

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

JEREMY BERTINO,

Defendant.

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Criminal No. 22-cr-329 (TJK)

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, Jeremy Bertino, with the concurrence of his attorney, agree and stipulate to the below factual basis for the defendant’s guilty plea. If this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt.

Background

1. The Proud Boys describes itself as a “pro-Western fraternal organization for men who refuse to apologize for creating the modern world; aka Western Chauvinists.” Throughout the United States, there are local Proud Boys chapters, which are typically led by chapter “presidents.” Each chapter has a degree of autonomy.

2. Bertino joined the Proud Boys in approximately 2018 and was, for a time, the vice-president of his local Proud Boy chapter in South Carolina. As of January 6, 2021, Bertino was a fourth-degree member of the Proud Boys, the highest “rank” within the Proud Boys.

3. On multiple occasions in 2020, Bertino traveled to Washington, D.C., for rallies as a member of the Proud Boys. Among other times, Bertino traveled to Washington, D.C., as a member of the Proud Boys for an election-related rally on December 12, 2020.

4. On the evening of December 12, 2020, a group of Proud Boys were marching in the streets near Asbury United Methodist Church. Members of the Proud Boys stole a Black Lives Matter banner from the church's property. The banner was then burned. The Proud Boys Chairman, Enrique Tarrío, later publicly admitted that he was present and that he had burned the banner.

5. On the evening of December 12, 2020, several individuals, including Bertino and other Proud Boys members, were involved in an altercation in downtown Washington, D.C. During that altercation, Bertino, among others, was stabbed. Following that stabbing, Bertino was hospitalized, released, and was still recovering outside of the Washington, D.C. area from his injuries as of January 6, 2021. But for those injuries, Bertino would have traveled to the District of Columbia on January 6th.

**Bertino's Participation in the Plot to
Corruptly Obstruct the Certification of the Electoral College Vote**

6. As a member of the Proud Boys since approximately 2018 and an attendee at prior national rallies attended by the Proud Boys, Bertino knew and understood that some members of the Proud Boys would resort to unlawful conduct to achieve an objective, and Bertino understood from internal discussions among the Proud Boys that in the leadup to January 6, the willingness to resort to unlawful conduct increasingly included a willingness to use and promote violence to achieve political objectives.

7. On December 23, 2020, Bertino accepted an invitation from Enrique Tarrío to join a new Proud Boys chapter that Tarrío had devised called the "Ministry of Self Defense" (MOSD). During communications, members of the MOSD leadership discussed how to organize and direct

the group using a top-down structure. Proud Boys members Tarrío, Ethan Nordean, and Joseph Biggs formed a three-person “Marketing” council that was responsible for establishing the strategic objective for every MOSD rally. Person-3, Zachary Rehl, and one other member were to be “Operations” leaders. Bertino and a small group of other members, including Charles Donohoe, formed the regional leadership for the purpose of recruiting trusted members of the to join the MOSD.

8. As a regional leader, Bertino committed to follow the commands of those above him including Tarrío, Nordean, Biggs, and Rehl. As a regional leader, Bertino was responsible for recruiting trusted Proud Boys members to join the MOSD. Any member selected to join the MOSD was expected to follow the commands of leadership. Proud Boys members recruited into the MOSD chapter were repeatedly admonished by MOSD leadership, including Tarrío, that they were to follow the commands of leadership and that, if they did not, they would be removed from the MOSD chapter. In practice, Tarrío intended to and did exercise ultimate authority over MOSD’s operations.

9. During the fall and winter of 2020, Bertino noticed that members of the Proud Boys, including but not limited to MOSD leadership, were becoming more extreme and aggressive in their views. This trend accelerated after the December 12 rally, and it included members of MOSD leadership and MOSD membership with whom Bertino had conversations. For example, Bertino was involved in discussions with other Proud Boys, including but not limited to Tarrío, Biggs, Nordean, Rehl, and Donohoe, in which participants indicated a willingness to use violence affirmatively, rather than only in a defensive posture. Bertino further understood that due to a number of negative interactions with law enforcement, including the events of December 12, the

Proud Boys increasingly viewed police as the enemy and Proud Boys members increasingly referred to the police as “coptifa,” meaning that they viewed the police as siding with Antifa.

10. Bertino believed that the 2020 election had been “stolen” and, as January 6, 2021, approached, believed that drastic measures, including violence, were necessary to prevent Congress from certifying the Electoral College Vote on January 6, 2021. Bertino made his views in this regard known publicly, as well as in private discussions with MOSD leadership. Bertino understood from his discussions with MOSD leadership that they agreed that the election had been stolen, that the purpose of traveling to Washington, D.C., on January 6, 2021, was to stop the certification of the Electoral College Vote, and that the MOSD leaders were willing to do whatever it would take, including using force against police and others, to achieve that objective.

Planning for the Capitol Attack

MOSD Leadership Increasingly Disavowed The Police as January 6 Approached

11. Tarrío’s impending arrest for destruction of the BLM banner was discussed amongst MOSD leadership on December 30, 2020. Person-3 asked Tarrío whether the arrest was coming on January 6, and Tarrío responded that he was “pushing for that.” Person-3 expressed his view that “we could have a fucking riot” if Tarrío were arrested and “our guys” were not expecting it. Bertino subsequently commented, “[m]aybe it’s the shot heard round the world and the normies will fuck up the cops” to which Person-3 responded that there was a “chance the normies are the initiator.” Person-3 then described an incident on December 12, 2020, in which a member of the Proud Boys had been maced by the police and “dudes were going at the cops for blood.”

12. On January 1, 2021, Person-3 asked the MOSD leadership group about postings online about an altercation in the Salem, Oregon that involved Proud Boys. One of the participants

in the MOSD leadership group told the group that police in Salem had “protected an antifa group” and that “[o]ur guys and other pat[riot]s got pissed and cussed out the cops” who then pushed the Proud Boys back. In response, another member of the chat commented “our disposition towards the police needs to be reevaluated.” Person-3 then stated that “we could have ran them the fuck over in DC” in December and the police “wouldn’t have been able to do shit.” Tarrío advised the MOSD leadership that he “had a plan for it” but that someone had “talked [Tarrío] out of it.” Bertino commented, “#fucktheblue.”

13. On January 2, 2021, Tarrío created an encrypted message group for recruits who had been accepted to become members of the MOSD (the “MOSD Members Group”). Tarrío posted a message that read, “Open for business.” The group included at least 65 members, including Tarrío, Nordean, Biggs, Rehl, Bertino and Donohoe. Bertino added Dominic Pezzola to the MOSD Members Group on that same date, shortly after Pezzola had traveled from New York State to North Carolina to deliver a decorative shield to Bertino, for ultimate delivery to Tarrío.

14. The hand-selected men in the MOSD Members Group openly discussed plans for potential violence at the Capitol. Bertino encouraged these discussions and preparations. At no point did Tarrío, Nordean, Biggs, Rehl, Donohoe, or any other member of MOSD leadership discourage these discussions or inform the MOSD members not to engage in that type of discussion.

15. At least as early as January 4, 2021, Bertino received encrypted chat messages indicating that members of MOSD leadership were discussing the possibility of storming the Capitol. Bertino believed that storming the Capitol would achieve the group’s goal of stopping Congress from certifying the Electoral College Vote. Bertino understood that storming the Capitol

or its grounds would be illegal and would require using force against police or other government officials.

16. In the early afternoon of January 4, Tarrío advised the MOSD leaders that a warrant for his arrest had been signed. Certain MOSD leaders, including Person-3 and Bertino, expressed their anger in response. Bertino commented, "I say fuck it. Let's set it off." Person-3 responded, "Absolutely" and then added a voice note, "I mean pretty soon, we're gonna have to start having that conversation. Right, like, if this fails, we can't let them steal this election. The country will be over at that point. I mean, it can't be allowed to happen. So, as fucked up and fed posty as it is, at some point, we have to have that conversation." Bertino responded, "J20" and then "Drag them out by the fucking hair" and then "if they steal it." Bertino understood that the MOSD leaders were prepared to direct and use force to stop the Electoral College proceeding. Bertino understood that this force could include the storming of police lines and barricades at the Capitol.

Tarrío is Arrested

17. Tarrío was arrested upon his entry into Washington, D.C. on January 4, 2021.

18. In response to news of Tarrío's arrest, Donohoe created a new group on the encrypted messaging application for MOSD leadership ("New MOSD Leaders Group") that did not initially include Tarrío, but that did include Bertino, Nordean, Biggs, Rehl, Donohoe, and Person-3. Donohoe then created another new group on the encrypted messaging application for the MOSD members and advised that group to leave the earlier MOSD members' group because "we are nuking that one." Person-3 advised that he had "removed everyone from the other group" and that it had been "nuked." After its creation, the new MOSD member group ("New MOSD

Member Group”) included approximately 90 participants in total, including Person-3, Nordean, Biggs, Rehl, Donohoe, Pezzola, and Bertino.

19. At 7:15 p.m. on January 4, Donohoe posted a message on the New MOSD Member Group that read, “Hey have been instructed and listen to me real good! There is no planning of any sorts. I need to be put into whatever new thing is created. Everything is compromised and we can be looking at Gang charges.” Donohoe then wrote, “Stop everything immediately” and then “This comes from the top.” Person-3 posted a response to Donohoe in the MOSD New MOSD Leaders Group that “there is no top outside of this group.”

The Planning for January 6 Continued After Tarrío’s Arrest

20. On January 4, 2021, after creating the New MOSD Leaders Group, Donohoe advised the other leaders, “Each one of us should personally clear our history of that MOSD chat.” Rehl responded, “you gotta manually delete each message from each chat” and then added, “since [Tarrío] knew the cops were for him, hopefully he logged outta” the encrypted messaging service. Donohoe responded, “Well at least they won’t get our boots on ground plans because we are one step ahead of them.” Bertino advised the leaders to “take charge on the ground” and that he could “help back here with information.”

21. On January 5, 2021, Bertino created a new group on the encrypted messaging application called “Boots on Ground Group,” which was a group meant for any Proud Boys members attending the January 6, 2021 protests. Bertino originally created the group after discussions with other MOSD leaders about needing to create a new chat because Tarrío could not be removed from previous chats. Bertino’s purpose in creating the chat was to allow everyone in

Washington, D.C., to locate Tarrío after his arrest and to communicate with each other regarding the events in D.C. and determine where to meet up.

22. At 9:17 p.m. on January 5, 2021, Biggs posted a message to the New MOSD Member Group that read, “We just had a meeting with [sic] a lot of guys. Info should be coming out” and then posted “Just spoke with Enrique [Tarrío].” At approximately 9:20 p.m., Biggs posted a message that read, “We have a plan. I’m with rufio.” Donohoe responded, “What’s the plan so I can pass it to the MOSD guys.” Biggs responded, “I gave Enrique [Tarrío] a plan. The one I told the guys and he said he had one.”

23. Bertino was not given details of the plan referred to by Biggs, but Bertino understood from discussions among the MOSD and other Proud Boys that the objective in Washington, D.C., on January 6, 2021, was to obstruct, impede, or interfere with the certification of the Electoral College vote, including by force if necessary. Bertino understood from discussions that the group would accomplish this through the use of force and violence, which could include storming the Capitol through police lines and barricades if necessary.

24. At 9:20 p.m. on January 5, 2021, Bertino added Tarrío to the New MOSD Leaders Group. Bertino added Tarrío to the New MOSD Leaders Group because Tarrío remained the leader of the MOSD.

January 6, 2021 – MOSD Leaders and Members March to the Capitol

25. Shortly after 10 a.m., Nordean and Biggs led a group of 100 or more Proud Boys on a march away from the Washington Monument towards the Capitol. Nordean and Biggs led the group on a march around the Capitol, ending at the Peace Circle on the west side of the Capitol grounds. Bertino monitored activities in Washington, D.C., through mainstream and social media,

including live feeds from individuals who were on the ground in Washington, D.C. Bertino was also following and posting in the MOSD chats, including the New MOSD Leaders Group chat where some members posted videos of the group storming the Capitol as it was happening.

January 6, 2021 – MOSD Leaders and Members Attack the Capitol to Stop the Certification

26. The United States Capitol, which is located at First Street, SE, in Washington, D.C., is secured twenty-four hours a day by United States Capitol Police. Restrictions around the Capitol include permanent and temporary security barriers and posts manned by Capitol Police. Only authorized people with appropriate identification are allowed access inside the Capitol.

27. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public as the Joint Session of Congress convened inside the building. During the Joint Session, elected members of the United States House of Representatives and the United States Senate met to certify the vote count of the Electoral College of the 2020 Presidential Election. 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. United States Vice President Michael R. Pence was present and presiding, first in the Joint Session and then in the Senate chamber.

28. As the separate proceedings continued in both the House and Senate chambers, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the Capitol, and Capitol Police were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

29. Shortly before 12:53 p.m., Nordean and Biggs led the group back to the Capitol's First Street pedestrian entrance near the Peace Monument. Within minutes of arriving, members of the crowd breached the barriers and advanced onto Capitol grounds.

30. Shortly thereafter, Bertino learned from Telegram messages, livestreams, and that MOSD leaders and members had unlawfully entered Capitol grounds past police lines and barricades.

31. Bertino posted messages to MOSD leaders and members to assist the operation. For example, after Donohoe sent a message in the MOSD leadership chat indicating that they had "stormed the Capitol Building," at 12:59 p.m., Bertino responding by messaging "form a spear" and "holy fuck. Do it boys." Bertino's messages were intended to encourage the men on the ground to continue pushing toward the Capitol building as well in celebration of the disorder and chaos at the Capitol.

32. At 1:00 p.m., Bertino posted a message in the MOSD leadership chat, stating "Storming the capitol building right now!!" and "Get there." Bertino posted this message to encourage the men on the ground to continue pushing forward in an attempt to stop the certification of the Electoral College vote.

33. Shortly after 1:52 p.m., Bertino posted messages in the New MOSD Member Group that advised that "they are moving the cops back" and then "I have tears in my eyes."

34. At approximately 2:13 p.m., Pezzola used a stolen riot shield to break a window of the Capitol. The first members of the mob entered the Capitol through this broken window. Hundreds of individuals entered the building over the next hour, including Nordean, Biggs, Rehl,

Pezzola, and other Proud Boys members and associates who had followed Nordean and Biggs to the Capitol.

35. On the evening of January 6, 2021, Bertino messaged Tarrío, “Brother. You know we made this happen,” “1776 motherfucker” and “Dude. Did we just influence history?” These messages were in reference to the Proud Boys and other rioters overrunning the Capitol building and delaying the certification, and to the Proud Boys having inspired the “normies” to take action on January 6, 2021.

36. In issuing encouragement to the men on the ground in Washington, D.C., Bertino intended that Proud Boys’ members use force to obstruct, impede, or interfere with the certification of the Electoral College vote, and forcibly assault, resist, oppose, impede, intimidate, or interfere with officers or employees of the United States.

37. In taking such actions, Bertino intended to influence or affect the conduct of the United States government by forcibly intimidating and coercing government personnel who were participating in or supporting the Congressional proceeding of counting and certifying the electoral college tally, including Members of Congress, Congressional staff, and law enforcement officers with the Capitol Police and Metropolitan Police Department.

38. At approximately 4:03 p.m., Donohoe responded to a comment by Bertino in which Bertino indicated that he had not seen anyone he knew breaking windows or entering the building. Donohoe responded, “Def a video of one of our guys smashing out the window with a stolen police riot shield.” Donohoe was referring to a video that he had seen of Pezzola breaking a window of the Capitol building.

39. At approximately 4:27 p.m. on January 6, 2021, Bertino posted to his public social media account, “DO NOT GO HOME. WE ARE ON THE CUSP OF SAVING THE CONSTITUTION. Stay on the grounds patriots.”

40. Because of the dangerous circumstances caused by the unlawful entry into the Capitol by Bertino’s coconspirators and others, including the danger posed by individuals who had entered the Capitol by force and without any security screening or weapons checks, Congressional proceedings could not resume until after law enforcement had removed every unauthorized occupant from the Capitol and confirmed the building was secured. Accordingly, the proceedings did not resume until approximately 8:00 p.m. on January 6, 2021, after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

41. On the evening of January 6, 2021, Bertino sent a message to MOSD members in which he stated, “we had the power in our hands, and we gave it back to them.” In that statement, by “we,” Bertino referred to the Proud Boys and others who occupied the Capitol. He continued, “nobody wants to go to that second level yet, and that just proved it.” He additionally produced a podcast for public consumption in which he stated, among other things, “Here’s the problem with what happened today . . . half measures do nothing. Half measures get nothing accomplished.” He continued, “I’m not advocating for anyone to break the law, FBI, because I know you’re fucking watching, but when we don’t have a voice in said laws, should those laws actually apply to us? . . . We didn’t have to relinquish that fucking building to them.”

42. The attack on the Capitol resulted in substantial damage, requiring the expenditure of more than \$2.7 million dollars for repairs.

Bertino's Illegal Possession of Firearms

43. On or about March 8, 2022, the FBI executed a search warrant at the defendant's residence in North Carolina. While executing the warrant, agents located six firearms: a Walther .22 caliber pistol; a Smith & Wesson 9mm pistol; a Hammerli .22LR tactical rifle with a scope; a .22 bolt action rifle; a Garaysar 12-gauge shotgun; and a Mossburg .22 AR-15-style firearm with a scope. Agents additionally located 146 rounds of 9mm ammunition, 2,722 rounds of .22 ammunition, 296 rounds of 5.56 ammunition, 35 rounds of 12-gauge shotgun ammunition, 42 rounds of .380 ammunition, and eight magazines.

44. All of the firearms and munitions discussed in the previous paragraph traveled in interstate or foreign commerce.

45. As of March 8, 2022, the defendant had been convicted of an offense punishable by a term of imprisonment exceeding one year. He knew that as a result of that conviction it was illegal for him to possess firearms and/or ammunition.

46. The defendant had knowledge that the firearms and ammunition described in paragraph 43 were in his home and, although he was not home at the time the search warrant was executed, the defendant intended to and did exercise dominion and control over the at least one firearm described in paragraph 43.

Limited Nature of Factual Basis

47. This proffer of evidence is not intended to constitute a complete statement of all facts known by Bertino or the government. Rather, it is a limited statement of facts intended to provide the necessary factual predicate for Bertino's guilty plea.

Respectfully Submitted,
MATTHEW M. GRAVES
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D.C. Bar No. 481052

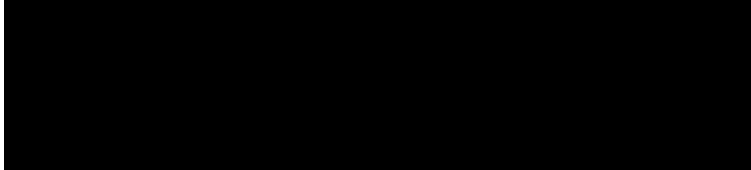
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DEFENDANT'S ACKNOWLEDGMENT

The preceding statement is a summary made for the purpose of providing the Court with a factual basis for my guilty plea to the charges against me. I make this statement knowingly and voluntarily, and I stipulate and agree that this Statement of Offense concerning my actions is true and accurate. I have read every page of this Statement of Offense and have discussed it with my attorneys, JP Davis and Taylor Goodnight. I am fully satisfied with the legal services provided to me in connection with this plea. 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 Offense fully.

Date: 9/30/22



ATTORNEYS' ACKNOWLEDGMENT

I have read this Statement of Offense and have reviewed it fully with my client, Jeremy Bertino. I concur in my client's desire to adopt and stipulate to this Statement of Offense as true and accurate.

Date: 9/30/22

JP Davis
JP Davis
Attorney for Jeremy Bertino

ATTORNEYS' ACKNOWLEDGMENT

I have read this Statement of Offense and have reviewed it fully with my client, Jeremy Bertino. I concur in my client's desire to adopt and stipulate to this Statement of Offense as true and accurate.

Date: 9/30/22

Taylor Goodnight
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Attorney for Jeremy Bertino