

STATEMENT OF FACTS

Your affiant, [REDACTED] (SA) of the Federal Bureau of Investigation (FBI) and have been so employed for approximately twenty-five years. I am currently assigned to the Joint Terrorism Task Force (JTTF) of the Providence Resident Agency of the Boston Division of the FBI, and my duties include conducting investigations of potential violations of federal criminal laws. During my tenure as an SA, I have been assigned to the FBI Boston Division JTTF for approximately seventeen years. I have extensive training and experience in the conduct of national security and federal criminal investigations. I have been the affiant on and have participated in the execution of numerous federal search and arrest warrants in a variety of national security and criminal investigations, many of which involved the use of computers, smartphones, and other internet enabled devices. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As an FBI SA, 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.

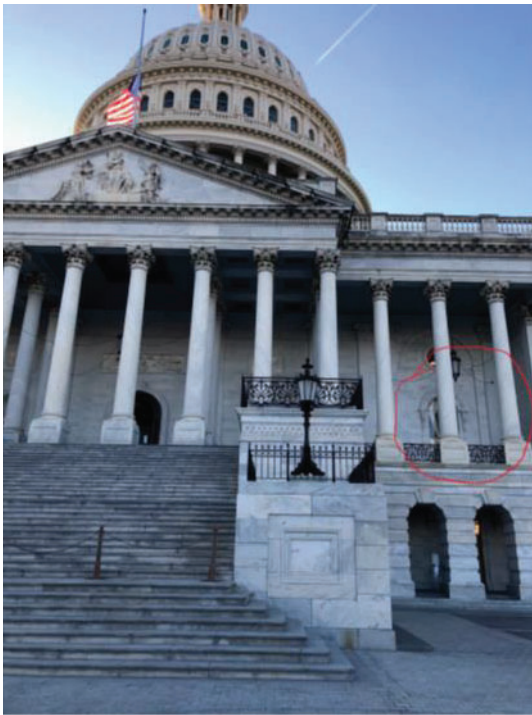
Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President

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.

Facts Specific to Juan RODRIGUEZ and Alexander FAN

At approximately 2:15 pm, Hunter Ehmke (previously charged for his conduct on January 6 in *United States v. Ehmke*, 21-CR-00029-TSC) jumped onto a ledge, which was next to the Rotunda Doors at the Capitol building. The ledge is circled in red in the picture below:

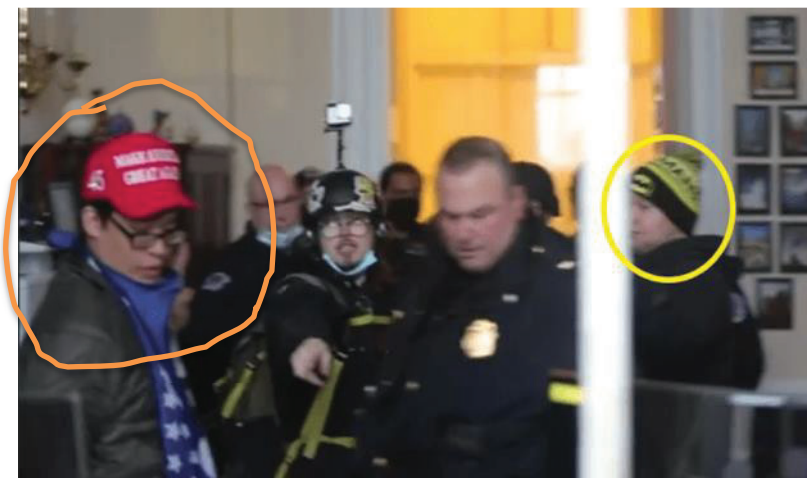


Once there, Ehmke kicked the lower three panels of the window above the ledge, shattering them all. He then punched other panels on the next level of the same window. Capitol Police stopped Ehmke, identified him, ordered him to leave the Capitol grounds, and then released him back into the crowd. By that point, the glass was broken but remained largely in the panels, as depicted below:



This window led into Office S202, a Senate staff office.

At around 4:00 pm, several Capitol Police officers were patrolling the Rotunda and its adjoining hallways and heard voices coming from Office S202. Officers sought to open the door, but it was locked. The individuals inside Office S202 did not open the door, despite repeated calls from the officers to unlock the door. Ultimately, someone did unlock the door, and the officers gained access to Office S202. Once inside, officers saw defendants Juan RODRIGUEZ, Alexander FAN and a third man, who has not yet been identified. The previously-shattered glass was no longer in the window; the panes were empty; and glass littered the floor of Office S202. Below is an open-source image showing FAN, RODRIGUEZ, an unidentified man in a helmet, and several Capitol Police officers in Office S202:



Video from inside the Capitol building reflects officers escorting RODRIGUEZ (wearing the Batman black and yellow ski hat), FAN (wearing the red “Make America Great Again”

baseball hat) and the third man (wearing the helmet) out of Office S202 and into the hallway at around 4:25 pm:¹



Officers then walked FAN, RODRIGUEZ and the third man through the Rotunda and out the Rotunda door of the Capitol.



Minutes later, RODRIGUEZ was back, standing on the ledge outside the same window. An open-source image captured RODRIGUEZ at the window:

¹ The timestamps in the images above are in Universal Coordinated Time, five hours ahead of Eastern Standard Time.



RODRIGUEZ asked officers for his cell phone, which he had left charging in Office S202. Officers obliged. They found his phone, checked to confirm that it was his, and then returned it to RODRIGUEZ. No more glass remained in two of the three lower panes in the window, so it was easy to hand the phone over to RODRIGUEZ, who was standing outside.

Identification and Interviews of RODRIGUEZ and FAN

According to records obtained through a search warrant served on Google, a mobile device associated with juanrodriguezprofessional@gmail.com was present at the U.S. Capitol on January 6, 2021. Google estimates device location using sources including GPS data and information about nearby Wi-Fi access points and Bluetooth beacons. This location data varies in its accuracy, depending on the source(s) of the data. As a result, Google assigns a “maps display radius” for each location data point. Thus, where Google estimates that its location data is accurate to within 10 meters, Google assigns a “maps display radius” of 10 meters to the location data point. Finally, Google reports that its “maps display radius” reflects the actual location of the covered device approximately 68% of the time. In this case, Google location data shows that a device associated with juanrodriguezprofessional@gmail.com was within an area of the U.S. Capitol Building or Grounds that corresponds approximately to the restricted perimeter on January 6, 2021 from approximately 1:18:33 p.m. to 4:45:32 p.m., with a maps display radius ranging from 13 to 197 feet. Some of these location data points encompass an area that is partially within the U.S. Capitol Building. The “recovery SMS” listed for the account is (401) 617-1475, which government databases attribute this phone number to RODRIGUEZ. Further, the gmail address includes the name “Juan Rodriguez,” which is RODRIGUEZ’s name.

Agents interviewed RODRIGUEZ on September 7, 2022. He confirmed that he was in Washington, D.C. on January 6, 2021 to attend the Trump rally. He confirmed that he walked to the Capitol. He identified himself in a photo from January 6, wearing the yellow Batman hat. He denied entering the Capitol.

FAN sent a photograph of his hat sitting on a desk inside the Capitol to another individual. The FBI interviewed that individual, who stated that the picture was taken inside the Capitol by FAN.

Agents interviewed FAN on May 11, 2021. FAN confirmed that he had flown to Washington, D.C. to attend the January 6, 2021 Trump rally. He confirmed that he walked to the Capitol and entered the Capitol Building twice. The first time, he was turned around by the police. The second time, he crawled through a window into an office. FAN provided his interviewer with a selfie of himself in the office:



Agents who interviewed FAN and RODRIGUEZ have also identified them in the open-source images included above.

Based on the foregoing, your affiant submits that there is probable cause to believe that Juan RODRIGUEZ and Alexander FAN 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 Juan RODRIGUEZ and Alexander FAN violated 40 U.S.C. §§ 5104(e)(2)(C), which makes it a crime to willfully and knowingly (C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of— (i) either House

of Congress or a Member, committee, officer, or employee of Congress, or either House of Congress; or (ii) the Library of Congress.

Your affiant submits there is also probable cause to believe that FAN and RODRIGUEZ violated 40 U.S.C. § 5104(e)(2)(D) and (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.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 22nd day of June 2023.

G. Michael
Harvey

Digitally signed by G.
Michael Harvey
Date: 2023.06.22 11:19:57
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G. MICHAEL HARVEY

U.S. MAGISTRATE JUDGE