

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

<b>UNITED STATES OF AMERICA</b>	:	
	:	
v.	:	<b>Case No: 21-CR-161 RBW</b>
	:	
<b>DUSTIN THOMPSON</b>	:	
	:	
<b>Defendant.</b>	:	

**TRIAL STIPULATIONS**

The United States of America, by and through William Dreher, Assistant United States Attorney and Jennifer Rozzoni, Assistant United States Attorney, and the Defendant, Dustin Thompson, and his attorney, Samuel Shamansky, agree and stipulate as follows.<sup>1</sup>

**I. Background stipulations.**

First, the parties agree and stipulate to the following facts relating to the U.S. Capitol Building and the events of January 6, 2021. The jury may accept the following facts as if they had been proved beyond a reasonable doubt at trial. Neither party shall be prohibited from calling witnesses to testify about, or introducing evidence to establish, any of the facts listed in these stipulations.

1. The U.S. Capitol Building is located at 1 First Street, NW, Washington, D.C., 20510, and is the meeting place of both houses of the United States Congress and the seat of the legislative branch of the United States government.

2. The Capitol Building is surrounded by the Capitol Grounds, which are under the jurisdiction of the Architect of the Capitol. Under Section 5102 of Title 40 of the United States

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<sup>1</sup> The Exhibits referenced in these stipulations are those produced by the government to the defendant on February 11, 2022.

Code, the Capitol Grounds include the shaded areas in the map labeled as Government's Exhibit 1.

3. The U.S. Capitol is secured 24 hours a day by the U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the Capitol Building.

4. On January 6, 2021, the Capitol Building and portions of the Capitol Grounds were closed to members of the public. The area that was closed to members of the public is defined by the area within the red border, including the Capitol Building, on the map labeled as Government's Exhibit 2. On the western side of the area shown in Government's Exhibit 2, there were additional temporary barriers, including green snow fencing and signs stating "Area Closed By Order of the United States Capitol Police Board."

5. The entire area within the red border on the map labeled as Government's Exhibit 2 was, on January 6, 2021, a "restricted building or grounds" as that term is used in Section 1752 of Title 18 of the United States Code and is, and was on January 6, 2021, either "in the Grounds" or "in any of the Capitol Buildings" as those terms are used in Sections 5104(e)(2)(D) and 5104(e)(2)(G) of Title 40 of the United States Code.

6. On January 6, 2021, a joint session of the United States Congress convened at the Capitol Building. During the joint session, elected members of the U.S. House of Representatives and the U.S. Senate were meeting in separate chambers of the Capitol Building to certify the vote count of the Electoral College of the 2020 Presidential Election, which took place on November 3, 2020 (the "Certification").

7. The Certification was an "official proceeding" under Section 1512(c)(2) of Title 18 of the United States Code.

8. The joint session began at approximately 1:00 p.m. At approximately 1:30 p.m.,

the House of Representatives and Senate adjourned to separate chambers to resolve a particular objection. Vice President Michael Pence had arrived at the Capitol Building, under the protection of the U.S. Secret Service, at approximately 12:36 p.m. Vice President Pence presided first in the joint session, and then in the Senate Chamber.

9. Between 12:00 p.m. and 1:00 p.m., a crowd of several thousand gathered outside the restricted area of the Capitol Grounds shown in Government's Exhibit 2. Temporary and permanent barricades were in place around that restricted area, and U.S. Capitol Police officers were attempting to keep the crowd outside of the restricted area.

10. Just before 1:00 p.m., these rioters broke through the police lines, toppled the outside barricades protecting the Capitol Grounds, and pushed past U.S. Capitol Police and supporting law enforcement officers. This crowd arrived at a second set of barriers and additional law enforcement officers that blocked the rioters' access to the West Plaza, an area below the Capitol Building's terrace on its western side. Other members of the public formed crowds on the north and east side of the Capitol Building, and also entered the restricted area of the Capitol Grounds.

11. Just before 2:00 p.m., some rioters in the crowd outside the West Plaza forced their way through the barricades and law enforcement officers defending that access point.

12. At approximately 2:11 p.m., the Certification proceedings were still underway, and the exterior doors and windows of the Capitol Building were locked or otherwise secured.

13. At approximately 2:11 p.m., rioters broke into the Capitol Building through doors and windows on the Building's western side, breaking windows and assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. Before entering the

building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police officers or other authorized security officials.

14. Once inside, rioters broke windows and doors, destroyed property, stole property, and assaulted federal police officers. They also confronted members of Congress, Congressional staff, and the media. Some rioters carried weapons, including tire irons, knives, sledgehammers, bear spray, and tasers. The rioters also stole, sometimes by force, officers' equipment, including batons and shields. Several rioters on Capitol Grounds that day carried handguns. The rioters' actions disrupted and ultimately delayed the vote Certification.

