

Case: 1:23-mj-00264

Assigned To : Upadhyaya, Moxila A.

Assign. Date : 9/29/2023

Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation assigned to the [REDACTED]. 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.

Investigation of Amy Schubert and John Schubert Jr. Leads to Identifying John Schubert, III

In June, 2021, Amy Schubert (“Amy”) and John Schubert, Jr. (“John”) were each charged by complaint with four crimes based upon their unlawful entry into the United States Capitol on January 6, 2021. *United States v. Amy Schubert*, 21-cr-00588-ABJ; *United States v. John Schubert*, 21-cr-00587-ABJ. On December 3, 2021, Amy and John each pled guilty to Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(G).

During the course of the FBI’s investigation of Amy and John, agents identified both Amy and John in video footage, including USCP closed-circuit video (“CCV”) footage, Metropolitan Police Department (“MPD”) Body Work Camera (“BWC”) footage, and other video taken by other rioters, that had been taken inside of the U.S. Capitol. In that footage, Amy was wearing a dark-colored jacket with white sleeves and logo on the back for “Plumbers & Pipefitters Local Union 422 Joliet IL,” as depicted below :



Images 1 (left) and 2 (right): screen shots from YouTube video showiing Amy Schubert wearing jacket with Plumbers & Pipefitters Local Union 422 Joliet IL logo

Agents obtained a search warrant for a Google account used by Amy. That account contained various images taken on January 6, 2021, including the images below:



Images 5 (left) and 6 (right): Images received in response to Google search warrant for records associated with aschu.XXXX@gmail.com



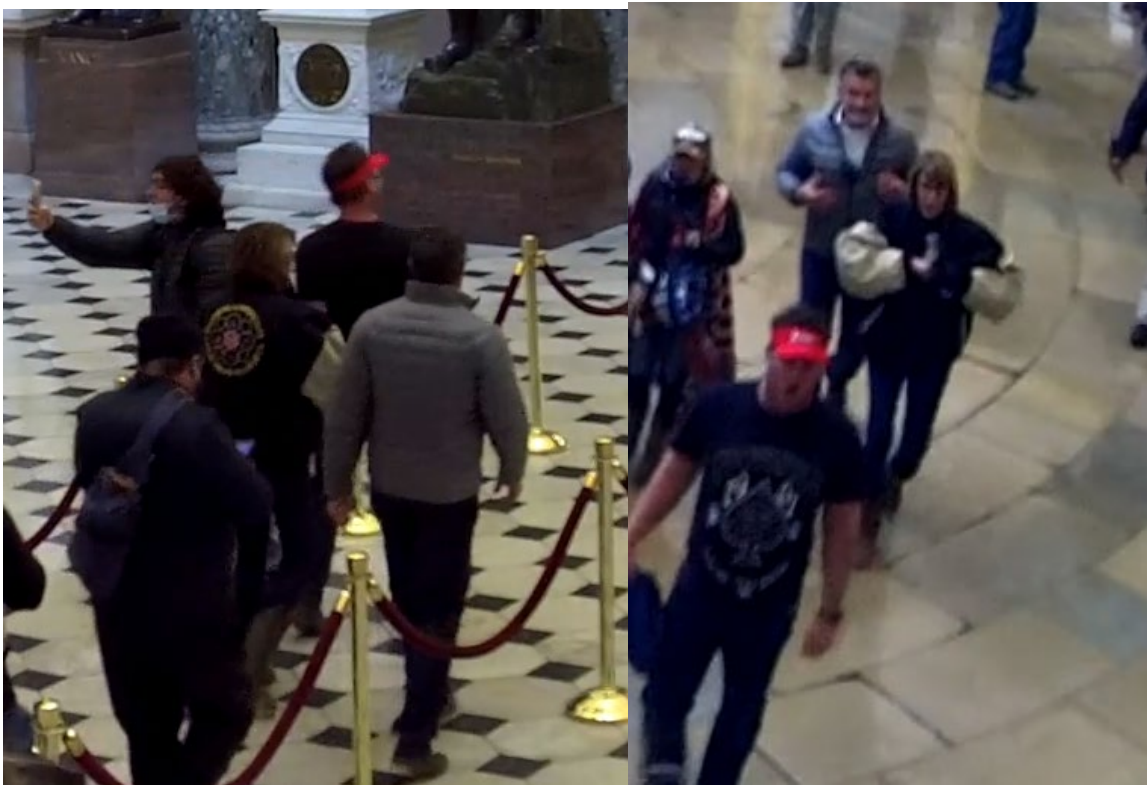
Images 7 (left) and 8 (right): Images received in response to Google search warrant for records associated with aschu.XXXX@gmail.com

Agents identified the man with the gray hair and a white goatee and wearing a gray jacket (depicted in Image 6 above) as John.

Identification of John Anthony Schubert III

The FBI interviewed John following his arrest on July 26, 2021. During the interview, John said that he and Amy met up with his son in D.C., and that his son was present with them at the Capitol. He identified his son as living in Bradenton,¹ but did not identify his son by name. He stated that he has one son, one daughter, and an adopted son from a previous marriage that he has not seen in 20 years.

A review of footage from the Capitol security cameras and open-source images and videos shows that a man in a red visor and black t-shirt accompanied Amy and John throughout the Capitol on January 6, 2021. For example, CCV footage shows them with a man in a red visor and black shirt in Statuary Hall and in the Rotunda:



Images 9 (left) and 10 (right): Screenshots from CCV footage inside Statuary Hall (Image 9) and the Rotunda (Image 10) on January 6, 2021 inside the U.S. Capitol

The red visor and black t-shirt worn by the individual in images 9 and 10 are consistent with those seen worn by a man in images recovered from Amy Schubert's google account in images 5, 7, and 8, above.

¹ Bradenton is a city in Florida located approximately 45 miles south of Tampa.

During the course of the investigation, I reviewed body camera footage. In one video, the same man in a black t-shirt and red visor pats a man in a grey jacket on the back and says “I got my parents.” The grey jacket is consistent with the jacket wore when he unlawfully entered the Capitol on January 6, 2021. A screenshot from that video is below:



Image 11: Screenshot from body camera footage inside the Capitol on January 6, 2021

Agents obtained a warrant to search Amy’s cellphone. A review of the device showed that on January 6, 2021, at approximately 4:46 p.m., Amy the following message:

Johnny got clubbed and maced and john and I got maced in our mouths. A woman was shot 20 feet in front of use [sic]. We’re ok. Got a little confrontation w/ Antifa.

I reviewed a copy of John Anthony Schubert, III’s (“Schubert”) birth certificate which shows that his parents are Amy Schubert and John Schubert, Jr. I also reviewed Schubert’s Florida Driver License records, including Schubert’s driver license photograph. The records indicate that in 2021, Schubert resided at a specific address in Bradenton, Florida.

On July 26, 2021, I met with Schubert at his home—the address in Bradenton, Florida, identified in Schubert’s Florida Driver License records—in an attempt to interview him. Schubert declined to provide information about his activities on January 6, 2021.

Based upon my personal interaction with Schubert on July 26, 2021, my review of Schubert’s Florida driver license photograph, the information obtained from Amy’s google account, and the information provided by John (including that his son accompanied them in the Capitol and that his son lives in Bradenton), and the birth certificate, I have identified the individual wearing the red visor and black t-shirt, depicted in Images 5, 7, 8, 9, 10, and 11, above, as Schubert.

Schubert’s Conduct on January 6, 2021

By reviewing CCV from the Capitol, the FBI was able to identify an individual that appears to be Schubert at various locations inside the Capitol. Based upon the CCV footage, it appears that Schubert entered the Capitol at approximately 2:21 pm through a broken window next to the Senate Wing doors:

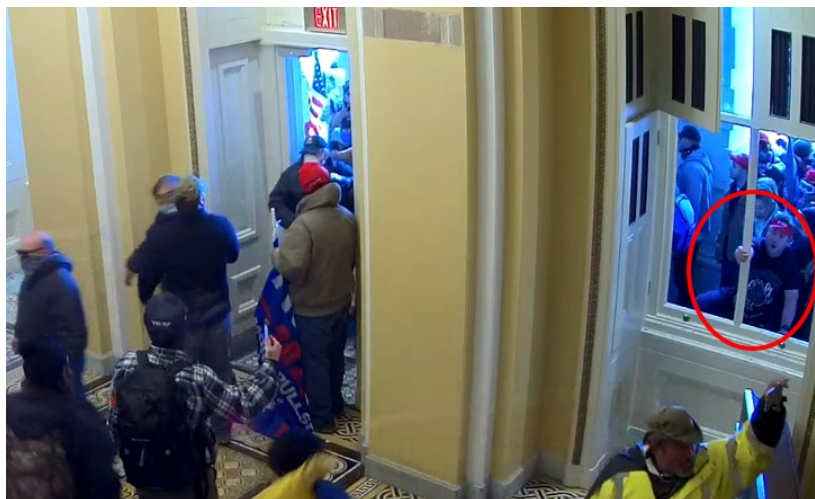


Image 12: Schubert (circled in red) climbing into the Capitol through a broken window

Once inside, Schubert turned to help his parents enter the Capitol through the same broken window at approximately 2:22 p.m.:



Image 13: Schubert (circled in red) assisting his parents, Amy Schubert and John Schubert, Jr., climb through a broken window into the Capitol

Additional CCV video shows Schubert at various locations through the Capitol, including walking around the Rotunda and through Statuary Hall. Schubert traveled to the East Stairs and ascended a stairway on the east side of the Capitol building, and arrived at the Upper House Door area at approximately 2:43 p.m.



Image 14: *Schubert (circled in red) in the Upper House Door area*

He remained in that area for approximately ten minutes, and eventually exited the building through the East Front House door at approximately 2:56 p.m.

A subsequent review of open-source video from January 6th revealed that, for part of the day, Schubert wore a blue long-sleeve shirt bearing the words “Wrigley Field”:

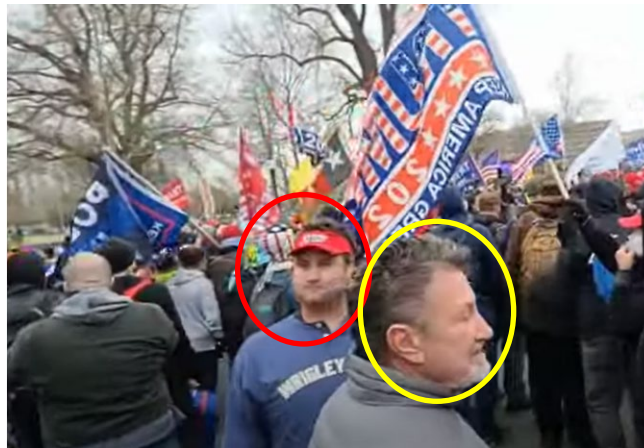


Image 15: *Screenshot from a video showing Schubert (circled in red) near his father (circled in yellow)*

Open-source video also showed that Schubert was part of the initial breach of police barricades at approximately 12:53 p.m. at Peace Circle, located at Pennsylvania Avenue NW and First Street NW. Specifically, Schubert pushed the police barriers and appeared to be encouraging other rioters to breach the police barricades:



Image 15: Photograph showing Schubert (circled in red) pushing a barrier at Peace Circle



Images 16 (left) and 17 (right): Screenshots from an open source video showing Schubert (circled in red) after breaching the police barriers

Another open-source image shows a different angle of Schubert after breaching the police line at Peace Circle:



Image 18: Photograph showing Schubert (circled in red) after breaching the police barrier at Peace Circle

From Peace Circle, Schubert continued towards the Capitol and confronted police officers near the stage that was being erected for the inauguration:

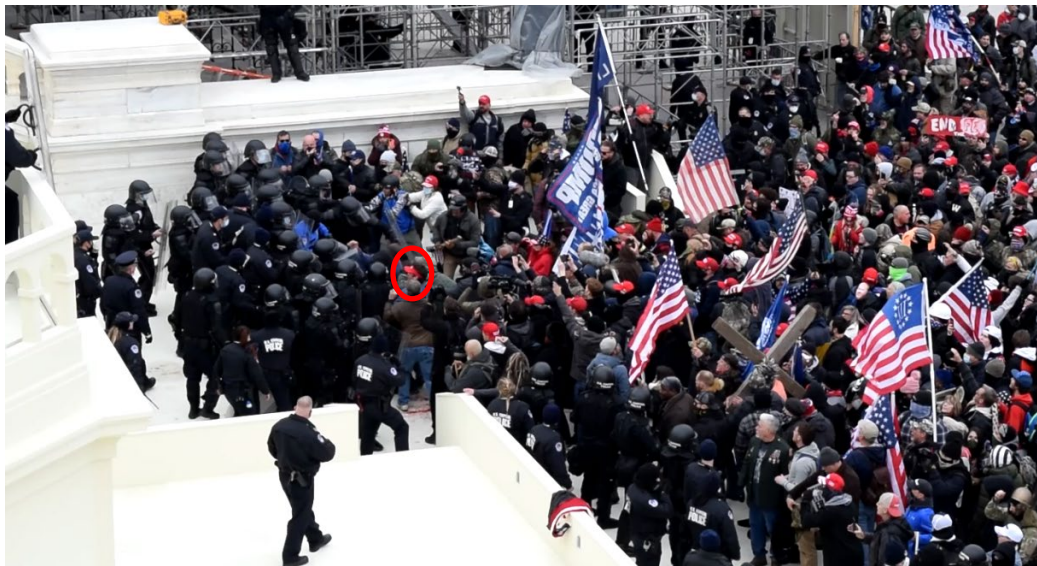


Image 19: Photograph showing Schubert (circled in red) on Capitol Grounds

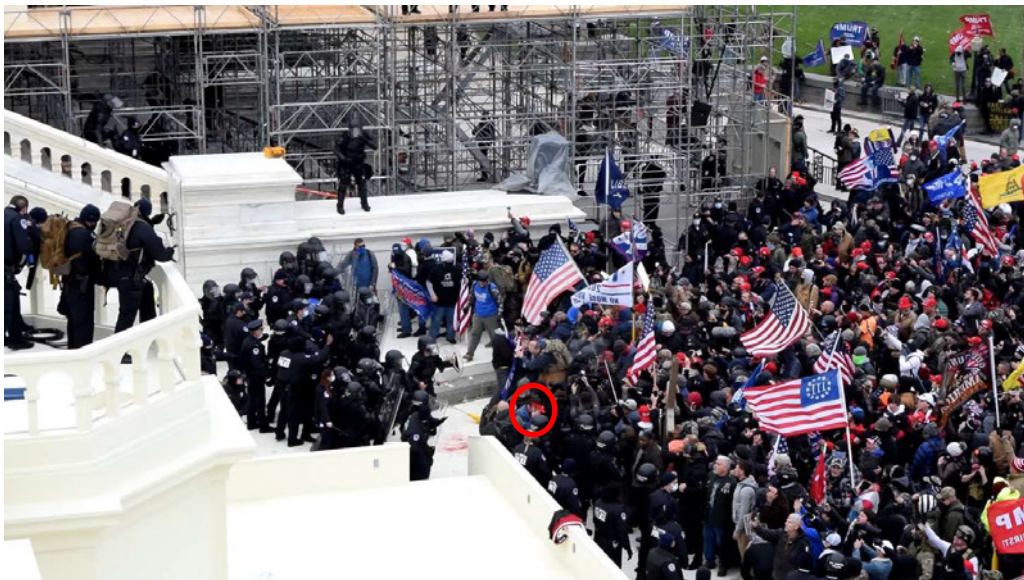


Image 20: Photograph showing Schubert (circled in red) on Capitol Grounds

Schubert approached the officers and pushed on at least one law enforcement officer:



Image 21: Screenshot from video showing Schubert (circled in red) approaching law enforcement officers



Image 22: Screenshot from video showing Schubert (circled in red) pushing a law enforcement officer with his left arm (circled in yellow)

At one point, Schubert threw a punch at a law enforcement officer:



Image 23: Screenshot from video showing Schubert (circled in red) attempting to punch a law enforcement officer with his left arm (circled in yellow)

In the video, Schubert appears to be sprayed in the face with a chemical irritant. He then turned and walked away from officers, consistent with image 20, above:



Image 24: Screenshot from video showing Schubert (circled in red)

Based on the foregoing, your affiant submits that there is probable cause to believe that John Anthony Schubert, III violated 18 U.S.C. § 1752(a)(1) (2) and (4), 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; (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; 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 John Anthony Schubert, III violated 40 U.S.C. § 5104(e)(2)(D), (F), 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; (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

I also submit that there is probable cause to believe that John Anthony Schubert, III violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with a designated person while that person is engaged in the performance of official duties, or on account of that person’s performance of official duties. For the purposes of Section 111 of Title 18, a designated person includes officers or employees of the United States or of any agency in any branch of the United States Government. This includes officers of the U.S. Capitol Police, and also includes members of the Metropolitan Police Department when, as in the events described above, such officers were assisting a federal officer or employee in the performance of the federal officer’s duties.

Finally, your affiant submits there is probable cause to believe that John Anthony Schubert, III violated 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.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 29th day of September 2023.

Moxila A. Upadhyaya
U.S. MAGISTRATE JUDGE