

Case: 1:23-mj-00001
Assigned To : Harvey, G. Michael
Assign. Date : 1/4/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

I, Stephanie Fillinger am a Special Agent with the Federal Bureau of Investigation (FBI) and have been since May of 2019. I am currently assigned to the FBI Great Falls Resident Agency (RA) in Great Falls, Montana, which is part of the Salt Lake City Division of the FBI. I am a member of the FBI Montana Big Sky Safe Streets Task Force, which specializes in targeting habitual violent offenders connected to the Indian Reservations and dismantling violent criminal enterprises and drug trafficking organizations within the Great Falls RA. In that capacity, my primary responsibility is to investigate violent crimes and drug crimes within the Great Falls, Montana area. I have participated in the investigation of narcotics trafficking, money laundering, complex conspiracies, and among other things, have conducted or participated in surveillance, the execution of search warrants, debriefings of informants and suspects. I have completed the qualified training for federal investigations in Quantico, Virginia.

As part of my duties as a FBI Special Agent, I have participated in long-term historical conspiracy investigations, as well as Organized Crime and Drug Enforcement Task Force (OCDETF) investigations targeting international drug traffickers. I have been involved in the debriefing of defendants, witnesses and informants, and others who know about the distribution and transportation of controlled substances, money laundering, and the concealment of proceeds derived from drug trafficking. Further, I have conducted or participated in physical surveillance, electronic surveillance, undercover transactions, and the execution of arrest and search warrants in numerous narcotics investigations.

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.

Unless otherwise stated, the information in this Affidavit is either personally known to me, has been provided to me by other individuals, or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause to support an application for an arrest warrant, it does not contain every fact known by me or the United States. The dates listed in this Affidavit should be read as “on or about” dates.

Background

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.

Identification and conduct of PATRICK WILLIAM O'BRIEN

On February 2, 2021, the FBI Great Falls RA received information from the FBI Washington Field Office (WFO) that a review of Google search warrant returns from January 6, 2021 identified the Google account email: ms.lisa.obrien@gmail.com, associated with Montana-based Lisa Camille Obrien, within the U.S. Capitol building on January 6, 2021.¹ The affiant learned that Lisa O'Brien and her husband, O'BRIEN, are both residents of Great Falls, Montana.

On February 12, 2021, subpoena response from Verizon Wireless indicated the subscriber of communication selector cell phone number ending in 9537 was Patrick OBRIEN;

¹ 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.

business name "406 Hockey": located at address 1018 6th Avenue North, Great Falls, Montana, with a contact name Lisa Obrien; phone number ending in 7501. A review of United States Capital surveillance footage and other media outlet footages did not show Lisa Obrien was at the U.S. Capitol building on January 6, 2021.

Your affiant conducted a Google search for the business name "406 Hockey" in Great Falls, Montana, and located 406 Hockey Pro Shop, located at 809 9th Street South, Great Falls, Montana 59405, with the telephone number ending in 1906.

On or about April 14, 2021, your affiant called telephone number ending in 1906, and O'BRIEN answered the phone. Your affiant greeted O'BRIEN and requested an interview about his involvement with the events that occurred at the U.S. Capitol on January 6, 2021, but O'BRIEN declined to speak with agents. Your affiant then called telephone number ending in 9537, and the phone was answered with, "This is Lisa." Your affiant greeted Lisa O'Brien and requested to interview Lisa O'Brien about her involvement with the events that occurred at the U.S. Capitol on January 6, 2021, but she too declined to answer any questions.

On or about October 29, 2021, an FBI Confidential Human Source (CHS-1) reported that O'BRIEN and his juvenile son were present inside the U.S. Capitol on January 6, 2021, and that a Facebook video posted in a livestream by Facebook user "Dys Nhat Nguyen" interviewed O'BRIEN and his son on January 5, 2021 during which they were standing at a location near Freedom Plaza and the White House, in Washington, D.C.

Your affiant has consulted with federal law enforcement officials regularly working with CHS-1 and is unaware of any statements or evidence that would tend to undermine the credibility of CHS-1. CHS-1 is not working off charges related to a criminal prosecution. Rather, the CHS' motivation for providing information is from his/her sense of outrage regarding the attacks on law enforcement during the events of January 6, 2021. However, CHS-1 has been compensated for his/her time. CHS-1 requested his/her identity be protected to the extent possible, but he/she is willing to testify. CHS-1 does not know O'BRIEN.

During the Facebook video, both O'BRIEN and his son acknowledged they were father and son and that they had driven 13 hours per day for three days to travel to Washington, D.C. Two screenshots of that Facebook video are depicted below.

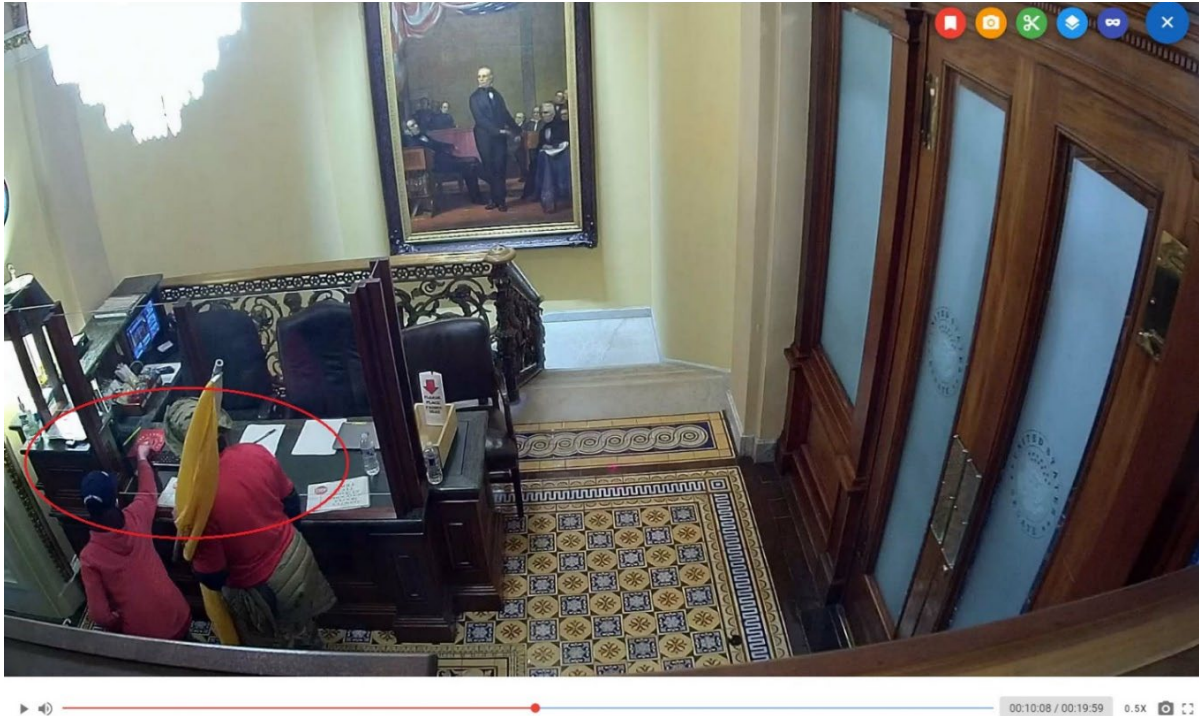


A review of open-source video footage and closed-circuit video (CCTV) footage from the U.S. Capitol building of the events of January 6, 2021 revealed that O'BRIEN and his son were inside of the building on that date for approximately 28 minutes. Specifically, the footage showed that O'BRIEN and his son entered the west side of the U.S. Capitol building through the first floor Senate Wing Door on January 6, 2021. The footage showed O'BRIEN and his son enter the U.S. Capitol Rotunda from the south and waving a yellow "Gadsden" flag. O'BRIEN and his son reached a security desk near two frosted with the U.S. Senate Seal. The son is seen

reaching under the desk and taking a red mouse pad, which the son then rolled up and placed in his left cargo pant pocket. Still shot images from Capitol CCTV are depicted below.



CCTV shows O'BRIEN and his son near the upper Senate Door Elevators.



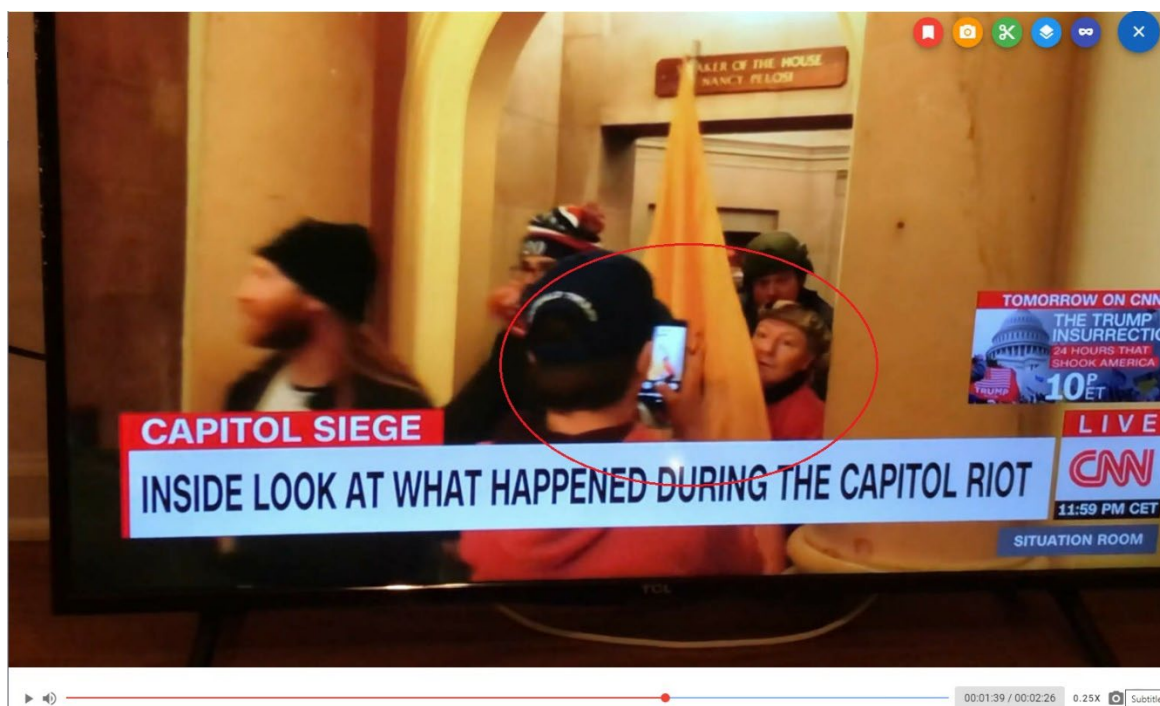
CCTV footage shows O'BRIEN and son at the security desk where son took the mousepad



CCTV footage also showed O'BRIEN and his son enter the far end of a hallway, running down the length of the hallway with several other individuals.

In addition, depicted below are several video still shots and photos agents obtained from open-source media which show O'BRIEN and his son inside the Capitol building on January 6, 2021.





On or about February 22, 2022, agents conducted physical surveillance on O'BRIEN while he was at his business, 406 Hockey Pro Shop, located at 801 9th Street South, Great Falls, Montana. FBI SA Fillinger and DEA SA Bryan Fillinger entered O'BRIEN's shop. DEA SA

Fillinger spoke with O'BRIEN. FBI SA Fillinger observed their conversation. Both agents confirmed the identify of O'BRIEN.

Based on the foregoing, your affiant submits that there is probable cause to believe that PATRICK WILLIAM O'BRIEN 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.

Your affiant submits there is also probable cause to believe that O'BRIEN violated 40 U.S.C. § 5104(e)(2)(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.



Stephanie Fillinger
FBI Special Agent

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 4th day of January 2023.

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE