ecfvnt@usdoj.gov, Kim.E.Hall@usdoj.gov, USADC.CriminalDocket@usdoj.gov, CaseView.ECF@usdoj.gov, katie.thomas@usdoj.gov
- **John Patrick Pierce** JPierce@Themis.US.com
- **John Joseph Rice** ricej@higgslaw.com, begaym@higgslaw.com

DATED: February 17, 2022

HIGGS, FLETCHER & MACK LLP

By: 

JOHN J. RICE, ESQ.
Attorneys for Defendant
JEFFERY ALEXANDER SMITH