

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	Case No.: 22-CR-42 (CRC)
	:	
v.	:	18 U.S.C. § 231(a)(3); and
	:	18 U.S.C. § 111(a)(1)
JOSHUA LEE HERNANDEZ,	:	
	:	
Defendant.	:	
	:	

STATEMENT OF OFFENSE

Pursuant to Fed. R. Crim. P. 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, Joshua Lee Hernandez, with the concurrence of his attorney, agree and stipulate to the below factual basis for the defendant’s guilty plea—that is, if this case were to proceed to trial, the parties stipulate that the United States could prove the below facts beyond a reasonable doubt:

The Attack at the U.S. Capitol on January 6, 2021

1. The U.S. Capitol, which is located at First Street, SE, in Washington, D.C., is secured twenty-four hours a day by U.S. Capitol Police (USCP). Restrictions around the Capitol include permanent and temporary security barriers and posts manned by USCP. Only authorized people with appropriate identification are allowed access inside the Capitol.

2. On January 6, 2021, the exterior plaza of the Capitol was closed to members of the public.

3. On January 6, 2021, a joint session of the United States Congress convened at the 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 the Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election,

which had taken place on Tuesday, November 3, 2020. The joint session began at approximately 1:00 PM. Shortly thereafter, by approximately 1:30 PM, 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.

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 Capitol. Temporary and permanent barricades, as noted above, were in place around the exterior of the Capitol, and USCP officers were present and attempting to keep the crowd away from the Capitol and the proceedings underway inside.

5. At approximately 2:00 PM, certain individuals in the crowd forced their way through, up, and over the barricades. Officers of the USCP were forced to retreat 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 as required by USCP officers or other authorized security officials.

6. At such time, the certification proceedings were still underway, and the exterior doors and windows of the Capitol were locked or otherwise secured. Members of the USCP attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 PM, individuals in the crowd forced entry into the Capitol, including by breaking windows and by assaulting members of law enforcement, as others in the crowd encouraged and assisted those acts. The riot resulted in substantial damage to the Capitol, requiring the expenditure of more than \$2.7 million dollars for repairs.

7. Shortly thereafter, at approximately 2:20 PM, members of the House of Representatives and of the 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 PM on January 6, 2021. In light of the dangerous circumstances caused by the unlawful entry to the Capitol—including the danger posed by individuals who had entered the Capitol without any security screening or weapons check—Congressional proceedings could not resume until after every unauthorized occupant had been removed from or left the Capitol, and USCP confirmed that the building was secured. The proceedings resumed at approximately 8:00 PM after the building had been secured. Vice President Pence remained in the Capitol from the time he was evacuated from the Senate Chamber until the session resumed.

Joshua Hernandez's Participation in the January 6, 2021, Capitol Riot

8. The defendant, Joshua Hernandez, lives in Houston, Texas. On or before January 6, 2021, defendant traveled from Memphis, Tennessee to Washington, D.C. The purpose of the defendant's trip to Washington, D.C., was to protest the results of the 2020 Presidential election.

9. On January 6, 2021, the defendant marched with other rioters from the National Mall on to the restricted grounds of the Capitol. Between 12:30 p.m. and 2 p.m., the defendant breached the Capitol grounds, parading on the balustrade/scaffolding in the Northwest area of the Capitol inciting the crowd by waving a flag and chanting.

10. At 2:13 p.m., the defendant entered the Capitol through a window near the Senate Wing Doors carrying a flagpole with an America flag attached (hereinafter, "flagpole"). Over the next 40 minutes, the defendant traveled through the Senate Wing, the Crypt, the House-side on the

first and second floors, into the Speaker's hallway, the Speaker's Conference Room, and the Rotunda carrying the flagpole.

11. Between 2:35 p.m. and 2:40 p.m., the defendant then made his way to the East Rotunda interior door with a group of rioters. The East Rotunda interior door was guarded by two United States Capitol police officers who stood with their backs to the doors. The defendant joined rioters who gathered around the officers. He then encouraged other rioters by shouting and waiving others to join him in a group push against the officers in order to open the doors to other rioters outside. The defendant braced and pushed against the officers with the group, causing the East Rotunda doors to open to rioters outside of the Capitol. After the push, the defendant moved around the group of rioters, moved the flagpole up, reached with it over top of the group of rioters surrounding the officers, and hit officer B.A. on his riot helmet with the flagpole.

12. Defendant then continued through the Capitol, parading around the Capitol into the East corridor, containing Senate offices, and into the Senate Gallery hallway. At 2:46 p.m., the defendant entered the Senate Gallery carrying the flagpole. Defendant left the Senate Gallery after a few minutes and continued throughout the Senate Wing before exiting the Capitol through the Law Library door at 2:52 p.m.

Elements of the Offense

13. Joshua Hernandez knowingly and voluntarily admits to all the elements of 18 U.S.C. § 231(a)(3) and 18 U.S.C. § 111(a)(1). Specifically, defendant admits that:

The defendant willfully and knowingly entered the U.S. Capitol Building knowing that he did not have permission to do so. Defendant further admits that he committed and attempted to commit an act to obstruct, impede, and interfere with a law enforcement officer lawfully engaged in the lawful performance of his duties incident to and during the commission of a civil disorder

which in any way and degree obstructed, delayed, and adversely affected commerce and the movement of any article and commodity in commerce and the conduct and performance of any federally protected function. Specifically, the defendant admits that he encouraged other rioters by shouting and waiving others to join him in a group push against the officers in order to open the doors to other rioters outside. Additionally, the defendant moved around the group of rioters, moved his flagpole up, reached with it over top of the group of rioters surrounding the officers, and hit officer B.A. on his riot helmet with the flagpole.

The defendant also admits that he forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with any person designated in 18 U.S.C. § 1114 while engaged in or on account of the performance of their official duties. Specifically, the defendant admits that he pushed against United States Capitol Police officers and struck United States Capitol Police Officer B.A. with a flagpole. The defendant further admits that he knew at that time of the assault of, resisting, opposition to, impeding of, intimidation of, or interference with the officers that the officers were engaged in the performance of their official duties or that he assaulted, resisted, opposed, impeded, intimidated, or interfered with the officer on account of their performance of their official duties.

Respectfully submitted,

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DEFENDANT'S ACKNOWLEDGMENT

I, **Joshua Hernandez**, have read this Statement of the Offense and have discussed it with my attorney. I fully understand this Statement of the Offense. I agree and acknowledge by my signature that this Statement of the Offense is true and accurate. I do this voluntarily and of my own free will. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

Date: 10 / 31 / 2022



Joshua Hernandez
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read this Statement of the Offense and have reviewed it with my client fully. I concur in my client's desire to adopt this Statement of the Offense as true and accurate.

Date: 10 / 31 / 2022



Jay P. Mykytiuk
Attorney for Defendant