

AO 442 (Rev. 11/11) Arrest Warrant

## UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

Cody Mattice

Case No.

21-mj-00622

*Defendant*

## ARREST WARRANT

To: Any authorized law enforcement officer

**YOU ARE COMMANDED** to arrest and bring before a United States magistrate judge without unnecessary delay(name of person to be arrested) Cody Mattice,

who is accused of an offense or violation based on the following document filed with the court:

- ☐ Indictment    ☐ Superseding Indictment    ☐ Information    ☐ Superseding Information    ☒ Complaint  
☐ Probation Violation Petition    ☐ Supervised Release Violation Petition    ☐ Violation Notice    ☐ Order of the Court

This offense is briefly described as follows:

18 U.S.C. §§ 111(a)(1) and (b)- Assaulting, Resisting, or Impeding Certain Officers Using a Dangerous Weapon or Inflicting Bodily Injury 18 U.S.C. § 231(a)(3)- Civil Disorder

18 U.S.C. § 1752(a)(1) and (b)(1)(A)- Entering and Remaining in a Restricted Building or Grounds with a Deadly or Dangerous Weapon

18 U.S.C. § 1752(a)(2) and (b)(1)(A)- Disorderly and Disruptive Conduct in a Restricted Building or Grounds with a Deadly or Dangerous Weapon

18 U.S.C. § 1752(a)(4) and (b)(1)(A)- Engaging in Physical Violence in a Restricted Building or Grounds with a Deadly or Dangerous Weapon

40 U.S.C. § 5104(e)(2)(D)- Disorderly Conduct in a Capitol Building

40 U.S.C. § 5104(e)(2)(F)- Act of Physical Violence in the Capitol Grounds or Buildings

Date: 10/05/2021*[Signature]*

Zia M. Faruqui

2021.10.05

19:00:20 -04'00'

*Issuing signature*City and state: Washington, D.C.Zia M. Faruqui, U.S. Magistrate Judge*Printed name and title*

## Return

This warrant was received on (date) 10/5/21, and the person was arrested on (date) 10/7/21  
at (city and state) Hickory, NY.Date: 10/7/21*[Signature]**Arresting officer's signature*JOHN T. DENZ, Special Agent FBI*Printed name and title*

MIME-Version:1.0  
From:webmaster@nywd.uscourts.gov  
To:Courtmail@nywd.uscourts.gov  
Bcc:  
--Case Participants: Wedade Wendy Abdallah (elizabeth\_bonilla@fd.org, judy\_middleton@fd.org, wedade\_abdallah@fd.org), Brett A. Harvey (anna.sedor@usdoj.gov, brett.harvey@usdoj.gov, kathy.santos@usdoj.gov, patrick.curtin@usdoj.gov, theresa.weir@usdoj.gov), Hon. Mark W. Pedersen (james\_bock@nywd.uscourts.gov, kelly\_pruden@nywd.uscourts.gov, mark\_pedersen@nywd.uscourts.gov, nathan\_jones@nywd.uscourts.gov, victoria\_gleason@nywd.uscourts.gov)  
--Non Case Participants: Email Address for Probation's Pretrial Services Agency (Rochester) (rochpsa\_nywpecf@nywp.uscourts.gov)  
--No Notice Sent:  
  
Message-Id:4978079@nywd.uscourts.gov  
Subject:Activity in Case 6:21-mj-00682-MJP USA v. Mattice Detention Hearing  
Content-Type: text/html

## U.S. DISTRICT COURT

### U.S. District Court, Western District of New York

#### Notice of Electronic Filing

The following transaction was entered on 10/13/2021 at 4:43 PM EDT and filed on 10/12/2021

**Case Name:** USA v. Mattice  
**Case Number:** 6:21-mj-00682-MJP  
**Filer:**  
**Document Number:** 2(No document attached)

#### Docket Text:

**Minute Entry for proceedings held before Hon. Mark W. Pedersen:Detention Hearing as to Cody Mattice held on 10/12/2021. Appearances: Wedade Wendy Abdallah, AFD; Brett A. Harvey, AUSA; Jennifer Cannito, USPO. Govt withdraws it's motion for detention in part as to risk of flight, proceeds only under the basis of danger to the community. Govt proceeds by proffer. Deft provides rebuttal. Govt responds to rebuttal, deft provides sur-rebuttal. Govt requests an opportunity to present to the Court *in camera* additional video evidence in support of their motion for detention. Deft consents on the grounds that they be permitted to view the evidence as well and be provided an opportunity to respond in writing. Detention Hearing to continue 10/15/2021 at 2:00 PM before Hon. Mark W. Pedersen. TIME REMAINS EXCLUDED UNDER 18 U.S.C. § 3161 (h)(1)(D) FOR A PENDING DETENTION MOTION. Deft remains in custody. (Court Reporter FTR Gold.)(JB)**

**6:21-mj-00682-MJP-1 Notice has been electronically mailed to:**

Brett A. Harvey brett.harvey@usdoj.gov, anna.sedor@usdoj.gov, kathy.santos@usdoj.gov, patrick.curtin@usdoj.gov, theresa.weir@usdoj.gov

Wedade Wendy Abdallah wedade\_abdallah@fd.org, elizabeth\_bonilla@fd.org, judy\_middleton@fd.org

**6:21-mj-00682-MJP-1 Notice has been delivered by other means to:**

MIME-Version:1.0  
From:webmaster@nywd.uscourts.gov  
To:Courtmail@nywd.uscourts.gov  
Bcc:  
--Case Participants: Brett A. Harvey (anna.sedor@usdoj.gov, brett.harvey@usdoj.gov, kathy.santos@usdoj.gov, patrick.curtin@usdoj.gov, theresa.weir@usdoj.gov), Wedade Wendy Abdallah (elizabeth\_bonilla@fd.org, judy\_middleton@fd.org, wedade\_abdallah@fd.org), Hon. Mark W. Pedersen (james\_bock@nywd.uscourts.gov, kelly\_pruden@nywd.uscourts.gov, mark\_pedersen@nywd.uscourts.gov, nathan\_jones@nywd.uscourts.gov, victoria\_gleason@nywd.uscourts.gov)  
--Non Case Participants: Email Address for Probation's Pretrial Services Agency (Rochester) (rochpsa\_nywpecf@nywp.uscourts.gov)  
--No Notice Sent:  
  
Message-Id:4974798@nywd.uscourts.gov  
Subject:Activity in Case 6:21-mj-00682-MJP USA v. Mattice Initial Appearance - Rule 5(c)(3)  
Content-Type: text/html

## U.S. DISTRICT COURT

### U.S. District Court, Western District of New York

#### Notice of Electronic Filing

The following transaction was entered on 10/8/2021 at 11:33 AM EDT and filed on 10/7/2021

**Case Name:** USA v. Mattice  
**Case Number:** 6:21-mj-00682-MJP  
**Filer:**  
**Document Number:** 1(No document attached)

#### Docket Text:

**Minute Entry for proceedings held before Hon. Mark W. Pedersen:Initial Appearance in Rule 5(c)(3) Proceedings as to Cody Mattice held on 10/7/2021: Appearances: Wedade Wendy Abdallah, AFD; Brett A. Harvey, AUSA; Jennifer Cannito, USPO. Deft advised of the charges in the District of Columbia and rights under Federal Rules of Criminal Procedure 5 and 5.1. Deft requests Court appointed counsel, Wedade Wendy Abdallah appointed after review of the deft's Financial Affidavit. Govt moves for detention based on risk of flight and danger to the community, signs the AO466A Waiver of Rule 5 and 5.1 Hearings document. The filing of this Waiver document will be held in abeyance until the conclusion of the defendant's requested Detention Hearing. Detention Hearing set for 10/12/2021 at 2:30 PM before Hon. Mark W. Pedersen. TIME EXCLUDED UNDER 18 U.S.C. § 3161 (h)(1)(D) FOR A PENDING DETENTION MOTION. Deft remanded into custody. (Court Reporter FTR Gold.)(JB)**

#### **6:21-mj-00682-MJP-1 Notice has been electronically mailed to:**

Brett A. Harvey brett.harvey@usdoj.gov, anna.sedor@usdoj.gov, kathy.santos@usdoj.gov, patrick.curtin@usdoj.gov, theresa.weir@usdoj.gov

Wedade Wendy Abdallah wedade\_abdallah@fd.org, elizabeth\_bonilla@fd.org, judy\_middleton@fd.org

#### **6:21-mj-00682-MJP-1 Notice has been delivered by other means to:**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

21-MJ-00682-MJP

CODY MATTICE

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**Defendant's Request for Pretrial Release**

Defendant, Cody Mattice, by and through his attorney, Wedade W. Abdallah, Assistant Federal Public Defender, respectfully requests that this Court release Mr. Mattice on whatever conditions it deems necessary to ensure his return to court and safety of the community.

**Background**

Mr. Mattice is before the Court charged with multiple counts arising out of his alleged participation in the activities that occurred at the U.S. Capitol on January 6, 2021. The Criminal Complaint alleges Mr. Mattice traveled from Brockport, New York and participated in the events that unfolded that day. It is alleged that a person purported to be Mr. Mattice removed a police barrier and sprayed a chemical agent at law enforcement. The complaint does not identify the purported chemical agent used.

The complaint does not allege that Mr. Mattice was a leader or organizer of the event or that he is associated with any violent or extremist organizations.

**Mr. Mattice Should Be Released on Conditions**

Mr. Mattice is not a flight risk. He is completely dedicated to his family and his children. He would not do anything that would keep him from his loved ones permanently. He will not flee and will return to court when required.

Mr. Mattice is not a danger to the community. The allegations in the complaint occurred over 9 months ago. Mr. Mattice's strong family ties, strong community ties, his lack of criminal history and his lack of any violent history are all factors that demonstrate that conditions of release should be set for Mr. Mattice. The defense proposes the following conditions:

- (1) The defendant must not violate federal, state, or local law while on release.
- (2) The defendant must cooperate in the collection of a DNA sample if it is authorized by 34 U.S.C. § 40702.
- (3) The defendant must advise the court or the pretrial services office or supervising officer in writing before making any change of residence or telephone number.
- (4) The defendant must appear in court as required and, if convicted, must surrender as directed to serve a sentence that the court may impose.
- (5) The defendant must:
  - (a) submit to supervision by U.S. Pretrial and report for supervision immediately upon release.
  - (b) continue or actively seek employment.
  - (c) continue or start an education program.
  - (d) surrender any passport to the Clerk of the Court.
  - (e) not obtain a passport or other international travel document.
  - (f) not possess a firearm, destructive device, or other weapon.
  - (g) not use alcohol.
  - (h) not use or unlawfully possess a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.
  - (i) submit to testing for a prohibited substance if required by the pretrial services office or supervising officer. Testing may be used with random frequency and may include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must not obstruct, attempt to obstruct, or tamper with the efficiency and accuracy of prohibited substance screening or testing.

(j) participate in a program of inpatient substance abuse therapy and counseling if directed by the pretrial services supervising officer.

(k) participate in the following location restriction program and comply with its requirements as directed:

Home Detention. You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities approved in advance by the pretrial services office or supervising officer.

(l) submit to location monitoring as directed by the pretrial services supervising officer and comply with all of the program requirements and instructions provided.

(m) report within 72 hours to the pretrial services supervising officer every contact with law enforcement personnel, including arrests, questioning, or traffic stops.

(n) submit to the computer internet monitoring program for any internet capable device accessed by the defendant.

### **Applicable Law**

As the Supreme Court has recognized, “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). Excessive bail is prohibited. U.S. Const., amend. VIII. Consistent with this principle and the presumption of innocence,<sup>1</sup> the Bail Reform Act (“BRA”) “generally favors” that a defendant be granted pretrial release. *United States v. Sabhnani*, 493 F.3d 63, 75 (2d Cir. 2007). “In applying the [§ 3142] factors to any particular case... it is only a “limited group of offenders” who should be denied bail pending trial.” *United States v. Shakur*, 817, F.2d 189, 195 (2d Cir. 1987) (citations omitted). Pretrial detainment may not be used as punishment. *Bell v. Wolfish*, 441 U.S. 520, 536-537 (1979); *Salerno*, 481 U.S. at 749. Indeed, the BRA

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<sup>1</sup> See also, *Betterman v. Montana*, 136 S. Ct. 1609, 1614 (2016) (recognizing the constitutional speedy trial right’s implementation of the presumption of innocence by “prevent[ing] undue and oppressive incarceration prior to trial” (internal citations omitted)).

requires that the Court impose the “least restrictive” means of ensuring the appearance of the person and safety to the community. 18 U.S.C. § 3142(c)(1)(B).

In passing the BRA, Congress sought to detain fewer people prior to trial, not more. While fully aware that sentencing exposure is overwhelming for most individuals accused in the federal system, Congress still crafted a law acknowledging that detention is only appropriate for that “small but identifiable group of particularly dangerous defendants.” *United States v. Singleton*, 182 F.3d 7, 13 (D.C. Cir. 1999) (quoting S. Rep. No. 98-225, at 6 (1984)). To further this goal of less pretrial detention, Congress restricted the government’s ability to even request detention. Specifically, the BRA provides that the government may request a bail hearing only if certain conditions in § 3142 are present—e.g., the defendant is charged with a crime of violence, faces a life sentence, death, or a drug offense with a 10-year or greater penalty, or poses a “serious risk” that he will “flee” or “obstruct justice.” *See*, 18 U.S.C. § 3142(f)(1), (2). As the D.C. Circuit has recognized:

Detention until trial is relatively difficult to impose. First, a judicial officer must find one of six circumstances triggering a detention hearing. *See* 18 U.S.C. § 3142(f). Absent one of these circumstances, detention is not an option. *See, e.g., United States v. Ploof*, 851 F.2d 7, 11 (1st Cir. 1988). Second, assuming a hearing is appropriate, the judicial officer must consider several enumerated factors to determine whether conditions short of detention will “reasonably assure the appearance of the person as required and the safety of any other person and the community.” 18 U.S.C. § 3142(g). The judicial officer may order detention if these factors weigh against release.

*Singleton*, 182 F.3d at 9.

“In common parlance, the relevant inquiry is whether the defendant is a ‘flight risk’ or a ‘danger to the community.’” *United States v. Vasquez-Benitez*, 919 F.3d 546, 550 (D.C. Cir.

2019). Under the BRA, pretrial release must be granted unless the accused is a serious flight risk or a danger to the community, and the Court determines release will not reasonably assure the appearance of the person as required, or will endanger the safety of any other person or the community.

In assessing whether pretrial detention or release is warranted, the judicial officer must “take into account the available information concerning” the following four factors: (1) “the nature and circumstances of the offense charged, including whether the offense is a crime of violence”; (2) “the weight of the evidence against the person”; (3) “the history and characteristics of the person, including . . . the person’s character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearances at court proceedings”; and (4) “the nature and seriousness of the danger to any person or the community that would be posed by the person's release.” 18 U.S.C. § 3142(g); *see, United States v. Chrestman*, 525 F. Supp. 3d 14 (D.D.C. Feb. 26, 2021).

The weight of the evidence against the defendant is the least among the detention factors a District Court should consider, because it is counterbalanced by the presumption of innocence. *United States v. Motamedi*, 767 F.2d 1403, 1408 (9th Cir. 1985).

**a. Mr. Mattice is Not a Serious Flight Risk**

Risk of flight under the BRA must be established by a preponderance of the evidence. *United States v. Simkins*, 826 F.2d 94, 96 (D.C. Cir. 1987). Mr. Mattice is 28 years old and has never been convicted of a crime. He has one prior traffic infraction from 2016 for driving while ability impaired. Mr. Mattice has lived in Rochester almost his entire life. He is a graduate of



Brockport High School and is a trained mechanic. He has previously worked at Monroe Muffler and Mavis Tires.

His fiancée, children, parents, grandparents, siblings, aunts, uncles and cousins all reside in the Rochester, New York region. Many of his family members were present at the detention hearing in support of Mr. Mattice. Mr. Mattice is a family man, and stay at home dad. His entire life revolves around his children. Mr. Mattice is in a long-term relationship with his fiancée Ashley Coates. They have known each other since high-school, and have a 4-year-old son together. Ms. Coates is a supervisor in the Surgical Pathology unit at Strong Memorial Hospital. Because she is considered an essential employee, Ms. Coates has worked throughout the pandemic.

During the pandemic, and last school year, Mr. Mattice stayed home with his two children: his 4-year-old son Titus and his 11-year-old daughter, Kylie. Kylie's classes were remote for the 2020 school year. Because Mr. Mattice was home he was able to help her with her schoolwork and logging into her classes each day. Kylie is now back in school full-time. Mr. Mattice has remained at home to raise his son. He spends every day with Titus and also watches his 2-year-old nephew at least three days a week. His daughter Kylie is with him every weekend and some evenings during the week. He is very close to both of his children. Mr. Mattice takes care of the home and kids while his fiancée works. His incarceration makes it difficult for his fiancée to work and take care of her family. The cost of daycare is very expensive; this is among the reasons Mr. Mattice became a stay at home dad.

Mr. Mattice's work history also includes working for his cousin Kyle in 2018. Kyle describes Mr. Mattice as reliable, always putting his best foot forward to provide for his family

and putting in long days, rain or shine. Kyle credits his cousin with helping him to build a successful business.

Mr. Mattice was aware for 9 months that the FBI was arresting people involved in the January 6<sup>th</sup> events at the Capitol. He did not run. Instead, he stayed at his known address with his family. Based on the foregoing it is clear Mr. Mattice is not a risk of flight.

**b. Mr. Mattice does not pose a continuous danger to the community.**

The BRA “requires that detention be supported by ‘clear and convincing evidence’ when the justification is the safety of the community.” *Simkins*, 826 F.2d at 96. This requires a “high degree of certainty.” *United States v. Mercedes*, 254 F.3d 433, 436 (2d Cir. 2001). The government must prove that no condition or combination of conditions will reasonably assure the safety of another person, or the community. 18 U.S.C. § 3142(e).

In support of their motion for detention the government proffered that Mr. Mattice sent and received text messages about the January 6<sup>th</sup> events at the Capitol. The messages were found on a phone seized as a result of a search of Mr. Mattice’s home. The government proffered that Mr. Mattice’s fiancée told the FBI the phone belonged to Mr. Mattice. This was the only allegation proffered by the government connecting Mr. Mattice to the phone. They did not establish that Mr. Mattice used the phone or was the only person to have access to the phone. Therefore, the Court should give little weight to this proffered evidence

Among the messages on the phone was a list of items it is alleged Mr. Mattice’s companions planned to bring to the rally. The message listed “long-sleeves, gloves, knife, batons, pepper spray, ass-kicking boots”. The government alleged these weapons were brought to use against law enforcement. The message could equally establish that these items were brought as means of individual protection against anti-Trump protestors.

It is further alleged Mr. Mattice attempted to assault Capitol police officers by spraying a chemical agent in the direction of where officers were standing. Video footage provided to the Court purports to show Mr. Mattice spraying a substance in the direction of Capitol police. The person alleged to be Mr. Mattice, is holding a canister and pointing it inside of the tunnel for approximately 10 seconds. Shortly after he falls back into the crowd and just stands there.

The complaint further alleged Mr. Mattice identified himself as “Cody from Rochester” in another video and stated, “I’m not trying to fight nobody, I got pushed...”. Mr. Mattice did not attend the rally with the intention of fighting.

Even when dealing with the enormity of the January 6th storming of the Capitol, each detention case must be evaluated on its own circumstances. *Chrestman*, supra at 20; *see also*, e.g., *United States v. Griffin*, No.1:21-cr-00092, Order Setting Conditions of Release, dated Feb. 5, 2021, Doc. 13 (D.D.C. 2021) (pretrial release of a Capitol riot defendant, a leader in a New Mexico organization, “Cowboys for Trump,” who after January 6th posted on social media an intention to return to the Capitol, warning, “there’s gonna be blood running out of that building” (see, Doc. 11, at 2)).

Mr. Mattice did not engage in any advance planning to attack law enforcement. He did not verbally threaten others or advocate political violence either before or after January 6th. He is not a member of any anti-government organizations. In *United States v. Klein*, pretrial release was granted to a Capitol defendant who was alleged to have assaulted officers:

...he does not pose no continuing danger, as he contends, given his demonstrated willingness to use force to advance his personal beliefs over legitimate government objectives. But what future risk he does present can be mitigated with supervision and other strict conditions on his release.

*United States v. Klein*, -F.Supp. 3d at -, 2021(D.D.C. April 12, 2021) WL 1377128, at \*10

In *Klein*, the defendant was charged with a violation of 18 U.S.C. §§ 111(a)(1) and (b). The Court found the government had shown by clear and convincing evidence that Klein employed persistent force against multiple officers, repeatedly pressing a stolen riot shield against them to gain entry into the Capitol building and stop the certification of the election. *Id.* at \*11. Here it is alleged that Mr. Mattice sprayed an unknown chemical agent in the direction where the police were standing. The officers involved appeared to be dressed in riot gear and wearing gas masks.

Similar to *Klein*, the government in this case has not articulated that Mr. Mattice poses any concrete “threat,” now that “the transition [of power] has come and gone.” *Klein, Id.* at 12, citing *United States v. Munchel*, 991 F.3d 1273 at 1288, explaining that defendants’ purported “danger to ‘act against Congress’” required additional justification:

Indeed, while security threats around the Capitol are always present, the specific concerns in the wake of the January 6 events over future protests and violent attacks on the government—on January 20, March 4, and otherwise—have dissipated to some degree now three months later, even though troops and defenses remain present. As the majority emphasized in *Munchel*, the threat to public safety must be continuing and prospective.

*Id.* at 12.

Mr. Mattice should be released. The government has not shown by clear and convincing evidence that no condition or combination of conditions of release could reasonably assure the safety of any other person and the community.

### **Conclusion**

The defense respectfully requests that the Court deny the government’s motion for detention and release Mr. Mattice on conditions.

**DATED:** October 15, 2021  
Rochester, New York

Respectfully submitted,

/s/Wedade W. Abdallah

Wedade W. Abdallah  
Assistant Federal Public Defender  
Federal Public Defender's Office  
28 East Main Street, Suite 400  
Rochester, NY  
(585) 263-2601, (585) 263-5871 (Fax)  
Attorney for Cody Mattice

**TO:** Brett Harvey  
Assistant U.S. Attorney  
Western District of New York

MIME-Version:1.0  
From:webmaster@nywd.uscourts.gov  
To:Courtmail@nywd.uscourts.gov  
Bcc:  
--Case Participants: Wedade Wendy Abdallah (elizabeth\_bonilla@fd.org, judy\_middleton@fd.org, wedade\_abdallah@fd.org), Brett A. Harvey (anna.sedor@usdoj.gov, brett.harvey@usdoj.gov, kathy.santos@usdoj.gov, patrick.curtin@usdoj.gov, theresa.weir@usdoj.gov), Hon. Mark W. Pedersen (james\_bock@nywd.uscourts.gov, kelly\_pruden@nywd.uscourts.gov, mark\_pedersen@nywd.uscourts.gov, nathan\_jones@nywd.uscourts.gov, victoria\_gleason@nywd.uscourts.gov)  
--Non Case Participants: Email Address for Probation's Pretrial Services Agency (Rochester) (rochpsa\_nywpecf@nywp.uscourts.gov)  
--No Notice Sent:  
  
Message-Id:4980656@nywd.uscourts.gov  
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Content-Type: text/html

## U.S. DISTRICT COURT

### U.S. District Court, Western District of New York

#### Notice of Electronic Filing

The following transaction was entered on 10/15/2021 at 2:49 PM EDT and filed on 10/15/2021

**Case Name:** USA v. Mattice  
**Case Number:** 6:21-mj-00682-MJP  
**Filer:**  
**Document Number:** 4(No document attached)

#### Docket Text:

**Minute Entry for proceedings held before Hon. Mark W. Pedersen:Detention Hearing as to Cody Mattice held on 10/15/2021. Appearances: Wedade Wendy Abdallah, AFD; Brett A. Harvey, AUSA; Jennifer Cannito, USPO. After hearing argument from both parties, the Court denies the govt's motion for detention, and determines there are conditions which can be set in order to ensure the deft's return to Court and the safety of the community. Conditions of release read to deft on the record and signed in Court. The govt requests a stay of the Court's release order to allow time for the US Attorney's Office in the District of Columbia to file an emergency stay in their District. This Court stays the release order until 10/18/2021 at 12:00 PM. Should no emergency stay be filed in the District of Columbia by that date and time, the deft is to be released from custody. The Court will refrain from transferring the case to the District of Columbia until either the emergency stay is filed or the time to file an emergency stay has lapsed. Deft remains in custody. (Court Reporter FTR Gold.)(JB)**

#### 6:21-mj-00682-MJP-1 Notice has been electronically mailed to:

Brett A. Harvey brett.harvey@usdoj.gov, anna.sedor@usdoj.gov, kathy.santos@usdoj.gov, patrick.curtin@usdoj.gov, theresa.weir@usdoj.gov

Wedade Wendy Abdallah wedade\_abdallah@fd.org, elizabeth\_bonilla@fd.org, judy\_middleton@fd.org

#### 6:21-mj-00682-MJP-1 Notice has been delivered by other means to:

## UNITED STATES DISTRICT COURT

for the

Western District of New York

United States of America

v.

Cody Mattice

Defendant

ORDER SETTING CONDITIONS  
OF RELEASE

Case Number:

6:21mj 682 (NYWD)  
1:21mj 622 (DCD)

IT IS ORDERED that the release of the defendant is subject to these conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local law while on release in this case.
- (2) The defendant must cooperate in the collection of a DNA sample if the collection is authorized by 42 U.S.C. § 14135a.
- (3) The defendant shall immediately advise the court, defense counsel, U.S. Attorney and the U.S. Probation and Pretrial Services office in writing before any change in address and telephone number.
- (4) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed. The defendant shall appear at (if blank, to be notified)

U.S. District Court, 100 State Street,  
Rochester, New York 14614

on

and as directed thereafter.

Place

Date and Time

## Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (X) (5) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- ( ) (6) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

## Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community.

IT IS FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- ( ) (7) The defendant is placed in the custody of:  
(Name of person or organization): \_\_\_\_\_

(City and state): \_\_\_\_\_ (Tel. No.) \_\_\_\_\_

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or is no longer in the custodian's custody.

Signed: \_\_\_\_\_

Custodian or Proxy

Date

DISTRIBUTION:

COURT

DEFENDANT

PRETRIAL SERVICES

U.S. ATTORNEY

U.S. MARSHAL



## Additional Conditions of Release (continued)

## (8) The defendant shall:

- (X) (a) Report to the Pretrial Services within 24 hours of release, telephone number (585) 263-6810, and as directed thereafter.
- ( ) (b) Execute a bond or an agreement to forfeit upon failing to appear as required the following sum of money or designated property:
- ( ) (c) Post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described:
- ( ) (d) Execute a bail bond with solvent securities in the amount of \$ \_\_\_\_\_
- ( ) (e) Maintain or actively seek employment.
- ( ) (f) Maintain or commence an educational program.
- ( ) (g) Surrender any passport/passport card to: the Clerk of the Court<sup>1</sup>. Surrender other international travel documents to appropriate authorities (i.e. Enhanced Driver's License or NEXUS card).
- (X) (h) Not obtain a passport or other international travel document (i.e. Enhanced Driver's License or NEXUS card).
- (X) (i) Restrict travel to: Western District of New York, unless court permission is granted to travel elsewhere.
- (X) (j) Remain at a verifiable address as approved by Pretrial Services.
- (X) (k) Avoid all contact with codefendants and defendants in related cases unless approved by Pretrial Services.
- ( ) (l) Avoid all contact, directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation or prosecution, including but not limited to:
- ( ) (m) Submit to a mental health evaluation and/or treatment as approved by Pretrial Services. The defendant shall contribute to the cost of services rendered in an amount to be determined by the probation officer based on ability to pay or availability of third party payments.
- ( ) (n) Return to custody each (week)day as of \_\_\_\_\_ after being released each (week)day as of \_\_\_\_\_ for employment, schooling, or the following limited purpose(s): \_\_\_\_\_
- ( ) (o) Maintain residence at a halfway house or community corrections center, as approved by Pretrial Services.
- (X) (p) Refrain from possessing a firearm, destructive device, or other dangerous weapon.
- (X) (q) Refrain from ( ) any ( ) excessive use of alcohol.
- (X) (r) Refrain from any use or unlawful possession of a narcotic drug and other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner, and/or any other mind altering substances.
- (X) (s) Submit to any method of testing required by the pretrial services office or the supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing, including co-payment.
- (X) (t) Participate in a program of inpatient or outpatient substance abuse therapy and counseling approved by Pretrial Services. The defendant shall contribute to the cost of services rendered in an amount to be determined by the probation officer based on ability to pay or availability of third party payments.
- (X) (u) Refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or electronic monitoring which is (are) required as a condition(s) of release.
- ( ) (v)(1) Participate in one of the following location restriction programs and abide by all the requirements of the program which ( ) will or ( ) will not include electronic monitoring or other location verification system: You shall pay all or part of the costs of the program based upon your ability to pay as determined by the officer.
- ( ) (i) **Curfew.** You are restricted to your residence every day ( ) from \_\_\_\_\_ to \_\_\_\_\_, or as directed by the officer.
- ( ) (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities as pre-approved by the officer.
- ( ) (iii) **Home Incarceration.** You are restricted to your residence at all times except for medical needs or treatment, religious services, and court appearances pre-approved by the officer.
- (X) (v)(2) Participate in one of the following location restriction programs and abide by all the requirements of the program which will be monitored by a Global Positioning Satellite system (G.P.S.). You shall pay all or part of the costs of the program based upon your ability to pay as determined by the officer.
- ( ) (i) **Curfew.** You are restricted to your residence every day ( ) from \_\_\_\_\_ to \_\_\_\_\_, or as directed by the officer.
- (X) (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities as pre-approved by the officer.
- ( ) (iii) **Home Incarceration.** You are restricted to your residence at all times except for medical needs or treatment, religious services, and court appearances pre-approved by the officer.
- (X) (w) Report within 72 hours, to Pretrial Services any contact with any law enforcement personnel, including, but not limited to, any arrest, questioning, or traffic stop.
- ( ) (x) Submit to a one-time drug test. If positive, then conditions "r", "s", "t", and "u" are imposed.
- ( ) \_\_\_\_\_

<sup>1</sup>For U.S. Passports, the passport will be returned to the U.S. Office of Passport Policy and Planning upon conviction; For Foreign Passports, the passport will be forwarded to the Bureau of Immigration and Customs Enforcement (ICE); The passport will only be returned to defendant if the case is dismissed.



## Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment, and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim, or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant or officer of the court. The penalties for tampering, retaliating and intimidation are significantly more serious if they involve a killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned for not more than two years, or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned for not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

## Acknowledgment of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

  
\_\_\_\_\_  
Signature of Defendant

Rochester, NY  
\_\_\_\_\_  
City and State

## Directions to United States Marshal

( ) The defendant is ORDERED released after processing.

(✓) The United States Marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: October 15, 2021

  
\_\_\_\_\_  
Signature of Judicial Officer

MARK W. PEDERSEN USMJ  
\_\_\_\_\_  
Name and Title of Judicial Officer

# UNITED STATES DISTRICT COURT

for the  
Western District of New York

United States of America

v.

CODY MATTICE

*Defendant*

Case No. 6:21-MJ-00682-MJP-1

Charging District's Case No. 1:21-MJ-00622

## WAIVER OF RULE 5 & 5.1 HEARINGS (Complaint or Indictment)

I understand that I have been charged in another district, the *(name of other court)*  
DISTRICT OF COLUMBIA

I have been informed of the charges and of my rights to:

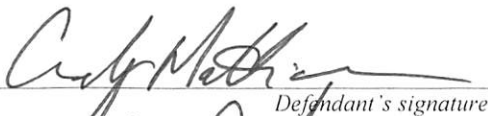
- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) production of the warrant, a certified copy of the warrant, or a reliable electronic copy of either;
- (4) a preliminary hearing to determine whether there is probable cause to believe that an offense has been committed, to be held within 14 days of my first appearance if I am in custody and 21 days otherwise, unless I have been indicted beforehand.
- (5) a hearing on any motion by the government for detention;
- (6) request a transfer of the proceedings to this district under Fed. R. Crim. P. 20, to plead guilty.

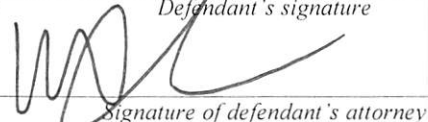
I agree to waive my right(s) to:

- ☒ an identity hearing and production of the warrant.
- ☐ a preliminary hearing.
- ☐ a detention hearing.
- ☒ an identity hearing, production of the judgment, warrant, and warrant application, and any preliminary or detention hearing to which I may be entitled in this district. I request that my ☒ preliminary hearing and/or ☐ detention hearing be held in the prosecuting district, at a time set by that court.

I consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Date: Oct. 7, 2021

  
Defendant's signature

  
Signature of defendant's attorney

Cody Mattice Wade Abdallah  
Printed name of defendant's attorney

# UNITED STATES DISTRICT COURT

for the

Western District of New York

United States of America

v.

CODY MATTICE

*Defendant*

Case No. 6:21-MJ-00682-MJP-1

Charging District's

Case No. 1:21-MJ-00622

## COMMITMENT TO ANOTHER DISTRICT

The defendant has been ordered to appear in the \_\_\_\_\_ District of COLUMBIA,  
(if applicable) \_\_\_\_\_ division. The defendant may need an interpreter for this language:  
\_\_\_\_\_.

The defendant: ☐ will retain an attorney.  
☒ is requesting court-appointed counsel.

The defendant remains in custody after the initial appearance.

**IT IS ORDERED:** The United States marshal must transport the defendant, together with a copy of this order, to the charging district and deliver the defendant to the United States marshal for that district, or to another officer authorized to receive the defendant. The marshal or officer in the charging district should immediately notify the United States attorney and the clerk of court for that district of the defendant's arrival so that further proceedings may be promptly scheduled. The clerk of this district must promptly transmit the papers and any bail to the charging district.

Date:

Oct. 18, 2021



*Judge's signature*

MARK W. PEDERSEN, USMJ

*Printed name and title*

**U.S. DISTRICT COURT**  
**U.S. District Court, Western District of New York (Rochester)**  
**CRIMINAL DOCKET FOR CASE #: 6:21-mj-00682-MJP All Defendants**

Case title: USA v. Mattice

Date Filed: 10/07/2021

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Assigned to: Hon. Mark W. Pedersen

**Defendant (1)**

**Cody Mattice**

represented by **Wedade Wendy Abdallah**  
Federal Public Defender  
28 East Main Street  
Suite 400  
Rochester, NY 14614  
585-263-6201  
Fax: 585-263-5871  
Email: [wedade\\_abdallah@fd.org](mailto:wedade_abdallah@fd.org)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: Public Defender*  
*Appointment*

**Pending Counts**

None

**Disposition**

**Highest Offense Level (Opening)**

None

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

None

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**Disposition**

**Plaintiff**

**USA**

represented by **Brett A. Harvey**  
U.S. Attorney's Office – Rochester  
100 State Street  
Rochester, NY 14614



585-263-6760  
 Fax: 585-263-6226  
 Email: [brett.harvey@usdoj.gov](mailto:brett.harvey@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: government attorney*

Date Filed	#	Page	Docket Text
10/07/2021	1	5	Minute Entry for proceedings held before Hon. Mark W. Pedersen: Initial Appearance in Rule 5(c)(3) Proceedings as to Cody Mattice held on 10/7/2021: Appearances: Wedade Wendy Abdallah, AFD; Brett A. Harvey, AUSA; Jennifer Cannito, USPO. Deft advised of the charges in the District of Columbia and rights under Federal Rules of Criminal Procedure 5 and 5.1. Deft requests Court appointed counsel, Wedade Wendy Abdallah appointed after review of the deft's Financial Affidavit. Govt moves for detention based on risk of flight and danger to the community, signs the AO466A Waiver of Rule 5 and 5.1 Hearings document. The filing of this Waiver document will be held in abeyance until the conclusion of the defendant's requested Detention Hearing. Detention Hearing set for 10/12/2021 at 2:30 PM before Hon. Mark W. Pedersen. TIME EXCLUDED UNDER 18 U.S.C. § 3161 (h)(1)(D) FOR A PENDING DETENTION MOTION. Deft remanded into custody. (Court Reporter FTR Gold.)(JB) (Entered: 10/08/2021)
10/12/2021	2	4	Minute Entry for proceedings held before Hon. Mark W. Pedersen: Detention Hearing as to Cody Mattice held on 10/12/2021. Appearances: Wedade Wendy Abdallah, AFD; Brett A. Harvey, AUSA; Jennifer Cannito, USPO. Govt withdraws its motion for detention in part as to risk of flight, proceeds only under the basis of danger to the community. Govt proceeds by proffer. Deft provides rebuttal. Govt responds to rebuttal, deft provides sur-rebuttal. Govt requests an opportunity to present to the Court <i>in camera</i> additional video evidence in support of their motion for detention. Deft consents on the grounds that they be permitted to view the evidence as well and be provided an opportunity to respond in writing. Detention Hearing to continue 10/15/2021 at 2:00 PM before Hon. Mark W. Pedersen. TIME REMAINS EXCLUDED UNDER 18 U.S.C. § 3161 (h)(1)(D) FOR A PENDING DETENTION MOTION. Deft remains in custody. (Court Reporter FTR Gold.)(JB) (Entered: 10/13/2021)
10/15/2021	<u>3</u>	6	MEMORANDUM IN OPPOSITION to <i>Government's Motion for Detention</i> by Cody Mattice (Abdallah, Wedade) (Entered: 10/15/2021)
10/15/2021	4	16	Minute Entry for proceedings held before Hon. Mark W. Pedersen: Detention Hearing as to Cody Mattice held on 10/15/2021. Appearances: Wedade Wendy Abdallah, AFD; Brett A. Harvey, AUSA; Jennifer Cannito, USPO. After hearing argument from both parties, the Court denies the govt's motion for detention, and determines there are conditions which can be set in order to ensure the deft's return to Court and the safety of the community. Conditions of release read to deft on the record and signed in Court. The govt requests a stay of the Court's release order to allow time for the US Attorney's Office in the District of Columbia to file an emergency stay in their District. This Court stays the release order until 10/18/2021 at 12:00 PM. Should no emergency stay be filed in the District of Columbia by that date and time, the deft is to be released from

			custody. The Court will refrain from transferring the case to the District of Columbia until either the emergency stay is filed or the time to file an emergency stay has lapsed. Deft remains in custody. (Court Reporter FTR Gold.)(JB) (Entered: 10/15/2021)
10/15/2021	<u>5</u>	17	ORDER Setting Conditions of Release as to Cody Mattice (1) Personal Recognizance. Signed by Hon. Mark W. Pedersen on 10/15/2021.(JB) (Entered: 10/15/2021)
10/18/2021	<u>6</u>	20	WAIVER of Rule 5(c)(3) Hearing by Cody Mattice (JB) (Entered: 10/18/2021)
10/18/2021	<u>7</u>	21	COMMITMENT TO ANOTHER DISTRICT as to Cody Mattice. Defendant committed to the District of Columbia. Signed by Hon. Mark W. Pedersen on 10/18/2021.(JB) (Entered: 10/18/2021)
10/18/2021	<u>8</u>		CJA 23 Financial Affidavit by Cody Mattice. (JB) (Entered: 10/18/2021)
10/18/2021	<u>9</u>	22	Arrest Warrant Returned Executed on 10/7/2021 in case as to Cody Mattice. (JB) (Entered: 10/18/2021)