

STATEMENT OF FACTS

Your affiant, John M. Mocello, is employed as a Task Force Officer (“TFO”) by the Federal Bureau of Investigation (“FBI”). Specifically, I am assigned to the Washington Field Office, where I am currently tasked with investigating criminal activity in and around the Capitol grounds. As a TFO, 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. Capitol Police officers 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 Capitol, including by breaking windows and by assaulting members of the 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. that same day.

In light of the dangerous circumstances caused by the unlawful entry to the Capitol, including the danger posed by individuals who had entered the Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the Capitol, and law enforcement could confirm the building had been secured. The proceedings resumed at approximately 8:00 p.m. 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 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 7, 2021, the FBI received a tip from the public that HECTOR VARGAS of Jersey City, New Jersey was seen in photographs and videos posted on Facebook and taken inside the Capitol building Rotunda on January 6, 2021. The person providing the tip also indicated that VARGAS had posted photographs and videos from inside the Rotunda on that same day.

A tipster, who will be referenced as T-1, identified VARGAS as the man depicted in the photo below:



FBI Agents interviewed T-1 on January 11, 2021. T-1 has known VARGAS for approximately one year. The two initially met online through a neighborhood watch group. On or about February 3, 2020, the two met in person at a neighborhood watch meeting. At that meeting, VARGAS provided contact information, including his name, residential address, phone number, and email address. T-1 provided a copy of the sign-in sheet for that meeting. Shortly after the February 2020 meeting, the community watch group began meeting virtually. T-1 and VARGAS stayed in contact via phone and Facebook.

Additionally, T-1 advised that VARGAS is well-known in their community because in May 2020 he was featured in the Jersey City Times as an “Unsung Hero” for his community work. Shortly thereafter, in July 2020, other news outlets reported that VARGAS was allegedly stealing donations meant for members of the community. The articles, which T-1 provided to FBI Agents, feature a picture of VARGAS and reference him by name, though one appears to inaccurately report his age. After VARGAS was accused of stealing money, among other offenses, T-1 ceased all contact with VARGAS. And, VARGAS stopped going to community watch meetings. However, the two remained friends on Facebook.

FBI Agents showed T-1 an unlabeled copy of the New Jersey Motor Vehicle Commission photograph for VARGAS, and T-1 positively identified VARGAS.

T-1 further explained that, on January 6, 2021, T-1 saw a photo VARGAS posted to his own Facebook page. In it, VARGAS is tagged “at United States Capitol,” and the photo is captioned “WE THE PEOPLE TOOK OVER THE U.S. CAPITOL. #HOLDTHELINE”:



T-1 shared the post from VARGAS's Facebook page to the neighborhood watch Facebook page. At some point soon after, VARGAS blocked T-1 on Facebook.

Later, a different person, hereinafter referred to as Witness-1 ("W-1"), shared two videos to the same neighborhood watch Facebook page. T-1 saw the shared post on the neighborhood watch Facebook page. Each of the two videos depicts VARGAS inside of the U.S. Capitol. The post sharing the videos is tagged, "Hector Vargas is at United States Capitol." The caption of the post states, "Guys we're INSIDE the chamber. #Trump 2020". A picture of that post is included on page 2 above. After viewing the videos, T-1 notified authorities.

W-1 sent both videos to T-1, who then provided them to FBI Agents. Both videos appear to have been recorded by VARGAS. One of the videos appears to have been taken in "selfie" mode, such that VARGAS is seen holding the phone and speaking into the camera. Before he turns the camera on himself, VARGAS shows a clear view of the U.S. Capitol Rotunda. A still image of that portion of the video is included below:



The also video shows a crowded Rotunda. Then, as depicted below, the camera turns to VARGAS:



VARGAS speaks directly into the camera, stating, “we took over this motherfucker ... we took over this fucking capitol, tell them.”

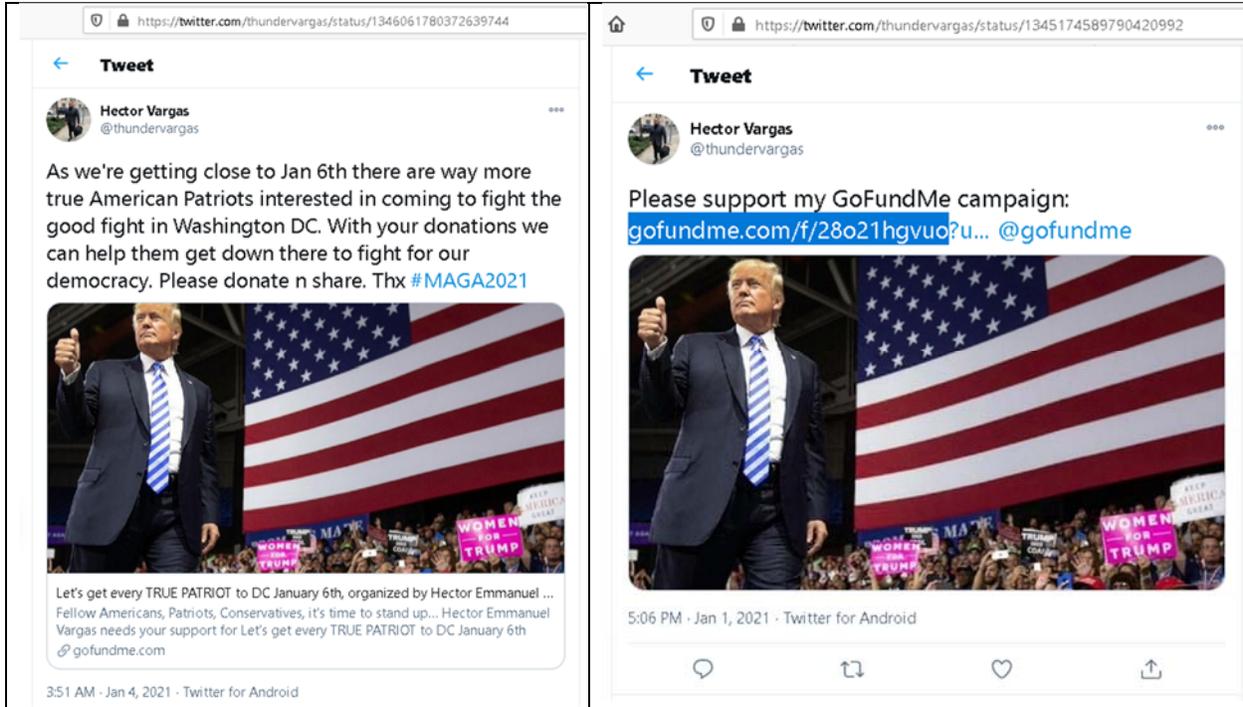
The second video shows individuals leaving the U.S. Capitol building as directed by law enforcement officers.

T-1 provided the following social media information for VARGAS: twitter.com/vargas6105 and facebook.com/hector.vargas.35.

FBI Agents reviewed the Twitter account associated with the username provided by T-1. The account provides clear photographs of VARGAS:



In one of the photos, VARGAS is wearing the same hat seen in the U.S. Capitol Rotunda video. Additionally, VARGAS speaks on Twitter about the January 6, 2021 event:



FBI Agents tried to access the GoFundMe page referenced above. The GoFundMe page has been disabled. Similarly, other social media pages associated with VARGAS that were discovered during the FBI investigation, including HectorGPuertoRico (Facebook) and hectorgsourpr (Instagram), no longer exist.

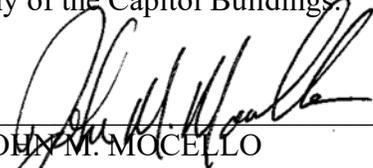
The Facebook page associated with the January 6, 2021 posts and viewed by T-1, "hector.vargas.35," contains the following profile information:



Based on the foregoing, your affiant submits that there is probable cause to believe that VARGAS 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 VARGAS violated 40 U.S.C. § 5104(e)(2)(D), (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.



JOHN M. MOCELLO
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