

Case: 1:21-mj-00310
Assigned To : Meriweather, Robin M.
Assign. Date : 03/15/2021
Description: Complaint w/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED] is a Special Agent assigned to the Federal Bureau of Investigation's (FBI) Columbia Field Office. Currently, in addition to my regular duties, I am a 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, detention, 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, shortly 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.

Subsequent to the incident at the U.S. Capitol, the FBI began publishing wanted posters on their website: <https://www.fbi.gov/wanted/capitol-violence>, which showed individuals inside of the U.S. Capitol. The posters were numbered and given the title “Photograph” followed by a number starting with number 1 (*i.e.* Photograph 1). One of the wanted posters—Photograph 19—which is illustrated below as *Figure One* depicted three individuals.

The individual to the left of the photograph in a red “Keep America Great” hooded sweatshirt, blue jeans, and dark colored combat-style boots was identified as Grayson Sherrill (SHERRILL) and arrested on March 1, 2020. *See* 21-mj-255.

The individual in the middle of the photograph is wearing a plaid bandana face covering, red baseball cap, red and black plaid long sleeved shirt, a dark colored watch on his left wrist, and a dark colored backpack with lighter colored panels. He appears to be a white male with dark hair. The individual on the right of the photograph is wearing a dark red hooded sweatshirt, a red baseball hat, dark colored gloves, a red face covering, brown military style boots, and is holding a long cylindrical object in his right hand.

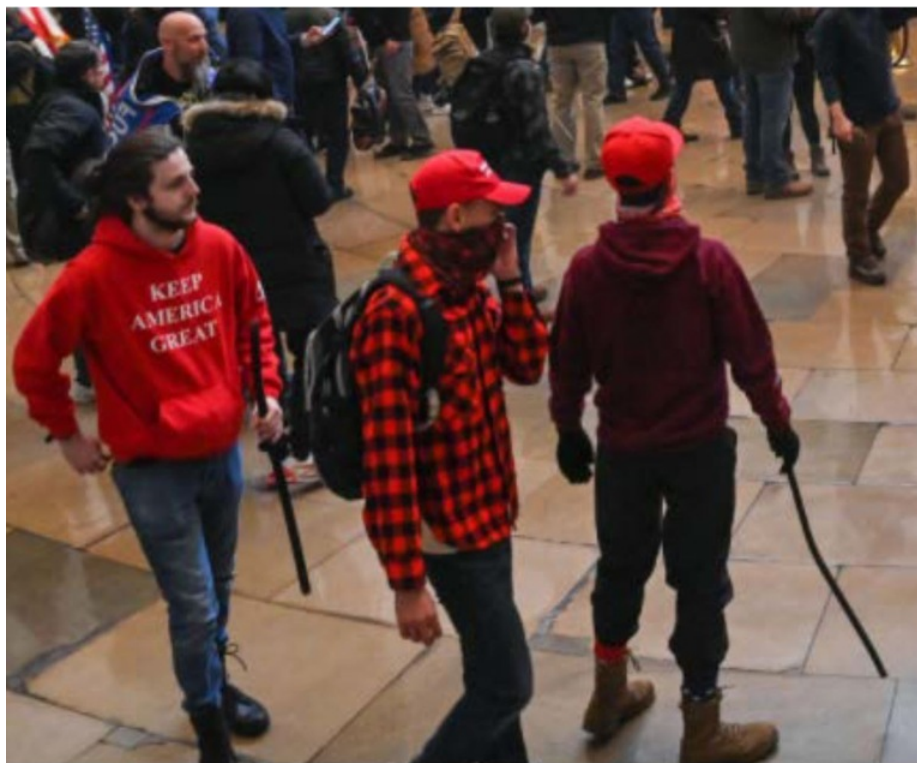


Figure One

Witness One (W1) submitted a tip to the FBI identifying the middle subject in *Figure One* (Photograph 19) as Elliot Bishai (BISHAI) and the subject to the right of the Photograph as Elias Irizarry (IRIZARRY). W1 is familiar with BISHAI and IRIZARRY as cadets in a Civil Air Patrol Unit that W1 is associated with. W1 was aware that other cadets had recognized them as well. W1

stated that their respective demeanors, way they are standing, and physical characteristics made them easily identifiable as BISHAI and IRIZARRY. Furthermore, W1 noted that IRIZARRY often wears his boots in the distinctive style seen in the photograph.

Witness Two (W2) and Witness Three (W3), also recognized BISHAI and IRIZARRY through their association with the Civil Air Patrol Unit. W2 specifically stated that he/she was familiar with BISHAI's backpack, red plaid shirt, and bandana and had seen BISHAI wear them previously. W2 also saw that BISHAI and IRIZARRY's location on the social media application Snapchat was in Washington, D.C. on January 6, 2021.

In addition to the photographs, W2 and W3 saw footage from The New Yorker and recognized BISHAI and IRIZARRY in the footage. W2 and W3 recognized them in the video making entry into the U.S. Capitol building through a broken window.



Figure Two

Figure 2 is a still shot taken from footage posted by The New Yorker. It is taken from the exterior of the building looking through a broken window into the Capitol building. In the right of the photograph is a subject wearing a dark red hooded sweatshirt and a red baseball hat. W1 and W3 identified this as IRIZARRY.



Figure Three



Figure Four

Figures Three and Four are a screen shots taken from the same video. Rioters are seen climbing through a broken window into the U.S. Capitol. In *Figure Three*, in the lower left of the frame, BISHAI is seen wearing a brown winter hat and holding a cell phone. He is also seen wearing a dark colored watch on the left wrist. W1 and W3 identified this individual as BISHAI. IRIZARRY appears to be standing directly two his right wearing a red bandana over his hat. In *Figure Four*, BISHAI's brown winter hat and plaid shirt can be seen to the left of the frame and IRIZARRY's red bandana pulled over his hat is visible to the right of BISHAI.

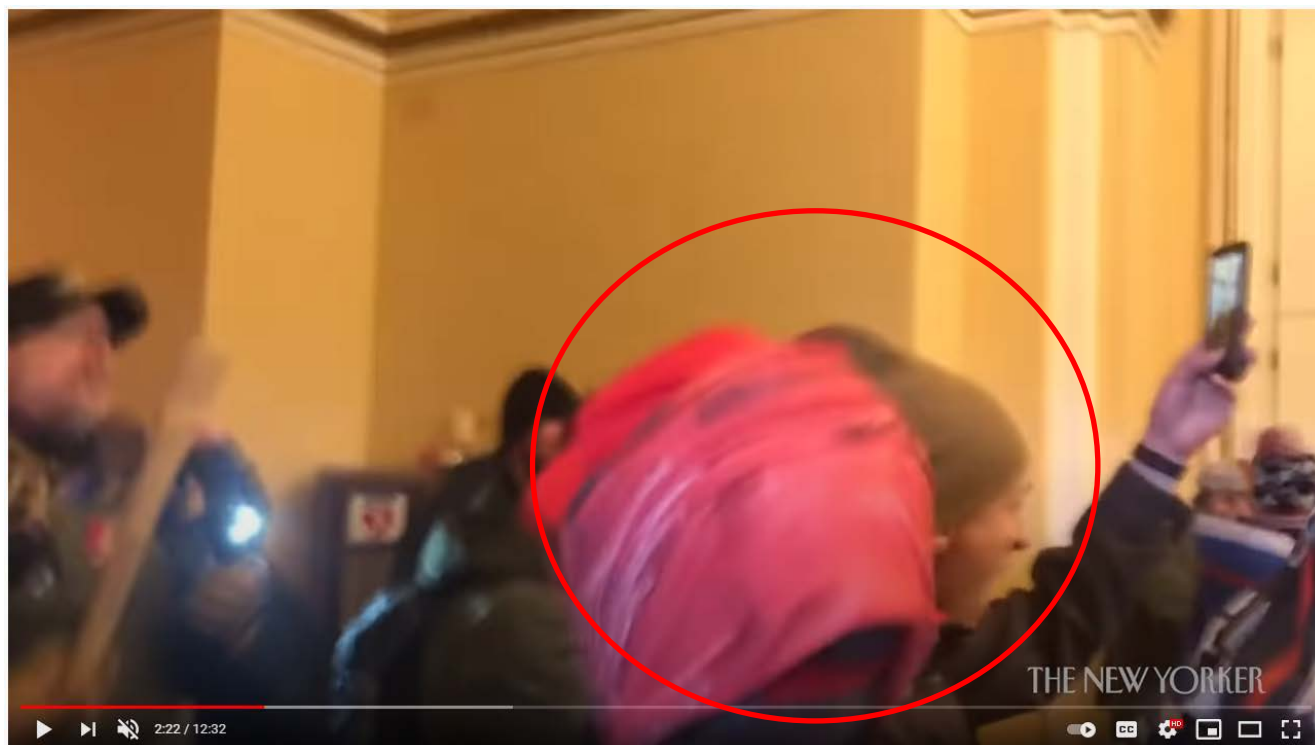


Figure Five

Figure Five is a screen shot taken from a video posted on the website of The New Yorker. The video footage was taken from inside the Capitol building. Within the red circle, IRIZARRY can be seen wearing a red hat with a red bandana pulled over it. BISHAI can be seen behind him with the same brown winter hat.

Your affiant was able to review other images showing individuals who appear to be BISHAI and IRIZARRY. In *Figure Six*, an individual who appears to be BISHAI can be seen in the right of the frame taking a photograph of SHERRILL in front of the Dwight D. Eisenhower statue. The individual who appears to be BISHAI is seen wearing the same red and black flannel shirt, red baseball hat, dark colored back pack and dark watch on his left wrist. He has pulled his bandana down and his face is more clearly visible.



Figure Six

The statue in *Figure Six* has been identified by U.S. Capitol Police as a statue of Dwight D. Eisenhower, which is located inside of the Rotunda of the U.S. Capitol Building. This information was also confirmed on the U.S. Capitol's website, which lists all of the statues inside of the U.S. Capitol with a photograph of the statue and the statue's location within the U.S. Capitol.¹

Your affiant has also reviewed and collected video provided by the U.S. Capitol Police, which includes security camera footage inside and outside of the U.S. Capitol building. While reviewing this footage, your affiant observed individuals who appear to BISHAI and IRIZARRY outside and inside of the U.S. Capitol. The following images are a sampling of screenshots obtained from that footage.

Figures Seven and Eight are still shots taken from security camera footage of the interior of the U.S. Capitol building. These still show rioters entering the U.S. Capitol through the door and broken window.

In *Figure Seven*, an individual who appears to be IRIZARRY can be seen coming in through a broken window (circled in red). The clothing is consistent with that of clothes worn by IRIZARRY in the photos above. An individual who appears to be BISHAI can be seen circled in blue in the brown hat and dark jacket.

¹ <https://www.aoc.gov/explore-capitol-campus/art/dwight-d-eisenhower>

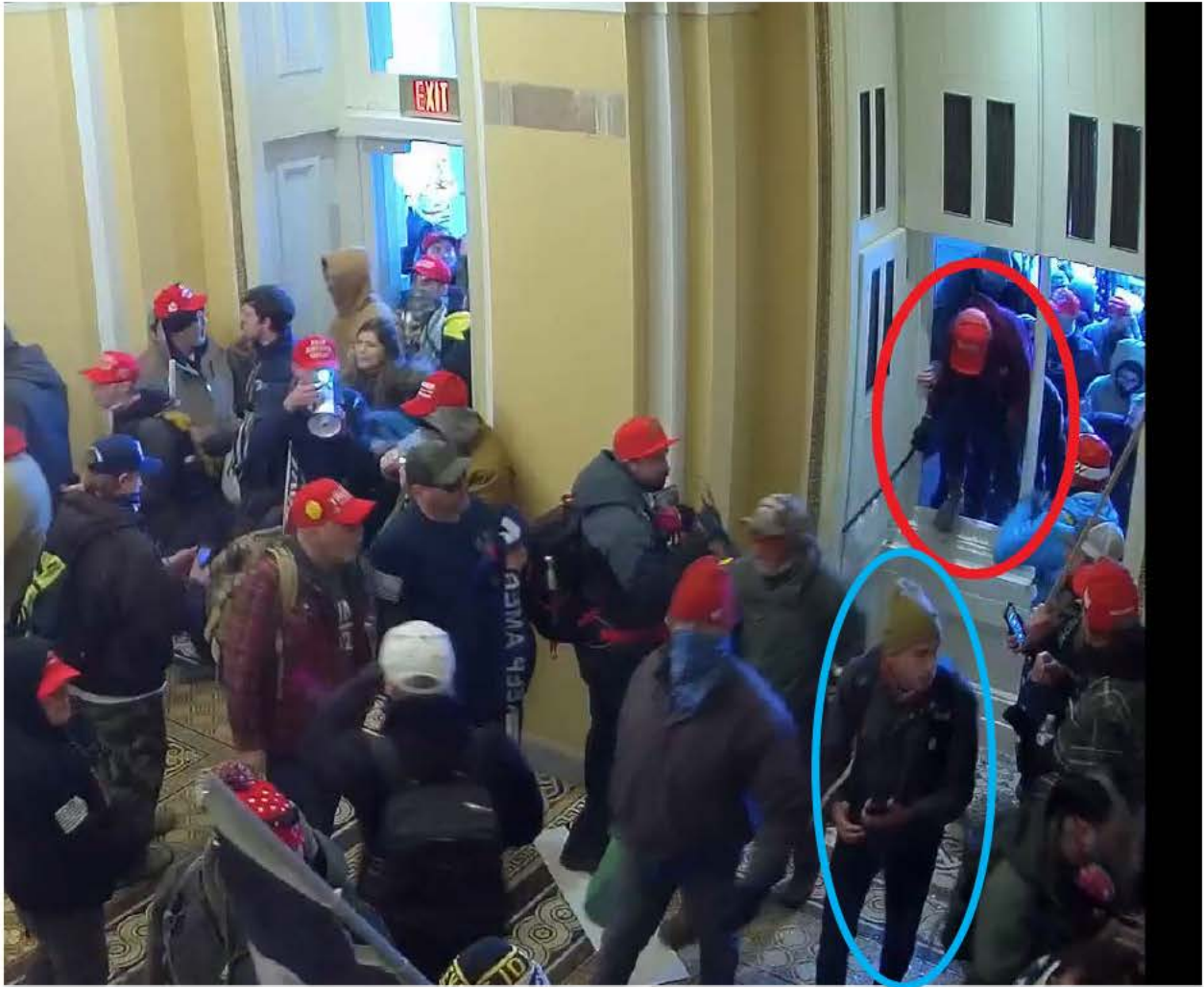


Figure Seven

Figure Eight is another still shot taken from security camera footage of the Senate Wing door area of the interior of the Capitol building. Individuals who appear to be BISHAI (circled in blue) and IRIZARRY (circled in red) can be seen standing inside the U.S. Capitol building.

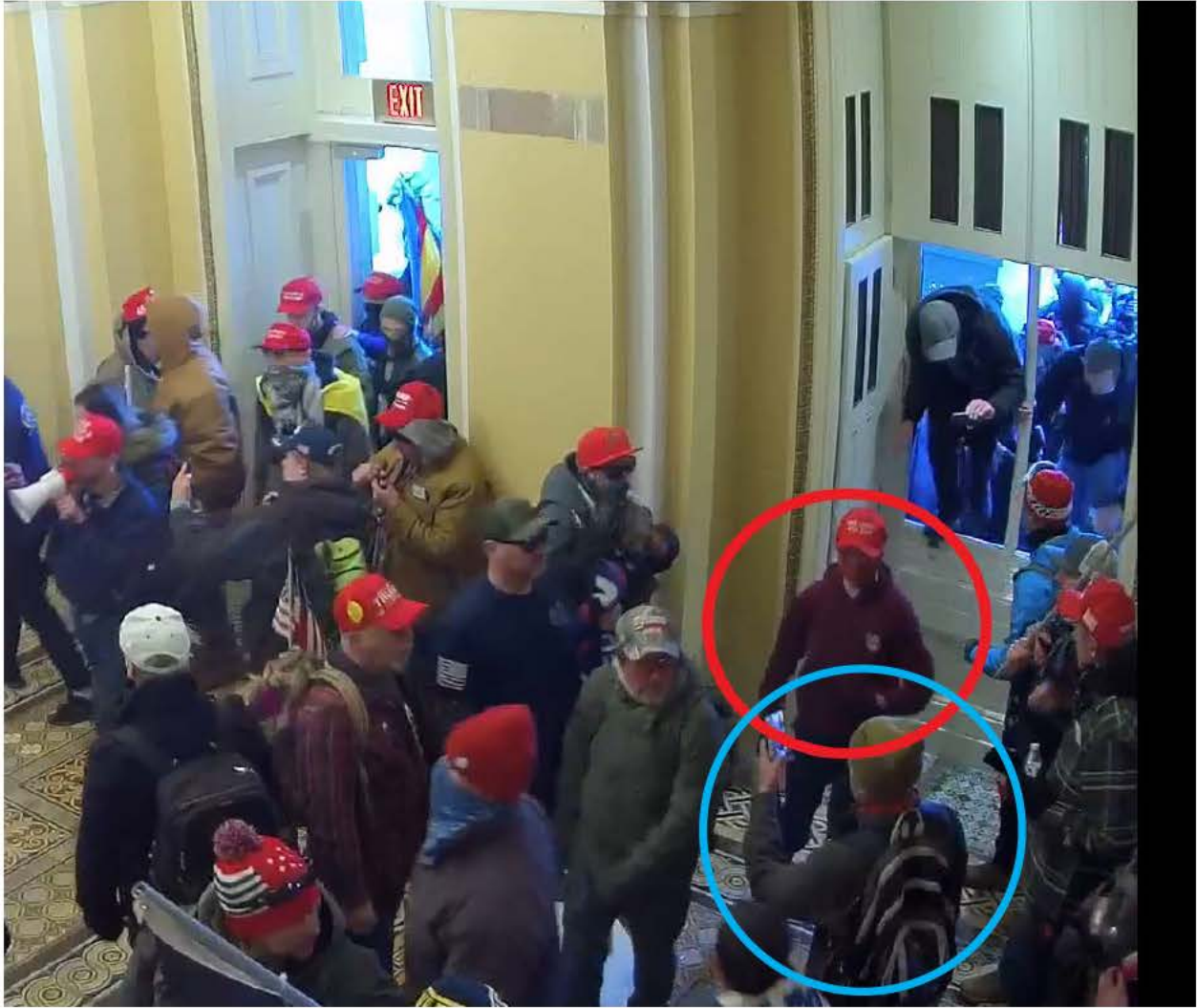


Figure Eight

In *Figure Nine*, BISHAI, IRIZARRY, and SHERRILL can be seen near the Rotunda. BISHAI and IRIZARRY's faces are visible and their clothing is consistent with what is depicted in the previous photographs. As in *Figure One* and *Figure Six* BISHAI has taken off the dark outer jacket and his red plaid shirt is visible.



Figure Nine



Figure Ten

Figure Ten was taken on the grounds of the U.S. Capitol, just outside the building on January 6, 2021. IRIZARRY's face is clearly visible looking down over a wall wearing the same dark red sweatshirt, a red baseball hat, a red bandana around his head and chin and dark colored gloves. Irizarry is also holding a metal pipe as in *Figure One*.

Your affiant has reviewed photograph's from IRIZARRY's social media as well as information from the South Carolina Department of Motor Vehicles. The still photograph shown in *Figure Six* is consistent with IRIZARRY's social media pictures as well as his South Carolina driver's license photograph.

Your affiant has reviewed photographs from BISHAI's social media as well as information from the South Carolina Department of Motor Vehicles. The still photograph shown in *Figure Four* is consistent with BISHAI's social media pictures as well as his South Carolina driver's license photograph.

On January 28, 2021, FBI Special Agents interviewed Witness Four (W4) who is a family member of BISHAI. W4 confirmed that BISHAI was at the Capitol on January 6, 2021, and that he entered the building and took selfies.

Based on the foregoing, your affiant submits that there is probable cause to believe that Elliot BISHAI and Elias IRIZARRY 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 BISHAI 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.



FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 15 day of March 2021.

A handwritten signature in cursive script, appearing to read "Rob M Meriweather".

ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE