

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

THOMAS FEE

Date of Birth: XXXXXXXX

Defendant(s)

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)
)
)
)
)

Case: 1:21-mj-00088

Assigned To : Faruqui, Zia M.

Assign. Date : 1/16/2021

Description: Complaint w/ Arrest Warrant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 6, 2021 in the county of

in the District of Columbia, the defendant(s) violated:

Code Section

Offense Description

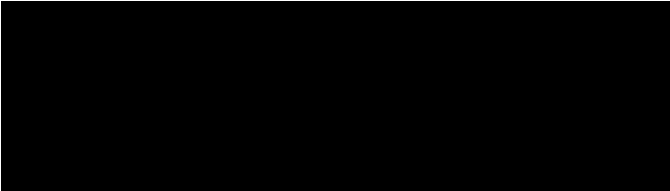
18 USC 1752(a)(1),(2) Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority

40 USC 5104(e)(2)(D) & (G) Violent Entry and Disorderly Conduct on Capitol Grounds

This criminal complaint is based on these facts:

See attached statement of facts.

Continued on the attached sheet.



Redacted line

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone.

Date: 01/16/2021



2021.01.16 17:39:45 -05'00'

Judge's signature

City and state: Washington D.C.

Zia M. Faruqui, U.S. Magistrate Judge

Printed name and title

STATEMENT OF FACTS

On January 6, 2021, your affiant, Task Force Officer (TFO) [REDACTED] was on duty and performing my official duties as a Law Enforcement Officer. Specifically, I am assigned to the Joint Terrorism Task Force (the JTF). As a TFO 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 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.

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 1:10 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 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 after 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 riot, TTF received a report from an individual (Witness 1) who is a special agent with the United States Diplomatic Security Service (the DSS), an arm of the United States Department of State.¹

Witness 1 reported to DSS, and subsequently to TTF, that on or about January 6, 2021, Witness 1's spouse saw a message posted on Defendant Thomas Fee (Fee)'s girlfriend's Facebook account stating that Fee was in Washington D.C. at the rally. Witness 1 stated that Witness 1 and Witness 1's spouse were acquainted with Fee because Fee was the boyfriend of Witness 1's sister.

Witness 1 stated that Witness 1 texted Fee and asked him, in sum and substance, if he was in fact in Washington, D.C. Fee responded affirmatively. A short time later, Fee texted Witness 1 a selfie photograph of Fee from inside the U.S. Capitol Rotunda. Witness 1 initially deleted the photograph after receiving it, but then was able to recover it on witness 1's phone. Witness 1 provided DSS with the photograph of Fee inside the U.S. Capitol, and DSS forwarded the photograph to TTF. The photograph is depicted below



Witness 1 confirmed to TTF that the individual closest to the camera at the bottom of the photograph wearing a dark colored cap and appearing to hold the camera for a selfie is Fee. Witness 1 told TTF that Fee lives in Freeport, New York.

¹ The DSS is tasked in part with protecting diplomatic personnel and facilities of other governments within the United States.

our affiant subsequently searched the New York State Department of Motor Vehicles (DMV) data base for an individual named Thomas Fee who lives in Freeport, New York. our affiant reviewed the DMV records and located such an individual who lives at [redacted], Freeport, New York 11520. our affiant reviewed the New York State driver s license records for that individual and, believes that the person depicted in the selfie photograph wearing a dark colored cap is, in fact, Thomas Fee who lives at [redacted], Freeport, New York 11520. Fee s driver s license photo is presented below for comparison



our affiant also sent Witness 1 the driver s license photograph depicted above. Witness 1 confirmed that the individual in the photograph is the same Fee who was previously known to Witness 1 due to Fee s relationship with Witness 1 s sister, i.e., the individual depicted in the selfie within the U.S. Capitol above.

Witness 1 further stated that on or about January 6, 2021, Fee sent Witness 1 a video from inside the U.S. Capitol, which Witness 1 also deleted but then was able to recover and provide to DSS. our affiant have reviewed that video and, based on the nature of the video and the other evidence described herein, your affiant believes that Fee took the video. The video shows numerous persons inside the Rotunda of the U.S. Capitol who do not appear to have authorization to be present. In the video, members of the crowd are heard yelling the word tyranny and the name Pelosi, which your affiant understands to be a reference to the Speaker of the House of Representatives Nancy Pelosi. A still image from the video footage is below



Witness 1 stated that after Fee sent the video, Fee texted Witness 1, in sum and substance, that he was at the tip of the spear.²

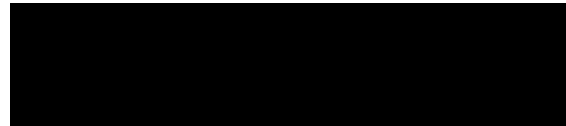
In reviewing Fee's DMV records, your affiant also learned that Fee has a 2020 white Chevy Tahoe with New York license plate number [redacted] registered to him (Fee's Chevy Tahoe). Based on information from law enforcement databases, your affiant was able to determine that Fee's Chevy Tahoe traveled westbound over the Verrano Bridge on or about January 5, 2021, at approximately 10:55 a.m. the day prior to the riot at the U.S. Capitol. Your affiant notes that the Verrano Bridge would be a convenient crossing of the Hudson River from points east on Long Island, such as Freeport, where Fee resides, to points west and south, such as Washington, D.C. Based on information from those same databases, your affiant knows that on January 7, 2021, at approximately 11:00 a.m. *i.e.*, the morning after the riot at the U.S. Capitol, Fee's Chevy Tahoe was recorded traveling eastbound over Verrano Bridge.

Based on the foregoing, your affiant submits that there is probable cause to believe that Thomas Fee 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

² Witness 1 was not able to recover and provide that text message communication.

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 resident or other person protected by the Secret Service, including the Vice resident, 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.

our affiant submits there is also probable cause to believe that Thomas Fee violated 40 U.S.C. 5104(e)(2)(D) & (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.



Joint Terrorism Task Force

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. 4.1 by telephone, this 16th day of January 2021.

 2021.01.16
17:38:36
-05'00'

ZIA M. FARUQUI

UNITED STATES MAGISTRATE JUDGE

