

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent with the Federal Bureau of Investigation (“FBI”), currently assigned to the Philadelphia Division South Jersey Resident Agency. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, and 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 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 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 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.

Evidence Linking DONALD SMITH to Assault on the U.S. Capitol

On or about January 9, 2021, an anonymous online tip was submitted to the FBI National Threat Operations Center via tips.fbi.gov. The tip stated the following: “Donald smith of NJ who works at lawnside UPS was part of the group that stormed the capital building this week. He has videos on his phone and was bragging about it at work.”

On or about January 12, 2021, the FBI received a tip from an individual known to law enforcement (“Witness-1”) via the online portal located at <http://www.fbi.gov/USCapitol>. The tip from Witness-1 stated the following: “I work with a man who showed up with pictures and video of him and others storming the white house. He says he was in Nancy Pelosis office and that it was the best day of his life. I do not condone these actions and would like to report him. His name is Donald Smith and we work at UPS in Lawnside NJ. I have a picture of him. Thank you in advance for your help.” The photograph provided by Witness-1 is shown below.



On or about January 13, 2021, the FBI received a tip from another individual known to law enforcement (“Witness-2”) via the online portal located at <http://www.fbi.gov/USCapitol>. The tip from Witness-2 stated the following: “This mans name is Donald Smith work at UPS Lawnside NJ.” Witness-2 provided the photograph below, which appears to be a photo of a television showing news coverage of the January 6, 2021, riot at the Capitol Building.¹



¹ Law enforcement attempted to interview Witness-2 but has not been able to speak with Witness-2.

A search of the New Jersey Department of Motor Vehicles (“DMV”) for Donald Smith yielded numerous Donald Smith’s throughout the State of New Jersey. A search of the New Jersey Department of Labor and Workforce Development yielded one Donald Smith employed by the United Parcel Service (“UPS”). The FBI obtained DMV records specifically for a driver’s license photograph of the Donald Smith employed by UPS. Your affiant compared the photograph provided by Witness-1 to the driver’s license photograph. The photograph provided by Witness-1 appears consistent with the individual in the DMV photograph of Donald Smith (“DONALD SMITH”).

On or about May 12, 2021, your affiant conducted an in-person interview with Witness-1 who works with DONALD SMITH at UPS. Witness-1 provided your affiant with DONALD SMITH’s cell phone number. Witness-1 stated that DONALD SMITH was not at work on January 6, 2021. According to Witness-1, when DONALD SMITH returned to work on January 7, 2021, he gloated about being at the U.S. Capitol on January 6, 2021, and being in House Speaker Nancy Pelosi’s office. Witness-1 also stated that DONALD SMITH showed photographs from the U.S. Capitol to his colleagues.

On or about May 14, 2021, your affiant conducted an in-person interview with another UPS employee (“Witness-3”) who works with DONALD SMITH. Witness-3 told your affiant that DONALD SMITH was not at work on January 6, 2021. Witness-3 stated that when DONALD SMITH returned to work on January 7, 2021, he was asked if he stormed the Capitol Building. According to Witness-3, DONALD SMITH replied that he did. Additionally, Witness-3 stated that DONALD SMITH claimed that he had a great time and was in House Speaker Nancy Pelosi’s office. According to Witness-3, in the days after January 6, 2021, another UPS employee (“Witness-4”) saw DONALD SMITH on television news coverage of the January 6, 2021, riot and took photographs of their television. Witness-4 shared the photos with other employees, including Witness-3.² According to Witness-3, the employees, including Witness-3, recognized DONALD SMITH in the photos based on a gray scarf he regularly wore to work. Witness-3 provided the photos to your affiant. Two of the photos provided by Witness-3 are shown below. The words “MURDER THE MEDIA” are written on the door that DONALD SMITH is walking past.



² Law enforcement has not yet interviewed Witness-4.

In the course of your affiant's investigation, your affiant has reviewed surveillance video from the CCTV of the U.S. Capitol Building on January 6, 2021. When reviewing the video from a camera located on the exterior of the Memorial Door, your affiant observed DONALD SMITH, wearing what appears to be the same red wool cap and scarf as in the photos above, walking through the Memorial Door at approximately 3:33 p.m. There appears to be writing on the Memorial Door in the same location as the "MURDER THE MEDIA" writing that is seen in the photos above provided by Witness-3. A screenshot of the video is shown below. DONALD SMITH is circled in red.



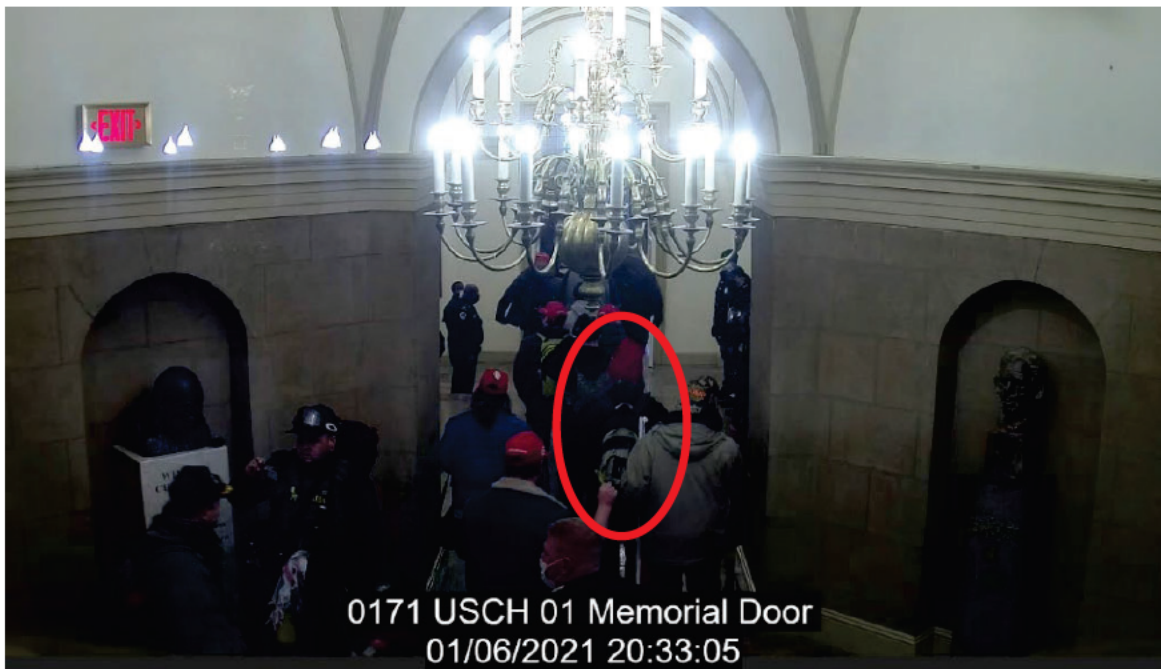
Your affiant also reviewed surveillance video taken by a camera located on the interior of the Memorial Door, which shows DONALD SMITH, wearing a backpack and the same red wool cap as shown above, exiting through Memorial Door. A screenshot of the video is shown below. DONALD SMITH is circled in red.



Your affiant also reviewed surveillance video recorded by a security camera near the interior of the House Wing Door. Your affiant observed DONALD SMITH walking through the hallway near the House Wing Door at approximately 3:02 p.m. He is observed wearing the same red wool cap, face covering, and backpack as in the photos above. Screenshots of the video are shown below. DONALD SMITH is circled in red.



Your affiant reviewed additional surveillance video recorded from another camera located near the interior of the Memorial Door. In that video, at approximately 3:33 p.m., DONALD SMITH is seen walking through the Capitol Building wearing the same red wool cap and carrying the same backpack as the screengrabs above. At one point in the video, he appears to hold up his cell phone. He then appears to head towards the exit of the Capitol Building. Screenshots of the video are shown below. DONALD SMITH is circled in red.





In the course of my investigation, your affiant obtained a search warrant, which was served on T-Mobile US, Inc., for the records associated with the cell phone number of DONALD SMITH, which was provided to the FBI by Witness-1. Based on records received from T-Mobile, the phone number is subscribed by DONALD SMITH with the same date of birth and social security number as the DONALD SMITH identified through the information obtained from the DMV.

Additionally, your affiant reviewed the data session records for DONALD SMITH's phone number. The records show that on the morning of January 6, 2021, at approximately 6:53 a.m., DONALD SMITH's cell phone was located in Lindenwold, New Jersey. Throughout the morning the cell phone moved south from Lindenwold, New Jersey, to Carney's Point, New Jersey, to Newark, Delaware, to Aberdeen, Maryland, to Baltimore, Maryland, to Silver Spring, Maryland, ultimately arrived in Washington, D.C. at approximately 10:08 a.m.

A review of the data sessions on January 6, 2021, from approximately 10:08 a.m. through approximately 6:24 p.m., DONALD SMITH's cell phone was in Washington, D.C. At approximately 6:24 p.m., DONALD SMITH's cell phone travels north from Washington, D.C. to Silver Spring, Maryland, to Baltimore, Maryland, to Aberdeen, Maryland, to Newark, Delaware, to Carney's Point, New Jersey, ultimately arriving in Lindenwold, New Jersey at approximately 9:08 p.m.

Based on the aforementioned evidence, there is probable cause to believe that DONALD SMITH was present inside the U.S. Capitol building during the riot and related offenses that occurred at the U.S. Capitol building, located at 1 First Street, NW, Washington, D.C. 20510 on January 6, 2021 and participated in the obstruction of the Congressional proceedings.

Accordingly, your affiant also submits that there is probable cause to believe that DONALD SMITH 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; 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 DONALD SMITH 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 28th day of July 2021.

A handwritten signature in blue ink, appearing to read "Robin M Meriweather", written over a circular official seal.

2021.07.28
14:19:37 -04'00'

ROBIN M MERIWEATHER
U.S. MAGISTRATE JUDGE