

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	.	
	.	
Plaintiff,	.	Docket No. CR 21-161-RBW
	.	
vs.	.	
	.	
DUSTIN THOMPSON,	.	Washington, D.C.
	.	Thursday, April 14 2022
Defendant.	.	
. . . . .	.x	9:04 a.m.

TRANSCRIPT OF JURY TRIAL - VOLUME 4 of 4

BEFORE THE HONORABLE SENIOR JUDGE REGGIE B. WALTON

UNITED STATES DISTRICT JUDGE

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7 Proceedings recorded by machine shorthand, transcript  
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**TABLE OF CONTENTS****WITNESSES****On behalf of the Government:**

	<b><u>Direct</u></b>	<b><u>Cross</u></b>	<b><u>Redirect</u></b>
Special Agent Brian Thomas			
(By Ms. Rozzoni)	574		
(By Mr. Shamansky)		582	

**MISCELLANY****Page No.:**

Closing Argument on behalf of the Government .....	585
Closing Argument on behalf of the Defendant .....	605
Rebuttal Argument on behalf of the Government .....	610
Jury Instructions by the Court .....	614
Jury Verdict.....	642

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1                                   P R O C E E D I N G S

2                   THE DEPUTY CLERK: Criminal Action 21-161, United  
3 States of America versus Dustin Thompson. Counsel, would  
4 you please identify yourselves for the record.

5                   MR. DREHER: Good morning, Your Honor, William  
6 Dreher for the United States.

7                   THE COURT: Good morning.

8                   MS. ROZZONI: Good morning, Your Honor, Jennifer  
9 Rozzoni for the United States.

10                  MR. SHAMANSKY: Good morning, Your Honor, Sam  
11 Shamansky, Donald Regensburger for Dustin Thompson.

12                  THE COURT: Good morning. My clerk provided you  
13 with a revised copy of the jury instructions. There were  
14 just a couple of questions I had. One regarding stricken  
15 evidence, and the last sentence of that instruction whether  
16 that needed to be changed. And that relates to exhibits to  
17 which I've sustained an objection. I don't know if anything  
18 of that nature occurred and whether that language is  
19 necessary or not.

20                  MR. DREHER: Your Honor, I think there were two  
21 occasions in which or maybe even just one occasion in which  
22 an exhibit that had not been entered into evidence  
23 momentarily flashed on the screen.

24                  THE COURT: Very well. I think you're right.  
25 I'll keep it there. And I guess actually the next

1 instruction on page 16, redacted documents and tapes. I  
2 don't know if that again applies. I mean, I know parts of  
3 tapes were only shown to the jury, but --

4 MR. DREHER: Your Honor, I believe that there is  
5 one document. I can check which one it is, but there's one  
6 document that was admitted that had some redactions of  
7 personal identifying information.

8 THE COURT: Very well. We'll leave it in then.  
9 And then the only other question I had is whether the  
10 defendant wanted the instruction 2.209 defendant as a  
11 witness instruction.

12 MR. SHAMANSKY: We do not, Your Honor.

13 THE COURT: Very well. One other thing I needed  
14 to address. I was concerned when I was watching TV last  
15 night, and Mr. Shamansky, you appeared on one of the MSNBC  
16 shows. I was actually about to switch to another channel,  
17 and I saw that they indicated you were going to be appearing  
18 on the show. And I must say I was taken aback by that.

19 I have never had that happened. I don't know if  
20 it's unethical, but it is concerning to me that a lawyer in  
21 the middle of a trial would do that. I'm sure if the shoe  
22 were on the other foot and the government lawyer had an  
23 interview with the media while the case was in progress I  
24 assume you wouldn't be real happy with that.

25 And there are a couple of aspects of what you said

1 that bothered me. One of those was the fact that you  
2 commented on the fact that you had desired to bring certain  
3 evidence i.e., the live testimony of former President Trump  
4 and others before the jury and that was denied. And the  
5 fact that you indicated you wanted to do that because you  
6 wanted to establish this purported conspiracy that existed  
7 among the former president and others to try to overturn the  
8 election.

9           The other concern I had was the fact that you at  
10 least suggested by saying that a number of people have ended  
11 up before the court charged with crimes who had no prior  
12 record suggesting that your client doesn't have a prior  
13 record when in fact he does. And the only way that that  
14 information could have come before the jury i.e., that he  
15 had no prior record, which is not true, would have been  
16 through the testimony of a character witness. And if a  
17 character witness had testified that would have clearly  
18 opened the door for the government to then query that  
19 witness about his or her knowledge about his conviction for  
20 trespassing out in Ohio.

21           I find it very troubling that a lawyer during the  
22 middle of a trial, even if it's not unethical, would think  
23 it appropriate to appear on TV and make statements of the  
24 nature that were made, especially in today's world when one  
25 of the biggest challenges that courts have is the ability to

1 keep a jury from not being tainted by information that they  
2 should not be aware of. Because it's information outside of  
3 the confines of the four walls of the courtroom.

4 And that's become a major challenge for courts all  
5 over the country. In that jurors are being tainted because  
6 of information being heard or seen by them that conceivably  
7 impair their ability to be fair and totally impartial,  
8 because they're getting extra judicial information fed to  
9 them through the media, social media, and otherwise.

10 MR. SHAMANSKY: Your Honor, if I might respond a  
11 second. My recollection A, is that I discussed nothing  
12 about the case, and I certainly don't remember discussing  
13 anything about my client's record although --

14 THE COURT: You said that people were caught up in  
15 what Trump was trying to do who don't have any prior record.  
16 And I think it could be reasonably inferred from that that  
17 you were referencing your client in addition to others.

18 MR. SHAMANSKY: He has no prior record, Your  
19 Honor, for what it's worth.

20 THE COURT: Well, he's got --

21 MR. SHAMANSKY: He's never been convicted of a  
22 criminal offense ever.

23 THE COURT: I understand, but the reality is that  
24 if you had tried -- the only way you could have gotten that  
25 type of information before the jury would have been through

1 character testimony. Because the fact that, no, you  
2 couldn't have asked him have you ever been charged or  
3 convicted of a crime. That's not appropriate testimony.

4 MR. SHAMANSKY: Nor would I have asked that.

5 THE COURT: Right.

6 MR. SHAMANSKY: And I didn't mention -- I mean, I  
7 took great pains not to talk about this case at all, nor do  
8 I believe that I did. Now I don't have a transcript of it  
9 or a recording, but I'll certainly go back and look at it.  
10 Number one, I don't believe that I mentioned anything about  
11 my client's record, nor did I intend to. And nor would I  
12 ever try to get information to a jury through a back door  
13 channel. I also don't believe, Your Honor, that I ever  
14 mentioned anything about trying to bring in witnesses or  
15 anything to do with jury --

16 THE COURT: You did. You specifically said  
17 because the interviewer specifically asked you if, why you  
18 didn't call President Trump and Giuliani. And you  
19 specifically said that you had sought to do that, but you  
20 were prohibited from doing that.

21 MR. SHAMANSKY: Well, if I said that then I was  
22 merely reflecting what the record, the court record  
23 reflects. I no way meant to --

24 THE COURT: Yeah, but the jury is not aware of the  
25 court record. I mean I'm sure you would not think it was

1 appropriate if the government had an interview and the  
2 government mentioned the fact there was evidence they wanted  
3 to bring before the jury, but they were precluded from doing  
4 that by the judge. I'm sure you would raise holy hell as  
5 you should.

6 MR. SHAMANSKY: I don't know if I would raise holy  
7 hell. And to the extent that --

8 THE COURT: I would if I were in your shoes. I  
9 was a defense lawyer once and I would have been infuriated  
10 if a prosecutor had gone on TV during the middle of the  
11 trial and made a statement of that nature.

12 MR. SHAMANSKY: Your Honor, to the extent the  
13 Court finds it inappropriate I apologize. I don't believe  
14 anything I said relative to this trial was out of line, nor  
15 was it intended to be directed to any member of the jury  
16 whom I'm sure following your admonition to a "T".

17 THE COURT: It will prompt me to change my general  
18 order. I assume you'll never appear before me, but I have  
19 and I did in the Scooter Libby trial and the Roger Clemens  
20 trial issue a gag order. But that gag order was ordered  
21 after the government, and I've always been critical of the  
22 government having courthouse steps interviews, just based  
23 upon the return of an indictment which the government did in  
24 both the Clemens trial and the Scooter Libby trial.

25 And in order to try and let the playing field be

1 leveled after the, at the arraignment I didn't say anything  
2 about that because I didn't want to inhibit the defense from  
3 being able to also have their two minutes of fame talking to  
4 the media and they did that. And then I called them in and  
5 I said I better not hear from either side making comments to  
6 the media again or there's going to be a price to pay.

7 But you have prompted me to change my general  
8 order to make it perfectly clear so that this doesn't happen  
9 again, although, it has not never happened in my 38, 39  
10 years as a judge where a lawyer thought during the middle of  
11 a trial was appropriate to have a communication on TV or  
12 otherwise with the media.

13 MR. SHAMANSKY: Very well. The only other thing I  
14 would add, Your Honor, relative to the last statement that  
15 you referenced is that every single article that I've read  
16 up until now relative to the press coverage of this case has  
17 of course, referenced that hot topic issue regarding witness  
18 appearance. And again, I apologize to the Court for  
19 violating what you believe to have been the spirit of fair  
20 play in this case and leave it at that. There's nothing  
21 more I can say.

22 THE COURT: Very well. I hope the jury didn't  
23 hear that. I'll specifically ask them whether they have had  
24 any contact with media coverage about this case since we  
25 recessed. Okay. Do we know if they're here?

1 [Brief pause.]

2 THE COURT: My law clerk advised me she did not.  
3 I thought she had sent it yesterday. She said she was  
4 waiting to hear from me if I had any additional changes.  
5 She hadn't provided the last version of the instructions  
6 last night, but she did provide them to you now.

7 [Brief pause.]

8 [Thereupon, Jury enters courtroom at 9:20 a.m.]

9 THE COURT: Good morning, you may be seated. Let  
10 me just ask whether any of you had any contact with any kind  
11 of media coverage about this case since we adjourned last  
12 night? If so, just raise your hands. Thank you.

13 Okay. We can proceed.

14 [Video speech of Donald Trump, Save America Rally  
15 March played.]

16 [Video stopped.]

17 THE COURT: Okay. Anything else?

18 MR. SHAMANSKY: Your Honor, at this juncture we  
19 rest. Thank you.

20 THE COURT: Very well. The defense has now  
21 completed its presentation of the evidence. Anything else  
22 from the government?

23 MS. ROZZONI: Yes, Your Honor. The government has  
24 one brief rebuttal witness.

25 THE COURT: Okay.

1 [Bench conference.]

2 THE COURT: Okay.

3 MS. ROZZONI: Your Honor, it's Special Agent Brian  
4 Thomas. He's going to discuss some GPS coordinates and  
5 Mr. Thompson's location the date, on January 6, 2021.

6 THE COURT: And what is that going to refute or  
7 rebut?

8 MS. ROZZONI: It's going to refute Mr. Thompson's  
9 assertion that he was at the speech by 10 a.m., and that he  
10 heard Mr. Giuliani's speech and what he had to say.

11 THE COURT: Okay. Do we have evidence in the  
12 record as to what Giuliani said?

13 MS. ROZZONI: We do.

14 THE COURT: And the time that he said it?

15 MS. ROZZONI: Exhibit 317, Your Honor.

16 THE COURT: Very well. Any objection?

17 MR. SHAMANSKY: No, sir, not at all.

18 THE COURT: Very well.

19 [Open court.]

20 THE COURT: The government has one rebuttal  
21 witness.

22 MS. ROZZONI: The government calls Special Agent  
23 Brian Thomas.

24 THE COURT: You may do so.

25 **REBUTTAL EXAMINATION**

1 BY MS. ROZZONI:

2 Q Good morning.

3 A Good morning.

4 Q Could you reintroduce yourself to the jury, please.

5 A Sure. My name is Special Agent Brian Thomas with the  
6 FBI.

7 Q And as you testified yesterday you're the investigating  
8 agent on this case?

9 A That's correct.

10 Q Okay. I'm going to bring you actually just where we  
11 left off to the speech by President Trump. You testified  
12 yesterday that that speech took place from -- well, actually  
13 why don't you tell the jury what, the timing of that speech?

14 A Sure. That speech took place on January 6th, and it  
15 started approximately 11:58 a.m. and it concluded around  
16 1:15 p.m.

17 Q Okay. And have you had an opportunity to look at that  
18 C-Span video that the jury just observed or watched for the  
19 last hour?

20 A Yes, I have.

21 Q And that C-Span video is it a continuous, I guess  
22 basically a continuous feed of the entire rally that  
23 morning?

24 A That's correct. It's a continuous feed of the entire  
25 rally to even include the dead times between speakers.

1 Q So if there was no one at the podium the camera was  
2 still on?

3 A That's correct.

4 Q So from your observation of that video were you able to  
5 determine when Rudolph Giuliani spoke to the crowd?

6 A Yes, I was able to do that by reviewing again the time  
7 and the gaps between when they were speaking that  
8 Mr. Giuliani start speaking approximately around 10:50 a.m.

9 Q I'm going to be putting before the jury what has been  
10 already marked and admitted as Government's Exhibit 317.  
11 Agent Thomas, what is Exhibit 317?

12 A Sure. This is a tweet from Twitter by an individual  
13 named Brandon Wang. And what we have here is a short clip  
14 from Mr. Giuliani's speech when he says, "Let's have trial  
15 by combat." And if you look at the bottom here you can see  
16 the timestamp of the tweet is approximately 10:53 a.m. on  
17 January 6th.

18 So again, you know, assuming it's going to take an  
19 individual a few seconds to at least post a clip, you can  
20 assume that Mr. Giuliani said "Let's have trial by combat,"  
21 slightly before 10:53 a.m.

22 Q I'll just play Exhibit 317.

23 [Rudy Giuliani video played.]

24 BY MS. ROZZONI:

25 Q Agent Thomas, I'm going to direct your attention now to

1 Exhibit 314. Exhibit 314 has already been marked and  
2 admitted. Can you describe to the jury what Exhibit 314 is?

3 A Sure. This is a Google Maps overview basically of,  
4 yes, basically what we have here is a Google Maps overlay,  
5 showing the latitude and longitude coordinates of  
6 Mr. Thompson's cellphone device basically. We requested  
7 this through legal process from Google and they provided it.  
8 And the yellow dots are representing various GPS waypoints  
9 that Google provided us of Mr. Thompson's cellphone's  
10 approximate location.

11 Q Okay. Just backing up for a moment, legal process was  
12 sent to Google, is that correct?

13 A That's correct.

14 Q Okay. And that legal process requested longitude and  
15 latitude information about Mr. Thompson's phone?

16 A Yes.

17 Q Okay. So location information, is that correct?

18 A Correct.

19 Q And so Exhibit 314, how many pages are in Exhibit 314,  
20 if you know?

21 A Four pages.

22 Q Okay. And right now we've got page four on the screen.  
23 What does this particularly show the jury?

24 A Sure. So this data again, we requested this data for  
25 January 6th specifically. And basically it's showing you

1 that around 10:23 a.m., Mr. Thompson's phone is located in  
2 Maryland, in the Silver Spring area. And as you can see  
3 after 10:23, it starts to move south towards the District of  
4 Columbia getting down to the area of interest kind of around  
5 11:04 a.m.

6 Q Okay. And then I'm going to back you up to, I'm going  
7 to back you up here to it's page 3 of Exhibit 314. What  
8 does this depict for the jury?

9 A So again, these are additional waypoints of  
10 Mr. Thompson's phone showing from approximately 11:06 to  
11 11:51. This is kind of showing the path of where he went  
12 once he arrived in the Washington, D.C. area.

13 Q And to orient the jury can you circle where the White  
14 House is on page 3 of Exhibit 314?

15 A [Witness complies.]

16 Q Okay. And for the record you've circled a building in  
17 the upper left corner of page 3 of Exhibit 314. And then  
18 can you also circle where the Washington monument is,  
19 please.

20 A [Witness complies.]

21 Q You've made a circle in the lower left-hand corner, is  
22 that correct?

23 A Yes.

24 Q Okay. Now I do have a question. It appears that from  
25 let's see, exhibit, excuse me, from between 11:24 and 11:51,

1 Mr. Thompson went across buildings. Can you explain that  
2 line and why that sometimes happens in these charts?

3 A Sure. With the geolocation data Google obtains this  
4 information from the phone beaming off of cellphone towers.  
5 Sometimes these geolocation coordinates are going to be very  
6 close to spot on, but other times you know based on the  
7 signal strength you're going to get a range. So it could be  
8 up to a thousand meters off. These are not specific  
9 locations. They're off by a minor variance, so he's not  
10 walking through buildings.

11 Q Okay. And so this was as you said page 3 is from 11:06  
12 to 11:51, and then going up to page 1 what does this depict?

13 A Sure. This is from approximately 12:04 p.m. to  
14 1:06 p.m. And there's additional geolocation points just  
15 kind of showing Mr. Thompson's whereabouts in the vicinity  
16 kind of in between the White House and the Washington  
17 monument just kind of walking from one side to the other.

18 Q And does this depict again a little bit of that  
19 variance that you were just discussing?

20 A Yes.

21 Q Okay. And finally, this is page two of Exhibit 314,  
22 what does this depict?

23 A This location data shows Mr. Thompson's approximate  
24 path from 1:10 p.m. to 2:23 p.m., just showing how he kind  
25 of goes up and around the White House till about 2 p.m.

1 before heading over towards Capitol grounds and arriving  
2 near Capitol grounds around 2:23.

3 Q Thank you. I'm now going to be showing what's been  
4 marked and admitted as Exhibit 313. Agent, was process also  
5 served on Uber?

6 A Yes.

7 Q What was that process requesting?

8 A It was requesting a, some private information for an  
9 account and all associated trip information for the account  
10 as well for Mr. Thompson.

11 Q Okay. So I'm putting up what has been marked and  
12 admitted as Exhibit 313. So was this one of the pieces of  
13 information that you received as a result of that service of  
14 process?

15 A Yes.

16 Q Okay. And what does this indicate to you that you --  
17 what does this indicate to you?

18 A Sure. This indicates this is Mr. Thompson's account.  
19 And I know that based on the account name, the phone number,  
20 and email address which have been stipulated as belonging to  
21 Mr. Thompson.

22 Q And this was a number of pages, is that correct?

23 A Yes.

24 Q Okay. And now I'm going to be putting up what has been  
25 previously marked and admitted as Exhibit 312. Can you

1 describe the information that is in Exhibit 312? First of  
2 all, where did it come from?

3 A Yes, it's from the Uber search warrant that was  
4 submitted. So what we have here is specifically we were  
5 interested in rides requested on January 6th, so we have  
6 here is the pick up time and the drop off time. So  
7 basically this shows that Mr. Thompson was picked up at  
8 10:33 a.m., and then if you look a few columns over here you  
9 can see drop off and inputted drop off locations or pick up  
10 locations, excuse me.

11 So pick up locations, so the actual pick up  
12 latitude and longitude that's provided that location comes  
13 back to by running through Google Maps. You can enter it,  
14 latitude and longitudes. It shows that he is picked up from  
15 an area right near a hotel in Silver Spring, Maryland at  
16 10:33 a.m. And then as the other timestamp indicates he is  
17 dropped off at 11:05 a.m. And if you go all the way over  
18 kind of to the end there it shows the actual drop off  
19 latitude and longitude. And this comes back to  
20 approximately the corner of Ninth and E Street which is  
21 right by FBI headquarters.

22 Q Thank you. And now I'm going to be putting up what has  
23 marked and admitted as Government's Exhibit 315. And before  
24 we go through it and I play it what is Exhibit 315?

25 A Again, this is the geolocation data of Mr. Thompson's

1 phone. And this is kind of an overlay showing his  
2 geolocation from 10:23 a.m. to 2:23 p.m.

3 Q Okay. But does it include -- there's a gap, correct,  
4 between 11:04 when he's dropped off and then the 1:10 p.m.?

5 A Yes.

6 Q So I'm going to play this once. [Video played.] I'll  
7 let that play out.

8 Now agent, just briefly talking about that yellow  
9 line, are those waypoints likely more accurate than the  
10 other waypoints that we looked at on those other, where the  
11 purple and the blue for those time periods that we talked  
12 about earlier?

13 A Yes, because he's in a vehicle moving down so it gives  
14 you more like straight path of the direction he's heading.

15 Q And it appears to follow exactly where a car would go?

16 A Yes.

17 Q And again, that happens with the GPS and coordinates  
18 and the information we receive, is that right?

19 A Yes.

20 Q I'm going to play this one more time [Video played.]  
21 Can you tell the jury the timestamp of where we've paused  
22 this?

23 A Yes, we're looking at 10:53 a.m.

24 Q And it's 23 seconds into this video on this exhibit, is  
25 that correct?

1 A Yes.

2 Q Okay. Where is Mr. Thompson at 10:53 a.m. on January  
3 6th?

4 A So this location would be considered the Petworth area  
5 of Washington, D.C. If you look to the right you can kind  
6 of see it's right next to where Children's National Hospital  
7 is located.

8 Q And about how far away is that area from where the  
9 rally was taking place?

10 A This is approximately four miles away from where the  
11 rally would be taking place.

12 Q So is Mr. Thompson at the rally at 10:53 a.m.?

13 A No, he was not.

14 MS. ROZZONI: That's all I have, Your Honor. Pass  
15 the witness.

16 THE COURT: Cross-examination.

17 **CROSS-EXAMINATION**

18 BY MR. SHAMANSKY:

19 Q Good morning, Agent Thomas.

20 A Good afternoon.

21 Q So the, are you aware if this rally Save America rally  
22 was broadcast?

23 A Yes.

24 Q It was on the radio, correct?

25 A I'm not sure if it was on the radio.

1 Q You didn't check into that fact? It was broadcast  
2 somehow though, right?

3 A It was broadcast as we saw on the video.

4 Q Right. So broadcast online maybe so anybody with a  
5 speaker and a cellphone device would be able to hear that  
6 Giuliani clip, correct?

7 A Correct.

8 Q Whether you were four miles away or 400 miles away?

9 A Correct.

10 MR. SHAMANSKY: That's all I have, thank you, sir.

11 THE COURT: Any redirect?

12 MR. SHAMANSKY: No redirect, Your Honor.

13 THE COURT: Anything else from the jury? Thank  
14 you, sir. Anything else from the government by way of  
15 rebuttal?

16 MS. ROZZONI: No, Your Honor.

17 THE COURT: We've now heard all the evidence you  
18 will hear in the case. We'll take a ten minute break, and  
19 then we'll proceed with the closing arguments.

20 [Thereupon, Jury exits courtroom at 10:37 a.m.]

21 THE COURT: As to the request as to the timing of  
22 when I give my final instructions. I give it after the  
23 closing arguments. I know a lot of judges do it ahead of  
24 time because if the lawyers want to cite the law then the  
25 jury would have already been told what the law is. I don't

1 do that because I provide counsel with written copies of the  
2 instructions.

3 So if you obviously desire to make reference to  
4 the law as long as you indicate verbatim what's in the  
5 written instructions I have no problems with you doing that.

6 MR. SHAMANSKY: We've conferred and I believe that  
7 government counsel will utilize some of the Court's  
8 instructions in its PowerPoint. We have no objection.

9 THE COURT: As long as it's verbatim of what the  
10 instructions will be I have no problem with that.

11 MR. SHAMANSKY: Yes, sir. Your Honor, the only  
12 last housekeeping issue is pursuant to the Court's order  
13 we're going to put the clip of Trump's speech only on a hard  
14 drive for I guess to substitute for Exhibit 331. Does that  
15 make sense?

16 MR. DREHER: Yes, Your Honor. The Government's  
17 Exhibit 331 is the clip, is actually the entire rally. So  
18 right now the government is trying to create a clip that is  
19 just the 70 minutes rather than of that speech rather than  
20 the entirety of it. If we're unable to do that the  
21 alternative would be if the jury ask I suppose to come out  
22 and have it played, we could have the timestamp from which  
23 to start the video.

24 THE COURT: Very well. In reference to all of the  
25 tapes I will make available a laptop for the jury to have in

1 the jury room, but in light of the number of video or audio  
2 tapes that we have if they want to listen to the, any of the  
3 tapes we'll bring them into the courtroom and play it for  
4 them here in the courtroom.

5 Anything else?

6 MR. SHAMANSKY: No, Your Honor.

7 MR. DREHER: No, Your Honor.

8 THE COURT: We'll take ten minutes and then we'll  
9 proceed.

10 [Thereupon, recess taken at 10:40 a.m., resuming  
11 at 10:57 a.m.]

12 [Thereupon, Jury enters courtroom at 10:59 a.m.]

13 THE COURT: You may be seated. We'll now have the  
14 closing argument of government counsel.

15 **CLOSING ARGUMENT ON BEHALF OF THE GOVERNMENT**

16 MR. DREHER: Ladies and gentlemen, this is an easy  
17 case. The only question in this case at this point is  
18 whether the defendant understood that he was doing something  
19 illegal when he was inside the Senate parliamentarian's  
20 office looting it.

21 Let me give you a quick refresher on what the  
22 defendant did that day and what he admitted on the stand.  
23 One, he walked into the U.S. Capitol building when he knew  
24 it was closed. Two, he admitted on the stand when he was  
25 asked, when I asked him, he admitted on the stand that he

1 knew at some point that it was unlawful to be there. He  
2 stole liquor. He stole a coat rack. He admitted that he  
3 looted the office. He stole a U.S. Capitol security radio.  
4 He admitted on the stand that there was a riot going on and  
5 he knew it.

6 And then he admitted that that night when he was  
7 confronted by two special agents and he didn't have a whole  
8 mob at his back, when it was just him and his buddy, Robert  
9 Lyon, and he had the coat rack with him, stolen property.  
10 He admitted that he ran away and he admitted that he ran  
11 away because he was afraid he was going to be arrested for  
12 what he'd done.

13 So yes, there is overwhelming proof that the  
14 defendant knew that what he had done that day in the Senate  
15 parliamentarian's office was illegal, but that's not all you  
16 have. Because then the defendant got up and testified. And  
17 he couldn't help himself, ladies and gentlemen. This whole  
18 case, this whole defense for them if you were to believe it  
19 was going to turn on how believable he was, how credible he  
20 was on the stand.

21 But even though the whole case turned on his  
22 credibility, Mr. Thompson got up and he took an oath and  
23 then he told you several things under oath that are not  
24 true. And that's on top of all the other things he said  
25 that just defy belief. They were incredible. And I will

1 walk you through some of the things that he said a little  
2 bit later, but I'm just going to start with one. The most  
3 recent one that you just heard about, and it's a big one.

4 When the defendant was testifying he said I got  
5 down to the rally at 10 a.m. I asked him again on  
6 cross-examination, you got down to the rally at 10 a.m.? He  
7 said yes, two times. He was asked by his own lawyer and by  
8 me whether he saw Rudy Giuliani say, "trial by combat," when  
9 he was at the rally. And then just to make sure there was  
10 no confusion about it, I asked him how he could see him. I  
11 asked him whether it was too loud from all the noise of the  
12 crowd around him, and he said no, I could hear him.

13 But he wasn't there when Rudy Giuliani said those  
14 things. He was in an Uber in Petworth. Not even at the  
15 rally yet. So on the key thing that's central to this  
16 defense, right, which is oh, the things I heard on the  
17 morning of January 6th, that may me think that the law no  
18 longer applied to the U.S. Capitol building. I guess I was  
19 forgot that it was illegal to steal because of what I heard.  
20 On that key thing he didn't even tell you the truth about  
21 what he had heard that morning. Okay.

22 And that's because all of his testimony was a  
23 story. The story that he's presenting to you now after the  
24 fact, right. It's a story that is not true and that does  
25 not hold up based on the evidence that you heard in court

1 today.

2 Based on his testimony you'd think what he did  
3 that day was everybody else's fault but his. The  
4 36-year-old married man with a college degree who's held  
5 many jobs, he apparently was the only one, according to him,  
6 who's not at fault for his own conduct that day. So yes,  
7 this is an easy case.

8 Now I am going to get to all the evidence that  
9 makes it very obvious why he knew it was unlawful what he  
10 was doing that day. First, it's our burden of proof, so I'm  
11 going to walk you through the other elements for each of the  
12 six counts just so you guys understand that those elements  
13 are stipulated, that there are not in dispute at this point.

14 All right. As I just said almost all the elements  
15 in this case have been stipulated between the parties. And  
16 as you heard the judge instruct you when we would read those  
17 stipulations you can take those as undisputed evidence. In  
18 fact, the parties agreed you can take it as having been  
19 proven beyond a reasonable doubt. All right. I'm going to  
20 start with two counts where the stipulations by themselves  
21 establish all of the elements. You don't even have to worry  
22 about this question of his testimony or anything like that  
23 for these two counts.

24 Let's start with Count Two, and that's theft of  
25 government property, stealing government property, the coat

1 rack. First element, did he take the coat rack? Yes, he  
2 stipulated it. Not only that he took it, he stipulated that  
3 he stole it. Second, did the coat rack belong to the United  
4 States? Yes, that's agreed by the parties. It's property  
5 of the United States. Third, did he intend to deprive  
6 without right the United States of the use of that coat  
7 rack? Well, I mean it's obvious, right, he still had the  
8 coat rack and tried to pick it up and walk away with it  
9 hours later. But yes, he also stipulated that he knew the  
10 coat rack was the property of the United States and he  
11 deprived the owner of the coat rack of its use.

12 Now it does say did he intend to deprive the  
13 United States without right of the coat rack, right? But  
14 that's what stealing is. Stealing is taking something  
15 without having the right to do it. So when he agreed and  
16 admitted that he stole that coat rack he was admitting he  
17 was taking that coat rack without right, so that's Count  
18 Two.

19 Count Four, same thing. First element, did  
20 Mr. Thompson engage in disorderly and disruptive conduct?  
21 Now you all saw the video of what he did in that  
22 parliamentarian's office. But in addition, he has  
23 stipulated his conduct was disorderly and disruptive in that  
24 office. What route did he intend to disrupt government  
25 business? And did he actually get to disrupt business? You

1 don't need to worry about that because the defendant has  
2 stipulated that each of those things are true, that he  
3 engaged in that conduct and that when he did so he intended  
4 to and did in fact disrupt government business.

5 Now again the evidence was also overwhelming on  
6 that that the official session of Congress was interrupted  
7 by the actions of these rioters including in that breach  
8 into the parliamentarian's office. All right. Lastly for  
9 this count, was his conduct in a restricted building or  
10 grounds? That's agreed, right. The U.S. Capitol was a  
11 restricted building that day, and the U.S. Capitol grounds  
12 were a restricted area. So for those two counts you don't  
13 really have to worry about anything else. The stipulations  
14 along establish those elements along with the overwhelming  
15 proof you've heard.

16 So now let's turn to the four counts where there's  
17 just this one remaining question, right, which is did he  
18 know what he was doing was illegal. All right. Count One,  
19 that's obstruction of an official proceeding. First  
20 element, did he obstruct or impede an official proceeding?  
21 He has stipulated it. Yes, I did impede and disrupt and  
22 obstruct the certification. And he's also stipulated that  
23 the certification of the 2020 presidential vote was an  
24 official proceeding.

25 All right, second element. It's going to use a

1 world that's a little bit unusual. And the question is  
2 going to be, did Mr. Thompson act corruptly? So what I've  
3 done is I've -- you'll hear an instruction from the judge on  
4 what that means, but what I've done is I have broken out  
5 what the various components of that instruction are.

6 So one, did he do something illegal or have an  
7 unlawful purpose? Well, he stipulated that he stole two  
8 bottles of liquor and that he stole a coat rack. Two, did  
9 he intend to obstruct or impede? Again stipulated that he  
10 intended to impede, disrupt, or obstruct the certification.  
11 And then three, did he have something called consciousness  
12 of wrongdoing? That and just means did he know that what he  
13 was doing that day was either wrong, for this count either  
14 wrong or illegal. All right. And that's the only question  
15 remaining for this count at this point.

16 All right. Count Three, pretty similar. Number  
17 one, did Mr. Thompson knowingly enter a restricted building  
18 or grounds that day? Again yes, it's been stipulated that  
19 he entered U.S. Capitol grounds. You saw him on video  
20 entering the U.S. Capitol itself. And it's stipulated that  
21 each of those things were restricted on January 6th of 2021.  
22 Second, did he have lawful authority to enter? Well, he  
23 stipulated that he wasn't authorized by the U.S. Capitol  
24 police to enter or any other law enforcement officers or  
25 staff and that he knew the building was closed. He admitted

1 in questioning he knew the building was closed.

2 And you will hear an instruction from the judge  
3 stating that neither former President Donald Trump nor  
4 Rudolph Giuliani actually had the power to authorize or make  
5 legal the alleged crimes in this case. So there is no  
6 question about whether former President Trump could actually  
7 make it legal for them to go do the things that they did,  
8 for Mr. Thompson to engage in the conduct he engaged in.  
9 That's not an issue. President Trump could not make that  
10 legal. So no, he did not have lawful authority to enter.

11 And then there's this last question: Did he know  
12 that he lacked lawful authority? Very similar to the last  
13 question, right. Did he know that what he was doing was  
14 illegal. All right. Count Five and Six, these will be  
15 pretty quick. One, first element was he inside the Capitol  
16 building? You saw him on tape. He agrees, he was inside  
17 the Capitol building. Two, was his conducted disorderly or  
18 disruptive? Again, he's agreed to that. Three, did Mr.  
19 Thompson intend to disrupt a session of Congress? He has  
20 agreed that that was his intent. And four, this is the only  
21 issue, did Mr. Thompson act willfully, okay, willfully?

22 You will hear an instruction from the Court about  
23 what willfully means. And what that instruction will tell  
24 you is that, I'm just going to pull it up here. A person  
25 acts willfully if he knew his conduct was unlawful and he

1 intended to do something that the law forbids. In other  
2 words, to find that a defendant acted willfully you must  
3 find the evidence proved beyond a reasonable doubt that the  
4 defendant acted with a purpose to disobey or disregard the  
5 law.

6 Again, if he knew that what he was doing was  
7 illegal and did it anyways that would satisfy this  
8 willfulness element. Count six, is the exact same issue.  
9 Was he inside the Capitol building? Yes. Did he  
10 demonstrate inside the Capitol building? And you'll hear an  
11 instruction indicating that to demonstrate means to engage  
12 in disruptive conduct that disrupts government business.  
13 And again he stipulated that his conduct was disruptive and  
14 disorderly. And lastly, did he act willfully? Okay.

15 All right. So for those four counts it really  
16 boils down to again, did he know he was engaging in unlawful  
17 conduct when he was inside the Senate parliamentarian's  
18 office when he stole those three items that he admitted he?  
19 Stole. All right. If you find beyond a reasonable doubt  
20 that he did then that's it. All six counts the proof that  
21 you've heard today and following the law would lead you to  
22 return a verdict of guilty.

23 But before we talk about the proof that you heard  
24 today I just want to clarify two legal issues for you.  
25 Because it's been the focus of much of this trial, it was

1 the focus of the defense attorney's opening statement, and  
2 then you just heard in an extremely long video of the former  
3 president's speech on the morning of January 6th.

4 The only defense that the defendant had for his  
5 conduct when he got up on the stand was to say this was not  
6 my fault. It was President Trump's fault, right, I thought  
7 I was following his orders. And at the beginning of this  
8 case defense counsel came up and he told you about all of  
9 the horrible things you were going to hear President Trump  
10 had done and that former President Trump had said on January  
11 6th.

12 He talked all about what Donald Trump. He pointed  
13 the finger at him again and again and again. So let's talk  
14 about why he was doing that and what he's doing. Defense  
15 counsel wants you to focus so much on what President Trump  
16 said on the morning of January 6th, because he wants you to  
17 forget what his client did on the afternoon of January 6th,  
18 when he was looting and ransacking an office within the  
19 United States Capitol building.

20 He wants you to choose between President Trump and  
21 his client, Mr. Thompson, right, that you can only find that  
22 one of them committed a crime that day. Or that one of them  
23 maybe is worse than the other. Ladies and gentlemen, you  
24 don't have to choose because this is not President Trump's  
25 criminal trial. This is the trial of Dustin Thompson, a

1 36-year-old man who went of his own accord to the United  
2 States Capitol. And this is the trial for Dustin Thompson  
3 because of what he did at that Capitol building on the  
4 afternoon of January 6th.

5 And that's what the judge is going to instruct you  
6 after we're done with our closing arguments. He will tell  
7 you it is not up to you, it is not up to you to decide  
8 whether anyone other than the defendant should be prosecuted  
9 for any of the crimes charged. The fact that another person  
10 also may be guilty is no defense to a criminal charge. And  
11 the question of the possible guilt of others should not  
12 enter your thinking as you decide whether this defendant has  
13 been proved guilty of the crimes charged.

14 Okay. As long as Mr. Thompson knew that what he  
15 was doing was illegal when he was in this office it doesn't,  
16 it is essentially irrelevant in this case what you think  
17 about President Trump's conduct on that day. So again you  
18 can believe and agree with almost everything the defense  
19 attorney said in his opening statement, right. You can  
20 think President Trump lied to the American people. You can  
21 think President Trump engineered this whole stolen election  
22 thing.

23 You can think that on the morning of January 6th,  
24 President Trump was encouraging the crowd. You can think  
25 that President Trump wanted them to go to the Capitol. You

1 can think that when they got to the Capitol they were doing  
2 things that made President Trump happy. You can even think  
3 that they did those things because of President Trump  
4 because that's not the question, right. The question is  
5 when they did those things did they know that it was  
6 illegal? And the answer to that question, ladies and  
7 gentlemen, is obvious.

8 All right. Now as I also mentioned you don't need  
9 to think about whether he had some kind of actual  
10 authorization from the president, okay. Because the judge  
11 is going to instruct you neither former President Donald  
12 Trump or Rudolph Giuliani actually had the power to make  
13 legal the alleged crimes charged in this case. Again,  
14 Mr. Trump could not get up there and authorize these crimes,  
15 so you don't have to worry about that.

16 All right. So let's talk about why it's so  
17 obvious that what he did that day, what he knew he was doing  
18 that day was illegal. I'm going to give you six reasons.  
19 There are many more, but I will try to keep it to these  
20 sick. Number one, he admitted it. He got up on the stand,  
21 and when I was asking him questions I asked him you were  
22 pepper sprayed. You were tear gassed. He said that yes, he  
23 could at least smell the pepper sprayed. He had been tear  
24 gassed.

25 And I said and you knew that's because the Capitol

1 police wanted you to leave the area. He said yes. And I  
2 asked him because you knew it was unlawful to be there and  
3 he said yes. So you can trust at least that admission from  
4 the defendant. That's enough right there. He was aware  
5 that it was unlawful to be there when he was there that day.

6 But this whole case is just common sense. How  
7 else do you know he knew what he was doing was illegal,  
8 because he's on tape stealing not once twice. He goes into  
9 the Capitol building he steals a bottle of liquor. That is  
10 looting, ladies and gentlemen. There is no connection  
11 between trying to steal a bottle of liquor and whatever he  
12 thinks President Trump told him to do on the morning of  
13 January 6. That is just looting behavior and he admitted  
14 that he looted that office when he was on the stand.

15 And he was 36 years old. He's a grown man. He's  
16 an adult. He told you I knew that it was illegal to steal  
17 in 2020 before January 6th. And then he said I knew it was  
18 illegal to steal on January 7th, the day after January 6th.  
19 So I guess the idea is just that one day when I actually did  
20 steal that's the day that he forgot that it was illegal to  
21 steal. That's not believable, ladies and gentlemen. It's  
22 not credible at all.

23 All right. Number three, his entire testimony was  
24 filled as I mentioned with these incredible statements. And  
25 for that reason you don't have to believe his testimony

1 about what he felt that day or why he was doing the things  
2 that he was doing. Some of the things that he said were  
3 just easy to disprove like where he was at 10:53 a.m., when  
4 Rudy Giuliani said those things. Not at the rally. In an  
5 Uber in Petworth.

6 But there were other things that he said that you  
7 may recall. Some of them were somewhat strange. He said  
8 that he found this bulletproof vest near the Washington  
9 monument. Found it and took it. And then do you remember  
10 when he said that he only put it on because he felt like it  
11 was easier to carry it that way than just by carrying it.  
12 No one made him take this bulletproof vest. Why would he  
13 take it and put it on, because he knew, he anticipated that  
14 there was going to be violence at the Capitol and he chose  
15 to go anyways.

16 And he didn't -- this was not some emotional spur  
17 of the moment choice either, right. There was, you saw  
18 this, this map. This shows his locations from when the  
19 speech ended until when he actually got to the United States  
20 Capitol building. Speech ended you heard around 1:15 p.m.  
21 Where is he at that time, still near the Washington  
22 monument. Then he goes all the way around the backside of  
23 the White House up near Farragut Square and comes back down  
24 Pennsylvania Avenue towards the Capitol building which he  
25 doesn't get to until after 2 o'clock p.m.

1           He had that whole hour as an adult to make the  
2 choice not to go steal those things at the Capitol, and he  
3 chose to do it anyways. And you remember he claimed at the  
4 time even though when I asked him about that, that even  
5 though he's a 36 year old adult, even though he had taken an  
6 Uber downtown earlier that day. He just wasn't sure if he  
7 could find his way home, right. He said I don't know if  
8 there were public buses. I didn't know about the Metro,  
9 right.

10           I asked him if he could stop for lunch and maybe  
11 just not go. He said, well, I don't know, I didn't see any  
12 places. I didn't see any places on that entire walk where I  
13 could have stopped and had lunch.

14           Ladies and gentlemen, these kinds of statements  
15 are not credible. Then he said when I got to the  
16 parliamentarian's office, when I got to the  
17 parliamentarian's office I was just there to observe.  
18 Remember when he said that? I was just there to observe.  
19 Well, here's what he was doing in the parliamentarian's  
20 office.

21           [Video played.]

22           MR. DREHER: Does that seem like just an observer  
23 to you? Then I asked him again and he admitted actually  
24 that he had looted that office while he was in there. Then  
25 he said he went to the north doors, the north doors, right,

1 where you heard Officer Marcus Reyes testify things were so  
2 desperate he had to use a fire extinguisher to try to keep  
3 these rioters out. And you saw the video of those rioters  
4 picking up the bike rack and ramming it into the doors of  
5 the Capitol, and there was the defendant right there, right  
6 next to those doors, right.

7 And when I, I asked him I said at this point you  
8 still wanted to go inside the building. And he said no,  
9 actually I left. I walked away at that point. That's  
10 interesting because you heard what was on his phone. And  
11 it's stipulated between the parties that he was in the  
12 vicinity of the north doors around 4 o'clock p.m. And what  
13 did he say? What did he text to his buddy Robert Lyon?  
14 Again, he said when he was on the stand he said he was there  
15 to observe. But at 4:03 p.m., he text his buddy, Robert  
16 Lyon, "going inside."

17 And then if you had any confusion what he was  
18 talking about when he said that he then three minutes later  
19 text a photo of the north doors with someone else pointing  
20 inside. So when he said no, no, no, I didn't really want to  
21 go inside at the north doors on the stand that was not  
22 credible. That was not true. It's belied by the statements  
23 he made, the text messages between him and his co-defendant  
24 that day.

25 Okay. And that gets me to the most ridiculous

1 statement that he made. And that was, I'm sure you remember  
2 this, when he said the only reason I took the coat rack was  
3 to protect U.S. Capitol police officers. I actually took  
4 that coat rack to prevent other rioters from using it as a  
5 weapon. That is absurd, ladies and gentlemen. He still had  
6 that coat rack three hours later, blocks away from the  
7 Capitol building.

8 And if he wanted to help the police he would not  
9 have been there that day. If he wanted to help the police  
10 he would have left and gone for good the first time they  
11 directed him out of the building rather than coming back in  
12 to steal the coat rack. If he wanted to help the police he  
13 would have left after that confrontation at the north doors  
14 with Officer Reyes. And if he wanted to help the police he  
15 would not have stood there for 20 minutes watching people  
16 viciously assault officers at the lower west tunnel.

17 Look, it's been a year, over a year since January  
18 6th, but Mr. Thompson when he got up on the stand did not  
19 have his story straight. His lawyer got up and told you  
20 Mr. Thompson's going to tell you the reason he did these  
21 things in the parliamentarian's office is because he thought  
22 he was ordered to do it by the president. But that's not  
23 really what Mr. Thompson testified to when he testified  
24 right.

25 When he was asked by his lawyer why did you steal

1 the coat rack? He said, I don't know. He didn't say  
2 because it was legal because the president had suspended all  
3 the laws and now stealing was legal inside the United States  
4 Capitol building, right. And then he told that story about  
5 actually wanting to protect other people. So the asserted  
6 defense here doesn't even make sense. It's not consistent  
7 with his own testimony. And when the proof is overwhelming  
8 and the defense doesn't make sense your job as the jury is  
9 very easy.

10 All right. Number four, what did he see when he  
11 was at the Capitol? He heard that loud ringing alarm. He  
12 saw the crowd inside. He said he didn't see the broken  
13 glass on the floor, but then he saw the photo of him  
14 standing right over it. He admitted he saw the broken glass  
15 inside the office. He saw everybody else in the  
16 parliamentarian's office looting that office. Anyone in  
17 there that day in that office knew that what was going on  
18 was illegal. There are the broken windows in the  
19 parliamentarian's office.

20 And he also admitted again he had been pepper  
21 sprayed and tear gassed that day, right. Not exactly things  
22 that normally happen to you using your common sense, ladies  
23 and gentlemen, when you enter a federal building lawfully.

24 Okay. Number five, what was Mr. Thompson told?  
25 These are the tear gas and pepper spray images that I was

1 just telling you about. What was Mr. Thompson told while he  
2 was at the Capitol, right. What did other people say to  
3 him? Well, you heard about some of these text messages.  
4 Mr. Lyon told him at 4:02 p.m., "We need to get the 'F' out  
5 with this trophy," you can infer is the coat rack, right.  
6 Mr. Lyon had it at that time. You saw him on CCTV footage.

7 Then Lyon says, "I'm about to get shot or arrested  
8 for this BS. People want it." Arrested, that's what he  
9 told Mr. Thompson, I'm about to get arrested for being in  
10 possession of this stolen property. That's at 4:03 p.m.  
11 Mr. Thompson didn't leave Capitol grounds for over an hour  
12 after that. He was still at the north doors. Mr. Thompson  
13 then said going inside. Mr. Lyon says, "some girl died  
14 already." And even though he heard that, Mr. Thompson says,  
15 "Was it Pelosi?" So Mr. Thompson had already been told at  
16 least someone had died in the Capitol building and that was  
17 his response.

18 Then at 4:24, his wife text this picture, picture  
19 of Trump saying or at least the quote says, "It's time to go  
20 home," right. And Mr. Thompson sent some text messages  
21 after this. He sent one at 4:56 p.m. saying, "I'm trying to  
22 take our country back." So if he could send those messages  
23 he could also receive those text messages. But at  
24 4:24 p.m., when he got this message did he go home? No.  
25 That's when he walked down to the lower West Terrace and

1 watched those officers being assaulted in the lower west  
2 tunnel. All right. And here's that assault.

3 [Video played.]

4 MR. DREHER: That brings you to number six. What  
5 did he do when he was finally confronted and he was not part  
6 of the mob, he ran away. He admitted on the stand he ran  
7 away because he was afraid of being arrested. Why was he  
8 afraid of being arrest? Because he knew that he had just  
9 committed crimes on U.S. Capitol grounds. And then what  
10 else, later that night after his buddy is stopped by the  
11 Capitol police.

12 His buddy sends him a text says, "maybe don't send  
13 incriminating shit to my phone, might get warranted." He's  
14 nervous maybe the police were going to look through his  
15 phone. What does incriminating mean? Something that  
16 suggests guilt. Something that is, that is evidence  
17 potentially of a crime. And how did Mr. Thompson reply to  
18 that text message, he said, you know, "well, I've got this  
19 photo. This photo of me on Capitol grounds with a stolen  
20 coat rack standing right next to me."

21 So look, ladies and gentlemen, this case is easy.  
22 The guy's on tape looting and stealing. He told you himself  
23 on the stand that at some point he knew it was unlawful to  
24 be there. And when he tried to get up on the stand and tell  
25 you this story he really thought it was okay. He couldn't

1 tell the truth about many of the things that he said. And  
2 including the most basic thing, right, what did he actually  
3 hear. Where was he the morning of January 6th, when he  
4 supposedly heard these statements that led him to go down  
5 there and do this stuff. He knew he was doing something  
6 illegal.

7 And when you follow the judge's instructions and  
8 you follow the evidence in this case you should return a  
9 verdict of guilty on all six counts. Thank you.

10 THE COURT: Defense may proceed.

11 MR. SHAMANSKY: Thank you, Judge Walton.

12 **CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT**

13 MR. SHAMANSKY: Ladies and gentlemen, good  
14 morning. I as does Mr. Thompson and Mr. Regensburger  
15 appreciate the attention and the commitment and the effort  
16 that you've shown thus far, and willing to hear the facts of  
17 this case and follow the law as Judge Walton gives it to  
18 you. That's all I'm going to ask you to do, nothing more,  
19 nothing less. I'll ask you to rely on your collective  
20 judgment and do in your hearts that which you know is right  
21 and is fair and is just. That's what this case is about.

22 Now curiously the government lawyers and we have  
23 agreed factually on most things. So Dustin Thompson has  
24 never sought to avoid responsibility for his conduct. In  
25 fact, he has stipulated. He has agreed to the conduct.

1 What the government may say is of course he did it's all on  
2 TV, and that's true. This shameful chapter in our history  
3 is all on TV.

4 And as you ponder the instructions that Judge  
5 Walton gives, which I know you will, you'll follow the  
6 instructions regarding reasonable doubt. You'll understand  
7 that on Counts Two and Four relative not only to the theft  
8 of government property, but also with respect to disorderly  
9 conduct not a whole lot of question about that. Should  
10 Dustin Thompson have swiped that coat rack and that bottle  
11 of booze, of course not. Was wrong and he knew it was  
12 wrong.

13 What I'm going to encourage you to do on Counts  
14 One, Three, Five, and Six is focus on the mental element,  
15 really the only issue that's at play here. And that is, did  
16 Mr. Thompson at least with respect to the first count did he  
17 behave corruptly? And you'll read Judge Walton's  
18 instructions. He's gone to great lengths to define these  
19 terms for you. You're all highly intelligent people and  
20 you'll read them and you'll think about what these words  
21 mean.

22 But a few days ago I stood up here and I explained  
23 to you the nature of our defense, and it hasn't changed.  
24 You think about human nature. You think about human  
25 behavior. You think about Dustin Thompson and you try to

1 put himself in his head because that's what I'll ask you to  
2 do.

3 And there's some red herrings here. The  
4 government lawyers are clever, of course. On cross of  
5 Mr. Thompson they asked, you know, was it loud? Could you  
6 hear? And what I'm going to ask you to consider is your  
7 collective recollection of that answer. He said I heard it  
8 because I had the radio. Does that make him a liar? No.  
9 Events that happened a year ago, is he the most scripted  
10 witness in the world? No. Did he have everything a 100  
11 percent straight? No.

12 Did he make maybe one of the most foolish  
13 statements that's I've heard in the courtroom for a while.  
14 I took that coat rack so somebody else wouldn't use it as a  
15 weapon. I mean that's foolish, right? It doesn't make much  
16 sense in the context of this case or in the context of this  
17 documented behavior. But it's probably not too hard to  
18 understand how Mr. Thompson situated as he is on this  
19 witness stand in this grand courtroom might try to minimize  
20 for whatever reason swiping that coat rack. It was wrong on  
21 every level. And he stipulated so nobody had to run around  
22 and try to prove that which is so apparent to us all.

23 But as you step back, as I want you to do, and you  
24 think about this Capitol, this building, the grandeur and  
25 the history of this city. When you think to yourself I've

1 got a man and a group of his supporters feeding information  
2 to folks about the election. Mr. Thompson testified in no  
3 uncertain terms he consumed these lies and this  
4 misinformation. All of which you folks saw repeated on that  
5 Trump video. All the buzz words. All the hatred of the  
6 immigration and the walls. The lies about the size of the  
7 crowd.

8           The subtle, you know, if you don't fight like hell  
9 we won't have a country anymore. Who says that? Who does  
10 that to a group of folks assembled at a Save America Rally?  
11 And if you look at those, many of those folks I mean you  
12 wouldn't want to be near them with a 100 foot pole. They  
13 were violent. They were full of rage. They were full of  
14 anger with their head tattoos and their horns and their  
15 outfits and their disrespect for law enforcement.

16           Those are the folks in large part that were  
17 gathered. And they're to be distinguished from folks like  
18 Dustin Thompson. And as you think about your own personal  
19 experiences, folks that you know who have been manipulated,  
20 whose heads have been twisted and fed with this dribble and  
21 these lies, bombarded with it. The vulnerable are seduced  
22 by the strong, and that's what happened here.

23           You had frankly a gangster who was in power and  
24 making his statements on stage. He wanted that group on  
25 January 6th, on the day that our elected officials were to

1 be certifying a vote he in a cold and calculating manner  
2 urged and implored and whipped up this crowd to march down  
3 Pennsylvania Avenue, and I'll be right there with you.  
4 That's precisely what Mr. Thompson did.

5 And that is probably the most difficult part of  
6 what the government calls an easy case. This would be an  
7 easy case if on his own Mr. Thompson had traveled from  
8 Columbus, Ohio to Washington, DC, and ran into that building  
9 and oh, stop, started throwing things around and looting and  
10 stealing. That would be an easy case. But here as you read  
11 Judge Walton's instructions, as I know you will, and they  
12 are accurate and 100 percent bona fide statements of law  
13 which you're duty bound to follow, you must focus on the  
14 element of corruptly and read what knowingly says, please.

15 And ask yourselves individually, collectively,  
16 working together whether or not Dustin Thompson as he sat  
17 and as he was situated on January 6th of last year was  
18 susceptible, was vulnerable, was at maybe his lowest point.  
19 And I'm not making excuses. We haven't done that. Dustin  
20 Thompson got up there and told you what he did. He said he  
21 was sorry.

22 And he said that whomever asked that intelligent  
23 question about when did you realize you were misled? Yeah,  
24 that's a good question. I wish I'd ask that. When did you  
25 realize you were misled? When did you realize you were

1 used? When did you realize that you were a pawn in this  
2 sick game? This assault on our democracy? This assault on  
3 our police officers? This assault on the integrity of the  
4 very soul of this country all for an evil and sinister man  
5 who would stop at nothing to get his way on January 6th?

6 It was a desperate measure and it worked. Because  
7 it cajoled Dustin Thompson out of work for a year, sitting  
8 at home. You heard his wife. You heard the government say,  
9 oh gee, basically you do anything to lie for him. No, she  
10 said I'm here to tell the truth, right. We didn't agree. I  
11 wish he'd never gone. He was sitting at home for a year.  
12 He wanted to go. I got him a hotel room.

13 And what's the reason Dustin was here? You know  
14 the reasons. You folks know why he came. You folks know  
15 what was asked of him. I'm going to ask you in your hearts  
16 and in your heads to do the right thing. Thank you very  
17 much.

18 THE COURT: Government.

19 **REBUTTAL ARGUMENT ON BEHALF OF THE GOVERNMENT**

20 MR. DREHER: What did I tell you, ladies and  
21 gentlemen. Pointing the finger at Donald Trump because  
22 defense counsel doesn't want you to think about what his  
23 client did that day.

24 There's only one question that you are to consider  
25 at this point, right. The judge is going to read you an

1 instruction. It's going to say you -- "neither former  
2 President Donald Trump nor Rudy Giuliani actually had the  
3 power to authorize or make legal the alleged crimes charged  
4 in this case." And he's going to read you another  
5 instruction and that's going to say, "it's not up to you to  
6 decide whether anyone other than the defendant should be  
7 prosecuted for any of the crimes charged. The fact that  
8 another person also may be guilty is no defense to a  
9 criminal charge."

10 Mr. Thompson admitted on the stand that he knew  
11 when he was on Capitol grounds that it was unlawful based on  
12 the actions of the police. It's obvious he knew it was  
13 unlawful. And that's the only question you have to answer.  
14 This sideshow about the defense attorney trying to make you  
15 mad about President Trump is just a sideshow. It's not  
16 something that you can permissibly consider in construing  
17 the evidence and determining whether the government has  
18 proven all of those elements beyond a reasonable doubt.

19 I'll even go further, as I said you can agree with  
20 95 percent of what the defense attorney has told you. You  
21 can be mad about what happened that day. You can think what  
22 President Trump did was wrong. You can think that what he  
23 said that day led them to go do what they did. It doesn't  
24 matter as long as you find, if you find that Mr. Thompson  
25 knew that what he was doing was unlawful.

1           He's 36 years old on January 6th. He's married.  
2           He's got college degrees. He's an adult not a child.  
3           President Trump didn't hold his hand as he walked down to  
4           the Capitol to loot and defile the Senate parliamentarian's  
5           office, when he stole those things. That's what this case  
6           is about. Find him guilty based on the evidence, based on  
7           the law. Maybe that will help him in this case understand  
8           that what happened that day was criminal. Thank you.

9           THE COURT: Let me give the court reporter a ten  
10          minute break and I'll give you the instructions of law.  
11          We'll take a ten minute break.

12                 [Thereupon, Jury exits courtroom at 11:44 a.m.]

13          THE COURT: Okay. We'll take ten minutes. One  
14          moment. I wasn't sure -- you can be seated. But at some  
15          point couple times during the trial it appeared to me that  
16          juror number 14 might have been sleeping. I know a couple  
17          of times she had her head down and it appeared she was not  
18          fully alert. I don't know if counsel saw that or not, but I  
19          meant to mention it earlier because I saw it during the  
20          testimony and I saw it again during the argument, but I  
21          don't know if counsel wants to weigh in.

22          MR. SHAMANSKY: Your Honor, I didn't notice that.  
23          That was not the juror that worked late?

24          THE COURT: The one all the way at the end on the  
25          top row at the end.

1           MR. SHAMANSKY: I think at this point there's not  
2 much to be said. If she hasn't paid attention it cuts both  
3 ways I'm assuming.

4           THE COURT: Well, it seem to me the other 12  
5 jurors clearly were attentive. She at times I thought she  
6 was not, but I can't definitively say but I did have the  
7 impression that she probably appeared to be sleeping.

8           MR. SHAMANSKY: Your Honor, what would you think  
9 of the idea based on your observations and those which I  
10 believe are shared by counsel making her the alternate?

11          THE COURT: I don't have a problem with that.

12          MR. DREHER: That's fine with the government, Your  
13 Honor.

14          THE COURT: Obviously we have a problem if one of  
15 the jurors during deliberations becomes unavailable to then  
16 substitute with her. Because like I say I have my concerns  
17 whether she was totally with us during the entire trial.  
18 We'll cross that bridge when we get to it. I'll release her  
19 as the alternative and then have juror in seat number 8 sit  
20 as one of the regular jurors. Okay. We'll take a ten  
21 minute break.

22               [Thereupon, recess taken at 11:47 a.m., resuming  
23 at 12:01 p.m.]

24               [Thereupon, Jury enters courtroom at 12:04 p.m.]

25

**JURY INSTRUCTIONS BY THE COURT**

THE COURT: Okay. Having now heard all of the evidence that you will hear in the trial and having heard the arguments of the parties it is now my obligation to give you the instructions that you are to apply in deciding this case. I will carefully go through the instructions so hopefully at the conclusion you will have a full appreciation of what the law is. However, as I told you in my preliminary instructions I will make available for you several written copies of the instructions so you can have those to read. I also will be taping the instructions and make the recorder and the tape available to you.

Now my function as the judge is to conduct the trial of the case in an orderly, fair and efficient manner. As the judge I also had to rule upon questions of law arising during the trial, and must now tell you the law that applies in this case. It is your duty to accept the law as I state it to you without questioning the wisdom of these instructions. In other words, even if you disagree or do not understand the reasons for the instructions you must nonetheless follow them.

Your function as jurors is to decide the facts of the case. You are the only judges of the facts. You alone determine the weight, the effect, and the value of the evidence and the believability of the witnesses. You should

1 decide the facts only from a fair evaluation of all of the  
2 evidence without prejudice, sympathy, fear or favoritism.

3 Now as I indicated I will provide you with a copy  
4 of the instructions and a tape recording of the  
5 instructions. During your deliberations you may if you want  
6 refer to these instructions. While you may refer to any  
7 particular portion of the instructions you are to consider  
8 the instructions as a whole and you may not follow some and  
9 ignore others. If you have any questions about the  
10 instructions you should feel free to send me a note. Please  
11 return the instructions to me when your verdict is rendered.

12 Now your function as the jury is to determine what  
13 the facts are in this case. You are the sole judges of the  
14 facts. While it is my responsibility to decide what is  
15 admitted as evidence during the trial, you alone decide what  
16 weight, if any, to give to that evidence. You alone decide  
17 the credibility or the believability of the witnesses.

18 As human beings we all have personal likes and  
19 dislikes, opinions, prejudices, and biases. Generally we  
20 are aware of those things, but you also should consider the  
21 possibility that you have what are called implicit biases.  
22 That is biases of which you may not consciously be aware.  
23 Personal prejudices, preferences or biases have no place in  
24 a courtroom where our goal is to arrive at a just and  
25 impartial verdict.

1 All people deserve fair treatment in our system of  
2 justice regardless of any personal characteristics such as  
3 race, national or ethnic origin, religion, age, disability,  
4 sex, gender identity or expression, sexual orientation,  
5 education, political association or beliefs or income level.

6 You should determine the facts solely from a fair  
7 consideration of the evidence. You should decide the case  
8 without prejudice, fear, sympathy, favoritism or  
9 consideration of public opinion. You may not take anything  
10 I may have said or done during the trial or any of my legal  
11 instructions as indicating how I think you should decide the  
12 case. If you believe that I have expressed or indicated any  
13 such opinion you should ignore it. The verdict in this case  
14 is your sole and exclusive responsibility.

15 Now if any reference either by me or the attorneys  
16 to evidence is different from your own memory of the  
17 evidence it is your memory that should control during your  
18 deliberations. Now during your deliberations you may  
19 consider only the evidence properly admitted in this trial.  
20 The testimony in this case consist of the sworn testimony of  
21 the witnesses, the exhibits that were admitted into evidence  
22 the facts of which I took judicial notice, although I did  
23 not take judicial notice of anything in this case. And  
24 facts and testimony stipulated to by the parties.

25 During the trial you were told that the parties

1 had stipulated, that is, agreed to certain facts. You  
2 should consider any stipulated fact as disputed evidence.  
3 When you consider the evidence you are permitted to draw  
4 from the facts that you find have been proven such  
5 reasonable inferences as you feel are justified in light of  
6 your experience. You should give the evidence -- I'm sorry,  
7 you should give any evidence such weight as in your judgment  
8 it is fairly entitled to receive.

9 Now there are two types of evidence from which you  
10 may determine what the facts are in this case, direct  
11 evidence and circumstantial evidence. When a witness such  
12 as an eyewitness states that he or she has actual knowledge  
13 of a fact that witness' testimony is direct evidence. On  
14 the other hand, evidence of a fact and circumstances from  
15 which you reasonably infer may -- I'm sorry, let me go over  
16 that again.

17 On the other hand, evidence of fact and  
18 circumstances from which reasonable inference may be drawn  
19 is what is called circumstantial evidence. Let me give you  
20 an example. Assume a person looks out a window and saw that  
21 snow was falling. If he later testifies in court about what  
22 he had seen his testimony would be direct evidence that snow  
23 was falling at the time he saw it happen. Assume however,  
24 that he looked out the window and saw no snow on the ground  
25 and then went to sleep and saw snow on the ground after he

1     woke up. His testimony about what he had seen after waking  
2     up would be circumstantial evidence that it had snowed while  
3     he was asleep.

4             The law says that both direct and circumstantial  
5     evidence are acceptable as a means of proving a fact. The  
6     law does not favor one form of evidence over another. If  
7     you decide it is for you to decide how much weight to give  
8     to any particular evidence whether it is direct or  
9     circumstantial. You are permitted to give equal weight to  
10    both. Circumstantial evidence does not require a greater  
11    degree of certainty than direct evidence. In reaching a  
12    verdict in this case you should consider all of the evidence  
13    presented both direct and circumstantial.

14            Now the weight of the evidence is not necessarily  
15    determined by the number of witnesses testifying for either  
16    side. Rather, you should consider all of the facts and  
17    circumstances in evidence to determine which of the  
18    witnesses you believe. You might find that the testimony of  
19    a smaller number of witnesses on one side is more believable  
20    than the testimony of a greater number of witnesses on the  
21    other side or you may find the opposite.

22            Now you have heard evidence regarding statements  
23    made by former president Donald Trump and Rudolph Giuliani  
24    on January 6, 2021. This evidence has been admitted for a  
25    limited purpose. That is, that is its potential impact on

1 the intent required to establish the defendant's guilt on  
2 the offenses he has been charged with committing in this  
3 case if you conclude that the defendant heard those  
4 statements.

5           You're not to consider that evidence for any other  
6 purpose. Neither former president Donald Trump nor Rudy  
7 Giuliani actually had the power to authorize or make legal  
8 the alleged crimes charged in this case. Again, the  
9 evidence regarding their statements may be only used in your  
10 assessment as to whether the defendant had the required  
11 intent to commit the crimes for which he has been charged.

12           Now the superseding indictment that you've heard  
13 made reference to is merely the formal way of accusing a  
14 person of a crime. You must not consider the superseding  
15 indictment as evidence of any evidence of any kind. You may  
16 not consider it as any evidence of Dustin Thompson's guilt  
17 or draw any inference of guilt from it.

18           Now statements and the arguments of the lawyers  
19 are not evidence. They are only intend to assist you in  
20 understanding the evidence. Similarly the questions of the  
21 lawyer are no evidence. Now the lawyers in this case  
22 sometimes objected when the other side asked a question,  
23 made an argument or offered evidence that the objecting  
24 lawyer believed was not proper. You must not hold such  
25 objections against a lawyer who made them or the party he or

1 she represents. It is the lawyer's responsibility to object  
2 to evidence that they believe is not admissible.

3 If during the course of the trial I sustained an  
4 objection to a lawyer's question, you should ignore the  
5 question and you must not speculate as to what the answer  
6 would have been. If a witness answered a question I ruled  
7 that, I ruled that the answer should be stricken, you should  
8 ignore both the question and the answer and they should play  
9 no part in your deliberations. Likewise, exhibits as to  
10 which I have sustained an objection or that I ordered  
11 stricken are not evidence and you must not consider them in  
12 your deliberations.

13 Now during the course of the trial a number of  
14 exhibits were admitted into evidence. Sometimes only  
15 portions of an exhibit were admitted such as portions of a  
16 longer video, a document with some words or pictures blacked  
17 out or otherwise removed, or a video played without audio.  
18 There are a variety of reasons why only a portion of the  
19 evidence is admitted including that other portions are  
20 inadmissible or implicate an individual's privacy.

21 As you examine the evidence and you see or hear  
22 portions where there appear to be omissions you should  
23 consider only the portions that were admitted. You should  
24 not guess as to what has been taken out and why and you  
25 should not hold that against either party. You are to

1 decide the facts only from the evidence that is before you.

2           Now every defendant in a criminal case is presumed  
3 to be innocent. This presumption of innocence remains with  
4 the defendant throughout the trial unless and until the  
5 government has proven he is guilty beyond a reasonable  
6 doubt. This burden of proof never shifts throughout the  
7 trial. The law does not require Dustin Thompson to prove  
8 his innocence or to produce any evidence at all.

9           If you find that the government has proven beyond  
10 a reasonable doubt every element of a particular offense  
11 with which Dustin Thompson is charged it is your duty to  
12 find him guilty of that offense. On the other hand, if you  
13 find that the government has failed to prove any element of  
14 a particular offense beyond a reasonable doubt it is your  
15 duty to find Dustin Thompson not guilty of that offense.

16           Now the government has the burden of proving  
17 Dustin Thompson's guilt -- has the burden of proving that he  
18 is guilty beyond a reasonable doubt. In a civil case it is  
19 only necessary to prove that a fact is more likely true than  
20 not or in some cases that its truth is highly probable. In  
21 a criminal case such as this one the government must the  
22 government's proof must be more powerful than that. It must  
23 be beyond a reasonable doubt.

24           Reasonable doubt as the name implies is a doubt  
25 based upon reason. A doubt for which you have a reason

1 based upon the evidence or the lack of evidence in the case.  
2 If after careful, honest and impartial consideration of all  
3 of the evidence you cannot say that you are firmly convinced  
4 of the defendant's guilt then you have a reasonable doubt.  
5 Reasonable doubt is a kind of doubt that would cause a  
6 reasonable person after carefull and thoughtful reflection  
7 to hesitate to act in the graver or the more important  
8 matters of life.

9           However, it is not an imaginary doubt nor a doubt  
10 based on speculation or guesswork. It is a doubt based on  
11 reason. The government is not required to prove guilt  
12 beyond all doubt, or to a mathematical certainty or a  
13 scientific certainty. Its burden is to prove guilt beyond a  
14 reasonable doubt.

15           Now in determining whether the government has  
16 proved the charges against the defendant beyond a reasonable  
17 doubt you must consider the testimony of all of the  
18 witnesses who have testified during this trial. You are the  
19 sole judges of the credibility or the believability of the  
20 witnesses. You alone determine whether to believe any  
21 witness and the extent to which any witness should be  
22 believed.

23           Judging a witness's credibility or believability  
24 means evaluating whether the witness has testified  
25 truthfully and whether the witness accurately observed,

1 recalled or described the matters about which the witness  
2 testified. You may consider anything in your judgment that  
3 effects the credibility or believability of any witness.

4 For example, you may consider the demeanor and the  
5 behavior of the witness on the witness stand. The witness'  
6 manner of testifying. Whether the witness impresses you as  
7 a truthful individual. Whether the witness impresses you as  
8 having an accurate memory. Whether the witness has any  
9 reason for not telling the truth. Whether the witness had a  
10 meaningful opportunity to observe the matters about which he  
11 or she has testified. Whether the witness has any interest  
12 in the outcome of this case, stands to gain anything by  
13 testifying or has friendship or hostility toward other  
14 persons concerned with this case.

15 In evaluating the accuracy of a witness' memory  
16 you may consider the circumstances surrounding the event  
17 including the time that elapses between the event and any  
18 later recollection of expressed memory of the event, and the  
19 circumstances under which the witness was asked to recall  
20 the details of the event.

21 You may consider whether there are any  
22 consistencies or inconsistencies in a witness' testimony or  
23 between the witness' testimony and any previous statements  
24 made by the witness. You may consider any consistencies or  
25 inconsistencies between the witness' testimony and any other

1 evidence that you credit. You may consider whether any  
2 inconsistencies are the result of lapse of memory, mistake  
3 or misunderstanding, intentional falsehood or difference in  
4 perception.

5           You may consider the reasonableness or the  
6 unreasonableness, the probability or improbability of the  
7 testimony of a witness in determining whether to accept it  
8 as true and accurate. You may consider whether the witness  
9 has been contradicted or supported by other evidence that  
10 you credit. If you believe that any witness has shown him  
11 or herself to be bias or prejudice for or against either  
12 side in this trial or motivated by self interest you may  
13 consider and determine whether such bias or prejudice has  
14 colored the testimony of the witness so as to effect the  
15 desire and the capability of that witness to tell the truth.  
16 You should give the testimony of each witness such weight as  
17 in your judgment it is fairly entitled to receive.

18           Now a police officer or law enforcement officer's  
19 testimony should be evaluated by you just as any other  
20 evidence in the case. In evaluating the officer's  
21 credibility you should use the same guidelines that you  
22 apply to the testimony of any other witness. In no event  
23 should you give either greater or lesser weight to the  
24 testimony of a witness merely because he or she is a police  
25 or law enforcement officer.

1           You are here to decide whether the government has  
2 proved beyond a reasonable doubt that the defendant is  
3 guilty of the crimes charged. The defendant is not on trial  
4 for any act, crime or conduct not charged in the superseding  
5 indictment. It is not up, I'm sorry. It is not up to you  
6 to decide whether anyone other than the defendant should be  
7 prosecuted for any crimes charged. The fact that another  
8 person may also be guilty is no defense to a criminal  
9 charge. The question of the possible guilt of others should  
10 not enter into your thinking as you decide whether the  
11 defendant has been proven guilty of the crimes charged in  
12 this case.

13           Now one of the questions you were asked when we  
14 were selecting this jury was whether the nature of the  
15 charges itself or the charge themselves would affect your  
16 ability to reach a fair and impartial verdict. We ask you  
17 that question because you must not allow the nature of the  
18 charges to consider your verdict. You must consider only  
19 the evidence that has been presented in this case to reach a  
20 fair and impartial verdict.

21           Now each count of the indictment charges a  
22 separate offense. You should consider each offense and the  
23 evidence which applies to it separately and you should  
24 return separate verdicts as to reach count. The fact that  
25 you may find the defendant guilty or not guilty on any one

1 count of the indictment should not influence your verdict  
2 with respect to the other counts of the indictment. At  
3 anytime during your deliberations you may return your  
4 verdict of guilty or not guilty with respect to any counts.

5 Count one of the superseding indictment charges  
6 Dustin Thompson with corruptly obstructing an official  
7 proceeding which is a violation of federal law. In order to  
8 find the defendant guilty of this offense you must find that  
9 the government has proved each of the following two elements  
10 beyond a reasonable doubt.

11 First, that the defendant attempted to or did  
12 obstruct or impede any official proceeding; and second, that  
13 the defendant acted corruptly. If you find that the  
14 government has proved beyond a reasonable doubt all of the  
15 elements of this charge as I have just instructed you the  
16 defendant's motive in acting is not relevant. To obstruct  
17 or impede means to block, interfere with or slow the  
18 progress of an official proceeding.

19 The term official proceeding includes a proceeding  
20 before the United States Congress. As used in Count one of  
21 the superseding indictment the term official proceeding  
22 means Congress' joint session to certify the presidential  
23 electoral college vote. An official proceeding need not be  
24 actually pending or instituted at the time of the offense.  
25 If the official proceeding was not actually pending or about

1 to be instituted the government must prove beyond a  
2 reasonable doubt that the official proceeding was reasonably  
3 foreseeable to the defendant, and that the natural and  
4 probable effect of the defendant's conduct was to obstruct  
5 the official proceeding.

6           Corruptly means to act knowingly with intent to  
7 obstruct or impede an official proceeding and with  
8 consciousness of the wrongdoing of the act. To act  
9 corruptly the defendant must have used unlawful means or act  
10 with an unlawful purpose or both. Consciousness of  
11 wrongdoing means an understanding or awareness that what the  
12 person is doing is wrong or unlawful.

13           Not all attempts to obstruct or impede an official  
14 proceeding amounts to acting corruptly. For example, a  
15 witness in a court proceeding may refuse to testify by  
16 invoking his constitutional privilege against self  
17 incrimination thereby obstructing or impeding the  
18 proceeding, but he is not acting corruptly. In contrast an  
19 individual who obstructs or impedes a court proceeding by  
20 bribing a witness to refuse to testify in that proceeding or  
21 by engaging in other independently unlawful conduct does act  
22 corruptly.

23           In Count one of the superseding indictment Dustin  
24 Thompson is also charged with attempt to commit the crime of  
25 obstructing an official proceeding. The elements of the

1 crime of attempting obstruction an official proceeding each  
2 of which the government must prove beyond a reasonable doubt  
3 are first, that the defendant intended to commit the crime  
4 of obstruction of an official proceeding as I have just  
5 defined that offense. And second, that the defendant  
6 engaged in conduct that constituted a substantial step  
7 toward committing obstruction of an official proceeding as I  
8 have just defined that offense.

9           You may not find the defendant guilty of attempt  
10 to commit obstruction of an official proceeding merely  
11 because he made some plans or had some preparation in  
12 committing the crime. Instead, you must find the defendant  
13 took some firm, clear, undeniable action to accomplish his  
14 intent to commit obstruction of an official proceeding.  
15 However, the substantial step element does not require the  
16 government to prove that the defendant did everything except  
17 the last act necessary to complete the actual commission of  
18 the crime.

19           Now Count two of the superseding indictment  
20 charges Dustin Thompson with theft of United States  
21 government property which is a violation of federal law.  
22 The elements of the crime of theft of United States  
23 government property, each of which the government must prove  
24 beyond a reasonable doubt are; first, that the defendant  
25 took a coat rack. Second, that the coat rack belonged to

1 the United States government at the time it was taken. And  
2 third, that when the defendant took the coat rack he  
3 intended to deprive without right the United States  
4 government of the use or benefit of the coat rack.

5 Now Count III of the superseding indictment  
6 charges Dustin Thompson with entering or remaining in a  
7 restricted building or ground which is a violation of  
8 federal law. In order to find the defendant guilty of this  
9 offense you must find that the government prove each of the  
10 following elements beyond a reasonable doubt. First, that  
11 the defendant entered or remained in a restricted building  
12 or ground without unlawful authority do so, and second, that  
13 the defendant did so knowingly.

14 Now the term restricted building or grounds means  
15 any posted or cordon off or otherwise restricted area of a  
16 building or grounds where a person protected by secret, by  
17 the Secret Service is or will be temporarily visiting. The  
18 term person protected by the Secret Service includes the  
19 vice president and the immediate family of the vice  
20 president.

21 Now a person acts knowingly if he realizes what he  
22 is doing and is aware of the nature of his conduct and does  
23 not act through ignorance, mistake or accident. In deciding  
24 whether the defendant acted knowingly you may consider all  
25 of the evidence presented during this trial including what

1 if anything the defendant did or said.

2 Now Count Four of the superseding indictment  
3 charges Dustin Thompson with disorderly or disruptive  
4 conduct in a restricted building or grounds which is a  
5 violation of federal law. In order to find the defendant  
6 guilty of this offense you must find that the government  
7 proved each of the following elements beyond a reasonable  
8 doubt.

9 First, that the defendant engaged in disorderly or  
10 disruptive conduct. Second, that the defendant did so  
11 knowingly and with intent to impede or corrupt the orderly  
12 conduct of government business or official functions.  
13 Third, that the defendant's conduct, I'm sorry, that the  
14 defendant's conduct was in a restricted building or grounds,  
15 and fourth, that the defendant's conduct in fact impeded or  
16 disrupted the orderly conduct of government business or  
17 official functions.

18 Disorderly conduct occurs when a person acts in  
19 such a manner as to cause another person to be in reasonable  
20 fear that a person or property in a person's immediate  
21 possession is likely to be harmed or taken, uses words to  
22 produce violence on the part others, is unreasonably loud  
23 and disruptive under the circumstances or interferes with  
24 another person by pushing, shoving or unnecessarily crowding  
25 that person. Disruptive conduct is a disturbance that

1 interrupts an event, activity or normal course of a process.  
2 Now the definition of knowingly that I provided previously  
3 equally applies to this offense.

4 Now Count Five of the superseding indictment  
5 charges Dustin Thompson with disorderly or disruptive  
6 conduct in a Capitol building which is a violation of  
7 federal law. In order to find the defendant guilty of this  
8 offense the government must prove each of the following four  
9 elements beyond a reasonable doubt. First, that the  
10 defendant was inside the United States Capitol building.  
11 Second, that the defendant uttered loud, threatening or  
12 abusive language or engaged in disorderly or disruptive  
13 active conduct.

14 Third, that the defendant acted with intent to  
15 impede, disrupt or disturb the orderly conduct of a session  
16 of the United States Congress or either House of the United  
17 States Congress. The two houses of the United States  
18 Congress are the United States Senate and United States  
19 House of representatives and fourth, that the defendant  
20 acted willfully and knowingly. The government is not  
21 required to prove that the defendant actually impeded,  
22 disrupted or disturbed the orderly conduct of a session.  
23 Only that he intended to do so.

24 A defendant acts willfully if he knew his conduct  
25 was unlawful and he intended to do something that the law

1 forbids. In other words, to find that the defendant acted  
2 willfully you must find that the evidence proved beyond a  
3 reasonable doubt that the defendant acted with a purpose to  
4 disobey or disregard the law. Willfully does not require,  
5 however -- I'm sorry, willfully does not require, however  
6 however require proof that the defendant had any evil motive  
7 or bad purpose only the purpose to disobey or disregard the  
8 law. The definition of knowingly that I previously provided  
9 to you equally applies to this offense.

10           You are instructed that for purposes of Count Five  
11 of the superseding indictment the orderly conduct of a  
12 session of the United States Congress or either House of the  
13 United States Congress includes all of the actions of the  
14 joint session of Congress convened on January 6, 2021 to  
15 certify the electoral college presidential election of 2020.

16           Now Count Six of the superseding indictment  
17 charged Dustin Thompson with parading, demonstrating or  
18 picketing in a Capitol building which is a violation of  
19 federal law. In order to find the defendant guilty of this  
20 offense you must find that the government proved each of the  
21 three elements beyond a reasonable doubt. First, that the  
22 defendant was inside the United States Capitol building.  
23 Second, that the defendant paraded, demonstrated or  
24 picketing, and third, the defendant acted willfully and  
25 knowingly.

1           The term parade and picket have the ordinary  
2 meaning of what amounts to parading and picketing. That  
3 would disrupt the orderly business of Congress by for  
4 example impeding or obstructing passageways, hearings or  
5 meetings, but does not include activity such as quiet  
6 praying. The term willfully and knowingly that I previously  
7 provided to you equally apply to this offense.

8           Now someone's intent, knowledge or willfulness  
9 ordinarily cannot be proved directly because there's no way  
10 of knowing what a person is actually thinking. But you may  
11 infer someone's intent, knowledge or willfulness from the  
12 surrounding circumstances. You may consider any statement  
13 made or act done or omitted by Mr. Thompson and all other  
14 facts and circumstances received in evidence which indicate  
15 his intent, knowledge or willful.

16           You may infer, but are not required to infer that  
17 a person intends the natural and probable consequences of  
18 acts intentionally done or intentionally, or that the  
19 person's intentionally did not do. It is entirely up to you  
20 however to decide what facts to find from the evidence  
21 received during the trial. You should consider all the  
22 circumstances in evidence that you think are relevant in  
23 determining whether the government has proved beyond a  
24 reasonable doubt that Dustin Thompson acted with the  
25 necessary state of mind.

1           Now the verdict must represented the considered  
2 judgment of each juror. And in order to return a verdict  
3 each juror must agree with the verdict. In other words,  
4 your verdict that you render in this case must be unanimous.

5           Now the question of possible punishment of the  
6 defendant in the event of conviction is of no concern of  
7 yours and should not enter into or influence your  
8 deliberations in any way. The duty of imposing sentence in  
9 the event of conviction rests exclusively with me. Your  
10 verdict should be based solely on the evidence in this case,  
11 and you should not consider the matter of punishment at all.

12           Now you will be provided with a verdict form to  
13 use as you conclude your deliberations. The form is not  
14 evidence in this case. And nothing in it should be taken to  
15 suggest or convey any opinion by me as to what your verdict  
16 should be. Nothing in the form replaces the instructions of  
17 law I have already given you. And nothing in it replaces or  
18 modifies the instructions about the elements which the  
19 government must prove beyond a reasonable doubt. The form  
20 is meant only to assist you in recording your verdict.

21           The verdict form I think is easy to understand.  
22 It's self-explanatory in reference to each of the six  
23 offenses that you'll be asked to consider. It will ask you  
24 a question and then based upon what your unanimous decision  
25 is the foreperson will put either not guilty or guilty on

1 the form regarding each of those offenses you're being asked  
2 to consider.

3           Once you've reached a decision as to the six  
4 counts you're being asked to consider then the foreperson  
5 will date the date of your verdict and also sign the form  
6 and indicate your jury number. And after that has been done  
7 if the other 11 jurors agree with the decision indicated by  
8 your foreperson then each of you will also date the form,  
9 also sign your name, and also indicate your jury number on  
10 the form.

11           Now I will be sending into the jury room with you  
12 the exhibits that have been admitted into evidence except  
13 for the tape recordings. You may examine any and all of  
14 them as you consider your verdicts. Please keep in mind  
15 that exhibits that were only marked for identification, but  
16 were not admitted into evidence will not be given to you for  
17 your examination or your consideration in reaching a verdict  
18 in this case.

19           And if you wish to view the tapes or listen to the  
20 tapes just notify the clerk by a written note that you would  
21 like to hear some of the tapes played and let us know which  
22 tapes those are and we will play those here for you in the  
23 courtroom.

24           Now during the trial I permitted those jurors who  
25 wanted to do so to take notes. You may take your notebooks

1 if you wish with you to the jury room and use them during  
2 your deliberations. As I told you at the beginning of the  
3 trial your notes are only to aid your memory. They are not  
4 evidence in the case and they should not replace your memory  
5 of the evidence. Those jurors who have not taken notes  
6 should rely on their own memory of the evidence. The notes  
7 are intended to be for the note taker's personal use only.

8 Now I would like to remind you that in some cases,  
9 although not necessarily this one, there may be reports in  
10 the newspaper, on a radio station, the Internet or  
11 television concerning this case. If there should be any  
12 such media coverage in this case you may be attempted to  
13 read, listen or watch it. You must not listen, read or  
14 watch any such reports because you must decide this case  
15 solely upon the evidence presented in there courtroom.

16 If any publicity about this trial inadvertently  
17 comes to your attention do not discuss it with your fellow  
18 jurors or anyone else. Just tell me or my clerk as soon as  
19 possible that you in fact need to talk to me and we'll bring  
20 you into the courtroom to find exactly what you had contact  
21 with. As you retire to the jury room to deliberate I also  
22 wish to remind you of the instruction I gave you at the  
23 beginning of the trial. During deliberations you may not  
24 communicate with anyone not on this jury about the case.

25 This includes any electronic communications such

1 as an email or text or any blogging about the case. In  
2 addition, you may not conduct any independent investigation  
3 during your deliberations. This means that you may not  
4 conduct any research in person or electronically by the  
5 Internet or in any other way.

6 Now if it does become necessary during your  
7 deliberations to communicate with me you may send a note to  
8 me through the clerk or by the marshal signed by your  
9 foreperson or one or more of the members of the jury. No  
10 members of the jury should ever try to communicate with me  
11 by any means other than by a signed note, and I will never  
12 communicate with any member of the jury on any matter  
13 concerning the merits of this case except in writing or  
14 orally here in open court.

15 Bear in mind also that you are never under any  
16 circumstances to reveal to any person; not the clerk, the  
17 marshal or me how jurors are voting until after you have  
18 reached a unanimous verdict. This means that you should not  
19 me in writing or in open court how the jury is divided on  
20 any matter, for example, six to six, seven to five or 11 to  
21 one or in any other fashion whether the vote is for  
22 conviction or acquittal or on any other issue you have to  
23 decide in this case.

24 Now there were 14 of you selected as jurors in  
25 this case. As I indicated only 12 jurors ultimately decide

1 the case, therefore, two of the jurors who were selected  
2 were alternates. And as I indicated put them in different  
3 seats in very different trial so their identity is consoled.  
4 We lost one of the jurors, juror number 7. I think that  
5 was. And we had to substitute the first alternate for that  
6 person. And the second alternate in the case is juror  
7 number 14.

8           So juror number 14 will not deliberate in the case  
9 at least initially. And even though you're not going to  
10 start initially deliberating with the jury you still have to  
11 continue to conduct yourself as you have throughout the  
12 trial, which means you cannot talk to anybody about the  
13 case. You have to continue to avoid everybody associated  
14 with the case. And you also cannot have any contact with  
15 any media coverage about the indication.

16           And the reason for that even though you are being  
17 excused at this time is that if something happens to one of  
18 the regular jurors who's deliberating in the case during the  
19 deliberations then we may have to bring you back and then  
20 you'll have to participate in the deliberations. The jury  
21 would be told to start all over the deliberations and then  
22 you would participate in the deliberations with the jury.

23           So please, don't conduct yourself any differently  
24 than you've conducted yourself during the trial so that if  
25 we do have to use you your ability to serve would not have

1     been compromised. If you did take notes then you should  
2     tear out the pages on which you took notes and give them to  
3     the courtroom clerk and those notes will be destroyed.

4             In reference to all of you in reference to your  
5     notes no one will ever read those notes. You as I say can  
6     take those notes with you. And if you think it's going to  
7     be helpful in refreshing your memory to read the notes  
8     obviously you're well to do that. But obviously, you cannot  
9     read the notes aloud and you cannot share them with one of  
10    your fellow jurors. Because those are just your personal  
11    notes that you can read to yourself to see if that helps  
12    refresh your memory.

13            And as I said those who did not take notes should  
14    not feel that you have to follow what somebody says who did  
15    take notes because your memory may be just as good as theirs  
16    even though they took notes and you did not. Obviously, you  
17    should consult with your fellow jurors, but you need not  
18    necessarily accept what they say merely because they took  
19    notes and you did not do so.

20            At this time I would ask counsel to pick up.

21            [Bench conference.]

22            THE COURT: Anything else from counsel before I  
23    excuse the jury to deliberate?

24            MR. SHAMANSKY: No, your Honor.

25            MR. DREHER: No, your Honor.

1 [Open court.]

2 THE COURT: In this case she'll get that for you  
3 and get that to you. You wait until she gets that. The  
4 other 12 of you she will take you over to courtroom 15 when  
5 you're in the courtroom and you will be able to start your  
6 deliberations.

7 We have ordered lunch for you so we will make  
8 lunch available for you. It should be ready because we  
9 ordered it earlier today, so you can go with the court  
10 clerk. I think that's one that didn't show up why we missed  
11 that the first thing that you should do when you go into the  
12 jury room is select one among you to be your foreperson.

13 Your foreperson will be the person who will  
14 communicate with the Court once you have reached a verdict.  
15 Also you should select somebody as your foreperson who you  
16 believe will help facilitate an intelligent discussion about  
17 the case. Your foreperson has no more power than anybody  
18 else, but sort of helps shepherd you through the  
19 deliberations. You should pick someone that will  
20 effectively do that. Once you have a verdict when you come  
21 in the courtroom the foreperson will be the spokesperson and  
22 that person will indicate what your verdict is.

23 So with that you may go with the courtroom clerk.  
24 She'll take you to courtroom 15. You can proceed with your  
25 deliberations.

1 [Thereupon, Jury exits courtroom at 12:46 p.m.]

2 THE COURT: Counsel, where will you be during your  
3 deliberations at your office?

4 MR. SHAMANSKY: Your Honor, we could make a joint  
5 request. I'd like to remain, I'd like to stay for the  
6 remainder of the day. If you can excuse Mr. Regensburger so  
7 he can pick up a car and drive home. If we don't receive a  
8 verdict today would the Court permit one of the lawyers to  
9 be present on Tuesday as opposed to both of us for both  
10 sides?

11 THE COURT: That's fine. I can say something to  
12 the jury. I've had that before just because a particular  
13 lawyer is not here doesn't mean anything that lawyer has to  
14 you know get on with other business that's why they are not  
15 here at this time.

16 MR. SHAMANSKY: We're saying ten minute away and  
17 report back here.

18 THE COURT: They've got to eat lunch, and I don't  
19 know how long it will take for the verdict.

20 MR. SHAMANSKY: Worse case scenario.

21 THE COURT: You gave the court clerk your number  
22 so she can call you?

23 MR. SHAMANSKY: Yes, Your Honor.

24 MR. DREHER: Yes, Your Honor.

25 THE COURT: Thank you.

[Thereupon, the proceedings recessed at 12:48 p.m., resuming at 3:50 p.m.]

THE COURT: The jury sent a note saying they have reached a verdict. If counsel wants to see the note you're welcome to do so. Either side?

MR. SHAMANSKY: No, Your Honor.

MR. DREHER: No thank you, Your Honor.

THE COURT: Okay. Will there be a request by either side for an individual poll?

MR. DREHER: Not from the government, Your Honor.

MR. SHAMANSKY: No, Your Honor. I mean you will inspect the verdict form?

THE COURT: Sure. I have them fill out two, so they have one and I have one, and obviously you'll be welcome to see them yourself.

[Thereupon, Jury enters courtroom at 3:54 p.m.]

## JURY VERDICT

THE COURT: Okay. Would the foreperson please identify him or herself. Speaking on behalf of the jury has the jury reached a unanimous verdict in this case?

THE FOREPERSON: Yes, they have.

THE COURT: As to all six counts?

THE FOREPERSON: Yes, sir.

THE COURT: Very well. As to Count One of the indictment charging obstruction of an official proceeding on

1 January 6, 2021, what is your verdict, guilty or not guilty?

2 THE FOREPERSON: Guilty.

3 Q As to the Count Two, theft of government, United States  
4 government property on January 6, 2021, is your verdict  
5 guilty or not guilty?

6 A Guilty.

7 Q As to Count Three, charging entering or remaining in a  
8 restricted building or grounds on January 6, 2021, is your  
9 verdict not guilty or guilty?

10 A Guilty.

11 Q As to Count Four of the indictment charging disorderly  
12 or disruptive conduct in a restricted building or grounds on  
13 January 6, 2021, is your verdict not guilty or guilty?

14 A Guilty.

15 Q As to Count Five of the indictment charging disorderly  
16 or disruptive conduct in a Capitol building on January 6,  
17 2021, is your verdict not guilty or guilty?

18 A Guilty.

19 Q As to Count Six of the indictment charging parading,  
20 demonstrating, picketing in a Capitol building on January 6,  
21 2021, is your verdict not guilty or guilty?

22 A Guilty.

23 THE COURT: Very well. Speaking on behalf of the  
24 jury let me just ask all of the other jurors do you agree  
25 with the decision indicated by your foreperson?

1 [Thereupon, Jury answers.]

2 THE COURT: Anybody disagree?

3 [Thereupon, Jury answers.]

4 THE COURT: You may be seated. I would like to  
5 thank you for your participation in our jury process. As I  
6 indicated when we were going through the process of  
7 selecting the jury it was decided long time ago when this  
8 country was created that these type of monumental decisions  
9 should be decided by the people in the community where an  
10 event took place.

11 I've had the opportunity to travel throughout the  
12 world. I've done a lot of teaching in Africa, actually in  
13 Russian and some other places, and I have to say that no  
14 system of justice is perfect, but I think our system of  
15 justice is the best that mankind has been able to devise.

16 One of the reasons for that is the fact we have  
17 citizens like yourself who are participating in the process.  
18 And I think that's an important aspect of our justice  
19 system. So I do want to thank you. I had the opportunity  
20 to watch all of you during the course of the trial. I know  
21 that you listened very intently to the evidence as it was  
22 presented, and that you have carried out the obligation  
23 given to you to deliberate in this case and render a  
24 decision based upon what you concluded was the evidence and  
25 whether the government has sustained its burden.

1           So if you'll just go back to courtroom 15, I'll  
2     come over and have to give you a letter of thanks and just  
3     say some things to you. And as if you have any  
4     recommendation you would make about how we operate the court  
5     to see if you have any issue I need to take to our chief  
6     judge about things that maybe we can change.

7           I know at this time it's been, you know, we  
8     haven't been able to hold trials for quite a while. Now we  
9     are starting to hold trials, but not at the pace that we  
10    need to at some point because we have a huge backlog of  
11    cases because of the pandemic. And in order to try and  
12    reduce that backlog we're going to be trying a lot of cases,  
13    so we're going to be calling upon a lot of the citizens to  
14    come down and help us do that.

15          But, you know, you have to have a justice system  
16    and a democratic system, and you've played a significant  
17    role in that. So again, I want to thank you and I'll get to  
18    you as soon as I can. So if you go back with the clerk over  
19    to courtroom 15, I'll be over there in a minute. If you can  
20    give her that copy of the verdict form.

21                 [Thereupon, Jury exits courtroom.]

22          THE COURT: I do permit counsel to speak to the  
23    jury after I finish speaking to them if you so desire, but I  
24    will let them know they don't have to speak to you and if  
25    they don't want to they will let you know that and you'll

1 have to immediately talking to them. If you want to talk to  
2 them about their, the process and what they thought about  
3 the evidence I don't have a problem with that.

4 We have to address the issue of sentencing.  
5 She'll be back in a minute and we'll deal with that. We  
6 have to address the issue of release pending sentencing.  
7 You can be seated. What's the government's position?

8 MR. DREHER: The government is fine with the  
9 defendant remaining on bond pending sentencing.

10 THE COURT: Well, I must say I have my concerns,  
11 and my concerns there are many reasons for them. Number  
12 one, I have the concern that we have unfortunately American  
13 citizens who were so gullible that they were willing to  
14 accept what was being said without any proof that the  
15 allegations about the election had any merit whatsoever.  
16 It's been proven now over and over again with the various  
17 audits that have been done in the various states where  
18 allegations were made of fraud that there was no fraud. And  
19 if there was fraud it was insignificant. And they're  
20 actually finding out if it was fraud it may have been fraud  
21 in another direction than what was being alleged.

22 And the insurgency, and it was in effect that, is  
23 very troubling. And you know I think our democracy is in  
24 trouble because unfortunately we have charlatans like our  
25 former president who doesn't in my view really care about

1 democracy but only about power. And as a result of that  
2 it's tearing this country apart. And I think our country is  
3 a country worth saving. And if people feel that they can do  
4 what happened on January 6, 2021, I know in reference to  
5 some of the cases I've had where individuals have actually  
6 pled guilty, and I get you know letters from all over the  
7 country people are just outraged in how they feel our system  
8 is not taking seriously what happened on that day because of  
9 their fear of the future of this country.

10 And I must say I have real concerns. I mean  
11 number one, although he ultimately turned himself in he only  
12 turned himself in after he was identified as a perpetrator  
13 having fled. And I would candidly say I thought his  
14 testimony was very troubling. I thought it was totally  
15 disingenuous. I thought he was not truthful. I don't  
16 believe he was sincere in reference to what he said. And I  
17 have my real concerns about flight and also about  
18 dangerousness.

19 Because if somebody is weak-minded enough to buy  
20 in on what was being said and then come all the way from  
21 Ohio here and involve himself in the conduct that he did,  
22 and he was doing it gleefully, I just have my real concerns  
23 about him. And I think a lot of the American public feel  
24 like now he's gone to trial. He's had his day in court.  
25 He's been convicted, why is he still walking free.

1 MR. SHAMANSKY: May I address that, Your Honor?

2 THE COURT: Yes.

3 MR. SHAMANSKY: I do not frankly disagree with  
4 most of what you said. His level of sincerity, of course, I  
5 would take issue with. I'd ask the Court to consider in  
6 terms of his behavior while he's been on release. It's been  
7 impeccable in terms of following court orders, being  
8 available, doing as he's told, staying out of trouble,  
9 working every day.

10 Additionally Judge, and you're as aware of this as  
11 anybody. He through me, through his counsel and we  
12 streamlined and stipulated the case. Didn't dispute the  
13 conduct, but rather tried to put it in context and explain  
14 you know why he committed these heinous acts. I don't  
15 disagree with you for a nanosecond about how serious this  
16 is. Not for one bit. But what I can undoubtedly assure  
17 you, Judge, is he does not present a risk of flight I don't  
18 believe based on his history, character and condition  
19 because he's always shown and he's taken a respectful  
20 approach.

21 And again we could have put the government through  
22 a thousand hoops had we so chosen. We didn't do that. We  
23 stipulated the case and tried to make it as easy on the  
24 American people in terms of reaching a decision as possible,  
25 so I'd ask you to consider that.

1           Also Your Honor I know the sentencing process is  
2   lengthy, and of course, great discretion rest with you. But  
3   on balance, Judge, I don't believe based on his character or  
4   his recent history and character and his understanding of  
5   the wrongful nature of his activity that he would be  
6   disappointing you or be a risk of flight or be a danger to  
7   commit any more of these foolish acts if you would allow him  
8   to remain free pending sentencing. Thank you, sir.

9           THE COURT: Well I --

10          MR. SHAMANSKY: Judge, I forgot one thing. He's  
11   also in counseling. He's taking his medication. Not that  
12   that's an excuse or a crutch, but it is something that he's  
13   done to try to help get his mind right for lack of a better  
14   term.

15          THE COURT: Well he did flee, and his conduct in  
16   my view was reprehensible. I mean he didn't do some of the  
17   things the other people did as far as violence is concerned,  
18   but I consider the fact that he fled. And in my view I  
19   don't think he was candid when he testified. And the  
20   inevitable reality is that whether he does time now or does  
21   time later he's got to do time. I just don't think you can  
22   do what he did and what the other folk did and get convicted  
23   and expect to be free.

24          It's a consequence, like my mother always told me  
25   you make your bed you got to lie in it. He will be detained

1 without bond pending sentencing. Give me a date for  
2 sentencing. How long does probation need? I think 80 days  
3 they're asking for now. When would that take us to?

4 MR. SHAMANSKY: Judge, assuming the PSR with  
5 respect to his co-defendant is already --

6 THE COURT: His co-defendant has asked for  
7 extension until when, I think it's in July.

8 MR. SHAMANSKY: For completion of the PSR or for a  
9 sentencing date?

10 THE COURT: For a sentencing date, but they would  
11 do his independently, so I don't think they would, because  
12 they're just overwhelmed with numbers considering all of the  
13 people who've been arrested regarding this event and the  
14 other cases we're dealing with. So July, when in July  
15 about? Because they're asking -- I'll figure it out. So  
16 looks like we're talking about till yeah they need more time  
17 than that. July 8th for the report to be completed. I'll  
18 give counsel until the 15th of July to resolve any disputes  
19 you have with the probation department. I'll be in trial  
20 that following week, but we'll done it nonetheless on that,  
21 that Wednesday, July 20th at nine o'clock.

22 Anything else from government counsel?

23 MR. DREHER: Not from the government.

24 THE WITNESS: Defense?

25 MR. SHAMANSKY: Nothing further.

1 THE COURT: Thank you.

2 [Thereupon, the proceedings adjourned at 4:08  
3 p.m.]

4 **CERTIFICATE**

5 **I, Cathryn J. Jones, an Official Court Reporter,**  
6 for the United States District Court of the District of  
7 Columbia, do hereby certify that I reported, by machine  
8 shorthand, the proceedings had and testimony adduced in the  
9 above case.

10 I further certify that the foregoing 650 pages  
11 constitute the official transcript of said proceedings as  
12 transcribed from my machine shorthand notes.

13 In witness whereof, I have hereto subscribed my  
14 name, this the 3rd day of July, 2022.

15  
16  
17 /s/\_Cathryn J. Jones  
18 Cathryn J. Jones, RPR  
19 Official Court Reporter  
20  
21  
22  
23  
24  
25

<p><b>BY MR. SHAMANSKY:</b> [1] 582/17  <b>BY MS. ROZZONI:</b> [2] 573/25 575/23  <b>MR. DREHER:</b> [16] 565/4 565/19  566/3 584/15 585/6 585/15 599/21  604/3 610/19 613/11 639/24 641/23  642/6 642/9 646/7 650/22  <b>MR. SHAMANSKY:</b> [36] 565/9 566/11  568/9 568/17 568/20 569/3 569/5  569/20 570/5 570/11 571/12 572/17  573/16 583/9 583/11 584/5 584/10  585/5 605/10 605/12 612/21 612/25  613/7 639/23 641/3 641/15 641/19  641/22 642/5 642/10 647/25 648/2  649/9 650/3 650/7 650/24  <b>MS. ROZZONI:</b> [9] 565/7 572/22  573/2 573/7 573/12 573/14 573/21  582/13 583/15  <b>THE COURT:</b> [69] 565/6 565/11  565/23 566/7 566/12 568/13 568/19  568/22 569/4 569/15 569/23 570/7  570/16 571/21 572/1 572/8 572/16  572/19 572/24 573/1 573/5 573/10  573/13 573/15 573/17 573/19 573/23  582/15 583/10 583/12 583/16 583/20  584/8 584/23 585/7 585/12 605/9  610/17 612/8 612/12 612/23 613/3  613/10 613/13 614/1 639/21 640/1  641/1 641/10 641/17 641/20 641/24  642/2 642/7 642/12 642/17 642/21  642/23 643/22 644/1 644/3 645/21  646/9 648/1 649/8 649/14 650/5 650/9  650/25  <b>THE DEPUTY CLERK:</b> [1] 565/1  <b>THE FOREPERSON:</b> [3] 642/20  642/22 643/1  <b>THE WITNESS:</b> [1] 650/23</p>	<p>11:44 [1] 612/12  11:47 [1] 613/22  11:51 [3] 577/11 577/25 578/12  11:58 a.m [1] 574/15  12 [3] 613/4 637/25 640/4  12:01 [1] 613/23  12:04 [1] 613/24  12:04 p.m [1] 578/13  12:46 [1] 641/1  12:48 [1] 642/1  14 [5] 562/7 612/16 637/24 638/7  638/8  15 [4] 640/4 640/24 645/1 645/19  15th [1] 650/18  16 [1] 566/1  161 [1] 565/2  1:06 p.m [1] 578/14  1:10 p.m [2] 578/24 581/4  1:15 p.m [2] 574/16 598/20</p>	<p>4:24 [1] 603/18  4:24 p.m [1] 603/24  4:56 p.m [1] 603/21</p> <p><b>5</b></p> <p>505 [1] 562/16  523 [1] 562/23  5230 [1] 562/18  553-4579 [1] 562/19  574 [1] 564/5  582 [1] 564/6  585 [1] 564/12</p> <p><b>6</b></p> <p>605 [1] 564/13  610 [1] 564/14  614 [2] 562/24 564/15  642 [1] 564/16  650 [1] 651/10  6521 [1] 563/3  6818 [1] 562/16  6th [21] 574/14 575/17 576/25 580/5  582/3 587/17 591/21 594/3 594/11  594/16 594/17 595/4 595/23 597/17  597/18 601/18 605/3 608/25 609/17  610/5 612/1</p> <p><b>7</b></p> <p>70 [1] 584/19  700 [1] 562/18  7th [1] 597/18</p> <p><b>8</b></p> <p>80 [1] 650/2  87102 [1] 562/15  8th [1] 650/17</p> <p><b>9</b></p> <p>900 [1] 562/15  95 percent [1] 611/20  98101 [1] 562/19  9:04 [1] 562/8  9:20 [1] 572/8</p> <p><b>A</b></p> <p>a.m [25] 562/8 572/8 573/9 574/15  575/8 575/16 575/21 577/1 577/5  580/8 580/16 580/17 581/2 581/23  582/2 582/12 583/20 585/10 585/11  585/12 587/5 587/6 598/3 612/12  613/22  aback [1] 566/18  ability [4] 567/25 568/7 625/16 638/25  able [7] 571/3 575/4 575/6 583/5 640/5  644/15 645/8  about [84] 566/16 567/19 567/19  568/12 568/13 569/7 569/10 569/14  571/2 571/24 572/11 576/15 578/25  581/8 581/12 582/8 587/3 587/10  587/20 588/22 590/1 590/13 592/6  592/22 593/23 594/8 594/12 594/14  595/17 596/9 596/15 596/16 598/1  599/4 599/8 600/18 602/4 603/1 603/3  603/7 603/9 605/1 605/21 606/9  606/20 606/24 606/24 606/25 607/24  608/2 608/6 608/18 609/23 610/22  611/14 611/15 611/21 612/6 615/9</p>
<p>'</p> <p>'F' [1] 603/4</p> <p>.</p> <p>.x [1] 562/8</p> <p>/</p> <p>/s [1] 651/16</p> <p><b>1</b></p> <p>10 a.m [3] 573/9 587/5 587/6  100 [3] 607/10 608/12 609/12  10:23 [1] 577/3  10:23 a.m [2] 577/1 581/2  10:33 [1] 580/8  10:33 a.m [1] 580/16  10:37 [1] 583/20  10:40 [1] 585/10  10:50 [1] 575/8  10:53 a.m [6] 575/16 575/21 581/23  582/2 582/12 598/3  10:57 [1] 585/11  10:59 [1] 585/12  11 [2] 635/7 637/20  11:04 [1] 581/4  11:04 a.m [1] 577/5  11:05 a.m [1] 580/17  11:06 [2] 577/10 578/11  11:24 [1] 577/25</p>	<p><b>2</b></p> <p>2 o'clock [1] 598/25  2.209 [1] 566/10  20 [1] 601/15  20001 [1] 563/4  2020 [3] 590/23 597/17 632/15  2021 [11] 573/5 591/21 618/24 632/14  643/1 643/4 643/8 643/13 643/17  643/21 647/4  2022 [2] 562/7 651/14  203 [1] 562/15  206 [1] 562/19  20th [1] 650/21  21-161 [1] 565/2  21-161-RBW [1] 562/4  23 [1] 581/24  242-3939 [1] 562/24  2:23 [1] 579/2  2:23 p.m [2] 578/24 581/2</p> <p><b>3</b></p> <p>312 [2] 579/25 580/1  313 [2] 579/4 579/12  314 [9] 576/1 576/1 576/2 576/19  576/19 577/7 577/14 577/17 578/21  315 [2] 580/23 580/24  317 [4] 573/15 575/10 575/11 575/22  331 [2] 584/14 584/17  333 [1] 563/3  350-6818 [1] 562/16  36 [3] 597/15 599/5 612/1  36-year-old [2] 588/4 595/1  38 [1] 571/9  39 [1] 571/9  3939 [1] 562/24  3:50 [1] 642/2  3:54 [1] 642/16  3rd [3] 562/15 562/23 651/14</p> <p><b>4</b></p> <p>4 o'clock [1] 600/12  400 miles [1] 583/8  43215 [1] 562/23  4579 [1] 562/19  4:02 [1] 603/4  4:03 p.m [2] 600/15 603/10  4:08 [1] 651/2</p>	

<p><b>A</b> <b>about...</b> [25] 617/21 618/1 623/1 623/10 626/25 634/18 636/16 636/24 637/1 638/12 638/15 640/16 645/4 645/6 646/2 646/2 646/15 646/25 647/1 647/17 647/17 647/23 648/15 650/15 650/16</p> <p><b>above</b> [1] 651/9</p> <p><b>absurd</b> [1] 601/5</p> <p><b>abusive</b> [1] 631/12</p> <p><b>accept</b> [4] 614/17 624/7 639/18 646/14</p> <p><b>acceptable</b> [1] 618/5</p> <p><b>accident</b> [1] 629/23</p> <p><b>accomplish</b> [1] 628/13</p> <p><b>accord</b> [1] 595/1</p> <p><b>according</b> [1] 588/5</p> <p><b>account</b> [4] 579/9 579/9 579/18 579/19</p> <p><b>accuracy</b> [1] 623/15</p> <p><b>accurate</b> [4] 581/9 609/12 623/8 624/8</p> <p><b>accurately</b> [1] 622/25</p> <p><b>accusing</b> [1] 619/13</p> <p><b>acquittal</b> [1] 637/22</p> <p><b>across</b> [1] 578/1</p> <p><b>act</b> [13] 591/2 592/21 593/14 622/7 625/4 627/6 627/8 627/8 627/9 627/21 628/17 629/23 633/13</p> <p><b>acted</b> [10] 593/2 593/4 626/13 629/24 631/14 631/20 632/1 632/3 632/24 633/24</p> <p><b>acting</b> [3] 626/16 627/14 627/18</p> <p><b>action</b> [2] 565/2 628/13</p> <p><b>actions</b> [3] 590/7 611/12 632/13</p> <p><b>active</b> [1] 631/13</p> <p><b>activity</b> [3] 631/1 633/5 649/5</p> <p><b>acts</b> [7] 592/25 629/21 630/18 631/24 633/18 648/14 649/7</p> <p><b>actual</b> [5] 580/11 580/18 596/9 617/12 628/17</p> <p><b>actually</b> [25] 565/25 566/16 574/10 574/12 584/17 589/25 592/4 592/6 596/12 597/19 598/19 599/23 600/9 601/3 602/5 605/2 611/2 619/7 626/24 626/25 631/21 633/10 644/12 646/20 647/5</p> <p><b>add</b> [1] 571/14</p> <p><b>addition</b> [3] 568/17 589/22 637/2</p> <p><b>additional</b> [3] 572/4 577/9 578/14</p> <p><b>Additionally</b> [1] 648/10</p> <p><b>address</b> [5] 566/14 579/20 646/4 646/6 648/1</p> <p><b>adjoined</b> [1] 651/8</p> <p><b>adjoined</b> [2] 572/11 651/2</p> <p><b>admissible</b> [1] 620/2</p> <p><b>admission</b> [1] 597/3</p> <p><b>admitted</b> [35] 566/6 575/10 576/2 579/4 579/12 579/25 580/23 585/22 585/24 585/25 586/2 586/4 586/6 586/10 586/10 589/16 591/25 593/18 596/20 597/13 599/23 602/14 602/20 604/6 611/10 615/15 616/19 616/21 618/24 620/14 620/15 620/19 620/23 635/12 635/16</p> <p><b>admitting</b> [1] 589/16</p> <p><b>admonition</b> [1] 570/16</p> <p><b>adult</b> [4] 597/16 599/1 599/5 612/2</p> <p><b>advised</b> [1] 572/2</p>	<p><b>affect</b> [1] 625/15</p> <p><b>affraid</b> [3] 586/11 604/7 604/8</p> <p><b>Africa</b> [1] 644/12</p> <p><b>after</b> [20] 570/21 571/1 577/3 583/22 587/23 595/6 597/18 598/25 601/13 603/12 603/21 604/10 617/25 618/1 622/2 622/6 635/6 637/17 645/23 647/12</p> <p><b>afternoon</b> [3] 582/20 594/17 595/4</p> <p><b>again</b> [33] 566/2 571/6 571/9 571/18 575/6 575/18 576/24 577/9 578/18 580/25 581/17 587/5 590/5 591/9 591/18 592/18 593/6 593/13 593/16 594/13 594/13 594/13 595/17 596/13 599/23 600/14 602/20 612/20 617/16 619/8 645/17 646/16 648/21</p> <p><b>against</b> [5] 619/25 620/25 622/16 624/11 627/16</p> <p><b>age</b> [1] 616/3</p> <p><b>agent</b> [10] 564/5 573/3 573/22 574/5 574/8 575/11 575/25 579/4 581/8 582/19</p> <p><b>agents</b> [1] 586/7</p> <p><b>ago</b> [3] 606/22 607/9 644/7</p> <p><b>agree</b> [6] 595/18 610/10 611/19 634/3 635/7 643/24</p> <p><b>agreed</b> [9] 588/18 589/4 589/15 590/10 592/18 592/20 605/23 605/25 617/1</p> <p><b>agrees</b> [1] 592/16</p> <p><b>ahead</b> [1] 583/23</p> <p><b>aid</b> [1] 636/3</p> <p><b>aided</b> [1] 563/7</p> <p><b>alarm</b> [1] 602/11</p> <p><b>Albuquerque</b> [1] 562/15</p> <p><b>alert</b> [1] 612/18</p> <p><b>all</b> [77] 568/4 569/7 573/17 579/9 580/2 580/17 582/14 583/10 583/17 584/24 586/15 586/24 587/11 587/22 588/8 588/14 588/14 588/19 588/21 589/21 590/8 590/18 590/25 591/14 591/16 592/14 593/15 593/19 593/20 594/8 594/12 596/8 596/16 597/22 597/23 598/22 602/2 602/10 604/2 605/9 605/18 606/1 606/3 606/19 607/22 608/4 608/5 608/5 610/4 611/18 612/24 614/2 615/1 615/18 616/1 618/12 618/16 621/8 622/2 622/12 622/17 626/14 627/13 629/24 632/13 633/13 633/21 634/11 635/13 638/21 639/4 642/22 643/24 644/20 647/6 647/20 650/12</p> <p><b>allegations</b> [2] 646/15 646/18</p> <p><b>alleged</b> [5] 592/5 596/13 611/3 619/8 646/21</p> <p><b>allow</b> [2] 625/17 649/7</p> <p><b>almost</b> [2] 588/14 595/18</p> <p><b>alone</b> [4] 614/23 615/15 615/16 622/20</p> <p><b>along</b> [2] 590/14 590/14</p> <p><b>aloud</b> [1] 639/9</p> <p><b>already</b> [7] 575/10 576/1 583/25 603/14 603/15 634/17 650/5</p> <p><b>also</b> [29] 569/13 571/3 577/18 579/4 589/9 590/5 590/22 595/10 596/8 602/20 603/23 606/8 611/8 614/11 614/15 615/20 625/8 627/24 635/5 635/8 635/9 635/9 636/21 637/15</p>	<p>638/14 640/15 647/17 649/1 649/11</p> <p><b>alternate</b> [3] 613/10 638/5 638/6</p> <p><b>alternates</b> [1] 638/2</p> <p><b>alternative</b> [2] 584/21 613/19</p> <p><b>although</b> [5] 568/13 571/9 616/22 636/9 647/11</p> <p><b>always</b> [3] 570/21 648/19 649/24</p> <p><b>am</b> [1] 588/8</p> <p><b>AMERICA</b> [5] 562/3 565/3 572/14 582/21 608/10</p> <p><b>American</b> [4] 595/20 646/12 647/23 648/24</p> <p><b>among</b> [2] 567/7 640/12</p> <p><b>amounts</b> [2] 627/14 633/2</p> <p><b>anger</b> [1] 608/14</p> <p><b>another</b> [9] 566/16 595/9 611/4 611/8 618/6 625/7 630/19 630/24 646/21</p> <p><b>answer</b> [6] 596/6 607/7 611/13 620/5 620/7 620/8</p> <p><b>answered</b> [1] 620/6</p> <p><b>answers</b> [2] 644/1 644/3</p> <p><b>anticipated</b> [1] 598/13</p> <p><b>any</b> [83] 568/15 570/15 571/24 572/4 572/10 572/10 572/10 573/16 583/11 585/2 591/24 595/9 599/11 599/12 600/17 611/7 615/6 615/9 615/16 616/2 616/10 616/12 616/15 617/2 617/7 618/8 619/5 619/15 619/15 619/16 619/17 621/8 621/13 622/20 622/21 623/3 623/8 623/11 623/17 623/21 623/23 623/24 623/25 624/1 624/10 624/19 624/22 625/4 625/7 625/25 626/4 626/12 629/15 632/6 633/12 634/8 634/15 635/13 636/11 636/14 636/16 636/25 637/1 637/2 637/4 637/5 637/11 637/12 637/12 637/15 637/16 637/20 637/21 637/22 638/14 638/15 638/23 645/3 645/5 646/14 646/15 649/7 650/18</p> <p><b>anybody</b> [5] 583/4 638/12 640/17 644/2 648/11</p> <p><b>anymore</b> [1] 608/9</p> <p><b>anyone</b> [6] 595/8 602/16 611/6 625/6 636/18 636/24</p> <p><b>anything</b> [23] 565/17 568/13 569/10 569/14 569/15 570/14 571/1 572/17 572/21 583/13 583/14 585/5 588/22 590/13 610/9 616/9 616/23 623/2 623/12 630/1 639/22 641/13 650/22</p> <p><b>anytime</b> [1] 626/3</p> <p><b>anyways</b> [3] 593/7 598/15 599/3</p> <p><b>apart</b> [1] 647/2</p> <p><b>apologize</b> [2] 570/13 571/18</p> <p><b>apparent</b> [1] 607/22</p> <p><b>apparently</b> [1] 588/5</p> <p><b>appear</b> [3] 567/23 570/18 620/22</p> <p><b>appearance</b> [1] 571/18</p> <p><b>APPEARANCES</b> [2] 562/13 563/1</p> <p><b>appeared</b> [4] 566/15 612/15 612/17 613/7</p> <p><b>appearing</b> [1] 566/17</p> <p><b>appears</b> [2] 577/24 581/15</p> <p><b>applied</b> [1] 587/18</p> <p><b>applies</b> [5] 566/2 614/17 625/23 631/3 632/9</p> <p><b>apply</b> [3] 614/5 624/22 633/7</p> <p><b>appreciate</b> [1] 605/15</p>
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<p><b>A</b></p> <p><b>appreciation</b> [1] 614/8</p> <p><b>approach</b> [1] 648/20</p> <p><b>appropriate</b> [4] 567/23 569/3 570/1 571/11</p> <p><b>approximate</b> [2] 576/10 578/23</p> <p><b>approximately</b> [7] 574/15 575/8 575/16 577/10 578/13 580/20 582/10</p> <p><b>April</b> [1] 562/7</p> <p><b>are</b> [68] 566/25 568/5 576/8 576/19 577/9 578/5 578/8 581/9 582/21 586/23 588/13 588/13 590/2 591/5 596/19 599/15 602/18 602/25 607/4 608/16 608/21 609/12 610/24 613/10 614/5 614/23 615/7 615/13 615/13 615/20 615/21 617/3 617/5 617/9 617/10 618/5 618/9 619/19 619/19 619/21 620/11 620/18 620/19 620/25 622/3 622/18 623/21 624/2 625/1 628/3 628/24 631/18 632/10 633/16 633/22 635/22 636/3 636/3 636/7 637/15 637/17 638/16 639/10 641/14 644/17 645/9 646/11 647/7</p> <p><b>area</b> [9] 577/2 577/4 577/12 580/15 582/4 582/8 590/12 597/1 629/15</p> <p><b>argument</b> [9] 564/12 564/13 564/14 585/14 585/15 605/12 610/19 612/20 619/23</p> <p><b>arguments</b> [5] 583/19 583/23 595/6 614/4 619/18</p> <p><b>arising</b> [1] 614/16</p> <p><b>around</b> [12] 574/15 575/8 577/1 577/4 578/25 579/2 587/12 598/20 598/22 600/12 607/21 609/9</p> <p><b>arraignment</b> [1] 571/1</p> <p><b>arrest</b> [1] 604/8</p> <p><b>arrested</b> [6] 586/11 603/7 603/8 603/9 604/7 650/13</p> <p><b>arrive</b> [1] 615/24</p> <p><b>arrived</b> [1] 577/12</p> <p><b>arriving</b> [1] 579/1</p> <p><b>article</b> [1] 571/15</p> <p><b>as</b> [135]</p> <p><b>ask</b> [16] 571/23 572/10 584/21 605/18 605/19 607/1 607/6 609/15 609/24 610/15 625/16 634/23 639/20 643/24 648/5 648/25</p> <p><b>asked</b> [26] 569/2 569/4 569/17 585/25 585/25 587/5 587/7 587/10 587/11 596/21 597/2 599/4 599/10 599/23 600/7 601/25 607/5 609/22 610/15 619/22 623/19 625/13 634/23 635/1 635/4 650/6</p> <p><b>asking</b> [3] 596/21 650/3 650/15</p> <p><b>asleep</b> [1] 618/3</p> <p><b>aspect</b> [1] 644/18</p> <p><b>aspects</b> [1] 566/25</p> <p><b>assault</b> [5] 601/16 604/2 610/2 610/2 610/3</p> <p><b>assaulted</b> [1] 604/1</p> <p><b>assembled</b> [1] 608/10</p> <p><b>asserted</b> [1] 602/5</p> <p><b>assertion</b> [1] 573/9</p> <p><b>assessment</b> [1] 619/10</p> <p><b>assist</b> [2] 619/19 634/20</p> <p><b>associated</b> [2] 579/9 638/13</p> <p><b>association</b> [1] 616/5</p>	<p><b>assume</b> [5] 566/24 570/18 575/20 617/20 617/23</p> <p><b>assuming</b> [3] 575/18 613/3 650/4</p> <p><b>assure</b> [1] 648/16</p> <p><b>attempt</b> [2] 627/24 628/9</p> <p><b>attempted</b> [2] 626/11 636/12</p> <p><b>attempting</b> [1] 628/1</p> <p><b>attempts</b> [1] 627/13</p> <p><b>attention</b> [4] 575/25 605/15 613/2 636/17</p> <p><b>attentive</b> [1] 613/5</p> <p><b>attorney</b> [3] 595/19 611/14 611/20</p> <p><b>attorney's</b> [3] 562/14 562/18 594/1</p> <p><b>attorneys</b> [1] 616/15</p> <p><b>audio</b> [2] 585/1 620/17</p> <p><b>audits</b> [1] 646/17</p> <p><b>AUSA</b> [2] 562/14 562/17</p> <p><b>authority</b> [4] 591/22 592/10 592/12 629/12</p> <p><b>authorization</b> [1] 596/10</p> <p><b>authorize</b> [4] 592/4 596/14 611/3 619/7</p> <p><b>authorized</b> [1] 591/23</p> <p><b>available</b> [5] 584/25 614/9 614/12 640/8 648/8</p> <p><b>Avenue</b> [3] 563/3 598/24 609/3</p> <p><b>avoid</b> [2] 605/24 638/13</p> <p><b>aware</b> [8] 568/2 569/24 582/21 597/4 615/20 615/22 629/22 648/10</p> <p><b>awareness</b> [1] 627/11</p> <p><b>away</b> [12] 582/8 582/10 583/8 583/8 586/10 586/11 589/8 600/9 601/6 604/6 604/7 641/16</p> <hr/> <p><b>B</b></p> <p><b>back</b> [16] 569/9 569/12 577/6 577/7 580/13 580/19 586/8 598/23 601/11 603/22 607/23 638/19 641/17 645/1 645/18 646/5</p> <p><b>backing</b> [1] 576/11</p> <p><b>backlog</b> [2] 645/10 645/12</p> <p><b>backside</b> [1] 598/22</p> <p><b>bad</b> [1] 632/7</p> <p><b>balance</b> [1] 649/3</p> <p><b>based</b> [18] 570/22 578/6 579/19 587/25 588/2 611/11 612/6 612/6 613/9 621/25 622/1 622/10 622/10 634/10 634/24 644/24 648/18 649/3</p> <p><b>basic</b> [1] 605/2</p> <p><b>basically</b> [7] 574/22 576/3 576/4 576/6 576/25 580/7 610/9</p> <p><b>be</b> [105]</p> <p><b>beaming</b> [1] 578/4</p> <p><b>Bear</b> [1] 637/15</p> <p><b>because</b> [57] 567/5 568/2 568/5 568/8 569/1 569/17 571/2 581/13 583/24 584/1 586/11 586/16 587/19 587/22 590/1 593/25 594/16 594/24 595/3 596/3 596/4 596/10 596/25 597/2 597/8 598/10 598/13 600/10 601/21 602/2 602/2 604/7 604/8 607/1 607/8 610/6 610/21 612/19 613/16 624/24 625/17 628/11 633/9 636/14 639/10 639/15 639/18 640/8 641/12 645/10 645/11 646/24 647/8 647/19 648/19 650/11 650/15</p> <p><b>become</b> [2] 568/4 637/6</p>	<p><b>becomes</b> [1] 613/15</p> <p><b>bed</b> [1] 649/25</p> <p><b>been</b> [50] 565/22 567/15 568/21 568/25 569/2 570/9 570/21 571/19 575/9 576/1 579/3 579/11 579/20 579/24 583/25 588/15 588/18 591/18 593/25 595/13 596/23 601/9 601/17 602/20 603/15 608/19 608/20 612/16 617/4 618/24 619/2 619/11 620/6 620/24 624/9 625/11 625/19 635/6 635/12 639/1 644/15 645/7 645/8 646/16 646/17 646/20 647/25 648/6 648/6 650/13</p> <p><b>before</b> [17] 562/11 567/4 567/11 567/14 568/25 570/3 570/18 575/9 575/21 579/1 580/23 593/23 597/17 621/1 626/20 639/22 641/12</p> <p><b>beginning</b> [3] 594/7 636/2 636/23</p> <p><b>behalf</b> [9] 564/3 564/12 564/13 564/14 585/15 605/12 610/19 642/19 643/23</p> <p><b>behave</b> [1] 606/17</p> <p><b>behavior</b> [5] 597/13 606/25 607/17 623/5 648/6</p> <p><b>being</b> [15] 568/1 568/5 568/6 571/3 603/9 604/1 604/7 604/8 635/1 635/4 638/16 646/14 646/21 647/20 648/7</p> <p><b>beings</b> [1] 615/18</p> <p><b>belied</b> [1] 600/22</p> <p><b>belief</b> [1] 586/25</p> <p><b>beliefs</b> [1] 616/5</p> <p><b>believability</b> [5] 614/25 615/17 622/19 622/23 623/3</p> <p><b>believable</b> [3] 586/19 597/21 618/19</p> <p><b>believe</b> [20] 566/4 569/8 569/10 569/13 570/13 571/19 584/6 586/18 595/18 597/25 613/10 616/12 618/18 620/2 622/20 624/10 640/16 647/16 648/18 649/3</p> <p><b>believed</b> [2] 619/24 622/22</p> <p><b>belong</b> [1] 589/3</p> <p><b>belonged</b> [1] 628/25</p> <p><b>belonging</b> [1] 579/20</p> <p><b>Bench</b> [2] 573/1 639/21</p> <p><b>benefit</b> [1] 629/4</p> <p><b>best</b> [1] 644/15</p> <p><b>better</b> [2] 571/5 649/13</p> <p><b>between</b> [13] 574/25 575/7 577/25 578/16 581/4 588/15 594/20 597/11 600/11 600/23 623/17 623/23 623/25</p> <p><b>beyond</b> [25] 588/19 593/3 593/19 611/18 621/5 621/9 621/14 621/18 621/23 622/12 622/13 622/16 625/2 626/10 626/14 627/1 628/2 628/24 629/10 630/7 631/9 632/2 632/21 633/23 634/19</p> <p><b>bias</b> [2] 624/11 624/13</p> <p><b>biases</b> [4] 615/19 615/21 615/22 615/23</p> <p><b>big</b> [1] 587/3</p> <p><b>biggest</b> [1] 567/25</p> <p><b>bike</b> [1] 600/4</p> <p><b>bit</b> [4] 578/18 587/2 591/1 648/16</p> <p><b>blacked</b> [1] 620/16</p> <p><b>block</b> [1] 626/17</p> <p><b>blocks</b> [1] 601/6</p> <p><b>blogging</b> [1] 637/1</p> <p><b>blue</b> [1] 581/11</p>
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<p><b>B</b></p> <p><b>boils</b> [1] 593/16</p> <p><b>bombarded</b> [1] 608/21</p> <p><b>bona</b> [1] 609/12</p> <p><b>bond</b> [2] 646/9 650/1</p> <p><b>booze</b> [1] 606/11</p> <p><b>both</b> [9] 570/24 613/2 618/4 618/10 618/13 620/8 627/10 641/9 641/9</p> <p><b>bothered</b> [1] 567/1</p> <p><b>bottle</b> [3] 597/9 597/11 606/10</p> <p><b>bottles</b> [1] 591/8</p> <p><b>bottom</b> [1] 575/15</p> <p><b>bound</b> [1] 609/13</p> <p><b>Brandon</b> [1] 575/13</p> <p><b>breach</b> [1] 590/7</p> <p><b>break</b> [4] 583/18 612/10 612/11 613/21</p> <p><b>Brian</b> [4] 564/5 573/3 573/23 574/5</p> <p><b>bribing</b> [1] 627/20</p> <p><b>bridge</b> [1] 613/18</p> <p><b>brief</b> [3] 572/1 572/7 572/24</p> <p><b>briefly</b> [1] 581/8</p> <p><b>bring</b> [7] 567/2 569/14 570/3 574/10 585/3 636/19 638/19</p> <p><b>brings</b> [1] 604/4</p> <p><b>broadcast</b> [4] 582/22 583/1 583/3 583/4</p> <p><b>broken</b> [4] 591/4 602/12 602/14 602/18</p> <p><b>BS</b> [1] 603/8</p> <p><b>buddy</b> [5] 586/8 600/13 600/15 604/10 604/12</p> <p><b>building</b> [39] 577/16 585/23 587/18 590/9 590/11 591/17 591/25 592/1 592/16 592/17 593/9 593/10 594/19 595/3 597/9 598/20 598/24 600/8 601/7 601/11 602/4 602/23 603/16 607/24 609/8 629/7 629/11 629/14 629/16 630/4 630/14 631/6 631/10 632/18 632/22 643/8 643/12 643/16 643/20</p> <p><b>buildings</b> [2] 578/1 578/10</p> <p><b>bulletproof</b> [2] 598/8 598/12</p> <p><b>burden</b> [6] 588/10 621/6 621/16 621/17 622/13 644/25</p> <p><b>buses</b> [1] 599/8</p> <p><b>business</b> [8] 589/25 589/25 590/4 593/12 630/12 630/16 633/3 641/14</p> <p><b>buy</b> [1] 647/19</p> <p><b>buzz</b> [1] 608/5</p>	<p>611/21 611/21 611/22 612/14 614/10 639/5 639/11 640/9 640/24 641/6 641/7 641/11 641/22 645/6 645/18 645/19 646/7 647/3 648/16 649/21</p> <p><b>can't</b> [1] 613/6</p> <p><b>candid</b> [1] 649/19</p> <p><b>candidly</b> [1] 647/13</p> <p><b>cannot</b> [6] 622/3 633/9 638/12 638/14 639/8 639/9</p> <p><b>capability</b> [1] 624/15</p> <p><b>Capitol</b> [45] 579/1 579/2 585/23 586/3 587/18 590/10 590/11 591/19 591/20 591/23 592/15 592/17 593/9 593/10 594/19 595/2 595/3 595/25 596/1 596/25 597/9 598/14 598/20 598/24 599/2 600/5 601/3 601/7 602/4 602/11 603/2 603/11 603/16 604/9 604/11 604/19 607/24 611/11 612/4 631/6 631/10 632/18 632/22 643/16 643/20</p> <p><b>car</b> [2] 581/15 641/7</p> <p><b>care</b> [1] 646/25</p> <p><b>careful</b> [1] 622/2</p> <p><b>carefull</b> [1] 622/6</p> <p><b>carefully</b> [1] 614/6</p> <p><b>carried</b> [1] 644/22</p> <p><b>carry</b> [1] 598/11</p> <p><b>carrying</b> [1] 598/11</p> <p><b>case</b> [82] 566/23 568/12 569/7 571/16 571/20 571/24 572/11 574/8 583/18 585/17 585/17 586/18 586/21 588/7 588/15 592/5 594/8 595/16 596/13 597/6 604/21 605/8 605/17 605/21 607/16 609/6 609/7 609/10 611/4 612/5 612/7 614/6 614/14 614/17 614/23 615/13 616/7 616/12 616/13 616/20 616/23 617/10 618/12 619/3 619/8 619/21 621/2 621/18 621/21 622/1 623/12 623/14 624/20 625/12 625/19 634/4 634/10 634/14 635/18 636/4 636/11 636/12 636/14 636/24 637/1 637/13 637/23 637/25 638/1 638/6 638/8 638/13 638/14 638/18 640/2 640/17 641/20 642/20 644/23 648/12 648/23 651/9</p> <p><b>cases</b> [6] 621/20 636/8 645/11 645/12 647/5 650/14</p> <p><b>Cathryn</b> [4] 563/2 651/5 651/16 651/17</p> <p><b>caught</b> [1] 568/14</p> <p><b>cause</b> [2] 622/5 630/19</p> <p><b>CCTV</b> [1] 603/6</p> <p><b>cellphone</b> [3] 576/6 578/4 583/5</p> <p><b>cellphone's</b> [1] 576/9</p> <p><b>central</b> [1] 587/15</p> <p><b>certain</b> [2] 567/2 617/1</p> <p><b>certainly</b> [2] 568/12 569/9</p> <p><b>certainty</b> [3] 618/11 622/12 622/13</p> <p><b>CERTIFICATE</b> [1] 651/4</p> <p><b>certification</b> [3] 590/22 590/23 591/10</p> <p><b>certify</b> [4] 626/22 632/15 651/7 651/10</p> <p><b>certifying</b> [1] 609/1</p> <p><b>challenge</b> [1] 568/4</p> <p><b>challenges</b> [1] 567/25</p> <p><b>change</b> [3] 570/17 571/7 645/6</p> <p><b>changed</b> [2] 565/16 606/23</p> <p><b>changes</b> [1] 572/4</p> <p><b>channel</b> [2] 566/16 569/13</p>	<p>chapter [1] 606/2</p> <p><b>character</b> [6] 567/16 567/17 569/1 648/18 649/3 649/4</p> <p><b>characteristics</b> [1] 616/2</p> <p><b>charge</b> [5] 595/10 611/9 625/9 625/15 626/15</p> <p><b>charged</b> [17] 567/11 569/2 595/9 595/13 596/13 611/3 611/7 619/2 619/8 619/11 621/11 625/3 625/4 625/7 625/11 627/24 632/17</p> <p><b>charges</b> [9] 622/16 625/15 625/18 625/21 626/5 628/20 629/6 630/3 631/5</p> <p><b>charging</b> [5] 642/25 643/7 643/11 643/15 643/19</p> <p><b>charlatans</b> [1] 646/24</p> <p><b>charts</b> [1] 578/2</p> <p><b>check</b> [2] 566/5 583/1</p> <p><b>chief</b> [1] 645/5</p> <p><b>child</b> [1] 612/2</p> <p><b>Children's</b> [1] 582/6</p> <p><b>choice</b> [2] 598/17 599/2</p> <p><b>choose</b> [2] 594/20 594/24</p> <p><b>chose</b> [2] 598/14 599/3</p> <p><b>chosen</b> [1] 648/22</p> <p><b>circle</b> [3] 577/13 577/18 577/21</p> <p><b>circled</b> [1] 577/16</p> <p><b>circumstances</b> [10] 617/14 617/18 618/17 623/16 623/19 630/23 633/12 633/14 633/22 637/16</p> <p><b>circumstantial</b> [7] 617/11 617/19 618/2 618/4 618/9 618/10 618/13</p> <p><b>cite</b> [1] 583/24</p> <p><b>citizens</b> [3] 644/17 645/13 646/13</p> <p><b>city</b> [1] 607/25</p> <p><b>civil</b> [1] 621/18</p> <p><b>claimed</b> [1] 599/3</p> <p><b>clarify</b> [1] 593/24</p> <p><b>clear</b> [2] 571/8 628/13</p> <p><b>clearly</b> [2] 567/17 613/5</p> <p><b>Clemens</b> [2] 570/19 570/24</p> <p><b>clerk</b> [11] 565/12 572/2 635/20 636/18 637/8 637/16 639/3 640/10 640/23 641/21 645/18</p> <p><b>clever</b> [1] 607/4</p> <p><b>client</b> [5] 567/12 568/17 594/17 594/21 610/23</p> <p><b>client's</b> [2] 568/13 569/11</p> <p><b>clip</b> [6] 575/13 575/19 583/6 584/13 584/17 584/18</p> <p><b>close</b> [1] 578/6</p> <p><b>closed</b> [3] 585/24 591/25 592/1</p> <p><b>closing</b> [8] 564/12 564/13 583/19 583/23 585/14 585/15 595/6 605/12</p> <p><b>co</b> [3] 600/23 650/5 650/6</p> <p><b>co-defendant</b> [3] 600/23 650/5 650/6</p> <p><b>coat</b> [27] 586/2 586/9 588/25 589/1 589/3 589/6 589/8 589/10 589/11 589/13 589/16 589/17 591/8 601/2 601/4 601/6 601/12 602/1 603/5 604/20 606/10 607/14 607/20 628/25 628/25 629/2 629/4</p> <p><b>cold</b> [1] 609/1</p> <p><b>collective</b> [2] 605/19 607/7</p> <p><b>collectively</b> [1] 609/15</p> <p><b>college</b> [4] 588/4 612/2 626/23 632/15</p> <p><b>colored</b> [1] 624/14</p>
<p><b>C</b></p> <p><b>C-Span</b> [2] 574/18 574/21</p> <p><b>cajoled</b> [1] 610/7</p> <p><b>calculating</b> [1] 609/1</p> <p><b>call</b> [2] 569/18 641/22</p> <p><b>called</b> [4] 571/4 591/11 615/21 617/19</p> <p><b>calling</b> [1] 645/13</p> <p><b>calls</b> [2] 573/22 609/6</p> <p><b>came</b> [2] 594/8 610/14</p> <p><b>camera</b> [1] 575/1</p> <p><b>can</b> [49] 566/5 571/21 572/13 575/15 575/19 576/2 577/2 577/13 577/18 578/1 579/25 580/9 580/13 581/21 582/5 588/17 588/18 594/21 595/18 595/19 595/20 595/23 595/24 596/1 596/2 597/3 603/5 611/16 611/19</p>		

<p><b>C</b> Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 95 of 111</p> <p><b>COLUMBIA</b> [3] 562/2 577/4 651/7  <b>Columbus</b> [2] 562/23 609/8  <b>columns</b> [1] 580/8  <b>combat</b> [3] 575/15 575/20 587/8  <b>come</b> [7] 567/14 580/2 584/21 640/20 645/2 645/14 647/20  <b>comes</b> [4] 580/12 580/19 598/23 636/17  <b>coming</b> [1] 601/11  <b>commented</b> [1] 567/2  <b>comments</b> [1] 571/5  <b>commission</b> [1] 628/17  <b>commit</b> [6] 619/11 627/24 628/3 628/10 628/14 649/7  <b>commitment</b> [1] 605/15  <b>committed</b> [3] 594/22 604/9 648/14  <b>committing</b> [3] 619/2 628/7 628/12  <b>common</b> [2] 597/6 602/22  <b>communicate</b> [5] 636/24 637/7 637/10 637/12 640/14  <b>communication</b> [1] 571/11  <b>communications</b> [1] 636/25  <b>community</b> [1] 644/9  <b>complete</b> [1] 628/17  <b>completed</b> [2] 572/21 650/17  <b>completion</b> [1] 650/8  <b>complies</b> [2] 577/15 577/20  <b>components</b> [1] 591/5  <b>compromised</b> [1] 639/1  <b>computer</b> [1] 563/7  <b>computer-aided</b> [1] 563/7  <b>conceivably</b> [1] 568/6  <b>concern</b> [3] 567/9 634/6 646/12  <b>concerned</b> [3] 566/14 623/14 649/17  <b>concerning</b> [3] 566/20 636/11 637/13  <b>concerns</b> [6] 613/16 646/10 646/11 647/10 647/17 647/22  <b>conclude</b> [2] 619/3 634/13  <b>concluded</b> [2] 574/15 644/24  <b>conclusion</b> [1] 614/7  <b>condition</b> [1] 648/18  <b>conduct</b> [45] 588/6 589/20 589/23 590/3 590/9 592/8 592/25 593/12 593/13 593/17 594/5 595/17 605/24 605/25 606/9 614/13 625/4 627/4 627/21 628/6 629/22 630/4 630/10 630/12 630/13 630/14 630/15 630/16 630/18 630/25 631/6 631/13 631/15 631/22 631/24 632/11 637/2 637/4 638/11 638/23 643/12 643/16 647/21 648/13 649/15  <b>conducted</b> [2] 592/17 638/24  <b>conference</b> [2] 573/1 639/21  <b>conferred</b> [1] 584/6  <b>confines</b> [1] 568/3  <b>confrontation</b> [1] 601/13  <b>confronted</b> [2] 586/7 604/5  <b>confusion</b> [2] 587/10 600/17  <b>Congress</b> [10] 590/6 592/19 626/20 631/16 631/17 631/18 632/12 632/13 632/14 633/3  <b>Congress'</b> [1] 626/22  <b>connection</b> [1] 597/10  <b>consciously</b> [1] 615/22  <b>consciousness</b> [3] 591/11 627/8 627/10</p>	<p><b>consequence</b> [1] 649/24  <b>consequences</b> [1] 633/17  <b>consider</b> [39] 607/6 610/24 611/16 615/7 615/20 616/19 617/2 617/3 618/12 618/16 619/5 619/14 619/16 620/11 620/23 622/17 623/2 623/4 623/16 623/21 623/24 624/1 624/5 624/8 624/13 625/18 625/18 625/22 629/24 633/12 633/21 634/11 634/23 635/2 635/4 635/14 648/5 648/25 649/18  <b>consideration</b> [4] 616/7 616/9 622/2 635/17  <b>considered</b> [2] 582/4 634/1  <b>considering</b> [1] 650/12  <b>consist</b> [1] 616/20  <b>consistencies</b> [2] 623/22 623/24  <b>consistent</b> [1] 602/6  <b>consoled</b> [1] 638/3  <b>conspiracy</b> [1] 567/6  <b>constitute</b> [1] 651/11  <b>constituted</b> [1] 628/6  <b>Constitution</b> [1] 563/3  <b>constitutional</b> [1] 627/16  <b>construing</b> [1] 611/16  <b>consult</b> [1] 639/17  <b>consumed</b> [1] 608/3  <b>Cont'd</b> [1] 563/1  <b>contact</b> [4] 571/24 572/10 636/20 638/14  <b>CONTENTS</b> [1] 564/1  <b>context</b> [3] 607/16 607/16 648/13  <b>continue</b> [2] 638/11 638/13  <b>continuous</b> [3] 574/21 574/22 574/24  <b>contradicted</b> [1] 624/9  <b>contrast</b> [1] 627/18  <b>control</b> [1] 616/17  <b>convened</b> [1] 632/14  <b>convey</b> [1] 634/15  <b>convicted</b> [4] 568/21 569/3 647/25 649/22  <b>conviction</b> [4] 567/19 634/6 634/9 637/22  <b>convinced</b> [1] 622/3  <b>coordinates</b> [4] 573/4 576/5 578/5 581/17  <b>copies</b> [2] 584/1 614/10  <b>copy</b> [3] 565/13 615/3 645/20  <b>cordon</b> [1] 629/15  <b>corner</b> [3] 577/17 577/21 580/20  <b>correct</b> [15] 574/9 574/24 575/3 576/12 576/13 576/17 576/18 577/22 579/22 581/3 581/25 582/24 583/6 583/7 583/9  <b>corrupt</b> [1] 630/11  <b>corruptly</b> [10] 591/2 606/17 609/14 626/6 626/13 627/6 627/9 627/14 627/18 627/22  <b>could</b> [20] 567/14 568/16 568/24 574/4 578/7 584/22 587/10 587/12 592/6 592/9 596/14 596/23 599/7 599/10 599/13 603/22 603/23 607/5 641/4 648/21  <b>couldn't</b> [3] 569/2 586/17 604/25  <b>counsel</b> [18] 565/3 584/1 584/7 585/14 594/8 594/15 610/22 612/18 612/21 613/10 639/20 639/22 641/2</p>	<p>642/4 645/22 648/11 650/18 650/22  <b>counseling</b> [1] 649/11  <b>count</b> [29] 588/24 589/17 589/19 590/9 590/18 591/13 591/15 591/16 592/14 593/8 606/16 625/21 625/24 626/1 626/5 626/20 627/23 628/19 629/5 630/2 631/4 632/10 632/16 642/24 643/3 643/7 643/11 643/15 643/19  <b>country</b> [10] 568/5 603/22 608/9 610/4 644/8 647/2 647/2 647/3 647/7 647/9  <b>counts</b> [14] 588/12 588/20 588/23 590/12 590/16 593/15 593/20 605/9 606/7 606/13 626/2 626/4 635/4 642/22  <b>couple</b> [4] 565/14 566/25 612/15 612/16  <b>course</b> [10] 571/17 606/1 606/11 607/4 620/3 620/13 631/1 644/20 648/4 649/2  <b>court</b> [32] 562/1 563/2 563/2 563/3 564/15 567/11 569/22 569/25 570/13 571/18 573/19 587/25 592/22 612/9 614/1 617/21 627/15 627/19 637/14 637/19 640/1 640/9 640/14 641/8 641/21 645/4 647/24 648/5 648/7 651/5 651/6 651/17  <b>Court's</b> [2] 584/7 584/12  <b>courthouse</b> [1] 570/22  <b>courtroom</b> [25] 568/3 572/8 583/20 585/3 585/4 585/12 607/13 607/19 612/12 613/24 615/24 635/23 636/15 636/20 639/3 640/4 640/5 640/21 640/23 640/24 641/1 642/16 645/1 645/19 645/21  <b>courts</b> [2] 567/25 568/4  <b>coverage</b> [5] 571/16 571/24 572/11 636/12 638/15  <b>CR</b> [1] 562/4  <b>create</b> [1] 584/18  <b>created</b> [1] 644/8  <b>credibility</b> [6] 586/22 615/17 622/19 622/23 623/3 624/21  <b>credible</b> [4] 586/19 597/22 599/15 600/22  <b>credit</b> [2] 624/1 624/10  <b>crime</b> [11] 569/3 594/22 604/17 619/14 625/4 627/24 628/1 628/3 628/12 628/18 628/22  <b>crimes</b> [14] 567/11 592/5 595/9 595/13 596/13 596/14 604/9 611/3 611/7 619/8 619/11 625/3 625/7 625/11  <b>criminal</b> [9] 565/2 568/22 594/25 595/10 611/9 612/8 621/2 621/21 625/8  <b>critical</b> [1] 570/21  <b>cross</b> [6] 564/4 582/16 582/17 587/6 607/4 613/18  <b>cross-examination</b> [3] 582/16 582/17 587/6  <b>crowd</b> [6] 575/5 587/12 595/24 602/12 608/7 609/2  <b>crowding</b> [1] 630/24  <b>crutch</b> [1] 649/12  <b>curiously</b> [1] 605/22  <b>cuts</b> [1] 613/2</p>
---	--	--

<p><b>D</b> Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 95 of 111</p> <p><b>D.C</b> [4] 562/6 563/4 577/12 582/5</p> <p><b>danger</b> [1] 649/6</p> <p><b>dangerousness</b> [1] 647/18</p> <p><b>data</b> [5] 576/24 576/24 578/3 578/23 580/25</p> <p><b>date</b> [7] 573/5 635/5 635/5 635/8 650/1 650/9 650/10</p> <p><b>day</b> [32] 585/22 586/14 588/3 588/6 588/10 590/11 591/13 591/18 594/22 595/17 596/17 596/18 597/5 597/18 597/19 597/20 598/1 599/6 600/24 601/9 602/17 602/21 608/25 610/23 611/21 611/23 612/8 641/6 647/8 647/24 648/9 651/14</p> <p><b>days</b> [2] 606/22 650/2</p> <p><b>DC</b> [1] 609/8</p> <p><b>dead</b> [1] 574/25</p> <p><b>deal</b> [1] 646/5</p> <p><b>dealing</b> [1] 650/14</p> <p><b>decide</b> [20] 595/7 595/12 611/6 614/22 615/1 615/14 615/15 615/16 616/7 616/11 618/7 618/7 621/1 625/1 625/6 625/10 633/20 636/14 637/23 637/25</p> <p><b>decided</b> [2] 644/7 644/9</p> <p><b>deciding</b> [2] 614/5 629/23</p> <p><b>decision</b> [6] 634/24 635/3 635/7 643/25 644/24 648/24</p> <p><b>decisions</b> [1] 644/8</p> <p><b>defendant</b> [69] 562/7 562/22 564/13 566/10 566/10 585/18 585/22 586/14 586/16 587/4 590/1 593/2 593/4 594/4 595/8 595/12 597/4 600/5 600/23 605/12 611/6 619/3 619/10 621/2 621/4 622/16 625/2 625/3 625/6 625/11 625/25 626/8 626/11 626/13 627/3 627/9 628/3 628/5 628/9 628/12 628/16 628/24 629/2 629/8 629/11 629/13 629/24 630/1 630/5 630/9 630/10 631/7 631/10 631/11 631/14 631/19 631/21 631/24 632/1 632/3 632/6 632/19 632/22 632/23 632/24 634/6 646/9 650/5 650/6</p> <p><b>defendant's</b> [7] 619/1 622/4 626/16 627/4 630/13 630/14 630/15</p> <p><b>defense</b> [21] 570/9 571/2 572/20 586/18 587/16 594/1 594/4 594/8 594/14 595/10 595/18 602/6 602/8 605/10 606/23 610/22 611/8 611/14 611/20 625/8 650/24</p> <p><b>defile</b> [1] 612/4</p> <p><b>define</b> [1] 606/18</p> <p><b>defined</b> [2] 628/5 628/8</p> <p><b>definition</b> [2] 631/2 632/8</p> <p><b>definitively</b> [1] 613/6</p> <p><b>defy</b> [1] 586/25</p> <p><b>degree</b> [2] 588/4 618/11</p> <p><b>degrees</b> [1] 612/2</p> <p><b>deliberate</b> [3] 638/8 639/23 644/23</p> <p><b>deliberating</b> [2] 638/10 638/18</p> <p><b>deliberations</b> [21] 613/15 615/5 616/18 616/18 620/9 620/12 626/3 634/8 634/13 636/2 636/23 637/3 637/7 638/19 638/20 638/21 638/22 640/6 640/19 640/25 641/3</p> <p><b>delicate</b> [1] 636/21</p> <p><b>demeanor</b> [1] 623/4</p>	<p><b>democracy</b> [3] 610/2 646/23 647/1</p> <p><b>democratic</b> [1] 645/16</p> <p><b>demonstrate</b> [2] 593/10 593/11</p> <p><b>demonstrated</b> [1] 632/23</p> <p><b>demonstrating</b> [2] 632/17 643/20</p> <p><b>denied</b> [1] 567/4</p> <p><b>department</b> [1] 650/19</p> <p><b>depict</b> [4] 577/8 578/12 578/18 578/22</p> <p><b>deprive</b> [3] 589/5 589/12 629/3</p> <p><b>deprived</b> [1] 589/11</p> <p><b>describe</b> [2] 576/2 580/1</p> <p><b>described</b> [1] 623/1</p> <p><b>deserve</b> [1] 616/1</p> <p><b>desire</b> [3] 584/3 624/15 645/23</p> <p><b>desired</b> [1] 567/2</p> <p><b>desperate</b> [2] 600/2 610/6</p> <p><b>destroyed</b> [1] 639/3</p> <p><b>details</b> [1] 623/20</p> <p><b>detained</b> [1] 649/25</p> <p><b>determine</b> [8] 575/5 614/24 615/12 616/6 617/10 618/17 622/20 624/13</p> <p><b>determined</b> [1] 618/15</p> <p><b>determining</b> [4] 611/17 622/15 624/7 633/23</p> <p><b>device</b> [2] 576/6 583/5</p> <p><b>devise</b> [1] 644/15</p> <p><b>did</b> [93]</p> <p><b>didn't</b> [23] 569/6 569/18 571/1 571/2 571/22 583/1 586/7 587/20 598/16 599/8 599/11 599/12 600/20 602/1 602/12 603/11 610/10 612/3 612/22 640/10 648/12 648/22 649/16</p> <p><b>died</b> [2] 603/13 603/16</p> <p><b>difference</b> [1] 624/3</p> <p><b>different</b> [3] 616/16 638/2 638/3</p> <p><b>differently</b> [1] 638/23</p> <p><b>difficult</b> [1] 609/5</p> <p><b>direct</b> [9] 564/4 575/25 617/10 617/13 617/22 618/4 618/8 618/11 618/13</p> <p><b>directed</b> [2] 570/15 601/11</p> <p><b>direction</b> [2] 581/14 646/21</p> <p><b>directly</b> [1] 633/9</p> <p><b>disability</b> [1] 616/3</p> <p><b>disagree</b> [4] 614/19 644/2 648/3 648/15</p> <p><b>disappointing</b> [1] 649/6</p> <p><b>discretion</b> [1] 649/2</p> <p><b>discuss</b> [2] 573/4 636/17</p> <p><b>discussed</b> [1] 568/11</p> <p><b>discussing</b> [2] 568/12 578/19</p> <p><b>discussion</b> [1] 640/16</p> <p><b>disingenuous</b> [1] 647/15</p> <p><b>dislikes</b> [1] 615/19</p> <p><b>disobey</b> [3] 593/4 632/4 632/7</p> <p><b>disorderly</b> [12] 589/20 589/23 592/17 593/14 606/8 630/3 630/9 630/18 631/5 631/12 643/11 643/15</p> <p><b>disprove</b> [1] 598/3</p> <p><b>dispute</b> [2] 588/13 648/12</p> <p><b>disputed</b> [1] 617/2</p> <p><b>disputes</b> [1] 650/18</p> <p><b>disregard</b> [3] 593/4 632/4 632/7</p> <p><b>disrespect</b> [1] 608/15</p> <p><b>disrupt</b> [8] 589/24 589/25 590/4 590/21 591/10 592/19 631/15 633/3</p> <p><b>disrupted</b> [2] 630/16 631/22</p> <p><b>disruptive</b> [13] 589/20 589/23 592/18</p>	<p>593/12 593/13 630/3 630/10 630/23 630/25 631/5 631/12 643/12 643/16</p> <p><b>disrupts</b> [1] 593/12</p> <p><b>distinguished</b> [1] 608/17</p> <p><b>DISTRICT</b> [7] 562/1 562/2 562/12 563/3 577/3 651/6 651/6</p> <p><b>disturb</b> [1] 631/15</p> <p><b>disturbance</b> [1] 630/25</p> <p><b>disturbed</b> [1] 631/22</p> <p><b>divided</b> [1] 637/19</p> <p><b>do</b> [60] 566/12 566/21 567/5 568/15 569/7 569/15 569/19 571/25 573/11 573/13 573/24 575/6 577/24 583/23 584/1 584/20 589/15 591/6 592/7 593/1 597/7 597/12 598/9 599/3 601/22 604/5 605/5 605/18 605/20 606/13 607/2 607/23 610/9 610/16 611/23 614/19 629/12 631/23 631/25 633/19 635/25 636/17 638/25 639/8 639/19 640/11 640/20 642/5 643/24 644/19 645/14 645/22 647/3 648/3 648/22 649/16 649/21 649/22 650/11 651/7</p> <p><b>Docket</b> [1] 562/4</p> <p><b>document</b> [3] 566/5 566/6 620/16</p> <p><b>documented</b> [1] 607/17</p> <p><b>documents</b> [1] 566/1</p> <p><b>does</b> [31] 567/13 576/23 577/8 578/12 578/18 578/22 579/16 579/17 581/3 584/14 587/24 589/12 599/22 604/15 605/14 607/8 608/9 618/6 618/10 621/7 627/21 628/15 629/22 632/4 632/5 633/5 637/6 648/17 649/20 649/20 650/2</p> <p><b>doesn't</b> [11] 567/12 571/8 595/15 598/25 602/6 602/8 607/15 610/22 611/23 641/13 646/25</p> <p><b>doing</b> [24] 569/20 570/3 584/5 585/18 588/10 590/18 591/13 592/13 593/6 594/14 594/14 595/15 596/1 596/17 597/7 598/1 598/2 599/19 605/5 611/25 627/12 629/22 647/22 648/8</p> <p><b>don't</b> [40] 565/17 566/2 566/19 568/12 568/15 569/8 569/10 569/13 570/6 570/13 574/13 583/25 588/21 590/1 590/12 594/24 596/8 596/15 597/25 599/7 599/11 602/1 604/12 608/8 612/18 612/21 613/11 638/23 641/7 641/18 645/24 645/25 646/3 647/15 648/14 648/17 649/3 649/19 649/21 650/11</p> <p><b>Donald</b> [10] 562/22 565/11 572/14 592/3 594/12 596/11 610/21 611/2 618/23 619/6</p> <p><b>done</b> [15] 586/12 586/14 591/3 591/4 594/10 595/6 609/19 616/10 633/13 633/18 635/6 644/12 646/17 649/13 650/20</p> <p><b>door</b> [2] 567/18 569/12</p> <p><b>doors</b> [9] 599/25 599/25 600/4 600/6 600/12 600/19 600/21 601/13 603/12</p> <p><b>dots</b> [1] 576/8</p> <p><b>doubt</b> [35] 588/19 593/3 593/19 606/6 611/18 621/6 621/10 621/14 621/18 621/23 621/24 621/24 621/25 622/4 622/5 622/5 622/9 622/9 622/10 622/12 622/14 622/17 625/2 626/10</p>
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<p><b>D</b>      <b>Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 97 of 111</b></p> <p><b>doubt...</b> [11] 626/14 627/2 628/2 628/24 629/10 630/8 631/9 632/3 632/21 633/24 634/19</p> <p><b>down</b> [12] 577/4 581/13 587/5 587/6 593/16 598/23 603/25 605/4 609/2 612/3 612/17 645/14</p> <p><b>downtown</b> [1] 599/6</p> <p><b>draw</b> [2] 617/3 619/17</p> <p><b>drawn</b> [1] 617/18</p> <p><b>Dreher</b> [2] 562/17 565/6</p> <p><b>dribble</b> [1] 608/20</p> <p><b>drive</b> [2] 584/14 641/7</p> <p><b>drop</b> [4] 580/6 580/9 580/9 580/18</p> <p><b>dropped</b> [2] 580/17 581/4</p> <p><b>during</b> [30] 567/21 570/10 571/10 612/15 612/19 612/20 613/15 613/17 614/16 615/5 615/15 616/10 616/17 616/18 616/25 620/3 620/13 622/18 626/3 629/25 633/21 635/24 636/1 636/23 637/3 637/6 638/18 638/24 641/2 644/20</p> <p><b>DUSTIN</b> [26] 562/6 565/3 565/11 594/25 595/2 605/23 606/10 606/25 608/18 609/16 609/19 610/7 610/13 619/16 621/7 621/11 621/15 621/17 626/6 627/23 628/20 629/6 630/3 631/5 632/17 633/24</p> <p><b>duty</b> [5] 609/13 614/17 621/11 621/15 634/8</p>	<p>585/5 590/13 597/7 600/19 602/15 604/10 607/14 636/18 639/22 640/18 650/22</p> <p><b>else's</b> [1] 588/3</p> <p><b>email</b> [2] 579/20 637/1</p> <p><b>emotional</b> [1] 598/16</p> <p><b>encourage</b> [1] 606/13</p> <p><b>encouraging</b> [1] 595/24</p> <p><b>end</b> [3] 580/18 612/24 612/25</p> <p><b>ended</b> [3] 567/10 598/19 598/20</p> <p><b>enforcement</b> [4] 591/24 608/15 624/18 624/25</p> <p><b>engage</b> [3] 589/20 592/8 593/11</p> <p><b>engaged</b> [5] 590/3 592/8 628/6 630/9 631/12</p> <p><b>engaging</b> [2] 593/16 627/21</p> <p><b>engineered</b> [1] 595/21</p> <p><b>enough</b> [2] 597/4 647/19</p> <p><b>enter</b> [9] 580/13 591/17 591/22 591/24 592/10 595/12 602/23 625/10 634/7</p> <p><b>entered</b> [3] 565/22 591/19 629/11</p> <p><b>entering</b> [3] 591/20 629/6 643/7</p> <p><b>enters</b> [4] 572/8 585/12 613/24 642/16</p> <p><b>entire</b> [6] 574/22 574/24 584/17 597/23 599/12 613/17</p> <p><b>entirely</b> [1] 633/19</p> <p><b>entirety</b> [1] 584/20</p> <p><b>entitled</b> [2] 617/8 624/17</p> <p><b>equal</b> [1] 618/9</p> <p><b>equally</b> [3] 631/3 632/9 633/7</p> <p><b>especially</b> [1] 567/24</p> <p><b>Esquire</b> [2] 562/22 562/22</p> <p><b>essentially</b> [1] 595/16</p> <p><b>establish</b> [4] 567/6 588/21 590/14 619/1</p> <p><b>ethnic</b> [1] 616/3</p> <p><b>evaluated</b> [1] 624/19</p> <p><b>evaluating</b> [3] 622/24 623/15 624/20</p> <p><b>evaluation</b> [1] 615/1</p> <p><b>even</b> [18] 565/21 567/22 574/25 586/21 587/14 587/20 588/21 596/2 599/4 599/4 599/5 602/6 603/14 611/19 614/19 638/9 638/16 639/16</p> <p><b>event</b> [10] 623/16 623/17 623/18 623/20 624/22 631/1 634/6 634/9 644/10 650/13</p> <p><b>Events</b> [1] 607/9</p> <p><b>ever</b> [6] 568/22 569/2 569/12 569/13 637/10 639/5</p> <p><b>every</b> [5] 571/15 607/21 621/2 621/10 648/9</p> <p><b>everybody</b> [3] 588/3 602/15 638/13</p> <p><b>everything</b> [3] 595/18 607/10 628/16</p> <p><b>evidence</b> [89] 565/15 565/22 567/3 570/2 572/21 573/11 583/17 587/25 588/8 588/17 590/5 593/3 604/16 605/8 611/17 612/6 614/3 614/25 615/2 615/15 615/16 616/7 616/16 617/6 617/9 617/11 617/11 617/13 617/14 617/17 617/19 617/22 618/2 618/5 618/6 618/8 618/10 618/11 618/12 618/14 618/17 618/22 618/24 619/5 619/9 619/15 619/15 619/16 619/19 619/20 619/21 619/23 620/2 620/11 620/14 620/19 620/21 621/1 621/8 622/1 622/1 622/3 624/1</p>	<p>624/9 624/20 625/19 625/23 629/25 632/2 633/14 633/20 633/22 634/10 634/14 635/12 635/16 636/4 636/5 636/6 636/15 644/21 644/24 646/3</p> <p><b>evil</b> [2] 610/4 632/6</p> <p><b>exact</b> [1] 593/8</p> <p><b>exactly</b> [3] 581/15 602/21 636/20</p> <p><b>examination</b> [5] 573/25 582/16 582/17 587/6 635/17</p> <p><b>examine</b> [2] 620/21 635/13</p> <p><b>example</b> [5] 617/20 623/4 627/14 633/4 637/20</p> <p><b>except</b> [3] 628/16 635/12 637/13</p> <p><b>exclusive</b> [1] 616/14</p> <p><b>exclusively</b> [1] 634/9</p> <p><b>excuse</b> [5] 577/25 580/10 639/23 641/6 649/12</p> <p><b>excused</b> [1] 638/17</p> <p><b>excuses</b> [1] 609/19</p> <p><b>exhibit</b> [25] 565/22 573/15 575/10 575/11 575/22 576/1 576/1 576/2 576/19 576/19 577/7 577/14 577/17 577/25 578/21 579/4 579/12 579/25 580/1 580/23 580/24 581/24 584/14 584/17 620/15</p> <p><b>exhibits</b> [6] 565/16 616/21 620/9 620/14 635/12 635/15</p> <p><b>existed</b> [1] 567/6</p> <p><b>exits</b> [4] 583/20 612/12 641/1 645/21</p> <p><b>expect</b> [1] 649/23</p> <p><b>experience</b> [1] 617/6</p> <p><b>experiences</b> [1] 608/19</p> <p><b>explain</b> [2] 578/1 648/13</p> <p><b>explained</b> [1] 606/22</p> <p><b>explanatory</b> [1] 634/22</p> <p><b>expressed</b> [2] 616/12 623/18</p> <p><b>expression</b> [1] 616/4</p> <p><b>extension</b> [1] 650/7</p> <p><b>extent</b> [3] 570/7 570/12 622/21</p> <p><b>extinguisher</b> [1] 600/2</p> <p><b>extra</b> [1] 568/8</p> <p><b>extremely</b> [1] 594/2</p> <p><b>eyewitness</b> [1] 617/12</p>
<p><b>E</b></p> <p><b>each</b> [18] 588/11 590/2 591/21 624/16 625/21 625/22 626/9 628/1 628/23 629/9 630/7 631/8 632/20 634/2 634/3 634/22 635/1 635/8</p> <p><b>earlier</b> [4] 581/12 599/6 612/19 640/9</p> <p><b>easier</b> [1] 598/11</p> <p><b>easy</b> [10] 585/16 588/7 598/3 602/9 604/21 609/6 609/7 609/10 634/21 648/23</p> <p><b>eat</b> [1] 641/18</p> <p><b>education</b> [1] 616/5</p> <p><b>effect</b> [4] 614/24 624/14 627/4 646/22</p> <p><b>effectively</b> [1] 640/20</p> <p><b>effects</b> [1] 623/3</p> <p><b>efficient</b> [1] 614/14</p> <p><b>effort</b> [1] 605/15</p> <p><b>either</b> [14] 571/5 591/13 591/13 598/17 616/15 618/15 620/25 624/11 624/23 631/16 632/12 634/25 642/5 642/9</p> <p><b>elapses</b> [1] 623/17</p> <p><b>elected</b> [1] 608/25</p> <p><b>election</b> [5] 567/8 595/21 608/2 632/15 646/15</p> <p><b>electoral</b> [2] 626/23 632/15</p> <p><b>electronic</b> [1] 636/25</p> <p><b>electronically</b> [1] 637/4</p> <p><b>element</b> [11] 589/1 589/19 590/20 590/25 592/15 593/8 606/14 609/14 621/10 621/13 628/15</p> <p><b>elements</b> [15] 588/11 588/12 588/14 588/21 590/14 611/18 626/9 626/15 627/25 628/22 629/10 630/7 631/9 632/21 634/18</p> <p><b>else</b> [15] 572/17 572/21 583/13 583/14</p>		<p><b>F</b></p> <p><b>facilitate</b> [1] 640/16</p> <p><b>fact</b> [26] 567/1 567/2 567/5 567/9 567/13 569/1 570/2 583/1 587/24 588/18 590/4 595/9 605/25 611/7 617/2 617/13 617/14 617/17 618/5 621/19 625/7 625/24 630/15 636/19 644/16 649/18</p> <p><b>facts</b> [16] 605/16 614/22 614/23 615/1 615/13 615/14 616/6 616/22 616/24 617/1 617/4 617/10 618/16 621/1 633/14 633/20</p> <p><b>factually</b> [1] 605/23</p> <p><b>failed</b> [1] 621/13</p> <p><b>fair</b> [9] 568/7 571/19 605/21 614/14 615/1 616/1 616/6 625/16 625/20</p> <p><b>fairly</b> [2] 617/8 624/17</p> <p><b>falling</b> [2] 617/21 617/23</p> <p><b>falsehood</b> [1] 624/3</p> <p><b>fame</b> [1] 571/3</p> <p><b>family</b> [1] 629/19</p> <p><b>far</b> [3] 582/8 605/16 649/17</p> <p><b>Farragut</b> [1] 598/23</p>

<p><b>F</b> Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 96 of 111</p> <p><b>fashion</b> [1] 637/21  <b>fault</b> [4] 588/3 588/6 594/6 594/6  <b>favor</b> [1] 618/6  <b>favoritism</b> [2] 615/2 616/8  <b>FBI</b> [2] 574/6 580/21  <b>fear</b> [4] 615/2 616/8 630/20 647/9  <b>fed</b> [2] 568/8 608/20  <b>federal</b> [7] 602/23 626/7 628/21 629/8 630/5 631/7 632/19  <b>feed</b> [2] 574/22 574/24  <b>feeding</b> [1] 608/1  <b>feel</b> [6] 615/10 617/5 639/14 647/3 647/7 647/23  <b>fellow</b> [3] 636/17 639/10 639/17  <b>felt</b> [2] 598/1 598/10  <b>few</b> [3] 575/19 580/8 606/22  <b>fide</b> [1] 609/12  <b>field</b> [1] 570/25  <b>fight</b> [1] 608/8  <b>figure</b> [1] 650/15  <b>fill</b> [1] 642/13  <b>filled</b> [1] 597/24  <b>final</b> [1] 583/22  <b>finally</b> [2] 578/21 604/5  <b>find</b> [33] 567/21 593/2 593/3 593/19 594/21 599/7 611/24 611/24 612/6 617/4 618/18 618/21 621/9 621/12 621/13 621/15 625/25 626/8 626/8 626/13 628/9 628/12 629/8 629/9 630/5 630/6 631/7 632/1 632/2 632/19 632/20 633/20 636/20  <b>finding</b> [1] 646/20  <b>finds</b> [1] 570/13  <b>fine</b> [3] 613/12 641/11 646/8  <b>finger</b> [2] 594/13 610/21  <b>finish</b> [1] 645/23  <b>fire</b> [1] 600/2  <b>firm</b> [1] 628/13  <b>firmly</b> [1] 622/3  <b>first</b> [17] 580/1 588/10 589/1 589/19 590/19 592/15 601/10 606/16 626/11 628/3 628/24 629/10 630/9 631/9 632/21 638/5 640/11  <b>five</b> [7] 592/14 602/24 606/14 631/4 632/10 637/20 643/15  <b>flashed</b> [1] 565/23  <b>fled</b> [2] 647/13 649/18  <b>flee</b> [1] 649/15  <b>flight</b> [3] 647/17 648/17 649/6  <b>floor</b> [1] 602/13  <b>focus</b> [5] 593/25 594/1 594/15 606/14 609/13  <b>folk</b> [1] 649/22  <b>folks</b> [9] 608/2 608/4 608/10 608/11 608/16 608/17 608/19 610/14 610/14  <b>follow</b> [9] 581/15 605/7 605/8 605/17 606/5 609/13 614/21 615/8 639/14  <b>following</b> [9] 570/16 593/21 594/7 626/9 629/10 630/7 631/8 648/7 650/20  <b>foolish</b> [3] 607/12 607/15 649/7  <b>foot</b> [2] 566/22 608/12  <b>footage</b> [1] 603/6  <b>forbids</b> [2] 593/1 632/1  <b>foregoing</b> [1] 651/10  <b>foreperson</b> [11] 634/25 635/4 635/8</p>	<p>637/9 640/12 640/13 640/15 640/17 640/21 642/18 643/25</p> <p><b>foreseeable</b> [1] 627/3  <b>forget</b> [1] 594/17  <b>forgot</b> [3] 587/19 597/20 649/10  <b>form</b> [12] 618/6 634/12 634/13 634/16 634/19 634/21 635/1 635/5 635/8 635/10 642/12 645/20  <b>formal</b> [1] 619/13  <b>former</b> [11] 567/3 567/7 592/3 592/6 594/2 594/10 596/11 611/1 618/23 619/6 646/25  <b>found</b> [2] 598/8 598/9  <b>four</b> [14] 568/3 576/21 576/22 582/10 583/8 589/19 590/16 592/20 593/15 602/10 606/7 630/2 631/8 643/11  <b>fourth</b> [2] 630/15 631/19  <b>frankly</b> [2] 608/23 648/3  <b>fraud</b> [5] 646/18 646/18 646/19 646/20 646/20  <b>free</b> [4] 615/10 647/25 649/8 649/23  <b>friendship</b> [1] 623/13  <b>full</b> [3] 608/13 608/13 614/7  <b>fully</b> [1] 612/18  <b>function</b> [3] 614/13 614/22 615/12  <b>functions</b> [2] 630/12 630/17  <b>further</b> [3] 611/19 650/25 651/10  <b>future</b> [1] 647/9</p> <p><b>G</b></p> <p><b>gag</b> [2] 570/20 570/20  <b>gain</b> [1] 623/12  <b>game</b> [1] 610/2  <b>gangster</b> [1] 608/23  <b>gap</b> [1] 581/3  <b>gaps</b> [1] 575/7  <b>gas</b> [1] 602/25  <b>gassed</b> [3] 596/22 596/24 602/21  <b>gathered</b> [1] 608/17  <b>gave</b> [2] 636/22 641/21  <b>gee</b> [1] 610/9  <b>gender</b> [1] 616/4  <b>general</b> [2] 570/17 571/7  <b>Generally</b> [1] 615/19  <b>gentlemen</b> [12] 585/16 586/17 594/23 596/7 597/10 597/21 599/14 601/5 602/23 604/21 605/13 610/21  <b>geolocation</b> [5] 578/3 578/5 578/14 580/25 581/2  <b>get</b> [20] 569/12 578/7 588/8 589/25 596/14 598/25 603/4 603/7 603/9 604/13 604/24 610/5 613/18 640/2 640/3 641/14 645/17 647/6 649/13 649/22  <b>gets</b> [2] 600/25 640/3  <b>getting</b> [2] 568/8 577/4  <b>girl</b> [1] 603/13  <b>Giuliani</b> [15] 569/18 573/12 575/5 575/8 575/20 575/23 583/6 587/8 587/13 592/4 596/12 598/4 611/2 618/23 619/7  <b>Giuliani's</b> [2] 573/10 575/14  <b>give</b> [20] 583/22 583/22 585/21 596/18 612/9 612/10 614/4 615/16 617/6 617/7 617/19 618/7 618/9 624/16 624/23 639/2 645/2 645/20 650/1 650/18</p>	<p><b>given</b> [3] 634/17 635/16 644/23  <b>gives</b> [3] 581/13 605/17 606/5  <b>glass</b> [2] 602/13 602/14  <b>gleefully</b> [1] 647/22  <b>gmail.com</b> [1] 562/24  <b>go</b> [24] 569/9 580/17 580/24 581/15 592/7 595/25 598/15 599/2 599/11 600/8 600/21 603/19 603/24 605/4 610/12 611/19 611/23 614/6 617/15 640/9 640/11 640/23 645/1 645/18  <b>goal</b> [1] 615/24  <b>goes</b> [3] 578/25 597/8 598/22  <b>going</b> [53] 566/17 571/6 573/4 573/6 573/8 574/10 575/9 575/18 575/25 577/6 577/6 578/5 578/7 578/12 579/3 579/24 580/22 581/6 581/20 584/13 586/4 586/11 586/19 587/2 588/8 588/11 588/19 590/25 591/2 592/24 594/9 595/5 596/11 596/18 598/14 600/16 601/20 602/17 603/13 604/14 605/18 606/13 607/6 610/15 610/25 611/1 611/4 611/5 638/9 639/6 644/6 645/12 645/13  <b>gone</b> [5] 570/10 601/10 606/18 610/11 647/24  <b>good</b> [14] 565/5 565/7 565/8 565/10 565/12 572/9 574/2 574/3 582/19 582/20 601/10 605/13 609/24 639/15  <b>Google</b> [7] 576/3 576/4 576/7 576/9 576/12 578/3 580/13  <b>got</b> [23] 568/20 576/22 586/16 586/22 587/4 587/6 594/5 596/1 596/20 598/19 599/15 599/16 601/18 601/19 603/24 604/18 608/1 609/20 610/12 612/2 641/18 649/21 649/25  <b>gotten</b> [1] 568/24  <b>government</b> [70] 562/14 564/3 564/12 564/14 566/22 567/18 570/1 570/2 570/21 570/22 570/23 572/22 572/23 573/20 573/22 583/14 584/7 584/18 585/14 585/15 588/25 588/25 589/24 590/4 593/12 605/22 606/1 606/8 607/4 609/6 610/8 610/18 610/19 611/17 613/12 621/5 621/9 621/13 621/16 621/21 622/11 622/15 625/1 626/9 626/14 627/1 628/2 628/16 628/21 628/23 628/23 629/1 629/4 629/9 630/6 630/12 630/16 631/8 631/20 632/20 633/23 634/19 642/10 643/3 643/4 644/25 646/8 648/21 650/22 650/23  <b>government's</b> [5] 575/10 580/23 584/16 621/22 646/7  <b>GPS</b> [3] 573/4 576/8 581/17  <b>grand</b> [1] 607/19  <b>grandeur</b> [1] 607/24  <b>graver</b> [1] 622/7  <b>great</b> [3] 569/7 606/18 649/2  <b>greater</b> [3] 618/10 618/20 624/23  <b>ground</b> [4] 617/24 617/25 629/7 629/12  <b>grounds</b> [16] 579/1 579/2 590/10 590/11 591/18 591/19 603/11 604/9 604/19 611/11 629/14 629/16 630/4 630/14 643/8 643/12  <b>group</b> [3] 608/1 608/10 608/24  <b>grown</b> [1] 597/15</p>
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<p><b>G</b> <span style="float: right;">Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 99 of 111</span></p> <p><b>guess [6]</b> 565/25 574/21 584/14 587/18 597/19 620/24</p> <p><b>guesswork [1]</b> 622/10</p> <p><b>guidelines [1]</b> 624/21</p> <p><b>guilt [10]</b> 595/11 604/16 619/1 619/16 619/17 621/17 622/4 622/11 622/13 625/9</p> <p><b>guilty [44]</b> 593/22 595/10 595/13 605/9 611/8 612/6 621/5 621/12 621/15 621/18 625/3 625/8 625/11 625/25 625/25 626/4 626/4 626/8 628/9 629/8 630/6 631/7 632/19 634/25 634/25 643/1 643/1 643/2 643/5 643/5 643/6 643/9 643/9 643/10 643/13 643/13 643/14 643/17 643/17 643/18 643/21 643/21 643/22 647/6</p> <p><b>gullible [1]</b> 646/13</p> <p><b>guy's [1]</b> 604/22</p> <p><b>guys [1]</b> 588/12</p>	<p><b>he's [33]</b> 568/20 568/21 573/4 578/9 581/4 581/13 581/14 587/23 590/22 592/18 594/14 597/8 597/15 597/15 599/5 604/13 606/18 611/4 612/1 612/1 612/2 612/2 647/24 647/24 647/25 648/6 648/8 648/19 648/19 649/10 649/11 649/12 649/21</p> <p><b>head [3]</b> 607/1 608/14 612/17</p> <p><b>heading [2]</b> 579/1 581/14</p> <p><b>headquarters [1]</b> 580/21</p> <p><b>heads [2]</b> 608/20 610/16</p> <p><b>hear [17]</b> 571/5 571/23 572/4 583/5 583/18 587/12 591/3 592/2 592/22 593/10 594/9 605/3 605/16 607/6 614/3 620/21 635/21</p> <p><b>heard [29]</b> 568/6 573/10 583/17 587/3 587/16 587/19 587/21 587/25 588/16 590/15 593/21 593/23 594/2 598/20 600/1 600/10 602/11 603/3 603/14 605/4 607/7 607/13 610/8 610/8 614/2 614/3 618/22 619/3 619/12</p> <p><b>hearings [1]</b> 633/4</p> <p><b>hearts [2]</b> 605/20 610/15</p> <p><b>heinous [1]</b> 648/14</p> <p><b>held [1]</b> 588/4</p> <p><b>hell [3]</b> 570/4 570/7 608/8</p> <p><b>help [9]</b> 586/17 601/8 601/9 601/12 601/14 612/7 640/16 645/14 649/13</p> <p><b>helpful [1]</b> 639/7</p> <p><b>helps [2]</b> 639/11 640/18</p> <p><b>her [6]</b> 567/19 612/17 613/10 613/16 613/18 645/20</p> <p><b>here [25]</b> 571/25 575/13 575/15 576/4 577/7 580/4 580/6 580/8 585/4 592/24 602/6 606/15 606/22 607/3 608/22 609/10 610/10 610/13 625/1 635/22 637/14 641/13 641/15 641/17 647/21</p> <p><b>here's [2]</b> 599/19 604/2</p> <p><b>hereby [1]</b> 651/7</p> <p><b>hereto [1]</b> 651/13</p> <p><b>herrings [1]</b> 607/3</p> <p><b>herself [2]</b> 624/11 642/19</p> <p><b>hesitate [1]</b> 622/7</p> <p><b>highly [2]</b> 606/19 621/20</p> <p><b>him [42]</b> 569/2 585/25 586/8 586/9 587/5 587/10 587/10 587/11 587/12 587/12 588/5 591/19 592/16 594/13 596/21 596/21 597/2 597/12 598/12 599/4 599/10 599/23 600/7 600/23 601/11 602/13 603/3 603/4 603/6 604/12 605/4 607/8 610/9 610/12 610/15 612/6 612/7 621/12 624/10 642/19 647/23 649/7</p> <p><b>himself [6]</b> 586/17 604/22 607/1 647/11 647/12 647/21</p> <p><b>his [75]</b> 567/19 567/19 581/1 586/8 586/8 586/21 587/7 587/22 588/2 588/3 588/6 588/22 589/23 590/9 592/17 592/20 592/25 593/13 594/4 594/7 594/17 594/21 595/1 595/19 597/23 597/25 598/18 599/7 600/10 600/13 600/15 600/23 601/19 601/19 601/25 602/7 603/17 603/18 604/10 604/12 604/14 605/24 607/1 608/1 608/24 609/7 609/18 610/5 610/8 610/22 612/3 617/22 618/1 621/8 627/16 628/13 629/22 631/24 633/15</p>	<p>647/13 647/24 648/4 648/6 648/11 648/18 649/3 649/4 649/4 649/5 649/11 649/13 649/15 650/5 650/6 650/11</p> <p><b>history [4]</b> 606/2 607/25 648/18 649/4</p> <p><b>hold [6]</b> 587/25 612/3 619/24 620/25 645/8 645/9</p> <p><b>holy [2]</b> 570/4 570/6</p> <p><b>home [6]</b> 599/7 603/20 603/24 610/8 610/11 641/7</p> <p><b>honest [1]</b> 622/2</p> <p><b>Honor [36]</b> 565/5 565/8 565/10 565/20 566/4 566/12 568/10 568/19 569/13 570/12 571/14 572/18 572/23 573/3 573/15 582/14 583/12 583/16 584/11 584/16 585/6 585/7 612/22 613/8 613/13 639/24 639/25 641/4 641/23 641/24 642/6 642/7 642/10 642/11 648/1 649/1</p> <p><b>HONORABLE [1]</b> 562/11</p> <p><b>hoops [1]</b> 648/22</p> <p><b>hope [1]</b> 571/22</p> <p><b>hopefully [1]</b> 614/7</p> <p><b>horns [1]</b> 608/14</p> <p><b>horrible [1]</b> 594/9</p> <p><b>Hospital [1]</b> 582/6</p> <p><b>hostility [1]</b> 623/13</p> <p><b>hot [1]</b> 571/17</p> <p><b>hotel [2]</b> 580/15 610/12</p> <p><b>hour [3]</b> 574/19 599/1 603/11</p> <p><b>hours [2]</b> 589/9 601/6</p> <p><b>House [7]</b> 577/14 578/16 578/25 598/23 631/16 631/19 632/12</p> <p><b>housekeeping [1]</b> 584/12</p> <p><b>houses [1]</b> 631/17</p> <p><b>how [18]</b> 576/19 578/24 582/8 586/19 586/19 587/10 597/6 604/17 607/18 616/11 618/7 637/17 637/19 641/19 645/4 647/7 648/15 650/2</p> <p><b>however [8]</b> 614/8 617/23 622/9 628/15 632/5 632/5 632/6 633/20</p> <p><b>huge [1]</b> 645/10</p> <p><b>human [3]</b> 606/24 606/24 615/18</p> <hr/> <p><b>I</b></p> <p><b>I'd [5]</b> 609/24 641/5 641/5 648/5 648/25</p> <p><b>I'll [17]</b> 565/25 569/9 571/23 575/22 581/6 605/19 607/1 609/3 611/19 612/10 613/18 645/1 645/17 645/19 650/15 650/17 650/19</p> <p><b>I'm [37]</b> 566/21 569/25 570/4 570/16 574/10 575/9 575/25 577/6 577/6 579/3 579/11 579/24 580/22 581/6 581/20 582/25 587/2 588/10 588/19 592/24 596/18 601/1 603/7 603/9 603/21 605/18 606/13 607/6 609/19 610/10 610/15 613/3 617/6 617/15 625/5 630/13 632/5</p> <p><b>I've [13]</b> 565/17 570/21 571/15 591/2 591/3 591/4 604/18 607/13 607/25 641/12 644/11 644/12 647/5</p> <p><b>i.e [2]</b> 567/3 567/14</p> <p><b>id [1]</b> 629/22</p> <p><b>idea [2]</b> 597/19 613/9</p> <p><b>identification [1]</b> 635/15</p> <p><b>identified [1]</b> 647/12</p>
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<p><b>I</b> identify [2] 565/4 642/19  identifying [1] 566/7  identity [2] 616/4 638/3  ignorance [1] 629/23  ignore [4] 615/9 616/13 620/4 620/8  ill [1] 629/5  illegal [17] 585/19 586/15 587/19  590/18 591/6 591/14 592/14 593/7  595/15 596/6 596/18 597/7 597/16  597/18 597/20 602/18 605/6  images [1] 602/25  imaginary [1] 622/9  immediate [2] 629/19 630/20  immediately [1] 646/1  immigration [1] 608/6  impact [1] 618/25  impair [1] 568/7  impartial [5] 568/7 615/25 622/2  625/16 625/20  impeccable [1] 648/7  impede [10] 590/20 590/21 591/9  591/10 626/12 626/17 627/7 627/13  630/11 631/15  impeded [2] 630/15 631/21  impedes [1] 627/19  impeding [2] 627/17 633/4  implicate [1] 620/20  implicit [1] 615/21  implies [1] 621/24  implored [1] 609/2  important [2] 622/7 644/18  imposing [1] 634/8  impresses [2] 623/6 623/7  impression [1] 613/7  improbability [1] 624/6  inadmissible [1] 620/20  inadvertently [1] 636/16  inappropriate [1] 570/13  include [3] 574/25 581/3 633/5  includes [4] 626/19 629/18 632/13  636/25  including [5] 590/7 605/2 620/19  623/17 629/25  income [1] 616/5  inconsistencies [3] 623/22 623/25  624/2  incredible [2] 586/25 597/24  incriminating [2] 604/13 604/15  incrimination [1] 627/17  independent [1] 637/2  independently [2] 627/21 650/11  indicate [7] 579/16 579/17 584/4  633/14 635/6 635/9 640/22  indicated [9] 566/17 567/5 615/3  616/12 635/7 637/25 638/2 643/25  644/6  indicates [2] 579/18 580/16  indicating [2] 593/11 616/11  indication [1] 638/15  indictment [20] 570/23 619/12 619/15  625/5 625/21 626/1 626/2 626/5  626/21 627/23 628/19 629/5 630/2  631/4 632/11 632/16 642/25 643/11  643/15 643/19  individual [5] 575/12 575/19 623/7  627/19 642/9</p>	<p>individuals [1] 620/20  individually [1] 609/15  individuals [1] 647/5  inevitable [1] 649/20  infer [4] 603/5 633/11 633/16 633/16  inference [2] 617/18 619/17  inferences [1] 617/5  inferred [1] 568/16  influence [2] 626/1 634/7  information [17] 566/7 567/14 568/1  568/2 568/6 568/8 568/25 569/12  576/15 576/17 578/4 579/8 579/9  579/13 580/1 581/18 608/1  infuriated [1] 570/9  inhibit [1] 571/2  initially [2] 638/9 638/10  innocence [2] 621/3 621/8  innocent [1] 621/3  inputted [1] 580/9  inside [16] 585/19 592/15 592/16  593/9 593/10 593/17 600/8 600/16  600/20 600/21 602/3 602/12 602/15  603/13 631/10 632/22  insignificant [1] 646/19  inspect [1] 642/12  Instead [1] 628/12  instituted [2] 626/24 627/1  instruct [3] 588/16 595/5 596/11  instructed [2] 626/15 632/10  instruction [13] 565/15 566/1 566/10  566/11 591/3 591/5 592/2 592/22  592/23 593/11 611/1 611/5 636/22  instructions [32] 564/15 565/13 572/5  583/22 584/2 584/5 584/8 584/10  605/7 606/4 606/6 606/18 609/11  612/10 614/1 614/5 614/6 614/9  614/10 614/11 614/19 614/20 615/4  615/5 615/6 615/7 615/8 615/10  615/11 616/11 634/16 634/18  insurgency [1] 646/22  integrity [1] 610/3  intelligent [3] 606/19 609/22 640/16  intend [7] 569/11 589/5 589/12 589/24  591/9 592/19 619/19  intended [9] 570/15 590/3 591/10  593/1 628/3 629/3 631/23 631/25  636/7  intends [1] 633/17  intent [10] 592/20 619/1 619/11 627/6  628/14 630/11 631/14 633/8 633/11  633/15  intentional [1] 624/3  intentionally [3] 633/18 633/18 633/19  intently [1] 644/21  interest [3] 577/4 623/11 624/12  interested [1] 580/5  interesting [1] 600/10  interfere [1] 626/17  interferes [1] 630/23  Internet [2] 636/10 637/5  interrupted [1] 590/6  interrupts [1] 631/1  interview [2] 566/23 570/1  interviewer [1] 569/17  interviews [1] 570/22  investigating [1] 574/7  investigation [1] 637/2</p>	<p>invoking [1] 627/16  involve [1] 647/21  irrelevant [1] 595/16  is [222]  issue [12] 570/20 571/17 584/12 592/9  592/21 593/8 606/15 637/22 645/5  646/4 646/6 648/5  issues [1] 593/24  it [175]  it's [44] 566/20 567/22 568/2 568/19  573/3 573/8 574/24 575/18 576/25  577/7 580/3 581/24 582/6 584/9 587/3  587/24 588/10 589/4 589/7 590/25  591/18 591/20 593/25 596/16 597/21  600/11 600/22 601/17 602/6 603/19  606/1 607/17 611/1 611/5 611/12  611/15 634/22 639/6 645/7 646/16  647/2 648/6 649/24 650/7  items [1] 593/18  its [7] 572/21 584/8 589/11 618/25  621/20 622/13 644/25  itself [2] 591/20 625/15</p> <hr/> <p><b>J</b>  January [33] 573/5 574/14 575/17  576/25 580/5 582/2 587/17 591/21  594/3 594/10 594/16 594/17 595/4  595/23 597/13 597/17 597/18 597/18  601/17 605/3 608/25 609/17 610/5  612/1 618/24 632/14 643/1 643/4  643/8 643/13 643/16 643/20 647/4  January 6th [1] 597/17  January 7th [1] 597/18  Jennifer [2] 562/14 565/8  jennifer.m.rozzoni [1] 562/16  job [1] 602/8  jobs [1] 588/5  joint [3] 626/22 632/14 641/4  Jones [4] 563/2 651/5 651/16 651/17  judge [23] 562/11 562/12 570/4  571/10 588/16 591/3 592/2 595/5  596/10 605/11 605/17 606/4 606/17  609/11 610/25 614/13 614/15 645/6  648/10 648/17 649/3 649/10 650/4  judge's [1] 605/7  judges [4] 583/23 614/23 615/13  622/19  Judging [1] 622/23  judgment [5] 605/20 617/7 623/2  624/17 634/2  judicial [3] 568/8 616/22 616/23  July [7] 650/7 650/14 650/14 650/17  650/18 650/21 651/14  July 20th [1] 650/21  July 8th [1] 650/17  junction [1] 572/18  juror [8] 612/16 612/23 613/19 634/2  634/3 638/4 638/6 638/8  jurors [18] 568/5 613/5 613/15 613/20  614/22 635/7 635/24 636/5 636/18  637/17 637/24 637/25 638/1 638/4  638/18 639/10 639/17 643/24  jury [67] 562/10 564/15 564/16 565/13  566/3 567/4 567/14 568/1 568/25  569/12 569/15 569/24 570/3 570/15  571/22 572/8 574/4 574/13 574/18  575/9 576/2 576/23 577/8 577/13</p>
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<p><b>J</b> Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 101 of 111</p> <p><b>jury... [43]</b> 581/21 583/13 583/20 583/25 584/21 584/25 585/1 585/12 602/8 612/12 613/24 614/1 615/12 625/14 635/6 635/9 635/11 636/1 636/21 636/24 637/9 637/10 637/12 637/19 638/10 638/20 638/22 639/23 640/12 641/1 641/12 642/3 642/16 642/17 642/19 642/20 643/24 644/1 644/3 644/5 644/7 645/21 645/23</p> <p><b>just [58]</b> 565/14 565/21 570/22 572/10 572/12 574/10 574/18 575/22 576/11 578/14 578/17 578/19 578/24 581/8 584/19 586/8 586/25 587/2 587/3 587/9 588/12 588/14 590/17 591/12 592/24 593/24 594/2 597/6 597/13 597/19 598/3 598/11 599/6 599/11 599/17 599/18 599/22 603/1 604/8 605/21 611/15 615/24 624/19 626/15 628/4 628/8 635/20 636/18 639/10 639/15 641/12 643/24 645/1 645/2 647/7 647/22 649/21 650/12</p> <p><b>justice [5]</b> 616/2 644/14 644/15 644/18 645/15</p> <p><b>justified [1]</b> 617/5</p>	<p><b>last [12]</b> 565/15 566/14 571/14 572/5 572/6 572/11 574/19 584/12 592/11 592/12 609/17 628/17</p> <p><b>lastly [2]</b> 590/8 593/14</p> <p><b>late [1]</b> 612/23</p> <p><b>later [8]</b> 587/2 589/9 600/18 601/6 604/10 617/21 623/18 649/21</p> <p><b>latitude [5]</b> 576/5 576/15 580/12 580/14 580/19</p> <p><b>law [33]</b> 572/2 583/24 583/25 584/4 587/17 591/24 593/1 593/5 593/21 605/17 608/15 609/12 612/7 612/10 614/8 614/15 614/16 614/17 618/4 618/6 621/7 624/18 624/25 626/7 628/21 629/8 630/5 631/7 631/25 632/4 632/8 632/19 634/17</p> <p><b>lawful [3]</b> 591/22 592/10 592/12</p> <p><b>lawfully [1]</b> 602/23</p> <p><b>laws [1]</b> 602/3</p> <p><b>lawyer [13]</b> 566/20 566/22 567/21 570/9 571/10 587/7 601/19 601/25 619/21 619/24 619/25 641/13 641/13</p> <p><b>lawyer's [2]</b> 620/1 620/4</p> <p><b>lawyers [6]</b> 583/24 605/22 607/4 619/18 619/21 641/8</p> <p><b>lead [1]</b> 593/21</p> <p><b>least [8]</b> 567/10 575/19 596/23 597/3 603/16 603/19 606/16 638/9</p> <p><b>leave [4]</b> 566/8 571/20 597/1 603/11</p> <p><b>led [2]</b> 605/4 611/23</p> <p><b>left [6]</b> 574/11 577/17 577/21 600/9 601/10 601/13</p> <p><b>left-hand [1]</b> 577/21</p> <p><b>legal [13]</b> 576/7 576/11 576/14 592/5 592/7 592/10 593/24 596/13 602/2 602/3 611/3 616/10 619/7</p> <p><b>lengths [1]</b> 606/18</p> <p><b>lengthy [1]</b> 649/2</p> <p><b>less [1]</b> 605/19</p> <p><b>lesser [1]</b> 624/23</p> <p><b>let [11]</b> 570/25 572/9 581/7 585/21 612/9 617/15 617/19 635/21 643/24 645/24 645/25</p> <p><b>let's [7]</b> 575/14 575/20 577/25 588/24 590/16 594/13 596/16</p> <p><b>letter [1]</b> 645/2</p> <p><b>letters [1]</b> 647/6</p> <p><b>level [3]</b> 607/21 616/5 648/4</p> <p><b>leveled [1]</b> 571/1</p> <p><b>liar [1]</b> 607/8</p> <p><b>Libby [2]</b> 570/19 570/24</p> <p><b>lie [2]</b> 610/9 649/25</p> <p><b>lied [1]</b> 595/20</p> <p><b>lies [3]</b> 608/3 608/6 608/21</p> <p><b>life [1]</b> 622/8</p> <p><b>light [2]</b> 585/1 617/5</p> <p><b>like [18]</b> 581/14 588/22 598/3 598/10 599/22 608/8 608/17 613/16 635/21 636/8 641/5 641/5 644/4 644/17 646/24 647/24 649/24 650/16</p> <p><b>likely [3]</b> 581/9 621/19 630/21</p> <p><b>likes [1]</b> 615/18</p> <p><b>Likewise [1]</b> 620/9</p> <p><b>limited [1]</b> 618/25</p> <p><b>line [3]</b> 570/14 578/2 581/9</p> <p><b>liquor [4]</b> 586/2 591/8 597/9 597/11</p> <p><b>listen [4]</b> 585/2 635/19 636/13 636/13</p>	<p><b>listened [1]</b> 644/21</p> <p><b>little [3]</b> 578/18 587/1 591/1</p> <p><b>live [1]</b> 567/3</p> <p><b>located [2]</b> 577/1 582/7</p> <p><b>location [6]</b> 573/5 576/10 576/17 578/23 580/12 582/4</p> <p><b>locations [5]</b> 578/9 580/9 580/10 580/11 598/18</p> <p><b>long [8]</b> 584/4 584/9 594/2 595/14 611/24 641/19 644/7 650/2</p> <p><b>longer [2]</b> 587/18 620/16</p> <p><b>longitude [4]</b> 576/5 576/14 580/12 580/19</p> <p><b>longitudes [1]</b> 580/14</p> <p><b>look [9]</b> 569/9 574/17 575/15 580/8 582/5 601/17 604/14 604/21 608/11</p> <p><b>looked [2]</b> 581/10 617/24</p> <p><b>looking [1]</b> 581/23</p> <p><b>looks [2]</b> 617/20 650/16</p> <p><b>loot [1]</b> 612/4</p> <p><b>looted [3]</b> 586/3 597/14 599/24</p> <p><b>looting [7]</b> 585/20 594/18 597/10 597/13 602/16 604/22 609/9</p> <p><b>lost [1]</b> 638/4</p> <p><b>lot [6]</b> 583/23 606/9 644/12 645/12 645/13 647/23</p> <p><b>loud [5]</b> 587/11 602/11 607/5 630/22 631/11</p> <p><b>lower [4]</b> 577/21 601/16 603/25 604/1</p> <p><b>lowest [1]</b> 609/18</p> <p><b>lunch [5]</b> 599/10 599/13 640/7 640/8 641/18</p> <p><b>Lyon [7]</b> 586/9 600/13 600/16 603/4 603/6 603/7 603/13</p>
<p><b>K</b></p> <p><b>keep [5]</b> 565/25 568/1 596/19 600/2 635/14</p> <p><b>key [2]</b> 587/15 587/20</p> <p><b>kind [13]</b> 572/10 577/4 577/11 578/15 578/16 578/17 578/24 580/18 581/1 582/5 596/9 619/15 622/5</p> <p><b>kinds [1]</b> 599/14</p> <p><b>knew [27]</b> 585/23 586/1 586/5 586/14 588/9 589/9 591/25 592/1 592/25 593/6 595/14 596/17 596/25 597/2 597/7 597/16 597/17 598/13 602/17 604/8 604/23 605/5 606/11 611/10 611/12 611/25 631/24</p> <p><b>know [49]</b> 565/17 566/2 566/2 566/19 570/6 571/25 575/18 576/20 578/6 579/19 583/23 590/18 591/12 592/11 592/13 593/16 596/5 597/7 599/7 599/8 599/11 602/1 604/18 605/20 606/5 607/5 608/8 608/19 609/11 610/13 610/14 610/14 612/16 612/18 612/21 635/21 641/14 641/19 644/20 645/7 645/7 645/15 645/24 645/25 646/23 647/4 647/6 648/14 649/1</p> <p><b>knowing [1]</b> 633/10</p> <p><b>knowingly [12]</b> 591/17 609/14 627/6 629/13 629/21 629/24 630/11 631/2 631/20 632/8 632/25 633/6</p> <p><b>knowledge [5]</b> 567/19 617/12 633/8 633/11 633/15</p>		<p><b>M</b></p> <p><b>machine [3]</b> 563/7 651/7 651/12</p> <p><b>mad [2]</b> 611/15 611/21</p> <p><b>made [15]</b> 567/24 570/11 577/21 596/2 598/12 600/23 601/1 618/23 619/13 619/23 619/25 623/24 628/11 633/13 646/18</p> <p><b>major [1]</b> 568/4</p> <p><b>make [26]</b> 567/23 571/8 584/3 584/15 584/25 587/9 592/4 592/7 592/9 596/12 599/1 602/6 602/8 607/8 607/12 607/15 611/3 611/14 614/9 614/12 619/7 640/7 641/4 645/4 648/23 649/25</p> <p><b>makes [1]</b> 588/9</p> <p><b>making [4]</b> 571/5 608/24 609/19 613/10</p> <p><b>man [5]</b> 588/4 595/1 597/15 608/1 610/4</p> <p><b>manipulated [1]</b> 608/19</p> <p><b>mankind [1]</b> 644/15</p> <p><b>manner [4]</b> 609/1 614/14 623/6 630/19</p> <p><b>many [6]</b> 576/19 588/5 596/19 605/1 608/11 646/11</p> <p><b>map [1]</b> 598/18</p> <p><b>Maps [3]</b> 576/3 576/4 580/13</p> <p><b>march [2]</b> 572/15 609/2</p> <p><b>Marcus [1]</b> 600/1</p> <p><b>marked [7]</b> 575/10 576/1 579/4 579/11 579/25 580/23 635/15</p> <p><b>married [2]</b> 588/4 612/1</p> <p><b>marshal [2]</b> 637/8 637/17</p>
<p><b>L</b></p> <p><b>lack [2]</b> 622/1 649/13</p> <p><b>lacked [1]</b> 592/12</p> <p><b>ladies [12]</b> 585/16 586/17 594/23 596/6 597/10 597/21 599/14 601/5 602/22 604/21 605/13 610/20</p> <p><b>language [2]</b> 565/18 631/12</p> <p><b>lapse [1]</b> 624/2</p> <p><b>laptop [1]</b> 584/25</p> <p><b>large [1]</b> 608/16</p>		

<p><b>M</b> Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 102 of 111</p> <p><b>Maryland</b> [2] 577/2 580/15  <b>mathematical</b> [1] 622/12  <b>matter</b> [4] 611/24 634/11 637/12 637/20  <b>matters</b> [3] 622/8 623/1 623/10  <b>may</b> [54] 572/9 573/24 585/13 587/17 595/10 598/7 605/10 606/1 611/8 615/5 615/6 615/8 615/22 616/9 616/10 616/18 617/10 617/15 617/18 618/21 619/9 619/15 623/2 623/4 623/16 623/21 623/24 624/1 624/5 624/8 624/12 625/8 625/25 626/3 627/15 628/9 629/24 633/10 633/12 633/16 635/13 635/25 636/9 636/12 636/23 637/2 637/3 637/7 638/19 639/15 640/23 644/4 646/20 648/1  <b>may be</b> [1] 617/18  <b>maybe</b> [10] 565/21 583/4 594/23 599/10 604/12 604/14 607/12 609/18 612/7 645/6  <b>me</b> [37] 566/20 567/1 570/17 570/18 571/7 572/2 572/4 572/10 577/25 580/10 585/21 587/8 587/17 600/25 604/19 604/20 612/9 612/15 613/4 615/10 615/11 616/15 617/15 617/19 634/9 634/15 636/18 636/19 637/7 637/8 637/10 637/17 637/19 643/24 648/11 649/24 650/1  <b>mean</b> [12] 566/2 569/6 569/25 589/7 604/15 606/21 607/15 608/11 641/13 642/11 647/10 649/16  <b>meaning</b> [1] 633/2  <b>meaningful</b> [1] 623/10  <b>means</b> [16] 591/4 591/12 592/23 593/11 618/5 622/24 626/17 626/22 627/6 627/9 627/11 629/14 637/3 637/11 637/18 638/12  <b>meant</b> [3] 569/23 612/19 634/20  <b>measure</b> [1] 610/6  <b>media</b> [10] 566/23 568/9 568/9 571/4 571/6 571/12 571/24 572/11 636/12 638/15  <b>medication</b> [1] 649/11  <b>meetings</b> [1] 633/5  <b>member</b> [2] 570/15 637/12  <b>members</b> [2] 637/9 637/10  <b>memory</b> [12] 616/16 616/17 623/8 623/15 623/18 624/2 636/3 636/4 636/6 639/7 639/12 639/15  <b>mental</b> [1] 606/14  <b>mention</b> [2] 569/6 612/19  <b>mentioned</b> [5] 569/10 569/14 570/2 596/8 597/24  <b>merely</b> [5] 569/22 619/13 624/24 628/10 639/18  <b>merit</b> [1] 646/15  <b>merits</b> [1] 637/13  <b>message</b> [2] 603/24 604/18  <b>messages</b> [5] 600/23 603/3 603/20 603/22 603/23  <b>meters</b> [1] 578/8  <b>Metro</b> [1] 599/8  <b>Mexico</b> [1] 562/15  <b>middle</b> [4] 566/21 567/22 570/10 571/10  <b>might</b> [5] 568/10 604/13 607/19</p>	<p>612/16 618/18  <b>miles</b> [3] 582/10 583/8 583/8  <b>mind</b> [4] 633/25 635/14 637/15 649/13  <b>mind ed</b> [1] 647/19  <b>minimize</b> [1] 607/19  <b>minor</b> [1] 578/9  <b>minute</b> [7] 583/18 612/10 612/11 613/21 641/16 645/19 646/5  <b>minutes</b> [6] 571/3 584/19 585/8 600/18 601/15 612/13  <b>MISCELLANY</b> [1] 564/10  <b>misinformation</b> [1] 608/4  <b>misled</b> [2] 609/23 609/25  <b>missed</b> [1] 640/10  <b>mistake</b> [2] 624/2 629/23  <b>misunderstanding</b> [1] 624/3  <b>mob</b> [2] 586/8 604/6  <b>modifies</b> [1] 634/18  <b>moment</b> [3] 576/11 598/17 612/14  <b>momentarily</b> [1] 565/23  <b>monument</b> [4] 577/18 578/17 598/9 598/22  <b>monumental</b> [1] 644/8  <b>more</b> [14] 571/21 581/9 581/14 581/20 596/19 605/18 618/19 621/19 621/22 622/7 637/9 640/17 649/7 650/16  <b>morning</b> [18] 565/5 565/7 565/8 565/10 565/12 572/9 574/2 574/3 574/23 582/19 587/17 587/21 594/3 594/16 595/23 597/12 605/3 605/14  <b>most</b> [8] 587/2 600/25 605/2 605/23 607/9 607/12 609/5 648/4  <b>mother</b> [1] 649/24  <b>motivated</b> [1] 624/12  <b>motive</b> [2] 626/16 632/6  <b>move</b> [1] 577/3  <b>moving</b> [1] 581/13  <b>Mr</b> [51] 564/6 566/15 573/8 573/10 575/14 575/20 576/9 576/15 577/1 578/1 578/15 578/23 579/10 579/18 579/21 580/7 580/25 582/2 582/12 586/22 591/2 591/17 592/8 592/18 594/21 595/14 601/18 601/23 602/24 603/1 603/4 603/6 603/9 603/11 603/12 603/13 603/14 603/15 603/20 604/17 605/14 605/14 606/16 607/18 608/2 609/4 609/7 611/10 611/24 633/13 641/6  <b>Mr.</b> [9] 573/5 575/8 576/6 577/10 589/20 592/21 596/14 601/20 607/5  <b>Mr. Giuliani</b> [1] 575/8  <b>Mr. Thompson</b> [3] 589/20 592/21 607/5  <b>Mr. Thompson's</b> [4] 573/5 576/6 577/10 601/20  <b>Mr. Trump</b> [1] 596/14  <b>Ms</b> [1] 564/5  <b>MSNBC</b> [1] 566/15  <b>much</b> [6] 593/25 594/15 607/15 610/17 613/2 618/7  <b>must</b> [34] 566/18 593/2 609/13 614/16 614/20 619/14 619/24 620/5 620/11 621/21 621/22 621/22 622/17 625/17 625/18 626/8 627/1 627/9 628/2 628/12 628/23 629/9 630/6 631/8 632/2 632/20 634/1 634/3 634/4 634/19 636/13 636/14 646/10 647/10</p>	<p><b>my</b> [29] 565/12 568/11 568/13 569/11 570/17 571/7 571/9 572/2 574/5 583/22 594/6 604/13 613/16 614/4 614/9 614/13 615/14 616/10 636/18 646/10 646/11 646/25 647/17 647/22 649/16 649/18 649/24 651/12 651/13</p> <p><b>N</b></p> <p><b>N.W</b> [1] 563/3  <b>name</b> [5] 574/5 579/19 621/24 635/9 651/14  <b>named</b> [1] 575/13  <b>nanosecond</b> [1] 648/15  <b>national</b> [2] 582/6 616/3  <b>natural</b> [2] 627/3 633/17  <b>nature</b> [9] 565/18 567/24 570/11 606/23 606/24 625/14 625/17 629/22 649/5  <b>near</b> [6] 579/2 580/15 598/8 598/21 598/23 608/12  <b>necessarily</b> [3] 618/14 636/9 639/18  <b>necessary</b> [5] 565/19 621/19 628/17 633/25 637/6  <b>need</b> [10] 590/1 596/8 603/4 626/23 636/19 639/17 645/5 645/10 650/2 650/16  <b>needed</b> [2] 565/16 566/13  <b>neither</b> [4] 592/3 596/11 611/1 619/6  <b>nervous</b> [1] 604/14  <b>never</b> [9] 566/19 568/21 570/18 571/9 605/24 610/11 621/6 637/11 637/15  <b>New</b> [1] 562/15  <b>newspaper</b> [1] 636/10  <b>next</b> [4] 565/25 582/6 600/6 604/20  <b>night</b> [5] 566/15 572/6 572/12 586/6 604/10  <b>nine</b> [1] 650/21  <b>Ninth</b> [1] 580/20  <b>no</b> [54] 562/4 564/11 567/11 567/15 568/18 569/1 569/23 573/17 575/1 582/13 583/12 583/16 584/5 584/8 584/10 585/6 585/7 587/10 587/12 587/17 592/5 592/10 595/10 597/10 598/12 600/8 600/20 600/20 600/20 603/24 607/8 607/10 607/11 608/2 610/9 611/8 615/23 617/24 619/21 620/9 624/22 625/8 633/9 634/6 637/9 639/5 639/24 639/25 640/17 642/6 642/7 642/11 644/13 646/18  <b>nobody</b> [1] 607/21  <b>noise</b> [1] 587/11  <b>nonetheless</b> [2] 614/21 650/20  <b>normal</b> [1] 631/1  <b>normally</b> [1] 602/22  <b>north</b> [7] 599/25 599/25 600/12 600/19 600/21 601/13 603/12  <b>not</b> [160]  <b>note</b> [7] 615/10 635/20 636/7 637/7 637/11 642/3 642/4  <b>notebooks</b> [1] 635/25  <b>notes</b> [18] 635/25 636/3 636/5 636/6 639/1 639/2 639/3 639/5 639/5 639/6 639/7 639/9 639/11 639/13 639/15 639/16 639/19 651/12  <b>nothing</b> [9] 568/11 571/20 605/18 605/19 610/5 634/14 634/16 634/17 650/25</p>
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<p><b>N</b> Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 103 of 111</p> <p><b>notice [3]</b> 612/22 616/22 616/23  <b>notify [1]</b> 635/20  <b>now [66]</b> 569/8 571/16 572/6 572/20 575/25 576/22 577/24 579/3 579/24 580/22 581/8 583/17 584/18 585/13 587/23 588/8 589/12 589/21 590/5 590/16 596/8 602/3 605/22 614/2 614/4 614/13 614/16 615/3 615/12 616/15 616/18 617/9 618/14 618/22 619/12 619/18 619/21 620/13 621/2 621/16 622/15 624/18 625/13 625/21 628/19 629/5 629/14 629/21 630/2 631/2 631/4 632/16 633/8 634/1 634/5 634/12 635/11 635/24 636/8 637/6 637/24 645/8 646/16 647/24 649/20 650/3  <b>number [25]</b> 567/10 569/10 579/19 579/22 585/1 591/16 596/20 597/23 602/10 602/24 604/4 612/16 613/19 618/15 618/19 618/20 620/13 635/6 635/9 638/4 638/7 638/8 641/21 646/11 647/11  <b>numbers [1]</b> 650/12</p>	<p><b>office [24]</b> 562/14 562/18 585/20 586/3 586/15 589/22 589/24 590/8 593/18 594/18 595/15 597/14 599/16 599/17 599/20 599/24 601/21 602/15 602/16 602/16 602/17 602/19 612/5 641/3  <b>officer [4]</b> 600/1 601/14 624/18 624/25  <b>officer's [2]</b> 624/18 624/20  <b>officers [5]</b> 591/24 601/3 601/16 604/1 610/3  <b>official [28]</b> 563/2 590/6 590/19 590/20 590/24 626/6 626/12 626/18 626/19 626/21 626/23 626/25 627/2 627/5 627/7 627/13 627/25 628/1 628/4 628/7 628/10 628/14 630/12 630/17 642/25 651/5 651/11 651/17  <b>officials [1]</b> 608/25  <b>oh [3]</b> 587/16 609/9 610/9  <b>Ohio [4]</b> 562/23 567/20 609/8 647/21  <b>okay [35]</b> 571/25 572/13 572/17 572/25 573/2 573/11 574/10 574/17 576/11 576/14 576/17 576/22 577/6 577/16 577/24 578/11 578/21 579/11 579/16 579/24 581/3 582/2 587/21 592/21 593/14 595/14 596/10 600/25 602/24 604/25 612/13 613/20 614/2 642/8 642/18  <b>old [5]</b> 588/4 595/1 597/15 599/5 612/1  <b>omissions [1]</b> 620/22  <b>omitted [1]</b> 633/13  <b>once [7]</b> 570/9 577/12 581/6 597/8 635/3 640/14 640/20  <b>one [65]</b> 565/14 565/21 566/5 566/5 566/5 566/13 566/15 567/1 567/24 569/10 572/24 573/20 575/1 578/17 579/12 581/20 585/23 587/2 587/3 587/3 588/5 590/17 590/18 591/6 591/17 592/15 594/22 594/22 596/20 597/19 598/12 603/21 606/14 607/12 610/24 612/13 612/24 613/14 613/20 618/6 618/19 621/21 625/13 625/25 626/5 626/20 627/23 636/9 637/9 637/21 638/4 638/17 639/5 639/9 640/10 640/12 641/8 642/14 642/14 642/24 644/16 646/12 647/11 648/16 649/10  <b>online [1]</b> 583/4  <b>only [40]</b> 566/3 566/9 567/13 568/24 571/13 584/11 584/13 585/17 588/5 589/2 591/14 592/20 594/4 594/21 598/10 601/2 606/7 606/15 610/24 611/13 614/23 615/1 616/19 619/9 619/19 620/14 620/18 620/23 621/1 621/19 625/18 631/23 632/7 634/20 635/15 636/3 636/7 637/25 647/1 647/11  <b>open [4]</b> 573/19 637/14 637/19 640/1  <b>opened [1]</b> 567/18  <b>opening [2]</b> 594/1 595/19  <b>operate [1]</b> 645/4  <b>opinion [3]</b> 616/9 616/13 634/15  <b>opinions [1]</b> 615/19  <b>opportunity [4]</b> 574/17 623/10 644/11 644/19  <b>opposed [1]</b> 641/9  <b>opposite [1]</b> 618/21</p>	<p><b>orally [1]</b> 637/14  <b>order [13]</b> 570/18 570/20 570/20 570/25 571/8 584/12 626/7 629/8 630/5 631/7 632/19 634/2 645/11  <b>ordered [5]</b> 570/20 601/22 620/10 640/7 640/9  <b>orderly [7]</b> 614/14 630/11 630/16 631/15 631/22 632/11 633/3  <b>orders [2]</b> 594/7 648/7  <b>ordinarily [1]</b> 633/9  <b>ordinary [1]</b> 633/1  <b>orient [1]</b> 577/13  <b>orientation [1]</b> 616/4  <b>origin [1]</b> 616/3  <b>other [53]</b> 566/9 566/13 566/22 567/9 571/13 578/6 578/17 580/16 581/10 581/10 586/24 588/11 591/24 593/1 594/23 595/8 598/6 601/4 602/5 603/2 611/6 613/4 614/19 617/14 617/17 618/21 619/5 619/22 620/19 621/12 623/13 623/25 624/9 624/19 624/22 625/6 626/2 627/21 632/1 633/13 634/3 635/7 637/5 637/11 637/21 637/22 640/4 641/14 643/24 644/13 649/17 649/22 650/14  <b>others [7]</b> 567/4 567/7 568/17 595/11 615/9 625/9 630/22  <b>otherwise [4]</b> 568/9 571/12 620/17 629/15  <b>our [18]</b> 588/10 595/6 603/22 606/2 606/23 608/25 610/2 610/3 615/24 616/1 644/5 644/14 644/18 645/5 646/23 646/24 647/2 647/7  <b>out [19]</b> 567/20 570/14 581/7 584/21 591/4 600/3 601/11 603/4 610/7 617/20 617/24 620/17 620/24 639/2 642/13 644/22 646/20 648/8 650/15  <b>outcome [1]</b> 623/12  <b>outfits [1]</b> 608/15  <b>outraged [1]</b> 647/7  <b>outside [1]</b> 568/2  <b>over [17]</b> 568/5 579/1 580/8 580/17 601/17 602/14 603/11 617/15 618/6 638/21 640/4 645/2 645/18 645/19 646/16 646/16 647/6  <b>overlay [2]</b> 576/4 581/1  <b>overturn [1]</b> 567/7  <b>overview [1]</b> 576/3  <b>overwhelmed [1]</b> 650/12  <b>overwhelming [4]</b> 586/13 590/5 590/14 602/7  <b>own [8]</b> 587/7 588/6 595/1 602/7 608/18 609/7 616/16 636/6  <b>owner [1]</b> 589/11</p> <p><b>P</b></p> <p><b>p.m [23]</b> 574/16 578/13 578/14 578/24 578/24 578/25 581/2 581/4 598/20 598/25 600/12 600/15 603/4 603/10 603/21 603/24 613/23 613/24 641/1 642/2 642/2 642/16 651/3  <b>pace [1]</b> 645/9  <b>page [9]</b> 564/11 566/1 576/22 577/7 577/14 577/17 578/11 578/12 578/21  <b>pages [5]</b> 576/19 576/21 579/22 639/2 651/10  <b>paid [1]</b> 613/2</p>
---	--	---

<p><b>P</b> Case 1:21-cr-00679-JEB</p> <p>pains [1] 569/7</p> <p>pandemic [1] 645/11</p> <p>parade [1] 633/1</p> <p>paraded [1] 632/23</p> <p>parading [3] 632/17 633/2 643/19</p> <p>parliamentarian's [12] 585/19 586/15 589/22 590/8 593/17 599/16 599/17 599/19 601/21 602/16 602/19 612/4</p> <p>part [5] 604/5 608/16 609/5 620/9 630/22</p> <p>participate [2] 638/20 638/22</p> <p>participating [1] 644/17</p> <p>participation [1] 644/5</p> <p>particular [5] 615/7 618/8 621/10 621/14 641/12</p> <p>particularly [1] 576/23</p> <p>parties [7] 588/15 588/18 589/4 600/11 614/4 616/24 616/25</p> <p>parts [1] 566/2</p> <p>party [2] 619/25 620/25</p> <p>Pass [1] 582/14</p> <p>passageways [1] 633/4</p> <p>path [3] 577/11 578/24 581/14</p> <p>pause [2] 572/1 572/7</p> <p>paused [1] 581/21</p> <p>pawn [1] 610/1</p> <p>pay [1] 571/6</p> <p>Pelosi [1] 603/15</p> <p>pending [6] 626/24 626/25 646/6 646/9 649/8 650/1</p> <p>Pennsylvania [2] 598/24 609/3</p> <p>people [15] 567/10 568/14 595/20 601/15 602/5 603/2 603/8 606/19 616/1 644/9 647/3 647/7 648/24 649/17 650/13</p> <p>pepper [4] 596/22 596/23 602/20 602/25</p> <p>percent [3] 607/11 609/12 611/20</p> <p>perception [1] 624/4</p> <p>perfect [1] 644/14</p> <p>perfectly [1] 571/8</p> <p>periods [1] 581/11</p> <p>permissibly [1] 611/16</p> <p>permit [2] 641/8 645/22</p> <p>permitted [3] 617/3 618/9 635/24</p> <p>perpetrator [1] 647/12</p> <p>person [23] 592/24 595/9 611/8 617/20 619/14 622/6 625/8 627/12 629/16 629/18 629/21 630/18 630/19 630/20 630/24 630/25 633/10 633/17 637/4 637/16 638/6 640/13 640/22</p> <p>person's [2] 630/20 633/19</p> <p>personal [7] 566/7 608/18 615/18 615/23 616/2 636/7 639/10</p> <p>persons [1] 623/14</p> <p>Petworth [3] 582/4 587/14 598/5</p> <p>phone [9] 576/15 577/1 577/10 578/4 579/19 581/1 600/10 604/13 604/15</p> <p>photo [4] 600/19 602/13 604/19 604/19</p> <p>pick [8] 580/6 580/9 580/11 580/11 589/8 639/20 640/19 641/7</p> <p>picked [2] 580/7 580/14</p> <p>picket [1] 633/1</p> <p>picketing [4] 632/18 632/24 633/2 643/20</p>	<p>picking [1] 600/4</p> <p>picture [2] 603/18 603/18</p> <p>pictures [1] 620/16</p> <p>pieces [1] 579/12</p> <p>place [6] 574/12 574/14 582/9 582/11 615/23 644/10</p> <p>places [3] 599/12 599/12 644/13</p> <p>Plaintiff [1] 562/4</p> <p>plans [1] 628/11</p> <p>play [10] 571/20 575/22 580/24 581/6 581/7 581/20 585/3 606/15 620/8 635/22</p> <p>played [10] 572/15 575/23 581/6 581/20 584/22 599/21 604/3 620/17 635/21 645/16</p> <p>playing [1] 570/25</p> <p>please [8] 565/4 574/4 577/19 609/14 615/10 635/14 638/23 642/18</p> <p>pled [1] 647/6</p> <p>podium [1] 575/1</p> <p>point [12] 585/17 586/1 588/13 591/15 600/7 600/9 604/23 609/18 610/25 612/15 613/1 645/10</p> <p>pointed [1] 594/12</p> <p>pointing [2] 600/19 610/21</p> <p>points [1] 578/14</p> <p>pole [1] 608/12</p> <p>police [13] 591/24 597/1 601/3 601/8 601/9 601/12 601/14 604/11 604/14 610/3 611/12 624/18 624/24</p> <p>political [1] 616/5</p> <p>poll [1] 642/9</p> <p>ponder [1] 606/4</p> <p>portion [2] 615/7 620/18</p> <p>portions [5] 620/15 620/15 620/19 620/22 620/23</p> <p>position [1] 646/7</p> <p>possession [2] 603/10 630/21</p> <p>possibility [1] 615/21</p> <p>possible [5] 595/11 625/9 634/5 636/19 648/24</p> <p>post [1] 575/19</p> <p>posted [1] 629/15</p> <p>potential [1] 618/25</p> <p>potentially [1] 604/17</p> <p>power [7] 592/4 596/12 608/23 611/3 619/7 640/17 647/1</p> <p>powerful [1] 621/22</p> <p>PowerPoint [1] 584/8</p> <p>praying [1] 633/6</p> <p>precisely [1] 609/4</p> <p>precluded [1] 570/3</p> <p>preferences [1] 615/23</p> <p>prejudice [4] 615/2 616/8 624/11 624/13</p> <p>prejudices [2] 615/19 615/23</p> <p>preliminary [1] 614/9</p> <p>preparation [1] 628/11</p> <p>present [2] 641/9 648/17</p> <p>presentation [1] 572/21</p> <p>presented [5] 618/13 625/19 629/25 636/15 644/22</p> <p>presenting [1] 587/23</p> <p>president [34] 567/3 567/7 569/18 574/11 592/3 592/6 592/9 594/6 594/9 594/10 594/15 594/20 594/24 595/17 595/20 595/21 595/24 595/25 596/2</p>	<p>596/3 596/10 596/11 597/12 601/22 602/2 611/2 611/15 611/22 612/3 618/23 619/6 629/19 629/20 646/25</p> <p>president's [1] 594/3</p> <p>presidential [3] 590/23 626/22 632/15</p> <p>press [1] 571/16</p> <p>presumed [1] 621/2</p> <p>presumption [1] 621/3</p> <p>pretty [2] 591/16 592/15</p> <p>prevent [1] 601/4</p> <p>previous [1] 623/23</p> <p>previously [4] 579/25 631/2 632/8 633/6</p> <p>price [1] 571/6</p> <p>prior [5] 567/11 567/12 567/15 568/15 568/18</p> <p>privacy [1] 620/20</p> <p>private [1] 579/8</p> <p>privilege [1] 627/16</p> <p>probability [1] 624/6</p> <p>probable [3] 621/20 627/4 633/17</p> <p>probably [3] 607/17 609/5 613/7</p> <p>probation [2] 650/2 650/19</p> <p>problem [4] 584/10 613/11 613/14 646/3</p> <p>problems [1] 584/5</p> <p>proceed [5] 572/13 583/19 585/9 605/10 640/24</p> <p>proceeding [26] 590/19 590/20 590/24 626/7 626/12 626/18 626/19 626/21 626/23 626/25 627/2 627/5 627/7 627/14 627/15 627/18 627/19 627/20 627/25 628/1 628/4 628/7 628/10 628/14 642/25</p> <p>proceedings [5] 563/7 642/1 651/2 651/8 651/11</p> <p>process [12] 576/7 576/11 576/14 579/4 579/7 579/14 631/1 644/5 644/6 644/17 646/2 649/1</p> <p>produce [2] 621/8 630/22</p> <p>produced [1] 563/7</p> <p>progress [2] 566/23 626/18</p> <p>prohibited [1] 569/20</p> <p>prompt [1] 570/17</p> <p>prompted [1] 571/7</p> <p>proof [10] 586/13 588/10 590/15 593/20 593/23 602/7 621/6 621/22 632/6 646/14</p> <p>proper [1] 619/24</p> <p>properly [1] 616/19</p> <p>property [11] 586/9 588/25 588/25 589/4 589/10 603/10 606/8 628/21 628/23 630/20 643/4</p> <p>prosecuted [3] 595/8 611/7 625/7</p> <p>prosecutor [1] 570/10</p> <p>protect [2] 601/3 602/5</p> <p>protected [2] 629/16 629/18</p> <p>prove [14] 607/22 621/7 621/13 621/19 622/11 622/13 627/1 628/2 628/16 628/23 629/9 631/8 631/21 634/19</p> <p>proved [11] 593/3 595/13 622/16 625/2 626/9 626/14 630/7 632/2 632/20 633/9 633/23</p> <p>proven [7] 588/19 611/18 617/4 621/5 621/9 625/11 646/16</p> <p>provide [3] 572/6 584/1 615/3</p>
--	--	--

<p><b>P</b> <span style="color: blue;">Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 105 of 111</span></p> <p><b>provided</b> [9] 565/12 572/5 576/7 576/9 580/12 631/2 632/8 633/7 634/12</p> <p><b>proving</b> [3] 618/5 621/16 621/17</p> <p><b>PSR</b> [2] 650/4 650/8</p> <p><b>public</b> [3] 599/8 616/9 647/23</p> <p><b>publicity</b> [1] 636/16</p> <p><b>pull</b> [1] 592/24</p> <p><b>punishment</b> [2] 634/5 634/11</p> <p><b>purple</b> [1] 581/11</p> <p><b>purported</b> [1] 567/6</p> <p><b>purpose</b> [8] 591/7 593/4 618/25 619/6 627/10 632/3 632/7 632/7</p> <p><b>purposes</b> [1] 632/10</p> <p><b>pursuant</b> [1] 584/12</p> <p><b>pushing</b> [1] 630/24</p> <p><b>put</b> [8] 584/13 598/10 598/13 607/1 634/25 638/2 648/13 648/21</p> <p><b>putting</b> [4] 575/9 579/11 579/24 580/22</p>	<p>614/11 636/13 636/13 639/5 639/7 639/9 639/11</p> <p><b>ready</b> [1] 640/8</p> <p><b>real</b> [4] 566/24 647/10 647/17 647/22</p> <p><b>reality</b> [2] 568/23 649/20</p> <p><b>reality is</b> [1] 568/23</p> <p><b>realize</b> [4] 609/23 609/25 609/25 610/1</p> <p><b>realizes</b> [1] 629/21</p> <p><b>really</b> [7] 590/13 593/15 600/20 601/23 604/25 606/15 646/25</p> <p><b>reason</b> [10] 597/25 601/2 601/20 607/20 610/13 621/25 621/25 622/11 623/9 638/16</p> <p><b>reasonable</b> [32] 588/19 593/3 593/19 606/6 611/18 617/5 617/18 621/5 621/10 621/14 621/18 621/23 621/24 622/4 622/5 622/6 622/14 622/16 625/2 626/10 626/14 627/2 628/2 628/24 629/10 630/7 630/19 631/9 632/3 632/21 633/24 634/19</p> <p><b>reasonableness</b> [1] 624/5</p> <p><b>reasonably</b> [3] 568/16 617/15 627/2</p> <p><b>reasons</b> [6] 596/18 610/14 614/20 620/18 644/16 646/11</p> <p><b>rebut</b> [1] 573/7</p> <p><b>rebuttal</b> [6] 564/14 572/24 573/20 573/25 583/15 610/19</p> <p><b>recall</b> [2] 598/7 623/19</p> <p><b>recalled</b> [1] 623/1</p> <p><b>receive</b> [5] 581/18 603/23 617/8 624/17 641/7</p> <p><b>received</b> [3] 579/13 633/14 633/21</p> <p><b>recent</b> [2] 587/3 649/4</p> <p><b>recess</b> [2] 585/10 613/22</p> <p><b>recessed</b> [2] 571/25 642/1</p> <p><b>recollection</b> [3] 568/11 607/7 623/18</p> <p><b>recommendation</b> [1] 645/4</p> <p><b>record</b> [13] 565/4 567/12 567/13 567/15 568/13 568/15 568/18 569/11 569/22 569/22 569/25 573/12 577/16</p> <p><b>recorded</b> [1] 563/7</p> <p><b>recorder</b> [1] 614/12</p> <p><b>recording</b> [3] 569/9 615/4 634/20</p> <p><b>recordings</b> [1] 635/13</p> <p><b>red</b> [1] 607/3</p> <p><b>redacted</b> [1] 566/1</p> <p><b>redactions</b> [1] 566/6</p> <p><b>redirect</b> [3] 564/4 583/11 583/12</p> <p><b>reduce</b> [1] 645/12</p> <p><b>refer</b> [2] 615/6 615/6</p> <p><b>reference</b> [9] 584/3 584/24 616/15 619/13 634/22 639/4 639/4 647/4 647/16</p> <p><b>referenced</b> [2] 571/15 571/17</p> <p><b>referencing</b> [1] 568/17</p> <p><b>reflecting</b> [1] 569/22</p> <p><b>reflection</b> [1] 622/6</p> <p><b>reflects</b> [1] 569/23</p> <p><b>refresh</b> [1] 639/12</p> <p><b>refresher</b> [1] 585/21</p> <p><b>refreshing</b> [1] 639/7</p> <p><b>refuse</b> [2] 627/15 627/20</p> <p><b>refute</b> [2] 573/6 573/8</p> <p><b>regarding</b> [7] 565/14 571/17 606/6 618/22 619/9 635/1 650/13</p> <p><b>regardless</b> [1] 616/2</p> <p><b>Regensburger</b> [4] 562/22 565/11</p>	<p>605/14 641/6</p> <p><b>REGGIE</b> [1] 562/11</p> <p><b>regular</b> [2] 613/20 638/18</p> <p><b>reintroduce</b> [1] 574/4</p> <p><b>relates</b> [1] 565/16</p> <p><b>relative</b> [4] 570/14 571/14 571/16 606/7</p> <p><b>release</b> [3] 613/18 646/6 648/6</p> <p><b>relevant</b> [2] 626/16 633/22</p> <p><b>religion</b> [1] 616/3</p> <p><b>rely</b> [2] 605/19 636/6</p> <p><b>remain</b> [2] 641/5 649/8</p> <p><b>remainder</b> [1] 641/6</p> <p><b>remained</b> [1] 629/11</p> <p><b>remaining</b> [5] 590/17 591/15 629/6 643/7 646/9</p> <p><b>remains</b> [1] 621/3</p> <p><b>remember</b> [5] 568/12 598/9 599/3 599/18 601/1</p> <p><b>remind</b> [2] 636/8 636/22</p> <p><b>removed</b> [1] 620/17</p> <p><b>render</b> [2] 634/4 644/23</p> <p><b>rendered</b> [1] 615/11</p> <p><b>repeated</b> [1] 608/4</p> <p><b>replace</b> [1] 636/4</p> <p><b>replaces</b> [2] 634/16 634/17</p> <p><b>reply</b> [1] 604/17</p> <p><b>report</b> [2] 641/17 650/17</p> <p><b>reported</b> [1] 651/7</p> <p><b>reporter</b> [5] 563/2 563/2 612/9 651/5 651/17</p> <p><b>reports</b> [2] 636/9 636/14</p> <p><b>reprehensible</b> [1] 649/16</p> <p><b>representatives</b> [1] 631/19</p> <p><b>represented</b> [1] 634/1</p> <p><b>representing</b> [1] 576/8</p> <p><b>represents</b> [1] 620/1</p> <p><b>request</b> [3] 583/21 641/5 642/8</p> <p><b>requested</b> [4] 576/6 576/14 576/24 580/5</p> <p><b>requesting</b> [2] 579/7 579/8</p> <p><b>require</b> [6] 618/10 621/7 628/15 632/4 632/5 632/6</p> <p><b>required</b> [5] 619/1 619/10 622/11 631/21 633/16</p> <p><b>research</b> [1] 637/4</p> <p><b>resolve</b> [1] 650/18</p> <p><b>respect</b> [5] 606/8 606/16 626/2 626/4 650/5</p> <p><b>respectful</b> [1] 648/19</p> <p><b>respond</b> [1] 568/10</p> <p><b>response</b> [1] 603/17</p> <p><b>responsibility</b> [4] 605/24 615/14 616/14 620/1</p> <p><b>rest</b> [2] 572/19 649/2</p> <p><b>restricted</b> [13] 590/9 590/11 590/12 591/17 591/21 629/7 629/11 629/14 629/15 630/4 630/14 643/8 643/12</p> <p><b>rests</b> [1] 634/9</p> <p><b>result</b> [3] 579/13 624/2 647/1</p> <p><b>resuming</b> [3] 585/10 613/22 642/2</p> <p><b>retire</b> [1] 636/21</p> <p><b>return</b> [7] 570/23 593/22 605/8 615/11 625/24 626/3 634/2</p> <p><b>reveal</b> [1] 637/16</p> <p><b>reviewing</b> [1] 575/6</p> <p><b>revised</b> [1] 565/13</p>
<p><b>Q</b></p> <p><b>query</b> [1] 567/18</p> <p><b>question</b> [28] 566/9 577/24 585/17 588/22 590/17 591/1 591/14 592/6 592/11 592/13 595/11 596/4 596/4 596/6 606/9 609/23 609/24 610/24 611/13 619/22 620/4 620/5 620/6 620/8 625/9 625/17 634/5 634/24</p> <p><b>questioning</b> [2] 592/1 614/18</p> <p><b>questions</b> [6] 565/14 596/21 614/15 615/9 619/20 625/13</p> <p><b>quick</b> [2] 585/21 592/15</p> <p><b>quiet</b> [1] 633/5</p> <p><b>quite</b> [1] 645/8</p> <p><b>quote</b> [1] 603/19</p>		
<p><b>R</b></p> <p><b>race</b> [1] 616/3</p> <p><b>rack</b> [28] 586/2 586/9 589/1 589/1 589/3 589/7 589/8 589/10 589/11 589/13 589/16 589/17 591/8 600/4 601/2 601/4 601/6 601/12 602/1 603/5 604/20 606/10 607/14 607/20 628/25 628/25 629/2 629/4</p> <p><b>radio</b> [5] 582/24 582/25 586/3 607/8 636/10</p> <p><b>rage</b> [1] 608/13</p> <p><b>raise</b> [3] 570/4 570/6 572/12</p> <p><b>rally</b> [15] 572/14 574/22 574/25 582/9 582/11 582/12 582/21 582/21 584/17 587/5 587/6 587/9 587/15 598/4 608/10</p> <p><b>ramming</b> [1] 600/4</p> <p><b>ran</b> [5] 586/10 586/10 604/6 604/6 609/8</p> <p><b>range</b> [1] 578/7</p> <p><b>ransacking</b> [1] 594/18</p> <p><b>rather</b> [5] 584/19 584/19 601/11 618/16 648/13</p> <p><b>RBW</b> [1] 562/4</p> <p><b>reach</b> [3] 625/16 625/19 625/24</p> <p><b>reached</b> [5] 635/3 637/18 640/14 642/4 642/20</p> <p><b>reaching</b> [3] 618/11 635/17 648/24</p> <p><b>read</b> [15] 571/15 588/16 606/17 606/20 609/10 609/14 610/25 611/4</p>		

<p><b>R</b> <span style="color: blue;">Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 106 of 111</span></p> <p><b>Reyes [2]</b> 600/1 601/14  <b>rides [1]</b> 580/5  <b>ridiculous [1]</b> 600/25  <b>right [66]</b> 565/24 569/5 576/22 580/15 580/21 581/18 582/5 582/6 583/2 583/4 584/18 587/16 587/24 588/14 588/19 589/6 589/7 589/13 589/13 589/15 589/17 590/8 590/10 590/17 590/18 590/25 591/14 591/16 592/13 592/14 593/15 593/19 594/6 594/21 595/19 596/4 596/8 596/16 597/4 597/23 598/17 599/7 599/9 599/25 600/5 600/5 600/6 601/24 602/4 602/10 602/14 602/21 603/2 603/5 603/20 604/2 604/20 605/2 605/20 607/15 609/3 610/10 610/16 610/25 629/3 649/13  <b>ringing [1]</b> 602/11  <b>riot [1]</b> 586/4  <b>rioters [4]</b> 590/7 600/3 600/3 601/4  <b>risk [2]</b> 648/17 649/6  <b>Robert [3]</b> 586/8 600/13 600/15  <b>Roger [1]</b> 570/19  <b>role [1]</b> 645/17  <b>room [7]</b> 563/3 585/1 610/12 635/11 636/1 636/21 640/12  <b>route [1]</b> 589/24  <b>row [1]</b> 612/25  <b>Rozzoni [3]</b> 562/14 564/5 565/9  <b>RPR [2]</b> 563/2 651/17  <b>Rudolph [4]</b> 575/5 592/4 596/12 618/23  <b>Rudy [6]</b> 575/23 587/8 587/13 598/4 611/2 619/6  <b>rule [1]</b> 614/15  <b>ruled [2]</b> 620/6 620/7  <b>run [1]</b> 607/21  <b>running [1]</b> 580/13  <b>Russian [1]</b> 644/13</p>	<p><b>say [25]</b> 566/18 571/1 571/21 573/10 587/8 589/12 594/5 600/13 602/1 603/2 606/1 610/8 611/1 611/5 613/6 613/16 622/3 639/5 639/18 641/11 644/13 645/3 646/10 647/10 647/13  <b>saying [5]</b> 567/10 603/19 603/21 641/16 642/3  <b>says [10]</b> 575/14 603/7 603/13 603/14 603/19 604/12 608/9 609/14 618/4 639/14  <b>scenario [1]</b> 641/20  <b>scientific [1]</b> 622/13  <b>Scooter [2]</b> 570/19 570/24  <b>screen [2]</b> 565/23 576/22  <b>scripted [1]</b> 607/9  <b>search [1]</b> 580/3  <b>seat [1]</b> 613/19  <b>seated [5]</b> 572/9 585/13 612/14 644/4 646/7  <b>seats [1]</b> 638/3  <b>Seattle [1]</b> 562/19  <b>second [12]</b> 568/11 589/3 590/25 591/22 626/12 628/5 628/25 629/12 630/10 631/11 632/23 638/6  <b>seconds [2]</b> 575/19 581/24  <b>secret [3]</b> 629/16 629/17 629/18  <b>security [1]</b> 586/3  <b>seduced [1]</b> 608/21  <b>see [15]</b> 575/15 577/2 577/25 580/9 582/6 587/10 599/11 599/12 602/10 602/12 620/21 639/11 642/4 642/15 645/5  <b>seem [2]</b> 599/22 613/4  <b>seen [3]</b> 568/6 617/22 618/1  <b>select [2]</b> 640/12 640/15  <b>selected [2]</b> 637/24 638/1  <b>selecting [2]</b> 625/14 644/7  <b>self [3]</b> 624/12 627/16 634/22  <b>self-explanatory [1]</b> 634/22  <b>Senate [5]</b> 585/19 586/14 593/17 612/4 631/18  <b>send [4]</b> 603/22 604/12 615/10 637/7  <b>sending [1]</b> 635/11  <b>sends [1]</b> 604/12  <b>SENIOR [1]</b> 562/11  <b>sense [6]</b> 584/15 597/6 602/6 602/8 602/22 607/16  <b>sent [5]</b> 572/3 576/12 603/20 603/21 642/3  <b>sentence [2]</b> 565/15 634/8  <b>sentencing [9]</b> 646/4 646/6 646/9 649/1 649/8 650/1 650/2 650/9 650/10  <b>separate [2]</b> 625/22 625/24  <b>separately [1]</b> 625/23  <b>serious [1]</b> 648/15  <b>seriously [1]</b> 647/8  <b>serve [1]</b> 638/25  <b>served [1]</b> 579/5  <b>service [3]</b> 579/13 629/17 629/18  <b>session [7]</b> 590/6 592/19 626/22 631/15 631/22 632/12 632/14  <b>seven [1]</b> 637/20  <b>several [2]</b> 586/23 614/10  <b>sex [1]</b> 616/4  <b>sexual [1]</b> 616/4  <b>Shamansky [4]</b> 562/22 564/6 565/11 566/15</p>	<p><b>shamansky [1]</b> 562/24  <b>shameful [1]</b> 606/2  <b>share [1]</b> 639/9  <b>shared [1]</b> 613/10  <b>she [21]</b> 572/2 572/3 572/3 572/3 572/5 572/6 610/9 612/17 612/17 613/2 613/5 613/5 613/7 613/17 617/12 620/1 623/11 624/24 640/3 640/4 641/22  <b>she'll [3]</b> 640/2 640/24 646/5  <b>shepherd [1]</b> 640/18  <b>shifts [1]</b> 621/6  <b>shit [1]</b> 604/13  <b>shoe [1]</b> 566/21  <b>shoes [1]</b> 570/8  <b>short [1]</b> 575/13  <b>shorthand [3]</b> 563/7 651/8 651/12  <b>shot [1]</b> 603/7  <b>should [56]</b> 568/2 570/5 595/8 595/11 605/8 606/9 611/6 614/25 615/10 615/20 616/6 616/7 616/11 616/13 616/17 617/2 617/6 617/7 618/12 618/16 620/4 620/7 620/7 620/8 620/22 620/23 620/25 622/21 624/16 624/19 624/21 624/23 625/6 625/9 625/22 625/23 626/1 633/21 634/7 634/10 634/11 634/14 634/16 636/4 636/6 636/11 637/10 637/18 639/1 639/13 639/17 640/8 640/11 640/15 640/19 644/9  <b>shoving [1]</b> 630/24  <b>show [3]</b> 566/18 576/23 640/10  <b>showing [8]</b> 576/5 576/25 577/10 577/11 578/15 578/24 579/3 581/1  <b>shown [4]</b> 566/3 605/16 624/10 648/19  <b>shows [6]</b> 566/16 578/23 580/7 580/14 580/18 598/18  <b>sick [2]</b> 596/20 610/2  <b>side [9]</b> 571/5 578/17 618/16 618/19 618/21 619/22 624/12 642/5 642/9  <b>sides [1]</b> 641/10  <b>sideshow [2]</b> 611/14 611/15  <b>sign [2]</b> 635/5 635/9  <b>signal [1]</b> 578/7  <b>signed [2]</b> 637/8 637/11  <b>significant [1]</b> 645/16  <b>Silver [2]</b> 577/2 580/15  <b>similar [2]</b> 591/16 592/12  <b>Similarly [1]</b> 619/20  <b>since [3]</b> 571/24 572/11 601/17  <b>sincere [1]</b> 647/16  <b>sincerity [1]</b> 648/4  <b>single [1]</b> 571/15  <b>sinister [1]</b> 610/4  <b>sir [6]</b> 573/17 583/10 583/14 584/11 642/23 649/8  <b>sit [1]</b> 613/19  <b>sitting [2]</b> 610/7 610/11  <b>situated [2]</b> 607/18 609/17  <b>six [15]</b> 588/12 592/14 593/8 593/20 596/18 604/4 605/9 606/14 632/16 634/22 635/3 637/20 637/20 642/22 643/19  <b>size [1]</b> 608/6  <b>sleep [1]</b> 617/25  <b>sleeping [2]</b> 612/16 613/7</p>
<p><b>S</b></p> <p><b>said [64]</b> 566/25 568/14 569/16 569/19 569/21 570/14 571/5 572/3 573/12 573/14 575/20 578/11 586/24 587/1 587/4 587/7 587/12 587/13 588/14 594/10 594/16 595/19 596/22 596/25 597/1 597/3 597/17 598/2 598/4 598/6 598/7 598/10 599/7 599/11 599/15 599/18 599/25 600/7 600/8 600/14 600/14 600/18 600/20 601/2 602/1 602/12 603/13 604/18 605/1 607/7 609/20 609/22 610/10 611/19 611/23 613/2 616/10 630/1 639/13 646/14 647/16 647/20 648/4 651/11  <b>Sam [1]</b> 565/10  <b>same [3]</b> 589/19 593/8 624/21  <b>Samuel [1]</b> 562/22  <b>sat [1]</b> 609/16  <b>satisfy [1]</b> 593/7  <b>Save [3]</b> 572/14 582/21 608/10  <b>saving [1]</b> 647/3  <b>saw [21]</b> 566/17 583/3 587/8 589/21 591/19 592/16 598/17 600/3 602/12 602/13 602/14 602/15 603/6 608/4 612/18 612/19 612/20 617/20 617/23 617/24 617/25</p>		

<p><b>S</b> slightly [1] 575/21  slow [1] 626/17  smaller [1] 618/19  smell [1] 596/23  snow [4] 617/21 617/22 617/24 617/25  snowed [1] 618/2  so [94]  social [1] 568/9  sole [3] 615/13 616/14 622/19  solely [3] 616/6 634/10 636/15  some [29] 566/6 573/4 579/8 584/7 586/1 587/1 596/9 598/2 598/7 598/16 603/3 603/13 603/20 604/23 607/3 612/14 615/8 620/16 621/20 628/11 628/11 628/13 635/21 636/8 644/13 645/3 645/10 647/5 649/16  somebody [4] 607/14 639/14 640/15 647/19  somehow [1] 583/2  someone [3] 600/19 603/16 640/19  someone's [2] 633/8 633/11  something [13] 585/18 589/14 591/6 591/11 593/1 604/15 604/16 605/5 611/16 631/25 638/17 641/11 649/12  sometimes [4] 578/2 578/5 619/22 620/14  somewhat [1] 598/7  soon [2] 636/18 645/18  sorry [6] 609/21 617/6 617/15 625/5 630/13 632/5  sort [1] 640/18  sought [2] 569/19 605/24  soul [1] 610/4  south [1] 577/3  Span [2] 574/18 574/21  speak [2] 645/22 645/24  speaker [1] 583/5  speakers [1] 574/25  speaking [5] 575/7 575/8 642/19 643/23 645/23  special [5] 564/5 573/3 573/22 574/5 586/7  specific [1] 578/8  specifically [6] 569/16 569/17 569/19 571/23 576/25 580/4  speculate [1] 620/5  speculation [1] 622/10  speech [13] 572/14 573/9 573/10 574/11 574/12 574/13 574/14 575/14 584/13 584/19 594/3 598/19 598/20  spirit [1] 571/19  spoke [1] 575/5  spokesperson [1] 640/21  spot [1] 578/6  spray [1] 602/25  sprayed [3] 596/22 596/23 602/21  Spring [2] 577/2 580/15  spur [1] 598/16  Square [1] 598/23  staff [1] 591/25  stage [1] 608/24  stand [17] 585/22 585/24 585/25 586/4 586/20 594/5 596/20 597/14 600/14 600/21 601/18 604/6 604/23 604/24 607/19 611/10 623/5  standing [2] 602/14 604/20</p>	<p>stands [1] 623/12  start [8] 575/8 584/23 587/2 588/20 588/24 638/10 638/21 640/5  started [2] 574/15 609/9  starting [1] 645/9  starts [1] 577/3  state [2] 614/18 633/25  statement [6] 570/11 571/14 594/1 595/19 601/1 633/12  statements [13] 567/23 597/24 599/14 600/22 605/4 607/13 608/24 609/12 618/22 619/4 619/9 619/18 623/23  states [33] 562/1 562/3 562/12 565/3 565/6 565/9 589/4 589/5 589/6 589/10 589/13 594/19 595/2 598/19 602/3 617/12 626/20 628/20 628/22 629/1 629/3 631/10 631/16 631/17 631/17 631/18 631/18 632/12 632/13 632/22 643/3 646/17 651/6  stating [1] 592/3  station [1] 636/10  stay [1] 641/5  staying [1] 648/8  steal [9] 587/19 597/11 597/16 597/18 597/20 597/21 599/2 601/12 601/25  stealing [7] 588/25 589/14 589/14 597/8 602/3 604/22 609/10  steals [1] 597/9  step [3] 607/23 628/6 628/15  steps [1] 570/22  Stewart [1] 562/18  still [8] 575/2 589/7 598/21 600/8 601/5 603/12 638/10 647/25  stipulated [24] 579/20 588/13 588/15 589/2 589/2 589/9 589/23 590/2 590/21 590/22 591/7 591/9 591/18 591/20 591/23 593/13 600/11 605/25 607/21 616/24 617/1 617/2 648/12 648/23  stipulations [3] 588/17 588/20 590/13  stole [10] 586/2 586/2 586/3 589/3 589/16 591/7 591/8 593/18 593/19 612/5  stolen [4] 586/9 595/21 603/10 604/19  stood [2] 601/15 606/22  stop [3] 599/10 609/9 610/5  stopped [3] 572/16 599/13 604/10  story [6] 587/23 587/23 587/24 601/19 602/4 604/25  straight [3] 581/14 601/19 607/11  strange [1] 598/7  streamlined [1] 648/12  Street [4] 562/15 562/18 562/23 580/20  strength [1] 578/7  stricken [3] 565/14 620/7 620/11  strong [1] 608/22  stuff [1] 605/5  submitted [1] 580/4  subscribed [1] 651/13  substantial [2] 628/6 628/15  substitute [3] 584/14 613/16 638/5  subtle [1] 608/8  such [15] 616/2 616/13 617/4 617/7 617/11 619/24 620/15 621/21 624/13 624/16 630/19 633/5 636/12 636/14 636/25</p>	<p>suggest [1] 634/15  suggested [1] 567/10  suggesting [1] 567/12  suggests [1] 604/16  Suite [2] 562/15 562/18  superseding [12] 619/12 619/14 625/4 626/5 626/21 627/23 628/19 629/5 630/2 631/4 632/11 632/16  supported [1] 624/9  supporters [1] 608/1  suppose [1] 584/21  supposedly [1] 605/4  sure [18] 566/21 569/25 570/4 570/16 574/5 574/14 575/12 576/3 576/24 578/3 578/13 579/18 582/25 587/9 599/6 601/1 612/14 642/13  surrounding [2] 623/16 633/12  susceptible [1] 609/18  suspended [1] 602/2  sustained [4] 565/17 620/3 620/10 644/25  swiped [1] 606/10  swiping [1] 607/20  switch [1] 566/16  sworn [1] 616/20  sympathy [2] 615/2 616/8  system [7] 616/1 644/14 644/14 644/19 645/15 645/16 647/7</p> <hr/> <p><b>T</b></p> <p>TABLE [1] 564/1  tainted [2] 568/1 568/5  take [26] 575/18 583/18 585/8 588/17 588/18 589/1 598/12 598/13 603/22 612/11 612/13 613/20 616/9 616/23 635/25 635/25 639/1 639/6 639/13 639/15 640/4 640/24 641/19 645/5 648/5 650/3  taken [10] 566/18 585/10 599/5 613/22 620/24 629/1 630/21 634/14 636/5 648/19  taker's [1] 636/7  taking [6] 582/9 582/11 589/14 589/17 647/8 649/11  talk [7] 569/7 593/23 594/13 596/16 636/19 638/12 646/1  talked [2] 581/11 594/12  talking [5] 571/3 581/8 600/18 646/1 650/16  tape [6] 592/16 597/8 604/22 614/12 615/4 635/13  tapes [9] 566/1 566/3 584/25 585/2 585/3 635/19 635/20 635/21 635/22  taping [1] 614/11  tattoos [1] 608/14  teaching [1] 644/12  tear [5] 596/22 596/23 602/21 602/25 639/2  tearing [1] 647/2  television [1] 636/11  tell [13] 574/13 581/21 587/20 592/23 595/6 601/20 604/24 605/1 610/10 610/20 614/16 624/15 636/18  telling [2] 603/1 623/9  temporarily [1] 629/17  ten [7] 583/18 585/8 612/9 612/11 612/13 613/20 641/16</p>
--	--	--

<p><b>T</b> Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 108 of 111</p> <p><b>term</b> [7] 626/19 626/21 629/14 629/18 633/1 633/6 649/14</p> <p><b>terms</b> [5] 606/19 608/3 648/6 648/7 648/24</p> <p><b>Terrace</b> [1] 603/25</p> <p><b>testified</b> [12] 567/17 574/7 574/11 586/16 601/23 601/23 608/2 622/18 622/24 623/2 623/11 649/19</p> <p><b>testifies</b> [1] 617/21</p> <p><b>testify</b> [3] 600/1 627/15 627/20</p> <p><b>testifying</b> [4] 587/4 618/15 623/6 623/13</p> <p><b>testimony</b> [31] 567/3 567/16 569/1 569/3 587/22 588/2 588/22 597/23 597/25 602/7 612/20 616/20 616/20 616/24 617/13 617/22 618/1 618/18 618/20 622/17 623/22 623/23 623/25 624/7 624/14 624/16 624/19 624/22 624/24 647/14 651/8</p> <p><b>text</b> [11] 600/13 600/15 600/19 600/23 603/3 603/18 603/20 603/23 604/12 604/18 637/1</p> <p><b>than</b> [18] 581/9 584/19 584/19 594/23 595/8 598/11 601/11 611/6 618/11 618/20 621/19 621/22 625/6 637/11 638/24 640/17 646/21 650/17</p> <p><b>thank</b> [17] 572/12 572/19 579/3 580/22 583/10 583/13 605/9 605/11 610/16 612/8 641/25 642/7 644/5 644/19 645/17 649/8 651/1</p> <p><b>thanks</b> [1] 645/2</p> <p><b>that</b> [534]</p> <p><b>that's</b> [53] 568/4 569/3 574/9 574/24 575/3 576/13 580/12 582/14 583/10 586/15 586/24 587/15 587/22 588/24 589/4 589/14 589/17 590/10 590/19 591/1 591/14 592/9 593/20 595/5 596/4 596/25 597/4 597/20 597/21 600/9 601/22 603/8 603/10 603/25 605/18 605/21 606/2 606/15 607/1 607/13 607/15 608/22 609/4 609/24 611/5 611/13 612/5 613/12 640/10 641/11 641/14 644/18 649/12</p> <p><b>theft</b> [5] 588/24 606/7 628/20 628/22 643/3</p> <p><b>their</b> [11] 568/7 571/3 608/14 608/14 608/14 608/15 619/9 636/6 638/3 646/2 647/9</p> <p><b>theirs</b> [1] 639/15</p> <p><b>them</b> [31] 568/6 568/9 571/4 571/23 572/6 585/3 585/4 586/18 592/7 594/22 594/22 595/25 598/7 606/20 608/12 611/23 614/21 619/25 620/11 635/14 636/1 638/2 639/2 639/9 642/13 642/15 645/23 645/24 646/1 646/2 646/11</p> <p><b>themselves</b> [2] 588/20 625/15</p> <p><b>then</b> [48] 566/8 566/9 567/18 569/21 571/4 577/6 577/17 578/12 580/8 580/16 581/4 583/19 583/24 585/8 586/6 586/16 586/23 587/9 591/11 592/11 593/20 594/2 597/17 598/9 598/22 599/15 599/23 599/24 600/17 600/18 602/4 602/13 603/7 603/13 603/18 604/9 613/15 613/19 617/25 622/4 634/24 635/4 635/8 638/19</p>	<p>638/19 638/21 639/1 647/20</p> <p><b>there</b> [53] 565/13 565/20 565/25 566/4 566/25 570/2 575/1 580/18 586/1 586/4 586/13 587/9 587/13 588/13 592/5 596/14 596/19 597/2 597/4 597/5 597/5 597/10 598/6 598/14 598/17 599/8 599/17 599/18 599/24 600/5 600/5 600/14 601/9 601/15 602/17 602/18 604/24 605/5 609/3 609/20 617/9 620/18 620/22 623/21 636/9 636/11 636/15 637/24 642/8 645/19 646/11 646/18 646/19</p> <p><b>there's</b> [11] 566/5 571/6 571/20 578/14 581/3 590/16 592/11 607/3 610/24 613/1 633/9</p> <p><b>thereby</b> [1] 627/17</p> <p><b>therefore</b> [1] 638/1</p> <p><b>Thereupon</b> [14] 572/8 583/20 585/10 585/12 612/12 613/22 613/24 641/1 642/1 642/16 644/1 644/3 645/21 651/2</p> <p><b>these</b> [25] 577/9 578/2 578/5 578/8 588/23 590/7 592/14 596/14 596/19 597/24 599/14 600/3 601/20 602/25 603/3 605/4 606/18 606/20 608/3 608/21 614/18 615/6 644/8 648/14 649/7</p> <p><b>they</b> [45] 566/17 568/1 570/2 570/3 571/4 571/23 575/7 576/7 585/2 586/25 592/7 596/1 596/1 596/3 596/5 596/5 601/10 607/5 608/12 608/13 608/13 609/11 611/23 619/19 620/2 620/8 636/3 636/4 639/16 639/18 639/18 641/14 642/3 642/14 642/21 645/24 645/25 645/25 646/2 646/13 647/3 647/7 650/10 650/11 650/16</p> <p><b>they're</b> [8] 568/8 571/25 578/9 608/17 646/19 650/3 650/12 650/15</p> <p><b>They've</b> [1] 641/18</p> <p><b>thing</b> [10] 566/13 571/13 587/15 587/20 589/19 595/22 605/2 610/16 640/11 649/10</p> <p><b>things</b> [28] 586/23 586/24 587/1 587/14 587/16 590/2 591/21 592/7 594/9 596/2 596/3 596/5 598/1 598/2 598/4 598/6 599/2 600/1 601/21 602/21 605/1 605/23 609/9 612/5 615/20 645/3 645/6 649/17</p> <p><b>think</b> [43] 565/20 565/24 567/22 568/16 569/25 587/17 588/2 595/16 595/20 595/21 595/23 595/24 596/1 596/2 596/9 606/20 606/24 606/24 606/25 607/24 607/25 608/18 610/22 611/21 611/22 613/1 613/8 616/11 633/22 634/21 638/4 639/6 640/10 644/14 644/18 646/23 647/2 647/23 649/19 649/21 650/2 650/7 650/11</p> <p><b>thinking</b> [3] 595/12 625/10 633/10</p> <p><b>thinks</b> [1] 597/12</p> <p><b>third</b> [5] 589/5 629/2 630/13 631/14 632/24</p> <p><b>this</b> [183]</p> <p><b>Thomas</b> [7] 564/5 573/4 573/23 574/5 575/11 575/25 582/19</p> <p><b>THOMPSON</b> [59] 562/6 565/3 565/11 578/1 579/10 579/21 580/7 582/2 582/12 586/22 589/20 591/2 591/17</p>	<p>592/8 592/19 592/21 594/21 594/25 595/2 595/14 601/18 601/23 602/24 603/1 603/9 603/11 603/12 603/14 603/15 603/20 604/17 605/14 605/23 606/10 606/16 606/25 607/5 607/18 608/2 608/18 609/4 609/7 609/16 609/20 610/7 611/10 611/24 621/7 621/11 621/15 626/6 627/24 628/20 629/6 630/3 631/5 632/17 633/13 633/24</p> <p><b>Thompson's</b> [14] 573/5 573/8 576/6 576/9 576/15 577/1 577/10 578/15 578/23 579/18 580/25 601/20 619/16 621/17</p> <p><b>those</b> [42] 567/1 581/9 581/10 581/11 587/13 588/12 588/16 588/17 590/2 590/12 590/14 591/21 593/15 593/18 596/3 596/5 598/4 599/2 600/3 600/6 603/22 603/23 604/1 608/11 608/11 608/16 611/18 612/5 613/9 614/11 615/20 619/3 635/1 635/22 635/22 635/24 636/5 639/3 639/5 639/6 639/10 639/13</p> <p><b>though</b> [9] 583/2 586/21 599/4 599/5 599/5 603/14 638/9 638/16 639/16</p> <p><b>thought</b> [10] 571/10 572/3 594/6 601/21 604/25 613/5 646/2 647/13 647/14 647/15</p> <p><b>thoughtful</b> [1] 622/6</p> <p><b>thousand</b> [2] 578/8 648/22</p> <p><b>threatening</b> [1] 631/11</p> <p><b>three</b> [10] 591/11 591/16 592/18 593/18 597/23 600/18 601/6 606/14 632/21 643/7</p> <p><b>through</b> [19] 567/16 568/9 568/25 569/12 576/7 578/10 580/13 580/24 587/1 588/11 604/14 614/6 629/23 637/8 640/18 644/6 648/11 648/11 648/21</p> <p><b>throughout</b> [4] 621/4 621/6 638/11 644/11</p> <p><b>throwing</b> [1] 609/9</p> <p><b>Thursday</b> [1] 562/7</p> <p><b>thus</b> [1] 605/16</p> <p><b>till</b> [2] 578/25 650/16</p> <p><b>time</b> [25] 573/14 575/6 580/6 580/6 581/11 581/20 583/24 598/21 599/4 601/10 603/6 603/19 617/23 623/17 626/24 629/1 638/17 639/20 641/15 644/7 645/7 649/20 649/21 649/21 650/16</p> <p><b>times</b> [6] 574/25 578/6 587/7 612/15 612/17 613/5</p> <p><b>timestamp</b> [4] 575/16 580/16 581/21 584/22</p> <p><b>timing</b> [2] 574/13 583/21</p> <p><b>today</b> [5] 588/1 593/21 593/24 640/9 641/8</p> <p><b>today's</b> [1] 567/24</p> <p><b>together</b> [1] 609/16</p> <p><b>told</b> [21] 583/25 586/23 594/8 597/12 597/16 601/19 602/4 602/24 603/1 603/4 603/9 603/15 604/22 609/20 611/20 614/8 616/25 636/2 638/21 648/8 649/24</p> <p><b>too</b> [2] 587/11 607/17</p> <p><b>took</b> [17] 569/7 574/12 574/14 586/22</p>
---	--	---

<p><b>T</b> took... [13] 589/2 598/9 601/2 601/3 607/14 616/22 628/13 628/25 629/2 639/2 639/16 639/18 644/10</p> <p><b>top</b> [2] 586/24 612/25</p> <p><b>topic</b> [1] 571/17</p> <p><b>totally</b> [3] 568/7 613/17 647/14</p> <p><b>toward</b> [2] 623/13 628/7</p> <p><b>towards</b> [3] 577/3 579/1 598/24</p> <p><b>towers</b> [1] 578/4</p> <p><b>transcribed</b> [1] 651/12</p> <p><b>transcript</b> [4] 562/10 563/7 569/8 651/11</p> <p><b>transcription</b> [1] 563/7</p> <p><b>travel</b> [1] 644/11</p> <p><b>traveled</b> [1] 609/7</p> <p><b>treatment</b> [1] 616/1</p> <p><b>trespassing</b> [1] 567/20</p> <p><b>trial</b> [45] 562/10 566/21 567/22 570/11 570/14 570/19 570/20 570/24 570/24 571/11 575/14 575/20 587/8 593/25 594/25 594/25 595/2 612/15 613/17 614/3 614/14 614/16 615/15 616/10 616/19 616/25 620/3 620/13 621/4 621/7 622/18 624/12 625/3 629/25 633/21 635/24 636/3 636/16 636/23 638/3 638/12 638/24 644/20 647/24 650/19</p> <p><b>trials</b> [2] 645/8 645/9</p> <p><b>tried</b> [5] 568/24 589/8 604/24 648/13 648/23</p> <p><b>trip</b> [1] 579/9</p> <p><b>trophy</b> [1] 603/5</p> <p><b>trouble</b> [2] 646/24 648/8</p> <p><b>troubling</b> [3] 567/21 646/23 647/14</p> <p><b>true</b> [8] 567/15 586/24 587/24 590/2 600/22 606/2 621/19 624/8</p> <p><b>Trump</b> [31] 567/3 568/15 569/18 572/14 574/11 592/3 592/6 592/9 594/9 594/10 594/12 594/15 594/20 595/20 595/21 595/24 595/25 596/2 596/3 596/12 596/14 597/12 603/19 608/5 610/21 611/2 611/15 611/22 612/3 618/23 619/6</p> <p><b>Trump's</b> [4] 584/13 594/6 594/24 595/17</p> <p><b>trust</b> [1] 597/3</p> <p><b>truth</b> [6] 587/20 605/1 610/10 621/20 623/9 624/15</p> <p><b>truthful</b> [2] 623/7 647/15</p> <p><b>truthfully</b> [1] 622/25</p> <p><b>try</b> [11] 567/7 569/12 570/25 596/19 600/2 606/25 607/19 607/22 637/10 645/11 649/13</p> <p><b>trying</b> [7] 568/15 569/14 584/18 597/11 603/21 611/14 645/12</p> <p><b>Tuesday</b> [1] 641/9</p> <p><b>tunnel</b> [2] 601/16 604/2</p> <p><b>turn</b> [2] 586/19 590/16</p> <p><b>turned</b> [3] 586/21 647/11 647/12</p> <p><b>TV</b> [6] 566/14 567/23 570/10 571/11 606/2 606/3</p> <p><b>tweet</b> [2] 575/12 575/16</p> <p><b>twice</b> [1] 597/8</p> <p><b>twisted</b> [1] 608/20</p> <p><b>Twitter</b> [1] 575/12</p> <p><b>two</b> [23] 565/20 571/3 578/21 585/24</p>	<p>586/7 587/7 588/20 588/23 588/24 589/18 590/12 591/7 591/8 592/17 593/24 606/7 617/9 626/9 628/19 631/17 638/1 642/13 643/3</p> <p><b>type</b> [2] 568/25 644/8</p> <p><b>types</b> [1] 617/9</p> <p><b>U</b></p> <p><b>U.S</b> [13] 562/14 562/18 563/3 585/23 586/3 587/18 590/10 590/11 591/19 591/20 591/23 601/3 604/9</p> <p><b>Uber</b> [5] 579/5 580/3 587/14 598/5 599/6</p> <p><b>ultimately</b> [2] 637/25 647/11</p> <p><b>unable</b> [1] 584/20</p> <p><b>unanimous</b> [4] 634/4 634/24 637/18 642/20</p> <p><b>unavailable</b> [1] 613/15</p> <p><b>uncertain</b> [1] 608/3</p> <p><b>undeniable</b> [1] 628/13</p> <p><b>under</b> [4] 586/23 623/19 630/23 637/15</p> <p><b>understand</b> [7] 568/23 588/12 606/6 607/18 612/7 614/20 634/21</p> <p><b>understanding</b> [3] 619/20 627/11 649/4</p> <p><b>understood</b> [1] 585/18</p> <p><b>undisputed</b> [1] 588/17</p> <p><b>undoubtedly</b> [1] 648/16</p> <p><b>unethical</b> [2] 566/20 567/22</p> <p><b>unfortunately</b> [2] 646/12 646/24</p> <p><b>UNITED</b> [31] 562/1 562/3 562/12 565/2 565/6 565/9 589/3 589/5 589/6 589/10 589/13 594/19 595/1 598/19 602/3 626/20 628/20 628/22 629/1 629/3 631/10 631/16 631/16 631/17 631/18 631/18 632/12 632/13 632/22 643/3 651/6</p> <p><b>unlawful</b> [17] 586/1 588/9 591/7 592/25 593/16 597/2 597/5 604/23 611/11 611/13 611/25 627/9 627/10 627/12 627/21 629/12 631/25</p> <p><b>unless</b> [1] 621/4</p> <p><b>unnecessarily</b> [1] 630/24</p> <p><b>unreasonableness</b> [1] 624/6</p> <p><b>unreasonably</b> [1] 630/22</p> <p><b>until</b> [8] 571/16 598/19 598/25 621/4 637/17 640/3 650/7 650/18</p> <p><b>unusual</b> [1] 591/1</p> <p><b>up</b> [46] 567/11 568/14 571/16 576/11 577/6 577/7 578/8 578/12 578/25 579/11 579/24 580/6 580/7 580/9 580/11 580/11 580/14 580/22 586/16 586/22 587/25 589/8 592/24 594/5 594/8 595/7 595/7 596/14 596/20 598/23 600/4 601/18 601/19 604/24 606/22 609/2 609/20 611/5 618/1 618/2 625/5 625/5 633/19 639/20 640/10 641/7</p> <p><b>upon</b> [8] 570/23 614/15 621/25 622/1 634/24 636/15 644/24 645/13</p> <p><b>upper</b> [1] 577/17</p> <p><b>urged</b> [1] 609/2</p> <p><b>us</b> [7] 576/9 607/22 613/17 635/21 641/9 645/14 650/3</p> <p><b>usdoj.gov</b> [2] 562/16 562/20</p> <p><b>use</b> [11] 589/6 589/11 590/25 600/2</p>	<p>607/14 624/21 629/4 634/13 636/1 636/7 638/25</p> <p><b>used</b> [4] 610/1 619/9 626/20 627/9</p> <p><b>uses</b> [1] 630/21</p> <p><b>using</b> [2] 601/4 602/22</p> <p><b>utilize</b> [1] 584/7</p> <p><b>uttered</b> [1] 631/11</p> <p><b>V</b></p> <p><b>value</b> [1] 614/24</p> <p><b>variance</b> [2] 578/9 578/19</p> <p><b>variety</b> [1] 620/18</p> <p><b>various</b> [4] 576/8 591/5 646/16 646/17</p> <p><b>vehicle</b> [1] 581/13</p> <p><b>verbatim</b> [2] 584/4 584/9</p> <p><b>verdict</b> [40] 564/16 593/22 605/9 615/11 615/25 616/13 618/12 625/16 625/18 625/20 626/1 626/4 634/1 634/2 634/3 634/4 634/10 634/12 634/15 634/20 634/21 635/5 635/17 637/18 640/14 640/20 640/22 641/8 641/19 642/4 642/12 642/17 642/20 643/1 643/4 643/9 643/13 643/17 643/21 645/20</p> <p><b>verdicts</b> [2] 625/24 635/14</p> <p><b>version</b> [1] 572/5</p> <p><b>versus</b> [1] 565/3</p> <p><b>very</b> [22] 565/24 566/8 566/13 567/21 571/13 571/22 572/20 573/16 573/18 578/5 584/24 588/9 592/12 602/9 610/4 610/16 638/3 642/24 643/23 644/21 646/23 647/14</p> <p><b>vest</b> [2] 598/8 598/12</p> <p><b>vice</b> [2] 629/19 629/19</p> <p><b>vicinity</b> [2] 578/15 600/12</p> <p><b>viciously</b> [1] 601/16</p> <p><b>video</b> [21] 572/14 572/16 574/18 574/21 575/4 575/23 581/6 581/20 581/24 583/3 584/23 585/1 589/21 591/19 594/2 599/21 600/3 604/3 608/5 620/16 620/17</p> <p><b>view</b> [4] 635/19 646/25 649/16 649/18</p> <p><b>violating</b> [1] 571/19</p> <p><b>violation</b> [6] 626/7 628/21 629/7 630/5 631/6 632/18</p> <p><b>violence</b> [3] 598/14 630/22 649/17</p> <p><b>violent</b> [1] 608/13</p> <p><b>visiting</b> [1] 629/17</p> <p><b>VOLUME</b> [1] 562/10</p> <p><b>vote</b> [4] 590/23 609/1 626/23 637/21</p> <p><b>voting</b> [1] 637/17</p> <p><b>vulnerable</b> [2] 608/21 609/18</p> <p><b>W</b></p> <p><b>WA</b> [1] 562/19</p> <p><b>wait</b> [1] 640/3</p> <p><b>waiting</b> [1] 572/4</p> <p><b>waking</b> [1] 618/1</p> <p><b>walk</b> [4] 587/1 588/11 589/8 599/12</p> <p><b>walked</b> [4] 585/23 600/9 603/25 612/3</p> <p><b>walking</b> [3] 578/10 578/17 647/25</p> <p><b>walls</b> [2] 568/3 608/6</p> <p><b>WALTON</b> [4] 562/11 605/11 605/17 606/5</p> <p><b>Walton's</b> [2] 606/17 609/11</p> <p><b>Wang</b> [1] 575/13</p> <p><b>want</b> [14] 571/2 583/24 585/2 593/24</p>
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<p><b>W</b> Case 1:21-cr-00679-JEB Document 49-4 Filed 01/03/23 Page 110 of 111</p> <p><b>want...</b> [10] 600/20 603/8 607/23 608/12 610/22 615/5 644/19 645/17 645/25 646/1</p> <p><b>wanted</b> [14] 566/10 567/5 567/6 570/2 595/25 597/1 600/8 601/8 601/9 601/12 601/14 608/24 610/12 635/25</p> <p><b>wanting</b> [1] 602/5</p> <p><b>wants</b> [5] 594/15 594/16 594/20 612/21 642/4</p> <p><b>warrant</b> [1] 580/3</p> <p><b>warranted</b> [1] 604/13</p> <p><b>was</b> [224]</p> <p><b>Washington</b> [9] 562/6 563/4 577/12 577/18 578/16 582/5 598/8 598/21 609/8</p> <p><b>wasn't</b> [4] 587/13 591/23 599/6 612/14</p> <p><b>watch</b> [3] 636/13 636/14 644/20</p> <p><b>watched</b> [2] 574/18 604/1</p> <p><b>watching</b> [2] 566/14 601/15</p> <p><b>way</b> [15] 567/13 568/24 569/23 580/17 583/14 598/11 598/22 599/7 610/5 612/24 619/13 633/9 634/8 637/5 647/20</p> <p><b>waypoints</b> [4] 576/8 577/9 581/9 581/10</p> <p><b>ways</b> [1] 613/3</p> <p><b>we</b> [65] 566/12 571/24 571/25 572/11 572/13 572/18 573/11 573/13 574/10 575/13 576/4 576/6 576/24 580/4 580/4 580/5 580/24 581/10 581/11 581/18 583/3 584/8 584/22 585/2 588/16 593/23 603/4 605/22 608/9 609/19 610/10 613/14 613/18 615/18 615/19 625/13 625/16 635/22 638/4 638/5 638/19 638/25 640/7 640/7 640/8 640/10 641/4 641/7 644/6 644/16 645/4 645/6 645/7 645/8 645/9 645/10 646/4 646/5 646/12 646/24 648/11 648/21 648/22 648/22 648/22</p> <p><b>we'll</b> [14] 566/8 583/18 583/19 585/3 585/8 585/8 585/13 612/11 612/13 613/18 613/20 636/19 646/5 650/20</p> <p><b>we're</b> [9] 581/23 584/13 584/20 595/6 641/16 645/12 645/13 650/14 650/16</p> <p><b>we've</b> [4] 576/22 581/21 583/17 584/6</p> <p><b>weak</b> [1] 647/19</p> <p><b>weak-minded</b> [1] 647/19</p> <p><b>weapon</b> [2] 601/5 607/15</p> <p><b>Wednesday</b> [1] 650/21</p> <p><b>week</b> [1] 650/20</p> <p><b>weigh</b> [1] 612/21</p> <p><b>weight</b> [8] 614/24 615/16 617/7 618/7 618/9 618/14 624/16 624/23</p> <p><b>welcome</b> [2] 642/5 642/15</p> <p><b>well</b> [27] 565/24 566/8 566/13 568/20 569/21 571/13 571/22 572/20 573/16 573/18 574/12 579/10 584/24 589/7 591/7 591/22 599/11 599/19 603/3 604/18 613/4 639/8 642/24 643/23 646/10 649/9 649/15</p> <p><b>went</b> [5] 577/11 578/1 595/1 599/25 617/25</p> <p><b>were</b> [56] 565/13 565/20 566/3 566/17 566/22 567/24 568/14 568/17 569/20 570/3 570/8 575/4 575/7 578/19 580/4 583/8 586/18 586/25 590/12 591/21</p>	<p>594/9 596/1 596/21 596/22 598/2 598/6 598/7 599/8 600/1 604/14</p> <p>608/13 608/13 608/13 608/16 608/25 609/23 609/25 609/25 610/1 613/5 616/21 616/25 620/14 620/15 620/23 625/13 625/14 635/15 635/16 637/24 638/1 638/2 644/6 646/13 646/13 646/18</p> <p><b>west</b> [3] 601/16 603/25 604/1</p> <p><b>what</b> [136]</p> <p><b>what's</b> [4] 579/3 584/4 610/13 646/7</p> <p><b>whatever</b> [2] 597/11 607/20</p> <p><b>whatsoever</b> [1] 646/15</p> <p><b>when</b> [80] 566/14 567/13 567/24 575/5 575/7 575/14 581/4 583/22 585/19 585/23 585/24 585/25 586/6 586/8 587/4 587/8 587/13 588/16 589/15 590/3 593/17 593/18 594/5 594/18 595/15 596/1 596/5 596/21 597/5 597/14 597/19 598/3 598/10 598/18 598/19 599/4 599/15 599/16 599/18 600/7 600/14 600/18 600/20 601/2 601/18 601/23 601/25 602/7 602/10 602/23 603/24 603/25 604/5 604/24 605/3 605/7 607/25 609/23 609/24 609/25 610/1 611/11 612/5 613/18 615/11 617/3 617/11 619/22 625/13 629/2 630/18 640/4 640/11 640/20 644/6 644/7 649/19 650/3 650/7 650/14</p> <p><b>where</b> [27] 571/10 574/10 577/11 577/13 577/18 580/2 581/10 581/15 581/21 582/2 582/6 582/8 582/10 588/20 590/16 598/3 598/21 599/12 600/1 605/3 615/24 620/22 629/16 641/2 644/9 646/17 647/5</p> <p><b>whereabouts</b> [1] 578/15</p> <p><b>whereof</b> [1] 651/13</p> <p><b>whether</b> [42] 565/15 565/18 566/9 571/23 572/10 583/8 585/18 587/8 587/11 592/6 595/8 595/12 596/9 609/16 611/6 611/17 613/17 618/8 619/10 622/15 622/20 622/24 622/25 623/6 623/7 623/8 623/9 623/11 623/21 624/1 624/7 624/8 624/13 625/1 625/6 625/10 625/14 629/24 633/23 637/21 644/25 649/20</p> <p><b>which</b> [46] 565/17 565/21 565/21 566/5 567/15 570/23 579/20 580/20 584/22 587/16 590/17 598/24 605/20 606/5 607/22 608/4 609/13 613/9 615/22 616/22 617/9 617/15 617/18 618/17 619/11 620/10 621/11 621/25 622/21 623/1 623/10 623/19 625/23 626/7 628/2 628/21 628/23 629/7 630/4 631/6 632/18 633/14 634/18 635/21 638/12 639/2</p> <p><b>while</b> [9] 566/23 599/24 603/1 607/13 615/6 615/14 618/2 645/8 648/6</p> <p><b>whipped</b> [1] 609/2</p> <p><b>White</b> [4] 577/13 578/16 578/25 598/23</p> <p><b>who</b> [21] 567/11 568/15 595/1 608/9 608/9 608/19 608/23 610/5 619/25 622/18 627/19 635/24 636/5 638/1 639/13 639/14 640/13 640/15 644/17 646/13 646/25</p>	<p><b>who's</b> [3] 588/4 588/6 638/18</p> <p><b>who've</b> [1] 650/13</p> <p><b>whole</b> [9] 586/7 586/17 586/18 586/21 595/21 597/6 599/1 606/9 615/8</p> <p><b>whom</b> [1] 570/16</p> <p><b>whomever</b> [1] 609/22</p> <p><b>whose</b> [1] 608/20</p> <p><b>why</b> [17] 569/17 574/13 578/2 588/9 594/14 596/16 598/1 598/12 601/25 604/7 610/14 620/18 620/24 640/10 641/14 647/25 648/14</p> <p><b>wife</b> [2] 603/18 610/8</p> <p><b>will</b> [50] 570/17 583/18 584/7 584/10 584/25 586/25 592/2 592/14 592/22 592/23 595/6 596/19 606/5 609/11 612/7 614/3 614/6 614/7 614/9 614/11 615/3 629/17 634/12 634/23 634/25 635/5 635/8 635/11 635/16 635/22 637/11 638/8 639/3 639/5 640/4 640/5 640/7 640/13 640/13 640/16 640/19 640/21 640/22 641/2 641/19 642/8 642/11 645/24 645/25 649/25</p> <p><b>willful</b> [1] 633/15</p> <p><b>willfully</b> [13] 592/21 592/21 592/23 592/25 593/2 593/14 631/20 631/24 632/2 632/4 632/5 632/24 633/6</p> <p><b>willfulness</b> [3] 593/8 633/8 633/11</p> <p><b>William</b> [2] 562/17 565/5</p> <p><b>william.dreher</b> [1] 562/20</p> <p><b>willing</b> [2] 605/16 646/13</p> <p><b>window</b> [2] 617/20 617/24</p> <p><b>windows</b> [1] 602/18</p> <p><b>wisdom</b> [1] 614/18</p> <p><b>wish</b> [5] 609/24 610/11 635/19 636/1 636/22</p> <p><b>within</b> [1] 594/18</p> <p><b>without</b> [12] 589/6 589/13 589/15 589/17 614/18 615/2 616/8 620/17 629/3 629/12 646/14 650/1</p> <p><b>witness</b> [40] 566/11 567/16 567/17 567/19 571/17 572/24 573/21 577/15 577/20 582/15 607/10 607/19 617/11 620/6 622/21 622/21 622/24 622/25 623/1 623/3 623/5 623/5 623/6 623/7 623/8 623/9 623/11 623/19 623/24 624/7 624/8 624/10 624/14 624/15 624/16 624/22 624/24 627/15 627/20 651/13</p> <p><b>witness'</b> [6] 617/13 623/5 623/15 623/22 623/23 623/25</p> <p><b>witness's</b> [1] 622/23</p> <p><b>witnesses</b> [11] 564/2 569/14 614/25 615/17 616/21 618/15 618/18 618/19 618/20 622/18 622/20</p> <p><b>woke</b> [1] 618/1</p> <p><b>won't</b> [1] 608/9</p> <p><b>words</b> [8] 593/2 606/20 608/5 614/19 620/16 630/21 632/1 634/3</p> <p><b>work</b> [1] 610/7</p> <p><b>worked</b> [2] 610/6 612/23</p> <p><b>working</b> [2] 609/16 648/9</p> <p><b>world</b> [4] 567/24 591/1 607/10 644/12</p> <p><b>worry</b> [4] 588/21 590/1 590/13 596/15</p> <p><b>worse</b> [2] 594/23 641/20</p> <p><b>worth</b> [2] 568/19 647/3</p> <p><b>would</b> [55] 565/3 566/21 567/15 567/17 567/22 568/25 569/4 569/11</p>
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would... [47] 569/25 570/4 570/6  
570/8 570/9 571/14 581/15 582/4  
582/11 583/5 583/25 584/21 588/16  
593/7 593/21 598/12 601/8 601/10  
601/13 601/15 609/6 609/10 610/5  
613/8 617/22 618/2 620/6 622/5  
625/15 633/3 635/20 636/8 638/21  
638/22 638/25 639/20 641/8 642/18  
644/4 645/4 647/13 648/5 649/5 649/7  
650/3 650/10 650/11  
wouldn't [3] 566/24 607/14 608/12  
writing [2] 637/13 637/19  
written [4] 584/1 584/5 614/10 635/20  
wrong [7] 591/13 591/14 606/11  
606/12 607/20 611/22 627/12  
wrongdoing [3] 591/12 627/8 627/11  
wrongful [1] 649/5

## Y

yeah [3] 569/24 609/23 650/16  
year [9] 588/4 595/1 599/5 601/17  
601/17 607/9 609/17 610/7 610/11  
years [3] 571/10 597/15 612/1  
yellow [2] 576/8 581/8  
yes [37] 572/23 574/20 575/6 576/4  
576/16 577/23 578/20 579/6 579/15  
579/23 580/3 581/5 581/13 581/16  
581/19 581/23 582/1 582/23 584/11  
584/16 586/13 587/7 588/6 589/1  
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596/22 597/1 597/3 641/23 641/24  
642/21 642/23 648/2  
yesterday [3] 572/3 574/7 574/12  
yet [1] 587/15  
you [514]  
you'd [1] 588/2  
you'll [13] 570/18 591/3 593/10 606/5  
606/6 606/17 606/20 606/20 634/23  
638/20 642/14 645/1 645/25  
you're [13] 565/24 574/7 578/7 606/19  
609/13 619/5 635/1 635/4 638/9 639/8  
640/5 642/4 648/10  
you've [9] 577/16 577/21 590/15  
593/21 605/16 619/12 635/3 638/24  
645/16  
your [130]  
yours [1] 634/7  
yourself [8] 574/4 607/25 638/11  
638/23 638/24 639/11 642/15 644/17  
yourselves [2] 565/4 609/15