

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

ANTHONY NOLF,

Defendant.

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

18 U.S.C. § 231(a)(3)

FILED

OCT 20 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, Anthony Nolf, 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. By shortly after 1:00 PM, the situation at the Capitol had become a civil disorder as that term is used in Title 18, United States Code, Section 231, and throughout the rest of the afternoon the civil disorder obstructed the USCP's ability to perform their federally protected function to protect the U.S. Capitol building and its occupants.

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 and his minor son, A.N., traveled to and stayed overnight at his sister and co-defendant's, Heather 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, Nolf and his group walked towards the Capitol building. Nolf went to the Capitol to express frustration with the election.

14. Nolf was wearing a camouflage-colored hat with the words "Trump 2020" in red, white, and blue typeface, a gray hoodie, blue jeans, and at times, a camouflage gator, as depicted in Image 4 below taken from his co-defendant's phone.



Image 4 (20210106_134841.jpg, minor redacted)

15. At the entrance to the West Plaza, Nolf and his group encountered protective fencing made up of metal bike racks. Nolf assisted in removing the fencing by passing it back as

Kepley handed it to him, as depicted in Image 5 below. In other words, Nolf knew that he was entering an area where he was not permitted to be.



Image 5 (IMG_7355.mp4_clip_2040_2100, minors redacted)

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

17. Nolf and the rest of his group proceeded up to the Lower West Terrace. From that vantage point, Nolf could see the entrance to the Tunnel. Nolf was standing in close proximity to Kepley and Z.K., who were both recording the riot with their phones. At approximately 3:21 p.m., Nolf saw rioters dragging out into the crowd and violently assaulting an MPD officer, which was captured on Kepley's phone (Image 6). At approximately 3:57 p.m., Nolf saw rioters assaulting law enforcement who were attempting to defend the entrance to the Tunnel, which was also captured on Kepley's phone (Image 7). In other words, Nolf knew before he 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.

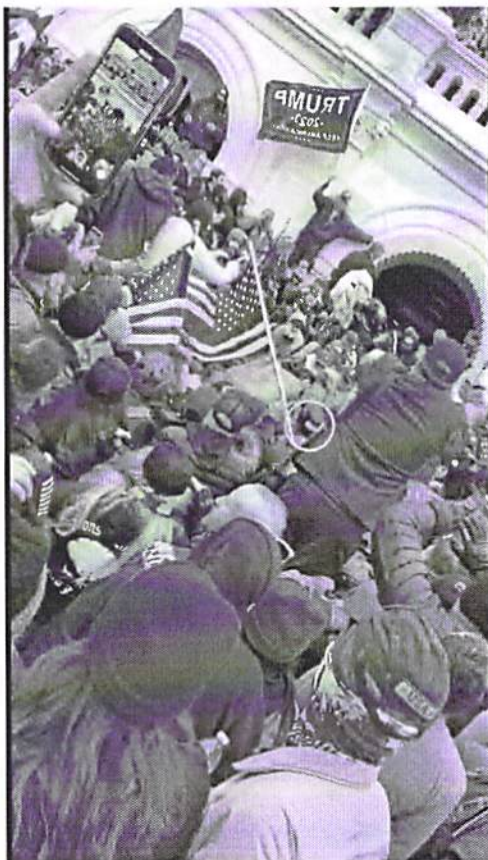


Image 6 (20210106_151916.mp4)



Image 7 (20210106_155523.mp4)

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



Image 8

19. Nolf, Kepley, A.N., and Z.K. entered the Tunnel at approximately 4:17 p.m. Nolf added his body weight to the crowd's "heave-ho" pushes against the line of MPD police officers defending the Tunnel. As Nolf moved deeper into the Tunnel, he lowered his body and dropped his shoulder into the rioters in front of him in order to add pressure against the officers defending the Tunnel (Image 9). Nolf is seen smiling moments later (Image 10).



Image 9 (minor redacted)



Image 10 (minor redacted)

20. At approximately 4:21 p.m., law enforcement began expelling rioters from the Tunnel. Nolf made it out of the Tunnel, but his minor son, A.N., was caught in a pile of rioters at

the entrance. Nolf remained near the Tunnel and observed for several minutes until A.N. was extricated from the pile (Image 11). In the chaos, rioters continued to violently assault the police at the entrance.



Image 11 (410pm.mp4, minor redacted)

21. The MPD officers defending the Tunnel at this time were engaged in the lawful performance of their official duties incident to and during a civil disorder—*i.e.* their assistance of the USCP in the defense of the Capitol from the mob. The MPD officers' efforts to defend the Tunnel were adversely affected by civil disorder generally and the crowd's "heave-hos" that Nolf joined in particular.

22. As a result of the civil disorder at the Capitol on January 6, 2021, Mayor Muriel Bowser placed into effect an emergency curfew from 6 p.m. on January 6, 2021 until 6 a.m. on January 7, 2021. Certain stores in the D.C. area closed early as a result of the curfew and had year-over-year sales on January 6, 2021 that were lower than forecast. As a result, the civil disorder adversely affected commerce in the D.C. area.

23. Nolf and Kepley's conduct in bringing their minor sons, A.N. and Z.K., to the riot at 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. Nolf knew that by entering the Tunnel during the riot, he was encouraging Z.K. and A.N. to do so as well.

Elements of the Offense

24. The parties agree that Obstructing Officers During a Civil Disorder in violation of 18 U.S.C. § 231(a)(3) requires the following elements:

- a. First, the defendant knowingly committed or attempted to commit an act with the intended purpose of obstructing, impeding, or interfering with one or more law enforcement officers.
- b. Second, at the time of the defendant's actual or attempted act, the law enforcement officers were engaged in the lawful performance of their official duties incident to and during a civil disorder.
- c. Third, the civil disorder in any way or degree obstructed, delayed, or adversely affected commerce or the movement of any article or commodity in commerce, or the conduct or performance of any federally protected function.

Defendant's Acknowledgments

25. Defendant knowingly and voluntarily admits to all the elements as set forth above.

26. First, Defendant admits that when he added his body weight to the mob's "heave-ho" pushes within the Tunnel, he did so with the intent to obstruct, impede, and interfere with the MPD officers defending the Tunnel. Defendant further admits that this act was done knowingly. More specifically, Nolf, having moved a bike rack in the West Plaza, knew he was somewhere he

was not supposed to be. Nonetheless, Nolf purposefully went into the Tunnel, saw officers defending the Tunnel both before and during his time in the Tunnel, and knew that the goal of the mob's pushes was to overcome those officers, and joined those acts nonetheless.

27. Second, Defendant admits that the MPD officers defending the Tunnel were engaged in the lawful performance of their official duties incident to and during a civil disorder—specifically, their assistance of the USCP in the defense of the U.S. Capitol Building from the mob.

28. Third, Defendant admits that the civil disorder adversely affected the performance of any federally protected function—specifically, USCP's federally protected function to protect the U.S. Capitol building and its occupants. Defendant further admits that the civil disorder adversely affected commerce, in that the Mayor's emergency curfew put in place as a result of the riot adversely affected commerce in the D.C. area.

Respectfully submitted,

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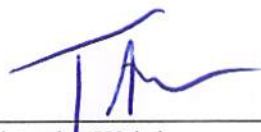
DEFENDANT'S ACKNOWLEDGMENT

I, Anthony Nolf, 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: 9/22/23 
Anthony Nolf
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: 9/22/23 
Timothy Wright
Attorney for Defendant