

STATEMENT OF FACTS

Your affiant, James Lincoln, is a Special Agent with the Federal Bureau of Investigation (“FBI”) assigned to Washington Field Office Joint Terrorism Task Force since April 2021. In my duties as a special agent, I investigate criminal activity pertaining to international and domestic terrorism. I have received specific training from the FBI relevant to violations of federal law and various types of investigative methods. My responsibilities as an FBI Special Agent include investigating threats that are terroristic in nature, including investigating crimes committed by racially or ethnically motivated violent extremists, anti-government or anti-authority violent extremists, and other domestic terrorism related matters. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent, 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.

Following the events on January 6, 2021, the FBI obtained an online public tip from a Twitter user (“Witness-1”) alleging that Levi PLUMLEY (“PLUMLEY”) had participated in the storming of the U.S. Capitol on January 6, 2021. Witness-1 shared an open source video (see Image 1 below) in which PLUMLEY appeared to be inside the U.S. Capitol and identified himself on video inside the U.S. Capitol as “Levi Plumley.”

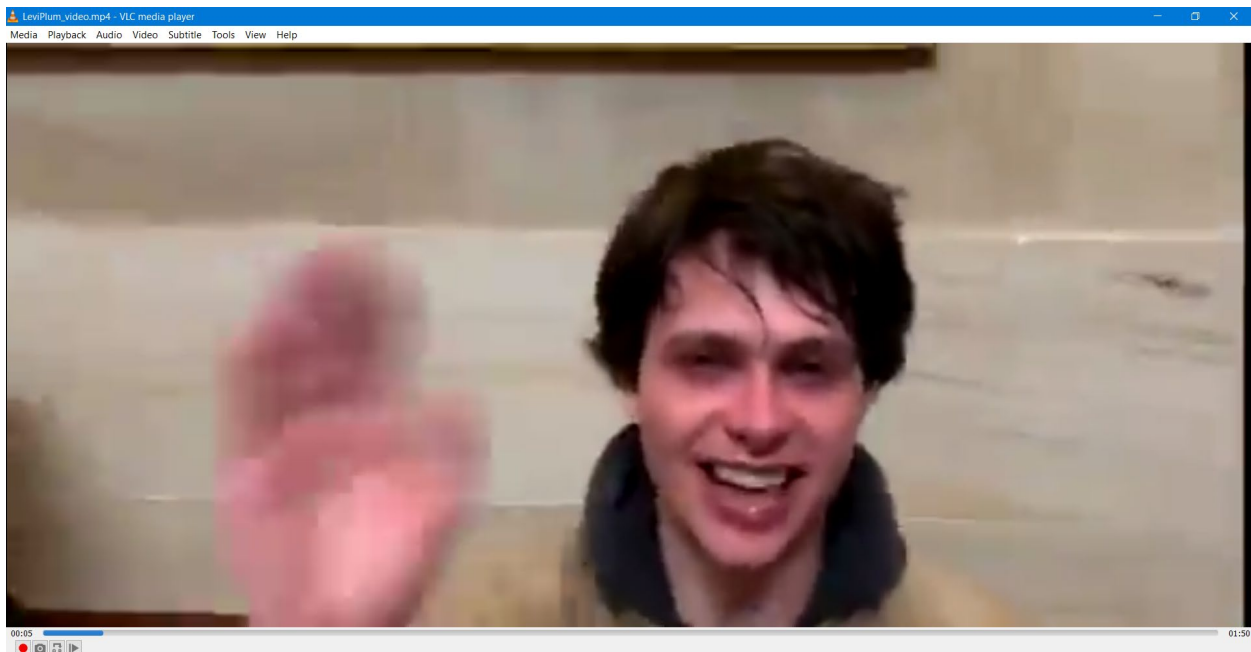


Image 1: still from open source video of Levi Plumley identifying himself

Specifically, on January 12, 2021, at approximately 4:17 p.m. EST, the FBI Office of Public Affairs (“OPA”) forwarded to the FBI National Threat Operations Center (“NTOC”) a comment posted on social media by Twitter/Facebook username "BeyondBlunt" regarding PLUMLEY, including PLUMLEY’s date of birth and home address, for participating in the attack on the U.S. Capitol.

FBI reviewed the video and witnessed PLUMLEY identify himself as “Levi Plumley” of “Covington, Virginia.” On the open source video, PLUMLEY, visually appearing to be suffering from the effects of pepper-spray, says he’s “never been famous for anything but I guess now I’m the pepper spray guy,” and does a “shout-out” to his family, including his father, “B.” Plumley, his step-mom, “S.” Plumley, and his mom, “R.” PLUMLEY also states, “I didn’t think I could do it . . . they don’t have any choice but to give it to Trump now do they. . . they burned down restaurants, we break into the building and take our country back”

Image 2 is another screenshot of PLUMLEY in the video received from Witness-1.



Image 2: still from open source video of Levi Plumley

On January 13, 2021, FBI received information from the Metropolitan Police Department (“MPD”) regarding the full version, approximately 44 minutes in length, of the aforementioned video depicting PLUMLEY. An FBI Special Agent observed PLUMLEY starting at approximately the 31:02 minute mark in the video.

FBI employees conducted baseline checks and verified that PLUMLEY lives in Covington, Virginia. On February 2, 2021, baseline checks yielded that PLUMLEY had prior military service with the United States Navy (“U.S. Navy”).

On February 22, 2021, the FBI interviewed PLUMLEY’s former colleague from the United States Navy (“Witness-2”), who had personal knowledge of PLUMLEY. During the interview, FBI showed the aforementioned video provided by Witness-1 of PLUMLEY to Witness-2. Witness-2 positively identified the person in the video as PLUMLEY.

On March 9, 2021, FBI employees conducted an employment check which indicated that PLUMLEY’s address was in Covington, VA 24426, with phone number ending in 4680.

On May 4, 2021, the Honorable Robert S. Ballou, United States Magistrate Judge, of the District Court for the Western District of Virginia signed a search warrant (“SW”) was issued for a search of PLUMLEY and electronic devices under his control.

On May 6, 2021, the search warrant was executed. One black iPhone in a black case was seized. PLUMLEY was interviewed at the conclusion of the search of PLUMLEY’s person in search of smartphone devices, pursuant to the federal search warrant. PLUMLEY admitted to being inside the Capitol.

FBI reviewed images of PLUMLEY from Capitol Police security footage that reveal him entering U.S. Capitol through the East Rotunda DoorCat approximately 2:27 p.m. EST, and

exiting the Rotunda Doors at approximately 2:53 p.m. EST. During this time spent inside the U.S. Capitol Building, PLUMLEY went back and forth through the Rotunda several times before exiting the building as depicted in Images 3 through 12 below. In this footage, PLUMLEY is wearing attire consistent with what he can be seen wearing in the video depicted in Images 1 and 2 above—namely, gray hoodie underneath a tan jacket, and dark colored pants and dark colored shoes.

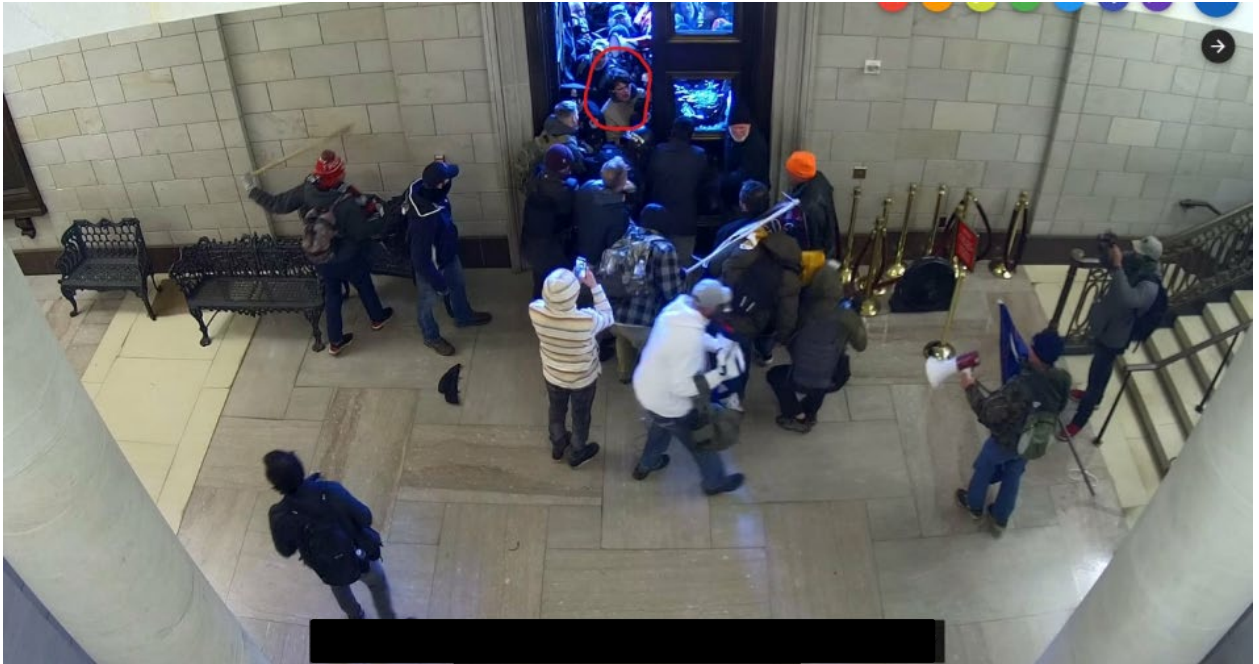


Image 3: CCTV of PLUMLEY entering the U.S. Capitol at approximately 2:27 p.m.

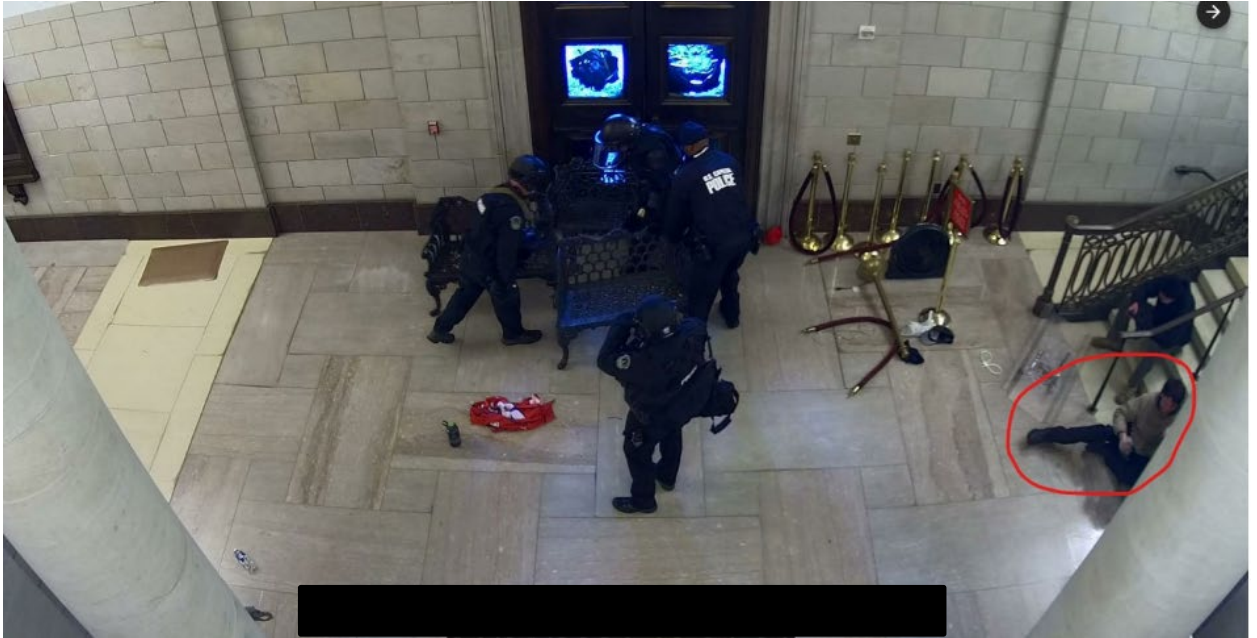


Image 4: CCTV of PLUMLEY inside U.S. Capitol at approximately 2:31 p.m.

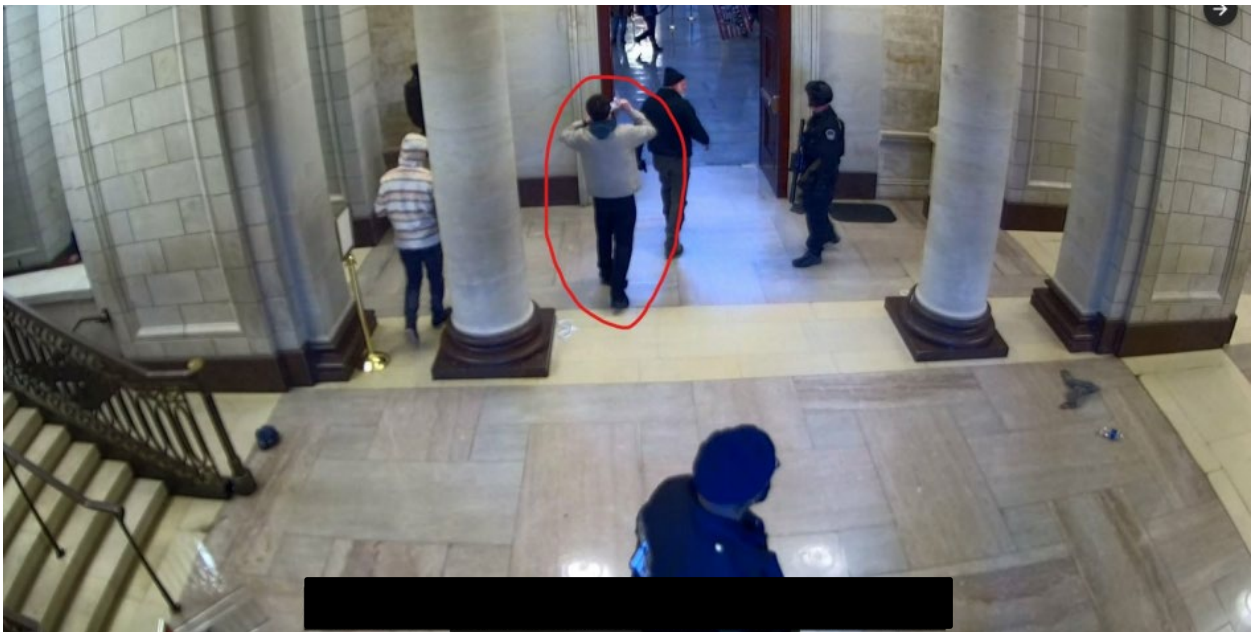


Image 5: CCTV of PLUMLEY inside U.S. Capitol at approximately 2:31 p.m.

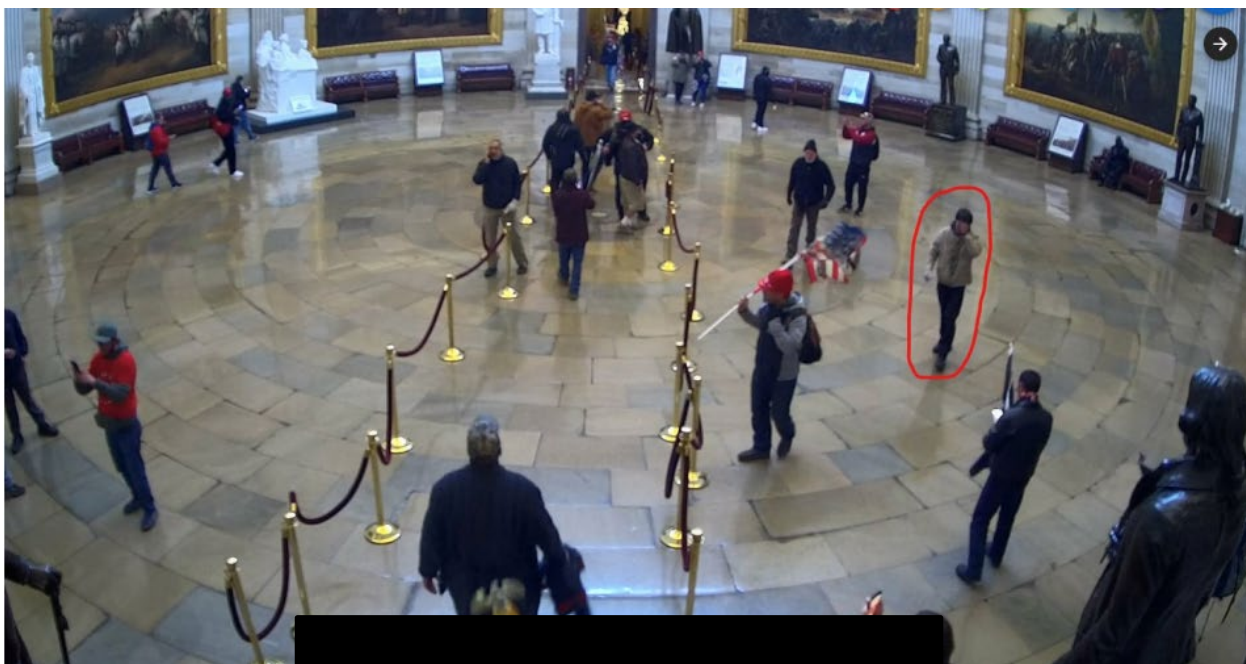


Image 6: CCTV of PLUMLEY inside U.S. Capitol at approximately 2:31 p.m.

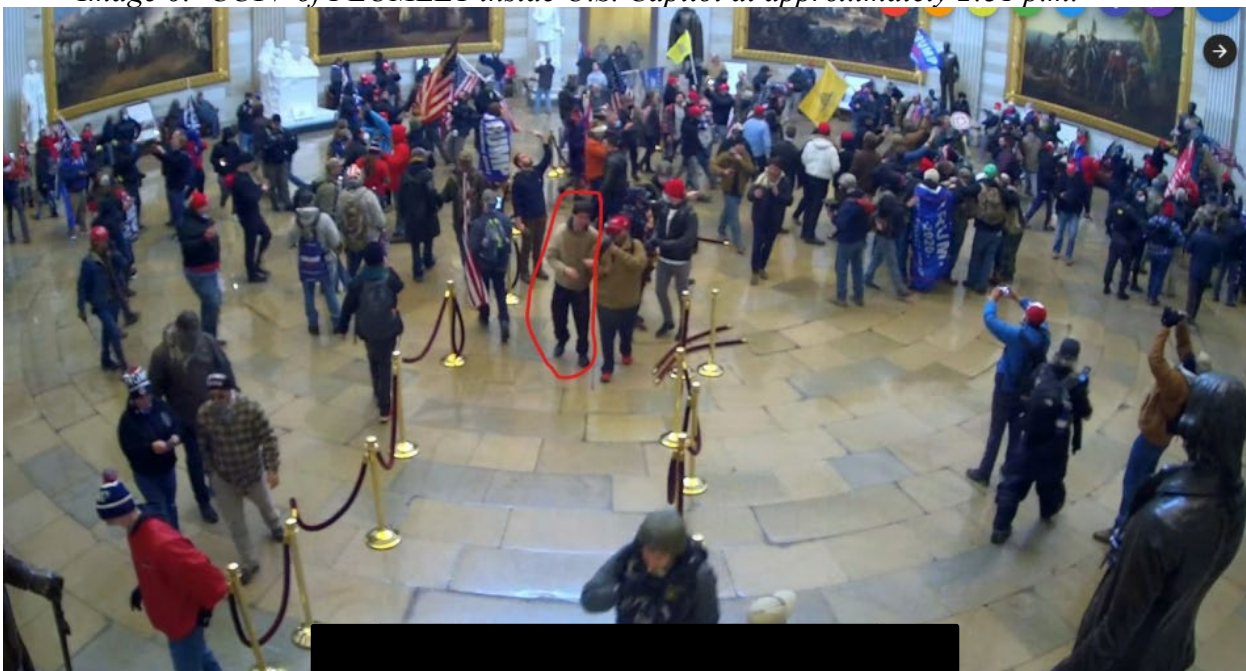


Image 7: CCTV of PLUMLEY inside U.S. Capitol at approximately 2:38 p.m.

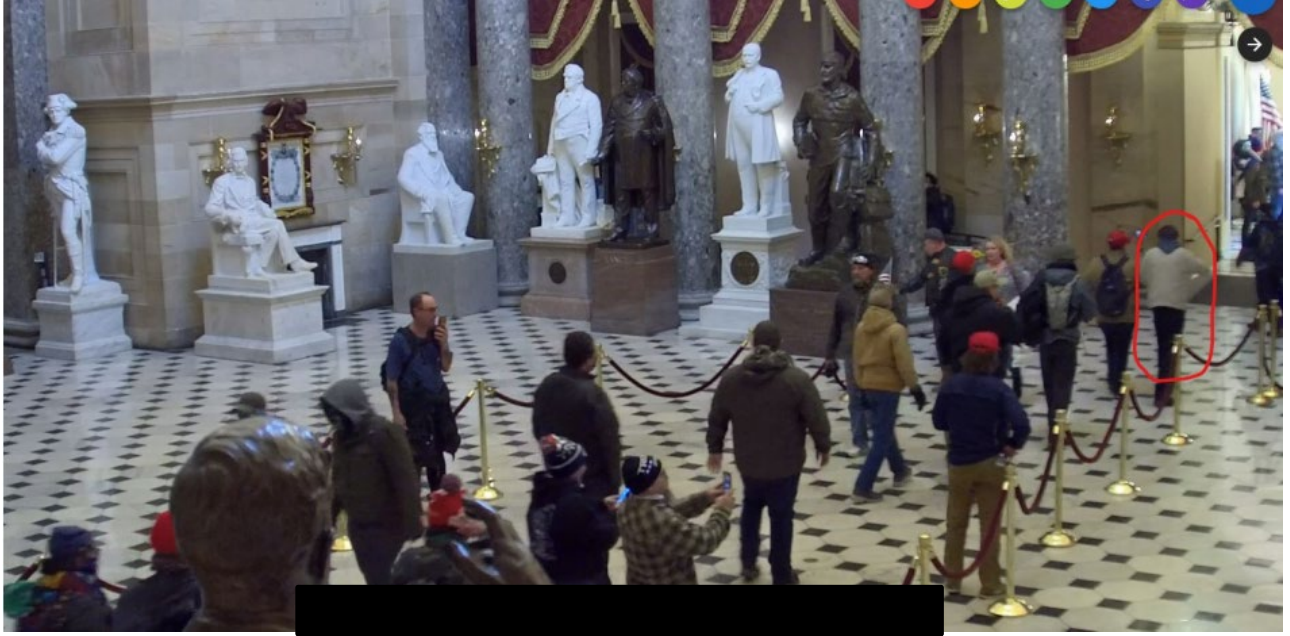


Image 8: CCTV of PLUMLEY inside U.S. Capitol at approximately 2:39 p.m.



Image 9: CCTV of PLUMLEY inside U.S. Capitol at approximately 2:39 p.m.



Image 10: CCTV of PLUMLEY inside U.S. Capitol at approximately 2:43 p.m.

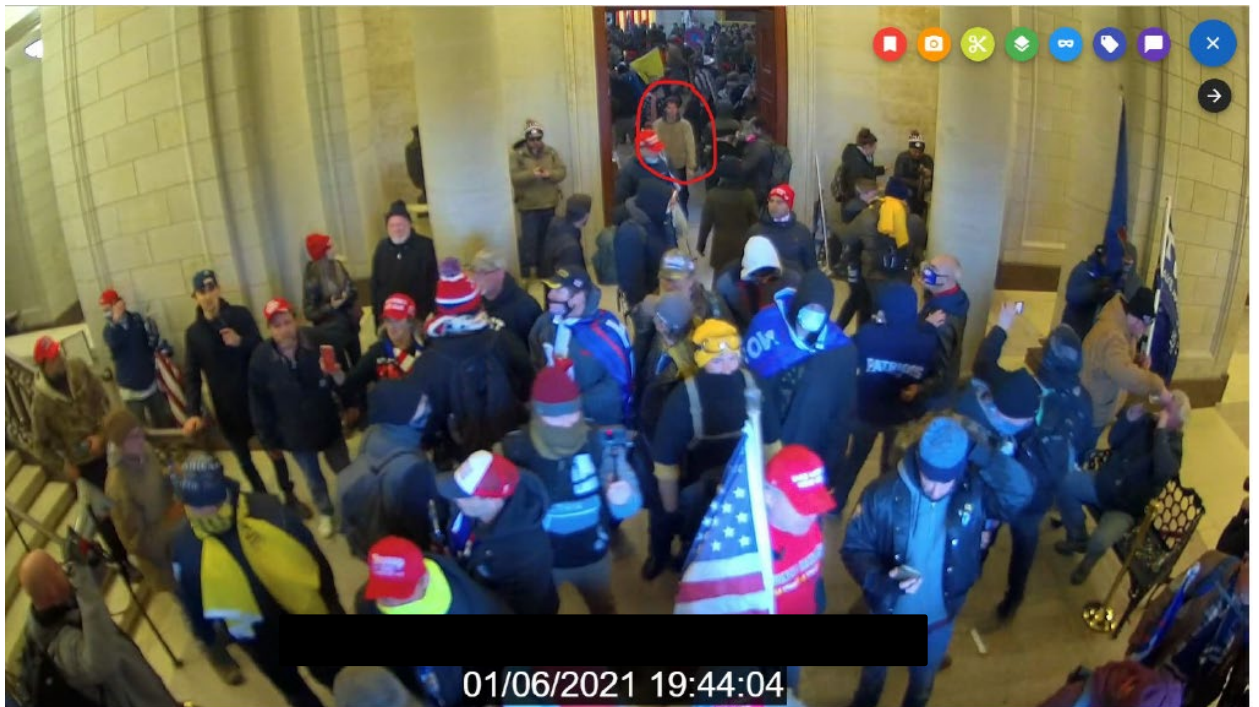


Image 10: CCTV of PLUMLEY inside U.S. Capitol at approximately 2:44 p.m.

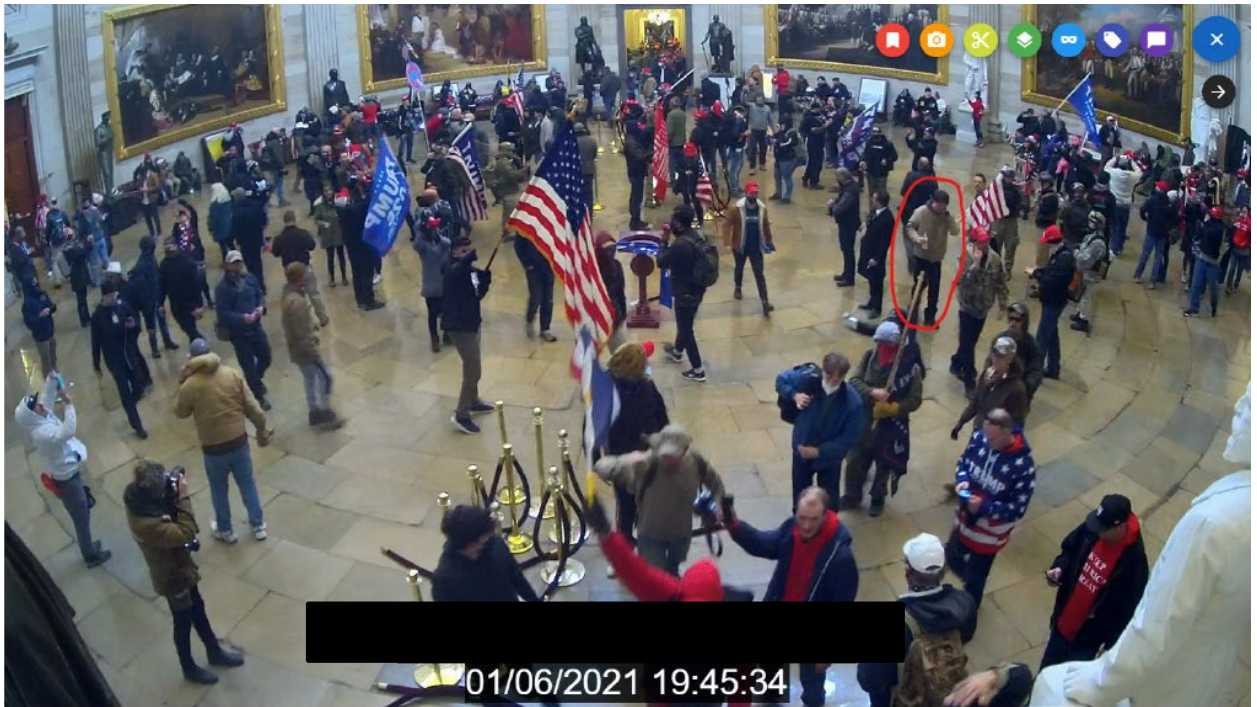


Image 11: CCTV of PLUMLEY inside U.S. Capitol at approximately 2:45 p.m.



Image 12: CCTV of PLUMLEY inside the U.S. Capitol at approximately 2:52 p.m.

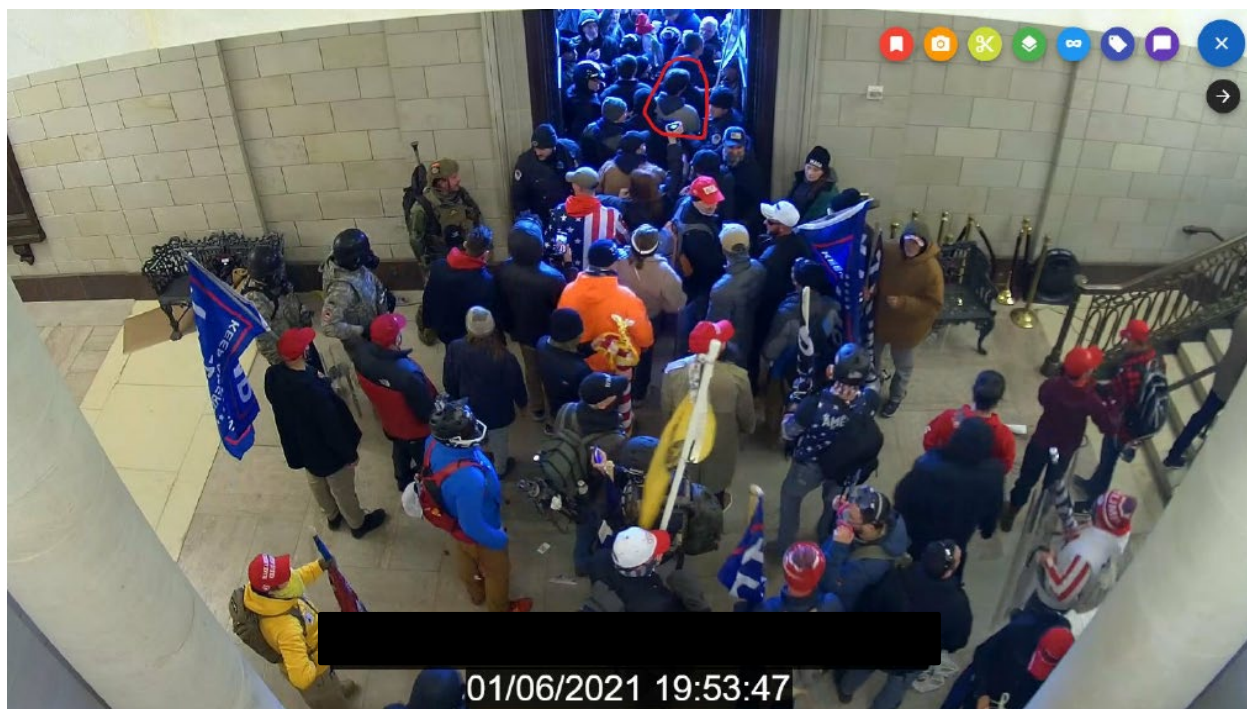


Image 12: CCTV of PLUMLEY exiting the U.S. Capitol at approximately 2:53 p.m.

Based on the foregoing, your affiant submits that there is probable cause to believe that LEVI PLUMLEY 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 LEVI PLUMLEY 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.

James Lincoln
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 6th day of September 2023.

HON. ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE