

UNITED STATES DISTRICT COURT
THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
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 v.) No.: 0090 1:23CR-00155-001
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AUSTIN BRENDLEN HARRIS)
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)
 Defendant.)

DEFENDANT’S SENTENCING MEMORANDA

COMES NOW, the Defendant, AUSTIN BRENDLEN HARRIS, (“Dr. Harris”), by and through his counsel of record, Scott Weinberg Esq. and Connor R. Martin, Esq., and hereby submits the following Sentencing Memoranda with the above captioned cause.

DEFENDANT’S STATEMENT

Over the past three years, Dr. Harris has had a long time to process his actions on January 6th, 2021. As has been made clear over the course of time following that day, he was not permitted to be inside the Capitol Building at any point on January 6, 2021. Dr. Harris fully acknowledges this fact and takes full responsibility for his actions that led to his involvement in the offense.

It should be noted that he did not force his way into the building. He saw that the doors to the building were open upon his arrival in the prohibited area. He did not destroy any property or harm anyone to gain entry into the building. In fact, there were no officers present or stating that the protestors needed to leave immediately at the time of his arrival in the prohibited area. Curiosity got the better of him. He walked inside, taking video and pictures of his surroundings.

For his unlawful entry and addition [by association] to the chaos of that day, he takes full responsibility. Even though he did not partake in the violence or destruction of property, his presence alone was burdensome and dangerous for law enforcement. This is a thought that has passed through his mind since that day. Counsel wishes to restate that Dr. Harris was never involved in any violence, threats, or property damage, of any kind, nor has he been accused of such. While he regrets many aspects of that day, he was not participating with any foreknowledge of what would unfold. He simply traveled to Washington D.C. on that day to hear speeches, both

at the Ellipse and on the capitol grounds, as there were additional permitted speeches that had been authorized to take place legally at both locations.

He did not intend to break any laws that day, though he now acknowledges that he was inside the Capital building without the normal security procedures occurring. He understands fully that the security precautions that are in place for visitors' entry are for the safety of the visitors, Capitol staff, members of Congress and their staff, and our nation as a whole. He recognizes the importance of those procedures and is remorseful that he entered the building without abiding by them.

When he entered the prohibited area, he had no agenda or destination. At a certain point, he wanted to find a way away from the crowd but did not know how to do so. Dr. Harris does *not* condone violence or destruction of property, under any circumstances, nor was he aligned or participatory, in any way, with those individuals who engaged in such acts.

If Dr. Harris had not been in one specific location within the building, he would not have had the opportunity to render aid to Ms. Ashli Babbitt, after she was shot. He was not involved in that area or situation before he heard the shot, but when he saw her fall, he did not hesitate. He ran toward her without thinking. As a physician who has worked in many significant trauma situations, this was second nature to him. He wanted to help, to try to save her life. Unfortunately, as her pulse faded, and he was about to start CPR, he was prevented from acting further as law enforcement had to control the crowd and move protestors away from the situation; understandably so.

As a man, with self-respect, Dr. Harris believes in accepting responsibility for his actions, positive or negative. This is why he has accepted a guilty plea for walking in the building that he was not authorized to be inside of. Counsel would plead to this Court that he be accountable for only his own actions, and not those of other people at the Capitol Building that day. It was a very chaotic situation, and he made the mistake in judgement in walking inside the building. Outside of this mistake, and it was a mistake, he did not violate the law in any other capacity. He realizes now that he put many other people, including law enforcement, in harm's way by being yet another body in the crowd and addition to the chaos.

Counsel believes it important to bring to this Court's attention that while Dr. Harris is not able to do so in Washington D.C., which would have been most appropriate, he has attempted to mitigate his mistakes by being of service in Los Angeles, where my family and medical practice reside. Since the time of his offense, Dr. Harris has completed nearly 75 hours of intense community service. He sought to find a high-impact way to serve, one that was intentionally difficult and strenuous, especially for someone with a 60-hour workweek, and has significant family obligations. Through a combination of events and programs, he engaged in trash collection, community event construction and manual labor, feeding the homeless, physical and mental health counseling of the homeless, cleaning up after the homeless, first-aid work at community events, and other actions at these locations that could serve to the benefit others. This work was not only to better his community, but to gain a clearer insight as to how essential working together with others is for a community. Something that he believes could benefit the United States population as a whole.

Counsel urges this Honorable Court to consider that there are a great number of people that depend on Dr. Harris' being able to continue to serve their needs, without the career and time-related consequences of incarceration. Dr. Harris and his wife have 2 young children, a four-year-old daughter, Sofia, and a two-year-old son, Caleb. Their children are the center of their world. Dr. Harris' wife suffers with a severe autoimmune disease, one that requires continuous immunosuppressive infusions to manage. This situation limits her abilities to chase after two young children. While his mother-in-law has tried to supplement that effort, she is not able to fill this role 24 hours a day, 7 days a week. This is where Dr. Harris' role as a father is so necessary to his family. It is inconceivable how his family will be able to adequately function if he cannot be physically present to assist.

The staff at Dr. Harris' medical clinic, which has 6 employees, all depend on the clinic being their full-time source of income. If he is incarcerated, that would mean his license to practice medicine will automatically be suspended. The clinic will have to close, and likely not reopen. This would be devastating to his staff who have given so much to the clinic, but even more so to his family. The clinic is the primary income for his household, and without staff privileges at any hospitals, it would be impossible for him to work or be employed as an anesthesiologist anytime soon.

Dr. Harris' family have their own financial burdens, including that they are currently renting a house after a burst water main flooded their family home. This has been of significant financial burden, in addition to the student loan, and business start-up debt that they are responsible for. Without the clinic, the Harris family would be bankrupt, within a matter of months with no way to support the family. A truly awful scenario for he and his family.

Above all, the clinic is a highly specialized one that hundreds of patients depend on. The clinic utilizes cutting edge anesthesia and coaching techniques to treat severe, treatment resistant mood disorders, chronic pain, and substance/alcohol abuse disorders. While there are other clinics who can give an infusion, none of them have the holistic and integrated approach of the clinic's programs. Their margins are much smaller than other, related establishments, because they invest so heavily in daily cognitive behavioral and mindfulness meditation programs, multiple hours of Certified Integration and Recovery coaching for each patient, and access to Dr. Harris directly on a nearly 24/7 basis. They provide such a level of care because it makes a substantial difference in the benefits and outcomes that his patients receive. The hundreds of current patients would not be able to find replacement for the clinical and personal role that this clinic currently serves in their lives should Dr. Harris be incarcerated.

If given a sentence of probation, Dr. Harris will still have to face the Medical Board of California in the future, in some respect, with an automatic presumption from his guilty plea. However, it would not likely be a suspension or revocation of his license if he were to not be incarcerated. Especially since he did not travel to the District to engage in any violence or organized agenda whatsoever; nor has he been accused of such. Counsel has informed Mr. Harris that this Court *may* look favorably, from a stand point of mitigation, upon Dr. Harris' attempt to perform his duty as a physician and good-Samaritan by attempting treatment and resuscitation of Ms. Ashli Babbitt after she was shot inside the Capitol Building. Dr. Harris was recognized only due to his face being visible in an online video of his attempt to treat Ms. Babbitt, as is clearly

stated in the charging documents. Counsel provides this context to the Court not to present Dr. Harris as a victim, but to simply demonstrate that he can be of best service to society by not being incarcerated. He fully accepts that some other form of remediation will occur. Counsel can only plead that he be able to do so without devastating his family, employees, and patients.

In closing, counsel asks that Your Honor please take all these facts as relevant to your decisions in the instant case. Dr. Harris will humbly abide by your decision and would just plead that the punishment be proportional to his own situation and actions, and in keeping with previous judicial precedent of non-J6 related sentencing of the precise statue to which he has pled guilty to violating.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22nd day of January, 2024, a true and correct copy of the foregoing was furnished by using the CM/ECF system with the Clerk of the Court, which will send notice of the electronic filing to all interested parties, including the Office of the United States Attorney.

Respectfully submitted,

Suarez, Rios & Weinberg, P.A.
Attorney for Defendant
265 E Marion Ave., Ste 114
Punta Gorda, FL 33950
Telephone: (941) 575-8000
Facsimile: (941) 575-8888
E-mail: Scott@bsrlegal.com

Suarez, Rios & Weinberg, P.A.
Attorney for Defendant
1532 Jackson Street
Fort Myers, FL 33901
Telephone: (239)-337-9755
Facsimile: (239)-337-9756
Email: Connor@bsrlegal.com

By: /s/ Scott Weinberg
Scott Weinberg, Esq.
Fla. Bar No. 71109

By: /s/ Connor R. Martin
Connor R. Martin, Esq.
Fal. Bar No: 1031925