

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	Case No: 21-cr-0067 (ABJ)
	:	
v.	:	
	:	40 U.S.C. § 5104(e)(2)(G)
	:	
MARK SIMON	:	
	:	
Defendant.	:	

FILED
AUG 19 2021

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

STATEMENT OF OFFENSE

1. The Government respectfully submits the following Statement of Offense in support of a plea of guilty by defendant Mark Simon to Count IV of the Information in the above-captioned matter which charges a violation of Title 40, United States Code, Section 5104 (e)(2)(G) (Parading, Demonstrating or Picketing in a Capitol Building).

Elements of the Offense

2. The essential elements of the charged offense of Parading, Demonstrating or Picketing in a Capitol Building in violation of Title 40, United States Code, Section 5104 (e)(2)(G), each of which the Government must prove beyond a reasonable doubt, are that:

- a. the defendant willfully and knowingly entered the U.S. Capitol; and
- b. the defendant paraded, demonstrated or picketed in the U.S. Capitol

Evidence of the Offense

3. If this case were to go to trial, the government would prove the following facts beyond a reasonable doubt:

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Background

4. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., 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.

5. On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public.

6. 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.

7. As the proceedings continued in both the House and the Senate, and with Vice President 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.

8. 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

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advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police Officers or other authorized security officials.

9. 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, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the U.S. Capitol, requiring the expenditure of more than \$1.4 million dollars for repairs.

10. 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 Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

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Evidence of Defendant's Conduct

11. Mark Simon traveled to Washington, D.C. from Huntington Beach, California. On or about January 13, 2021, a Special Agent in the FBI's Los Angeles field office conducted open-source research and located a blog post at www.orangejuiceblog.com titled "From HB to DC: [Individual 1] and tanned BF help Storm the Capitol for Trump!" The post included images and video of a female and Mark Simon, who the blog claimed were at the U.S. Capitol on January 6, 2021. According to the post, the images and video had previously been posted on the Facebook page for Individual 1 but had since been deleted. The Orange County Intelligence Assessment Center (OCIAC) was later able to locate the video and confirm it was posted to Individual 1's Facebook page with the caption, "Peacefully Storming the Capitol...#StopTheSteal." The OCIAC provided a copy of the video to the FBI's Los Angeles office on January 17, 2021.

12. The above-referenced blog post also included a link to the video, which had been posted to YouTube with the URL:
https://www.youtube.com/watch?v=PklJgMghd1A&feature=emb_logo.

13. Members of the public submitted tips to the FBI in connection with the January 6, 2021 events at the U.S. Capitol. The YouTube video and clips of the same video submitted by the public to the FBI showed Mark Simon and that it had been posted to Individual 1's Facebook page with the comment, "Peacefully Storming the Capital" and "#StopTheSteal."

14. Mark Simon took the video on January 6, 2021. He was on the east side of the U.S. Capitol approaching a doorway leading into the U.S. Capitol. As he panned from the U.S. Capitol doorway to the crowd, the U.S. Supreme Court and the Library of Congress can be

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viewed in the background. A beeping sound that appeared to be an alarm could be heard from inside the U.S. Capitol throughout the video.

15. The video showed numerous individuals pushing their way into the U.S. Capitol, while others exited the U.S. Capitol. As Simon filmed the video he approached the doorway to the U.S. Capitol, law enforcement officers inside the U.S. Capitol could be seen attempting to remove individuals from the building. Broken glass windows could be observed on two of the doors of the U.S. Capitol, including one that was directly next to Mark Simon while he was taking the video.

16. Once Mark Simon was in the doorway threshold of the U.S. Capitol building, he turned the camera on himself and said, "In the Capitol baby, yeah!" Shortly thereafter, Mark Simon turned the camera on himself again and said, "2021 Donald Trump!" A screenshot from the portion of the video in which Mark Simon turned the camera on himself is below, along with an image from the video provided to the FBI by a member of the public. A broken glass window is visible directly behind Mark Simon in the first image.



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17. The defendant knew, at the time that he entered the U.S. Capitol building, that he did not have permission to enter the building. The defendant entered the building and paraded, demonstrated, and/or picketed within the building.

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18. This statement of offense is a summary of the conduct of Mark Simon and is not intended to be a complete accounting of all facts and events related to the offenses charged in this case. The limited purpose of this statement of offense is to demonstrate that a factual basis exists to support the guilty pleas to the offense of Parading, Demonstrating or Picketing in the U.S. Capitol, as charged in Count Four of the Information in this case.

Respectfully submitted,

CHANNING D. PHILLIPS
Acting United States Attorney
for the District of Columbia

/s/ Brenda J. Johnson


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DEFENDANT'S ACKNOWLEDGMENT

I have read this factual proffer and have discussed it with my attorney, Amy Karlin, Esquire. I fully understand this factual proffer. I agree and acknowledge by my signature that this proffer of facts is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this factual proffer fully.

Date: 8-5-2021

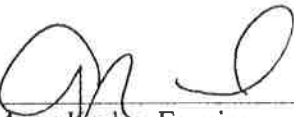


Mark Simon
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this factual proffer, and have reviewed it with my client fully. I concur in my client's desire to adopt this factual proffer as true and accurate. To my knowledge, my client's decision to agree to and adopt this factual proffer is an informed and voluntary one.

Date: 8/5/21



Amy Karlin, Esquire
Counsel for the Defendant

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