

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

UNITED STATES OF AMERICA,)	
<i>Plaintiff,</i>)	
)	
)	
v.)	
)	
)	Docket No.:0090 1:21-cr-00494-01(RC)
WILLIAM MICHAEL SYWAK,)	
<i>Defendants.</i>)	
)	

**DEFENDANT WILLIAM MICHAEL SYWAK’S REPLY TO GOVERNMENT’S
RESPONSE TO DEFENDANT’S SENTENCING MEMORANDUM**

DATED: Buffalo, New York
June 7, 2022

Respectfully submitted,

/s/Herbert L. Greenman

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PRELIMINARY STATEMENT

Defendant William Michael Sywak submits this Reply to the Government's Sentencing Memorandum dated May 27, 2022.

DEFENDANT'S REPLY

We leave to the Court's discretion whether Mr. Sywak may be sentenced to a "split sentence" based upon his plea to a Petty Class B Misdemeanor.

We do not find fault with the government's portrayal of the events on January 6, 2021 at the United States Capitol. Without doubt, the entrance into the Capitol was, in all respects, inappropriate and criminal. However, as it pertains to William Michael Sywak, we believe that a sentence which does not include a component of actual incarceration is an appropriate sentence in this case.

The government has spent significant time reviewing Mr. Sywak's criminal history. As the Court is aware, Mr. Sywak's upbringing was less than healthy. At a young age he became addicted to drugs and alcohol which marred much of his life. More recently, Mr. Sywak has taken appropriate action to rid himself of the scourge of drugs and alcohol. Today, he is substance-abuse free for the first time in many years. He continues his counseling with a dedication to his continued abstinence.

We do not make light of the fact that Mr. Sywak, by his own admission, committed a crime by entering into the Capitol. But a review of his own actions in entering, remaining and leaving the Capitol distinguish his criminal conduct from at least most of the other individuals who have pled guilty and were sentenced for their offenses.

Mr. Sywak did not go to Washington D.C. with his son with the intention of entering into the Capitol. That was never a consideration at all. Rather, they wanted to hear the former President speak. Upon arrival, the speech was over. Looking around, they realized that a crowd of people had moved toward the Capitol and, with some degree of curiosity, they walked toward that area. There is no doubt that Mr. Sywak should not have walked into the Capitol. He entered on his own volition and remained for a relatively short time. But what distinguishes him from virtually every other individual is the fact that he remained, for the most part, in one area. He did not demonstrate or chant, nor did he cause any damage to the Capitol itself. Rather, when he had a moment to reflect on whether he should stay inside the building, he took immediate steps to leave. He went to the closest door and asked the officer at the door to let him out. There were people outside the door but at Mr. Sywak's urging, the officer opened the door and let him exit. Mr. Sywak immediately left the Capitol grounds, looking for his son. While the government's memorandum takes great pains to portray Mr. Sywak as a bad person from his past conduct, it has virtually ignored any reference to how his conduct distinguishes him from that of others who have pled guilty and who have been sentenced.

Mr. Sywak continues to suffer from pain as a result of his previous injuries. He has continued to be treated for his afflictions. As well, Mr. Sywak faithfully attends his counseling sessions. There have been no stumbles on his road to recovery.

Finally, we ask the Court to take into account Mr. Sywak's attitude and his own comprehension of what he is done. He is, no doubt, disgusted with himself for many reasons. First, he entered into the Capitol with his son which has led to William Jason Sywak's own plea of guilty and upcoming sentence. He has rid himself of any thoughts of a "stolen election." He fully understands what took place and, in relatively short order, accepted responsibility through his plea

of guilty before Your Honor.

In our main memorandum we noted that the probation officer's recommendations of 30 days incarceration was not necessary to meet the goals of 18 USC §3553(a). Indeed, those goals, we believe, have mostly been met already. Mr. Sywak has, for the first time in many years, been able to adjust his life, stop using drugs and alcohol, maintain healthy thoughts, and restore his relationship with his mother, girlfriend and his young daughter who relies on him on a regular basis.

We respectfully ask the Court to consider alternatives to incarceration such as probation or other types of supervision which are available to the Court. We agree that home incarceration is a viable alternative to incarceration.

Mr. Sywak blames no one but himself for his illegal conduct. He is ashamed of what he has done. In fact, when interviewed by the United States Probation Officer relative to the preparation of the presentence report, he broke down crying when talking about his own acts. He disparaged himself for what he did. He knows he let his country down. We hope that the Court will allow Mr. Sywak to continue to move forward. He will live with the shame of having entered the United States Capitol illegally. He also lives, every day, with the fact that his son has also been prosecuted.

For the reasons set forth in our memorandum as well as in this Reply, we are respectfully urging the Court to sentence Mr. Sywak in a manner which not only accounts for his illegal acts and past criminal history, but, additionally, for the incredibly hard work he has put into himself. As a consequence, we are respectfully asking that the Court sentence Mr. Sywak accordingly.

CONCLUSION

In reviewing the Title 18 USC §3553(a)(1-7) Mr. Sywak understands the seriousness of his criminal act. He also understands that the Court will consider his past criminal history. However,

we ask the Court to at least in part understand his prior record in relation to his upbringing, as well as his addiction to drugs and alcohol.

We believe that Mr. Sywak is not a danger to anyone or the community and that the public does not need future protection from further crimes he may commit. It appears that he is on the road to recovery and that he will continue to find healthy ways to live his life. He is in the process of obtaining appropriate medical care as well as mental health treatment which will, no doubt, continue. He has also begun to make arrangements to obtain vocational training which will allow him to work in some capacity notwithstanding the nature of his serious injuries. There is no doubt but that this Court has the ability to fashion a sentence which takes into account all of the foregoing while keeping in mind the actual acts committed by Mr. Sywak.

Of course, there is no excuse for Mr. Sywak's entering into the Capitol. But he did not do so with the intent to cause destruction to the building or harm to any other individual. As he watched the acts of others, he soon understood that he had no right to continue to trespass and he made an effort to leave soon after he entered. He has made no excuses for his conduct. He has fully accepted responsibility.

As a consequence, we ask the Court to sentence Mr. Sywak accordingly.

DATED: June 7, 2022
Buffalo, New York

Respectfully submitted,

/s/Herbert L. Greenman

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