

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

DAMON MICHAEL BECKLEY

Defendant.

Magistrate No. _____

Violations:

18 U.S.C. § 1752(a)

40 U.S.C. § 5104(e)(2)

UNDER SEAL

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

I, Sean Millett, first being duly sworn, hereby depose and state as follows:

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”). I am assigned to the Washington Field Office Economic Espionage Squad, tasked with investigating criminal activity in and around the Capitol grounds. As an FBI 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.

2. This affidavit is being submitted in support of a criminal complaint and an arrest warrant based on probable cause to believe that DAMON MICHAEL BECKLEY has committed the offenses of Unlawful Entry of a Restricted Building, in violation of Title 18, Section 1752(a), and Disorderly Conduct on Capitol Grounds, in violation of Title 40, Section 5104(e)(2).

3. The facts and information contained in this affidavit are based on my personal knowledge and observations, my review of records and documents obtained during this investigation, information received from other individuals, and my experience and training as a Special Agent.

4. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

STATEMENT OF FACTS

5. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., 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.

6. On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public.

7. 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.

8. 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.

9. 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. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police Officers or other authorized security officials.

10. At such time, the certification proceedings 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.

11. 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, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 pm after the building had been secured. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

12. 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.

13. Your affiant identified DAMON MICHAEL BECKLEY as an individual who was inside the U.S. Capitol building on January 6, 2021, without authority. The FBI obtained at least two videos from YouTube and Witness 1 and one screenshot from Witness 1 depicting BECKLEY on the grounds of the U.S. Capitol on that date. In one video (described below), the portion of the U.S. Capitol grounds on which BECKLEY was depicted is a portion of the restricted grounds under 18 USC § 1752. That is, BECKLEY was inside the restricted area behind the permanent and temporary security barriers which posted, cordoned off, and otherwise restricted public access to the area.

14. One video appears to have been recorded using a cellphone or other handheld device that was taken during the riots in the U.S. Capitol on January 6, 2021. The recording shows scores of individuals climbing up steps and through scaffolding on the exterior of the Capitol. The video shows one man who self identifies as DAMON MICHAEL BECKLEY. BECKLEY appears to be wearing a dark jacket with a lighter grey hood with the hood down, along with a dark colored hat, and baseball cap. BECKLEY (who can be seen speaking on video) audibly states the following in the video:

BECKLEY: Vice President Pence, my name is Damon Michael BECKLEY and I do not appreciate one bit this situation you caused here sir. All this violence and everything was 100 percent unnecessary, okay. Now we've got a girl that's shot, she's dead, laying on the ground in there. We're all crying like we can't save her and you her blood is on your hands Mike Pence

UNSUB: say you saw someone get shot

BECKLEY: they got they shot her right through the neck

UNSUB: i heard that too but i thought it was a rumor

BECKLEY: yeah with a service weapon

BECKLEY: we're not putting up with this tyrannical rule. if we got to come back here and start a revolution and take all of these traitors out, which is what should be done, then we will" (end transcription).

15. The second video also appears to have been recorded using a cellphone or handheld device. During the recording, it appears that the individual recording the video briefly turns the camera around to record the crowd inside the Capitol, at which time BECKLEY is shown in the recording. BECKLEY appears to be wearing a dark jacket with a lighter grey hood with the hood up, along with a dark colored hat, and baseball cap.

16. I have identified BECKLEY as the person depicted in the photograph and videos in the following ways. First, on January 7, 2021, Witness 1, an individual with knowledge of BECKLEY's social media activities contacted the FBI and reported that BECKLEY had posted a photograph of himself inside the Capitol building on January 6, 2021. The affiant obtained several screenshots from Witness 1, at least one of which appeared to depict BECKLEY inside the Capitol building during the riots on January 6, 2021. Second, investigators obtained the Kentucky Department of Motor Vehicle (DMV) photograph of BECKLEY and compared it to video and photograph described herein. The DMV photograph of BECKLEY appears to your affiant to match the individual shown in the videos and screenshots.

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

18. Your affiant submits there is also probable cause to believe that BECKLEY violated 40 U.S.C. § 5104(e)(2)(C), (D), (E) and (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; (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; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

CONCLUSION

19. Based on my training and experience, and the information provided in this affidavit, there is probable cause to believe that on or about January 6, 2021, in the District of Columbia, DAMON MICHAEL BECKLEY did knowingly and willfully commit the offenses of Unlawful Entry of a Restricted Building, in violation of Title 18, Section 1752(a), and Disorderly Conduct on Capitol Grounds, in violation of Title 40, Section 5104(e)(2).



Special Agent Sean Millett
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 14th day of January 2021.

Robin M. Meriweather
U.S. MAGISTRATE JUDGE