

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Eric McGuire, being first duly sworn, hereby depose and state as follows:

PURPOSE OF AFFIDAVIT

1. This Affidavit is submitted in support of a Criminal Complaint charging Joseph Randall Biggs ("BIGGS") with violations of 18 U.S.C. § 1512(c)(2), 18 U.S.C. § 1752(a), and 40 U.S.C. §§ 5104(e)(2)(D) and (G), 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 BIGGS (i) corruptly did obstruct, influence, or impede an official proceeding before Congress, (ii) did knowingly enter or remain in a restricted building or grounds, *i.e.*, the U.S. Capitol, without lawful authority, or did knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct; (iii) did willfully and knowingly 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 any deliberations of either House of Congress.

BACKGROUND OF AFFIANT

2. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so since February 2010. As such, I am an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in Titles 18 and 21 of the United States Code. I have been the lead agent for investigations targeting global criminal organizations. I have testified during an array of judicial proceedings, conducted physical and electronic surveillance, administered confidential sources, and received training as investigative

techniques evolve. I have interviewed hundreds of defendants, witnesses, and informants. In addition to my regular duties, I am currently also tasked with investigating criminal activity that occurred in and around the Capitol grounds on January 6, 2021.

3. 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, or reports. Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint, it does not contain each and every fact known to me or the United States concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause that BIGGS violated the crimes set forth herein. All dates listed in this Affidavit should be read as “on or about” a given date.

BACKGROUND

JOSEPH BIGGS

4. Joseph BIGGS is a 37 year-old resident of the state of Florida. BIGGS is a member of a group known as the Proud Boys, and BIGGS is a self-described organizer of certain of their events.

5. 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.

Proud Boys’ Appearances at Previous Demonstrations in Washington, D.C.

6. On or about November 14, 2020, the “Million MAGA March” was held in Washington, D.C. The Million MAGA March was a widely-attended demonstration in Washington, D.C., which was organized as a peaceful exercise of demonstrators’ First Amendment rights with respect to the 2020 Presidential election. Members of the Proud Boys attended the demonstration wearing their yellow and black colors and other recognizable emblems and logos associated with the group.

7. On or about December 12, 2020, a similar demonstration took place in Washington, D.C. (the “December Demonstration”). Like the Million MAGA March, the December Demonstration was organized as a peaceful First Amendment demonstration, and one focus of the demonstration was to protest against the vote of the Electoral College on that upcoming Monday, December 14, 2020. Certain persons dressed in Proud Boys colors and wearing Proud Boys emblems and logos attended the demonstration.

Communications About the January 6 Demonstration at the U.S. Capitol

8. Beginning as early as December 2020, public communications from Proud Boys organizers, including BIGGS, encouraged members of the Proud Boys to attend the January 6, 2021, demonstration in Washington, D.C. As described in more detail below, such communications included messages sent by the current Chairman of the Proud Boys, Enrique Tarrio.

9. For example, on December 29, 2020, Tarrio posted a message on the social media site Parler¹ about the demonstration planned for January 6, 2021. Among other things, Tarrio announced that the Proud Boys would “turn out in record numbers on Jan 6th but this time with a twist... We will not be wearing our traditional Black and Yellow. We will be incognito and we will be spread across downtown DC in smaller teams. And who knows....we might dress in all BLACK for the occasion.” I believe the statement about dressing in “all BLACK” is a reference to dressing like the group known as “Antifa,” who the Proud Boys have identified as an enemy of their movement and are often depicted in the media wearing all black to demonstrations.

10. On or around the same day, BIGGS posted a similar message to his followers on Parler in which he stated, among other things, “we will not be attending DC in colors. We will be blending in as one of you. You won’t see us. You’ll even think we are you . . . We are going to smell like you, move like you, and look like you. The only thing we’ll do that’s us is think like us! Jan 6th is gonna be epic.” I understand that BIGGS was directing these statements at “Antifa.”

11. Separately, BIGGS has described the Proud Boys’ efforts, in general, to plan for demonstrations and events attended by the Proud Boys. In an interview that was purportedly taped in December 2020 and posted online on or about January 3, 2021, BIGGS described how he, as an organizer of Proud Boys events, sets about planning them. BIGGS explained, in part:

When we set out to do an event, we go alright, what is our main objective? And that’s the first thing we discuss. We take three months to plan an event. And we go, what’s our main objective?

¹ Parler is a social media platform similar in nature to Twitter, Facebook, and Instagram. Events such as the Million MAGA March were widely shared and discussed using the Parler platform.

And then we plan around that, to achieve that main objective, that goal that we want.

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

12. I have studied video footage and still photographs of the January 6, 2021, incursion of the U.S. Capitol, and I have identified an individual in them as BIGGS through comparison of those images to photographs and videos of BIGGS that are widely available online. In addition, I have reviewed video footage taken by others during the event in which others contemporaneously identify the same individual as BIGGS. As described herein, the images and video footage that I have reviewed, as well as the other facts gathered in this investigation, establish that BIGGS did aid, abet, counsel, command, induce, or procure others to unlawfully enter the U.S. Capitol by means of destruction of federal property; did unlawfully enter or remain in the U.S. Capitol as a direct result of the destruction of federal property; and did corruptly obstruct the official proceedings underway at the U.S. Capitol on January 6, 2021.

13. On January 6, 2021, an individual that I have identified as BIGGS and 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 Tarrio and BIGGS, none of the men pictured are wearing Proud Boys colors of black and yellow, but are instead dressed “incognito.” Indeed, BIGGS, wearing glasses and a dark knit hat, is dressed in a blue and grey plaid shirt.



14. BIGGS was identified in a video taken by a man purporting to be a member of the Proud Boys (“Person A”). Specifically, Person A gave an interview to ABC Action News, which was published online on January 9, 2021. As part of that interview, Person A shared footage that Person A claims was taken on January 6, 2021, while Person A and others were participating in the demonstration. In the version of the interview produced online, Person A can be heard saying, “Yeah, that’s Joe Biggs, that’s Rufio.” Based on my investigation, I understand Person A to be identifying the man in the plaid shirt as BIGGS, and the man in the sunglasses as Proud Boy Ethan Nordean, a/k/a Rufio Panman.



15. At or around January 6, 2021, BIGGS and others² were observed marching at the front of a group of individuals on Constitution Avenue, Northwest, in the area around First Street, Northwest. The group was engaged in various chants and response calls, including “F*** Antifa!” and “Whose streets? Our streets!”

² On December 13, 2020, Tarrío and other persons dressed in Proud Boys colors and emblems destroyed a “Black Lives Matter” banner displayed by a church in Washington, D.C. Tarrío was arrested pursuant to an arrest warrant and charged in D.C. Superior Court on January 4, 2021. As part of his conditions of release, Tarrío was ordered to stay away from the entire District of Columbia for the pendency of his case, to include the events on January 6, 2021. As of the writing of this warrant, Tarrío’s criminal case is still pending, however, Tarrío has admitted through various platforms that he was responsible for banner’s destruction.



16. BIGGS and others then stopped at or around 12:15 p.m. near Second Street and Constitution Avenue, NW.



A Crowd Advances Towards the U.S. Capitol

17. 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.

18. 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 Congress convened at the United States Capitol. 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.

19. As the proceedings continued in both the House and the Senate, and with Vice President 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.

20. Shortly before 1:00 p.m., a large crowd gathered near the pedestrian entrance to the Capitol grounds on First Street. The entrance was secured by a small number of U.S. Capitol Police, who stood behind a waist height metal barrier.



21. Shortly after that above image was captured on video, two men advanced toward the waist-high metal gate. The crowd followed, and within minutes, the crowd overwhelmed the U.S. Capitol Police officers seen at the top of the steps in the image above. The crowd then advanced toward the U.S. Capitol. Your affiant asserts that BIGGS was not one of the two men who initially advanced toward officers, but is present in this crowd.

