

## STATEMENT OF FACTS

Your affiant, Emily Eckert is a Special Agent assigned to the Federal Bureau of Investigation. In my duties as a special agent, I am currently assigned to the Washington Field Office, Violent Crimes Against Children and Human Trafficking Task Force investigating matters involving the online exploitation of children and human trafficking. 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 a violation 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 7, 2020, the FBI received information through one of its Internet portals from an individual, believed to be MCCREARY, who provided the following identifying information:

- a. Name: Brian P. McCreary
- b. E-mail address: xxxxxx@gmail.com
- c. Telephone: (321) 274-xxxx

The information provided by MCCREARY included the following text and video clips:

“I noticed the instigators call for action early on- and decided to follow them in order to record. -Clip 20210106\_140817 dont see the person but overhear Get more people up there. -Clip 20210106\_140957 Not sure if this is useful -Clip 20210106\_141147 walking up on individuals banging on glass/door -Clip 20210106\_141218 shows various people kicking the door; and someone with a shield bashing a window. -Clip 20210106\_141307 More shots of the property damage. -Clip 20210106\_141324 Door kicked out(from inside) - I then follow this group inside and record as they enter. -Clip 20210106\_141616 Group stopping - as to not directly confront or harm the police/staff inside. -Clip 20210106\_141821 Police asking for cooperation and safety- not sure if its helpful. -Clip 20210106\_141930 Not sure if this is useful; but it has a clear frame of the Viking dressed individuals face. This person seemed to try to incite confrontation by making suggestions to the officer whom was asking for peace; such as Vengeance is coming. I unfortunately did not get a clip of him doing so. -Picture 20210106\_142842 Noticed this person sitting with a shield - seemed like the one used to break windows. After taking this picture; I decided to leave the building. Walking around the building, found a place to take a nice overhead shot of the crowd. Shortly after I made my way there and managed to take one clip of the crowd; people broke into that very side - so I followed them to see what they were doing. -Clip 20210106\_144223 Following said crowd. -Clip 20210106\_144434 Crowd breaks glass to Speakers Library, hear a shot fired. -Clip 20210106\_144544 Crowd begins a game of telephone with Shot and killed a girl over here. At that point; I decided to leave the site. Walked to parking garage; jumped in my car and drove home. Im now just noticing that I am limited to 4 uploads; I will call and follow-up to provide the rest.”

A review of the video clips provided by MCCREARY, described above, showed various video footage both inside and outside the U.S. Capitol, to include rioting on the Capitol steps, a mob of people rushing the doors of the U.S. Capitol, a mob of people breaking down doors and windows of the U.S. Capitol, and multiple videos showing confrontations between rioters and uniformed police officers inside the U.S. Capitol.

The following photograph was taken inside the Capitol during the riot on January 6, 2021.



This photo features MCCREARY, on the far left of the photograph holding his phone up, next to an individual who has been identified as Jacob Anthony Chansley (“Chansley”) who is located at the center of the photograph, shirtless and tattooed, wearing an animal pelt hat with horns, holding a spear with the United States Flag fastened below the blade, and bearing red-white-and blue face paint.

On January 12, 2021, the FBI interviewed four co-workers of MCCREARY at Domino’s Pizza. Each of these co-workers identified MCCREARY as the individual standing behind and to the far right of Chansley, wearing a blue surgical mask, black eyeglasses, a black parka, and black pants, and holding what appears to be a cell phone, in the above picture. Additionally, multiple co-workers of MCCREARY stated that he has expressed political beliefs on multiple occasions while at work, to include the belief that there was widespread voter fraud in the 2020 Presidential Election. After returning home from the U.S. Capitol MCCREARY told a co-worker that he “raided” the Capitol and sent this co-worker multiple videos depicting rioters inside the Capitol attempting to breach a door, confronting police officers, and towards the end of one video, a gunshot can be heard. Finally, one of the co-workers who positively identified MCCREARY in the picture above also provided the following additional photograph, which this person received from another of MCCREARY’s co-workers, and identified McCreary as the individual wearing black eyeglasses and a blue surgical mask standing immediately behind and to the right of Chansley.



On January 26, 2021 MCCREARY agreed to provide a voluntary statement to the FBI concerning his participation in the riots at the U.S. Capitol. Specifically, MCCREARY stated that he traveled from his home in Massachusetts to Washington, D.C., in order to attend the “rally.” MCCREARY stated that he traveled to Washington D.C. to attend the “rally” because he was frustrated with the results of the 2020 Presidential election, specifically the fact that an audit was not performed to address allegations of mass voter fraud. MCCREARY stated that after attending the “rally” earlier in the day where President Trump addressed the crowd, he walked down towards the Capitol, but was stuck in the middle of a large crowd. MCCREARY started taking side-streets and running in order to get to the front of the mass of people that were headed towards the U.S. Capitol.

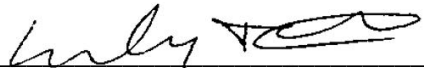
When he arrived at the Capitol, MCCREARY saw people with bullhorns shouting and appearing to incite the crowd. In an effort to get somewhere higher where he would have a better view of what was going on MCCREARY climbed a metal barrier that led to a nearby ledge overlooking the crowd. Once MCCREARY made it to the top of the barrier he stated he saw the “Qanon shaman,” pictured in the center of the above photo, also on the ledge directing other individuals in the crowd. Soon thereafter, MCCREARY stated he made his way closer to the Capitol when he saw individuals with crowbars and police shields attempting to break U.S. Capitol doors and windows. MCCREARY stated the rioting taking place at this point “felt like Antifa” and he was focused on recording people who were committing crimes or inciting violence. Soon thereafter MCCREARY stated a crowd of people were able to gain access inside the building and he admitted to following them into the building.

Once inside MCCREARY stated various people were chanting “Whose house? Our house!” MCCREARY stated he directed people inside the building not to harm police officers or commit any acts of violence. MCCREARY further stated that he understood going into the

building “might not have been legal” but “he made a personal choice at that point.” Once inside the building, MCCREARY stated that he turned right twice when the group was confronted by a police officer. MCCREARY remained in the building for a while longer, following the crowd as they moved about the building. At some point thereafter, as MCCREARY was exiting the building, he was stopped by a police officer who asked if MCCREARY was a member of the press and ordered him to present identification. MCCREARY provided his driver’s license, stated he was not a member of the press, and was ordered to leave the building. MCCREARY left the building and then admitted to re-entering the U.S. Capitol through a different door that was kicked in just moments before he re-entered. MCCREARY stated that when he was inside the U.S. Capitol building for the second time he was present when a woman was shot by a police officer after attempting to breach a door leading to the Senate floor. MCCREARY exited the building a short time later. During the course of the interview MCCREARY was shown the first image pictured above, and he identified himself as the individual wearing the blue surgical mask inside the U.S. Capitol.

Based on the foregoing, your affiant submits that there is probable cause to believe that BRIAN MCCREARY 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. 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.

Finally, your affiant submits there is also probable cause to believe that BRIAN MCCREARY 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; (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

  
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Special Agent Emily Eckert  
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 3rd day of February 2021.

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G. MICHAEL HARVEY  
U.S. MAGISTRATE JUDGE