

Case: 1:23-mj-00212
Assigned To : Harvey, G. Michael
Assign. Date : 8/18/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent with the Federal Bureau of Investigation (“FBI”). As a special agent with the FBI, I am tasked with investigating federal crimes connected to the state of Arkansas. As part of my duties, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent with the FBI, 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 facts in this Affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and agencies or are 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 United States Capitol (hereinafter, “the Capitol”) is secured 24 hours a day by the United States Capitol Police (hereinafter, “USCP”). Restrictions around the Capitol include permanent and temporary security barriers and posts manned by USCP officers. Only authorized people with appropriate identification are allowed access inside the Capitol. On January 6, 2021, the exterior plaza of the Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the 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 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 Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the Capitol building, and USCP officers were present and attempting to keep the crowd away from the Capitol building, as the proceedings underway inside.

At such time, the certification proceedings were still underway, and the exterior doors and windows of the Capitol were locked or otherwise secured. USCP officers, assisted by officers from the Washington, D.C., Metropolitan Police Department (hereinafter, “MPD”) 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 Capitol, including breaking windows and assaulting members of the 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 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 Capitol building without authority to be there.

Facts Specific to Nathan Earl Hughes

Starting at approximately 1:00 p.m. on January 6, 2021, a crowd began amassing on the West Front of the Capitol. For approximately one hour, USCP officers and MPD officers attempted to prevent members of the crowd from advancing beyond the police barricade line at the West Plaza. The crowd on the West Front became increasingly hostile towards the police officers who were attempting to hold the crowd back. At 2:28 p.m., after a series of assaults on police officers, the crowd overwhelmed the police line and the officers protecting it. Between 2:28 p.m. and 2:42 p.m., USCP and MPD officers retreated up the West Front of the Capitol from the West Plaza to the Lower West Terrace and, at 2:41 p.m., into the Lower West Tunnel. Through their retreat, the officers were pursued by the mob, with some members of the mob assaulting officers as they made their retreat.

Inside of the tunnel, police officers secured an exterior set of glass doors against the rioters who followed them into the mouth of the tunnel. At 2:42 p.m., the rioters broke through the glass doors and directly engaged with the police officers in the tunnel in an effort to gain further passage into the Capitol. For more than two hours in the tunnel, rioters engaged in synchronized pushing and shoving against police officers, such that the officers had to withstand the force of the group pushing against them, while also enduring individual assaults. Based upon review of public video, closed circuit video (hereinafter, “CCV”) footage, police body worn camera footage, and open-source video footage depicting the events at the Capitol building and grounds and inside of the Lower West Tunnel on January 6, 2021, law enforcement identified NATHAN EARL HUGHES (hereinafter, “HUGHES”) as an individual who pushed against police and aided other rioters in fighting against police officers near in the Lower West Tunnel. There is probable cause to believe that on January 6, 2021, HUGHES committed violations of 18 U.S.C. §§ 231(a)(3) (civil disorder) and 1752(a)(1) and (2) (unlawful entry on restricted buildings or grounds) and 40 U.S.C. §§ 5104(e)(2)(E) (impeding passage through Capitol grounds).

Hughes’ Activities in the Lower West Tunnel

Video footage obtained from law enforcement depicting the events at the Capitol on January 6, 2021, show a white male who was present in the vicinity of the LWT tunnel for at least one hour and who, at various points, pushed against the police and helped other rioters physically fight police in an attempt to breach the U.S. Capitol building.

According to review of video from January 6, 2021, this individual, later identified as HUGHES, wore a black/dark blue and camo print hat with a frayed brim, distinctive black Mechanix gloves, gray hooded sweatshirt, and a black Infowars branded shirt with an image of the space shuttle and “Space Force Est. 2020” written across the front of the shirt. HUGHES also wore a red bandana tied around the back of his head as a face covering. *See* Figure 1a & 1b.



Figure 1a.

Figure 1b.

At approximately 3:15 p.m., HUGHES was at the mouth of the Lower West Tunnel. *See* Figure 2. Before entering the tunnel, HUGHES yelled to the crowd outside of the tunnel “C’mon! C’mon! C’mon!” while waving his gloved hand in the direction of the tunnel.¹ *See* Figure 3.

¹ All of the images from Capitol CCV have been brightened to better show HUGHES’ conduct inside of the Lower West Tunnel.



Figure 2.

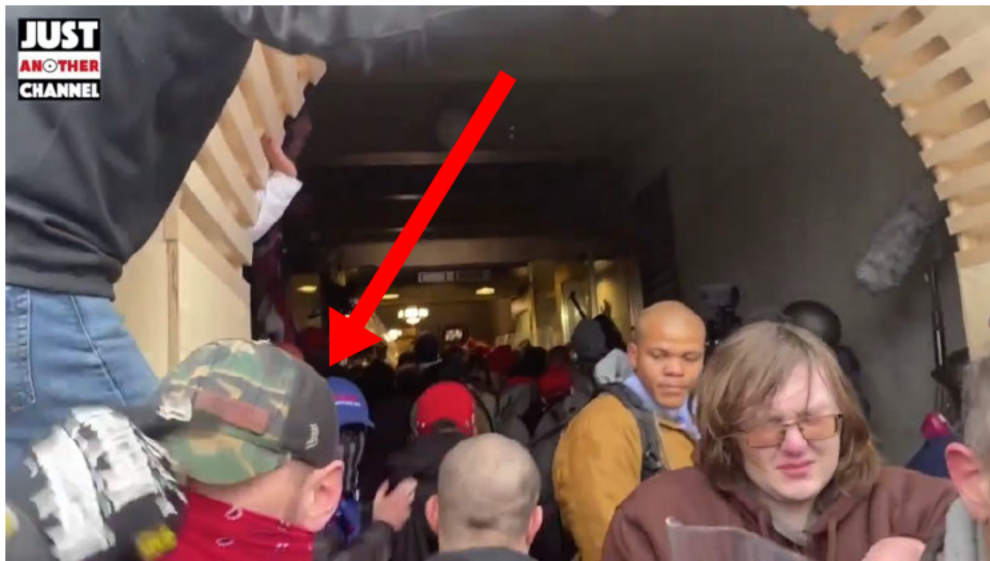


Figure 3.

Immediately after signaling the crowd into the tunnel, HUGHES charged inside and towards the line of police officers who were blocking the rioters' passage through the tunnel and into the Capitol. See Figure 4.



Figure 4.

Inside of the tunnel, HUGHES continued signalling to the rioters outside of the tunnel to enter and confront the officers at the police line within the tunnel. As HUGHES was signaling to the other rioters, INDIVIDUAL 1 ran into the tunnel behind HUGHES.² Initially, HUGHES and INDIVIDUAL 1 stood shoulder-to-shoulder in the tunnel and began to rock in synchronization with the crowd. Between 3:16 p.m. and 3:18 p.m., the two remained within an arm's length of each other pushing back against police officers with other rioters in the tunnel. See Figure 5.



Figure 5.

At 3:17 p.m., HUGHES' bandana fell, briefly revealing his face. See Figure 6a & 6b.

² HUGHES is circled in red throughout. INDIVIDUAL 1 is circled in yellow.



Figure 6a.

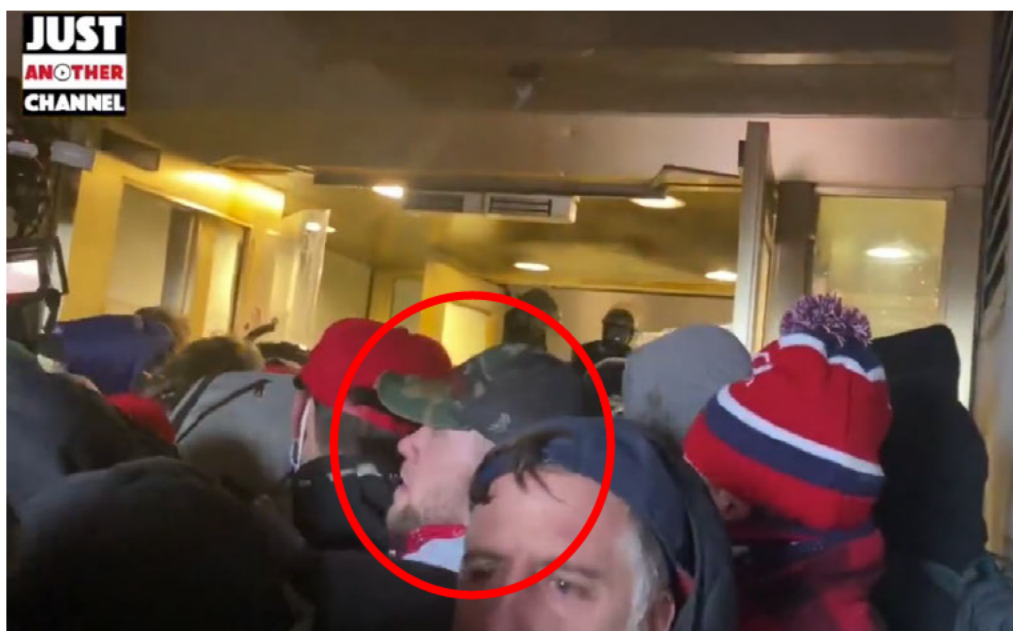


Figure 6b.

Beginning at approximately 3:18 p.m, rioters at the front of the mob began forcefully removing the police riot shields that the officers had been using to shield themselves from the mob's onslaught. HUGHES participated in this conduct by grabbing the shields from the rioters at the front of the mob and passing the shields back out of the tunnel and by personally grabbing an officer's shield and attempting to pull it away. See Figures 7-9.



Figure 7.



Figure 8.



Figure 9.

As the rioters, including HUGHES, were attempting to remove the officers' riot shields, the officers began to make a slow advance towards the mouth of the tunnel. While the officers were advancing, HUGHES continued grabbing at the riot shields and attempted to take them away from the officers in the Lower West Tunnel. See Figure 10.

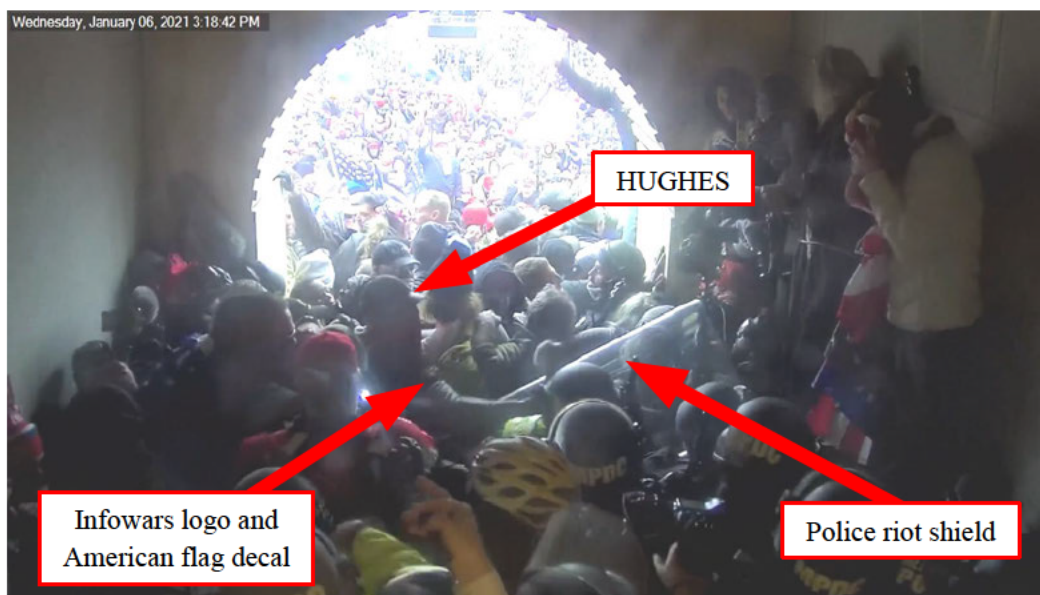


Figure 10.

Just before 3:19 p.m., the riot shield that HUGHES was grabbing at began to sink into the crowd as the officer resisted the mob's efforts to steal it. See Figures 11 & 12.



Figure 11.



Figure 12.

At 3:19 p.m., as he was about to be pushed out of the mouth of the tunnel by the advancing officers, HUGHES used his elbow to strike in the direction of the officer holding the shield. See Figure 13.



Figure 13.

After he was pushed out of the Lower West Tunnel, HUGHES remained in the vicinity of the Lower West Terrace for at least 90 minutes. At 3:55 p.m., from immediately outside of the Lower West Tunnel, Hughes began to call out to other rioters "Pull them out!" Earlier in the day, at approximately 3:19 p.m., HUGHES had been present for and witnessed officers being pulled from the Lower West Tunnel into the crowd. At just before 4:50 p.m., HUGHES remained on the Lower West Terrace watching as police officers attempted to clear rioters from the grandstands surrounding the terrace. See Figure 14.

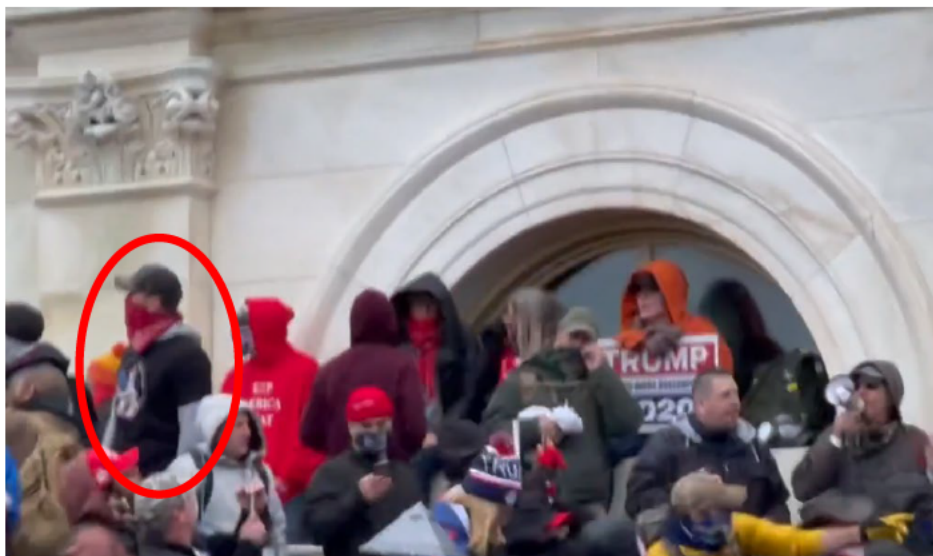


Figure 14.

Identification

On January 8, 2021, the FBI received a tip that HUGHES had traveled to Washington, D.C., on January 6, 2021, with another previously identified rioter from Arkansas who was present

in the Capitol on January 6, 2021. The tipster reported that HUGHES was seen in Washington, D.C., wearing a gray hooded sweatshirt during the events at the Capitol. On January 18 and 19, 2021, the FBI received a second tip that HUGHES was present at the Capitol on January 6, 2021. The second tipster stated that HUGHES was present in Washington from January 4 through January 6, 2021. This second tipster provided links to HUGHES' social media, including his Twitter handle, @RallyNate. On January 28, 2021, an FBI special agent contacted HUGHES via telephone to ask him about his alleged participation in the Capitol Riot. HUGHES confirmed that he was present in Washington, D.C., on January 6 and attended the former president's rally, but claimed that he never went inside the Capitol.

In August 2021, open source research identified HUGHES' Twitter profile and found posts indicating that he was present in Washington, D.C., on January 6, 2021. *See* Figures 15a & 15b. These tweets alluded to the violence that took place at the Capitol on January 6, 2021.



Figure 15a.

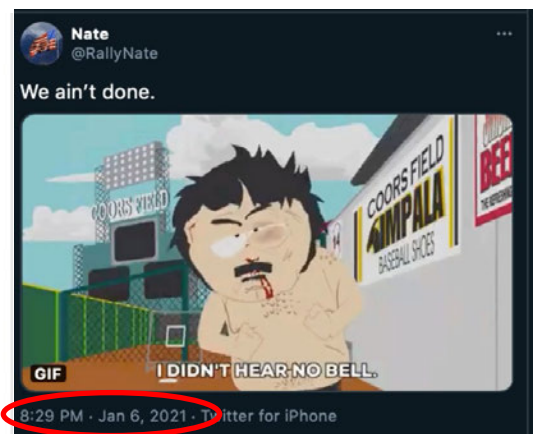


Figure 15b.

Open source research also revealed a tweet in which HUGHES, using his Twitter handle (@RallyNate), was identified by one of his known associates. *See* Figure 16. This tweet, which referenced events taking place in Washington, D.C., on January 4, 2021, included a photograph appearing to have been taken inside of a hotel room. In the accompanying photograph, HUGHES appears to be wearing the same hat that he wore during the events at the Capitol.



Figure 16.

A brightened detail of the image in this tweet shows that the hat HUGHES is wearing in the image has fraying in the same location as the hat that he wore at the Capitol on January 6, 2021. *Id.*

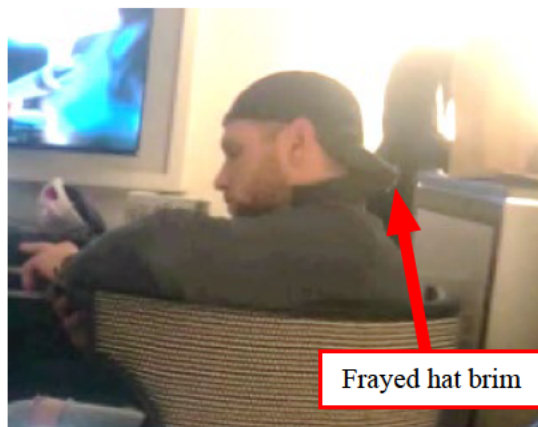


Figure 16 (detail).

On November 4, 2021, an open source image identified HUGHES as having participated in the January 6 Capitol Riot. This open source material included a video of HUGHES moving down Pennsylvania Avenue to the Capitol on January 6, 2021. *See* Figure 17.



Figure 17.

Included with this image was a photo of an individual who, based upon my review of records maintained by the State of Arkansas and surveillance conducted by the FBI, I know to be HUGHES. HUGHES' distinct notches at the top of his ears match those of the person who engaged in violence in the Lower West Tunnel on January 6, 2021, at the Capitol. *See* Figures 18 & 1a.



Figure 18.

Figure 1a.

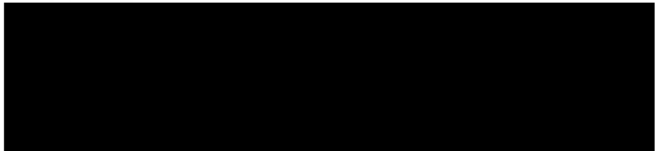
Having reviewed USCP Capitol CCV footage, images and videos, body worn camera footage, and records maintained by the State of Arkansas, I have concluded that that the physical attributes of the person identified in the Capitol CCV, including his height, body composition, facial hair, and structure, are consistent with my knowledge of HUGHES' appearance. Based upon my review of the evidence, I submit that there is probable cause to believe that NATHAN EARL HUGHES engaged in violence against police officers in the Lower West Tunnel of the United States Capitol on January 6, 2021.

CONCLUSION

Based on the foregoing, I submit that there is probable cause to believe that NATHAN EARL HUGHES 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.

I further submit there is probable cause to believe that NATHAN EARL HUGHES 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. 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.

I further submit there is also probable cause to believe that NATHAN EARL HUGHES violated 40 U.S.C. § 5104(e)(2)(E) which makes it a crime to obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings.



Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 18th day of August 2023.

HONORABLE G. MICHAEL HARVEY
UNITED STATES MAGISTRATE JUDGE