

UNITED STATES DISTRICT COURT
for the
District of Columbia

United States of America
v.
Daniel Lyons Scott
DOB: [Redacted]
Case No.
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:

Table with 2 columns: Code Section, Offense Description. Rows include 18 U.S.C. § 1752(a)(1) and (a)(2), 18 U.S.C. § 1752(a)(4), 40 U.S.C. § 5104(e)(2)(D) and (e)(2)(F), 18 U.S.C. § 231(a)(3), 18 U.S.C. § 1512(c)(2), and 18 U.S.C. § 111(a)(1).

This criminal complaint is based on these facts:

See attached statement of facts.

Continued on the attached sheet.

[Redacted signature area]

Complainant's signature

[Redacted name] Special Agent

Printed name and title

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

Date: 04/29/2021

[Seal and signature of Judge]

2021.04.29
14:35:18 -04'00'

Judge's signature

City and state: Washington, D.C.

Zia M. Faruqui, U.S. Magistrate Judge
Printed name and title

STATEMENT OF FACTS

1. I am Special Agent [REDACTED] (SA) with the Federal Bureau of Investigation, currently assigned to investigate domestic terrorism in the Seattle Field Office. I have been so employed for one and a half years. Prior to working with the FBI, I was a Police Officer in Boulder, Colorado for five years and was employed as an Officer/Deputy in Prince William County, Virginia for five years prior to that. My experience as an FBI Agent includes the investigation of cases where individuals frequently utilize computers and the Internet to coordinate and facilitate various crimes. I have received training and gained experience in interviewing and interrogation techniques, arrest procedures, search warrant applications, the execution of searches and seizures, computer evidence identification, computer evidence seizure and processing, and various other criminal laws and procedures. I have personally participated in the execution of search warrants involving the search and seizure of computer equipment. I have received training on network and information security, and on the methods and tactics of open source intelligence gathering.

2. 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.

3. 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 Michael Pence was present and presiding, first in the joint session, and then in the Senate chamber.

4. 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.

5. 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.

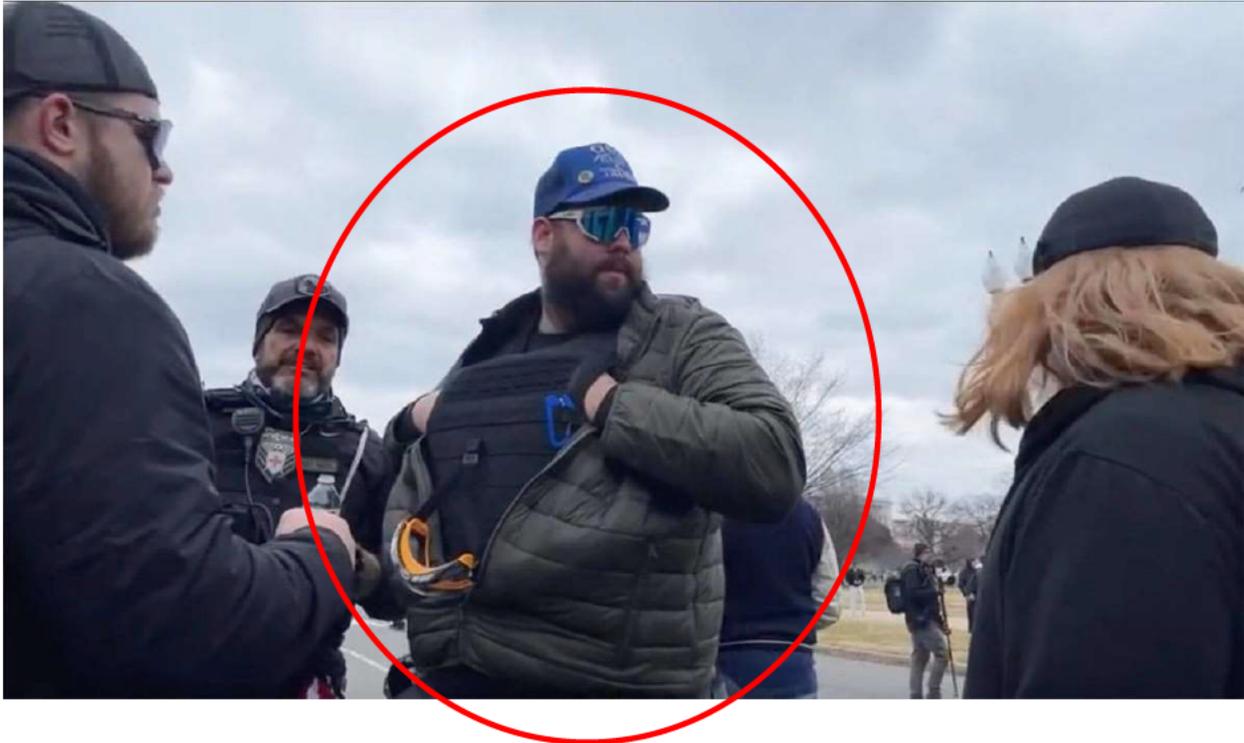
6. Shortly thereafter, at approximately 2:20 p.m., members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President

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.

7. 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.

8. On January 31, 2021, an online news publication posted an article titled “Arlington Proud Boy ‘Milkshake’ fought police at U.S. Capitol.” In that article were the following photographs of an individual that the article identified as “Daniel Lyons Scott.” According to the author of the article, SCOTT had been quoted by the same publication in 2019 in an article about the Proud Boys organization. In addition, as described later, a witness (W-2) who knows SCOTT reviewed the two photographs below and identified the individual they depict as DANIEL LYONS SCOTT. Based on the article, that identification, and the other information included in this affidavit, I refer to this individual as SCOTT throughout this affidavit.





9. In the first of these two photographs, SCOTT is a white male with a beard, wearing an olive-green jacket, blue sunglasses, and a blue hat with goggles on his forehead. The second picture shows SCOTT wearing a blue hat, sunglasses, an olive green jacket, a black ballistic vest, goggles with yellow/orange trim clipped to the vest, and a blue carabiner on his vest. Also pictured in this second photograph, on the left, is Ethan NORDEAN, a Proud Boy leader who is currently charged in connection with the events of January 6, 2021.

10. A zoomed-in version of the second photograph shows that the blue hat worn by SCOTT has several words written in white lettering.



11. On May 27, 2020, there was an article published by Wonkette entitled “Proud Boys Tore Down A Covid-19 Memorial, Because Caring That People Died Is For Commies.” The article contains a picture of a person, who appears to match the appearance of SCOTT, identifying himself as a Proud Boy member. This individual can be seen wearing green sunglasses, of apparently the same model as the ones worn by SCOTT on January 6, 2021, and a black ballistic vest with yellow lettering stating: “PROUD BOY.”

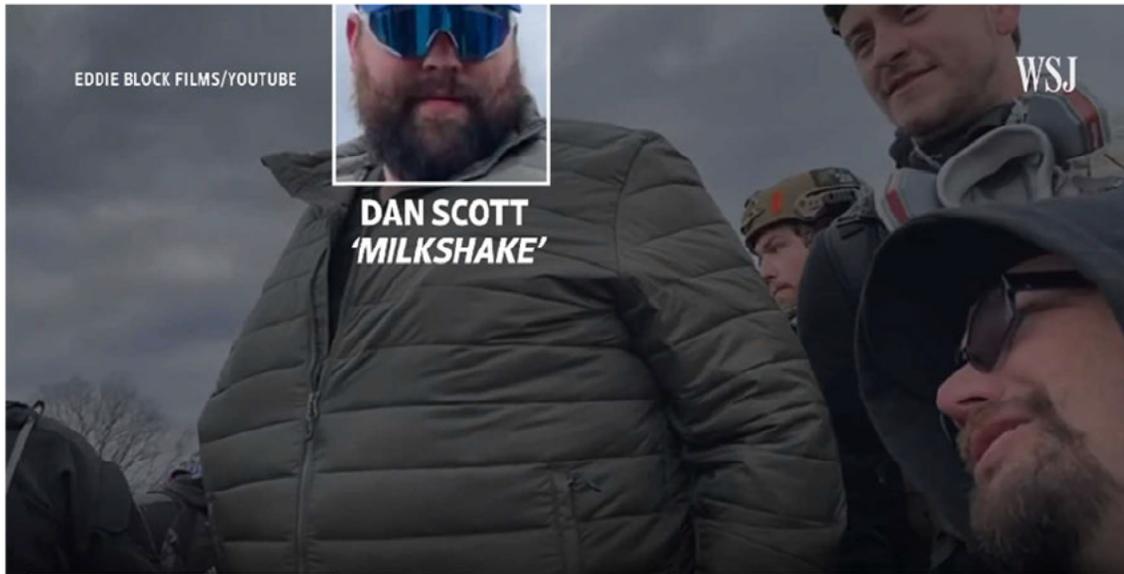


12. Since January 6, 2021, the FBI has accessed open-source materials located on various Twitter accounts that show photographs and videos apparently taken on or near U.S. Capitol grounds on January 6, 2021. Some of the images and photographs included below come from those open-source materials and depict SCOTT.

13. On one Twitter account, the following photograph was posted. It appears to depict SCOTT—the appearance and facial hair match—wearing what appear to be the same blue hat and blue sunglasses. Of note, the visible white lettering on the hat says “& TRUMP,” and there appears to be lettering above it as well. There is also a pin on the hat, to the left of the word “TRUMP,” in the same location as a pin on the hat in the images above. The blue sunglasses have the word “MILKSHAKE” written in white lettering in the upper left corner. The same word cannot easily be made out in the images above, but there does appear to be lettering in the same location in those images. The individual is exposing his left arm, which has a tattoo that appears to read “PROUD BOY.”



14. The Wall Street Journal independently published a video report on January 26, 2021, identifying (in accompanying audio) the individual pictured below as “Dan Scott, a Proud Boy known as ‘Milkshake.’” Most of the video used is from an individual, Person A, who documented the events of the day. The text on the video from the Wall Street Journal reads: “Dan Scott ‘*Milkshake*.’” The individual highlighted in this video report matches the appearance of the individual pictured in earlier photographs in this affidavit. SCOTT is wearing an olive-green jacket, blue sunglasses, and a blue hat. Shortly before the portion of the video below, Person A refers to SCOTT as “Milkshake,” at which time SCOTT turns his head toward Person A and smiles.



15. Other photographs from that day show SCOTT marching with or in proximity to other known Proud Boy members. For example:



16. In the same Wall Street Journal video identified earlier, at one point in a scene involving numerous known Proud Boys members (including several charged for their conduct on January 6, 2021), an offscreen speaker says “Let’s take the fucking Capitol.” Another individual then approaches the camera and says: “Let’s not fucking yell that, alright?” NORDEAN then walks by and states: “It was Milkshake, man, you know . . . idiot.” This is depicted in the following stills from that video:

Video Investigation: Proud Boys Were Key Instigators in Capitol Riot

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WSJ

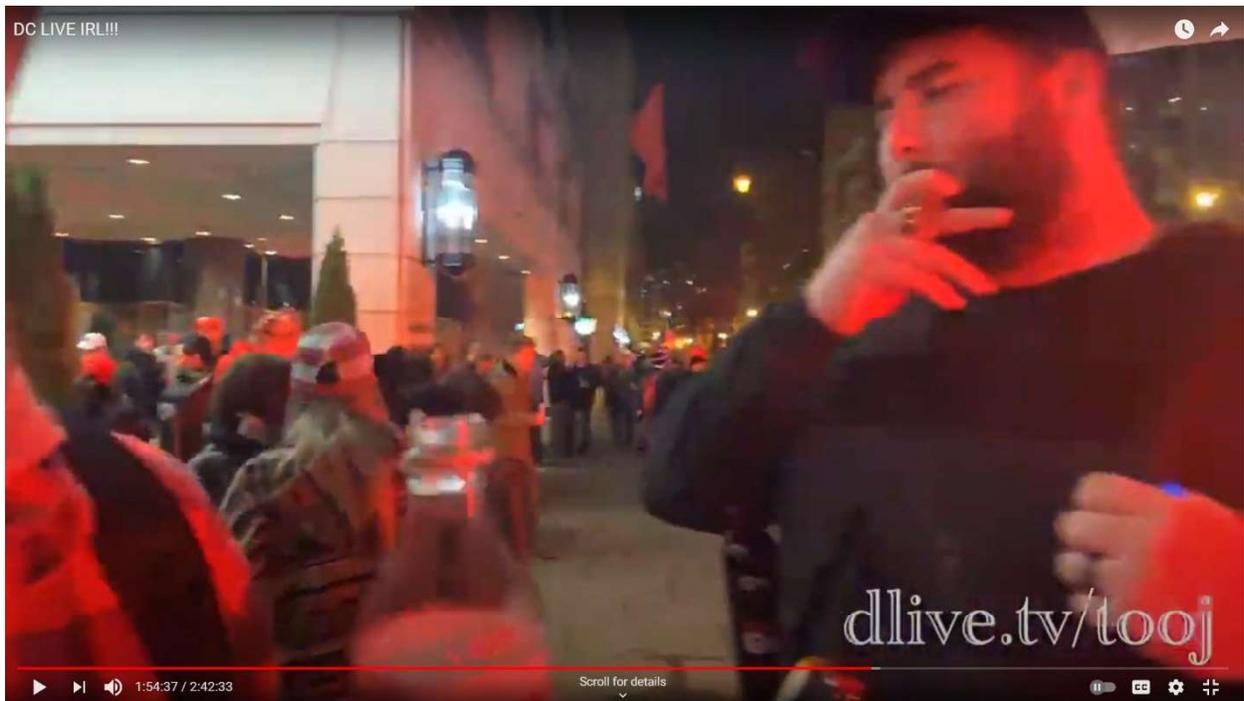
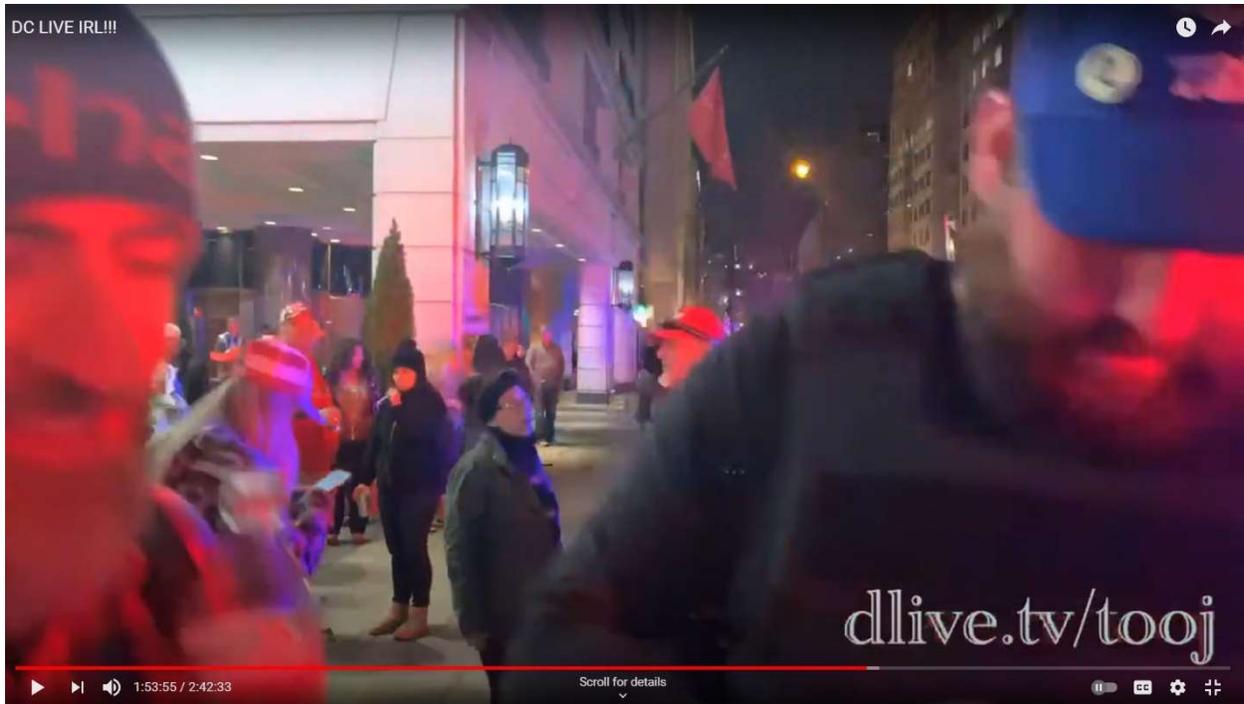


Video Investigation: Proud Boys Were Key Instigators in Capitol Riot

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WSJ





18. Other images from open-source websites show this same individual on U.S. Capitol grounds, just outside the Capitol on the lower west plaza. This area is on the U.S. Capitol grounds under 40 U.S.C. § 5104(e) and is within a restricted building or grounds under 18 U.S.C. § 1752. SCOTT is identifiable based on his blue hat with a pin and white lettering; black goggles with yellow/orange trim; olive green jacket; and facial hair and general appearance. Behind SCOTT is a line of law enforcement officers standing on steps leading to the Capitol building.



19. That same line of law enforcement officers, in that same location, was later breached by the crowd. The following two photographs were obtained from a photographer who provided his photographs to the FBI. They depict SCOTT on the West Side of the U.S. Capitol Building. The second photograph is a zoomed-in version of the first photograph, showing the features that allowed me to identify him as SCOTT. The timestamp on this photograph's metadata states that it was taken at 2:37 PM on January 6, 2021, but law enforcement believes these events occurred approximately one hour earlier. The images below show the line of officers standing on a set of steps under white tarps and scaffolding.



20. Pro Publica (projects.propublica.org) has downloaded videos from the Parler application that were apparently taken on January 6, 2021. These videos, which I have reviewed, depict the same area at the same staircase on the lower west terrace of the Capitol. One video depicts a large crowd outside the Capitol building yelling at U.S. Capitol Police officers. At the 21-second mark, the person identified as SCOTT based on his clothing (including his blue hat, goggles with yellow/orange trim, and olive-green jacket) is at the front lines. SCOTT can be seen pushing two U.S. Capitol Police officers backward, up the steps. He appears to be one of the first, or perhaps the first, persons to initiate contact with law enforcement at this location. SCOTT then

appears to pull one of the two officers into the crowd for approximately 3-4 seconds before another officer is able to pull the officer out of the crowd. Both officers retreat up the steps while SCOTT moves off-screen to the left of the video. The following stills depict this contact. Note, however, that the images do not depict the entire scene.





21. The following image, from the same melee, shows the blue hat more clearly. It states "GOD Guns," with the "& TRUMP" lettering described earlier presumably following.



22. The following photograph, apparently taken by a photographer, depicts this scene. SCOTT and the officer being pulled into the crowd are circled in red.



23. Records obtained from PARLER indicate that an account tied to the cell phone number ***-***-3240 has a username of “Milkshake” and an associated email address of *****@hotmail.com. Records obtained from T-Mobile US for the same phone number indicate that its subscriber is “DANIEL L SCOTT”. Records obtained from Microsoft Corporation indicate that the owner of the associated Hotmail account identified above belongs to a “DAN SCOTT” with the same associated cell phone number.

24. In March 2021, FBI agents interviewed a witness (W-1) who knows SCOTT. W-1 identified SCOTT as a “Proud Boy” who went by “Milkshake,” and stated that SCOTT was present at the U.S. Capitol on January 6, 2021, and that SCOTT had stated that he was inside the Capitol building before later retracting that claim.

25. On April 16, 2021, I interviewed a witness (W-2) who has known SCOTT for months. W-2 described SCOTT as being tall, hairy, overweight, and having a tattoo that reads “Proud Boy” on his arm. W-2 looked at SCOTT’s Washington driver’s license photo and identified it as SCOTT. As noted earlier, W-2 also reviewed the images of SCOTT in paragraph 8 above and identified SCOTT in them.

26. Based on the foregoing, your affiant submits that there is probable cause to believe that SCOTT violated 18 U.S.C. § 1752(a)(1), (2) and (4), which makes it a crime to (1) knowingly

enter or remain in any restricted building or grounds without lawful authority to do so; (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; (4) knowingly engage in any act of physical violence against any person or property in any restricted building or grounds; or attempt or conspire 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.

27. Your affiant submits there is also probable cause to believe that SCOTT violated 40 U.S.C. § 5104(e)(2)(D) and (F), 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, or (F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings.

28. Your affiant submits there is also probable cause to believe that SCOTT 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.

29. Your affiant submits there is also probable cause to believe that SCOTT violated 18 U.S.C. § 1512(c)(2), which makes it a crime to obstruct, influence, or impede any official proceeding, or attempt to do so. Under 18 U.S.C. § 1515, congressional proceedings are official proceedings.

30. Finally, your affiant submits there is probable cause to believe that SCOTT violated 18 U.S.C. § 111(a)(1), which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114. Persons designated within Section 1114 include any person assisting an officer or employee of the United States in the performance of their official duties. In addition, your affiant submits there is probable cause to believe that SCOTT’s violation of Section 111(a)(1) involved physical contact with the victim of that assault and the intent to commit another felony.



 Special Agent
FBI

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone, this __29th__ day of April, 2021.



2021.04.29
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ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE