

Case: 1:23-mj-00272
Assigned To : Harvey, G. Michael
Assign. Date : 10/16/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED]

[REDACTED] In my duties as a special agent, I investigate a variety of criminal and national security matters, including foreign and domestic acts of terrorism. Currently, I am 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.

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 served on Google, LLC, a mobile device associated with an email address which registers to FRANCIS GREGORY BIONDO, a resident of Colonial Heights, Virginia, was present both inside and outside of the United States Capitol on January 6, 2021. Records from Google, LLC, confirm that the email address was also associated with a cellular phone number which also registers to BIONDO.

In a statement to law enforcement, BIONDO admitted to being present in Washington D.C. on January 6 to protest and recalled following a crowd to the US Capitol Building. Video, including open source and surveillance video, confirms that BIONDO marched to the Capitol, holding a large American flag, with a large group of people. Video also consistently shows BIONDO in the presence of another person, identified as Jeffrey Etter, who has been separately prosecuted.

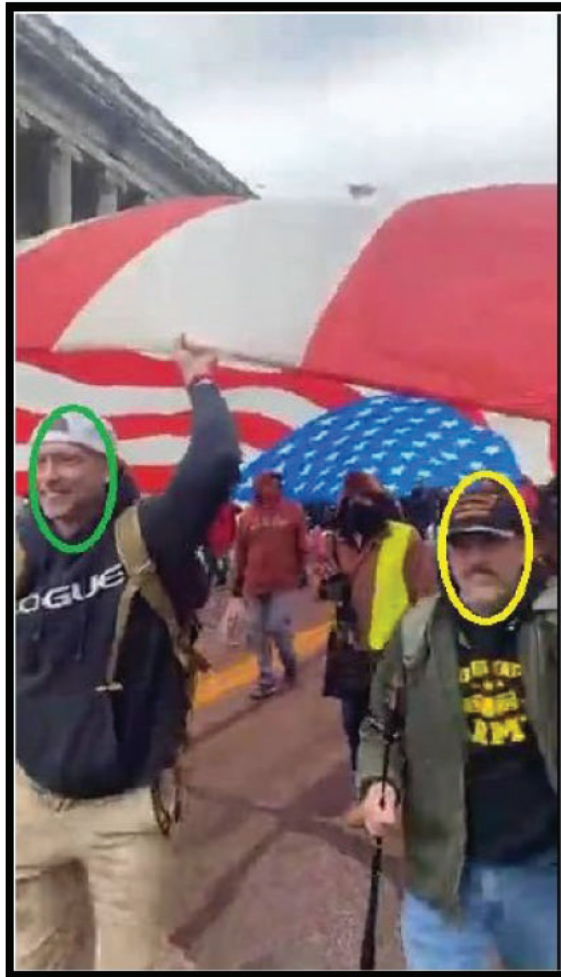


Figure 1 – Etter (circled in green) and BIONDO (circled in yellow) marched in a group holding an American Flag

In a statement to investigators, Etter stated he and BIONDO were acquaintances, and that they met up in Washington DC. Etter identified a photograph of BIONDO on January 6, 2021.

Surveillance video footage shows that BIONDO entered the US Capitol at approximately 2:56 pm through the Senate Wing Door with Etter. While inside of the Capitol, BIONDO entered the Crypt and remained in that area with a large group of rioters for approximately 30 minutes. BIONDO and Etter were frequently near one another, though surveillance video depicts them separating for short periods of time.



Figure 2 – Etter (circled in green) and BIONDO (circled in yellow) in Crypt

Ultimately, BIONDO exited the Crypt, and proceeded back toward the Senate Wing, where he and Etter exited the building through a broken window. While climbing through the window, Etter posed for a photograph which BIONDO snapped with a phone.



Figure 3 – BIONDO (yellow) photographed Etter (green)

After exiting the Capitol, BIONDO remained on the Capitol grounds for some time before leaving the area.



Figure 4 – BIONDO (yellow) posed in front of a line of police officers while Etter (green) photographed him.

Based on the foregoing, your affiant submits that there is probable cause to believe that FRANCIS GREGORY BIONDO 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 FRANCIS GREGORY BIONDO 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 16th day of October 2023.

G. Michael Harvey Digitally signed
by G. Michael Harvey

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE