

## STATEMENT OF FACTS

Case: 1:23-mj-00141  
Assigned To : Harvey, G. Michael  
Assign. Date : 6/21/2023  
Description: Complaint W/ Arrest Warrant

### Affiant

Your affiant, [REDACTED] is a Federal Task Force Officer (hereinafter, "TFO") assigned to the Denver Field Office of the Federal Bureau of Investigation. In my duties as a TFO, I am responsible for investigating federal crimes that are connected to the State of Colorado. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a TFO, I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of a violation of Federal laws.

### Background on the Events of 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

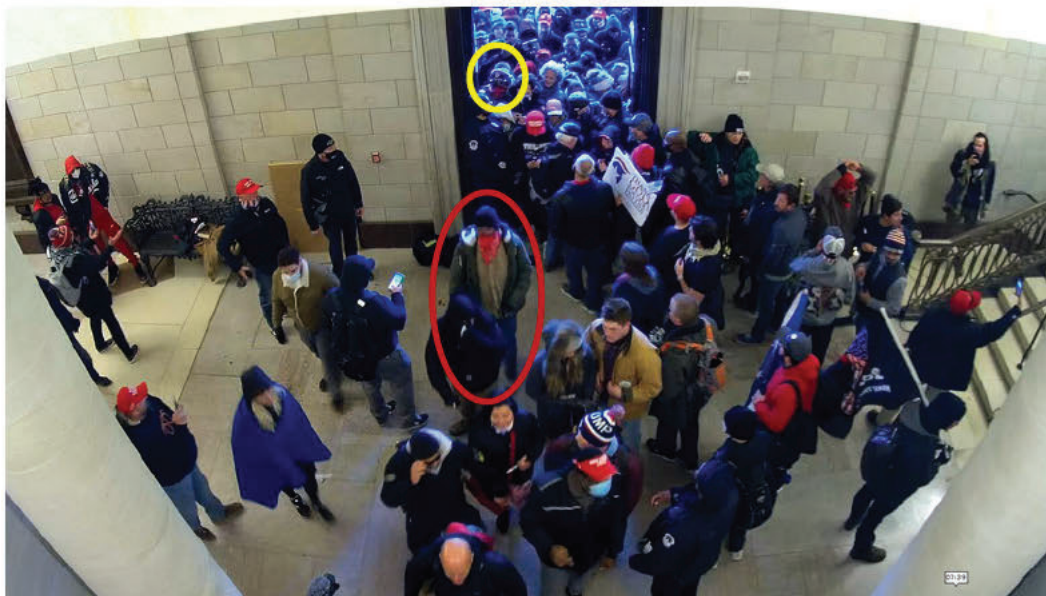
President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

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 U.S. Capitol building without authority to be there.

### **The Tyners' Entry into the Capitol**

Between approximately 1:30 p.m. and 2:00 p.m., a large crowd amassed on the East Front of the Capitol. This crowd became increasingly hostile to USCP and MPD officers who were holding the line on the East Front before eventually overtaking the line of officers and reaching the stairs on East Front leading up to the East Rotunda Door. Rioters briefly breached the East Rotunda Door at 2:25 p.m. but were quickly dispensed by police, who resecured the door. However, at 2:39 p.m., rioters breached the East Rotunda Door for a second time and, due to the overwhelming nature of the crowd of rioters, law enforcement officers were not able to resecure the door. A crowd of rioters then began to flow into the Capitol through the East Rotunda Door.

At approximately 3:01p.m., David Christian Tyner (hereinafter, "David Tyner")<sup>1</sup> entered the Capitol through the East Rotunda Door. He was dressed in a blue jeans, a green overcoat with fur-lined hood, red bandana which he had fashioned into a face mask, tinted ski goggles, gray and black gloves, and a dark colored beanie.