22. After overwhelming the pedestrian gate near the Peace Monument and other entrances, the 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 I estimate to be thousands of people had gathered in front of the Capitol on its west side.

23. 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.

24. 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.

25. 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.

The U.S. Capitol Building is Breached

25. 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.

26. One such video depicts an individual, now identified as Proud Boys member Dominic Pezzola, breaking the window of the U.S. Capitol Building with a clear plastic shield at approximately 2:13 p.m.³ Shortly after the glass in the window is broken, an unidentified individual can be heard yelling words to the effect of, “Go, Go, Go!” Several individuals enter the building through the broken window, including Pezzola. A nearby door was opened and a crowd of people began to enter the U.S. Capitol.

27. I have reviewed video footage that was live streamed on the social media site Parler on January 6, 2021. One of those clips shows what I believe to be people entering the Capitol shortly after the events described in the preceding paragraph. One of those individuals, who entered the door within 20 seconds of its opening, is a person that I believe to be BIGGS. In the video, a voice off camera says, “Hey Biggs, what do you gotta say?” The person depicted below smiles broadly and replies, “this is awesome!” before pulling his gaiter up to cover his face.

³ Dominic Pezzola (“PEZZOLA”) has been charged by criminal complaint with violations of 18 U.S.C. §§ 1361, 1512(c)(2), and 1752(a) in Case No. 21-mj-47 (ZMF).



28. Your affiant has reviewed additional footage from the events inside the U.S. Capitol. In one image, shown below, Pezzola appears to have what I believe to be an earpiece or communication device in his right ear. In my experience, such a device could be used to receive communications from others in real time. Your affiant also notes that multiple individuals were photographed or depicted on videos with earpieces, including other individuals believed to be associated with the Proud Boys. For instance, in the picture of the Proud Boys referenced above in Paragraph 13, an individual believed to be part of the group is pictured wearing a similar earpiece.



29. Your affiant has also identified certain Proud Boys at the U.S. Capitol on January 6, 2021, who appear to have walkie-talkie style communication devices. For instance, in the picture of the Proud Boys referenced above in Paragraph 13, both BIGGS and the individual next to him have such devices on their chests.

30. On or about January 18, 2021, BIGGS spoke with agents of the FBI after video emerged online of him inside the U.S. Capitol. BIGGS stated, in substance and in part, that he was present in Washington, D.C. for the demonstration on January 6, 2021. BIGGS admitted to entering the Capitol building on January 6, 2021, without forcing entry. BIGGS informed the interviewing agent that the doors of the Capitol were wide open when he made entry into the building. BIGGS denied having any knowledge of any pre-planning of storming the Capitol, and had no idea who planned it.

CONCLUSIONS OF AFFIANT

31. Based on the foregoing, your Affiant submits that there is probable cause to believe that BIGGS violated:

- 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.

- 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.
- 40 U.S.C. §§ 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (A) enter or remain on the floor of either House of Congress or in any cloakroom or lobby adjacent to that floor, in the Rayburn Room of the House of Representatives, or in the Marble Room of the Senate, unless authorized to do so pursuant to rules adopted, or an authorization given, by that House; (B) enter or remain in the gallery of either House of Congress in violation of rules governing admission to the gallery adopted by that House or pursuant to an authorization given by that House; (C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of— (i) either House of Congress or a Member, committee,

officer, or employee of Congress, or either House of Congress; or (ii) the Library of Congress; (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; (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings; (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; or (G) parade, demonstrate, or picket in any of the Capitol Buildings.

Respectfully submitted,



Eric S. McGuire
Special Agent
Federal Bureau of Investigation

Subscribed and sworn pursuant to Fed. R. Crim. P. 4.1 and 41(d)(3) on January 19, 2021.



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ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE