

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

Andrew Kyle Grigsby

DOB: XXXXXX

Case No.1:23-mj-294

Assign to: Magistrate Judge Zia M. Faruqi

Date: 11/3/2023

Description: Complaint with 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
 _____ in the District of Columbia, the defendant(s) violated:

*Code Section**Offense Description*

18 U.S.C. § 1752(a)(1) - Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority,

18 U.S.C. § 1752(a)(2) – Disorderly and Disruptive Conduct in a Restricted Building or Grounds,

18 U.S.C. § 1752(a)(4) – Engaging in Physical Violence in a Restricted Building or Grounds,

40 U.S.C. § 5104(e)(2)(F) – Engaging in Physical Violence in the Capitol Grounds or any of the Capitol Buildings,

18 U.S.C. § 231(a)(3) - Obstruction of Law Enforcement During Civil Disorder,

18 U.S.C. § 111(a)(1) and (b)-Assault Law Enforcement Officer with a Deadly or Dangerous Weapon.

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.

Date: 11/03/2023*Judge's signature*City and state: Washington, D.C.Zia M. Faruqi, U.S. Magistrate Judge*Printed name and title*

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

Your affiant, [REDACTED], being first duly sworn, hereby depose and state as follows:

PURPOSE OF AFFIDAVIT

1. Your affiant made this affidavit in support of an application for an arrest warrant for ANDREW KYLE GRIGSBY

AGENT BACKGROUND

2. Your affiant, Adam Champion, is a Special Agent with the Federal Bureau of Investigation (FBI) assigned to Louisville Field Office, Joint Terrorism Task Force. In my duties as a Special Agent, I have gained training and experience in interviewing and interrogation techniques, arrest procedures, search warrant applications, the execution of searches and seizures, the exploitation of lawfully obtained evidence and data, and various other procedures. I have conducted and participated in several complex investigations of domestic and international terrorism, and have conducted investigations regarding criminal activity in and around the Capitol grounds on January 6, 2021. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses.
3. 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.

BACKGROUND

4. The facts in this affidavit come from my review of the evidence, my personal observations, my training and experience, and information obtained from other law enforcement officers and witnesses. Except as explicitly set forth below, I have not distinguished in this affidavit between facts of which I have personal knowledge and facts of which I have hearsay knowledge. This affidavit is intended to show simply that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.
5. 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.
6. 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.

7. 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.
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, 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.
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 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.
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.

IDENTIFICATION OF ANDREW KYLE GRIGSBY

11. On April 7, 2021, FBI Washington Field Office provided FBI Louisville with images and video footage of an individual wearing a black toboggan hat, blue jacket, and American flag patterned neck gaiter present on Capitol Grounds and within the restricted perimeter who had engaged in an altercation with U.S. Capitol Police Officers at the top of the Northwest Stairwell of the U.S. Capitol Building. During the altercation, the individual discharged what appeared to be a chemical agent toward uniformed officers of the U.S. Capitol Police (USCP). The images and video footage were found via open-source searches and publicly-available footage.
12. On April 6, 2022, an agent with FBI Louisville showed three images (identified below as Image 1, Image 2, and Image 3) of the same individual on U.S. Capitol Grounds and within the restricted perimeter on January 6, 2021 to an individual who had worked with Andrew Kyle Grigsby, of Eubank, Kentucky, prior to the fall of 2021 and had known Grigsby for

a number of years. Witness 1 immediately identified the person in the photographs at the U.S. Capitol as Andrew Grigsby.



Image 1



Image 1



Image 2

13. On April 27, 2021, an agent with FBI Louisville attempted contact with Andrew Kyle Grigsby at his listed address in Eubank, Kentucky. A family member of Grigsby advised that Grigsby had been present at former President Donald Trump's Rally in Washington, D.C. on January 6, 2021. The family member advised that Grigsby had sent them photos while he was at the rally but believed that Grigsby had subsequently deleted them from the family member's phone. An agent with FBI Louisville provided his contact information to the family member and requested that Grigsby reach out if he wished to communicate with your affiant.
14. On April 27, 2021, an agent with FBI Louisville received several phone calls from telephone number XXX-XXX-1577. An agent with FBI Louisville called the number back and the individual on the phone identified himself as Andrew Grigsby. Grigsby confirmed that he had been in Washington, D.C., on January 6, 2021 because former President Donald Trump had asked people to come to the Capitol. Grigsby stated that he never entered the Capitol Building. Grigsby recalled wearing the same clothing shown in Images 1, 2, and 3, above – a black toboggan hat, an American flag face covering, a blue jacket, and a gray collar. During the telephonic interview and a subsequent telephonic interview the following day (April 28, 2021), Grigsby stated that he had found a black can of bear spray with a yellow handle and trigger sitting on a wall when he showed up to the Capitol. Grigsby stated that he attempted to spray the rioters as they were assaulting the police on that stairwell and had not intentionally sprayed any police officer.
15. On August 28, 2023, an agent with FBI Louisville received a phone call from telephone number XXX-XXX-6725. Upon answering the call, a male identified himself as Andrew Grigsby. Grigsby stated that it was not clear which areas were restricted or that the police were trying to prevent people from reaching the Capitol building. Grigsby recalled seeing metal bicycle barricades at the Capitol Building but did not recall seeing any posted signs requesting people stay out of the area.

GRIGSBY'S CONDUCT ON JANUARY 6, 2021

16. Investigators reviewed both open-source media and CCTV video footage of the events that took place in the U.S. Capitol on January 6, 2021.
17. U.S. Capitol CCTV footage from January 6, 2021 shows that Grigsby was present on the Northwest stairwell leading to the Upper West Terrace of the Capitol Building. At approximately 1:54 p.m., Grigsby observed other rioters attempting to break through a police line at the top of the Northwest Stairwell. Grigsby appeared to have a black cannister in his right hand. (Image 4).

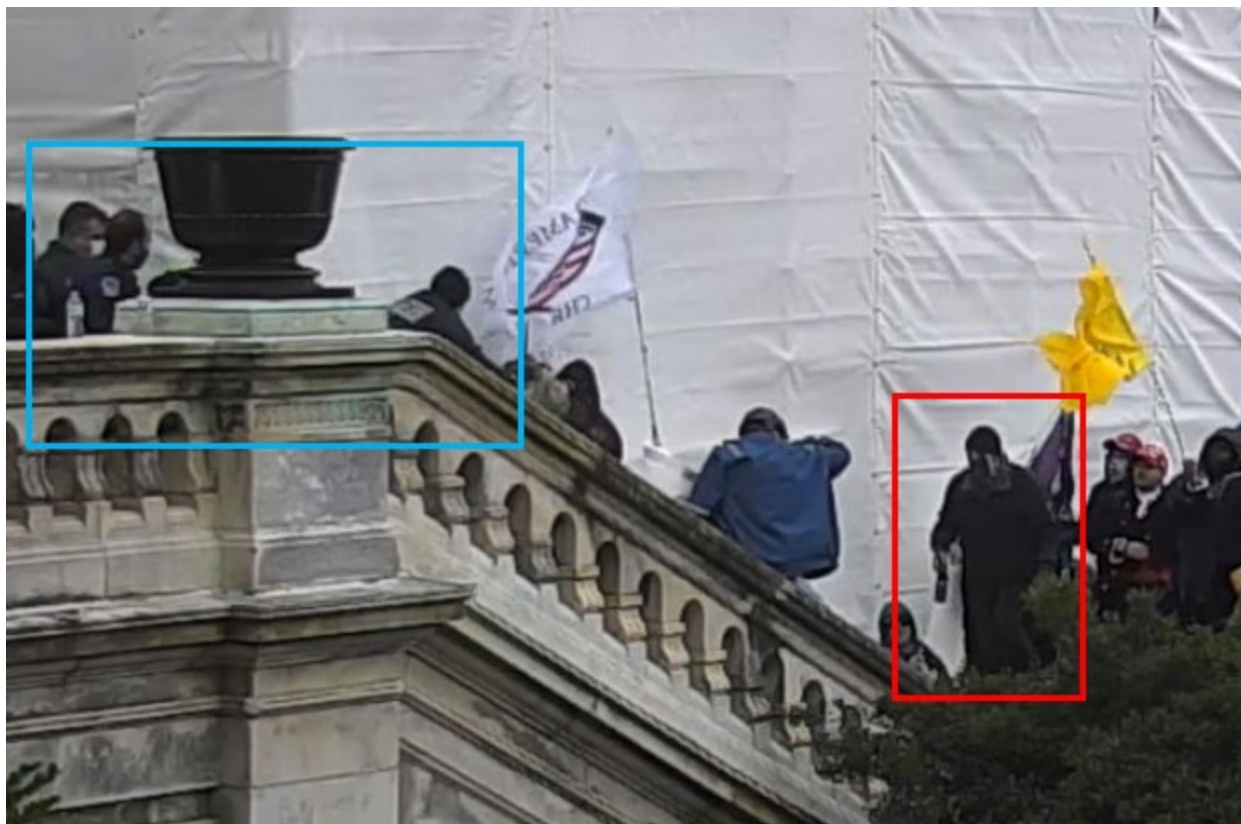


Image 3

18. Grigsby walked closer to the police line, extended his right arm, and sprayed the police officers defending the Northwest Stairwell with a liquid which appeared to be a chemical irritant. Immediately after Grigsby discharged the liquid, the officers were forced to temporarily retreat. (Images 5 – 7).



Image 4



Image 5



Image 6

19. On August 4, 2023, an agent with FBI Louisville spoke with U.S.C.P. Officer S.S. Officer S.S. reviewed images and videos taken at approximately 1:57 p.m. on January 6, 2021 showing the Northwest stairwell of the Capitol Grounds. Officer S.S. identified himself as the officer wearing a dark wool cap and a dark USCP jacket in Image 7 above. Officer S.S. stated that he was looking down at the time he was sprayed so he could not see who did it at the time. Upon reviewing the video, Officer S.S. explained that the individual in the black toboggan cap, blue jacket, and American flag patterned neck gaiter had ascended the stairwell and sprayed Officer S.S. in the face with a chemical agent that Officer S.S. believed to be more potent than oleoresin capsicum spray (which is commonly known as “pepper spray”). Officer S.S. stated that the spray caused him extreme discomfort and forced him to retreat. Officer S.S. stated that the individual had intentionally sprayed him and was not attempting to spray other rioters.
20. At approximately 1:57 p.m., Grigsby retreated down the Northwest stairwell while still holding the canister of chemical spray. (Image 8).



Image 7

21. Shortly afterwards, Grigsby was captured on open source video underneath temporary scaffolding directly adjacent to the same Northwest Terrace stairwell. A group of rioters were attempting to push past another police line at the location. Grigsby stood in between the rioters and police officers while holding a police riot shield. Eventually, a chemical irritant was deployed by another rioter and Grigsby left the stairwell. (Images 9-10).



Image 8



Image 9

22. Grigsby was later captured on open source video near the arched entrance to a passageway that connects the Lower West Terrace and the interior of the Capitol Building (“the “Archway” and the “Tunnel” respectively). (Images 11-12).



Image 10

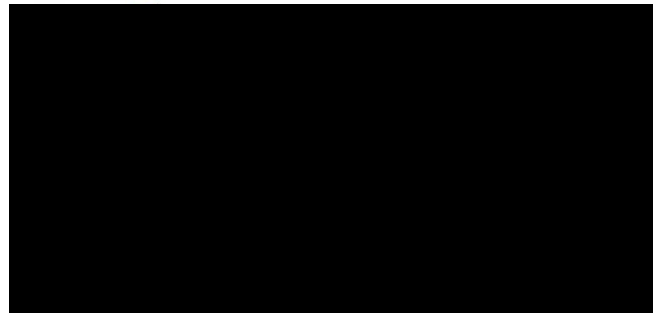


Image 11

23. Based on the foregoing, your affiant submits that there is probable cause to believe that Andrew Kyle Grigsby 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; (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; 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.
24. Your affiant submits there is also probable cause to believe that Andrew Kyle Grigsby violated 40 U.S.C. § 5104(e)(2)(F), which makes it a crime to willfully and knowingly engage in an act of physical violence in the Grounds or any of the Capitol Buildings.
25. Your affiant submits there is probable cause to believe that Andrew Kyle Grigsby 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.

26. Finally, based on the foregoing, your affiant submits that there is probable cause to believe that Andrew Kyle Grigsby violated 18 U.S.C. § 111(a)(1) and (b), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with certain designated individuals, and to use a deadly or dangerous weapon or inflict bodily injury during the commission of such acts. Within the meaning of this statute, a designated individual is an officer or employee of the United States or of any agency in a branch of the United States Government (including any member of the uniformed services), while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer in the performance of official duties or on account of that assistance.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 3rd day of November 2023.

U.S. MAGISTRATE JUDGE