

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent assigned to the Cleveland Division of the Federal Bureau of Investigation. In my duties as a special agent, I investigate national security matters and various other federal crimes. 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 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.

Identification of MICHAEL PICCIUTO

I reviewed open-source photos and videos of an individual who was inside of the U.S. Capitol on January 6, 2021. In those videos and images, a male with long, light brown hair who was wearing a camouflage hat, brown and black plaid jacket, fluorescent undershirt, and camouflage pants, could be seen being forcefully ejected by police from a hallway inside the U.S. Capitol. The same individual could also be seen destroying media equipment outside of the U.S. Capitol building.

I showed the driver's license photos and an image of this individual from inside of the U.S. Capitol on January 6, 2021 (an image nearly identical to Image 3 below) to a person who has regular contact with MICHAEL PICCIUTO ("Witness-1"). Witness-1 identified the person depicted in the images as PICCIUTO, and provided an address in Kirtland, Ohio for PICCIUTO.

PICCIUTO'S Involvement in the Events of January 6, 2021

I reviewed police body worn camera and United States Capitol Police ("USCP") CCTV from January 6, 2021. The CCTV showed that PICCIUTO entered the U.S. Capitol at approximately 2:33 p.m. through the Upper West Terrace Door. As he entered, PICCIUTO was carrying an American flag. After entering, PICCIUTO headed in the direction of the Rotunda.





Images 1-2: PICCIUTO entered the U.S. Capitol at approximately 2:34 p.m.

At approximately 2:40 p.m., police body worn camera and open-source videos showed PICCIUTO in a hallway on the second floor on the Senate side of the Capitol building. PICCIUTO was pushed back by a line of police officers who were attempting to keep the rioters from moving deeper into the Capitol. In the video, PICCIUTO can be seen falling to the ground and then standing up again. Rather than retreat, PICCIUTO stood at the front of a newly formed line of rioters that faced police and resisted police efforts to clear the hallway. After a standoff, the rioters and police got into a physical scuffle. Police sprayed rioters with repellent, which dispersed the crowd.

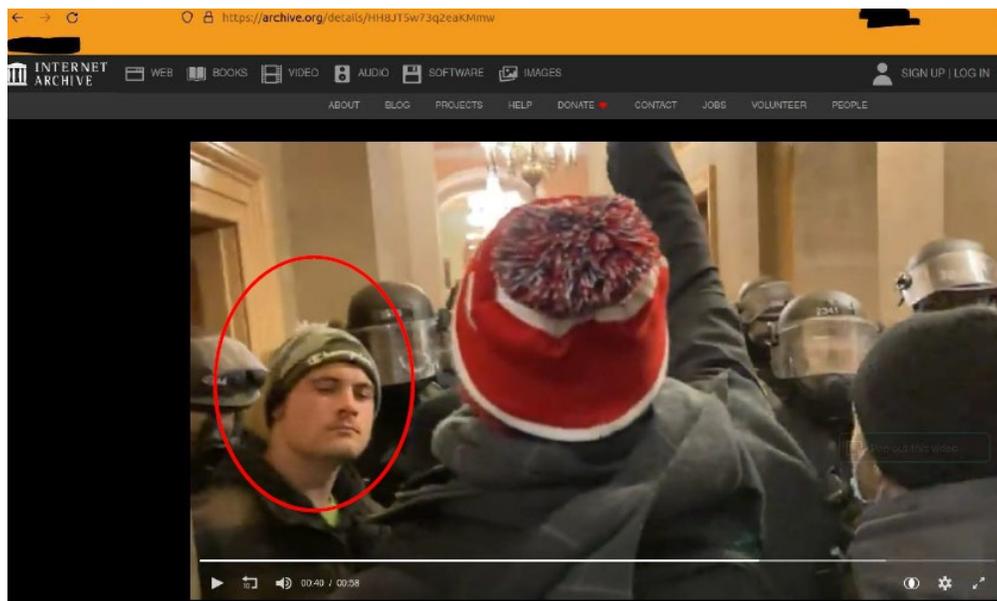
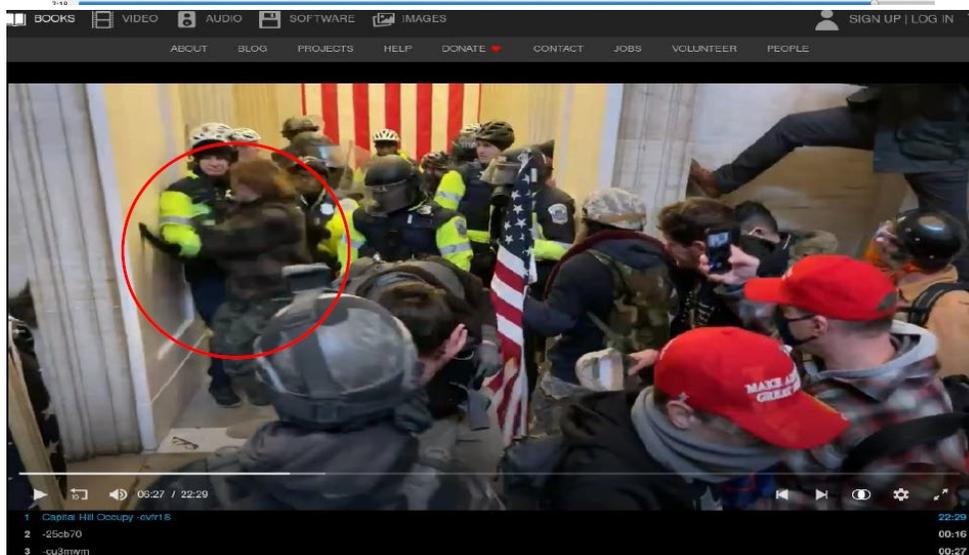
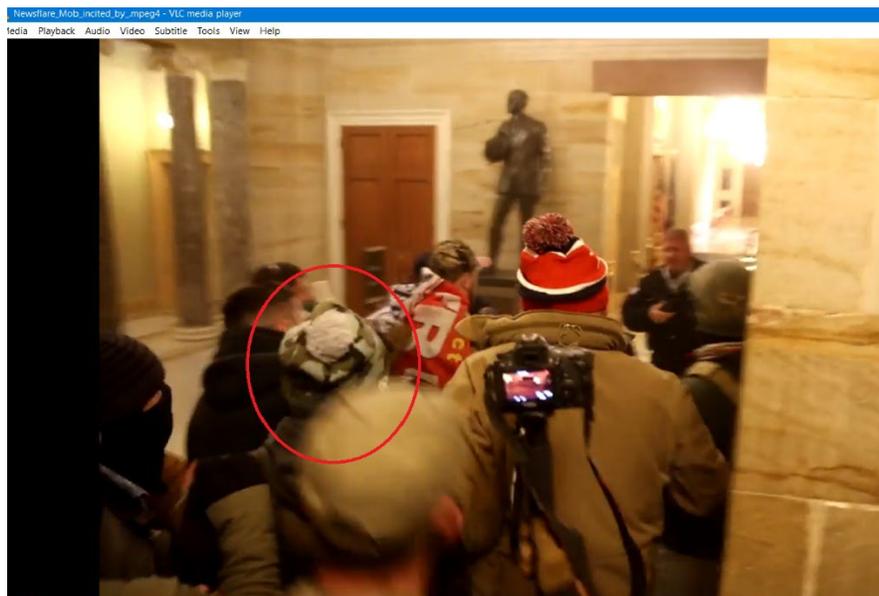


Image 3: PICCIUTO in a prolonged standoff with police.

Open-source video shows that PICCIUTO then joined a group of rioters that overwhelmed and pushed past a police line in a hallway by the Old Senate Chamber. PICCIUTO continued to

resist police efforts to clear hallways and was eventually pushed into the Rotunda by police at approximately 3:04 p.m.



Images 4-5: PICCIUTO pushed past a police line and was eventually moved into the Rotunda by police.

PICCIUTO remained in the Rotunda until approximately 3:12 p.m., when he exited the U.S. Capitol through the Rotunda Door on the east side.

I reviewed open-source images and police body worn camera that showed PICCIUTO within the restricted perimeter of the U.S. Capitol on the north side. Police began physically moving rioters from the west side of the Capitol to the northeast side in attempts to push them further away from the Capitol building. At approximately 4:39 p.m., PICCIUTO resisted the officers' attempts to clear rioters from the area, and PICCIUTO made physical contact with one officer. Another rioter separated PICCIUTO from the officer, and PICCIUTO challenged the

officer to a physical fight, yelling expletives and stating “Take it off, bitch. Take the fucking armor off.”



Image 6: PICCIUTO in a physical confrontation with police on the north side of the Capitol

Open-source videos show PICCIUTO walked to the Northeast Lawn Media Pen, where rioters had chased away members of the news media from inside the pen. At approximately 4:52 p.m., PICCIUTO can be seen breaking apart, pouring water, and stomping on media equipment belonging to the Associated Press.





Images 7-8: PICCIUTO destroyed media equipment belonging to AP.

Your affiant submits there is probable cause to believe that PICCIUTO 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 submits there is probable cause to believe that PICCIUTO violated 18 U.S.C. § 1363, which make it a crime to, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously destroy or injure any structure, conveyance, or other real or personal property. The U.S. Capitol and the U.S. Capitol grounds are federal property within the special maritime or territorial jurisdiction of the United States.

Your affiant submits that there is probable cause to believe that PICCIUTO violated 18 U.S.C. § 1752(a)(1), (2), and (4) which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; (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 attempt or conspire to do so; and (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds, or attempt or conspire 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 PICCIUTO violated Title 40 U.S.C. §§ 5104(e)(2)(D), (F) 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; (F) engage in any act of physical violence in the United States Capitol Grounds; 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 29 day of January 2024.

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE