

STATEMENT OF FACTS

Your affiant, Mark Matthews, is a Special Agent with the Federal Bureau of Investigation assigned to the Richmond Division in the Fredericksburg Resident Agency. In my duties as a Special Agent, I investigate Domestic and International Terrorism. 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 violations 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.

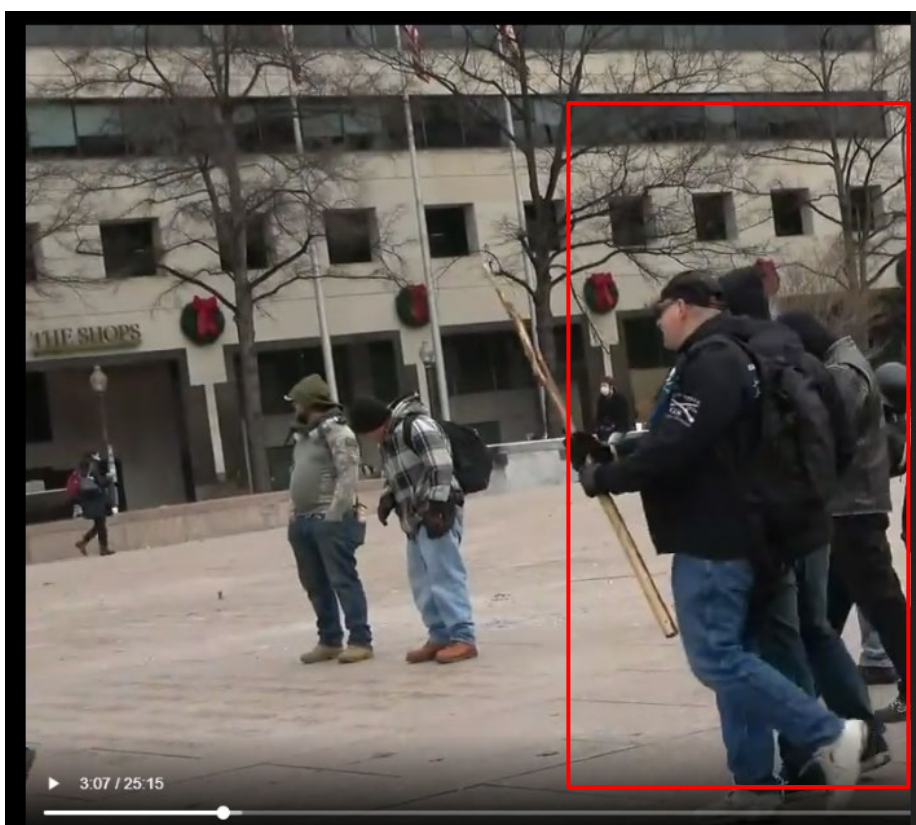
At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals 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.

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

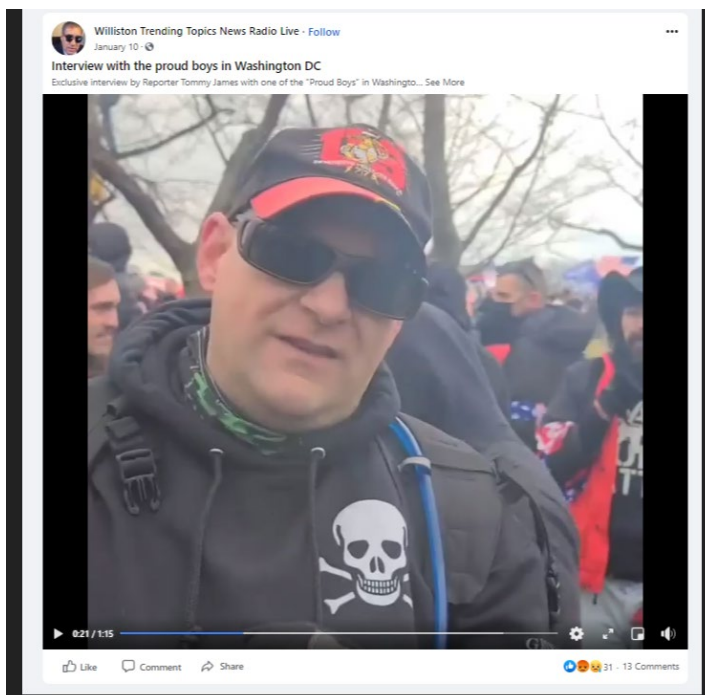
violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

Based on a tip submitted to the FBI, the affiant performed a review of three videos that contained footage of a subject who occupied restricted areas of the Capitol Grounds and assaulted police officers on January 6, 2021. The complainant alleged the individual in the Capitol footage was James DAVIS of Virginia, who was identified by name in a photograph on www.NTD.com, a publicly-available news site. The affiant compared the captioned January 6th footage to the open-source news photograph of James DAVIS and confirmed that DAVIS likely participated in the violence at the Capitol. Following the review of the three videos, body worn cameras (BWC) of Metropolitan Police Department (MPD) Civil Disturbance Unit (CDU) 51 were reviewed by the affiant to further identify the Subject's actions and the assault on a Federal Officer on January 6, 2021.



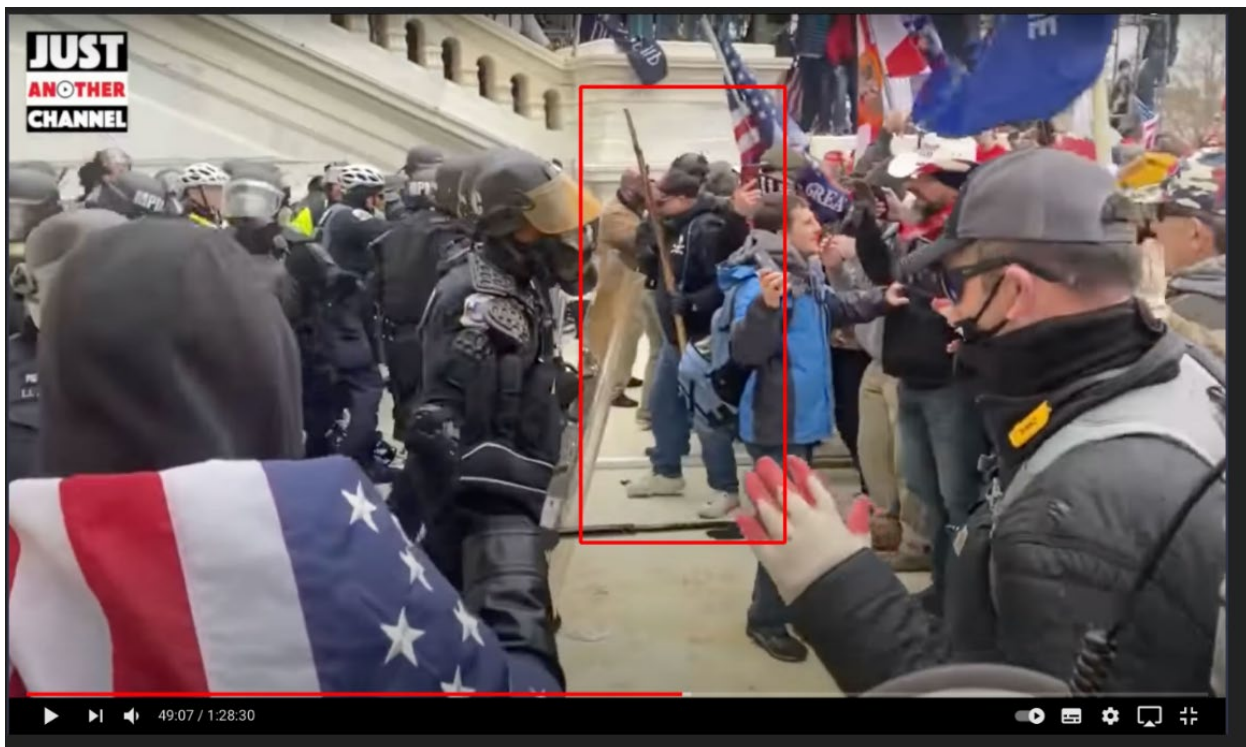
Video 1

The affiant reviewed Video 1, a publicly available open-source video filmed by a single videographer capturing the events of January 6, 2021. The Subject appeared around the 3:00 minute mark wearing a black sweatshirt, black ball cap, sunglasses, black backpack, blue jeans, white shoes, black gloves, and a "Grunt Style" logo on his left shoulder. The Subject was wielding what appears to be a large stick or pole.



Video 2

The second video the affiant reviewed, Video 2, was an interview conducted by “Williston Trending Topics News Radio Live” and uploaded to Facebook. It featured the Subject and was filmed prior to the Trump Rally on January 6, 2021. In it, the Subject identified himself as a Virginia Proud Boy and wore a black and red U.S. Marine Corps baseball cap, sunglasses, a black sweatshirt with a skull and cross bones on the left chest, a black and green Gator around his neck, black gloves, and a CamelBak style backpack. He also wielded a large pole/stick.



Video 3

The third video, Video 3, was an open-source video uploaded to Youtube.com by “Just Another Channel.” The Subject appeared at around minute 49:05 wearing a black sweatshirt, red and black ball cap, sunglasses, blue jeans, black gloves, and wielding the large stick/pole, consistent with Videos 1 and 2. The video was shot from a single videographer’s point of view and filmed on the Lower West Terrace on the U.S. Capitol Grounds, just below where the Inauguration stage was being constructed. Following the affiant’s review, unknown individuals made the video private on Youtube.com.

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Gun rights activist James Davis, 43 and from King George, Virginia, demonstrates outside the Virginia State Capitol building as the General Assembly prepares to convene in Richmond, Va., on Jan. 8, 2020. (Jonathan Drake/Reuters)

Article 1

Additionally, the affiant reviewed an open-source article from www.NTD.com. In a January 22, 2020 article, a man identified as James DAVIS, 43, of King George, Virginia, was featured in a photo at the top of the article about Virginia gun legislation. The “James Davis” in the article picture has the same physical features as the Subject and appeared to be wearing the same red and black U.S. Marine Corps hat seen in Video 2 and in all the BWC images below.

The affiant reviewed multiple Metropolitan Police Department BWCs and identified an individual, believed to be James DAVIS, wearing a U.S. Marine Corps baseball cap, sunglasses, a black sweatshirt with a skull and cross bones on the left chest and a “Grunt Style” logo on the left shoulder, blue jeans, a black mask with a green “G” displayed, a CamelBak style backpack, black gloves, and wielding a large stick/pole. Images 1-7 capture key moments in the Subject’s confrontation with law enforcement officers on January 6, 2021.



Image 1



Image 2



Image 3



Image 4



Image 5



Image 6



Image 7

In the review of the BWC of the MPD officers working alongside U.S. Capitol Police Officers to maintain control of the U.S. Capitol ground. The affiant viewed DAVIS charge up the West Front Terrace stairs toward the Officers wielding the large stick/pole like a baseball bat in a pose consistent with a person preparing to strike with the object, pictured in Image 1. DAVIS confronts Officer/Victim 1, pushing and screaming at Officer/Victim 1, as captured in Image 3. Officer/Victim 1 shouts at DAVIS to back up before shoving DAVIS to the side. DAVIS does not follow the commands of Officer/Victim 1 and again charges toward the officers. Image 4 captures DAVIS as he approaches and confronts Officer/Victim 2. DAVIS continues to shout at the officer and pushing the officers hands down as Officer/Victim 2 attempts to stop DAVIS' advance. After pushing Officer/Victim 2's hands two separate times, DAVIS begins to choke and falls to the ground. The crowd, including DAVIS, forced the MPD and U.S. Capitol Police Officers into a small corner on the Lower West Terrace, driving the officers to retreat up a flight of emergency stairs.

The affiant believes the individual in the BWC images is DAVIS. This is based on the similarities in physical appearance and clothing between the individual in the images and the individual in the January 6, 2021 videos—Video 1, Video 2, Video 3—and the January 22, 2020 Article 1. In one of the BWC videos, the individual believed to be DAVIS pointed to his U.S. Marine Corps ball cap, captured in Image 2, and stated, "I fought for this country, I fought for this country, what the fuck are you doing, I fought for this country, I fought for this country, I'm a military fucking police, I'm a military police," as he pushed officers while wielding the large stick/pole.

According to the Virginia Department of Motor Vehicle (DMV) database, James Russell DAVIS is a resident of King George, Virginia, with an address on Sherman Circle. Based on a review of the DMV identification photo, the affiant believes the individual in Video 1, Video 2, Video 3, Article 1, and BWC images 1-7 is James Russell DAVIS. According to military records,

DAVIS was in the U.S. Marine Corps from October 18, 1994 to June 28, 1996, with a primary specialty of 5811, Military Policeman for one year. These records are consistent with the statements DAVIS made in the BWC video in which he stated he was a military police officer.

Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that James Russell DAVIS committed violations of 18 U.S.C. § 111 (Assault Resisting, or Impeding Certain Officers), 18 U.S.C. § 1752(a)(2) (Disorderly and Disruptive Conduct in a Restricted Building or Grounds), 18 U.S.C. § 1752(a)(4) (Engaging in Physical Violence in a Restricted Building or Grounds), 18 U.S.C. 231(a)(3) (Civil Disorder) and 40 U.S.C. § 5104(e)(2)(F) (Engaging in an Act of Physical Violence in the Grounds or Any of the Capitol Buildings).

Your affiant submits there is probable cause to believe that JAMES DAVIS violated 18 U.S.C. § 111(a), which makes it unlawful to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties. For purposes of section 111 of Title 18, Metropolitan Police Department Officers were assisting federal officers or employees in the performance of their federal duties and therefore constitute persons designated in section 1114 of Title 18.

Based on the foregoing, your affiant submits that there is probable cause to believe that JAMES DAVIS violated 18 U.S.C. § 1752(a)(2) and (a)(4), which makes it a crime to (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; and (4) knowingly engages in any act of physical violence against any person or property in any restricted building or grounds; 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 JAMES DAVIS violated 40 U.S.C. § 5104(e)(2)(F), which makes it a crime to willfully and knowingly (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

Finally, your affiant submits there is probable cause to believe that JAMES DAVIS 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.

A handwritten signature in blue ink that reads "Mark Matthews". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Mark Matthews
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 22nd day of July 2021.

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE