

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	Case No: 21-cr-
	:	
v.	:	
	:	40 U.S.C. § 5104(e)(2)(D)
ERIK RAU	:	
	:	
Defendant.	:	
	:	

**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, ERIK RAU, 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 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.

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 \$1.4 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.

***ERIK RAU and DEREK JANCART'S Participation in the January 6, 2021, Capitol Riot***

8. RAU and JANCART traveled together to Washington, D.C. from Ohio to attend the Stop the Steal rally to protest the results of the 2020 presidential election. JANCART brought a gas mask to Washington, D.C. but did not use it.

9. RAU and JANCART watched from the West Lawn while rioters broke through the police line and rushed up the stairs of the Capitol. RAU video-taped that moment, stating on the video, “We made it up to the Capitol. . . . We have the police surrounded! We have you surrounded!” In the background, rioters can be heard yelling, “get him!” and “traitors gonna hang!” When the rioters broke through the police line, RAU can be heard screaming, “Yeah! They just pushed through the guards!”



10. RAU and JANCART then entered the Capitol Building through the Senate Door. RAU and JANCART then traveled through the Crypt. After exiting the Crypt, RAU and JANCART took the stairwell south of the Crypt to the second floor of the Capitol and walked towards the Speaker's conference room. RAU stepped inside of the Speaker's conference room while JANCART stayed outside and took a photo.

11. JANCART posted a photo of the door to the Speaker's conference room to Facebook with the caption, "We're In[.]"

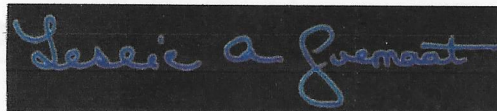
12. RAU and JANCART then walked through Statuary Hall. After leaving Statuary Hall, RAU and JANCART walked past the entrance to the House Chamber and exited through a Southeast exit of the Capitol after being ordered by officers to leave.

13. Both RAU and JANCART knew at the time they entered the U.S. Capitol Building that that they did not have permission to enter the building and they engaged in disorderly and disruptive conduct in the Capitol Building with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress.

Respectfully submitted,

CHANNING D. PHILLIPS  
Acting United States Attorney  
D.C. Bar No. 415793

By:



Assistant United States Attorney

DEFENDANT'S ACKNOWLEDGMENT

I, Erik Rau, 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: 7/8/21

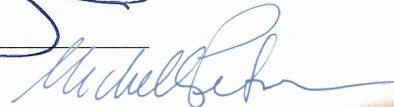
  
\_\_\_\_\_  
Erik Rau  
Defendant

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: 7-8-21

  
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Brian Jostyn  
Attorney for Defendant

  
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7/22/2021