

STATEMENT OF FACTS

Your affiant, Brian M. Thomas, is employed as a Special Agent by the Federal Bureau of Investigation (“FBI”). Specifically, I am assigned to the Washington Field Office, where I am currently tasked with investigating criminal activity in and around the U.S. Capitol grounds. As a Special Agent (“SA”), 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.

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 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, 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.

At approximately 1800 hours on January 6, 2021, U.S. Capitol Police Special Agent Bank and Special Agent O'Neill (collectively, "USCP Agents") observed two males sitting on the sidewalk at the northwest corner of South Capitol Street and C Street Southwest, Washington, D.C. The two males appeared to be part of the events that had just occurred at the Capitol. One male had a Trump 2020 flag and an orange winter cap (later identified as Robert Lyon, "LYON") and the other male was wearing a Trump 2020 winter cap and a bullet proof vest (later identified as Dustin Thompson, "THOMPSON"). The USCP Agents initiated contact with the two men. LYON and THOMPSON told the USCP Agents that they did not need any assistance and they were just waiting for an Uber. The USCP Agents told LYON and THOMPSON that they were in a secure zone and directed them to a location where they could be picked up.

As LYON and THOMPSON left to locate their Uber, THOMPSON picked up a coat rack that was behind him. The coat rack appeared to have been taken from the inside of the Capitol building. The USCP Agents instructed THOMPSON to put the coat rack down. THOMPSON complied. Because THOMPSON was in possession of stolen property from the riots that had just occurred at the Capitol, USCP Agents stopped THOMPSON and LYON. THOMPSON fled on foot and got away, but LYON was cooperative and did not attempt to flee.

LYON produced his Ohio driver's license and confirmed that the residential address on the license was accurate. USCP Agents took a photo of LYON:



LYON also provided consent for police to search his bag for stolen property. The USCP Agents confiscated marijuana, two pipes, and an open bottle of bourbon from LYON's bag.

LYON told the USCP Agents that the individual he was with (and who had just ran away from the USCP Agents) was named Dustin Thompson. LYON showed SA Bank his phone, which

displayed THOMPSON's phone number, ending in -9685, as well as multiple calls between the two men. LYON also showed USCP Agents a picture of THOMPSON that LYON had taken with his camera.



USCP Agents recognized the man in the photo above as the same man that fled on foot moments before. LYON stated that he and THOMPSON drove to the D.C. together in LYON's car and stayed at a hotel in Maryland. LYON also said that, on January 6, 2021, they took an Uber to Capitol Hill for the rally. After the USCP Agents questioned LYON, he was allowed to leave.


On January 11, 2021, LYON was interviewed at his residence in Columbus, Ohio by FBI SA Aaron Beggs and SA Derek Corral (the "FBI Agents"). When the interview took place, LYON had not been advised of his rights. LYON stated that he has known THOMPSON for a few years and advised that they met at a university in Ohio. LYON confirmed THOMPSON's phone number and provided FBI Agents with THOMPSON's home address.

According to LYON, it was THOMPSON's idea to travel to D.C. LYON further advised that at some point after the rally, while the two were still in the vicinity of the Capitol, THOMPSON walked away. LYON estimated that it was around 4:00pm or 4:30pm. LYON stated that eventually, THOMPSON returned. When THOMPSON returned, LYON stated that he was holding a coat rack made of wood with bronze racks. LYON stated that he did not ask where the rack came from.

SA Beggs asked permission to view the messages on LYON's phone, specifically the correspondence with THOMPSON. LYON agreed, and he also provided consent to download his phone's camera images. Upon review, SA Corral noticed LYON had sent a message to THOMPSON that said, "We need to get the fuck out with this trophy." When asked why this message came from LYON if LYON did not take the coat rack, LYON became visibly nervous and expressed his desire to clear up any misunderstanding and cooperate with the FBI Agents. Ultimately, LYON reiterated that he had not been inside of the Capitol, but he believed that THOMPSON had been inside of the Capitol because THOMPSON later approached LYON carrying a wood and bronze coat rack.

LYON provided FBI Agents with consent to download his Samsung Note 4. Upon review of the data from the phone, there was one picture and one video sent from THOMPSON to LYON on January 6, 2021. Both messages were sent from phone number ending in -9685, the number associated with THOMPSON. Additionally, the name below the phone number is “Dustin.”

The timestamp for the message transmitting the photo is 8:27:44 UTC, or 3:27pm¹:

180		<div style="background-color: black; color: white; padding: 2px;">[REDACTED]</div> 9685 Dustin *		Timestamp: 1/6/2021 8:27:44 PM(UTC-5)	Direction: Incoming Attachments:  Resized_20210106_151058.jp g Source file: Attachments/0/Resized_20210106_151058.jpg : (Size: 538144 bytes) Status: Read Message Type: MMS Folder: Inbox
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In the photo, THOMPSON is posing with the aforementioned stolen coat rack:

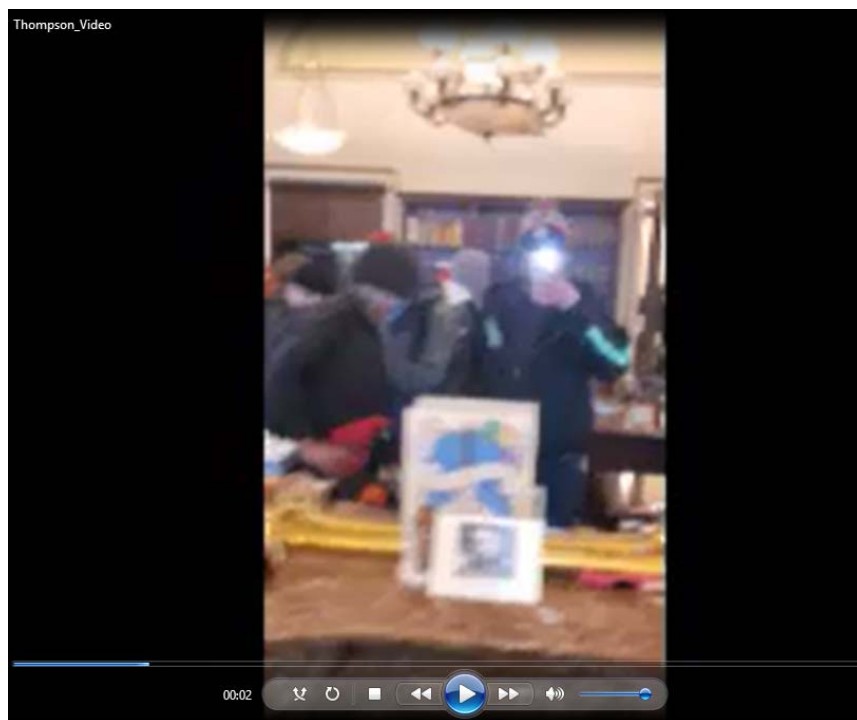


The timestamp for the message transmitting the video is 8:04:14 UTC, or 3:04pm local time:

¹ Coordinated Universal Time (UTC) is the primary time standard by which the world regulates clocks and time. UTC is used in many internet and World Wide Web standards. Time zones around the world are expressed using positive or negative offsets from UTC. In the Eastern Time zone, where Washington, D.C. is located, the negative offset is five, or “UTC-05:00.”

191	[REDACTED] 9685 Dustin *	Timestamp: 1/6/2021 8:04:14 PM(UTC-5)	Direction: Incoming Attachments:  20210106_1448341.mp4 Source file: Attachments/0/20210106_1448341.mp4 : (Size: 856156 bytes) Status: Read Message Type: MMS Folder: Inbox
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Two seconds into the video, THOMPSON passes in front of a mirror with his phone:





The man in the video is wearing the same Trump 2020 winter cap captured in the photo wherein THOMPSON is posing with the coat rack. In the video, THOMPSON yells “Wooooo! ‘Merica Hey! This is our house!” The video continues for several seconds, showing a ransacked office.

LYON told FBI Agents that, after he was questioned on January 6, 2021, he returned to his hotel room where he found THOMPSON. The two drove back to Ohio together the next day.

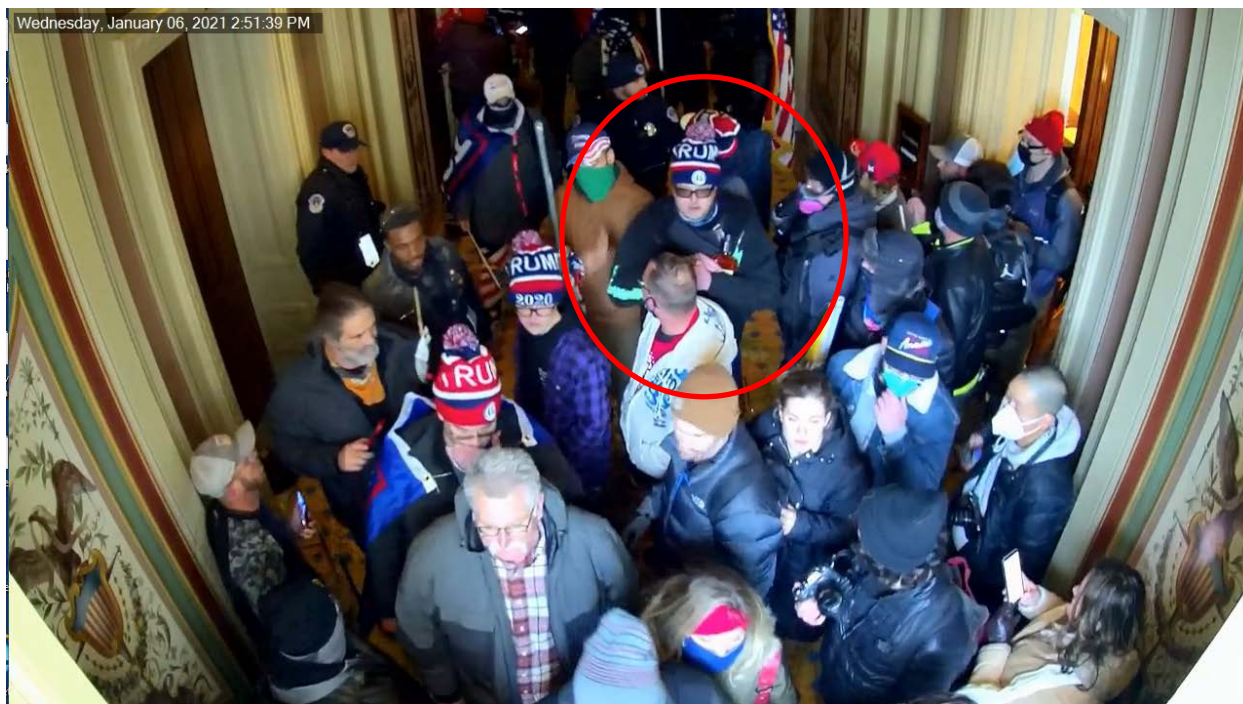
Based on the information LYON provided, FBI Agents were able to locate THOMPSON’s Ohio Department of Motor Vehicles (“DMV”) photograph. Both LYON and another witness who was also interviewed by FBI Agents (“W-1”), identified the DMV photograph as a picture of THOMPSON. Your affiant reviewed the video and photo of THOMPSON included above, compared those images of THOMPSON with THOMPSON’s driver’s license photo, and your affiant believes that the individual in both photographs is THOMPSON.

By comparing the barcode on the coat rack with the inventory of items in the Capitol building, USCP Agents confirmed that the coat rack that THOMPSON tried to carry away before fleeing was assigned to a specific room in the Capitol building, Room S132.

Subsequent investigative efforts revealed security footage from inside the Capitol building. In that footage, THOMPSON is captured entering the Capitol building. An image from that video is below, with Thompson encircled:



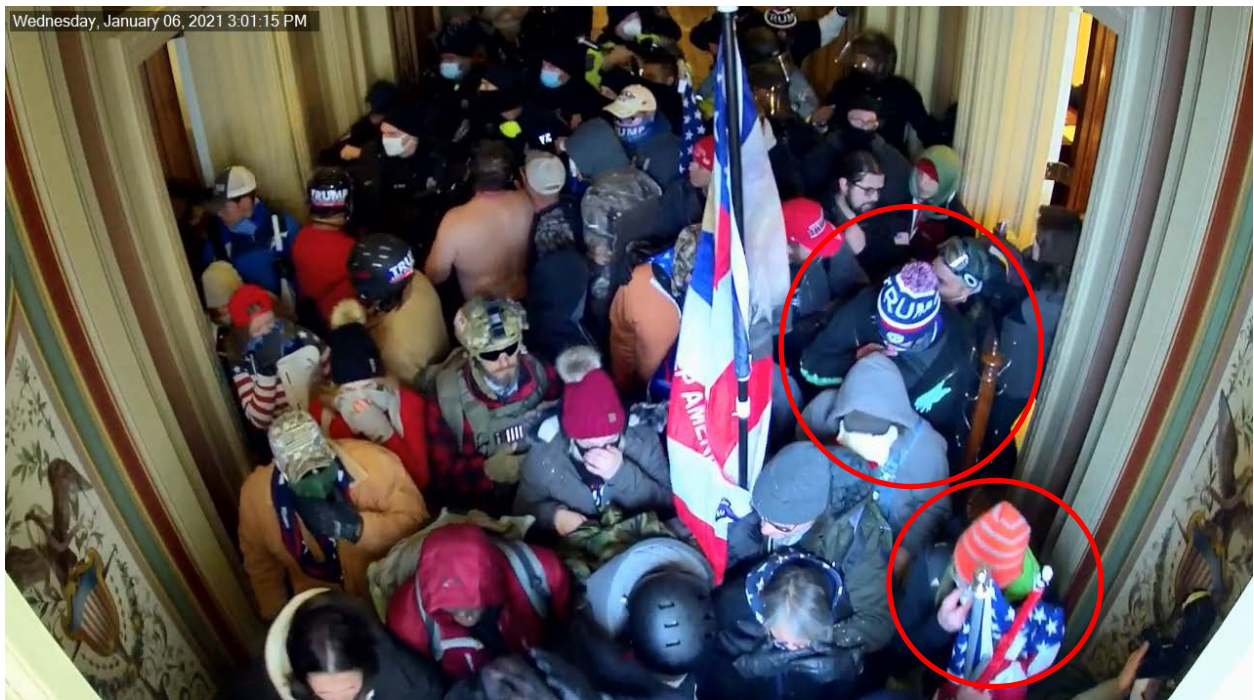
The timestamp of the video reads 2:48:07pm. THOMPSON continues into the building, eventually walking into an office on his right. When THOMPSON leaves the office, he is holding a bottle of bourbon:



About four minutes after THOMPSON leaves the Capitol building, he returns with LYON:



THOMPSON and LYON enter the same room together, and they then exit the room together. When they exit, THOMPSON is holding a coat rack:

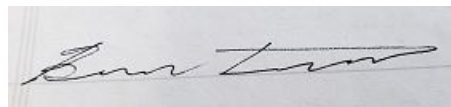


As depicted in the still images above, LYON is wearing the same distinctive orange winter cap in the Capitol building security footage that he was wearing when he identified himself to USCP Agents on January 6, 2021. Further, USCP Agents positively identified LYON in the Capitol building security footage as the man they interviewed on January 6, 2021, and the man who identified himself to the USCP Agents verbally and by driver's license as LYON.

Based on the foregoing, your affiant submits that there is probable cause to believe that THOMPSON and LYON 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 THOMPSON and LYON violated 40 U.S.C. § 5104(e)(2)(D), (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.

Finally, your affiant submits there is probable cause to believe that THOMPSON violated 18 U.S.C. § 641, which makes it a crime for a person to embezzle, steal, purloin, or knowingly convert to his use or the use of another, or without authority, sell, convey or dispose of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or receive, conceal, or retain the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted.



BRIAN M. THOMAS
FEDERAL BUREAU OF
INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 22nd day of January 2021.

ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE