

STATEMENT OF FACTS

Your affiant, John W. Smith, is a Special Agent with the Federal Bureau of Investigation (“FBI”) assigned to the Denver Division. In my duties as a Special Agent, I investigate criminal violations relating to terrorism, civil rights, and online threat communications. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, I am authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of a violation of Federal criminal laws.

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

FACTS SPECIFIC TO ERIC ZEIS

After January 6, 2021, two separate persons, (TIPSTER 1 and TIPSTER 2) provided information to the FBI that an individual, identified as ERIC D. ZEIS (“ZEIS”), participated in the events at the U.S. Capitol on January 6, 2021. TIPSTER 1 was interviewed in person by the FBI on May 28, 2021, and again on July 20, 2021. TIPSTER 2 provided an online tip to the FBI on January 16, 2021, and was interviewed on June 3, 2021, and September 22, 2021. The TIPSTERS did not refer to each other and it is unknown whether they are aware of each other.

TIPSTER 1 reported that ZEIS and others (including TIPSTER 1) drove together, from Colorado to Washington, DC to attend President Trump’s speech on January 6, 2021. They traveled in ZEIS’ van, and he was considered the leader of their group. Another member of the group, whose last name he/she did not know, was JUSTIN. TIPSTER 1 reviewed the Colorado Driver’s License photo of JUSTIN R. SCHULZE and confirmed the person pictured is the JUSTIN being referenced. TIPSTER 1 elaborated that ZEIS and SCHULZE had been friends for many years. On the night of January 6th ZEIS and SCHULZE told TIPSTER 1 they had entered the Capitol earlier that day. ZEIS also showed TIPSTER 1 a phone handset that he had reportedly taken from inside the Capitol. TIPSTER 1 provided ZEIS’ cell phone number stating that this was the number used by ZEIS on or about January 6, 2021.

Over the course of the investigation, Capitol Police closed circuit TV (CCTV) and open-source media were reviewed by this affiant. In the CCTV and open sources, ZEIS can be seen wearing a black jacket with a black hood (often pulled up), grayish knit hat, red backpack, and sunglasses. SCHULZE can be seen wearing a jean jacket with a fur collar, a red Hawaiian shirt, grey knit hat, and black gator. **Image 1** is an up-close photo of ZEIS’ outfit and accessories.



Image 1

An open-source video revealed that ZEIS attended the “Stop the Steal” Rally before walking down to the Capitol. Below is a still (**Image 2**) of ZEIS (blue box) at the rally.



Image 2

ZEIS (blue circle) and SCHULZE (yellow circle) traveled from the Rally to the Capitol grounds, stopping in front of the Department of Justice on their way as seen in **Image 3** below.



Image 3

SCHULZE and ZEIS spent time on the west side of the Capitol before going to the East side. Below SCHULZE and ZEIS are seen near the media tower erected in front of the Inaugural Stage (**Image 4**):



Image 4

On the East side of the Capitol grounds, ZEIS and SCHULZE joined a large group that forced officers from the United States Capitol Police (USCP) to retreat to the East Rotunda doors. In **Image 5**, ZEIS', wearing his backpack, can be seen above SCHULZE's jacket, hat, and gator (green box).



Image 5

ZEIS and SCHULZE (green box) positioned themselves in a large group, outside the East Rotunda doors, that pushed against USCP officers to get inside. USCP officers made numerous commands for the crowd to stop and deployed OC spray to no avail. Members of the mob chanted “Stop the Steal!” and “Our house!” as rioters banged on the glass windows. SHULZE’s gator and hat and ZEIS’ sunglasses and hood can be seen in **Image 6** below.



Image 6

In **Image 7**, ZEIS can be seen raising his fist triumphantly as uniformed officers attempted to maintain order.

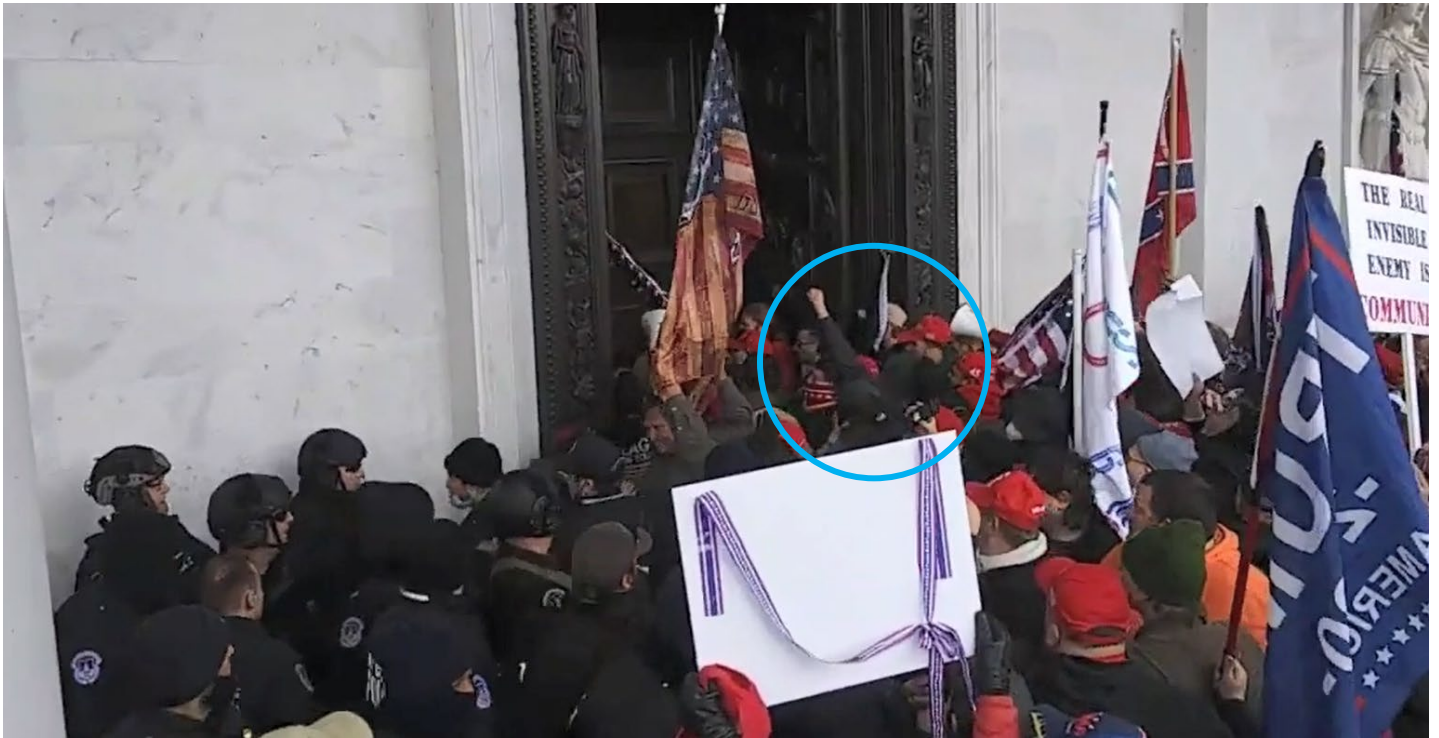


Image 7

At approximately 2:25 p.m., the Rotunda door was successfully breached by the rioters. Your affiant reviewed the January 6, 2021 surveillance camera footage from inside the U.S. Capitol. ZEIS was observed entering the U.S. Capitol at approximately 2:26PM. ZEIS was pinned against the closed door that has visible damage to the window (**Image 8**). ZEIS was able to successfully force himself inside. SCHULZE was right behind ZEIS' entrance (**Image 8 and Image 9**).

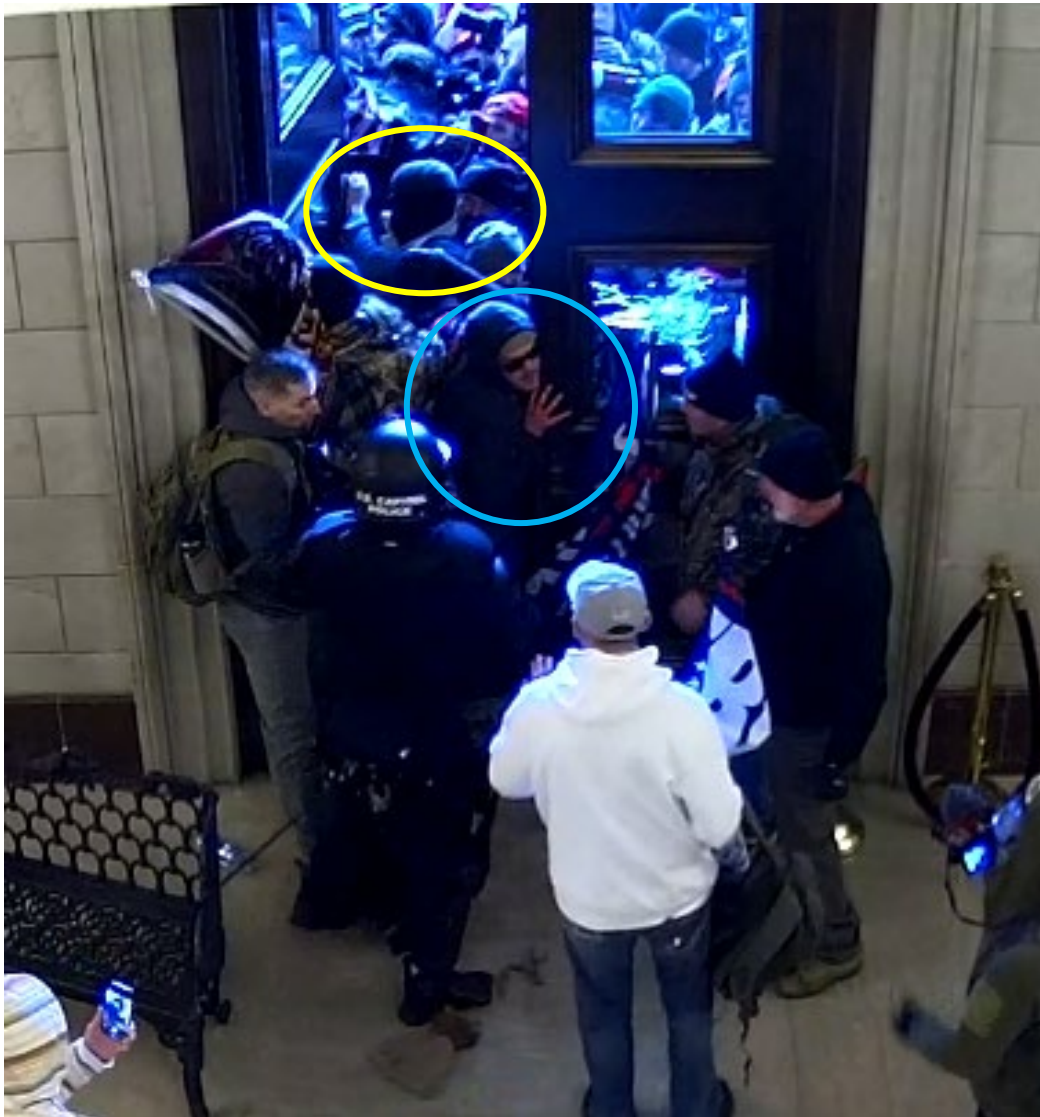


Image 8

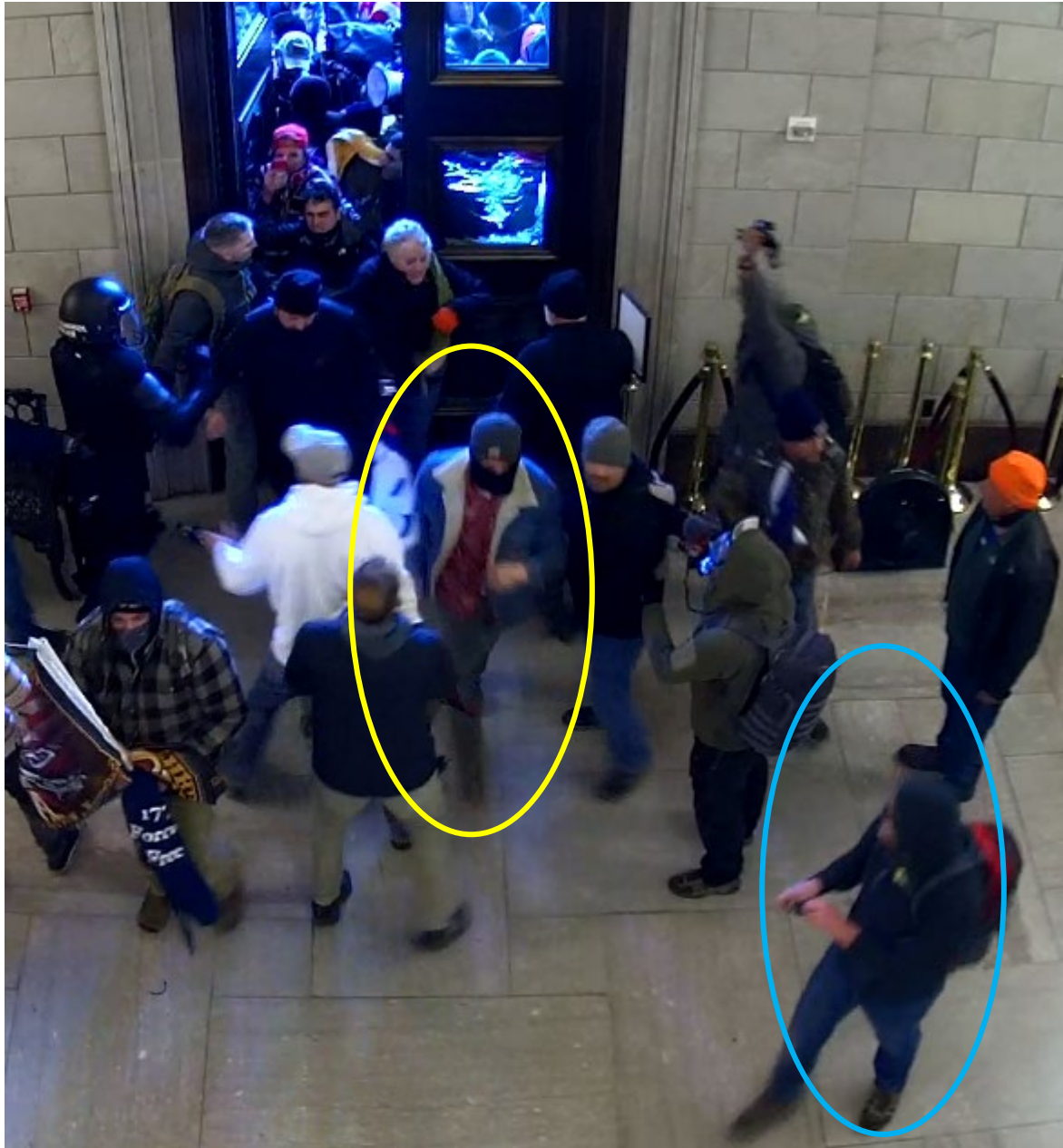


Image 9

Your affiant was able to track most of ZEIS' movements inside the U.S. Capitol by reviewing CCTV. ZEIS and SCHULZE made their way to varying parts of the Capitol such as the Rotunda (**Image 10**), Statuary Hall (**Image 11**), the Statuary Hall Connector where they emersed themselves in a large group confronting officers guarding the U.S House of Representatives chambers (**Image 12**).

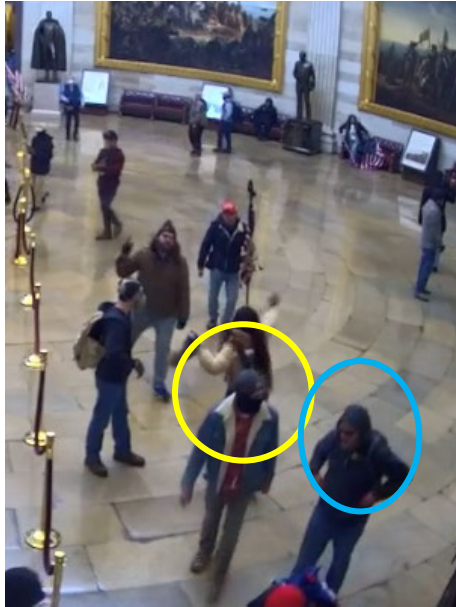


Image 10



Image 11

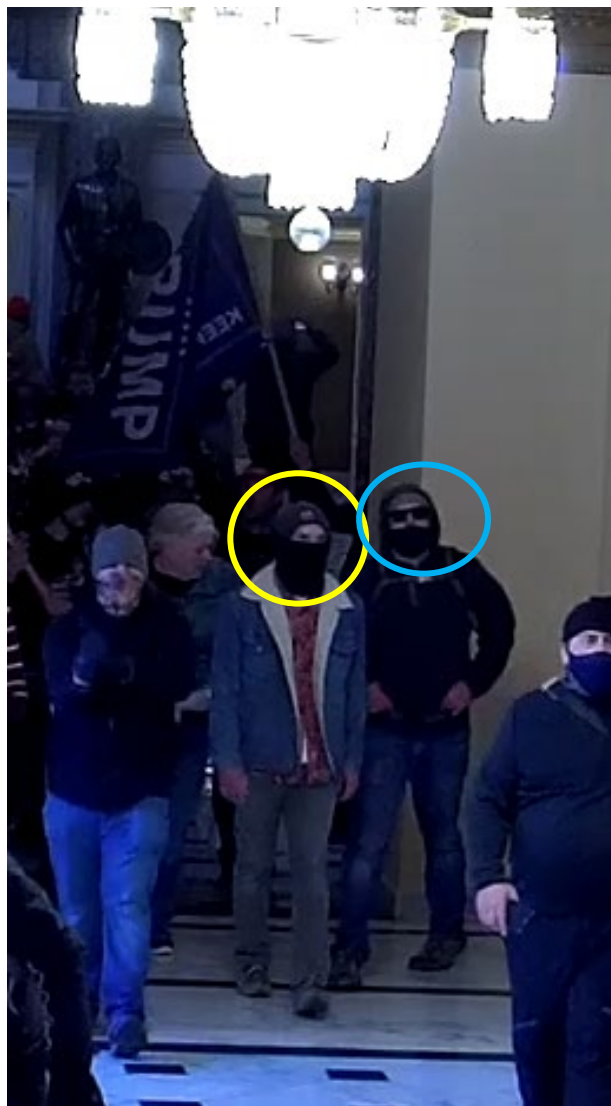


Image 12

ZEIS and SCHULZE were also captured standing outside the U.S House of Representatives outer chamber doors (**Image 13**). Here rioters chanted “BREAK IT DOWN!” referring to the doors which lead to the chamber of the U.S. House of Representatives.



Image 13

SCHULZE and ZEIS were captured by CCTV in hallways between the House Chamber and the Speaker's Lobby (**Image 14 and Image 15**).

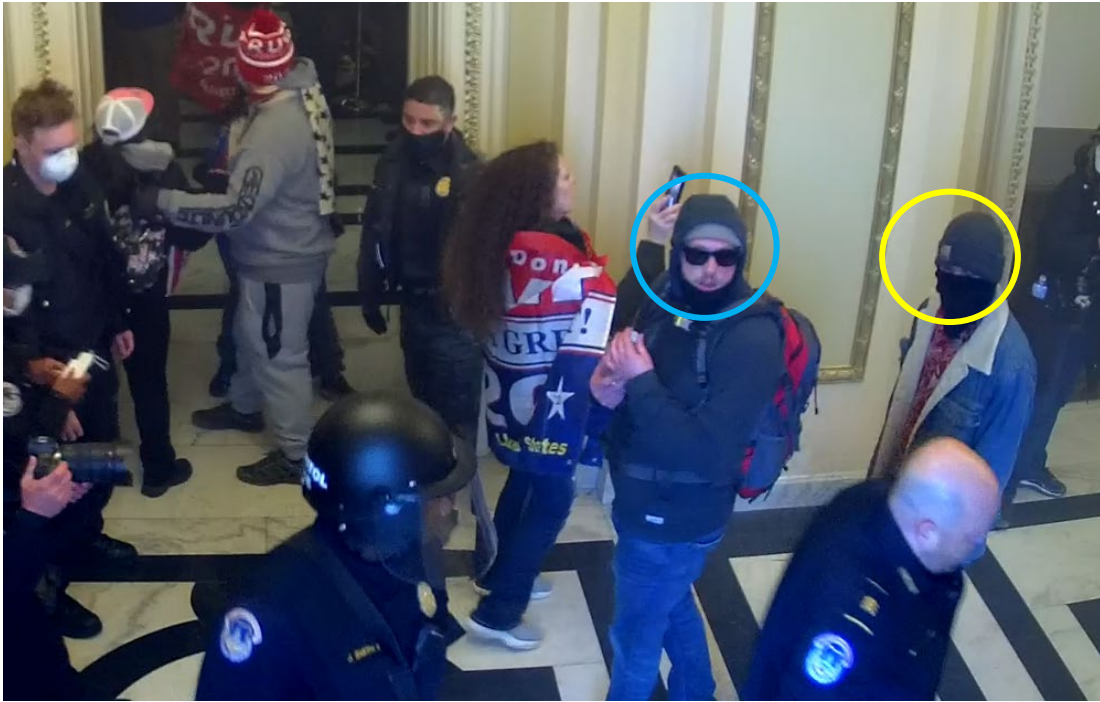


Image 14



Image 15

ZEIS and SCHULZE eventually retraced their steps back throughout the Capitol. Before exiting, stopping in the Rotunda. ZEIS is seen, in an open-source video, joining a group who collectively pushed officers. At 1:02:23 of the video¹, after shoving forward, ZEIS turned around and called out “Justin.” **Image 16.** SCHULZE then joined the group pushing against the officers.

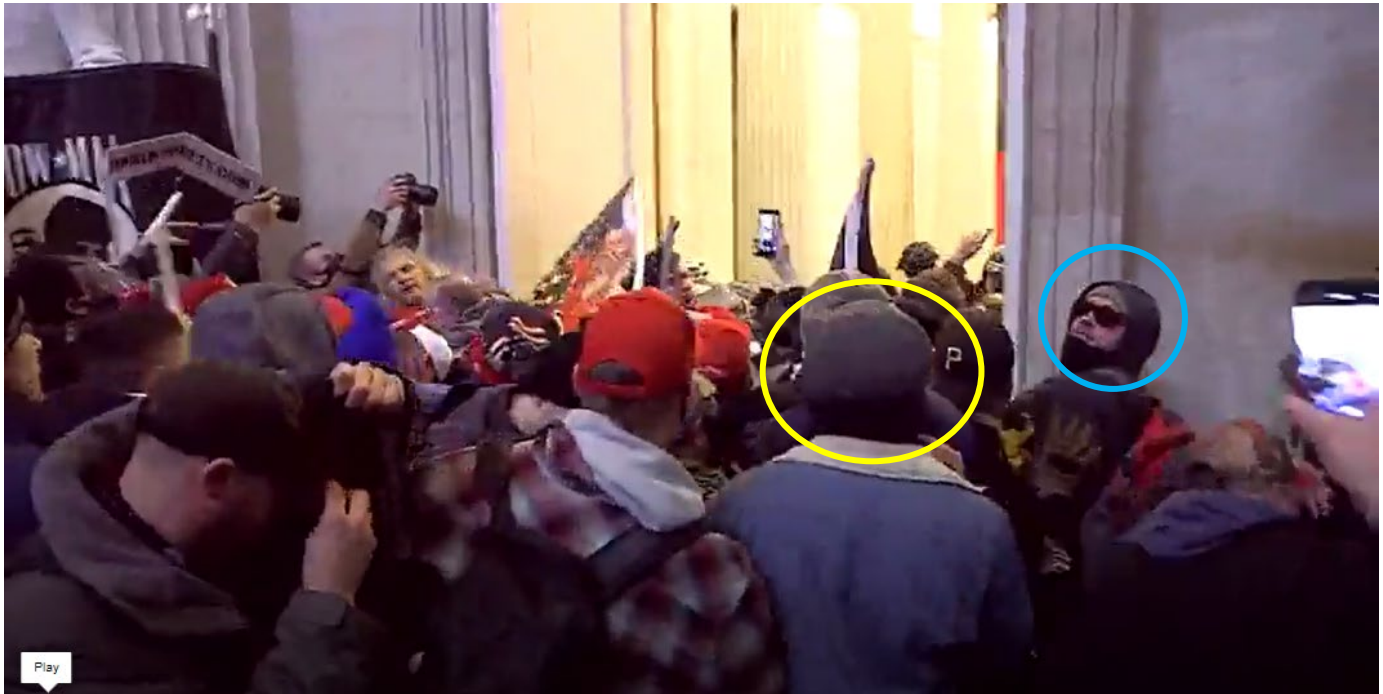


Image 16

¹ <https://archive.org/details/dNja7HbNLHztWGcbo>

ZEIS and SCHULZE exited the U.S. Capitol on January 6, 2021, at 3:07 p.m. back through the same Rotunda Doors as seen in **Image 17** (green box).

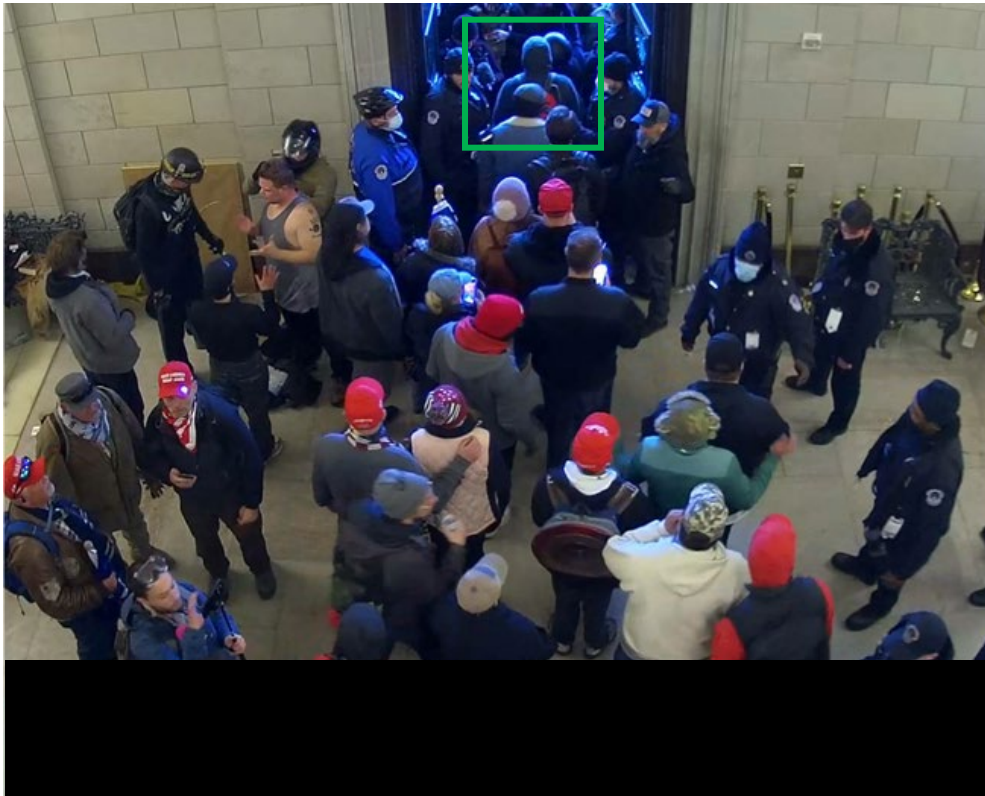


Image 17

TIPSTER1 and TIPSTER 2 were shown a clean copy of **Image 12**. On July 20, 2021, TIPSTER 1 identified ZEIS as person on the right and SCHULZE as the person on the left. TIPSTER 1 elaborated that SCHULZE was wearing the same red “Hawaiian Style” shirt when he left the hotel on the morning of January 6, 2021, and when he returned to the hotel later that evening.

TIPSTER 2 has known both ZEIS and SCHULZE socially for many years. TIPSTER 2 also reviewed the above photograph (**Image 12**) from inside the U.S. Capitol on January 6, 2021. TIPSTER 2 commented that the two people circled are “for sure them” and elaborated that he/she meant SCHULZE and ZEIS.

TIPSTER 1 also identified ZEIS by clothing (ZEIS’ face was covered) and by voice in a video broadcast on CNN of the Capitol Riot. Specifically, TIPSTER 1 was shown a CNN video clip, titled “Photographer Snaps notes of MyPillow CEO after visiting Trump” located on youtube.com, and identified ZEIS in below image (**Image 18**) from that video. In the video ZEIS can be heard saying “Well we made it this far, what do ya say?”



Image 18

TIPSTER 2 identified the same CNN footage of Capitol Riot as TIPSTER 1, identifying ZEIS by face and voice. TIPSTER 2 was able to make this identification due to having personally known ZEIS for many years. TIPSTER 2 provided the same cell number for ZEIS as provided by TIPSTER 1, stating that this was the number used by ZEIS on and about January 6, 2021.

TIPSTER 1 and TIPSTER 2 both provided ZEIS's phone number as 818-454-96**². FBI investigation shows that Verizon is the service provider for 818-454-96**.

The FBI obtained and executed a search warrant to Verizon for phone number 818-454-96** for the period January 1, 2021, to January 15, 2021. The responsive records provided by Verizon confirmed that the subscriber of the phone number during this time was ZEIS and location data confirmed the phone was in the vicinity of the U.S. Capitol on January 6, 2021.

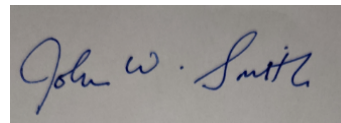
Your affiant interviewed ZEIS outside of his residence on July 21, 2022. ZEIS was cooperative throughout the interview and admitted to being inside the U.S. Capitol on January 6, 2021. ZEIS reviewed clean copies of images 8-12, 14-15, and 17-18 and confirmed he is the person in the images. ZEIS confirmed his phone number on January 6, 2021, was 818-454-96** and that he had the phone with him inside the U.S. Capitol.

² Your affiant has removed the last two digits of this telephone number for privacy purposes. Your affiant knows the last two digits.

Based on the foregoing, your affiant submits that there is probable cause to believe that ERIC D. ZEIS violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

Your affiant submits there is also probable cause to believe that ERIC D. ZEIS violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Finally, your affiant submits there is probable cause to believe that ERIC D. ZEIS violated 18 U.S.C. 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.



John W. Smith
Special Agent FBI

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 7th day of November 2023.

ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE