

UNITED STATES DISTRICT COURT

for the
District of Columbia

United States of America

v.

BENJAMEN SCOTT BURLEW
DOB: [REDACTED]*Defendant(s)*

)
) Case: 1:21-mj-00501
) Assigned To : Harvey, G. Michael
) Assign. Date : 6/25/2021
) Description: COMPLAINT W/ ARREST WARRANT
)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 6, 2021 in the county of _____ in the
 _____ District of Columbia, the defendant(s) violated:

Code Section

18 U.S.C. §§ 113(a)(4)
 40 U.S.C. §§ 5104(e)(2)(F)

Offense Description

(Assault in Special Maritime and Territorial Jurisdiction)
 (Act of Physical Violence on Grounds)

This criminal complaint is based on these facts:

See attached affidavit.

☐ Continued on the attached sheet.

Garrett Churchill
Complainant's signature

Garrett S. Churchill, FBI Special Agent
Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone.

Date: 06/25/2021

G. Michael Harvey
Judge's signature
 Digitally signed by G. Michael
 Harvey
 Date: 2021.06.25 14:19:01
 -04'00'

City and state: Washington, D.C.

G. Michael Harvey, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

I, Garrett Churchill, being first duly sworn, hereby depose and states as follows:

PURPOSE OF THE AFFIDAVIT

1. This affidavit is submitted in support of a Criminal Complaint for BENJAMEN BURLEW, charging violations of 18 U.S.C. § 113(a)(4) and 40 U.S.C. § 5104(e)(2)(F).

BACKGROUND OF AFFIANT

2. I am a Special Agent with the Federal Bureau of Investigation (FBI), Washington Field Office. I have been in this position since September 30, 2019, and am currently assigned to investigate Public Corruption and Government Fraud in the District of Columbia. As a member of the Washington Field Office's Criminal Branch II, I have also been assisting in the investigation of violent crimes committed against law enforcement officers and members of the media in or around the U.S. Capitol Building on January 6, 2021. My primary responsibilities include conducting investigations involving public corruption, fraud, civil rights crimes and other related violations of federal criminal law. I have received a Juris Doctorate from the University of Georgia and have been a member of good standing of the State Bar of Georgia since 2010. I have experience with federal criminal law, the Federal Rules of Evidence and the Federal Rules of Criminal Procedure. During my training at the FBI Academy, Quantico, Virginia, I received training in areas such as physical surveillance, legal statutes and procedures, financial investigations, confidential source management, Fourth Amendment searches, the drafting of search warrant affidavits, probable cause and digital forensic data analysis.

3. Unless otherwise stated, the information in this Affidavit is either personally known to me, has been provided to me by other individuals, 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 to support an application for an arrest warrant, it does not contain every fact known by me or the United States. The dates listed in this Affidavit should be read as “on or about” dates. Unless specifically indicated, all conversations and statements described in this affidavit are related in substance and in part only and are not intended to be a verbatim recitation of such statements. All times provided in this affidavit should be read as “on or about” times and are given in Eastern Standard Time unless otherwise noted.

STATEMENT OF FACTS SUPPORTING PROBABLE CAUSE

Background – The U.S. Capitol on January 6, 2021

4. 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 are 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.

5. 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.

6. 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.

7. 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, shortly after 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.

8. 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.

9. After the U.S. Capitol was breached, United States Capitol Police (USCP) requested assistance from law enforcement agencies in the area to protect the Capitol, keep people from entering the Capitol, and expel the crowd that was inside the Capitol. Multiple officers with the Metropolitan Police Department and other law enforcement officers came to assist.

10. 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.

11. Additionally, news coverage of January 6, 2021, documented numerous attacks on members of the news media who were present to cover the events at, around, and in the U.S. Capitol building. These included reports of members of the news media being harassed, threatened, robbed, and assaulted based on their perceived roles as journalists, and equipment belonging to several news organizations was stolen, damaged, and/or destroyed.

Facts Specific to This Complaint

Assault on an AP Photographer

12. As explained further below, two videos from separate sources taken during the riots on January 6, 2021, at the United States Capitol depict an individual, subsequently identified as BENJAMEN BURLEW (“BURLEW”), engaging in a physical assault against a credentialed member of the news media (“MONM”), an Associated Press photographer (hereafter referred to as “the MONM victim”). This assault included physically grabbing and shoving the MONM victim and pushing him forcefully over a low wall. These crimes occurred in the general area of the Lower West Terrace of the U.S. Capitol Building during the riots on January 6, 2021.

13. Your affiant reviewed publicly available video footage depicting the assault of the MONM victim (“The Video”) that was retrieved from the verified Instagram account of another Associated Press photographer and the MONM victim’s colleague who was present with the MONM victim during the assault, and filmed the incident as it occurred (the “MONM witness”). The MONM witness later posted The Video to his Instagram account and the footage was reposted publicly by various media outlets on their respective websites and incorporated into reporting about the events of January 6, 2021 (e.g., an article by Associated Press journalist David Bauder, titled “Journalists recount harrowing attacks amid Capitol Riot” posted on the Associated Press’s

website on January 8, 2021, and accessible at the following link: <https://apnews.com/article/donald-trump-new-york-journalists-media-social-media-cba6bd7b93be0ade1da714a32c33d74c>).

14. Your affiant made the following observations from The Video. At some time on the afternoon of January 6, 2021, the MONM victim was observed on The Video in the vicinity of the U.S. Capitol Building, near the Lower West Terrace of the Capitol Grounds (The Video - Screenshot 1, the MONM victim - yellow circle). The MONM victim was dressed in all black and appeared to be wearing a helmet-style gas mask with a “Smith” label, a lanyard with Associated Press lettering, and was carrying at least one camera. While standing on a wide set of stairs leading up to the Western front of the U.S. Capitol Building, the MONM victim was pulled backwards down the stairs by at least two unknown subjects: a white male with short, dark grey hair, dressed in a blue and gray zip-up jacket over a burgundy hoodie, carrying a black backpack and wearing a blue neck gaiter on the lower part of his face (“UNSUB-1”); and a white male, dressed in a gray beanie-style hat with black stripes, a white surgical-style facemask, and wearing a black coat and blue jeans (“UNSUB-2”).

Screenshot 1: *Source – The Video*



15. Once he is pulled to the bottom of the stairs, the MONM victim is confronted by UNSUB-1, UNSUB-2, and another unknown subject (“UNSUB-3”) that appeared to be a white male, dressed in a camouflage patterned hoodie and green pants, wearing dark sunglasses, a dark blue hat and black gloves. UNSUB-3 appears to attempt to grab, and then shoves, the MONM victim. The MONM victim then backs away from the group with his hands up and relocates his position elsewhere on the stairs, although he is followed at a distance by UNSUB-1, UNSUB-2, and UNSUB-3 (The Video – Screenshot 2, the MONM victim – yellow circle).

Screenshot 2: *Source – The Video*



16. Shortly thereafter, on the same set of stairs but several yards from the original altercation, the MONM victim was confronted by an individual, identified through investigation, as explained in detail below, as BENJAMIN BURLEW, who appears to yell at the MONM victim and approach him aggressively, causing the MONM victim to retreat backwards up the stairs (The Video – Screenshot 3, the MONM victim – yellow circle, BURLEW – red circle). BURLEW is observed to be a white male with short, thinning black hair and a mixed black and gray beard, wearing a blue and white neck bandana, a green/gray camouflage pattern quarter zip jacket and carrying a dark green backpack.

Screenshot 3: *Source – The Video*



17. Subsequently, UNSUB-1 is observed to grab with his left hand the lanyard hanging around the MONM victim's neck, which identifies the MONM victim as a member of the Associated Press (The Video – Screenshot 4, BURLEW-red circle). BURLEW can again be seen on video standing behind the altercation and yelling (Appendix A – Screenshot 4, BURLEW – red circle). UNSUB-1 then uses the lanyard to forcefully drag the MONM victim back down the stairs.

Screenshot 4: *Source – The Video*



18. At the bottom of the stairs, UNSUB-1, BURLEW and two other unknown subjects ((a) a white male wearing clear glasses or goggles and dressed in a black jacket, black face covering and a bike helmet (“UNSUB-4”) and (b) a white male with a gray and black ponytail and wearing a neon yellow t-shirt under a black jacket, a black backpack and a gray beanie-style winter hat (“UNSUB-5”),¹ grab the MONM victim and push, shove and drag him parallel to the stairs, back towards the site of the original altercation (The Video – Screenshot 5, the MONM victim – yellow circle, BURLEW – red circle). During this altercation, BURLEW can be seen to shove the MONM victim using BURLEW’s right hand placed on the MONM victim’s back, over the MONM victim’s black backpack.

Screenshot 5: *Source – The Video*

¹ The identity of UNSUB-5 is the subject of a separate affidavit and warrant, but for purposes of this warrant, will be referenced as UNSUB-5.



19. After shoving the MONM victim, BURLEW disengages from the altercation and can be observed on the video appearing to head off in the opposite direction while the other assailants continue to push and drag the MONM victim away. At this point, UNSUB-5 grabs the MONM victim with both hands near the MONM victim's shoulder and upper chest and drives the MONM victim backwards, while the other assailants (UNSUB-1 and UNSUB-4) also disengage from the altercation. UNSUB-5 then continues to push and drag the MONM victim past the site of the original altercation and towards a densely grouped section of the gathered crowd, away from the stairs, and towards a low stone wall that separates the stairs of the west front of the U.S. Capitol Building from the west lawn below (The Video – Screenshot 6, the MONM victim – yellow circle).

Screenshot 6: *Source – The Video*



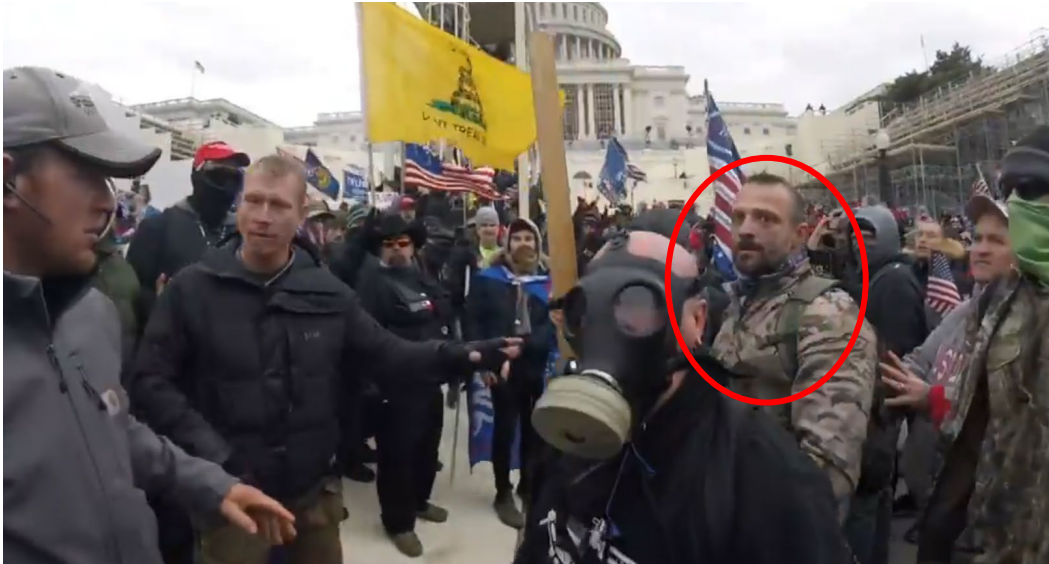
20. UNSUB-5 is then observed on The Video shoving the MONM victim forcefully in the head/neck area, causing the MONM victim to stumble backwards into other members of the crowd, with his back facing the low stone wall, which lies several feet above the grass of the west lawn of the U.S. Capitol (The Video – Screenshot 7). The MONM victim is observed to have both of his hands up to protect himself. Individuals are standing on the wall behind the MONM victim and observing the incident.

Screenshot 7: *Source – The Video*



21. While the MONM victim is backed into other members of the crowd standing on the wall, he is approached and becomes engaged in a verbal altercation with another unknown subject smoking a cigarette (“UNSUB-6”) (see above image), who appears to be a white male with a brown beard, wearing glasses and a green bandana on his head, and is dressed in a blue hoodie and gloves. As this altercation continues, the camera angle pans back towards the direction from which the MONM victim was originally pushed, and BURLEW can be observed approaching the area where the MONM victim is standing after having previously disengaged from the incident (The Video – Screenshot 8, BURLEW – red circle).

Screenshot 8: *Source – The Video*



22. The camera angle then pans back to the MONM victim and his altercation with UNSUB-7 (see above image). UNSUB-7 is observed to use his left, gloved hand to push the MONM victim in the chest, backwards and towards the wall (The Video – Screenshot 9). A group of male individuals standing along the top edge of the wall begin to fall backwards over the wall, towards the grass of the west lawn below, as they are impacted by the MONM victim stumbling backwards into them.

Screenshot 9: *Source – The Video*



23. At this point, BURLEW is observed to lunge towards the MONM victim and grab his upper chest with his left hand and the MONM victim's right leg and knee with his right hand and forcefully throw and push the MONM victim over the wall and to the lawn several feet below (The Video - Screenshot 10, BURLEW – red circle on left hand, head, and right hand of BURLEW). Green tattoo markings on BURLEW's left hand can be faintly observed.

Screenshot 10: *Source – The Video*



24. BURLEW continues to shove and push the MONM victim until the MONM victim is thrown backwards over the wall. The MONM victim, together with at least one individual that was standing on the wall behind the MONM victim and caught up in the melee, lands on his back on the ground several feet below the wall, on the grounds of the west lawn of the U.S. Capitol, while BURLEW leans over the wall and observes his fall (The Video – Screenshot 11). BURLEW's distinctive clothing and appearance can be observed in this image, including a white

and blue bandana wrapped around his neck, his balding hairline, and his camouflage patterned pull-over jacket.

Screenshot 11: *Source – The Video*



25. Based on the timing and location of the above-described assault, your affiant reviewed the body-worn camera footage (the “BWC Video”) of a District of Columbia Metropolitan Police Department (“MPD”) Officer who was standing near the Lower West Terrace of the U.S. Capitol during the approximate time that the assault occurred. The officer was positioned near a line of bike racks, which was being used as a barrier against the assembling crowd by officers of the MPD and U.S. Capitol Police. The bike rack was positioned close to the top lip of the stairs that the MONM victim was observed to be standing on at the beginning of The Video. At approximately 1:31 PM, the MONM victim can be observed on the BWC Video facing the line of officers and taking pictures of them (BWC Video – Screenshot 12). The MONM victim is observed to be wearing clothing consistent with The Video.

Screenshot 12: *Source - BWC Video*



26. At approximately 1:33 PM, the MONM victim can be observed on the BWC Video having moved to a location at the top of the stairs to the right of the location of the officers. The MONM victim is facing back into the crowd and appears to be taking photographs (BWC Video – Screenshot 13, the MONM victim – yellow circle). The MONM victim's backpack and other clothing is consistent with the backpack observed in The Video.

Screenshot 13: *Source - BWC Video*



27. Between approximately 1:34 PM and 1:35 PM, the first assault against the MONM victim (described *supra* paragraph 13) appears to occur. The MONM victim can be observed to be at the top of the stairs at approximately 1:34:42 PM on the BWC Video (BWC Video – Screenshot 13, the MONM victim – yellow circle) and then he appears to stumble down the stairs and disappears from view.

Screenshot 14: *Source - BWC Video*



28. Subsequently, BURLEW can be observed on the BWC Video at approximately 1:35:36 PM (BWC Video – Screenshot 15, BURLEW – red circle). This appears consistent with BURLEW’s location in The Video, Screenshot 1 *supra* paragraph 13.

Screenshot 15: *Source - BWC Video*



29. Shortly, thereafter, BURLEW can be observed beginning to push an individual that is obscured from view (BWC Video, Screenshot 16, BURLEW – red circle). Your affiant believes this is consistent with BURLEW's conduct in The Video shown in Screenshot 5, *supra* paragraph 17, and that the individual being attacked by BURLEW is the MONM victim.

Screenshot 16: *Source - BWC Video*



Identification of Benjamin Burlew

30. After review of the aforesaid videos, the FBI utilized investigative resources to develop multiple images of the subject from The Video and the BWC Video. These images were assigned BOLO #195 (all points bulletin, also known as “be on the look-out”) and were placed on the FBI’s “Most Wanted” U.S. Capitol Violence webpage, currently accessible at <https://www.fbi.gov/wanted/capitol-violence> (the “Capitol Violence Webpage”), to allow members of the public to review images of BOLO #195, as well as BOLO images of other offenders whose conduct had been identified as criminal but whose identities were unknown, and assist the FBI in identifying these offenders.

31. On April 2, 2021, a tip was submitted to the Federal Bureau of Investigation by a group of internet sleuths (collectively, “CW-1”) performing open source research utilizing social media and content posted on various on-line channels, including YouTube, in an attempt to identify BOLO offenders posted on the FBI’s Capitol Violence Webpage, including BOLO #195. CW-1 has previously provided assistance to the FBI in connection with the Capitol riots

investigation. The tip consisted of a link to a publicly available video posted on YouTube to the YouTube channel of Citizen Media News (the “YouTube Video”), recorded by an unknown individual (the “Recorder”). CW-1 indicated that the unknown subject known as BOLO #195 could be observed around timestamp 3:06 in the YouTube Video and appeared to state his name and the state of his residence to the Recorder. Review of the YouTube channel to which the YouTube Video was posted appears to be associated with Citizen Media News (www.citizenmedianews.com), which purports to be a “grassroots” journalism and media platform.

32. Your affiant has reviewed the YouTube Video. During this review, around timestamp 3:02, your affiant first observed an individual matching the description of BURLEW: white male, short, thinning black hair, mixed black and gray beard, blue and white neck bandana, green/gray camouflage pattern quarter zip jacket. The individual, believed to be BURLEW, appeared to be in discomfort and used his left hand to rub his eyes and face. Distinctive green tattoo markings on the back of the individual’s left hand were visible (Appendix B – Screenshot 1), consistent with the markings observed on BURLEW’s hands in The Video (see Screenshot 10, *supra* paragraph 22).

Screenshot 17: *Source – YouTube Video*



33. Shortly thereafter, another unknown individual is observed pouring water from a plastic water bottle into the individual, believed to be BURLEW's, eyes. During this time, the individual states "third time today." Your affiant believes that this comment is in reference to being sprayed by some form of aerosol irritant multiple times. Subsequently, the individual turns so that his full facial profile is visible at approximately time stamp 3:04 of the video (YouTube Video - Screenshot 18). The individual's clothing and physical appearance appear consistent with images of BURLEW reviewed in The Video and BWC Video, although BURLEW does not appear to be wearing the backpack he was observed to have in those videos. Between time stamps 3:12 and 3:14, the Recorder can be heard on the YouTube Video asking, "What's your name?" to which the individual responded, "Ben Burlew" [spelled phonetically]. The Recorder then asks, "Where are you from," and BURLEW responds, "Oklahoma."

Screenshot 18: *Source – YouTube Video*



34. Using the self-identification, your affiant reviewed Oklahoma driver's license information and located an individual named "BENJAMEN SCOTT BURLEW" whose appearance in his driver's license photo was consistent with the images of BURLEW observed by your affiant in The Cortez Video, the BWC Video, and the YouTube Video.

35. Further, your affiant conducted a review of other submitted tips and ongoing FBI investigations that may have also implicated or mentioned BURLEW. This search revealed that on January 9, 2021, an individual ("CW-2") submitted an on-line tip to the FBI National Threat Operations Center ("NTOC") and reported that Benjamin Burlew was in Washington, D.C. on January 5, 2021, and January 6, 2021, and possibly entered the U.S. Capitol building. CW-2 reported that Burlew was a former serviceman in the U.S. Army and provided identifiers for BURLEW, including his social security number, his current address and his cellphone number.

36. Based on these allegations, on January 13, 2021, CW-2 was re-contacted and interviewed telephonically by an FBI agent, and provided additional information. CW-2 had observed a video phone call between BURLEW and a close family member of BURLEW (“Family Member-1”) on or about December 24, 2020. During the call, CW-2 had overheard BURLEW state that he was planning to go to Washington, D.C. on January 4, 2021, in a caravan and “storm the Capitol.” CW-2 had also overheard a phone call between BURLEW and Family Member-1 on or about January 6, 2021 in which BURLEW appeared to be in Washington, D.C. and in which BURLEW had stated that “people were acting silly” and that it was time for BURLEW to leave. CW-2 did not know of any photographs of BURLEW inside the Capitol building or if BURLEW had participated in illegal activity while present in Washington, D.C. CW-2 clarified his/her initial report that he/she had no actual knowledge that BURLEW had been inside of the U.S. Capitol but that he/she had overheard him say on or about December 24, 2020 that he had planned to “storm the Capitol.”

37. Subsequently, on March 11, 2021, FBI agents and task-force officers (“TFO”) attempted to interview BURLEW at the residential address provided by CW-2 in Miami, Oklahoma. The address was observed to be a residential property with a locked exterior fence which did not permit vehicular access. The agents contacted BURLEW using the cellular telephone number provided by CW-2. BURLEW declined to answer questions about whether he had been in Washington, D.C. on January 6, 2021, or participated in any of the civil unrest that took place during the day. BURLEW further advised the interviewing agents that he was recording their interaction and would not speak further with agents without his lawyer present.

38. On March 15, 2021, a second telephonic interview of BURLEW was attempted by FBI agents and/or TFOs. BURLEW was asked to schedule an interview with the agents and

advised that his attorney could accompany BURLEW to the interview. BURLEW stated that he had spoken with his lawyer who advised BURLEW that he should not speak with the FBI. The interviewing agents advised BURLEW of the nature of the interview and BURLEW stated that the FBI was lying about information received that BURLEW was present in Washington, D.C. on January 6, 2021, and stated that he did not wish to speak with the FBI regarding his presence or conduct in Washington, D.C. on or about January 6, 2021.

39. On or about the week of May 24, 2021, an individual (“CW-3”) with a familial relationship to BURLEW called the FBI NTOC to report the identity of FBI BOLO #195 as BURLEW. CW-3 alleged that BURLEW had asked CW-3 to go to Washington, D.C. with BURLEW on January 6, 2021, but that CW-3 had declined BURLEW’s invitation. CW-3 stated that BURLEW had prior military service in the U.S. Army and that BURLEW lived “out in the middle of nowhere” in Oklahoma.

40. On or about the week of May 31, 2021, an individual (“CW-4”) called the FBI NTOC to report the identity of FBI BOLO #195 as BURLEW. On June 2, 2021, your affiant contacted CW-4 telephonically for an interview. CW-4 alleged that BURLEW and CW-4 had been co-workers in the past and that BURLEW’s name had been “going around” their place of work as wanted by the FBI. CW-4 had recognized BURLEW based on his build, facial features, hair and beard, which were consistent with the images of BOLO #195 posted on the Capitol Violence Webpage. Due to his limited relationship with BURLEW and the fact that gloves were often worn on the job by CW-4 and his coworkers, CW-4 did not recall whether BURLEW had any tattoos or markings on his left hand and arm.

41. On or about June 24, 2021 CW-2 was re-interviewed by FBI agents and shown the aforesaid images of BOLO #195. CW-2 was able to positively identify these images as BURLEW.

CW-2 was asked if BURLEW had any unique identifying marks or features, such as scars or tattoos. CW-2 was able to identify the distinctive green tattoo on BURLEW's left hand that was observed by your affiant *supra* paragraphs 23 and 32.

42. As of June 10, 2021, the FBI has received twelve (12) tips from the public, reported to NTOC, regarding the identity of BOLO #195, including the four (4) tips received from CW-1, CW-2, CW-3, and CW-4 noted above. These tips were submitted to FBI NTOC, either by phone or through the electronic portal, stating they thought BOLO #195 could be various individuals. As discussed above, four of these tips provided information that BOLO #195 was BURLEW. Eight of these tips alleged that an individual other than BURLEW was BOLO #195. Three of the tips that alleged BOLO #195 was an individual other than BURLEW were provided to the FBI prior to BOLO #195 being conclusively identified as BURLEW by your affiant (as described above). Five of the tips that alleged BOLO #195 was an individual other than BURLEW were provided to the FBI after BOLO #195 was conclusively identified as BURLEW. All of the tips received have been investigated, and other than the four (4) tips from CW-1, CW-2, CW-3 and CW-4, could not be matched with BOLO #195 due to lack of evidence that could result in a positive identification. In contrast, the information contained in the YouTube Video provided by CW-1 in which BOLO #195 can be seen on video self-identifying as BURLEW, and the corroboration provided by CW-2, CW-3 and CW-4, provide probable cause that BURLEW is BOLO #195.

43. On a daily basis, the FBI continues to receive tips from members of the public that have reviewed the Capitol Violence Webpage about the possible identities of individuals who may have participated in the events at the Capitol on January 6, 2021. Your affiant is not aware of any other information provided to the FBI about BOLO #195 at this time.

Probable Cause

44. Your affiant submits there is also probable cause to believe that BENJAMEN BURLEW violated 40 U.S.C. § 5104(e)(2)(F), which makes it a crime to willfully and knowingly engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

45. Your affiant submits there is also probable cause to believe that BENJAMEN BURLEW violated 18 U.S.C. § 113(a)(4), which makes it unlawful, within the special and maritime jurisdiction of the United States, to commit an assault by striking, beating, or wounding, and aiding and abetting in such a crime. The U.S. Capitol and the U.S. Capitol grounds are federal property within the special maritime or territorial jurisdiction of the United States.


SPECIAL AGENT GARRETT S. CHURCHILL
FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 25th day of June, 2021.


Digitally signed by G.
Michael Harvey
Date: 2021.06.25 14:20:24
-04'00'
G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE