

## STATEMENT OF FACTS

Your affiant, Bret Curtis, is a Special Agent of the Federal Bureau of Investigation. I have been employed as a Special Agent with the Federal Bureau of Investigation since 2004. Prior to 2004, I worked as a detective investigating crimes against children for the Phoenix Police Department. I am currently assigned to the Phoenix Division, Sierra Vista Resident Agency where I am tasked with investigating violations of federal laws including violent crimes and fraud. As a Special Agent, I am authorized by law to engage in or supervise the prevention, detection, 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.

Within the West Front of the Restricted Grounds there were additional temporary barriers due to preparations and ongoing construction for the Inauguration including green snow fencing and signage stating “Area Closed By order of the United States Capitol Police Board.” The exterior plaza of the U.S. Capitol was also closed to members of the public. The below picture indicates all area within the red lines

designated as a secure area with no public access as previously referenced in the “Area Closed By order of the United States Capitol Police Board.”



Figure 1

I have reviewed U.S. Capitol Surveillance Video, Open-Source Videos, and Washington, D.C. Metropolitan Police Department (“MDP”) Body Worn Camera (“BWC”) footage capturing events from January 6, 2021, in attempting to identify unknown subjects who assaulted law enforcement.

During my review of MPD Officer C.W.’s BWC footage, I observed that at approximately 2 p.m., Ofc. C.W. was in a group of approximately 20 other MPD officers walking through the West lawn of the United States Capitol grounds. All of the MPD officers were wearing clearly marked MPD uniforms.

While walking through the West lawn, multiple known and unknown subjects who were positioned there, and within the restricted area outlined on the map above, Ofc. C.W.’s BWC showed a white male, approximately 45-55 years of age, grey in hair color, heavy build, with distinctive grey facial hair fashioned with large “mutton chops,” wearing a black worn leather jacket, black leather gloves, beige cargo pants, beige sneakers, and a light green backpack. Ofc. C.W.’s BWC footage showed the subject grabbed one or more MPD police officers who were in front of Ofc. C.W. as Ofc. C.W. attempted to remove the subject from the police officers:



Figure 2

The subject then physically engaged with Ofc. C.W.:



Figure 3

The subject grabbed Ofc. C.W. around the area of Ofc. C.W.'s chest:



Figure 4

The subject reached towards Ofc. C.W. with his right hand:



Figure 5

The subject then threw a punch at Ofc. C.W.:



Figure 6

Ofc. C.W. then grabbed the subject by the backpack and pushed him away:



Figure 7

Ofc. C.W. was interviewed and reviewed his BWC footage. Ofc. C.W. stated that he was part of Civil Disturbance Unit (“CDU”) 42, who had been brought in to assist in reinforcing officers defending the U.S. Capitol on January 6, 2021. Ofc. C.W. stated that he observed the subject fighting with two unknown police officers. Ofc. C.W. approached the subject and grabbed his backpack. The subject then threw several punches at Ofc. C.W. Ofc. C.W. then pushed the subject away then the subject charged Ofc. C.W. and rammed into him.

A review of MPD Officer C.B.'s BWC showed that Ofc. C.B. was in the same group of approximately 20 other MPD officers as Ofc. C.W., mentioned above. At approximately 2 p.m., Ofc. C.B. was walking through the West lawn of the United States Capitol grounds when the subject grabbed one or more police officers who were in front of Ofc. C.B.:



Figure 8



Figure 9

The subject then physically engaged with Ofc. C.B.:



Figure 10

Ofc. C.B. then pushed the subject out of the way:



Figure 11

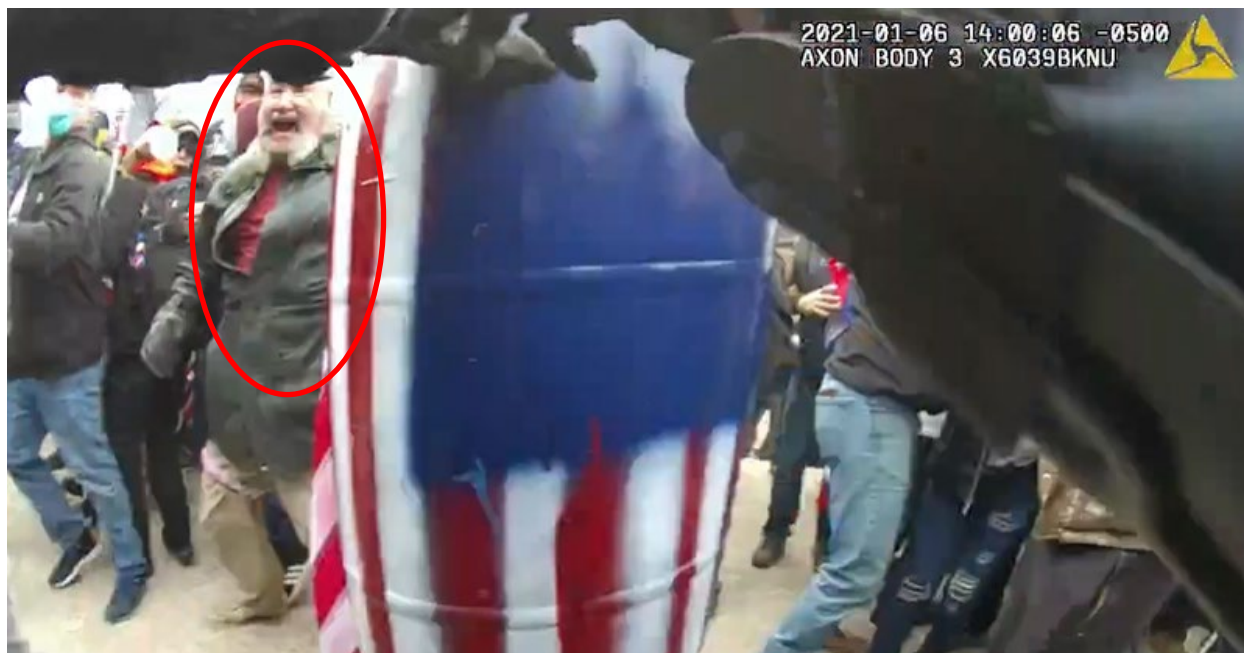


Figure 12

Ofc. C.B. was interviewed and reviewed his BWC footage. Ofc. C.B. stated that he was part of CDU-42. Ofc. C.B. stated that he and his fellow officers were trying to push through the crowd in order to get to the Lower West Terrace where they were to provide reinforcements, when the subject pushed Ofc. C.B. in the chest using both hands on at least two occasions. Ofc. C.B. stated that he also observed the subject doing the same to other unknown police officers who C.B. was working with that day.

A review of MPD Officer B.S.'s BWC showed that Ofc. B.S. was in the same group of approximately 20 other MPD officers as Ofcs. C.W. and C.B., mentioned above. At approximately 2 p.m., Ofc. B.S. was walking through the West lawn of the United States Capitol grounds when the subject grabbed one or more police officers who were in front of Ofc. B.S.:





Figure 13

The subject reached towards and made physical contact with Ofc. B.S.:



Figure 14

The subject attempted to hit Ofc. B.S.'s hand:



Figure 15



Figure 16

Ofc. B.S. was interviewed and reviewed his BWC footage. Ofc. B.S. stated that he was part of CDU-42. Ofc. B.S. stated that he and his fellow MPD officers were trying to push through the crowd when Ofc. B.S. observed the subject physically interacting with an unknown officer in front of Ofc. B.S.. The subject then grabbed Ofc. B.S.'s baton and Ofc. B.S.'s BWC fell off in the struggle with the subject.

Your affiant obtained the Department of State Passport photograph of Jacob L. ZERKLE and found that it was consistent with BWC footage of the subject:



Figure 17

Your Affiant also compared the individual seen on the BWC footage with the individual pictured on the Arizona Driver's License photograph for Jacob L. ZERKLE and believes that the individuals pictured are consistent.

On October 28, 2021, your Affiant interviewed Jacob L. ZERKLE outside his home in Arizona. ZERKLE stated that on or about January 2, 2021, ZERKLE and a family member drove from Arizona to Washington, D.C. to protest about election integrity. ZERKLE stated that he did not attend former President Trump's speech because he went to the Capitol to protest, not to listen to speeches. Your Affiant showed ZERKLE still photographs from Ofc. C.W.'s BWC footage, including Figures 3 and 4, above, and ZERKLE confirmed that he was the person in the photographs. ZERKLE stated that he pushed into some police officers and that he probably did something dumb. ZERKLE also said that he was shoved into the police and was trying to protect himself but did not intend to assault a police officer.

Based on the foregoing, your Affiant submits that there is probable cause to believe that Jacob L. ZERKLE violated:

1. 18 U.S.C. § 111(a), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, and interfere with, an officer and employee of the United States, and of any branch of the United States Government (including any member of the uniformed services), and any person assisting such an officer and employee, while such persons were engaged in and on account of the performance of official duties, and where the acts in violation of this section involve physical contact with the victim of the assault and the intent to commit another felony.
2. 18 U.S.C. § 231(a)(3), which makes it a crime 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. (“Civil disorder” means any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual. “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; and such term shall specifically include, but not be limited to, the collection and distribution of the United States mails. 18 U.S.C. §232(1).

3. 18 U.S.C. § 1752(a)(1), (2), and (4), 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; and (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; 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.
4. 40 U.S.C. § 5104(e)(2)(D) and (F), 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 (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

As such, your Affiant respectfully requests that the court issue an arrest warrant for Jacob L. ZERKLE. The statements above are true and accurate to the best of my knowledge and belief.



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Bret Curtis  
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 14<sup>th</sup> day of March 2022.

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ROBIN M. MERIWEATHER  
U.S. MAGISTRATE JUDGE