

Case: 1:23-mj-00101
Assigned To : Faruqui, Zia M.
Assign. Date : 05/10/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, Jessi Ann Mann, is an FBI Special Agent assigned to the Knoxville Division of the Federal Bureau of Investigation (FBI). In my duties as a special agent, I am assigned to Joint Terrorism Task Force. Currently, I am tasked with investigating criminal activity in and around the United States 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.

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 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.

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.

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.

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.

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.

IDENTIFICATION OF DEVIN MCNULTY

In late April 2022, the FBI received information from a confidential human source providing a possible identification of Assault on a Federal Officer (AFO) number 485 from the FBI's public website. The information indicated that the identity of AFO-485 is DEVIN MCNULTY based on the comparison between the images for AFO-485 from January 6, 2021 (Figures 1 and 2), and an advertisement for a mixed-martial arts fight (Figure 3).



Figure 1



Figure 2



Figure 3

Subsequently, your affiant compared the images of the man matching MCNULTY's description to the Tennessee Department of Motor Vehicles records for MCNULTY and determined that the individual in the pictures above is MCNULTY.

In December 2022, the FBI interviewed an individual with personal knowledge of MCNULTY. The individual identified the man in the four images below (Figures 4 through 7) as MCNULTY.



Figure 4



Figure 5



Figure 6



Figure 7

Video Footage Review Regarding DEVIN MCNULTY

The FBI has reviewed numerous videos publicly available online, from the U.S. Capitol building, and other videos available to the FBI. MCNULTY is seen throughout the videos and images wearing khaki pants, a black jacket with a hood, black backpack with tan colored bottom, sunglasses, a red hat, camouflage gloves, and brown boots. At times, MCNULTY's long, curly brown hair is seen under the jacket hood and/or hat. Throughout the videos and images, MCNULTY switches between wearing the jacket hood up or down, sunglasses on or off, and gloves on or off.

On January 6, 2021, MCNULTY is first seen among the crowd in a video that portrays the West Front of the Capitol building near the stairs with the scaffolding.¹ At approximately 8:54 in video, MCNULTY is seen in the crowd near a group of Metropolitan Police Officers with his jacket hood up and sunglasses off, as seen in Figure 8 below.

¹ The video is available at <https://archive.org/download/saZheNYnRP65Bx25o/saZheNYnRP65Bx25o.mpeg4>.



Figure 8

At approximately 17:00 in the same video, MCNULTY can be seen climbing a wall to the Northwest Terrace of the U.S. Capitol as seen in Figure 9 below.



Figure 9

In surveillance footage, MCNULTY can be seen walking from the west side of the U.S. Capitol to the north side at 2:52 p.m., as seen in Figure 10 below.



Figure 10

In a YouTube video titled “They Did It to Save America,” MCNULTY is seen on the steps approaching the North Door of the U.S. Capitol at 20:48 in the video with his jacket hood down, and sunglasses and gloves on.² MCNULTY appears to be affected by a chemical irritant causing him to turn back towards the crowd. MCNULTY then raises and pumps his fist to the crowd as seen in Figure 11 below at 21:07 in the video.



Figure 11

² The video is available at <https://youtube.com/watch?v=tjXEtXdOpNA>.

At 3:25 in a YouTube video by “The Rundown Live”, MCNULTY can again be seen at the North Door of the Capitol.³ MCNULTY enters the outer North Door but is stopped inside the vestibule as seen in Figure 12 by the closed inner doors that were secured by police officers. What appears to be an alarm from the Capitol building can be heard in the video along with loud music from the crowd.



Figure 12

MCNULTY is also seen on the North side of the Capitol in a YouTube video by News2Share.⁴ At 17:36 in the video, police officers moved in front of the outer North Door. In Figure 13, MCNULTY (red circle) can be seen in the crowd talking directly to officers in front of the doorway.

³ The video available at <https://archive.org/download/fqSRn4M7HC3DNGvmA/fqSRn4M7HC3DNGvmA.mpeg4>.

⁴ The video is available at <https://www.youtube.com/watch?v=9TshRdxXi9c>.



Figure 13

A YouTube video titled “1/6/21 Capital stormed, Footage.” offers another view of the interaction with the police officers referenced above.⁵ Beginning at approximately 1:00 in the video, an officer, circled in blue in Figure 14, can be heard saying: “Get back, everyone get back.” When the crowd demands that the officer let them into the Capitol building, the same officer responds, “I can’t do that.” As in Figure 13, MCNULTY is visible to the right of the officer in Figure 14. An alarm can be heard in the background.



Figure 14

⁵ The video is available at <https://www.youtube.com/watch?v=8CSKuCiJGp8>.

At 23:10 in the News2Share video, MCNULTY can be seen in the crowd as police officers push the crowd away from the U.S. Capitol. MCNULTY is seen with his jacket hood up, sunglasses and gloves on, standing near the front of the crowd. Figure 15 shows a still image from 23:30-23:44 in the video, in which MCNULTY is aggressively pushing directly against a police officer's shield.

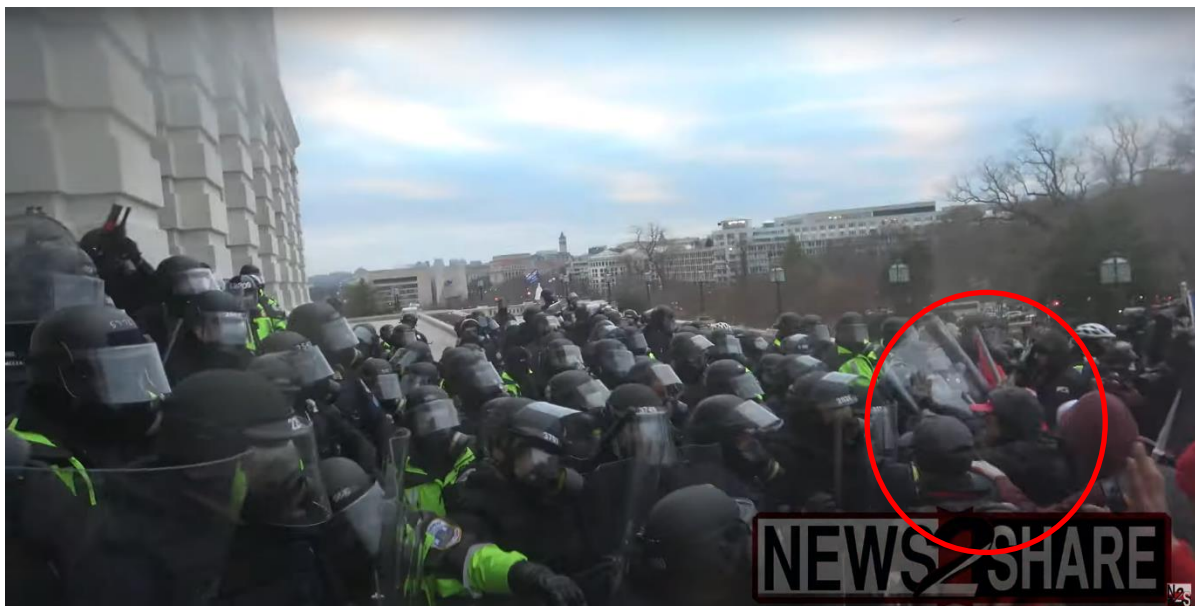


Figure 15

MCNULTY is last seen on the North side of the Capitol building in the video by “The Rundown Live” at 47:15. MCNULTY appears to look down at a cell phone and exits view of the video as seen in Figure 16 below.



Figure 16

Identification and Interview of Law Enforcement Officer

Prince George's County Police Corporal R.R. was identified as the police officer seen in the Getty Images photograph, Figure 1, and News2Share video holding the shield that MCNULTY is pushing against, Figure 15. The FBI interviewed Cpl. R.R. in November 2022. During that interview, Cpl. R.R. identified himself as the police officer wearing the helmet numbered 3791 boxed in red Figure 17 below and as the officer in Figure 1. Cpl. R.R. distinctly remembered the interaction with MCNULTY as aggressive and persistent. Cpl. R.R. explained that MCNULTY tried to gain control of R.R.'s shield. R.R. said he had to exert increasingly more effort in order to counter MCNULTY's force.

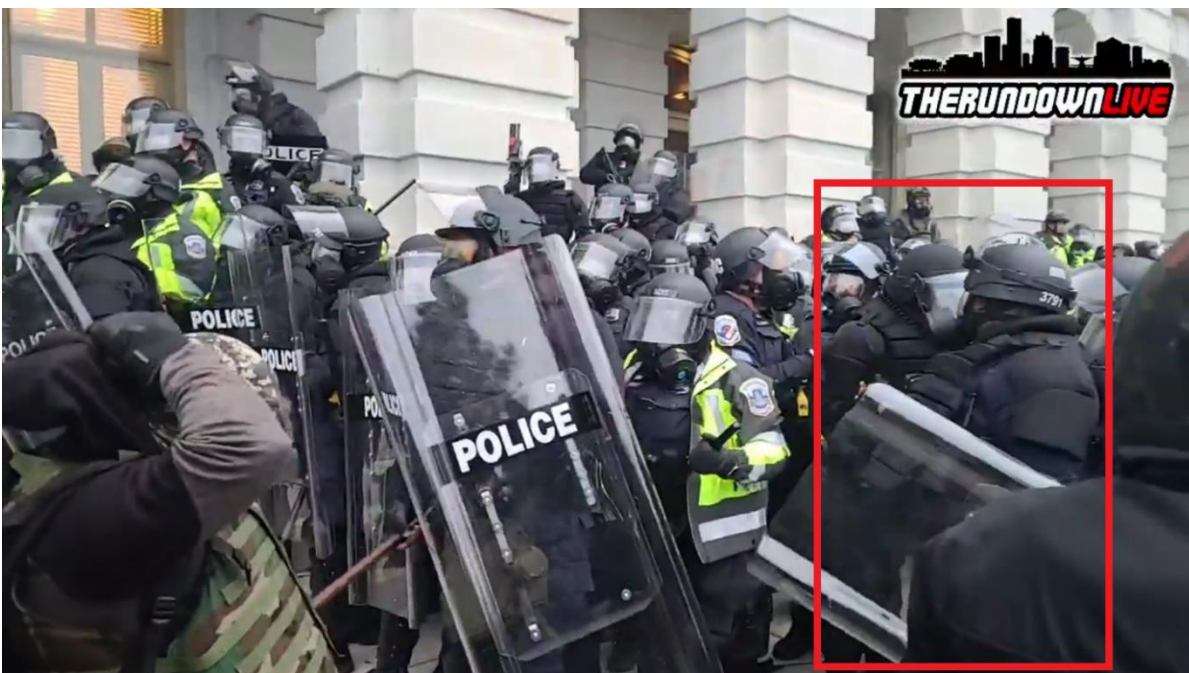


Figure 17

MCNULTY's Communication and Financial Accounts

Record checks revealed a possible phone number for MCNULTY as a number ending in 5310 ("x5310"). This phone number was carried by Verizon on January 6, 2021. According to records provided by Verizon, MCNULTY was linked to this phone number as an Authorized User. The records also listed "Origination" and "Destination" locations for incoming and outgoing calls for x5310. On January 5, 2021, MCNULTY's calls originate in Knoxville, TN. On the morning of January 6, 2021, MCNULTY's calls originate from Harrisonburg, VA, and then Washington, DC, by early afternoon. The calls continue to originate from Washington, DC, until 6:00 p.m. on January 6, 2021.

Snap Inc. provided records for an account linked to MCNULTY's x5310 phone number. The email associated with this account was listed as de***@gmail.com.⁶ The current Display Name for this account was listed as "Dev" with a former Display Name listed as "Devin McNulty."

⁶ The full email address is known to the affiant, but it is omitted here due to the public nature of the filing.

Snap Inc. provided content of messages sent to and from MCNULTY's account. On the morning of January 6, 2021, MCNULTY received four screenshots from another individual about Washington, DC laws regarding "self-defense weapons."

In August 2022, your affiant received credit card records from Capital One Financial Corporation for MCNULTY that included a debit charge on January 6, 2021, for \$16.00 USD to "MPARK 1101 WILSON" of Arlington, VA for "parking lots, garages." On January 7, 2021, there was a debit charge for \$25.96 USD to "SHELL OIL" of Buchanan, VA for "automated fuel dispensers." The Verizon phone records mentioned previously list Buchanan, VA as the origination for a phone call at 2:01 am on January 7, 2021.

In January 2023, Google LLC ("Google") provided records pursuant to a search warrant a Google account corresponding to the de***@gmail.com email address. The subscriber information for de***@gmail.com was as follows: Name "Its Me"; Billing Instrument Billing Name: Devin McNulty. The billing address for the account is located in Knoxville, TN, which has been linked to MCNULTY through law enforcement record checks.

The records provided by Google included activity history of Google searches. On January 5, 2021, a search was conducted for "flights from TYS to Washington on Jan 6, 2021 returning Jan 8, 2021." TYS is the airport code for McGhee Tyson Airport in Knoxville, TN. On January 7, 2021, four searches were conducted for "charges against rioters" and two searches were conducted for "jake angeli" and "jake angeli arrest." Jake Angeli was present at the Capitol on January 6, 2021, and was arrested on January 9, 2021.

On January 11, 2021, three searches were conducted for "devin mcnulty". On January 13, 2021, searches were conducted for "What we know about the people arrested after the Capitol riots", "how to delete gmail instead of trash", "how to mass delete gmail emails", and "Eric Gavelek Munchel". Munchel was present at the Capitol January 6, 2021, and was arrested on January 10, 2021. On January 21, 2021, a search was conducted for "devin mcnulty."

CONCLUSIONS OF AFFIANT

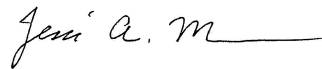
Based on the foregoing, your affiant submits there is probable cause to believe that DEVIN MCNULTY violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful 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.

Your affiant submits there is probable cause to believe that DEVIN MCNULTY violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault or interfere with any person

designated in section 18 U.S.C. § 1114 as an officer or employee of the United States while engaged in or on account of the performance of official duties. Persons designated within Section 1114 include any person assisting an officer or employee of the United States in the performance of their official duties.

Your affiant submits that there is probable cause to believe that DEVIN MCNULTY violated 18 U.S.C. § 1752(a)(1),(2) and (4), 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; (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. 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 that DEVIN MCNULTY violated 40 U.S.C. § 5104(e)(2)(F), 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.



Jessi A. Mann
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 10th day of May 2023.

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE