

ENRIQUE TARRIO REALLY DOESN'T WANT THE FBI TO SEARCH HIS LAPTOP

While there has been a close focus on the federal charges against the terrorists who mobbed the Capitol on January 6, there has been less focus on the lawfare Proud Boy leader Enrique Tarrío has been waging in his DC case.

Tarrío likely avoided federal charges like those filed against Proud Boy leaders Joe Biggs and Ethan Nordean by getting arrested two days earlier on charges associated with vandalizing a Black church and possession of a firearm. But Tarrío is complaining that his bail conditions – which prohibit him from entering DC except for reasons related to his prosecution – violate his First Amendment.

Thus, undersigned counsel invites the government to explain, at a hearing before the Court, what reasonable and credible justification it can offer for barring from the District of Columbia a person who is accused of a possessory felony offense (that does not even involve possession of bullets or a gun) and misdemeanor destruction of a *Black Lives Matter* flag.

[snip]

This ban is especially harsh in Mr. Tarrío's case, as: (1) he is an activist who needs to be in the District from time to time to organize and protest; (2) many American citizens are concerned about the policies of the Biden administration and thus have a right to redress by appearing at protests in the District; and (3) trials are extremely delayed due to the COVID-19 pandemic, meaning that the "temporary" ban from

the District will likely, in effect, result in a long-term ban if this Court does not modify it.

More interesting still, Tarrío moved to require the court to have a hearing before granting a warrant to search the phone or laptop that were seized from Tarrío when he was arrested (and he's particularly interested in getting his laptop returned to him if and when the DC cops image it in response to a warrant).

Given the privacy interests at stake and the important legal issues at play, Mr. Tarrío requests that any execution, or issuance, of a warrant be temporarily halted to provide undersigned counsel the opportunity to respond. Further, defense counsel should be notified of, and be allowed to attend, any government/police request/application for a search warrant of Mr. Tarrío's electronic devices (including his cell phone and laptop computer), online accounts, or any other item in which Mr. Tarrío has a privacy interest.

The DC Superior court rejected both requests (Tarrío is appealing the bail motion). In the latter case, Judge Robert Okun did so because the court has not issued a warrant, and Tarrío has no right to make a pre-emptive challenge in any case.

If I understand the posture of the request, however, nothing happening in the DC Superior court would prevent the DC US Attorney's office from asking the DC District Court for a warrant to serve on the DC police – which is where they'd go if they were seeking the contents of the laptop as part of its January 6 investigation.

When Tarrío assaulted the Asbury United Methodist Church in December, he did so knowing it would create a cause among the far right. The

same may be true of his decision to bring two magazines to DC – it may have been deliberate provocation in an attempt to bring a Second Amendment challenge.

So that may be all that's going on here – an attempt to play the victim.

That said, given first the WaPo and now a NYT report that the DC US Attorney's office is considering opening an investigation into the role that Tarrío's buddy Roger Stone played in the insurrection – conveniently timed leaks that will ensure this comes up in Merrick Garland's confirmation hearing tomorrow – I wonder whether Tarrío was stupid enough to bring a laptop to his insurrection with something genuinely sensitive on it.