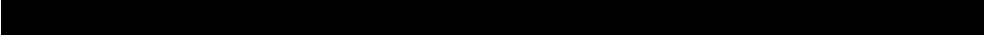
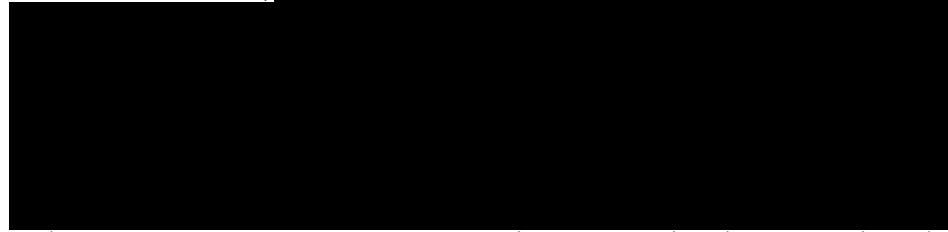


STATEMENT OF FACTS

Your affiant, 

, 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 U.S. 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 U.S. 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. EST. 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.

FACTS SPECIFIC TO DANIEL TOCCI

On January 6, 2021, Daniel Tocci, a resident of [REDACTED], joined a crowd attending a rally in Washington, D.C. I reviewed pictures and video obtained by the FBI which show Tocci carrying a large stick while near the Washington Monument. Image 1 shows Tocci (whose identification is discussed below) at 1:49 p.m EST with the aforementioned stick.



Image 1¹

From the area near the Washington Monument it appears that Tocci made his way to the U.S. Capitol. On or around 2:25 p.m. EST on January 6, 2021, Tocci ascended a staircase on the northwest side of the Capitol building. At this time, Tocci was on restricted grounds. Based on my knowledge of the restricted perimeter surrounding the Capitol on January 6, 2021, shown in the map below, in order to get to the staircase Tocci would have had to pass through restricted grounds as well. As the map reflects, the Capitol building, adjacent outer stairways, western and northwestern lawns, and its West and East Plazas were all within the restricted perimeter.

¹ https://ia902308.us.archive.org/13/items/MCAGhTvptvxFAXp2b/NTD_News_NTD_LIVE_Trump_J.mpeg4. The counter showing the length of time elapsed on the video is superimposed above a timestamp in the lower lefthand corner that indicates the time of day is 13:49 EST.

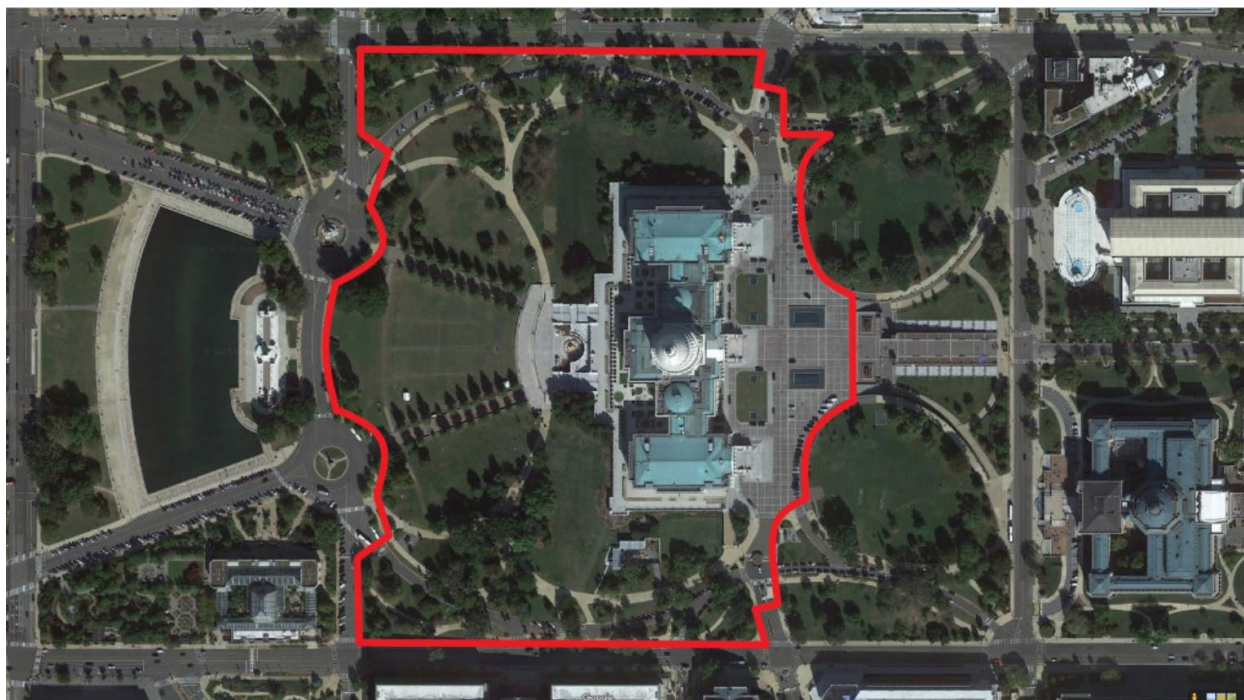


Image 2

While walking up the stairs, Tocci helped other rioters scale the outer wall of the northwest staircase (Image 3).



Image 3

Once at the top of the staircase, Tocci, and fellow rioters reached the Capitol's Upper West Terrace (UWT). Here, Tocci joined along with the crowd and chanted on at least one occasion "Our House" (Image 4). Based on my knowledge and experience, this chant references the rioters' belief that as citizens they own the U.S. Capitol.



Image 4

On the UWT, rioters were able to break into the Capitol building, including through a door referred to as the Senate Wing Door. The Senate Wing Door was breached twice around 2:13 p.m. EST and 2:47 p.m. EST. Tocci entered the Senate Wing Door at approximately 3:18 p.m. EST (Image 5).



Image 5

Between approximately 3:18 p.m. EST and 3:22 p.m. EST, Tocci remained inside the U.S. Capitol Building. He spent most of the time near the door he entered through and next to the wall. At points, Tocci can be seen using his phone (Image 6).



Image 6

At approximately 3:21 p.m. EST, Tocci moved to his right, away from the door, appeared to say something to an officer, and then exited from the Capitol through a window. (Image 7.)

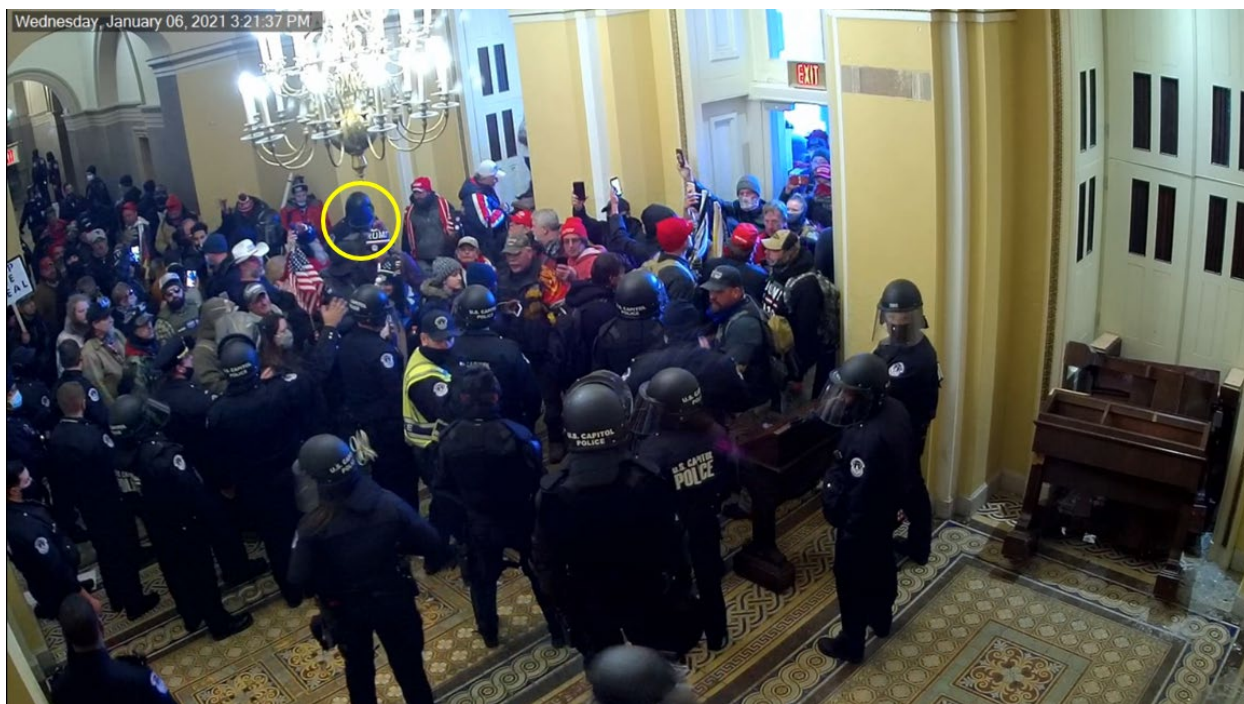


Image 7

At approximately 3:59 p.m. EST, a surveillance camera recorded Tocci outside of the Capitol building near the Senate Wing Door. Tocci approached the building from the west, reached into a broken window, and broke off and removed a portion of the shutter from the window. (Images 8 and 9).



Image 8



Image 9²

Video obtained by the FBI captured around this time shows Tocci near the same window holding the broken shutter slat (Image 10).



Image 10³

Based on the foregoing, Tocci remained within the Capitol's restricted grounds without authorization for a minimum of 90 minutes.

² https://www.instagram.com/p/CYba8-drz0e/?utm_source=ig_web_copy_link, shows the same event from a different vantage point but is not timestamped.

³ <https://www.youtube.com/watch?v=cvqvInoZsBw>

IDENTIFICATION OF DANIEL TOCCI

On April 18, 2023, Officer J.L. of the [REDACTED] Police Department identified Daniel Tocci. Officer J.L. was shown multiple screenshots of video footage taken in and around the U.S. Capitol on January 6, 2021 containing images of Tocci—including screenshots from the CCTV video shown in Images 5-7 above. He told the FBI he was able to recognize Tocci in the photographs as he had interacted with Tocci on January 24, 2023 when he pulled Tocci over for a broken headlight. The Hadley Police Department provided the FBI with the video of the traffic stop; a screenshot from the interaction is below in Image 11.



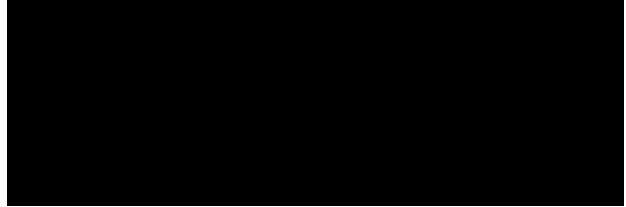
Image 11

Based on the foregoing, I submit that there is probable cause to believe that Daniel Tocci 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. 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.

I submit there is also probable cause to believe that Daniel Tocci violated 40 U.S.C. § 5104(e)(2)(D) and (G) which make 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; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Finally, I submit that there is probable cause to believe that Daniel Tocci violated 18 U.S.C. § 1361, by willfully injuring or deprecating of any property of the United States.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 28th day of November 2023.

MOXILA A. UPADHYAYA
U.S. MAGISTRATE JUDGE