

THE ROANOKE TIMES

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Trial to begin for ex-Rocky Mount police officer charged in U.S. Capitol riots

By Laurence Hammack

In an angry sea of rioters that engulfed the U.S. Capitol, it was not obvious that a man wearing jeans, a dark pullover and a blue daypack was a police officer.

Thomas "T.J." Robertson, who is charged with federal crimes that include wielding a wooden stick at police officers who were trying to turn back the mob, was off duty at the time from his job with the Rocky Mount Police Department.

But the 49-year-old's law enforcement background will play a prominent role in his trial, scheduled to begin Monday with jury selection in Washington D.C.'s federal court.

Prosecutors say in court papers that Robertson abused his position of public trust by siding with hundreds of Donald Trump supporters in "one of the most riotous acts of insurrection the nation has ever seen."

To show Robertson's role in the events of Jan. 6, 2021, the government will rely on footage from surveillance cameras, photographs that turned up on social media and the defendant's own incriminating words on Facebook, according to a list of exhibits filed in U.S. District Court.

Also included on the list are excerpts of Robertson's personnel files from the Rocky Mount Police Department, which fired him following his arrest.

Although details of the records are not included in court documents, prosecutors are expected to use them in an effort to show that Robertson was well aware – through his experience and training – that his activities interfered with law enforcement's efforts to control the volatile crowd.

Robertson has said he entered the building peacefully, at the invitation of Capitol police officers on the scene, and did nothing wrong in posing for a selfie photograph with a fellow police officer and then walking away.

Defense attorney Mark Rollins of Washington wants the jury to hear about Robertson's accomplishments as a police officer, which include being promoted to sergeant and receiving a medal of valor in 2017.

"The jury will have to make the decision of whether Mr. Robertson was in possession of a dangerous weapon and they should be allowed to know all aspects of Mr. Robertson's life," Rollins wrote in court papers.

Details about the lawman's professionalism, dedication and commitment to public service should be allowed, the document states, "to show that he would never use a walking stick in a nefarious manner."

Assistant U.S. Attorney Elizabeth Aloi countered that body cameras worn by Metropolitan Police Department officers clearly show Robertson using his stick to block their efforts to defend the Capitol's lower west terrace from the advancing mob.

Character evidence about Robertson's career as a police officer should not be admitted, she wrote in a motion asking U.S. District Judge Christopher Cooper to exclude the evidence.

Should Robertson maintain that his stick was for walking and nothing else, Aloi said she is prepared to present evidence that he usually did not require assistance from a cane or other support, and had not been seen using one prior to the riots.

Usually, character evidence is limited to a general description of the defendant's reputation — and cannot be used to disprove a specific part of the case against him, the motion stated.

Cooper has yet to rule on Aloi's request to exclude character evidence, according to a check of court records late Friday afternoon.

Pros and cons of a trial

Robertson is one of about 775 people from across the country charged with participating in the uprising.

The insurrection began shortly after then-President Trump urged his supporters to "fight like hell" against an election he claims was stolen from him. Courts have found no credible evidence of widespread voter fraud.

Ten of the individuals charged were current or former police officers or correctional guards, according to the Insurrection Index, a searchable database compiled by a coalition of nonprofit groups.

Four other defendants are from Western Virginia. They include former Rocky Mount police officer Jacob Fracker, who accompanied Robertson on a trip to to hear Trump speak. Last month, Fracker pleaded guilty to conspiring to obstruct a special session of Congress held to certify the election of President Joe Biden.

Despite strong evidence against them, some of the accused have refused to plead guilty.

"Of course, he has a constitutional right to ask a jury to decide his case," Melanie Wilson, a law professor at the University of Tennessee, said of Robertson

Wilson, a former federal and state prosecutor who has accepted a job as dean of Washington and Lee University's law school effective July 1, said Robertson may be hoping just to get one juror to side with him, which would result in a hung jury.

His status as a military veteran and former police officer could help. "I think there are a number of citizens who serve on juries who would still give the benefit of doubt to police officers," Wilson said.

The flip side, she said, is that someone with a background in law enforcement could be seen by a jury of their peers as more accountable than the average rioter.

Knowing the challenges that were facing the on-duty officers, who were vastly outnumbered by the horde, "makes him more dangerous, and yet he still participated," Wilson said.

Federal authorities say about 140 police officers were assaulted during the revolt, which forced members of Congress to flee for their safety before the special session was reconvened later that night. The insurrection caused an estimated \$1.5 million in damage to the Capitol.

More than 100 defendants have been sentenced so far, with about half of them receiving prison sentences. The rest were placed on probation or home detention.

Fracker faces a maximum sentence of five years at a hearing that has yet to be scheduled.

Meanwhile, an investigation by federal authorities continues. The most recent arrest came last week, when a Missouri man was charged with assaulting police officers.

Going to the jury box

Last August, Robertson rejected a plea agreement offered by prosecutors.

Authorities did not say at the time what concessions – such as a reduction of charges or a lower sentence – had been offered in exchange for a guilty plea.

Since then, government attorneys have twice increased the severity of the charges against Robertson. In January, a new indictment charged that the former police officer was armed with a "deadly and dangerous weapon, that is, a large wooden stick."

A second superseding indictment was returned by a grand jury last month, alleging that after returning home to Franklin County, Robertson destroyed a cell phone knowing that it held incriminating evidence against him.

In all, Robertson faces six charges: Obstructing an official proceeding, participating in a civil disorder, entering a restricted building, disorderly conduct in a restricted building, violent entry of the Capitol and tampering with evidence.

The trial is expected to last all week.

Robertson and Fracker were arrested one week after the riots, following the posting on Facebook of a selfie photograph that showed them posing in front of a statue of John Stark, a Revolutionary War hero, in the vaulted Crypt of the Capitol.

At the time, both were allowed to remain free on bond.

But Robertson ran into trouble last July, after authorities say he ordered about 35 assault-style weapons online, despite orders from a judge not to have anything to do with guns. His bond was revoked and he has been held in custody since.

Pointing to Robertson's often harsh online rhetoric, prosecutors say he has shown "a sincere commitment to violence."

One week after the November 2020 election, Robertson wrote on Facebook: "A legitimate republic stands on 4 boxes. The soapbox, the ballot box, the jury box and then the cartridge box."

"We just moved to step 3. Step 4 will not be pretty," the post continued, according to court records. "I cannot speak for others, but being disenfranchised by fraud is my hard line. I've spent most of my adult life fighting a counter insurgency. I'm about to become part of one, and a very effective one."

Starting Monday, the case will reach what Robertson called step 3 — the jury box.

THE ROANOKE TIMES

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Robertson guilty on all charges in U.S.
Capitol riots, jury finds

By Laurence Hammack

A jury on Monday convicted Thomas "T.J." Robertson, who was an off-duty Rocky Mount police officer when he joined an attempt to overturn the 2020 presidential election by mob rule.

The verdict came after about 12 hours of deliberation over two days in federal court in Washington, D.C., where Robertson was just the second of more than 750 Donald Trump supporters charged in the insurrection to face a jury.

In her closing arguments Friday, Assistant U.S. Attorney Risa Berkower referred to one of many Facebook posts by Robertson, who wrote that a legitimate republic stands on four boxes — the soap box, the ballot box, the jury box and the cartridge box — and that the time had come for an armed revolution.

"Despite the defendant's best efforts to derail democracy that day, we are here today, at the jury box," Berkower said.

The prosecutor pointed to a “mountain of evidence” presented last week that showed how Robertson, 49, obstructed a special session of Congress that was meeting on Jan. 6, 2021, to certify the results of an election won by President Joe Biden.

Robertson was among the first wave of rioters to enter the Capitol in opposition to the election, Berkower said, and his actions made it possible for other members of the mob to follow.

The guilty verdicts were delivered about 5:30 p.m. Monday on all charges in a six-count indictment. Robertson was charged with obstructing a special session of Congress, impeding police, entering a restricted area and two counts of disorderly conduct. The sixth charge accused Robertson of destroying his cellphone — which held incriminating evidence against him — shortly after learning that he would be arrested.

"It was a dark day in America," defense attorney Mark Rollins said of the insurrection.

However, Rollins argued there was no evidence to show that Robertson impeded police officers with a large wooden stick, saying it was used only as a walking stick after the U.S. Army veteran was wounded by enemy fire in Afghanistan about 10 years ago.

One of the Metropolitan Police Department officers testified that he was struck by the stick. Metropolitan Police Department officers were assisting Capitol Police in trying to turn back a mob that vastly outnumbered them.

But Rollins argued that it could have happened inadvertently in the confusion and chaos that existed as the mass of rioters pushed their way into the Capitol building as members of Congress were being evacuated.

Prosecutors countered that Robertson was not charged with assault, but rather with simply using the stick in an effort to impede police.

As a police officer, Robertson received training in the use of batons and was well aware of what was doing, Berkower said, pointing to a surveillance photo that showed him holding the stick diagonally across his chest as he approached the Capitol's west side.

“Everyone knows that sometimes a stick is just a stick," she told the jury. "But everyone also knows that a stick in the right hands can be a weapon."

As for the other charges that Robertson faced, Rollins conceded that there was enough evidence to convict Robertson on two of six counts: That he engaged in disorderly conduct on the grounds of the Capitol and again inside the building.

Yet Robertson's actions were limited to participating in the insurrection; he did not engage in any physical violence or property damage, his attorney argued.

There was no evidence that Robertson was involved in extremist groups, such as the Oath Keepers or the Proud Boys, who are suspected of planning the uprising and taking a more active role.

Rollins asked the jury not to lump his client into the "insane" actions of other members of the horde that day. "You have to feel bad for the officers, because some of the people had absolutely no common sense that day," he said.

The government contended that individual members of the throng acted as a whole.

In making that argument, Berkower cited the testimony of Jacob Fracker, a colleague of Robertson in the Rocky Mount Police Department who accompanied him to Washington to hear Trump speak at a rally and then joined him in storming the Capitol after the president encouraged his followers to "fight like hell."

Although there was no clearly stated goal of the uprising, Fracker said that it was understood as the huge crowd gathered. He compared it to two sports cars revving their engines while side-by-side at a red light. There is an unspoken agreement that when the light turns green, he said, there will be a race.

The 30-year-old — who testified against the man he once considered a father figure — pleaded guilty March 18 in an agreement with prosecutors that could result in a more lenient punishment when he is sentenced later.

Both men were fired from their police jobs shortly after they were arrested Jan. 13, 2021.

The case was closely watched in Franklin County, where far more voters supported Trump than Biden in 2020. Many there learned of the case when Bridgette Craighead, a community organizer, shared a photograph she saw on Facebook of Robertson and Fracker inside the Capitol.

"I don't know what they planned when they went up there," Craighead said Monday evening. "But when things started going bad, they should have been part of the solution instead of the problem."

In opening statements to the jury last week, defense attorney Camille Wagner said Robertson's only goal in entering the Capitol was to find Fracker, who had become separated in the pandemonium, and then to leave peacefully.

But once they reunited inside, Berkower said, the two men celebrated the takeover of the seat of U.S. government — at one point posing for a selfie photograph in front of a statue in the vaulted Crypt, with Fracker flashing an obscene gesture at the camera.

"This was a victory lap," she said, reminding the jury how Robertson "gleefully" banged his stick on the floor in cadence with chants by the crowd. They left only when police regained control of the Capitol, she said.

It was Robertson who decided to travel to Washington on Jan. 6, recruiting Fracker and one of his neighbors to ride with him, evidence showed. Then a sergeant with the police department, Robertson knew what he was going to do “before he left this driveway,” loading the car’s truck with three gas masks, military food rations, water and his walking stick, Berkower said.

Much of the prosecution's case consisted of statements the defendant made on Facebook and other online forums.

"CNN and the Left are just mad because we actually attacked the government who is the problem and not some random small business ... The right IN ONE DAY took the the f----- Capitol. Keep poking us," read a post several days after the insurrection.

Later, shortly before Robertson was jailed in July for violating the conditions of his bond by ordering about 35 assault-style firearms online, he posted this message to a gun rights forum:

"They are trying to teach us a lesson. They have. But it's definitely not the intended lesson. I have learned that if you peacefully protest that you will be arrested, fired, be put on a no fly list, have your name smeared and address released by the FBI so every loon in the U.S. can send you hate mail," he wrote, according to a motion made by prosecutors to revoke his bond.

"I have learned very well that if you dip your toe into the Rubicon ... cross it. Cross it hard and violent and play for all the marbles."

THE ROANOKE TIMES

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What happens to a child when parents go to prison?

By Laurence Hammack

Antoine Thompson held his 6-month-old daughter, Aziyah, in his arms as he appeared by video conference to plead guilty to dealing drugs from the back room of his Roanoke clothing store.

U.S. District Judge Michael Urbanski asked that someone care for the infant so the defendant would not be distracted during the Oct. 5, 2021, hearing. “That was an awfully cute baby I saw on Zoom,” the judge said at the end of the proceeding.

Although Thompson was able to place Aziyah in the safe hands of her great grandmother for the hearing, her continued well-being is now in question.

Next Wednesday, Thompson — who for the past year has been the primary and sole caretaker of his daughter while free on bond — will return to court to face a likely seven-year prison term.

If he is taken into custody that day, what will happen to Azyiah?

The child's mother, Xylina Barlow, is currently in the Alderson Federal Prison Camp in West Virginia, serving time for a drug offense unconnected to Thompson's.

With other family and friends unable to care for Azyiah, Thompson is asking Urbanski that whatever prison term is imposed, he be allowed to remain free on bond until Barlow's release, scheduled for next July.

Federal prosecutors oppose Thompson's request. They are citing his previous criminal record in asking that he be locked up immediately after his sentence is pronounced.

Preparing for the worst, assistant federal public defender Christine Lee has been working with her client to find a suitable temporary home for Azyiah, who is now one and a half years old. No such arrangements have been finalized.

"It's just such a sad, sad situation," Lee said during the October 2021 hearing.

"These are the child's very early months. He [Thompson] has been bonding with the child, and it's just...it's such a sad...I'm actually getting choked up," Lee said, according to a transcript of the hearing.

"It's such a sad commentary on the state of the world that he and Xylina have to go to prison because of choices they made," she continued. "And I'm going to ask the court not to have the child suffer unduly by losing both parents."

A troubled childhood

Antoine Thompson had the kind of childhood he hopes his daughter can avoid.

The oldest of seven children, he grew up in a Seattle home where his father was often gone — first to the military, then to prison for robbery, then to drug addiction.

His mother was also an addict, and died when Thompson was 15 of a brain aneurysm that was attributed to her use of crack cocaine.

Thompson, now 40, did not have far to fall.

After his family moved to Roanoke, he was forced into the role of surrogate father for his younger brothers and sisters. He began to sell drugs to supplement the family income.

With that activity came more than a dozen relatively minor brushes with the law. Then, at the age of 19, he was arrested and charged with second-degree murder in a drug-related carjacking.

Although he did not fire the fatal shot, Thompson pleaded guilty, telling a Roanoke judge in 2002: “I’ll be a man and take responsibility for what I’ve done.” He served 15 years in prison, “and emerged with arguably fewer resources than he had when he went in,” Lee wrote in a sentencing memorandum.

Then, on April 29, 2021, something happened that changed his life: A ziyah was born.

“I love my sons to death,” Thompson said of her two older half-brothers during a recent interview. “But it’s different with a daughter. She softened me.”

“My daughter’s birth made me look at the situation in a different way.”

The way Thompson sees things now, his return to prison is all but assured by sentencing guidelines. Lee and federal prosecutors have made a joint recommendation of seven years.

All that he’s asking for is the time to care for A ziyah until her mother is released and can take his place.

“Just until she comes home,” Thompson said. “I think I don’t care what happens after that. We can just get it over with. I know I’m going.”

Prison is not Thompson’s primary concern.

“No, it doesn’t scare me,” he said. “What scares me is I’m losing my kids.”

The risk to children

Children of incarcerated parents are exposed to nearly five times as many adverse experiences — such as abuse, neglect, mental illness and substance abuse — compared to those whose parents are not locked up, according to a study supported by the Foundation for Child Development.

Research conducted by Kristin Turney, a professor at the University of California at Irvine, found the danger is greatest among kids younger than six.

“There’s certainly a growing body of evidence about the harm of a parent’s incarceration on childhood development and well-being,” said Rebecca Schlafer, an associate professor in the department of pediatrics at the University of Minnesota Medical School.

Schlafer, who is familiar with Thompson’s case from her contact with Lee, said many children are able to overcome the odds.

“Having an incarcerated parent is by no means a life sentence for the next generation,” she said.

