

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America
v.
BENJAMIN HENRY TORRE

Case: 1:21-mj-00191
Assigned to: Judge Faruqi, Zia M
Assign Date: 2/2/2021
Description: COMPLAINT W/ARREST WARRANT

Date of Birth: [Redacted]

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 6, 2021 in the county of [Redacted] in the
District of Columbia, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. 1752(a)(1), (2)- Knowingly Entering or Remaining in any Restricted Building or
Grounds Without Lawful Authority;
40 U.S.C. 5104(e)(2)(C)(i), (D) & (G)- Violent Entry and Disorderly Conduct on Capitol
Grounds

This criminal complaint is based on these facts:

See attached statement of facts.

[X] Continued on the attached sheet.

[Redacted Signature]

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone.

Date: 02/02/2021

[Signature]

2021.02.02
19:37:18 -05'00'

Judge's signature

City and state: Washington, D.C.

Zia M. Faruqi, U.S. Magistrate Judge

Printed name and title

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent with the Federal Bureau of Investigation, and have been so since 2019. Currently, I am a 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 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, 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 that 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.

As a part of the investigation into the events on January 6, 2021, the FBI created “Be on the Lookout,” or “BOLO,” fliers for individuals who were captured on video or in photos inside the Capitol building. These BOLOs were then disseminated to the public with requests to contact the FBI with any information about the identity of the individual depicted in the BOLOs. The BOLOs were numbered.

On January 14, 2021, an individual who identified themselves by first name and by where they work (hereinafter “Person 1”) sent an email tip to the FBI identifying the individual in BOLO #77 as Benjamin Torre (“TORRE”). In the tip, Person 1 indicated how they knew TORRE and also provided TORRE’s place of employment, which Person 1 stated was in Dawsonville, Georgia. Person 1 also stated TORRE lived in Gainesville, Georgia. Person 1 further advised that they knew that TORRE had admitted to other people that he had been at the U.S. Capitol on January 6, 2021, and that he had entered the building.

SEEKING INFORMATION

VIOLENCE AT THE UNITED STATES CAPITOL

WASHINGTON, D.C.
JANUARY 6, 2021

Photograph #69 Photograph #70 Photograph #71 Photograph #72 Photograph #73

Photograph #74 Photograph #75 Photograph #76 Photograph #77 Photograph #78

ARRESTED

DETAILS

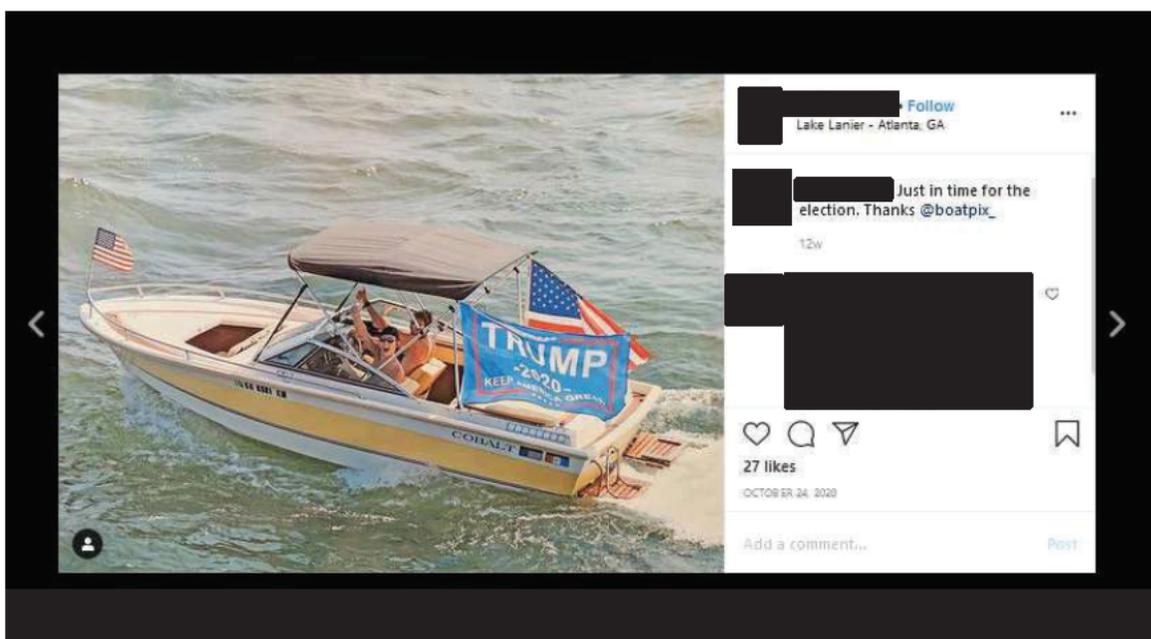
The Federal Bureau of Investigation's (FBI) Washington Field Office is seeking the public's assistance in identifying individuals who made unlawful entry into the United States Capitol Building on January 6, 2021, in Washington, D.C.

Anyone with information regarding these individuals, or anyone who witnessed any unlawful violent actions at the Capitol or near the area, is asked to contact the FBI's Toll-Free Tipline at 1-800-CALL-FBI (1-800-225-5324) to verbally report tips. You may also submit any information, photos, or videos that could be relevant online at [fbi.gov/USCapitol](https://www.fbi.gov/USCapitol). You may also contact your local FBI office or the nearest American Embassy or Consulate.

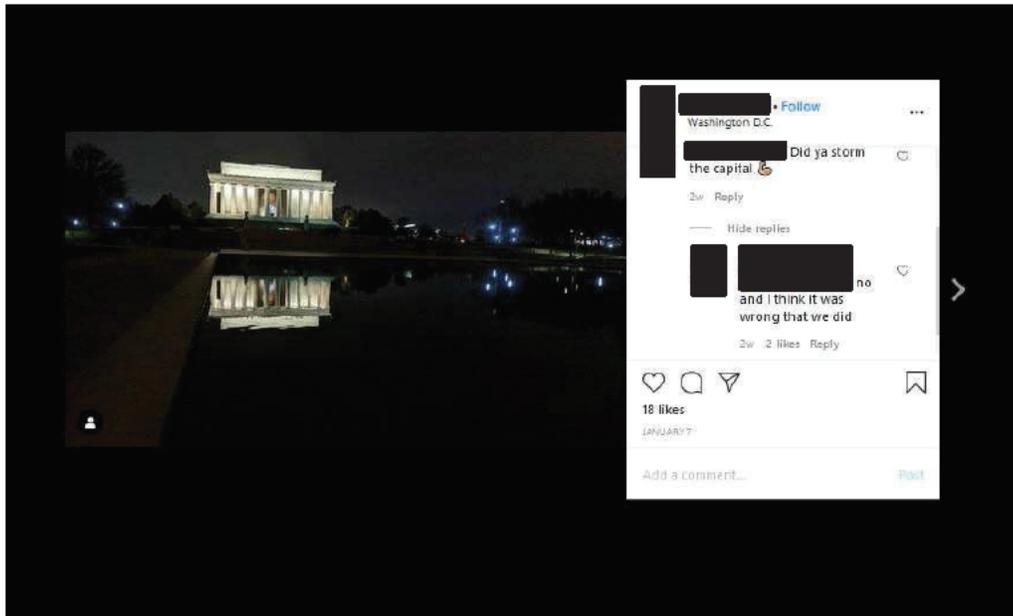
Field Office: Washington D.C.

www.fbi.gov

Law enforcement conducted a search and learned that a Benjamin Henry TORRE had a driver's license in the state of Georgia and an address in Dawsonville, Georgia. (Dawsonville, Georgia is approximately 20 miles from Gainesville, Georgia, where Person 1 reported TORRE lived). An open-source social medial search returned an Instagram page for a "Ben Torre" with an Instagram username or handle of "bhtorre97." A review of publicly available Instagram posts showed that TORRE was tagged in two photographs by an individual who law enforcement later learned had the same name as TORRE's brother. One photograph in which TORRE was tagged was a photo of a boat with a "Trump 2020" flag and two young men in the boat. The photo was dated on Instagram October 24, 2020.



The second Instagram photograph in which TORRE was tagged was posted by the same user. It was a photograph of the Lincoln Memorial at night, and was dated on Instagram January 7. The location listed on Instagram was Washington, D.C. Another Instagram user inquired of the post, "Did ya storm the capital [sic] [arm flex emoji]." The poster replied "no and I think it was wrong that we did."



On January 21, 2021, FBI agents interviewed TORRE at his home in Dawsonville, Georgia. TORRE's parents were present for the interview. During the interview, TORRE admitted that he entered the U.S. Capitol building. TORRE stated that he drove to Washington, D.C., with his family, including his parents, on January 4, 2021. According to TORRE, he did not go to the rally as part of any group, but because he is a "patriot." TORRE stated that he attended the "Stop the Steal" rally, during which he heard President Trump tell the crowd to "peacefully march to the Capitol."

TORRE advised the agents that he approached the U.S. Capitol from the direction of the National Mall, and went towards the left side of the Capitol, which your affiant knows is the west side of the building. TORRE stated that when he arrived there, he observed people break the window of a door with a cane; someone then reached through the broken window and opened the door. While this happened, someone – possibly TORRE – yelled to stop and not break anything.

TORRE reported that a few minutes later "things got a little heated" and that "D.C. Police came and made a line alongside the Capitol" to block people from climbing on the scaffolding. According to TORRE, he believed the police were forcing people to leave the scaffolding so that they would not get injured. TORRE advised the agents that the officers were "completely fine" with all of the "protestors" in front of the Capitol.

TORRE admitted that he entered the U.S. Capitol building by climbing through a broken window. He stated that the window had been broken previously. According to TORRE, after he climbed through the window and entered the building he noticed a piece of large furniture that had "fallen over," and officers standing nearby. TORRE reported that the officers "helped us in Capitol," in that they did not shout or try to stop them from coming into the Capitol. TORRE further stated that he nodded at the officers, and continued into the building.

Your affiant knows that at approximately 2:30 p.m. EST, known and unknown subjects broke windows and pushed past U.S. Capitol Police and supporting law enforcement officers forcing their way into the U.S. Capitol on both the west side and the east side of the building.

According to TORRE, once inside the building, he walked around the building and entered what looked like an office or conference room. The room had what appeared to be a conference table in the middle and a white couch. While in this room, TORRE observed someone pull out a cigarette and light the cigarette. TORRE reported that he thought to himself, "If we were really as violent as people think we are we could take that and light the sofa."

TORRE stated that at one point he saw a line of officers and he spoke to them and said, "We are here in support of you and we back the blue." TORRE reiterated that the officers did not "stop, hinder, or do anything to keep people from inside the Capitol." TORRE then explained that when he left the building, he did so through the same broken window; when he was already half-way through the window, an officer instructed TORRE and another person to exit the building through a doorway instead of through the broken window so they would not get injured.

TORRE claimed that he did not damage any property or engage in violence while inside the building. TORRE stated that he got caught up in the moment when he entered the Capitol, and that some day he could tell his children that he was there that day. TORRE showed agents a photograph on his mobile phone of himself inside the Capitol building on January 6, 2021. TORRE identified himself in the photograph. In the photo, TORRE was posing with a companion, who he refused to identify, and police officers. The agents observed that TORRE was wearing the same clothing in the photograph as he was wearing in BOLO #77.

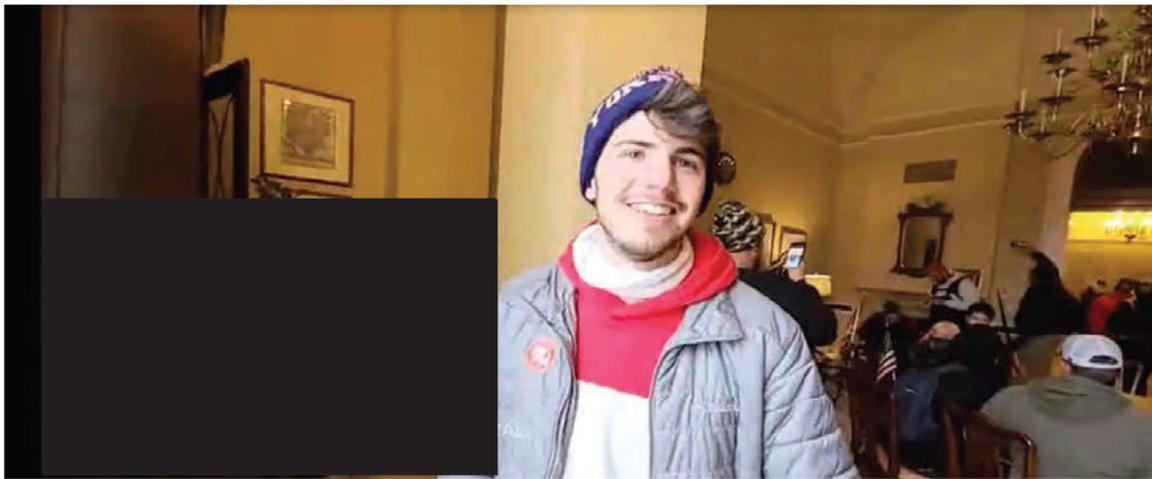
TORRE admitted that he had told some people that he was at the Capitol for the events of January 6, 2021 – although he did not tell them "the full story." TORRE said he was telling those people that what happened "was not what you see on the news. TikTok makes it look really bad. Instagram makes it look really bad." TORRE also confirmed that he was still working for the same employer referenced by Person 1.

On January 25, 2021, agents interviewed an identified individual (hereinafter "Person 2"). Person 2 indicated that they have known TORRE for three (3) years. Person 2 observed BOLO #77, and identified the person in BOLO #77 as TORRE. Person 2 also recognized the jacket and sweatshirt that TORRE was wearing in BOLO #77.

Your affiant has reviewed video footage from the Capitol that was posted by individuals on social media. TORRE was captured in some of that footage, identifiable in part by the clothing he was observed wearing in the photograph he showed the agents and in BOLO #77. One of the videos captured TORRE in a room with a conference table and a white couch. During this video, while in the room with the white couch, TORRE is filmed looking out of a window that faces an exterior plaza of the Capitol. Visible through the window is the back of a police line consistent with the police line that formed in the exterior plaza of the U.S. Capitol Building on January 6, 2021.

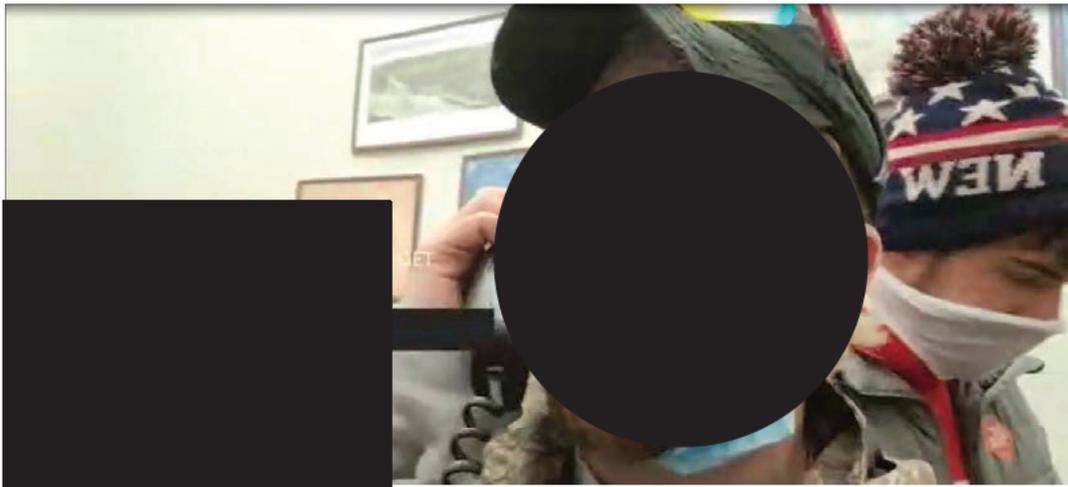
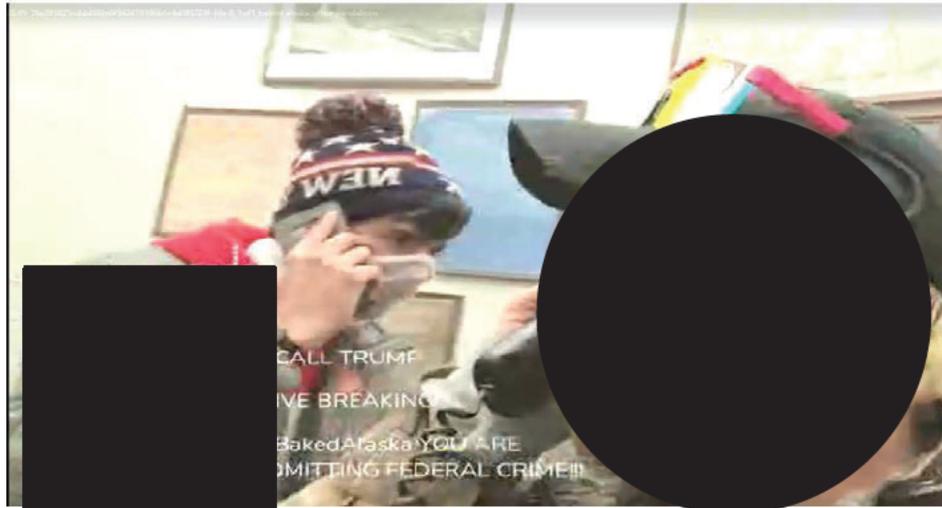


As TORRE moved away from the window, the person recording stated, “This is insane.” TORRE replied, “This is fucking wild man.” TORRE then faced the person recording and stated, “This is crazy. I’ve never seen anything like this before in my life. God dang, dude. I’ve been here so many times in my life, but never like this. Never like this.”



Your affiant corresponded with a member of the U.S. Capitol Police who is familiar with the rooms in the Capitol building. After reviewing still images and discussing with a co-worker, the U.S. Capitol Police member believed that this room, with the conference table and white couch, is the Senate Spouse’s lounge.

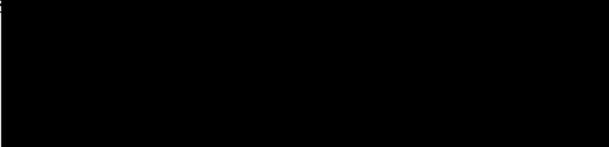
A different video from the same apparent user/recorder captured an individual consistent with TORRE – who was wearing the same grey jacket with a red and white emblem or sticker on the chest, a white and red hooded sweatshirt, and a red, white, and blue winter hat with a pom-pom on top, and who had the same hair color, hair style, and build as TORRE – in a second, smaller room in the Capitol building. This room also had a conference table in the center, but did not have a white couch.



Your affiant corresponded with a member of the U.S. Capitol Police who is familiar with the rooms in the Capitol building. After reviewing still images, the U.S. Capitol Police member believed the second, smaller room where TORRE was observed was room S140, which the U.S. Capitol Police member described as Senator Jeff Merkley's U.S. Capitol building office. The USCP member provided a link to a video recorded and published on Twitter by Senator Merkley. In the video, the Senator documented the damage the rioters caused to the room during the events of January 6, 2021. See <https://mobile.twitter.com/senjeffmerkley/status/1347039504528498688> (last visited Jan. 30, 2021). During the video, Senator Merkley called the room his "hideaway office," and noted that it is a level below the Senate floor. The Senator stated that he had been inside the office before going to the Senate floor that day. Senator Merkley also mentioned in the video that a laptop that had been left on the conference room table was stolen. (Your affiant would note that at the time that TORRE appears inside Senator Merkley's office, numerous people were in the room and no laptop was readily apparent on the conference room table).

Based on the foregoing, your affiant submits that there is probable cause to believe that BENJAMIN HENRY TORRE 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 BENJAMIN HENRY TORRE violated 40 U.S.C. § 5104(e)(2)(C)(i), (D) & (G) which makes it a crime to willfully and knowingly (C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of— (i) either House of Congress or a Member, committee, officer, or employee of Congress, or either House of Congress; or (ii) the Library of Congress; (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


Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 2nd day of February, 2021.





2021.02.02
19:36:53 -05'00'

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE