

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

UNITED STATES OF AMERICA	:	Case No:
	:	
v.	:	VIOLATIONS:
	:	
KIM MICHAEL SORGENTE,	:	18 U.S.C. § 231(a)(3)
	:	(Civil Disorder)
Defendant.	:	
	:	18 U.S.C. § 1752(a)(1) and (2)
	:	(Restricted Building or Grounds)

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT
AND ARREST WARRANT**

I, Kellie Martin, being first duly sworn, hereby depose and state as follows:

PURPOSE OF AFFIDAVIT

1. I make this affidavit in support of an application for an arrest warrant for KIM MICHAEL SORGENTE.

AGENT BACKGROUND

2. I am a Special Agent with the Federal Bureau of Investigation (“FBI”), and have been so employed since 2018. I am currently assigned to the Domestic Terrorism Squad in the San Francisco Division Office, Oakland Resident Agency. I successfully completed 21 weeks of New Agent Training at the FBI Academy in February 2019. During that time, I was trained in federal investigations, to include domestic terrorism investigations. I am assigned to investigate domestic terrorism cases, racially motivated violent crimes, and anti-government crimes. As an FBI agent, I am authorized to investigate violations of United States law and am a “federal law enforcement officer” within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C).

3. I am one of the investigators assigned to an ongoing investigation by the FBI, United States Capitol Police (“USCP”), Metropolitan Police Department (“MPD”), and other law enforcement agencies, of riots and civil disorder that occurred on January 6, 2021, in and around the United States Capitol grounds. Since I became involved in this investigation on January 6, 2021, I have conducted interviews, reviewed public tips, reviewed publicly available photos and video, and reviewed relevant documents, among other things.

4. The facts in this affidavit come from my review of the evidence, my personal observations, my training and experience, and information obtained from other law enforcement officers and witnesses. Except as explicitly set forth below, I have not distinguished in this affidavit between facts of which I have personal knowledge and facts of which I have hearsay knowledge. This affidavit is intended to show simply that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

BACKGROUND

5. The United States Capitol is secured 24 hours a day by security barriers and USCP occupy various posts throughout the grounds. Restrictions around the United States Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the United States Capitol. On January 6, 2021, the exterior plaza of the United States Capitol was also closed to members of the public.

6. On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, located at First Street SE, in Washington, D. C. During the joint session, elected members of the United States House of Representatives and Senate met in the United

States Capitol to certify the vote count of the Electoral College for 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 Michael R. Pence was present and presiding, first in the joint session, and then in the Senate chamber.

7. 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 United States Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the United States Capitol building and U.S. Capitol Police were present, attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

8. At such time, the certification proceedings were underway, the exterior doors and windows of the 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.

9. 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 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.

10. 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 United States Capitol building without authority to be there.

STATEMENT OF FACTS SUPPORTING PROBABLE CAUSE

A. The Defendant

11. On March 15, 2021, the FBI Washington Field Office (“WFO”) opened a file on an unknown male subject who would later be identified as KIM MICHAEL SORGENTE. WFO posted to the Internet a “Be on the Lookout” (“BOLO”) for the individual depicted below (at the time referred to “263-AFO”):



BOLO 263-AFO A



BOLO 263-AFO B

12. Based on my review of publicly available video footage and still images, USCP surveillance footage, and body worn camera (“BWC”) footage of officers that responded to the Capitol on January 6, 2021, I have observed that, at various points on January 6, 2021,

SORGENTE was wearing a red “Make America Great Again” baseball hat,¹ sunglasses, a gray zip-up hooded sweatshirt, a black t-shirt with the words “Deus Vult” and what appears to be religious iconography printed on it, and blue jeans. He also at times carried a white megaphone and a cellphone in a distinctive light pink or beige protective case with what appears to be eyes and a beak printed on it, as depicted below:



On January 6, 2021, SORGENTE also had distinctive facial hair – a goatee and mustache – as depicted in the images in paragraph 11.

13. On April 1, 2021, an FBI agent (“Agent-1”) provided the two images in paragraph 11 above, as well as a video depicting 263-AFO to a detective with the Santa Ana (California) Police Department (“Detective-1”), a still image from which is below:

¹ As discussed further in paragraphs 16-20, SORGENTE was filmed and/or photographed wearing at least two different red “Make America Great Again” baseball hats on January 6, 2021. Prior to 3:00 p.m., SORGENTE was wearing hat with a gold leaf decoration on the brim, an American flag on each side, and three gold stars on the back. After 3:26 p.m., SORGENTE was wearing a red “Make America Great Again” baseball hat that did not have any gold decoration.



Detective-1 had previously arrested and interviewed SORGENTE on March 23, 2021, in connection with events that occurred in December 2020, and identified 263-AFO as SORGENTE.² In connection with that arrest, SORGENTE provided a particular telephone number (the “Sorgente Phone Number”). Detective-1 had also called SORGENTE using the Sorgente Phone Number on January 4, 2021.

14. I have also reviewed a California Department of Motor Vehicles photograph of SORGENTE. Based on that review, I believe that SORGENTE is 263-AFO.

15. According to records obtained through a search warrant which was served on Verizon Wireless, on January 6, 2021, the Sorgente Phone Number was identified as having

² The FBI received at least two tips that identified 263-AFO as someone other than SORGENTE. However, upon reviewing these tips, the FBI concluded that the individual identified did not match AFO-263 in appearance.

utilized a cell site consistent with providing service to a geographic area that includes the immediate vicinity and/or interior of the United States Capitol building.

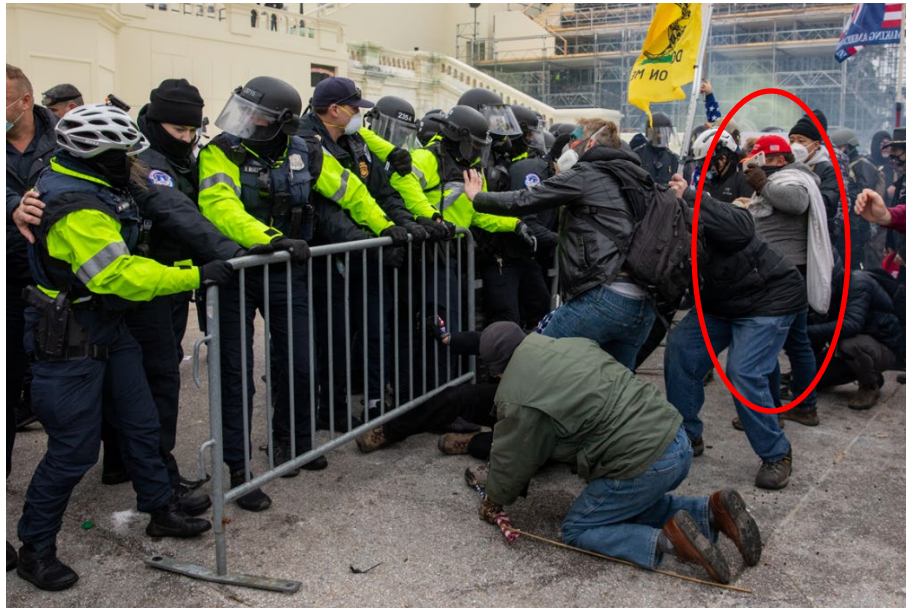
B. The Defendant's Conduct on January 6, 2021

1. 1:36 p.m.

16. Based on my review of BWC footage and publicly available images, I have observed the following:

a. By at least 1:34 p.m. on January 6, 2021, numerous rioters were at the police line protecting the west side of the Capitol, with metal bike-rack barricades separating the crowd and the police officers. At approximately 1:35 p.m., the crowd of rioters was pushing against the barricades, lifting them off of the ground, and police officers were attempting to maintain them.

b. At approximately 1:36 p.m., the officers succeeded in bringing the barricades back down onto the ground, causing several rioters to fall down and/or backwards. SORGENTE emerged from the crowd, wearing a black gaiter across his face and holding a megaphone and a cellphone. SORGENTE stumbled backwards then raised the megaphone towards his face and shouted into the megaphone at the officers, "How dare you? How dare you, traitors? How dare you traitors?" as depicted below:



2. 2:04 p.m.

17. Based on my review of BWC footage and other publicly available video,³ I have observed the following:

a. At approximately 2:04 p.m. on January 6, 2021, SORGENTE was present near the base of the inauguration scaffolding erected on the north side of the West Plaza of the Capitol. At that time, a recording was played over a loudspeaker, which stated: “All people must leave the area immediately. Failure to comply with this order may subject you to arrest and may subject you to the use of a riot control agent or impact weapon. . . This area is now a restricted access area.”

b. As police officers moved through the area, they were assaulted by other rioters. As the officers attempted to control and push back the rioters, SORGENTE, using a megaphone, shouted at the officers “What are you doing? What are you doing? How does it feel to be a traitor? How does it feel to be a traitor? What the fuck do you think you’re doing?” SORGENTE’s position is depicted in the images below:

³ Although the caption on one of these videos states that the events depicted occurred at 3:05 p.m., based on my comparison of the video to time stamped BWC footage, I believe the events occurred at approximately 2:04 p.m.



3. 2:40 – 3:03 p.m.

18. Based on my review of BWC footage, U.S. Capitol surveillance video, and other publicly available video, I have observed the following:

a. By approximately 2:40 p.m. on January 6, 2021, SORGENTE relocated to the vicinity of the terrace on the west side of the Capitol building where a stage for the Presidential Inauguration was being constructed (the “Lower West Terrace”) and positioned himself close to the arched entrance to a passageway that connects the Lower West Terrace and the interior of the U.S. Capitol building (the “Archway” and the “Tunnel,” respectively).

b. At approximately, 2:40 p.m., police officers entered the Tunnel and began to form a protective line with riot shields behind a set of glass inside of the Tunnel. Soon thereafter, numerous rioters entered the Tunnel. At approximately 2:41 p.m., SORGENTE walked through the Archway and entered the Tunnel, as depicted below:



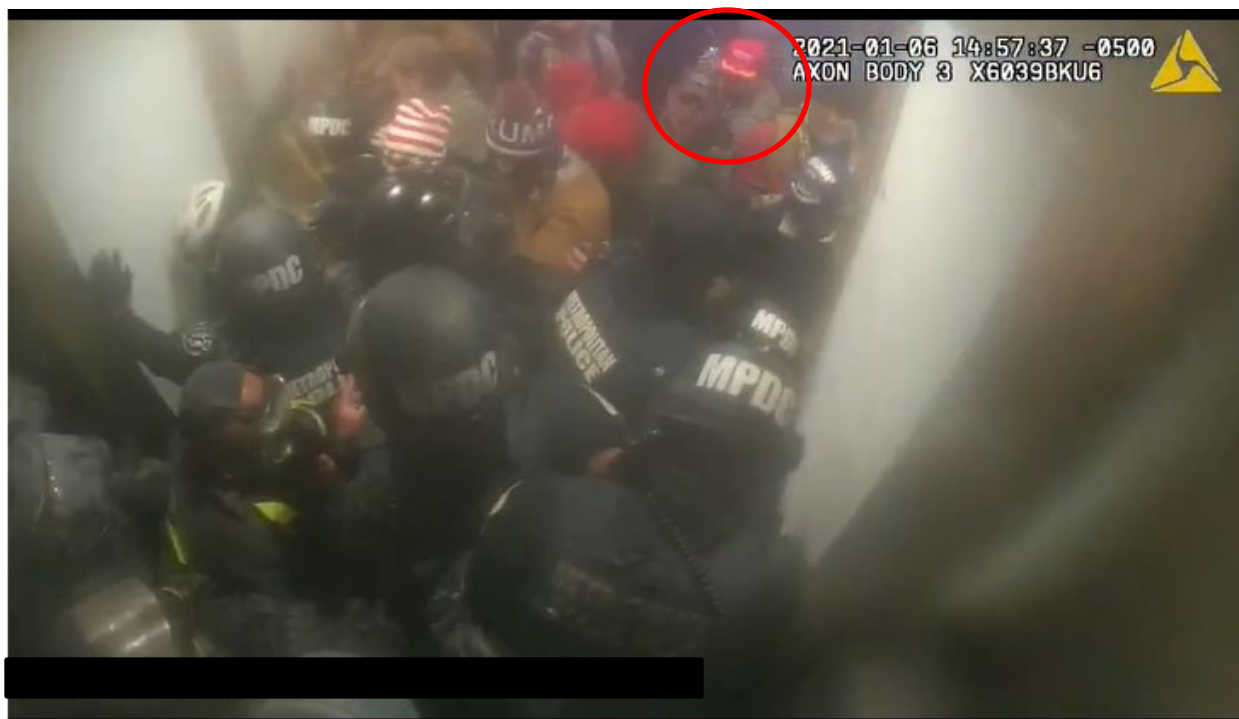
c. SORGENTE then turned around, walked back towards the Archway, and, at approximately 2:42 p.m., exited the Tunnel.

d. At approximately 2:54 p.m. SORGENTE again entered the Tunnel, and moved towards the interior of the Capitol building, as depicted below:



Between approximately 2:54 p.m. and 2:55 p.m., at the same time that SORGENTE was in the Tunnel, several other rioters made their way out of the Tunnel and exited the Capitol building. SORGENTE appeared to offer water to several exiting rioters as they left.

e. Between at least 2:54 p.m. and 3:00 p.m., rioters, including SORGENTE, collectively pushed against the officers – at times rocking together in a coordinated fashion – in an effort to breach the line of officers and gain entry to the interior of the Capitol building. Several rioters threw objects at the officers and used poles to strike at the officers. SORGENTE’s position within the crowd is depicted in the images below:





f. At approximately 2:57 p.m., a woman who was positioned at the front of the crowd of rioters, immediately in front of police officers, retreated from the front of the crowd and repositioned herself closer to the Archway. At the same time, numerous other rioters exited the Tunnel entirely.

g. By approximately 3:01 p.m., SORGENTE was positioned closer to the Archway, and appeared to wash his eyes out with water,⁴ as depicted below:



h. At approximately 3:03 p.m., SORGENTE exited the Tunnel.

4. 3:26 – 4:00 p.m.

19. Based on my review of BWC footage and U.S. Capitol surveillance video, I have observed the following:

⁴ Police officers and rioters deployed crowd-control spray and other lachrymal agents in the Tunnel. I therefore believe that SORGENTE was attempting to wash these substances out of his eyes.

a. SORGENTE returned to the Archway by approximately 3:26 p.m., and positioned himself just outside of the Tunnel, on the south side of the Archway. SORGENTE remained in approximately that position for at least 44 minutes, until at least 4:00 p.m.⁵

SORGENTE's approximate position is depicted in the image below:



A closer view of SORGENTE's face was captured by the BWC of MPD officers positioned in the Archway, for example, the images below:

⁵ During this time, SORGENTE made statements directed at the officers in the Archway such as "We're not gonna hurt you at all. We're not gonna hurt any of you. But you hurt us. And you're hurting the country, if you don't stop" and "Why don't you let us in? Let us in. It's our house. It's our house. You let us in, we'll behave. If you keep fighting us and pepper spraying us, we're gonna get upset."



b. At approximately 3:48, the crowd, including SORGENTE, began to collectively push against the line of police officers in the Archway, in an effort to force entry into the Tunnel. SORGENTE's position is depicted in the images below:





c. At approximately 3:50 p.m., the crowd of rioters, including SORGENTE, again collectively pressed against the line of police officers in the Archway, and moved back and forth in a coordinated manner, in an attempt to break through the line of officers and enter the Tunnel, as depicted below:



5. 4:24 – 4:26 p.m.

20. Based on my review of BWC footage, U.S. Capitol surveillance video, and other publicly available video, I have observed the following:

a. By approximately 4:24 p.m., officers were attempting to expel the rioters from the Archway. SORGENTE was positioned in the Archway, directly in front of the officers, as depicted below:



As the officers tried to push him out of the Archway, SORGENTE yelled “Oh god, don’t do it. Oh my god, you hurt me bad! Please! Please! Ah, I got hit in the head. I’m bleeding now.”

b. Officers continued to push SORGENTE out of the Archway for more than a minute.⁶ Although there appears to have been space in front of SORGENTE for him to move

⁶ During this time, at approximately 4:25 p.m., at least two rioters were in medical distress and a member of the crowd was pleading with officers and others for help, as his friend was dying after

into, as depicted below, SORGENTE, with his back to the officers, leaned back and pushed his weight into the officers.



being trampled by the mob. SORGENTE, apparently in response, yelled “Get her up. Get her up, please. Save her life. Save her life.”



c. By approximately 4:26 p.m., officers succeeded in pushing SORGENTE out of the Archway. SORGENTE, holding a strobing flashlight, stumbled, then got up, rinsed his eyes with water, and walked away from the Archway.

6. 4:46 p.m.

21. Based on my review of BWC footage, U.S. Capitol surveillance video, and other publicly available video, I have observed the following:

a. At approximately 4:46 p.m., SORGENTE returned to the Archway and positioned himself at the middle of the Archway, as depicted below:



b. Rioters positioned in front of SORGENTE, closer to the line of police officers in the Archway, were holding riot shields, and began to slam the line of officers using those shields.

c. After a few seconds, SORGENTE joined in by positioning himself behind one of the rioters holding a riot shield and propelling that rioter forward into the line of police officers, as depicted below:



CONCLUSION

22. Based on the foregoing, your Affiant submits that there is probable cause to believe that:

a. KIM MICHAEL SORGENTE violated 18 U.S.C. § 1752(a)(1) and (2) (Restricted Building or Grounds), 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. 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.

b. KIM MICHAEL SORGENTE 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 black ink that reads "Kellie Martin". The signature is written in a cursive style and is positioned above a horizontal line.

Kellie Martin
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 21st day of October 2021.

ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE