

## UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

Daniel Paul Gray

DOB: XXXXXX

*Defendant(s)*

)  
 ) **Case: 1:21-mj-00429**  
 ) **Assigned to: Judge Harvey, G. Michael**  
 ) **Assign Date: 5/17/2021**  
 ) **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  
 \_\_\_\_\_ in the District of Columbia, the defendant(s) violated:

*Code Section**Offense Description*

18 U.S.C. § 1512(c)(2) - Obstruction of Justice/Congress,  
 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) - Knowingly Engages in Disorderly or Disruptive Conduct in Restricted Building or Grounds,  
 18 U.S.C. § 1752(a)(4) - Knowingly Engages in any act of Physical Violence against any person or property in any 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)(F) - Engaging in an act of physical violence in the Grounds or any of the Capitol Buildings,  
 40 U.S.C. § 5104(e)(2)(G) - Parading, Demonstrating, or Picketing in a Capitol Building,  
 18 U.S.C. § 111(a)(1) - Forcibly assault, resist, oppose, impede, intimidate, or interfere with a designated person while that person is engaged in the performance of official duties,  
 18 U.S.C. § 231(a)(3) - Obstruction of Law Enforcement During Civil Disorder.

This criminal complaint is based on these facts:

See attached statement of facts.

☒ Continued on the attached sheet.

*Complainant's signature***Benjamin Fulp, 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: 5/17/2021


**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, Benjamin Fulp, is a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed since 2018. Currently, I am tasked with investigating criminal activity in and around the 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, detention, investigation, or prosecution of violations 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, shortly 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, including Daniel GRAY, as described below.

**Video posted on Instagram:** On or about January 8, 2021, law enforcement received information that the user of an Instagram account with the username of “daniel\_king\_ginger\_gray” posted an approximately four-minute video to the aforementioned Instagram account. Subsequent investigation determined that the Instagram account with the username of “daniel\_king\_ginger\_gray” is registered to Daniel GRAY. Your affiant has reviewed the video. In the video, an individual, later identified as Daniel GRAY (“GRAY”) appears to be recording himself as he walks through an unidentified airport, describing his activities at the United States Capitol on January 6, 2021. The photo below is a screenshot from that video.



In the video, GRAY provides a monologue, including the following comments:

- GRAY states that “a female cop stole my phone and I got mace’d . . . and I’m like you know what, we’re doing this and so we literally pushed them from the front steps of the Capitol all the way back.”
- GRAY describes standing in front of a group of officers in the Capitol. He states that he told them, “Hey, stand down there’s too many of us. Go home, go find your wives, go find your kids, you don’t want to do this.”
- GRAY states that he stormed Nancy Pelosi’s office and that he later came into contact with the female MPD officer from the earlier incident with his phone. GRAY claims that the officer started crying, took off her vest, and ran down the stairs.
- GRAY stated that “we start pushing the police out the back of the Capitol; we pushed them from the front to the back of the Capitol,” and then described how the group arrived at a staircase and started “pushing them [the police] down the staircase.”

- GRAY claims that he returned to the Capitol on January 7, 2021, and was immediately detained. GRAY also states, “this is far from over, that was the coolest thing I’ve ever done in my entire life and stay tuned.”

**Witnesses:** Law enforcement subsequently spoke with Witnesses #1 - #3, all of whom had prior association with GRAY, and had opportunities to view him in person and become familiar with his physical appearance prior to GRAY’s involvement in the events in Washington, D.C. on January 6, 2021.

Witness #1 provided a copy of the above-mentioned Instagram post/video to law enforcement and stated that the person in the video was GRAY, who had an Instagram account with the username of “Daniel\_King\_Ginger\_Gray.”

Witness #2 notified law enforcement about the same Instagram post/video, and stated that h/she believed that GRAY operated the Instagram account with the username of “daniel\_king\_ginger\_gray.” Witness #2 recognized the person in the video post as GRAY, walking through an airport while talking about his involvement in the riots at the Capitol building.

Witness #3 also identified GRAY as the person in the Instagram post/video, and stated that “these are taken from his Instagram @daniel\_king\_ginger\_gray.” Witness #3 indicated that in the video, GRAY confessed to being in Nancy Pelosi’s office and potentially being next to the woman that was shot inside the Capitol building.

**Body-worn camera video:** Your affiant reviewed body-worn cameras worn by members of the Metropolitan Police Department (“MPD”) that recorded GRAY inside the Rotunda area of the U.S. Capitol Building on January 6, 2021. In sum, the body-worn camera footage recorded that, at approximately 2:57 p.m., a group of MPD and United States Capitol Police (“USCP”) officers were standing at the top of the stairs off of the west-side of the Capitol Rotunda, in an effort to deny the rioters the ability to maneuver through the Rotunda.

In one body-worn camera video, GRAY joined a group of rioters, who are yelling at the officers for various reasons, and GRAY remained in the vicinity. At approximately 2:57:16 p.m., GRAY stepped away from the group, faced the eastside of the Rotunda, and beckoned with his hands. Based on this gesture, it appears that GRAY was directing unknown individuals to come towards him. Shortly thereafter, a large group of rioters moved towards the west entrance where GRAY was located, and the now-significantly larger crowd appeared to become agitated. On the same body-worn camera video, at approximately 2:57:40, your affiant observed GRAY as he moved within the agitated crowd.



At approximately 2:58 p.m., GRAY approached one of the MPD officers, and the officer can be heard repeatedly stating, “back up.” At this juncture, the MPD officer used his baton to push GRAY back, and in response, GRAY shoved the officer back. The body-worn camera video recorded GRAY as he asked the group of officers several times, “Can I have my cell phone back please?” An MPD officer used his baton to push back a rioter, who physically encroached on the officer, and the crowd became even more agitated. As depicted in the screenshot below from the body-worn camera video, during this moment, GRAY is clearly visible in the front row of rioters and has to be physically pushed back by the officers several times.





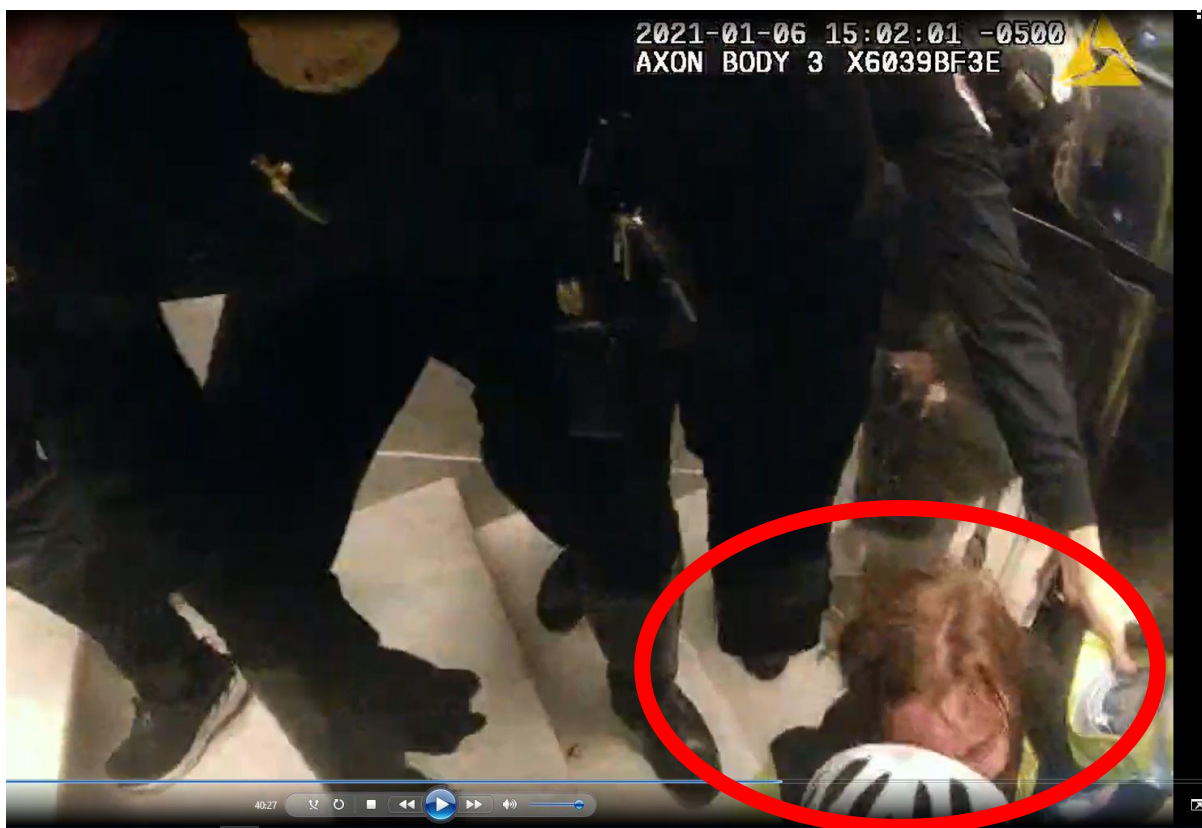
At approximately 3:01 p.m., a physical altercation between rioters and officers ensued as the officers attempted to restrict the rioters from passing through the archway entrance to the office area behind them. GRAY was one of the first persons attempting to break through the police line.



One of the MPD officers, Officer M.B., staggered backwards away from the crowd and appeared to be affected by the chemical irritant that had been deployed. GRAY is visible in Officer M.B.'s body-worn camera video. Officer M.B. then appeared to raise her baton to protect herself, and at approximately 3:01:47 p.m., GRAY appeared to reach out and grab the MPD's officer's baton and push backwards.



Officer M.B. then lost her balance and fell down the Western Rotunda stairs for several seconds. Officer M.B. was visibly injured and fellow officers carried her outside to ask fellow officers for assistance.



Despite the large presence of law enforcement, GRAY continued to push against the officers, and eventually broke through the police line into the atrium that led to the office area.





Law enforcement subsequently pushed the rioters, including GRAY, out of the Rotunda and outside the Capitol building.

**Stop on January 7, 2021:** On January 7, 2021, at approximately 11:55 a.m., GRAY was stopped by MPD officers in the parking lot on the west side of the United States Capitol complex in response to a BOLO. During the course of his stop, GRAY identified himself as DANIEL PAUL GRAY, and provided his residence address in Mableton, GA 30126, and his date of birth.

GRAY was in possession of a mobile phone but stated that his phone was stolen the day before, and that the phone recovered from his person was a temporary phone that only took photographs. He also stated that he had stayed at an Airbnb during his time in Washington, D.C. Approximately 45 minutes later, GRAY was released by the officers.



**Identification:** During the investigation, your affiant sent three still photographs to Witness #1 that were obtained from the body-worn camera video discussed above. Your affiant instructed Witness #1 to review the photographs and identify anyone that s/he recognized in the



photographs. Witness #1 subsequently identified the person in the three photographs as Daniel GRAY.

Additionally, your affiant reviewed the social media video of the person identified as Daniel GRAY, as well as his Georgia's driver's license photograph and a photograph of GRAY posted to the website of X3 Fitness, which is GRAY's last known place of employment. Your affiant also reviewed the above-discussed body-worn camera videos that were worn by MPD officers inside the Capitol building during the events on January 6, 2021, and outside the Capitol on January 7, 2021. Your affiant compared the images from 1) the social media video, 2) GRAY's Georgia driver's license photograph, 3) GRAY's employment photo, and 4) the person depicted in the body-worn camera discussed above and they appear visually to be the same person.

**Social Media Warrant Returns:** Your affiant obtained and reviewed records from Facebook for information associated with the Facebook and Instagram accounts used by GRAY. In the time between the 2020 presidential election and the January 6, 2021, attack on the Capitol, GRAY expressed dissatisfaction with the results of the election, and expressed a belief that there were improprieties surrounding the election. Among other things, on or about November 21, 2020, GRAY posted "F[\*]ck the election this is the biggest scandal of my lifetime."<sup>1</sup> The same day, GRAY posted a photo of another user's status that claimed that members of the Department of Justice and members of Congress had a phone call in which they discussed sabotaging the government. GRAY posted this photo and statement with the caption "treason."

On or about December 12, 2020, GRAY posted several Facebook statuses, including "Militia finna be lit y'all!!!," and, "Sh[\*]ts about to get lit y'all. I'm actually really excited at the possibility of the insurrection act being implemented." The same day, GRAY sent a private Facebook message to another user, stating, "Bro I just joined the militia."

On or about December 12, 2020, GRAY posted about potential events at the Capitol on January 6, 2021. Specifically, he posted a status saying, in part, "Here is the move y'all. If they intend to certify a false election it's gonna have to be to our faces." He then commented on another user's post with the following: "the only day that matters is the 20th. On the 6th a f[\*]cking sh[\*]t ton of us are going to Washington to shut the entire city down. It's gonna be insane I literally can't wait." In a private message to another user, GRAY asked, "are you gonna be in DC on the 6th like trump asked us to be?"

Additionally, GRAY sent messages and posted about his involvement in the attack on the Capitol. On or about January 6, 2021, GRAY sent an Instagram message to another user, stating "Dude we literally took congress over. I don't wanna say too much more lol was the rowdiest thing I've ever done and you know me lol." That same day, GRAY sent another Instagram message: "We pushed them out the back door of the capital. Pretty sure I can put tear gas on my eggs for breakfast now lol." In a third conversation on or about January 8, 2021, GRAY messaged another user, "Hey brother pretty sure I'm moving back to Jax asap. Bro I was in DC sh[\*]t was crazy," and "Lol I was one of the first in the capital. Was detained photoed the next day."

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<sup>1</sup> Language from these posts is not corrected for spelling, grammar, or style.

On or about January 11, 2021, Daniel GRAY expressed a desire to engage in further violence, messaging another user: “If Biden is sworn in Im coming back to fight. But I truly dont believe he will be sworn in.”

Based on the foregoing, your affiant submits that there is probable cause to believe that Daniel GRAY violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with a designated person while that person is engaged in the performance of official duties, or on account of that person’s performance of official duties. For the purposes of Section 111 of Title 18, a designated person includes officers or employees of the United States or of any agency in any branch of the United States Government. This includes officers of the U.S. Capitol Police, and also includes members of the Metropolitan Police Department when, as in the events described above, such officers were assisting a federal officer or employee in the performance of the federal officer’s duties.

Your affiant further submits that there is probable cause to believe that Daniel GRAY 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.

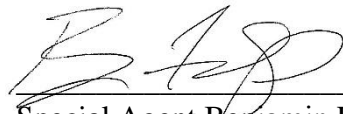
Your affiant submits there is probable cause to believe that Daniel GRAY violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.

Your affiant further submits that there is probable cause to believe that Daniel GRAY violated 18 U.S.C. §§ 1752(a)(1), (2), and (4) which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; (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; and (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 any of the foregoing. 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 Daniel GRAY violated 40 U.S.C. §§ 5104(e)(2), 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; (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Respectfully submitted,



Special Agent Benjamin Fulp  
Federal Bureau of Investigation

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



Digitally signed by  
G. Michael Harvey  
Date: 2021.05.17  
12:00:10 -04'00'

G. MICHAEL HARVEY  
U.S. MAGISTRATE JUDGE