

## STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the Washington Field Office Counterintelligence Squad. As a Special Agent, I investigate violations of the laws of the United States and collect evidence in cases in which the United States is or may be a party in interest. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds 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 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 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 18, 2021 interviewing Agents of the FBI Philadelphia office interviewed Witness 1 (“W-1”), who is a family friend of an individual W-1 identified as Jackson Kostolsky. W-1 was told by Witness 2 (“W-2”), who is also a family friend of Kostolsky, that Kostolsky went to Washington, D.C. on January 6, 2021.

On or about January 18, 2021 interviewing Agents interviewed W-2 who stated that Witness 3 (“W-3”) told W-2 that an individual W-2 identified as Jackson Kostolsky went to Washington, D.C. on January 6, 2021 with a friend. According to W-2, Kostolsky also told W-3 that he had pictures and was inside the U.S. Capitol.

On or about January 18, 2021 interviewing Agents interviewed W-3, who is a close relative of Jackson Kostolsky. W-3 stated that Kostolsky told W-3 that Kostolsky went to the U.S. Capitol on January 6, 2021. W-3 stated Kostolsky went with one friend to the U.S. Capitol, but did not know the friend’s name.

On or about January 18, 2021 interviewing Agents interviewed Jackson Kostolsky DOB XX/XX/1989 of Allentown, Pennsylvania. Kostolsky stated he was inside the U.S. Capitol on January 6, 2021. Kostolsky stated that he entered the U.S. Capitol building through an open door with a group of other individuals and entered about five feet before he was forced out by riot police. While inside the U.S. Capitol, Kostolsky stated that he took a video on his cell phone. At the time of this interview, Kostolsky showed interviewing agents photographs on Kostolsky’s cellular phone of the U.S. Capitol building that were taken in close proximity to the outside of the U.S. Capitol. Kostolsky further stated that he had deleted the video he had taken.

On or about January 22, 2021 interviewing Agents executed a search warrant on Kostolsky’s cell phone. At that time, Kostolsky stated that he had gone to the U.S. Capitol with another individual. The search warrant of Kostolsky’s cell phone revealed photographs and two videos taken outside the U.S. Capitol. There was also one video taken inside the U.S. Capitol. The video from inside the U.S. Capitol had in fact been deleted as Kostolsky had claimed, however, law enforcement was able to recover the file. The timestamp on the video taken from inside the U.S. Capitol was 2:16pm Eastern Standard Time.

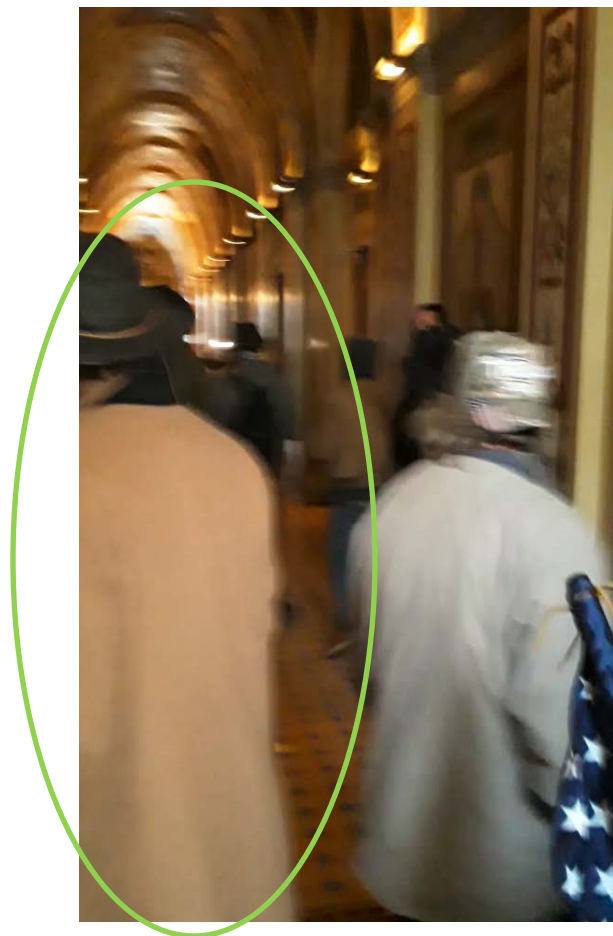
The below photograph was obtained pursuant to the warrant executed on Kostolsky’s cellular phone. In the photograph, which appears to have been taken by Kostolsky himself on January 6, 2021, Kostolsky wore a backwards red hat, sunglasses, and a long-sleeved black shirt with a leopard print vest.



On or about February 10, 2021 your affiant conducted a review of U.S. Capitol security camera footage from camera 0122. At approximately 2:16pm Eastern Standard Time on January 6, 2021 a person believed to be Kostolsky based on the person's clothing, appeared in the U.S. footage. This person remained in the camera's view for approximately ten seconds before he moved out of view back towards the entrance. In addition, a person wearing a long brown coat with a black hat can be seen on the footage from the U.S. Capitol security camera 0122. That person is circled in green on the screenshot from the U.S. Capitol security camera footage below:

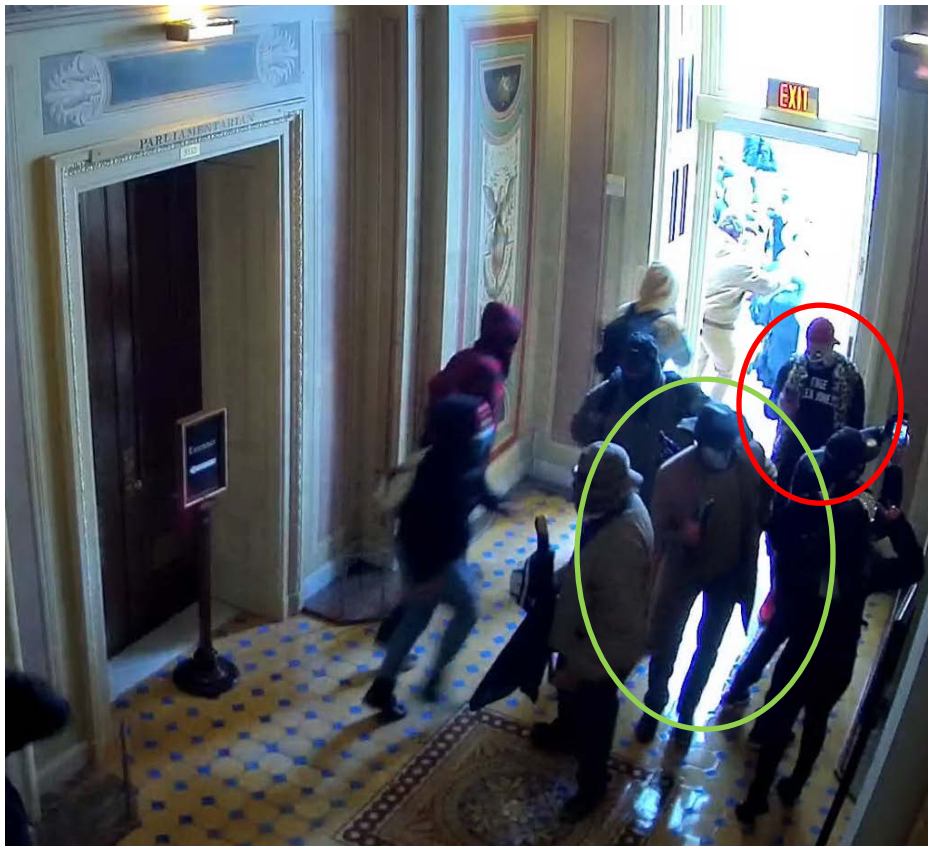


As seen below, in the screenshot from the video obtained pursuant to the search warrant on Kostolsky's phone, the same man in the brown coat is visible:





On or about February 19, 2021 your affiant conducted another review of U.S. Capitol security camera footage from camera 0689. At approximately 2:16pm Eastern Standard Time on January 6, 2021 a person believed to be Kostolsky based on the person's clothing, appeared in the U.S. Capitol camera 0689 footage. This person remained in the camera's view for approximately ten seconds before he moved out of view out of the door. Also, a person wearing a long brown coat with a black hat that appeared in Kostolsky's cell phone video also appeared in the footage from the U.S. Capitol security camera 0689. A screenshot from the U.S. Capitol security camera footage is below:



Based on the foregoing, your affiant submits that there is probable cause to believe that Jackson Kostolsky 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 Jackson Kostolsky 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.

[REDACTED]

[REDACTED]

FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 23<sup>rd</sup> day of February 2021.



2021.02.23

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ZIA M. FARUQUI  
U.S. MAGISTRATE JUDGE