

Case: 1:23-mj-00008
Assigned To : Harvey, G. Michael
Assign. Date : 1/12/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation (FBI) and has been in this position since 2009. I am assigned to a criminal investigative squad at the FBI's Washington Field Office. During my employment with the FBI, I have conducted and/or assisted in criminal investigations involving various criminal violations. Currently, I am tasked with investigating criminal activity in and around the US 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 facts in this Affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and agencies or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause, it does not contain every fact known by me or the FBI. The dates and times listed in this Affidavit should be read as "on or about."

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.

Facts Specific to Patrick Bournes

Based upon review of public video, closed circuit television (“CCTV”) footage and police body worn camera depicting the events at the U.S. Capitol building and grounds on January 6, 2021, law enforcement identified an individual who pushed in opposition to police through a coordinated effort with other individuals and passed, what appeared to be, a stolen police riot shield to other individuals near an entrance to the U.S. Capitol. The FBI subsequently posted a photograph of the individual with the label ‘121-AFO’ and requested help from the public to identify the individual. As set out in detail below, law enforcement identified 121-AFO as PATRICK BOURNES (“BOURNES”) and there is probable cause to believe on January 6, 2021, BOURNES committed violations of 18 U.S.C. §§ 231(a) (civil disorder); 1752(a)(1), (2), and (4) (various offenses on restricted buildings or grounds); and 40 U.S.C. §§ 5104(e)(2) (E) (impeding passage through Capitol grounds).

A. 121-AFO’s Activities at the U.S. Capitol on January 6, 2021

Following January 6, 2021, the FBI published a list of photographs of unidentified individuals involved in unlawful activity that occurred on January 6, 2021 in and around the Capitol building. One of those photographs was photograph number 121-AFO, depicted below:



Photograph #121-AFO

CCTV footage shows the individual depicted in photograph number 121-AFO (“121-AFO”) arrived at the Capitol Building Lower West Terrace area near a tunnel entrance at approximately 3:03 p.m. The entry way was protected by a line of police and law enforcement in

an effort to keep unauthorized individuals out of the Capitol Building. Below is a still image from CCTV footage depicting 121-AFO entering the tunnel:



CCTV footage shows 121-AFO made his way toward the police line at the building entry after he entered the tunnel:



According to a video recorded by another January 6 defendant (“Video 1”), after reaching the police line, AFO-121 stood among other individuals and they physically pressed against the police line:



At approximately 3:05 p.m., 121-AFO was pushed back from the police line in the tunnel and assisted other individuals in handing a clear, plastic shield back through the crowd and out of the tunnel. The shield appears to be a stolen U.S. Capitol Police riot shield with a law enforcement insignia in the shape of a badge printed on the shield. Below is a still image from CCTV depicting 121-AFO with his arm outstretched pushing the shield back into the crowd:



During this time many of the individuals were moving out of the tunnel, but 121-AFO fought to stay in the tunnel and to press forward again toward the police line. Public video (“Public Video 1”)¹ depicts 121-AFO and other individuals joined together and pushing against the police line in a concerted effort. The crowd, including 121-AFO, joined together and rocked back and forth against the police line. Below is a still image from Public Video 1 depicting 121-AFO rocking with the crowd against the police line:

¹ Public Video 1 is available at <https://ia804507.us.archive.org/23/items/YAR5dKXrePW4982zH/YAR5dKXrePW4982zH.mpeg4>.



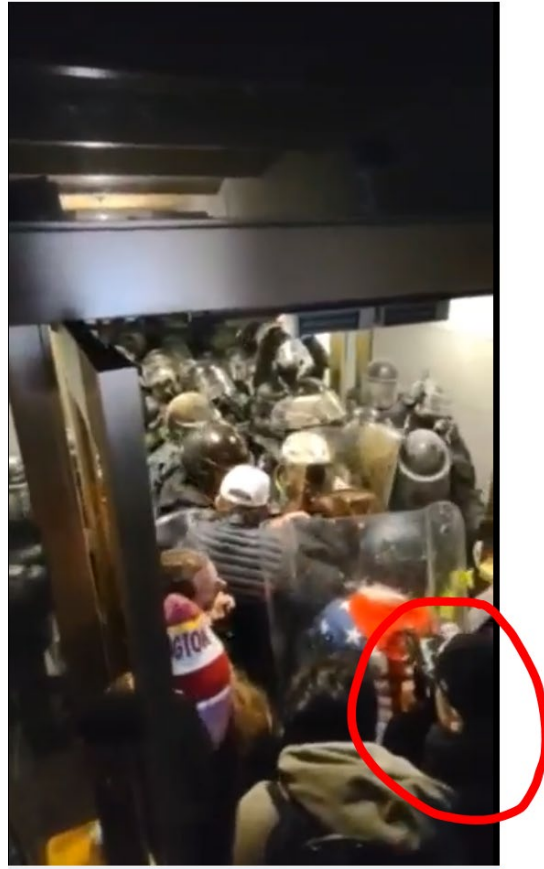
Later in Public Video 1, 121-AFO can be seen cupping his mouth as he appears to shout “TRAITORS!” multiple times in the direction of the police line. Below is a still image from Public Video 1 depicting 121-AFO shouting at the police:



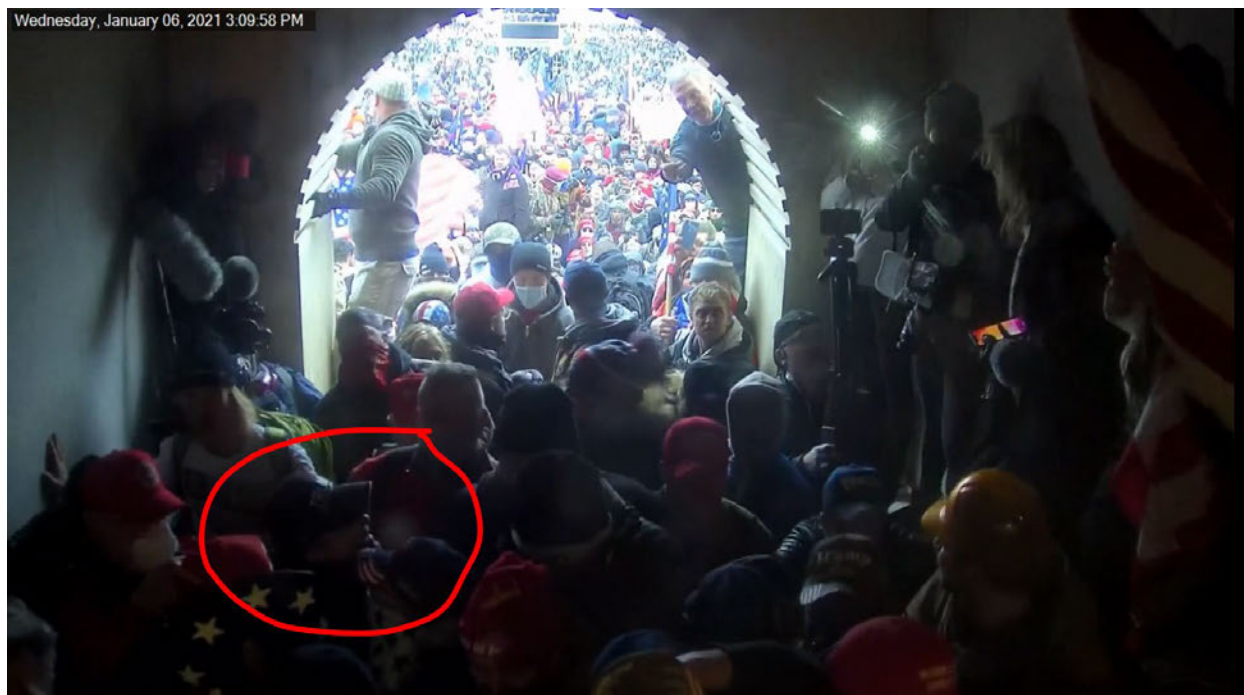
Video 1 depicted 121-AFO then moving closer to the police line. At this time, other individuals were handing, what appear to be, multiple stolen U.S. Capitol Police riot shields up to the front line of the crowd and calling for a “shield wall” to be made against law enforcement officers. 121-AFO stood near the location of the establishment of the shield wall. Below is a still image from Video 1 of 121-AFO near the wall of shields constructed by the crowd:



Shortly after the shield wall was established by the crowd, 121-AFO moved behind a shield with another individual and used it to press against the crowd who, in turn, pressed against law enforcement officers. Below is a still image from Video 1 depicting 121-AFO sharing a shield with another individual and pushing against law enforcement officers:



CCTV footage shows that 121-AFO began to make his way out of the tunnel at approximately 3:09 p.m. and exited the tunnel at approximately 3:11 p.m., as depicted in the below CCTV still images:



B. Identification of 121-AFO as PATRICK BOURNES

On or about February 10, 2021, the FBI National Threat Operations Center (“NTOC”) received a tip that an individual by the name of PAT BOURNES was the individual depicted in

photograph No. 121-AFO.² The tip also stated that BOURNES had a LinkedIn page. As a result of this tip, I reviewed the publicly available LinkedIn account for Pat Bournes. On this LinkedIn account page, I observed a photograph of an individual physically resembling the individual in photograph No. 121-AFO. According to the LinkedIn account, this individual lives in California.



I have also reviewed a driver's license photograph for PATRICK ALLEN BOURNES obtained from the California Department of Motor Vehicles. The individual in the driver's license photo appears to be the same individual depicted in photograph number 121-AFO. The address associated with BOURNES in the Department of Motor Vehicle records is an address in Santa Clara, California.

On or about March 31, 2021, I interviewed a relative of BOURNES ("Relative 1"). Relative 1 stated BOURNES traveled from California to attend the rally at the grounds of the U.S. Capitol on January 6, 2021 and during the visit, BOURNES stayed at Relative 1's house in Arlington, Virginia. Relative 1 also stated BOURNES told Relative 1 that BOURNES was at the Capitol on January 6, 2021. Relative 1 was shown several photographs depicting 121-AFO at the U.S. Capitol on January 6, 2021. Relative 1 identified the below photograph of 121-AFO as BOURNES³:



² The FBI tipline received numerous other tips which identified 121-AFO as someone other than BOURNES.

³ Relative 1 was shown four other photographs of 121-AFO at the U.S. Capitol. Relative 1 stated that he did not recognize the individual depicted in two of the photographs. Relative 1 stated that the individual in the other two photographs either resembled BOURNES or "looked like" BOURNES.

Conclusion

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

Your affiant submits that there is also probable cause to believe that BOURNES 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; and (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.

Finally, there is probable cause to believe that BOURNES violated 40 U.S.C. §§ 5104(e)(2) (E), which makes it a crime to willfully and knowingly obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings

[Redacted Signature]

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 12th day of January 2023.

G. Michael Harvey  Digitally signed
by G. Michael
Harvey

HONORABLE G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE