

UNITED STATES DISTRICT COURT
FOR THE DISCTRICT OF COLUMBIA

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5 UNITED STATES OF AMERICA,

6 Plaintiff,

7 v.

8 BRIAN RAYMOND JONES,

9 Defendant.
10

) No. CR22-205-TJK

) DEFENDANT’S SENTENCING
) MEMORANDUM

11 Brian Raymond Jones, through Assistant Federal Public Defender Gregory
12 Geist, submits this memorandum in support of sentencing scheduled for May 9, 2023,
13 at 2:00 p.m. Mr. Jones joins the Probation Office’s recommendation that he receive no
14 additional time in custody. He requests that the Court impose 12 months of supervision
15 because it reflects a sentence that is not greater than necessary when considering the
16 seriousness of Mr. Jones’s offense, just punishment, deterrence, protection of the public
17 from further crimes of Mr. Jones, and treatment in the most effective manner. 18 U.S.C.
18 § 3553(a); PSR at ¶ 81.

19 **I. MR. JONES ACKNOWLEDGED HE COMMITTED A CRIME AND IS**
20 **ASHAMED OF HIS PARTICIPATION ON JANUARY 6.**

21 As much as Mr. Jones is embarrassed by his participation on January 6 and vows
22 never “to attend any kind of political event or rally or protest ever again,” he entered a
23 guilty plea because he recognized he broke the law. In retrospect, there were too many
24 warning signs—the overwhelmingly large crowd, the alarm, and the lack of security
25 screening, among others—for Mr. Jones to ignore. Now, Mr. Jones hopes “that people
26 will look at this January 6th tragedy and be dissuaded to go into Capitol buildings.”

1 Ex. 1 (Brian Jones’s letter). In hindsight, Mr. Jones wishes he “had just stayed home
2 and watched [Trump’s rally] on TV.” *Id.*

3 But it is also important to review the nature and circumstances of Mr. Jones’s
4 offense on January 6 relative to others. Ex. 2 (video stills, filed separately under seal).
5 Mr. Jones is a follower, not a leader. He traveled to Washington, D.C. “to go to a
6 Trump rally, not an insurrection.” PSR at ¶ 30. Mr. Jones attended the rally and then
7 trailed the crowd to the Capitol because he thought there would be guest speakers there.
8 He walked with the crowd up the stairs and into the Capitol. Unfortunately, he “didn’t
9 realize the bigger picture of what was happening in the moment” and if he “knew there
10 were people being hurt [he] would have stayed far away.” Ex. 1.

11 Mr. Jones did not witness violence, but he knows that others committed violent
12 acts. He did not yell or chant, and he did not taunt any police officers. Mr. Jones was a
13 participant, but his actions can be described as passive. For example, he often stood in
14 the background and away from large groups inside the Capitol. He did not damage or
15 steal anything from the Capitol. About five minutes after he entered the Capitol,
16 Mr. Jones is seen on video picking up a rope barrier and metal post that someone else
17 knocked down in front of him. Sealed Ex. 2 at 5–12. Later, he leans against a wall near
18 a window for about nine minutes. *Id.* at 31–32.

19 About 22 minutes after first entering the Capitol, at 2:43 p.m., Mr. Jones
20 attempts to exit but is unable to find a way around a large group of people at a doorway.
21 *Id.* at 45–69. Mr. Jones, at 5’6” tall, could not see what was happening outside the
22 crowded doorway at 2:46 p.m. *Id.* at 67. Coincidentally, as Mr. Jones attempted to exit,
23 he sees Mr. King, the co-defendant, enter the Capitol. *Id.* at 69. Mr. Jones remains in
24 the Capitol for less than two minutes before he decides to try exiting again at 2:47 p.m.
25 *Id.* at 85. After waiting behind a crowd of people, Mr. Jones is eventually able to exit
26 the Capitol at 2:52 p.m. *Id.* at 89.

1 Mr. Jones sought to educate himself about the events from January 6. That
2 education commenced when he turned on the television in his hotel room, on January 6,
3 and “saw all the violence and chaos.” Ex. 1. Additionally, Mr. Jones watched a number
4 of the public hearings of the United States House Select Committee on the January 6
5 Attack.

6 Mr. Jones was particularly moved by the testimony from Metropolitan Police
7 Officer Michael Fanone.¹ A mob attacked and assaulted Officer Fanone. As a result,
8 Officer Fanone suffered a heart attack and was later diagnosed with a concussion, a
9 traumatic brain injury, and PTSD. Mr. Jones knows that many officers, like Officer
10 Fanone, were injured, traumatized, or died as a result of the attack. Mr. Jones
11 acknowledges that his remorse and shame for participating on January 6 will never
12 measure up to the pain and suffering of those who sought to protect lives and property.

13 Mr. Jones is specifically deterred from committing further crimes, and the need
14 to protect the public from his further crimes is minimal at best. He recognizes that he
15 committed a crime and wants to obey the law in the future. His time on pretrial release,
16 since March 23, 2022, demonstrates he will follow the terms of probation. Mr. Jones is
17 employed and is seeking a better job in the future. Mr. Jones also hopes that his
18 experience will dissuade others from engaging in violence or crime and from entering
19 Capitol buildings. Ex. 1.

20 **II. THE PRIOR MISDEMEANOR CONVICTIONS (PSR AT ¶¶ 36–38)**
21 **MUST BE CONSIDERED IN CONTEXT (PSR ¶ 42).**

22 In the event the government uses the three protection-order convictions (PSR at
23 ¶¶ 36–38) to justify a prison sentence for the instant conviction, the circumstances of

24 _____
25 ¹ DC Police Officer Michael Fanone Full Opening Statement on January 6th Attack,
26 <https://www.bing.com/videos/search?q=officer+fanone+testimony+c+span&view=detail&mid=6060EFE77475CA4816316060EFE77475CA481631&FORM=VIRE> (last
visited May 4, 2023).

1 three convictions must be considered. The conduct that comprised the protection-order
2 convictions occurred over ten years ago, and each were fixed to an assault that
3 Mr. Jones did not commit.

4 According to a police report, officers were dispatched to a reported incident with
5 a window punched out on October 20, 2012. Mr. Jones told officers that his friend,
6 W.S.,² broke the window after W.S. and Mr. Jones's girlfriend, C.T., got in an
7 argument. Separately, C.T. told officers that no one hit her and W.S. broke her window.
8 Mr. Jones agreed that no one hit C.T. Rather than contact W.S., officers talked to a
9 four-year-old child and, based on that conversation, arrested Mr. Jones for an assault
10 and obtained a protection order.

11 C.T. repeatedly requested the court to rescind the protection order. She went to
12 the courthouse on October 23, 2012 to rescind the order. On October 25, she filed a
13 motion to rescind the order. According to the docket, on October 31, she told the court
14 to rescind the order because the charge was not true:

15
16 VICTIM REASON FOR MOTION IS THAT IT'S NOT TRUE.

17 On January 9, 2013, the prosecutor moved to dismiss the assault charge with an
18 explanation. The court granted the motion and terminated the no contact order.

19 Unfortunately, Mr. Jones had contact with C.T. before the court terminated the
20 no contact order. He was charged with three no contact order violations. C.T. sought to
21 have the protection orders rescinded on January 11, 2013 and again on February 6. A
22 February 6 docket entry for the protection order offense (PSR at ¶ 36) indicated that
23 C.T. "wanted this whole thing to be dropped to [begin] with" and another party
24 provided a statement of breaking the window:

25 _____
26 ² Undersigned counsel is using initials rather than a full name, but both Mr. Jones and
C.T. provided the full name for W.S.

1
2 INFORM ANOTHER PARTY PROVIDED STATEMENT OF BREAKING OF
3 WINDOW.

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5 On February 6, the judge allowed contact between Mr. Jones and C.T. “but unrestricted
6 contact is not permitted.”

7 Again, C.T. moved to rescind the no contact order on March 19 and July 19. For
8 the offense listed in Paragraph 37 of the PSR, the court modified the protection order on
9 May 8, 2013 and allowed Mr. Jones and C.T. to have direct contact. On July 31, the
10 judge granted the motion to rescind the protection order.

11 Finally, Mr. Jones was charged for having contact with C.T. at a park on
12 March 23, 2013. PSR at ¶ 37. Officers found Mr. Jones and C.T. seated at a picnic
13 table. It does not appear the court issued a protection order, either during the pendency
14 of the case or after sentencing. At the time Mr. Jones was sentenced on October 21,
15 2013,³ to 75 days in custody, he had been allowed to have unrestricted contact with
16 C.T. since July 31.

17 Mr. Jones does not deny he committed the protection order violations. He pled
18 guilty and received time in jail for three offenses. But he did not commit an assault or
19 break a window that caused the issuance of the protection orders in the first place. He
20 received arguably excessive sentences for the protection order violations. These
21 excessive sentences from about a decade ago should not serve as a basis for sentencing
22 Mr. Jones to prison, now, for his conduct on January 6, 2021.
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26 ³ The PSR lists a sentence date of September 23, 2013, but that is the date Mr. Jones
pled guilty. The court sentenced Mr. Jones on October 21.

1 **III. CONCLUSION**

2 For the above stated reasons, as well as the reasons stated by Probation in the
3 sentencing recommendation, Mr. Jones requests a sentence that does not include
4 additional jail time.

5 DATED this 4th day of May 2023.

6 Respectfully submitted,

7 *s/ Gregory Geist*
8 Assistant Federal Public Defender
9 Attorney for Brian Raymond Jones
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