

Case: 1:23-mj-00048
Assigned To : Harvey, G. Michael
Assign. Date : 2/28/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, Mary Echols, is a Special Agent assigned to Richmond Division. I have been employed with the Federal Bureau of Investigation (FBI) since 2017. In my duties as a Special Agent, I investigate various criminal violations in the Western District of Virginia. 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, detention, 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 U.S. 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 separate chambers of the U.S. 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, shortly 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 U.S. Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

Facts Linking Jay Matthew Kenyon to the January 6, 2021, Attack on the U.S. Capitol

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. Capitol surveillance video, law enforcement officer body camera footage, and social media posts indicated that Jay Mathew Kenyon trespassed inside the U.S. Capitol on January 6, 2021. The FBI received multiple tips regarding Facebook Account, Facebook ID 1197441198, associated with Jay Matthew Kenyon, known to reside in Harrisonburg, Virginia.

The FBI Richmond Division received reports regarding Jay Matthew Kenyon's Facebook posts indicating he was present inside the U.S. Capitol building on January 6, 2021. According to a complainant, Jay Kenyon (Kenyon) posted a live video on Facebook while inside the U.S. Capitol. Following the events of January 6, 2021, Kenyon posted on Facebook alluding to entry into the Capitol and an encounter with law enforcement officers once inside the Capitol building. The Facebook post stated "We were let in by Capitol Police and then they attacked. No patriot broke one damn thing inside the Capitol on purpose. Capitol police attacking caused any damage."



Figure 1

In the above image, which is a screenshot of the "live" video posted to Kenyon's Facebook, "selfie" style photograph posted to Kenyon's Facebook, an individual is visible wearing a New York Yankees baseball cap that is light colored on the front and black on the back side, black, thick-rimmed eyeglasses, a black face gator covering most of the individual's face, a backpack with black straps, and a black shirt. Based on your affiant's training and experience, your affiant knows that when individuals record "live" videos to their own social media pages, that individual is recording the video. Your affiant also knows that when individuals utilize the "selfie" orientation of their cellphone cameras, they are capturing their own face. Your affiant therefore has probable cause to believe that the person shown in the above image is Jay Matthew Kenyon.

This screenshot appears to have captured Kenyon inside the U.S. Capitol building in an area known as Statuary Hall.

According to records obtained through a search warrant which was served on VERIZON, on January 6, 2021, in and around the time of the incident, the cellphone associated with (XXX) XXX-8282, associated with Kenyon, was identified as having utilized a cell site consistent with providing service to a geographic area that includes the interior of the United States Capitol building.

According to records obtained through a search warrant served on Google, a mobile device associated with justmeandk@gmail.com, registered to Kenyon, was present at the U.S. Capitol on January 6, 2021. Google location data shows that a device associated with justmeandk@gmail.com was within the U.S. Capitol between 2:43 PM and 4:53 PM on January 6, 2021.

Your affiant reviewed footage from U.S. Capitol Surveillance (CCTV). CCTV footage from inside the Capitol Rotunda and Statuary Hall on January 6, 2021, shows an individual wearing a New York Yankees baseball cap that is light colored on the front and black on the back side, a black face gator covering most of the individual's face, a black backpack with black straps, and a black shirt consistent with those worn by the individual in the above screen captures from Kenyon's Facebook page. The individual is also wearing thick black pants consistent with snow pants, black gloves consistent with weightlifting gloves, and a camouflage-colored vest that is consistent with body armor. Your affiant has probable cause to believe that this individual is Jay Matthew Kenyon.

Screen captures of CCTV footage showing Kenyon's entry into and progression through the United States Capitol building are below. The individual believed to be Kenyon is highlighted by a red box in each screen capture.

As seen in CCTV footage, Kenyon entered the United States Capitol on January 6, 2021, at approximately 2:36 p.m. through the Upper West Terrace Door, which is located in the middle of the Capitol building—halfway between the Senate and the House wings—on the West side of the Capitol building.

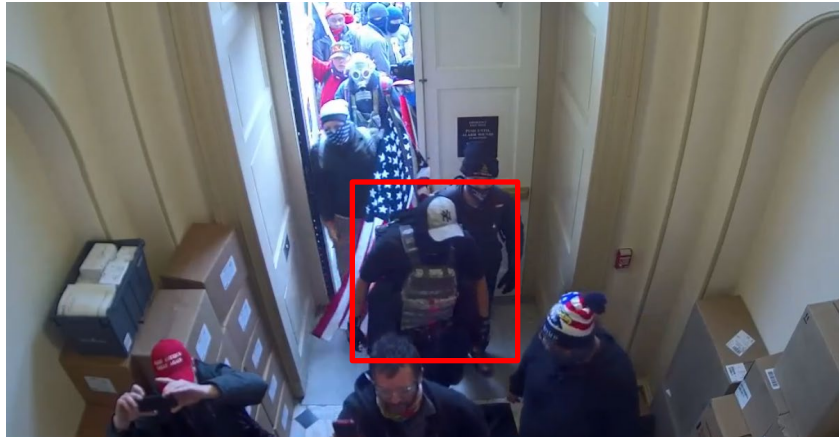


Figure 2

Kenyon then proceeded to the Capitol Rotunda. By the time he reached the Rotunda, he had lowered his face gator, revealing shoulder-length white hair.

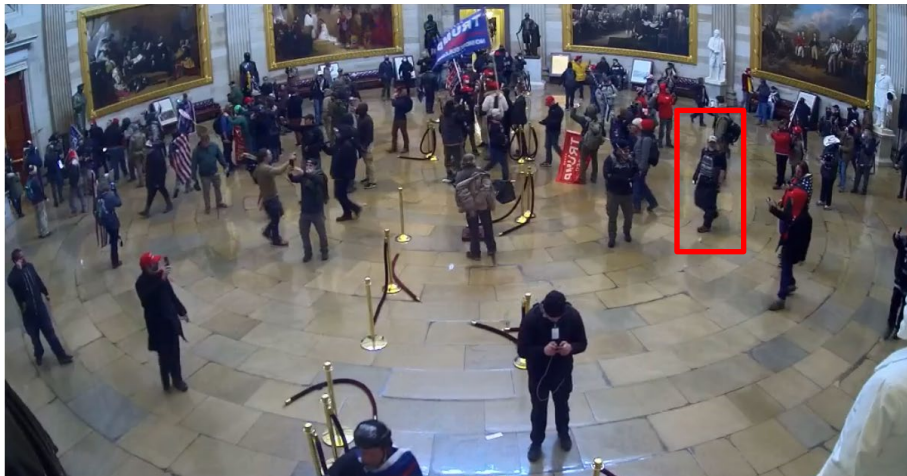


Figure 3

At approximately 2:41 p.m., Kenyon exited the Rotunda and proceeded to Statuary Hall, towards the House wing of the Capitol Building.



Figure 4



Figure 5

At approximately 2:44 p.m., on the side of Statuary Hall opposite the Rotunda, Kenyon joined a crowd of rioters outside the House chamber. As captured in a video recorded by another rioter (who indicated by the red arrow in Figure 6, below), rioters in this area were loudly chanting “USA! USA!” as they pushed against the doors of the House chamber. Kenyon, who is visible in this video (see Figure 7) appeared to be recording the crowd and the chanting near the House chamber using a cellular device.



Figure 6

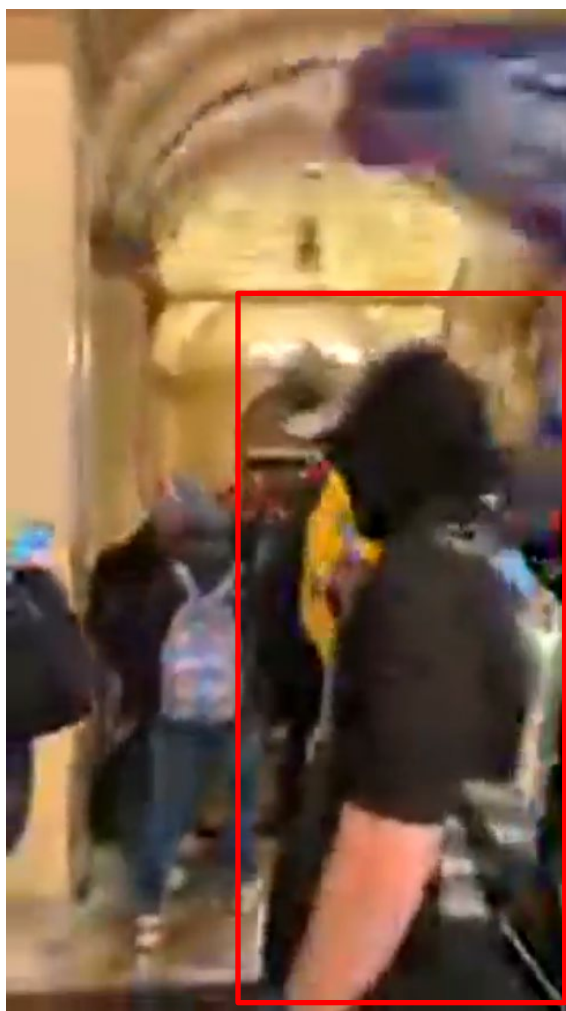


Figure 7

As the crowd continued to chant and push against the doors of the House chamber, Kenyon and some other members of the crowd proceeded eastward down a corridor parallel to the back of the House chamber.

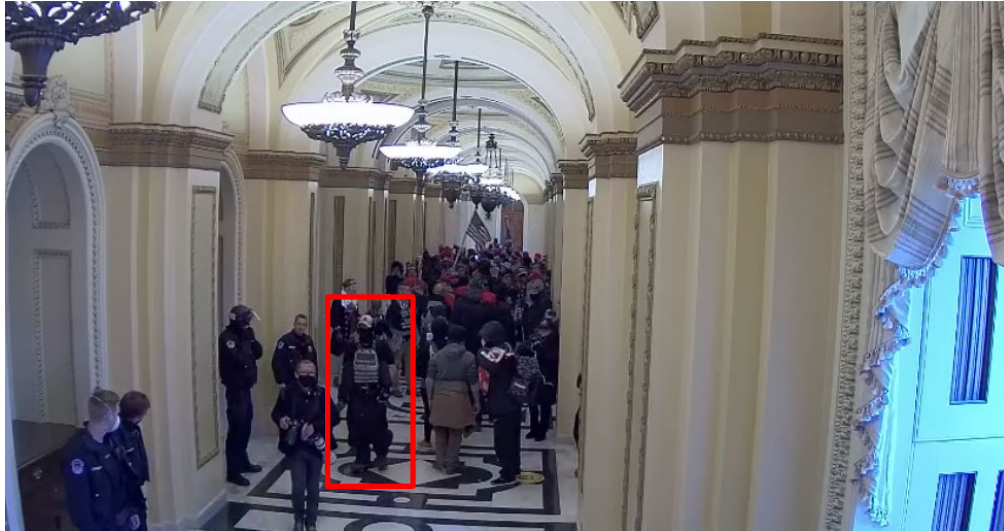


Figure 8

At approximately 2:45 p.m., Kenyon and a handful of other rioters ascended stairs to the Third Floor, an area outside the House Gallery. At this time, members of the United States House of Representatives were sheltering in place in the House Gallery because, to that point, Capitol Police had not been able to safely evacuate them.

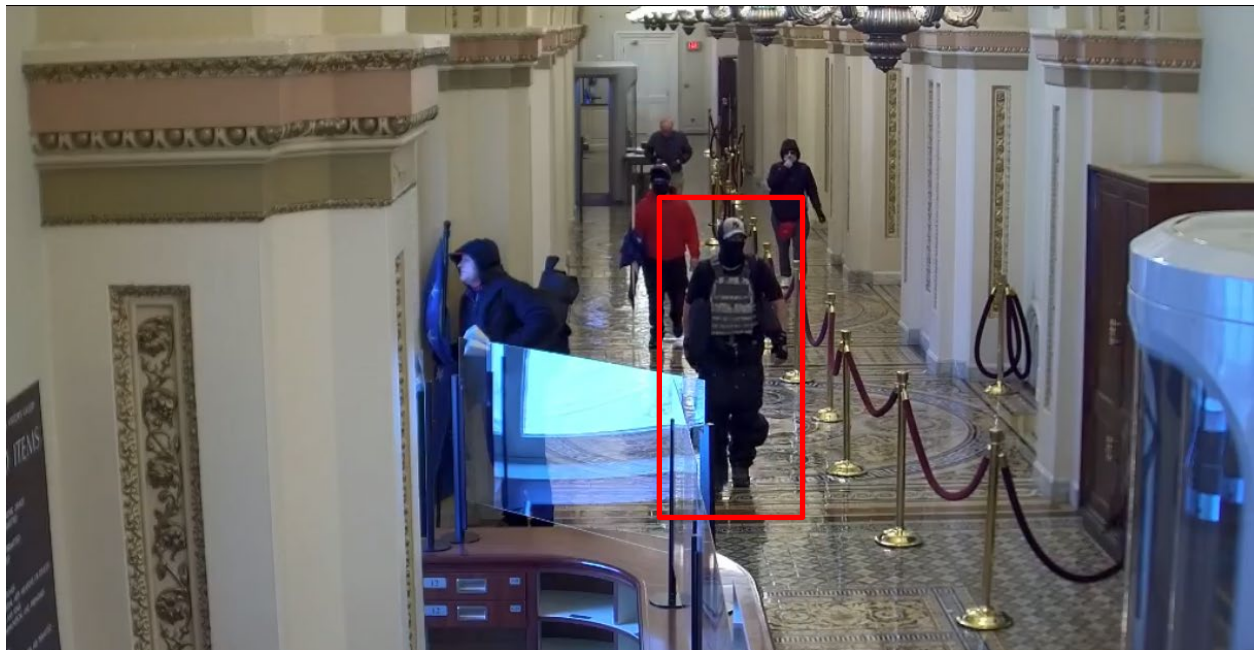


Figure 9

At approximately 2:48 p.m., Kenyon and other rioters entered a House Appropriations Committee office on the third floor, near the House Gallery. Several minutes later, Capitol Police officers on the third floor drew their firearms and began directing rioters in the corridors surrounding the House Gallery to lay prone on the ground with their arms and legs spread. Members of a Capitol Police tactical unit, the Containment Emergency Response Team (“CERT”), entered the Appropriations office that Kenyon and other rioters had entered. There, the officers held rioters under supervision while Members of the House of Representatives were evacuated from the House Gallery. Kenyon was escorted from the Third Floor by Capitol Police at approximately 3:00 p.m.

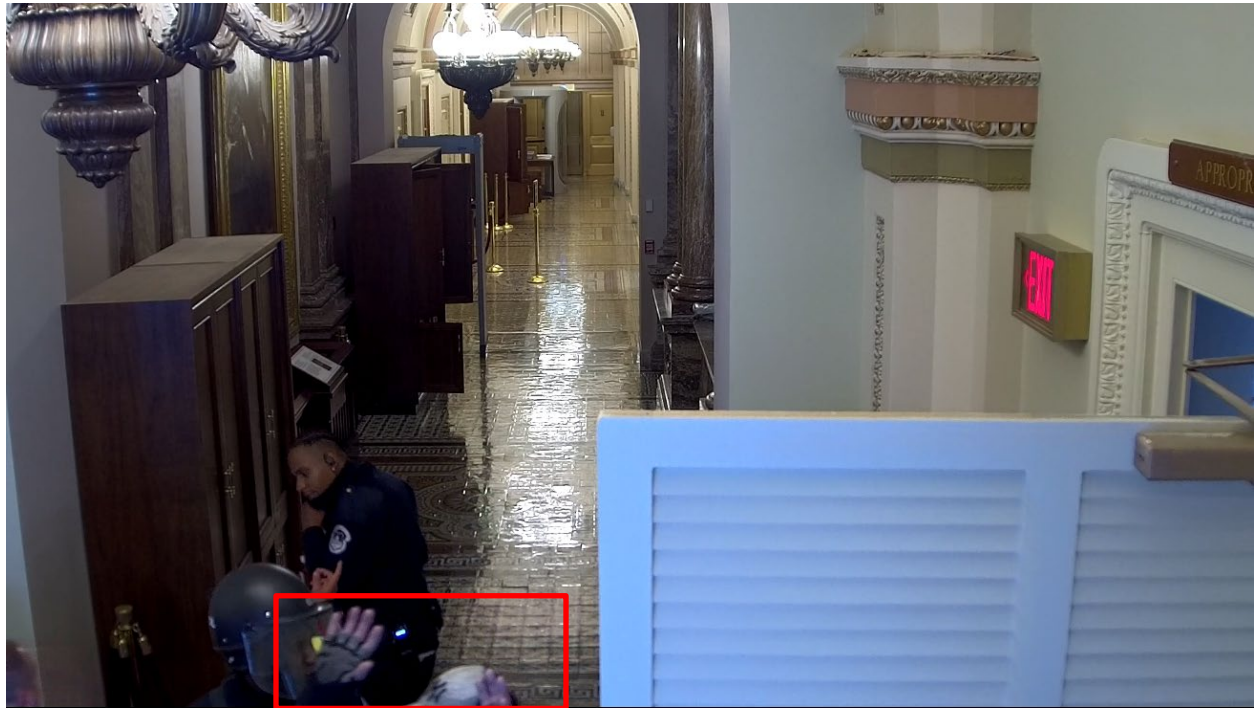


Figure 10

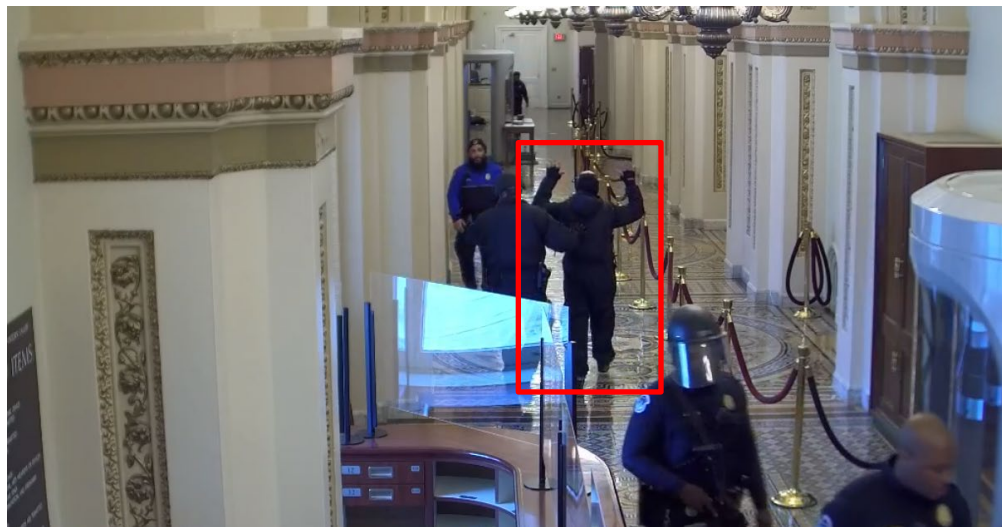


Figure 11



Figure 12

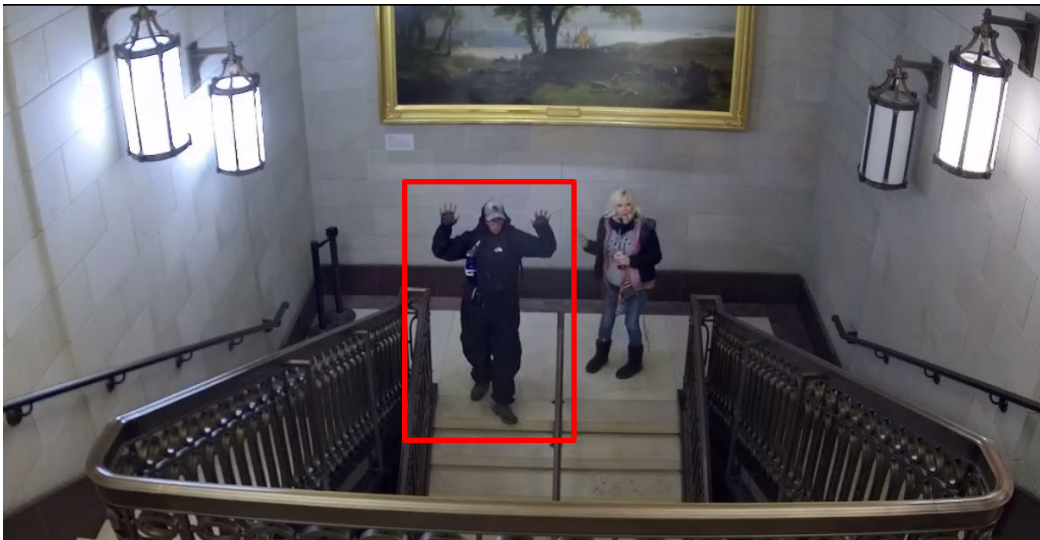


Figure 13

Kenyon reached the Second Floor of the Capitol—in the area of the East Rotunda Doors—at approximately 3:02 p.m. Rather than exit the Capitol building through the East Rotunda Doors (indicated by the white arrow in Figure 14), Kenyon returned to the Capitol Rotunda. Kenyon arrived in the Rotunda at a time when a large contingent of U.S. Capitol Police and Metropolitan Police (MPD) officers had arrived to clear the Rotunda. Following a concerted push towards the East Rotunda Doors, police isolated the crowd, including Kenyon, in the Rotunda into a tightly packed scrum (see Figure 15).

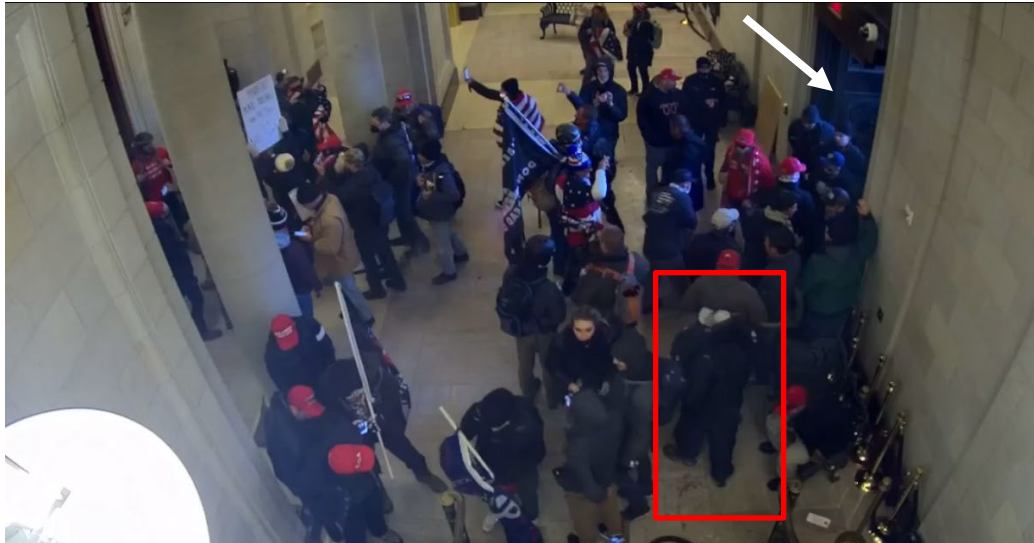


Figure 14

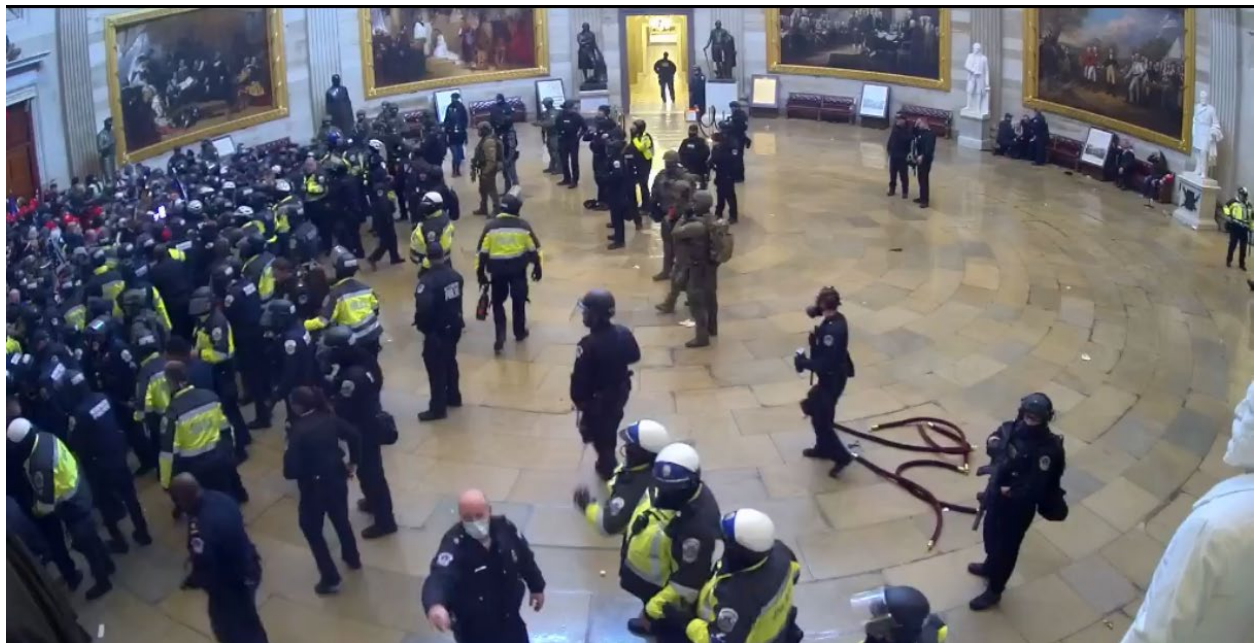


Figure 15

Your affiant reviewed MPD Body Worn Camera (BWC) video from inside the Capitol Rotunda on January 6, 2021. At timestamp 15:14:00 on January 6, as shown in the screenshots below, an individual appears in the frame of an MPD officer's BWC wearing a black and tan baseball cap with a New York Yankees logo on the front of the cap. This cap is consistent with the cap visible in the images above. The individual is wearing eyeglasses with thick black frames and has shoulder-length white hair and a white beard. The individual appears to be wearing a camouflage body-armor vest. This individual's appearance is consistent with Kenyon, as identified in the images above, and is believed by your affiant to be Jay Matthew Kenyon.

An MPD officer's BWC shows Kenyon inside the scrum, isolated by police inside the Capitol Rotunda.



Figure 16



Figure 17



Figure 18

Moments later, Kenyon appears in the same officer's BWC video, as shown in the screenshot below. The baseball cap Kenyon was wearing appears to have been knocked off in the scuffle between law enforcement and rioters:

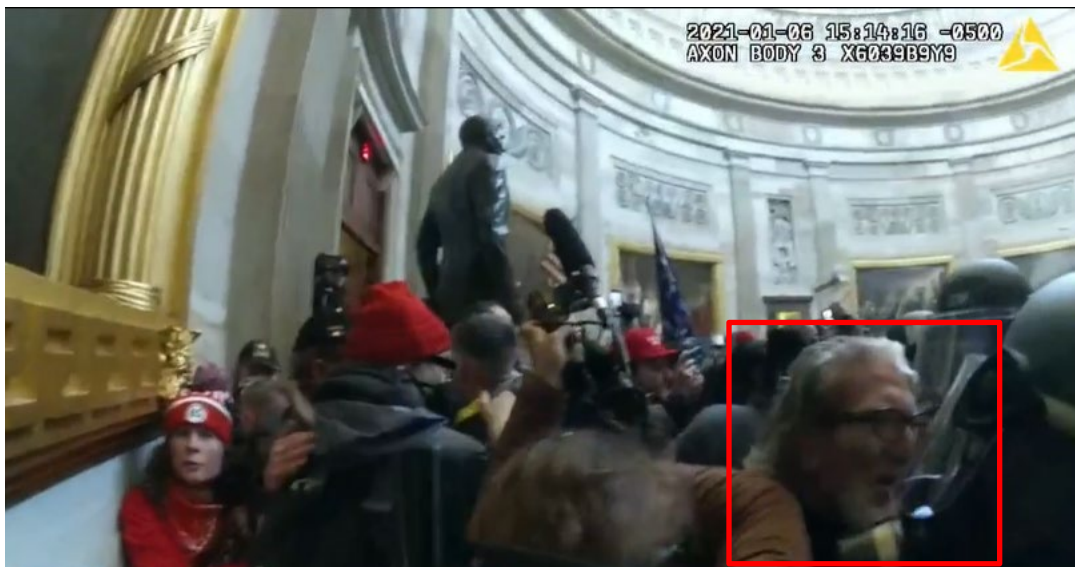


Figure 19

Kenyon also appears in another MPD officer's BWC from inside the Capitol Rotunda around the same time:

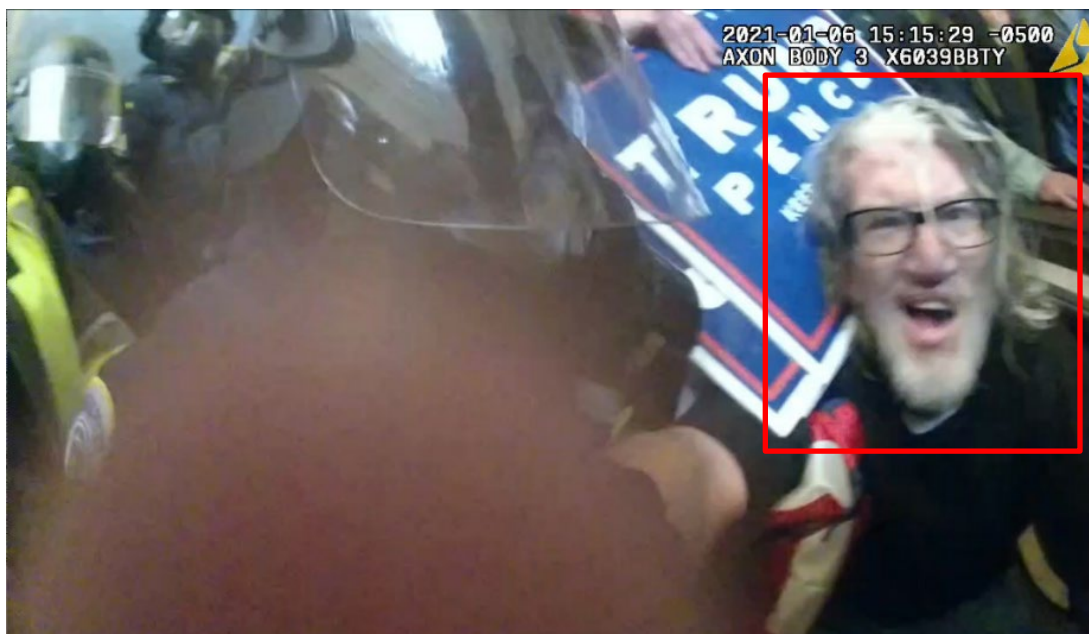


Figure 20

At approximately 3:16 p.m., Kenyon was pulled from the scrum by police, after which point he was supervised by police for several minutes while he sat on the Rotunda floor, as seen on CCTV and MPD BWC.

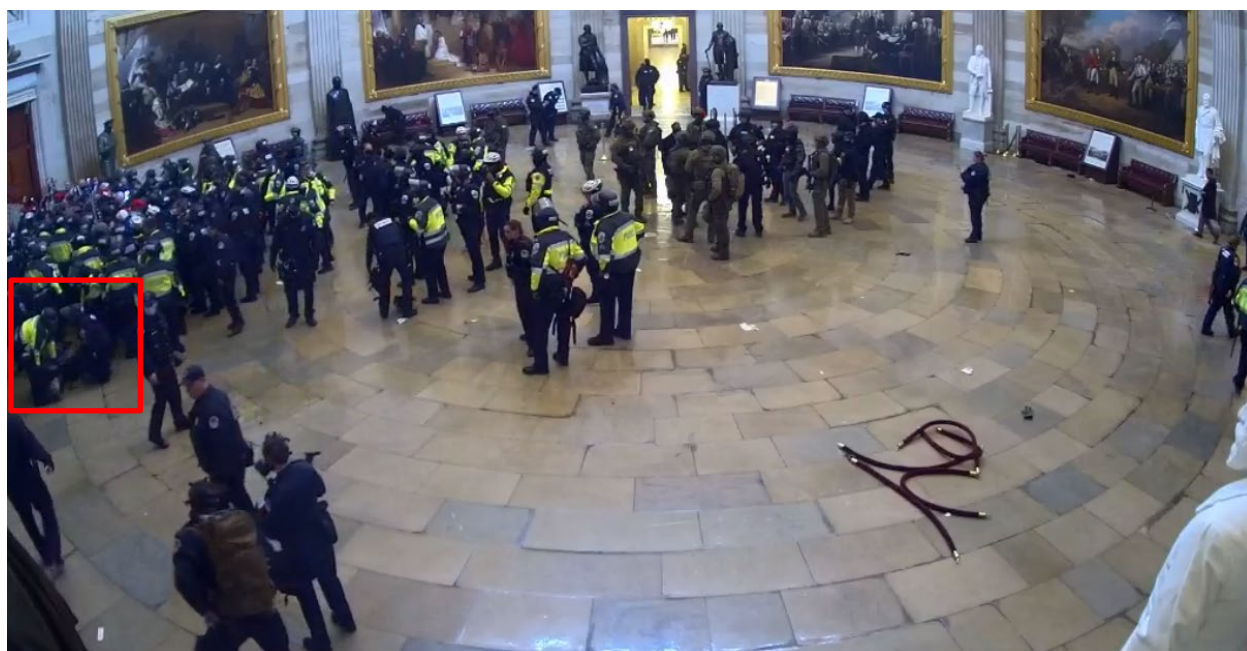


Figure 21



Figure 22



Figure 23

U.S Capitol Police Officer N.S. participated in this interaction and was interviewed. Officer N.S. reported that an individual was dragged from the crowd by police after that individual brandished a foldable pocketknife. Officer N.S. recalled the individual swinging the knife and perceived that the individual was trying to attack officers. Officer N.S. disarmed the individual and the individual was subsequently pulled from the crowd by MPD officers. Officer N.S. handed the knife off to an unknown officer. Officer N.S. did not see the individual pulled from the crowd again after disarming him.

Officer N.S. described the individual who brandished the knife as a white male, approximately 5'10" in height, with facial hair. Upon viewing screenshots of CCTV and BWC, including the above screenshot shown in Figure 20, Officer N.S. identified the person in Figure 20

as the individual who pulled out a knife before being pulled from the crowd in the Capitol Rotunda. This is the same individual identified by your affiant as Jay Kenyon.

At approximately 3:25 p.m., Kenyon was escorted from the Capitol Rotunda by an MPD officer. Kenyon was taken down to the first floor and to the Memorial Door, where he exited the Capitol building at approximately 3:26 p.m.

Your affiant obtained Kenyon's driver's license photograph and determined that BWC videos capture an individual with facial features consistent with Kenyon's driver's license photo.

On April 8, 2021, your affiant conducted physical surveillance at 142 Colonial Drive, Apartment B, Harrisonburg, Virginia 22801. Outside the residence, your affiant observed the vehicles registered to KENYON, a white Dodge truck displaying Virginia License Plate XXXXX and a dark blue Nissan Sentra displaying License Plate XXXXXX. On October 6, 2021, your affiant drove by the residence again and observed the above vehicles displaying the same license plates.

On September 28, 2022, physical surveillance was conducted at XXX Colonial Drive, Apartment X, Harrisonburg, Virginia. Kenyon was observed at the residence and departing the residence in the white Dodge truck registered to Kenyon.

On October 6, 2021, your affiant interviewed Witness 1, who is personally familiar with Kenyon and his appearance. Witness 1 was presented with images of Kenyon inside the U.S. Capitol on January 6, 2021. Witness 1 positively identified Kenyon in these images. These images have been included within this Affidavit as figures 1, 19, and 22.

On October 6, 2021, your affiant interviewed Kenyon at his residence XXX Colonial Drive, Apartment X, Harrisonburg, Virginia. Kenyon declined to provide information to your affiant. Based on your affiant's face-to-face interaction with Kenyon, your affiant positively identified Kenyon in the images above inside the U.S. Capitol on January 6, 2021.

Your affiant took a screen capture from Kenyon's Facebook profile on March 15, 2021. In a "selfie" style photograph, Kenyon is observed wearing a New York Yankees baseball cap that is light colored on the front and black on the back side, and black, thick-rimmed eyeglasses, resembling the baseball hat and glasses that Kenyon wore inside the U.S. Capitol on January 6, 2021.



Figure 24

On August 17, 2021, a search warrant was served upon Facebook for Kenyon's Facebook account. Your affiant discovered posts indicating that Kenyon planned to go to the Capitol on January 6, 2021, to impede and disrupt Government proceedings. In a post dated November 15, 2020, Kenyon stated "I will fight. We are ready. I'm not the only one who been hitting the gym for months now....That was purposeful and definitely less about my overall physical health." In a post dated December 19, 2020, Kenyon stated "Bring you plate carriers ...". A screen capture from a Facebook live video of Kenyon inside the Capitol on January 6, 2021, reveals Kenyon wearing what appears to be a plate carrier vest. In posts dated December 19, 2020 and again on December 29, 2020, Kenyon used the hashtag "#StopTheSteal".

In a post dated December 20, 2020, Kenyon stated "Trump: January 6, 2021 Washington DC Be There, Will be Wild" Be part of the revolution. It's gonna be fun!" and on December 21, 2020, Kenyon stated "Need 15 lbs more weight by January 6 and you DAMN right if you think Im going FULL ON PATRIOT! I AM RADICALIZED!!..."

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

Your affiant submits there is probable cause to believe that Kenyon 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 Joint Session of Congress where the Senate and House count Electoral College votes.

Finally, your affiant submits there is probable cause to believe that Kenyon violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.



Mary Echols
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 28th day of February 2023.

G. Michael
Harvey



HONORABLE G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE