

Case: 1:23-mj-00261
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 9/26/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent of the Federal Bureau of Investigation (FBI) assigned to [REDACTED]. In my duties as a Special Agent, I have conducted investigations of federal criminal offenses. In the course of these duties, I have gained experience in conducting interviews, preparing and executing search warrants and arrest warrants, collecting physical and digital evidence, and other investigative activities. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As an FBI 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.

Background: Events at the U.S. Capitol on January 6, 2021

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.

Identification of Lee Stutts

Following the January 6, 2021, attack on the Capitol, FBI agents reviewed open-source video, body-worn camera (“BWC”) footage of Metropolitan Police Department (“MPD”) officers, and closed-circuit video (“CCV”) maintained by the United States Capitol Police (“USCP”). During that review, agents identified an individual who assaulted USCP and MPD officers and attempted to disrupt police barricades, as detailed further below. The subject, later identified as LEE STUTTS (“STUTTS”), is a white male. On January 6, 2021, STUTTS was wearing a blue “2020 Trump Keep America Great” shirt over a long-sleeved black and gray camouflage print hoodie. He was also wearing a black helmet with a U.S. Marine Corps logo sticker on the back, an American flag and eagle print neck gaiter, and a black and white backpack.



Image 1



Image 2

The FBI Office of Public Affairs included then-unknown STUTTS in its “Seeking Information” list. The FBI posted a “Be on the Lookout” (“BOLO”) for the individual depicted in the Photos A, B, and C below. The posting referred to STUTTS as “57-AFO” and requested the public’s help in identifying him.



57- AFO Photo A



57-AFO Photo B



57-AFO Photo C

I compared the BOLO photos of STUTTS to his North Carolina driver's license photograph and publicly available social media profiles. The individual depicted in the BOLO photos appeared to be the person depicted in the driver's license photo and the social media photos. Further queries show that STUTTS was a former marine and was last known to live in Terrell, North Carolina.

On July 10, 2023, I conducted a voluntary interview with an individual (hereinafter "Witness 1") at Witness 1's residence. Witness 1 has known STUTTS for several years. Upon showing Witness 1 the photos of 57-AFO depicted above, Witness 1 identified STUTTS as the individual in the photos.

Lee Stutts's Conduct on January 6, 2021

Based on my review of open-source video, USCP CCV, and BWC footage from January 6, 2021, I observed the following:

At approximately 1:00 p.m., STUTTS arrived on the western grounds of the U.S. Capitol building after attending the "Stop the Steal" rally on the Ellipse. He quickly made his way through previously broken fencing and over a wall to join other rioters on the west plaza. He can be seen waiving other rioters on as he made a beeline for the line of USCP officers blocking the way to the southwest steps of the Capitol.

At approximately 1:10 p.m., STUTTS approached that line of USCP officers. At one point, he wrapped his arms around a USCP officer from behind:



Image 3: STUTTS with his arms wrapped around a USCP Officer

Shortly after, on at least two separate occasions, STUTTS shoved a USCP officer from behind with both hands:

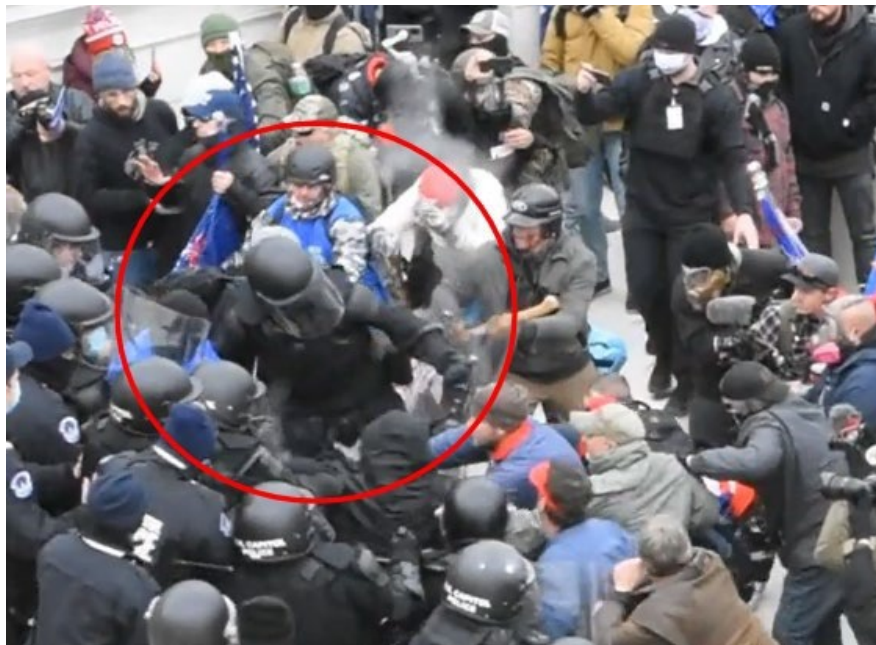


Image 4: STUTTS shoving a USCP officer



Image 5: STUTTS shoving a USCP officer

At approximately 1:13 p.m., USCP officers, and recently arrived MPD officer reinforcements, were attempting to regain ground and hold a police line on the west plaza with metal bike racks. Rioters repeatedly attempted to break that line. STUTTS joined in the effort.

Between 1:14 p.m. and 1:15 p.m., STUTTS committed at least four additional assaults against USCP and MPD officers.

First, at approximately 1:14 p.m., STUTTS approached a line of officers holding onto a bike rack, reached over it, and shoved an MPD officer in the chest with both hands:



Image 6: STUTTS shoving an MPD officer in the chest

Moments later, rioters succeeded in pulling bike racks away from the officers and the line was broken. As several officers moved into the crowd to regain control of the bike racks, STUTTS rushed them, shoving MPD Officer J.C. in the back with two hands:



Image 7: STUTTS shoving an MPD Officer J.C. in the back

Other officers, including MPD Officer J.G., moved into the crowd to assist MPD Officer J.C. As MPD Officer J.G. approached, STUTTS shoved him in the chest with two hands:



Image 8: STUTTS shoving MPD Officer J.G. in the chest

MPD Officer B.B. stepped forward to assist MPD Officer J.G., at which point STUTTS reached toward Officer B.B. and made contact with the officer's upper body with his hands:



Image 9: STUTTS making contact with MPD Officer B.B.

After these assaults, STUTTS retreated into the crowd momentarily and then made his way back to the police line.

At approximately 1:40 p.m. on the west plaza, STUTTS and other rioters began to move a large sign on wheels with a metal frame towards the police line and barricade. The rioters then used the sign as a battering ram against officers attempting to hold the line. STUTTS placed his hands on the sign's frame and pushed it towards the police line (Images 10 and 11). He then grabbed hold of the bike rack barricade underneath the sign and attempted to push it towards the officers (Image 12).



Image 10: STUTTS reaching for the billboard battering ram



Image 11: STUTTS holding onto the billboard battering ram



Image 12: STUTTS pushing a barricade against police officers

The police were ultimately able to take the sign from the rioters. Shortly after, I observed STUTTS throw a water bottle toward the line of police:



Image 13: STUTTS throwing a water bottle in the direction of the police

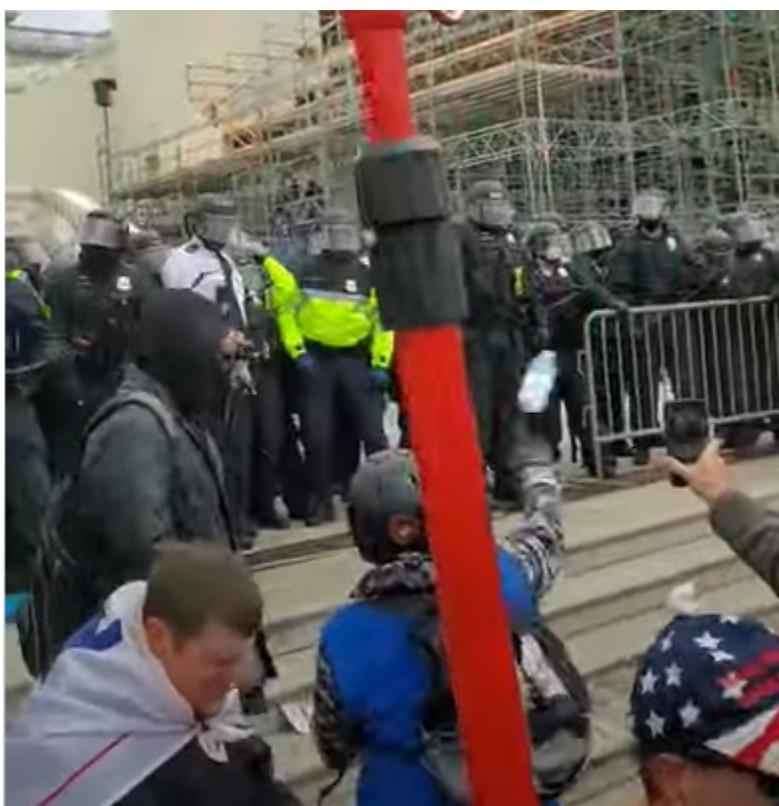


Image 14: STUTTS throwing a water bottle in the direction of the police

STUTTS then again retreated into the crowd before quickly making his way back to the police line. At approximately 2:28 p.m., a wave of rioters broke the police line and overtook the west plaza. STUTTS was one of the rioters leading the way in that final breaking of the police line:



Image 15: STUTTS at the front of the pack following the breaking of the police line

At approximately 2:39 p.m., I observed STUTTS standing on a ledge close to the southwest steps to the Capitol building. He raised his arms and pumped his fists in a celebratory manner as police officers retreated from the oncoming swarm of rioters:



Image 16: STUTTS with his arms raised

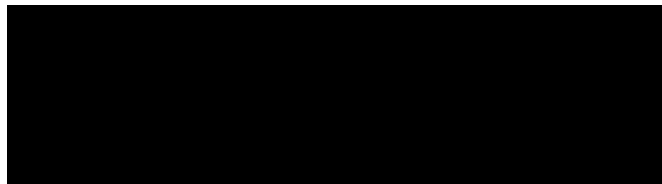
By approximately 3:00 p.m., STUTTS had made his way to the southwest stands erected for the 2020 Inauguration, where he stayed until approximately 4:54 p.m.:



Image 17: STUTTS on the Inauguration stands

Based on the foregoing, your affiant submits that there is probable cause to believe that STUTTS violated:

- a) 18 U.S.C. §§ 111(a)(1) and 111(b), which make it unlawful to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in Section 1114 of Title 18 while engaged in or on account of the performance of official duties, including while using a deadly or dangerous weapon. For purposes of Section 111 of Title 18, United States Capitol Police Officers constitute persons designated in Section 1114 of Title 18
- b) 18 U.S.C. 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Secret Service's protection of the Vice President and his family and the Capitol Police's protection of the U.S. Capitol.
- c) 18 U.S.C. § 1752(a)(1), (a)(2), and (a)(4) which make it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; (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; and (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; or attempt or conspire 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.
- d) 40 U.S.C. § 5104(e)(2)(D) and (F), which make it a crime to (D) willfully and knowingly engage in disorderly and disruptive conduct within Capitol Grounds or any of the Capitol Buildings and (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.



FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 26th day of September 2023.

HONORABLE MOXILA A. UPADHYAYA
U.S. MAGISTRATE JUDGE