

Case: 1:23-mj-00125
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 6/9/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation (FBI). I have been so employed since January 2005. I am currently assigned to the Joint Terrorism Task Force (JTTF) in the FBI Baltimore Division. I am currently tasked, among other things, with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As an FBI Special Agent, I am authorized by law or by a government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

The facts in this Affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and agencies or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause, it does not contain every fact known by me or the FBI. The dates and times listed in this Affidavit should be read as “on or about.”

Background: Events at the U.S. Capitol on January 6, 2021

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, S.E., 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.

Facts Specific to ADAM RYAN OBEST

Based upon review of public video, closed circuit video (“CCV”) footage and police body worn camera (“BWC”) footage depicting the events at the U.S. Capitol building and grounds on January 6, 2021, law enforcement identified an individual among the rioters that clashed with police near an entrance to the U.S. Capitol. The FBI subsequently posted a photograph of the individual at the U.S. Capitol under the name “422-AFO” and requested help from the public to identify the individual. As set out in detail below, law enforcement has identified 422-AFO as ADAM RYAN OBEST (“OBEST”) and there is probable cause to believe that on January 6, 2021, OBEST committed violations of 18 U.S.C. §§ 231(a) (civil disorder), 111(a) and (b) (assault of a federal officer with a deadly and dangerous weapon, 1752 (a)(1), (2) and (4) and (b)(1)(A) (entering and remaining, disorderly and disruptive conduct, and act of physical violence in a restricted buildings or grounds, with a deadly or dangerous weapon) and 40 U.S.C. § 5104(e)(2)(F) (act of physical violence on Capitol Grounds).

A. 422-AFO’s Activities at the U.S. Capitol on January 6, 2021

While reviewing digital media obtained as part of its investigation of the events of January 6, 2021, the FBI discovered an unidentified male who became known as “422-AFO,” who was wearing a camouflage baseball cap and a dark colored jacket, holding a flagpole with an American flag attached. Below is the photograph of 422-AFO posted to FBI’s tip website:



Photograph #422 - AFO D



Photograph #422 - AFO C

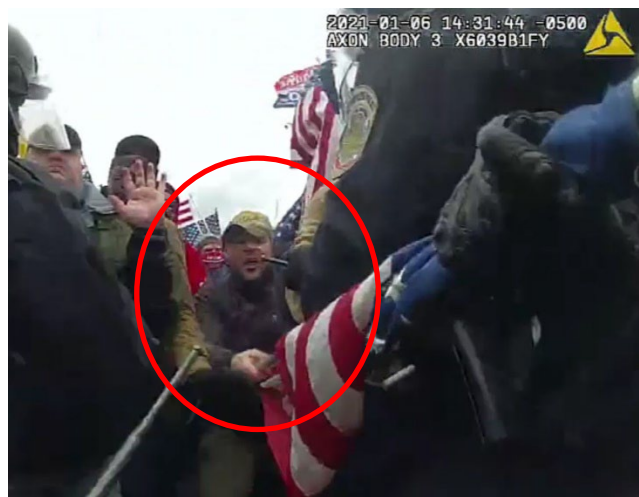


Photograph #422 - AFO B



Photograph #422 - AFO A

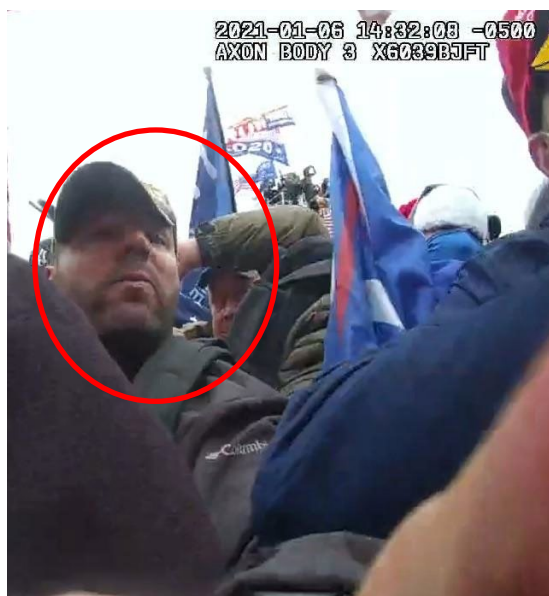
On January 6, 2021, by approximately 2:30 p.m., rioters had breached various barriers that had been erected on the west side of the Capitol building and were attempting to overwhelm police officers positioned there. At approximately, 2:31 p.m., as depicted below, 422-AFO engaged law enforcement officers while holding a flagpole on the West Plaza of the Capitol building. 422-AFO maintained his hold of the flagpole as Metropolitan Police Department (MPD) Officer G.N. grabbed the end of the flagpole, but 422-AFO eventually jerked the flagpole away and retreated back into the crowd of rioters. The following screenshots are from the review of Officer G.N.'s MPD BWC footage from the afternoon of January 6, 2021, at approximately 2:31 p.m.



Less than a minute later, at approximately 2:32 p.m., 422-AFO raised the flagpole above his head and brought the end of the flagpole down abruptly into the line of officers, before another police officer tried to take the flagpole away. Relevant screenshots from this incident are included below (422-AFO's hands are circled in red):



422-AFO then engaged directly with MPD Officer J.C. and tried to take Officer J.C.'s baton out of the officer's hand before eventually retreating into the crowd. The following screenshots are from the review of Officer J.C. and another MPD officer, Officer T.W.'s BWC (422-AFO's face and hands are circled in red):





B. Identification of ADAM RYAN OBEST as 422-AFO

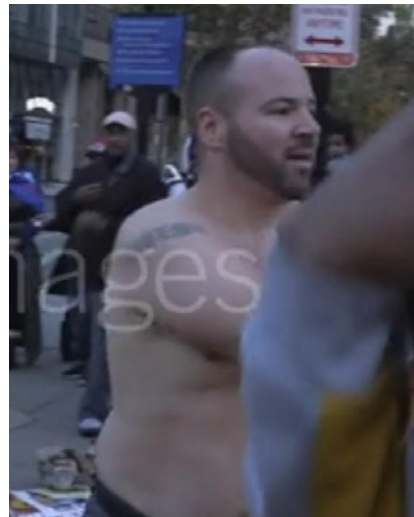
The FBI received a tip on or about January 11, 2021, from a tipster who provided only his/her first name and telephone number, that "Bruce Moon/Adam Obest" had commented on another Facebook user's post regarding "busloads of people" going to D.C., that the November 2020 presidential election had been stolen, and three buses were coming from Mexico. From the context of the messages provided in the tip, it appears OBEST was referring to busses of protesters that were coming from Mexico.

In November 2021, an FBI Confidential Human Source (CHS) provided information that 422-AFO was "Adam Obest" (OBEST) from Thurmont, Maryland and provided links to OBEST's social media accounts and photos of OBEST and his wife, including:



Photo from the Facebook account with the URL: "www.facebook.com/adam.obest"

CHS also identified publicly available videos that, according to the CHS, depicted OBEST.¹ One of the videos depicts an individual physically resembling 422-AFO in a verbal altercation with counter protesters at the Million MAGA March on November 14, 2020. During the altercation, the individual took off his shirt, revealing an American flag tattoo on his left shoulder and another tattoo on his right shoulder, as depicted below:



Based on this comparison, I have observed that OBEST physically resembles 422-AFO. I have also reviewed booking photographs associated with OBEST's 2018 arrest in Maryland for

¹ The FBI received two other tips regarding the potential identity of 422-AFO. Both of these tips identified 422-AFO as an individual other than OBEST. Neither of the individuals in these tips resemble 422-AFO.

an unrelated incident. These booking photographs included tattoos that are consistent with the tattoos observed in the video from November 14, 2020, discussed above:



On or about March 9, 2022, I interviewed Witness #1, who had regularly interacted with OBEST for several years and who was confident he/she could identify OBEST in pictures and videos. Witness #1 was shown pictures and the video of the incident between 422-AFO and law enforcement officers on the afternoon of January 6, 2021, including the following image:



Witness #1 was not able to identify 422-AFO from the above image. I then showed Witness #1 a video that the FBI obtained from YouTube in which 422-AFO and a woman were marching together on January 6, 2021, as well as a photo of 422-AFO on the FBI's website (depicted below):



Witness #1 stated that 422-AFO "kind of looked" like OBEST and was 75%-85% confident that the individual was him, although he/she could not tell for certain.

On the morning of May 2, 2022, Affiant observed more than 60 minutes of a custody hearing in the Circuit Court for Washington County located in Hagerstown, Maryland. During this hearing, OBEST spoke extensively to the Court and to his ex-wife. In addition, OBEST's current wife was called as a witness to testify. During the hearing, I compared images of 422-AFO from my phone to OBEST. Based on their similar build, facial features, and shape of facial hair, I believe they are the same person.

I have spoken with a Special Agent with U.S. Department of Health and Human Services (HHS) Office of Inspector General (OIG) who confirmed that, on January 6, 2021, OBEST was an HHS employee and had taken the day off from work.

On June 10, 2022, the FBI obtained a warrant to search OBEST's Facebook account. I have reviewed records responsive to that warrant and observed numerous posts and messages from OBEST indicating that OBEST and his wife had attended the Stop the Steal rally in Washington, D.C., and were in the vicinity of the Capitol Building on January 6, 2021. These comments include a comment on January 7, 2021, at 06:46:07 UTC when OBEST, using the screen name "Adam Blest," commented on a video posted by Bill O'Reilly: "Good review. Can't wait to hear your analysis on the protests at the Capitol today. I was there and it was 96% peaceful. God bless." In another comment on January 7, 2021, at 17:23:16 UTC he wrote: "I was there. Yes, this is true. Thanks for sharing it." In another comment on January 7, 2021, at 21:17:20 UTC, he wrote: "I was very close to the Capitol bldg."

In addition, these Facebook records included several photographs of OBEST that show him wearing identical clothing to that worn by 422-AFO on January 6, 2021. One of the items of clothing that OBEST wore on January 6, 2021, is a distinctive "Army Veteran" baseball style hat, which OBEST also wears in multiple photographs posted to his Facebook account.



Image of 422-AFO's Hat from FBI BOLO on the fbi.gov website



422-AFO's Hat (YouTube Screenshot)



Photo from Obest's Facebook Account



Zoom-in of photo from Obest's Facebook Account



Photo from Obest's Facebook Account



Zoom-in of photo from Obest's Facebook Account

Additionally, OBEST also had several photos of him wearing a distinctive pair of shoes in photos posted to his Facebook account, which are consistent with the shoes worn by 422-AFO on January 6, 2021:



Photo from OBEST's Facebook Account



Zoom-in of shoes from photo from OBESTS's Facebook Account



422-AFO's Boots
(YouTube screenshot from
Open-Source Video)

Finally, there are photographs of OBEST posted to his Facebook account where he is wearing a dark-colored jacket with a breast pocket zipper. This jacket is consistent with the jacket that 422-AFO was wearing on January 6, 2021:



422-AFO's Jacket
(YouTube Screenshot)



Zoom-in of jacket from
Obest's Facebook Page

Conclusion

Based on the foregoing, your affiant submits that there is probable cause to believe that ADAM RYAN OBEST 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.

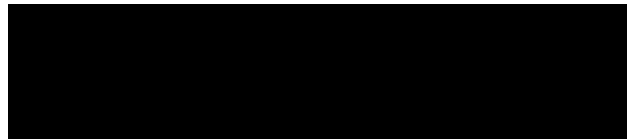
Your affiant further submits there is probable cause to believe that OBEST violated 18 U.S.C. § 111(a)(1) and (b), which makes it a crime to (a) forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 as an officer or employee of the United States while engaged in or on account of the performance of official duties; and (b) use a deadly or dangerous weapon or inflict bodily injury during such assault.

Your affiant also submits that there is probable cause to believe that OBEST violated 18 U.S.C. §§ 1752(a)(1), (2) and (4), and 1752(b)(1)(A), which makes it a crime to (1) knowingly enter

or remain in any restricted building or grounds without lawful authority to do so; 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; and (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; or attempt or conspire to do so; and punish the commission of such acts using or carrying a deadly or dangerous weapon or when significant bodily injury is inflicted.. 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.

Finally, your affiant submits there is also probable cause to believe that OBEST 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.

Respectfully submitted,



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 9th day of June, 2023.

MOXILA A. UPADHYAYA
UNITED STATES MAGISTRATE JUDGE