

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

UNITED STATES OF AMERICA :
 :
 v. : **Case No. 21-cr-162(2) - BAH**
 :
TERRY LYNN LINDSEY, :
 :
 Defendant. :

JOINT PRETRIAL STATEMENT

Pursuant to the Court’s August 10, 2021, order (ECF 33), the parties hereby jointly submit this pretrial statement. As directed, the parties will deliver a Microsoft Word version of this document and attachments to the Court by email to Howell_Chambers@dcd.uscourts.gov.

A. Status of Plea Offers

(i) The government extended essentially identical formal plea offers to resolve this case on July 12, 2021, July 30, 2021, and October 29, 2021 in written proposed plea agreements and accompanying statements of fact. The October 29, 2021 offer lapsed on November 12, 2021. The government re-extended the offer one final time and it was rejected on February 17, 2022. The terms of the offer were as follows: Lindsey would plead guilty Count Four of the Information, charging him with Parading, Demonstrating, or Picketing in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(G); the government would move to dismiss all remaining counts of the Information.

(ii) Counsel for the defendant communicated the terms of the plea offer, and a copy of the written plea agreement, to the defendant on February 15, 16, and 17, as well as multiple dates before that time. As part of this communication, counsel explained that the potential sentencing exposure in the event Mr. Lindsey accepted the plea offer was a maximum of six months in

custody, a probation term of not more than five years pursuant to 18 U.S.C. § 3561(c), a fine of not more than \$5,000, pursuant to 18 U.S.C. § 3571(b)(6), and a special assessment of \$10, 18 U.S.C. § 3013(a)(1)(A)(ii)).

In the alternative, counsel explained that the potential sentencing exposure in the event Mr. Lindsey rejected the plea offer and proceeded to trial on all four counts was a maximum of three years in custody (one year for each of two Class A misdemeanor charged and six months for each of two Class B misdemeanors charged); a term of probation of not more than five years for each count of conviction pursuant to 18 U.S.C. § 3561(c)(2); a term of supervised release of not more than one year for each of the two Class A misdemeanors pursuant to 18 U.S.C. § 3583(b)(3); a fine of not more than a total of \$210,000 (\$100,000 for each Class A misdemeanor pursuant to 18 U.S.C. § 3571(b)(5) and \$5,000 for each Class B misdemeanor pursuant to 18 U.S.C. § 3571(b)(6)); and a special assessment of \$70 (\$25 per class A misdemeanor pursuant to 18 U.S.C. § 3013(a)(1)(A)(iii) and \$10 per class B misdemeanor pursuant to 18 U.S.C. § 3013(a)(1)(A)(ii)).

The defendant rejected the government's re-extended offer on February 17, 2022.

B. Joint Statement of the Case

The government has charged the defendant, Terry Lynn Lindsey, with four crimes relating to his presence at the United States Capitol Building on January 6, 2021. First, Mr. Lindsey is charged with entering and remaining in a restricted building, in violation of Title 18, United States Code, Section 1752(a)(1). Second, he is charged with disorderly and disruptive conduct in a restricted building, in violation of Title 18, United States Code, Section 1752(a)(2). Third, he is charged with disorderly conduct in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(D). Fourth, he is charged with parading, demonstrating,

and picketing in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(G).

Mr. Lindsey has pleaded not guilty to all charges.

C. Proposed Voir Dire Questions

The parties' jointly-proposed voir dire questions are set forth in Exhibit C.

D. Proposed Jury Instructions

The parties' proposed jury instructions are set forth in Exhibit D. To the extent the parties object to any proposed instructions, those objections are noted.

E. List of Expert Witnesses

The parties do not anticipate sponsoring the testimony of expert witnesses at trial.

F. List of Motions in Limine

The defendant does not intend to file motions *in limine*. The United States intends to submit the following motions *in limine*:

- (i) To Limit Cross-Examination of U.S. Secret Service Witnesses
- (ii) To Preclude Improper Defense Arguments and Evidence

G. List of Prior Convictions

If made relevant, the United States intends to use for impeachment Mr. Lindsey's 1990 conviction for Desertion resulting in Discharge. The defendant objects to the use of this 32-year-old alleged conviction as too stale, the probative value is outweighed by the prejudicial effect and because it is not a conviction.

H. List of Government Exhibits

The list of government exhibits is attached as Exhibit H.

I. Stipulations

The parties have reached stipulations which are attached as Exhibit I. The parties will continue discussing possible additional stipulations relating to the trial and will continue working toward agreement where possible.

J. Proposed Verdict Form

A proposed verdict form is attached as Exhibit J.

Dated February 22, 2022.

Respectfully Submitted,

For the United States:

MATTHEW M. GRAVES
United States Attorney
DC Bar No. 481052

/s/ Jordan A. Konig
JORDAN A. KONIG
Trial Attorney, Tax Division
U.S. Department of Justice
Detailed to the U.S. Attorney's Office
For the District of Columbia
P.O. Box 55
Washington, D.C. 20044
202-305-7917 (v) / 202-514-5238 (f)
Jordan.A.Konig@usdoj.gov

For the Defendant:

TERRY LYNN LINDSEY
Defendant

/s/ Richard Steven Stern
RICHARD STEVEN STERN
Law Offices of Richard S. Stern
932 Hungerford Drive #37A
Rockville, MD 20850
(301) 340-8000
rssjrg@erols.com