

STATEMENT OF FACTS

Your affiant, Brian P. Blake, is a Special Agent assigned to the Federal Bureau of Investigation (“FBI”), Milwaukee Field Office. I have been an FBI Special Agent for eight years. 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 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 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, 2021, an anonymous tipster submitted an online tip to the FBI that BRANDON NELSON (“NELSON”) was inside the Capitol on January 6, 2021. On January 18, 2021, FBI special agents interviewed NELSON, who admitted he traveled with his friend ABRAM MARKOFSKI (“MARKOFSKI”) by vehicle from the Madison, Wisconsin, area to Washington, D.C., on January 5, 2021, and arrived in Washington on the morning of January 6, 2021, so they could attend a political rally by former president Donald Trump.

NELSON said that after arriving in Washington on the morning of January 6, 2021, he and MARKOFSKI first went to the Washington Monument, then to the White House to listen to Trump speak. From there, they went to the Capitol. The two walked up the stairs of the Capitol, near some scaffolding, and entered the Capitol. NELSON said the police were guiding some people in.

NELSON stated he and MARKOFSKI entered a room inside the Capitol with a dome-like ceiling. They were in there for approximately 20 minutes, then followed the crowd into another room. Altogether, NELSON admitted they were in the Capitol for approximately 40 minutes. During his interview, NELSON stated he wore a gray coat, black corduroys, and a red “Make America Great Again” baseball hat inside the Capitol. He further stated that MARKOFSKI wore a grey and white Northface coat, blue jeans, and a red USA baseball hat when they entered and while inside the Capitol.

Following the interview with NELSON, FBI special agents interviewed MARKOFSKI. He also admitted to entering the Capitol on January 6, 2021, with NELSON. MARKOFSKI’s account differed from NELSON’s in that MARKOFSKI did not characterize police officers as guiding them into the building; rather, he said a police officer inside the Capitol told them, “I can’t make you guys leave. However, for your safety, you should leave.” MARKOFSKI said that after leaving the Capitol, they drove back to Wisconsin. During his interview, MARKOFSKI said he wore a black windbreaker-style jacket and blue jeans inside the Capitol.

FBI reviewed surveillance video and photos and at least one open-source media photo that appear to depict both NELSON and MARKOFSKI in the Capitol on January 6, 2021. In one such image, NELSON, circled on the left, and MARKOFSKI, circled on the right, appear standing close to each other inside the building:



Your affiant has located other images of NELSON that appear to have been taken inside the Capitol, including these:



The jacket pictured in these photos and the photo where NELSON is standing close to MARKOFSKI is consistent with the jacket NELSON identified as the one he wore when he entered and while inside the Capitol. Additionally, your affiant has reviewed NELSON's Wisconsin state-issued driver's-license photo, and the individual in that photograph is consistent with the individual captured in the two images, above.

FBI determined that the individual who provided the initial tip is acquainted with NELSON. The tipster was shown both the driver's-license photo of NELSON and one photo in which FBI identified NELSON inside the Capitol. The tipster identified NELSON from his driver's-license photo with 100% certainty, and identified the person in one of the photos from inside the Capitol as NELSON with 75% certainty. FBI also interviewed other individuals well acquainted with NELSON. They also identified NELSON with 100% certainty in his driver's-

license photo, but were uncertain that the person in the photos from inside the Capitol was NELSON.

Your affiant also identified other images of MARKOFSKI taken inside the Capitol, below. MARKOFSKI, is seen wearing a red ballcap, consistent with how NELSON described MARKOFSKI's attire inside the Capitol:



According to records obtained through a search warrant served on Google, a mobile device associated with an email address tied to a phone number MARKOFSKI is known to use was present at the U.S. Capitol on January 6, 2021. Google estimates device location using sources including GPS data and information about nearby Wi-Fi access points and Bluetooth beacons. This location data varies in its accuracy, depending on the source(s) of the data. As a result, Google assigns a “maps display radius” for each location data point. Thus, where Google estimates that its location data is accurate to within 10 meters, Google assigns a “maps display radius” of 10 meters to the location data point. Finally, Google reports that its “maps display radius” reflects the actual location of the covered device approximately 68% of the time.

In this case, Google records showed that the mobile device associated with MARKOFSKI's email account was present in areas that are at least partially within the U.S. Capitol Building between approximately 2:15 p.m. and 3:41 p.m. on January 6, 2021. In addition, the locations include areas within the U.S. Capitol Grounds which were restricted on January 6, 2021. The areas inside the Capitol where MARKOFSKI and NELSON were depicted in the images, above, are consistent with some of the areas where the Google records indicate the mobile device associated with MARKOFSKI was located between 2:15 p.m. and 3:41 p.m. on January 6, 2021.

Based on the foregoing, your affiant submits that there is probable cause to believe that NELSON and MARKOFSKI 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 NELSON and MARKOFSKI violated 40 U.S.C. § 5104(e)(2)(D) and (G), 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.



BRIAN P. BLAKE
FEDERAL BUREAU OF
INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 27th day of April 2021.



ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE