

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)	
)	
)	
v.)	CASE NO: 1:22-cr-00061-RBW
)	
)	
JON NICHOLAS HENEGHAN)	
_____)	

DEFENDANT, JON NICHOLAS HENEGHAN’S,
SENTENCING MEMORANDUM

COMES NOW, Defendant, JON NICHOLAS HENEGHAN (hereinafter “Heneghan”), by and through the undersigned attorney, pursuant to the United States Sentencing Guidelines, and Title 18 U.S.C. § 3553(a), and files this Sentencing Memorandum, and in support thereof sets forth the following:

SENTENCING MEMORANDUM

This Court shall impose a sentence that is “sufficient but not greater than necessary,” free from the old mandatory nature of the Federal Sentencing Guidelines, and with “wide discretion” that will not be disturbed absent an abuse of discretion. Gall v. United States, 522 U.S. 38 (2007); Kimbrough v. United States, 522 U.S. 85 (2007). In Pepper v. United States, 131 S.Ct. 1229 (2001), the United States Supreme Court emphasized the need for individualized sentencing, and then in United States v. Booker, 543 U.S. 220 (2005), clearly stated that the factors set forth in 18 U.S.C. § 3553(a) must be considered in fashioning the appropriate sentence.

PROCEDURAL HISTORY

On February 22, 2022, Heneghan was arrested pursuant to a Criminal Complaint. (Doc. 7; Case No. 1:22-mj-36). On February 25, 2022, the United States filed a four (4) count Information charging Heneghan with various Federal offenses related to events that occurred at the United States Capitol on January 6, 2021. (Doc. 9). Subsequently, on March 9, 2022, the United States filed a Superseding Information against Heneghan. (Doc. 20).

On November 8, 2022, Heneghan appeared before this Honorable Court, and pursuant to a written Plea Agreement, accepted responsibility for his conduct and entered a guilty plea as to Count One of the Superseding Information. Count One of the Superseding Information charged Heneghan with knowingly entering or remaining in a restricted building or grounds without lawful authority to do so, in violation of 18 U.S.C. § 1752(a)(1).

MEMORANDUM OF LAW

Title 18 U.S.C. § 3553(a), sets-forth factors for the Court to consider when imposing a sentence that is sufficient, but not greater than necessary, to comply with the purposes of sentencing. In considering an appropriate sentence for Heneghan, this Court 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;
- (3) the kinds of sentences available;
- (4) the kinds of sentence and the sentencing range;
- (5) any pertinent policy statement;
- (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- (7) the need to provide restitution to any victims of the offense.

THE NATURE AND CIRCUMSTANCES OF THE OFFENSE

On January 6, 2021, at approximately 2:00 p.m., while certification proceedings for the Presidential Election were underway inside the United States Capitol, certain individuals in a crowd forced their way over and around barricades and forced entry into the Capitol. Notably, Heneghan **was not** among the group that destroyed property, broke windows, assaulted officers, or forced entry into the United States Capitol.

At approximately 2:21 pm., Heneghan was observed on a security camera entering the Senate Wing door which had been opened prior to Heneghan arriving at the door. With initial trepidation about the atmosphere inside the Capitol, Heneghan immediately tried to exit the Capitol. Heneghan exited the Capitol, however, due to the crowd who continued to try and enter the Capitol, Heneghan was forced back into the building again through the Senate Wing door.

While inside the Capitol, Heneghan was observed walking down a hallway, walked to the second floor, traveled through the Speaker's Suite, to the Rotunda, and exited the Capitol approximately twenty (20) minutes after entering. While inside, Heneghan did not destroy any property, steal any property, and did not assault any officers or any other individuals. While Heneghan was inside, his conduct was limited to walking around the Capitol and taking photographs on his cell phone.

While the circumstances surrounding the offense are those many people have not seen before, Heneghan's involvement in the offense was limited to non-violent involvement.

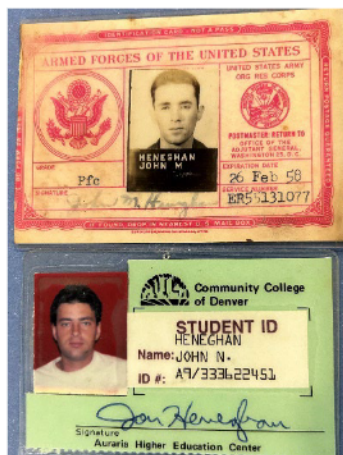
THE HISTORY AND CHARACTERISTICS OF HENEGHAN

At the outset, for the Court's consideration, Heneghan **was not** in any way shape or form associated with any far-right wing, or radical political groups. Heneghan's actions on January 6, 2021, were in no way motivated by the desire to

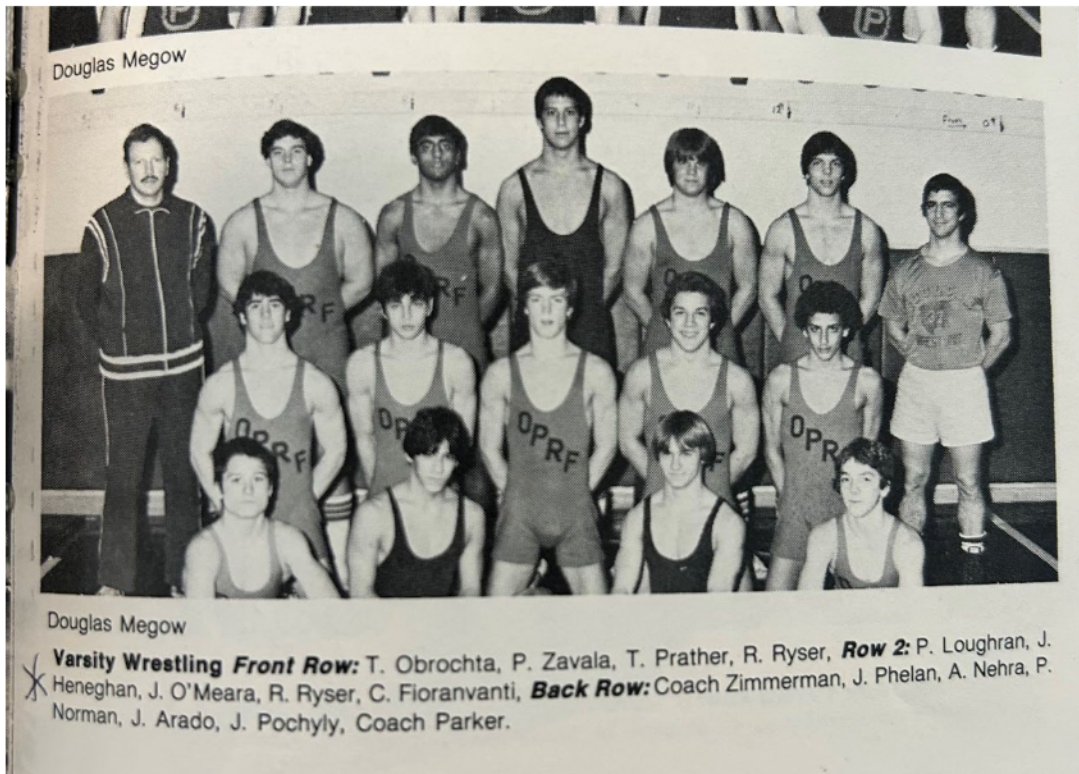
overthrow the results of the 2020 election. Heneghan arrived in Washington, D.C. on January 5, 2021, to see the President speak publicly, possibly for the last time on January 6, 2021, with his girlfriend. He arrived in Washington, D.C. to peacefully protest.

Mr. Heneghan is a 58-year-former business owner who currently provides Ride Share services for UZURV and UBER. He focuses his job on transporting disabled individuals to medical treatments, including dialysis treatments, cancer treatments, and also helps those adults who are blind travel to and from work.

Heneghan was born in Chicago, Illinois, and was raised in Oak Park, Illinois. Heneghan grew up in a strict and disciplined Irish Catholic household. Heneghan's father was a military veteran who served the United States in the Korean War. Heneghan's upbringing focused on hard work, following and respecting the Constitution and the law, abstinence from drugs.



Heneghan was a student of the public school system in Illinois. As a young teen, Heneghan was an athlete and grew up a big Chicago sports fan. It was through his upbringing that Heneghan learned the discipline that he would count on in business, life, and his future.



Heneghan followed his father's advice and worked hard throughout his life along the way to starting his own businesses. Heneghan worked jobs such as sales, room service waiter and valet at the historic Brown Palace Hotel in Denver, Colorado and worked at the Chicago Board of trade running numbers to Brokers in the Chicago Board of Trade trading pit. Heneghan also worked as a roofer in Chicago in below-zero weather for months.



Heneghan started his entrepreneur adventures by opening a jewelry gallery at the Grand Hyatt in Tampa, Florida. His gallery was named White Buffalo, and Heneghan subsequently opened locations at the Clearwater Mall and the Tyrone Square Mall in Pinellas County, Florida.



A year later Heneghan opened another located at the Brandon Town Center Mall in Florida. Heneghan opened additional locations at the Citrus Park Mall, the Adventura Mall in Aventura, Florida, and then ultimately at the Triangle Town Center Mall in North Carolina.

Heneghan ran a successful business grossing over \$1 million dollars during their best years. Jon was in charge of Human resources, hiring all of the employees, accounting and payroll, and he worked the sales counters and did 50% of the buying. Heneghan traveled the world as a buyer, traveling to locations such as Bali, Bangkok Thailand, and Mexico. During his time as a business owner Heneghan employed over one hundred (100) individuals, and many of those employees moved on after employment with Heneghan to become productive members of society. Heneghan

cared for the people who worked for him and strived to help those around his succeed as well.



Heneghan has been a productive member of society throughout his life. It is clear that based on Heneghan's background, his actions in the current offense are best classified as aberrant behavior. Heneghan's involvement in the events on January 6, 2021 was a single misdemeanor occurrence committed without significant planning, was limited in duration, and represented a marked deviation from an otherwise law-abiding life. This type of behavior is a critical consideration for this

Court. See U.S.S.G. § 5K2.20. Heneghan has shown remorse for his actions and has engaged in counseling and as part of his driving has helped disabled individuals.

For the Court's consideration, "Exhibit 1" of this Memorandum contains character letters for review.

**THE NEED TO REFLECT THE SERIOUSNESS OF OFFENSE,
PROMOTE RESPECT AND PROVIDE JUST PUNISHMENT,
AFFORD ADEQUATE DETERRANCE, AND TO PROTECT
THE PUBLIC FROM FURTHER CRIMES OF HENEGHAN**

Pursuant to the Final Presentence Investigation Report prepared in this matter (Doc. 56), Heneghan's Total Offense Level is a four (4) and Heneghan is a Criminal History Category I. As a result, Heneghan's applicable guideline range in this matter is 0-6 months. Heneghan's guideline range takes into account the seriousness of the offense and the need for just punishment.

As stated, Heneghan's actions are best classified as aberrant behavior. As such, there is not a risk of needing to protect the public from further crimes of Heneghan. Additionally, Heneghan has been compliant with all conditions while on pretrial release and thus illustrates that Heneghan is a perfect candidate to comply with terms of supervision, **not** incarceration.

For further consideration, as this Court may be aware, the United States Sentencing Commission has proposed amendment which are set to become effective on November 1, 2023. Among those proposed amendments is an adjustment for

certain zero-point offenders. See attached text of U.S.S.G. § 4C1.1. New guideline, U.S.S.G. § 4C1.1., would provide for a two-level reduction in a defendant's total offense level if he has zero criminal history points and if he is not convicted of certain disqualifying offenses. The undersigned understands that section 4C1.1 will not take effect until November 1, 2023, and only if Congress does not act to reject said amendment. However, given the clear intent of the United States Sentencing Commission to recognize and reduce the total offense level for those in Heneghan's position. Undersigned counsel respectfully requests that his Court to consider the proposed amendments for purposes of a low-end guideline consideration.

This Court is left with broad discretion in its sentencing decision, and Heneghan submits to this Court that an appropriate sentence in this matter is a term of probation of six (6) months. The Sentencing Commission recognizes the need to ensure that the guidelines reflect the appropriateness of imposing a sentence other than imprisonment in cases where the defendant is a first offender who has not been convicted of a crime of violence, or otherwise serious offense. See 28 U.S.C. § 994(j). Heneghan has been convicted of a misdemeanor, non-violent offense. Additional amendments to the Sentencing Guidelines include revised Commentary to U.S.S.G. § 5C1.1. New Application Note 10(A) provides that if the defendant received an adjustment under new §4C1.1 and the defendant's applicable guideline

range is in Zone A or B of the Sentencing Table, a sentence other than a sentence of imprisonment, in accordance with subsection (b) or (c)(3), is generally appropriate.

As to the events of January 6, 2021, Heneghan had minimal involvement. Not only did Heneghan have no ties to any radical groups, but he was also not motivated by such beliefs. Heneghan was not among the initial group that gained access to the Capitol, he damaged no property, and did not display any violent actions. Heneghan was inside the Capitol for approximately twenty (20) minutes before exiting and leaving the Capitol grounds. All of these factors should lead this Court to a minimum term of supervision and not incarceration.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been furnished by Electronic Filing and that notification of this filing will be sent to all interested persons on this 20th day of June, 2023.

Respectfully submitted,

/s/ David E. Little

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