

LAW OFFICE OF NIC COCIS
Nicolai Cocis, State Bar No. 204703
25026 Las Brisas Rd.
Murrieta, California 92562
nic@cocislaw.com

Telephone: (951) 695-1400
Facsimile: (951) 744-0079

Attorney for Defendant
Lewis Easton Cantwell

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEWIS EASTON CANTWELL,

Defendant.

Case No. 1:21-CR-00089-EGS

DEFENDANT'S SENTENCING POSITION

Honorable Judge Sullivan:

This memorandum is submitted on behalf of defendant Lewis Easton Cantwell in anticipation of his sentencing before Your Honor at 1:00 P.M. on September 22, 2022.

Mr. Cantwell and I have reviewed Probation Officer Reichler's very thorough Presentence Investigation Report which she prepared for Your Honor. Mr. Cantwell does not object to the factual basis or the calculation of his criminal history.

On March 24, 2022, Mr. Cantwell pled guilty to Count 1 of the Indictment. Mr. Cantwell's plea has a sentencing guideline imprisonment range of 0 to 6 months.

1 By this letter, and for reasons set forth below, I am respectfully asking Your Honor to follow the
2 Probation Officer's recommendation and fashion a sentence for Mr. Cantwell under Title 18 USC
3 3553(a) that will amount to three years of probation, community service and, if necessary, a period of
4 location monitoring. I respectfully submit that this would be a substantial sentence that is sufficient, but
5 not greater than necessary.
6

7 I would be less than candid with Your Honor if I didn't state outright that the primary
8 motivation for the requested sentence I have made here is Dr. Richard Romanoff¹ conclusion on page
9 25 of his report:

10 Standing back from the immediacy of the present, and looking at the story of Mr. Cantwell's
11 life as a whole, I am amazed by his determined persistence to learn from his mistakes and to do
12 better, in a manner that illustrates a strength of character and a desire for self-improvement that
13 deserves recognition and respect.

14 As Your Honor reads Dr. Romanoff's report, you will learn that his evaluation provides
15 important and relevant background information that I believe yields significant evidence of mitigating
16 factors directly contributing to Mr. Cantwell's actions in this case. This includes a childhood history of
17 serious and extensive physical abuse, that occurred in the context of an unusually chaotic and
18 dysfunctional family home environment. It also includes a history of adolescent and early adult
19 instability, that contains some evidence of poor judgment. Importantly, however, there is no evidence of
20 any physically or verbally violent behavior by Mr. Cantwell towards others, and no evidence of
21 involvement by him in any hate groups, including groups agitating for the overthrow of the U.S.
22 government. While there is evidence of unrecognized and untreated trauma, Dr. Romanoff sees no
23 evidence which indicates the presence of enduring or serious mental illness, and no evidence of any
24 significant history of substance abuse.
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¹ Dr. Richard Romanoff's report is filed concurrently but separately.

1 Your Honor will also learn from Dr. Romanoff's report that there is evidence indicating that for
2 a few years prior to his arrest in this case, Mr. Cantwell was making good progress in overcoming long-
3 standing life difficulties that were previously holding him back. Then, as he was just becoming more
4 seriously involved in a much healthier dating relationship with his current dating partner, Ms. Heather
5 Halstead, he accepted an invitation from her father to join a small group of individuals from a more rural
6 area of North Carolina [about 20 miles from Asheville], who were planning to attend what they
7 understood to be a rally in support of President Trump, with no expectation of the subsequent violence
8 that would ultimately take place immediately following that rally on January 6, 2021.

10 Your Honor will then learn Mr. Cantwell's account of his activities at the Capitol on that day,
11 which are depicted in much greater detail in Dr. Romanoff's report. However, in summary, those
12 activities include Mr. Cantwell recording a small number of videos on his cell phone as he found
13 himself in what turned out to be the middle of a violent effort by hundreds of active rioters to forcibly
14 enter the Capitol through the West Lower Tunnel Entrance. Mr. Cantwell reports no effort by him to
15 force his way into the Capitol at any time. Rather, he reports becoming involved in a personal effort to
16 record unfolding events, for what he increasingly came to understand as an important moment in history.
17 During these videos, Mr. Cantwell can be heard making statements such as "get the door open" and
18 "fresh patriots to the front". At times he turned the camera to himself, to make some statement or voice
19 some observation, that I would characterize as a series of personal reactions to the intensity and violence
20 taking place around him. In any event, Mr. Cantwell takes full responsibility for his statements as well
21 as his lapse in good judgement.

25 Assistance to Two Injured Individuals

26 Mr. Cantwell also described to Dr. Romanoff in some detail two separate efforts by him to aid
27 individuals who were in active distress during these events. One involved Mr. Cantwell helping to
28 provide assistance to a female demonstrator who at one point was being crushed by the physical pressure

1 of people pushing against her in the constricted space they were occupying. The other involved him at
2 one point, while standing outside the West Lower Tunnel Entrance to the Capitol, overhearing a Capitol
3 police officer calling out for assistance, because another Capitol police officer was being attacked by
4 other demonstrators. At that point, along with some others, Mr. Cantwell helped in extricating this
5 officer from those attacking him, and then along with those other individuals, helped return him to the
6 custody of his fellow Capitol police officers, who were then able to hustle him into the Capitol for
7 further assistance. From his own research, conducted after his return home, Mr. Cantwell believes that
8 individual was most likely Officer Michael Fanone, who the Government mentions on pages 13 and 14
9 of their Sentencing Memorandum. I've attached as Exhibit "A" an article from the Washington Post
10 dated May 5, 2022, regarding the sentencing of an individual who physically attacked Officer Fanone. In
11 reading it, I was struck by similarities in the description provided by Officer Fanone in that article and
12 the description provided by Mr. Cantwell to Dr. Romanoff (last paragraph of page 9 and continuing to
13 top of page 10) more than a month prior to this article being published.

14 **Cooperation with U.S. House Select Committee**

15 On April 6, 2022, I was contacted by Mr. Marcus Childress who was an Investigative Counsel
16 for the U.S. House Select Committee to Investigate the January 6th Attack on the United States Capitol.
17 He wanted to know if Mr. Cantwell would assist the Select Committee by volunteering for an interview
18 regarding his role in the January 6th events. (Please see Exhibit "B"). Mr. Cantwell agreed without
19 hesitation, and on April 26, 2022, he was interviewed via Zoom. During that interview, Mr. Cantwell
20 cooperated and answered all the Investigative Counsel's questions.

21 **Conclusion**

22 It is neither my nor Mr. Cantwell's intention in this letter to minimize the seriousness of the
23 events that took place at the United States Capitol on January 6, 2021, or to minimize any of the actions
24 pursued by Mr. Cantwell on that day. Rather, I am attempting to accurately portray Mr. Cantwell as a
25 person, and share the activities pursued by him in the broader context of a particularly chaotic and
26 emotionally intense day, that directly lead him to behave in ways he would not have believed possible
27 on the day before he arrived at the Capitol.
28

1 For the reasons discussed above, I submit to Your Honor that a sentence of probation for 36
2 months along with community service and, if necessary, a period of location monitoring, reflects the
3 seriousness of Mr. Cantwell's crime and, for the foregoing reasons, I am respectfully requesting that Mr.
4 Cantwell be sentenced accordingly.

5
6 Date: August 26, 2022

Respectfully submitted,

7 s/ Nicolai Cocis

8 Law Offices of Nicolai Cocis
9 25026 Las Brisas Rd.
10 Murrieta, CA 92562
11 Telephone: (951) 695-1400
12 nic@cocislaw.com
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Exhibit “A”

The Washington Post
Democracy Dies in Darkness

Rioter admits to assaulting D.C. officer Mike Fanone on Jan. 6

Fanone, who battled with several rioters, became an outspoken advocate for the officers injured that day

By [Rachel Weiner](#)

May 5, 2022 at 6:32 p.m. EDT

An Iowa man who brought his teenage son to the Capitol on Jan. 6, 2021, admitted he was among a group that assaulted D.C. police officer Michael Fanone, who suffered a heart attack and traumatic brain injury defending Congress from the pro-Trump mob.

Kyle Young, 38, pleaded guilty Thursday in D.C. federal court to one count of assaulting a police officer, which carries a sentence of up to eight years in prison; prosecutors say the guidelines call for at least five.

Three others are charged with assaulting Fanone. Albuquerque Head, of Tennessee, is scheduled to plead guilty on Friday, according to court documents. Daniel Rodriguez, a conservative activist from Southern California, tearfully apologized for using a Taser on Fanone in an FBI interrogation but has since pleaded not guilty. And Thomas Sibick, 35, of Buffalo, is accused of stealing Fanone's badge and radio; he has also pleaded not guilty.

Young does not know anything about the activities of the others, his lawyer said Thursday.

Young brought his 16-year-old son to D.C. from Redfield, Iowa, for the "Stop the Steal" rally, according to a transcript of his bond hearing. Just before 3 p.m., they made their way to the Capitol's lower west terrace, where D.C. police were trying to keep the violent mob out of a tunnel leading below the Rotunda.

According to his plea agreement, Young shined a strobe light in the eyes of officers and jabbed at them with a long stick. He helped throw a large audio speaker toward the police; it hit another protester. Then, as rioters dragged Fanone by the helmet across the police line and into the crowd, Young followed.

Fanone, in interviews and testimony before Congress, has described what happened next. He was stripped of his radio, badge and bullet magazine. He was beaten with fists and a flagpole and shocked over and over in the back of the neck with a Taser. Someone tried to take his service weapon out of its holster, shouting "Kill him with his own gun!" When he pleaded for mercy by shouting, "I got kids!" some in the crowd helped drag him back to the police line. He was later hospitalized.

According to court documents, Fanone told investigators he was “100 percent sure” it was Young who grabbed his gun and threatened to kill him with it. In his indictment, Young was accused of attempting to steal Fanone’s service weapon. As part of the plea agreement, the charge was dropped and Assistant U.S. Attorney Cara Gardner said it would not be discussed at sentencing. Young agreed only that he was seen on a body camera holding Fanone by the hand and wrist.

Young “pulled the officer’s arm away from his body,” according to the statement of facts filed as part of the plea. Fanone “experienced excruciating pain and was rendered momentarily helpless.”

Young also admitted assaulting another officer after Fanone, connecting with his helmet.

Young, who works in heat and air conditioning installation, has a felony criminal history that includes drug and firearm charges.

At a detention hearing last year, his wife said her husband was a Trump supporter and Fox News watcher who went to D.C. because “they needed to prove to us that this election was free and fair.” He is set to be sentenced on Aug. 28.

Fanone, who voted for Donald Trump in 2016, became an outspoken critic of Republicans who sought to minimize the horror of the Capitol attack. He resigned from the Metropolitan Police Department in December, saying he was frustrated by fellow officers who wanted him to be quiet.

“Clearly there are some members of our department who feel their oath is to Donald Trump and not to the Constitution,” he told The Washington Post at the time.

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Exhibit “B”

From: [Childress, Marcus](#)
To: [Nic Cocis](#)
Cc: [Sasso, James](#)
Subject: RE: U.S. House Select Committee to Investigate the January 6th Attack on the U.S. Capitol
Date: Wednesday, April 13, 2022 9:42:21 AM

That works for us. Thank you, Nic.

I will send you a calendar invite this evening.

Marcus A.R. Childress
(202) [REDACTED] (o) / (202) [REDACTED] (c)

From: Nic Cocis [REDACTED]@cocislaw.com>
Sent: Wednesday, April 13, 2022 11:38 AM
To: Childress, Marcus [REDACTED]@mail.house.gov>
Cc: Sasso, James [REDACTED]@mail.house.gov>
Subject: RE: U.S. House Select Committee to Investigate the January 6th Attack on the U.S. Capitol

Something just came up for Easton at work. Could we schedule it half hour later, at 4:00pm on the 26th?

Best regards,

Nic Cocis
Attorney
Law Office of Nic Cocis
25026 Las Brisas Rd.
Murrieta, CA 92562

Tel: (951) 695-1400
Fax: (951) 744-0079

Web: www.CocisLaw.com

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From: Childress, Marcus [REDACTED]@mail.house.gov>
Sent: Wednesday, April 13, 2022 7:43 AM
To: Nic Cocis [REDACTED]@cocislaw.com>
Cc: Sasso, James [REDACTED]@mail.house.gov>
Subject: RE: U.S. House Select Committee to Investigate the January 6th Attack on the U.S. Capitol

Thanks, Nic.

Let's do 3:30 pm ET/12:30 pm PT on 4/26. We will send you meeting details a day before and let us know if you have any questions before.

Talk soon,
Marcus

Marcus A.R. Childress
(202) [REDACTED] (o) / (202) 5 [REDACTED] (c)

From: Nic Cocis <[REDACTED]@cocislaw.com>
Sent: Tuesday, April 12, 2022 3:35 PM
To: Childress, Marcus <[REDACTED]@mail.house.gov>
Cc: Sasso, James [REDACTED]@mail.house.gov>
Subject: Re: U.S. House Select Committee to Investigate the January 6th Attack on the U.S. Capitol

Marcus,

We're available anytime after 9:00am PST on 4/26 and anytime after 10:00am PST on 4/27.
Hopefully this works with your schedule.

Best regards,

Nic Cocis
Attorney
Law Office of Nic Cocis
25026 Las Brisas Rd.
Murrieta, CA 92562

Tel / Fax: (951) 695-1400
Web: www.CocisLaw.com

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On Apr 11, 2022, at 9:38 AM, Childress, Marcus [REDACTED]@mail.house.gov> wrote:

Thanks, Nic for the update.

Do you all have availability the week of April 25th for an interview? The interviews typically last about two hours, and as we discussed, it will be virtual. If you give us a few windows of availability that week, we should be able to make one of the times work for us.

Talk soon.

Thanks,
Marcus

Marcus A.R. Childress
(202) [REDACTED] (o) / (202) [REDACTED] (c)

From: Nic Cocis [REDACTED] <[\[REDACTED\]@cocislaw.com](mailto:[REDACTED]@cocislaw.com)>
Sent: Monday, April 11, 2022 12:09 PM
To: Childress, Marcus [REDACTED] <[\[REDACTED\]@mail.house.gov](mailto:[REDACTED]@mail.house.gov)>
Cc: Sasso, James [REDACTED] <[\[REDACTED\]@mail.house.gov](mailto:[REDACTED]@mail.house.gov)>
Subject: RE: U.S. House Select Committee to Investigate the January 6th Attack on the U.S. Capitol

Marcus,

I spoke with my client about our discussion, and he would like to move forward with the interview. Let me know what we need to do next.

Best regards,

Nic Cocis
Attorney
Law Office of Nic Cocis
25026 Las Brisas Rd.
Murrieta, CA 92562

Tel: (951) 695-1400
Fax: (951) 744-0079

Web: www.CocisLaw.com

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From: Nic Cocis

Sent: Thursday, April 7, 2022 2:23 PM

To: Childress, Marcus <[REDACTED]@mail.house.gov>

Cc: Sasso, James <[REDACTED]@mail.house.gov>

Subject: RE: U.S. House Select Committee to Investigate the January 6th Attack on the U.S. Capitol

No problem, thank you!

Best regards,

Nic Cocis

Attorney

Law Office of Nic Cocis

25026 Las Brisas Rd.

Murrieta, CA 92562

Tel: (951) 695-1400

Fax: (951) 744-0079

Web: www.CocisLaw.com

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From: Childress, Marcus <[REDACTED]@mail.house.gov>

Sent: Thursday, April 7, 2022 2:21 PM

To: Nic Cocis <[REDACTED]@cocislaw.com>

Cc: Sasso, James <[REDACTED]@mail.house.gov>

Subject: RE: U.S. House Select Committee to Investigate the January 6th Attack on the U.S. Capitol

Hi Nic – let's lock in the time. I apologize for my delayed response.

I will send you an invite shortly.

Marcus

Marcus A.R. Childress

(202) [REDACTED] (o) / (202) [REDACTED] (c)

From: Nic Cocis <[REDACTED]@cocislaw.com>

Sent: Thursday, April 7, 2022 5:20 PM

To: Childress, Marcus <[REDACTED]@mail.house.gov>
Cc: Sasso, James <[REDACTED]@mail.house.gov>
Subject: RE: U.S. House Select Committee to Investigate the January 6th Attack on the U.S. Capitol

Marcus,

Following up to see if we're still scheduled for a conference call tomorrow at 1:00pm PST. If so, please call me at the number below.

Best regards,

Nic Cocis
Attorney
Law Office of Nic Cocis
25026 Las Brisas Rd.
Murrieta, CA 92562

Tel: (951) 695-1400
Fax: (951) 744-0079

Web: www.CocisLaw.com

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From: Nic Cocis
Sent: Wednesday, April 6, 2022 6:16 PM
To: Childress, Marcus <[REDACTED]@mail.house.gov>
Cc: Sasso, James <[REDACTED]@mail.house.gov>
Subject: Re: U.S. House Select Committee to Investigate the January 6th Attack on the U.S. Capitol

Marcus,

Thank you for reaching out. I'd be happy to discuss this with you further. I'm free tomorrow after 12:00pm PST or Friday. Let me when it's a good time for you.

Best regards,

Nic Cocis
Attorney
Law Office of Nic Cocis

25026 Las Brisas Rd.
Murrieta, CA 92562

Tel / Fax: (951) 695-1400

Web: www.CocisLaw.com

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On Apr 6, 2022, at 9:18 AM, Childress, Marcus

[REDACTED]@mail.house.gov> wrote:

Good afternoon,

I hope that you are doing well. My name is Marcus Childress, and I am reaching out about your client, Lewis Cantwell. The U.S. House Select Committee to Investigate the January 6th Attack on the U.S. Capitol believes they have information relevant to its investigation. The Select Committee is examining the facts, circumstances, and causes of January 6th to identify and evaluate lessons learned and to recommend corrective law, policies, procedures, rules, or regulations. As part of that effort, we would like to interview your client, who we understand has accepted responsibility and pleaded guilty.

Please contact me at your earliest convenience to discuss scheduling a time for the interview. My contact information is below.

Thank you,
Marcus

Marcus A.R. Childress
Investigative Counsel
Select Committee to Investigate
the January 6th Attack on the United States Capitol
U.S. House of Representatives
(202) [REDACTED] (o) / (202) [REDACTED] (c)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 26, 2022, a true and correct copy of the foregoing was electronically filed and served via the CM/ECF system, which will automatically send electronic notification of such filing to all counsel and registered parties.

s/ Nicolai Cocis

Law Offices of Nicolai Cocis
25026 Las Brisas Rd.
Murrieta, CA 92562
Telephone: (951) 695-1400
nic@cocislaw.com