

## **STATEMENT OF FACTS**

1. Your affiant, Kellen Grogan, is a Special Agent with the Federal Bureau of Investigation. I have served as a Special Agent with the FBI since March 2012. Since January 2016 I have been assigned to one of the Washington Field Office's Extraterritorial Counterterrorism squads and before that to its Joint Terrorism Task Force. Prior to my employment with the FBI, I was a law enforcement officer in the United States Air Force and Air Force Reserves for approximately ten years. 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 a violation of Federal criminal laws.

2. Since I became involved in this investigation on January 6, 2021, I have conducted interviews, reviewed public tips, reviewed publicly available photos and video, and reviewed relevant documents, among other things. The facts in this affidavit come from my review of the evidence, my personal observations, my training and experience, and information obtained from other agents and witnesses. Except as explicitly set forth below, I have not distinguished in this affidavit between facts of which I have personal knowledge and facts of which I have hearsay knowledge. Because this Affidavit is submitted for the limited purpose of establishing probable cause to support an application for an arrest warrant, it does not contain every fact known by me or the United States.

3. 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.

4. 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.

5. 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.

6. 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.

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 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.

8. 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.

9. Two individuals contacted the FBI tip line and stated that they observed CNN footage of PHILIP GRILLO inside the Capitol on January 6, 2021.

10. On January 14, 2021, the FBI received an anonymous tip from an individual hereinafter referred to as WITNESS 1. WITNESS 1 stated that s/he saw PHILIP GRILLO “storm[.]” into the Capitol on CNN footage. WITNESS 1 also said, “I saw him twice in CNN in two separate incidents”. WITNESS 1 stated that s/he knew GRILLO from growing up with him in Glen Oaks, New York.

11. On January 18, 2021, a tipster, hereinafter referred to as “WITNESS 2,” contacted the FBI and identified GRILLO from CNN footage. WITNESS 2 included a video and an image taken from his/her cell phone of the CNN footage where s/he identified GRILLO. Screenshots of the image and video WITNESS 2 provided are attached below. The red oval was inserted by your affiant to identify GRILLO.



12. A FBI agent met with WITNESS 2 and showed him/her surveillance footage from inside the U.S. Capitol. WITNESS 2 identified GRILLO in the CCTV footage. WITNESS 2 stated s/he has known GRILLO for decades, growing up with him and going to the same schools. WITNESS 2 stated s/he did not require any aids, such as unique clothing, to identify GRILLO, and stated s/he knows his face. WITNESS 2 also reported that GRILLO was a member of the Knights of Columbus. The CCTV image from which WITNESS 2 identified GRILLO is pasted below.



13. In the course of the investigation, your affiant reviewed video footage recorded from inside the U.S. Capitol. An individual matching GRILLO's description and clothing can be seen in video from the Senate Wing Door climbing into the U.S. Capitol through a broken window at or about 2:20 p.m. GRILLO can be seen holding a megaphone in his hand after entering the building. Screenshots showing GRILLO's entrance and him holding the megaphone are included below. Red circles indicate GRILLO and the megaphone.





14. About fifteen (15) minutes after he entered the U.S. Capitol through the broken window, GRILLO was captured in a different surveillance camera that faces the Capitol Rotunda interior. In this video, GRILLO is seen with a crowd of individuals attempting to exit the Rotunda and gain entry to a separate room that contained doors leading outside, where more protestors were gathered. The crowd's movement is blocked by three Capitol Police officers trying to stop the crowd's progress. Eventually the crowd, including GRILLO, is able to move past the officers and towards the Rotunda's exterior entryway doors. GRILLO was among the first few individuals to

get past the officers, although he followed the individual who was standing in front of him. Screenshots from the video footage are pasted below, with GRILLO indicated by a red circle. At this point, GRILLO no longer appears to be holding a megaphone.

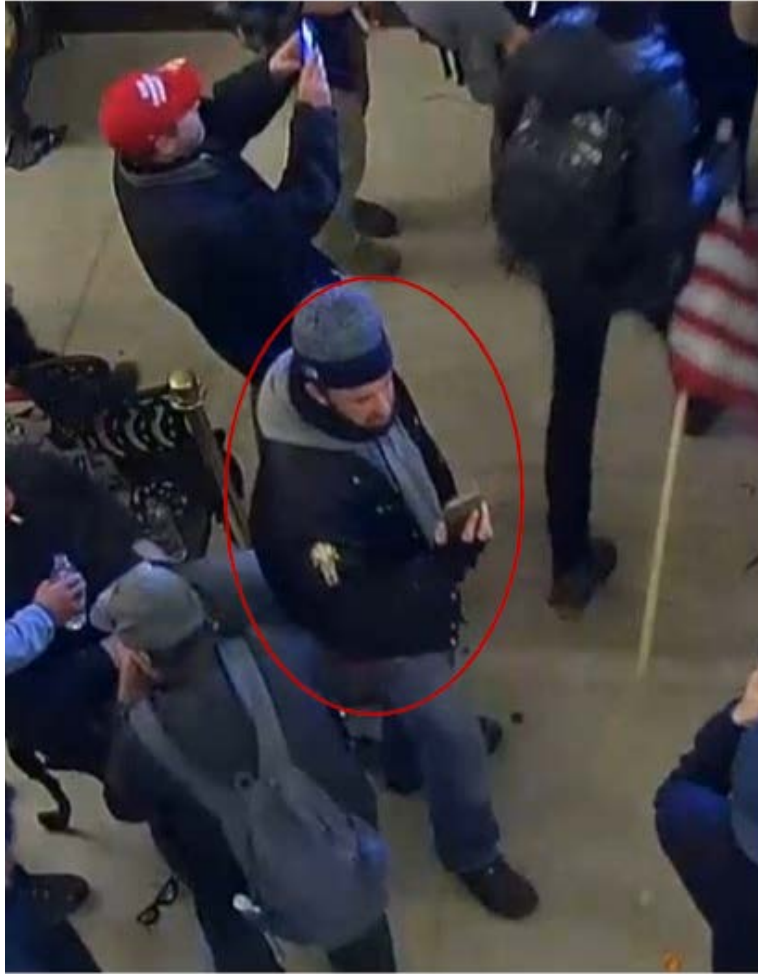


15. Another surveillance video pointed toward the Rotunda exterior doors picked up the crowd after it bypassed the previously-mentioned Capitol Police officers. GRILLO and the large group of individuals approached the exterior entryway doors, which were barricaded with benches. Protestors outdoors were clearly visible through the door's windows. GRILLO and the large crowd gathered at the closed doors while the same three U.S. Capitol Police officers repositioned themselves and again barred the crowd's movement, this time preventing them from opening the exterior doors. GRILLO was able to move about the crowd, eventually moving from the back to the front and directly in front of the officers. The crowd ultimately pushed against the

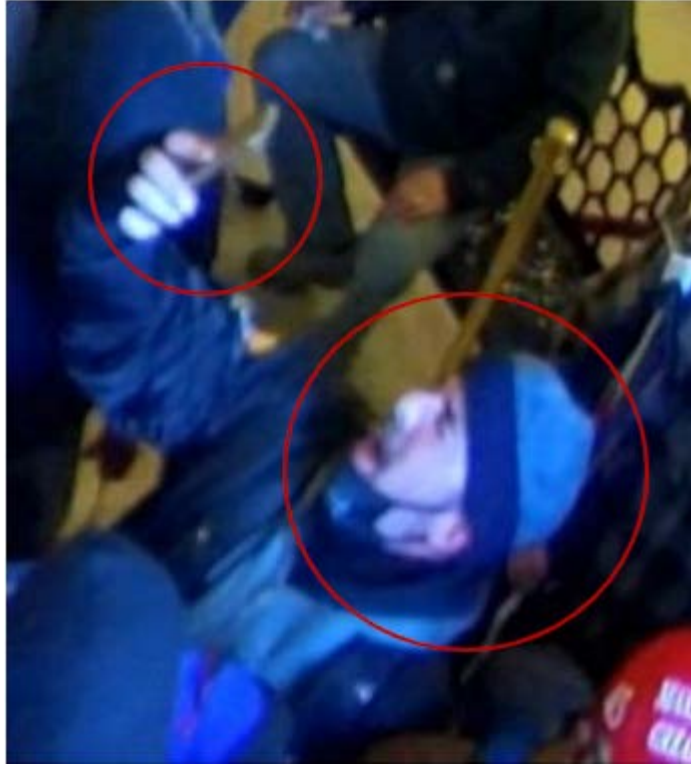
officers and against the doors, forcing them open and allowing individuals located outside to gain entry to the Capitol. At the time the doors were pushed open, GRILLO was standing towards the middle of the crowd and not making direct contact with the officers. Two screenshots from the Rotunda exterior doors footage are attached below, with Grillo indicated by a red marking.







16. Once the doors were opened, allowing more protestors inside the building, GRILLO briefly went through the doors only to re-enter the Capitol moments later and remain inside the Capitol. GRILLO can also clearly be seen recording himself on his cell phone, a screenshot of which is attached below, with red circles to indicate GRILLO and his cell phone.



17. In the same surveillance footage facing the Rotunda exterior doors, GRILLO can be seen wearing a Knights of Columbus, St. Anne's Council #2429, Glen Oaks, New York embroidered jacket. The FBI conducted an open-records check of GRILLO and confirmed GRILLO to be a member of the Knights of Columbus chapter, matching the jacket's description. Additionally, as stated above, WITNESS 2 reported to the agent s/he met with that GRILLO was a member of the Knights of Columbus. A screenshot from this footage is attached below.



18. In video footage found on YouTube, the back of GRILLO's jacket can be more clearly seen. A screenshot is pasted below.



19. In the YouTube footage, which was taken outside the Capitol and near an entryway, GRILLO was with a crowd that is shouting, "Fight for Trump." This crowd was engaged in a physical confrontation with uniformed officers at the entryway. Again, GRILLO was near the front of the crowd. The crowd, including GRILLO, was eventually driven back from the door when officers employed a chemical irritant.

20. From New York State vehicle registration records, the FBI identified GRILLO as the registered owner of a 2019 Chevrolet Traverse with New York State License Plate number HFM4919. A License Plate reader in New York City captured New York License Plate HFM4919 departing New York City at approximately 9:30 p.m. on January 5, 2021 and returning on January 6, 2021 at approximately 11:20 p.m. A Secret Service camera located in Washington, D.C. scanned New York License Plate HFM4919 at approximately 2:10 a.m. on January 6, 2021.

21. According to records obtained through a search warrant that was served on Verizon, on January 6, 2021, in and around the time of the incident, the cellphone associated with 718-970-1908 was identified as having utilized a cell site consistent with providing service to a geographic area that includes the interior of the United States Capitol building. GRILLO's mother listed the above phone number on her passport application as belonging to GRILLO in the point of contact section. The number is registered in GRILLO's mother's name, as are other phone numbers on the same account.

22. On November 11, 2020, GRILLO posted a brief video from the Facebook page of "DONALD J. TRUMP" to his own page. TRUMP's post was captioned with "WE WILL WIN!" and a brief video saying to believe in the impossible.

23. GRILLO's United States Passport Application from March 7, 2017 includes a photograph of GRILLO. The photograph of GRILLO from the passport application appears to be the same person as the individual contained in the January 6, 2021 video footage from inside the U.S. Capitol and identified as GRILLO as described above.

24. Based on the foregoing, your affiant submits that there is probable cause to believe that PHILIP SEAN GRILLO 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.

25. Your affiant submits there is also probable cause to believe that PHILIP SEAN GRILLO 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.

26. Finally, your affiant submits there is probable cause to believe that PHILIP SEAN GRILLO 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.



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Kellen Grogan  
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 21<sup>st</sup> day of February 2021.

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ROBIN M. MERIWEATHER  
U.S. MAGISTRATE JUDGE