

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent, assigned to the Los Angeles Field Office of the Federal Bureau of Investigation (FBI) and the Los Angeles Joint Terrorism Task Force (JTTF). I have been so employed since 2022. Prior to the FBI, I was employed by the Los Angeles Police Department as a Police Officer for approximately 10 years, and prior to that I was an active duty Intelligence Officer in the United States Marine Corps for approximately 7 years. In my duties as an FBI special agent, I investigate subjects who use force or violence in furtherance of a political and/or social agenda, in violation of federal law. I am currently 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.

Background Relating to 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 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 MICHAEL FAGUNDES

Identification

After January 6, 2021, the Federal Bureau of Investigation (“FBI”) sought the public’s assistance with identifying potential suspects who participated in the violence and breach at the U.S. Capitol. As part of that effort, the FBI posted still images of individuals taken from footage recorded in the U.S. Capitol building and grounds on January 6, 2021.

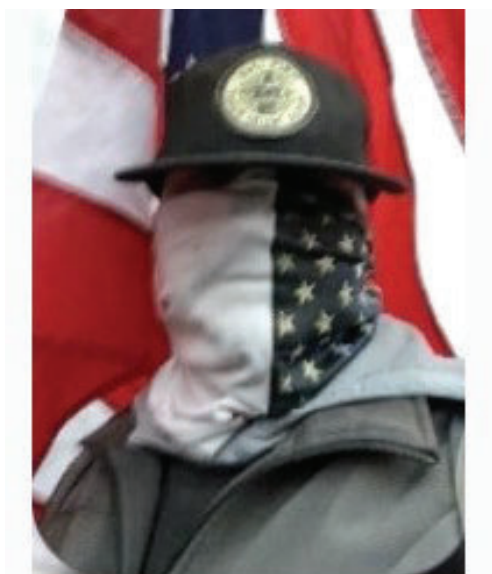
One subject, who, as detailed below, was eventually identified as MICHAEL FAGUNDES (“FAGUNDES”), was labeled on the FBI’s public-facing website as “#527-AFO” for “Assault on a Federal Officer.”

Still Images #1-3 below were the photos of 527-AFO posted to the FBI’s website. The photos were captured from footage from the Capitol grounds on January 6, 2021, and FAGUNDES was carrying a green backpack and wearing a black hat with the letters “IMS,” a white and grey face covering, and a dark sweatshirt or jacket with a light grey hoodie underneath.



Still Images #1-3: FBI Public Website Photos of FAGUNDES on January 6

The FBI received a tip that the person in the photos labeled #527-AFO was FAGUNDES. I reviewed publicly-available social media accounts that were associated with FAGUNDES. A search on the “Truth Social” social media application revealed an account attributed to the name MICHAEL FAGUNDES that contained numerous photographs. Still Image #4 was posted to that account and depicts a face covering, hat, and jacket consistent with those worn by the individual labeled as #527-AFO.



Still Image #4: Public Selfie of FAGUNDES from his Truth Social Account

Through open-source research, I located a publicly-available “Twitter X” account that used the name MICHAEL T. FAGUNDES with photographs consistent with FAGUNDES’s Truth Social account. I recognized the user photograph to be FAGUNDES from having conducted physical surveillance at FAGUNDES’s known residence. During an interview of FAGUNDES, he confirmed this account, with username @fagundes31m is his Twitter account.

A public post on this account from January 5, 2021, depicts a “selfie” style photo taken inside what appears to be an airplane (Still Image #5). The caption of the photo reads, “@RichardGrenell see you in DC my next Governor!! Orange County CA to DC!! This flight is FULL of #MAGA!!” The person in the photo was wearing a dark colored jacket, neck gaiter-style face covering, and a black baseball hat with a logo that read “IMS, Metal Made Easy, Since 1948.” The jacket and hat are consistent with those worn by #527-AFO in Still Images #1-3.



Still Image #5: Selfie of FAGUNDES from his Twitter Account

FAGUNDES also used a Twitter account with the username “AmericaFirst1776.” Subscriber records received from Twitter showed this account is registered with an email address and phone number associated with FAGUNDES. A post on this Twitter account from January 6, 2021, mentioned that FAGUNDES was in Washington, D.C. and that he would live stream events on the “Periscope Application.” Periscope is a live-streaming application associated with Android and Apple iOS devices that was owned by Twitter at the time, prior to having its features merged into the Twitter application in March 2021.

Multiple videos were found on Periscope under FAGUNDES’s name, with audio, in which the person filming appeared to be in Washington, D.C. at the site of President Trump’s speech that would occur later in the day on January 6, 2021. The person filming told other people that his name is “Michael” and that he flew in from Orange County, California on January 5, 2021. FAGUNDES is known to reside in Orange County. The person recording also had a conversation with another person that described the year, make, and model of a vehicle registered to FAGUNDES in Costa Mesa, CA. A green backpack consistent with the backpack found in Still Image #2 was also shown in the Periscope videos.

Another FBI Special Agent had a recorded conversation with FAGUNDES on March 22, 2024. I listened to the audio recording and then recognized the voice in the Periscope recordings to be FAGUNDES. In the recorded interview, FAGUNDES admitted to being on U.S. Capitol grounds on January 6, 2021.

After live physical surveillance at FAGUNDES’ residence, I recognized the person in the Still Images ## 1-3 to be FAGUNDES.

FAGUNDES's Actions on January 6, 2021

According to FAGUNDES's Periscope videos, on the morning of January 6, 2021, FAGUNDES went to President Trump's "Stop the Steal" rally at the Ellipse. FAGUNDES relayed that he attempted to enter the rally with his green backpack but was refused entry, as the event did not permit backpacks or bags.

Video shows that FAGUNDES then made his way to the U.S. Capitol. Prior to reaching the U.S. Capitol grounds, FAGUNDES boasted in one Periscope video that he "bring[s] a knife to a stick fight" and declared "This is America baby, we're done. We're done being shit on by elitist politicians." Furthermore, FAGUNDES stated that the crowd was "all here going against the grain . . . we're fighting about 90 million votes." FAGUNDES continued that he "was not going to miss this moment in history, there's no way. The President of the United States asks you to come to D.C."

FAGUNDES later discussed what he thought was the latest update in efforts to overturn the results of the 2020 Presidential Election, exclaiming that "I know that Georgia decertified yesterday. Georgia as well, so the electorals from Georgia are now off the slate."

The following description of events is based on CCTV, police body-worn camera, and other video footage I have reviewed. Shortly after 2:40 p.m., the police lines holding back the crowd on the West Plaza were overrun and officers from the Metropolitan Police Department ("MPD") retreated to the Lower West Terrace area and inside the "tunnel" – a hallway that led from the Crypt on the first floor of the Capitol to the Lower West Terrace and was created as part of the inaugural stage construction. The exterior location of the tunnel is depicted below in Image #6.

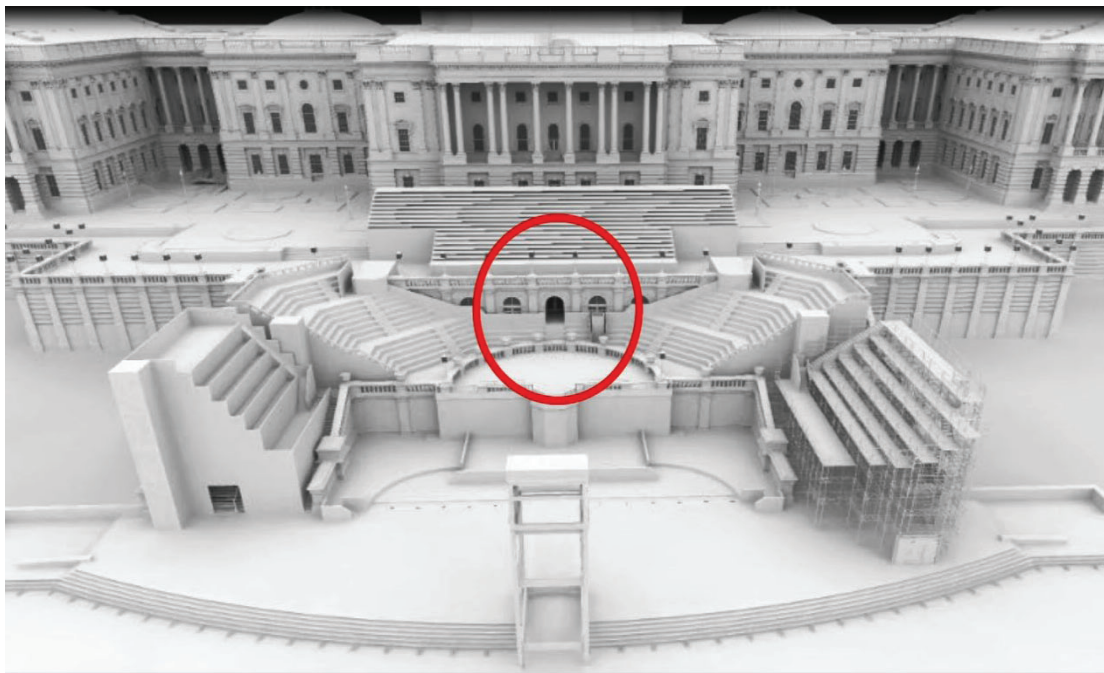


Image #6: Lower West Terrace Tunnel and surrounding area (circled in red)

At approximately 2:42 p.m. FAGUNDES reached the entrance to the tunnel as shown in Still Image # 7 below.



Still Image #7: CCTV of FAGUNDES (yellow circle) at the entrance of the tunnel

At approximately 2:43 p.m., FAGUNDES donned a gas mask and entered the tunnel as shown below in Still Image # 8.



Still Image #8: CCTV of FAGUNDES (yellow circle) inside the tunnel wearing gas mask

At approximately 2:46 p.m., a crowd of rioters exited the tunnel and FAGUNDES briefly followed. FAGUNDES then looked back inside the tunnel and moved back inside through the crowd toward a group of rioters taking control of a police riot shield. FAGUNDES then took possession of the riot shield from the group of rioters as shown in Still Image # 9.



Still Image #9 CCTV of FAGUNDES inside tunnel taking riot shield from other rioters

FAGUNDES then emerged from the tunnel with the riot shield and proudly displayed it over his head (Still Image #10) and then he tossed it on the ground away from the police line.



Still Image #10: Photograph of FAGUNDES (yellow circle) holding the riot shield above his head

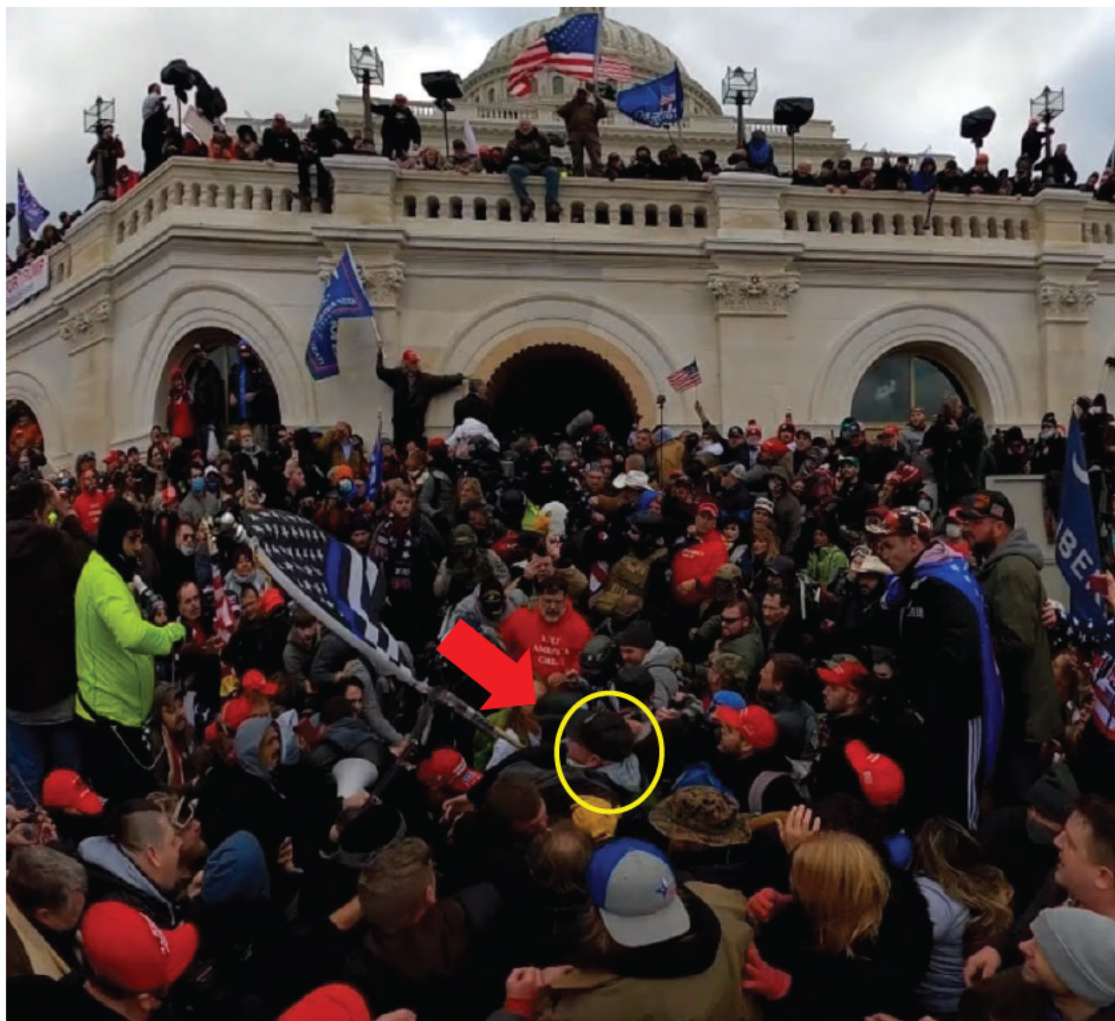
At approximately 3:14 p.m., FAGUNDES pushed back into the tunnel and through the crowd to make his way to the front of the crowd near the police line (Still Image #11). Shortly thereafter, a heave-ho against the police line commenced, and within a few minutes, the police expelled all the rioters from the tunnel.



Still Image # 11 CCTV of FAGUNDES pushing through crowd inside the tunnel

As the rioters were expelled from the tunnel, at approximately 3:18 p.m., MPD Officer M.F. was forcibly dragged from the police line at the entrance to the tunnel and into the crowd of rioters. As the rioters attacked Officer M.F. and pulled him into the crowd, FAGUNDES, identifiable by his dark hat with the circular emblem, dark jacket, light grey sweatshirt, and green backpack, shouted and moved in the direction of Officer M.F.

As the crowd surrounded Officer M.F., FAGUNDES reached towards Officer M.F. a few times before grabbing ahold of Officer M.F. around the chest and neck and dragging him further into the crowd. (Still Image # 12). At one point during the attack, FAGUNDES's hat fell off which revealed a bald head consistent with FAGUNDES's known appearance.



Still Image #12: FAGUNDES (yellow circle) grabbing Officer M.F. (red arrow)



Still Image #12A – Closeup of #12 showing FAGUNDES grabbing Officer M.F.

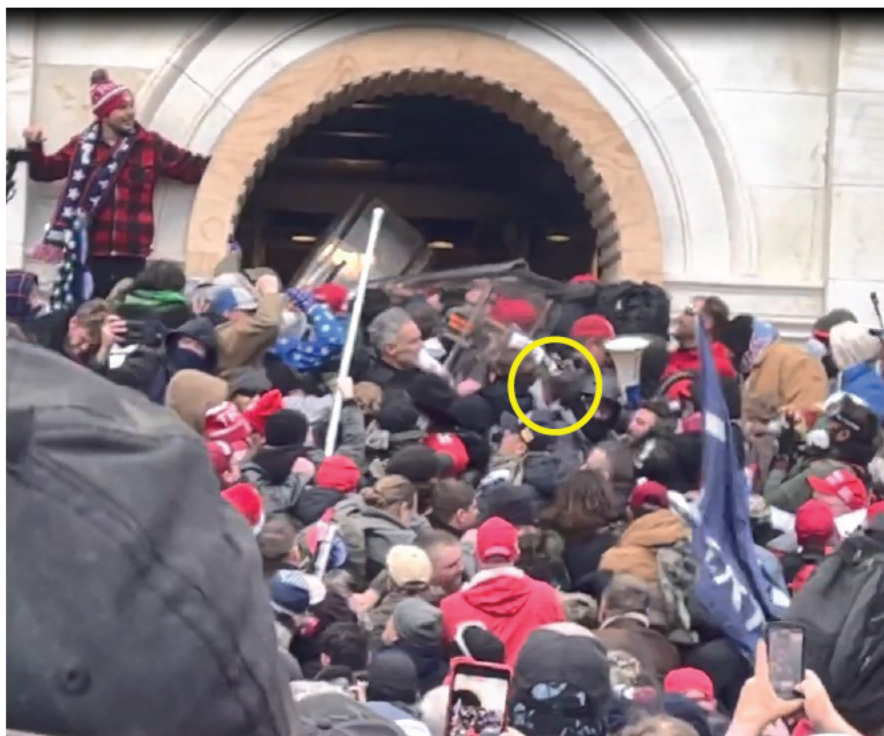
Around 3:50 p.m., FAGUNDES placed his hand on the handle of a MK-46 Oleoresin Capsicum (OC) dispenser (Still Image #13) held up by another rioter and appeared to try and manipulate the trigger or safety mechanism. Immediately thereafter, another rioter took possession of the MK-46 and sprayed it into the tunnel towards the police line.



Still Image #13: Public Video of FAGUNDES attempting to operate a MK-46 OC cannister

Rioters on the Lower West Terrace continued to assault police officers both at the mouth of the tunnel and inside the tunnel. Shortly after the OC spray was deployed by the other rioter,

the crowd, including FAGUNDES, pushed their body weight back and forth into the police line in a “heave-ho” motion.



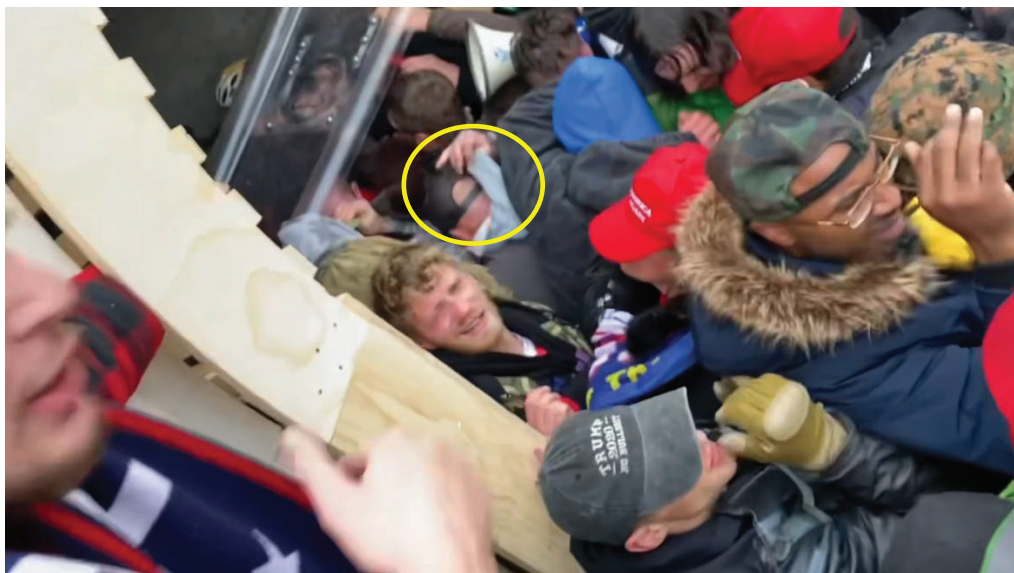
Still Image #14: Public Video of FAGUNDES (yellow circle) participating in a heave-ho

Around 4:00 p.m., FAGUNDES joined a group of rioters who attempted to push back into the tunnel. (Still Image #15).



Still Image #15: Public Video of FAGUNDES attempting to push back into the tunnel

During the push, a member of the crowd deployed pepper spray over top of FAGUNDES, and in response FAGUNDES pulled his hood over his head apparently to protect the back of his neck and head.



Still Image #16: Public Video of FAGUNDES placing his gray hood over his head

By about 4:09 p.m., FAGUNDES picked up a police riot shield near the entrance to the tunnel and used it to push against other rioters that were pushing against the police line as shown in Still Images ## 17 and 18.



Still Images ## 17 and 18 BWC and public video of FAGUNDES pressing shield into rioters battling police

Approximately two minutes later, at around 4:11 p.m., FAGUNDES once again made his way towards the front of the mob and reached the police line at the entrance to the tunnel (Still Image #19).



Still Image #19: CCTV Footage of FAGUNDES (yellow circle) at the entrance of the tunnel

While the police were attempting to drive the rioters out of the tunnel, FAGUNDES was struck, both by police officers and rioters, with various objects multiple times in quick succession. Shortly thereafter, FAGUNDES picked up a police riot shield from the ground (Still Image #20), raised his green backpack and the shield directly over his head (Still Image #21), stepped toward the police line, and then rapidly dropped the backpack and the shield down in a striking motion in the direction of the police officers. The shield and the backpack appeared to make contact with an officer. Afterward, FAGUNDES fled away from the officers into the crowd of rioters (Still Image #22).



Still Image #20: CCTV Footage of FAGUNDES (yellow circle) picking up riot shield (green arrow)



Still Image #21: CCTV of FAGUNDES picking up his backpack and the shield over his head (yellow circle)



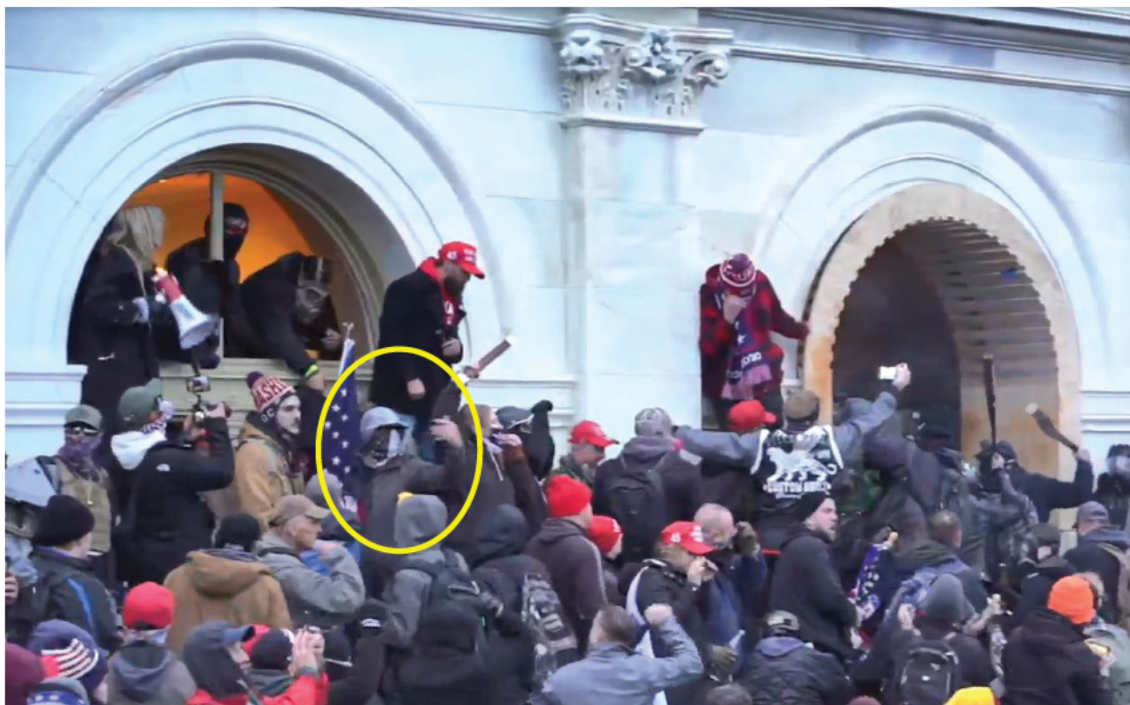
Still Image #22: CCTV Footage of FAGUNDES (yellow circle) fleeing into the mob

Sometime in the afternoon, FAGUNDES appeared to be on a video call with another individual while he was adjacent to the continued violence against the police at the entrance of the tunnel and immediately next to a smashed window on the Lower West Terrace that led to the inside of the U.S. Capitol building (Still Image #23).



Still Images #23: Public Video of FAGUNDES (yellow circle) using his phone amidst the chaos on the Lower West Terrace

FAGUNDES then appeared gesture toward the crowd waving them toward the broken window (Still Image #24).



Still Image #24: Public Video of FAGUNDES (yellow circle) waving mob forward

Around 5:00 p.m., FAGUNDES entered the U.S. Capitol building through the smashed window (Still Images #25-26).



Still Images #25 and #26: Public Video of FAGUNDES (yellow circle) entering the U.S. Capitol

FAGUNDES was additionally captured on public video inside the building (Still Image # 27).



Still Image #27: Public Video of FAGUNDES (yellow circle) inside the U.S. Capitol

Based on the foregoing, your affiant submits that there is probable cause to believe that MICHAEL FAGUNDES violated 18 U.S.C. § 1752(a)(1), (a)(2), and (a)(4) 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; (4) knowingly engage 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.

Your affiant submits there is also probable cause to believe that MICHAEL FAGUNDES violated 40 U.S.C. § 5104(e)(2)(D), (F), and (G) which make it a crime to willfully and (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; (F) engage in an act of physical violence in the Grounds or any of the Capitol Building; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Your affiant submits there is probable cause to believe that MICHAEL FAGUNDES 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 that there is probable cause to believe that MICHAEL FAGUNDES violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in section 1114 of Title 18 while engaged in or on account of the performance of official duties, where such acts involve physical contact with the victim or the intent to commit another felony. Persons designated within section 1114 of Title 18 include federal officers such as USCP officers, and include any person assisting an officer or employee of the United States in the performance of their official duties.



Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone, this 27 day of September 2024.

Honorable Zia M. Faruqi
U.S. MAGISTRATE JUDGE