

STATEMENT OF FACTS

Your affiant, Angelo DeFeo, is a Special Agent of the Federal Bureau of Investigation (FBI) assigned to Memphis Field Office-Nashville Resident Agency. In my duties as a Special Agent, I investigate domestic terrorism violations and other threats of violent crime. 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, 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, 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.

In February, the FBI received several tips that Christopher Michael CUNNINGHAM of Nashville, Tennessee breached the U.S. Capitol building on January 6, 2021. A tipster provided images from Facebook that the tipster identified as "Chris Cunningham." The tipster knew CUNNINGHAM from a Facebook group. Several other individuals from the same Facebook group commented on the photograph identifying CUNNINGHAM. Two such images are below:



18 Answers



Angry



Answer



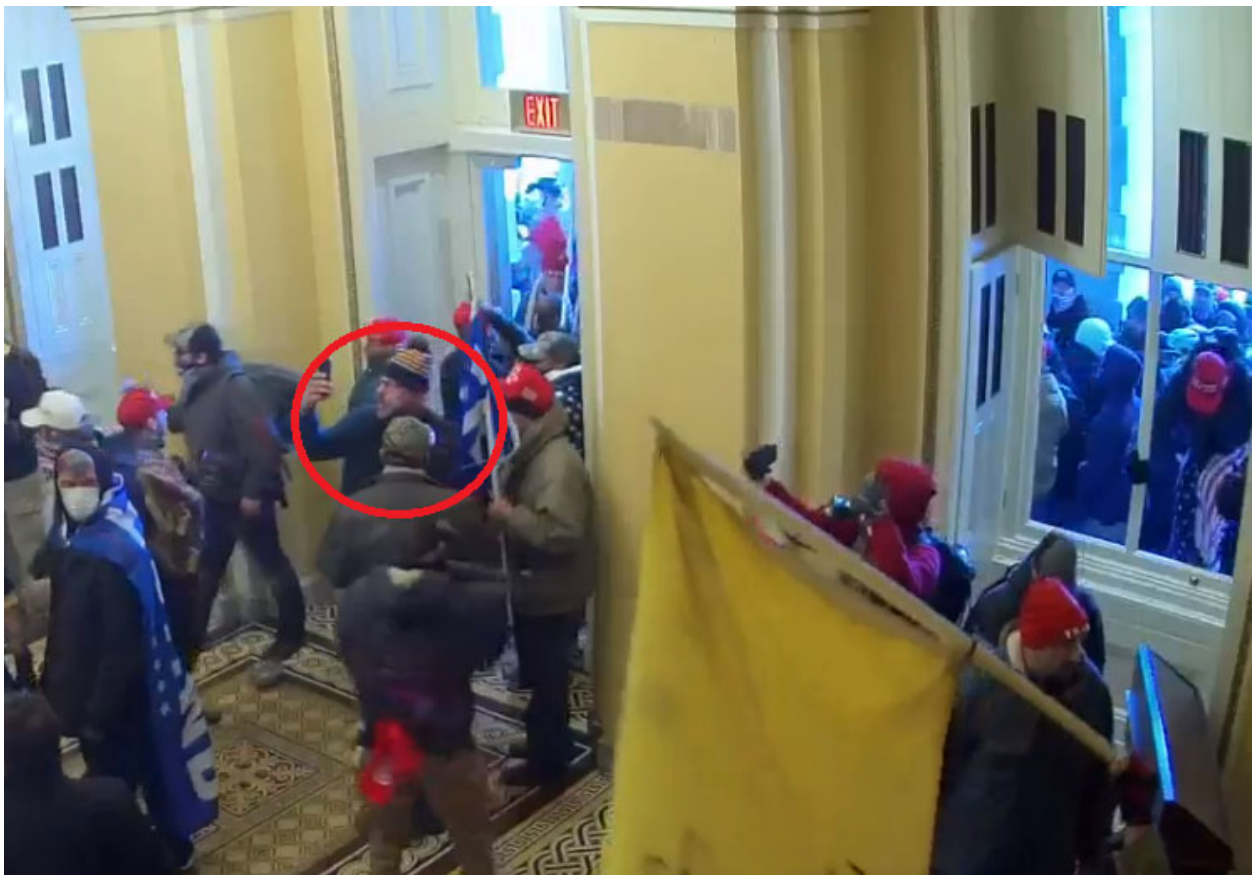
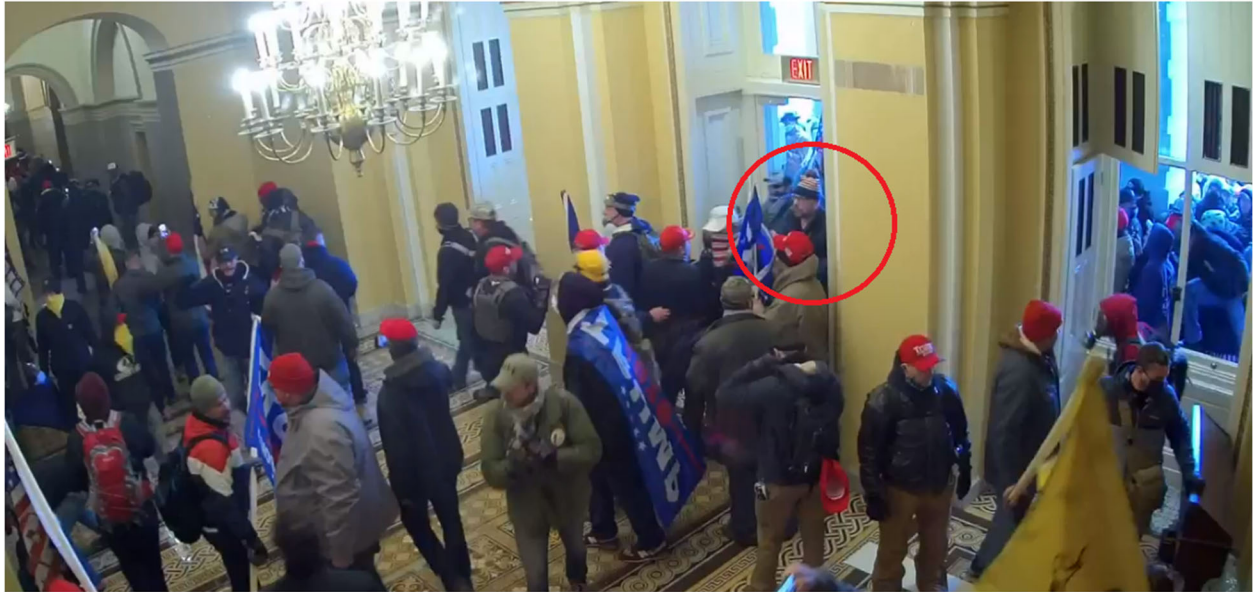
You and 5 others



Based on my knowledge and experience investigating the U.S. Capitol breach cases, I know that the interior of the building shown in the above images is the interior of the U.S. Capitol building and that the rioters shown in the background of the image are those who were present in the Capitol on January 6.

Lawfully obtained Google records show that the subscriber of the email address ambassadorcarts@gmail.com is "Chris Cunningham," and that the account is linked to a telephone number also associated with CUNNINGHAM. The same Google records show that the account was created on July 5, 2019 and was active on January 6, 2021. Lawfully obtained Google records also show that ambassadorcarts@gmail.com was present at the U.S. Capitol on January 6, 2021. Specifically, Google records show that a device associated with this email address entered the Capitol building on the West side shortly after 2:17pm on January 6 and traveled through the Capitol building, exiting on the East side.

Video surveillance footage obtained from the Capitol Police shows CUNNINGHAM, with a beard and wearing glasses and a distinctive striped hat, holding up what appears to be a cellular phone as he entered the West side of the Capitol Building on January 6, 2021 at approximately 2:21pm EST, as seen in the still shots below:



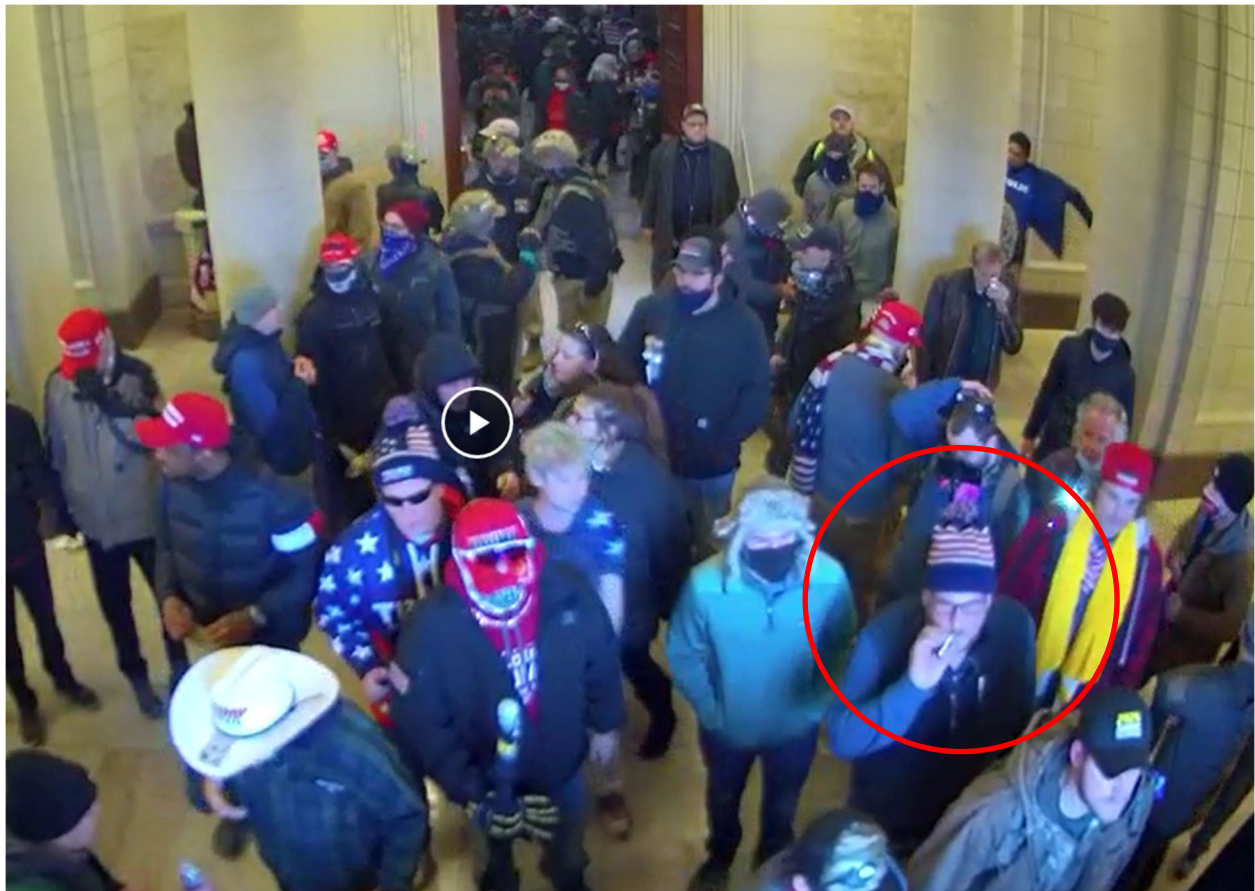
Open source searches produced the below photo of CUNNINGHAM in the Capitol building on January 6, 2021 published in *The New York Times* on January 8, 2021, available at <https://www.nytimes.com/2021/01/08/technology/dlive-capitol-mob.html>. CUNNINGHAM is circled in red.



Similar open source searches found the following photo from Getty images, *available at* <https://www.gettyimages.com/detail/news-photo/protesters-supporting-u-s-president-donald-trump-gather-news-photo/1295889127?adppopup=true>, showing CUNNINGHAM on the East side of the Capitol building near the Capitol Rotunda.



Video surveillance footage obtained from the Capitol Police also shows CUNNINGHAM exit the Capitol building through a door on the East side of the Capitol, after smoking what appears to be a cigarette in the hallway, as seen in the still shot from the surveillance footage below.



On February 23, 2021, CUNNINGHAM called Metro Nashville Police Department (MNP) to report that a pressure washer was stolen from his front porch. The interaction between CUNNINGHAM and the MNP officer was audio and video recorded on the officer's body-worn camera, and I have reviewed the footage. During the interaction with the MNP officer, CUNNINGHAM identified himself and stated that he entered the U.S. Capitol building on January 6, 2021.

The FBI interviewed a former co-worker of CUNNINGHAM's who positively identified CUNNINGHAM from the photo below:



Based on the foregoing, your affiant submits that there is probable cause to believe that Christopher Michael CUNNINGHAM 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 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 Christopher Michael CUNNINGHAM violated 40 U.S.C. § 5104(e)(2)(D) and (G), 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; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.



Special Agent Angelo DeFeo
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 30th day of August 2021.

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE