

UNITED STATES DISTRICT COURT
for the
District of Columbia

United States of America

v.

Mark Simon



)
)
)
)
)
)

Case No.

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 6, 2021 in the county of in the
District of Columbia, the defendant(s) violated:

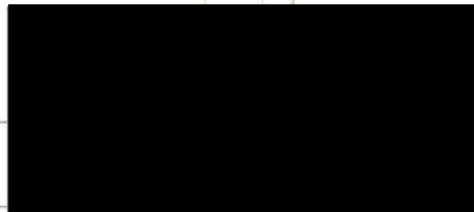
Code Section
18 U.S.C. § 1752(a)(1) and (2)
40 U.S.C. § 5104(e)(2)(D) and (G)

Offense Description
Restricted Buildings or Grounds
Unlawful Activities on Capitol Grounds

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet.



Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
Telephone (specify reliable electronic means).

Date: 01/21/2021

2021.01.21 18:42:48
-05'00'

Judge's signature

City and state: Washington, DC

Zia M. Faruqui, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, [REDACTED], a Special Agent with the Federal Bureau of Investigation, Washington, D.C., being duly sworn, depose and state as follows:

AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”). As such, I am a “federal law enforcement officer” within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C), that is, a Government agent engaged in enforcing the criminal laws and duly authorized by the Attorney General to request and execute arrest and search warrants pursuant to Title 18 U.S.C. §§3052 and 3107; and Department of Justice (“DOJ”) Regulations set forth at Title 28 C.F.R. §§ 0.85 and 60.2(a).

2. I have been employed by the FBI for approximately 16 years. During my tenure with the FBI, I have investigated and participated in the investigations of a variety of criminal matters. In addition to my regular duties, I am currently also tasked with investigating criminal activity that occurred in and around the Capitol grounds on January 6, 2021.

PURPOSE OF AFFIDAVIT

3. This affidavit is being submitted for the limited purpose of establishing probable cause to believe that MARK SIMON (hereinafter referred to as “SIMON”) has violated Title 18 U.S.C. § 1752(a)(1) and (2), Restricted Buildings or Grounds; and Title 40 U.S.C. § 5104(e)(2)(D) and (G), Unlawful Activities on Capitol Grounds; Disorderly Conduct, as set forth below:

- a. Title 18 U.S.C. § 1752(a)(1) and (2), 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.

- b. Title 40 U.S.C. § 5104(e)(2): Unlawful Activities on Capitol Grounds; (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.

4. The statements contained in this affidavit are based in part on: information provided by FBI Special Agents, Task Force Officers, and FBI Analysts, written reports about this and other investigations that I have received, directly or indirectly, from other law enforcement agents, information gathered from the results of physical surveillance conducted by

law enforcement agents, reporting by eye witnesses, independent investigation and analysis by FBI agents/analysts and computer forensic professionals, and my experience, training and background as an FBI agent. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. Instead, I have set forth only the facts that I believe are necessary to establish the necessary foundation for the requested complaint.

JURISDICTION

5. This Court has jurisdiction to issue the requested warrant because it is a “court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A), and (c)(1)(A). Specifically, the Court is “a district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i). As discussed more fully below, the U.S. Attorney’s Office for the District of Columbia is investigating this case, which, among other things, involves possible violations of Title 18 U.S.C. § 1752(a)(1) and (2), Restricted Buildings or Grounds; Title 40 U.S.C. § 5104(e)(2)(D) and (G), Unlawful Activities on Capitol Grounds. Disorderly Conduct. The conduct at issue includes an overt act in the District of Columbia, in the form of entering a restricted area around the Capitol on January 6, 2021, as part of a mob that disrupted the proceedings of Congress, engaged in property damage and theft, and caused physical injury.

BASIS FOR PROBABLE CAUSE

6. 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. On

January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public while a joint session of the United States Congress convened at the United States Capitol. 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.

7. 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.

8. 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 the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

9. 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, 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.

10. 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.

11. On or about January 13, 2021, a Special Agent in the FBI's Los Angeles field office conducted open-source research and located a blog post at www.orangejuiceblog.com titled "From HB to DC: [Individual 1] and tanned BF help Storm the Capitol for Trump!" The post included images and video of a female and male, who the blog claimed were at the U.S. Capitol on January 6, 2021. According to the post, the images and video had previously been posted on the Facebook page for Individual 1 but had since been deleted. The Orange County Intelligence Assessment Center (OCIAAC) was later able to locate the video and confirm it was posted to Individual 1's Facebook page with the caption, "Peacefully Storming the Capitol...#StopTheSteal." The OCIAAC provided a copy of the video to the FBI's Los Angeles office on January 17, 2021.

12. The above-referenced blog post also included a link to the video, which had been posted to YouTube with the URL https://www.youtube.com/watch?v=Pk1JgMghd1A&feature=emb_logo. On January 18, 2021, I reviewed the video. I also searched the database of tips the FBI received in connection with the January 6, 2021 events at the U.S. Capitol and found clips and images of the same video that had been submitted by members of the public linking the video to Individual 1. The YouTube video

and clips of the same video submitted by the public to the FBI showed that it had been posted to Individual 1's Facebook page with the comment, "Peacefully Storming the Capital" and "#StopTheSteal."

13. Based on my observations of the video and my knowledge of the events in Washington, D.C. on January 6, 2021, I believe this video was taken on January 6, 2021. The individual taking the video was on the east side of the U.S. Capitol approaching a doorway leading into the U.S. Capitol. As the individual panned from the U.S. Capitol doorway to the crowd, I saw the U.S. Supreme Court and the Library of Congress in the background. A beeping sound that I believe to be an alarm could be heard from inside the U.S. Capitol throughout the video.

14. The video showed numerous individuals pushing their way into the U.S. Capitol, while others exited the U.S. Capitol. As the individual filming the video approached the doorway to the U.S. Capitol, law enforcement officers inside the U.S. Capitol could be seen attempting to remove individuals from the building. I also observed broken glass windows on two of the doors of the U.S. Capitol, including one that was directly next to the individual taking the video.

15. Once the individual taking the video was in the doorway threshold of the U.S. Capitol building, he turned the camera on himself and said, "In the Capitol baby, yeah!" Shortly thereafter, the individual turned the camera on himself again and said, "2021 Donald Trump!" The individual filming the video appeared to be the same male individual who was pictured with Individual 1 in photos included in the blog post. A screenshot from the portion of the video in which the individual turned the camera on himself is below, along with an image from the video

provided to the FBI by a member of the public. A broken glass window is visible directly behind the individual in the first image.





16. On or about January 14, 2021, a Special Agent in the FBI's Los Angeles field office sent the above-referenced blog post to a Detective from the Huntington Beach Police Department (HBPD) to inquire if the individuals pictured in the blog were known to reside in Huntington Beach, California, as alleged in the blog. HBPD representatives later confirmed that Individual 1 was a known activist in Huntington Beach, California. HBPD representatives also identified the male pictured with Individual 1 in the blog as **MARK STEVEN SIMON**. I was also able to obtain a copy of **SIMON**'s California Driver's License photo, and believe the individual depicted in the photographs in Paragraph 15 above and in **SIMON**'s Driver's License photo are the same.

17. In reviewing tips provided to the FBI about Individual 1, I found multiple images from Individual 1's social media accounts showing Individual 1 and an unidentified male in Washington, D.C. on or around January 6, 2021. The male in the images appears to be **SIMON**. Two such images are included below.



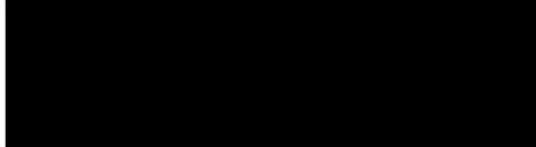


18. On or about January 16, 2021, **SIMON**'s Driver's License photo and the above-referenced video were submitted to the FBI's Operations Technology Division (OTD) for further review. On January 18, 2021, a representative from OTD informed FBI Los Angeles that a biometric search had been conducted using **SIMON**'s Driver's License photo and that both a computer algorithm and a trained forensic examiner confirmed a match between the photo and the male in the above-referenced video.

19. Based on my training and experience, and my knowledge of the facts uncovered in this investigation to date, I believe that at no time on or before January 6, 2021, was **SIMON** granted permission or authorized by rule to enter restricted grounds around the Capitol, nor did he, at any time, have authorization to assemble, demonstrate, or parade on the Grounds or in the Capitol Building.

CONCLUSION

20. Based on the above factual allegations, I submit that probable cause exists to believe that **MARK SIMON**, has violated Title 18 U.S.C. § 1752(a)(1) and (2), Restricted Buildings or Grounds and Title 40 U.S.C. § 5104(e)(2)(D) and (G), Unlawful Activities on Capitol Grounds; Disorderly Conduct and demonstrating in the Capitol building.



Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 21st day of January 2021.

A handwritten signature in blue ink, appearing to read 'Zia M. Faruqi'.



2021.01.21
18:40:58 -05'00'

ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE