

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation (FBI) assigned to the Springfield, Illinois Field Office. I have been a Special Agent with the FBI since December 2021. Prior to service with the FBI, I was a university Public Safety Officer in New York for seven years, where I served to the rank of Lieutenant. I am presently assigned to the FBI Counterterrorism Division's Joint Terrorism Task Force. I am currently tasked with investigating criminal activity in and around the United States 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, detection, 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, 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.

Facts Specific to this Application

Identification of Justin LaGesse and Theodore Middendorf

On July 18, 2022, the FBI received an anonymous tip from an individual who indicated that a person known to them claimed to be in the U.S. Capitol Building during the January 6 riot. The tipster identified the person as JUSTIN LAGESSE (“LAGESSE”) of McLeansboro, Illinois. The tipster stated that they heard LAGESSE tell several of his friends that he was present in Washington, D.C. during the riot and that he entered the U.S. Capitol Building. After receiving this tip, the FBI conducted opensource media checks for LAGESSE. As a result of the search, the FBI located a Google account under “lagessej***@gmail.com” and a Facebook user under the name Justin Lageese. The Facebook user claimed to live in McLeansboro, Illinois. The Facebook account’s unique user identification was listed as “Justin.lagesse.7” and showed a profile picture of a male in camouflage holding a United States of America flag with writing on it. The male in the profile picture is also wearing a mask decorated as a United States of America flag, as well as a blue baseball cap.

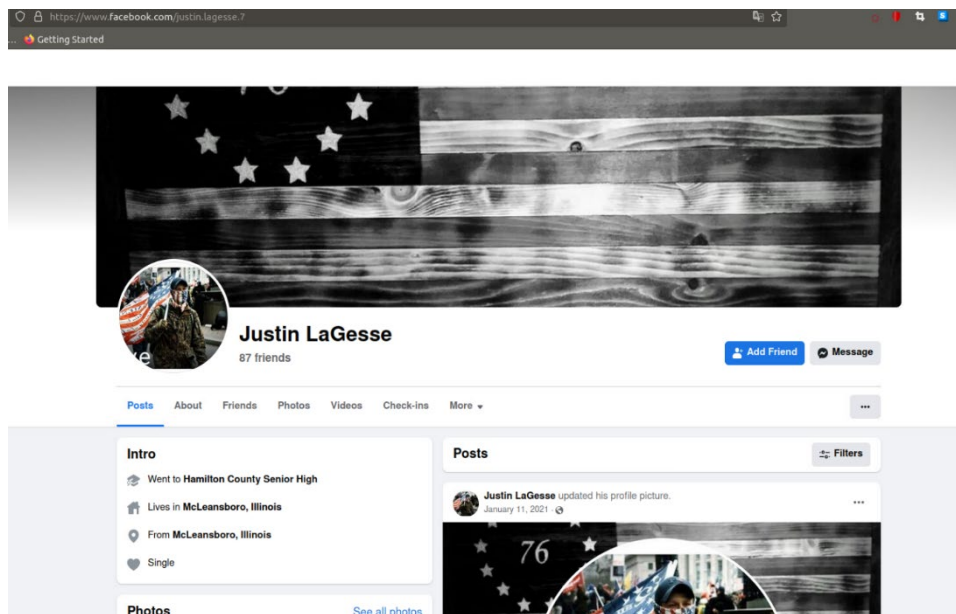


Figure 1: Screen capture of the profile page of the “Justin.lagesse7 Facebook account

The FBI also viewed the public profile image post for the “Justin.lagesse.7” Facebook account. In the post’s caption, “Justin Lageese” stated, “I made the cover of AP news on you tube from my washington trip.” As for the profile image itself, it depicts an individual wearing a green camouflage jacket, green gloves, an American flag face covering, a backpack of an unknown color, and a blue baseball cap. The individual is also holding a version of an American flag with some text written on the flag. This picture appeared to be taken from a live news stream from an

unknown source. In one comment to the picture, another user said, “Thought that was you.” In response, “Justin LaGesse” said, “yes Sir.”

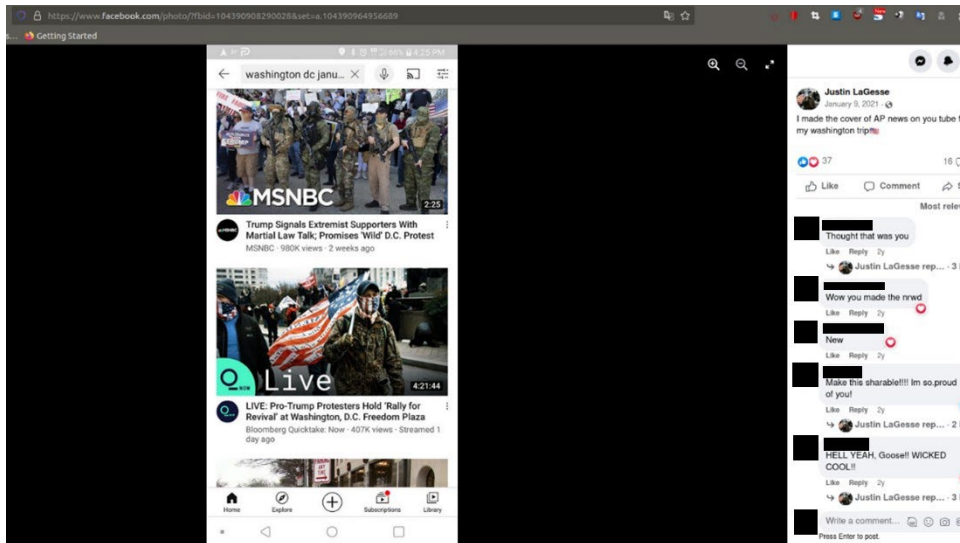


Figure 2: Profile image post for the “Justin.lagese7” Facebook account



Figure 3: Comments to the profile image post for the “Justin.lagese7” Facebook account

On January 12, 2023, the FBI received information that an individual identified as Theodore Middendorf was also present in Washington, D.C. during the January 6 riot. The information was a Facebook post where a user with the name “Ted Middendorf” stated, “I’ll be there,” in response to an image of former President Trump captioned, “Fight for Trump. January 6 We’re Comin’!” After receiving this Facebook post, the FBI took the Facebook user’s profile picture and matched it to the driver’s license photograph of an individual identified as THEODORE MIDDENDORF (“MIDDENDORF”). Records indicate that MIDDENDORF lives in McLeansboro, Illinois.

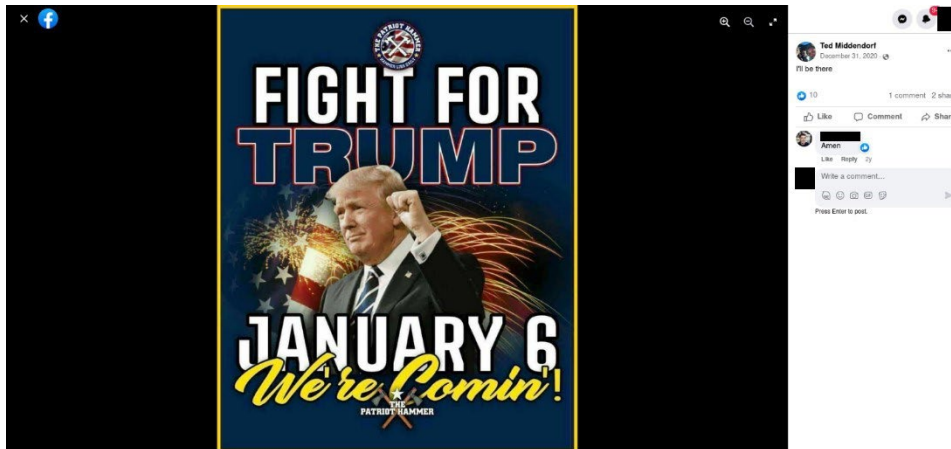


Figure 4: Image of January 6 rally posted to Facebook by “Ted Middendorf”

Based on information previously provided by Google LLC, subsequent to legal process served by the FBI, an electronic device logged into Google Account ID “957646951000” was likely within the U.S. Capitol on January 6, 2021, in violation of federal law. According to information provided by Google LLC, subsequent to legal process served by the FBI, Google Account ID “957646951000” was activated in November 2014 and registered to the name “Theo Middendorf” with the email “tedmidd***@gmail.com.” This Google Account ID has a recovery phone number ending in 7228 (“x7228”). The Google Account ID also had payment options saved to the account, which contained records of credit cards registered to “Theodore Middendorf” with a billing address of McLeansboro, Illinois.

On February 7, 2023, the FBI interviewed an individual with personal knowledge of LAGESSE and MIDDENDORF. The individual confirmed that MIDDENDORF and LAGESSE went to Washington, D.C. on January 5, 2021, attended the riot on January 6, and returned to McLeansboro on January 7. Upon his return to McLeansboro, MIDDENDORF told the individual that LAGESSE and he entered the U.S. Capitol Building. The individual also confirmed that the “tedmidd***@gmail.com” belonged to MIDDENDORF and the x7228 number was connected to MIDDENDORF’s business. During the interview, the FBI also presented the individual with the still image posted to Facebook by the “Justin.lagesse.7” account. The individual identified the person depicted in the image as LAGESSE and confirmed that the “Justin.lagesse.7” account belongs to LAGESSE.

On February 15, 2023, in a separate interview with the same individual, the FBI presented the individual with a still image of U.S. Capitol security footage. In the still, two rioters are walking

through the House Wing Door lobby. One rioter appears to be LAGESSE wearing the same clothing depicted in Figure 3. LAGESSE, however, is holding a Gadsden flag, rather than the American flag with writing on it. The other rioter is wearing a dark-colored jacket, a blue beanie style cap, an American flag face covering, and a backpack. This rioter appears to be holding the same flag held by LAGESSE in Figure 3. After viewing this still image, the individual identified the second rioter as MIDDENDORF. The individual stated they knew it was MIDDENDORF because they had seen him in an image published by MSNBC. On February 16, 2023, the individual provided the FBI with the MSNBC image, which is a clipped version of the image in Figure 3 and depicts MIDDENDORF standing to LAGESSE's rightside.

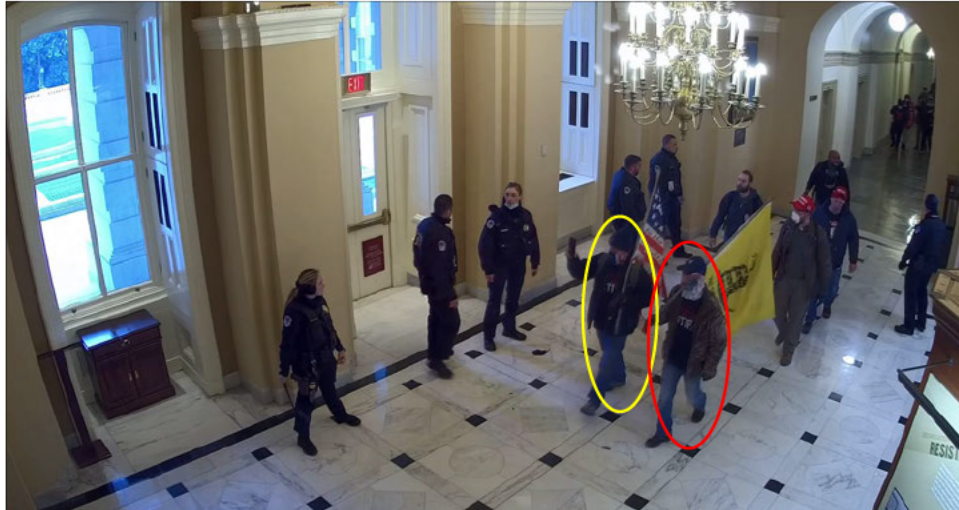


Figure 5: MIDDENDORF (circled in yellow) filming officers while walking with LAGESSE (circled in red)

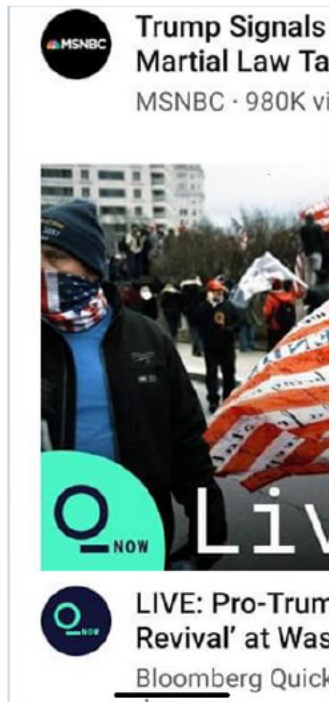


Figure 6: MSNBC image of MIDDENDORF

Conduct of Justin LaGesse and Theodore Middendorf on January 6

On January 6, 2021, at approximately 2:51 p.m., LAGESSE entered the U.S. Capitol Building by climbing through a broken window next to the Senate Wing Door breach of the building. Security footage shows LAGESSE wearing the same clothing depicted in the image posted to LAGESSE's Facebook account. As noted above, instead of the American flag previously described, LAGESSE enters the U.S. Capitol with a Gadsden flag. However, upon entry, LAGESSE turns back towards the outside and grabs the aforementioned American flag from MIDDENDORF. LAGESSE then grabs MIDDENDORF's hand and helps him through the same broken window. MIDDENDORF is visible wearing the same clothing depicted in the MSNBC image. In addition, MIDDENDORF and LAGESSE appear to be wearing matching shirts under their jackets with "FUCK ANTIFA" in large red-and-white lettering across the front.



Figure 5: LAGESSE (circled in red) climbing through a window into the U.S. Capitol

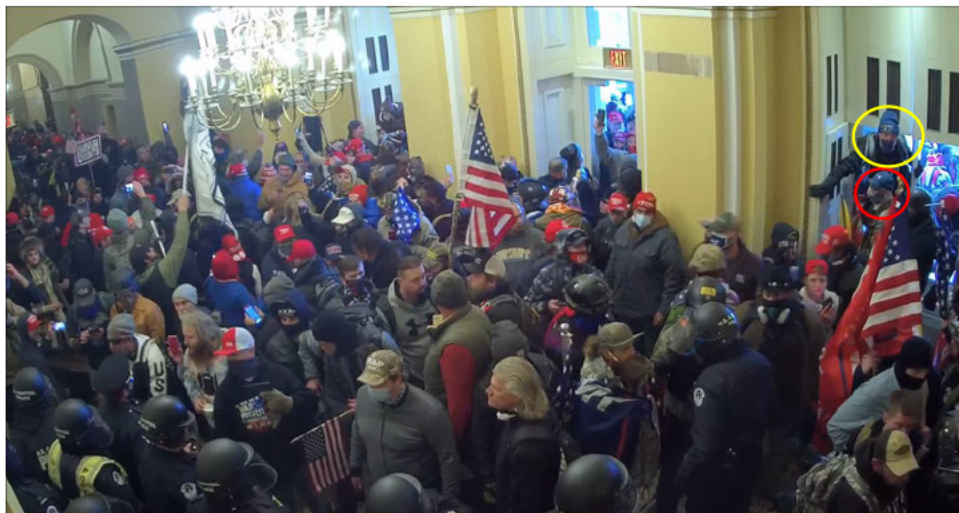


Figure 6: LAGESSE (circled in red) holding both flags while MIDDENDORF (circled in yellow) climbs through the window

After standing with the crowd of rioters for a minute, LAGESSE and MIDDENDORF appear to join with the others in a chant of “U.S.A.” At the same time, the two wave their flags in the air. When the chant stops, the two begin to move south in the direction of the Crypt. At approximately 3:00 p.m., they entered the Crypt while carrying their flags on their shoulders.

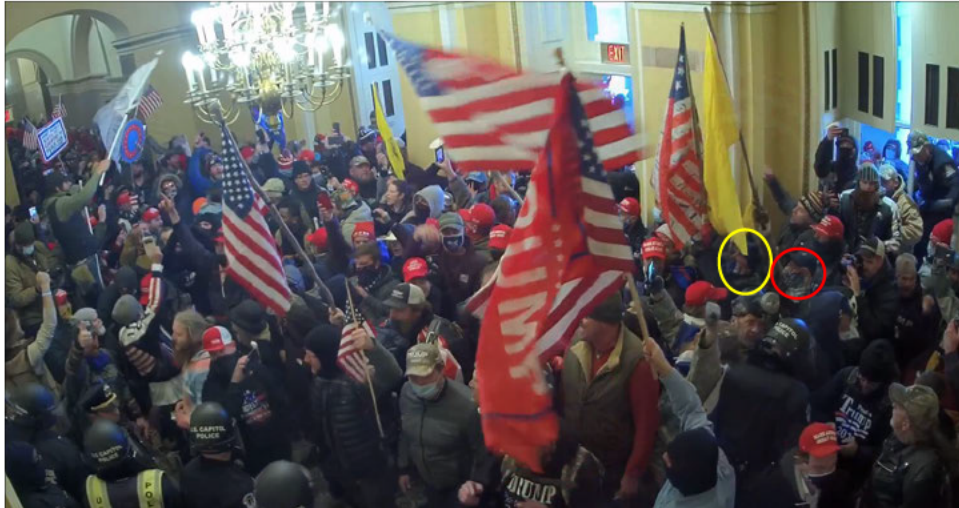


Figure 7: LAGESSE and MIDDENDORF (circled in yellow) waving their flags in the air



Figure 8: LAGESSE and MIDDENDORF (both circled in red) enter the Crypt

LAGEESE and MIDDENDORF continued south into the House of Representatives side of the U.S. Capitol. At approximately 3:01 p.m., they passed by the House Wing Door emergency exit. At that time, MIDDENDORF appears to use his cell phone to film a small group of officers standing in a line next to the rioters.



Figure 9: MIDDENDORF (circled in yellow) filming officers while walking with LAGEESE (circled in red)

From there, they continued south through the Hall of Columns, where the crowd's movement through the U.S. Capitol momentarily halted. During this pause, the two stood off to the side while MIDDENDORF continued to use his phone to film the riot. After a few moments, LAGEESE and MIDDENDORF began walking south again. MIDDENDORF pumped his flag in the air a few times before the two left the U.S. Capitol through the South Door at approximately 3:02 p.m.

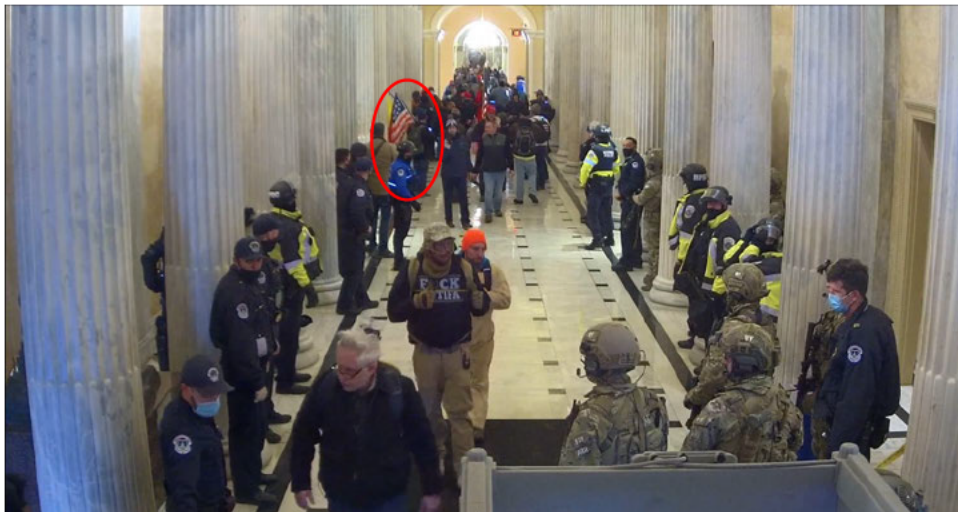


Figure 10: MIDDENDORF and LAGEESE (both circled in red) standing amongst the crowd



Figure 11: LAGESSE (circled in red) and MIDDENDORF (circled in yellow) leaving the U.S. Capitol

After leaving the U.S. Capitol, LAGESSE and MIDDENDORF approached a line of Metropolitan Police Department (“MPD”) officers standing behind a bicycle rack barricade. As they get near the officers, LAGESSE called the officers “fucking traitors” and “fucking communist scum.” For several minutes, LAGESSE continues to lob insults at the officers while MIDDENDORF stands nearby.



Figure 12: LAGESSE (circled in red) verbally accosting MPD officers



Figure 13: LAGESSE (circled in red) yelling at officers while MIDDENDORF (circled in yellow) stands next to him

MIDDENDORF and LAGESSE then proceeded around to the northside of the Capitol building where they encountered a group of rioters attempted to breach through the North Door. At approximately 4:09 p.m., while police officers attempted to stop these rioters, MIDDENDORF and LAGESSE approached a large window to the left of the North Door. Figure 14. The two then used their flagpoles to strike the window numerous times and damaged the window in several places. Figures 15-16. After failing to shatter the window, MIDDENDORF walked east towards another window and struck it with his flagpole one time. Figure 17. An audible striking sound is present on the video of the incident.



Figure 14: MIDDENDORF approaching the window with his flagpole in hand



Figure 15: LAGESSE and MIDDENDORF striking the window multiple times



Figure 16: LAGESSE walking away from the window, which now has several strike marks from MIDDENDORF, LAGESSE, and likely other rioters



Figure 17: MIDDENDORF striking a second U.S. Capitol window

The Architect of the Capitol determined that the window struck by both MIDDENDORF and LAGESSE suffered \$41,315.25 in damages during the riot.

Based on the foregoing, your affiant submits that there is probable cause to believe that JUSTIN LAGEESE and THEODORE MIDDENDORF violated 18 U.S.C. §§ 1752(a)(1), (2), and (4), 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; (4) knowingly engages in any act of physical violence against any person or property in any restricted building or grounds; 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 JUSTIN LAGEESE and THEODORE MIDDENDORF violated 40 U.S.C. §§ 5104(e)(2)(D), (F), 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; (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Your affiant submits there is probable cause to believe that JUSTIN LAGEESE and THEODORE MIDDENDORF violated 18 U.S.C. §§ 1361 and 2, by willfully injuring or deprecating of any property of the United States in an amount in excess of \$1,000.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 16th day of January.

MOXILA A. UPADHYAYA
U.S. MAGISTRATE JUDGE