

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

UNITED STATES OF AMERICA

v.

THOMAS B. ADAMS, JR.

Crim. Action No. 21-354 (APM)

DEFENDANT'S MEMORANDUM IN AID OF SENTENCING

Thomas B. Adams, Jr. will be before the Court for sentencing on June 16, 2023, having accepted responsibility for his conduct at the U.S. Capitol on January 6, 2021. Mr. Adams came to Washington, D.C. at the invitation of President Trump, who told his followers on that day that the election results were incorrect, that this created a national security threat, and that his supporters should go to the Capitol to urge Senators and Mike Pence to take what he described as lawful steps provided for under the Constitution to correct the election results. Mr. Adams went to the Capitol, entered through an open door, and walked into the Senate chamber along with many other people. During the five minutes he spent inside the chamber, Mr. Adams did nothing more than take pictures and video of the room on his cell phone. During the time he was on Capitol grounds on January 6 he never engaged in violence against a law enforcement officer, he did not taunt or insult police, he did not damage property, and he did not encourage others to engage in violence, nor did he celebrate violence that occurred on January 6 on social media or otherwise. He came to Washington, D.C. intending to protest legally in support of President Trump and he regrets joining the crowd that entered the Capitol building.

Mr. Adams, now 41 years old, has had a difficult life defined by repeated traumatic incidents. His parents divorced when he was three years old and he was shuttled between homes and schools countless times during his childhood. [REDACTED]

[REDACTED] One of his children was blinded when he was shaken violently by a caregiver. Another child died days after his birth when his lungs failed. [REDACTED]

[REDACTED]

Mr. Adams lives alone with his dog in a small home in Springfield, Illinois. He has no contact with family members, meaning that he has no support network and only himself to rely upon. Despite these challenges, Mr. Adams has worked his entire life to support himself and he continues to work 60-70 hours per week. He has participated in weekly one-on-one counseling with a provider contracted through Pretrial Services during the pendency of this case and has benefited from the opportunity to have someone who is able to help him to discuss his feelings. That counselor informed Probation that Mr. Adams has been an enthusiastic participant in counseling and that he would benefit from ongoing treatment to address the trauma he has experienced. The counselor opined that a prison sentence would only exacerbate Mr. Adams' problems.

Mr. Adams accepted responsibility for his conduct by waiving the right to trial and agreeing to a stipulated facts bench trial, which took the same amount of time as a traditional guilty plea. The stipulated facts trial was necessary only because the

government was unwilling to offer a conditional guilty plea that would have allowed Mr. Adams to preserve the right to challenge the applicability of the obstruction charge to his conduct in this case, an issue that was the subject of a recent decision by the D.C. Circuit and that continues to be litigated. His statement to a reporter who came to his door after the stipulated facts bench trial reflected his frustrations related to that charge, not a lack of acceptance of responsibility for his conduct on January 6. Mr. Adams has honestly and consistently described his conduct, beginning with his voluntary FBI interview prior to his arrest. The defense here recommends a split sentence of 60 days incarceration with 36 months of supervised release to include 10 months of home detention. Such a sentence is a significant penalty, but also takes into account the fact that Mr. Adams did not engage in violence, property destruction, or antagonism towards law enforcement on January 6. A longer custodial sentence would have a devastating impact on Mr. Adams: he would be rendered homeless upon his release, would likely lose his dog, and he would be restarting life with nothing upon his release from custody.

I. PROCEDURAL HISTORY

On February 4, 2021, Mr. Adams agreed to speak with FBI agents who knocked on the door of his home. During that interview inside his home Mr. Adams cooperated with agents without hesitation and provided a full and accurate account of his actions on January 6, 2021. On April 2, 2021, the government filed a sealed criminal complaint charging Mr. Adams with knowingly entering or remaining in any restricted building or grounds without lawful authority, violent entry and disorderly

conduct on Capitol grounds, and obstruction of an official proceeding. ECF No. 1. On May 12, 2021, the grand jury returned a five-count indictment against Mr. Adams, charging him with Obstruction of an Official Proceeding and Aiding and Abetting under 18 U.S.C. § 1512(c)(2) (Count One); Entering and Remaining in a Restricted Building or Grounds under 18 U.S.C. § 1752(a)(1) (Count Two); Disorderly and Disruptive Conduct in a Restricted Building or Grounds under 18 U.S.C. § 1752(a)(2) (Count Three); Disorderly Conduct in a Capitol Building under 40 U.S.C. § 5104(e)(2)(D) (Count Four); and Parading, Demonstrating, or Picketing in a Capitol Building under 40 U.S.C. § 5104(e)(2)(G) (Count Five). ECF No. 7.

Mr. Adams proceeded via a stipulated bench trial on Counts One and Two on January 30, 2023 in order to preserve his right to appeal the application of 18 U.S.C. § 1512 to his conduct.¹ See 1/30/23 Minute Entry. Following his conviction, Mr. Adams cooperated with Probation in the Pre-Sentence Interview process.

II. OBJECTIONS TO PRESENTENCE INVESTIGATION REPORT

Pursuant to 18 U.S.C. § 3553(a), Rule 32 of the Federal Rules of Criminal Procedure, and Section 6A1.3 of the advisory United States Sentencing Guidelines

¹ As the Court is well aware, the Honorable Judge Nichols held that conduct like Mr. Adams' on January 6 cannot qualify as conduct that "otherwise obstructs, influences, or impedes" an official proceeding, within the meaning of Section 1512(c)(2) because it did not involve the destruction of evidence or documents. The government appealed Judge Nichols' opinion in *United States v. Miller*, 589 F. Supp. 3d 60 (D.D.C. 2022) and a split decision of the D.C. Circuit in *United States v. Fischer*, 64 F.4th 329 (D.C. Cir. 2023), reversed Judge Nichols's opinion. Defendants in Fischer and Miller have petitioned the Supreme Court for a *writ of certiorari*.

