

## STATEMENT OF FACTS

On January 6, 2021, your affiant, Special Agent James Soltes, was on duty and performing my official duties as a Special Agent with the United States Capitol Police (“USCP”). Specifically, I am assigned to the Criminal Investigations Section, tasked with investigating criminal activity in and around the Capitol grounds. 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 a violation 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. 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 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.

At approximately 2:15 p.m., Capitol Police Officer Fluke, was actively holding a Civil Disturbance Unit (“CDU”) line with other officers with the United States Capitol Police on the outside of the Rotunda Door on the East side on First Street, Southeast. Your affiant has spoken

to Officer Fluke about this incident and has also reviewed photos and reports of this incident described herein.

While holding back hundreds of subjects from reaching the door using CDU shields, Officer Fluke looked to the north of the Rotunda steps landing and observed an individual, later identified as Hunter Ehmke (hereinafter “Ehmke”), wearing a dark grey jacket and dark colored pants, standing on a ledge approximately 3 feet off the ground. Officer Fluke, who is familiar with the U.S. Capitol Building from his employment with the Capitol Police, knew that the ledge had access to a multiple-pane window over 6 foot in height that leads to interior office of the building.

Officer Fluke observed Ehmke pointing towards the window, followed by looking at the crowd to his south and waving his hand as if to summon others over to his position. Ehmke repeated the sequence of gestures again. Officer Fluke shouted out, “They’re going to break the window” during this time in hopes to bring attention from fellow officers. Officer Fluke looked east to focus back on the crowd pushing on the shields and gave orders for the growing crowd to get back. Officer Fluke turned to look north again and observed Ehmke with a balled fist, pulling his arm back and twisting his upper body. Ehmke then swung forward striking a pane of the window about shoulder level of Ehmke. Officer Fluke began to run toward Ehmke while continuing to hold his shield in both hands.

As Officer Fluke reached Ehmke, he shouted, “Get away from the window” and pushed the shield forward striking Ehmke in the lower torso and upper leg on Ehmke’s left side in attempt to push Ehmke away from the window. This disoriented Ehmke, but he remained standing on the ledge. While using the CDU shield again, Officer Fluke attempted to push Ehmke again, causing Ehmke to fall to the ground on the landing. Officer Fluke lost grip of the shield and fell to the ground that was covered in shards of glass. While Ehmke lay face-down on the ground, two other officers with the U.S. Capitol Police pulled Ehmke’s arms behind his back and detained him with handcuffs. Office Fluke stood up and gave orders to the crowd to stay back and set a perimeter.

Officers moved north on the landing to set up a perimeter with CDU shields between a crowd of approximately ten individuals in the immediate area and the two officers, Officer Fluke, and Ehmke. This small perimeter line of officers also blocked possible attempts of breaching the now visibly broken window which, to Officer Fluke’s knowledge, did not show signs of breakage prior to Ehmke striking the window. Ehmke was assisted onto his feet. USCP Officer Mooney obtained Ehmke’s California driver’s license and positively identified him as HUNTER ALLEN EHMKE. You affiant has spoken to Officer Mooney who reported that Ehmke also verbally identified himself. Officer Fluke asked Ehmke if he was injured, and Ehmke’s denied any injuries and there were no injuries visible.

Officer Fluke and Mooney attempted multiple times to go over the radio to advise their situation and seek further instructions. These attempts could not be clearly heard or unable to be broadcasted due to the many other calls of service by USCP officers. As the officers discussed an action plan, the disturbance caused individuals of the crowd facing the Rotunda doors to divert their attention towards the approximately 10 officers in the northwest corner of the landing. Individuals in the throng began to show aggression by pointing fingers and shouting obscenities. One unidentified individual threatened Officer Fluke and the other officers, stating “you’re not

leaving with him”, while pointing in the direction of Officer Fluke and Ehmke. Due to the growing aggression of the large crowd that far outnumbered the officers and the exigent circumstances at the time, officers made the decision to allow Ehmke depart under his own power. Officers took photos of Ehmke and the damaged window. Officers advised Ehmke that his actions were criminal and that they would seek a warrant for his arrest. Ehmke was told to immediately leave the Capitol grounds. Officers maintained custody of Ehmke’s driver’s license upon his release.

Based on the foregoing, your affiant submits that there is probable cause to believe that HUNTER EHMKE violated 18 U.S.C. § 1361, which makes it a crime to damage or destroy government property. The window of the United States Capitol that EHMKE broke is property of the United States government. The Architect of the Capitol has estimated that the cost to replace the broken window is \$2,821.

Your affiant also submits that there is probable cause to believe that HUNTER EHMKE violated 18 U.S.C. § 1521(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so.

Your affiant further submits there is also probable cause to believe that HUNTER EHMKE violated 40 U.S.C. §§ 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) 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.



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Special Agent James Soltes  
United States Capitol Police

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 11<sup>th</sup> day of January 2021.

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ROBIN M. MERIWEATHER  
U.S. MAGISTRATE JUDGE