

## STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the Federal Bureau of Investigation (“FBI”) Syracuse Resident Agency. I have been with the FBI since 2017. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Special Agent with the FBI, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of violations 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. 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 were disrupted and could not resume until after every unauthorized occupant had left the U.S. Capitol, and the building had been confirmed secured. 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. Photographs and videos of several of these persons were disseminated via social media and other open-source online platforms.

During the course of the investigation into the events of January 6, 2021, your affiant has identified Macsen RUTLEDGE as one of the individuals who was unlawfully inside of the Capitol and the restricted area.

On January 6, 2021, RUTLEDGE was wearing a tan trench coat with a “bear-like hood,” as depicted below:



Specifically, I have located U.S. Capitol surveillance footage wherein RUTLEDGE is captured entering the U.S. Capitol through the Upper House Door at approximately 2:52 pm on January 6, 2021, as depicted below:



Visible to the right of the image is a magnetometer that individuals lawfully entering the Capitol would proceed through during a security screening. However, RUTLEDGE, like other rioters, walked past the magnetometer.

Based upon my review of Capitol surveillance footage and open-source video, RUTLEDGE walked into the hallway area near the Upper House Door. At the approximate time of RUTLEDGE's entrance into the Capitol through the Upper House Door, a confrontation between police and rioters was taking place or had just taken place in the hallway near the Upper House Door. A group of officers attempted to move down the hallway but were attacked by a rioter. RUTLEDGE quickly exited the Capitol through the Upper House Door at approximately 2:53 pm as a Capitol Police Officer waved and directed rioters out of the building. RUTLEDGE exiting the Capitol is depicted in an open-source video below:



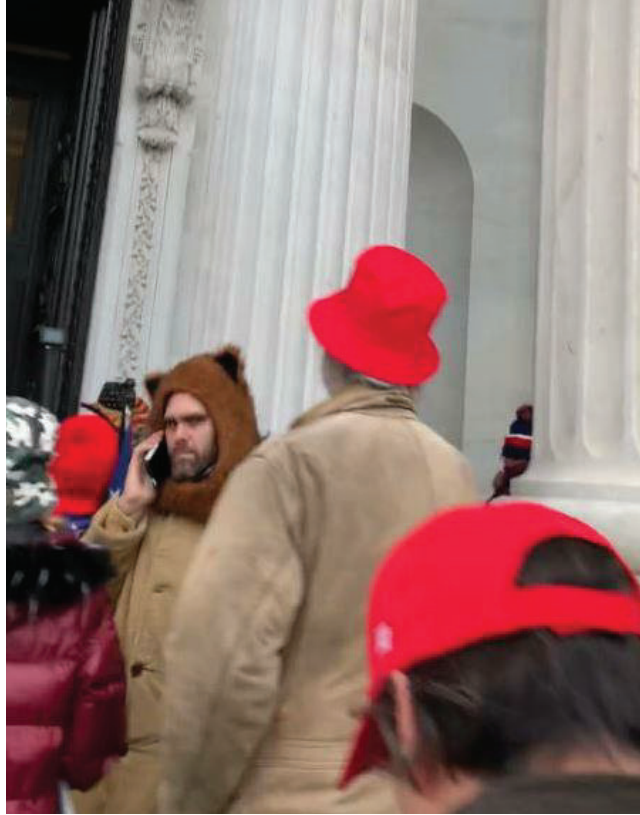
According to records obtained from Google, on January 6, 2021, in and around the time of the incident, a cellphone ending in -1985<sup>1</sup> was identified as having been present within the geographic area that includes the interior of the United States Capitol building and the restricted area around the Capitol between approximately 2:30 pm and 3:22 pm. The phone number ending in -1985 was determined to be serviced by T-Mobile. Based on records obtained from T-Mobile, the number ending in -1985 is registered to RUTLEDGE. Furthermore, on at least two occasions, your affiant has contacted RUTLEDGE on the phone number ending in -1985 and each time, RUTLEDGE identified himself as Macsen RUTLEDGE.

On August 13, 2021, your affiant interviewed Witness 1, who personally knows RUTLEDGE. Witness 1 provided cellphone number ending in -1985 as RUTLEDGE's cell phone number. Your affiant showed Witness 1 the following two photographs and asked if Witness 1 recognized anyone in the photos:



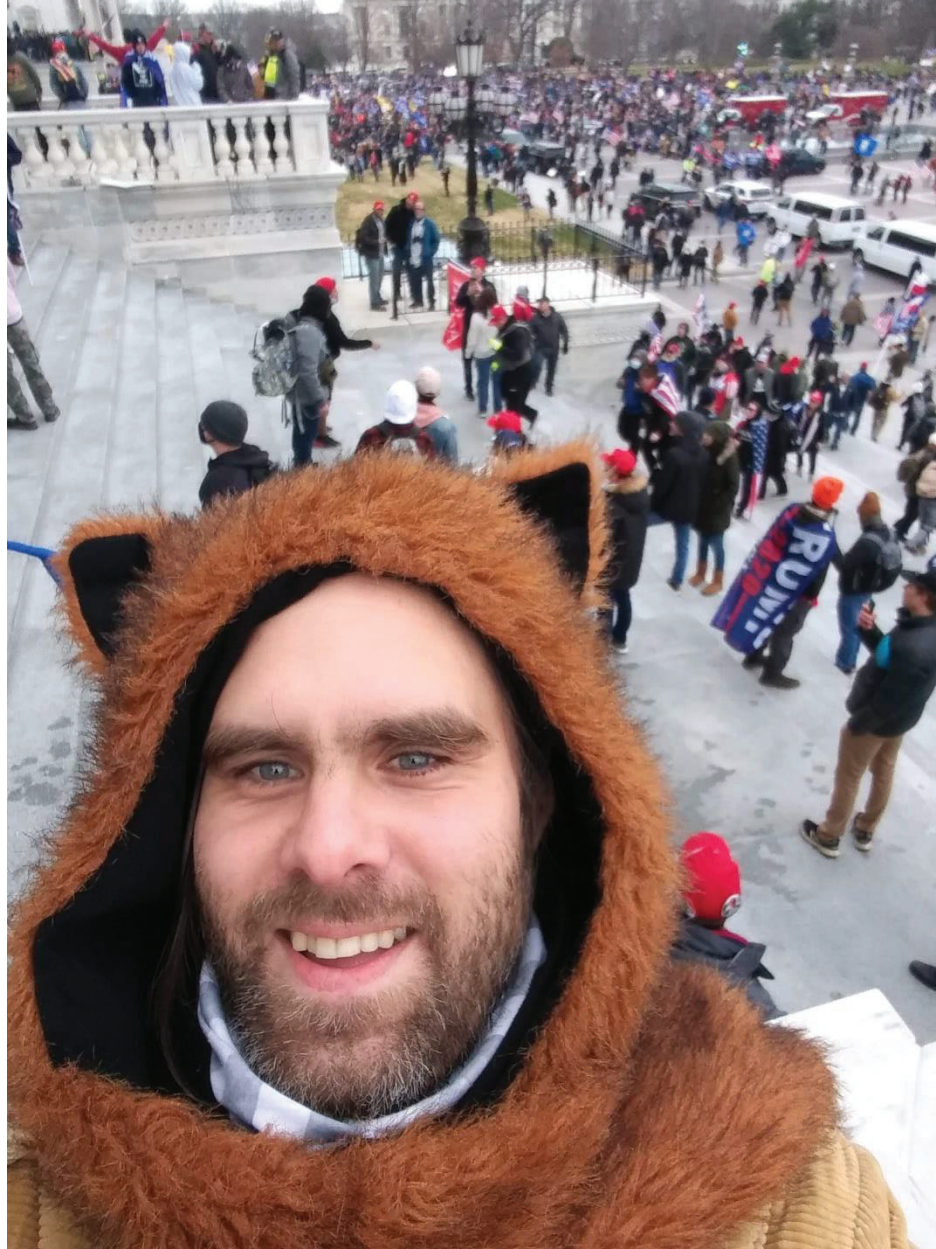
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<sup>1</sup> This filing references only the last four digits of the phone number due to the public nature of this filing.



As to each photo, Witness 1 pointed to the man wearing the “bear-like hood” and tan coat and identified the man as Madsen RUTLEDGE. Your affiant has compared the individual in the pictures and videos referenced above to RUTLEDGE’s New York State Department of Motor Vehicles photo, and the individual in the pictures and videos from the Capitol is consistent with RUTLEDGE’s driver’s license photograph.



On January 21, 2022, a search warrant was obtained for the Google account associated to the telephone number ending in –1985. The records provided by Google further indicated that the account is registered to RUTLEDGE. Among the records provided by Google, your affiant identified several photographs taken on January 6, 2021, depicting RUTLEDGE in and around the U.S. Capitol Building. The following “selfie” photograph (pictured below) was taken on January 6, 2021 at 2:47 p.m., approximately five minutes prior to RUTLEDGE’s entry into the U.S. Capitol through the Upper House Doors. The photograph depicts RUTLEDGE wearing the same clothing items as described above, to include the “bear-like hood” and tan coat. The architecture and landscape in the backdrop of the photograph is also consistent with the location at the U.S. Capitol Building where RUTLEDGE entered on January 6, 2021 and was part of the restricted grounds that day.





RUTLEDGE was not authorized to be in the Capitol or in the restricted grounds on January 6, 2021. Based on the foregoing, your affiant submits there is probable cause to believe that Macsen RUTLEDGE 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 Macsen RUTLEDGE violated 40 U.S.C. § 5104(e)(2)(D) & (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.

  
Special Agent   
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 25<sup>th</sup> day of October 2022.

  
  
HON. MOXILA A. UPADHYAYA  
U.S. MAGISTRATE JUDGE