

## STATEMENT OF FACTS

Your affiant is a Special Agent with the Federal Bureau of Investigation (“FBI”). I am currently assigned to the FBI Dallas Division, Frisco Resident Agency. I have been employed as a Special Agent of the FBI since July 2006, and I am currently assigned to investigate terrorism matters. I am currently tasked with investigating criminal activity in and around the United States Capitol grounds on January 6, 2021. During my employment time as a law enforcement officer, I have conducted numerous federal investigations of criminal enterprises and individual criminal activity concerning a wide variety of federal criminal violations. As a Special Agent, I am authorized by law or by a Government agency to engage in 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 6, 2021, an individual, confidential witness-1 (“CW-1”), submitted an online tip to FBI regarding an individual, later identified as Kerry Wayne Persick (“Persick”), believed to be inside the U.S. Capitol on January 6, 2021. CW-1 submitted to FBI the following image of the individual identified as Persick. In the below image, Persick is wearing a red baseball cap with “MAKE AMERICA GREAT AGAIN” logo and sunglasses.



On or about February 24, 2021, your affiant reviewed video taken inside of the U.S. Capitol on January 6, 2021. Your affiant observed Persick inside the U.S. Capitol on January 6, 2021, wearing a dark color jacket, a backpack, and red baseball cap with “MAKE AMERICA GREAT AGAIN” logo. The below images show Persick walking in a corridor located in a restricted area of the U.S. Capitol on January 6, 2021. The images below show Persick wearing a dark color jacket, a backpack, and red baseball cap with “MAKE AMERICA GREAT AGAIN” logo.



On or about March 2, 2021, your affiant conducted an interview with CW-1 over the telephone. The following is not intended to be a verbatim account of the interview and is intended to be a summary of the interview. CW-1 stated that on January 6, 2021, an individual texted CW-1 a picture of Persick in Washington, D.C. CW-1 stated that in the picture Persick was wearing sunglasses and behind him was a crowd of people. In addition, the same individual texted CW-1 a short video, which CW-1 alleged was recorded by Persick while inside the U.S. Capitol on January 6, 2021. CW-1 stated that in the video CW-1 observed a line of people walking in a hallway toward the Rotunda area of the U.S. Capitol. CW-1 stated that Persick did not record himself in the video. CW-1 did not provide FBI with the name or number of the individual who texted CW-1 the picture of Persick and short video.

On or about March 24, 2021, FBI SAs conducted an in-person interview with CW-1. The following is not intended to be a verbatim account of the interview and is intended to be a summary of the interview. CW-1 indicated that he/she has known Persick for approximately 20 years. CW-1 stated that he/she saw Persick approximately one year ago. Your affiant showed CW-1 the below images taken from video inside of the U.S. Capitol on January 6, 2021.



After reviewing the two images above, CW-1 positively identified Persick as the individual wearing a dark color jacket, a backpack, and red baseball cap with "MAKE AMERICA GREAT AGAIN" logo.

Additional FBI investigation revealed the cellphone associated with the number (940) 782-3699 is utilized by Persick. According to records obtained through a search warrant, which was served on AT&T, on January 6, 2021, in and around the time of the incident, the cellphone associated with the number (940) 782-3699, was identified as having utilized a cell site tower consistent with providing service to a geographic area that included the interior of the United States Capitol building.

Based on the aforementioned evidence, there is probable cause to believe that Persick was present inside the U.S. Capitol on January 6, 2021, during the riot and related offenses that occurred at the U.S. Capitol Building, located at First Street, SE, Washington, D.C.

Accordingly, your affiant submits that there is probable cause to believe that Persick 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 Persick 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 13<sup>TH</sup> day of May 2021.



A handwritten signature in blue ink, appearing to read "ZMF".

2021.05.13

18:18:40 -04'00'

ZIA M. FARUQUI  
U.S. MAGISTRATE JUDGE