

JANUARY 6: FOCUS ON JEFF MERKLEY'S OFFICE AND MISSING LAPTOP

Two days ago, I noted that discovery correspondence in the case of Long Island CPA Justin McAuliffe suggests he may know something about what happened to Jeff Merkley's laptop, which was stolen during the riot. Merkley described the damage rioters had done to his office in this video.

The trail of destruction and looting. What happened today was an assault by the domestic terrorists who stormed the Capitol, but it was also an assault on our constitution.

[sound on] pic.twitter.com/BrELF7cMz1

– Senator Jeff Merkley (@SenJeffMerkley)
January 7, 2021

In a letter describing the discovery provided to McAuliffe, DOJ included a picture of Merkley's stolen laptop, among other items.

Senator Jeffrey Merkley Hideaway Office.jpg
Stolen Laptop.jpg
Door Damage.jpg
Joint.jpg
McAuliffe Photos.msg
Fw Capitol Building - Justin McAuliffe.msg
McAuliffe .msg
FW_ Kevin McAuliffe.msg
Screenshot_20210107-133436.png
Screenshot_20210107-1334367.png
Screenshot_20210110-133920.png
Screenshot_20210110-142523.png

As I noted, McAuliffe has not been charged with theft or damage at all. He remains charged under his original complaint with just trespassing.

In the last two days, there have been several developments in the investigation of Merkley's missing laptop.

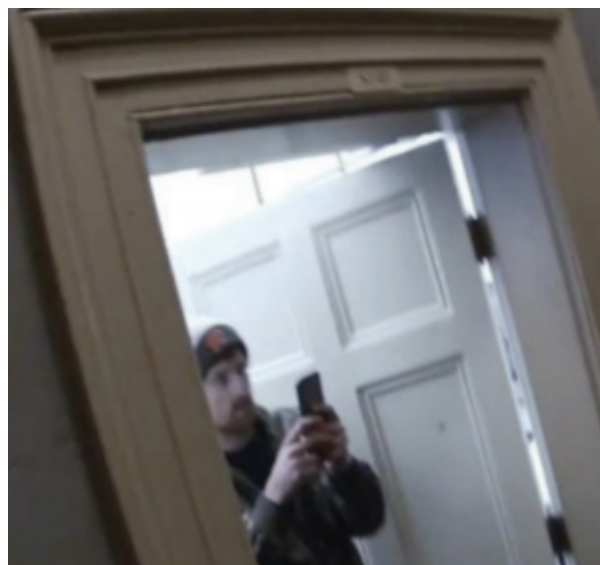
First, on May 4, the government arrested a guy named Gary Edwards.

His arrest affidavit includes a picture of him in what the wall hangings, among other things, make clear is Merkley's office.



Most pictures in his arrest affidavit (including this one) show Edwards using his phone. I have speculated in the past that DOJ is prioritizing the arrests of MAGA tourists – those otherwise charged with just misdemeanor trespassing – for evidence they may have on their cell phones, and Edwards may be such an example.

Also in the last few days, GWU made the April 30 arrest of Oliver Sarko public. His arrest affidavit describes that he entered Merkley's office. The picture included shows that he was filming as he walked out.



Like Edwards, Sarko was arrested solely for trespassing, in another arrest that may serve to obtain key evidence about what happened in Merkley's office.

More interesting still, the government moved to revoke the bail of Brandon Fellows. Fellows is the guy that McAuliffe's arrest affidavit shows sitting next to McAuliffe at a table in Merkley's office (Fellows is the guy with the fake beard; his own arrest affidavit includes a screen cap with Fellows at the table that doesn't show McAuliffe).



Fellows' arrest affidavit (unlike McAuliffe's) notes that Merkley's laptop was stolen, but it doesn't charge him for the theft.

On January 6, 2021, a live stream video on the DLive platform was broadcasted to the public from user "Baked Alaska" and a portion was later posted on Twitter. In the video, several people were observed in an office that appeared to be within the Capitol. The video showed a person who appeared to be FELLOWS, sitting at a table with his feet propped up on a table, as shown in the still shot below. The chairs, table, drapes, and wall art appeared to be consistent with those in the office posted by Senator Merkley. The conference room in which FELLOWS is present appears to be Senate room S140, the private "hideaway" office of Senator Merkley within the

U.S. Capitol. The artwork visible on the walls of the conference room in the video is also visible on a video that Senator Merkley posted to Twitter on January 6, 2021, at 11:36pm, documenting some of the damage to his office, as described above. At this time, there is no evidence that FELLOWS was involved in any of the theft, damage, or destruction – other than being a part of the group that occupied the office for some period of time.

According to the government's motion to revoke bail, since the time Fellows has been out on bail, he has committed a range of small release violations, along with a more significant one: petty larceny.

The PSA's May 5, 2021 report cites numerous violations to support the request to remove the defendant from their supervision. First, the report relayed two instances, on April 8, 2021, and May 1, 2021, in which the defendant failed to comply with his curfew 9:00 p.m. curfew. On both occasions, PSA had to contact the defendant, who gave excuses for his violations (Doc. 23 at 3-4). On the latter occasion, the defendant told the PSA officer that he had left a message that he was running late, however there was no record of such a message being left. (Id. At 5). Second, the report also alleges two violations of his failure to report to PSA as directed on April 9, and April 16, 2021 (Id. at 2). Third, the report indicates the defendant was given a ticket in New York for Petit Larceny (Misdemeanor), with an appearance date of May 12, 2021 (Id. at 3). As noted in the PSA report, defendant failed to report the arrest as required by his conditions of release. (Id.). After the defendant was arrested for the Petit

Larceny he was issued an appearance ticket directing him to appear in Court for the offense. Similar to his initial arrest by the FBI in this matter, the defendant told the New York State police officer that he would meet the officer to be processed on March 8, 2021, but failed to show up. The defendant only turned himself in after the officer contacted him again on April 28th.

The larceny is just a misdemeanor. But Fellows' arrest affidavit makes it clear the FBI thinks he might have stolen Merkley's laptop (curiously, he's one of the rare January 6 defendants for whom the government got a prospective location warrant, as well as a PRTT order to find out who he'd been talking with, though the former may have been because he was dicking around with self-reporting). And this motion to revoke bail suggests that while out on release under suspicion that he stole a laptop, he took something else, albeit far more minor.

Given that there are upwards of 300 people out on bail for charges related to January 6, I would imagine that Fellows is nowhere near the only one to have violated his release conditions (John Sullivan is the only one I can think of who was actually publicly reported for it).

But at a time when the government seems to be focusing closely on who stole Merkley's laptop, they've decided it's time to detain Fellows pending trial.

Update: After I posted this, GWU's Seamus Hughes reminded me that Sarko's arrest affidavit also included a reference to Merkley's office. Thanks to him for the reminder.

Update: Because Judge Trevor McFadden held the hearing to consider bail revocation in person, the call-in line got bolloxed and as a result none of the press were able to hear McFadden's reasons why he didn't revoke Fellows' bail, but he did not. He did, however, place him in home

detention.