

Case: 1:21-mj-00078

Assigned To : Meriweather, Robin M.

Assign. Date : 1/15/2021

Description: Complaint w/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, Cassidy Thompson Smith, is a Special Agent with the Federal Bureau of Investigation. Among my duties, I have been tasked with investigating criminal activity in and around the U.S. Capitol grounds that occurred 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 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. 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 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.

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, the Federal Bureau of Investigation (FBI) requested the public's assistance in identifying individuals who had unlawfully entered the U.S. Capitol building. A general tip line number was disseminated to assist in this endeavor.

On January 6, 2021, at approximately 4:18 p.m., a tip was received from a witness ("W-1"), who identified one of the subjects who had entered the Capitol. A Special Agent of the FBI contacted W-1, who identified Andrew HATLEY as having entered the U.S. Capitol building. W-1 stated HATLEY had driven from his residence in South Carolina on January 5, 2020, in a red Ford Mustang, early 2000s model, to attend the protests for the election. W-1 has known HATLEY for several years. W-1 provided a picture to the FBI, which HATLEY had taken of himself and another unknown male subject in front of a statue in the U.S. Capitol building. W-1 had obtained the picture from another witness ("W-2"), who advised that it had obtained the photograph from HATLEY himself. That picture is shown here¹:

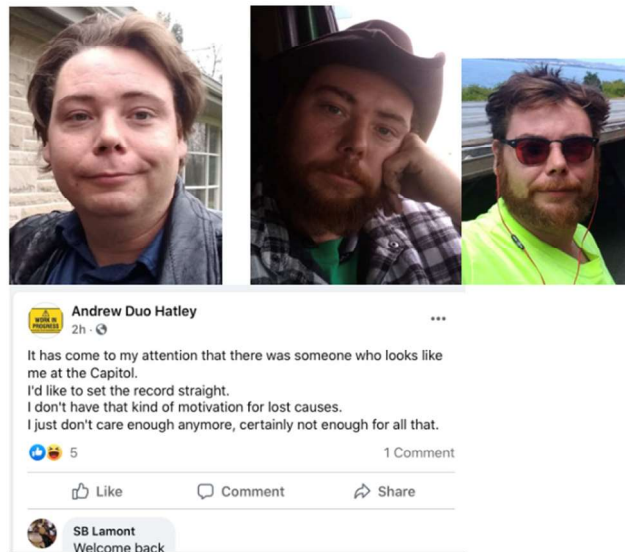


The FBI conducted a search of statues located in the U.S. Capitol building and located the statue of John Caldwell Calhoun, currently located in the crypt of the U.S. Capitol building, which is the same statue in the background of HATLEY's photograph. An image of the statue is produced below.

¹ As described below, W-2 later identified the man on the right side of the picture as being Andrew HATLEY.



An Investigative Analyst with the FBI conducted an open source search of HATLEY and located HATLEY’s profile on Facebook. The profile name was identified as “ANDREW DUO HATLEY”. A post was seen on HATLEY’s account which stated, “It has come to my attention that there was someone who looks like me at the Capitol. I’d like to set the record straight. I don’t have that kind of motivation for lost causes. I just don’t care enough anymore, certainly not enough for all that.” The first comment after the post came from a subject identified as “SB Lamont” who stated “Welcome back”. This exchange, and pictures of HATLEY from his Facebook profile, are produced below:



A Special Agent for the FBI compared pictures of HATLEY in his Facebook profile pictures to the picture sent by W-1 and noted that the hat HATLEY is seen wearing in both pictures appears to be the same.

On January 9, 2021, the FBI received confirmation from United States Capitol Police that the subject wearing the hat in the picture in front of the John Calhoun statue, reproduced above, was observed on U.S. Capitol Police surveillance video inside of the crypt at the U.S. Capitol.

W-1 further advised that HATLEY was sharing his geolocation with W-2 via the application "Life360" during HATLEY's entire time in Washington, D.C. and had told W-2 he was going to attend the protests against the certification of the election. Life360 is a cellular phone application that allows individuals to track the location of a cellular telephone if the individual has installed the company's technology on their phone. Individuals can create an account with Life360 that allows the user to share information, such as the location of the user's cellular telephone, with another user that has downloaded the application. W-1 identified HATLEY's cellular telephone number for the FBI.

The FBI contacted legal counsel for Life360 and requested confirmation that the phone number associated with HATLEY, which had been given by W-1, was of record with Life360. Life360 legal counsel confirmed the number provided to them had an active Life360 account.

A search warrant for the account was obtained in the U.S. District Court for the District of Columbia (Case No. 21-SC-63). On January 12, 2021, Life360 sent the FBI data from the account in response to the warrant. Your affiant plotted some of the data into an electronic map of Washington, D.C. The data confirms that HATLEY's cellular telephone was at the U.S. Capitol Building during the events described above on January 6, 2021.

On January 11, 2021, Special Agents of the FBI interviewed W-2. W-2 has a close relationship with HATLEY. W-2 provided agents with three photographs that HATLEY sent W-2, including the photograph of the individual with the hat in front of the Calhoun statute, reproduced above. W-2 identified HATLEY as the man on the right of the picture. W-2 also identified HATLEY as the man on the left of the below photograph wearing a green respirator mask inside the U.S. Capitol in the photograph below:



On January 12, 2021, your affiant contacted HATLEY at the telephone number that was provided by W-1. That number is the same number associated with the Life360 account. HATLEY confirmed that it was his only phone number. When HATLEY was asked about the events at the U.S. Capitol on January 6, 2021, HATLEY advised he was not sure how much he should say without legal counsel because he could be in a great deal of trouble.

Based on the foregoing, your affiant submits that there is probable cause to believe that Andrew HATLEY 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 Andrew HATLEY violated 40 U.S.C. § 5104(e)(2), 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.

Cassidy Smith

CASSIDY THOMPSON SMITH
Special Agent
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.



Robin M. Meriweather

Robin M. Meriweather

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Robin M. Meriweather
U.S. MAGISTRATE JUDGE