

## STATEMENT OF FACTS

On January 6, 2021, your affiant, Federal Bureau Investigation (FBI) Special Agent Michael Attard was on duty and performing my official duties as a FBI Special Agent. Specifically, I am assigned to a counter-terrorism squad 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. 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 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, between 1:00 p.m. and 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 January 8, 2021, FBI New York received information from the Office of Public Safety at the Fashion Institute of Technology that several faculty and fellow students who have known Nicolas Anthony MONCADA for at least two years and have engaged with him on campus on a weekly basis, had reviewed several screen shots on social media concerning MONCADA's participation in the rioting at the U.S. Capitol on January 6, 2021. The faculty and fellow students were certain that the images were of MONCADA. In addition, the Office of Public Safety provided FBI New York with the screen shots of social media posts reportedly made by MONCADA via Instagram accounts "the\_ideological\_way" and "idwalkaway" and Twitter account "ideologicalway", all of which identify MONCADA by name, which depict self-photographs and/or first person video depicting rioting and unlawful entry in the U.S. Capitol Complex. These social media posts listed above were observed by several faculty and students of the Fashion Institute of Technology who positively identified MONCADA by name as the individual in the noted screen shots.

In addition, on or about January 8, 2021, FBI New York executed search warrants, issued by the U.S. District Court, Eastern District of New York, on both the Facebook and Twitter accounts believed to be owned and used by MONCADA. The content therein supports the screen shots submitted by Campus Safety at Fashion Institute of Technology. Below are those screen shots believed to be posted by MONCADA which depict MONCADA'S presence on U.S. Capitol grounds during the riot on January 6, 2021.<sup>1</sup> In addition, on or about the same day, law enforcement officers observed that MONCADA posted on his Instagram account a video that your affiant believes to be the scaffolding maintained outside of the U.S. Capitol which depicts what appears to be law enforcement officers standing on the U.S. Capitol steps. In a separate video MONCADA posted what appears to be blood on the steps of the U.S. Capitol. Screen shots captures of those videos are below:

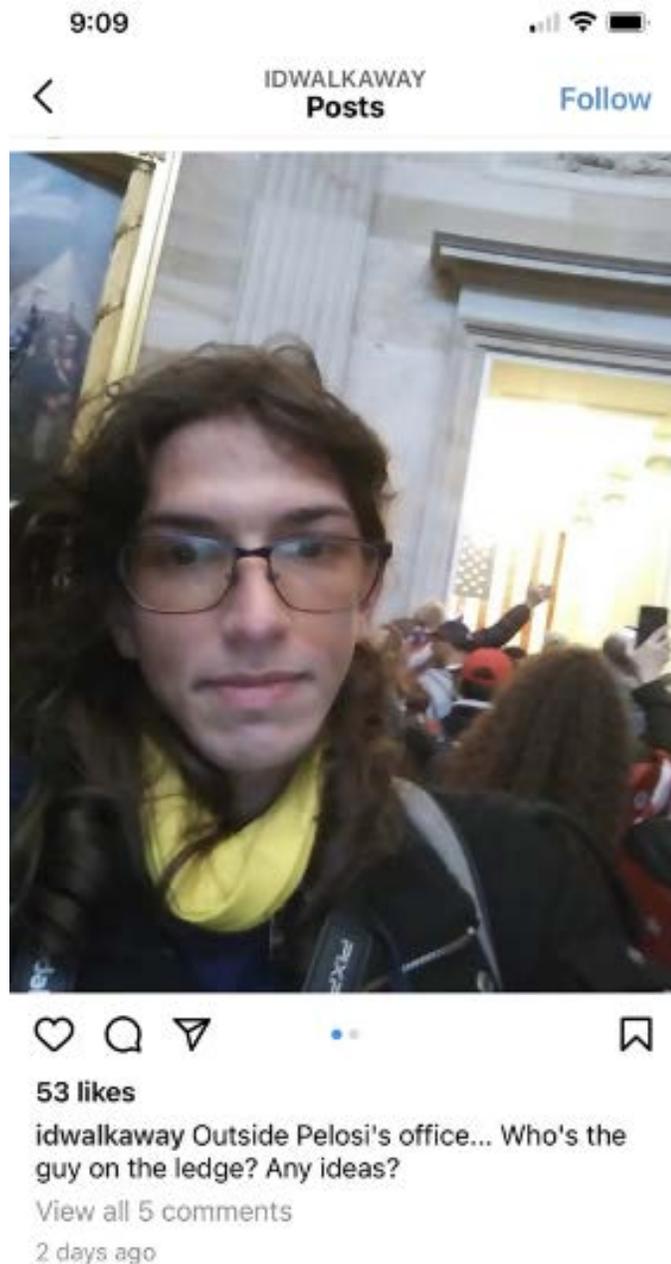
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<sup>1</sup> According to information provided by Facebook, telephone number 917-628-8109 is associated with Instagram account "Idwalkaway". Moreover, according to information provided by Fashion Institute of Technology, telephone number 917-628-8109 is associated with the student record of NICOLAS A. MONCADA.





In addition, on or about the same day, January 6, 2021, MONCADA posted on his Instagram account a photograph of himself that your affiant believes to be inside the Capitol. MONCADA captioned the photograph “Outside Pelosi’s office,” which I understand to be a reference to the Office of Speaker of the House Nancy Pelosi. The image is below:



Also on January 6, 2021, MONCADA posted on Instagram a video taken inside the Capitol during the mob's assault on the building. MONCADA captioned the video "Nothing to see here Instagram!" The video shows rioters screaming at the U.S. Capitol Police Officers. As of the date of this filing, the video appears to have been deleted from MONCADA's Instagram account. A still image of the video is below:



In response to the video MONCADA posted, an individual on the social media account asked MONCADA “what is going on.” MONCADA responded in the comment: “Storming the Capitol Building.” An image of the comment is below:



In another comment responding to MONCADA's video, an individual asked "Where is this ??!" MONCADA responded: "Capitol Building where Senate & House are conducting Electoral Vote Count." An image of the comment is below:



Based on the foregoing, your affiant submits that there is probable cause to believe that MONCADA 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; (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 MONCADA violated 40 U.S.C. § 5104(e)(2)(A) and (G), which makes it a crime to willfully and knowingly (A) enter or remain on the floor of either House of Congress or in any cloakroom or lobby adjacent to that floor, in the Rayburn Room of the House of Representatives, or in the Marble Room of the Senate, unless authorized to do so pursuant to rules adopted, or an authorization given, by that House; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Date: January 16, 2021

  
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SPECIAL AGENT MICHAEL ATTARD  
FEDERAL BUREAU OF  
INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 16th day of January 2021.

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ZIA M. FARUQUI  
UNITED STATES MAGISTRATE JUDGE