

Case: 1:23-mj-00206
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 8/16/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, Miriam M. Oviedo-Clark, is a Special Agent with the Federal Bureau of Investigation (“FBI”) and has been since 2010. I am currently assigned to the Charlotte Division, Asheville Resident Agency. As a Special Agent, I am a law enforcement officer of the United States as defined by Section 2510(7) of Title 18, United States Code (U.S.C.), that is, an officer of the United States who is empowered by law to conduct investigations and make arrests for violations of Federal criminal laws.

This affidavit is intended to show that there is sufficient probable cause for the requested warrant and does not set forth all my knowledge about this matter. The facts in this affidavit come from my personal observations, my training experience, and information obtained from other law enforcement officers and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all my knowledge about this matter.

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.

IDENTIFICATION OF ANTHONY MASTANDUNO AND HIS INVOLVEMENT IN THE EVENTS OF JANUARY 6, 2021

On February 17, 2021, the FBI arrested Glenn Wes Lee Croy of Colorado Springs, Colorado pursuant to a complaint and arrest warrant arising out of Croy’s unlawful conduct at the U.S. Capitol Building on January 6, 2021. *See United States v. Croy*, No. 1:21-cr-162 (BAH), ECF No. 13. At the same time, law enforcement officers seized Croy’s cell phone, which subsequently was searched pursuant to a warrant issued in the District of Colorado.

During the search of Croy’s cell phone, the FBI discovered a photograph of an unknown individual who appeared to be unlawfully present in the U.S. Capitol Building, near the Memorial Door, next to a bust of Václav Havel. An analysis of the metadata from the photograph reflects that it was captured at 2:34.32 p.m. on January 6, 2021. The individual was a white male, 55 to 60 years old, with prominent ears, wearing a red baseball cap with a patch on the bill and “Trump 2020 Keep America Great!” embroidered in white thread, a camouflage jacket, and a backpack.

The image from Croy’s cell phone is shown below:



Figure 1

The FBI reviewed Closed Circuit Television (“CCTV”) footage taken of the area near the Memorial Door on January 6, 2021 for individuals that looked like the unknown subject pictured above. The same individual, wearing a red baseball cap with a patch on the bill and camouflage jacket, appeared in footage taken at 2:34.32 p.m., while posing for a picture taken by Croy.



Figure 2

CCTV footage taken at around 2:17 p.m. on January 6, 2021 showed the same individual unlawfully entering the U.S. Capitol Building through the Senate Wing Door, approximately four minutes after it was first breached.

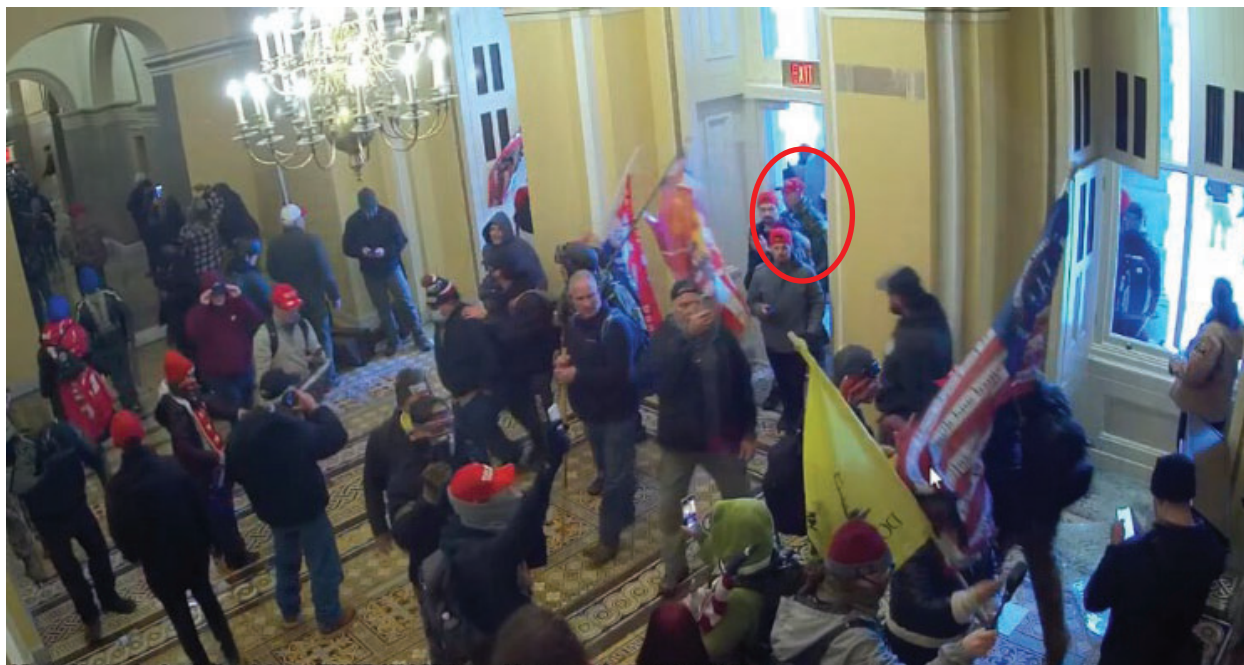


Figure 3

Publicly available video taken just inside the Senate Wing Door on January 6, 2021 also shows the same individual in a red baseball cap and camouflage jacket, pants, and backpack, with a blue face mask under his chin, unlawfully present in the Capitol Building:

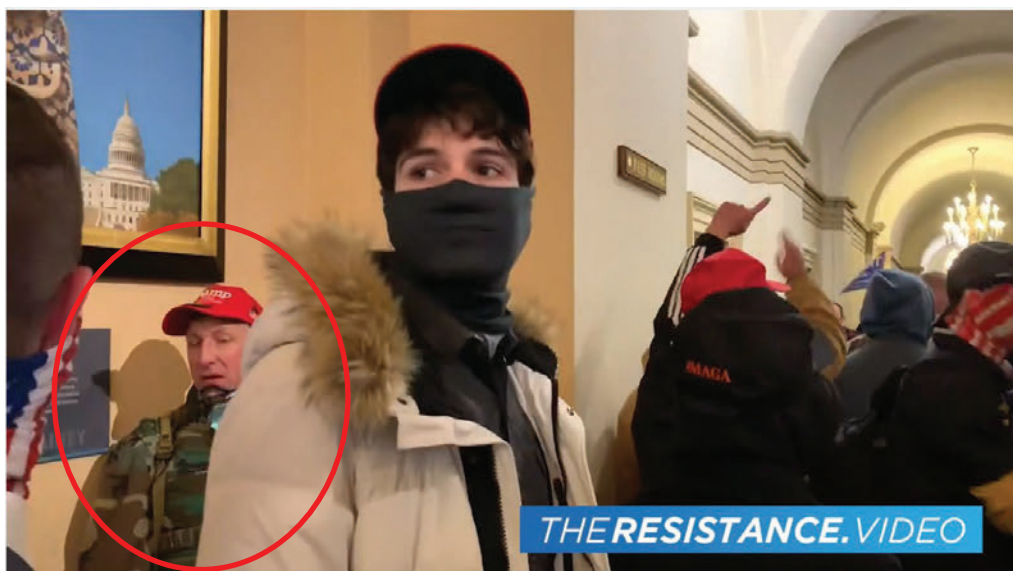


Figure 4

Additional CCTV, open-source, and cell phone videos shows the same individual at the front of a line of rioters who overwhelmed officers in the Crypt at approximately 2:23 p.m. on January 6, 2021.

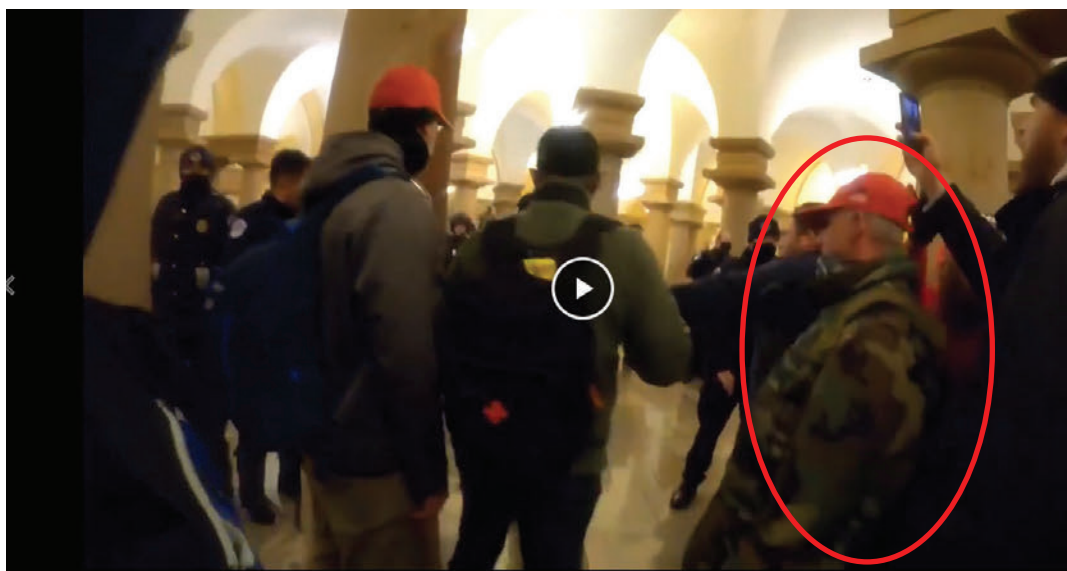


Figure 5

The FBI then reviewed video footage that is publicly available over the internet through video sharing websites and social media platforms. Third-party entities created websites which posted and categorized these videos in an effort to identify individuals who might have committed criminal acts. Those websites contained pictures of the individual described and pictured above. In those videos, the individual is engaged with fellow rioters in coordinated attacks on uniformed MPD Officers who were defending a tunnel entrance to the Capitol on January 6, 2021. Videos and still images taken by individuals in the crowd at around 4:30 p.m. showed the presence of the same individual, wearing the same red baseball cap, camouflage jacket, backpack, blue face mask, and sometimes plastic goggles. The individual used a stolen police shield to push into the tunnel,

threw an object toward officers in the tunnel, and utilized a telescoping baton to strike at officers.

Certain unknown individuals have been given nicknames by third-party entities for the logical categorization of their open-source video appearances. The individual described and pictured above was given the hashtag name of “#ShieldGrampy,” due to his age and his use of a stolen police shield to assault MPD officers at the entrance to the tunnel.

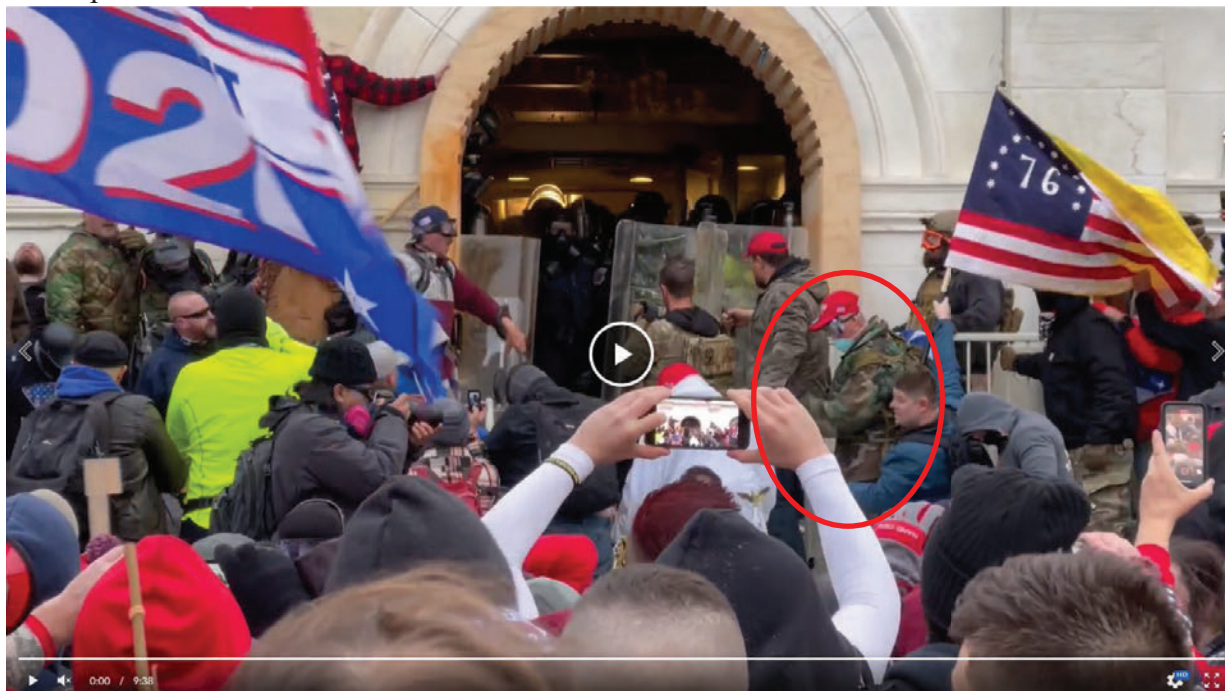


Figure 6



Figure 7

As he initially approached the police line at the tunnel, the individual was holding a baton-like object with his gray gloves, and wore a red baseball cap, a backpack, and goggles. However, as the violence towards the police line increased, the bill of the individual's baseball cap hit the shield he was holding, knocking the hat off his head.



Figure 8

The individual then proceeded with his barrage against the police line, this time without the baseball cap. At some point later, however, the individual appears to re-don the baseball cap.

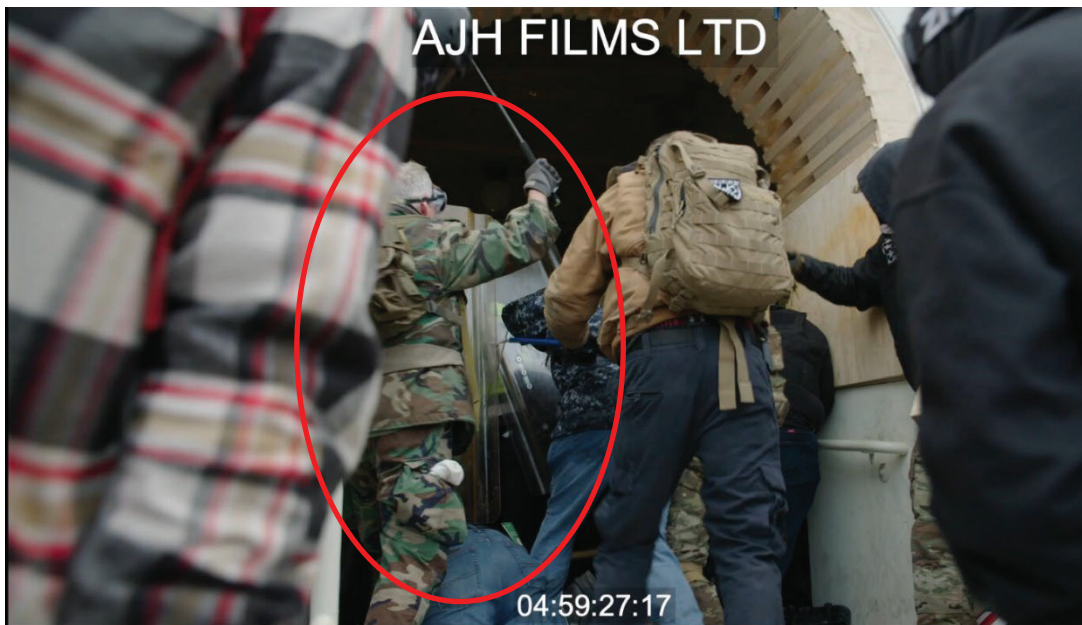


Figure 9

CCTV and police body-worn camera footage taken on January 6, 2021 at around 4:32 p.m. shows the same individual assaulting officers using a baton, police shield, and blue pole-like object, at the front of a mob that was attacking officers in the tunnel area.



Figure 10



Figure 11

Cell phone video obtained pursuant to a federal search warrant was introduced during the sentencing of Mariposa Castro for her conduct on January 6, case number 1:21-cr-299 (RBW). That video was taken from steps away from the tunnel and shows #ShieldGrampy, at or around 4:45 p.m., suffering from the effects of the chemical spray used by rioters and the officers defending the Capitol Building. The individual, wearing the same red baseball cap with a patch on the bill, camouflage jacket, and goggles, speaks with Castro and another individual, and speculates that the chemical spray contains seaweed.



Figure 12

Law enforcement visited the publicly available Facebook page associated with the username [REDACTED] Mastanduno, the wife of Anthony Mastanduno (“Mastanduno”), for comparison to the video and photos of #ShieldGrampy, above. Comparison shows that Mastanduno bears a strong physical resemblance to the individual referred to as #ShieldGrampy.



Figure 13

In addition, the FBI reviewed a publicly accessible Facebook account associated with the name Anthony Mastanduno. An August 21, 2020 post on the Anthony Mastanduno Facebook page included an image of a red baseball cap, bearing the insignia “Trump 2020 Keep America Great!” and a patch on the bill containing half of an American flag and half of the Marines insignia. The baseball cap pictured on the Facebook page appears to be identical to the cap worn by #ShieldGrampy on January 6, 2021, including during his conversation captured in the video exhibit from the Mariposa Castro sentencing referenced above.



Figure 14



Figure 15

Mastanduno's publicly accessible Facebook page also included information reflecting that he worked at PSEG Long Island, lived in Farmingdale, New York, and was married to [REDACTED] Mastanduno. Facebook "friends" of Mastanduno, who include his wife and children, identify him as a veteran of the Marine Corps. In a post dated November 6, 2020, three days after the election, Mastanduno stated the following:

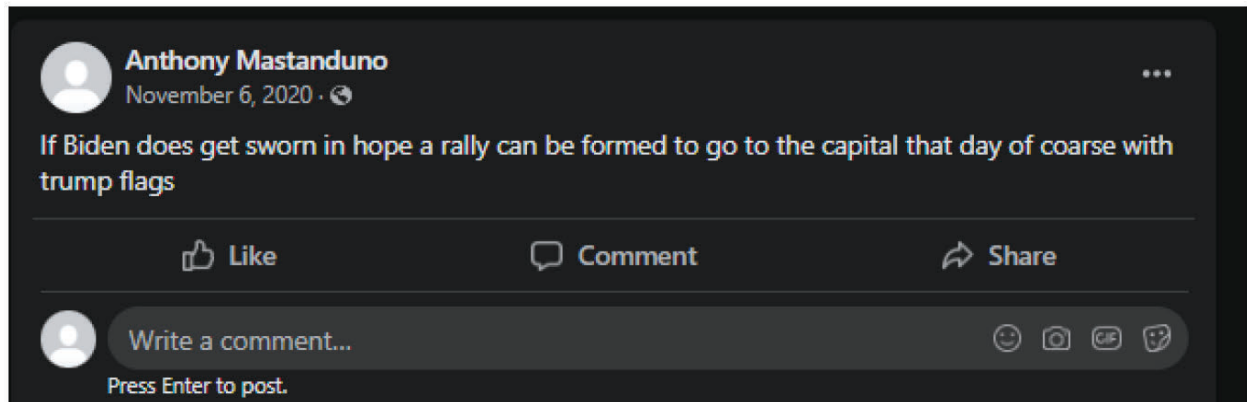


Figure 16

In a post dated November 7, 2020, the date on which media organizations declared Joseph R. Biden, Jr. as the winner of the 2020 presidential election, Mastanduno posted the following:

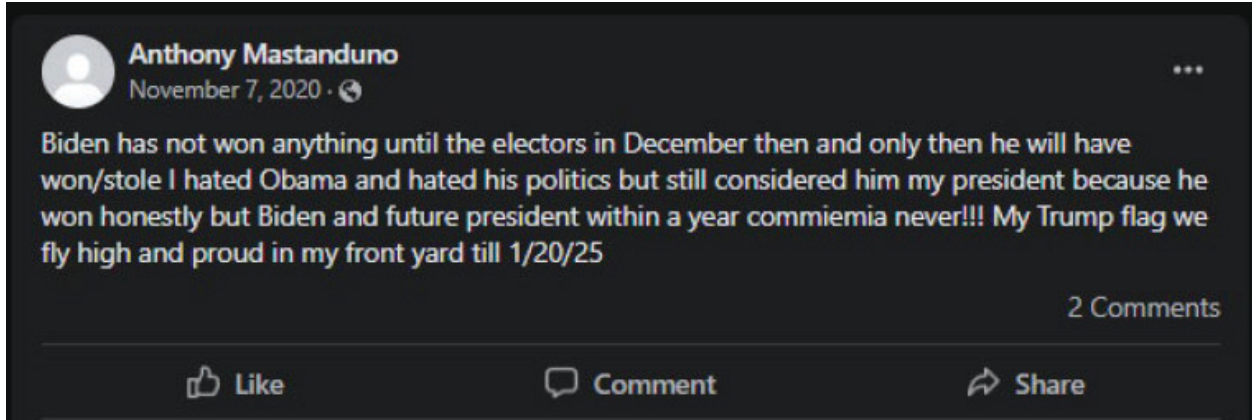


Figure 17

On September 26, 2022, legal process was issued to Meta Platforms, Inc., the parent organization of Facebook, seeking subscriber information for accounts that were linked to the name Anthony Mastanduno, Facebook ID 100053776845887. Facebook returned documentation in response to the legal process. The information provided by Facebook identified the subscriber of the account as “Anthony Mastanduno.” The username assigned to the account was anthony.mastanduno.1, and the account was created on July 25, 2020.

The FBI contacted Mastanduno’s employer, PSEG, and learned that Mastanduno worked on January 5, 2021, and then was absent on January 6 and 7, 2021. Additional investigation revealed that the car registered to ██████████ Mastanduno was observed at 5:22 p.m. on January 5, 2021, traveling westbound on the Belt Parkway and Verrazano Bridge in the direction of Washington, D.C. Mastanduno’s credit union records show a \$33.28 purchase at a Royal Farms gas station in Elkridge, Maryland, near Interstate 95, on January 5, 2022, and a purchase from Alina Enterprise, an Exxon gas station at 200 Massachusetts Avenue NE in Washington, D.C., on January 6, 2021. The Exxon gas station is located less than a half mile northeast of the U.S Capitol Building. The vehicle registered to ██████████ Mastanduno then was observed on January 7, 2021 at 1:24 a.m., inbound on the Verrazano Narrows Bridge toward Mastanduno’s home.

On December 6, 2022, the FBI interviewed an individual who works at PSEG Long Island, which confirmed PSEG Long Island to be Mastanduno’s employer. The individual interacted with Mastanduno at work within the last few months and had the opportunity to observe Mastanduno for an extended amount of time. The FBI showed the individual the image contained in Figure 1, above, which was taken inside the Capitol Building on January 6, 2021 at 2:34.32 p.m. The individual identified the person standing next to a bust of Václav Havel and wearing a red baseball cap with a patch on the bill and camouflage jacket as Mastanduno, stating, “I know this person to be Anthony Mastanduno.”

Based on the foregoing, I submit that there is probable cause to believe that Anthony Mastanduno violated 18 U.S.C. §§111(a)(1) and (b), which make it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with certain designated individuals, and to use a deadly or dangerous weapon or inflict bodily injury during the commission of such acts. Within the meaning of this statute, a designated individual is an officer or employee of the United States or of any agency in a branch of the United States Government (including any member of the

uniformed services), while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer in the performance of official duties or on account of that assistance.

I further submit that there is probable cause to believe that Mastanduno violated 18 U.S.C. §§ 1752(a)(1), (2), and (4), which make it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; (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; (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds. 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.

I submit that there also is probable cause to believe that Mastanduno violated 40 U.S.C. §§ 5104(e)(2)(D), (F), 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; (F) engage in any act of physical violence in the Grounds or any of the Capitol Buildings; and (G) parade, demonstrate, or picket in a Capitol Building.

Finally, I submit that there is probable cause to believe that Mastanduno violated 18 U.S.C. § 231(a)(3), which make it unlawful to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer 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, 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.



MIRIAM M. OVIEDO-CLARK
FBI Special Agent

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



MOXILA A. UPADHYAYA
UNITED STATES MAGISTRATE JUDGE