

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	Case No.: 21-cr-633 (RCL)
v.	:	
	:	18 U.S.C. § 1752(a)(1)
KELLY O'BRIEN,	:	(Entering and Remaining in a
	:	Restricted Building)
Defendant.	:	

*not this be filed -  
T. Ryan C. Loubert  
U.S.D.C. 1/5/22*

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, Kelly O'BRIEN, with the concurrence of her attorney, agree and stipulate to the below factual basis for the defendant's guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

*The Attack at the U.S. Capitol on January 6, 2021*

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., 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.
2. On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public.
3. 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.

4. As the proceedings continued in both the House and the Senate, and with Vice President 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.

5. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades, and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police Officers or other authorized security officials.

6. 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 after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the

crowd encouraged and assisted those acts. The riot resulted in substantial damage to the U.S. Capitol, requiring the expenditure of more than \$1.4 million dollars for repairs.

7. 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 Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

*O'BRIEN's Participation in the January 6, 2021, Capitol Riot*

8. In November 2020, O'Brien made several online posts with her Facebook account, including posts regarding the 2020 Presidential election. On November 26, 2020, O'Brien replied to a comment from a November 19, 2020 post and stated, "We do not riot. We fight. We are an Army of Patriots. You will know us when you see us. There will be no ambiguity. Prepare yourself."

9. On December 13, 2020, O'Brien posted on Facebook, "March for Trump. We have The Spirit of 1776 in our hearts. Rise up Patriots. You are being Called." On December 19, 2020, O'Brien posted on Facebook, "CALLING ALL PATRIOTS! Be in Washington, D.C.

January 6th. This wasn't organized by any group. DJT has invited us and it's going to be 'wild.'"

10. On January 6, 2021, O'Brien traveled from Pennsylvania to Washington, D.C. and checked in to a hotel approximately four blocks from the Capitol. While outside of the Capitol, O'Brien made a video depicting an area outside of the Capitol while stating, "just to give you some perspective, this was all barricaded and patriots have stormed the Capitol. Broke down the barriers. There's men with guns up there, and so, I'm thinking I might stay a little bit back... because once again, we own these buildings. We own this city. Our taxes bought and paid for this city." In another video, she mentioned they were getting gassed and rubber bullets and referred to the individuals there as "really brave patriots."

11. O'Brien then entered the U.S. Capitol at approximately 2:20pm. through the Senate Wing Doors. O'Brien also posted at least three Facebook Live videos prior to entering the Capitol and at least one video once inside of the Capitol. After exiting the Capitol, O'Brien made a Facebook post stating, "I'm out. I'm safe. Someone may have trashed a certain speaker of the houses office. But I will never tell who."

12. Sometime after leaving the Capitol riot, O'Brien deleted several posts from her Facebook account, including posts referencing her entrance into the Capitol on January 6<sup>th</sup>, in an attempt to evade law enforcement detection. On January 7, 2021, O'Brien made a Facebook post stating she had to "scrub" her Facebook page "for obvious reasons." On the same day, during a private Facebook message exchange, she told another user that she "scrubbed the video" and asked the other user if they think she, meaning O'Brien, will get arrested.

13. In the days after the Capitol riot, O'Brien continued to make several posts regarding the January 6<sup>th</sup> Capitol breach, including 1) on January 7, 2021, posting "No

regrets...”; 2) on January 8, 2021, posting “There is no grey area anymore. It’s time to pick a lane. Are you on the side of freedom?... Patriot or coward? Who are you?” and 3) on January 10, 2021, posting “GOD BLESS THE PATRIOTS... You have earned my upmost respect and loyalty. Thank you Patriots.”

14. O’Brien knew at the time that she entered the U.S. Capitol Building that she was entering a restricted building and grounds, which was cordoned-off, , without lawful authority to do so.

Respectfully submitted,

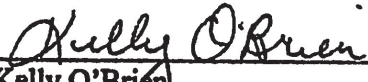
Matthew M. Graves  
United States Attorney D.C.  
Bar No. 481052

By: /s/ Maria Y. Fedor  
Maria Y. Fedor  
Attorney, detailed to the  
United States Attorney’s Office for the  
District of Columbia

**DEFENDANT'S ACKNOWLEDGMENT**

I, Kelly O'Brien, have read this Statement of the Offense and have discussed it with my attorney. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. 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 the Offense fully.

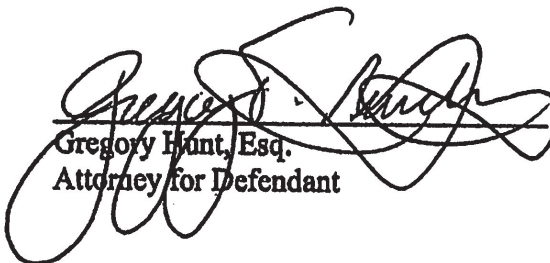
Date: 12-19-21

  
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Kelly O'Brien  
Defendant

**ATTORNEY'S ACKNOWLEDGMENT**

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

Date: 19 December 2021

  
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Gregory Hunt, Esq.  
Attorney for Defendant