

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Task Force Officer (TFO) with the FBI assigned to the Houston Joint Terrorism Task Force. In my duties as a TFO, I conduct counterterrorism investigations. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a TFO, 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 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.

Following the events on January 6, 2021, a search warrant was served on Google for accounts present at and inside the U.S. Capitol on January 6, 2021. According to Google records, a mobile device associated with Google account luudaiduong[**] was present at and inside of the Capitol on January 6, 2021. The records also showed that the Google account was associated with Duong Dai Luu (“Luu”), a Gmail account that uses Luu’s full name, a recovery Yahoo email account that includes Luu’s full name, a recovery SMS telephone number associated with Luu, and a unique device ID. Google estimates device location using sources including GPS data and information about nearby Wi-Fi access points and Bluetooth beacons. This location data varies in its accuracy, depending on the source(s) of the data. As a result, Google assigns a “maps display radius” for each location data point. Thus, where Google estimates that its location data is accurate to within 10 meters, Google assigns a “maps display radius” of ten meters to the location data point. Finally, Google reports that its “maps display radius” reflects the actual location of the covered device approximately 68% of the time.

In this case, Google location data showed that a device associated with Google account luudaiduong[**] was inside the Capitol building on January 6, 2021, between approximately 2:58 PM (EST) and 3:11 PM (EST). Additional data points showed said device had an approximate total time on Capitol grounds initiating at 2:41pm (EST), with a final time point at approximately 3:27pm (EST).

On July 14, 2021, another FBI (TFO) interviewed Luu in-person at his place of employment. Luu admitted to being inside the U.S. Capitol on January 6, 2021 for approximately three minutes. Luu stated that he attended the January 6, 2021 Trump Rally in Washington DC, after which he walked towards the U.S. Capitol where he then entered the U.S. Capitol after following a group of others into the building.

On July 14, 2021, Luu provided said TFO with two “selfie” photographs of himself from the phone number associated with the above Google account. The selfie photographs depicted Luu on what was recognized to be Capitol grounds on January 6, 2021. One of the images is included below as Image 1. On August 4, 2021, Luu provided two videos that he said he recorded on January 6, 2021. One of the videos included a “selfie” of Luu’s face outside the Capitol and the other video was taken by Luu while he was inside the U.S. Capitol.



Image 1: *Luu, far left foreground, on U.S. Capitol grounds on January 6, 2021*

I have observed CCTV video of Luu entering the Capitol building through the Parliamentarian door at approximately 2:56 p.m. Luu then entered an office space on the right side of the hall, immediately after entering the Parliamentarian door and went out of view from the camera for approximately 2 minutes before returning to the hallway. This area is consistent with the location of the device associated with the above Google account. I recognized Luu from the distinctive white Northface puffer jacket with black chest and shoulders, red MAGA trucker-style hat with American flag pattern on the mesh rear portion with a black and gray beanie underneath, a black and gray plaid scarf, and a bluish-green or teal colored COVID facemask which was consistent with the selfie-photographs he provided to the FBI. Luu appeared to exit the Capitol building at approximately 3:00 p.m. from where he entered. The CCTV video that recorded Luu in the Capitol shows that, when he was present, there was broken glass and other debris in the hall within the Capitol.



Image 2: *Luu, circled in red, approaching the Parliamentary door at approximately 2:59 pm*

One of Luu's cell phone recordings that he sent to the FBI in August 2021 appears to have been taken while Luu was inside one of the offices within the Capitol—specifically, based on my review of the U.S. Capitol layout, Room S132. In the video, papers and other debris are strewn about the office space and the floor, while others in the recording appear to be rummaging through the office space. (Image 3)

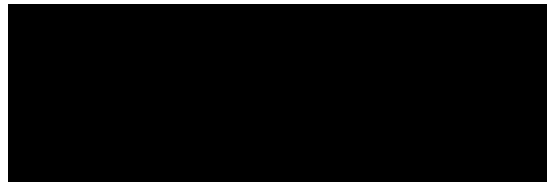


Image 3

On December 13, 2023, FBI Task Force Officer Eliot Swainson interviewed Luu in-person at a coffee shop. Luu again admitted to being inside the U.S. Capitol on January 6, 2021. Luu stated that he attended the January 6, 2021 Trump Rally in Washington DC, after which he walked towards the U.S. Capitol where he then entered the U.S. Capitol after following a group of others into the building. Luu was unable to describe the function of the Capitol building, but admitted that he recognized that it wasn't good to be inside the building as it was the property of the government and that he was not allowed to enter without permission.

Based on the foregoing, your affiant submits that there is probable cause to believe that Duong Dai Luu 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 Duong Dai Luu 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 January.

ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE