

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Task Force Officer assigned to FBI Cincinnati's Joint Terrorism Task Force. In my duties as a Task Force Officer, I investigate crimes of international and domestic terrorism. Currently, I am tasked with investigating criminal activity in and around the U.S. Capitol grounds on January 6, 2021. As a Task Force Officer, I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, 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, 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.

Identification of Jared Kastner and Luke Faulkner

During the FBI's investigation of the events of January 6, 2021, the FBI obtained information that a device associated with Jared Kastner was present at the U.S. Capitol on January 6, 2021. After receiving this information, your affiant located photographs of Kastner from the events of January 6, 2021, by comparing the photographs with Kastner's driver's license photograph. One of the photographs is below, with a red arrow pointing to Kastner. Kastner's supervisor at his place of employment confirmed that the individual in the photograph is Kastner.



A search warrant served on Google for records related to Kastner's Gmail address and telephone number returned a photograph of a man wearing jeans and a black jacket with the Washington Monument visible in the background. The photograph, presented below, was taken on January 6, 2021. Your affiant has compared this image to the Ohio driver's license photograph of Luke Faulkner and determined that the two are consistent.



Footage of Kastner, Faulkner, and Third Party,
Later Determined to Be Kenneth Duncan Massie, at Capitol

Your affiant subsequently reviewed surveillance footage from January 6, 2021, from inside the U.S. Capitol building. Your affiant identified Kastner, Faulkner and an unidentified third person wearing a white cowboy hat, later identified as Kenneth Duncan Massie, as they moved through the Crypt of the U.S. Capitol. In the footage, Faulkner appears to have his hand on Kastner's shoulder, and Kastner appears to have his hand on Massie's shoulder. Screenshots from the surveillance footage are below, with a red arrow pointing to Kastner, a blue arrow pointing to Faulkner, and a green arrow pointing to Massie.



Your affiant subsequently located Massie in other footage from January 6, 2021. An additional still from Capitol surveillance footage, showing Massie entering the building through the Senate Wing door, is below. A green arrow is pointing to Massie.



Additionally, your affiant located images of Massie from a third-party's social media account. Images of Massie near the exterior of the Senate Wing Door at the U.S. Capitol building and exiting an office inside the building are below.



Identification of Massie

A review of telephone records for Kastner, Faulkner and an associate¹ were examined for a common contact in an effort to identify the male in the white cowboy hat. All three individuals communicated with an individual with a telephone number ending with -5593. Legal records from AT&T show that Kenneth Duncan Massie is the subscriber of the account with the phone number ending -5593.

According to records obtained through a search warrant served on AT&T, during the riot, the cellphone with the telephone number ending in -5593 and subscribed to Massie was identified as having utilized a cell site consistent with providing service to a geographic area that included the interior of the United States Capitol building. The FBI has reviewed the available information to determine whether there was any evidence that devices associated with this address could have lawfully been inside the U.S. Capitol building on January 6, 2021. The information for this address did not match any information for persons lawfully within the Capitol. Thus, your affiant believes that the individual possessing this device was not authorized to be within the U.S. Capitol building on January 6, 2021.

On December 8, 2021, Kastner and Faulkner were arrested pursuant to a complaint and arrest warrant issued in the District Court for the District of Columbia. *See United States v. Kastner, et al.*, 21-cr-725-RDM. Following their arrest, Kastner and Faulkner were interviewed regarding the events at the U.S. Capitol building on January 6, 2021. Both Kastner and Faulkner admitted to entering the U.S. Capitol building on January 6, 2021. During the interview, images 1-4, provided below, of the male in the white cowboy hat who agents located inside the Crypt with Kastner and Faulkner, as discussed above, were shown to Kastner and Faulkner for identification purposes. Kastner identified the male in the white cowboy hat as Massie. Faulkner indicated that he, Faulkner, had vision issues and no glasses with him. Faulkner stated that the male in the cowboy hat in images #1 and #3 was likely Massie, but he was unable to identify the individual in the cowboy hat in images #2 and #4.

¹ The associate traveled to Washington, D.C. with Kastner. A third-party witness stated that Kastner and the associate stayed with her near Washington, D.C. on January 5, 2021, and that the two notified her they were attending the rally on the National Mall on January 6, 2021. Also, location data obtained from a search warrant served on Google shows Kastner stopping at the associate's residence on his way to Washington, D.C. and on his way home from Washington, D.C.



Image #1



Image #2



Image #3



Image #4

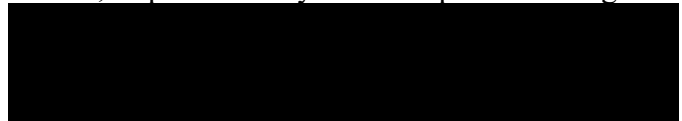
Massie was subsequently interviewed on December 9, 2021, and admitted to entering the U.S. Capitol building on January 6, 2021. He also stated that he was together with Kastner and Faulkner inside the Capitol for a period of time. At the interview, Massie provided the affiant the black jacket that he said he wore on January 6, 2021, during the riot, as well as the cellular telephone he used during the riot. Massie stated that he had deleted the images taken while at the U.S. Capitol building. Your affiant reviewed the contents of the cellular telephone and located, among other relevant items, one image that was taken outside of the U.S. Capitol building where scaffolding can be seen. During the interview, Massie was shown images from the events at the U.S. Capitol on January 6, 2021, including images of Massie. He identified himself in Image #1, copied above. Massie believed the male in Image #4 copied above was him but did not recall his mask being that large. Massie also recalled the meeting with Kastner and Faulkner as depicted in Image #3 above.

Additional footage from the Senate Wing Door at the U.S. Capitol building shows Kastner, Faulkner, and Massie exiting the building. In the video, Kastner is wearing a face mask not seen in previous footage and Massie is no longer wearing the cowboy hat. Stills from the Capitol surveillance footage are below. Kastner is circled below in red. Faulkner is circled in blue, and Massie is circled below in green.



Based on the foregoing, your affiant submits that there is probable cause to believe that Kenneth Duncan Massie 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 Kenneth Duncan Massie violated 40 U.S.C. §§ 5104(e)(2)(D) and (G), which make 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.



Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 27th day of January, 2022.

G. Michael Harvey
U.S. MAGISTRATE JUDGE