

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation, assigned to the New Orleans Division, Joint Terrorism Task Force. In my duties as a Special Agent, I investigate domestic terrorism. I have been employed in a law enforcement capacity since September 2005, first with the Fairmont West Virginia Police Department (2005-2007), then with the Clarksburg West Virginia Police Department (2007-2017), then with the National Instant Criminal Background Check System (2017-2022), and since 2022 with the FBI. As a law enforcement officer, I have participated in a wide variety of criminal investigations concerning, among other things, robbery, drug and violent crimes, white collar crimes, and other non-violent crime. In addition, I have participated in the preparation and execution of many searches and arrests. Among other things, 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 the prevention, detection, investigation, or prosecution of a violation of Federal criminal laws.

I. The Events Of January 6, 2021

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, S.E., 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.

II. Actions Of Charles Tyler Hember

Charles Tyler Hember first came to the attention of the FBI when he was observed on Facebook saying, “We’re in” and “Making history” on January 6, 2021.



Image 1: Hember’s initial Facebook posts

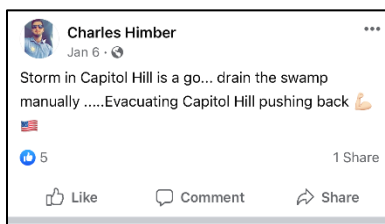


Image 2: Hember’s subsequent Facebook post

Three items posted to Hember’s Facebook account showed his activity in and around Washington, D.C. at the time. The first was a pinned map from January 5—the day before the attack on the Capitol—showing Hember in Richmond, Virginia, a little over 100 miles from the Capitol. The caption read, “Headed to Washington D.C. . . . Donald Trump is your President.” The second photo showed Hember with several associates wearing the same clothes he ultimately wore to the Capitol: tan boots, jeans, a black jacket, tan body armor, an American flag mask, and a green and gray hat. The third photo appears to have been taken at the Stop the Steal rally before the attack on the Capitol.

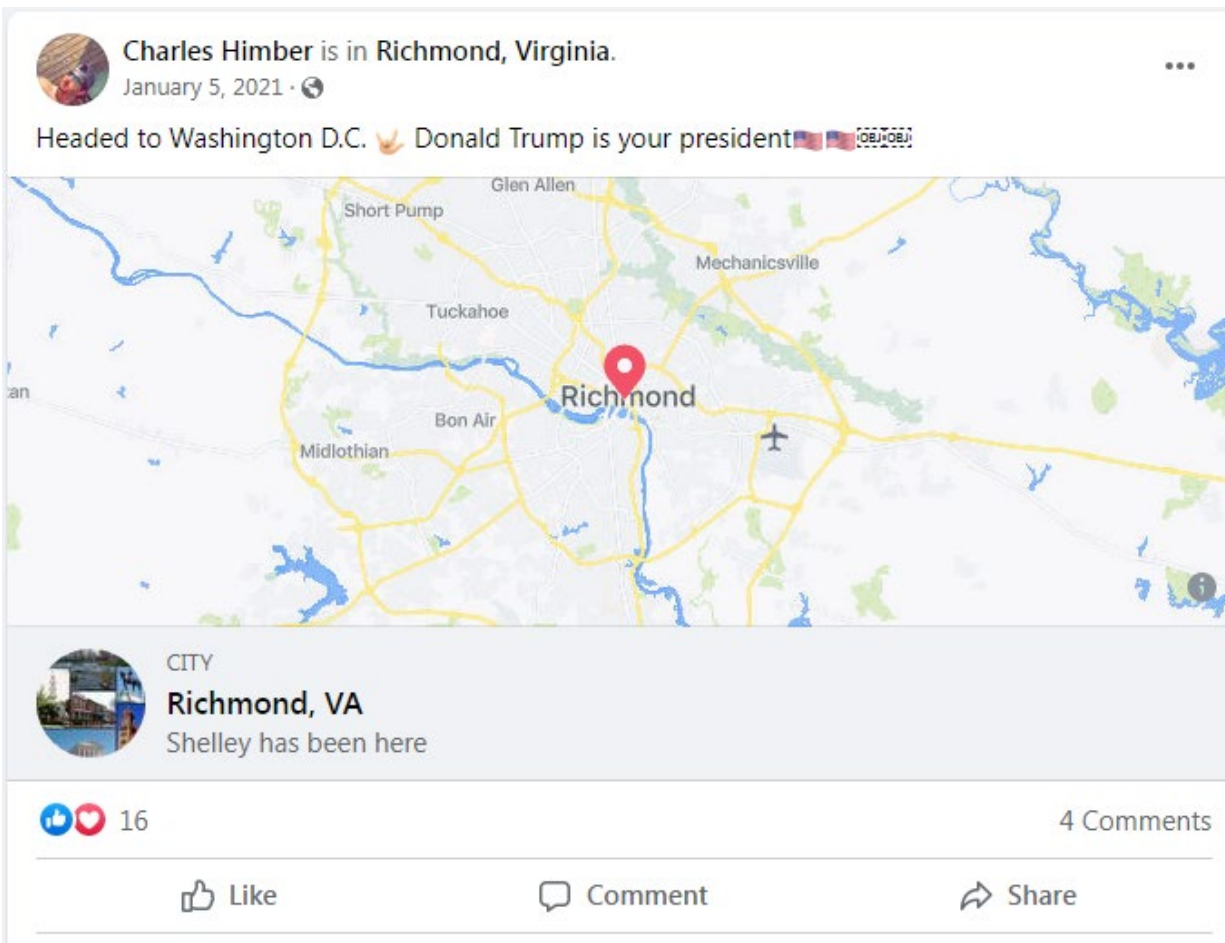


Image 3: Himber's pin in Richmond, Virginia



Image 4: Himber (circled in yellow) with associates



Image 5: Stop the Steal rally

A subsequent review of Closed-Circuit Television and publicly available film showed Himber's movement around and in the Capitol on January 5 to January 6, 2021. For instance, video showed Himber out with protesters from the night before, on January 5:

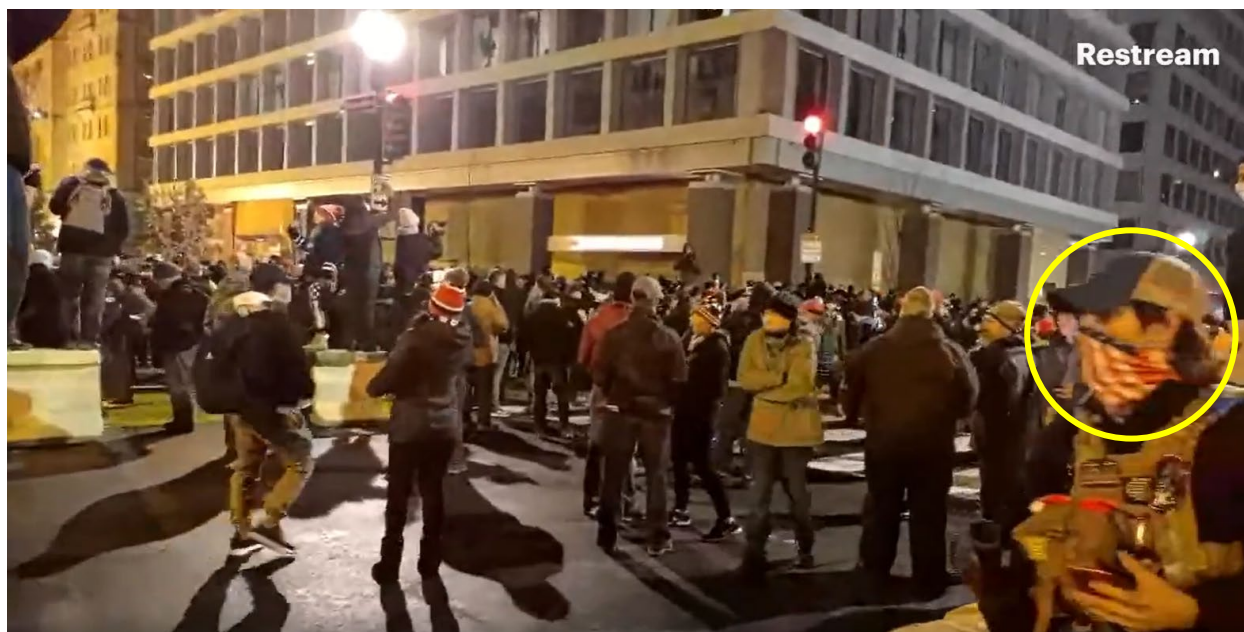


Image 6: Himber the night of January 5, 2021 in Washington D.C.

On January 6, third party footage showed that Himber attended the “Stop the Steal” rally. He wore the same clothes from his photo posted to Facebook, including tan body armor, a black jacket, an American flag scarf, and a green and gray hat. He appeared to film the scene with his mobile phone:



Image 7: Himber at the Stop the Steal rally



Image 8: Himber filming the Stop the Steal rally

From the Stop the Steal rally, Himber traveled to the Capitol grounds, trespassing over the restricted perimeter established by the U.S. Secret Service and Capitol Police. He appeared to continue to film his travel as he did so:



Image 9: Himber travels over the Capitol's restricted perimeter

Himber then made his way to the east side of the Capitol, where he tried to enter the building through the East Rotunda Doors. An alarm rang as some rioters were escorted out of the building and as others—including Himber—pushed to get in. At that moment, Himber joined with others in pushing rioters forward, who in turn pushed police, as Himber and others tried to force their way inside. Despite the attack on the officer, they were unsuccessful, and the police were able to close the door. At that point, Himber screamed, “Let us in!”



Image 10: Himber pushes crowd against officer



Image 11: Himber screams “Let us in!”

Around 2:21 p.m., as some rioters were still inside by the East Rotunda Doors, and others outside were trying to push in, a crowd of rioters from the outside managed to push past the police and into the building. Himer was part of the push:

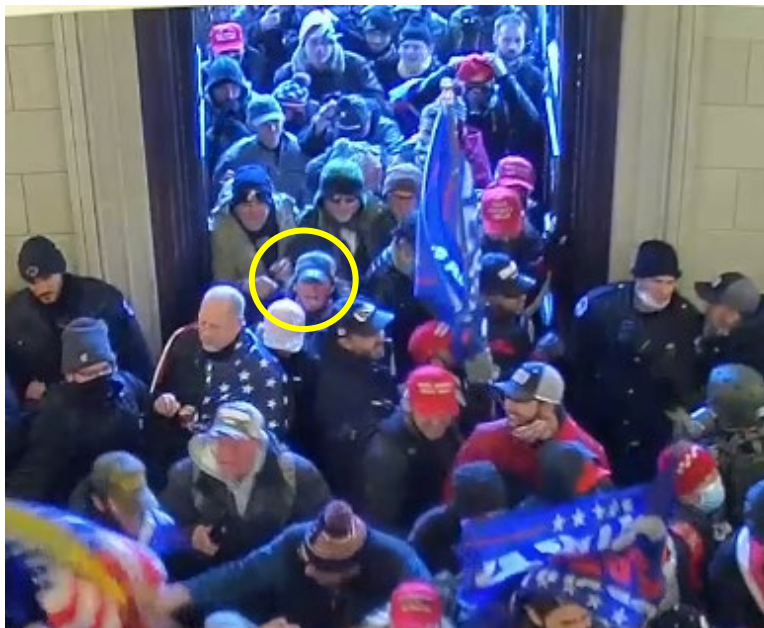


Image 12: Himer rushing into the Rotunda antechamber

From there, Himer pushed his way, along with other rioters, into the Rotunda, before police were able to close the interior doors. At that point, it quickly became apparent that Himer and the other rioters were surrounded by police, and they surrendered. Before he did, however, Himer appeared to take part in a selfie with several other rioters he had traveled with.

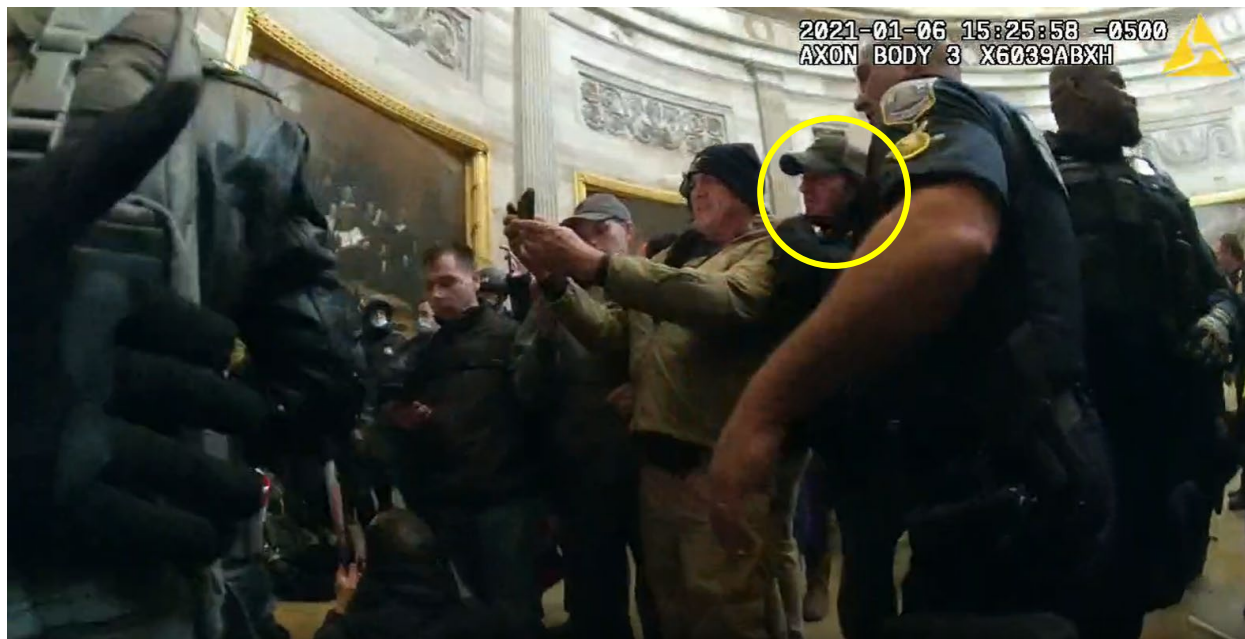


Image 13: Himer taking a selfie in the Rotunda

Himer and others were then escorted out of the building:

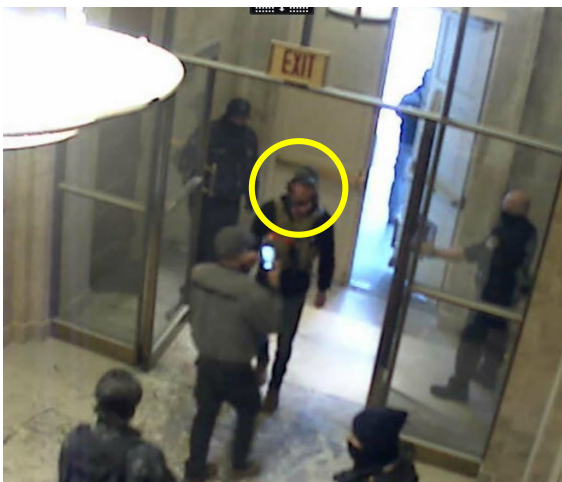


Image 14: Himber leaving the Capitol



Image 15: Himber having left the Capitol

Back outside the Capitol, Himber climbed onto an armored truck, and elsewhere yelled at someone filming the scene, "you're not fucking safe!"



Image 16: Himber climbs on top of an armored truck



Image 17: Himber screams “you’re not fucking safe!”

Himber could be seen leaving the Capitol grounds with several associates, sometime as the afternoon turned into evening.



Image 18: Himber standing near bike racks



Image 19: Himber leaving the Capitol grounds

On May 12, 2021, FBI agents interviewed Himber. Himber said that he traveled to Washington, D.C. to attend the “Stop the Steal” rally. He claimed, however, that his statement on

Facebook that “We’re in” was made only when he heard that other attendees had entered the Capitol. He added that he did not enter the restricted area in or around the Capitol. This, as shown above, was false.

On August 31, 2023, I interviewed Humber at his home in Slidell, Louisiana. I can confirm that Humber’s appearance matched that of him in the photos above. During the interview, Humber admitted to going to Washington D.C. on January 5, 2021, but initially denied entering the Capitol the next day. When shown a picture of himself in the building, however, Humber recanted, and said that he entered the building, but had been pushed into the crowd, and was only there for a second before being immediately escorted out of the building. He also claimed to help law enforcement officers and civilians who had been injured, including a woman who had been stabbed. To date, I am unaware of any evidence that Humber actually provided such support.

Based on the foregoing, I submit that there is probable cause to believe that Humber 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 18 U.S.C. § 231, 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 Joint Session of Congress where the Senate and House count Electoral College votes. I am aware that the riot at the U.S. Capitol adversely affected commerce as well.

I also submit that there is probable cause to believe that Humber 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.

I also submit that there is probable cause to believe that Humber violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) 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
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone, this 16th day of January, 2024.

HONORABLE MOXILA A. UPADHYAYA
UNITED STATES MAGISTRATE JUDGE