

STATEMENT OF FACTS

On January 6, 2021, your affiant, Paul J. Fisher, was on duty and performing my official duties as a Special Agent. Specifically, I am assigned to the Federal Bureau of Investigation, Washington Field Office, Squad CR-18, tasked with investigating criminal activity in and around the Capitol grounds. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, 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 are 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. Vice President Mike Pence was present and presiding in the Senate Chamber.

With the joint session underway and with Vice President Mike Pence presiding, a large crowd gathered outside the U.S. Capitol. Temporary and permanent barricades surround 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 approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. At such time, the joint session was 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, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows. 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.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

William Joseph PEPE (hereafter PEPE) was photographed inside the United States Capitol during the events that transpired the afternoon of January 6, 2021. The photograph was displayed to the public from various media outlets. After the photograph was displayed for the public, PEPE

was identified as an employee of the Metro Transit Authority (hereafter MTA). MTA's investigation revealed that PEPE used sick leave for January 6, 2021 in order to travel to Washington, D.C. for the aforementioned events. MTA then suspended PEPE. The photograph of PEPE during the events of January 6, 2021 can be found at the following URL: <https://www.nbcnewyork.com/news/local/mta-suspends-metro-north-worker-for-calling-out-sick-to-attend-capitol-riot/2820726/>.



The Federal Bureau of Investigation, New York Field Office, confirmed through a MTA Task Force Officer that PEPE was in fact an employee of MTA and that PEPE used sick leave for the day PEPE was photographed in the United States Capitol. Further, PEPE was identified by MTA employees using the photograph included in this Statement of Facts. PEPE is a MTA employee assigned to the Mechanical Department as a Laborer in the Brewster Yard in New York. MTA provided the following photo:



Based on the foregoing, your affiant submits that there is probable cause to believe that William Joseph PEPE 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.



Paul J. Fisher, Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 11th day of January 2021.

Zia M. Faruqi
U.S. MAGISTRATE JUDGE