

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| UNITED STATES OF AMERICA | : | Case No. 23-CR-332 (RBW) |
| | : | |
| v. | : | 18 U.S.C. § 1752(a)(1) |
| | : | Entering and Remaining in a Restricted |
| MATTHEW SCHMITZ, | : | Building or Grounds |
| | : | |
| Defendant. | : | |
| | : | |

STATEMENT OF OFFENSE

Pursuant to Fed. R. Crim. P. 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, MATTHEW SCHMITZ, with the concurrence of the defendant’s 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 twenty-four hours a day by U.S. Capitol Police (USCP). Restrictions around the Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the Capitol.

2. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public. The grounds around the Capitol were posted and cordoned off, and the entire area as well as the Capitol building itself were restricted as that term is used in Title 18, United States Code, Section 1752, due to the fact that the Vice President and the immediate family of the Vice President, among others, would be visiting the Capitol complex that day.

3. On January 6, 2021, a joint session of the United States Congress convened at the Capitol. 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 Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on Tuesday, 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 Capitol. Temporary and permanent barricades, as noted above, were in place around the exterior of the Capitol, and USCP officers were present and attempting to keep the crowd away from the Capitol 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. Officers of the USCP were forced to retreat and the crowd advanced to the exterior façade of the building. Officers with the D.C. Metropolitan Police Department were called to assist officers of the USCP who were then engaged in the performance of their official duties. 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 as required by USCP officers or other authorized security officials.

6. At such time, the certification proceedings were still underway, and the exterior doors and windows of the Capitol were locked or otherwise secured. Members of the USCP 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 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 Capitol, requiring the expenditure of more than \$2.9 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 p.m., members of the House of Representatives and of the 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. on January 6, 2021. In light of the dangerous circumstances caused by the unlawful entry to the Capitol—including the danger posed by individuals who had entered the Capitol without any security screening or weapons check—Congressional proceedings could not resume until after every unauthorized occupant had been removed from or left the Capitol, and USCP confirmed that the building was secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

Matthew Schmitz

8. MATTHEW SCHMITZ is a 34-year-old resident of the state of New York. Since at least December of 2020, SCHMITZ has been a member of the Proud Boys.

9. The Proud Boys describes itself as a “pro-Western fraternal organization for men who refuse to apologize for creating the modern world; aka Western Chauvinists.” Proud Boys members routinely attend rallies, protests, and other events, some of which have resulted in violence involving members of the group. There is an initiation process for new members of the

Proud Boys, and members often wear black and yellow polo shirts or other apparel adorned with Proud Boys logos and slogans to public events.

10. Throughout the United States, there are local Proud Boys chapters. As of January 6, 2021, SCHMITZ was a member of his local chapter, the Long Island Proud Boys.

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

11. As of at least January 2, 2021, SCHMITZ was a member of an encrypted messaging group titled "MOSD – Op." SCHMITZ knew that "MOSD" stood for "Ministry of Self-Defense," and that the message group was being used to prepare for the event in Washington, D.C., on January 6, 2021. Another member described the group, on January 3, 2021, as "the operations channel to discuss DC and future operations." For example, some members discussed whether they could fly with their body armor and carry knives in D.C. Members of the group were instructed to not wear the group's black and yellow colors on January 6, 2021.

12. On January 4, 2021, SCHMITZ drove from Long Island to Washington, D.C.

13. As of at least January 5, 2021, SCHMITZ was a member of an encrypted messaging group titled "Boots on Ground." SCHMITZ understood that the Boots on Ground message group included only those Proud Boys members who were planning to attend the event in Washington, D.C. on January 6, 2021. Members of the group were instructed to meet at the Washington Monument at 10 a.m. on January 6, 2021.

14. On the morning of January 6, 2021, SCHMITZ met a group of approximately 100 Proud Boys members near the Washington Monument at 10 a.m. SCHMITZ did not wear any Proud Boys colors.

15. At the Washington Monument, SCHMITZ gathered near other members of the Long Island Proud Boys as well as Proud Boys from other New York chapters.

16. Shortly after 10 a.m., the large group of Proud Boys marched away from the rally that was taking place near the Washington Monument. One of the leaders of the march announced to the group that they were going to march to the Capitol. The group began marching east toward the Capitol.

17. SCHMITZ knew that Vice President Pence was going to be at the U.S. Capitol that day.

18. Shortly before noon, the group marched back from the west side of the Capitol to a group of food trucks located at approximately 2nd Street and Constitution Avenue NW. They arrived at approximately 12:10 p.m. There the group stopped and waited for approximately thirty minutes. At approximately 12:45 p.m., fifteen minutes before the certification of the Electoral College vote was scheduled to start, leaders of the march gathered the men, including SCHMITZ, and led them back towards the Capitol.

19. SCHMITZ and the marching group arrived at the Peace Circle, at the edge of the restricted portion of Capitol grounds, at approximately 12:50 p.m. Prior to their arrival, the Peace Circle was uncrowded and relatively peaceful. The First Street pedestrian entrance to the Capitol, which was approximately 100 feet away, was guarded by a handful of Capitol Police officers. Prominent signs posted on metal barriers at the pedestrian entrance and other locations stated, "AREA CLOSED By order of the United States Capitol Police Board."

20. Upon arriving at the Peace Circle, members of this crowd violently disassembled and trampled the metal barriers, and the crowd overwhelmed USCP officers at the pedestrian gate at approximately 12:53 p.m. The crowd, including SCHMITZ, walked toward the U.S. Capitol, where another line of USCP officers and barricades attempted to stop the crowd from continuing to move toward the walls of the building and the West Plaza. The mob of rioters overwhelmed that

police line as well, and rioters, including SCHMITZ, moved onto the West Plaza, as captured in Image 1.



Image 1: SCHMITZ on the West Plaza following the Peace Circle breach.

21. Once on the West Plaza, SCHMITZ remained with members of the group who went to the Capitol with SCHMITZ, as seen in Image 2.



Image 2: SCHMITZ (on the West Plaza by the scaffolding of the inauguration stage).

22. Shortly before 1:45 p.m., a crowd of rioters had gathered at the base of a set of concrete stairs that led to the Upper West Terrace of the Capitol. A handful of law enforcement officers formed a police line at the base of the stairs. The crowd surged forward and overwhelmed

the police line. SCHMITZ and others ran up the stairs inside the scaffolding, as seen in Image 3, which led to the Lower West Terrace of the Capitol.



Image 3: SCHMITZ climbing up the stairs within the scaffolding.

23. The crowd, including SCHMITZ, eventually overwhelmed the police line and continued up the stairs. SCHMITZ climbed the stairs to the Upper West Terrace at approximately 2:11 p.m., as captured in Image 4.



Image 4: SCHMITZ climbing up the stairs to the Upper West Terrace.

24. At approximately 2:12 p.m., rioters shattered windows adjacent to the Senate Wing Door, which allowed the first group of rioters to enter the Capitol.

25. SCHMITZ entered via the Senate Wing Door two minutes later, at approximately 2:14:44 pm, as captured in Image 5.

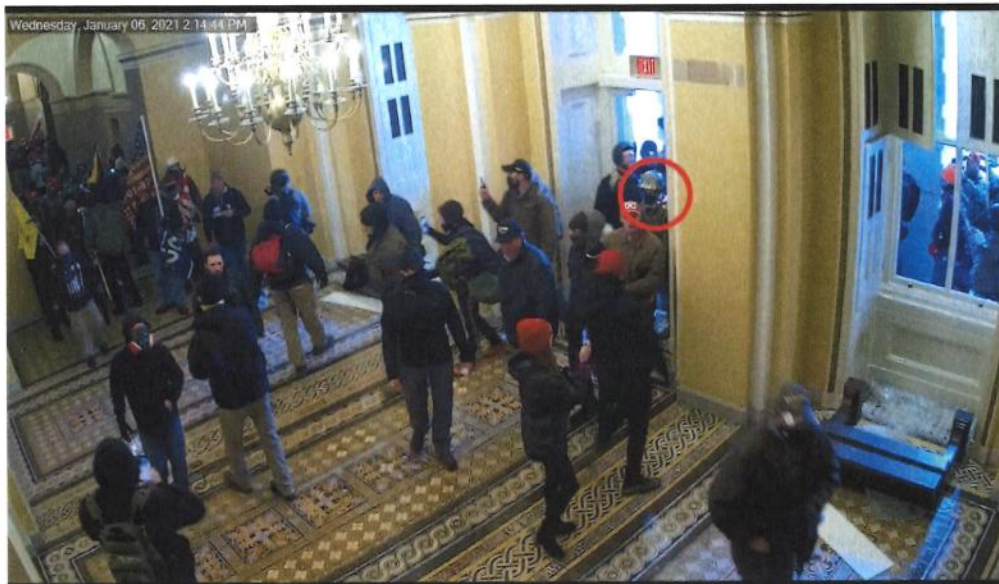


Image 5: SCHMITZ entering the Capitol building via the Senate Wing Door at 2:14:44 pm.

26. Once SCHMITZ was inside, he turned left, walking north down a corridor for a few seconds, in the direction of the Senate Chamber, as captured in Image 6 and Image 7.



Image 6: SCHMITZ walking down a corridor inside the Capitol building.



Image 7: SCHMITZ walking down a corridor inside the Capitol building.

27. SCHMITZ was wearing jeans, a dark green camouflage sweatshirt, an American flag bandanna around his neck, a camouflage helmet, a black face mask, and tinted glasses. Inside the Capitol, SCHMITZ's face was almost entirely obscured.

28. Approximately twelve seconds after the scene captured in Image 6, tear gas came billowing down the hallway, as captured in Image 8.

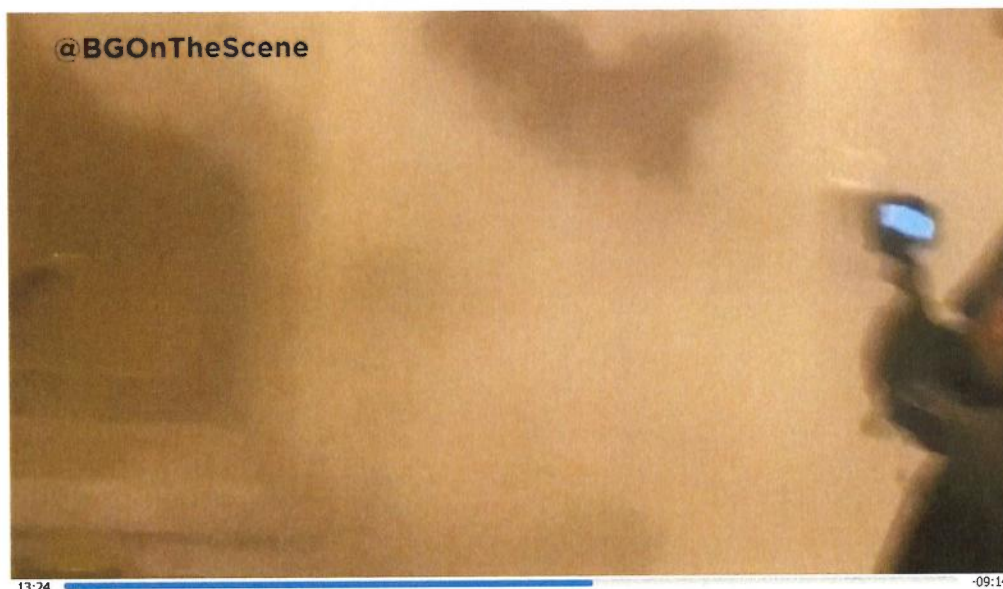


Image 8: The same hallway captured in Image 6, now filled with tear gas.

29. After the deployment of the tear gas, SCHMITZ turned around and walked back toward the Senate Wing Door. He exited the Capitol building at 2:15:25 p.m. by climbing through a window next to the Senate Wing Door, as captured in Image 9.



Image 9: SCHMITZ climbing out of a window next to the Senate Wing Door.

30. Immediately upon exiting, SCHMITZ stood outside the Senate Wing Door, wiping down his jacket with what appears to be an American flag handkerchief, as captured in Image 10.



Image 10: SCHMITZ outside the Senate Wing Door after exiting through the window.

31. SCHMITZ remained on Capitol grounds at least until approximately 3:18 p.m. SCHMITZ eventually walked back toward the Peace Circle to exit Capitol grounds, as captured in Image 11.



Image 11: SCHMITZ near the Peace Circle, exiting Capitol grounds.

32. SCHMITZ knew he lacked permission to advance past the barricades at Peace Circle and enter the Capitol Building.

Limited Nature of Factual Basis

33. This proffer of evidence is not intended to constitute a complete statement of all facts known by SCHMITZ or the government. Rather, it is a limited statement of facts intended to provide the necessary factual predicate for SCHMITZ's guilty plea.

Elements of the Offense

34. The parties agree that Entering and Remaining in a Restricted Building or Grounds, 18 U.S.C. § 1752(a)(1), requires the following elements:

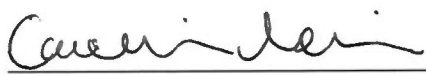
- a. First, the defendant entered or remained in a restricted building or grounds without lawful authority to do so.
- b. Second, the defendant did so knowingly.

Defendant's Acknowledgments

35. The defendant knowingly and voluntarily admits to all the elements as set forth above.

Respectfully submitted,

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

By: 
CAROLINA NEVIN
Assistant United States Attorney
601 D Street NW
Washington, D.C. 20530
NY Bar No. 5226121
(202) 803-1612
Carolina.Nevin@usdoj.gov

DEFENDANT'S ACKNOWLEDGMENT

I, MATTHEW SCHMITZ, have read this Statement of the Offense and have discussed it with my attorney, Tracey Gaffey. 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: Sept 18, 2024



MATTHEW SCHMITZ
Defendant

ATTORNEY'S ACKNOWLEDGMENT

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

Date: Sept 18, 2024



TRACEY GAFFEY
Attorney for Defendant