

STATEMENT OF FACTS

Your affiant, Clarke Burns, is a Special Agent assigned to the Federal Bureau of Investigation Washington Field Office's Joint Terrorism Task Force. In my duties as a Special Agent, I am tasked with investigating criminal activity pertaining to international and domestic 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 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, 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.

SHROYER'S February 2020 Deferred Prosecution Agreement

On January 17, 2020, JONATHON OWEN SHROYER ("SHROYER") was charged by an Information in the Superior Court of the District of Columbia, Case No. 2020 CMD 000820, with a violation of (1) 10 D.C. Code Section 503.16(b)(4) (2001 ed.), Disorderly and Disruptive Conduct on United States Capitol Grounds, and (2) 10 D.C. Code Section 503.16(b)(7) (2001 ed.), Obstructing and Impeding Passage on United States Capitol Grounds, based on SHROYER's disruption of a House Judiciary Committee meeting on December 9, 2019. During the incident, SHROYER, who was seated in the audience observing the hearing in the committee room, jumped up from his seat and shouted in a loud manner while the Judicial Committee was in session. The disruption occurred while the Chairman of the committee was speaking and caused the Chairman to hit the gavel and request that order be restored. SHROYER was removed from the room and placed under arrest.

On February 25, 2020, SHROYER entered into a Community Service Deferred Prosecution Agreement ("DPA") (attached as **Exhibit A**). Pursuant to the DPA, SHROYER agreed to abide by certain standard and special conditions during a four-month deferment period as enumerated in the agreement. As part of the DPA conditions, SHROYER agreed not to violate any laws and to perform 32 hours of verified community service.

Due to the nature of the offense, the DPA included the following special conditions for SHROYER:

1. The defendant agrees not to utter loud, threatening, or abusive language, or to engage in any disorderly or disruptive conduct, at any place upon the United States Capitol Grounds or within any of the Capitol Buildings with intent to impede, disrupt, or disturb the orderly conduct of any session of the Congress or either House thereof, or the orderly conduct within any such building of any hearing before, or any deliberations of, any committee or subcommittee of the Congress or either House thereof.
2. The defendant agrees not to parade, demonstrate, or picket within any of the Capitol Buildings.
3. The term "Capitol Buildings" means the United States Capitol, the Senate and House Office Buildings and garages, the Capitol Power Plant, all subways and enclosed passages connecting 2 or more of such structures, and the real property underlying and enclosed by any such structure.

In addition, the term "United States Capitol Grounds" was defined to include an area delineated in a map attached to the DPA spanning the Capitol grounds from 3rd Street NW on the west side of the Capitol building, to 2nd Street SE on the east side of the Capitol building (*see*

Exhibit A). SHROYER and his attorney each signed an Acceptance and Attorney’s Acknowledgement, respectively, for the DPA. As a result of the DPA, SHROYER had special knowledge of what areas in Washington, D.C. in and around the U.S. Capitol constituted the U.S. Capitol Grounds.

As of January 6, 2021, the DPA remained in effect. SHROYER had not completed, nor reported the completion of, any of the 32 hours of community service as required pursuant to the DPA. On February 5, 2021, counsel for SHROYER emailed the Government to report that SHROYER allegedly “has completed his 32 hours of community service.” An attached log provided by SHROYER’s counsel reported that SHROYER, in fact, performed only 30 hours of community service beginning on January 19, 2021 through February 4, 2021. Thus, as of January 6, 2021, SHROYER had not completed any hours of community service as required by the DPA, and as of February 5, 2021, his community service obligation remained incomplete.

SHROYER’s Involvement in Events Leading up to January 6, 2021

SHROYER is a Texas-based talk-show host associated with the website Infowars (www.infowars.com). SHROYER’s show, “The War Room With Owen Shroyer,” streams daily on the Infowars platform, “banned.video.”

SHROYER traveled to Washington, D.C. in January 2021, and in advance of January 6, 2021, spoke of stopping the certification of the Electoral College vote. In a video¹ posted to the Infowars website on January 5, 2021, SHROYER gave an address in Freedom Plaza in Washington D.C., during which he stated: “Americans are ready to fight. We’re not exactly sure what that’s going to look like perhaps in a couple of weeks if we can’t stop this certification of the fraudulent election . . . we are the new revolution! We are going to restore and we are going to save the republic!”

In another video² posted to the Infowars website on January 5, 2021, SHROYER called into an Infowars live broadcast and said: “what I’m afraid of is if we do not get this false certification of Biden stopped this week. I’m afraid of what this means for the rest of the month . . . Everybody knows election was stolen . . . are we just going to sit here and become activists for 4 years or are going to actually do something about this . . . whatever that cause or course of cause may be?”³

In addition, SHROYER was featured in promotional material circulated by Infowars. One promotional video urged listeners to “come to the big D.C. marches on the 5th and 6th of January, I’ll see you there.”⁴ The video ended with an edited graphic of SHROYER and others in front of the Capitol building. That graphic is depicted below:

¹ <https://banned.video/watch?id=5ff4aebaa285a02ed04c4d6e>.

² <https://banned.video/watch?id=5ff511bb5a212330029f5a9c>.

³ <https://banned.video/watch?id=5ff511bb5a212330029f5a9c>.

⁴ <https://www.banned.video/watch?id=5ff22bb71f93a8267a6432ee>.

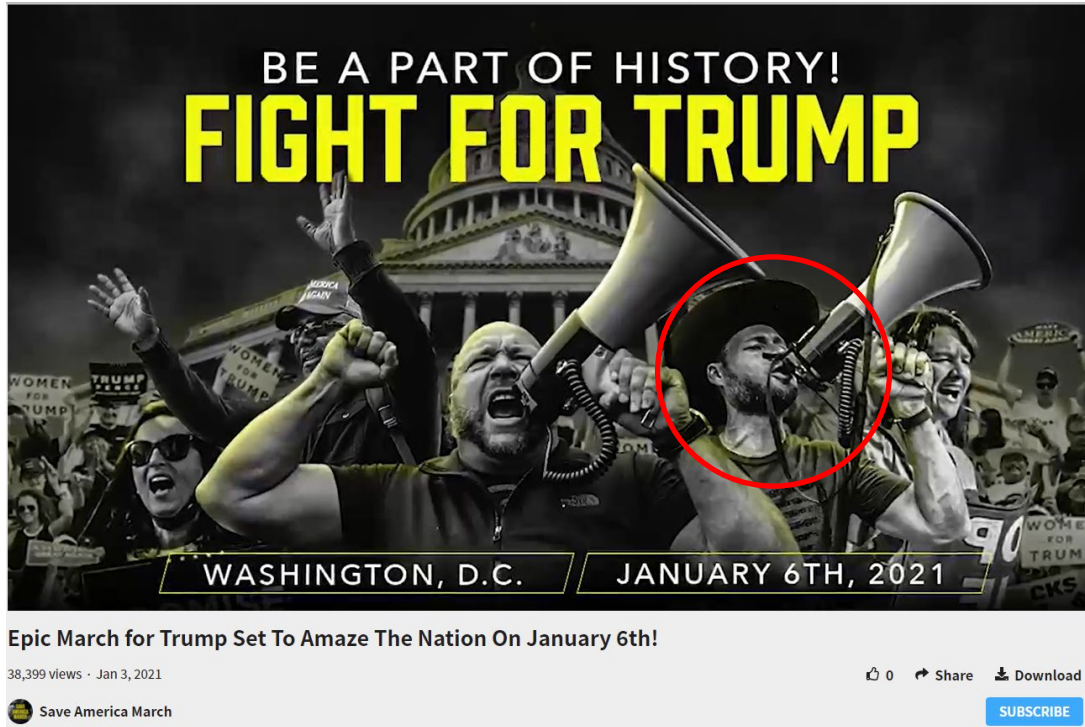


Figure 1 (SHROYER is circled in red)

SHROYER Enters the Restricted Area on January 6, 2021

According to video footage I have reviewed, on January 6, 2021, SHROYER marched to the U.S. Capitol from the Ellipse shortly before the U.S. Capitol was breached. One video⁵ depicted SHROYER, marching with other individuals, leading a crowd of people in a “1776!” chant as the host of the Infowars show on which the video was streamed stated, “Alex Jones at this moment is leading the march toward the Capitol building.” In the same video, SHROYER can be heard telling the crowd, “today we march for the Capitol because on this historic January 6, 2021, we have to let our Congressmen and women know, and we have to let Mike Pence know, they stole the election, we know they stole it, and we aren’t going to accept it!”

After SHROYER arrived at the Capitol grounds, he entered the restricted area. In the screenshots below, SHROYER can be seen standing above the crowd on the west side of the Capitol next to the inauguration stage.⁶

⁵ <https://banned.video/watch?id=5ff634c2f23a18318ceb19f1>.

⁶ The screenshots are from a video posted on January 9, 2021, but taken on January 6, 2021, <https://banned.video/watch?id=5ff9df636756f238a5bf9124>.



VIDEO: Alex Jones Tried To Stop Storming of DC Capitol

156,597 views · Jan 9, 2021

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Figure 2 (SHROYER is circled in red)



VIDEO: Alex Jones Tried To Stop Storming of DC Capitol

156,597 views · Jan 9, 2021

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Figure 3 (SHROYER is circled in red)

I have viewed another video⁷ posted to Infowars that purports to be video from the body worn camera of a security detail member from January 6, 2021. The footage depicts SHROYER within the restricted area on both the west and east sides of the Capitol.

I am aware of other videos and photos depicting SHROYER in the restricted area of the U.S. Capitol on January 6, 2021. For example, the FBI received a video from an anonymous tip that depicts SHROYER at the top of the stairs on the east side of the Capitol. At one point in the video, the camera zooms in and a voice can be heard exclaiming “well there’s . . . and Owen Shroyer up there.” A screenshot is attached below:



Figure 4 (SHROYER is circled in red)

SHROYER is publicly known, and appears and identifies himself in numerous videos posted to Infowars and other sites. I am familiar with SHROYER’s appearance in such videos and have identified SHROYER in the above-referenced videos, and other videos and images, depicting SHROYER in the restricted area of the U.S. Capitol on January 6, 2021. In addition, SHROYER appears to have called into an Infowars broadcast live on January 6, from the Capitol grounds.⁸ During the call, SHROYER stated that “we got to the Trump rally at about 8:00 a.m.” and then around 2:00 p.m. “marched to the Capitol.” SHROYER further stated that he was on “one side of the Capitol, so we can’t see both sides, but on this side alone there’s probably about 100,000 people. They’ve taken the Capitol grounds, they’ve surrounded the building itself, they’re on the actual building structure. . . . We literally own these streets right now.”

Based on the foregoing, your affiant submits that there is probable cause to believe that SHROYER 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

⁷ <https://banned.video/watch?id=5ffe25bc0d763c3dca0c4da1>. This video is dated January 6, 2021, but was posted to Infowars on January 12, 2021.

⁸ <https://banned.video/watch?id=5ff6148af23a18318ce99233>.

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 submits there is also probable cause to believe that SHROYER violated 40 U.S.C. § 5104(e)(2)(D) and (E), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings.



CLARKE BURNS, 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 19th day of August 2021.

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE