

STATEMENT OF FACTS

On January 6, 2021, your affiant, ██████████, was on duty and performing my official duties as a Special Agent with the Federal Bureau of Investigation (“FBI”). 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, detention, investigation, or prosecution of 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 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 6, 2021, Daniel Ray Caldwell (hereinafter referred to as CALDWELL) was captured on video assaulting federal agents and engaging in disruptive or disorderly conduct on the lower west terrace of the Capitol Building. The video footage was subsequently obtained by law enforcement.

On January 27, 2021, a Twitter account using the handle @chris_sigurdson posted two links to videos. The first link is to a YouTube video titled, “Storm The Capitol w/ dream floral” which is posted by user dream floral. At approximately three minutes and 15 seconds into the eleven minute and 14 second video, CALDWELL was observed wearing an olive drab in color hoodie, dark glasses on a camouflage hat, camouflage assault pack, and camouflage trousers. CALDWELL was seen spraying a mist at police who were attempting to stop protesters from getting up the Capitol steps. Screenshots of CALDWELL spraying the officers are shown below in the following two photographs:





At approximately three minutes and 16 seconds into the same YouTube video, CALDWELL was also captured holding the can used to spray the officers:



In the second link posted by the Twitter account using the handle @chris_sigurdson, a subject, later identified as CALDWELL by W1 (see below), was depicted on video talking about the events that had occurred at the Capitol. The video appears to have been recorded on January 6, 2021, at 4:54 pm in the lobby of the Renaissance Hotel, located at 2800 South Potomac Avenue, Arlington, Virginia. The video link was uploaded on ProPublica and depicted CALDWELL wearing the same clothing as depicted in the YouTube video. Specifically, CALDWELL was wearing an olive drab in color hoodie, this time with a red sticker on the left breast that read "Guns

SAVE Lives”, dark glasses on a camouflage hat, camouflage assault pack, and camouflage trousers.

During the video, off-camera females asked CALDWELL questions about the events that had occurred at the Capitol, and CALDWELL responded by describing those events and his involvement in them. CALDWELL told the females that after ten minutes of storming the Capitol, a large fight broke out and a female was hit in the neck. According to CALDWELL, the fight then started and then “they took their guys” and then someone took her (referring to the female who was hit) and took off. CALDWELL said that individuals stayed in the area and police were spraying mace towards him. CALDWELL said he told them if they continued, he would return spray. According to CALDWELL, once the officers sprayed him, CALDWELL sprayed toward police officer and believed he sprayed around 15 officers. CALDWELL stated that officers then shot him with a big cannon with rubber bullets. The ProPublica video interview shows CALDWELL as depicted below in the following two photographs:



On February 2, 2021, law enforcement requested records from the Renaissance Hotel for names of individuals who stayed on January 5, 2021. The Renaissance provided a booking reservation for an individual booked under the name Daniel Caldwell, which shows that CALDWELL stayed at the Renaissance on January 5, 2021.

On February 3, 2021, law enforcement was able to identify CALDWELL, who is a resident of The Colony, Texas, by comparing a copy of his driver's license photo to the video images. CALDWELL's physical appearance was consistent with the screenshots taken from the ProPublica video, and also consistent with the individual described above in the YouTube video.

On February 4, 2021, law enforcement interviewed WITNESS 1 (herein after W1) in reference to CALDWELL. W1 was shown a photograph of screenshots from the ProPublica video. W1 recognized the male in the photograph, but stated W1 never learned the individual's true name. W1 engages in Airsoft Military Simulation (MilSim), which is a live-action, in person simulation of armed conflict scenarios conducted by civilians that involve airsoft plastic projectiles launched by replica weapons, but do not involve actual firearms. W1 stated that most players are only referred to as their call sign or 'code name' while playing Airsoft. W1 did not know the individual's call sign or code name. Law enforcement showed W1 CALDWELL's Texas driver's license photograph, without revealing CALDWELL's name to W1. W1 verified the driver's license photograph and ProPublica screenshots were the same individual W1 had met and interacted with in the past MilSim events. W1 stated the last time W1 saw the individual from the MilSim events, the individual had a beard. In addition, W1 viewed the ProPublica video and confirmed with certainty that the individual in the video was the same individual W1 identified from the Texas driver's license photograph. W1 further viewed the YouTube video and identified the individual spraying law enforcement as the same individual W1 viewed in the Texas driver's license photograph, saying words to the effect of "that appears to be him, he is wearing the same clothing."

W1 met the male that W1 had identified in the ProPublica and YouTube videos, as well as the driver's license photograph (CALDWELL), approximately three or four years ago while playing MilSim near Sanger, Texas and was familiar with the individual's appearance. W1 described the individual as a "huge white supremacist" and was "a complete wacko." While playing Airsoft, according to W1, the individual would bring a real firearm to the course and had to be corrected on multiple occasions to return the firearm to his vehicle. W1 was also asked about the black and white patch the individual was seen wearing on his backpack in the video inside the Renaissance Hotel (ProPublica video). W1 identified the patch as American Military Simulation or MilSim and stated they were given out at MilSim events. W1 stated the individual likely received the patch from an event in Sanger, Texas in 2020 hosted by American MilSim.

A phone number belonging to CALDWELL was identified through law enforcement databases. Lawfully-obtained AT&T Corporation records reflect that the device using the phone number belonging to CALDWELL was located in the area of the U.S. Capitol Building during the time period of 7:40 – 7:59 PM UTC (or 2:40 – 2:59 PM EST). The location information for the phone is consistent with CALDWELL being present in or near the area where the offenses described and depicted above occurred on January 6, 2021.

Based on the foregoing, your affiant submits that there is probable cause to believe that CALDWELL violated 18 U.S.C. § 1752(a)(1), (2), and (4), 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; and (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds. 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 CALDWELL violated 40 U.S.C. § 5104(e)(2)(D), and (F), which makes it a crime to willfully and knowingly 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 engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

Your affiant submits there is probable cause to believe that CALDWELL violated 18 U.S.C. 231(a)(3), which makes it unlawful to commit or attempt to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of his official duties incident to and during the commission of a civil disorder which in any way or degree obstructs, delays, or adversely affects commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function. For purposes of Section 231 of Title 18, a federally protected function means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof. This includes the Joint Session of Congress where the Senate and House count Electoral College votes.

Your affiant submits there is probable cause to believe that CALDWELL violated 18 U.S.C. 111(a)(1), which makes it crime for whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties. For purposes of Section 1114 of Title 18, an officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance.

[REDACTED]
SPECIAL AGENT [REDACTED]
FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 8th day of February 2021.


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ZIA M. FARUQUI,
UNITED STATES MAGISTRATE JUDGE