

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	
	:	Criminal No.
v.	:	
	:	Case No. 21-mj-173 (ZMF)
WILLIAM MERRY,	:	
	:	
Defendant.	:	

STATEMENT OF OFFENSE

Pursuant to Federal Rule of Criminal Procedure 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, William MERRY, with the concurrence of his attorney, agree and stipulate to the below factual basis for the defendant's guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

The Attack at the U.S. Capitol on January 6, 2021

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., 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.
2. On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public.
3. 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.

4. As the proceedings continued in both the House and the Senate, and with Vice President 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 approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades, and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police Officers or other authorized security officials.

6. 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 law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the U.S. Capitol, requiring the expenditure of more than \$1.4 million dollars for repairs.

7. 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 Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

MERRY's Participation in the January 6, 2021, Capitol Riot

8. A few days before the riot at the Capitol, MERRY spoke with his friend, Paul Westover, about traveling to Washington, D.C. to hear President Trump speak at the “Stop the Steal” rally on January 6, 2021. MERRY invited his niece, Emily Hernandez, to travel with them, and she agreed.

9. On January 5, 2021, MERRY drove to the Washington, D.C. area from St. Louis, Missouri, with Hernandez and Westover to attend the rally. At the time he traveled, MERRY was aware that the Electoral College votes would be counted the next day at the U.S. Capitol.

10. On January 6, 2021, at approximately 10:30 a.m., MERRY, Hernandez, and Westover (hereinafter, the “trio”) met Person 1 at a metro station and traveled to a political rally in D.C. The trio ultimately walked with the crowd from the rally towards the Capitol building, getting separated from Person 1 sometime before the trio entered the Capitol.

11. Upon arriving on Capitol grounds, MERRY heard someone in the crowd say something to the effect of “there’s a group of Proud Boys” and witnessed a group of men, some in military garb, walking together approximately eight or nine abreast and seven to eight individuals deep. MERRY witnessed this group approach a police barricade and begin arguing with police. He then witnessed members of this group pushing and rocking the barricade back and forth until it was breached and police retreated.

12. MERRY later witnessed a crowd attempting to breach a police barricade set up on a set of steps outside the Capitol building and guarded by approximately six law enforcement officers. MERRY was approximately four individuals back from the edge of the barricade, with Hernandez and Westover at his side. Ultimately, an individual ahead of MERRY forcibly removed a police barricade, allowing the crowd, including the trio, to breach the police line and ascend the Capitol steps past the retreating police officers.

13. Around this time, MERRY witnessed police arrest a man who climbed a structure; individuals throwing water bottles at police; and police discharging tear gas, paintballs, and mace. He also saw, as he entered the Capitol building, that a Capitol building window had been smashed.

14. At approximately 2:20 p.m., the trio entered the Senate Wing door to the Capitol while holding up their cell phones and recording videos. A few minutes later, the trio entered the Crypt area of the Capitol, along with dozens of others in the crowd.

15. The trio eventually made their way to a circular area within the House Speaker’s Suite. This area was marked with a sign posted above a curved entryway stating “Speaker of the House Nancy Pelosi.” MERRY witnessed an individual tear this sign down from the wall as well as another individual with a black jacket and khaki pants smash the sign against a wall.

MERRY then told Hernandez, as she moved towards the now-broken sign, to “get you a piece,” which she did, by picking up a shard of the broken sign. MERRY and Hernandez then held the shard above their heads to show to a person recording a video. While doing so, MERRY stated “here you go, brother.” Visible on the shard were the words “The House” and “Nancy.”

16. At approximately 2:36 p.m. the trio entered the Rotunda of the Capitol and continued to take photographs and videos. While in the Rotunda, MERRY picked up an old telephone on a desk and pretended to call “Nancy”—i.e., Speaker Pelosi. At some point around this time, MERRY noticed tear gas being deployed.

17. The trio ultimately exited the Capitol through a broken window in the Senate Wing hallway at approximately 2:55 p.m.

18. After the trio exited the Capitol building but while still on Capitol grounds, MERRY told Hernandez to hold up the shard of the broken Speaker’s sign for the crowd to see. She followed his instruction, and MERRY also displayed the shard later on for the crowd. MERRY also witnessed Hernandez carrying several items she took from the Capitol building and Capitol grounds, including a large red “Keep Off Fence” sign. MERRY later saw HERNANDEZ with a smaller “Please Do Not Touch” sign after they had left the Capitol.

19. While still on Capitol grounds, Hernandez participated in a video-recorded interview with Person 2, an apparent blogger. In the video, Person 2 stated: “you want to know how to defend your country? You storm in there and you take your country back. I’m here with the heroes who actually stormed [unintelligible] and we are actually going to take our country back.” After Person 2 then stated, “you guys want proof? I can show you proof,” Hernandez

displayed the shard of Speaker Pelosi's sign and the "Keep Off Fence" sign, while smiling. MERRY and Westover can also be seen in the video.

20. On January 26, 2021, Hernandez voluntarily surrendered to the FBI various items taken from the Capitol building and Capitol grounds, including the shard from Speaker Pelosi's sign, the red "Keep Off Fence" sign, a fire extinguisher pin and tag, the "Please Do Not Touch" sign, a "Save America March" pass, and the knit hat she wore inside the Capitol.

21. The defendant knew at the time he entered the U.S. Capitol Building that he was trespassing and did not have permission or lawful authority to enter the building. At the time he entered, the U.S. Capitol was a restricted building where the Vice President was temporarily visiting. The defendant unlawfully and knowingly entered and remained in a restricted building without lawful authority to do so.

22. The defendant further agrees that the fragment of Speaker Pelosi's sign would have an independent market value of at least \$50.

Respectfully submitted,

MATTHEW GRAVES
United States Attorney
D.C. Bar No. 481052

By:

/s/

Jessica Arco
Trial Attorney – Detailee

DEFENDANT'S ACKNOWLEDGMENT

I, William Merry, have read this Statement of the Offense and have discussed it with my attorney. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

Date: Dec 16 2021

William D Merry
William Merry
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of the Offense and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: Dec. 16, 2021

Nathan Silver
Nathan Silver
Attorney for Defendant