

Statement of Facts

Your affiant, Jeffrey William Gardner, is a Special Agent with the Federal Bureau of Investigation Philadelphia Field Office, Joint Terrorism Task Force. 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 violations of Federal criminal laws. Currently, I am tasked with investigating criminal activity in and around the U.S. Capitol grounds on January 6, 2021.

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 are 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, shortly after 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 January of 2021, the FBI received multiple online tips suggesting EDWARD THOMAS SPAIN, JR. (“SPAIN”) was at the U.S. Capitol on January 6, 2021. The FBI identified SPAIN to be associated with cellular telephone number ending with 4030 and SPAIN’s image on his Facebook page (Photo 1).

Photo 1.



According to records obtained through a search warrant served on AT&T, on January 6, 2021, in and around the times set forth in this affidavit, the cellphone associated with cellular telephone number ending with 4030 was identified as having utilized a cell site consistent with providing service to a geographic area that included the interior of the U.S. Capitol building.

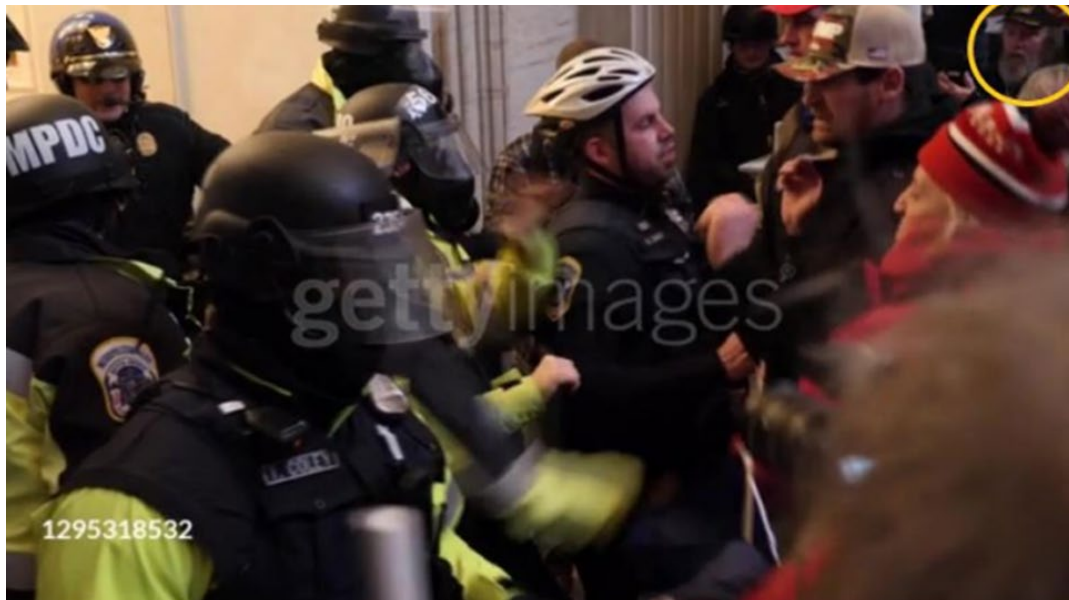
In images provided to the FBI, an individual identified as SPAIN can be seen on January 6, 2021, inside the U.S. Capitol on the perimeter of the Rotunda, wearing the same hat and shirt found in the photo he posted on Facebook (Photo 1).

Photo 2.



Depicted in Photo 3 is a screenshot from <https://www.gettyimages.com/detail/video/donald-trumpsupporters-storm-the-united-states-capitol-news-footage/1295318532> at timestamp 2:23. The individual assessed to be SPAIN is circled in yellow.

Photo 3.



SPAIN was also captured on a video progressing through the crowd of the Columbus Door and entering the U.S. Capitol. In Photo 4, SPAIN is identified with a yellow arrow.

Photo 4.



Photo 5.



Your affiant interviewed SPAIN at his residence on July 27, 2021, regarding his alleged activities on January 6, 2021. SPAIN told your affiant he had traveled from Oklahoma to Washington, D.C., with his friend K.L. and K.L.'s girlfriend, D.G. SPAIN stated that he visited the U.S. Capitol on January 6, 2021, to witness history. SPAIN entered the Capitol alone and went inside the Rotunda.

When presented with Photo 1, SPAIN confirmed he had taken the picture of himself on January 1, 2021 in front of the U.S. Capitol. SPAIN also presented your affiant with the hat he wore at the U.S. Capitol on January 6, 2021, as shown in Photo 6.

Photo 6.



On August 16, 2021, SPAIN, traveled to the Tulsa Resident Agency of the FBI and met with your affiant. SPAIN brought with him a black trash bag containing the clothing he wore while inside the U.S. Capitol on January 6, 2021, as shown in Photo 7. Spain also provided your affiant with a signed written statement confessing to entering the United States Capitol on January 6, 2021, as shown in Photo 8.

Photo 7.




Photo 8.


I Edward T. Spain Sr. was in Washington, DC. one time when I did go inside the Capitol Building. I had NO intent on entering the Capitol Building but did so after hearing that shots had been fired on the Senate floor. I did not vandalize anything. I had no intent of causing harm or to anyone or anything. I utilized poor judgement in doing so.

End of Statement

Edward T. Spain Sr.

8-16-21

Witness: 
SA Jeffrey Gardner

Witness: 
SA ALAN T. SPAIN

On August 18, 2021, your affiant interviewed K.L. K.L. confirmed that he had traveled to Washington, D.C. with SPAIN on or about January 6, 2021, with D.G. K.L. acknowledged that he knew SPAIN entered the U.S. Capitol on January 6, 2021, but denied that he and D.G. entered the Capitol.

On August 19, 2021, your affiant interviewed D.G., who confirmed that she had traveled to Washington, D.C. with K.L. and SPAIN on or about January 6, 2021. D.G. acknowledged that she, K.L. and SPAIN were present outside the U.S. Capitol on that day. D.G. confirmed that SPAIN entered the Capitol, but denied that she and K.L. entered the Capitol. SPAIN showed K.L. and D.G. photos that he had taken inside the Capitol.

Based on the foregoing, your affiant submits that there is probable cause to believe that EDWARD THOMAS SPAIN, JR. 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 further submits there is also probable cause to believe that EDWARD THOMAS SPAIN, JR. violated 40 U.S.C. § 5104(e)(2), 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.



Jeffrey William Gardner
Special Agent
FBI – Oklahoma City Division, Tulsa, OK

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 5th day of October, 2021.

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE