

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

FARBOD AZARI,

a/k/a "Francis Azari,"

Defendant.

Case: 1:23-mj-00012

Assigned To : Harvey, G. Michael

Assign. Date : 1/13/2023

Description: Complaint W/ Arrest Warrant

: Case No:
:
: VIOLATIONS:
:
: 18 U.S.C. § 111(a)(1)
: (Assaulting, Resisting, or Impeding Certain
: Officers)
:
: 18 U.S.C. § 111(a)(1) and (b)
: (Assaulting, Resisting, or Impeding Certain
: Officers with a Deadly or Dangerous
: Weapon)
:
: 18 U.S.C. § 231(a)(3)
: (Civil Disorder)
:
: 18 U.S.C. § 1361
: (Destruction of Government Property)
:
: 18 U.S.C. § 1751(a)(1) and (b)(1)(A)
: (Entering and Remaining in a Restricted
: Building or Grounds with a Deadly or
: Dangerous Weapon)
:
: 18 U.S.C. § 1752(a)(2) and (b)(1)(A)
: (Disorderly and Disruptive Conduct in a
: Restricted Building or Grounds with a
: Deadly or Dangerous Weapon)
:
: 18 U.S.C. § 1752(a)(4) and (b)(1)(A)
: (Act of Physical Violence in a Restricted
: Building or Grounds with a Deadly or
: Dangerous Weapon)
:
: 40 U.S.C. § 5104(e)(2)(F)
: (Act of Physical Violence in the Capitol
: Grounds or Building)

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT
AND ARREST WARRANT

I, Brittany Ausley, being first duly sworn, hereby depose and state as follows:

PURPOSE OF AFFIDAVIT

1. I make this affidavit in support of an application for an arrest warrant for FARBOD AZARI.

AGENT BACKGROUND

2. Your affiant, Brittany Ausley, is a Special Agent with the Federal Bureau of Investigation (“FBI”), and, as such, am a “federal law enforcement officer” within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C). I have been a Special Agent since 2019 and am currently assigned to the FBI’s Richmond Field Office Division Joint Terrorism Task Force (“JTTF”). Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, I have participated in numerous investigations and have executed both arrest and search warrants. I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of violations of Federal criminal laws.

3. The facts in this affidavit come from my review of the evidence, my personal observations, my training and experience, and information obtained from other law enforcement officers and witnesses. Except as explicitly set forth below, I have not distinguished in this affidavit between facts of which I have personal knowledge and facts of which I have hearsay knowledge. This affidavit is intended to show simply that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

BACKGROUND

4. The United States Capitol is secured 24 hours a day by United States Capitol Police (“USCP”). Restrictions around the United States Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the United States Capitol. On January 6, 2021, the exterior plaza of the United States Capitol was also closed to members of the public.

5. On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, located at First Street SE, in Washington, D. C. During the joint session, elected members of the United States House of Representatives and Senate met in the United States Capitol to certify the vote count of the Electoral College for the 2020 Presidential Election, which took 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 Michael R. Pence was present and presiding, first in the joint session, and then in the Senate chamber.

6. As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the United States Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the United States Capitol building and USCP were present, attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

7. At such time, the certification proceedings were underway, the exterior doors and windows of the 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.

8. 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 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.

9. 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 United States Capitol building without authority to be there.

STATEMENT OF FACTS SUPPORTING PROBABLE CAUSE

A. The Defendant

10. On January 14, 2021, an individual (“Witness-1”) contacted the FBI to report two individuals who had entered the Capitol building on January 6, 2021. Witness-1 reported the following, among other things:

a. On January 6, 2021, Witness-1 was with Individual-1, watching the news as rioters breached the U.S. Capitol building.

b. Individual-1’s close family member, whose last name was “Azari,” was one of the first people to breach a barrier near the Capitol building and also entered the Capitol building with his father. Witness-1 did not know the father’s name and only knew the family

member's last name and that he was in his thirties. Both the family member and his father lived in Richmond, Virginia. The father had previously owned a particular business ("Business-1").

c. Individual-1 told Witness-1 about what "Azari" and his father were doing and showed Witness-1 photographs and videos that they had sent to Individual-1 of their activities, as well as of government documents.

11. On or about January 16, 2021, the FBI received an anonymous tip from an individual ("Witness-2") that "Francis Azari" had been bragging about being part of the Capitol insurrection on January 6, 2021. "Azari" showed Witness-2 videos he had taken of storming the building and breaking windows, as well as photographs of his father sitting in Nancy Pelosi's chair.¹ Witness-2 also identified Azari's employer ("Employer-1") and phone number (the "AZARI PHONE").

12. Based on a review of law enforcement databases and employment records, the FBI determined that FARBOD AZARI and Farhad Azari each had addresses in Richmond, Virginia, and that FARBOD AZARI was associated with the AZARI PHONE and worked at Employer-1. I am also aware that, in connection with a separate investigation, an FBI Special Agent interviewed Farhad Azari at Business-1.

13. On February 2, 2021, I interviewed Witness-1, who informed me of the following, among other things:

a. On January 6, 2021, Witness-1 and Individual-1 were watching television as the events described in paragraphs 6-8 began.

¹ The FBI has not identified any images of AZARI's father sitting in a chair in Nancy Pelosi's office and/or office suite.

b. Individual-1 showed Witness-1 pictures and videos on his/her phone that had been sent by his/her close family members—who I have identified as FARBOD AZARI and his father, Farhad Azari (“Farhad”) -- and which showed both men at the U.S Capitol that day.

c. One video showed AZARI and Farhad breaking through a police barricade and running up the steps of the Capitol and inside the building while the police were retreating. The video showed officers trying to hold people back and AZARI pushing through and running inside the Capitol. According to Witness-1, the video showed that AZARI and Farhad were among the first ones to break through the barrier and enter the Capitol building.

d. Another video depicted AZARI standing on a concrete stair railing of the Capitol building, screaming to people that it was “1776” and to come up and enter the building. AZARI was screaming history quotes and inciting people, saying “We are going to break through.”

e. Individual-1 showed Witness-1 images of documents from House Speaker Nancy Pelosi’s office, as well documents from several other offices in the Capitol building, which had been sent by AZARI and Farhad. The offices were ransacked and AZARI and Farhad were present inside them.

f. Individual-1 also showed Witness-1 text messages from AZARI, one of which read “We are warriors, we did that.”

g. Individual-1 sent some of the videos and images to Witness-1, which Witness-1 forwarded to the FBI.

14. I have reviewed the materials provided by Witness-1, which included:

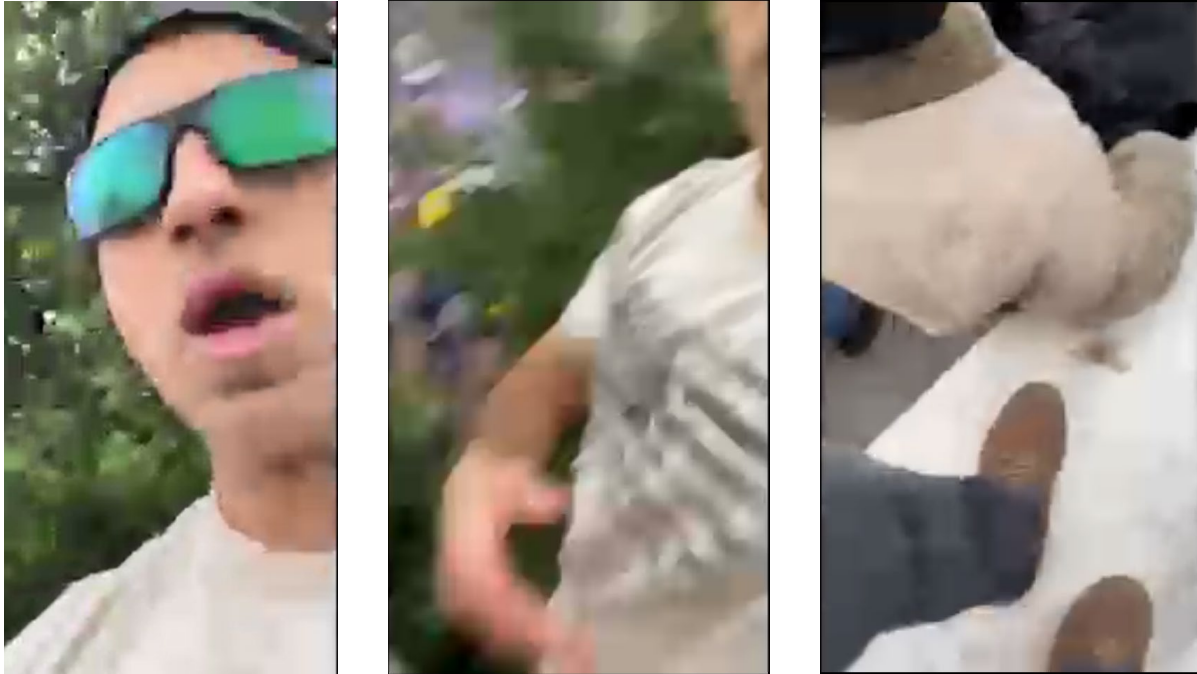
a. Two still images, from what appears to be a longer video, depicting USCP officers at close range to the photographer, as though the photographer is pushing up against or past them.

b. A screenshot of a text message exchange between Individual-1 and Witness-1, in which Individual-1 sends a video file, which, based on the preview image, appears to have been taken near the inaugural stage scaffolding. In the exchange, Individual-1 wrote “My [family member, *i.e.*, AZARI] breaking the barrier / They pushed the cops / MAGA.”²

c. A video that appears to depict individuals attempting to move or break scaffolding on the Capitol grounds. The photographer is wearing dark pants and brown lace-up shoes.

d. A video that appears to have been taken from a ledge or terrace of a staircase on the Capitol grounds. The photographer turns the camera on himself and is wearing a light-colored t-shirt with a black American flag on it, black Oakley-style sunglasses, a black knit hat, dark pants, and brown lace-up shoes, as depicted below:

² The preview image of the video does not appear to depict AZARI or Farhad.



The video also depicts individuals walking up the staircase while a voice in the background (which I believe belongs to the photographer) yells “Let’s go! We’re breaking in today, boys! Let’s fucking do it! It’s 1776 all over again! Fucking commies! We’re fucking taking it! Let’s get our fucking home back! This is our home! We paid for this! We paid for this! They don’t fucking own us! We own them! Let’s take our fucking country back! We’re breaking in tonight!”

15. On April 13, 2021, I interviewed Individual-1. Individual-1 initially stated that s/he did not know if AZARI or Farhad went to the Capitol on January 6, 2021. After I informed Individual-1 that I believed s/he had photographs and videos of AZARI and Farhad inside of the Capitol and had shared those videos, Individual-1 stated that s/he did not have Facebook and did not share any videos online. Individual-1 also stated that AZARI and Farhad were not at the Capitol on January 6, 2021.

16. Based on my review of cell site data for the AZARI PHONE, I have learned that, on January 6, 2021, between 11:42 a.m. and 6:26 p.m., the AZARI PHONE accessed cell towers in Washington, D.C., including cell towers in the vicinity of the Capitol building between approximately 12:55 p.m. and 4:33 p.m.

17. I reviewed a photograph of AZARI from the Virginia Department of Motor Vehicles, and, as discussed further below, I interviewed AZARI in person. Based on my review of that photograph and my interactions with AZARI, I believe that AZARI is the individual pictured in the images in paragraph 14(d), above.

B. The Defendant's Conduct on January 6, 2021

18. Based on my review of body-worn camera (“BWC”) footage from Metropolitan Police Department (“MPD”) officers that responded to the Capitol on January 6, 2021, USCP CCV footage, and other publicly available video footage, I have observed that, on January 6, 2021, AZARI was wearing a black jacket, a light-colored t-shirt with a black American flag on it, black Oakley-style sunglasses, dark pants, a tan belt, brown lace-up shoes, and, at various times, black knit hat and/or a red knit hat. I have also observed, at various points, what appears to be the handle of a knife visible in AZARI’s waistband, as depicted below:



19. By approximately 1:12 p.m., police officers had cleared rioters from an area on the south side of the West Plaza of the Capitol building and were erecting metal bike-rack style fencing at the stop of a set of steps. At the foot of the steps was a row of black metal fencing, with a sign reading “KEEP OFF FENCE” affixed to it. At approximately 1:13 p.m., while other rioters dismantled sections of the fencing at the foot of the steps, AZARI approached a section of the fencing slightly father south. AZARI was gesturing at the line of police officers and appeared to be yelling. AZARI then spat at the line of officers, as depicted below, and retreated back into the crowd:



Several seconds later, AZARI approached the fencing again and threw an object that appears to be a water bottle at the line of officers, as depicted below:





20. At approximately 1:18 p.m., rioters were dismantling a section of the black fencing at the base of the steps by kicking and pulling at it. AZARI joined in, using his foot to kick at and stomp on the gate, until it was flat on the ground, as depicted below:



21. By shortly after 2:00 p.m., AZARI was positioned in a crowd of rioters under scaffolding that had been erected over the Northwest stairs – a set of steps leading from the north side of the West Plaza of the Capitol, to the north side of the Upper West Terrace of the Capitol. As other rioters were trying to break through metal bike-rack barricades guarded by USCP officers, AZARI was waving a red flag on white flagpole, as depicted below:

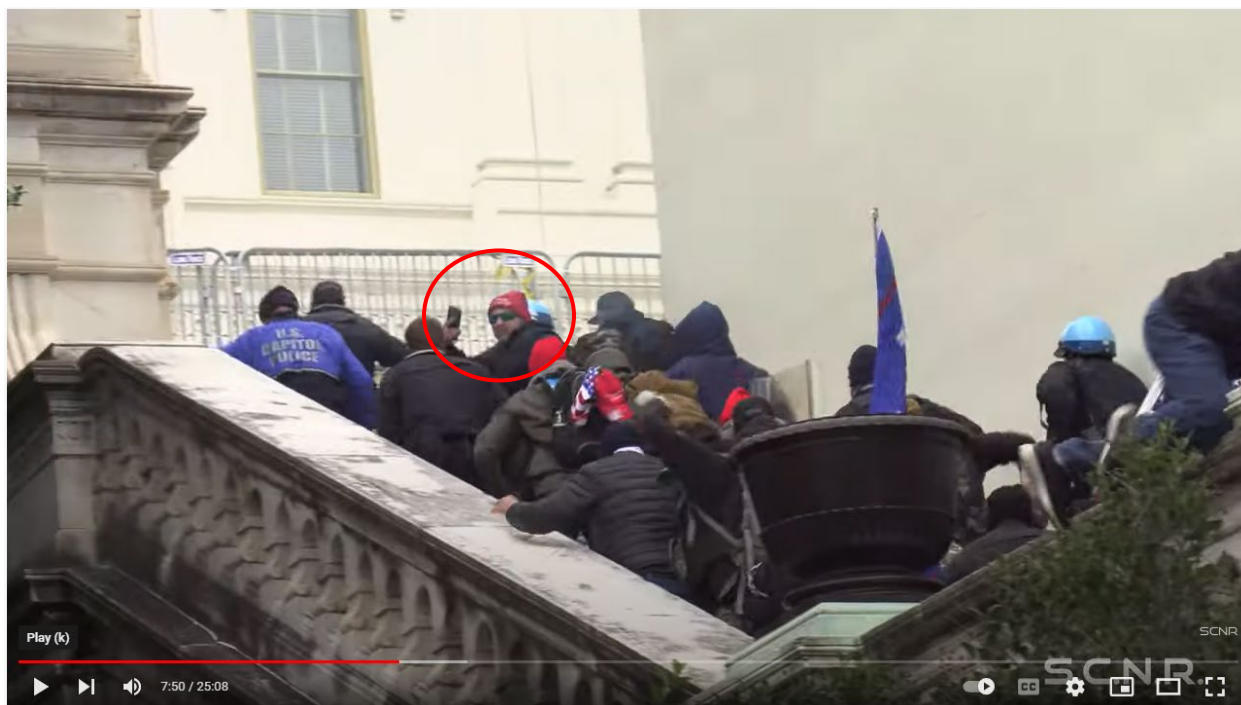


22. AZARI then jabbed the flagpole at the line of USCP officers, and appeared to make contact with one of the officers' arms:





23. At approximately 2:09 p.m., the crowd of rioters succeeded in breaching the barricades and surged up the Northwest steps, towards the Capitol building. AZARI was at the front of the group, right behind the retreating USCP officers:



AZARI was gesturing at the crowd, appearing to encourage them to follow him up the steps.

24. By approximately 3:30 p.m., AZARI was positioned on the north side of the Upper West Terrace of the Capitol building, where police officers had formed a line between rioters and the Capitol building. One rioter counted down from ten, gesturing at other rioters to follow him, then ran at the line of officers in an attempt to break through. AZARI emerged from the crowd, holding a water bottle and waving at other rioters to follow him. AZARI then attempted to break through the line of officers, at one point pushing his shoulder into a police officer who was standing between him and the Capitol building. The officer pushed AZARI, causing him to retreat back into the crowd:

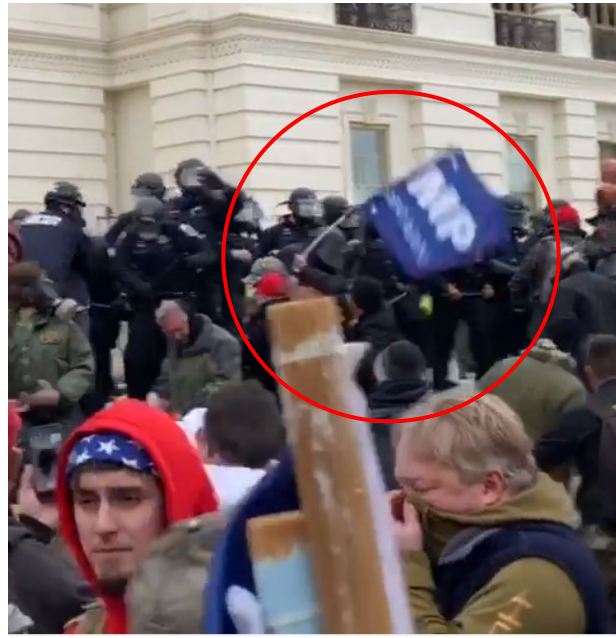




25. AZARI then threw what appears to be a water bottle at the line of officers:

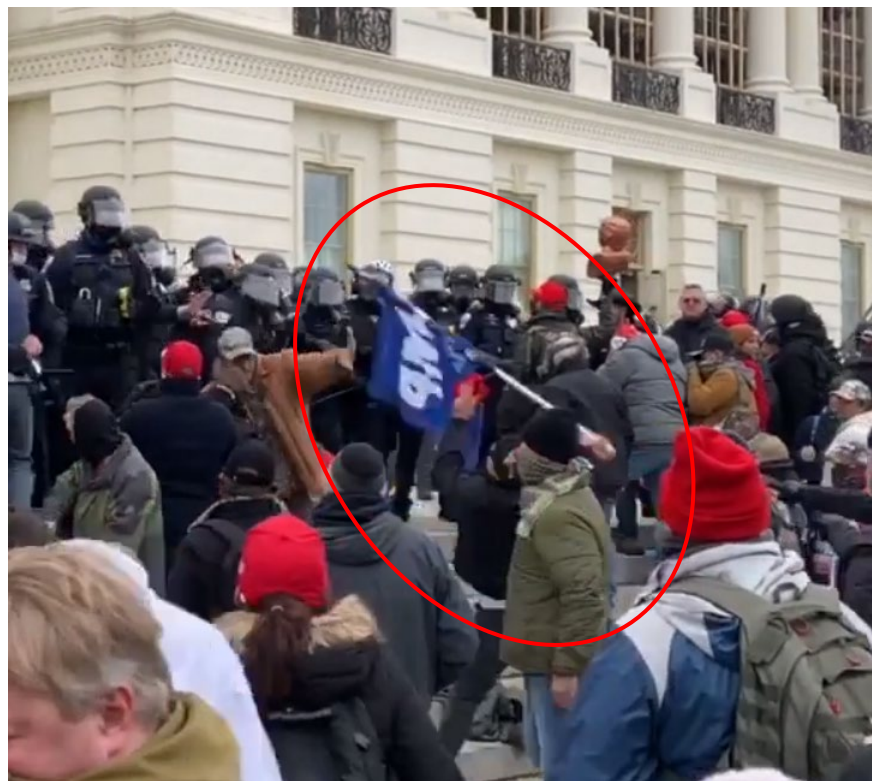


26. Moments later, AZARI picked up a flagpole with a blue and white “Trump” flag off of the ground, raised it behind his head, took several steps towards the line of police officers, and swung the flagpole towards the line of officers:





27. AZARI then retreated several feet and held the flagpole like a spear before throwing it at the line of officers.





C. Interview with the Defendant and Farhad

28. On April 13, 2021, I and other FBI agents interviewed AZARI and Farhad regarding their activities on January 6, 2021.³ During the interview, AZARI stated that he had not been at the Capitol on January 6, 2021, that any person that agents believed was him or Farhad could be “any brown man,” and that he did not want to answer questions. Agents asked

³ AZARI arrived as I was interviewing Farhad at AZARI’s residence.

AZARI for his telephone number. While he initially did not want to provide his number, AZARI provided his number – the AZARI PHONE – to the agents as they were leaving. During the interview, Farhad also denied being at the Capitol on January 6, 2021 and said that the FBI would not find his DNA at the scene. Both AZARI and Farhad stated that, on January 6, 2021, they had been at AZARI's house all day.

CONCLUSION

29. Based on the foregoing, your Affiant submits that there is probable cause to believe that:

a. FARBOD AZARI violated 18 U.S.C. §§ 111(a)(1) (Assaulting, Resisting, or Impeding Certain Officers or Employees), which makes it unlawful 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. For purposes of Section 111 of Title 18, United States Capitol Police Officers and Metropolitan Police Department Officers who responded to assist United States Capitol Police Officers on January 6, 2021 constitute persons designated in Section 1114 of Title 18.

b. FARBOD AZARI violated 18 U.S.C. §§ 111(a)(1) and (b) (Assaulting, Resisting, or Impeding Certain Officers or Employees with a Deadly or Dangerous Weapon), which make it unlawful 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, using a deadly or dangerous weapon. For purposes of Section 111 of Title 18, United States Capitol Police Officers and Metropolitan Police Department

Officers who responded to assist United States Capitol Police Officers on January 6, 2021 constitute persons designated in Section 1114 of Title 18.

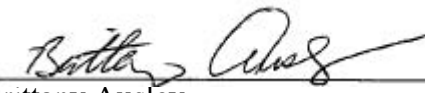
c. FARBOD AZARI violated 18 U.S.C. § 231(a)(3) (Civil Disorder), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his degree obstructs, delays, or adversely affects commerce or the movement of any article or official duties incident to and during the commission of a civil disorder which in any way 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.

d. FARBOD AZARI violated 18 U.S.C. § 1361 (Destruction of Government Property), by willfully injuring or depredating of any property of the United States, the damage to which exceeded \$1,000.

e. FARBOD AZARI violated 18 U.S.C. § 1752(a)(1), (2), and (4), and (b)(1)(A) (Entering and Remaining in a Restricted Building or Grounds, Disorderly and Disruptive Conduct in a Restricted Building and Grounds, and Act of Physical Violence in a Restricted Building or Grounds with a Deadly or Dangerous Weapon), 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 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, and provides additional penalties for anyone who, during an in relation to the offense uses or carries a deadly or dangerous weapon. 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.

f. FARBOD AZARI violated 40 U.S.C. § 5104(e)(2)(F) (Act of Physical Violence in the Capitol Grounds or Building), which makes it a crime to willfully and knowingly engage in an act of physical violence in the Grounds or any of the Capitol Buildings.



Brittany Ausley
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 __13th__ day of January 2023.

G. MICHAEL HARVEY
UNITED STATES MAGISTRATE JUDGE