

Case: 1:23-mj-00204
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 8/14/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your Affiant, Detective [REDACTED] a Task Force Officer assigned to the Joint Terrorism Task Force (JTTF), Domestic Terrorism Squad of the FBI New Haven Field Office. In my duties as a Task Force Officer, I have investigated numerous crimes involving Racially/Ethnically Motivated Violent Extremists, Anti Government/Anti Authority Violent Extremists, material support to terrorism investigations as well as Weapons of Mass Destruction investigations. Prior to assignment to the JTTF, I have investigated a wide range of violent crimes, including assaults, domestic violence, sexual assaults, larcenies, burglaries, and threats, among other responsibilities as a Connecticut State Police Trooper. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Task Force Officer, 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.

Facts Specific to this Investigation

In the fall of 2022, civilian online investigators initially identified the SUBJECT of this investigation, GENE DIGIOVANNI JR. (hereinafter “SUBJECT” or “DIGIOVANNI”) as an individual who had unlawfully entered the U.S. Capitol Building on January 6, 2021. These online investigators notified NBC Connecticut of their identification of DIGIOVANNI and the fact that their research indicated that DIGIOVANNI is an alderman in Derby, CT. Shortly after NBC Connecticut received this information from the online investigators, NBC dispatched a local reporter to interview DIGIOVANNI about his involvement with the events at the U.S. Capitol Building on January 6, 2021. At the conclusion of a public meeting, the reporter confronted DIGIOVANNI on camera with photographs of DIGIOVANNI inside of the US. Capitol Building on January 6, 2021. In response, DIGIOVANNI responded in part by saying: “I was there, I went inside there, and, you know, I didn’t damage or break anything. Obviously you got the pictures to prove it.” See Images 1 and 2, below.




Image 1: Screenshot of the NBC Connecticut News article regarding DIGIOVANNI’s participation in the events at the U.S. Capitol Building on January 6th, 2021

POLITICS NEWS

Elected official from Connecticut admits he entered Capitol during Jan. 6 attack

Gino DiGiovanni, an alderman in Derby, said he has not been contacted by the FBI about his participation in the riot.



— Gino DiGiovanni at the Capitol in Washington, D.C., on Jan. 6, 2021.
U.S. Attorney's Office for the District of Columbia

f t e | SAVE

Oct. 29, 2022, 8:00 AM EDT
By Ryan J. Reilly

Image 2: Additional reporting regarding DIGIOVANNI'S on-camera admissions

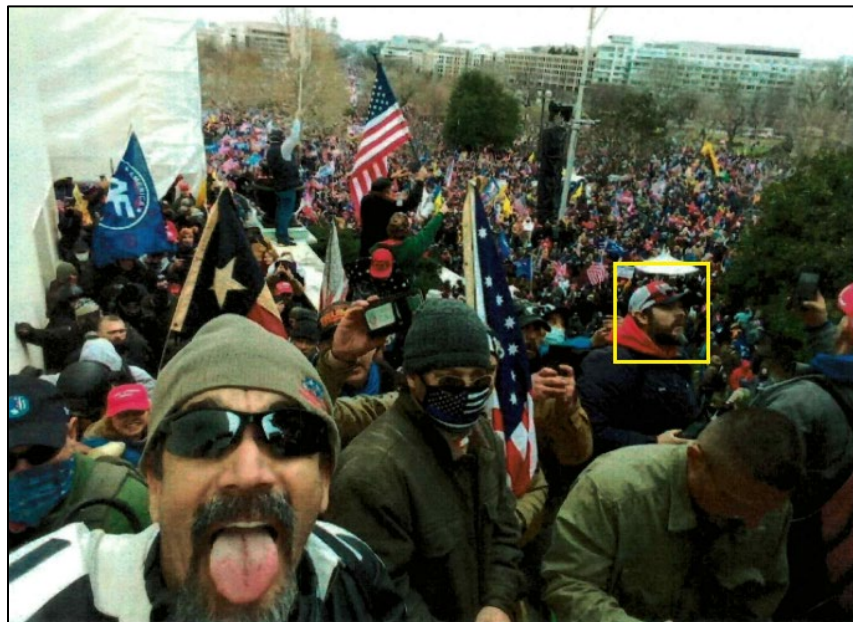


Image 3: Final photograph presented to Witness-1 for 3rd party identification. (DiGiovanni highlighted in yellow)

Following NBC Connecticut's identification of DIGIOVANNI as an individual believed to have entered the Capitol Building on January 6, 2021, the FBI identified additional video and images appearing to show DIGIOVANNI inside the Capitol Building. Both open source photographs and videos and Capitol Building close circuit television ("CCTV") footage depict DIGIOVANNI on the Capitol Building grounds and entering the Capitol Building itself.

On November 15th, 2022, I interviewed Witness-1, who is professionally familiar with DIGIOVANNI and has known the subject for many years. During the course of this interview, Witness-1 verbally confirmed that he was aware that DIGIOVANNI was recently interviewed by NBC Connecticut at Derby City Hall following a city meeting. I showed Witness-1 three photographs believed to depict DIGIOVANNI that were obtained from U.S. Capitol CCTV footage as well as open source holdings. Image 2 above captures two of the photographs I showed to Witness-1. Image 3 above captures the third and final photograph presented to Witness-1. Witness-1 positively identified the white male with full dark brown facial hair, a red and white in color "Trump" baseball cap, and dark "DiGiovanni and Sons" jacket as DIGIOVANNI. At the conclusion of the interview, Witness-1 provided the phone number of ***-***-**** as the cellular phone number for DIGIOVANNI.

On November 11, 2022, FBI New Haven conducted a query of FBI holdings for cellular phone number identified by Witness-1. This particular query was for cellular devices that were present inside the U.S. Capitol Building geofence on January 6th, 2021. The query returned a positive "hit" for said phone number as being within the geofence on said date.

On November 30, 2022, I reviewed additional photographic and video evidence showing DIGIOVANNI circumventing permanent and temporary security barriers manned by U.S. Capitol Police and unlawfully entering the U.S. Capitol Building on January 6, 2021.

A review of open source materials revealed nineteen additional images of the events at the U.S. Capitol on January 6, 2021 that include a white male, who I believe to be DIGIOVANNI. *See* Images 4-5.



Image 4: DIGIOVANNI (circled in yellow) on the Upper West Terrace of the Capitol, Outside the Senate Wing Door



Image 5: DIGIOVANNI (circled in yellow) on CCTV entering the Capitol through the Upper West Terrace Door on the west side of the Capitol Building



Image 6: DIGIOVANNI (in yellow box) inside the Capitol Building

On January 10, 2023, I located DIGIOVANNI at his residence in Derby, CT and conducted a voluntary interview of him at that time. DIGIOVANNI stated, amongst other things, that he had traveled to Washington D.C. alone on January 6th, 2021 with the intent of seeing President Trump’s last speech while in office. DIGIOVANNI stated that while at the U.S. Capitol on January 6th, he was wearing a red, white, and blue sweatshirt and a jacket bearing the name of his construction business: “DiGiovanni and Sons Construction.” DIGIOVANNI was wearing a similar jacket at the time of the consensual interview.

On March 22, 2023, I reviewed of United States Capitol Security (USCS) CCTV footage from the events of January 6, 2021 in an effort to trace the movements of DIGIOVANNI upon his entrance to the Capitol Building on that date. My review confirmed that DIGIOVANNI entered the Building through the Upper West Terrace door at approximately 2:20 pm. DIGIOVANNI then proceeded to both the Rotunda and Statuary Hall. *See, e.g.*, Image 6. Some of this footage shows DIGIOVANNI documenting his experience with what appears to be a smart phone. *See* Images 7 and 8. He then exited the Building from the east Rotunda doors at approximately 2:45 pm.

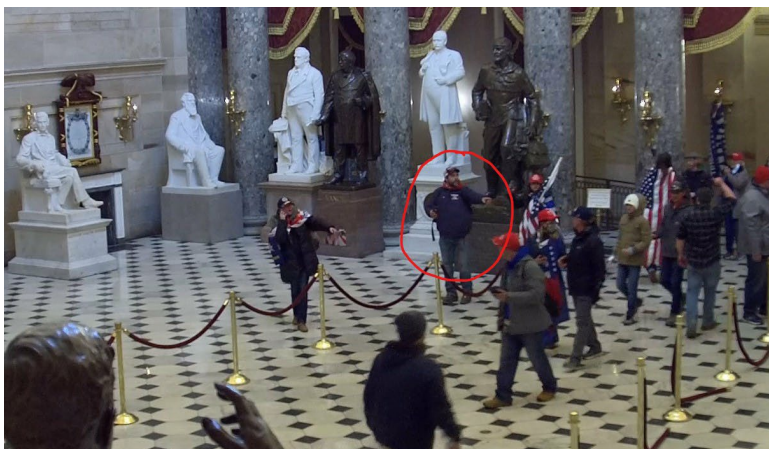


Image 7: DIGIOVANNI (circled in red) in Statuary Hall

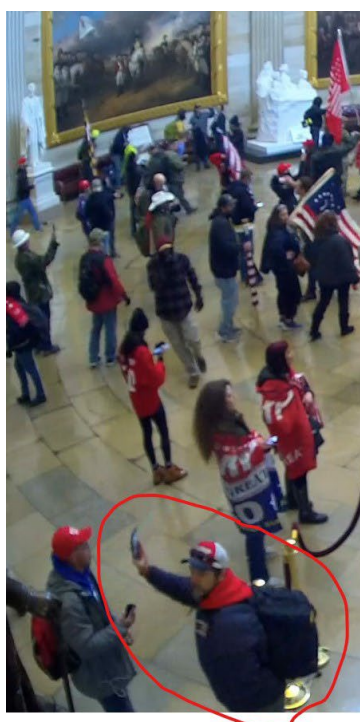


Image 8: DIGIOVANNI (circled in red) filming in the Rotunda

CONCLUSION

Based on the foregoing, your affiant submits that there is probable cause to believe that GENE DIGIOVANNI JR. 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 GENE DIGIOVANNI JR. 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.

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Federal Bureau of Investigation
New Haven Division

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 14th day of August 2023.

HONONORABLE MOXILA A. UPADHYAYA
UNITED STATES MAGISTRATE JUDGE