

Case: 1:22-mj-00264
Assigned To : Faruqui, Zia M.
Assign. Date : 12/2/2022
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

I, the affiant, Andrew Martin, am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed since July 2018. My duties, responsibilities, and training as a Special Agent with the FBI include investigating violations of federal law. I have been involved in the execution of search and arrest warrants. I am assigned to the FBI's Joint Terrorism Task Force (JTTF) and have experience investigating national security threats, to include international terrorism and domestic terrorism. I am authorized to investigate violations of the laws of the United States and to execute warrants issued under the authority of the United States.

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 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.

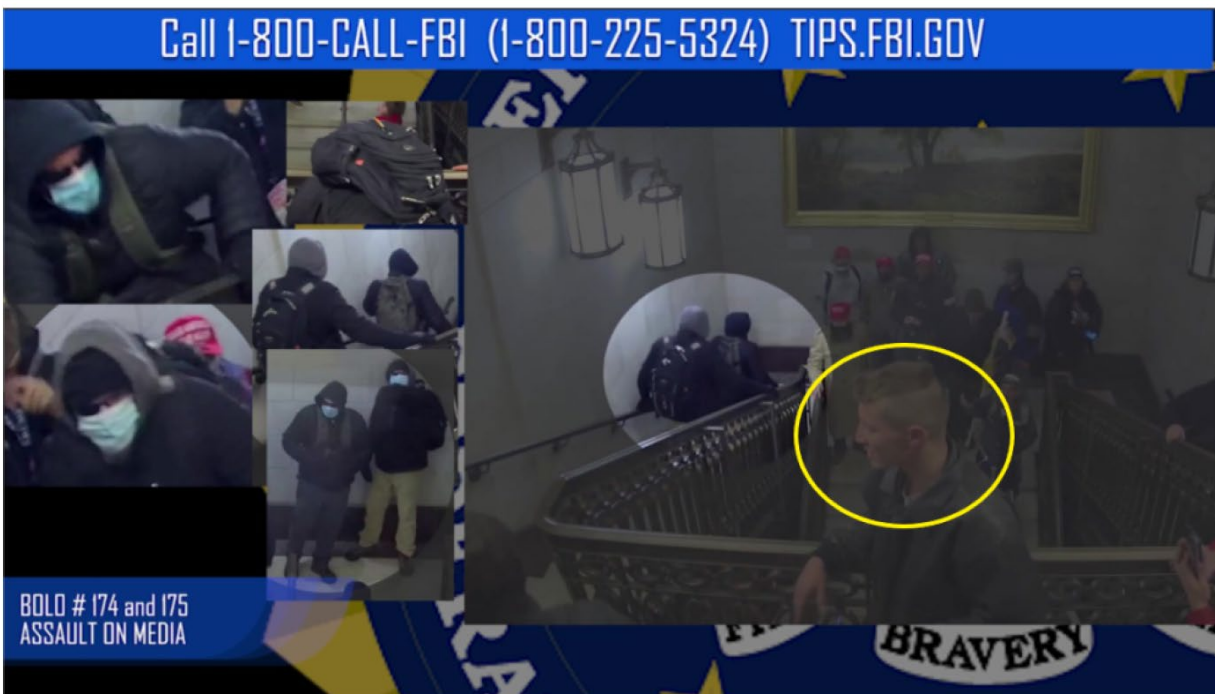
As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, 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.

Facts Specific to this Case

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 hundreds of individuals inside the U.S. Capitol building without authority to be there, in violation of federal laws. Photographs and videos of several of these persons were disseminated via social media and other open-source online platforms and were also highlighted by the FBI on its public website as persons of interest. Those persons included a male wearing a gray t-shirt, dark brown leather jacket, and—at times—a black beanie with the logo “I ♥ TRUMP.” A FBI bulletin seeking information about this individual, among others, is shown below; in the photograph, the individual (circled in yellow) is not wearing the beanie.



FBI BOLO 175 and 175

Law enforcement has determined that there is probable cause to believe that this individual is ISRAEL JAMES EASTERDAY (“EASTERDAY”), based on, among other things, an identification provided by a law enforcement officer in Kentucky who has observed EASTERDAY personally and viewed photographs of the individual from the U.S. Capitol building and grounds on January 6, 2021, as described further below.

Information obtained about EASTERDAY in relation to the riot at the U.S. Capitol on January 6, 2021, includes the following: In an approximately nine minute long clip from publicly available video viewed by the affiant (“YouTube Video 1”), EASTERDAY is shown with a group of rioters outside the East Rotunda door from approximately 2:17 pm to 2:26 pm.¹

¹ This video clip was introduced as Government Exhibit 512.01 at trial in *United States v. John Strand*, 21 Cr. 85 (D.D.C.).

YouTube Video 1 does not contain time stamps but the time in YouTube Video 1 can be approximated because it shows the breach of the East Rotunda door at the end of the clip, and I know from time-stamped CCTV video that this breach occurred at approximately 2:26 pm.

In the scene shown in YouTube Video 1, a large group of rioters were congregated outside the East Rotunda door, and some of the rioters had broken its windows using, among other things, flag poles to smash the glass. USCP Officer 1 and other police officers were trying to prevent the rioters from breaching the door and entering the Capitol Building. In a still image taken from YouTube Video 1, EASTERDAY (circled in yellow) is shown in Image 1 below wearing a black beanie, carrying a confederate flag and participating with the group of rioters trying to enter the East Rotunda door:

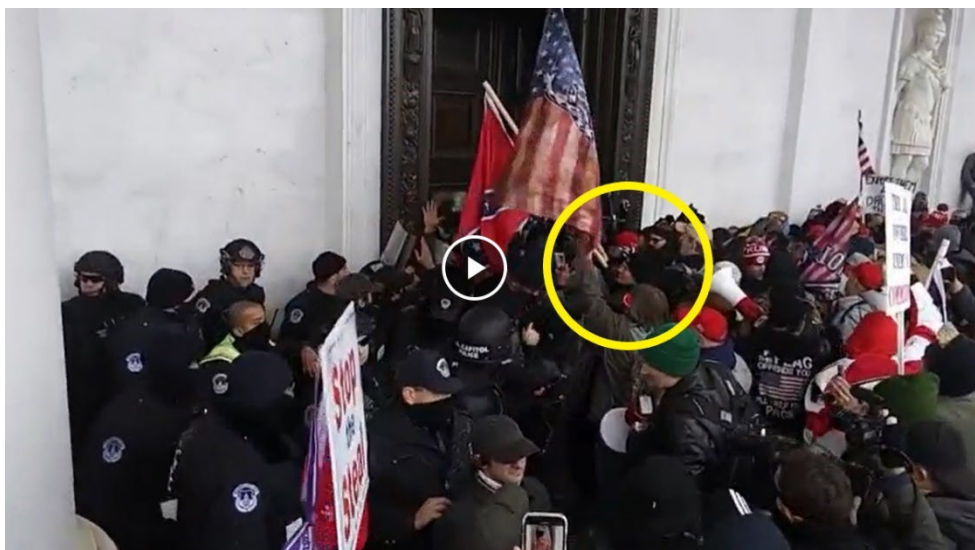


Image 1

As shown in YouTube Video 1, EASTERDAY approached a group of police officers, including USCP Officer 1, and appeared to put down the confederate flag. A moment later, EASTERDAY (circled in yellow) pointed what appears to be some sort of bottle at USCP Officer 1 (circled in blue) and sprayed him with what appears to be a chemical irritant (circled in red), as shown in Image 2 below.

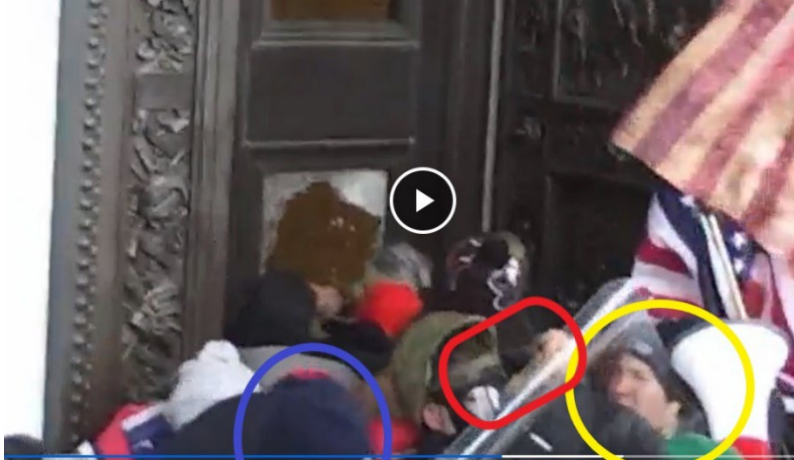


Image 2

USCP Officer 1 has described to law enforcement, in sum and substance, that he believed he was sprayed with mace; that the irritant that sprayed him was different from the pepper spray used by the United States Capitol Police; that the irritant got in his eyes and caused him pain. Image 3 below, captured approximately two seconds after Image 2 above, shows USCP Officer 1 (circled in blue) turning away from EASTERDAY in reaction to being sprayed.



Image 3

USCP Officer 1 has viewed YouTube Video 1 and stated that the incident in which he recalls being assaulted with a chemical irritant by a rioter outside the East Rotunda door on January 6 is the incident shown on YouTube Video 1 described above.

Further, based on my training and experience and the experience of other officers, I know that chemical irritants such as mace, oleoresin capsicum spray (known as “OC spray”) and others, are decapacitating, and they have a high potential to negatively affect an officer’s ability to perform their official duties.

On April 21, 2022, FBI Bowling Green Resident Agency (BGRA) was notified by the FBI Washington Field Office (WFO) of a previously unidentified subject believed to be EASTERDAY. WFO believed the subject to be EASTERDAY based on, among other things, information showing that a Google account associated with EASTERDAY was located inside or near the U.S. Capitol Building on January 6, 2021. Specifically, FBI submitted EASTERDAY's identifiers to the FBI's "geofence" database, which contains data of cellular activity around the U.S. Capitol Building during the riot on January 6, 2021. The geofence database returned positive results for a Google ID number ending in 2668, and further showed that this Google ID number is associated with EASTERDAY's name and a billing address that matches the address on EASTERDAY's Kentucky driver's license. Law enforcement also compared EASTERDAY's Kentucky driver's license photo to images of EASTERDAY from the U.S. Capitol and it appears that they show the same person.

FBI used analytical tools and searched publicly available materials to obtain Images 4 and 5 below, in which the individual believed to be EASTERDAY is wearing the same hat as the individual believed to be EASTERDAY shown in the videos of January 6 and similarly holding a confederate flag:²



Image 4



Image 5

FBI obtained additional photos and video that matched EASTERDAY from a database of photos and videos related to the riots that occurred at the Capitol on January 6, 2021. This information showed the individual believed to be EASTERDAY inside the U.S. Capitol among other rioters during the riot on January 6, 2021, both at times when he was wearing his black "I ❤️ TRUMP" hat and when he was not.

² Image 4 is an image made by magnifying the subject's face as shown in Image 5.

Images 6, 7 and 8 below are from CCTV video that identifies EASTERDAY's time and location within the Capitol. Image 6 shows EASTERDAY entering the U.S. Capitol through the East Rotunda Door at approximately 2:39 p.m., within approximately 13 minutes of the initial breach of the East Rotunda door.

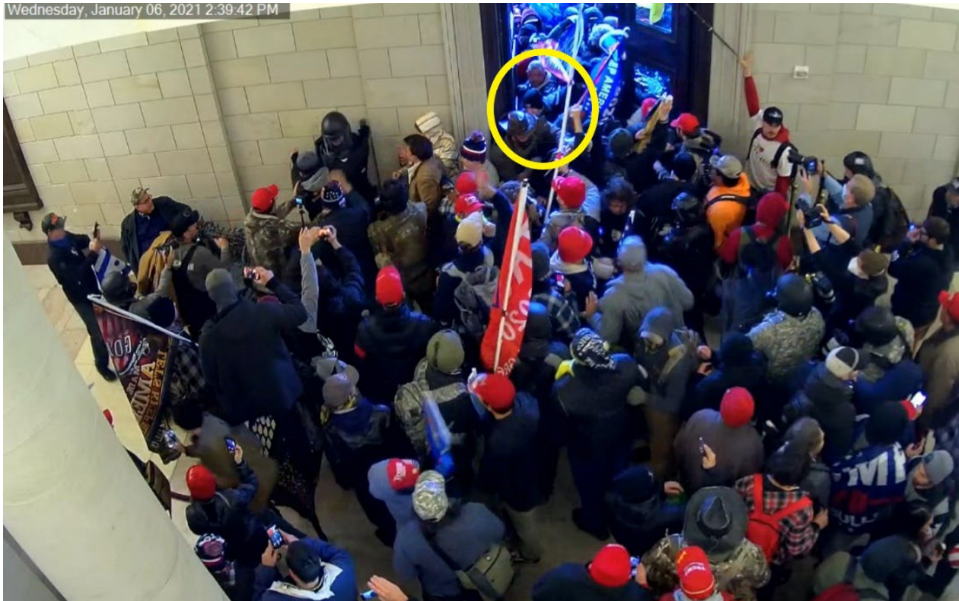


Image 6

Image 7 shows EASTERDAY, a few seconds later, pulling other rioters into the U.S. Capitol through the door:

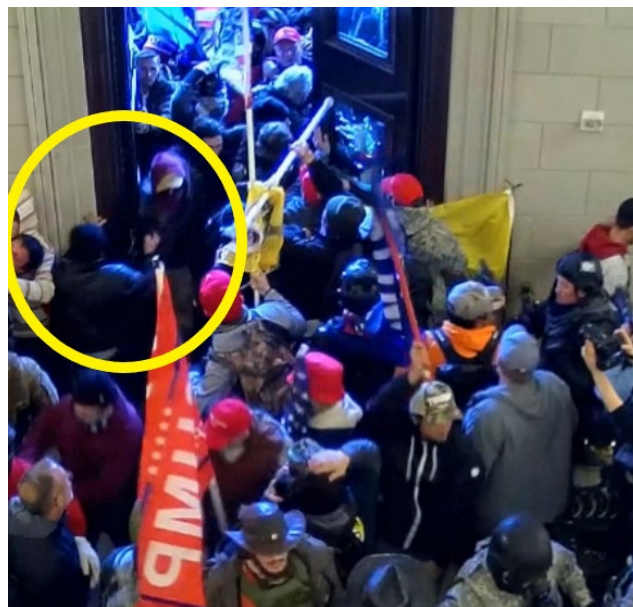


Image 7

Image 8 below shows EASTERDAY a few minutes later, at approximately 2:41 p.m., entering an area of the Capitol Building known as the Gallery Stairs.



Image 8

Additional images show EASTERDAY both inside and outside the U.S. Capitol:

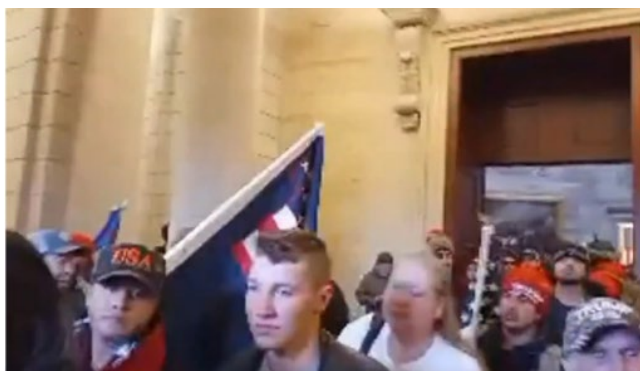


Image 9



Image 10



Image 11

After being in the Gallery Stairs area of the U.S. Capitol at approximately 2:42 p.m. as shown in Image 11, EASTERDAY returned downstairs to the area from which he entered. CCTV video shows EASTERDAY approaching the East Rotunda door to exit the U.S. Capitol at approximately 2:51 p.m.

On April 25, 2022, your affiant interviewed a law enforcement officer at the Hart County Sheriff's Office in Munfordville, Kentucky ("HCSO Officer 1"). Hart County, Kentucky is the county where EASTERDAY's address is listed in Kentucky Department of Motor Vehicles records. Images 4, 5, 9, 10, and 11 were presented to HCSO Officer 1 for the purpose of identification. HCSO Officer 1 was presented the photos with no name associated and asked if the individual or individuals in the photos were known to the officer. HCSO Officer 1 immediately identified EASTERDAY as the subject in all photos. HCSO Officer 1 informed your affiant that he or she is personally familiar with EASTERDAY.

Based on the foregoing, I submit that there is probable cause to believe that EASTERDAY violated 18 U.S.C. §§111(a)(1), (b), and 2, which make it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with certain designated individuals, and to use a deadly or dangerous weapon or inflict bodily injury during the commission of such acts, or to aid, abet, counsel, command, induce, or procure the commission of such offenses. Within the meaning of this statute, a designated individual is an officer or employee of the United States or of any agency in a branch of the United States Government (including any member of the uniformed services), while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer in the performance of official duties or on account of that assistance.

I submit that there is also probable cause to believe that EASTERDAY violated 18 U.S.C. §§ 231(a)(3) and 2, 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, 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.

I further submit that there is probable cause to believe that EASTERDAY violated 18 U.S.C. §§ 1752(a)(1), (2), and (4), (b)(1)(A), and 2, 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; or attempts or conspires to do so; (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; or attempt or conspire to do so; and (b)(1)(A) to commit any of the aforementioned offenses with a deadly or dangerous weapon or firearm; or to aid, abet, counsel, command, induce, or procure the commission of such offenses. 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, I submit that there also is probable cause to believe that EASTERDAY violated 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 any act of physical violence in the Grounds or any of the Capitol Buildings.



Special Agent Andrew Martin
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 December 2022.

THE HONORABLE ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE