

Case: 1:23-mj-00262
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 9/26/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

I have been a Special Agent with the Federal Bureau of Investigation (“FBI”) since [REDACTED]. I am assigned to the [REDACTED], [REDACTED], located in [REDACTED]. As a federal agent, I am authorized to investigate criminal and civil violations of the laws of the United States and to execute search warrants issued under the authority of the United States. While employed by the FBI, I have been the case agent and have participated in investigations involving violations of federal law in the areas of securities fraud, bank robbery, domestic terrorism, white supremacist extremists, gangs and criminal enterprises, and crimes against children.

Background: Events at the U.S. Capitol on January 6, 2021

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, 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.

Identification of Jacob Davis

Following the January 6, 2021, attack on the Capitol, FBI agents reviewed open-source video, body-worn camera (“BWC”) footage of Metropolitan Police Department (“MPD”) officers, and closed-circuit video (“CCV”) maintained by the United States Capitol Police (“USCP”). During that review, agents identified an individual who assaulted and threw debris at law enforcement officers in the Lower West Terrace (“LWT”) “tunnel,” as detailed further below. The subject, later identified as JACOB DAVIS (“DAVIS”), was a white male. On January 6, 2021, DAVIS was wearing red, white, and blue “TRUMP” beanie, black-rimmed glasses, a black “Space Force” hoodie sweatshirt, and a black mask.



Image 1: 353-BOLO Photo A



Image 2: 353-BOLO Photo B

The FBI Office of Public Affairs included then-unknown DAVIS in its “Seeking Information” list. The FBI posted a “Be on the Lookout” (“BOLO”) for the individual depicted above in Images 1 and 2. The posting referred to DAVIS as “353-AFO” and requested the public’s help in identifying him.

According to records obtained through a search warrant and additional legal process served on Google LLC, a mobile device associated with an individual with the last name “Davis” and a phone number ending in [REDACTED] was present at the U.S. Capitol on January 6, 2021. Specifically, the device was on the west side of the U.S. Capitol Building between 2:52 p.m. and 5:10 p.m.

A subsequent search of open-source databases confirmed that DAVIS is connected to several individuals associated with the [REDACTED] number.

I compared the BOLO photos of DAVIS to his Georgia driver’s license photograph and publicly available social media photos. The individual depicted in the BOLO photos appeared to be the person depicted in the driver’s license photo and social media photos.

Additionally, on July 18, 2023, I conducted a voluntary interview with an individual who has known DAVIS for many years (“Witness 1”). When shown several images of DAVIS on January 6, 2021, including Images 1 and 2 depicted above, Witness 1 immediately identified DAVIS as the man in the photos.

Jacob Davis’s Conduct on January 6, 2021

Based on my review of open-source video, USCP CCV, and BWC footage from January 6, 2021, I observed the following:

After attending the “Stop the Steal” rally on the Ellipse, DAVIS made his way to the U.S. Capitol building grounds to join the riot in progress. Arriving on the west side of the building, he proceeded to push his way through hundreds, if not thousands, of people to get to the front of the riot.



Image 3: Davis (circled in yellow) on the west terrace of the Capitol

DAVIS soon made it to the northwest steps of the Capitol building. There, he lifted a companion up onto the steps:



Image 4: DAVIS (circled in yellow) giving a hand to a companion on the Northwest steps

DAVIS then ascended the northwest steps of the Capitol:

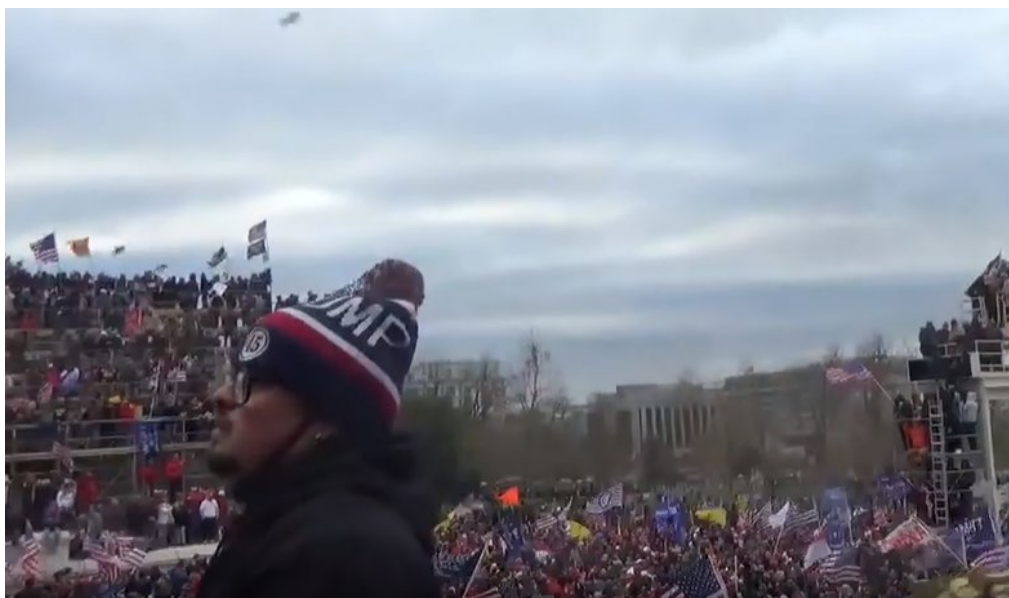


Image 5: DAVIS ascending the Northwest steps

Eventually, DAVIS arrived at the LWT. At that time, a violent battle for control over the LWT tunnel and the entrance to the Capitol just beyond was underway. As DAVIS approached the mouth of the tunnel, he witnessed a chaotic scene of other rioters falling and being trampled by each other:



Image 6: DAVIS walking past fallen rioters

At approximately 4:13 p.m., DAVIS entered the mouth of the LWT tunnel and picked up an MPD riot shield:



Image 7: DAVIS (circled in yellow) holding a police riot shield

DAVIS then briefly pressed into the tunnel against the police before giving up the shield to another rioter:



Image 8: DAVIS (circled in yellow) pressing into the police line with the police shield

At approximately 4:17 p.m., DAVIS participated in a “heave-ho” effort in which rioters rocked back and forth in unison, thrusting their collective body weight to exert maximal force against the police line.



Image 9: DAVIS (circled in yellow) participating in the tunnel heave-ho effort

DAVIS exited the tunnel at approximately 4:19 p.m. He remained on the LWT and, at some point within the proceeding ten minutes, acquired what appears to be a long wooden board. At

approximately 4:32 p.m., DAVIS made his way back over to the tunnel and hurled the board at the officers inside the tunnel. The board landed on the officers' heads:



Image 10: DAVIS throwing the board at the officers in the LWT tunnel

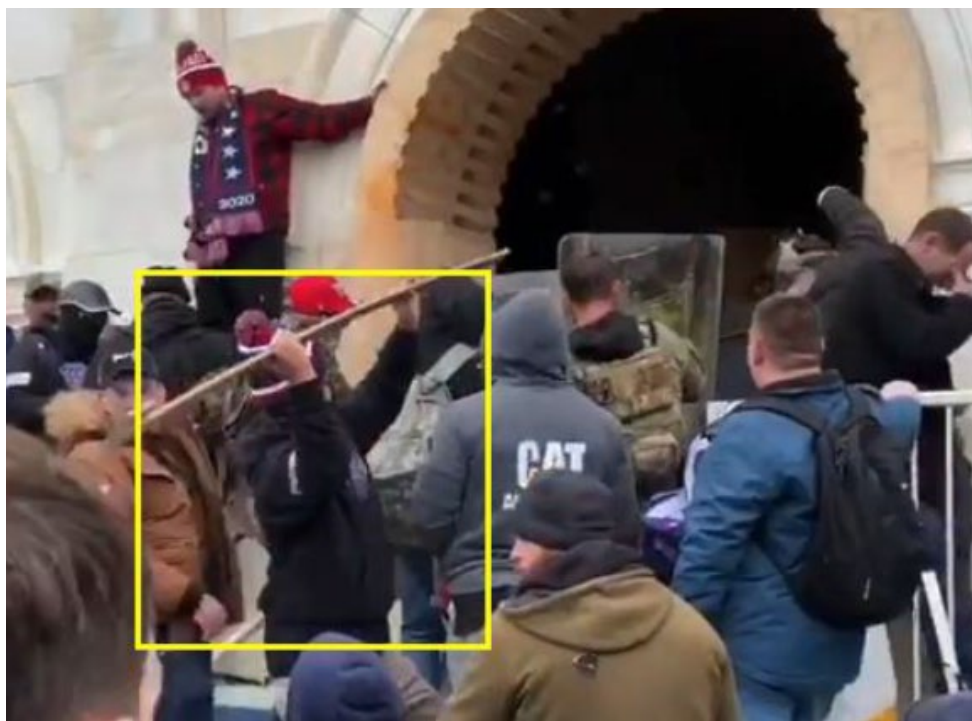


Image 11: DAVIS throwing the board at the officers in the LWT tunnel



Image 12: DAVIS'S wooden board airborne



Image 12: DAVIS'S wooden board landing on the heads of the police

After throwing the wooden board, DAVIS then proceeded to push against the officers' riot shields at the entrance of the tunnel:



Image 13: DAVIS pushing against police riot shields



Image 14: DAVIS pushing against police riot shields



Image 15: DAVIS pushing against police riot shields

Several minutes later, after being hit in the head with debris thrown by another rioter, DAVIS retreated. However, DAVIS remained on Capitol grounds until after 5:00 p.m.:

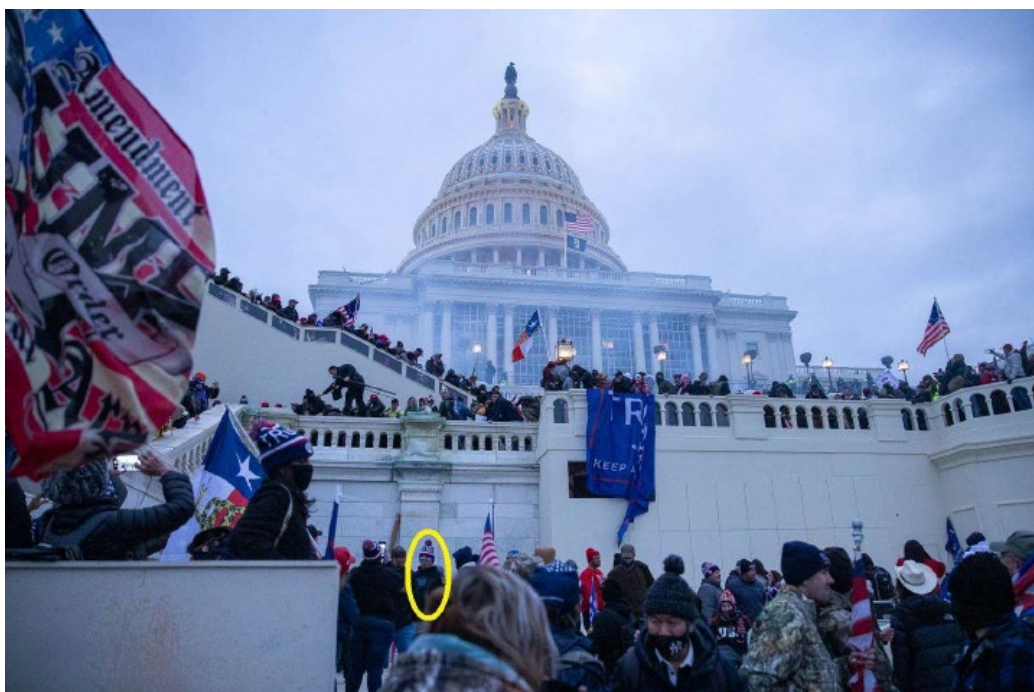
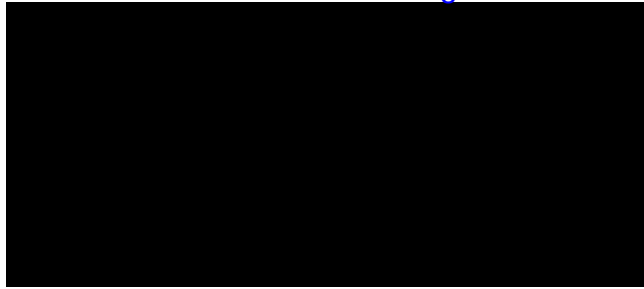


Image 16: DAVIS on the Upper West Plaza at approximately 5:04 p.m.

Based on the foregoing, your affiant submits that there is probable cause to believe that JACOB DAVIS violated:

- a) 18 U.S.C. §§ 111(a)(1) and 111(b), which make it unlawful to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in Section 1114 of Title 18 while engaged in or on account of the performance of official duties, including while using a deadly or dangerous weapon. For purposes of Section 111 of Title 18, United States Capitol Police Officers constitute persons designated in Section 1114 of Title 18
- b) 18 U.S.C. 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Secret Service's protection of the Vice President and his family and the Capitol Police's protection of the U.S. Capitol.
- c) 18 U.S.C. § 1752(a)(1), (a)(2), and (a)(4) which make it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; (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; and (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; or attempt or conspire 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.
- d) 40 U.S.C. § 5104(e)(2)(D) and (F), which make it a crime to (D) willfully and knowingly engage in disorderly and disruptive conduct within Capitol Grounds or any of the Capitol Buildings and (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 27th day of September 2023.

HONORABLE MOXILA A. UPADHYAYA
U.S. MAGISTRATE JUDGE