

February 22, 2025

Scott Weinberg

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President Donald J. Trump

The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Regarding: Request for Full and Unconditional Pardon for David Moerschel

Dear President Trump,

On behalf of my client, David Moerschel, I want to express my sincere gratitude for commuting his sentence. He has been in some level of Federal custody for two years. It took a terrible toll on him, his wife, and his three young children. Thanks to your clemency, David is now home and working tirelessly to restore his family. However, to fully rebuild his life and career, he urgently needs a full and unconditional pardon.

David is a highly skilled medical specialist who assists brain and spine surgeons in the operating room. He cannot return to his profession without a pardon, despite having medical companies eager to hire him. Before his arrest, he dedicated his life to serving others, both physically and spiritually. With a Master of Divinity, he spent nearly a decade in Christian ministry and previously worked as a neuroscience researcher. His research benefits children with traumatic brain injuries.

David's Limited and Unintentional Involvement on January 6

David was only interested in the Oath Keepers because he wanted someone to help protect his family during the BLM/Antifa riots of 2020. He joined the Florida chapter of the Oath Keepers just 18 days before January 6, 2021. He did not know any members personally nor did he even know their real names. They found out he was a medical specialist and were excited about it. They asked him to go with them to D.C. to help. He agreed to go just three days before the event, believing he would provide medical assistance if needed.

When violence erupted at the Capitol, David acted in his capacity as a medic, not a protester. He was told that an Oath Keeper medic had been overwhelmed with casualties and that a gunshot victim had been reported—later identified as Ashli Babbitt. Amid the chaos, with sounds of concussion grenades and reports of multiple medical emergencies, David made the decision to assist. Prosecutors unfairly condemned his actions, arguing that he “ran towards the riot.” In reality, he bravely ran toward those in need.

When David went up the Capitol steps, he had no conspiratorial intent. He was told the Oath Keeper medic was outside the doorway. When David arrived at the top of the stairs of the Capitol, the crowd was very dense. He could not see the Oath Keeper medic. Nor did he see the Capitol doors open. But when they did, the whole group was pushed in by the crowd. On the video, you can see Kelly Meggs

being swept up almost off his feet by the force of the crowd. Joseph Hackett was holding onto the doors trying not to go in but was pulled in by someone else.

When inside, David never encountered police, never celebrated entering, committed no violence, and caused no damage. He remained in the building for only 11 minutes before leaving voluntarily. The next day, January 7, he withdrew from the Oath Keepers.

A Politically Motivated Prosecution

David was arrested six months later and charged with six felonies. Prosecutors aggressively pursued a plea deal. They wanted him to lie and say, “Trump told me to do it,” and to testify against his co-defendants. The prosecutors even threatened him with life imprisonment. But David chose to risk life imprisonment rather than betray you, Mr. President, the MAGA movement, and his co-defendants. After a brutal 6 week trial, he was ultimately convicted of four “thought crimes”:

1. **Seditious Conspiracy – Guilty**
2. **Conspiracy to Prevent an Officer from Discharging His Duty – Guilty**
3. **Obstruction of an Official Proceeding (18 U.S.C. § 1512) – Guilty (Ruled defunct by SCOTUS)**
4. **Conspiracy to Obstruct an Official Proceeding (18 U.S.C. § 1512) – Guilty (Ruled defunct by SCOTUS)**

Thanks to the Supreme Court’s ruling on § 1512, David now has only two convictions remaining on appeal: Seditious conspiracy and Conspiracy to prevent an officer from discharging his duty.

The Case for a Pardon

Sedition is Baseless: David Fisher wrote an open letter to President Trump on behalf of Thomas Caldwell asking for a full pardon. Fisher offered a concise summary, which we adopt here, of this meritless charge:

“FBI and DOJ sources anonymously leaked to the media in the summer of 2021 that there was no evidence to support “seditious conspiracy” charges against any J6ers, Progressives across the country wiggled-out. In response, the DOJ and FBI literally launched a second investigation to find evidence—any evidence—to support the political narrative of a seditious conspiracy that involved right-wing militias pre-planning an attack... Under political pressure, the DOJ filed seditious conspiracy and related charges against a dozen Oath Keepers [including David Moerschel] and Caldwell in January 2022, alleging an 8-week, post-election plot to forcibly stop the certification of Joe Biden as President of the United States.

What the DOJ actually did was reverse engineer a conspiracy by selectively editing political hyperbole contained in social media messages and tying it to the fact that Congress was forced to evacuate the Capitol...On my cross-examination, the FBI’s lead agent admitted that of the hundreds of witnesses that had been interviewed who were familiar with Caldwell and the Oath Keepers, not one person was aware of any pre-planned plot to disrupt Congress on January 6, let alone an armed attack on Capitol Hill. The “seditious conspiracy” was not based upon solid evidence, but rather the hypothesis of a group of progressive millennial DOJ prosecutors who were virulently anti-Trump.”

Baseless: “Conspiracy to Prevent an Officer from Discharging His Duty” David Fisher also wrote an excellent monograph on this charge. He argues, *“That Members of Congress are not “officers of the*

United States” is widely accepted among constitutional scholars. As the Supreme Court observed in Bowsher v. Synar, which struck down portions of the 1980s Gramm-Rudman Act, “[N]o person who is an officer of the United States may serve as a Member of the Congress.” Additionally, Members of Congress do not hold an “office, trust, or place of confidence” as that term is used in Section 372.” Fisher concludes with, “As Members of Congress were not covered in Section 372’s language, the DOJ’s use of this statute against J6ers is a miscarriage of justice.” Simply put, this charge could not be used against David because Congress is not an Officer.

Additionally, the prosecution withheld exculpatory evidence that could have aided his defense. Independent forensic analysis and investigative journalism have uncovered proof that crucial evidence—such as footage of Oath Keepers protecting Officer Harry Dunn—was deliberately suppressed and corrupted.

David was the least culpable of the Oath Keepers

Even the prosecution acknowledged that David was the least culpable of the Oath Keepers. This is reflected in the fact that David’s sentence was the shortest of the group (3 years in prison). Yet, despite his release, he faces ongoing hardships, including a civil lawsuit (D.C. vs. Proud Boys, Oath Keepers, et al.) funded by Soros-backed law firms.

Mr. President, I humbly ask you to grant David a full pardon. He is an innocent man who has suffered enough. He remained steadfast in his principles, refusing to lie or betray the MAGA movement. A pardon would restore his ability to provide for his family, resume his medical career, and move forward with dignity.

Please reach out to me for more evidence of David’s innocence than was allowed or available at trial. Also visit www.DavidisInnocent.com for more information.

Thank you for your time and consideration.

Sincerely,

Scott Weinberg

Attorney for David Moerschel