

STATEMENT OF FACTS

1. Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation (FBI) and has been since November 2019. I am currently assigned to the Domestic Terrorism unit of the Joint Terrorism Task Force (JTTF) of the FBI's San Antonio Division. I am an "investigator or law enforcement officer" within the meaning of Title 18, United States Code, Section 2510 (7), that is, an officer of the United States who is empowered by law to conduct investigations and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516. Previously I was a police sergeant with the Metropolitan Police Department in Washington DC. I have been employed as a Law Enforcement Officer for approximately eleven (11) years, during which I have conducted and participated in physical and electronic surveillance, execution of search and arrest warrants, debriefings of Confidential Human Sources (CHS) and Cooperating Witnesses (CW), reviews of recorded conversations and criminal records, and subject interviews and interrogations. As a member of the JTTF my primary duty and current assignment are to conduct investigations targeting violent domestic extremists and individuals involved in illegal activities as members of extremist organizations. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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 FIOL

8. An individual (herein referred to as Informant 1) contacted the FBI in San Antonio to notify law enforcement that FREDERIC FIOL sent videos to Informant 1 through Facebook Messenger that depicted FIOL's movements inside the U.S. Capitol building on January 6, 2021. Informant 1 stated that FIOL later used the "unsend" feature on Facebook Messenger to make the messages inaccessible to Informant 1.

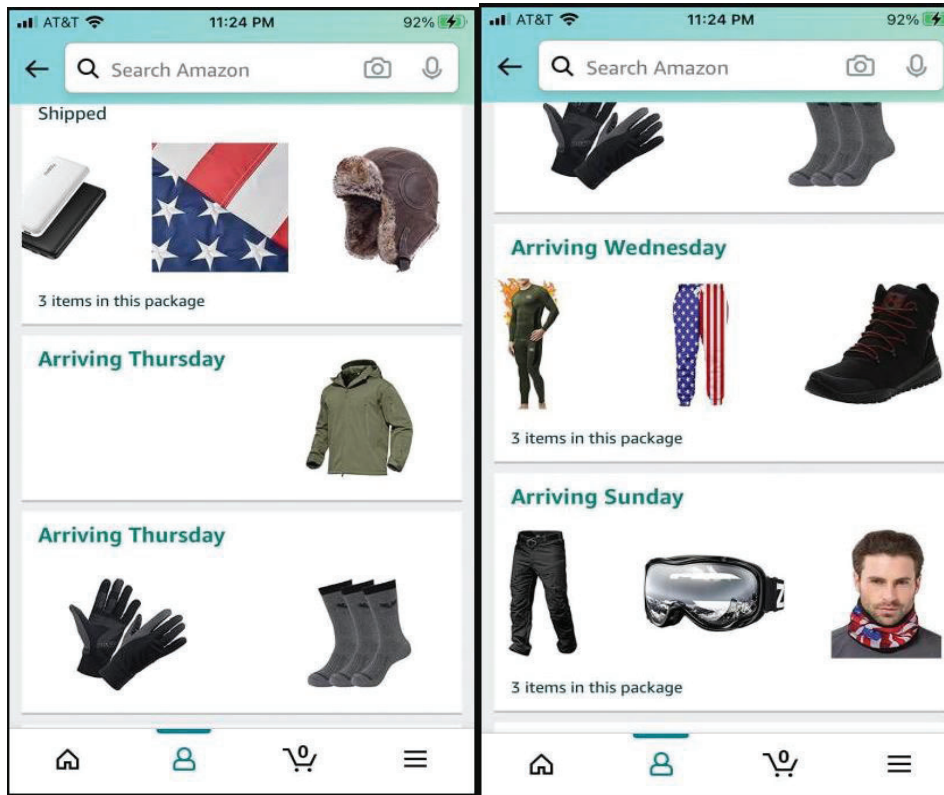
9. Informant 1 provided the Facebook screen name from the account which had sent the videos as "Real FredFiol." Informant 1 also knew FIOL to be Frederic Fiol from San Antonio, Texas, and stated that he knew FIOL when he resided in Orlando, Florida, prior to FIOL's moving to San Antonio, Texas.

10. A law enforcement agent previously assigned to this case obtained a screen capture of the "Real FredFiol" Facebook account. The agent also used open-source information to obtain the Facebook account user ID number for the "Real FredFiol" Facebook account which FIOL was believed to have utilized to send Informant 1 videos of FIOL's activity at the U.S. Capitol.

11. The agent also conducted an aviation database query for airline travel by FIOL. He discovered that FIOL booked a flight on American Airlines and, on January 5, 2021, FIOL flew from San Antonio International Airport to Reagan Washington National Airport near Washington, D.C. FIOL departed Reagan Washington National Airport on January 7, 2021, and returned to San Antonio.

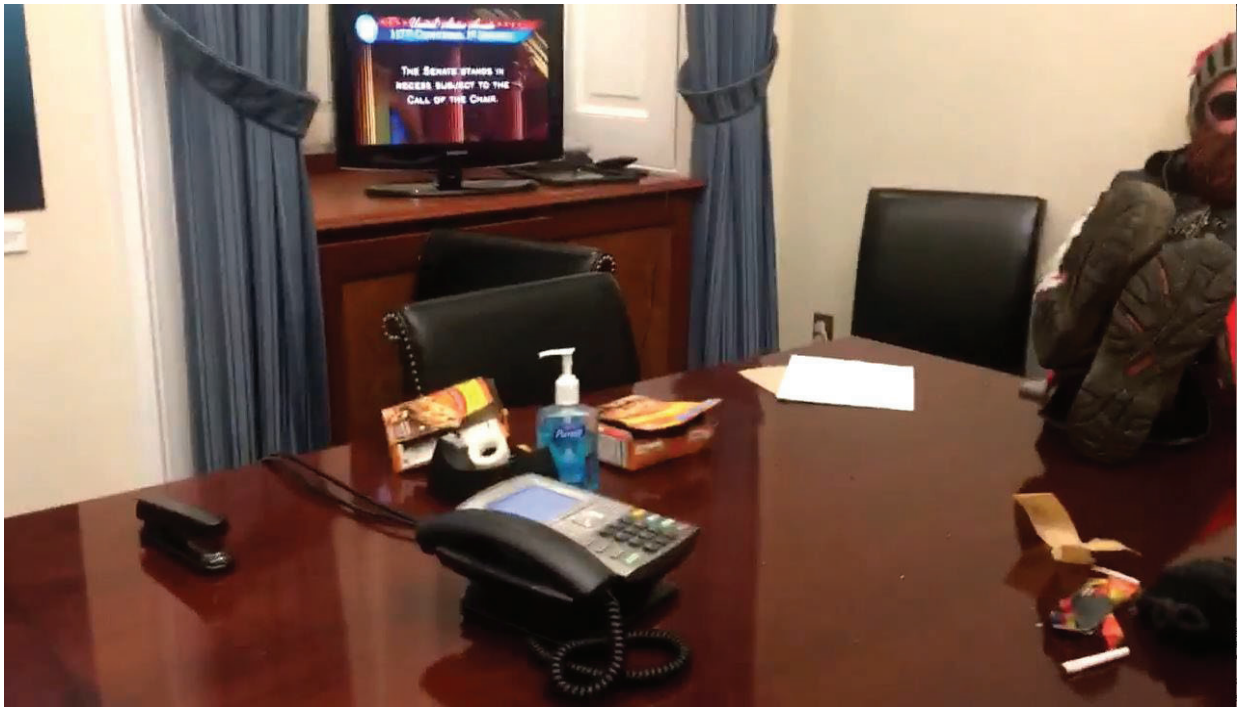
12. During the investigation, FBI analysts discovered that FIOL's phone number was directly linked to his Facebook account. Agents then conducted a search of data from January 6, 2021, which I acquired from AT&T, the cell service provider for FIOL's phone number. The data showed that, during and around the time of the breach of the Capitol, the cell phone associated with FIOL's phone number utilized a cell site consistent with providing service to a geographic area that included the interior of the Capitol building.

13. I also reviewed records obtained from FIOL's Facebook account. On December 29, 2020, FIOL sent a Facebook message to another Facebook user (Facebook User 1) which stated, "Gearing up to go help save western civilization as we know it." That message was accompanied by the following photos, which depict images of menus from the Amazon shopping app with pictures of attire and equipment:



14. On January 6, 2021, FIOLE sent multiple messages and videos to another Facebook user (Facebook User 2), which he subsequently unsent. The videos depict a person filming as he moves through the U.S. Capitol. Facebook User 2 responded to the videos in a voice message saying: "Hey buddy. How you doing? It's uh... what's going on in Texas, or what is this?" FIOLE responded via a voice message to Facebook User 2: "Washington D.C." Facebook User 2 replied, by voice message: "Oh okay. I see. It's people fuckin' responding to Trump's bullshit." FIOLE sent another Facebook message to Facebook User 2 that stated, "Dc cops were escorting buses with antifa fucks in them to the capitol 30 minutes before curfew." Facebook User 2 stated, "We're you in DC today?" FIOLE stated, "Yeah, accept my friend request so you can see the videos." FIOLE stated in another message, "I made history." Facebook User 2 user sent a voice message which was transcribed to "Dude, I can't believe you got involved in this bullshit. Now they're fuckin' talking on TV to fuckin' prosecute everybody fuckin' that they can find or whatever. Fuckin' – you guys are following a fuckin' idiot. Trump's a fuckin' douche bag, psychopath, and a fuckin' child molester. No more than that." FIOLE replied, "It was peaceful when I was [*sic*] there, they let people walk in and took selfies with cops. That shit happened hours before I got there."

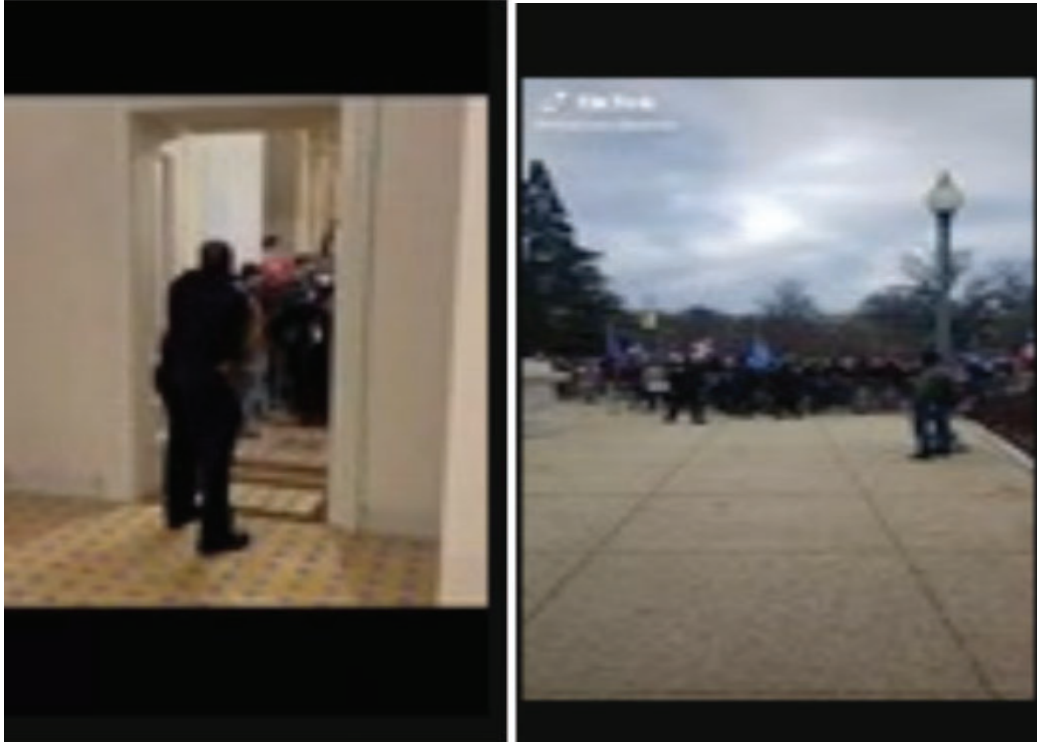
15. The images below depict screen captures from recordings taken inside the U.S. Capitol that FIOLE sent to Facebook User 2. The first two are identical to the first video sent from FIOLE to Informant 1, and the second two images are identical to the second video sent from FIOLE to Informant 1, both of which FIOLE sent on January 6, 2021.





16. On January 7, 2021, Informant 1 sent a Facebook message to FIOL which stated, “Fred don’t tell me you was running inside the capital [*sic*] today lmao.” FIOL replied, “Don’t believe the media, it was 99% peaceful.”

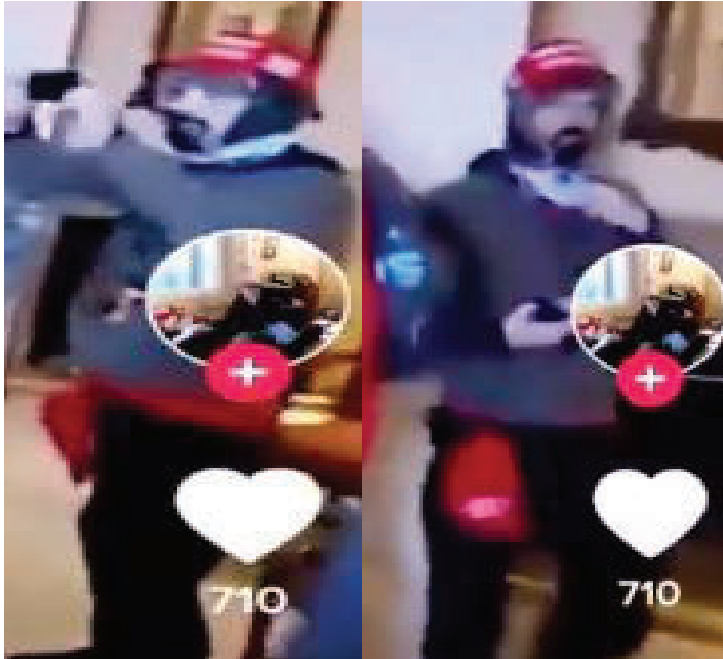
17. On January 7, 2021, FIOL publicly posted the following photos under his status on Facebook:



18. On January 9, 2021, FIOL posted a status from his Facebook account “Real FredFiol” that contained the picture below accompanied by the statement, “Check out how those thugs break down the doors and violently force themselves inside. How can people be this violent?”



19. I also reviewed open-source information and found a video depicting FIOL inside the Capitol building. Images from that video are below:



20. I reviewed CCTV video surveillance taken inside the U.S. Capitol on January 6, 2021. The images below, captured from those CCTV videos, show FIOL accompanying another rioter, whom I am familiar with from a prior investigation and prosecution. The other rioter was charged and pled guilty in connection with his participation in the January 6 Capitol Riot.



21. On June 2, 2021, I and other FBI agents interviewed the other rioter as part of a proffer session. With regard to FIOL's participation in the January 6 Capitol Riot, the other rioter provided the following information:

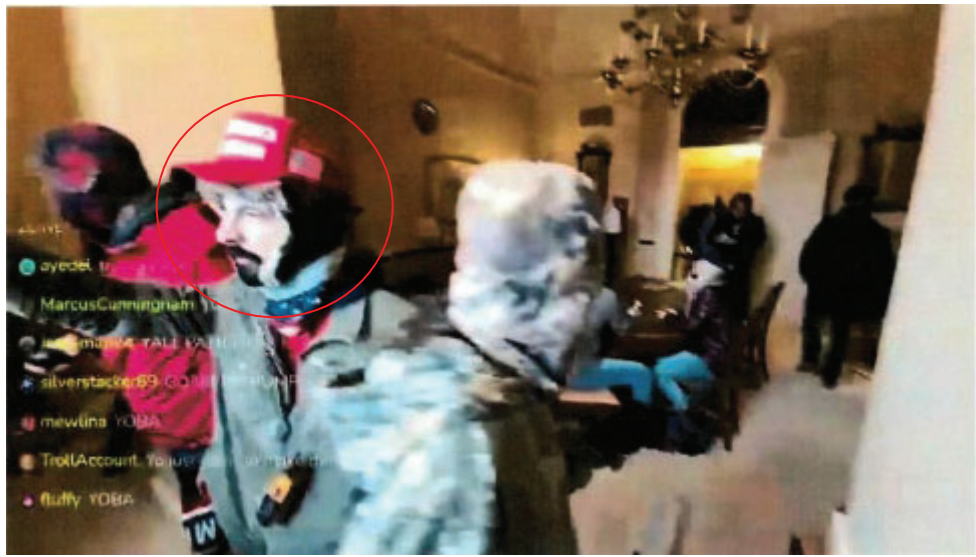
- The other rioter traveled to Washington D.C. and Virginia with FIOL, his high school friend and work assistant. After flying to Washington D.C., they stayed at the Hilton Hotel on the National Mall in Washington D.C. on the night of on January 5, 2021, and at a relative's house in Fairfax, Virginia on the night of January 6, 2021. FIOL and the other rioter attended the January 6th riot together.
- On the morning of January 6th, FIOL and the other rioter first arrived at the east side of the Capitol on the plaza. When they arrived, President Trump was still

speaking at the rally at the Washington Monument. Once individuals started gathering at the Capitol, they walked around to the northwest side of the Capitol.

- They spent about 30 minutes in that area then walked back to the east side of the Capitol. The men then walked back to the northwest side of the Capitol building along the upper steps and down to the southwest side of the building. The other rioter said he and others, including FIOL, entered the Capitol and stayed inside for approximately 10 to 15 minutes.

22. On November 28, 2022, I interviewed Informant 2 regarding FIOL. Informant 2 was the area manager for a business in the Leon Springs area of San Antonio, TX. He was also the supervisor of one of the business locations where FIOL worked and knew FIOL personally. During the interview, I presented Informant 2 with five (5) photos, all containing images of FIOL inside the U.S. Capitol building and on Capitol grounds on January 6, 2021. I presented the photos one at a time and sanitized them of any names or identifying features. Informant 2 was able to positively identify FIOL in three of the five photos. Furthermore, he correctly identified an individual in the last photo that he believed, with a high degree of certainty, was FIOL. Informant 2 identified FIOL in the following photos:







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



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 7th day of April 2023.

2023.04.07



Rob M. Meriweather

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HONORABLE ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE