

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the FBI Baltimore Field Office. In my duties as a special agent, I investigate, among other things, criminal cases relating to domestic terrorism. 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, 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.

Following the events of January 6th, 2021, the FBI identified Nicholas Justin Ortt (A.K.A. Nichalos Juston Ortt) of Mount Airy, Maryland as a suspected participant in the riots at the U.S. Capitol. As depicted in *Image 1*, *2*, and *3* below, Mr. Ortt wore a distinctive American flag gaiter and red “Trump” hat with a brim depicting an American flag.



Image 1



Image 2



Image 3

On January 6, 2021, Ortt travelled from his residence in Maryland to attend the former president’s “Stop the Steal” rally. After he attended the rally, Ortt walked with a crowd to the U.S. Capitol, eventually finding his way to the West Plaza of the U.S. Capitol.

Prior to Ortt’s arrival at the U.S. Capitol, rioters breached barricades on the West Plaza at approximately 1 p.m. EST. In response, officers formed a police line to prevent rioters from advancing further on the U.S. Capitol. This line generally held until approximately 2:28 p.m., successfully preventing the mob’s advance until this time.

Once Ortt arrived at the U.S. Capitol, he travelled through the mob and to the police line on the West Plaza. At approximately 2:28 pm, Ortt and other rioters on the north side of the West Plaza attempted to breach the police line and facilitate the mob’s movement on the U.S. Capitol.

To achieve this end, Ortt and other rioters sought to expose the line’s vulnerability by pushing past and assaulting the vastly outnumbered law enforcement officers who tried to hold the line intact. *Image 4*, depicted below, showed Ortt at the forefront of these efforts as an initial rioter to engage officers at this location.



Image 4

During this time, open-source and Body-Worn Camera (“BWC”) footage captured Ortt’s efforts to move past the police line. Ortt assaulted and struggled with officers trying to maintain the line until he successfully pushed past them. *Image 5* captured Ortt pushing against police shields. *Image 6* showed Ortt was the initial rioter to successfully breach the line in this location.



Image 5



Image 6

Image 8 and *9* depict numerous instances where Ortt fought with officers and grabbed their batons during his movement through the line as officers struggled to avert attacks by other rioters behind Ortt.



Image 8



Image 9

Once Ortt successfully breached the line, he continued to engage with officers. These efforts prevented officers from reinforcing the collapsing line. *Image 10* and *11* show Ortt impeding and resisting officers while other officers behind Ortt struggle to hold the line and prevent the mob from advancing. *Image 12* shows Ortt grappled with officers inside the perimeter of the police line.



Image 10



Image 11

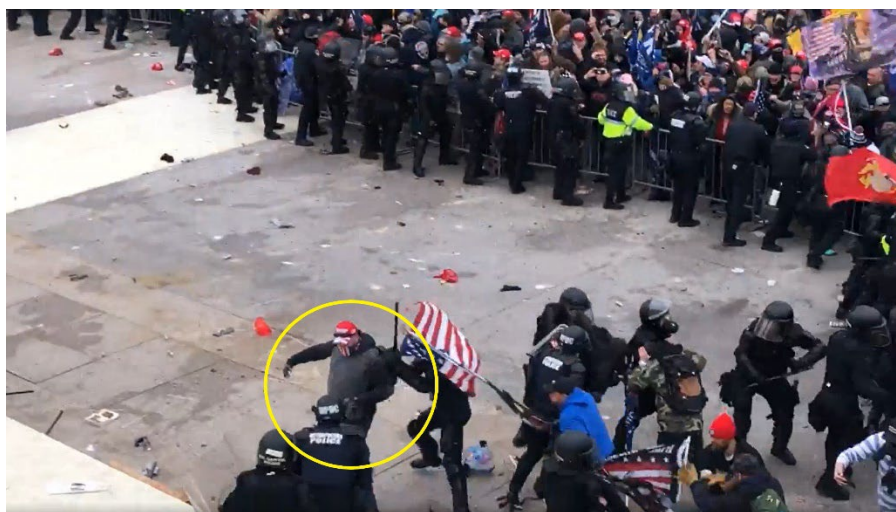


Image 12

After continued confrontations between Ortt and law enforcement, officers successfully repelled Ortt's advance and he retreated to the mob's interior. Seconds after Ortt broke through officers, however, the police line collapsed, and the mob flooded onto the Lower West Terrace and the U.S. Capitol.

Following the events of January 6, 2021, the FBI interviewed three witnesses who knew Ortt. I showed each witness suspected images of Ortt at the Capitol on January 6, 2021. Each witness positively identified Ortt. Additionally, one witness received photographs and messages from Ortt via text message concerning his involvement with the riot on January 6, 2021, including *Image 13* where Ortt took a photo and himself near the U.S. Capitol on January 6, 2021.



Image 13


Based on the foregoing, I submit that there is probable cause to believe that Ortt violated 18 U.S.C. § 111(a)(1) and 2, which make it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with certain designated individuals, or to aid, abet, counsel, command, induce, or procure the commission of such offenses. Within the meaning of this statute, a designated individual is an officer or employee of the United States or of any agency in a branch of the United States Government (including any member of the uniformed services), while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer in the performance of official duties or on account of that assistance.

I submit there is also probable cause to believe Ortt violated 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 Joint Session of Congress where the Senate and House count Electoral College votes.

I further submit that there is probable cause to believe that Ortt violated 18 U.S.C. § 1752(a)(1), (2), and (4), 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; (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; or to aid, abet, counsel, command, induce, or procure the commission of such offenses. 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.

Lastly, your affiant submits there is also probable cause to believe that Ortt violated 40 U.S.C. § 5104(e)(2)(D) and (F), 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 (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.


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 6th day of February 2024.

HONORABLE ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE