

Case: 1:23-mj-00120  
Assigned To : Upadhyaya, Moxila A.  
Assign. Date : 6/7/2023  
Description: Complaint W/ Arrest Warrant

## STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the Federal Bureau of Investigation Baltimore Field Office – Wilmington Resident Agency Joint Terrorism Task Force (JTTF). In my duties as a Special Agent, I investigate criminal activity pertaining to international and domestic terrorism and Counterintelligence. Currently, I am tasked with investigating criminal activity 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, detection, 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 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.

### **Specific Facts Pertaining to Andrew Michael Yavoich**

On January 11, 2022, an FBI Confidential Human Source (“CHS”) who has been deemed credible and reliable through previous reporting related to the riot at the United States Capitol on January 6, 2021, provided images comparing an individual identified as “#insider997” to various social media accounts link to an individual named Andrew YAVOICH. One such social media account was a Facebook account with a username of andyman83.

A review of official surveillance footage obtained from the United States Capitol Police showed the individual identified as “#insider997” to be using a cell phone from inside the Capitol building. A search warrant served on Verizon showed that a number associated with Andrew YAVOICH’s phone calls between January 05, 2021 to January 07, 2021 were made in Washington, D.C.



Agents obtained a photograph from the Delaware Criminal Justice System on January 12, 2022, and a photograph from a Florida driver’s license matching an individual named ANDREW MICHAEL YAVOICH. The two photographs depicted the same individual and each matched photographs of “#insider997” taken from January 6, 2021.

On January 18, 2022, FBI Baltimore opened a full investigation into the allegations that YAVOICH unlawfully entered and remained in the restricted building or grounds of the United States Capitol Building on January 6, 2021.

On May 10, 2022, FBI agents interviewed YAVOICH at his residence. Agents noted that the only car parked in YAVOICH's driveway at the time of the interview was one registered to YAVOICH. The individual that opened the door was the same individual depicted in the photographs from the Capitol on January 6, 2021. YAVOICH confirmed his identity and provided the same cell phone number agents had on file from the aforementioned legal process. Agents were able to confirm that the individual that opened the door is the one depicted in the photographs from January 6, 2021.

Pictures from January 6, 2021 show YAVOICH unlawfully within the restricted building or grounds of the United States Capitol Building on January 6, 2021.

Image 3:



Image 4:



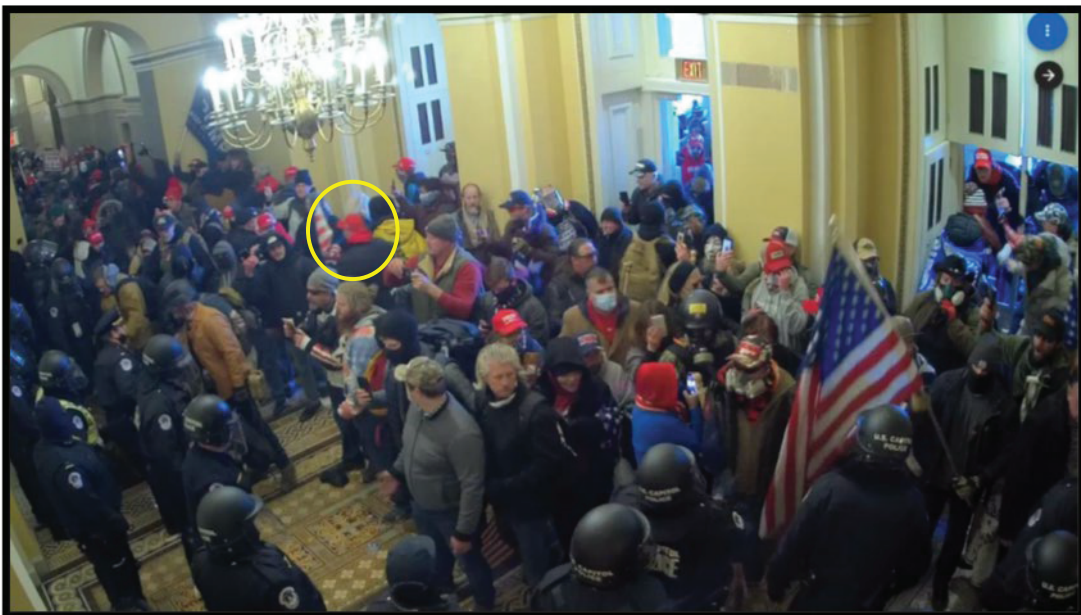
United States Capitol surveillance footage confirmed that YAVOICH entered the United States Capitol Building on January 6, 2021 at approximately 2:49 EST through the Senate Wing Door. YAVOICH was wearing a black jacketed, red hoodie, red “keep America Great baseball cap, blue jeans, and carried a U.S. flag upon entering.

Image 5:



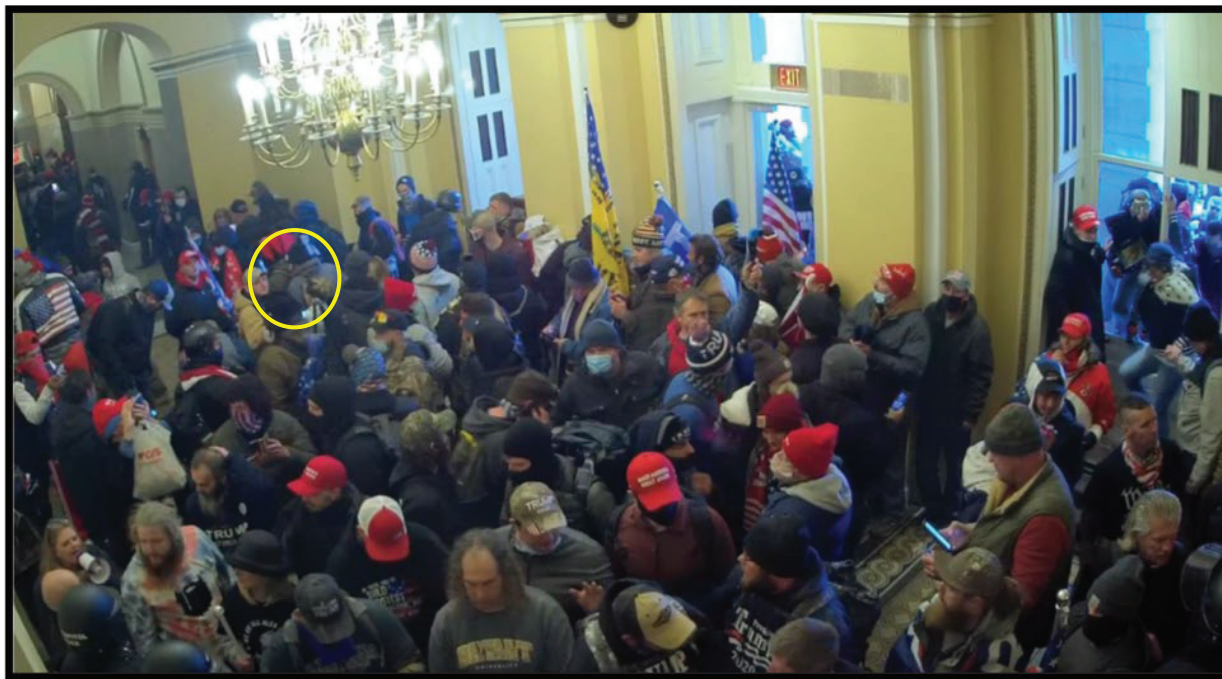
Upon entering the United States Capitol, YAVOICH walked south towards the Crypt.

Image 6:



At 2:59 PM, YAVOICH reentered the Northwest Alcove where he lingered briefly, before heading south towards the Crypt at 3:00.

Image 7:



At 3:03 PM, YAVOICH entered the Crypt.

At 3:03 PM, YAVOICH exited the Crypt, headed towards the Memorial Door.

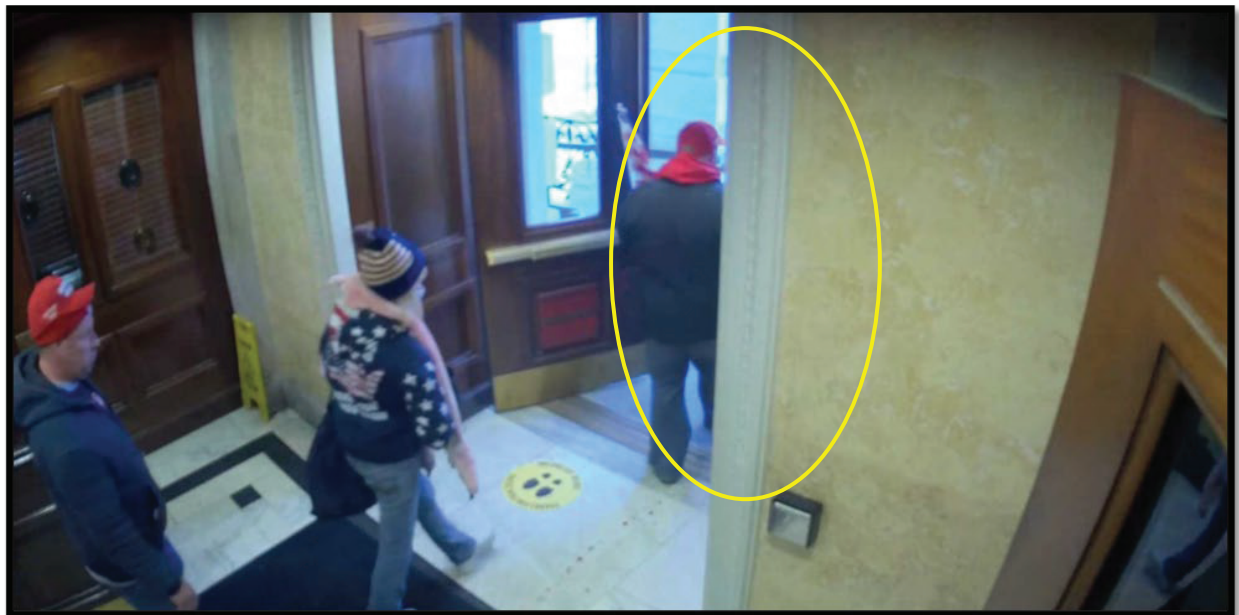
United States Capitol surveillance camera data determined YAVOICH spent approximately 16 minutes in the Capitol before exiting the Capitol approximately 3:05 EST. At 3:04 PM, YAVOICH passed through the Southwest Alcove on his way to exit the Capitol.

Image 8:



At 3:06 PM, YAVOICH exited the Capitol through the South Door.

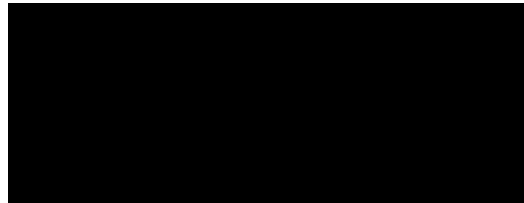
Image 9:



A search warrant on the iCloud account ayavoich@yahoo.com, revealed text message conversations between YAVOICH and at least one individual on January 06, 2021. This individual asked YAVOICH to be safe and whether he would see YAVOICH on CNN of which YAVOICH responded with “maybe”. YAVOICH later texted this same individual saying he (YAVOICH) was back at his hotel. On January 07, 2021, another individual texted YAVOICH to make sure YAVOICH was safe. YAVOICH responded that he was in his hotel and that DC was on lockdown.

Based on the foregoing, your affiant submits that there is probable cause to believe that YAVOICH 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.

Finally, your affiant submits there is also probable cause to believe that YAVOICH violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly 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 parade, demonstrate, or picket in any of the Capitol Buildings.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 7<sup>th</sup> day of June 2023.

A handwritten signature in blue ink that reads "M. A. Upadhyaya". To the right of the signature is a circular official seal of the U.S. District &amp; Bankruptcy Courts for the District of Columbia. The seal features an eagle with wings spread, holding an olive branch and arrows, with a shield on its chest. The text around the seal reads "U.S. DISTRICT &amp; BANKRUPTCY COURTS" and "DISTRICT OF COLUMBIA".

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MOXILA A. UPADHYAYA  
U.S. MAGISTRATE JUDGE