

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	Case No: 1:23CR00020-003
	:	
Plaintiff,	:	JUDGE TREVOR N. MCFADDEN
	:	
v.	:	
	:	
JORDAN SIEMERS,	:	SENTENCING MEMORANDUM
	:	OF DEFENDANT JORDAN SIEMERS
Defendant.	:	
	:	

Now comes Defendant, Jordan Siemers, by and through undersigned counsel, Charles E. Langmack II, Esq., and respectfully submits her Sentencing Memorandum, requesting that this Honorable Court impose a probation-only sentence with time served in this case. Such a sentence is supported by the mandatory § 3553(a) factors, and the facts of this case. Further, a sentence of imprisonment would be, contrary to statute, “greater than [what is] necessary to achieve the statutory purposes of sentencing set forth in 18 U.S.C. § 3553(a)(2).

Respectfully submitted,

/s/ Charles E. Langmack II

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I. STATEMENT OF FACTS AND PROCEDURAL HISTORY

Jordan Siemers accepted full responsibility in this matter and entered a timely plea of guilty to Count Four of the Information, Parading, Demonstrating or Picketing in a Capitol Building, in violation of 40 U.S.C., § 5104(e)(2)(G), on May 26, 2023. After her guilty plea accepting responsibility, Ms. Siemers' referral to the Probation Department for preparation of a Presentence Investigation and Report was deferred.

As noted below, there is nothing to be gained by sentencing Ms. Siemers to a term of imprisonment in this matter. Ms. Siemers has devoted her career to helping others as she was employed as a State Tested Nursing Assistant (STNA). She has shown compassion and care towards people through her work as well as in her life. On January 6, 2021, she faced a difficult decision on whether to follow her boyfriend and his roommate into the Capital building or wait by herself, outside in the chaos. Unfortunately, she followed them through the Senate Wing Doors into the Capitol Building. After briefly speaking with an unknown law enforcement officer inside the Capitol, Ms. Siemers exited the Capitol after spending approximately nine (9) minutes inside. She and her boyfriend, Saul Llamas, realized that this was not right and they needed to leave the building. It is uncontested that Ms. Siemers did not participate in any violent or destructive behavior during her brief time in the Capitol on that day. As such, a sentence of probation or a sentence of time served is appropriate given Ms. Siemers' limited involvement in this matter.

II. LAW AND ARGUMENT

A. Applicable Sentencing Law

In the wake of the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220 (2005), a district court shall impose a sentence that is "sufficient but not greater than necessary" to achieve the purposes of sentencing set forth in 18 U.S.C. 3553(a)(2). See *United States v. Foreman*, 436 F.3d 638, 644 n.1 (6th Cir. 2006) ("[A] district court's job is not to impose a 'reasonable'

sentence. Rather a district court's mandate is to impose a sentence sufficient, but not greater than necessary, to comply with the purposes of section 3553(a)(2)". The 6th Circuit has recognized that "the sentencing court must make an individualized assessment of the appropriate sentence based on the facts presented" and "the unique circumstances of each case." *United States v. Herrera-Zumiga*, 571 F.3d 568, 585 (6th Cir. 2009). The ABA standard similarly advises sentencing courts to impose, "***the minimum sanction*** that is consistent with the gravity of the offense, the culpability of the offender, the offender's criminal history, and the personal characteristics of an individual offender." *American Bar Association Criminal Justice Standards, Sentencing Standard 18.6.1(a)* (2014) (emphasis added).

In *Gall v. United States*, 552 U.S. 38, 47 (2007), the Supreme Court rejected both "an appellate rule that requires 'extraordinary' circumstances to justify a sentence outside the Guidelines range" and "the use of a rigid mathematical formula that uses the percentage of a departure as the standard for determining the strength of the justifications required for a specific sentence." The *Gall* Court noted that the sentencing guidelines should only be the "starting point" and the "initial benchmark" of a sentencing proceeding, and that the Guidelines are not the only consideration. *Id.* at 49. Instead, "after giving both parties an opportunity to argue for whatever sentence they deem appropriate, the district judge should then consider all of the §3553(a) factors to determine whether they support the sentence requested by a party." *Id.* at 49-50. In doing so, a sentencing judge "may not presume that the Guidelines range is reasonable," but rather "must make an individualized assessment based on the facts presented" at sentencing. *Id.* at 50-51. If the sentencing judge decides that a sentence outside the applicable Guidelines range is justified, the sentencing judge "must consider the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of the variance." *Id.*

After calculating the appropriate sentencing guidelines range, a sentencing court should also

consider any motions for departure. Such a motion is distinct from a request for a “variance” from a sentencing guidelines range. Next, after calculating the appropriate advisory sentencing guidelines range and determining whether to grant a departure, district courts must exercise their discretion by considering the relevant §3553(a) factors in determining whether a variance from the guidelines range is justified. When a district court decides to vary from the Guidelines’ recommendations, an appellate court “must give due deference to the district court’s decision that the §3553(a) factors, on a whole, justify the extent of the variance.” *Gall* at 51.

B. Sentencing Calculations

Ms. Siemers’ conviction for a violation of 40 U.S.C. § 5104(e)(2)(G) carries a maximum sentence of six (6) months of imprisonment, pursuant to 40 U.S.C. § 5109(b), a term of probation of up to five (5) years, pursuant to 18 U.S.C. § 3561(c), and a fine of up to \$5,000, pursuant to 18 U.S.C. § 3571(b)(6). Further, as part of the Plea Agreement with the Government in this case, Ms. Siemers is agreeing to pay restitution in the amount of \$500.00 to the Architect of the Capitol. Although sentencing for this Class B misdemeanor is not governed by the United States Sentencing Guidelines, it is clear that Ms. Siemers has accepted responsibility in this matter by entering a timely plea before this Court. Additionally, as evidenced by the Presentence Investigation and Report, Ms. Siemers is a law-abiding citizen with no prior criminal convictions either as a juvenile or an adult.

C. Application of Sentencing Factors

As previously stated, this Honorable Court must apply the factors set forth in 18 U.S.C. §3553(a) in determining Ms. Siemers’ sentence. The §3553(a) factors are set forth below and applied to Ms. Siemers and the offense.

1. The Nature and Circumstances of the Offense and History and Characteristics of Ms. Siemers (§ 3553(a)(1))

Ms. Siemers pled guilty to a violation of 40 U.S.C. § 5104(e)(2)(G), a Class B misdemeanor

offense. Incarceration is not mandatory for a Class B misdemeanor offense. This provides a strong inference of Congressional intent that not every Class B offender should receive a sentence of incarceration. It allows this Court to exercise its substantial discretion under *Gall* to impose a sentence that includes the full range of sentencing options.

Prior to this offense, Ms. Siemers had led a law-abiding life and has a career as an STNA. She was working for the University Hospital system at the time of her arrest as such and is still working as an STNA for a nursing home. Ms. Siemers hopes to go back to school and achieve a nursing degree and become a Registered Nurse.

Ms. Siemers comes from a close-knit family and enjoys support from her family and friends. Two such people have felt compelled to write letters to this Honorable Court attesting to the character of Ms. Siemers and have been included.

2. Sentencing Must Reflect the Seriousness of the Offense, Promote Respect for the Law, and Provide Just Punishment (§3553(a)(2)(A))

A probation-only sentence or a sentence of time served is just punishment for the actions of Ms. Siemers. The United States Supreme Court has recognized that a non-custodial sentence is a serious punishment. The *Gall* Court recognized that “offenders on probation are nonetheless subject to several standard conditions that substantially restrict their liberty.” *Gall* at 48. The Court noted, “probationers may not leave the judicial district, move or change jobs without notifying, and in some cases receiving permission from, their probation officer or the court.” They must report regularly to their probation officer, permit unannounced visits to their homes, refrain from associating with any person convicted of a felony, and refrain from excessive drinking. U.S.S.G. §5B1.3. Most probationers are also subject to individual “special conditions” imposed by the court. *Id.* The Supreme Court has expressed that a probationary sentence “rather than an ‘act of leniency,’ is a ‘substantial restriction of freedom.’” *Id.* at 44. As such, a sentence of probation for whatever

length of time this court deems appropriate, or a sentence of time served is adequate punishment for the actions of Ms. Siemers on January 6, 2021.

3. General and Specific Deterrence (§3553(a)(2)(B))

Ms. Siemers was arrested for the instant offense at her place of employment, University Hospitals in Geneva, Ohio, by United States Marshals in the Northern District of Ohio on November 30, 2022. She was held overnight in a local jail prior to her Initial Appearance the following day in the United States District Court for the Northern District of Ohio where she was released on a \$20,000 unsecured appearance bond with various conditions of release, including the requirement to remove all firearms from her residence. Ms. Siemers has cooperated with the authorities throughout this entire period and has complied with her conditions of release while on bond. The arrest and time in jail for a person who has never experienced this was an extremely humbling experience for Ms. Siemers. Although it was a brief stay, her period of incarceration will most certainly serve as adequate specific deterrence.

4. Protect the Public from Further Crimes of the Defendant (§3553(a)(2)(C))

As stated, Ms. Siemers has led an exemplary lifestyle and is a twenty-six (26) year old young woman with no prior criminal history. The public does not need protection from Ms. Siemers. Incarceration in this matter will not assist Ms. Siemers nor society.

5. Provide Education, Training and Care (§3553(a)(2)(D))

Ms. Siemers has not previously been treated for any mental or emotional health issues. There are no identifiable substance abuse issues that require treatment. Ms. Siemers has maintained gainful employment as an STNA during the pendency of this case, and holds a strong desire to serve her community in a health care position after the conclusion of this case.

6. Kinds of Sentences Available (§3553(a)(4))

Ms. Siemers is a first-time offender appearing before this Honorable Court for sentencing on a Class B misdemeanor offense. As previously stated, this Court may sentence her to up to six (6) months of incarceration, a term of probation of up to five (5) years, and a fine of up to \$5,000. As such, this Court can impose any sentence it believes appropriate under the facts and circumstances of this case and this Court has a wide array of sentencing options.

7. Avoid Sentencing Disparities (§3553(a)(6))

The requested sentence will avoid unwanted disparities with other similarly situated January 6 defendants. See *United States v. Lollis*, 1:21CR671 (BAH) (imposing 36 months' probation with condition of home confinement on defendant who, like Ms. Siemers, followed rioters through the Senate Wing doors, but actually asked a police officer whether he was on the "same team" and then taunted the officer when he did not respond), Ms. Siemers never taunted anyone in the Capitol, much less a law enforcement official; *United States v. Torrens*, 1:21CR204 (BAH) (imposing 36 months' probation with condition of home confinement on defendant who entered through Senate Wing doors as others climbed through windows nearby, spent ten minutes inside the Capitol, including in various parts of the Crypt); *United States v. Amy Schubert*, 21-cr-588 (ABJ) (defendant sentenced to 18 months' probation where defendant entered congressional meeting room and took a "selfie"); *United States v. Anthony Mariotto*, 21-cr-094 (RBW) (defendant entered Senate Gallery and photographed himself inside, sentenced to 36 months' probation); *United States v. Joseph Zlab*, 21-cr-389 (RBW) (defendant who entered House Appropriations Room and was close to the House Chamber sentenced to 36 months' probation. Ms. Siemers' conduct while she was in the Capitol building was equal to, if not less, than these other defendants.

8. Restitution to Victims of Offense (§3553(a)(7))

As part of the Plea Agreement that Ms. Siemers has entered into with the Government, she agrees to pay restitution in the amount of \$500.00 to the Architect of the Capitol. Ms. Siemers will immediately pay this amount upon sentencing in this matter.

Defendant has a stable place to reside with her boyfriend, Mr. Saul Llamas, in Perry, Ohio. Her home is situated in a quiet, residential community with an extremely low crime rate. Ms. Siemers can be released on probation with whatever specific probationary conditions that this Court deems appropriate or she can be sentenced to time served in this matter. Either sentence will adequately punish Ms. Siemers for her transgressions on January 6, 2021.

III. CONCLUSION

For the aforementioned reasons, Defendant, Jordan Siemers, respectfully requests that this Honorable Court impose a sentence of time served with no further custodial time. In the alternative, Ms. Siemers respectfully requests a probationary sentence with whatever special conditions this Court deems appropriate. Either sentence is supported by the mandatory § 3553(a) factors, and the facts of this case.

/s/ Charles E. Langmack II

CHARLES E. LANGMACK II, Esq.
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2023, a copy of the foregoing Sentencing Memorandum was filed electronically with the Clerk of Courts, United States District Court for the District of Columbia, using the CM/ECF system which is to send notification to Andrew S. Haag, Esq., Counsel for the United States of America.

/s/ Charles E. Langmack II

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Counsel for Defendant