

## STATEMENT OF FACTS

Your affiant is a Task Force Officer with the Federal Bureau of Investigation (FBI) and I am currently assigned to the Columbia, South Carolina Field Office. Currently, I am tasked with investigating criminal activity in and around the U.S. 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, and 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 are 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 U.S. 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 after 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.

*Evidence Linking DEREK GUNBY to Assault on the U.S. Capitol*

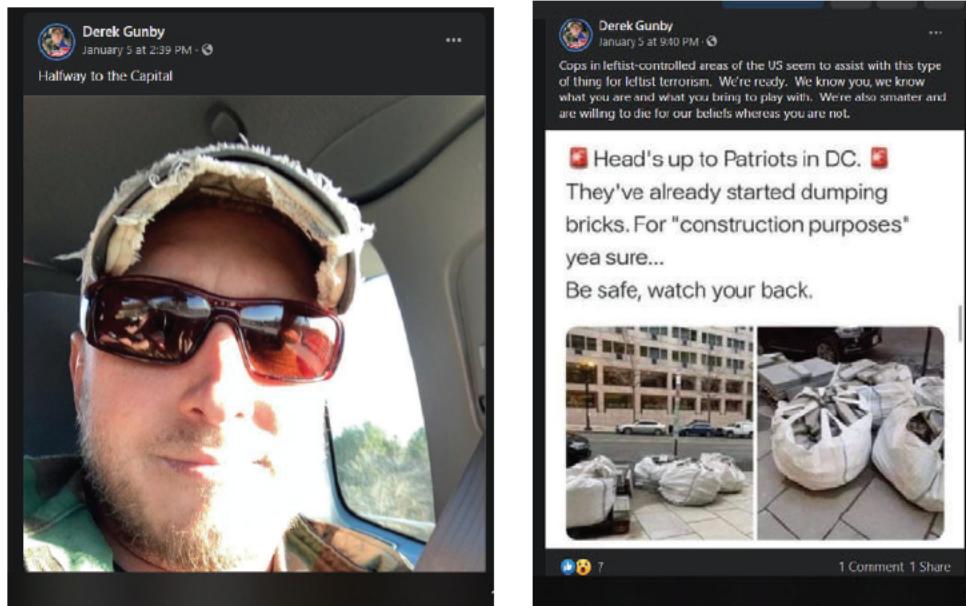
On or about January 13, 2021, the Columbia, South Carolina Field Office of the FBI received information that DEREK GUNBY had posted photos and a video to Facebook indicating that he had been involved in the riot at the Capitol building. Law enforcement reviewed the publicly available Facebook page of “Derek Gunby.” Under his name was the phrase, “Hold the Line.” Additionally, his Facebook page stated that he was employed as a “Sleeper/Agent,” was a “Former Vice President/Member Board of Directors at the Fathers’ Rights Movement,” and was a former satellite communications non-commissioned officer in the U.S. Army. The Facebook page of “Derek Gunby” also indicated that he lived in Anderson, South Carolina. A screenshot of “Derek Gunby’s” Facebook page is shown below.



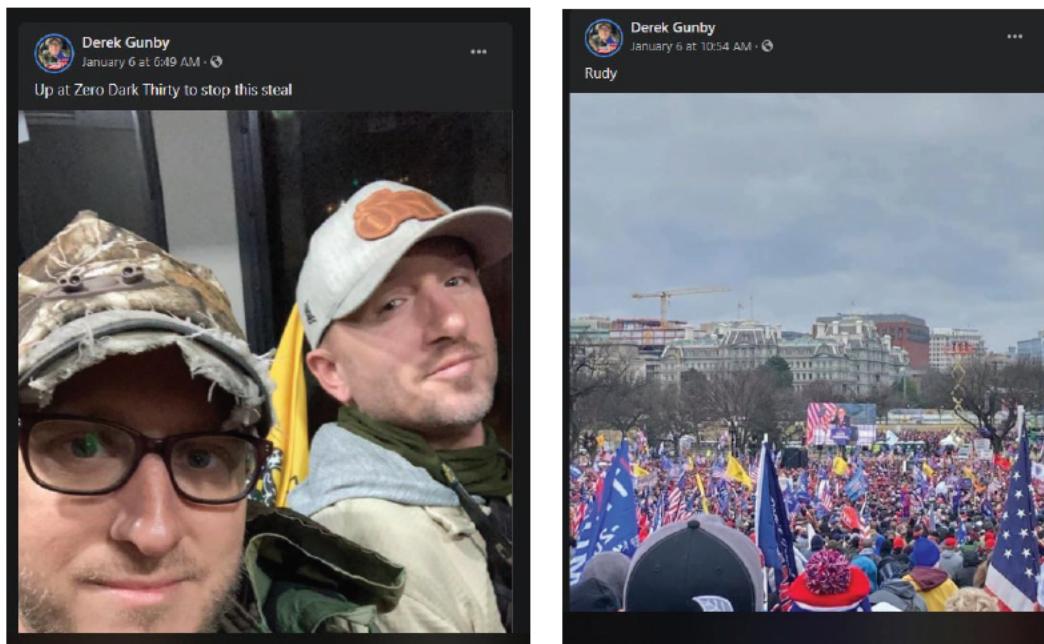
Law enforcement obtained the driver’s license information, including photo, for DEREK GUNBY from the South Carolina Department of Motor Vehicles (“DMV”). According to the DMV records, DEREK GUNBY resides at an address in Anderson, South Carolina. Based on the fact that DEREK GUNBY resides in Anderson, South Carolina, and the similarities between DEREK GUNBY’s DMV photo and the photos of the individual displayed in the “Derek Gunby” Facebook page, law enforcement determined that the individual in the “Derek Gunby” Facebook photos is a positive match with DEREK GUNBY’s DMV photo.

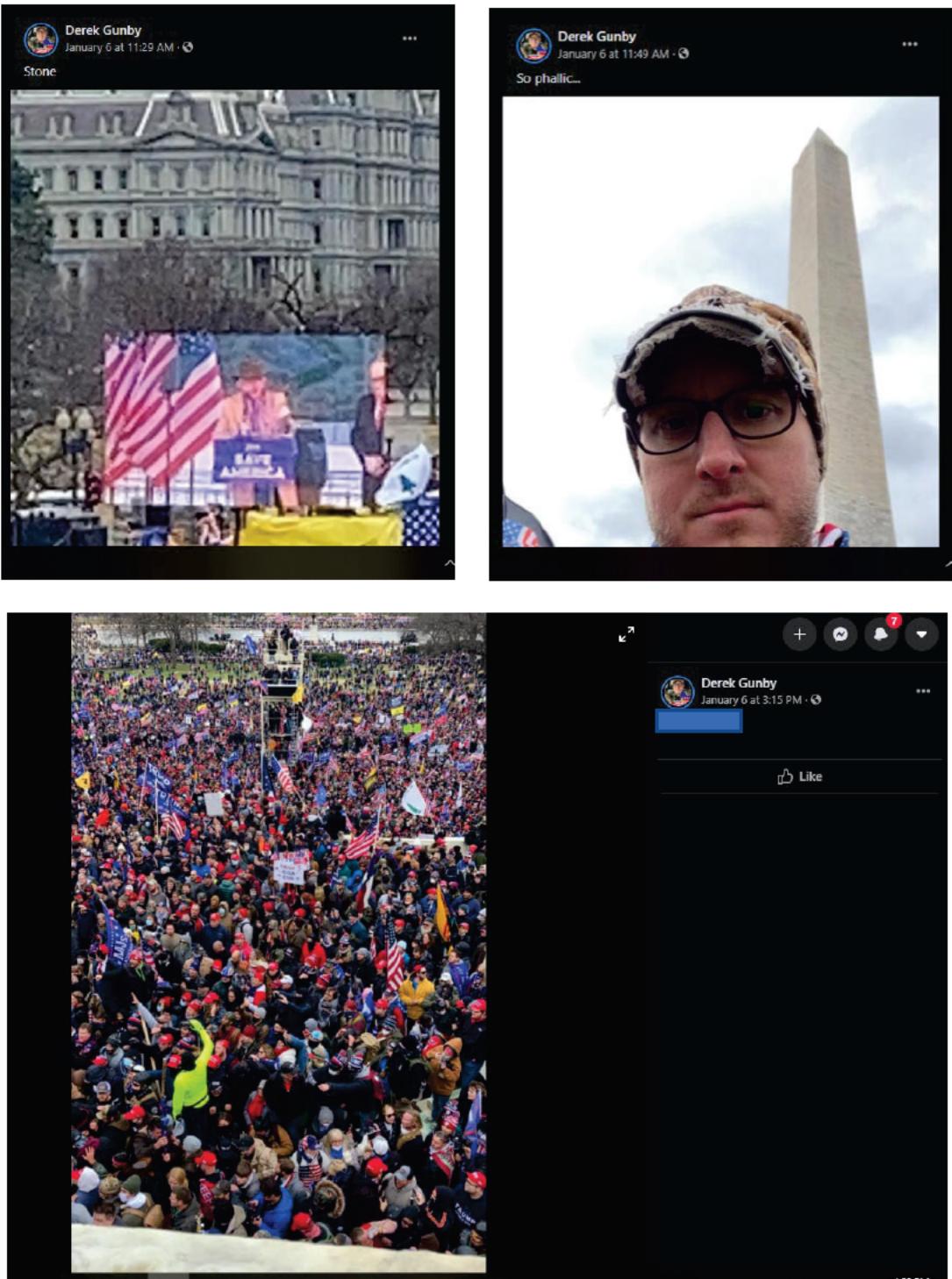
On or about January 5, 2021, DEREK GUNBY posted to his Facebook page, a photo of himself in a car with the caption, “Halfway to the Capital.” Additionally, later that evening, DEREK GUNBY posted to Facebook a photo of what appears to be bags of bricks in Washington, D.C., with the following caption: “Cops in leftist-controlled areas of the US seem to assist with this type of thing for leftist terrorism. We’re ready. We know you, we know what you are and what you bring to play with. We’re also smarter and are willing to die for our beliefs whereas you

are not." Shown below are the two above-described Facebook postings made by DEREK GUNBY on or about January 5, 2021.



On or about January 6, 2021, DEREK GUNBY posted additional photos to his Facebook page indicating he was in Washington, D.C. and near the Capitol building that day. The posts, shown below, include a photo of DEREK GUNBY and another individual who appear to be riding the Metro posted at 6:49 a.m. with the caption, "Up at Zero Dark Thirty to stop this steal;" photos of the rally for President Trump posted at approximately 10:54 a.m. and 11:29 a.m.; a photo of DEREK GUNBY in front of the Washington Monument at 11:49 a.m., photos of the rioters outside the Capitol building at 3:15 p.m. In all the photos of DEREK GUNBY, he appears to be wearing a frayed camouflage baseball cap, a military issued camouflage coat, and dark-frame glasses.





DEREK GUNBY also posted to his Facebook account a video that appears to have been livestreamed as he was riding the Metro following the riots at the Capitol. In the video, DEREK GUNBY is wearing the same frayed camouflage baseball cap, military issued coat, and dark-frame glasses that he is wearing in the other photos. Your affiant also observed that DEREK GUNBY was wearing an American flag bandana around his neck. In the video, your affiant observed a

“GUNBY” nametag over the right breast pocket of the military coat and a “U.S. ARMY” tag is over the left breast pocket. In the video, DEREK GUNBY states, in part, the following:

So, I went with James here . . . and we met up with some people from Texas, . . . So yeah we went, we were in front of the White House earlier this morning, and then going into the afternoon, everyone headed down to the National Mall towards the Capitol. And we all pretty much surrounded the Capitol. We are at a point now in this country where they’re going to listen to us. They have to listen to us. Your congressional leaders are not afraid of you. They are more afraid of the Chinese Communist party. They’re more afraid of left wing media. And they are more afraid of ANTIFA and Black Lives Matter than they are of the American patriot, the American conservative, the American libertarian. The person who is on the right side of the Constitution.

....

The American patriot in this country has been, we’ve been saints. Saints. Because the capability of America, and Americans, especially if we were the kind of people that the media always portrays us to be, we can take this country back pretty quickly. We didn’t bring weapons. Americans that came here for this event did not bring weapons. That’s saying a lot considering how late it is in this game. How much they have tried to take from us, and we are still not taking up arms against our government, against the Capitol. So, we surrounded the Capitol today. Eventually tear gas started flying. They started shooting tear gas. I got, I’m still, my lips are still burning from it.

....

They detonated, it was like a flash bang with a, they did a lot of flash bangs and things, and people stayed peaceful. I don’t care what the media is telling you. The media told you that, that we terrorized anybody, that the American patriot, that the Trump supporters, that the people that were here to protest the stealing of the votes, of the election in this country.

....

Came a little closer to some nightsticks and rubber bullets than we wanted to. But, this was ultimately peaceful. I do believe that the Metro police here in Washington do understand the stark difference between Trump supporters, the patriots, what have you, than say ANTIFA, Black Lives Matter. The character is completely different. There couldn’t be more of a stark difference in

justification, and intent, and capability. If the American patriot wanted to storm this Capitol, take over this building, and take care of all of Congress in there, they could do it. They could do it.

....

They just tried to steal this election right in front of everybody's face. And any of you, any of you, who are gonna sit there and look anybody in the face, and say that that didn't happen, that this election fraud didn't happen, that we're making it up, that it's unsubstantiated, you need to wake up.

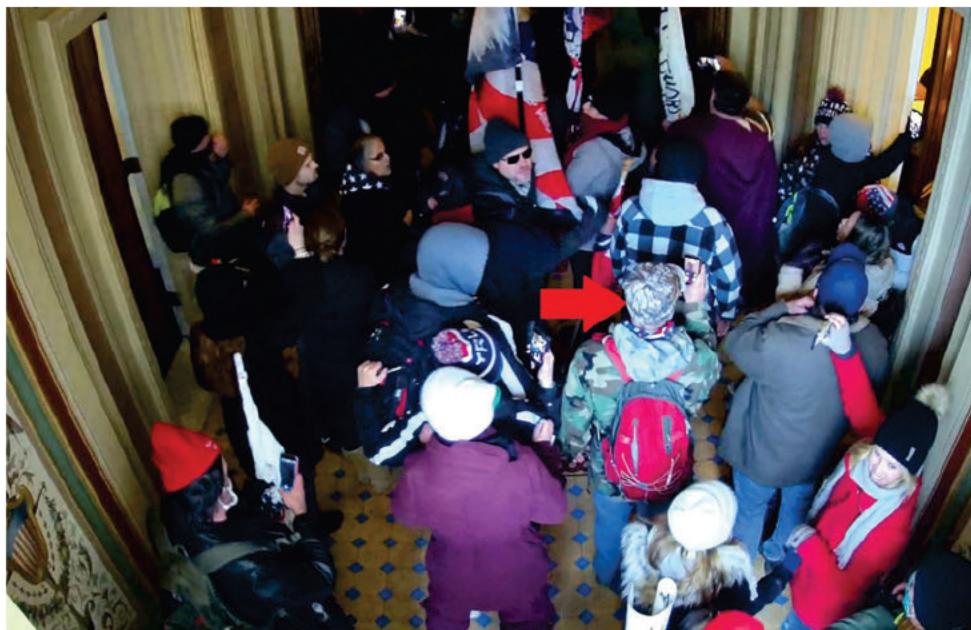
A screenshot from the video is shown below.



In the course of its investigation, law enforcement obtained a photo of an individual who appears to be DEREK GUNBY standing with other rioters outside an entrance to the Capitol building. DEREK GUNBY appears to be wearing the same frayed camouflage hat and dark rimmed glasses. A red backpack strap is also seen over his shoulder. The photo is shown below. DEREK GUNBY is circled in red.



Law enforcement also reviewed and collected video provided by the U.S. Capitol Police, which includes security camera footage inside and outside of the U.S. Capitol building. While reviewing this video footage, your affiant observed an individual who appears to be DEREK GUNBY walking up and down a hallway inside the Capitol building. DEREK GUNBY is wearing the same frayed camouflage baseball cap, military issued coat, dark-frame glasses, American flag bandana around his neck, and red backpack that is seen in the photos shown above. In the videos, DEREK GUNBY is also seen talking on a cell phone and holding up his cell phone to take photos or videos. Screenshots of the video are shown below.





On or about February 1, 2021, your affiant went to DEREK GUNBY's address in Anderson, South Carolina to conduct an interview of DEREK GUNBY. DEREK GUNBY provided a voluntary statement to your affiant. He stated that he went to Washington, D.C. on January 6, 2021 to listen to President Trump speak. He stated that after the President spoke, DEREK GUNBY followed the crowd that was moving toward the Capitol to protest the "stealing of the election." Your affiant asked DEREK GUNBY if he went inside the Capitol, to which DEREK GUNBY replied that he did. DEREK GUNBY stated to your affiant that there was no

one stopping him from going in, so he went in and walked around. DEREK GUNBY showed your affiant a video from his cell phone that he recorded while walking up to the Capitol with a large group of people and while walking into the Capitol building.

Based on the aforementioned evidence, there is probable cause to believe that DEREK GUNBY was present inside the U.S. Capitol building during the riot and related offenses that occurred at the U.S. Capitol building, located at 1 First Street, NW, Washington, D.C. 20510 on January 6, 2021 and participated in the obstruction of the Congressional proceedings.

Accordingly, your affiant also submits that there is probable cause to believe that DEREK GUNBY 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 so; 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 DEREK GUNBY 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.



Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1  
by telephone, this 29th day of June 2021.

A handwritten signature of Michael Harvey in black ink.

Digitally signed by G.  
Michael Harvey  
Date: 2021.06.29  
11:20:13 -04'00'

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G. MICHAEL HARVEY  
U.S. MAGISTRATE JUDGE