

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation (“FBI”) currently assigned to the Knoxville Division of the FBI. I have been employed at the FBI since April 1999, when I completed New Agents Training at the FBI Academy located in Quantico, Virginia.

Through my employment with the FBI, I have gained knowledge in the use of various investigative techniques, including, but not limited to, conducting physical surveillance, conducting interviews, obtaining information through administrative and grand jury subpoenas, preparing and executing federal search warrants, preparing reports, and reviewing electronic evidence.

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 facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and agencies or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause, it does not contain every fact known by me or the FBI. The dates and times listed in this Affidavit should be read as “on or about”.

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 Michael Tyler Roberts

Following the January 6, 2021, attack on the Capitol, investigators reviewed multiple videos derived from open-source databases, as well as both Metropolitan Police Department (“MPD”) and U.S. Capitol Police (“USCP”) holdings. In addition, various individuals provided tips as to the identity of the rioters shown committing offenses on January 6 in publicly available videos and photographs.

In April 2021, investigators received a tip that one such rioter (known as “266-AFO”) might be MICHAEL ROBERTS (“ROBERTS”). ROBERTS was reported to possibly be a resident of Knoxville, Kingston, or Paint Rock, Tennessee. In the video stills, 266-AFO appears to be a bearded man wearing a blue bandana around his neck, a red quarter-zip hoodie with “MAGA” written across the chest. In some of the video stills, 266-AFO is wearing a baseball hat.

Investigators then reviewed a video containing interviews rioters at the U.S. Capitol on January 6, in which 266-AFO states:

Our country is worth fighting for every day until this election is over and Donald J. Trump is put back in that White House, 100% and definitely . . . Man, this isn’t just a fight for Donald Trump. This is a fight of good versus evil, right versus wrong. I love my country. I had to tell my son before I left home ‘Listen, son, I’m doing this for you. Daddy may not come home.’ But that’s okay. I’ll stand in the gap so he doesn’t have to. So your kids don’t have to. I’ll take whatever comes.

In July 2021, I and another FBI investigator went to ROBERT's workplace to speak with other employees there who were familiar with ROBERTS. One such employee, whose identity is known to me but will be referred to as "Witness-1" in this affidavit, informed investigators that ROBERTS had sought last-minute vacation time from January 5 to January 7, 2021. During that period, ROBERTS had been directed to work from home due to a need to quarantine. Finally, Witness-1 was presented with six photographs and asked to review them one at a time. Witness-1 was further instructed to initial and date the back of each such photograph that was ROBERTS. Witness-1 reviewed and initialed all six photographs, indicating that Witness-1 believed that each photograph depicted ROBERTS. The first three photographs, Images 1-3 shown below, were stills from videos taken on January 6, 2021.



Image 1: Photograph Shown to Witness-1 Who Identified 266-AFO as ROBERTS



Image 2: Photograph Shown to Witness-1 Who Identified 266-AFO as ROBERTS



Image 3: Photograph Shown to Witness-1 Who Identified 266-AFO as ROBERTS

The additional three photographs shown to Witness-1 were photographs of ROBERTS from the Department of Motor Vehicles or his employer.

We also spoke with another employee, whose identity is known to me but will be referred to as Witness-2, who stated that ROBERTS made a comment while at work indicating that his (ROBERTS's) actions at the U.S. Capitol on January 6, 2021, were a mistake and that he should not have done what he did. Witness-2 was presented with the same six photographs shown to Witness-1 and asked to review them one at a time. Witness-2 was further instructed to initial and date the back of each such photograph that was ROBERTS. Witness-2 reviewed and initialed all six photographs, indicating that Witness-2 believed that each photograph depicted ROBERTS.

In August 2021, I conducted a telephonic interview with an individual whose identity is known to me but will be referred to as Witness-3 in this affidavit. Witness-3 and Witness-3's significant other were looking at photographs on the FBI website and Witness-3's significant other immediately recognized one such picture as depicting ROBERTS.

Based on ROBERTS employment records, I determined that his cellular telephone number is [REDACTED].

On or about August 17, 2021, investigators with the FBI arrested Ronald Colton McAbee (“McAbee”) for assaulting a federal officer on January 6, 2021, in violation of 18 U.S.C. § 111, and other offenses.¹ Pursuant to a federal search warrant, investigators obtained authorization to search and seize the contents of McAbee’s cellular telephone. Review of text messages seized from that cellular telephone showed that McAbee was texting with ROBERTS’s telephone [REDACTED] and that the two traveled together from Tennessee to Washington, D.C., and back between January 5 and January 7, 2021.

A selection of the text exchanges between McAbee’s telephone and ROBERTS’s telephone are set forth below.

On December 31, 2021, they exchanged the following text messages:

McAbee: Hey buddy. You going to DC on the 6th?

ROBERTS: Yes sir I sure am!

McAbee: Let’s link up and go.

ROBERTS: Sounds good to me.

ROBERTS: That’s what I’ll carry in my pocket

ROBERTS attached a photograph to his text message displaying what appears to be brass knuckles. Based on my training and experience, I am aware that brass knuckles are known to be instruments worn on one’s hands while fighting.

McAbee: How can I get some knuckles?

ROBERTS: Amazon is quick.

¹ McAbee was charged with inflicting bodily injury on certain officers, in violation of 18 U.S.C. §§ 111(a)(1) and (b), and 2; assaulting, resisting, or impeding certain officers, in violation of 18 U.S.C. § 111(a)(1); civil disorder, in violation of 18 U.S.C. § 231(a)(3); entering and remaining in a restricted building or grounds with a deadly or dangerous weapon, in violation of 18 U.S.C. § 1752(a)(1) and (b)(1)(A); disorderly and disruptive conduct in a restricted building or grounds with a deadly or dangerous weapon, in violation of 18 U.S.C. § 1752(a)(2) and (b)(1)(A); engaging in physical violence in a restricted building or grounds with a deadly or dangerous weapon, in violation of 18 U.S.C. § 1752(a)(4) and (b)(1)(A); and committing an act of physical violence in the Capitol grounds or building, in violation of 40 U.S.C. § 5104(e)(2)(F). Just prior to trial, McAbee pleaded guilty to some of the charges and was convicted of the remaining charges after trial on October 11, 2023.

ROBERTS: If you want some, have them shipped here. [REDACTED].

ROBERTS: Okay Pal. Do you wanna stay here Monday night?

Based on my training, experience, and familiarity with this investigation, I understand that ROBERTS offered to allow McAbee to have the brass knuckles he wanted to order shipped to ROBERTS's residence. I further understand that December 31, 2020, was a Thursday, and the following Monday would have been January 4, 2021, and that ROBERTS was suggesting that McAbee stay at his house on January 4, 2021, in anticipation of leaving for Washington, D.C. on January 5, 2021.

McAbee: I'll talk to [REDACTED]. Maybe [REDACTED] can bring me up.

ROBERTS: What's your address

McAbee: [REDACTED] [sic].

ROBERTS: I can come Sunday night and bring you back with me Monday if you need me to.

McAbee: You willing to come all the way down?

ROBERTS: Yes.

ROBERTS: I had to explain to [REDACTED] last night why I was going to DC and what could happen. This is my fight so he doesn't have to fight.

McAbee: I will rise or fall along side you. This is for future generations.

Later that day, text messages between the cellular telephones used by ROBERTS and McAbee resumed:

McAbee: What time were you leaving on Monday?

ROBERTS: Before noon on Tuesday the 5th. Hopefully 10:00a.m.

ROBERTS: How can we get you here?

McAbee: I'll have [REDACTED] bring me.

ROBERTS: Need me to meet you halfway or anything?

McAbee: Most likely. You will probably need to call [REDACTED] later. She's a little upset.

On January 3, 2021, they exchanged the following text messages:

ROBERTS: You still good to go?

McAbee: Hell yeah brother!

ROBERTS: We will leave at 10:00am Tuesday and 5 or 6 am Thursday.

McAbee: Still doing all black?

ROBERTS: Bring black thermals and maga gear as well.

Based on my training, experience, and familiarity with this investigation, I understand “maga gear” to be a reference to items bearing the campaign slogan used by then-President Donald Trump meaning, “Make America Great Again.”

On January 4, 2021, at 3:24 p.m., they exchanged the following text messages:

McAbee: I’m on my way to my appointment. We’re gonna leave afterwards. Where can we meet at?

ROBERTS: You found a ride bro? You tell me where and when.

McAbee: [REDACTED].

At 5:47 p.m., they wrote:

McAbee: Never mind the address. Meet at Sam’s club in Cookeville.

ROBERTS: Ok. Fixing to leave.

At 6:36 p.m., McAbee wrote:

McAbee: [REDACTED] has elected to drive a bit further to y’all. [REDACTED].

At 7:13 p.m., ROBERTS wrote:

ROBERTS: We are here.

Based on my training, experience, and familiarity with this investigation, I believe ROBERTS and McAbee coordinated a meeting place in Crossville, Tennessee, and then traveled together to ROBERTS’s residence in Knoxville, Tennessee, in anticipation of driving to Washington D.C. on January 5, 2021.

On January 10, 2021, they exchanged the following texts:

ROBERTS: Watch “Storming the Capitol – Street Interviews” on YouTube. Go to 9 minute mark.

ROBERTS also texted a link to McAbee. Shortly thereafter, McAbee responded:

McAbee: Oh damn.

ROBERTS: It’s just me.

McAbee: Hope the FBI doesn’t come looking for you.

ROBERTS: I wasn’t in the building. I was exercising my 1st amendment.

ROBERTS: Trump will be the one inaugurated.

Based on my training, experience, and familiarity with this investigation, I believe the link that ROBERTS sent to McAbee leads to the same video described above which depicts ROBERTS (among others) giving an interview on January 6, 2021, during the riot at the U.S. Capitol. Upon reviewing the video, I determined that the interview featuring ROBERTS begins at approximately the 8 minute and 58-second mark of that video which roughly corresponds to ROBERTS’s suggestion that McAbee go to the “9 minute mark.”

Conduct of Michael Tyler Roberts on January 6, 2021

At approximately 2:41 p.m., numerous USCP and MPD officers positioned themselves at the exterior archway, also referred to the “tunnel,” leading to the Lower West Terrace Exterior Door after having had their positions on the Lower West Terrace of the U.S. Capitol building overrun by rioters. Officers fell back to the tunnel in an effort to prevent rioters from entering the U.S. Capitol building through that entrance.

At approximately 2:42 p.m., rioters began entering the tunnel and attacking the officers. The rioters broke the glass and forced the doors open. In response, the USCP and MPD officers formed a police line blocking that entrance to the U.S. Capitol building. From approximately 2:42 p.m. and on, numerous rioters sought to breach the police line that formed in the tunnel. The rioters used various weapons, as well as the force of their bodies, to attempt to overcome the officers. Many of the rioters assaulted MPD and USCP officers by hurling objects at them, physically striking them with batons and other blunt instruments, using lights to distract and disorient the officers, shocking them with electrical devices, crushing them between the doors. and walls in the confined space, and spraying chemical irritants and fire extinguishers at them.

Between approximately 3:21 p.m. and 3:54 p.m., law enforcement officers maintained a police line at the mouth of the tunnel while rioters continuously sought to push through the line and assaulted the officers defending the U.S. Capitol building.

A review of USCP surveillance footage near the tunnel on January 6 showed that at approximately 3:54 p.m., ROBERTS (wearing his read “MAGA” sweatshirt) abruptly emerged from the riotous mob near the south side of the tunnel (Image 4 below).



Image 4: ROBERTS emerging on top of other rioters at the mouth of the “Tunnel.”

From there, ROBERTS swiftly moves over and on top of other rioters in order to get closer to the police line (Images 5 and 6 below).



Images 5 and 6: ROBERTS making his way to the police line guarding the “Tunnel.”

From his position on top of other rioters and the officers defending the Capitol, ROBERTS is visibly grappling with those officers and grabbing hold of their hands and arms. During the melee, ROBERTS’s hat was discarded.



Image 7: ROBERTS grappling with officers defending the “Tunnel.”

A review of an MPD officer’s body-worn camera (“BWC”) showed what appears to be another view of the same conduct. Specifically, that footage captures ROBERTS from the side as he engages with officers defending the Capitol building.



Image 8: ROBERTS grappling with officers defending the "Tunnel."

Likewise, the same conduct was captured on video taken from just outside of the "Tunnel" (Images 9 and 10 below).





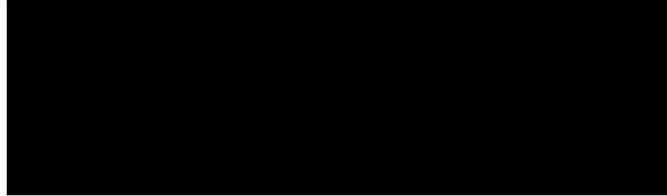
Figure 9 & 10: ROBERTS grappling with officers defending the “Tunnel.”

Based on the foregoing, your affiant submits there is probable cause to believe that ROBERTS 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 so 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 MICHAEL ROBERTS violated 40 U.S.C. § 5104(e)(2)(D) which makes it a crime to willfully and knowingly 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.

Finally, your affiant further submits there is probable cause to believe that MICHAEL ROBERTS 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.



SPECIAL AGENT [REDACTED]
FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 23rd day of October 2023.

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