(“U.S.S.G.”), Mr. Adams states that he has reviewed the Pre-Sentence Report (PSR) and offers the following objections to the PSR.

A. The PSR incorrectly applied the U.S.S.G. § 2J1.2 specific offense characteristic

As set forth in Mr. Adams’ objections to the Pre-Sentence Report (“PSR”), Dkt. 63, Mr. Adams objects to the application of the three-level enhancement for interference with the administration of justice under U.S.S.G. § 2J1.2(b)(2). For the reasons set forth herein and in the Honorable Judge McFadden’s opinion on this issue in *United States v. Seefried*, No. 21-cr-287 (TNM)², the enhancement does not apply under the circumstances in this case.

The relevant specific offense characteristic provides as follows:

If the offense resulted in substantial interference *with the administration of justice*, increase by 3 levels.

U.S.S.G. §2J1.2(b)(2) (emphasis added). The guidelines application note states that “substantial interference with the administration of justice” includes:

a premature or improper termination of a felony investigation; an indictment, verdict, or any judicial determination based upon perjury, false testimony, or other false evidence; or the unnecessary expenditure of substantial governmental or court resources.

U.S.S.G. §2J1.2 cmt. n. 1.

Many courts in this District have held that the certification of electoral votes occurring on January 6 were an “official proceeding,” such that obstruction of that certification amounted to a violation of 18 U.S.C. § 1512(c)(2). Application of the

² Counsel has attached Judge McFadden’s Order as Exhibit 1 and incorporates it by reference.

§ 2J1.2 enhancement would require this Court to find that the certification *also* involved the “administration of justice.” In *Seefried*, Judge McFadden relied upon legal definitions of “administration of justice” to conclude that “administration of justice” involved a “judicial or quasi-judicial tribunal that applies the force of the state to determine legal rights.” *Seefried* at *4. He further found that the certification of electoral votes does not share these characteristics, as it is largely a ceremonial proceeding that takes place in the deliberative branch of government rather than branches that typically exercise judgement or force. He further found that definitions of “interfering with the administration of justice” all establish that the “administration of justice” involves a legal proceeding like a trial or grand jury hearing.

Taken further, courts do not interpret the guidelines in a manner different from their interpretation of statutory text. *E.g.*, *United States v. Martinez*, 870 F.3d 870 F.3d 1163, 1166 (9th Cir. 2017) (“We interpret the Sentencing Guidelines using the ordinary tools of statutory interpretation.”). Thus, the proper inquiry into meaning “will most often begin and end with the text and structure of the Guidelines.” *Id.* “The language of the Sentencing Guidelines, like the language of a statute, must be given its plain and ordinary meaning.” *United States v. Fulford*, 662 F.3d 1174, 1177 (11th Cir. 2011). Therefore, courts’ construction of the phrase “administration of justice” as it appears in Title 18 should not differ from their interpretation of the same phrase in the guidelines. *Id.*

Here, there is no real debate. Every circuit that has addressed the question has held that the phrase “administration of justice” refers to judicial proceedings. *United States v. Richardson*, 676 F.3d 491, 502-503 (5th Cir. 2012) (“[O]bstructing the due administration of justice means interfering with the procedure of a judicial hearing or trial.”); *United States v. Brenson*, 104 F.3d 1267, 1279-80 (11th Cir. 1997) (“due administration of justice” means “judicial procedure” and “the performance of acts required by law in the discharge of duties such as appearing as a witness and giving thoughtful testimony when subpoenaed”); *United States v. Warlick*, 742 F.2d 113, 116 (4th Cir. 1984) (defining obstruction of the “administration of justice” as acts that “thwart the judicial process”); *United States v. Rasheed*, 663 F.2d 843, 851 (9th Cir. 1981) (“administration of justice” commences with “a specific judicial proceeding”). The aforementioned application note to U.S.S.G. §2J1.2(b) bolsters that commonsense reading. Every example of substantial interference with the “administration of justice” involves interference with an investigation or evidence. U.S.S.G. §2J1 cmt. n. 1.

Text aside, law-of-the-case and estoppel principles foreclose application of these specific offense characteristics. As the Court knows, January 6 defendants have filed dozens of motions to dismiss the § 1512(c)(2) charge and in front of every judge of this Court. One of their arguments was that Congress’s joint session to count electoral votes does not constitute an “official proceeding” under that statute because, among other reasons, it did not involve the administration of justice. In response, the government contended that the joint session did not need to entail the administration

of justice to constitute an “official proceeding.” And in dozens of filings the government all but conceded, that, in fact, the joint session did not administer justice. *See United States v. William Pepe*, 21-cr-52, ECF No. 55 (D.D.C. 2021), p. 8 n. 3 (government: “the certification of the Electoral College vote is not an ‘inquiry or investigation’”); *United States v. Knowlton*, 21-cr-46, ECF No. 63 (D.D.C. 2021), p. 12 (government: “The ‘proceeding before Congress’ is not limited to proceedings solely related to the administration of justice.”); *United States v. Nordean*, 21-cr-175, ECF No. 106 (D.D.C. 2021), p. 21 (government acknowledging that although § 1512(c)(2) had “never been applied” outside the context of the administration of justice, the “unprecedentedly brazen attack” on the Capitol justified application outside that context). The government’s arguments on this score led the Court to positively hold that the joint session *does not administer justice*. *United States v. Montgomery*, 578 F. Supp. 3d 54 (D.D.C. 2021) (“Congress does not engage in . . . ‘the administration of justice.’”); *see also United States v. Sandlin*, 575 F. Supp. 3d 16, 24 (D.D.C. 2021) (“[T]he Court will not read an ‘administration of justice’ requirement into ‘official proceeding.’”).

Having denied defendant’s dismissal motions that argued the joint session needed to, but did not, administer justice, the Court cannot find, under the same tools of interpretation, that “administration of justice” now means something different under the Guidelines. Under the law- of-the-case doctrine, “when a court has ruled on an issue, that decision should generally be adhered to by that court in subsequent stages in the same case.” *United States v. Carr*, 557 F.3d 93, 101 (2d Cir. 2009). The

doctrine is “driven by considerations of fairness to the parties, judicial economy, and the societal interest in finality.” *Id.*

Indeed, it would be contrary to due process as well as nonsensical to assume that the Sentencing Commission meant to include “official proceeding” though it did not include the phrase in Section 2J1.1. As indicated, the Guidelines are interpreted using the same tools of construction that are employed in the interpretation of statutory text. *Martinez*, 870 F.3d at 1166; *Fulford*, 662 F.3d at 1177. The government and the defense alike cannot read words into the guidelines that the Commission did not include.

It would also be nonsensical to interpret “administration of justice” one way under the Guidelines and a different way in Title 18. It is not just that the interpretive tools are the same. *Martinez*, 870 F.3d at 1166; *Fulford*, 662 F.3d at 1177. It is that §2J1.2 was designed to sentence offenses under § 1503. U.S.S.G. §2J1.2 cmt Statutory Provisions. Section 1503 contains the exact same phrase, “administration of justice.” Administratively, it would be chaotic for the phrases to hold different meanings.

Finally, the Probation Office contends in the PSR that the three-level increase applies based solely upon the fact that expenditures for deployment of large numbers of law enforcement personnel and repair of the Capitol amounted to “unnecessary expenditure of substantial governmental or court resources.” PSR, p. 38. This is a reference to the definition of substantial interference with the administration of justice in the commentary:

a premature or improper termination of a felony investigation; an indictment, verdict, or any judicial determination based upon perjury, false testimony, or other false evidence; or the unnecessary expenditure of substantial governmental or court resources.

U.S.S.G. §2J1.2 cmt. n. 1. But the clause about unnecessary expenditure of governmental or court resources is not independent. In other words, there still must be a finding of a connection to the administration of justice. Otherwise, *any* criminal conduct that resulted in expenditure of substantial governmental resources would qualify for this enhancement. For example, consider a charge of arson that resulted in damage to a Department of the Interior building. Under the Probation Office's interpretation, this conduct would qualify for a §2J1.2(b)(2) enhancement solely because repair of a fire-damaged government building amounts to "the unnecessary expenditure of substantial governmental resources." But this cannot be. The conduct does not even fit within the government's broad definition of interference with the administration of justice. The specific offense characteristic does not apply here. The total offense level should be 14, reduced to 12 to reflect Mr. Adams' acceptance of responsibility.

B. The PSR incorrectly denied Mr. Adams acceptance of responsibility pursuant to § 3E1.1

As set forth in Mr. Adams' objections to the PSR, Dkt. 63, Mr. Adams objects to the denial of acceptance of responsibility under U.S.S.G. § 3E1.1. Mr. Adams has clearly demonstrated acceptance of responsibility for his actions by truthfully admitting his conduct on January 6, 2021. Mr. Adams first admitted his conduct in his interview with the FBI in February 2021. He was interviewed without counsel and gave a full and accurate account of his actions on January 6, 2021. Mr. Adams

also fully admitted to his conduct when he agreed to the Statement of Facts for Stipulated Trial, Dkt. 49. Mr. Adams has never denied his conduct and his decision to proceed by a stipulated facts bench trial was consistent with his continued desire to admit his actions taken on January 6, 2021.

United States Probation focuses on statements Mr. Adams made to a reporter who showed up at his doorstep immediately upon his return to Illinois after the stipulated facts bench trial. Mr. Adams' statements were not intended to contradict his admissions. Mr. Adams' statement that he "didn't do anything" and "don't feel like I did what the charge is" were his indelicate way of describing the purpose of the stipulated facts bench trial. Mr. Adams, like many other defendants charged based upon their conduct on January 6, 2021, has preserved his right to challenge the strictly legal question of whether his conduct fits within the confines of the most serious charge in this case - 18 U.S.C. § 1512(c)(2). His statements were not a denial of his conduct, but merely a layperson's attempt to describe his view that some of his conduct, while indisputably illegal, is not the type of conduct Congress intended to proscribe in that subsection, which carries a 20 year maximum sentence. Mr. Adams has also been stalwart in his desire to make sure that it is clear he did not damage anything, steal anything, or hurt anyone. His statements about his intent and lack of desire to do anything malicious or vicious are about the fact that he did not engage in any violence or destruction and that he never had the desire or intent to do so. In his statements he also admitted the conduct again, acknowledging that he was inside the Capitol. He has consistently admitted his conduct, accepting responsibility for his

actions. The Court should not deny Mr. Adams acceptance of responsibility due to these unartful statements.³

Mr. Adams should be afforded a two-level adjustment under § 3E1.1(a) because the following pre-trial conduct clearly demonstrates that he has accepted responsibility: 1) admitting his conduct to agents in an uncounseled interview on February 8, 2021; 2) attending drug counseling while on pretrial release; 3) expressing a willingness to plead guilty to several counts of the Indictment; 4) waiving his right to a jury trial; and 5) proceeding by stipulated facts bench trial and admitting to the statement of offense.

Mr. Adams is also eligible for the an additional one-level decrease for acceptance of responsibility under § 3E1.1(b). Mr. Adams' acceptance of responsibility was timely, first through his admissions to the FBI immediately upon his arrest and, second, by agreeing to proceed via a stipulated facts bench trial well in advance of a jury trial "so that the government may avoid preparing for trial and the court my schedule its calendar efficiently." Application Note 6. Mr. Adams' timely notification warrants the one-point decrease and a belief by probation or the government that Mr. Adams has not truly accepted responsibility is not a grounds to withhold the government's motion to award the one-point reduction. *See United States v. Richins*, 429 F. Supp. 2d 1259, (D. Utah, 2006) ("[W]hat the government may not do is use its

³ Mr. Adams had also just returned from two days of driving home from Washington, DC. Along the way he was forced to spend a night in his truck because he did not have the money to pay for gas and was waiting for assistance from a friend. He was ambushed by a reporter on his front step moments after he arrived home and was not in the state of mind to articulately respond to the reporter's questions.

power over the third-level motion as a means for giving weight to its own view of whether the defendant has accepted responsibility.”).

Mr. Adams notified the government of his intention to proceed via a stipulated facts bench trial in a timely fashion, which permitted the government to avoid preparing for trial. An upcoming amendment to § 3E1.1(b) adds a definition for preparing for trial, indicating “‘preparing for trial’ means substantive preparations taken to present the government’s case against the defendant to a jury (or judge, in the case of a bench trial) at trial. “‘Preparing for trial’ is ordinarily indicated by actions taken close to trial, such as preparing witnesses for trial, in limine motions, proposed voir dire questions and jury instructions, and witness and exhibit lists.” *See* United States Sentencing Commission, *Amendments to the Sentencing Guidelines* at 41, available at https://www.ussc.gov/sites/default/files/pdf/amendment-process/official-text-amendments/202305_Amendments.pdf (hereinafter, 2023 Guidelines Amendments). Mr. Adams’ decision to proceed by stipulated facts bench trial allowed the government to avoid preparing for trial, such as through preparing witnesses, proposing jury instructions, etc. Mr. Adams should receive one-point decrease for acceptance of responsibility under § 3E1.1(b).

C. Request for Downward Departure

Mr. Adams asks the Court to grant a downward departure under U.S.S.G. § 4A1.3(b)(1) because his criminal history category “substantially over-represents the seriousness of [Mr. Adams’] criminal history or the likelihood that [Mr. Adams] will

commit other crimes.”⁴ U.S.S.G. § 4A1.3. On April 5, 2023, the Sentencing Commission voted to adopt amendments to the Sentencing Guidelines that if approved by Congress, will affect the calculation of the guidelines significantly in many cases, including this one. *See* 2023 Guidelines Amendments. These changes will go into effect on November 1, 2023. Two changes are specifically applicable to Mr. Adams and, if applied, would result in a lower Criminal History Category and applicable advisory sentencing guidelines range. Mr. Adams asks the Court to grant a downward departure under § 4A1.3(b)(1) to take into consideration the upcoming changes in the Guidelines that would apply to Mr. Adams if his sentencing occurred after November 1, 2023.

First, the 2023 Guidelines Amendments change the circumstances under which an individual receives points towards their criminal history score if they committed the instant offense while under another criminal justice sentence. Currently, § 4A1.1(d) adds 2 points for any individual who “committed the instant offense while under any criminal justice sentence.” The 2023 Guidelines Amendments remove what is currently § 4A1.1(d) and adds at § 4A1.1(e) the section related to status points. *See id.* at 43. Importantly, the amendment only permits the addition of one point and that single point only applies for individuals who already have seven or more points under § 4A1.1(a)-(d) and committed the instant offense while under any criminal justice sentence. Under the current Guidelines, Mr. Adams

⁴ Alternatively, Mr. Adams asks the Court to consider these arguments and grant him a variance.

receives two points for committing the instant offense while under supervision in another case. After November 1, 2023, Mr. Adams will receive zero points because he does not otherwise have seven points. *See* PSR ¶ 67 (indicating Mr. Adams has four criminal history points without considering the two points under § 4A1.1(d)).

Second, the 2023 Guidelines Amendments encourage granting a departure under § 4A1.3(b)(1) when the defendant has prior convictions for “possession of marijuana for personal use, without an intent to sell or distribute it to another person.” 2023 Guidelines Amendments at 49, 54. The 2023 Guidelines Amendments make this change to account for the fact that simple possession of marijuana has historically overstated the criminal history of defendants and led to lengthier sentences. Two of Mr. Adams’ prior convictions, which each receive one point, are for either possession of marijuana, PSR ¶ 63 (2013 conviction for unlawful possession of cannabis), or possession of drug paraphernalia related to marijuana, PSR ¶ 64 (2014 conviction for possession of drug paraphernalia, specifically a cannabis pipe). Mr. Adams asks the Court to depart downward because he received two criminal history points for prior “sentence[s] for possession of marijuana for personal use, without an intent to sell or distribute it to another person.” 2023 Guidelines Amendments at 49. While the amendment does not specifically discuss possession of paraphernalia, the description of Mr. Adams’ 2014 possession of paraphernalia conviction makes clear that the pipe and amount of marijuana was for personal use. Therefore, the Court

may consider the fact that both prior marijuana sentences overstate Mr. Adams' criminal history and warrant a downward departure.⁵

For the foregoing reasons, Mr. Adams asks the Court to depart downward from Criminal History Category III to Criminal History Category II.

D. Overall Defense Guidelines Calculation

The following Guidelines calculation takes into account all of the above arguments regarding the objections to the Guidelines and a request for a downward departure.

- **Offense Level Calculation**
 - 2J1.2 Base Offense Level 14
 - Specific Offense Characteristics: § 2J1.2(b)(2) is not applicable
 - Acceptance of Responsibility
 - 3E1.1(a) -2
 - 3E1.1(b) -1⁶
 - Total Offense Level 12

- **Criminal History Calculation**
 - 4A1.3(b) Downward Departure for Criminal History: Prior convictions related to possession of marijuana should not receive criminal history points
 - 11/25/12 conviction 0 points
 - 8/11/14 conviction 0 points
 - Remaining criminal history points
 - 10/26/14 DUI 1 point
 - 6/1/19 DUI 1 point
 - Do not apply § 4A1.1(d) status points
 - Total Criminal History Points 2
 - Criminal History Category II

- **Offense Level 12 and CHC II 12-18 months**

⁵ Counsel also asks the Court to take into consideration the age of the two prior marijuana-related offenses, occurring in 2012 and 2014.

⁶ This additional negative point is only applicable if the Court applies the enhancement in § 2J1.2(b)(2).

III. APPLICATION OF THE §3553(a) SENTENCING FACTORS

The primary directive in § 3553(a) is that the Court must impose a sentence that is “sufficient, *but not greater than necessary*, to comply with” the purposes of sentencing. *See* 18 U.S.C. § 3553(a) (emphasis added). Honest application of the federal sentencing statute confirms that a sentence of 60 days incarceration and 10 months of home detention is sufficient but not greater than necessary to meet the goals of sentencing. What follows is a detailed review of the relevant §3553(a) factors.

A. Mr. Adams’ History and Characteristics

Thomas Adams was born and raised in Springfield, Illinois and has spent most of his life there. His biological parents had a hostile relationship: Mr. Adams was in the car as a young child when his mother ran over his father during an argument. PSR ¶ 84. They divorced when Mr. Adams was only three years old, after which he was shuttled between his parents’ homes for approximately three years. When Mr. Adams was six, he was placed in the home of his father and a stepmother. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Conditions in the home of his mother were not much better. Mr. Adams’ mother was emotionally and physically abusive during his childhood, frequently resorting to physical violence and other harsh forms of punishment in response to trivial transgressions, including overloading the washing machine. His mother was involved

in repeated unstable, abusive relationships and she was married six separate times. They moved frequently and unexpectedly, and as a result Mr. Adams attended as many as five separate elementary schools. He was subjected to bullying by his peers, likely because he was an unknown outsider at every school he was placed into by his mother. Mr. Adams' brother, Brian, suffers from a severe disability due to phenylketonuria, a congenital condition that causes an individual's body to be unable to break down an amino acid. He suffered brain damage leading to an intellectual disability. Mr. Adams devoted a great deal of time and energy during his childhood to protecting his brother from being abused by others as a result of his disability. Mr. Adams' exposure to this level of abuse and instability during his childhood has no doubt contributed to his difficulty trusting others and maintaining long-term relationships during his adulthood.

When Mr. Adams was twelve years old, his mother's then-husband, Thomas Adams, adopted him and his brother. Mr. Adams was born with the name James Michael Clark and had been known by that name his entire life, yet his mother chose to entirely change his name to Thomas Adams, Jr. Mr. Adams was devastated by his father's abandonment of him. His father was a Green Beret who had earned a Purple Heart, and Mr. Adams still struggles to understand why he gave up Mr. Adams and his brother without a fight.

Mr. Adams has continued to endure trauma during his adulthood. His first child, Gavin, was born in 2003, but during a period when Mr. Adams was in jail, Gavin was a victim of shaken baby syndrome, apparently at the hands of the mother's

new boyfriend. Gavin, now 20 years old, is legally blind. Later, while Mr. Adams was in a ten-year relationship with a different woman, their son Drysten was born prematurely and was placed in neonatal intensive care. When a doctor adjusted the breathing machine, Drysten's lungs were unable to handle the adjustment and he died three days after his birth. Mr. Adams continues to experience a deep sense of loss to this day and harbors feelings of guilt for being unable to protect and save his son. Drysten's mother also struggled to cope with his loss and Mr. Adams' relationship with her ended not long after Drysten's death. He was socially isolated and frustrated during the period leading up to January 6, 2021.

Mr. Adams has received sporadic mental health treatment to address the ramifications of the trauma he has experienced, but he does not have health insurance so never had a dependable source of services. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] While it is true that Mr. Adams has tested positive for marijuana and cocaine during the pendency of this case, he has taken part in treatment and testing and has found the one-on-one counseling provided through Pretrial Services to be very helpful.⁷ Other than the positive tests, over the more than two years since his arrest Mr. Adams has maintained his residence and

⁷ The PSR references four treatment sessions at Family Guidance Center in April of 2022. More recently, Mr. Adams has been attending weekly counseling through a separate provider arranged by United States Pretrial Services.

employment, incurred no new arrests, successfully completed a 30-day period of location monitoring, and reported as directed to his Pretrial Officer. PSR ¶ 17.

Mr. Adams has benefited from his ongoing treatment with Tim Parsons, a therapist at Hopewell Clinical, whom he sees weekly for one-on-one counseling. Mr. Parsons reported the following to the Department of Probation in relevant part:



PSR ¶ 104a.

Despite the trauma and challenges he has faced throughout his life, Mr. Adams has a strong work ethic and has worked steadily since his teenage years. Beginning at age 14 he worked at a pizzeria and he has approximately 14 years of experience working in the restaurant industry. He has also worked for a meat processor and as a veterinary courier. For a majority of the last nine years he has worked for a lawn care company, with some time spent working at Domino's Pizza locations.⁸ Mr. Adams believes strongly in the importance of hard work and he avoids taking time off at all costs: he has worked through a bout of pneumonia without taking time off

⁸ Mr. Adams voluntarily provides \$50 to \$100 per week to the mother of his two teenaged children.

and both hands have been broken while he was working. Mr. Adams has asthma and was diagnosed with early onset COPD and emphysema at the age of 29. He is prescribed Albuterol and Fluticasone inhalers to address his symptoms. His breathing issues are serious enough that he could probably seek disability, but he wants to keep working. It should come as no surprise that his employer had nothing but good things to say about Mr. Adams when United States Probation inquired:

Thomas Adams, Jr. is a good employee. He is reliable and capable of handling many issues including dealing with customers and other employees, in addition to all the usual maintenance tasks that are part of the job. He is trustworthy and dependable.

PSR ¶ 108.

Outside of work, Mr. Adams' passion is pool. He started playing two years ago and he is now the captain of three different teams. He plays several nights per week and enjoys the game and the camaraderie that comes along with it.

B. The nature and circumstances of Mr. Adams' offense

After the presidential election, former President Trump, members of his inner circle and some members of the media began circulating the word that the election was "stolen." The false claims spread on media—from local news outlets, to Facebook, to some national broadcasts—that the election had been corrupted.⁹ Mr. Adams

⁹ The false claims spread on media—from local news outlets, to social media, to some national broadcasts, that the election had been corrupted. For example, one news source stated that Texans should be wary of voting by mail in the 2020 election because mail in ballots are "ripe for fraud and abuse." Robert Montoya, *Are Texas Elections Secure?*, Texas Scorecard (Nov. 6, 2020), <https://texasscorecard.com/state/are-texas-elections-secure/>. See, eg., Tucker Higgins & Kevin Breuninger, *Texas sues for battleground states in Supreme Court over 'unlawful election results' in 2020 presidential race*, CNBC (Dec. 9, 2020), <https://www.cnbc.com/texas-sues-four-battleground-states-in-supreme-court-over-unlawful-election-results.html> (reporting

believed – because of what the President and other prominent politicians and media figures were saying – that the democratic process had been undermined by fraud.¹⁰ Like tens of millions of other Americans, Mr. Adams was a supporter of President Trump. He was not affiliated with – nor did he support – any extremist organizations and he is opposed to violent action. When President Trump started advertising the “Stop the Steal” rally, Mr. Adams decided to attend to protest the election. Mr. Adams hoped that a protest would cause Congress to listen to the American people and

on Texas lawsuit filed after the 2020 election which argued that the election results in Pennsylvania, Georgia, Wisconsin, and Michigan . . . should be declared unconstitutional based on the states’ use of the COVID pandemic to change their election outcomes); Donald Trump (@realDonaldTrump), *Twitter*, (Dec. 9, 2020, 8:39 AM), <https://twitter.com/realDonaldTrump/status/trump-tweets-his-campaign-will-join-paxsons-election-suit> (Mr. Trump tweeted in support of the above Texas lawsuit contesting the election results in battleground states, stating that the lawsuit was “very strong, [with] ALL CRITERIA MET. How can you have a presidency when a vast majority think the election was RIGGED?”); Kate McGee, *Texas Republicans decline to condemn President Trump’s premature declaration of victory while votes are still being counted*, *The Texas Tribune* (Nov. 4, 2020), <https://www.texastribune.org/texas-republicans-trump/> (reporting how many Texas republicans, including Senator Ted Cruz, Senator John Cornyn, and Governor Greg Abbott, were silent on the matter of “Donald Trump prematurely and falsely [declaring victory]” in the 2020 election and U.S. Rep. Jodey Arrington stating that “there are legitimate concerns regarding the potential for fraud [in the election] that must be addressed in order for the country to move forward”).

¹⁰ This Court has previously recognized that the false claims of a “stolen election” spread by prominent and trusted leaders can be a mitigating factor in some January 6 cases. In sentencing another defendant to probation for entering the Capitol, this Court stated:

It really does, in my mind, go to the 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 the people when it wasn’t. . . people were told over and over again something that was not true, so much so that people like [the defendant] lost his way.”

United States v. Cavanaugh, 21-cr-362 (APM), Sentencing Tr. p. 29 (sentencing defendant to 24 months’ probation for entering the Capitol building).

reconsider certifying the election. It was winter, so Mr. Adams was laid off from his landscaping job, meaning that he had a great deal of extra time on his hands, whereas he works long hours during the rest of the year. He made a spur of the moment decision to go to Washington, D.C. at a time when he was depressed and felt aimless. The prospect of taking part in a rally called by President Trump gave him a feeling of pride and purpose. Mr. Adams attended the “Stop the Steal” rally with his friend, Roy Franklin. Their decision to travel to Washington involved little, if any, planning. They threw clothes in the car and packed a tent thinking that they might camp outside the Capitol much like Occupy Wall Street protesters had done several years earlier.

When he traveled to the “Stop the Steal” rally, Mr. Adams intended to protest the election and support Mr. Trump. While the events that unfolded on January 6 have been labeled “an insurrection,” Mr. Adams did not attend the rally intent on overturning the government. To the contrary, he felt it was his patriotic duty as an American to support the President and to speak out – in the form of peaceful protest – against election fraud. The rally was exciting and the crowd was very energetic. Mr. Adams heard President Trump’s speech and the call to meet him at the Capitol. After the rally, Mr. Adams followed the crowd to the Capitol where he believed they were going to continue to protest.

Before Mr. Adams reached the Capitol, he heard from others in the crowd that the members of Congress had already left the building.¹¹ When Mr. Adams arrived at the Parliamentarian Door it was already open, having been opened several minutes earlier, and the crowd was moving inside the building. Mr. Adams walked through the building for less than 23 minutes. He was in the Senate chamber for approximately 5 of those minutes, during which time he wandered aimlessly and took videos of the room with his phone before walking out when officers entered the chamber. He did not take any documents, did not write on any documents, did not destroy any documents, and did not otherwise alter any documents. Importantly, he entered the Senate Chamber *after* he learned that the Senator had been evacuated. Therefore, there can be no argument that he entered with the intent to threaten or intimidate the Senators.

Mr. Adams did not steal or vandalize any object within the Capitol. He did not wear combat gear or carry any weapons. He did not engage in any violence towards law enforcement nor did he taunt members of law enforcement. In fact, he denounced violence that occurred at the Capitol, telling FBI interviewers that people who engaged in violent behavior towards law enforcement on that day were “ignorant.” Unlike many others present on January 6, Mr. Adams did not celebrate or glorify the

¹¹ The Statement of Facts for Stipulated Trial, Dkt. 49, states that members of Congress evacuated at approximately 2:20 p.m. on January 6. *Id.* ¶ 7. The stipulated statement of facts goes on to state that Mr. Adams did not enter the Capitol until approximately 2:48 p.m. *Id.* ¶ 9.

violent actions of others in the days after January 6. Mr. Adams and Mr. Franklin got in their car and drove back to Illinois that evening.

The only thing that differentiates Mr. Adams from the countless individuals who received non-custodial sentences after accepting plea offers to the Class B Misdemeanor of Parading in a Capitol Building is the five minutes he spent walking around the Senate chamber. Mr. Adams did not seek out the Senate chamber as he walked with the crowd through the building. He happened upon the door as others were entering. While his decision to briefly join others inside that room makes him more culpable than people who did not enter the room, that practical difference is drastically overrepresented in the government's guideline calculation and sentencing recommendation.¹² Add to that the fact that many individuals who received Parading offers taunted police and made incendiary comments on social media – none of which Mr. Adams did.

¹² Zachary Wilson is one such example. Mr. Wilson entered the Capitol building by jumping through a broken window. Mr. Adams entered through an open door. Mr. Wilson entered Speaker Pelosi's office and spent five minutes inside. He traveled almost the entire length of the Capitol before exiting 20 minutes later through the South Doors. Afterwards, unlike Mr. Adams, he took to social media and celebrated his conduct. He then, again unlike Mr. Adams, lied to the FBI in two separate interviews, denying that he had entered the Capitol building. This Court sentenced Mr. Wilson to two years of probation to include 45 days of home detention. *United States v. Zachary Wilson*, No. 21-cr-578 (APM). Mark Rebegila is another example. Mr. Rebegila entered the Capitol two separate times after first being forced out by law enforcement. He entered into at least two private office spaces. He bragged to others about his breach of the Capitol and told them that he had sat in a lawmaker's chair and stolen a bottle of liquor. He then deleted evidence of his criminal conduct in an effort to avoid detection. This Court sentenced Mr. Rebegila to two years of probation to include 30 days of home detention. *United States v. Mark Rebegila*, No. 21-cr-283 (APM).

C. Avoiding Disparities

The defense here provides examples of cases involving similar charges and conduct that is comparable. First, the defense is only aware of one case in which this Court has sentenced a defendant whose most serious charge was the same as the most serious charge in this case: Obstruction under 18 U.S.C. § 1512(c)(2). This Court's sentence in that case demonstrates why the sentence proposed by the defense here is sufficient and the sentences proposed by the government and Probation are greater than necessary under 18 U.S.C. § 3553(a).

United States v. Matthew Wood, No. 21-cr-223 (APM)

Mr. Wood traveled to Washington, D.C. on January 6 after sending a message to a contact in which he wrote: "If they want to raid Congress, sign me up, I'll be brave heart in that bitch!" He wrote that events on January 6 were "going to be wild!" and that he was "down for whatever they want to do." He bragged that he was prepared to die and shed blood. After arriving on Capitol grounds, Mr. Wood climbed the media tower and urged others forward. Mr. Wood entered the Capitol building through a broken window soon after other rioters had broken it. Mr. Wood spent approximately 80 minutes inside the Capitol, moving throughout the building, including going into the house Speaker's office suite and conference room. While inside the Capitol, he wrote on a group chat that he "just broke through Capitol police" and that they were "going to bust into the house chambers." Later on January 6 he wrote "we are trying to take the house but they are pulling guns!" He was deterred from entering the Senate Chamber by a cloud of chemical irritant. While walking through Statuary Hall, he removed the velvet rope from each of six stanchions he passed and dropping

it to the ground. Like Mr. Adams, Mr. Wood was convicted of obstruction in violation of 18 U.S.C. § 1512(c)(2). To be clear, Mr. Adams never made statements prior to January 6 suggesting an intent to engage in violence on that day. He entered through a door, not a broken window. And he spent far less time inside the Capitol than Mr. Wood. The government sought a sentence of 57 months incarceration for Mr. Wood. This Court imposed a sentence of 36 months of probation with the first 12 months of that sentence to be served on home detention with location monitoring.

Second, the following examples of people who entered the Senate chamber and engaged in conduct therein that was more serious than that of Mr. Adams demonstrate why the government's request for almost three years of imprisonment here is unreasonable.

United States v. Paul Hodgkins, No. 21-cr-188 (RDM)

Mr. Hodgkins took rope, protective eye goggles, and latex gloves into the Capitol. Once inside the Capitol, he put on his eye goggles and entered the Senate chamber. He walked to the well and stood at the dais with a flag in hand. He was seen in the well of the Senate taking photographs and putting on latex gloves.



Mr. Hodgkins at the dais.

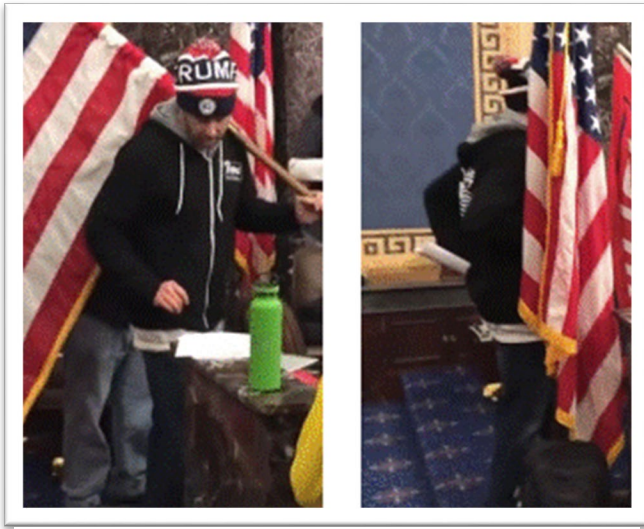
Mr. Hodgkins was convicted of the same felony offense as Mr. Adams, 18 U.S.C. § 1512, and was sentenced to 8 months' incarceration. The government may try to

distinguish Mr. Adams by noting that Mr. Hodgkins had no criminal record, but Mr. Adams' criminal record is relatively minor and is related to substance abuse.

United States v. Katherine Morrison and Tara Stottlemeyer, No. 21-cr-334 (TJK).

Ms. Morrison entered the Capitol, made it onto the Senate Floor, rifled through desks in the Senate chamber, and took pictures of documents. After her arrest, Ms. Morrison lied to FBI agents during an interview. Although Ms. Morrison had no criminal history prior to January 6, her conduct was more egregious than Mr. Adams' conduct and she lied to the FBI. Ms. Morrison was sentenced to 8 months incarceration for her actions on January 6. Tara Stottlemeyer, who was at the Capitol with Ms. Morrison, received a sentence of 8 months incarceration after witnessing her husband assaulting an Officer outside the Capitol, entering the Capitol, entering the Senate chamber, rifling through desks, and taking photos of documents. Additionally, despite the fact that the government argued in its sentencing memorandum that Ms. Stottlemeyer did not express any remorse for her criminal conduct, the government still argued that Ms. Stottlemeyer should get a three-level reduction for acceptance of responsibility purely for entering into a guilty plea. The government's argument against acceptance of responsibility for Mr. Adams is contrary to its position in Ms. Stottlemeyer's case and results in an unwarranted disparity in the applicable Guidelines range and inconsistent treatment of individuals convicted of the same offense.

United States v. Tommy Allan, No. 21-cr-64 (CKK)



Mr. Allan at the dais

After climbing a rope up the side of the Capitol, Mr. Allan entered the building through a fire door next to the Senate Parliamentarian's office, which had been broken open by rioters. He entered the Parliamentarian's office and then walked through the halls of the

Capitol for approximately 15 minutes, during which time he stole an American flag. He joined a group of rioters confronting Capitol Police officers near the North Door and put himself at the front line. When rioters pushed through this police line, he climbed up a flight of stairs and entered the Senate chamber. While inside, he stood on the dais as fellow rioters chanted slogans, and stole paperwork from the front desk as well as the desk of Senate Majority leader Mitch McConnell. After Capitol Police forced rioters out of the Senate chamber, Allan was made to give up his flag and escorted out of the building. Allan held up his stolen papers like a trophy to the crowd outside, and then crossed the street and bragged on a Facebook live stream about his exploits, claiming that he scaled a wall to get into the Capitol, and proudly displaying the stolen documents. When he returned home, Allan deleted his Facebook account and destroyed the documents he had stolen in an effort to hide the evidence of his unlawful conduct. Allan declined to be interviewed by law enforcement officers when

they visited his home a week later. The next day Allan got rid of his cellphone because it contained evidence of his participation in the attack. Mr. Allan was convicted of theft of government property as well as 18 U.S.C. § 1512 and was sentenced to 21 months incarceration by Judge Kollar-Kotelly. Mr. Adams did not climb a rope up a wall of the Capitol. He did not steal an American flag. He did not steal papers from the Senate chamber and display them to a crowd nor did he livestream his actions to an audience. His conduct was far less serious than Mr. Allan and his sentence should reflect that fact.

D. Protection of the Public and Need for Treatment

The requested sentence will be sufficient to protect the public from further crimes of Mr. Adams and provide specific deterrence. While “[p]rison is an important option for incapacitating and punishing those who commit crimes,” evidence suggests that lengthy prison sentences do not have a “chastening” effect and “produce at best a very modest deterrent effect.” *Five Things About Deterrence*, Nat’l Inst. Justice, U.S. Dep’t of Justice, 1-2 (May 2016). With respect to specific deterrence, research shows conclusively that “[t]he *certainty* of being caught is a vastly more powerful deterrent than the punishment,” that “[s]ending an individual convicted of a crime to prison isn’t a very effective way to deter crime,” and that “[i]ncreasing the severity of punishment does little to deter crime.” *Id.* (emphasis in original); *see also* James Austin *et al.*, *How Many Americans Are Unnecessarily Incarcerated?*, Brennan Ctr. For Just., N.Y. Univ. School of Law, 22 (2016) (quoting a 2011 study by criminologists concluding that “across all offenders, prisons do not have a specific deterrent effect.

Custodial sentences [jail and prison] do not reduce recidivism more than noncustodial sanctions”).

In addition, United States Sentencing Commission “research has demonstrated that reductions to sentence length and time served do not harm public safety.” *Transforming Prisons, Restoring Lives*, Charles Colson Task Force on Federal Corrections, Urban Inst., 21 (Jan. 2016). This is consistent with a “body of research demonstrat[ing] that longer sentences do not reduce recidivism more than shorter sentences.” Austin, Brennan Ctr., *supra*, at 35. Some studies have concluded that prison stays longer than 12 to 20 months have diminishing returns, causing higher recidivism. *Id.* Similarly, a 2002 Justice Department study “found that recidivism rates did not differ significantly among those released after serving 6 months or less compared to those serving sentences all the way up to 30 months in prison.” *Id.* at 36.

Mr. Adams is single and lives with his dog in a small home in Springfield. He works 60-70 hours per week and barely scrapes by. He does not have close family or friends to rely upon for assistance; he has supported himself without help from others for his entire life. He does not have long-term care options for his dog and would have to abandon his home if he is incarcerated for a long stretch of time. He believes that if he served a sentence of 60 days or less he would be able to cover rent on his home, but any longer sentence would mean that he would be homeless upon his release and he has no other options for his dog. Further, Mr. Adams’ therapist, a provider arranged by Pretrial Service, noted Mr. Adams’ need for ongoing therapy and opines that a custodial sentence would be counterproductive:



PSR ¶ 104a.

E. Restitution

Restitution is a punishment in and of itself. *See United States v. Cohen*, 459 F.3d 490, 496 (4th Cir. 2006) (“[R]estitution is [...] part of the criminal defendant’s sentence.”). Mr. Adams does not have the means to pay restitution. *See* PSR ¶¶ 117-24 (noting Mr. Adams has \$12 in a bank account). He is an hourly-wage worker. No matter what sentence the Court imposes, Mr. Adams will struggle to pay restitution when he is released. A sentence that will enable Mr. Adams to begin working again sooner rather than later so that he can start to make a dent in restitution will take into account that restitution for someone in Mr. Adams’ position is far more punitive than it would be for someone with means.

CONCLUSION

For the foregoing reasons and such others as may be presented at the sentencing hearing, Mr. Adams respectfully requests that the Court impose a sentence of 60 days incarceration and 36 months of supervised release to include 10 months of home detention. Mr. Adams agrees with the PSR’s assessment that he is not in a position to pay a fine.

Respectfully submitted,

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/s/

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