

FILED

NOV -5 2021

**Clerk, U.S. District and
Bankruptcy Courts**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	Case No: 1:21-CR-310 (ABJ) - 01
	:	
	:	
	:	40 U.S.C. § 5104(e)(2)(G)
	:	(Parading Demonstrating, or Picketing in
v.	:	a Capitol Building)
	:	
JOSHUA WAGNER,	:	
	:	
<i>Defendant.</i>	:	

STATEMENT OF OFFENSE

Pursuant to Federal Rule of Criminal Procedure 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, Joshua Wagner, with the concurrence of his attorney, agree and stipulate to the below factual basis for the defendant's guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

The Attack at the U.S. Capitol on January 6, 2021

1. The United States Capitol, which is located at First Street, S.E., in Washington, D.C., is secured 24 hours a day by U.S. Capitol Police. Restrictions around the 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 Capitol.

2. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public.

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3. On January 6, 2021, a joint session of the United States Congress convened at the Capitol. 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 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.

4. As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

5. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades, and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police officers or other authorized security officials.

6. At such time, the certification proceedings were still underway and the exterior doors and windows of the 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 Capitol, including by breaking

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windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the Capitol, requiring the expenditure of more than \$1.4 million for repairs.

7. 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 Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the Capitol, including the danger posed by individuals who had entered the Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

Wagner's Participation in the January 6, 2021, Capitol Riot

8. Wagner, his friend Israel Tutrow, and another individual traveled from Indiana to attend the rally President Donald Trump planned to hold in Washington, D.C., on January 6, 2021. After arriving in Washington that day, they made their way to the Capitol.

9. As he walked to the Capitol with Tutrow and the other individual, Wagner recorded videos on his cellphone that capture his first-person perspective. Wagner joined in and started chants of "Stop the Steal" with others walking to the Capitol. Eventually, he and Tutrow unlawfully entered the Capitol, and both admitted to each other that they entered the building.

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10. Wagner continued recording videos on his cellphone inside the Capitol. In one of the videos captured inside the Capitol Crypt, a police officer asked Wagner move to another area within that space. Wagner then joined in chants of "U.S.A." and "F*** Joe Biden." At another point, the same officer again asked Wagner to move within the Crypt. Wagner responded, "This is our house," and stated shortly after that, "We need to start barricading so they can't enter."

11. Capitol surveillance video showed Wagner leaving the Capitol near the Senate Wing Door at approximately 3:35 p.m. Wagner recorded video of himself exiting through an open window.

12. Other videos Wagner recorded on Capitol grounds captured him making numerous statements about the situation at the Capitol on January 6, 2021, including:

- While observing officers protecting the Capitol: "That's treason right there";
- To other rioters: "Hold your positions. We will lose our ground if we keep retreating back. We'll occupy this ground for as long as we can";
- To Tutrow: "They're traitors, dude. Why does no one have ARs and s***, dude? Dude, we could literally take it over right now, dude"; and
- "Stop the Tyranny."

13. Wagner knew at the time he entered the Capitol that he did not have permission to enter the building and he paraded, demonstrated, or picketed inside the building.

Respectfully submitted,

CHANNING D. PHILLIPS
Acting United States Attorney
D.C. Bar No. 415793

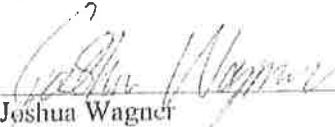
By: /s/ Seth Adam Meinero
SETH ADAM MEINERO
Trial Attorney
Detailee
D.C. Bar No. 976587

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DEFENDANT'S ACKNOWLEDGMENT

I, Joshua Wagner, have read this Statement of Offense and have discussed it with my attorney. I fully understand this Statement of Offense. I agree and acknowledge by my signature that this Statement of Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of Offense fully.


Date: 11-1-21


Joshua Wagner
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of Offense and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: 11-2-21


Chris Leibig, Esq.
Attorney for Defendant

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