15. At approximately 2:11 p.m., Vice President Pence quickly fled the Senate Chamber, accompanied by the U.S. Secret Service.

16. At approximately 2:13 p.m., President Pro Tempore and presiding officer Senator Grassley recessed the Senate.

17. At approximately 2:20 p.m., the U.S. Capitol Police ordered all nearby staff, Senators, and reporters into the Senate chamber and locked it down. The U.S. Capitol Police ordered a similar lockdown in the House of Representatives Chamber.

18. At approximately 2:29 p.m., U.S. Representative Jim McGovern, who was presiding over the House of Representatives, recessed the House.

19. As rioters attempted to break into the House of Representatives Chamber by breaking the windows on the chamber door, law enforcement drew their weapons to prevent the rioters from entering the chamber.

20. By approximately 2:30 p.m., rioters had forced their way into the Capitol Building on its western and eastern side.

21. At around 2:47 p.m., rioters broke into the Senate Chamber.

22. At around 2:48 p.m., Washington, D.C. Mayor Muriel Bowser announced a citywide curfew beginning at 6:00 p.m.

23. At around 2:45 p.m., one rioter was shot and killed while attempting to break into the Speaker's Lobby directly adjacent to the House of Representatives Chamber.

24. At about 3:25 p.m., law enforcement officers cleared the Senate floor of all members of the public.

25. By around 6:30 p.m., law enforcement had cleared the Capitol Building and the Capitol Grounds of all or nearly all rioters.

26. The rioters injured approximately 140 law enforcement officers, including U.S. Capitol Police officers and supporting law enforcement officers, on January 6, 2021. Some officers were hospitalized because of their injuries. The supporting law enforcement officers on duty and present at the U.S. Capitol that day, like those working for the Metropolitan Police Department or Metro Transit Police Department, were lawfully acting under color of law to protect the Capitol Building at the request of the U.S. Capitol Police.

27. Based on these events, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. on January 6, 2021. Congressional proceedings could not resume until after every unauthorized rioter had left the Capitol Building, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 pm after the building had been secured. Vice President Pence remained in the U.S. Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

28. Beginning around 8:06 p.m., the Senate resumed work on the Certification. Beginning around 9:02 p.m., the House resumed work on the Certification.

29. Both chambers of Congress met and worked on the Certification within the Capitol Building until approximately 3:44 a.m. on January 7, 2021.

**II. Stipulations relating to Defendant Dustin Thompson's conduct.**

Second, the parties stipulate to the following facts relating to Defendant Dustin Thompson's conduct on January 5th and 6th, 2021. The jury may accept the following facts as if they had been proved beyond a reasonable doubt at trial. Neither party shall be prohibited from calling witnesses to testify about, or introducing evidence to establish, any of the facts listed in these stipulations.

30. On January 5, 2021, Thompson and his co-defendant Robert Lyon drove from Columbus, Ohio to Silver Spring, Maryland, in Lyon's car. Thompson was then 36 years old; Lyon was 27. Lyon parked the car at the Hampton Inn in Downtown Silver Spring.

31. On the morning of January 6, 2021, Thompson and Lyon took an Uber to downtown Washington, D.C.

32. At some point after President Trump's speech, Thompson and Lyon entered the portion of the Capitol Grounds that was a "restricted building or grounds" as that term is defined in Section 1752 of Title 18 of the United States Code. They entered while the Senate was in session attempting to certify the Electoral College vote, and remained in that restricted area for several hours. In so doing, Thompson entered and remained in a "restricted building or grounds" as that term is used in Section 1752 of Title 18 of the United States Code.

33. Thompson was wearing a bulletproof vest when he entered the restricted area. He kept the bulletproof vest on during the entire time he was on Capitol Grounds, including when he was inside the Capitol Building.

34. At 2:48 p.m., Thompson knowingly entered the Capitol Building through the Northwest Side Door. Thompson was not authorized by the U.S. Capitol Police, or any other law enforcement officers or security staff, to enter or remain in the restricted area of the Capitol Grounds or to enter the Capitol Building.

35. At this time, Thompson was wearing a blue and white knit hat with the word “TRUMP” written on it in white lettering; a black sweatshirt with a graphic design of a green hand on the back; a neck gaiter; and sunglasses. Thompson is the individual circled in red in Government’s Exhibit 220.

36. Upon entering the Capitol Building, Thompson walked a short distance down a hallway, and turned into the first office on his right, S-132, also at 2:48 p.m.

37. S-132 was the Senate Parliamentarian’s Office on January 6, 2021. The Senate Parliamentarian assisted the Senate during the Certification when that proceeding was underway. S-132 is the first door on the right of the hallway shown in Government’s Exhibit 220.

38. While Thompson was inside the Senate Parliamentarian’s Office, at least a dozen other rioters were stealing, destroying, or damaging property inside that Office.

39. The rioters looted the Senate Parliamentarian’s Office and caused significant damage, which is shown in Government’s Exhibits 271-287.

40. While inside the Senate Parliamentarian’s Office, Thompson stole two bottles of liquor and left the Capitol Building at 2:52 p.m. through the Northwest Wing Doors. Thompson is the individual circled in red in Government’s Exhibit 221.

41. At 2:56 p.m., Thompson re-entered the Capitol Building with his co-defendant Lyon through the Northwest Wing Doors. Thompson and Lyon both entered S-132, the Senate Parliamentarian’s Office. Lyon was wearing light-colored pants; a blue backpack; a green

hooded sweatshirt; and an orange hat, and was carrying an American flag. Thompson is circled in red, and Lyon is circled in green, in Government's Exhibit 222.

42. While inside the Senate Parliamentarian's Office, Thompson stole a coat rack. This coat rack was the property and thing of value of the United States, and had been assigned to the Senate Parliamentarian. Thompson knew that the coat rack was the property of the United States, and deprived the owner of the coat rack of its use.

43. The coat rack is valued at between \$400 and \$500.

44. Thompson and Lyon then left the Capitol Building through the Northwest Wing Doors at 3:01 p.m., with Thompson carrying the stolen coat rack. Thompson is circled in red, and Lyon is circled in green, in Government's Exhibit 223.

45. After Thompson and Lyon left the Capitol Building, they walked along the northwest terrace to the north terrace of the Building. Thompson left Lyon near Delaware Avenue, as depicted in Government's Exhibit 203, around 3:30 p.m. Lyon waited there until around 3:52 p.m., at which time he walked to the north lawn next to the Capitol Building.

46. Between approximately 3:30 p.m. and 4:15 p.m., Thompson was present at or near the North Doors of the Capitol Building. Government's Exhibit 118 shows the North Doors at around 4:06 p.m., when Thompson was present, and is a photograph taken by Thompson. Government's Exhibits 234-237 all show the scene at or near the North Doors at times when Thompson was present.

47. At around 4:30 p.m., Thompson and Lyon walked down the north lawn of the Capitol Grounds and to the West Plaza, where they watched law enforcement officers' attempts to remove rioters from the area. They later left the Capitol Grounds before 6 p.m.

48. Thompson's conduct, as described in paragraphs 32-34, 36, 38-42, and 44-46, was disorderly and disruptive. When Thompson engaged in that disorderly and disruptive conduct, he intended to and did impede, disrupt, and obstruct the Certification—a joint session of Congress—and the orderly conduct of Government business and official functions. Thompson's conduct also helped and encouraged other rioters in obstructing and impeding the Certification.

49. At approximately 6 p.m. on January 6, 2021, two U.S. Capitol Police Special Agents approached Thompson and Lyon while the two men were sitting on the sidewalk at the northwest corner of South Capitol Street and C Street, SW, in Washington, D.C. Thompson still had the coat rack he had stolen from the Senate Parliamentarian's Office in the Capitol Building.

50. Thompson and Lyon told the Special Agents they were waiting for an Uber. The Special Agents directed them to leave the area.

51. When Thompson and Lyon began to leave, Thompson picked up the coat rack. At that point, the Special Agents instructed Thompson to drop the coat rack. Thompson did so, but then ran away on foot. The Special Agents chased Thompson but were unable to locate him that day.

### **III. Stipulations relating to communications and exhibits.**

Third, the parties stipulate the following facts relating to communications involving the Defendant Dustin Thompson. The jury may accept the following facts as if they had been proved beyond a reasonable doubt at trial. Neither party shall be prohibited from calling witnesses to testify about, or introducing evidence to establish, any of the facts listed in these stipulations.

52. Thompson's cell phone number was 614-424-9685, and his email address was falseflag420@gmail.com, from January 1, 2020 through at least January 11, 2021. Lyon's cell phone number was 614-483-9922 from January 1, 2020 through at least January 11, 2021. The

cell phone number of Thompson's wife, Sarah Thompson, was 740-272-2828 from January 1, 2020 through at least January 11, 2021.

53. Government's Exhibit 100 contains true and accurate copies of SMS and MMS text messages sent by or to Thompson between July 29, 2020 and January 6, 2021.

54. In Government's Exhibit 100, messages sent by Thompson are identified as "Incoming" messages from a user named "Dustin \*"; messages sent by Thompson's wife, Sarah Thompson, to Dustin Thompson are identified as "Incoming" messages from a user named "Sarah \*"; and messages sent by Lyon to Dustin Thompson are identified as "Outgoing" messages.

55. Government's Exhibits 101 through 124 are true and accurate copies of images or videos that were embedded in SMS or MMS messages included in Government's Exhibit 100 and sent by or to Thompson between July 29, 2020 and January 6, 2021. Each message in Government's Exhibit 100 that included an image or video includes a thumbnail version of that image or video. Each image or video that is a thumbnail to a message sent by a user named "Dustin \*" was sent by Thompson. Each image or video that is a thumbnail attached to a message sent by a user named "Sarah \*" or to a message identified as an "Outgoing" message was sent to Thompson.

56. Government's Exhibit 123 is a copy of a video Thompson recorded of himself while inside the Senate Parliamentarian's Office. Government's Exhibit 123 is an authentic copy of this video, and fairly and accurately shows Thompson and the inside of the Senate Parliamentarian's Office as each appeared between 2:48 p.m. and 2:52 p.m. on January 6, 2021.

57. The following statements, captured in Government's Exhibit 123, are the statements of Thompson:

- a. “Wooo!”
- b. “This Wiener’s laptop? Find the laptop!”
- c. “Oh shit, they got water, beer . . . holy shit.”

**IV. Stipulations relating to exhibits.**

Fourth, the parties stipulate to the following facts regarding exhibits. The jury may accept the following facts as if they had been proved beyond a reasonable doubt at trial. Neither party shall be prohibited from calling witnesses to testify about, or introducing evidence to establish, any of the facts listed in these stipulations.

58. Government’s Exhibit 230 shows the scene near the Peace Monument outside Capitol Grounds, including Thompson and Lyon, around 2 p.m. on January 6, 2021.

59. Government’s Exhibits 200-201 show the scene directly inside the Northwest Side Door of the Capitol Building, including the conduct of Thompson and Lyon and other rioters and law enforcement officers.

60. Government’s Exhibits 220-223 are screenshots from Government’s Exhibit 200.

61. Government’s Exhibits 202-214 show Thompson, Lyon, or both outside of the Capitol Building while on Capitol Grounds. Thompson appears in Government’s Exhibits 202, 203, 204, 208-214. Lyon appears in Government’s Exhibits 202, 203, 205-207, 212, and 214.

62. Government’s Exhibit 231 shows the outside of the Capitol Building just outside the Northwest Wing Doors at around 2:47 p.m. on January 6, 2021.

63. Government’s Exhibit 232 shows the inside of the Capitol Building just inside the Northwest Wing Doors from 2:47 p.m. to 2:49 p.m. on January 6, 2021.

64. Government’s Exhibit 233 shows Thompson and Lyon leaving the Capitol Building through the Northwest Wing Doors at 3:01 p.m. on January 6, 2021.

65. Government's Exhibits 234-237 show Thompson and the scene at the North Doors to the Capitol Building around 4 p.m. on January 6, 2021.

66. Government's Exhibits 260-263 were taken by Lyon on January 6, 2021, and show Lyon's surroundings as they appeared at the time he took those photographs and videos on January 6, 2021. Thompson is visible at the 1:07 mark of Government's Exhibit 262.

67. Government's Exhibit 270 shows Lyon as he appeared on the evening of January 6, 2021.

68. Government's Exhibits 271-285 were taken by a U.S. Capitol Police crime scene technician and show the Senate Parliamentarian's Office as it appeared on January 14, 2021.

69. Government's Exhibit 286 shows the Senate Parliamentarian's Office as it appeared on the afternoon of January 6, 2021, after rioters had entered the Office.

70. Government's Exhibit 287 shows the Senate Parliamentarian's Office as it appeared on the evening of January 6, 2021, after the room was secured from rioters.

71. Government's Exhibits 270-286 are authentic copies of photographs that fairly and accurately represent what they depict as of the time they were taken.

72. Government's Exhibits 200-214 are authentic copies of closed-circuit television footage from the U.S. Capitol Building. The timestamps and dates in the upper left corner of these exhibits are accurate. Each of these exhibits fairly and accurately represents what they depict as of the timestamps and dates in the upper left corner of the exhibit.

73. Government's Exhibits 230-235, 238, 261-263, and 287 are authentic copies of videos that fairly and accurately represent what they depict as of the time they were taken.

Respectfully submitted,

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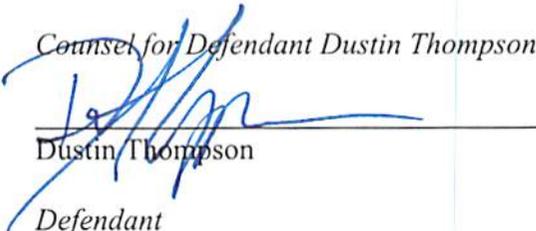
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