

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT
AND ARREST WARRANT**

I, [REDACTED], 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 of Michael DANIELE.

AGENT BACKGROUND

2. Your affiant, [REDACTED] is a Special Agent assigned to FBI Newark's Joint Terrorism Task Force. In my duties as a special agent, I investigate crimes of International and 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, detection, investigation, or prosecution of a violation of Federal criminal laws.

3. The facts of 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 merely intends to show that sufficient probable cause exists for the requested warrants and does not set forth all of my knowledge about this matter.

FACTUAL BACKGROUND

4. 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.

5. 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.

6. 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.

7. 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.

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 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.

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 U.S. Capitol building without authority to be there.

FACTS SUPPORTING PROBABLE CAUSE

10. On March 9, 2021, the Federal Bureau of Investigation's ("FBI") Newark Field Office was advised by New Jersey State Police ("NJSP"), Cyber Threat Intelligence Unit, that one of their detectives identified an individual suspected of involvement in the U.S. Capitol assault on January 6th. Specifically, they identified an individual wearing a black jacket with the letters "MFIC" on the arm. Images of the individual were shared online with the hashtag #MFInvadesCapitol. The individual was identified by the NJSP detective as retired New Jersey State Trooper Michael DANIELE.



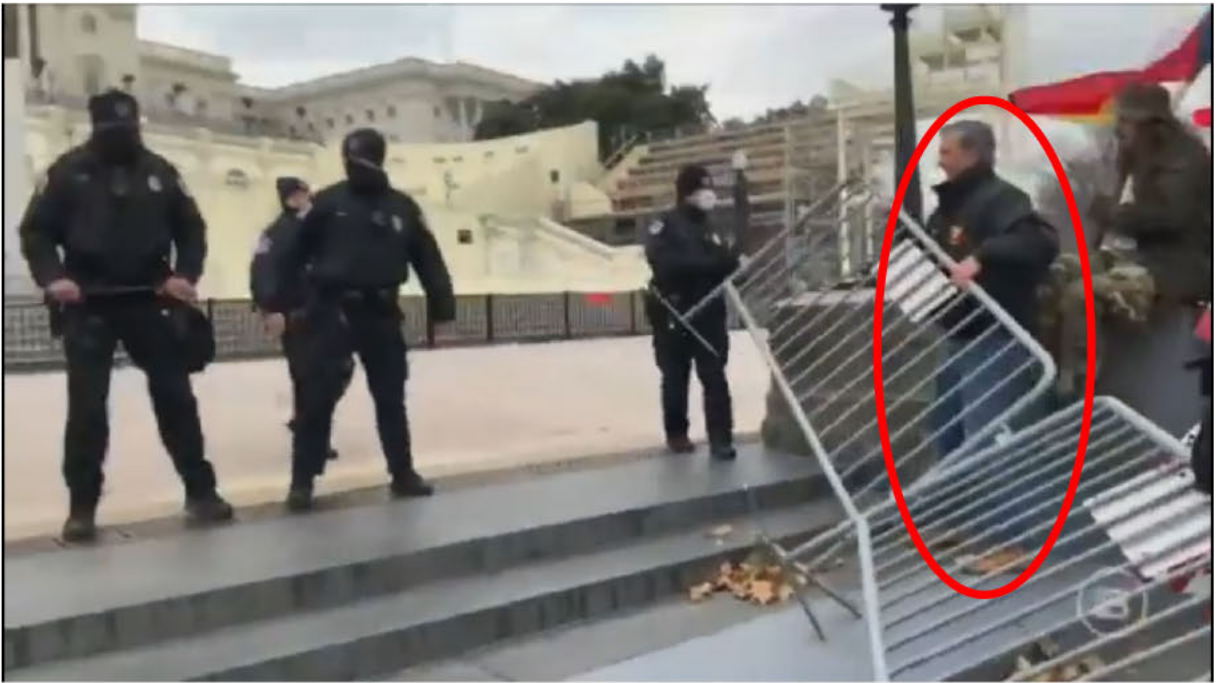
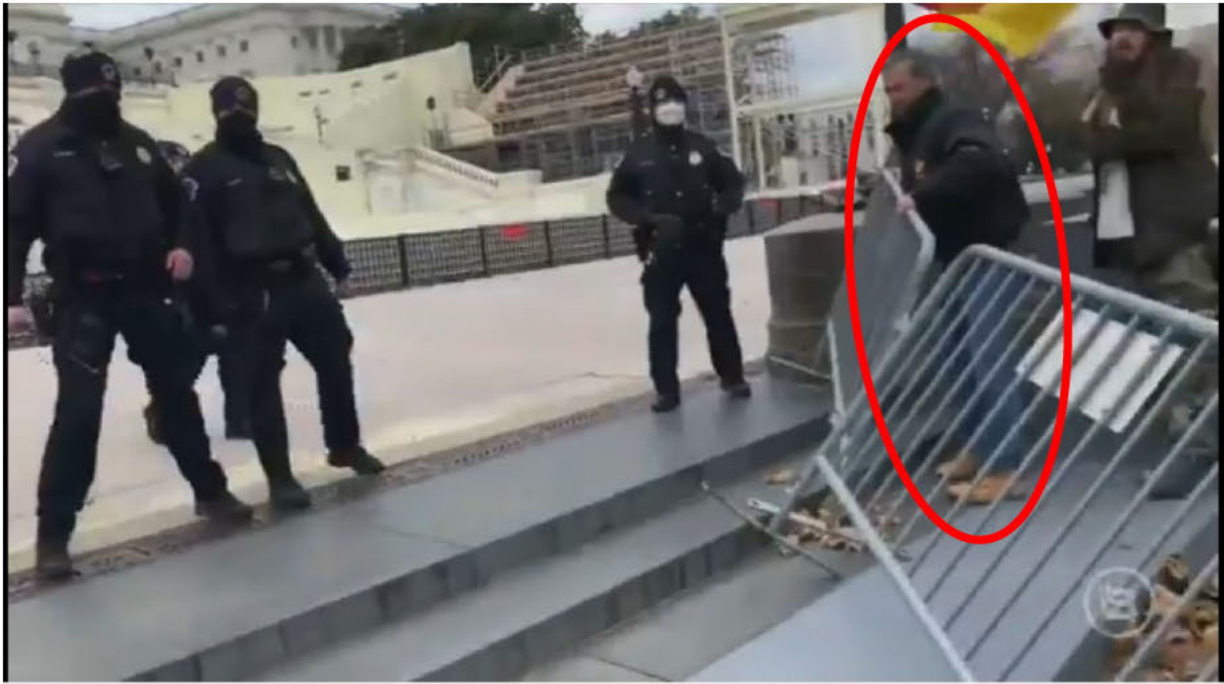
11. Social media photos and videos show that Michael DANIELE was amongst the first group of rioters to overcome barricades at Peace Circle at approximately 12:53 p.m.—the first breach point of restricted grounds on January 6th. The following open-source still shot, derived from a longer video, shows DANIELE stepping on a barricade that United States Capitol Police (“USCP”) were attempting to keep upright to stop the advance of the rioters, thereby interfering with the officers working to contain the rioters:

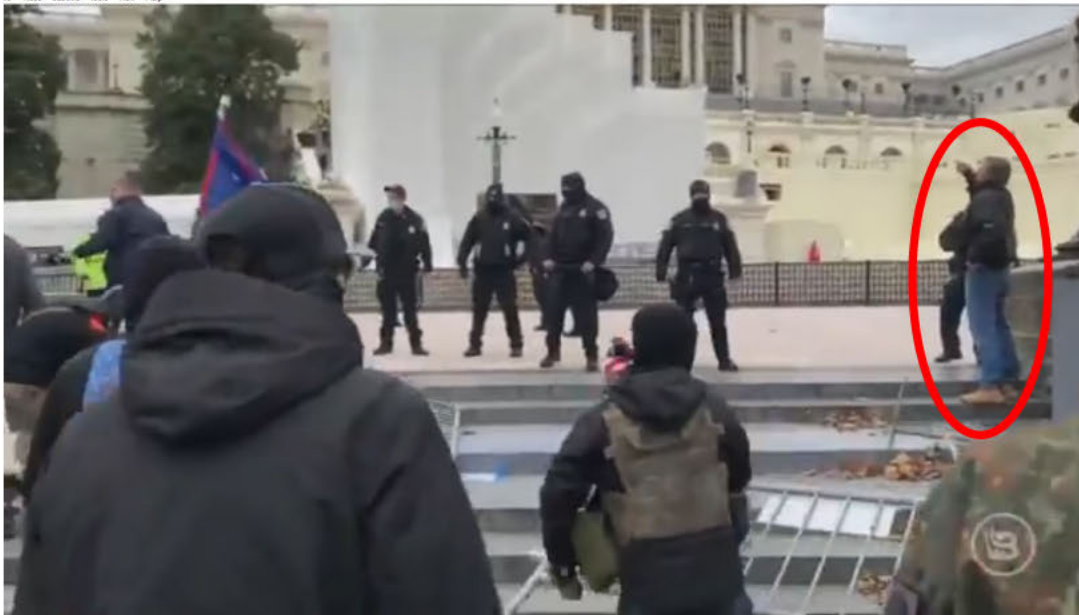




12. DANIELE advanced to the West Plaza of restricted Capitol grounds, where he removed another metal barrier. The below still shots are from a video depicting DANIELE removing a barrier in front of outnumbered officers. The video shows Daniele acting with the mob, as others also participate in moving the barriers.







13. From the Lower West Plaza, DANIELE progressed toward the Capitol building, passing under the scaffolding of the inauguration stage and up the steps to the Upper West Plaza:

Blossom Culp
@DianthaSol

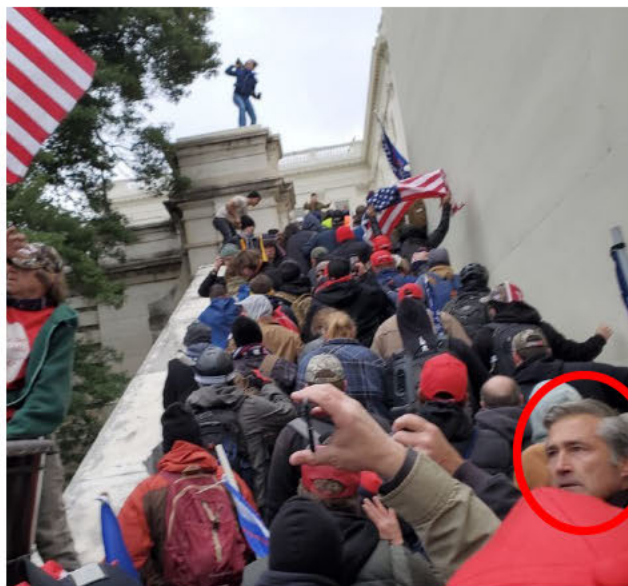
1:50pm, up the NW scaffold steps, #MFIInvadesCapitol at bottom center & #NickOchs at bottom right, #NelsonPostThrower center, #Spazzo top.
@chris_sigurdson
@rocketman2001
@neOndistractio

ParlerVideos @ParlerVideos - Feb 9
#kr6uD1TWjQv #ParlerVideos #Capitol #West #NWScaffoid

0:37 #NickOchs? (bottom right)
DOJ: 1:21-mj-15

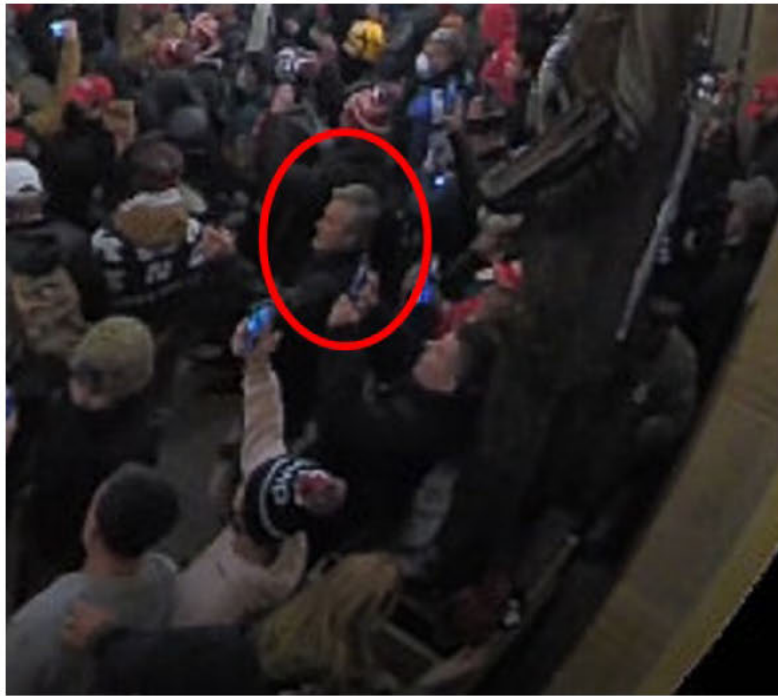
Duration: 0:00:42
Model: iPhone 12 Pro Max
CreationDate: 2021:01:06 13:50:43
ImageSize: 1920x1080 pic.twitter.com /lqBwzaMcrI

4:16 AM - Mar 28, 2021 - Twitter Web App

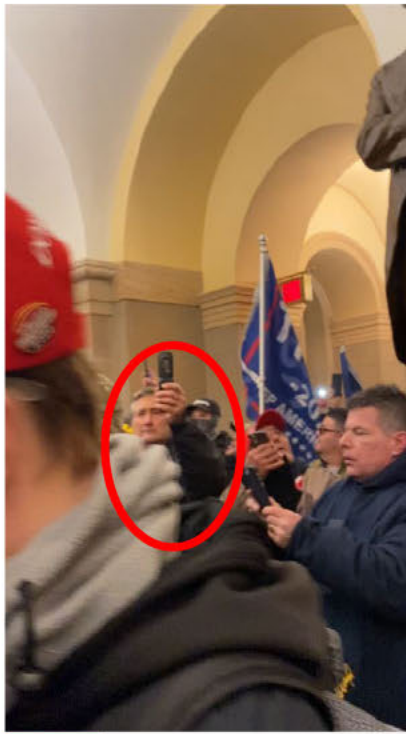


14. DANIELE entered the Capitol building through the Senate Wing Door at approximately 2:19 p.m. Surveillance footage shows DANIELE then made his way to the Crypt at approximately 2:22 p.m.:



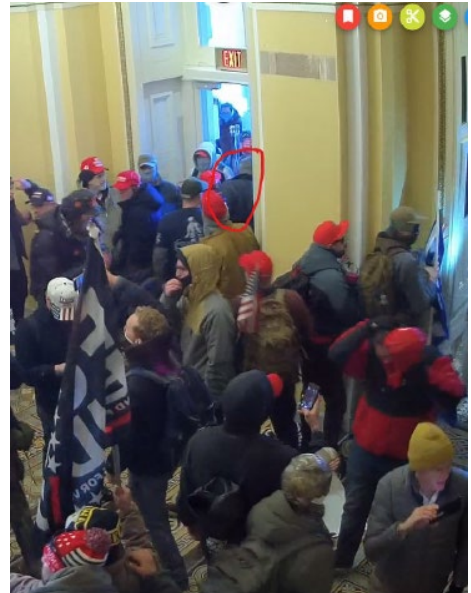


Open-source material corroborates the surveillance footage of DANIELE walking inside the Crypt:



Notably, DANIELE's distinctive jacket is visible in the open-source photos.

15. DANIELE exited the Capitol through the Senate Wing Doors at approximately 2:26 p.m.:



16. FBI agents interviewed Michael DANIELE on April 19, 2021 at his Holmdel, New Jersey residence. During that interview, DANIELE admitted that he traveled to Washington, D.C. via charter bus on January 6, 2021 to attend the Trump rally. He stated that he walked with the crowd toward the Capitol and passed over fallen pedestrian barricades on the way. He observed police using "flashbangs" and riot control agents to disperse the crowd. Daniele admitted that he ultimately entered the Capitol building through a broken doorway that was next to a broken window. According to DANIELE, he only entered one large space of the building and after looking for a bathroom and not finding one, left immediately thereafter.

DANIELE also positively identified himself and the clothing he wore on January 6, 2021, including the brown work boots shown in the pictures below:



17. Based on the foregoing, your affiant submits that there is probable cause to believe that MICHAEL DANIELE 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;

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.

18. Your affiant submits there is also probable cause to believe that MICHAEL DANIELE violated 40 U.S.C. § 5104(e)(2)(D) and (G), 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 (G) parade, demonstrate, or picket in any of the Capitol Buildings.

19. Finally, your affiant submits there is probable cause to believe that MICHAEL DANIELE violated 18 U.S.C. 231(a)(3), 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. 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.



Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
telephone, this 22ND day of February 2023.

HONORABLE MOXILA A. UPADHYAYA
UNITED STATES MAGISTRATE JUDGE