

## STATEMENT OF FACTS

Your affiant, Gary Battista, is a Special Agent with the Federal Bureau of Investigation (“FBI”) and is assigned to the Joint Terrorism Task Force in the New York Office, Long Island Resident Agency. 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.

Following the January 6, 2021, assault on the U.S. Capitol, the FBI Washington Field Office (WFO) released a series of “Be on the Lookout” (BOLO) photographs to the public, seeking information related to individuals who may have assaulted federal officers and committed violence at the Capitol. Below is a photograph released by WFO for an individual labeled as AFO BOLO 244:



Following information posted by @SeditionHunters, which is one of a series of civilian Twitter accounts that crowdsource and share information to help identify FBI BOLOs from the Capitol riots, Twitter users began using the hashtag #lordlonghair to organize the information related to AFO BOLO 244. While reviewing Twitter posts featuring the #lordlonghair hashtag, the FBI observed the following post:



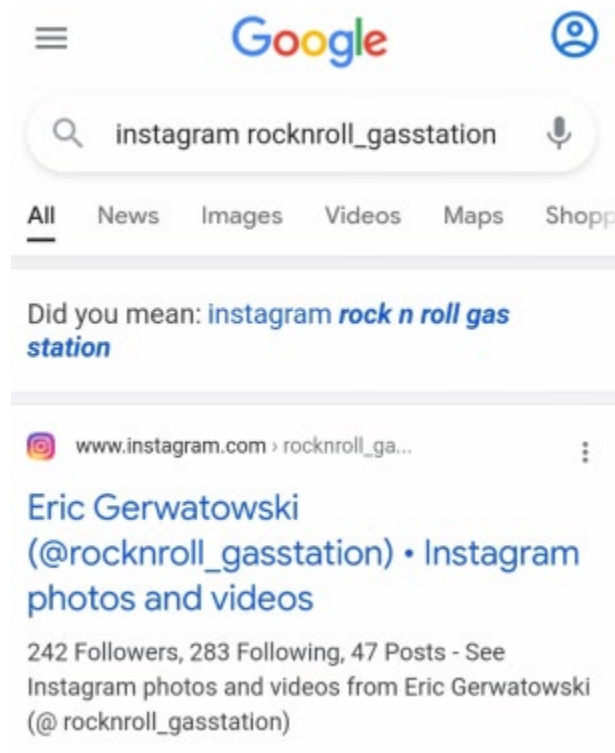
FBI employees reviewed the YouTube video and took the following screenshot of AFO BOLO 244 from the video:



On or about February 28, 2021, FBI employees located the following publicly-available photograph as a potential match for AFO BOLO 244:



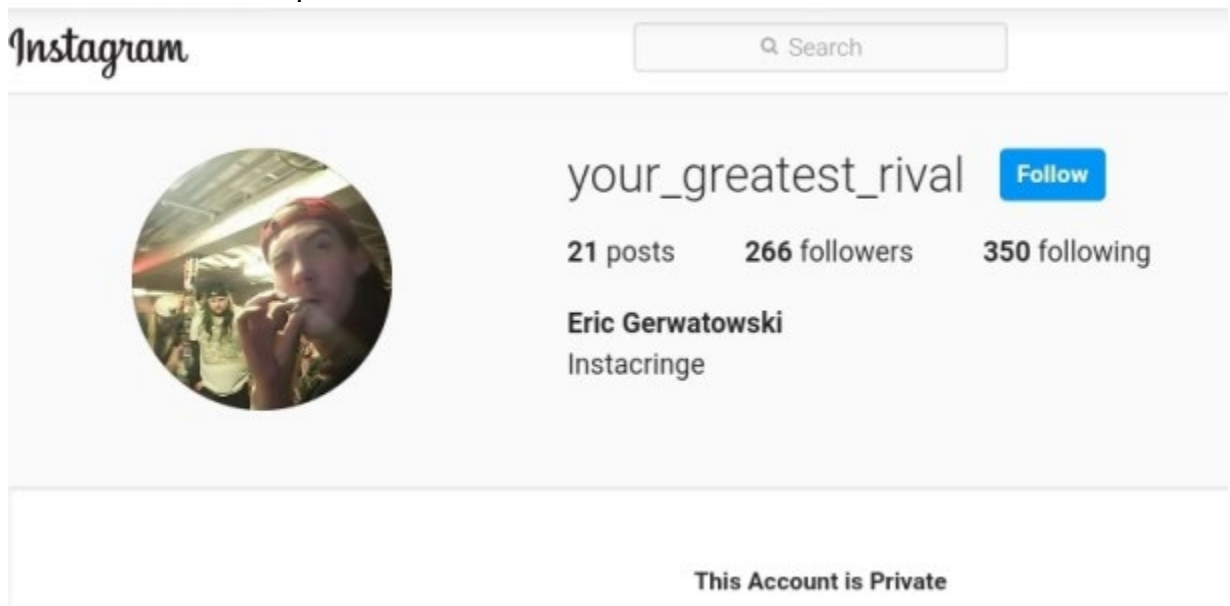
The above photograph came from Instagram user @rocknroll\_gasstation's Instagram profile. The FBI attempted to access a link to the photo from Google, but the page was no longer available. But a Google search for "instagram rocknroll\_gasstation" returned the following result:



Instagram Display Name: Eric GERWATOWSKI  
Instagram Username: @rocknroll\_gasstation

On or about February 28, 2021, FBI employees attempted to access the Instagram account directly but the Instagram account no longer existed. Additionally, when the employees attempted to preserve Instagram account @rocknroll\_gasstation using Facebook's Law Enforcement Portal, Facebook indicated that the account did not exist as of January 6, 2021 or when FBI searched on February 28, 2021.

Subsequent open-source searches for "Eric GERWATOWSKI Instagram" yielded multiple results referencing another Instagram account: @your\_greatest\_rival. The FBI employees then accessed that profile:



Profile Photograph:



On or about February 28, 2021, FBI employees also conducted open-source searches for the name Eric GERWATOWSKI. Multiple search results referenced an Eric GERWATOWSKI from New Hyde Park, New York. FBI personnel conducted surveillance of the address in New Hyde Park associated with GERWATOWSKI and twice observed an individual closely resembling the person in the above-referenced video of the attack on the Capitol under the hashtag #lordlonghair.

Additionally, the FBI received two tips about GERWATOWSKI from callers to its public tip line. The tips were from individuals that know GERWATOWSKI personally. FBI Special Agents interviewed the tipsters and they advised that GERWATOWSKI uses a telephone number ending in -2802. Subpoena results indicated that GERWATOWSKI is the subscriber of this phone number. According to records obtained through a search warrant served on Google, a mobile device associated with the phone number ending in -2802 was present at the U.S. Capitol on January 6, 2021.

The tipsters also informed investigating agents that GERWATOWSKI admitted to several associates that he entered the Capitol on January 6, 2021. Further, they identified GERWATOWSKI in several photos and a YouTube video posted by “Benjamin Reports” entitled “Trump Supporters, Capitol building in DC, woman shot and killed.” In this video, both tipsters identified GERWATOWSKI at multiple points in the video, including at the following instances (both outside and inside the Capitol Building):





In the video, Capitol Police officers were attempting to close the Upper House Doors to prevent further rioters from breaching the building. GERWATOWSKI was at the front of the crowd, just outside the Upper House Doors. He pulled open one of the doors the Capitol Police had just closed (see screenshot, below). Two officers were standing directly inside and had just tried to secure the entrance, in plain sight to GERWATOWSKI and others. Once GERWATOWSKI had pulled open the door, he turned to the crowd and yelled, “Let’s Go!” and directed more rioters inside the Capitol. GERWATOWSKI then entered the building.





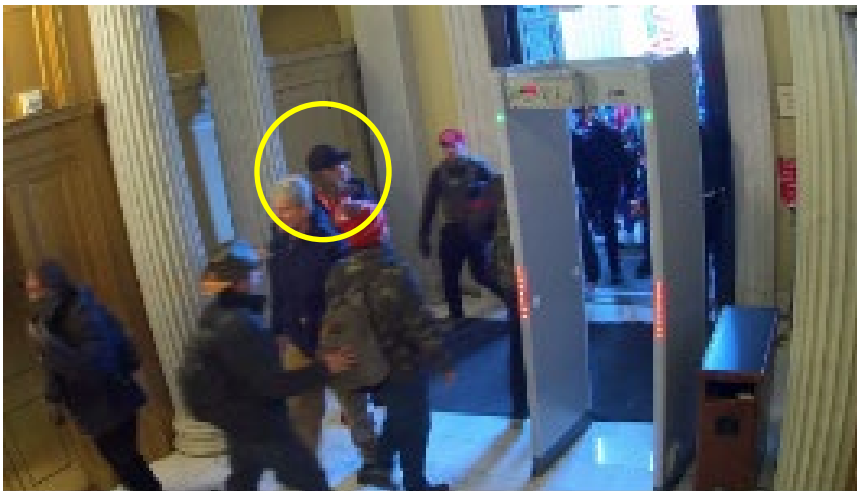
FBI agents interviewed one of the Capitol Police Officers described above, who stated that he made a tactical decision not to engage GERWATOWSKI and others to prevent them from entering the building at that point. The Officer said he made this decision because he had just come from the Gallery area of the Capitol where another rioter, Ashli Babbitt, was shot. The Officer told the FBI that he was exhausted, outnumbered, and had already been attacked and sprayed with several chemicals by rioters earlier in the day.

GERWATOWSKI was also interviewed on camera outside the Capitol building on January 6<sup>th</sup> (below)—the same video that was referenced on Twitter. This video was broadcast on Twitter page <https://jan6attack.com/individuals/lordlonghair/>. When the interviewer asked GERWATOWSKI why he entered the Capitol, he responded that “the commies are trying to steal the country” and he believes the election was stolen.



FBI agents also reviewed CCTV footage from inside the Capitol and observed GERWATOWSKI enter the “Upper House Doors.” GERWATOWSKI is wearing the same clothing depicted in the “Benjamin Reports” video. He was inside for approximately three minutes.





I have also reviewed GERWATOWSKI'S driver's license photo, publicly-available photos of GERWATOWSKI'S social media accounts, and the YouTube video posted by Benjamin Reports. I believe the individual in these photos and videos is Eric GERWATOWSKI.

Your affiant submits there is probable cause to believe that Eric GERWATOWSKI 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.

Your affiant further submits that there is probable cause to believe that Eric GERWATOWSKI 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. 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.

Finally, your affiant submits that there is also probable cause to believe that Eric GERWATOWSKI violated 40 U.S.C. §§ 5104(e)(2)(D), (E), and (G) which makes it a crime to (D) willfully and knowingly 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; (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings; or (G) parade, demonstrate, or picket in any of the Capitol Buildings.

A handwritten signature in black ink, appearing to read 'G. Battista', with a large, stylized flourish at the end.

Gary C. Battista  
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 2nd day of February 2022.

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HONORABLE ROBIN M. MERIWEATHER  
UNITED STATES MAGISTRATE JUDGE