

Case: 1:23-mj-18  
Assigned To: Magistrate Judge Zia M. Faruqui  
Assign. Date: 1/20/2023  
Description: Complaint with Arrest Warrant

## STATEMENT OF FACTS

Your affiant, Melissa B. Garza, is a Task Force Officer assigned to the Federal Bureau of Investigation assigned to the San Antonio Field Office (SAFO), Counterterrorism Division. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Task Force Officer, 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.

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 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 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 as the proceedings were 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, by breaking windows and 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 Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the January 6, 2021 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.

On or about May 19, 2022, the Washington FBI Field Office referred information to the San Antonio FBI Field Office obtained from an FBI subject (SUB), also charged in relation to the events at the U.S. Capitol on January 6, 2021. SUB provided information regarding "Vic" from San Antonio, phone number XXX-XXX-8677, who was present inside the U.S. Capitol on January 6, 2021.

According to records obtained through a search warrant served on AT&T, on January 6, 2021, in and around the time of the incident, the cell phone associated with XXX-XXX-8677 was identified as having utilized a cell site consistent with providing service to a geographic area that included the interior of the U.S. Capitol.

Based on the information referred by FBI Washington, your affiant conducted open source research which identified the following individual as the likely subscriber for telephone number XXX-XXX-8677:

Name: Victor Anthony MARTINEZ  
DOB: June 21, 1981  
Address: XXXX, San Antonio, TX  
Texas Driver's License #: XXXXX851

A query of the National Crime Information Center (NCIC), provided a positive driver's license hit within the state of Texas. Victor Anthony MARTINEZ (MARTINEZ) possesses a Texas Driver's License # XXXXX851 with an expiration date of June 21, 2023. The address listed on the license is a residence in San Antonio, TX. Additional database checks revealed that the MARTINEZ's parents are utility account holders at the same address.

Video footage obtained from the U.S. Capitol Police, depicts a Hispanic male (who has subsequently been identified as MARTINEZ) with dark hair and beard, wearing a black hooded jacket with three white lines running down the side of the jacket. Additionally, MARTINEZ is wearing a black hat, black and gray backpack and a "Trump 2020" flag draped over his shoulders like a cape. Once MARTINEZ enters the Captiol Rotunda, he is captured removing the jacket and has a black T-shirt for the remainder of the footage. Below, depicted in Figures 1 and 2, are screen captures taken from the aforementioned video footage of MARTINEZ entering through the east front Rotunda doors to the U.S. Capitol at approximately 2:42 p.m. (MARTINEZ is indicated in the yellow circles).



*Figures 1 and 2– U.S. Capitol CCTV at approximately 2:42 p.m.*

The U.S. Capitol Police video footage shows MARTINEZ proceeding directly toward the Rotunda. MARTINEZ is observed almost continuously inside the Rotunda from approximately 2:42 p.m. until approximately 3:18 p.m. when he moves back into the entryway between the

Rotunda and the east front Rotunda doors. MARTINEZ is observed in this area continuously until he exits via the Rotunda doors at approximately 3:33 p.m.

Below are additional screen captures taken from the aforementioned video footage (MARTINEZ is indicated in the yellow circle).

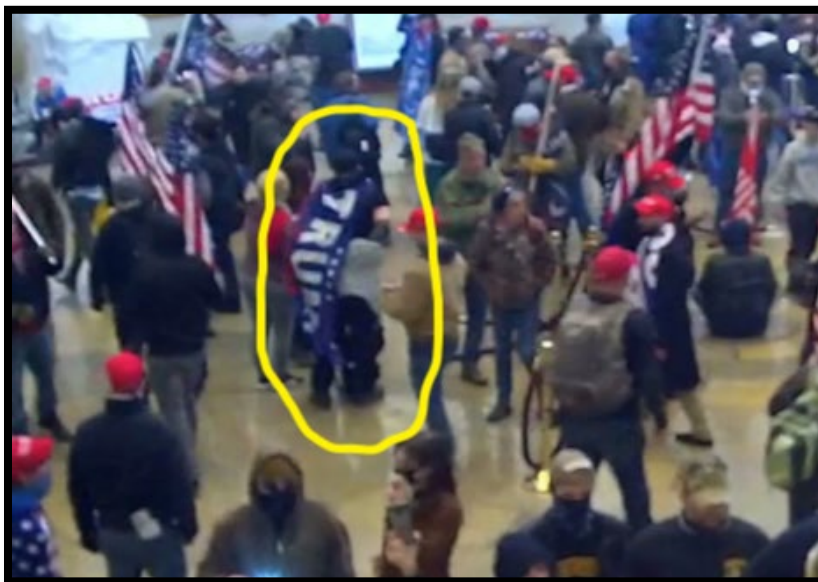


Figure 3 – U.S. Capitol CCTV at approximately 2:44 p.m. (removing his jacket)



Figure 4 – U.S. Capitol CCTV at approximately 2:45 p.m.

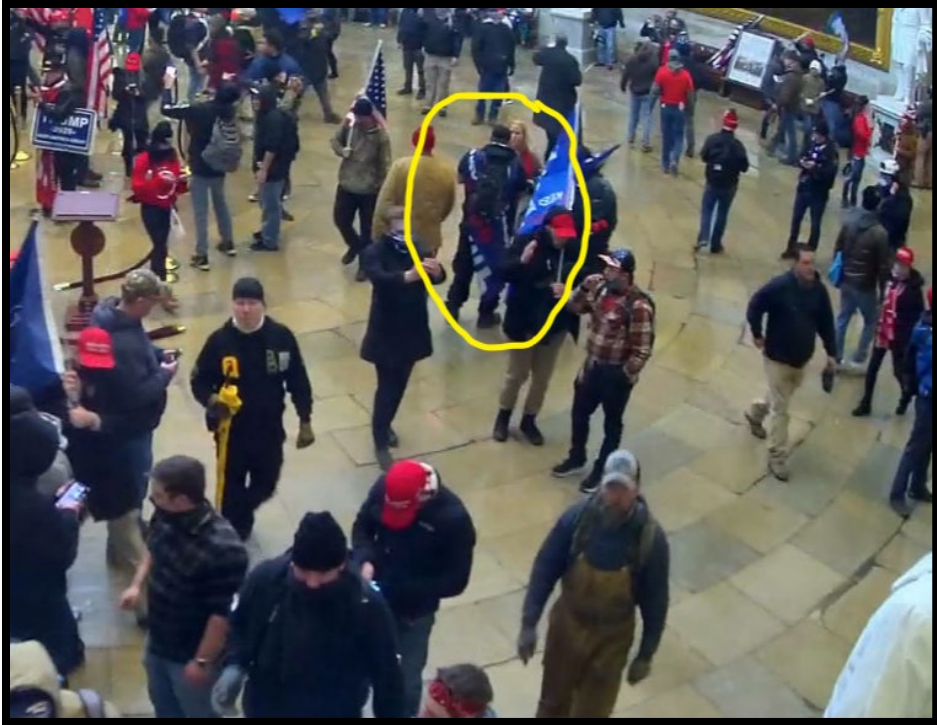


Figure 5 – U.S. Capitol CCTV at approximately 2:51 p.m.

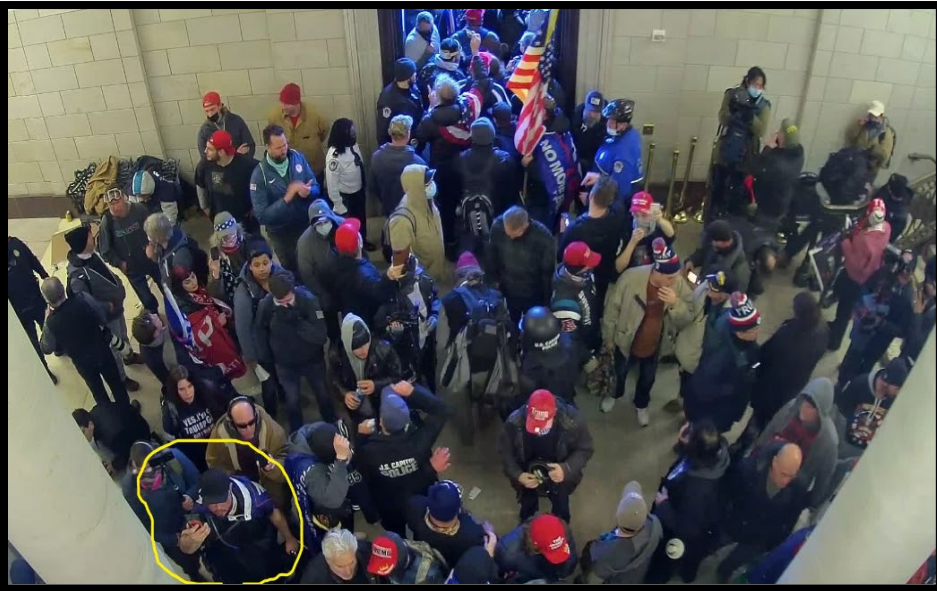


Figure 6 – U.S. Capitol CCTV at approximately 3:18 p.m.



*Figure 7 – U.S. Capitol CCTV (close-up)*

In addition to the CCTV footage, an FBI Confidential Human Source (CHS) provided the following images of MARTINEZ during a review of open source platforms from social media and video streaming sites.



*Figure 8 –Photo from Restoring Families Internet radio Network (RFIRN) Facebook account*



Figure 9 – YouTube | Peanut 411 (UCPtA3f603\_x9xpIer74cjJg)  
No Antifa/No Violence/White House Rally Pt2 Washington DC  
(no longer online) Timecode: 5:29



Figure 10 – (Remember)-00.39.36\_442.jpg  
Vimeo | crizclassicproductions  
162021 (Remember).mp4  
<https://vimeo.com/503397722>  
Timecode: 39:36

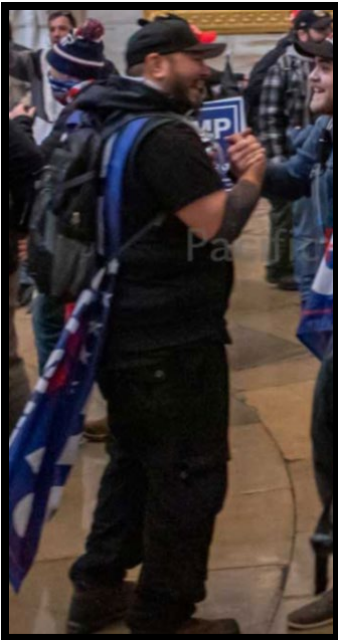


Figure 11– <https://www.pacificpressagency.com/preview/1302110>

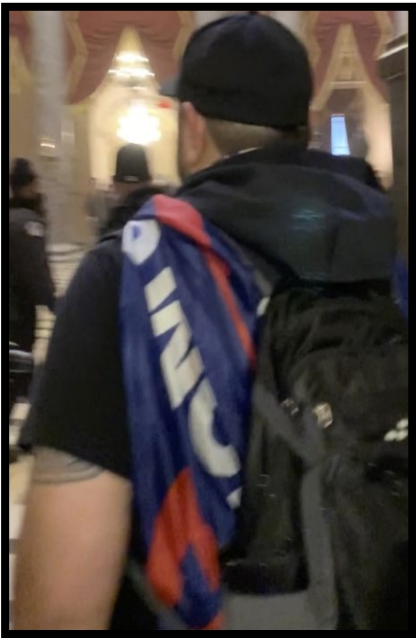


Figure 12 – Parler - u15B2m0pJPOV.mp4  
Timecode: 0:51





*Figure 13 – Parler*

On August 22, 2022, AT&T provided information in accordance with a Grand Jury subpoena issued for the subscriber information for phone number: XXX-XXX-8677. Relevant information is as follows:

- Financial Liable Party: Victor A. Martinez
- Credit Address: same San Antonio, TX address associated with MARTINEZ’s Texas Driver’s License
- Customer since: 5/27/2020 - current
- Account# XXXXXXXX3944

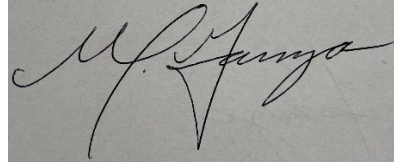
On September 13, 2022, physical surveillance was initiated at two residences associated with MARTINEZ.

Your affiant personally conducted surveillance and observed MARTINEZ outside the location identified as his primary residence, on October 21, 2022. Based on that observation, your affiant states that MARTINEZ is a match to the individual featured in the images throughout this affidavit. During surveillance, MARTINEZ was observed wearing the same or similar sunglasses observed in the picture of MARTINEZ featured above in Figure 13. Affiant also observed a large tattoo on MARTINEZ’s left upper arm, resembling the tattoo featured above in Figure 12.

Based on the foregoing, your affiant submits there is probable cause to believe Victor A. Martinez 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; 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 Victor A. Martinez violated 40 U.S.C. § 5104(e)(2)(D) which makes it a crime to 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 and (G) to willfully and knowingly parade, demonstrate, or picket in any of the Capitol Buildings.

A handwritten signature in black ink, appearing to read "M. Garza", is centered on a light gray rectangular background.

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Melissa B. Garza  
Task Force Officer  
Federal Bureau of Investigaiton

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1  
by telephone, this 20th day of January 2023.

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ZIA M. FARUQUI  
U.S. MAGISTRATE JUDGE