

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation (“FBI”), assigned to the Joint Terrorism Task Force (“JTTF”). I am based out of the San Francisco Field Office, San Jose Resident Agency. In my duties as a Special Agent, I have gained training and experience in interviewing and interrogation techniques, arrest procedures, search warrant applications, the execution of searches and seizures, the exploitation of lawfully obtained evidence and data, and various other procedures. 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.

Background: Events at the U.S. Capitol on 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, 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 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 Matthew KOHLER

On or about February 16, 2023, the FBI received a tip identifying Matthew KOHLER in images taken inside the U.S. Capitol building on January 6, 2021. Following receipt of this tip, your affiant obtained KOHLER's driver's license photograph from the California Department of Motor Vehicles.

According to records lawfully obtained from Google, a Google account associated with the email address kohler***@gmail.com¹ and with a phone number ending in -2506 (the "2506 Number") was identified as having been used in a geographic area that included the interior of the U.S. Capitol between approximately 2:24 p.m. and 2:55 p.m. EST on January 6, 2021. Public records associate the 2506 Number with KOHLER.

I also reviewed closed circuit television ("CCTV") footage taken from inside the Capitol and identified a person matching KOHLER's appearance entering and remaining in the Capitol building on January 6, 2021. In the CCTV footage I reviewed, KOHLER is pictured wearing a black puffer jacket, blue jeans, red hooded jacket with the words "Make America Great Again" on the front, and an American flag tied around his neck and draped down his back. At various points throughout his time in and around the Capitol, KOHLER can sometimes be seen wearing sunglasses or a black face mask.

On or about February 13, 2024 and February 14, 2024, your affiant personally observed KOHLER while conducting physical surveillance at the home address listed on KOHLER's driver's license and at KOHLER's place of employment.

KOHLER's Activities at the U.S. Capitol

On January 6, 2021, KOHLER was part of a large crowd walking toward the U.S. Capitol, approaching from the west.

¹ The email address contained three numbers, which have been replaced by asterisks in this affidavit.



Image 1: Screenshot of open-source video, with KOHLER circled in red

By 2:19 p.m., KOHLER had joined the crowd in advancing up a set of exterior stairs on the northwest side of the Capitol.



Image 2: Screenshot of Capitol CCTV, with KOHLER circled in red

From the Upper West Terrace, KOHLER entered the Capitol building through the Senate Wing Door at 2:23 p.m.— ten minutes after the first breach of the Capitol building, which took place at this entrance. At the time of KOHLER’s entry, glass in the door was visibly cracked, nearby windows were shattered, and a loud alarm siren was blaring.

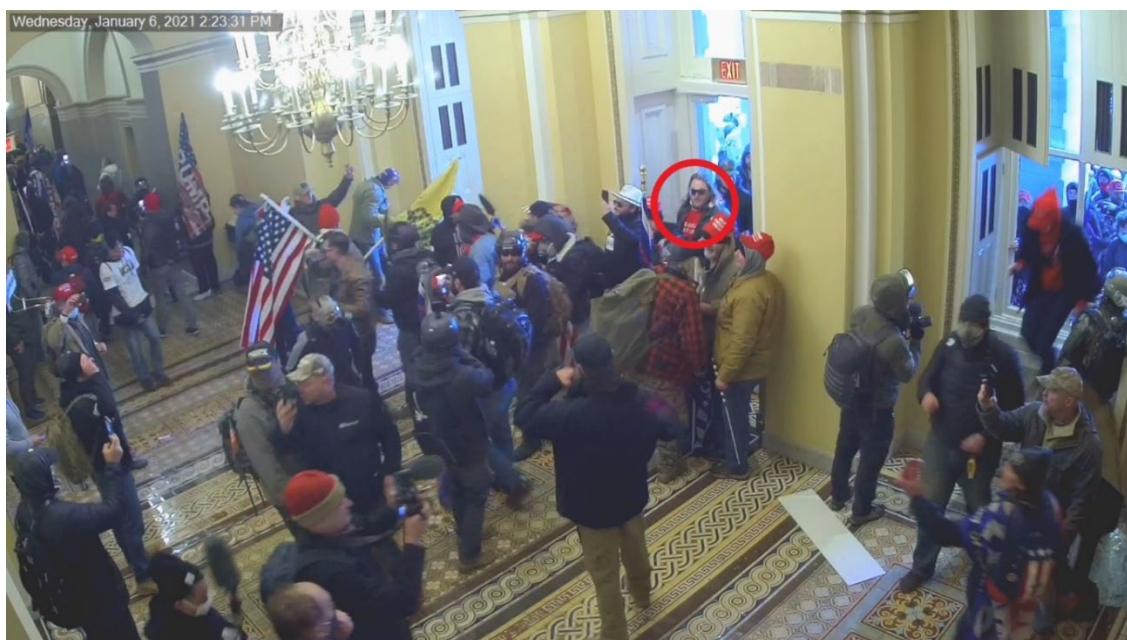


Image 3: Screenshot of Capitol CCTV, with KOHLER circled in red

Once inside, KOHLER walked in the direction of the area of the Capitol known as “the Crypt.” KOHLER reached the Crypt at approximately 2:25 p.m., just as the crowd of rioters who had already gathered there began to push past a line of USCP officers in the middle of the room. CCTV and open-source footage show KOHLER entering the Crypt as the crowd shouts and surges forward. Moments later, KOHLER can be seen joining the crowd in chanting “OUR HOUSE” and “STOP THE STEAL.”



Image 4: Screenshot of Capitol CCTV footage, with KOHLER circled in red

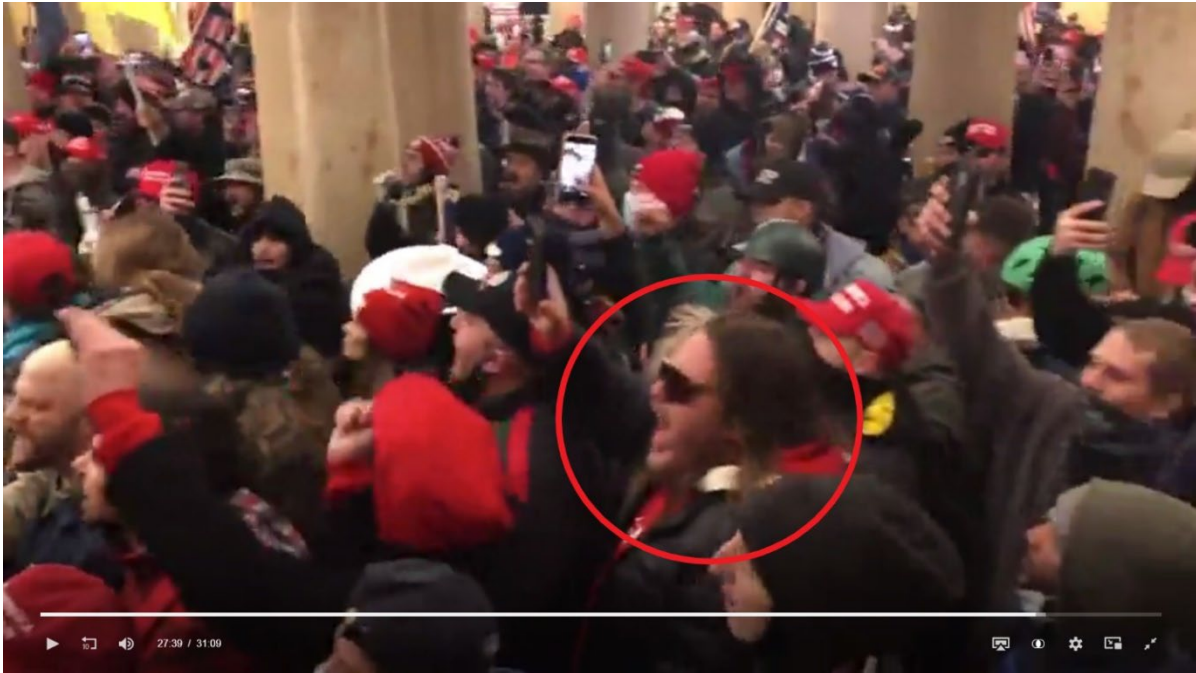


Image 5: Screenshot of open-source video, with KOHLER circled in red

KOHLER remained in the Crypt until approximately 2:32 p.m., when he walked upstairs to the Capitol building's second floor and entered the Rotunda at 2:33 p.m. He stayed in the Rotunda for approximately eight minutes, during which he posed for photographs, joined other rioters in chanting, and appeared to film his surroundings on his cellular phone.



Image 6: Screenshot of Capitol CCTV footage, with KOHLER circled in red

From the Rotunda, KOHLER walked south, in the direction of the House of Representatives. He entered Statuary Hall at approximately 2:41 p.m. U.S. Capitol CCTV footage depicts KOHLER running toward the House of Representatives, apparently in response to other rioters waving the crowd in that direction.



Image 7: Screenshot of Capitol CCTV footage, with KOHLER circled in red and a rioter waving for others to move in the direction of the House of Representatives circled in yellow

Within a few seconds, KOHLER joined a crowd that had formed outside the entrance to the House Chamber.



Image 8: Screenshot of Capitol CCTV footage, with KOHLER circled in red

KOHLER moved forward with the crowd, and, within two minutes, he was in close proximity to the House Chamber entrance.



Image 9: Screenshot of Capitol CCTV footage, with KOHLER circled in red

At approximately 2:45 p.m., shortly after a group of police officers reached the House Chamber entrance, KOHLER turned around and walked back through Statuary Hall and to the Rotunda. He re-entered the Rotunda at 2:47 p.m. and remained there for approximately three minutes.



Image 10: Screenshot of Capitol CCTV footage, with KOHLER circled in red

KOHLER then left the rotunda and proceeded to exit the Capitol building through the East Rotunda Doors at 2:51 p.m.



Image 11: Screenshot of Capitol CCTV footage, with KOHLER circled in red

Probable Cause Conclusions

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


Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone, this 23rd day of April 2024.

ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE