

## STATEMENT OF FACTS

I am employed as a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since 2002. As a Special Agent, I am authorized to investigate violations of laws of the United States and am authorized to execute warrants issued under the authority of the United States. 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 violations 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 are 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 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. 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 after 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.

On January 6, 2021, a concerned citizen (hereinafter “Citizen 1”), submitted an online tip to the FBI National Threat Operations Center (NTOC) alleging that Anthony R. Mariotto (“MARIOTTO”) was inside the Capitol on January 6, 2021, in Washington, D.C., during the above mentioned events.

On January 10, 2021, law enforcement interviewed Citizen 1 over the phone. Citizen 1 stated that they knew MARIOTTO personally for over one year, and that they were friends with or followed MARIOTTO on social media, specifically Facebook. Citizen 1 reported that they had seen photographs of MARIOTTO in the Capitol building during the events of January 6, 2021, and that these photographs were posted to MARIOTTO’s Facebook page. Citizen 1 also stated that MARIOTTO recently deleted his Facebook account, but that Citizen 1 had taken screen shots of the photographs and saved them before the account was deleted. Citizen 1 provided law enforcement with a screen shot of one of the photographs.

MARIOTTO is clearly depicted in the screen shot Citizen 1 provided. The screen shot depicts MARIOTTO in the Senate Chamber with the following caption “I’m in [sic] And there are just a few [sic] This is our house”. The photograph appears to be a “selfie,” which indicates MARIOTTO took the photograph himself, most likely with a cellphone. The photograph depicts the Senate floor in the background from a raised perspective, indicating that MARIOTTO was present in the Senate gallery.

facebook



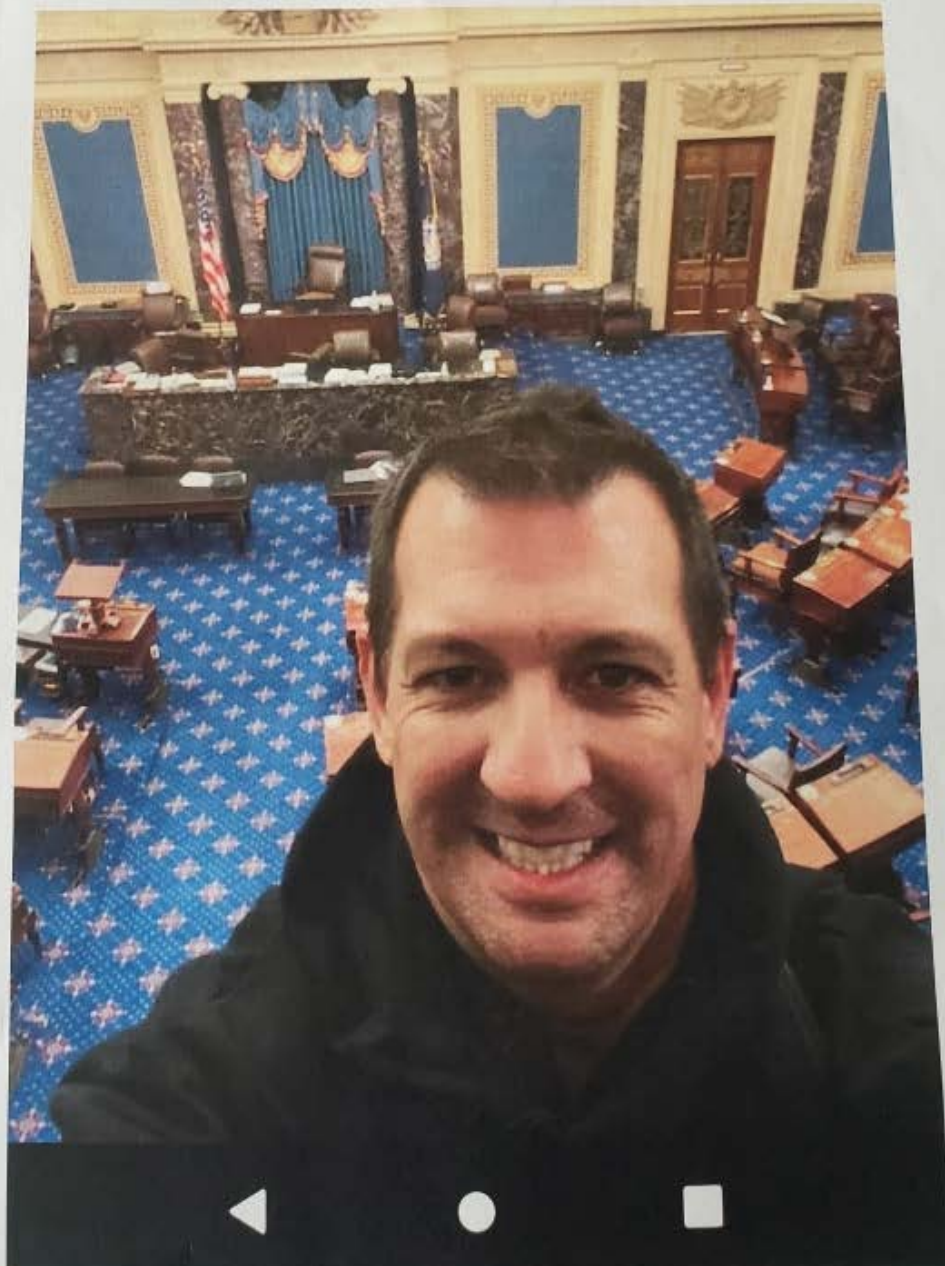
**Tony Mariotto**



35m • 👤

I'm in

And there are just a few This is our house



Law enforcement positively identified the individual in the screen shot as Anthony R. MARIOTTO, a.k.a. "Tony", with an address in Fort Pierce, Florida, based on MARIOTTO's Florida driver's license photograph.

On January 14, 2021, a Special Agent interviewed Citizen 1 over the phone. Citizen 1 stated they also observed at least four videos of MARIOTTO inside the Capitol on January 6, 2021, that were posted to MARIOTTO's Facebook page prior to it being deleted. Citizen 1 reported that the videos were taken inside the Capitol during the riot that took place on January 6, 2021. Citizen 1's also stated they observed video of MARIOTTO's wife in Washington, D.C., on January 6, 2021, on MARIOTTO's Facebook page prior to it being deleted.

The FBI verified through law enforcement database checks that Anthony R. MARIOTTO has a registered address in Fort Pierce, Florida.

On January 16, 2020, a Special Agent with the FBI located MARIOTTO in Epworth, Georgia. A Special Agent interviewed MARIOTTO over the phone. At the start of the conversation, the Special Agent confirmed that he was in fact speaking with MARIOTTO when MARIOTTO identified himself as "Tony." During the call, MARIOTTO also acknowledged that the FBI had his correct Florida address. MARIOTTO admitted that he was present inside the Capitol during the riot that took place on January 6, 2021. MARIOTTO stated he was in Washington D.C., with his wife and listened to President Trump's speech, after which he gathered with the crowd outside the Capitol. MARIOTTO claimed he thought he "was being part of history," and told the Special Agent that he walked through the Capitol chanting "USA." MARIOTTO conceded he knew he was not allowed to be in the Capitol, and stated he would accept full responsibility for his actions.

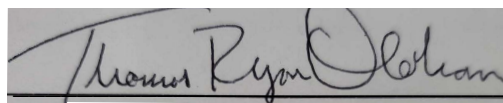
MARIOTTO was instructed to immediately return to Fort Pierce, Florida, and was advised that criminal charges against him were likely forthcoming.

On January 19, 2021, MARIOTTO voluntarily met with a Special Agent and provided the agent with his phone. Pursuant to a search warrant, the FBI processed MARIOTTO's phone. Within the phone is the "selfie" photograph Citizen 1 observed on Facebook, as well as other videos that were recorded inside the Capitol Building during the events of January 6, 2021. After processing the phone, SA May returned the cell phone to MARIOTTO.

Based on the foregoing, your affiant submits that there is probable cause to believe that MARIOTTO 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; or attempts or conspires 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 MARIOTTO violated 40 U.S.C. § 5104(e)(2) (B), (D), and (G), which makes it a crime to willfully and knowingly (B) enter or remain in the gallery of either House of Congress in violation of rules governing admission to the gallery adopted by that House or pursuant to an authorization given by that House; (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.

A handwritten signature in black ink, appearing to read "Thomas R. Olohan", is written over a horizontal line.

Thomas R. Olohan  
Special Agent  
FBI (Washington Field Office)

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 21<sup>st</sup> day of January 2021.

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THE HONORABLE ZIA M. FARUQUI  
U.S. MAGISTRATE JUDGE