

Case: 1:23-mj-00147
Assigned To : Harvey, G. Michael
Assign. Date : 6/27/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) currently assigned as a Task Force Officer to the Federal Bureau of Investigation (FBI) Joint Terrorism Task Force, Columbus Resident Agency. In my duties as a special agent, I investigate international and domestic terrorism offenses. 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.

Identification of Dustin Martin

On or about January 7, 2021, a concerned citizen (C-1) provided a tip to the FBI that contained a photo of an individual who C-1 identified as DUSTIN MARTIN (MARTIN), a biracial male from Ohio around 29 years of age. C-1 provided an image of what appears to be a Facebook post that seems to depict MARTIN inside the U.S. Capitol (Figure 1). The individual in the photo that C-1 identified as MARTIN has his face partially obscured by a bandana. The individual is also wearing a cap and a black sweatshirt with the words “We call it the Chinese virus because it comes from China” displayed in large white and red letters.

A second individual, later identified as CODY LEE TIPPETT (TIPPETT), stands next to MARTIN in the photo, giving a thumbs up and wearing a cap and a black hoodie.



Figure 1

On or about January 17, 2021, a concerned citizen (C-2) provided a tip to the FBI that contained a Facebook post from MARTIN in which MARTIN writes, “So now I can say I’ve been hit with rubber bullets, bear mace, pepper spray, teargas, and wrestle with Capital Police fuck yeah ‘America Bitches’ I’ll do it all over again too!” (Figure 2) C-2’s tip further said that MARTIN is from Grove City, Ohio, and posted a video of himself inside the U.S. Capitol but deleted it.



Figure 2

On or about January 18, 2021, a concerned citizen (C-3) provided a tip to the FBI that one of C-3’s Facebook friends was inside the U.S. Capitol on January 6, 2021. C-3 provided a screen capture of the same Facebook post from MARTIN that C-2 provided the FBI (see again Figure 2). Later, during an interview with the FBI on March 25, 2022, C-3 advised that a couple of days after the riot, C-3 was no longer able to view MARTIN’s Facebook profile because MARTIN either deleted it or restricted it.

In April 2021, the FBI opened an investigation of MARTIN based on the multiple tips it received regarding him being inside the U.S. Capitol building on January 6, 2021. As part of its investigation, on or about July 15, 2021, the FBI interviewed MARTIN. During the interview, MARTIN admitted that he made the Facebook post claiming that he fought with the Capitol Police

but said that he only made the post to ingratiate himself with individuals who would admire him for such an action. MARTIN stated that he was caught in the middle between the rioters and Capitol Police and pushed back on the barricade to protect himself. MARTIN stated that the Capitol Police maced him and then he retreated, but that he did not assault any police officers and did not enter the U.S. Capitol. The FBI showed MARTIN the photo that C-1 provided the FBI in the tip that depicted MARTIN inside the U.S. Capitol, but MARTIN stated that he was not the individual depicted in the photo (see Figure 1 above).

In March 2022, the FBI conducted a facial recognition query of an image of MARTIN against archived open-source footage from January 6, 2021. The query identified several photos of MARTIN (circled in yellow or red) both outside and inside the U.S. Capitol building on January 6, 2021 (see figures 3-7 below). MARTIN's face is unobscured in several of the photos and MARTIN is dressed in the same attire as the individual in the photo C-1 provided in the tip. Additionally, one of the FBI interviewing agents from the July 15, 2021, interview of MARTIN confirmed that the individual in the photos returned by the query was the same individual who was interviewed by the FBI on July 15, 2021.

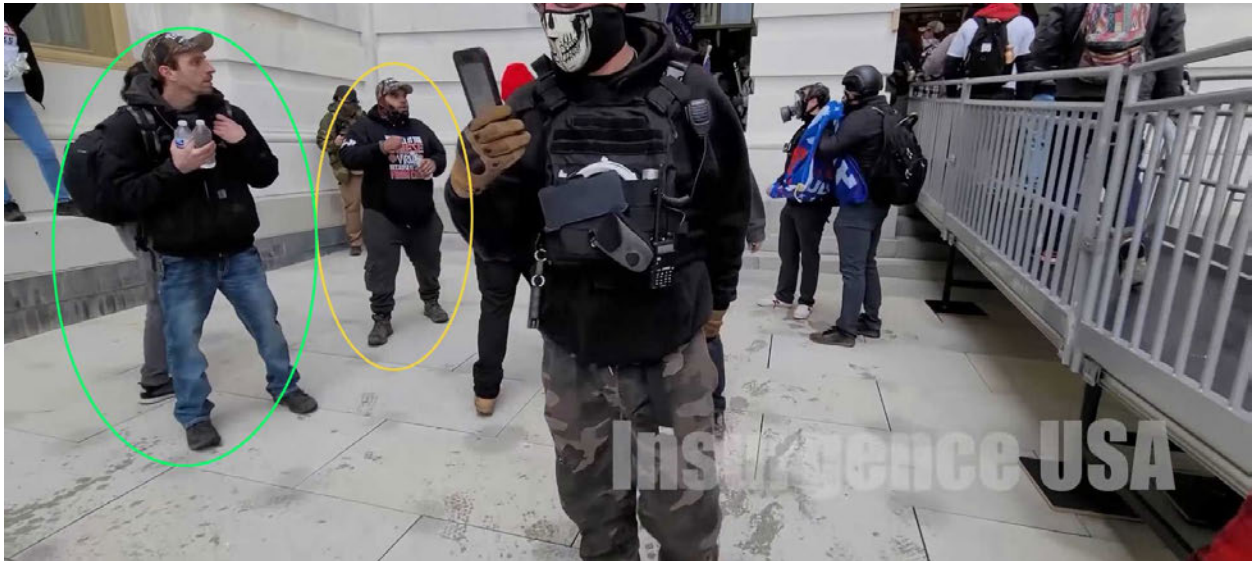


Figure 3



Figure 4



Figure 5

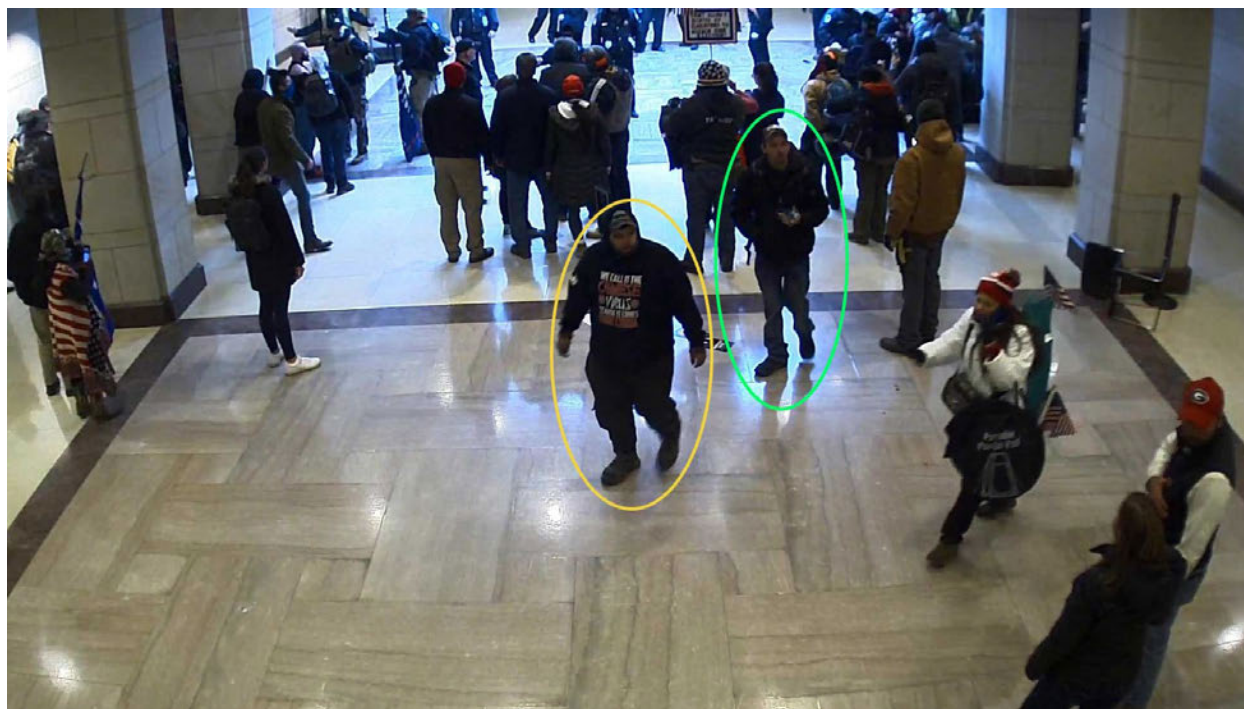


Figure 6

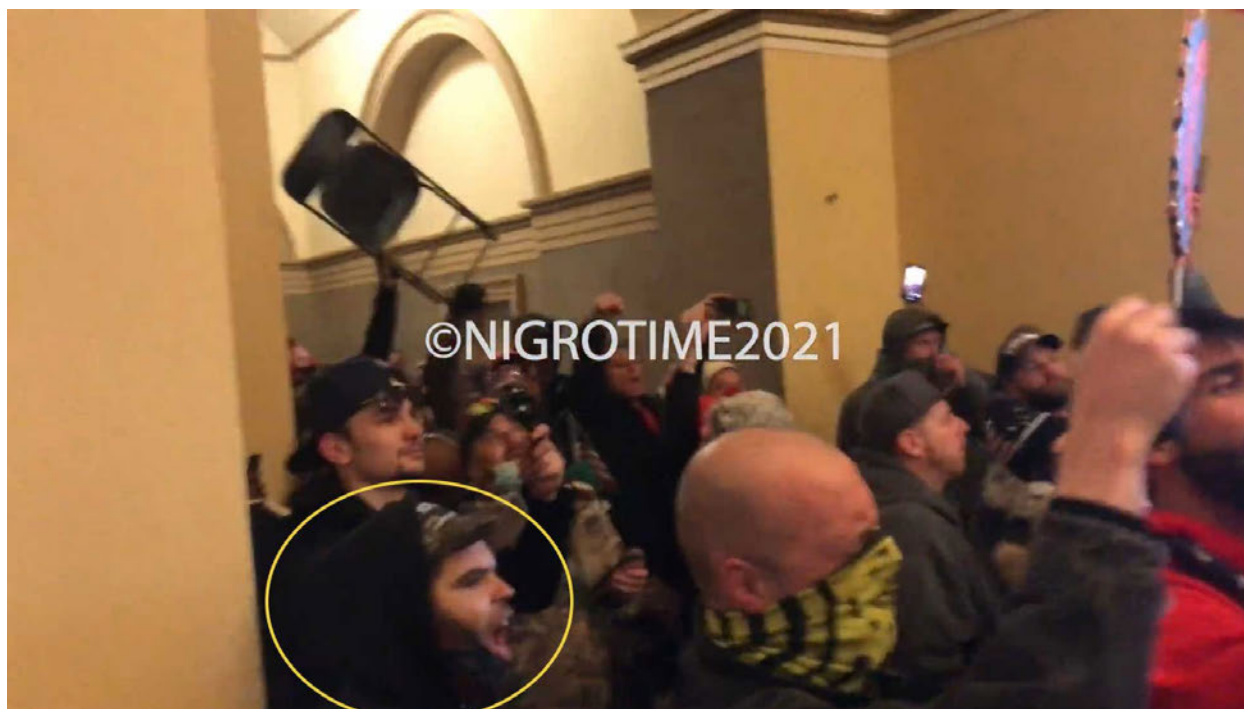


Figure 7

Identification of Cody Lee Tippett

A search for MARTIN on law enforcement databases was conducted, returning a possible address of [REDACTED] Grove City, OH. Queries were conducted to identify other

possible residents of the same address. This search returned TIPPETT's name. Searching for TIPPETT in law enforcement databases provided a driver's license photo which FBI personnel believed matched the photos of an individual who appeared to accompany MARTIN on January 6, 2021, seen standing next to MARTIN in the Capitol Building in the photograph MARTIN posted to Facebook, wearing a black hoodie and giving two thumbs up (see Figure 1). The same individual (circled in green) is seen with MARTIN both outside and inside the Capitol Building in the open source footage identified via facial recognition query (see Figures 3 and 6).

A search of TIPPETT's criminal history revealed that he was convicted in the Southern Judicial District of Ohio. TFO James Bajus contacted TIPPETT's former U.S. Probation Officer, Officer Brown. Officer Brown was provided with pictures suspected of being TIPPETT (circled in green) inside and outside the Capitol on January 6, 2021 (See Figures 3 and 6 above, and Figures 8 and 9 below). Officer Brown identified the suspected individual in these photos as TIPPETT.

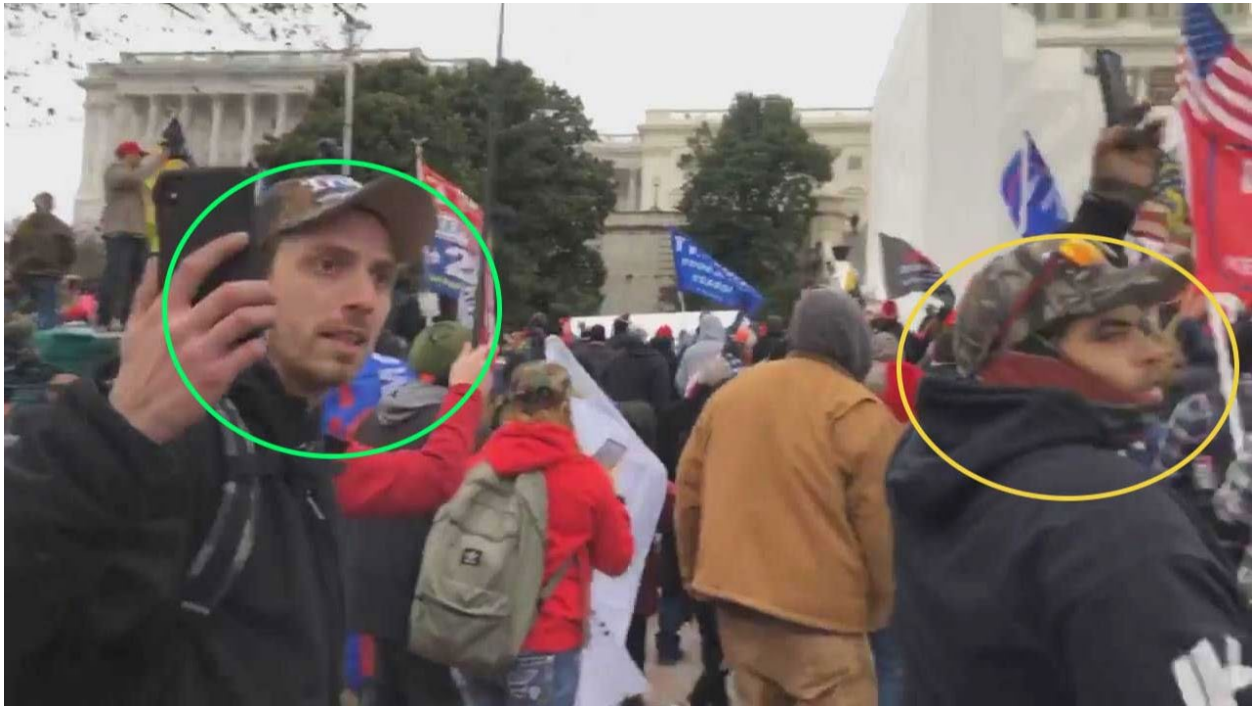


Figure 8

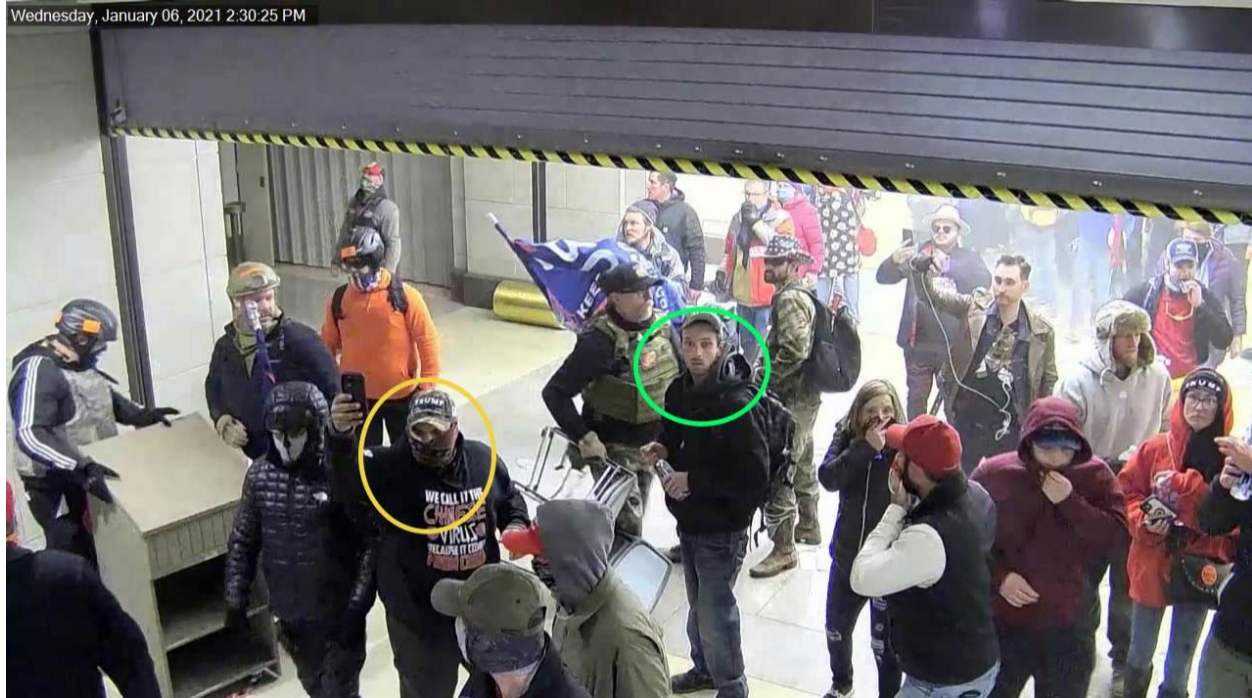


Figure 9

Statements of Dustin Martin Prior to January 6, 2021

Records obtained from a subpoena to Meta Platforms Inc. (Facebook) indicate that MARTIN is the subscriber of Facebook UID 100000670809521, Vanity Name: [REDACTED], associated with e-mail address [REDACTED]@gmail.com. On or about September 30, 2022, the FBI received search warrant returns from Meta Platforms, Inc. (Facebook) regarding MARTIN's Facebook account. The returns contained Facebook messages MARTIN sent or received between November 3, 2020 and January 9, 2021 (when MARTIN deactivated the account). The returns also contained Facebook posts, shares, status updates, comments, and photo and video attachments associated with the account from the same time period.

In several message exchanges between MARTIN and Facebook associates on or around January 6, 2021, MARTIN stated that he was traveling – with “Cody” – to Washington D.C. to support President Trump and for the certification of the electoral college vote. On or about January 1, 2021, MARTIN sent a message to Facebook friend S.C. which partially stated, “I’m really hoping Pence actually standby I keep hearing he won’t.” On or about January 2, 2021, MARTIN sent S.C. an image of the schedule and cost of airline flights to the Washington D.C. area, and wrote, “Bro me and Cody are going to DC for the Trump rally and electoral college votes but look if you wanna fly down, we’re driving.” On or about January 6, 2021, MARTIN sent a Facebook message to Facebook friend K.C. stating, “Me and Cody are in D.C. what up what up.” When K.C. asked MARTIN why, MARTIN responded, “The electoral votes and trump lol.”

Martin's and Tippett's Conduct on January 6, 2021

This affiant has reviewed Closed Circuit Television Footage (CCTV) retrieved from the U.S. Capitol Police, Body Worn Camera footage (BWC) retrieved from D.C. Metropolitan Police Officers, and open-source video depicting the events that took place at the United States Capitol on January 6, 2021. This affiant has identified MARTIN and TIPPETT in a number of such videos.

Specifically, MARTIN and TIPPETT can be seen in open source footage at the rally in support of President Trump at the ellipse. Both visibly react to Trump saying, “we are going to walk down to the Capitol.” MARTIN and TIPPETT are later seen approaching the Capitol from the West side, arriving at the Lower West Terrace, where a line of police officers was attempting to keep the incoming crowd away from the Capitol Building using bike rack barricades.

At approximately 1:50 PM, a group of rioters on the Lower West Terrace pushed a line of police officers up a set of stairs that leads to the Upper West Terrace of the Capitol Building. Other rioters, including MARTIN and TIPPETT, followed that initial group up onto the stairs. However, another police line prevents the crowd from advancing further up the stairs. At approximately 2:10 PM, the rioters again push past the police lines on the steps and gain access to the Capitol Building for the first time that day. MARTIN and TIPPETT are seen in an open source video outside of the Senate Wing Door at approximately 2:15 PM (see Figure 3 above). In this video, a man appears to come from inside the Capitol building and says, “they started shooting at us.” He later adds, “rubber bullets. It fucking hurts.” About four minutes later, MARTIN and TIPPETT enter the U.S. Capitol Building through the Senate Wing Door.

CCTV and open source footage show MARTIN and TIPPETT moving throughout the Capitol Building. MARTIN and TIPPETT enter the Crypt, where a large crowd of rioters chant and push against a line of police officers. As the crowd pushes the officers back, MARTIN and TIPPETT advance further into the Crypt, and then enter an area referred to as the Upper Level Entrance to the Capitol Visitor's Center (CVC).

Video footage shows MARTIN and TIPPETT with several other rioters in the vicinity of two large security doors in the CVC Upper Level Entrance at approximately 2:30 PM. Moments before MARTIN and TIPPETT appear on video, U.S. Capitol Police Officers are seen attempting to lower two large security doors, and retreating into the CVC as rioters throw objects at them. MARTIN and TIPPETT enter the area as the rioters prop open the security doors and place furniture underneath the doors to prevent them from lowering again (see Figure 9 above). MARTIN and TIPPETT continue down a flight of stairs and into the CVC.

MARTIN and TIPPETT remain in the CVC for about 15 minutes, after which they reenter the Crypt. Open source video shows MARTIN chanting with other rioters in the hallway between the Crypt and Senate Wing Door at approximately 2:50 PM (see Figure 7 above). TIPPETT exits the Capitol Building through a window near the Senate Wing Door at approximately 2:53 PM, and MARTIN follows through the same window at approximately 2:57 PM.

MARTIN and TIPPETT remained on the Upper West Terrace for nearly an hour. Open source footage shows MARTIN and TIPPETT with a group of rioters gathered at the base of a

short flight of stairs, in front of a line of police officers standing at the top of those stairs and dressed in riot gear (figure 10, TIPPETT circled in green). The FBI reviewed BWC footage from a law enforcement officer in this police line at approximately 3:41 PM. The front row of rioters use what appears to be a white tarp, presumably to obscure the vision of the law enforcement officers and to protect the rioters from law enforcement's pepper spray, and initiates a push up the stairs against the law enforcement officers. A fight ensues and the law enforcement officers deploy pepper spray to subdue the attackers. MARTIN is hit directly in the face (figure 11) and retreats into the crowd. CCTV shows MARTIN and TIPPETT retreating from the Upper West Terrace at approximately 3:45 PM.



Figure 10



Figure 11

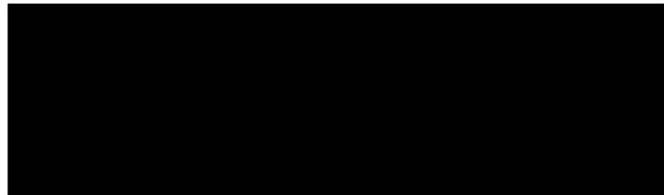
Additional Statements of Dustin Martin Regarding His and Tippett's Conduct on January 6

On January 6, 2021, MARTIN messaged Facebook friend S.C. to say, "We stormed the capital broke the lines," and "We made it." MARTIN also sent S.C. the photo that he posted to his Facebook profile where MARTIN claimed he had been hit with mace and wrestled with the Capitol Police (see Figure 2 above). S.C. asked MARTIN if he was alright and informed him that a paramedic friend was in the area who could help MARTIN. MARTIN told S.C., "It was worth getting sprayed it hurt like a bitch I thought I was going to be blind..."

Based on the foregoing, your affiant submits that there is probable cause to believe that TIPPETT 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 TIPPETT 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; (G) parade, demonstrate, or picket in any of the Capitol Buildings.

On June 20, 2023, The Honorable G. Michael Harvey signed a complaint charging MARTIN with violations of 18 U.S.C. §§ 1512(c)(2), 1752(a)(1) and (2), and 40 U.S.C. §§ 5104(e)(2)(D) and (G). MARTIN was arrested on June 21, 2023 in Grove City, Ohio.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 28th day of June 2023.

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE