

STATEMENT OF FACTS

Your affiant, Mark E. McNeal, is a Special Agent with the Federal Bureau of Investigation. I am tasked with assisting with the investigation of 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.

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.

Your affiant has studied video footage and still photographs of the January 6, 2021, incursion of the U.S. Capitol, and your affiant has identified an individual in them as Jeffery Finley (“FINLEY”) of Martinsburg, West Virginia for the reasons described herein. As described herein, the images and video footage that I have reviewed, as well as the other facts gathered in this investigation, establish that FINLEY did unlawfully enter the U.S. Capitol on January 6, 2021.

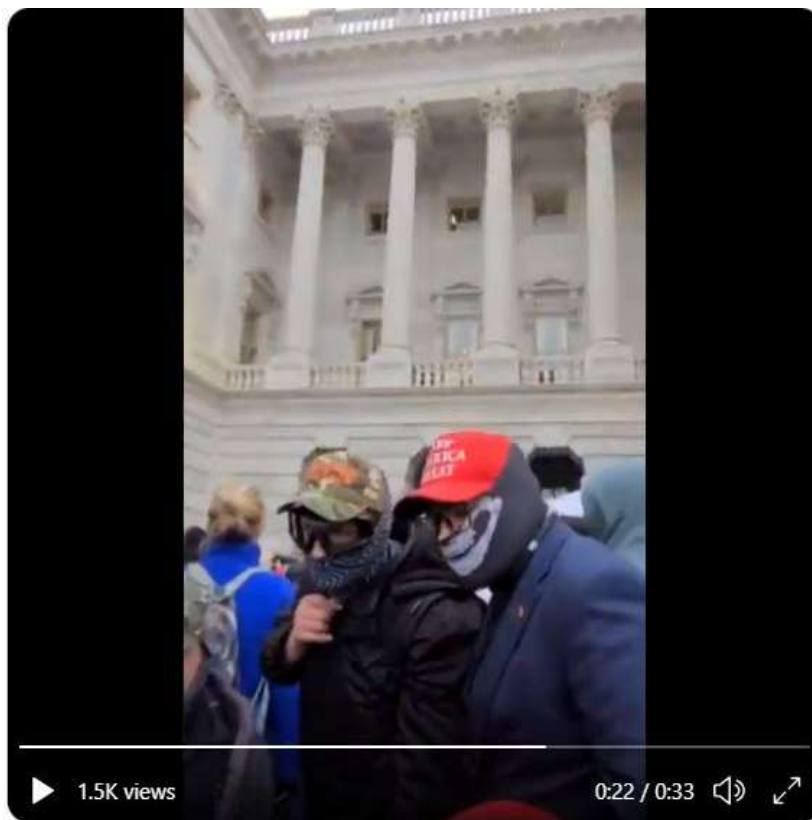
The individual that I recognize as FINLEY is depicted below wearing a blue suit, black shirt, red hat and glasses. A wired earpiece can be seen in his right ear. Your affiant has reviewed the image associated with FINLEY’s driver’s license, and believes that the individual in FINLEY’s driver’s license photograph is the same individual depicted below.



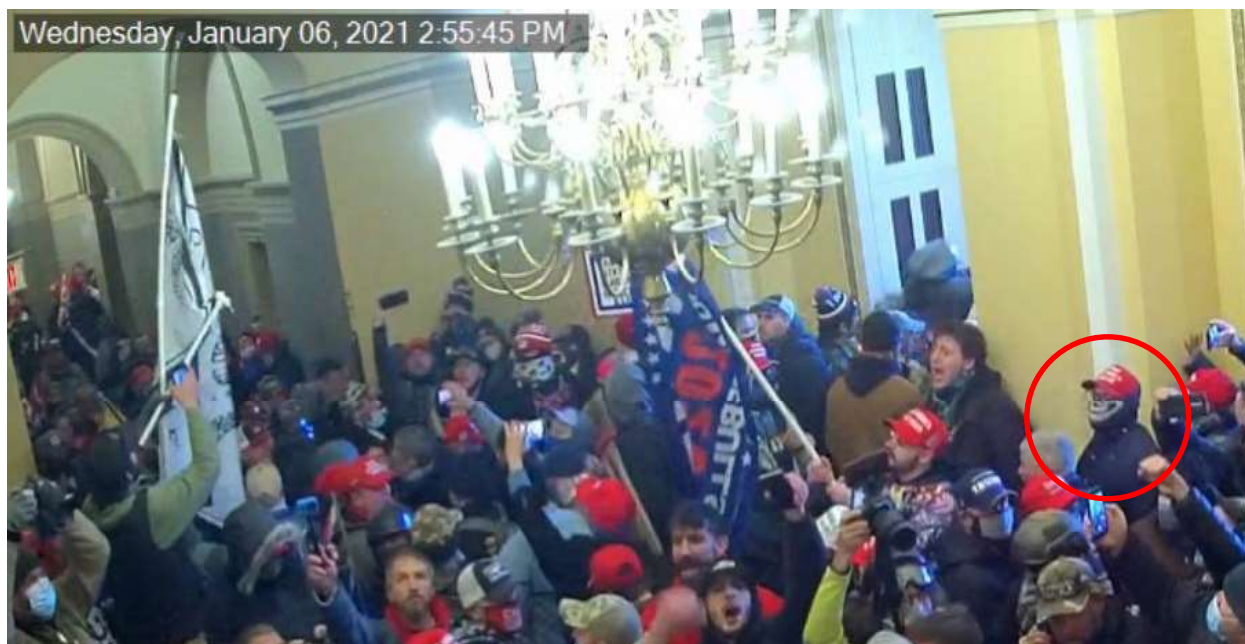
As shown below, FINLEY walked toward and was present at the First Street pedestrian gate shortly before 12:53 p.m. Shortly after FINLEY’s arrival near the First Street pedestrian gate, a crowd advanced toward the pedestrian gate and overwhelmed law enforcement officers. FINLEY was present in the crowd immediately before the gate was breached. FINLEY advanced onto the Capitol grounds shortly after the gate was breached.



Open source video shows a person that I have identified as FINLEY standing on the upper west terrace of the Capitol. FINLEY can be seen in the right in the image below wearing a face covering with a skull design. A voice can be heard saying, "I heard Pence got evacuated." Someone can then be heard saying, "you want to go in?"



FINLEY was subsequently depicted on video entering a door on the west side of the Capitol at approximately 2:54 p.m. A still capture of the video shows FINLEY standing inside the Capitol shortly after he entered.



According to records obtained through a search warrant served on Google, a mobile device associated with FINLEY's Gmail address and phone number was present at the U.S. Capitol on January 6, 2021. Google estimates device location using sources including GPS data and information about nearby Wi-Fi access points and Bluetooth beacons. This location data varies in its accuracy, depending on the source(s) of the data. As a result, Google assigns a "maps display radius" for each location data point. Thus, where Google estimates that its location data is accurate to within 10 meters, Google assigns a "maps display radius" of 10 meters to the location data point. Finally, Google reports that its "maps display radius" reflects the actual location of the covered device approximately 68% of the time. In this case, Google location data shows that a device associated with FINLEY's Gmail address and phone number was both within the U.S. Capitol and immediately outside the building between 2:19 and 4:19 p.m. Google records show that the "maps display radius" for this location data was less than 100 feet, which encompasses an area that is at least partially within the U.S. Capitol Building.

According to records obtained through a search warrant that was served on AT&T, on January 6, 2021, in and around the time of the incident, the cellphone associated with FINLEY's phone number was identified as having utilized a cell site consistent with providing service to a geographic area that includes the interior of the United States Capitol building.

Based on the foregoing, your affiant submits that there is probable cause to believe that FINLEY 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.

Your affiant submits there is also probable cause to believe that FINLEY violated 40 U.S.C. § 5104(e)(2)(D) and (G) which make it a crime to (D) willfully and knowingly 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.



Mark E. McNeal
Special Agent
Federal Bureau of Investigation

Subscribed and sworn by telephone pursuant to Fed. R. Crim. P. 4.1 and 41(d)(3) on
March 21, 2021.



2021.03.21

15:48:55 -04'00'

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE