

STATEMENT OF FACTS

Your affiant, Ryan DeMary, is a Task Force Officer of the Federal Bureau of Investigation (FBI) assigned to Pittsburgh Division, Squad 35 – Joint Domestic Terrorism/Terrorism Task Force. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Task Force Officer, 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 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.

On or about January 8, 2021, a witness (W-1) contacted the FBI regarding Samuel FOX's involvement in the United States Capital siege on January 6, 2021. The tip identified "Samuel FOX" by name. W-1 reported that he/she attended college with FOX and that they remained Facebook friends to the present day. W-1 identified a specific Facebook post on FOX's account that depicted FOX inside the U.S. Capitol building. The individual providing the tip was interviewed telephonically and he/she provided descriptions of posts, and the posts themselves, showing FOX inside the Capitol Building. Using the images and information provided in the tip, your affiant queried a Commonwealth of Pennsylvania law enforcement database. The results of the query verified that the individual in the Facebook posts was Samuel FOX, based upon FOX's place of residence, business information, driver's license registration, phone number, email addresses, and other biographical data.

The bottom right photograph (below), circled in red, depicts FOX inside the U.S. Capitol Building, while others show him on the exterior or views of his approach to the entrances to the U.S. Capitol:



On January 11, 2021, a second witness (hereafter W-2) reported to the FBI that W-2 had viewed FOX's Facebook page which contained images, and/or videos, that depicted FOX inside

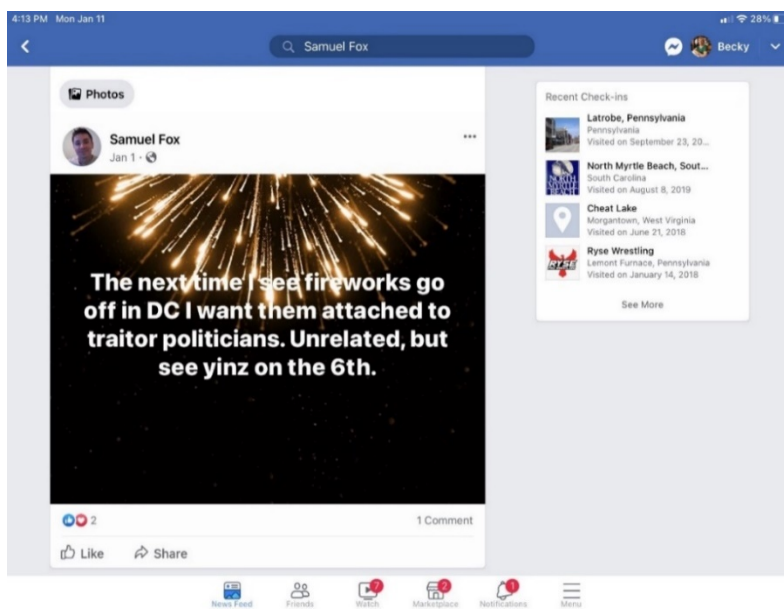
the United States Capital Building. W-2 further reported that several posts that he or she had seen had since been deleted from FOX’s account. According to W-2, he or she did not know FOX personally, but was able to access FOX’s Facebook page.¹ W-2 captured, and subsequently provided to the FBI, three images from Facebook posts made on FOX’s account. Two images posted on January 1, 2021, referenced FOX’s plans to travel to Washington D.C. on January 6, 2021. The third image consists of FOX’s Facebook profile image. The three images, described above, are included here:

One:

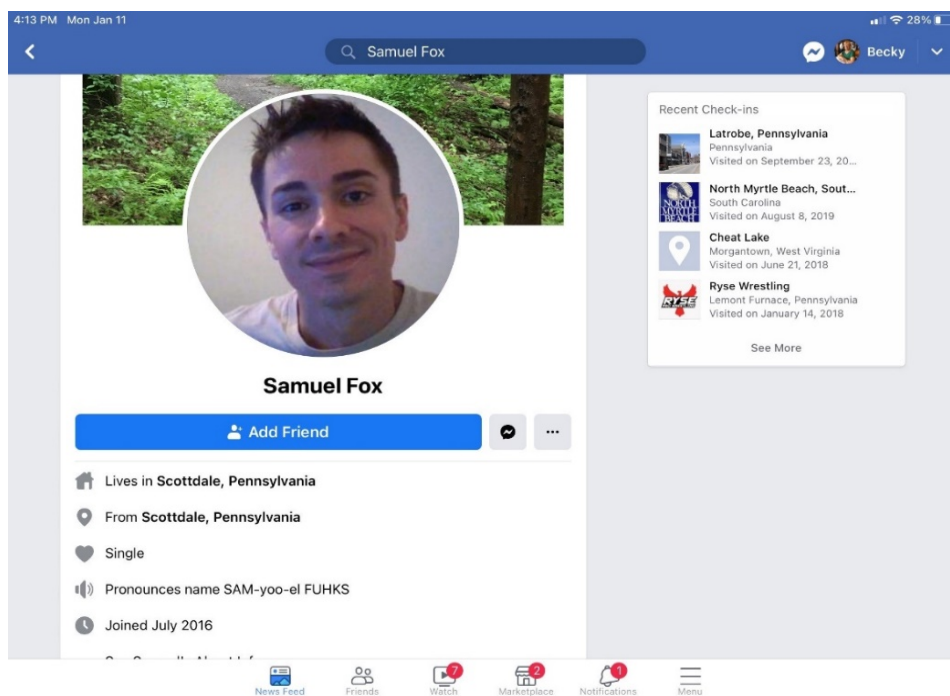


¹ In a follow-up interview, W-2 was shown several photos of FOX by FBI. He/she identified some, but not all, of the photos shown as FOX.

Two:



Three:



On March 25, 2021, I requested United States Capital Police (USCP) Closed Circuit Television (CCTV) footage from Senate Wing Door area on January 6, 2021. In response, on March 29, 2021, the requested video footage was provided to your affiant from USCP. Upon review of the (CCTV) footage from inside the Senate Wing Door of the U.S. Capitol on January 6, 2021, it was determined that between approximately 3:12 p.m. – 3:14 p.m., FOX was identified based on FOX’s appearance and clothing from the comparison images identified by W-1. The photographs of FOX from inside the U.S. Capitol (Senate Wing Door) show that FOX unlawfully

entered the U.S. Capitol Building through a broken window. In addition, FOX can be seen with a cellular phone in his hand and appears to be recording and/or photographing events inside the U.S. Capitol building with his cellular phone.

Three screenshots of FOX entering or remaining in the interior of the U.S. Capitol from the CCTV footage are depicted below:

Senate Wing Door CCTV

One:

Two:



Three:



On May 3, 2021, pursuant to a search warrant authorized in the District of Columbia, law enforcement obtained records from Google related to service provided at the U.S. Capitol. FOX's cellular device and email addresses were identified as having utilized a cellular site consistent with the geographic area that included the interior of the U.S. Capitol building in and around the time of the incident on January 6, 2021. Records further indicate, FOX's telephone number, ending with 0031 and email addresses; westmorelandmovers@gmail.com and samuelfoxamericanincome@gmail.com, were active on Google cellular towers at approximately on January 6, 2021 at 20:03.02 UTC (approximately 3:03 PM EST). The phone number and email addresses obtained in the Google search warrant matched the information obtained from the query to the Commonwealth of Pennsylvania law enforcement database.

Facebook records obtained pursuant to an authorized search warrant, FOX's Facebook account corroborated information provided by W-1 and W-2, that FOX posted several pictures to his Facebook account depicting his activities on January 6, 2021. Screenshots of FOX's post activity that were taken in and around the U.S. Capitol building, subsequently deleted (by FOX) but preserved by Facebook, are shown below. The unique picture IDs are circled in red.

Screenshots of deleted Facebook posts

Photo ID 1079653472478320

Id 1079653472478320

Title

Link <https://www.facebook.com/photo.php?fbid=1079653472478320&set=a.110204169423260&type=3>

Upload Ip 174.251.209.140

Album Name Deleted by Facebook

Uploaded 2021-01-07 02:19:40 UTC

Taken 2021-01-06 20:12:46 UTC

Modified 2021-01-06 20:12:46 UTC

Camera Make motorola

Camera Model moto g power (XT2041DL)

Orientation 8

Exposure 1/30

Fstop 200/100

Iso Speed 514

Focal Length 3780/1000

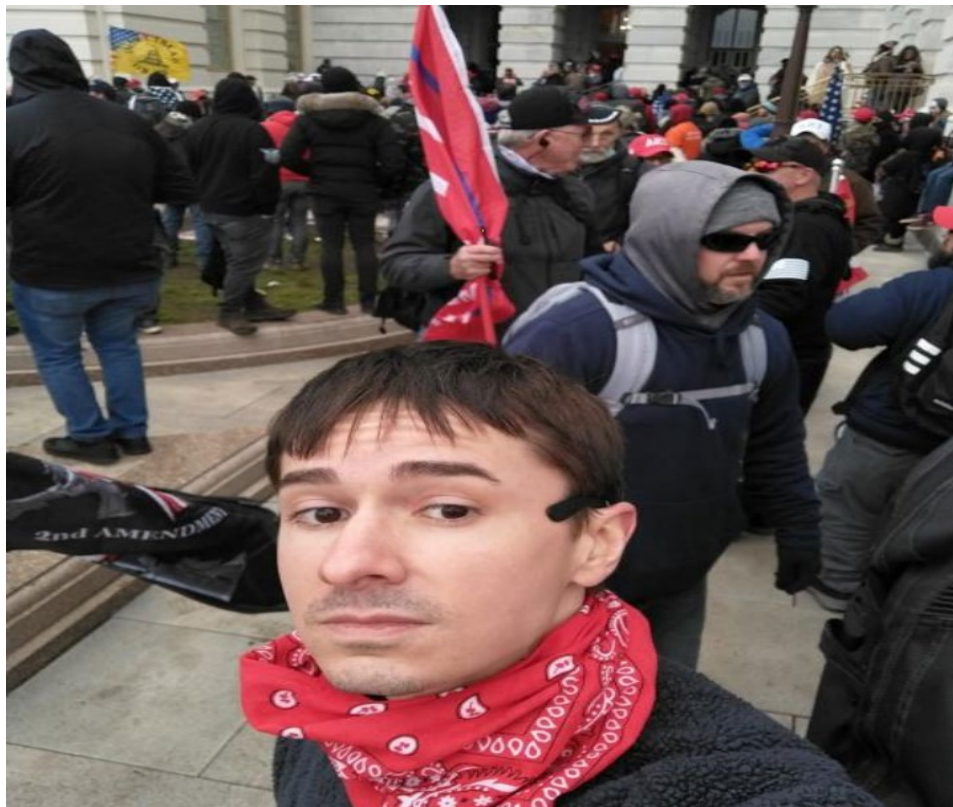


Photo ID

1079653499144984

Id 1079653499144984
Title
Link <https://www.facebook.com/photo.php?fbid=1079653499144984&set=a.110204169423260&type=3>
Upload Ip 174.251.209.140
Album Name Deleted by Facebook
Uploaded 2021-01-07 02:19:42 UTC
Taken 2021-01-06 16:54:20 UTC
Modified 2021-01-06 16:54:20 UTC
Camera Make motorola
Camera Model moto g power (XT2041DL)
Orientation 8
Exposure 1/889
Fstop 200/100
Iso Speed 100
Focal Length 3780/1000



FOX's Facebook records from January 10, 2021, include conversations in which FOX admits his entry into the U.S. Capital building on January 6, 2021. One such conversation appears below:

Time 2021-01-10 01:28:41 UTC

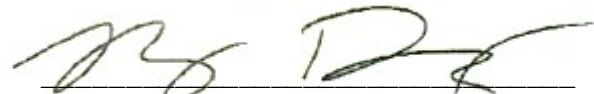
Type Comments

Summary Samuel Fox replied to your comment on a post from January 9. `Look at the picture I posted earlier. What color are the kids hands? ☐☐ This white bullshit is huge scapegoat for people who never take the time to look around. The people pumping out these messages are the mega corporations. George floyd riots destroyed cities. The capitol wasnt overthrown we were let in. More than enough police to herd out the mostly 60-something crowd`

Object Id S:_1100013010317738:3662611730465801:42

Based on the foregoing, your affiant submits that there is probable cause to believe that Samuel FOX violated 18 U.S.C. §§ 1752(a)(1) and (2), which make 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 further submits that there is probable cause to believe that Samuel FOX violated 40 U.S.C. §§ 5104(e)(2)(D) & (G), which criminalizes violent entry/disorderly conduct on U.S. Capitol grounds and parading, demonstrating or picketing in a Capitol building.



RYAN DEMARY
FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 16th day of June 2021.

G. MICHAEL HARVEY
UNITED STATES MAGISTRATE JUDGE