

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

Erik Herrera

Defendant

) Case: 1:21-mj-00556
) Assigned to: Judge Harvey, G. Michael
) Assign Date: 8/6/2021
) Description: COMPLAINT W/ ARREST WARRANT
)

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) Erik Herrera,

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. § 1752(a)(1) - Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority;

40 U.S.C. § 5104(e)(2) - Violent Entry and Disorderly Conduct on Capitol Grounds;

18 U.S.C. § 1512(c)(2) - Obstruction of Justice/Congress.

Date: 08/06/2021


Digitally signed by G.
Michael Harvey
Date: 2021.08.06 14:24:56
-04'00'

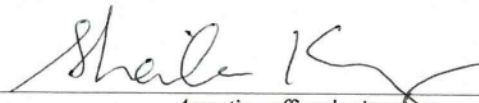
*Issuing officer's signature*City and state: Washington, D.C.

G. Michael Harvey, U.S. Magistrate Judge

Printed name and title

Return

This warrant was received on (date) 08/06/2021, and the person was arrested on (date) 08/19/2021
 at (city and state) Los Angeles, CA.

Date: 08/20/2021

Arresting officer's signature

Sheila Kwong, Special Agent
Printed name and title

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

Southern Division

vs.

Case #: 8:21-MJ-00573

Out of District

Initial App. Date: 08/20/2021

Affidavit

Erik HerreraTime: 2:00 PM

Custody

Defendant.

Date Filed:

Violation: 18 U.S.C. § 1752(a)(1); 40 U.S.C. § 5104
(e)(2); 18 U.S.C. § 1512(c)(2)CourtSmart/Reporter: CS 08/20/2021

**PROCEEDINGS HELD BEFORE UNITED STATES
MAGISTRATE JUDGE: Douglas F. McCormick**

**CALENDAR/PROCEEDINGS SHEET
LOCAL/OUT-OF-DISTRICT CASE**

PRESENT:

Nancy K. Boehme

Melissa Rabbani

/ None

Deputy Clerk

Assistant U.S. Attorney

Interpreter/Language

☒ Court issues Order under Fed. R. Crim. P. 5(f) concerning prosecutor's disclosure obligations; see General Order 21-02 (written order).

☒ Defendant informed of charge and right to: remain silent; appointment of counsel, if indigent; right to bail; bail review and ☒ preliminary hearing

☒ Defendant advised of consequences of false statement in financial affidavit.

☒ Attorney: Jonathan Ogata and ☒ DFPD, and ☒ Appointed

☒ BAIL FIXED AT \$Personal Recognizance (**SEE ATTACHED COPY OF CR-1 BOND FORM FOR CONDITIONS.**)

☒ Defendant executed Waiver of Rights.

☒ Court ORDERS defendant Held to Answer to District of Columbia

☒ Bond to transfer, if bail is posted. Defendant to report on or before 08/27/2021 at 1:00 pm EST by Zoom. Join ZoomGov Meeting <https://uscourts-dcd.zoomgov.com/j/16189525787?pwd=WIh3MUy5VTRZTUFSYXMSREiIN2UvZz09> Meeting ID: 161 8952 5787 Passcode: 860903 One tap mobile +16692545252,,16189525787#,,,,,0#,,860903# US (San Jose) +16468287666,,16189525787#,,,,,0#,,860903# US (New York) Dial by your location +1 669 254 5252 US (San Jose) +1 646 828 7666 US (New York) +1 669 216 1590 US (San Jose) +1 551 285 1373 US Meeting ID: 161 8952 5787 Passcode: 860903

☒ RELEASE ORDER NO: 39797

Deputy Clerk Initials: nb WB
00 : 10

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA		FILED CLERK, U.S. DISTRICT COURT AUG 20 2021 CENTRAL DISTRICT OF CALIFORNIA BY <u>PNZ</u> DEPUTY
UNITED STATES OF AMERICA, v. ERIK HERRERA	CASE NUMBER: 21-MJ-00573	
DEFENDANT.		WAIVER OF RIGHTS (OUT OF DISTRICT CASES)

I understand that charges are pending in the _____ District of _____ Columbia
 alleging violation of 18:1752(a)(1); 40:5104(e)2; 18:1512(c)(2) and that I have been arrested in this district and
 (Title and Section / Probation / Supervised Release)

taken before a United States Magistrate Judge, who has informed me of the charge(s) and my rights to:

- (1) have an identity hearing to determine whether I am the person named in the charges;
- (2) arrival of process;

-Check one only-

☒ **EXCLUDING PROBATION OR SUPERVISED RELEASE CASES:**

- (3) have a preliminary hearing (unless an indictment has been returned or an information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; and
- (4) request transfer of the proceedings to this district under Rule 20, Fed.R.Crim.P., in order to plead guilty.

☐ **PROBATION OR SUPERVISED RELEASE CASES:**

- (3) have a preliminary hearing (if the violation charged allegedly occurred in this district, and I am held in custody solely on that charge) under Rule 32.1(b), Fed.R.Crim.P., to determine whether there is probable cause to believe I have violated the terms of my probation/supervised release.

I HEREBY WAIVE (GIVE UP) MY RIGHT(S) TO:

- ☒ have an identity hearing
- ☒ arrival of process
- ☐ have a preliminary hearing
- ☐ have an identity hearing, and I have been informed that I have no right to a preliminary hearing
- ☒ have an identity hearing, but I request that a preliminary hearing be held in the prosecuting district.

Date: 8/20/21

Defendant

Defense Counsel

United States Magistrate Judge

DOUGLAS F. McCORMICK

I have translated this Waiver to the defendant in the _____ language.

Date: _____

Interpreter(if required)

JONATHAN K. OGATA (Bar No. 325914)
 (E Mail: Jonathan_Ogata@fd.org)
 Deputy Federal Public Defender
 411 West Fourth Street, Suite 7110
 Santa Ana, California 92701-4598
 Telephone: (714) 338-4500; Facsimile: (714) 338-4520



**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

United States of America,

Plaintiff,

v.

Erik Herrera

Defendant.

CASE NUMBER:

8:21-MJ-00573

**ADVISEMENT OF
 DEFENDANT'S STATUTORY &
 CONSTITUTIONAL RIGHTS**

You are in the United States District Court for the Central District of California because you have been charged with a crime against the United States or a violation of probation, supervised release, or pretrial release. The Court informs you that you have the following constitutional and statutory rights in connection with these proceedings:

You have the right to remain silent. Anything you say, sign, or write can be used against you in this or in any other case.

If you have not already received a copy of the charges, you will receive a copy today.

You have the right to hire and be represented by a lawyer of your choosing at each and every stage of these proceedings. If you cannot afford to hire a lawyer, you can apply to the Court to have a lawyer appointed to represent you for free from the office of the Federal Public Defender or the Indigent Defense Panel. The application for free counsel includes a financial affidavit, which you must sign under penalty of perjury. If you say something on the form that is not true or leave out material information, you could be charged with another crime, such as perjury or making a false statement.

If you are not a United States citizen, you may request that the prosecution notify your consular office that you have been arrested. Even without such a request, the law may require the prosecution to do so.

IF YOU ARE MAKING YOUR INITIAL APPEARANCE BEFORE THE COURT

You have a right to a bail hearing in which the Magistrate Judge will determine whether you will be released from custody before trial. If you disagree with the Magistrate Judge's decision, you can appeal that decision to another Judge of this Court. You or the prosecutor can request that the bail hearing be continued to another day.

If you have been charged by complaint, you are entitled to a preliminary hearing within 14 days if the Magistrate Judge orders that you be detained pending trial, or 21 days if the Magistrate Judge orders that you be released pending trial. In a preliminary hearing, the prosecution will attempt to show that there is probable cause to believe that you committed the crime charged in the complaint. You will not be entitled to a preliminary hearing, however, if the prosecution obtains an indictment in your case before the time set for the preliminary hearing. (Most often, the prosecutors in the Central District of California present their cases to the grand jury before the time set for the preliminary hearing and, therefore, no preliminary hearing is held.)

**IF YOU ARE CHARGED WITH A VIOLATION OF
 YOUR CONDITIONS OF SUPERVISED RELEASE OR PROBATION**

If you are charged with a violation of the terms and conditions of your supervised release or probation and the Magistrate Judge detains you, you have the right to a preliminary hearing before a Magistrate Judge.

IF YOU ARE CHARGED IN ANOTHER DISTRICT

If you have been arrested on a charge from another district, you are entitled to wait until the prosecution produces a copy of the warrant authorizing your arrest. You are also entitled to an identity hearing in which the prosecution would have the burden of proving there is probable cause to believe that you are the person named in the charges. If you are charged in a complaint from another district, you may request to have a preliminary hearing held in the charging district. If you are charged with a violation of a term of supervised release or probation imposed in another district, you have a right to a preliminary hearing, which may, depending on where the alleged violation occurred, be held either here or in the charging district.

If you want to plead guilty in the Central District of California, you may request to have your case transferred to this district. To proceed in this district, the United States Attorneys for this district and the charging district must agree to the transfer.

IF YOU ARE APPEARING FOR ARRAIGNMENT

If you have been charged by indictment or information, you will be arraigned and may be asked to enter a not guilty plea today. After your arraignment, your case will be assigned to a District Judge of this Court for all further proceedings, unless a Judge has already been assigned.

You are entitled to a speedy and public trial by jury. The right to a jury trial can be waived.

You are entitled to see and hear the evidence and cross-examine the witnesses against you. You are entitled to the processes of the Court to subpoena witnesses on your behalf without cost to you if you are indigent. You do not have to prove your innocence. The prosecution has the burden to prove your guilt beyond a reasonable doubt.

ACKNOWLEDGMENT OF DEFENDANT:

I have read the above Advisement of Rights and understand it. I do not require a translation of this statement nor do I require an interpreter for court proceedings.

Dated: 8/20/21

Signature of Defendant

[or]

I have personally heard a translation in the _____ language read to me and understand the above Advisement of Rights.

Dated: 8/20/21

Signature of Defendant

STATEMENT OF THE INTERPRETER:

I have translated this Advisement of Rights to the Defendant in the _____ language.

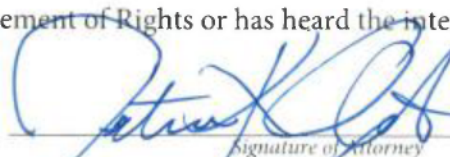
Dated: _____

Signature of Interpreter

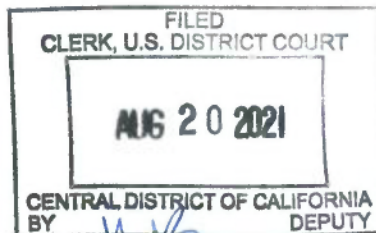
Print Name of Interpreter

STATEMENT OF COUNSEL:

I am satisfied that the defendant has read this Advisement of Rights or has heard the interpretation thereof and that he/she understands it.

Dated: 8/20/2021

Signature of Attorney



**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

PLAINTIFF

v.

CASE NUMBER:

21-MJ-00573-DutyErik Herrera

DEFENDANT.

**DECLARATION RE PASSPORT AND
OTHER TRAVEL DOCUMENTS**

I,  Erik Herrera, declare that
(Defendant/Material Witness)

- ☐ I have never been issued any passport or other travel document by any country. I will not apply for a passport or other travel document during the pendency of this case.
- ☒ I have been issued a passport or other travel document(s). I will surrender my passport and all other travel document(s) issued to me to the U.S. Pretrial Services Agency by the deadline imposed. I will not apply for a passport or other travel document during the pendency of this case.
- ☐ I am unable to locate my passport(s) or other travel document(s). If I locate any passport or other travel document issued to me, I will immediately surrender it to the U.S. Pretrial Services Agency. I will not apply for a passport or other travel document during the pendency of this case.
- ☐ My passport and all other travel documents issued to me are in the possession of federal authorities. If any such document is returned to me during the pendency of this case, I will immediately surrender it to the U.S. Pretrial Services Agency. I will not apply for a passport or other travel document during the pendency of this case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20 day of AUGUST, 2021
at SANTANA
(City and State)

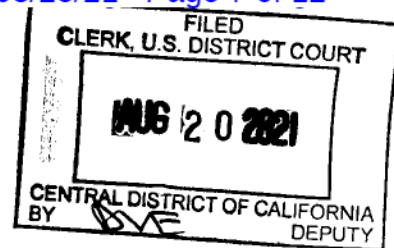

Signature of Defendant/Material Witness

If the declarant is not an English speaker, include the following:

I, _____, am fluent in written and spoken English and _____
languages. I accurately translated this form from English into _____
to declarant _____ on this date.

Date: _____

Interpreter



Submit this form by e-mail to:

CrimIntakeCourtDocs-LA@cacd.uscourts.gov For Los Angeles criminal duty.

CrimIntakeCourtDocs-SA@cacd.uscourts.gov For Santa Ana criminal duty.

CrimIntakeCourtDocs-RS@cacd.uscourts.gov For Riverside criminal duty.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA

V.

PLAINTIFF

ERIK HERRERA

USMS#

DEFENDANT

CASE NUMBER: 8-21-MJ-00573-DUTY

~~1-21-MJ-00556~~

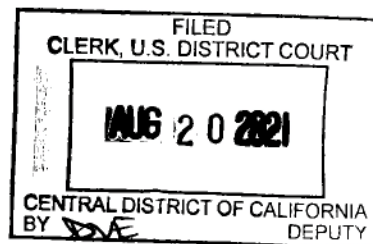
**REPORT COMMENCING CRIMINAL
ACTION**

TO: CLERK'S OFFICE, U.S. DISTRICT COURT

All areas must be completed. Any area not applicable or unknown should indicate "N/A".

- The defendant was arrested in this district on 8/19 at 5:00 ☐ AM ☒ PM
or
The defendant was arrested in the _____ District of _____ on _____ at _____ ☐ AM ☐ PM
- The above named defendant is currently hospitalized and cannot be transported to court for arraignment or any other preliminary proceeding: ☐ Yes ☒ No
- Defendant is in U.S. Marshals Service lock-up (in this court building): ☒ Yes ☐ No
- Charges under which defendant has been booked:
18 USC § 1752 (a)(1), 40 USC § 5104 (e)(2), 18 USC § 1512 (c)(2)
- Offense charged is a: ☐ Felony ☐ Minor Offense ☐ Petty Offense ☐ Other Misdemeanor
- Interpreter Required: ☒ No ☐ Yes Language: /
- Year of Birth: 1987
- Defendant has retained counsel: ☐ No
☐ Yes Name: _____ Phone Number: _____
- Name of Pretrial Services Officer notified: DUTY - CAL PT - CAL PCA CP. USCOURTS. EOV
- Remarks (if any): _____
- Name: SA BRADEN BALLANTYNE (please print)
- Office Phone Number: 714-939-3312
- Agency: FBI
- Signature: B. Ballantyne
- Date: 8/20/21

Reset Form



**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA PLAINTIFF(S)
v.

CASE NUMBER 8:21-MJ-00573-DUTY

1:21-mj-00556

ERIK HERREMA

DEPENDANT(S).

**DECLARATION RE
OUT-OF-DISTRICT WARRANT**

The above-named defendant was charged by: US DISTRICT COURT
in the _____ District of COLUMBIA on 8/6/21
at _____ ☐ a.m. / ☐ p.m. The offense was allegedly committed on or about 1/6/21
in violation of Title 18 / 46 U.S.C., Section(s) 1752(a)(1), 1512(c)(2) / 5104(e)
to wit: _____

A warrant for defendant's arrest was issued by: JUDGE G. MICHAEL HARVEY

Bond of \$ _____ was ☐ set / ☐ recommended.

Type of Bond:

Relevant document(s) on hand (attach): STATEMENT OF FACTS, COMPLAINT

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8/19/21
Date

B. Ballantine
Signature of Agent

BRADEN BALLANTINE
Print Name of Agent

FBI
Agency

SPECIAL AGENT
Title

United States Probation & Pretrial Services

United States District Court
Central District of California

Kiry K. Gray
District Court Executive / Clerk of Court



Jeffrey Thomason
Acting Chief Probation & Pretrial Services Officer

PACTS No: 7580151

Passport Receipt

Defendant Name: Herrera, Erik
Name on passport, if different:
Country of Origin: United States of America
Date passport issued: March 17, 2017
Expiration date of passport: March 16, 2027
Ordered by court in the Central District of California or
Docket Number: 8:21-00573M-1



Erik Herrera

Surrendered By

August 25, 2021

Date

Gabriel Barrera

Received By

August 25, 2021

Date

Returned To

Date

Returned By

Date

Purpose Returned

Address (if mailed)

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CLOSED,PASPR

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Southern Division - Santa Ana)
CRIMINAL DOCKET FOR CASE #: 8:21-mj-00573-DUTY All Defendants**

Case title: USA v. Herrera

Date Filed: 08/20/2021

Other court case number: 1:21MJ556 District of Columbia

Date Terminated: 08/20/2021

Assigned to: Duty Magistrate Judge

Defendant (1)

Erik Herrera

TERMINATED: 08/20/2021

represented by **Jonathan K. Ogata**

Federal Public Defenders Office

Santa Ana Division

411 West 4th Street Suite 7110

Santa Ana, CA 92701

714-338-4521

Fax: 714-338-4520

Email: jonathan_ogata@fd.org

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: Public Defender or

Community Defender Appointment

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

Plaintiff

USA

represented by **Assistant 2241-2255 US Attorney SA-CR**
AUSA - Office of US Attorney
Criminal Division
411 W 4th St, Ste 8000
Santa Ana, CA 92701-4599
714-338-3500
Email: USACAC.SACriminal@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Date Filed	#	Docket Text
08/20/2021	1	AFFIDAVIT RE: OUT-OF-DISTRICT WARRANT (Rule 5(c)(3)) filed as to defendant Erik Herrera, originating in the District of Columbia. Defendant charged in violation of: 18:1752. Signed by agent Brade Ballantyne, FBI, Special Agent. USA. (mhe) (Entered: 08/25/2021)
08/20/2021	2	REPORT COMMENCING CRIMINAL ACTION as to Defendant Erik Herrera; defendants Year of Birth: 1987; date of arrest: 8/19/2021 (mhe) (Entered: 08/25/2021)
08/20/2021	3	MINUTES OF ARREST ON OUT OF DISTRICT WARRANT held before Magistrate Judge Douglas F. McCormick as to Defendant Erik Herrera. Court issues Order under Fed. R. Crim. P. 5(f) concerning prosecutors disclosure obligations; see General Order 21-02 (written order). Defendant arraigned and states true name is as charged. Attorney: Jonathan K. Ogata for Erik Herrera, Deputy Federal Public Defender, present. Court orders bail set as: Erik Herrera (1) Personal Recognizance, see attached for terms and conditions. Court orders defendant held to answer to District of Columbia. Bond to Transfer. Defendant ordered to report on 8/27/21 at 1:00 pm. RELEASE ORDER NO 39797 Court Smart: CS 8/2021. (mhe) (Entered: 08/25/2021)
08/20/2021	4	DECLARATION RE: PASSPORT filed by Defendant Erik Herrera, declaring that I have been issued a passport or other travel document(s), but they are not currently in my possession. I will surrender any passport or other travel document(s) issued to me, to the U.S. Pretrial Services Agency by the deadline imposed. I will not apply for a passport or other travel document during the pendency of this case. (mhe) (Entered: 08/25/2021)
08/20/2021	5	ADVISEMENT OF STATUTORY & CONSTITUTIONAL RIGHTS filed by Defendant Erik Herrera. (mhe) (Entered: 08/25/2021)
08/20/2021	6	FINANCIAL AFFIDAVIT filed as to Defendant Erik Herrera. (Not for Public View pursuant to the E-Government Act of 2002) (mhe) (Entered: 08/25/2021)
08/20/2021	7	WAIVER OF RIGHTS approved by Magistrate Judge Douglas F. McCormick as to Defendant Erik Herrera. (mhe) (Entered: 08/25/2021)
08/20/2021	8	SEALED Defendant Erik Herrera arrested on warrant issued by the USDC District of Columbia at Washington DC. (Attachments: # 1 Charging Documents, # 2 statement) (mhe) (Entered: 08/25/2021)
08/20/2021		Notice to District of Columbia of a Rule 5 or Rule 32 Initial Appearance as to Defendant Erik Herrera. The clerk will transmit any restricted documents via email. Using your PACER account, you may retrieve the docket sheet and any text-only entries via the case number link. The following document link(s) is also provided: 3 Initial Appearance - Arrest on Out of District Warrant - Rule 5(c)(3) (fka Rule 40). If you require certified copies of any documents, please send a request to email address CrimIntakeCourtDocs-LA@cacd.uscourts.gov (mhe) (Entered: 08/25/2021)

08/25/2021	9	PASSPORT RECEIPT from U. S. Pretrial Services as to Defendant Erik Herrera. USA passport was received on 8/25/21. (mhe) (Entered: 08/25/2021)
08/25/2021	10	BOND AND CONDITIONS OF RELEASE filed as to Defendant Erik Herrera conditions of release: PERSONAL RECOGNIZANCE, see attached for terms and conditions approved by Magistrate Judge Karen E. Scott. (mhe) (Entered: 08/27/2021)