

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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THE UNITED STATES OF AMERICA,

Plaintiff,

v.

DALE HUTTLE,

Defendant.

- - - - - x

Criminal Action No.
1:22-cr-403-CRC-1
Tuesday, June 18, 2024
11:06 a.m.

TRANSCRIPT OF SENTENCING HEARING
HELD BEFORE THE HONORABLE CHRISTOPHER R. COOPER
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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P R O C E E D I N G S

THE COURTROOM DEPUTY: Your Honor, this is Criminal Case 22-403-1, *United States of America v. Dale Huttles*.

Can the parties please come forward to identify yourselves for the record starting with the government.

MS. AKERS: Good morning, Your Honor; Ashley Akers on behalf of the United States.

THE COURT: Good morning, Ms. Akers.

MS. PETERSON: Good morning, Your Honor; Michelle Peterson on behalf of Mr. Huttles, who is present.

THE COURT: Okay. Good morning, Ms. Peterson.
Mr. Huttles.

THE PROBATION OFFICER: Good morning, Your Honor; Sherry Baker on behalf of the probation office, and I have seated with me Isabela De La Riva. Thank you.

THE COURT: Okay. Good morning, Ms. Baker.
And welcome, everybody.

All right. We're here for the defendant's sentencing. The Court has read the presentence investigation report, which was prepared by the District of Indiana in this case; the memos that have been submitted by both the government and the defense; the still photographs depicted in the government's motion; and the videos submitted to chambers.

1 Ms. Akers, for some of the key events that I think
2 we'll be talking about, I had somewhat of a hard time
3 isolating them on the videos because the videos were not
4 time-stamped, as they sometimes are, so you should feel free
5 to draw my attention to the key events in your presentation.

6 MS. AKERS: Understood.

7 THE COURT: All right. The Court has also
8 reviewed a number of letters submitted on the defendant's
9 behalf by his daughters, Erica and Megan; his son, Eric; his
10 ex-wife Maureen; a friend, Mr. Mengeling.

11 Ms. Peterson, any other witnesses today besides
12 the defendant, if he wants to speak?

13 MS. PETERSON: No, but Your Honor, I would note
14 that his other ex-wife and his son are here in the
15 courtroom. It's hard for the Court to see since there are
16 so many people here; but they are here, and he wanted you to
17 know that.

18 THE COURT: Okay. Welcome, everybody.

19 All right. Let's start with the factual findings
20 in the presentence investigation report.

21 Ms. Peterson, I did not notice any unresolved
22 objections; is that correct?

23 MS. PETERSON: No, Your Honor. The objections
24 have been resolved. There are a few things that the
25 probation office included in the statement of facts that are

1 slightly different than how we would characterize them, so I
2 would say we have no objection to relying upon the PSR as
3 amended, if you will, or as supplemented by the sentencing
4 memos of the parties.

5 THE COURT: Very well.

6 And, Mr. Huttler, has Ms. Peterson reviewed the
7 presentence investigation report with you? Just bring the
8 mic --

9 THE DEFENDANT: I'm sorry. I didn't hear you.

10 THE COURT: Has she reviewed that presentence
11 investigation report with you?

12 THE DEFENDANT: Yes, she has.

13 THE COURT: Have you been satisfied with
14 Ms. Peterson's services?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Okay.

17 All right. Hearing no objections, the Court
18 accepts the factual findings in the PSR regarding the
19 circumstances of the offense; and, therefore, those facts,
20 as stated in the PSR, will be adopted by the Court for
21 purposes of sentencing.

22 Moving to the calculation of the sentencing
23 guidelines range. The defendant pled guilty to Count 2 of
24 the indictment: assaulting, resisting, or impeding law
25 enforcement officers pursuant to 18 USC 111(a)(1). That

1 offense carries a base offense level of 14.

2 It was increased by four levels because the
3 defendant used a dangerous or deadly weapon.

4 It was increased by another five levels because
5 his conduct caused, quote, serious bodily injury; another
6 two levels because it involved a conviction under 111(b);
7 and another six levels because it involved an official
8 victim, resulting in a total offense level of 31.

9 The defendant received a three-level reduction for
10 acceptance of responsibility and prompt plea, leading to a
11 total offense level of 28.

12 The probation office did not apply a two-level,
13 quote-unquote, zero-point offender reduction under 4C1.1 of
14 the guidelines because the offense involved the use of
15 violence or credible threat of violence.

16 The defendant has no criminal history, so he falls
17 in Criminal History Category 1.

18 Level 28 at Criminal History Category 1 results in
19 an advisory sentencing guidelines range of 78 to 97 months,
20 a period of supervised release of one to three years, and a
21 fine of \$25,000 to \$250,000.

22 The defendant agreed to pay restitution of \$2,000
23 to the Architect of the Capitol in his plea agreement. The
24 government also seeks an additional amount of \$1,639 in
25 restitution to Officer I believe it's AP --

1 MS. AKERS: AD.

2 THE COURT: -- AD for his out-of-pocket medical
3 expenses that were not covered by insurance. There's a \$100
4 special assessment.

5 Did I get that right, Ms. Akers?

6 MS. AKERS: The end result, yes, Your Honor. I
7 believe you had said the enhancement for the use of a
8 dangerous weapon was plus-five, but the plea agreement
9 indicates that would be plus-four. And then the serious
10 bodily injury is the plus-five as opposed to the plus-two.

11 THE COURT: You're correct.

12 MS. AKERS: With that, it's correct.

13 THE COURT: Okay. Ms. Peterson?

14 MS. PETERSON: That's correct, Your Honor.

15 THE COURT: Okay.

16 Okay. The probation office has made a
17 recommendation of 78 months, which is the low end of the
18 calculated range, plus 36 months of supervised release.

19 Ms. Akers, would you like to address the 3553(a)
20 factors?

21 MS. AKERS: I would, Your Honor, but one
22 preliminary note. If you recall, during the plea hearing
23 Your Honor reserved the acceptance of the defendant's plea.
24 Perhaps is that something the Court would like to address
25 before we get to the sentencing? I don't know if Your Honor

1 needs to say something. I believe you did everything except
2 the final colloquy.

3 THE COURT: I think that's right. The Court,
4 having reviewed the presentence investigation report,
5 accepts the plea agreement.

6 We adjudged him guilty at the plea hearing,
7 correct? So --

8 MS. PETERSON: No, Your Honor, I think actually we
9 asked the Court not to adjudge him guilty until today, but
10 he is prepared to have the Court impose that judgment now.

11 THE COURT: Okay. The Court will adjudge the
12 defendant guilty of the offense set forth in Count 2 of the
13 indictment, correct?

14 MS. AKERS: Can Your Honor see the screen?

15 THE COURT: Yes, I can see just fine. Thank you.

16 MS. AKERS: Okay. I'll proceed.

17 Your Honor, as the judge, you're obviously -- you
18 know the ramifications of January 6th and what it meant in
19 the context of American history, so I won't delve into all
20 of that. I'll focus more specifically on this defendant
21 except to say that, as Your Honor knows, January 6th was one
22 of the darkest days in our country's history, in part
23 because the mob took arms against its own government to
24 change a democratic election and overtake the Capitol
25 building.

1 And as Your Honor knows from doing many of these
2 cases, there was a range of conduct on January 6th. There
3 were people who were protesting on the lawn, and there were
4 people who were violent against law enforcement. And I
5 think those are sort of the two ends of the spectrum.

6 What we have here today is a defendant on the far
7 end of the violent spectrum; someone who decided to use a
8 weapon against police officers to, in his own words, bum-
9 rush the Capitol and arrest the people who were inside of
10 it, our law makers who were undertaking their constitutional
11 obligation to certify the Electoral College vote.

12 And so what I want to talk about today is some of
13 the aggravating factors of this defendant's conduct, some
14 things that indicate what his intent was, his lack of
15 remorse about his conduct on January 6th, and then finally
16 I'll address some of the defense arguments that are raised
17 in the context of requesting a significant downward
18 variance.

19 So first, going towards the defendant's conduct.
20 What I think are the most aggravating factors here are
21 essentially what the defendant pled to; that he forcibly
22 jabbed two officers with his flagpole making contact. I
23 think that's important, Your Honor, because there's some
24 disagreement between the parties as to the characterization
25 of his conduct.

1 The defendant has pled guilty to forcibly jabbing
2 two officers. As Your Honor knows, he was charged with
3 three separate assaults, two 111(b)s, and all of that
4 conduct is relevant for Your Honor's consideration.

5 Not only did he forcibly jab those two officers,
6 he also grabbed at an officer's gas mask.

7 Shortly after that, he attempted to disarm an
8 officer of his baton.

9 He berated and threatened not only Congress, which
10 the defense admits, but also police officers. And we'll
11 look at a couple of examples of that here today for Your
12 Honor.

13 He carried a dangerous weapon, one that he's
14 admitted was used with the intent and purpose of being a
15 dangerous weapon, and he -- which this sets him apart from
16 most other January 6th defendants. He caused an officer to
17 suffer serious bodily injury.

18 I have a victim impact statement that I will read
19 for Your Honor on behalf of the officer, who wasn't able to
20 make it here today because he got called into something a
21 little bit ago, but the fact that this defendant caused
22 serious bodily injury and caused a police officer to suffer
23 a debilitating injury -- not just on January 6th, but one in
24 which he continues to suffer the effects of to this very
25 day -- is a highly aggravating factor.

1 And then finally, Your Honor, the last, I think,
2 highly aggravating factor is this defendant's utter lack of
3 remorse for his participation on January 6th, and we'll look
4 at some evidence of that during this presentation.

5 So I have before Your Honor a slide show. I'm
6 just going to briefly go through and highlight some of the
7 relevant conduct. If Your Honor has questions, please feel
8 free to interrupt me.

9 The first thing that is important here is that
10 when Mr. Huttles was making his way from the Ellipse at the
11 speech to the Capitol building, very early on he was
12 already talking about what was important to him. Him and
13 his co-defendant, who Your Honor is familiar with, were
14 talking about Mike Pence and the certification. And the
15 defendant, as you'll see in a moment here, was already
16 talking about bum-rushing the Capitol when it was still far
17 in the distance. And so the defense's characterization of
18 Mr. Huttles's intent and purpose as being a peaceful one is
19 really dispelled by this video that we'll watch just a clip
20 of.

21 THE COURT: Just so we're on the same page, we
22 often get, you know, evidence of intent prior to the 6th.
23 None of that in this case. No indication that he and his
24 nephew came to go into the Capitol for any other reason
25 other than to hear the speech.

1 The intent you're talking about was formed after
2 the speech on the way to the Capitol. Is that fair?

3 MS. AKERS: That's fair.

4 THE COURT: Okay.

5 MS. AKERS: What you're about to see, Your Honor,
6 is a video that Mr. Huttles co-defendant, Matthew Huttles,
7 filmed en route to the Capitol. And like I said, I clipped
8 these just to make this efficient, but if Your Honor wants
9 to see additional footage, just let me know.

10 (Pause)

11 MS. AKERS: One moment, Your Honor. Is it
12 possible to get the speaker?

13 THE COURTROOM DEPUTY: It's on.

14 (Audio playing)

15 MS. AKERS: After the defendant made his way from
16 the lawn there to the Capitol building after he had said
17 that they ought to bum-rush the Capitol building, the
18 evidence then shows that the defendant was on the West
19 Front, and as Your Honor knows, the West Front was flooded
20 with rioters. There were thousands of them in a tightly
21 packed area.

22 The defendant's co-defendant, Matthew Huttles,
23 continued recording, and I'll play just a clip of this now
24 where you can, again, hear Dale Huttles's distinct voice.

25 (Audio playing)

1 MS. AKERS: And you can see, Your Honor, the
2 positioning of the defendant and his co-defendant at this
3 point far back in the crowd. It was just shortly after this
4 that they were able to make their way through the thousands
5 of people on the West Front to the very front of the police
6 line, and that in and of itself is a feat given how tightly
7 compact and how many people were on the West Front there.

8 Your Honor will know or Your Honor does know,
9 based on the parties' plea agreement, that Mr. Huttles then
10 used his flagpole to attack officers. And what I think is
11 important -- oh, I suppose that this is not -- are you
12 seeing the first screen still?

13 THE COURT: Are you able to queue that up,
14 Ms. Akers?

15 MS. AKERS: Yes. Sorry, Your Honor, I'm not -- my
16 screen is not working here so I didn't realize you weren't
17 seeing what I was showing. I apologize.

18 So I'll start here, because, Your Honor, I think
19 the last two videos were just more for his words.

20 THE COURT: Okay.

21 MS. AKERS: So what you see here is a photo of
22 Mr. Huttles using his flagpole against the officers. And
23 what's important here, Your Honor, is, again, first, that
24 the defendant was at the front of the mob, made his way
25 through all of those people, and you'll see, in the body-

1 worn camera footage that we'll watch in a moment, this was a
2 violent interaction. Other rioters were pulling on the bike
3 racks and trying to disarm the police officers of that
4 defensive mechanism, and Mr. Huttles took advantage of
5 officers who were in a precarious position. They were on
6 stairs, as you'll see.

7 He took advantage of the other rioters who were
8 attacking the police and pulling the bike racks so that
9 these police officers weren't in a position to defend
10 themselves.

11 And so the defense argues in its sentencing
12 memorandum about his action being only one of many, but
13 really his action in this collective here makes it all the
14 more aggravating because the reason these officers weren't
15 able to defend themselves is because they were dealing with
16 other attacks from other rioters.

17 So I'm going to show, Your Honor, one of the body-
18 worn camera videos. As Your Honor knows, body-worn camera
19 is very chaotic. I'll break it down for Your Honor as best
20 as we can.

21 (Video playing)

22 MS. AKERS: And what you saw there, Your Honor,
23 for a couple of seconds on the video footage was an American
24 flag, and the American flag sort of blurred out the rest of
25 what was going on in the body-worn camera footage. That

1 American flag was Mr. Huttles's, and that was hitting the
2 officer in the chest, which is why you couldn't see anything
3 else that was going on. You could just see the American
4 flag in the footage there.

5 THE COURT: So just so we're clear, the American
6 flag is upside down; is that right?

7 MS. AKERS: That is correct.

8 THE COURT: And the pole, fair to say, wooden?
9 We've seen some of these sort of plastic PVC flexible poles.

10 MS. AKERS: It looks wooden, Your Honor, yes.

11 THE COURT: Okay.

12 MS. AKERS: And what you'll see here is a couple
13 of screenshots of the video footage. I'm just slowing it
14 down.

15 You see the upside down American flag in the upper
16 left-hand corner making contact with this officer, who is on
17 the ground, and you see several officers who were on the
18 ground here.

19 Your Honor knows from the plea agreement that the
20 officer --

21 THE COURT: This is AD, correct?

22 MS. AKERS: Correct.

23 THE COURT: Okay.

24 MS. AKERS: And then there's another officer here,
25 Officer EF, who the parties have also agreed in the plea

1 agreement was struck forcibly by Mr. Huttles's pole and also
2 fell to the ground as a result of that.

3 THE COURT: Okay. So those two assaults are part
4 and parcel of the same incident on the --

5 MS. AKERS: That's correct, but the pole did, in
6 fact -- the flagpole -- make contact with both of the
7 officers.

8 And you'll see here, Your Honor -- this is an
9 aggravating factor in and of itself -- this is just a moment
10 after the screenshot that we had just seen, and you'll see
11 here Mr. Huttles holding his flagpole, which is now sort of
12 horizontal and away from the officers because this person in
13 the red was pushed away from the officers. And then what
14 you saw just a second later was although Mr. Huttles, after
15 he had jabbed both of the officers, had sort of the flagpole
16 thrust backwards by another rioter, just a second later, he
17 then started thrusting it again at the police officers.

18 So he was thrusting it and made contact with the
19 two. He was sort of pushed back with the other rioter, and
20 then he turned and started doing it again.

21 THE COURT: Okay.

22 MS. AKERS: And you'll see here --

23 THE COURT: Go ahead.

24 MS. AKERS: -- the flagpole coming back at the
25 officers, one of whom was still on the ground.

1 THE COURT: Okay. Let's pause there.

2 A lot of discussion in the papers about the
3 severity of the poke or the jab or the thrust or however you
4 want to characterize it. Some of the thrusts seem to make
5 contact. Others seem not to have made contact.

6 I mean, obviously he's getting a big bump for --
7 you know, for that action based just on the guidelines, but
8 address the defense's argument that while it certainly
9 qualifies and while he has admitted to it, there is a range
10 of force or violence or dangerousness in many of these
11 cases, and his conduct is on the lower end of that range.

12 MS. AKERS: Respectfully, Your Honor, I disagree
13 with that. I do --

14 THE COURT: And in connection with that, the
15 injury that's been charged and acknowledged did not result
16 from the actual contact with the stick. It resulted from
17 the officer slipping and hitting his back. Correct?

18 MS. AKERS: Well, a couple of points to that, Your
19 Honor.

20 The officer slipped because he was hit with the
21 stick. He was standing perfectly defending the Capitol
22 for -- and in that area for quite some time before he
23 slipped.

24 It wasn't a coincidence that he slipped. He
25 slipped because he was hit by the defendant with the pole.

1 That's agreed to in the stipulated statement of offense with
2 the plea. He didn't slip because it was raining out or the
3 concrete was otherwise slippery. He slipped because he was
4 hit by the defendant.

5 And on that note and on the question of sort of
6 the severity of the conduct here, the defense has agreed in
7 the statement of offense that this caused serious bodily
8 injury. The defense is privy to the write-ups of the
9 officer interviews, the facts that the government would have
10 elicited at trial. And as I stated earlier, Your Honor, I'm
11 happy to read now, if Your Honor wishes, the officer's
12 victim impact statement that he had hoped to give here today
13 which describes when he felt the pain in his back. And it
14 was when he got hit with the pole and slipped on the stairs.

15 It is true, as the defense says, that there are
16 not many January 6th cases where a serious bodily injury
17 enhancement has been applied. There are certainly some. I
18 myself have had three or four. But that doesn't discount or
19 otherwise exculpate this defendant and his conduct against
20 this officer.

21 This was a specific instance that is memorable in
22 the officer's head because he felt the immediate pain, and
23 so the fact that there are many other police officers who
24 suffered serious bodily injury and can't pinpoint it so no
25 one person has been held responsible doesn't undermine this

1 defendant's conduct here.

2 And as you'll hear from the officer's victim
3 impact statement, this incident led to the officer slipping
4 a disk in his back. He has had and continues to this day --
5 we're in 2024 now, as Your Honor knows -- to have to seek
6 weekly medical treatment. This was debilitating for him and
7 his life in many ways. It impacted him not only at work but
8 in his personal life; not only physically but also mentally
9 and emotionally.

10 And so when we're talking about the scale of
11 conduct here and whether this was a poke or a jab,
12 characterize it how you will, this defendant caused the two
13 officers to fall downstairs, one of which suffered serious
14 bodily injury as a direct result.

15 And that comes out of the stipulated statement of
16 offense. This was caused by the defendant. And you'll see
17 that that's supported by the victim impact statement, and
18 it's certainly something the government would have proved
19 had we gone to trial.

20 And while we're on that note, Your Honor, the
21 defense also characterizes the second jab to the other
22 officer and says that the government has I believe it said
23 minimized that and is dismissing that charge. And just to
24 be clear, the government's dismissing that charge because of
25 the plea agreement, not because the evidence doesn't support

1 it. And, in fact, the statement of offense details, in
2 Paragraph 14, that Mr. Huttles forcibly jabbed Officer EF as
3 well and made physical contact with him.

4 THE COURT: Okay. Can you queue up the video
5 again and tell me exactly where he makes contact with the
6 flag on both of the officers?

7 MS. AKERS: Sure. And I think it's helpful, Your
8 Honor, to --

9 THE COURT: I know it's not easy to --

10 MS. AKERS: -- view it from both sides, so we will
11 do that.

12 (Pause)

13 MS. AKERS: You'll see Mr. Huttles at about 23
14 seconds into the video, and then by 26 seconds you'll see
15 that the flag is sort of covering the body-worn camera
16 footage. Consistent with the plea agreement --

17 THE COURT: And is that the flag now between the
18 two people in the center of the --

19 MS. AKERS: That's correct, Your Honor.

20 Consistent with the statement of offense in the
21 plea agreement, you'll hear the victim impact statement that
22 this officer was jabbed in the chest with the flagpole and
23 felt it in his chest. And so when you see the flag here at
24 about 26 seconds, that's what you are seeing.

25 (Video playing)

1 MS. AKERS: So what you saw, Your Honor, from that
2 angle -- and, again, we'll look at a couple of different
3 angles -- was the flag overtake the body-worn camera vantage
4 point. That's when that officer's getting hit in the chest
5 with the flagpole.

6 And then you see the officer then fall on the
7 ground. And we'll see that, and you have seen that in
8 pictorial form --

9 THE COURT: Just so I'm not missing anything, is
10 it fair to say that the flag covers the camera so that you
11 don't see the butt end of the pole making contact with the
12 officer? We're inferring the degree of force based on the
13 officer's reaction. Is that fair?

14 MS. AKERS: I think it's fair that it's inferred
15 based on this video, based on the officer's reaction, but we
16 have the photo that we looked at a moment ago --

17 THE COURT: And the photo.

18 MS. AKERS: -- from the opposite angle showing
19 that same contact; the white-helmeted officer and Mr. Huttles
20 striking him.

21 THE COURT: Got it.

22 MS. AKERS: Then we have, Your Honor, here just a
23 different vantage point from an officer who was a step
24 behind, and you can see this is I think the second or third
25 jab of Mr. Huttles making contact with the officer there. He

1 then --

2 THE COURT: Go back to that.

3 MS. AKERS: Sure.

4 THE COURT: Now it seems to me he's making contact
5 with his helmet, or no?

6 MS. AKERS: It's difficult to see exactly where
7 he makes contact, Your Honor, but you can obviously see
8 Officer --

9 THE COURT: It's closer to his head than to his
10 chest.

11 MS. AKERS: Right. The chest, Your Honor, was the
12 first jab.

13 THE COURT: Got it.

14 MS. AKERS: And that's consistent with the
15 statement of offense.

16 Then the flag gets pulled back for a moment as the
17 officer's trying to stand up, and then a second later he
18 comes back and starts to jab again.

19 Then we have, on the second jab -- and, again,
20 when we talk about, you know, whether Mr. Huttles was
21 forcibly jabbing, although he has agreed to that, I mean,
22 look at his face, Your Honor. There's a screenshot on the
23 right-hand side here. He's forcible. This is an
24 intentional action. It's a violent action. And notably,
25 this one here is the second time he started thrusting after

1 it had sort of been pulled back when the other rioter got in
2 his way.

3 We then have just another angle for Your Honor, so
4 I'll take you through this one. It's just the same incident
5 from a different vantage point.

6 (Video playing)

7 MS. AKERS: And then from the opposite vantage
8 point, Your Honor, you'll see just pictorial evidence here of
9 the officer, who you'll hear in the victim impact statement,
10 emptying his can of OC spray on Mr. Huttles, which caused
11 Mr. Huttles to temporarily step back and allowed the officer
12 here, who was originally hit in the chest, and here, who has
13 hit Officer EF as well, to get to their feet.

14 You'll see here, this is the second time that
15 Mr. Huttles came towards the officers after he had already
16 been sprayed by Officer AD. As you saw from the last video
17 he turned and came back and then again jabbed this officer
18 who was trying to get to his feet.

19 And so, Your Honor, to put a pin on that, I
20 understand and I realize that it's difficult to really
21 decipher what's going on in a lot of the body-worn camera
22 footage because it happened so quickly and because of the
23 placement of the body-worn camera footage in the officers'
24 center of their chest, which just happens to be where the
25 defendant was striking the officers on the occasion that is

1 before you on the screen here and in the first occasion,
2 but, Your Honor, this defendant has access to all of the
3 government's case file, our best evidence that we intended
4 to put on, the officers' statements about what happened, and
5 the defense agreed to the statement of offense; not only
6 that he forcibly jabbed both of these officers, that it
7 caused the serious bodily injury, that it caused the
8 officers to slip on the ground.

9 And the defendant, he was there. He knows what he
10 did. You can see it in the video footage. You can see it
11 in the photos.

12 But he's agreed that this is what happened. And
13 it's really indisputable when you take the pictorial evidence
14 that we submitted both in our sentencing memorandum and here
15 today and the video evidence, and you see it from both
16 sides. Again, it's no coincidence that both of these
17 officers were standing defending and holding that line, and
18 then, at the same time that the defendant jabbed them in the
19 chest with a flagpole, they slipped down the stairs.

20 And so that's the crux of the assault to which he
21 pled guilty, but importantly, the defendant didn't leave the
22 Capitol grounds after that. He stayed. He stayed at the
23 front of the line --

24 THE COURT: Before we get there, address the
25 defense's argument on the official victim enhancement, which

1 is a six-level bump. Pretty substantial. Is that always
2 applied in these cases where the assault is against an
3 officer?

4 MS. AKERS: Yes, Your Honor.

5 THE COURT: Okay.

6 MS. AKERS: Across the board. And I think that
7 that's -- I'm glad Your Honor raised that because what the
8 defense argues here is that that in some way overstates the
9 conduct because it's typically applied in cases where
10 there's some animus against police officers. That is
11 exactly the conduct that we have in this case, and you'll
12 see in a moment, when we watch a couple of clips, about the
13 animus against the officers and what he's yelling.

14 But the fact of the matter is this defendant was
15 trying to get to the Capitol building. You'll see that in
16 some of this video footage we're about to watch, and it's
17 described in our memo.

18 What was keeping this defendant away from the
19 Capitol building was this line of police officers. So --

20 THE COURT: Well, I think that may be
21 Ms. Peterson's argument; that there's, you know, no specific
22 animus against this particular officer or against police in
23 general, but they were just in his way and impeding the
24 ultimate goal, which was to get to the Capitol.

25 MS. AKERS: Well, they were in --

1 THE COURT: And so therefore, while obviously
2 official victim applies under the definition of the
3 guidelines, and he's admitted to it, it's a different
4 calculation, or the Court should not place as much weight on
5 it compared to if, you know, a judge was targeted or a
6 particular officer who was investigating a crime that the
7 defendant was a suspect to or a witness to was targeted.

8 MS. AKERS: And respectfully, Your Honor, the
9 government's position --

10 THE COURT: I mean, is it six or nothing, or can
11 the Court make those sorts of gradations?

12 MS. AKERS: In the context of January 6th cases,
13 Courts have uniformly applied the six and have found that it
14 doesn't have to be animus directed towards a particular
15 officer. He doesn't have to have known Officer AD and said
16 I don't like you because you're a specific officer.

17 The fact of the matter is these police officers
18 were doing their official duties, performing their official
19 duties, and he was exercising animus at a minimum against
20 them. And I would point Your Honor to Page 7 of the
21 stipulated statement of offense where the defense admitted
22 that he assaulted the officers on account of the performance
23 of their official duties.

24 And so, you know, if we had been in a posture
25 where we were in trial and we were having these officers

1 here testify, Your Honor would hear from the officers that
2 they felt and they were attacked because they were
3 performing their official duties. And that's what the
4 defense has stipulated to in the plea agreement.

5 THE COURT: Okay.

6 MS. AKERS: So I respectfully would urge the Court
7 to apply the plus-six and not undermine the defendant's
8 actions here against these officers. Sure he wanted to get
9 to the building, but he didn't have to exercise violence
10 against the officers.

11 His co-defendant, Matthew Huttlet, also wanted to
12 get into the building and, in fact, did. He didn't assault
13 any officers.

14 And so the defendant's purpose here -- and, again,
15 as you'll see in a moment when you hear some of the words
16 against the officers -- was certainly exercising an animus
17 towards the officers. And I think that it's sort of asking
18 to benefit on both hands when the defense is saying we've
19 agreed to the plus-six, and we've agreed that 4C1.1 doesn't
20 apply, and we've agreed not to ask for a departure, and then
21 on the other hand they're asking for a variance based on all
22 of those things and saying that the purpose of all of those
23 actually does apply here.

24 THE COURT: Okay.

25 MS. AKERS: And so I've clipped just several, in

1 anticipation of this argument that the defense has made,
2 different versions of Mr. Huttles expressing his discontent
3 specifically towards police officers while he was on the
4 West Front after his assaultive conduct.

5 (Video playing)

6 THE COURT: I'm sorry, if you could pause it.
7 This is after the confrontation that we just observed, after
8 he had been pepper-sprayed?

9 MS. AKERS: That's correct.

10 THE COURT: Okay. Thank you.

11 (Video playing)

12 MS. AKERS: So, Your Honor, saying things like
13 "It's going to get really ugly" and "We're coming in, you
14 guys are going to get seriously hurt," that type of rhetoric
15 is animus expressed towards police officers, and it
16 continued.

17 (Video playing)

18 MS. AKERS: As you can see, Your Honor, the
19 defendant's conduct for quite some time on the West Front
20 after he had committed the assaults was aimed directly at
21 the police officers who continued to hold the line. He was
22 expressing anger. He was questioning their alliances. He
23 was encouraging them to back down and suggesting -- not only
24 suggesting but saying they were not patriotic because they
25 weren't letting them to the Capitol.

1 And he also threatened Congress and our elected
2 officials, as you'll see in a couple of clips here. That's
3 important, Your Honor, because, again, it shows why he was
4 here. He wasn't just, you know, committing an act of
5 violence because he got riled up and was angry for a moment.
6 It's because he had a purpose, and his purpose was to keep
7 his preferred presidential candidate in power.

8 And when a defendant acts not only in a violent
9 way but in a violent way in the name of a political end, I
10 think that's a highly aggravating factor that the Court
11 should take into consideration here.

12 So just a few clips.

13 (Video playing)

14 MS. AKERS: And then after all of those berations
15 of officers and the threats that the defendant made, he
16 again didn't leave the Capitol grounds but instead was in
17 another collective attack where officers were in another
18 incredibly precarious position.

19 And that is Mr. Huttel, who is, just before this
20 photo is taken, at the very front of the line and still is.
21 You can see that the mob has pushed all the way forward.
22 They made it past all the police lines on the West Front.
23 The officers were trying --

24 THE COURT: This is after 3:00?

25 MS. AKERS: This is after -- no.

1 THE COURT: Or later?

2 MS. AKERS: This is before 3:00 but after the last
3 video that we watched, Your Honor. And you'll see in a
4 moment here, with the gas mask grab and the baton pull, it's
5 the time when these officers were trying to escape up the
6 staircase. So the mob had made it past the police line,
7 pushed through the bike rack barricades, and the officers
8 were now pushed up against this wall trying to one by one
9 escape through this narrow staircase as rioters continued to
10 attack them. And what you'll see here is that Mr. Huttles
11 again was at the front of the pack attacking the officers,
12 yelling at them to surrender as they were trying to escape
13 from the mob.

14 And again --

15 THE COURT: Show me where he is.

16 MS. AKERS: Sure.

17 THE COURT: Okay.

18 MS. AKERS: It's impossible to see in this, Your
19 Honor, but what you'll see in a moment here is I'm going to
20 show you the body-worn camera footage from the front here,
21 and you'll see the rioters here and the officers trying to
22 escape up the stairwell.

23 And what you'll see in the video footage that I'm
24 about to show you in a moment is Mr. Huttles grabbing at the
25 gas mask of an officer as he yells "surrender," and then

1 grabbing at the officer's baton as he's yelling "surrender
2 and leave." You'll see here in the body-worn camera
3 footage, Your Honor, these are the officers, you can see the
4 wall immediately to their back, and you'll see police
5 officers trying to escape as Mr. Huttles is here.

6 (Video playing)

7 THE COURT: I'm sorry, could we pause. So he does
8 not have the flag at this point, correct?

9 MS. AKERS: That's correct, Your Honor.

10 (Video playing)

11 MS. AKERS: You'll see this, a moment later, in
12 different body-worn camera footage.

13 (Video playing)

14 MS. AKERS: Sorry about that. It started again.

15 (Video playing)

16 MS. AKERS: And what you saw, Your Honor, for a
17 moment was that Mr. Huttles actually had a different flagpole
18 in his hand that someone grabbed shortly thereafter. But,
19 you know, he's still facing the officers, yelling at them
20 repeatedly. This is now the sixth, seventh, and eighth time
21 yelling at the officers to surrender, surrender, surrender,
22 leave, leave, and pointing towards that staircase that we
23 saw in the pictorial footage there.

24 And so here, this is after the jabbing assaults.
25 This is after he stood at the front of the mob of rioters on

1 the West Front, after he was at the very forefront when the
2 police line broke, and then he followed them to that wall
3 there. And as they attempted to escape from him and the
4 other people in the mob, he continually yelled -- and I
5 think that that is not an overcharacterization whatsoever --
6 to surrender, to surrender, to leave, to leave.

7 And then, Your Honor, I think another --

8 THE COURT: Before we get there.

9 MS. AKERS: Sure.

10 THE COURT: He never made it to the Capitol,
11 correct?

12 MS. AKERS: That's correct, Your Honor.

13 THE COURT: Inside the Capitol.

14 MS. AKERS: That's correct, Your Honor.

15 THE COURT: And the defense suggests that he may
16 have fallen at some point and may have suffered a
17 concussion. Is there any evidence from the government's
18 perspective as to why he decided or was prevented from going
19 in?

20 MS. AKERS: Sure. I will, I suppose, speculate a
21 bit, but what I think is important to note there is that
22 falling incident happened before what I just showed you,
23 Your Honor. And so it's not as though he fell and became --
24 you know, maybe he had a concussion. Maybe he did black
25 out, crediting the defense's argument. But then he stood

1 back up, followed the officers to the wall here, and
2 screamed at them to surrender, grabbed a gas mask, and
3 attempted to grab a baton. And so that all happened before
4 his continued conduct here.

5 What I would surmise, based on his co-defendant's
6 case, which Your Honor is familiar with because Your Honor
7 sentenced, it took some agility for Matthew Huttles to climb
8 up the scaffolding that he did to get onto the second level
9 where he entered. I don't know if Mr. Huttles here wasn't up
10 to that or didn't do it.

11 There certainly were other ways, like the
12 staircases on the far sides where a lot of rioters went up.
13 But in this area, a lot of rioters were essentially scaling
14 the scaffolding, which I think was a deterrence for some.

15 THE COURT: Okay.

16 MS. AKERS: And so that's a summation of his
17 conduct on January 6th.

18 What I think is also important for Your Honor's
19 consideration in the context of 3553(a) is the defendant's
20 lack of remorse. Shortly after the defendant was arrested
21 in this case -- and this was in the very end of 2022, Your
22 Honor, so this is far after January 6th, far after the news
23 had picked up on this and shown the videos, and people knew
24 what happened; this defendant had been regularly Googling
25 people's January 6th cases; he was aware of what happened on

1 the day -- he continued to stand by his actions, to express
2 no remorse for his actions, and contended not only that he
3 was a patriot for what he did but that he was not sorry for
4 what he did; he was simply sorry that he was arrested.

5 And so you'll see, Your Honor, here there was a
6 news anchor that came to his house that he spoke with for
7 about seven or eight minutes and said a lot, including the
8 following couple of clips.

9 (Video playing)

10 MS. AKERS: And so, Your Honor, I imagine here
11 today the defendant, you know, might express his remorse or
12 his regret, but I think that his actions on January 6th, but
13 then importantly his words after -- this was after he had
14 been charged, after he saw the statement of offense. I
15 mean, he was there. He knows what he did, and then to
16 publicly continue to exclaim that he's the patriot.

17 He exclaimed in this same interview that Donald
18 Trump had told them to fight like hell, and he didn't
19 believe that was a joke. And that's borne out by his
20 conduct on January 6th starting when he was en route to the
21 Capitol and said we're going to bum-rush the Capitol through
22 the first incident of assault, through the second incident
23 of assault, when he grabbed the face mask and the baton, and
24 is supported and corroborated by his continued rhetoric when
25 he was on Capitol grounds.

1 This defendant was not a passive participant on
2 January 6th. He was the one who instigated the violence
3 here. He was the one who made it to the front of the mob.
4 He was the one who took his flagpole that he was holding
5 like a normal person would hold a flagpole and decided to
6 jab it at the officers.

7 And just to address very briefly, Your Honor, a
8 couple of the defense arguments. I think that first the
9 defense places quite a bit on what I would call undue
10 emphasis on 3553(a)(6) and the comparators.

11 First off, most of the comparators that the
12 defense cites to are 18 USC 111(a) cases. They are not
13 defendants who have been found guilty of 111(b), which this
14 defendant was. This defendant was not only charged with one
15 111(b), but two, and his relevant conduct to which he has
16 agreed in his plea agreement encompasses both of the
17 111(b)s. And so he's not similarly situated to a rioter who
18 was found guilty of 111(a), and those drastically lighter
19 sentences are not adequate comparators for the Court to
20 consider.

21 He's also, like I mentioned previously, in a
22 different and much smaller category because of the serious
23 bodily injury that he inflicted on an officer.

24 And then finally, Your Honor, the defense rests
25 heavily on the defendant's health issues in part to request

1 that the Court not impose a sentence of incarceration at
2 all. What I would say from the government's perspective is
3 that the argument here just doesn't realistically address
4 the circumstances.

5 The Bureau of Prisons is more than capable of
6 providing medical care to its prisoners. It does that
7 regularly. The defense even acknowledges that Mr. Huttles
8 would likely be on the Care Level 2, which isn't even the
9 highest care level that the Bureau of Prisons offers for
10 defendants in its custody. And so this is not a case of an
11 extreme or unique or extraordinary medical condition that
12 the Bureau of Prisons is not equipped to handle. It's an
13 ordinary case.

14 I'm not meaning to, you know, demean at all or
15 discount at all the medical condition that he has suffered
16 from, but it's not something that the Bureau of Prisons
17 cannot handle in the ordinary course, and it's certainly not
18 something that takes away all of the conduct which he
19 engaged in on January 6th and the just punishment that,
20 quite frankly, he deserves for that conduct.

21 THE COURT: Okay. Address the age issue as well;
22 you know, in combination with the medical issues, his life
23 expectancy. The government's recommendation, actuarially at
24 least, is a life sentence. Is that fair?

25 MS. AKERS: I mean, Your Honor, that is hard to

1 say for anyone, let alone me, who doesn't know Mr. Huttie.

2 He is an older man, older than a lot of even the
3 January 6th defendants.

4 THE COURT: Any other J6 defendants older than him
5 who have been sentenced?

6 MS. AKERS: I'm not sure of that, Your Honor.

7 THE COURT: Not to put you on the spot.

8 MS. AKERS: Sure.

9 THE COURT: But certainly my oldest.

10 MS. AKERS: He is on the older side. I will
11 say -- and can pull the case name in a moment -- I'm aware
12 that Judge Lamberth just sentenced a 68-year-old for
13 assaultive conduct and explained at the sentencing
14 hearing -- I can't think of the defendant's name, but I was
15 there; I'll look it up in a moment, if you would like --
16 that although the defendant was old, that wasn't going to be
17 sufficient to go outside of the guidelines and to vary
18 downward.

19 It's notable here, Your Honor, the age for a
20 couple of reasons. I think, first, in a lot of these cases
21 we have younger defendants, and one of the things that you
22 hear often is, well, he was so young, he wasn't thinking,
23 and he was following the crowd, and all of these things.
24 This defendant has a lot of life experience. He was the one
25 leading him and his nephew, who participated in the riot as

1 well. And so really the age thing really cuts both ways for
2 him.

3 He has had a life-long career and a supportive
4 family and has all of this life experience. He should have
5 known better. But, instead, he was not only a participant,
6 he was a violent participant. So he took it one step
7 further.

8 Certainly his age -- 73, as we've already noted --
9 is on the higher end, but he was 71 when he walked over two
10 miles from the Ellipse to the Capitol where he was on the
11 West Front for several hours, stayed there until evening.
12 There are photos of him and Matthew Huttler, his co-
13 defendant, when it's dark at the Capitol. So this is not
14 someone who is not agile enough to spend 10-plus hours on
15 their feet in pursuit of overtaking the Capitol building and
16 arresting Congress.

17 So while it is a mitigating factor, Your Honor, I
18 don't think it comes close to weighing as heavily or even
19 near as heavily as the defense argues here.

20 THE COURT: Okay. Thank you.

21 Ms. Moreira, you okay?

22 Okay. Ms. Peterson.

23 MS. PETERSON: Thank you, Your Honor. I suspect I
24 will be far more brief. I know the Court has read our
25 sentencing memo carefully based on the questions the Court's

1 been addressing.

2 I do want to note that while it is true that
3 Mr. Huttles appears to be in very fine shape at the time of
4 this incident -- he was 70 at the time -- at the time he did
5 not have a heart condition. That was diagnosed in the
6 spring of 2023. And he's had subsequent, as the Court
7 knows, several surgeries.

8 THE COURT: Okay. Well, let's talk about that,
9 right? There are lots of different types of heart
10 conditions. I've read the medical records. The diagnoses
11 are not challenged. He's had numerous stents inserted for
12 coronary blockage to a certain degree. The diagnosis
13 appears to be that with monitoring and medication and rehab,
14 that that is a manageable condition, stable outpatient
15 condition, which would place him in BOP Care Category 2.

16 Why isn't Ms. Akers correct that while unfortunate
17 and while, you know, serious to a certain degree, it is not
18 critical, and it's certainly not end stage, and that BOP is
19 obligated to, and does, take care of patients with that
20 profile on a regular basis, as we know from D.C. and all the
21 folks that the government asks me to send to jail here.

22 MS. PETERSON: And I agree that the BOP can give
23 him medication, and the BOP can monitor that situation. The
24 BOP does not do rehabilitation. That's just not something
25 that's -- and we spoke with a medical consultant that deals

1 with the BOP situation, and --

2 THE COURT: And if he were incarcerated, and his
3 condition developed into congestive heart failure, then that
4 could be dealt with at the time. Correct?

5 MS. PETERSON: Theoretically, yes.

6 THE COURT: All right. Through compassionate
7 release or potentially other mechanisms.

8 MS. PETERSON: Right.

9 THE COURT: Okay.

10 MS. PETERSON: If his condition were to
11 deteriorate such that a compassionate release motion would
12 be appropriate, we would certainly file that. The problem
13 would be in the timing aspect. He's sort of walking around,
14 as someone of his age with his heart condition, with a
15 potentially ticking time bomb in his chest. He's been told
16 to keep nitroglycerin in his pocket at all times.

17 The stress --

18 THE COURT: But isn't that true of everyone with
19 coronary artery disease that have had, you know, arterial
20 angioplasties and interventions like that?

21 MS. PETERSON: It is, if you're in that situation.
22 I think that he's a little bit -- his is a little bit
23 unusual in the number of procedures he's had to do to get to
24 where he is now, and at the end of each of those he's been
25 told, "If this doesn't work, you may have to have open heart

1 bypass surgery." And that is still a possibility.

2 I'm not in any way suggesting that the BOP can't
3 monitor that, and I have -- in looking at how the BOP
4 classifies individuals, what I was suggesting to the Court
5 is at best he's going to be in a Level 2 facility --

6 THE COURT: All right.

7 MS. PETERSON: -- or a facility that has medical
8 personnel in the community. We're actually going -- if the
9 Court is going to incarcerate him, we have a specific
10 recommendation based on discussions with a BOP consultant
11 that I'll make later.

12 But I think that while it's a question of what
13 care he will get, it's also the more morbid question of what
14 does the sentence of any period of time mean for someone in
15 his position. And we don't raise this issue to suggest that
16 his conduct isn't -- doesn't warrant a longer -- a
17 potentially longer sentence, but rather to suggest that you
18 have to look at what is the effect of that sentence. And I
19 think a sentence anywhere near what the guidelines would
20 suggest in this case, given all of the enhancements that are
21 somewhat fortuitous, would be a life sentence given his age
22 and his medical condition.

23 So I did -- I know the Court has already
24 considered these issues, and it's laid out in our sentencing
25 memo, but I do think it's important.

1 The government's correct in one sense where they
2 say there's a whole range of people -- and he is in the
3 range of people -- who did assaultive conduct. So he's
4 nothing like the people who got the pleas to misdemeanors.
5 We're not -- no one is suggesting that he should be in that
6 category.

7 But when one looks at the category of people who
8 are in that category that have committed assaults -- and
9 Mr. Huttles does not deny that he committed those assaults --
10 it's almost as if he's being punished for having admitted
11 the conduct that he did. In the government's mind, they
12 want to use that as a battering ram to say he can't explain
13 why that sentence that results is too high for his specific
14 circumstance.

15 THE COURT: Okay. Well, let's talk about the
16 conduct.

17 You know, he hits at least two officers with a
18 wooden flagpole that he's wielding and thrusting towards
19 them. We've all looked at it. If it was thrust with
20 enough force to cause an officer to fall down on the ground
21 and hurt his back and slip on the stairs, and the officer
22 reports that that has -- those injuries have lingered and
23 caused him serious discomfort and has affected his life in
24 serious ways, does it matter what adjective we put on the
25 jab or the thrust or the --

1 MS. PETERSON: No. I actually don't think it does
2 in a lot of ways, but I think what you have to think about
3 is -- there's two ways to look at it. It's was there an
4 intent to harm the officer, or was the intent to get what he
5 wanted, to get where he wanted? And I think that that's
6 where the nuances come into play a little bit.

7 Here Mr. Huttles, as the government has
8 acknowledged, didn't come to that rally with an intent to
9 commit violence. He didn't even go to the Capitol with an
10 intent to commit violence. He didn't bring a flagpole to
11 strike officers.

12 There were people who came with that intent, and
13 some of them have received shorter sentences than Mr. Huttles
14 would under the government's proposal or under the probation
15 office's even, their suggestion. So I think you have to
16 separate the actions, which were terrible, and he will
17 acknowledge that.

18 Let me interrupt myself for a moment to say I know
19 the government has focused on the lack of remorse in 2022,
20 and, boy, do I wish he hadn't given that interview, but I
21 don't think that that's really -- it's certainly not where
22 Mr. Huttles's head is now. When he saw the videos, and when
23 we were able -- it took us a while to figure out a way to do
24 it because he doesn't have a computer and didn't have the
25 technology we needed. But once we were able to walk him

1 through the videos, he didn't remember much of what he saw
2 on those videos. He had no recollection of his flagpole
3 ever hitting someone. And I think part of that is he's 10
4 feet away --

5 THE COURT: But he certainly knew what had
6 occurred on January 6th generally.

7 MS. PETERSON: Oh, absolutely. Absolutely.

8 THE COURT: And why shouldn't I credit a statement
9 that he makes to his local news, and therefore his local
10 community and his neighbors and his friends and his family,
11 versus what he tells -- whatever he tells me today in court?

12 MS. PETERSON: I'm not suggesting you shouldn't
13 credit that with where his head was in 2022. It was. And
14 that's part of the whole -- you know, this different
15 universe that we have out there of right wing media, the
16 former president, members of Congress all still suggesting,
17 even now in 2024, that this election was stolen, and none of
18 this was -- that it is your patriotic duty to stand up and
19 say that.

20 We can -- the rest of the world can say that
21 that's crazy, but in 2022 Mr. Huttles was still part of that
22 piece of the universe, and he was still touting those
23 statements.

24 What he didn't say, and what you wouldn't have
25 heard there, was anything suggesting that he's glad he acted

1 violently towards the police. That's -- he was saying I'm
2 proud I was there and the actions I took. I'm proud of
3 those actions because it was my patriotic duty. It's sort
4 of the same nonsense that he was saying to the police
5 officers, "Do your patriotic duty."

6 I don't think what he was saying to the police
7 that day was an animus towards the police. It was -- they
8 were foolish statements. They were why are -- it was
9 basically Why aren't you behind the president of the United
10 States? Why aren't you taking the same position? We heard
11 that this election was stolen. Why are you trying to block
12 us from protesting? Why are you trying to get us to where
13 the president said we should go and what we should do?

14 So it was not -- that six-level increase for
15 animus towards the police is not the same, as the Court
16 asked Ms. Akers about, as someone who targets a judge or
17 police officer for arresting someone from their family.

18 THE COURT: Right.

19 MS. PETERSON: That's not what those statements
20 were about. That wasn't an animus.

21 His actions were terrible, and his actions
22 certainly need to be punished. But the things he was saying
23 don't reflect an animus towards police in general or even
24 the officers that he was dealing with that day. And they
25 weren't made -- those statements were made at a time when he

1 was actually quite calm and standing and talking to the
2 officers, the things about Why are you on their side, not on
3 our side? Why aren't you doing your patriotic duty?

4 So I think that they're just nuances that aren't
5 being reflected when the government takes the position it
6 does.

7 The government characterizes him as one of the
8 most violent, and, as I said, he certainly is on that side
9 of the spectrum. He's not on the side of the spectrum with
10 the 60-year-old lady that walks in and take pictures and
11 walks out. We're not suggesting that at all.

12 But when you look at the granular level of the
13 people who committed the violence that day, I don't think
14 it's fair to put him on the far end of that spectrum, and a
15 sentence of 78 or 85 months would put him on the far end of
16 that spectrum. It would far exceed what others have gotten.

17 Now, it is true -- and he agreed in the plea
18 agreement based on the government's representations -- that
19 Officer AD was significantly harmed. We didn't have medical
20 records. We weren't -- we didn't challenge that. He agreed
21 to that because that's what the officer said happened.

22 We have now, in the government's supplemental,
23 seen that he has ongoing bills with a chiropractor, and
24 Mr. Huttles is prepared to accept the restitution that the
25 government has requested on his behalf. That was never his

1 intent, and the actions that he took led to that because of
2 the officer falling on the stairs.

3 Mr. Huttles's actions caused the fall. We're not
4 suggesting that they didn't. If he didn't poke him, jab him
5 with the flagpole, he may not have fallen on the stairs, and
6 he may not have been injured. But what we're pointing out
7 in our sentencing memo is there were a lot of other attacks
8 that that officer was subjected to, unfortunately, that day,
9 and many of them involving his back as well.

10 So, again, we're not trying to step away from that
11 his actions at least contributed to his injuries, and he's
12 taking responsibility for that. But we have to look at how
13 much of an increase from that base offense level of 14 he's
14 getting due to the official victim status, the serious
15 bodily injury that resulted from what would otherwise have
16 been one of the lesser assaults, the pushing with the
17 flagpole, but for the fact that the officer fell on the
18 stairs.

19 And, again, I don't say any of this to excuse his
20 actions.

21 And it's also -- the government points out that
22 some of the cases we cited were for 111(a), but that's just
23 a function of when the government was allowing people to
24 plead guilty to 111(a) versus 111(b). And I just did a --
25 we did a quick review last night.

1 111(a) was charged in Adam Jackson's case. The
2 weapon that was used was a shield, but he didn't get the
3 enhancement for the weapon. He didn't get the enhancement
4 for the 111(b) because the government allowed him to plead
5 to something lower.

6 And there's dozens of cases in that same -- Thomas
7 Hamner, 111(b). That was actually 111(b). The government
8 requested 84 months, again, citing how dangerous his actions
9 were. That was a heavy metal sign that was thrust towards
10 police officers. And he only received a sentence of 30
11 months.

12 Edward Rodriguez, 111(b), bear spray. The
13 government requested 88 months. He received 36 months.
14 That was a very serious attack as well.

15 There was Thomas Brockhoff, 111(b), fire
16 extinguisher. The government requested 51, and he got 36.

17 Again, these are all 111(b) offenses.

18 Robert Palmer was a wooden plank and a fire
19 extinguisher, guideline range of 63 to 78, and he received
20 63.

21 Devlyn Thompson, a metal baton, 111(b), received
22 46 months.

23 Thomas -- or Nicholas Languerand, 111(b), he
24 received 44 months. That was -- pieces of broken furniture
25 were used as a weapon, and an audio speaker was thrown.

1 And then you get to the ones that are 111(a)s but
2 actually involved weapons or things used as a weapon. I
3 think it's -- flagpoles are not a weapon. They weren't
4 brought there as a weapon, but they were used by some people
5 as a weapon. Some judges have found them not to be, not
6 the -- I'm sorry, the flagpole not to be a weapon even
7 though it was used in that manner; but others have found it
8 to be.

9 It's not really a question for this Court because
10 we've agreed that it was used as a dangerous weapon, but
11 it's still a factor for the Court to consider in what is an
12 appropriate sentence.

13 There were a number -- I won't read the names of
14 all of these, but the 111(a)s -- and I can, if the Court
15 wants -- 111(a)s included fire extinguishers being thrown at
16 police; tasers being used against police; chemical spray
17 being used in the faces of police; a metal pole being used
18 to attack police; chemical irritants being used to attack
19 the police; the metal sign that was used to attack the
20 police; a metal baton that was used, and this person
21 actually also brought a loaded handgun. I mean, there's no
22 question that that was a 111(b) because of the handgun.

23 Charles Bradford Smith, again, the metal sign; a
24 flagpole in another case where Joshua Hernandez used a
25 flagpole, 24 months, no weapons enhancement. We have the

1 bike rack that was used in a 111; firecrackers thrown into
2 the tunnel, 111(a).

3 So a lot of these -- a PVC pipe. A lot of these
4 are a function of what the government insisted on in a plea
5 agreement, and the government gets to make that choice.

6 And we're not arguing that it's not -- wasn't used
7 as a dangerous weapon, but just that you can't say that the
8 sentences imposed in these cases are dramatically lower than
9 the sentence that the government seeks here and are not in
10 the same category because the conduct was the same. And
11 that's what matters much more so than the charging decisions
12 that the government makes.

13 With respect to the second officer, Officer EF,
14 the government's correct that even though this wasn't --
15 this is relevant conduct, but he didn't -- Officer EF,
16 unlike Officer AD, didn't fall as a result of Mr. Huttles.
17 He fell -- and he even says as much; that his foot got
18 caught, and he fell to the ground on the steps because
19 somebody was pulling the barrier away from him. He didn't
20 fall further on the steps because he was -- because of
21 Mr. Huttles. He fell because another officer fell, and then
22 he wasn't able to get up.

23 THE COURT: You don't dispute that he made contact
24 with the second officer?

25 MS. PETERSON: No, no.

1 THE COURT: Okay.

2 MS. PETERSON: We stand by what he agreed to in
3 the statement of offense.

4 THE COURT: Yes.

5 MS. PETERSON: There are things that made their
6 way into the government's sentencing memo that were not part
7 of the statement of offense, and they were things that we
8 had actually pointed out earlier.

9 One small example is the statement of offense does
10 not say that he said "I got pepper-sprayed, too," suggesting
11 that he was telling the officers he had pepper spray. He
12 didn't have pepper spray.

13 What he said was, "I got pepper-sprayed, too.
14 They sprayed me." He wasn't saying he had -- he was not
15 trying to suggest that he had pepper spray.

16 So there's little things like that that I don't
17 think are, when you look at the big picture of what happened
18 that day and Mr. Huttles as a person, all that relevant.

19 He doesn't dispute the conduct itself. But it's
20 also important to note that he, at 73 years old, has never
21 had even an arrest, let alone a criminal conviction.

22 THE COURT: Is Ms. Akers correct as to why he
23 didn't wind up in the Capitol?

24 MS. PETERSON: Oh, I think that's pure
25 speculation. I don't know. I mean, you can go in the

1 Capitol through a window. That day, by the time this was
2 all going on, you could have walked in the Capitol through
3 the front door. You could have walked in through the
4 window. He could have walked up the steps. He didn't have
5 to scale the walls. He just didn't choose to go into the
6 building.

7 That doesn't excuse the behavior he did outside,
8 but he did not go in the building. I think it's completely
9 unfair to speculate as to why that was. He got separated
10 from his nephew, and he left the area where he was, where he
11 was causing trouble, to go find his nephew, but he never
12 made any efforts to actually enter into the building itself.

13 THE COURT: Well, how do you explain his
14 statements -- we're taking this house; we're going in there;
15 we're bum-rushing it; we're going to knock down the door;
16 we're going to arrest them -- but then not following through
17 on that?

18 MS. PETERSON: I think it was really more of
19 the commenting on what was going on around him. I don't
20 think when he said -- the bum-rush comment I think is
21 actually kind of --

22 THE COURT: We're taking this house.

23 MS. PETERSON: Yes, the comments he made while he
24 was there certainly suggest that he was part of a crowd that
25 he believes were taking -- were going to take the Capitol.

1 Absolutely. But he didn't go inside.

2 THE COURT: Right. So do you have an explanation
3 for that?

4 MS. PETERSON: Other than he did not -- no. I
5 think there is no real explanation for it other than he did
6 not choose to go in in any way that he could have gone in,
7 but he certainly was saying things that suggest that he
8 thought it was appropriate for the people who were going in
9 to go in.

10 I'm not in any way suggesting that he thought, oh,
11 my goodness, isn't it terrible that these people were going
12 inside the Capitol. That's not what we're saying.

13 THE COURT: Okay.

14 MS. PETERSON: I think that when we look at the
15 purposes of sentencing and what we're trying to achieve, the
16 only purpose that applies here is general deterrence and
17 punishment, and those are two legitimate purposes. But
18 there is nothing in Mr. Huttles's background that would
19 suggest that he needs to be incapacitated to protect the
20 public. There's nothing that suggests that he needs to be
21 specifically deterred at 73 years old. As I indicated, he's
22 never been even arrested for anything.

23 THE COURT: Well, if he says he doesn't regret it,
24 he's not sorry. We've got an election coming up in six
25 months, and he did it when he was 70. Why wouldn't he do it

1 when he's 73?

2 MS. PETERSON: I think that Mr. Huttles will -- and
3 I can tell the Court --

4 THE COURT: He can let me know that.

5 MS. PETERSON: Yes, exactly. He felt differently
6 about it in 2022 when he was talking -- when the press hit
7 him up with -- you know, he was still on his "We were
8 patriots. We were doing what we were supposed to do." His
9 biggest regret in life now is getting involved in this at
10 all.

11 And yes, part of that is because of where it puts
12 him today. That's probably a big part of it. I'm not going
13 to sugarcoat things. But it is certainly -- that is enough
14 for him to say I wish I had never done this, and I would
15 never do this again.

16 It doesn't matter what his political beliefs are.
17 What matters is that he recognized that this was a really
18 foolish and stupid and illegal thing that he did, and he
19 will never do that again.

20 THE COURT: Okay.

21 MS. PETERSON: And I think that is self-evident by
22 his behavior since then. He's not made any statements
23 beyond that interview since this case is going forward, and
24 he certainly -- as soon as he saw the video and we were able
25 to show him what he did, he accepted responsibility and pled

1 guilty to a very serious offense knowing how much time he
2 was facing.

3 THE COURT: Okay.

4 MS. PETERSON: We could have gone to trial. He
5 could have taken his chances at saying you can't tell that
6 that's me holding the flagpole because at several points
7 there are other people holding on to the same flagpole and
8 pushing with it, too; people behind him just like in the
9 one picture the government showed where they said he has
10 another -- a different flag. Well, he's got his hand on
11 somebody else's flag.

12 This was all chaos. And his foolishness in his
13 actions that day have led him to where he is, but I think we
14 have to look, again, at the bigger picture.

15 I think that we are not at all trying to diminish
16 the officers' injuries, and I have nothing more to say on
17 that. We aren't. He's not challenging that in any way
18 other than to say other people were causing the same -- were
19 doing the same kinds of things, and some of them even trying
20 harder to cause injury as opposed to just being -- you know,
21 doing the kinds of things that Mr. Huttles did without an
22 intent to harm someone that unfortunately harmed someone.
23 And it's that huge increase for the official victim and the
24 serious bodily injury that I think put him into a category
25 that overstates his culpability with respect to everyone

1 else that day.

2 Again, the sentencing guidelines are what they
3 are. We're not disputing that that's how they're
4 calculated.

5 And I would say the same or a similar thing about
6 the zero-point offender. At the time of the PSR, we
7 objected to him not getting that because there was the
8 *Pulsifer* case --

9 THE COURT REPORTER: Can you repeat that?

10 MS. PETERSON: I'm sorry, Pulsifer. I believe I
11 spelled it wrong in my sentencing memo. It's P-U-L, either
12 S or C, I-F-E-R.

13 -- that said you had to -- had the opinion
14 suggesting you had to meet all of those categories to be
15 excluded. And obviously he didn't meet all of them so we're
16 preserving that issue.

17 We recognize now that he's not entitled to the
18 zero-point offender, but the Court is still able to look at
19 that as a -- that as the rationale behind it to say that
20 we're supposed to be, in part, looking at whether someone is
21 likely to recidivate.

22 That is a big piece of why we punish people, why
23 we incapacitate people, is are they going to do this again?
24 And there is, I think, nothing in Mr. Huttles's conduct after
25 2022 that would suggest that that's the case, and there's

1 certainly nothing in his conduct prior to January of 2021
2 that would suggest that that is the case.

3 THE COURT: Okay.

4 MS. PETERSON: So I think for that reason the
5 Court would be a -- it would be appropriate for the Court to
6 consider that as another variance factor.

7 As the Court knows from our sentencing memo,
8 Mr. Huttles is a family man. He's a grandfather. He's a
9 great-grandfather. His family -- two of his family members
10 are here today.

11 But his other family members in Indiana remain
12 behind him. He's got a church community that he's been a
13 big part of for a very long time. He's been a hard worker.
14 He's still working at the age of 73 years old. Even with
15 his medical condition, he's still working.

16 The events of that day and his conduct, while
17 incredibly serious, don't reflect who he is as a person. In
18 73 years, we're really talking about a very serious day and
19 a day that he regrets, but it's one day in that life, and we
20 would ask the Court to consider all of these factors in
21 determining an appropriate sentence.

22 If I could have just one moment to make -- oh, the
23 government -- the Court asked the government have all of
24 these cases -- have the people gotten the official act
25 enhancement, and yes --

1 THE COURT: Official victim.

2 MS. PETERSON: Official victim enhancement. Yes,
3 all of these cases apply it, but judges have varied from the
4 sentences. And uniformly, if you look at the government's
5 sentencing chart, the government asked for something -- I
6 shouldn't say "uniformly." There's a few where the judges
7 go both, a few where they go right where the government
8 asks, and a lot where they go significantly below. And I
9 think a fair number of those are aware the enhancements have
10 applied because they apply under the guidelines, but the
11 judges have felt that that resulting sentence overstates.

12 THE COURT: Okay.

13 MS. PETERSON: And in large measure, I think, some
14 of them have been because of that particular enhancement.

15 Unless the Court has any questions, I don't think
16 I have anything else I have to say.

17 THE COURT: Thank you.

18 Mr. Huttles, and -- there was a victim impact
19 statement, Ms. Akers. Do you want to put that in the
20 record, or do you want to just pass it up?

21 MS. AKERS: I printed one, if Your Honor would
22 read it before --

23 THE COURT: That would be great.

24 I'd like to hear from Mr. Huttles, and then I'm
25 going to take a brief recess and go over my notes and

1 process some of the stuff that I've heard today, and I'll be
2 happy to read that back in chambers as well.

3 MS. AKERS: Understood. Thank you.

4 THE COURT: Okay.

5 MS. PETERSON: So the Court wants to hear from
6 Mr. Huttie.

7 THE COURT: Mr. Huttie.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Good afternoon.

10 THE DEFENDANT: Good afternoon.

11 THE COURT: Okay. Anything you'd like to tell me
12 before I consider your sentence?

13 THE DEFENDANT: Yes, sir. I didn't go there with
14 any ill intent. Me and a couple of other guys went for the
15 rally, and then we were going to go sightseeing. And then
16 when the president invited us down to the Capitol, okay,
17 let's go.

18 We didn't understand any violence was going to
19 break out. It just happened. It was a whirlwind or tornado
20 of emotion, and I believe it's clear both sides got carried
21 away that day.

22 In retrospect, had I known any of that was going
23 to happen --

24 THE COURT: Just so I'm clear, what other side got
25 carried away?

1 THE DEFENDANT: Well, obviously there were five or
2 six Trump people that were killed that day, some gassed, one
3 shot, one beat. As far as I'm reading.

4 And so obviously it got very aggressive on both
5 sides, and I regret that. Had I known any of that was going
6 to go on, I would never have gone to start with.

7 As far as the interview with the -- with Channel
8 2, I had not yet looked at discovery, and because I was hurt
9 that day, I had no memory of a lot of it, especially hurting
10 anyone. I have watched discovery many, many times to
11 finally understand that I guess I did. I was unaware that I
12 did.

13 And I do apologize to that officer. It was not my
14 intent. And I would do so in person, if necessary.

15 THE COURT: Putting aside your awareness of your
16 own conduct, all right, when you gave that interview or
17 since, looking back on January 6th, almost three years ago
18 now, what impressions do you have? Do you still not regret
19 being there?

20 THE DEFENDANT: Am I still what, sir?

21 THE COURT: Do you still not regret being there?

22 THE DEFENDANT: I do regret being there,
23 absolutely.

24 THE COURT: What's changed since that interview?

25 THE DEFENDANT: Well --

1 THE COURT: You --

2 THE DEFENDANT: I understood, having looked at
3 discovery, that apparently I hurt this officer. I didn't
4 know I had. I felt in my heart that it was right to protest
5 what we construed to be a stolen election. They were
6 convinced. I was convinced.

7 And people ask me, "Well, Dale, why did you do
8 that?" I said, "I thought it was the right thing to do."

9 I'm not making excuses, Your Honor. I do regret
10 my actions of that day. If I had to do it over again,
11 certainly I would not have gone.

12 THE COURT: All right. Thank you, sir.

13 I'm going to take a ten-minute recess, and I'll
14 come back and pronounce the sentence.

15 Ms. Akers, you can hand up the victim impact
16 statement.

17 (Recess taken)

18 THE COURT: Okay. Mr. Huttles, Ms. Peterson,
19 please approach.

20 All right. Mr. Huttles, we put a lot of time in
21 these sentencings. I hope that you have come to appreciate
22 that with all the submissions and the time that we've spent
23 here today. Although the collective actions of everyone who
24 participated in January 6th had a profound and dangerous
25 effect on our city and on our country, we don't just lump

1 everybody together. We consider these cases individually,
2 and I've tried my best to do that here.

3 I'm not the kind of judge that lectures
4 defendants, particularly 73-year-old men, but I do try to
5 explain to you, and every defendant, where I've come out and
6 why.

7 So we obviously start with what you did. I think
8 it's fair to say that you were not a leader or an organizer,
9 but you were not an idle tourist either. You clearly saw
10 and heard exactly what was going on in front of you as you
11 approached the Capitol, yet you chose to actively
12 participate in one of the early breaches of a police line,
13 and you continued to square off against the police after
14 that first breach at the bike racks.

15 And you confronted not just one officer, but
16 several officers. And by doing that -- and we'll get to the
17 exact conduct that you engaged in -- in general you
18 interfered with their ability to suppress the siege that
19 day. And you put their lives in danger. You put a lot of
20 other lives in danger by being right there at the tip of the
21 spear on the front lines. Okay?

22 And so on the scale of seriousness, it is
23 somewhere in the middle, but it is still very serious.
24 Okay?

25 And we've seen a lot of these cases, and I'm not

1 singling you out. We just -- we now know what to look for
2 in these cases after three years.

3 Regarding the assault. There's a lot riding on
4 how one views it. Because you admitted to making contact
5 with an officer with your flagpole, and the flagpole is a
6 dangerous weapon --

7 And I think this one certainly is, being wooden
8 and the length that it is. I've seen lots of different
9 flagpoles. Some are dangerous; some aren't. This one
10 certainly was. And the officer suffered a serious bodily
11 injury as defined by the guidelines.

12 -- your offense level, as I calculate it, is like
13 15 levels higher than it otherwise would have been, which
14 results in a difference between, you know, a 12- to 18-month
15 sentence on the one hand and that 78 to 97 that has been
16 calculated here on the other.

17 So I have to ask myself, as Ms. Peterson has
18 posed: Does your conduct merit that large of an increase?
19 And at the end of the day I agree with Ms. Peterson that it
20 does not merit that large of an increase. Not to minimize
21 your actions in the least, but the full counting of all of
22 those enhancements, especially taken together, at least
23 somewhat overstates the seriousness of your offense compared
24 to others who have been charged with similar crimes.

25 You did hit an officer with enough force to

1 make him fall backwards on a set of stairs, but you
2 didn't wallop him over the head, or you didn't shoot him,
3 or you didn't stab him. Okay? You didn't hit him with a
4 fire extinguisher, some of those cases that you heard
5 Ms. Peterson recite.

6 A slipped disk can certainly be debilitating, and
7 as someone with back trouble I can attest to that, but it is
8 less serious than many of the other injuries that the police
9 unfortunately suffered that day at the hands of the rioters.

10 And in reaching the conclusion as to where your
11 conduct falls, I'm not going to go over all of the
12 comparators, but the basic purpose of that exercise is to
13 make sure that folks who come into court with basically
14 similar profiles are treated the same. All right. And I
15 think all of the judges of this Court try to do that, and
16 I've done that here. And I'm confident that the sentence
17 that I impose is consistent and within the range of
18 defendants who have been charged with the 111(b) count
19 particularly.

20 We also consider your background. We've talked
21 about it. You don't have any criminal history. That, of
22 course, is reflected in the guidelines range. You have
23 lived an otherwise law-abiding life as far as I can tell.
24 You seem to be a man of faith.

25 But that is what is so frustrating about your case

1 and many others, conduct that does seem aberrational in an
2 otherwise worthy life. And I've had to struggle with that
3 in many cases. And one of the things that I've taken away
4 from it is just the strong pull of the influences that led
5 you and others to basically sacrifice your lives and your
6 livelihood and your liberty by going into the Capitol or
7 storming the grounds that day, and I still don't understand
8 it in many cases.

9 And folks react differently. There are a lot of
10 people who come in and they tell me, you know: Look, that's
11 the worst thing I've ever done, and the minute that I
12 stepped foot in that Capitol I knew that I shouldn't be
13 there, and I left. And, you know, I cooperated with law
14 enforcement, and I want to put this behind me, and I never
15 want to have to do anything like that again, and I blame,
16 you know, the folks who led me there.

17 But that's not the sense I get from you. I think
18 what you told that reporter is really what you feel.

19 When you gave that interview, you knew the
20 effects of January 6th. You knew what happened. You knew
21 how many people died. All right. You knew what it must
22 have felt like to be a congressional staffer cowering under
23 a table not knowing whether they would get home. You knew
24 what it would have been like or felt like to be a law
25 enforcement officer that day. Right? But yet you still

1 said you're proud of it. Okay? Which tells me that
2 regardless of what you remember about what you did -- and I
3 think you do remember what you did, okay -- you have not
4 come to grips with the seriousness and the gravity of what
5 happened.

6 And I've got to tell you, this is not a case of,
7 you know, good people on both sides. There is one group of
8 people that was responsible for what happened that day; and
9 sure, law enforcement reacted, all right, but that reaction
10 was incredibly restrained. And I remind a lot of defendants
11 that they are fortunate -- and we all are fortunate -- that
12 more people weren't killed that day. All right? It could
13 have turned out very, very differently but for the restraint
14 of the Capitol Police and the Metropolitan Police
15 Department, and maybe the restraint was explained by the
16 fact that they were so outnumbered.

17 And I also remind folks that, you know, beyond the
18 folks who died that day, there were four Capitol Police
19 officers who took their lives in the immediate aftermath of
20 the attack. All right? And I just read the victim impact
21 statement of AP who, you know, reports some of the same
22 psychological trauma that many of those officers suffered
23 and still suffer today. And that's on you, and that's
24 something that you're going to have to hopefully deal with
25 going forward.

1 Clearly your medical conditions are a mitigating
2 factor. The diagnosis is not disputed. I think it's fair
3 to say that you have coronary artery disease that has not
4 developed into congestive heart failure. Yet I have nothing
5 in front of me that says that that condition is not
6 controllable with monitoring and medication, and the fact
7 that you have continued to work tells me that it is not
8 debilitating or end stage in any sense of the word.

9 And as Ms. Akers mentioned, we rely on the Bureau
10 of Prisons to treat defendants with a range of medical
11 conditions, including heart conditions, all the time,
12 and I'm confident that it will be able to do so in your
13 case. And if that proves not to be the case or if your
14 condition worsens, there are avenues to seek relief from the
15 Court.

16 Your age is also a mitigating factor. You're one
17 of the older defendants that I've seen, and I certainly
18 don't want you to perish in prison. But you were 70
19 then, and you willingly chose to commit these crimes despite
20 the good sense of knowing better than to do so. And as
21 Ms. Peterson can tell you from just run-of-the-mill cases in
22 this district, being of an advanced age is not a get-out-of-
23 jail-free card.

24 So balancing these factors, I think a sentence of
25 incarceration is necessary to reflect the seriousness and

1 consequences of your actions and to deter both you and
2 especially others from ever considering doing something like
3 this again.

4 So with that, pursuant to the Sentencing Reform
5 Act of 1984 and in consideration of the provisions of 18 USC
6 3553, as well as the advisory sentencing guidelines, it is
7 the judgment of the Court that you, Dale Huttles, are hereby
8 committed to the custody of the Bureau of Prisons for a term
9 of 30 months on Count 2. You are further sentenced to serve
10 a 36-month term of supervised release as to Count 2. In
11 addition, you are ordered to pay a special assessment of
12 \$100 in accordance with 18 USC 3013.

13 While on supervision, you shall abide by the
14 following mandatory conditions as well as all discretionary
15 conditions recommended by the probation office in Part D,
16 "Sentencing Options of the Presentence Report." These
17 conditions are imposed to establish the basic expectations
18 for your conduct while on supervision. The mandatory
19 conditions include:

20 You must not commit another federal, state, or
21 local crime.

22 You must not unlawfully possess a controlled
23 substance.

24 The mandatory drug testing condition is
25 suspended.

1 You must cooperate in the collection of DNA as
2 directed by your probation officer, and you must make
3 restitution in accordance with 18 USC 3663 and 3663A or any
4 other statute authorizing a sentence of restitution.

5 You shall also comply with the following special
6 conditions:

7 You must pay the balance of any restitution owed
8 at a rate of no less than \$200 each month, which shall begin
9 upon your release.

10 You are ordered to make restitution to the
11 Architect of the Capitol in the amount of \$2,000 and
12 additional restitution to Officer AD in the amount of \$1,639
13 for a total restitution amount of \$3,639. The addresses for
14 the restitution payments will be in the J&C.

15 The special assessment is immediately payable to
16 the Clerk of the Court for the United States District Court.
17 Within 30 days of any change of address you shall notify the
18 Clerk of the Court of the change until such time as the
19 financial obligations are paid in full.

20 The Court finds that you do not have the ability
21 to pay a fine and therefore waives imposition of a fine in
22 this case.

23 The probation office shall release the presentence
24 investigation report to all appropriate agencies, including
25 the probation office in the approved district of residence,

1 in order to execute the sentence of the Court. Treatment
2 agencies shall return the presentence report to the
3 probation office upon your completion or termination from
4 treatment.

5 You can appeal your conviction to the United
6 States Court of Appeals for the D.C. Circuit if you believe
7 that your guilty plea was somehow unlawful or involuntary or
8 if there is some other fundamental defect in the proceeding
9 that was not waived in your plea agreement.

10 Under some circumstances, a defendant also has the
11 right to appeal the sentence to the D.C. Circuit. A
12 defendant may waive that right as part of a plea agreement,
13 however, and you have entered into a plea agreement which
14 waives some of your rights to appeal the sentence itself.
15 These waivers are generally enforceable, but if you believe
16 the waiver itself is not valid, you can present that theory
17 to the appellate court.

18 Pursuant to 28 USC 2255, you also have the right
19 to challenge the conviction entered or sentence imposed to
20 the extent permitted by that statute and your plea
21 agreement. Any notice of appeal must be filed within 14
22 days of the entry of judgment or within 14 days of the
23 filing of a notice of appeal by the government. If you're
24 unable to afford the cost of an appeal, you may request
25 permission from the Court to file an appeal without cost to

1 you. On appeal you may also apply for court-appointed
2 counsel.

3 Any other objections, Counsel?

4 MS. PETERSON: No, Your Honor.

5 THE COURT: Ms. Akers?

6 MS. AKERS: No, Your Honor.

7 THE COURT: All right. Do you want to make a
8 placement recommendation?

9 MS. PETERSON: Yes, Your Honor. I would ask that
10 the Court include a statement in the judgment and commitment
11 that the Court makes a specific finding -- and I can provide
12 this in writing -- makes a specific finding that there's no
13 evidence that Mr. Huttles is a member of a disruptive group,
14 and that the Court recommends placement at a low security
15 facility in light of the management variables of his age,
16 medical condition, and lack of criminal history; the Court
17 recommends waiver of the public safety factor as it relates
18 to the offense of conviction in light of these same factors;
19 and that the Court recommends Mr. Huttles be designated to
20 FCI Englewood in Colorado where his family will be able to
21 visit him.

22 THE COURT: Okay. Submit that language. I
23 usually do not recommend a placement level to BOP. They are
24 fully capable of doing that, as you know.

25 MS. PETERSON: We've been advised that when --

1 because Mr. Huttles will have a public safety factor that
2 reflects -- the only public safety factor risk he has is the
3 offense of conviction because that offense of conviction can
4 range, obviously, in the underlying conduct from someone who
5 is very violent to someone who committed a violent act on
6 this particular day, that it's appropriate for the Court to
7 make a specific recommendation.

8 THE COURT: Submit the language, and we'll take a
9 look at it.

10 MS. PETERSON: I will do so. Thank you.

11 THE COURT: Mr. Huttles, you're in rehab until
12 October?

13 THE DEFENDANT: October 26th, yes, sir.

14 THE COURT: Okay. Would you like to make a
15 motion, Ms. Peterson, to defer his report date until at
16 least October 26th?

17 MS. PETERSON: I would, Your Honor, in light of
18 the rehabilitation and the fact that the BOP will not be
19 able to -- they'll be able to treat him, but they do not
20 have any rehabilitation facilities.

21 THE COURT: The Court will defer the report date
22 until then.

23 MS. PETERSON: Thank you, Your Honor.

24 THE DEFENDANT: Thank you.

25 THE COURT: Do we need to dismiss other charges?

1 MS. AKERS: Yes, Your Honor. The government moves
2 to dismiss the remaining charges in the indictment.

3 THE COURT: So moved. And no objection to self-
4 reporting, I take it?

5 MS. AKERS: The government defers to the Court.

6 THE COURT: Okay.

7 All right. Mr. Huttles, I hate meeting people
8 under these circumstances. You know, from everything that
9 I've read, you know, as I said, you seem to be a responsible
10 citizen. I tell folks that they should not be judged by the
11 worst mistake that they've ever made. That certainly
12 applies to you.

13 I also stress that, you know, this is not about
14 bringing anybody to heel or, you know, punishing folks for
15 exercising their First Amendment rights. This is not about
16 politics. All right? It's about what you did. It's about
17 how you exercised those rights. All right?

18 And I know you may not -- I know you may be
19 skeptical about that, but I want to assure you that that's
20 the way that this Court, and I think most Courts in this
21 jurisdiction, have handled these cases.

22 All right. So with that, good luck. And you will
23 be supervised -- you'll reside in Indiana when you're
24 released? You'll be supervised by the folks out in Indiana,
25 but the Court will retain jurisdiction over the case.

1 MS. PETERSON: Thank you, Your Honor.

2 THE DEFENDANT: Thank you, Your Honor.

3 THE COURT: We're adjourned.

4 (Whereupon the hearing was

5 concluded at 1:17 p.m.)

6

7 **CERTIFICATE OF OFFICIAL COURT REPORTER**

8

9 I, LISA A. MOREIRA, RDR, CRR, do hereby
10 certify that the above and foregoing constitutes a true and
11 accurate transcript of my stenographic notes and is a full,
12 true and complete transcript of the proceedings to the best
13 of my ability.

14 Dated this 8th day of September, 2024.

15

16

17 /s/Lisa A. Moreira, RDR, CRR
18 Official Court Reporter
19 United States Courthouse
20 Room 6718
21 333 Constitution Avenue, NW
22 Washington, DC 20001
23
24
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