

Case: 1:23-mj-00143
Assigned To : Harvey, G. Michael
Assign. Date : 6/23/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, Carson Gossmeier, is a Special Agent with the Federal Bureau of Investigation (FBI) assigned to the Cleveland Division, Akron Resident Agency (ARA). In my duties as a Special Agent, I have investigated federal criminal violations related to bank robberies, white collar crime, child exploitation and child pornography, as well as other criminal matters. 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.

From January 7, 2021 through April 1, 2021, the FBI National Threat Operations Center and the FBI's digital media tip portal (<https://www.fbi.gov/USCapitol>) received tips from at least eleven individuals identifying TREVOR F. CAIN in photos and videos available in news publications and social media from inside the U.S. Capitol on January 6, 2021.

For example, on January 27, 2021, the FBI received a tip identifying CAIN in a photo published by a public Instagram account titled "homegrownterrorists," which allegedly depicted CAIN sitting on a bench inside the U.S. Capitol on January 6, 2021, included below as Image 1 with CAIN circled in red.



Image 1

In these and other photographs and videos from January 6, 2021, CAIN is depicted as a male with long brown hair and a goatee, and is wearing blue jeans and a beige jacket with bird markings and a shoulder patch with the number "76". In some photos, CAIN also appears to be wearing a black bandana with the word "TRUMP" across it. CAIN also appears to be holding a large 'Betsy Ross' style American flag with the number "76" in the center of the circle of stars. I recognize the number 76 in this context likely represents 1776, the year the Declaration of Independence was adopted by the U.S.

The FBI ran database checks for CAIN, including of Ohio Bureau of Motor Vehicles (BMV) records for his picture and identifiers, that revealed CAIN had a date of birth xx/xx/1984 and a home address in Aurora, Ohio. Based on FBI database checks, the number xxx-xxx-1836

(“number ending in -1836”) is associated with CAIN. According to records obtained through a search warrant which was served on AT&T, on January 6, 2021, in and around the time of the incident, the cellphone associated with the number ending in -1836 was identified as having utilized a cell site consistent with providing service to a geographic area that included the interior of the United States Capitol building.

On February 5, 2021, other Special Agents of the FBI interviewed CAIN in the presence of his attorney at the FBI ARA in Akron, Ohio. During the interview, CAIN said that he had traveled to Washington, D.C. on January 6, 2021, to attend the rally of President Trump to register his dissent with the 2020 Presidential Election. CAIN said that he traveled from Cleveland, Ohio overnight as part of a seven-bus caravan coordinated through a grass roots organization called Free Ohio Now. The buses dropped the passengers off in the vicinity of the Lincoln Memorial. CAIN said that, after the rally, he joined the procession of persons towards the United States Capitol. CAIN stated that as he made his way to the Capitol, he heard what he initially thought to be fireworks but later realized were flash bang grenades.

CAIN acknowledged that he had entered the U.S. Capitol on January 6, 2021. CAIN said that he entered the Capitol through open doors with a Capitol Police Officer standing off to the side. CAIN stated he did not see any barricades being breached or windows/doors being broke down. During his time in the Capitol, CAIN said that he did not observe any violence or property damage. According to CAIN, although he had no intention to hurt any elected official or overthrow the government, he regretted his decision to enter the Capitol and realized that his actions were wrong. CAIN was shown a series of photographs which show him to be present inside the U.S. Capitol on January 6, 2021; he acknowledged that he was the person in the photographs.

On May 3, 2022, another FBI agent and myself conducted a voluntary interview with CAIN, in the presence of his attorney, at the FBI ARA office. CAIN stated that he entered the Capitol through open doors with the intention to parade through and leave. CAIN stated that he thought “patriots” were being let into the Capitol, and described the participants as “pissed off patriots” because of the riots in summer of 2020, COVID lockdowns, and the stolen election. During this interview, CAIN stated that he did not observe any violence toward law enforcement or vandalism, but did observe people punching doors and windows—though not hard enough to break them. CAIN stated that he stayed in places which he believed anyone was allowed to tour.

During this follow up interview, CAIN was asked about CCTV footage from inside the U.S. Capitol Rotunda on January 6, 2021 which appeared to show CAIN interacting with a group of individuals in military apparel. As explained further below, CCTV footage depicts CAIN pointing towards the House and the Senate sides of the Rotunda during this interaction. In his interview, CAIN identified himself as the individual talking with the individuals in military apparel, but stated that he did not know any of them personally. When asked about why he pointed towards the House and Senate sides of the building, CAIN stated he was possibly asking or clarifying about which side the House and Senate were on. Shortly after this interaction, as explained further below, CAIN points towards the Senate as he exits the Rotunda into the Senate hallway. When CAIN was asked why he made the pointing motion after his conversation with the group of individuals in military apparel CAIN stated there was no intent to direct people to the Senate hallway, instead, he was pointing like a “locker room point” because he was overwhelmed

with patriotism. When CAIN was asked during his interview why he went down the Senate hallway, CAIN stated he supposed that since he was on a tour, he thought he could go down the hallway.

CAIN consented to a voluntary search of his phone. According to CAIN's statement to the FBI, the phone contained pictures and videos from CAIN's time inside the Capitol on January 6, 2021. According to CAIN, those pictures and videos were contained in a hidden folder on CAIN's cell phone. The FBI's review of CAIN's phone confirmed that it contained pictures and videos that appeared to be taken from inside the Capitol on January 6, 2021.

As a result of the above information, I have reviewed videos and photos taken at or near the U.S. Capitol on January 6, 2021 from various sources, including Capitol CCTV footage, publicly available websites, videos obtained from other January 6 defendants, and videos from CAIN's phone. Based on my review, I have located CAIN in pictures and videos showing him outside and inside the U.S. Capitol on January 6, 2021, as reflected in the description that follows. I know that it is CAIN in those pictures and videos because, as described above, I have previously interviewed CAIN for approximately two hours and had the opportunity to observe him during that interview. The picture and identifiers of CAIN in BMV records are also consistent with the individual depicted in these photos and videos. CAIN further admitted in both interviews that he went inside the Capitol and identified himself in pictures and videos taken inside the Capitol on January 6, 2021. Accordingly, the individual who appears in the videos and pictures that follow, the individual depicted in the BMV photograph, and the individual I interviewed all appear to be the same person, TREVOR F. CAIN.

According to a publicly available video on YouTube titled "6 January 6th A couple of warriors... Some horses and People," CAIN is depicted speaking with an unknown individual who is filming near the Lincoln Memorial in Washington, D.C. CAIN identifies himself to the filmer and is wearing the same beige jacket and holding the 76 Betsy Ross flag depicted in other images of Cain from the day. CAIN then gives a speech to others at the memorial, stating in part: "Obedience to God is resistance to tyrants . . . Who wants to take the promised land today? Remember that song, This land is my land this land is your land. Anywhere in that song I don't think I heard it say it's the government's land. . . ." A still image from that video is included below as Image 2.



Image 2

According to Capitol CCTV footage, CAIN entered the U.S. Capitol Building through the Senate Wing Door at approximately 2:20 p.m. A still image from that footage is included below as Image 3, with CAIN circled in red.

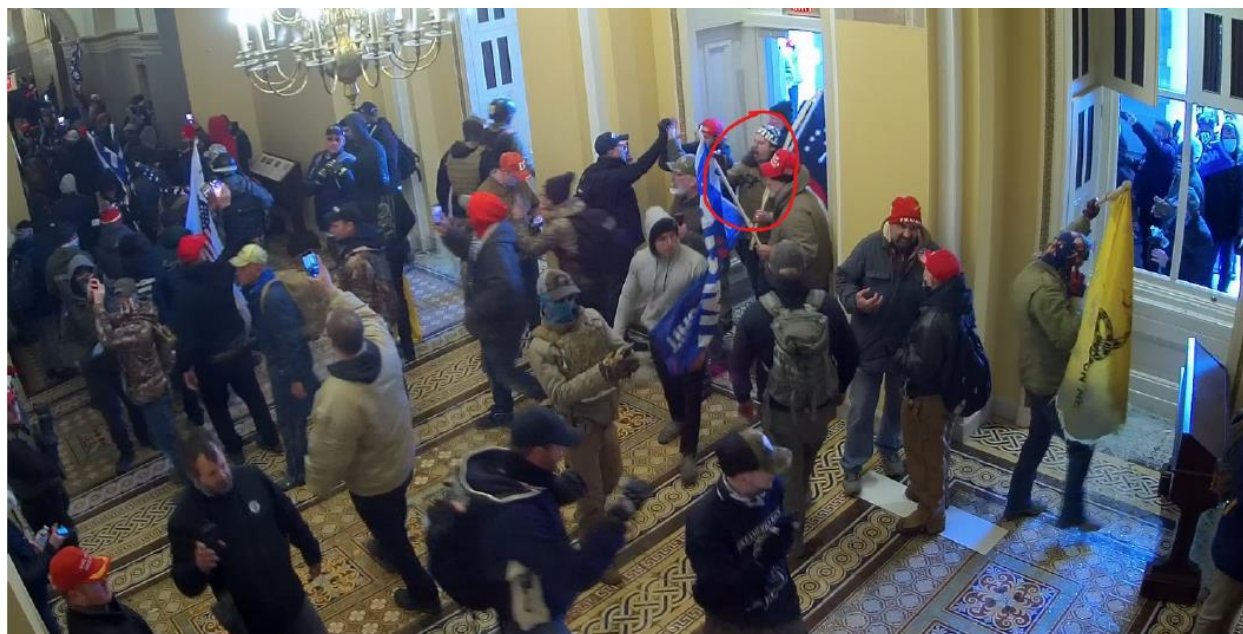


Image 3

According to a video the FBI obtained from CAIN's phone (IMG_6380.MOV, approximately 50 seconds in length), CAIN filmed a video from a first person point of view while narrating as he entered the Senate Wing Door. CAIN filmed the shattered glass in the Senate Wing

door and an alarm was audible. After he entered, a voice that I recognize to be CAIN's states, "we are inside the Capitol building dude. Patriots, unbelievable." A female passes CAIN headed in the opposite direction covering her mouth with an American flag saying, "They got SWAT coming in". A still image from that video showing the shattered glass is included below as Image 4.



Image 4

CAIN then proceeded to the Crypt. After other rioters in the Crypt overran a line of officers, the mob proceeded through the Memorial Door. CAIN can be seen on CCTV near the Memorial Door at approximately 2:31 p.m. A still image from this video is included below as Image 5, with CAIN circled in red.



Image 5

According to another video the FBI obtained from CAIN's phone (IMG_6391.MOV, approximately 4 minutes 11 seconds in length), at approximately 2:32 p.m., CAIN led the mob in chants and singing as they climbed the steps leading from the Crypt towards the Rotunda. Throughout the video, CAIN films from a first person point of view while narrating, occasionally flipping the phone to film himself. A voice that I recognize as CAIN's leads the crowd in a call-and-response of "Who do they work for? Us!" CAIN also sings a portion of the *Battle Hymn of the Republic*.

According to Capitol CCTV footage, CAIN arrived in the Rotunda at approximately 2:34 p.m. A still image from this footage is included below as Image 6, with CAIN circled in red. According to the video obtained from CAIN's phone (IMG_6391.MOV), CAIN continues to narrate while in the Rotunda, at one point saying, "Yeah, we had to break a door and a window to get back in here. Hey, but it's our house so it's ok anyways." Contrary to his earlier interview statements regarding property damage, I understand this statement to mean that CAIN was aware of property damage and believed that the rioters' efforts to breach the U.S. Capitol building were justified. CAIN then sits next to another male on a bench in the Rotunda, which I believe is consistent with the picture posted to Instagram on the "homegrownterrorists" account previously referenced in this Statement of Facts.



Image 6

According to another video the FBI obtained from CAIN's phone (IMG_6392.MOV, approximately 1 minute 30 seconds in length), at approximately 2:36 p.m., CAIN filmed himself narrating as he walked around the U.S. Capitol Rotunda amongst other protesters. CAIN states in part, "This is how history is made. Artisans, woodworkers, laborers, people of all stripes saying this is it. . . . This is what we fought for, 1776 . . . This is what 1776 was all about. . . This is our house . . . Welcome to history, ladies and gentlemen, January 6th, 2021, when we took our country back. When we said no more to the career politicians. No more to these commies. Not on my watch. Not on anybody's watch who's a patriot."

CAIN also paused parading around the Rotunda to celebrate with other rioters. According to another video the FBI obtained from CAIN's phone (IMG_6396.MOV, approximately 3 minute 36 seconds in length), at approximately 2:40 p.m., CAIN told another group of rioters, "Mark this day guys, January 6th, 2021, history was made, the people took the house back." CAIN also again sang a portion of the *Battle Hymn of the Republic* with other rioters. A still image from this video is included below as Image 7.



Image 7

At approximately 2:44 p.m., according to CCTV footage, CAIN walked up to a group of individuals in military gear within the Rotunda. According to a video the FBI obtained from another January 6 defendant, pursuant to a court-ordered search warrant, CAIN walked up to the group and said, “Hey! Guess who’s not trespassing.” CAIN continues, “that’s actually a fact, that’s not some stupid leftist shit lie.” According to a video the FBI obtained from another January 6 defendant, pursuant to a court-ordered search warrant, CAIN stated to one member of the group, “The Senate’s on this side, right? And the House is on that side?” and correctly pointed in each direction. A still image from the video showing CAIN pointing is included below as Image 8.

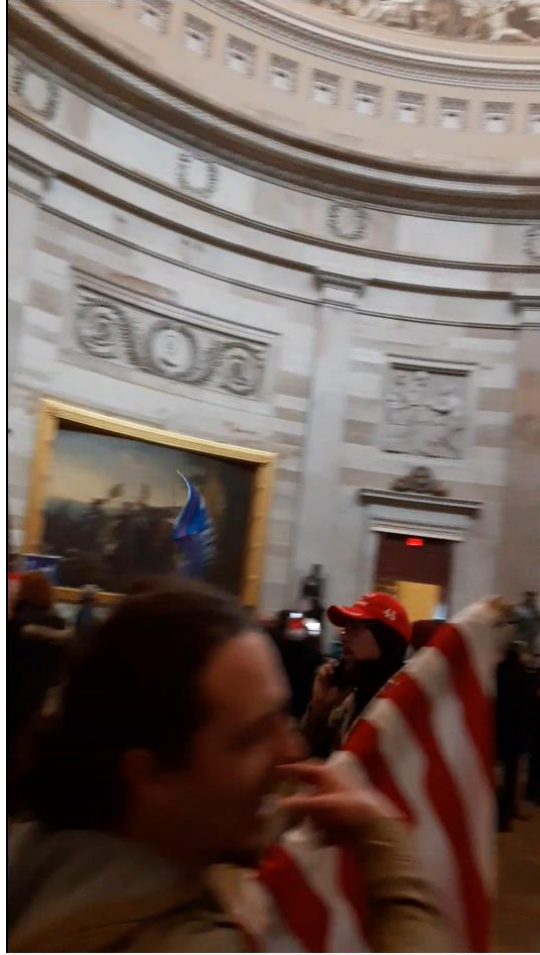


Image 8

Immediately after that conversation, at approximately 2:45 p.m., CAIN walked north towards the Senate. CAIN is seen in CCTV pointing in the direction of the Senate, as reflected in the still image included below as Image 9, with CAIN circled in red. Other rioters follow CAIN towards the Senate. I understand this course of conduct to show that, contrary to his earlier interview statements, CAIN purposefully walked towards the Senate and pointed with the intent to direct others towards it as well.

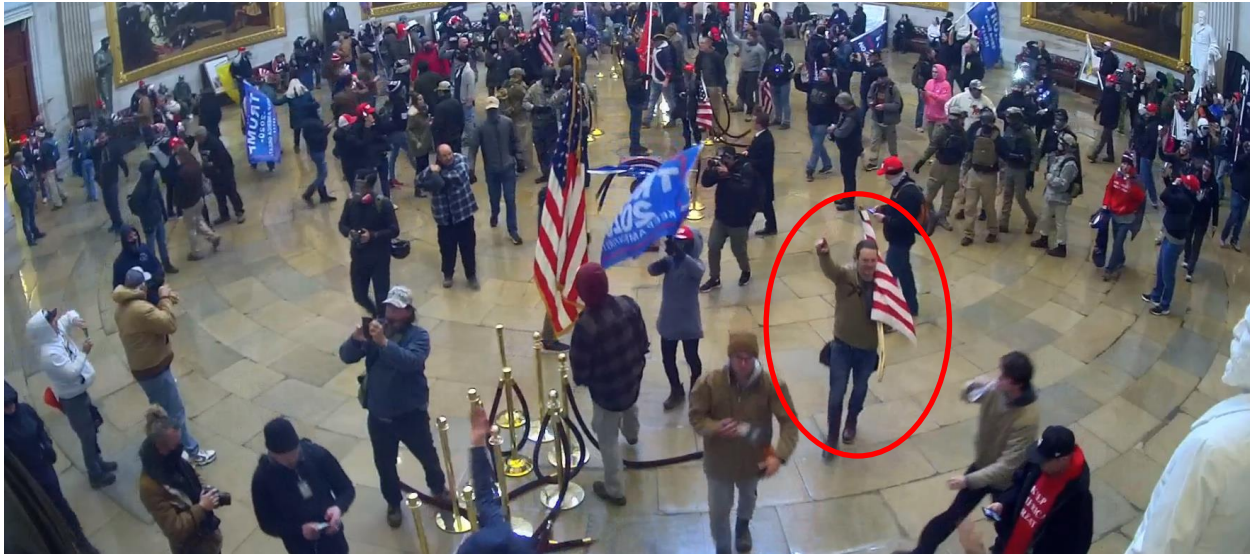


Image 9

I know that the hallway north of the Rotunda leads to an additional small rotunda, a hallway outside the Old Senate Chamber, and then the Senate Chamber itself. I also know that a line of police officers with the Metropolitan Police Department (MPD) was defending the Senate Chamber and engaged in violent conflicts with a large group of rioters around this time in the hallway outside the Old Senate Chamber. In a photograph publicized by *CNN*, among other outlets, included below as Image 10, CAIN appears among a group of rioters in the hallway outside the Old Senate Chamber.



Image 10

A video obtained from another January 6 defendant, pursuant to a court-authorized search warrant, also depicts CAIN in the crowd near the Old Senate Chamber. As CAIN moves through the crowd back towards the Rotunda, a voice I believe to be CAIN's says, "Back up, they're spraying." I understand this to be a reference to the law enforcement deployment of oleoresin capsicum (OC) spray, commonly referred to as pepper spray. Based on this statement, contrary to his earlier interview statements, I understand that CAIN was aware that law enforcement was

opposing his presence as part of the mob outside the Old Senate Chamber. A still image from this video is included below as Image 11, with CAIN circled in red.

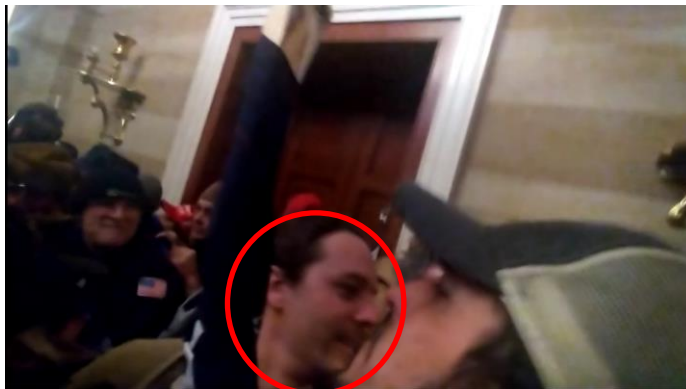


Image 11

At approximately 2:50 p.m., CAIN is seen again on CCTV, re-entering the Capitol Rotunda from the north while holding an electronic device that appears to be his phone. A still image from that footage is included below as Image 12, with CAIN circled in red.

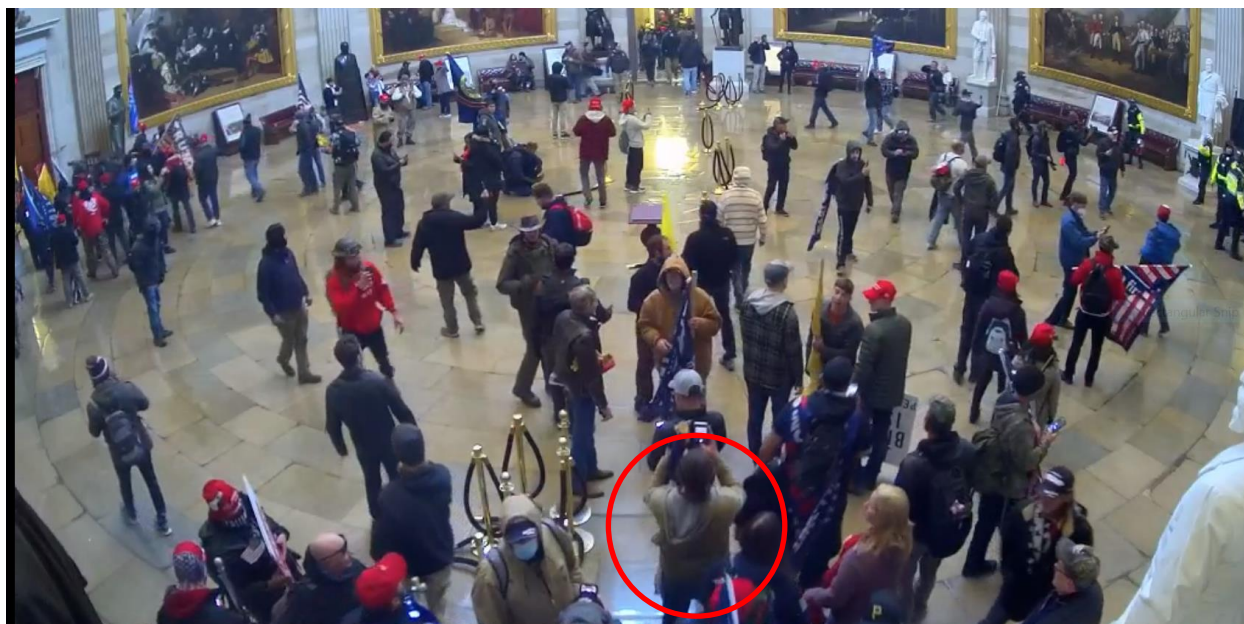


Image 12

At 2:51 p.m., CAIN left the Rotunda and entered the lobby near the Columbus Doors of the Capitol. A still image from that footage is included below as Image 13, with CAIN circled in red.



Image 13

According to Capitol CCTV footage, CAIN exited the Capitol through the Columbus Doors at approximately 2:51 p.m. A still image from that footage is included below as Image 14, with CAIN circled in red.

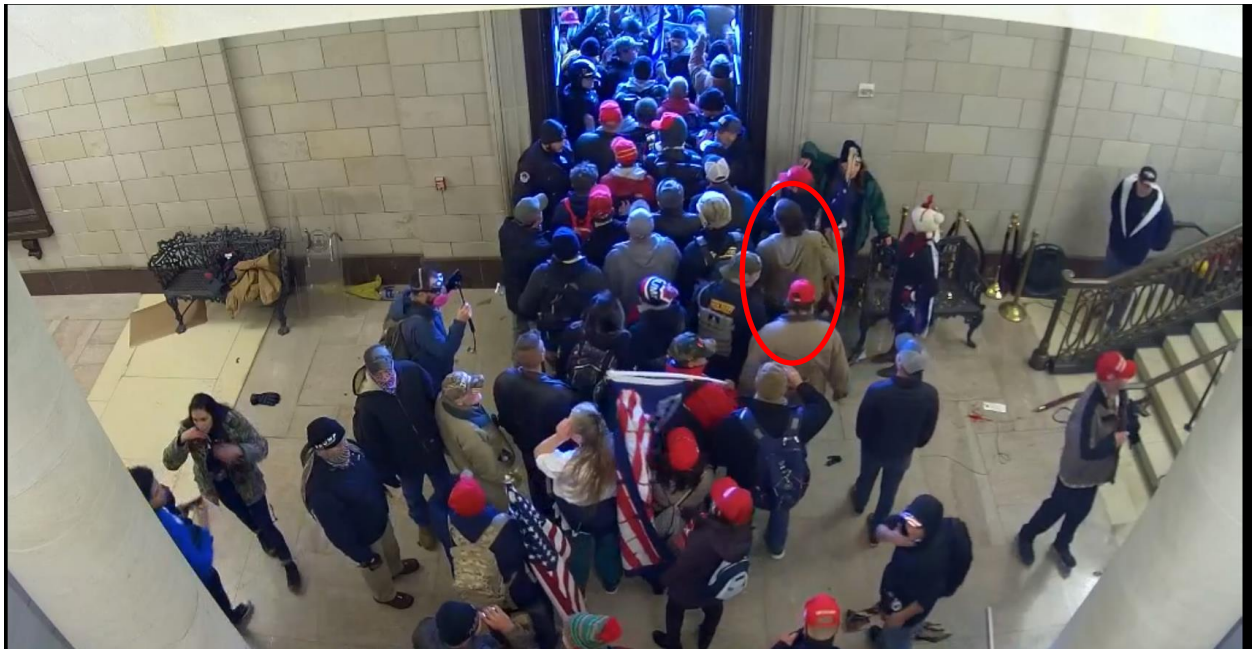


Image 14

According to a publicly available video on YouTube titled “interviewing January 6th Rioters on the Capitol steps” on the channel “Barely Informed with Elad,” CAIN is interviewed outside of the Capitol building. CAIN states, “History was in the air, man. History was in the air.”

And before you know it, we're storming like the . . . beaches of Normandy, the Capitol, take it back, because it's not some dumb phrase, this is our house."

The interviewer asked whether CAIN supported people storming inside and cops fighting with people, CAIN states, "Absolutely because nobody's vandalizing anything, we're respecting our lineage, our heritage by the paintings and the sculptures. This is what the founders had in mind. When shit gets out of control and commies are trying to take your country over, this is what you do. Peacefully. And yeah, there's a couple of windows broken to get in but sometimes you gotta get . . . break a window to get back into your own house."

The interviewer then asked whether CAIN thought the election would be overturned and President Joe Biden would not be inaugurated, CAIN responds, "Well I sure hope to God man, because if it...it isn't, this is proof that we are living in two different realities right now. The Facebook, Zoom fake reality of Joe Biden who lives in his basement. They can have their fake inauguration, but we're going to have a real one with real patriots who have real courage to show up in person. So I want to say to everybody out there, come on! Have courage! Be a patriot! What your forefathers died for. This is what it means – '76 [gesturing to flag]."

The interviewer then asked CAIN what would lead him to accept Joe Biden as President. CAIN responds, "It's a great question, man. But if there's anybody who's illegitimate, it's the commie agent Joe Biden. If there's anybody who you can say not my president, it's Joe Biden."

The interviewer then asked CAIN whether he thought former President Trump had good advisors given that election cases had been tossed out of court. CAIN responds, "There's definitely a crazy amount swirling. But there's one thing that why we're all here is that we trust Trump as a man of the people. And it's messy, and but that's what '76 was. It was messy, boys and girls. It was not cut and dry. It was not, 'oh what the fake news wants you to think something should be like'. So yeah, it's messy with Trump but he's for the people. And so I don't know how this is going to shake out, but I know this is history. Mark this day on your calendar, January 6, 2021."

A still image from this video is included below as Image 15.



Image 15

Based on my review of CAIN’s cellular phone, his phone also contains a “Note” dated February 14, 2021, titled “For one day.” The note reads as follows:

For one day the people of the united states of America had there voices heard and took over the capitol building of their nation. And this is a key distinction the government of the people by the people and for the people had every right to redress their government for greivences

Based on the foregoing, your affiant submits that there is probable cause to believe that TREVOR F. CAIN violated 18 U.S.C. § 1512(c)(2), which makes it a crime to corruptly obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.

Your affiant submits there is also probable cause to believe that CAIN 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 CAIN 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.



SA Carson Gossmeier
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 23rd day of June 2023.

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE