

STATEMENT OF FACTS

Your Affiant, George Handey, is a Special Agent with the Federal Bureau of Investigation (FBI) assigned to the Little Rock Joint Terrorism Task Force (JTTF). In my duties as a Special Agent, I have gained training and experience in interviewing and interrogation techniques, arrest procedures, search warrant applications, the execution of searches and seizures, the exploitation of lawfully obtained evidence and data, and various other procedures. In addition to my regular duties, I am also currently reviewing public tips, videos, and documentation, among other evidence, associated with the riots and civil disorder that occurred 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 a violation of Federal criminal laws.

The U.S. Capitol building 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 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 U.S. 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.

Since January 6, 2021, the FBI has been investigating and identifying those who were inside of the Capitol without authority and disrupted the proceedings. During that investigation, a tipster (witness) identified “Brennen Machacek” as one of the individuals illegally inside the Capitol Building. The witness said he had served with Machacek in the military beginning in 2010. The witness provided a publicly available video, wherein Machacek and other protestors, appeared to have been escorted out of the U.S. Capitol building. The witness also provided law enforcement with Facebook posts that indicate that Machacek was inside the U.S. Capitol building during the riot on January 6, 2021.

The screen captures below are from this FBI tip. The first screen capture is from the witness-provided video and shows a person that the witness identified as “Brennen Machacek,” wearing a tan jacket and a camouflage hat, exiting the Memorial Door on the U.S. Capitol building on January 6, 2021:



The video shows that the person the witness identified as Machacek was screaming when he exited the U.S. Capitol building.

The video above was passed within a Facebook group that appeared to be composed of some individuals that served in the military. The witness provided FBI with images of this Facebook thread that included a comment by an individual who called himself “Mrennan Bachacek”, a spoonerism of the Defendant’s name, Brennen Machacek, and the post suggested that the writer was inside the U.S. Capitol building:



Since receiving this tip, I have confirmed that Brennen Machacek served in the military, as the witness indicated. Indeed, I obtained Machacek’s military records and they show he was in the military in 2010, as the witness also indicated.

I also reviewed the Arkansas driver’s license photo of “Brennen Cline Machacek” and confirmed the individual in the video, sent by the witness, looked just like the individual in Brennen Machacek’s driver’s license photo. Indeed, I believe they are the same person.

I also reviewed U.S. Capitol security video from January 6, 2021, looking for images of Machacek. I observed that a person who looks like Machacek entered through a window next to the Senate Wing Door, wandered through the U.S. Capitol, before exiting the U.S. Capitol building. I compared images of this individual to the face on Brennen Cline Machacek’s driver’s license photo, and I believe they are the same person. Below are several images from this U.S. Capitol security video, showing the person that I believe to be Machacek circled in green:







During my review of this case, I also reviewed ground-level video taken from another entrant into the U.S. Capitol building on January 6, 2021. At one point, the individual recording this video wandered through the crowd that stood just within the Senate Wing Door, the location shown in some of the images included above. This video captured an image of the person I believe to be

Machacek. Indeed, the physical appearance and location of this person matches the U.S. Capitol security video discussed above. An additional still image is included below. The individual whom I believe to be Machacek is circled below.



On May 26, 2021, an email of a still image from U.S. Capitol security video was sent to the witness previously mentioned in this affidavit. The witness was asked if the witness recognized anyone in the video and was told to “feel free to circle or highlight” the person “that you recognize.”

The witnesses’s reply included a slightly modified copy of the image that was sent to the witness and the witness stated:

“I have circled in red an individual I strongly believe to be Brennan Machacek near the top right corner of the photo. The facial features are very similar and he is wearing the same tan jacket and black and maybe green or a forest camouflage ball cap. Please feel free to reach out if you have any questions.”

Here is the image that this witness returned to FBI:



Out of the large crowd, the witness circled the individual that I also believe to be Brennen Machacek. It is the same person who came through the window next to the Senate Wing Door and is shown in the Capitol Security video images submitted within this affidavit. It is also the person that the witness said was “Brennan Machacek” who exited the Memorial Door, as shown above in the first screen capture.

A search warrant was served on Verizon Communications Inc., for records identifying devices having utilized the cell site consistent with providing service to a geographic area that included the interior of the U.S. Capitol Building on January 6, 2021. A device registered to Brennen Machacek and phone number ending with 4739 was identified.

On July 22, 2021, United States Magistrate Judge G. Michael Harvey authorized a search warrant for Verizon’s records for Machacek’s telephone number ending in 4739. According to records, obtained through this search warrant, the telephone number ending in 4739 was identified as having utilized cell sites consistent with providing service to a geographic area within the vicinity of the U.S. Capitol, and within Washington D.C. These Verizon’s records identified the subscriber as “BRENNEN MACHACEK” and provided a contact address to a specific address in “HINDSVILLE, AR” (Arkansas). I searched Arkansas driver’s license records and found that Brennen Machacek’s driver’s license records provided the same address in Hindsville, Arkansas, identified within Verizon’s response. I do note, however, that the Verizon records also stated that Brennen Machacek also used a specific PO Box in Wesley, Arkansas, a town that is eleven miles from Hindsville.

On April 2, 2021 an attorney for Machacek notified the FBI that Machacek is represented by counsel and will not provide a statement.

Based on the foregoing, your Affiant submits that there is probable cause to believe that Machacek 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 so; 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. 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 Machacek 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.



George Handey
Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 12th day of December, 2022.

HONORABLE ROBIN MERIWEATHER
UNITED STATES MAGISTRATE JUDGE