

## STATEMENT OF FACTS

Your affiant, Kristen Luthy, is a Special Agent assigned to the Federal Bureau of Investigation, Pittsburgh Division. In my duties as a special agent, I am assigned to the Joint Terrorism Task Force, specifically specializing in Domestic Terrorism. 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, 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, shortly 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 2

violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

**Evidence Linking BRIAN SIZER to Assault on the U.S. Capitol**

On or about March 12, 2021, JULIA SIZER (JSIZER) was interviewed in the presence of legal counsel regarding her activities at the United States Capitol on January 6, 2021. During the interview, JSIZER advised that she and her husband BRIAN SIZER (BSIZER) entered the United States Capitol Building on January 6, 2021, for a few minutes, before leaving. JSIZER provided telephone number XXX-XXX-6886 (“BSIZER Phone”) as the cell phone number associated with BSIZER. JSIZER allowed the Interviewing Agents to view her cellular telephone associated with phone number XXX-XXX-1638 (“JSIZER Phone”) for images and videos related to the events of January 6, 2021. The images and videos obtained provided a description of BSIZER and the clothing worn by BSIZER on January 6, 2021, when he entered the Capitol Building.

A search warrant was obtained on or about August 30, 2021, for JSIZER Phone. Review of the data on JSIZER Phone identified photos of JSIZER and BSIZER at the United States Capitol Building in Washington, D.C., on January 6, 2021. BSIZER was observed in these images wearing a tan-colored jacket, gray hooded sweatshirt with the hood pulled over a gray or olive green baseball cap. For example, below is a photograph contained on JSIZER Phone:



I compared a Pennsylvania State driver’s license photograph of BSIZER with the individual depicted in the above photograph wearing a tan-colored jacket and gray hooded sweatshirt holding up a cell phone. Based on that comparison, I believe BSIZER is the individual depicted in the above photograph.

Additionally, closed circuit television (“CCTV”) footage obtained from the United States Capitol cameras located JSIZER inside of the Capitol Building. Specifically, according to CCTV footage, JSIZER entered the Capitol Building at approximately 2:48 p.m. through the Parliamentarian Door, which is located on the West, Senate Side of the Capitol Building. CCTV showed JSIZER entering the building, proceeding approximately 15-20 feet down the hallway, getting stuck in a crowd, then turning around and leaving the building through the door that she entered at approximately 2:50 p.m.

As visible in CCTV footage, on JSIZER’s first entry into the Capitol Building, BSIZER was not with her. According to information obtained from Google pursuant to a geofence warrant, BSIZER Phone, serviced by Verizon Wireless, was not determined to be among those devices present at the Capitol Building on January 6, 2021.<sup>1</sup> A name search for BRIAN SIZER was conducted in law enforcement databases and returned results for an individual not matching the description of BSIZER. A facial recognition search was conducted and failed to identify BSIZER inside of the United States Capitol Building.

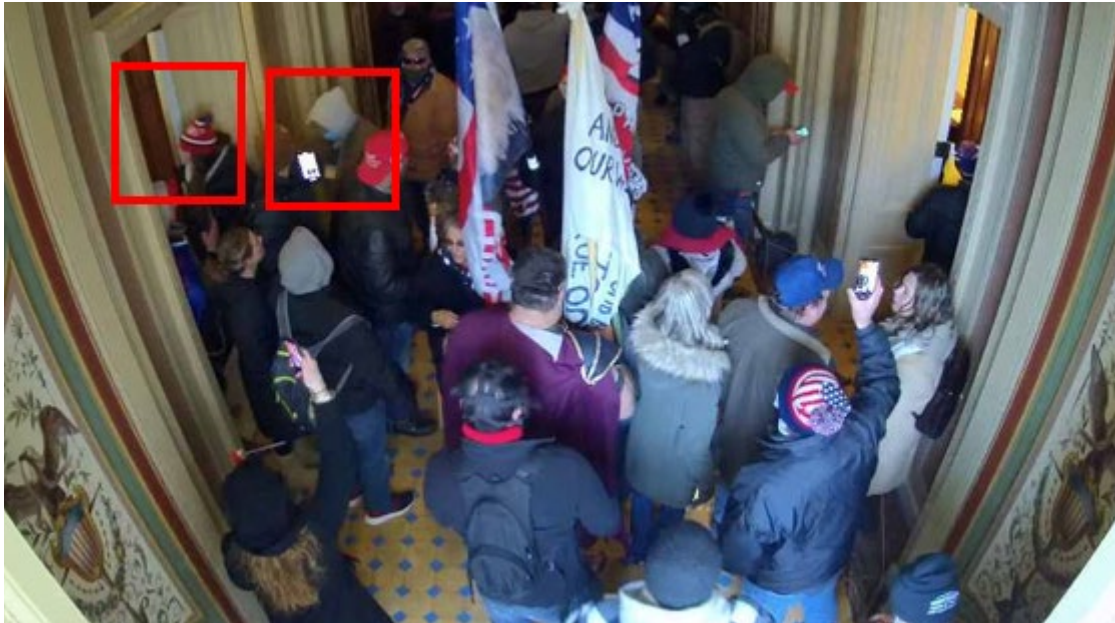
However, CCTV shows that JSIZER reentered the Capitol Building, again through the Parliamentary Door, approximately four minutes after her first exit. On her second entry, JSIZER was accompanied by BSIZER. A screenshot, below, from Capitol CCTV depicts JSIZER and BSIZER inside of the United States Capitol Building taking a “selfie” together. In the image, BSIZER is wearing a blue surgical-type mask and the same clothing—gray hoodie sweatshirt, tan jacket, and baseball cap—that is visible in photos of JSIZER and BSIZER taken outside the Capitol Building on JSIZER Phone. BSIZER and JSIZER are highlighted by a red box in the image below.



BSIZER remained inside the Capitol Building for approximately six minutes. After taking the selfie as shown in the above image, BSIZER and JSIZER walked out of the CCTV camera frame, further down the hallway, away from the Parliamentary Door. BSIZER and JSIZER reappeared in the camera frame approximately four minutes later, around 2:57 p.m. BSIZER and JSIZER are seen entering an office to the left of the Parliamentary Door from the perspective of the CCTV camera, as shown in the CCTV screenshot below. BSIZER and JSIZER are highlighted by red boxes.

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<sup>1</sup> Google estimates device location using sources including GPS data and information about nearby Wi-Fi access points and Bluetooth beacons. This location data varies in its accuracy, depending on the source(s) of the data. As a result, Google assigns a “maps display radius” for each location data point. Thus, where Google estimates that its location data is accurate to within 10 meters, Google assigns a “maps display radius” of 10 meters to the location data point. Finally, Google reports that its “maps display radius” reflects the actual location of the covered device approximately 68% of the time.



BSIZER and JSIZER remained in the office for approximately one minute. BSIZER exited the office first and began to move toward the Parliamentarian Door as part of a large crowd packed into the hallway. JSIZER was not with him. Around this time, a chemical irritant was deployed by someone outside of the camera frame. BSIZER and those in the crowd around him began to cough and cover their faces. BSIZER exited the Capitol Building through the Parliamentarian Door at approximately 3:00 p.m., as seen in the CCTV screenshot, below. BSIZER is highlighted by a red box.

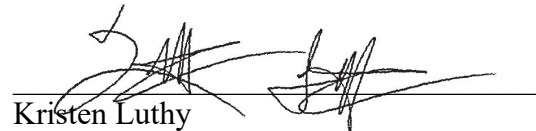


JSIZER exited the office approximately 30 seconds after BSIZER exited the Building. As she made her way toward the Parliamentarian Door, she removed the hat she was wearing and used it to cover her mouth and nose. JSIZER exited through the Parliamentarian Door a second time at approximately 3:01 p.m.

On or about October 24, 2022, I interviewed an individual (“Neighbor 1”) who lives on Old Zelenople Road in Ellwood City, Pennsylvania near BSIZER’s and JSIZER’s previous residence. I showed Neighbor 1 the photograph depicting JSIZER and BSIZER outside the U.S. Capitol set out above. Neighbor 1 identified the female in the photograph as JULIA SIZER and the male in the photograph holding the cellular phone as BRIAN SIZER.

Based on the foregoing, your affiant submits that there is probable cause to believe that BRIAN SIZER 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 so; 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 BRIAN SIZER violated 40 U.S.C. § 5104(e)(2)(D) and (G), which make 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.

  
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Kristen Luthy  
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 27<sup>th</sup> day of October 2022.

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HONORABLE MOXILA A. UPADHYAYA  
UNITED STATES MAGISTRATE JUDGE