

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	Case No.: 23-CR-191 (JEB)
	:	
v.	:	40 U.S.C. § 5104(e)(2)(G)
	:	
RICHARD AVIRETT,	:	
	:	
Defendant.	:	
	:	

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, Richard Avirett, 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 \$2.9 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 Defendant's Participation in the January 6, 2021 Capitol Riot

8. The defendant, Richard AVIRETT, was a former Marine and military contractor who owned a firearms training center outside of Tampa, Florida. On January 1, 2021, AVIRETT posted to his personal Facebook page, referring to Congress, “We are still coming for you on the 6th.” On January 5, 2021, AVIRETT posted that he was coming to DC “to pick a fight[.]”

9. On January 6, 2021, AVIRETT attended the “Stop the Steal” rally held near the National Mall in Washington DC. AVIRETT later walked to the West Front of the Capitol, where

tear gas was deployed and police officers in riot gear were attempting to prevent entry into the Capitol building. AVIRETT posted photos of this to his Facebook account.

10. AVIRETT indicated in text messages that the situation at the Capitol had become violent, saying “[t]his is the most beautiful fight I ever saw.”

11. AVIRETT spent approximately thirty minutes speaking to officers stationed near the inauguration stage on the West Terrace. During this time, AVIRETT criticized the officers for maintaining their posts, saying “this is not sacrifice, this is not service” and “this is what the plantation looks like, enjoy your cotton.”

12. AVIRETT entered the Capitol by climbing through a broken window located near the Lower West Terrace. AVIRETT knew at the time that he did not have lawful authority to enter the Capitol building. He entered Senate Terrace 2 – Mezzanine (ST-2M), one of a suite of rooms and offices available for senators and their staffs. Other rioters had previously broken into ST-2M through a window and had repurposed furniture to assist them in entering the Capitol by force.

13. As AVIRETT entered ST-2M, another rioter announced that someone had been shot and killed. Shortly thereafter, a group of rioters inside ST-2M entered an interior hallway. AVIRETT watched as other rioters removed an interior door from its hinges and moved a large tabletop through the doorway. Other rioters then passed the door out the window to the mob outside. AVIRETT, circled in red in the photo below, picked up a rectangular object and a long rectangular cushion and entered the interior hallway.



14. From the interior hallway, AVIRETT entered another office, ST-4M, where he looked through papers as another rioter used a rod to break a window.

15. While inside the Capitol, AVIRETT texted "I'm inside" to another individual.

16. After spending approximately seven minutes inside the Capitol, AVIRETT climbed out the same window he entered to exit the Capitol.

17. On January 12, 2021, AVIRETT posted to his firearms training business Facebook account: "Pick a side and mean it... in the coming days violence and destruction could (I pray diligently not) happen, but if it does, it is meant to look like conservatives are doing it, and it's won't matter the truth; you will be guilty. You're either in or out. Decide now, not when you're in the middle."

18. After January 6, 2021, AVIRETT told a press outlet that he had not entered the Capitol on January 6, 2021.

19. In August 2021, AVIRETT posted on Facebook a photo of the Lower West Terrace on January 6, 2021 depicting a Trump flag being thrown at a line of officers in riot gear guarding an entrance to the Capitol. AVIRETT commented “[o]ne day we will look at this picture and know we were right and we had the chance....”

Elements of the Offense

20. The parties agree that Parading, Demonstrating, or Picketing in a Capitol Building in violation of 40 U.S.C. § 5104(e)(2)(G) requires the following elements:

- a. The defendant paraded, demonstrated, or picketed in any of the United States Capitol Buildings and
- b. The defendant acted willfully and knowingly.

Defendant’s Acknowledgments

21. The defendant knowingly and voluntarily admits to all the elements as set forth above. Specifically, the defendant admits that he willfully and knowingly paraded, demonstrated, and picketed in a United States Capitol Building.

Respectfully submitted,

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DEFENDANT'S ACKNOWLEDGMENT

I, Richard Avirett, 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: _____

Richard Avirett
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: _____

9-15-23

Robert Lee Jenkins Jr.
Attorney for Defendant