

## UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America )

v. )

Kenneth Grayson )

Case: 1:21-mj-00163

Assigned to: Judge Faruqui, Zia M

Assign Date: 1/25/2021

Description: COMPLAINT W/ARREST WARRANT

Date of Birth: XXXXXXXX )

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)- Knowingly Entering or Remaining in any Restricted Building or Grounds  
 18 U.S.C. § 1752(a)(2)- Disorderly Conduct Which Impedes the Conduct of Government Business  
 40 U.S.C. § 5104(e)(2)(D)- Disruptive Conduct in the Capitol Buildings  
 40 U.S.C. § 5104(e)(2)(G)- Parading, Demonstrating, or Picketing in the Capitol Buildings  
 18 U.S.C. § 1512(c)(2)- Obstructing or Impeding Any Official Proceeding

This criminal complaint is based on these facts:

See attached statement of facts.

☒ Continued on the attached sheet.


Complainant's signature

Mark Brundage, 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: 01/25/2021



2021.01.25

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Judge's signature

City and state: Washington, D.C.

Zia M. Faruqui, U.S. Magistrate Judge

Printed name and title

## STATEMENT OF FACTS

I am employed as a Special Agent of the Federal Bureau of Investigation (FBI) and have been employed by the FBI since 2016. Currently, I am assigned to a squad that investigates Counterterrorism matters as part of the FBI Washington Field Office.

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.

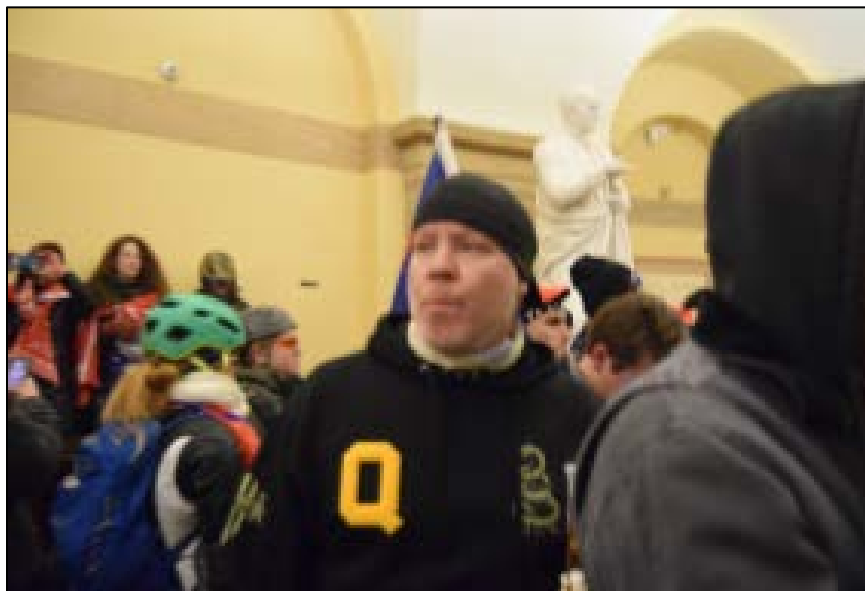
At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly around 2:00 p.m., individuals 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.

On or about January 6, 2021, a witness (“W-1”) contacted the FBI and submitted an online tip through the National Threat Operations Center. W-1 advised that it had recently viewed a Facebook post that had livestreamed from inside the U.S. Capitol on January 6, 2021, and that it had recognized the contributor of the video to be KENNETH GRAYSON (“GRAYSON”). Separately, between approximately January 12, 2021, and January 17, 2021, the FBI received three separate tips via its online tips portal related to violent activity at the U.S. Capitol on January 6, 2021. All three reported tips contained the same image, shown below, of GRAYSON inside the U.S. Capitol standing in front of a statue and security camera located in the Crypt, a chamber located beneath the rotunda inside the U.S. Capitol.



Your Affiant has reviewed GRAYSON’s driver’s license photograph, LinkedIn profile picture, and photographs provided by Facebook pursuant to a Rule 41 Search and Seizure Warrant. All photographs appear to depict the same individual known to your Affiant as KENNETH GRAYSON.

On or about January 11, 2021, U.S. Magistrate Judge G. Michael Harvey authorized a search warrant in the District of Columbia for GRAYSON’s attributable Facebook account. According to the business records provided to the FBI by Facebook in response to the search warrant, GRAYSON’s account, identified by the display name “Kenny Grayson,” was disabled by Facebook on or about January 9, 2021. Prior to being disabled, GRAYSON’s Facebook account was registered to an e-mail address known to be attributable to GRAYSON and had been verified by four separate Pittsburgh-area phone numbers, including multiple numbers known to be attributable to GRAYSON. In reviewing the Facebook business records, FBI personnel identified a photograph of GRAYSON standing in front of the Washington Monument in Washington, D.C. that he sent to family members through a private message at approximately 10:37 a.m. EST on January 6, 2021.



Consistent with the previous photograph from inside the U.S. Capitol Crypt, this photograph depicts GRAYSON as wearing what appears to be a black Pittsburgh Pirates baseball cap and a black hooded sweatshirt bearing what appears to be an American flag patch on the left arm (circled in the above image), the insignia of the Gadsden flag on his left lapel, and a yellow letter “Q” on his right lapel. Based on GRAYSON’s known ideological beliefs, as revealed through a review of communications, images, and other media captured in his Facebook account, your Affiant believes that “Q” in this instance is a reference to QAnon.<sup>1</sup> In the same picture, GRAYSON

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<sup>1</sup> Based on open source research and prior experience, your Affiant is aware that QAnon is a sprawling, discredited, anti-establishment conspiracy theory that originated from postings on online message boards by an anonymous individual known as “Q.” Q claims to be a high-level government official with a Q clearance and access to classified information. Central to the QAnon conspiracy theory is the false belief that the world is run by a cabal of Satan-worshipping pedophiles and child-traffickers (allegedly largely comprised of prominent politicians, so-called “Deep State” government employees, journalists, and Hollywood elite) and that former President

is holding in his right hand a flag pole bearing the Gadsden flag with the following text written underneath the insignia: “Don’t Tread On Me.”<sup>2</sup>

Earlier that morning, GRAYSON had sent the following photograph of himself wearing the same attire to an associate via Facebook private message:



Trump was secretly working with Q and others to take down the cabal. Many QAnon adherents (known as “Anons”) refer to themselves as “digital soldiers” and believe they are engaged in an epic battle between good and evil and darkness and light. Following the November 3, 2020 election, many QAnon adherents began pushing false and discredited theories of massive voter fraud and that the 2020 election had been “stolen” from President Trump. Other prominent QAnon adherents exhorted the “Anons” to “trust the plan,” believing that President-Elect Biden’s victory was illusory and part of a convoluted plan by Q and others to reveal the crimes of the cabal to the world, resulting in President Trump securing a second term. QAnon believers are waiting for two major events, which they refer to as the “the Storm” and the “Great Awakening.” The “Storm” refers to a day of violence which will result in mass arrests, military trials, and executions of the members of the cabal. According to QAnon lore, “the Storm,” will be followed by the “Great Awakening,” which generally refers to the belief that the truth of the central tenets of QAnon will be revealed to the world.

<sup>2</sup> Based on open source research and prior experience, your Affiant is aware of the Gadsden flag being a symbol for 2nd Amendment rights as well as the belief in a limited government. It is a symbol that was adopted by the U.S. Continental Marines and originated from politician Christopher Gadsden during the American Revolution.

On or about January 17, 2021, FBI Agents interviewed W-1, who indicated that it had known GRAYSON for many years and had attended school with GRAYSON. W-1 had also seen GRAYSON at a recent event. W-1 had seen Facebook postings by GRAYSON indicating his support for then-President Trump, including comments that indicated GRAYSON believed that the recent presidential election was fraudulent. W-1 provided a screen shot photograph, displayed below, of GRAYSON's Facebook livestream post on January 6, 2021, apparently from inside the U.S. Capitol. W-1 also provided a screen shot of a post made by GRAYSON on or about January 3, 2021 regarding the upcoming events in Washington, D.C.



The time stamp on the first screen shot indicates that W-1 captured the livestream at approximately 3:12 p.m. EST on January 6, 2021. The screen shot also indicates that GRAYSON had initiated his livestreaming from inside the U.S. Capitol 50 minutes prior, or approximately 2:22 p.m. EST. This time stamp corresponds with the activity log included in the business records provided to the FBI by Facebook, which revealed that GRAYSON "was live" starting at approximately 2:22 p.m. EST. Further investigation by FBI personnel revealed that the still-frame image shown above depicts the U.S. Capitol's Crypt.

After determining the location from which GRAYSON's livestream video originated, FBI personnel obtained video footage from U.S. Capitol security cameras located within the Crypt for the corresponding timeframe. In reviewing this video footage, FBI personnel identified GRAYSON as being physically present inside the U.S. Capitol—specifically within the Crypt—at approximately 2:22 p.m. EST, which corresponds to the timing of GRAYSON's Facebook livestream. Still-frame images of GRAYSON taken from a U.S. Capitol security camera within the Crypt are included below along with red arrows to annotate notable markers:





GRAYSON can be identified in both still-frame images based upon his clothing and the flag that he is carrying. As previously described, GRAYSON was photographed standing in front of the Washington Monument during the morning of January 6, 2021 wearing all black clothing, including a hooded sweatshirt bearing what appears to be an American flag patch on the left arm.

In both still-frame images, this same American flag patch can be seen on the left arm of GRAYSON's all-black sweatshirt. GRAYSON was also carrying a flag pole bearing the yellow Gadsden flag in the same photograph from earlier in the morning. In the second still-frame image, GRAYSON can be seen dragging the yellow flag along the ground with his right hand. The two still-frame images also show GRAYSON holding up his mobile phone, which corresponds with the timing of his Facebook livestream within the Crypt. Using all of these markers, combined with the statue featured in the background of the screen shot of GRAYSON's Facebook livestream provided by W-1, FBI personnel were able to identify GRAYSON and track his movements as recorded in the U.S. Capitol security camera footage.

Pursuant to the aforementioned search warrant for GRAYSON's Facebook account, FBI personnel were able to access and view two livestreamed videos from GRAYSON's account. The first video, approximately 30 seconds long, corresponds to the screenshot provided by W-1 and depicts the interior of the Crypt. The second video, which was initiated approximately 11 minutes later and also lasts approximately 30 seconds, depicts the interior of the U.S. Capitol rotunda. Both videos appear to be from GRAYSON's perspective and do not, therefore, show his face.

According to the business records provided to the FBI by Facebook, GRAYSON is believed to have traveled to Washington, D.C. in mid-November 2020 and again in mid-December 2020 for rallies in support of then-President Donald Trump.

Upon returning from his trip to Washington, D.C. in November 2020, GRAYSON sent the following private messages to an associate regarding his violent actions:

- **November 16, 2020:** *"We were smashing bro..went to the van I rented and geared up..had to leave at 7pm though, it wasn't really bad yet..I was beating commies with a flag pole I picked up and looked like it wasn't going to be that bad Proud Boys were everywhere..cops weren't doing a fukin thing watching old people get fucked with it was sickening"*
- **November 16, 2020:** *"I left one unconscious so I did my little part and got the fuck out before I got arrested"*

GRAYSON also communicated with several family members and associates regarding his travel plans and intentions for being at the U.S. Capitol on or about January 6, 2021, including the following:

- **December 23, 2020:** *"...Ok well we have room for the road trip..I'm sick of these fukin posers on FB big tough guys always talking about their guns and tempers and ooo scary guy shit! FUCK U !! I'm on the front line every time mother fuckers! This shit isn't a fukin game to me , or some social media faggot story time !! I'm there for the greatest celebration of all time after Pence leads the Senate flip!! OR IM THERE IF TRUMP TELLS US TO STORM THE FUKIN CAPITAL IMA DO THAT THEN! We don't want any trouble but they are not going to steal this election that I guarantee bro!!"*
- **January 4, 2021:** *"Don't say you've talked to me if you talk to nutball [Female Name] ..she's trying to find me for DC ya fuck that I'm telling her I'm with a group going to fight not hang out"*

Additionally, while GRAYSON was in Washington, D.C. on January 6, 2021, he received several private messages from family members and associates related to his presence and activities in the vicinity of and inside the U.S. Capitol, including the following:

- **3:06:37 p.m. EST:** *"Kenny get to hell out of there. Its a federal offence to be in there."*
- **3:18:06 p.m. EST:** *"Did you hear shots fired in there? That is what the news is claiminng"*

- **3:50:33 p.m. EST:** *“Kenny they’re in the Senate chamber! Can you get in anywhere?? TAKE PHOTOS!!! TAKE DOCUMENTS!!!”*
- **5:55:13 p.m. EST:** *“Bro they took your live videos down. WTF? Nice fucking work today”*
- **6:34:32 p.m. EST:** *“Did I just see you climbing the wall at the capital lol.”*

Based on the foregoing, your Affiant submits there is probable cause to believe that KENNETH GRAYSON 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 the 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 KENNETH GRAYSON violated 40 U.S.C. § 5104(e)(2), which makes 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.

Finally, your Affiant submits there is probable cause to believe that KENNETH GRAYSON violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.



Special Agent Mark Brundage  
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 25<sup>th</sup> day of January 2021.



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ZIA M. FARUQUI  
U.S. MAGISTRATE JUDGE