

Case: 1:23-mj-00194
Assigned To : Upadhyaya, Moxila A.
Assign. Date : 8/2/2023
Description: Complaint W/ Arrest Warrant

STATEMENT OF FACTS

Your affiant, Jasen Lee, is a Special Agent with the Federal Bureau of Investigation (FBI). I have been in this position since June 2016. I am currently assigned to the Central Texas Joint Terrorism Task Force in the FBI San Antonio Field Office. 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 am currently tasked, among other things, 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, detection, investigation, or prosecution of a violation of Federal criminal laws.

The facts in this Affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and agencies, or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause, it does not contain every fact known by me or the FBI. The dates and times listed in this Affidavit should be read as “on or about.”

Background: Events at the U.S. Capitol on January 6, 2021

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, 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.

Facts Specific to Bryan Bishop

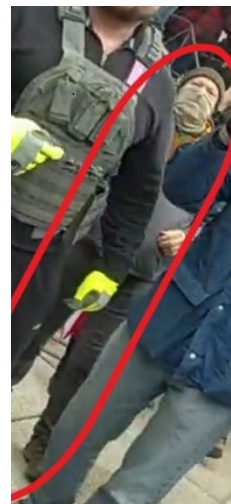
Based upon review of public video, closed circuit video (“CCV”) footage and police body worn camera (“BWC”) footage depicting the events at the U.S. Capitol building and grounds on January 6, 2021, law enforcement identified an individual among the rioters that assaulted members of the Metropolitan Police Department (MPD) on the West Terrace of the U.S. Capitol and then entered the U.S. Capitol building on January 6, 2021. The FBI subsequently posted a photograph of the individual at the U.S. Capitol on its webpage under the name “AFO #466” and requested help from the public to identify the individual. As set out in detail below, law enforcement has identified AFO #466 as BRYAN ROGER BISHOP (“BISHOP”) and there is probable cause to believe that on January 6, 2021 BISHOP committed violations of 18 U.S.C. §§ 231(a)(3) (civil disorder), 111(a) and (b) (assault of a federal officer with a deadly and dangerous weapon, 1752 (a)(1), (2) and (4) and (b)(1)(A) (entering and remaining, disorderly and disruptive conduct, and act of physical violence in a restricted buildings or grounds, with a deadly or dangerous weapon) and 40 U.S.C. § 5104(e)(2)(F) (act of physical violence on Capitol Grounds).

A. Identification of Bryan Bishop as AFO #466

While reviewing digital media obtained as part of its investigation of the events of January 6, 2021, the FBI discovered an unidentified male to whom it assigned the identifier “AFO #466.” In an attempt to obtain information as to his identity, the FBI released the following photos of AFO #466 to its FBI tip website:



Photograph #466 – AFO D



Photograph #466 – AFO A



Photograph #466 – AFO B



Photograph #466 – AFO C

Additionally, open-source websites referred to AFO #466 as #UnderHelmetSprayer and released the following poster, which included images of AFO #466:



Image 1

Your affiant reviewed photographs of BISHOP from his Florida state driver's license, Minnesota state driver's license, Idaho state driver's license, and his passport renewal application submitted on March 11, 2022. The individual in these photographs appears to be the same individual depicted in the photographs of AFO #466.

In June of 2022, FBI agents interviewed a person that has known BISHOP for several years ("Witness 1"). Witness 1 was shown BISHOP's Idaho state driver's license photograph obtained by the FBI. In addition, Witness 1 was also shown the #UnderHelmetSprayer poster (Image 1). Witness 1 confirmed BISHOP's identity in the images.

B. AFO #466's Activities at the U.S. Capitol on January 6, 2021

On January 6, 2021, by approximately 2:00 p.m., rioters had breached various barriers that had been erected on the west side of the Capitol building and were attempting to overwhelm police officers positioned there. At approximately, 2:02 p.m., as depicted below, BISHOP wearing an olive colored beanie, tan neck gaiter over his face, and outer grey jacket with an orange interior, emerged from the crowd of rioters and aimed a red colored device at the line of officers, assaulting the law enforcement officers by spraying them with an orange colored chemical irritant. The screenshots below were taken from the body worn camera footage of MPD Officer A.A. BISHOP is circled in red. *See Images 2- 4.*



Image 2



Image 3



Image 4 (closeup of Image 3)

I have also reviewed open source images and videos of BISHOP outside as well as inside the U.S. Capitol building on January 6, 2021, including video of what appears to be the events

depicted in Images 2 and 3 above, from another angle. In that video, an individual, wearing an olive green beanie, tan neck gaiter over his face, and an outer grey jacket with an orange interior, whom I believe is BISHOP, sprayed two MPD officers in the face with a chemical substance. After spraying the first officer, A.A., directly in the face, BISHOP sprayed the second officer, B.S., in the face shield and then aimed at an upward angle in order to spray under B.S.'s face shield and directly into his face. BISHOP is circled in yellow in both images. *See Images 5 and 6.*



Image 5



Image 6

Officer B.S. was interviewed by the FBI and stated the chemical irritant hit his face shield and ended up on his face and in his eyes. Officer B.S.'s eyes and face immediately began to burn and he wasn't able to see anything. For the next seven to ten minutes, Officer B.S. had to fight through the crowd without being able to see and was in fear for his life. Due to his lack of sight, Officer B.S. had to be led through the crowd by another officer.

The FBI also conducted a review of CCV footage from inside the U.S. Capitol building. That review revealed that BISHOP entered the U.S. Capitol building at approximately 2:39 pm EST. *See Image 7.*



Image 7

Further review of video from inside the U.S. Capitol building shows BISHOP walked amongst various rooms to include the Rotunda, Statuary Hall, and Statuary Hall Connector. While inside the U.S. Capitol building BISHOP spoke with various individuals, appearing to ask for directions on several occasions. The screenshot below shows BISHOP in the Statuary Hall Connector, at approximately 2:46 p.m., speaking with an individual wearing a protective helmet. BISHOP is circled in red. *See* Image 8.



Image 8

Additionally, BISHOP was observed checking his cellular phone several times while inside the U.S. Capitol building. The screenshot below shows BISHOP checking his cellular phone while in the Rotunda. BISHOP is circled in red. *See* Image 9.



Image 9

Review of CCV from the interior of the U.S. Capitol Building revealed that BISHOP exited the U.S. Capitol building at approximately 2:56 pm EST through the East Rotunda Doors. BISHOP remained in the U.S. Capitol building for approximately 17 minutes without the authority to do so. In the image below, BISHOP is circled in red as he exits the U.S. Capitol Building. *See Image 10.*



Image 10

Conclusion

Based on the foregoing, your affiant submits that there is probable cause to believe that BRYAN ROGER BISHOP 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 Secret Service's protection of the Vice President and his family and the Capitol Police's protection of the U.S. Capitol.

Your affiant further submits there is probable cause to believe that BISHOP violated 18 U.S.C. § 111(a)(1) and (b), which makes it a crime to (a) forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 as an officer or employee of the United States while engaged in or on account of the performance of official duties; and (b) use a deadly or dangerous weapon or inflict bodily injury during such assault.

Your affiant also submits that there is probable cause to believe that BISHOP violated 18 U.S.C. §§ 1752(a)(1), (2) and (4), and 1752(b)(1)(A), which make 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; and (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; or attempt or conspire to do so; and punish the commission of such acts using or carrying a deadly or dangerous weapon or when significant bodily injury is inflicted.. 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 BISHOP 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.



FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone, this 2nd day of August, 2023.

U.S. MAGISTRATE JUDGE