

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

<b>UNITED STATES of AMERICA</b>	:	
	:	
Plaintiff	:	
	:	Criminal Case No.: 21-CR-00127
v.	:	
	:	
<b>JOSHUA MATTHEW BLACK</b>	:	
	:	
Defendant	:	

**SUPPLEMENT TO DEFENDANT’S MEMORANDUM IN AID OF SENTENCING**

The Defendant, **JOSHUA MATTHEW BLACK**, by and through his attorney, Clark U. Fleckinger II, respectfully supplements [his] Memorandum in Aid of Sentencing (ECF 92) filed on May 8, 2023. Pursuant thereto, Mr. Black submits as follows:

1. That, Mr. Black would like the Court to consider the six letters, attached hereto as Defendant’s Exhibits 1 through 6, from people who know him and are able to advise the Court of his more redeeming qualities and characteristics in order to further assess his character for sentencing purposes beyond that which was exhibited on January 6, 2021.

2. That, in addition, undersigned counsel did not sufficiently address the 18 USC §3553(a)(6) sentencing considerations in his Memorandum in Aid of Sentencing – the need to avoid unwarranted sentencing disparities.

3. That, Mr. Black submits that the Government’s reference to 4 individuals who have been sentenced to periods of 24 to 60 months of imprisonment as January 6 defendants similarly situated to Mr. Black is inaccurate.<sup>1</sup> They are not similarly situated. Each of the defendants referenced therein were convicted of 18 USC §1512(c)(2),

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<sup>1</sup> See, Government’s Sentencing Memorandum, P. 39 – 48.

Obstruction of an Official Proceeding, which drove the Guideline calculation as to those defendants. Mr. Black was not.

4. That, in addition, those defendants were involved in more egregious conduct, including assaultive conduct, than was Mr. Black on January 6 and had little mitigation in support of a more lenient sentence.

5. That, Mr. Black submits that the only January 6 defendant who is similarly situated to Mr. Black is George Tanios.<sup>2</sup> Mr. Tanios traveled from his residence in Morgantown, WV, with 2 co-defendants, to the District of Columbia to participate in the rally for President Trump on January 6. He brought with him both bear spray and pepper spray and provided the same to his co-defendants who used the pepper spray to assault law enforcement. Although he breached various barricades, there was no evidence that he had entered the Capitol. Mr. Tanios was arrested at his home in West Virginia on March 14, 2021 and initially charged with, *inter alia*, Obstruction of an Official Proceeding in violation of 18 USC §1512(c)(2). He was detained for 5 months and 6 days before being released. In July of 2022 he entered a plea of guilt to 18 USC 1752(a)(1) and (b)(2) and 18 USC 1752(a)(2) and (b)(2). At the time of sentencing, the Government recommended that he receive credit for the 5 months and 6 days of the time that he had already served with no further period of imprisonment. He received a sentence of 5 months and 6 days, 12 months of supervised release and \$500 in restitution.

6. That, Mr. Black submits that the sentence received by Mr. Tanios who was similarly convicted of 18 USC 1752(a)(1) and (b)(2) and 18 USC 1752(a)(2) and (b)(2) is more in line with the kind of sentence which Mr. Black should receive – credit for the time already served.

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<sup>2</sup> See, *United States v. George Tanios*, 21-CR-222 TFH.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Supplement to Defendant's Memorandum in Aid of Sentencing, has been served, by ECF, upon AUSA Seth Adam Meinero and all other counsel of record, at the United States Attorney's Office, this 15th day of May, 2023.

\_\_\_\_\_/S/\_\_\_\_\_  
Clark U. Fleckinger II