

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

DAVID JOHN LESPERANCE

DOB: XXXXXX

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Case: 1:21-mj-00484

Assigned To : Meriweather, Robin M.

Assign. Date : 6/21/2021

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. §§ 1752(a)(1) and (2) - Knowingly Entering or Remaining in any Restricted Building or
Grounds Without Lawful Authority; Disorderly or Disruptive Conduct in a Restricted Building,
40 U.S.C. §§ 5104(e)(2)(D) and (G) - Violent Entry and Disorderly Conduct on Capitol Grounds.

This criminal complaint is based on these facts:

See attached statement of facts.

Continued on the attached sheet.

Walter B. Giardina

Complainant's signature

Walter B. Giardina, 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: 06/21/2021

Robin M. Meriweather

2021.06.21
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Judge's signature

City and state: Washington, D.C.

Robin M. Meriweather, U.S. Magistrate Judge

Printed name and title

STATEMENT OF FACTS

1. Your affiant, Walter B. Giardina, is a Special Agent with the Federal Bureau of Investigation (“FBI”) assigned to the Washington Field Office’s Federal Public Corruption Squad, where I am responsible for investigating corruption in the Executive, Legislative and Judicial branches of the U.S. Government. 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 a violation of Federal criminal laws.

2. 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.

3. 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 U.S. House of Representatives and the United States Senate were meeting in separate chambers of the U.S. 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.

4. 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.

5. 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.

6. 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 U.S. Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

7. 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.

8. Based upon my participation in the in the investigation, I submit that there is probable cause to believe that DAVID LESPERANCE was among the individuals who invaded the U.S. Capitol building during the events summarized above.

9. In the days following the riot, the FBI received a telephonic tip from an individual (“Witness 1”) alleging that LESPERANCE was inside the Capitol building rotunda on January 6, 2021. Thereafter, the FBI interviewed another individual (“Witness 2”), who confirmed the above information.

10. On or about January 19, 2021, Task Force Officers (“TFOs”) assigned to the FBI Tampa Division’s Joint Terrorism Task Force conducted a voluntary, non-custodial interview of LESPERANCE at his residence in Indian Harbour Beach, Florida. During this interview, LESPERANCE admitted that he traveled to Washington, D.C. on January 5, 2021, and stayed until January 8, 2021. LESPERANCE admitted that he and his pastor were present at President Trump’s speech and then at the U.S. Capitol afterwards.

11. During the interview, LESPERANCE further admitted that while he was located at the front of the U.S. Capitol, he witnessed law enforcement officers arriving and hitting their shields with their batons. LESPERANCE admitted that while heading to the door of the U.S. Capitol, he witnessed a law enforcement officer deploy a flashbang device.¹ LESPERANCE also admitted to entering the U.S. Capitol building. LESPERANCE told law enforcement that he had his cell phone on his person while he was at the U.S. Capitol, and that he took photographs and video during that time using his cell phone but later deleted them out of fear of negative repercussions. Finally, LESPERANCE informed law enforcement that his cell phone number was XXX-XXX-6511.

12. Records subsequently obtained from Verizon Wireless indicated that the phone number XXX-XXX-6511 is affiliated with an Apple iPhone that is registered to “DAVID” at a business called “Air Care.” The contact name listed in the records is DAVID LESPERANCE, with an address in Indian Harbour Beach, Florida. A subsequent review of public records revealed that LESPERANCE is the Director of “Air Care,” an air conditioning contractor business located in Indian Harbour Beach, Florida.

13. Law enforcement also received records pursuant to a search warrant served on Apple Inc. for LESPERANCE’s iCloud account. A review of the location history provided by Apple Inc. showed LESPERANCE’s phone in the U.S. Capitol on the afternoon of January 6, 2021. Likewise, according to records obtained pursuant to a search warrant served on Verizon Wireless for historical location data for LESPERANCE’s phone, on January 6, 2021, in or around the time

¹ I know from my training and experience a flashbang device is a non-lethal explosive device that emits an extremely loud report and bright light used by law enforcement officers for crowd control and as a diversionary device.

of the incident, the cellphone associated with XXX-XXX-6511 was identified as having utilized a cell site consistent with providing service to a geographic area that includes the interior of the U.S. Capitol building.

14. LESPERANCE's iCloud account also included photos of himself before and after the riot, wearing the same clothes as he was observed wearing on U.S. Capitol Closed Circuit Television ("CCTV") and body-worn surveillance cameras worn by law enforcement officers at the U.S. Capitol. Additionally, photos were discovered on LESPERANCE's iCloud account that geolocate to inside the U.S. Capitol building, two examples of which are provided below:



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15. Law enforcement reviewed CCTV images and body-worn surveillance footage from the U.S. Capitol. Both depict LESPERANCE inside the U.S. Capitol on the afternoon of January 6, 2021. Screenshots from one such time-stamped body-worn surveillance video are provided below:





16. Based on the foregoing, your affiant submits that there is probable cause to believe that DAVID LESPERANCE 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; 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.

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17. Your affiant submits there is also probable cause to believe that DAVID LESPERANCE violated 40 U.S.C. § 5104(e)(2)(D) and (G), which make 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. As noted above, LESPERANCE was within “the Grounds of in any of the Capitol buildings” on January 6, 2021.



WALTER B. GIARDINA, SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 21 day of June, 2021.



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HONORABLE ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE