

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

UNITED STATES OF AMERICA	:	
	:	
v.	:	Case No. 21-CR-46-RDM
	:	
PATRICK MONTGOMERY,	:	
	:	
Defendant.	:	

GOVERNMENT’S MOTION TO REVOKE DEFENDANT’S PRETRIAL RELEASE

The government was notified on May 6, 2021 that on March 31, 2021 Patrick Montgomery was in possession of an illegal firearm—a .357 magnum handgun—in violation of his pre-trial conditions of release. The government requests that his conditions of release be revoked and he be detained pending trial.

BACKGROUND

Patrick Montgomery was charged by Complaint on January 13, 2021 with illegally entering the United States Capitol building (“the Capitol”) and disorderly conduct during the January 6, 2021 riots (ECF Doc. 1, Complaint). He was arrested four days later on January 17, 2021, in Littleton, Colorado. On February 2, 2021, Montgomery first appeared in the District of Colorado and was released with conditions (ECF Doc. 11, Rule 5(c)(3) Documents). He then appeared in D.C. in front of Magistrate Judge Robin M. Meriweather on February 5, 2021 via video and was ordered, among other things, “not [to] violate federal, state, or local law while on release,” “do not commit any Federal or State crimes,” and “[d]o not possess illegal firearms.” (ECF Doc. 8, Order Setting Conditions of Release).

On April 16, 2021, a D.C. grand jury indicted Montgomery in a 10-count indictment for assaulting a Metropolitan Police Department officer, engaging in physical violence, illegally

entering the Capitol and Senate Gallery, obstructing an official proceeding, and disorderly and disruptive conduct that occurred at the Capitol on January 6, 2021. (ECF Doc. 23, Superseding Indictment). Montgomery was arraigned on those charges on April 21, 2021, and a status hearing is set for July 28, 2021.

On May 6, 2021, FBI Task Force Officer Michael Timmerman received an alert that on March 31, 2021 Montgomery used a handgun to shoot a mountain lion at a Colorado Parks and Wildlife (“CPW”) park located in Denver, Colorado. Montgomery is a convicted felon and is prohibited by law to carry a firearm, including a handgun. *See* 18 U.S.C. § 922(g) (“It shall be unlawful for any person—who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . to . . . possess in or affecting commerce, any firearm or ammunition. . . .”); *see also* Colo. Rev. Stat. § 18-12-108 (“A person commits the crime of possession of a weapon by a previous offender if the person knowingly possesses, uses, or carries upon his or her person a firearm . . . subsequent to the person’s conviction for a felony. . . .”). Montgomery was convicted of Robbery in 1996 and appears to have been sentenced to a six-year prison term for the crime.¹

After receiving the notification, Officer Timmerman called the CPW officer who took the report. The CPW officer stated that on March 31, 2021, Montgomery notified CPW that he killed a mountain lion by shooting it with a .357 magnum handgun.² He provided the animal

¹ It also appears that Montgomery has been arrested at least 6 times for Driving Under the Influence (or some variation of that charge) and at least once for Failure to Appear. It is unclear whether any of those crimes are punishable by imprisonment for a term exceeding one year.

² By law, hunters must report the taking of a mountain lion within 48 hours and “the lion shall be personally presented by the hunter for inspection and sealing within five (5) days after the taking thereof.” 2 CCR 406-2. The legal possession seal allows the hunter to possess, transport, tan or mount the animal. *Id.*

carcass to the CPW officer, who examined it and saw a bullet hole through the animal's skull that was consistent with a .357 magnum handgun. The CPW officer ran a mandatory background check on Montgomery, which revealed that he is a convicted felon and is prohibited from possessing a firearm.

The shooting incident is not the first in which Montgomery violated local law while on pre-trial release in this case. On January 25, 2021, Montgomery contacted CPW to have a bobcat sealed. Montgomery admitted to the CPW officer that he and his dogs pursued the bobcat for approximately 11 miles and his dogs killed the bobcat, which violates local law. *See* Exhibit 1 (Colorado Parks & Wildlife Case Report, Citation Number F253105). CPW officers later learned that Montgomery's dogs had killed the bobcat after Montgomery knocked it out of the tree with a slingshot. Neither the use of a slingshot nor allowing dogs to kill a bobcat is legal in Colorado. When asked how the bobcat was killed, Montgomery provided conflicting stories and, after CPW seized the bobcat pelt, threatened to "press charges against the State of Colorado for taking [his] income." *Id.* at 2. Ultimately, Montgomery was issued a citation and was charged with two offenses for the unlawful taking of the bobcat. He has a hearing in that case on May 19, 2021.³

Given that Montgomery has repeatedly and flagrantly violated both state and federal law while on pre-trial release in this case—including by possessing and using a firearm—the Government respectfully requests that the Court revoke his release pending trial.

³ Montgomery is not a novice hunter, who would be unfamiliar with wildlife regulations. By his own admission, he is a professional hunting guide. His company, PMonte Outdoors, offers hunting trips and guide services. *See* <https://www.pmonteoutdoors.com/> (last visited May 11, 2021).

ARGUMENT AND LAW

Under 18 U.S.C. § 3148(a), “[a] person who has been released under section 3142 of this title, and who has violated a condition of his release, is subject to a revocation of release.”

Specifically, the Court is required to revoke a defendant’s pre-trial release if, after a hearing:

the judicial officer finds under § 3148(b)(1) that there is -- . . . (A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or (B) clear and convincing evidence that the person has violated any other condition of release; and (2) finds that -- (A) based on the factors set forth in section 3142(g) of this title, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of another person or the community; or (B) the person is unlikely to abide by any condition or combination of conditions of release.

Id. § 3148(b). Here, there is probable cause to believe that Montgomery violated both state and federal law by possessing a firearm despite being previously convicted of a felony offense. He admitted to shooting a mountain lion with a .357 magnum handgun. CPW also examined the carcass and saw a bullet hole through the skull consistent with Montgomery’s account. It also appears unlikely that Montgomery will abide by any condition or combination of conditions of release, given that he already has violated the law twice during the four months that he has been on pre-trial release.

Montgomery has no respect for the Court’s orders, just like he had no respect for law enforcement at the Capitol on January 6. Instead of peacefully protesting, he tried to grab a Metropolitan Police Department officer’s baton, wrestled him to the ground for it, and then kicked the officer in the chest while wearing a boot. After the officer regained control of his baton, Montgomery stood up, and held up his two middle fingers at the officer.

Montgomery has flagrantly violated the law and has shown by his actions that he is unlikely to abide by Court orders. Accordingly, the government moves for revocation of Montgomery's pre-trial release conditions pursuant to 18 U.S.C. § 3148, et. seq.

Respectfully submitted,

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EXHIBIT 1

said the third party person had received the information from a resident that lived that near the Pike National Forest, where MONTGOMERY killed the bobcat. The resident was identified [REDACTED], who lived at [REDACTED].

Officer K [REDACTED] and Colorado Wildlife Officer [REDACTED] D [REDACTED] met MONTGOMERY at the Littleton Office on January 25, 2021. At approximately 3:00PM, MONTGOMERY pulled into the CPW Office parking lot in a white SUV. Upon approaching the officers, MONTGOMERY identified the bobcat as a little female and mentioned getting her mounted. MONTGOMERY presented a single small bobcat hide which was split down the back. The rest of the bobcat carcass was not present. MONTGOMERY said he got the bobcat near Bennett Mountain, which is on Russell Ridge in the Pike National Forest in Douglas County.

MONTGOMERY presented a valid small game license (indicated on his primary hunting license). MONTGOMERY said he hunted for the bobcat for one day without setting traps. During the course of the interview MONTGOMERY also stated:

- “We actually ran that bobcat, trailed that bobcat for 11 miles.”
- He hunted this particular bobcat for one day, but stated it took 5 hours to catch her.
- Her tracks went from Bennett Mountain into Waterton Canyon, hooked around and followed Highway 67, back up Pine Creek and then turned.
- He walked close to 8 miles and ended up catching her about a quarter mile from where he started.
- Once the dogs “jumped” her it was probably only about a mile that she ran.
- He got the bobcat about 200 yards to the south side of Bennett Mountain.

Officer K [REDACTED] began entering required information into the CPW database for the mandatory check on the bobcat in which lawfully harvested bobcats receive a numbered seal required for possession. Officer K [REDACTED] asked MONTGOMERY which manner of take he used to harvest the bobcat and MONTGOMERY stated “that one, actually the dogs killed.” MONTGOMERY also stated, “It jumped out of the tree and the dogs killed it. So, I don’t know what I’m supposed to do about that.”

Officer K [REDACTED] explained to MONTGOMERY that allowing dogs to kill a bobcat was not a legal manner of take for hunting a bobcat (or any furbearer) and that a hunter had to kill the bobcat his or herself with a legal manner of take. MONTGOMERY responded that he killed it and took back his original statement. MONTGOMERY stated the dogs caught the cat on the ground and they were fighting and killing it, and claimed he disposed of the cat by dropping his knee on the ribcage. Officer K [REDACTED] informed MONTGOMERY that dropping a knee on the ribcage of the bobcat was still not a legal manner of take for the bobcat. MONTGOMERY stated “I don’t know exactly what it is I’m supposed to do about it when the dogs catch it.” MONTGOMERY argued with the officers about wildlife he believed were frequently killed in a similar manner.

Officer K [REDACTED] informed MONTGOMERY she would be retaining the hide since it was not lawfully taken. Officer K [REDACTED] attempted to explain the sealing process with respect to hunting and MONTGOMERY stated, “I was hunting.” MONTGOMERY asked what he was supposed to do when four of his dogs catch a bobcat on the ground and the cat ends up dead. Officer K [REDACTED] continued to explain that the bobcat was not taken in a legal hunting manner per CPW regulations. MONTGOMERY stated, “Okay well then, take the bobcat, I’ll get my lawyer, we’ll press charges against the State of Colorado for taking my income.”

MONTGOMERY stated his dogs caught the bobcat on the ground and he does not have any control over that. Officer D [REDACTED] explained to MONTGOMERY that the appropriate response in this situation would be to pull the dogs off and if it does end up dead to call CPW. Officer D [REDACTED] told MONTGOMERY “I mean, mistakes happen,” and MONTGOMERY responded “It’s not a mistake. It’s not a mistake.”

MONTGOMERY told Officer K [REDACTED] he disposed of the rest of the carcass in the trash. MONTGOMERY asked if a slingshot was a legal manner of take and Officer D [REDACTED] attempted to locate a small game brochure for MONTGOMERY, which outlines legal manners of take. CPW Regulation 2 CCR 406-3-303.E lists lawful manners of take, and slingshots are not listed as a lawful manner of take for furbearers (see detailed regulation below).

Officer K [REDACTED] told MONTGOMERY she would follow up with MONTGOMERY at a later date. The conversation between Officer K [REDACTED], Officer D [REDACTED], and MONTGOMERY from January 25, 2021 was recorded by both Officer K [REDACTED] and Officer D [REDACTED] (Seizure Tag #62732 and #62734).

On January 26, 2021, Officer K [REDACTED] left a voicemail message for [REDACTED] asking him to return her call regarding MONTGOMERY.

On January 27, 2021, Officer K [REDACTED] drove the bobcat hide to veterinarian Dr. [REDACTED] F [REDACTED] at the CPW Wildlife Health Lab to inspect. Dr. F [REDACTED] identified multiple bite wounds on the bobcat hide. Dr. F [REDACTED] also discovered the bobcat was a young male, rather than a female. See attached report from Dr. F [REDACTED].

On January 29, 2021, Officer K [REDACTED] received a text message from MONTGOMERY asking if he was going to get the bobcat back. Officer K [REDACTED] informed MONTGOMERY she would be issuing a citation and that it would be up to the courts to decide if MONTGOMERY was going to get the bobcat hide back. MONTGOMERY also stated in the text message; "Okay fair enough. I looked over the regs carefully and believe that you could be correct." Officer K [REDACTED] and MONTGOMERY agreed to meet on February 1, 2021 at the CPW Littleton Office.

On January 31, 2021, Officer K [REDACTED] received a phone call from [REDACTED]. Officer K [REDACTED] asked [REDACTED] if he could give her any information about MONTGOMERY killing the bobcat that day. [REDACTED] said he ran into MONTGOMERY near Russell Ridge and MONTGOMERY told [REDACTED] his dogs had killed the bobcat. Officer K [REDACTED] asked [REDACTED] if he knew anything about a slingshot and [REDACTED] said he only knew about the dogs.

Officer Kaknes met MONTGOMERY to issue a citation:

On February 1, 2021 at approximately 1:03pm, Officer K [REDACTED] met MONTGOMERY at the Littleton CPW Office to issue a citation. MONTGOMERY disputed receiving a citation asking why he was not receiving a "break." Officer K [REDACTED] told MONTGOMERY he had a great deal of experience using hounds while hunting and she expected him to know the regulations. Additionally, Officer K [REDACTED] told MONTGOMERY she would issue the same citation to any other person with his skills and knowledge if the circumstances were the same. During the contact, MONTGOMERY stated he shot the bobcat with a .25 caliber pellet gun and said he was sorry he lied to Officer K [REDACTED]. Officer K [REDACTED] told MONTGOMERY she had evidence that said otherwise. MONTGOMERY also claimed whatever happened out there was an accident (which MONTGOMERY had stated in the January 25, 2021 interview that it was not a mistake).

During the contact, MONTGOMERY made comments to Officer K [REDACTED] which insinuated he may release allegedly damaging information about CPW to the media if he was written a ticket. Officer K [REDACTED] told MONTGOMERY that she knew nothing of the situation MONTGOMERY was referring to and it had nothing to do with this case.

Per Colorado Revised Statute (CRS) 33-6-102 (25.5) to "Hunt" means to pursue, attract, stalk, lie in wait for, or attempt to shoot, wound, kill, trap, capture, collect, or take wildlife. MONTGOMERY had several years of experience using hounds while hunting and continued to pursue the bobcat for miles without a lawful manner of take. Officer K [REDACTED] issued MONTGOMERY citation #F253105 for:

- 2 CCR 406 303E – Manner of Take: Did unlawfully take a furbearer with an unlawful manner of take (to wit: bobcat)
- CRS 33-6-109(1) – Illegal Possession: Did unlawfully take wildlife (to wit: bobcat taken by illegal manner of take).

Officer K [REDACTED] explained the citation to MONTGOMERY. The conversation between Officer K [REDACTED] and MONTGOMERY from February 1, 2021 was recorded (Seizure Tag #62733).

Manner of Take (Furbearers):

2 CCR 406-3-300B "Furbearers" means those species with fur having commercial value and which provide opportunities for sport harvest including mink, pine marten, badger, red fox, gray fox, swift fox, striped skunk, western spotted skunk, beaver, muskrat, long-tailed weasel, short-tailed weasel, coyote, bobcat, opossum, ring-tailed cat and raccoon.

303E Manner of Take - Furbearers

1. Any rifle or handgun.
2. Any shotgun.

3. Handheld bows and crossbows.

4. Any air gun, except that for coyote or bobcat the air gun must be a pre-charged pneumatic air gun .25 caliber or larger.

5. Live traps, limited to cage or box traps. All live-trapped wildlife shall be released immediately or dispatched by any legal method of take for that species in regulations #303.E.1-4. If local ordinances or public safety prohibit all legal methods of take from being used, American Veterinary Medical Association Guidelines for Euthanasia of FreeRanging Wildlife, as provided in S7.6 of the 2013 edition of the AVMA Guidelines for Euthanasia of Animals, may alternatively be used to the extent allowable by law.

6. Electronic call devices.

7. Artificial light (private land) may be used at night to take beaver, bobcat, coyote, gray fox, raccoon, red fox, striped skunk and swift fox on private land with written permission of the landowner, designated agent, lessee, or authorized employee.

8. Artificial light (public land) may be used at night to take beaver, bobcat, coyote, gray fox, raccoon, red fox, striped skunk and swift fox on public lands by permit only, as follows: a. Each permit shall be valid only for the time, species, and location specified on the permit. No permit will be valid during any deer, elk or pronghorn rifle season or during the 24-hour period prior to the opening weekend; nor during the opening weekend of any grouse, pheasant, quail, turkey or waterfowl season in those areas where such seasons are in progress. b. An artificial light which is permanently attached to, or projected from within a vehicle is prohibited. c. Taking shall not be permitted within 500 yards of a dwelling, building, or other structure, or in any area of public concentration where human safety would be jeopardized. d. Such permit shall be carried while hunting and available for inspection upon demand. e. Area wildlife managers and district wildlife managers may deny a permit where there is a potential that night hunting activities may result in significant adverse impact on wildlife resources by causing movement of large numbers of big game or otherwise. Provided further that night hunting permits for bobcat will not be issued on public 5 lands in the Canada lynx recovery area where Canada lynx are known to be present. When one Canada lynx has been taken by a bobcat hunter during the current year's hunting season no night hunting permits for bobcat will be issued for the remainder of the calendar year in the Canada lynx recovery area or in the area outside the Canada lynx recovery area where the Canada lynx was taken. In such instance, any night hunting permits for bobcat already issued under this provision shall be terminated. f. A permit shall not be required of any person, member of the person's family, lessee, designated agent, authorized employee, or identified designee with written authorization when necessary to protect such person's property. Refer to Chapter W17, Damage Caused by Wildlife for applicable regulations.

9. Baits a. Furbearers may be taken with the aid of baiting. Where permitted, baits shall consist solely of material of animal or plant origin and shall not contain any materials of metal, glass, porcelain, plastic, cardboard or paper. Wildlife used as bait shall be the carcass, or parts thereof, of legally taken furbearers, carp, shad, white and longnose suckers, and nonedible portions of legally obtained game mammals, birds and game fish.

End of report

The above is true and correct

 K 

Officer (print)

 

Badge

 

Signature

03/22/2021 

Date: