

## STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to Federal Bureau of Investigation. In my duties as a special agent, I have been 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.

The U.S. Capitol Building is equipped with closed circuit video recording camera (hereinafter “CCTV”) at numerous locations in the Capitol Building. These CCTV cameras recorded a significant amount of the activity that day. In addition, 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. Photographs and videos of several of these persons were disseminated via social media and other open-source online platforms.

During the course of the investigation into the events of January 6, 2021, your affiant has identified Kelly Lynn FONTAINE and Brian DULA as two of the individuals who were unlawfully inside of the Capitol and the restricted area. In numerous photographs and videos I have reviewed, some of which are pictured and described below, FONTAINE and DULA are seen in Washington, D.C. in and around the U.S. Capitol on January 6, 2021. On that date FONTAINE was wearing a red TRUMP 2020 baseball cap, black jacket, jeans, and a red, white and blue, flag-themed scarf/wrap. DULA was also wearing a red TRUMP 2020 baseball cap, as well as a dark leather jacket and jeans.

On March 24, 2022, an anonymous tip was received by the FBI Chicago Field Office that Kelly FONTAINE was present outside the U.S. Capitol, stating: "PHOTO #5 KELLY LYNN FONTAINE ILLINOIS RESIDENT ? - ALL PICTURES FROM HER BEING THERE WHERE TAKEN DOWN (FACEBOOK)BRAGGED ABOUT ATTENDENCE AND BEING WHERE THE VIOLENCE WAS HAPPENING - NOT SURE BUT LOOKS LIKE HER." Further investigation, some of which is detailed below, revealed that FONTAINE and DULA were both at the U.S. Capitol on January 6, 2021, and that both of them entered the Capitol Building on that day.

Investigation conducted in the case confirmed that FONTAINE traveled with DULA to the Washington, D.C., area just prior to January 6, 2021. Airline records confirm that on January 5, 2021, FONTAINE and DULA flew from Chicago, Illinois, to Reagan National Airport, in Arlington, Virginia, connecting through LaGuardia Airport in New York.

In furtherance of this investigation, a search warrant was sought and obtained for information contained in the Facebook account of FONTAINE. For this search warrant your affiant has learned that in advance of their travel to the Washington, D.C., area, FONTAINE had sent an image, Exhibit 1, promoting the protest/rally over Facebook on December 20, 2020.



Exhibit 1– Image sent via Instant Message from FONTAINE’s Facebook account

Further, on January 5, 2021, FONTAINE commented on an other user’s Facebook post, “Bring it!!! Headed to DC!!” Additionally, saved on FONTAINE’s Facebook account was the below photograph, cropped in this affidavit to exclude an unrelated individual, believed to have been taken by FONTAINE onboard one of the two flights taken by her and DULA on January 5, 2021. DULA appears to the right of FONTAINE in the photograph. Exhibit 2.



Exhibit 2 – Photograph from FONTAINE’s Facebook account

Business records obtained from the Hilton Hotel Corporation established that DULA was registered as a guest at the Hilton Hotel in Arlington, Virginia, checking in on January 5, 2021, and checking out on January 7, 2021.

According to publicly available video I have reviewed, on the morning of January 6, 2021, FONTAINE and DULA attended the protest on the National Mall, and were filmed by another person in the crowd while they watched the speech given by then President Trump. Exhibit 3.

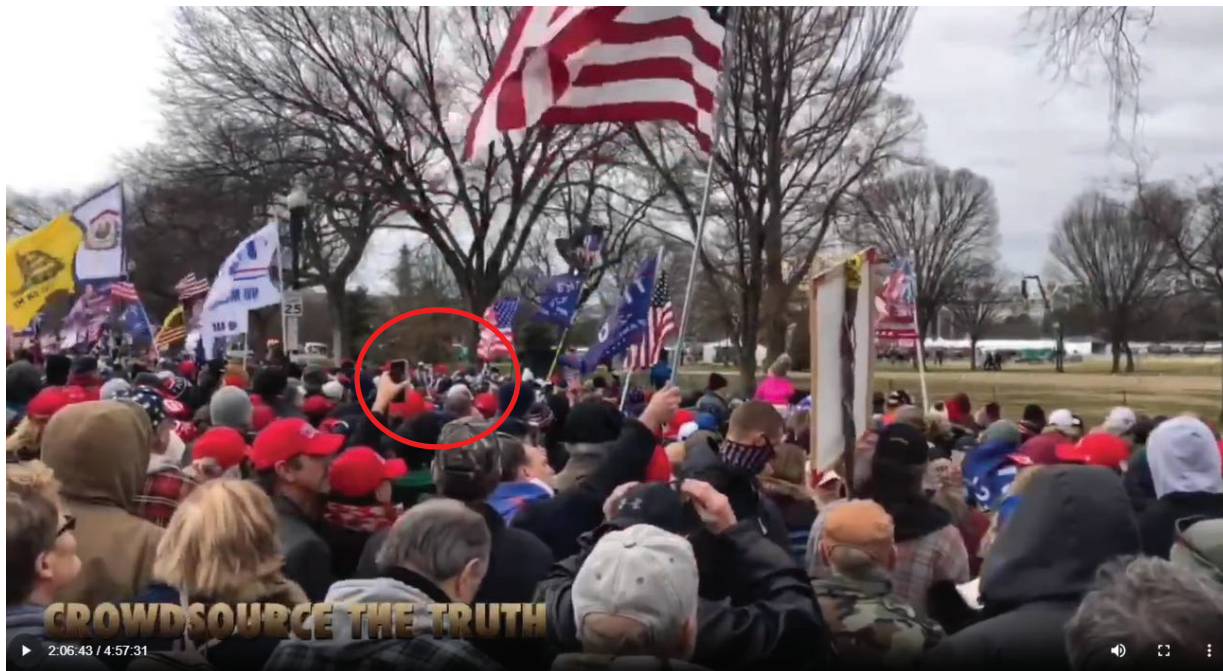


Exhibit 3 – still image from video located at:

[https://ia804504.us.archive.org/30/items/2LzdgGBED7YCvkDLC/Washington\\_D\\_C\\_January\\_6\\_2021\\_Capitol\\_Siege\\_MAGA\\_Gone\\_Mad\\_or\\_Antifa\\_False\\_Flag.mpeg4](https://ia804504.us.archive.org/30/items/2LzdgGBED7YCvkDLC/Washington_D_C_January_6_2021_Capitol_Siege_MAGA_Gone_Mad_or_Antifa_False_Flag.mpeg4)

Along the way between the area of the Ellipse and the U.S. Capitol Building, records found in FONTAINE’s Facebook account show that she took a picture of her and DULA, with the Capitol Building in the background. Exhibit 4.



Exhibit 4 – Photograph from FONTAINE’s Facebook Account

According to video footage, FONTAINE and DULA then worked their way past the restricted perimeter around the Capitol and up to the Upper Northwest Terrace of the U.S. Capitol Building. As they approached the Upper Terrace they were captured on video taken by a person in the crowd. In the video at 0:21 a torn down bicycle rack barricade with yellow “Do Not Cross” tape is shown in frame on the Capitol steps. Exhibit 5. Two seconds later as the video pans left FONTAINE can be seen moving toward the U.S. Capitol building wearing a red cap and distinctive flag-themed scarf wrap. Exhibit 6. Moments later the video shows a partially obscured individual walking with FONTAINE who matches the physical description and dress of DULA. Based on their position at that time, I believe DULA and FONTAINE walked right by the downed barriers as they approached the Capitol building.



Exhibit 5 - Still frame of video, time stamp 0:21 located at [https://archive.org/download/RXGNGvjfsGY3aan8e/goodlionfilms\\_IMG\\_5476\\_1\\_.mpeg4](https://archive.org/download/RXGNGvjfsGY3aan8e/goodlionfilms_IMG_5476_1_.mpeg4)



Exhibit 6 - Still frame of video, time stamp 0:23 located at [https://archive.org/download/RXGNGvjfsGY3aan8e/goodlionfilms\\_IMG\\_5476\\_1\\_.mpeg4](https://archive.org/download/RXGNGvjfsGY3aan8e/goodlionfilms_IMG_5476_1_.mpeg4)

Once FONTAINE and DULA reached the Upper Northwest Terrace of the U.S. Capitol, video footage shows they joined with hundreds of other protestors as they filled the courtyard. Based on my investigation, I know that during this time rioters were attempting entry through both the Senate Wing Doors and through a side door north of Senate Wing Doors. This side door, sometimes referred to as the Senate Paliamentarian Door or the Senate Fire Door, is at the top of a small set of stairs and was locked and, like all other doors at the U.S. Capitol that day, not open to the public.

In video taken by another person in the crowd on the Upper Northwest Terrace, FONTAINE and DULA were captured on the video multiple times, including at timestamp 5:33 and again at 6:13. Exhibit 7. At that time, within FONTAINE and DULA’s field of view, at least one individual was climbing up the exterior of the building and smoke could be seen coming from the area of the Senate Wing Doors, at which time a protestor exclaimed, “that’s tear gas... they got tear gas out.” Exhibit 8.



Exhibit 7 - <https://www.youtube.com/watch?v=JNNY2zDuWOI&t=234s> at 6:13



Exhibit 8 - <https://www.youtube.com/watch?v=JNNY2zDuWOI&t=234s> at 5:53

I reviewed a photograph in FONTAINE's Facebook records showing that during their time on the Upper Northwest Terrace FONTAINE also took a photograph of herself giving a thumbs up, with the area of the Senate Wing Doors and the Parliamentarian Door visible in the background. Exhibit 9.





Exhibit 9

At approximately 2:42 pm, according to video footage and my knowledge of the events that day, a rioter was able to break the glass portion of the Senate Parliamentarian's Door, Exhibit 10, and then forced the door open. At that point numerous rioters entered and pushed officers stationed inside of the door backward. Exhibit 11. Dozens of additional protestors then began entering the Capitol Building through the breached doorway, during which time FONTAINE took a photograph. Exhibit 12.



Ex. 10 -Screenshot from <https://twitter.com/LisaBennatan/status/1346915374785306624>



Exhibit 11 - Capitol Police CCTV screenshot



Exhibit 12 – Photograph saved on FONTAINE’s Facebook account

FONTAINE and DULA then moved forward and entered the U.S. Capitol through that door at approximately 2:55 p.m., only minutes after the initial violent breach at 2:42 p.m. Your affiant is aware of the time of their entry as I have located U.S. Capitol CCTV footage where FONTAINE and DULA are captured entering the U.S. Capitol. Exhibit 13.

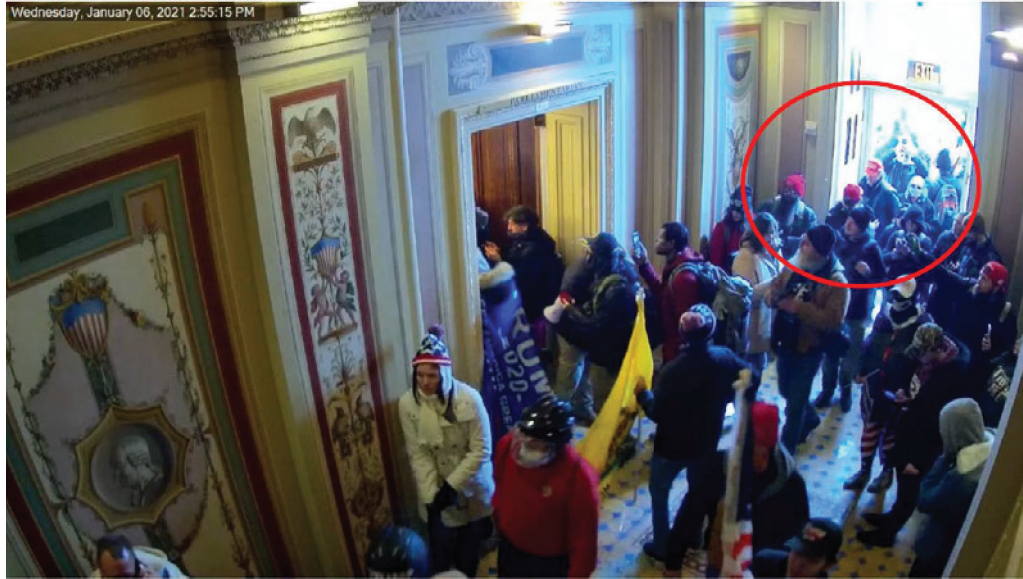


Exhibit 13 – Still image of U.S. Capitol CCTV

Capitol CCTV captured them appearing to take pictures and/or video as they walked into the U.S. Capitol Building. Exhibit 14. After FONTAINE posed for DULA the two walked further inside the U.S. Capitol Building, walking down the north hallway of the Senate Wing of the Capitol. FONTAINE and DULA walked through the Lower Senate Corridors and traveled toward the North Door of the U.S. Capitol, Exhibit 15, where they are believed to have exited at approximately 3:06 pm.



Exhibit 13 – Still image of U.S. Capitol CCTV



Exhibit 15 – Still image of U.S. Capitol CCTV

During the course of the investigation, FONTAINE and DULA agreed to be interviewed by FBI agents. During a consensual interview on September 26, 2022, in Romeoville, Illinois, both FONTAINE and DULA admitted that they had flown to Washington, D.C. from Illinois in advance of January 6, 2021. They said that they travelled together and stayed the night of January 5, 2021, at a hotel. They said that they attended the rally on January 6, 2021, then walked over to the U.S. Capitol Building. Both admitted to entering the building that day. FBI agents also conducted interviews of individuals who knew FONTAINE. Three of these individuals were shown photographs from the events of January 6, 2021 and they each were able to identify FONTAINE as the individual depicted in Exhibit 16 below, when it was shown to them.



Exhibit 16

Based on the foregoing, your affiant submits that there is probable cause to believe that Kelly FONTAINE and Brian DULA 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.

Your affiant submits there is also probable cause to believe that Kelly FONTAINE and Brian DULA 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 U.S. 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 31st day of January 2024.

A handwritten signature in cursive script, reading "G. Michael Harvey". The signature is written over a circular seal of the U.S. District &amp; Bankruptcy Courts for the District of Columbia.

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G. MICHAEL HARVEY  
U.S. MAGISTRATE JUDGE