

Trump-appointed federal judge acquits January 6 insurrectionist on all counts

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7 April 2022

On Wednesday US District Judge Trevor McFadden found New Mexico engineer Matthew Martin not guilty on four misdemeanor counts in the first outright acquittal among the roughly 800 people charged in relation to ex-president Donald Trump's failed January 6, 2021 coup.

McFadden's verdict after a two-day bench trial is not binding on other judges hearing cases related to the coup, however there is no doubt his ruling sets an example for other pro-Trump judges and for defendants in future January 6 trials seeking to win acquittals.

Before he was fired for participating in the siege on the Capitol aimed at delaying the certification of the 2020 presidential election and installing Trump as president-dictator, Martin previously held a top-secret security clearance while working as a defense contractor for the US Department of Energy at the Los Alamos National Laboratory. The Laboratory's "primary mission," according to the US government, is to "provide scientific and engineering support to national security programs" by performing "research and development, design, maintenance, and testing in support of the nuclear weapons stockpile."

During the trial, an unapologetic Martin testified in his defense describing the attack on Congress which left hundreds injured and at least five dead, as a "magical day in many ways." At one point, the prosecution revealed text messages Martin sent to his work supervisor after the attack. In one thread, Martin's supervisor texted him, "You can't overrun the capital building," to which Martin replied, "Actually you can, rather easily I might add. Not as much security as you think. Our numbers were freaking huge. They were not prepared."

In additional messages to his supervisor on January 6, Martin wrote "It was beautiful. I will remember today for the rest of my life." When asked by prosecutor Michael Romano what Martin meant by that message, he claimed that he "enjoyed" himself on January 6.

Martin was facing four misdemeanor charges, including trespassing, disruptive conduct in a restricted area, disorderly conduct in the Capitol and parading, demonstrating or picketing in the Capitol. Video footage played at the trial showed Martin entering the Capitol Rotunda some 20 minutes after Oath Keeper militia members, 11 of whom have been charged with seditious conspiracy, breached the building. Martin, carrying a Trump flag, stayed inside the building for about 15 minutes.

In a testament to the soft treatment the Justice Department has given Trump's fascist foot soldiers, even had Martin been found guilty of all counts, he faced only a maximum three-year prison sentence.

Judge McFadden, a Trump appointee and member of the conservative Federalist Society since 2003, accepted Martin's defense that he "reasonably believed" police officers let him into the Capitol as it was under siege by Trump supporters, far-right paramilitaries and white supremacists. Martin claimed that he was "let in" by two US Capitol Police officers who were standing in a doorway, but did not try to stop Martin as he walked through. Those officers did not testify at the trial, but US Capitol Police Inspector John Erickson testified, according to BuzzFeed News, "that given the large number of people, the officers understood they couldn't stop them from coming in, but could only observe and try to make sure no one got hurt."

There are many unresolved questions regarding the lackadaisical and "hands-off" approach dozens of cops took towards the Trump mob during the attack on the Capitol. While the WWSW reported on numerous instances of police seemingly waving in Trump supporters during the attack, it is also true that hundreds of Capitol Police officers—outnumbered and under-equipped—also battled Trump paramilitaries outside, and inside the Capitol, without support from the US military for several

hours.

In Martin's case, Judge McFadden said he was not convinced that any of the footage played during the trial showed police giving permission for him to enter, however this did not stop him from stating he found Martin "largely credible," despite the fact he also said that Martin, "shaded" and minimized his testimony at times.

While McFadden ruled that prosecutors had shown that Martin "more likely than not knew he was not supposed to go in" to the Capitol, and that prosecutors presented numerous instances in which Martin would have been made aware that he was not allowed inside the Capitol, such as when he walked past fences with signs that read "AREA CLOSED" or ignored building alarms, broken windows and police battling Trump's foot soldiers, he still was not convinced beyond a "reasonable doubt" that Martin was aware he could not enter.

Expressing extreme sympathy for Martin, McFadden disagreed with prosecutors that Martin's conduct once he walked around inside the Capitol was disorderly, saying he thought Martin appeared "quiet" and "orderly," even as he fraternized with QAnon fascists and neo-Nazis battling the police and hunting for congressmen and senators.

As dozens of other January 6 insurrectionists have testified, Martin claimed he decided to come to the Capitol on January 6 after he saw a December 2020 tweet from Donald Trump calling on his supporters to come to Washington D.C. for a "wild" protest. Martin admitted he attended the "Save America" rally outside the White House on January 6, during which Trump urged his supporters to "fight like hell... or else you are not going to have a country anymore," before eventually making his way to the Capitol.

This is not the first January 6 trial where McFadden has shown deference to accused insurrectionists. On March 21, McFadden handed down a mixed verdict in the case of Couy Griffin, a Republican politician from Otero County, New Mexico and the leader of "Cowboys for Trump." Like Martin, Griffin had also been charged with illegally being in a restricted area and disorderly conduct.

While McFadden convicted Griffin of the first charge, he found him not guilty of disorderly conduct, despite the fact prosecutors showed Griffin making numerous statements on the Capitol grounds on January 6 imploring Trump supporters to "stop the steal." McFadden said the comments were "too general" to show Griffin's intent was disorderly or that he intended to disrupt congressional

proceedings.

A day after acquitting Matthew Martin, McFadden issued an order granting another January 6 attacker, Texas florist Jenny Cudd, her request to lift the condition of her probation that forbade her to own or possess any "firearm, ammunition, destructive device, or dangerous weapon." Cudd claimed that she needed a gun for self-defense because of threats against since her role in the attack on the Capitol was made public.

McFadden had previously sentenced Cudd to 60 days probation on several misdemeanor counts relating to January 6, rejecting a prosecution recommendation of a 90-day jail term.

According to the *Washington Post*, there are "about 384 people" like Martin, Griffin and Cudd who are facing only misdemeanor counts for their participation in the siege of the Capitol. BuzzFeed News reports that over 200 people have already pleaded guilty to misdemeanor offenses such as entering restricted grounds, or illegally parading and picketing at Capitol buildings.

In stark contrast to the over 10,000 workers, youth and students who were jailed or beaten by police for the crime of protesting police violence during the global 2020 summer protests following the murder of George Floyd, a *New York Times* analysis in January 2022 found that of those January 6 insurrectionists who have already pleaded guilty "[m]any, if not most, have avoided incarceration, sentenced to probation or stints of home confinements. Others have received only modest sentences, ranging from a few weeks to a few months."

Similarly, a January 2022 Slate analysis of 733 January 6 cases led them to declare, "January 6 defendants have been sent home to wait trial at a far greater rate than the rest of the federal jail population in 2019... And when it comes to sentencing, judges are generally handing out lighter sentences than what the government is requesting when suspects do plead guilty."



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