“But what’s so unfortunate is that it raises the risk. What is the next domino that falls for this family? What will happen if the father is not available to care for this child?”

Although a toddler is not likely to have a cognitive memory of when his or her parent is sent to prison, the impact of losing a key support system — “Who do I go to when I’m scared? Who do I go to when I’m hungry?” — can influence their future development, Schlafer said.

“All subsequent development is built on top of this attachment,” she said. “You can’t build the rest of your house if the foundation is rocky.”

About five million children in the United States, approximately 7% of all minors, have experienced the incarceration of a parent who was in their home at some point, according to a study from the Bureau of Justice Statistics.

Thompson has been free on bond for 17 months with no major problems, his attorney said.

“He’s had a lot of eyes and ears on him, presumably, without incident,” Schlafer said. “I don’t think you can argue that there’s a risk to community safety” if he were to remain free a little longer as a full-time father.

“The risk of harm is low, from what I understand of the case,” she said, “And the benefit to the child is high.”

Prosecutors to seek incarceration

Federal prosecutors say it’s time for Thompson to start pulling time.

In a sentencing memorandum filed in September, Assistant U.S. Attorney Kari Munro wrote that his possession of “extremely pure” methamphetamine came when he was still on probation for his murder charge.

After making small sales to an informant in November 2020, Thompson led investigators to the Sole’D Out Fashion Boutique, which he ran with his now estranged wife.

In the back room of the 11th Street Northwest business, where Thompson worked as a barber, nearly 200 grams of methamphetamine was found in the pockets of a jacket draped over the back of a chair.

Lee would later write in court papers that as Thompson and his wife struggled with the clothing business, he “turned back to the one certain source of income, controlled substances.”

At about the same time, he began a relationship with Barlow. Last year, about six months after giving birth to Aziyah, Barlow began a two-year sentence for her involvement in a separate drug case.

Evidence showed that Barlow had hooked up with an old friend from high school, who recruited her to pick up his drugs from other states and drive them back to Roanoke. In 2020, she was stopped for a traffic offense while driving through Kansas and charged with ferrying drugs that she had been given in Las Vegas.

As for Thompson, “the government appreciates his dedication to family, but many defendants find themselves in similar shoes, facing prison during child-rearing years,” Munro wrote in court papers.

“Presumably, had this been a significant enough concern for Thompson and Barlow, they would not have been involved in separate drug conspiracies at corresponding times, at least one of them during the pregnancy period.”

‘A father is full-time’

When two parents have to go to prison simultaneously, it is not unheard of for judges to impose staggered sentences.

That allows one defendant to serve time while the other remains free on bond to care for their child. When the first parent is released, the second one begins their term.

How frequently that happens is hard to measure. But Lee’s research of cases in Western Virginia found two sets of parents who were allowed to serve staggered sentences.

In one case, U.S. District Judge James Jones allowed a husband and wife convicted of tax fraud in Abingdon to serve their sentences one after the other, so their children would not be deprived of parental care. In the other case, concerns about the fate of two family pets, a dog and a cat, was one of the arguments made for staggered sentences.

Those defendants were convicted of white-collar crimes and had no prior records.

Thompson, by comparison, “has a serious criminal history, and committed a much more dangerous set of crimes,” Munro wrote.

While admitting what he did, Thompson says it was more the product of his environment than a desire to be a “menace to society.” When he was released from prison in 2015, that environment had grown even more challenging.

“When you get locked up as a child, when you come out you’re still a child,” he said. “You still have a child’s mind, but you have to learn how to be a man.”

“I didn’t want to be in the streets, I didn’t want to be a full-time drug dealer. I did that to take care of my family. It’s not like I was sitting there stacking up \$1,000 just to look at it. \$1,000 is the mortgage.”

Although Thompson’s two sons are living with his estranged wife, he helps pay for their upbringing and remains an important figure in their lives. He said he has learned what it means to be a father.

“A dad is different from being a father,” he said. “A dad is a friend; some people will say ‘My dad is cool.’ He’ll buy you some shoes but then you won’t see him for 30 days. A father is full time.”

More than anything else, he worries about losing that full-time job.

In prison, “I can’t be there for my kids like I am now,” he said. “It’s not just me you’re locking up. You’re locking my kids up, too.”