

Case: 1:23-mj-00268
Assigned To : Harvey, G. Michael
Assign. Date : 10/10/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, [REDACTED], is a task force officer assigned to NS-1. In my duties as a task force officer, I have investigated anti-government and anti-authority extremists in addition to other domestic terrorism threats. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a task force officer, 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.

Background – The U.S. Capitol on January 6, 2021

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.

Facts Specific to This Investigation

On May 3, 2021, agents in FBI Denver reviewed certain user accounts identified for being associated to devices located within the U.S. Capitol Building on January 6, 2021, in violation of 18 USC § 1752(a)(1)(2), and various other charges. FBI Denver identified a user account associated with certain email addresses as likely identifiable with DANIEL JAY VALDEZ (“DANIEL”) of Park Street in Aurora, CO.

On August 19, 2021, initial investigating agents made contact with someone with personal knowledge of DANIEL’s whereabouts (Person 1). This person informed agents that DANIEL no longer lived at Park St., and had moved with his son, PAYTON VALDEZ (“PAYTON”), to Geneva Street in Aurora, CO. Person 1 also informed agents that the phone number that DANIEL has been contacting them from is 602-885-****.¹ Additionally, Person 1 provided DANIEL’s email address of danielVALDEZ113@yahoo.com, one of the email addresses identified above.

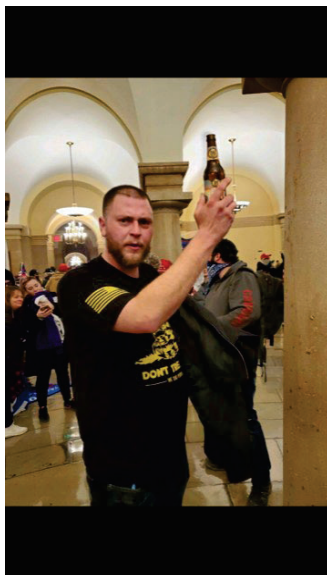
Prior to specific questioning, Person 1 predicted that the agents were investigating DANIEL in relation to the events at the U.S. Capitol on January 6, 2021. Person 1 added that they had pictures that DANIEL had sent to them when he was at the U.S. Capitol on January 6, 2021 and provided these pictures to the agents. Person 1 explained that both DANIEL and PAYTON traveled to the U.S. Capitol for the January 6, 2021 event because DANIEL believed President Trump was going to tell everything about who in politics was sex trafficking children. Person 1 said that when the media later started showing pictures from the U.S. Capitol and mentioning that attendees were being arrested, DANIEL said it “looks like Payton and I are going to get arrested.” Person 1 said both DANIEL and PAYTON deleted their Facebook accounts because they had posted pictures of themselves in the U.S. Capitol, including a picture taken by an unknown person that depicted PAYTON inside the U.S. Capitol holding a riot shield believed to belong to the U.S. Capitol Police (see Figure 2). Person 1 added that DANIEL also sent Facebook messages containing pictures to others in which he bragged that he was at the U.S. Capitol. Person 1 informed agents that someone they knew (Person 2) called the FBI a few days prior to their interview to report that DANIEL had been at the U.S. Capitol on January 6, 2021. (E-Tip transaction number: ejoo8w8r, submitted August 12, 2021).

Along with forwarding the Figures 1-3 to agents, Person 1 also allowed an agent to video record their text message conversation with DANIEL that started on January 3, 2021 at approximately 4:28 p.m. MST where DANIEL sent them a message saying "Greetings from Kansas City!" The messages were sent by 602-885-****., the number associated with DANIEL as identified above. Later in this chain of text messages, DANIEL, in addition to sending pictures, sent messages saying he was in DC, how there were “millions of people”, how he had video of "us tearing down the barrier," how they were on the steps of the U.S. Capitol, how “they

¹ Your affiant has removed the last four digits of telephone numbers for privacy purposes. Your affiant knows these digits.

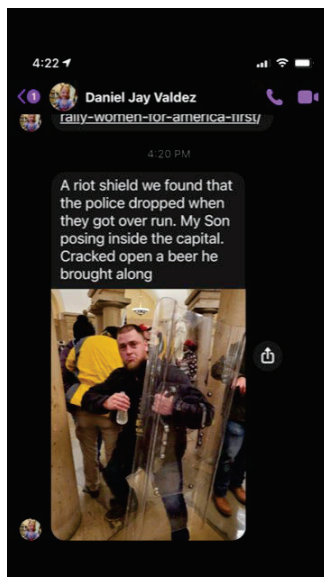
can't stop us!”, how they entered the U.S. Capitol through a broken window, and how he wasn't attacking anyone so he wasn't likely to receive federal charges. The recording of the text chain stops with texts on January 8, 2021.

Figure 1



PAYTON inside U.S.
Capitol Crypt

Figure 2



PAYTON inside U.S.
Capitol Crypt holding U.S.
Capitol Police riot shield

Figure 3



DANIEL in front of
Washington Monument

As detailed below, law enforcement traced DANIEL and PAYTON's movements in the U.S. Capitol as observed by U.S. Capitol security cameras. DANIEL and PAYTON were among the first rioters to enter through a broken window next to the Senate Wing Door at approximately 2:24 p.m. Note that the time listed in each of the screen capture descriptions is not necessarily reflective of the exact time of the screen capture. After entering the building, DANIEL and PAYTON traveled south to the Crypt before returning and exiting out of the window they entered through. In the Crypt, Payton posed for a picture holding a law enforcement riot shield and a beverage (seen above). They were in the U.S. Capitol building for around nine minutes.

After receiving the photographs from Person 1, FBI Denver now had information regarding the overall appearances of DANIEL and PAYTON on January 6, 2021. DANIEL wore light brown boots, blue jeans, an olive coat with a brown corduroy collar, a black hoodie, a black stocking hat with "Carhartt" stitched on the front in white letters, and black sunglasses. Additionally, DANIEL is often seen in the videos and photographs with two folding chair bags slung over a shoulder – one red and the other black or dark blue. DANIEL's appearance varies throughout the day in that he sometimes puts the hood of his black hoodie up over his stocking cap and, at times, takes off his black sunglasses.

PAYTON wore dark boots with a light sole, dark blue jeans, a black Carhartt jacket and a black t-shirt with a yellow American flag printed on the right sleeve and, on the front, the snake

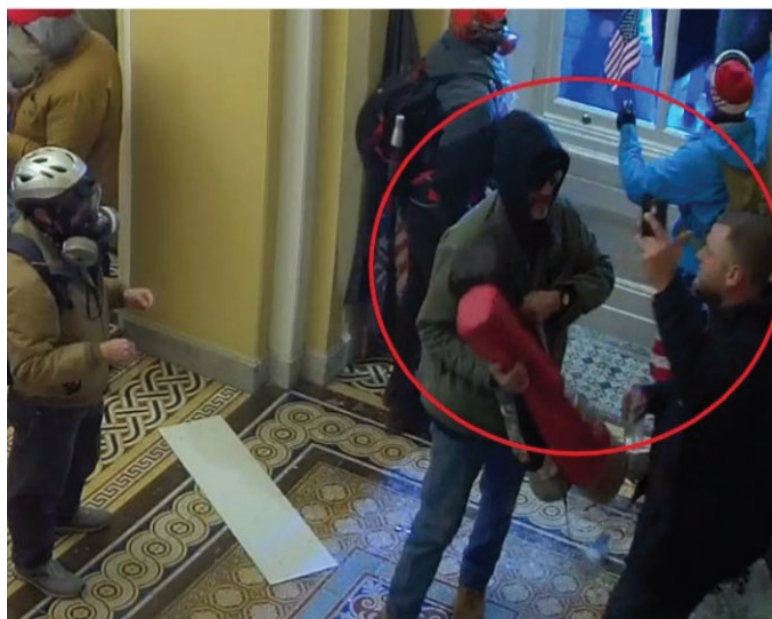
from the Gadsden flag that includes additional text that can't be seen in its entirety. PAYTON also wore a black backpack with one strap which was slung diagonally across his shoulders and chest. PAYTON's appearance varies throughout the day in that he sometimes takes his black Carhartt jacket off and is sometimes seen without his backpack.

Entering the Capitol on Senate Wing Door CCTV

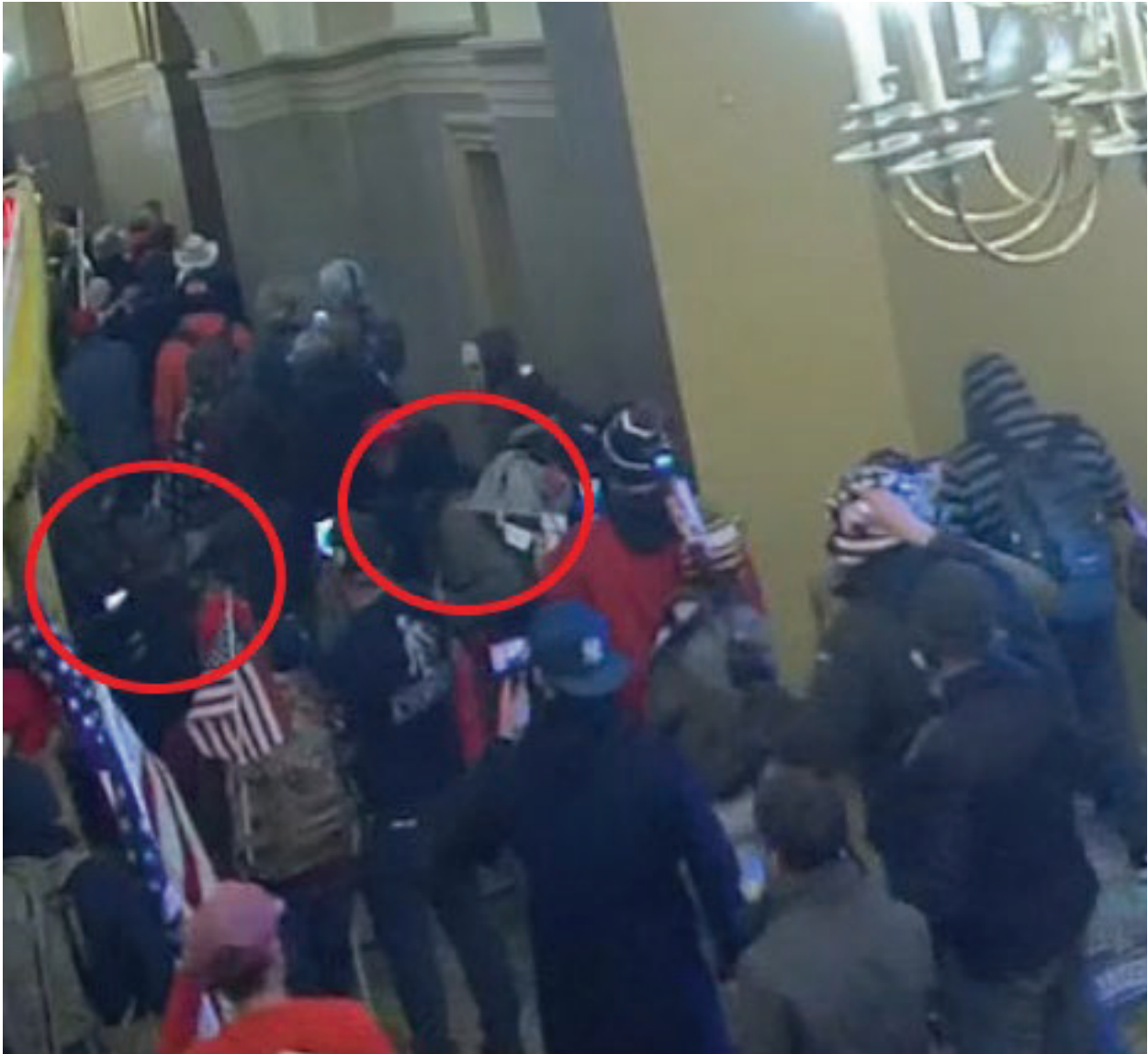
- DANIEL enters through a broken window at 2:24:36 p.m. (EST)



- DANIEL (on the left in the circle) and PAYTON (on the right) inside Capitol just before walking north out of camera view at 2:24:43 p.m.



- PAYTON (left circle) and DANIEL (right circle) walk south along corridor toward the crypt. They exit the view of the camera at 2:25:49 p.m.



Crypt CCTV

- DANIEL (in upper part of circle) and PAYTON (lower part) entering north side of crypt at 2:26:51 p.m.



- After DANIEL walks out of view of camera 0402, he appears on the north side of the crypt at 2:29:40 p.m.. DANIEL stands in place before soon walking out of camera view at 2:30:13 p.m.

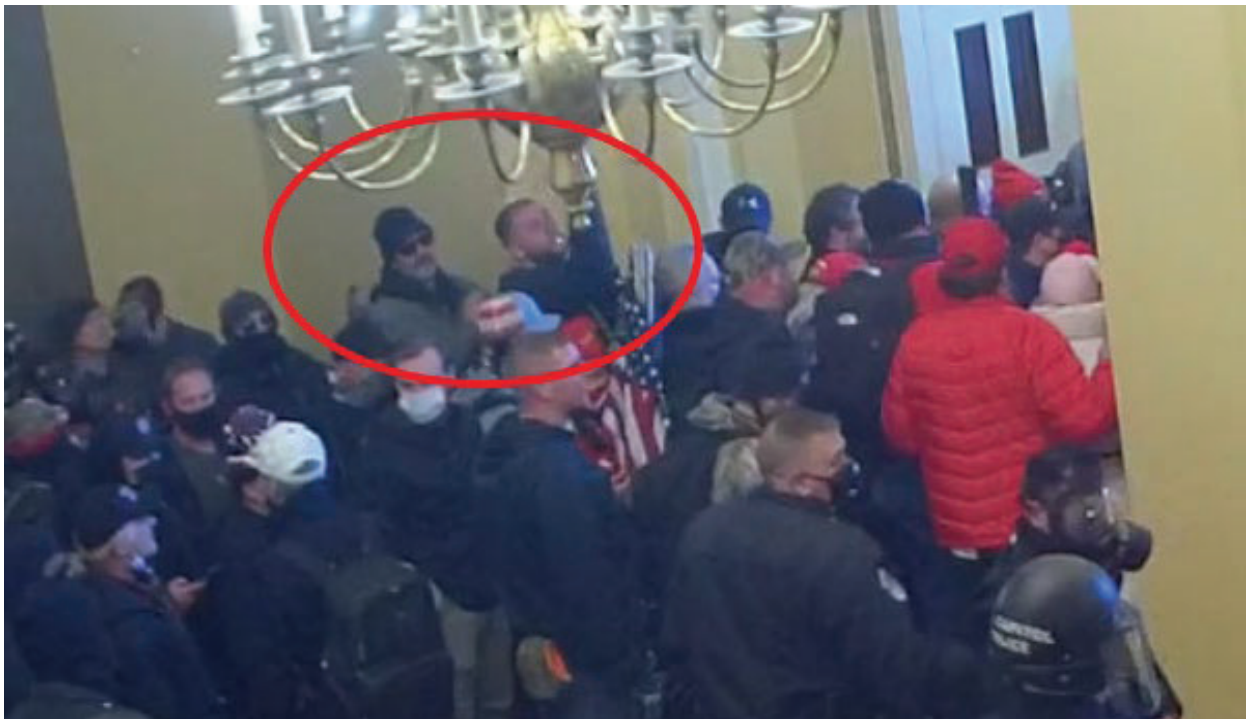


- DANIEL (in bottom of circle) exits the north end of the crypt at 2:30:36 p.m.

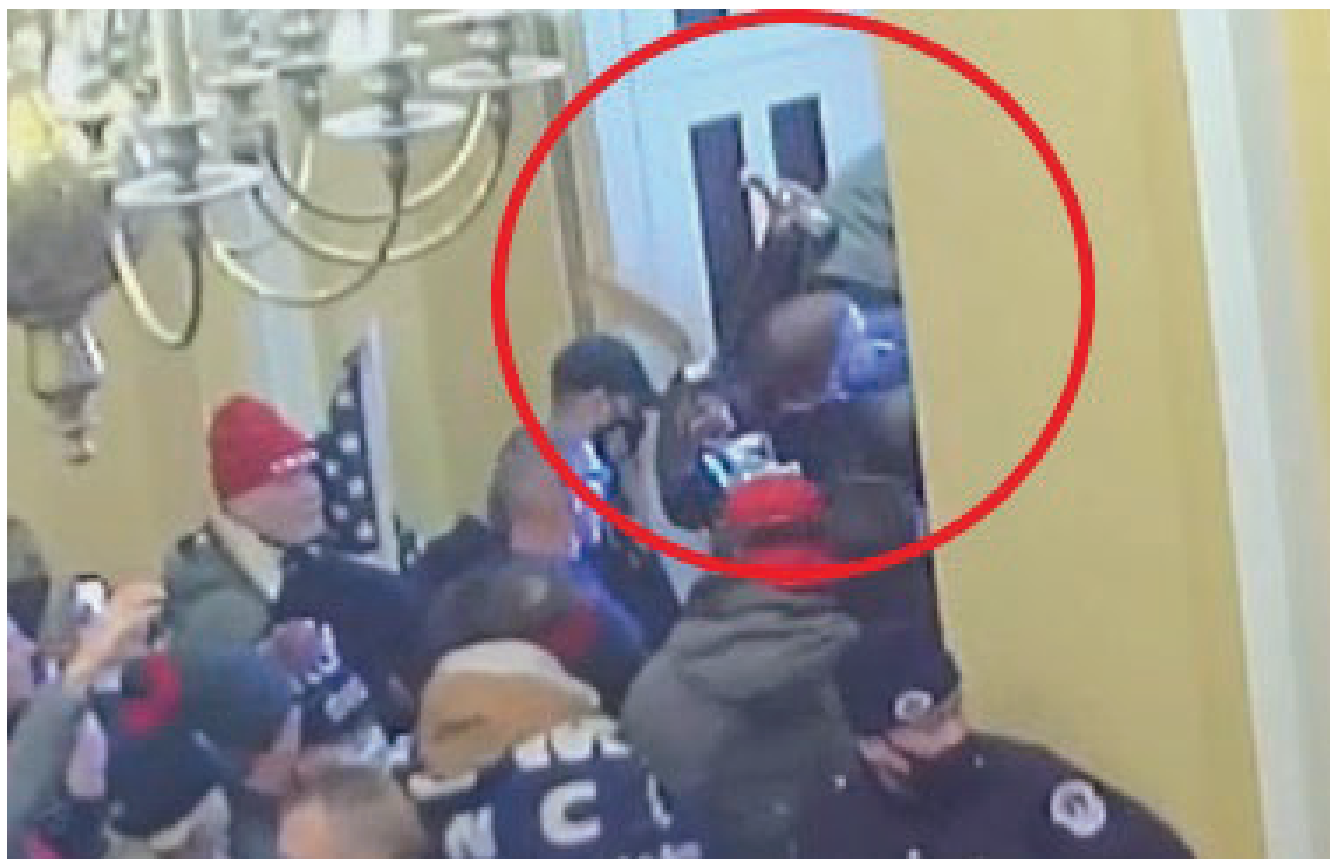


Exiting on Senate Wing Door CCTV

- At 2:31:54 p.m, DANIEL (on the left in the circle) and PAYTON (on the right) line up to exit out a different window, just south of the one they entered.



- DANIEL exits out the window as PAYTON pushes him from behind at 2:33:16 p.m.



On November 7, 2022, FBI investigation recovered public-source media capturing instances in which either PAYTON, DANIEL, or both appear on the U.S. Capitol grounds or within the U.S. Capitol building on January 6, 2021. PAYTON can be seen in a YouTube video uploaded by user Diomedes XXII titled “First wave over the Rampart.” PAYTON appears briefly and can be heard saying, at the 1 minute and 9 second mark, “The next time we come back, it ain’t gonna be fucking unarmed. That’s for goddamn sure.”

Based on the foregoing, your affiant submits that there is probable cause to believe that DANIEL and PAYTON 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 DANIEL and PAYTON 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]

[REDACTED], Task Force Officer
FBI Denver

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 10th day of October 2023.



Digitally signed by
G. Michael Harvey

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE