

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent with Federal Bureau of Investigation (FBI) assigned to the Joint Terrorism Task Force in the Buffalo Field Office. Currently, I am a tasked with investigating criminal activity in and around the U.S. 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.

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 12, 2021, the FBI received a tip advising Daniel WARMUS (WARMUS) breached the U.S. Capitol building on January 6, 2021, and smoked a marijuana cigarette while inside the building. The tipster indicated that he/she overheard WARMUS talking about his experience while at a dentist's office. Specifically, the tipster reported that a police officer told WARMUS to leave the building, but WARMUS refused to leave. WARMUS also played a video he had taken inside the Capitol Building at the dentist's office. The tipster heard the video playing but did not see it. The tipster, who wishes to remain anonymous, identified WARMUS' telephone number as 716-3XX-3110 and home address as 116XX Genesee Street, Apartment 4, Alden, New York 14004. Your affiant has tried to ask additional questions of the tipster, but he/she has not responded. Agents therefore do not know what relationship the tipster has with WARMUS. Based on this information, your affiant began investigating WARMUS.

Your affiant located a Department of Motor Vehicles (DMV) and passport photograph of WARMUS. DMV records indicated that WARMUS has multiple vehicles currently registered in his name and those vehicles are registered at two addresses, 10XX Town Line Road, Lancaster, New York 14086, and 116XX Genesee Street, Alden, New York 14004, the same house number and street name identified by the tipster (without the apartment specified).

Your affiant reviewed video footage voluntarily provided to the FBI by an amateur film crew and recorded on January 6, 2021 (hereinafter VIDEO 1). Your affiant compared WARMUS' DMV and passport photographs to a man resembling WARMUS in VIDEO 1 near the Washington Monument and found them to be the same person. In VIDEO 1, WARMUS stated he ran an auto shop in Orchard Park, New York. A search of public records identified Daniel Warmus of 10XX Town Line Road, Lancaster, New York 14086 as the registered agent for Worm-a-Fix Automotive, Inc., located at 42XX Abbott Road, Orchard Park, New York.

Agents have confirmed that Worm-a-Fix Automotive, Inc., continues to operate and conduct business. Agents have observed a blue 2017 Chevrolet Silverado pick-up truck with New York plate GCM6691, which is registered to WARMUS, parked during business hours at Worm-a-Fix Automotive, Inc. on multiple occasions between February 2021 and May 2021.

Your affiant took screenshots from VIDEO 1 to provide a description of WARMUS on January 6, 2021. Those screenshots are provided below in Figure 1. In VIDEO 1, WARMUS wore a dark-colored sweatshirt with the phrase, "CNN is fake news" and what appears to be a small pin affixed to the sweatshirt with unidentified writing, a dark-colored hat bearing "Trump 2020" on the front, green-colored cargo pants with brown or orange and dark-colored shoes, and carrying a backpack. WARMUS had a dark-colored mask hanging on his chin below the mouth. Letters were printed on the mask but could not be identified from the video. WARMUS had dark-colored facial hair and was holding a tree branch with a large, dark-colored flag affixed bearing the phrase, "FUCK ANTIFA" in white letters.

Figure 1. Screenshots Taken from VIDEO 1



Your affiant reviewed United States Capitol Police security footage taken inside the U.S. Capitol on January 6, 2021. Several security cameras observed an individual (SUBJECT 1) matching WARMUS' description from VIDEO 1. SUBJECT 1 was observed entering the capitol at approximately 2:17 PM EST through the Senate Wing Doors as shown in Figure 2. Your affiant has circled SUBJECT 1 in red below.

Figure 2. Entering U.S. Capitol Through Senate Wing Doors



SUBJECT 1 proceeded toward the First-floor Crypt of the U.S. Capitol and was observed ascending a stairwell to the second floor at approximately 2:23 PM EST as shown in Figure 3.

Figure 3. Ascending Staircase



Shortly after, SUBJECT 1 was observed entering the U.S. Capitol Rotunda located on the Second floor at approximately 2:24 PM EST. While inside the Rotunda, SUBJECT 1 was observed walking around and grabbing a dark-colored object off the floor and placing it on a statue as shown in Figure 4. The object is unknown and was on the floor prior to protesters entering the Rotunda. Your affiant has circled SUBJECT 1 in red below.

Figure 4. Rotunda



SUBJECT 1 was also observed using a cellular device to film and/or capture photos. At one point, SUBJECT 1 appears to film protesters attempting to breach Capitol doors through the Rotunda lobby on the east side of the Capitol as shown in Figure 5. An officer who was pulled inside the Capitol through the Rotunda lobby doors, turned, and approached individuals inside the Rotunda and grabbed SUBJECT 1 by the backpack as shown in Figure 6. SUBJECT 1 pulled away and retreated from the officer. The officer then returned to the Rotunda lobby doors, which were fully breached soon after. No audio is provided in the video. Your affiant has circled SUBJECT 1 in red below.

Figure 5. Rotunda Lobby

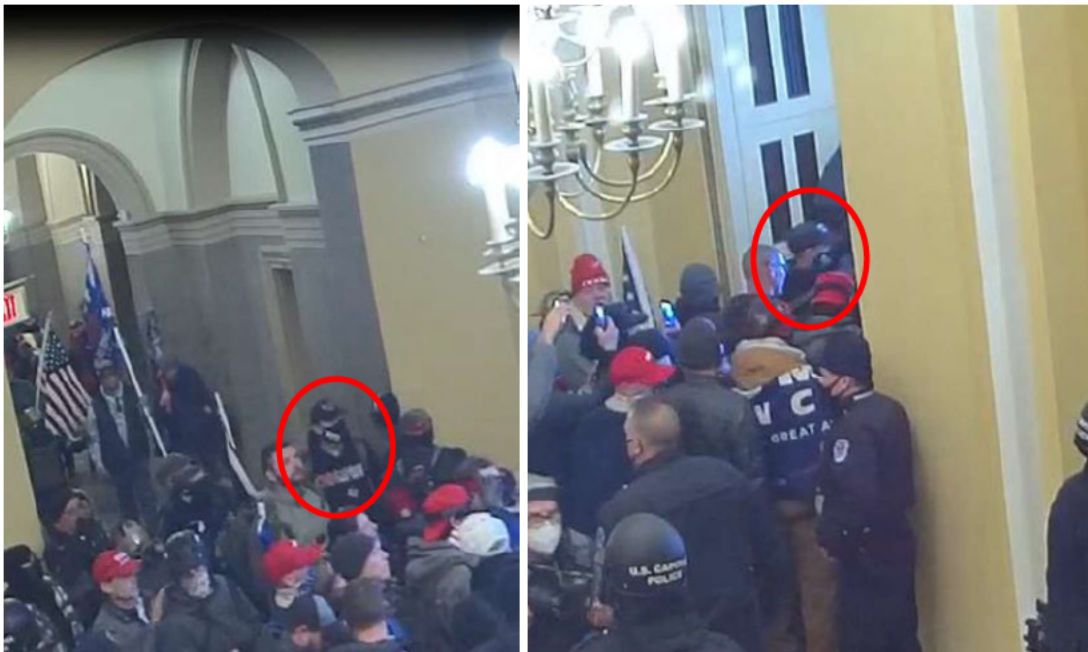


Figure 6. Officer grabbing SUBJECT 1



SUBJECT 1 was observed leaving the U.S. Capitol through the Senate Wing Windows at approximately 2:33 PM EST as shown in Figure 7. Your affiant has circled SUBJECT 1 in red below.

Figure 7. SUBJECT 1 Exits Capitol



Although SUBJECT 1 was not observed carrying a tree branch with the dark-colored flag bearing the phrase, “FUCK ANTIFA” in white letters or smoking marijuana while inside the Capitol, and wore gloves, your affiant believes that SUBJECT 1 is WARMUS for the following reasons. SUBJECT 1 wore a dark-colored sweatshirt with the phrase, “CNN is fake news” and what appears to be a small pin affixed to the sweatshirt. He wore a dark-colored hat with matching text and design from VIDEO 1. SUBJECT 1 wore green-colored cargo pants with dark-colored shoes, wore a backpack, and had a dark-colored mask. SUBJECT 1 briefly removed his face mask upon entering the Capitol and was observed with a beard matching that of WARMUS in VIDEO 1. Your affiant also has compared WARMUS’ driver’s license and passport photographs, the screenshots discussed above of WARMUS in VIDEO 1, and the images discussed above of SUBJECT 1 captured inside the U.S. Capitol and all are consistent and the same individual.

Additionally, your affiant reviewed records from Verizon to obtain subscriber information for telephone number 716-3XX-3110, the telephone number identified by the tipster belonging to WARMUS. Verizon identified Daniel Warmus as the subscriber for cellular telephone number 716-3XX-3110 since July 20, 2019, with an address of 10XX Town Line Road, Lancaster, New York 14086 and a device IMEI number 354641101628892. Verizon identified the device and device type as a Samsung Galaxy S10 Plus.

According to records obtained through a search warrant which was served on Verizon, on January 6, 2021, in and around the time of the incident, the cellphone associated with 716-3XX-3110 was identified as having utilized a cell site consistent with providing service to a geographic area that included the interior of the United States Capitol Building. Verizon records identified the

device and device type as a Samsung Galaxy S10 Plus and the device IMEI number 35464110162889.¹

Based on the foregoing, your affiant submits that there is probable cause to believe that WARMUS 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 WARMUS 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.

Date: May 17, 2021

[REDACTED]
[REDACTED] - 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 17th day of May, 2021.



Digitally signed by G.
Michael Harvey
Date: 2021.05.17
14:40:59 -04'00'

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE

¹ Your affiant observes that Verizon provided both a 14-digit and 15-digit device number for WARMUS’ cellular telephone. The two device numbers are the exact same except for the number 2 at the end of the 15-digit identification number. Based on my training and experience, your affiant believes this is the same device, because the 14 digits are a variation of 15-digit device identification number.