

STATEMENT OF FACTS

On January 6, 2021, your affiant, [REDACTED], was on duty and performing my official duties as a Special Agent with the Federal Bureau of Investigation (“FBI”). I have been a Special Agent since 2011 and am presently assigned to the Washington Field Office’s International Corruption Squad. I am currently also tasked with investigating criminal activity that occurred in and around the Capitol grounds on January 6, 2021. 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 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 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.

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 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 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.

On January 12, 2021, Defendant Tam Dinh Pham (“PHAM”) agreed to take part in an interview with JTTF Agents (“The Agents”) at his residence in Richmond, Texas regarding his involvement in the aforementioned events of January 6, 2021. During the interview, PHAM stated he was a Police Officer with the Houston Police Department (“HPD”) and that he had been a police officer for approximately 18 years. PHAM initially told The Agents he was in Washington, DC from January 5 – 7, 2021 for business reasons. He stated that he briefly attended President Trump's rally on January 6, 2021 but initially denied going to the Capitol building.

The Agents asked PHAM if they could look at the pictures on PHAM's cell phone during the time he was in Washington, DC. PHAM agreed to show them the photos on his phone. As PHAM was showing The Agents the photos, they noticed there were no photos in the album for the dates that PHAM had traveled to Washington, DC. Special Agent Slaughter asked PHAM if she could go to his Deleted photo album. PHAM agreed, and in that album, there were pictures and videos that were readily identifiable as being of the interior of the Capitol building.

At this time, Special Agent Slaughter advised PHAM that it was unlawful for him to make false statements to The Agents. In response, PHAM said he would tell the truth regarding his travel to Washington, DC. PHAM stated that he traveled to Washington, DC from Houston on January 5, 2021 with his wife and her friend, and that they stayed for two nights. PHAM stated that they originally traveled to Washington, DC for his wife's cooking business, and it happened to coincide with President Trump's rally. PHAM stated that he learned about the rally from Facebook and the only reason he went to the rally was to “see history.” He stated that he was not associated with any social media groups that were promoting the rally. PHAM stated he did not travel with any weapons, did not meet up with anyone there, and had no intention of committing any act of violence or vandalism at the Capitol.

PHAM stated that he, his wife, and her friend went to the rally early in the morning, around 7:00 am, but by that time the crowd was so big, he was stuck far away from the stage and had a hard time seeing or hearing President Trump's speech. After the rally was over, PHAM stated that he saw people walking towards the Capitol, so he began to follow. PHAM stated that neither his wife nor her friend went the Capitol with him.

PHAM stated that he climbed over some fences, which had been previously knocked over, and walked around some barricades. He stated he saw police officers, but he did not engage with them. PHAM stated that he continued walking past a garden and a broken or torn down fence, and he passed other barricades on his way to the Capitol. PHAM admitted to entering the Capitol building.

PHAM stated that once he was on the inside of the Capitol, he went into the Rotunda, where he looked at the historical art on the walls and took photographs and videos inside. PHAM stated that he remained inside of the Rotunda for 10-15 minutes before he left, and that he did not return to the Capitol.

PHAM provided The Agents with consent to digitally image or copy the contents of his phone, including his photos and videos. The Agents did so. The following photographs were located in PHAM's phone and captured as part of the imaging process.



The metadata associated with each of these photographs indicates that they were created on January 6, 2021 between 2:50 pm and 2:55pm.

The following screenshots were taken from a video located in PHAM's phone and captured as part of the imaging process.

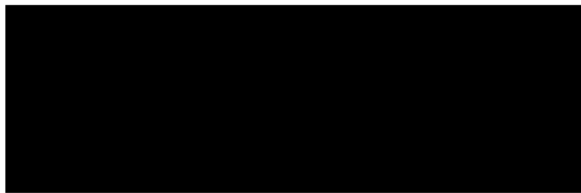


The metadata associated with the video from where these screenshots were taken indicates that it was created on January 6, 2021 at approximately 2:59pm. Your Affiant has reviewed the videos and the photographs.

Based on the nature of the photographs and videos, interactions with and knowledge of PHAM, and other evidence discussed herein, we believe that PHAM is the person depicted in photographs 1-4 and video screenshot 1. All five photographs and the video were taken by or of PHAM inside the Rotunda of the Capitol building on January 6, 2021.

Based on the foregoing, your affiant submits that there is probable cause to believe that Tam Dinh Pham 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 Tam Dinh Pham violated 40 U.S.C. § 5104(e)(2)(D) & (G) 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.



Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 19th day of January 2021.

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ZIA M. FARUQUI

UNITED STATES MAGISTRATE JUDGE