AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America
v.
Frank Rocco Giustino
DOB: XXXXXX

Defendant(s)

Case: 1:22-mj-00002
Assigned To : Harvey, G. Michael
Assign. Date : 01/03/2022
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 U.S.C. § 1752(a)(1)-	Entering and Remaining in a Restricted Building
18 U.S.C. § 1752(a)(2)-	Disorderly and Disruptive Conduct in a Restricted Building
40 U.S.C. § 5104(e)(2)(D)-	Violent Entry and Disorderly Conduct in a Capitol Building
40 U.S.C. § 5104(e)(2)(G)-	Parading, Demonstrating, or Picketing in a Capitol Building

This criminal complaint is based on these facts:

See attached statement of facts.

☒ Continued on the attached sheet.

Charles Knapp

Complainant's signature

Charles Knapp, Detective

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone.

Date: 01/03/2022

G. Michael Harvey 2022.01.03 15:15:12 -05'00'

Judge's signature

City and state: Washington, D.C. G. Michael Harvey, U.S. Magistrate Judge

Printed name and title

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STATEMENT OF FACTS

Your affiant, Charles Knapp, is a Task Force Officer assigned to the Federal Bureau of Investigation ("FBI") New York Field Office. In my duties as a special agent, I am assigned to the Joint Terrorism Task Force ("JTTF") in Melville, New York. Currently, I am a tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Task Force Officer with the FBI, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of violations 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 scores of individuals inside the U.S. Capitol building without authority to be there, in violation of Federal laws. Photographs and videos of several of these persons were disseminated via social media and other open source online platforms.

Beginning on or about January 10, 2021, the FBI received at least five tips from the public regarding an individual later identified as Frank R. GIUSTINO having been at the U.S. Capitol on January 6, 2021, including a tip from Complainant-1. In an interview on January 20, 2021, Complainant-1 advised the FBI that (s)he had gone to high school with GIUSTINO and (s)he recognized GIUSTINO in a photograph from the *New York Times* on Instagram, as shown below:

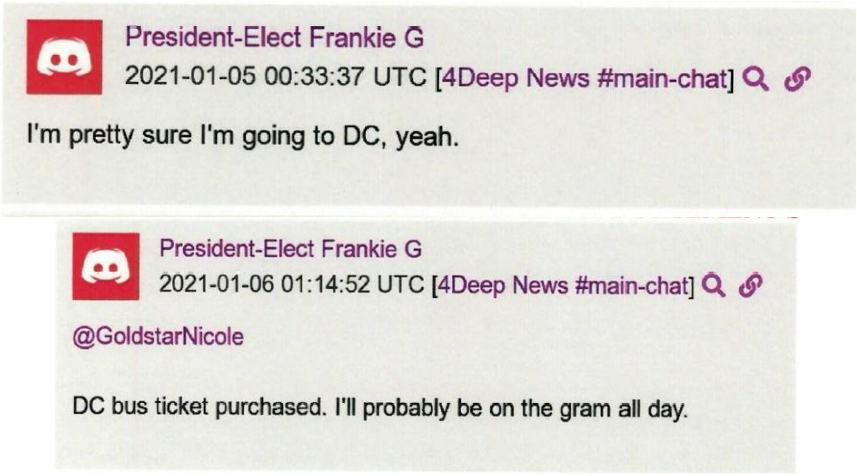
The tip included a second photo focusing the viewer on GIUSTINO from the above photograph, as shown below:

Complainant-1 advised the FBI that (s)he looked on GIUSTINO's Facebook page and saw GIUSTINO had posted about participating in the attack on the U.S. Capitol. Complainant-1's tip included screenshots of the postings, including the ones below:

In a telephone interview on February 23, 2021, Complainant-3 advised the FBI that (s)he recognized GIUSTINO in a photograph posted by the *New York Times* on Instagram, showing GIUSTINO in a large group.

According to records obtained from T-Mobile, on January 6, 2021, in and around the time of the incident, a cellphone ending in -6058[1] was identified as having utilized a cell site consistent with providing service to a geographic area that includes the interior of the United States Capitol building. Open source research attributed the phone number ending in -6058 to Frank GIUSTINO. T-Mobile records indicate the cellphone ending in -6058 is subscribed to GIUSTINO's mother.

The FBI became aware of posts to Discord[2] under the screenname "President-Elect Frankie G" regarding the individual's intention to travel to Washington, D.C. on January 6, 2021, as shown below:

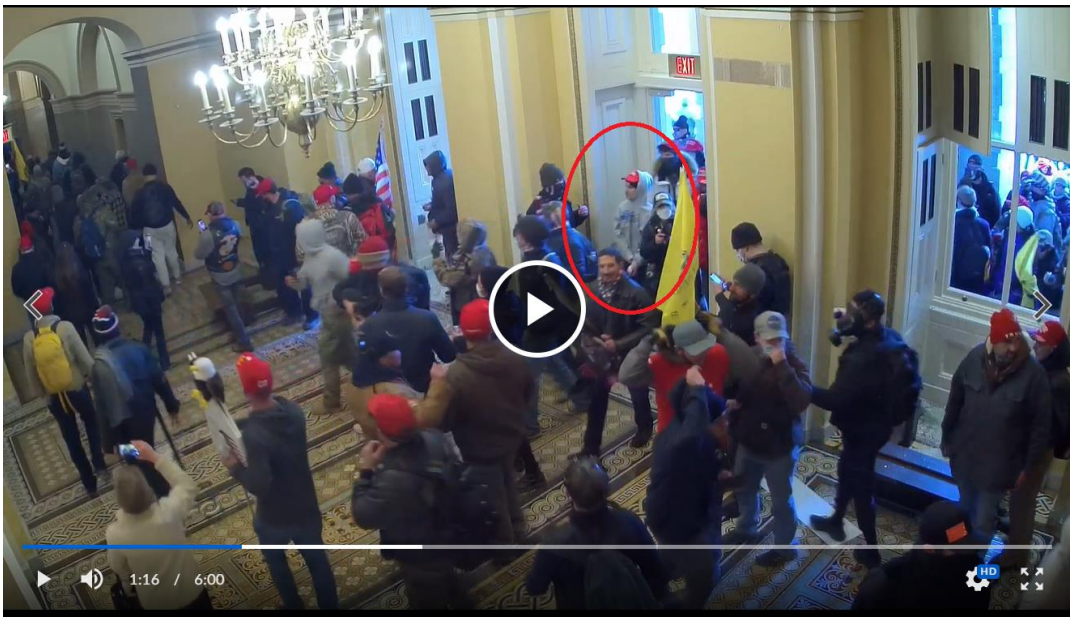


Once in Washington, D.C. on January 6, 2021, "President-Elect Frankie G" posted updates on Discord regarding what he was doing, as shown below:

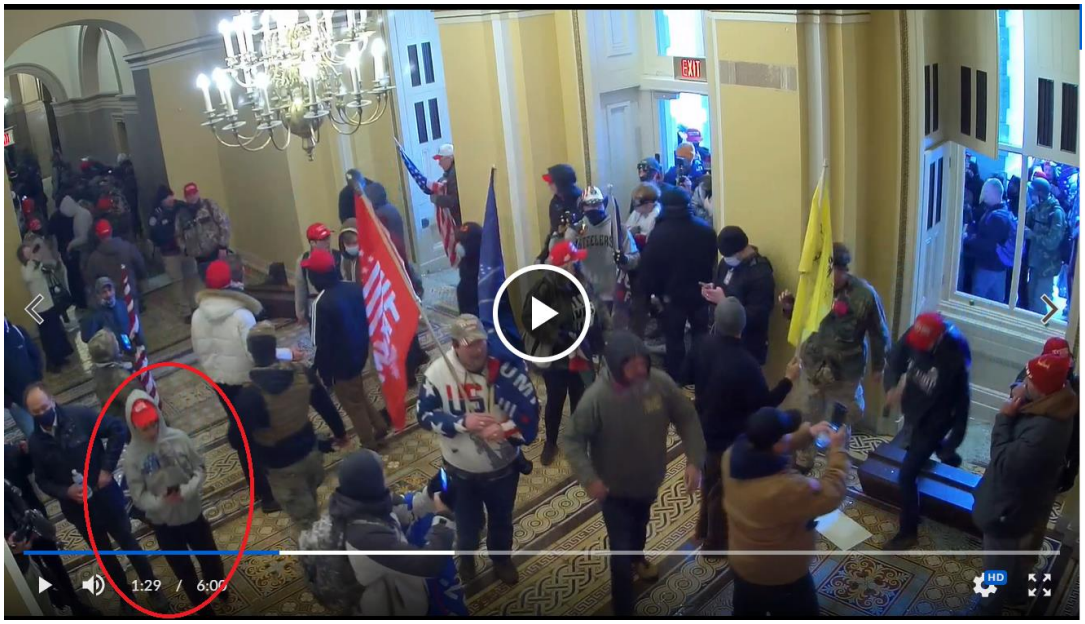
[1] This filing references only the last four digits of the phone number due to the public nature of this filing.
[2] Discord is a VoIP, instant messaging and digital distribution platform. Users communicate with voice calls, video calls, text messaging, media and files in private chats or as part of communities called "servers." Servers are a collection of persistent chat rooms and voice chat channels.

According to records from Discord going as far back as February 27, 2021, the email f**********@protonmail.com[3] was linked to Discord username "Frankie G#733" which was created on January 19, 2021. The account "Frankie G#733" was linked with phone number ending -6058.

Based upon my review of Capitol surveillance footage of the incident, GIUSTINO entered the U.S. Capitol building through the Senate Wing Door at approximately 2:16 pm on January 6, 2021. On January 6, 2021, he was wearing a gray hooded sweatshirt, a red baseball cap and a second, black hat with the name "Trump" across the front. Upon entering the Capitol, GIUSTINO turned left and proceeded in the direction of the Senate Wing, as depicted below:

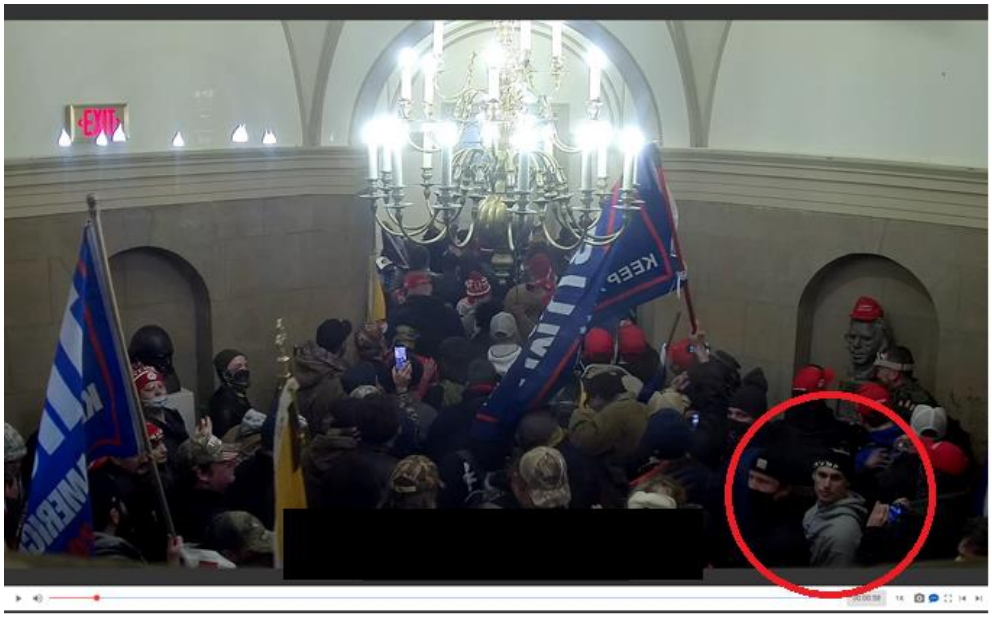


[3] The FBI is in possession of the full account name but has anonymized it partially here due to the public nature of this filing.



At approximately 2:24 pm, GUISTINO crossed through the Capitol Crypt, as depicted below:

At approximately 2:32 pm, GIUSTINO was in the Small House Rotunda before proceeding upstairs, as depicted below:



GIUSTINO was then shown on open source video in the U.S. Capitol Rotunda at approximately 2:34 pm, as depicted below:

On November 9, 2021, your affiant had personal contact with GIUSTINO at his residence. Your affiant identified himself as a New York State Police Investigator and advised GIUSTINO I was investigating a hit and run accident involving a black 2015 Honda Civic. GIUSTINO informed your affiant that the Honda he has is registered to his mother, but that he drives the vehicle. Your affiant inspected the front of the Honda Civic and advised GIUSTINO that his Honda was not involved in the hit and run. GIUSTINO verbally identified himself as "FRANK GIUSTINO. You can put a 'R' in the middle." Your affiant can confirm the individual in the pictures above is Frank R. GIUSTINO.

Based on the foregoing, your affiant submits that there is probable cause to believe that Frank R. GIUSTINO 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.

Your affiant submits there is also probable cause to believe that Frank R. GIUSTINO 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.

Charles Knapp

Task Force Officer Charles Knapp
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 January 2022.

G. Michael Harvey
2022.01.03
15:14:45 -05'00'

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE