

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JUSTIN MICHAEL SMITH,

Defendant.

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Case No.: 22-CR-157

40 U.S.C. § 5104(e)(2)(G)

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, **JUSTIN MICHAEL SMITH**, 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.

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 PM. Shortly thereafter, by approximately 1:30 PM, 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.

5. At approximately 2:00 PM, 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 PM, 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 \$2.7 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 PM, 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 PM 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 PM 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.

Justin Michael Smith's Participation in the January 6, 2021, Capitol Riot

8. The defendant, Justin Michael Smith lives in Ohio. The defendant traveled by bus, from his home in Ohio to Washington, D.C., to protest the results of the 2020 Presidential Election. On January 6, 2021, the defendant Paraded, Demonstrated, or Picketed inside the Capitol building.

9. The defendant entered the Capitol after listening to former President Trump's speech over loudspeaker while the defendant was on the east side of the Capitol building. At the end of former President Trump's speech, Justin Michael Smith witnessed other individuals press against the bike-rack barriers on the restricted perimeter and confront U.S. Capitol police officers who were trying to keep the crowd away.

10. The crowd eventually overwhelmed police officers, and the defendant eventually entered U.S. Capitol through the East Rotunda Doors with a crowd of rioters after the doors had been breached and U.S. Capitol police officers had retreated. While inside the Capitol, the

defendant was holding a black flag that read in part “Trump 2020 The Sequel, Make the Liberals Cry Again.”

11. The defendant spent approximately ten minutes inside the Capitol, where he wandered around the Rotunda before exiting out the east Rotunda Doors.

12. After January 6, 2021, On the defendant’s Facebook page, the defendant posted a picture of himself wearing the same clothing that he wore on January 6, with a graphic that read “When tyranny becomes law, resistance becomes duty.”

13. When the defendant was arrested, he admitted to being inside the Capitol and stated to the FBI that he believed the 2020 election was fraudulent and that he was “caught up in the moment” on January 6, 2021.

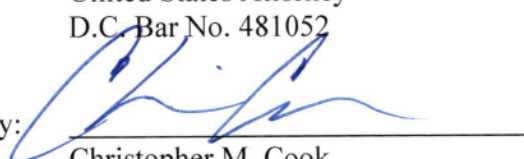
Elements of the Offense

14. Justin Michael Smith knowingly and voluntarily admits to all of the elements of Parading, Demonstrating, or Picketing in a Capitol Building, in violation of 40 U.S.C. § 5104(e)(2)(G). Specifically, the defendant admits that he willfully and knowingly entered the U.S. Capitol Building knowing that he did not have permission to do so. Defendant further admits that while inside the Capitol, defendant willfully and knowingly paraded, demonstrated, or picketed.

Respectfully submitted,

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

By:



Christopher M. Cook
Assistant United States Attorney
KS Bar No. 23860

DEFENDANT'S ACKNOWLEDGMENT

I, Justin Michael Smith, 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: 12-1-22


Justin Michael Smith
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: 12/1/2022


Michelle M. Peterson, Esq.
Attorney for Defendant