

## STATEMENT OF FACTS

Your affiant, Sean O'Rourke, is a Special Agent with the Federal Bureau of Investigation currently assigned to the Baltimore Field Office. As a Special Agent, I have been assigned to work on national security matters since September 2018. I have executed search warrants, seized and searched electronic devices, and exploited electronic devices to obtain evidence. Based on my training and experience, I am familiar with the manner in which federal crimes are committed and the efforts of persons involved in such activity to avoid detection by law enforcement. Currently, I am tasked with investigating criminal activity in and around the U.S. 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.

### I. The Events of 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

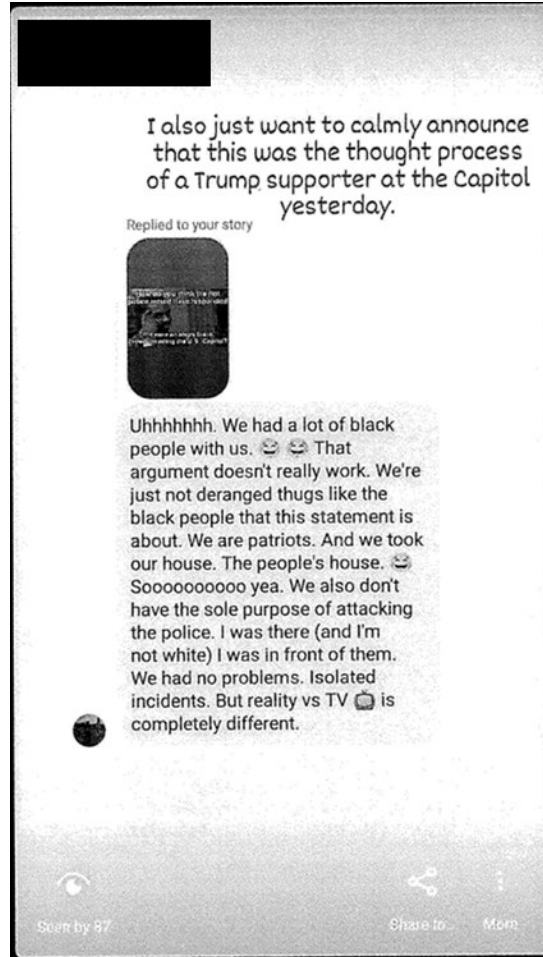
President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

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.

## **II. Actions of Stephen Ondulich**

Shortly after January 6, 2021, the FBI received a tip to its National Threat Operations Center that Stephen Ondulich admitted to being at the U.S. Capitol that day. The tipster (W-1) said that Ondulich made the admission in response to one of W-1's Instagram posts. In the reply, Ondulich—using the vanity name “ondulich787”—alluded to his participation in the breach of the Capitol, writing:

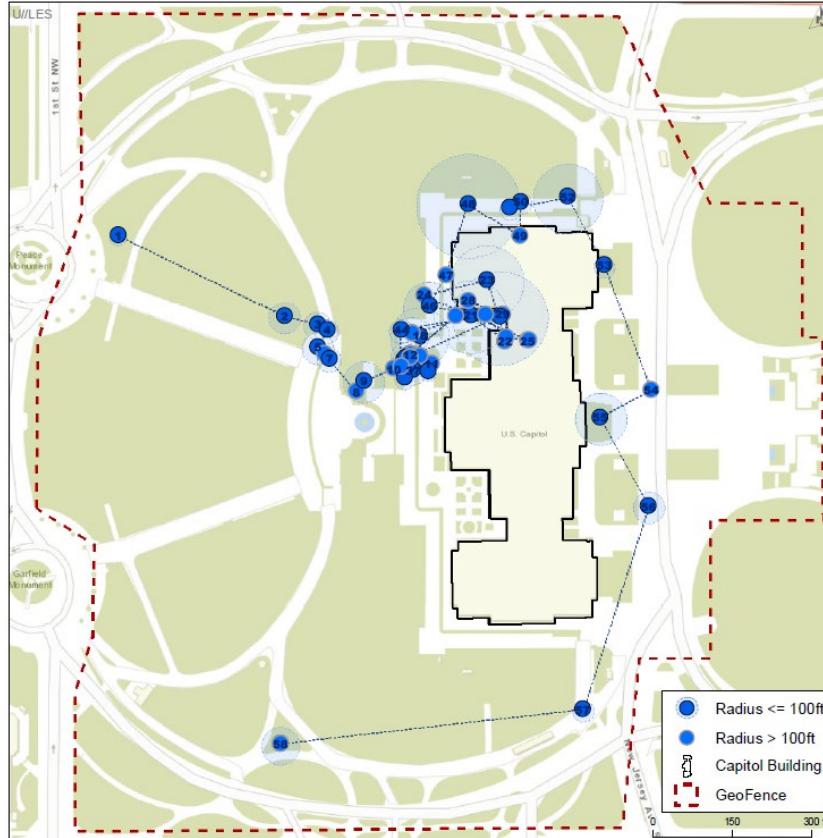
“We had a lot of black people with us . . . . That argument doesn't really work. We're just not deranged thugs like the black people that this statement is about. We are patriots. And we took our house. The people's house . . . . Soooooooooo yea. We also don't have the sole purpose of attacking the police. I was there (and I'm not white) I was in front of them.”



*Image 1: Screen shot provided by W-1 on March 1, 2021*

On March 1, 2021, after a follow-up telephone interview with law enforcement agents, W-1 shared the screen shot above, the contents of which are an exchange that, according to W-1, began on or around January 7, 2021. W-1 did not receive any compensation or benefit from the FBI in exchange for their information. According to records subsequently provided by Instagram, the account with vanity name “ondulich787” (account #276604585) was associated with a particular email address beginning with the letters “so” (the “SO Email”) and a particular phone number with area code 240 ending in -9862 (the “-9862 Number”). The Instagram account was registered under the name “Stephen Ondulich” in December 2012.

According to records provided by Google, the Gmail account associated with the SO Email (the “Google Account”) was created under the name of “Stephen Ondulich” in August of 2009. The -9862 phone number was associated with the Gmail account. Moreover, Google location data showed that a device associated with the Google Account was present at the Capitol on January 6, 2021. Specifically, the device was on or near the northern portion of the Capitol Building, including the West Terrace, from approximately 2:45 p.m. until 4:21 p.m. Google records show that the “maps display radius” for this location data encompasses an area that is within or immediately adjacent to the U.S. Capitol Building, and entirely within the restricted perimeter surrounding the U.S. Capitol on January 6, 2021.



*Image 2: Location of device associated with the SO Email on January 6, 2021*

Using a previously-obtained photograph of Ondulich from the Maryland Department of Motor Vehicle Administration (“MVA”), law enforcement agents assigned to this investigation reviewed surveillance and third-party footage from the Capitol on January 6, 2021 to find Ondulich. Agents found a person believed to be Ondulich entering the United States Capitol using a door located in the Senate Wing, from the Northwest Terrace, at approximately 3:32 p.m. EST, which corresponds with the location of the device associated with the Google account at that time. Agents also observed Ondulich holding a cellular phone as though he was filming or taking a picture, then exiting through the same door at 3:35 p.m. Ondulich appeared to be wearing a dark blue baseball cap with the word “TRUMP” across the front and a black hooded sweatshirt. Ondulich was also carrying an American flag affixed to a rod, which he carried with him as he entered the building.



*Image 3*  
*Ondulich's MVA photograph*



*Image 4*  
*Ondulich on the Northwest Terrace*



*Image 5*  
*Ondulich inside of the Senate Wing Door*

In August 2022, law enforcement agents assigned to this investigation interviewed W-1 a second time in person. During the interview, agents showed W-1 Image 4 above. W-1 positively identified the person as Stephen Ondulich. W-1 knew Ondulich for several years prior to January 6, 2021. W-1 was also asked if they still maintained the screenshots from their Instagram account as Ondulich's profile picture was not captured in the screenshot, nor was a timestamp verifying the date and time of the posting that had been previously provided by them. At that time of the interview, W-1 no longer retained the screenshots from their account.

A review of third-party video footage further revealed Ondulich's movement to and in the Capitol that day. For instance, a video posted to the social network Parler and stored on the Internet Archive's "Wayback Machine" showed Ondulich and an associate (a man in an orange hoodie with a "Reese's" candy logo on it) at the Stop the Steal rally that occurred before the Capitol's breach.



*Image 6: Ondulich at the "Stop the Steal" Rally*



Later, footage showed Ondulich outside the Senate Wing Corridor, as police officers stood guard. Another video showed Ondulich and his associate walking past a line of officers in the same area:

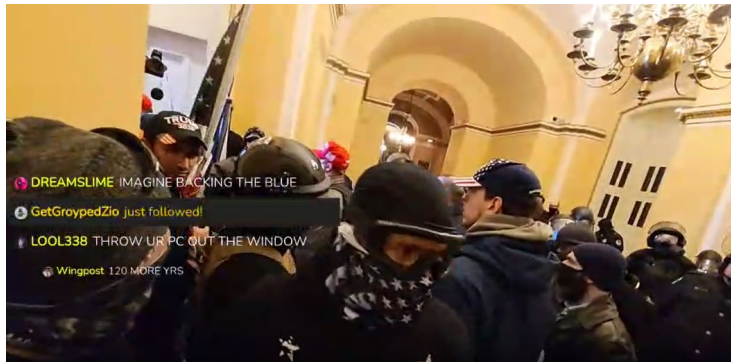


*Image 7: Ondulich outside the Senate Wing Corridor*



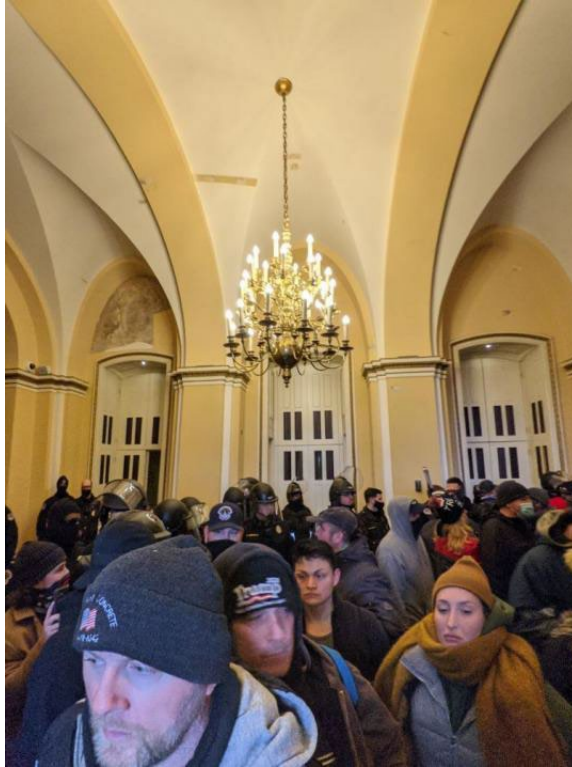
*Image 8: Ondulich and associate outside the Senate Wing Corridor*

A third-party video also showed Ondulich entering the Senate Wing Corridor as alarms were clearly blaring:



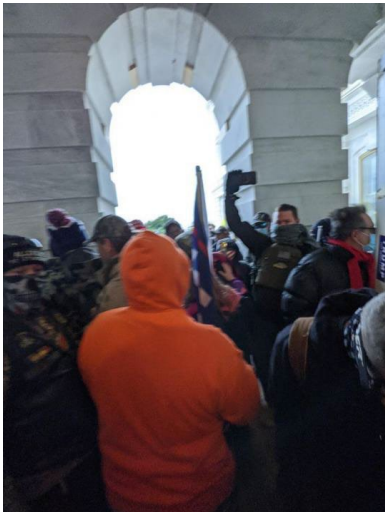
*Image 9: Third-party footage of Ondulich in Senate Wing Corridor*

The government also obtained a search warrant for the contents of Ondulich's Instagram account. In it, Ondulich had several photos that he appeared to have taken from his time in the Capitol. For instance, in response to someone asking him on January 6, 2021, "We're [sic] you here?" Ondulich sent the following photo of the Senate Wing Corridor, suggesting that he was there:



*Image 10: Photo shared by Ondulich on January 6, 2021*

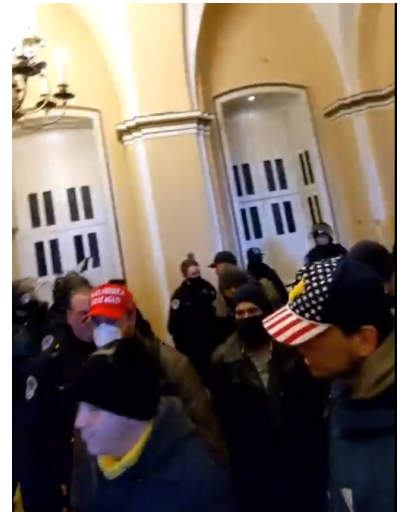
On January 7, 2021, Ondulich sent a message to another user “I was there. It was Glorious!” and “I was IN there!” and sent several pictures, including the following, as well as a video of his apparent travel through the Senate Wing Corridor.



*Image 11: Photo of Ondulich associate leaving the Senate Wing Corridor*



*Image 12: Photo shared by Ondulich*



*Image 13: Still image of video of travel through Senate Wing Corridor*

These images correspond to Ondulich’s location as observed on Capitol surveillance footage. In another conversation on Instagram on January 7, 2021, Ondulich wrote:

“Lmao we took the capital BACK from the communist scum that is the Democrats. We are not even remotely close to what BLM and Antifa do. I’ve seen both. In person. I’ve gone to war with BLM. I know who they are. They’re anarchists. We are not. And our cause is not destruction like BLM/Antifa. Ours is freedom. And we took that capital. And we accomplished (a part of) our goal. 😊 And it was Glorious. There was no violence. And no aggression at all. And yes. We did go into the democrats offices. It is after all the PEOPLES HOUSE. and they are enemies of the people. And deserve to die a traitors death. Their blatant and emboldened treason is beyond”

Later he wrote:

“That’s right. Because we’re not anarchists. 😊 Or terrorists. We’re patriots. We aren’t the same threat to the police as Antifa and BLM are. 😊 I was AT the front line. I was in front of the police . . . We didn’t attack them. We pushed our way through them. Once we got through. We left them alone. Our job wasn’t to attack the police. It was to take control of OUR Capitol. 😊”

The person he was writing to replied: “bruh that’s literally domestic terrorism . . . do you do not see that.” Ondulich wrote back: “No. It’s not. Hate to break it to you. 😊” Also on January 7, 2021, Ondulich wrote:

“Btw. We. Unlike BLM and Antifa. Don’t burn down city blocks and buildings. We don’t destroy everything in our path. And tear down statues. We are not apart of cancel culture. Our accomplishments today were not even remotely close to that. We stormed the Capitol with minimal damage. And yes we DID Ransack and rearrange the offices of our enemies. And I promise this is just the beginning.”

Based on the forgoing, your affiant submits that there is probable cause to believe that Ondulich 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 the lawful authority to do so and with the 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 persons 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 Pelham 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.



[REDACTED]  
[REDACTED]  
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1  
by telephone, this 17th day of July, 2023.

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ROBIN M. MERIWEATHER  
UNITED STATES MAGISTRATE JUDGE