

STATEMENT OF FACTS

Your affiant, [REDACTED]

I have been a Special Agent since February 2023. 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. As part of my duties as a Special Agent, I investigate criminal violations relating to international and domestic terrorism and other threats to national security and public safety. I also have received training and have gained experience in the conduct of counterterrorism investigations. [REDACTED]

Background – The Riot 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 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 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.

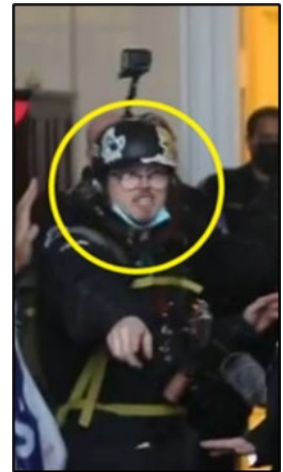
Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President

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.

Facts Specific to Nicholas Traina

On July 27, 2023, the following five photographs were published by the FBI Office of Public Affairs of “BOLO 538” on the FBI’s Capitol Violence website, which depicted an individual present on the grounds of and inside the U.S. Capitol on January 6, 2021. Instructions accompanying the published photos encouraged individuals with knowledge of the identity of the individual depicted to contact the FBI with information.



Images 1-5: FBI BOLO 538 (clockwise from top left: Photographs #538A, #538B, #538C, #538D, and #538E)

That same day, the FBI National Threat Operations Center received a tip linking the individual depicted in the photographs for BOLO 538 to a Facebook account for “nick.traina.524.” Records obtained from Meta Platforms, Inc. confirm that this Facebook account is registered to Nicholas Traina (“TRAINA”) of Sayreville, New Jersey.

According to records obtained through a search warrant served on Verizon, on January 6, 2021, in and around the time of the incident, the cell phone associated with the number XXX-XXX-1787 (the “1787” Number) was identified as having utilized a cell site consistent with providing service to a geographic area that includes the interior of the U.S. Capitol building. Subscriber information for the 1787 Number revealed TRAINA’s mother as the listed subscriber. The 1787 Number is also the verified phone number associated with several of TRAINA’s social media accounts.

According to records subpoenaed from Amtrak, TRAINA traveled by train from Trenton, New Jersey to Washington, D.C. on January 6, 2021. He returned to New Jersey on January 7, 2021, traveling by train from BWI Thurgood Marshall Airport to the Metropark station in Iselin, New Jersey.

During its investigation, the FBI reviewed U.S. Capitol Police CCTV surveillance footage, open-source footage, and officer body-worn camera, which captured TRAINA’s activities on January 6, 2021. TRAINA, circled in yellow in the images below, can be seen wearing a black helmet with stickers, glasses, a blue surgical mask, a hooded-sweatshirt underneath a black North Face jacket, jeans, a go-pro camera attached to the top of his ski helmet, and a brown and black Burton backpack.

Before 2:00 p.m. on January 6, 2021, a group of outnumbered U.S. Capitol Police officers attempted to control the increasingly hostile crowd on the east plaza of the U.S. Capitol. The crowd was behind temporary bike rack fencing. Around 2:00 p.m., rioters breached the fencing and the police line. About 30 seconds after the police were overrun, open-source video captured TRAINA walking towards the U.S. Capitol, as shown in Image 6 below. Another open-source video depicted TRAINA walking past several police and government vehicles, as shown in Image 7 below.



Image 6



Image 7

For approximately the next five minutes, CCTV surveillance footage captured TRAINA lingering in an area to the right of the stairs leading up to the Rotunda Doors (as one faces the U.S. Capitol). At one point, a U.S. Capitol Police officer appeared to direct TRAINA to move away from the U.S. Capitol building, as depicted in Image 9 below.



Image 8

Meanwhile, at approximately 2:15 p.m., another rioter, Hunter Ehmke,¹ jumped onto a window ledge next to the Rotunda Doors outside the U.S. Capitol. The window's location is circled in red in Image 9 below. Once there, Ehmke kicked and shattered the lower three panels of this window and punched out one of the higher panels. U.S. Capitol Police subsequently stopped Ehmke and ordered him to leave U.S. Capitol grounds, before releasing him back into the crowd. By that point, the glass was broken, but remained largely intact in the panels, as depicted in Image 10 below. The glass in the lower window panels was later broken off completely. This window led into Office S202, which is considered a sensitive location not open to public and was used at the time by a U.S. Senator's staff.

¹ Your affiant reviewed the statement of facts filed in *United States v. Ehmke*, 21-CR-00029-TSC.



Image 9



Image 10

TRAINA eventually ascended the stairs towards the Rotunda Doors. Once outside the Rotunda Doors, he climbed on a ledge below one of the pillars and used his camera to record video and/or took photographs, as shown in Image 11 below. TRAINA remained there for over an hour, witnessing a chaotic scene including rioters assaulting law enforcement officers guarding the Rotunda Doors. At one point, tear gas was deployed near the Rotunda Doors causing TRAINA to pull his surgical mask over his nose and mouth, as depicted in Image 12 below. And at various points, TRAINA gestured towards the crowd, waving his arms toward the open Rotunda Doors.



Image 11



Image 12

More than an hour later, TRAINA left his perch outside the Rotunda Doors and walked towards Office S202, entering it through the broken window and climbing over broken glass. Once inside, TRAINA appeared to be using a garbage can, as depicted in Image 13 below.



Image 13

Around 4:00 p.m., several U.S. Capitol Police officers were patrolling the Rotunda and its adjoining hallways and heard voices coming from Office S202. These officers sought to open the door, but it was locked. At first, the rioters inside Office S202, including TRAINA, did not open the door, despite repeated orders from the officers to unlock the door. Eventually, one of the rioters unlocked the door and the officers gained access to Office S202. Once inside, the officers saw TRAINA and two other rioters, Juan Rodriguez and Alexander Fan.² The previously shattered glass was no longer in the window; the windowpanes were empty and glass littered the floor of Office S202. Image 14 below is a screenshot from an open-source video showing TRAINA and several U.S. Capitol Police Officers in Office S202.

² Your affiant reviewed the statement of facts filed in *United States v. Rodriguez and Fan*, 23-cr-270 (APM).



Image 14

At approximately 4:25 p.m., CCTV surveillance footage captured U.S. Capitol Police officers escorting TRAINA (wearing the black helmet), Rodriguez (wearing the black and yellow ski hat), and Fan (wearing the red baseball hat) out of Office S202 and into the Rotunda of the U.S. Capitol, as shown in Image 15 below. From there, the officers escorted TRAINA, Rodriguez, and Fan down a flight of stairs and out of the building through the Memorial Door, as depicted in Image 16 below.



Image 15

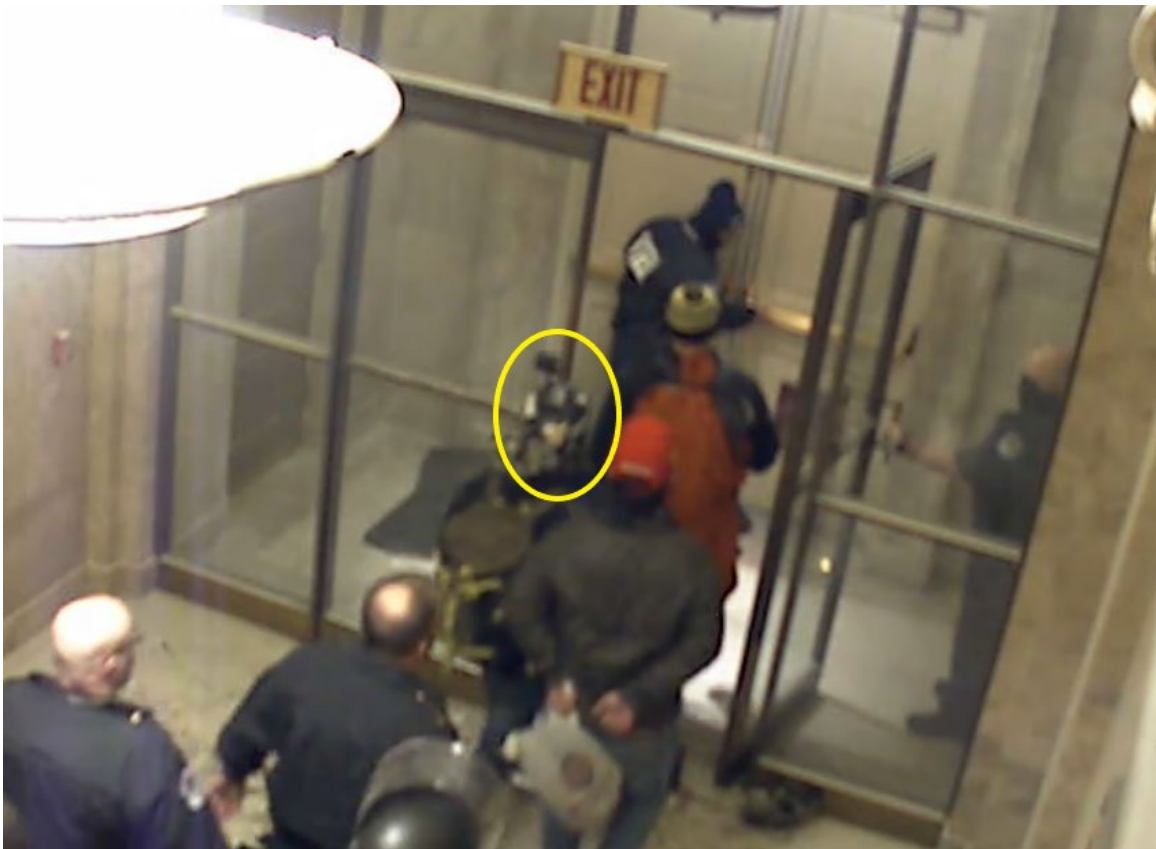


Image 16

Despite being escorted out the U.S. Capitol by law enforcement officers, TRAINA did not leave the restricted area around the building. Images 17 and 18 below are screenshots from two open-source videos, which depicted TRAINA at the foot of the stairs leading up to the Rotunda Doors on the east plaza of the U.S. Capitol. TRAINA continued to film in front of the police line shortly after 5:00 p.m. In the first video, TRAINA asked the officers, “That doesn’t bother you? We were defending every single guy here.” In the second video, TRAINA yelled at the police line, “This is a peaceful protest. We didn’t burn. We broke three windows. We broke three windows and you shot someone.” Altogether, TRAINA was within the restricted area around and inside the U.S. Capitol for several hours on January 6, 2021.



Image 17

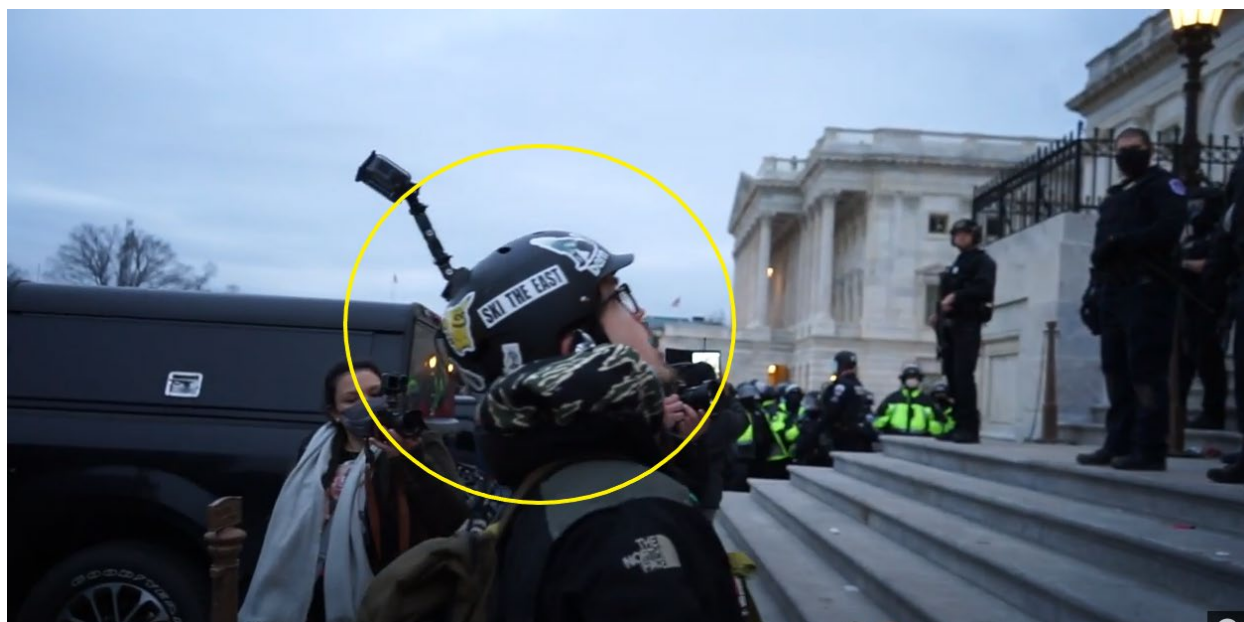


Image 18

Later that same day, a local news station reporter interviewed TRAINA outside the U.S. Capitol, as shown in Image 19 below. During the interview, the reporter asked TRAINA a question to which TRAINA responded: “Uh, it was a mess, so we cleaned it up. There was some broken glass. Three of us went in the senator’s office over there. We swept the table up. Uh, we cleaned up. There was a potted plant that spilled. We cleaned that up. Uh, there was some glass that we put in the garbage can. We hung out. We gave people some water because there was a case of water. We gave that to everybody. One of the guys charged his phone. Uh, then they knocked on the door, asked us to leave, so they were like get the [inaudible] get out.”



Image 19

The reporter followed up by asking, “Why did you feel the need to clean up after all of that?” TRAINA replied, “Well, just to show that, you know, we’re not here to destroy things. We’re here to clean up the country. We’re not here to . . . we don’t want to burn the building down. We want to change the policy that comes out of this building. You know, they say a riot is the voice of the unheard, okay, and all these people are unheard. All these people came out here by the thousands just to show that they feel unheard. And all they did was they marched up there, they broke two windows, and walked in. That’s all they did. There was no violence. There was people of all colors, races, sexes here. And it was beautiful. It was what the founding fathers envisioned.”

During its investigation, the FBI reviewed images and screen captures depicting undated comments and posts originating from one or more of TRAINA’s Facebook accounts, which were provided to the FBI by a tipster on January 11, 2021. In Image 20 below, TRAINA posted four photographs of himself smoking a cigarette or joint outside the U.S. Capitol. In Image 21 below, TRAINA posted a photograph of a police officer outside what appears to be the U.S. Capitol with the caption, “The thin blue line.”

