

Case: 1:23-mj-00189

Assigned To : Upadhyaya, Moxila A.

Assign. Date : 7/31/2023

STATEMENT OF FACTS Description: Complaint W/ Arrest Warrant

Your affiant, Rodrigo Fuzon, is a special agent (SA) assigned to the Joint Terrorism Task Force. In my duties as a special agent, I investigate counter terrorism and national security investigations. 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 are 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, DC. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in 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. EST. Shortly thereafter, by approximately 1:30 p.m. EST, 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, shortly after 2:00 p.m. EST, 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. EST 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. EST 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 that 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.

Later in the day, on January 6, 2021, Daniel Donnelly Jr., aka Rally Runner,¹ (“Donnelly”) posted on his Facebook page an approximate 26-minute video in which he admitted to being at the U.S. Capitol on January 6, 2021.² The Facebook page was verified via Facebook records to be registered to Rally Runner along with a known telephone number of Donnelly. Donnelly, wearing a red “Keep America Great” hat, a red jacket and what appeared to have painted his face red, in which he is known as a St. Louis Cardinals fan, “Rally Runner”, he stated: “I get a riot shield, and I’m not trying to cause any violence, but I’m trying to be the furthest person to get through all the way, or at least get the furthest.”



Image 1

Donnelly added, “I took up a lot of space, and I had the rioter shield, and I was right up there, and for some reason, like, the other people up there on the front lines with me, they did something similar.... It’s like they followed my lead, kind of, and it turned out to be a great strategy because the whole crowd was doing that, was able to push further than we had gotten the whole time, the entire time.” Donnelly further discussed, “We pushed them all the way into the doors. It was working until more cops showed up. I’m right at the front of it and got through those doors into the Capitol, and that’s when reinforcements came.”

Donnelly noted that law enforcement officers were “shooting rubber bullets, tear gas, and mace” adding that “the burning of the mace was horrible, I mean my skin is already sensitive so I think it affected me more than others, but I withstood it pretty well and I was like even when I was inside and I was breathing it in I was like alright I can handle this, this isn’t that bad, I’m not going to let this detour me.” He further discussed, “I got further than anyone, I literally got further than anyone. I helped us get that far.”

¹ It appears from a recent review of Daniel Donnelly Jr.’s DMV records he changed his legal name to Rally Runner.

² <https://www.facebook.com/officialrallyrunner/videos/2935487196738307>, video is no longer available but was captured by law enforcement, referenced by Image 1.

Law enforcement officers confirmed, via open-source, body camera, and closed-captioned surveillance video, Donnelly's presence at the U.S. Capitol on January 6, 2021. Donnelly was identified wearing red face paint, sunglasses, a red "Make America Great" hat, a red jacket, red pants or red shorts and red high socks at the Lower West Terrace doorway (also known as the "tunnel") of the U.S. Capitol building.

The tunnel is a stairway that had been converted into a narrow entryway due to construction of the temporary inaugural platform on the Lower West Terrace of the Capitol building (Image 2). At the end of the Lower West Terrace tunnel were two sets of glass double doors, emblazoned with the sign "Members Entrance Only," which opened directly into the heart of the U.S. Capitol building. On January 6, 2021, rioters pushed their way into the tunnel towards the glass doors. The tunnel became the point of intense and prolonged violent clashes between law enforcement officers and rioters.



Image 2

Photos and videos from CCTV of the Capitol show Donnelly making his way up through the crowd to the tunnel. On his way he is seen helping the crowd pass a ladder to the tunnel (Image 3). Donnelly refers to the ladder in his Facebook video when he is talking about the police having weapons and then begins stating what the crowd had.



Image 3

In the photos and videos, Donnelly obtained a riot shield, around 4:10 p.m. EST from other rioters in the crowd and continued to make his way through the crowd towards the tunnel.



Image 4



Image 5

Donnelly eventually moved to the front of the line with the other rioters at the tunnel entrance.

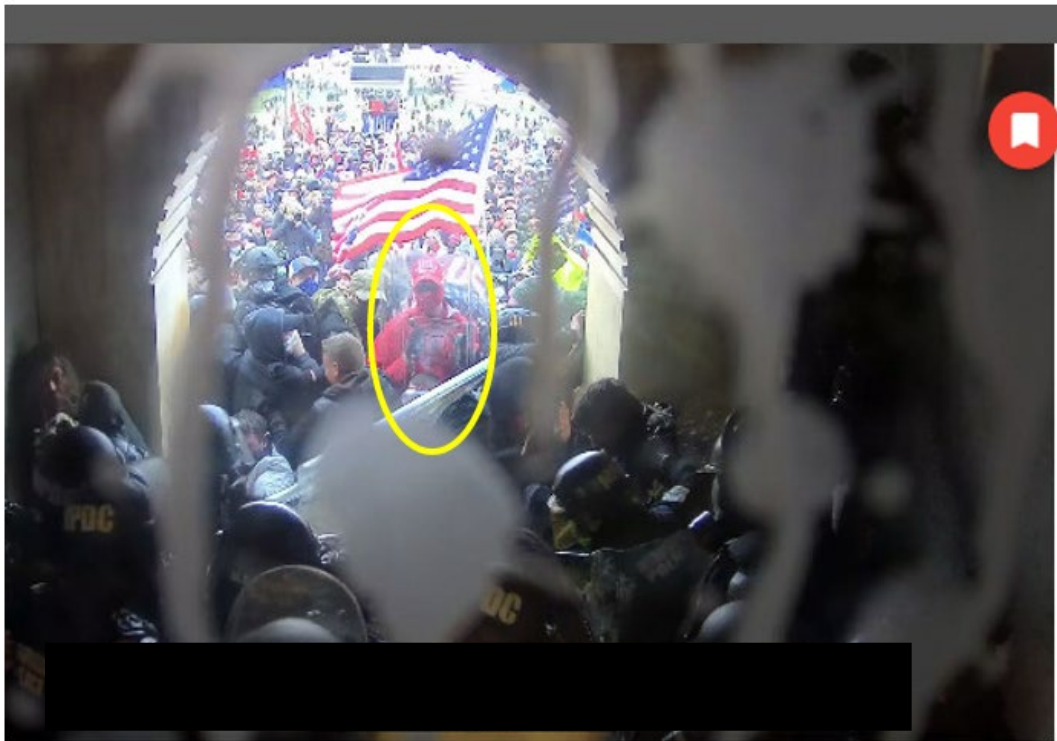


Image 6

Law enforcement officers attempted to push rioters back to secure the tunnel, yelling at rioters to move back and waiving at them to do so. Various rioters surged forward to attack the law enforcement officers. Donnelly continued to hold the line as rioters sprayed chemical irritants (indicated below in the brown streak above Donnelly in Image 7), threw items, and screamed at law enforcement officers.



Image 7

Donnelly can be seen holding the shield up to the law enforcement officers, forming a wall with other shields held by other rioters. (Image 8)



Image 8

Moments later, other rioters, using Donnelly as a shield, lunged past him to attack law enforcement officers. Donnelly continued to hold his position just inches away from the confrontation. (Image 9)



Image 9

Rioters continued to push forward as a group, with Donnelly in the lead. A video showed Donnelly at the front of the line using the shield to aid in the advancement of the rioter's by pushing law enforcement officers back. (Image 10)



Image 10



Image 11



Image 12

At one point, Donnelly is seen reaching out towards law enforcement officers and removing things from a bag. (Image 12)



Image 13

Eventually Donnelly lost the shield he was possessing when additional law enforcement officers came to the tunnel and began moving the rioters out. (Image 14) Law enforcement officers pushed Donnelly out of the tunnel area after about 10 minutes. Donnelly put his fist and arm up in the air when exiting the tunnel, appearing to encourage the group (Image 15).



Image 14



Image 15

An individual with the alias of “Rally Runner” was reportedly seen on national news as being one of the rioters during the Capitol riots on January 6, 2021. On January 11, 2021, law enforcement officers interviewed Donnelly at his residence in St. Louis, Missouri. Law enforcement officers were able to identify Donnelly’s residence from online open-source searches and FBI database checks. Donnelly admitted to law enforcement officers that he was at the Capitol on January 6, 2021. He stated the crowd was passing around riot shields and he ended up getting a shield.

The FBI Special Agent who interviewed Donnelly has viewed the images above and verified that Donnelly was the same person that was interviewed on January 11, 2021.

Based on the foregoing, your affiant submits that there is probable cause to believe that Daniel Donnelly Jr. 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 officers 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 submits there is also probable cause to believe that Daniel Donnelly Jr. violated 18 U.S.C. § 641, which makes it a crime for a person to embezzle, steal, purloin, or knowingly convert to his use or the use of another, or without authority, sell, convey or dispose of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or receive, conceal, or retain the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted.

Your affiant submits there is also probable cause to believe that Daniel Donnelly Jr. violated 18 U.S.C. § 1752(a)(2), which makes it a crime to (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. 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 Daniel Donnelly Jr. violated 40 U.S.C. § 5104(e)(2)(D) & (E), 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 (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings.



SA Rodrigo Fuzon
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 31st day of July 2023.

HONORABLE MOXILA A. UPADHYAYA
UNITED STATES MAGISTRATE JUDGE