

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

GENE DIGIOVANNI, JR.,

Defendant.

CASE NO. 23-mj-204

STATEMENT OF OFFENSE

Pursuant to Fed. R. Crim. P. 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, Gene DiGiovanni, Jr., with the concurrence of the defendant's attorney, agree and stipulate to the below factual basis for the defendant's guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

The Attack at the U.S. Capitol on January 6, 2021

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured twenty-four hours a day by U.S. Capitol Police (USCP). Restrictions around the Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the Capitol.
2. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public. The grounds around the Capitol were posted and cordoned off, and the entire area as well as the Capitol building itself were restricted as that term is used in Title 18, United States Code, Section 1752 due to the fact that the Vice President and the immediate family of the Vice President, among others, would be visiting the Capitol complex that day.
3. On January 6, 2021, a joint session of the United States Congress convened at the Capitol. 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 Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on Tuesday, November 3, 2020. The joint session began at approximately 1:00 PM. Shortly thereafter, by approximately 1:30 PM, 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.

4. As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the Capitol. Temporary and permanent barricades, as noted above, were in place around the exterior of the Capitol, and USCP officers were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

5. At approximately 2:00 PM, certain individuals in the crowd forced their way through, up, and over the barricades. Officers of the USCP were forced to retreat and the crowd advanced to the exterior façade of the building. Officers with the D.C. Metropolitan Police Department were called to assist officers of the USCP who were then engaged in the performance of their official duties. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks as required by USCP officers or other authorized security officials.

6. At such time, the certification proceedings were still underway, and the exterior doors and windows of the Capitol were locked or otherwise secured. Members of the USCP attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 PM, individuals in the crowd forced entry into the Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted

those acts. The riot resulted in substantial damage to the Capitol, requiring the expenditure of more than \$2.9 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 PM, members of the House of Representatives and of the Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 PM on January 6, 2021. In light of the dangerous circumstances caused by the unlawful entry to the Capitol—including the danger posed by individuals who had entered the Capitol without any security screening or weapons check—Congressional proceedings could not resume until after every unauthorized occupant had been removed from or left the Capitol, and USCP confirmed that the building was secured. The proceedings resumed at approximately 8:00 PM after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

The Defendant's Participation in the January 6, 2021, Capitol Riot

8. The defendant, Gene DiGiovanni, Jr., of Derby, Connecticut, travelled to Washington, D.C., on or about January 6, 2021 to attend former President Trump's "Stop the Steal" rally. After attending the rally, DiGiovanni walked with other rioters down the National Mall to the western grounds of the Capitol, where he knowingly entered and remained within the restricted perimeter around the Capitol Grounds that U.S. Capitol Police had established using fencing, barricades, and signs, in anticipation of former Vice President Pence and his immediate family members' presence at the Capitol for the electoral college certification proceedings.

9. After reaching the west plaza of the Capitol, DiGiovanni ascended a staircase on the northwest side of the Capitol Building by walking underneath the scaffolding in place at the

time to support the inaugural stage. He ultimately reached the Upper West Terrace, where rioters engaged in a variety of chants as they attempted to gain entry to the building and cheered on other rioters who were attempting to break several windows. Among the many chants that the crowd engaged in were sentiments like "Our house!" and "Take it back!" More, while Giovanni was on the Upper West Terrace, another rioter can be heard yelling through a microphone "They can't stop us all." At the same time, officers were clearly visible preventing access to the building through the Parliamentarian Door.

10. DiGiovanni lingered on the Upper West Terrace near the Senate Wing Door and Parliamentarian Door for a period of time, and then eventually entered the building through the Upper West Terrace door at approximately 2:20 p.m. The Upper West Terrace door was an alarmed door that does not open from the outside; thus the alarm was sounding as he entered the building at approximately ^{2:20 p.m. 1/12/24 JEB} ~~2:44~~ p.m. *MJM GD*

11. Inside the U.S. Capitol building, DiGiovanni walked through the Rotunda, Statuary Hall, and other corridors before exiting through the Rotunda doors on the east side of the building.

12. DiGiovanni was interviewed on camera by a reporter in the fall of 2022. In that recorded interview, DiGiovanni acknowledged his conduct and identified himself in photographs from inside the Capitol Building on January 6, 2021.

Elements of the Offense

13. The parties agree that Entering and Remaining in a Restricted Building, in violation of 18 U.S.C. § 1752(a)(1) requires the following elements:

- a. First, the defendant entered or remained in a restricted building or grounds without lawful authority to do so.
- b. Second, that the defendant did so knowingly.

Defendant's Acknowledgments

14. The defendant knowingly and voluntarily admits to all the elements as set forth above. Specifically, the defendant admits that he knowingly entered and remained in a restricted building, that is, the U.S. Capitol Building, without lawful authority to do so.

Respectfully submitted,

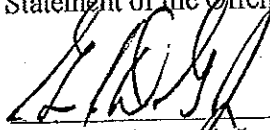
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DEFENDANT'S ACKNOWLEDGMENT

I, Gene DiGiovanni, Jr., have read this Statement of the Offense and have discussed it with my attorney. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

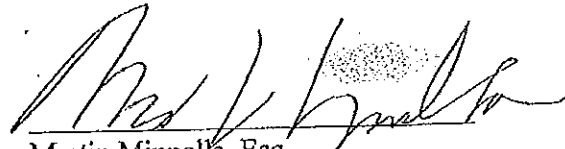
Date: 12/15/2023


Gene DiGiovanni, Jr.
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of the Offense and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: 12/15/2023


Martin Minnella, Esq.
Attorney for Defendant