

Case: 1:23-mj-00252
Assigned To : Meriweather, Robin M.
Assign. Date : 09/13/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, DEREK BOUCHER, is a Special Agent with the Federal Bureau of Investigation (“FBI”) and I am currently assigned to the Boston Division, Springfield Resident Agency. In my duties as a special agent, I have also been assigned to the FBI’s Boston Division Joint Terrorism Task Force (“JTTF”). As a member of the JTTF, I work with agents and officers investigating crimes involving both domestic and international terrorism as well as national security violations. I have conducted and participated in criminal investigations that have resulted in arrests for crimes involving threatening communications, violations of the National Firearms Act, child exploitation, color of law violations, controlled substance violations, financial crimes, and terrorism violations. I have personally been involved in the execution of numerous state and federal search and arrest warrants that have led to the conviction of many individuals. As a Special Agent with the FBI, 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 KENILEY

The FBI first learned through electronic evidence analysis methods that the individual depicted in images below, later identified as CHRISTOPHER H. KENILEY (“KENILEY”) (as further described below), may have been involved in the events at the U.S. Capitol on January 6, 2021. Since then, the FBI has obtained numerous videos depicting KENILEY’s unlawful presence both on the Capitol grounds and inside the Capitol building on January 6, 2021.

The following images are screenshots from videos, including open-source videos, Closed Circuit Television (“CCTV”) videos, and videos taken by body cameras worn by officers with the Metropolitan Police Department (“MPD”), which was assisting the USCP in its efforts to protect the Capitol from the rioters on January 6, 2021.

The images depict KENILEY wearing a dark grey or blue denim jacket, a black turtleneck shirt, a dark grey beanie hat, dark blue jeans, and brown boots. In many instances he is seen carrying an American flag on a pole in one hand and holding a mobile phone in another hand.

In the following screenshot of one open-source video, (**Image 1**), KENILEY is seen standing immediately on the exterior of the Capitol building with a large group of rioters and holding an American flag on a pole.



Image 1

In the following screenshot of another video, **(Image 2)**, KENILEY is standing on the exterior of the Capitol Building holding up the American flag in his right hand.

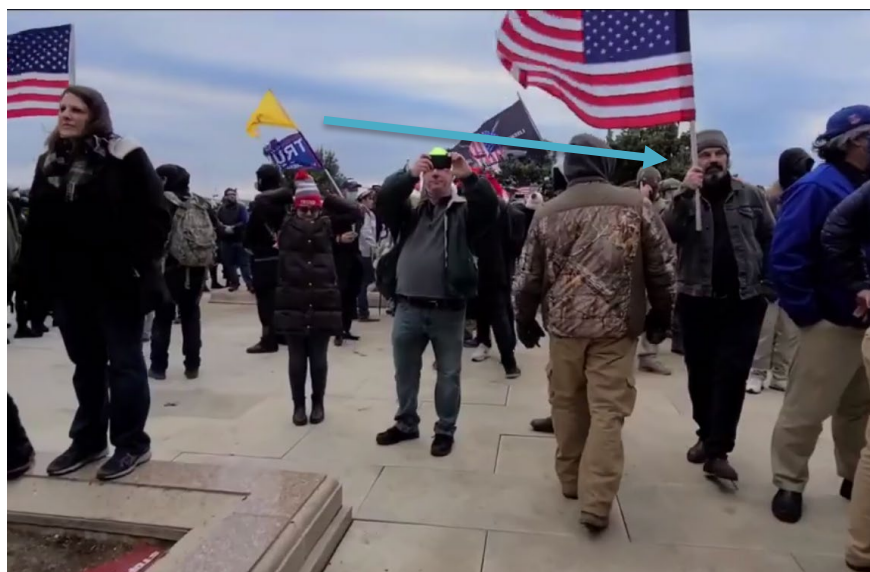


Image 2

In the following screenshots of a police body camera video, **(Images 3 and 4)**, KENILEY is seen standing in a crowd near a police line outside the Capitol Building, holding an American flag in his left hand and holding in his right hand what appears to be a mobile phone as if to record or photograph the scene. The screenshots were taken at approximately 3:03 EST.



Image 3



Image 4

In the following screenshots from another video, (**Images 5 and 6**), KENILEY is standing outside the Capitol Building holding what appears to be a mobile phone as if to record or photograph the scene.



Image 5



Image 6

In the video associated with **Images 5 and 6**:

- a. KENILEY stands atop a retaining wall next to stairs leading to the Capitol Building, then walks along the edge of the wall approaching police while holding up a phone and an American flag.

- b. KENILEY then stands in front of police and turns and pans his phone with the camera on across the crowd.
- c. KENILEY then shouts, “Yeah the criminals are inside, go get them. Did anyone ask how Pelosi [could be] a \$200 millionaire? She’s fucking corrupt, wake up! Jesus! What does it take?”
- d. KENILEY then steps down from the wall, turns to someone in the crowd and says to them: “We gotta get in there man, they aren’t going to listen to us,” and points to the Capitol building.
- e. KENILEY then more loudly exclaims, “We gotta get in!” and then walks away from the bystander in the direction of the Capitol building.
- f. KENILEY’S phone appears to be red smartphone with a black case.

In the following screenshot of a CCTV video, (**Image 7**), KENILEY can be seen entering the Capitol Building at 3:09 p.m. with a large group of rioters, holding an American flag in his left hand and holding what appears to be a mobile phone as if to record or photograph the scene in the other.



Image 7

In a screenshot of another CCTV video, (**Image 8**), KENILEY is seen walking through a hallway inside the Capitol Building while holding an American flag in his left hand and holding what appears to be a mobile phone as if to record or photograph the scene.



Image 8

In the following screenshot of another police body camera video, (**Image 9**), KENILEY is facing a member of the MPD inside the Capitol Building while holding an American flag in his left hand and holding in his right hand what appears to be a mobile phone as if to record or photograph the scene. The screenshot was taken at approximately 3:12 EST.



Image 9

In the following screenshot of another police body camera video, (**Image 10**), KENILEY is facing a member of the MPD inside the Capitol Building while holding an American flag in his left hand and holding in his right hand what appears to be a mobile phone as if to record or photograph the scene. The screenshot was taken at approximately 3:12 EST.



Image 10

Kenley departed the Capitol Building approximately ten minutes after he entered, at 3:19 p.m., through the same doors he entered, as depicted in **Image 11**.



Image 11

I have reviewed the online version of a MassLive news article dated April 27, 2020, by Douglas Hook entitled, “‘We’re not buttercups;’ How some Massachusetts residents are handling the coronavirus outbreak.”¹ The author of the article interviewed an individual identified as “Chris Kenley” (whom I believe to be KENILEY). A photograph of the person from this article is depicted below (**Image 12**):

¹ Available at: <https://www.masslive.com/coronavirus/2020/03/were-not-buttercups-how-some-massachusetts-residents-are-handling-the-coronavirus-outbreak.html>.



Image 12

In this photograph, (**Image 12**), KENILEY appears to be wearing the same dark grey/blue denim jacket and grey knit beanie that he later wore during the Capital riot on January 6, 2021, including in the screen shot from one of the videos depicted below (**Image 13**):



Image 13

On May 10, 2023, FBI Agents interviewed a Massachusetts State Trooper who conducted a traffic stop for speeding on KENILEY on February 2, 2023. FBI Agents provided the Trooper with a total of eleven photographs of KENILEY from the January 6 Capitol riot, from open-source media, and from KENILEY's driver's license. The Trooper positively identified KENILEY from each image. The Trooper also recalled his interaction with KENILEY on February 2, 2023. During a review of the body worn camera of the traffic stop the Trooper independently identified KENILEY as both the individual he pulled over on February 2, 2023, and the individual in the

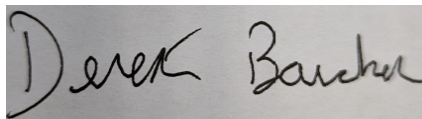
photographs from January 6, 2021. On May 22, 2023, FBI received the full video of the traffic stop; a screenshot is shown below. (**Image 14**).



Image 14

Based on the foregoing, your affiant submits that there is probable cause to believe that CHRISTOPHER H. KENILEY 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 CHRISTOPHER H. KENILEY 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.

A handwritten signature in black ink that reads "Derek Boucher". The signature is written in a cursive style and is contained within a rectangular grey box.

DEREK BOUCHER
Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 13th Day of September 2023.

ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE