

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 1:21-cr-543-2 (CRC)
)	
ABIGAIL YAZDANI-ISFEHANI)	
_____)	

DEFENDANT’S MEMORANDUM IN AID OF SENTENCING

Abigail Yazdani-Isfehiani, through undersigned counsel, submits this sentencing memorandum to aid the Court at sentencing. Based on the facts and arguments below, Ms Yazdani-Isfehiani requests the Court sentence her 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 Ms Yazdani-Isfehiani’s actions and memories of the events of 6 January 2021, and perspective on her position over a year later. As a matter of style, and because the codefendants here are siblings sharing the same surname, we will refer to Ms Yazdani-Isfehiani here by the version she goes by in her everyday life, Abby Yazdani.

Prologue to 6th January.

Abby Yazdani is a supporter of former President Trump, becoming so during his run for the presidency in 2016. She voted for him in that election, and as the 2020 election approached, she felt strongly enough about his term in office to again give him her vote. However, 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 we got closer to the first Tuesday in November the message of potential voter-fraud to the faithful 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 and the powder was primed.

3rd November arrived. The country watched with bated breath as the people 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. Abby watched and was swayed. 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, Abby Yazdani considered the situation. She had observed the last eight weeks frenzy and outrage from the outlets. She had discussed the events with her close friends and circle. As mentioned, over the course of his presidency she had become a firm supporter and viewed him to be a good man and a great president. The reports she was exposed to led her to believe that something untoward maybe had occurred in the election. On the fateful day of certification approached, having had talks with friends, she, along with her siblings 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. It must be noted at this point that Abby, 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: to be frank, she was not even really sure what certification meant. As she looks back at it now, it was just a feeling of standing up and being counted: It was to be a show of support for the outgoing president. She had not been to any previous rallies and saw this as the last opportunity to express that support: nothing more, nothing less. How wrong she was to be.

The party left for DC on the 5th. There had been no extensive planning; this was a spur-of-the-moment thing. Upon approaching the District, they found a hotel in nearby Maryland where they rested for the next day’s events. On the morning of the 6th, they started out for the District.

They were not terribly familiar with the geography of DC and found themselves somewhere downtown looking for parking¹. They searched for parking for a considerable amount of time, and by the time they were parked, on foot and headed for the Whitehouse area the lunchtime hour was apparent. They arrived at the Ellipse where the former president was holding his rally. There has been considerable discussion in the unpacking of the events of that day as to the incendiary nature of the comments of the former president at that rally. This was the moment the soon-to-be ex-president told the crowd to go to the Capitol, and “fight like hell.” The faithful responded to the rallying cry and began the trek down Constitution Avenue. The Yazdani group followed.

As they joined the crowd at the Capitol, even in the parts of the crowd that were not engaged in acts of violence, it was clear that the mood had changed and people were not content with just waving signs and chanting. The stakes were being raised, and Abby was sucked in. The crowd was yelling mantras such as “Who’s House is this?,” chants of “USA, USA!” and “stop the steal!” and Abby was sucked in. As the crowd eventually got closer to the Capitol building itself, at the front, someone, somehow gained entry to the building and the crowd followed. And Abby was sucked in. While we do not attempt to assert some kind of coercion in what was about to happen, the truth is she was following the flow and mood of the crowd. This was not a situation which allowed for calm reflection, and mob mentality was taking hold. But at the point that she entered the building, she was already starting to have second thoughts that this was not what she’d come for. Upon encountering police officers in the building, she made the decision that she wanted no part of this, and after being directed by a particular police office to leave, the group attempted to find an exit point. This took several minutes to achieve as people were still coming in and several doors were inaccessible, but eventually the group found a way out. After a short spell congregating

¹ Ms Yazdani is still unfamiliar with DC, but in explaining the events to counsel, it appears they were somewhere in the Farragut area. Ms Yazdani remembers it was a significant walk.

on the grounds, Abby and her siblings decided enough was enough and made their way back to the car for the drive home.

The trip home was surreal. The mood was subdued. The party was already disturbed by what they'd experienced, but as the time passed and they listened to news reports of what happened in and around other parts of the building, and as they received phone calls from parents and family who had watched the events unfold on TV and were racked with safety concerns, the gravity of what had transpired set in. The feeling that things would never be the same again was unshakeable.

The Present Day.

Abby Yazdani looks back at the events of 6th January 2021 with regret. She feels regret from several angles. First, she expresses remorse for her actions that day. In going to the Capitol, she had no intent to engage in any of the behavior that rose to the level we all experienced. The environment she found herself in was animated to say the least and she found herself being swept along, both emotionally in the mentality of the mob and physically in the manner in which she found herself in the Capitol building itself. As we have mentioned, that is not to say that she was coerced but rather the frenzy left little time for self-reflection: the self-reflection she now employs. She looks back and understands the gravity of being inside the building; what it meant. It brings home this went way beyond her initial intent. She recalls it like being in the eye of a hurricane and remembers the moment she felt the need to get out as quickly as she could. She wishes she'd encountered that epiphany before things got out of hand. She knows that despite a lack of any underlying malevolence, or any preconceived plan to alter the election, or even to *fight like hell*, her actions crossed a line, and she accepts responsibility for this.

Secondly, she feels sadness at the manner that day is now perceived. She came to DC with the honorable intent of displaying her 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 she will take a long time to get over. She believes the events of that day may even come back to haunt the ex-president, and that certainly is contradictory to the main reason she travelled to DC. She has been approached on several occasions by media to provide her side of events, but has declined to do so. Quite simply her experiences on that day have left a sour taste in her mouth and she wants to put it in the past and close the door as quickly as possible. She is very frightened of what could happen to her at sentencing but she wishes to make the Court aware that she knows she's here based on her 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 is a very combustible issue, and we will return to it later. On history and characteristics of the defendant there is not much debate. Ms Yazdani has no criminal history, indeed this is her first encounter with the criminal justice system. Her background displays an individual who has led a completely law-abiding existence prior to the events which bring her 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. She has been emotionally shaken by her experiences with the justice system, and the insight she has acquired has left her with the strongest of convictions that this will be her last. 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 Ms Yazdani is as far from being a career offender as is possible and, again, given her experiences here, the public has nothing to fear from Abby Yazdani in the future. With respect to Subsection (D), quite simply she 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 Abby 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 Ms Yazdani 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 she made every effort to back away from. We ask the Court to view her actions against the backdrop of those with more sinister intentions as proof of her original harmless purpose and sentence her accordingly.

Addressing (2)(A), we have already discussed Ms Yazdani's view of the rioters actions being contrary to the best interests of the former President, but she also views those acts as not being true to one of her core values of respect towards law and order. We highlight to the Court

that at no point has there been any suggestion that Ms Yazdani 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 doesn't exist. The Court should have no concerns as to her 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. Ms Yazdani is a law abiding citizen who placed herself in the wrong place at the wrong time. She came to DC to exercise her right to free speech, and quickly found herself 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, in which rage was taking over. She has been shattered at the fallout from that day. Her 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. Having had no criminal history, the fact of now having a criminal record, even a misdemeanor, is a sobering thought. Abby takes this to heart. Given all discussed above, including the fact of her decision to disengage when she 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 her service than her 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.

/s/ Peter A. Cooper

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