

STATEMENT OF FACTS

Your affiant is a Special Agent with the Federal Bureau of Investigation (“FBI”) and I am assigned to the Dallas field office. 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, detention, investigation, or prosecution of violations 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 U.S. 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 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, shortly 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 permission or authority. One such individual is the defendant, Kyle Douglas McMahan (hereinafter “MCMAHAN”)

Kyle Douglas McMahan’s Involvement in the January 6 Attack on the U.S. Capitol

According to records obtained through a search warrant served on Google, email account klmac[XXXX]@gmail.com was identified as having utilized a cell site providing service to a geographic area that included the interior of the United States Capitol building on January 6, 2021. Records obtained from Google show that email address klmac[XXXX]@gmail.com is subscribed to by “Kyle McMahan” with home address in Watauga, Texas. Subscriber information also identified associated phone number ending in 2717 and a recovery email address that utilized a “navy.mil.” The account was subscribed to “Kyle McMahan” with phone number ending in 2717. The same “navy.mil” email address was also associated with the Gmail account.

A review of open source and CCTV videos and images confirm MCMAHAN’s presence at the U.S. Capitol and inside the U.S. Capitol building on January 6, 2021. On that Day, MCMAHAN wore a red “MAKE AMERICA GREAT AGAIN” baseball cap with the word “GOD” written at the top in marker along with a blue neck gaiter, a tan jacket, at times an army green ballistic helmet, a backpack, and an unknown rectangular object placed under his shirt.



Image 1 (MCMAHAN circled in yellow)¹

¹Available at: <https://twitter.com/phoenixonwheels/status/1456092660310020103>



Image 2²

An FBI Dallas Task Force Officer conducted Department of Defense database checks for subject MCMAHAN. The search resulted in the positive identification of MCMAHAN's military record with his matching date of birth, and email address. The database listed MCMAHAN as a current Staff Sergeant in the United States Air Force Reserve. The database also provided a photograph of MCMAHAN, which is used for his military common access card. Law enforcement identified the photograph of MCMAHAN as appearing to be the same individual seen in CCTV images taken on January 6, 2021, outside and inside of the capitol building.

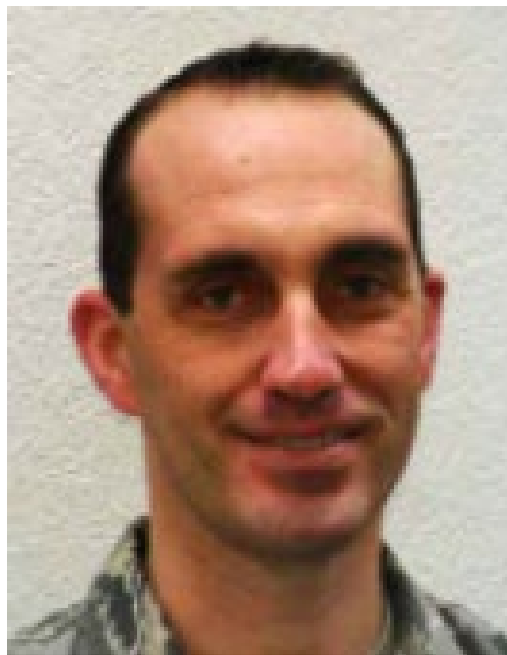


Image 3³

² Source: <https://www.facebook.com/photo.php?fbid=10158081701038741>

³ Source: Department of Defense Database

At various times, MCMAHAN can be seen at the front of the rioters confronting the U.S. Capitol Police and/or Metropolitan Police Department officers and appeared to initiate four separate physical encounters with four different officers. In one video outside the U.S Capitol building, MCMAHAN can be seen pushing back and forth against an officer moments after a crowd fails to enter the east doors. Screenshots from one such video, with MCMAHAN circled in yellow, is shown below.



Image 4⁴



Image 5 (MCMAHAN in Yellow eyeing the officer in Blue)

⁴ Images 4, 5, 6, and 7 are available at: <https://archive.org/details/dNja7HbNLHztWGcbo>



Image 6 (Officer appears to rear back based on being pushed by MCMAHAN)



Image 7 (Officer extends arm and hand (in green) to push MCMAHAN back)

MCMAHAN inside the U.S. Capitol building

CCTV videos from January 6, 2021, also confirm MCMAHAN's entry into the U.S. Capitol building and actions taken therein. MCMAHAN entered the U.S. Capitol building through the east doors at approximately 2:40 p.m. He momentarily stopped in the Rotunda lobby near the east stairs to speak to a group of individuals.



Image 8

MCMAHAN then proceeded to enter the Rotunda at approximately 2:41 p.m.



Image 9

At approximately 2:43 p.m., MCMAHAN appeared to make a phone call in the Rotunda.



Image 10

MCMAHAN exited the Rotunda and entered back into the Rotunda lobby at approximately 2:53 p.m. and spoke with a group of individuals wearing ballistic helmets and ballistic vests.

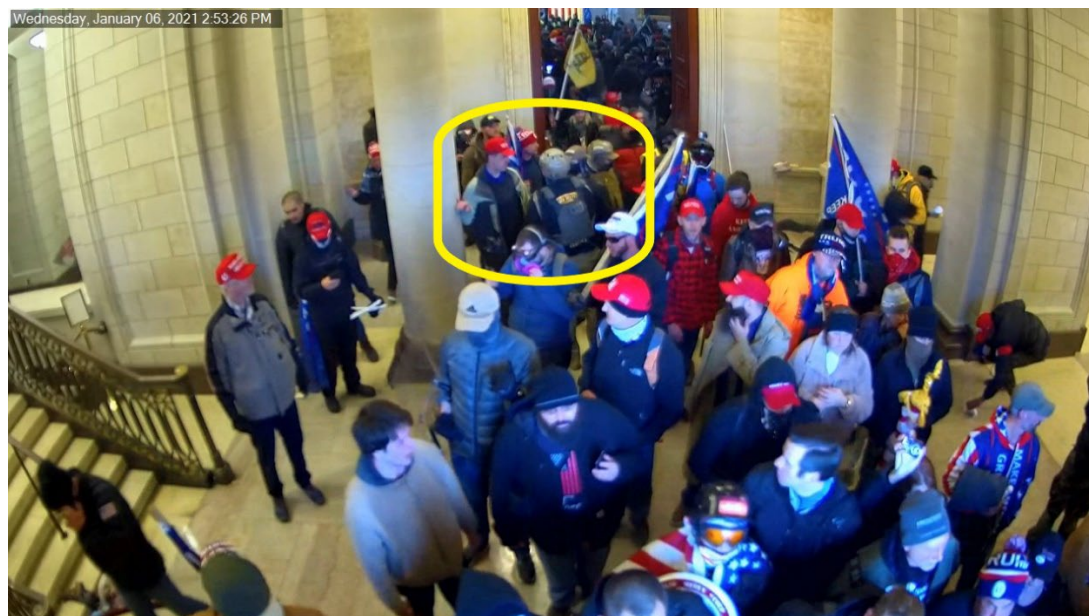


Image 11

MCMAHAN returned to the Rotunda at approximately 2:54 p.m.



Image 12

At approximately 3:02 p.m., MCMAHAN signaled other rioters to gather at the Rotunda door where officers were stationed.

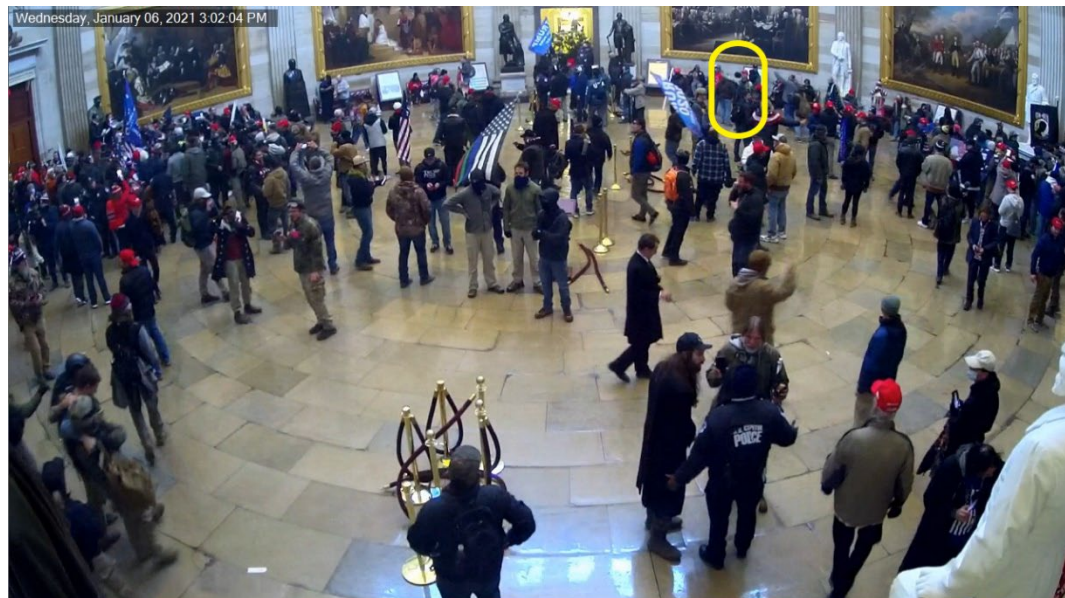


Image 13

When MCMAHAN arrived in front of the officers, body worn camera video captured MCMAHAN resist an officer's attempt to make contact with MCMAHAN's arm to distance him from another officer. MCMAHAN retreated then drew back his arm to prevent the officer from making contact. MCMAHAN then advanced toward the line of officers with his arms extended. An officer made contact with the arm of MCMAHAN to prevent him from advancing on another officer.



Image 14

While being pushed back by one officer, MCMAHAN attempted to swat at another officer. Eventually, MCMAHAN grabbed the fingers of one of the officers, appearing to crush them in his hand as captured by a photographer and body camera footage.

Image 15 (MCMAHAN grabbing an officer's fingers)⁵



Image 16

Moments later, MCMAHAN grabbed and pushed an officer's arm in the Rotunda in an attempt to push past them. A screenshot from the incident is below with MCMAHAN circled in yellow.

⁵ Source: Getty Images



Image 17

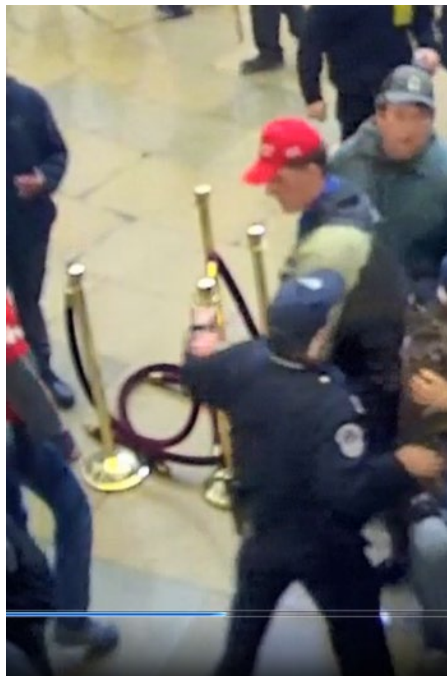


Image 18 (Close up image of MCMAHAN pushing an officer's arm)

Approximately 21 seconds later, in the Rotunda, MCMAHAN pulling his arm away from an officer's clutch.



Image 19

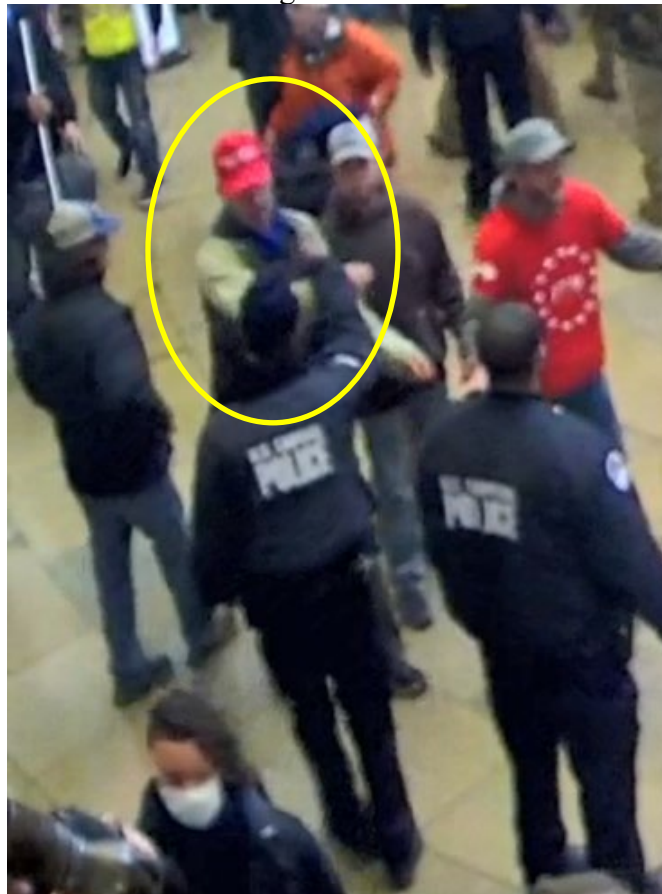


Image 20 (Close up image of MCMAHAN pulling his arm away from an officer)

At approximately 3:20 p.m., MCMAHAN exited the Rotunda and reentered the Rotunda lobby near the east staircase.

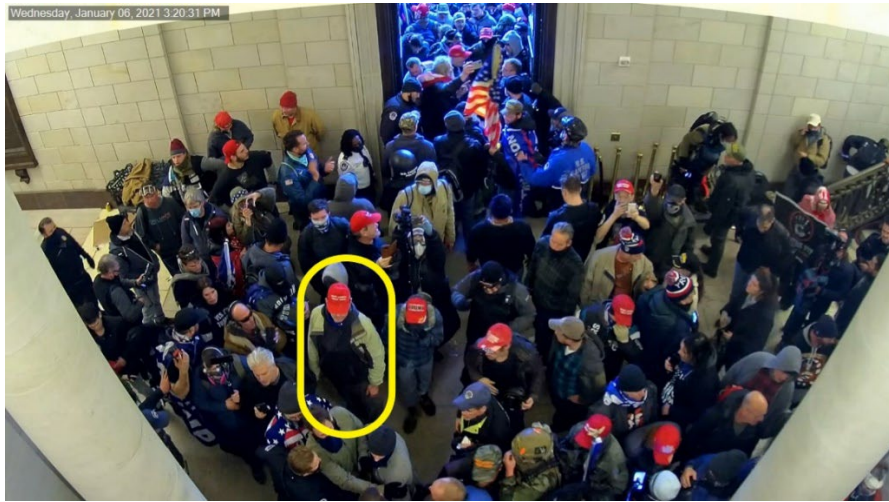


Image 21

While in the Rotunda, MCMAHAN exchanged words with an officer then swatted the arm of the officer as the officer was attempting to create distance from him. A screenshot from the incident is below.



Image 22



Image 23 (MCMAHAN swatting an officer's hand away in Green)

After exchanging words with another officer, MCMAHAN exited the U.S. Capitol building at approximately 3:35 p.m. through the east doors.

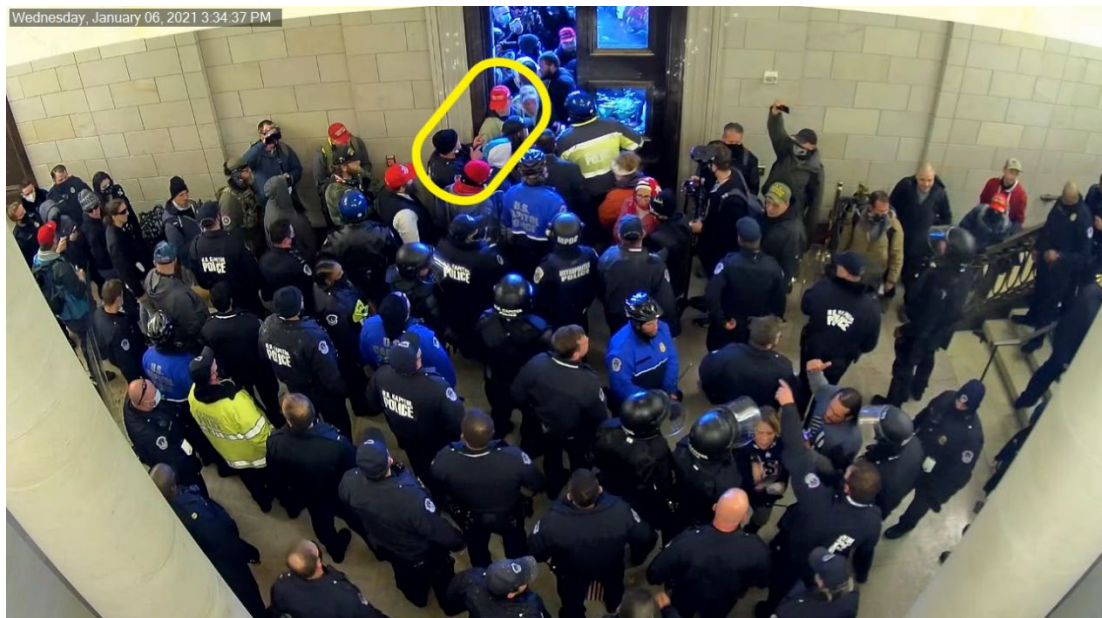


Image 24

Publicly available videos captured MCMAHAN later that day wearing additional clothing and carrying additional items. At one point, MCMAHAN wore a green ballistics helmet with an unknown rectangular object under his shirt which could have possibly been used as ballistic protection.



Image 25⁶

A publicly available video from Facebook.com shows MCMAHAN carrying a large First Aid kit attached to his backpack.



Image 26⁷

Another publicly available photograph shows MCMAHAN carrying an American flag.

⁶ Available at: https://archive.org/download/BzjRFNhKvjPnc9zsR/Stephen_Ignoramus_YouTube.mpeg4

⁷ Available at: <https://www.facebook.com/revmahoney/videos/10225315089083302>



Image 27⁸

⁸ Available at: <https://media.nbcdfw.com/2021/01/GettyImages-1230458541.jpg?resize=850%2C478>

Another publicly available video captured MCMAHAN telling an officer, “You’re a traitor” shortly before exiting the Capitol.

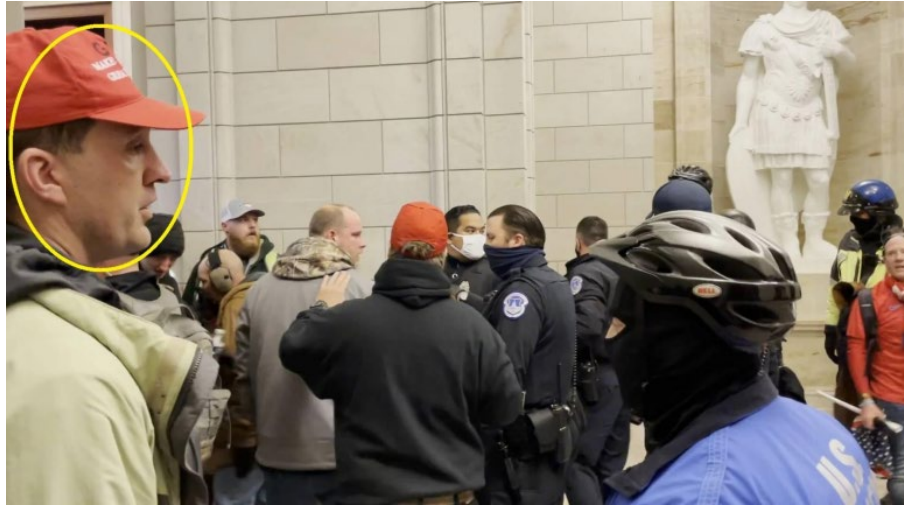


Image 28⁹

In another publicly available video, MCMAHAN told another rioter, “We need more guys. If we would have waited (inaudible)...we should have been advancing.”



Image 29¹⁰

Law enforcement obtained a search warrant for MCMAHAN’s Google account. Days before January 6, 2021, the following web search terms were used:

- “flights from Dallas to DCA on Jan 5, 2021 returning Jan 7, 2021”
- “is there any texas trump groups around dfw that are going to dc rally jan 6?”

⁹ Source: <https://web.archive.org/web/submit?url=https://video.parler.com/uA/KQ/uAKQeDMoSL0c.mp4>

¹⁰ Source: https://archive.org/download/BzjRFNhKvjPnc9zsR/Stephen_Ignoramus_YouTube.mpeg4

- “texas caravan to dc jan 6 rally”
- “Can I leave my car at Walmart parking lot for a week?”
- “Is [sic] there lockers to store belongings in around dc capitol area?”
- “Hours for metro dc”

Subsequent to January 6, 2021, the following web search terms were used:

- “can I resign from the military if I do not want to serve an illegitimate president?”
- “Nancy pelosi’s [sic] laptop was taken during capitol raid”
- “capitol terrorists identified”
- “fbi photos of capitol rioters”
- “FBI wanted posters in Capitol riot manhunt | Fox News”
- This Instagram account is working to identify the Capitol Terrorists”
- Capitol rioter, Air Force veteran, arrested after ex-wife calls FBI | Fox...”
- “kyle mcmahan us capital [sic]”

SOCIAL MEDIA

The FBI also received information from an individual indicating that MCMAHAN participated in the riots and was bragging about his involvement on social media. A screenshot was provided in which Facebook comments made by MCMAHAN read, “I was there along with thousands of Patriots young, old, mean [sic] and women of all races wanting to take back our House from the corrupt government. For those that think we went in because of Trump is [sic] uninformed. We the people are the ones that need to rid our government of corruption, abuse and tyranny!”

Image 31¹¹

The Facebook username is “Kyle McMahan” and the individual in the profile picture matches images of MCMAHAN from January 6, 2021.

Identification of McMahan

The FBI obtained a copy of the Texas driver’s license for MCMAHAN associated with the same address in Watauga, Texas. The individual in the driver’s license photo appears to match the individual seen in the various images inside of the U.S. Capitol on January 6, 2021.

Law enforcement interviewed an individual who had in-person contact with MCMAHAN (Witness) for over 15 years. Witness stated MCMAHAN planned to caravan with other Trump

¹¹ Source: Photograph provided by Witness

supporters to Washington, D.C. the Sunday before January 6, 2021. MCMAHAN spoke with Witness about his actions at the U.S. Capitol and detailed his time inside. MCMAHAN told Witness that he was pepper sprayed by law enforcement. MCMAHAN's family members also informed the Witness that MCMAHAN spoke to them in a boastful manner about pushing his way into the U.S. Capitol.

Special Agents showed Witness images of MCMAHAN during his time at the U.S. Capitol. Witness positively identified MCMAHAN. Witness also noted that MCMAHAN wore a unique red "MAKE AMERICA GREAT AGAIN" hat in which he wrote the word "GOD" in black marker at the top. Witness provided a picture of MCMAHAN at the U.S. Capitol in approximately November 2020 wearing the same hat.



Image 32¹²

Law enforcement also identified other instances of MCMAHAN wearing the same hat.

¹² Source: Photograph provided by Witness



Image 33

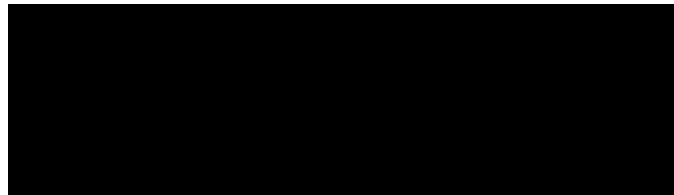
Your affiant submits there is also probable cause to believe that MCMAHAN violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official 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 Joint Session of Congress where the Senate and House count Electoral College votes.

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

Your affiant submits that there is also probable cause to believe that MCMAHAN violated 18 U.S.C. § 1752(a)(1) and (2), which make it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do so; (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official function, 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.

Finally, your affiant submits there is probable cause to believe that MCMAHAN 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.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 30th day of November, 2023.

HONORABLE MOXILA A. UPADHYAYA
U.S. MAGISTRATE JUDGE