

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the Federal Bureau of Investigation (FBI) Central Texas Joint Terrorism Task Force (JTTF). In my duties as a special agent, I have participated in the execution of search and arrest warrants, leading to the seizure of controlled substances, firearms, records, cellular telephones, and other evidence. During my training at the FBI Academy, Quantico, Virginia, I received training in a variety of investigative and legal matters, including the topics of Fourth Amendment Searches, the drafting of search warrant affidavits, and probable cause. 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

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 Dennis Wayne Barnes (“D. BARNES”)

The FBI obtained information that Joseph Cable Barnes (“J. BARNES”), was involved in the events in Washington D.C. on January 6, 2021. As a result, on February 10, 2021, the FBI arrested J. BARNES and executed a search warrant of his residence and person.¹

During his custodial interview the same day, J. BARNES confirmed both he and D. BARNES flew to Washington D.C. on January 5, 2021, via Southwest Airlines and returned on January 8, 2021. J. BARNES admitted both he and his father, D. BARNES, were inside the Capitol Building for approximately 10 minutes in total, and at the Capitol complex overall for approximately an hour and a half. J. BARNES believed he and D. BARNES stayed near one another almost the entire time while inside the Capitol Building.

The FBI took further steps to confirm that D. BARNES was in fact inside the Capitol Building on January 6, 2021.

On August 9, 2024, another agent of the FBI and I interviewed a neighbor of D. BARNES in Austin, TX (“T1”) and showed them the photograph below obtained from J. BARNES’ cellphone taken on January 6, 2021 included below as Image 1. T1 identified the individual on the left as D. BARNES with “medium-high confidence,” and would have “high” confidence but for the beanie the individual was wearing, as D. BARNES is bald. In a follow up conversation on August 12, 2024, T1 said they have known D. BARNES since he moved into the neighborhood in 2001 and last saw him approximately two months before the interview.

¹ *United States v. Joseph Barnes*, 21-CR-192 (RCL) (D.D.C). The prosecution was abated on suggestion of death.



Image 1: T1 identified the individual on the left as D. BARNES in this photo from January 6, 2021 on J. BARNES' phone

According to information provided by Verizon, subsequent to legal process previously served by the FBI, an Apple iPhone XS Max using a phone number ending in 9518 utilized a cell site consistent with providing service to a geographic area that included the interior of the United States Capitol building in the afternoon of January 6, 2021.

On March 8, 2022, FBI agents received a call from the number ending 9518. D. BARNES identified himself and acknowledged that his son, J. BARNES, was arrested for his involvement at the US Capitol on January 6, 2021. D. BARNES declined to speak further without representation.

According to Verizon records dated February 6, 2024, pursuant to legal process, D. BARNES was the subscriber of the number ending 9518 between August 2017 and June 2022.

Based on (1) J. BARNES' identification of his father in the Capitol Building with him on January 6, 2021; (2) T1's identification of the individual depicted with J. BARNES on January 6, 2021 as D. BARNES; and (3) cell phone tower returns for the 9518 number (for which D. BARNES is the subscriber and that D. BARNES has identified himself using), I believe that the individual depicted in the videos and photos that follow is D. BARNES, accompanied by his son, J. BARNES. In these videos and images, D. BARNES wore a black jacket and a dark beanie with light grey on the brim pulled down over his ears, his face still visible, and dark colored jeans. J. BARNES wore a dark colored beanie hat, an American flag neck gaiter around his neck, and a dark-colored winter jacket that with a light-colored fleeced neckline. They are depicted in a

photograph from January 6, 2021 on restricted capitol grounds obtained from J. BARNES' phone included as Image 2 below.



Image 2: J. BARNES (left) and D. BARNES (right) on January 6, 2021 on restricted Capitol Grounds

BARNES' Conduct on January 6, 2021

Based on videos obtained from J. BARNES' cellphone taken on January 6, 2021, D. BARNES and J. BARNES watched former President Trump's speech at the Ellipse from a distance.

J. BARNES and D. BARNES then walked to the Capitol together. In a video obtained from J. BARNES' phone at 1:39 p.m. ET, J. BARNES filmed D. BARNES as they and others walked

towards the Capitol Building. D. BARNES turned and smiled when J. BARNES called, “Dad!” Image 3 below is a still image from that video.



Image 3: Still image of a video from J. BARNES’ cellphone depicting D. BARNES

J. BARNES and D. BARNES approached the Capitol from the West. As depicted on a video from J. BARNES' phone at 2:04 p.m., they saw tear gas and the members of the mob in the Northwest scaffolding. See Images 4 and 5 below.



Images 4 and 5: Around 2 p.m., D. BARNES and J. BARNES saw tear gas and rioters in the scaffolding

After the mob overran the officers defending the Upper West Terrace, D. BARNES and J. BARNES went through the scaffolding and ascended the Northwest steps to the Upper West Terrace. At 2:18 p.m., J. BARNES filmed the mob climbing the steps they saw police on earlier. Images 6 is a still image from that video. At 2:19 p.m., J. BARNES filmed D. BARNES smiling

and laughing as the mob flooded into the Upper West Terrace. Image 7 is a still image from that video.



Image 6: J. BARNES filmed as the mob climbed the steps to the Upper West Terrace



Image 7: D. BARNES smiling on the Upper West Terrace at 2:19 p.m.

At around 2:24 p.m., J. BARNES and D. BARNES entered the U.S. Capitol Building through the Senate Wing Door, which had been breached by rioters less than 10 minutes prior. A still from surveillance footage is included below as Image 8, and depicts D. BARNES circled in yellow following behind J. BARNES, circled in red. J. BARNES filmed a video as they entered in which shattered glass is visible and an alarm is audible. After they entered, J. BARNES called out “Dad!” and filmed D. Barnes. Two still images from that video are included below as Images 9 and 10.

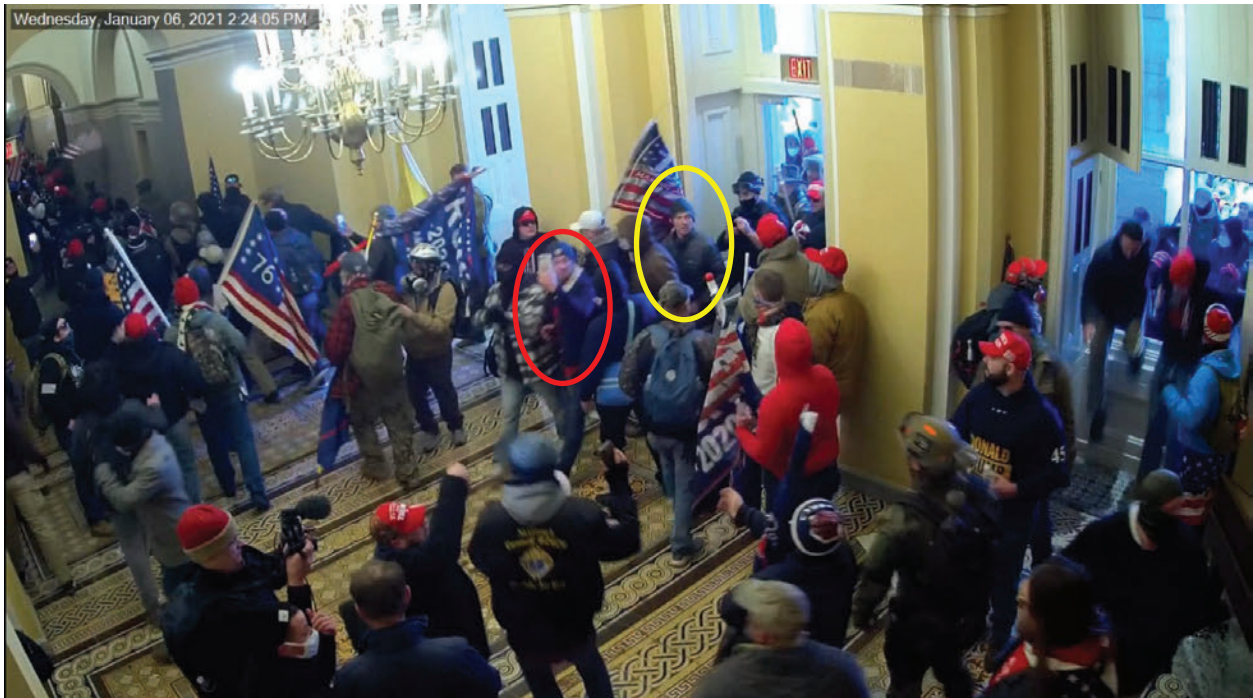


Image 8: D. BARNES (circled yellow) entered the Capitol behind son J. BARNES (circled red)



Image 9 and 10: J. BARNES filmed a video at the time of their entry showing the shattered glass and capturing the audible alarm (left), and depicting D. BARNES (right)

J. BARNES and D. BARNES immediately proceeded to the Crypt. There, at 2:25 p.m., J. BARNES filmed another video depicting the mob chanting “Our House” and “Stop the Steal.”

At approximately 2:31 p.m., J. BARNES and D. BARNES returned to the Senate Wing Door, the area where they had first entered the building. At that time, police were trying to regain control of the area. At 2:33 p.m., J. BARNES filmed another video depicting D. BARNES and police efforts to secure the area; the alarm is again audible. D. BARNES said to an officer, “Those were open before.” In response, an officer appears to direct D. BARNES to exit through the window. *See* Images 11 and 12 below. At 2:34 p.m., J. BARNES and D. BARNES left the Capitol through the window to one side of the Senate Wing Door.



Images 11 and 12: J. BARNES filmed D. BARNES and officers attempting to regain control of the Senate Wing Door

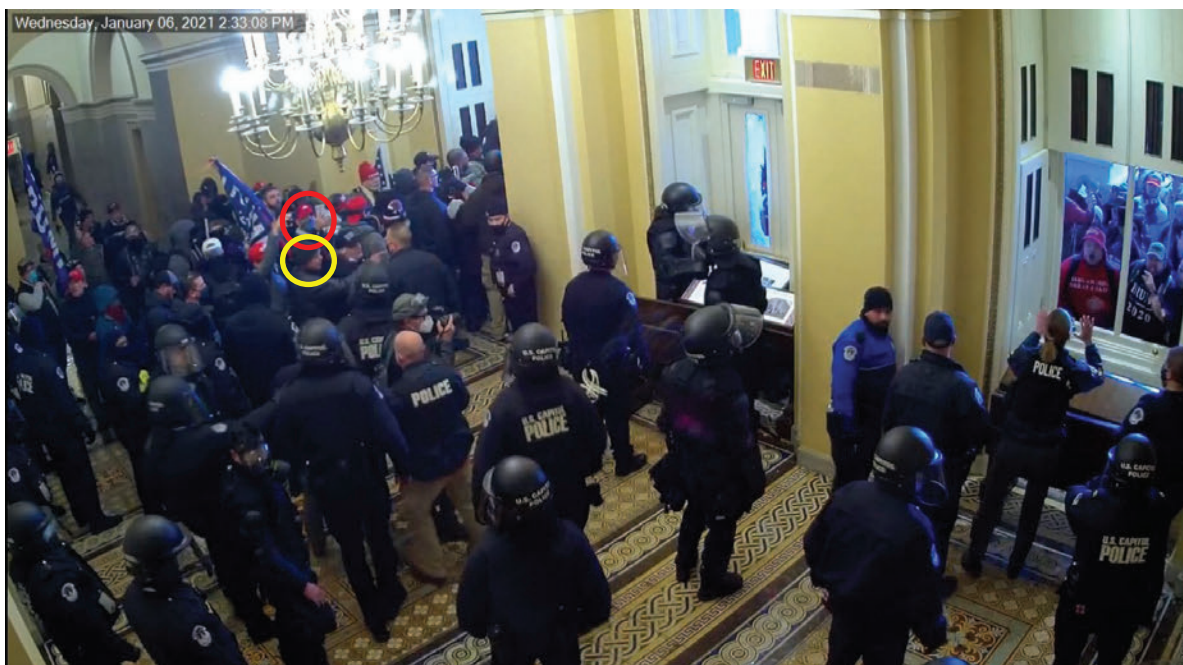


Image 13: D. BARNES (yellow) and J. BARNES (red) before they exited through the window to the left of the Senate Wing Door

A half-hour after leaving, the BARNES' entered the Capitol a second time. At 3:07 p.m., J. BARNES filmed rioters leaving through the North Door, with two U.S. Capitol Police officers in riot gear on either side. *See* Image 14. Two minutes later, at 3:09 p.m., J. BARNES filmed rioters confronting officers in an attempt to enter through the now-closed doors. *See* Image 15.



Images 14 and 15: J. BARNES filmed rioters leaving the North Door at 3:07 p.m., and then confronting officers at 3:09 p.m.

An open source video depicts the moments that follow. Specifically, another rioter grabbed the door and held it open as rioters forced their way in. D. BARNES and J. BARNES joined the mob heading inside, notwithstanding the officers feet away. A still image from that video is included below as Image 16.



Image 16: D. BARNES (circled yellow) re-entered the Capitol after another rioter holds open the door (<https://www.youtube.com/watch?v=9TshRdxXi9c>)

Officers inside, in the Brumidi Corridor, immediately moved to intercept the rioters streaming inside. Surveillance footage from approximately 3:10 p.m. depicts D. BARNES and J. BARNES near the front of the crowd as officers prevent them from moving forward. See Image 17.



Image 17: In the Brumidi Corridor, officers prevented D. BARNES (circled yellow) and J. BARNES (circled red) from proceeding deeper into the Capitol

Other officers nearby reinforced the police line and deployed crowd control munitions. After the crowd still did not leave, the police line advanced and pushed rioters, including J. BARNES and D. BARNES, out of the building. *See Image 18.* The BARNES' left the building for the second time that day around 3:12 p.m. The same open source video described above shows D. BARNES and J. BARNES being forced out by officers, as depicted below in Image 19.

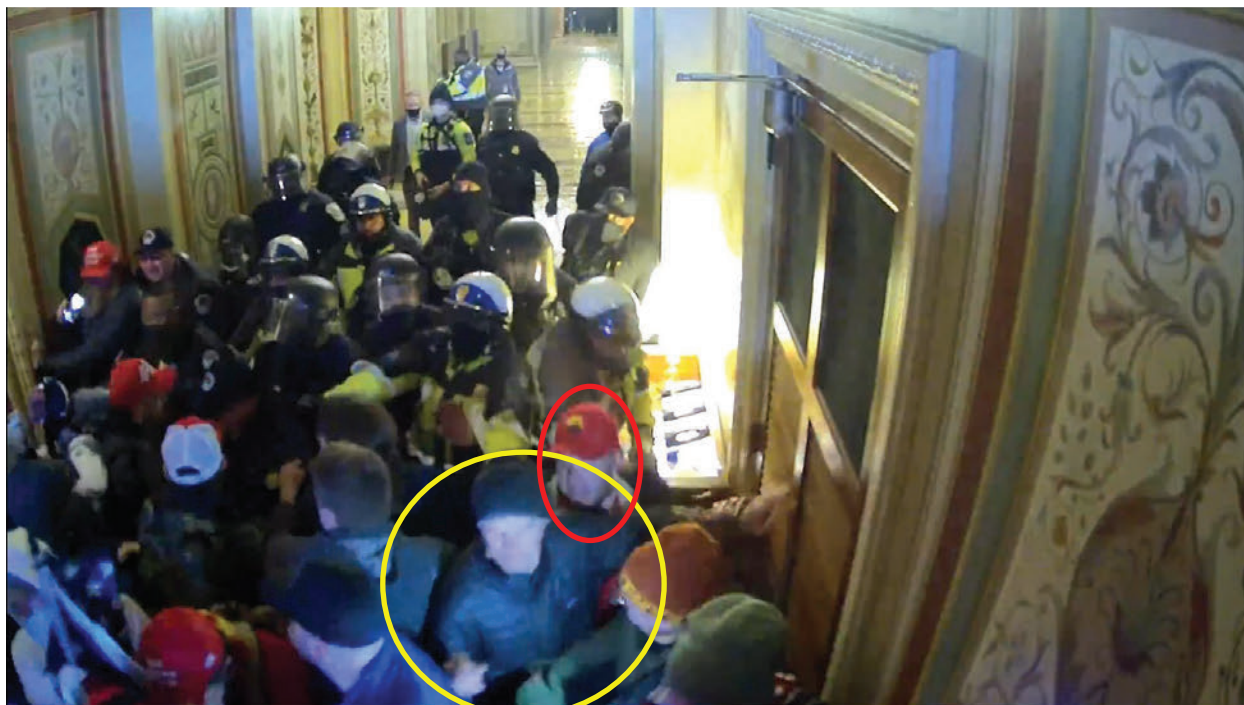


Image 18: Officers pushed D. BARNES (circled yellow) and J. BARNES (circled red) out of the Building



Image 19: D. BARNES (circled yellow) and J. BARNES (circled red) were forced out of the building by officers (<https://www.youtube.com/watch?v=9TshRdxXi9c>)

In total, D. BARNES spent approximately 12 minutes inside the Capitol Building. Based on a photo from J. BARNES' phone, D. BARNES appears to have injured his hand during his time on Capitol Grounds. See Image 20.



Image 20: A photo from J. BARNES' phone shows D. BARNES' hand bleeding

Based on the foregoing, your affiant submits that there is probable cause to believe that D. BARNES 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 attempted or conspired 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 submits there is also probable cause to believe that D. BARNES 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.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 31st day of October 2024.

MOXILA A. UPADHYAYA
U.S. MAGISTRATE JUDGE