

STATEMENT OF FACTS

On January 6, 2021, your affiant, Jennifer Schick, was on duty and performing my official duties as a Special Agent with the Federal Bureau of Investigation (“FBI”). Specifically, I am currently tasked with investigating criminal activity in and around the Capitol grounds. 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 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 January 6, 2021, at 4:13 p.m., Nicholas Ochs,¹ a resident of Hawaii, posted a photograph to his Twitter account, @OchsForHawaii, with the caption, “Hello from the Capital lol,” which appears to depict Ochs next to a male who was unknown at the time, both of whom are smoking inside the Capitol Building. Ochs is in the below photograph on the right; the unknown male wearing sunglasses and a white hat on the left.



Hello from the Capital lol



On January 13, 2021, W-1 (“IT”) reported to the FBI that IT knew the identity of the second person in the photograph: Nicholas DeCarlo a/k/a Dick Necarlo a/k/a Dick Lambaste (“DeCARLO”). Your affiant has since compared identification photos from the State of Texas to the photographs and videos mentioned throughout this affidavit and can further confirm DeCARLO’s identity.

Open source reporting also identified DeCARLO and Ochs on a video posted to YouTube entitled “BlackVill'd: Twas The Night Before REVOLUTION!!!!” The video streamed live on January 6, 2021 (in the early morning hours) and appeared to show DeCARLO and Ochs walking in the streets of Washington D.C. among a crowd of others who were also walking in the same general direction.

¹ Ochs has been charged by complaint for his conduct in the Capitol in case number 21-mj-15 (GMH)

After leaving the Capitol on January 6, 2021, Ochs posted a video to his account on the social media site Telegram, which was then posted on Twitter by the Evidence-Based Cybersecurity Research Group (@evidencebasedc1).² The video, which Ochs appears to have recorded on a cell phone, shows Ochs and DeCARLO walking down a sidewalk in front of some row homes. Ochs states, “Viewers, . . . we have some good news: . . . We have just, uh, peeked through this window, and on the television the headline reads that Congress stopped the vote when we stormed the Capitol. And, as we’ve been saying all day, we came here to stop the steal,” to which DeCARLO interjects “we did it.” Ochs continues, “we were being sarcastic, but we didn’t know we were actually going to” DeCARLO then asks, “Wait, you were being sarcastic?” Ochs replies, “I was being a bit facetious,” to which DeCARLO replies, “Oh no, that’s what I came down here to do. We fucking did it.” Ochs then says words to the effect of, “It may resume, but the steal is for now stopped. You’re welcome, America!” to which DeCARLO replies “we did our job. We did our job.”

Also after the events on January 6, 2021, DeCARLO gave an interview to the *LA Times*³ on January 13, 2021, in which he also admitted to being inside the Capitol Building. DeCARLO claimed that he and OCHS were working as journalists, but DeCARLO is not listed as a credentialed reporter with the House Periodical Press Gallery or the U.S. Senate Press Gallery, the organizations that credential Congressional correspondents. The *LA Times* identified the “Thunderdome TV” channel on YouTube as one of the media platform from which DeCARLO and Ochs operate (in addition to BlackVill’d). That channel has fewer than 600 followers and less than 6,000 views since its creation on YouTube in 2012. Your affiant has also learned that DeCARLO purports to be an employee of “MT Media News”, which stands for Murder the Media News.

Finally, further investigation has uncovered additional photographic evidence of DeCARLO inside the U.S. Capitol and on its grounds on January 6, 2021. One such photograph depicts DeCARLO and Ochs posing in front of a door inside the Capitol. On the door your affiant can see that “Murder The Media” has been etched into the door. DeCARLO is wearing a “Murder The Media” shirt and hat while posing in front of the door. DeCARLO’s clothing appears to be the same that he is wearing in Och’s aforementioned Twitter post from which DeCARLO was identified. That photograph can be found below:

² @evidencebasedc1 is the official Twitter account for the Evidence-Based Cybersecurity Research Group, a research group that is part of the Georgia State University system which “seeks to produce empirical evidence and provide systematic reviews of existing empirical research regarding the potential effect of existing cyber-security policies and tools in preventing the development and progression of cyber crimes”. See <https://ebcs.gsu.edu/about/>.

³ <https://www.latimes.com/world-nation/story/2021-01-13/some-who-stormed-the-capitol-insist-what-i-did-was-journalism>



DeCARLO (left) and Ochs (middle) also appear below posing next to Jacob Chansley⁴ (right) in a MT Media post. Each appear to be wearing the same clothing they were wearing during the breach of the Capitol on January 6, 2021:

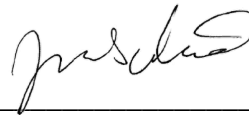


⁴ Chansley has been indicted for his conduct at the Capitol in 21-cr-3 (RCL).

Based on the foregoing, your affiant submits that there is probable cause to believe that Nicholas DeCARLO 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 Nicholas DeCARLO violated 40 U.S.C. § 5104(e)(2)(G), which makes it a crime to willfully and knowingly parade, demonstrate, or picket in any of the Capitol Buildings.

Finally, your affiant submits there is probable cause to believe that Nicholas DeCARLO violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.



Jennifer Schuck
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 19th day of January 2021.

ZIA M. FARUQUI, U.S. MAGISTRATE JUDGE