

Case: 1:23-mj-00270
Assigned To : Harvey, G. Michael
Assign. Date : 10/12/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent of the Federal Bureau of Investigation (“FBI”). I am assigned to the Philadelphia Division, Capital Area Resident Agency. As a Special Agent, I have investigated narcotics violations, firearms offenses, bank robberies and fugitives. 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.

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 Troy SPACKMAN

Since January 6, 2021, the FBI has been identifying and investigating individuals who were inside the U.S. Capitol building and/or on the U.S. Capitol grounds without authority. Investigators reviewed video footage from January 6, 2021, and observed a male at the U.S. Capitol wearing blue jeans, a black belt, a black North Face Jacket with a logo on the back right shoulder and front left chest, black gloves, and a black beanie style hat with a green and white “dk” logo in the center. The individual has a short beard and mustache, and can be seen carrying two black cannisters of Combined Tactical Systems MK-9 OC spray (oleoresin capsicum, commonly known as pepper spray) spray with white lettering and yellow tops. The U.S. Capitol Building is visible in the background.

The footage of the U.S. Capitol grounds was widespread from multiple sources. Individuals submitted tips to the FBI National Threat Operations Center believing they had identified people from the video footage. During or about September 2021, an anonymous tipster claimed they had identified SPACKMAN from the footage seen on the “[REDACTED]” website, which posted images and videos from January 6. Based on my review of databases available to me as a Special Agent, I determined that it likely was SPACKMAN in the footage. In particular, the photograph of SPACKMAN on file with the [REDACTED] appears to be the same person in the video footage from January 6, 2021.



Figure 1: Video still of Troy SPACKMAN at the U.S. Capitol on January 6, 2021.



Figure 2: Video still of Troy SPACKMAN at the U.S. Capitol on January 6, 2021.

On or about January 14, 2022, another FBI Special Agent and I met with SPACKMAN at his place of business. After identifying ourselves and explaining the purpose of the interview, we showed SPACKMAN three photographs. SPACKMAN was informed that the photographs were taken from video footage taken on January 6, 2021, at the U.S. Capitol building. The first image was blurry and individuals in it could not be identified. When the second and third photographs (Figure 3 and 4 below) were shown to SPACKMAN, he immediately identified himself in both photographs. In particular, SPACKMAN acknowledged his image in the two photographs (wearing a black jacket and dark-colored hat with the “dk” logo) and stated, “That’s me.” SPACKMAN explained that the logo on the hat was from [REDACTED] and noted that he, “wore [his] hat the whole time.”



Figure 3: Video still from footage of the U.S. Capitol on January 6, 2021, shown to SPACKMAN for identification purposes during interview with federal agents.



Figure 4: Video still from footage of the U.S. Capitol on January 6, 2021, shown to SPACKMAN for identification purposes during interview with federal agents.

SPACKMAN stated that he went to Washington, D.C., in order to attend the rally for then-President Donald Trump. He walked from the rally to the U.S. Capitol Building and then to the side of the building with the inauguration scaffolding. He recalled seeing an officer on the ground who was physically in distress. SPACKMAN described the experience as “one of the coolest things I was a part of” and stated that he believed over one million people were present.

SPACKMAN acknowledged travelling to Washington, D.C., with two or three friends, but stated that he was the only one in his group to approach the Capitol.

When asked if he saw anyone using pepper spray against the police and security forces, SPACKMAN did not provide any details of anyone, on either side, using pepper spray. SPACKMAN also said he left the Capitol by the time the police deployed tear gas.

SPACKMAN provided his cellular telephone number as [REDACTED]. A review of cellular tower records in the area of the U.S. Capitol grounds did not find a match to this telephone number.

SPACKMAN's Conduct on January 6, 2021

FBI investigators reviewed multiple videos concerning the events of January 6, including one such video titled "DK Sprayer Video 1." At approximately 0:00:50 of this video, SPACKMAN is shown holding a cell phone above his head with his right hand. In his left hand are two cannisters of OC spray (Figure 5 below).



Figure 5: Video Still from DK Sprayer Video 1 at approximately 0:00:50.

The OC spray carried by SPACKMAN appears to be Combined Tactical Systems (“CTS”) MK-9 OC spray. According to the CTS website, MK-9 OC spray is a less-than-lethal product intended to cause temporary pain and injury. The website warns that, in rare circumstances and if used incorrectly, MK-9 spray can lead to property damage, serious bodily injury, or death.

Another video (referred to as “Video 4”) which was available on the internet and a copy of which was obtained from “[REDACTED]” includes a clip that shows a person who appears to be SPACKMAN pointing a canister of OC spray in the direction of uniformed officers from an elevated position. In this video, SPACKMAN’s right arm is extended toward the officers holding a canister of OC spray. SPACKMAN appears to have a second canister of OC spray in his left rear pocket (Figure 6 below). In the video a mist of spray comes from the canister, consistent with the deployment of OC spray. The video appears to take place at the U.S. Capitol on January 6.



Figure 6: Video Still from Video 4 at approximately 0:00:25.

A review of Body Worn Camera (BWC) footage provided indicates SPACKMAN deployed the OC spray at approximately 2:31 pm on January 6, 2021. In the still from the video, SPACKMAN's right arm is extended.



Figure 7: Still from Officer Wilhoit BWC Footage

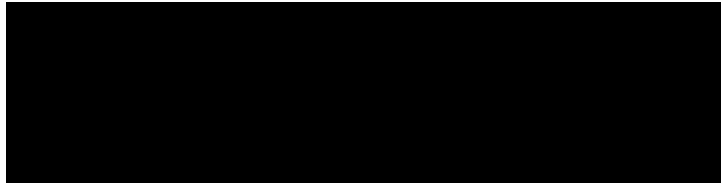
Based on the foregoing, your affiant submits there is probable cause to believe that SPACKMAN violated 18 U.S.C. §§ 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in section 1114 of Title 18 while engaged in or on account of the performance of official duties, where the acts involve physical contact with the victim of the assault or the intent to commit another felony. For purposes of Section 111 of Title 18, United States Capitol Police Officers and Metropolitan Police Officers constitute persons designated in Section 1114 of Title 18.


Your affiant submits there is probable cause to believe that SPACKMAN also 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..

Based on the foregoing, your affiant submits that there is probable cause to believe that SPACKMAN 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; (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, and (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 SPACKMAN violated 40 U.S.C. § 5104(e)(2)(F), which makes it a crime to willfully and knowingly engage in an act of physical violence in the Grounds or any of the Capitol Buildings.




Federal Bureau of Investigatoin

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 12th day of October 2023.

HON. G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE