

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to the Scranton, Pennsylvania, Resident Agency of the Federal Bureau of Investigation (“FBI”). I have been so employed since 2017. Currently, I am tasked with investigating criminal activity that occurred in and around the grounds of the U.S. Capitol in Washington, D.C., 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 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.

On January 7, 2021, FBI received a tip that FRANK J. SCAVO (“SCAVO”), a resident of Old Forge, Pennsylvania, organized bus trips to Washington D.C. for a rally President Donald Trump announced would be held on January 6, 2021. The tipster was aware of who SCAVO was since SCAVO was a public figure in the Old Forge, Pennsylvania, area who previously ran for state representative.

On January 14, 2021, the *Times Leader*, a local news website that covers Northeastern Pennsylvania, including Old Forge, published an article questioning whether SCAVO was inside the Capitol during the breach of the Capitol on January 6, 2021. The article reported that SCAVO denied being inside the Capitol that day, but that media photos, including photos owned by Getty Images, a visual media company, appeared to show SCAVO inside the Capitol. While the *Times Leader* did not publish the Getty Images photos, it published the following photo of SCAVO:



One photo from Getty Images found through an internet search, shown below, depicts conduct inside the Capitol during the afternoon of January 6, 2021, and captures an individual with silver hair and glasses wearing a facemask that reads “END THE RAIN TAX”:



On January 15, 2021, SCAVO and his attorney voluntarily agreed to be interviewed by an FBI Special Agent and an FBI task force officer at FBI's office in Scranton, Pennsylvania. His physical appearance matched that of the man with silver hair and glasses depicted in the *Times Leader* article and the Getty Images photo above. During the interview, SCAVO stated that he was a supporter of President Trump and that a friend of his who is also a Trump supporter inquired about going to Washington, D.C., on January 6, 2021, to attend the rally Trump had announced. According to SCAVO, as word got around, a large group of people in the Old Forge area also expressed interest in traveling to Washington. SCAVO decided to charter buses due to the amount of people interested.

SCAVO admitted traveling to Washington, D.C., on January 6, 2021, and that after he heard Vice President Pence was not going to contest the election results, he eventually made his way to the Capitol. According to publicly viewable information on Facebook, at 1:26 p.m. on January 6, 2021, a Facebook account with the screenname "Frank Scavo" and featuring a picture of SCAVO in its cover photo posted a message reading, "V.P. PENCE FAILS AMERICA . . ."

During his interview with the FBI, SCAVO admitted that when he and the group with him arrived at the Capitol during the afternoon of January 6, 2021, a large crowd had gathered there and some in the crowd behaved unruly. SCAVO stated he put on a facemask that read "END THE RAIN TAX." The crowd began pushing toward doors to the Capitol building, and three doors opened outward. SCAVO claimed he was pushed inside the Capitol due to the movement of the large crowd and was unable to resist getting pushed into the building.

A video SCAVO recorded before entering the Capitol, and which FBI reviewed, does not depict him being pushed into the building or otherwise entering the building involuntarily, though this video does not appear to be a single continuous cut from the time SCAVO was outside to the time he was inside the building, and does not appear to capture the moment SCAVO crossed the threshold into the building. The video shows rioters opening the entrance doors to the building from the inside and pushing police in the entranceway, with some from the outside trying to force themselves inside the building. The video depicts SCAVO saying, "I gotta put this fucking mask on." It then cuts to SCAVO turning the camera on himself, wearing his "END THE RAIN TAX" facemask, and saying in a raised voice, "Here we go," and then cuts to footage he took while walking up a staircase and roaming a hallway inside the Capitol. At one point, SCAVO is heard in the video introducing himself as "FRANK SCAVO" to a woman in that hallway. SCAVO can also be heard in the hallway saying, "God bless America!" and joining chants of "Treason," and "Defend the Constitution, defend your liberty!"

Other video footage from inside the Capitol shows that SCAVO crossed the threshold of the building at approximately 2:40 p.m. on January 6, 2021, with a large throng of individuals following close behind him. Once inside, SCAVO moved to his left, stopped for a few moments, and held up his cellphone in a position consistent with recording video or taking photos. He then climbed a staircase, keeping his cellphone raised at or above the level of his face and in front of his face, consistent with recording video, for the duration of the climb.

SCAVO admitted to the FBI that once he got inside the Capitol, he started taking pictures and videos with his cellphone to document what was happening. SCAVO provided the FBI with videos and pictures of himself and what he saw inside the Capitol building during the afternoon of January 6, 2021. In one video he recorded while inside the building, SCAVO turned the cellphone camera on himself and stated, “This is top-secret shit. We’re in the Capitol. Stormed the fucking Capitol of the fucking United States at 58 years old. What the fuck is wrong with America?” One image captured from this video is shown below:



SCAVO stated that inside the Capitol on January 6, 2021, he found himself near a large photo of a boat. He stopped a random passerby and asked the person to take a photo of him in front of the painting. Using his cellphone, the person took a video of him rather than a still photo. A screen capture of that video, below, shows SCAVO still wearing his “END THE RAIN TAX” facemask, standing in front of a painting that, based on information from the Architect of the Capitol, is located at the East Senate Grand Staircase inside the Capitol:



Another video SCAVO recorded while inside the Capitol on January 6, 2021, shows his first-person perspective as he roamed the halls of the Capitol. He is not in the camera's view during the video, but can be heard saying, "Your own personal tour of the freaking Capitol. We fucking took it back. Took it back."

SCAVO admitted to the FBI he was inside the Capitol from approximately 2:42 p.m. to 2:50 p.m. on January 6, 2021.

Based on the foregoing, your affiant submits that there is probable cause to believe that SCAVO 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 SCAVO 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 24th day of March 2021.

A handwritten signature in blue ink, appearing to read "G. Michael Harvey".

Digitally signed by G. Michael
Harvey
Date: 2021.03.24 17:09:01 -04'00'

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE