

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JON SCHAFFER,

Defendant.

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Case No. 21-mj-00094; 21-cr-306 (APM)

STATEMENT OF OFFENSE

Pursuant to Federal Rule of Criminal Procedure 11, the United States of America, by and through its attorney, the United States Attorney for the District of Columbia, and the defendant, JON SCHAFFER, 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. On January 6, 2021, a Joint Session of the United States House of Representatives and the United States Senate (the “Joint Session”) convened at the United States Capitol to certify the vote of the Electoral College of the 2020 U.S. Presidential Election (“the Electoral College vote”). The U.S. Capitol, located at First Street, SE, in Washington, D.C., is secured 24 hours a day by U.S. Capitol Police. The Capitol Police maintain permanent and temporary barriers to restrict access to the Capitol exterior, and only authorized individuals with appropriate identification are allowed inside the Capitol building. On January 6, 2021, the exterior plaza of the U.S. Capitol was closed to members of the public due to the Electoral College vote certification proceeding.

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2. The Joint Session commenced the certification process at approximately 1:00 p.m., with Vice President Mike Pence present and presiding in the Senate chamber. As the Joint Session got underway, a large crowd began to gather outside of the Capitol building. Crowd members eventually forced their way through, up, and over Capitol Police barricades and advanced to the building's exterior façade. Capitol Police officers attempted to maintain order and stop the crowd from entering the Capitol building, to which the doors and windows were locked or otherwise secured. Nonetheless, shortly after 2:00 p.m., crowd members forced entry into the Capitol building by breaking windows, ramming open doors, and assaulting Capitol Police officers. The crowd was not lawfully authorized to enter or remain inside the Capitol, and no crowd member submitted to security screenings or weapons checks by Capitol Police or other security officials.

3. Shortly thereafter, at approximately 2:20 p.m., members of the House and Senate (including Vice President Pence)—who had withdrawn to separate chambers to resolve an objection—were evacuated from their respective chambers. The Joint Session and the entire official proceeding of the Congress was halted while Capitol Police and other law-enforcement officers worked to restore order and clear the Capitol of the unlawful occupants. Later that night, law enforcement regained control of the Capitol. At approximately 8:00 p.m., the Joint Session reconvened, presided over by Vice President Pence, who along with legislators and staff, had remained hidden within the Capitol building throughout these events.

4. As described more fully below, SCHAFFER participated in the January 6 attack by unlawfully entering the Capitol building, armed with bear spray, intending to stop or delay the Congressional proceeding.

Jon SCHAFFER's Role in Attacking the U.S. Capitol

5. SCHAFFER is a founding lifetime member of the Oath Keepers. The Oath Keepers are a large but loosely organized collection of individuals, some of whom are associated with militias. Some members of the Oath Keepers, including SCHAFFER, believe that the federal government has been coopted by a cabal of elites actively trying to strip American citizens of their rights. The organization's name alludes to the oath sworn by members of the military and police to defend the Constitution "from all enemies, foreign and domestic."

6. On November 14, 2020, SCHAFFER was in Washington, D.C. to attend the "Million MAGA March." He participated alongside other members of the Oath Keepers to protest the 2020 presidential election result. During an interview with a journalist at the march, SCHAFFER stated the following:

A group of thugs and criminals hijacked this country a long time ago. And now they're making their big move, and it's not gonna happen . . . People need to wake up and snap out of the Matrix because they're going down. They made the move, they're messing with the wrong people here, trust me on that. And we needed it to be open like this. Open fraud. Open theft. Because now we see you, and you're going down, mark my words.

7. SCHAFFER was specifically asked by the journalist if he expected the November 14 march to lead to violence, to which he responded: "[I]f somebody wants to bring violence, I think there's a lot of us here that are ready for it. We don't want that, but if they bring it, we're going to respond to that, trust me." SCHAFFER also stated:

We're not going to merge into some globalist, communist system. It will not happen. There will be a lot of bloodshed if it comes down to that, trust me. The American people will not go for that bullshit once they understand what's actually happening. So that's where we're at. Nobody wants this, but they're pushing us to a point where we have no choice.

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8. Approximately six weeks later, on January 6, 2021, SCHAFFER attended the “Stop the Steal” rally at the Ellipse in Washington, D.C., which was organized to protest the result of the presidential election. SCHAFFER wore a tactical vest and a hat that read, “Oath Keepers Lifetime Member.” SCHAFFER also carried on his person bear spray, which is a chemical irritant used to ward off bears. Bear spray is not intended for use against humans and qualifies as a dangerous weapon.

9. As the “Stop the Steal” rally was finishing, SCHAFFER joined a large crowd that marched from the Ellipse to the Capitol, where the Joint Session to certify the Electoral College vote was underway—a fact of which SCHAFFER was aware. During the march to the Capitol, SCHAFFER learned that Vice President Pence planned to go forward with the Electoral College vote certification. After arriving on Capitol grounds, SCHAFFER walked through a dense crowd of people, past barriers that restricted access to the public, and right up to a set of doors located on the west side of the Capitol building.

10. At approximately 2:40 p.m., as legislators and their staff were being evacuated to secure locations, SCHAFFER—still wearing his Oath Keepers hat and tactical vest, and still carrying on his person bear spray—positioned himself at the front of a large mob that broke open the Capitol building doors being guarded by four Capitol Police officers wearing riot gear. SCHAFFER was among the first six individuals to push past the damaged doors and into the building, forcing the officers to retreat. As the mob swelled inside, and officers were being assaulted, SCHAFFER and other members of the mob continued to advance while aggressively gesturing toward a row of five to six backpedaling officers trying to maintain a security line in front of them. The officers’ effort quickly failed as SCHAFFER and the rest of the mob overwhelmed the officers, who ultimately deployed a chemical irritant to disperse the mob.

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SCHAFFER was among those who were sprayed in the face by the irritant. He thereafter exited the building, with his unholstered bear spray now in hand, through the same doors that he had entered through approximately nine minutes earlier.

11. When SCHAFFER unlawfully entered the Capitol building, he was aware that the Joint Session to certify the Electoral College results had commenced and that the Vice President had announced that he did not intend to stop the certification. Wearing a tactical vest and armed with bear spray, SCHAFFER unlawfully entered the building with the purpose of influencing, affecting, and retaliating against the conduct of government by stopping or delaying the Congressional proceeding by intimidation or coercion. SCHAFFER admits that his belief that the Electoral College results were fraudulent is not a legal justification for unlawfully entering the Capitol building and using intimidation to influence, stop, or delay the Congressional proceeding.

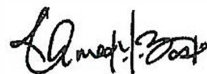
Limited Nature of Factual Basis

12. This proffer of evidence is not intended to constitute a complete statement of all facts known by SCHAFFER or the government. Rather, it is a limited statement of facts intended to provide the minimal necessary factual predicate for SCHAFFER's guilty plea.

Respectfully submitted,

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April 16, 2021

DEFENDANT'S ACCEPTANCE

I have read every word of this Statement of Offense. Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, after consulting with my attorney, Marc Victor, Esq., I agree and stipulate to this Statement of Offense. The Statement of Offense is a summary made for the purpose of providing the Court with a factual basis for my guilty plea. It does not include all of the facts known to me regarding these offenses. I make this statement knowingly and voluntarily and because I am in fact guilty of the crime to which I am pleading guilty.

Dated: 4-14-21



JON SCHAFFER, Defendant

ATTORNEY'S ACKNOWLEDGEMENT

I have read this Factual Basis and have reviewed it with my client fully. I concur in my client's desire to adopt and stipulate to this Factual Basis.

Dated: 4-15-21



MARC VICTOR, ESQ.
Attorney for Jon Schaffer