

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
	)	
UNITED STATES OF AMERICA	)	
	)	
v.	)	1:22-cr-000183 (TSC)
	)	
BRIAN KORTE	)	
_____	)	

**MEMORANDUM IN AID OF SENTENCING**  
**ON BEHALF OF BRIAN KORTE**

Brian Korte came to Washington, D.C, on January 6, 2021, from Pennsylvania, where he resided with his wife of more than 35 years. He drove down in his own vehicle, by himself. A friend he knew was also driving down and he followed the friend’s vehicle. On the outskirts of the District, he was able to park his vehicle and then take the metro into D.C. He then parted ways with the friend. He knew Trump was going to speak that day but he came down to hear and support his Senator Doug Mastriano speak. He had heard the Senator speak before and followed and supported him. Senator Mastriano encouraged his supports to come down to the Capitol to show their support for him, President Trump, and their concerns over the presidential election results.

When Mr. Korte exited the metro stop in downtown D.C., he ran into people he had seen previously in Harrisburg, Pennsylvania, at rallies up there, namely Sandy and Lynnwood Nester. They were with a few others. He joined the group.

Also outside the D.C. metro stop, he purchased a flag with the words “Live free or Die.”<sup>1</sup> From that point on, he stayed and walked with his fellow Pennsylvanians.

The group walked around to different locations. They got near to the area where Trump was speaking but did not get very close. One of the woman from the group tried to find out where their Senator was supposed to speak and they believed that the Senator was going to speak by the East side of the Capitol. At some point, they proceeded to make their way up there but did not see him or a platform for him to speak. But they stayed up in that area and watched, and became a part of the crowd up in that area.

The group of six, parted ways around the time of entry into the Capitol, Mr. Korte with Sandy and Lynnwood Nestor, William Blausen, Jr. with Pauline Bauer, and Michael Pomeroy by himself.<sup>2</sup>

Mr. Korte had a cell phone which he held up to record everything going around him. He had planned to share with his wife what he observed firsthand. However, he later learned that he did not properly press the correct buttons on his phone and nothing recorded. At best he ended up taking a few photographs. He never intended to put any photographs or videos online and he never posted anything.

Mr. Korte had no intentions of committing violence, or causing any wrongdoing that day. And he did not commit violence. He watched those around

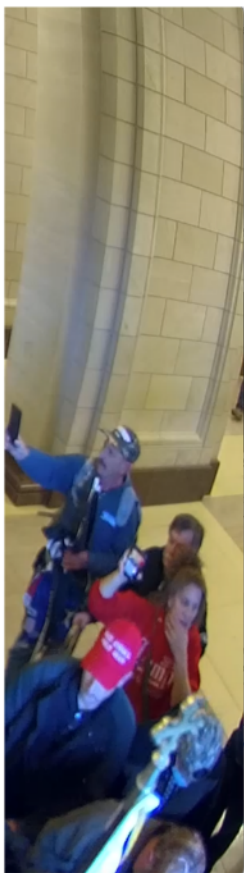
---

<sup>1</sup> A simple google search explains the meaning of the historic phrase that continues to be the official motto of New Hampshire, adopted by that state in 1945. This phrase is imprinted on all non-commercial license plates in New Hampshire.

<sup>2</sup> Nester and Pomeroy are named co-defendants in this case.

him, “recorded” on his cellphone as an observer, and at times chanted the words others were saying. But he never instigated anything, nor anyone to do anything. He recognizes that his curiosity got the best of him when he entered the Capitol. He did not come to fight, nor to create a civil war. Even the flag he purchased, he did more so to take back home with him. Videos and still shots show him holding the flag by his side but never waving it.

(Korte holding flag by his side rather than waving it)



Right before entering the Capitol ,he briefly fell due to the massive push of people around him, and he feared that he would get trampled upon. Fortunately, he was not hurt and he was able to get back on his feet. Once entering through the East side door of the Capitol he briefly entered the rotunda, although, he cannot

recall doing so. He walked back out of the rotunda into the initial entry area where there are steps going up to the next level of the Capitol. He walked up the steps, and continued to observe and watch people while “recording.” He walked 10-12 feet down a hallway, drank water from a water fountain and then walked back down the steps to the area between the entrance to the rotunda and the front doorway out of the Capitol. He stayed in that area for a bit. There again, he held his cellphone up to record, he almost got trampled upon by people coming out of the rotunda. He waived some of these people to walk past him out the front door, as he got to the side.<sup>3</sup> At that point he stood to the side of the crowd who were pushing to exit out the front door, and waited until the crowd lessened before making his way outside of the Capitol.

He recalls waiting outside the door of the Capitol by the pillars for a while watching people and waiting for the other two from the group to come back out. He observed people doing “stupid stuff,” like trying to break a window.

Ultimately, with the guidance of others he was able to make his way back to the metro stop, back to his parked vehicle and back home to his wife. Not a day has gone by since January 6, that he does not regret entering the Capitol. He realizes it was wrong of him to enter the building and to look around for approximately 10 minutes inside. Every morning when he wakes up, the first thing that comes to his mind, is his actions that day. He feels “sick to his stomach” when he thinks of what

---

<sup>3</sup> The prosecution’s memo mentioned his waving people to proceed past him inside, undersigned is not sure if that is at another point, but the one video in which undersigned clearly watched Mr. Korte waive people past him was when he was already in the front foyer area, and others were going out of the rotunda towards the door to the outside. Video 0686 USCH 02 Rotunda Door Interior 2021-01-06 14:46:02, at 2:26,

happened, what he saw, and presence there. He wishes he had never come down to D.C. He acknowledges that what occurred at the Capitol should never have happened. He never has been a part of something like this before and never wants to be again.<sup>4</sup>

**Sentence of 10 Days Incarceration with Restitution Falls within 18 U.S.C. §3553(a) Factors**

Mr. Korte urges the Court sentence him to not more than 10 days incarceration with the agreed upon restitution amount noted in the plea agreement. Such sentence is a “reasonable” sentence in this case.<sup>5</sup> A sentence of greater jail time would be overly punitive, unreasonable, and is not warranted. In conjunction and consideration of the §3553(a) sentencing factors the court must take into account, such a sentence is reasonable and just.

**(a) Reflect seriousness of the offense and promote respect for the law, 18 U.S.C. §3553(a)(2)(A)**

Mr. Korte engaged in no violent acts, nor stated any words or actions to incite others to act. He was not on the front lines pushing officers out of the way, rather he was part of the crowd of participants at the East side of the Capitol. He does not

---

<sup>4</sup> He takes issue with the prosecution’s statement that he has no remorse.

<sup>5</sup> Mr. Korte also believes a sentence of probation with no jail time would be reasonable however, after careful consideration, taking into account sentences the Court has imposed in other cases, and other factors he requests a straight jail sentence rather than probation.

recall seeing the bike racks being displaced. He entered an open door, not a window or broken entryway. He walked around with his phone pointed upward to record what he saw around him as an observer. Granted, his presence added to the numbers of persons around but he did not egg anyone on to take down bicycle racks or to push officers away. On the cusp of his 64<sup>th</sup> birthday, he had no interest in doing anything more than providing support for political beliefs that he held at the time. He recognizes that he was misguided.

At no time did he shout at officers or take any actions directly against them. He did not enter any chambers or congressional offices. He posted no videos or photographs, made no statements on social media nor live streamed anything. He was an observer and participant but not one that took aggressive action.

**(b) Mr. Korte's Personal Characteristics**

Mr. Korte is currently 66 years old. He has resided all his life in and around York, Pennsylvania. Although, his mother had mental health issues which interfered with his developing a close bond with his mother, after his parents' divorce, his father remarried and he lived with his father and stepmother who provided him a "great" life. (Pre-sentence report ("PSR"), #42).

He has three children, one from his first wife, and two from his second and current wife, and he has four grandchildren. His wife of 39 years, describes him as an "amazing husband" who has always worked hard to provide for his family."(PSR #44). Both of his daughters describe how loving, helpful, and self-sacrificing their

father has been to them as well as to his own parents. (See attached letters from Veronica Grove and Nicole Korte, Attachment A). When his parents were sick, not only did Mr. Korte work all day but he would stay with his parents all night and help them out. (Id). Likewise, when his daughters needed support and guidance, he gave them his all. Even staying with one daughter each night for one year, after she gave birth because she was an overwhelmed single mom. (Id). He clearly is someone who is caring and loving rather than someone who seeks to harm others.

Since he was 17 years old, Mr. Korte has always consistently worked. (PSR #55). He runs a plumbing business. He is known to be an honest, hard worker, going above and beyond. (See Attachment B). Since COVID and January 6, his business has suffered. (PSR #54). Some customers have concerns that the FBI will come knocking on their door by virtue of association. Nevertheless, Mr. Korte continues to provide the best job he can for the little work he does receive.

Healthwise, Mr. Korte has had a tough time since 2022 when he was diagnosed with bladder cancer. (PSR #48). He had a surgery to remove the cancer. (Id). Fortunately, his cancer is in remission, however, he still needs to have regular checkups and tests. And he fears that it may return. At 66 years old, he recognizes that health issues will have a greater impact on his life.

**(c) Deterrence**

A sentence of 10 days straight jail sentence will definitely deter Mr. Korte from any similar conduct. He has no prior convictions and only one arrest which

was dismissed as it was a mistake, and Mr. Korte was able to straighten out the error. Mr. Korte has suffered greatly since January 6. As stated previously, every morning his first thought upon waking is about his error in coming down to DC and entering the Capitol. He is mentally tormented when he thinks about what he saw that day. Additionally, at 66 years old, with health concerns, the last thing he wants to do is be involved in such similar activity in any form or fashion. Studies show that as age increases recidivism rates decrease.<sup>6</sup>

As for general deterrence, a sentence of 10 days imprisonment provides a strong message that there are repercussions for being involved, even as an observer, for one who enters areas that they are not supposed to be in and provides “support” to others by being present.

**(d) To Sentence Mr. Korte to a Sentence of More than 10 Days Would Result in an Unwarranted Disparity**

This Court has sentenced two individuals who were similarly charged and pleaded guilty, one to 40 U.S.C. §§5104(e)(2)(D) and the other to (e)(2)(G), with 10 days imprisonment and \$500 restitution. Mr. Korte is no less or more culpable than these individuals, Anthony Richard Moat, 21cr375, and Thomas Uberto, 22cr00007. Like them he did not do much of anything inside the Capitol except enter, although, he stayed inside a little longer, however, it is clear from one video that Mr. Korte is waiting at the door to exit after there are less people pushing to get out.

---

<sup>6</sup> <https://www.ussc.gov/research/research-reports/older-offenders-federal-system>



Additionally, William Blausner, who was 75 years old at his sentencing hearing, was with the group of persons that Mr. Korte joined, was sentenced to merely a \$500 fine and \$500 restitution payment along with a \$10 court cost. Mr. Blausner did not have to serve any jail time nor did he receive a sentence of probation. He had been in the same places and locations as Mr. Korte prior to entering the Capitol.



(Blausner in blue baseball cap, Korte behind him to the left)

Blausner entered the capital with co-defendant Pauline Bauer at approximately 2:43, a few minutes more or less after Mr. Korte entered. He and Bauer entered the rotunda where they stayed for a good 40 minutes.

The Prosecution credited Blauser for twice pushing back Bauer who was ranting and raving against law enforcement. See Government Sentencing Memorandum, 1:21-cr-00386-TNM, ECF #98, at 4. However, Blauser “resisted efforts” by U.S. Capitol Police “to get him to immediately leave and “[a]t one point, Blauser lowered his shoulder a bit and pushed back into law enforcement to help extricate co-defendant Pauline Bauer.” Id, at 5. Hence to sentence Mr. Korte to more than 10 days incarceration would cause an unwarranted disparity with someone who like him was located at the same places immediately before entering the Capitol. The government also noted that, as a “Navy veteran, Blauser was or should have been aware of the great jeopardy posed by violent entry into the Capitol.” Id at 9.

Mr. Korte appreciates that Blauser took actions to prevent Bauer from engaging with law enforcement, that Blauser is in his mid 70s, and that he is a veteran who served honorably. Korte does not anticipate the court sentencing him to the same sentence that Blauser received. However, he does believe that a sentence of 10 days is fully in line with the difference between his actions and Blausers and takes into account his much shorter time period in the Capitol building. Further, unlike Blauser’s companion, the two people that Korte were with did not hurl out fighting words against police nor seek to physically engage with law enforcement.

Co-defendant Michael Pomeroy, came before this Court and was sentenced to 30 days incarceration. He is younger than Mr. Korte, at 52 years old, additionally,

he stayed in the Capitol at least double the time that Korte did. Therefore, the Court should not sentence Mr. Korte to the same sentence as Mr. Pomeroy. Additionally, when once again considering Blauser's sentence and actions, in conjunction with Pomeroy's, the sentence of 10 days as urged here is the appropriate and reasonable sentence.

**Conclusion**

In conclusion, Mr. Korte, sincerely urges this Honorable Court sentence him to 10 days incarceration, \$500 restitution and \$10 court cost. A sentence greater than that is unwarranted nor is it necessary. Mr. Korte appreciates his error and will forever be sorry for being present and entering the Capitol on January 6.

Respectfully submitted,

OFFICES OF ELITA C. AMATO

*/s/*

---

Elita C. Amato, Esq.  
2111 Wilson Blvd.  
8<sup>th</sup> Floor  
Arlington, VA 22201  
Tele: 703-522-5900

**CERTIFICATE OF SERVICE**

I hereby certified that this Memorandum was filed using the ECF pacer system, thereby providing notice of service to government counsel, on this 6<sup>th</sup> day of July 2023.

*/s/*

---

Elita C. Amato