

## STATEMENT OF FACTS

Your affiant, Nicole Fuller, is a Special Agent with the Federal Bureau of Investigation (FBI). Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of a violation of Federal criminal laws.

### *Background – the U.S. Capitol on January 6, 2021*

The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police (USCP). Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by USCP. 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 USCP 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 USCP 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 USCP, 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, as well as Body Worn

Cameras (BWC) of law enforcement officers of the Washington, D.C. Metro Police Department (MPD) and footage taken by USCP personnel, depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

Additionally, news coverage of January 6, 2021, documented numerous attacks on members of the news media who were present to cover the events at, around, and in the U.S. Capitol building. These included reports of members of the news media being harassed, threatened, robbed, and assaulted based on their perceived roles as journalists, and equipment belonging to several news organizations was stolen, damaged, and/or destroyed.

### *Facts Specific to This Complaint*

Several videos from various sources taken during assaults on January 6, 2021, at the United States Capitol depict an individual, later identified as RODNEY KENNETH MILSTREED, assaulting law enforcement officers, and a member of the news media (MONM), specifically, a photographer assigned to the Associated Press (the MONM victim). All these crimes occurred in the general area of the West Terrace of the U.S. Capitol Building between approximately 1:00 p.m. and 2:00 p.m. on January 6, 2021. Video footage taken during the riot by surveillance cameras, law enforcement officials, and other rioters show that the individual is a Caucasian male wearing a camouflage-patterned hooded sweatshirt with a yellow drawstring in the hood, glasses (possibly with transition lenses, which darken when exposed to sunlight) in rectangular shape with rounded corners, what appears to be a dark green neck gaiter, and a navy baseball cap.

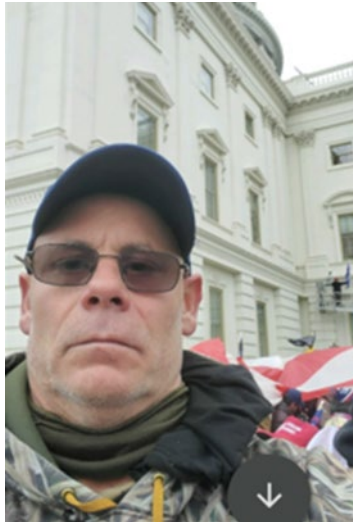
FBI Baltimore received a tip from Witness 1 who knows MILSTREED personally and had information that MILSTREED was at the U.S. Capitol on January 6, 2021. MILSTREED sent Witness 1 a photo of MILSTREED outside of the U.S. Capitol Building on (what appears to be) January 6, 2021 (**Photo B**) and claimed that he had assaulted a member of the news media. Prior to January 6, 2021, MILSTREED also made comments that were violent in nature concerning the events that would occur that day, including claiming allegiance to the Proud Boys<sup>1</sup> and informing of their intended presence and intent to quash any opposition in Washington, D.C. on January 6, 2021. Witness 1 provided a copy of **Photo B** and MILSTREED's comments to the FBI. Witness 1 also reported MILSTREED's phone number and residential address in Finksburg, Maryland. I have independently confirmed through Verizon records that the phone number Witness 1 provided is registered to MILSTREED. (Verizon records reveal that MILSTREED made calls with an origination location of Washington, D.C. on January 6, 2021.) Further, I have independently confirmed through Maryland Motor Vehicle Administration ("MVA") records that MILSTREED's address is the same as that provided by Witness 1.

Based on that tip, I compared MILSTREED's known images, including a booking photo taken in 2005, his more recent driver's license photo, and a selfie-style photo I found in a search

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<sup>1</sup> Proud Boys is a nationalist organization with multiple US chapters and potential activity in other Western countries. Proud Boys members routinely attend rallies, protests, and other First Amendment-protected events, where they sometimes engage in violence against individuals whom they perceive as threats to their values. The group has an initiation process for new members, who often wear yellow and black polo shirts or other apparel adorned with the Proud Boys logo to events.

of the Facebook account registered to MILSTREED (discussed below) (**Photo A**) to the photo provided by Witness 1 (**Photo B**) and to riot footage, including a video of MILSTREED speaking to a camera on January 6 (**Photo C**). Based on this comparison, and on additional information from MILSTREED's Facebook records described below, I believe MILSTREED is the individual described above who committed the assaults described next.<sup>2</sup>

**PHOTO A****PHOTO B****PHOTO C**

### ***MILSTREED's Assault on Law Enforcement***

USCP Crime Scene Search personnel took video which captured the front steps of the Capitol's Upper West Plaza. As shown in **Photo D** below, MILSTREED is in the crowd, appearing to be looking down at his cellular phone. A group of USCP Officers, dressed in all black and equipped with helmets and other riot gear, can be seen standing to the left of the crowd, blocking the steps to the Capitol Building.<sup>3</sup> MILSTREED makes his way through the crowd, advancing towards USCP Officers. At one point, MILSTREED picks up what appears to be a flagpole bearing a navy flag off the ground and throws it, javelin-style, in the direction of USCP Officers (**Photo**

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<sup>2</sup> On or about August 19, 2021, the FBI Washington Field Office received a separate tip from a different individual ("the other tipster") regarding the individual in Photo C. The other tipster identified this person as his/her neighbor ("the neighbor"), someone other than MILSTREED. The FBI investigated the lead and interviewed the other tipster. However, for the reasons explained throughout this Statement of Facts, I believe the other tipster was mistaken and the individual in the U.S. Capitol footage described here is in fact MILSTREED.

<sup>3</sup> "U.S. Capitol Police" in white lettering can be read across the back of many black jackets and black helmets worn by law enforcement. "U.S. Capitol Police" cannot be seen on every law enforcement officer (due to the video angle and distance and large crowds), but your affiant believes the unidentified law enforcement victim is a USCP Officer, as he/she is standing among other USCP Officers and appears to be wearing a helmet of the same style and color.

E). The flagpole appears to strike one of the USCP Officers. My comparison of this footage with surveillance camera footage suggests it occurred at approximately 1:10 p.m.

**PHOTO D**

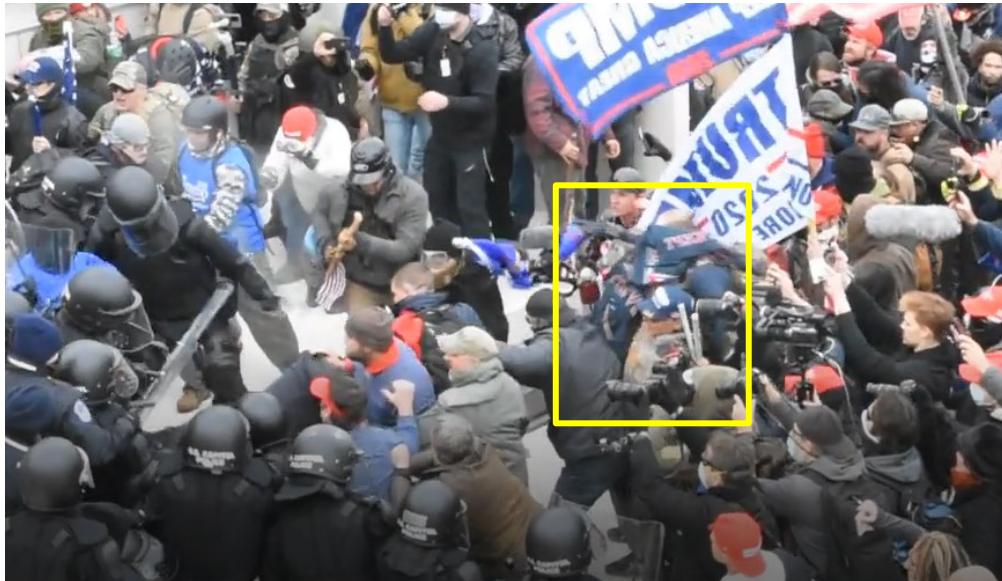


**PHOTO E**

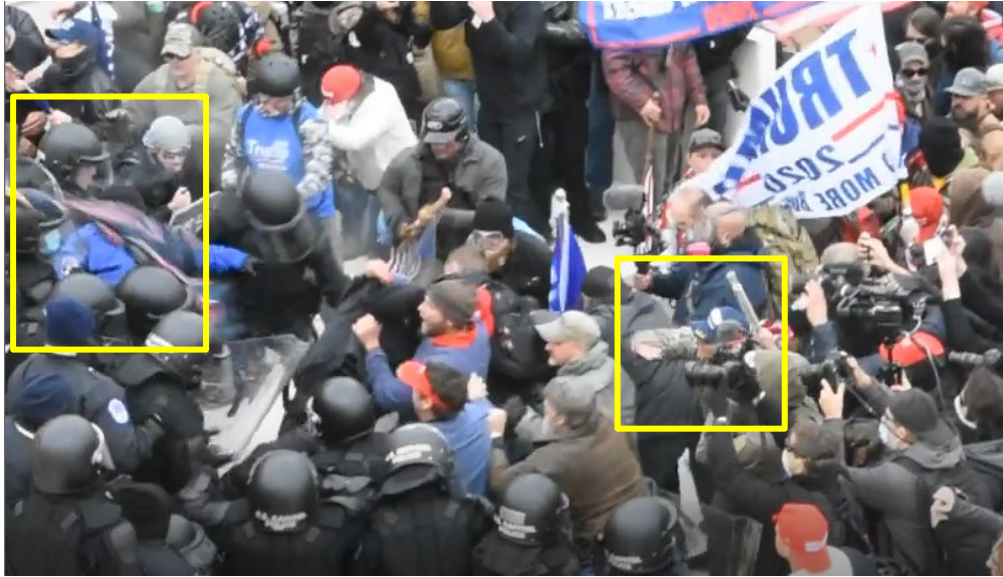


A second video taken by USCP Crime Scene Search personnel, which captured the same events described above, from a different camera angle, shows MILSTREED holding the flagpole in the air with one arm (**Photo F**), and then throwing the flagpole towards USCP Officers, striking one officer (**Photo G**).

**PHOTO F**



**PHOTO G**

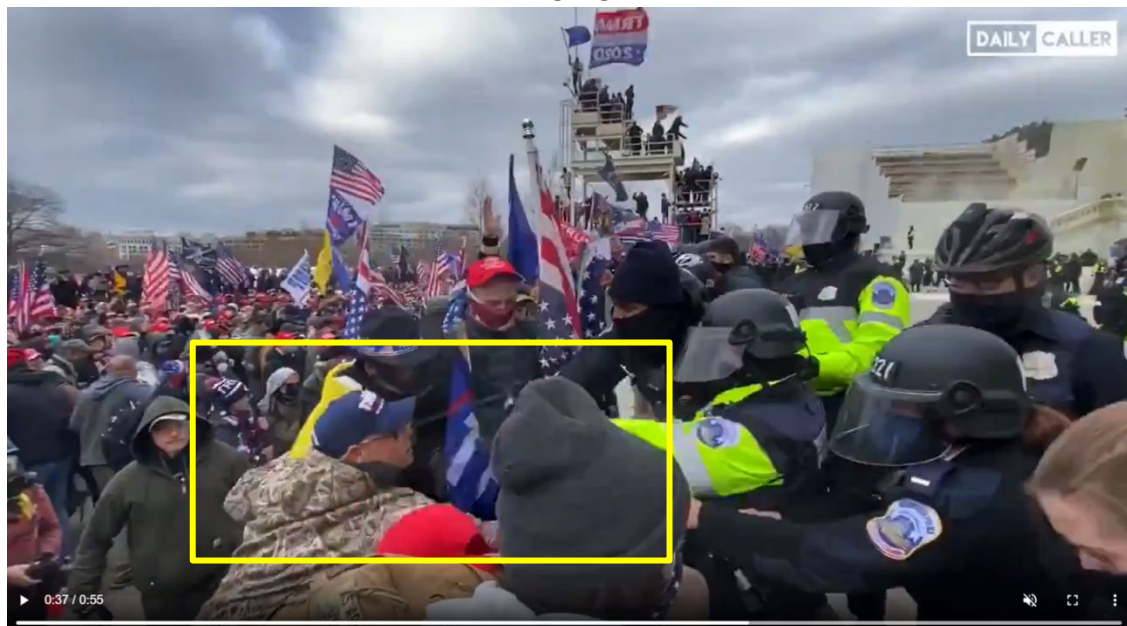


In addition to this incident, I have reviewed video, including body-worn camera footage of an MPD officer at the U.S. Capitol and a publicly available video (which is accessible through the following link: <https://ia904505.us.archive.org/5/items/p3CpCyeHTughshQB/p3CpCyeHTughshQB.mpeg4>) showing MILSTREED attempting to break the police line shortly after 2:00 p.m. This video appears to have been taken on the Capitol grounds, where law enforcement officers from USCP and MPD had formed a line of bike rack-style barricades to act as a barrier against the crowd. Officers were standing watch behind this line and fending off repeated attempts by the rioters to pull on the bike racks and assault the officers. At approximately 2:05 p.m., MILSTREED can be seen approaching the barricade, and he then grabs and pulls on one of the bike racks (**Photo H**). An MPD officer is heard repeatedly yelling “back off” or “back up,” and then sprays MILSTREED with what appears to be pepper spray or OC spray (**Photo I**).

PHOTO H



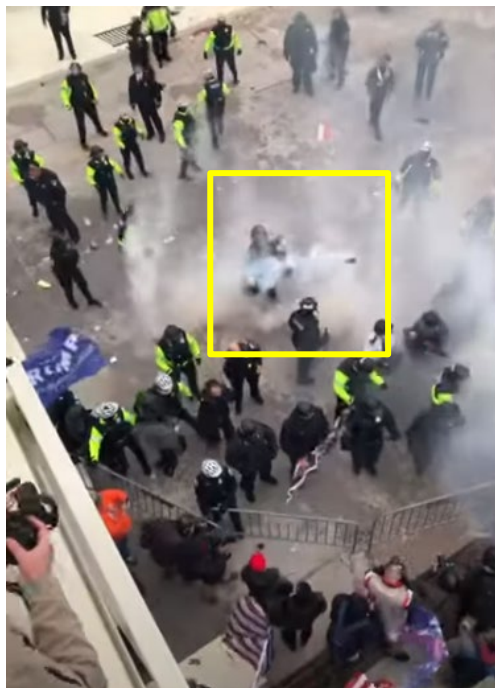
PHOTO I



I have also reviewed publicly available video that appears to show MILSTREED engaged in another assault on law enforcement. This video, named “US capitol protests. Why were cops attacking us?” is accessible on YouTube via the following link: <https://www.youtube.com/watch?v=Qdr3mltKHA0&t=1633s>. This video appears to have been taken from a position on or atop the media tower that had been constructed on the Lower West Terrace in preparation for the Presidential Inauguration. As described above, law enforcement officers from USCP and MPD had formed a barricade to separate from the crowd and fend off repeated attempts by rioters to assault officers.

At one point, smoke can be seen on the side of the barricade where law enforcement officers are standing. One of the law enforcement officers picks up what appears to be a smoke grenade off the ground and throws it towards the crowd of rioters, as seen in **Photo J** below.

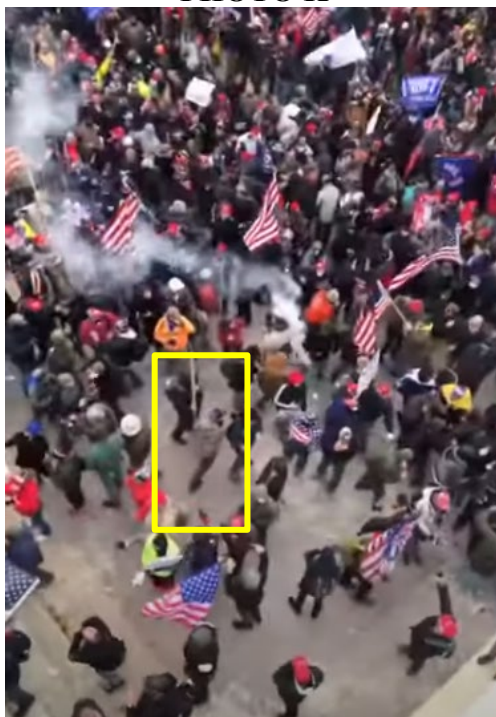
**PHOTO J**



The object lands in the crowd of rioters, and MILSTREED runs towards it (**Photo K**). MILSTREED then picks up the smoke grenade and launches it back towards law enforcement (**Photo L**).



**PHOTO K**



**PHOTO L**

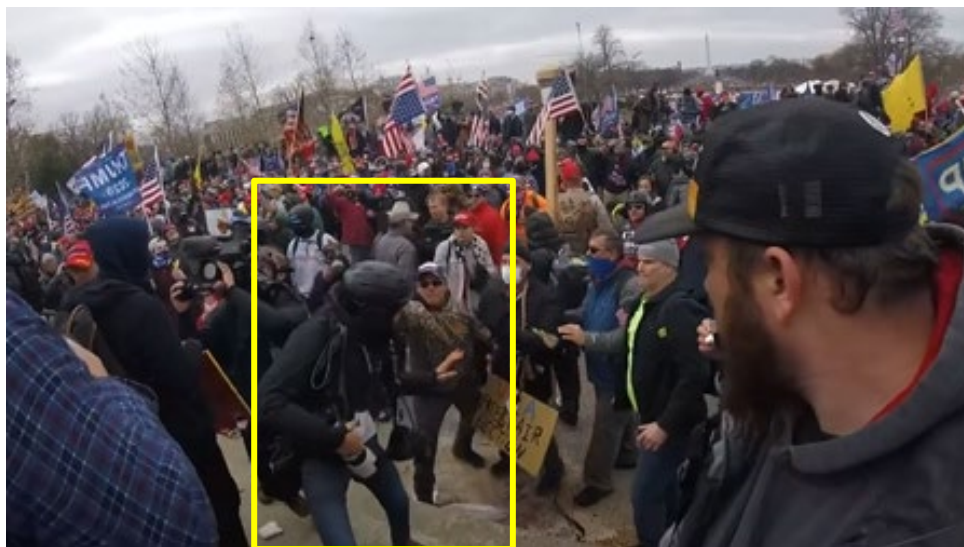


*MILLSTREED's Assault on a Member of the News Media*

According to a video posted to the Instagram account of an Associated Press photographer (the MONM witness), the MONM victim was assaulted by members of the crowd on the Upper West Plaza of the U.S. Capitol. The MONM witness, who was the MONM victim's colleague, was present with the MONM victim during the assault and filmed the incident as it occurred. The video appears to be unavailable on Instagram at this time, but the footage was reposted by various media outlets on their respective websites and incorporated into reporting about the events of January 6, 2021 (e.g., an article by Associated Press journalist David Bauder, titled "Journalists recount harrowing attacks amid Capitol Riot" posted on the Associated Press's website on January 8, 2021, and currently accessible at: <https://apnews.com/article/donald-trump-new-york-journalists-media-social-media-cba6bd7b93be0ade1da714a32c33d74c>).

I reviewed the aforementioned video and footage from MPD body-worn camera. At approximately 1:35 p.m., the MONM victim was observed in the vicinity of the Capitol Building, near the Lower West Terrace of the Capitol grounds. The MONM victim was dressed in all black and appeared to be wearing a helmet-style gas mask, a lanyard displaying credentials, at least one camera, and a backpack. MILSTREED grabbed the MONM victim's backpack and pulled him backwards down the stairs. MILSTREED then shoved the MONM victim and advanced towards him in a threatening fashion. MILSTREED is shown assaulting the MONM victim in **Photos M and N** below.

**PHOTO M**



**PHOTO N**



According to video footage MILSTREED sent to associates via Facebook, he then made his way to the northwest lawn, where he filmed rioters appropriating bike rack barriers to scale the U.S. Capitol walls and reach the steps to the Upper West Terrace. MILSTREED joined the crowd to climb the steps to the Upper West Terrace close to where the Senate Wing Door was breached. An individual who I believe to be MILSTREED, based on my review of MILSTREED’s Facebook videos and other BWC and media footage that includes his voice, can be heard yelling “Here we go” and “Fuck yeah, shit’s gonna get real.” **Photo O** below is captured from this video footage.

**PHOTO O**



I have located video camera footage from two MPD body-worn cameras (“Axon Body 3 X6039BDE3” and “Axon Body 3 X6039BHBB”), both capturing MILSTREED on the Upper

West Terrace of the U.S. Capitol Building at approximately 2:47 p.m. and 2:50 p.m., respectively. Images from this video footage are shown in **Photos P and Q** below.

**PHOTO P**



**PHOTO Q**



***MILSTREED Planned for and Celebrated the Violence at the U.S. Capitol***

After the 2020 Presidential election, MILSTREED made comments and posts on social media suggesting his intent to commit violence on January 6. Facebook records show that an account under the name “Rodney Milstreed” is registered to MILSTREED and associated with the same phone number provided by Witness 1 and registered to MILSTREED by Verizon. According to information Facebook provided in response to a search warrant for MILSTREED’s account records, on November 9, 2020, six days after the Presidential election, MILSTREED messaged a friend, “Gonna get ugly when they overturn these vites[,]” then corrected, “Votes[.]” MILSTREED then sent the following two photos (**Photos R and S**), obtained from MILSTREED’s Facebook records, showing what appears to be two assault weapons, two upper

receivers, miscellaneous gun parts, several loaded magazines, and multiple large boxes of ammunition. MILSTREED added, “just a few” and “Some of the sleeping giant” and sent a photo of himself wearing a neck gaiter that appears similar to the neck gaiter he is seen wearing at the U.S. Capitol on January 6, apparently referring to himself as “Skin head and all son[.]”<sup>4</sup>

**PHOTO R**



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<sup>4</sup> Although in this photo, MILSTREED appears to be wearing the same neck gaiter as he wore to the U.S. Capitol on January 6, I have not obtained evidence to suggest that he was in possession of any firearms in Washington D.C. during the riot that day.

## PHOTO S



On November 25, 2020, in what appears to be a discussion about election-related lawsuits, MILSTREED posted a reply to a comment, “I pray every night . I hope we dont have to hurt anyone. THESE JUDGES BETTER DO THE RIGHT THING.” On December 23, 2020, MILSTREED commented on a post by then-President Trump, “To hell with them Trump don’t hand over the keys. We will handle the outside u handle the inside.” Based on my review of MILSTREED’s other social media comments, I believe this is a reference to MILSTREED’s hope that Trump would continue to occupy the White House, and that MILSTREED was willing to use violence to assist that goal. On December 28, 2020, he messaged a friend, “I have a feeling things will get out of hand next week.”

Facebook records also reveal that MILSTREED communicated with others on the afternoon of January 6, while he was at the U.S. Capitol grounds. At around 2:00 p.m., when a friend asked him what was going on and noted he heard there had been a shooting, MILSTREED replied, “We are gonna take the building[.]” To another friend, he reported, “Getting ready to take the building[.]” He sent photos of blood on the floor in what appears to be the Upper West Plaza and then later added, “Man I’ve never seen anything like this . I feel so alive.” That evening, at around 5:00 p.m., he messaged a different Facebook friend, “We fucked them federal cops up. They all ran when we got physical. LMFAO[.]” He then added, “Time for war.” MILSTREED sent similar messages to other Facebook associates, describing the fact that “They had to shot one of us” as “Bad ass son[.]”

Three days after the riot, on January 9, 2021, MILSTREED messaged a Facebook associate to describe his participation in the violence at the U.S. Capitol and his intention to “crack some heads” while he was there, as follows:

**Author** Rodney Milstreed (Facebook: 100007297448244)

**Sent** 2021-01-09 12:34:32 UTC

**Body** Anybody thats thinks I went to D.C. and was gonna start there with a sign is just foolish . I went with a 4 ft club and intended to crack some heads . I'm not ever sorry some got hurt , could have been me . My only intentions were to drag these fucking criminals onto constitution blvd and pound their head in. ☐☐ Fact. I'm surrounded by a bunch of pantie waste people with mouths and no action . This aint over these fucks will go down. FACT.

**Author** Rodney Milstreed (Facebook: 100007297448244)

**Sent** 2021-01-09 12:43:42 UTC

**Body** I make a charge for punching the camera guy but it was worth it. Hit him with everything god give. The crowd cheered. ☐☐

### *Criminal Violations*

Based on the foregoing, your affiant submits that there is probable cause to believe that RODNEY KENNETH MILSTREED violated 18 U.S.C. § 111(a)(1) and (b), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in section 1114 of Title 18 while engaged in or on account of the performance of official duties, while using a deadly or dangerous weapon. Persons designated within section 1114 of Title 18 include federal officers such as USCP officers, and include any person assisting an officer or employee of the United States in the performance of their official duties and where the acts in violation of this section involve physical contact with the victim and the intent to commit another felony.

Your affiant further submits that there is probable cause to believe that RODNEY KENNETH MILSTREED violated 18 U.S.C. § 113(a)(4) and (5), which makes it unlawful, within the special and maritime jurisdiction of the United States, (4) to commit an assault by striking, beating, or wounding; and (5) to commit a simple assault; and aiding and abetting in such crimes. The U.S. Capitol and the U.S. Capitol grounds constitute the “territorial jurisdiction” of the United States as “lands reserved or acquired for the use of the United States” and under its “exclusive or concurrent jurisdiction.” 18 U.S.C. § 7(3).

Your affiant further submits that there is probable cause to believe that RODNEY KENNETH MILSTREED 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 RODNEY KENNETH MILSTREED violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.

Your affiant further submits that there is probable cause to believe that RODNEY KENNETH MILSTREED violated 18 U.S.C. § 1752(a)(1), (2), and (4), which make it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; (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 engages 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.

Your affiant further submits that there is probable cause to believe that RODNEY KENNETH MILSTREED violated 40 U.S.C. § 5104(e)(2)(D), (E), 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; (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings; and (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.



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Nicole Fuller  
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 18<sup>th</sup> day of May 2022.

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ROBIN M. MERIWEATHER  
U.S. MAGISTRATE JUDGE