

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	Case No.: 21-CR-151 (CKK)
	:	
v.	:	18 U.S.C. § 111(a)
	:	
BARTON SHIVELY,	:	
	:	
Defendant.	:	
	:	

STATEMENT OF OFFENSE

Pursuant to Fed. R. Crim. P. 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, **BARTON SHIVELY**, with the concurrence of his attorney, agree and stipulate to the below factual basis for the defendant's guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

The Attack at the U.S. Capitol on January 6, 2021

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured twenty-four hours a day by U.S. Capitol Police (USCP). Restrictions around the Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the Capitol.

2. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public.

3. 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 to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken

place on Tuesday, November 3, 2020. The joint session began at approximately 1:00 PM. Shortly thereafter, by approximately 1:30 PM, 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.

4. As the proceedings continued in both the House and the Senate, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the Capitol. Temporary and permanent barricades, as noted above, were in place around the exterior of the Capitol, and USCP officers were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

5. At approximately 2:00 PM, certain individuals in the crowd forced their way through, up, and over the barricades. Officers of the USCP were forced to retreat and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks as required by USCP officers or other authorized security officials.

6. At such time, the certification proceedings were still underway, and the exterior doors and windows of the Capitol were locked or otherwise secured. Members of the USCP attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 PM, individuals in the crowd forced entry into the Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the Capitol, requiring the expenditure of more than \$1.4 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 PM, members of the House of Representatives and of the Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 PM on January 6, 2021. In light of the dangerous circumstances caused by the unlawful entry to the Capitol—including the danger posed by individuals who had entered the Capitol without any security screening or weapons check—Congressional proceedings could not resume until after every unauthorized occupant had been removed from or left the Capitol, and USCP confirmed that the building was secured. The proceedings resumed at approximately 8:00 PM after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

Barton Shively's Participation in the January 6, 2021, Capitol Riot

8. The defendant, BARTON SHIVELY, lives in the Harrisburg, Pennsylvania area. He, with friends, traveled by car to Washington, D.C., to attend the “Stop the Steal” rally on January 6, 2021.

9. After attending the rally, SHIVELY and others walked to the U.S. Capitol where SHIVELY and others violently assaulted law enforcement officers who were protecting the U.S. Capitol.

10. Specifically, when SHIVELY unlawfully entered the Capitol grounds, he assaulted Officers N.E.T. and S.L., by pushing and punching the officers. SHIVELY admits that his belief that the Electoral College results were fraudulent is not a legal justification for unlawfully entering the Capitol grounds or building and using intimidation to influence, stop, or delay the Congressional proceeding.

11. Specifically, SHIVELY admits that he willfully and deliberately assaulted Officer N.E.T. SHIVELY admits that he struck and assaulted Officer N.E.T. by striking the officers' hand, head and shoulder areas. Also, SHIVELY admits that he was not acting in self-defense at the time when he made contact to Officer N.E.T.'s hand, head and shoulder areas.

12. Moreover, SHIVELY admits that he willfully and deliberately assaulted Officer S.L. once the barricades were broken down at the U.S. Capitol by other rioters, SHIVELY walked over the broken-down police barriers and up the U.S. Capitol steps where law enforcement officers were standing, protecting the Capitol. SHIVELY admits that he got "caught up in the moment," and that he grabbed Officer S.L by the officer's jacket and began yelling at the officer. Also, SHIVELY admits that he was not acting in self-defense at the time he grabbed Officer S.L by the officer's jacket and began yelling at the officer.

13. On January 14, 2021, SHIVELY contacted local law enforcement to admit that he was at the U.S. Capitol during the January 6, 2021 incident. SHIVELY admitted to seeing his photograph circulating on the news and wanted to self-surrender to the FBI. SHIVELY agreed to a voluntary interview with FBI agents from the Harrisburg FBI Office on January 14, 2021.

14. During the interview, SHIVELY admitted that once the barricades were broken down by other rioters, SHIVELY walked over the broken-down police barriers and up the U.S. Capitol steps where law enforcement officers were standing protecting the U.S. Capitol. SHIVELY stated that when he confronted the law enforcement officers, he was pushed back, SHIVELY admitted he became angered at that time. SHIVELY stated that he grabbed a police officer by his jacket and began yelling at the officer.

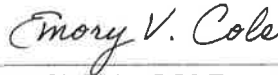
Elements of the Offense

15. BARTON SHIVELY knowingly and voluntarily admits to all the elements of assault on a federal officer. Specifically, defendant admits that he forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with any person designated in 18 U.S.C. § 1114 while engaged in or on account of the performance of their official duties. Specifically, the defendant admits that he struck and punched Officer N.E.T and Officer S.L. In doing so, he intended to cause Officer N.E.T. and Officer S.L. bodily injury. The officers were people assisting the United States Capitol Police, that is, officers from the Metropolitan Police Department and United States Capitol Police. The defendant further admits that he knew at that time of the assault of the officers that the officers were engaged in the performance of their official duties.

Respectfully submitted,

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DEFENDANT'S ACKNOWLEDGMENT

I, BARTON SHIVELY, have read this Statement of the Offense and have discussed it with my attorney. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

Date: 8/25/22


BARTON SHIVELY
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of the Offense and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: 8/25/22


EDWARD UNGVARSKY
Attorney for Defendant