

## STATEMENT OF FACTS

Your affiant is a Special Agent with the Federal Bureau of Investigation (“FBI”) and I am assigned to the Washington, D.C. field office. Currently, I am 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 were 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 U.S. Congress convened at the U.S. 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 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 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 or about February 22, 2021, the FBI received a tip from an individual (“Witness-1”), identifying MATTHEW DASILVA, who Witness 1 knows personally, as the individual appearing in photograph 230-AFO, which had been disseminated by the FBI for the purpose of identifying individuals involved in the Capitol Riots on January 6. Witness-1 stated that DASILVA works in Texas. In a subsequent interview, Witness-1 said he/she recognized DASILVA in part because of the distinctive scarf he was wearing. A copy of photograph 230-AFO is shown below.



On or about March 30, 2021, the FBI interviewed another individual (“Witness-2”) who knows DASILVA personally. Witness-2 said he/she saw photograph 230-AFO on social media and recognized DASILVA from the red cap he was wearing as well as the black and yellow scarf which he wore almost every day. Witness-2 also recognized the blue/gray camouflage Navy jacket DASILVA wore, and was aware DASILVA had previously been in the Navy. Witness-2 said that DASILVA had a full beard and long hair for years prior to January 6, 2021, but that upon his return from Washington, D.C., he shaved his beard, cut his hair, and stopped wearing the black and yellow scarf.

The FBI obtained a copy of the Texas driver’s license photograph for DASILVA and observed that the individual in the driver’s license photo matches the individual seen in 230-AFO.

I have observed publicly available video of DASILVA, wearing the same red hat, gold/black scarf, and grey camouflage jacket, taken from the area of the Lower West Terrace during the Capitol Riots. In this video, at approximately 4:33 p.m., DASILVA can be seen in the front line of rioters grabbing, pushing, and pulling on the shields held by the U.S. Capitol Police and/or Metropolitan Police Department officers defending the Lower West Terrace archway while other rioters attack the officers. A screenshot from one such video, with DASILVA circled in red, is shown below.



I have also reviewed body-worn camera footage from the law enforcement officers inside the Lower West Terrace archway which show DASILVA's attack on the officers. A screenshot from one of the videos is shown below.



Based on the foregoing, your affiant submits that there is probable cause to believe that MATTHEW DASILVA violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in section 1114 of title 18 while engaged in or on account of the performance of official duties. Persons designated within section 1114 include any person assisting an officer or employee of the United States in the performance of their official duties.

Your affiant submits there is also probable cause to believe that MATTHEW DASILVA violated 18 U.S.C. § 231(a)(3) and § 2, which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully

engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

Your affiant submits that there is also probable cause to believe that MATTHEW DASILVA violated 18 U.S.C. § 1752(a)(1), (2), and (4), which make it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do so; (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; (4) knowingly engages in any act of physical violence against any person or property in any restricted building or grounds; 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.

Finally, your affiant submits there is probable cause to believe that MATTHEW DASILVA violated 40 U.S.C. §§ 5104(e)(2)(D), (F) and (G), which make 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; (F) engage in an act of physical violence in the Grounds or in any of the Capitol Buildings; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 9th day of July, 2021.



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HONORABLE ZIA M. FARUQI  
U.S. MAGISTRATE JUDGE