

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America

v.

Sean Michael McHugh

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)
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Case: 1:21-mj-00436

Assigned to: Judge Harvey, G. Michael

Assign Date: 5/19/2021

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) Sean Michael McHugh,
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;
- 18 U.S.C. § 1752(a)(2) - Disorderly and Disruptive Conduct in a Restricted Building or Grounds;
- 18 U.S.C. § 1752(a)(4) - Engaging in Physical Violence in a Restricted Building or Grounds;
- 40 U.S.C. § 5104(e)(2)(D) - Disorderly Conduct on Capitol Grounds,
- 40 U.S.C. § 5104(e)(2)(F) - Physical Violence on Capitol Grounds;
- 18 U.S.C. § 231(a)(3) - Obstruction of Law Enforcement During Civil Disorder,
- 18 U.S.C. § 111(a)(1) and (b) - Assault Law Enforcement Officer with a Deadly or Dangerous Weapon;
- 18 U.S.C. § 1512(c)(2) - Obstruction of Justice/Congress.

Date: 05/24/2021

Digitally signed by
G. Michael Harvey
Date: 2021.05.24
11:11:41 -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) 5/24/2021, and the person was arrested on (date) 5/27/2021
at (city and state) AUBURN, CA.

Date: 5/27/2021

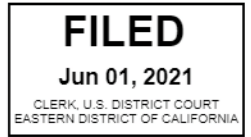
Arresting officer's signature

SA RYAN PENNA, FBI
Printed name and title

UNITED STATES DISTRICT COURT

for the

Eastern District of California



United States of America)
 v.)
 SEAN MICHAEL MCHUGH) Case No. 2:21-mj-00089-JDP
 Defendant)

ORDER OF DETENTION PENDING TRIAL

Part I - Eligibility for Detention

Upon the

- Motion of the Government attorney pursuant to 18 U.S.C. § 3142(f)(1), or
- Motion of the Government or Court’s own motion pursuant to 18 U.S.C. § 3142(f)(2),

the Court held a detention hearing and found that detention is warranted. This order sets forth the Court’s findings of fact and conclusions of law, as required by 18 U.S.C. § 3142(i), in addition to any other findings made at the hearing.

Part II - Findings of Fact and Law as to Presumptions under § 3142(e)

A. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(2) (*previous violator*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community because the following conditions have been met:

- (1)** the defendant is charged with one of the following crimes described in 18 U.S.C. § 3142(f)(1):
 - (a)** a crime of violence, a violation of 18 U.S.C. § 1591, or an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; **or**
 - (b)** an offense for which the maximum sentence is life imprisonment or death; **or**
 - (c)** an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508); **or**
 - (d)** any felony if such person has been convicted of two or more offenses described in subparagraphs (a) through (c) of this paragraph, or two or more State or local offenses that would have been offenses described in subparagraphs (a) through (c) of this paragraph if a circumstance giving rise to Federal jurisdiction had existed, or a combination of such offenses; **or**
 - (e)** any felony that is not otherwise a crime of violence but involves:
 - (i)** a minor victim; **(ii)** the possession of a firearm or destructive device (as defined in 18 U.S.C. § 921);
 - (iii)** any other dangerous weapon; or **(iv)** a failure to register under 18 U.S.C. § 2250; **and**
- (2)** the defendant has previously been convicted of a Federal offense that is described in 18 U.S.C. § 3142(f)(1), or of a State or local offense that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed; **and**
- (3)** the offense described in paragraph (2) above for which the defendant has been convicted was committed while the defendant was on release pending trial for a Federal, State, or local offense; **and**
- (4)** a period of not more than five years has elapsed since the date of conviction, or the release of the defendant from imprisonment, for the offense described in paragraph (2) above, whichever is later.

B. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(3) (*narcotics, firearm, other offenses*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because there is probable cause to believe that the defendant committed one or more of the following offenses:

- (1) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508);
- (2) an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332b;
- (3) an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed;
- (4) an offense under Chapter 77 of Title 18, U.S.C. (18 U.S.C. §§ 1581-1597) for which a maximum term of imprisonment of 20 years or more is prescribed; **or**
- (5) an offense involving a minor victim under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

C. Conclusions Regarding Applicability of Any Presumption Established Above

The defendant has not introduced sufficient evidence to rebut the presumption above, and detention is ordered on that basis. (*Part III need not be completed.*)

OR

The defendant has presented evidence sufficient to rebut the presumption, but after considering the presumption and the other factors discussed below, detention is warranted.

Part III - Analysis and Statement of the Reasons for Detention

After considering the factors set forth in 18 U.S.C. § 3142(g) and the information presented at the detention hearing, the Court concludes that the defendant must be detained pending trial because the Government has proven:

- By clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.
- By a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.

In addition to any findings made on the record at the hearing, the reasons for detention include the following:

- Weight of evidence against the defendant is strong
- Subject to lengthy period of incarceration if convicted
- Prior criminal history
- Participation in criminal activity while on probation, parole, or supervision
- History of violence or use of weapons
- History of alcohol or substance abuse
- Lack of stable employment
- Lack of stable residence
- Lack of financially responsible sureties
- Lack of significant community or family ties to this district

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | Significant family or other ties outside the United States |
| <input type="checkbox"/> | Lack of legal status in the United States |
| <input type="checkbox"/> | Subject to removal or deportation after serving any period of incarceration |
| <input checked="" type="checkbox"/> | Prior failure to appear in court as ordered |
| <input type="checkbox"/> | Prior attempt(s) to evade law enforcement |
| <input type="checkbox"/> | Use of alias(es) or false documents |
| <input type="checkbox"/> | Background information unknown or unverified |
| <input checked="" type="checkbox"/> | Prior violations of probation, parole, or supervised release |

OTHER REASONS OR FURTHER EXPLANATION:

Assaulting federal officers and use of bear spray

Part IV - Directions Regarding Detention

The defendant is remanded to the custody of the Attorney General or to the Attorney General's designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant must be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: 6/1/2021

/s/ Kendall Newman

KENDALL J. NEWMAN, United States Magistrate Judge

O AO 94 (Rev. 8/97) Commitment to Another District

UNITED STATES DISTRICT COURT

Eastern District of California

FILED
 Jun 01, 2021
 CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

COMMITMENT TO ANOTHER

V.

DISTRICT

SEAN MICHAEL MCHUGH

Case No. 2:21-mj-00089-JDP

DOCKET NUMBER

MAGISTRATE JUDGE CASE NUMBER

District of Arrest	District of Offense	District of Arrest	District of Offense
Eastern District of California	1:21-mj-00436	2:21-mj-00089-JDP	District of Columbia

CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

Indictment Information Complaint Other

charging a violation of 18 U.S.C. § 1752(a)(1)

DISTRICT OF OFFENSE District of Columbia

DESCRIPTION OF CHARGES:

Knowingly Entering or Remaining in any Restricted Building or Ground Without Lawful Authority

I hereby certify that the annexed instrument is a true and correct copy of the original on file in my office.

ATTEST: **KEITH HOLLAND**

Clerk, U. S. District Court
 Eastern District of California

By: *[Signature]*
 Deputy Clerk

Dated: 6.1.21

CURRENT BOND STATUS:

- Bail fixed at \$ _____ and conditions were not met
- Government moved for detention and defendant detained after hearing in District of Arrest
- Government moved for detention and defendant detained pending detention hearing in District of Offense
- Other (specify) _____

Representation Retained Own Counsel Federal Defender Organization CJA Attorney None

Interpreter Required? No Yes Language: _____

DISTRICT OF CALIFORNIA

TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.

6/1/2021
 Date

/s/ Kendall Newman
 United States Magistrate Judge

RETURN

This commitment was received and executed as follows:

DATE COMMITMENT ORDER RECEIVED	PLACE OF COMMITMENT	DATE DEFENDANT COMMITTED
DATE	UNITED STATES MARSHAL	(BY) DEPUTY MARSHAL

CLOSED

**U.S. District Court
Eastern District of California - Live System (Sacramento)
CRIMINAL DOCKET FOR CASE #: 2:21-mj-00089-JDP-1**

Case title: USA v. McHugh

Date Filed: 05/27/2021

Date Terminated: 06/02/2021

Assigned to: Magistrate Judge
Jeremy D. Peterson

Defendant (1)

Sean Michael McHugh
TERMINATED: 06/02/2021

represented by **Alexandra Paradis Negin**
Federal Public Defender's Office
801 I Street
3rd Floor
Sacramento, CA 95818
916-498-5700
Email: lexi_negin@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

I hereby certify that the annexed
Instrument is a true and correct copy of
the original on file in my office.

ATTEST: KEITH HOLLAND

Clerk, U. S. District Court
Eastern District of California

By *K. Holland* Deputy Clerk

Dated 6-2-21

**Highest Offense Level
(Terminated)**

None

Disposition

Complaints

RULE 5(c)(3)

Plaintiff

USA

represented by **Katherine Theresa Lydon , GOVT**

United States Attorney's Office
 501 I Street
 Suite 10-100
 Sacramento, CA 95814
 916-554-2722
 Email: Katherine.Lydon@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Date Filed	#	Docket Text
05/27/2021		RULE 5(c)(3) ARREST from District of Columbia. Case 1:21-mj-00436 as to Sean Michael McHugh (1). (Cannarozzi, N) (Entered: 05/27/2021)
05/28/2021	1	MINUTES (Text Only) for INITIAL APPEARANCE in RULE 5(c)(3) PROCEEDINGS as to Sean Michael McHugh held on 5/28/2021 via video conference before Magistrate Judge Jeremy D. Peterson re: District of Columbia case 1:21-mj-00436. All parties present and consented to proceed by video conference. The Federal Defender was appointed to represent the deft. The court advised the deft of his rights and the pending charges. The deft waived an ID hearing. The Govt moved for detention. Defense counsel requested the matter of detention be continued. So ordered. Detention Hearing set for 6/1/2021 at 02:00 PM in Courtroom 25 (KJN) before Magistrate Judge Kendall J. Newman. The court instructed government counsel under Rule 5(f) to comply with its disclosure obligations under <i>Brady v. Maryland</i> . Government Counsel: Katherine Lydon present. Defense Counsel: Lexi Negin present. Custody Status: in custody. Court Reporter/CD Number: Tiphane Crowe. (Cannarozzi, N) (Entered: 05/28/2021)
05/28/2021	2	ORDER (TEXT ONLY) as to Defendant Sean Michael McHugh signed by Magistrate Judge Jeremy D. Peterson on 5/28/2021: Under Federal Rule of Criminal Procedure 5(f), the government is ordered to comply with its discovery obligations as required by federal law, including those duties imposed by <i>Brady v. Maryland</i> , 373 U.S. 83 (1963), and all applicable decisions interpreting <i>Brady</i> . This order does not relieve any party of any discovery obligation. The consequences for violating this order or the government's obligations under <i>Brady</i> may include sanctions, referral to a disciplinary authority, adverse jury instruction, exclusion of evidence, and dismissal of charges, among other consequences. (Cannarozzi, N) (Entered: 05/28/2021)

06/01/2021	<u>3</u>	MEMORANDUM. <i>in Support of Release</i> (Negin, Alexandra) (Entered: 06/01/2021)
06/01/2021	4	MINUTES (Text Only) for proceedings held via video conference (Zoom) before Magistrate Judge Kendall J. Newman: DETENTION HEARING as to Sean Michael McHugh held on 6/1/2021. All parties agreed to appear by Zoom. Defendant advised rights. The Government moved for detention. Defense argued for the release of the defendant. After hearing from parties, and for reasons stated on the record, the Court ORDERED the defendant detained without prejudice on the basis of flight risk and danger to the community and transported forthwith the District of Columbia. Defense asserted the defendant's right to preliminary examination in the District of Columbia and requested that the Pretrial Services Report be updated. The Pretrial Services Officer addressed the Court regarding the report. The Court requested that Pretrial Services contact agencies and update the parties with any information contained within the report if needed. The court re-instructed government counsel under Rule 5(f) to comply with its disclosure obligations under <i>Brady v. Maryland</i> . Government Counsel: Katherine Lydon present. Defense Counsel: Alexandra Negin present. Custody Status: In Custody. Court Reporter: Jennifer Coulthard. (Waldrop, A) (Entered: 06/01/2021)
06/01/2021	5	SHACKLING MINUTE ORDER issued by Courtroom Deputy for Magistrate Judge Kendall J. Newman on 6/1/2021: Pursuant to Local Rule 401, the Court hereby determined that the appropriate restraint level for Sean Michael McHugh is No Restraint at this time (USM # 47574-509). (TEXT ONLY ENTRY) (Waldrop, A) (Entered: 06/01/2021)
06/01/2021	<u>6</u>	ORDER OF DETENTION PENDING TRIAL signed by Magistrate Judge Kendall J. Newman on 6/1/2021 as to Sean Michael McHugh. (Zignago, K.) (Entered: 06/02/2021)
06/01/2021	<u>7</u>	COMMITMENT to ANOTHER DISTRICT signed by Magistrate Judge Kendall J. Newman on 6/1/2021 as to Sean Michael McHugh. Defendant committed to District of Columbia. (Zignago, K.) (Entered: 06/02/2021)
06/02/2021	<u>8</u>	TRANSMITTAL of DOCUMENTS re <u>7</u> Commitment to Another District on *6/1/2021* to * District of Columbia* *333 Constitution Avenue, NW* *Washington, DC 20001*. ** *Electronic Documents: 1 to 7 * (Zignago, K.) (Entered: 06/02/2021)