

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUN 15 2023

**Clerk, U.S. District and
Bankruptcy Courts**

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| UNITED STATES OF AMERICA | : | |
| | : | |
| | : | |
| v. | : | Case No. 21-cr-595 TJK |
| | : | |
| JAMES RUSSELL DAVIS, | : | 18 U.S.C. § 231(a)(3) |
| | : | |
| 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, JAMES RUSSELL DAVIS, 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. The grounds around the Capitol were posted and cordoned off, and the entire area as well as the Capitol building itself were restricted as that term is used in Title 18, United States Code, Section 1752 due to the fact that the Vice President and the immediate family of the Vice President, among others, would be visiting the Capitol complex that day.

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 in separate chambers of the Capitol 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 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 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. By shortly after 1:00 PM, the situation at the Capitol had become a civil disorder as that term is used in Title 18, United States Code, Section 231, and throughout the rest of the afternoon the civil disorder obstructed the USCP's ability to perform their federally protected function to protect the U.S. Capitol building and its occupants.

5. At approximately 2:00 p.m., 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 p.m., 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 \$2.8 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 p.m., 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 p.m. 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 p.m. 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.

JAMES RUSSELL DAVIS' Participation in the January 6, 2021, Capitol Riot

8. DAVIS travelled from his home in Virginia to Washington, D.C., on January 5, 2021, to attend the “Stop the Steal” rally and protest Congress’ certification of the Electoral College. DAVIS knew that the Congressional certification was scheduled to take place on January 6, 2021, at the U.S. Capitol.

9. DAVIS, a member of the Virginia chapter of the Proud Boys,¹ had communicated with other Proud Boys members via Telegram, an encrypted messaging system, about the upcoming protest. For example, on January 4, 2021, DAVIS wrote “Bad Ass PRESIDENT TRUMP! 1776 REVOLUTION! GENTLEMEN, I Think PRESIDENT TRUMP just gave every PATRIOT and PROUD BOY the GREEN LIGHT! Time to UNLEASH HELL! POYB! UHURU!”

10. On January 5, 2021, DAVIS stayed overnight at a campground with other members of the Proud Boys. On the morning of January 6, 2021, DAVIS travelled to the Washington Mall near the area of the rally, and then marched with members of the Proud Boys to the Capitol.

11. At approximately 2:28 pm, rioters breached a defensive perimeter established by law enforcement on the Lower West Plaza of the Capitol Grounds. Over the next seven minutes, law enforcement officers slowly retreated as the mob of rioters continued to push towards the Capitol Building. Law enforcement officers then established a new, smaller defensive perimeter guarding the entrance to a flight of stairs leading up to the Lower West Terrace.

12. At approximately 2:35 p.m., DAVIS was at the front of the crowd of rioters who attempted to breach the defensive perimeter guarding the staircase to the Lower West Terrace. DAVIS personally engaged with at least three different officers while attempting to breach the police line, all while carrying a long wooden stick in one hand. DAVIS first pushed against a police officer’s riot shield with his left hand, which was holding the stick. DAVIS next moved towards an officer without a shield, who was forced to push DAVIS away using a baton. DAVIS, rather than retreating, pushed back against the baton. DAVIS also put his right hand on the

¹ The Proud Boys describes itself as a “pro-Western fraternal organization for men who refuse to apologize for creating the modern world; aka Western Chauvinists.”

officer's shoulder. Throughout the confrontation with the first two officers, DAVIS yelled in the officers' faces that he was a military police officer and had fought for his country.

13. At approximately 2:36 pm, DAVIS went up to a third officer, experienced a medical issue, and collapsed. DAVIS was pulled away from the police line by other rioters, while law enforcement officers were forced to retreat up the staircase to the Lower West Terrace. Law enforcement abandoned the Lower West Plaza at approximately 2:37 pm.

14. Later in the day on January 6, 2021, DAVIS sent a long message via Telegram describing his conduct, which read in part:

a. I did hit a few cops on the head with the BIG STICK, but unfortunately lost that beautiful weapon. We pushed forward and pushed the Capitol Police up their Emergency Staircase. I was moving forward up the stairs when someone fell and like dominoes, I ended up falling on the concrete, hitting my head which knocked me out ... What I do finally remember about the Assault on the Capitol, I was on the front of the line, I kept pointing to my MARINE CORPS cover and patch saying I FUCKING FOUGHT IN IRAQ FOR AMERICA and FREEDOM; WHAT THE FUCK ARE YOU DOING? LET US IN OUR CAPITOL! THIS IS OUR HOUSE! They apologized and said we wish we could. We REPLIED CHARGE! PUSH FORWARD! WHOSE HOUSE? OUR HOUSE! I also remember at that time getting Pepper Sprayed, wiping it off and pointing to my Marine Corps patch; telling the Cop, I FUCKING EAT TEAR GAS FOR BREAKFAST! So he sprayed me again, wiped that off, and started singing the MARINE CORPS HYMN! And I heard him say, FUCKING MARINE GAS CHAMBER, as I used the BEEFY STICK and pushed forward, forcing the Capitol Police in Retreat up their Emergency Stair Case! My only regrets: not personally breaching inside the Capitol, losing my new beat down gloves removed to get my pulse, my favorite Marine Corps Veteran cover, losing the most important part of my collapsable baton, and sadly losing my BEEFY BIG STICK! It was an HONOR to FIGHT the TYRANNY and Represent the NOVA SONS OF LIBERTY!"

15. On January 7, 2021, DAVIS sent the following text messages:

- a. EMERGENCY, DOWNLOAD ALL PICS OR ANY MENTION PB, Anything YESTERDAY! ALL SOCIAL MEDIA POSTS ANYTHING PB. EVEN THIS TEXT. DOWNLOAD ONLY TO THUMB DRIVE, HIDE IT!
- b. BECOME A GHOST!


Elements of the Offense

16. DAVIS knowingly and voluntarily admits to all the elements of Civil Disorder in violation of 18 U.S.C. § 231. Specifically, Defendant admits that he committed, or attempted to commit, any act to obstruct, impede, or interfere with any law enforcement officers engaged in the lawful performance of his official duties, incident to, and during the commission of a civil disorder, and that the civil disorder obstructed, delayed, or adversely affected commerce or the performance of any federally protected function.

Respectfully submitted,

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

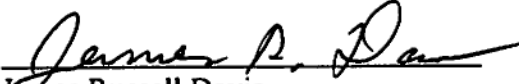
By:



Stephen J. Ranocourt
Assistant United States Attorney

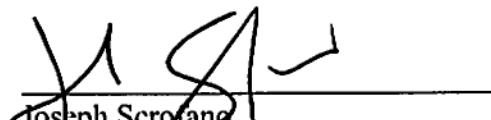
DEFENDANT'S ACKNOWLEDGMENT

I, James Russell Davis, 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: 6/15/23 
James Russell Davis
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: 6/15/23 
Joseph Scrofano
Attorney for Defendant