

STATEMENT OF FACTS

On January 6, 2021, your affiant, Task Force Officer (“TFO”) Gerald Sheridan was on duty and performing my official duties as a Law Enforcement Officer. Specifically, I am assigned to the Joint Terrorism Task Force (“the JTTF”). 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 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, 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.

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.

Following the riot, JTTF received a report from an individual (“Witness-1”) who is a special agent with the United States Diplomatic Security Service (“the DSS”), an arm of the United States Department of State.¹

Witness-1 reported to DSS, and subsequently to JTTF, that on or about January 6, 2021, Witness-1’s spouse saw a message posted on Defendant Thomas Fee (“Fee”)’s girlfriend’s Facebook account stating that Fee was in Washington D.C. “at the rally.” Witness-1 stated that Witness-1 and Witness-1’s spouse were acquainted with Fee because Fee was the boyfriend of Witness-1’s sister.

Witness-1 stated that, Witness-1 texted Fee and asked him, in sum and substance, if he was in fact in Washington, D.C. Fee responded affirmatively. A short time later, Fee texted Witness-1 a “selfie” photograph of Fee from inside the U.S. Capitol Rotunda. Witness-1 initially deleted the photograph after receiving it, but then was able to recover it on witness 1’s phone. Witness-1 provided DSS with the photograph of Fee inside the U.S. Capitol, and DSS forwarded the photograph to JTTF. The photograph is depicted below:



Witness-1 confirmed to JTTF that the individual closest to the camera at the bottom of the photograph wearing a dark-colored cap and appearing to hold the camera for a “selfie” is Fee. Witness-1 told JTTF that Fee lives in Freeport, New York.

¹ The DSS is tasked in part with protecting diplomatic personnel and facilities of other governments within the United States.

Your affiant subsequently searched the New York State Department of Motor Vehicles (“DMV”) database for an individual named “Thomas Fee” who lives in Freeport, New York. Your affiant reviewed the DMV records and located such an individual who lives at XXXXX, Freeport, New York 11520. Your affiant reviewed the New York State driver’s license records for that individual and, believes that the person depicted in the selfie photograph wearing a dark-colored cap is, in fact, Thomas Fee who lives at XXXXX, Freeport, New York 11520. Fee’s driver’s license photo is presented below for comparison:



Your affiant also sent Witness-1 the driver’s license photograph depicted above. Witness-1 confirmed that the individual in the photograph is the same Fee who was previously known to Witness-1 due to Fee’s relationship with Witness-1’s sister, i.e., the individual depicted in the “selfie” within the U.S. Capitol above.

Witness-1 further stated that on or about January 6, 2021, Fee sent Witness-1 a video from inside the U.S. Capitol, which Witness-1 also deleted but then was able to recover and provide to DSS. Your affiant have reviewed that video and, based on the nature of the video and the other evidence described herein, your affiant believes that Fee took the video. The video shows numerous persons inside the Rotunda of the U.S. Capitol who do not appear to have authorization to be present. In the video, members of the crowd are heard yelling the word “tyranny” and the name “Pelosi,” which your affiant understands to be a reference to the Speaker of the House of Representatives Nancy Pelosi. A still image from the video footage is below:



Witness-1 stated that after Fee sent the video, Fee texted Witness-1, in sum and substance, that he was “at the tip of the spear.”²

In reviewing Fee’s DMV records, your affiant also learned that Fee has a 2020 white Chevy Tahoe with New York license plate number XXXXXXXX registered to him (“Fee’s Chevy Tahoe”). Based on information from law enforcement databases, your affiant was able to determine that Fee’s Chevy Tahoe traveled westbound over the Verrazano Bridge on or about January 5, 2021, at approximately 10:35 a.m.—the day prior to the riot at the U.S. Capitol. Your affiant notes that the Verrazano Bridge would be a convenient crossing of the Hudson River from points east on Long Island, such as Freeport, where Fee resides, to points west and south, such as Washington, D.C. Based on information from those same databases, your affiant knows that on January 7, 2021, at approximately 11:00 a.m.—*i.e.*, the morning after the riot at the U.S. Capitol— Fee’s Chevy Tahoe was recorded traveling back eastbound over Verrazano Bridge.

Based on the foregoing, your affiant submits that there is probable cause to believe that Thomas Fee 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

² Witness 1 was not able to recover and provide that text message communication.

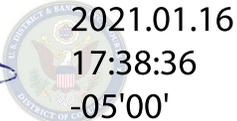
restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a "restricted building" includes a posted, cordoned off, or otherwise 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 Thomas Fee 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.



Gerald Sheridan
Joint Terrorism Task Force

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.



ZIA M. FARUQUI

UNITED STATES MAGISTRATE JUDGE