

UNITED STATES DISTRICT COURT
for the
District of Columbia

United States of America
v.
BRIAN GLENN BINGHAM
DOB: XXXXXX

Case: 1:21-mj-00430
Assigned to: Judge Harvey, G. Michael
Assign Date: 5/17/2021
Description: COMPLAINT W/ARREST WARRANT

Defendant(s)

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
in the District of Columbia, the defendant(s) violated:

Code Section

Offense Description

- 18 U.S.C. § 111(a)(1) - Assaulting, Resisting, or Impeding certain Officers or Employee of the United States in the Performance of their Official Duties,
18 U.S.C. § 231(a)(3) - Obstruction of Law Enforcement During Civil Disorder,
18 U.S.C. § 1752(a)(1) - Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority,
18 U.S.C. § 1752(a)(2) - Disorderly and Disruptive Conduct in a Restricted Building or Grounds,
40 U.S.C. § 5104(e)(2)(D) - Violent Entry and Disorderly Conduct on Capitol Grounds,
40 U.S.C. § 5104(e)(2)(G) - Parading, Demonstrating, or Picketing in a Capitol Building.

This criminal complaint is based on these facts:

See attached statement of facts.

Continued on the attached sheet.

Edward Moschella

Complainant's signature

Edward E. Moschella, 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: 05/17/2021

Digitally signed by G. Michael Harvey

Judge's signature

City and state: Washington, D.C.

G. Michael Harvey, U.S. Magistrate Judge

Printed name and title

STATEMENT OF FACTS

Your affiant, Edward E. Moschella, is a Special Agent with the Federal Bureau of Investigation (FBI), currently assigned to the Washington Field Office, Northern Virginia Resident Agency. In my duties as a Special Agent, I investigate child exploitation crimes and during the course of my career have investigated violent federal crimes. Currently, I am tasked with investigating criminal activity in and around the United States 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 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 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.

On January 6, 2021, a joint session of the United States Congress convened at the U.S. 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.

Evidence Linking BRIAN BINGHAM to Assault on the U.S. Capitol

Shortly after the January 6, 2021 incident at the Capitol, the FBI collected video footage from several sources, including but not limited to surveillance video provided by the U.S. Capitol Police, law enforcement body worn cameras (“BWC”), and videos publicly available on the Internet and social media, for the purposes of identifying individuals who appeared to engage in criminal activity while inside the Capitol building. The FBI used the videos to create “Be On The Lookout” or “BOLO” bulletins to solicit information from the public concerning such individuals. One such BOLO created by the FBI Washington Field Office included an image labeled “Photograph # 93-AFO” (“BOLO #93”). BOLO #93 was created by using a still image from a video taken from inside the U.S. Capitol. The following is the image used in BOLO # 93:



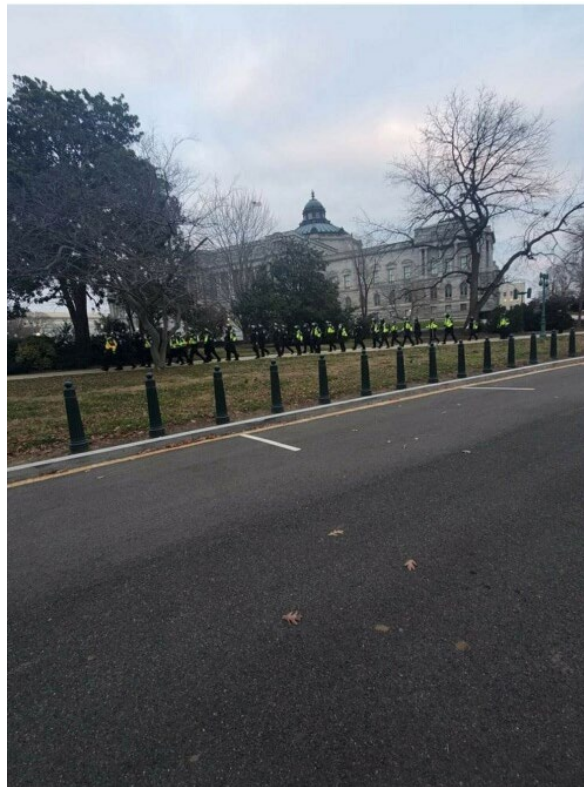
On or about January 10, 2021, the FBI National Threat Operations Center (“NTOC”) received an online tip suggesting that BRIAN BINGHAM (“BINGHAM”) may have illegally entered the U.S. Capitol on January 6, 2021. Specifically, an individual (“Individual-1”) stated that he/she previously served in the Army with BINGHAM and he/she recently saw a picture of the Capitol riots which contained an individual who bore a slight resemblance to BINGHAM. Individual-1 expressed some doubt that the person in the photograph was actually BINGHAM, but also stated he/she was friends with BINGHAM on Facebook and could provide BINGHAM’s Facebook information. That same day, the FBI conducted a telephone interview of Individual-1. Individual-1 explained that he/she observed on BINGHAM’s Facebook page videos and photos from inside the Capitol building on January 6, 2021. Although BINGHAM could not be seen in any of the photos or videos, one of the videos had the caption, “We walked right in.”

On or about January 19, 2021, another individual (“Individual-2”) contacted the NTOC and reported that the person depicted in BOLO #93 was BINGHAM. Individual-2 also stated that he/she knew BINGHAM from the Army and that they were friends on Facebook. Individual-2 reported that BINGHAM posted videos and photos from the Capitol riot on his Facebook page. On or about January 24, 2021, your affiant interviewed Individual-2. Individual-2 stated that

he/she saw BOLO #93 and that there was no doubt that it was BINGHAM's photo on BOLO #93. On or about January 19, 2021, another individual ("Individual-3") called NTOC and reported that the person depicted in BOLO #93 was BINGHAM. Individual-3 also knew BINGHAM from the Army but had not spoken to BINGHAM in several years.

On or about January 21, 2021, your affiant obtained the driver's license photo for BINGHAM from the State of Florida. Your affiant compared the driver's license photo with the photo in BOLO #93, and both appeared to be the same person. Also on or about January 21, 2021, the FBI reviewed BINGHAM's Facebook and Instagram pages, which were viewable to the public at the time. Both social media accounts had photos of the same individual who appeared to be BINGHAM, but there were no posts, photos, or videos that suggested or indicated that BINGHAM participated in the riot at the Capitol on January 6, 2021, which suggested that the Facebook posts described by Individuals-1 and -2 had since been removed. BINGHAM's Facebook page indicated that he resided in Pennsville, New Jersey.

Pursuant to a grand jury subpoena and search warrant, the FBI obtained from Facebook records associated with the Facebook account under the name "Brian Bingham." The subscriber data associated with the Facebook account confirmed that the account was in fact BINGHAM's Facebook account. According to the records, the account was closed (deactivated, disabled, or deleted) on or about January 22, 2021, but contained photos, videos, and posts made to the account concerning the Capitol riot and BINGHAM's involvement. For example, on January 6, 2021, BINGHAM posted the photo shown below of Capitol police walking around the Capitol area with the following caption: "More young trigger happy troops."



BINGHAM also posted the following photos taken from inside the Capitol building, just outside the Speaker's Lobby, which leads directly to the House chamber, and he also shared them via private messages with another Facebook account ("Individual-4"):



Additionally, BINGHAM exchanged the following private messages with Individual-4:

Individual-4: Hey did someone legit get murdered in front of you??

BINGHAM: I was in doorway of foyer

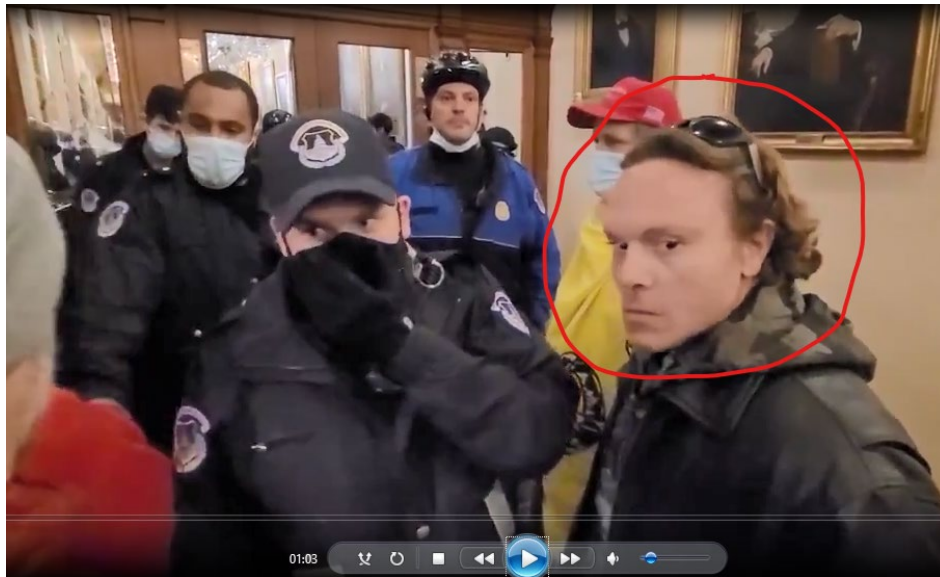
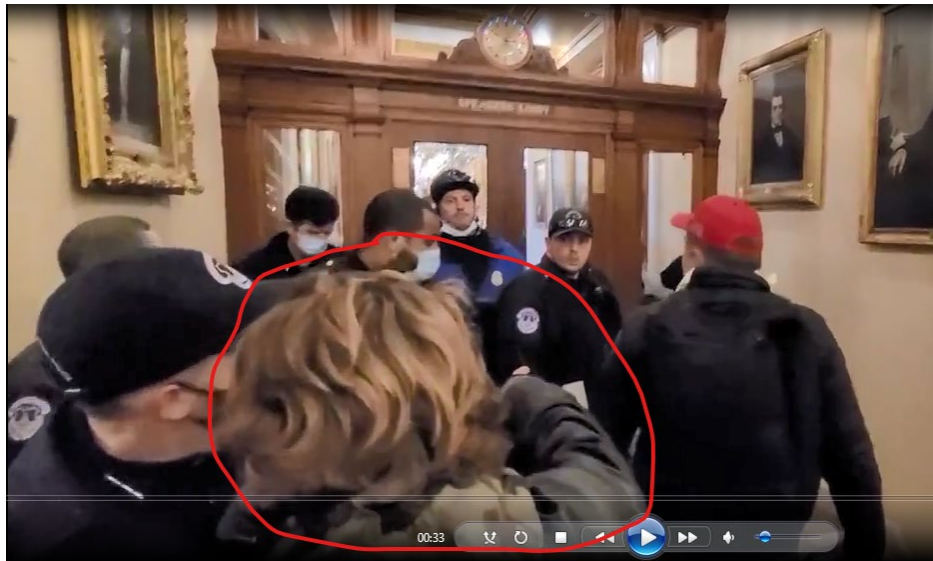
Individual-4: What the fuck... ?

BINGHAM: No one was armed

Individual-4: You in dc?

BINGHAM: Nope, back in Jersey.

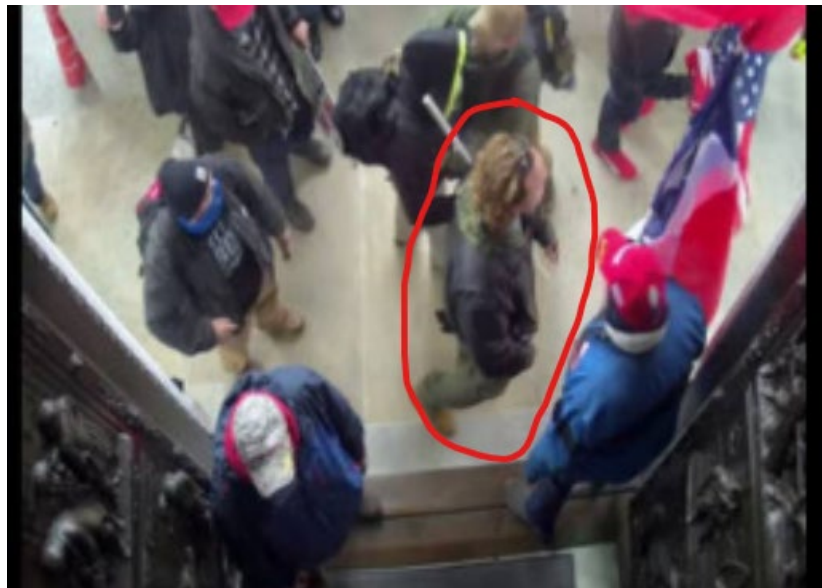
In the course of this investigation, the FBI obtained video taken from inside the Capitol building by another rioter, which shows BINGHAM pointing and shouting at the officers guarding the entrance to the Speaker's Lobby, where a rioter had just been shot by law enforcement. Other rioters can be heard discussing the shooting that just occurred there. Two screenshots of the video are shown below. BINGHAM is circled in red.



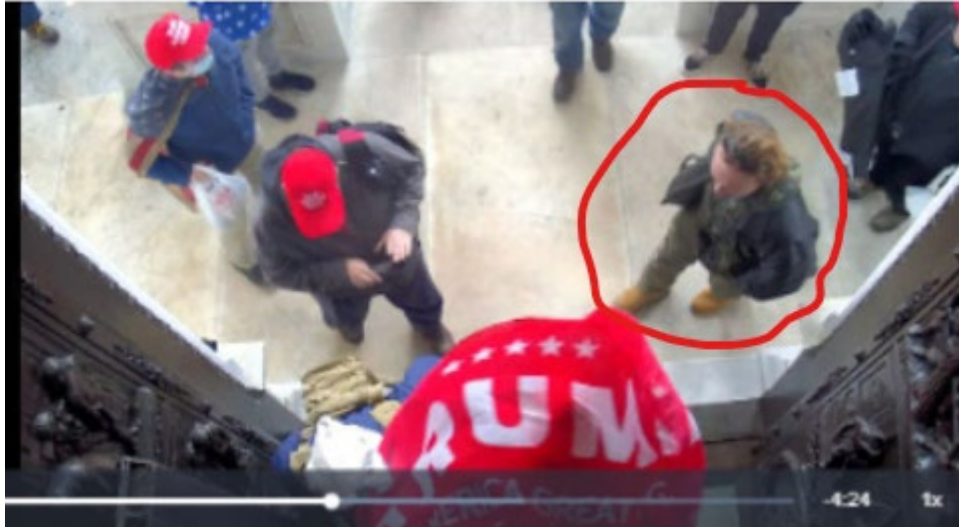
Also contained in BINGHAM's Facebook records was a video taken from inside the Capitol building on January 6, 2021, which shows rioters marching through the Capitol. BINGHAM posted the video to his Facebook page on or about January 7, 2021, with the following caption: "The door was open and we walked in and didn't break anything, the girl was killed inside door at right at the end of video You decide? Telling people to be peaceful as we walked in, hmm." A screenshot from the video is shown below.



Your affiant also reviewed Capitol building security video footage which captured BINGHAM walking into the Capitol building on January 6, 2021. The image below is from the video taken by a security camera located at one of the entrances to the Capitol building. At approximately 2:28 p.m. the camera captures BINGHAM loitering in the vicinity of the door. In the image below BINGHAM is wearing a black leather jacket, green pants, tan boots, and sunglasses on top of his head. At numerous points in the video, numerous people walk up to the door and then turn around, which suggests that the doors may have been locked. At approximately 2:29 p.m., an individual wearing a black hoody with neon green lining and a black backpack walks up to the door and appears to strike it with what appears to be an expandable police baton. BINGHAM seems to be aware that this is taking place as he turned to watch the individual. BINGHAM is circled in red.



At approximately 2:42 p.m., the east front door becomes unsecured and people, including BINGHAM, start entering the Capitol building. The following image is a screenshot taken just prior to BINGHAM entering the Capitol building. BINGHAM is circled in red.



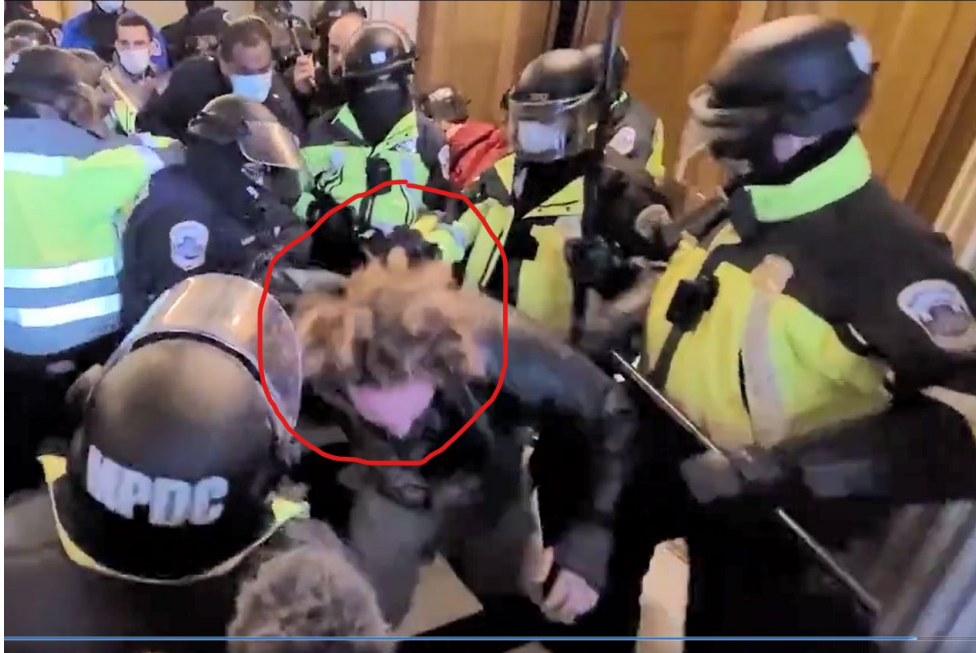
Surveillance video from inside the Capitol building shows that at approximately 2:55 p.m. BINGHAM engaged police officers in a physical altercation. As the officers are trying to move the crowd out of the Capitol building, BINGHAM turns to confront the officers. The officers continue to try to move BINGHAM out and BINGHAM squares up with an officer and appears to shout at him. As the officer continues to push BINGHAM toward the doorway BINGHAM appears to throw a punch or a shove at the officer with his right arm. As BINGHAM continues to scuffle with the officer, other officers get involved to pull BINGHAM away from the officer he attacked. Eventually the officers are able to get BINGHAM away from the officer he attacked and push BINGHAM towards the doorway where BINGHAM then exits the Capitol building. Screenshots of the video are below. BINGHAM is circled in red.



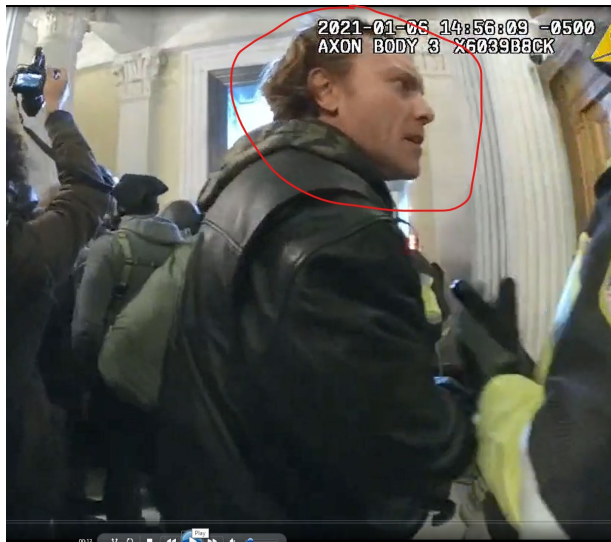


Video obtained by law enforcement taken by another rioter shows the altercation from the doorway of the Capitol building looking back towards BINGHAM. The video shows BINGHAM grabbing at and pushing the officer. It takes several other officers to finally push BINGHAM out of the doorway. Two screenshots of the video are shown below. BINGHAM is circled in red.

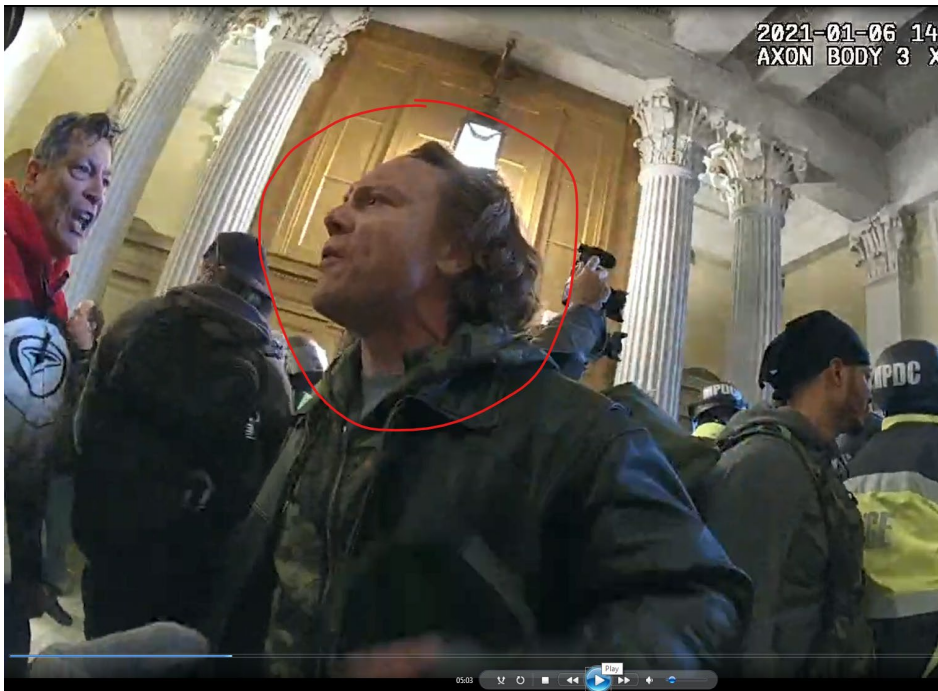
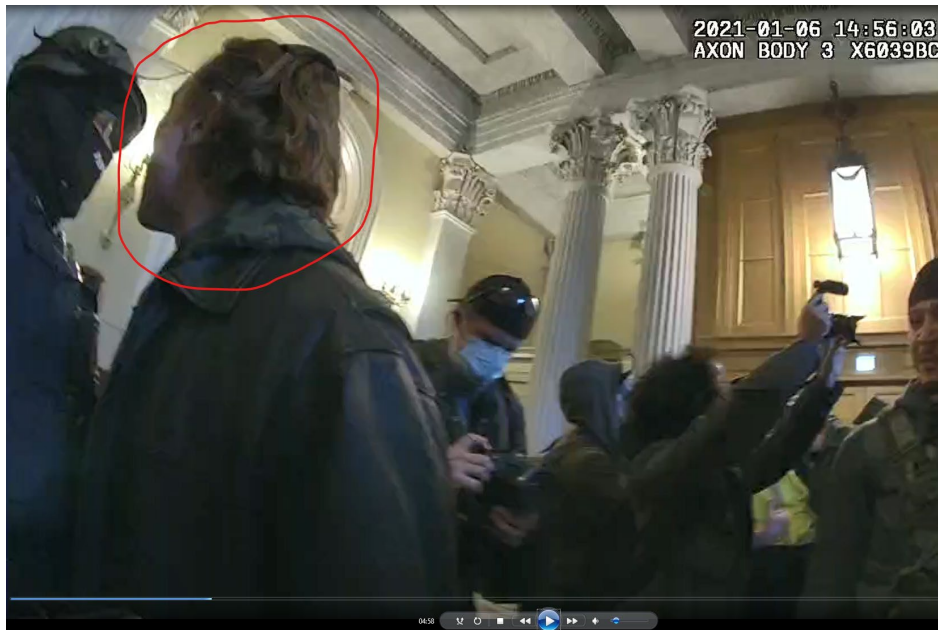




To further investigate this incident, your affiant obtained and reviewed the BWC video from the officers close to BINGHAM during the altercation. Specifically, your affiant reviewed the BWC videos from MPD Officers Syed Hussain and Kwaku Agyeman. The videos show BINGHAM turning to confront an officer while the officers are shouting commands for people to move out of the Capitol building. The image below is a screenshot from Officer Hussain's BWC video time stamped 2:56 p.m. This video shows BINGHAM confronting Officer Agyeman just prior to the physical altercation. BINGHAM is circled in red.



The video from Officer Agyeman's BWC shows the altercation from a different angle. That video show BINGHAM first turning to confront and shout at Officer Hussain before squaring up with Officer Agyeman and ultimately attacking Officer Agyeman. Screenshots from Officer Agyeman's BWC video are shown below. BINGHAM is circled in red.





The BWC videos also contain sound, and prior to the altercation, BINGHAM is heard shouting the following at the officers:

“You won’t hurt ANTIFA, but you’ll murder innocent girls!”

“Where do you want me to move? Push me again!”

Later in the day, on or about January 6, 2021, BINGHAM exchanged messages on Facebook with another Facebook user (“Individual-5”). In the messages, BINGHAM confirmed his assault on the officers. Below is an excerpt of the exchange:

Individual-5: Are you ok?

BINGHAM: I got to manhandl[e] 5 cops and live to tell

Individual-5: Lol... All of this does not surprise me! Stay safe.
Trump2020

On or about January 8, 2021, BINGHAM exchanged message with another Facebook user (“Individual-6”) further discussing the incident. Below is an excerpt of that exchange:

BINGHAM: There was one scuffle that I got in between the one cop and the crowd, he was being dirty. I said “it ain’t worth it, they are about to swarm you for hitting the wrong guys eyeball” then a buddy cop grabbed him and they walked off

On or about January 21, 2021, your affiant interviewed Officer Hussain. Officer Hussain stated that on January 6, 2021, he was assigned with Civilian Disturbance Unit (CDU) Platoon 23, and he was working in the vicinity of Black Lives Matter Plaza in Washington, D.C. Officer Hussain stated that at approximately 2:00 p.m., Platoon 23 responded to the U.S. Capitol to assist with crowd control. Officer Hussain stated that he and other officers from his platoon went inside the U.S. Capitol to assist the United States Capitol Police (USCP) with clearing the Capitol building of unauthorized persons. Officer Hussain viewed BOLO #93 and BINGHAM'S driver's license photo. Officer Hussain stated that he remembered BINGHAM because of his long hair, and that he saw BINGHAM assault Officer Agyeman. Officer Hussain stated that when he assisted Officer Agyeman, he, too, became involved in the altercation with BINGHAM and Officer Agyeman. Officer Hussain said he and a USCP officer were eventually able to push BINGHAM out the Capitol building door.

On January 21, 2021 your affiant interviewed Officer Agyeman. Officer Agyeman stated that on January 6, 2021, he was assigned to work with his CDU platoon 23 in the vicinity of Black Lives Matter Plaza in Washington, D.C. Officer Agyeman recalled that between 1:00 p.m. and 2:00 p.m., his platoon received a request via radio transmission to assist the USCP. Officer Agyeman's platoon responded to the U.S. Capitol, made their way inside and began clearing people from inside the Capitol. Officer Agyeman reviewed BOLO #93 and an image of BINGHAM from the video described above taken by another rioter. Officer Agyeman indicated that he recalled the individual in the images because BINGHAM was the only person that fought with Officer Agyeman that day. Officer Agyeman explained that as he was assisting with clearing the U.S. Capitol of unauthorized persons, he told BINGHAM to move along and to exit the building. The exit was not far from where they were standing. Officer Agyeman indicated that BINGHAM responded, "Where do you want me to go?" or words to that effect. Officer Agyeman stated that he pushed BINGHAM towards the doorway at which time BINGHAM struck Officer Agyeman. At some point during the fight, BINGHAM scratched Officer Agyeman on the right side of his left eye.

Based on the aforementioned evidence, there is probable cause to believe BRIAN BINGHAM was present on U.S. Capitol grounds, entered the Capitol building, and committed related offenses, including the assault on Officer Agyeman and obstruction of Congressional proceedings at the U.S. Capitol building, located at First Street, NW, Washington, D.C. 20510 on January 6, 2021.

Therefore, your affiant submits that there is probable cause to believe that BINGHAM violated 18 U.S.C. § 111(a)(1), 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 include any person assisting an officer or employee of the United States in the performance of their official duties.

Your affiant submits there is also probable cause to believe that BINGHAM 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 the 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 probable cause to believe that BINGHAM 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 so; 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; 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.

Finally, your affiant submits there is probable cause to believe that BINGHAM violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) 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 (G) parade, demonstrate, or picket in any of the Capitol Buildings.



Edward E. Moschella
Special Agent, FBI

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone, this 17th day of May 2021.



Digitally signed by G.
Michael Harvey
Date: 2021.05.17
14:18:06 -04'00'

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE