

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CR No. 21-243
)	Washington, D.C.
vs.)	November 19, 2021
)	2:00 p.m.
JOHN LOLOS,)	
)	
Defendant.)	
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TRANSCRIPT OF SENTENCING VIA ZOOM PROCEEDINGS
BEFORE THE HONORABLE AMIT P. MEHTA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	Anthony L. Franks DOJ-USAO 111 S. 10th Street Rm. 20.333 St. Louis, MO 63102 (314) 539-2200 Email: anthony.franks@usdoj.gov
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For the Defendant:	Edward B. MacMahon, Jr. EDWARD B. MACMAHON, JR., PLC P.O. Box 25 107 East Washington Street Middleburg, VA 20118 (540) 687-3902 Email: ebmjr@macmahon-law.com
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APPEARANCES CONTINUED:

Probation Officer: Sherry Baker

Court Reporter: William P. Zaremba
Registered Merit Reporter
Certified Realtime Reporter
Official Court Reporter
E. Barrett Prettyman CH
333 Constitution Avenue, NW
Washington, D.C. 20001
(202) 354-3249

Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription

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P R O C E E D I N G S

COURTROOM DEPUTY: Good afternoon, Your Honor.
This is Criminal Case No. 21-243, United States of America
versus John Lolos.

Anthony Franks for the government.

Edward MacMahon for the defense.

Sherry Baker on behalf of the Probation Office.

The defendant's appearing via videoconference for
this hearing.

THE COURT: Okay. Good afternoon, everyone.

Mr. Lolos, good afternoon to you.

Can everyone hear me okay?

MR. MacMAHON: Yes, Your Honor.

MR. FRANKS: Yes, Your Honor.

THE COURT: Good.

THE DEFENDANT: Yes, this is John Lolos.
I was told to have my device on mute until it's time for me
to speak.

THE COURT: I wanted to make sure you can hear me.

So, yeah, I think it's probably a good idea to
just leave it on mute for now.

Okay. Before we start, let me just confirm that
everybody's ready to proceed with sentencing?

MR. FRANKS: Yes, the government is.

MR. MacMAHON: Yes, Your Honor, the defense is

1 ready as well. Thank you.

2 THE COURT: All right.

3 Mr. MacMahon, can I just confirm with you and your
4 client that Mr. Lolos is prepared to waive an in-person
5 sentencing hearing?

6 MR. MacMAHON: He is, Your Honor.

7 THE COURT: Okay.

8 Mr. Lolos, if I can just address you, please.

9 I wanted to make sure you understand your right to
10 an in-person sentencing hearing; that is, you have the right
11 to be present in court for your sentencing hearing.

12 Do you understand that, sir?

13 THE DEFENDANT: Yeah, I understood that.
14 I actually preferred that, but was told just to have it on
15 the video.

16 THE COURT: Okay.

17 Well, let me -- would you prefer an in-person
18 sentencing hearing?

19 THE DEFENDANT: Well, since we're here now,
20 I mean, I guess we can do it now since we're here. I just
21 wanted to look everyone face to face, that's all.

22 But since we're here now, I don't want to back the
23 courts up any more than they already are backed up.

24 THE COURT: Okay.

25 Look, Mr. Lolos, I appreciate the concern about

1 backing things up, but, believe me, that's not something you
2 ought to be worried about.

3 You know, the courts are here to conduct these
4 hearings, and your concern ought to be for you and your
5 ability to be sentenced in the best circumstances that you
6 think -- in the circumstances that you think are best.

7 So if you have a -- you have a right to be in
8 person; and if that's what you would prefer, then that's
9 what I would be required to do.

10 THE DEFENDANT: If I do go to jail, I'm not going
11 to go to jail right then and there in Washington, D.C.?

12 MR. MacMAHON: Your Honor, can I talk to Mr. Lolos
13 for a second, please?

14 THE COURT: Sure. Go ahead, Mr. MacMahon.

15 We'll put you in a breakout room. Just hang on
16 for a second.

17 (Defense counsel conferred with the defendant off
18 the record.)

19 MR. MacMAHON: Your Honor, I just spoke to
20 Mr. Lolos. He's prepared to waive having to come to
21 Washington, D.C. for this hearing and agrees to have it by
22 video.

23 THE COURT: Okay.

24 But -- all right.

25 Well, let me -- if I -- Mr. MacMahon, just in

1 light of his comments, I want to make sure that's what he
2 wants to do.

3 Mr. Lolos, we were just discussing whether you'd
4 like to have an in-person hearing, you have a right to such
5 a hearing, but we are proceeding remotely this afternoon for
6 sentencing.

7 Are you agreeing to proceed remotely, Mr. Lolos?

8 THE DEFENDANT: Sure.

9 THE COURT: Do you have any doubts, Mr. Lolos,
10 about doing that?

11 THE DEFENDANT: Well, okay -- okay, my attorney
12 advised me to do this remotely, so I want to listen to my
13 attorney and do this remotely.

14 THE COURT: Okay.

15 Mr. Lolos, let me just say this, and this isn't --
16 this is true with a lot of things when it comes to criminal
17 cases: When it comes to your rights, you obviously receive
18 advice from counsel. But ultimately the decision is yours
19 with respect to certain rights, and that would include, in
20 this case, the right to appear in person. That's not --

21 THE DEFENDANT: Does it change the outcome in the
22 verdict?

23 THE COURT: I'm sorry?

24 THE DEFENDANT: Does it change the outcome in the
25 verdict?

1 THE COURT: The short answer, Mr. Lolos, is, no.
2 Whether you appear in person or not --

3 THE DEFENDANT: All right.

4 THE COURT: -- doesn't really -- is not going to
5 impact my view of things.

6 THE DEFENDANT: Okay.

7 I'll do it remotely then. I'll do it remotely.

8 THE COURT: Okay.

9 Are you sure?

10 THE DEFENDANT: Yes.

11 THE COURT: All right.

12 Because, like I said, it's your right. If you'd
13 like to come to Washington and have a hearing in person,
14 that's your right and you can do that.

15 THE DEFENDANT: No.

16 If it doesn't change the outcome, then, no, I will
17 do it remotely.

18 THE COURT: Well, what I'm saying to you,
19 Mr. Lolos, is that whether you appear here or not, that's
20 not going to be a factor in what my sentence is.

21 Do you understand that?

22 THE DEFENDANT: I understand. I understand
23 100 percent.

24 THE COURT: Okay.

25 And it's up to you whether you would rather be

1 here in person for this proceeding.

2 Do you understand that?

3 THE DEFENDANT: I understand 100 percent.

4 THE COURT: All right.

5 And you're choosing not to be here in person and
6 you're okay with proceeding remotely?

7 THE DEFENDANT: Yes.

8 THE COURT: All right.

9 Any doubt in your mind about that?

10 THE DEFENDANT: No.

11 THE COURT: All right.

12 So I do find then that Mr. Lolos is knowingly and
13 voluntarily waiving his right to an in-person sentencing
14 hearing.

15 I further find that the interests of justice are
16 served by proceeding with sentencing today remotely,
17 particularly given that Mr. Lolos is in the State of
18 Washington and it would require then delaying this matter.
19 I think it's in everyone's interest to have it reach its
20 conclusion.

21 Furthermore, we do continue to have authorization
22 under the CARES Act and by order of the Chief Judge to
23 proceed remotely. And so those are the preliminary findings
24 I'm required to make to hold this sentencing hearing
25 remotely instead of in person.

1 With that out of the way, let me just first go
2 over what I've reviewed and let me then ask either side
3 whether there should be something else I haven't mentioned.

4 So I have reviewed the Presentence Investigation
5 Report at ECF 33, the Probation Officer's recommendation
6 at 34, the government's memorandum in aid of sentencing at
7 32, and then defendant's memorandum in aid of sentencing at
8 ECF 35, which included some letters of support, which I've
9 also read.

10 Is there anything else I should have reviewed that
11 I did not?

12 MR. FRANKS: Not from the government, Your Honor.

13 THE COURT: Okay.

14 Mr. MacMahon?

15 MR. MacMAHON: Not from the defense, Your Honor.

16 THE COURT: Okay.

17 And then are there any objections to the
18 Presentence Investigation Report that already haven't been
19 made?

20 MR. FRANKS: Not from the government, Your Honor.

21 MR. MacMAHON: And not from the defense,
22 Your Honor.

23 THE COURT: Okay.

24 Any preliminary matters either side wants to raise
25 then before we turn to the allocutions?

1 THE DEFENDANT: I would like an opportunity to
2 talk. I don't know if now is the time or later.

3 THE COURT: Yes.

4 So, Mr. Lolos, the way this will work is, I'll
5 first turn to the government, Mr. Franks will have the
6 opportunity to be heard; and I'll turn to your counsel,
7 Mr. MacMahon, he'll have the opportunity to be heard; and
8 then I'll turn to you and you can address me if you wish,
9 you're not required to, but it's up to you, okay?

10 THE DEFENDANT: Okay.

11 THE COURT: All right.

12 Mr. Franks, why don't we start with you on behalf
13 of the government.

14 MR. FRANKS: Thank you, Judge Mehta.

15 It is without question that on January 6th, that's
16 a day that Americans will not forget, nor those around the
17 world who watched rioters take the U.S. Capitol under siege.

18 The actions of the rioters that day threatened our
19 democracy and the peaceful transition of power through
20 certification of the 2020 election. Those who participated
21 in the riot, like the defendant here, should be held
22 accountable.

23 The government believes that the factors outlined
24 by Title 18, United States Code Section 3553(a) support a
25 sentence of 30 days' incarceration and the payment of a \$500

1 amount of restitution.

2 I understand that the Court has read the
3 sentencing memorandum that both parties have filed. I won't
4 rehash the arguments that were made there, but there are a
5 couple of points of emphasis that I'd like to make.

6 First of all, regarding the nature and
7 circumstances of the offense, defendant flew here from
8 Seattle -- flew to D.C. from Seattle, Washington, to protest
9 what he termed as voter fraud. He attended a rally, and he
10 walked, after that rally, with a crowd to the Capitol.

11 Along the way, defendant saw chaos all around him.
12 He took pictures of it. He saw people climbing and hanging
13 on statues. He sent those pictures to his friends.

14 As he got closer to the Capitol, he told his
15 friends by text message that essentially he had grown --
16 joined with the crowd, and that, we're storming the Capitol
17 now. He said, I'm here, storming the Capitol. We're going
18 in.

19 He got to the stairs of the Capitol, he saw tear
20 gas in the air, he saw people climbing through a broken
21 window, and he followed them in with his face partially
22 covered.

23 Once inside, it was obvious to the defendant that
24 the police were outnumbered. He entered through the
25 Senate-wing window, which was broken. There was a crowd of

1 rioters there.

2 The defendant then took out his flag, he started
3 chanting at the police officers there -- the officers there.

4 He didn't stop at that point. He went to the
5 Crypt, where he, again, triumphantly waved his flag,
6 chanting more, taking more photos, and sending those photos
7 to his friends, promoting his participation in the riot.

8 He didn't stop there. He continued to the Hall of
9 Columbus [sic].

10 At his plea hearing and in the Statement of
11 Offense, he admitted that at that point, he saw law
12 enforcement there and they were heavily armed so he finally
13 decided to leave, as if seeing law enforcement 40 minutes
14 before that wasn't enough to trigger him to leave.

15 But when --

16 THE COURT: Mr. Franks, can I interrupt you?
17 Because that's the one thing I'm a little uncertain or left
18 wondering about.

19 I mean, I've looked actually at a fair number of
20 the other cases and the conduct of those defendants. And
21 what struck me is that Mr. Lolos is actually -- he's inside
22 the Capitol building for 43 minutes, according to the
23 government's evidence.

24 MR. FRANKS: That's correct.

25 THE COURT: But I haven't been given a whole lot

1 of information about what he was doing inside for those
2 43 minutes.

3 Can you shed light on what you believe the
4 evidence shows about what he was doing inside during that --
5 I mean, that's a pretty long period of time. I mean, there
6 are others, who you've identified as comparators, who were
7 in there for less than 15.

8 MR. FRANKS: That's right.

9 THE COURT: And so help me understand what
10 Mr. Lolos was doing during that time.

11 MR. FRANKS: So Mr. Lolos entered through the
12 Senate-wing window. There's a big crowd there. He
13 initially went up to an officer, he said something to that
14 officer. A couple of minutes later, he pulled out his
15 flags, and he started --

16 THE COURT: Do you know what he said to an
17 officer, that officer?

18 MR. FRANKS: Mr. Lolos said -- he told us that
19 he said that it was getting crowded. That's what he told us
20 in our debrief.

21 So after that, he took out his flag. And you can
22 see on -- well, on the -- it's visible on the CCTV video,
23 that he pulls out his flags and he starts chanting at the
24 police officers, who are holding the line in the Senate
25 wing.

1 He then walks through the Capitol to the Crypt.
2 And as he's parading through there, he's, again, waving his
3 flag.

4 And what I'll say is that there is no evidence
5 here that Mr. Lolos destroyed any property; that he came in
6 contact with law enforcement or assaulted them. What he did
7 is he just continued to go through the Capitol; standing
8 around, taking pictures, texting them out to his friends,
9 saying that he had stormed the Capitol.

10 He went to -- from the Crypt to the Halls of
11 Columbus [sic]. And when he got to the end of that hall, an
12 officer engaged him, touched him on his arm. And you can
13 see to the right, there were a number of law enforcement
14 officers who had -- from the FBI, who were heavily armed.

15 Mr. Lolos then was, what it looks like from the
16 video, what he said, he decided to leave at that point.

17 He walked out the door. And he's captured on
18 video at that point, when he walks out the door 43 minutes
19 after he entered. And he's yelling, as others are yelling,
20 as they're coming out, we stopped the vote. He yells,
21 "They left! We did it!"

22 Then he's still on Capitol grounds. He stands
23 next to the Capitol, takes a -- has a picture taken of
24 himself, and he says, "Me after battle."

25 So during his 40 or so minutes, almost 45 minutes

1 in the Capitol, he walks through it, he chants at officers,
2 he waves his flag, he walks -- he engages -- he's engaged by
3 law enforcement, and then he leaves.

4 THE COURT: Okay.

5 And he's there alone, as far as you know?

6 MR. FRANKS: Yes, it appears as though he's alone.

7 THE COURT: Okay.

8 MR. FRANKS: Now, in terms of what -- the
9 circumstances of this offense, after the riot, two days have
10 passed, and Mr. Lolos was at National Airport, Ronald Reagan
11 National Airport. He was on a flight on the tarmac, and he
12 began to chant "Trump 2020" repeatedly, to the point that he
13 had disrupted the flight, they turned the flight around, and
14 he was escorted off the plane. That was two days after the
15 coverage of the riots had been broadcast. He was showing no
16 initial remorse for his actions.

17 In terms of the background and history of
18 Mr. Lolos, he's a successful -- admittedly, a successful
19 business owner, and that is a mitigating factor here. He's
20 provided letters of support from his customers. And without
21 divulging what's in the Presentence Investigation Report,
22 he's amounted the mass -- a significant net worth from that
23 business.

24 But what's troubling here, and what, I believe,
25 negates that mitigating factor, is that defendant owns and

1 operates a security firm.

2 With his professional background, he shouldn't
3 have stormed the Capitol. He should have turned around when
4 he saw the chaos all around him; the rioters climbing in
5 through broken windows.

6 And that's especially true for a security
7 professional like Mr. Lolos, who advertises and gets paid to
8 and vows on his website that he will "control who is allowed
9 access to certain areas of your offices or corporate
10 headquarters." The website goes on to say that, "We ensure
11 that the right people have access to the appropriate parts
12 of your building and grounds."

13 But on January 6th, Mr. Lolos totally disregarded
14 his pledge that he makes to his customers and he went on to
15 storm the Capitol.

16 He surely --

17 THE COURT: Can I ask you a question? And you may
18 not know the answer to this, and maybe --

19 MR. FRANKS: Yes.

20 THE COURT: -- it's the same question I'll ask
21 Mr. MacMahon:

22 Do you know whether there are going to be any
23 licensure -- potential licensure consequences of his
24 conviction?

25 The Presentence Report indicates that he's up for

1 licensing renewal at the end of the year. And certainly if
2 this was a felony, I would think it would have a potential
3 impact on his ability to get that license renewed.

4 Do we have any idea of what, if any, consequence
5 will come of a misdemeanor conviction and sentence?

6 MR. FRANKS: I do not know, Your Honor.

7 The government does not know.

8 THE COURT: Okay.

9 MR. FRANKS: Your Honor, the other part of
10 Mr. Lolos's history and characteristics that's troubling
11 here is that he was adjudicated as being guilty of criminal
12 harassment a little less than 11 years ago.

13 I won't get into all the details of what's in the
14 Presentence Investigation Report, but he told -- he
15 threatened to kill someone.

16 His sentence was deferred with probation.

17 THE COURT: Mr. Franks, can I ask you a question
18 about that?

19 I mean, it is true that that is the allegation
20 that's set forth in the -- presumably was an affidavit in
21 support of some sort of arrest warrant -- and, in fact,
22 I have a copy of it; the Probation Office did give it to me
23 when I asked -- based as probable cause. And he was
24 actually charged with felony harassment or at least that was
25 the basis for the probable cause certification, but

1 ultimately what he pled to was a misdemeanor harassment.

2 So I'm wondering, do you know what facts he
3 actually admitted to as part of the conduct for which he
4 pled?

5 MR. FRANKS: I do not have the plea agreement.
6 I do not know exactly what facts he alleged to.

7 I do know, as the Court knows, what he -- what the
8 charge was that he pled to, and what the conditions were for
9 the ultimate dismissal of the case.

10 THE COURT: So can I make, in your view, a
11 preponderance of the evidence finding with respect to the
12 allegations of a probable cause certification, if we don't
13 know anything more than that, at least in terms of what he's
14 admitted to as the underlying conduct?

15 MR. FRANKS: I think it would be safe to make a
16 probable cause finding of his admission of guilt to the
17 charge that he pled guilty to.

18 THE COURT: Yeah, no --

19 MR. FRANKS: Maybe not the factual allegations.

20 THE COURT: Right. Okay.

21 No doubt about that.

22 MR. FRANKS: Yes.

23 THE COURT: I agree with you that I can make a
24 preponderance finding as to his admission of guilt to the
25 offense, but it's just a question of what the facts are --

1 MR. FRANKS: Yeah.

2 And --

3 THE COURT: -- of the actual conduct itself.

4 MR. FRANKS: And that is one of the reasons why I
5 didn't want to get into all of those facts on the public
6 line here.

7 THE COURT: Okay.

8 THE DEFENDANT: Then why did you bring it up?

9 MR. FRANKS: It's a part -- well, I will address
10 the Court.

11 THE COURT: Mr. Lolos, I'll ask you to refrain
12 from commenting. You'll have an opportunity to speak.

13 THE DEFENDANT: Okay.

14 MR. FRANKS: This is one of the factors of
15 3553(a). It is not only pertinent but it's relevant, in
16 terms of Mr. Lolos's prior conduct and him also being
17 provided probation in a prior case.

18 Now, in terms of the other factor here, a sentence
19 that must reflect the seriousness of the offense and promote
20 respect for the law, again, a significant sentence is
21 warranted here, and not one, again, that, the government
22 would argue, should be probation.

23 It shouldn't be probation again because of the
24 seriousness of the offense in totality and with regard to
25 Mr. Lolos's specific actions at the Capitol: Entering the

1 Capitol through a broken window, parading through it,
2 remaining there for 45 -- almost 45 minutes, chanting at
3 police officers. And then in the end, showing that he was
4 satisfied with his actions in participating and delaying a
5 certification of the vote, while others participated with
6 him but maybe not jointly with him.

7 In terms of deterrence, there's general deterrence
8 and there's also specific deterrence.

9 I provided a link in the -- a link to the video
10 that captured Mr. Lolos leaving the Capitol. Almost
11 6.5 million people have viewed that, with 12,400 of those
12 weighing in to "like" what was captured there. I personally
13 can't tell you what those 12,400 people liked about it.
14 Some people voiced that the actions that they saw warranted
15 an incarceration, others wondered why what was going on was
16 allowed.

17 I believe -- the government believes that a
18 sentence of incarceration will provide general deterrence to
19 those who have viewed that video so that they won't repeat
20 defendant's actions.

21 In terms of specific deterrence, again, the Court
22 has previously sentenced defendants to probation, yet he's,
23 again, here before a court on a serious offense.

24 Probation didn't deter him before, seeing the tear
25 gas as he approached the Capitol didn't deter him, and even

1 his professional experience as a security -- owner of a
2 security firm didn't deter him, and I don't believe that a
3 sentence of probation here will deter him again if he was to
4 get upset regarding alleged voter fraud again.

5 The last point in terms of the 3553(a) factors as
6 outlined in my sentencing memorandum, and it deals with
7 sentencing disparities. There have not been a lot of
8 sentences that have been rendered. There have been over 600
9 defendants that have been charged, with a little over 30
10 that have been sentenced.

11 The way I grouped, after analysis of these who
12 have already been sentenced, is the criminal history of
13 Mr. Lolos, in comparison to those who have had similar
14 criminal history.

15 I outlined the *Hemenway* and *Bauer* case, where both
16 defendants had criminal history. The government recommended
17 in those cases 30 days' confinement, and the courts there
18 provided and sentenced the defendants to 45 days.

19 Now, on the further end of the spectrum of the
20 limited number of defendants who have been sentenced who
21 have a criminal history, there were the *Curzio* case and the
22 *Dresch* case. Those defendants had been detained because of
23 their significant criminal history. They were both
24 sentenced, as outlined in the sentencing memorandum, to six
25 months' imprisonment.

1 I think that the range of punishment and
2 incarceration that was outlined and given in those three
3 cases provides the Court with a basis to compare Mr. Lolos
4 and to sentence him to at least 30 days' incarceration.

5 Now, in terms of the one case that the defendant
6 cites in support of probation, *United States versus Sean*
7 *Cordon*, that case is easily distinguishable from the facts
8 here.

9 Mr. Cordon was in the Capitol for only
10 four minutes. Mr. Lolos was in the Capitol for almost
11 45 minutes, approximately 43.

12 Mr. Cordon walked around the Capitol. And he left
13 the area with his brother and he immediately expressed
14 remorse for his actions.

15 Mr. Lolos, on the other hand, left the Capitol,
16 yelling, "We did it! They left!," celebrating his actions
17 at the Capitol and participation in the riot; and two days
18 later, his conduct got him kicked off of a plane.

19 Mr. Cordon also had no criminal history at all.

20 These cases, the *Cordon* case and the instant case,
21 are vastly different. And the government believes that the
22 factors of 3553(a) warrant Mr. Lolos getting a vastly
23 different sentence, not probation, like Mr. Cordon.

24 For all those reasons outlined in the sentencing
25 memorandum, we believe that a sentence of one-month

1 incarceration is not greater than necessary to achieve the
2 goals of sentencing as articulated in Section 3553(a).

3 THE COURT: Thank you for your presentation.

4 Mr. MacMahonacMahon, we'll turn to you now.

5 MR. MacMAHON: Thank you, Your Honor.

6 If it please the Court, I'll try to go at this in
7 reverse.

8 Mr. Franks talks a lot about Mr. Lolos's criminal
9 history. And as the Court asked that, you're reading an
10 unverified affidavit from 11 years old -- 11 years ago that
11 didn't even result in a felony conviction.

12 His criminal history couldn't even be used to
13 cross-examine him in a case, a misdemeanor from ten years
14 ago, in which, as we said in our brief, he denied all the
15 allegations.

16 THE COURT: But, I mean, he did plea to something.
17 He did plea to a misdemeanor. He did plea to a misdemeanor
18 harassment.

19 MR. MacMAHON: He did, Your Honor.

20 And that's -- there's lots of reasons why people
21 plead guilty to crimes. It doesn't mean he tried to
22 threaten to kill somebody, which is what Mr. Franks has said
23 numerous times.

24 THE COURT: No. I understand.

25 But he must have admitted to at least some conduct

1 that made out the elements of the offense.

2 MR. MacMAHON: Right.

3 Your Honor, I don't know. I obviously wasn't his
4 lawyer 10 or 11 years ago, and I couldn't get files on the
5 case either.

6 But my point really is going back 10 or 11 years
7 to find something. Again, under the rules, you wouldn't
8 even be able to use this to cross-examine.

9 It's obviously useful to the government at a
10 sentencing and it's something that they can bring up.
11 I'm just asking you not to give a lot of weight to it.
12 I just don't think there's reason to do that.

13 THE COURT: Do you know, Mr. MacMahon, what, if
14 any licensing consequences there may be of this conviction?

15 MR. MacMAHON: You know, Your Honor, I was getting
16 to that next in my notes.

17 I do not know whether there are any licensing
18 problems. I'm sure there would be if there was a felony
19 conviction, but I don't know -- I don't know the law of the
20 State of Washington and how it would affect his licensing in
21 any way, I really don't.

22 THE COURT: Okay.

23 MR. MacMAHON: But the recitation that we heard
24 from the government, you know, is true as to what Mr. Lolos
25 did in the Capitol.

1 But, you know, it's -- again, this is all written
2 down, I don't want to belabor these points, Your Honor, but
3 Mr. Lolos pled guilty -- he's one of the first people to
4 come forward and plead guilty in these cases.

5 He authorized me to get a sentencing -- a plea
6 agreement early on, even before Mr. Franks and others have
7 permission to make offers. He was told that he had to do a
8 debrief before he could get an offer, so he did a debrief.

9 And so the idea that he hasn't taken
10 responsibility for what he did, I think, is belied by the
11 facts. I mean, really, it may have been one of the first
12 pleas that came forward and sets a good example to other
13 people that can try to get these cases resolved to go
14 forward.

15 But, you know, Mr. Lolos didn't -- he's not part
16 of any conspiracy to come and invade the Capitol. He
17 obviously followed a crowd up into the building, something
18 he obviously shouldn't have done.

19 He wasn't wearing any military garb.

20 He did spend time in the Capitol. But he didn't
21 do anything when he was in there. He didn't push a police
22 officer. He didn't break a window. He didn't do any of
23 these things that we see in other cases, where people have
24 gotten jail time, including significant jail time.

25 He did make statements, obviously, when he left

1 the building, as Mr. Franks correctly told you. He really
2 just repeated what everybody that was walking out of the
3 building was saying things that other people were saying as
4 he came out. It hardly even looks spontaneous in the video
5 that we see. It's certainly not choice words that he made.
6 But, again, I think it's more --

7 THE COURT: I will say, the one -- you know, the
8 one thing that is somewhat troubling is the comments that he
9 makes as he's leaving, "They left! We did it!," seems to
10 reveal an intentionality about what he did, a desire to
11 disrupt elected representatives from carrying out their
12 duties, and that he was aware of what that purpose was,
13 believed that, by entering the Capitol, he carried out that
14 purpose, and was sort of relishing in the success.

15 MR. MacMAHON: I understand that, Your Honor.

16 But what I'm saying is that if you look at the
17 tape, and Mr. Franks kindly gave it to you, you'll see that
18 there's basically a line of people walking out of the
19 building with a cameraman as they come out saying things,
20 and Mr. Lolos looks around, waits for the camera, and says
21 something.

22 I'm not excusing what he said. What I'm saying is
23 it's more a part of, you know, what was -- just the general
24 actions out there that day, none of which, obviously,
25 I ascribe to Your Honor.

1 But he didn't go to the Senate chamber, he didn't
2 try to go to the House chamber, he didn't loiter after
3 police officers told him to leave so that the other -- the
4 other things that he did that day were entirely peaceful and
5 consistent with the charge, which is picketing or protesting
6 inside the Capitol.

7 Mr. Franks talked about the one case. I added
8 that case to my sentencing memorandum just because it came
9 out after in time to when we got the government's matrix, or
10 whatever we want to call it, of all the sentences.

11 And, you know, these sentences are all over the
12 map as to what -- obviously, you have all the discretion to
13 decide how you want to decide the case, but I would submit
14 to you that hearing --

15 THE COURT: What do I make of the conduct sort of
16 48 hours later disrupting the airplane and causing the
17 airplane to have to turn back?

18 I mean, you know, at a minimum, it shows, at least
19 within 48 hours, there wasn't a realization of any
20 wrongdoing.

21 MR. MacMAHON: Fair enough, Your Honor.

22 Again, I'm sorry, I didn't mean to interrupt you.
23 It's hard on Zoom to know when you're done. I'm sorry,
24 Your Honor.

25 THE COURT: That's fine.

1 MR. MacMAHON: Yeah.

2 I mean, obviously, that's something that happened.
3 Mr. Lolos has another explanation for what occurred.

4 But after that happened, what I wrote -- after
5 those events happened, he didn't go online and make any
6 additional statements or -- like we have in a lot of these
7 cases, where people are still otherwise trying to whip up
8 all kinds of problems about the election or anything else.
9 That was the last thing that he did, really, until he got
10 arrested, and went and, you know, hired counsel and told me
11 to go plead this case out.

12 So, you know, does he have strong beliefs about
13 voter fraud and about President Trump? He does. And those,
14 obviously, are his rights. He doesn't have a right to
15 demonstrate inside the Capitol without going through
16 security. And he doesn't have a right to disrupt people on
17 a plane. But he hasn't been charged, and I don't expect him
18 to be charged, for chanting on the plane.

19 And I'm not making an excuse for it, Your Honor.
20 But in the end, I think you're going to have to examine all
21 this conduct and look at the other sentences. There's a lot
22 of sentences where there's -- no jail sentence is given to
23 people who committed no act of violence or vandalism and
24 weren't leaders or dressed for combat or otherwise.

25 And, again, about the idea -- I keep bringing up

1 this dressed for combat. When Mr. Franks correctly reads
2 Mr. Lolos's text from that day, they aren't consistent with
3 what he was doing. So there's some embellishment for his
4 friends in what he's sending out. He wasn't in battle,
5 he didn't touch anybody. You know, the Court has to look at
6 all of that in context.

7 And I think that a sentence of probation would
8 serve all of the purposes of federal sentencing law and
9 otherwise, because, you know, this is not a crime that's
10 going to occur again. Mr. Lolos, again, has accepted
11 responsibility for it, and I just don't think it's necessary
12 for someone who accepts responsibility for a Class B
13 misdemeanor right out of the gate to be incarcerated.

14 He also just today sent me some notes about some
15 medical issues that he's worried about if he gets
16 incarcerated. We can talk about those if that's a concern
17 to the Court.

18 But I just -- I would just urge the Court not to
19 sentence him to jail, and whatever fine or -- the
20 restitution has already been agreed to, but just to --

21 THE COURT: Look, I'd like to know more rather
22 than less. And so if there are medical issues I ought to be
23 aware of, then now would be the time to tell me.

24 MR. MacMAHON: Well, he has some problems of
25 chronic edema in his legs, where he's had to have been

1 hospitalized before.

2 And, again, I just got this today.

3 And he has -- I don't think any of these medical
4 issues are enough to sway the Court one way or another,
5 Your Honor. But he does have issues, they may, if you give
6 him jail time, affect when he can report, but I think they
7 can be addressed in the -- there's chest pain and hives and
8 things that I think the Court can address if we need to.

9 THE COURT: Okay.

10 With that, is there anything further,
11 Mr. MacMahon, or are we ready to hear from Mr. Lolos?

12 MR. MacMAHON: No.

13 And I thank you for reading all the briefs and the
14 letters and for listening to the argument, Your Honor.
15 Thank you.

16 THE COURT: No problem.

17 Mr. Lolos.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: I'm ready to hear from you, sir.

20 THE DEFENDANT: Yes, sir.

21 It's moments like these I wish I was there so I
22 could hear this and people could hear me on the situation.

23 Also, I'll just start in chronological order,
24 Your Honor.

25 So I saw voter fraud on TV -- and I'll get to the

1 specifics -- voter fraud in Philadelphia, Chicago, Detroit,
2 Your Honor.

3 I saw the Republican witnesses getting kicked out
4 of the voting polls, all on video and audio. Then they
5 started videotaping through the windows. Then they blocked
6 that.

7 I heard testimony, ordered reports of over 2,000
8 sworn, signed affidavits from truck drivers delivering
9 ballots from New York City, taking them down to Philadelphia
10 and other states, from people who worked in the polling
11 places, Your Honor; signed, sworn affidavits that have all
12 been rejected, every last one of them.

13 It's sad to see that the Justice Department, the
14 FBI, who I visited, I think, 10, 20 years ago about voter
15 fraud when I had a videotape of the League of Women Voters
16 punching multiple ballots, Your Honor, multiple ballots on
17 video and audio. I took it to the FBI, they called me back,
18 they said, John, we already know about the video from other
19 people, we can't do anything about it, our hands are tied
20 because of their upper supervisors. This was 20 years ago.

21 Anyway, so I'll get to this. So I take a plane
22 trip, I go to Washington, D.C., Your Honor. I go to a park.
23 I can barely hear anything that's said. People start
24 leaving the park. I said, hey, to random people. Hey,
25 where's everyone going? Oh, random people said, we're going

1 to the Capitol for the second half of the protest against
2 voter fraud. I go, okay, hey, I want to protest voter
3 fraud, too.

4 I walk to the Capitol. As I'm going there, yeah,
5 I take photos of the Capitol. I've never been there,
6 Your Honor. I'm walking up the steps there.

7 All of the violence that you saw on TV, that I saw
8 on TV, Your Honor, that already happened. I was not a part
9 of that. I didn't even see anything like that.
10 I didn't see any type of barricades. I didn't see any law
11 enforcement there until above the stairs. I'll get to that.

12 As I'm walking up the stairs, Your Honor, someone
13 to the right of me, to the left of me, in back of me, in
14 front of me, Your Honor. I'm going up the stairs. I'm
15 thinking, okay, there's a designated place for us to
16 protest.

17 I get to the top of the stairs, Your Honor, it's a
18 dead end. So where are we supposed to protest now? It's a
19 dead end.

20 I don't see any law enforcement outside at all.
21 And I told that the FBI, too. So where are we supposed to
22 go? What am I supposed to do? Am I supposed to get
23 squished now?

24 Now, I don't have the aerial view that Mr. Franks
25 had with the camera high above where he could see way past

1 what I could see.

2 I can only see right in front of my face,
3 Your Honor. I can't see past behind the cliff of the stairs
4 or whatnot. I don't know how many people are coming up.
5 I don't know how many people are going to come out outside
6 the building.

7 I see a window, it's broken, people are going
8 inside. Yeah, I went inside, Your Honor, but I didn't break
9 the window to rob the place. I went inside, and as the
10 video shows -- Your Honor, have you seen the video, first of
11 all? Have you seen the video?

12 THE COURT: I've seen what's been presented to me,
13 and I don't think that video was presented to me of you
14 entering the Rotunda.

15 THE DEFENDANT: Okay.

16 THE COURT: Not the Rotunda, but that part of the
17 Senate.

18 THE DEFENDANT: So I went inside the video [sic],
19 Your Honor, to talk to the police officers. That's why I
20 went in. I didn't start going in picketing and protesting,
21 waving a flag right away, yeah, yeah, voter fraud, all that.
22 I was going to protest outside.

23 I went inside to talk to the police. That's what
24 the video shows. That's why it's not being released to the
25 public.

1 I'm talking to the police officer. There's about
2 10, 20 police officers inside. No one -- I didn't hear
3 anyone tell anyone to leave at all. No trespassing signs,
4 nothing. They're just standing there very calmly,
5 Your Honor.

6 I talked to one of the police officers there, he
7 was an African-American police officer. I'm talking to him.
8 He can't hear me. He has to lean forward. So I'm talking
9 5 inches away from his ear, and I'm saying, hey, look, it's
10 getting kind of crowded outside. You know, you need to do
11 something.

12 Then I start going down the hallway. Before I get
13 to the hallway, there's another police officer, he comes
14 running down the hallway, saying, hey, hey, do you want to
15 come in? Come in, come in, come in. He's motioning his
16 hand for me and others to come in. I've described him to
17 the FBI. He's easily being able to be picked out. He's,
18 like, 5 foot 5'5", 100 pounds to 150 pounds.

19 This guy was the smallest police officer I've ever
20 seen in my whole life. He had some type of
21 dark-skin-complexion type. Maybe he was either Asian or
22 Hispanic. And he had a short crew cut. Very thin build.
23 Very short. And he motioned for us to come in there.
24 In his late 20s, early 30s.

25 So we go into this area, it's called the Crypt

1 area. So when I come in, there's an area of 10, 20 police
2 officers there. I didn't hear anyone tell us to leave
3 whatsoever. I told the police we're crowded. The other cop
4 motions us to go down the hallway to my right. We go down
5 the hallway. There's this big circular area there, okay?
6 I'm thinking that's where we're supposed to protest. That's
7 when everyone starts waving the flag.

8 Now, I know in my plea agreement, Your Honor,
9 I said I purposefully went in there. That was the plea
10 agreement. We can stick to that version if you want to,
11 Your Honor. But the video shows what happened, the video
12 shows what happened.

13 I started to wave the flag in the Crypt area,
14 everyone else there. The other police officers, now they're
15 aligned on each of the side building, on each -- I'm sorry,
16 each side of the walls there.

17 I and others went to the police officers. I put
18 my hand on the shoulder of the police officer. The police
19 officer didn't put his hand on me. I put my hand on the
20 same police officer who told me to come into the Crypt area.
21 I comforted him on the shoulder, and I said, hey, this isn't
22 about you. I support you. I support you.

23 Other people went to the police officers, too, for
24 those 45 minutes where the audio is muted. Very suspicious,
25 very suspect when I hear the audio in other parts of the

1 Capitol, Your Honor, but not where I was in peaceably. Very
2 suspect, very suspicious on the muted audio.

3 THE COURT: Mr. Lolos, if I can interrupt you.

4 I mean --

5 THE DEFENDANT: Sure. Go ahead.

6 THE COURT: It sounds like to me you are wanting
7 to justify your conduct that day.

8 THE DEFENDANT: No, I'm not justifying it.
9 I'm not portraying myself as a victim. I take full
10 responsibility. I went in there.

11 THE COURT: Okay.

12 I just want to make sure, because the first five
13 minutes of what you've said seems to suggest otherwise.

14 MR. MacMAHON: Your Honor, can I talk to Mr. Lolos
15 for one second?

16 THE DEFENDANT: I don't want to talk anymore,
17 Your Honor. I want to keep going about this.

18 I'm sorry, Mr. MacMahon, I just want to keep going
19 about this.

20 Your Honor, I take full responsibility. I chose
21 to go in there. I chose to talk to the police. I chose to
22 go into the Crypt area, no matter what. I chose to listen
23 to the police. I chose to picket and protest. I chose to
24 go up the stairs, Your Honor.

25 I just want to put it in context that I did not --

1 Your Honor, are you there?

2 THE COURT: I'm still here, yep.

3 THE DEFENDANT: Okay.

4 I did not barge my way in there.

5 But I did go in there. I'm not trying to portray
6 me being a victim. I'm a defendant, Your Honor. I did
7 this. I picketed and protested. But I want to put it in
8 context that I didn't barge in.

9 Anyway, I put my arm on the same police officer
10 who told me to come in, and I said, hey, I support you.

11 Others did the same. For 45 minutes, people waved
12 flags and went up to the cops and told them that they
13 support them, it wasn't about them.

14 Another group of law -- and still, no one --
15 I didn't hear anyone tell us to leave.

16 Even in the Crypt area at that time, another group
17 of law enforcement comes in, another group, they come in
18 from --

19 THE COURT: Can I ask you a question, Mr. Lolos?
20 Why did you think anybody needed to tell you to
21 leave?

22 THE DEFENDANT: Your Honor, I thought that was the
23 designated area that we were going to protest since they
24 told us to come in.

25 THE COURT: So you thought --

1 THE DEFENDANT: I was going to protest --

2 THE COURT: Hang on.

3 You thought the way to get to a designated protest
4 area was through a broken window?

5 THE DEFENDANT: No. I went in the broken window
6 to talk to law enforcement. That's what's on the video.

7 THE COURT: Right.

8 No, no. I mean, I've heard you say that you
9 thought you were being invited in or that you were -- it was
10 okay to be there to protest. That's what I'm hearing you
11 say.

12 THE DEFENDANT: Your Honor, if it's the law,
13 Your Honor, I own up to it, Your Honor, for picketing and
14 protesting. I'm not making excuses. I'm not making any sob
15 stories to you. You've heard all of them, okay?

16 I picketed and protested. But I want it in
17 context; that I didn't just go bargain in, knock police
18 officers down, rumble through like people saw on TV. That's
19 not what happened.

20 Law enforcement, the people that -- we respected
21 each other. There was no yelling, no profanity, no hitting
22 between anyone, Your Honor.

23 THE COURT: And when you left the building and
24 said, "They left! We did it!," what did you mean?

25 THE DEFENDANT: I meant, "We left! We did it!"

1 That's what I meant. I misspoke on that one,
2 Your Honor.

3 I meant, "We left! We did it!" That's what I
4 meant.

5 And I was waiting to say that to Mr. Franks, but
6 I was waiting for my turn.

7 THE COURT: Okay.

8 THE DEFENDANT: Another --

9 THE COURT: "They" didn't mean members of
10 Congress?

11 THE DEFENDANT: No, Your Honor. I never mentioned
12 Congress whatsoever, Your Honor.

13 I wouldn't go there at all, to stop any Congress
14 procession, whatever you call it.

15 My text messages as far as, "We're storming up the
16 Capitol," yeah, we're storming up the Capitol, we're going
17 up the stairs. I'm not going there to commit violence or
18 it's not Normandy Beach, okay? I'm going up the stairs.

19 When I said to my friends, I have to go to the --
20 we're going inside. Yeah, we're going inside. I'm going
21 inside to talk to the police officers. I'm not going inside
22 to disrupt anything, to fight police officers, to barge
23 police officers there.

24 But I do want to get -- I do want to get to when
25 the other group of police officers came in, because no one

1 told us to leave at that time. I didn't hear anyone tell us
2 to leave. And I think that's why they muted the audio.

3 Anyway, another group of law enforcement officers
4 come in, not in the same direction that I came in, but
5 through the opposite way. They came behind us, they finally
6 told us to leave, we said okay, we left. That's it.

7 And on my way out -- and thank goodness I did
8 this -- I gave a thumbs-up -- since they muted the audio,
9 I gave a thumbs-up to all the police officers that were
10 lined up on each side of the wall. They were standing
11 there. This is the other group of police officers, not the
12 other ones who told us to leave, and I said, hey, I support
13 you, this isn't about you, I support you.

14 After I leave the Capitol, I go to my hotel room.
15 And I think the reason I stayed there for two days, which
16 was a concern to Mr. Franks and the FBI, was because I don't
17 think I could have got a plane trip out of there, but I
18 didn't remember it at that time that they were booked.

19 So anyway, I go to the airport and Mr. Franks,
20 his -- the whole thing there is a bunch of bologna. It's on
21 YouTube. You can see it on YouTube. For those of you who
22 are listening in the audience that I've already -- reporters
23 who have ruined my life -- and I'll get to that in a little
24 bit with their slander -- I'm at the airport, Your Honor, in
25 the lobby of the airport. And, no, I'm not wearing the same

1 shirt, Your Honor. That's stupid. You can see me on
2 YouTube: "Trump supporter gets kicked off of Trump" --
3 "Trump supporter gets kicked off of Delta flight," for those
4 of you in the audience who want to Google that. I was not
5 wearing the same shirt.

6 But regardless, I'm in the lobby waiting. I see
7 this guy. He has a T-shirt on from the State of -- I have a
8 speech impediment -- I see this guy. He has a shirt of
9 Texas, of State of Texas on his shirt. So I go up and talk
10 to him, and I said, "Hey, I wish I lived in the State of
11 Texas." And he said something, "Yeah, my aunt" or something
12 "lives there. It's a great state." So we start talking.

13 They're playing all this TV about people hitting
14 the police and law enforcement, and I go, hey, I didn't do
15 any of that stuff, and we start talking.

16 And then this guy, every time he talks, I don't
17 want to -- he had an accent, and he starts talking vocally,
18 like, yeah, this is what happened, and he starts using
19 homophobic slurs describing people, okay?

20 And then there was a person about 20 feet away, he
21 was sitting down in plain clothes, he was sitting down in
22 plain clothes. He comes up to us and he goes, you're
23 getting loud. He says to the guy with the T-shirt, and he's
24 like, to Texas, you're getting loud, and then he walks away.

25 This is just a guy in plain clothes. He goes back

1 and sits down about 10, 15 yards.

2 And then -- and this relates to what's going to
3 happen.

4 THE COURT: All right.

5 I'm going to -- hang on, Mr. Lolos. I've allowed
6 you to go on for a little bit. I want to hear what you have
7 to say, but I'll just ask you to get to the point and --

8 THE DEFENDANT: Okay.

9 So the point is, that guy, he was an undercover
10 cop. That guy with the plain clothes, he was mad because
11 the guy was using homophobe slurs over and over again. And
12 we started drawing a crowd; people came in. And I said,
13 yeah, I received two ballots. And another person came up
14 and said, yeah, I received seven ballots from Minnesota.
15 Okay. So now he's pissed off at the undercover cop.

16 Now I get on the plane. The whole half of the
17 crowd -- the whole half of the plane starts chanting "Trump
18 2020," Your Honor. But I get kicked off and another lady
19 gets kicked off, who were gathering together. Had nothing
20 to do, that I'm aware of, that I know. Maybe it was because
21 I said, "Trump 2020." But the whole half of the plane said
22 "Trump 2020."

23 I don't recall the plane leaving, circling back
24 and parking. I'm sorry, Your Honor, I don't remember that
25 at all. I don't remember the plane -- that's ridiculous,

1 leaving and then coming back.

2 Anyway, I get off the plane, they're saying --
3 I said, well, why am I kicked off the plane? No one said
4 anything. This is on YouTube live, by the way, what I'm
5 describing to you at the airport.

6 So then I paid for the woman's flight to get home,
7 because she starts crying, even on the YouTube video. She
8 doesn't have a way to get home. I paid for her plane
9 ticket. And then I go to book another plane ticket, I can't
10 get one. So they're all booked up or whatever.

11 So I wait outside -- and this deals with the
12 arrest. So I wait outside for a taxi or an Uber, they
13 detain me in a room for 45 minutes.

14 THE COURT: All right.

15 I'm going to give you just about another minute,
16 Mr. Lolos, if you have anything else you want to say.

17 THE DEFENDANT: So he didn't recognize -- the
18 officer didn't recognize -- oh, I recognized him from
19 Instagram. No, it was because of that officer, I think --
20 I don't want to say anything, but he was a stereotypical --
21 he displayed traits of a stereotypical homosexual, meaning
22 his walk, his tone of voice. I think he got mad at the guy
23 with the T-shirt. That's why I think I got kicked off the
24 plane, but I'm not positive about that. But they detained
25 me until they could find out on there.

1 So they detained me; I was arrested.

2 THE COURT: All right.

3 THE DEFENDANT: I spent two nights --

4 THE COURT: All right, Mr. Lolos, I'll give you 30
5 more seconds.

6 THE DEFENDANT: Okay.

7 I was arrested. I spent two nights in a
8 cockroach-infested jail from the zoo, Your Honor.
9 Cockroaches on the toilets, on the walls, on the steel bed,
10 mattress. You have 21-year-olds crying in there.

11 I had to tell them, hey, look, it's okay, take off
12 your shoes, hit the cockroaches as they're coming through
13 the air vents and through inside of the bars. And they
14 said, thank you, sir, God bless you. You had other people
15 wetting their T-shirts, scrubbing the walls full of
16 cockroaches.

17 I'm saying this, Your Honor, because I feel I've
18 been punished enough, and here are the reasons why I've been
19 punished enough.

20 THE COURT: All right.

21 THE DEFENDANT: Number one, Google and CNN, they
22 said I dragged and I beat up a police officer.

23 We know that's fake news, Your Honor. I'm not
24 trying to be a victim --

25 THE COURT: All right.

1 THE DEFENDANT: -- but my business has suffered
2 enough because of that. And I could lose my business anyway
3 with this misdemeanor.

4 The reason I pleaded guilty for the apartment
5 situation was because if it was a felony, I would lose my
6 business. I got to go back to the apartment, the apartment
7 manager got fired, I got offered the job --

8 THE COURT: All right.

9 Mr. Lolos, I think we're going a little far afield
10 here, okay?

11 THE DEFENDANT: Okay.

12 But I could lose everything, Your Honor.

13 I've already lost my financials, I've signed tax
14 returns, I signed the release of tax returns, I gave my
15 tax -- I've suffered massive business that I may never
16 recover from ever. I'm making a negative because of the
17 slanderous effects from CNN.

18 I want to say I apologize for going in; I should
19 have stayed outside, Your Honor.

20 I apologize to the families of law enforcement who
21 got hit, Your Honor. I would have never, never hit law
22 enforcement or never been rude or disrespectful to any law
23 enforcement people at all, Your Honor.

24 THE COURT: Okay.

25 THE DEFENDANT: But I do want to make sure the

1 person who made those allegations at the apartment for the
2 previous arrest, she was fired from the apartment complex.
3 I was told I could go back. Since Mr. Franks wants to go
4 back 11 years, I think that's kind of lame. I pleaded
5 misdemeanor, because if I pleaded felony, I would have lost
6 my business.

7 THE COURT: Okay. Thank you, Mr. Lolos;
8 I appreciate your statements.

9 THE DEFENDANT: I could lose everything,
10 Your Honor.

11 I have medical concerns.

12 THE COURT: Okay.

13 MR. FRANKS: May it please the Court?

14 THE COURT: Just briefly, Mr. Franks.

15 MR. FRANKS: I've worked with Mr. MacMahon, and
16 he's represented Mr. Lolos zealously [sic].

17 I may have failed miserably in describing why a
18 sentence of incarceration is appropriate here, but I think
19 Mr. Lolos has pretty much summed it up here.

20 If he gets mad again, he's not deterred. He
21 hasn't taken -- he's said that he's taken responsibility,
22 but he asked -- he talked about people to the left of him
23 and to the right of him and what other people were doing and
24 that he was going into the Capitol to talk to the police.

25 If something happens again regarding alleged voter

1 fraud, I would proffer that he's going to do this again;
2 he's not going to be deterred by probation.

3 So for all those reasons and what you just heard,
4 the government is requesting a sentence of incarceration
5 here.

6 THE DEFENDANT: Your Honor, if it pleases the
7 Court, I am deterred, I take full responsibility,
8 Your Honor, for going -- and I'm not making any excuses,
9 I just wanted to set the events in chronological order,
10 Your Honor.

11 My life is completely ruined.

12 Your Honor -- you don't need to pour salt on this
13 wound, Your Honor. I gave you my financials; they show you
14 I'm in the negative on this. I'm not getting any business,
15 hardly any business from January to current, Your Honor --
16 from January to current, saying that I beat up and I dragged
17 the police officer. But it's my responsibility.
18 I apologize for going in, Your Honor; I shouldn't have did
19 it.

20 The reason I said there's something to the right
21 of me, to the left of me was because I couldn't turn around
22 at that time. That's why I wanted to bring it to the order
23 of events.

24 But, Your Honor, I should have stayed outside, off
25 Capitol grounds, and I could have protested outside on the

1 streets, Your Honor. I could have did that.

2 And, no, I'm not going to do this again,
3 Your Honor. Trust me, I've been deterred already from the
4 jail and the roaches on my face and everyone else.
5 Your Honor, I've been deterred enough.

6 Your Honor, I'm asking for leniency. I'm asking
7 for mercy from the Court, Your Honor, from you and
8 Mr. Franks.

9 Your Honor, I could possibly even lose my business
10 and my licensures and my livelihood from this.

11 But, Your Honor, it is what it is. I did do it.
12 I did picket and protest on Capitol grounds.

13 And I'm sorry -- I want to say I'm sorry to the
14 families again, because I want to make sure I put that in
15 there. I saw on TV, people get -- law enforcement being
16 attacked, and that's wrong, that's wrong. I would have
17 stopped if I saw it.

18 THE COURT: All right. Thank you, Mr. Lolos.

19 All right. Hang on, everybody, for a few minutes,
20 I want to just collect my thoughts and I'll be back with you
21 in a couple minutes.

22 THE DEFENDANT: I would appreciate if it could be
23 deferred. If not, I understand, Your Honor. You're the man
24 in power, Your Honor; that you're trusted with doing this.

25 And I understand, Your Honor, it's your decision.

1 All I'm asking for mercy and leniency since my life has been
2 ruined. Again, I'm not trying to play a victim, I'm a
3 defendant.

4 THE COURT: All right. Thank you, Mr. Lolos.
5 Hang on everybody, okay?

6 THE DEFENDANT: Plead for mercy and leniency.

7 (Pause)

8 THE COURT: Okay, everyone.

9 Do we have everybody back?

10 Mr. Lolos, you're there, okay?

11 So the Guidelines do not apply to this matter
12 since Mr. Lolos has pled to a Class B misdemeanor;
13 nevertheless, I must consider all the factors that are set
14 forth in 18 U.S.C. 3553(a) and impose a sentence that's
15 sufficient but not greater than necessary to achieve the
16 objectives of sentencing set forth in the statute.

17 The factors I must consider are the nature and
18 circumstances of the offense and the history and
19 characteristics of the defendant, the need for the sentence
20 imposed to reflect the seriousness of the offense, to
21 promote respect for the law, and to provide just punishment
22 for the offense; also, to afford adequate deterrence, to
23 protect the public, and to provide the defendant with needed
24 education and vocational training or medical care, as well
25 as I must consider the kinds of sentences available and the

1 need to avoid unwarranted disparities.

2 Hang on, everybody. I just need to pull one thing
3 off the printer.

4 (Pause)

5 THE COURT: Sorry about that.

6 Let me begin with the history and characteristics
7 of Mr. Lolos:

8 He's 48 years old. I haven't really been told a
9 whole lot about his family or upbringing, even in the
10 Presentence Report or in the defense memo. What we do know
11 is that he doesn't appear to have completed high school, but
12 yet, much to his credit, he began a business, a security
13 business, over two decades ago. That has grown and
14 expanded. And from what I can tell, he has had some
15 financial success in that business. So that goes all to his
16 credit. And the letters of support. He has been an
17 honorable businessman and, I think, a good employer to his
18 employees.

19 Mr. Lolos doesn't have a prior conviction that can
20 be considered for purposes of sentencing. The government
21 and the PSR point out that in 2009, he did plead guilty to a
22 misdemeanor threats offense; however, through a deferred
23 sentencing agreement, that resulted in a dismissal of the
24 offense, so there is no prior conviction for the Court to
25 consider.

1 I also -- I'm really not in a position to
2 determine exactly what conduct was that Mr. Lolos engaged
3 in. We do have the proffer based upon probable cause, but
4 that's a probable cause determination, and that proffer
5 alone, without any actual acknowledgment by Mr. Lolos as to
6 what conduct he engaged in that is the basis for the plea,
7 I don't think makes it -- I can't -- I'm not able to make a
8 probable cause -- excuse me, a preponderance finding about
9 the conduct that Mr. Lolos engaged in back in 2009 that was
10 the basis of that plea that he entered.

11 We don't have plea colloquy, we don't have the
12 proffer of facts that Mr. Lolos admitted to, so I really
13 cannot accept or find that Mr. Lolos engaged in any kind of
14 prior threats on life, at least as the probable cause --
15 that essentially the affidavit in support of an arrest
16 warrant might suggest.

17 And so while I've taken into account the fact that
18 he's had this prior deferred sentencing, I can't quite give
19 it the weight that the government has asked me to, at least
20 in terms of the facts at issue there.

21 Let's talk for a minute about disparities.
22 I've gone through and I've looked at the list that the
23 government has provided. And I don't know that I need to go
24 through every single person on this list, but, suffice it to
25 say, I've actually reviewed the cases of every single person

1 that the government has recommended sentence for -- has
2 recommended a sentence of incarceration and tried to
3 determine those defendants relative to Mr. Lolos.

4 I will say that there are two defendants who did
5 receive 45-day sentences: Derek Jancart and Erik Rau. Both
6 got themselves all the way to the Speaker's conference room.
7 One had a gas mask. Both deleted messages on their
8 videos -- excuse me, in videos from their phone. Both were
9 inside for about 45 minutes. They received 45 days.

10 Mr. Lolos's conduct certainly doesn't rise to that level.

11 Mr. Hemenway and Mr. Bauer, who Mr. -- who the
12 government referred to earlier, both were inside -- they
13 both received 45 days. Both were inside the building for
14 less time than Mr. Lolos, 17 minutes; however, Mr. Hemenway
15 had a 2006 conviction for sexual battery, and had served an
16 extended sentence after a probation revocation; in fact,
17 I think he'd served almost two years. Mr. Bauer had had
18 prior multiple convictions, albeit for possession of various
19 narcotics. I don't think Mr. Lolos's past criminal history
20 rises to either of those two men.

21 There are also others who have received jail
22 sentences: Jennifer Ryan received 60 days. She was only in
23 for a short time, but her conduct while she was there
24 certainly is different than what we heard about Mr. Lolos.
25 She said things like, "Hang Mike Pence," participated in an

1 assault on media equipment after January 6th, and, in fact,
2 promoted her conduct on social media regularly after those
3 events.

4 Others in that sort of same category have received
5 home detention: Jack Griffith made his way to the Crypt; he
6 was there for about ten minutes. Eric Torrens also made his
7 way to the Crypt, also there for ten minutes.

8 Leonard Gruppo in the Crypt and Hall of Columns, inside for
9 about 6 minutes; deleted some evidence from his phone. All
10 of those individuals received 90 days' home detention.

11 Mr. Lolos obviously was in for a longer period of
12 time than any of those individuals.

13 Jordan Stotts, who's listed -- was actually in for
14 about an hour, and he did receive a 60-day home-confinement
15 sentence.

16 So I think in terms of the -- and I should
17 mention, Mr. Cordon, who's cited by defendant -- and I think
18 his case is very different. He was only inside for five
19 minutes. He realized he shouldn't have been there once he
20 was inside and then quickly left and took responsibility
21 pretty quickly afterwards.

22 So I think Mr. Lolos's conduct sort of falls
23 somewhere in between on the spectrum of those individuals
24 who have received 45 days, and those people who have
25 received 90 days' home-detention sentences.

1 You know, we can talk a little bit about his
2 actual conduct, which was, he entered the building through a
3 broken window, he remained inside that building, inside the
4 Capitol building for 43 minutes. It sounds like what he
5 largely did while he was inside was protest and flew a
6 Trump 2020 flag, and an American flag, remained in there
7 until he was confronted with armed police officers, who, as
8 Mr. Lolos has said, required him to leave the building.

9 But let me, if I can, just step back, and just
10 make two observations about the nature and circumstances of
11 the offense:

12 The first is, you know, a number of us on this
13 bench have commented about the events of that day. I have
14 not at this point, in part because this is my first
15 sentencing.

16 I don't think anybody should try to mitigate or
17 minimize what occurred on January the 6th. You know, what
18 I have often thought about when I think about those events
19 is people who have come to this country as immigrants,
20 people who have fled tyranny and oppression in other
21 countries and come to this country because of its respect
22 for the rule of law, because of its fair and free elections,
23 because of its peaceful transition of power. That has been
24 the uninterrupted history of this country for well over
25 200 years, uninterrupted until January the 6th.

1 It was a singular event. No single person was
2 necessarily responsible for it, but everybody who was there
3 and went into that Capitol building that day, and, frankly,
4 was even around the Capitol building that day contributed to
5 it.

6 And so the notion that this was a mere protest, an
7 expression of First Amendment rights, is just simply
8 incorrect. It was a criminal effort. It was a crime
9 committed by thousands of people -- hundreds of people, if
10 not thousands of people who descended on the Capitol that
11 day.

12 But what hasn't been, I think, talked about
13 enough, I think, is that there is something to be said,
14 particularly for people like Mr. Lolos, there is some
15 mitigation here. And the mitigation is that Mr. Lolos
16 didn't plan this episode. He didn't purposely come to
17 Washington, D.C. to storm the Capitol. The fact remains
18 that he and others were called to Washington, D.C. by an
19 elected official; he was prompted to walk to the Capitol by
20 an elected official.

21 People like Mr. Lolos were told lies, fed
22 falsehoods, and told that our election was stolen when it
23 clearly was not.

24 And regrettably, people like Mr. Lolos, for
25 whatever reason, who are impressionable and who believe such

1 falsehoods and such lies, took it to heart, and they are the
2 ones who are suffering the consequences.

3 We're here today deciding whether Mr. Lolos should
4 spend 30 days in jail, when those who created the conditions
5 that led to Mr. Lolos's conduct and led to the events of
6 January the 6th, in no meaningful sense, have been held to
7 account for their actions and their words.

8 In a sense, Mr. Lolos, I think you were a pawn,
9 you were a pawn in a game that was played and directed by
10 people who should have known better, and I think that
11 mitigates your conduct. I think, frankly, the fact that you
12 still sit here today and believe that this election was
13 stolen, that it was rife with fraud, is disappointing and
14 regrettable.

15 But at some level, not entirely without reason,
16 because once you hear people who should know better tell you
17 that an election was stolen, and they say it loudly enough
18 and frequently enough, it's not surprising that people will
19 believe it. And once they believe something, it's very
20 difficult for people to unbelieve what they hear.

21 But I will say, Mr. Lolos, that I'm disappointed
22 to hear a lot of what you have to say today. I understand
23 that you've taken responsibility for your conduct that
24 afternoon. But from where I sit, it still sounds like to me
25 that you believe that what happened that day really was not

1 that big a deal, and that's just wrong.

2 You weren't sort of compelled to go inside the
3 Capitol building, you weren't sort of forced to go in there
4 by a sea of people.

5 Once you were in there, you stayed in there,
6 I don't believe that you went in there to talk to police
7 officers, to tell them that the crowd outside was getting
8 bigger.

9 I don't believe that you were in there because you
10 thought that you were able to legally go in there and find a
11 place to protest. The tear gas, throngs of people, the
12 assaultive behavior that was going on all around you should
13 have told you otherwise.

14 You were there for 43 minutes, Mr. Lolos. You
15 weren't there for five, you weren't there for ten. You were
16 there for 43 minutes. And by your own admission, you didn't
17 leave until you were confronted with a battery of police
18 officers who were carrying weapons and told you to leave.

19 I have to say, I don't believe that you misspoke
20 when you left that building and said that "They left!
21 We did it!" And what you really meant is, "We left! We did
22 it!"

23 It doesn't make any sense. I believe you knew
24 exactly what you were saying, and that when you said
25 "They left!," you were referring to the members of Congress

1 who were disbanded while they were supposed to be voting on
2 and certifying the next President of the United States.

3 To your credit, Mr. Lolos, you did not destroy any
4 property, you didn't assault any police officers. And you
5 get credit for that, because there were a lot of people
6 there that day who did those things. And whatever restraint
7 you showed, I suppose you deserve some benefit for that,
8 although given that you haven't been charged with it, it's
9 hard to really see how much benefit should come from not
10 having done something you shouldn't have been doing in the
11 first place.

12 I do think the sentence that I impose ought to
13 reflect respect of the law, I think it ought to respect a
14 need to generally deter this kind of behavior, not just
15 walking into the Capitol building when you're not supposed
16 to, but actually the conduct that Mr. Lolos engaged in,
17 which is: Walking through a broken window, being part of a
18 mob of people, and then remaining in there for nearly
19 45 minutes, when anybody sensible should have understood
20 that they shouldn't have been there at all.

21 That kind of conduct needs to be deterred,
22 because, frankly, the reality is, conditions in our country
23 don't give me a lot of confidence that this kind of behavior
24 may not happen again, maybe not in this Capitol, maybe not
25 in Washington, D.C., but maybe somewhere else would, maybe

1 some other kind of politically motivated riot is certainly
2 not out of the question.

3 And whether Mr. Lolos decides ultimately to join
4 something like that or not, I certainly hope he doesn't.
5 One would hope that what he's gone through both in these
6 proceedings and the way he's been caricatured by some in the
7 media would tell him this is not something he will ever get
8 himself involved in again.

9 So taking all of those factors into account, the
10 sentence of the Court will be as follows:

11 It's the judgment of the Court that you,
12 John Lolos, are hereby sentenced to a term of 14 days of
13 imprisonment on Count 1.

14 In addition, you'll be ordered to pay a Special
15 Assessment of \$10 in accordance with 18 U.S.C. 3013.

16 You're also ordered to make restitution to the
17 Architect of the Capitol in the amount of \$500. The Court
18 determines that you do not have the ability to the pay
19 interest, and, therefore, waives any interest or penalties
20 that may accrue -- well, let me strike that.

21 You're ordered to make restitution to the
22 Architect of the Capitol in the amount of \$500. The Court
23 will not impose any interest, and, therefore, will waive any
24 interest or penalties that may accrue on the balance.

25 The restitution payments shall be made to the

1 Clerk of the Court for the United States District Court,
2 District of Columbia, for disbursement to the Architect of
3 the Capitol, the Office of Chief Financial Officer, to the
4 attention of Cathy Cheryl in the Ford House Building,
5 Room H2205B in Washington, D.C., 20015 in the amount of
6 \$500.

7 Mr. Lolos, you must pay the balance of any
8 restitution owed at a rate of no less than \$100 each month.

9 Financial obligations are immediately payable to
10 the Clerk of the Court for the U.S. District Court; that is,
11 the \$10, at 333 Constitution Avenue, Washington, D.C. 20001
12 is the ZIP Code.

13 Within 30 days of any change of address, you shall
14 notify the Clerk of the Court of the change until such time
15 as the financial obligation is paid in full.

16 There will be no supervision period, Mr. Lolos.
17 So once you serve your 14 days, there will be no further
18 supervision. You simply will be required to pay the
19 restitution amount and the \$10 Special Assessment to the
20 Court.

21 Pursuant to 18 U.S.C. 3752, you have the right to
22 appeal the sentence imposed by this Court if the period of
23 imprisonment is longer than the statutory maximum. If you
24 choose to appeal, you must file any appeal within 14 days
25 after the Court enters judgment.

1 Further, you also have the right to challenge the
2 conviction entered or the sentence imposed if new and
3 currently unavailable information becomes available to you
4 or on a claim that you received ineffective assistance of
5 counsel either in connection with your plea of guilty or in
6 connection with sentencing. If you're unable to afford the
7 cost of an appeal, you may request permission from the Court
8 to file an appeal without cost to you.

9 I will permit Mr. Lolos to self-surrender.

10 So what that means, Mr. Lolos, is that you will
11 remain on release under the current conditions and you
12 should be on the lookout for a letter that'll either go to
13 your counsel or come to you or -- it will -- you'll be
14 notified of where you need to report and when. You should
15 work with your counsel on making sure that letter -- when
16 you get that letter, that you make sure you turn yourself in
17 to serve your sentence.

18 All right. With that, are there any objections
19 that either side wishes to make on the record before we
20 conclude?

21 MR. FRANKS: Not an objection, Your Honor.

22 I think I may have misheard you.

23 Mr. Lolos pled guilty to Count 4 of the
24 information.

25 THE COURT: Yes, you're right. I'm sorry.

1 That was just brought to my attention. I was just -- yes,
2 you're right. I should correct that. It's Count 4 of the
3 information to which the sentence is 14 days, not Count 1.
4 I assume the government is dismissing the remaining counts
5 at this time?

6 MR. FRANKS: That's correct, Your Honor.

7 THE COURT: So Count 1 through 3 of the
8 information will be dismissed at this time.

9 MR. MacMAHON: Your Honor, the only other thing
10 that I would add is, Mr. Lolos does his -- I don't know when
11 he's going to get a notice to report, but if it conflicts
12 with something with his business, can I come back to the
13 Court and just ask?

14 THE COURT: You can, Mr. MacMahon.

15 If there's a reason to delay serving the sentence
16 out either for business or health reasons, you can come back
17 to me. Although I suspect it will be some weeks before he
18 gets that notice. And so whatever arrangements he need to
19 make, he ought to begin that process now.

20 MR. MacMAHON: Thank you, Your Honor.

21 THE COURT: All right.

22 Mr. Lolos, I know this isn't the news you wished
23 to have heard, but I think it is a fair and just sentence in
24 the circumstances.

25 I wish you luck, sir.

1 THE DEFENDANT: The two days I spent in D.C., can
2 I get those subtracted since I spent two days in D.C. jail
3 already, making it 12 days?

4 THE COURT: Yeah, I think that's fair.

5 Actually, I'm glad you raised.

6 You will get credit for the two days' served.

7 So the total sentence is 14 days, two days' credit
8 for that time served, after his arrest. And so we'll let
9 the Bureau of Prisons figure out exactly what that means to
10 you, okay? The judgment will reflect the credit for the
11 time already served post-arrest.

12 MR. MacMAHON: Thank you, Your Honor.

13 That was in our sentencing brief, but I --

14 THE COURT: Thank you for the reminder. I had
15 forgotten about that.

16 All right. Thank you all very much.

17 Mr. Lolos, I wish you well. Take care, and good
18 luck.

19 Thank you, everyone.

20 THE DEFENDANT: I hope when the video and audio
21 comes out --

22 MR. MacMAHON: Thank you, Your Honor.

23 THE DEFENDANT: -- it shows that I said to the
24 police officer, it's getting crowded outside. And though
25 you didn't believe me, Your Honor, the audio will say that.

1 Thank you for your time.

2 MR. MacMAHON: Mr. Lolos, the hearing is over.

3 Thank you.

4 THE COURT: Thank you, everyone.

5 THE DEFENDANT: All right. Thank you.

6 Concluded.

7 (Proceedings concluded at 3:27 p.m.)

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C E R T I F I C A T E

I, William P. Zaremba, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-titled matter.

Please note: This hearing occurred during the COVID-19 pandemic and is therefore subject to the technological limitations of court reporting remotely.

Date: November 22, 2021 /S/ William P. Zaremba

William P. Zaremba, RMR, CRR

<p>COURTROOM</p> <p>DEPUTY: [1] 3/2</p> <p>MR. FRANKS: [26] 3/14 3/24 9/12 9/20 10/14 12/24 13/8 13/11 13/18 15/6 15/8 16/19 17/6 17/9 18/5 18/15 18/19 18/22 19/1 19/4 19/9 19/14 46/13 46/15 61/21 62/6</p> <p>MR. 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