

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA**

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| UNITED STATES OF AMERICA |) | Case: 1:21-mj-00154 |
| |) | Assigned to: Judge Robin M. Meriweather |
| v. |) | Assign Date: 1/22/2021 |
| |) | Description: COMPLAINT W/ ARREST WARRANT |
| |) | <u>FILED UNDER SEAL</u> |
| STEPHEN MICHAEL AYRES |) | |
| |) | |
| Defendant. |) | |

**AFFIDAVIT IN SUPPORT OF
CRIMINAL COMPLAINT AND ARREST WARRANT**

I, Austin Price, being duly sworn, affirm and state:

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and am currently assigned to the Washington Field Office. 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. During my employment with the FBI, I have conducted and/or assisted in criminal investigations involving terrorism, theft of trade secrets, economic espionage, fraud, firearms violations, and other federal violations of the United States Code. In these investigations, I have been involved in evidence collection and the application for, and execution of, arrest and search warrants related to the aforementioned criminal offenses.

2. This affidavit is submitted for the purpose of establishing probable cause. The facts in this affidavit are based on my investigation, personal observations, training, and experience, as well as information conveyed to me by other law enforcement officials. Because this affidavit is

limited in purpose, it is not intended to include each and every fact and matter observed by me or known to the United States.

PURPOSE OF AFFIDAVIT

3. This affidavit is submitted in support of a criminal complaint charging the defendant, Stephen Michael Ayres (“AYRES”) with one count of with one count of Obstruction of Justice/Congress, in violation of Title 18, United States Code, Section 1512(c)(2); one count of Unlawful Entry into Restricted Buildings or Grounds, in violation of Title 18, United States Code, Section 1752(a); and one count of Violent Entry and Disorderly Conduct on Capitol Grounds, in violation of Title 40, United States Code, Section 5104(e)(2). This affidavit is also submitted in support of an arrest warrant for AYRES.

STATEMENT OF FACTS

Probable Cause – The U.S. Capitol on January 6, 2021

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. In an effort to identify individuals who had entered the Capitol unlawfully on January 6, 2021, the FBI, Washington D.C. Metropolitan Police Department (MPD), and U.S. Capitol Police (USCP) sought the public's assistance in identifying individuals who unlawfully entered the restricted grounds and building of the U.S. Capitol. As a result, thousands of tips were received in the week following the January 6 incident.

Probable Cause – AYRES's Hotel Video

11. Multiple tips pertained to STEPHEN AYRES, specifically that he was one of the many people who had unlawfully entered the U.S. Capitol on January 6, 2021, and that he had then had posted a video on Facebook about it later that day.

12. On January 10, 2021, the FBI reviewed the Facebook video, which was approximately 7:50 minutes long and depicted three individuals—AYRES, a male, and a female—describing their experiences inside the U.S. Capitol building on January 6, 2021. At some point after January 10, 2021, the video was either removed from AYRES's Facebook page or was made private. On January 16, 2021, law enforcement accessed a video posted on YouTube¹ and determined that it was the same video that the FBI had observed on AYRES's Facebook page on January 10, 2021. The video was posted to YouTube on January 7, 2021, by YouTube account "Johnny Anonymous," and was labeled, "It was all ANTIFA breaking into the Capitol 1-6-2021."

¹ https://www.youtube.com/watch?v=VP_EUGd8LGU.

13. In the video, both AYRES and another male (herein after “Male 1”) identified themselves by first and last name. A female (herein after referred to as “Female 1”) identified herself by first name only. In the below screenshot from the video, AYRES is circled in yellow and Male 1 is circled in green:



14. Male 1 stated the video was being filmed “back at the hotel,” where they were “safe,” but that they had been “all at the Capitol Building” and they wanted to “share what really happened today.” Male 1 stated that “the three of us we were all at the Capitol building” and “all witnessed it with our own eyes.” Male 1 added that Antifa breached the building and were the ones who were violent and breaking doors and windows. Male 1 stated that the incident was led “chiefly” by Antifa.

15. Male 1 stated that he and AYRES “walked right into the Capitol building” after Antifa “breached the door” so it was left open. Male 1 stated that the police “escorted” them from

one end of the building to the other, and AYRES added, “they walked us, yep, yep.” AYRES stated that the police “basically let everyone walk in.” Male 1 stated that it “wasn’t just all these hostile Proud Boys people” and that multiple types of people were there. Male 1 explained that the police “marched them down,” and AYRES added that the police “did a bunch of chanting and then they basically marched them out to go out that door, so everybody walked out the other door.” Male 1 said that “they just wanted that footage of people inside the Capitol building to make it seem like all the Trump people bum-rushed the Capitol.”

16. Also in the video, Female 1 stated that the police “moved the barricades” and let people through. The female said she had her picture taken with an individual whom she later learned was a member of Antifa and who was at the Capitol to “make us look crazy.” Male 1 stated that it was a “staged Antifa setup” coordinated by the media, police, and the Mayor of Washington, D.C. AYRES agreed that the entire incident was “definitely planned out.” AYRES said that, at one point during the incident, the police “flipped the switch and everyone dispersed from there” after the police “got what they needed.” Female 1 stated that, when “it was time to clear everybody, they were like really rough and physical with people,” and someone was “jabbing [her] with his club.”

17. Male 1 stated that “it’s not over, trust me, the purpose of today was to expose Pence as a traitor,” and Female 1 responded that that “the American people are not going to let this slide, especially after today.” AYRES responded, “yup.” AYRES stated that the “fake news” would not accurately report on what happened at the Capitol but that they had “seen it all” and they “got footage all over the place on the Capitol” and that they would “probably share some of it here and there.”

Probable Cause – W-1’s Identification of AYRES

18. On or about January 16, 2021, law enforcement interviewed a witness (W-1), in connection with a tip that W-1 had provided the FBI on January 13, 2021, regarding AYRES’s presence at the U.S. Capitol on January 6, 2021. W-1 is one of AYRES’s family members.

19. W-1 advised that on January 6, 2021, W-1 observed AYRES post “a bunch of commotion” to AYRES’s Facebook account via Facebook Live. As W-1 watched the streaming video, W-1 realized that AYRES, Male 1, Female 1, and others were inside the U.S. Capitol as the streaming video was being broadcast from AYRES’s Facebook account. W-1 stated that, in the streaming video, AYRES was acting “like he was at war” and there was a lot of “yelling and screaming going on.” At some point during the streaming video, AYRES stated that the incident at the Capitol was “just the beginning” because there was “more to come next week.” W-1 did not know what AYRES was referring to regarding “next week.”

20. W-1 also advised that, sometime after viewing the streaming video on AYRES’s Facebook account, W-1 viewed another video posted to AYRES’s Facebook account that depicted AYRES, Male 1, and Female 1 speaking from a hotel room about what happened to them in the U.S. Capitol. W-1 described this hotel video with sufficient detail to confirm that it was the same video, as described above, that the FBI observed on both AYRES’s Facebook account and on YouTube.

21. On January 17, 2021, W-1 confirmed that the following photograph, AYRES’s Ohio driver’s license picture, was in fact AYRES:



22. On January 16, 2021, W-1 provided screenshots of the following posts, which W-1 had taken from AYRES's Facebook page:

- a. In a post, made on December 26, 2020, AYRES stated: "If the [DS] robs president Trump!!! Civil War will ensue!" (Brackets shown are in the original post.)
- b. In another post made on December 27, 2020, AYRES stated that he "and a handful of other people are headed to D.C. for the Trump rally on the 6th!! So hopefully we are going to hear about [how] all the DS are being tried for treason!!" In the comment section of the same post, AYRES commented that it was "time for us to start standing up to tyranny! History is happening as we speak! . . . It's time for us partiers to stand up and act! Before it's too late!!"
- c. In the following post another post made on December 28, 2020, AYRES shared U.S. President Donald J. Trump's December 27, 2020 Tweet advising his supporters not to "miss" January 6 in Washington, D.C., and AYRES commented, "Where will you be on January 6th? Chilling at home? HOPING this country isn't

going to hell in a hand basket? Or are you willing to start fighting for the American Dream! Again!?!?”

- d. In the following post made on January 1, 2021, AYRES shared a picture and link to an article that purports to show that Speaker of the House Nancy Pelosi’s home was vandalized. AYRES added a caption to the post that stated, “This is just the beginning! The governors, senators, representatives, etc.....Really don’t have a clue what is coming!!”



Probable Cause – U.S. Capitol Surveillance Video

23. Law enforcement reviewed surveillance footage from within the U.S. Capitol of the civil unrest on January 6, 2021. After entering the Building through the same entrance at slightly different times, AYRES and Male 1 appear to find each other in the crowd and then stand and

move together. An example of AYRES (baseball hat, red facemask, holding cellphone) and Male 1 (circled in green) together inside the U.S. Capitol Building is:



24. Male 1 is first visible in video footage from within the U.S. Senate wing. Male 1, along with many others, forcefully pushes his way through both the makeshift barricades and the wall of U.S. Capitol Police officers to make entry into the building. Male 1 then stands among dozens of other intruders in the crowded Senate wing lobby as many others continue to flow in from both the door and broken windows now that the police had been forced to retreat. AYRES, donning a black and white baseball cap, hooded jacket, and red facemask, makes his way into the same Senate wing lobby within minutes of Male 1's forced entry. AYRES and Male 1 eventually locate each other among the dozens in the crowd within the Senate lobby.

25. On January 19, 2021, W-1 provided law enforcement the following picture that Male 1 had posted on Male 1's Facebook account on January 5, 2021, which depicted AYRES, Male 1, and others at the U.S. Lincoln Memorial:



26. In the above picture, AYRES is wearing what appears to be the same black and white hat that AYRES is wearing as he walks through the Senate wing lobby in the January 6, 2021, footage.

27. On January 20, 2021, law enforcement showed W-1 seven (7) screenshots that were taken at various points during the time that AYRES is visible in the surveillance footage as he walks through the Senate lobby. W-1 immediately recognized the individual in the photographs to be AYRES. Though the individual was wearing a face mask, W-1 confirmed that it was “definitely” AYRES based on the facial features that were still visible in the photographs. Additionally, AYRES was wearing the same hat that he was wearing in the picture that Male 1 had posted on Facebook of the group at the Lincoln Memorial on the day before. W-1 also recognized the jacket that AYRES was wearing in the photographs to be the same jacket that AYRES was wearing during AYRES’s live-stream from within the U.S. Capitol on Facebook live

on January 6, 2021. The following three images are examples of AYRES in the surveillance footage:



Probable Cause –AYRES’s Facebook Records

28. On January 17, 2021, law enforcement accessed AYRES’s public Facebook page and confirmed that the hotel video of AYRES, Male 1, and Female 1 was still not visible. The following posts, among others, were visible:

- a. In a post made on January 2, 2021, AYRES stated: “History is being made right in front of your eyes! When your grandchildren ask “Where were you when.....happened?” What's your answer going to be?” The post attaches an image of a poster stating, “January 6th Washington, DC, the president is calling on us to come back to Washington on January 6th for a big protest – ‘Be there, will be wild.’”
- b. In a post made on January 3, 2021, AYRES stated: “Mainstream media, social media, Democrat party, FISA courts, Chief Justice John Roberts, Joe Biden, Nancy Pelosi, etc....all have committed TREASON against a sitting U.S. president!!! All are now put on notice by ‘We The People!’”

- c. In a post made on January 4, 2021, AYRES shared an article entitled, “Report: Biden’s Inaugural Parade Viewing Stands Taken Down - Parade in Doubt – They’re Afraid it Will Turn into a Massive MAGA Rally.” AYRES’s caption stated that he knows “nobody will be there!! The election was rigged!!!”
- d. In a post made on January 5, 2021, AYRES shared a black and white picture of someone holding a sign that reads: “YOUR OBEDIENCE IS PROLONGING THIS NIGHTMARE.”

29. On January 19, 2021, U.S. District Court for the District of Columbia Magistrate Judge Robin M. Meriweather authorized a search warrant for AYRES’s Facebook account. On January 20, 2021, Facebook produced records responsive to the search warrant. The account’s user-supplied name was “Stephen Ayres,” the account was associated with a “Gmail” address with the name “steveayres” and a number, and the account was associated with a telephone number ending in 1076, which was last “verified” on December 19, 2020. In a public records database, this particular phone number was associated with AYRES in two separate reports. Additional review of data provided by Facebook revealed the following:

- a. On January 5, 2021, Male 1 “tagged” AYRES in a picture at the Lincoln Memorial (same picture as described above by W-1).
- b. On January 6, 2021, at 7:52 p.m. Eastern Standard Time (EST), AYRES “was live” with Male 1 and Female 1 and posted the same video from the hotel room that was posted on Facebook and YouTube, discussed above.
- c. On January 6, 2021, at 7:15 p.m. EST, AYRES, posted the following picture of himself with Male 1 being interviewed outside of the U.S. Capitol with the

following caption: “Made it on Faux News!! Front and center!! [Name of Male 1] on the left and me on the right!” AYRES was wearing what appeared to be the same hooded jacket he was seen wearing on surveillance video while inside the Senate wing lobby, as described above.



- d. On January 7, 2021, AYRES posted an image of “Viking guy” with the following caption: “The Capitol building is probably the 2nd most protected building in DC! Right behind the White House! If they didn't want the protestors inside the Capitol building, they never would of been in there! That simple! Yes it definitely doesn't

pass the smell test! Unarmed citizens over powered fully armed swat teams???????”

AYRES tagged Male 1 in this post.

- e. On January 6, 2021 at 2:50 p.m. EST, AYRES sent the following picture to another Facebook user of people storming the U.S. Capitol. At 3:28 p.m. EST, AYRES messaged the same user: “Some cops already stood down and took their gear off in our favor”.



- f. On January 6, 2021, at 6:15 p.m. EST, AYRES posted a video (screenshot below) of rioters storming the U.S. Capitol:



- g. In addition to the instances above, AYRES “went live” on Facebook at the following times on January 6, 2021: 4:09 p.m. EST, 7:56 a.m. EST, 7:43 a.m. EST, and 7:34 a.m. EST.

CONCLUSION

30. Based on the foregoing, your affiant submits that there is probable cause to believe that AYRES violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.

31. Your affiant also submits that there is probable cause to believe that AYRES violated 18 U.S.C. § 1752(a), 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. 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 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.

32. Your affiant also submits there is probable cause to believe that AYRES violated 40 U.S.C. § 5104(e)(2)(D), 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.



SPECIAL AGENT AUSTIN PRICE
FEDERAL BUREAU OF INVESTIGATION

ATTESTED TO BY THE APPLICANT IN ACCORDANCE WITH THE REQUIREMENTS OF FED. R. CRIM. P. 4.1 BY TELEPHONE, THIS 22ND DAY OF JANUARY, 2021.

ROBIN M. MERIWATHER
U.S. MAGISTRATE JUDGE