

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

UNITED STATES OF AMERICA,)	
)	
v.)	No. 21-cr-454 (PLF)
ANTHONY PUMA)	
)	
Defendant.)	
)	

DEFENDANT'S MEMORANDUM IN AID OF SENTENCING

Mr. Puma is a 50 year old family man who has overcome many challenges in his past and who has already suffered in many ways as a result of his conduct. After his arrest for the instant matter, Mr. Puma was not only fired from his stable job that was supporting his family but he was also subsequently terminated from the next job he obtained as soon as they learned of his pending charges. He has also been in a constant state of turmoil over his actions but also of the fear of what will happen to him and his family if he goes to prison. The constant threat to his livelihood and the remorse he has felt over the past two years has been more of a deterrence than any jail sentence could ever achieve.

Despite Mr. Puma's disrespectful and thoughtless conduct on January 6, 2021, the fact remains that he was never violent, never destroyed property, and did not bring weapons or act in concert with extremist groups. Mr. Puma did not even wake up until 1:30 p.m. on January 6, 2021. He also did not arrive at the Capitol building until long after the initial breach of the building, entering the Senate Wing Door at 3:10 p.m. Mr. Puma did not want violence to occur, has never participated

in violence in his past, and he was horrified when he realized what he was a part of that day.

The government's past pleadings paint Mr. Puma as more culpable than he actually was, and the defense anticipates that it will likely do so again for sentencing basing its arguments mostly on Mr. Puma's words – which he posted online, repeating the same rhetoric and propaganda of others, with no real audience or reason to believe that anyone would act based on his words. Most importantly, many of his words contradicted his actual behavior that day. Mr. Puma acknowledges that he should be punished but the punishment should be based on his actions, not thoughtless words said behind a computer screen that he did not mean literally. In looking at his actions closely, counsel respectfully submits that the estimated sentencing guideline range is disproportionate to Mr. Puma's conduct.

Since shortly after January 6, 2021, Mr. Puma has truly distanced himself from his conduct and has done nothing but continue to provide for his family by working tirelessly. Despite his difficulty in finding employment, he persisted, and is now currently employed. Notably, on January 14, 2021, Mr. Puma met with the FBI and gave a voluntary interview where he admitted his involvement and agreed to send them his Go Pro footage from that day which captured all of his movements on Jan. 6. He offered his full cooperation, which he gave again at another voluntary interview after his arrest on May 27, 2021 where he provided the passcode to his cell phone, and last summer in August when he met with the FBI again pursuant to his plea agreement. These actions reflect a remorseful individual. Mr. Puma deeply

regrets his actions and he will never repeat them. Furthermore, he acknowledges that he was encouraged by the former President Trump and has disavowed himself from any dangerous propaganda that led him to commit a crime. While this does not excuse his actions, Mr. Puma genuinely feels tricked by the former President who he trusted would not steer him down an illegal path. He now knows he should have never fell for his manipulation strategies.

When looking at his specific conduct on January 6, 2021, and the rest of the 3553(a) factors, a lengthy period of incarceration is not warranted. Based on a thorough consideration of each sentencing factor, Mr. Puma respectfully requests that the Court grant a substantial downward variance from the guideline range of 15-21 months and to fashion a non-incarceration sentence that includes a substantial amount of home detention as a condition of probation. If the Court is inclined to impose a period of incarceration, counsel submits that when reviewing past felony *and misdemeanor* Jan. 6 sentences in this jurisdiction, that a sentence of no more than 4 months' incarceration is more than sufficient but not greater than necessary to accomplish the goals of sentencing.

BACKGROUND

On August 30, 2022, Mr. Puma entered a guilty plea to one count of Obstruction of an Official Proceeding in violation of 18 USC §1512(c)(2) for his participation in the events on January 6, 2021. He entered a plea to the most serious charge in the indictment, even despite the pending litigation regarding the

applicability of this statute which is still on appeal in other matters,¹ and agreed to an enhancement that has also been in dispute.² He has been on pre-trial release since May 27, 2021, and has been overall compliant with his conditions. Mr. Puma has reviewed the pre-sentence report and does not have any objections to the estimated guideline range.

Before January 6, 2021, the Former President Trump and other Republican leaders encouraged millions of ordinary Americans to travel to D.C. to attend the “Stop the Steal” rally, where he would further encourage them to head to the Capitol building to protest the certification of the Electoral College Vote. In what the January 6 Committee tasked with investigating the events called “The Big Lie,” the former President summoned his supporters to travel to D.C. based on false claims that the 2020 Presidential election was “stolen” from him.³ This lie was told over and over beginning immediately after the 2020 election results where the former President even falsely declared victory.⁴ The former President convinced ordinary Americans, who were not experts in election law, that irregularities existed in the voting practices and that the fraud would be uncovered. He held rallies all over the country, repeating these claims and firing up the American

¹ See *U.S. v. Miller*, 22-3041 (D.C. Cir. 2022)

² See *United States v. Hunter Seefried*, 21-cr-287 (TNM), Memorandum Opinion at ECF no. 123, where the Court refused to apply the same enhancement (2J1.2(b)(2)) that Mr. Puma agreed to as it found that the electoral certification was not a proceeding involving the “administration of justice.”

³ Shivaram, Deepa, *The House Jan. 6 committee releases its final report on the Capitol attack*, NPR, December 22, 2022, available at <https://www.npr.org/2022/12/21/1144489935/january-6-committee-full-report-release>.

⁴ *Id.* at pg. 36 of final report.

people.

So, when the former President invited millions of his supporters to travel to D.C. on the same day as the electoral certification, he gave them false hope that their voices could somehow change the electoral certification results and that they could encourage Mike Pence and other Republican leaders to reject the votes from states that had claimed voter fraud. Below are examples of some of the political rhetoric that was spreading through the Trump supporter community prior to January 6, 2021 that came directly from former President Trump:

WE HAVE JUST BEGUN TO FIGHT!!! – Tweet from Trump on December 12, 2022.⁵

A great report by Peter. Statistically impossible to have lost the 2020 Election. Big protest in D.C. on January 6th. Be there, will be wild! – **Tweet from Trump on December 19.**⁶

The Justice Department and the FBI have done nothing about the 2020 Presidential Election Voter Fraud, the biggest SCAM in our nation's history, despite overwhelming evidence. They should be ashamed. History will remember. Never give up. See everyone in D.C. on January 6th.⁷ – **Trump tweet from December 26, 2022.**

If you are planning to attend peaceful protests in D.C. on the 6th, I recommend wearing a body camera. The more video angles of that day the better. – **retweet by Trump on January 3, 2022.**⁸

If the liberal Democrats take the Senate and the White House – and they're not taking this White House – we're going to fight like hell, I'll tell you right now,"...We're going to take it back." – **Trump's words at a rally in Georgia on January 4, 2021.**⁹

⁵ Sherman, Amy, *A Timeline of what Trump said before Jan. 6 Capitol riot*, Politifact, The Poyner Institute, January 11, 2021, available at <https://www.politifact.com/article/2021/jan/11/timeline-what-trump-said-jan-6-capitol-riot/>

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

If Vice President @Mike_Pence comes through for us, we will win the Presidency. Many States want to decertify the mistake they made in certifying incorrect and even fraudulent numbers in a process NOT approved by their State Legislatures (which it must be). Mike can send it back! - **Tweet from former President Trump at 1:00 am on January 6, 2021.**¹⁰

Also before January 6, 2021, extremist groups from all over the country who supported President Trump began spreading other political rhetoric, such as Q'Anon, the Oathkeepers, and the Proud Boys. Below are some examples of their messages spread to millions of people on sites like Twitter and Parler, for everyone to see, including Mr. Puma.

We're very much in exactly the same spot that the founding fathers were in like March 1775. And Patrick Henry was right. Nothing left but to fight. And that's true for us, too. We're not getting out of this without a fight. – **Founder of Oathkeepers.**¹¹

Nothing will stop us. They can try and try and try but the storm is here and it is descending upon DC in less than 24 hours...dark to light. – **Tweet from Ashli Babbitt on January 5, 2021, reiterating Q'Anon ideologies.**¹²

¹⁰ *January 6 Report* at 61.

¹¹ Dickinson, Tim, *I Want My F-king Street Fighters': Top Oath Keepers Call for Violence Revealed*, RollingStone, May 11, 2022, available at <https://www.rollingstone.com/politics/politics-news/oath-keepers-meeting-transcript-jan-6-violence-1351912/>

¹² Haroun, Azmi, *'Nothing can stop us': Slain Trump supporter tweeted conspiracy theories and her devotion to Trump in the days before her death*, Business Insider, January 7, 2021, available at [https://www.businessinsider.com/ashli-babbitt-tweeted-qanon-and-trump-conspiracies-before-capitol-death-2021-](https://www.businessinsider.com/ashli-babbitt-tweeted-qanon-and-trump-conspiracies-before-capitol-death-2021-1?_gl=1*1dq1bba*_ga*MTk3MTI5NDEExNi4xNjU4ODQyMjkw*_ga_E21CV80ZCZ*MTY3NTc4MTA0Ny4yLjEuMTY3NTc4MTE4Ny4wLjAuMA..)

[1?_gl=1*1dq1bba*_ga*MTk3MTI5NDEExNi4xNjU4ODQyMjkw*_ga_E21CV80ZCZ*MTY3NTc4MTA0Ny4yLjEuMTY3NTc4MTE4Ny4wLjAuMA..](https://www.businessinsider.com/ashli-babbitt-tweeted-qanon-and-trump-conspiracies-before-capitol-death-2021-1?_gl=1*1dq1bba*_ga*MTk3MTI5NDEExNi4xNjU4ODQyMjkw*_ga_E21CV80ZCZ*MTY3NTc4MTA0Ny4yLjEuMTY3NTc4MTE4Ny4wLjAuMA..)



ARGUMENT

I. Legal Standard

The Court is well aware that the Supreme Court's opinions in *Kimbrough v. United States*, 552 U.S. 84 (2007), and *Gall v. United States*, 552 U.S. 38 (2007),

have dramatically altered the law of federal sentencing. While courts must continue to consider the sentencing guidelines, Congress has required federal courts to impose the least amount of imprisonment necessary to accomplish the purposes of sentencing as set forth in 18 U.S.C. §3553(a).¹³ As the Supreme Court made clear in *Kimbrough* and *Gall*, the Sentencing Guidelines are simply an advisory tool to be considered alongside other statutory considerations set forth in 18 U.S.C. §3553(a).

In two more summary reversals, the Court further clarified that the Guidelines cannot be used as a substitute for a sentencing court's independent determination of a just sentence based upon consideration of the statutory sentencing factors. *Nelson v. United States*, 129 S. Ct. 890 (2009), 2009 WL 160585 (Jan. 26, 2009); *Spears v. United States*, 129 S. Ct. 840 (2009), 2009 WL 129044 (Jan. 21, 2009). "Our cases do not allow a sentencing court to presume that a sentence within the applicable Guidelines range is reasonable," the Court held in *Nelson*. 2009 WL 160585, at *1. "The Guidelines are not only *not mandatory* on sentencing courts; they are also not be presumed reasonable." *Id.* At *2. In other words, a sentencing court may not rely on the Sentencing Guidelines range as a default to be imposed unless a basis exists to impose a sentence inside that range. Rather, the court must weigh each of the factors and impose a sentence that

¹³ Those factors include (a) the nature and circumstances of the offense and history and characteristics of the defendant; (b) the kinds of sentences available; (c) the advisory guideline range; (d) the need to avoid unwanted sentencing disparities; (e) the need for restitution; and (f) the need for the sentence to reflect the following: the seriousness of the offense, promotion of respect for the law and just punishment for the offense, provision of adequate deterrence, protection of the public from future crimes and providing the defendant with needed educational and vocational training, medical care, or other correctional treatment. *See* 18 U.S.C. §3553(a).

constitutes the least amount of imprisonment necessary pursuant to Section 3553(a).

II. Imposing a Variant Sentence is Sufficient, But Not Greater Than Necessary, to Comply with 18.U.S.C. §3553(a).

a. Mr. Puma's Personal History and Characteristics

Mr. Puma was born and raised in Dearborn, Michigan and he has been living in Brownstown Township, Michigan since 2011. He was raised by both of his parents, in a large Italian family originally from Sicily. Unfortunately, his family suffered many hardships that still affect Mr. Puma today, including the loss of his father and two brothers that were taken too soon. Before that, however, Mr. Puma had an average upbringing, raised in a middle-class family. Growing up, he played football, basketball, and baseball and excelled in school until his entire life changed when he was just 12 years old.

At the young age of 12, Mr. Puma learned that his father was diagnosed with colon, brain, and lung cancer. His father was a Veteran who fought in the Korean War with the US Army. At this time, however, his father was a truck driver and his mother was a housekeeper. Mr. Puma's father could no longer work after his diagnosis, which also put a financial strain on the family. Mr. Puma remembers how much his father suffered from the harsh effects of his treatment. He also recalls helping his father with his colostomy bag each day. Mr. Puma's father suffered for years, until he finally passed when Mr. Puma was only 16 years old.

About a year prior to his father's death, when Mr. Puma was only 15 years old, his brother was suddenly and brutally murdered after he witnessed a money

laundrying scheme at his place of employment. His brother was murdered out of fear that he would be a witness against these crimes. His brother's murderers were eventually convicted and sentenced to life sentences.¹⁴ However, the shock and stress of this tragic event combined with his father's cancer diagnosis was understandably too much for young Mr. Puma to handle. He spiraled downward, having behavioral issues in school, and using drugs to try to cope with his circumstances. This spiral went even further downward after his father passed away a year later. His father was the glue that held the family together and without him, his family became divided, and some of his siblings also began struggling with substance abuse.

Thankfully, over time, his family reunited and Mr. Puma now has strong family support. However, that time period in his life was traumatic and had a negative impact on Mr. Puma's development and education. Mr. Puma was deprived of a father figure during most of his adolescence and young adult life. Because of his struggles, he was not able to finish high school although he obtained a G.E.D., a couple years later. Despite his hardships, Mr. Puma overcame and has a long history of being gainfully employed, working mostly in the auto and technology industry. In 2008, Mr. Puma became self-employed and ran a property maintenance company for several years.

¹⁴ One of his brother's murderers was released in 2018. When Mr. Puma learned that there was a possibility he could be released on parole, he had a temporary mental crisis as the trauma he experienced as a young teenager came back to him. However, he recovered from that crisis and has been stable ever since.

Unfortunately around this time, Mr. Puma had two more tragic losses to the family who lost battles with cancer very close in time with one another. In 2009, another one of his brothers passed away from pancreatic cancer. Just 18 days earlier, his mother also passed away from colon cancer.

Despite these additional hardships, Mr. Puma maintained his business for several years all the way up until the COVID-19 Global Pandemic wreaked havoc on small businesses around the country. Despite his efforts to keep his business afloat, Mr. Puma was forced to dissolve his company that he grew for over 12 years. Mr. Puma went back to the job market and overcame once again.

Mr. Puma found employment for a technology company shortly after, a company that paid well and was great for his career. Unfortunately, because of the instant matter, he was fired. He was also terminated from his next job as soon as they learned of the pending charges. However, Mr. Puma did not give up as his main motivation has always been to take care of his family. It took Mr. Puma a while to find another job because of his charges, even though at the time, these charges were still pending. Thankfully, because of his persistence, Mr. Puma was hired at his current place of employment, where he started in August of 2022. He is currently working at Roush Industries, an engineering company, as an Instrumentation Technologist where he does instrument prototyping on vehicles for hot and cold weather testing. Although this job is the most stable he has had in two years, he is constantly worried about being fired because of this case and as a result not being able to provide for his family.

Mr. Puma met his wife, Lori, in 1999 and they got married in 2005. She has been a constant source of support despite his current conviction. Together, they have two sons, one of which is a college freshman, and the other is 16 years old and resides with them. Mr. Puma also has a 26 year old son from a previous relationship, who he has a close relationship with and who thinks the world of him.



Mr. Puma is a family man who works hard to provide for his wife and children. He has lived with his family at his current residence for the past 11 years providing a stable and loving home. He enjoys spending time with his family and has had a positive impact on them. All of them agree that his offense is not representative of his overall character. *See Exhibit 1, Letters of Support.*

Mr. Puma never engaged in politics until the former President Trump ran for office. Mr. Puma began supporting him because he felt that he was exposing other politicians for what he believed was government waste and corruption. Mr. Puma also took to heart the warning that former President gave to America that if

nothing was done, America would turn into a socialist country. Mr. Puma held on to the promises the former President gave to the American people that he would prevent that from happening and would make America great for middle class families just like his. When the former President Trump claimed the 2020 election was stolen, Mr. Puma believed him wholeheartedly.

b. Nature and Circumstances of the Offense

When Mr. Puma decided to travel to D.C. for the #StoptheSteal rally on January 6, 2021, he was not part of any organized group. Although, he did spend time in the past several months prior to Jan. 6 on social media reading the dangerous propaganda being spread by his own President, Q'Anon conspiracy theorists, and the Oathkeepers and Proudboys. Notably, Mr. Puma, like many other ordinary Americans, did not really know much about these groups and was just taking in mass amounts of misinformation by simply reading headlines without researching what he was reading. Here are some of Mr. Puma's pre-January 6 social media posts where he was clearly parroting the misinformation of others:

Time 2020-11-02 20:33:18 UTC

Type Comments

Summary Anthony Puma commented on a post from November 2, 2020. `Lmao. They don't like us digital soldiers. God bless America. Its Capitalism vs Socialism. Light vs Dark. We are in the middle of the storm.

Time 2021-01-06 06:01:47 UTC

Type Comments

Summary Anthony Puma commented on a post from January 5. `Patriots are strong in DC today and tomorrow. Rig for red. `

Object Id S:_11074963367:107496714519879:28

Author [REDACTED]
Sent 2020-11-12 01:34:27 UTC
Body Biden does NOT have access to transition resources

Author Anthony Puma (Facebook: 1074963367)
Sent 2020-11-12 01:34:52 UTC
Body That's a good thing. He doesn't deserve

Author Anthony Puma (Facebook: 1074963367)
Sent 2020-11-12 01:35:25 UTC
Body We have to much evidence for fraud

Author [REDACTED]
Sent 2020-11-12 01:35:48 UTC
Body exactly

Author Anthony Puma (Facebook: 1074963367)
Sent 2020-11-12 01:35:52 UTC
Body So many unsolicited ballots. To many dead and illegals voted

Author [REDACTED]
Sent 2020-11-12 01:36:20 UTC
Body there was a zoom call of governors colluding on how to slow walk the certifications

Author Anthony Puma (Facebook: 1074963367)
Sent 2020-11-12 01:36:35 UTC
Body I'm sure there was.

Prior to January 6, 2021, a close friend convinced Mr. Puma to come along to the #StoptheSteal rally, which he was originally not planning on attending. In fact, even after confirming he would go, Mr. Puma tried to back out of the trip a couple days prior. However, his friend convinced him again to join him and a couple other buddies. See Exhibit 2, Letter from Rob Aubertin. So, Mr. Puma went along and traveled in a car that his friend rented. Mr. Aubertin also explains in his letter that on the way to D.C. there was no talk at all about government overthrow or interference. *Id.* They arrived in D.C. on January 5 and stayed up late, going to bed a little after 1:00 am. Despite some of Mr. Puma's social media posts prior to January 6, 2021, his actions showed he was really not that invested as he slept in the next morning and did not awake until 1:30 pm. This was after former President Trump's speech at the Ellipse and after the initial breach of the Capitol Grounds at 12:54 pm. When Mr. Puma woke up, he was greeted by his friend who woke up early to attend the speech at the Ellipse and was told that

everyone was going to the Capitol building.¹⁵ He left his hotel at 2:10 pm and heard the sounds of the riled up crowd that the President Trump himself encouraged to go down to the Capitol building assuring everyone that he would join them there.¹⁶

Following the orders of his President to wear a body camera (see tweet from Jan. 3 above), Mr. Puma headed to the Capitol with a Go Pro strapped to his head, notably taking his time and videoing all of the Trump supporters walking down Constitution Ave. His Go Pro captured him staying right outside his hotel for almost 5 minutes standing around and capturing different angles before he started walking to the Capitol. *See* Defense Exhibit A, Puma Go-Pro outside of his hotel.

When Mr. Puma arrived at the Capitol Grounds, he arrived from the North West side, which was the same side that was breached more than an hour earlier at 12:54 p.m. When he arrived on the grounds, he did not see any law enforcement and just observed people trying to move forward closer to the building.¹⁷ He did immaturely encourage people to climb up a wall, not knowing at this point in time

¹⁵ Mr. Puma's friends attended the "Stop the Steal" rally where they listened to several speeches encouraging the crowd to march to the Capitol to "stand up for this country and stand up for what is right." *See* Matthew Choi, *Trump is on trial for inciting an insurrection. What about the 12 people who spoke before him?*, Politico (Feb. 10, 2021), available at <https://www.politico.com/news/2021/02/10/trump-impeachment-stop-the-steal-speakers-467554>.

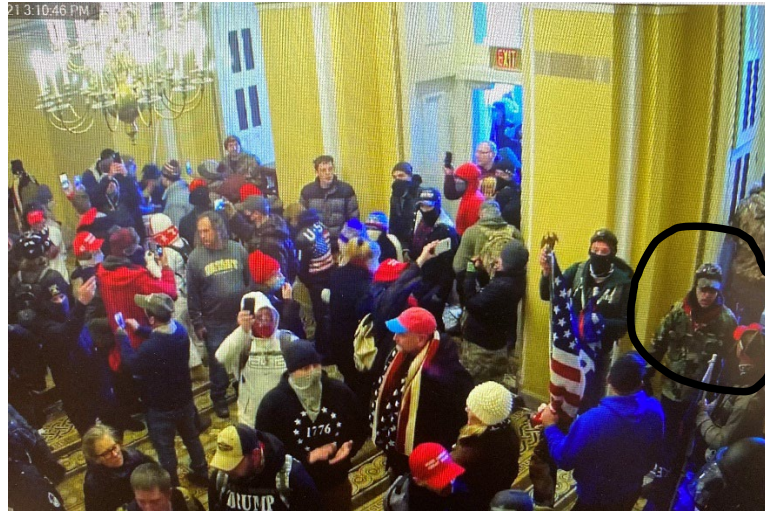
¹⁶ According to testimony from the House of Representatives January 6th Committee, Former President Trump tried to go to the Capitol building after the rally but was re-directed by his security staff. *See* Gerrad Kaonga, *What Donald Trump Limo Video on Jan. 6 Reveals*, Newsweek (June 29, 2022) available at <https://www.newsweek.com/donald-trump-presidential-limo-capitol-january-6-committee-cassidy-hutchinson-1720126> (last viewed November 30, 2022).

¹⁷ People on this side of the building could not see what was occurring at the lower west center terrace because of the large scaffolding that was obstructing their view. Also, at the time that Mr. Puma arrived, the chaotic breach that occurred at the lower west terrace was mostly over.

the chaos that had occurred at the Capitol prior to his arrival. At this time, he did not observe any violence and was not tear gassed or shot by rubber bullets prior to entering the Capitol building.¹⁸ Instead, he heard thousands of people chant “USA! USA!” *See* Defense Exhibit B, Puma Go-Pro outside of Capitol building. Notably, Mr. Puma watched others scale the wall, but he stood around with others chatting for 10 minutes moving away from the wall that people were climbing and at one point joined others to sing “God Bless America.” *Id.* Also of note, you can hear in the video people in the crowd repeating some of the very same catchphrases detailed in the Background section above, spouting notions of “1776” and “Taking our country back.” *Id.*

Mr. Puma then found his way to the Upper West Terrace right outside of the Senate Wing. He still observed no violence or law enforcement at this point. He proceeded towards the entrance of the Capitol building, entering inside regrettably through a window that had previously been broken and was waved in by a man standing on the window sill. He entered the Capitol building at 3:10 pm.

¹⁸ Mr. Puma gave a voluntary interview on January 14, 2021, with the FBI and explained he felt the effects of the tear gas *after* the police ordered him and others out of the Capitol building.



It is at that time that he saw officers standing by, but he did not confront the officers and they did not confront him. Unbeknownst to Mr. Puma at that time, members of Congress and the Vice President were still sheltering in place. Mr. Puma commented on his Go-Pro that he thought everyone had already been evacuated at that point. *See* Defense Exhibit C. Mr. Puma proceeded to the right after entering the building and went inside a room observing individuals smoking marijuana. He made immature comments but clearly did not have a violent mission and really seemed to have no mission or direction at all. *Id.* He proceeded to walk around a little more, calmly walking through the Crypt and leaving the building the way he came in at 3:22 pm.



Now unfortunately, Mr. Puma did stay on the Capitol grounds for a little while after he left the building. However, he stayed peaceful and still did not comprehend the gravity of what had occurred that day.



It was not until a couple weeks after January 6, 2021, that Mr. Puma began to realize what had occurred that day and learned of all of the violence that he did not observe while he was there. Mr. Puma made some regrettable comments shortly after January 6, 2021, essentially parroting again what others were saying about January 6, 2021. He believed the lies prior to Jan. 6 and it is no surprise that he would be susceptible to them shortly after Jan. 6.

However, Mr. Puma took responsibility for his actions very soon after Jan. 6 as he met with the FBI voluntarily and without a lawyer present on January 14, 2021. It was then that he told the FBI what he did in great detail and acknowledged that what he did was wrong. He also shared his Go-Pro footage with them and expressed his wishes to fully cooperate. After his arrest on May 27, 2021, he again

gave a voluntary interview where he was truthful with the FBI and provided more details about his conduct in a 42 minute interview. He also provided the passcode to his phone, which uncovered more evidence that further incriminated him. Between the Go-Pro footage and his cell phone, the FBI was able to easily develop their investigation against Mr. Puma and learned details that they would have never otherwise discovered. Notably, Mr. Puma never showed or sent his Go-Pro footage to anyone else after Jan. 6, just the FBI.

Because the government has emphasized Mr. Puma's social media posts in its pleadings, it is important to provide a breakdown of his social media comments and compare them to coined catchphrases of other groups that were instilled in his memory for months leading up to January 6, 2021. Just because he said these things does not mean he meant them literally and when you further contrast them with his actions, it is clear that these comments were just rhetoric and not representative of his intent that day.

Puma Post/Comment	Origin of Political Rhetoric
<p>Dec. 31, 2020: On Jan. 6th when we are all there in the capital and he is givin his second term the people will see. Then you never know we might have to start killing some commie bastards.</p>	<p>Donald Trump: "Now we have a group of socialists – or communists could be, could be, they're not far away," Trump said during a speech at a rally in New Hampshire. "Now, the fake news will hit me on that. How dare he say that. But they're not far away, right?"</p> <p>The Plan/Trust the plan: QAnon claims a plan is in place to defeat the Deep State and the Cabal. Everything that happens, even former President Trump's apparent blunders or negative news coverage, is all part of that plan. Q asks the followers to blindly trust that things are happening behind the scenes, and that everything</p>

	will work out as long as they trust the President and the plan. ¹⁹
Jan 5: Tomorrow is the big day. Rig for Red. War is coming.	<p>QAnon Topical Research:</p>  <p>"Rig for Red"</p> <p>"Rig for Red" stems from Q'Anon rhetoric that the Empire State building is currently flashing a red signal that is a signal to believers that that Massive Deep State arrest operation is about to begin.</p> <p>Q !!Hs1Jq13jV6 ID: 14a566 No.8357870 Mar 9 2020 12:05:42 (EST) PainComing.JPG</p>  <p>Nothing can stop what is coming. Nothing! Rig for Red. Q</p>

¹⁹ See QAnon: A Glossary, ADL, January 21, 2021 available at <https://www.adl.org/resources/blog/qanon-glossary>

Jan. 5: We are here. What time do we storm the House of Representatives? Hopefully we are storming the House of Representatives tomorrow at 1:00pm.



This post was being circulated on Facebook rapidly prior to January 6. However, Mr. Puma clearly did not take it seriously because he did not even wake up that day until 1:30 pm and did not arrive at the Capitol until much later.

Notably, this Q'Anon themed post reiterates the "Storm" meaning the "calm before the storm" referring to the great awakening which is the destruction of the democratic cabal according to Q.²⁰

Mr. Puma's words on social media were parroting themes he had heard over and over prior to January 6, 2021, after being active on Facebook and Parler, where thousands of posts each day were poisoning the minds of ordinary readers. These words do not match Mr. Puma's actions on January 6, 2021. Mr. Puma slept in until 1:30 pm, took his time getting to the Capitol building, and followed the crowd while having no idea about the violence that had occurred previously. Mr. Puma is ashamed of his actions because he should have known better and should have been

²⁰ [Everything You Need to Know to Understand the Q Anon Conspiracy \(dailydot.com\)](https://www.dailydot.com/everything-you-need-to-know-to-understand-the-q-anon-conspiracy/)

an individual rather than a sheep that day. However, understanding the context of his comments and the origin is important because it shows that Mr. Puma was not some sophisticated political activist. He was following the words that many had said, some even from the President of the United States at the time. Yet, he is bearing the brunt of the manipulative propaganda of powerful and influential people who are currently not being punished for their dangerous political strategies.

In the past two years, Mr. Puma has snapped out of the world he was sucked into by talented manipulators. He cooperated with the FBI and entered a guilty plea to the most serious charge in the indictment. Rather than continue to litigate the applicability of Obstruction of an Official Proceeding, as many other defendants continue to do, Mr. Puma chose to accept his charge and is owning up to what he did. He does not want to hide behind his actions and wants to accept responsibility for his role on January 6, 2021. He knows now that he was a part of something awful and has been ashamed ever since. Mr. Puma's remorse is sincerely reflected in this letter where he expresses:

Please accept this letter as an apology for my actions on January 6th. I truly regret my actions. If I could go back in time, I would have stayed home with my wife. I have no excuse for my actions and I throw myself at the mercy of the court hoping for leniency as I have learned my lesson. I have learned that:

- Actions of one day, a few minutes, can ruin not only my life, but cost a great deal of money to the tax payers of this great nation
- My actions have caused a great deal of pain to others
- My actions have caused others to lose faith and trust in me

I cannot express how truly sorry I am for my actions, my part in the events of January 6th. I can only hope to rebuild that trust and faith that you and others have lost in me.

See Exhibit 3, Letter from Anthony Puma.

Mr. Puma's family and friends are nothing but supportive even though they did not agree with his actions on Jan. 6. Attached is a collection of letters of support that describe Mr. Puma as a good man who made a serious error in judgement and who is sincerely remorseful for his conduct. See Exhibit 1, Letters of Support. His Aunt Judy describes him as "a family man, and cares deeply about his family, friends, and his country." *Id.* Mr. Puma's niece, Emily, explains that he "has never missed a birthday, a graduation, or any big part in my life he has always been there for me and always showed me constant love and support." *Id.* Mr. Puma's family friends, Jasmeen and George, explain that "we have seen since the incident that Anthony feels remorse for his actions, he has felt a deep sense of regret...and has apologized profusely to all those who know him." *Id.* His close friend John explains that "after this incident he has become an even more devoted father and caring husband, recommitting himself to what matters most in life." *Id.* Mr. Puma's sister in law, Kristy, explains how Mr. Puma stepped up to be a role model for her children, his nieces and nephews, after her husband walked out of their lives. *Id.* Mr. Puma's oldest son, Ryan, explains that his father is "everything a father should be....who if given a chance to show you that he is better than this situation, he will." *Id.* Mr. Puma's current supervisor describes him as "quick to learn, has a can-do work ethic and has become an asset to our build instrumentation team." *Id.* Lastly, his wife, Lori is his biggest support and says, "one of the reasons I fell in love with him was because of the great father he was to his son....and that Anthony and I

have discussed this situation many times, and I am aware that he is shameful for what he did.” *Id.*

c. The Need to Promote Respect for the Law, Provide Just Punishment, Protect the Community and Provide Adequate Deterrence, and the Need to Avoid Unwanted Sentencing Disparities

Based on the past two years, the Court can be assured that Mr. Puma is unlikely to repeat the same conduct. Since January 6, 2021, Mr. Puma has been overall compliant with his pre-trial supervision. As discussed at length above, Mr. Puma has already been deterred as he has been his own worst critic and in constant anguish over his actions that day. He also has endured several collateral consequences that have already punished him for his conduct. When Mr. Puma returned to Michigan after January 6, 2021, his reputation was tarnished and he was called a “domestic terrorist” by many people in his community. He was fired from a good job, enduring the shame and embarrassment from his colleagues that had once respected him. He then was terminated from another position for the same reason. For someone like Mr. Puma, who always had an outstanding character, these circumstances were devastating to him. He is also now a felon at the age of 50. As other judges in this district have recognized, there are many other ways an individual can be punished besides jail time:

People are all very quick to suggest that the only real punishment is a jail sentence, and it’s just not true. People can suffer in many different ways and do suffer in many different ways a result of their conduct and that is something every judge, at least on this court, I believe, understands, and takes into account when they’re fashioning the appropriate sentence.

United States v. Andrew Cavanaugh, 21-cr-362 (APM), Sentencing Transcript at 29.

Although there are no cases that are identical, a review of past January 6 sentences imposed for other defendants convicted of 18 U.S.C. §1512(c)(2) further demonstrates that a significant variance is warranted in the instant case.²¹

- *US v. Matthew Wood*, 21-cr-223 (APM): After consideration of all of the sentencing factors, the court rejected the government’s request for 57 months’ incarceration and imposed a sentence of one year home confinement for a defendant who was convicted of 18 U.S.C. §1512(c)(2). Like Mr. Puma, Mr. Wood had similar social media posts, all just parroting the words of others, such as “Raid Congress,” and “be brave heart in that bitch.” Mr. Wood then climbed a media tower and encouraged others forward. Mr. Wood was also allegedly hit with a tear gas bomb when he neared the House Chamber. Also unlike Mr. Puma, Mr. Wood allegedly and potentially accidentally pushed against MPD officers trying to clear the Rotunda and spent approximately 80 minutes inside the building. After January 6, Mr. Wood also posted comments bragging about conduct he did not actually do and deleted his Facebook account. However, the court took into account many mitigating factors, such as the fact that Mr. Wood turned himself in, traveled to D.C. with his

²¹ This case analysis is not meant to suggest that the defense believes incarceration is appropriate in these matters or that the involved allegations were in fact true as undersigned counsel was not counsel in all of these cases. Rather, the analysis is meant to provide a summary of past cases that are relevant for the Court’s consideration in this matter.

grandmother, and also fell victim to the manipulation strategies and propaganda spread by of our former President. Mr. Wood was also only 23 years old. Like Mr. Puma, he went to the Capitol with no battle gear and no weapons.

- *US v. Richard Michetti*, 21-cr-232 (CRC): Defendant sentenced to 9 months' incarceration after pleading guilty to 18 U.S.C. §1512(c)(2). Mr. Michetti's sentencing guideline range was 15-21 months. The government accused Mr. Michetti of yelling at police while they were being assaulted by others – calling them “fucking animals.” The government also alleged that he briefly pinched the sleeve of another officer and continued to push against a police line in the Rotunda after being hit by chemical spray. Mr. Puma did not swear at police or push against any police lines.

- *US v. Paul Hodgkins*, 21-cr-188 (RDM): defendant sentenced to 8 months' incarceration after pleading guilty to 18 U.S.C. §1512(c)(2). Mr. Hodgkins was accused of entering the Senate Chamber unlike Mr. Puma, and unlike Mr. Puma, he brought a backpack containing protective eye goggles, rope, and white latex gloves. However, Mr. Hodgkins accepted responsibility very early.

- *US v. John Andries*, 21-cr-93 (RC): Defendant sentenced to 12 months' and one day of incarceration after pleading guilty to 18 U.S.C. §1512(c)(2). The Court calculated his guideline range to be 21-27 months. Mr. Andries arrived at the Capitol building much earlier than Mr. Puma, and was

right behind the first wave of rioters that breached the Senate Wing Door. He also made his way to the Speaker's Lobby and witnessed the shooting of Ashli Babbitt. Mr. Andries also recorded himself in the building, making some unfortunate comments. After he left the building, he had to be physically removed by law enforcement after refusing to leave. Mr. Andries also had two new arrests post Jan. 6. However, Mr. Andries also had many mitigating factors, such as his outstanding service as a US Marine, and his mental and medical conditions. Mr. Andries was also cooperative with law enforcement and very remorseful for his actions.

- *US v. James Rahm*, 21-cr-150 (TFH): Defendant sentenced to 12 months' incarceration after a stipulated bench trial where he was convicted of 18 U.S.C. §1512(c)(2) as well as several other misdemeanor offenses. Mr. Rahm allegedly made comments as he was approaching the Capitol building saying "They're in there counting the electoral votes we have the building surrounded we're ready to make a breach and take our Capitol back." After allegedly being pepper sprayed, he was involved in the chaotic breach of the East Rotunda Doors where many officers were assaulted in an attempt to keep rioters inside the building from letting in rioters outside of the building. Mr. Rahm was on the outside of the building trying to get in while all of this was occurring. When he successfully entered, he allegedly said "Time to find some brass and kick some friggin' ass." Post Jan. 6, Mr. Rahm allegedly posted that he walked

through Pelosi's office and should have "shit on her chair," however it was not true that he entered her office.

Most importantly, it is worthwhile to analyze some of the past misdemeanor sentences with aggravating conduct because it further highlights the sentencing disparities that have resulted simply based on arbitrary lines that the government has drawn when extending plea offers. Had it not been for Mr. Puma's comments, it is likely that he would have also been offered a misdemeanor as he did not enter sensitive areas and did not assault or confront police officers. He also entered the building at 3:10 pm and was not in the first wave of any breaches that day. However, some of the conduct of prior misdemeanants is comparable and at times even more egregious than Mr. Puma's conduct. Because Mr. Puma posted comments about "storming the building", he is now facing a much more significant sentence than misdemeanants with similar/and or more aggravating conduct.

- *US v. John Lolos*, 21-cr-243 (APM): Mr. Lolos was sentenced to 14 days' incarceration after entering a guilty plea to 40 U.S.C. §5104 (e)(2)(G). The government accused Mr. Lolos of making troubling statements and posts while in the Capitol building where he remained for 43 minutes. The government also alleged that after leaving the Capitol building, Mr. Lolos posted a video to twitter shouting "They left! We did it!" Unlike Mr. Puma, the government also accused Mr. Lolos of chanting at police officers while inside the Capitol and causing disruption on his plane ride back home – resulting in the plane having to turn around.

- *US v. Peart*, 21-cr-662 (PLF): Mr. Peart was sentenced to 36 months' probation with 2 months' home detention after entering a guilty plea to 40 U.S.C. §5104 (e)(2)(G). Mr. Peart was accused of climbing on walls and scaffolding to gain entrance to the Capitol building where he observed officers using tear gas on rioters and witnessed the rioters use tear gas on officers. Mr. Peart entered the same entrance as Mr. Puma, but earlier than him and only 90 seconds after rioters forced their way through officers at that entrance. Lastly, Mr. Peart allegedly had to be told twice to exit the Capitol building. Like Mr. Puma, Mr. Peart also expressed remorse after and met with the FBI to cooperate.

- *US v. Phillip Bromley*, 21-cr-250 (PLF): Mr. Bromley was sentenced to 90 days' incarceration followed by 12 months' supervised release after pleading guilty to 18 U.S.C. §1752(a)(1). The government accused Mr. Bromley of posting violent rhetoric prior to January 6, 2021. He also allegedly berated U.S. Capitol police officers guarding a door to the Capitol building while his cousin assaulted one of them. He then witnessed the shooting of Ashli Babbitt. After Jan. 6, the government accused Mr. Bromley of lying about his conduct.

- *US v. Jeremiah Caplinger*, 21-cr-342 (PLF): Defendants sentenced to 35 days' incarceration followed by 24 months' probation after entering a guilty plea to 40 U.S.C. §5104 (d). Mr. Caplinger allegedly brought body armor to the Capitol building, scaled a wall to reach the Upper West Terrace, and made his way to Nancy Pelosi's office after pushing past police officers in the

Crypt. He allegedly gave interviews post January 6, 2021, demonstrating a lack of remorse.

- *US v. William Tryon*, 21-cr-420 (RBW): Mr. Tryon was sentenced to 50 days' incarceration after pleading guilty to 18 U.S.C. §1752(a)(1). The government alleged that Mr. Tryon was actually met with resistance from Capitol Police while attempting to gain entry into the Capitol building. The government also accused him of refusing to comply with Capitol Police commands and was pepper-sprayed and hit by a baton by them. Mr. Tryon allegedly did not give up and eventually gained entry into the building.

- *US v. Jeffrey Register*, 21-cr-349 (TJK): Mr. Register was sentenced to 75 days' incarceration after entering a guilty plea to 40 U.S.C. §5104 (e)(2)(G). The government accused Mr. Register of being on the Grounds and inside the Capitol building for 90 minutes, deliberately destroying evidence, and telling FBI that he never went inside the building. Notably, the government also accused Mr. Register of running past officers who were trying to contain a surge of rioters. The government further alleged that Mr. Register waved the crowd towards an access point to the Speaker's Lobby and eventually witnessed the killing of Ashli Babbitt.

- *US v. Camper*, 21-cr-325 (CKK): Mr. Camper was sentenced to 60 days' incarceration. Mr. Camper allegedly gave a television interview after exiting the Capitol building, saying his actions were justified because he was operating under the "insurrection act." The government also accused him of

burying Go-Pro footage from January 6 in the ground, which is the opposite of what Mr. Puma did. He also allegedly maintained to the FBI that he had done nothing wrong and believed he was in a “combat” state of mind while at the building.

- *US v. Daniel Warmus*, 21-cr-417 (PLF): Defendant sentenced to 45 days’ incarceration and 24 months’ probation after entering a guilty plea to 40 U.S.C. §5104 (e)(2)(G). Mr. Warmus allegedly was in the first wave of rioters to breach the Capitol building on the west side, recorded his movements, evaded a Capitol Police officer’s attempt to detain him, and allegedly posted videos post Jan.6 of himself harassing police officers.

All of these past cases highlight the fact that there has been inconsistencies across the board with how the government has been charging cases and with the plea offers it extends. Nonetheless, these past sentences further support a significant variant sentence in the instant matter.

General Deterrence

Sentencing Mr. Puma to a significant period of incarceration is not the way to ensure that the isolated events on January 6 will never occur again. An event like January 6 is unlikely to happen again²² Even if it did, the public will not be deterred by a simple man from Michigan who is not an extremist. Empirical evidence proves that the certainty of prosecution, rather than the severity of the

²² See transcript of video sentencing in *United States v. Douglas Sweet*, 21CR41-3 (The Honorable Judge Nichols states, “It is unlikely that the circumstances of led to their actions on January 6 will occur again. It is unlikely that the sitting President will invite them, as part of a large crowd, to protest and demonstrate, even fight at the Capitol. . .”).

punishment is the greater deterrent.²³ Individuals like Mr. Puma have already been deterred by this threat of prosecution. Most individuals involved in January 6, 2021, were encouraged to do what they did by the most powerful executive in our country and yet the government has not hesitated to prosecute these individuals to the fullest extent possible. Incarceration with most of these cases is not the answer and perhaps to really effect general deterrence, something very different is needed so that individuals do not fall victim to the dangerous propaganda that incited January 6, 2021.

The Honorable Amit P. Mehta alluded to this dilemma in a recent sentencing hearing encouraging us all to ask ourselves why ordinary American citizens from all over the country with good backgrounds, steady jobs, and often times even Veterans, came together to commit these acts. *United States v. Andrew Cavanaugh*, 21-cr-362 (APM), Sentencing Transcript at 26-28. Judge Mehta opined that this was able to occur because of:

[T]he power of propaganda; the power of being told lies over and over and over again; told by leaders who knew better, that something was taken away from people when it wasn't...the idea that people who have otherwise led modest and humble lives, who have not been political agitators, political activists, are now facing serious jail time is extraordinary. *Id.*

²³ See National Institute of Justice, *Five Things About Deterrence* (June 5, 2016), full article available at <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>

CONCLUSION

For the reasons stated above, Mr. Puma respectfully requests that the Court grant his request for a significant downward variance. Mr. Puma also requests that a fine not be imposed in light of the fact that he has a \$2,000 restitution obligation.

Respectfully submitted,

A.J. KRAMER
FEDERAL PUBLIC DEFENDER

/s/

Maria N. Jacob
Assistant Federal Public Defender
625 Indiana Ave. NW, Ste. 550
Washington, D.C. 20004
(202) 208-7500
Maria_jacob@fd.org