

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Joint Terrorism Task Force Officer (TFO) with the Federal Bureau of Investigations (FBI) assigned to the Philadelphia Field Office, Capitol Area Resident Agency. In my duties as a Task Force Officer, I am assigned to investigations of domestic-terrorism. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Task Force Officer, 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 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.

According to records obtained through a search warrant which was served on Google, a mobile device associated with mnealy[xx]@gmail.com, subscribed to Mark Nealy (NEALY), was present at the U.S. Capitol on January 6, 2021.

An open source check was conducted of the email and phone number provided in the Google return for NEALY, this check returned a Mark Nealy of Shippensburg, PA. A subsequent check of Pennsylvania Department of Transportation or PennDOT records returned a drivers license for a Mark Nealy residing in Shippensburg, Pennsylvania. The drivers license photo of NEALY was compared to CCTV with positive results.

Law enforcement confirmed that NEALY entered the U.S. Capitol Building on January 6, 2021. On CCTV video, NEALY is spotted wearing a dark gray beanie, dark colored sleeveless vest, light colored hoodie, dark colored neck gator, jeans, dark colored boots, and a 3 colored backpack orange, white, and dark gray or blue in color with his face exposed.

NEALY entered the U.S. Capitol Building through the Senate Wing Door at approximately 2:25pm. NEALY then turned right and walked down the corridor towards the US Capitol Crypt East. (See Images 1 and 2 with NEALY circled in red)

Image 1:



Image 2:



NEALY is then observed on CCTV inside of and walking around the Crypt East.

Image 3:



At approximately 2:29pm, NEALY was captured in the First floor Crypt Lobby East, having left the Crypt East area.

Image 4:



Image 5:



NEALY was then observed in the First-Floor Elevator Lobby at approximately 2:34 pm.

Image 6:



Image 7:



NEALY exited the U.S. Capitol building at the direction of law enforcement through the Senate Wing door at approximately 2:38 pm after having been inside the building for approximately 13 minutes.

Image 8:

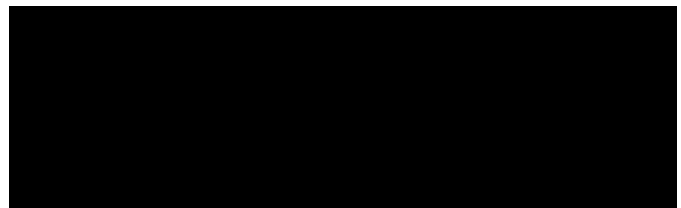


On April 28, 2022, Agents conducted an in-person interview with NEALY at his residence in Shippensburg, PA. During the interview NEALY stated that he did enter the Capitol from what NEALY believed to be the back side mezzanine level near scaffolding. Upon entering the building,

he went to the right and entered a room with statues along the wall. NEALY stated that while inside he used the bathroom, upon exiting NEALY spoke with law enforcement who told him it was time to leave. NEALY stated he then exited the building willingly. Agents who interviewed NEALY confirmed that he appeared to be the individual in the photographs indicated herein.

Based on the foregoing, your affiant submits that there is probable cause to believe that Mark Nealy 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; 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 Mark Nealy violated 40 U.S.C. § 5104(e)(2)(D)&(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 8th 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 Court for the District of Columbia, featuring an eagle and the text "U.S. DISTRICT COURT DISTRICT OF COLUMBIA".

Moxila A. Upadhyaya
U.S. MAGISTRATE JUDGE