

STATEMENT OF FACTS

Your affiant, _____ is a Special Agent assigned to the Federal Bureau of Investigation (“FBI”), Detroit Field Office, Bay City Resident Agency (“BCRA”), and has been so employed since June 2022. I have been employed in federal law enforcement since August 2016. 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 facts in this Affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and agencies or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause, it does not contain every fact known by me or the FBI. The dates and times listed in this Affidavit should be read as “on or about.”

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 (USCP) 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 Dylan SMYTH

Dylan James Smyth (“SMYTH”) is a 42-year-old resident of the state of Michigan.

The FBI initiated an investigation of SMYTH based on public statements made by SMYTH on the social media website Facebook regarding his presence at the U.S. Capitol on January 6, 2021. The posts were made by an account with a publicly viewable display name of “Dylan Smyth,” and displayed information stating that the account holder lived in Blanchard, MI and was married to “Tara Jo Smyth”. **Image 1** is a screenshot of the account’s publicly viewable username and user information.

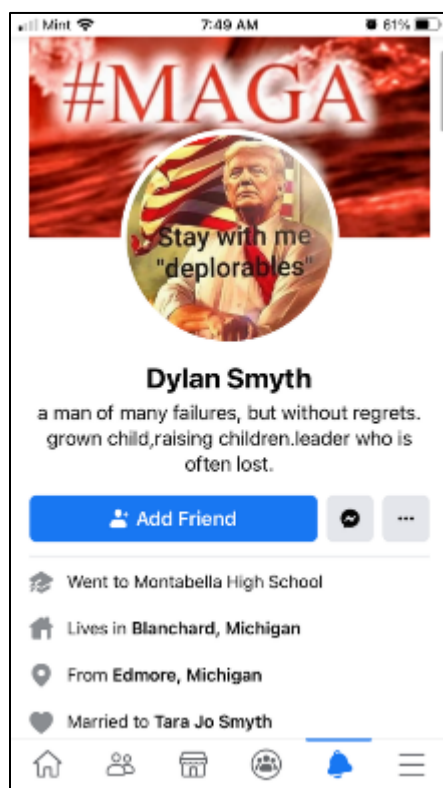
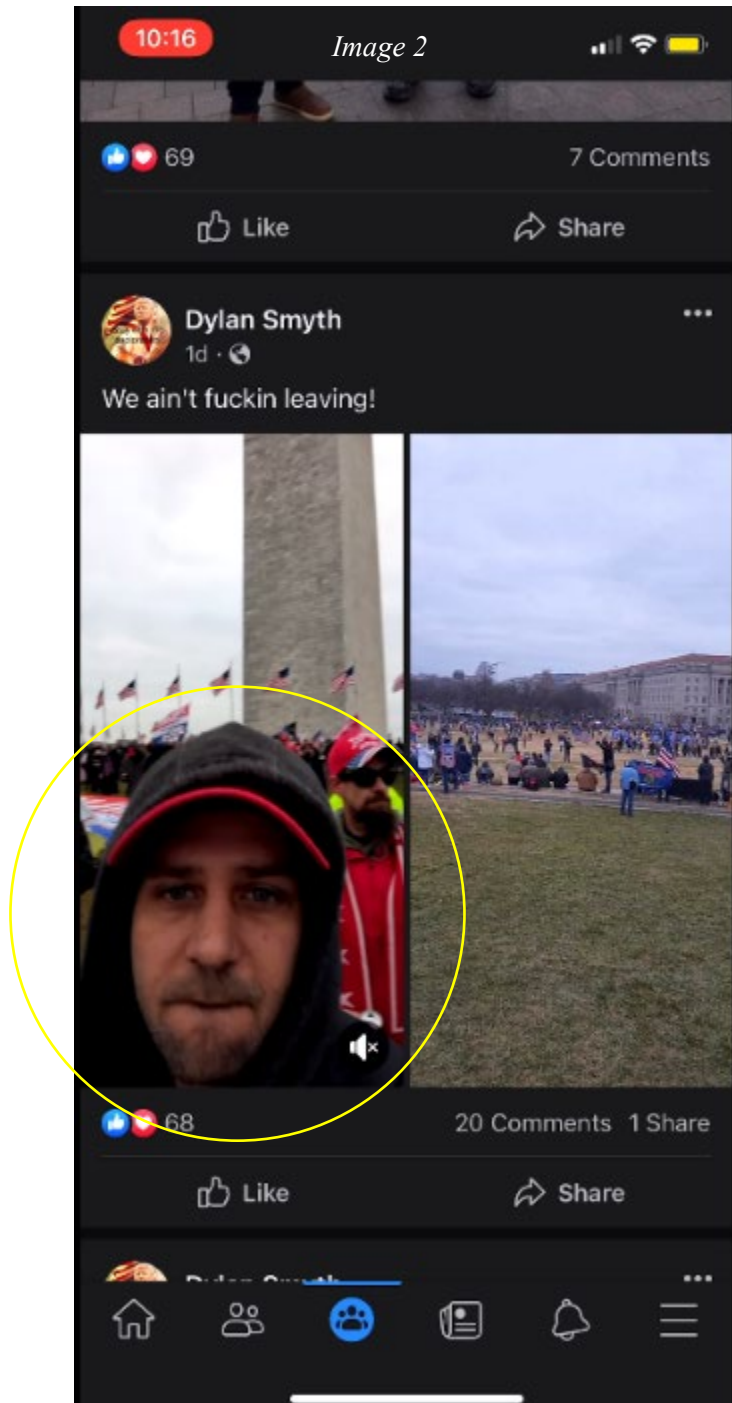


Image 1

The “Dylan Smyth” Facebook account also publicly displayed videos and images that appeared to have been taken on both the National Mall and United States Capitol Grounds on January 6, 2021. **Images 2 and 3** show posts by the “Dylan Smyth” account depicting an individual (circled in yellow), dressed in a red baseball style hat with the word “MAGA” on the front, a black sweatshirt with the words “2020 TRUMP KEEP AMERICA FIRST” on the front, a red undershirt, blue jeans, and dark colored sneakers, on the National Mall near the Washington Monument (Image 2) and the east side of the United States Capitol (Image 3).





The “Dylan Smyth” Facebook account also showed publicly viewable posts referencing the account user’s alleged presence at the United States Capitol on January 6, 2021. **Image 4** shows multiple posts from the morning of January 7, 2021, including a post stating the user having “fought to get on [the Capitol] stairs.”



Based on the information obtained from the public postings on social media, the FBI identified a Michigan resident named “Dylan James Smyth” (SMYTH) with a home address in Blanchard, Michigan and a spouse named “Tara Jo Smyth”.

On November 9, 2021, Special Agents of the FBI attempted to contact SMYTH at his address in Blanchard, MI. SMYTH’s wife, Tara Smyth, answered the door and informed agents SMYTH was at work and not present. Agents showed SMYTH’s wife images from Facebook showing SMYTH at the Capitol, including Image 3 above. SMYTH’s wife identified her husband Dylan James SMYTH as the individual in the red baseball-style hat and black hooded sweatshirt in Image 3 and

confirmed that SMYTH was present at the U.S. Capitol on January 6, 2021. Agents left a business card with SMYTH's wife and asked for SMYTH to call them.

On November 9, 2021, Agents interviewed SMYTH telephonically. During the interview, SMYTH reported he arrived in Washington, DC on January 5, 2021 and confirmed he was present on both the east and west sides of the U.S. Capitol on January 6, 2021. When Agents noted that there were numerous photos of SMYTH at the United States Capitol on January 6, 2021, including the photo in Image 3 above in which SMYTH holds a large sign depicting the letter "Q," SMYTH confirmed he was in the picture, explaining that the sign was not his property and had been borrowed for the photograph. SMYTH recalled the police appeared to be overwhelmed that day, and he had been "sprayed [with a riot control agent]," but also claimed that he did not witness any violence firsthand. SMYTH reported that he eventually attempted to leave the area after he saw "flash bangs" being used on the crowd. SMYTH reported that he left Washington, DC on the morning of January 7, 2021, and confirmed he had images and media from January 6, 2021 saved on his phone.

Publicly available footage subsequently showed SMYTH, in the same attire seen in Images 2 and 3 above, present at a gathering near the Washington Monument on the morning of January 6, 2021 (see **Image 5** below, with the SMYTH circled in yellow).



Image 5

Publicly available footage and images taken prior to the breach at the U.S. Capitol show that, after gathering near the Washington Monument, SMYTH (circled in yellow) marched along the west (**Image 6**), north (**Image 7**), and east (**Image 8**) sides of the U.S. Capitol, and in close proximity to the barriers surrounding the restricted area of the grounds.





Image 7



Image 8

SMYTH arrived in the vicinity of the Peace Memorial at approximately 12:50 p.m. Shortly thereafter, at approximately 12:53 p.m., the crowd surged forward and breached the outer fencing surrounding the restricted area of the U.S. Capitol Grounds. Law enforcement officers retreated and formed a police line to stop the rioters from advancing. As rioters advanced toward the U.S.

Capitol Building, publicly available footage shows SMYTH made his way to the front of the crowd. The rioters' progress was temporarily blocked by the line of USCP officers in the plaza. SMYTH (circled in yellow) is depicted in **Images 9 and 10** below in front of a black waist-height metal fence visible just left of center in **Image 10**. Each section of the black metal fence was anchored into the concrete by vertical black metal fence posts.



As the crowd grew on the edge of the Lower West Plaza, officers moved to the east side of the black fence depicted above. Footage taken by other members of the crowd shows SMYTH (circled in yellow in **Image 11** below) and other rioters moved forward to the black fence and stood opposite the USCP officers across the fence.



Image 11

Some rioters began to pull on the individual sections of the black fence, eventually tearing down sections and creating gaps in the fence line. As those rioters pushed and pulled on sections of the fencing, SMYTH can be seen leaning forward, with his hand on a section of fencing and his head tilted downwards and moving forwards and backwards repeatedly, in a manner consistent with someone pulling on the black fencing section and using their body weight in an attempt to pull the black fencing section off of its vertical fence posts (see **Image 12** below, with SMYTH and his left hand identified via a yellow circle). As SMYTH makes these movements, uniformed officers, including the officer seen to the left of SMYTH in **Image 11**, directed rioters to stop. **Image 13** (with SMYTH circled in yellow) shows the section of fence in front of SMYTH broken loose from its support posts.



Image 12



Image 13

After breaking off sections of the black fencing, SMYTH and other rioters advanced beyond the destroyed fence and further into the Lower West Plaza. As seen in **Image 14** below, SMYTH (circled in yellow) was one of the first rioters on the northern end of the Lower West Plaza to climb up the stairs after the black fencing was destroyed.



As SMYTH and other rioters advanced beyond the stairs, uniformed USCP officers attempted to block rioters on the northern end of the Lower West Plaza from moving towards the southeast corner of the plaza, where other uniformed USCP officers were retreating. As shown in **Image 15** below, these efforts included a uniformed USCP officer pushing SMYTH (circled in yellow) back toward the stairs he had just climbed.

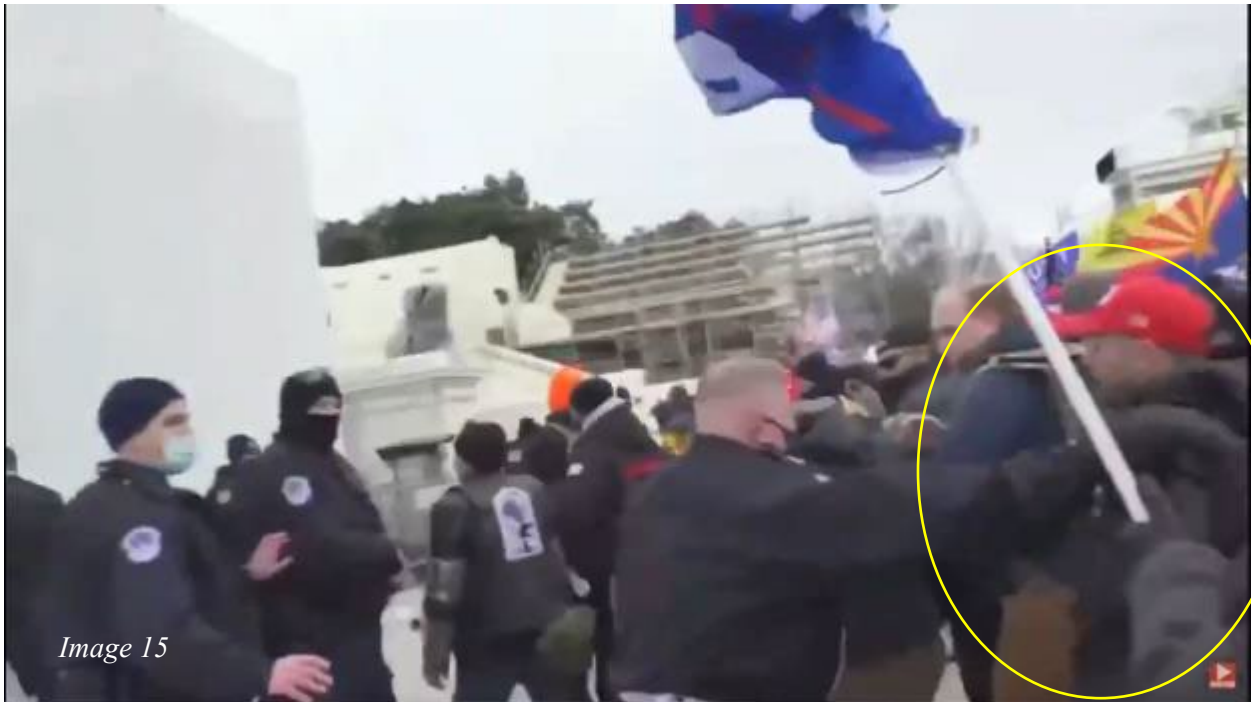


Image 15

While officers attempted to stop the rioters' advance, a male rioter in a red ski cap ("MR1") within arm's length of SMYTH pushed multiple USCP officers with his hands. **Image 16** below shows SMYTH (circled in yellow) directly behind MR1 (circled in red) as he pushes a police officer.



Image 16

In response, uniformed officers attempted to grab MR1. As they did so, SMYTH moved forward, placing himself partially between MR1 and one of the uniformed USCP officers, separating the two. USCP officers then stepped back from MR1 and SMYTH, and SMYTH and MR1 continued to advance towards the southeast corner of the Lower West Plaza. **Image 17** below shows SMYTH (circled in yellow) as officers attempted to grab MR1.



Image 17

After the police line on the Lower West Plaza retreated into the southeast corner of the plaza, SMYTH (as seen in **Images 18 and 19** below) remained near the police line, denying officers the opportunity to begin clearing the Lower West Plaza in the restricted area of the U.S. Capitol Grounds.



Image 18



Image 19

Based on the foregoing, your affiant submits there is probable cause to believe that SMYTH 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 Joint Session of Congress where the Senate and House count Electoral College votes.

Your affiant submits that there is also probable cause to believe SMYTH violated 18 U.S.C. § 1361, which makes it a crime to willfully injure or commit any depredation against any property of the United States, or of any department or agency thereof.

Your affiant submits that there is also probable cause to believe that SMYTH violated 18 U.S.C. §§ 1752(a)(1) and (2), which make it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; (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 or grounds” 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.

Finally, your affiant submits there is also probable cause to believe that SMYTH violated 40 U.S.C. § 5104(e)(2)(D), which make it a crime to willfully and knowingly 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.

FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 23rd day of October 2024.

MOXILA A. UPADHYAYA
U.S. MAGISTRATE JUDGE