

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :	:	Case No: 23-cr-0006 (RCL)
:	:	
v. :	:	40 U.S.C. § 5104(e)(2)(G)
:	:	
GARY FRANCIS SMITH, :	:	
:	:	
Defendant. :	:	

*has this be filed.
Rogers C. Lumbata
U.S.D.C. 3/3/23*

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, Gary Francis Smith, 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 U.S. 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 U.S. 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 U.S. 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 U.S. 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 \$2.7 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 U.S. Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

Gary Francis Smith's Participation in the January 6, 2021, U.S. Capitol Riot

8. On or about January 5, 2021, defendant Gary Francis Smith ("Smith") traveled with his sister, Deborah Kuecken ("Kuecken") from Michigan to Washington, D.C. The purpose of the trip to Washington, D.C. was to attend the rally to see then-President Donald Trump and to protest Congress' certification of the Electoral College occurring at the U.S. Capitol Building.

9. On January 6, 2021, Smith and Kuecken assembled with other rioters on the East Front of the Capitol. While they were present and within yards of where they were standing, several other rioters yelled at, shoved, sprayed with chemical irritants, and struck police officers to create a pathway and enable entry for rioters to enter the Capitol. After the combatants

successfully overran the officers, many rioters, including Smith and Kuecken, entered the Capitol Building through the Rotunda doors at approximately 3:02 p.m.

10. From approximately 3:02 to 3:05 p.m., Smith and Kuecken paraded inside the Rotunda.

11. In response to being told to leave the Capitol by a police officer, Smith and Kuecken exited the Capitol through the Rotunda doors at approximately 3:06 p.m.

Elements of the Offense

12. The government must prove that Gary Francis Smith (a) paraded, demonstrated, or picketed; (b) did so in any of the Capitol Buildings; and (c) did so willfully and knowingly.

13. Gary Francis Smith knowingly and voluntarily admits to all the elements of 40 U.S.C. § 5104(e)(2)(G). Specifically, he admits that he willfully and knowingly entered the U.S. Capitol Building, and willfully and knowingly paraded, demonstrated, or picketed inside the U.S. Capitol.

Respectfully submitted,

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

By: /s/ Anita Eve
Anita Eve
Assistant United States Attorney
PA Bar No. 45519

DEFENDANT'S ACKNOWLEDGMENT

I, GARY SMITH, 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: 02/17/2023

Gary F. Smith
Gary Francis Smith
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: 02/17/2023

David Griem
David Griem
Attorney for Defendant