

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

JUSTIN MCAULIFFE

) Case: 1:21-mj-00135
) Assigned to: Judge Robin M. Meriweather
) Assign Date: 1/20/2021
) Description: COMPLAINT W/ ARREST WARRANT

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) JUSTIN MCAULIFFE

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) and (2) - knowingly entering and remaining on restricted grounds without lawful authority and/or engaging in disorderly conduct within proximity to a restricted building to impede official functions

Date: 01/20/2021

Issuing officer's signature

2021.01.20 19:32:01 -05'00'

Issuing officer's signature

City and state: Washington, D.C.

Robin M. Meriweather, U.S. Magistrate Judge

Printed name and title

Return

This warrant was received on (date) 1/21/2021, and the person was arrested on (date) 1/28/2021 at (city and state) Bellmore, NY

Date: 1/28/2021

Arresting officer's signature

Arresting officer's signature

GARY C. BATTISTA, SPECIAL AGENT Printed name and title

MIME-Version:1.0
From:ecf_bounces@nyed.uscourts.gov
To:nobody@nyed.uscourts.gov
Bcc:
--Case Participants: Andrew Grubin (agrubin@usa.doj.gov, andrew.grubin2@usdoj.gov, emily.miller@usdoj.gov), Magistrate Judge A. Kathleen Tomlinson (deanna_wolf@nyed.uscourts.gov, kathleen_tomlinson@nyed.uscourts.gov, mana_ameri@nyed.uscourts.gov, mary_ryan@nyed.uscourts.gov)
--Non Case Participants:
--No Notice Sent:

Message-Id:15551462@nyed.uscourts.gov
Subject:Activity in Case 2:21-mj-00442-AKT USA v. McAuliffe Arrest - Rule 40
Content-Type: text/html

U.S. District Court

Eastern District of New York

Notice of Electronic Filing

The following transaction was entered on 2/2/2021 at 3:31 PM EST and filed on 1/28/2021

Case Name: USA v. McAuliffe
Case Number: 2:21-mj-00442-AKT
Filer:
Document Number: No document attached
Docket Text:
[Arrest \(Rule 40\) of Justin McAuliffe \(Ryan, Mary\)](#)

2:21-mj-00442-AKT-1 Notice has been electronically mailed to:

Andrew Grubin andrew.grubin2@usdoj.gov, agrubin@usa.doj.gov, emily.miller@usdoj.gov

2:21-mj-00442-AKT-1 Notice will not be electronically mailed to:

FILED
CLERK

5:53 pm, Jan 28, 2021

DMP:ADG

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA

AFFIDAVIT IN SUPPORT OF
REMOVAL TO THE
DISTRICT OF THE DISTRICT
OF COLUMBIA

- against -

(Fed R. Crim. P. 5)

JUSTIN MCAULIFFE,

No. MJ-21-442-AKT

Defendant.

----- X

EASTERN DISTRICT OF NEW YORK, SS:

GARY C. BATTISTA, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation (“FBI”), duly appointed according to law and acting as such.

On or about January 20, 2021, the United States District Court for the District of Columbia issued an arrest warrant commanding the arrest of the defendant JUSTIN MCAULIFFE based on a complaint charging him with knowingly entering onto restricted grounds without lawful authority and/or engaging in disorderly conduct within proximity to a restricted building to impede official functions, in violation of 18 U.S.C. §§ 1752(a)(1) and (2).

The source of your deponent’s information and the grounds for his belief are as follows:¹

¹ Because the purpose of this affidavit is to set forth only those facts necessary to establish probable cause for removal, I have not described all of the relevant facts and circumstances of which I am aware.

1. On or about January 20, 2021, a complaint and statement of facts were sworn out before the Honorable Robin M. Meriweather, United States Magistrate Judge for the District of the District of Columbia, charging the defendant JUSTIN MCAULIFFE with knowingly entering and remaining on restricted grounds without lawful authority and/or engaging in disorderly conduct within proximity to a restricted building to impede official functions, in violation of 18 U.S.C. §§ 1752(a)(1) and (2). Judge Meriweather issued a warrant for the defendant's arrest on the same date. True and correct redacted copies of the complaint, statement of facts and arrest warrant are attached as Exhibit A and incorporated herein by reference.

2. On or about January 27, 2021, law enforcement authorities observed the defendant JUSTIN MCAULIFFE outside a residence in Bellmore, New York (the "Bellmore Residence"). Law enforcement recognized MCAULIFFE from photographs of the defendant wanted in the District of the District of Columbia. Additionally, law enforcement observed a car registered to the wanted defendant outside of the Bellmore Residence.


3. On or about January 28, 2021, FBI agents approached the Bellmore Residence and knocked on the door. The defendant JUSTIN MCAULIFFE answered the door and confirmed that he was "Justin McAuliffe." Law enforcement arrested MCAULIFFE. He provided identification for "Justin McAuliffe" with the same date of birth as the defendant "JUSTIN MCAULIFFE" wanted in the District of the District of Columbia. Additionally, I have reviewed photographs of the wanted defendant and compared them to the defendant-in-custody. Based upon that comparison, and the aforementioned information,

I believe that the defendant-in-custody is the defendant wanted in the District of the District of Columbia.

4. I have additionally reviewed photographs of the defendant JUSTIN MCAULIFFE both inside and outside the U.S. Capitol building on January 6, 2021, which are included in Exhibit A's Statement of Facts, and compared them to the defendant-in-custody. Based upon that comparison, the defendant-in-custody and the individual in the photographs included in Exhibit A appear to be the same person.

5. Based on the foregoing, I submit that there is probable cause to believe that the defendant-in-custody is the defendant JUSTIN MCAULIFFE wanted in the District of the District of Columbia.

WHEREFORE, your deponent respectfully requests that the defendant-in-custody JUSTIN MCAULIFFE be removed to the District of the District of Columbia so that he may be dealt with according to law.



GARY C. BATTISTA
SPECIAL AGENT
FBI

Sworn to before me by telephone
this 28th day of January, 2021

/s/ AK Tomlinson

THE HONORABLE A. KATHLEEN TOMLINSON
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

EXHIBIT A

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

JUSTIN MCAULIFFE

Date of Birth: XXXXXXXX

Defendant(s)

) Case: 1:21-mj-00135
) Assigned to: Judge Robin M. Meriweather
) Assign Date: 1/20/2021
) Description: COMPLAINT W/ ARREST WARRANT

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
in the District of Columbia, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. 1752(a)(1) and (2) - knowingly entering and remaining on restricted grounds without
lawful authority and/or engaging in disorderly conduct within proximity to a restricted building to
impede official functions

This criminal complaint is based on these facts:

See attached statement of facts.

Continued on the attached sheet.

[Handwritten signature of Gary Battista]

Complainant's signature

Gary Battista, Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1
by telephone.

Date: 01/20/2021

[Handwritten signature of Robin M. Meriweather]

2021.01.20

19:35:37 -05'00'

Judge's signature

City and state: Washington, D.C.

Robin M. Meriweather, U.S. Magistrate Judge

Printed name and title

STATEMENT OF FACTS

On January 6, 2021, your affiant, Gary Battista, was on duty and performing my official duties as a Special Agent. Specifically, I am assigned to the FBI New York Joint Terrorism Task Force (JTTF), tasked with investigating criminal activity in and around the Capitol grounds. As a Special Agent, 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. The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building. Based upon our investigation, I submit that there is probable cause to believe that JUSTIN MCAULIFFE (DOB 9/XX/1981) was among the individuals who invaded the U.S. Capitol building during the events summarized above.

In the days following the riot, the FBI received tips through the FBI Tip Line and elsewhere from multiple individuals alleging that MCAULIFFE posted content to his Facebook page indicating that he entered the U.S. Capitol along with other rioters on January 6, 2021.

For example, on or about January 10, 2021, an individual contacted the FBI by phone and informed law enforcement that he/she had been friends with MCAULIFFE (“Witness-1”).

Witness-1 provided his/her first and last name and contact information. During this phone call and a separate conversation several days later, Witness-1 stated in sum and substance and in part that: (1) he/she has known MCAULIFFE for approximately five years; (2) they initially saw each other frequently, but later saw each other several times per year; (3) they were “friends” on Facebook for part of that time until Witness-1 “unfriended” MCAULIFFE¹; and (4) Witness-1 continued to periodically check MCAULIFFE’s public Facebook posts.

Witness-1 also provided to the FBI the phone number associated with the SUBJECT PHONE as MCAULIFFE’s telephone number. Witness-1 stated that he/she knows MCAULIFFE’s telephone number because they have sent each other text messages. On or about January 13, 2021, the FBI conducted open source research to link social media accounts with the call number associated with the SUBJECT PHONE. The FBI located a Telegram² account associated with the subject’s call number with the display name “Justin McAuliffe” and a photograph of MCAULIFFE, which is described and presented below, inside an office at the Capitol.

Witness-1 additionally emailed photographs to the FBI of what Witness-1 represented to be, and appears to be, screenshots that Witness-1 took of MCAULIFFE’s Facebook page showing MCAULIFFE at the U.S. Capitol on January 6, 2021. I know from a public search of Facebook that MCAULIFFE deleted his Facebook account following the U.S. Capitol riots.

¹ Witness-1 stated that he/she was offended by MCAULIFFE’s Facebook postings claiming that Covid-19 was a hoax, particularly after Witness-1 and his/her family contracted Covid-19.

² Telegram is an end-to-end encrypted messaging software available for download to a smartphone, similar to the messaging application WhatsApp.

For example, one photograph, below, depicts MCAULIFFE outside the U.S. Capitol with a crowd of other persons:



Witness-1 also gave the FBI MCAULIFFE's residential address, which is in Bellmore, New York. Law enforcement then reviewed MCAULIFFE's New York State DMV driver's license. Based on an examination of MCAULIFFE's driver's license, I believe that the individual depicted in the above photograph with glasses and a blue and red hat is MCAULIFFE.

On or about January 14, 2021, I observed a public article on the online website “Slate,” dated January 7, 2021, about the U.S. Capitol riots. The article contained the below photograph of the same individual, that is, MCAULIFFE. MCAULIFFE and another individual appear to be in a member of Congress’s office along with a Trump flag. MCAULIFFE, who is on the right side of the photograph, has a smartphone in his hand. MCAULIFFE’s profile picture in his Telegram account is a cropped version of the photograph below:



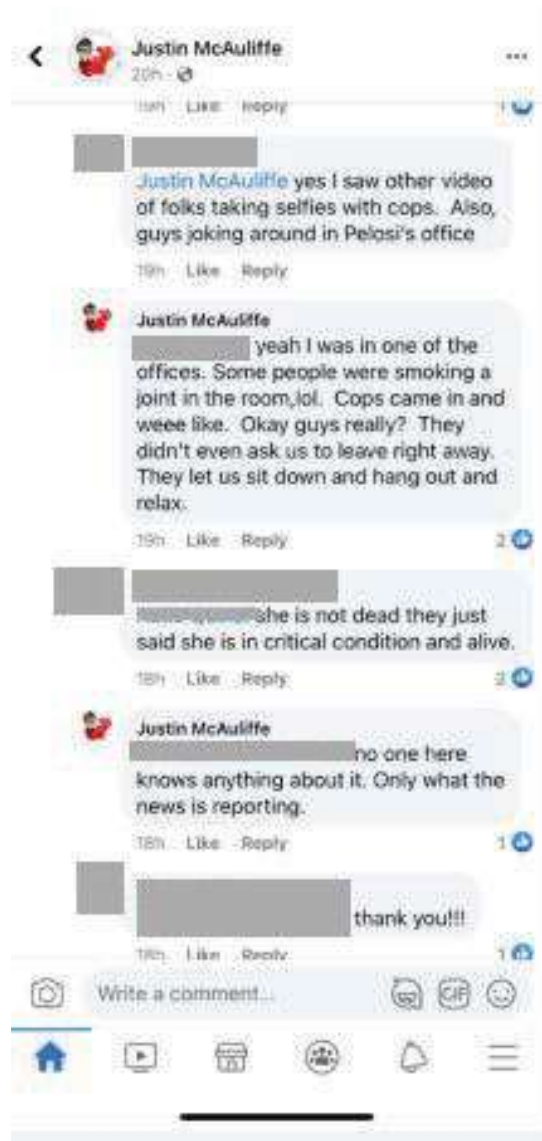
Additional members of the public reached out to the FBI Tip Line with information pertaining to MCAULIFFE. For example, on or about January 8, 2021, an individual contacted the FBI and provided his/her first and last name and contact information (“Witness-2”). Witness-2 provided at least two photographs, which he/she represented to be snapshots from

MCAULIFFE's Facebook. The first photograph, below, appears to be of MCAULIFFE's smartphone settings showing that he had access to the Wi-Fi at the U.S. Senate, indicating that he was close to or inside the Senate offices:



The second photograph provided by Witness-2, below, shows MCAULIFFE having a conversation over Facebook with another individual. In one message, MCAULIFFE states: “yeah I was in one of the offices. Some people were smoking a joint in the room, lol. Cops came

in and weee like. Okay guys really? They didn't even ask us to leave right away. They let us sit down and hang out and relax.”



Based on the foregoing, your affiant submits that there is probable cause to believe that MCAULIFFE (DOB 9/XX/1981) violated 18 U.S.C. § 1752(a)(1) and (2), 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, including the Vice President, 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.

Respectfully submitted,



GARY C. BATTISTA
FEDERAL BUREAU OF INVESTIGATION

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 20th day of January 2021.



2021.01.20
19:34:37 -05'00'

ROBIN M. MERIWEATHER,
U.S. MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT

for the
District of Columbia

United States of America
v.
JUSTIN MCAULIFFE

)
Case: 1:21-mj-00135
Assigned to: Judge Robin M. Meriweather
Assign Date: 1/20/2021
Description: COMPLAINT W/ ARREST WARRANT

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) JUSTIN MCAULIFFE,
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) and (2) - knowingly entering and remaining on restricted grounds without lawful authority and/or engaging in disorderly conduct within proximity to a restricted building to impede official functions

Date: 01/20/2021
2021.01.20
19:32:01 -05'00'
Issuing officer's signature

City and state: Washington, D.C.
Robin M. Meriweather, U.S. Magistrate Judge
Printed name and title

Return
This warrant was received on (date) , and the person was arrested on (date)
at (city and state) .
Date:
Arresting officer's signature
Printed name and title

CLERK

6:30 pm, Jan 28, 2021

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA

-V-

ORDER
APPOINTING COUNSEL

Docket #: MJ-21-442-AKT

JUSTIN MCAULIFFE

-----X

Because **Justin McAuliffe** has testified under oath or has otherwise satisfied this Court of financial inability to employ counsel, the Federal Defender Services of New York is hereby appointed to represent this person in the above designated case. If appointment is made by a Magistrate and the case subsequently proceeds to the United States District Court, the appointment shall remain in effect until terminated or a substitute attorney is appointed.

Dated: 1/28/2021
Central Islip, New York

/s/ AK Tomlinson
A. KATHLEEN TOMLINSON
UNITED STATES MAGISTRATE JUDGE

TO: DOUGLAS C. PALMER, CLERK OF COURT
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NOTICE OF APPEARANCE

The Federal Defender Services of New York enters its appearance for **Justin McAuliffe**, the defendant in the above listed action.

Dated: 1/28/2021
Central Islip, New York

FEDERAL DEFENDERS OF NEW YORK, INC.
770 Federal Plaza
Central Islip, NY 11722

BY: S/ Randi Chavis
Randi Chavis

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

.....X

UNITED STATES OF AMERICA

-v-

21-MJ-442 (AKT)

JUSTIN MCAULIFFE

ORDER

Defendant.

.....X

A. KATHLEEN TOMLINSON, United States District/Magistrate Judge:

This Order is entered pursuant to Federal Rule of Criminal Procedure 5(f) to confirm the prosecution’s disclosure obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, and to summarize the possible consequences of violating those obligations.

The prosecution must disclose to the defense all information “favorable to an accused” that is “material either to guilt or to punishment” and that is known to the prosecution. *Id.* at 87. This obligation applies regardless of whether the information would itself constitute admissible evidence. The prosecution shall disclose such information to the defense promptly after its existence becomes known to the prosecution so that the defense may make effective use of the information in the preparation of its case.

The prosecution must also disclose any information that can be used to impeach the trial testimony of a prosecution witness within the meaning of *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny. Such information must be disclosed sufficiently in advance of trial for the defendant to make effective use of it at trial, or at such other time as the Court may order.¹

¹ This Order does not purport to set forth an exhaustive list of the prosecution’s disclosure obligations.

The foregoing obligations are continuing ones and apply to materials that become known to the prosecution in the future. These obligations also apply to information that is otherwise subject to disclosure regardless of whether the prosecution credits it.

In the event the prosecution believes that a disclosure under this Order would compromise witness safety, victim rights, national security, a sensitive law-enforcement technique, or any other substantial government interest, it may apply to the Court for a modification of its obligations, which may include in camera review or withholding or subjecting to a protective order all or part of the information otherwise subject to disclosure.

For purposes of this Order, the prosecution has an affirmative obligation to seek all information subject to disclosure under this Order from all current or former federal, state, and local prosecutors, law enforcement officers, and other officers who have participated in the prosecution, or investigation that led to the prosecution, of the offense or offenses with which the defendant is charged.

If the prosecution fails to comply with this Order, the Court, in addition to ordering production of the information, may:

- (1) specify the terms and conditions of such production;
- (2) grant a continuance;
- (3) impose evidentiary sanctions;
- (4) impose sanctions on any lawyer for the prosecution responsible for violations of the prosecution's disclosure obligations;
- (5) dismiss charges before trial or vacate a conviction after trial or a guilty plea; or
- (6) enter any other order that is just under the circumstances.

SO ORDERED.

/s/ AK Tomlinson

A. Kathleen Tomlinson
United States Magistrate Judge

Dated: Central Islip, New York
January 28, 2021

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

United States of America

v.

JUSTIN MCAULIFFE

Defendant

Case No. 21-MJ-442-AKT

Charging District's Case No. 1:21-MJ-00135

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: 1/28/2021

Justin McAuliffe
Defendant's signature
by Randi Chavis
with permission of
client
Signature of defendant's attorney

RANDI CHAVIS

Printed name of defendant's attorney

United States District Court, Eastern District of New York

UNITED STATES OF AMERICA

ORDER SETTING CONDITIONS OF RELEASE AND APPEARANCE BOND

V.

JUSTIN MCAULIFFE, Defendant.

Case Number: MJ-21-442-AKT

RELEASE ORDER

It is hereby ORDERED that the above-named defendant be released subject to the Standard Conditions of Release on the reverse and as follows:

- Upon Personal Recognizance Bond on his/her promise to appear at all scheduled proceedings as required, or
Upon Bond executed by the defendant in the amount of \$ 50,000.00, and secured by financially responsible sureties listed below and/or collateral set forth below.

Additional Conditions of Release

The Court finding that release under the Standard Conditions of Release on the reverse will not by themselves reasonably assure the appearance of the defendant and/or the safety of other persons and the community, IT IS FURTHER ORDERED as follows:

- 1. The defendant must remain in and may not leave the following areas without Court permission: New York City; Long Island, NY; New York State; New Jersey; continental United States and travel to and from this Court and the permitted areas.
2. The defendant must avoid all contact with the following persons or entities:
3. The defendant must avoid and not go to any of the following locations: District of Columbia, except for court appearances/atty visits
4. The defendant must surrender all passports to Pretrial Services by 1/29/21 and not obtain other passports or international travel documents.
5. The defendant is placed under the supervision of the Pretrial Services Agency subject to the Special Conditions on the reverse and:
a. is subject to random visits by a Pretrial Services officer at defendant's residence and/or place of work;
b. must report as directed by Pretrial Services or in person times per and/or by telephone times per week.
c. must undergo testing, evaluation and/or treatment for substance abuse, including alcoholism, as directed by Pretrial Services.
d. must undergo evaluation and treatment for mental health problems, as directed by Pretrial Services.
e. is subject to the following location restriction program with location monitoring, as directed by Pretrial Services:
home incarceration: restricted to home at all times, except for attorney visits, court appearances, medical treatment, religious services, employment, school or training, other activities approved by Pretrial Services,
curfew: restricted to home every day from to, or as directed by Pretrial Services.
Defendant must pay all or part of the cost of any required testing, evaluation, treatment and/or location monitoring with personal funds, based upon ability to pay as determined by the Court and the Pretrial Services Agency, and/or from available insurance.
6. Other Conditions: defendant must attend all court proceedings and attend any other proceedings as directed by the Court; surrender all firearms to local Nassau County police precinct by February 3, 2021; defendant must appear before the federal district court for the District of Columbia at 11 a.m. APPEARANCE BOND on FEB. 18, 2021 as directed.

I, the undersigned defendant, and each surety who signs this bond, acknowledge that I have read this Appearance Bond and, and have either read all the other conditions of release or have had those conditions explained. I further acknowledge that I and my personal representatives, jointly and severally, are bound to pay the United States of America the sum of \$ 50,000.00 and that this obligation is secured with the below interest in the following property ("Collateral") which I represent is/are free and clear of liens except as otherwise indicated:

- cash deposited in the Registry of the Court in the sum of \$;
premises located at: owned by;
I also agree to execute a confession of judgment, mortgage or lien in form approved by the U.S. Attorney which shall be duly filed with the proper local and state authorities on or before.

Each owner of the above Collateral agrees not to sell the property, allow further claims or encumbrances to be made against it, or do anything to reduce its value while this Appearance Bond is in effect.

Forfeiture of the Bond. This Appearance Bond may be forfeited if the defendant fails to comply with any of the conditions set forth above and on the reverse. The defendant and any surety who has signed this form also agree that the court may immediately order the amount of the bond surrendered to the United States, including any security for the bond, if the defendant fails to comply with the above agreement. The court may also order a judgment of forfeiture against the defendant and against each surety for the entire amount of the bond, including any interest and costs.

Kevin McAuliffe, Surety, Address: Wantagh, New York, City and State ONLY, Date
Address: Surety, City and State ONLY, Date
Address: Surety, City and State ONLY, Date

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release and of the penalties and sanctions set forth on the front and reverse sides of this form.

Release of the Defendant is hereby ordered on January 28, 2021

Signature of Defendant

/s/ AK Tomlinson, US M J
A. Kathleen Tomlinson

STANDARD CONDITIONS OF RELEASE

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

- (1) The defendant must not violate any federal, state or local law while on release.
- (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 must advise the Court, the Pretrial Services office, defense Counsel and the U.S. Attorney in writing before making any change in address or telephone number.
- (4) The defendant must appear in court as required and must surrender for service of any sentence imposed as directed.
- (5) The defendant must refrain from use or unlawful possession of a narcotic drug or other controlled substances as defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.
- (6) If the defendant fails to report as required to the Pretrial Services Agency, defendant may be subject to such random visits at his/her residence or work by a Pretrial Services Officer as may be necessary to verify his/her residence or place of employment in order to secure compliance with the order of release.
- (7) The defendant must not possess a firearm, destructive device, or other weapon.

SPECIAL CONDITIONS OF RELEASE FOR TESTING, TREATMENT OR EVALUATION AND FOR LOCATION MONITORING

1. If the defendant fails to appear for any specified treatment or evaluation, defendant may be subject to such random visits at his/her residence or work by a Pretrial Services Officer as may be necessary to verify his/her residence or place of employment in order to secure compliance with the order of release.
2. The defendant must not obstruct, attempt to obstruct, or tamper with the efficiency and accuracy of prohibited substance screening or testing. 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, as determined by Pretrial Services.
3. If defendant is subject to a location restriction program or location monitoring, defendant must:
 - (a) stay at his/her residence at all times except for approved activities and may not leave for approved activities without providing prior notice to Pretrial Services, except in cases of medical emergencies.
 - (b) abide by all program requirements and instructions provided by Pretrial Services relating to the operation of monitoring technology. Unless specifically ordered by the court, Pretrial Services may require use of one of the following or comparable monitoring technology: Radio Frequency (RF) monitoring; Passive Global Positioning Satellite (GPS) monitoring; Active Global Positioning Satellite (GPS) monitoring (including "hybrid" (Active/Passive) GPS); Voice Recognition monitoring.

FORFEITURE OF THE BOND

This appearance bond may be forfeited if the defendant does not comply with the conditions of release set forth in this Order Setting Conditions of Release and Bond. The court may immediately order the amount of the bond and any Collateral surrendered to the United States if the defendant does not comply with the agreement. At the request of the United States, the court may order a judgment of forfeiture against the defendant and each surety for the entire amount of the bond, including interest and costs.

RELEASE OF THE BOND

This appearance bond may be terminated at any time by the Court. This bond will be satisfied and the security will be released when either: (1) the defendant is found not guilty on all charges, or (2) the defendant reports to serve a sentence.

ADVICE OF PENALTIES AND SANCTIONS TO THE DEFENDANT

Defendant is advised that violating any of the foregoing conditions of release may result in the immediate issuance of a warrant of arrest, a revocation of the order of release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if defendant commits a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (*i.e.*, in addition to) to any other sentence defendant may receive.

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

If, after release, defendant knowingly fails to appear as the conditions of release require, or to surrender to serve a sentence, defendant may be prosecuted for failing to appear or surrender and additional punishment may be imposed, whether or not the defendant is convicted of the pending charges. If defendant is convicted of:

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

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

CLOSED

**U.S. District Court
Eastern District of New York (Central Islip)
CRIMINAL DOCKET FOR CASE #: 2:21-mj-00442-AKT-1**

Case title: USA v. McAuliffe

Date Filed: 01/28/2021

Date Terminated: 01/28/2021

Assigned to: Magistrate Judge A.
Kathleen Tomlinson

Defendant (1)

Justin McAuliffe

TERMINATED: 01/28/2021

represented by **Randi L. Chavis**

Federal Defenders of New York, Inc.

770 Federal Plaza

Central Islip, NY 11722

631-712-6500

Fax: 631-712-6505

Email: randi_chavis@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

18:1752-knowingly entering onto
restricted grounds without lawful
authority and/or engaging in
disorderly conduct within proximity
to a restricted building to impede
official functions

Disposition

Plaintiff

USA

represented by **Andrew Grubin**U.S. Attorney's Office for the Eastern
District of NY

271 Cadman Plaza E

Brooklyn, NY 11201

718-254-6322

Email: andrew.grubin2@usdoj.gov*LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: Government Attorney*

Date Filed	#	Page	Docket Text
01/28/2021			Arrest (Rule 40) of Justin McAuliffe (Ryan, Mary) (Entered: 02/02/2021)
01/28/2021	<u>1</u>		RULE 40 AFFIDAVIT by USA as to Justin McAuliffe by Affiant Gary C. Battista (Ryan, Mary) (Entered: 02/02/2021)
01/28/2021	<u>2</u>		Minute Entry for proceedings held before Magistrate Judge A. Kathleen Tomlinson: Arraignment and Initial Appearance as to Justin McAuliffe held on 1/28/2021. Appearances: For Government: Andrew Grubin/video; for Defendant: Randi Chavis/video; defendant appears in USMS custody via video; Pretrial Services Officer: Mallori Brady/video. FBI Special Agent appearing via video sworn as to Complaint. Order 5(f) to be entered. Randi Chavis appointed counsel for defendant for today's proceedings and any subsequent hearings held in this Court. Bail application by defendant. No opposition by Government. Defendants father, Kevin McAuliffe, appears via telephone as a surety. Court advises surety of conditions and risks of signing bond. Surety acknowledges and signs bond. Passport to be turned over to Pretrial Services tomorrow. DEFENDANT TO APPEAR REMOTELY in the DISTRICT OF COLUMBIA on 2/18/2021 at 1:00 p.m. Waiver of Rule 5 and 5.1 Hearings executed. Order Setting Conditions of Release and Bond entered for defendant. SEE BOND FOR DETAILS. Defendant RELEASED on bond. (FTR Log through AT&T conference line: 5:24-5:46.) (Ryan, Mary) (Entered: 02/02/2021)
01/28/2021	<u>3</u>		ORDER APPOINTING FEDERAL DEFENDER as to Justin McAuliffe. Randi L. Chavis for Justin McAuliffe appointed. Ordered by Magistrate Judge A. Kathleen Tomlinson on 1/28/2021. (Ryan, Mary) (Entered: 02/02/2021)
01/28/2021	<u>4</u>		ORDER: This order is entered pursuant to Federal Rule of Criminal Procedure 5(f) to confirm the prosecution's disclosure obligations under Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, and to summarize the possible consequences of violating those obligations. as to Justin McAuliffe. Ordered by Magistrate Judge A. Kathleen Tomlinson on 1/28/2021. (Ryan, Mary) Modified on 2/2/2021 to correct file date (Ryan, Mary). (Entered: 02/02/2021)
01/28/2021	<u>5</u>		WAIVER of Rule 5 and 5.1 Hearings by Justin McAuliffe (Ryan, Mary) (Entered: 02/02/2021)
01/28/2021	<u>6</u>		

		ORDER Setting Conditions of Release and Appearance BOND. Ordered by Magistrate Judge A. Kathleen Tomlinson on 1/28/2021. (Ryan, Mary) (Entered: 02/02/2021)
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