

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

CASE NO. 1:21-CR-121-001 (EGS)

JAMES BONET,

Defendant.

SENTENCING MEMORANDUM

DATED: December 29, 2021

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INTRODUCTION

James Bonet submits this memorandum in support of a sentence of probation. This sentence is “sufficient, but not greater than necessary,” to achieve the statutory purposes of 18 U.S.C. § 3553(a)(2) for several reasons.

On January 6, 2021, Mr. Bonet’s intention was to attend a peaceful rally in Washington, D.C. at the bequest of the president. He attended a similar gathering a month earlier. He was not affiliated with any type of domestic terrorist group, nor did he ever espouse any type of violence or use any inciteful language on or off social media. He is a 30-year-old young man who fell prey to false information circulated throughout social media sites regarding voter fraud and those in power who questioned the legitimacy of the election. He naively thought, “These are intelligent people, there must be some truth to this.” He wanted to hear from those in power about the alleged voter fraud.

He drove to D.C. by himself, stayed at a hotel by himself, walked to the rally by himself and stood listening to the president by himself. He had no intention of storming the Capitol or trying to interfere with the certification of the electoral college. James noticed groups of people walking toward the Capitol as President Trump was finishing his speech. James followed them. By the time he got close to the building, the U.S. Capitol Police had already been overwhelmed by the crowd. By 2 p.m., the building had been breached. James walked into the Capitol at 3:09

p.m. more than an hour after hundreds of people had already entered. He asked one of the officers if he could get in trouble for being in the building. He was told no. He lit up a marijuana cigarette, posted a video of himself on Instagram, walked around for 17 minutes and left by 3:26 p.m. He deeply regrets his decision to “follow the crowd.” More importantly, he regrets his act of disrespect and arrogance by lighting up a marijuana cigarette inside the most impressive symbol of American democracy. However, he learned a valuable lesson that has helped springboard his life in a positive, productive direction. His rehabilitative efforts have been extraordinary.

Since his arrest, he has become disciplined through his commitment to jujutsu, higher education, his job, and his family. James no longer uses marijuana. With this wakeup call, he quickly realized he’s healthier, sharper, and more focused since he’s set meaningful goals and stopped smoking pot. He is majoring in political science and enthusiastic in his pursuit of a college degree. He is earning high marks and intends to apply to law school upon his graduation. (*See attached transcripts*) He enjoys engaging in healthy debates with his classmates. He believes that if this ordeal hadn’t happened, the positive changes in his life wouldn’t have happened. He probably would have continued to smoke marijuana and likely worked exclusively in the food industry with no future career goals. While he wishes he had made a better choice on January 6 and not entered the

Capitol, he is embracing what he now believes to be a blessing. Based upon the compelling reasons set forth above and below, incarceration is greater than necessary to satisfy the statutory purposes of punishment. There is no question that a term of probation is more than sufficient to address the purposes of punishment.

PROCEDURAL STATEMENT

On October 7, 2021, James Bonet entered a guilty plea to Count Two of the Indictment relating to his actions on January 6, 2021, that charged him with Knowingly Entering or Remaining in any Restricted Building or Grounds in violation of 18 U.S.C. Sections 1752(a)(1).

A Presentence Report (“PSR”) prepared by the United States Probation Department was submitted on November 29, 2021, in anticipation of his sentencing scheduled for February 10, 2022. According to the PSR, Mr. Bonet’s total offense level is 4 and his Criminal History Category is I, resulting in an advisory guideline imprisonment range of 0 to 6 months.

SENTENCING FACTORS

I. A PROBATIONARY SENTENCE SATISFIES THE STATUTORY PURPOSES OF PUNISHMENT

The sentencing court is required to consider the advisory sentencing guideline range along with the statutory factors set forth in 18 U.S.C. § 3553(a). Specifically, (1) the offense and offender characteristics; (2) the need for the

sentence to reflect the basic aims of sentencing, namely, (a) “just punishment” (retribution), (b) deterrence, (c) incapacitation, (d) rehabilitation; (3) the sentences legally available; (4) the Sentencing Guidelines; (5) Sentencing Commission policy statements; (6) the need to avoid unwarranted disparities; and (7) the need for restitution. 18 U.S.C. § 3553(a). Here, each of these factors militate toward a probationary sentence.

A. Background, Character and History of James Bonet

One of the first factors the Court must weigh in crafting a sentence is the history and characteristics of the offender. James grew up in a middle-class family. He and his sister were raised by their mother and father in the Albany area. They attended public school. Their older half-brother, Richard Jr., lived with them for most of their lives. Richard Jr. was their father’s biological son from a previous relationship; he was several years older than James and his sister. Their father, Richard Bonet, worked as a district manager for Taco Bell and their mother, Mayra, worked in the billing department of a surgery center. They were a family of modest means, living in an apartment, but James and his siblings were well nurtured. Growing up, James was involved with The Boy Scouts and athletics. His parents promoted and supported his participation in organized sports. Throughout his youth and high school years, he wrestled, swam, and played football. Although he was active, James was obese in high school. At 285 pounds, he wrestled in the

heavyweight class. He considers himself a “foodie” and he got even heavier after high school graduation. Like his father, James sought employment at a local food chain. He has worked in that industry for almost a decade. He’s been working full-time at Five Guys, where he is now an assistant manager.

Three years ago, James and his family suffered a terrible tragedy when Richard Jr. died from heart complications. Richard Jr. was a bodybuilder who took steroids that likely caused his death. This trauma caused great heartache for James and his younger sister, Jahda. The two grew closer after their brother’s death. Jahda has a 1 ½-year-old daughter whom James dotes over. He spends quality time playing with his niece and refers to his sister as his best friend.

Last year, during the pandemic, James began to focus on his health and fitness. He changed his diet and lost 150 pounds. His weight loss prompted him to critically examine mainstream media claims, like the promotion of the food pyramid. James lost weight because he eliminated certain foods from the pyramid. He thought much of how he was taught to eat was unhealthy and contributed to his obesity. The timing of his weight loss coincided with social media attacks on the mainstream media, and the dissemination of false information about voter fraud and the election being stolen. James was misguided by this political propaganda spewed by the Trump administration and the alt-right movement.

James is described by his friends, family, and peers as a good person who puts others before himself. (*See* attached character letters). Amber Baker, his dear friend, wrote, “James without a doubt will give you a meal, his shirt off his back, a shoulder to lean on, and a friend to confide in anytime you need.” *Id.* His friend, Mathew Secor, noted, “Most people in my experience tend to get stuck and constantly dwell on a mistake they made in the past-or one specific mistake. James has truly tried to understand and learn from the wrong he did. By going back to school and pursuing his dreams, he hopes to be able to use the lessons he learned from that day to help his community and others that might be in similar places to where he was.” *Id.* Everyone in James’ life has recognized his magnificent transformation since his arrest. He could not try any harder to redeem himself than he has over the course of the past year.

James’ arrest disappointed his parents. They do not condone his actions but remain supportive. Since his arrest, James has been on pre-trial supervision and has complied with his release conditions in all respects.

B. Offense Conduct

This case highlights the downside of social media and the impact of fake news, emotionally reactive posts, and plain hoaxes circulating as real information. For some people it becomes increasingly difficult to tell which information is true and which is fabricated. James is a curious, impressionable young man who

believed the claims by then-President Trump and his staunch supporters. He attended a rally in early December featuring Dr. Shiva, an Indian American engineer, politician and entrepreneur, and Vernon Jones, a Republican politician who served in the Georgia House of Representatives. They were chanting to the crowd, “one person, one vote.” The implication being people were voting twice for President Biden. After attending this rally, James was led to believe Democrats were casting illegal duplicative votes.

James also listened to claims by Lincoln “Lin” Wood Jr., a celebrity lawyer who supported Trump, and Sidney Powell, a Trump attorney who promoted conspiracy theories and the overturning of the 2020 presidential election. Trump directed his supporters to follow Powell because Trump’s Facebook and Twitter accounts were shut down. James heeded the then President’s advice. Powell and Wood alleged that 60,000 dead people were casting votes for President Biden, that ballots for Trump were being thrown out and that polling places had denied access to Republican observers and boarded up polling windows. James believed that Wood and Powell and Trump were highly educated sophisticated intellectuals. He couldn’t imagine they would spread false claims, particularly the president. James believed Trump was trying to defend the Constitution. After listening to these voter fraud allegations, James began to question the integrity of the election results. He related his distrust of media advertising to the food pyramid after he lost 150

pounds beginning in February 2021, when he cut out carbohydrates, dairy, and sugar. He wondered why throughout his school years he was taught to embrace the food pyramid when doing so caused great weight gain. He equated these teachings to information believed by most of the population to be true and healthy, yet it's been proven false by those who cut those foods from their diet and lost weight.

This revelation prompted James to attend the January 6, 2021, rally. He wanted to search for the truth. He was led to believe that although he voted, his vote was disenfranchised. When he got to the rally, he was surprised by the number of people who were in attendance. At that point he thought there were a lot more like-minded people than he realized-- again, reinforcing the claims that he read on social media. When Trump took the podium, he told the attendees they had to give support to Congress to get them to do the right thing. During his speech, Trump claimed Vice President Mike Pence should have investigated the legislators and the voter fraud, but Pence never did. Trump told members of the crowd to march to the Capitol to show support. James described how there were people in attendance trying to rile everybody up. He had no intentions on storming the Capitol or doing anything illegal. He just started following a group of people as they walked toward the Capitol. By the time he got to the building, the D.C. police officers had already been overwhelmed by the mob. People were already inside when James walked through the doors. He questioned whether they would get in

trouble for being in the building and was told by a police officer that he wouldn't. James walked through the building for 17 minutes and never entered or even looked to get to the Senate floor. He was mesmerized by the statues and the majesty of the building. He had never been inside the Capitol. James regrets entering the building, bragging on social media about doing so, and flaunting his marijuana cigarette as he posed for a selfie video. His parents expressed their disappointment with his behavior. Neither James nor his family were ever heavily involved in politics. He never aligned himself with any hate or domestic terrorist groups nor did he ever follow any such groups espousing those ideals on social media. He is a young man who loves the country and truly believed that the president would never lie or undermine the Constitution. This experience sparked a keen interest in James to understand our political system and further his education away from social media platforms. He is highly motivated to channel his desire to learn into a productive career path. He is attending college at State University of New York at Adirondack Community College. He is earning high marks in pursuit of a degree in political science. (*See* midterm grades attached) James works full-time and is also earning 14 credits toward his degree this semester. In the few spare hours he has open, James is also a jujutsu enthusiast.

C. Need for punishment

A term of no more than 3 years' probation is a guideline

sentence. James has demonstrated throughout his pre-trial release that he is not a threat nor danger to the community. Therefore, there is no need to incapacitate him. Unlike many others who entered the Capitol, James never sought to enter the Senate floor, didn't damage any property, and didn't engage in any violent or raucous behavior. James had no agenda when he traveled to the Capitol on January 6. He was not affiliated with any group. He went alone. He readily agreed to pay restitution as requested. His arrest and guilty plea have provided adequate deterrence as proven by his extraordinary rehabilitative efforts. No purposes under § 3553(a) would be satisfied by sentencing James to a term of imprisonment.

CONCLUSION

For the reasons discussed above, the defense requests that the Court impose a sentence of probation.

DATED: December 29, 2021

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