

## STATEMENT OF FACTS

Your affiant, [REDACTED] is a special agent assigned to the Federal Bureau of Investigation (FBI). In my duties as a special agent, I have been assigned to and participated in investigations in the the Joint Terrorism Task Force, which investigates threats of violence, racially motivated violent extremism, investigations involving explosives, and antigovernment extremism, and investigations involving firearm violations. I have gained experience through training at the FBI Academy in Quantico, Virginia and everyday work relating to conducting these types of investigations. Currently, I am 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, 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 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, 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.

Among the images of individuals who entered the U.S. Capitol without authorization was an individual dressed in dark clothing, wearing a “hoodie” and carrying a black flag that reads in part “Trump 2020 The Sequel, Make The Liberals Cry Again.” As described below, this person has been identified as Justin Michael SMITH (SMITH). Through FBI Cleveland’s investigation as detailed below, SMITH was determined to be a resident of the Northern District of Ohio.

According to records obtained through a search warrant served on Google, a mobile device associated with [REDACTED] and [REDACTED] was present at the U.S. Capitol on January 6, 2021. Google estimates device location using sources including sources including GPS data and information about nearby Wi-Fi access points and Bluetooth beacons. This location data varies in its accuracy, depending on the source(s) of the data. As a result, Google assigns a “maps display radius” for each location data point. Thus, where Google estimates that its location data is accurate to within 10 meters, Google assigns a “maps display radius” of 10 meters to the location data point. Finally, Google reports that its “maps display radius” reflects the actual location of the covered device approximately 69% of the time. In this case, Google location data shows that a device associated with [REDACTED] and [REDACTED] was within the U.S. Capitol at or about January 6, 2021 14:34 EST until at or about January 6, 2021 15:07 EST.

Records provided by Google revealed that the mobile device associated with [REDACTED] and [REDACTED] belonged to a Google account registered in the name of “Justin Michael Smith.” The Google account also lists a recovery SMS phone number that belongs to Justin Michael SMITH, [REDACTED].

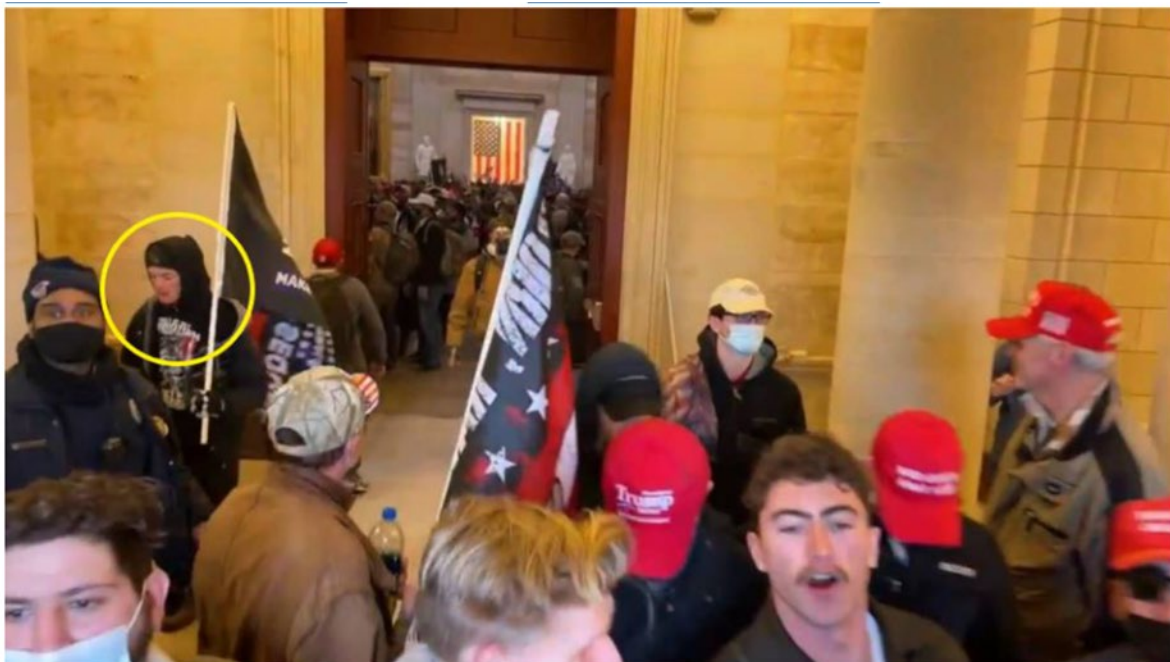
In or about March, 2022 the Cleveland FBI field office received detailed information, including screenshots from SMITH’s suspected Facebook account, as well as images taken from open-source videos and publicly available images as well as screenshots from Capitol surveillance footage (“CCTV” footage) that indicated that images matching the description of SMITH were observed both inside and outside of the U.S. Capitol Building on January 6<sup>th</sup>, 2021. This information was provided by a confidential source (“CI”). Your affiant has consulted with federal law enforcement officials regularly working with the CI and is unaware of any statements or evidence that would tend to undermine the credibility of the CI. The CI is not working off charges related to a criminal prosecution. Rather, the CI’s motivation for providing information is from his/her sense of outrage regarding the attacks on law enforcement during the events of January 6, 2021. The CI requested his/her identity be protected to the extent possible, but he/she is willing to testify if necessary. The CI does not know Justin Michael SMITH personally.

Based on a review of this footage and screenshots, FBI Agents were able to locate additional video footage of Justin Michael SMITH entering the Capitol building. Justin Michael SMITH can be seen holding a black “TRUMP” flag in multiple screenshots below:

*Screenshot from Video Posted on YouTube (hereinafter “YouTube Video 1)*



1”) Screenshot from Video Posted on Reddit.com and Archive.Org (hereinafter “Reddit Video



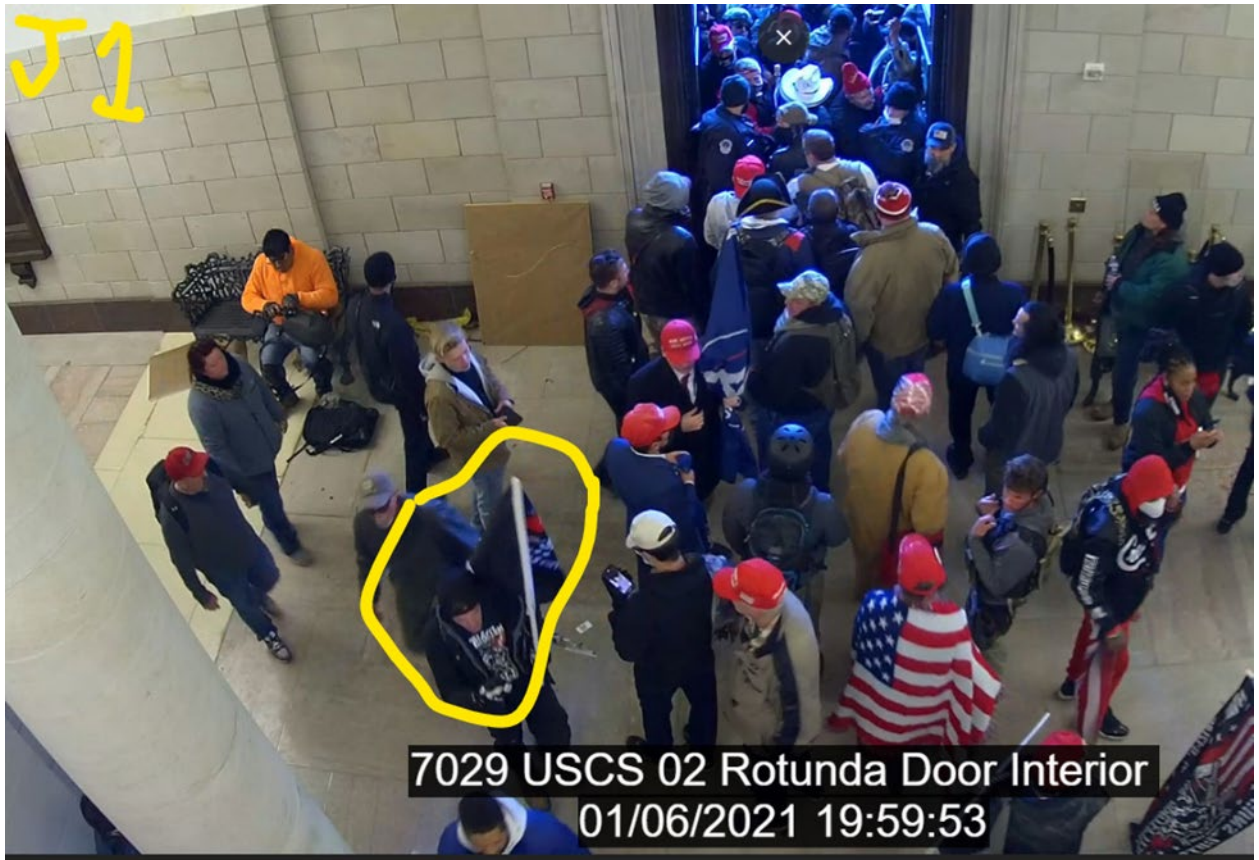
Screenshot from Video Posted on YouTube (hereinafter “YouTube Video 2”)



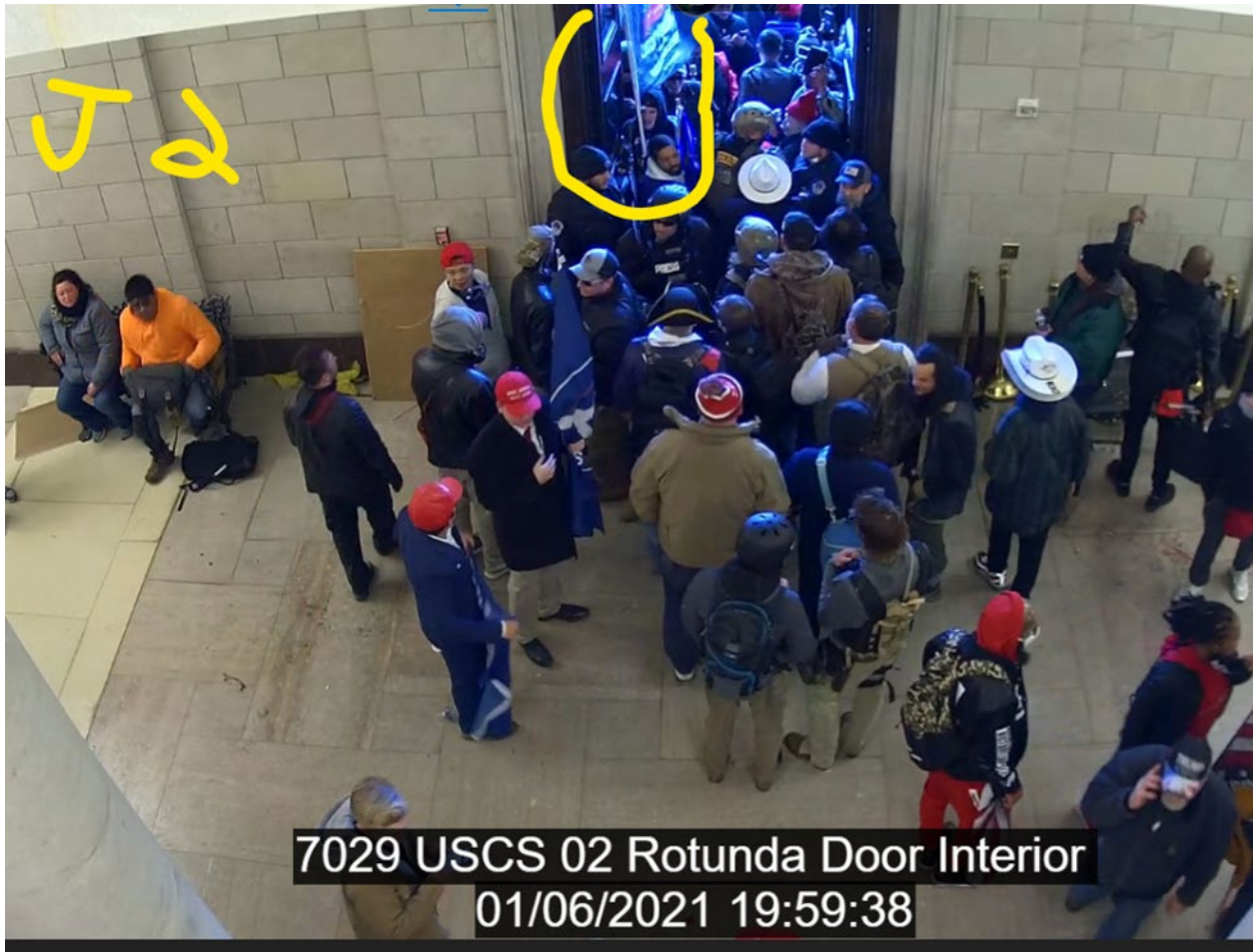
Your affiant and other FBI Agents have reviewed the video from which the three above screenshots were posted. YouTube Video 1 is filmed outside of the Capitol on January 6<sup>th</sup>, 2021, Reddit Video 1 is filmed inside the Capitol on January 6<sup>th</sup> 2021, and YouTube Video 2 is filmed inside the Capitol on January 6<sup>th</sup>, 2021.

Your affiant has compared these videos to other videos and screenshots from CCTV footage. Samples from the screenshots of the CCTV footage are included below (with yellow circles/markings indicating the presence of SMITH).

*Screenshot from CCTV footage inside the Capitol at approximately 19:59:53 UTC*



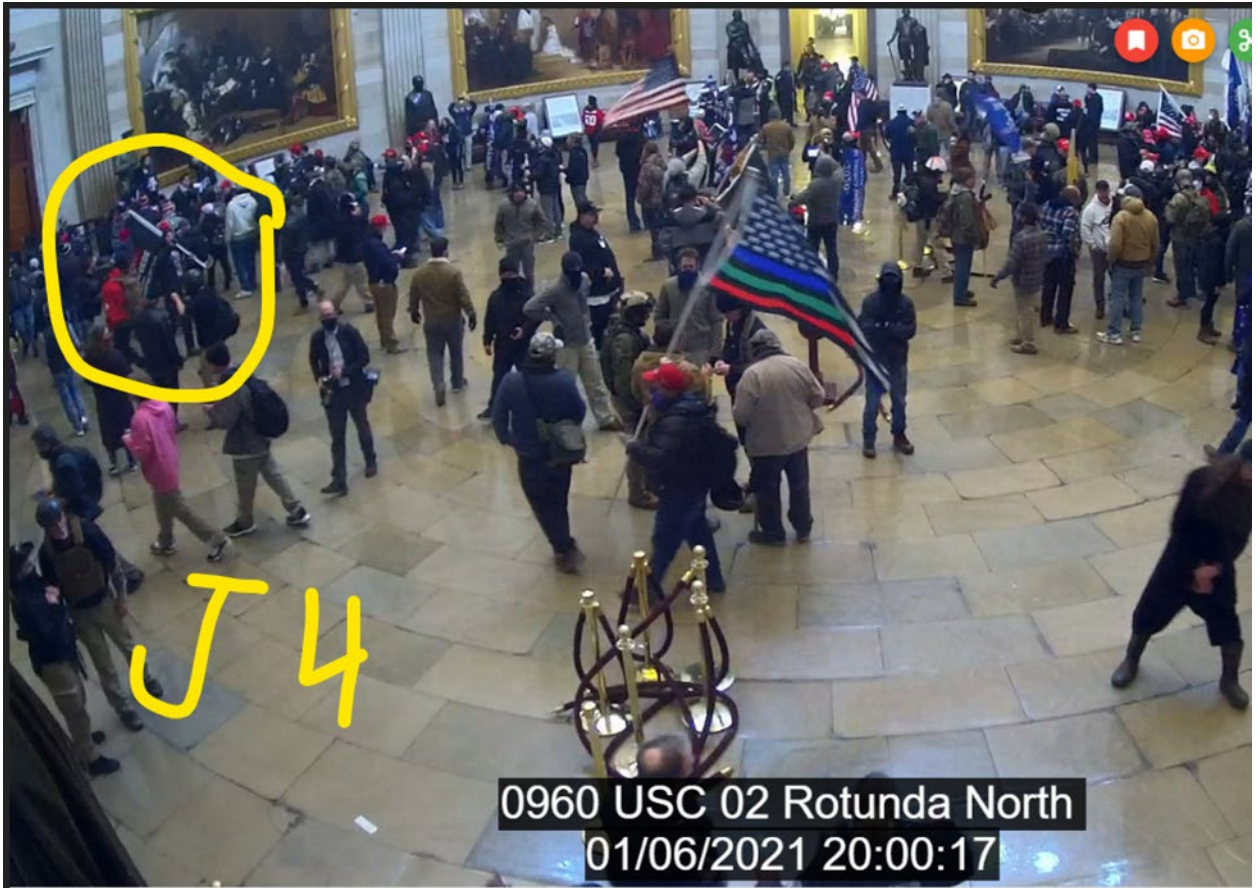
*Screenshot from CCTV footage inside the Capitol at approximately 19:59:38 UTC*



Screenshot from CCTV footage inside the Capitol Rotunda at approximately 20:00:01 UTC

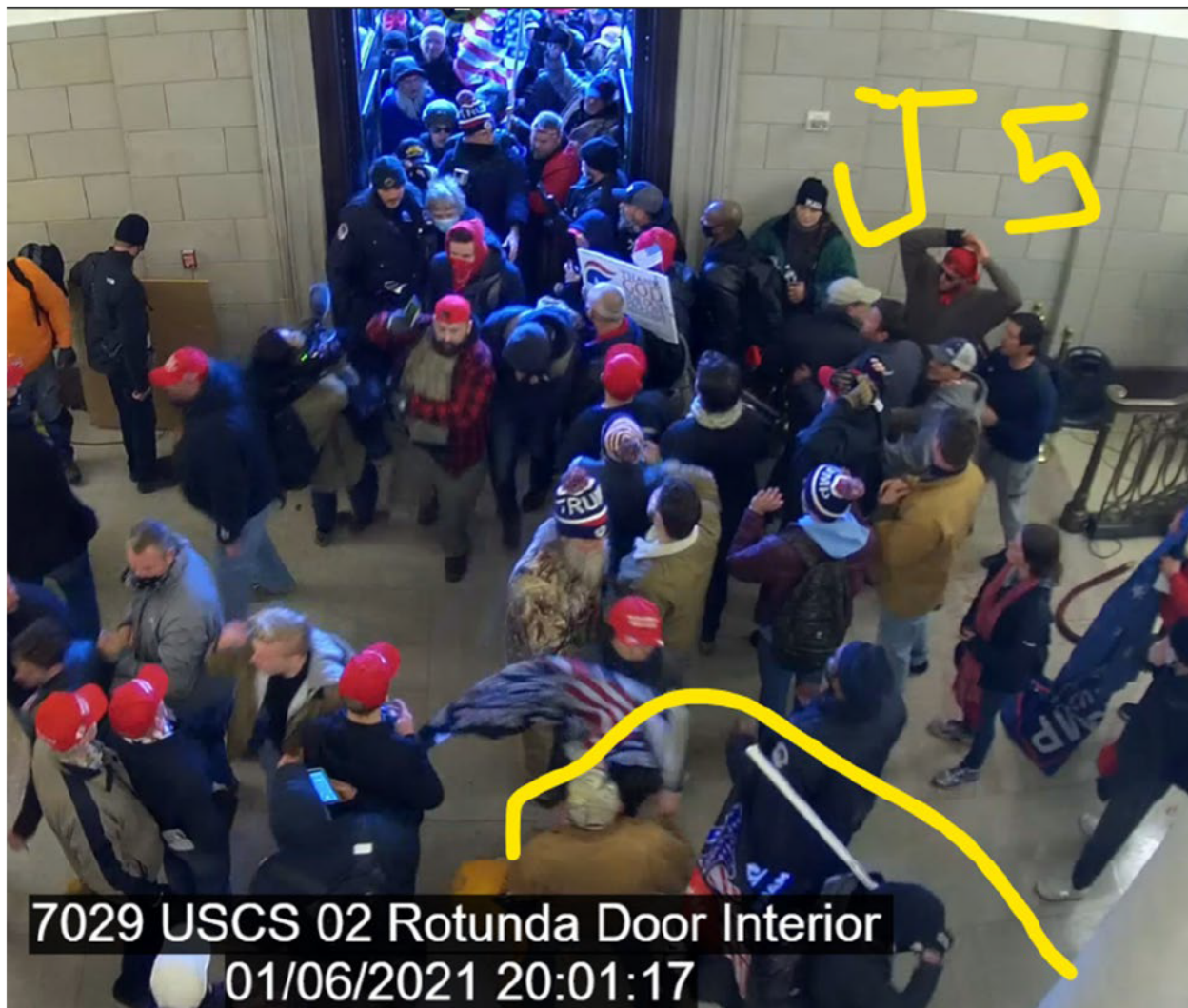


*Screenshot from inside the Capitol Rotunda at approximately 20:00:17 UTC*





*Screenshot from Inside the Capitol Rotunda Door Interior at approximately 20:01:17 UTC*



Additionally, open-source research was conducted on Justin Michael SMITH's social media accounts and which revealed SMITH's publicly available Facebook profile. Records obtained from Facebook for Facebook Identification Number (FBID) [REDACTED] revealed that this FBID belonged to the current display name "Unborn Love", with verified email address [REDACTED] and verified cellular telephone number, [REDACTED]. Facebook also provided historic display names for the account including "[REDACTED]". A picture of Justin Michael SMITH's Facebook profile shows SMITH in the same black hooded sweatshirt that he can be seen wearing in surveillance footage from January 6, 2021, and in the publicly available YouTube videos and Reddit video from January 6, 2021. In the Facebook photo, there is a graphic that reads "When Tyranny Becomes Law – Resistance Becomes Duty."

*Screenshot of a photo taken from Justin Michael SMITH's Facebook profile*



*Photo of Justin Michael Smith wearing the same sweatshirt at the Capitol*



On or about January 13, 2022, the FBI conducted an interview of an individual who knows Justin Michael SMITH personally (hereinafter “Witness 1”). Witness 1 stated that Justin Michael SMITH used to work for him/her, and provided the personal email for Justin Michael SMITH, [REDACTED]. This is the email address that was observed to be inside the Capitol on January 6, 2021 (as stated above). Witness 1 stated that SMITH provided the employer a home telephone number of [REDACTED]. This number matches the records provided from GOOGLE regarding [REDACTED].

On or about November 29, 2021, and again on or about January 6, 2022, the FBI interviewed an additional witness (“Witness 2”) who knows Justin Michael SMITH personally, and who provided additional information about Justin Michael SMITH and his participation in the events of January 6<sup>th</sup>, 2021 at the Capitol. Witness 2 stated that he and SMITH are members of an identified political belief organization together and are acquaintances from that group. Witness 2 stated that he and SMITH were at a group meeting together in or about June 2021 when Witness 2 personally observed SMITH bragging to Witness 2 and others that he had entered the U.S. Capitol on January 6, 2021. Witness 2 stated that SMITH was showing Witness 2 and others in the group a photograph from his cellular telephone depicting SMITH inside the Capitol. SMITH claimed it was taken on January 6, 2021. Witness 2 was shown images from social media and CCTV footage (shown above, with the exception of the driver’s license photograph). Witness 2 positively identified the individual featured in the images as SMITH.

On or about November 5, 2022, the FBI interviewed an additional witness (Witness 3) who knows SMITH personally, and who provided additional information about Justin Michael SMITH and his participation in the events of January 6<sup>th</sup>, 2021, at the U.S. Capitol. Witness 3 knows SMITH because they both attended high school together. Witness 3 stated that he attended the protest at the U.S. Capitol on January 6, 2021, and that he drove to Washington, D.C. alone. Witness 3 stated that Witness 3 did not enter the U.S. Capitol on January 6<sup>th</sup>, 2021. Witness 3 stated that he had no knowledge of SMITH going inside the U.S. Capitol. However, Witness 3 was shown images from social media and CCTV footage (shown above, with the exception of the driver’s license photograph), and Witness 3 positively identified the individual featured in the images as SMITH.

Based on the foregoing, your affiant submits that there is probable cause to believe that Justin Michael SMITH 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 Justin Michael SMITH 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.

[REDACTED]

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 3rd day of May, 2022.

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ROBIN M. MERIWEATHER  
UNITED STATES MAGISTRATE JUDGE