

Case: 1:23-mj-00209
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 8/17/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Task Force Officer (“TFO”) with the Federal Bureau of Investigation (“FBI”) assigned to the Joint Terrorism Task Force (JTTF), Domestic Terrorism and Weapons of Mass Destruction Squad in Austin, Texas. During my assignment with the JTTF, I have conducted investigations regarding material support of terrorism, weapons violations, explosives violations, as well as racially-motivated or anti-government/anti-authority violent extremism. Prior to assignment to the FBI, I was employed by the Austin Police Department (APD) as a Detective for over thirteen (13) years. As a Detective, I investigated vehicular homicides, crashes, and sexual assaults, among other crimes. Through my employment with the FBI and CSP, I have gained knowledge in the use of various investigative techniques including, but not limited to, conducting physical surveillance, conducting interviews, obtaining information through administrative and grand jury subpoenas, preparing and executing state and federal search warrants, preparing reports, and reviewing electronic evidence.

Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a 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.

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.

Facts Specific to this Case

Following the January 6, 2021, attack on the Capitol, the FBI reviewed multiple videos derived from open-source databases, as well as both Metropolitan Police Department (“MPD”) and US Capitol Police (“USCP”) holdings, including body worn camera footage (“BWC”). During that review, the FBI observed a subject breaching the Lower West Terrace of the U.S. Capitol and committing assaults on MPD officers between approximately 1:57 p.m. and 2:04 p.m. as detailed further below. The subject, later identified as BILLY GOBER (“GOBER”), is a white male with white hair and a white beard, who was wearing a light green hooded jacket, a black “beanie” hat, and camouflage print gloves on January 6, 2021, on U.S. Capitol Grounds. The FBI subsequently assigned this subject the identifier AFO-333 (“Assault on Federal Officer”).

Identification of BILLY GOBER

January 2021 Presumptive Identification by FBI

In January 2021, the FBI presumptively identified AFO-333 as Billy Joe Gober of Texas, based on Gober’s military records.

April 2021 Inclusion on FBI’s Seeking Information List

On April 28, 2021, GOBER was included in an FBI “Seeking Information” list. The FBI posted that list (along with the photographs below, hereinafter, “BOLO photos” or “BOLO images”) to its website and to social media to garner public assistance to identify the individual and confirm the FBI’s presumptive identification of GOBER.



Photograph #333 - AFO B



Photograph #333 - AFO A

Photographs of “333-AFO” Obtained from MPD BWC Footage and Included in FBI “Seeking Information” List Posted on fbi.gov

June 2022 Tip by Witness 1

On or around June 7, 2022, a member of the public whose identity is known to me (hereafter “Witness 1”) submitted an online tip through the FBI National Threat Operations Center’s online portal and indicated that based on their review and comparison of open-source images, they believed AFO 333 to be BJ GOBER of Texas.

August 2022 Interaction with CBP Officer and Subsequent Identification

On August 17, 2022, a Customs and Border Protection (“CPB”) officer stopped and interviewed GOBER when he re-entered the United States following foreign travel. The same day, the interviewing CBP officer verified that the photos of BOLO 333-AFO positively matched GOBER’s appearance.

November 2022 Photographic Identification by Affiant

On November 3, 2022, I compared the BOLO 333-AFO photos to a 2021 U.S. passport application and the Texas driver’s license photos of BILLY JOE GOBER. Based on my review, the individual depicted in the BOLO photos appears to be the same person depicted in the passport and driver’s license photos.

Travel Records

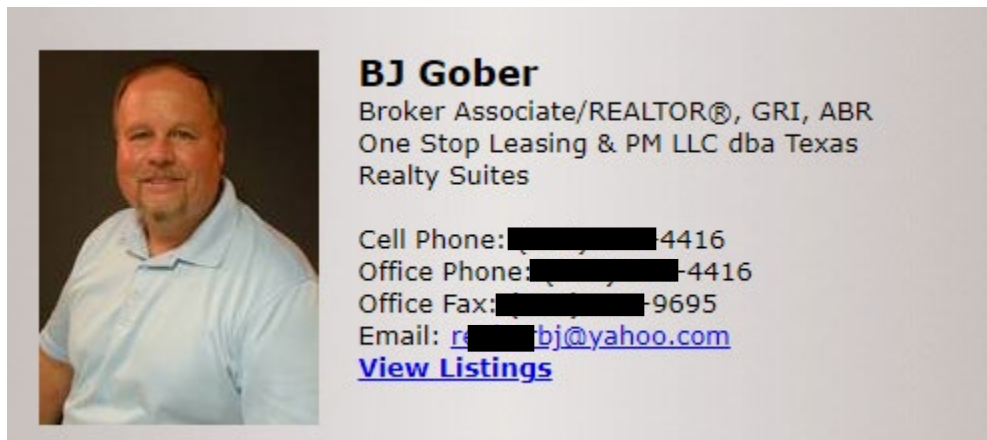
Travel records for GOBER from Southwest Airlines (“Southwest”) show that on December 23, 2020, GOBER booked a roundtrip plane ticket from Austin, Texas to Richmond, Virginia.

GOBER made this purchase four days after former President Donald J. Trump posted to Twitter that it was, “Statistically impossible to have lost the 2020 Election. Big protest in D.C. on January 6th. Be there, will be wild!”

More specifically, Southwest records reveal that on December 23, 2020, GOBER purchased a ticket to depart from Austin, Texas at 3:10 p.m. on Monday, January 4, 2021, arriving in Richmond, Virginia at 8:30 p.m. that night. Southwest records show that GOBER’s return flight departed from Richmond, Virginia at 9:40 a.m. on Friday, January 8, 2021, arriving in Austin, Texas that afternoon. Southwest records further reflect that GOBER did in fact board the flights described above.

The Austin airport (AUS) is approximately 40 miles and a 55-minute drive from GOBER’s home address. The Richmond airport (RIC) is approximately 115 miles and an hour and 50 minute-drive from Washington, D.C. A social media post from late December 2020 indicates that Gober intended to connect with two other individuals in Virginia, and that all three planned to drive together from Virginia to Washington, D.C.

GOBER booked the flights described above using his home address in Smithville, Texas. I know this is his home address based on review of Texas DMV records. He also provided his email address (R*****bj@yahoo.com) and his cell phone number ending in 4416 which are the same email address and phone number provided on GOBER’s publicly available business website.



*Screenshot from GOBER’s publicly available business website:
<https://www.bastropland.com/50/Profile/553>*

Summary of Assaults by GOBER Against Multiple Officers

At approximately 1:57 p.m., as law enforcement officers were attempting to maintain the police line on the south side of the Capitol’s Lower West Terrace, GOBER walked up the stairs to

approach the police line. *See* Image 1. Gober then charged at and struck an MPD officer, E.M. *See* Images 2 – 4. A few seconds after this attack, E.M. removed GOBER’s hands from her person, but GOBER approached the police line again and attempted to pull the barricade away from another unidentified USCP Officer. *See* Image 5.

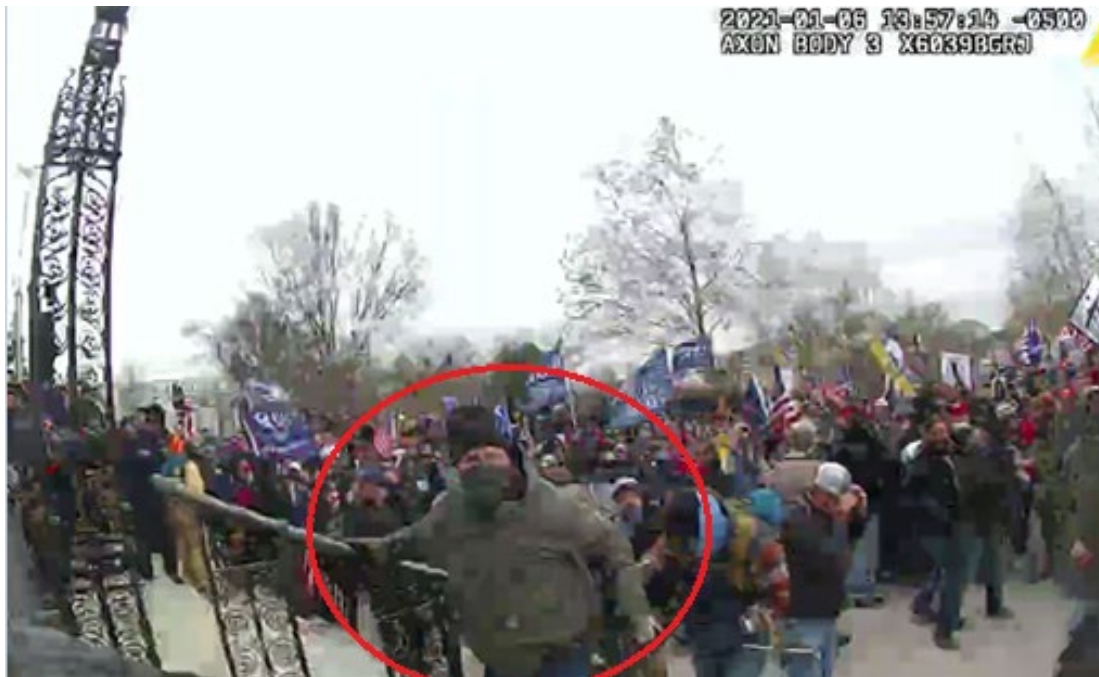


Image 1

Officer E.M.'s BWC depicting Gober (circled in red) approaching the police line



Image 2

Officer E.M.'s BWC depicting Gober (circled in red) lifting his hand towards officers



Image 3

Officer J.M.'s BWC depicting Gober (circled in red) reaching towards Officer E.M.'s shoulder/neck



Image 4

Officer J.M.'s BWC depicting Gober (circled in red) striking Officer E.M.

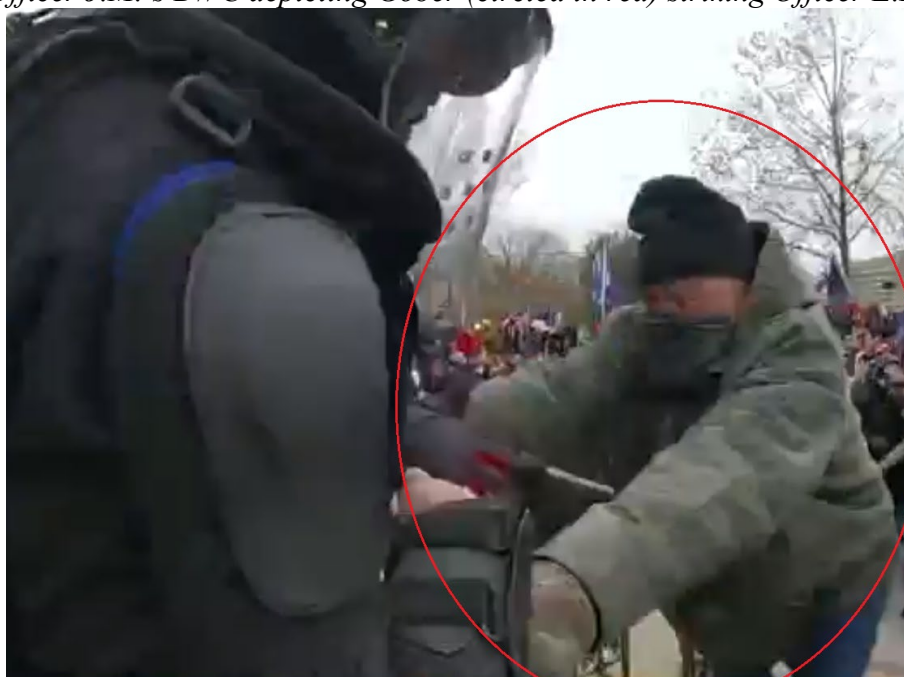


Image 5

Officer E.M.'s BWC at 1:57:19 pm depicting Gober (circled in red) grabbing a barricade

A few minutes later, at approximately 2:04 p.m., a section of the police line on the south side of the Lower West Terrace was collapsing as a result of rioters' repeated efforts to breach the

line, including through the assault of multiple officers. *See* Image 6. At that time, GOBER charged at another MPD officer, T.G., grabbed T.G.'s baton, and attempted to take the baton from T.G. *See* Images 7 and 8.



Image 6
Sergeant R.R.'s BWC depicting the collapse of the police line



Image 7
Officer T.G.'s BWC depicting Gober (circled in red) grabbing T.G.'s baton



Image 8
Officer T.G.'s BWC depicting Gober grabbing T.G.'s baton with both hands

Using the baton, GOBER then pulled T.G. into the crowd of rioters. See Images 10 and 11.



Image 10
Officer T.G.'s BWC depicting Gober pulling T.G. into the crowd of rioters



Image 11

Sergeant R.R.'s BWC depicting Officer T.G. (circled in blue) after Gober pulled him into the crowd

Once GOBER had pulled T.G. into the crowd, GOBER grabbed and placed his arms around T.G. See Images 12 and 13. GOBER physically held T.G. until an MPD sergeant, R.R., pulled T.G. away from GOBER's grip.



Image 12

Sergeant R.R.'s BWC depicting Gober's (circled in red) hold on Officer T.G.



Image 13

Sergeant R.R.'s BWC depicting Gober's hold on Officer T.G.

GOBER also made several statements around the time of the assaults, including to officers, in which he attempted to galvanize and rally the riot crowd to break the police line protecting the U.S. Capitol building:

Statements Made by GOBER	Source
“Come on guys, help me. I’m an old man. Come on. Come on, guys. Help me guys, come on. All right guys, push. You’re not going in? You came this far and you’re giving up? You’re giving up? Fuck the gas.”	MPD Officer J.M. BWC – 01:56:10 pm
Stating toward the police line - “Hey, I’m an old motherfucker here, but I’m ready.”	MPD Officer A.P. BWC – 1:58:57 pm
Stating toward the police line – “Ya know guys, eventually we’re coming through. You know that, right?”	MPD Officer T.G. BWC – 2:01:09 pm
“You would rather have us come through peacefully than come through forcefully.”	MPD Officer T.G.BWC – 201:13 pm
“Break through! Break through!”	MPD Officer T.G. BWC – 2:01:45 pm

Social Media

On January 11, 2021, three days after GOBER's flight from Richmond, Virginia back to Texas, GOBER posted a photograph of himself in front of the Capitol Building in Washington, D.C. See Image 14. The photograph was posted by an Instagram account entitled "realtorbj58" and depicts a person who I believe to be GOBER in the center of the photograph, wearing the same clothing as the individual in the AFO-333 photographs above. The photograph was posted with the caption, "Go to signal important you get off FB messenger. Censorship and monitoring citizens being done. Signal is encrypted if you value privacy get off these social media sites." Instagram account "realtorbj58" is registered to GOBER's phone number ending in 4416.



Image 14: Gober (center) with the U.S. Capitol Building in the background

CONCLUSION

Based on the foregoing, I submit there is probable cause to believe that BILLY GOBER violated 18 U.S.C. § 111(a), 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. Persons designated within section 1114 of Title 18 include any person assisting an officer or employee of the United States in the performance of their official duties and where the acts in violation of this section involve physical contact with the victim and the intent to commit another felony.

I also submit that there is probable cause to believe that BILLY GOBER 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 submit that there is probable cause to believe that BILLY GOBER violated 18 U.S.C. §§ 1752(a)(1), (2), and (4), which make 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; (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.

I submit there is also probable cause to believe that BILLY GOBER violated 40 U.S.C. §§ 5104(e)(2)(D), and (e)(2)(F), which makes it a crime to (D) 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; and (F) engage in an act of physical violence on Capitol Grounds.


FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 17th day of August 2023.

HONORABLE MOXILA A. UPADHYAYA
UNITED STATES MAGISTRATE JUDGE