



March 7, 2022

VIA ELECTRONIC MAIL: [REDACTED]

State Bar of Georgia
Office of the General Counsel
104 Marietta Street, N.W., Suite 100
Atlanta, GA 30303

Dear General Counsel's Office:

The 65 Project is a bipartisan, nonprofit effort to protect democracy from abuse of the legal system by holding accountable lawyers who engage in fraudulent and malicious efforts to overturn legitimate elections.

We write to request that the Office of General Counsel investigate the actions taken by William McCall Calhoun relating to his storming the United States Capitol and engaging in insurrection on January 6, 2021.

Mr. Calhoun's conduct violated Rules of Professional Conduct, as well as the oath taken to be admitted to the State Bar of Georgia. A full investigation by the Office of General Counsel will demonstrate the egregious nature of Mr. Calhoun's actions, especially when considered in light of his purpose and the direct and possible consequences of his behavior.

BACKGROUND

Donald Trump lost the 2020 presidential election.¹ Anticipating his loss, Mr. Trump and his allies began questioning the election's legitimacy months before even one voter had cast a ballot.² In fact, this fit a pattern of Mr. Trump declaring fraud or a rigged election any time he lost or anticipated a loss.

¹ See United States National Archives, Electoral College Results – 2020, available at <https://www.archives.gov/electoral-college/2020>.

² Kevin Liptak, *A List of the Times Trump Has Said He Won't Accept the Election Results or Leave Office if He Loses*, CNN (Sept. 24, 2020), <https://www.cnn.com/2020/09/24/politics/trump-election-warnings-leaving-office/index.html>.

Joe Biden received over 81 million votes in November 2020, defeating Mr. Trump by over seven million votes and over four percentage points.³ Mr. Trump’s head of the U.S. Cybersecurity and Infrastructure Security Agency, Christopher Krebs, [announced](#) that the “November 3rd election was the most secure in American history. . . . There is no evidence that any voting system deleted or lost votes or changed votes or was in any way compromised.” Mr. Trump [fired him](#). William Barr, Mr. Trump’s own Attorney General, [declared that the Department of Justice](#) has “not seen fraud on a scale that could have effected a different outcome in the election.” Attorney General Barr announced his resignation less than two weeks later, but not before again confirming that the 2020 elections had been free and fair.⁴

Many of Mr. Trump’s own senior advisors agreed with Attorney General Barr and Mr. Krebs.⁵ Indeed, Deputy (and later Acting) Attorney General Jeffrey Rosen and Associate (and later Acting) Deputy Attorney General Richard Donoghue regularly refuted the false information and allegations that Mr. Trump and his allies asserted about a fraudulent election.⁶ Mr. Rosen has testified that on December 15, 2020, at a meeting that included Mark Meadows, White House Chief of Staff, that he and others told Mr. Trump that the information he was receiving from his political allies was not correct.⁷ And Mr. Donoghue has testified to the Select Committee to Investigate the January 6th Attack on the United States Capitol (“Select Committee”) that on December 27, 2020, he told Mr. Trump “in very clear terms” that after “dozens of investigations, hundreds of interviews” looking at “Georgia, Pennsylvania, Michigan, and Nevada,” the Department of Justice – Mr. Trump’s own Department of Justice – had concluded that “the major allegations are not supported by the evidence developed.”⁸

Despite clear proof that no fraud occurred, and that no one stole the election from him, Mr. Trump and his lawyers sought to overturn the legitimate results by filing 65 baseless lawsuits across the country.⁹ None succeeded, and, in fact, courts have imposed sanctions on the lawyers who participated in these suits and referred them for sanctions to their respective state bars.¹⁰

³ See Federal Election Commission, *Official 2020 Presidential General Election Results*, available at <https://www.fec.gov/resources/cms-content/documents/2020presgeresults.pdf>.

⁴ M. Balsamo, *Disputing Trump, Barr says no widespread election fraud*, Associated Press (Dec. 1, 2020), <https://perma.cc/4U8N-SMB5>.

⁵ See Deposition of Jason Miller (Feb. 3, 2022), available at <https://january6th.house.gov/sites/democrats.january6th.house.gov/files/2022.03.02%20%28ECF%20160%29%20Opposition%20to%20Plaintiff%27s%20Privilege%20Claims%20%28Redacted%29.pdf>;

Interview of Jeffrey Rosen (Aug. 7, 2021), United States Senate Committee on the Judiciary, 117th Cong. 30, available at <https://www.judiciary.senate.gov/rosen-transcript-final>.

⁶ See Interview of Jeffrey Rosen *see also* Interview of Richard Donoghue (Oct. 1, 2021), available at <https://january6th.house.gov/sites/democrats.january6th.house.gov/files/2022.03.02%20%28ECF%20160%29%20Opposition%20to%20Plaintiff%27s%20Privilege%20Claims%20%28Redacted%29.pdf>

⁷ Interview of Jeffrey Rosen.

⁸ Interview with Richard Donoghue.

⁹ W. Cummings, J. Garrison & J. Sargent, *By the numbers: President Donald Trump’s failed efforts to overturn the election*, USA Today (Jan. 6, 2021), available at <https://www.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001/>.

¹⁰ See, e.g., *King v. Whitmer*, No. 20-13134 (U.S. Dist. Ct. E. Dist. Mich. Aug. 25, 2021), available at https://www.michigan.gov/documents/ag/172_opinion_order_King_733786_7.pdf.

When those efforts failed, Mr. Trump’s supporters arrived in Washington, D.C. to attend a rally to “stop the steal.” [Mr. Trump spoke at the rally and declared:](#)

Despite that, despite that, we won Wisconsin. It’s going to see. I mean, you’ll see.

...

But the only way that can happen is if Mike Pence agrees to send it back. Mike Pence has to agree to send it back.

...

And Mike Pence is going to have to come through for us, and if he doesn’t, that will be a, a sad day for our country because you’re sworn to uphold our Constitution.

Now, it is up to Congress to confront this egregious assault on our democracy. And after this, we’re going to walk down, and I’ll be there with you, we’re going to walk down, we’re going to walk down.

Anyone you want, but I think right here, we’re going to walk down to the Capitol, and we’re going to cheer on our brave senators and congressmen and women, and we’re probably not going to be cheering so much for some of them.

Because you’ll never take back our country with weakness. You have to show strength and you have to be strong. We have come to demand that Congress do the right thing and only count the electors who have been lawfully slated, lawfully slated.

It is well-documented what happened next. Members of the crowd then marched to the Capitol, breached security, vandalized the building, assaulted police officers, and sought to hunt down members of Congress and Mr. Pence. Nine people died as a result of the insurrection, including four police officers who committed suicide within seven months of responding to the attack.¹¹ The insurrectionists injured over 138 police officers.¹² To date, 769 people have been charged in connection with the January 6 insurrection, with 165 of those defendants pleading guilty, and courts have imposed sentences reaching over 60 months.¹³

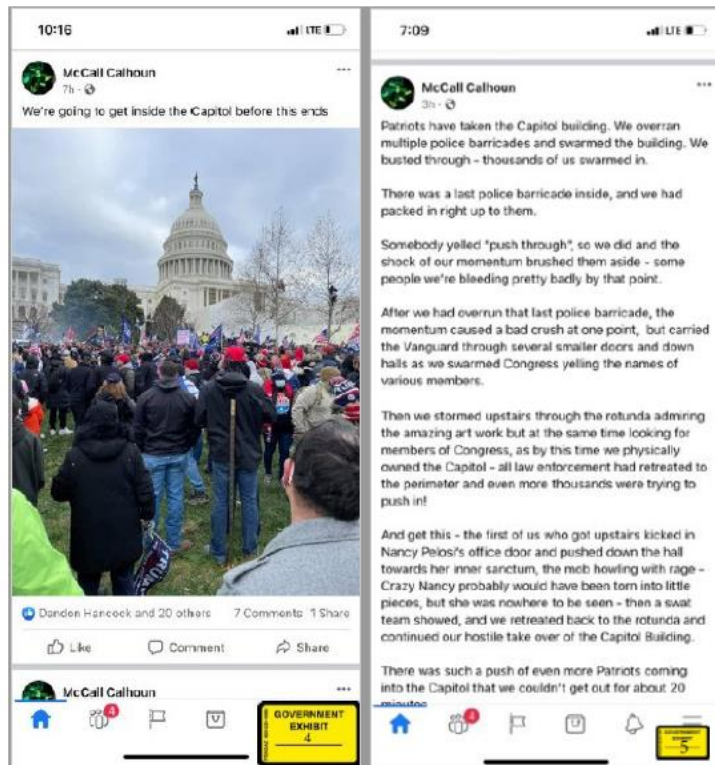
¹¹ Wolfe, Jan, *Four Officers Who Responded to U.S. Capitol Attack Have Died by Suicide*, Reuters (Aug. 2, 2021), available at <https://www.reuters.com/world/us/officer-who-responded-us-capitol-attack-is-third-die-by-suicide-2021-08-02/>.

¹² Schmidt, Michael S.; Broadwater, Luke, *Officers’ Injuries, Including Concussions, Show Scope of Violence at Capitol Riot*, N.Y. Times (Feb. 12, 2021), available at <https://www.nytimes.com/2021/02/11/us/politics/capitol-riot-police-officer-injuries.html>.

¹³ See <https://www.insider.com/all-the-us-capitol-pro-trump-riot-arrests-charges-names-2021-1>.

FACTS GIVING RISE TO COMPLAINT

Mr. Calhoun attended the “stop the steal” rally and on that January 6, 2021, Mr. Calhoun stormed the United States Capitol, attempting to overthrow the United States government.¹⁴



In the leadup to the January 6 insurrection, Mr. Calhoun repeatedly posted threatening messages on social media:

- “Some of you will live long enough to be exterminated with extreme prejudice;”
- “It’s going to be hard to buy a beer when Democrats are being shot on site [sic];”
- “We are going to kill every last communist who stands in Trump’s way;” and
- “As part of the anti-communist counter revolution we’ve got to get serious about stopping them by force of arms”¹⁵

Additionally, he posted a doctored photo of Joe Biden that mentioned hanging him.¹⁶

Mr. Calhoun also posted repeatedly about his intention to participate in the events of January 6, including his desire to “storm the Capitol”:

¹⁴ See Ex. A, Affidavit in Support of Criminal Complaint and Arrest Warrant.

¹⁵ C. Joyner, *Georgia Attorney Among Those Who Broke Into the U.S. Capitol*, The Atlanta Journal-Constitution (Jan. 8, 2021), available at <https://www.ajc.com/news/georgia-attorney-among-those-who-broke-into-the-us-capitol/MF3IWF57WRGHBO2G2GTSZII374/>

¹⁶ *Id.*

Being physically present in Washington on January 6 is of key importance. We the people have no other realistic option to communicate our unwavering intent to demand fair elections now and forever – or else. I’ll see you there!

And:

Headed to D.C. to give the GOP some back bone – to let them know this is their last chance to Stop The Steal – or they are going to have bigger problems than these coddled Antifa burning down their safe spaces. DC announced it is ‘banning guns’ when we storm the Capitol tomorrow. Very illegal. Whether the police can enforce their gun laws depends on how many armed Patriots show up. Ironically, in the long list of firearms and weapons banned by the DC ordinance, tomahawks are not mentioned, meaning there is no prohibition against carrying a tomahawk as long as it is not used offensively! The tomahawk revolution – real 1776.¹⁷

Early on January 6, Mr. Calhoun again made clear his intention to storm the United States Capitol: “We’re going to get inside the Capitol before this ends.”¹⁸

Mr. Calhoun was correct in this assessment, and as the mob breached and overran the Capitol, Mr. Calhoun made a further post recounting his experience during the insurrection:

Patriots have taken the Capitol building. We overran multiple police barricades and swarmed the building. We busted through - thousands of us swarmed in. There was a last police barricade inside, and we had packed in right up to them. Somebody yelled “push through”, so we did and the shock of our momentum brushed them aside - some people we’re [sic] bleeding pretty badly by that point. After we had overrun that last police barricade, the momentum caused a bad crush at one point, but carried the Vanguard through several smaller doors and down halls as we swarmed Congress yelling the names of various members. Then we stormed upstairs through the rotunda admiring the amazing art work but at the same time looking for members of Congress, as by this time we physically owned the Capitol - all law enforcement had retreated to the perimeter and even more thousands were trying to push in!

And get this - the first of us who got upstairs kicked in Nancy Pelosi’s office door and pushed down the hall towards her inner sanctum, the mob howling with rage - Crazy Nancy probably would have been torn into little pieces, but she was nowhere to be seen - then a swat team showed, and we retreated back to the rotunda and continued our hostile takeover of the Capitol Building.¹⁹

¹⁷ See Ex. A,

¹⁸ *Id.*

¹⁹ *Id.*

On January, shortly following the insurrection, Mr. Calhoun posted again expressing pride in the insurrection, despite his clear understanding as to the full extent of his actions:

Today the American People proved that we have the power.

We physically took control of the Capital [sic] building in a hand to hand hostile takeover.

We occupied the Capitol and shut down the Government - we shut down their stolen election shenanigans.

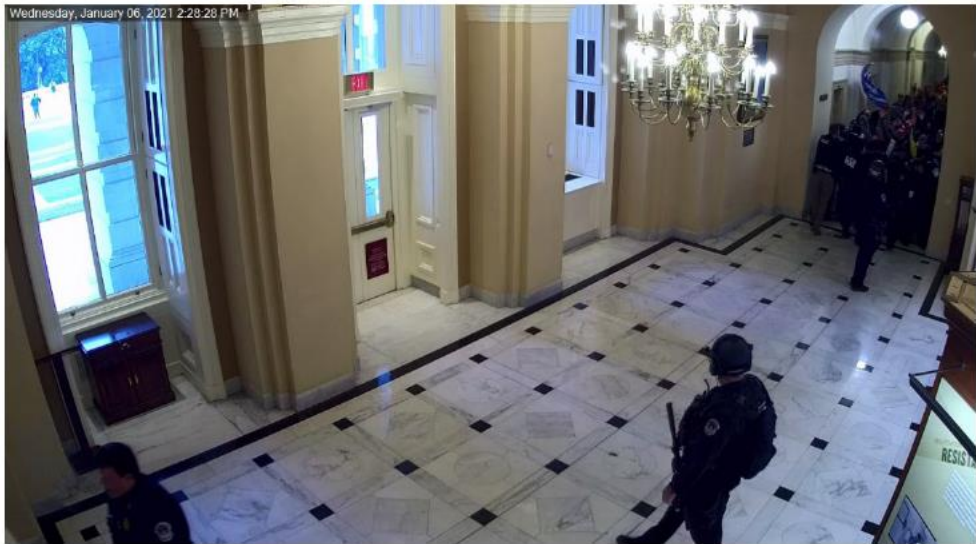
I was there and saw it all. My buddy Andy Nalley and I were in the first two hundred to rush up the steps and inside after the Vanguard had clashed hard with the police and had made them retreat. The military isn't going to save the Democrat Communists. They are done.

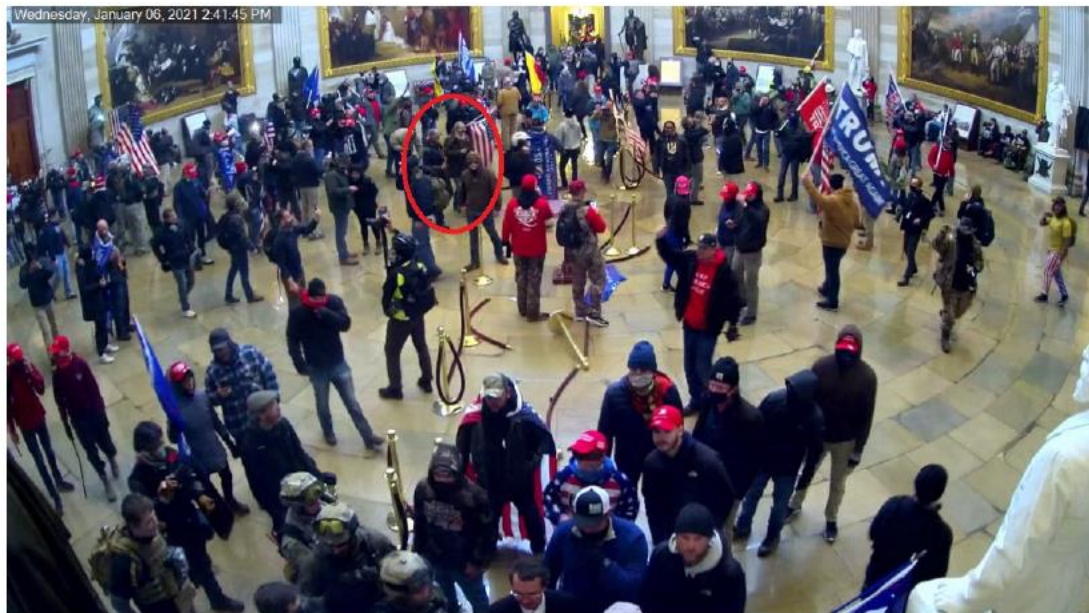
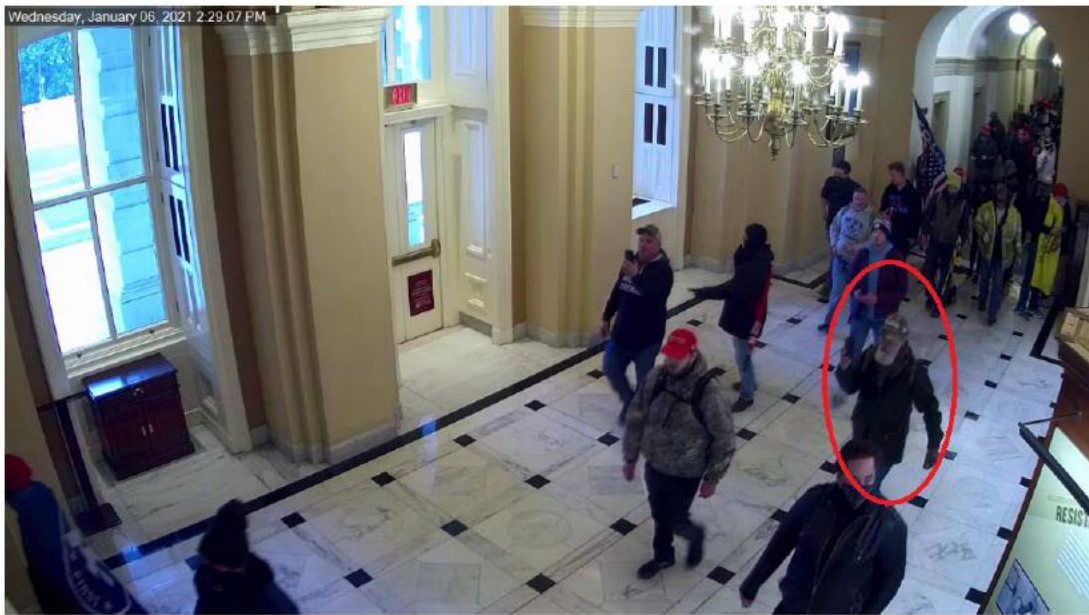
Today we brought our Government to its knees with no weapons. Now we're all going back armed for war and the Deep State is about to get run out of DC.²⁰

Video stills from the insurrection demonstrate that Mr. Calhoun was, indeed, in the first wave of rioters who illegally entered the Capitol.



²⁰ *Id.*





Following January 6, Mr. Calhoun continued to express pride in the insurrection, including in an interview he gave with the Atlanta Journal Constitution in which he attributed the mob's actions to "the love of America."²¹

Due to his participation in the January 6 insurrection, Mr. Calhoun was charged with violating 18 U.S. Code § 1752 ([Entering] Restricted Building or Grounds), 40 U.S. Code § 5104(e)(2) (Violent Entry or Disorderly Conduct), and 18 U.S. Code § 1512 (Tampering with a Witness, Victim, or Informant).

²¹ *Id.*

At a March 5, 2021 hearing, Mr. Calhoun admitted in sworn testimony that he entered the U.S. Capitol on January 6, 2021.²²

APPLICABLE STANDARDS AND RULES OF PROFESSIONAL CONDUCT

Rule 8.4(a) provides that it constitutes professional misconduct to:

- (1) violate or knowingly attempt to violate the Georgia Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through acts of another;
- (2) be convicted of a felony;
- ...
- ...
- (6)
 - i. state an ability to influence improperly a government agency or official by means that violate the Georgia Rules of Professional Conduct or other law;
 - ii. state an ability to achieve results by means that violate the Georgia Rules of Professional Conduct or other law;
 - iii. achieve results by means that violate the Georgia Rules of Professional Conduct or other law;
 - ...
- (8) commit a criminal act that relates to the lawyer's fitness to practice law or reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer, where the lawyer has admitted in *judicio*, the commission of such act.

Finally, the oath and Preamble to the Georgia Rules of Professional Conduct provide the appropriate framework through which Mr. Calhoun's potential misconduct should be viewed. The oath that Mr. Calhoun took to gain admission to the State Bar of Georgia prescribes:

I do solemnly swear that I will conduct myself as an attorney or counselor of the Supreme Court of Georgia, truly and honestly, justly and uprightly, and according to law; and that I will support the Constitution of the State of Georgia and the Constitution of the United States. So help me God.

Additionally, the Preamble to the Georgia Rules of Professional Conduct states, in part:

²² See Government's Supplemental Mem. in Support of Pre-Trial Detention (Mar. 7, 2021), *U.S.A. v. Calhoun*, 1:21-cv-00116.

A lawyer is a representative of clients, an officer of the legal system and a citizen having special responsibility for the quality of justice.

...

A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

A SUBSTANTIAL BASIS EXISTS FOR THE OFFICE OF GENERAL COUNSEL TO INVESTIGATE MR. CALHOUN'S CONDUCT AND TO IMPOSE APPROPRIATE DISCIPLINE

There can be little doubt that, if convicted, Mr. Calhoun should face severe professional consequences for engaging in insurrection. But conviction is not a requirement for the Office of General Counsel to investigate and impose discipline. Mr. Calhoun admitted in judico,²³ as well as in numerous social media posts, that he entered the U.S. Capitol grounds, which constitutes a "criminal act."²⁴ For example, 18 U.S.C. § 1752(a) prohibits "knowingly enters or remains in any restricted building or grounds without lawful authority to do so." Mr. Calhoun has admitted the facts that establish he violated this statute.

Further, under the Code of the District of Columbia, "A riot in the District of Columbia is a public disturbance involving an assemblage of 5 or more persons which by tumultuous and violent conduct or the threat thereof creates grave danger of damage or injury to property or persons."²⁵ A person violates District of Columbia Code by engaging in such conduct.²⁶ Mr. Calhoun has admitted facts which demonstrate he violated D.C. law. Even though he faces federal charges, rather than charges for violating the District of Columbia's Code, Mr. Calhoun nevertheless engaged in a "criminal act."

Additionally, Mr. Calhoun has further admitted in judico that he engaged in these acts in coordination with others. The District of Columbia's criminal conspiracy statute provides:

If 2 or more persons conspire either to commit a criminal offense or to defraud the District of Columbia or any court or agency thereof in any manner or for any purpose, each shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 5 years, or both, except that if the object of the conspiracy is a criminal offense punishable by less than 5 years,

²³ *Id.*

²⁴ 18 U.S. Code § 1752.

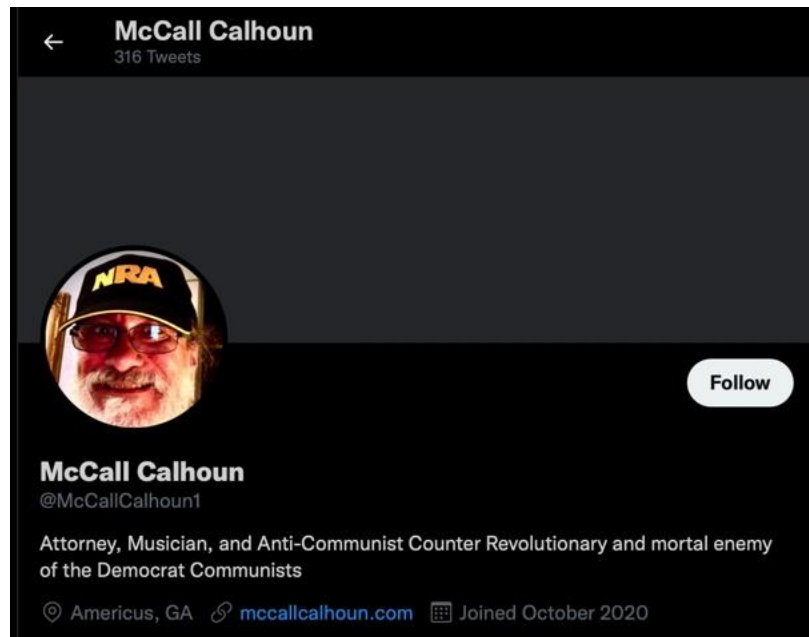
²⁵ C.D.C. § 22-1322(a).

²⁶ C.D.C. § 22-1322(b).

the maximum penalty for the conspiracy shall not exceed the maximum penalty provided for that offense.²⁷

Thus, even without Mr. Calhoun's conviction, the Office of General Counsel has sufficient grounds to investigate Mr. Calhoun's conduct and impose discipline.

Finally, Mr. Calhoun stated repeatedly both before, during, and after participating in the January 6 insurrection that the purpose was to "give the GOP some backbone." Mr. Calhoun's assertions violate Rule 8.4(a)(6) because they state an ability to influence government officials through improper or unlawful means. He also speaks of "exterminating" Democrats, killing communists, and bringing the government to its knees. His target was the U.S. Capitol and there can be no doubt that he was seeking to achieve results that violate the law and the Rules of Professional Conduct. And, through it all, Mr. Calhoun identified himself as an attorney, which further implicates the Rules of Professional Conduct and provides additional basis and urgency for your office to act:



²⁷ C.D.C. § 22-1805(a).



The United States Supreme Court has long recognized in upholding disciplinary actions that “speech by an attorney is subject to greater regulation than speech by others.”²⁸ As officers of the court an attorney is “an intimate and trusted and essential part of the machinery of justice” and a “crucial source of information and opinion.”²⁹ Although attorneys, of course, maintain First Amendment rights, the actions in question here cross far beyond protected speech. Indeed, disciplinary boards and courts considering the conduct of other lawyers involved in the effort to overturn the 2020 election have rejected assertions that the attorneys enjoyed First Amendment protections for their conduct.³⁰

Mr. Calhoun participated in a violent attempt to overthrow the United States government. Putting aside any defenses Mr. Calhoun may offer to avoid conviction, he has already admitted to criminal acts which warrant the Office of General Counsel investigate and impose appropriate discipline. For these reasons, we ask that your office immediately commence such a review.

Sincerely,

Michael Teter
Managing Director, The 65 Project

²⁸ *Ohralik v. Ohio State Bar Assn.*, 436 U.S. 447, 465 (1978).

²⁹ *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1056, 1072 (1991).

³⁰ See *In the Matter of Rudolph W. Giuliani*, Supreme Court of the State of New York Appellate Division, First Judicial Dept., May 3, 2021, available at [https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20\(2021-00506\)%20PC.pdf](https://www.nycourts.gov/courts/ad1/calendar/List_Word/2021/06_Jun/24/PDF/Matter%20of%20Giuliani%20(2021-00506)%20PC.pdf).

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	Case No:
	:	
v.	:	18 U.S.C. § 1752(a)
	:	(Restricted Building or Grounds)
	:	
	:	40 U.S.C. § 5104(e)(2)
WILLIAM MCCALL CALHOUN, JR	:	(Violent Entry or Disorderly Conduct)
Defendant.	:	
	:	18 U.S.C. § 1512(c)(2)
	:	(Tampering With a Witness, Victim, or
	:	an Informant)
	:	
	:	<u>UNDER SEAL</u>
	:	

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT
AND ARREST WARRANT**

I, [REDACTED], being first duly sworn, hereby depose and state as follows:

PURPOSE OF AFFIDAVIT

1. This Affidavit is submitted in support of a Criminal Complaint charging WILLIAM MCCALL CALHOUN, JR. with violations of 18 U.S.C. § 1752(a), 40 U.S.C. § 5104(e), and 18 U.S.C. § 1512(c)(2). I respectfully submit that this Affidavit establishes probable cause to believe that CALHOUN (1) did knowingly enter or remain in any restricted building or grounds without lawful authority, or did knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct; (2) did 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 or either House of Congress, or the orderly conduct in that building of any deliberations of either House of Congress; and (3) corruptly did obstruct, influence, or impede any

a proceeding before the Congress. Specifically, on or about January 6, 2021, CALHOUN traveled to Washington, D.C. and knowingly and willfully joined and encouraged a crowd of individuals who forcibly entered the U.S. Capitol and impeded, disrupted, and disturbed the orderly conduct of business by the United States House of Representatives and the United States Senate.

BACKGROUND OF AFFIANT

2. I have been a Special Agent with the Federal Bureau of Investigation since January, 2018. I am currently assigned to the Atlanta Field Office, Albany Resident Agency of the FBI. As an FBI Agent, I have participated in numerous investigations involving unlawful narcotics distribution, organized crime, bank robberies, threats cases, unlawful firearms cases and other violent criminal offenses. In these investigations, I have been involved in the application for and execution of numerous arrest and search warrants related to the aforementioned criminal offenses. Through my training and experience, I am familiar with the actions, habits, traits, methods, and terminology utilized by violent criminal offenders.

3. Unless otherwise stated, the information in this Affidavit is either personally known to me, has been provided to me by other individuals, or is based on a review of various documents, records, and reports. Because this Affidavit is submitted for the limited purpose of establishing probable cause to support an application for an arrest warrant, it does not contain every fact known by me or the United States. The dates listed in this Affidavit should be read as “on or about” dates.

BACKGROUND

4. 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. Vice President Mike Pence was present and presiding in the Senate chamber.

5. With the joint session underway and with Vice President Mike Pence presiding, a large crowd gathered outside the U.S. Capitol. Temporary and permanent barricades surround 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 approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. At such time, the joint session was 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. 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 session resumed.

**Americus, Georgia Resident McCall Calhoun’s Use of Social Media to
Post Threatening Communications Prior to January 6, 2021**

6. On November 12, 2020, the FBI National Threat Operation Center received a phone call from a concerned citizen who provided information concerning an individual named McCall CALHOUN. The caller stated that CALHOUN is a lawyer who resides in Americus,

Georgia and was making threats on social media platforms to include Facebook, Twitter and Parler. According to the caller, CALHOUN had posted a message encouraging people to storm Washington D.C. and peacefully protest while openly carrying firearms. The caller also read messages CALHOUN had purportedly posted stating:

- a. “some of you will live long enough to be exterminated with extreme prejudice”;
- b. “it’s going to be hard to buy a beer when Democrats are being shot on site [sic];”
and
- c. “we are going to kill every last communist who stands in Trump’s way”

Calhoun’s Use of Social Media to Document his Violent Intention and Participation in Storming the Capitol

7. This investigation began on January 6, 2021, when I was provided with a video CALHOUN had posted on Facebook of himself inside the U.S. Capitol earlier that day. CALHOUN posted a message with the video: “After we had forced our way in but before the cops were rout...” An image of the Facebook post is enclosed as Enclosure 1.

ENCLOSURE 1



8. The FBI subsequently obtained additional messages and images on CALHOUN’s social media pages revealing evidence that CALHOUN intended to and did travel to Washington, D.C. on January 6, 2021, to protest what he believed to be fraud in the 2020 presidential election and to “storm” the Capitol.

9. On December 29, 2020, CALHOUN posted a message to his Parler page that read: “Being physically present in Washington on January 6 is of key importance. We the people have no other realistic option to communicate our unwavering intent to demand fair elections now and forever – or else. I’ll see you there!” That Parler post is enclosed as Enclosure 2.

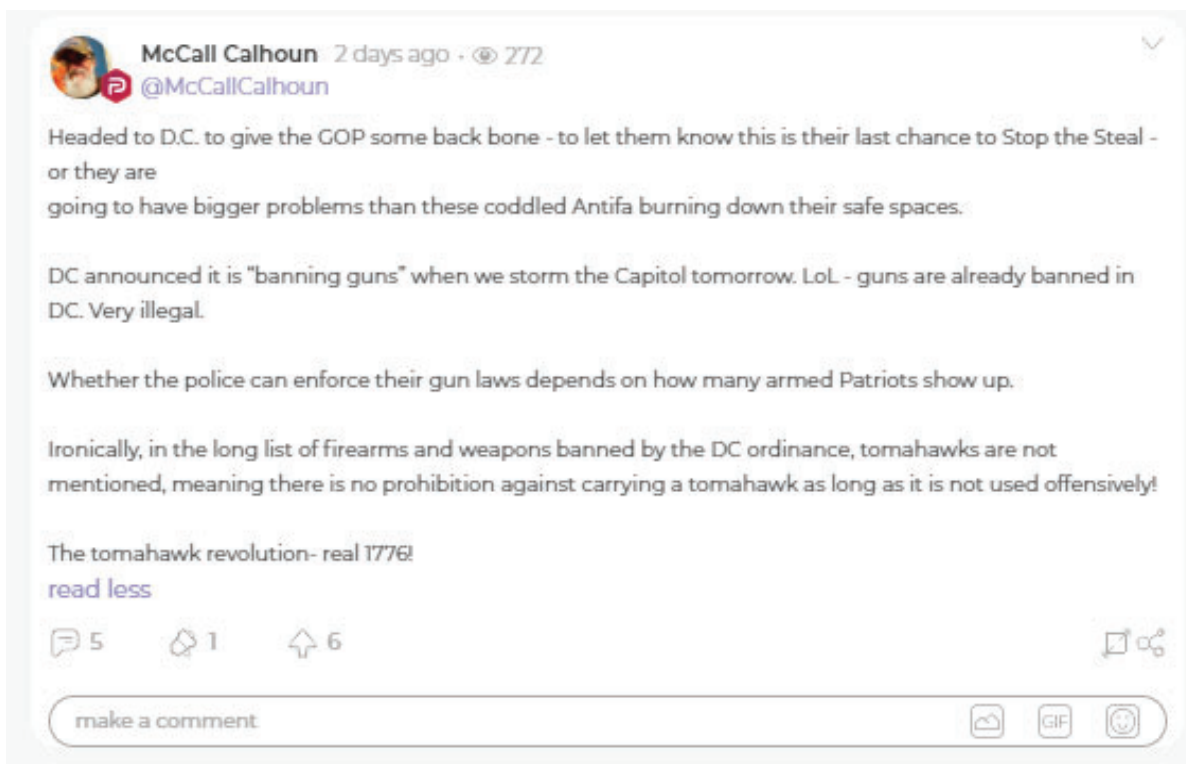
ENCLOSURE 2



10. On January 5, 2021, CALHOUN posted a message on his Parler page that read: “Headed to D.C. to give the GOP some back bone – to let them know this is their last chance to Stop The Steal – or they are going to have bigger problems than these coddled Antifa burning down their safe spaces. DC announced it is ‘banning guns’ when we storm the Capitol tomorrow. Very illegal. Whether the police can enforce their gun laws depends on how many armed Patriots show up. Ironically, in the long list of firearms and weapons banned by the DC ordinance,

tomahawks are not mentioned, meaning there is no prohibition against carrying a tomahawk as long as it is not used offensively! The tomahawk revolution – real 1776.” The Parler post is enclosed as Enclosure 3.

ENCLOSURE 3



11. On January 6, 2021, CALHOUN posted on his Facebook page a photograph from outside the U.S. Capitol with this message: “We’re going to get inside the Capitol before this ends.” That Facebook post is enclosed as Enclosure 4.

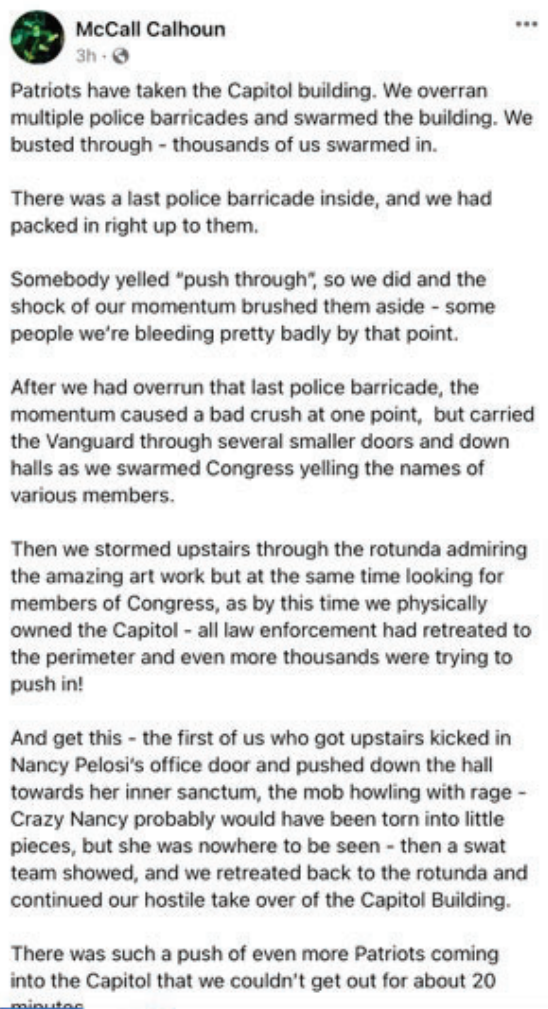
ENCLOSURE 4



12. Near January 6, 2021, CALHOUN also posted a message to Facebook that stated: “Patriots have taken the Capitol Building. We overran multiple police barricades and swarmed the building. We busted through – thousands of us swarmed in.” The message also states that CALHOUN and others pushed through a “police barricade inside” the Capitol, “swarmed Congress yelling the names of various members,” and “stormed upstairs . . . looking for members of Congress, as we physically owned the Capitol” The message also states that “all law enforcement had retreated to the perimeter.” CALHOUN boasted in the message that he was among “the first of us who got upstairs kicked in Nancy Pelosi’s office door and pushed down the

hall toward her inner sanctum.” CALHOUN described this as “the mob howling with rage.” That Facebook post is enclosed as Enclosure 5.

ENCLOSURE 5



13. Near January 6, 2021, CALHOUN posted another Facebook message that stated: “Today the American People proved that we have the power. We physically took control of the Capitol Building in a hand to hand hostile takeover. We occupied the Capitol and shut down the Government – we shut down their stolen election shenanigans.” That Facebook message is enclosed as Enclosure 6.

ENCLOSURE 6



14. CALHOUN posted a photograph on Facebook with the caption: “The rotunda of the Capitol, occupied by the People in a hostile takeover, Jan. 6.” That Facebook post is enclosed as Enclosure 7.

ENCLOSURE 7



Calhoun Admits To His Participation in the Siege at the Capitol In an Atlanta Newspaper Interview

15. On January 8, 2021, the Atlanta Journal Constitution published an article entitled: "AJC EXCLUSIVE: Georgia Attorney Among Those Who Broke Into U.S. Capitol."¹ The title of the article is accompanied by a picture of CALHOUN. The article states, "When hundreds of pro-Trump protesters stunned and horrified the nation by forcing their way into the United States Capitol Wednesday, self-described 'Anti-communist Counter-Revolutionary' McCall Calhoun

¹ <https://www.ajc.com/news/georgia-attorney-among-those-who-broke-into-the-us-capitol/MF3IWF57WRGHBO2G2GTSZII374/> (last accessed January 12, 2021).

was among the first through the doors.” The article quotes CALHOUN's social media messages related to the events of January 6. CALHOUN is quoted: “The crowd was of one mind. Everybody there had the same attitude. They felt they had been robbed of a fair election and the Congress wasn't listening to them[.]” CALHOUN described as the event as “civil disobedience.” He told the paper: “Anyone who claims it was anything other than civil disobedience was not there[.]” In noting CALHOUN’s various posts in the months leading up to the rally warning “of a coming civil war,” the article quotes CALHOUN in an October social media post as stating: “we’ve got to get serious about stopping them by force of arms.” CALHOUN acknowledged, “It probably wasn't the best idea, but it was what this group of people did,” and that, “I would freely admit that I trespassed, but I did it for the love of my country.”

CONCLUSIONS OF AFFIANT

16. Based on the foregoing, your Affiant submits that there is probable cause to believe that CALHOUN violated:

- a. 18 U.S.C. § 1752(a), 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; (3) knowingly, and with the intent to impede or disrupt the orderly conduct of Government business or official functions, obstruct or impede ingress or egress to or from any restricted building or grounds; or (4) knowingly engage in any act of physical violence against any person or property in any restricted building or

grounds; 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 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; and

b. 40 U.S.C. § 5104(e)(2), which makes it a crime for an individual or group of individuals to willfully and knowingly (A) enter or remain on the floor of either House of Congress or in any cloakroom or lobby adjacent to that floor, in the Rayburn Room of the House of Representatives, or in the Marble Room of the Senate, unless authorized to do so pursuant to rules adopted, or an authorization given, by that House; (B) enter or remain in the gallery of either House of Congress in violation of rules governing admission to the gallery adopted by that House or pursuant to an authorization given by that House; (C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of— (i) either House of Congress or a Member, committee, officer, or employee of Congress, or either House of Congress; or (ii) the Library of Congress; (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; (E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings; (F) engage in an act of physical violence

in the Grounds or any of the Capitol Buildings; or (G) parade, demonstrate, or picket in any of the Capitol Buildings.

- c. 18 U.S.C. § 1512(c)(2), which makes it a crime to corruptly obstruct, influence, or impede any official proceeding—to include a proceeding before the Congress--or make an attempt to do so.
17. As such, I respectfully request that the court issue an arrest warrant for CALHOUN.

The statements above are true and accurate to the best of my knowledge and belief.



FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 12 day of January, 2021.

A handwritten signature in blue ink, appearing to read 'Zia M. Faruqui'.



Zia M. Faruqui
2021.01.12 18:07:28
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HON. ZIA M. FARUQUI
U.S. MAGISTRATE JUDGE