

## STATEMENT OF FACTS

Your affiant, [REDACTED], is a Task Force Officer with the Federal Bureau of Investigation (“FBI”) New York Field Office and have been since 2019. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Task Force Officer with the FBI, 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 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. 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 scores of individuals inside the U.S. Capitol building without authority to be there, in violation of Federal laws. Photographs and videos of several of these persons were disseminated via social media and other open source online platforms.

According to records obtained through a search warrant served on Google, a mobile device associated with the phone number ending in -8083<sup>1</sup> and Google account t\*\*@f\*\*\*\*\*.com<sup>2</sup> was present at the U.S. Capitol on January 6, 2021 and located within the restricted zone as early as 2:27 pm and as late as 4:36 pm. According to records obtained from AT&T, phone number ending -8083 is subscribed to Thomas UBERTO. According to records obtained from Google, Google account t\*\*@f\*\*\*\*\*.com belongs to Thomas UBERTO.

The FBI reviewed open-source video that shows UBERTO immediately outside the U.S. Capitol on January 6, 2021, as depicted below:



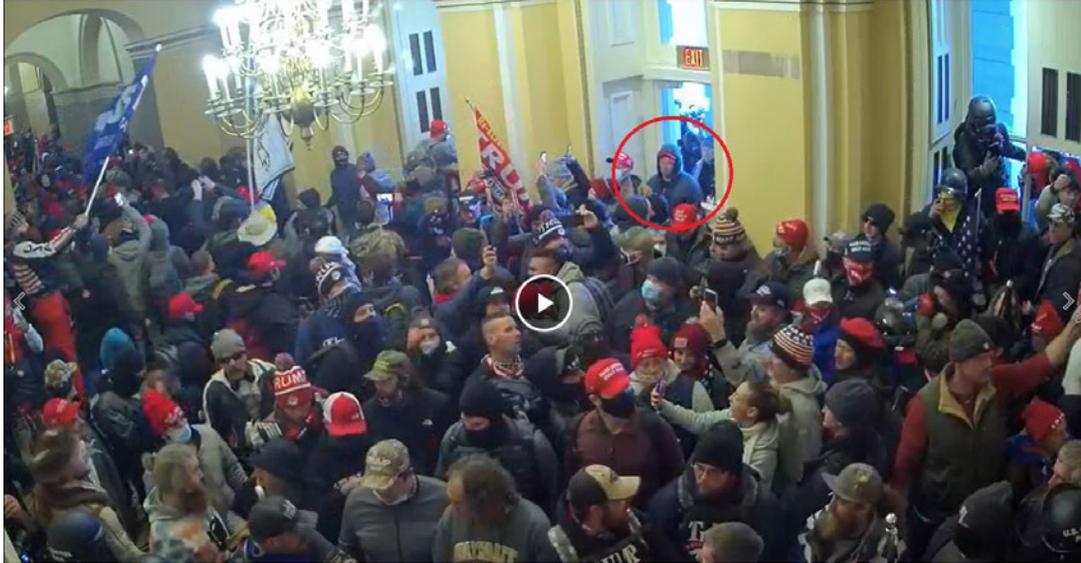
On January 6, 2021, UBERTO was wearing a gray jacket with a hood, a red baseball cap, a red winter hat that said “Trump” and a t-shirt that appears to display a logo consistent with apparel that says, “Stop the Steal.”

Based upon my review of Capitol surveillance footage, UBERTO entered the Capitol on January 6, 2021 through the Senate Wing Door at approximately 2:58 pm, as depicted below:

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<sup>1</sup> This filing references only the last four digits of the phone number due to the public nature of this filing.

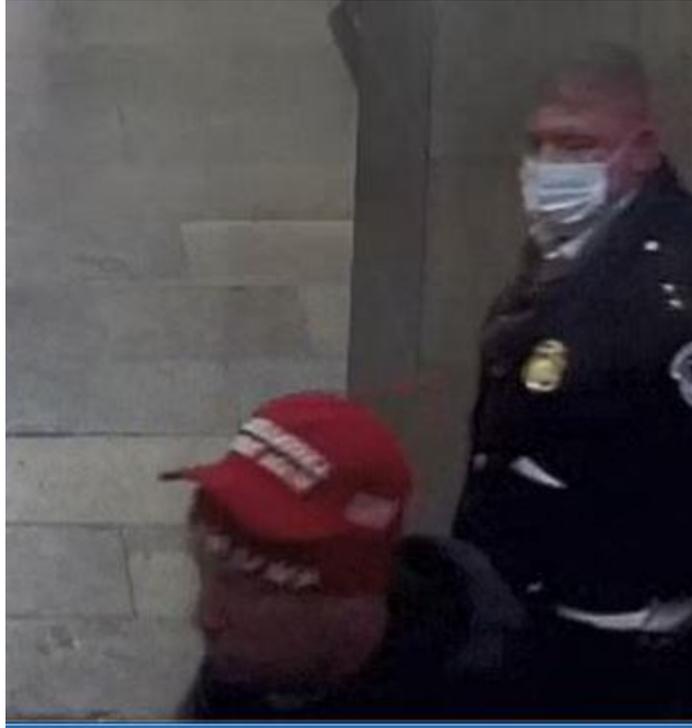
<sup>2</sup> FBI is in possession of the full account name but has anonymized it partially here due to the public nature of this filing.



Upon entering the Capitol, UBERTO turned right and proceeded to walk through the Capitol. At approximately 3:01 pm, UBERTO was near the House Wing Door, as depicted below:



UBERTO was in the Small House Rotunda at approximately 3:04 pm, as depicted below:



UBERTO was in the Hall of Columns at approximately 3:05 pm, as depicted below:

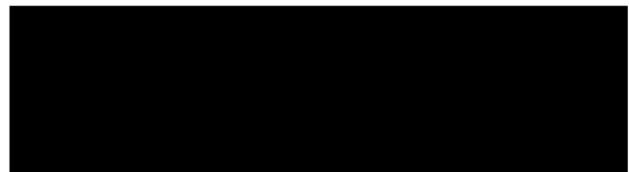


UBERTO then exited the Capitol through the South Doors at approximately 3:06 pm.

On July 28, 2021, your affiant interviewed Witness-1, who has known UBERTO for approximately one year. Witness-1 confirmed the individual in the picture above from the Hall of Columns is Thomas UBERTO. Your affiant has compared the individual in the pictures and videos referenced above to UBERTO's New York State Department of Motor Vehicles photo, and the individual in the pictures and video from the Capitol is consistent with UBERTO's driver's license photograph.

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



Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1  
by telephone, this 5th day of January 2022.

  
  
  
G. Michael Harvey  
2022.01.05  
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HON. G. MICHAEL HARVEY  
U.S. MAGISTRATE JUDGE