

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

UNITED STATES OF AMERICA : Case No.: 1:21-CR-606-001 (RCL)
 :
 v. : 40 U.S.C. § 5104(e)(2)(G)
 :
 GARY LAIRD WICKERSHAM :

MEMORANDUM IN AID OF SENTENCING

1. INTRODUCTION

Gary Wickersham is before this Honorable Court after pleading guilty to one count of Parading, Demonstrating, or Picketing in a Capitol Building in violation of 40 U.S.C. §5104(e)(2)(G). This conviction carries a maximum sentence of six months imprisonment, pursuant to 40 U.S.C. §3571(b), and a fine of not more than \$5,000, pursuant to 18 U.S.C. §3571(b)(6). This is a Class B misdemeanor. Therefore, pursuant to §1B1.9 of the US Sentencing Guidelines, the sentencing guidelines do not apply to the defendant's sentencing. The purpose of this submission is to bring to the Court's attention other factual and legal arguments that the Defendant, through counsel, wishes the Court to consider in fashioning an appropriate sentence.

2. DEFENDANT'S HISTORY AND CHARACTER

Mr. Wickersham is eighty-one years old with no prior arrests or criminal convictions. He is a widowed father of three adult children. Mr. Wickersham's wife of fifty-one years passed away in 2018 at the age of seventy-eight from Parkinson's disease. He has seven grandchildren and one great-grandson. Mr. Wickersham is a high school graduate. Mr. Wickersham served in the United States Army and was honorably discharged in 1965. Mr. Wickersham was gainfully employed throughout his life. He is now retired after working as

paper machine operator at Scott Paper and a school bus driver for Krapf Bus. Mr. Wickersham lives alone in West Chester, Pennsylvania. Mr. Wickersham currently receives Social Security retirement benefits and a pension. He is in good overall health with no history of mental health issues or substance abuse issues. Mr. Wickersham has been compliant with all pre-trial supervision conditions.

3. ACCEPTANCE OF RESPONSIBILITY

Mr. Wickersham accepts responsibility for his criminal conduct. He is remorseful and ashamed of his behavior. Mr. Wickersham has cooperated with authorities throughout this investigation and prosecution. Mr. Wickersham was honest with the FBI when he was questioned about his conduct.

Mr. Wickersham did not plan or organize any group trips to Washington, DC on January 6, 2021. He did not coordinate with anyone to engage in criminal conduct that day. Mr. Wickersham did not bring any weapons or other instruments of a crime with him to Washington, DC. He did not post any inflammatory language, pictures, or videos on social media or the Internet before, during, or after the events of January 6. Mr. Wickersham has consistently declined multiple interview requests regarding January 6 and will continue to do so. Mr. Wickersham did not engage in any violence or threats of violence on January 6. Mr. Wickersham did not enter any offices within the Capitol or personally damage any property.

For eighty years Mr. Wickersham's life was defined by his service to his country in the military and his service to his family through hard work and an honest commitment to living a law-abiding life. He is deeply remorseful for his conduct. He knows that his actions were wrong and criminal. He is prepared to accept responsibility for his behavior.

4. SENTENCING FACTORS

Mr. Wickersham understands that this Honorable Court will determine his sentence. He has reviewed the Presentence Investigation Report with counsel. Pursuant to 18 U.S.C. §3553(a), a sufficient, but not greater than necessary, sentence will consider the “nature and circumstances of the offense and the history and characteristics of the defendant.” January 6, 2021 was a terrible day in America’s history. Mr. Wickersham accepts responsibility for his conduct that day and is deeply remorseful for his role. He is a man who spent a life valuing the ideals of America. It is particularly sad that in his eightieth year, Mr. Wickersham took part in such a dark day in our nation’s history. Entering the Capitol and remaining inside for approximately twenty-two minutes was the worst decision of his over eighty years and one he will regret for the rest of his life. We respectfully request that the Court consider his lifetime of good conduct when fashioning its sentence. He stands before the Court remorseful for his conduct and prepared to accept his sentence.

Sentencing is a matter vested in the sound discretion of the sentencing judge. When imposing a sentence, a court should consider the particular circumstances of the offense and the character of the defendant. In considering these factors, the court should refer to the defendant’s prior criminal record, age, personal characteristics, and potential for rehabilitation.

Pursuant to 18 U.S.C. §3553(a) the sentencing court should fashion a sufficient but not greater than necessary sentence that (A) reflects the seriousness of the offense, promotes respect for the law, and provides just punishment for the offense; (B) affords adequate deterrence to criminal conduct; (C) protects the public from further crimes of the defendant; and (D) provides the defendant with needed educational or vocational training, medical care, or other correctional

treatment in the most effective manner.

We respectfully submit to this Honorable Court that a non-custodial, probation sentence is appropriate in this case. This sentence would take in to account the seriousness of the offense Mr. Wickersham has been convicted of while also recognizing his personal characteristics of living over eight decades with no prior criminal conduct, his acceptance of responsibility, the high likelihood of his rehabilitation and low risk of re-offending.

Respectfully submitted,

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Dated: December 9, 2021

CERTIFICATE OF SERVICE

I, Michael Noone, Esquire, attorney for the Defendant in the above captioned matter, hereby certify that I am this day serving the foregoing document upon the persons and in the manner indicated below:

SERVICE VIA ELECTRONIC MAIL

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