

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 1:22-cr-205-2 (TJK)
)	
PATRICK KING)	
_____)	

DEFENDANT’S MEMORANDUM IN AID OF SENTENCING

Patrick King, through undersigned counsel, submits this sentencing memorandum to aid the Court at sentencing. Based on the facts and arguments below, Mr King requests the Court sentence him to 12-months of supervised probation with community service; probation to convert to unsupervised upon completion of community service. We submit that this sentence would most accurately address the concerns of the sentencing statute, 18 U.S.C. §3553.

As is our practice, we are not going to belabor the Court with a recitation of the information contained in the Presentence Report. Rather we will contain our remarks to factors we feel pertinent and relevant to the Court’s sentencing calculus outside of that document, focusing on Mr King’s actions and memories of the events of 6 January 2021, and perspective on his position over two years later.

Prologue to 6th January.

Patrick King was not a particularly ardent supporter of former President Trump; he did not vote for Trump in 2016. But as the 2020 election approached, Mr King felt his personal views on liberty, patriotism, the Constitution aligned with a significant amount of the ideas espoused by the former president, and this was enough to convince Patrick to give his vote to the incumbent.

The events of the latter part of that year took a very strange undertone. In the period leading up to the election, perhaps sensing the political winds, the former president claimed were he to

lose the election, this could only happen if election fraud were to take place. This meme was bombarded across right-wing media. A sad indictment of our times is media outlets have become increasingly polarized and seek not to *inform* their respective audiences, rather catering to the already-apparent biases of their target demographic. In response, it is natural for the audience, hearing what they want to hear, to become increasingly fervent having their particular suspicions and fears buttressed. No one likes to lose, and reassuring any crowd that *if we lose its because we were cheated* is an incredibly powerful narcotic, and this message struck a resonant chord with the right-wing faithful. As the first Tuesday in November approached, the message of potential voter-fraud to the devoted increased to frenetic levels: The scene was set for discord. Trump constantly stoked the fires claiming there was an organized effort from his adversaries to “steal” the election. This was nuclearized with the message that the conservative vote as a whole was being neutralized. Again, the message resonated. Moreover. in addition to the media, the circles and friends one encounters also has a strengthening factor to personal beliefs. All this combined, and on the eve of the election the stage was set; the powder was primed.

3rd November arrived. The country watched with bated breath as America went to the polls. Tuesday evening turned into Wednesday; the nation perched on the edge of its seat as the election leaned towards Biden. The right-wing media went into overdrive. It didn’t help that recount after recount left us 4 days without a decision, but by Saturday the result was called. The effect of this four-day delay only served to ramp-up the tensions and fears as the faithful watched what appeared to be Trump’s prediction coming to pass. In the wake of the result, what followed was an explosion of frenzy with court cases, recounts, protests of cheating screamed from the rooftops. The new meme of “Stop the Steal” took over the airwaves. Patrick King watched. As court case after court case collapsed, as recount after recount confirmed the returns, and as state after state refused to nullify its result, the options for the faithful dwindled. 6th January 2021 was the scheduled date

for Congress to exercise its two-hundred-year-old constitutional duty in certifying the votes of the Electoral College, and this date quickly became the new focal point. Trump called for a huge rally for that day, and the MAGA hats responded.

6th January, 2022

As the day approached, Patrick King considered the situation. He had observed the last eight weeks frenzy and outrage from the outlets. He had discussed the events with his close friends and circle. As mentioned, over the course of this presidency Patrick had become at the very least allied with some of the positions professed to by Trump. He was naturally disappointed in the outcome of the election. While reports he was exposed to led him to believe that something untoward maybe had occurred in the election, he didn't really give much credence to the idea that something could be done: Quite the opposite in fact. Mr King remembers thinking that despite reservations as to the validity of the result, it was over and everyone just had to deal with it. He had heard from friends and social media that Trump had called the faithful to rally in DC on January 6th. In the period immediately prior, having had talks with friends and confidants, Patrick, along with his close friend Brian. decided to make the trip to Washington DC for the rally. Trump had called for their support and it felt like it was the only right thing to do. As already discussed, Patrick, despite the drumbeat from radicals for conservative members of Congress or the Vice President to deny certification, did not harbor any illusions that the result itself could be changed on certification day, but he felt this was an opportunity drag the issue of electoral tribulations into the cleansing properties of sunlight. Patrick had never been to a Trump rally, and his thoughts also went to this being was the last opportunity to express support and hear for the last time the outgoing president speak: nothing more, nothing less. How wrong he was to be.

The party left for DC on the Tuesday the 5th. They flew into Reagan-National. They arrived in the District Tuesday evening and stayed in a hotel in DC. (Patrick is unclear as which hotel as

Brian had made the travel arrangements.) The next day, they woke, breakfasted, went to a rally for the Nurses of America, and then made their way to the Ellipse. At the rally, they found themselves in a pretty close position to the stage. They listened to the speakers and enjoyed what Patrick remembers to be the positive patriotic vibe in the crowd. As the Trump closed and the rally wrapped-up, a rumor spread that Trump intended to speak again at the Capitol. The crowd began the trek towards the Hill. Patrick and his friend followed.

As they joined the crowd at the Capitol, Patrick took stock of the scene. They were approaching the building on the north-west corner close to the north edge of the structure being constructed for the inauguration. They made their way around to the east Plaza. There was a rumor circulating through the crowd that people were being let in the building. The crowd, *en masse*, started to move up the steps to the East Rotunda doors. Patrick and Brian were swept up in this crowd and, at the top of the steps, they were swept in with the crowd through the open door and into the building.

Before moving on, Patrick King would like to be clear about this idea of being swept along. Mr King is not, and has never, asserted that he entered the Capitol that day being coerced by anyone, or being forced, or not of his own volition. Quite the opposite. He chose to go with the crowd. But he wishes to show the Court that upon coming to DC he had no idea of affecting the election or going to the Capitol. However, as events transpired and speakers encouraged the descent on the Hill, he went along. As the belief in the crowd became people were being let in, he went along. As people went into the building, he went along. He recognizes and accepts responsibility for these decisions, and deeply regrets them, but crowd mentality had taken over.

Upon entering the building and finding himself in the region of the Rotunda. After being inside for a period of time he realized the scene was deteriorating. He had lost contact with Brian. He realized he was a part of what was an escalating situation. This was no longer a curiosity to be

able to tell friends about later. This was no longer a situation which allowed for calm reflection; mob frenzy had taken hold. Patrick saw people trying to break down doors. This was no longer a peaceful protest: It had gotten out of hand. They had gone into the building to see what was happening. Well, now he knew. Patrick was mortified at the scene and for a few moments was petrified as he took it all in, but then made his way out. He'd been in the building sixteen minutes.

Once outside Patrick looked for Brian. Not being able to find him, and having no cell phone reception, he decided the best plan was to get back to the hotel, and get away from this insanity, and hopefully Brian would come to the same conclusion. At the hotel, the friends became aware the Mayor had imposed a curfew. They did not leave the hotel until the next morning for the return flight to Washington state. The trip home was surreal. The mood was subdued. Whilst they were unaware of what had transpired at other locations in and around the building, there was the feeling that what had just taken place that was worryingly portentous. As the subsequent days and weeks passed, and as he became exposed to the realities of that day and the true extent of what had occurred, he was appalled. The gravity of what had transpired set in, and the feeling that things would never be the same again was inescapable.

The Present Day.

Patrick King looks back at the events of 6th January 2021 with regret. He feels regret from several angles. First, he expresses remorse for his actions that day. In coming to DC he had no thoughts that this was to be anything other than a Trump rally. In going to the Hill, he had no idea that this was about to turn into a melee the country witnessed. In entering the Capitol he had no intent to engage in any of the behavior that rose to the level he, and we, experienced. The environment he found himself in was charged and he found himself being swept along, to, and into the Capitol building itself. As we have mentioned, that is not to say that he was coerced but rather the speed of events left little time for self-reflection: the self-reflection he now employs. He looks

back and understands the gravity of being inside the building; what it meant. It brings home that what took place went way beyond what he expected the day to be like. He recalls his experience in the building like being in the eye of a hurricane and remembers the moment he felt the need to get out as quickly as he could. He wishes he'd encountered that epiphany before things devolved into anarchy. He knows that despite a lack of any underlying malevolence, or any preconceived plan to alter the election, or even to *fight like hell*, his decisions crossed a line, and he accepts responsibility for this.

Secondly, he feels sadness at the manner that day is now perceived. He came to DC with the honorable intent of displaying his support for the outgoing president. Throughout the Capitol building area, events span out of control. The nature of the violence the nation witnessed has cast a pall over anyone who attended that day, and that is something he will take a very long time to get over; if at all. He believes the events of that day will now haunt the ex-president, and that is certainly contradictory to the reason he travelled to DC. He has been approached on several occasions by media to provide his side of events, but has declined to do so. Quite simply his experiences on that day have left an indelible sour taste in his mouth and he wants to put it in the past and close the door as quickly as possible. He is very frightened of what could happen to him at sentencing but he wishes to make the Court aware that he knows he's here based on his own actions and takes responsibility.

Sentencing Factors.

18 U.S.C. §3553 provides:

(a) Factors To Be Considered in Imposing a Sentence.—The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed—

- (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
- (B) to afford adequate deterrence to criminal conduct;
- (C) to protect the public from further crimes of the defendant; and
- (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

Addressing these factors individually we find the following. Nature and circumstances of the offense in these matters is a highly combustible issue, and we will return to it shortly. On history and characteristics of the defendant there is not much debate. Mr King has extremely minor criminal history: A Reckless Driving conviction in 2012, Disorderly Conduct also in 2012, and an Operating While Intoxicated in 2019. His background displays an individual who, aside from these limited anomalies, has led a law-abiding existence prior to the events which bring him here. Subsection (2)(A) discusses seriousness of the offense, respect for the law, and just punishment for the offense. We will return to this also when we discuss nature and circumstances of the offense. Subsection (B) contemplates adequate deterrence to criminal conduct. Patrick King has been emotionally shaken by his experiences in this matter, and the insight he has acquired has left him with the strongest of convictions that there is to be no repeat: This will be his last. He does not have the stomach to engage in this kind of show of political support again. He has indicated his days of attending similar rallies are behind him. Incarceration is not necessary to make that point. Subsection (C) considers a similar idea as that in (B), in protecting the community from further criminal contact. Here we point out Patrick King is as far from being a career offender as is possible and, again, given his experiences here, the public has nothing to fear from Patrick King in the future. With respect to Subsection (D), quite simply he has no need of any of the services available to U.S. Probation. Which brings us back to sections (1) and (2)(A).

The nature and circumstances of the offense is a not a simple issue to unpack. On the one hand, the offenses Patrick accepted responsibility for, in the universe of criminal conduct, are not

especially egregious. However, taken into context with the much larger events of 6 January, the nature and circumstances question becomes much less clear. There is no question the events of that day have left a deep scar on the national psyche. Seditious behavior has in some cases been charged. But we ask the Court to take note that Mr King is one of a small group of people who despite having gone down the regrettable road of entering the Capitol realized the gravity of what was happening and once recognizing that, got out as quickly as possible. We ask the Court to recognize that even at what appeared to be the point of no return, this was a Rubicon he made every effort to recross. We ask the Court to view his actions against the backdrop of those with more sinister intentions as proof of his original harmless purpose and sentence him accordingly.

Addressing (2)(A), we have already discussed Mr King's view of the rioters' actions being contrary to the best interests of the country, but he also views those acts as not being true to one of his core values of respect towards law and order. We highlight to the Court that at no point has there been any suggestion that Mr King belongs to any organization that encourages civil disobedience, advocates overthrow of the government, displays extremist right-wing views, or has encouraged in any way of the violence on display on 6th January. In terms of any sense of danger to the community, there is simply none: it does not exist. The Court should have no concerns as to his views on the respect for law either today or for the future.

The final issue §3553 to be discussed is the last part of (2)(A): just punishment for the offense. At its heart, this is the very central issue for this Memorandum as a whole. Mr King is a law-abiding citizen who placed himself in the wrong place at the wrong time. He came to DC to exercise his right to express his political support, and quickly found himself in the middle of an escalating situation in which speech, free or not, was being dropped as a form of expression by a mob, spinning out of control and rage was taking over. He has been shattered at the fallout from that day. His life will never be the same again. This, in and of itself, is more than adequate

punishment. In no way, shape or form should the Court be under the impression that a probationary sentence would be seen as getting away with anything. For the rest of his life Patrick will forever be associated with the events of that day, and he takes this to heart. Given all discussed above, including the fact of his decision to disengage when he did, we ask the Court to sentence in accordance with our proposal.

Conclusion

Taking all the above into account. We ask the Court to provide the following sentence. We submit a twelve-month probationary period to be fitting with community service. We believe the community would benefit far more from his service than his incarceration. We would ask the Court to make the probation supervised for the initial portion up to the completion of community service, and then to convert to unsupervised for the remainder of the probationary period. We believe this sentence to best satisfy the concerns of 18 U.S.C. §3553.

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