

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	CASE NO. 21-CR-403 (RC)
	:	
NICOLE PRADO,	:	
	:	
Defendant.	:	

**GOVERNMENT’S MOTION TO SEAL REDACTED STATEMENT OF FACTS TO
CRIMINAL COMPLAINT AND SUBSITUTE A REVISED REDACTED VERSION**

The United States of America, by and through undersigned counsel, respectfully requests that the redacted Statement of Facts to the complaint in the above-captioned be resealed. The documents were unsealed upon the arrest of the Defendant. A redacted version of the Statement of Facts was also unsealed; however, not all information identified by the Government was redacted.

The Government moves to substitute the attached revised redacted version of the Statement of Facts for the current redacted version which was unsealed.

In its original motion to seal the complaint, the Government stated:

The Affidavit also names an unindicted co-conspirator. The unindicted co-conspirator is integral into the overall investigation of PRADO. The public disclosure of the Government’s evidence could compromise the integrity of the investigation, including the ability of the United States to locate and arrest the defendant and identify the unindicted co-conspirator. The Government also anticipates imminently obtaining one or more search warrants for items believed to be in the unindicted co-conspirator’s and defendant’s possession. Premature disclosure of the charging documents may risk hampering those efforts or lead to the destruction of evidence. Thus, a sealing order is necessary to avoid hindering the ongoing investigation in this matter and protect the identity of the unindicted co-conspirator.

[Docket Entry #3, ¶2).

In the motion, the Government asked the Court to unseal a redacted version of the Statement of Facts after the arrest of the Defendant. The Court granted this motion on June 3,

2021. The redacted version of the Statement Facts to the Criminal Complaint was unsealed after the arrest of the Defendant on June 11, 2021. However, not all information the Government wished to protect in the Statement of Facts was redacted. This has been corrected and is reflected in the substitute redacted Statement of Facts. (Attachment 1).

WHEREFORE, the United States respectfully requests that this Court issue an Order directing that the Clerk of the court seal the redacted Statement of Facts to the Complaint (Attachment #1 to Docket Entry #1) and substitute the attached revised redacted Statement of Facts in it's place.

Respectfully submitted,

CHANNING D. PHILLIPS
ACTING UNITED STATES ATTORNEY
D.C. Bar No. 415793

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STATEMENT OF FACTS

Your affiant, Patrick W. Straub, has been a Special Agent of the Federal Bureau of Investigation (FBI) since January 2005. I am currently assigned to the Joint Terrorism Task Force (JTTF) in the FBI Baltimore Division, where I focus on domestic terrorism including investigating criminal activity in and around the Capitol grounds on January 6, 2021. As an FBI 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.

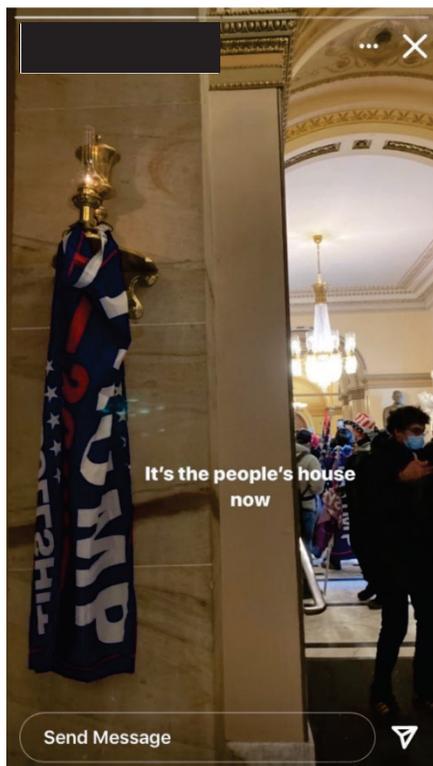
At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly around 2:00 p.m., individuals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

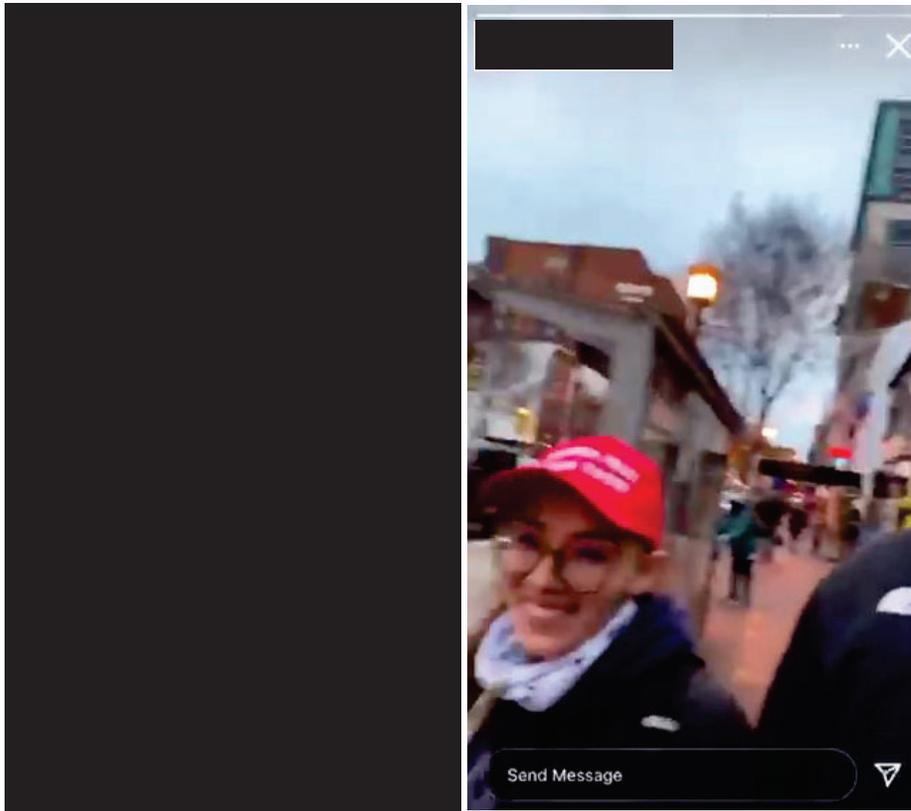
During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of

violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

NICOLE PRADO first came to the FBI's attention on January 7, 2021 after a tip was received suggesting that PRADO and possibly ██████████ both of Gaithersburg, Maryland, had taken part in the riots at the Capitol Building the day prior. Based on this initial tip, follow-up investigation of the tip, and information received from two other complainants, the FBI determined that ██████████ had posted two relevant photographs to ██████████ Instagram account under the Instagram account name of ██████████: (1) a Donald Trump flag hanging from a light fixed to the wall from what appears to be inside the Capitol Building with the caption: "It's the people's house now", and (2) a statue of George Washington from what appears to be inside the Rotunda of the Capitol Building:



In addition, the above described tips and follow-up investigation revealed that ██████████ had also posted a video to the described Instagram account. The video appears to have been taken by ██████████ using ██████████ cell phone camera while walking with PRADO in Washington D.C. During the video, which appears to have been filmed shortly after the Capitol Building riots, ██████████ stated: "Please meet the new Congresswoman...she uh, she just was in the Capitol for the first time today. She stormed the Capitol, she's the new Congresswoman. She's the new Speaker of the House." I created screenshots of this video:



The FBI obtained drivers' license information from the Maryland Motor Vehicle Administration for both [REDACTED] and PRADO, including their photographs. These photographs appear to depict the same people who are in the above described video discussing having stormed the Capitol Building.

On February 25, 2021, the FBI obtained a search warrant for [REDACTED] Instagram account. [REDACTED] had deleted the account several days after the Capitol riot and the incriminating media was not included in the returns; however, the returns did include private conversations with another account from January 7, 2021, speculating whether "they'll seek charges," including "trespassing charges." The other participant responded to [REDACTED] suggesting they "ain't gonna go after Nicole" and then discussed the Instagram posts: "that's not evidence—[REDACTED] screenshot . . . is Nicole on camera . . . But they would have to cross reference too much. Do police have her fingerprints and mugshot? . . . It's only corroborating but its weak." Search warrants for historical cell site data suggests [REDACTED] was not in Washington, D.C. on January 6, 2021 during the breach of the Capitol, but came to Washington later that afternoon. The historical cell site data suggests PRADO came to Washington, D.C. earlier than [REDACTED], in the morning of January 6, 2021 and that she was near or around the Capitol, but [REDACTED] apparently was not.

I have reviewed Capitol Building CCTV footage from the events on January 6, 2021 and observed an individual who physically resembled PRADO walk though several rooms in the Capitol Building during an approximate five minute period from approximately 19:39 UTC

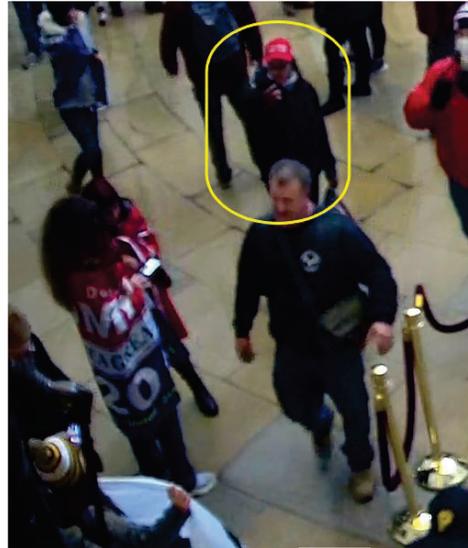
through 19:44 UTC (review of CCTV footage for PRADO is still ongoing). During this review, I observed PRADO take the two photographs that [REDACTED] later posted on [REDACTED] Instagram account as discussed above. Specifically, I observed PRADO walk through the Capitol Building Rotunda before stopping to use her cell phone to take one of the pictures that [REDACTED] later posted on Instagram:



CCTV: Prado enters Rotunda, teargas in background



[REDACTED] Instagram Post



CCTV: Prado takes picture that [REDACTED] later posted

I also observed PRADO on Capitol Building CCTV footage walk through Statuary Hall in the Capitol Building before stopping to use her cell phone to take the second picture [REDACTED] later posted on Instagram:



[REDACTED] Instagram Post



CCTV: Prado takes picture that [REDACTED] later posted

I took several, additional screenshots of PRADO from Capitol Building CCTV footage from January 6, 2021:



PRADO's physical appearance and clothing in the Capitol Building CCTV footage matched her physical appearance and clothing from the video [REDACTED] had posted later that afternoon on [REDACTED] Instagram account:



Screenshot of [REDACTED] Instagram video

I showed the above screenshots of PRADO from the Capitol Building CCTV footage to two of the previously discussed tipsters/complainants. Both of these complainants confirmed that the person in the screenshots was PRADO.

Based on the foregoing, I submit that there is probable cause to believe that NICOLE PRADO 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.

I also submit there is also probable cause to believe that NICOLE PRADO violated 40 U.S.C. § 5104(e)(2)(D) and (G), 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.



Patrick W. Straub
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 3rd day of June, 2021.



Digitally signed
by G. Michael
Harvey

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE

