

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

UNITED STATES OF AMERICA)	
)	Criminal No.
v.)	
)	<u>FILED UNDER SEAL</u>
NICHOLAS R. OCHS,)	
)	
Defendant.)	

**AFFIDAVIT IN SUPPORT OF
CRIMINAL COMPLAINT AND ARREST WARRANT**

I, [REDACTED], being duly sworn, affirm and state:

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have held this position since July of 2015. I am currently assigned to a squad that investigates violent gang and drug criminal enterprises out of the Northern Virginia Resident Agency of the Washington, D.C. Field Office of the FBI.

2. This affidavit is submitted for the purpose of establishing probable cause. The facts in this affidavit are based on my investigation, personal observations, training, and experience, as well as information conveyed to me by other law enforcement officials. Because this affidavit is limited in purpose, it is not intended to include each and every fact and matter observed by me or known to the United States.

PURPOSE OF AFFIDAVIT

3. This affidavit is submitted in support of a criminal complaint charging the defendant, NICHOLAS “NICK” R. OCHS (hereinafter “OCHS”), with one count of Unlawful

Entry into Restricted Buildings or Grounds, in violation of Title 18, United States Code, Section 1752(a). This affidavit is also submitted in support of an arrest warrant for OCHS.

STATEMENT OF FACTS

4. 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. Vice President Mike Pence was present and presiding in the Senate chamber.

5. With the joint session underway and with Vice President Mike Pence presiding, a large crowd gathered outside the U.S. Capitol. Temporary and permanent barricades surround 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 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. At such time, the joint session was 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. 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 session resumed.

6. On January 6, at 4:13 p.m., Nicholas “Nick” Robert Ochs, a resident of Hawaii, posted a photograph to his Twitter account, @OchsForHawaii, with the caption, “Hello from the Capital lol,” which appears to depict OCHS and another individual smoking cigarettes inside the Capitol (*see* <https://twitter.com/OchsForHawaii/status/1346927847361966088>). OCHS later admitted to a CNN reporter that he entered the Capitol. CNN published a photograph that appears to depict OCHS in the crowd walking through the Capitol’s halls.

7. OCHS told CNN, “We didn’t have to break in, I just walked in and filmed.” In fact, some rioters pushed over barricades and shoved police officers out of the way to enter the Capitol, while others scaled walls and broke windows. Once inside, Ochs told CNN, “There were thousands of people in there -- they had no control of the situation. I didn’t get stopped or questioned.” OCHS also reportedly told CNN that he was working as a “professional journalist” and did not enter any of the offices or the chambers.

8. According to interviews he has given the media, OCHS is the leader and founder of a Hawaii chapter of the “Proud Boys” organization. OCHS also has “PROUD BOY” tattooed on his right forearm. The Proud Boys have been vocal since the 2020 U.S. Presidential Election in calling for action over the false claims that President Trump lost the election due to widespread voter fraud. Some members have advocated for violent action to achieve these ends. Self-

identified members of the Proud Boys descended on Washington, D.C., earlier this week, as part of activities planned to protest the certification of the 2020 U.S. Presidential Election results.

9. On November 16, 2020, OCHS made a post to the social media site Parler, in which he forwarded a Tweet by President Trump declaring, “I WON THE ELECTION!” and OCHS stated, “Show this tweet to leftists and say they won’t do shit when he just keeps being president. Don’t say it was stolen or rigged. Just say we’re doing it and they won’t fight back. They are getting scared, and they don’t function when they’re scared.”

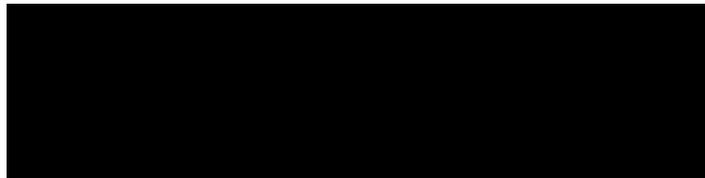
10. I have identified OCHS as the person in the photograph posted to OCHS’ Twitter account from January 6th inside the Capitol not only from context, but also from comparing the photograph posted by OCHS to his Twitter account with photographs of OCHS from his 2020 bid for election to the Hawaii State Legislature. OCHS ran for election to be the Republican representative for Hawaii House District 22.

11. Based on the foregoing, your affiant submits that there is probable cause to believe that OCHS violated Title 18, United States Code, Section 1752(a), which 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; (3) knowingly, and with the intent to impede or disrupt the orderly conduct of Government business or official functions, obstruct or impede ingress or egress to or from any restricted building or grounds; 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 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.

CONCLUSION

12. Based on my training and experience, and the information provided in this affidavit, there is probable cause to believe that on or about January 6, 2021, in the District of Columbia, NICHOLAS “NICK” R. OCHS did knowingly and willingly commit Unlawful Entry, in violation of Title 18, United States Code, Section 1752(a).



FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 7th Day of January, 2021.

Handwritten signature of G. Michael Harvey in black ink.

G. Michael Harvey
2021.01.07 21:03:40
-05'00'

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE

