

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	Case No: 23MJ000134
	:	
v.	:	
	:	40 U.S.C. § 5104(e)(2)(C)
ALEXANDER FAN [2],	:	
	:	
Defendant.	:	
	:	

STATEMENT OF OFFENSE

Pursuant to Federal Rule of Criminal Procedure 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, Alexander Fan [2], with the concurrence of his attorney, agree and stipulate to the below factual basis for the defendant's guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

The Attack at the U.S. Capitol on January 6, 2021

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., 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.

2. On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public.

3. 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 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. This joint session of Congress was official business as that term is used in Title 40, United States Code, Section 5104. 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.

4. As the proceedings continued in both the House and the Senate, and with Vice President 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.

5. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades, and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police Officers or other authorized security officials.

6. 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., individuals in the crowd forced entry into the U.S. Capitol. The riot

resulted in substantial damage to the U.S. Capitol, requiring the expenditure of more than \$2.8 million dollars for repairs.

7. 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 Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

Defendant's Participation in the January 6, 2021, Capitol Riot

8. On a date prior to January 6, 2021, Fan traveled to Washington, D.C. from his home in Houston, Texas. He arrived on the D.C. Mall early in the morning and attended the “Stop the Steal” rally at the Ellipse on January 6, 2021.

9. After Donald Trump’s speech, Fan walked toward the U.S. Capitol. He was met with barricades and fencing that showed that the Capitol grounds were restricted (see yellow circle around Fan’s face):



10. Fan passed the barricades and walked with other protesters onto the West Lawn and West Plaza and towards the U.S. Capitol Building.

11. Fan saw the torn scaffolding and nonetheless ascended the steps towards the U.S. Capitol building (see yellow circle around Fan's body):



12. Fan spent time on the Northwest riser near the U.S. Capitol Building, where had a bird's eye view of the chaos unfolding below, as law enforcement officers attempted to stem the tide of protesters coming onto the grounds and into the U.S Capitol Building (see yellow circle around Fan's body):



13. By approximately late in the afternoon, Fan had made his way near the East Portico door of the U.S. Capitol Building (see yellow circle around Fan's face):



14. In the late afternoon on January 6, 2021, Fan climbed into Office S202 in the U.S. Capitol Building through a window, whose panes had been broken out by other rioters earlier in the day. The window is located off to the right of the main entrance to the U.S. Capitol Building, in the area circled in red below:

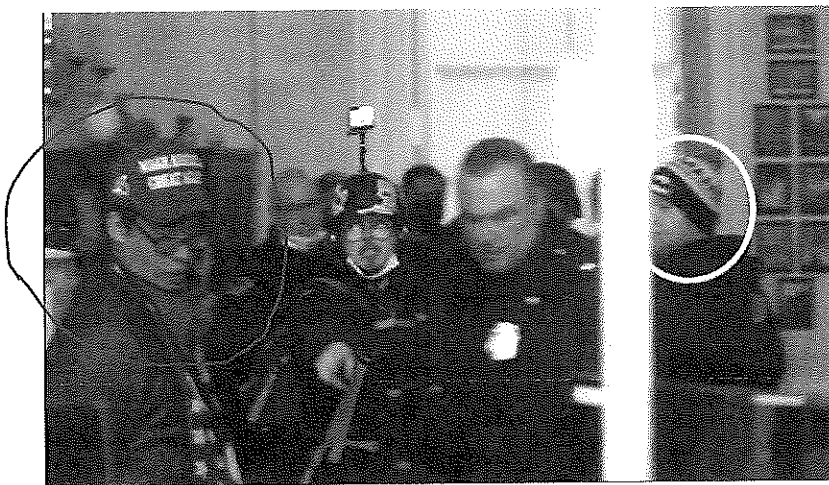


15. Fan knowingly and willfully entered Office S202 with the intent to disrupt the orderly conduct of the certification proceedings that were scheduled to occur inside the U.S. Capitol building that day. Office S202 was an office used by Senator Schumer's staff in the U.S. Capitol Building and was designated for the use of an employee of Congress in one of the Capitol Buildings as that term is used in Title 40, United States Code, Section 5104. At the time Fan entered, through the shattered window, he knew that he had no lawful authority to enter or remain in that specially-designated room, and he did so willfully.

16. At around 4:00 pm, several Capitol Police officers sought to open the door of Office S202, because they heard voices in the Office. The Office door was locked, so officers knocked

on the door. Fan was inside the Office along with co-defendant Juan Rodriguez and one additional man. After some time, one of the three men inside unlocked the door, and the officers gained access to Office S202.

17. Once inside, officers saw defendant Alexander FAN, his co-defendant Juan Rodriguez and the third man inside Office S202. Glass from the shattered window panes littered the floor of the office. Below is an open-source image showing FAN in the red “Make America Great Again” baseball hat (blue circle), Rodriguez in the Batman ski cap (yellow circle), the third man (wearing a helmet), and several Capitol Police officers in Office S202 soon after the officers gained entry:



18. At around 4:25 pm, officers escorted FAN, Rodriguez and the third man out of Office S202, through the Rotunda, and out the front door of the U.S. Capitol Building (The timestamps in the images above are in Universal Coordinated Time, five hours ahead of Eastern Standard Time):



Elements of the Offense

19. The parties agree that Title 40, United States Code, Section 5104(e)(2)(C) requires the following elements:

- a. First, the defendant entered or remained in any room in any of the Capitol Buildings set aside or designated for the use of either House of Congress or a Member,

committee, or employee of Congress, or either House of Congress, that is, Room S202, without lawful authority to do so.

- b. Second, the defendant did so with the intent to disrupt the orderly conduct of official business.
- c. Third, the defendant acted willfully and knowingly.

Defendant's Acknowledgments

20. Defendant Fan knowingly and voluntarily admits to all the elements as set forth above. Specifically, Fan admits that on January 6, 2021, he willfully and knowingly entered Office S202 in the U.S. Capitol building, which at that time was set aside and designated for the use of employees of the Senate, without lawful authority to do so. Defendant Fan entered and remained in that room with the intent to disrupt the orderly conduct of official business.

Respectfully submitted,

MATTHEW M. GRAVES
United States Attorney
D.C. Bar No. 481052

By:



ALEXANDRA F. FOSTER
Assistant United States Attorney
D.C. Bar No. 470096

DEFENDANT'S ACCEPTANCE

I have read every page of this Agreement and have discussed it with my attorney, Mark Thering, I fully understand this Agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Agreement fully. I am pleading guilty because I am in fact guilty of the offense(s) identified in this Agreement.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this Agreement. I am satisfied with the legal services provided by my attorney in connection with this Agreement and matters related to it.

Date: 9/11/2023



Alexander Fan
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read every page of this Agreement, reviewed this Agreement with my client, Alexander Fan, and fully discussed the provisions of this Agreement with my client. These pages accurately and completely set forth the entire Agreement. I concur in my client's desire to plead guilty as set forth in this Agreement.

Date: 9/11/2023



Mark Thering
Attorney for Defendant