

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

UNITED STATES OF AMERICA

v.

SHAWN BRADLEY WITZEMANN

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CRIMINAL NO. 1:21-CR-00314-001

DEFENDANT’S SENTENCING MEMORANDUM

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Defendant, through Counsel, and submits this memorandum for This Honorable Court’s consideration during sentencing. It is the position of the Defense that the proper sentence for Mr. Rivera is probation.

I.

FACTUAL BASIS OF THE OFFENSES

The Presidential election of November, 2020, was one of the most-contentious elections in recent American history. The electorate was divided in a manner rarely seen in our lifetime, and a large number of voters who favored the re-election of President Donald Trump believed the outcome of the election was invalid and the product of fraudulent actions by many persons and officials. The President, himself, claimed the election had been stolen and called upon members of both houses of Congress to reject the results and oppose validation of the Electoral College results.

In advance of the date of the official validation of the election, President Trump announced that he would address concerned voters in a speech the morning of January 6, 2021. This event was attended by thousands of persons, most of whom agreed with the President’s allegation that the election had been stolen by fraud and deceit by the other party.

Mr. Witzemann, a cinematographer who operated a political blog and podcast, chose to attend the President's speech and traveled from his home in New Mexico to Washington, DC. After attending the President's speech and hearing the rally cry to "stop the steal," Mr. Witzemann left the event and walked back towards his lodging in the city.

Upon learning that a large group who had attended the President's speech had marched to the U.S. Capitol to protest the election, Mr. Witzemann walked there, carrying with him an iPhone for the purpose of capturing the protests.

As was shown in the various videos and other camera footage at trial, Mr. Witzemann arrived at the Capitol grounds well after a large crowd had gathered and he witnessed the goings-on.

Mr. Witzemann was live-streaming what he saw and offered his own narration of events for his audience, a predominantly right-wing group who likely favored the protests.

Mr. Witzemann described in his narration the protestors walking up the steps and climbing walls to get to the entrances of the building. He also saw protestors break windows and enter the Capitol, and he then followed them inside to continue videoing the event.

Mr. Witzemann entered the Capitol through an open doorway, stood in the entry way for a few minutes, then followed the crowd through some of the building, including the Crypt area. During this time, Mr. Witzemann said to a Capitol policeman, "Brother, stand with us." He did not say or do anything to encourage or incite violence or destruction of property, and the only words he said inside or outside the building, aside from the comment to the police officer, were his narration for the video.

Mr. Witzemann thereafter exited the building where he had entered, without personally causing any disturbance or damage to public property. He did not enter closed chambers or offices,

and did not take anything from the Capitol premises.

Also, Mr. Witzemann complied with every request or order given by police officers inside and around the Capitol building. For example, when he had started climbing a scaffold to get a better view, Mr. Witzemann was directed by a police officer not to climb the scaffold, and he immediately descended from the scaffold.

Also, as can be seen in the photos and videos inside the Capitol, Mr. Witzemann stayed within the velvet ropes while viewing statues and other control features while walking through the building. He never assaulted an officer, but was polite to all.

Contrary to the assertions of the Government that Mr. Witzemann should be punished for comments he made before and after the events of January 6, 2021, we would suggest that all such comments and observations made by Mr. Witzemann are protected speech under the First Amendment of our Constitution, and none, either alone or collectively, were such as to incite violence or destruction of property. He merely stated his opinions and beliefs.

II.

ADDITIONAL PERSONAL INFORMATION

Mr. Witzemann offers additional personal information that we believe relevant to assessing punishment in this case.

This information is contained within his 18-page, written statement to Your Honor, and will not be recited herein.

Also attached are letters from individuals who have known Mr. Witzemann through their interaction with him over the years, attesting to his good character.

The Defense suggests that, considering all facts of Mr. Witzemann's actions in this case, his personal circumstances and his good character, a sentence to probation would suffice to punish

him, in accordance with the factors enumerated in Title 18, U.S. Code, Section 3553(a).

III.

CONCLUSION

WHEREFORE, premises considered, The Defendant very respectfully requests that This Honorable Court sentence him to a term of probation.

Very respectfully,

/S/ Guy L. Womack
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CERTIFICATE OF SERVICE

A copy of the foregoing was delivered via CM/ECF to the U. S. Attorney's Office by email this 1st day of November, 2022.

/S/ Guy L. Womack
Guy L. Womack