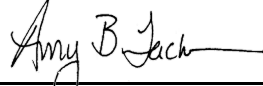


Leave to filed GRANTED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

 5/20/22
Amy B. Jackson Date
United States District Judge

UNITED STATES OF AMERICA :

v. :

CASE NO. 21-CR-689 (ABJ)

THOMAS PATRICK HAMNER, :

Defendant. :

**UNITED STATES' NOTICE OF INFORMATION IN PREPARATION
FOR MAY 17, 2022 PLEA HEARING**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully provides the following information to the Court in preparation for Defendant Thomas Patrick Hamner's plea hearing on May 17, 2022.

**I. THE INDICTMENT, THE STATUTORY MAXIMUM SENTENCE, THE
ELEMENTS OF THE CRIME, AND PROJECTED GUIDELINES
CALCULATION**

A. The Plea

Defendant Hamner has indicated that he plans to plead guilty, without the benefit of a plea agreement, to Count Two of the indictment filed by the grand jury on November 19, 2021 (ECF No. 6), alleging a violation of 18 U.S.C. §§ 231(a)(3) and 2, civil disorder and aiding and abetting. Count One and Counts Three through Six of the indictment will remain pending against the defendant.

B. The Statutory Maximum Sentence

If found guilty of a violation of 18 U.S.C. §§ 231(a)(3) and 2, Defendant Hamner faces a maximum term of imprisonment of 5 years, up to a \$250,000.00 fine, up to three years of supervised release, a \$100 special penalty assessment, and restitution as may be ordered by the

Court.

C. The Elements of the Offense

1. That the defendant committed or attempted to commit any act with the intended purpose to obstruct, impede, or interfere with any law enforcement officer;
2. That the law enforcement officer was lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder; and
3. That the civil disorder in any way or degree obstructed, delayed or adversely affected commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function.

D. Government's Projected Guidelines Calculation on Count Two

Should Defendant Hamner plead guilty to one violation of 18 U.S.C. §§ 231(a)(3) and 2, civil disorder and aiding and abetting, and based on the facts and circumstances of the offense, his estimated sentencing guidelines analysis is as follows:

Base offense level: § 2A2.4(a):	+10
Cross Reference Applies: § 2A2.4(c)	apply 2A2.2¹
Base offense level: § 2A2.2(a)	+14
Specific offense characteristics:	
(1) The offense involved use of a dangerous weapon (+4), § 2A2.2(b)(2)(B)	+4
Chapter 3 Adjustments:	
(1) Official victim (+6), § 3A1.2(b)	+6
(2) Acceptance of Responsibility (-3), § 3E1.1	<u>-3</u>

¹ Section 2A2.4(c) is a cross-reference to §2A2.2, which applies “[i]f the conduct constituted aggravated assault.” In that phrase, “conduct” refers to all relevant conduct for the offense. *See United States v. Valdez-Torres*, 108 F.3d 385, 387–88 (D.C. Cir. 1997).

Final offense level: 21

Criminal history category: (Chapter 4, Part A): III²

Sentencing Guidelines range from sentencing table: 46-57 months

E. Government's Projected Guidelines Calculation on Remaining Counts

Count One- Assaulting, Resisting or Impeding Certain Officers Using a Dangerous Weapon and Aiding and Abetting, 18 U.S.C. §§ 111(a)(1) and (b), 2

Base offense level: § 2A2.4(a):	+10
Cross Reference Applies: § 2A2.4(c)	apply 2A2.2
Base offense level: § 2A2.2(a)	+14
Specific offense characteristics:	
(1) The offense involved use of a dangerous weapon (+4), § 2A2.2(b)(2)(B)	+4
(2) The defendant was convicted under 18 U.S.C. § 111(b) (+2), § 2A2.2(b)(7)	+2
Chapter 3 Adjustments:	
(1) Official victim (+6), § 3A1.2(b)	+6
(2) Acceptance of Responsibility (-3), § 3E1.1	<u>-3</u>
Final offense level:	23

Count Three- Civil Disorder and Aiding and Abetting, 18 U.S.C. §§ 231(a)(3), 2

Base offense level: § 2A2.4(a):	+10
Specific offense characteristics:	
(1) The offense involved physical contact and a dangerous weapon was possessed and its used was threatened (+3), § 2A2.4(b)(1)	+3

² Notwithstanding this filing, the government reserves its right to seek an upward departure under U.S.S.G. § 4A1.3.

