

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

UNITED STATES OF AMERICA

v.

JAMES RAY EPPS, SR.

Defendant.

Case No:

18 U.S.C. § 1752(a)(2)

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, James Ray Epps, Sr. ("EPPS"), 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 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 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.

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 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 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 \$2.8 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 United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

EPPS' Involvement in the events of January 6, 2021

8. In the evening on January 5, 2021, EPPS stood on Black Lives Matter Plaza, Northwest, with a crowd during what appears to have been an impromptu rally. In response to people proclaiming their anger at, and desire to fight, Antifa and Black Lives Matter-affiliated groups and/or persons, EPPS interjected. He said, "Tonight, you can bring shame on us. That's not what it's about." Another person challenged EPPS, citing the fact that the American Revolution was sparked by something as minor as taxes on tea. EPPS responded:

We're far beyond that. In fact, tomorrow—I don't even like to say it because I'll be arrested—we need to go IN to the Capitol. We're here to defend the Constitution. [. . .] I'm going to put this out there. I'm probably going to jail for it. Tomorrow, we need to go IN to the Capitol. IN to the Capitol. Peacefully...

EPPS' speech was recorded, broadcast over social media, *see* Exhibit 1, and posted on Twitter, among other platforms.



Exhibit 1: Screenshot from video of EPPS on January 5, 2021, urging people to enter the Capitol “tomorrow” to contest the certification of the 2020 presidential election. This video of EPPS was livestreamed by separately charged defendant Anthime Gionet, 1:22-cr-132.

9. The next day, on January 6, 2021, EPPS—wearing a beige shirt with desert camouflage patterned long sleeves, a brown backpack, and a red “TRUMP” baseball cap—attended the “Stop the Steal” rally on the Ellipse. There, EPPS was recorded telling one group of rally goers “As soon as the President is done speaking, we go to the Capitol. The Capitol is this way!”, *see* Exhibit 2, and similarly telling another “As soon as President Trump is finished speaking, we are going to the Capitol. It’s that direction. That’s where our true problems lie,” *see* Exhibit 3. Before former President Trump’s speech concluded, EPPS—along with many others—left the rally and walked toward the Capitol via the Pennsylvania Avenue approach.

10. At approximately 12:52 p.m., EPPS and the vanguard of rioters reached the Peace Circle, where they encountered bicycle rack barricades and mesh fencing, both bearing “Area Closed” signs, blocking their path forward to the U.S. Capitol Building, as shown in Exhibit 4. These bicycle rack barricades and this mesh snow fencing were guarded by a small group of U.S.

Capitol Police (“USCP”) and Metropolitan Police Department (“MPD”) officers and delineated the outside edge of the restricted area. *See id.*



Exhibit 4: at the Peace Circle, mesh fencing and bicycle rack barricades, bearing “Area Closed” signs, blocking the path to the U.S. Capitol building.

11. The stymied crowd grew increasingly agitated and confrontational with the small group of police officers. One member of the crowd, wearing a black t-shirt over a white long-sleeved hoodie and a red “Make America Great Again” baseball hat—later identified as separately charged defendant Ryan Samsel, *see United States v. Samsel, et al.*, 1:21-cr-537—started shaking the security barrier and turned his baseball hat around backward while yelling at the police officers. EPPS approached Samsel and spoke in his ear.¹ *See Exhibit 5.*

¹ In separate consensual FBI interviews, both EPPS and Samsel stated that EPPS said something to the effect of “Dude, relax. The cops are doing their job.”



Exhibit 5: photograph of EPPS speaking in Samsel's ear just before the first barricade breach.

12. Seconds later, at approximately 12:57 p.m., Samsel and others surged forward, destroying the barricades and overwhelming the police officers. *See Exhibit 6.*



Exhibit 6: screenshot from video of the rioters at the Peace Circle surging forward, knocking over the barricades and fencing, as EPPS (outlined in yellow) looks on from the front line.

13. A flood of rioters, including EPPS, stormed through the downed barricades, breaching the first line of defense for the Capitol grounds and entering the restricted area. *See Exhibit 7.*



Exhibit 7: screenshot from video of the rioters, including EPPS (circled in yellow), storming past the downed barricades.

14. A short way down the path, the group of rioters, including EPPS, encountered a second set of barriers. Other rioters toppled those barricades too. They—and EPPS— continued to penetrate the restricted Capitol grounds. EPPS and a large group of other rioters then made their way to the West Plaza, a restricted area on the Capitol grounds, just outside of the Capitol building. See Exhibit 8.



Exhibit 8: photograph of EPPS (circled in yellow) in the middle of the West Plaza.

15. Lines of uniformed USCP and MPD police officers, many of whom were wearing riot gear, mostly succeeded in physically blocking the rioters, including EPPS, from further advancing on the west side of the Capitol building. See Exhibit 9.



Exhibit 9: screenshot from video of West Plaza showing police line (yellow) blocking rioters from further advancing.

16. Meanwhile, an unrelated group of rioters wheeled an all-metal “Trump” sign, which measured approximately 8 feet tall by 10 feet wide, from the Ellipse to the south end of the West Plaza. Once the group arrived with the metal “Trump” sign, the rioters gathered at the West Plaza lifted it overhead and passed it north, as if the sign was being crowd surfed. See Exhibit 10.



Exhibit 10: screenshot from video of rioters on the West Plaza passing the metal "Trump" sign overhead.

17. When the sign reached the middle of the West Plaza, where EPPS was standing, rioters worked together to turn the sign approximately 90 degrees and began pushing it toward the line of officers standing between the rioters on the West Plaza and the Capitol building itself. EPPS briefly placed both of his hands on the sign's fabric and/or frame. See Exhibit 11. Once the sign was beyond his reach, EPPS pointed forward, toward the line of police officers, several times.



Exhibit 11: screenshot from video of EPPS (outlined in yellow) with both hands on the sign.

18. At approximately 1:40 p.m., other rioters successfully pushed the sign into the group of police officers. The sign's size and impact broke and scattered the police line. The officers managed to wrest the sign away from the rioters and move it out of their reach. One USCP officer, who was part of that police line, described the sign's frame as so heavy that it took at least 15 officers to carry the sign away after the rioters thrust it into them.

19. While officers were occupied with the sign, a group of rioters, including EPPS, pushed forward, leaning their bodies on each other. *See Exhibit 12.*



Exhibit 12: screenshot from video of EPPS (circled in yellow), along with other rioters, pushing forward after the sign impacted the line of officers.

20. Police officers responded by deploying chemical spray on the rioters in the front of the scrum. The rioters—including EPPS—immediately fell back and dispersed.

21. EPPS remained on restricted Capitol grounds for a little over a half hour longer. Video evidence shows that during his time on Capitol grounds—indeed, both before and after his participation in the sign push described above—EPPS made at least five attempts to deescalate

conflicts between other rioters and police officers and prevent rioters on the West Plaza from attacking police along their defensive line.

22. EPPS received a text message from a family member telling EPPS to “be safe.” EPPS responded by text, “I was in the front with a few others. I also orchestrated it.”

23. As set forth above, although EPPS did not enter the Capitol building, EPPS knowingly entered restricted Capitol grounds and while there acted in a disruptive and disorderly way to interfere with the official functions of the U.S. Capitol Police.

24. Shortly after leaving the Capitol grounds, EPPS gave an interview to an unknown individual, which was recorded. EPPS assented to the interviewer’s statement:

So you’re saying you are marching down there and it’s one more thing that we as patriots can do to show those elected officials, look we didn’t just come out here to jump around and yell and scream. We came here to be visible and we came here to make a point and that’s right where you are, right? That’s exactly what you’re saying. You want these guys to know.

Identification of EPPS

25. On January 6, 2021, the FBI posted online a number of photographs of “persons of interest” – individuals involved in the “Violence at the United States Capitol” earlier that day – advertising that the FBI was “seeking information” about these individuals. Photograph #16 depicted EPPS speaking to Samsel just before Samsel and the crowd breached the first barricade at the Peace Circle. *See Exhibit 13; see also Exhibit 5 supra.*

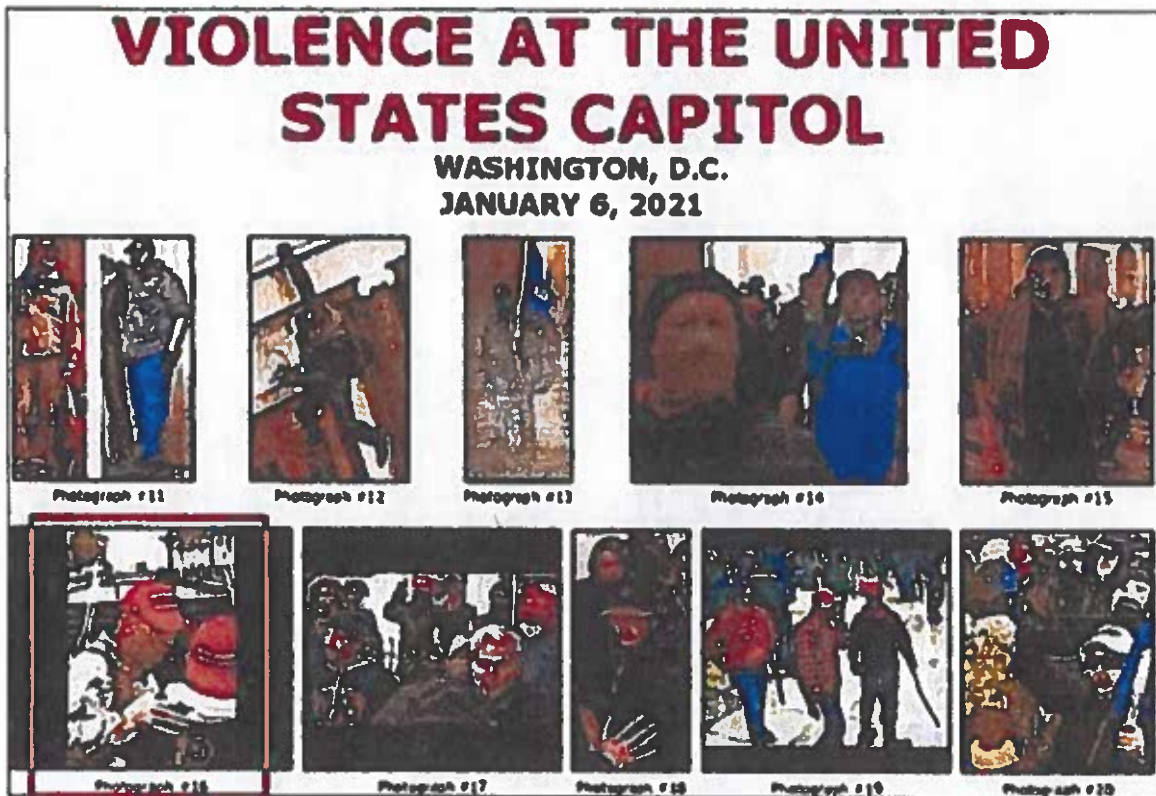


Exhibit 13: FBI request for information, posted online, depicting EPPS in Photograph #16.

26. Two days later, on January 8, 2021, EPPS called the FBI tip line and identified himself as the person depicted in Photograph #16. In that same call, EPPS gave a lengthy consensual interview concerning his activities on Capitol grounds. Among other statements, EPPS admitted that he had attended the “Stop the Steal” rally and told people to go to the Capitol afterward. EPPS also admitted to observing other rioters tear down barricades and confront police.

27. On March 3, 2021, EPPS, with his then-attorney, participated in a consensual follow-up interview with FBI agents. During that interview, EPPS identified himself in photographs and videos from the January 6 riot at the Capitol. He stated that when word started to spread that rally goers were going to the Capitol after the speeches concluded, he decided to help spread the message and that he wanted to be in the front of the pack. EPPS further understood that he was trespassing on January 6, 2021, and while he intended to enter the Capitol, he did not intend

to break in. His goal was to walk “into the front door and let them [lawmakers] know what they [Trump supporters] think.”

Elements of the Offense

28. James Ray Epps, Sr. (“EPPS”) knowingly and voluntarily admits to all the elements of Disorderly or Disruptive Conduct in a Restricted Building or Grounds, in violation of 18 U.S.C. § 1752(a)(2) (Count One). Specifically, EPPS admits that he knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engaged in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds—that is, any posted, cordoned-off, and otherwise restricted area within the United States Capitol and its grounds, where the Vice President was and would be temporarily visiting—when, or so that, such conduct, in fact, impeded or disrupted the orderly conduct of Government business or official functions; or that he attempted or conspired to do so.

Respectfully submitted,
MATTHEW M. GRAVES
United States Attorney
DC Bar No. 481052



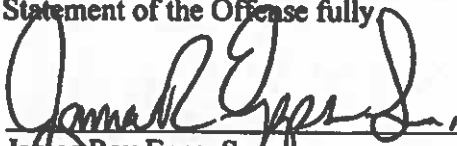
By:

Michael M. Gordon
Assistant United States Attorney

DEFENDANT'S ACKNOWLEDGMENT

I, James Ray Epps, Sr., 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: Sept 10, 2023


James Ray Epps, Sr.
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: 9/14/2023


Edward J. Ungvarsky
Attorney for Defendant