

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

HARRY DUNN and DANIEL HODGES,

Plaintiffs,

v.

THOMAS AUSTIN, in his official capacity  
as Architect of The Capitol, and the  
ARCHITECT OF THE CAPITOL,

Defendants.

Case No. \_\_\_\_\_

**COMPLAINT**

1. On January 6, 2021, rioters attacked the United States Capitol in an attempt to stop the certification of the presidential election. Officers from the Metropolitan Police Department and Capitol Police, among others, fought against the mob to stop its advance. They were successful in doing so, preventing most rioters from entering the building, and stopping those who did from capturing or killing the elected officials, staff, and journalists inside. They did so at a terrible personal cost, however: “I thought I was going to lose my life,” Sergeant Aquilino Gonell, who was at the Capitol that day, later said.<sup>1</sup> Hundreds of police were assaulted, and five eventually died.

2. To honor the officers who defended them, in 2022, Congress passed a law directing the Architect of the Capitol to install a memorial listing the names of the officers who

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<sup>1</sup> Whitney Wild and Jeremy Herb, *‘I thought I was going to lose my life’: Capitol Police officers share their harrowing January 6 stories for the first time*, CNN (June 4, 2021), <https://www.cnn.com/2021/06/03/politics/capitol-police-officers-exclusive-interview-january-6/index.html>.

defended the building and those inside. Yet after the law was passed, the politics around January 6, 2021, changed, and many politicians who once spoke plainly about the dangers of that day began to rewrite its history, and minimize the terror of the attack. Four years since Congress passed the law, and three years since the deadline for its installation has lapsed, the memorial has not been put up.

3. Plaintiff Harry Dunn is a former officer of the United States Capitol Police. Plaintiff Daniel Hodges is a current officer of the Metropolitan Police Department. Both men defended the Capitol on January 6, 2021, and risked their lives to do so. They bring this suit to compel Congress to follow its own law and install the mandated memorial, to honor the women and men who saved the lives of those inside the building, and to ensure that the history of this attack on the Capitol—and on democracy—is not forgotten.

#### **PARTIES**

4. Plaintiff Harry Dunn is a former officer of the United States Capitol Police, having served from 2008 to 2023. Plaintiff Daniel Hodges has served as an officer of the Metropolitan Police Department since 2014. Both men defended the Capitol and those inside on January 6, 2021.

5. Defendant Thomas Austin is the “Architect of the Capitol,” and leads the office of the same name. Mr. Austin was selected for the job by a commission of congressional leaders in May, 2024. He is sued in his official capacity.

6. Defendant Architect of the Capitol is a legislative agency responsible for the operation and maintenance of the Capitol and surrounding buildings.

#### **JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction over this dispute, under 28 U.S.C. § 1331, because this action arises under the Constitution and laws of the United States. This Court

likewise has subject matter jurisdiction over this dispute under 28 U.S.C § 1361, the Mandamus Act.

8. This Court is authorized to issue injunctive and declaratory relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202, Federal Rules of Civil Procedure 57 and 65, and the Court’s inherent equitable powers.

9. This Court has personal jurisdiction over the Defendants because the office of the Architect of the Capitol is headquartered in this District.

10. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claim occurred in Washington, D.C.

### **STATEMENT OF FACTS**

#### **I. The Capitol Is Attacked.**

11. On January 6, 2021 (“January 6”), rioters attacked the Capitol and those inside to stop the certification of the 2020 presidential election. Joe Biden had been elected president the previous November, and that victory was set to be certified in a proceeding overseen by then-Vice President Mike Pence. But shortly after noon on January 6, rioters trespassed over the Capitol grounds’ restricted perimeter and tried to break into the building to stop the election’s certification. What ensued was hours of hand-to-hand combat, as police officers tried to prevent the rioters from entering the building and killing elected officials and their staff.

12. The melee began on the Capitol’s west front. Rioters broke down the barriers, made of bike racks, signs, and snow fencing, that delineated the restricted perimeter, and rushed to an interior barrier where a line of Capitol Police officers stood. There the officers, soon joined by reinforcements from the D.C. Metropolitan Police Department, tried to hold the line as an increasingly violent mob worked to push its way through. The conflict escalated, and the mob—already trespassing—turned violent. Rioters assaulted officers, sprayed them with chemicals, and

hit them with pipes, tools, and the bike racks and stolen police equipment that were now strewn about.

13. Sometime after 2:00 P.M., the line of officers was overwhelmed, and the rioters streamed up to the stage that had been built for the inauguration in a few weeks' time, and then to the terrace immediately surrounding the Capitol building. Members of the mob smashed building windows and forced their way inside, opening the doors to let thousands of fellow agitators join. As rioters stalked the halls, staffers, journalists, and members of congress hid in offices, hoping not to be found by people screaming "hang Mike Pence!" and "Where's Nancy [Pelosi]?" The mob eventually forced its way into the Senate chamber, where the Vice President and others had been just minutes before. Triumphant rioters raced to the dais, pumping their fists in celebration. Though, having accomplished their goal, they did not know what to do next, and milled about the chamber as the violence continued outside.

14. Out on the Capitol's west—and later, east—front, officers fought against the advancing mob. Rioters punched police, speared them with flagpoles, attacked them with tasers and stolen riot shields, and tried to drag them into the crowd. For three hours in the enclosed tunnel connecting the Capitol to the inaugural stage, rioters engaged in an almost medieval style of combat, pushing exhausted and outnumbered police to get into the building in a "heave-ho" rhythm, nearly crushing officers as they did. Through all of this, amid the fighting and screaming, flash bangs exploded, fire retardant shot into the air, and chemical spray filled the tunnel. Many officers were injured in this fight to defend this entrance, some gravely.

15. After several hours, Capitol Police and Metropolitan Police Department officers were joined by national guard forces from Virginia, Maryland, and elsewhere, and were finally able to get control of the crowd and expel the mob from the Capitol.

16. Plaintiffs Harry Dunn and Daniel Hodges were among the officers who defended the Capitol that day.

17. Officer Dunn initially mobilized to the Capitol's inaugural stage—sometimes called the “lower west terrace”—where the mob first congregated. From the stage, Dunn saw rioters attack police with flagpoles, bike racks, and thrown objects. Many officers he saw were bloodied, others were screaming, having been blinded by the chemical irritants that had been sprayed at them. Later, after the Capitol building was breached, Dunn repositioned to a stairway inside the Capitol, where he protected injured officers. While inside the building, rioters screamed racial epithets at Dunn (who is Black). One woman, for instance, yelled, “You hear that, guys? This nigger voted for Joe Biden,” after which about 20 other rioters joined in, yelling “Boo, fucking nigger.”

18. Like Dunn, Officer Hodges defended the Capitol's west front. Hodges was (and is) a member of the Metropolitan Police Department, and January 6 was actually his first time at the Capitol. Making his way to the building, he was separated from his platoon, hit from above with a heavy object, kicked in the chest, and driven to the ground. Shortly thereafter a rioter grabbed Hodges by the face and tried to gouge out his eyes. Hodges shook him off, and eventually made his way to the tunnel connecting the Capitol building to the inaugural stage. There, he joined in some of the most furious fighting that day, as police tried to stop the mass of rioters from flooding into the building. In the rushing crowd of the mob, Hodges was nearly crushed between metal doors by the enraged attackers.

19. Many of the other officers who defended the Capitol and the elected officials inside that day did not expect to survive. One officer trapped in the crowd heard rioters scream,

“Kill him with his own gun” as they grabbed ammunition magazines from his belt.<sup>2</sup> Officer Hodges was crushed between a wedge of doors as the mob pushed against them. He later said that he thought, “this could be the end.”<sup>3</sup>

20. In all, Matthew Graves, the U.S. Attorney for the District of Columbia, said January 6 was “likely the largest single-day, mass assault of law enforcement officers in our nation’s history.”<sup>4</sup> Approximately 140 officers were recorded as injured, though that number likely vastly undercounts the number of police who did not report their injuries (among other reasons, in order to keep working on January 6 and the days that followed). One officer—Brian Sicknick—died the following day of a stroke after having been pepper sprayed. Four other officers died by suicide in the months that followed.

## **II. Congress Honors The Officers Who Defended It.**

21. In 2022, the 117th Congress passed a law to create and install a memorial honoring the officers, like Dunn and Hodges, who protected the Capitol and those inside. The law noted that, at the time, members of Congress were deeply grateful to the officers who protected them:

It is the sense of Congress that the United States owes its deepest gratitude to those officers of the United States Capitol Police and the Metropolitan Police Department of the District of Columbia, as well as officers from other Federal, State, and local law enforcement agencies and protective entities, who valiantly protected the United States Capitol, Members of Congress, and staff on January 6, 2021.

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<sup>2</sup> Pierre Thomas *et al.*, ‘Like a medieval battle scene’: Officers recount being attacked by Capitol mob, ABC (Jan. 15, 2021), <https://abcnews.go.com/Politics/medieval-battle-scene-officers-recount-attacked-capitol-mob/story?id=75284175>.

<sup>3</sup> *Id.*

<sup>4</sup> Hannah Rabinowitz *et al.*, *US attorney says untold number of police officers injured while protecting Capitol on January 6*, CNN (Jan. 4, 2024), <https://www.cnn.com/2024/01/04/politics/january-6-prosecutions-justice-department/index.html>.

Pub. L. 117-103 Sec. 214(a).

22. The law further directed that, no later than one year after the enactment of the act, the Architect of the Capitol obtain a plaque listing the names of all officers “who responded to the violence that occurred at the United States Capitol on January 6, 2021.” *Id.* at Sec. 214(b). Officers Dunn and Hodges would have been among those officers.

23. The law additionally required that the plaque—again, no later than one year after the enactment of the act—be placed on the western front of the United States Capitol. *Id.*

24. The law was passed by the House and Senate and signed by the President, and went into effect on March 15, 2022. That was over three years ago.

### **III. The History of January 6 Is Rewritten.**

25. After Congress passed the law, the politics of January 6 began to change. Donald Trump called the attack on the Capitol a “day of love,”<sup>5</sup> and said that “the cops should be charged and the protesters should be freed.”<sup>6</sup> As Trump’s political fortunes rebounded, elected officials began to parrot his claims about the day. Rioters looked like they were on a “normal tourist visit,” Representative Andrew Clyde claimed. The Department of Justice was “harassing peaceful patriots across the country” in its subsequent prosecutions, asserted Representative Paul Gosar. And “It was Trump supporters who lost their lives that day, not Trump supporters who

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<sup>5</sup> Tom Dreisbach, *Donald Trump calls Jan. 6 a “day of love.” Here are the facts.*, CNN (Oct. 29, 2024), <https://www.npr.org/2024/10/29/nx-s1-5159868/2024-election-trump-harris-capitol-riot>.

<sup>6</sup> Tom Dreisbach, *As Trump rewrites history, victims of the Jan. 6 riot say they feel ‘betrayed’*, NPR (Jan. 5, 2025), <https://www.npr.org/2025/01/05/nx-s1-5200594/jan-6-attack-capitol-riot-victims-violence>.

were taking the lives of others,” said Representative Jody Hice.<sup>7</sup> Representative Louie Gohmert even presented to a rioter with a flag that flew over the Capitol, after she was released from prison.<sup>8</sup>

26. Even those who recognized the violence of the day eventually partnered with the man who both inspired and minimized it. On and after January 6, Senators Mitch McConnell<sup>9</sup> and Deb Fischer,<sup>10</sup> and Representatives Mike Johnson,<sup>11</sup> Tom Cole<sup>12</sup> and Bryan Steil<sup>13</sup> all issued

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<sup>7</sup> Mary Clare Jalonick, *What insurrection? Growing number in GOP downplay Jan. 6*, ASSOCIATED PRESS (May 14, 2021), <https://apnews.com/article/politics-michael-pence-donald-trump-election-2020-capitol-siege-549829098c84b9b8de3012673a104a4c>.

<sup>8</sup> Aaron Pellish, *Republican congressman presents convicted January 6 rioter with flag flown over US Capitol after her release from prison*, CNN (Sept. 11, 2022), <https://www.cnn.com/2022/09/10/politics/louie-gohmert-january-6-simone-gold>. The Department of Justice has also attempted to rewrite the history of January 6, among other things by proposing to pay \$5 million to the family of rioter Ashli Babbitt. Michael Kaplan, *Trump administration to pay \$5 million to family of Jan. 6 rioter Ashli Babbitt*, CBS NEWS (May 20, 2025), <https://www.cbsnews.com/news/trump-administration-5-million-ashli-babbitt-jan-6-rioter-who-was-killed/>.

<sup>9</sup> *McConnell Statement on January 6th Anniversary*, OFFICE OF SENATOR JOHN THUNE (Jan. 6, 2022), <https://www.republicanleader.senate.gov/newsroom/press-releases/mcconnell-statement-on-january-6th-anniversary>.

<sup>10</sup> *Fischer: “This Must End Now”*, OFFICE OF SENATOR DEB FISCHER (Jan. 6, 2021), <https://www.fischer.senate.gov/public/index.cfm/2021/1/fischer-this-must-end-now>.

<sup>11</sup> Nicholas Riccardi, *New US House speaker tried to help overturn the 2020 election, raising concerns about the next one*, CNN (Oct. 26, 2023), <https://apnews.com/article/congress-house-speaker-2024-election-certification-8cd7c5a9e6ae69635bbb4624cc78e5c5#>.

<sup>12</sup> *Cole Condemns Lawless Protests at U.S. Capitol*, OFFICE OF CONGRESSMAN TOM COLE (Jan. 6, 2021), <https://cole.house.gov/media/press-releases/cole-condemns-lawless-protests-us-capitol>.

<sup>13</sup> *Steil Statement on U.S. Capitol*, OFFICE OF CONGRESSMAN BRYAN STEIL (Jan. 6, 2021), <https://steil.house.gov/media/press-releases/steil-statement-on-us-capitol>.

statements condemning the violence of that day. All later endorsed or were endorsed by Donald Trump.<sup>14</sup> And all sit on the committee that selected the Architect of the Capitol.<sup>15</sup>

27. While Congress has installed a memorial to other officers who died in a different tragedy,<sup>16</sup> it has not installed the plaque to honor those who defended the Capitol on January 6. Meanwhile, though Congress has not placed the memorial to the officers who protected it, members have managed to honor the man who inspired the violence. Since President Trump's inauguration, bills have been introduced to make his birthday a federal holiday, to rename Dulles

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<sup>14</sup> *President Trump Endorses Congressman Tom Cole*, OFFICE OF CONGRESSMAN TOM COLE (May 7, 2024), <https://tomcolegforcongress.com/president-trump-endorses-congressman-tom-cole/>; Joe Maronski and Alexandra Marquez, *Trump's endorsement on the line in Wisconsin and Connecticut*, NBC NEWS (Aug. 9, 2022), <https://www.nbcnews.com/meet-the-press/meetthepressblog/trumps-endorsement-line-wisconsin-connecticut-rcna42204>; McKenzy Parsons, *Nebraska senator endorses former president Donald Trump after wins in New Hampshire and Iowa caucuses*, KETV (Jan. 23, 2024), <https://www.ketv.com/article/nebraska-senator-endorses-former-president-donald-trump/46512208>; Lisa Mascaro, *McConnell endorses Trump for president. He once blamed Trump for 'disgraceful' Jan. 6, 2021, attack*, ASSOCIATED PRESS (Mar. 6, 2024), <https://apnews.com/article/mitch-mcconnell-endorsement-donald-trump-super-tuesday-422a2ec6f19917b46804b4cf6ee40371>; Morgan Rimmer and Jack Forrest, *House Speaker Mike Johnson endorses Donald Trump for president*, CNN (Nov. 14, 2023), <https://www.cnn.com/2023/11/14/politics/mike-johnson-donald-trump-endorsement-president/index.html>.

<sup>15</sup> *Congressional Commission Announces Architect of the Capitol Appointment*, COMMITTEE ON HOUSE ADMINISTRATION (May 22, 2024), <https://cha.house.gov/press-releases?ID=CCF7D007-7165-459E-A3F0-C7CE2F4A7F52>.

<sup>16</sup> *Chestnut-Gibson Plaque*, ARCHITECT OF THE CAPITOL, <https://www.aoc.gov/explore-capitol-campus/art/chestnut-gibson-plaque> (last visited Apr. 30, 2025); H. Con. Res. 310, 105th Cong. (July 27, 1998) (directing that "The Architect of the Capitol shall place a plaque in honor of the memory of Detective JOHN MICHAEL GIBSON and Private First Class JACOB JOSEPH CHESTNUT of the United States Capitol Police at an appropriate site in the United States Capitol, with the approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.").

International Airport after him, to put his face on the \$100 bill (or to create a new \$250 bill in his honor), and to carve his face into Mount Rushmore.<sup>17</sup>

28. This rewriting of history extends beyond the halls of Congress. Elon Musk, the world's richest man, now claims that January 6 was "in no way a violent insurrection."<sup>18</sup> Joe Rogan, the country's most popular podcaster, claims that "the intelligence agencies were involved in provoking people into the Capitol Building. That's a fact."<sup>19</sup> Greg Gutfeld, the host of the most popular show on the most popular cable channel (Fox) said that January 6 was not a "big deal."<sup>20</sup> And Dan Bongino, once one of America's most popular online commentators, claimed that the FBI was involved in placing pipe bombs around Washington, DC that day.<sup>21</sup> He is now Deputy Director of the FBI.

29. By refusing to follow the law and honor officers as it is required to do, Congress encourages this rewriting of history. It suggests that the officers are not worthy of being recognized, because Congress refuses to recognize them.

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<sup>17</sup> Ben Jacobs and Gregory Svirnovskiy, *An airport, Mount Rushmore and the \$100 bill: Inside the GOP effort to venerate Trump while he's still in office*, POLITICO (Mar. 22, 2025), <https://www.politico.com/news/2025/03/22/trump-honors-still-in-office-republican-bills-00244107>.

<sup>18</sup> 11Alive, *Elon Musk says Jan. 6 was 'in no way a violent insurrection'*, YouTube (Oct. 27, 2024), [https://www.youtube.com/watch?v=S1b\\_zcbKMVk](https://www.youtube.com/watch?v=S1b_zcbKMVk).

<sup>19</sup> Justin Baragona, *Joe Rogan Says It's a 'Fact' That Jan. 6 Was a False Flag, Cites Ray Epps*, YAHOO! (July 31, 2023), <https://www.yahoo.com/entertainment/joe-rogan-says-fact-jan-180044649.html>.

<sup>20</sup> *'Gutfeld!': 'The View' co-host Sunny Hostin called Jan. 6 an 'atrocious?'*, FOX NEWS (Jan. 7, 2025), <https://www.foxnews.com/video/6366798465112>.

<sup>21</sup> Tom Dreisbach and Nick McMillan, *New deputy FBI director Dan Bongino previously called for imprisoning Democrats*, NPR (Mar. 3, 2025), <https://www.npr.org/2025/03/03/nx-s1-5308020/dan-bongino-trump-fbi-director-conspiracies-podcast>.

30. Tellingly, on April 8, 2025, Defendant Thomas Austin stated in a House Appropriations subcommittee hearing that although the plaque honoring the officers has been made, modifications to the House side of the Capitol are directed by the office of the Speaker of the House—Representative Mike Johnson—and that Austin had not received instructions from the Speaker to install the plaque.<sup>22</sup>

31. The practical effect for Officers Dunn and Hodges is very real. Both men live with psychic injuries from that day, compounded by their government’s refusal to recognize their service.

32. For their service on January 6, 2021, Officers Dunn and Hodges have been accused of being “crisis actors,” and left-wing conspiracy agents. Both continue to regularly receive death threats for their advocacy in holding responsible those who attacked them. Officer Dunn has had to fortify security at his home and now carries or has applied to carry a concealed weapon (as a current member of the Metropolitan Police Department, Officer Hodges carries a service weapon). Officer Dunn continues to be called racial epithets, and now finds it impossible to work to protect the members whose lives he helped saved but who, in part, now refuse to recognize his service. And Officer Hodges has been diagnosed with Major Depressive Disorder and Anxiety Adjustment Disorder. As Sergeant Aquilino Gonell, another officer who defended the Capitol on January 6, 2021, later testified, “I’ve done everything that was asked of me . . . . I loved this country and it feels like the country doesn’t love me back.”

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<sup>22</sup> *Budget Hearing – Architect of the Capitol and Library of Congress*, HOUSE COMMITTEE ON APPROPRIATIONS at 31:30-33:41 (Apr. 8, 2025), <https://appropriations.house.gov/schedule/hearings/budget-hearing-architect-capitol-and-library-congress>.

**FIRST CAUSE OF ACTION**  
**VIOLATION OF EQUAL PROTECTION CLAUSE**

33. The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, as incorporated into the Fifth Amendment to the U.S. Constitution, provides in relevant part that the United States shall not deny to any person within its jurisdiction the equal protection of the laws.

34. Defendants' refusal to follow the law arbitrarily discriminates against similarly situated officers.

35. The Architect of the Capitol has previously installed a memorial to officers who died in the line of duty during a separate tragedy. But Defendants have refused to provide a similar memorial, as required by statute, to officers whose sacrifice is now disfavored by the President and certain members of Congress.

36. Plaintiffs have been harmed by this practice and will continue to be harmed until Defendants comply with the law.

37. Thus, pursuant to 28 U.S.C. § 2201, Plaintiffs are entitled to a declaration that the Defendants' action is unlawful.

**SECOND CAUSE OF ACTION**  
**MANDAMUS**

38. By law the Architect of the Capitol was required to obtain a plaque honoring the officers who responded to the attack on the Capitol, and to install the plaque at a permanent location on the western front of the Capitol. Pub. L. 117-103 Sec. 214(b). The Architect was required to do so by March 15, 2024, one year after the relevant law's passage. The Architect has failed to do so.

39. Defendants' actions in obtaining and installing the plaque are official actions.

40. Defendants' duty to obtain and install the plaque is plain and not discretionary.

41. Plaintiffs have the right to the benefit of being honored for their actions, as required by law.

42. Plaintiffs seek to compel Defendants to perform this nondiscretionary duty pursuant to 28 U.S.C. § 1361.

43. There is no alternative means to relief.

**REQUEST FOR RELIEF**

Plaintiffs respectfully pray that this Court:

- a. Require Defendants to obtain and install a plaque to honor the officers who defended the Capitol on January 6, 2021, consistent with Pub. L. 117-103 Sec. 214;
- b. Declare that Defendants' failure to obtain and install a plaque to honor the officers who defended the Capitol on January 6, 2021, is unlawful;
- c. Award attorneys' fees and costs pursuant to 28 U.S.C. § 2412 and any other applicable statute, rule, or regulation; and
- d. Award such other and further relief that the Court may deem just, equitable, and proper.

**DEMAND FOR A JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand trial by jury in this action.

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