Case: 1:21-mj-00331
Assigned To : Harvey, G. Michael
Assign. Date : 3/23/2021
Description: Complaint w/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, Stephen R. Hart, is a Special Agent of the Federal Bureau of Investigation ("FBI"), and has been so employed since February 2004. I am currently assigned to the FBI Washington Field Office in Washington, D.C. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent with the FBI, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of violations of Federal criminal laws.

Background

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, shortly 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.

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.

Unlawful Entry into Restricted Grounds
and Assault of Officer J.M. and Other Law Enforcement at the U.S. Capitol

A number of law enforcement officers were assaulted while attempting to prevent rioters from entering the U.S. Capitol. These assaults occurred both inside the Capitol building, as well as on the steps outside of the Capitol and on the grounds of the Capitol.

The FBI has obtained bodyworn camera ("BWC") footage from the Metropolitan Police Department ("MPD") that depicts an assault of MPD Officer J.M. ("J.M.") and other law enforcement officers that occurred on the Capitol grounds, near the bike rack barricade line at the base of the West Front of the Capitol building, several yards south of the media tower. J.M. had been dispatched to that location in order to assist U.S. Capitol Police officers with protecting the Capitol grounds and building.

Your affiant reviewed BWC footage depicting the assault. As seen in the BWC footage, at approximately 1:37 pm EST, an individual wearing a red "Make America Great Again" hat, orange and yellow scarf, gray or black "Dakine" backpack with a red logo, black coat, and blue jeans, with a gas mask with a red mouthpiece around his neck—later identified as Evan NEUMANN ("NEUMANN")—is seen approaching and stopping in front of J.M. who is barricaded behind a metal gate. NEUMANN then puts on the gas mask and continues standing near J.M. in front of the barricade for several minutes.

At approximately 1:45 pm, NEUMANN removes his gas mask and begins speaking directly at the line of officers, including J.M. NEUMANN says that J.M is "defending the people who are going to kill your fucking children . . . they are gonna kill your fucking children, they are gonna rape them, they are gonna imprison them, and you're defending the people that are going to do this to your children." NEUMANN then continues to verbally abuse J.M and the other officers. NEUMANN also refuses orders by police to move away from the barricade, telling the officers "no, you can't tell me what to do, you piece of shit."

At approximately 1:49 pm, NEUMANN temporarily stops engaging with the officers and puts his gas mask back on his face. He remains standing directly in front of J.M. for several minutes. At approximately 1:55 pm, NEUMANN, who has again removed his gas mask, resumes

berating J.M., stating that the officers "kneel to Antifa because they're little bitches," and saying that J.M. has "no pride, no honor, you're nothing." He then threatens J.M. that the officers will be "overrun" by the crowd, and says "I'm willing to die, are you?"

At approximately, 1:56 pm, J.M. and the other officers begin placing their hands on the metal barricades to reinforce them as rioters attempt to push the barricades back into the police line. Officers also repeatedly order rioters to step back from the barricades. At approximately 1:57 pm, the crowd becomes more agitated and NEUMANN grabs the barricade with his hand.

NEUMANN then tightens his grip and forcefully shoves the metal barricade into J.M and the line of officers.

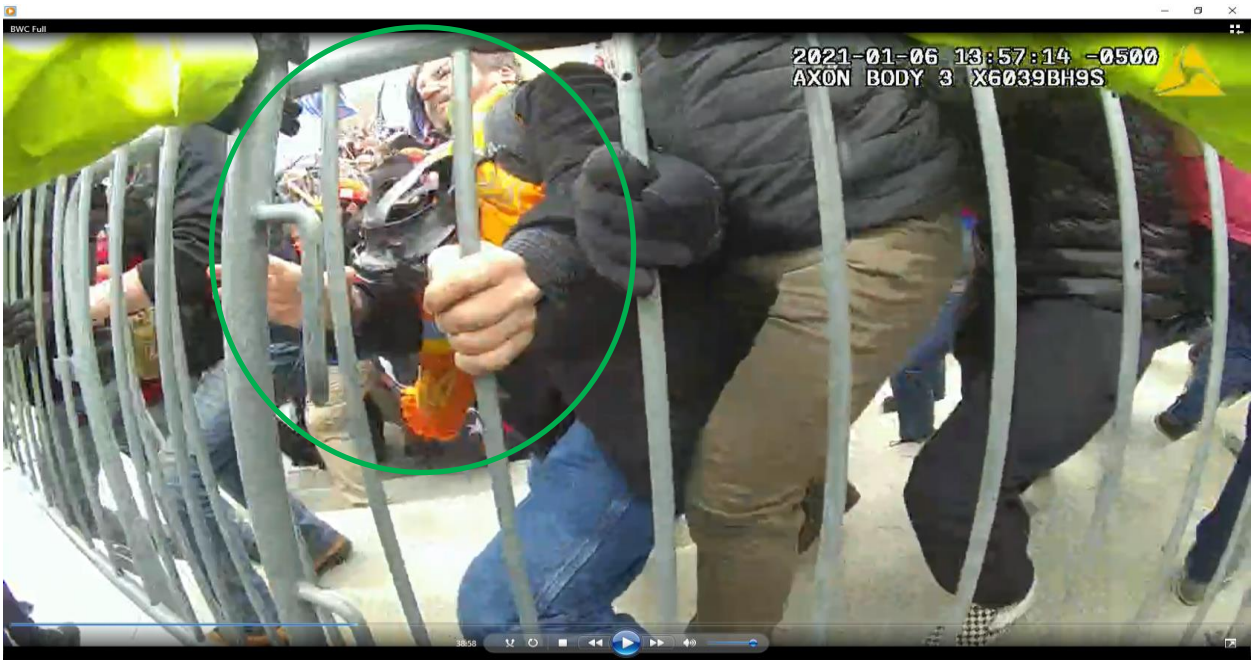
Officers attempt to push the barricade back into place as NEUMANN keeps his grip on the barricade. An officer standing to J.M.'s left attempts to move NEUMANN off of the barricade

but NEUMANN stays in place and continues wrestling over the barricade. J.M. then tries to move NEUMANN away, as NEUMANN has both hands firmly clutching the barricade as he attempts to push into the line of officers.

NEUMANN then removes his left hand from the barricade and reaches over the barricade to grab or strike at J.M.

Next, NEUMANN punches toward J.M. and the officer to J.M.'s left with a closed fist. NEUMANN appears to make contact with the officers with his fist.

After striking the officers, NEUMANN, now joined by more rioters, resumes his attempts to break through the metal barricades. This time, NEUMANN and the other rioters succeed in breaking down the barricades by ripping them back and away from J.M. and the other officers.



As J.M. attempts to pull the metal barricade out of NEUMANN'S hands, NEUMANN, now using the barricade as a battering ram, lifts the barricade off the ground and rushes toward J.M. and the other officers, crossing into the now-broken police line and striking them with the barricade.

BWC Full
2021-01-06 13:57:18 -0500
AXON BODY 3 X6039BH9S

2021-01-06 13:57:21 -0500
AXON BODY 3 X6039BH9S

After striking J.M. and the other officers with the metal barricade, NEUMANN retreats back down the steps and away from the now-broken police line.

Additional BWC footage shows that NEUMANN remained on restricted grounds at the U.S. Capitol at least past 5:00 pm. At approximately 5:08 pm, NEUMANN is seen resisting repeated orders by law enforcement to leave the Capitol steps, calling the officers "motherfuckers" and "fucking murderers."

On January 27, 2021, based on the BWC footage, the FBI created a profile for NEUMANN in its "Be On The Lookout" (BOLO) Assault on Federal Officer (AFO) list for the ongoing U.S. Capitol Riot investigations.

An anonymous tipster identifying itself as a family friend contacted the National Threat Operations Center and identified the foregoing BOLO as Evan Neumann, and provided a residence in Mill Valley, CA.

Your affiant has also compared the BOLO photos of NEUMANN with a 2018 press report by the local San Francisco, CA, ABC news affiliate documenting the case of Evan and Mark Neumann after they were arrested for violating orders not to enter a disaster area after a wildfire. During the news story, "Evan Neumann" was interviewed. Your affiant can confirm that the individual in the news interview resembles the individual in the BOLO photos.

Your affiant has also compared the BOLO photos of NEUMANN to a March 2019 passport application photo submitted by NEUMANN and can confirm that the individual in the passport photo resembles the individual in the BOLO photos.

A review of NEUMANN's LinkedIn profile shows that he attended the Ukrainian Orange Revolution in 2004 and 2005. In the photos and videos described above, NEUMANN is seen wearing an orange and yellow scarf. Open source research reveals that a scarf commemorating the Ukrainian Orange Revolution is similar in appearance to the scarf worn by NEUMANN at the Capitol.

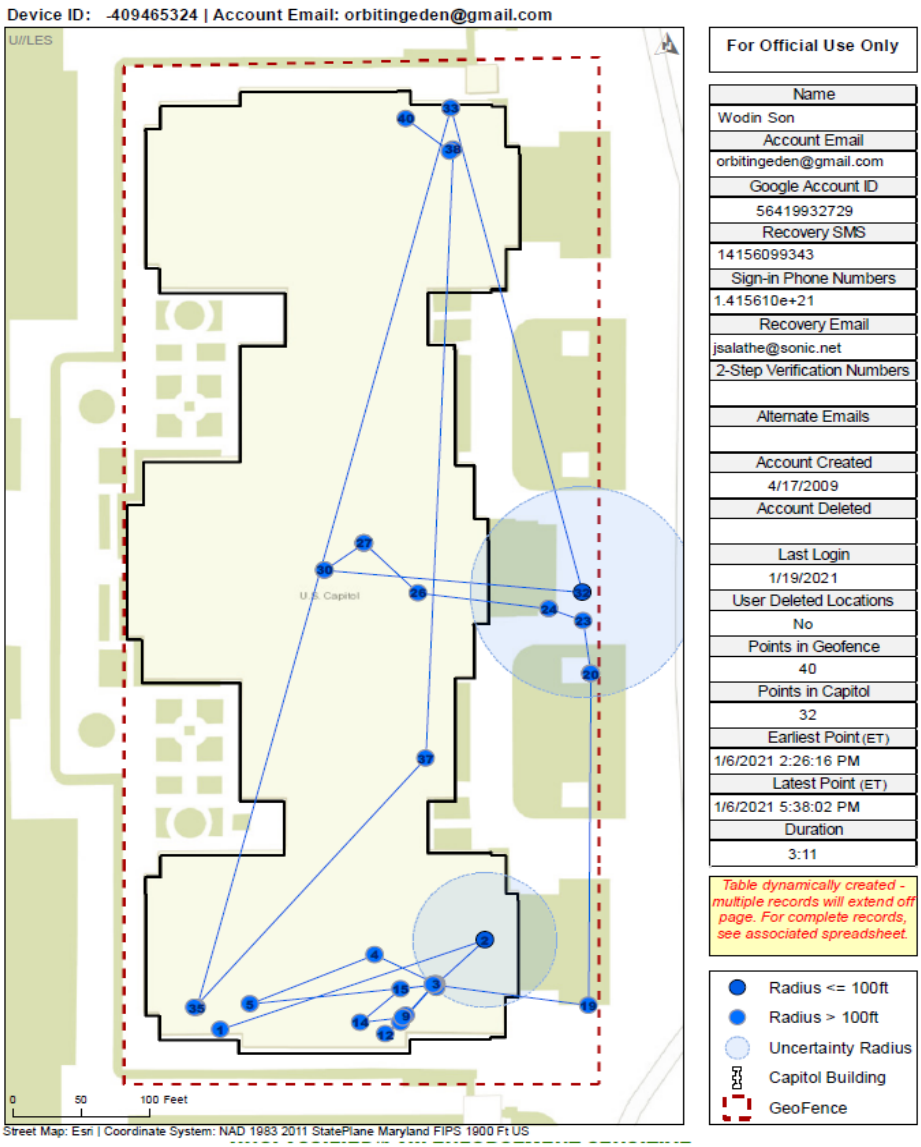
Additionally, your affiant made various database and open source queries and was able to confirm the anonymous tipster's statement that NEUMANN resides at the residence in Mill Valley, CA. NEUMANN listed that location as his home address in his March 2019 passport

application. Law enforcement database queries with Accurint and CLEAR also linked NEUMANN with the same home address.

On February 16, 2021, members of the FBI's Special Surveillance Group (SSG) observed NEUMANN leaving his residence in Mill Valley, CA, and followed him to the international terminal at San Francisco International Airport (SFO). While at SFO, NEUMANN was interviewed by FBI special agents. During the interview, NEUMANN admitted to flying to Washington, D.C., on January 5, 2021, and departing D.C. on January 7, 2021. NEUMANN declined to answer if he entered any federal buildings during his trip. NEUMANN admitted that he interacted with law enforcement in Washington, D.C., but declined to elaborate further or to answer if he had any physical engagement with law enforcement. Neumann confirmed his cellular number as a number ending in -9343.

According to records obtained through a search warrant served on Google, a mobile device associated with phone number 415-609-9343 was present at the U.S. Capitol on January 6, 2021. Google estimates device location using sources including GPS data and information about nearby Wi-Fi access points and Bluetooth beacons. This location data varies in its accuracy, depending on the source(s) of the data. As a result, Google assigns a "maps display radius" for each location data point. Thus, where Google estimates that its location data is accurate to within 10 meters, Google assigns a "maps display radius" of 10 meters to the location data point. Finally, Google reports that its "maps display radius" reflects the actual location of the covered device approximately 68% of the time.

In this case, Google records showed that the mobile device associated with phone number 415-609-9343 was present at the locations illustrated in the map below. The mobile device was within the U.S. Capitol area at locations reflected by each darker blue circle in the map below, with the "maps display radius" reflected by each lighter blue ring around each darker blue circle. As illustrated in the map, the listed locations encompass areas that are at least partially within the U.S. Capitol building and/or restricted areas of the U.S. Capitol grounds between approximately 2:26 pm and 5:38 pm on January 6, 2021.



The FBI has reviewed the available information for phone number 415-609-9343 in order to determine whether there was any evidence that devices associated with that phone number could have lawfully been inside the U.S. Capitol building or restricted areas of the U.S. Capitol grounds on January 6, 2021. The information for that phone number did not match any information for persons lawfully within the Capitol. Accordingly, your affiant believes that the individual possessing this device was not authorized to be within the U.S. Capitol building or restricted areas of the U.S. Capitol grounds on January 6, 2021.

Finally, on March 12, 2021, your affiant spoke to a personal acquaintance of NEUMANN. Your affiant then emailed the acquaintance images used in the BOLO as well as other images taken from other BWCs and open sources. The acquaintance positively identified the individual as NEUMANN, who resides at an address in Mill Valley, CA. The acquaintance confirmed that it had seen NEUMANN many times in social settings.

Probable Cause

Based on the foregoing, your affiant submits that there is probable cause to believe that NEUMANN violated the following:

1. **18 U.S.C. § 111(a)(1)**, which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 as an officer or employee of the United States while engaged in or on account of the performance of official duties. Persons designated within section 1114 include any person assisting an officer or employee of the United States in the performance of their official duties.

2. **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.

3. **18 U.S.C. § 1752(a)(1), (2), and (4)**, which makes it a crime, with respect to subdivision (a)(1), to knowingly enter or remain in any restricted building or grounds without lawful authority to do so; with respect to subdivision (a)(2) to 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; and with respect to subdivision (a)(4) to knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; or attempt or conspire 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.

4. **40 U.S.C. § 5104(e)(2)(F)**, which makes it a crime to willfully and knowingly engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

As such, your affiant respectfully requests that the court issue an arrest warrant for NEUMANN. The statements above are true and accurate to the best of my knowledge and belief.

Respectfully submitted,

Stephen R. Hart
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 23rd day of March 2021.

Digitally signed by G. Michael Harvey
Date: 2021.03.23 14:00:59 -04'00'

G. MICHAEL HARVEY,
U.S. MAGISTRATE JUDGE