

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 21-CR-223 (APM)
)
)
 MATTHEW MARK WOOD)

DEFENDANT’S RESPONSE TO THE GOVERNMENT’S SENTENCE MEMO

You can’t trust the government. The sentencing memo filed by the government in this case is rife with overreach and falsehoods. The prosecution of Mr. Woods can best be described as ravenous. This unprecedented behavior against Matt Wood by the government shows in their recommended sentence in *United States v. Nicholas Ochs and Nicholas De Carlo*, two proud boys who actually used violence against police. The government has recommended 51 and 48 months, respectively-for these two proud boys, Ochs, a founder of the Hawaii chapter. See 21 cr 73 (BAH). How could Matt possibly deserve the 57 months the government recommends here? He can’t. Here is a sampling of what the government gets wrong.

Matt Wood was not the 10th rioter in. There are at least 20 people in the photo that the government uses as an illustration. Wood in no way pursued the officer. It was physically impossible for him to see the crowd that was following the officer, and gov’t ex 2, p.16 of ECF No. 55 shows Matt taking pictures-not pursuing an officer. Matt had no idea where that crowd was going or if they were chasing an officer. Gov’t sent memo p. 4. Matt never “directly pushed against MPD officers...” Notably, the government offers no citation to the Court in their memo because there is none. The government conveniently ignores the fact that Matt turned himself into authorities. They can’t

even use the phrase “turned himself in.” Some “unnamed individual” said that Matt wanted a conversation deleted. See ECF No. 55, p. 5. The defense has no idea who this individual is, but even if we did, any deletion was not for a nefarious purpose but rather due to Matt’s deep shame and remorse which is also clearly spelled out in his texts. See p. 36, ex. 2, ECF No. 55.

Wood never “pushed back officers” or “pursued them up a staircase.” *Id.* The government description of Matt being part of “the initial standoff between rioters and police officers is likewise false. Here, as depicted in the photo supplied by the government, Matt is at least 10 feet behind at least 30 other rioters. *Id.* at p. 26, image 19. The prosecutor fails to tell the Court that Matt wanted no part of that and abruptly turned around and walked out of the corridor. Image 21 does not show Matt fighting police. Undersigned counsel would like to say the government is the best at exaggeration but that award goes to Matt himself. He texted all kinds of exaggerations that never happened, yet the government relies on these texts-mere words rather than actions-to show Matt intended or tried to hurt police. It’s patently false. There is no evidence Matt took anything and put it in his pocket. Again, a huge leap by the government. Proving that the leaps have no bounds, the government wants this Court to believe Matt is just on the other side of the door in Image 30-there are no facts that show Matt was close to that door. And again, the government offers no proof. See ECF No. 55, p. 36. Again, in image 32, there is no audio of Matt “calling others to assist him and resist the police.” It simply does not exist. This is a fiction built by the government to fit their narrative. In both image 31 and 32, Matt is facing AWAY from the police, not pushing against them. *Id.* at pps.37-38.

Matt did not lie to the FBI. He in fact did at times look for exits and he was pushed into the building like several others who were there at that window. Finally, the government is using Matt’s

texts to support their argument for enhancement. See ECF No. 55 pps 51-53. As previously noted, much of that just did not happen. Matt is engaging in puffery for his friends and family so he can feel important. Typical behavior for a young man. The government also says it knows Matt's voice which is news to the defense team. We have not seen any evidence of Matt's voice being matched to any audio.

Finally, the government wants this Court to think that the *Rubenacker* case is somehow illustrative of this case. But this Court will not be fooled. Here is an excerpt from the government's press release about Mr. Rubenacker's sentencing¹:

Greg Rubenacker, 26, of Farmingdale, New York, was sentenced in the District of Columbia.

According to court documents, Rubenacker engaged in a series of confrontations with law enforcement officers inside the Capitol Building on Jan. 6. At approximately 2:13 p.m., he entered the Capitol Building through the Senate Wing Door, recording a video in which he stated, "This is history! We took the Capitol." He was in a crowd that was yelling "where are they counting the votes" and eventually chased a U.S. Capitol Police officer securing the area. Rubenacker left the building at 2:21 p.m., but returned 21 minutes later through the Rotunda Door. While in the Rotunda, he smoked marijuana, recording another video that he later posted to a social media website with the caption, "Smoke out the Capitol, baby."

Rubenacker and others resisted officers attempting to remove individuals from the Rotunda. At approximately 3:08 p.m., he swung a plastic bottle at an officer's head. He then sprayed water from his bottle across law enforcement officers engaging with other individuals. Law enforcement officers pepper-sprayed the crowd, including Rubenacker, who exited the Capitol at 3:20 p.m.

DOJ Press release, May 26, 2022.

As the Court can see, Matt's conduct is nowhere near that of Mr. Rubenacker, who assaulted police with a bottle, smoked marijuana in the Capitol, and chased a police officer. But in a desperate effort to avoid disparate sentences, the government tries so hard to draw a parallel where none exists. Don't be fooled by the government shenanigans here. Matt did nothing violent and video evidence shows him parading and rioting. Prison would not be a good place for Matt. The defense is humbly asking the Court to sentence Matt in accordance with the evidence in the case, rather than on government's conjecture in place of evidence.

¹ 21-CR-193 (BAH). Thomas Robertson's case is such an outlier that it won't be discussed.

