

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT
AND ARREST WARRANT

I, Jesse Marotta, being first duly sworn, hereby depose and state as follows:

PURPOSE OF THE AFFIDAVIT

This Affidavit is submitted in support of a Criminal Complaint charging Paul Rae (“RAE”) with violations of 18 U.S.C. §§ 1512(c)(2) and 1752(a)(1) and (2), in connection with his actions at and inside the U.S. Capitol on or about January 6, 2021. I respectfully submit that this Affidavit establishes probable cause to believe that RAE (i) corruptly did obstruct, influence, or impede an official proceeding before Congress, that is, the certification of the Electoral College, and (ii) did knowingly enter or remain in a restricted building or grounds, i.e., the U.S. Capitol, without lawful authority, and did knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct.

BACKGROUND OF AFFIANT

1. Your affiant has been a Special Agent with the Federal Bureau of Investigation (“FBI”) since 2010. As a Special Agent, I am authorized by law to engage in or supervise the prevention, investigation, or prosecution of a violation of Federal criminal laws. In addition to my regular duties, I am tasked with investigating criminal activity that occurred in and around the U.S. Capitol grounds on January 6, 2021.

2. Unless otherwise stated, the information in this Affidavit is either personally known to me, has been provided to me by other individuals, or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing

probable cause to support an application for an arrest warrant, it does not contain every fact known by me or the United States. The dates listed in this Affidavit should be read as “on or about” dates.

PROBABLE CAUSE

3. Paul RAE is a 38 year-old resident of the state of Florida. RAE has identified himself as a member of a group known as the Proud Boys. As further described herein, RAE engaged in unlawful activity at the U.S. Capitol on January 6, 2021.

4. Proud Boys is a nationalist organization with multiple U.S. chapters and potential activity in other Western countries. The group describes itself as a “pro-Western fraternal organization for men who refuse to apologize for creating the modern world; aka Western Chauvinists.” Proud Boys members routinely attend rallies, protests, and other First Amendment-protected events, where certain of its members sometimes engage in acts of violence against individuals whom they perceive as threats to their values. The group has an initiation process for new members, which includes the taking of an “oath.” Proud Boys members often wear the colors yellow and black, as well as other apparel adorned with Proud Boys-related logos and emblems.

The Attack on the U.S. Capitol Building and Grounds

7. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., 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.

8. On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public. A Joint Session of the United States House of Representatives and the United States Senate (“the Joint Session”) convened in the United States Capitol building (“the Capitol”) to

certify the vote of the Electoral College of the 2020 U.S. Presidential Election (“the Electoral College vote”). 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.

9. On January 6, 2021, at approximately 12:45 p.m., a large crowd began to gather outside the Capitol perimeter. Among other areas, a large crowd gathered near the pedestrian entrance to the Capitol grounds on First Street, Northwest, near the Peace Monument. The entrance was guarded by Capitol Police. Signage was prominently posted on metal barriers at the pedestrian entrance and other locations that read, “AREA CLOSED By order of the United States Capitol Police Board.”

10. Shortly thereafter, two men advanced toward the waist-high metal gate. A crowd followed, and within minutes, the crowd overwhelmed the U.S. Capitol Police officers. A crowd then advanced toward the U.S. Capitol.

11. After overwhelming the pedestrian gate near the Peace Monument and other entrances, a crowd advanced on the U.S. Capitol where another line of U.S Capitol Police and barricades attempted to stop the crowd from advancing to the walls of the building. Additional people continued to arrive until what some have estimated to be thousands of people had gathered in front of the Capitol on its west side.

12. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. The crowd was not lawfully authorized to enter or remain in the building and, prior to entering the building, no members of the crowd submitted to security screenings or weapons checks by U.S. Capitol Police Officers or other authorized security officials.

13. 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.

14. Shortly thereafter, members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Pence, were instructed to—and did—evacuate the chambers. Accordingly, all proceedings of the United States Congress, including the joint session, were effectively suspended until shortly after 8:00 p.m. the same day. In light of the dangerous circumstances caused by the unlawful entry to the U.S. Capitol, including the danger posed by individuals who had entered the U.S. Capitol without any security screening or weapons check, Congressional proceedings could not resume until after every unauthorized occupant had left the U.S. Capitol and the building had been confirmed secured. The proceedings resumed at approximately 8:00 p.m. after the building had been secured. Vice President Pence

remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

15. 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.

RAE's Participation in Unlawful Events at the Capitol on January 6, 2021

16. Shortly after plans for the January 6, 2021, demonstration were announced, certain leadership figures of the Proud Boys announced that the Proud Boys would attend the demonstration in Washington, D.C. Among other things, the self-described chairman of the Proud Boys announced that the Proud Boys would turn out in record numbers, but Proud Boys would be attending “incognito” instead of attending in their traditional black and yellow clothes. Similarly, a self-described organizer of the Proud Boys, Joseph Biggs (“Biggs”), stated that he and “other leadership” had decided to attend in plain clothes to blend in.¹

17. On January 6, 2021, individuals that law enforcement has identified as a group of people that hold themselves out as Proud Boys were depicted on the east side of the U.S. Capitol. Consistent with the directive issued by organizers of the Proud Boys, including Biggs, none of the

¹ On March 10, 2021, a grand jury returned a superseding indictment that charges Joseph Biggs and other Proud Boys members Ethan Nordean, Zachary Rehl, and Charles Donohoe with conspiracy to obstruct an official proceeding of Congress and interference with law enforcement during a civil disorder in violation of 18 U.S.C. § 371, as well as violations of 18 U.S.C. §§ 231(a)(3), 1361, 1512(c)(2), and aiding and abetting violations of same, and 18 U.S.C. § 1752(a)(1) and (2).

men pictured were wearing Proud Boys colors of black and yellow, but were instead dressed “incognito.” Indeed, Biggs, wearing glasses and a dark knit hat, can be seen below dressed in a blue and grey plaid shirt.



18. Biggs and other identified leaders of the Proud Boys led a group to the First Street pedestrian gate on the west side of the Capitol shortly before 12:53 p.m. As described above, a group advanced toward the pedestrian gate and overwhelmed law enforcement officers. The crowd, including several individuals who identify themselves as Proud Boys, unlawfully advanced toward the Capitol while intentionally and forcibly removing metal barriers that were deployed by law enforcement to protect the Capitol and its occupants.

19. Among those leading the walk to the next barrier were Proud Boys Dominic Pezzola (in black hat and sunglasses below) and William Pepe (in flag bandana below).² Upon arriving at the next barrier, Pepe dragged a segment of the fence away, which left U.S. Capitol Police officers temporarily without barrier.



² Dominic Pezzola and William Pepe were charged by indictment on January 29, 2021, in case number 21-cr-52. Charges include conspiracy to interfere with law enforcement as well as other individual charges, for their actions at and inside the U.S. Capitol on or about January 6, 2021. As described below, Pezzola has been photographed at Proud Boys rallies. The FBI also executed search warrants at both Pezzola's and Pepe's residences and found paraphernalia associated with the Proud Boys.



20. The next police line was overwhelmed by crowds and the crowd advanced to the front of the U.S. Capitol. Additional people continued to arrive and gather on the west side of the Capitol.

21. Individuals in the crowd continued to forcibly advance toward the Capitol building past law enforcement who were attempting to stop them. Shortly before 2:13 p.m., and as seen in the image below, Proud Boys member Dominic Pezzola used a riot shield that belonged to the Capitol Police to break windows of the U.S. Capitol building. Pezzola and others then entered the building through the window. Rioters entered the building and opened an adjacent door. The damage to the window is estimated at over \$1,000.



22. Among the rioters who entered the building through the adjacent door was Biggs. Biggs entered within approximately 50 seconds of the door's opening. In a video posted publicly on the social media site Parler, Biggs can be seen entering the Capitol. After entering, a voice off camera said, "Hey Biggs, what do you gotta say?" Biggs smiled broadly and replied, "this is awesome!" before pulling his gaiter up to cover his face.



23. Your affiant and other members of law enforcement have studied video footage and still photographs of the January 6, 2021, incursion of the U.S. Capitol. As described herein, the images and video footage that law enforcement has reviewed, as well as the other facts gathered in this investigation, establish that RAE did unlawfully enter or remain in the U.S. Capitol as a direct result of others' destruction of federal property and did corruptly obstruct the official proceedings underway at the U.S. Capitol on January 6, 2021.

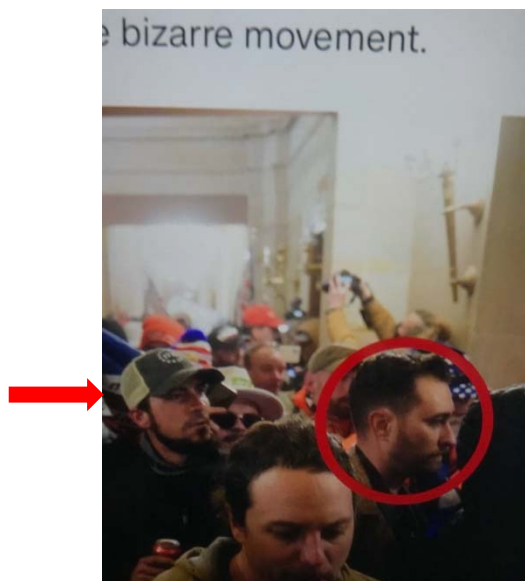
24. On or about January 23, 2021, federal agents with the FBI received a tip from a witness (W-1). W-1 claimed to be an associate of RAE, and W-1 reported to FBI that W-1 had seen RAE in publicly released footage of persons inside the Capitol. W-1 reported that W-1 had

seen RAE standing near a Proud Boys member named Nicholas Ochs. W-1 reported that RAE and Ochs were known members of the Proud Boys.³

25. W-1 identified RAE as a 38 year-old resident of Seminole, Florida. W-1 stated RAE used the phone number xxx-xxx-0067 (the “Rae Phone Number”).

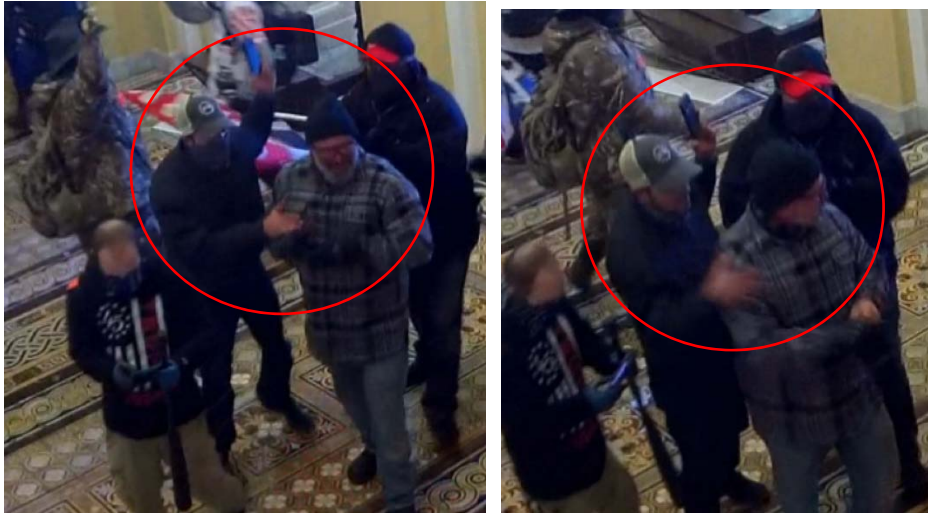
26. On or about January 25, 2021, federal agents with the FBI received an additional tip from a witness (W-2). W-2 reported that W-2 had learned from a personal associate of RAE that RAE attended the rally at the U.S. Capitol on January 6, 2021. W-2 reported that a photograph of RAE and “Nick of Proud Boys Hawaii” was displayed on multiple news outlets. The investigation to date has identified “Nick of Proud Boys Hawaii” as Nicholas Ochs, who has been introduced in the preceding paragraphs. W-2 provided the below photograph to the FBI. W-2 advised the individual circled is “Nick of Proud Boys Hawaii,” and that RAE is the individual on the left who is wearing the white hat with green front.

³ Ochs and Nicholas DeCarlo were indicted on February 3, 2021 in 21-cr-73, for a Conspiracy to commit violations of 18 U.S.C. § 1512(c), among other charges, in connection with their actions at and inside the U.S. Capitol on or about January 6, 2021.



27. Lawfully-obtained Google records show that a Google account associated with the Rae Phone Number was connected to Google services and was present in or around the U.S. Capitol on January 6, 2021. Specifically, the Google records show that a device associated with the Rae Phone Number was in and around various locations at the Capitol for over one hour beginning at approximately 2:13 p.m. Specifically, the records show that a Google account associated with the Rae Phone Number entered the Capitol building near a window that had been smashed by Proud Boys member Dominic Pezzola at approximately 2:13 p.m.

28. Surveillance footage of that break-in that was obtained from the Capitol shows a person that the FBI has identified as RAE unlawfully entering the building through a door adjacent to the window smashed by Dominic Pezzola. In fact, the surveillance footage shows that RAE entered the building less than one minute after the door was initially opened, and RAE entered with Proud Boys organizer Joseph Biggs, who had led a group of Proud Boys to the Capitol. The images below show RAE and Biggs after entry. RAE appears to communicate directly with Biggs after entering.



29. Lawfully-obtained records from cellular telephone providers show that the Rae Phone Number had contact with a phone number that law enforcement has associated with Biggs at or around the time that one or both of RAE and Biggs were inside the Capitol.

30. In addition, lawfully obtained digital evidence from an account associated with Biggs included a photograph of Proud Boys members Biggs, RAE, and three other individuals on the steps on the east side of the Capitol during the riot on January 6, 2021. Three of the men, including RAE, appear to be making a hand gesture that I recognize as one used by the Proud Boys.



31. At approximately 2:39 p.m., publicly available footage of the exterior of the Capitol shows a group of individuals that I recognize as Biggs, RAE, and other identified and unidentified persons moving back toward the Capitol. Shortly thereafter, at approximately 2:40 p.m., RAE entered the Capitol building a second time. Specifically, RAE can be seen in the screen capture below shortly before he re-entered the Capitol behind Biggs.



CONCLUSION

32. Based on the foregoing, your Affiant submits that there is probable cause to believe that Paul RAE did violate:

- a. 18 U.S.C. § 1512(c)(2), which makes it a crime to corruptly obstruct, influence, or impede any official proceeding—to include a proceeding before Congress—or make an attempt to do so—here, the proceeding to certify the vote results of the Electoral college; and
- b. 18 U.S.C. § 1752(a), 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.

Respectfully submitted,



Jesse Marotta
Special Agent
Federal Bureau of Investigation

Subscribed and sworn by telephone pursuant to Fed. R. Crim. P. 4.1 and 41(d)(3) on March 23, 2021.

G. MICHAEL HARVEY
UNITED STATES MAGISTRATE JUDGE