

IN THE COURT OF COMMON PLEAS – PHILADELPHIA COUNTY

COMMONWEALTH OF
PENNSYLVANIA

v.

CP-51-CR-0000078-2021

JOSHUA MACIAS

COMMONWEALTH’S MOTION TO REVOKE BAIL

TO THE HONORABLE KAI SCOTT OF THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY:

LAWRENCE S. KRASNER, the District Attorney of Philadelphia County, by and through his assistants, BRIAN M. COLLINS and DAVID J. NAPIORSKI, Assistant District Attorneys, respectfully requests that this Court grant the Commonwealth’s motion to revoke bail and in support thereof states:

1. On Thursday, November 5, 2020, the defendant, Joshua Macias, drove from Virginia with his co-defendant and co-conspirator Antonio Lamotta, to the Philadelphia Convention Center with the intent to interfere with the vote canvass being conducted by the Philadelphia Board of Elections.
2. After receiving a tip from the Federal Bureau of Investigation, Philadelphia Police stopped and arrested Macias outside of the Convention Center. He had a loaded .40 caliber handgun concealed on his person. Co-conspirator Lamotta had a loaded 9mm handgun openly carried on his hip.
3. Subsequent to that arrest, police searched Macias’s vehicle, a Hummer H2 (registered to Lamotta) that was parked one block away. The defendants used this Hummer to travel to Philadelphia. Inside, Philadelphia police recovered a semi-automatic AR-15-style assault

rifle, 2 AR-15 charging handles, 117 .223 rifle cartridges, 44 .40 caliber cartridges (ammunition that matched Macias' handgun), one .45 caliber cartridge, one 9mm cartridge, and a samurai sword.

4. Macias was charged with two Violations of the Uniform Firearms Act¹, attempted interference with primaries and elections and hindering the performance of a duty², and criminal conspiracy³, all of which have been held for court.
5. As detailed in the Commonwealth's November 17, 2020 filing in opposition to Macias's motion to reduce bail, Macias's intent in traveling to Philadelphia was to interfere with the counting of lawfully cast votes by Philadelphians.
6. After his arrest, the Commonwealth requested that Macias be held without bail. Bail was set at \$750,000 (10%) by the bail magistrate. The Honorable Marvin Williams denied the Commonwealth's appeal.
7. On November 23, 2020, the Honorable Sharon Williams-Losier denied Macias's motion to reduce bail.
8. On December 5, 2020, Macias posted 10% of his bail and was released.
9. On January 6, 2021, Macias spoke at an event titled "Freedom Rally" in the park next to the U.S. Capitol building in the District of Columbia. In Macias's remarks, he gestures to the side of the stage at his co-defendant "Tony" while discussing their arrest in Philadelphia.
10. After that speech, Macias and his co-defendant were involved in the insurrection at the U.S. Capitol.

¹ 18 Pa. C.S. §§ 6106, 6108.

² 25 Pa. C.S. §§ 3527, 3549.

³ 18 Pa. C.S. § 903(c).

11. Macias was visible in media footage showing him within the security perimeter on the Capitol Grounds in an area specifically marked “No Demonstration Permitted” and gave a speech during which insurrectionists overran Capitol Police Officers stationed at the Capitol’s door.
12. The Commonwealth moved to revoke Macias’s bail based on this conduct as violating Pa. R. Crim. P. 526(A)(5).
13. At the conclusion of a hearing on January 22, 2021, the Court denied the Commonwealth’s revocation motion, but increased Macias’s bail from \$750,000 to \$850,000. *See* N.T., 1/22/2021 at 43–46.
14. At that hearing, the conditions of Macias’s bail were conceded to and reiterated by Macias’s counsel. *Id.* at 27. Among other conditions, Macias is not to post on social media during the pendency of this matter, or attend rallies. *Id.* (“There will be no more rallies, meetings, assemblies during the pendency of this case. There will be no more social media postings during the pendency of this case.”); *see also* Bail Order, dated 1/23/2021, attached as Exhibit A.
15. Macias has violated the conditions of his bail by attending a rally and continuing to post on social media during the pendency of this matter.
16. The Twitter handle, @Vets_For_Trump, was founded by and appears to be continuously operated by Macias based on the frequency of his appearance in posts on the account. At the least, he is a member of the control group for the page given how frequently he appears in the postings.
17. The @Vets_For_Trump handle is active, recently tweeting or retweeting posts about the “trucker protest” in Ottawa, immigration, and various Covid-19 conspiracy theories. *See*

generally https://twitter.com/Vets_4_Trump. The handle has also recently linked to an interview Macias gave with Stew Peters⁴ where he discussed this case, and invited followers to join them at a political rally on the U.S.-Mexico border. *See id.*

18. Veterans for America First (VFAF), a separate organization Macias co-founded, is also active on social media. Macias currently sits on VFAF's Board of Directors. *See* <https://veteransforamericafirst.org/meet-the-team/>.

19. VFAF operates its own public social media site, similar to Twitter, on which users can post and share others' posts. A frequent poster on this site uses the nickname "Joshua," has the initials "jm," and the page currently marks the user as a Founder of the site. *See* <https://veteransforamericafirst.org/members/jm757/activity/>. According to VFAF's site, the only founder or co-founder of the organization named Joshua is Macias.

20. Macias also posted his interview with Peters to this platform, writing with the link, "[h]ere is **my** interview with Stew Peters." *See* VFAF Screenshot, attached as Exhibit B (emphasis added).⁵

21. Macias also appeared to be using VFAF's platform to organize an "American trucker protest" modeled after the recent protest staged in Ottawa. *See generally* <https://veteransforamericafirst.org/members/jm757/activity/>.

⁴ Stew Peters is a right-wing internet radio personality who is known for spreading antisemitic conspiracy theories in which Hungarian-American Jewish billionaire George Soros often features.

⁵ In February 2022, it appears that Macias scrubbed his VFAF social media profile, re-writing his posts from the first-person into the third-person and rebranding the page as a Macias "fan site." The attached screenshot predates this change. It should be noted that, aside from the narrative change to the posts, no other changes appear to have been made. Macias's profile still uses his name, initials, and the fact that he is a co-founder of VFAF.

22. On February 25, 2022, the Facebook page for VFAF posted a video, shot by and starring Macias, in which Macias endorses congressional candidate Jarome Bell⁶ for Virginia's Second Congressional District, and encourages people to come out and vote for him this June. See <https://fb.watch/bulmR0nDJ2/>
23. On February 28, 2022, VFAF's Facebook page posted a second video, this one starring Macias but shot by someone else, in which Macias endorses Bianca Gracia⁷ for Texas State Senate. See <https://www.facebook.com/VeteransforAmericaFirst/posts/396804292208306>
24. On March 8, 2022, VFAF's Facebook page hosted a live video of the American "trucker protest" outside of Washington, D.C. that was seemingly recorded and narrated by Macias. See <https://www.facebook.com/VeteransforAmericaFirst/videos/639991937262689>. Indeed, Macias's distinctive voice can be heard throughout, and he self-identifies as "J.M." roughly six minutes into the video. Thus, not only is Macias posting to social media, but he is posting video of himself attending a rally – both prohibited by his bail conditions – and his thinly veiled effort to conceal himself in the video as "JM" is evidence of his awareness that he is violating the conditions of bail.

⁶ Bell came to prominence as a vocal critic of President Biden's victory, appearing to believe it was fraudulent. He has publicly called for the execution of everyone involved in President Biden's election. See Khaleda Rahman, *Twitter Won't Remove Pro-Trump Candidate's Call to Execute Election Fraudsters*, NEWSWEEK (Sept. 27, 2021 at 12:13 p.m.), available at <https://www.newsweek.com/twitter-wont-remove-pro-trump-candidates-call-execute-election-fraudsters-1632973>.

⁷ Gracia was reportedly involved in planning the January 6 insurrection along with members of far-right groups the Proud Boys and the Oathkeepers. See Aram Roston, *Exclusive: FBI Probes Pre-Capitol Riot Meeting of Far-Right Groups*, REUTERS (Feb. 8, 2020 10:46 a.m.), available at <https://www.reuters.com/world/us/exclusive-fbi-probes-pre-capitol-riot-meeting-far-right-groups-2022-02-08/>

25. On March 12, 2022, VFAP's Facebook page posted several videos from a rally for Jerome Bell in Virginia, also seemingly featuring Macias.
26. Defendants have no absolute right to maintain their bail once it's set, and modification or revocation of bail rests within the sound discretion of the Court. *See* Pa.R.Crim.P. 521, 523.
27. In considering modifying or revoking a defendant's bail, a court shall consider, among other things, the nature of the crimes charged, the length of the defendant's residence in the community, and whether the defendant has previously complied with the conditions of his bail. Pa. R. Crim. P. 523(A)(1),(4),(6).
28. All of the above conduct violates this Court's order setting forth Macias's conditions for bail, which proscribes both attending rallies and using social media.⁸ This is reason enough to revoke Macias's bail. *See, e.g., Commonwealth v. Lawrence*, 2008 WL 7292985 (Pa.Com.Pl.) (Trial Order) (noting bail was revoked for failure to meet conditions of release, namely, attending substance abuse treatment).
29. In addition to flagrantly violating the conditions of his release, Macias is an out-of-state resident, which also weighs in favor of granting the Commonwealth's motion. *See, e.g., Commonwealth v. Giddins*, 33 Pa. Co. Rprt 565, 567 (Pa.Com.Pl. 1997) (revoking bail, in part, because "the defendant doesn't live in the community").

⁸ Macias also appears to show brazen contempt for this court's order, using his @Vets_For_Trump Twitter account to quote Arizona State Senator Wendy Rogers, herself a conspiracy theorist who has called for the execution of anyone that assisted in President Biden's election, when she warned her followers to "[l]isten to the people banned from social media[:] they say things the people in power don't want us to hear[:]" while tagging Macias's personal Twitter account.

30. Lastly, as noted above, Macias's charges are serious. Currently held for court are (a) two firearm charges stemming from Macias's illegal, public possession of a .40 caliber handgun, a semi-automatic AR-15-style assault rifle, 2 AR-15 charging handles, 117 .223 rifle cartridges, and 44 .40 caliber cartridges, among other things, and (b) two election interference charges, stemming from an attempt to keep Philadelphia's Board of Elections from completing and certifying its vote count in the 2020 Presidential election. Considered together, the aforementioned charges paint a picture of a narrowly averted violent attack on democracy, which Macias followed by participating in the January 6 insurrection while on bail last year. *See* Rob Kuznia & Ashely Fantz, *They Swore to Protect America. Some Also Joined the Riot*, CNN (Jan. 15, 2021 12:10 p.m.), available at <https://www.cnn.com/2021/01/12/us/military-extremism-capitol-riot-invs/index.html>. He has continued to follow that conduct by violating this Court's specific and direct order to refrain from the above conduct.

31. Given the above factors, and for the safety of the community and democracy itself, this Court should revoke Macias's bail and hold him in custody pending the final resolution of these charges.

WHEREFORE, the Commonwealth respectfully requests that the Court revoke Macias's Bail.

Respectfully submitted,

LAWRENCE S. KRASNER
District Attorney

/s/ Brian M. Collins
BRIAN M. COLLINS
Assistant District Attorney

/s/ David J. Napiorski
DAVID J. NAPIORSKI
Assistant District Attorney

CERTIFICATION OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Cases Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Date: 03/16/2022

/s/ Brian M. Collins

BRIAN M. COLLINS
Assistant District Attorney

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the herein Response was served upon all parties in accordance with the Pennsylvania Rules of Criminal Procedure.

Date: 03/16/2022

/s/Brian M. Collins

BRIAN M. COLLINS
Assistant District Attorney