

**FILED**

**APR 5 - 2022**

**Clerk, U.S. District and  
Bankruptcy Courts**

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 1:21-cr-162(2) (BAH)
	:	
TERRY LYNN LINDSEY,	:	
	:	
Defendant.	:	

**SUBMISSION BY THE UNITED STATES IN SUPPORT OF GUILTY PLEA**

Pursuant to a written plea agreement, dated March 29, 2022, and signed by the defendant, Terry Lynn Lindsey (the “defendant”) and his counsel on March 30, 2022, the defendant agreed to plead guilty to three counts of the Information, as follows: Count One, which charges him with Entering and Remaining in a Restricted Building, in violation of Title 18, United States Code, Section 1752(a)(1); Count Three, which charges him with Disorderly Conduct in a Capitol Building; and Count Four, which charges him with Parading, Demonstrating, or Picketing in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(G).

The plea agreement was entered pursuant to Fed. R. Crim. P. 11(c)(1)(A), as the defendant intends to plead guilty to Counts One, Three, and Four of the Information, and, in consideration of such guilty plea, the government will move to dismiss Count Two and will not further prosecute the conduct set forth in the Statement of Offense.

**I. Charged Offenses**

The defendant is charged in the Information with four offenses:

Count One: Entering and Remaining in a Restricted Building, in violation of Title 18, United States Code, Section 1752(a)(1);

Count Two: Disorderly and Disruptive Conduct in a Restricted Building, in violation of Title 18, United States Code, Section 1752(a)(2);

Count Three: Violent Entry and Disorderly Conduct in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(D); and

Count Four: Parading, Demonstrating, or Picketing in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(G).

**II. Elements of the Offenses**

To prove that the defendant is guilty of Count One, Entering and Remaining in a Restricted Building, the government must prove the following beyond a reasonable doubt:

- a. That the defendant entered or remained in a restricted building without lawful authority to do so; and,
- b. That the defendant did so knowingly.

To prove that the defendant is guilty of Count Three, Violent Entry and Disorderly Conduct in a Restricted Building, the government must prove the following beyond a reasonable doubt:

- a. That the defendant engaged in disorderly or disruptive conduct in any of the United States Capitol Buildings;
- b. That the defendant did so with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress; and,
- c. That the defendant acted willfully and knowingly.

To prove that the defendant is guilty of Count Four, Parading, Demonstrating, or Picketing in a Capitol Building, the government must prove the following beyond a reasonable doubt:

- a. That the Defendant paraded, demonstrated, or picketed in any of the United States Capitol Buildings; and
- b. That the Defendant acted willfully and knowingly.

**III. Maximum Penalties**

The maximum penalties for Entering and Remaining in a Restricted Building, in violation

of Title 18, United States Code, Section 1752(a)(1), are:

- a. a term of imprisonment of not more than one (1) year;
- b. a term of supervised release of not more than one (1) year;
- c. a fine not to exceed \$100,000;
- d. a special assessment of \$25; and,
- e. an obligation to pay any applicable interest or penalties on fines and restitution not timely made.

The maximum penalties for Violent Entry and Disorderly Conduct in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(D), are:

- a. a term of imprisonment not more than six (6) months;
- b. a term of probation of not more than five (5) years;
- c. a fine not to exceed \$5,000;
- d. a special assessment of \$10; and,
- e. an obligation to pay any applicable interest or penalties on fines and restitution not timely made.

The maximum penalties for Parading, Demonstrating, or Picketing in a Capitol Building, in violation of Title 40, United States Code, Section 5104(e)(2)(G), are:

- a. a term of imprisonment not more than six (6) months;
- b. a term of probation of not more than five (5) years;
- c. a fine not to exceed \$5,000;
- d. a special assessment of \$10; and,
- e. an obligation to pay any applicable interest or penalties on fines and restitution not timely made.

**IV. Sentencing Guidelines**

**Count One**

For Count One of the Information, United States Sentencing Guidelines (U.S.S.G.) Section 2B2.3(a) provides a base offense level of 4, and, because the offense occurred in a restricted building or grounds, U.S.S.G. § 2B2.3(b)(1)(A)(vii) applies a two-level enhancement. With a two-level reduction for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1, the parties have agreed that the Estimated Offense Level will be at least 4.

Based upon the information now available to the government, including the Pretrial Services Report dated March 4, 2021 and representations by the defense, the defendant has no criminal convictions eligible for inclusion in the Criminal History Category calculation under U.S.S.G. § 4A.1, and is estimated to have a Criminal History Category of I. Accordingly, the defendant's estimated Sentencing Guidelines range is 0 months to 6 months. In addition, pursuant to U.S.S.G. § 5E1.2, should the Court impose a fine, at Guidelines level 4, the estimated applicable fine range is \$500 to \$9,500.

**Counts Three and Four**

Violations of Title 40, United States Code, Section 5104(e)(2)(D) and (e)(2)(G) are class B misdemeanors, as defined by Title 18, United States Code, Section 3559(a)(7). Accordingly, pursuant to U.S.S.G. § 1B1.9, the Sentencing Guidelines do not apply to the defendant's sentencing on Counts Three and Four.

**V. Proffer of Evidence**

The following statement of facts does not purport to include all of the defendant's illegal conduct. It is intended to represent sufficient information for the Court to find a factual basis for accepting the defendant's guilty plea.

Had this case proceeded to trial, the government's evidence would have established beyond a reasonable doubt that:

The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol.

On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public. On that day, a joint session of the United States Congress convened at the United States Capitol. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades, and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to 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.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the U.S. Capitol, requiring the expenditure of more than \$1.4 million dollars for repairs.

Shortly thereafter, at approximately 2:20 p.m., members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

Prior to January 6, 2021, Glenn Wes Lee Croy (“Wes Croy”) and his girlfriend, Jennifer Horvath, picked up the defendant in Piqua, Ohio and they drove together to Washington D.C. to attend a political rally on January 6, 2021. On that morning, Lindsey, Wes Croy, and Jennifer

Horvath went to a political rally at the Ellipse on the National Mall. Following the rally, the defendant, Wes Croy, and Jennifer Horvath walked with a crowd to the U.S. Capitol Grounds.

The defendant, Wes Croy, and Jennifer Horvath stood on the West Lawn part of the U.S. Capitol Grounds, a restricted area, for approximately one hour as law enforcement officers engaged with them and other rioters and deployed tear gas. At approximately 2:00 p.m., the defendant and Wes Croy joined other individuals on the West Lawn who surrounded a group of Metropolitan Police Department Officers, attempted to prevent their access to the U.S. Capitol Building, and yelled at the officers. The rioters, including Lindsey, accused the officers of being “oathbreakers” and implored the officers to retreat.

At approximately 2:11 p.m., the defendant climbed through metal scaffolding to get from the West Lawn to the Upper West Terrace area of the U.S. Capitol Grounds. The defendant, Wes Croy, and Jennifer Horvath then entered the U.S. Capitol Building at approximately 2:18 p.m. through the Senate Wing Door. The defendant later told family members that they “stormed the Capitol” and that the “cops let us in after they realized that they could not stop it.” As they entered, Lindsey joined the crowd chanting, “Whose House? Our House.” From there, Lindsey, Croy, and Horvath walked into the Crypt and joined the crowd as it overwhelmed United States Capitol Police officers who were attempting to prevent the rioters from entering further into the U.S. Capitol Building.

While inside the U.S. Capitol Building, Jennifer Horvath took a picture of the defendant and Wes Croy in front of a bust of Abraham Lincoln entitled, “Lincoln the Legislator,” which they later distributed widely to others. After being told to leave by United States Capitol Police Officers, Croy, Horvath, and Lindsey exited the U.S. Capitol Building at approximately 2:37 p.m. through the Memorial Door after being inside the U.S. Capitol Building for approximately 20

minutes. Once outside the U.S. Capitol Building, the defendant, Wes Croy, and Jennifer Horvath remained on the grounds of the U.S. Capitol Building for approximately 40 to 45 minutes.

At approximately 3:21 p.m., the defendant, Wes Croy, and Jennifer Horvath re-entered the U.S. Capitol Building through the Rotunda doors. Lindsey then evaded a group of Metropolitan Police Department and United States Capitol Police officers who were attempting to clear the hallway outside the Rotunda and prevent rioters from re-entering the Rotunda. Lindsey, Croy, and Horvath then entered the Rotunda before being forced to exit the U.S. Capitol Building again through the Memorial Door at approximately 3:29 p.m.

The defendant knowingly entered and remained in the U.S. Capitol Building, a restricted building, without lawful authority to do so; while inside the Capitol, defendant willfully and knowingly paraded, demonstrated, or picketed; willfully and knowingly uttered loud, threatening, or abusive language, or engaged in disorderly and disruptive conduct, with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress; and the defendant willfully and knowingly entered the U.S. Capitol Building knowing that he did not have permission to do so.

Respectfully Submitted,

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