Chapter 3 Adjustments:Acceptance of Responsibility (-2), § 3E1.1 -2**Final offense level:** 11*Count Four- Entering and Remaining in a Restricted Building or Grounds with a Deadly or Dangerous Weapon, 18 U.S.C. § 1752(a)(1) and (b)(1)(A)***Base offense level: § 2B2.3(a):** +4**Cross Reference Applies: § 2B2.3(c)(1)** apply 2X1.1³**Base offense level: §§ 2X1.1(a) and 2A2.2(a):** +20**Chapter 3 Adjustments:**(1) Acceptance of Responsibility (-3), § 3E1.1 -3**Final Offense Level:** 17*Count Five- Engaging in Physical Violence in a Restricted Building or Grounds with a Deadly or Dangerous Weapon, 18 U.S.C. § 1752(a)(4) and (b)(1)(A)***Base offense level: § 2A2.4(a):** +10**Specific offense characteristics:**

(2) The offense involved physical contact and a dangerous weapon was possessed and its used was threatened (+3), § 2A2.4(b)(1) +3

Chapter 3 Adjustments:Acceptance of Responsibility (-2), § 3E1.1 -2**Final offense level:** 11⁴³ This calculation applies § 2X1.1(a) with respect to the assault charged in Count One.⁴ The counts all appear to form a single group under U.S.S.G. § 3D1.2(a)-(c).

Count Six- Act of Physical Violence in the Capitol Grounds or Buildings, 40 U.S.C. 5104(e)(2)(F)

Guidelines not applicable

II. THE STATEMENT OF OFFENSE

The Attack at the U.S. Capitol on January 6, 2021

The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol.

On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S.

Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades, and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police Officers or other authorized security officials.

At such time, the certification proceedings still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m., members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 pm after the building had

been secured. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

Thomas Patrick Hamner's Role in Attacking the U.S. Capitol

Hamner traveled from Colorado to Washington, D.C. and on January 6, 2021, he went to the U.S. Capitol. Hamner wore a sweater that said, "Guns Don't Kill People, Clintons Do," a helmet with "S1" in white on the side, tan pants, a camouflage baseball cap and sunglasses with a Confederate flag design on the temple.

At approximately 12:53 p.m., Hamner was on the West Lawn, which was barricaded with fencing, marking the U.S. Capitol and its grounds as a restricted area when rioters breached the police line at the Peace Circle. Upon seeing this, Hamner hopped over the barricades on the West Lawn and began pulling them down.

At approximately 1:00 p.m., a crowd of violent rioters assembled on the West Plaza of the U.S. Capitol. U.S. Capitol Police formed a line of bike racks extending from the north end of the West Plaza to the south end to act as a barrier against the crowd. Officers were standing watch behind this line and fending off repeated attempts by the rioters to pull on the bike racks, either with their hands or with ropes and straps.

At approximately 1:14 p.m., Hamner engaged in a tug-of-war with a Capitol Police Officer and a D.C. Metro Police Officer over a bike rack that was being used as a barricade.

At approximately 1:40 p.m., as officers continued to fend off repeated attempts by rioters to breach the police line and assault the officers, the rioters moved a large metal "TRUMP" billboard on wheels with a metal frame towards the barricade. As the billboard was moved closer to the police line, Hamner grabbed it and assisted in throwing the large billboard onto the defensive

line of police officers, using the billboard as a battering ram against the police officers who were attempting to hold the line.

At all times, the United States Capitol Police officers present at the U.S. Capitol were engaged in the performance of their official duties and the Metropolitan Police Department officers present were assisting them after having received a request for backup to protect the United States Capitol Building and its occupants.

Hamner obstructed, impeded, or interfered with law enforcement officers lawfully engaged in the lawful performance of their official duties incident to and during the commission of a civil disorder which adversely affected commerce and the performance of a federally protected function.

Respectfully submitted,

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