

Review of Smith v. Kaufman & Taranto

Case No. 1:21-CV-2170

Feb. 17, 2022

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- *This review was prepared by several people with long connection to Jan 6 research*
- *A version of this report was delivered in August 2021 to a 3rd party with the hope that it would be conveyed to the plaintiff's attorney, but to our knowledge it was not delivered*
- *We conclude that the charges stated in Smith v. Kaufman & Taranto are not borne out by the evidence*
- *We sympathize deeply with plaintiff Erin Smith and with the officers who defended the Capitol on Jan 6. We are mindful of the unspeakable trauma they experienced. We honor them best by affirming our commitment to the truth*

A. Summary

This document reviews the claims in civil suit Smith v. Kaufman & Taranto (Case No. 1:21-CV-2170) and assesses them based on publicly available video evidence.

Summary of complaint (text and annotations on video exhibits)

The complaint filed on August 13, 2021 (amended on August 14, 2021) alleges that during the clearing of the U.S. Capitol, on January 6, 2021, defendants Taranto and Walls-Kaufman contributed to the death of Officer Smith by a blow to the face and head with his face shield up, resulting in later post-concussion syndrome. The complaint alleges that Taranto carried a “a cane or crowbar (or similar object)” and handed it to Walls-Kaufman (“suppl[ying] a weapon”) who “violently swung” it and struck Smith, then “lunged” at him, pulling him to the ground, and stood or stepped on him (“Wall Kaufman [sic] on Smith”). In a supporting declaration signed August 13, forensic pathologist Dr. Jonathan Arden declared that Officer Smith had been “struck in the face and head,” had experienced “loss of consciousness resulting from the blow,” and had “sustain[ed] a concussion with post-concussive syndrome.” On August 14, screenshots from a video shot by videographer John Sullivan (“Jayden X”) were provided as exhibits in support of these claims.

Evidence

This document is based on review of three videos publicly available in August 2021

1. Jayden X, “Frontline Footage Of Inside The U.S. Capitol Riot - 4K”
2. FNTV, “Siege of The Capitol and Deadly Shooting on January 6th”
3. RMG, “Inside the 2021 Storming of the United States Capitol. Full, Unedited 81 Minutes”

and of parts of Officer Smith’s bodycam that have been publicly released since. These are referred to henceforth as *Jayden X*, *FNTV*, *RMG*, and *bodycam*, and screenshots actually shown in the complaint are referred to as “Exhibit A”. Section D provides public links for all videos and for a synchronized version of videos 1-3.

Review of video evidence shows factual issues including

1. Taranto never gave up his cane.
2. Walls-Kaufman therefore never struck Smith with a cane.
3. Walls-Kaufman is not clearly seen to strike Smith at all.
4. Smith was not knocked unconscious nor pulled to the ground. He is seen on his feet and standing throughout the incident in question.

In addition

5. In two key screenshots, the object identified as a cane in the hands of Walls-Kaufman is in fact a police baton held by an MPD officer.
6. In one screenshot, the person identified as Officer Smith is not Smith.
7. Screenshots are presented out of order, implying a causal sequence that did not exist.
8. The incident took place around 2:56 PM, not 5:00 PM as stated.

B. Timing and identification of video

Additional video of the incident shown in the screenshots of Exhibit A was obtained by first identifying its context (time and location). The time is 2:56 PM, since the video runs continuously and the incident occurs 12 minutes after the videographer captures the shooting of Ashli Babbitt at the Speaker's Lobby door, widely reported as 2:44 PM. (Officer Smith's body camera footage, since released, confirms this timing.) To find additional footage we identified two news organizations (RMG and FNTV) that also released continuous footage that includes the shooting. Both their videographers were in the group herded out of the Capitol by police that also included Jayden X, and their film captures the same events.



JaydenX: Frontline Footage Of Inside The U.S. Capitol Riot - 4K [dgug72TZMDs]

We disregarded the statements in Section 8 (below, top) and Section 9 (below, bottom) of the complaint since they appear incorrect:

*On January 6, 2021 at **around 5:00 pm.**, Officer Smith was working in the United States Capitol building.*

***At that time and place**, Kaufman was part of the insurrectionist mob **inside the US Capitol** and was being escorted out of the building by MPD officers.*

In his incident report, SMITH stated in two places that his time of injury was 5:35 PM, and that he was “outside of the US Capitol” at that time.

C. Review of video evidence

Section 9 of the complaint states:

Co-Defendant Taranto handed a cane or crowbar (or similar object) to Kaufman. Kaufman, in turn, violently swung the cane and struck Officer Smith in the face/head. Officer Smith was in a particularly vulnerable situation because his face shield was up (leaving his face and eyes exposed). It appears that Kaufman and Taranto specifically and maliciously targeted Officer Smith because his visor was in the upright position, making him more vulnerable to this brutal and vicious attack.

Exhibit A contains screenshots from *Jayden X* intended to support this claim, which have annotations but no additional narrative describing the action. They are presented out of chronological order, but each screenshot contains a timestamp. If resorted based on their timestamps, the purported sequence of events appears to be as follows, based on the annotations on the images. (Annotations are in italics; page numbers refer to the complaint.)

1. TARANTO stands next to KAUFMAN holding cane (01:28:27 - pg 3, img 1)
"Man next to Walls Kaufman has a crowbar"
2. SMITH is pulled into the fight (01:28:32 - pg 7, img 1) *"Jeff Smith pulled into fight"*
3. KAUFMAN is holding the cane (01:28:35 - pg 1, img 2) *dark object is marked*
4. KAUFMAN attacks SMITH (01:28:35 - pg 6, img 1) *"Walls Kaufman attacks Ofc. Smith"*
5. KAUFMAN lunges at SMITH (01:28:36 - pg 5, img 2) *"Wall Kaufman lunges at Ofc. Smith"*
6. KAUFMAN pulls SMITH (01:28:36 - pg 4, img 2) *"Smith pulled forward toward ground"*
7. The cane is visible (01:28:37 - pg 1, img 1) *dark object is marked*
8. KAUFMAN is on SMITH while SMITH is on the ground (01:28:38 - pg 4, img 1)
"Wall Kaufman on Smith" "Smith on ground"

These actions are not supported by inspection of video. In the remainder of this section we show each stage and describe what is actually occurring, as seen in video.

We show largely screenshots from the *Jayden X* video used in Exhibit A, but show some from other videos when it is helpful. Screenshots other than Exhibit A are slightly color-adjusted by the authors for clarity. All are shown in chronological sequence.

Note that TARANTO retains his cane for the duration of the *Jayden X* video and is seen in other video exiting the building still carrying it. His retention of the cane is now also confirmed by SMITH's body cam footage.

Stage 1. "Man next to Walls Kaufman has a crowbar" 1:28:27

TARANTO is indeed seen holding his cane at this point, as he is seen with it throughout the day. (It is not a crowbar.). In the screenshot below, TARANTO and KAUFMAN are near each other, in front of the elevator, near the metal detector, by the South East doors (House side).

We show 4 screenshots from this stage (Figures 1.1-1.4).

At the beginning of an interaction with officers, TARANTO lifts his cane using both hands to pull it upward. SMITH can be seen several rows of people away from the defendants, toward the back, left corner of this room. BRIAN BINGHAM is just to the left of the "C" in "CANE".



Figure 1.1 SOURCE Jayden X

Stage 1. "Man next to Walls Kaufman has a crowbar" 1:28:27

The following two screenshots immediately follow. Figure 1.2 (top): BRIAN BINGHAM (far L) begins actively fighting with officers, lunging toward them. TARANTO holds the cane with his left hand and extends his right arm forward, toward BINGHAM, possibly in an effort to pull him away from the officers. SMITH remains several rows away. Figure 1.3 (bottom): As people in the room are shoved around, TARANTO rotates away from BINGHAM and away from the officers, toward KAUFMAN.



Figures 1.2, 1.3 SOURCE: Jayden X

Stage 1. "Man next to Walls Kaufman has a crowbar" 1:28:29

BINGHAM moves away from TARANTO. TARANTO lowers his cane, and shifts it to his right hand. (Note that the object TARANTO holds is likely a Night Watchman Self Defense Cane, not a Ka-Bar as stated.)

