

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

KASH LEE KELLY

Case: 1:21-mj-00067
Assigned to: Judge Zia M. Faruqui
Assign Date: 1/15/2021
Description: COMPLAINT W/ARREST WARRANT

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:

Table with 2 columns: Code Section, Offense Description. Includes entries for 18 U.S.C. 1752 (a)(1) and (2) and 40 U.S.C. § 5104(e)(2)(A) and (G).

This criminal complaint is based on these facts: See attached statement of facts.

Continued on the attached sheet.

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

Date: 01/15/2021

City and state: Washington, DC

Zia M. Faruqui
2021.01.15 14:22:54 -05'00'
Judge's signature

Zia M. Faruqui, U.S. Magistrate Judge
Printed name and title

## STATEMENT OF FACTS

On January 6, 2021, your affiant, Federal Bureau Investigation (FBI) Special Agent [REDACTED], was on duty and performing my official duties as a FBI Special Agent. Specifically, I am assigned to the FBI Washington, D.C.'s Public Corruption and Civil Rights Squad, tasked with investigating criminal activity in and around the Capitol grounds. As a FBI Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution 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 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.

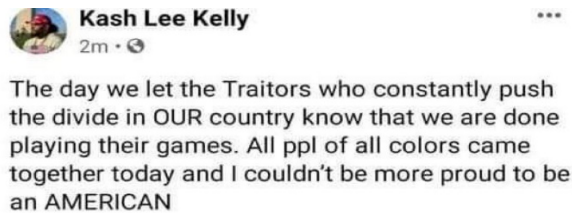
On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate 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. Vice President Mike Pence was present and presiding in the Senate chamber.

With the joint session underway and with Vice President Mike Pence presiding, a large crowd gathered outside the U.S. Capitol. Temporary and permanent barricades surround 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 approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. At such time, the joint session was 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. 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 9, 2021, the FBI received two anonymous tips that KASH LEE KELLY (KELLY) breached the U.S. Capitol Building on January 6, 2021. The tipsters stated that KELLY had posted multiple photos of himself on Facebook scaling the walls of the building and posing with a monument inside of the United States Capitol Building.

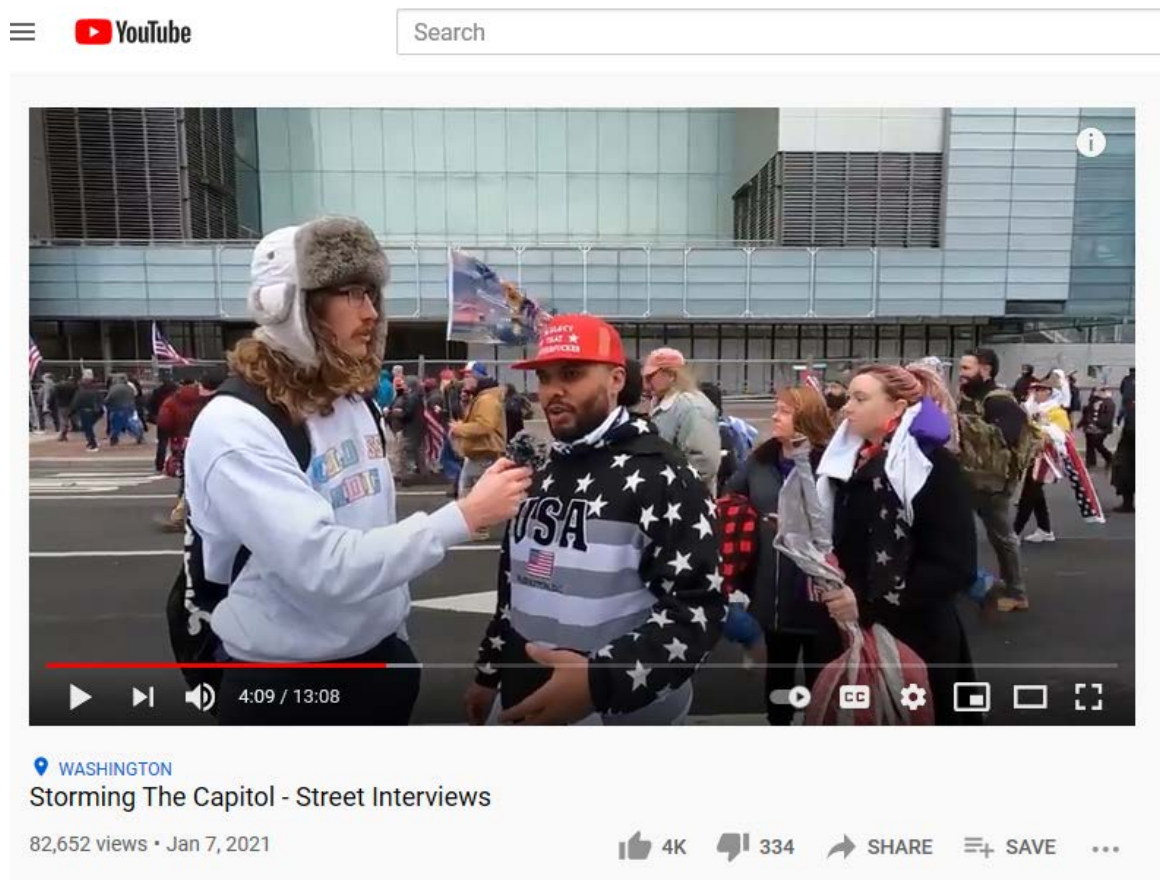
On January 11, 2021, law enforcement agents who have known KELLY for several years received three (3) screenshots that depict KELLY in and around the United States Capitol Building on January 6, 2021. These law enforcement officers recognized the individual within the screenshots and were able to identify KELLY within the images, based on their familiarity with KELLY's physical appearance. The images appear to be screenshots of KELLY's Facebook account and the "story" feature. Based on my experience with this investigation and consultation with other law enforcement officers, the first image depicts KELLY in a room, inside the United States Capitol standing on the pedestal of a statue with the caption, "The day we let the Traitors who constantly push the divide in OUR country know that we are done playing their games. All ppl of all colors came together today and I couldn't be more proud to be an AMERICAN." The additional two images depict an individual whom I believe to be KELLY with others, standing on the wall of the United States Capitol building waving the American flag. The still images are shown below.







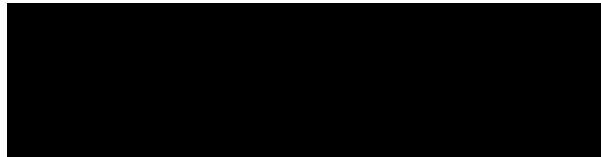
I have also reviewed a video posted on a publicly available social media website titled, “Storming the Capitol - Street Interviews.” Approximately 4 minutes and 8 seconds into the video, an interview takes place in the street with an individual that I believe to be KELLY. In the video, KELLY states, “We feel like our voices weren’t being heard which is why we ran through that Capitol Building. To let them know this is our house, and we were united, black brown, red, yellow, didn’t matter...white, everybody stood together, we ran through that building, and let them know this is our house, this is our country, and that’s our President. And we are not going to let them fuck with us, man, fuck with our liberty and our freedoms, we’re going to keep doing what we are doing.” A still image from that video is shown below.



Based on the foregoing, your affiant submits that there is probable cause to believe that KASH LEE KELLY 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 KASH LEE KELLY violated 40 U.S.C. § 5104(e)(2)(A) and (G), which makes it a crime to willfully and knowingly (A) enter or remain on the floor of either House of Congress or in any cloakroom or lobby adjacent to that floor, in the Rayburn Room of the House of Representatives, or in the Marble Room of the Senate, unless authorized to do so pursuant to rules adopted, or an authorization given, by that House; 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 15th day of January, 2021.

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



Zia M. Faruqui  
2021.01.15 14:17:05  
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ZIA M. FARUQUI  
U.S. MAGISTRATE JUDGE