

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	Case No: 23-cr-00308
	:	
v.	:	
	:	18 U.S.C. § 1752(a)(1)
Clive A. Kincaid	:	
	:	
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, Clive A. Kincaid, 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 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.

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, including by breaking windows and by assaulting members of law enforcement, as others in the

crowd encouraged and assisted those acts. The riot resulted in substantial damage to the U.S. Capitol, requiring the expenditure of more than \$1.4 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.

Clive Kincaid's Participation in the January 6, 2021 Capitol Riot

8. Kincaid drove alone from Pittsburgh to D.C. to attend the former President's rally on January 6, 2021. During the rally, he decided to join the crowd walking to the Capitol. Kincaid crossed into the restricted area and ascended the Northwest Terrace Stairs.

9. While ascending the stairs, an officer shot Kincaid with six rubber bullets. He claims that he was hit because he failed to duck, as those around him did. Instead of deciding to turn back, Kincaid advanced up through the scaffolding toward the Capitol.

10. Underneath the scaffolding, Kincaid verbally engaged with officers attempting to hold the top of the stairs and had his hands on a metal barrier that the officers at the top of the

stairs used as a barricade. Kincaid continued briefly holding onto this metal barrier as other rioters pulled it away from the officers. *See* Image 1 below.



Image 1

11. After the mob pulled the metal barrier away from the officers, Kincaid stood at the top of the NW stairs and continued speaking with an officer. During this conversation, Kincaid was sprayed with some type of chemical spray deployed by a rioter behind him. Eventually, the officer at the top of the stairs helped Kincaid get out of the mob and into the care of another officer who helped him clean his eyes from effects of the chemical spray.

12. Kincaid entered the U.S. Capitol at approximately 2:27 p.m., through the East Rotunda door less than one minute after it was violently breached. In the Rotunda, Kincaid saw other rioters knocking down the velvet rope stanchions and told them to stop damaging things.

13. Then, Kincaid walked to the House of Representatives' side of the building, stood at the front of the mob as it pushed through police in the statuary connector hallway. During this

encounter, Kincaid spoke to officers and tried to calm other rioters. After being pushed through the police line by other rioters, he turned toward them and put his hands up, appearing to try to stop the rioters from pushing.

14. Kincaid proceeds up to the third floor before eventually exiting the Capitol building through a door on the South side of the first floor at 2:52 p.m., twenty-five minutes after entering. The images below capture Kincaid inside the Capitol on January 6, 2021.

Image 3: KINCAID entering the U.S. Capitol through the East Rotunda Door at 2:27 p.m. (UTC in the image), less than one minute after rioters pulled officers away - breaching this door.

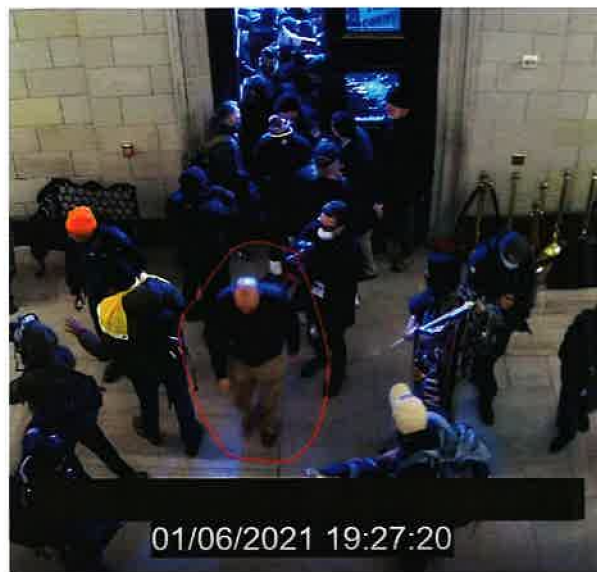


Image 4: KINCAID in a hallway on the second floor of the House of Representatives' side of the Capitol



Image 5: KINCAID in a hallway on the third floor of the House of Representatives' side of the Capitol (time in UTC)

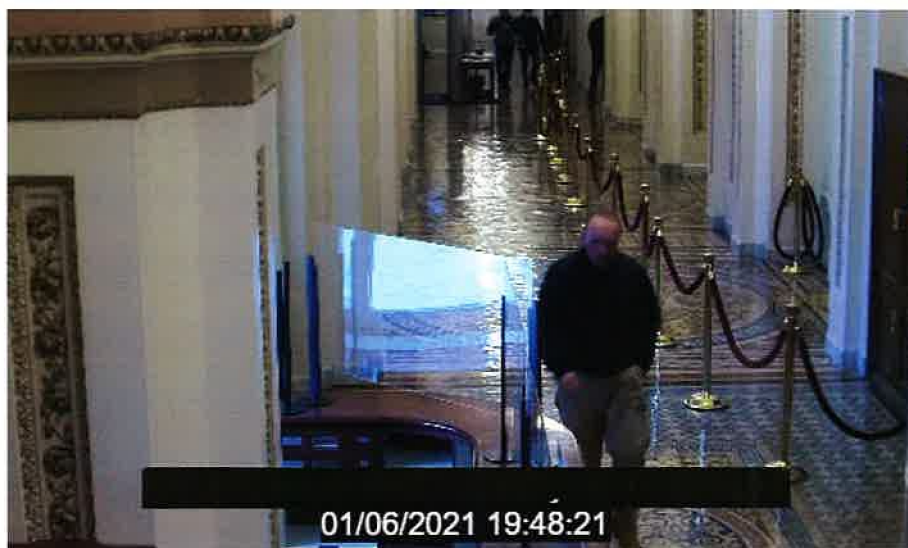


Image 6: KINCAID exiting the Capitol through a door on the South side of the first floor at 2:52 p.m.



15. On January 6, 2021, the defendant entered and remained in a restricted building and grounds without lawful authority to do so, in violation of 18 U.S.C. § 1752(a)(1). Specifically, the defendant knew at the time he entered U.S. Capitol Grounds that he did not have permission to be there. After his interactions with law enforcement on the NW scaffold stairs, the defendant knew that he did not have permission to remain on Capitol Grounds. At the time he entered the U.S. Capitol Building, the defendant knew that he did not have permission to enter the building.

Respectfully submitted,

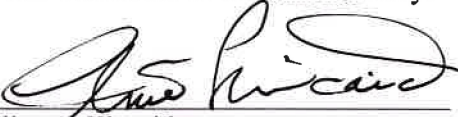
MATTHEW M. GRAVES
United States Attorney
D.C. Bar No. 481052

By: /s/ Tighe R. Beach
Tighe R. Beach
Assistant United States Attorney

DEFENDANT'S ACKNOWLEDGMENT

I, Clive A. Kincaid, have read this Statement of the Offense and have discussed it with my attorney. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

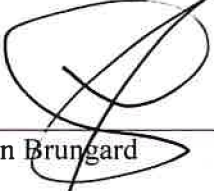
Date: Feb. 6th, 2024


Clive A. Kincaid
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of the Offense and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: 2/6/24


Ryan Brungard
Attorney for Defendant