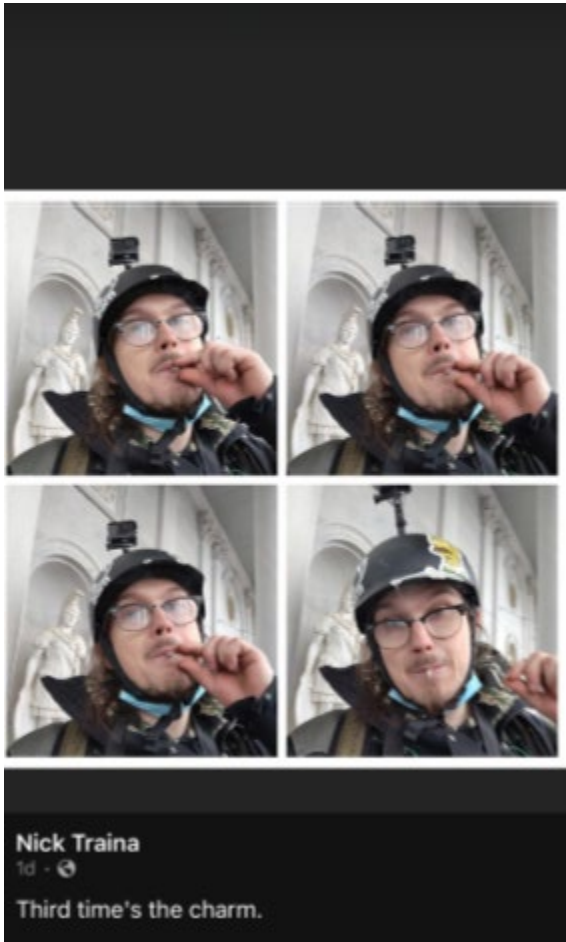


Image 20

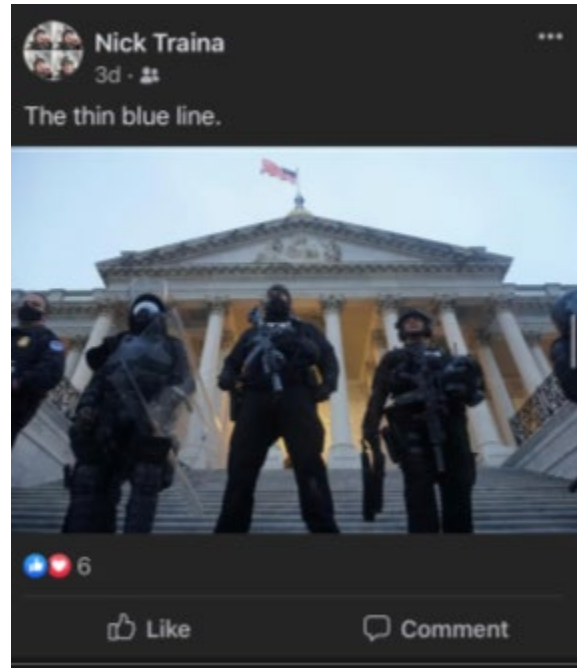


Image 21

Around January 6, 2021, TRAINA also posted on Reddit,³ a social media news and discussion website, sharing his belief that the 2020 presidential election was fraudulent: “The media lies, Trump may have not won the pop vote as counted originally, however there are unsubstantiated claims of fraud in multiple states, the only reason we do not know the level of fraud is because investigations are being blocked by those committing the fraud. Fraud on this magnitude cannot be hidden that’s why we’re seeing so much even before investigations have occurred.”

On January 10, 2024, the FBI interviewed a police officer in the Sayreville Police Department who has known TRAINA since the two attended high school together. The officer informed the FBI that the 1787 Number was the phone number he used to communicate with TRAINA when they were in high school. More recently, the officer interacted with TRAINA when he conducted a welfare check on TRAINA in February 2022.

³ Subscriber information subpoenaed from Reddit revealed that the Reddit account “Traina 26” is associated with the same email address TRAINA used for other social media accounts.

During the same interview, the FBI showed the officer three photographs of TRAINA at the U.S. Capitol on January 6, 2021. The officer positively identified TRAINA in each photograph with a high degree of confidence. Additionally, through my own investigation, including reviewing his driver's license photograph, TRAINA appears to be the same individual circled in the images above and in other footage collected on January 6, 2021.

Violations of Federal Criminal Law

Based on the foregoing, your affiant submits that there is probable cause to believe that TRAINA 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 TRAINA violated 40 U.S.C. §§ 5104(e)(2), which makes it a crime to willfully and knowingly (C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of— (i) either House of Congress or a Member, committee, officer, or employee of Congress, or either House of Congress; or (ii) the Library of Congress; (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 18TH day of June 2024.

ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE