

INVOKING THE GREAT TASK OF ENSURING “THE GOVERNMENT OF THE PEOPLE SHALL NOT PERISH FROM THE EARTH,” JUDGE MOSS SENTENCES PAUL HODGKINS TO EIGHT MONTHS SENTENCE

Judge Randolph Moss just sentenced Paul Hodgkins to eight months in prison for his role in the January 6 riot. Hodgkins will face two years of probation and pay the \$2,000 restitution agreed on in his plea agreement (though will not be fined). The sentence was about what I expected, and a fair sentence for someone who pled guilty first and engaged in no violence (and even tried to calm other rioters).

As I noted here, the important part of this sentence is how Moss got to the sentence. Moss treated January 6 as a grave danger to democracy, and set a sentence to send a message to deter others from engaging in similar behavior. But he also noted that Hodgkins pled guilty first, and did not engage in violence. He even noted that Hodgkins had not engaged in inflammatory speech online, as virtually all January 6 defendants charged with obstruction have. That is, Moss sentenced Hodgkins roughly according to this hypothetical I laid out:

Judge Randolph Moss might explain that he finds Hodgkins' behavior to be a grave threat to democracy and say that with any other similarly situated defendant, he would sentence him to the maximum sentence in his guideline, 21 months, but because Hodgkins went first,

Moss will give him a significant downward variance; that would allow him and all other DC judges to sentence hold-outs more severely than Hodgkins.

Moss emphasized two things about Hodgkins' conduct that worked against him. First, that he wore goggles, indicating that he came prepared to defend his position. More tellingly, Moss noted that Hodgkins brought a Trump flag and waved it around in the well of the Capitol, an expression of loyalty to a single individual, not loyalty to the American flag.

This is not the baseline sentence for all January 6 rioters accused of obstruction. It is a sentence that was available to Hodgkins and few others, at least in Judge Moss' courtroom.

Hodgkins made a statement, one that was more effective than the pleas of his attorney. He started by saying, "I can say without a shadow of a doubt that I am remorseful, because of the damage that has been caused that the country I love has been hurt." He noted that he did not place blame on any politician. He emphasized that he recognizes that Joe Biden is the lawfully elected President. He noted that on a few occasions, he tried to get people to stop trashing the joint. He stated he put passion before principle.

As noted, LeDuc's comments were less powerful, at times claiming he was the only one whose job it was to protect the country, and denying that January 6 had been a terrorist attack. He invoked Lincoln's effort to heal the country after the Civil War.

Judge Moss retorted that people were prowling the halls of Congress looking to target Nancy Pelosi. He asked LeDuc why he hadn't quoted Lincoln invoking, "the great task remaining before us," to ensure the government, "by the people, for the people, shall not perish from the earth."

Before Moss imposed the sentence, he reiterated

how much damage this attack did to democracy, when members were forced to flee for their safety.

That is chilling, for many reasons. To start, democracy requires cooperation with the govt. When a mob threatens Capitol, democracy is in trouble. Damage is way beyond several hour delay. Damage will persist for decades.

He cited Reagan describing our peaceful transfer of power as a miracle. He noted that it "will be harder to convince children that democracy stands as immutable foundation of nation."

And he emphasized, throughout, that this was a sentence for Paul Hodgkins, not a sentence for all the defendants.

As noted, I think this is a reasonable sentence for Hodgkins. And the way Moss got to the sentence leaves himself and other judges plenty of room to impose harsher sentences to defendants who did more to threaten democracy.