

STATEMENT OF FACTS

I, Desiree Gorham, am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have been since March 2019. My initial training consisted of a 21-week Basic Field Training Course conducted at the FBI Academy at Quantico, Virginia, during which I received instruction on various aspects of federal criminal and national security investigations. From August 2019 until present, I have served on a counterterrorism squad and on the Joint Terrorism Task Force (“JTTF”) of the San Francisco Division of the FBI, where I have been the case agent or co-case agent on numerous federal criminal and national security investigations. During my time at the FBI, I have participated in the execution of numerous search and arrest warrants. I have received ongoing training from the FBI in criminal and national security investigations. In addition to other duties, I am currently tasked with investigating criminal activity that occurred in and around the Capitol grounds on January 6, 2021. As a Special Agent of the FBI, I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, and prosecution of violations of federal criminal law.

The facts in this affidavit come from my personal observations, my review of records and documents, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show only that there sufficient probable cause that the defendant violated United States (“U.S.”) federal law, as further described below, and does not set forth all of my knowledge about this matter.

The United States Capitol (hereafter the “U.S. Capitol” or “the Capitol”) is located at 1 First Street, NW, Washington, DC. 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 U.S. Capitol. 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 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 Eastern Standard Time (“EST”). Shortly thereafter, by approximately 1:30 p.m. EST, 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.

While the certification proceedings were underway, 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 outside and keep the crowd from entering the Capitol; however, around 2:00 p.m. EST, 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. EST, 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. As a result, 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.

On January 9, 2021, the FBI received an anonymous tip through the National Threat Operations Center that “Kenneth Armstrong of Pescadero, California is one of the people who entered the US capital [sic] building.” The anonymous tipster provided an address in Half Moon Bay, California, for Armstrong. Based on the name and address provided by the tipster, the FBI was able to identify an individual named Kenneth Scott Armstrong III (hereafter “Armstrong”) who operated a business at the address the tipster provided in Half Moon Bay, California.

On March 11, 2021, another FBI Special Agent and I interviewed Armstrong at his business. Armstrong stated that he was in Washington, DC on January 6, 2021. Armstrong stated that he went to the Trump rally and speech, and then afterward walked with the crowd to the U.S. Capitol. Armstrong admitted that he went inside the U.S. Capitol building at around 2:30 p.m. EST on January 6, 2021 and walked around the inside of the building for approximately 5-15 minutes.

During the interview, Armstrong drew a map of part of the U.S. Capitol building in order to show where he stood outside the building, where he entered the building, and where he walked inside the building. Armstrong also noted the locations of U.S. Capitol Police officers both inside and outside of the Capitol building.

During the interview, Armstrong used his cell phone to show us several photographs and one video that he said were taken at the U.S. Capitol on January 6, 2021. The video appeared to have been filmed by Armstrong on his cell phone, holding his cell phone and filming away from himself while walking around an interior hallway of the Capitol building. The video showed many other people walking around the hallway as well, some of whom were wearing “MAGA” and Trump hats, and some of whom appeared to be recording video on their cell phones as well. The video also showed several U.S. Capitol Police officers in riot gear standing in the entrance hallway.

Armstrong agreed to send interviewing agents a copy of the video. Armstrong attempted to send me a copy of the video while we sat together at his business, but technical difficulties prevented him from being able to successfully send the video file at that time. Later in the day, I

followed up with Armstrong via text message at the cell phone number he provided during the interview, XXX-XXX-9262¹, and he sent me an email with subject “Jan 6 video” that contained a link to download the video. I was able to successfully download a copy of the video, which was approximately one minute and 46 seconds long.

Using the video that Armstrong sent me and the map that he drew during his interview on March 11, 2021, I was able to identify the door that Armstrong used to enter the U.S. Capitol building as the Senate Wing Door, which is on the Senate side of the Upper West Terrace.

The beginning of the video that Armstrong sent me shows what I believe to be the steps on the Upper West Terrace of the Capitol building leading toward the Senate Wing Door. At approximately 17 seconds into the video, it pans to the side to show several broken windows, and a voice that I believe to be Armstrong’s says “Oh, broke some windows over there.” The following is a screen shot from approximately 17 seconds into the video:



At approximately one minute and eight seconds into the video, Armstrong enters through the doorway into the Capitol building:

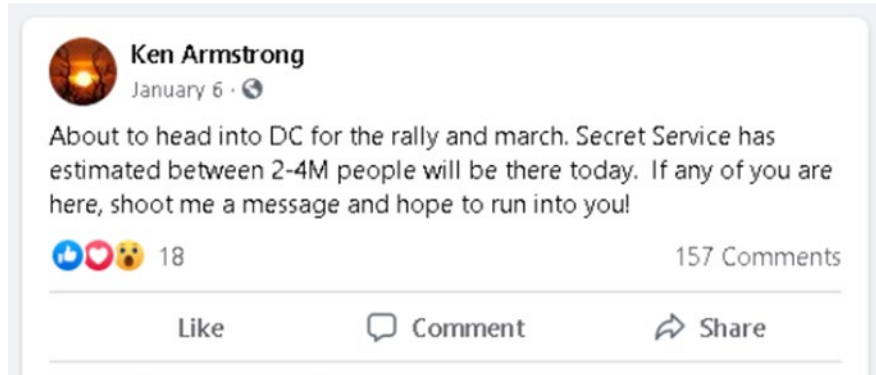
¹ Business records obtained from Verizon on April 2, 2021 confirmed that Armstrong had been the subscriber of telephone number XXX-XXX-9262 since October 2000.



The video pans around the interior of the building. At approximately one minute and 31 seconds into the video, it shows multiple U.S. Capitol Police officers standing together on one side of the entry way:



On March 11, 2021, the FBI identified a Facebook account with display name “Ken Armstrong” that appeared to belong to Armstrong². A review of the content publicly available on the Facebook account revealed a post by Armstrong published on January 6, 2021, that read: “About to head into DC for the rally and march. Secret Service has estimated between 2-4M people will be there today. If any of you are here, shoot me a message and hope to run into you!”



The comments on this post included the following exchange between Armstrong and another Facebook user:



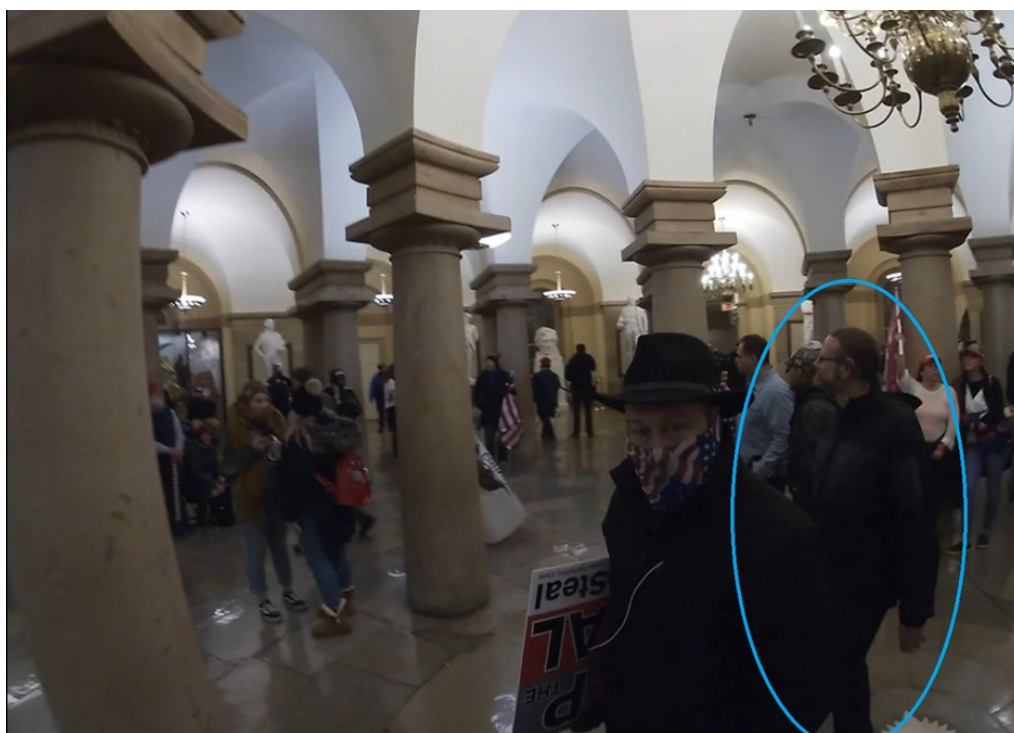
² Business records obtained from Facebook, Inc. in July 2021 confirmed that this Facebook account was associated Armstrong’s cell phone number, XXX-XXX-9262.

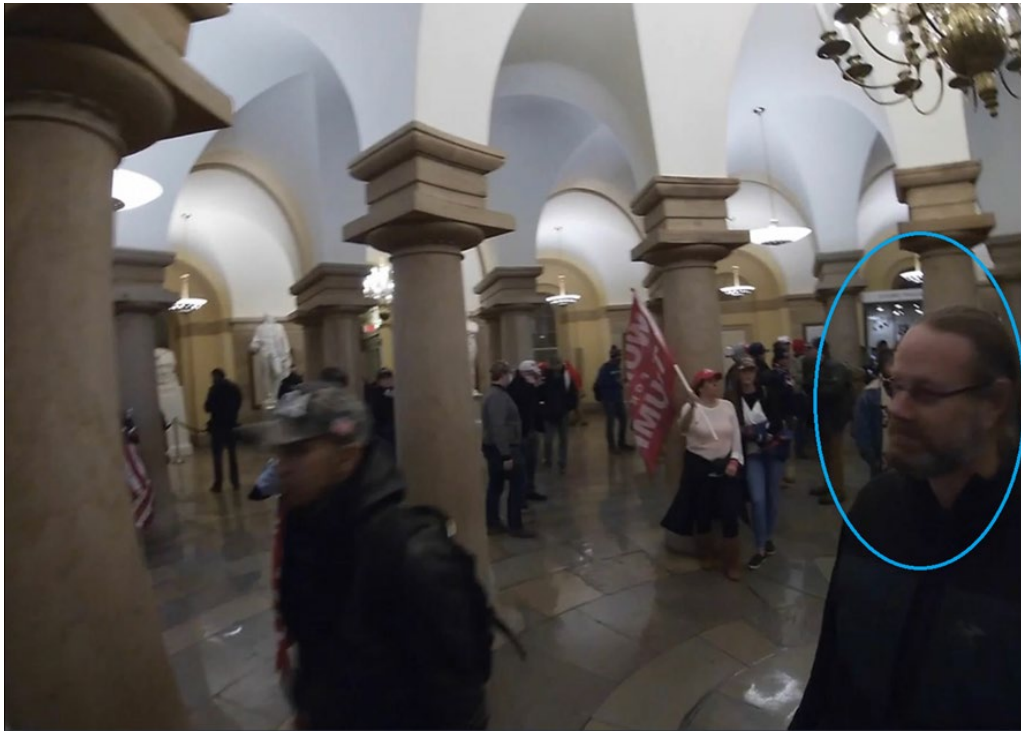
Additional tips submitted to the FBI by the public identified several other comments that Armstrong made on Facebook in which Armstrong admitted to entering the U.S. Capitol building. In one, Armstrong said he “Stormed it [the Capitol] and took a tour of Our House. Capitol Police were very nice and helpful”. In another, Armstrong stated he “did go inside for about 10 minutes. Took some photos and video, sang the star spangled banner, talked to some of the Capitol police, and then left...”. Two of these screenshots of Facebook content submitted by the public are included below:



On March 31, 2021, Armstrong was identified in video footage acquired by the FBI taken by another subject who entered the U.S. Capitol building on January 6, 2021. The video showed Armstrong walking inside a room at the Capitol that I believe is the Crypt, based on the room’s recognizable Doric columns, statues, and the star in the center of the floor. Below are three screen shots from the video that show an individual with a beard and long hair in a ponytail, wearing a black jacket and jeans, walking around the Crypt. I believe this individual is Armstrong, based on a comparison of the video footage with photographs of Armstrong publicly available on the internet and my personal interactions with Armstrong.

Screenshots from video obtained by the FBI from another subject recorded inside the U.S. Capitol building on January 6, 2021, with Armstrong circled:





Photographs of Armstrong publicly available on the internet, for comparison purposes:



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³ Photograph obtained from Armstrong's Facebook account on March 30, 2021.

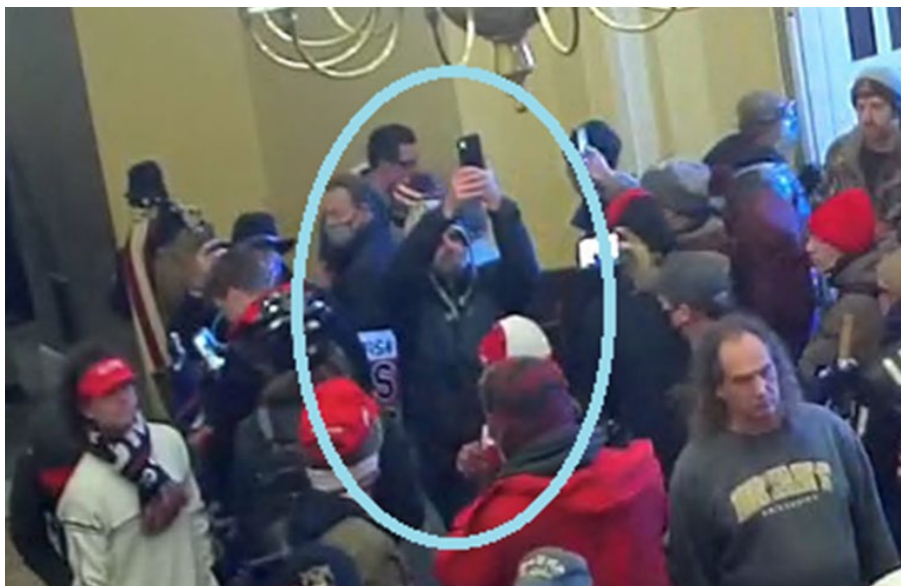
⁴ Screenshot from a YouTube video featuring Armstrong identified on March 30, 2021 at URL youtube.com/watch?v=sPkp78Kxbw8.

By watching the video that Armstrong sent the interviewing agents and comparing it with closed circuit television (CCTV) footage from the U.S. Capitol building recorded on January 6, 2021 provided to the FBI by U.S. Capitol Police, I was able to identify Armstrong in the CCTV footage. The screenshot below shows an individual I believe to be Armstrong, wearing the same black and grey jacket identified in the video footage from the Crypt, as well as a white and grey winter hat, filming video on his cell phone while walking around the hallway of the U.S. Capitol building inside the Senate Wing Door. The time stamp on the video reads “01/06/2021 20:10:48”, which is in Coordinated Universal Time (UTC); converted to Eastern Standard Time (EST), the time stamp is January 6, 2021, 15:10:48 or approximately 3:10 p.m. EST.

Screenshot from U.S. Capitol CCTV footage, with Armstrong circled:



Same image, cropped to better show Armstrong, who is circled:



In the screenshot from the U.S. Capitol building CCTV footage above, Armstrong appears to be filming video on his cell phone. Based on my review of the video that Armstrong sent me, I believe the CCTV footage shows him recording that same video. In the screenshots below, one from the video that Armstrong sent me (on the left) and one from the CCTV footage (on the right), I can identify several of the same people: (1) the man in the red jacket and red and blue pattern hunting hat; (2) the woman in the red “Make America Great Again” beanie with a white and red scarf draped halfway across her hat; and (3) the man with long curly hair wearing a blue/grey sweatshirt:



When he was interviewed on March 11, 2021, Armstrong stated that he thought the FBI might eventually come to talk with him. When asked why he expected the FBI to come, Armstrong said it would most likely be about unlawful entry or trespassing at the Capitol.

Based on the foregoing, your affiant submits that there is probable cause to believe that Armstrong 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 Armstrong violated 40 U.S.C. § 5104(e)(2)(D) and (G), which make it a crime to willfully and knowingly (D) 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.



Desiree Gorham, 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 18th day of January 2022.

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE