

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	Criminal No.
v.	:	
	:	Case No. 21-mj-73
EMILY HERNANDEZ,	:	
	:	
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, Emily HERNANDEZ, with the concurrence of her 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.

***HERNANDEZ's Participation in the January 6, 2021, Capitol Riot***

8. A day or so before the riot at the Capitol on January 6, HERNANDEZ agreed to travel with her uncle, William Merry, and her uncle's friend, Paul Westover, to Washington, D.C. to attend a political rally on January 6, 2021.

9. On January 5, 2021, HERNANDEZ drove to the Washington, D.C. area from St. Louis, Missouri, with Merry and Westover to attend the political rally. At the time she traveled, HERNANDEZ was aware that the Electoral College votes would be counted the next day at the U.S. Capitol.

10. On January 6, 2021, at approximately 10:30 a.m., HERNANDEZ, Merry, and Westover (hereinafter, the "trio") met Person 1 at a metro station and traveled to a political rally in D.C. The trio ultimately walked with the crowd from the rally towards the Capitol building,

getting separated from Person 1 in the process. Upon arriving on Capitol grounds, the trio could see a large crowd standing against a set of barricades, arguing with the police.

11. HERNANDEZ witnessed a crowd attempting to breach a police barricade set up on a set of steps outside the Capitol building and guarded by approximately six law enforcement officers. HERNANDEZ was approximately four individuals back from the edge of the barricade, with Merry and Westover at her side. Ultimately, an individual ahead of HERNANDEZ forcibly removed a police barricade, allowing the crowd, including the trio, to breach the police line and ascend the Capitol steps past the retreating police officers.

12. At approximately 2:20 p.m., the trio entered the Senate Wing door to the Capitol while holding up their cell phones and recording videos. A few minutes later, the trio entered the Crypt area of the Capitol, along with dozens of others in the crowd.

13. The trio eventually made their way to a circular area within the House Speaker's Suite. This area was marked with a sign posted above a curved entryway stating "Speaker of the House Nancy Pelosi." After an individual tore this sign down from the wall, HERNANDEZ witnessed another individual with a black jacket and khaki pants smash the sign against a wall. HERNANDEZ then bent down and picked up a shard of the now-broken sign, which she and Merry then held up above their heads to show to a person recording a video. While doing so, Merry stated "here you go, brother." Visible on the shard were the words "The House" and "Nancy."

14. At approximately 2:36 p.m. the trio entered the Rotunda of the Capitol and continued to take photographs and videos. At some point around this time, HERNANDEZ recorded a video, which she posted to her social media, in which she grabs a "Please Do Not Touch" sign from the foot of a statue in the Capitol. This video also depicts her carrying a red

“Keep Off Fence” sign, which is typically posted on Capitol grounds, as well as the shard of Speaker Pelosi’s office sign.

15. At some point during the trio’s time inside the Capitol building, HERNANDEZ picked up an inspection tag and pin from a fire extinguisher located inside the Capitol. The trio ultimately exited the Capitol through a broken window in the Senate Wing hallway at approximately 2:55 p.m.

16. After the trio exited the Capitol building, HERNANDEZ and Merry continued to wield the shard of the broken Speaker’s sign for the crowd to see. HERNANDEZ also carried with her several items she took from the Capitol building and Capitol grounds, including a large red “Keep Off Fence” sign and a smaller “Please Do Not Touch” sign.

17. While still on Capitol grounds, HERNANDEZ participated in a video-recorded interview with Person 2, an apparent blogger. In the video, Person 2 stated: “you want to know how to defend your country? You storm in there and you take your country back. I’m here with the heroes who actually stormed [unintelligible] and we are actually going to take our country back.” After Person 2 then stated, “you guys want proof? I can show you proof,” HERNANDEZ displayed the shard of Speaker Pelosi’s sign and the “Keep Off Fence” sign, while smiling. Merry and Westover can also be seen in the video, the latter gesturing and nodding in approval.

18. After they left the Capitol grounds, the trio met Person 1 at a metro station and returned to their car. The trio then drove overnight back to St. Louis, arriving around on January 7, 2021, around 7:00 a.m.

19. During the trio's time inside the Capitol and on Capitol grounds, HERNANDEZ took several photographs and videos using her cell phone, posting some of them to her social media. Sometime after January 6, 2021, HERNANDEZ deleted her social media accounts.

20. On January 26, 2021, HERNANDEZ voluntarily surrendered to the FBI various items she took from the Capitol building and Capitol grounds, including the shard from Speaker Pelosi's sign, the red "Keep Off Fence" sign, the fire extinguisher pin and tag, the "Please Do Not Touch" sign, a "Save America March" pass, and the knit hat she wore inside the Capitol.

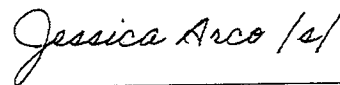
21. The defendant knew at the time she entered the U.S. Capitol Building that that she was trespassing and did not have permission or lawful authority to enter the building. At the time she entered, the U.S. Capitol was a restricted building where the Vice President was temporarily visiting. The defendant unlawfully and knowingly entered and remained in a restricted building without lawful authority to do so.

22. The defendant further stipulates and agrees that the fragment of Speaker Pelosi's sign has independent market value of at least \$50.

Respectfully submitted,

MATTHEW GRAVES  
United States Attorney  
D.C. Bar No. 481052

By:

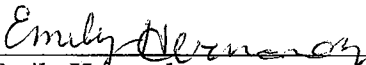


Jessica Arco  
Trial Attorney – Detailee

DEFENDANT'S ACKNOWLEDGMENT

I, Emily Hernandez, have read this Statement of the Offense and have discussed it with my attorneys. 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.

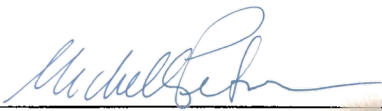
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Emily Hernandez  
Defendant

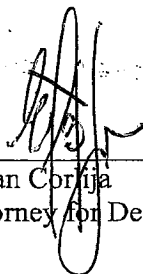
ATTORNEY'S ACKNOWLEDGMENT

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: 12/11/2021

  
\_\_\_\_\_  
Shelli Peterson  
Attorney for Defendant

Date: 12/9/2021

  
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Ethan Corfija  
Attorney for Defendant