

UNITED STATES DISTRICT COURT
for the
District of Columbia

United States of America
v.
Derek Andrew Nelson, (DOB: XXXXXXXXXXX)
Derek Jaccob Dodder, (DOB: XXXXXXXXXXX)

Case: 1:23-mj-00265
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 10/2/2023
Description: Complaint W/ Arrest Warrant

Defendant(s)

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

Derek Andrew Nelson (DOB:)
18 U.S.C. § 1752(a)(1) - Entering and Remaining in a Restricted Building or Grounds,
18 U.S.C. § 1752(a)(2) - Disorderly and Disruptive Conduct in a Restricted Building or Grounds,
40 U.S.C. § 5104(e)(2)(D) - Disorderly Conduct in a Capitol Building or Grounds,
40 U.S.C. § 5104(e)(2)(G) - Parading, Demonstrating, or Picketing in a Capitol Building.
Derek Jaccob Dodder (DOB:)
18 U.S.C. § 1752(a)(1) - Entering and Remaining in a Restricted Building or Grounds,
18 U.S.C. § 1752(a)(2) - Disorderly and Disruptive Conduct in a Restricted Building or Grounds,
40 U.S.C. § 5104(e)(2)(D) - Disorderly Conduct in a Capitol Building or Grounds,
40 U.S.C. § 5104(e)(2)(G) - Parading, Demonstrating, or Picketing in a Capitol Building.

This criminal complaint is based on these facts:

See attached statement of facts.

Continued on the attached sheet.

[Redacted signature area]

Printed name and title

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

Date: 10/02/2023

[Handwritten signature of M. A. Upadhyaya]

Judge's signature

City and state: Washington, D.C.

Moxila A. Upadhyaya, U.S. Magistrate Judge

Printed name and title

Case: 1:23-mj-00265
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 10/2/2023
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STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the Champaign, Illinois Resident Agency of the Springfield, Illinois FBI Field Office. I have been a Special Agent with the FBI for over 15 years. During my career as a Special Agent, I have investigated a variety of federal violations relating to child exploitation, violent crime, drug trafficking, public corruption, civils rights, fraud, and 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 violations of federal criminal laws. The information contained in this statement of facts is based in part on my own investigation, information provided by other law enforcement officers, information provided by other witnesses, and my experience and background as a law enforcement officer. The information contained in this statement of facts is not an exhaustive account of everything I know about this case. Rather, it is only the facts I believe are necessary to establish probable cause to issue the requested warrants.

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.

Identification of Derek Jacob DODDER

Based on information previously provided by Google, subsequent to legal process served by the FBI, an electronic device logged into Google Account ID ending in 11750 was likely within the U.S. Capitol on January 6, 2021, in violation of federal law.

According to records obtained through a search warrant served on Google, a mobile device associated with djdodder****@gmail.com (hereinafter “the account Gmail address”) was present at the U.S. Capitol on January 6, 2021. Google estimates device location using sources including GPS data and information about nearby Wi-Fi access points and Bluetooth beacons. This location data varies in its accuracy, depending on the source(s) of the data. As a result, Google assigns a “maps display radius” for each location data point. Thus, where Google estimates that its location data is accurate to within 10 meters, Google assigns a “maps display radius” of 10 meters to the location data point. Finally, Google reports that its “maps display radius” reflects the actual location of the covered device approximately 68% of the time. In this case, Google location data shows that a device associated with djdodder****@gmail.com was within the U.S. Capitol and within the restricted area between approximately 2:13 p.m. and 3:20 p.m, including several data points with a “maps display radius” that is partially or entirely within the U.S. Capitol building. Google records further showed that the account associated with the device was associated with recovery e-mail address xxxxxxxxxxxxxxxxxxxx@gmail.com (hereinafter “the recovery Gmail address”) and phone number 1-xxx-xxx-4373 (hereinafter “telephone number ending in 4373”), and had a listed name of Red Tie Films RTF.

Subsequent open sources queries and queries of law enforcement databases revealed that Derek Jacob DODDER, DOB: xx/xx/1992, was affiliated with Red Tie Films RTF and the likely subscriber of the account Gmail address. These queries further showed a current residence for DODDER in Las Vegas, Nevada.

On July 1, 2021, DODDER voluntarily came to the Las Vegas, Nevada FBI Field Office and consented to participate in an interview regarding an unrelated matter regarding an investigation of other individual(s). During the interview, DODDER confirmed ownership of the account Gmail address as his primary e-mail address, with a back-up e-mail address of the recovery Gmail address. DODDER further stated he used an Android-style phone and he had never lost possession of it. DODDER advised he had used telephone number ending in 4373 in the past, though it was not his current telephone number at the time of the interview. Finally, DODDER

stated he had been associated with Red Tie Films in the past, but worked for a company called Chaos Media as a film director and video editor at the time of the interview.

After the interview, the FBI identified DODDER in videos publicly available on the Internet.

In Image 1 below, from a video posted at <https://youtu.be/L5EfNYprOuo?t=957>, DODDER is wearing a long sleeve camouflage shirt and goggles, with a respirator mask around his neck. DODDER appears to be located inside the U.S. Capitol building with a large crowd, and appears to be holding a device in the air with his left hand. The individual who filmed this video has admitted that he did so at the Capitol on January 6; he was in the Crypt of the Capitol at the time of the screenshot below. See Statement of Offense, *United States v. Montoya*, No. 21-cr-336 (JDB), ECF No. 54 (D.D.C. filed Nov. 7, 2022); Gov. Sent. Mem., *United States v. Montoya*, No. 21-cr-336 (JDB), ECF No. 64, at 5-9 (D.D.C. filed Mar. 29, 2023).



Image 1: DODDER on Left Wearing Goggles and Camouflage Shirt with Respirator Mask Around Neck in U.S. Capitol Building

In Image 2 below, from a video posted at <https://archive.org/details/capital-hill-occupy-ovfr-18>, DODDER is wearing the same items described above with the goggles resting on his forehead and khaki pants also visible. DODDER again appears to be located inside the U.S. Capitol building with a large crowd.

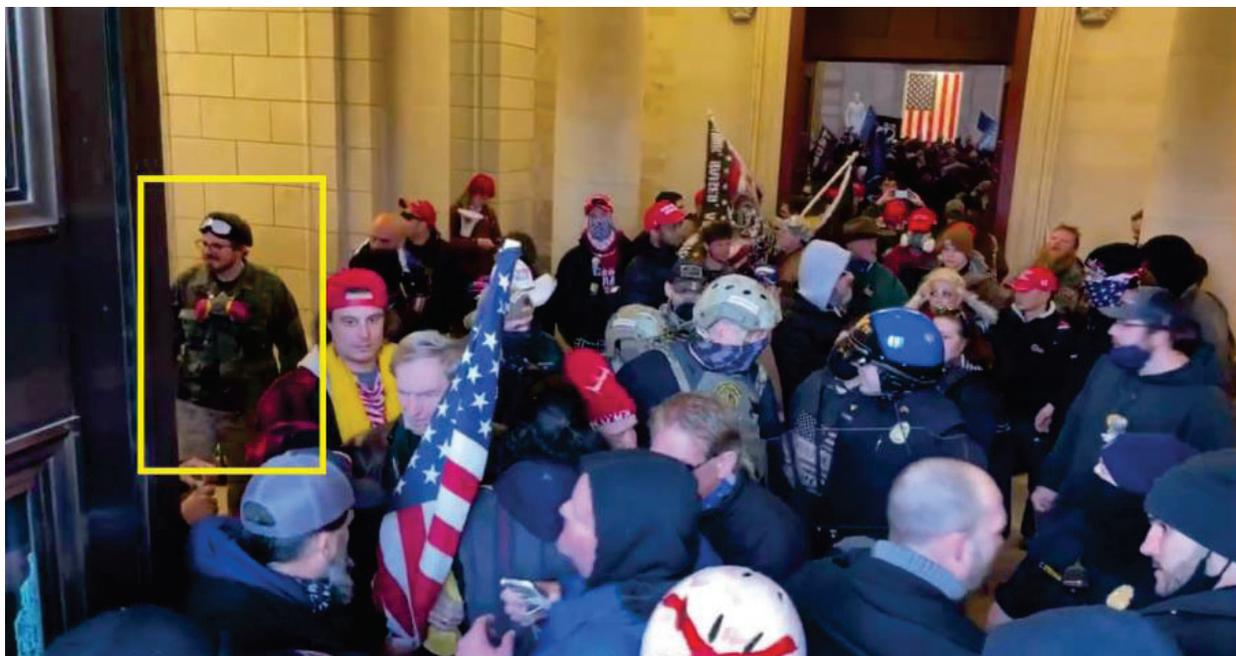


Image 2: DODDER (Outlined) on Left in U.S. Capitol Building

Image 3 below, from an image posted at <https://www.gettyimages.com/detail/news-photo/supporters-of-us-president-donald-trump-march-through-the-news-photo/1230458439>, appears to depict DODDER in Washington, D.C., in the vicinity of the U.S. Capitol, on January 6, 2021. DODDER is wearing a long sleeve camouflage shirt and a black baseball-style hat, with a respirator mask and U.S. flag around his neck. DODDER appears to be marching down a street in Washington, D.C. with a large crowd. Directly next to him is an individual carrying a U.S. flag on a wooden pole and wearing a brown tricorne hat along with a blue double-breasted button coat and red or maroon undershirt with a white scarf around his neck. This individual was later identified as Derek Andrew NELSON, as described in more detail below.



Image 3: DODDER (Circled) on Left and NELSON (Circled) in Center Marching Down Street in Washington, D.C.

In Image 4 below, from a video posted at <https://www.youtube.com/watch?v=LjS7bEuKrzI&t=63s>, DODDER is again standing next to the individual later identified as NELSON. DODDER is facing away from the camera among a crowd of people in a grassy field which appears to be located in Washington, D.C. near the Washington Monument.



Image 4: DODDER and NELSON Facing Away from Camera in Field Near Washington Monument

A search of Nevada government records returned a photograph of DODDER that appeared consistent with the physical appearance of the individual identified as DODDER in the images above. Nevada government records listed a residential address for DODDER in Las Vegas, Nevada.

On June 28, 2023, an interview was conducted of a staff member in the main office of the apartment complex where DODDER is believed to reside. The staff member confirmed that DODDER appeared to be the individual depicted in the open-source image included below as Image 5 depicting Washington, D.C. on January 6, 2021. In this image, DODDER is wearing a long sleeve camouflage shirt and khaki pants with a respirator mask around his neck, which is consistent with what he appears to be wearing from images taken inside the U.S. Capitol building on January 6, 2021. The staff member was also shown DODDER's driver's license photo.



Image 5: Consistent with his appearance in images from inside the Capitol on January 6, 2021, DODDER is wearing a long sleeve camouflage shirt and khaki pants, with a respirator mask around his neck

Accordingly, based on facts including (1) DODDER's admission that he used the Gmail account and number ending in 4373, which was associated with a device that was inside the Capitol building on January 6, 2021, (2) the similarity between DODDER's driver's license photo and his appearance in open source photos and videos from January 6, 2021, and (3) the third-party identification described above, I believe that the individual in the above videos and photos from Washington, DC on January 6, 2021 from both outside and inside the Capitol is in fact Derek Jaccob DODDER.

Identification of DEREK ANDREW NELSON

The FBI identified the individual that DODDER was with on January 6, 2021 as Derek Andrew NELSON. The FBI located images of an individual who appeared to be NELSON from publicly available images and videos.

Image 6 below depicts NELSON and DODDER inside the Rotunda of the U.S. Capitol building from a video posted at <https://youtu.be/L5EfNYprOuo?t=1711>. In the image, NELSON and DODDER are both extending their arms into the air in what appears to be a celebratory fashion. In addition, DODDER appears to be recording or photographing himself with a device he is holding in his right hand.



Image 6: NELSON and DODDER in Rotunda of U.S. Capitol Building

In Image 7 below, from a video posted at <https://archive.org/details/capital-hill-occupy-ovfr-18>, NELSON is visible with a large crowd which appears to be exiting the U.S. Capitol building. NELSON is identifiable through his white scarf, pink respirator mask, and goggles on his head, and is generally consistent in appearance with Image 6 above.

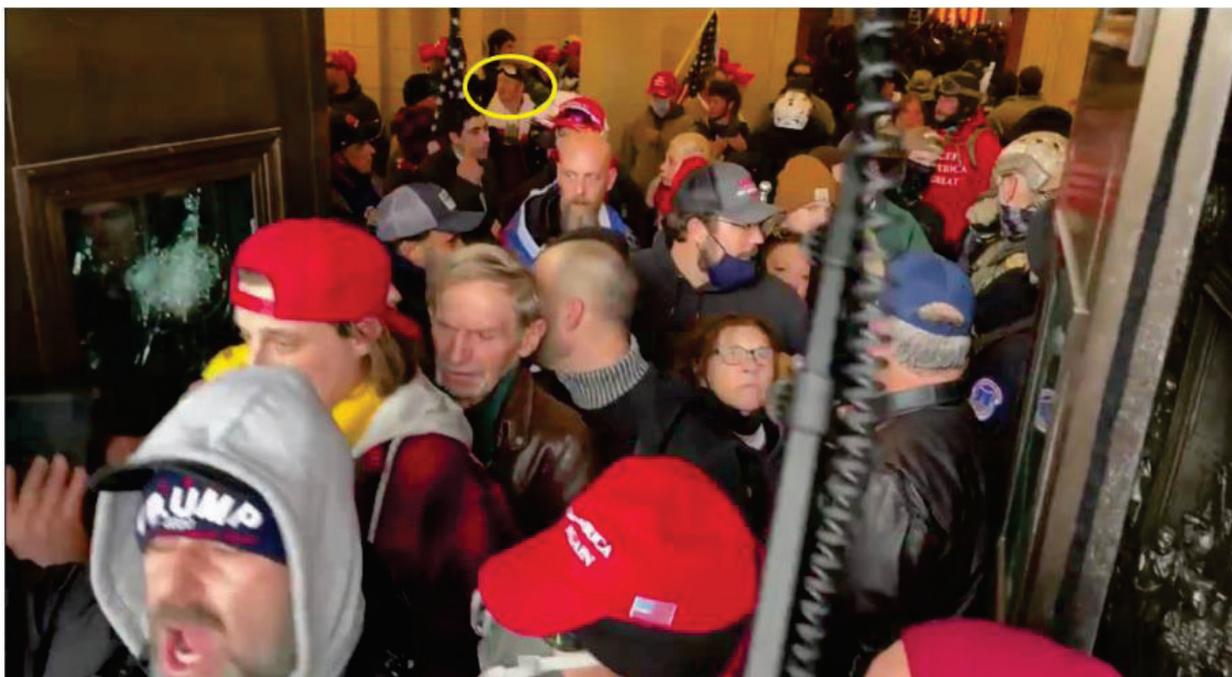


Image 7: NELSON (Circled) with Large Crowd in U.S. Capitol Building

Image 8 below depicts NELSON from a video posted at <https://www.youtube.com/watch?v=ljJxR09gnOQ&t=250s>. In the image, NELSON is standing in a grassy field which appears to be located in Washington, D.C. near the Washington Monument.



Image 8: NELSON Standing in Field Near Washington Monument

In addition to the above photos of this individual from January 6, 2021, the FBI identified photos of an individual of similar appearance from public social media posts who went by the name Derek Nelson. Open source queries and queries of law enforcement databases corroborated that Derek Andrew NELSON, DOB: xx/xx/1993, was likely the individual in these images. These queries further showed a current residence for NELSON in Danville, Illinois, with previous addresses in San Diego, California and Wauconda, Illinois. The FBI identified two public Facebook profiles for NELSON which indicated he previously lived in California and was originally from Wauconda, Illinois, giving further credibility to the FBI's preliminary identification of NELSON. In addition, NELSON's publicly accessible Facebook profiles indicated he served in the United States Marine Corps (USMC). The FBI obtained records from the USMC which confirmed that NELSON was on active duty in the USMC from October 2011 to September 2015.

Further, a search of Illinois government records returned a photograph of NELSON that appeared consistent with the physical appearance of the individual identified as NELSON in the images above. NELSON's U.S. passport photograph also appeared consistent with the physical appearance of the individual identified as NELSON in the images above.

On February 8, 2022, I and another Agent attempted to interview NELSON at his residence in Danville, Illinois regarding his involvement in the events of January 6, 2021 in Washington, D.C. After several knocks on the front door of the residence with no response, I left a business card containing my direct contact information in the mail slot of the front door. Later the same day, I received a telephone call from a Chicago-based attorney who stated he represented NELSON. I advised the attorney that I was seeking to interview NELSON regarding his activities at the U.S. Capitol building on January 6, 2021. I was later informed, through counsel, that NELSON declined to speak with the FBI about this matter.

In late April 2022, I interviewed an individual who interacted with NELSON when he purchased his current residence in Danville, Illinois in June 2021 ("Witness-1"). I showed Witness-1 several images of the individual identified as NELSON through video footage review, including Image 10 below. Witness-1 stated that while he did not recall interacting with NELSON outside of the transaction, the individual depicted in the images wearing a distinctive dark-colored double-breasted button coat appeared to be NELSON. Witness-1 was most confident about the below image since it was a close-up view of the individual's face.



Image 10: Image of NELSON Shown to Witness-1 for Identification

Accordingly, based on the (1) the similarity of the physical appearance of the individual identified as NELSON in the images above and NELSON's image in government records described above, and (2) the third-party identification described above, I believe that the individual depicted in the images above from January 6, 2021, including from inside the U.S. Capitol, is in fact Derek Andrew NELSON.

DODDER and NELSON are Identified in Exterior Video Footage

During the investigation, I reviewed video footage from the exterior of the U.S. Capitol building and other locations in the vicinity of the U.S. Capitol on January 6, 2021, which the FBI obtained from open sources and the investigation of other Capitol subjects.

In a video posted at <https://jan6archive.com/youtube/cFCtkiEGNqA.mp4>, approximately six minutes in length, NELSON and two other individuals are interviewed by an unknown individual with a female voice near the Washington Monument. The interviewer asks NELSON and the two other individuals standing next to him, "Gentlemen, why are you here today?" NELSON replies, "To start a revolution. Why are you here?" DODDER is also visible in the video for a brief time following the interview. Image 11 below is a still image from the interview.



Image 11: NELSON Interviewed in Front of Washington Monument (3:25 mark of video)

The review of exterior video footage revealed that DODDER and NELSON approached the U.S. Capitol building through the northwest scaffolding and Upper West Terrace, and entered the building via the Senate Wing at approximately 2:16 p.m.

In an approximately 90-minute open source video (Insurgence USA long -- Full Video Trump Supporters Storming The Capitol.mp4), DODDER and NELSON are visible with a large, rowdy crowd outside the U.S. Capitol building near the northwest scaffolding. DODDER is wearing goggles, and NELSON is wearing goggles and a respirator mask. Several individuals in the crowd are yelling obscenities and directing other abusive language at uniformed police officers. Image 12 below is a still image from this portion of the video.



Image 12: DODDER and NELSON (Circled) by Northwest Scaffolding. DODDER is Facing Away from the Camera (19:52 mark of video)

The crowd eventually pushes past several uniformed police officers standing in front of the entrance to the scaffolding, and DODDER and NELSON follow. The crowd continues up the steps toward the Upper West Terrace, pushing past barricades and ignoring efforts by police officers to halt their advancement. Image 13 below is a second still image from the video, depicting NELSON prior to following the crowd past a second line of police officers and barricades in the northwest scaffolding.



Image 13: NELSON (Circled) Prior to Following Crowd Past Second Line of Police Officers and Barricades in Scaffolding (35:50 mark of video)

Image 14 below is a third still image from the video, depicting NELSON as he climbs the steps of the U.S. Capitol with a large crowd a people on his way to the Upper West Terrace.



Image 14: NELSON (Circled) Climbs Steps of U.S. Capitol with Crowd Toward Upper West Terrace (39:36 mark of video)

Upon arrival at the top of the steps, the crowd again pushes past barricades and uniformed police officers, arriving at the Upper West Terrace. As the video progresses, several individuals in the crowd enter the U.S. Capitol building at the Senate Wing, including the individual recording the video. DODDER and NELSON can be seen walking toward the Senate Wing doors just prior to the individual making entry, as depicted in Image 15 below.



Image 15: DODDER and NELSON (Circled) Walking Toward Senate Wing Doors (44:03 mark of video)

When the individual makes entry, the continuous beeping of an alarm can be heard in the background, as well as the sound of people stepping on broken glass. NELSON is again visible standing just outside of a broken window near the Senate Wing doors before the video progresses to events occurring on the inside of the U.S. Capitol building, as depicted in Image 16 below.



Image 16: NELSON (Circled) Standing Outside of a Broken Window Near Senate Wing Doors (45:19 mark of video)

DODDER and NELSON are Identified in CCTV Footage

I also reviewed surveillance video footage of the interior of the U.S. Capitol building from January 6, 2021. The review revealed that the individuals identified as DODDER and NELSON entered the U.S. Capitol building at approximately 2:16 p.m. on the first floor at the Senate Wing, approximately three minutes after the initial breach at that location when the first individuals made forcible entry. DODDER entered the building through a broken window, with glass on the floor below the windowsill. NELSON entered the building through a door with an exit sign above it. See Images 17 and 18 below.



Image 17: DODDER (Circled) Enters U.S. Capitol Building Through Window on Right Side of Image

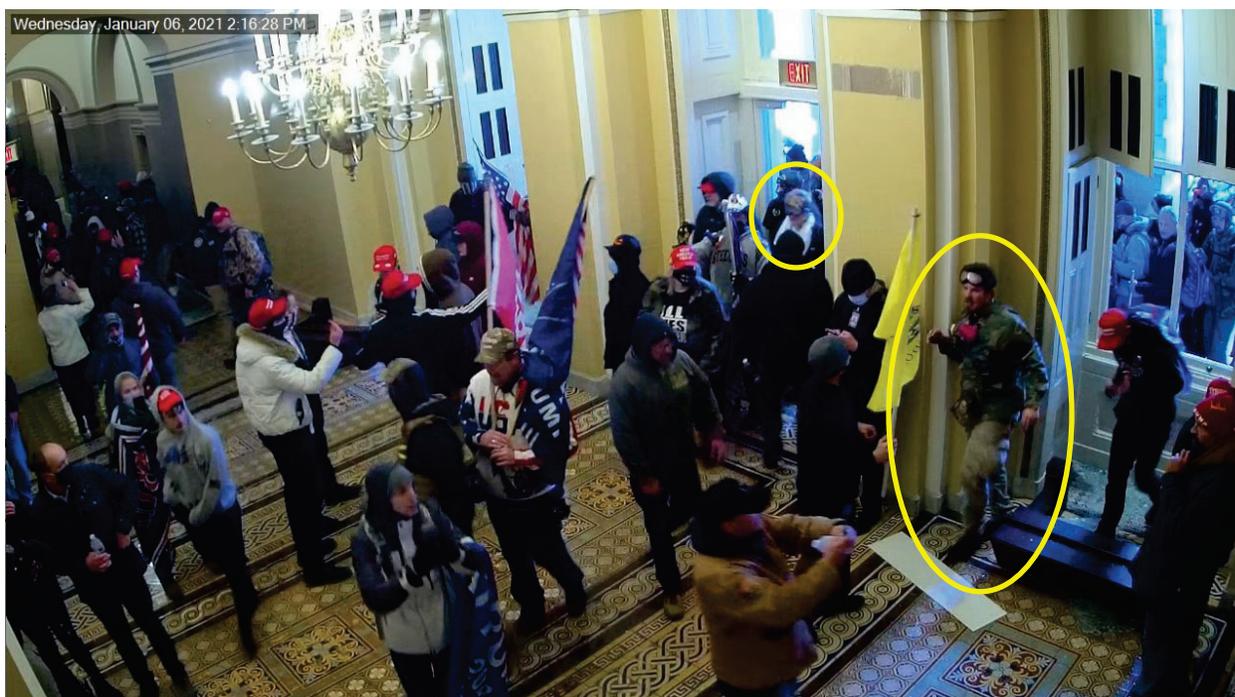


Image 18: NELSON (Circled) Enters U.S. Capitol Building Through Door with Exit Sign Above it in Center of Image Shortly After DODDER (Circled) Enters Through Window on Right Side of Image

When DODDER and NELSON made entry into the U.S. Capitol building, they were wearing substantially the same clothing items as the individuals depicted in the open source videos discussed above. DODDER was wearing a long sleeve camouflage shirt and khaki pants, with goggles on his forehead and a respirator mask around his neck. DODDER moved the goggles from covering his eyes to his forehead just prior to making entry. Shortly after jumping through the window, DODDER nearly tripped as he stepped over a piece of furniture which was lying on the floor in front of him. In addition, DODDER appeared to be holding a device in his right hand which he pointed in a manner indicating that he was recording the events around him. NELSON was wearing goggles and a blue double-breasted button coat with a red or maroon undershirt, along with khaki pants and dark-colored gloves which appeared to be black and red. He also had a white scarf and respirator mask around his neck, and appeared to be wearing a dark-colored backpack with a portion of a U.S flag hanging out of the backpack. Shortly after making entry, NELSON hugged an unknown individual whose face was covered with a U.S. flag-style mask and then proceeded to link up with DODDER.

DODDER and NELSON then walked together toward the Crypt, arriving at the north end at approximately 2:19 p.m. At approximately 2:25 p.m., the large crowd in the Crypt began pushing their way past uniformed police officers toward the south end. DODDER and NELSON remained in the Crypt until approximately 2:27 p.m., when they appeared to exit at the south end.

DODDER and NELSON arrived in the Rotunda on the second floor of the U.S. Capitol building at approximately 2:33 p.m. Upon arrival, NELSON appeared to make an obscene gesture with the middle finger of his left hand in the direction of one of the statues, as depicted in Image 19 below. DODDER appeared to be recording the events in the Rotunda with the previously referenced device. At approximately 2:34 p.m., DODDER and NELSON appeared to extend their arms in the air in a celebratory fashion, similar to their appearance in Image 6 above.

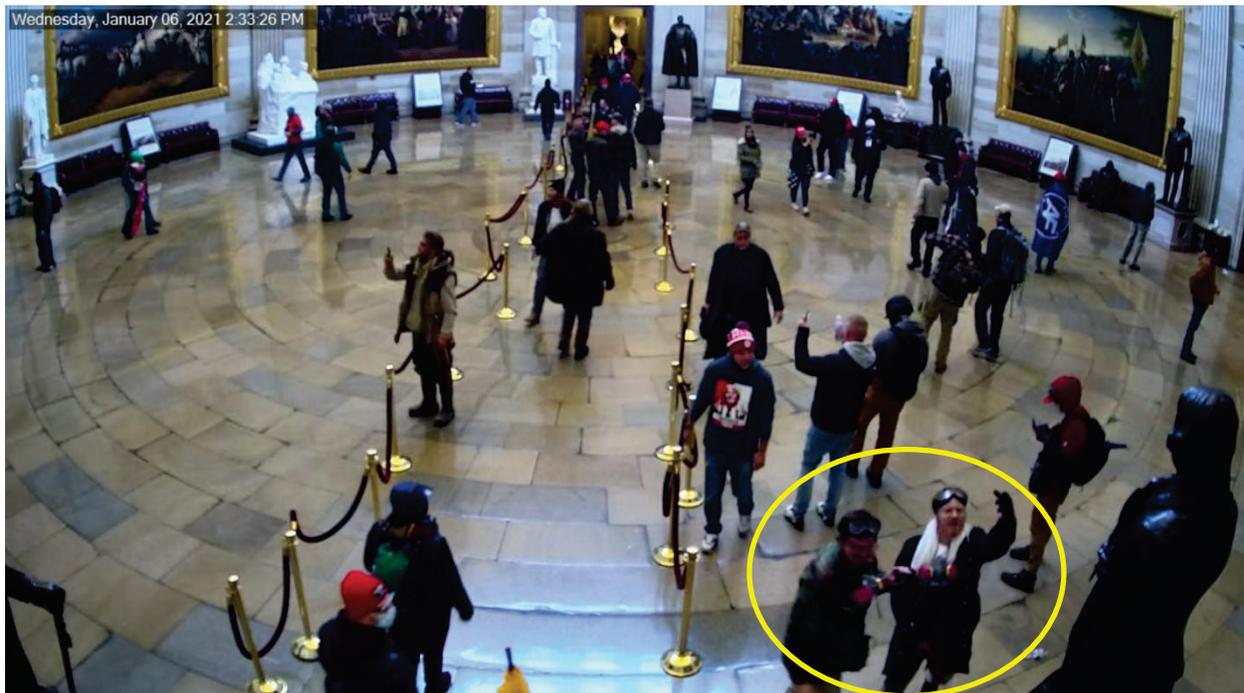


Image 19: DODDER and NELSON (Circled) Arrive in Rotunda

From the Rotunda, DODDER and NELSON walked through the Statuary Hall toward the House Chamber, where they remained for several minutes. While passing through the Statuary Hall, NELSON shook hands with an unknown individual wearing a red baseball-style hat (on backwards) with a dark-colored jacket and khaki pants, as depicted in Image 20 below.



Image 20: DODDER and NELSON (Circled) Pass Through Statuary Hall

While in a hallway in the vicinity of the House Chamber, NELSON had three brief interactions with police officers between approximately 2:43 p.m. and 2:51 p.m., each lasting a few seconds. None of the encounters appeared to be physically violent in nature. One such encounter is depicted in Image 21 below.



Image 21: NELSON (Circled) Interacts with Police Officer in Hallway Near House Chamber

On two occasions between approximately 2:45 p.m. and 2:46 p.m., police officers appeared to deploy a white spray into the hallway in an apparent effort to control the crowd.

DODDER and NELSON appeared to split up for several minutes while they were in the vicinity of the House Chamber. From the area of the House Chamber, they walked back through the Statuary Hall and entered the Rotunda a second time. They met back up in the Rotunda at approximately 2:52 p.m., as depicted in Image 22 below.

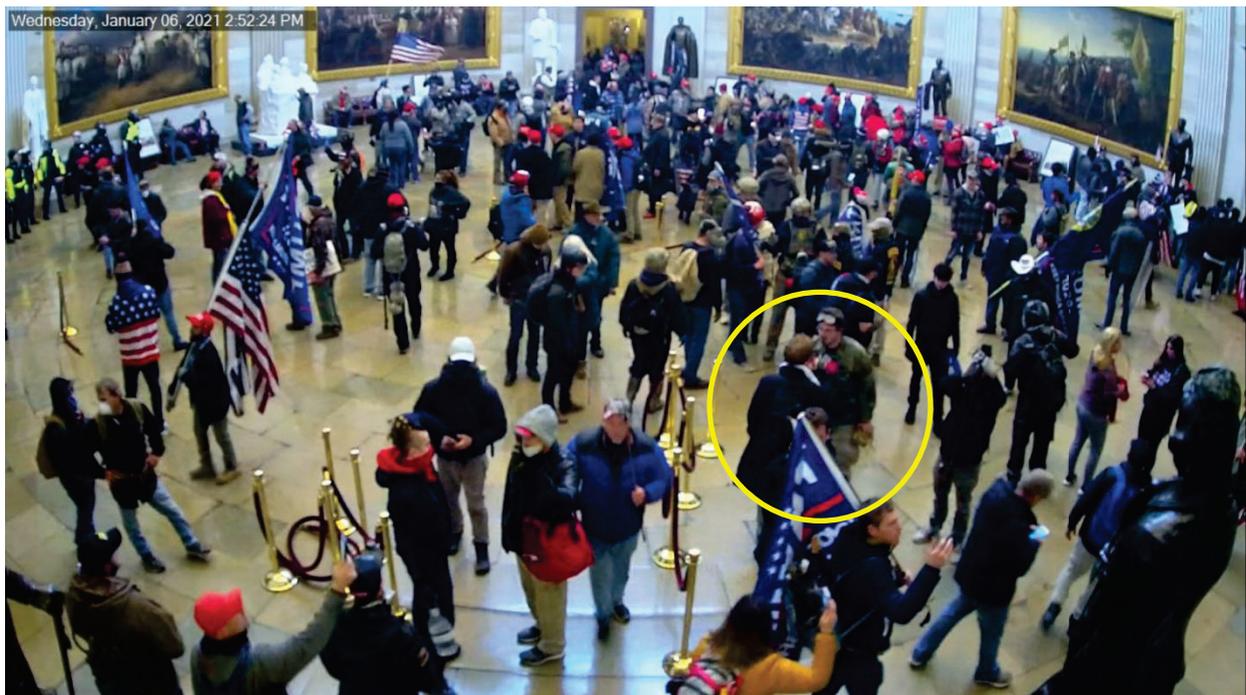


Image 22: DODDER and NELSON (Circled) Meet Back Up in Rotunda

At approximately 2:53 p.m., NELSON appeared to take a photograph of something in the Rotunda with a cell phone he removed from his left-side pants pocket, as depicted in Image 23 below. Around the same time, DODDER appeared to view a cell phone which he removed from his right-side pants pocket, as depicted in Image 24 below.

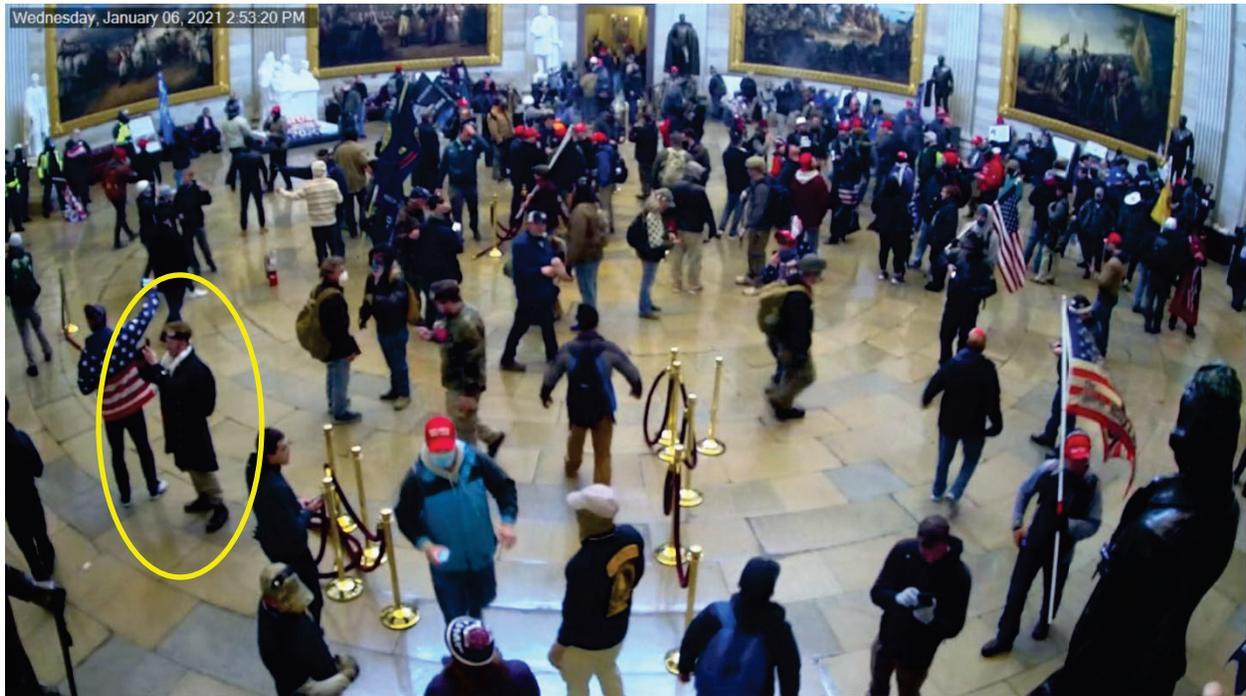


Image 23: NELSON (Circled) Takes Photograph in Rotunda Using Phone on Left Side of Image

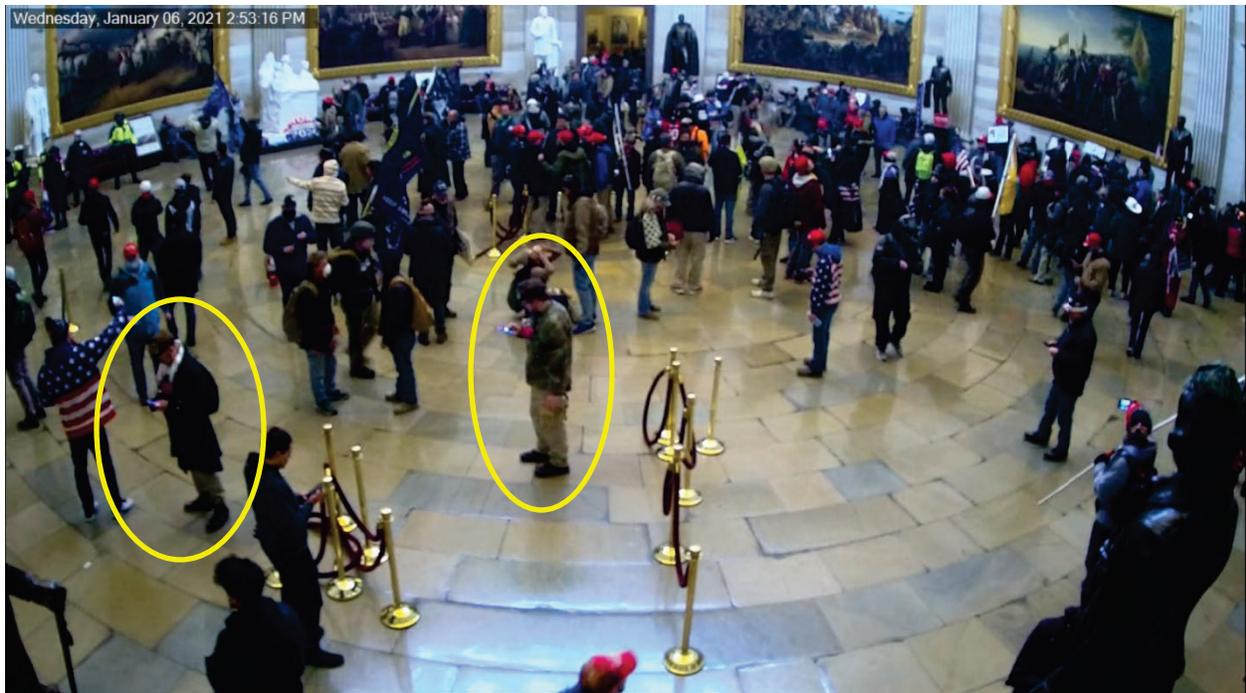


Image 24: DODDER and NELSON (Circled) View Their Phones in Rotunda

DODDER and NELSON remained in the Rotunda area until approximately 3:04 p.m., when they exited the U.S. Capitol building via the Rotunda doors. DODDER appeared to record the events around him with the previously referenced device, as depicted in Image 25 below.



Image 25: DODDER and NELSON (Circled) Exit U.S. Capitol Building Via Rotunda Doors

DODDER and NELSON are Identified in Other Interior Video Footage

During the investigation, I also reviewed other video footage from the interior of the U.S. Capitol building on January 6, 2021, which the FBI obtained from open sources and the investigation of other Capitol subjects. In one such open-source video (filmed, as explained above, by Samuel Montoya, who has admitted he was inside the Capitol), approximately 44 minutes in length and entitled “The Resistance,” DODDER and NELSON are visible at multiple points, including inside the Rotunda of the U.S. Capitol building, as depicted in Image 26 below.



Image 26: DODDER and NELSON in Rotunda of U.S. Capitol Building (28:31 mark of video)

In a video the FBI obtained from a device belonging to another individual who was inside the Capitol on January 6, 2021, approximately two minutes in length (IMG_6382.MOV), DODDER and NELSON are visible in the Crypt of the U.S. Capitol building with a large crowd. The crowd is participating in various chants including “Our House” and “Stop the Steal.” DODDER appears to record the events around him with a device he is holding in his left hand, as depicted in Image 27 below.



Image 27: DODDER (Circled) in Crypt (44 sec mark of video)

In another video the FBI obtained from a device belonging to the same individual who was inside the Capitol on January 6, 2021, approximately four minutes in length (IMG_6391.MOV), NELSON is visible with a large crowd in the U.S. Capitol building walking up a staircase to the second level, toward the Rotunda. When the individual recording the video yells out, “Who do they work for?”, NELSON pumps his fist in the air and yells in response “Us” along with several others, as depicted in Image 28 below. As the video progresses, the crowd repeatedly calls out “Nancy” in reference to Speaker of the House Nancy Pelosi. The video ends in the Rotunda of the U.S. Capitol building, where NELSON is visible for a brief time. The crowd in the Rotunda is celebrating and chanting “U.S.A.”



Image 28: NELSON (Circled) Walks Up Staircase Toward Rotunda While Pumping Fist in the Air (9 sec mark of video)

Finally, in Image 29 below, a still image from a third party video submitted to the FBI, DODDER and NELSON are visible outside the House Chamber of the U.S. Capitol building wearing goggles and matching respirator masks, with a white spray clearly visible in the background of the image.



Image 29: DODDER and NELSON Outside of the House Chamber Wearing Goggles and Respirator Masks

Conclusion

Based on the foregoing, your affiant submits that there is probable cause to believe that DODDER and NELSON 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 so; 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. For purposes of Section 1752 of Title 18, a “restricted building” includes any 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 DODDER and NELSON violated 40 U.S.C. § 5104(e)(2)(D), which makes it a crime to 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 40 U.S.C. § 5104(e)(2)(G), which makes it crime to parade, demonstrate, or picket in any of the Capitol Buildings.



Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 2nd day of October 2023.

A handwritten signature in blue ink that reads "M. A. Upadhyaya". To the right of the signature is a circular official seal of the Federal Bureau of Investigation, U.S. Department of Justice.

THE HON. MOXILA A. UPADHYAYA
U.S. MAGISTRATE JUDGE