

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Department of Homeland Security's Homeland Security Investigations. I am also currently assigned as a Task Force Officer ("TFO") to the Federal Bureau of Investigation ("FBI") Joint Terrorism Task Force in Tampa, Florida. I have been a Special Agent with Homeland Security Investigations since 2001. Prior to joining Homeland Security Investigations, I was an Agent with the U.S. Border Patrol from 1998 to 2001. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent and Task Force Officer, 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.

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.

Identification of Michael HENNESSEY

On or about December 17, 2021, the FBI received a tip identifying Michael HENNESSEY in images taken inside the U.S. Capitol building on January 6, 2021. Following receipt of this tip, FBI agents from the Tampa Field Office obtained HENNESSEY's driver's license photograph from the Florida Department of Highway and Motor Vehicles ("DHSMV").

I also reviewed closed circuit television ("CCTV") footage taken from inside the Capitol and identified a person matching HENNESSEY's appearance in his driver's license photograph entering and remaining in the Capitol building on January 6, 2021. In the CCTV footage I reviewed, HENNESSEY is pictured wearing a blue hooded jacket with a white hood lining, blue jeans, and blue Nike sneakers. At various points throughout his time in and around the Capitol, HENNESSEY can sometimes be seen wearing a gray beanie hat or a black face mask.

On November 21, 2022, your affiant and TFO Belvin Sanchez interviewed HENNESSEY at his home. During the course of this interview, HENNESSEY described entering the Capitol building on January 6, 2021, and identified himself in Images 1 and 2, below, taken in and outside the Capitol building.



Image 1: Photograph shown to HENNESSEY during FBI interview, depicting HENNESSEY inside the Capitol building's Rotunda. A red circled has been added around HENNESSEY but was not part of the photograph shown to HENNESSEY during his interview.



Image 2: Photograph shown to HENNESSEY during FBI interview, depicting HENNESSEY standing outside the Capitol's East Rotunda Doors

HENNESSEY's Activities at the U.S. Capitol

On January 4, 2021, HENNESSEY traveled from his home in Palm Harbor, Florida to Washington, D.C. Two days later, on January 6, 2021, he attended the "Stop the Steal" rally at the Ellipse. HENNESSEY told the FBI that he listened to a number of the rally's speakers, including Rudy Giuliani and Donald Trump Jr. He emphasized to the FBI that he listened to the entirety of President Trump's speech while at the rally.

After the end of President Trump's speech, HENNESSEY told the FBI that he joined the crowd in walking from the Ellipse to the Capitol, entering the Capitol grounds through the West Plaza. Open-source video shows that HENNESSEY proceeded toward the Capitol building via the northwest stairs. There, he was among the first group of rioters to ascend the concrete stairs from the West Plaza to the Capitol's Upper West Terrace as the crowd overwhelmed police lines and forced law enforcement to retreat.

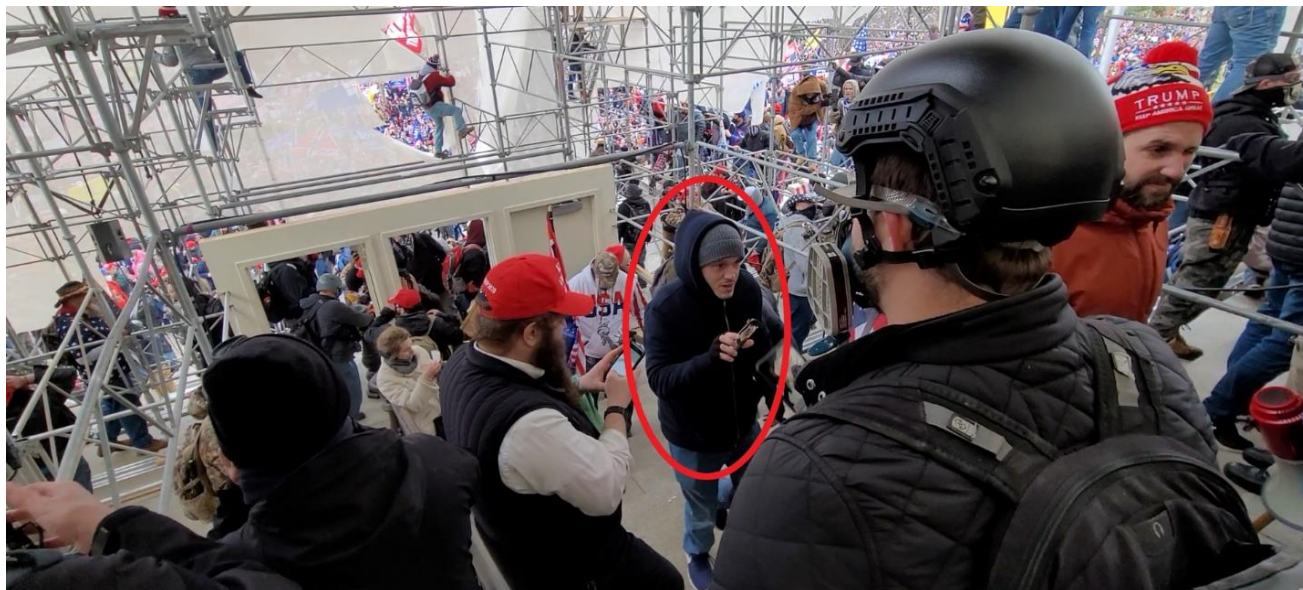


Image 3: Screenshot of open-source video, with HENNESSEY circled in red



Image 4: Screenshot of Capitol CCTV, with HENNESSEY circled in red

From the Upper West Terrace, HENNESSEY entered the Capitol building through the Senate Wing Door at 2:15 p.m.— two minutes after the first breach of the Capitol building, which took place at this entrance.



Image 5: Screenshot of Capitol CCTV, with HENNESSEY circled in red

Once inside, HENNESSEY joined the mob in chanting “Our House” and briefly proceeded in the direction of the Senate Carriage Door. While in this area, HENNESSEY put on a black face mask.

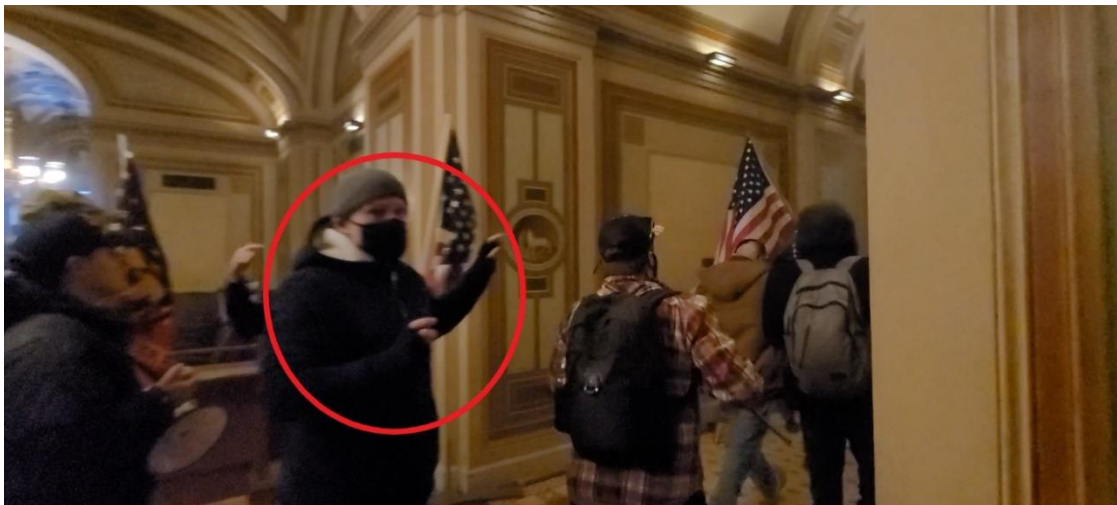


Image 6: Screenshot of open-source video, with HENNESSEY circled in red

Shortly thereafter, HENNESSEY reversed direction and walked back by the Senate Wing Door and toward the Crypt. Before reaching the Crypt, he entered a room with windows to the Upper West Terrace. While inside the room, he appeared to record videos and take photographs while carrying a yellow “Don’t Tread on Me” flag, which he told the FBI he received from another rioter.



Image 7: Screenshot of open-source video, with HENNESSEY circled in red

Once HENNESSEY reached the Crypt, he positioned himself at the front of a crowd facing off against U.S. Capitol Police (“USCP”) officers attempting to protect the area. In a coordinated effort with the rest of the mob, HENNESSEY proceeded to push up against the USCP officers. HENNESSEY and the crowd eventually overpowered the police line at approximately 2:25 p.m., and HENNESSEY joined the mob in advancing past the police.



Image 8: Screenshot of open-source video, with HENNESSEY circled in red

After pushing past the police line in the Crypt, HENNESSEY again took position at the front of the advancing mob. HENNESSEY and the mob walked down a hallway lined with offices for various members of the House of Representatives. Eventually, he reached the Hall of Columns, directly underneath the House Chamber. HENNESSEY and the mob then turned around and walked back in the direction of the Crypt at 2:29 p.m., when open-source video depicts rioters near HENNESSEY informing the crowd that they had reached a “dead-end.”

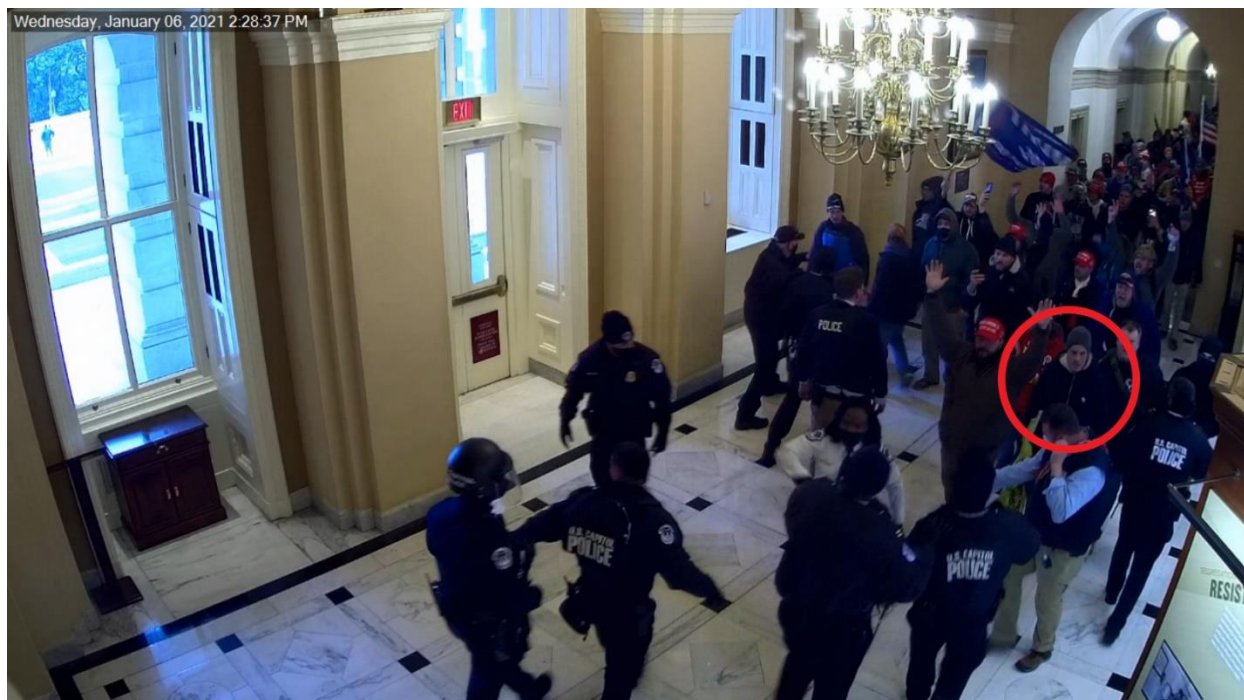


Image 9: Screenshot of Capitol CCTV footage, with HENNESSEY circled in red

While walking back down the hallway, HENNESSEY entered the office of House Majority Leader Steny Hoyer with a group of other rioters.



Image 10: Screenshot of open-source video, with HENNESSEY circled in red

After leaving Rep. Hoyer’s office, HENNESSEY walked upstairs to the Capitol’s second floor at approximately 2:25 p.m. and entered the Rotunda at 2:36 p.m. Capitol CCTV video shows HENNESSEY filming using his cell phone while in the Rotunda before exiting in the direction of the Senate at 2:37 p.m.



Image 11: Screenshot of Capitol CCTV footage, with HENNESSEY circled in red

From the Rotunda, HENNESSEY walked through the Small Senate Rotunda and toward the Senate. At approximately 2:40 p.m., he again positioned himself at the front of a crowd that stood opposite two police officers who were protecting the Small Senate Rotunda exit. In video recovered of this incident, HENNESSEY can be seen speaking to the officers as the crowd shouts “NANCY, NANCY.” In one video, a voice coming from the group of rioters says “where’s her office? Pelosi?” This crowd, with HENNESSEY at the front, pushed past these officers and continued down the hallway and toward the Senate at approximately 2:41 p.m.

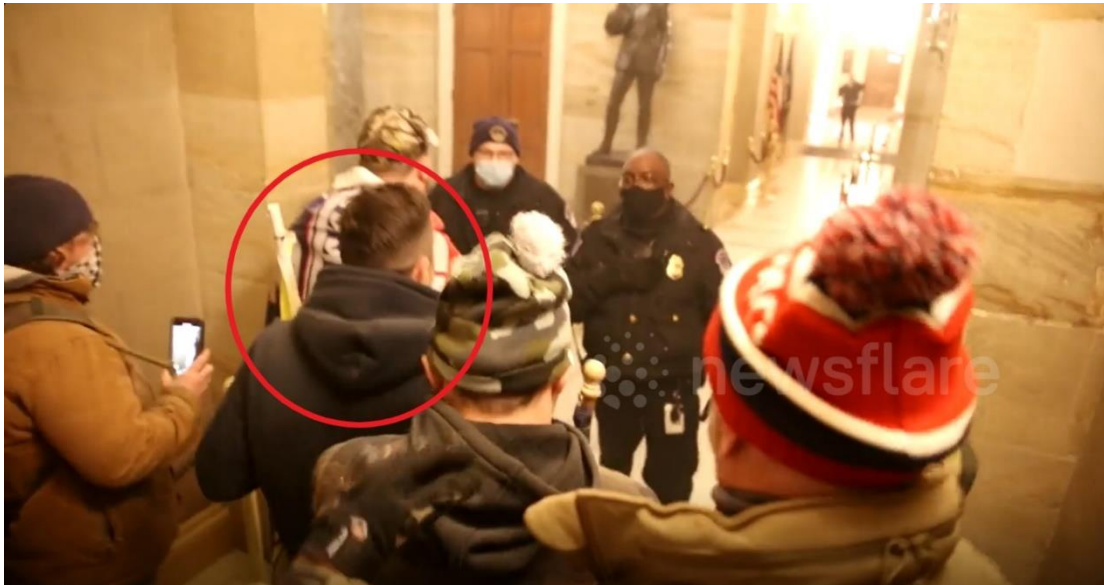


Image 12: Screenshot of open-source video, with HENNESSEY circled in red

By at least 2:45 p.m., police established a line protecting the hallway to the Senate Chamber, holding the rioters at bay just outside the Old Senate Chamber. Once again, HENNESSEY positioned himself toward the front of the crowd. The crowd then began chanting “Who’s House? Our House” and “You serve us” at the officers. At one point, HENNESSEY looked back at the growing crowd of rioters and commented that the mob was “piling up.” Then, at approximately 2:47 p.m., HENNESSEY joined the crowd in collectively pushing against this police line, initially succeeding in moving the officers back down the hall and toward the Senate.



Image 13: Screenshot of Metropolitan Police Department (“MPD”) body-worn camera footage, with HENNESSEY circled in red



Image 14: Screenshot of open-source video depicting same incident shown in Image 14, with HENNESSEY circled in red

The officers deployed chemical spray at the crowd, and the police were able to regain control of the hallway. At approximately 2:52 p.m., HENNESSEY reversed returned to the Rotunda. There, he found a group of police officers blocking a doorway, which led down a set of stairs to the Upper West Terrace and behind police lines. By 2:59 p.m., HENNESSEY joined the mob in collectively pushing against the police officers. The mob’s pushing forced the officers to the very edge of the stairs and caused at least one officer to fall down the stairs.



Image 15: Screenshot of open-source video, with HENNESSEY circled in red

By 3:04 p.m., police regained control of this doorway and undertook efforts to gain control of the Rotunda. Despite instructions from the police, HENNESSEY remained in the Rotunda. At approximately 3:06 p.m., the police established a line across the center of the room. This police line began to advance through the Rotunda, forcing rioters toward the exit. At approximately 3:10 p.m., HENNESSEY exited the Rotunda and, shortly thereafter, exited the Capitol building through the East Rotunda Doors. HENNESSEY spent approximately 56 minutes inside the Capitol building.

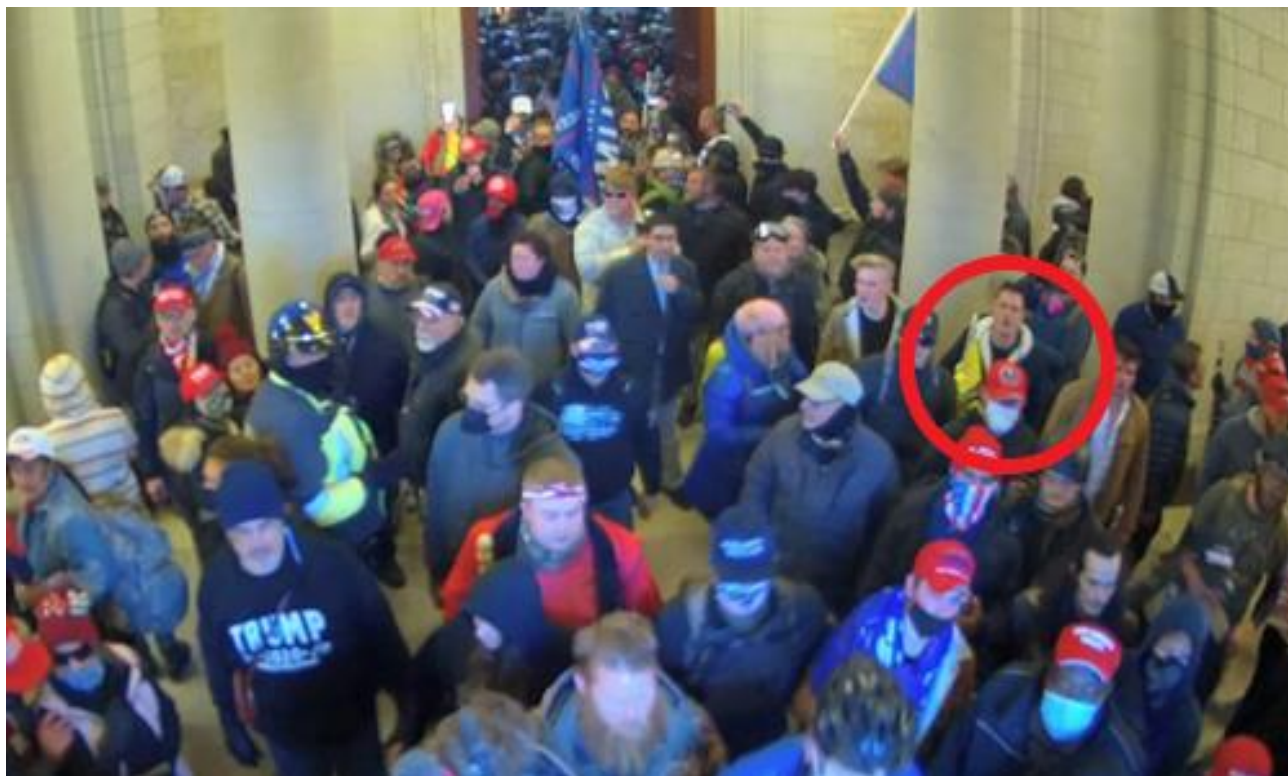


Image 16: Screenshot of Capitol CCTV footage, with HENNESSEY circled in red

Once outside, HENNESSEY remained on restricted Capitol grounds. Immediately outside the East Rotunda Doors, he filmed as rioters threw objects at law police officers attempting to clear the doorway. He then worked his way to the front of the crowd, raising his “Don’t Tread on Me” flag and chanting, along with the mob, “Fight for Trump.”



Image 17: Screenshot of open-source video, with HENNESSEY circled in red

After leaving the landing outside the East Rotunda Doors, HENNESSEY joined rioters on the Capitol's East Plaza, where he again positioned himself directly in front of a line of police officers attempting to protect the building.



Image 18: Screenshot of open-source video, with HENNESSEY circled in red

Later, HENNESSEY joined a crowd gathered around video cameras and other recording equipment abandoned by reporters who had been forced to flee after being subjected to threats

and assaults from other rioters. Despite stating in his November 2022 interview that his phone had died while he was inside the Capitol, video footage shows HENNESSEY using his cellular phone to film other rioters lighting this equipment on fire.

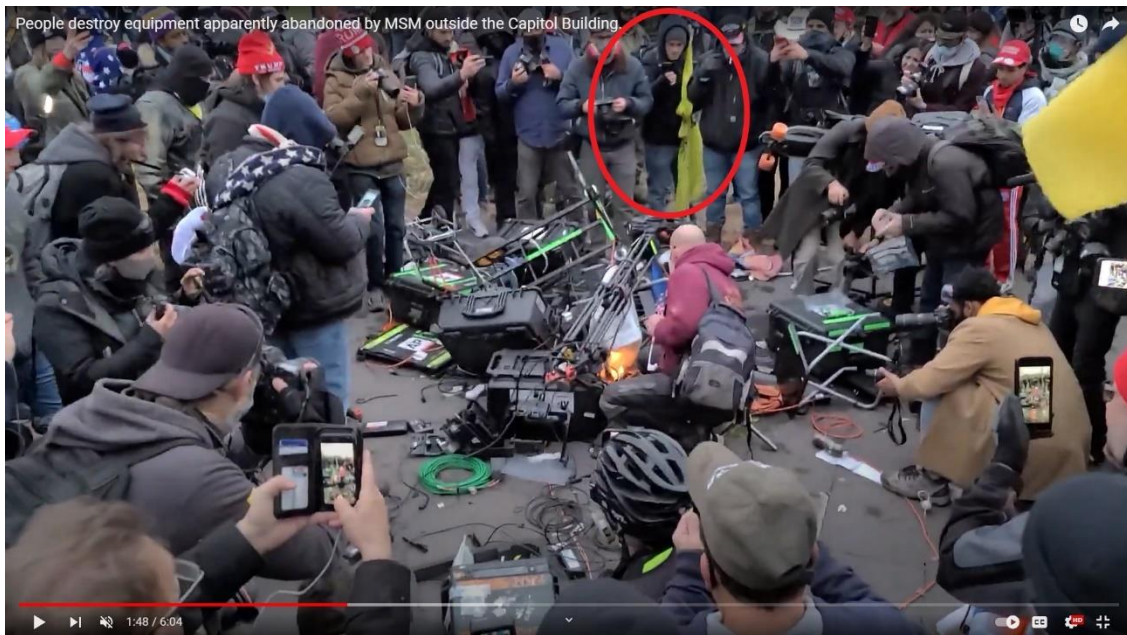


Image 19: Screenshot of open-source video, with HENNESSEY circled in red

Finally, on January 7, 2021, HENNESSEY told the FBI that he left Washington, D.C., and drove with his cousin to Bridgeport, Connecticut.

Probable Cause Conclusions

Based on the foregoing, your affiant submits that there is probable cause to believe that HENNESSEY 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 Secret Service's protection of the Vice President and his family and the Capitol Police's protection of the U.S. Capitol.

You affiant also submits that there is probably cause to believe that HENNESSEY 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.

Lastly, your affiant submits that there is probable cause to believe that HENNESSEY violated 40 U.S.C. §§ 5104(e)(2)(D) and 5104(e)(2)(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.



Task Force Officer
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 29th day of April, 2024.

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