

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

UNITED STATES OF AMERICA : **Case No: 22-cr-15 (APM)**
 :
v. :
 :
JOSHUA JAMES, :
 :
Defendant. :

STATEMENT OF OFFENSE

Pursuant to Federal Rule of Criminal Procedure 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, Joshua James, with the concurrence of his attorneys, agree and stipulate to the below factual basis for the defendant’s guilty plea. If this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

Introduction: The Transfer of Presidential Power in the United States

1. The United States Constitution and federal statutes codify the procedures and dates governing the transfer of presidential power in the United States. The Twelfth Amendment requires presidential electors to meet in their respective states and certify “distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each.” It further requires that the Vice President “shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted.” Title 3, Section 15 of the United States Code provides that the United States Congress must convene during a joint session proceeding (“the Joint Session”) at 1:00 p.m. “on the sixth day of January succeeding every meeting of the electors,” with the Vice President presiding, to count the electoral votes, resolve any objections, certify their validity, and announce the result (“Certification of the

Electoral College vote”). The Twentieth Amendment provides that the terms of the President and Vice President shall accordingly end at noon on the 20th day of January, “and the terms of their successors shall then begin.”

Plot to Oppose by Force the 2020 Lawful Transfer of Presidential Power

2. The 2020 United States Presidential Election (“Presidential Election”) occurred on November 3, 2020. As of November 7, 2020, the incumbent President Donald J. Trump was projected to have lost the Presidential Election.

3. After the Presidential Election, Joshua James, Elmer Stewart Rhodes III, and others conspired to oppose by force the lawful transfer of presidential power. Rhodes, a 55-year-old resident of Granbury, Texas, is the founder and leader of the Oath Keepers, a large but loosely organized collection of individuals, some of whom are associated with militias. James, a 33-year-old military veteran and resident of Arab, Alabama, was the regional leader in charge of the Alabama chapter of the Oath Keepers. Some members of the Oath Keepers believe that the federal government has been coopted by a cabal of elites actively trying to strip American citizens of their rights. Though the Oath Keepers will accept anyone as members, they explicitly focus on recruiting current and former military, law enforcement, and first-responder personnel. The organization’s name alludes to the oath sworn by members of the military and police to defend the Constitution “from all enemies, foreign and domestic.” On their website, the “Oath Keepers declare they will not obey unconstitutional orders.”

4. James agreed to take part in a plan developed by Rhodes to stop the lawful transfer of presidential power by January 20, 2021, by deploying force to prevent, hinder, and delay the execution of the laws of the United States governing the transfer of presidential power. They used encrypted and private communications, equipped themselves with a variety of weapons, donned

combat and tactical gear, and were prepared to answer Rhodes’s call to take up arms. James and others amassed firearms on the outskirts of Washington, D.C.—some distributed across hotels and “quick reaction force” (“QRF”) teams—and planned, if called upon, to use them in support of the plan to halt the lawful transfer of presidential power.

Joshua James’s Participation in the Seditious Conspiracy

Before January 6, 2021 – James and Others Prepare to Keep President Trump in Power

5. On November 14 and 15, 2020, James met with Rhodes and others in the Washington, D.C., metropolitan area and at Caldwell’s Virginia farmhouse and learned about the start of their plans to oppose by force the lawful transfer of presidential power.

6. On November 16, 2020, James joined Rhodes and others on Signal, an end-to-end encrypted messaging application, in an invitation-only group chat titled, “Leadership intel sharing secured.”

7. In December 2020, James joined Rhodes and others in an invitation-only encrypted Signal group chat titled, “Dec 12 DC Security/Leadership.”

8. On December 11, 2020, Rhodes messaged the “Dec 12 DC Security/Leadership” Signal group chat stating that if President-Elect Joseph R. Biden were to assume the presidency, “It will be a bloody and desperate fight. We are going to have a fight. That can’t be avoided.”

9. On December 14, 2020—the same day that presidential electors from each state and the District of Columbia cast their votes in the Presidential Election—Rhodes published a letter on the Oath Keepers website advocating for the use of force to stop the lawful transfer of presidential power. He sent similar messages that day to the “Leadership intel sharing secured” Signal group chat, in which James was a participant.

10. On December 21, 2020, James messaged the “Leadership intel sharing secured” Signal group chat, “SE Region is creating a NATIONAL CALL TO ACTION FOR DC JAN 6TH... 4 states are mobilizing[.]” When he did not receive an immediate response, James posted, “DID NO ONE HEAR ME!!!! 3 STATES ARE MOBILIZING TO DC!!! Everyone in this channel should understand the magnitude i just sent!!”

11. On December 23, 2020, Rhodes published another open letter on the Oath Keepers website. Referencing the Certification of the Electoral College Vote scheduled to occur on January 6, 2021, Rhodes explained that “tens of thousands of patriot Americans, both veterans and non-veterans, will already be in Washington D.C., and many of us will have our mission-critical gear stowed nearby just outside D.C.” Rhodes warned that he and others may have to “take to arms in defense of our God given liberty.”

12. On December 23, 2020, James sent Rhodes’s letter to Mark Grods and told him it was required reading.

13. In December 2020 and January 2021, Rhodes, James, and others administered and participated in meetings on GoToMeeting, an online meeting site that allows users to host conference calls and video conferences via the Internet in real time. James and several others attended these invitation-only meetings organized to facilitate planning for the events of January 6, 2021, in and around Washington, D.C.

14. On December 30, 2020, Rhodes administered, and James and others joined, an invitation-only Signal group chat titled, “DC OP: Jan 6 21.”

15. On December 31, 2020, Rhodes administered, and James and others joined, an invitation-only Signal group chat titled, “Jan 5/6 DC Op Intel team.”

16. On December 31, 2020, one individual sent a message to James: “i have friends not far from DC with a lot of weapons and ammo if you get un trouble i ca. Coordinate help.” James responded, “That might be helpful, but we have a shitload of QRF on standby with an arsenal.”

17. On January 1, 2021, Brian Ulrich messaged James: “Hey we told to bring guns and maybe stage them in VA?? But you are showing hotels in DC for Alabama. Are we bring guns or no if so how will that work?” James responded: “Were working on a Farm location Some are bringing long rifles some sidearms... I’m bringing sidearm.”

18. On January 4, 2021, James traveled with Ulrich, Grods, and others to the Washington, D.C., metropolitan area. James brought a semi-automatic handgun, and Ulrich, Grods, and others brought firearms, including a rifle, a shotgun, a semi-automatic handgun, and ammunition. James stored their firearms at the Virginia hotel where he, Rhodes, Minuta, and others had rooms.

19. In advance of and on January 6, 2021, James and others agreed to take part in the plan developed by Rhodes to use any means necessary, up to and including the use of force, to stop the lawful transfer of presidential power.

20. In the weeks leading up to January 6, 2021, Rhodes instructed James and other coconspirators to be prepared, if called upon, to report to the White House grounds to secure the perimeter and use lethal force if necessary against anyone who tried to remove President Trump from the White House, including the National Guard or other government actors who might be sent to remove President Trump as a result of the Presidential Election.

January 6, 2021 – James and Co-Conspirators Attack the Capitol to Stop the Transfer of Power

21. The United States Capitol, which is located at First Street, SE, in Washington, D.C., is secured twenty-four hours a day by United States Capitol Police. Restrictions around the Capitol include permanent and temporary security barriers and posts manned by Capitol Police. Only authorized people with appropriate identification are allowed access inside the Capitol.

22. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public as the Joint Session convened inside the building. During the Joint Session, elected members of the United States House of Representatives and the United States Senate met to certify the vote count of the Electoral College of the 2020 Presidential Election. 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. United States Vice President Michael R. Pence was present and presiding, first in the Joint Session, and then in the Senate chamber.

23. As the proceedings continued in both the House and Senate chambers, and with Vice President Pence present and presiding over the Senate, a large crowd gathered outside the Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the Capitol, and Capitol Police were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

24. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades, and pushed past the officers of the Capitol Police who were attempting to keep them back. The crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the

building, no members of the crowd submitted to required security screenings or weapons checks by Capitol Police Officers or other authorized security officials.

25. At such time, the Joint Session was still underway, and the exterior doors and windows of the Capitol were locked or otherwise secured. Members of the 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 Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts.

26. Shortly thereafter, at approximately 2:20 p.m., members of the House of Representatives and Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all congressional proceedings, including the Joint Session, were suspended.

27. On the “Jan 5/6 DC Op Intel team” Signal chat, shortly before 2:00 p.m., a participant posted a video titled “live stream of patriots storming capital.” Another participant asked, “Are they actually Patriots - not those who were going to go in disguise as Patriots and cause trouble[?]” Rhodes answered, “Actual Patriots. Pissed off patriots[.] Like the Sons of Liberty were pissed off patriots[.]” James followed with, “Were coming to Capitol ETA 30 MIN[.]”

28. Between 2:00 p.m. and 4:05 p.m., James exchanged multiple phone calls with the operation leader Rhodes had appointed for January 6.

29. At around 2:30 p.m., James, Minuta, Ulrich, Walden, Grods, and others traveled to the Capitol on golf carts, driving around multiple barricades, including marked law enforcement vehicles.

30. James, Minuta, Ulrich, Walden, Grods, and others then unlawfully entered the restricted grounds of the Capitol. James was wearing a backpack, a combat shirt, tactical gloves, boots, a paracord attachment, and an Oath Keepers hat and patches. James, Minuta, Ulrich, Walden, Grods, and others weaved through the restricted area in a military “stack” formation with hands on shoulders and gear.

31. James then marched in a line with Minuta, Ulrich, Walden, Grods, and others up the stairs on the east side of the Capitol.

32. At 3:15 p.m., James, Minuta, and Walden unlawfully entered the Capitol through the East Rotunda Doors. James entered the Capitol in part to hinder or delay the certification of President-Elect Joseph R. Biden as President of the United States.

33. At 3:16 p.m., while inside the Capitol lobby outside the Rotunda, James asked Minuta, “Want to keep pushing in?” Minuta responded, “yup.” James then pushed toward the Rotunda, yelling, “Keep fucking going!”

34. At 3:17 p.m., upon reaching the Rotunda, James and Minuta joined alongside others in a mob confronting and physically engaging with a line of law enforcement officers who formed a barrier between the lobby and the Rotunda. Minuta, standing behind James and recording the events with a camera, began yelling, “This is what’s bound to happen, just get out! Get out! Get these cops out! It’s our fucking building! Get ‘em out, get out!” James approached J.M., a Metropolitan Police Department Officer engaged in the performance of his official duties, and repeatedly told J.M. to “chill” and yelled at the officer, “Do you want out? Do you want out? Do you want out?” James then assaulted J.M. by grabbing J.M.’s vest and pulling J.M. toward the mob. Other officers behind J.M. grabbed J.M.’s vest and pulled him back into the line of officers. While pulling J.M., James yelled, “Get out of my Capitol! Get out! Get out of my Capitol!” James

fell backward and then jumped and pushed toward the officers repeatedly, continuing to yell, “This is my fucking building! This is not yours! This is my Capitol!”

35. Other members of the mob, including Minuta, began pushing James forward into the Rotunda while James yelled, “Keep going!” James and Minuta breached the Capitol Rotunda, and then James was expelled by at least one officer who aimed chemical spray directly at James. Multiple officers pushed James out from behind.

36. James intended to use force and did, in fact, use force in the Capitol and when engaging in physical altercations with law enforcement, in order to prevent, hinder, and delay the execution of the laws governing the transfer of power. James corruptly obstructed, influenced, and impeded an official proceeding, that is, a proceeding before Congress, specifically, Congress’s certification of the Electoral College vote as set out in the Twelfth Amendment of the Constitution of the United States and 3 U.S.C. §§ 15-18.

37. In taking such actions, James intended to influence or affect the conduct of the United States government or to retaliate against the United States government. He accomplished this by intimidating and coercing government personnel who were participating in or supporting the Congressional proceeding, including Members of Congress, Congressional staff, and law enforcement officers with the Capitol Police and Metropolitan Police Department.

38. After exiting the Capitol, James gathered with Rhodes and other co-conspirators approximately 100 feet from the Capitol, near the northeast corner of the building. Rhodes told James he was glad James and others had gone inside the Capitol.

39. Because of the dangerous circumstances caused by the unlawful entry into the Capitol by James and others, including the danger posed by individuals who had entered the Capitol without any security screening or weapons checks, Congressional proceedings could not

resume until after law enforcement had removed every unauthorized occupant from the Capitol and confirmed the building was secured. Accordingly, the proceedings did not resume until approximately 8:00 p.m. on January 6, 2021, after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

40. The attack on the Capitol resulted in substantial damage, requiring the expenditure of more than \$1.4 million dollars for repairs.

After January 6, 2021 – James and Co-Conspirators Continue to Prepare to Forcibly Oppose the Lawful Transfer of Power

41. On January 6, 2021, at 7:30 p.m., Rhodes messaged the “DC OP: Jan 6 21” Signal chat, “Thousands of ticked off patriots spontaneously marched on the Capitol. . . . You ain’t seen nothing yet.”

42. Rhodes later added on the “DC OP: Jan 6 21” Signal chat: “Patriots entering their own Capitol to send a message to the traitors is NOTHING compared to what’s coming.”

43. At Rhodes’s instruction, James, Vallejo, and others met Rhodes that evening at a restaurant in Vienna, Virginia. Rhodes discussed saving “the Republic” by stopping the transfer of presidential power and began to make plans to oppose the Inauguration on January 20, 2021, including by having people open-carry firearms at state capitols around the country.

44. While at the restaurant, Rhodes and James came to believe that law enforcement was searching for Rhodes and others after their attack on the Capitol. The group immediately returned to their hotel, collected their belongings, and met at a nearby gas station. There, James saw what he estimated to be thousands of dollars’ worth of firearms, ammunition, and related equipment in Rhodes’s vehicle. Rhodes divvied up various firearms and other gear among James and others who occupied a total of three cars. Rhodes left his mobile phone with one person and

departed with another person in that person's car so that law enforcement could not locate and arrest him. The three cars departed in separate directions.

45. James returned to Alabama with some of Rhodes's gear, including firearms and other tactical equipment.

46. On January 8, 2021, James met with Rhodes and others at a restaurant in Alabama. There, James showed Rhodes a video of James's physical altercation with law enforcement officers inside the Capitol on January 6, 2021. Rhodes expressed gratitude for James's actions and told James to alter his physical appearance to conceal his identity.

47. On January 8, 2021, James received a Signal message, in a group chat that included Rhodes, from an individual he understood to be an attorney for the Oath Keepers that stated, "STEWART: YOU ALL NEED TO DELETE ANY OF YOUR COMMENTS REGARDING WHO DID WHAT. You are under zero obligation to leave them up. You/we have not yet gotten a preservation order instructing us to retain those chat comments. So DELETE THEM. I can't delete them because this is a legacy Signal chat that doesn't let me delete comments. Only the comment author can delete a comment. So GET BUSY. DELETE your self-incriminating comments or those that can incriminate others. Start now ..."

48. Thereafter, on January 8, 2021, James forwarded to Grods the message from the attorney and instructed him to "make sure that all signal comms about the op has been deleted and burned." James also messaged Ulrich on Signal and instructed him to delete messages with photographs that included their faces.

49. On January 8, 2021, James collected his firearms and Grods's shotgun, and he traveled to Texas where he met and stayed with Rhodes and others to, in part, serve as Rhodes's

security and be prepared to carry out Rhodes's next instructions. James remained with Rhodes in Texas until February 2021.

50. While with Rhodes in Texas, and before the Inauguration on January 20, 2021:
 - a. Rhodes gave James a burner phone—a cell phone used for concealing the identity of the user through a false registration and/or temporary use before discarding it for another cell phone. Rhodes instructed James to manufacture a false identity—including a false name and address—for the phone. James subsequently wrote the false name and address, “John Smith, 201 Oak Street, Albie, NE 68001,” along with a phone number and “Signal pin” on a sticky note placed inside the back of the phone's battery case. Rhodes did not allow James and others to have their mobile phones powered on or nearby any time they discussed the Presidential Election and next steps.
 - b. James accompanied Rhodes on multiple trips where Rhodes purchased thousands of dollars' worth of firearms and tactical equipment, including scopes, ammunition, magazines, bipods, duffel bags, holsters, and firearm-maintenance equipment.
 - c. While in a vehicle together, Rhodes gave James an AR-platform firearm and explained that Rhodes would not be taken by law enforcement without a fight. James understood Rhodes to be ordering him to help defend Rhodes against law enforcement with force in the event of an arrest.
 - d. James messaged with Kelly Meggs and Ulrich about next steps . Ulrich messaged James that he and Rhodes needed to “stay below the radar.” James also inquired whether Kelly Meggs would travel to Texas with others to help execute Rhodes's next steps. Kelly Meggs responded, “Nope Fl stays home until shots fired!”

51. James departed Texas in February 2021. At Rhodes's instruction, James took with him multiple firearms, thousands of rounds of ammunition, multiple burner phones, scopes, magazines, night-vision equipment, and other tactical gear. Rhodes told James to be prepared to transport and distribute the equipment to others upon Rhodes's instruction and to be prepared for violence in the event of a civil war. James stored this equipment in a storage shed in Alabama and awaited Rhodes's instructions.


Limited Nature of Factual Basis


52. This proffer of evidence is not intended to constitute a complete statement of all facts known by Joshua James or the government. Rather, it is a limited statement of facts intended to provide the minimal necessary factual predicate for Joshua James's guilty plea.

Respectfully submitted,

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DEFENDANT'S ACKNOWLEDGMENT

I, Joshua James, have read this Statement of the Offense and have discussed it with my attorneys, Joni Robin and Christopher Leibig. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.


Date 3-1-22


Joshua James
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of the Offense and have reviewed it with my client, Joshua James, fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: 3-1-22


Joni Robin
Attorney for Defendant Joshua James

Date 3-1-22


Christopher Leibig
Attorney for Defendant Joshua James