

STATEMENT OF FACTS

Your affiant is a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed since 2019. Prior to being employed with the FBI, your affiant was a Special Agent with the Florida Department of Law Enforcement (FDLE) from 2016-2019 and a Police Officer with the Kissimmee Police Department (KPD) from 2010-2016. During that time, I have investigated kidnappings, homicides, bank robberies, Felon in Possession violations, Domestic Terrorism investigations, and threat-to-life violations. I have prepared and assisted in the preparation of court orders and search warrant applications. Additionally, during the course of these and other investigations, I have conducted or participated in physical and electronic surveillance, assisted in the execution of search and arrest warrants, debriefed informants, interviewed witnesses and suspects, and reviewed other pertinent records. Through my training, education, and experience, I have become familiar with the efforts of persons involved in criminal activity to avoid detection by law enforcement. I am assisting in the investigation and prosecution of events which occurred at the United States Capitol on January 6, 2020.

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 separate chambers of 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. Vice President Mike Pence was present and presiding in the Senate chamber.

With the joint session underway and with Vice President Mike Pence presiding, a large crowd gathered outside the U.S. Capitol. Temporary and permanent barricades surround 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 approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. At such time, the joint session was 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 after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows. 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 session resumed.

Based on information I have reviewed, I estimate that between 2:00 p.m., and no later than 4:00 p.m., Anthime Joseph Gionet, also known as “Baked Alaska” on social media platforms entered the United States Capitol without authorization to do so. While inside the Capitol Building, the defendant conducted an approximately 27-minute long livestream video on the “DLive” platform, noting that he was “documenting” the event. The video was later captured and posted to YouTube and Twitter, where your affiant viewed it.

In the video, the defendant and the individuals he is with be can seen in the United States Capitol Building and can be heard chanting, "Patriots are in control," "whose house? Our house," and "traitors, traitors, traitors..." The defendant can be heard remarking, "1776 baby," "I won't leave guys, don't worry." At the 2:52 minute mark in the YouTube video the defendant, who is livestreaming the event from his device, turns the phone around to show his face and is clearly identifiable. The defendant is a known social media personality and is thus recognizable. At the 7:06 mark on the YouTube video the defendant approaches an exterior window and is offered a hand to exit the Capitol building. The defendant remarks "I'm staying" and remains in the building. At approximately the 9:40 mark in the YouTube video the defendant can be heard remarking "We are in the Capitol Building, 1776 will commence again." At approximately the 12:40 mark in the YouTube video the defendant can be heard remarking "Unleash the Kraken, let's go." The defendant is repeatedly heard encouraging other protestors not to leave.

At the 15:54 mark in the YouTube video the defendant enters an office in the Capitol and interviews others. At approximately the 17:45 mark on the YouTube video the defendant picks up a telephone and acts out a purported phone call with the United States Senate personnel. At approximately the 18:05 mark in the YouTube video the defendant shouts, "America First is inevitable. Fuck Globalists, let's go!" At approximately the 21:10 mark in the YouTube video the defendant remarks "Occupy the Capitol let's go. We ain't leaving this bitch." At approximately the 19:00 mark in the YouTube video the defendant enters another office. The defendant sits on a couch and places his feet on a table. The defendant encourages others not to break anything.

At approximately the 25:26 mark in the YouTube video law enforcement officers ask the defendant to move, at which time, he identifies himself to them as a member of the "media," and asks where he should go. At approximately the 26:35 mark in the YouTube video the defendant audibly accuses law enforcement of shoving him; no shoving can be seen on the video. He remarks to the law enforcement officer, "You're a fucking oathbreaker you piece of shit," "fuck you" approximately four times, and, "you broke your oath to the constitution." The defendant exits the Capitol at approximately the 26:55 mark on the YouTube video.

Based on the foregoing, your affiant submits that there is probable cause to believe that the Anthime Joseph Gionet violated 18 U.S.C. § 1752(a)(1), which makes it a crime to knowingly enter or remain in any restricted building or grounds without lawful authority to do so.

Based on the foregoing, your affiant submits that there is also probable cause to believe that Anthime Joseph Gionet violated 40 U.S.C. § 5104(e)(2), which makes it a crime for an individual or group of individuals 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; (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings; (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; or (G) parade, demonstrate, or picket in any of the Capitol Buildings.



Special Agent Nicole Miller
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone, this 7th day of January, 2021.

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE