

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

HEATHER KEPLEY,

Defendant.

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Case No.: 23-CR-162 (BAH)

18 U.S.C. § 1752(a)(1)

FILED

AUG 11 2023

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

STATEMENT OF OFFENSE

Pursuant to Fed. R. Crim. P. 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, Heather Kepley, with the concurrence of the defendant’s attorney, agree and stipulate to the below factual basis for the defendant’s guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

The Attack at the U.S. Capitol on January 6, 2021

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured twenty-four hours a day by U.S. Capitol Police (USCP). Restrictions around the Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the Capitol.

2. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public. The grounds around the Capitol were posted and cordoned off, and the entire area as well as the Capitol building itself were restricted as that term is used in Title 18, United States Code, Section 1752 due to the fact that the Vice President and the immediate family of the Vice President, among others, would be visiting the Capitol complex that day.

3. On January 6, 2021, a joint session of the United States Congress convened at the Capitol. 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 Tuesday, November 3, 2020. The joint session began at approximately 1:00 PM. Shortly thereafter, by approximately 1:30 PM, 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.

4. 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 Capitol. Temporary and permanent barricades, as noted above, were in place around the exterior of the Capitol, and USCP officers were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

5. At approximately 2:00 PM, certain individuals in the crowd forced their way through, up, and over the barricades. Officers of the USCP were forced to retreat and the crowd advanced to the exterior façade of the building. Officers with the D.C. Metropolitan Police Department were called to assist officers of the USCP who were then engaged in the performance of their official duties. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks as required by USCP officers or other authorized security officials.

6. At such time, the certification proceedings were still underway, and 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, shortly after

2:00 PM, individuals in the crowd forced entry into the Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the Capitol, requiring the expenditure of more than \$2.8 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 PM, members of the House of Representatives and of the Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 PM on January 6, 2021. In light of the dangerous circumstances caused by the unlawful entry to the Capitol—including the danger posed by individuals who had entered the Capitol without any security screening or weapons check—Congressional proceedings could not resume until after every unauthorized occupant had been removed from or left the Capitol, and USCP confirmed that the building was secured. The proceedings resumed at approximately 8:00 PM after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

The Inaugural Stage

8. During each presidential inauguration, the Architect of the Capitol (AOC) coordinates with the Joint Congressional Committee on Inaugural Ceremonies, Secret Service, the military, Department of Homeland Security, Presidential Inaugural Committee, District Government, and all of the AOC's Congressional partners to prepare the Capitol for the Inauguration. One such task is the creation from scratch of the 10,000 square foot Inaugural platform. One part of that process includes turning a west entrance to the Capitol, into a smaller, tighter, tunnel-like area that has commonly been referred to as "The Tunnel" in investigations and

prosecutions surrounding January 6, 2021. The two photos below show the West Side of the Capitol as set up for Inauguration Day (top) and a closer view of The Tunnel (bottom).

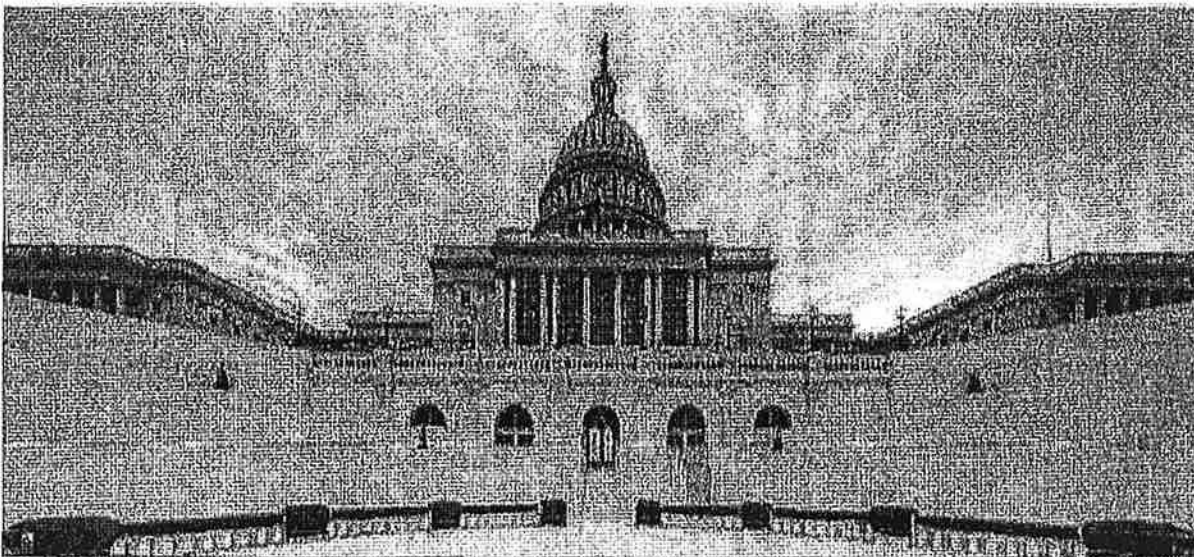


Image 1

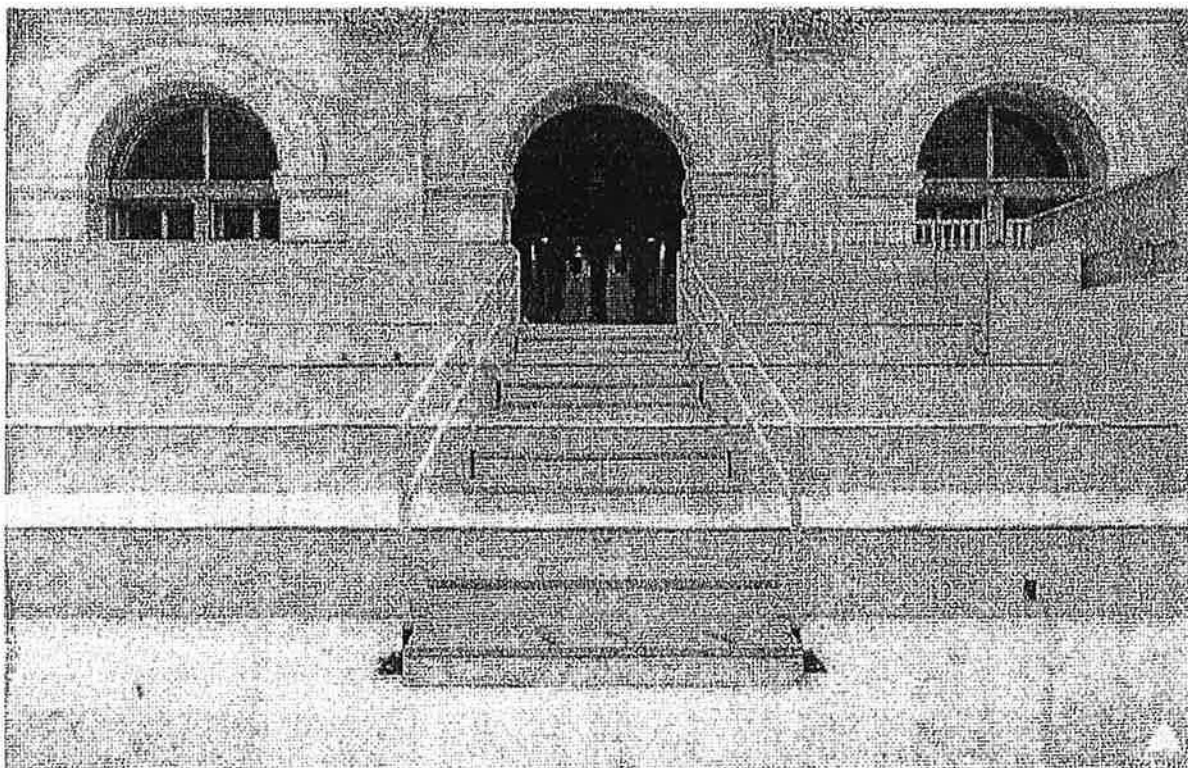


Image 2

9. At 12:53 p.m., rioters breached their first barricade at the Peace Circle onto Pennsylvania Walkway. Just under two hours later, at approximately 2:41 p.m., the rioters made their way past several additional lines of police officers and barricades to The Tunnel, which provides direct access into the Capitol. The siege on The Tunnel lasted for over two hours, until approximately 5:00 p.m.



Image 3

10. Rioters attempted on multiple occasions to forcibly enter the Capitol through the line of USCP and Metropolitan Police Department (MPD) officers who gathered in The Tunnel and successfully repelled the attack. During the two plus hours, rioters assaulted the officers with blunt objects, including poles and crutches, and they used chemical irritants against the officers. Rioters also attempted to use their numbers and collective mass in a heave-ho effort to push the officers back. At times, the rioters forcibly pressed the officers' bodies against each other and against the doorway, crushing them. Defendant Heather Kepley and Anthony Nolf, and two

minors that accompanied them, participated in at least one attempt by rioters to force their way through the line of police officers and into the Capitol.

The Defendant's Participation in the January 6, 2021 Capitol Riot

11. On January 5, 2021, Anthony Nolf—Kepley's brother and co-defendant—and his minor son, A.N., traveled to and stayed overnight at Kepley's home in Long Neck, Delaware.

12. On January 6, 2021, Kepley, Z.K. (Kepley's minor son), Nolf, and A.N. drove from Delaware to Washington, D.C. to attend former President Trump's "Stop the Steal" Rally on the Ellipse.

13. The group attended the Stop the Steal Rally. After the rally, Kepley and her group walked towards the Capitol building. Kepley went to the Capitol express her views that the 2020 Presidential election was rigged.

14. Kepley was wearing a black North Face jacket with a pink logo, a maroon hoodie, jeans, and gloves, as depicted in Image 4 below. Kepley was also carrying two flags, one labeled "Troops for Trump" and the other labeled "Women for Trump."

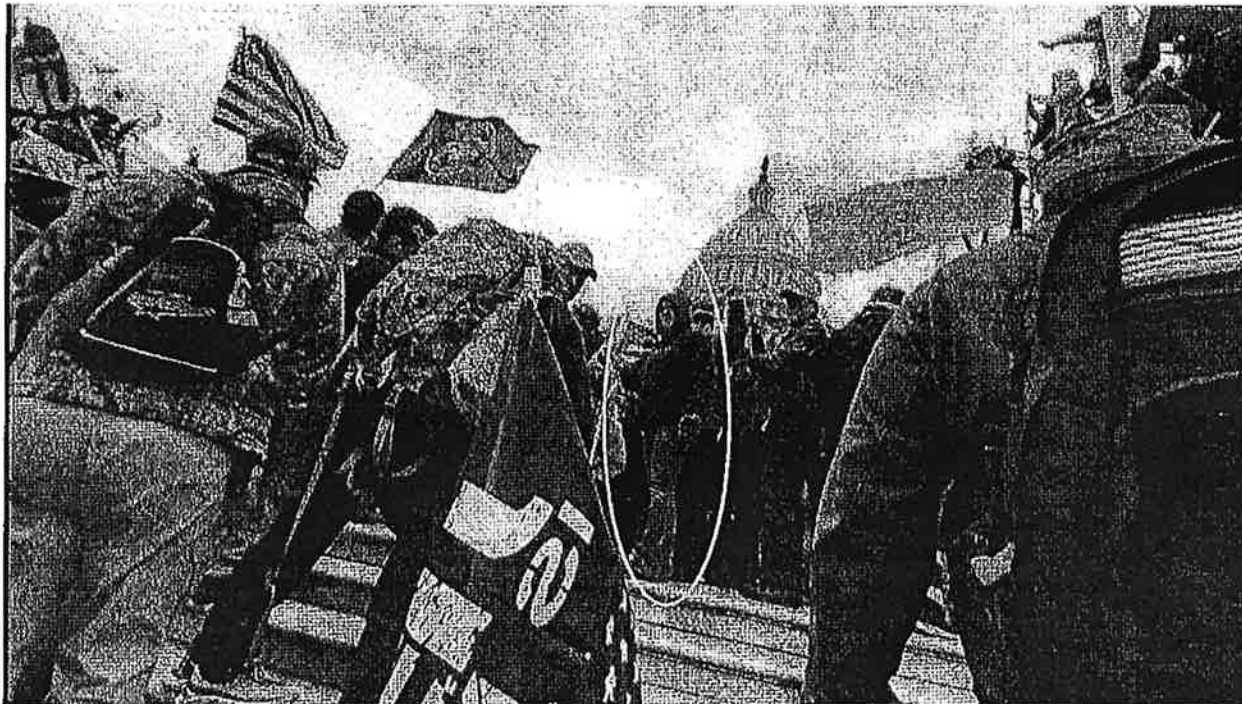


Image 4 (IMG_7355.mp4_clip_2040_2100)

15. At the entrance to the West Plaza, Kepley and her group encountered protective fencing made up of metal bike racks. Kepley assisted other rioters in removing the fencing by picking up a bike rack and passing it back to Nolf and A.N., as depicted in Image 5 below. In other words, Kepley knew that she was entering an area where she was not permitted to be.

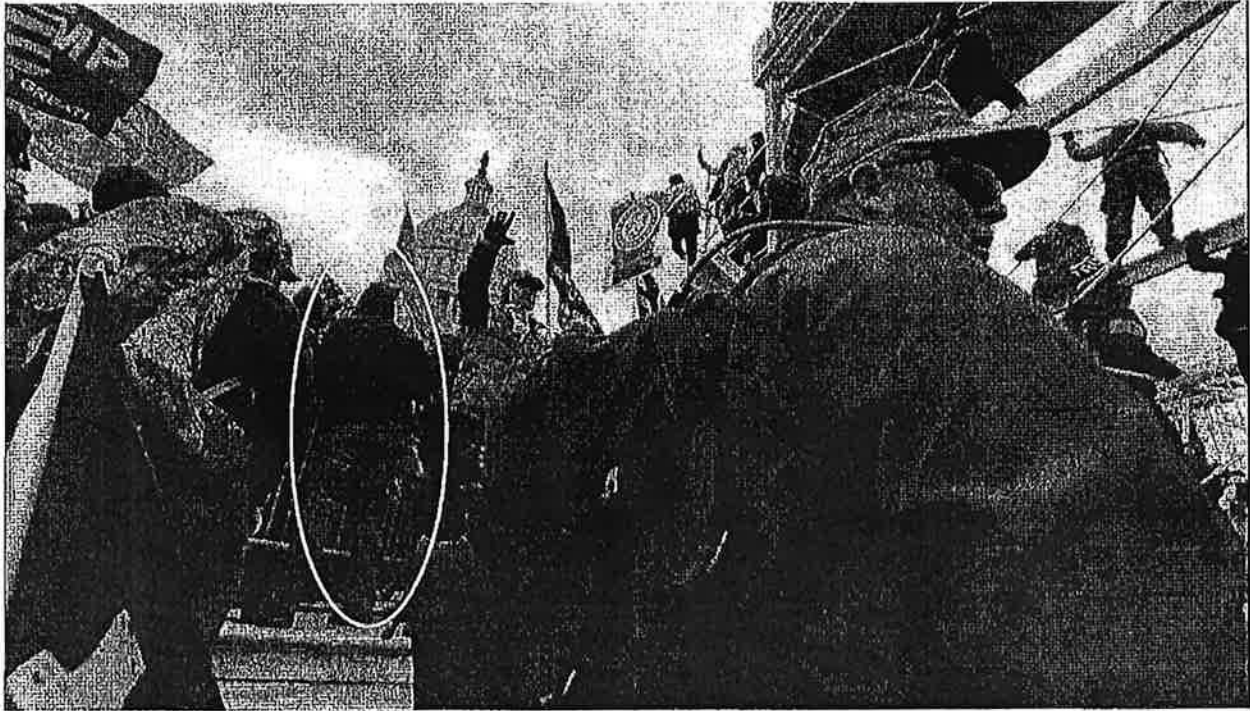


Image 5 (IMG_7355.mp4_clip_2040_2100)

16. After rioters overran the West Plaza, officers retreated to the Lower West Terrace. From the West Plaza, Kepley observed chemical irritants being deployed against the crowd. Kepley also experienced the effects of pepper spray. Kepley was in very close proximity to Nolf and their respective minor sons during this time.

17. Kepley and the rest of her group proceeded up to the Lower West Terrace. From that vantage point, Kepley could see and recorded the entrance to the Tunnel using her phone. At approximately 2:55 p.m., Kepley observed a rioter holding a "U.S. Capitol Police" shield (Image 6). At approximately 3:21 p.m., Kepley saw and filmed rioters dragging out into the crowd and violently assaulting an MPD officer (Image 7). At approximately 3:57 p.m., Kepley observed and filmed rioters assaulting law enforcement defending the entrance to the Tunnel (Image 8). In other words, Kepley knew before she entered the Tunnel that the mob was committing violence against law enforcement officers in the Tunnel, and that those officers were defending the entrance to the

Tunnel from the mob. When she observed these incidents, Kepley was in very close proximity to Nolf and their respective minor sons as well.



Image 6 (20210106_145524.jpg)

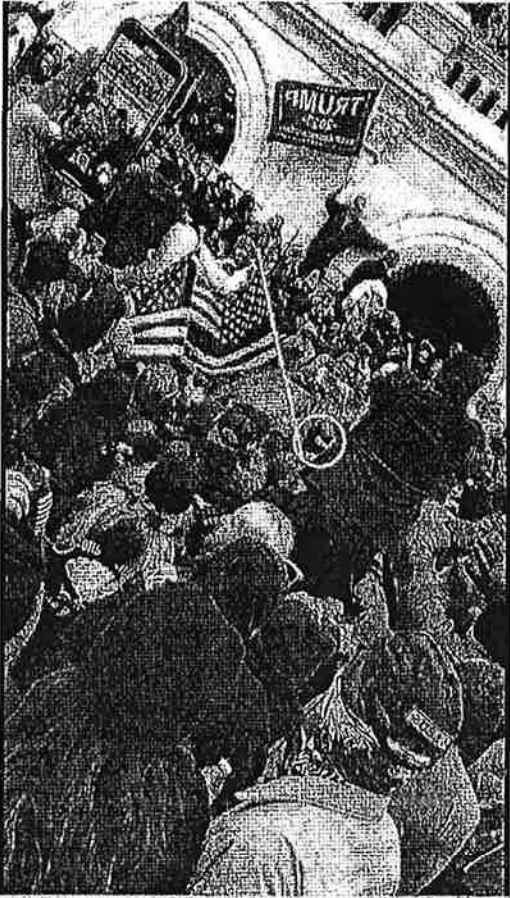


Image 7 (20210106_151916.mp4)

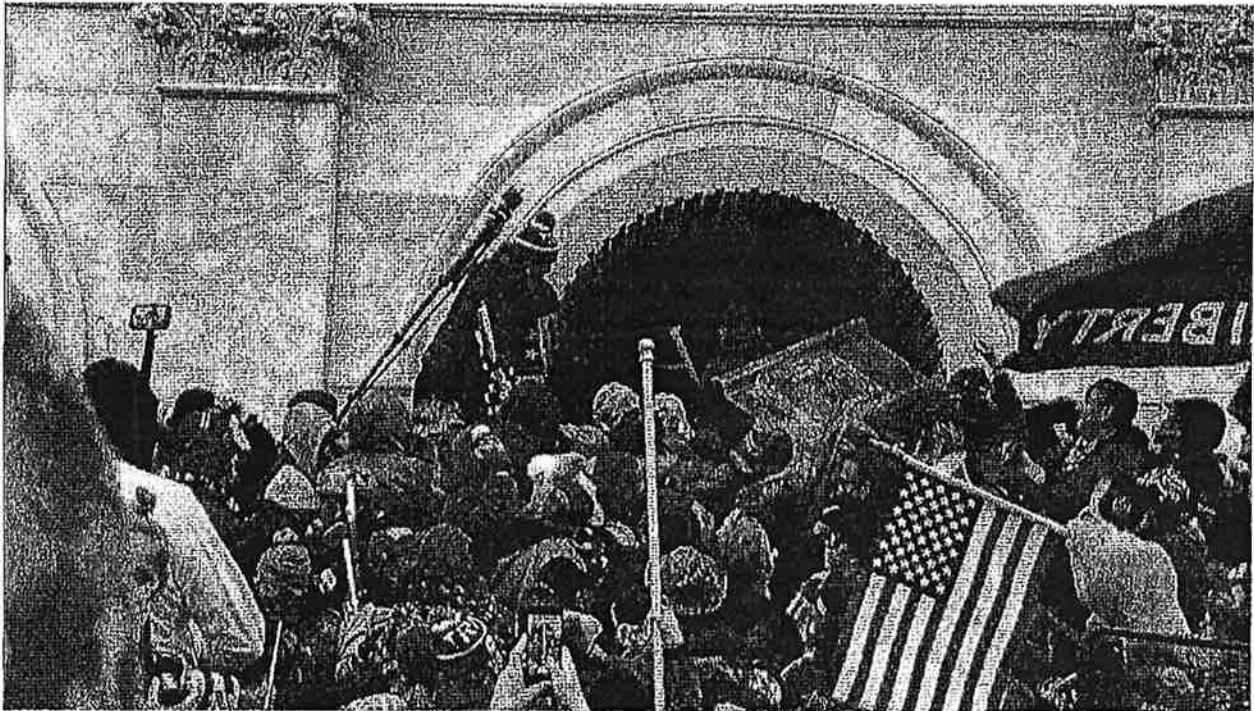


Image 8 (Image 20210106_155523.mp4)

18. Kepley, Nolf, and their minor sons nonetheless headed towards the Tunnel. Kepley is depicted below in Image 9, circled in blue, leading the group into the Tunnel. Kepley knew that the group's purpose in entering the Tunnel was to attempt to enter the Capitol itself.

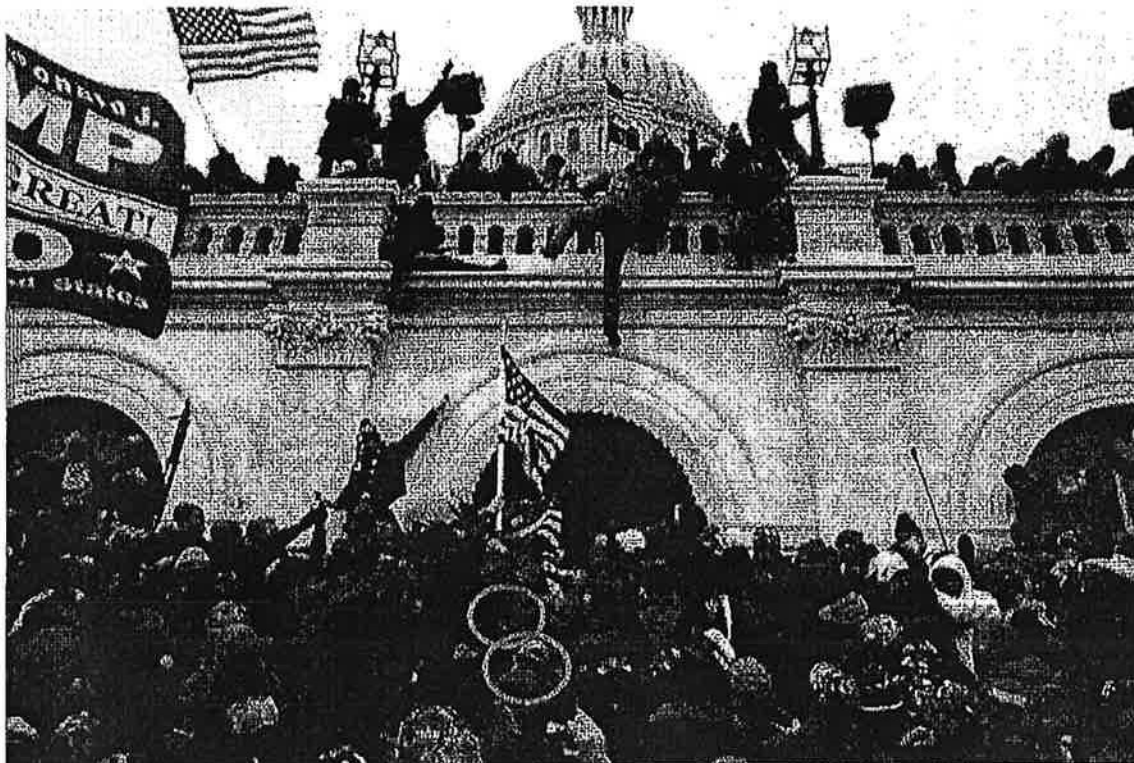


Image 9

19. Kepley, Nolf, Z.K., and A.N. entered the Tunnel at approximately 4:17 p.m. Through "heave-ho" pushes, the mob pushed back the line of MPD police officers defending the Tunnel. Around approximately 4:21 p.m., law enforcement began expelling rioters from the Tunnel.

20. As rioters were forced out, Kepley fell at the entrance of the Tunnel and was trapped for several minutes. During the ensuing chaos, Kepley got out of the pile and moved away from the Tunnel entrance. Kepley is circled yellow in the still frame from MPD Body-Worn Camera footage included below as Image 10.

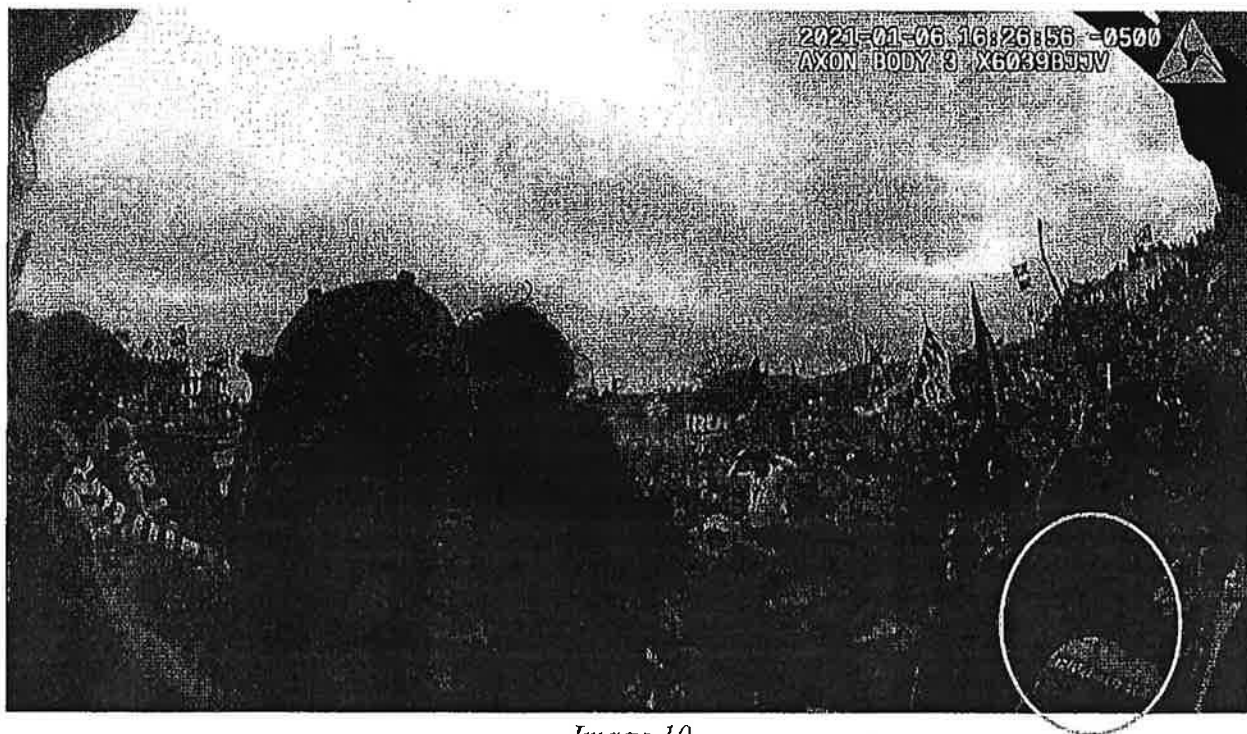


Image 10

21. Kepley bloodied her face from this incident, as depicted in Image 11 below captured on her phone at approximately 4:47 p.m. Kepley later stated during her voluntary interview with the FBI that, while she was being crushed, she believed was going to die.



Image 11 (20210106_164754.jpg)

22. Kepley subsequently made numerous posts on Facebook about her presence on Capitol grounds on January 6, 2021.

a. On January 9, 2021, Kepley made several posts replying to other users:

- i. “i made it in the capital, and believe it or not, I didnt break anything. I didnt set anything on fire. I was there for Pelosi, that’s all.”
- ii. “We went after the corrupt politicians, not the capital. I was in the capital and unless you were there, I dont give 2 shits about your opinion or the fake news.”
- iii. “If we wanted to fick up DC, we could have flattened the city, but we didn’t, we were going after the corrupt politicians, not the city.”
- iv. “Correct. We all walked away. There were hundreds of thousands of people there. We could have flattened DC If we wanted to but we were not there to destroy it, we were there to destroy the corrupt politicians. There

is a very long tunnel underground that leads about 2 blocks behind the capital that all the politicians were taken through to evacuate. To bad they didn't want to stay and face us, the people.”

- b. On February 11, 2021, Kepley replied to another user, “anyone with just an oz of CFS [common fucking sense] can see the entire election BS was rigged and we are all puppets in the democratic politician agenda but it's how much longer are we going to take it before WE THE PEOPLE stand up for out country and what's right. Clearly leaving the country up to the government is not a wise idea. Politicians are corrupt and don't give a crap about anyone else. This will eventually end and it's not going to be pretty. Locked and loaded.”
- c. On February 12, 2021, Kepley replied to another user “I was in DC also during the 'riots'. We were not there to destroy anything. We just want answers and the truth.”
- d. On February 12, 2021, Kepley also commented on Donald Trump For President's Post, “If DC is calling 1/6 a riot. How about America actually show them a real riot.”

23. Nolf and Kepley's conduct in bringing their minor sons, A.N. and Z.K., to the Capitol on January 6, 2021, and themselves entering the Tunnel during a period of extreme violence between the mob and police, encouraged A.N. and Z.K. to also enter the Tunnel knowing that they were not supposed to be there. Kepley knew that by entering the Tunnel during the riot, she was encouraging Z.K. and A.N. to do so as well.

Elements of the Offense

24. The parties agree that Entering or Remaining in a Restricted Building or Grounds in violation of 18 U.S.C. § 1752(a)(1) requires the following elements:

- a. First, the defendant entered or remained in a restricted building or grounds without lawful authority to do so.
- b. Second, the defendant did so knowingly.

Defendant's Acknowledgments

25. The defendant knowingly and voluntarily admits to all the elements as set forth above. Specifically, the defendant admits that she entered into the restricted area on Capitol grounds and subsequently remained there. The defendant admits that she knew she was not permitted to either enter or remain in the restricted area on the Capitol grounds.

Respectfully submitted,

Matthew M. Graves
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By: /s/ Michael L. Barclay
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DEFENDANT'S ACKNOWLEDGMENT

I, Heather Kepley, have read this Statement of the Offense and have discussed it with my attorney. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

Date: 8/10/2023 
Heather Kepley
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of the Offense and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: 8/10/2023 
Conor Wilson
Attorney for Defendant