

UNITED STATES DISTRICT COURT
for the
District of Columbia

United States of America
v.

DAVID MOERSCHEL



)
) Case: 1:21-mj-00512
) Assigned To : Meriweather, Robin M.
) Assign. Date : 7/1/2021
) Description: COMPLAINT W/ ARREST WARRANT
)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

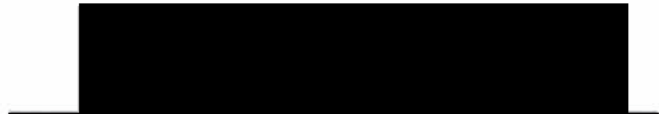
On or about the date(s) of January 6, 2021 in the county of in the
District of Columbia, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Rows include 18 U.S.C. 371 (Conspiracy), 18 U.S.C. 1512(c)(2) (Obstruction of Justice/Congress), and 18 U.S.C. 1752(a) (Unlawful Entry into Restricted Buildings or Grounds).

This criminal complaint is based on these facts:

See attached statement of facts.

Continued on the attached sheet.



Complainant's signature



Task Force Office, FBI

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
Telephone (specify reliable electronic means).

Date: 07/01/2021



2021.07.01
16:45:00 -04'00'

Judge's signature

City and state: Washington, D.C.

Robin M. Meriweather, U.S. Magistrate Judge

Printed name and title

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

UNITED STATES OF AMERICA)

v.)

DAVID MOERSCHEL,)

Defendant.)

Case: 1:21-mj-00512

Assigned To : Meriweather, Robin M.

Assign. Date : 7/1/2021

Description: COMPLAINT W/ ARREST WARRANT

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

I, [REDACTED] being duly sworn, affirm and state:

INTRODUCTION

1. I am a Task Force Officer assigned to Federal Bureau of Investigation (FBI) / Joint Terrorism Task Force (JTTF). I am assigned to the Tampa Field Office / Fort Myers Resident Agency. I have been in this position since August 2018. In my current duties I am responsible for investigating individuals engaging in Domestic and International Terrorism. Since my time with the FBI I have led and participated in investigations of criminal violations of federal laws including, but not limited to Bomb Threats and providing material support to terrorists. I have participated in the execution of search warrants involving violent crimes, fraud, drug or computer related offenses, and the search of digital devices. Currently, I am tasked with investigating criminal activity in and around the Capitol grounds on January 6, 2021. As a Task Force Officer, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws.

2. This affidavit is submitted for the purpose of establishing probable cause. The facts in this affidavit are based on my investigation, personal observations, training, and experience, as well as information conveyed to me by other law enforcement officials. Because this affidavit is limited in purpose, it is not intended to include each and every fact and matter observed by me or known to the United States.

PURPOSE OF AFFIDAVIT

3. This affidavit is submitted in support of a criminal complaint charging the defendant, David Moerschel, with one count of Obstruction of Justice/Congress, in violation of Title 18, United States Code, Section 1512(c)(2); one count of Conspiracy, in violation of Title 18, United States Code, Section 371; and one count of Unlawful Entry into Restricted Buildings or Grounds, in violation of Title 18, United States Code, Section 1752(a). This affidavit is also submitted in support of an arrest warrant for Moerschel.

STATEMENT OF FACTS

Background

4. The U.S. Capitol Police (USCP), the FBI, and assisting law enforcement agencies are investigating a riot and related offenses that occurred at the United States Capitol Building, located at 1 First Street, NW, Washington, D.C., 20510 on January 6, 2021.

The 2020 United States Presidential Election and the Official Proceeding on January 6, 2021

5. The 2020 United States Presidential Election occurred on November 3, 2020.

6. The United States Electoral College is a group required by the Constitution to form every four years for the sole purpose of electing the president and vice president, with each state appointing its own electors in a number equal to the size of that state's Congressional delegation.

7. On December 14, 2020, the presidential electors of the U.S. Electoral College met in the state capital of each state and in the District of Columbia and formalized the result of the 2020 U.S. Presidential Election: Joseph R. Biden Jr. and Kamala D. Harris were declared to have won sufficient votes to be elected the next president and vice president of the United States.

8. On or about December 19, 2020, President Donald J. Trump tweeted, “Statistically impossible to have lost the 2020 Election. Big protest in D.C. on January 6th. Be there, will be wild!”

9. On January 6, 2021, a Joint Session of the United States House of Representatives and the United States Senate (“the Joint Session”) convened in the United States Capitol building (the “Capitol” or the “U.S. Capitol”) to certify the vote of the Electoral College of the 2020 U.S. Presidential Election (the “Certification”).

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

10. The Capitol is secured 24 hours a day by United States 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.

11. On January 6, 2021, at approximately 1:00 p.m., the Joint Session convened in the Capitol building to certify the Electoral College vote. Vice President Michael R. Pence, in his constitutional duty as President of the Senate, presided over the Joint Session.

12. A large crowd began to gather outside the Capitol perimeter as the Joint Session got underway. 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. Other crowd members encouraged and otherwise assisted the forced entry. 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.

13. 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.

14. 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 had remained hidden within the Capitol building throughout these events.

15. In the course of these events, approximately 81 members of the Capitol Police and 58 members of the Metropolitan Police Department were assaulted. Additionally, many media members were assaulted and had cameras and other news-gathering equipment destroyed, and the Capitol suffered millions of dollars in damage—including broken windows and doors, graffiti, and residue of various pepper sprays, tear gas, and fire extinguishers deployed both by crowd members who stormed the Capitol and by Capitol Police officers trying to restore order.

Facts Specific to This Application

The Oath Keepers Organization

16. Law enforcement and news-media organizations observed that members of an organization known as the Oath Keepers were among the individuals and groups who forcibly entered the Capitol on January 6, 2021. 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 believe that the federal government has been coopted by a cabal of elites actively trying to strip American citizens of their rights. Though the Oath Keepers will accept anyone as members, they explicitly focus on recruiting current and former military, law enforcement, and first-responder personnel. 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." The Oath Keepers are led by Person One.

17. In a widely disseminated video¹ recorded by a photojournalist on January 6, 2021, a "stack" of individuals dressed in matching uniforms consisting of camouflaged-combat attire, to include confirmed Oath Keeper members (further described below), moves up and through a crowd on the east side of the U.S. Capitol.

18. Based on my training and experience, a stack or line formation is a tactical formation used by infantryman in the military. One defining feature of this formation is that members keep their hands on the backs or vests of the person in front of them to remain together while entering a room or weaving through a crowd. The purpose of maintaining direct physical contact with one another is to efficiently communicate with one another, especially in crowded or noisy areas.

¹ See <https://apnews.com/article/ex-military-cops-us-capitol-riot-a1cb17201dfddc98291e5badc257/gallery/0ecd1781c66d437f92c61b3f4848a74e> (at slide 10).

19. A service called “News2Share” uploaded to YouTube a video of the January 6, 2021, attack at the Capitol. At the approximate 3-minute-and-8-second mark, the video shows eight-to-ten individuals in matching uniforms consisting of camouflaged-combat attire aggressively approaching an entrance to the Capitol.² These individuals, who are wearing helmets, reinforced vests, and clothing with Oath Keeper logos and insignia, can be seen moving in an organized and practiced fashion and forcing their way to the front of the crowd gathered around a set of doors to the Capitol.

20. A close-up view of the badges on the vest of one of these individuals, seen just under the Oath Keepers emblem on his shirt, displays the Oath Keepers motto, “Not On Our Watch.” The badge also says, “I don’t believe in anything. I’m just here for the violence.”

21. Based on the foregoing observations of the video, and information gained in the course of my investigation, it is reasonable to believe that the organized group of individuals marching to the doors of the Capitol in the video above are members and affiliates of the Oath Keepers.

22. On January 6, 2021, the particular Capitol doors through which this “stack” of Oath Keepers (and other members of the crowd) breached were significantly damaged. Among other damage, multiple panes of glass were smashed, and a door handle was missing or broken off. The damage is estimated at over \$1000.

Coconspirators

23. On May 26, 2021, a federal grand jury in Washington, D.C., handed up a

² See <https://www.youtube.com/watch?v=b76KfHB0QO8&feature=youtu.be>.

superseding indictment in case number 21-CR-00028, charging Jessica Watkins, Donovan Crowl, Thomas Caldwell, Sandra Parker, Bennie Parker, Graydon Young, Laura Steele, Kelly Meggs, Connie Meggs, Kenneth Harrelson, Roberto Minuta, Joshua James, Jonathan Walden, Joseph Hackett, Jason Dolan, and William Isaacs on counts of Conspiracy, in violation of 18 U.S.C. § 371; Obstruction of an Official Proceeding and Aiding and Abetting, in violation of 18 U.S.C. §§ 1512(c)(2), 2; and Restricted Building or Grounds Access, in violation of 18 U.S.C. §§ 1752(a)(1). The indictment also charges some of the defendants with additional related counts, including notably Destruction of Government Property, in violation of 18 U.S.C. § 1361.

24. Watkins, Crowl, Young, Steele, Sandra Parker, Kelly Meggs, Connie Meggs, Harrelson, Hackett, Dolan, and Isaacs were among the “stack” members who breached the east doors of the Capitol and penetrated the Rotunda.

25. Caldwell, who lives in Virginia, provided logistical assistance, including finding the hotel in Northern Virginia where several members of the conspiracy stayed from January 5 through 7, 2021. Caldwell further coordinated with a group of co-conspirators who agreed to serve as a “quick reaction force” (“QRF”) to be prepared to travel to the Capitol in the event they were called upon, possibly while armed.

26. The evidence is that at least some members of the QRF were staged at the Comfort Inn Ballston hotel in Arlington, Virginia. Surveillance video shows known members and affiliates of the Oath Keepers transporting what appear to be rifle cases into the hotel on January 5, 2021, and out of the hotel on January 7, 2021. Defendants Caldwell and Harrelson are two of the several individuals observable on the surveillance video.

27. Records received from Facebook show that, in the weeks preceding the attack,

Kelly Meggs wrote the following messages on Facebook:

- a. On December 22, 2020: “Trump said It’s gonna be wild!!!!!!! It’s gonna be wild!!!!!!! He wants us to make it WILD that’s what he’s saying. He called us all to the Capitol and wants us to make it wild!!! Sir Yes Sir!!! Gentlemen we are heading to DC pack your shit!!”
- b. On December 22, 2020: “Nice, we will have at least 50-100 OK³ there.”
- c. On December 25, 2020: “I was named State lead of Florida today.”
- d. On December 31, 2020: “You guys Gonna carry?” and “Ok we aren’t either, we have a heavy QRF⁴ 10 Min out though.”

David Moerschel

28. David Moerschel is a 43-year-old⁵ resident of Punta Gorda, Florida. As described more fully herein, Moerschel conspired with others known and unknown to forcibly enter the Capitol on January 6, 2021, and to obstruct the Congressional proceeding occurring that day.

29. Pursuant to legal process, the government obtained Signal encrypted message content for a group “OK FL DC OP Jan 6.” This Signal group message appears to have been used by members of the Oath Keepers – including defendants Kelly Meggs, Harrelson, and Watkins – to coordinate in advance of and on January 6, 2021. User “Hatsy” posted in the group on January 5, 2021, among other things, “@ GATOR 6, @ OK Gator 1 when do you want to stop for gas?”

³ Based on the investigation, OK appears to refer to “Oath Keepers.”

⁴ Based on the investigation, QRF appears to refer to a “quick reaction force.”

⁵ The ages listed herein are as of January 6, 2021.

and “@OK Gator 1 or anyone else who knows: what time are you leaving your hotel (the garden inn on 1st) to walk to ellipse? Kraut and I will meet you.” Then, on January 7, 2021 at 6:35 a.m., in response to another user, “Hatsy” wrote: “We have your bag, We will leave it with Kane at the QRF. We are en route there now.” “Hatsy” also wrote: “Anyone else leave anything in the white van? We can leave it for you at QRF.”

30. The Signal group message shows that user “Hatsy” is associated with a particular phone number ending in 5476.

31. Pursuant to legal process, the government obtained records from Republic Wireless Inc, which showed that phone number ending in 5476 is registered to “David Moerschel.”⁶ According to Republic Wireless, the payment method on the account is a MasterCard ending in 6055.

32. Pursuant to legal process, the government obtained records from GoToMeeting of certain online meetings of individuals affiliated with the Oath Keepers. A user with Moerschel’s phone number ending in 5476 attended approximately 17 meetings between September 28, 2020 and January 3, 2021, with meeting session names such as “ok florida,” “florida dc op planning chat,” and “dc planning call.” Defendants Harrelson (as “gator 6”) and Kelly Meggs (as “gator 1”) were two of the three “organizers” of the “dc planning call.”

33. Pursuant to legal process, the government obtained records from Stripe showing that Moerschel made a payment to Oath Keepers, Inc., in September 2020, utilizing a credit card ending in 6055.

⁶ Republic Wireless lists an address for Moerschel in North Carolina that does not appear to be his true address.

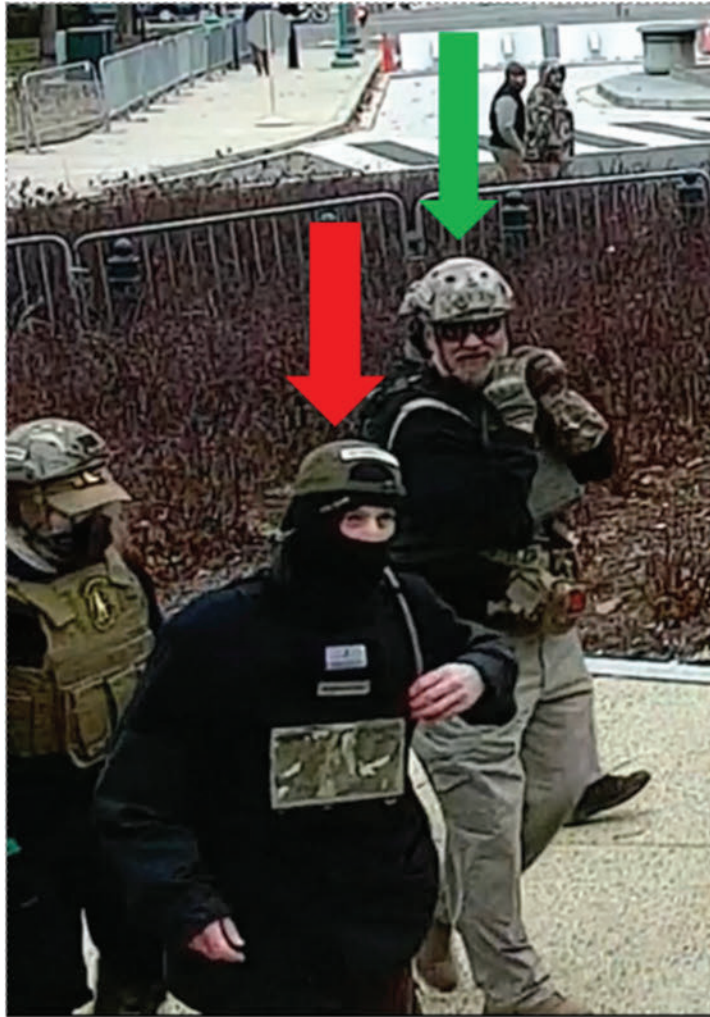
34. Pursuant to legal process, the government obtained records from Citibank showing Moerschel as the owner of the Mastercard debit card ending in 6055. The same records show that the debit card was used to make a purchase at multiple food establishments in Northern Virginia during the period of January 5 to 7, 2021.

35. The Republic Wireless records show that Moerschel's account has a Device ID with an IEMI associated with a Motorola G7 XT1951-4 cell phone. From your affiant's training and experience, I know that the Motorola cell phone is an Android, which runs on Google's operating system.

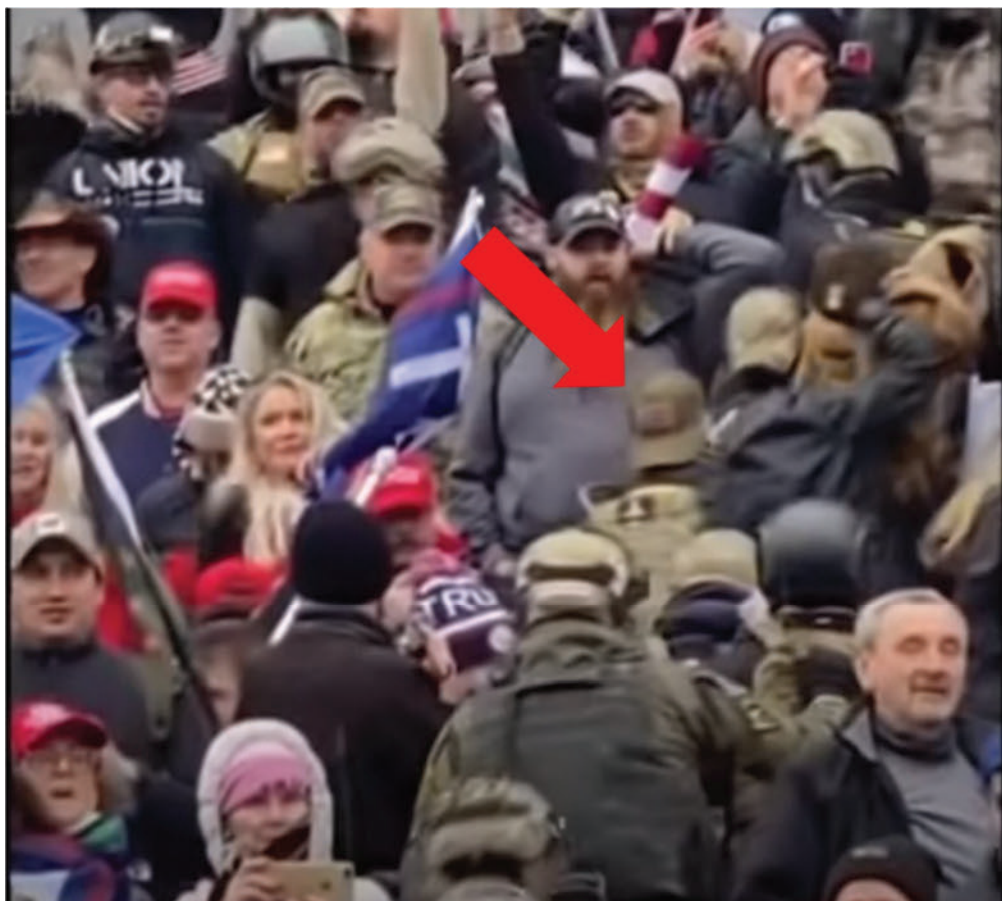
36. From an open source, the FBI received the following photograph of individuals affiliated with the Oath Keepers departing a rally at the Ellipse on the morning of January 6, 2021. The group includes Moerschel (red arrow) and defendants Joseph Hackett (green arrow) and William Isaacs (yellow arrow):



37. Surveillance footage from the exterior of the Capitol shows an individual who appears to be Moerschel (red arrow) with other Oath Keepers, including Kelly Meggs (green arrow), walking towards the eastern façade of the Capitol at 2:27 p.m. Moerschel appears to be wearing a long sleeve black jacket and backwards green baseball cap with an Oath Keepers insignia:



38. AP News footage shows an individual who appears to be Moerschel (red arrow) in the military-style "stack" formation of individuals moving up through the crowd towards the door of the Capitol:



39. Surveillance video from inside the Capitol shows this “stack” of Oath Keepers (and other members of the crowd) shortly after the Capitol’s east Rotunda doors are breached at around 2:40 p.m.:



40. Surveillance video from inside the Capitol on January 6, 2021, also shows a person consistent with Moerschel's appearance, along with other members of the Oath Keepers:



41. From an open source,⁷ the FBI received the following photograph of individuals affiliated with the Oath Keepers outside the U.S. Capitol on January 6, 2021. The group includes Moerschel (red arrow), along with defendants Isaacs (purple), Watkins (yellow), Crowl (green), Steele (orange), Kelly Meggs (blue), and Connie Meggs (white):

⁷ <https://www.nytimes.com/2021/02/19/us/politics/oath-keepers-capitol-riot-plot.html>



42. On June 14, 2021, the FBI recovered from Moerschel's attorney a black flak vest (without Velcro patches) that appears to be consistent with the one Moerschel is wearing in the above photo.

43. FBI agents met Moerschel in person in May 2021 and reported to me that Moerschel appears to be the person depicted in the above photographs at and inside the Capitol.

44. As described above, the government has evidence that several defendants and other individuals stored firearms at the Comfort Inn Ballston in Arlington, Virginia, from January 5 through 7, 2021, and that they referred to this hotel as the "QRF" (or Quick Reaction Force) hotel. Pursuant to legal process, the government obtained surveillance video from the Comfort Inn Ballston on January 7, 2021, showing three individuals wheeling a concierge cart with at least one long gun case onto an elevator. An individual that appears to be Moerschel can be seen wearing a long black jacket. A still frame from the surveillance video is below:



45. On June 14, 2021, the FBI recovered from Moerschel's attorney a black jacket that appears to be consistent with the one Moerschel is wearing in the Comfort Inn surveillance video described above. The FBI also recovered from Moerschel's attorney a black duffel-type bag that appears to be consistent with one of the bags on the cart described above, and firearm case containing a firearm that is of a size to fit within the black duffel-type bag.

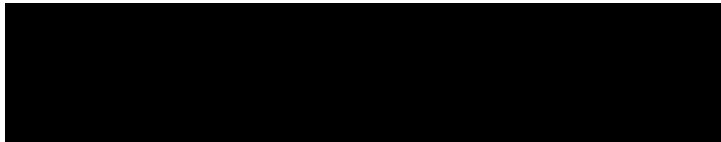
CONCLUSION

46. Based on the foregoing, your affiant submits that there is probable cause to believe that Moerschel 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.

47. Your affiant also submits that there is probable cause to believe that Moerschel violated 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; and (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. 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.

48. Finally, your affiant also submits that there is probable cause to believe that Moerschel violated 18 U.S.C. § 371, which makes it a crime to conspire with others to commit a crime, here, obstruction of justice in violation of 18 U.S.C. § 1512(c)(2).



FEDERAL BUREAU OF INVESTIGATION

ATTESTED TO BY THE APPLICANT IN ACCORDANCE WITH THE REQUIREMENTS OF FED. R. CRIM. P. 4.1 BY TELEPHONE, THIS 1st DAY OF JULY, 2021.

2021.07.01
16:45:29
-04'00'

ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE