

EXHIBIT F:

Jesus D. Rivera and Shawn Bradley Witzemann Defendant's Initial Sentencing Memorandums prepared by Attorney Guy L. Womack Summary

SUMMARY: On November 1, 2022, Mr. Guy Womack of Womack and Associates, PC filed a factually inaccurate and unapproved Sentencing Memorandum on behalf of Shawn Bradley Witzemann in the matter of United States *v.* WITZEMANN (1:21-cr-00314).

The Sentencing Memorandum for Shawn Brandley Witzemann was primarily a “cut and paste” using language copied from the Sentencing Memorandum Jesus D. Rivera that Mr. Womack of Womack and Associates, PC previously filed on behalf of Jesus D. Rivera in the matter of United States *v.* RIVERA (1:21-cr-00060) on October 19, 2022. Since the language was wholesale copied from Mr. Jesus D. Rivera’s filing, there are numerous factually inaccurate statements in regards to Shawn Witzemann’s case.

Mr. Womack or Womack and Associates, PC did not provide Mr. Shawn Witzemann an opportunity to review the Sentencing Memorandum prior to being filed. Mr. Shawn Witzemann found that the Sentencing Memorandum on the public docket while reviewing his case. Mr. Shawn Witzemann informed Mr. Womack of the inaccuracies.

Mr. Shawn Bradley Witzemann considers the latest iteration of the filed Sentencing Memorandum to be an incomplete and an inadequate representation of the facts in the matter of United States *v.* WITZEMANN (1:21-cr-00314).

FACTUALLY INACCURATE STATEMENTS

1. “Mr. Witzemann, a cinematographer who operated a political blog and podcast, chose to attend the President’s speech and traveled from his home in New Mexico to Washington, DC. After attending the President’s speech and hearing the rally cry to “stop the steal,” Mr. Witzemann left the event and walked back towards his lodging in the city.”
 - Mr. Witzemann, is not a cinematographer, but an independent journalist and owner of Tribune Media International LLC. Mr. Witzemann operates and oversees multiple media and journalistic endeavors, and covered various protests throughout 2020. In furtherance of his journalism career, Mr. Witzemann travelled to Washington, DC for the third time within a 2-month timeframe, in order to document events. Mr. Witzemann did not respond to any rally cry to “stop the steal”, nor was his decision to go to the U.S. Capitol directly influenced by any such language. For hours ahead of and during the President’s speech, Mr. Witzemann repeatedly attempted to connect with OpsLens Media in order to open up a livestream, but technical difficulties continued to complicate his efforts. At approximately 12:56 PM, while the President was still speaking, Mr. Witzemann left the Washington Monument and began walking toward the U.S. Capitol in order to cover other protest events that were previously scheduled and planned with appropriate authorities.

2. “Upon learning that a large group who had attended the President’s speech had marched to the U.S. Capitol to protest the election, Mr. Witzemann walked there, carrying with him an iPhone for the purpose of capturing the protests.”
 - Mr. Witzemann understood from a variety of open sources that multiple protest events were previously scheduled and planned with appropriate authorities. Mr. Witzemann began walking to the U.S. Capitol in order to better position himself to provide live-stream coverage of those events. Mr. Witzemann did not decide to walk to the U.S. Capitol upon learning that a large group who had attended the President’s speech had marched there to protest the election.
3. “As was shown in the various videos and other camera footage at trial, Mr. Witzemann arrived at the Capitol grounds well after a large crowd had gathered and he witnessed the goings on.”
 - Various videos and other camera footage were not shown at trial because there was no trial in Mr. Witzemann’s case. This is a cut and paste from a previous Sentencing Memorandum completed by Mr. Witzemann’s attorney at the time, Guy Womack and Womack and Associates, PC. The sentence is verbatim from the Sentence Memorandum filed on behalf of Jesus D. Rivera in the matter of United States v. RIVERA (1:21-cr-00060) on October 19, 2022. Mr. Witzemann’s arrival at the Capitol grounds is not shown in various videos and other camera footage in the Government Sentencing Memorandum. Based on open source information and his own recollection of events, Mr. Witzemann arrived at the U.S. Capitol sometime between 1:10 PM and 2:05 PM.
4. “Mr. Witzemann was live-streaming what he saw and offered his own narration of events for his audience, a predominantly right-wing group who likely favored the protests.”
 - Mr. Witzemann’s audience at that time was not “predominantly right-wing”. Mr. Witzemann’s Instagram audience at that time was an eclectic mix of ideologies. Mr. Witzemann was live-streaming what he saw and offered his own narration of events for his audience, while also getting input from the crowd, as well as law enforcement, for his audience.
5. “He also saw protestors break windows and enter the Capitol, and he then followed them inside to continue videoing the event.”
 - Mr. Witzemann did not witness protestors breaking windows. Mr. Witzemann was not in the immediate vicinity when those breaches occurred. While live-streaming to his Instagram account, Mr. Witzemann observed a Senate wing door being opened from the inside and then followed along with a group of protestors as they entered the building. Shortly after his initial entrance, Mr. Witzemann had a conversation with a female Capitol Police officer wherein he identified himself as press. The officer said she understood, but then gave clear instruction for him to go back to where he had entered, and Mr. Witzemann complied with her clear instruction. Shortly after returning to the upper northwest terrace, Mr. Witzemann observed a large number of protestors entering the building through

another set of doors, so he followed along while continuing to live-stream for his Instagram audience.

6. “Mr. Witzemann thereafter exited the building where he had entered”
 - This is another cut and paste from a previous Sentencing Memorandum completed by Mr. Witzemann’s attorney at the time, Guy Womack and Womack and Associates, PC. The sentence is verbatim from the Sentence Memorandum filed on behalf of Jesus D. Rivera in the matter of United States v. RIVERA (1:21-cr-00060) on October 19, 2022. Mr. Witzemann did not exit the building where he had entered. As shown in Mr. Witzemann’s video and other camera footage included in the Government’s Sentencing Memorandum, Mr. Witzemann exited the building through the Memorial Doors, after receiving clear instruction from law enforcement.

7. “when he had started climbing a scaffold to get a better view, Mr. Witzemann was directed by a police officer not to climb the scaffold, and he immediately descended from the scaffold.”
 - Mr. Witzemann did not climb any scaffolding or any other architectural feature. Mr. Witzemann ascended stairways, in a nominal manner, to the top of the inauguration stage bleacher for the purpose of capturing live-stream video of the assembled crowd that was continuing to grow on the west side of the Capitol building. After reaching the top, Mr. Witzemann received clear instruction from a female Capitol Police officer to return to the upper northwest terrace. Mr. Witzemann immediately complied, descended the stairs in a nominal manner, and returned to the upper northwest terrace, as he had been instructed.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA §
 §
v. § CRIMINAL NO. 1:21-CR-00060-CKK
 §
JESUS D. RIVERA §

DEFENDANT'S SENTENCING MEMORANDUM

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Defendant, through Counsel, and submits this memorandum for This Honorable Court's consideration during sentencing. It is the position of the Defense that the proper sentence for Mr. Rivera is probation.

I.

FACTUAL BASIS OF THE OFFENSES

The Presidential election of November, 2020, was one of the most-contentious elections in recent American history. The electorate was divided in a manner rarely seen in our lifetime, and a large number of voters who favored the re-election of President Donald Trump believed the outcome of the election was invalid and the product of fraudulent actions by many persons and officials. The President, himself, claimed the election had been stolen and called upon members of both houses of Congress to reject the results and oppose validation of the Electoral College results.

In advance of the date of the official validation of the election, President Trump announced that he would address concerned voters in a speech the morning of January 6, 2021. This event was attended by thousands of persons, most of whom agreed with the President's allegation that the election had been stolen by fraud and deceit by the other party.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA §
 §
v. § CRIMINAL NO. 1:21-CR-00314-001
 §
SHAWN BRADLEY WITZEMANN §

DEFENDANT'S SENTENCING MEMORANDUM

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Defendant, through Counsel, and submits this memorandum for This Honorable Court's consideration during sentencing. It is the position of the Defense that the proper sentence for Mr. Witzemann is probation.

I.

FACTUAL BASIS OF THE OFFENSES

The Presidential election of November, 2020, was one of the most-contentious elections in recent American history. The electorate was divided in a manner rarely seen in our lifetime, and a large number of voters who favored the re-election of President Donald Trump believed the outcome of the election was invalid and the product of fraudulent actions by many persons and officials. The President, himself, claimed the election had been stolen and called upon members of both houses of Congress to reject the results and oppose validation of the Electoral College results.

In advance of the date of the official validation of the election, President Trump announced that he would address concerned voters in a speech the morning of January 6, 2021. This event was attended by thousands of persons, most of whom agreed with the President's allegation that the election had been stolen by fraud and deceit by the other party.

Mr. Rivera, a cinematographer who operated a political blog and podcast, chose to attend the President's speech and traveled from his home in Pensacola, Florida, to Washington, DC. After attending the President's speech and hearing the rally cry to "stop the steal," Mr. Rivera left the event and walked back towards his lodging in the city.

Upon learning that a large group who had attended the President's speech had marched to the U.S. Capitol to protest the election, Mr. Rivera walked there, carrying with him a professional Sony video camera for the purpose of capturing the protests.

As was shown in the various videos and other camera footage at trial, Mr. Rivera arrived at the Capitol grounds well after a large crowd had gathered and he witnessed the goings-on.

Mr. Rivera was live-streaming what he saw and offered his own narration of events for his audience, a predominantly right-wing group who likely favored the protests.

Mr. Rivera described in his narration the protestors walking up the steps and climbing walls to get to the entrances of the building. He also saw protestors break windows and enter the Capitol, and he then followed them inside to continue videoing the event.

Mr. Rivera entered the Capitol through a window, stood in the entry way for a few minutes, then followed the crowd through some of the building, including the Crypt area. It was there that Mr. Rivera questioned a member of the Capitol Police Force why they were allowing the protest to go on inside the Capitol. These were the only words Mr. Rivera spoke to any person inside the Capitol building. He did not say or do anything to encourage or incite violence or destruction of property, and the only words he said inside or outside the building, aside from the comment to the police officer, were his narration for the video.

Mr. Rivera thereafter exited the building where he had entered, without personally causing any disturbance or damage to public property. He did not enter closed chambers or offices, and

Mr. Witzemann, a cinematographer who operated a political blog and podcast, chose to attend the President's speech and traveled from his home in New Mexico to Washington, DC. After attending the President's speech and hearing the rally cry to "stop the steal," Mr. Witzemann left the event and walked back towards his lodging in the city.

Upon learning that a large group who had attended the President's speech had marched to the U.S. Capitol to protest the election, Mr. Witzemann walked there, carrying with him an iPhone for the purpose of capturing the protests.

As was shown in the various videos and other camera footage at trial, Mr. Witzemann arrived at the Capitol grounds well after a large crowd had gathered and he witnessed the goings-on.

Mr. Witzemann was live-streaming what he saw and offered his own narration of events for his audience, a predominantly right-wing group who likely favored the protests.

Mr. Witzemann described in his narration the protestors walking up the steps and climbing walls to get to the entrances of the building. He also saw protestors break windows and enter the Capitol, and he then followed them inside to continue videoing the event.

Mr. Witzemann entered the Capitol through an open doorway, stood in the entry way for a few minutes, then followed the crowd through some of the building, including the Crypt area. During this time, Mr. Witzemann said to a Capitol policeman, "Brother, stand with us." He did not say or do anything to encourage or incite violence or destruction of property, and the only words he said inside or outside the building, aside from the comment to the police officer, were his narration for the video.

Mr. Witzemann thereafter exited the building where he had entered, without personally causing any disturbance or damage to public property. He did not enter closed chambers or offices,

did not take anything from the Capitol premises.

II.

ADDITIONAL PERSONAL INFORMATION

Mr. Rivera offers additional information that we believe relevant to assessing punishment in this case.

As briefly mentioned in the PSI, Mr. Rivera served just under ten years in the U.S. Marine Corps. Omitted from the PSI is a description of his combat service and injuries which led to his diagnosis with Post Traumatic Stress Disorder ("PTSD") and his eventual 90% disability rating from the Department of Veterans Affairs.

Mr. Rivera deployed with his unit to Iraq in 2004, served at Camp Blue Diamond in the Al Assad region of Iraq, and returned to the U.S. in March of 2005. During his time in Iraq, he sustained three closed-head injuries from rocket and mortar attacks and one when a vehicle he was riding in struck an Improvised Explosive Device ("IED"). He also had less-serious knee and back injuries, which, when combined with his Traumatic Brain Injuries ("TBI") resulted in his being evaluated as 90% disabled. The nature is his injuries are such that it is likely he will eventually be rated at a 100% disability level.

Also attached are letters from individuals who have known Mr. Rivera through their interaction in church, attesting to his good character.

The Defense suggests that, considering all facts of Mr. Rivera's actions in this case, his personal circumstances and his good character, a sentence to probation would suffice to punish him, in accordance with the factors enumerated in Title 18, U.S. Code, Section 3553(a).

and did not take anything from the Capitol premises.

Also, Mr. Witzemann complied with every request or order given by police officers inside and around the Capitol building. For example, when he had started climbing a scaffold to get a better view, Mr. Witzemann was directed by a police officer not to climb the scaffold, and he immediately descended from the scaffold.

Also, as can be seen in the photos and videos inside the Capitol, Mr. Witzemann stayed within the velvet ropes while viewing statues and other control features while walking through the building. He never assaulted an officer, but was polite to all.

Contrary to the assertions of the Government that Mr. Witzemann should be punished for comments he made before and after the events of January 6, 2021, we would suggest that all such comments and observations made by Mr. Witzemann are protected speech under the First Amendment of our Constitution, and none, either alone or collectively, were such as to incite violence or destruction of property. He merely stated his opinions and beliefs.

II.

ADDITIONAL PERSONAL INFORMATION

Mr. Witzemann offers additional personal information that we believe relevant to assessing punishment in this case.

This information is contained within his 18-page, written statement to Your Honor, and will not be recited herein.

Also attached are letters from individuals who have known Mr. Witzemann through their interaction with him over the years, attesting to his good character.

The Defense suggests that, considering all facts of Mr. Witzemann's actions in this case, his personal circumstances and his good character, a sentence to probation would suffice to punish

III.

CONCLUSION

WHEREFORE, premises considered, The Defendant very respectfully requests that This Honorable Court sentence him to a term of probation.

Very respectfully,

/s/ Guy L. Womack
Guy L. Womack
Counsel for Defendant
Texas Bar No. 00788928
609 Heights Blvd.
Houston, Texas 77007
Tel: (713) 224-8815
Fax: (713) 224-8812
Guy.Womack@USA.net

CERTIFICATE OF SERVICE

A copy of the foregoing was delivered via CM/ECF to the U. S. Attorney's Office by ecf, filing this 17th day of October, 2022.

/s/ Guy L. Womack
Guy L. Womack

him, in accordance with the factors enumerated in Title 18, U.S. Code, Section 3553(a).

III.

CONCLUSION

WHEREFORE, premises considered, The Defendant very respectfully requests that This Honorable Court sentence him to a term of probation.

Very respectfully,

/s/ Guy L. Womack
Guy L. Womack
Counsel for Defendant
Texas Bar No. 00788928
609 Heights Blvd.
Houston, Texas 77007
Tel: (713) 224-8815
Fax: (713) 224-8812
Guy.Womack@USA.net

CERTIFICATE OF SERVICE

A copy of the foregoing was delivered via CM/ECF to the U. S. Attorney's Office by email this 1st day of November, 2022.

/s/ Guy L. Womack
Guy L. Womack