

Case: 1:21-mj-00293

Assigned To : Harvey, G. Michael

Assign. Date : 3/9/2021

STATEMENT OF FACTS Description: Complaint w/ Arrest Warrant

Your affiant, P. [REDACTED] is a Special Agent with the Federal Bureau of Investigation assigned to the Cincinnati Division. I have been employed with the FBI as a Special Agent since May 2016. In my duties as a Special Agent, I have received training in national security investigations and criminal investigations; and I have conducted investigations related to international terrorism, domestic terrorism, white-collar crimes, drug trafficking, firearms, violent crimes, and public corruption. As part of those investigations, I have participated in physical surveillance and records analysis, worked with informants, conducted interviews, served court orders and subpoenas, and executed search and arrest warrants, and testified before grand juries and in trial. 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 facts in this affidavit come from my personal observations, my training, and experience, and information obtained from other law enforcement officials, witnesses, and agencies. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all my knowledge about this matter.

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.

The Federal Bureau of Investigations sought information from Facebook as part of the federal investigation that began in the aftermath of the January 6, 2021 events at the U.S. Capitol Building. Specifically, the FBI requested that Facebook identify any “Facebook Live” videos which may have been streamed and/or uploaded to Facebook from physically within the building of the U.S. Capitol during the time on January 6, 2021 that the mob had stormed and occupied the Capitol Building. Facebook responded by providing the Object IDs for multiple videos linked to specific Facebook accounts/user IDs.

Among the accounts provided by Facebook was Facebook account number 100011360648175. The FBI searched for publicly available information on the Facebook account, revealing an account under display name “Brandon Miller,” in which the account holder claimed to be at the Capitol and stated that the media was lying about what transpired on January 6, 2021.

On or about January 14, 2021, Facebook provided a response to a search warrant for Brandon Miller’s Facebook. Subscriber information provided by Facebook included credit cards associated with the account. The credit card had a zip code of 45308, which resolves to Bradford, OH. Brandon Miller’s Facebook account listed him as living in Bradford, Ohio. The registered phone number to the account is was (***) ***-6025.

A search of Ohio Bureau of Motor Vehicle (“BMV”) records returned a Brandon James Miller with an address in Bradford, Ohio. The BMV photograph appeared to be the same individual depicted in multiple photographs that were posted to Brandon Miller’s Facebook. His Facebook profile as indicated that Brandon Miller was married to Facebook user Stephanie Miller.

Stephanie Miller’s Facebook account, under display name “Stephanie Miller” with account identifier stephanie.nisonger.9, was publicly available and indicated she lived in Bradford, Ohio. A search of BMV records returned a Stephanie Danielle Miller with the same address as Brandon Miller. The BMV photograph appeared to be the same individual depicted in multiple photographs that were posted to Stephanie Miller’s Facebook.

Both Millers' Facebook accounts contained multiple posts and conversations related to their entry into the U.S. Capitol Building on January 6, 2021:

- On or about January 5, 2021, Brandon Miller posted: "How much longer are 'We the People' Going to let 535 people Tell 330 MILLION People What to Do??? They Work FOR US!! We Pay Them."
- On or about January 5, 2021, Brandon Miller, in direct messages with another Facebook user wrote, "Heading to DC for tomorrow the 6th the really not sure if you have seen anything about it but me and Stephanie are going to witness history."
- On or about January 6, 2021, Brandon Miller's Facebook timeline showed he was with Stephanie Miller at a hotel in Washington, D.C. with the accompanying message: "Cant' wait to witness history"
- On or about January 6, 2021, Brandon Miller posted, "Don't believe what the news s [sic] telling you and were listening to it now and it's so biased. I was there in DC. There is no way biden won." Stephanie Miller commented on this post, "we were there today, and yes there was a 25 year old girl shot either in the chest or neck, not sure which one exactly, and from what we've seen she did not make it. She was shot by a cop is what we heard."
- On or about January 7, 2021, Brandon Miller, in direct messages with a second Facebook user stated, "We were there."
- On or about January 7, 2021, Brandon Miller provided the following photograph, which depicts individuals appearing to be Brandon and Stephanie Miller, to a third Facebook user:

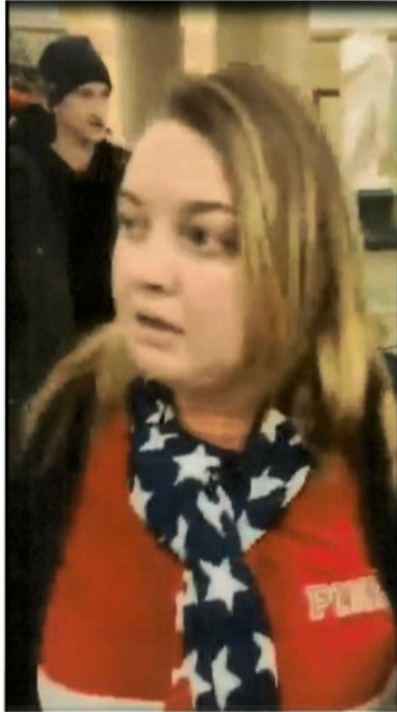


In a subsequent message to the third Facebook user, Brandon Miller stated: “Went in the capital [sic] building.” This user asked Brandon Miller, “You didn’t get into any trouble,” to which he responded, “No not yet anyway lol I’m home now I’m banded on Facebook for me going live while I was there we just walked down the main hallway we did see the blood trail from the girl that got shot and killed then I just seen a post saying 3 people died not sure on that one tho.”

- On or about January 7, 2021, Brandon Miller stated to a fourth Facebook user, “We was there it was peaceful yeah we got in the. Capital [sic] but wasn’t burning down the city or destroying businesses just a couple broke windows in a taxpayers building they work for us.”
- On or about January 7, 2021, Stephanie Miller posted, on her Facebook page, “Just so it’s clear, this is NOT what this looked like by any means. And that hanging shit was no where around! What a shame pictures and media try to make something g [sic] out to be when it wasn’t. Someone can believed whatever they want, but until your physically there and seen it, then your lying to yourself. What an experience it was and feeling to have after!” The post was followed by pictures that appeared to be from the January 6, 2021 events in and around the Capitol Building.
- On or about January 8, 2021, in a follow-on conversation with the second Facebook user, Brandon Miller sent a copy of the photograph shown above and wrote, in response to questions from this user about the shooting at the Capitol Building, “Do we just in the main hall area and cops said this way to exit if you want and I turned and got a few more pictures and then walked out by the time we got in the that had already happened but when we was leaving I did see the blood trail where they carried her out on the I wish I would have got a video of that or at least a picture.”

On or about January 26, 2021, a witness, (hereinafter referred to as “W-1”), was interviewed by the FBI. W-1 informed the FBI that he was a family member of Brandon and Stephanie Miller’s. W-1 had heard from another family member that Brandon and Stephanie Miller were at the Capitol and went inside. W-1 observed a Facebook Live video on Brandon Miller’s Facebook account that showed himself and Stephanie Miller inside the Capitol. W-1 provided both Brandon and Stephanie Miller’s phone number as (***) ***-6025. W-1 also provided an address for the Millers in Bradford, Ohio, which matched the Miller’s address in their respective BMV records.

In a subsequent interview, W-1 was shown the photograph above from Brandon Miller’s Facebook. W-1 identified the man in the foreground of the photo as “Brandon Miller” and the woman behind him as “Stephanie Miller” by writing their names next to their respective images. W-1 also viewed the below photograph taken inside the Capitol. W-1 identified the woman in the foreground of the photo as “Stephanie Miller” by writing her name next to her image.



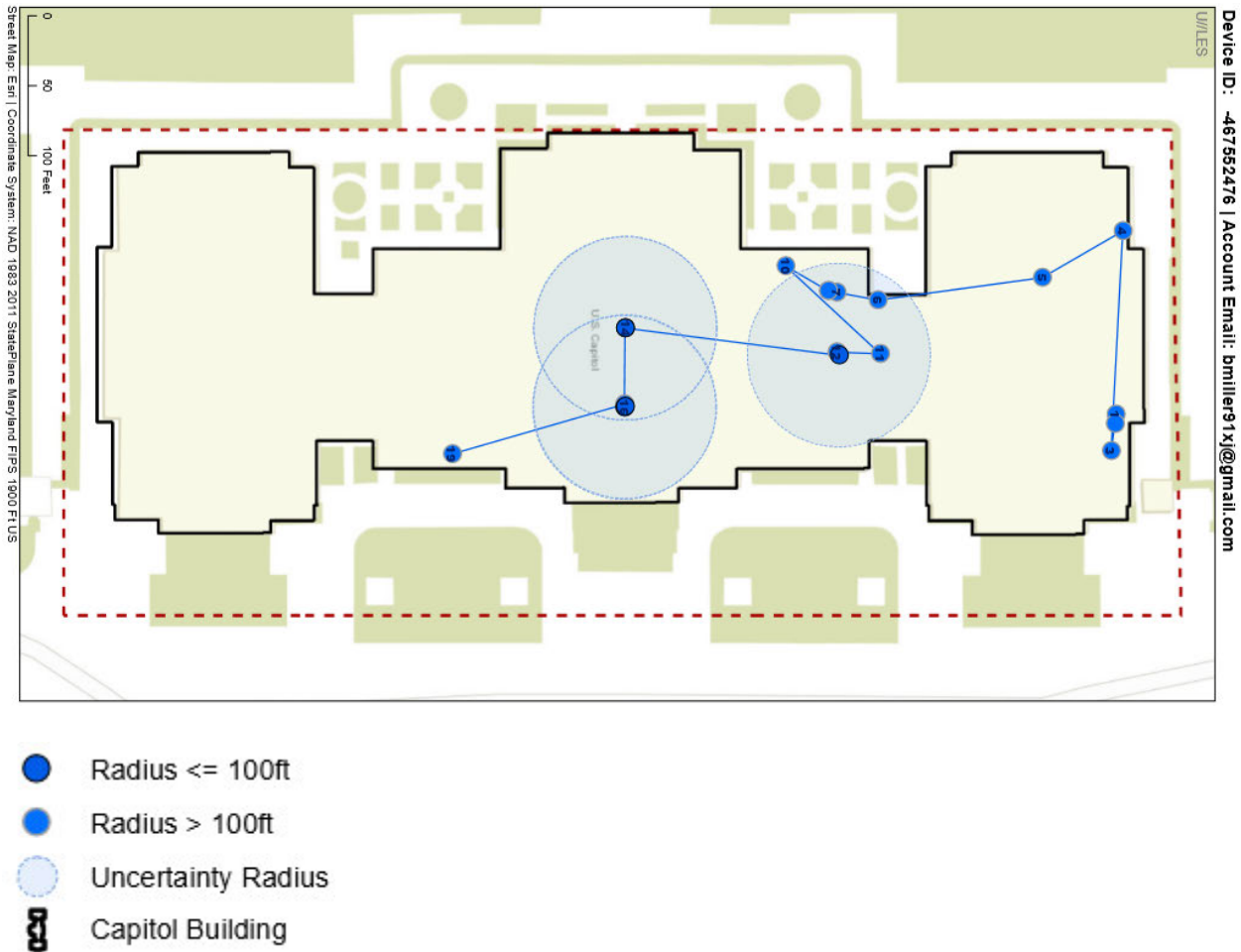
W-1 also watched the Facebook Live video referenced above during W-1's January 26 interview and positively identified the voice as Brandon Miller's voice.

On or about February 4, 2021, Google provided response to legal process regarding email accounts bmiller91xj@gmail.com and snisonger.1012@gmail.com. The provided subscriber information associated both email accounts to phone number (***-5898. Brandon Miller was the subscriber name for bmiller91xj@gmail.com and Stephanie Nisonger was the subscriber name for snisonger.1012@gmail.com. According to Darke County Ohio marriage records, Nisonger appears to be Stephanie Miller's maiden name.

According to records obtained through a search warrant which was served on Google, a mobile device associated with bmiller91xj@gmail.com 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 location data shows that a device associated with bmiller91xj@gmail.com was within the U.S. Capitol at the locations show in the map below, with the "maps display radius" reflected on the accompanying chart.

As illustrated in the map below, the listed locations encompass areas that are entirely within the U.S. Capitol Building between approximately 2:42pm and 3:15pm on January 6, 2021. Specifically, Google location data shows that a device associated with bmiller91xj@gmail.com

was within the U.S. Capitol at the locations reflected by each darker blue circle, below, with the “maps display radius” reflected in the map (as reflected in a lighter blue ring around each darker blue circle).



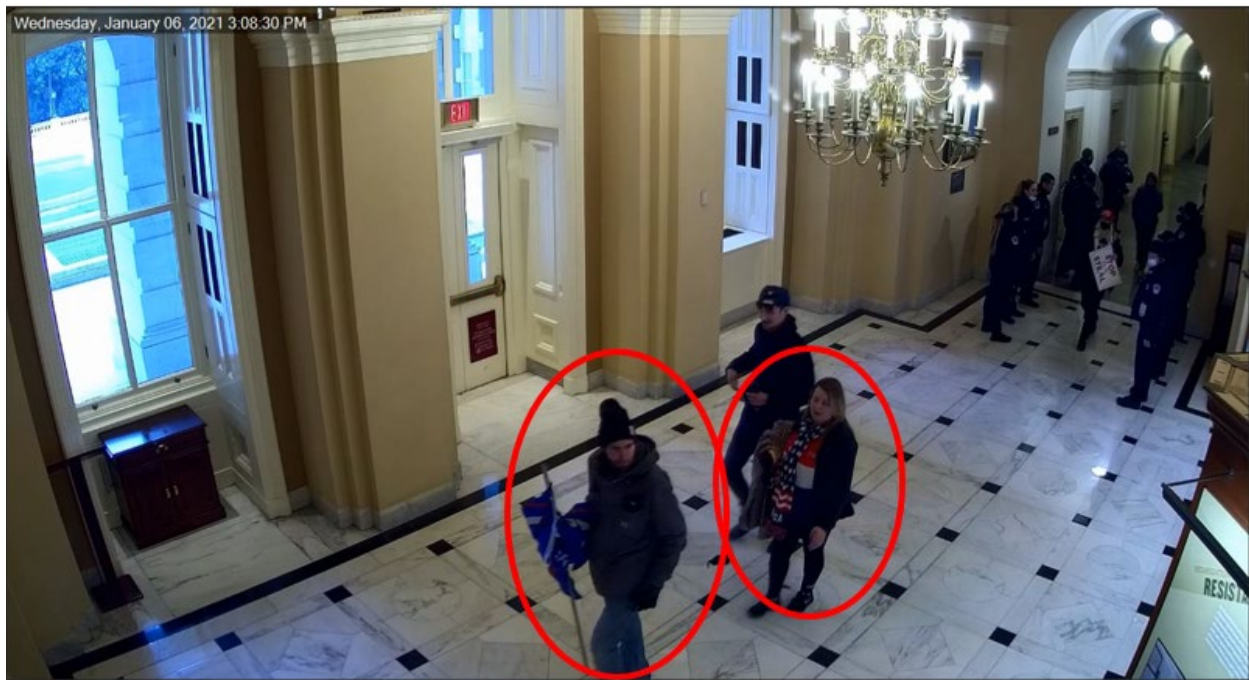
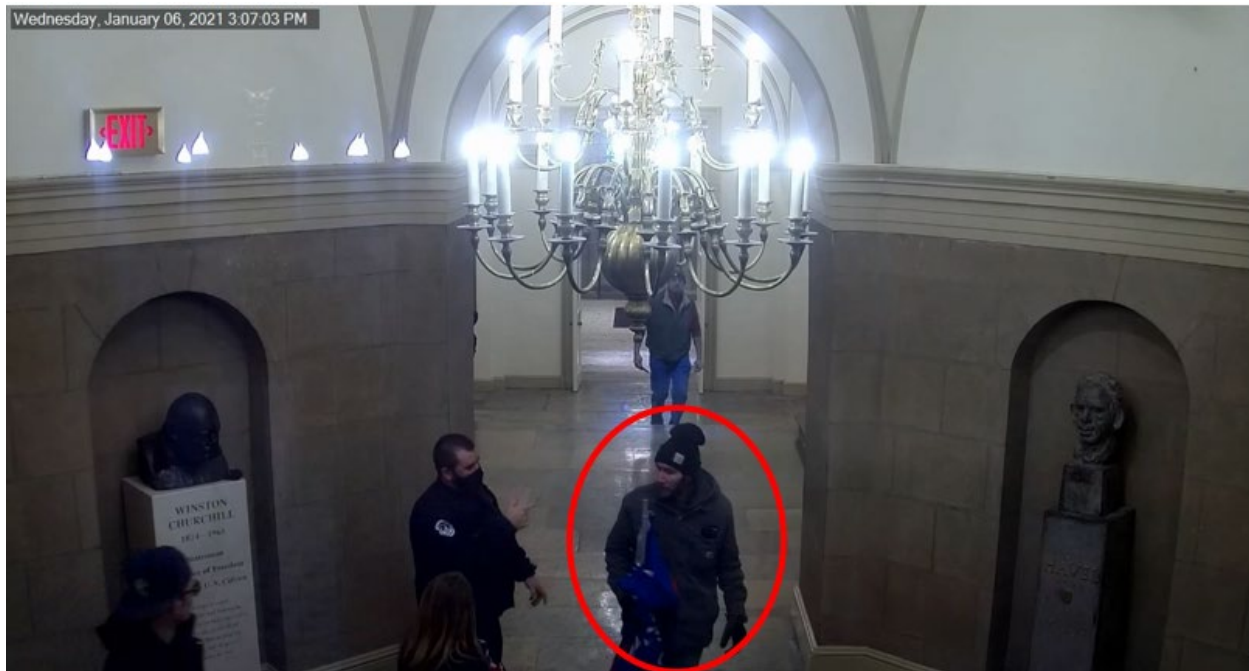
On or about February 6, 2021, AT&T provided access to records responsive to legal process regarding phone numbers (***) ***-5898 and (***) ***-6025. The numbers were subscribed to Stephanie Nisonger at their address in Bradford, Ohio and email address snisonger.1012@gmail.com.

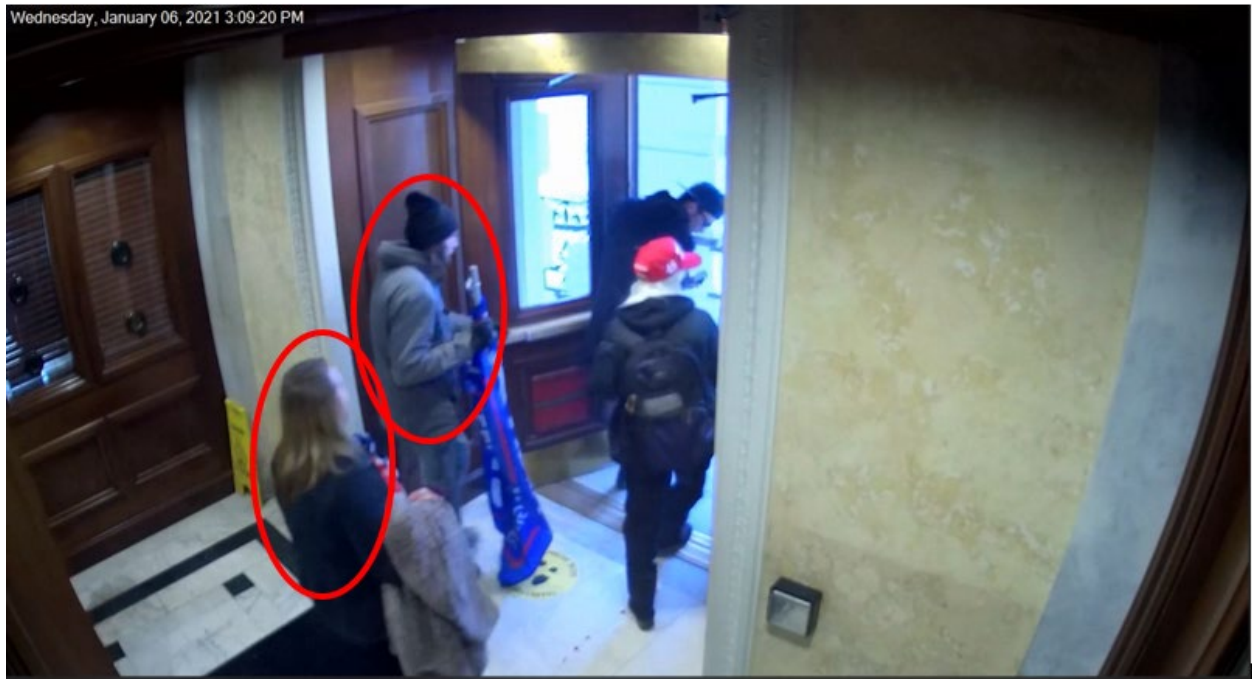
According to records obtained through a search warrant which was served on AT&T on January 6, 2021, in and around the time of the incident at the U.S. Capitol Building, the cellphones associated with phone numbers (***) ***-5898 and (***) ***-6025 were identified as having utilized a cell site consistent with providing service to a geographic area that included the interior of the U.S. Capitol Building.

On or about February 11, 2021, the U.S. Capitol Police provided security camera footage from January 6, 2021 that depicted Brandon and Stephanie inside the U.S. Capitol Building. The

following images are screenshots from those videos. Brandon and Stephanie are indicated with red circles:







Based on the foregoing, your affiant submits that there is probable cause to believe that Brandon Miller and Stephanie Miller 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 Brandon Miller and Stephanie Miller 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.



Special Agent, FBI

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 9th day of March 2021.

A handwritten signature in black ink, appearing to read "G. Michael Harvey", written over a circular official seal.

Digitally signed by G.
Michael Harvey
Date: 2021.03.09
15:05:54 -05'00'

G. MICHAEL HARVEY
U.S. MAGISTRATE JUDGE