

VOLUME III  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

-----x  
UNITED STATES OF AMERICA

vs.

21-CR-140

LARRY RENDALL BROCK,

Defendant.

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Transcript of a Bench Trial held on  
November 16, 2022, at the E. Barrett Prettyman U.S.  
Courthouse, 333 Constitution Avenue, N.W.,  
Washington, D.C., the HONORABLE JOHN D. BATES,  
Senior Judge, Presiding.

A P P E A R A N C E S

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1 (Open Court, 10:03 a.m.)

2 THE CLERK: Your Honor, we have criminal action  
3 21-140, United States of America versus Larry Brock, and all  
4 counsel are present.

5 THE COURT: All right. Good morning to everybody.

6 MR. BURNHAM: Good morning, your Honor.

7 THE COURT: It's now my responsibility to rule on  
8 certain things. Under Criminal Rule 23, specifically 23(c)  
9 for a nonjury trial, I'm obliged to find whether defendant is  
10 guilty or not guilty on each of the charged offenses. That  
11 rule also provides that, if a party requests, then the Court  
12 must state its specific findings of fact in open court or in  
13 a written decision or opinion. No one's requested it, but  
14 I'm going to do it anyway and give you a fairly fulsome  
15 review of the case in ruling on what is my responsibility to  
16 rule on, which is resolution of the Rule 29 motion and, if  
17 that is denied, then addressing the defendant's guilt or  
18 innocence on each of the charges.

19 Now many motions and cases turn on resolution of  
20 factual issues. This case does not. There's little dispute  
21 as to what Mr. Brock said and what he did on January 6th,  
22 2021. The question is more what his statements and conduct  
23 mean and did his conduct on January 6th violate the law.  
24 These are largely questions of his intent and whether he  
25 acted knowingly in certain contexts.

1 I will say as I begin that for the most part, I  
2 reject the, what I'll call the innocent interpretations  
3 offered by the defense with little evidence in the record to  
4 support those positions.

5 So first with respect to Rule 29, Rule 29(a) of the  
6 Federal Rules of Criminal Procedure provides that "[a]fter  
7 the government closes its evidence or after the close of all  
8 the evidence, the Court on the defendant's motion must enter  
9 a judgment of acquittal of any offense for which the evidence  
10 is insufficient to sustain a conviction." Now I will treat  
11 the Rule 29 motion as it was made, which was at the close of  
12 the government's case, and as renewed at the close of the  
13 defense case, which consisted only of the introduction of a  
14 couple of exhibits. When ruling on a motion for judgment of  
15 acquittal, the Court must "consider[] the evidence in the  
16 light most favorable to the government and determin[e]  
17 whether, so read, it is sufficient to permit a rational trier  
18 of fact to find all of the essential elements of the crime  
19 beyond a reasonable doubt." And that's a quote from *United*  
20 *States v. Kayode*, 254 F.3d 204, jump cite 212-13, D.C.  
21 Circuit 2001, which itself is quoting *United States v.*  
22 *Harrington*, 108 F.3d 1460, jump cite 1464, D.C. Circuit 1997.  
23 The Court must "accord[] the government the benefit of all  
24 legitimate inferences" and deny the motion if "any rational  
25 trier of fact could have found the essential elements of the

1 crime beyond a reasonable doubt." *United States v. Jabr*,  
2 Criminal Number 18-0105, 2019 WL 13110682, at \*3, D.D.C.  
3 case, May 16, 2019. That itself quotes *United States v.*  
4 *Weisz*, 718 F.2d 413, jump cite 437, D.C. Circuit 1983, and  
5 *United States v. Arrington*, 309 F.3d 40, jump cite 48, D.C.  
6 Circuit 2002.

7 "The same standard guides a district court in  
8 resolving a Rule 29 motion whether in the context of a bench  
9 or jury trial." *Jabr*, at \*4. At the moment of deciding a  
10 motion for judgment of acquittal, "this Court is not the  
11 trier of fact," *United States v. Recognition Equipment, Inc.*,  
12 725 F.Supp. 587, jump cite 588, n.1, D.D.C. 1989.  
13 Accordingly, the Court is not yet stepping into the jury's  
14 shoes to assess the defendant's guilt or to make any findings  
15 about witness credibility but, rather, is "simply applying a  
16 legal standard to the government's evidence." *United States*  
17 *v. Recognition Equipment*, 725 F.Supp. at 588, n.1, that same  
18 citation.

19 The Court will deny Brock's motion for judgment of  
20 acquittal. I conclude that the Government presented  
21 sufficient evidence such that a rational fact finder could  
22 find beyond a reasonable doubt that all elements of each of  
23 the charges against Brock have been met. For the sake of  
24 brevity, however, the reasons for the Court's denial of the  
25 Rule 29(a) motion for judgment of acquittal are the same as

1 the reasons the Court will give in its findings and  
2 conclusions in deciding the case and the guilt or innocence  
3 of Mr. Brock. And that's consistent with the approach in  
4 *United States v. Rivera*, Criminal Case Number 21-060, ECF  
5 Number 63, taking the same approach in denying a Rule 29(a)  
6 motion in another January 6th case.

7 Here, in early January 2021, Mr. Brock traveled  
8 from Texas to Washington, D.C. where he participated in the  
9 riot at the United States Capitol on January 6th. And I'm  
10 now proceeding to address the case itself and the charged  
11 offenses and Mr. Brock's guilt or innocence on each of those  
12 charged offenses. The details of his participation were  
13 described by witnesses and through evidence presented in this  
14 trial over two days. Specifically, the Government alleges  
15 that his conduct on January 6th violated a number of federal  
16 statutes, as set out in the six counts in the superseding  
17 indictment: Count One, obstruction of an official proceeding  
18 and aiding and abetting in violation of Title 18 of the U.S.  
19 Code, Sections 1512(c)(2) and Section 2; Count Two, entering  
20 and remaining in a restricted building and grounds in  
21 violation of 18 U.S.C. Section 1752(a)(1); Count Three,  
22 disorderly and disruptive conduct in a restricted building or  
23 grounds in violation of 18 U.S.C. Section 1752(a)(2); Count  
24 Four, entering and remaining on the floor of Congress in  
25 violation of 40 U.S.C. Section 5104(e)(2)(A); Count Five,

1 disorderly conduct in a Capitol building in violation of 40  
2 U.S.C. Section 5104(e) (2) (D); and finally, Count Six,  
3 parading, demonstrating, or picketing in a Capitol building  
4 in violation of 40 U.S.C. Section 5104(e) (2) (G) .

5 So over the last two days, the Government called  
6 five witnesses: Sean Patton, a United States Capitol Police  
7 Captain; Elizabeth Glavey, a Secret Service agent who was  
8 assigned to then-Vice President Pence's detail; Nairobi  
9 Timberlake, a Capitol Police Sergeant, present on duty in the  
10 Capitol on January 6th; Maggie-May Humphrey, an MPD officer,  
11 also there on that day; and John Moore, a special agent with  
12 the FBI, the only one of the five witnesses who was not  
13 present at the Capitol on January 6th. The defense did not  
14 call any witnesses. Special Agent John Moore testified about  
15 Facebook messages that he recovered from Mr. Brock's account  
16 showing Mr. Brock's reaction to the November 2020 election,  
17 which he believed was a "fraud." Testimony from the other  
18 witnesses and videos illustrated the breach of the Capitol  
19 that occurred and tracked Mr. Brock's movements throughout  
20 the Capitol on the afternoon of January 6th, 2021. After  
21 considering all of this evidence and the arguments of counsel  
22 as well, for the reasons that I am now going to explain, I  
23 find Mr. Brock guilty on each of the six counts.

24 First with respect to Count One, obstruction of an  
25 official proceeding. Count One of the indictment charges

1 Mr. Brock with corruptly obstructing an official proceeding.  
2 To find him guilty of this offense, I must find the following  
3 four elements beyond a reasonable doubt:

4 First, that he attempted to or did obstruct or  
5 impede an official proceeding;

6 Second, that he acted with the intent to obstruct  
7 or impede the official proceeding;

8 Third, that he acted knowingly, with awareness that  
9 the natural and probable effect of his conduct would be to  
10 obstruct or impede the official proceeding; and

11 Fourth, that he acted corruptly.

12 First, Mr. Brock obstructed Congress' election  
13 certification. He was part of the large crowd of  
14 demonstrators who breached the Capitol on January 6th during  
15 the election certification proceedings. That's set out in  
16 Government's Exhibit 708. And I'm going to give citations to  
17 exhibits on occasion throughout this. As we heard from Agent  
18 Glavey, this breach caused Congress to adjourn its session  
19 because it was no longer safe for members of Congress to be  
20 in the Capitol. Glavey transcript at 37-41. And although  
21 Mr. Brock entered the Capitol after Congress had at least in  
22 part adjourned, he was part of the greater mob that breached  
23 the Capitol, which caused the proceedings to be adjourned and  
24 not to be continued in the short term. Government's  
25 Exhibit 708. Moreover, after breaching the Capitol,

1 Mr. Brock remained in the building for approximately 37  
2 minutes, during which time his presence, along with the  
3 presence of many others, continued to obstruct the proceeding  
4 by preventing Congress from reconvening. Government's  
5 Exhibit 708. In fact, Mr. Brock was on the floor of the  
6 Senate where the proceedings should have been occurring had  
7 the crowd not breached and entered the Capitol.

8 Other cases in this district have found that  
9 actions like that of Mr. Brock's constituted obstruction of  
10 an official proceeding. Examples, in *United States v.*  
11 *Reffitt*, Criminal Case Number 21-32, at 2022 WL 1404247, the  
12 Court upheld a jury's verdict that a defendant who did not  
13 even enter the Capitol building could nonetheless be found  
14 guilty under Section 1512(c)(2) because "by leading a crowd  
15 to breach the police line, [the defendant] helped to halt,  
16 and thus obstruct, Congress' Joint Session." In *United*  
17 *States v. Rivera*, Criminal Case Number 21-060, citation 2022  
18 WL 2187851, June 17th, 2022 decision, the Court rejected the  
19 defendant's arguments that he did not in fact obstruct  
20 congressional proceedings because both Houses of Congress had  
21 recessed by the time that he entered the Capitol. The Court  
22 found this argument failed because "proceedings could not  
23 recommence until the entire building was secured and cleared  
24 of rioters. Indeed, even the presence of one unauthorized  
25 person in the Capitol is reason to suspend Congressional



1 proceedings." That's jump cite in the *Rivera* case at \*6.  
2 The Court continued to explain that "[m]any rioters  
3 collectively disrupted Congressional proceedings, and each  
4 individual rioter contributed to that disruption." *Id.*,  
5 that's a citation to the same page in *Rivera*.

6 Moreover, in my earlier decision in this case,  
7 August 31st memorandum opinion denying various defense  
8 motions, I explained that "[t]he joint session continued to  
9 be obstructed, influenced, and impeded even after Vice  
10 President Pence and Members of Congress had fled, as it  
11 continued to remain in limbo as the January 6 mob flooded the  
12 Capitol throughout the day." *United States v. Brock*,  
13 Criminal Case Number 21-140, the citation 2022 WL 3910549.

14 Now second, Mr. Brock acted with the intent to  
15 obstruct or impede the election certification when he  
16 breached the Capitol building. His Facebook messages show  
17 that he intended to obstruct proceedings at the Capitol on  
18 January 6th. Some of the more probative messages include the  
19 following:

20 December 6, 2020, "We need to restore the  
21 Constitution and the best and shortest way is to go offensive  
22 on the Communists that stole it, aka the Democratic Party."  
23 That's Government's Exhibit 906.

24 December 18, 2020, "I want to actively rebel," in  
25 response, this was in response to his friend's message

1 regarding Biden "steal[ing] the election." Government's  
2 Exhibit 909.

3 Third, December 24th, 2020. Outlining a "Plan of  
4 Action if Congress fails to act on January 6th: Seize all  
5 democratic politicians and Biden and key staff."... "Do not  
6 kill LEO unless necessary." And LEO stands for law  
7 enforcement officers. So I'll repeat that. "Do not kill law  
8 enforcement officers unless necessary. Gas would assist in  
9 this if we can get it." Another quote, "Attempt to capture  
10 Democrats with knowledge of coup." And that's from  
11 Government's Exhibit 910.

12 Next, December 26, 2020, we're moving up towards  
13 January 6th, we're now about two weeks from January 6th.  
14 Little less than two weeks. "Those are the last two peaceful  
15 options," referring to Congress or the Supreme Court acting  
16 to overturn the election results. Government's Exhibit 911.

17 Next, December 27th, 2020. "I prefer outright  
18 insurrection at this point," in response to his friend saying  
19 that "[r]iots are for chimps." Mr. Brock then said that he  
20 "[b]ooked the hotel. Now need to book flights" to "DC on the  
21 5th-7th." That's Government's Exhibit 913.

22 Next, December 28, 2020, "Want to see some panic.  
23 Start playing the Purge Siren outside the Capitol on 6  
24 January 2021. Watch Nancy flee." That's Government's  
25 Exhibit 913 as well.

1           January 1st, 2021. "Help is on the way. 6  
2           January 2021. #MAGA, #StormtheCastle." That's Government's  
3           Exhibit 914.

4           And on January 5th, 2021, "Our second American  
5           Revolution begins in less than 2 days."

6           Going further, "Biden won't be inaugurated. We  
7           will ensure that on the 6th." Those are both from  
8           Government's Exhibit 915.

9           Taken together, these messages indicate that  
10          Mr. Brock came to the Capitol on January 6th with the intent  
11          to obstruct Congress' certification of the 2020 election  
12          results.

13          In addition, Mr. Brock's choice to outfit himself  
14          in tactical gear and a helmet shows that he expected that  
15          events might get violent inside or outside the Capitol on  
16          January 6th -- there is no evidence in the record that  
17          Mr. Brock wore this gear to protect himself from  
18          counter-protesters. There may be some evidence that there  
19          were occasional clashes in other contexts between protesters  
20          on one side and another but there's no evidence that that's  
21          why he wore this tactical gear, and I reject the unsupported  
22          view of defense counsel that that's the explanation for why  
23          he wore the tactical gear.

24          Further, it is implausible that Mr. Brock's intent  
25          was simply to support Congress members in objecting to the

1 election results. That is not consistent with his  
2 communications in advance of January 6th. And Mr. Brock's  
3 actions of breaching the Capitol building, which caused the  
4 proceedings to stop, meaning no Congress members could object  
5 because the proceeding had ceased, cannot reasonably be  
6 construed to be just in aid of Congress. Excuse me.

7 In any event, "[t]he law permits the factfinder to  
8 infer that a person intends the natural and probable  
9 consequences of their actions." That's from *United States v.*  
10 *Mejia*, 597 F.3d 1329, jump cite 1341, D.C. Circuit 2010, and  
11 it is reasonable that Mr. Brock would have expected that  
12 breaching the Capitol building during the election  
13 certification proceedings would cause those proceedings to  
14 halt during the period in which there were unauthorized  
15 people, many people, including himself, within the Capitol  
16 building roaming the halls of the Capitol and at the  
17 locations of events that were to take place in the Capitol in  
18 the context of certification of the election proceedings.

19 Third, Mr. Brock acted knowingly, with awareness  
20 that the natural and probable effect of his conduct would be  
21 to obstruct or impede the official proceeding. A person acts  
22 "knowingly" if he realizes what he is doing and is aware of  
23 the nature of his conduct, and does not act through  
24 ignorance, mistake, or accident. As discussed already in the  
25 second element, it is reasonable to conclude that Mr. Brock

1 was aware that his actions in entering the Capitol would have  
2 the probable effect of obstructing the election certification  
3 that day.

4 Fourth, I find that Mr. Brock acted corruptly.  
5 "[Courts] in this district have construed 'corruptly' to  
6 require a showing of dishonesty, an improper purpose, [or]  
7 consciousness of wrongdoing." And that's a quote from *United*  
8 *States v. Puma*, Criminal Case 21-0454, citation is 2022 WL  
9 823079, at \*10, a D.D.C. case decision, March 19, 2022. And  
10 that quotation was cleaned up a little bit. As discussed in  
11 the second element, Mr. Brock's Facebook messages support  
12 that he knew obstructing the election certification on  
13 January 6th was improper. Mr. Brock's Facebook posts leading  
14 up to January 6th suggest that he was prepared to break the  
15 law to achieve his goals -- saying, for example, "If  
16 necessary I aim to misbehave," that's Government's  
17 Exhibit 905, or that he thinks it may be necessary to  
18 "restore the Republic through force of arms," that's  
19 Government's Exhibit 908. Mr. Brock knew that some actions  
20 he contemplated were illegal -- describing a plan to have  
21 "several hundred[] thousand Patriots descend[] on dc refusing  
22 to let Biden be inaugurated," which his friend acknowledged  
23 would amount to "load[ing] up our trucks and go[ing] to DC  
24 and hop[ing] we don't get arrested." That's from  
25 Government's Exhibit 909. Specifically, in reference to

1 January 6th, he used the hashtag #StormtheCastle, indicating  
2 that he knew any attempts to enter the Capitol would require  
3 "storming" it, which would, of course, be illegal.  
4 Government's Exhibit 914. The messages also refer to  
5 Mr. Brock's desire to engage in "insurrection" and  
6 rebel[lion]," and also allude to taking violent action, such  
7 as "going offensive" on Democrats, "seiz[ing]" Democratic  
8 politicians, and even killing law enforcement officers "if  
9 necessary." Mr. Brock also refers to action by Congress or  
10 the Supreme Court as the "last two peaceful options" in  
11 response to what he perceived to be fraudulent election  
12 results. Moreover, as discussed above, Mr. Brock's outfit of  
13 tactical gear tends to show that he believed violence was a  
14 possibility at the Capitol on January 6th.

15 Now I don't necessarily believe that Mr. Brock  
16 intended to do everything that he said in his Facebook posts.  
17 I think it's unlikely that he did. Indeed, that would be a  
18 stretch to believe that he did. But there's enough in there  
19 to indicate that he clearly intended to take very purposeful  
20 actions to interfere with any certification of the election,  
21 and even to take actions that bordered on violent conduct and  
22 improper steps to impede the Congressional action of  
23 certification of the election.

24 Hence, for all these reasons, I find that Mr. -- I  
25 find Mr. Brock guilty on Count One, obstruction of an

1 official proceeding, and I find that beyond a reasonable  
2 doubt.

3 Count Two, which is entering or remaining in a  
4 restricted building or grounds. That's Title 18 of the U.S.  
5 Code Section 1752(a)(1). That count charges Mr. Brock with  
6 entering or remaining in a restricted building or grounds.  
7 To find him guilty, I must find the following elements beyond  
8 a reasonable doubt: That he entered or remained in a  
9 restricted building or grounds without lawful authority to do  
10 so; and that he did so knowingly.

11 First, Mr. Brock entered or remained in a  
12 restricted building or grounds without lawful authority to do  
13 so. A "restricted building or grounds" is defined as any  
14 posted, cordoned-off, or otherwise restricted area of a  
15 building or grounds where a person protected by the Secret  
16 Service is temporarily visiting. It is undisputed that  
17 Mr. Brock entered the Capitol building at 2:24 p.m. on  
18 January 6th and remained in the Capitol building for  
19 approximately 37 minutes. Government's Exhibit 708. And the  
20 evidence at large in this case establishes that. The parties  
21 do not, and could not, reasonably dispute that the Capitol  
22 building and parts of the Capitol grounds were restricted on  
23 January 6. Testimony from United States Capitol Police  
24 Captain Sean Patton showed that the innermost parts of the  
25 Capitol grounds were barricaded with snow fences, bike racks,

1 and at points with police lines on January 6th. And the  
2 Capitol building itself is restricted to unauthorized -- is  
3 restricted from entry by unauthorized persons, and  
4 unauthorized members of the public must go through security  
5 before entering the building. Mr. Brock was not authorized  
6 to enter the U.S. Capitol building on January 6th.

7 Second, Mr. Brock did so knowingly. It is  
8 reasonable that he would have observed the toppled  
9 barricades, including snow fences, bike racks, and the broken  
10 police lines that were protecting the perimeter of the  
11 Capitol grounds on January 6th as he approached the building.  
12 Those were in place early on the morning of January 6th.  
13 Ultimately, they were breached by the thousands of rioters  
14 who came to the Capitol. Mr. Brock was part of that mob and  
15 as he proceeded to the Capitol, there's no question that he  
16 would have observed those breached perimeters, including snow  
17 fences, bike racks, and the like. And indeed, he was then  
18 part of the mob that was stopped for several minutes by a  
19 police line at the Lower West Terrace, before that mob broke  
20 through and continued to the Capitol building. Moreover,  
21 once Mr. Brock reached the Capitol building, he entered  
22 through doors that had been forced open, that were flanked by  
23 windows that had been broken, broken out completely in some  
24 instances, and there were other demonstrators entering  
25 through the broken glass windows on either side of him as he



1 entered through the door that had also been broken open. The  
2 evidence shows that he would have observed rioters entering  
3 through those broken glass windows as he ascended to the  
4 Senate Wing Doors, since rioters first broke the windows  
5 approximately 11 minutes before Mr. Brock entered the  
6 building, and rioters are shown to have come through those  
7 windows shortly before and as Mr. Brock entered the building.  
8 Mr. Brock then remained in the Capitol for some time after  
9 seeing officers guarding the East Rotunda doors, this is in a  
10 later video exhibit, and those doors were flanked or included  
11 broken windows and he observed rioters attempting to break  
12 through to enter with police standing there to try to prevent  
13 them from doing so at those East Rotunda doors. So all of  
14 this evidence, taken together, is sufficient to prove that  
15 Mr. Brock knowingly, and without authority, entered the  
16 Capitol grounds and building which were restricted.

17 Hence, I find Mr. Brock guilty on Count Two,  
18 entering or remaining in a restricted building or grounds,  
19 beyond a reasonable doubt.

20 Count Three. Disorderly or disruptive conduct in a  
21 restricted building. This is Title 18 of the U.S. Code  
22 1752(a)(2). Count Three charges Mr. Brock with disorderly or  
23 disruptive conduct in a restricted building or grounds. To  
24 find him guilty, the Government must prove each of the  
25 following elements beyond a reasonable doubt:

1 First, that he engaged in disorderly or disruptive  
2 conduct in, or in proximity to, any restricted building;

3 Second, that he did so knowingly, and with the  
4 intent to impede or disrupt the orderly conduct of Government  
5 business or official functions; and

6 Third, that his conduct in fact impeded or  
7 disrupted the orderly conduct of government business or  
8 official functions.

9 First, Mr. Brock engaged in disorderly or  
10 disruptive conduct in, or in proximity to, any restricted  
11 building. For the reasons discussed with respect to Count  
12 Two, the Government has proved that the defendant's actions  
13 in the Capitol took place in a "restricted building or  
14 grounds." The terms "disorderly" and "disruptive" are not  
15 defined in the statute and are given their plain meanings.  
16 "Disorderly" conduct is that which "tends to disturb the  
17 public peace, offend public morals, or undermine public  
18 safety." That comes from the definition of disorderly in  
19 *Black's Law Dictionary*, 9th Edition, 2009. Examples of this  
20 conduct that have been included in jury instructions in other  
21 January 6th cases include when a person acts in such a manner  
22 as to cause another person to be in reasonable fear of harm,  
23 uses words likely to produce violence on the part of others,  
24 is unreasonably loud and disruptive under the circumstances,  
25 or interferes with another person by jostling against or

1 unnecessarily crowding that person. Conduct is "disruptive"  
2 if it interrupts an event, activity, or the normal course of  
3 process. That's the *Redbook*, Instruction 6.643.

4 "Disruptive" is thus a pretty low bar --  
5 particularly in the context of January 6th, when, in fact,  
6 there was a huge amount of disruption to the proceedings of  
7 Congress. In fact, one judge in this District has found  
8 that, "[e]ven mere presence in an unlawful mob or riot is  
9 both (1) 'disorderly' in the sense that it furthers the mob's  
10 'disturb[ing] the public peace' and (2) 'disruptive' insofar  
11 as it disturbs the normal and peaceful condition of the  
12 Capitol grounds and buildings, its official proceedings, and  
13 the safety of its lawful occupants." That comes from *United*  
14 *States v. Rivera*, which I think I've cited before, the  
15 specific jump cite is \*5.

16 This conclusion -- that mere presence in a mob  
17 rises to the level of disorderly or disruptive -- makes sense  
18 because of the nature of a mob, particularly the mob we're  
19 considering with respect to January 6th, 2021. A mob, like  
20 the one on January 6th, is made up of individual members, and  
21 each individual member increases its power and its disruptive  
22 force. As Judge Kollar-Kotelly explained in the *Rivera* case,  
23 "Just as heavy rains cause a flood in a field, each  
24 individual raindrop itself contributes to that flood. Only  
25 when all of the floodwaters subside is order restored to the

1 field." That's from the same jump cite at \*5.

2 Even if mere presence wasn't enough, Mr. Brock  
3 actually did more than just be present in the Capitol. He  
4 traveled throughout the Capitol to many different locations,  
5 wandering about, including going to some sensitive areas, one  
6 of which was the Senate floor itself. And that in itself  
7 would disrupt the proceedings. His presence on the Senate  
8 floor ensured that the certification continued to be  
9 disrupted because certain parts of the proceedings had to  
10 take place on the Senate floor. He also carried flex cuffs,  
11 he yelled, which would be construed and considered as  
12 unreasonably loud, one way that behavior may be disorderly,  
13 and that took place on the Senate floor, adding a further  
14 element of chaos and disruption to the events in the Capitol.

15 Mr. Brock engaged in disorderly and disruptive  
16 conduct knowingly, and with the intent to impede or disrupt  
17 the orderly conduct of government business or official  
18 functions. As to "knowingly," Mr. Brock could look around  
19 and realize that he was part of a mob. The evidence shows  
20 that he knew that Congress was certifying the election that  
21 day, a proceeding which would not be open to the public, and  
22 that he was not allowed on the Senate floor -- for example,  
23 at one point he tried to use keys, we don't know where the  
24 keys came from, but he tried to use keys to open a locked  
25 door labeled "United States Senate." Although he didn't know

1 it, people will be familiar with that door because the video  
2 that has been shown not only during this trial but frequently  
3 in the public media is the door through which the Vice  
4 President was escorted downstairs as he fled from the Senate  
5 Chamber. At one point, Mr. Brock observed Sergeant  
6 Timberlake in an altercation with other rioters. Although he  
7 was not involved in that altercation -- and in fact the  
8 evidence shows that he tried to calm the protesters -- he  
9 nevertheless continued to walk through the Capitol with full  
10 knowledge that law enforcement and the protesters were  
11 clashing at various points. Thus, I find that he acted  
12 knowingly and with full awareness of the consequences of his  
13 decisions.

14 For many of the same reasons, I also find that  
15 Mr. Brock acted "with the intent to impede or disrupt the  
16 orderly conduct of government business or official  
17 functions." While the language is not identical, that  
18 language coming from this provision of the 1752(a)(2), it's  
19 not identical to the language relevant to Count One, a  
20 finding that Mr. Brock acted with "intent to obstruct or  
21 impede an official proceeding" as required in Count One under  
22 Section 1512(c) would, in this case, necessarily mean that he  
23 also had intent to disrupt orderly government business for  
24 purposes of Count Three. The certification was both an  
25 "official proceeding" -- as required by Section 1512 -- and

1 an instance of "orderly conduct of government business or  
2 official functions," as required by Count Three. I  
3 accordingly find that the Government has proven this element  
4 beyond a reasonable doubt.

5 Finally, Mr. Brock's conduct in fact impeded or  
6 disrupted the orderly conduct of government business or  
7 official functions. As discussed in the discussion of Count  
8 One, the certification -- an official government function --  
9 was in fact impeded or disrupted. Simply by being in the  
10 mob, Mr. Brock's conduct assisted in disrupting the  
11 certification. But even further, his presence on the Senate  
12 floor necessarily disrupted the certification -- had the  
13 protesters, Mr. Brock included, cleared the Senate floor and  
14 the Capitol building, the certification would have continued.  
15 Which it did, but only much, much later in the day on  
16 January 6th; indeed, late in the evening. Hence, I find that  
17 his conduct did in fact impede or disrupt the orderly conduct  
18 of government business or official functions on that day.

19 Hence, I find Mr. Brock guilty on Count Three,  
20 disorderly or disruptive conduct in a restricted building,  
21 and I find that beyond a reasonable doubt.

22 Count Four, which charges Mr. Brock with entering  
23 and remaining on the floor of Congress in violation of Title  
24 40 of the U.S. Code, Section 5104(e)(2)(A). To find him  
25 guilty on this count, the Government must prove two elements

1 beyond a reasonable doubt:

2 First, that he entered or remained on the floor of  
3 a House of Congress without authorization to do so; and

4 Second, that he acted willfully and knowingly.

5 First, Mr. Brock entered or remained on the floor  
6 of a House of Congress without authorization to do so. The  
7 Government has proven this beyond a reasonable doubt -- video  
8 evidence shows him on the Senate floor, and he was not  
9 authorized to be there.

10 Second, Mr. Brock acted willfully and knowingly.  
11 As discussed earlier, Mr. Brock certainly knew that he was on  
12 the Senate floor. Indeed, he identifies the Vice President's  
13 chair which is where the Vice President sits when he is  
14 presiding over the certification in the Senate, and at one  
15 point, he sees a sign on a door to the floor labeled United  
16 States Senate.

17 The evidence also supports a finding Mr. Brock  
18 acted "willfully." "Willfully" requires the intent to do  
19 something that the law forbids, that is, to disobey or  
20 disregard the law. As discussed at length in Count One, his  
21 Facebook posts leading up to the January 6th events suggest  
22 that he was prepared to break the law to achieve his goals.  
23 While those messages were all hypotheticals, Mr. Brock's  
24 conduct on January 6th confirms that he knew he was not  
25 authorized to be on the Senate floor. He passed by police

1 while walking through the Capitol, including police guarding  
2 broken windows in the East Rotunda doors, and on the Senate  
3 floor, he yelled about the group's mission in coming to the  
4 Capitol: To stop the alleged stealing of the 2020 election,  
5 a mission he indicated in his Facebook messages he knew may  
6 have to happen with force and illegally. At one point, he  
7 uses keys to try to gain entry to a locked door clearly  
8 leading to the Senate floor. Given the context of  
9 January 6th and the scenes he walked by on his way into and  
10 around the Capitol, it is unfathomable that Brock believed  
11 that he was authorized to be on the Senate floor. Thus, I  
12 find that Mr. Brock entered and remained on the Senate floor  
13 willfully.

14 Hence, I find him guilty on Count Four, entering  
15 and remaining on the floor of Congress, beyond a reasonable  
16 doubt.

17 Count Five charges Mr. Brock with disorderly or  
18 disruptive conduct in a Capitol building, that's in violation  
19 of Title 40 of the U.S. Code, Section 5104(e)(2)(D). To find  
20 him guilty of this offense, the Government must prove three  
21 elements beyond a reasonable doubt:

22 Number one, that he engaged in disorderly or  
23 disruptive conduct in any of the United States Capitol  
24 buildings;

25 Number two, that he did so with the intent to



1     impede, disrupt, or disturb the orderly conduct of a session  
2     of Congress or either House of Congress;

3             And number three, that he acted willfully and  
4     knowingly.

5             For the reasons already discussed, Mr. Brock's  
6     "mere presence in an unlawful mob or riot," and specifically  
7     the mob at and in the Capitol on January 6th, was disorderly  
8     and disruptive. And that's consistent with the *United States*  
9     *v. Rivera* and I've cited before. Further, I've already  
10    concluded that his specific actions once inside the Capitol  
11    building were disruptive.

12            Second, Mr. Brock did so with the intent to impede,  
13    disrupt, or disturb the orderly conduct of a session of  
14    Congress or either House of Congress. According to a  
15    stipulation of the parties, on January 6th, "a joint session  
16    of Congress was convened to fulfill its constitutional and  
17    statutory responsibilities to count the Electoral College  
18    votes" and declare the winner of the 2020 Presidential  
19    election. That's Government's Exhibit 702, paragraph 4. In  
20    relation to Counts One and Three, I've concluded that  
21    Mr. Brock acted with intent to obstruct or impede an official  
22    proceeding, and with the intent to impede or disrupt the  
23    orderly conduct of government business or official functions.  
24    Again, that was his clear purpose as indicated in both his  
25    pre-January 6th statements and his conduct on January 6th.

1 For the reasons addressed in relation to those counts, I find  
2 that Mr. Brock's conduct assisted in the mob's disruption of  
3 the joint session of Congress convened to certify Electoral  
4 College votes. Accordingly, I conclude that Mr. Brock acted  
5 with the intent to disrupt the orderly conduct of a session  
6 of Congress.

7 Third, Mr. Brock acted willfully and knowingly.  
8 For the reasons given in relation to Count One, I have  
9 concluded that Mr. Brock obstructed an official proceeding --  
10 the certification of Electoral College votes in a Joint  
11 Session of Congress -- and that he did so "knowingly" and  
12 "corruptly." Courts in this district have defined the term  
13 "corruptly" to include acting with "consciousness of  
14 wrongdoing" or "improper purpose." One such case is *United*  
15 *States v. Puma* that I have cited before, and that's a jump  
16 cite at \*10. As discussed in reference to Count Four, a  
17 person acts "willfully" if he acts with the intent to do  
18 something that the law forbids, that is, to disobey or  
19 disregard the law. For the same reasons that I already  
20 determined that Mr. Brock obstructed the proceeding  
21 "knowingly" and "corruptly" because he acted with an  
22 understanding or awareness that what he was doing was wrong,  
23 I similarly conclude that he acted "knowingly" and  
24 "willfully" with the intent to do something the law forbids.

25 Hence, I find Mr. Brock guilty on Count Five of the

1 indictment, disorderly conduct in a Capitol building, beyond  
2 a reasonable doubt.

3 Lastly, Count Six, which charges the defendant with  
4 parading, demonstrating, or picketing in the -- in a Capitol  
5 building. To find Mr. Brock guilty of this offense, the  
6 Government must prove two elements beyond a reasonable doubt:

7 First, that Mr. Brock paraded, demonstrated or  
8 picketed in any of the United States Capitol buildings; and

9 Second, that he acted willfully and knowingly.

10 First, Mr. Brock demonstrated in the U.S. Capitol.  
11 The term "demonstrate" in the statute encompasses conduct  
12 that would disrupt the orderly business of Congress. See  
13 *Bynum v. United States Capitol Police Board*, 93 F.Supp.2d 50,  
14 jump cite 58, D.D.C. case from 2000. I've already concluded  
15 that Mr. Brock's actions while in the Capitol building  
16 obstructed an ongoing Congressional proceeding.

17 Moreover, Mr. Brock's arguments effectively concede  
18 that he was "demonstrating" in any colloquial sense of the  
19 term. He entered the U.S. Capitol building with a large  
20 crowd of individuals who had marched there from a political  
21 rally. They were at the Capitol protesting and attempting to  
22 stop the certification of Electoral College votes for  
23 President Biden, or then President-Elect Biden, or -- as  
24 Mr. Brock described in his Facebook posts -- to "stop the  
25 steal." Not only as they approached the Capitol, but as many

1 of them entered the Capitol, including Mr. Brock, they were  
2 engaged in a demonstration, both around and in the Capitol  
3 building that sought to, and in fact did, disrupt the orderly  
4 business of Congress. This was a demonstration in any common  
5 understanding of that term.

6 Second, Mr. Brock acted willfully and knowingly.  
7 For the reasons already discussed in relation to the prior  
8 counts, I conclude that Mr. Brock engaged in this  
9 demonstration "knowingly" and "willfully."

10 Hence, I find him guilty on Count Six of the  
11 indictment, which is parading, demonstrating, and picketing  
12 in a Capitol building, and I find that beyond a reasonable  
13 doubt.

14 With that, I have addressed all six of the counts  
15 and have found Mr. Brock guilty on each of those counts. And  
16 those findings are all based on the evidence of record in  
17 this case and on conclusions that I have reached beyond a  
18 reasonable doubt.

19 With that, anything from counsel before we set a  
20 sentencing date? Anything from the Government?

21 MS. AYERS-PEREZ: No, your Honor.

22 THE COURT: From the defense?

23 MR. BURNHAM: No, your Honor.

24 THE COURT: All right. We need to set a sentencing  
25 date, and in this jurisdiction, that's usually about three

1 months these days because of the number of cases that the  
2 probation office is dealing with. So if we go out three  
3 months from now, we'll be in February, a month that I have  
4 some obligations not only in this building but outside of  
5 this building. But Mr. Bradley, what do you see as a  
6 possibility?

7 THE CLERK: Judge, if my calculation is right, that  
8 falls on February 14th, 2023, February 14th.

9 THE COURT: I think I will be here on that date.  
10 It's a double holiday in my family, not only Valentine's Day,  
11 and I have another proceeding at 2:00.

12 THE CLERK: That's right.

13 THE COURT: So how's the morning of February 14th  
14 sound, first for the Government?

15 MS. AYERS-PEREZ: That works for the Government,  
16 your Honor.

17 THE COURT: And Mr. Burnham, for the defense?

18 MR. BURNHAM: Fine, your Honor.

19 THE COURT: All right. Let's do it at -- how about  
20 10:30?

21 MR. BURNHAM: Good for the defense.

22 THE COURT: February 14th, 10:30, and we'll need  
23 sentencing memos then in advance of that date and if I have  
24 them one week in advance on February 7th, that should be  
25 sufficient, so sentencing memos are due by February 7th,

1       2023. All right.

2               The only remaining question for me is then just to  
3 address the question of the defendant's status pending  
4 sentencing. Is there any request by the Government to change  
5 his status; in other words, to change from release under  
6 certain conditions?

7               MS. AYERS-PEREZ: There is not, your Honor.

8               THE COURT: All right. Any request from the  
9 defense to change any of those conditions?

10              MR. BURNHAM: No, your Honor. I just note for the  
11 record that he's done very well and your Honor has stepped  
12 him down several times, so --

13              THE COURT: Yes, he has done fine. I think there's  
14 been no problems of any consequence under the conditions that  
15 he's been subjected to, and I will continue him in that  
16 release under conditions and expect him to continue to comply  
17 with those conditions and I won't even give all the  
18 admonitions that I've given before because I know Mr. Brock  
19 will bear those in mind. And you now have a sentencing date  
20 on February 14th, it's at 10:30 in the morning, it will be in  
21 this courtroom, and you need to be present for that  
22 sentencing at that time. All right. With that, anything  
23 further today from the Government?

24              MS. AYERS-PEREZ: No, your Honor.

25              THE COURT: And from the defense?

1 MR. BURNHAM: No, your Honor.

2 THE COURT: All right. I will say to all counsel,  
3 thank you for the very excellent presentations. The evidence  
4 was presented fully and fairly, the arguments made  
5 conscientiously and creatively, and I appreciate that,  
6 commend you all for a job well done in presenting the case.  
7 Thank you all.

8 MR. BURNHAM: Thank you, your Honor.

9 (Court Adjourned, 10:56 a.m.)

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I, JODI L. HIBBARD, RPR, CRR, CSR, Federal  
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Dated this 28th day of November, 2022.

/S/ JODI L. HIBBARD

JODI L. HIBBARD, RPR, CRR, CSR  
Official U.S. Court Reporter