

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Criminal Division

UNITED STATES OF AMERICA,)	
)	
v.)	Case No. 21-cr-49 (TSC)
)	
ROBERT L. BAUER,)	
Defendant.)	
_____)	

DEFENDANT’S POSITION ON SENTENCING

COMES NOW your Defendant, ROBERT BAUER, by counsel, and requests a sentence of one year probation, and in support thereof, states as follows:

I. Mr. Bauer takes responsibility for his actions.

Mr. Bauer takes responsibility for his actions, and he did so immediately after January 6 by posting on Facebook. His remorse did not come after being apprehended, but before being apprehended. He even took steps to “out” himself to authorities. While many people post on social media out of pride, Mr. Bauer took a fatalistic attitude and posted his January 6 activities so that he would be found by law enforcement. He knew that FBI agents would be looking for people who were involved in the Capitol breach, and he did not want to hide from them as they sought those involved. He knew that he would get reported by Facebook itself, by friends or family who saw the content, or federal agents would find it directly. While some advised Mr. Bauer to remove his posts or make his page private to conceal his involvement in the Capitol protests, Mr. Bauer refused because he wanted to be found. Indeed, it is very likely that Mr. Bauer’s involvement in

entering the Capitol would have never been uncovered if he had not posted the pictures and videos publicly to be found by law enforcement. Mr. Bauer made the conscious decision to make his involvement public so that he would answer to authorities for his actions.

During an initial interview, federal agents told Mr. Bauer that it looked like he was bragging about his involvement due to the public posts. In response, without further prompting from law enforcement, Mr. Bauer removed all of the online pictures and videos that he had posted from January 6. As he told the agents in a second interview, he deleted the content because he did not want to brag about what happened. He also actively cooperated with investigators to give them access to the phone he had with him when he entered the Capitol on January 6. During his second interview with law enforcement, where Mr. Bauer's wife was also on the line, Mr. Bauer asked his wife to carry the data cable to her phone with her for the upcoming week so that agents could transfer information from that phone as well at their convenience.

II. Mr. Bauer did not plan in advance to enter the Capitol.

Mr. Bauer did not plan in advance to enter the Capitol. He and his wife originally came to the D.C.-Virginia area to visit family, and decided to attend the protest on the Ellipse as part of that trip. Mr. Bauer's main purpose in visiting this area was to visit family and attendance at the initial protest was secondary to the family visit.

Mr. Bauer only decided to turn from the Ellipse and head towards the Capitol when then-President Trump directed the crowd to proceed in that direction. Mr. Bauer did not come to D.C. prepared for a riot. He brought no recording equipment, other than having a smart phone whose primary purpose was to navigate back to the hotel later. He brought no political regalia with him, and merely purchased a hat from a street-side hawker who likely also sells counterfeit Washington Football Team swag next to the Metro. Mr. Bauer was not towards the leading edge of the crowd that approached the Capitol. It was not his idea to approach the Capitol, yet he understands that he is nonetheless responsible for following that group.

Mr. Bauer's sin is being caught up in the group mentality of the crowd that entered the Capitol. To be sure, this is the danger inherent in riots and why they can become so dangerous so quickly. Mr. Bauer is responsible for his own small part in that riot, and he knows that the protest would not have become such a danger if it had not been for his small part and the small part of many others. As a result of learning of this danger first-hand, Mr. Bauer has lost all desire to attend any future group rallies or protests. He had never been to a group event like that in the past, and never wants to go to one again. Mr. Bauer personally understands how groupthink and crowd psychology can influence a person to make decisions that he would not normally make, and wants nothing to do with such dangers in the future.

III. Mr. Bauer's actions on January 6 are out of his character.

Mr. Bauer's actions on January 6 are not in keeping with his character. Seven of Mr. Bauer's neighbors got together to write a letter to the Court on Mr. Bauer's behalf, which is attached. They speak to his peaceful reputation, and that it is "not in his personality to be involved with upheaval and discord." More friends from an extended community have written to attest to his friendly, quiet disposition and even how Mr. Bauer is upset about his actions on January 6.

Mr. Bauer is so ashamed of his actions, and desires so badly to be removed from political controversies, that he has ceased communicating with his own father in the aftermath of January 6. As described in the Pre-Sentence Investigation Report, Mr. Bauer specifically requested that his father stop sending him political news and memes. When Mr. Bauer's father persisted, Mr. Bauer shut off *all* communication with him. Mr. Bauer does not merely regret getting caught; rather, he regrets having anything to do with those who rioted at the Capitol and even the small role that he played in it.

In order to assist Mr. Bauer in expressing himself to the Court, counsel posed eight questions in writing to Mr. Bauer for him to answer in his own words. His unedited responses are attached to this pleading.

Although Mr. Bauer has an aged criminal history, he has turned from that part of his life and has made a new one in the past decade. He has obtained specialized education and training in robotics, engineering, and specialized building trades. Until his arrest for this instant offense, Mr. Bauer had a lucrative job with

the possibility for advancement. He was fired as a result of this case, and struggled to find replacement employment. He has finally gotten another job, but its wage is over \$10.00 less per hour.

IV. Incarceration is unnecessary for general or specific deterrence.

A period of incarceration is unnecessary for Mr. Bauer due to his organic, freely-expressed remorse. There is no need to specifically deter him, as he has shown by his actions that he takes this matter very seriously and that it has made a lasting change on his heart. He is so transformed that he has even sacrificed his relationship with his father to avoid political entanglements. A sentence of probation would also show that those who exhibit genuine remorse, not merely those who are remorseful when they get caught, are considered thoughtfully by the court.

WHEREFORE, Mr. Bauer respectfully requests that this Honorable Court sentence him to a one-year term of probation.

Respectfully Submitted,
ROBERT L. BAUER
By Counsel

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