

STATEMENT OF FACTS



I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Title 18 of the United States Code. As a federal agent, I am authorized to investigate violations of the laws of the United States and to execute search warrants issued under the authority of the United States. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021.

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.

Evidence Linking KIM EUGENE DECKER II to the Assault on the U.S. Capitol

KIM EUGENE DECKER II (“DECKER”) is a 42 -year-old male who resides in the state of Pennsylvania.

On [REDACTED], the FBI received information indicating that an Instagram user with the handle [REDACTED] had posted videos and images from their time in Washington, D.C. on January 6, 2021 and was inside the United States Capitol Building on that date. The FBI also received information indicating that the same Instagram user had appeared in open source photos and videos within the restricted area on U.S. Capitol Grounds.

Your affiant visited the publicly available Instagram account with userhandle [REDACTED] (the “Instagram Account”). The account’s userhandle closely resembled an email address [REDACTED] associated with DECKER in public records reviewed by your affiant.

The Instagram Account featured multiple videos uploaded on January 8, 2021 that appear to show large crowds gathering near the intersection of Constitution Avenue NW and 15th Street NW. Based on the appearance of the crowds, the location from which the videos were taken, and the visible weather, your affiant concluded these videos were taken on January 6, 2021, near the site of then-President Donald Trump’s speech on the Ellipse.

One of these videos that was posted to the Instagram Account, which features the caption “Washington DC 1/6/2021,” showed a person that your affiant has determined to be DECKER recording a video of himself. A screenshot from this video uploaded by the Instagram Account is provided below (**Image 1**). In the video, DECKER can be seen wearing a white hat, a black

jacket with a hood, and black backpack, and carrying two flags affixed to a single white PVC pipe flagpole. The two flags are primarily black in color, with the flag attached at the higher portion of the flagpole depicting a black field with a skull shape colored like an American flag in its center.



After reviewing the video posted to the Instagram account, your affiant conducted research on KIM DECKER and identified a Pennsylvania resident by that name, with date of birth August 28, 1981. I reviewed Pennsylvania Department of Transportation (“PENDOT”) records, including his photograph, and have determined that the appearance and facial features of the individual depicted in the videos posted to the Instagram Account is consistent with the appearance and facial features of the PENDOT photograph of DECKER. Among other consistent features in DECKER’s PENDOT photograph, DECKER has a visible mole/birthmark on his upper left cheek, which is consistent with the mole/birthmark visible in Image 1. Your affiant notes that certain selfie-style videos and photographs create a mirror image, such that the mole/birthmark in Image 1 is on DECKER’s upper right cheek.

Your affiant reviewed open source images and video footage from outside the Capitol and identified DECKER as an individual on the east side of the U.S. Capitol Grounds prior to the breaching of the bike rack barrier surrounding the restricted area of the U.S. Capitol Grounds on January 6, 2021. Open source images and footage from the east side of the U.S. Capitol Grounds depicted DECKER with the same white PVC pipe with attached flag, a white baseball-style cap with “Keep America Great” on it, blue jeans, a black jacket with a hood, and a black book bag. In these images and videos, the person I have identified as DECKER can be seen in close proximity to the barricade and the uniformed U.S. Capitol Police (USCP) officers manning it. **Image 2 through Image 5** show the person I have identified as DECKER prior to the breach of the bike

rack barrier. As can be seen in Image 5, DECKER's distinctive mole/birthmark can be seen on his upper left cheek.





Your affiant also reviewed closed circuit television (CCTV) footage of the east side of the U.S. Capitol Grounds from January 6, 2021. At approximately 1:44 p.m. in that footage, rioters made

an unsuccessful attempt to breach the outer bike rack barrier of the U.S. Capitol Grounds, pushing against the bike racks with their hands and body weight as USCP officers struggled to keep the barrier in place and the crowd from advancing. Open source video footage of this same attempted breach shows a person I have identified as DECKER—identifiable by his appearance, his attire (including his white hat), and black flags—to be one of the rioters attempting to breach the barrier by pushing against the barrier with his hands and/or body. A still image from this video is provided below (**Image 6**), with the person I have identified as DECKER and his flags identified via a yellow circle and his visible flag identified with red circle.



After the rioters' unsuccessful breach attempt at 1:44 pm, the person I have identified as DECKER and other rioters can be seen on CCTV footage continuing to stand against the bike rack barriers, with some rioters gesturing at USCP officers as though speaking to them. Another attempt by rioters to breach the barrier occurred near DECKER at approximately 1:48 p.m. As the attempt was taking place near DECKER, DECKER's head can be seen moving, as though he is pushing or pulling against the barrier in front of him. As USCP officers resisted this breach attempt, officers attempted to replace sections of bike rack that had been forcibly taken away by rioters with new sections brought from staging areas within U.S. Capitol Grounds. As officers attempted to restore the barrier, the person I have identified as DECKER remained in his prior location close against the barrier and in close proximity to USCP officers. A still image of DECKER standing near the barrier is provided below (**Image 7**), with DECKER and his flags identified via a yellow circle.



After the rioters' unsuccessful breach attempt at 1:48 p.m., USCP officers at the barrier were reinforced by additional officers wearing riot gear. Closed circuit video footage shows the person I have identified as DECKER continued to stand next to the barrier, in close proximity to USCP officers on the other side of the barrier. At approximately 1:58 p.m., a group of rioters began another attempt to breach the barrier, using their hands and bodies to push forward against the bike racks. The person I have identified as DECKER's head turns toward where this breach attempt is occurring, approximately ten yards to his right, and then DECKER can be seen leaning forward against the barrier. During portions of this breach attempt, DECKER's head, identifiable by his white hat and flags, can be seen on CCTV footage moving forwards and backwards, as though he is pushing and pulling against the barrier in front of him. Multiple USCP officers can be seen bracing themselves against the same bike rack where DECKER is located, in a manner consistent with attempting to stop DECKER and the other rioters from breaking through the barrier. A still image of DECKER appearing to push against the barrier at approximately 1:58 p.m. is provided below (**Image 8**), with DECKER identified with a yellow circle.

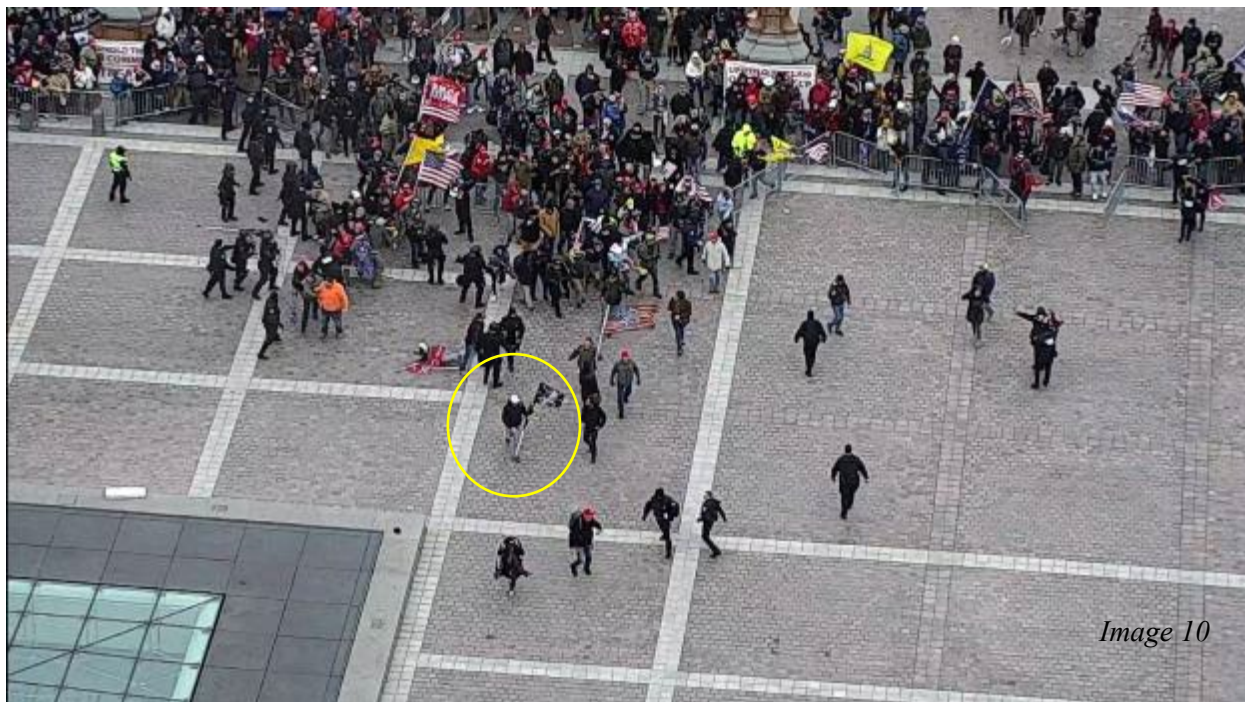


Image 8

Just prior to 1:59 p.m., rioters successfully breached the bike rack barrier, pushing the bike racks and USCP officers out of the way and moving towards the east side of U.S. Capitol Building. The person I have identified as DECKER was one of the first rioters to proceed through the gap in the barrier, as seen in the images below (**Images 9 and 10**). DECKER is identified in these images using a yellow circle.

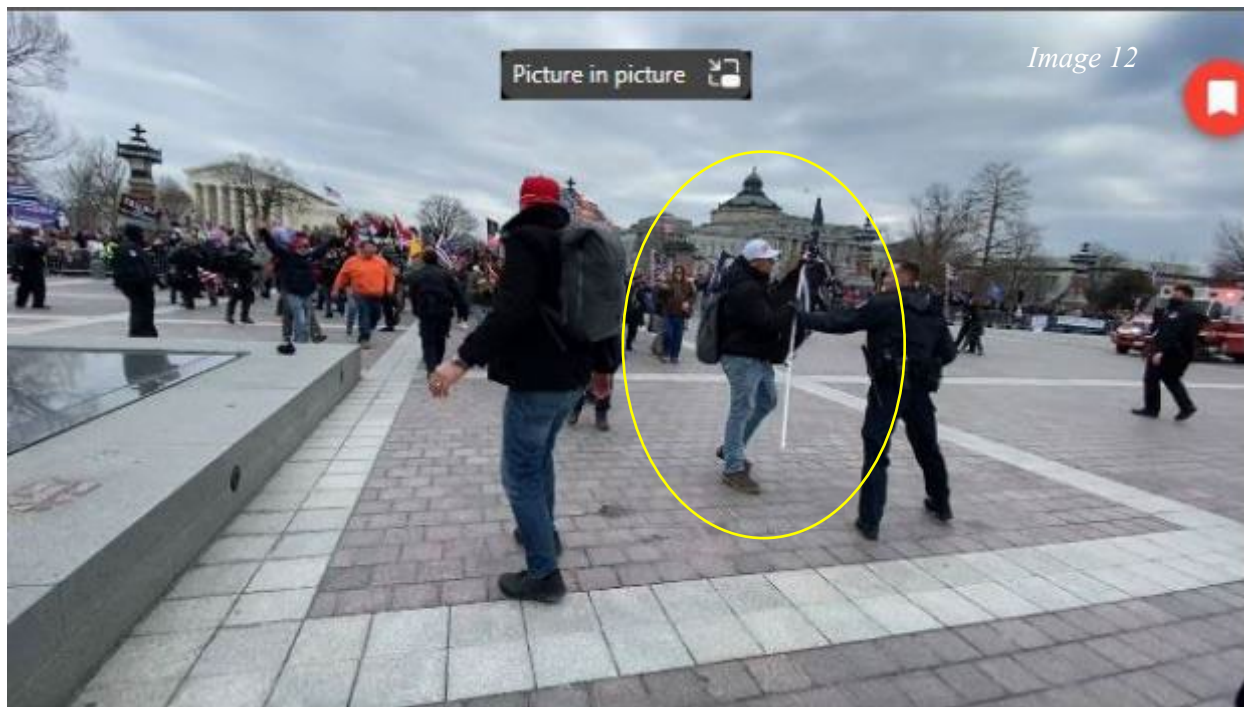


Image 9



Your affiant reviewed open source video footage from the rioters' breach of the bike rack barrier at approximately 1:58 p.m. This footage also shows the person I identified as DECKER, identifiable by his white hat, attire, and flags, as one of the first rioters through the breach and disregarding attempts by USCP officers to stop his progress towards the U.S. Capitol Building. Images taken from open source footage are provided below (**Images 11 and 12**), with DECKER identified in each image with a yellow circle.





Both CCTV footage and open source images and footage show that DECKER advanced with the earliest group of rioters to the steps on the east side of the U.S. Capitol Building, where rioters were temporarily halted by a line of USCP officers on the steps. DECKER, identifiable by his white hat, attire, and black flags, is depicted in the below images (**Image 13 and Image 14**) from open source footage using a yellow circle.





Image 14

Open source images and footage show the person I have identified as DECKER remained in the first ranks of rioters as the crowd continued its efforts to move forward toward the Capitol building. The temporary police line established by USCP officers on the east stairs of the U.S. Capitol Building briefly stopped rioters from advancing, but it was overrun by rioters at approximately 2:06 p.m. The image below (**Image 15**) shows DECKER, identified by a yellow circle before the line of officers was overrun.



Image 15

After rioters overwhelmed the temporary police line, the person I have identified as DECKER and other rioters ascended the stairs to the landing around the Columbus Doors of the U.S. Capitol Building. Open source footage shows DECKER, still in the same attire and with the same flags but having removed his white hat and attached it to his backpack's strap, making his way towards the open Columbus Doors as other rioters eventually entered the U.S. Capitol Building. The images below (**Images 16 through 18**) show DECKER, identified by a yellow circle or box, on the landing near the Columbus Doors. In Image 18, DECKER's mole/birthmark on his upper left cheek is again visible.



Image 16



Image 17



Image 18

Your affiant also reviewed CCTV footage from inside the U.S. Capitol Building and identified DECKER as an individual who entered the Rotunda Doors on the east side of the U.S. Capitol Building at approximately 2:45 p.m., as part of a large group of rioters that entered the building. At the time he entered the U.S. Capitol Building, DECKER's attire, backpack, flags, and facial appearance are otherwise identical to what can be seen in the CCTV and open source images and footage taken outside of the U.S. Capitol Building. The person I have identified as to be DECKER is identified below (**Image 19**) using a yellow circle.



Image 19

After entering the U.S. Capitol Building, the person I have identified as DECKER can be seen on closed circuit television footage proceeding through the Rotunda and the Statuary Hall of the U.S. Capitol Building. As Decker moved through the building, at various moments he was in close proximity to uniformed officers who were attempting to direct other rioters out of the building and a cloud of crowd-control gas inside of the Connector Hallway between Statuary Hall and the House Wing of the U.S. Capitol Building. At multiple points while moving through the building, DECKER can be seen holding up a cell phone with a bright green case, in a manner consistent with photographing or video recording his surroundings. From these additional angles, a white hat matching the appearance of the hat that DECKER was wearing earlier in the day can be seen attached to the strap of his backpack. DECKER's attire, backpack, flagpole, and facial appearance are otherwise consistent to what can be seen in CCTV footage and open source images taken outside of the U.S. Capitol Building. The person I have identified as DECKER is identified below (**Image 20**) using a yellow circle.



DECKER is again visible on CCTV footage taken near the Columbus Doors as he was moving towards the exit the U.S. Capitol Building around 2:52 p.m. As DECKER was leaving the U.S. Capitol Building around 2:52 p.m., he can be seen on the CCTV footage placing a cell phone with a bright green case to his ear. A white hat can again be seen attached to DECKER's grey backpack, and his attire, flagpole, and appearance are otherwise consistent with what can be seen in CCTV footage and open source images taken outside of the U.S. Capitol Building. The person I have identified as DECKER is circled in yellow in **Image 21**.



According to records lawfully obtained from [REDACTED] a mobile device associated with telephone number [REDACTED] was present at the U.S. Capitol on January 6, 2021 at approximately 2:52 p.m. According to public records reviewed by your affiant, telephone number [REDACTED] is associated with DECKER.

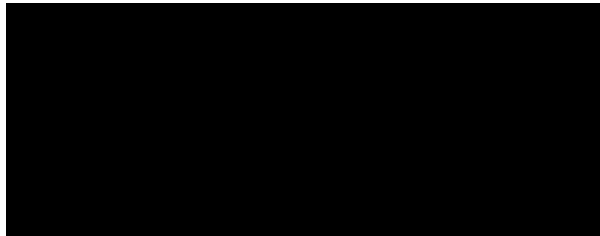
On [REDACTED], a law enforcement officer made contact with DECKER at his place of work. During the resulting conversation, DECKER confirmed to the law enforcement officer that DECKER was present in Washington, D.C. on January 6, 2021.

Your affiant believes there is probable cause that DECKER unlawfully entered the Capitol building on January 6, 2021, based on the above photographs depicting an individual, whom I have identified as DECKER, inside the Capitol.

Based on the foregoing, your affiant submits there is probable cause to believe that DECKER violated 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.

Based on the foregoing, your affiant submits that there is probable cause to believe that DECKER violated 18 U.S.C. §§ 1752(a)(1) and (2), which make 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 18 U.S.C. § 1752, 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 DECKER violated 40 U.S.C. § 5104(e)(2)(D), which makes it a crime to 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, and 40 U.S.C. § 5104(e)(2)(G), which makes it a crime to willfully and knowingly parade, demonstrate, or picket in any of the Capitol Buildings.



Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 22nd day of January 2024.

HONORABLE MOXILA A. UPADHYAYA
UNITED STATES MAGISTRATE JUDGE