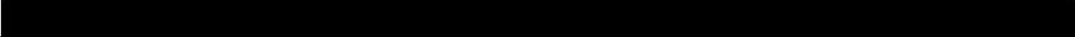
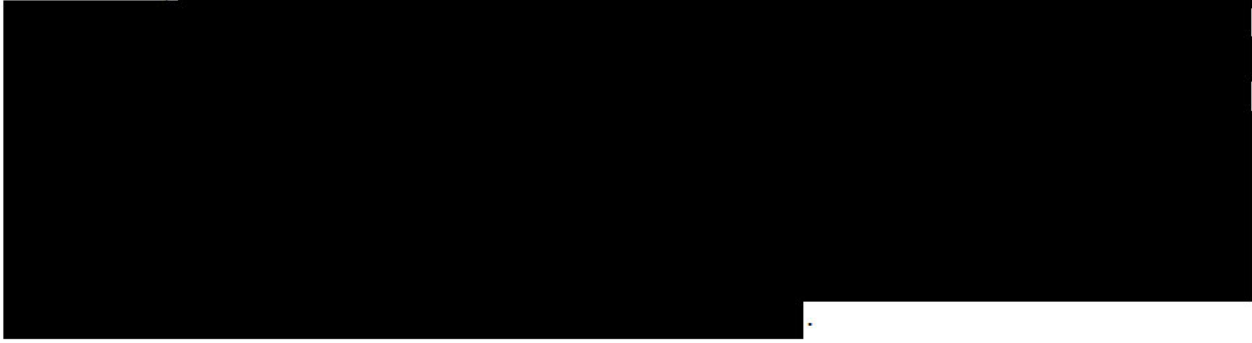


STATEMENT OF FACTS

Your affiant, 



I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Title 18 of the United States Code. As a federal agent, I am authorized to investigate violations of the laws of the United States and to execute search warrants issued under the authority of the United States. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021.

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.

Evidence Linking DAVID MITCHELL BATES to the Assault on the U.S. Capitol

DAVID MITCHELL BATES (“BATES”) is a [REDACTED]

According to records obtained through a search warrant served on Google, a device determined to have been in and around a geographic area that includes the interior of the restricted perimeter for the United States Capitol Building on January 6, 2021 was linked to two separate Google Mail email addresses (ACCOUNT 1 and ACCOUNT 2) and a cell phone number (XXX-XXX-8255).

In June 2021, a search warrant was executed on Google, LLC for ACCOUNT 1 and ACCOUNT 2. According to records provided by Google, the user provided subscriber “name” for ACCOUNT 1 was [REDACTED] which is consistent with BATES’s middle name (“Mitchell”) and last name (“Bates”). ACCOUNT 2 was listed as a recovery email account for Account 1.

According to records provided by Google, ACCOUNT 2 listed its subscriber “name” as “[REDACTED],” which matches a known social media nickname for BATES observed by law enforcement agents in their review of open source social media posts from the Facebook account [REDACTED] and the Instagram account [REDACTED] both of which feature numerous photos of BATES and list ACCOUNT 2 as a registered email address. ACCOUNT 2 also listed ACCOUNT 1 as the recovery email for ACCOUNT 2. ACCOUNT 2 also listed phone number XXX-XXX-8255 as the “recovery SMS” phone number, “User Phone Number,” and “2-Step Verification Phone Number” for the account. ACCOUNT 2 also listed phone number XXX-XXX-8255 as the phone number for a “verified” device added by the account “user.”

According to law enforcement databases, phone number XXX-XXX-8255 is associated with BATES.

Agents of the FBI reviewed the records produced by Google in response to the search warrant for ACCOUNTS 1 and 2. Among the materials stored in ACCOUNT 2 were multiple photos taken in Washington, D.C. Specifically, based on a review of open source street images, the images appear

to have been taken in front of St. Patrick's Catholic Church, located at 619 10th Street NW (**Image 1**). The metadata for these images indicates they were taken at approximately 12:25 p.m. on January 6, 2021.

I have compared the features of the individual depicted in the images uploaded to ACCOUNT 2, with BATES's drivers license photograph, which was obtained by the FBI for [REDACTED] image depicted BATES's full face, including a distinctive reddish-brown beard that extends to his chest.

As seen in Image 1 below, a reddish-brown bearded person who I identify as BATES is depicted holding an American flag and wearing: a black beanie hat with blue bottom trimming; a digital woodland camouflage pattern top with the logo of the Washington Capitals professional hockey team on the chest, the National Hockey League logo at the collar, and the letters "Reeb" visible on upper left chest area; brown and black tactical gloves; grey pants; and red and black lace-up running shoes. BATES is also depicted wearing two straps over his shoulders that suggest he is wearing a backpack or bag on his back and is displaying a hand sign commonly associated with the Proud Boys with his right hand.



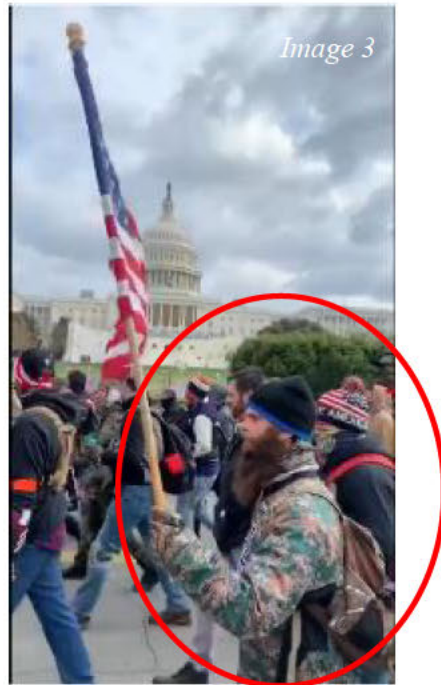
On July 7, 2021, special agents of the FBI interviewed a member of the West Virginia Chapter of the Proud Boys (“INDIVIDUAL 1”). The Proud Boys are a nationalist organization with multiple U.S. chapters and potential activity in other Western countries that describes itself as a “pro-Western fraternal organization for men who refuse to apologize for creating the modern world.” INDIVIDUAL 1 reported that he traveled to Washington, D.C. on January 4, 2021 and then further reported that, on January 5, 2021, he met up with BATES, who INDIVIDUAL 1 identified as another known Proud Boys member from the WV Chapter. INDIVIDUAL 1 reported that he stayed with BATES in Washington, D.C. on the night of January 5, 2021, and he was with BATES on at least one occasion on the morning of January 6, 2021. INDIVIDUAL 1 also reported that he had again met with Bates on U.S. Capitol Grounds after the breach of the U.S. Capitol Building.

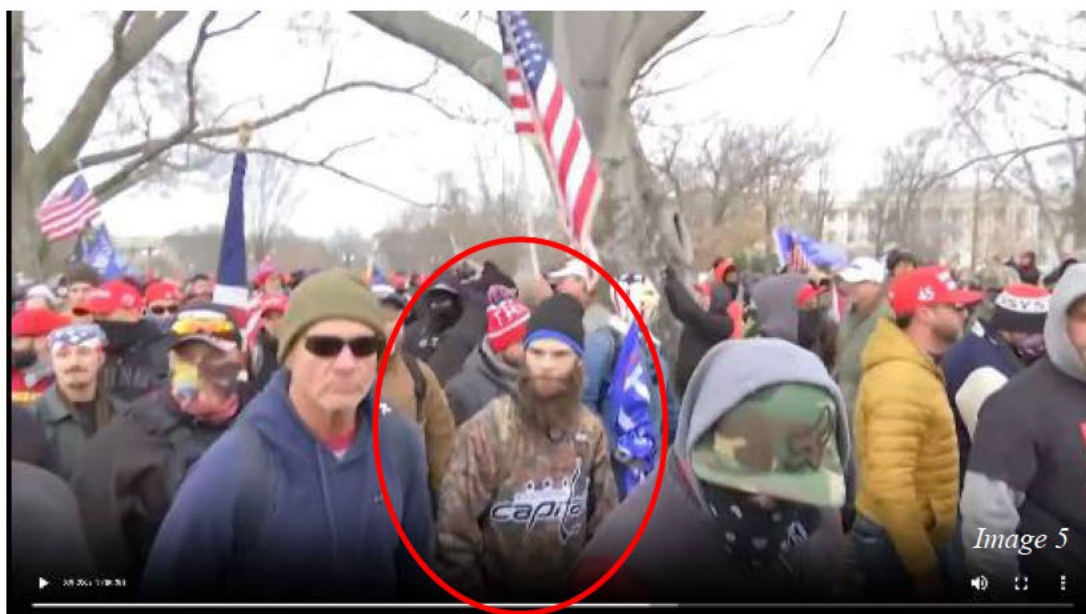
BATES’s [REDACTED] photo and the photos obtained via the Google search warrant were compared to several open source videos taken on January 6, 2021. In one video taken prior to the breach at the U.S. Capitol, members of the Proud Boys gathered near the Washington Monument in preparation for a march along the National Mall and around the U.S Capitol. In this footage, consistent with the statements of INDIVIDUAL 1, BATES can be seen gathering with other identified members of the Proud Boys (**Image 2**). In Image 2, BATES is wearing the same beanie, digital woodland camouflage top, and grey pants as in Image 1 above. Bates is identified in Image 2 below using a red circle.



Additional open source videos and images gathered by law enforcement showed BATES marching with the Proud Boys on the west (**Image 3**), north (**Image 4**), and east (**Images 5 and 6**) sides of the U.S. Capitol prior to the breach of U.S. Capitol Grounds. In each of these videos and images, BATES can be seen wearing the same clothing, including the digital woodland camouflage pattern

top, as seen in the email account photos from January 6, 2021 obtained via the Google search warrant. BATES is identified in Images 3 through 6 using a red circle.



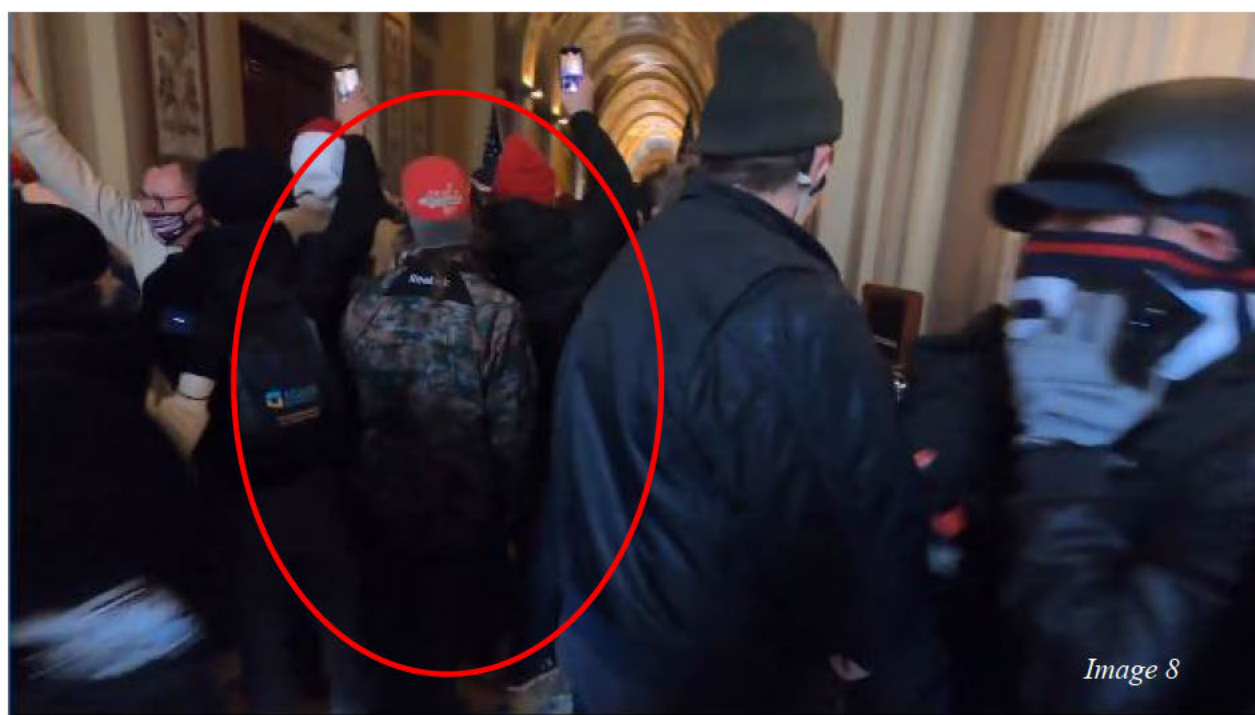


During the course of its investigation, law enforcement obtained an open source video taken by a rioter on January 6, 2021 on the Upper West Terrace of the U.S. Capitol, near an entrance to the Brumidi Corridor of the U.S. Capitol Building. In the video, an individual matching BATES's earlier appearance, with the same distinctive reddish-brown beard and same digital woodland camouflage pattern top but now wearing a backwards red baseball cap with a visible Washington Capitals professional hockey team spread-winged eagle logo on the back of the hat, can be seen in

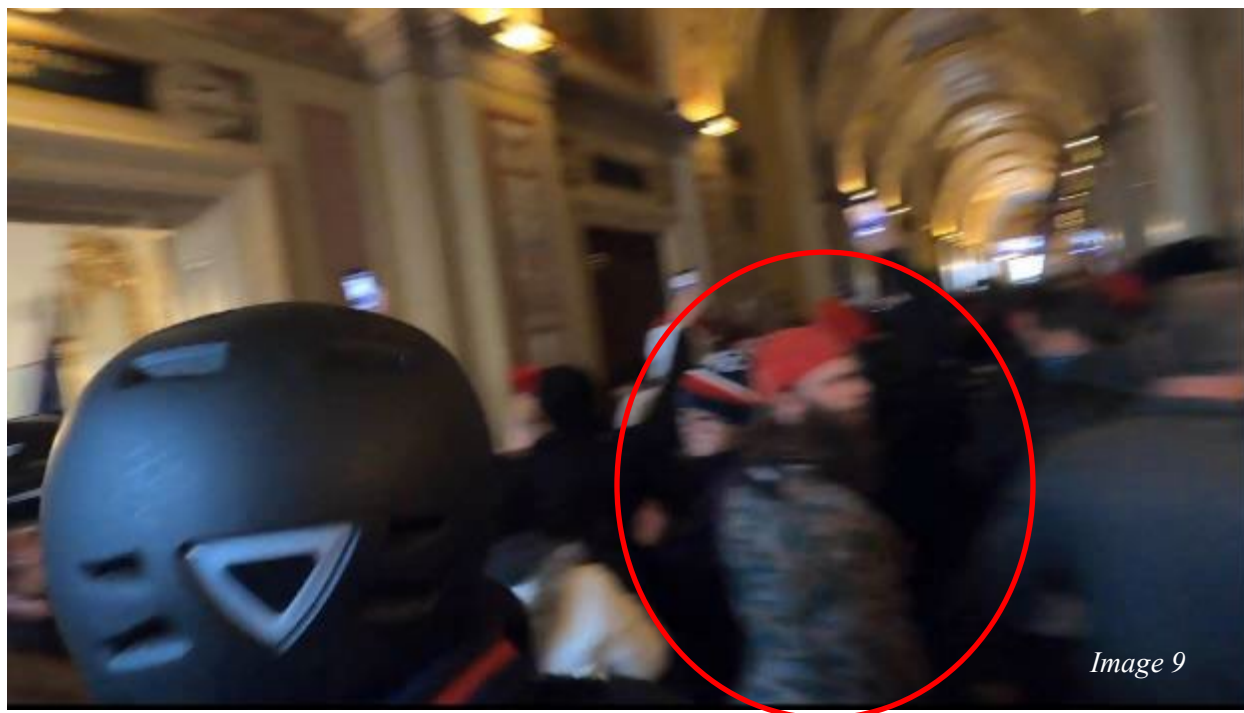
the crowd attempting to enter the U.S. Capitol Building (**Image 7**). The person resembling BATES is identified in Image 7 using a red circle.



The same video footage then shows the individual resembling BATES entering the Brumidi Corridor of the U.S. Capitol Building, wearing the same backwards red baseball cap, now with a stylized Washington Capitals hockey team name logo visible on the hat's front, and the same digital woodland camouflage top (**Images 8 and 9**). From the rear, the word "REEBOK" can be seen written on the individual's top just below his neck, matching the letters and partial word

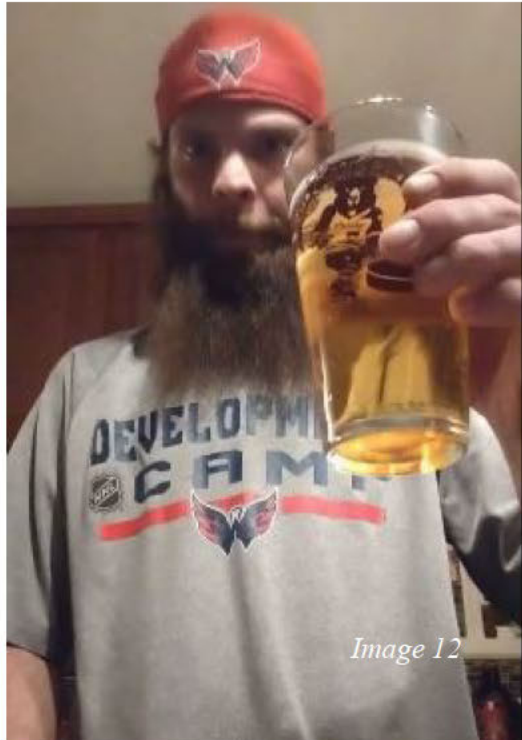


(“REEB”) seen in Image 1 above. The individual resembling BATES is identified in Images 8 and 9 using a red circle.



The front and back of the red baseball cap worn by the person resembling BATES matches a red Washington Capitals professional hockey team baseball cap worn by BATES in numerous photos uploaded to ACCOUNT 2 and obtained via the Google search warrant executed in June 2021, including photos of BATES taken, according to their metadata, on January 3, 2021 (**Image 10**), January 5, 2021 (**Image 11**) and January 16, 2021 (**Image 12**), both before and after the events of January 6, 2021.





Based on the foregoing, including the distinctive beard, distinctive digital woodland camouflage pattern top, and resemblance to multiple hat-wearing photos of BATES found in the search warrant return for ACCOUNT 2, I have determined that the individual depicted in the open source video near an entrance to the U.S. Capitol Building and inside the Brumidi Corridor of the U.S. Capitol Building is BATES.

Law enforcement personnel also reviewed U.S. Capitol Police Closed Circuit Television (CCTV) footage recorded in the the Brumidi Corridor of the U.S Capitol Building after it had been breached by rioters at approximately 2:42 p.m. on January 6, 2021. CCTV footage from the Brumidi Corridor showed the same bearded individual with a digital woodland camouflage pattern top and red backwards Washington Capitals professional hockey team baseball cap entering the Brumidi Corridor from the Upper West Terrace of the U.S. Capitol Grounds at approximately 2:45 p.m. and exiting the Brumidi Corridor onto the Upper West Terrace of the U.S. Capitol Grounds at approximately 2:49 p.m. In the CCTV footage, the individual I have identified as BATES is also wearing grey pants with black and brown tactical gloves tucked into the back pocket of his pants, matching the pants and gloves worn by BATES in Image 1 above. The individual I have identified as BATES is also shown holding up a cell phone while inside the Brumidi Corridor, as though recording or photographing his surroundings, and, at one point, repeatedly thrusting his right arm into the air and pointing down the Brumidi Corridor in the general direction of a number of U.S Capitol Police officers.

The materials received from Google in response to the search warrant executed in June 2021 also included multiple videos from January 6, 2021 that were uploaded to to the email account linked

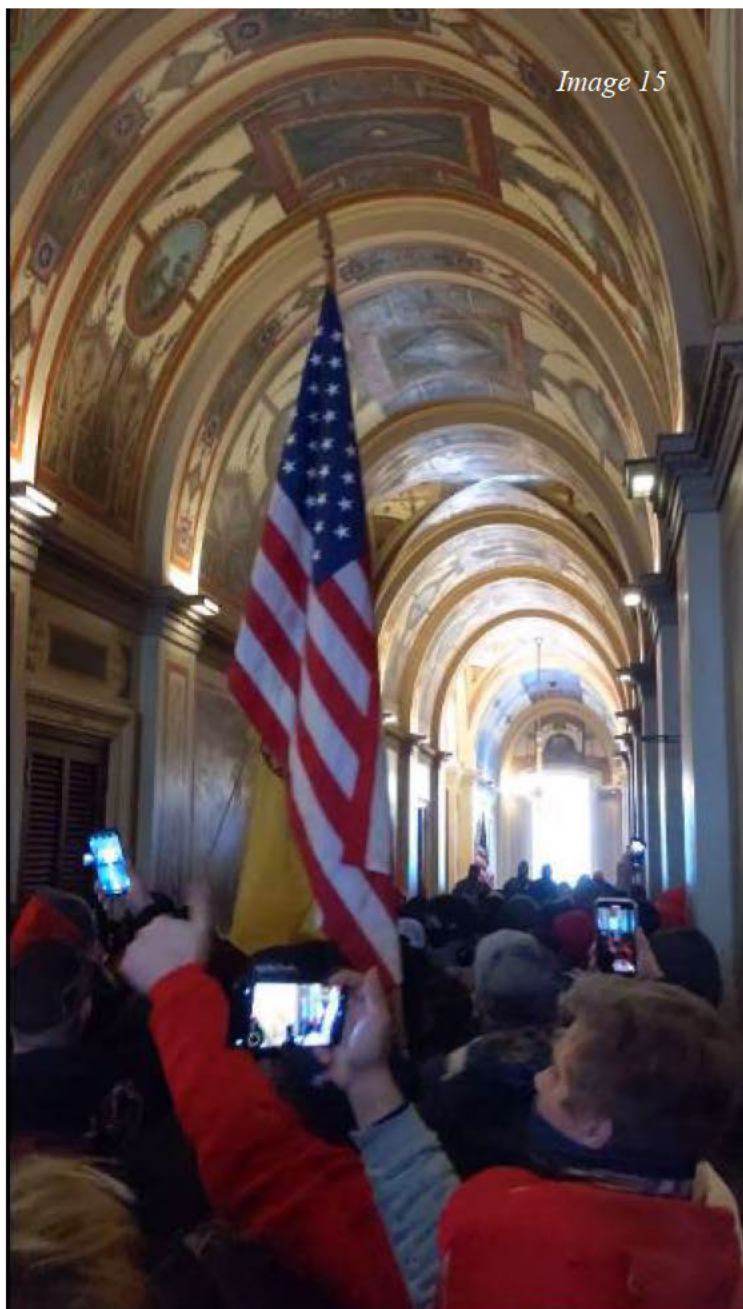
to XXX-XXX-8255 and BATES. In the first of these videos, the metadata for which indicates it was taken at approximately 2:28 p.m. on January 6, 2021, rioters are depicted attempting to enter windows near the Senate Wing of the U.S. Capitol Building, but are barred from doing so by the presence of uniformed police officers. A still image from this video is provided below (**Image 13**). In the video, a voice off-camera can be heard describing the U.S. Capitol Building as “our fucking Capitol” and urging other rioters to “storm the doors.” Law enforcement officers compared that voice to BATES’s voice in other videos recorded prior to January 6, 2021 and obtained via the Google search warrant in June 2021 and concluded that the voice in the first January 6, 2021 video is consistent with BATES’s voice.



In the second of these videos, the metadata for which indicates it was taken at approximately 2:30 p.m. on January 6, 2021, rioters are depicted unsuccessfully attempting to breach a pair of double doors near the Senate Wing of the U.S. Capitol Building, using a long wooden plank and a piece of paneling. A still image from this video is provided below (**Image 14**). In the video, a voice off-camera can be heard shouting “we’re coming in” and joining in repeated chants of “U-S-A!” Law enforcement officers compared that voice to the voice of BATES in other videos recorded prior to January 6, 2021 and obtained via the Google search warrant and concluded that the voice in the second January 6, 2021 video is consistent with BATES’s voice.



In the third of these videos, the metadata for which indicates it was taken at approximately 2:48 p.m. on January 6, 2021, rioters are depicted inside of the Brumidi Corridor of the U.S. Capitol Building. A still image from this video is provided below (**Image 15**). The video is taken from the right side of the corridor as it is depicted, which matches the location of the person resembling BATES in both the open source footage and CCTV footage from the Brumidi Corridor. Additionally, the filming of this video at 2:48 p.m. corresponds with the time during which the individual I have identified as BATES was present in the Brumidi Corridor on the CCTV footage from the Brumidi Corridor (2:45 – 2:49 PM).



In the fourth of these videos, the metadata for which indicates it was taken at approximately 4:02 p.m. on January 6, 2021, rioters are seen on the west side of the U.S. Capitol Building, inside of the restricted area of the U.S. Capitol Grounds. A still image from this video is provided below (**Image 16**). The video is taken from the west side of the U.S. Capitol Building.



The filming location for the fourth video taken on January 6, 2021 and obtained via the Google search warrant is consistent with multiple open source videos depicting the same individual resembling BATES, still recognizable due to his reddish-brown beard, digital woodland camouflage pattern top, and backwards red Washington Capitals professional hockey team

baseball cap, on the west side of the U.S. Capitol Grounds sometime after exiting the Brumidi Corridor (**Images 17 and 18**). The individual resembling BATES is identified in Images 17 and 18 using a red circle.

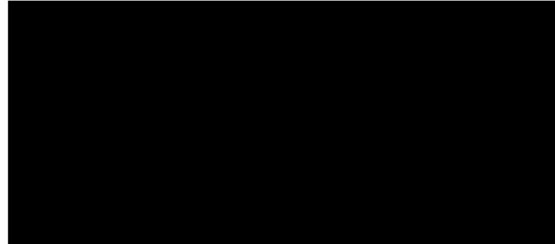


In September 2021, BATES was arrested in Berkeley County, WV for conduct unrelated to the events of January 6, 2021. Following that arrest, law enforcement showed a photo of the person resembling BATES inside of the Brumidi Corridor of the U.S Capitol Building on January 6, 2021 to the arresting officer from the Berkeley County Sheriff's Department. The arresting officer identified the person in the image from January 6, 2021 as BATES. The photo shown to the arresting officer is provided below (**Image 19**).



Based on the foregoing, your affiant submits that there is probable cause to believe that BATES 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; 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 DAVID MITCHELL BATES violated 40 U.S.C. § 5104(e)(2)((D) 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; 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 12th day of December 2023.

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE