

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Federal Bureau of Investigation (“FBI”) Special Agent currently assigned to the Boston Field Office, Portland, Maine Resident Agency, where I serve on the Joint Terrorism Task Force. As part of my duties as a FBI Special Agent, I investigate criminal violations relating to international and domestic terrorism and other threats to national security and public safety. I have been an FBI Special Agent since April 2023. I received 18 weeks of training at the FBI Academy in Quantico, Virginia. Prior to becoming an FBI Special Agent, I was a commissioned officer in the United States Air Force, where I reached the rank of Captain. I served on active duty for nine years as a Tactical Air Control Party Officer and Joint Terminal Attack Controller within Air Force Special Warfare. Currently, I am tasked with investigating criminal activity in and around the U.S. Capitol 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 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 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 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.

On or about January 11, 2021, the FBI received a tip from an acquaintance of Michael Gerard Fournier (hereinafter, "FOURNIER") of Portland, Maine indicating that FOURNIER was at the U.S. Capitol on January 6, 2021.

The tipster was later provided with three photographs, via email, of an individual at and inside the U.S. Capitol on January 6, 2021. The tipster stated: "The circled person does look like Michael Fournier but they are a little blurry, but pretty sure that is him." Additionally, through my own investigation, including reviewing FOURNIER's driver's license photo, FOURNIER appears to be the same person in Image 1 and other video footage collected on January 6, 2021.

On November 3, 2021, the FBI met with the brother of FOURNIER who stated that FOURNIER was in Washington, D.C. on January 6, 2021. On August 22, 2022, FOURNIER's brother subsequently confirmed that FOURNIER was inside the U.S. Capitol building on January 6, 2021, but declined to identify FOURNIER in a photograph from inside the U.S. Capitol building.

During the investigation, the FBI reviewed U.S. Capitol Police CCTV surveillance footage, open-source footage, and officer body-worn camera, which captured FOURNIER's activities on January 6, 2021. At approximately 2:38 p.m. EST, FOURNIER, in the yellow circle, first approached the U.S. Capitol from the east at the intersection of East Capitol Street and First Street NE near the U.S. Supreme Court building, as depicted in Image 1 below. He stopped to take a picture on the sidewalk and then continued to walk towards the east front of the U.S. Capitol where a large crowd had assembled.



Image 1

Image 2, a screenshot from an open-source video, captured FOURNIER on the East Plaza of the U.S. Capitol below the stairs to the Rotunda doors among a large crowd. FOURNIER is wearing a red sweatshirt and scarf. FOURNIER is also wearing a red bucket hat and sunglasses. Several rioters can be seen climbing on top of what appears to be a police vehicle.



Image 2

Shortly thereafter, FOURNIER proceeded to climb the steps to the Rotunda doors. Image 3, a screenshot from open-source video, captured FOURNIER, in his red bucket hat and sunglasses, outside the Rotunda doors chanting, “It’s our house,” with his fist raised in the air.



Image 3

Image 4 below is a screenshot from a security camera surveilling the Rotunda doors on the east side of the U.S. Capitol. At approximately 3:02 p.m., the camera captured FOURNIER entering the U.S. Capitol building through the Rotunda doors. By that time, the windowpanes in the Rotunda doors had been smashed and an alarm was blaring.¹ FOURNIER also appeared to be carrying a canned beverage in his right hand.

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¹ On December 3, 2021, FOURNIER's then-attorney, Michael Zerillo, voluntarily provided a detailed letter to the FBI in which he admitted to being inside the U.S. Capitol building on January 6, 2021. In that letter, FOURNIER claimed that he "observed no signage restricting his entry" into the U.S. Capitol and "there was no attempt to stop the protestors on that side of the building from entering."

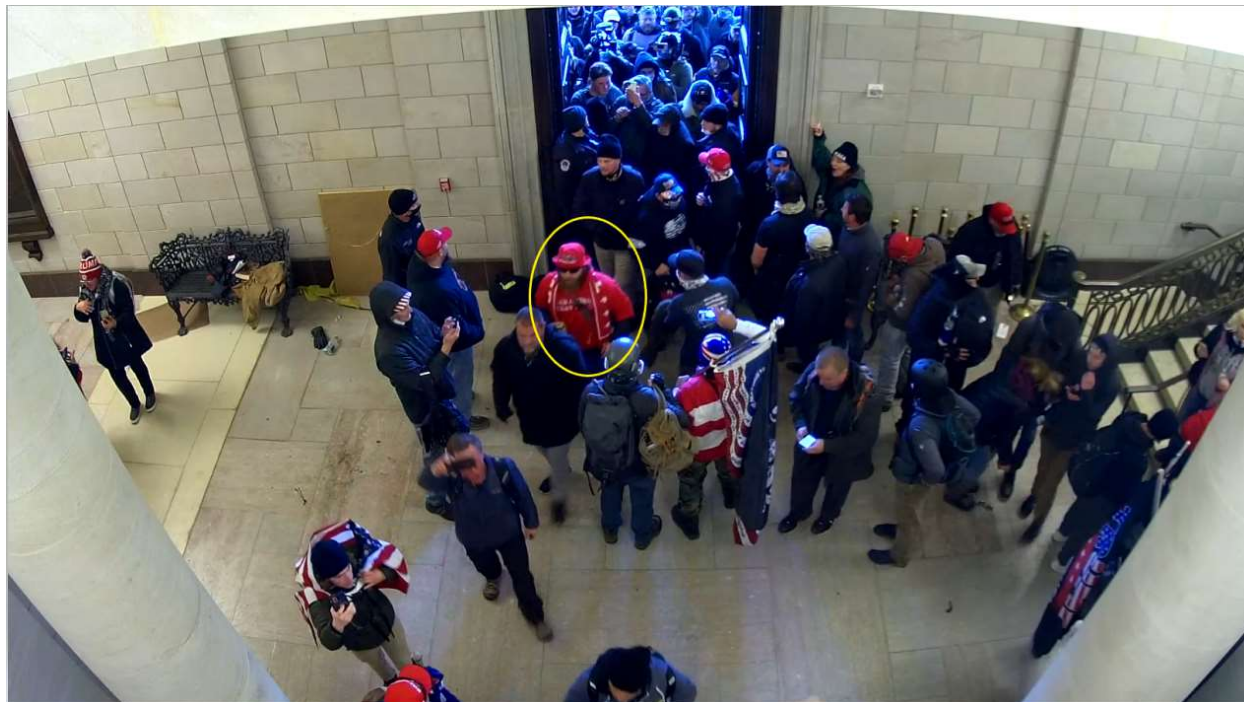


Image 4

Upon entering the Capitol, FOURNIER walked west towards the Rotunda, appearing to use his cell phone in his left hand, as depicted in the Image 5 below. FOURNIER also appeared to be wearing an orange cross-body bag slung over his back and, at some point, he removed his sunglasses from his face.



Image 5

At approximately 3:03 p.m., FOURNIER entered the Rotunda through the east door and moved around to different locations in the Rotunda for the next several minutes. Image 6 shows that, at one point, FOURNIER appeared to take out his cell phone to take photographs and/or video for approximately 30 seconds.



Image 6

In Image 7, at approximately 3:06 p.m., FOURNIER faced a group of law enforcement officers, wearing riot helmets, as they formed a police line to clear the Rotunda of rioters.



Image 7

As law enforcement pushed rioters towards the east door, FOURNIER exited from the Rotunda into the lobby area near the Rotunda doors. A few moments later, FOURNIER attempted to leave the building, as depicted in Image 8 below. But FOURNIER was not successful as U.S. Capitol Police officers at the threshold of the Rotunda doors were able to temporarily secure and shut those doors.



Image 8

At approximately 3:09 p.m., FOURNIER walked north and stopped to take a drink out of a can he was holding. FOURNIER then put the can down on the floor next to a bench and began to interact with another rioter who had picked up a painting. FOURNIER took the painting from this individual and walked northwest with it, as depicted in Images 9 and 10 below.

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Image 9



Image 10

Two minutes later, at approximately 3:11 p.m., FOURNIER walked back towards the Rotunda doors, no longer carrying the painting, as shown in Image 11 below.

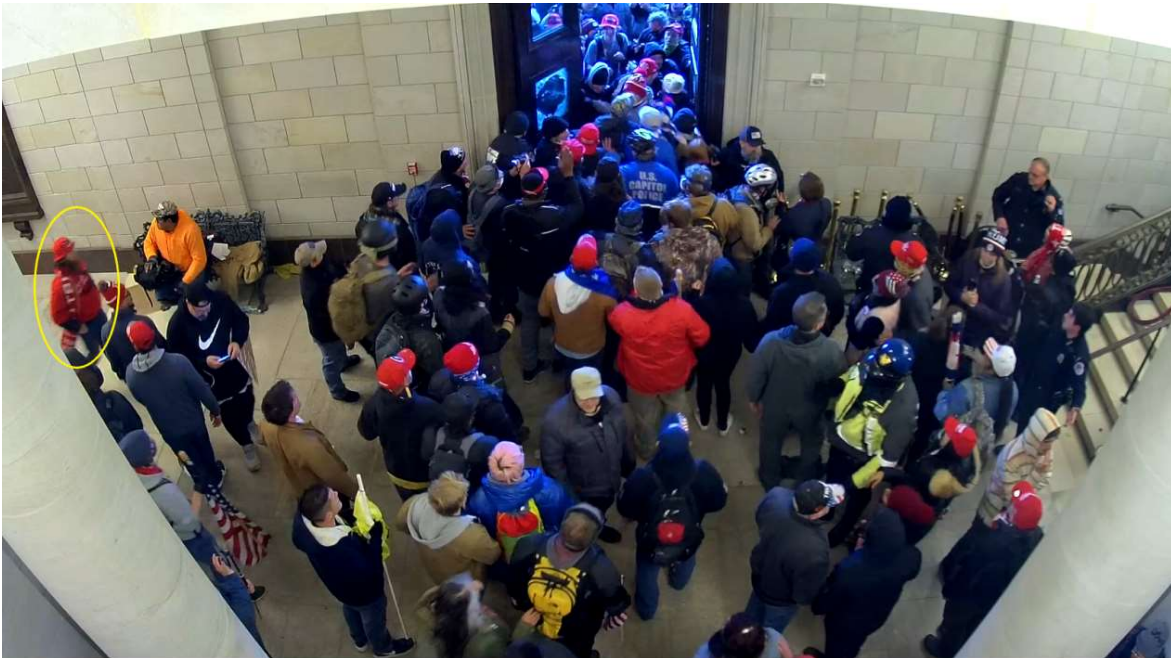


Image 11

A few moments later, FOURNIER exited from the U.S. Capitol building through the Rotunda doors which had been forced open again. In doing so, FOURNIER turned around, placed both his hands on a U.S. Capitol Police officer, and appeared to exchange words with that officer, as depicted in Image 12 below.



Image 12

Despite the broken glass, the blaring alarm, the police line in the Rotunda, and interacting with a police officer in the entryway of the Rotunda doors, FOURNIER did not leave the restricted area around the U.S. Capitol. After exiting from the building, FOURNIER made his way around to the west side of the U.S. Capitol where he remained on the Upper West Terrace for at least an hour.

Around 3:44 p.m., FOURNIER appeared on the Upper West Terrace near an accessibility ramp where a police line had formed. Immediately after another rioter was arrested by law enforcement next to the ramp, FOURNIER looked directly at the police line in Image 13 below.



Image 13

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Several minutes later, in Image 14 below, FOURNIER walked directly in front of a police line of officers with tactical gear including riot helmets and shields on the Upper West Terrace.



Image 14

Almost an hour later, around 4:38 p.m., FOURNIER appeared briefly at the stairs next to the inauguration stands on the southwest side of the U.S. Capitol. Another police line is visible in Image 15 behind temporary crowd control fencing with posted “area closed” signs. FOURNIER left U.S. Capitol grounds at some time thereafter.



Image 15

Based on the foregoing, your affiant submits that there is probable cause to believe that FOURNIER 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 so; 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. 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 FOURNIER violated 40 U.S.C. § 5104(e)(2), 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.

[REDACTED]

[REDACTED]

Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 19th day of January 2024.

HON. MOXILA A. UPADHYAYA
U.S. MAGISTRATE JUDGE