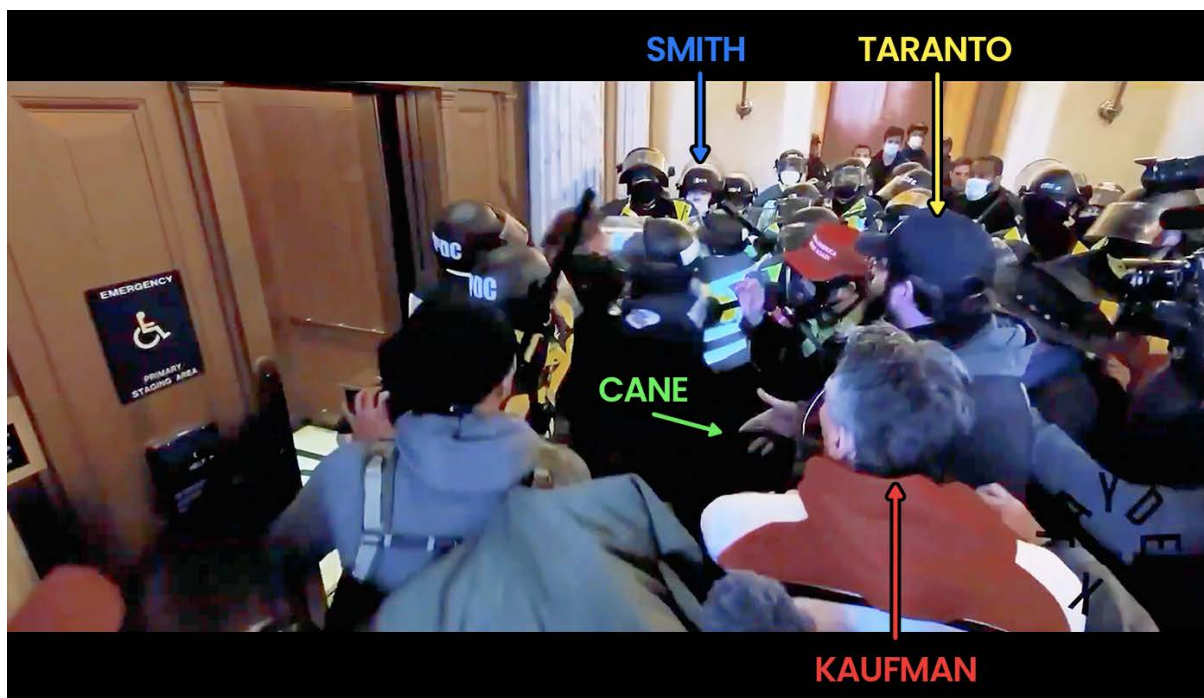
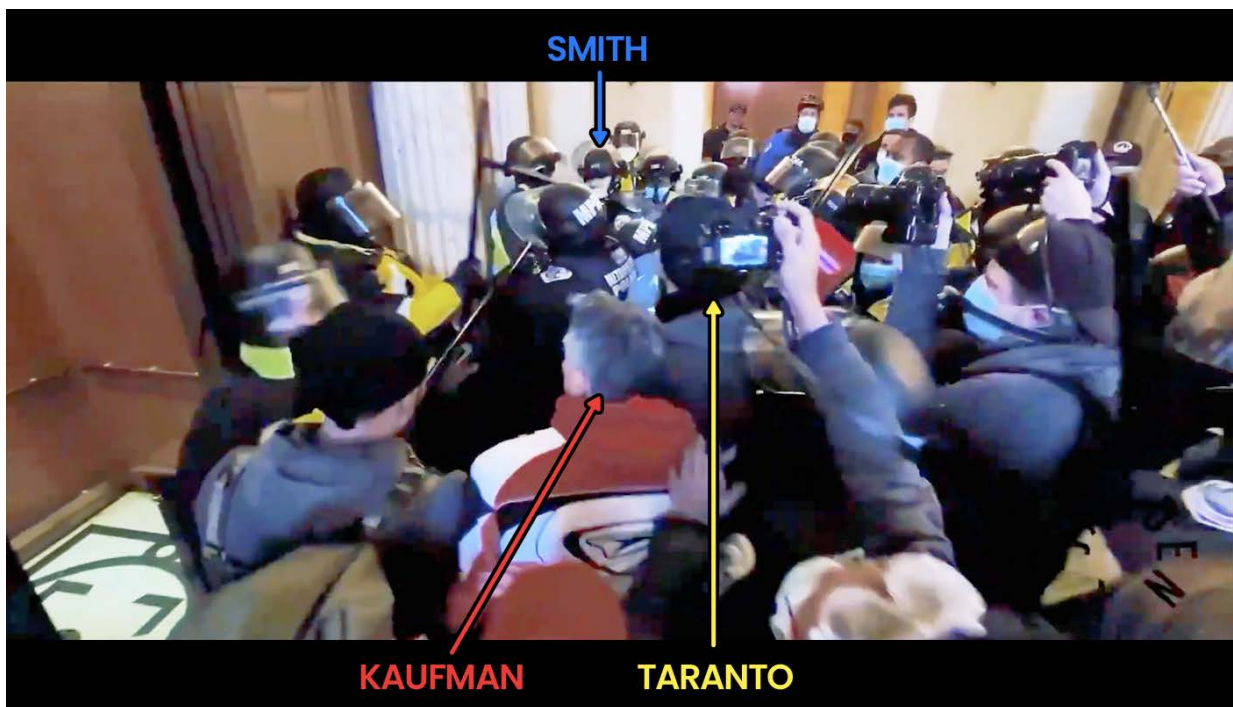


Figure 1.4 SOURCE: *Jayden X*

Stage 2. "Jeff Smith pulled into fight" 1:28:31 - 1:28:32

We show three screenshots from this stage. Figure 2.1 is an Exhibit A screenshot from timestamp 1:28:32 (p. 7, top). Figure 2.2 (p. 7 bottom) and Figure 2.3 (p. 8) are from *Jayden X* and correspond to just before and just after Figure 2.1 (1:28:31 and 1:28:32, respectively).

The annotations on Figure 2.1 state that SMITH is being pulled into the fight. This is incorrect. In the seconds before and after this screenshot, SMITH is seen surrounded only by other officers, and TARANTO and KAUFMAN are beyond arm's length away.



Figures 2.1, 2.2 SOURCE *Jayden X*

Stage 2. "Jeff Smith pulled into fight" 1:28:32

In the screenshot below (Figure 2.3), SMITH has advanced, but there is no evidence that he is being pulled into a fight. Officers appear to be attempting to push BINGHAM toward the doors, and SMITH is either pushed forward or moving on his own volition. It is important to note that the object near Officer Smith's head is a police baton (likely his own), not TARANTO's cane.



Figure 2.3 SOURCE: Jayden X

Stage 3. “KAUFMAN is holding the cane” 01:28:35.

We show 2 screenshots from this stage, from Exhibit A (Figure 3.1) and *bodycam* (Figure 3.3). In Figure 3.1, the object marked with the red stroke is purported to be the cane, held by KAUFMAN. However, as stated previously, TARANTO never gives up the cane. In *bodycam* from this time (Figure 3.2), TARANTO is still holding it.

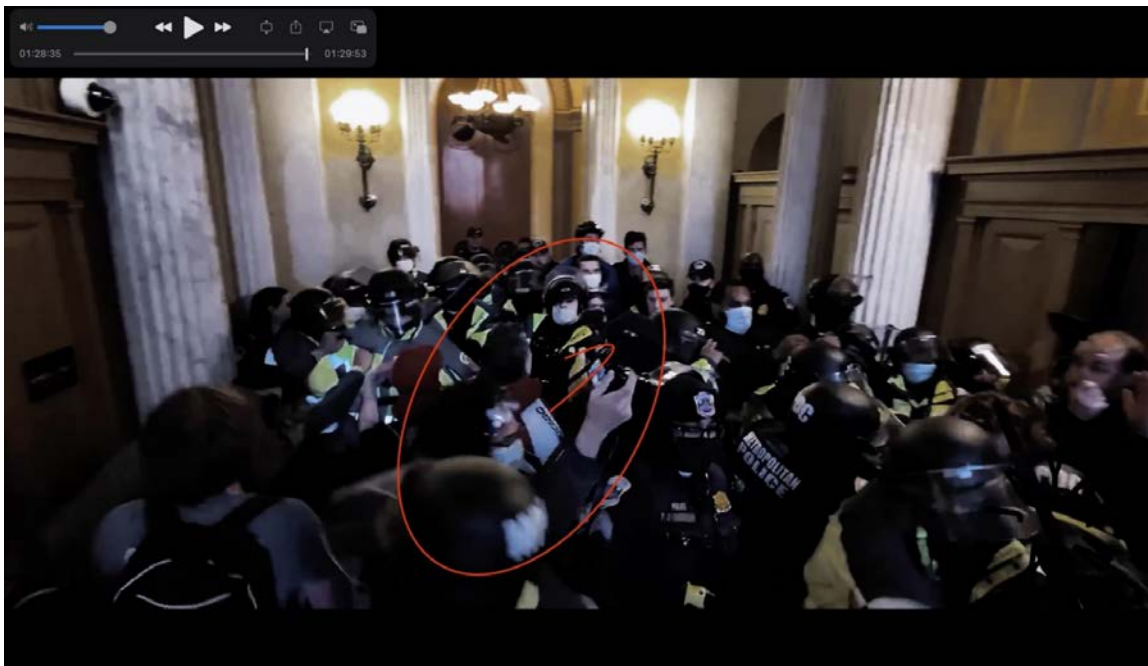


Figure 3.1 SOURCE: Exhibit A



Figure 3.2 SOURCE: *bodycam* (Officer Smith)

Stage 4. “Walls Kaufman attacks Ofc. Smith” 01:28:35.

The Exhibit A screenshot below (Figure 4.1) purports to show that SMITH is attacked by KAUFMAN using the cane. Synchronous *bodycam* footage (Figure 4.2) shows that KAUFMAN actually grabs SMITH’s baton, which SMITH is holding horizontally in front of his chest. KAUFMAN does push the baton forward as he is being shoved around in the scrum, but it is not clear if this is deliberate. The baton does not strike SMITH.

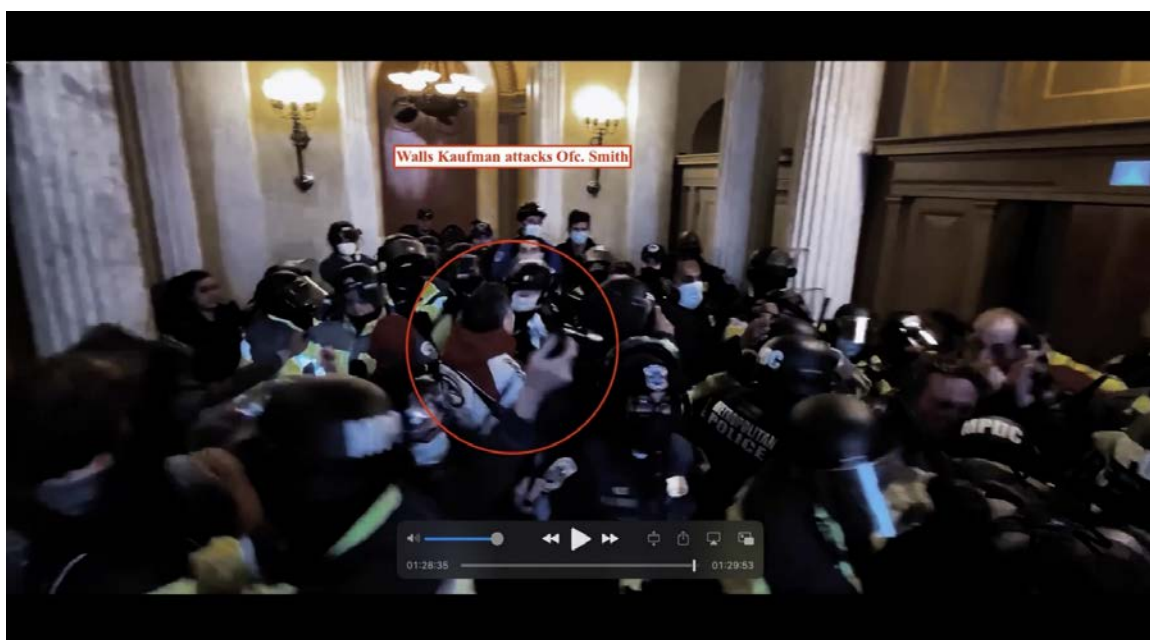


Figure 4.1 SOURCE: Exhibit A



Figure 4.2 SOURCE: *bodycam* (Officer Smith)

Stage 5. "Wall Kaufman lunges at Ofc. Smith"1:28:36

We show three screenshots, one used in Exhibit A (Figure 5.1) and two from *RMG* at similar times. In Figure 5.1 KAUFMAN is described as lunging toward SMITH. Given the angle of the camera, there is no unambiguous basis for this claim. at KAUFMAN may be pushed forward rather than lunging.



Figure 5.1. SOURCE: Exhibit A

The screenshots below, from *RMG* which has a different camera angle and taken around the time of Figure 5.1, suggest that KAUFMAN was shoved forward, and did not lunge at SMITH.



Figures 5.2, 5.3 SOURCE: RMG

Stage 6 "Smith pulled forward toward ground" 01:28:36

We show 3 screenshots for this stage: one presented in Exhibit A (Figure 6.1), a clearer version of this same scene (Figure 6.2), and a screenshot a fraction of a second later (Figure 6.2)

The annotation in Figure 6.1 implies that KAUFMAN pulls SMITH forward and to the ground. However, it is not clear that KAUFMAN pulls SMITH, and SMITH does not fall: he remains on his feet the entire time. SMITH is briefly not visible, but he is behind the officer marked with a blue circle in Figure 6.2. Note two batons held by officers marked with white stars.

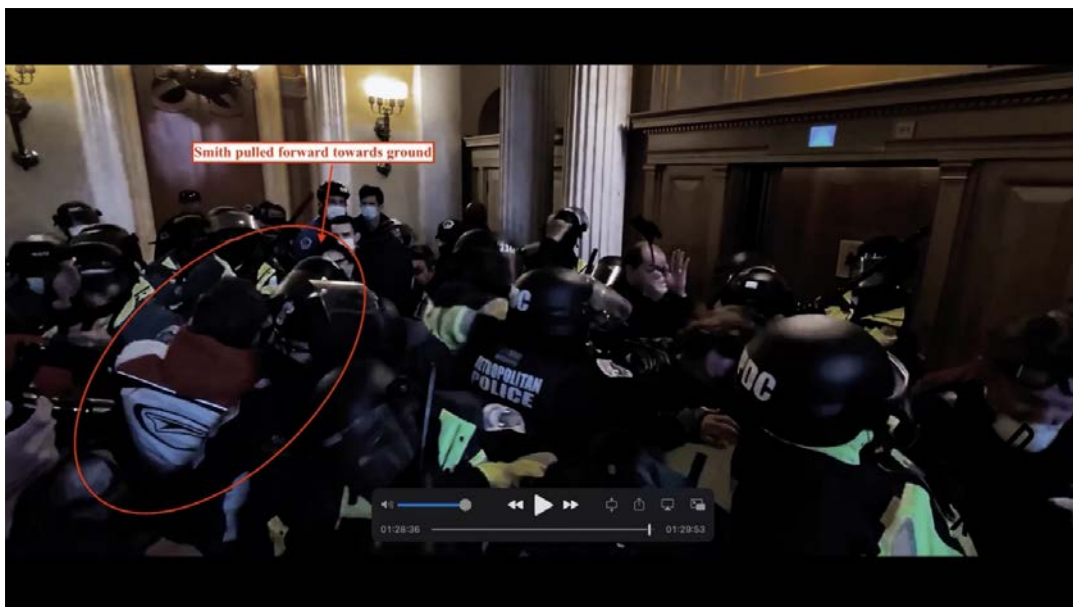


Figure 6.1. SOURCE: Exhibit A



Figure 6.2 SOURCE: Jayden X

Less than a second after the scene of Figures 6.1 and 6.2, SMITH is visible again and standing in Figure 6.3 below.

Annotations on the out-of-order screenshots in Exhibit A appear to suggest that SMITH is struck by a cane around this time. However, Exhibit A repeatedly misidentifies batons held by MPD police as the cane.

In Figures 6.1 and 6.2, the topmost baton is being swung downward by an officer. While the baton appears to come near SMITH’s helmet, it is actually closer to hitting a person behind SMITH, indicated by the green arrow in Figures 6.1, 6.2 and white arrow in 6.3.

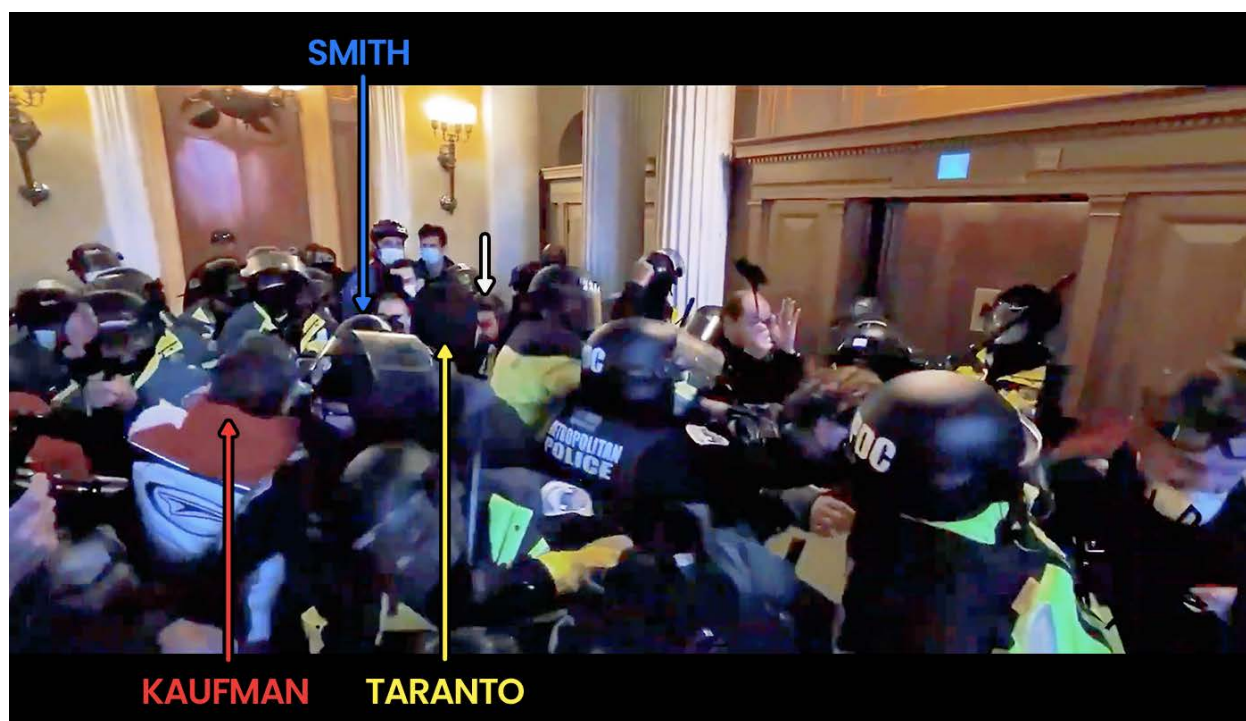


Figure 6.3 SOURCE: Jayden X

Stage 7. *Cane is visible and marked.* 01:28:37

For this stage we use the Exhibit A screenshot (with red annotation purporting to show the cane), and also show an enlarged version of that area drawn from the same frame in *Jayden X*.

This frame is two seconds after the alleged attack on SMITH, and the object marked in red is implied to be the cane. The enlarged and brightened view shows that the object is instead one of the two batons marked in Figure 6.2. (For additional confirmation, note that neither object in the screenshot has a rubber toe on the end, which is visible on TARANTO's cane.)



Figure 7.1 SOURCE: Exhibit A, with section enlarged and highlighted using *Jayden X*

Stage 8. “Wall Kaufman on Smith” “Smith on ground” 01:28:38

The screenshot from Exhibit A (Figure 8.1) is one second after the supposed weapon was visible in Figure 7.1. We also show a clearer version of this scene (Figure 8.2) with an overlay image from a fraction of a second beforehand, and a frame from a moment later (Figure 8.3).

A red circle on Figure 8.1 is marked “SMITH on ground”. However, the person circled is not SMITH and is not on the ground. The circled person is an officer in a full face respirator mask (see overlay in Figure 8.2). SMITH is standing up directly in front of KAUFMAN.

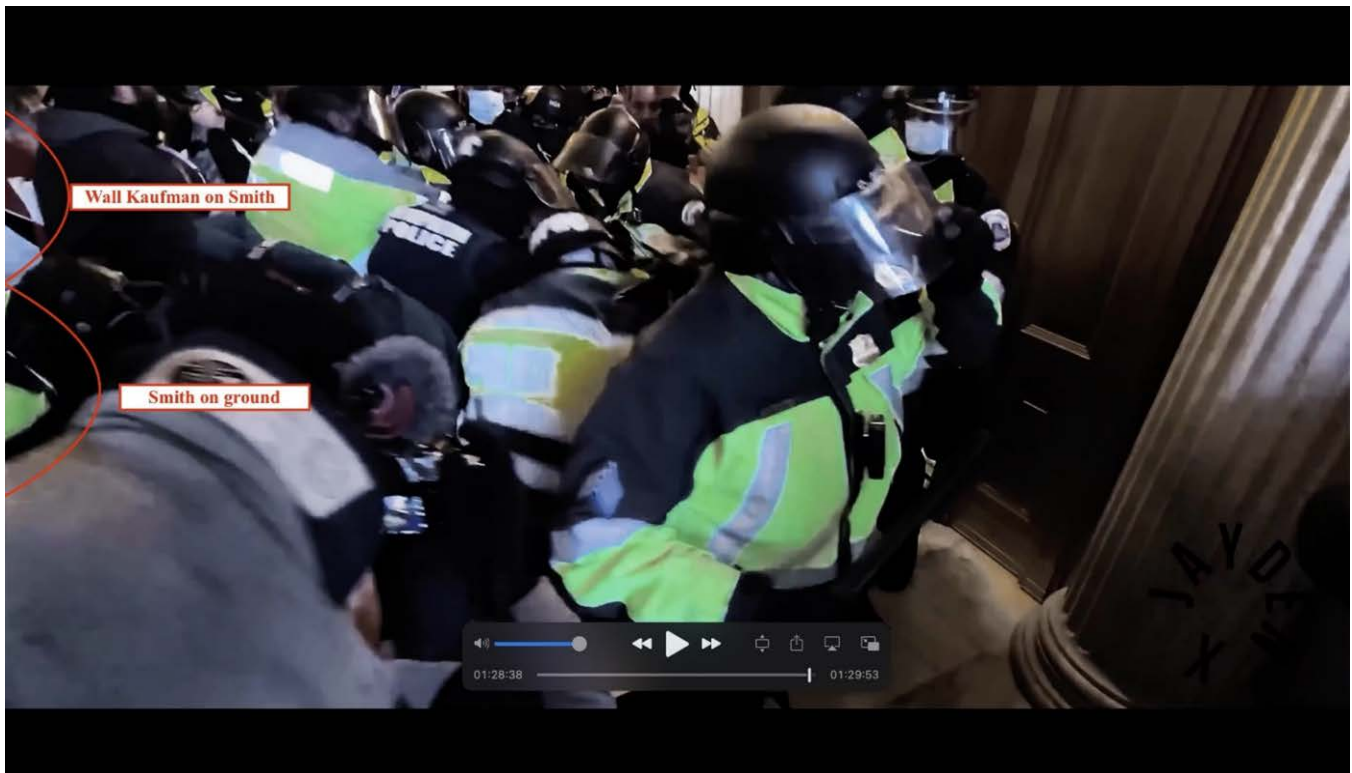


Figure 8.1 SOURCE: Exhibit A

To make this clear we show in Figure 8.2 the same frame in a brighter version. The back of SMITH’s helmet and the side of his reflective jacket are then visible.



Figure 8.2 SOURCE: *Jayden X*, with overlay from less than a second earlier

In Figure 8.2, SMITH's helmet and jacket are barely seen. Two seconds (Figure 8.3) his helmet, facemask and upper body are obvious. He is clearly standing upright, two seconds after he had been labeled as "on ground". Note also that TARANTO is still holding his cane.



Figure 8.3 SOURCE: *Jayden X*

Leaving the Capitol, Taranto with the cane.

Other video sources capture TARANTO exiting the Capitol. In Figure 9.1 below, from *FNTV*, TARANTO trails just behind KAUFMAN. He is still carrying the cane in his right hand.



Figure 9.1 SOURCE: *FNTV*

D. Appendix - video links

All videos referenced here are publicly available

1. Jayden X, "Frontline Footage Of Inside The U.S. Capitol Riot - 4K". On YouTube at <https://www.youtube.com/watch?v=dgug72TZMDs> All timestamps are from this video
2. *FNTV*, "Siege of The Capitol and Deadly Shooting on January 6th". On YouTube at https://www.youtube.com/watch?v=XE3Op_eyvss
3. RMG, "Inside the 2021 Storming of the United States Capitol. Full, Unedited 81 Minutes". This item was originally on YouTube, then removed but reposted at <https://archive.org/details/ZHmrrwZep8ftWW2jg>
4. **Body camera.** Portions of Officer Smith's bodycam footage are shown in a news program at <https://www.nzz.ch/english/insurrection-at-the-capitol-three-police-officers-stories-video-ld.1663177>

To match times, sources 1-3 were synchronized in a single video (without audio), which has been available at this link since August 2021: <https://imgur.com/ODLX7c9>. The body camera footage has real timestamps that appear accurate.

E. Appendix - injury report

Below is the relevant portion of the injury report submitted by SMITH. The time the incident occurred was recorded in two locations and has been highlighted.

NAME OF MEMBER (Last, First, MI) Smith, Jeffrey	RANK OFL	CAD 8739	BADGE 4626	ELEMENT 2D	CURRENT ASSIGNMENT 209
NATURE OF INJURY / ILLNESS: (List your injuries-specifying areas on body. In case of illness, list symptoms.) PAIN TO Neck.					DATE/TIME OF INJURY/ILLNESS 1735 / 1/6/21
CAUSE: (List the known or suspected cause of your injury or illness.) Hit with flying object in face shield of helmet.					TOUR / DAYS OFF Eric Thurfrist
STATEMENT OF FACTS: (Describe the nature and circumstances of your injury/illness. Describe the area(s) of the body affected. Specify when and how the injury occurred, and include names and contact information of any witnesses to the injury/illness.) I was outside of the US Capitol and people started throwing things metal objects around. Same kind of object hit me in the face shield, began feeling pain in my neck and face.					SICK LEAVE BALANCE 535pm

In this report, SMITH states the following:

- **Date/Time of Injury:** 1735 and 535pm
- **Nature of Injury:** Pain to neck.
- **Cause:** Hit with flying object in face shield¹ of helmet.
- **Statement of Facts:** I was outside of the US Capitol² and people started throwing³ things, metal objects. Around 535pm some kind of object hit me in the face shield¹, began feeling pain in my neck and face.

In the intake report about this incident by Sergeant Nevel of the MPD, Nevel writes "Officer Smith reported that he was struck on the front of his helmet with unknown object ... The investigating sergeant was on the same CDU line as Officer Smith and observed the crowd throwing metal poles at, and striking, several officers on the line ... At the time of the incident, the scene was very chaotic and dangerous."

1. 'shld' corrected to 'shield.' 2. 'Capitol' corrected to 'Capitol.' 3. 'throwing' corrected to 'throwing.'