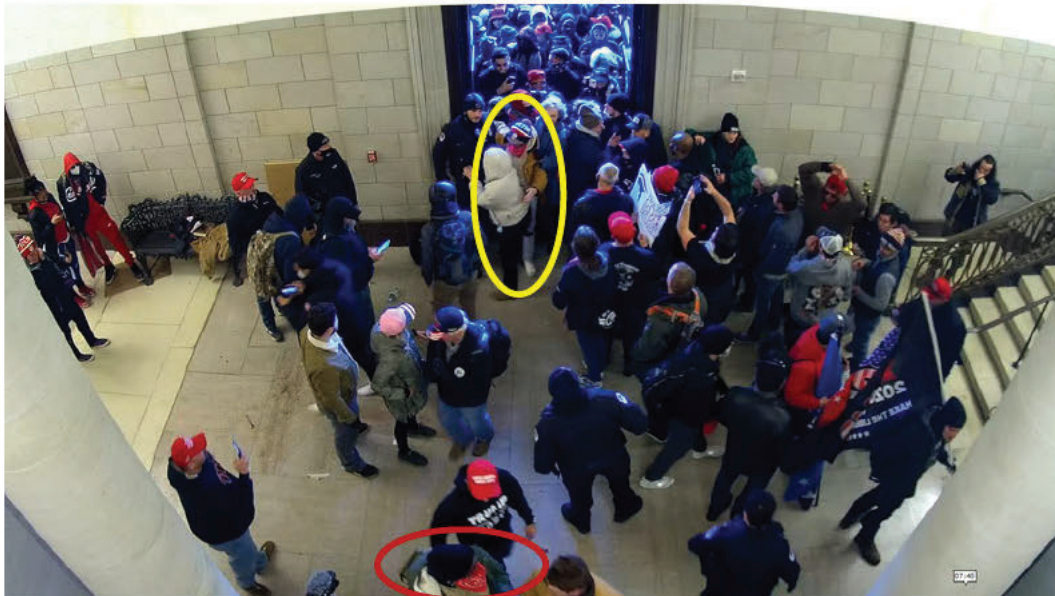
*Figure 1.*

Seconds later, David Tyner's son, Christian Peter Tyner (hereinafter, "Christian Tyner")<sup>2</sup> (collectively hereinafter, "the Tyners") entered the Capitol via the East Rotunda Door. Christian

<sup>1</sup> David Tyner is circled in red throughout.

<sup>2</sup> Christian Tyner is circled in yellow throughout.

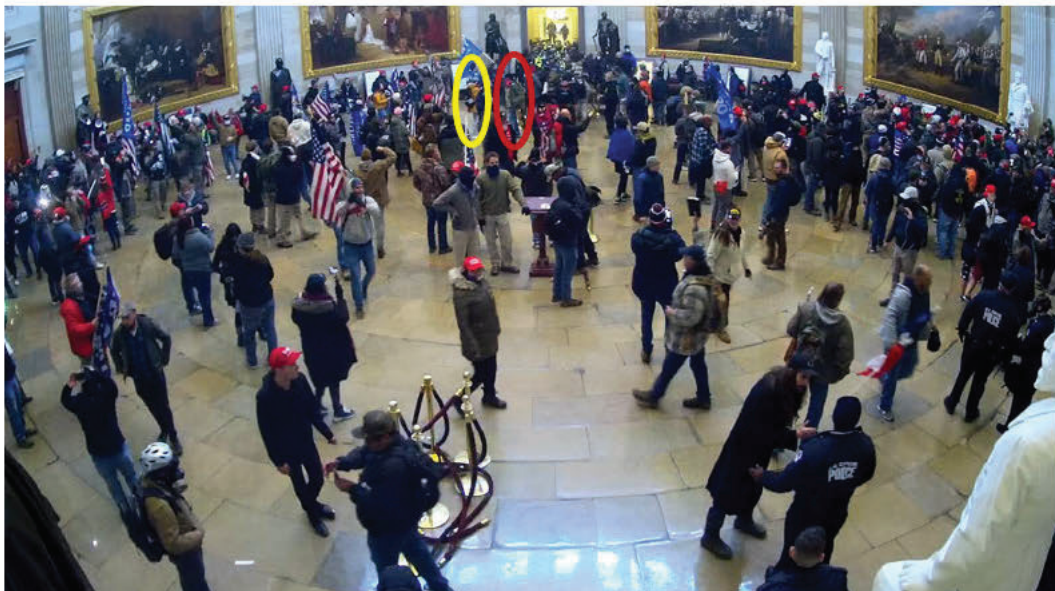
Tyner was dressed in what appear to be faded, ripped blue jeans, gray hoodie, a distinctive yellow-brown colored jacket, white shoes, and a red, white, and blue “Trump” branded beanie. Christian Tyner also wore a red bandana as a face mask and a pair of tinted ski goggles.



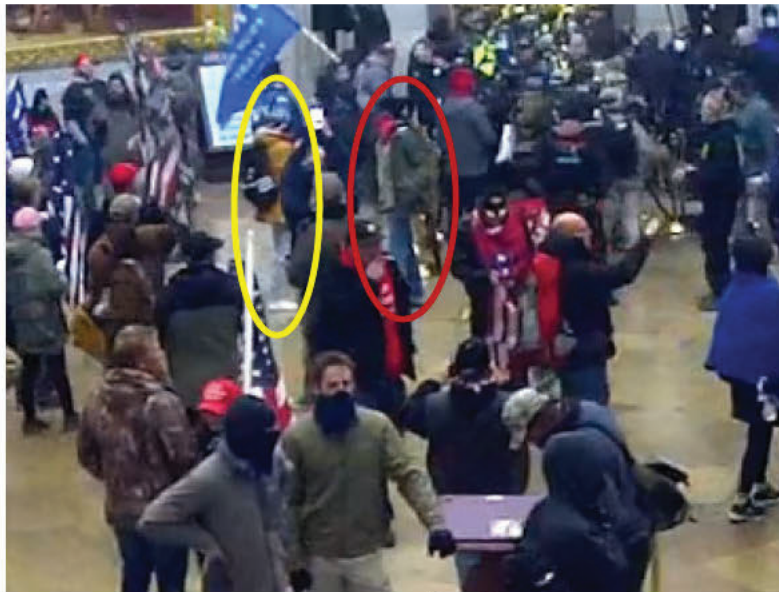
*Figure 2.*

### **The Tyners’ Activities in the Capitol Rotunda**

The Tyners entered the Rotunda at approximately 3:02 p.m. They quickly made their way to approximately the center point of the Rotunda.

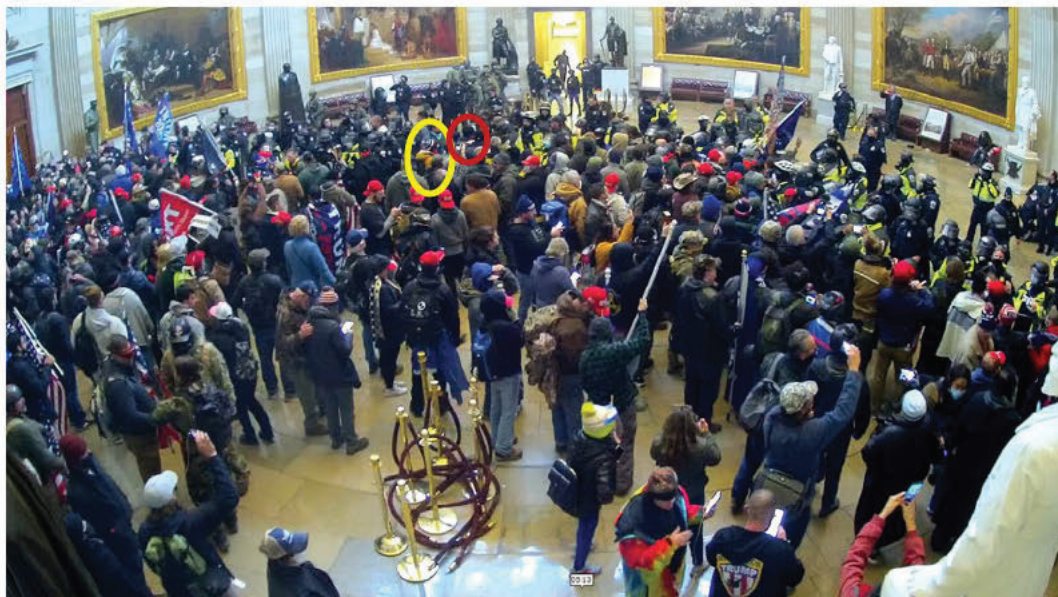


*Figure 3.*



*Figure 3 (detail).*

The Tyners remained in the Rotunda for approximately five minutes before a group of law enforcement officers entered the area and formed a line to begin moving the rioters from the Rotunda. As the line of officers began advancing to move the rioters out of the Rotunda, David Tyner confronted an officer within the line at approximately 3:08 p.m.



*Figure 4.*



*Figure 4 (detail).*

After confronting the officers, the Tyners began making their way out of the Rotunda and moved in the direction of the East Rotunda Door at approximately 3:09 p.m., but briefly turned back to line at the line of law enforcement officers.



*Figure 5.*



*Figure 6.*



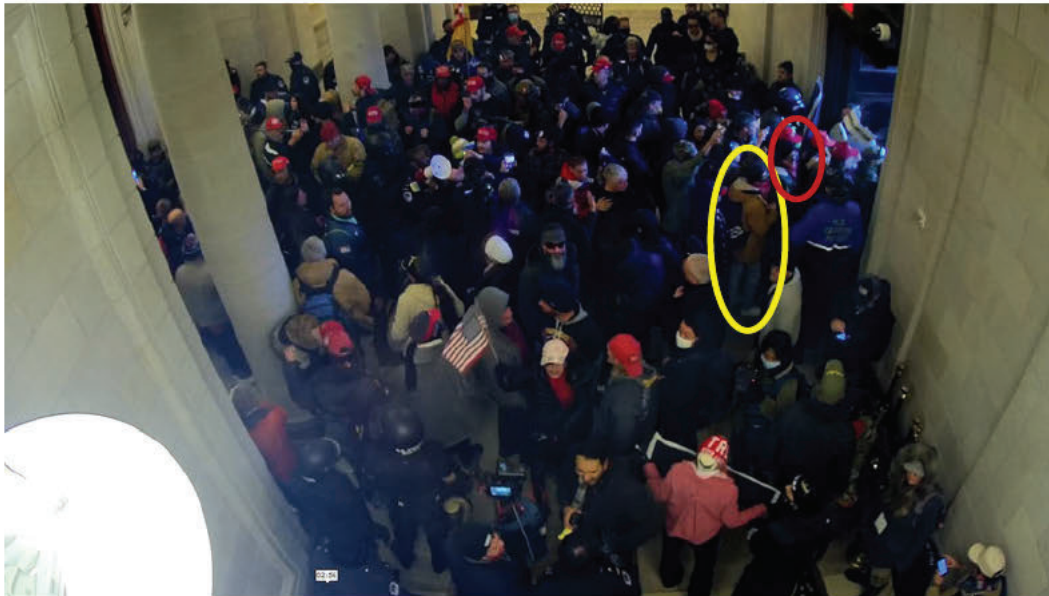
*Figure 6 (detail).*

The Tyners walked out of the Rotunda and past the East Stairs. As the Tyners were exiting the Rotunda, David Tyner pulled down his bandana, revealing his face, and Christian Tyner removed his beanie, exposing his hair.



*Figure 7.*

The Tyners moved with the crowd and exited the Capitol through the East Rotunda Door at approximately 3:17 p.m.



*Figure 8.*

## Identification

On January 22, 2021, the FBI received a tip from a confidential human source working with open-source materials which identified the Tyners as having been present at the Capitol on January 6, 2021. The source made this identification based on the Tyners appearance, unmasked, in open-source materials, two of which appear below.



*Figure 9.*



*Figure 10.<sup>3</sup>*

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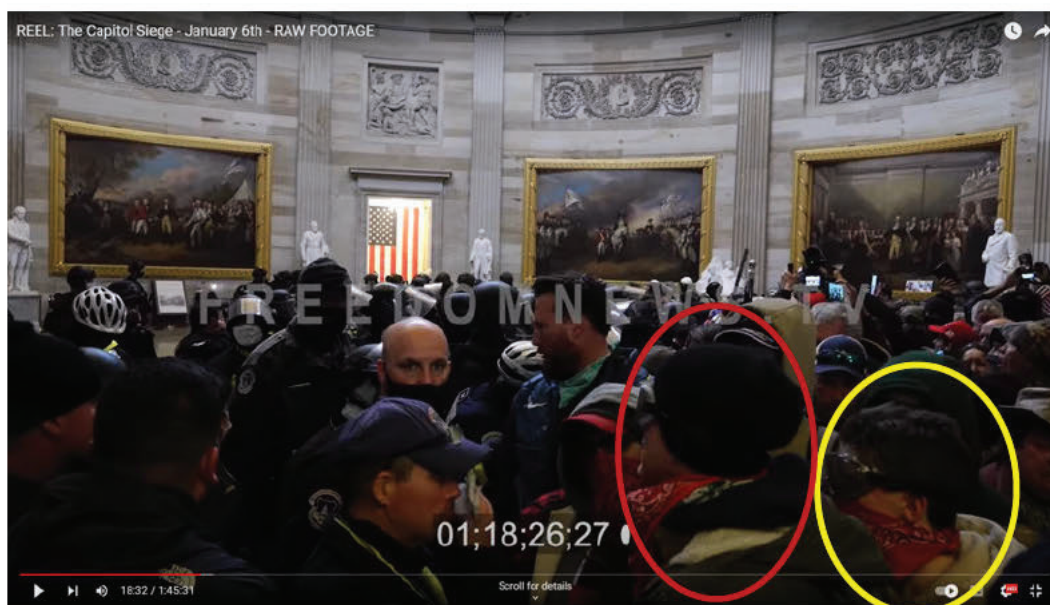
<sup>3</sup> During a non-custodial interview, David Tyner reported that Christian Tyner received the injuries depicted in Figure 10 during an effort by police to move the crowd of rioters off the East Steps. After an exhaustive search and review of video evidence, the FBI has not, at this time, been able to locate any video evidence that either confirms or refutes David Tyner's account.



On January 27, 2021, the FBI received an anonymous tip which stated that “Dave and Christian Tyner participated in the Capitol (sic) break-in.” Based on the information provided by the confidential human source and the anonymous tip, on April 30, 2021, the FBI conducted a non-custodial interview with David Tyner outside of his residence in Highlands Ranch, Colorado. During this interview, agents showed David Tyner Figure 10 and asked him who it depicted. David Tyner responded “that’s definitely me” and further stated that he and Christian Tyner drove from Colorado to Washington, D.C., on January 5, 2021, as part of a “father-son” trip. He further stated that once they arrived in D.C., they stayed at a hotel near the Capitol, woke up on January 6, 2021, and went to the rally and speech at the Ellipse.

David Tyner stated that, once they were back outside their hotel, they followed a crowd to the Capitol but had no idea what was going on. David Tyner reported that he just saw people "swarming" the building and that they saw people everywhere. David Tyner said they got to within 25-30 feet of the front doors of the Capitol where at one point he saw tear gas "billowing out" the front door. David Tyner said he and Christian never entered the Capitol.

On June 3, 2021, another confidential human source working with open-source materials located the Tyners in the below publicly available video.



*Figure 11*

I conducted a review of USCP Capitol CCV footage, the open-source materials that had been submitted to the FBI, and records maintained by the State of Colorado. In reviewing these materials, I concluded that the clothing worn by the Tyners in the open-source materials is virtually identical to that of the figures seen throughout the Capitol CCV footage, including the red bandanas and ski goggles worn by the both of the Tyners, their respective knits caps, the distinctive yellow-brown jacket and ripped jeans worn by Christian Tyner, and the green jacket with a fur lined hood worn by David Tyner. Moreover, the physical attributes of the persons identified in the Capitol CCV, including their height, body composition, and facial structures, are consistent with my

personal knowledge of David Tyner’s appearance, my knowledge of Christian Tyner’s appearance, and records about those physical attributes maintained by the State of Colorado. Based upon my review of the evidence that had been provided to the FBI and David Tyner’s interview with the FBI, I submit that there is probable cause to believe that David Tyner and Christian Tyner entered the United States Capitol on January 6, 2021.

### Offenses

Based on the foregoing, your affiant submits that there is probable cause to believe that the Tyners 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 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 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 the Tyners violated 40 U.S.C. § 5104(e)(2)(D) and (G), which, respectively, 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 to (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 21<sup>st</sup> day of June 2023.

G. Michael  
Harvey



Digitally signed by  
G. Michael Harvey

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HONORABLE G. MICHAEL HARVEY  
U.S. MAGISTRATE JUDGE