

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America
v.
Wilmar Jeovanny Montano Alvarado

Date of Birth: XXXXXXXX

Defendant(s)

Case: 1:21-mj-00169
Assigned to: Judge G. Michael Harvey
Assigned Date: 1/26/2021
Description: COMPLAINT W/ ARREST WARRANT

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 USC 1752(a)(1), (2), and (4) - Restricted building or grounds
40 USC 5104(e)(2)(D), (E), and (F) - Violent entry or disorderly conduct
18 USC 231(a)(3) - Civil disorders
18 USC 111(a)(1) - Assaulting, resisting, or impeding certain officers or employees
18 USC 1512(c)(2) & 2 - Obstruction of an official proceeding

This criminal complaint is based on these facts:

See attached statement of facts.

Continued on the attached sheet.

[Signature]

Complainant's signature

David M. DeFilippis, 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: 01/26/2021

[Signature]

Judge's signature

G. Michael Harvey
2021.01.26 23:12:18 -05'00'

City and state: Washington, D.C.

G. Michael Harvey, U.S. MAGISTRATE JUDGE

Printed name and title

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other law enforcement officers and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. 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 are 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.

5. 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.

6. 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.

7. 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 after 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.

8. 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.

9. 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.

PROBABLE CAUSE

10. The FBI Washington Field Office published multiple Seeking Information posters with photographs of individuals that were participants in the riot at the U.S. Capitol Building on January 6, 2021.

11. On January 8, 2021, the individual pictured within the FBI Seeking Information poster, specifically photograph #65-AFO (Exhibit A), was interviewed by Fox 26 Houston television news reporter Ivory Hecker, and identified as Wilmar Montano, a participant in the riots

at the U.S. Capitol. I reviewed this video and noted that reporter Hecker stated that she was talking to Montano on a Zoom call before he boarded his flight back to Houston (Exhibit B).

Exhibit A

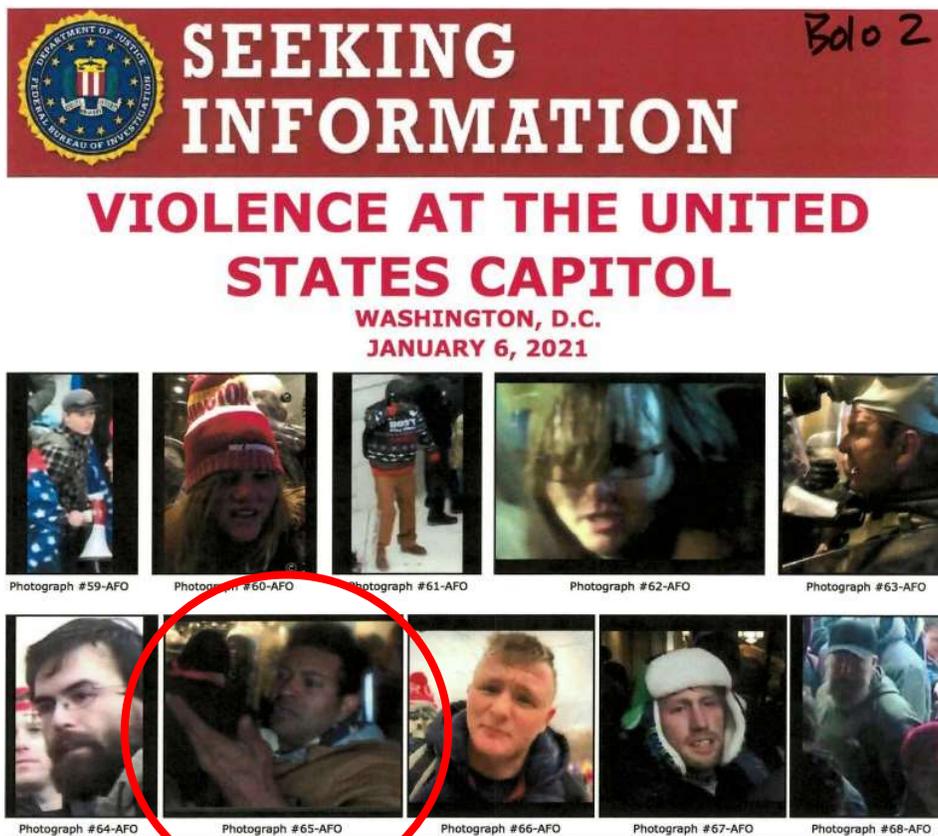


Exhibit B



Houston man describes Capitol chaos during protest

Fox 26 reporter Ivory Hecker

12. In statements made to Fox 26 Houston, Montano admitted that he flew from Houston to the U.S. Capitol to participate in the January 6, 2021 “protests” because he believed election fraud may have compromised his vote. Montano told the reporter that he was at the edge of the Capitol Building barricade during the January 6, 2021 “protests” when individuals pushed past it, so he joined them. Montano additionally told the reporter that he climbed the Capitol steps and claimed he was pushed towards the door, finding himself “close to the cop... with my hands up.” Montano said that he told the officers, “I’m not part of this. I’m trying to get out.” Montano also reported that he ended up being hit in the head by a speaker that was thrown in the crowd which caused him to bleed. Montano told the reporter that he was glad he “protested” and did not regret it.

13. On January 14, 2021, Montano called into the FBI Houston Division, identified himself by name, and voluntarily confirmed to an Agent that he was the individual pictured in the aforementioned FBI Seeking Information poster, photo #65. Montano told the Agent that he

traveled to Washington, D.C. for the Trump rally by himself and did not assault any Federal Officers. Montano also maintained that he never went inside the U.S. Capitol Building, but rather stood on the balcony waving an American flag.

14. The FBI also obtained a YouTube video posted on January 7, 2021, by “Status Coup” titled “UNBELIEVABLE Footage / Trump Supporters Battle Cops Inside the Capitol.” I reviewed this video, and, based on my experience of reviewing similar videos of the Capitol Building breach on January 6, 2021, I know that this video footage was taken in and around the U.S. Capitol Building. I confirmed with the U.S. Capitol Police that this footage was of the lower West Terrace of the Capitol Building. Throughout the video, Montano is seen wearing a brown jacket with gray hood, a U.S. flag neck gaiter, and a red, white and blue hat, bearing “TRUMP” in white lettering. Based on my knowledge of the investigation, and review of this video, I know that the United States Capitol was on lockdown and that Montano’s presence inside was without lawful authority.

15. Contrary to Montano’s statements to the press and in his voluntary FBI interview, the YouTube video shows that Montano participated in efforts by rioters to violently battle their way through a line of police officers guarding the West Terrace entrance to the Capitol Building. Specifically, based on my review, I noted the following at the approximate video timestamps:

- 2:35 – Montano is visible standing in the crowd on the steps near the lower West Terrace entrance, standing still and does not appear to be swept away by the moving crowds;
- 5:10 – Rioters stacked up inside the lower West Terrace entrance, using shields taken from law enforcement officers, begin pushing in concert against the police line being maintained by Washington, D.C. Metropolitan Police Department (MPD) officers;
- 5:55 – Montano’s left hand is visible, extends forward over shoulders of rioters, withdraws, and closes into a fist with his wrist facing upward;
- 5:58 – Montano’s right hand moves with fingers extended, then the screen is clouded by some sort of liquid, believed to be OC spray administered by MPD Officers, causing Montano to turn away;

- 6:11 – Montano wipes the top of his tasseled hat with cloth or Kleenex then throws it in the direction of the Officers (Exhibit C);

Exhibit C



- 6:23 – Montano then turns and pushes forward toward the police line, ending up in the front row of rioters (Exhibit D);

Exhibit D



- 6:35 - An MPD Officer hanging from the ceiling uses his baton to poke Montano twice on the left shoulder, and Montano loses his hat then backs up while MPD Officers advance;
- 7:42 – Montano extends his right arm toward the police line and appears to be pushing forward again with other rioters, ending up facing the middle of the police line;

- 8:52 - Montano is visible in approximately the same spot with his right hand on the shield of an MPD Officer (Exhibit E);

Exhibit E



- 8:54 – Montano appears to get hit in the back of his head with something from the crowd behind him, then grabs the top of his head with his left hand while easily making his way out of the crowd;
- 9:07 – Montano lifts his hand from his head and looks at what appears to be blood on his hand (this image is consistent with the FBI Seeking Information poster photograph #65-AFO, Exhibit A);
- 9:10 – Montano says, “Hey, who threw that speaker?” then disappears from view.

CONCLUSIONS OF AFFIANT

16. Based on the foregoing, your affiant submits that there is probable cause to believe that **Wilmar Jeovanny Montano Alvarado** violated 18 U.S.C. § 1752(a)(1), (2), and (4), which, in relevant part, makes it a crime to (1) knowingly enter or remain in any restricted building or

grounds without lawful authority to do; (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 (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; 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.

17. Your affiant submits there is also probable cause to believe that **Wilmar Jeovanny Montano Alvarado** violated 40 U.S.C. § 5104(e)(2)(D), (E), and (F), which, in relevant part, 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; (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings; or (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

18. Your affiant submits there is probable cause to believe that **Wilmar Jeovanny Montano Alvarado** violated 18 U.S.C. § 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the

commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

19. Your affiant submits there is probable cause to believe that **Wilmar Jeovanny Montano Alvarado** violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any officer or employee of the United States or any agency in any branch of the United States Government, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, while engaged in or on account of the performance of official duties. For purposes of Section 111 of Title 18, persons “assisting” federal officers or employees include the MPD Officers who were assisting U.S. Capitol Police and other federal law enforcement officers in responding to the events of January 6, 2021.

20. Finally, your affiant submits there is probable cause to believe that **Wilmar Jeovanny Montano Alvarado** violated 18 U.S.C. § 1512(c)(2) and (2), which make 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 David M. DeFilippis
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 26th day of January 2021.


G. Michael Harvey
2021.01.26
23:12:55 -05'00'

U.S. MAGISTRATE JUDGE