

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the [REDACTED]. In my duties as a special agent, I investigate matters of Domestic 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 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 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 JAMES ROE CLEARY

On June 15, 2022, the FBI's Washington Field Office (WFO) received an online tip that JAMES ROE CLEARY was within the restricted area of the U.S. Capitol building on January 6, 2021. The tipster was interviewed telephonically and reported that he/she knew CLEARY personally from work in the New Haven, Connecticut area, and that CLEARY had shared an image with a group of people that was taken on January 6, 2021. That image showed CLEARY underneath a window outside the U.S. Capitol building while another rioter was breaking the window's glass. During the interview, the tipster identified CLEARY in numerous images taken on January 6, 2021, including the image below.

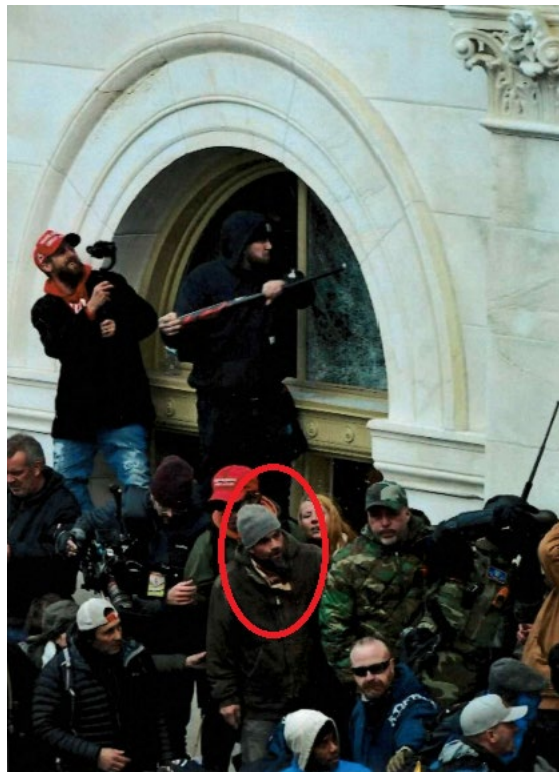


Image 1: A tipster identified CLEARY from this image taken on January 6, 2021.

FBI New Haven obtained a copy of CLEARY's driver's license and compared the driver's license image to video footage of rioters taken on January 6 from a location at the U.S. Capitol building known as the "Tunnel". FBI New Haven determined that the person in the driver's license image was the same person as the individual depicted in footage from the Tunnel. Agents also compared images of CLEARY against the Sedition Hunters website and determined that CLEARY is present on the website under the hashtag #littlebrownbeard.

On June 16, 2023, CLEARY arrived at the police department in Waterford, Connecticut to turn himself in, stating that he had been waiting to get arrested for his activities on January 6, 2021.

CLEARY acknowledged himself as the subject identified by Sedition Hunters as “little brown beard.” CLEARY asked the Waterford police department to print out images from the Sedition Hunters website, and he subsequently identified himself in the printouts of those images.

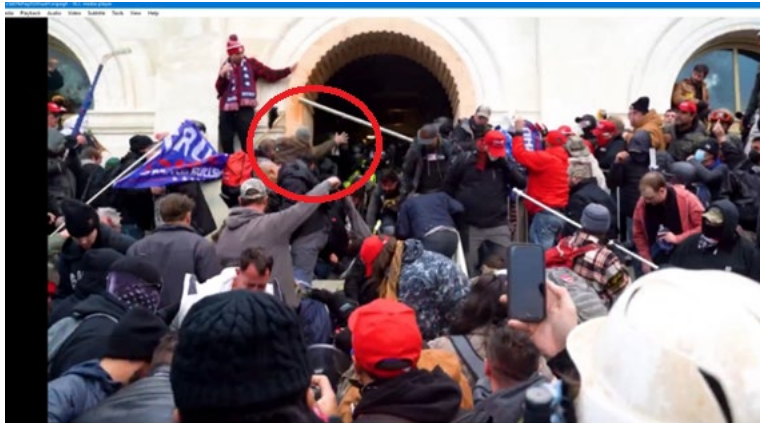


Image 2: CLEARY identified himself in images from the Sedition Hunters website, including the image above.

Agents from FBI New Haven interviewed CLEARY at the Waterford police department. During the interview, CLEARY stated that he had traveled to Washington, D.C. with his wife in the early morning on January 6, 2021. In the afternoon, CLEARY was present on the Capitol’s west front. He stated that the crowd was initially peaceful, except for a couple of individuals breaking windows. He also stated that he observed police officers in the Tunnel who were being violent towards people in the crowd. He stated that while he was trying to pull a woman from off the ground, he observed a wooden baton. He picked up the baton and passed it back to the crowd, and then he grabbed the woman to pull her away from the Tunnel. CLEARY admitted to pushing a man carrying camera equipment who he claimed had been riling up the crowd.

CLEARY’S Involvement in the Events of January 6

FBI New Haven reviewed open source and body worn camera footage from January 6, 2021. The footage showed that at roughly 4:20 p.m. on January 6, 2021, CLEARY was near the opening of the Tunnel on the Lower West Terrace during a period of intense fighting between rioters and police. CLEARY stood immediately adjacent to the Capitol building, a few paces north of the Tunnel entrance. CLEARY moved towards the mouth of the Tunnel as intense physical clashes continued between police guarding the Tunnel entrance and rioters trying to force their way through the entrance. By approximately 4:26 p.m., CLEARY positioned himself at the mouth of the Tunnel, where he quickly moved his body towards the interior of the Tunnel and made a swiping motion at the head of a police officer.



Images 3-4: CLEARY made a swiping motion towards the head of a police officer guarding the Tunnel.

Police body worn camera shows that roughly ten second later, CLEARY helped to pull a rioter out of the tunnel.



Image 5: CLEARY pulled a rioter from the Tunnel.

CLEARY then returned to the mouth of the Tunnel and made another swiping or grabbing gesture with his hand towards police officers inside the Tunnel.



Image 6: While MPD Officer A.W. was lying face up on the ground, his body worn camera captured Cleary returning to the mouth of the Tunnel.

At roughly 4:27 p.m., Metropolitan Police Department (MPD) Officer A.W. was pushed to the ground, and rioters attempted to pull the officer's body out of the Tunnel and into the mob. CLEARY was filmed on body worn camera clambering across the bodies of a fallen rioter and Officer A.W., and grabbing a baton that was on the ground next to the officer.



Image 7-8: CLEARY leaned across the bodies of a police officer and a rioter to grab a baton as other rioters tried to pull the officer into the violent mob.

CLEARY quickly handed the baton off to another rioter in the mob and then returned to the front of the Tunnel.

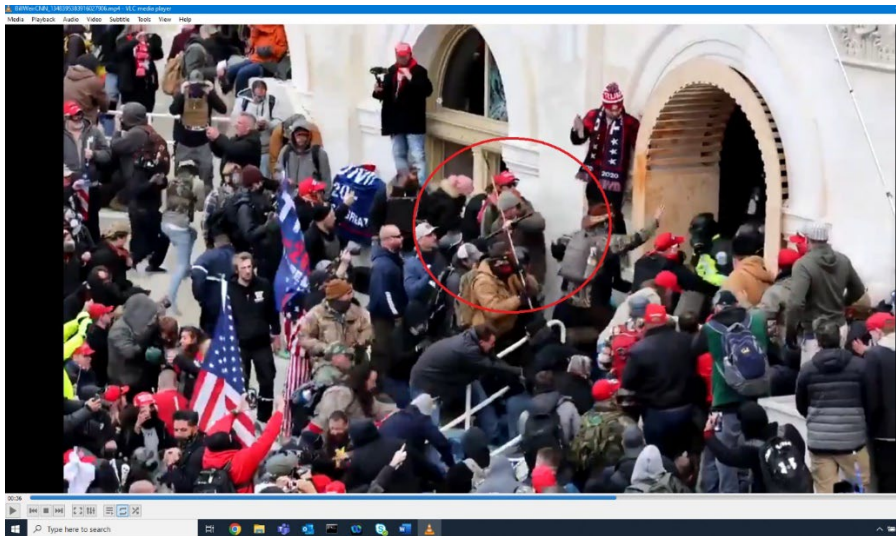


Image 9: CLEARY handed off a baton to another rioter.

At roughly 4:28 p.m., CLEARY helped pull a second rioter out of the Tunnel who had been filming and become trapped.



Image 10: CLEARY pulled a rioter out of the Tunnel.

CLEARY then moved north alongside the Capitol building and stood beneath a window as rioters began to break the glass panes. (See Image 1 above) Open source video and images showed that CLEARY remained near the window and watched as rioters passed furniture through the broken window to other rioters closer to the mouth of the Tunnel.



Image 11: CLEARY stood near the Tunnel entrance as rioters moved furniture from an office towards the Tunnel.

While standing near the broken window, CLEARY grabbed and shoved an individual carrying camera equipment. Open source video showed CLEARY leaving the immediate area shortly afterwards.



Image 12: CLEARY shoved an individual carrying camera equipment.

CHARGES

Your affiant submits there is probable cause to believe that CLEARY 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.

Your affiant submits there is probable cause to believe that CLEARY violated 18 U.S.C. § 113(a)(4) and (5), which makes it unlawful, within the special and maritime jurisdiction of the United States, (4) to commit an assault by striking, beating, or wounding; and (5) to commit a simple assault; and aiding and abetting in such crimes. The U.S. Capitol and the U.S. Capitol grounds constitute the "territorial jurisdiction" of the United States as "lands reserved or acquired for the use of the United States" and under its "exclusive or concurrent jurisdiction." 18 U.S.C. § 7(3).

Your affiant submits that there is probable cause to believe that CLEARY 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 so; (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 attempt or conspire to do so; and (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds, or attempt or conspire 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 CLEARY violated 40 U.S.C. § 5104(e)(2)(D) & (F), 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 (F) engage in an act of physical violence in the Grounds or 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 2024.

ZIA M. FARUQUI
UNITED STATES MAGISTRATE JUDGE