

STATEMENT OF FACTS

Your affiant [REDACTED]

[REDACTED] In my duties as a special agent, I investigate national security and criminal matters. As a special agent, I have gained training and experience in interviewing and interrogation techniques, arrest procedures, search warrant applications, the execution of searches and seizures, the exploitation of lawfully obtained evidence and data, and various other procedures. 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."

Background: Events at the U.S. Capitol 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, 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.

Facts Specific to Kyle Travis Colton

Based upon review of public video, closed circuit video (“CCV”) footage and police body worn camera (“BWC”) footage depicting the events at the U.S. Capitol building and grounds on January 6, 2021, law enforcement identified an individual who entered and remained within the U.S. Capitol building on January 6, 2021. As set out in detail below, law enforcement has identified the individual as KYLE TRAVIS COLTON (“COLTON”) and there is probable cause to believe that on January 6, 2021 COLTON committed violations of 18 U.S.C. § 231(a) (civil disorder), 18 U.S.C. § 1752(a)(1) and (2) (entering or remaining in, or engaging in disorderly conduct in, restricted building or grounds); and 40 USC § 5104(e)(2)(D) and (G) (engaging in disorderly conduct in any of the Grounds or Capitol Buildings or parading or demonstrating in any of the Capitol Buildings).

A. Identification of KYLE TRAVIS COLTON

In January 2021, the FBI received a tip from a passenger (“WITNESS 1”), seated in seat 13C on Delta Airlines flight 5739 from Washington, D.C. (DCA) to Los Angeles (LAX) on January 7, 2021, that a person seated in seat 13D, had told other passengers, seated on the flight that he was a part of the “second wave” of rioters in the U.S. Capitol Building on January 6, 2021.

In January 2021, through legal process to Delta Airlines, FBI confirmed COLTON had purchased an airline ticket on January 2, 2021, to travel to Washington DC. FBI also confirmed COLTON traveled to DC on January 5th, 2021, and returned January 7th, 2021.

The FBI conducted separate interviews with WITNESS 1 and WITNESS 2, another passenger from the flight COLTON was on. These interviews revealed that COLTON discussed with WITNESS 1 and WITNESS 2, who were sitting near COLTON on the flight, entering the United States Capitol Building in the “second wave.” COLTON also showed WITNESS 2 pictures from the rally at the Ellipse and a video depicting other rioters pushing and struggling with law enforcement taken from inside of the U.S. Capitol building. WITNESS 1 and WITNESS 2 identified the seat, 13D, that COLTON was assigned on the airline and gave a description of

COLTON as a white male, approximately six feet in height, having no facial hair, a closely shaved head, and approximately 30 years old. FBI confirmed that seat 13D was assigned to COLTON through the Delta Airlines flight manifest.

In July 2021, pursuant to a search warrant, the FBI searched the phone of an uncharged individual who had been present at the U.S. Capitol on January 6, 2021 (the “New York Subject”). That phone contained text messages from a telephone number with area code 916, ending in 3664 (the “3664 number”), which I subsequently learned was subscribed to by KYLE TRAVIS COLTON. On January 6, 2021, the 3664 number sent the following messages:

- At 6:46:41pm, the 3664 number sent a text message to the New York Subject that read, “Hey man it’s Kyle. Thanks for the ride.”
- At 6:46:51pm, the 3664 number sent another text message, and several photographs to the New York Subject. The message read, “Check out my photos from inside the capitol”. Below are the images that were sent with this text message. *See Images 1 - 4.*



Image 1

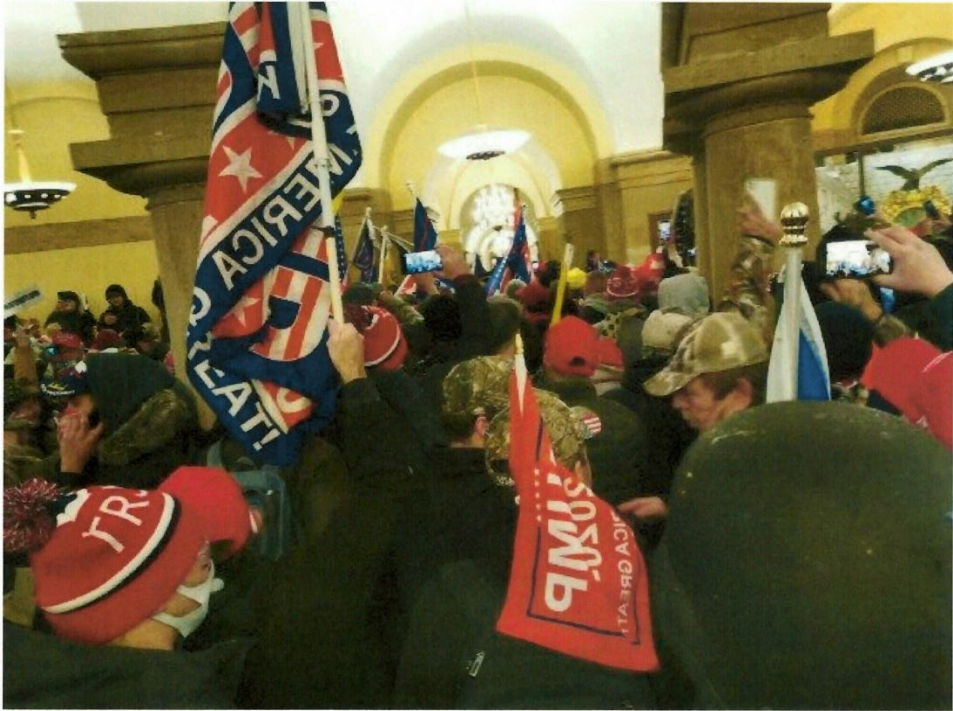


Image 2



Image 3



Image 4

Subscriber records for the 3664 number included an address in Citrus Heights, CA (the “Citrus Heights Address”). The California Department of Motor Vehicles (“DMV”) also listed the Citrus Heights Address as COLTON’s address.

On May 12, 2022, COLTON contacted the Citrus Heights Police Department to report a criminal matter which took place at the Citrus Heights, CA, address. COLTON identified himself to the reporting officers as a witness who resided at the residence.

As laid out in more detail below, I identified an individual in USCP CCV footage from January 6, 2021, who appears to take pictures in locations consistent with Images 1-4 above. In much of the CCV footage, the individual’s face is covered by the distinct royal blue, white, and red flag tied around the bottom half of his face. However, based on my review of that footage, I identified publicly available images from inside the Capitol on January 6, 2021, in which that individual’s face is visible. *See* Images 5-6.



Image 5



Image 6

I also identified several other publicly available images from outside of the Capitol in which the person physically resembled the individual in the images above. *See* Images 7-8.



Image 7



Image 8

In November of 2023, I conducted surveillance of COLTON and observed COLTON outside of his residence at the Citrus Heights Address. Based on that surveillance, as well as my comparison of COLTON's DMV photograph to Image 5-8, I believe that COLTON is the individual depicted in Images 5-8.

B. COLTON's Activities at the U.S. Capitol on January 6, 2021

I have reviewed CCV footage from within the United States Capitol Building on January 6, 2021, and identified COLTON taking pictures in the Capitol with what appeared to be a mobile telephone. The screenshots below show COLTON on CCV in or near a position consistent with that of the photographer in the pictures sent to the subject in New York, which were identified as Images 1-4 above. *See* Images 5-8.

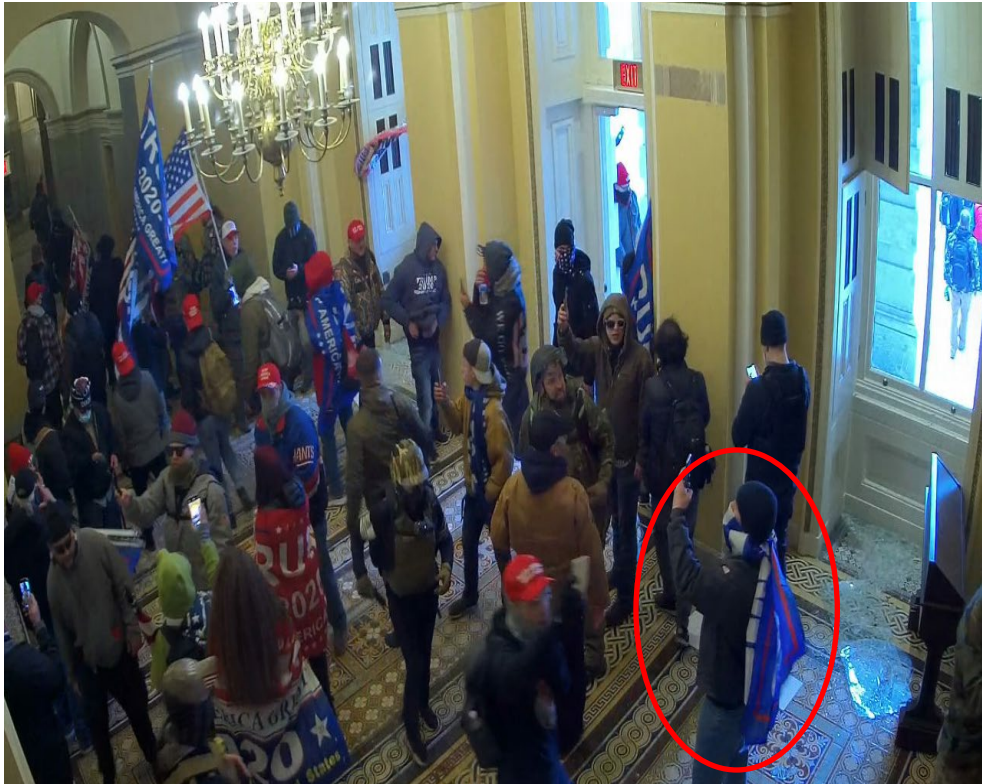


Image 5 – Still Image of CCV of COLTON (circled in red) taking a photo upon entry into the Capitol Building



Image 6 – Still image of CCV of COLTON (circled in red) taking a picture in the Crypt



Image 7 – Still image of CCV of COLTON (circled in red) taking a picture in the Statuary Hall Connector



Image 8 – Still image of CCV of COLTON (circled in red) taking a picture looking into the Rotunda (from near the East Rotunda Doors)

Below is a screenshot from the CCV footage of COLTON's exit from the U.S. Capitol building at approximately 3:30 p.m. (with COLTON circled in red). *See Image 10.*

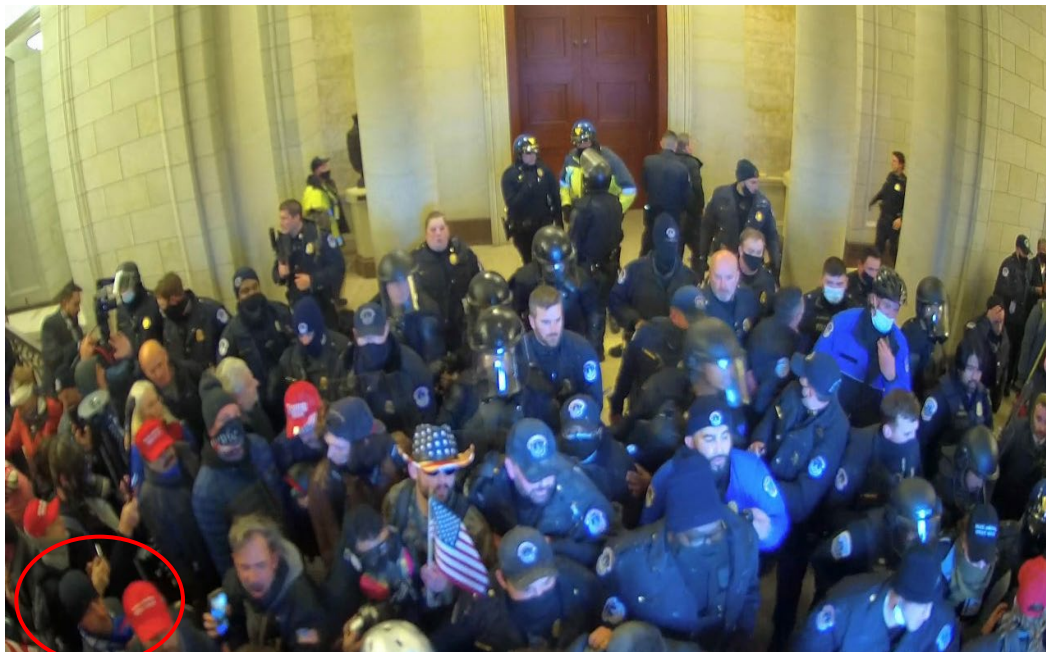


Image 10 – Still image of COLTON exiting the U.S. Capitol building

I have also reviewed publicly available images of COLTON depicting COLTON in the Rotunda of the U.S. Capitol building, while rioters and law enforcement officers were engaged in a physical confrontation. *See Images 11-15.*

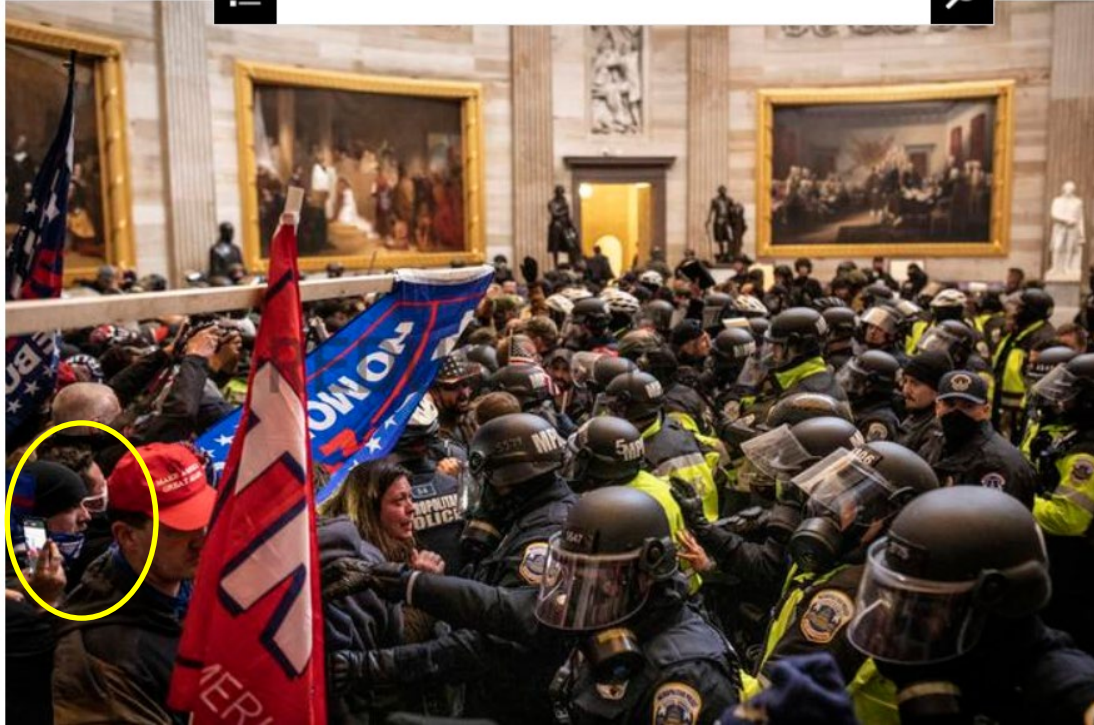


Image 11 – COLTON is circled in yellow



Image 12 – COLTON is circled in yellow



Image 13 – COLTON is circled in yellow



Image 14 – COLTON is circled in yellow



Image 15 – COLTON is circled in yellow

Review of the body worn camera (BWC) video from Metropolitan Police Department (“MPD”) officers in the Rotunda revealed COLTON not obeying orders by the officers to leave the Rotunda and COLTON standing in line with rioters as these other rioters had confrontations with the officers. These officers had initiated crowd clearing measures to include forming a police line, giving loud verbal commands, and using batons to move persons towards the exit door. COLTON only moved when the crowd was physically pushed towards the exit. Furthermore, COLTON remained standing side-by-side with these other rioters who were combating law enforcement officers. At one point COLTON grabbed a flagpole that was being used by a rioter to assault MPD Officer K.D. COLTON gained control of the flagpole, which Officer K.D. had also grabbed, and then gave it back to this rioter, who then fled into the crowd of rioters with the flagpole. *See* Images 16 and 17 (COLTON is circled in yellow).



Image 16 – BWC of MPD Officer K.D.



Image 17 – BWC of MPD Officer K.D.

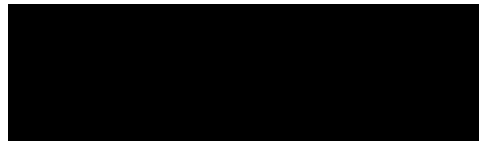
Conclusion

Based on the foregoing, your affiant submits that there is probable cause to believe that KYLE TRAVIS COLTON 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.

Your affiant further submits there is probable cause to believe that COLTON 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 also submits there is also probable cause to believe that COLTON violated Title 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 13th day of December 2023.

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE