

### STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation. In my duties as a Special Agent, I am currently assigned to the Joint Terrorism Task Force, specifically specializing in domestic terrorism matters. 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.

***JORDAN BERK***

On April 21, 2021, through a consensual screen capture on another individual's phone, the FBI recorded the contents of a group registered to Telegram Messenger ("Telegram"), a messaging app that offers end-to-end encryption of chats and messages. The Telegram group, titled "PATRIOTS<sup>45</sup> MAGA Gang" ("Patriots 45"), was organized and administered by other individuals and existed at least as early as October 24, 2020. The group was organized to support then-President Donald Trump and to discuss what its members claimed they viewed as fraudulent election results.

On the basis of information discussed below, the FBI has identified an account identified in that screen capture as "Deleted Account" as the account of Jordan BERK. In support of this conclusion, I have identified several instances in which other participants respond to messages from this "Deleted Account" by addressing the speaker as "Jordan." With the consent of BERK, I have also received and reviewed two cell phones used by BERK. These cell phones included screenshots from the Patriots 45 Telegram group, including screenshots that corroborate that messages sent from the "Deleted Account" were in fact sent by BERK.

Within the Patriots 45 Telegram group, BERK sent a series of messages, which discussed his view that the 2020 presidential election was stolen and his expectation that "patriots" would "storm the gates" following the election results. The following are a series of these messages.

- On November 4, 2020, the day after the 2020 presidential election, BERK wrote to the Patriots 45 Telegram group, "So are we getting this election stolen from us or what?" In another message that same day, BERK write, "I envision 20 million patriots driving to D.C. to storm the gates if they call it for Joe."
- On November 5, 2020, BERK stated in the Telegram group, "[E]lection reform is needed to say the least." He added, "Don't forget that Trump is pro[p]hesized to be the LAST American president no matter what happens."
- On November 9, 2020, BERK stated, "i hear that Ali Alexander is putting together a west coast storming of Silicon Valley. While eastern peeps are going to DC."
- On November 9, 2020, BERK shared a post with the headline, "Trump plans to hold rallies to lead his followers in a 'war' to stop Biden from taking office."
- On November 16, 2020, another individual wrote, "Civil war is coming folks." BERK responded, "Nah it's here."
- On December 14, 2020, BERK shared a post from another account, which included the following headline, "IT'S HAPPENING: President Trump Issues Warning – Swing States

that Found MASSIVE VOTER FRAUD, which is all of them, CANNOT LEGALLY CERTIFY these votes.”

- On December 21, 2020: BERK shared a post from another account, which included the headline, “Patriots Storming Oregon State Capitol Building Demand Voter Integrity – Met With Police Violence.” BERK added, “Back the Blue tho rite??”

On December 19, 2020 then-President Trump shared a Tweet with the following message: “Peter Navarro releases 36-page report alleging election fraud 'more than sufficient' to swing victory to Trump <https://t.co/D8KrMHnFdK>. A great report by Peter. Statistically impossible to have lost the 2020 Election. Big protest in D.C. on January 6th. Be there, will be wild!” On December 21, 2020, another individual in the group, discussing traveling to Washington, D.C. for January 6, 2021, wrote, “We have to do everything to go Jordan. It’s not if you want to go or not. We must go.” BERK responded that the group should discourage a separate individual, who was not present in the Telegram group, from attending. The individual in the Telegram group continued, “We all must go. United as one. Please go Jordan.” BERK responded, “I already went.” He continued, “And you know I’ll go again...and again. I just don’t want \*everyone\* there.”

On December 22, 2020, BERK was involved in a series of disagreements in the Patriots 45 Telegram group with another individual—an individual who ran the group. In those disagreements, BERK made reference to “soon-to-be-ex-President Trump.” The other individual responded, “soon as in 4 years from now.” BERK responded, “We shall see.” The other individual responded, “nah. We shall act.” BERK replied, “Protests dont get people elected.” The other individual responded, “Youre an America, reject the label if you want, but you are part of this movement.” BERK replied, “Sure but I’m part of the movement with a healthy skepticism.” A few hours later, still on December 22, 2020, the other individual removed BERK from the Patriots 45 Telegram group.

On February 5, 2021, BERK provided consent for the FBI to examine two cell phones that he used around the time of January 6, 2021. The cell phones included the following calendar entries relevant to BERK’s presence in Washington, D.C., on January 6, 2021.

- January 5, 2021, 12:00 PM ET<sup>1</sup>: Freedom Plaza
- January 5, 2021, 2:00 PM ET: Supreme Court Event
- January 5, 2021, 3:00 PM ET: Lincoln Memorial
- January 6, 2021, 9:00 AM ET: The Ellipse
- January 6, 2021, 1:00 PM ET: Capitol Building

These calendar appointments are generally consistent with the following image, which was on BERK’s cell phone.

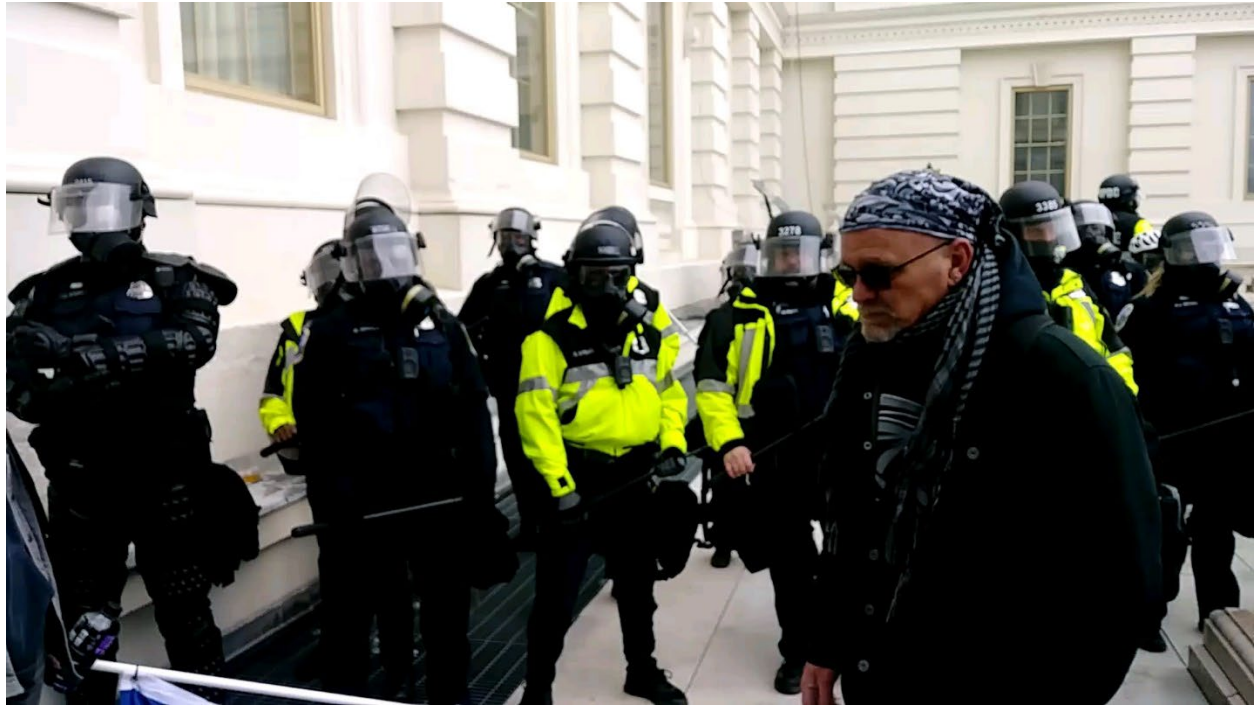
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<sup>1</sup> The cell phones provided dates and times in Coordinated Universal Time (“UTC”), which was five hours ahead of Eastern Time on January 6, 2021. The times I provide in this Statement of Facts are in Eastern Time.

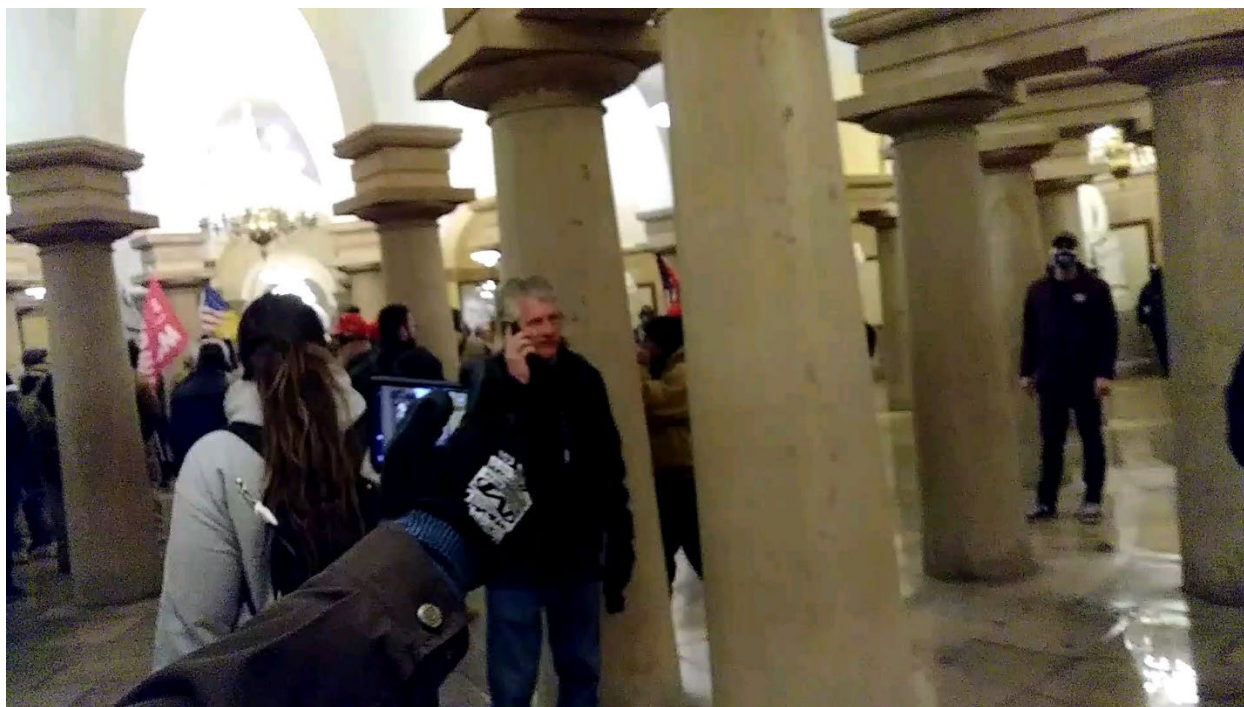


In addition to the above image, the cell phones also included photographs from the riot at the U.S. Capitol building on January 6, 2021, including the following.



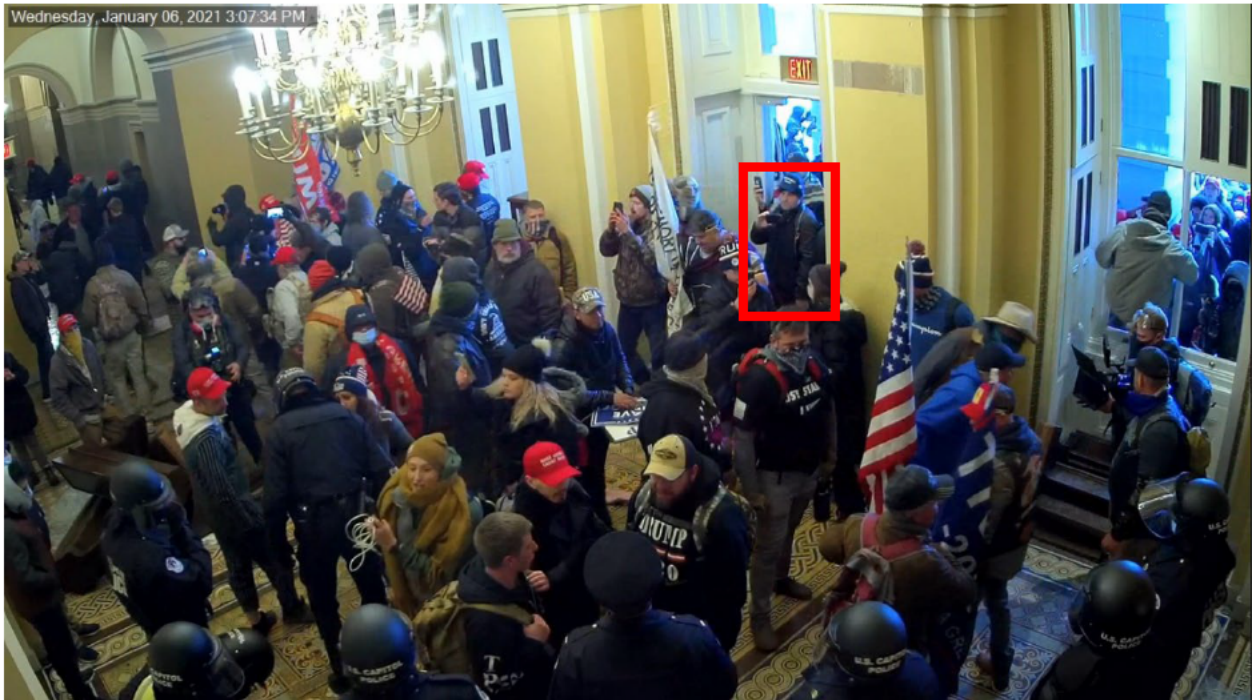




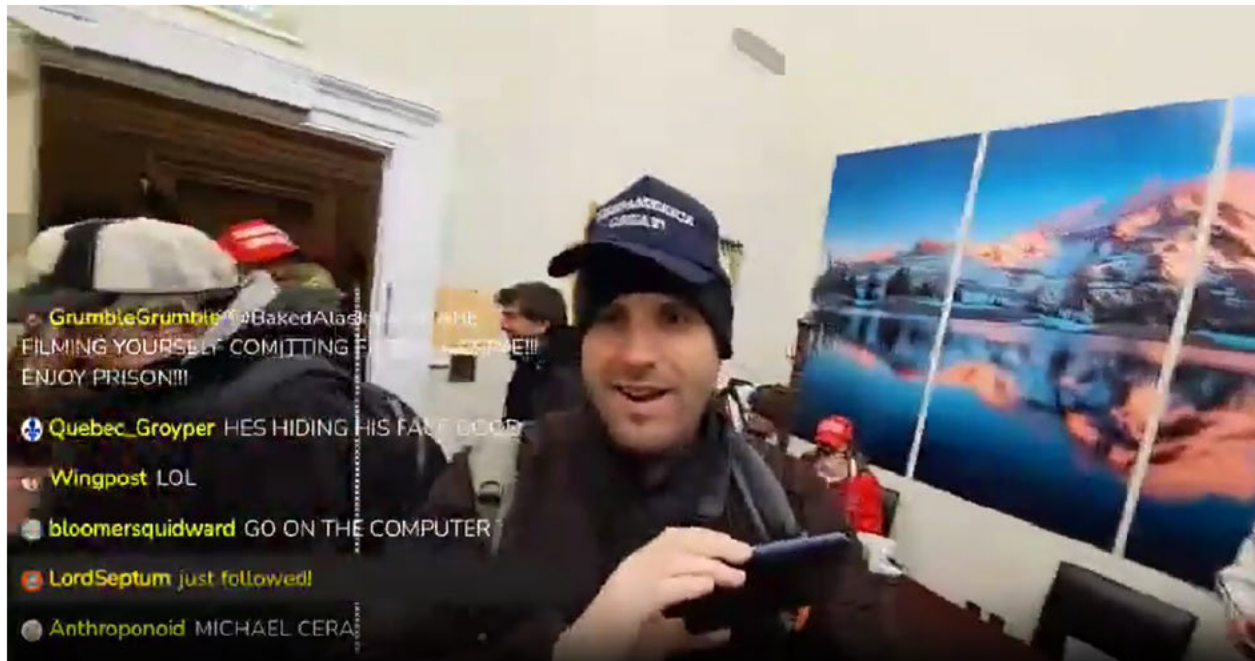


A review of the U.S Capitol's CCTV footage reveal footage of BERK inside the U.S. Capitol building. At approximately 3:07 PM EST, BERK entered the U.S. Capitol building through the Senate Wing Door. In footage from January 6, 2021, BERK appears wearing jeans, a brown or dark jacket, a blue hat with white lettering reading "KEEP AMERICA GREAT!" on top of a black hat, and is carrying a grey or light-colored backpack. Below is a still image from U.S.

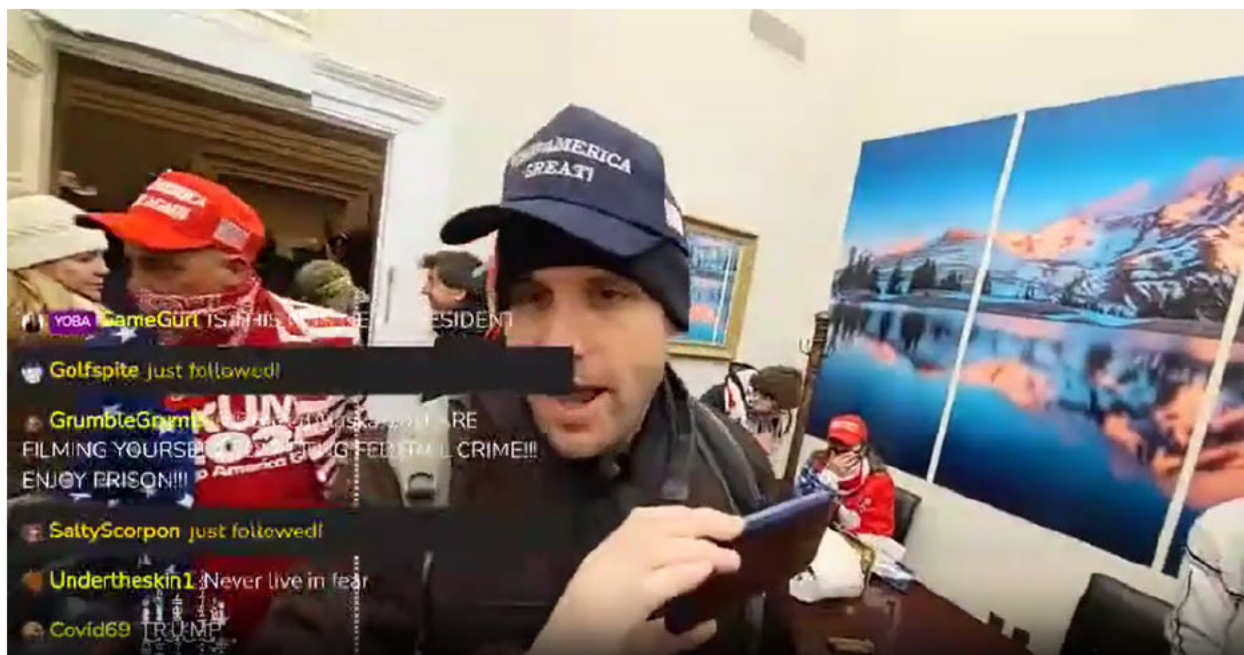
Capitol's CCTV footage, showing BERK entering the U.S. Capitol building, holding out his phone as if to record.



After entering through the Senate Wing Door, BERK traveled south, toward the Crypt and stopped in an office, off of the hallway leading to the Crypt. In that office, BERK was captured on an open-source video. Below are still images from that open-source video.



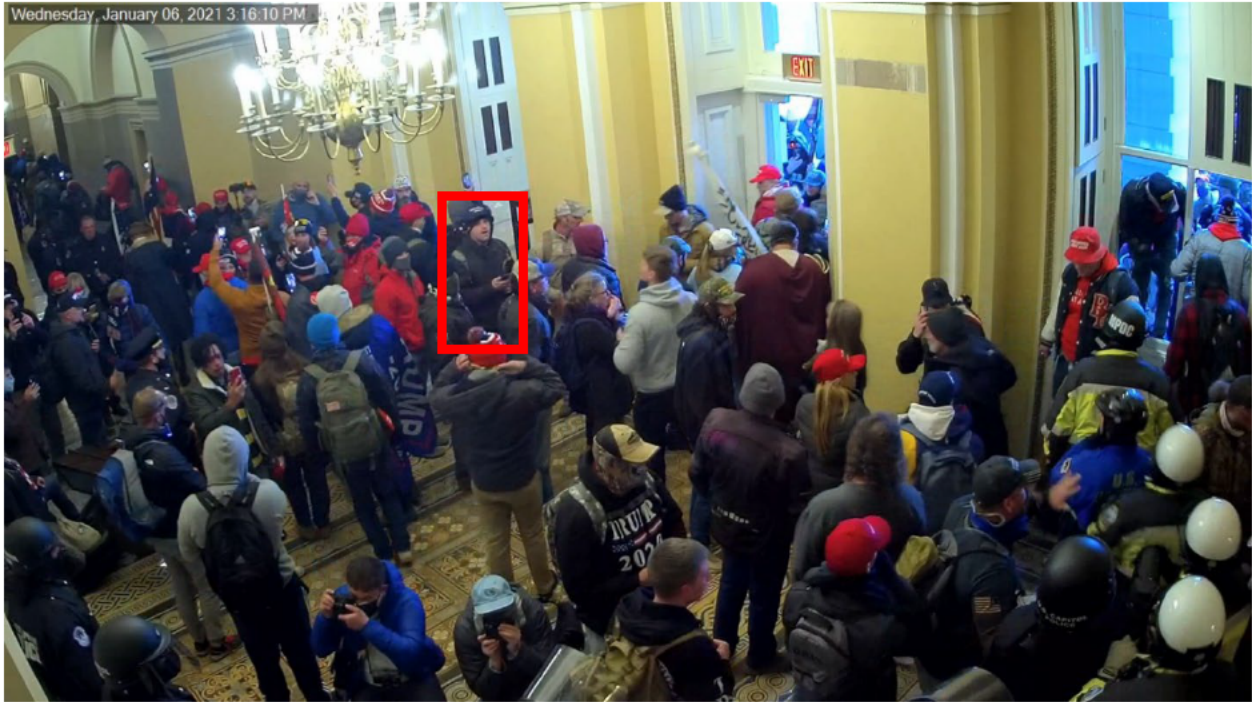




BERK exited the office and returned to the area of the Senate Wing Door, by approximately 3:14 PM EST. Below is a still image from U.S. Capitol's CCTV footage, showing BERK in the area of the Senate Wing Door, holding out his phone as if to record.



BERK exited through the Senate Wing Door at approximately 3:16 PM EST. Below are still images from U.S. Capitol's CCTV footage, showing BERK in the area of the Senate Wing Door, exiting the building.

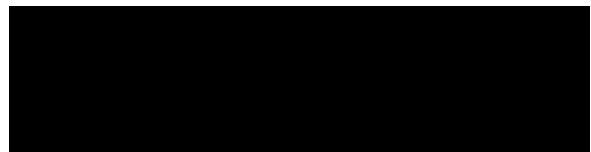


I was present for a February 5, 2021 interaction with BERK, and I can confirm the individual that I identify in this Statement of Facts as BERK is, in fact, BERK.

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

Additionally, your affiant submits there is also probable cause to believe that BERK violated 40 U.S.C. § 5104(e)(2)(D) and (G), which make 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.



SPECIAL AGENT [REDACTED]  
FEDERAL BUREAU OF  
INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 4th day of March 2024.

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ROBIN M. MERIWEATHER  
U.S. MAGISTRATE JUDGE