

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent assigned to Federal Bureau of Investigation's Detroit Field Office, Bay City Resident Agency. In my duties as a Special Agent, I am assigned investigations of federal violations include those alleged to have occurred on January 6, 2021. 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 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.

Brien Burton's Conduct on Jan. 6, 2021

By 2 p.m. on January 6, 2021, a large crowd of rioters had assembled on West Plaza of the Capitol grounds on the west side of the Capitol building. Law enforcement officers from the U.S. Capitol Police (“USCP”) and Metropolitan Police Department (“MPD”) formed a line of bike racks to act as a barrier against the crowd and block further encroachment toward the U.S. Capitol building. Officers positioned behind this line fended off repeated attempts by the rioters to remove the bike racks, assault officers, and gain access to the Capitol building.

At approximately 2:28 p.m., rioters overran the West Plaza police line and and assaulted multiple officers as they advanced across the West Plaza toward the Lower West Terrace. Brien Arin BURTON was one of those rioters.

A review of the body worn camera (“BWC”) footage of MPD Officers N.M. and J.P. revealed that starting at approximately 2:27 pm, BURTON broke out of the riot crowd through the police line on the West Plaza and then assaulted multiple officers. Other rioters soon followed his actions and joined behind him, and the officers were forced to retreat from the West Plaza soon after.

Specifically, at approximately 2:28 pm, after breaking through the police line, BURTON shoved several officers, and then barreled towards Officer N.M. (Images 1 - 3).



Image 1: BWC capturing Burton shoving an officer on the West Plaza.



Image 2: BWC capturing Burton charging at MPD Officer N.M.



Image 3: BWC capturing Burton pushing MPD Officer N.M.

BURTON continued running toward the Capitol building even after an officer attempted to pull BURTON back by his shirt and jacket (Image 4).



Image 4: BWC capturing Officer N.M. grabbing BURTON's shirt to stop BURTON's forward movement.

BURTON continued to barrel toward the Capitol building, hitting another officer so hard that the officer fell down onto his knee (Images 5 - 6).



Image 5: BWC capturing BURTON running into a group of officers.

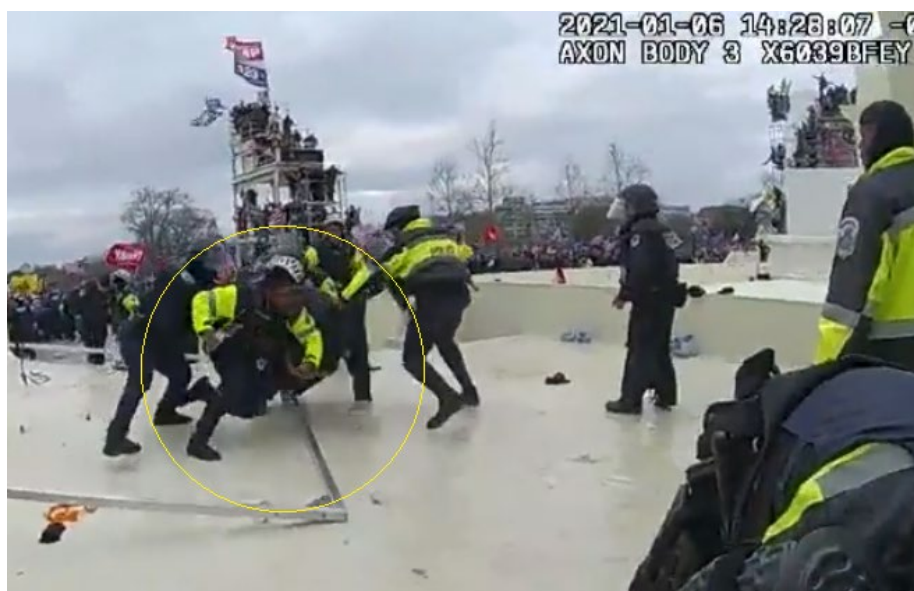


Image 6: BWC capturing MPD officer falling down onto his knee after being charged by Burton.

BURTON only stopped after he was restrained by multiple officers (Image 7).



Image 7: BWC capturing Officers subduing BURTON.

Outmanned, officers released BURTON to focus on the rest of the oncoming rioters. BURTON then moved to the Lower West Terrace of the Capitol (Image 8), where a significant number of rioters gathered and fought against officers in attempting to breach the building through the “tunnel” entrance constructed for the presidential inauguration.

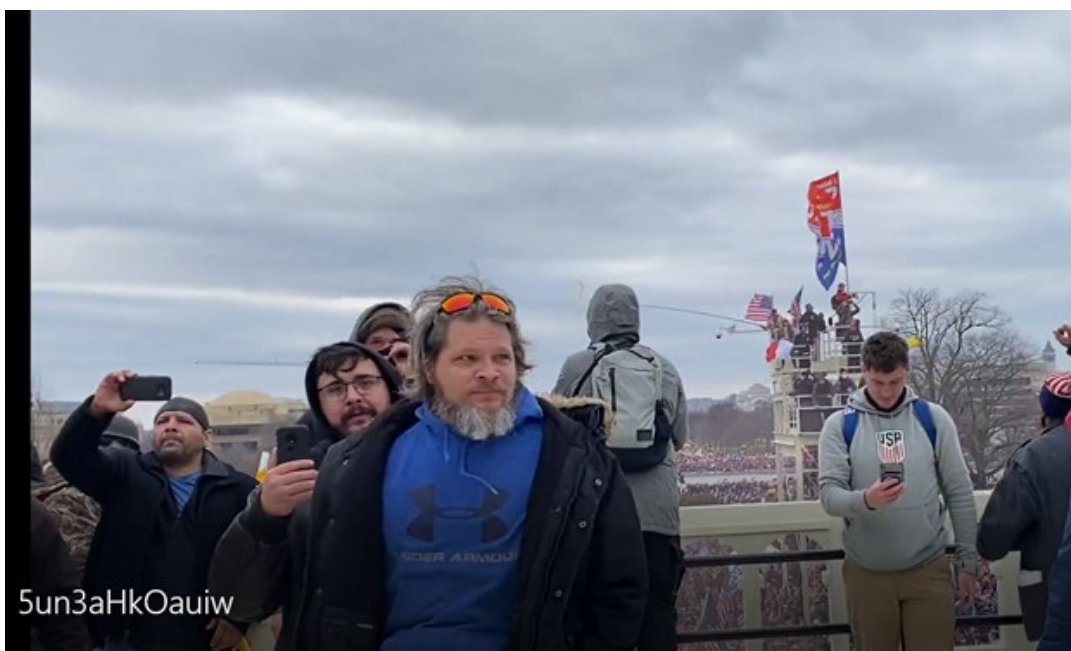


Image 8: Parler Video capturing Burton on the Lower West Terrace after assaulting officers.

Identifying BURTON

Following January 6, 2021, in an effort to identify the assailant, the FBI listed BURTON as AFO-372 on an FBI Seeking Information poster, which was disseminated by the FBI Office of Public Affairs on May 19, 2021. Following the FBI's poster, a Twitter account posted the following additional images of AFO-372:



The FBI queried the above images in an open-source facial comparison tool and found the following matches from BURTON's prior arrests:



On August 25, 2023, BURTON was arrested by local authorities for unrelated conduct. Soon thereafter, a detective with the Midland County Sheriff's Office in Midland, Michigan informed the FBI that BURTON was in custody. Local authorities were aware of the FBI's interest in BURTON due to the FBI's 2021 query of local authorities relating to historical interactions with BURTON.

FBI agents responded to the Midland County Jail, where BURTON voluntarily agreed to be interviewed about his conduct on Jan. 6, 2021. BURTON was shown multiple images of the man earlier identified as AFO-372 and identified himself. The agents were also able to recognize BURTON as the individual identified as AFO-372 and in the videos referenced above.

During the interview, BURTON told the agents that he was at the U.S. Capitol fighting for election integrity on January 6, 2021. BURTON said he was aware of Trump's planned speech through social media, so he and his wife drove from Michigan to Washington, D.C. to attend the rally. BURTON and his wife then walked to the U.S. Capitol building, where a large crowd of people had gathered. BURTON said he was at the rear of the building, on the side facing the Mall and Washington Monument. The building had scaffolding covered in plastic on the outside.

BURTON acknowledged that he pushed through police barricades on Capitol grounds, but stated this was in response to police uses of force toward the crowd. BURTON said that as he moved past the barricades, he was tackled by police. BURTON said he believed that during the altercation with police he may have sustained a broken rib, but he never sought medical treatment for the injury.

BURTON recalled people climbing and hanging from the scaffolding outside the building. People on the scaffolding were throwing down garbage, tools and other objects onto the police and the crowd below (including BURTON). BURTON picked up a piece of metal and waved it around to try and bat away the items being thrown from above.

After the events at the Capitol, BURTON and his wife spent the night at a hotel in Washington D.C. and then drove to South Carolina. Burton and his wife went to South Carolina in part because of news reporting stating that the people at the Capitol had engaged in criminal conduct and that people in South Carolina would be more like minded to themselves.

BURTON also identified accounts he maintained on Facebook and Instagram under the name Brian Jewel. FBI later obtained records from these accounts through a search warrant. On Dec. 15, 2021, BURTON a video on the Facebook account with the caption: "Here's how the capitol police treated me." The post included a video, which appeared to be filmed on January 6, 2021, during the riot at the U.S. Capitol Building. The video showed an individual who looked like BURTON, wearing a black jacket and blue jeans, rushing through a line of police officers

toward the building. The police officers stopped the individual and subdued him. In a private message on Facebook on Nov. 25, 2021, BURTON stated: “Bruh I got my ass kicked on the 6th.” In a private

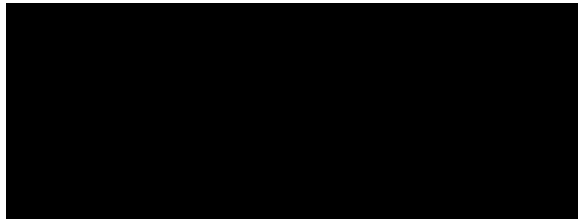
Based on the foregoing, your affiant submits that there is probable cause to believe that BURTON violated 18 U.S.C. § 1752(a)(1), (2) and (4), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do so; and (2) knowingly, and with intent 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; and (4) knowingly engages in any act of physical violence against any person or property in any restricted building or grounds. 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 BURTON violated 40 U.S.C. § 5104(e)(2)(D) and (F), which makes it a crime to (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 (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

Your affiant submits there is probable cause to believe that BURTON 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 that there is probable cause to believe that BURTON violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate,

or interfere with any person designated in section 1114 of Title 18 while engaged in or on account of the performance of official duties, where such acts involve physical contact with the victim or the intent to commit another felony. Persons designated within section 1114 of Title 18 include federal officers such as USCP officers, and include any person assisting an officer or employee of the United States in the performance of their official duties.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 7th Day of October, 2024.

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE