

## STATEMENT OF FACTS

On January 6, 2021, your affiant, [REDACTED], was on duty and performing my official duties as a Special Agent with the Naval Criminal Investigative Service (“NCIS”). As a Special Agent, I am authorized by law to engage in or supervise the prevention, detention, investigation, or prosecution of violations of Federal criminal laws.

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. Vice President Mike Pence was present and presiding in the Senate chamber.

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 are 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.

With the joint session underway and with Vice President Mike Pence presiding, a large crowd gathered outside the U.S. Capitol. Temporary and permanent barricades surround 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 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. At such time, the joint session was 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. 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.

**TIMOTHY LOUIS HALE-CUSANELLI (HALE-CUSANELLI)** of Colts Neck, New Jersey, traveled to the District of Columbia to participate in a rally and protest at the U.S. Capitol. **HALE-CUSANELLI** is enlisted in the United States Army Reserves, and also works as a

contractor at Naval Weapons Station Earle where he maintains a “Secret” security clearance and has access to a variety of munitions.

On January 12, 2021, I received information from an individual who has been enrolled as a Confidential Human Source (“CHS”) with NCIS. The CHS reported that **HALE-CUSANELLI** told the CHS that **HALE-CUSANELLI** was present at the riot at the United States Capitol Building and, as part of the riot, he entered the Capitol building itself. **HALE-CUSANELLI** then showed CHS videos on his cell phone which depicted **HALE-CUSANELLI** making harassing and derogatory statements toward Capitol Police officers both inside and outside the Capitol building.

During our meeting on January 12, 2021, the CHS reported to me that **HALE-CUSANELLI** is an avowed white supremacist and Nazi sympathizer who posts video opinion statements on YouTube proffering extreme political opinions and viewpoints under the title the “Based Hermes Show.” **HALE-CUSANELLI** also posts similar content in other forums. Prior to traveling to the rally and protest on January 6, 2021, **HALE-CUSANELLI** wrote “Trust the plan, it’s the final countdown, stay tuned next episode” and “Trust the plan, major announcement soon.”

On January 14, 2021, the CHS was able to utilize an NCIS-approved recording device to record a conversation between the CHS and **HALE-CUSANELLI**. During this conversation, **HALE-CUSANELLI** admitted to entering the Capitol and encouraging other members of the mob to “advance” – giving directions via both voice and hand signals. **HALE-CUSANELLI** told the CHS that if they’d had more men they could have taken over the entire building. **HALE-CUSANELLI** also admitted to taking a flag and flagpole that he observed another rioter throw “like a javelin” at a Capitol Police officer, which **HALE-CUSANELLI** described as a “murder weapon.” **HALE-CUSANELLI** stated his intent to destroy or dispose of the flag and flagpole as soon as he could.

Based on the foregoing, your affiant submits that there is probable cause to believe that **TIMOTHY LOUIS HALE-CUSANELLI** violated 18 U.S.C. §§ 1752(a)(1) and (2), which make it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do so; 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, 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 **TIMOTHY LOUIS HALE-CUSANELLI** 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.

Finally, your affiant submits there is probable cause to believe that **TIMOTHY LOUIS HALE-CUSANELLI** violated 18 U.S.C. 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.



SPECIAL AGENT, NCIS

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 15th day of January 2021.



A handwritten signature in cursive script that reads "Robin M. Meriweather".

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Robin M. Meriweather  
U.S. MAGISTRATE JUDGE