

Case: 1:23-mj-00124
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 6/9/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, Ian Ankney, is a Special Agent assigned to the Federal Bureau of Investigation (FBI). In my duties as a Special Agent, I am currently assigned to the Chicago Field Office Joint Terrorism Task Force. Through working investigations, I have interviewed subjects, victims, and witnesses regarding allegations, I have prepared subpoenas for telephone, online, and financial information, and I have analyzed these records to identify information pertinent to the investigation. I have also prepared and executed search warrants both at physical locations and for telephone and online data, and have prepared and executed arrest warrants. Over the course of my career, I have become familiar with the manner in which criminal activity is carried out, and the efforts of persons involved in such activity to avoid detection by law enforcement. As a federal agent, I am authorized to investigate the violations of laws of the United States (“U.S.”), and as a law enforcement officer, I am authorized to execute warrants issued under the authority of the United States. Currently, I am tasked with investigating criminal activity in and around the 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.

NICHOLAS VON KEUDELL with Trudy Castle and Kimberly DiFrancesco at the U.S. Capitol

Subject Identification from Co-Travelers

During the FBI investigations of sisters Trudy Castle and Kimberly DiFrancesco, charged in D.D.C. Case No. 22-cr-261, NICHOLAS VON KEUDELL, a family member and co-traveler of Castle and DiFrancesco, was identified as being present inside and around the U.S. Capitol on January 6, 2021. On October 14, 2022 Trudy Castle was interviewed by FBI. During the interview, Castle acknowledged that VON KEUDELL, who is her adult son, travelled to the Capitol on January 5, 2021 with Castle and DiFrancesco. On October 24, 2022 Kimberley DiFrancesco was interviewed by the FBI and informed FBI agents that VON KEUDELL, who is her nephew, traveled to the U.S. Capitol on January 5th, 2021, and spent January 6th, 2021 at the Capitol, in part with DiFrancesco and Castle, and in part on his own.

Video Footage Shows KEUDELL Entering the U.S. Capitol

FBI agents reviewed January 6, 2021 law enforcement body worn camera (BWC) footage, which revealed a male subject on the north-west courtyard lawn outside the U.S. Capitol next to Castle and DiFrancesco. This video footage along with other footage and images showed the male observed with Castle and DiFrancesco had red hair and a short red beard, and wore a blue and white striped beanie hat, a dark-colored hooded sweatshirt underneath a dark-colored jacket, dark-colored pants, sneakers, dark-colored gloves, and carried a dark-colored bag around the front of his body, a fold-up chair around his neck, and was holding what appears to be a cellular device in his hand (Figure 1). As described below, through this investigation, your affiant has concluded that this individual is likely NICHOLAS VON KEUDELL. (In the following screenshots, VON KEUDELL is indicated with a red square, and Castle and DiFrancesco are indicated with a blue square.)



Figure 1

Through open-source footage, including photographs and video taken by other rioters and posted online, and U.S. Capitol Police surveillance footage from inside the U.S. Capitol, the FBI identified VON KEUDELL as being present inside the U.S. Capitol building on January 6, 2021. See Figures 2, 3, 4, 5, 6, and 7 (approximately 2:24 p.m. EST to 2:35 p.m. EST). In Figure 6 specifically, VON KEUDELL was holding what appears to be a cellular device in his hand while inside the U.S. Capitol building area referred to as the Crypt. VON KEUDELL was observed entering the U.S. Capitol through the West Senate Wing Door at approximately 2:24 p.m. EST. He was then observed in the vicinity of room S-146A before traveling into, around and back out of the Crypt, and then exiting the U.S. Capitol through a window on the south side of the West Senate Wing Door, as shown in Figure 7.

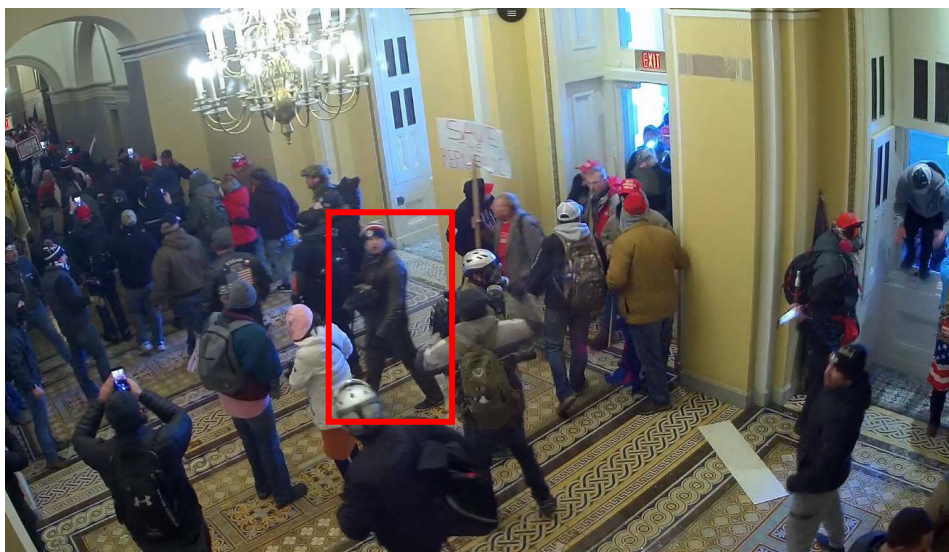


Figure 2

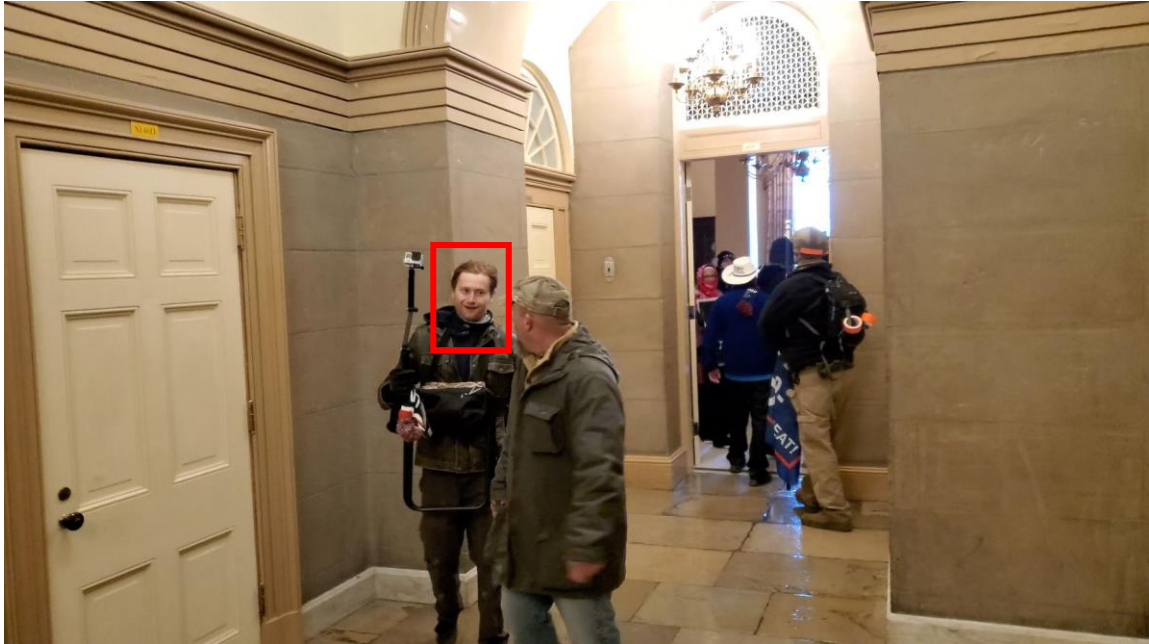


Figure 3

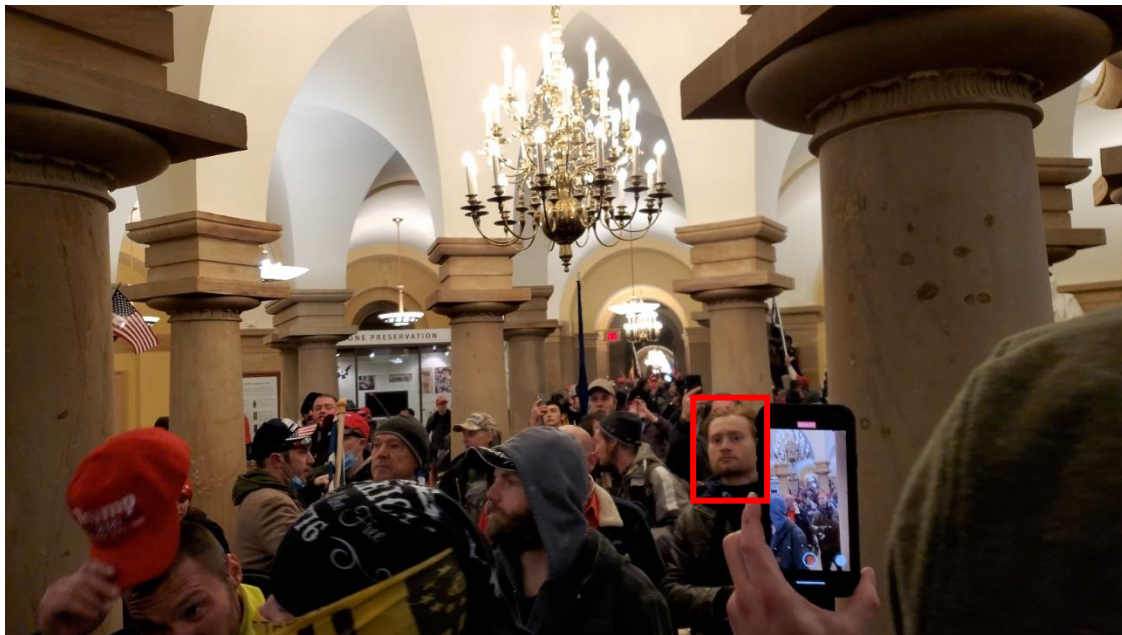


Figure 4



Figure 5



Figure 6

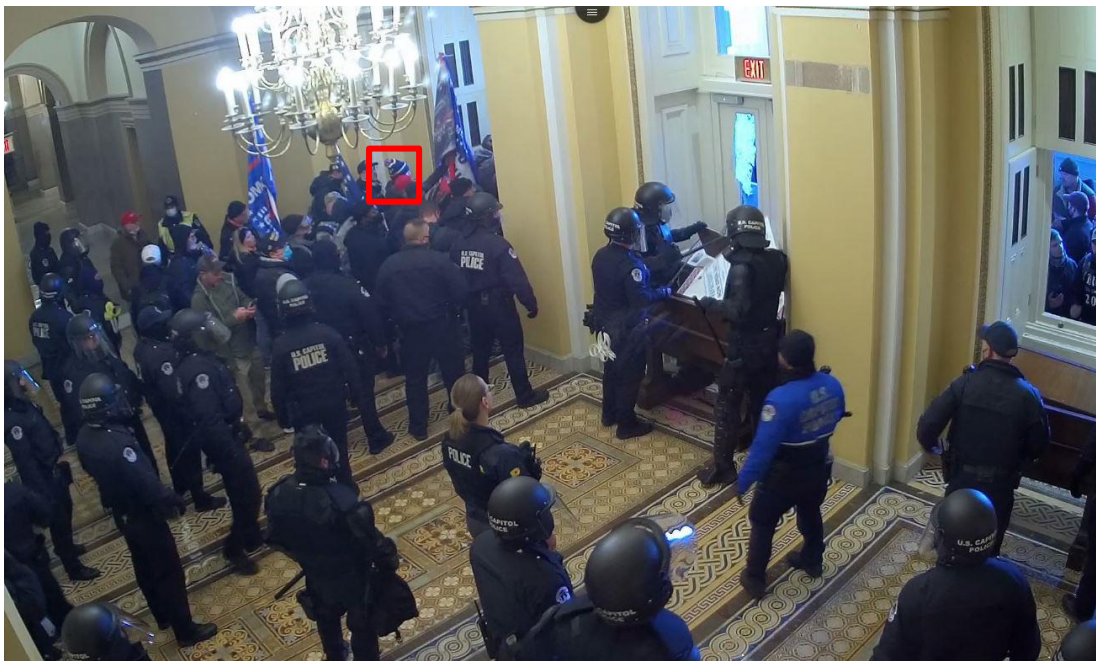


Figure 7

VON KEUDELL was once again observed later that afternoon in video footage outside the U.S. Capitol building where he was with Castle and DiFrancesco on restricted U.S. Capitol grounds after they left the building. See Figure 8 (approximately 3:15 p.m. EST to 3:49 p.m. EST), and Figure 9 (approximately 3:49 p.m. EST). In the video excerpted at Figure 9, VON KEUDELL was observed walking to the U.S. Capitol Senate Wing Door entrance with Castle and DiFrancesco for what appears to be a second attempt to enter the building; however, it appears from the video that they were turned away.



Figure 8



Figure 9

Further Identification of KEUDELL

Your affiant believes the individual depicted above with Castle and DiFrancesco is VON KEUDELL for at least the following reasons:

1. FBI agents met VON KEUDELL personally and confirmed based on that meeting that he is the same individual shown in the preceding images, both in still photos and photographs captured from video footage.
2. According to VON KEUDELL, he was the user of the telephone number (XXX) XXX-4798 (-4798). FBI agents made contact with VON KEUDELL via -4798, and he identified himself and offered that FBI agents could re-contact him via the same telephone number.
3. Law enforcement records indicate that VON KEUDELL is Castle's son, which both Castle and VON KEUDELL later confirmed in statements to the FBI (described more fully below). Moreover, based on my review of footage from January 6, 2021, it appears they were together for some or much of the afternoon on restricted U.S. Capitol grounds, and that they each carried similar folding chairs that appear to be unique among the rioters your affiant has observed.
4. Castle and DiFrancesco each admitted under oath, during a change of plea hearing on August 17, 2022, that they traveled to Washington, D.C. with Castle's son (who is also DiFrancesco's nephew) and that Castle's son entered the Capitol that day. According to the statements of fact supporting each of their plea agreements, Castle's son—who is not named in the court records, but who I understand is VON KEUDELL—also entered the U.S. Capitol building, although at times he was separated from Castle and DiFrancesco. Both Castle and DiFrancesco indicated that while they were separated, they tried to contact VON KEUDELL.

On June 1, 2022, the FBI executed a search warrant at Castle's residence, simultaneous to her arrest on the charges referenced above relating to her conduct on January 6, 2021. During the search, Castle reported that her son VON KEUDELL previously resided at her residence, and that some of his belongings, to include numerous firearms and ammunition, still remained in the apartment. FBI agents contacted VON KEUDELL in order to facilitate his firearms being transferred from Castle's residence to his current residence per Illinois state law.

During a post-plea interview on October 14, 2022, DiFrancesco stated that between January 5, 2021 and January 6, 2021, she picked VON KEUDELL and Castle up at their residence in Illinois and the three drove to Washington, D.C. in DiFrancesco's vehicle. DiFrancesco booked an Airbnb that they stayed at for a few hours the morning of January 6, 2021 before traveling to the rally held at the Ellipse later that morning. VON KEUDELL, Castle, and DiFrancesco walked together from the Ellipse towards the U.S. Capitol building. VON KEUDELL separated from Castle and DiFrancesco at some point between the Ellipse and the U.S. Capitol building, however, they all reconnected on the U.S. Capitol grounds later that day.

During a post-plea interview on October 14, 2022, Castle identified VON KEUDELL in an image from January 6, 2021 at the U.S. Capitol building which was obtained during a digital forensic extraction of Castle's iPhone 11. Castle had provided that she deleted all photographs from her cellular telephone that she took on January 6, 2021, therefore, she was surprised when interviewing agents showed her the image depicting VON KEUDELL that had been recovered from her phone (Figure 10).



Figure 10

In summary, VON KEUDELL was identified in open source video footage, law enforcement BWC footage, and U.S. Capitol security footage inside and around the U.S. Capitol on January 6, 2021. VON KEUDELL was observed wearing a blue and white striped beanie hat, a dark-colored hooded sweatshirt underneath a dark-colored jacket, dark-colored pants, sneakers, and dark-colored gloves. Due to previous interactions, FBI agents are able to identify VON KEUDELL in the video footage taken on January 6, 2021. Castle, VON KEUDELL's mother, also identified VON KEUDELL in an image at the U.S. Capitol on January 6, 2021 (Figure 10). Finally, Castle and DiFrancesco each admitted under oath that they traveled to Washington, DC with Castle's son (who is also DiFrancesco's nephew) and that Castle's son entered the Capitol that day.

Based on the foregoing, your affiant submits that there is probable cause to believe that Nicholas VON KEUDELL violated 18 U.S.C. § 1752(a)(1) and (2), 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; 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 Nicholas VON KEUDELL violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.



SPECIAL AGENT IAN ANKNEY
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
U.S. MAGISTRATE JUDGE