

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	Case No. 1:22-cr-243-001 (CKK)
v.	:	
	:	
JODI LYNN WILSON,	:	
	:	
Defendant	:	

**GOVERNMENT’S RESPONSE TO DEFENDANT’S  
MOTION FOR RECONSIDERATION OF SENTENCE**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this response and opposition to defendant’s motion for reconsideration of the sentence imposed by this Court at the defendant’s sentencing hearing on June 5, 2023, for the reasons set forth herein.

1. At the sentencing hearing, as defendant Jodi Wilson and her counsel have stated in their Motion for Reconsideration, this Court mistakenly believed that Wilson was interviewed by agents of the Federal Bureau of Investigation (“FBI”) following her December 14, 2022, plea hearing and contradicted statements that she made at the plea hearing. Wilson 7/10/23 Motion at ¶ 3.

2. Wilson’s attorney argues that “Wilson has always been consistent with her statements in that she believed she was allowed to enter into the U.S. Capitol, as she passed by a uniformed police officer and was not stopped. This was her statement to the FBI and at the time of the plea. *Id.* at ¶ 4. The government disagrees with this representation.

3. In fact, Wilson was interviewed by FBI agents on August 12, 2021. Initially, Wilson denied going inside the U.S. Capitol Building on January 6, 2021. After the agents showed Wilson surveillance photographs of her inside the building, she then falsely claimed that she asked for permission to enter the Capitol and that police officers “held the door open for” her, and that an

officer told her she could go inside “and I went in, and that’s all I did.” The government has reviewed video footage of the Rotunda doors where Wilson and others entered the Capitol and found nothing that corroborates her representation that she engaged in a conversation with any officer stationed at the Rotunda doors’ foyer and/or that the doors, broken by other rioters, were held open for her entry.

4. Furthermore, it is a fact that Wilson struggled at her plea hearing to respond to very specific questions posed by the Court with respect to whether Wilson knew at the time that she entered the Capitol that she was not allowed to enter the building. Her turmoil with facts occurred after, at the request of the Court, the government recited the facts set forth in the Statement of Offense filed with the Court that summarized Wilson’s egregious conduct on January 6, 2021, including the fact that Wilson joined her friends Gabriel Burrese and Madison Pettit and moved a rack that had previously been separating rioters from the U.S. Capitol, Statement of Offense at ¶ 10 (ECF No. 72),<sup>1</sup> joined other rioters on the steps on the East Front of the Capitol, then entered the Capitol after other rioters forcefully clashed with and overran United States Capitol Police and Metropolitan Police Department officers guarding the doors to the Capitol. Wilson 7/10/23 Motion, Exhibit A, Transcript at 7-11. The government concluded the summary by indicating that Wilson entered the Capitol at approximately 3:00 p.m., and exited at approximately 3:17 p.m. *Id.* at 11-12.

5. After the government’s statement of the case, this Court engaged in the following colloquy with Wilson and referenced paragraphs of the Statement of Offense:

THE COURT: So let me just start. Were you aware on January 6<sup>th</sup> that, in terms of the grounds, at least, of the Capitol, only authorized people were being allowed on to the grounds and into the U.S. Capitol. Were you aware of that?

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<sup>1</sup> The transcript from the December 14, 2022 plea hearing, inaccurately omits Wilson’s participation with Gabrielle Burrese and Madison Pettit in the removal of the bike rack that had previously separated rioters, including Wilson, from the United States Capitol.

THE DEFENDANT: I was.

...

THE COURT: In terms of paragraph 5, would you agree the crowd was not lawfully authorized to enter or remain in the Capitol, and they would not have had any security clearances or screenings, if they had gone into the Capitol. Would you agree with that?

THE DEFENDANT: Yes.

...

THE COURT: Okay. And were you standing, at one point, behind bike racks that were put up as barriers in order to keep people from going into the Capitol building on the east front of the Capitol?

THE DEFENDANT: Yes. At one point, yes.

THE COURT: All right. In Paragraph 10, you didn't see clashes between police officers and others, but at some point you noticed that the bike racks had been moved, and you and your friends moved the racks that had been previously separating the Capitol; is that correct?

THE DEFENDANT: Yes. We did not get it from a police officer. It came to us. Wait. It didn't come from a police officer. We didn't take it from a police officer. It was just sitting there. Everybody was pushing it back. So we just pushed it back, because it was coming back at us.

THE COURT: Okay. Were you aware that the rack was there to keep you out?

THE DEFENDANT: I mean, yeah, I guess. It was kind of unclear because somebody in the crowd had said they were going to let us in. I shouldn't have believed that person so –

THE COURT: Well, why don't we get to the nub of this. You eventually went into the Capitol; is that correct?

THE DEFENDANT: Yes.

THE COURT: Okay. When you went into the Capitol, were you aware that you were not authorized to be in the Capitol?

THE DEFENDANT: Yes. Yes.

...

THE COURT: ... Paragraph 10 on Page 4 has – I don't know whether you began to see the bike racks were moving but they moved. Did you make statements that are there? "We need everybody. We can't do this by ourselves. Get your asses down here and let's fucking do this. If you want to make some fucking noise, we got to get together to do this."

This related to moving racks to go forward when the police obviously didn't want you to. Would you agree with that?

THE DEFENDANT: Yes.

THE COURT: Your answer is ambiguous. Are you saying yes or no?

THE DEFENDANT: Yes. Yes.

THE COURT: Okay. All right. Paragraph 11, there are other people, rioters, on the steps of the front of the Capitol and they were clashing. But I take it you didn't see them clashing, but you could see police and people who were trying to get in. Would you agree with that?

THE DEFENDANT: Yes.

THE COURT: Would you also agree that police were overrun? They weren't able to guard the doors, so you along with the others, were able to enter the U.S. Capitol; is that correct?

THE DEFENDANT: Yes.

THE COURT: All right. And then once you got inside, you went from the Rotunda doors' foyer, into the Rotunda itself. Took a bunch of photographs, recorded video with your cell phones; is that correct?

THE DEFENDANT: Yes.

Wilson 7/10/23 Motion, Exhibit A, Transcript at 13-17.

6. The Court's inquiry led to numerous acknowledgements by Wilson. Indeed, she admitted that she engaged in all of the activity alleged in the Statement of Offense. Specifically, she admitted that she helped move a barricade that separated her and others from the Capitol. She knowingly and intentionally entered the Capitol to protest the certification of the election. However, she claimed that at the time she entered the Capitol she was "unclear" whether it was

unlawful to do so. This statement is dubious given the barricades that she acknowledged separated her and other rioters from the Capitol, the clashes that took place between rioters and the police on the East Front of the Capitol, and her awareness that rioters, including herself, entered the Capitol after the police were overrun. As if police officers willingly decided to allow rioters into the Capitol, rather than the situation being that the rioters, including Wilson, overwhelmed the officers and they simply did not resist the enormous flood of rioters that entered the Capitol without security screenings or other normal measures. Wilson wanted the Court to believe that she simply lacked clarity at the time she entered the Capitol under the circumstances as to whether she had authorization to do so and only gained clarity once she was already inside the Capitol and learned tear gas was being sprayed and a buzzer went off. *See* Wilson 7/10/23 Motion, Exhibit A, Transcript at 21. This is what was controversial at Wilson's plea hearing; under the circumstances, how could she have not realized in real time on January 6, 2021, that she did not have authority to enter the Capitol. Nevertheless, while admitting that she unlawfully protested inside the Capitol on January 6, 2021, she contradicted herself on several occasions and attempted to hold fast to a lack of clarity regarding her legal right to be inside the Capitol.

7. At times, Wilson admitted that she knew she was not authorized to be inside the Capitol, as indicated here:

THE COURT: Okay. When you went into the Capitol, were you aware that you were not authorized to be in the Capitol?

THE DEFENDANT: Yes. Yes.

Wilson 7/10/23 Motion, Exhibit A, Transcript at 16.

Yet, later into the plea hearing, Wilson responded to additional questions by the Court as follows:

THE COURT: And was it while you were in the Capitol, your presence in that, was that part of your protest?

THE DEFENDANT: Yes.

THE COURT: All right. And to act willfully and knowingly is to be aware and knowingly violate a legal obligation not to commit the charged offense. So were you aware that you – in other words, you knew what you were doing in terms of going into the Capitol, when you knew it was unauthorized to be there. Would that be accurate?

THE DEFENDANT: It was a little unclear at the time. So I want to say, yes. But there were a lot of police officers, you know, around that didn't say. You got to get out of here. I wasn't sure. You know? But looking back on it, at this point, yeah. I just was naïve and not really thinking properly.

THE COURT: Okay. But I think the problem is, you know, it has to be at the time you're actually agreeing when you went into the Capitol that you were not allowed to be in there. Are you indicating to me whether or not – I mean, frankly, I didn't hear that you knew at the time. It seems to be you knew afterwards, but that's not the point. And I don't want you to give me the answer that you think I want to hear. There were other things that would see [sic] to indicate to you that you were not supposed to be in there. Would you agree with that or not?

THE DEFENDANT: Yes. When they sprayed tear gas in the Capitol and a buzzer went off, yes. I realized it at that moment, so yes.

THE COURT: So are you indicating you didn't know before you went in but you knew once you were in or what are you indicating?

THE DEFENDANT: I knew – well – this was two years ago. I mean, I –

THE COURT: Well, it seems to me you either knew, Ms. Wilson, that you shouldn't have been in there when you went in, in or once you were in there, that [you] shouldn't have been there.

THE DEFENDANT: Yes.

THE COURT: If you didn't have that knowledge then, say so. If you did, then tell me that. I need to know whether you knew you shouldn't go into the Capitol, because you weren't authorized, you weren't lawful to be there and/or that once you were in the Capitol, you realized you were not authorized to be there and it was unlawful.

Wilson 7/10/23 Motion, Exhibit A, Transcript at 20-22. At this time, Wilson's counsel interrupted the Court's inquiry based on the belief that whether Wilson knew she was authorized or not to be

inside the Capitol was not relevant to the crime that Wilson was pleading guilty to, *Id.* at 22, and ignoring the fact that the Court had the discretion to gain a complete picture of Wilson's state of mind at or about the time that she committed the offense that she was charged with and was pleading guilty to. Furthermore, Wilson's state of mind was indeed a factor that the Court considered in fashioning the sentence for Wilson on June 5, 20123.

8. Nevertheless, Wilson entered into an agreement to plead guilty to Count Four of the Information which charged her with parading, demonstrating or picketing inside the U.S. Capitol. ECF No. 72. She was only prepared to admit to the elements of the offense, that is, that she (1) paraded, demonstrated, or picketed; (2) inside the U.S. Capitol Building; and (3) that she did so willfully and knowingly.

9. As the following part of the Court's colloquy demonstrates, Wilson admitted the facts that satisfied the elements of the offense that she intended to and did plead guilty to.

THE COURT: . . . So would you agree that you went into the Capitol, . . .

THE DEFENDANT: Yes.

THE COURT: And while you are in there, you were parading, as defined, or demonstrating, as defined – that I have given you in terms of being in there, to protest the certification of the election, which according to the certification, would have had not President Biden as the president and not President Trump; is that correct?

THE DEFENDANT: Yes.

THE COURT: Okay. So when you went into the Capitol, when you part of the crowd, I believe it was indicated that came to protest the certification; is that correct?

THE DEFENDANT: Yes.

THE COURT: And was it while you were in the Capitol, your presence in that, was that part of your protest?

THE DEFENDANT: Yes.

...

THE COURT: And would you agree that you went into the Capitol in order to protest the certification, along with the others?

THE DEFENDANT: Yes.

Wilson 7/10/23 Motion, Exhibit A, Transcript 19-20, 25.

10. While Wilson's Motion for Reconsideration appears to rest entirely on the Court's misunderstanding of what controversial statements the Court believes Wilson made, believing that they were made following the plea hearing, the record makes clear that the Court corrected the mistake prior to imposing the sentence. It appeared that the Court believed that Wilson made a statement to FBI agents following the plea hearing that were contrary to statements that she made at the plea hearing. Thus, the Court corrected the mistake by modifying its original sentence of 25 days' incarceration to 20 days' incarceration for this reason. However, Wilson has failed to establish a basis for further modification of the sentence.

11. Based on the government's sentencing memorandum filed in this case, which has already been considered by this Court, the government waives the opportunity to restate the facts and arguments. In that memorandum, the government advocated for a sentence of 28 days' incarceration based on all of the facts particular to this case. When the Court imposed the sentence of 20 days' incarceration, the government accepted the Court's decision to impose the lesser sentence. Now, the government opposes a further reduction of the sentence imposed in this case and believes that the facts that follow warrant this recommendation. Foremost, since the government filed the sentencing memorandum in this case, this Court presided over the sentencing hearing of Wilson's co-defendant, her son, Cole Andrew Temple. As the Court is aware, Wilson and Temple engaged in similar conduct, but Wilson was the leader and engaged in more egregious conduct, particularly prior to the two co-defendants entering the Capitol. As



the video evidence provided to the Court prior to Wilson's and Temple's sentencing hearings revealed, Wilson encouraged other rioters and aggressively chastised police officers manning the bicycle racks prior to her and others grabbing and moving the racks that enabled her and others' access into a restricted area on the East Front of the Capitol. The video evidence introduced at the sentencing hearing also contradicted Wilson's representation that police officers welcomed her and Temple into the Capitol and the government is unaware of any video footage that corroborates her version of her and Temple's entry to the Capitol. Consequently, at the sentencing hearing, the Court noted that Wilson's statements at the plea hearing demonstrated only a minimal amount of acceptance of responsibility., particularly when Wilson indicated her belief that her entry into the Capitol was permissible.

During Temple's sentencing hearing, he, unlike Wilson, took ownership of the fact that he knowingly and unlawfully entered the Capitol. He also acknowledged that he recorded himself stating, "Shits going down" and "Go ahead, say some shit," and "Just broke in this bitch" and posted the videos to Snapchat. Moreover, he informed this Court that he traveled to the District of Columbia with his mother, Jodi Wilson, and, while in the District, tried to protect Wilson when she engaged in aggressive behavior. Thus, his statements to this Court demonstrated that his role was not as significant as Wilson's.

Finally, reading the statements Wilson made to the Court at the time of the plea hearing refreshed memories of the manner in which she attempted to persuade the Court that she lacked awareness of her right to enter the Capitol on January 6, 2021. Her effort failed at the plea hearing and, later, at the sentencing hearing. There were simply far too many indicators that her presence beyond the barricades installed on the grounds of the Capitol not to mention the police manning the doors of the Capitol was unauthorized. Accordingly, her actions, beyond the crime

that she pled guilty to, were aggravating factors that the Court could and did consider at the time of sentencing.

12. At the conclusion of Temple's sentencing hearing, which, as indicated, followed this Court's sentencing of Wilson, this Court imposed a sentence of 14 days' incarceration, as part of a period of 36 months' probation. ECF Nos. 98-99. Because Wilson's conduct was more egregious than Temple's, the government submits that the sentence of 20 days' incarceration, as part of a period of 36 months' probation, is both justified and logical.

13. For the reasons stated herein, the defendant's Motion for Reconsideration should be denied.

Respectfully submitted,

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By: s/ Anita Eve  
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**CERTIFICATE OF SERVICE**

On this 22nd day of July 2023, a copy of the foregoing was served upon all parties listed on the Electronic Case Filing (ECF) System.

/s/ Anita Eve  
Assistant United States Attorney  
PA Bar. No. 45519