

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	CASE NO. 21-cr-495 (ABJ)
v.	:	
	:	
DANIEL GRAY	:	18 U.S.C. §§ 111(a)(1), 1512(c)(2)
	:	
Defendant.	:	

STATEMENT OF OFFENSE

Pursuant to Federal Rule of Criminal Procedure 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and defendant, Daniel GRAY, with the concurrence of his attorney, agree and stipulate to the below factual basis for Gray’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 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.

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

3. 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

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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.

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 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.

5. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades, and officers of the U.S. Capitol Police, 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 by U.S. Capitol Police Officers or other authorized security officials.

6. 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 law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the U.S. Capitol, requiring the expenditure of more than \$1.4 million dollars for repairs.

7. 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 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 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

Gray's Participation in the January 6, 2021, Capitol Riot

8. Gray made several posts to social media and wrote several private messages to friends on social media in the days leading up to January 6, 2021. His posts expressed excitement about traveling to Washington, D.C. to take part in demonstrations on January 6. For example, Gray wrote “Militia finna be lit y’all!!!,” (*sic.*) and, “Sh[*]ts about to get lit y’all. I’m actually really excited at the possibility of the insurrection act being implemented,” (*sic.*) in the days leading up to January 6.

9. Gray believed that the election had been “stolen” from President Trump through fraud. Gray was aware that, on January 6, 2021, Congress was meeting to certify the results of the Electoral College vote. For example, on December 21, 2020, Gray wrote a social media post stating, “Lol wait until the 6th in D.C. If the electors are gonna certify a fraudulent election they

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are gonna have to do it in front of like 2 million ppl. F[***] around and find out season is here y'all!" He did not want Congress to certify the election in President Biden's favor.

10. On January 6, 2021, Gray took steps to try to obstruct the congressional certification proceeding. Gray arrived at the west plaza steps on the west side of the U.S. Capitol building, within the restricted area, as early as 2:25 p.m. Gray was present when the police line fell on the west side of the U.S. Capitol building, and followed the police officers as they retreated toward the U.S. Capitol building.

11. Gray entered the U.S. Capitol Building at approximately 2:41 p.m. through the Upper West Terrace doors.

12. Around 2:47 p.m., Gray joined a group of rioters in the second-floor main hallway, north of the Small Senate Rotunda. The rioters were confronting a line of Metropolitan Police Department officers that had formed to prevent the loud mob from getting closer to the Senate Floor. As the mob began pushing the line of officers, Gray yelled "push!" at the rioters behind him. Gray joined the rioters in front of him, pushing with the crowd toward the line of officers. Less than a minute after the surge began, Gray veered to his left and into a small staircase off of the hallway.

13. There, a small number of officers attempted to prevent the rioters from climbing the stairs, including Officer K.H., who was at the base of the stairs. Officer K.H. had his back to the mob with his arms stretched out to his sides, forming a wall blocking the mob. He had his left hand on the stair's railing to his left, his body in the middle of the stairs, and his right hand pressed into the wall to his right. It was clear to the rioters they were not permitted up the stairs. Rather than obey this command, at approximately 2:49:14 p.m., Gray instead grabbed Officer K.H.'s arm, and as Officer K.H. twisted, Gray squeezed behind him and up the stairs.

14. Gray then returned down the stairs, walked back through the second-floor main hallway, and arrived back in the Rotunda. At approximately 2:57:00 p.m., Gray walked to the west side of the Rotunda, where another rioter was yelling at a line of uniformed Metropolitan Police Department and U.S. Capitol Police officers, "We want them out here! You bring them out or we're coming in. Bring them out! Bring them out now! They're criminals and they need to hang! They need to hang!" Within seconds of when the rioter finished yelling, at approximately 2:57:16 p.m., Gray beckoned with his hands toward other rioters to join the mob confronting the line of police officers.

15. At approximately 2:58 p.m., Gray approached an officer at the front of the line. The officer told him several times to back up. The officer pushed Gray back with his baton; in response, Gray shoved the officer with his hands. Others in Gray's group began to push against the police line as well.

16. Between approximately 2:58 p.m. and 3:01 p.m., Gray and other rioters pushed back the police and advanced from the Rotunda toward a small room west of the Rotunda. Gray was at the front of the mob. As a result of the push, the police officers were backed up against the Western Rotunda staircase that led down to the Upper West Terrace door, where Gray initially breached the U.S. Capitol building less than 20 minutes earlier. From where the line of police officers stood, there were 14 marble steps down to a small landing area, and then another 18 marble steps down to the first floor of the U.S. Capitol building.

17. At approximately 3:01 p.m., a physical struggle ensued as the officers attempted to prevent further advances by Gray and the other rioters. Metropolitan Police Department Officer M.B. was part of the police line that was pushed back by Gray and the other rioters. Officer M.B. was wearing a clearly marked police uniform and a bicycle helmet. During the physical struggle,

Officer M.B. staggered backwards and appeared to be affected by recently deployed chemical spray.

18. At approximately 3:01:47 p.m., Gray reached out and grabbed the baton Officer M.B. was holding. As a result, Officer M.B. lost her balance. At 3:01:55 p.m. to 3:02:01 p.m., Officer M.B. fell down the Western Rotunda stairs. Officer M.B. was visibly affected by the fall and fellow officers assisted her out of the building. As a result of the fall, Officer M.B. still suffers from chronic back pain and a pinched nerve, issues for which she has received medical treatment. Although untreated, she also believes she suffered a concussion on January 6, and believes she continues to suffer from post-traumatic stress disorder.

19. Gray and other rioters continued pressing against the police line until additional police officers arrived. Police officers regained control of the western entrance to the Rotunda and forced rioters back into the Rotunda. Police officers steered Gray and other rioters out of the east side of the U.S. Capitol Building at approximately 3:12:17 p.m.

20. Later that day, Gray travelled to a nearby airport in order to leave the area. While there, he recorded a "selfie-style" video which he streamed to his Instagram account. Gray admitted to being present at the U.S. Capitol on January 6, 2021, and described some of his conduct. Among other statements, Gray said words to the effect of, "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." He also stated he encountered the female police officer later that day, and that she started crying, took off her vest, and ran down the stairs. Gray also stated that he had gone into House Speaker Pelosi's Office. His overall demeanor was one of enthusiasm and pride for what he had done on January 6, 2021.

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21. Gray continued to message social-media friends about his involvement in events of January 6. On or about the evening of January 6, Gray wrote, "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." On or about January 11, 2021, Gray messaged another user: "If Biden is sworn in Im coming back to fight. But I truly dont believe he will be sworn in."

22. Gray knew at the time he entered the U.S. Capitol Building that he did not have permission to enter the building. Gray obstructed, influenced, and impeded an official proceeding, that is, a proceeding before Congress, specifically, Congress's certification of the Electoral College vote as set out in the Twelfth Amendment of the Constitution of the United States and 3 U.S.C. §§ 15-18.

23. When Gray shoved Officer M.B., a person assisting the United States Capitol Police, that is, an officer from the Metropolitan Police Department, Gray knew that the officer was engaged in the performance of official duties.

24. Gray entered the Capitol Building on January 6 and engaged in the above-described conduct therein with the intent to obstruct Congress's certification of the Electoral College vote.

Elements of the Offense

25. The parties agree that 18 U.S.C. § 1512(c)(2) requires the following elements: First, Gray attempted to or did obstruct or impede an official proceeding. Second, Gray intended to obstruct or impede the official proceeding. Third, Gray acted knowingly, with awareness that the natural and probable effect of his conduct would be to obstruct or impede the official proceeding. Fourth, Gray acted corruptly.

26. The parties further agree that 18 U.S.C. § 111(a)(1) requires the following elements: First, Gray assaulted, resisted, opposed, impeded, intimidated, or interfered with Officer

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M.B., an officer from the Metropolitan Police Department. Second, Gray did such acts forcibly. Third, Gray did such acts voluntarily and intentionally. Fourth, Officer M.B. was assisting officers of the United States who were then engaged in the performance of their official duties. Fifth, Gray made physical contact with Officer M.B. or acted with the intent to commit another felony.

Defendant's Acknowledgments

27. Regarding the first and fifth elements of 18 U.S.C. § 111(a)(1), GRAY admits that he assaulted Officer M.B., an officer from the Metropolitan Police Department, and that he both made contact with Officer M.B. and acted with the intent to commit another felony, specifically, a violation of 18 U.S.C. § 1512(c)(2). GRAY also knowingly and voluntarily admits to all other elements of 18 U.S.C. § 1512(c)(2) and 8 U.S.C. § 111(a)(1).

Respectfully submitted,

MATTHEW M. GRAVES
Acting United States Attorney
D.C. Bar No. 481052

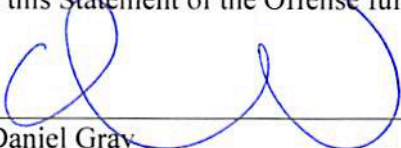
By: /s/ Michael L. Jones
Michael L. Jones
Trial Attorney, Detailed to the U.S.
Attorney's Office for the District of
Columbia
Samantha R. Miller
Assistant United States Attorney

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DEFENDANT'S ACKNOWLEDGMENT

I, Daniel Gray, 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: 10/25/2023




Daniel Gray
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: 10/25/2023



Maria Jacob, Esq.
Attorney for Defendant

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