

UNITED STATES DISTRICT COURT
for the
District of Columbia

United States of America
v.
Martin James Cudo
DOB: XXXXXX

)
) Case: 1:23-mj-00351
) Assigned To : Faruqui, Zia M.
) Assign. Date : 12/13/2023
) Description: COMPLAINT W/ARREST WARRANT
)
)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 6, 2021 in the county of in the
in the District of Columbia, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 1752(a)(1) - Knowingly Entering or Remaining in any Restricted Building or Grounds
Without Lawful Authority,
18 U.S.C. § 1752(a)(2) (Disorderly and Disruptive Conduct in a Restricted Building or Grounds) ,
40 U.S.C. § 5104(e)(2)(D) (Disorderly Conduct in a Capitol Building) ,
40 U.S.C. § 5104(e)(2)(G) (Parading, Demonstrating, or Picketing in a Capitol Building) .

This criminal complaint is based on these facts:

See attached statement of facts.

Continued on the attached sheet.

[Redacted signature]

Complainant's signature

[Redacted name and title]

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone.

Date: 12/13/2023

Judge's signature

City and state: Washington, D.C.

Honorable Zia M. Faruqui
U.S. Magistrate Judge

STATEMENT OF FACTS

Your affiant, [REDACTED], is a Special Agent assigned to Domestic Terrorism squad of the FBI's [REDACTED]. In my duties as a special agent, I investigate, among other things, criminal cases relating to domestic terrorism. 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, or prosecution of a violation 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 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, 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, 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

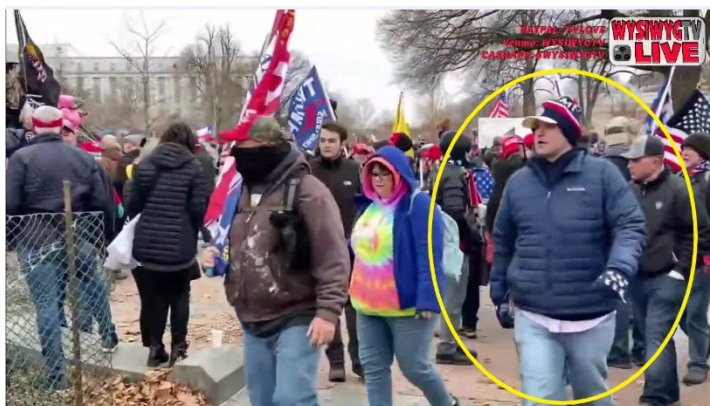
violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

On or about January 7, 2021, the FBI received a tip from a high school classmate of Martin James Cudo (hereinafter “CUDO”) of Lakeville, Minnesota indicating that CUDO was inside the Capitol on January 6, 2021. The tip included a “selfie” photograph that CUDO posted on his social media shortly after the Capitol riot on January 6, 2021. The FBI also received additional information through another tipster from CUDO’s employer identifying CUDO in photographs participating in the capitol riots.

On January 13, 2021, FBI agents interviewed CUDO in Apple Valley, Minnesota. In this interview, the interviewing agent showed CUDO a photograph appearing to show CUDO inside the Capitol. CUDO confirmed that he was the individual in the referenced photo. Specifically, CUDO advised he was the individual wearing a red, white, and blue hat with the number “45” in a circle in the middle. Additionally, through my own investigative analyses, including reviewing CUDO’s driver’s license photo, CUDO appears to be the same person in the above referenced photograph and other footage collected on January 6, 2021.

CUDO also told the agents that he traveled to Washington, D.C. by commercial air on January 4, 2021, with his mother and stepfather. According to CUDO, the purpose of his trip was to attend the “Stop the Steal” rally on January 6, 2021. CUDO became aware of the protest via Twitter and attended the protest with his mother and stepfather at the Ellipse on January 6, 2021.

CUDO said that after parting ways with his mother and stepfather following the protest, he walked with the crowd to the Capitol building. In his interview with the FBI, CUDO acknowledged the presence of barricades near the Capitol as he approached but stated that it appeared law enforcement “moved out of the way.” CUDO proceeded with the crowd, past barricades, onto Capitol grounds. The below open-source footage showed CUDO walking from the Ellipse towards the Capitol.



Thereafter, open-source footage showed CUDO standing on what appeared to be a metal pole supporting light/sound equipment associated with the upcoming inauguration. The video showed police in riot gear forming a line in the background as depicted below.



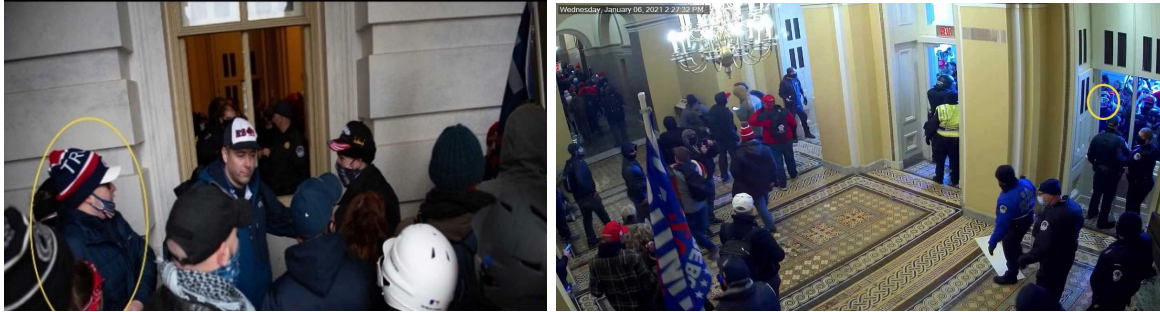
From here, CUDO made his way towards the Northwest Terrace. To do so, he climbed the northwest stairs adjacent to scaffolding assembled for the upcoming inauguration. CUDO described travelling up these stairs in his interview with the FBI and U.S. Capitol Police CCTV footage recorded CUDO's movement up these stairs at 2:15 p.m. EST.



After climbing these stairs and entering the Capitol's Upper West and Northwest Terrace, open-source footage captured CUDO making his way into the Northwest Courtyard, just off the Upper West Terrace, travelling towards the Senate Wing as depicted below.



CUDO eventually made his way under the northwest portico along the Senate Wing Door to a broken window. The initial Capitol breach occurred in this area approximately 15 minutes before CUDO's arrival. Open-source footage captured CUDO at this location and CCTV footage from inside the Capitol confirmed his presence outside the broken window from approximately 2:27 – 2:33 pm.



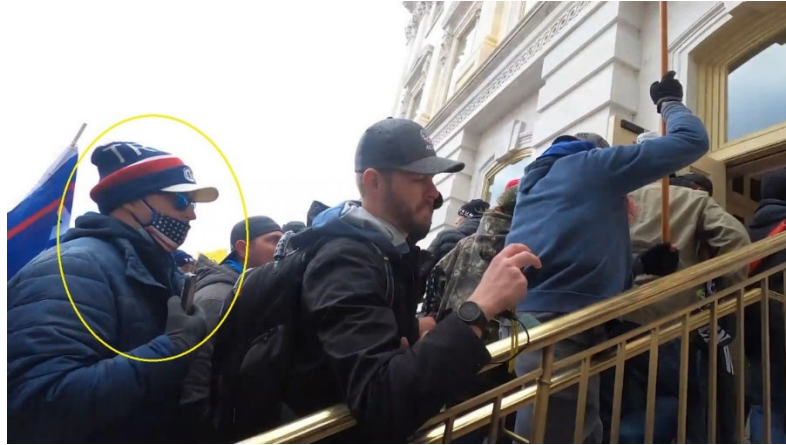
From the Senate Wing Door area, CUDO moved back towards the Northwest Courtyard where another rioter filmed CUDO standing next to a square pillar immediately outside the portico near the Senate Wing Door. He remained at this location for several minutes while the crowd around him chanted “let us in.”



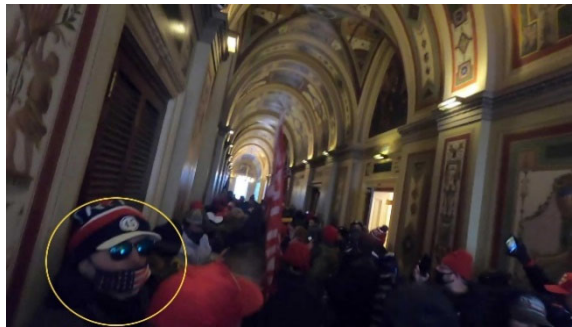
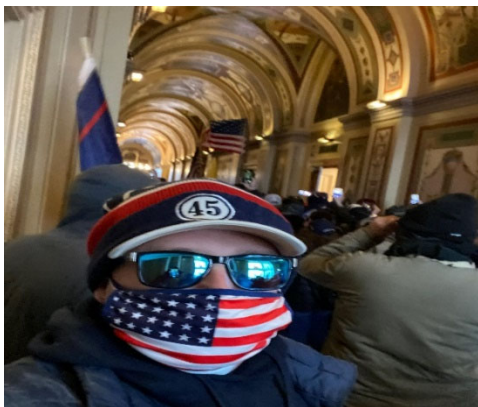
Subsequently, in the same footage, CUDO moved away from the pillar towards the west stairs of a fire door near the Parliamentarian's office (“fire door”) after the initial breach of the fire door at 2:42 pm. CUDO stated in his interview with the FBI that he witnessed another rioter break the fire door windows and reach inside to open the door. Once the rioter opened the door, CUDO made his way towards and up the west stairs to the fire door and eventually inside the Capitol. The image below depicts CUDO's approach to the Capitol.



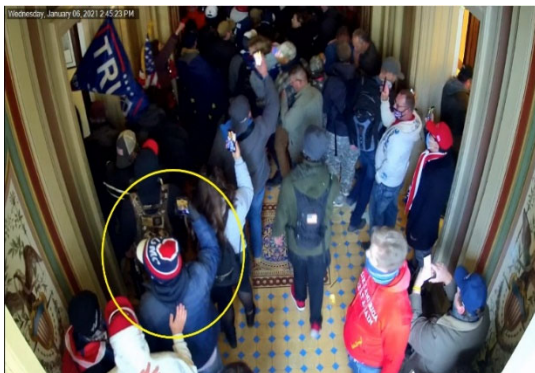
The image below also depicts CUDO outside the fire door near the Parliamentarian's office moments before he entered at 2:45 p.m. EST.



Thereafter, other photographs and still images from videos depicted below, including one that appears to be a "selfie" taken by CUDO from his phone, showed CUDO inside the Capitol in the Brumidi Corridor, near the Parliamentarian's office, after he entered.



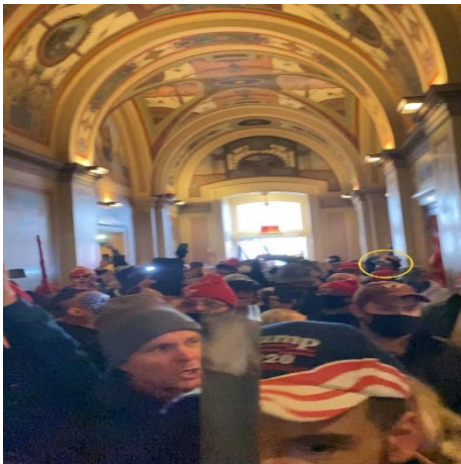
CCTV footage near the fire door also captured CUDO's entry into the Capitol at approximately 2:45 p.m. EST after other rioters waived him in. Immediately thereafter, the same CCTV camera captured CUDO enter various offices adjacent to the fire door, as shown below.



CUDO proceeded through the Brumidi Corridor towards the Mark O. Hatfield (“Hatfield”) room. Shortly thereafter, he entered the Hatfield room and, once inside, passed through this room and an adjoining room, opposite from the entrance with other rioters.

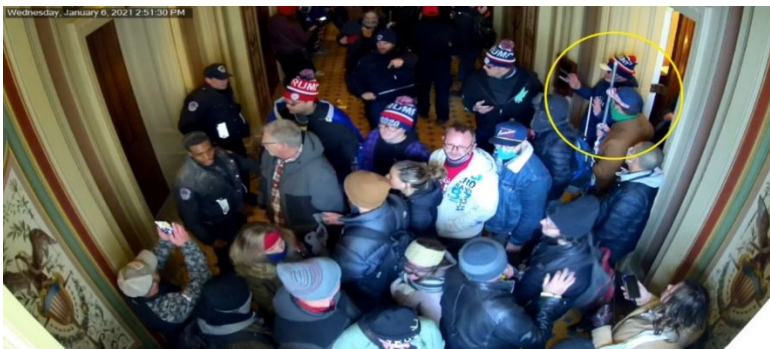


Several minutes later, CUDO reemerged in the Brumidi corridor on CCTV footage outside the Hatfield room. He appeared to be holding up a cell phone, as if to take photos or record events in the Brumidi Corridor at this time. After his initial entry, CUDO briefly returned to the Hatfield room and then reappeared in the Brumidi corridor. Open-source and CCTV footage then captured CUDO moving around the Brumidi corridor for several minutes and trying to proceed up the hallway where police were preventing further movement. At one point, CUDO pulled down his face covering and took a “selfie” photograph in the Brumidi corridor. In his January 13, 2021, interview with the FBI, CUDO acknowledged taking photos of himself in the Brumidi corridor.





After spending several minutes amongst rioters in the Brumidi corridor, CUDO proceeded past broken glass towards the Parliamentarian's office. He entered the Parliamentarian's office for approximately one minute before police told him to leave. He reappeared on CCTV footage exiting the Parliamentarian's office with his hand raised after officers entered the Parliamentarian's office to clear the room and corridor of rioters. CUDO told the FBI that he noticed officers telling rioters to leave the Capitol. After leaving the Parliamentarian's office, CUDO remained in the Brumidi corridor for several minutes and departed the Capitol interior at approximately 2:54 p.m.

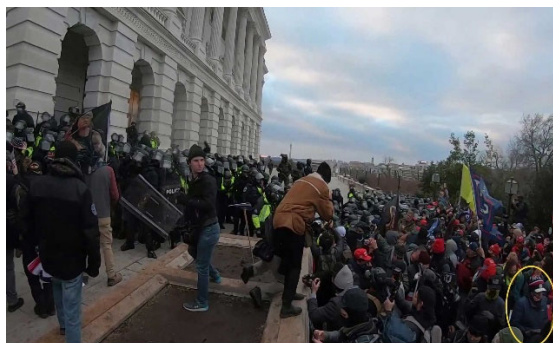


After leaving the Capitol interior, open-source footage showed CUDO standing in front of a police line and moving along the Upper West and Northwest Terrace. CUDO remained on the Upper West and Northwest Terrace until a line of law enforcement officers removed him and other rioters. CUDO told the FBI that he remained with a crowd that walked along the Capitol's West Terrace. CUDO acknowledged making comments to law enforcement while at the Capitol but

denied becoming physical with them. CUDO continued to use his cell phone during this time to record and/or photograph the events.



After the police line moved the crowd from the Northwest Terrace to the North Terrace, CUDO appeared in footage depicting hectic scenes where police deployed what appear to be “flash bangs” to disperse the crowd. The still image below from an open-source video depicts CUDO on the North Terrace at this time.



Eventually, police forced the crowd to exit the Capitol Grounds. CUDO advised the FBI that he departed Capitol grounds at approximately 5:00 pm and returned to his hotel room. CUDO told the FBI he “realized the trouble he may be in” after returning to his hotel room. The photo below depicts CUDO on the northeast side of the Capitol, adjacent to the North Terrace, before he departed Capitol grounds.



Based on the foregoing, your affiant submits that there is probable cause to believe that Martin James Cudo 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; 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 Martin James Cudo violated 40 U.S.C. § 5104(e)(2), 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.


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 13th day of December 2023.

HONORABLE ZIA M. FARUQUI
UNITED STATES MAGISTRATE JUDGE