

Dominic Pezzola Additional Sentencing Arguments

Dominic Pezzola should serve 20 years (240 months) in prison for his role in advancing a seditious conspiracy to oppose by force the lawful transfer of Presidential power. Pezzola was an enthusiastic foot soldier in that conspiracy, and he was one of its most violent members on January 6, 2021. Pezzola assaulted a U.S. Capitol Police officer and forcefully robbed him of his shield, told others that they “better be fucking scared” because “we ain’t stopping,” smashed open the window to the Capitol building while Congress was still in session, allowing the first rioters to enter the building, and filmed a celebratory video from inside the building, proclaiming that he “knew we could take this motherfucker over if we just tried hard enough. Proud of your motherfucking boy.”

I. Sentencing Guidelines Analysis

Dominic Pezzola was convicted of Counts Three through Seven, along with Nine and Ten.

The Sentencing Guidelines are applied for each of the convictions as follows:

***Count Three* (Obstruction of an Official Proceeding)**

***Count Four* (Conspiracy to Use Force, Intimidation, or Threats to Prevent Officers of the United States from Discharging Their Duties)**

Base Offense Level:	14	§2J1.2(a)
Specific Offense Characteristic	+8	§2J1.2(b)(1)(B) (physical injury)
Specific Offense Characteristic	+3	§2J1.2(b)(2) (substantial interference)
Specific Offense Characteristic	+2	§2J1.2(b)(3)(C) (extensive in scope, planning, or preparation)
Total	27	

Count Five (Interference with Law Enforcement During a Civil Disorder)

Base Offense Level:	14	§2A2.4(c) → §2A2.2
Specific Offense Characteristic	+2	§2A2.2(b)(1) (more than minimal planning)
Specific Offense Characteristic	+6	§3A1.2(b) (official victim)
Total	22	

Count Six (Destruction of Government Property)

Base Offense Level:	6	§2B1.1
Adjustment	+26 → 32	§3A1.4 (terrorism) (increase by +12 or to level 32)
Total	32	

Count Seven (Destruction of Government Property)

Base Offense Level:	8	§2B1.5
Specific Offense Characteristic	+2	2B1.5(b)(2)(B): “offense involved a cultural heritage resource... that, prior to the offense, was on, in, or in the custody of... a National Historic Landmark” The damaged window at the Senate Wing door was part of the United States Capitol, which was designated as a National Historic Landmark in December 1960 and the National Park Service continues to recognize that designation to this day. ¹
Adjustment	+22 → 32	§3A1.4 (terrorism) (increase by +12 or to level 32)
Total	32	

Count Nine (Assaulting, Resisting, or Impeding Certain Officers)

Base Offense Level:	14	§2A2.4(c) → §2A2.2
Specific Offense Characteristic	+2	§2A2.2(b)(1) (more than minimal planning)
Specific Offense Characteristic	+6	§3A1.2(b) (official victim)
Total	22	

¹ See List of NHLs by State - National Historic Landmarks (U.S. National Park Service) (nps.gov), <https://www.nps.gov/subjects/nationalhistoriclandmarks/list-of-nhls-by-state.htm> (last visited September 9, 2022) (listing the United States Capitol as a National Historic Landmark and noting its December 1960 designation date); see also 36 CFR § 65.1(c) (“The National Park Service (NPS) administers the National Historic Landmarks Program on behalf of the Secretary”).

Count Ten (Robbery of Personal Property of the United States)

Base Offense Level:	20	§2B3.1
Total	20	

All of these counts group. Accordingly, the total adjusted offense level for Pezzola is 32 for the federal crime of terrorism in Counts Six and Seven. As explained in the government's Sentencing Memorandum, under Section 3A1.4(b), Pezzola's Criminal History Category is increased to VI, which results in a Guidelines range of 210-262 months (17.5 – 21.8 years) of incarceration.

The application of the terrorism enhancement under Section 3A1.4 captures the severity of Pezzola's actions and the danger posed by Pezzola and his co-conspirators' conduct on January 6. A sentence within these Guidelines would be justified and entirely appropriate.

A. Pezzola's Conduct Mandates Application of the Terrorism Enhancement

Pezzola's crimes were "calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct." U.S.S.G. §3A1.4. The jury's guilty verdict on Count Four constitutes a specific finding—beyond a reasonable doubt—that Tarrio, Nordean, Biggs, Rehl, and Pezzola "agreed with at least one other person to, by force, intimidation, or threat," to "(a) prevent a Member of Congress or a federal law enforcement officer from discharging a duty," and (b) induce a Member of Congress or federal law enforcement officer to leave the place where that person's duties are required to be performed ECF 767 (Jury Instruction) at 25; ECF 804 (Verdict Form) at 4-5. This finding, consistent with the facts accurately summarized in the draft presentence report, plainly establishes that the defendants' crimes were calculated to influence or retaliate against the government by force or coercion. *See United States v. Dowell*, 430 F.3d 1100, 1110 (10th Cir. 2005) (holding that the jury made the factual finding that defendant had requisite intent to influence or affect the conduct of government by intimidation

or coercion necessary for application of the Section 3A1.4 enhancement when the jury convicted defendant of attempting to interfere with IRS, having been instructed that an element of the offense was that defendant knowingly and intentionally “endeavored to obstruct or impede the due administration of the Internal Revenue laws by the use of force”).

Pezzola joined the Proud Boys to engage in political violence. In a journal entry recovered from a search of his residence that began, “There are many reasons why I want to join the PB’s,” Pezzola professed that he was “willing to fight until [his] last breath” to prevent his children from inheriting what he said would be a communist country, emphasized his physical fitness and his ability to be anywhere at anytime, and that he viewed the political situation as a “battle between good and evil,” requiring patriots to “stand up and take back our god given liberties just like our Founders did.” Ex. 23. Pezzola’s common-law wife confirmed Pezzola’s motivation, explaining that prior to the COVID-19 pandemic, Pezzola was not interested in politics. He then became “consumed” by them, focused on the split that was becoming apparent in the country. Tr. 17193:17-25, 17204:22-17205:1 (Magee).

On January 6, 2021, Pezzola’s actions showed beyond a shadow of a doubt that he had intended to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct. While sparring with police who were trying to quell the mob’s advance, Pezzola robbed an officer of his riot shield. Rather than taking actions consistent with his self-professed motive of self-defense, Pezzola celebrated, posing with the shield while flashing the Proud Boys hand gesture, and chanting “USA! USA! While holding the shield above his head triumphantly. Ex. 475, 412-Ax.



Image 1: Exhibit 475, Pezzola posing with riot shield

Pezzola continued to advance with that shield. He carried it as he pushed up under the inaugural scaffolding, after his fellow Proud Boy “Milkshake” initiated a Breach 3, and he hid behind that shield while yelling at the police, “You better be fucking scared! Yeah, you better be fucking scared! We ain’t [u/i] – we ain’t fucking stopping! Fuck you! You better decide what side you’re on motherfuckers. You think Antifa’s fucking bad, just you wait.” Ex. 429Cx.

Pezzola infamously smashed open a window to the Capitol with that riot shield, enabling the first breach by rioters of the Capitol building. He admitted on cross-examination that as he smashed open that window, he did so because he thought it was a way to get the government to listen to him. Tr. 19410:15-17. After being in the building for approximately 20 minutes, Pezzola,

wanting to record something he considered “profound,” Tr. 19079:11-18, filmed a selfie-style video of himself from the Capitol Crypt, proclaiming “I knew we could take this motherfucker over if we just tried hard enough. Proud of your motherfucking boy!” Ex. 403G.

Pezzola’s actions and testimony leave no doubt that he intended to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct. He committed crimes of terrorism on January 6, and the Court should not hesitate to impose a sentence that reflects the seriousness of those crimes and its threat to our nation—as reflected in the Sentencing Guidelines.

II. The 3553(a) Factors Support a Sentence Commensurate with the Terrorism Enhancement

The government’s recommendation that the Court sentence Pezzola to 20 years of incarceration is supported by the nature and circumstances of the offense (including Pezzola’s role in the offense), his history and characteristics, and the need for general deterrence, as well as the need to specifically deter Pezzola from committing future crimes.

A. The Nature and Circumstances of Pezzola’s Offense

The nature and circumstances of this offense are some of the most serious in our nation’s history. Pezzola was a member of a conspiracy to prevent the peaceful transfer of Presidential power by force. This Court has described the effort by these co-conspirators as a “conspiracy to effectively steal one of our Nation’s crown jewels: the peaceful transfer of power.” *United States v. Pezzola*, 531 F. Supp. 3d 139, 149 (D.D.C. 2021) (Kelly, J.). The jury’s verdict establishes, beyond a reasonable doubt, that Pezzola intended to prevent Members of Congress or federal law enforcement officers from discharging their duties and to prevent Members of Congress or federal law enforcement officers to leave the place where their duties were to be performed by force, threat, or intimidation.

Pezzola did not join the Proud Boys until November 2020, after the President told the group to “stand back and stand by,” and during a time period when leaders like Tarrio, Biggs, Nordean, and Rehl were using violent imagery to recruit members. Pezzola embraced this approach. As the Court recognized early on in this case, Pezzola had “deep, if not long” involvement with the group. *Pezzola*, 531 F. Supp. 3d at 151. In his short time with the club, Pezzola certainly made an impression on leadership, prompting Tarrio to post a photograph of Pezzola from the December 12 rally to his influential Parler account, with the captions “Lords of War. . . . #J6 #J20.” Ex. 600-51.

Pezzola took every opportunity he got to get closer to leadership of the Rally Boys wing of the Proud Boys, including by often responding within minutes to posts by Tarrio. *E.g.*, Ex. 604-10, -11, and -12. After Bertino was stabbed on December 12, 2020, Pezzola sprang into action and formed part of the mob of Proud Boys who restrained and beat the person they believed to be responsible. Ex. 270; Tr. 9979:3-17 (Bertino). Pezzola’s star began rising within the Proud Boys after December 12, and although he claimed not to like the attention, his actions (including mugging for the cameras in a photograph that ended up on the front page of the Washington Post), belied those words. *E.g.*, Ex. 1906; Tr. 5387:12-5388:11 (Greene). A screenshot of Ex. 1906 is below.



Image 2: Pezzola, Mugging for the Cameras

As foreshadowed by the journal entry detailing how and why he wanted to join the Proud Boys, Pezzola believed that the country was on the brink of Civil War, and that he was preparing to be a soldier in that war. Pezzola expressed to Greene, between the December 12 rally and January 6, words to the effect that he should be “thinking about retirement, not fighting a civil war.” Tr. 5389:4-11 (Greene). Greene’s recollection of this statement made in person by Pezzola is corroborated by recorded statements by Pezzola on January 3, 2021, that he was recruiting “fighters” to come to January 6, and on January 5 that he hoped things would calm down soon, “unless we’re in a full blown fucking war.” Ex. 1104, 1107; Tr. 7723:8-7724:10; 7725:20-7726:9 (Cain).

Pezzola traveled from Rochester, NY to the Charlotte, NC area to bring MOSD leader Bertino a decorative shield intended for Tarrío around New Years 2020. Shortly after meeting that

included the two, Bertino invited Pezzola to join the Ministry of Self-Defense as a result of Pezzola being involved in the “scrum” with the person who stabbed him in December. Tr. 10075:16-10076:24 (Bertino). Pezzola was “proud as fuck” to have been invited to join MOSD, Ex. 507-7, and he used his connection with “leadership” to pass information about January 6 back to other Central New York Proud Boys who were looking for direction after Tarrio was arrested, Ex. 1105, and he offered to Boots on Ground his chapter-mates’ services in programming radios on January 5. Ex. 512-4.

On January 6, Pezzola acted as a soldier in the civil war he had envisioned. He marched with the Proud Boys from the Washington Monument to the Capitol, before breaking off from the group and rejoining it near the Peace Circle. Once he re-joined, Pezzola picked right up where he left off, proceeding through and over the trampled police defenses with the assembled members of the Proud Boys just after the first breach. Ex. 1001 at 11:50; Joint Exhibit 4. From then on, Pezzola was continuously at the front, close to and often participating in the action. He was within feet of Biggs and Nordean as they ripped down the black fence. Ex. 492-G at 5:00. He was one of the first rioters in the West Plaza, where he positioned himself near the front of the police line, before forcibly robbing Officer Ode of his shield as described above. He was one of the first rioters under the scaffolding after a breach set off by fellow Proud Boys broke the police line there. Ex. 451x. He was near the front when yelled at police from behind his pilfered riot shield, “You better be fucking scared!” He was the first to break a Capitol window so thoroughly that other rioters could stream through it in the building. And he celebrated those achievements from in the building, proudly, and to him profoundly, declaring, “I knew we could take this motherfucker over if we just tried hard enough. Proud of your motherfucking boy!” His actions in breaking the window

caused Tarrío to remark to Bertino, “That looks like George Washington ... Sam Adams ... and Franklin.” Ex. 530-7.

Dominic Pezzola embraced the conspiracy to stop the transfer of Presidential power on January 6, 2021, and he vigorously and proudly filled his role as a soldier in that conspiracy. The nature and circumstance of his offenses are of the utmost seriousness, and the Court should sentence him accordingly.

B. Pezzola’s History and Characteristics

Dominic Pezzola joined the Proud Boys in 2020, having served in the U.S. Marine Corps built a business capable of earning \$250,000 per year. Pezzola PSR ¶¶ 172, 182. Unlike many defendants the Court sees, Pezzola described his childhood as “normal” and his parents as “good” to him, with an upper-middle class upbringing free of trauma and full of sports. *Id.*, ¶ 147. None of that supportive background, military service, and seemingly successful time running a profitable business prevented the defendant from being “consumed by politics,” in the words of his wife, to the point where he willingly joined as a foot soldier in what he believed was a civil war. He appears to still be so consumed, as discussed in further detail below.

The defendant’s military background—which he claims taught him honor, Tr. 19231:20-22 (Pezzola), likewise did not stop him from falsely accusing Joe Biggs of possessing and brandishing a gun on January 6. Pezzola, in the hopes of digging himself out from under the consequences of his own actions, provided the FBI, whom he knew was conducting a criminal investigation into January 6, information that he knew to be false about someone else’s criminal involvement. *Id.* at 19243:11-24. The story Pezzola told was elaborate. It involved Biggs harassing someone in a BLM shirt, getting in a scuffle with Ryan Samsel, lifting his flannel in the direction of Samsel to reveal a pistol before telling Samsel that if Samsel was not Antifa, he would prove it

by pushing down police barricades, and that Biggs assigned a couple of Proud Boys to assist Samsel in that mission. *Id.* at 19243:25-19245:25. Pezzola knew that he had witnessed none of that at the time he tried to mislead the FBI. He continued to testify at trial as if he witnessed things he did not, for example, he first said that a Correctional Officer beat Ryan Samsel before admitting that he did not witness it. *Id.* at 19248:7-19249:10. He called Ray Epps a government informant based on wild rumors. *Id.* at 18997:14-15, 19357:12-19358:1.

Whatever might weigh in Pezzola's favor about his history and characteristics prior to 2020 is completely outweighed by the actions he took on January 6, in the lead-up thereto, and after the event. After his arrest, Pezzola showed his lack of character by falsely implicating Joe Biggs in the hopes it would free him. Given nearly two years to reflect on that decision, Pezzola doubled down on the stand. As he testified in his own defense in 2023, Pezzola continued to state as facts things he did not witness, insisted on inserting many nonresponsive answers to advance his narrative, and inflated his credentials, posing as a sort of crowd-control expert when, he admitted on cross-examination, he had no actual crowd-control training or experience. *E.g., id.* at 19233:21-19237:17. Pezzola's history and characteristics weigh in favor of a lengthy period of incarceration.

C. Adequate Deterrence and Protection of the Public from Pezzola

As this Court recognized from the outset of this case, the election may be over, but all politics is not. Free and democratic elections are a bedrock principle of this country a significant sentence furthers legitimate goals of general and specific deterrence of political violence. An organized assault like the one Pezzola participated in cannot simply be treated like all other crimes on January 6. By joining a group known for its use of force, and participating in that group's use of coordinated force in support of what he believed to be a civil war and a battle of good versus evil, Pezzola and his co-conspirators re-established the outer limit for political violence. Any

individual or group that would consider an organized attack on our government in the future must know that these are crimes that will result in a significant prison sentence.

There is likewise a need to deter Pezzola individually. Pezzola's intent to engage in political violence on January 6, 2021, as part of his strategy to get the government to listen to him, Tr. 19410:15-17 (Pezzola) did not manifest overnight. He became, in his wife's words, consumed by politics. That led to him deciding to join the Proud Boys, and at his first national rally he attracted the attention of national leadership by joining with dozens of other Proud Boys in neutralizing a perceived threat. For this, and for his showmanship, he was rewarded with a place in the Ministry of Self-Defense and a prominent shout-out on Tarrio's Parler feed, and he paid Tarrio's and Bertino's trust back in spades by turning into Washington, Jefferson, and Franklin on January 6.

Pezzola does not believe he did anything wrong (save for smashing one windowpane in what he states is a misdemeanor offense), and nothing about the jury's verdict alone will convince Pezzola to refrain from committing similar crimes in the future. In a post-trial interview, a copy of which is submitted herewith as Pezzola Ex. 1, he called the trial a "complete sham," and stated his belief that the Constitution was "shredded" and "re-legislated from the bench so the prosecution could get their conviction" during trial. Pezzola Ex. 1 at 1:30-1:45. Pezzola continued that the jury was full of "all radical leftists, who were either a LGBTQ supporter or a BLM supporter . . . these are the type of people who hate everything that we stand for, they hate the fact that we love God, they hate the fact that we love our country, they hate the fact that we love our family. These people, they despise everything we stand for. I mean, the jury foreman was a drag queen for Christ sakes." *Id.* at 1:45-2:15. Pezzola continued, "I should probably keep my thoughts about the judge private until after sentencing, because you know I still gotta depend on the guy to kind of show a little

mercy, um, but I mean come on, just look at the way the trial was run. . . . The prosecution was granted everything they wanted, and we were denied everything we tried to use to exonerate ourselves.” *Id.* at 14:51-15:45 If Pezzola does not respect the Court’s rulings or the jury’s verdict, even if he disagrees with them, he will not respect any conditions of release, and a lengthy period of incarceration is the only means available to protect the public.

Pezzola also used this interview to spread misinformation, including that he was barred from discovery and that the government used new videos during closing arguments that no one had seen. He claimed January 6 was a setup, with “feds and informants and Antifa.” *Id.* at 22:00-22:15. “It’s a complete fraud of a system. This isn’t a judicial system. This isn’t justice. . . . It’s all a show trial, it’s a sham.” *Id.* at 17:16-17:40. Pezzola continued that the FBI is not law enforcement, it is “just the Stasi for the Democrat party.” *Id.* at 18:25-18:30. Pezzola is of course entitled to his opinion. But these particular opinions, as expressed post-trial, reveal a distinct lack of remorse, a lack of belief that what he did was wrong, and a lack of respect for our criminal justice system and this Court’s authority. The misinformation Pezzola helps spread only stokes the divide he saw when he joined the Proud Boys, ready for a civil war, in November 2020. The Court’s only recourse is to sentence Pezzola to a lengthy period of incarceration, to specifically deter him from committing additional crimes.