

## STATEMENT OF FACTS

Your affiant, Nicholas Shepard, is a Special Agent of the Federal Bureau of Investigation ("FBI"), and has been so employed since 2008. From 2008 through early 2013, I was assigned to the Mobile Division, and specifically to a counterterrorism squad. Since February 2013, I have been assigned to the FBI's Dallas Division. During that time I have been assigned at various times to the white collar crime squad, responsible for conducting investigations of complex financial crimes, including wire fraud, mail fraud, and securities fraud; counterterrorism squad, responsible for conducting investigations into violations of various national security laws; and foreign counterintelligence squad, responsible for conducting investigations into foreign counterintelligence activities, as well as violations of the federal export and espionage laws. In September 2020, I transferred within the Dallas Division to the Frisco Resident Agency, where I currently primarily investigate complex financial fraud and health care fraud. I also currently assist with other investigations as needed, such as those related to domestic terrorism, and criminal activity in and around the U.S. Capitol grounds on January 6, 2021.

In addition to these investigative and supervisory duties, I have spent over ten years as a SWAT operator in the Mobile and the Dallas Divisions. As a Special Agent with the FBI, 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.

### *Background*

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, DC. 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.

*Unlawful Entry into Restricted Grounds  
and Assault of Officers T.T. and R.C. at the U.S. Capitol*

A number of law enforcement officers were assaulted while attempting to prevent rioters from entering the U.S. Capitol. These assaults occurred both inside the Capitol building, as well as on the steps outside of the Capitol and on the grounds of the Capitol.

The FBI has obtained bodyworn camera (“BWC”) footage from the Metropolitan Police Department (“MPD”) that depicts an assault of MPD Officer T.T. (“T.T.”) and MPD Officer R.C. (“R.C.”) that occurred on the Capitol grounds, near the bike rack barricade line at the base of the West Front of the Capitol building, several yards from the media tower. T.T. and R.C. had been dispatched to that location in order to assist U.S. Capitol Police officers with protecting the Capitol grounds and building.

Your affiant reviewed BWC footage depicting the assault.<sup>1</sup> As seen in the BWC footage, at approximately 2:09:28 pm, T.T., R.C., and other officers begin struggling against rioters who are refusing repeated orders to step back from the barricade and are attempting to breach the police line. As the struggle ensues, a male individual wearing a red, white, and blue “Trump” beanie hat, red and white scarf, gray or silver jacket, blue jeans, red and white “Nike” shoes, and gray backpack with a red logo on the back—later identified as Mark Middleton (“MMIDDLETON”)—pushes against the barricades and the police line with his body. As officers repeatedly order MMIDDLETON and other rioters to “get back,” MMIDDLETON is heard yelling “fuck you!” as he continues pushing against the barricade.

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<sup>1</sup> BWC footage designated with X6039BD7G was obtained from T.T.’s bodyworn camera. BWC footage designated with X6039BCM1 was obtained from R.C.’s bodyworn camera.



MMIDDLETON struggles against the officers for more than thirty seconds. At approximately 2:10:04 pm, MMIDDLETON grabs onto T.T.'s left hand or wrist and appears to



pull T.T.'s body forward, as MMIDDLETON reaches his other arm across the barricade toward T.T.



At the same time, a female individual wearing a red, white, and blue “Trump 2020” beanie hat, red, white, and blue scarf, gray jacket, red shirt, and gold ring with what appears to be diamonds—later identified as Jalise Middleton (“JMIDDLETON”)—repeatedly grabs and strikes T.T. over the barricade with her hand.









When R.C. tries to defend T.T. from MMIDDLETON and JMIDDLETON, JMIDDLETON strikes R.C. in the arm.





MMIDDLETON and JMIDDLETON continue grappling with and striking T.T. and R.C. as various flags are jabbed toward the officers' faces.





At approximately 2:10:10 pm, six seconds after the assault began, T.T. deploys chemical spray forcing MMIDDLETON and JMIDDLETON to retreat back from the barricade line.

The FBI received a report from the Fort Worth Intelligence Exchange Fusion Center that it had compiled on January 7, 2021. The report provided information indicating that a husband

and wife from Forestburg, TX, Mark Fulton Middleton, DOB \*\*/\*\*/1969, SSN \*\*\*-\*\*-9656, and Jalise Sutton Middleton, DOB \*\*/\*\*/1970, SSN \*\*\*-\*\*-9670, had taken part in the storming of the U.S. Capitol on January 6, 2021. This assessment was based on publicly available postings that MMIDDLETON and JMIDDLETON made to their Facebook accounts on or about January 6, 2021. Specifically, MMIDDLETON posted a video to his Facebook account 100000248042806 (mark.middleton.35) in which he is heard stating the following:

“We are on the front lines. We helped push down the barriers. Jalise and I got pepper sprayed, clubbed, and tear gassed. We had to retreat, but more patriots pushed forward, and they’re taking back our house. They’ve got the giant flag up on the upper terrace up there. No more fooling around! Jalise and I gotta go back to the hotel and try to recoup and change, get dry clothes on. Make America great again! Freedom!”

The video is taken from a vantage point on the Capitol grounds in close proximity to the western side of the Capitol building, approximately 100 yards from the steps leading up from the Capitol grounds to the back of the building.

MMIDDLETON also posted other videos and photographs to his Facebook profile documenting his visit to Washington, DC on or about January 6, 2021. Three of these photos, posted at approximately 15:45 hours on January 6, 2021, were taken from various positions within the vicinity of the Capitol building.



MMIDDLETON also posted comments from his Facebook account on January 6 and 7, 2021, corroborating his statements from the aforementioned video:

- January 6, 2021, at 15:35 hours: “I just got gassed by the Capital Police”
- January 6, 2021, at 15:39 hours: [in response to being asked “Happy gas or the nasty kind?”] “Nasty kind.”



- January 6, 2021, at 16:58 hours: “We were in the thick of it.”
- January 6, 2021, at 17:15 hours: “I got tear gassed pepper sprayed and clubbed.”
- January 6, 2021, at 19:29 hours: [in response to being asked “Did you really storm the capital?”] “We did not. When we were on the steps no one was on the inside or on the upper balconies outside.”
- January 7, 2021, at 08:01 hours: “I was there on the steps in this pic. Capital police insights this. The crowd was not agitated until CP started tear gassing, pepper spraying and clubbing people.”
- January 7, 2021, at 08:06 hours: “Also. Those that caused damage were NOT patriots. Yea patriots did enter the capital. I have seen private video. But we also had infiltrators.”
- January 7, 2021, at 09:34 hours: “We left the hotel at 6:30am and didn’t get back till 6:00pm. Do not believe the news media, we’re not rioters or mobs. There are close to a million people here today, if not MORE. People swarmed D.C from all across the nation, of all ages, races and backgrounds. If we intended to start a riot, there wouldn’t be a building left, just saying. Yet, not one building is burned, not one store looted, not one police car set on fire! Listening to the Congress makes my blood boil, they’re playing the victim cards. They blame Trump for today because they’re afraid, because earlier this morning Trump reminded them that people will remember them by their action today or we will start a new party. Trump represented us but he, moved their cheese, the stinky politicians. Afterwards, patriots marched all the way to the Capitol, chanting and singing the national anthem. The atmosphere makes you feel proud to be an American, ask anyone that was there, I guarantee you that’s what every single person will tell you. As we approached and gathered at the back of the Capitol, even after people occupied the high and low grounds, national anthem, Pledge of Allegiance, chantings for Trump, USA and singing of patriotic songs, singing hymns and praying are all that you hear. Then came the tear gas. I’m not going to comment much on that, the metro police might’ve felt threatened, or received orders, I don’t know. Tear gas frequency increased as it got closer to the curfew (which was enacted at 3pm today). That infuriated many of us. We’ve been the ones supporting the police, backing the police, but this is how we’re being treated? Nonetheless, we started dispersing. Most people made their ways back to the hotel. Again, NO burning or looting. Simply making our ways back to the hotels. You CAN’T convince me there was no voter fraud found when I stood on the street for 20mins and still couldn’t see the end of the crowd!”

On January 6, 2021, JMIDDLETON posted multiple photos to her Facebook account 1542819018 (jalise.middleton) that were taken from various positions in the vicinity of the Capitol building. These included three photos posted at 15:57 hours: a photo that JMIDDLETON claimed depicted her face in the aftermath of being pepper sprayed; a photo of an unknown male sitting on steps at the Capitol grounds; and a photo taken in close proximity to other unknown individuals climbing scaffolding on the Capitol grounds.



JMIDDLETON also posted comments from her Facebook account from January 6 to 8, 2021, corroborating the statements from MMIDDLETON's aforementioned video, and providing additional context for the photos posted by MMIDDLETON and JMIDDLETON:

- January 6, 2021, at 15:35 hours: "We fought the cops to get in the Capital and got pepper sprayed and beat but by gosh the patriots got in!"
- January 6, 2021, at 15:47 hours: [in response to the question "Are you safe?"] "Ya we were the first group to storm the capital. Just bruised and pepper sprayed"
- January 6, 2021, at 15:49 hours: "Me and my husband were on the front lines pushing into the capital and got past the fencing but then we got beat by a cop and pepper sprayed so we had to retreat but you see all our fellow patriots got in"
- January 6, 2021, at 15:50 hours: [in response to the question "Are ya'll okay?"] "Yes but we made history and got everyone in"
- January 6, 2021, at 15:51 hours: [in response to the question "Why did they fight the cops?"] "To get in the Capital to send them bastards a clear message that this won't be tolerated"
- January 6, 2021, at 15:59 hours: "We didn't make it in. We got pepper sprayed while fighting on front line."
- January 6, 2021, at 16:23 hours: "The best couldn't be documented because we were all hands on deck"
- January 6, 2021, at 17:53 hours: "Patriots busted through barrierers to get in Capital. Best I know, there was no "looting or rioting ". We just sent a warning that we are serious. They did break windows to get in, but we're not tearing anything up. It is



simply a notification that we can get to you, we mean business, do what's right! Patriots don't stoop low like Antifa"

- January 6, 2021, at 17:58 hours: [in response to the question "Did yall storm the capitol as well?"] "yes we didn't get in. Just breached all the barriers, before being pepper sprayed and beat with billy clubs. We are ok"
- January 6, 2021, at 22:26 hours: [in response to the question: "Why would someone pepper spray him?"] "we were pushing through the barricades"
- January 7, 2021, at 12:41 hours: "cause I was up there pushing through the barricades with about a hundred other patriots when they started beating my husband with billy clubs, I went after the cop that did it, and was pepper sprayed before fellow comrades pulled me out of their grips. The tear gas was easy to push through and still see. It was windy so scouts in the scaffolding would holler take cover, we would cover our face, count to 10, and go again. But of course y'all know more. Truth doesn't matter, it just has to fit your narrative. Patriots surged, just to show strength, Antifa went in to make ya look bad."
- January 7, 2021, at 12:26 hours: "they weren't there either. They are adding their Narratives to the videos. I was there, I was pepper sprayed, I was on the front lines. They don't know nothing!!!"
- January 8, 2021, at 09:21 hours: [in reference to the above-provided photo of Jalise Middleton's face posted at 15:57 hours on January 6, 2021] "but that pic was after getting pepper sprayed. I whizzed through the tear gas"

On or about January 21, 2021, your affiant interviewed a tipster who stated that ITS daughter is a personal acquaintance of JMIDDLETON and "friends" with JMIDDLETON on Facebook. The tipster reported that ITS daughter had seen numerous posts and photos on JMIDDLETON's Facebook page following the Capitol riots indicating that JMIDDLETON had participated in the riot. The tipster further reported that JMIDDLETON deleted the aforementioned posts detailing her participation in the riot about two days after posting them.

On or about February 23, 2021, your affiant interviewed another tipster who reported that an acquaintance of ITS mother informed IT that ITS mother had travelled to Washington, DC on or about January 6, 2021, with a group of people including MMIDDLETON and JMIDDLETON. According to the tipster, the acquaintance of ITS mother is a family member of MMIDDLETON and JMIDDLETON and knew MMIDDLETON and JMIDDLETON had travelled to Washington, DC based on their Facebook posts and comments. Based on those posts and comments, the tipster said the acquaintance of ITS mother also believed that MMIDDLETON and JMIDDLETON had an altercation with a police officer at the Capitol.

On or about January 6, 2021, JMIDDLETON posted several photos to her Facebook account documenting her and MMIDDLETON's visit to Washington, DC. Your affiant compared several of those photos to the above BWC footage, and can confirm that the individuals in the photos resemble the individuals seen assaulting T.T. and R.C. in the BWC footage.



Your affiant has also compared the BWC footage to passport application photos submitted by MMIDDLETON and JMIDDLETON and can confirm that the individuals in the passport photos resemble the individuals in the BWC footage.

#### *Probable Cause*

Based on the foregoing, your affiant submits that there is probable cause to believe that JMIDDLETON violated the following:

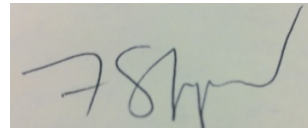
1. **18 U.S.C. § 111(a)(1)**, which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 as an officer or employee of the United States while engaged in or on account of the performance of official duties. Persons designated within section 1114 include any person assisting an officer or employee of the United States in the performance of their official duties.
2. **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 Joint Session of Congress where the Senate and House count Electoral College votes.



3. **18 U.S.C. §§ 1512(c)(2) and 2**, which makes it a crime to corruptly obstruct, influence, or impede any official proceeding, or attempt to do so. For purposes of Section 1512 of Title 18, an official proceeding includes proceedings before Congress (18 U.S.C. § 1515(a)(1)(B)).
4. **18 U.S.C. § 1752(a)(1), (2), and (4)**, which makes it a crime, with respect to subdivision (a)(1), to knowingly enter or remain in any restricted building or grounds without lawful authority to do so; with respect to subdivision (a)(2) to 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 with respect to subdivision (a)(4) to 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. 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.
5. **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.

As such, your affiant respectfully requests that the court issue an arrest warrant for JMIDDLETON. The statements above are true and accurate to the best of my knowledge and belief.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'MShep', is written over a light gray rectangular background.

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Nicholas Shepard  
Special Agent  
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 16th day of April 2021.

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ROBIN M. MERIWEATHER  
U.S. MAGISTRATE JUDGE