

STATEMENT OF FACTS

Your affiant, [REDACTED] assigned to the Federal Bureau of Investigation (FBI) Boston Division. In my duties as a special agent, I am a member of the Joint Terrorism Task Force (JTTF) and investigate a variety of federal violations and offenses. Currently, one of my tasks is 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 are 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 U.S. 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 U.S. 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 U.S. 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.

DUONG'S and MILLER'S Involvement in Events of January 6, 2021

The FBI first assessed that LONG DUONG (also known as Jimmy Huang Duong) participated in the Capitol Riot on January 6, 2021, through geolocation data. Specifically, according to records obtained through a search warrant, geolocation data placed DUONG'S telephonic device in the U.S. Capitol on January 6, 2021, between approximately 2:49 p.m. and 5:04 p.m. The name on the account for the telephonic device was listed as "Jimmy Duong." The account holder for this telephonic device was associated with the email address XXXXXXXXXXXXXXXXXX@gmail.com. Through legal process, Google LLC identified the registered owner of the email address as "Long Duong."

The FBI first assessed that JULIE MILLER (also known as Hong Ngo) participated in the Capitol Riot on January 6, 2021, through geolocation data. Specifically, geolocation data placed MILLER'S telephonic device in the U.S. Capitol on January 6, 2021, between approximately 2:49 p.m. and 5:04 p.m. The name on the account for the telephonic device was listed as "Julie Miller." The account holder for this telephonic device was associated with the email address XXXXXXXXXXXXXXXXXX@gmail.com. Through legal process, Google LLC identified the registered owner of the email address as "Julie Miller."

On June 13, 2022, MILLER was interviewed at the FBI Boston Division Worcester Resident Agency office. MILLER advised that both she and DUONG were roommates and they traveled together to the Washington, D.C. area in January 2021 for a vacation. While at their hotel in Virginia, they decided to drive to Washington, D.C. and attend President Donald Trump's rally. MILLER acknowledged that she and DUONG entered the U.S. Capitol building together on January 6, 2021. MILLER stated that neither she nor DUONG engaged in any violence or acts of vandalism. MILLER advised that she had videos from January 6, 2021 saved to her phone. On or about July 21, 2022, MILLER sent videos taken on her phone on January 6, 2021 to FBI Boston personnel.

During MILLER's June 13 interview, Agents showed her two color photographs which were taken from surveillance footage inside the U.S. Capitol. The two photographs showed dozens of individuals inside of the U.S. Capitol building on January 6, 2021. MILLER was able to identify herself, and DUONG, in both photographs. MILLER was wearing a red baseball style hat and dark winter jacket, and DUONG was wearing a dark baseball style hat, with "TRUMP" printed on the front, a yellow winter vest, over a grey hoodie, with a blue, red, and white flag draped over his shoulders. The interviewing agents, including this affiant, studied the photographs and video footage of the January 6 incursion, and made comparisons with MILLER's appearance during the interview. Based on that comparison, the interviewing agents established that MILLER is the same person captured in video footage who unlawfully entered the U.S. Capitol on January 6, 2021.

On June 15, 2022, DUONG was interviewed at the FBI Boston Division Worcester Resident Agency office. DUONG verified that both he and MILLER were present at the U.S.

Capitol on January 6, 2021 and they both went inside the U.S. Capitol building that day. DUONG stated to investigators that neither he nor MILLER committed any acts of violence or vandalism inside the U.S. Capitol building.

During DUONG's June 15th interview, Agents showed him the same two color photographs shown to MILLER on June 13th. Again, the two photographs showed dozens of individuals inside of the U.S. Capitol building on January 6, 2021. DUONG was also able to identify himself, and MILLER, in both photographs. The interviewing agents, including the affiant, studied the photographs and video footage of the January 6 incursion, and made comparisons with DUONG's appearance during the interview. Based on that comparison, the interviewing agents established that DUONG is the same person captured in video footage who unlawfully entered the U.S. Capitol on January 6, 2021.

The affiant reviewed the videos provided by MILLER. The videos showed MILLER and DUONG outside and inside the U.S. Capitol building, including inside the Senate Parliamentarian's private office suite. The affiant also reviewed CCTV footage of the U.S. Capitol on January 6, 2021. United States Capitol Police ("USCP") images and surveillance footage captured MILLER and DUONG outside the U.S. Capitol prior to entry, and their entry into the U.S. Capitol building.

USCP CCTV footage and MILLER'S videos show that MILLER and DUONG first entered the U.S. Capitol building through the Senate Fire Door at approximately 2:57 p.m. Upon entering, MILLER and DUONG immediately turned and entered the Senate Parliamentarian's office space, where MILLER filmed the destruction that had already occurred in that that office. In MILLER'S recording, an unknown person stated "Don't destroy anything." MILLER replied, "They already did. Everything is already destroyed." MILLER and DUONG ventured further into the Senate Parliamentarian's office suite, entering an interior office space. MILLER then sat in a desk chair as DUONG took pictures of her on his phone. MILLER and DUONG stayed in the Senate Parliamentarian's office space for roughly five minutes before they were pushed out of the office by police and were then pushed back out of the U.S. Capitol building through the Senate Fire Door.

In the screenshot images below, DUONG is identified in the photos with a green circle and MILLER is identified with a red circle.



Image 1: Screenshot of CCTV footage showing DUONG and MILLER entering the U.S. Capitol through the Senate Fire Door.

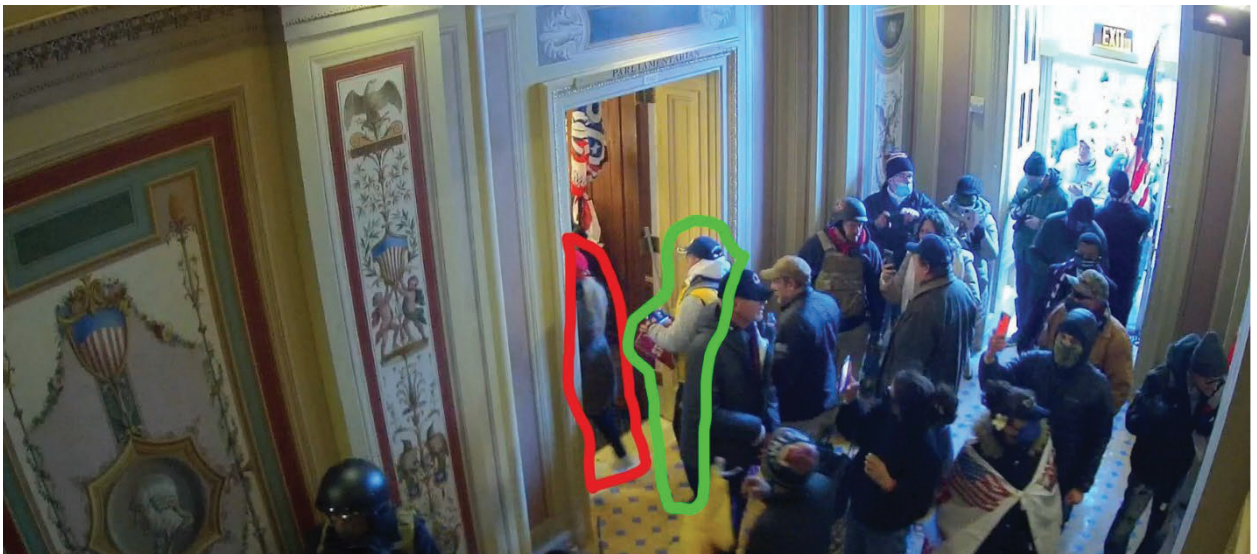


Image 2: Screenshot of CCTV footage showing DUONG and MILLER entering the Senate Parliamentarian's office.



Image 3: Screenshot of MILLER'S video recording of the destruction that had taken place in the Senate Parliamentarian's office suite.



Image 4: Screenshot of MILLER'S video recording showing DUONG taking MILLER'S photo as she sits in an office chair in the Parliamentarian's office suite.

The affiant reviewed USCP CCTV footage that shows DUONG and MILLER re-entered the U.S. Capitol Building a second time through the Senate Wing Door at approximately 3:12 P.M.

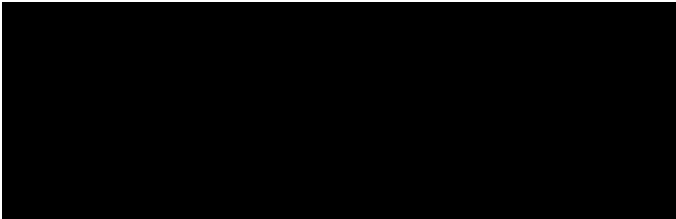
After entering via the Senate Wing Doors, DUONG and MILLER remained near the entrance taking pictures until they were pushed out of that same door by police.



Image 5: Screenshot of USCP CCTV footage showing DUONG and MILLER by the Senate Wing Door after re-entering the U.S. Capitol

Based on the foregoing, your affiant submits that there is probable cause to believe that DUONG and MILLER 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 DUONG and MILLER violated Title 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 12TH day of June 2023.

M. A. Upad



Moxila A. Upadhyaya
2023.06.12 14:55:23
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HONORABLE MOXILA A. UPADHYAYA UNITED
STATES MAGISTRATE JUDGE