

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

UNITED STATES OF AMERICA

v.

**FELICIA KONOLD and
CORY KONOLD,**

Defendants.

Case No. 1:21-cr-160-3, -4 (TJK)

**GOVERNMENT’S RESPONSE TO
FELICIA KONOLD’S SENTENCING MEMORANDUM**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this response to the defendants’ sentencing memoranda [ECF 241 and 242].

The government will fully address the § 3553(a) factors during the sentencing hearing scheduled for January 24, 2024. This Response Brief is for the limited purpose of addressing the defendants’ assertion that their cases are different from “most other January 6 cases involving” a charge of 18 U.S.C. § 231(a)(3) because they “did not engage in an act of violence against law enforcement officers.” *E.g.*, ECF 242 at 5. Nearly all of the § 231 cases cited in support of this claim, however, also involved a separate charge of assaulting, resisting, or impeding a law enforcement officer in violation of 18 U.S.C. § 111(a)(1) or another violent offense:

Defendant	Case No.	Violent Offense Charged (18 U.S.C.)
Adams, Daniel	21-cr-84	§ 111(a)(1)
Alam, Zachary	21-cr-190	§ 111(a)(1); § 111(a)(1) and (b); § 1361
Antonio, Anthony	21-cr-497	§ 1361
Ballard, Thomas	21-cr-553	§ 111(a)(1); § 111(a)(1) and (b)
Bingham, Brian	22-cr-92	§ 111(a)(1)

Brock, Michael	21-cr-500	§ 111(a)(1) and (b); § 111(a)(1) and (b)
Brockhoff, Nicholas	21-cr-524	§ 111(a)(1) and (b); § 111(a)(1) and (b)
Brown, Jeffrey	21-cr-178	§ 111(a)(1) and (b)
Brown, Trevor	22-cr-170	None
Buteau, Jamie	21-cr-489	§ 111(a)(1)
Byerly, Alan	21-cr-527	§ 111(a)(1) and (b); § 113(a)(4); § 113(a)(5)
Caldwell, Daniel	21-cr-181	§ 111(a)(1) and (b)
Chrestman, William	21-cr-160	§ 115(a)(1)(B)
Cua, Bruno	21-cr-107	§ 111(a)(1)
Coffee, Luke	21-cr-327	§ 111(a)(1) and (b); § 111(a)(1) and (b)
Copeland, Landon	21-cr-570	§ 111(a)(1) and (b); § 111(a)(1); § 111(a)(1) and (b)
Council, Matthew	21-cr-207	§ 111(a)(1)
Dasilva, Matthew	21-cr-564	§ 111(a)(1)
Davis, James	21-cr-595	None
DeGrave, Nathaniel	21-cr-90	§ 111(a)(1)
Egtvedt, Daniel	21-cr-177	§ 111(a)(1); § 111(a)(1)
Fairlamb, Scott	21-cr-120	§ 111(a)(1)
Fitzsimons, Kyle	21-cr-158	§ 111(a)(1) and (b); § 111(a)(1) and (b); § 111(a)(1) and (b)
Foy, Michael	21-cr-108	§ 111(a)(1) and (b)
Galetto, Kevin	21-cr-517	§ 111(a)(1)
Hayah, Uliyahu	21-cr-565	§ 111(a)(1)
Jenkins, Shane	21-cr-245	§ 111(a)(1) and (b); § 1361
Johnson, Paul	21-cr-332	§ 111(a)(1) and (b)
Judd, David	21-cr-40	§§ 111(a)(1) and 2; § 111(a)(1) and (b); §§ 111(a)(1) and 2
Klein, Federico	21-cr-236	§ 111(a)(1) and (b)
Lang, Edward	21-cr-53	§§ 111(a)(1) and 2; §§ 111(a)(1) and 2; § 111(a)(1); § 111(a)(1); § 111(a)(1) and (b); § 111(a)(1) and (b)
Languerand, Nicholas	21-cr-353	§ 111(a)(1) and (b)

Lazar, Samuel	21-cr-525; 22-cr-71	§ 111(a)(1) and (b)
Mackrell, Clifford	21-cr-276	§ 111(a)(1)
Mackrell, Michael	21-cr-276	§ 111(a)(1)
McCaughey III, Patrick	21-cr-40	§§ 111(a)(1) and 2; § 111(a)(1) and (b)
McGrew, James	21-cr-398	§ 111(a)(1); § 111(a)(1)
McHugh, Sean	21-cr-453	§§ 111(a)(1) and 2; § 111(a)(1) and (b); § 111(a)(1) and (b)
McKellop, Jeffrey	21-cr-268	Ten Counts of § 111(a)(1); Two Counts of § 111(a)(1) and (b)
Mellis, Jonathan	21-cr-206	§ 111(a)(1) and (b)
Middleton, Jalise	21-cr-367	§ 111(a)(1); § 111(a)(1)
Middleton, Mark	21-cr-367	§ 111(a)(1); § 111(a)(1)
Miller, Matthew	21-cr-75	§ 111(a)(1)
Morss, Robert	21-cr-40	§§ 111(a)(1) and 2; §§ 2111 and 2; §§ 111(a)(1) and 2
Mullins, Clayton	21-cr-35	§§ 111(a)(1) and (b), and 2; § 111(a)(1); § 111(a)(1)
Nichols, Ryan	21-cr-117	§ 111(a)(1) and (b)
Owens, Grady	21-cr-286	§ 111(a)(1) and (b)
Owens, Jason	21-cr-286	§ 111(a)(1); § 111(a)(1)
Padilla, Joseph	21-cr-214	§ 111(a)(1) and (b); § 111(a)(1) and (b)
Palmer, Robert	21-cr-328	§ 111(a)(1) and (b)
Pezzola, Dominic	21-cr-52	§ 111(a)(1); § 1361
Quaglin, Christopher	21-cr-40	§§ 111(a)(1) and (2); § 111(a)(1); § 111(a)(1) and (b); § 111(a)(1) and (b); § 111(a)(1) and (b)
Randolph, Stephen	21-cr-332	§§ 111(a)(1) and (b), and 2; § 111(a)(1)
Sabol, Jeffrey	21-cr-35	§§ 111(a)(1) and (b), and 2; § 111(a)(1); § 111(a)(1)
Sandlin, Ronald	21-cr-88	Six Counts of §§ 111(a)(1) and 2
Sandford, Robert	21-cr-86	§ 111(a)(1) and (b)
Sargent, Troy	21-cr-258	§ 111(a)(1)

Schwartz, Peter	21-cr-178	§ 111(a)(1) and (b); § 111(a)(1) and (b); § 111(a)(1) and (b); § 111(a)(1) and (b)
Shively, Barton	21-cr-151	§ 111(a)(1); § 111(a)(1); § 111(a)(1)
Sibick, Thomas	21-cr-291	§ 111(a)(1);
Stager, Peter	21-cr-35	§§ 111(a)(1) and (b), and 2;
Stevens, Tristan	21-cr-40	§§ 111(a)(1) and 2; §§ 111(a)(1) and 2; § 111(a)(1) and (b); §§ 111(a)(1) and 2
Warnagiris, Christopher	21-cr-382	§ 111(a)(1)
Webster, Thomas	21-cr-208	§ 111(a)(1) and (b)
Woods, Shane	21-cr-476	§ 113(a)(4); § 111(a)(1); § 113(a)(5)

To the extent the Konolds' conduct was less egregious than that of the defendants above, that distinction is already reflected in the offenses of conviction and the resulting guidelines range.

Undersigned counsel have not attempted to comprehensively catalogue every January 6 case involving a charge of 18 U.S.C. § 231(a)(3). However, even in just the first three letters of the alphabet, there are plentiful examples of § 231(a)(3) cases that *do not* have an accompanying assault charge; indeed, such cases often involve defendants who joined group efforts to push through police lines—exactly as the Konolds did here. *See, e.g., United States v. Adams*, 22-cr-358; *United States v. Anderson*, 23-mj-233; *United States v. Antonio*, 21-cr-497; *United States v. Asbury*, 23-cr-236; *United States v. Baer*, 23-cr-236; *United States v. Baugh*, 22-cr-313; *United States v. Boele*, 22-cr-11; *United States v. Bournes*, 23-cr-35; *United States v. Bray*, 23-cr-306; *United States v. Brett*, 22-cr-11; *United States v. Brown*, 22-cr-170; *United States v. Bru*, 21-cr-352; *United States v. Cantwell*, 21-cr-89; *United States v. Cooke*, 22-cr-52; *United States v. Crowley*, 23-cr-45.

In any event, the § 3553(a) factors do not require the Court to engage in a counting exercise of the kind the defendant's list invites. The defendants should be sentenced based on the unique facts of their own case, with due consideration given to the sentencing guidelines. Accordingly, for the reasons argued in the government's sentencing memorandum (ECF 239), the court should sentence both Konolds to custodial sentences.

Respectfully submitted,

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