

STATEMENT OF FACTS

Your affiant, [REDACTED] has been a Special Agent with the Federal Bureau of Investigation (“FBI”) since 2017. As a Special Agent, 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. In addition to my regular duties, I am tasked with investigating criminal activity in and around the U.S. Capitol grounds on January 6, 2021.

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 Capitol building without authority to be there.

Identification of Thomas and Marilyn Fassell

After these events on January 6, the FBI received many tips from members of the public concerning the individuals who unlawfully entered the restricted grounds and Capitol building. On approximately January 12, 2021, the FBI received an online tip that said someone named “Tom” was bragging about being inside the Capitol Building on January 6 and showing some people a picture from his cell phone that depicted his wife smoking a cigarette inside the Capitol.

My colleague, an FBI agent working on this case, interviewed the tipster. The tipster said that it was the tipster’s mother who witnessed “Tom” bragging about being at the Capitol, and that the tipster’s mother knew Tom personally (the tipster did not personally hear the bragging, but was relaying information learned from the tipster’s mother who had interacted directly with Tom). My colleague interviewed the tipster’s mother on January 21, 2021 and again on March 10, 2021.

The tipster’s mother said that on January 10, 2021, the Sunday following the breach of the Capitol, her co-worker Tom bragged to her and a few others that he and his wife were inside the Capitol during the insurrection. The tipster’s mother confirmed that Tom, whose last name is FASSELL, showed videos of himself and his wife inside the Capitol, including one where his wife was smoking a cigarette. The tipster’s mother was shown a photo of THOMAS FASSELL that was obtained from law enforcement databases and she confirmed that the person in the photo was the same person that she knew personally.

On January 22, 2021, my colleague conducted a voluntary interview with THOMAS FASSELL and his wife MARILYN FASSELL in front of their residence. He spoke with MARILYN FASSELL first. MARILYN FASSELL explained that she and her husband drove from their home in Largo, FL on January 5, 2021, to Washington, D.C. The purpose of their trip was to participate in a peaceful protest. Beginning at approximately 7:00 a.m. on January 6, the pair gathered near the National Mall. Hours later, after walking with what MARILYN FASSELL described as massive crowds toward the Capitol, MARILYN and THOMAS FASSELL walked up the steps and entered the Capitol building through what MARILYN FASSELL called the front doors. MARILYN FASSELL described the doors as partially broken, near an area of the building where windows were also broken. MARILYN FASSELL estimated that 200 to 300 people entered the building before she and THOMAS FASSELL entered. Once inside the building, MARILYN FASSELL stated that both she and THOMAS FASSELL walked through hallways and into offices, though MARILYN FASSELL did not know whose offices they were. MARILYN described one room she and THOMAS FASSELL were in as round, with statues and paintings,

red curtains, and very high ceilings. MARILYN FASSELL claimed she and THOMAS FASSELL did not know it was illegal for them to be inside.

After speaking with MARILYN FASSELL for some time, THOMAS FASSELL joined the interview. THOMAS FASSELL acknowledged that he and MARILYN FASSELL both went inside the Capitol building for approximately 40 minutes.

My colleague obtained consent to search THOMAS FASSELL's cell phone and observed multiple videos that were time stamped on January 6, 2021. Multiple videos depicted MARILYN and THOMAS FASSELL, first at the National Mall, then walking toward the Capitol. MARILYN FASSELL used THOMAS FASSELL's cell phone to take pictures and record videos while they were inside the building.

In a video timestamped 1:58 p.m., a female voice can be heard saying "they can't stop millions." My colleague recognized the female voice in the video as that of MARILYN FASSELL, based on his interview with her. In a video timestamped 2:12 p.m., MARILYN FASSELL can also be heard saying, "Take it! Take it! Take it!" and "Let's go! Let's go!" In another video, MARILYN FASSELL can be heard saying, "Let's go...come on, let's go, let's go, let's go, let's go, go, why are we stopping? Why is everybody stopping?" In the video, the crowd appears to be just outside the Capitol building. In a video timestamped 2:27 p.m., MARILYN FASSELL can be heard saying, "We busted in the Capitol." The video depicts large crowds walking through hallways of what appears to be the Capitol building.

A video with a timestamp of 2:42 p.m. depicts the inside of the Rotunda. The following are screen shots from the video:



MARILYN FASSELL also took a selfie-style picture of herself smoking a cigarette at 2:58 p.m. The cell phone GPS recorded coordinates (38.890244, -77.009015) as the location where the image was taken. The red point on the below map indicates the location of those coordinates.

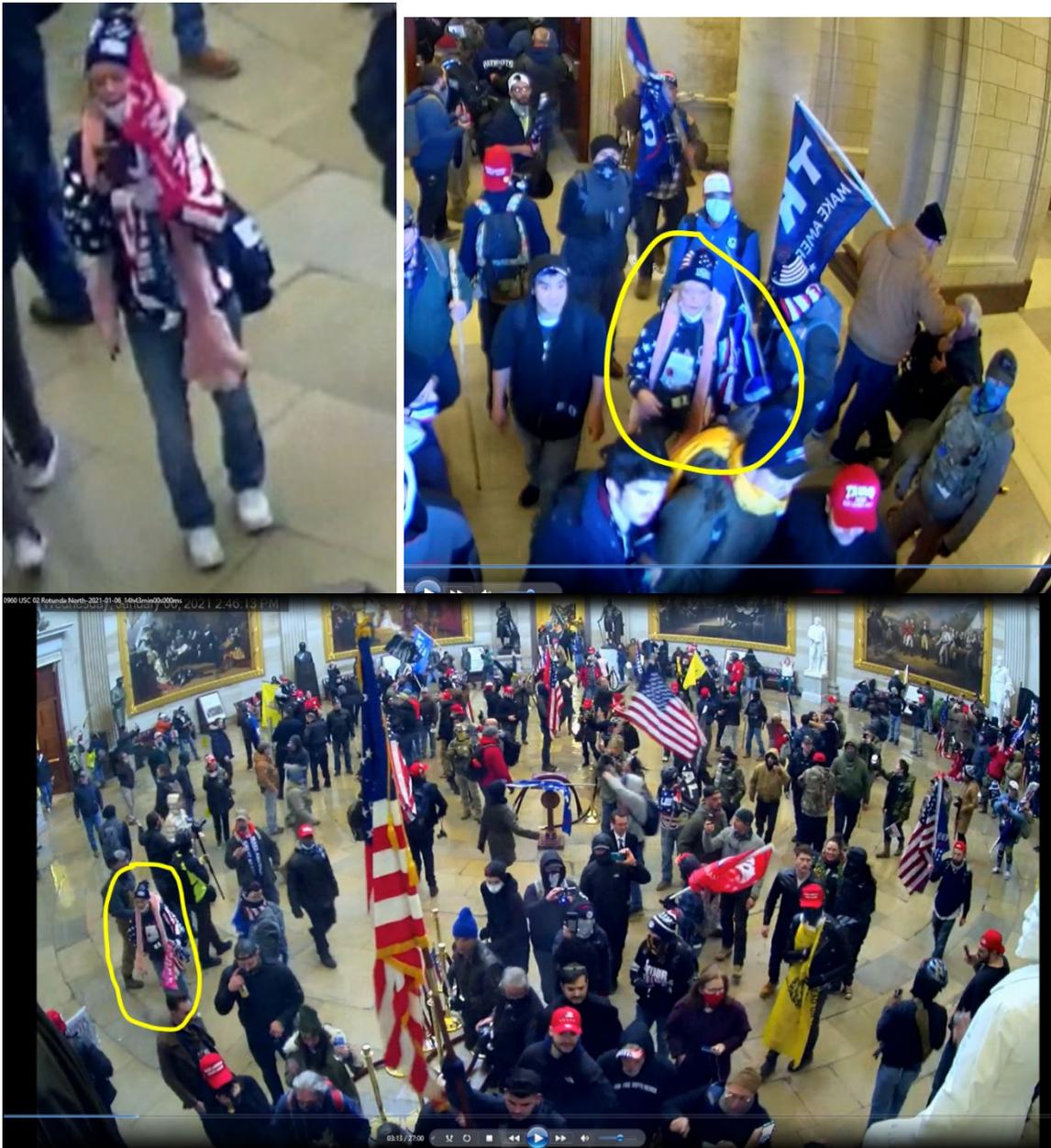


The same still image of MARILYN FASSELL smoking a cigarette was shown to the tipster's mother who confirmed it was the same photograph that THOMAS FASSELL showed off when he bragged about being inside the Capitol building with his wife.

A video timestamped 3:06 p.m. appears to be the final video taken from inside the Capitol. The video depicts several uniformed police officers ushering people out of the building. A male voice can be heard saying, "Come on Marilyn, come on." My colleague recognized the voice in the video as that of THOMAS FASSELL based on his interview of THOMAS FASSELL. A male voice, believed to be a police officer, can be heard saying, "Guys, guys, keep moving, this way." MARILYN FASSELL can be heard saying "This is my house, we pay taxes for this" and "We pay their salary." She also stated "I'm moving, I'm moving." The video ends when the person recording the video, believed to be MARILYN FASSELL, reaches the exit.

Based on timestamps from these videos, both MARILYN and THOMAS FASSELL are estimated to have been inside the Capitol Building on January 6, 2021, between approximately 2:27 p.m. and 3:07 p.m.

Additional surveillance footage from inside the Capitol shows a person that I have identified as MARILYN FASSELL:

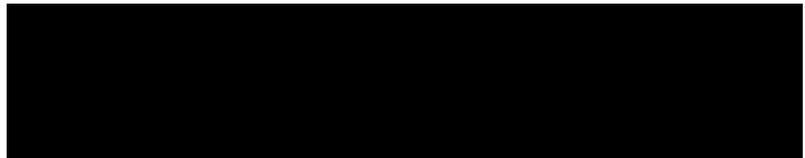


Based on the foregoing, I submit that there is probable cause to believe that THOMAS FASSELL and MARILYN FASSELL violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and 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 attempt or conspire to do so.

I also submit that there is also probable cause to believe that THOMAS FASSELL and MARILYN FASSELL violated 40 U.S.C. § 5104(e)(2), 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.

Respectfully submitted,



Special Agent
Federal Bureau of Investigation

Subscribed and sworn by telephone pursuant to Fed. R. Crim. P. 4.1 and 41(d)(3) on September 9, 2021.

ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE