

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	Case No.: 21-cr-631 (TJK)
	:	
v.	:	40 U.S.C. § 5104(e)(2)(G)
	:	
WALTER J. MESSER	:	
	:	
Defendant.	:	
	:	

STATEMENT OF OFFENSE

Pursuant to Fed. R. Crim. P. 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, **Walter J. Messer**, with the concurrence of his attorney, agree and stipulate to the below factual basis for the defendant's guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

The Attack at the U.S. Capitol on January 6, 2021

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured twenty-four hours a day by U.S. Capitol Police (USCP). Restrictions around the Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the Capitol.

2. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public.

3. On January 6, 2021, a joint session of the United States Congress convened at the 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 the Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election,

which had taken place on Tuesday, November 3, 2020. The joint session began at approximately 1:00 PM. Shortly thereafter, by approximately 1:30 PM, 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.

4. As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the Capitol. Temporary and permanent barricades, as noted above, were in place around the exterior of the Capitol, and USCP officers were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

5. At approximately 2:00 PM, certain individuals in the crowd forced their way through, up, and over the barricades. Officers of the USCP were forced to retreat and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks as required by USCP officers or other authorized security officials.

6. At such time, the certification proceedings were still underway, and the exterior doors and windows of the Capitol were locked or otherwise secured. Members of the USCP attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 PM, individuals in the crowd forced entry into the Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the Capitol, requiring the expenditure of more than \$2.7 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 PM, members of the House of Representatives and of the Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 PM on January 6, 2021. In light of the dangerous circumstances caused by the unlawful entry to the Capitol—including the danger posed by individuals who had entered the Capitol without any security screening or weapons check—Congressional proceedings could not resume until after every unauthorized occupant had been removed from or left the Capitol, and USCP confirmed that the building was secured. The proceedings resumed at approximately 8:00 PM after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

Walter J. Messer's Participation in the January 6, 2021, Capitol Riot

8. On January 5, 2021, the defendant travelled from his home in Ohio to the Washington, D.C. area.

9. While in Washington, D.C., the defendant participated in the riot on the U.S. Capitol Grounds and inside the U.S. Capitol Building on January 6, 2021. At approximately 2:03 PM, the defendant posted a picture of Facebook of a crowd outside the Capitol. At 2:16 PM, he posted “the capital [sic] just got stormed.”

10. The defendant entered the Capitol through the Rotunda Door at approximately 3 PM. He walked around the Rotunda area of the Capitol and spent approximately 15 minutes inside. He exited via the Rotunda Door at approximately 3:16 PM.

11. Later on January 6, 2021, the defendant posted photos of himself inside the Capitol to his Facebook account. The posts include a photograph captioned "little selfie with

Ronnie” that depicts the defendant standing in front of the statue of Ronald Reagan located in the Capitol, and photographs captioned “Inside the capital [sic]” that depict the defendant in the Rotunda.

12. On January 7, 2021, the defendant posted a comment on Facebook stating, “The police let us in. They helped us get in. I walked into the Capital [sic] with the police holding the doors open...”

13. On January 8, 2021, the defendant posted a comment on Facebook stating, “Joe Biden is claiming Trump supporters were taking selfies with the capital police. This is true.”

14. On January 9, 2021, the defendant messaged another user on Facebook stating, “its going down . . . cops let [us] in. they wanted us in . . . the siege is on.” The defendant messaged another user that same day stating “something has to happen before the 20th. there may not be an inauguration that day.”

Elements of the Offense

15. Walter J. Messer knowingly and voluntarily admits to all the elements of Parading, Demonstrating or Picking in a Capitol Building, a violation of Title 40, United States Code, Section 5104(e)(2)(G). Specifically, defendant admits that he was inside the U.S. Capitol Building knowing that he did not have permission to be inside. Defendant further admits that while inside the Capitol, he willfully and knowingly paraded or demonstrated.

Respectfully submitted,

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By: 

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DEFENDANT'S ACKNOWLEDGMENT

I, Walter J. Messer, have read this Statement of the Offense and have discussed it with my attorney. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

Date: 3-29-23

W J Messer
Walter J. Messer
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of the Offense and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: 3/30/23

Ned Smock
Ned Smock
Attorney for Defendant