

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 United States of America,) Criminal Action
4) No. 21-cr-71
5 Plaintiff,)
6 vs.) PLEA AND SENTENCE
7) Washington, DC
8 Karl Dresch,) August 4, 2021
9) Time: 9:30 a.m.
10 Defendant.)

11 TRANSCRIPT OF PLEA AND SENTENCE
12 HELD BEFORE
13 THE HONORABLE JUDGE AMY BERMAN JACKSON
14 UNITED STATES DISTRICT JUDGE

15 A P P E A R A N C E S

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1 MR. SMITH: Good morning, Your Honor.

2 THE COURTROOM DEPUTY: Your Honor, this morning we
3 have criminal case No. 21-71, the *United States of America v.*
4 *Karl Dresch*. The defendant is present and in the courtroom.

5 Will counsel for the government please proceed to her
6 microphone and identify herself for the record.

7 MS. BLACKWELL: May it please the Court, Assistant
8 United States Attorney Jennifer Blackwell appearing on behalf
9 of the United States.

10 THE COURT: Good morning.

11 THE COURTROOM DEPUTY: Counsel for the defendant.

12 MR. SMITH: Good morning, Your Honor. Jerry Smith,
13 attorney for Karl Dresch, who is present.

14 THE COURT: You'll have to be seated. If you've been
15 vaccinated, and when it comes time to speak, I think it
16 actually helps the court reporter if you remove your mask when
17 you speak into the microphone. And given the circumstances and
18 my desire to not require you to share the lectern and share the
19 microphone, you can address the Court from where you're seated
20 and use the microphones there for that purpose. And you can
21 decide, Mr. Smith, though, if you would prefer to use this
22 lectern, or you would prefer Mr. Dresch to use this lectern,
23 he's welcome to do that, too.

24 MR. SMITH: I would be comfortable, Your Honor. I
25 know typically when pleas are done the defendant and the

1 attorney approach the lectern and stand there together. I'm
2 fully vaccinated and I'm comfortable doing that with
3 Mr. Dresch, if the Court is okay with that.

4 THE COURT: All right. We are. And I think
5 everybody -- there's plenty of protection between you and the
6 courtroom personnel, and so I'm fine with that. It's a very
7 personal, important event and I'm glad that you've decided to
8 do it in person, instead of by video, given the solemnity of
9 the occasion. And I'm fine with the two of you using the
10 lectern when we get to that point.

11 I do want to note that we invite members of the press
12 and the public to listen in to these proceedings on the public
13 line, and you have an absolute right to attend and report on
14 what transpires during court proceedings, but the recording or
15 dissemination of a recording of these proceedings is a
16 violation of our court rules.

17 All right. Mr. Smith, I understand the defendant
18 wishes to enter a plea of guilty this morning, is that correct?

19 MR. SMITH: Yes, Your Honor.

20 THE COURT: All right. Before we proceed any
21 further, our deputy clerk needs to administer the oath to the
22 defendant. And why don't you and Mr. Dresch come up to the
23 lectern at this time.

24 (Whereupon Karl Dresch was duly sworn.)

25 THE COURT: All right. Mr. Dresch, the purpose of

1 this hearing this morning is for you to make a decision,
2 whether you want to go to trial on the government's charges
3 against you or whether you want to enter a plea of guilty. In
4 order to make such an important decision, it's essential that
5 you understand everything that's going on and that I'm going to
6 be explaining to you. If you don't understand something that I
7 ask, please let me know and I will try to restate it and
8 explain it in a more clear fashion.

9 Also, if at any point you want to consult with your
10 lawyer before you answer one of my questions, you have the
11 right to do that. Do you understand that much?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Okay. And do you also understand that
14 you're now under oath and that if you don't answer my questions
15 truthfully, that that itself could be the offense of perjury or
16 making a false statement?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right. Now, Mr. Smith, as I
19 understand it, the defendant's going to plead guilty to a
20 misdemeanor: Parading, demonstrating or picketing in a Capitol
21 building, in violation of 40 U.S. Code § 5104(e)(2)(G). The
22 remaining counts will be dismissed and he will be sentenced
23 today; is that correct?

24 MR. SMITH: Yes, Your Honor.

25 THE COURT: And also as a part of the plea he's

1 agreeing to pay restitution and to participate in a debriefing
2 interview conducted by law enforcement. Is that also correct?

3 MR. SMITH: That is correct, Your Honor.

4 THE COURT: And he is asking to be sentenced today,
5 which, given the statute, would have to be limited to a
6 sentence of time served. Is that basically the outline of the
7 plea, as I understand it?

8 MR. SMITH: It is, Your Honor.

9 THE COURT: Okay. And, Mr. Dresch, do you generally
10 understand that those are the terms of the agreement, even
11 though I'm going to go over all of them with you later?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Okay. Now, in order to decide whether I
14 should accept your guilty plea this morning it's necessary for
15 me to make sure that you understand the consequences of a plea
16 of guilty and the terms of your plea. So the law requires me
17 to ask a number of questions of you and some of them are
18 personal, but they're all designed so that I can be sure that
19 you know what you're doing today.

20 To start, can you tell me how old you are?

21 THE DEFENDANT: Forty-one years old, Your Honor.

22 THE COURT: All right. And I know the answer to this
23 question, but can you read and write?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: How far did you go in school?

1 THE DEFENDANT: Finished high school.

2 THE COURT: Okay. And where were you born?

3 THE DEFENDANT: New Haven, Connecticut.

4 THE COURT: Have you taken any drugs or alcohol in
5 the last 48 hours or any medicine that could affect your
6 ability to understand what you're doing by pleading guilty?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Have you ever received any treatment for
9 any type of mental illness or emotional disturbance?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Have you received a copy of the
12 indictment pending against you, the charges in this case, and
13 have you fully discussed the charges in the case with your
14 lawyer?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Are you completely satisfied with the
17 services of your lawyer in this case?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Have you had enough time to talk with him
20 and discuss the case and the plea offer and whether or not you
21 should accept it?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Ms. Blackwell, are you aware of the
24 existence of any exculpatory information in this case that has
25 not been produced to the defendant?

1 MS. BLACKWELL: No, Your Honor.

2 THE COURT: All right. And based on the defendant's
3 sentencing memo and what I learned during the bond proceedings,
4 I appreciate the fact that the assistant United States attorney
5 in this case has been forthright from the start about what this
6 defendant did, but significantly, what he didn't do. And I
7 expect that of every prosecutor in this courtroom, and I
8 appreciate that on your part, Ms. Blackwell.

9 MS. BLACKWELL: Thank you, Your Honor.

10 THE COURT: All right. You can be seated.

11 Now, Mr. Dresch, you have certain rights in a
12 criminal case and I have to go over all of them with you.
13 First of all, most important, you have a right to plead not
14 guilty and have a jury trial in this case, and that would mean
15 that 12 citizens of the District of Columbia would sit over
16 there in that jury box and they would be the ones who determine
17 your guilt or innocence based on evidence presented in this
18 courtroom. Do you understand that you have a right to a jury
19 trial?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And do you understand that if you had a
22 trial, you would have the right to be represented by your
23 lawyer at that trial?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And do you also understand that at a

1 trial you would have the right, through your lawyer, to
2 confront and cross-examine the witnesses against you?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And do you understand that you would have
5 the right to present your own witnesses, and the right to
6 subpoena them and require them to be here to testify in your
7 defense?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And do you also understand that if there
10 were a trial, you would have the right to testify and present
11 evidence on your behalf, if you wanted to, but you wouldn't
12 have to testify or present any evidence if you didn't want to
13 because you can't be forced to incriminate yourself or present
14 evidence in your own trial. Do you understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: All right. And do I also understand that
17 unless and until I accept your guilty plea, right now you are
18 presumed by the law to be innocent and it remains the
19 government's burden to prove your guilt beyond a reasonable
20 doubt and until it does, you can't be convicted of a crime?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: So, now do you understand that if you
23 plead guilty in this case and I accept your guilty plea, you're
24 giving up all the rights I've just explained because there will
25 not be a trial?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Now, I have in front of me a document
3 where you put that in writing, it says, "Waiver of Trial by
4 Jury," are you the one who signed it over the word "Defendant"
5 on the first page?

6 MR. SMITH: Court's indulgence.

7 THE COURT: Yes.

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Okay. I'm going to sign it, too. I have
10 no idea what the date is. What date is it?

11 THE COURTROOM DEPUTY: August 4, Your Honor.

12 THE COURT: Fourth. All right. Now, do you also
13 understand that if you went to trial and you were convicted,
14 you would have a right to appeal your conviction to the Court
15 of Appeals and to have a lawyer help you prepare that appeal?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Okay. So do you understand that by
18 pleading guilty you're giving up your right to appeal, too,
19 including your right to appeal your sentence, unless I sentence
20 you to longer than the statute permits me to sentence you to,
21 or if your lawyer was ineffective in connection with this case.
22 But otherwise there's not going to be an appeal. Do you
23 understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And the law has several provisions in the

1 Rules of Civil Procedure, in 22 U.S. Code § 2255, where after a
2 conviction people can come back and attack those convictions in
3 court, saying there's some legal flaw or factual flaw to them.
4 Do you understand that you're giving up your right to do that,
5 too, unless there's some newly discovered evidence or if your
6 lawyer was ineffective?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And do you understand that even if you're
9 permitted under those circumstances to bring a challenge,
10 you're giving up your right to appeal if that challenge doesn't
11 go well at the trial level?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Okay. In addition the Federal Rules of
14 Evidence, the Federal Rules of Criminal Procedure have rules
15 that protect you and say if your plea gets withdrawn, the
16 government can't -- and there's a trial, the government can't
17 use as evidence against you the fact that you stood here and
18 admitted your guilt to me on the date you pled guilty. But as
19 part of your plea, do you understand that you're giving up that
20 right, and if for some reason this plea gets withdrawn and you
21 end up at a trial, we can use in evidence against you the fact
22 that you admitted these facts today?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: So, and having gone over all of your
25 rights, do you want to plead guilty in this case and admit that

1 you committed a crime on January 6th and give up your rights to
2 a trial and your right to appeal and all the rights that I've
3 just explained you would have if your case went to trial?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Now, Mr. Dresch, I'm going to ask the
6 prosecutor to tell you and tell me what happened in this case.
7 And I want you to listen carefully because when she's finished,
8 I'm going to ask you if everything she told me is true and
9 accurate. And I understand that we have a written statement of
10 offense in this case, but it is my practice -- not just in this
11 case, but in every case -- to have the prosecutor put the facts
12 on the record and have you hear them out loud and then tell me
13 if you agree with them or not.

14 So, Ms. Blackwell, can you please tell the Court and
15 the defendant what the government's evidence would show if this
16 case went to trial?

17 MS. BLACKWELL: Your Honor, if this case went to
18 trial, the government would be prepared to present evidence
19 about the attack of the U.S. Capitol on January 6 of 2021. We
20 would be prepared to show that on January 6 of 2021 a joint
21 section of the United States Congress convened at the U.S.
22 Capitol, which is located at First Street Southeast in
23 Washington, D.C., and during that session there were elected
24 representatives of the House and Senate that were meeting in
25 the chambers at the U.S. Capitol to certify the vote count of

1 the Electoral College on the 2020 presidential election which
2 had taken place on November 3rd of 2020. That joint session
3 began at approximately 1 p.m.

4 Shortly thereafter, at approximately 1:30 p.m., the
5 House and Senate adjourned to separate chambers to resolve a
6 particular objection. Vice President Mike Pence was present
7 and presiding, first in the joint session and then in the
8 Senate chamber.

9 As the proceedings continued and with Vice President
10 Pence present and presiding over the Senate, a large crowd
11 started to gather outside the U.S. Capitol. There were
12 temporary and permanent barricades that were in place around
13 the exterior of the U.S. Capitol building, and U.S. Capitol
14 police were present and attempting to keep the crowd away from
15 the Capitol building. But at approximately 2 p.m. certain
16 individuals in the crowd forced their way through, up and over
17 the barricades and officers of the U.S. Capitol and the crowd
18 advanced to the exterior facade of the building. At that time
19 the certification proceedings were still underway and the
20 exterior doors and windows of the U.S. Capitol were locked or
21 were otherwise secured.

22 Members of the Capitol police attempted to maintain
23 order and keep the crowd from entering the Capitol. However,
24 shortly after 2 p.m. individuals in the crowd forced entry into
25 the U.S. Capitol, including by breaking windows and by

1 assaulting members of law enforcement as others in the crowd
2 encouraged and assisted those acts. This riot resulted in
3 substantial damage to the U.S. Capitol. The government will be
4 prepared to show that it requires the expenditure of more than
5 \$1.4 million for repairs.

6 In this case, with respect to Mr. Dresch's conduct,
7 the government would be prepared to show that on or about
8 January 3rd of 2021 Mr. Dresch posted that he was preparing to
9 go to Washington, D.C., and that between January 3rd and
10 January 6 of 2021, other posts on his social media account
11 reflected preparations to travel, and then travel to
12 Washington, D.C.

13 On January 6, Mr. Dresch entered the Capitol and he
14 posted pictures of himself and the crowd within the U.S.
15 Capitol, including within the crypt and in the Visitors'
16 Center. He posted a statement on Facebook stating, "We, the
17 people, took back our house and those traitors know who's
18 really in charge." At about 3:13 p.m., again on January 6 of
19 2021, Mr. Dresch posted a photograph taken outside the U.S.
20 Capitol with the comment, "Whose house? Our house."
21 Mr. Dresch knew at the time that he entered the U.S. Capitol
22 building that he did not have permission to enter the building
23 and that Mr. Dresch paraded, demonstrated, or picketed on that
24 date.

25 THE COURT: All right. Mr. Dresch, is what the

1 prosecutor just told my a true and had accurate description of
2 what you did in this case?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And did you in fact enter the Capitol
5 building without permission on January 6th, when it was closed
6 to the public while Congress certified the results of the
7 Presidential election?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Now, Ms. Blackwell was reading from an
10 agreed statement of facts, and I have before me a document
11 called Statement of Offense. On the last page it says
12 "Defendant's Acknowledgment," where it says, "I, Karl Dresch,
13 have read this statement of offense and have discussed it with
14 my attorney." Are you the one who signed it over the space for
15 your signature, agreeing that it is true and that you're
16 signing it voluntarily?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right. And are you the one who wrote
19 the initials K.D. and the date on every page, to let me know
20 that you'd read and agreed with every page of this document?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. I have one more document in
23 front of me, and it's a letter from Ms. Blackwell to your
24 lawyer that sets out the terms of the plea agreement. Have you
25 had an opportunity to review this document and go over it with

1 your lawyer?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And are you the one who signed it on the
4 last page, where it says, "Defendant's acceptance," indicating
5 that you read every page of the agreement, discussed it with
6 your attorney and you understand it and you agree to it?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And are you the one also who initialed
9 every page K.D., with the date, to let me know that you didn't
10 just sign the last page, you read every page of the plea
11 agreement?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right. So I'm going to go over the
14 most important terms of it with you, I'm not going to read the
15 whole thing line by line.

16 As I understand it, you're agreeing to plead guilty
17 of the offense of parading, demonstrating or picketing in a
18 Capitol building, in violation of 40 U.S. Code § 5104(c)(2)(G).
19 Do you understand that if I accept your guilty plea in this
20 case, you could receive a maximum sentence of up to six months
21 in prison?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And do you understand that I cannot
24 sentence you to a term of supervised release afterwards in
25 connection with that offense? The entire sentence would be the

1 sentence of imprisonment.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And that is because the offense is a
4 class B misdemeanor, as defined by 18 U.S. Code § 3559(a)(7)
5 and under 18 U.S. Code § 19 a Class B misdemeanor, is what's
6 called a petty offense, and under 18 U.S. Code § 3583(b)(3)
7 supervised release is not available for a petty offense.

8 But, do you understand that I could sentence you to
9 pay a fine of up to \$5,000 for this offense?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: And do you understand that you have to
12 pay a special assessment to the court of \$10 for this
13 misdemeanor offense?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And do you also understand that as part
16 of your plea agreement, there is an agreement that you're going
17 to be sentenced to pay restitution, \$500, towards the total
18 damages to the U.S. Capitol that day, given your participation
19 in the events on that day?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And do you understand that the plea
22 agreement includes an agreement by you to be interviewed by law
23 enforcement concerning the events surrounding January 6th and
24 your role in it?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And do you understand that as a condition
2 of this plea agreement you're going to be doing that later
3 today?

4 MR. SMITH: Yes, Your Honor. We'll do it either
5 later today or tomorrow, depending on when he gets released.
6 If he gets released late tonight, I'm going to put him in a
7 hotel and then we'll go see the U.S. attorney in the morning.
8 Hopefully we'll get released in time to do it today, otherwise
9 we'll do it tomorrow.

10 THE COURT: We're going to do everything we can do to
11 make sure the marshals get the release order as promptly as
12 possible. But do you understand that you're going to be doing
13 that before you return home to Michigan?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And do you understand that as part of
16 that interview you've agreed to make your phone and social
17 media accounts available to law enforcement?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: All right. Now, this defendant's initial
20 appearance in this case was before the District Court in
21 Michigan on January 20th, 2021. Given the maximum sentence
22 that can be imposed in this case and the length of time the
23 defendant has already been incarcerated, the parties have
24 requested that I sentence him today. I find this is
25 appropriate and that it makes more sense than his immediate

1 release, for sentencing to be conducted on a later date. I
2 received significant information about this defendant in
3 connection with the bond review motion, including detail about
4 his history and characteristics and his criminal history, as
5 well as the sort of letters that one would receive at
6 sentencing. And so putting off the sentencing would serve no
7 purpose because once the six months has been served, there's no
8 opportunity to craft a period of supervised release or order
9 anything else.

10 In connection with that, though, ordinarily one of
11 the factors I would have to consider is what the U.S.
12 sentencing guidelines would recommend. However, the parties
13 agree here that because the offense is a Class B misdemeanor,
14 as I've already stated, as defined by 18 U.S. Code
15 § 3559(a)(7), the sentencing guidelines do not apply, per
16 Section 1B1.9 of the guidelines. So, Mr. Dresch, do you
17 understand that we're going to go straight into your sentencing
18 and you're going to be sentenced today?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And do you understand that accomplishing
21 that means you're giving up your right to have a presentence
22 report prepared by the probation officer, having your lawyer
23 look at it and the government's lawyer look at it and getting
24 all that background information about you and your history
25 before I impose sentence?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Mr. Dresch, has anyone made any promises
3 to you about what sentence I'm going to impose in this case if
4 I accept your guilty plea?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Do you understand that it's up to me,
7 even though I can never sentence you to more than the statute
8 would permit?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Has anyone forced you, threatened you, or
11 coerced you in any way into entering this plea of guilty?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: Has anybody made any promises to you in
14 connection with your guilty plea, other than the ones contained
15 in the plea letter or that we've talked about in court today?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Are you entering this plea of guilty
18 voluntarily and of your own free will because you are guilty
19 and for no other reason?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Is there anything you don't understand
22 about this proceeding or about your plea in this case?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Is there anything you want to ask me or
25 ask your lawyer before I ask you for your final decision about

1 pleading guilty in this case?

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: Are you ready now to make a decision
4 about whether you want to enter a plea of guilty or whether you
5 want to go to trial?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And what's your decision?

8 THE DEFENDANT: To enter a plea of guilty, Your
9 Honor.

10 THE COURT: All right. I am satisfied that this
11 defendant is fully competent and capable of making a decision
12 today, that he understands the nature and consequences of what
13 he's doing, that he's acting voluntarily and of his own free
14 will, and that there is an adequate factual basis for his plea.
15 Therefore, I will accept the plea.

16 And pursuant to the request of the parties, I do
17 think it's appropriate to move on to the sentencing phase of
18 these proceedings. But the first person I'm going to call upon
19 to speak is Ms. Blackwell. So, if Mr. Dresch and Mr. Smith, if
20 you want to sit down for a moment --

21 MR. SMITH: Thank you, Your Honor.

22 THE COURT: -- you're permitted to do that.

23 All right. Would the government like an opportunity
24 to speak regarding the appropriate sentence in this case?

25 MS. BLACKWELL: Yes, Your Honor.

1 THE COURT: All right. Go ahead.

2 MS. BLACKWELL: Your Honor, the government would
3 first like to move to unseal the sentencing memorandum that was
4 filed yesterday in this case.

5 THE COURT: I think that's appropriate. Do you have
6 any objection to that, Mr. Smith?

7 MR. SMITH: No, Your Honor.

8 THE COURT: And I think yours was filed under seal as
9 well.

10 MR. SMITH: And I would also move to unseal mine.

11 THE COURT: All right. They will both be unsealed.

12 MS. BLACKWELL: Your Honor, the Court is well
13 familiar with the facts of that case, Mr. Dresch's background,
14 but the government would like the opportunity to highlight a
15 few factors.

16 The government recognizes, of course, that Mr. Dresch
17 has already served the term of incarceration that represents
18 the statutory maximum in this case, but the government believes
19 it is important, as we did in the sentencing memorandum, to
20 outline why the 3553 factors would dictate a sentence of
21 imprisonment of the maximum in this case.

22 On the spectrum, Mr. Dresch's circumstances put him
23 at the high end with respect to the nature and circumstances.
24 While the government has indicated that Mr. Dresch did not
25 engage in any violence that day at the Capitol, or engage with

1 law enforcement in a physical manner, or cause the destruction
2 of property, indeed, he was in the Capitol for approximately 25
3 minutes. He came in a door through the Senate side and then
4 later he left through a window next to that same door because
5 there were rioters that were actually coming into the Capitol
6 at that same time. He could not leave through the door, so he
7 left, at the direction of law enforcement, through a window
8 next to the door. During that time he traveled to the crypt
9 and visitors' center.

10 That being said, despite his conduct in the Capitol,
11 he was responsible for a number of social media postings both
12 before he went to the Capitol, equating the events of January 6
13 with this country's Independence Day, then afterward, as the
14 Court is aware, he made several comments showing his enthusiasm
15 and support for the events that occurred on January 6. We
16 believe that those commentaries and those actions and that
17 support for what happened on January 6 -- which, of course, is an
18 extremely serious event in this nation's history -- would
19 warrant a term of incarceration at the higher end for this
20 defendant.

21 Specifically, with regard to his --

22 THE COURT: You mean at the higher end of the
23 sentence available for the misdemeanor, not at the higher end
24 of all the sentences available for the other offenses in the
25 indictment?

1 MS. BLACKWELL: Yes, Your Honor. Thank you for the
2 clarification.

3 THE COURT: All right.

4 MS. BLACKWELL: In terms of his history and
5 characteristics, he would be in criminal history category 3,
6 with five points, if the sentencing guidelines applied in this
7 case. As Your Honor is aware from reviewing the records for
8 his bond hearing, he was involved in a very serious incident
9 with law enforcement, fleeing and eluding law enforcement over
10 an interstate, high-speed car chase that endangered the lives
11 of not only of law enforcement, but the innocent civilians.
12 Clearly, the defendant has not learned from those past
13 incarcerations and infractions that these are serious events
14 and that he needs to stay out of criminal trouble, which he did
15 not do when he came to the Capitol on that date and
16 participated in the events on that date. And, therefore, we
17 believe that under that factor that would warrant the maximum
18 term of imprisonment that is available for this misdemeanor.

19 With respect to the seriousness of the offense and
20 respect for the law, that criteria supports a term of
21 incarceration, even for misdemeanors, and certainly for
22 Mr. Dresch in this instance.

23 With respect to the need for specific and general
24 deterrence, it is specific because a six months of federal jail
25 time will hopefully deter Mr. Dresch from participating in this

1 kind of activity again, and also general because it is the
2 government's belief that others will be deterred from
3 participating in this kind of activity, with the knowledge that
4 they also can serve jail time even if they are pleading or
5 conducting themselves in misdemeanor infractions.

6 And last, with respect to the need to avoid
7 sentencing disparities. Each case, of course, needs to be
8 evaluated based on its independent factors, but the government
9 is not aware that given the circumstances of this case, and
10 sort of the unique posture that this case presents itself in,
11 that a six-month prison term would cause any issues with
12 respect to any sentencings disparities with other defendants.

13 THE COURT: All right.

14 MS. BLACKWELL: Thank you, Your Honor.

15 THE COURT: Thank you. Before I impose sentence,
16 Mr. Smith, would you like to speak on the defendant's behalf?

17 MR. SMITH: Just briefly, Your Honor. I know that I
18 submitted a sealed sentencing memorandum, which has now been
19 unsealed. Know Your Honor, of course, has read it. I did want
20 to address a couple points.

21 The restitution, Mr. Dresch was deemed to be indigent
22 when he appeared in front of the magistrate in the Western
23 District of Michigan. He was given court-appointed counsel
24 there. I think the federal public defender for the Western
25 District represented him in those proceedings. And, of course,

1 when he came here he was continued to be deemed indigent, and
2 I'm court-appointed counsel. So I would submit he's not really
3 in a position to pay any sort of fine. Of course, he will pay
4 the restitution and the \$10 special assessment.

5 For the restitution, the \$500, he can pay it in
6 fairly short order. I'm not sure he's going to be able to
7 access the funds today. We would ask for a two-week period,
8 perhaps, to get the money. But it's just a matter of being out
9 and being able to get access to the funds so that he can pay
10 that in fairly short order. I think that's really all I have
11 to say, everything else is in my memo.

12 THE COURT: All right.

13 MR. SMITH: If you have any questions, I would be
14 happy to answer.

15 THE COURT: I don't have any questions.

16 Mr. Dresch, is there anything you would like to say
17 before I impose sentence in this case?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: All right. I'm going to ask you, then,
20 to come back to the lectern then while I tell you what the
21 sentence is going to be in this case, and maybe speaking a
22 little bit longer than one might anticipate, given the fact
23 that it's a forgone conclusion.

24 I'm going to review all of the factors in the
25 sentencing statute, which is 18 U.S. Code § 3553(a) that says

1 what judges are supposed to think about when they sentence
2 people -- even though I don't have very much discretion, or any
3 discretion left at this time -- because I think it's important
4 to detail why I think the six months is an appropriate
5 sentence, even though it's already been served. In other
6 words, I don't want to leave the misimpression that the rush to
7 plead and be sentenced and released today on time served is
8 some sort of statement about the legitimacy of the detention in
9 the first place.

10 My sentence is going to mean that the sentence was
11 sufficient and just under all the circumstances. And every
12 defendant in every one of these cases is different, and every
13 sentence needs to be considered individually, in light of the
14 sentencing statute, and that's what I feel obligated to do.

15 The first thing I'm supposed to consider is the
16 nature and circumstances of the offense, which is what did you
17 do? And this defendant did not end up in the Capitol by
18 mistake. He was not simply swept along by events, and there
19 was no ambiguity about why he was here. His own statements
20 provide the context for the acts described in the statement of
21 offense and they are part of the record.

22 Six weeks before January 6, on November 23rd, 2020,
23 the defendant posted, "It's war everywhere if we let this
24 election get stolen." He was posting, "Stop the steal" as
25 early as December 16th, 2020. The day after former President

1 Trump Tweeted, "Statistically impossible to have lost the 2020
2 election. Big protest in D.C. on January 6, be there, be --
3 will be wild." The defendant posted 7-4-1776 equals January 6,
4 2021. So he was already likening it to a revolution.

5 The statement of offense specifically references the
6 fact that the defendant posted on social media about his plans
7 to travel to D.C. on January 3rd through January 5th. Well,
8 what did he say?

9 On January 3rd, 2021 the defendant posted that he was
10 preparing to go to Washington, D.C. and that he was prepared
11 for chemical attacks and whatnot and, quote, No excuses, no
12 retreat, no surrender, take the streets, take back our country.
13 January 6, 2021 equals 7-4-1776. That was all in caps.

14 On January 5th in 2021 he posted, "Stop the steal.
15 This is the last stand of the United States to remain free."
16 And then he gets here. The U.S. Capitol was closed to the
17 public while, in accordance with the Constitution, a joint
18 session of Congress had been convened to certified the vote of
19 the Electoral College in the 2020 Presidential election.

20 Vice President Mike Pence, a Republican, was present
21 and presiding, as the Constitution required him to do. The
22 U.S. Capitol police officers, federal law enforcement officers,
23 doing their jobs, surrounding the building, were overcome. The
24 defendant was one of the many individuals who made their way
25 into the building, past the lines of the officers who were

1 attempting to keep the crowd away from the building. He was
2 one of the individuals who entered the closed building. And
3 the certification process was indeed interrupted as members of
4 Congress and the Vice President had to be spirited to safety or
5 were forced to hide.

6 That was the point of the trip, to disrupt the
7 process. The defendant posted a picture at 3:14 p.m. with the
8 caption, "We are in, inside the Capitol, below the rotunda."
9 He broadcast a video, as he said, to set the record straight
10 "Antifa did not take the Capitol, that was patriots. We, the
11 people, took back our house and now those traitors know who's
12 really in charge."

13 So he was not your typical tourist. But it's also a
14 significant aspect of the nature and circumstances of this
15 offense that he did not do anything once he got inside. He was
16 peaceful, he was respectful; he didn't break anything, he
17 didn't hurt anyone, and the sentence has to reflect that, too.
18 It's essential to differentiate him from those involved in
19 threats against public officials and assaults on police
20 officers.

21 However, the defendant bragged that day that they,
22 quote, had the cops booking it, close quote. And his tone
23 didn't change afterwards. He was not chastened or shocked if
24 he turned on the news and saw the defilement and destruction
25 that was left behind, or saw what happened to the many law

1 enforcement officers when, on January 7, 2021, he commented on
2 someone else's post by saying, "Mike Pence gave our country to
3 the communist hordes; traitor scum like the rest of them. We
4 have your back. Give the word and we will be back even
5 stronger."

6 On the same date he said, "Bro., you should have been
7 there. We wasn't violent, but we took the Capitol. Antifa
8 didn't do it. They may have had some idiots undercover in the
9 crowd, but it was us that got in. It was grand. Best day
10 ever. I think it was a good show of force. Look at what we
11 can do peacefully" -- unclear whether it was peaceful, even
12 though he was -- "wait until we decide to get pissed. And
13 look, if they can't hold the Capitol with thousands of cops,
14 how can they tell us what to do 1000 miles away?"

15 And then the defendant got wind of how others were
16 reacting to what had occurred and that they were naming names.
17 He posted a series of increasingly threatening messages about
18 the person he believed had posted information about individuals
19 she knew from the area who had come to D.C. Including saying,
20 "Now they want to snitch me out, LOL. Bunch of losers. I sent
21 her thing to tons of patriots and now it's gone. Ha a. I'm
22 sure I made an FBI folder, but F it, I know who my enemies
23 are."

24 So the nature and circumstances of the offense makes
25 several things very clear. The defendant did not come to D.C.

1 to attend a rally. Defendant did not spend six months in jail
2 because of his political views. He was not a political
3 prisoner. He was not prosecuted for exercising his First
4 Amendment rights. He just pled guilty to a federal offense.
5 He just admitted that he broke the law. He did explain at the
6 time, "Trump is the only big shot I trust right now, so I'm
7 going."

8 But we're not here today because he supported the
9 former President. Millions of people voted for him and did not
10 heed his call to descend on the nation's Capitol. He was
11 arrested because he was an enthusiastic participant in an
12 effort to subvert and undo the electoral process. He came to
13 D.C. and encountered others to do the same; not to hear the
14 outgoing President speak, but, as he put it, to stop the steal.
15 He was not here to see the sights. He was here to interrupt
16 the certification of the election, to subvert democracy --
17 which is based on the will of the people -- and replace it with
18 a will of the mob.

19 He may very well have sincerely believed that the
20 election had been unfair and tainted. I don't doubt that. But
21 that belief was misguided. By that time even the Republican
22 election officials in the challenged states had said over and
23 over, when more than 60 judges across the country had said --
24 including Republican judges, including judges appointed by
25 President Trump himself -- had said over and over, there is no

1 evidence behind these claims. At the end of the day the fact
2 is that the defendant came to the Capitol because he placed his
3 trust in someone who repaid that trust by lying to him.

4 Mr. Dresch, I want to assure you, you did and you
5 still have the absolute right to support whoever you want to
6 support, to rally for whoever inspires you, to vote for whoever
7 you choose. But so does everyone else. Your vote doesn't
8 count any more than anyone else's. You don't get to cancel
9 them out and call for a war because you don't like the results
10 of the election. You called yourself and the others patriots,
11 but that's not patriotism. Patriotism is loyalty to country,
12 loyalty to the Constitution; not loyalty to a single head of
13 state. That's the tyranny we rejected on July 4th of 1776.

14 So this event did not honor our nation's founders; it
15 didn't honor anyone. But to his credit, while the defendant is
16 a big talker, his actions did not match his rhetoric. And,
17 therefore, I pressed the government at the last status hearing
18 to make a plea offer, and the misdemeanor plea is appropriate.
19 And resolving this case without additional incarceration or
20 without additional charges beyond the six months is
21 appropriate.

22 The second thing I'm supposed to think about when I
23 sentence someone, anyone -- and I go through this with everyone
24 in this courtroom, in every single case -- is the history and
25 characteristics of the defendant. I talked about that a great

1 deal in the bond review motion and at the bond hearing.

2 There's a lot of information in the record. I was well aware
3 of the convictions arising out of the drunk driving incidents,
4 although calling it drunk driving doesn't fairly characterize
5 the extreme risk posed to the life of others in the high speed
6 chase, through two states, when you refused to pull over.

7 But that's only one part of the picture. You pled
8 guilty, you accepted responsibility here without any ambiguity
9 about it, and that's positive. You're willing to make this
10 personal sacrifice that's going to be necessary to make amends
11 by paying restitution. It's not a small amount of money.

12 It's also important to say that that day and all the
13 posts I read are not all that define you. The people that
14 wrote letters to me described a man who is totally different
15 than the one on social media. The record still contains all
16 the letters about your hard-working nature, your commitment to
17 being a good father to your 13-year-old son, your efforts to
18 help elderly neighbors, your sense of humor, your kindness, the
19 friendship that's available; that's all equally a part of who
20 you are.

21 It may be that being online gets you agitated; maybe
22 that's where you vent, maybe that's where you show off. But
23 now you're a man in your 40s, with a teenage son. So the
24 question is, which of those men do you want to be? I hope you
25 spend some time thinking about how you can a positive force in

1 his life, the way your father was in yours, when you get home.

2 The Court's required to impose a sentence that's
3 sufficient but not greater than necessary to accomplish a
4 number of purposes set out in the statute. Therefore, another
5 thing every judge has to consider is the need for the sentence
6 imposed to reflect the seriousness of the offense, to promote
7 respect for the law, and to provide just punishment for the
8 offense. I think the punishment is just, but I think this is
9 really important because I'm not sure that respect for the law
10 has been really shown in the past or in the comments on social
11 media.

12 I'm supposed to deter you and other people from
13 further criminal conduct here or in Michigan or anywhere else.
14 I'm supposed to protect the public from further crimes
15 committed by you, and to provide you with educational or
16 vocational training, medical care, correctional treatment. And
17 none of that is really relevant.

18 I'm also supposed to look at the need to avoid
19 unwarranted sentencing disparities among defendants with
20 similar records who have been found guilty of similar conduct.
21 And basically that's a long-winded way of saying I'm supposed
22 to make sure that your sentence is fair when you compare it to
23 sentences that people have gotten who did similar things. The
24 guidelines are supposed to serve that function, they really
25 have limited utility here.

1 Ensuring that the sentence fairly reflects where this
2 individual defendant falls on the spectrum of individuals
3 arrested in connection with the offense has largely been
4 accomplished by the offer of the misdemeanor plea because it
5 reduces his exposure substantially and appropriately.

6 I also think it's important to take into
7 consideration that the six months this defendant spent in D.C.
8 jail while this case proceeded wasn't the same experience he
9 would have had a year or so before. It's true, he was
10 incarcerated through no one's fault but his own, but his jail
11 experience has been overshadowed by the specter of the virus
12 the need for more isolation; less opportunity for contact with
13 counsel and family, less opportunity to move within the
14 facility. In other words, he has been through harsher
15 conditions and limited opportunities for programs, which if
16 he'd had a longer sentence could have been a basis for a
17 departure when you're talking about immigrants in the *Smith*
18 case.

19 So, that's another reason why I can easily conclude
20 that the sentence is sufficient to provide just punishment and
21 to afford deterrence and to satisfy the need to avoid
22 unwarranted sentencing disparities.

23 The sentencing statute says I'm also supposed to
24 consider the need to provide restitution, and that is going to
25 be part of the sentence by agreement.

1 Therefore, in an exercise of my discretion, after
2 consideration of all the statutory factors, the sentence to be
3 imposed is as follows: It's the judgment of the Court that you
4 are hereby sentenced to a period of time served on Count 5.

5 Since the statutes that govern criminal sentencing do
6 not permit a period of supervised release for this offense,
7 there will be no further term of supervised release.

8 I find the defendant does not have the ability to pay
9 a fine and, therefore, I waive the imposition of a fine.
10 However, you are required to pay the \$10 special assessment,
11 and that's immediately payable to the Clerk of the Court for
12 the U.S. District Court of the District of Columbia. And
13 within 30 days of any change of address you have to notify the
14 Clerk of the Court until such time as that obligation has been
15 paid in full.

16 You've also agreed to pay restitution in the amount
17 of \$500. I'm not sure I have, in any of the paperwork, where,
18 to whom it's supposed to be paid. I presume it's supposed to
19 be paid to the Clerk of the District Court of the District of
20 Columbia. But, Ms. Blackwell, you're going to need to inform
21 Mr. Haley, before we complete the judgment and commitment
22 order, who the money is supposed to be dispersed to.

23 Mr. Dresch, you have the right to appeal the sentence
24 imposed by this Court if the period of imprisonment is longer
25 than the statutory maximum or the sentence departs upward from

1 the applicable sentencing guideline range. If you choose to
2 appeal, you must file any appeal within 14 days after the Court
3 enters judgment. If you're unable to afford the cost of
4 appeal, you may request permission from the Court to file an
5 appeal without cost to you.

6 At this point I believe the government needs to make
7 a motion to dismiss Counts 1 through 4 of the indictment.

8 MS. BLACKWELL: Yes, Your Honor. The government
9 moves to dismiss Counts 1 through 4 of the indictment.

10 THE COURT: All right. So that will be granted.
11 We've already dealt with the sealed memoranda. We're going to
12 issue a release order promptly.

13 Mr. Smith is there anything else I need to take up on
14 behalf of Mr. Dresch right now?

15 MR. SMITH: No, Your Honor. As I said, we'll pay the
16 \$510 within two weeks. I don't know if that needs to be
17 specified -- I mean, that's what we'll do.

18 THE COURT: I can order that that be done. He's not
19 under my supervision thereafter, but it is a part of the
20 sentence and you will owe the money no matter what.

21 MR. SMITH: I understand.

22 THE COURT: All right. Ms. Blackwell, anything
23 further for the government?

24 MS. BLACKWELL: Nothing from the government, Your
25 Honor. Thank you.

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THE COURT: Okay. Thank you very much, everyone.

MR. SMITH: Thank you, Your Honor.

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CERTIFICATE OF OFFICIAL COURT REPORTER

I, JANICE DICKMAN, do hereby certify that the above and foregoing constitutes a true and accurate transcript of my stenographic notes and is a full, true and complete transcript of the proceedings to the best of my ability.

Dated this 4th day of August, 2021

Janice E. Dickman, CRR, CMR, CCR
Official Court Reporter
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