

1 STEPHANIE M. HINDS (CABN 154284)
Acting United States Attorney

2 HALLIE HOFFMAN (CABN 210020)
3 Chief, Criminal Division

4 FRANK J. RIEBLI (CABN 221152)
Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
6 San Francisco, California 94102-3495
7 Telephone: (415) 436-7200
8 FAX: (415) 436-7234
Frank.Riebli@usdoj.gov

9 Attorneys for United States of America

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,)	Case No. CR 21-274 CRB
14 Plaintiff,)	
15 v.)	GOVERNMENT’S MOTION TO DETAIN
16 JARROD COPELAND,)	
17 Defendant.)	Date: Tuesday, July 20, 2021
)	Time: 10:30 a.m.

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1 **I. INTRODUCTION**

2 Ian Rogers and Jarrod COPELAND plotted to attack targets associated with people and
 3 companies whose political views differed from their own. Both men were well-armed, and their plans
 4 were specific, detailed, and serious. Law enforcement arrested Rogers on January 15, 2021 and he
 5 remains in state custody, facing both federal and state charges. Officers searched COPELAND's
 6 residence and took his guns two days later, thus disrupting their planned attack. On July 7, 2021, a
 7 federal grand jury charged Rogers and COPELAND with, among other things, conspiring to maliciously
 8 destroy a building by arson. There is a presumption in this case that COPELAND should be detained
 9 because the arson charge is a crime listed in 18 U.S.C. § 2332b(g)(5)(B). COPELAND is also charged
 10 with obstruction of justice because he erased his communications with Rogers after he learned of
 11 Rogers's arrest. COPELAND should be detained. Both he and Rogers were animated by the kind anger
 12 that will not be abated or deterred by a court order. And all of the political and social conditions that
 13 motivated them to plan what they themselves described as a terrorist attack remain. The only way to
 14 protect the public is to ensure that COPELAND remains in custody. For these reasons, the government
 15 asks that the Court detain COPELAND pending trial in this matter.

16
 17 **II. BACKGROUND**

18 Rogers and COPELAND were upset with the outcome of the 2020 Presidential election. So they
 19 began to plan a series of violent attacks against targets associated with Democrats. Though they
 20 understood that they would be viewed as domestic terrorists,¹ they hoped that their violent acts might
 21 start a movement to overthrow the government.

22 The planning began on November 25, 2020, using encrypted messaging applications:

23 Rogers Ok bro we need to hit the enemy in the mouth
 COPELAND Yeah so we punch soros
 24 Rogers I think right now we attack democrats
 Rogers They're offices etc
 25 Rogers Molotov cocktails and gasoline
 COPELAND We need more people bro
 26 COPELAND Gonna be hard

27
 28 ¹ In a message to Rogers on November 30, 2020, COPELAND said, "I think . . . we will get tagged as domestic terrorists". Rogers responded, "Like I care what we are labeled" and "I just hope our actions will make others to get involved . . .".

1 * * *

2 Rogers Any thoughts on our first target?
 3 Rogers I think we should hit the Governors Mansion its empty no casualties
 4 Rogers Would send a message
 5 COPELAND That's the best target I think too

6 * * *

7 Rogers Any idea how to take it down? Either fire bomb or full auto ak fire
 8 Rogers I'm thinking full auto fire with fire will send the message we want
 9 Rogers We shoot it up and burn it down , WOLVERINES
 10 COPELAND I think we don't use bullets just burn it down
 11 COPELAND No ammo

12 They continued the conversation two days later, on November 27, 2020, again using an
 13 encrypted messaging application. Though Rogers originally suggested attacking the California
 14 Governor's mansion in Sacramento, he changed the target to the Democratic Headquarters building in
 15 Sacramento. From that point on, and over the next 6-8 weeks, Rogers and COPELAND planned to
 16 attack that building. The exchange, excerpted below, began when Rogers sent COPELAND a link to a
 17 map of the Democratic Headquarters building in Sacramento:

18 Rogers Numero uno
 19 COPELAND Right next to CHP
 20 COPELAND gotta be cautious
 21 Rogers Only take 3 minutes
 22 Rogers Take a brick break a window pour gas in and light
 23 COPELAND Yeah still though
 24 Rogers I think I'll do a drive by and unload a couple drums into that commie
 25 building
 26 COPELAND Lol
 27 Rogers Quick and easy and a fire department is near bye so I don't think a fire
 28 will be effective
 Rogers 150 rounds shot into building will destroy it
 COPELAND Yeah true
 Rogers And a couple pipe bombs
 COPELAND That pipe bomb that shit

The next day, Rogers again raised the topic of attacking the Democratic Headquarters in
 Sacramento, again using the encrypted messaging application:

Rogers So I've been thinking about that target in Sacramento , because the chipy
 station is so close we should fire bomb the place that will be quiet
 Rogers But I'm thinking a keg of gas like 17 gallons of gas
 COPELAND Yeah no bullets
 COPELAND That's a better plan
 Rogers Guns are too loud with that chipy station so close
 Rogers 17 gallons of gas that place will burn good

Over the next few days, Rogers and COPELAND repeatedly discussed and refined the plan. By

1 December 1, 2020, the plan had taken shape, and Rogers was excited: “Do you think something is
 2 wrong with me how I’m excited to attack the democrats?” he asked. COPELAND later told police that
 3 he didn’t take any of the talk seriously and that he was just listening to Rogers “blow off steam.” But
 4 throughout, COPELAND encouraged Rogers, telling him things like, “If we see [Trump] can’t win we
 5 strike” and “If they don’t listen to trump they will hear us”. On January 4, 2021, COPELAND initiated
 6 the discussion of violent attacks following the January 6, 2021 certification of the election results:
 7 “Well it will probably happen and we will become outlaws for real” “I’ve accepted it”. “I got my zip tie
 8 handcuffs in today just in case got a 10 pack,” he told Rogers. And indeed, when police searched
 9 COPELAND’s residence on January 17, 2021, they found a “go bag” with food, clothing, identification
 10 cards (including passports), rifle and pistol magazines, and a package of 10 zip tie handcuffs.

11 “Heads must be taken,” COPELAND said. “I don’t like to think it but I think we will have to die
 12 for what we believe in,” he added.

13 They discussed their plan further over the following days, including on January 11, 2021, this
 14 time using a different encrypted messaging application:

15 Rogers I’m thinking sac office first target
 16 Rogers Then maybe bird and face offices
 17 Rogers Sad it’s come to this but I’m not going down without a fight
 18 Rogers These commies need to be told what’s up
 19 COPELAND I agree
 20 COPELAND Plan attack
 21 * * *
 22 Rogers Let’s see what happens after the 20th we go to war
 23 COPELAND Copy

24 In other words, Rogers was reaffirming that the Democratic Headquarters in Sacramento (“sac
 25 office”) would be their first target, as they’d been planning over the previous two months, and then
 26 suggesting that they could attack the Twitter (“bird”) and Facebook (“face”) offices next.
 27 COPELAND’s response leaves no doubt that he was committed to violence: “I agree” “Plan attack”.
 28 Their trigger was going to be the inauguration on January 20, 2021.

Four days after that exchange, and just five days before the day Rogers and COPELAND
 anticipated “going to war” against other Americans, Napa Sheriff’s deputies arrested Rogers and seized
 between 45 and 50 firearms, including numerous assault rifles and at least three machine guns, five

1 fully-assembled pipe bombs, and approximately 15,000 rounds of ammunition. Rogers is currently in
2 state custody in Napa County, facing weapons charges arising out of those seizures.

3 COPELAND found out about Rogers’s arrest the next day, and immediately took steps to purge
4 his communications with Rogers. He asked a friend (who’d sent him a link to the media article about
5 Rogers’s arrest), “Do you think they look at our texts?” “Because they trace it to me because we talk
6 about some shit bro”. COPELAND also immediately notified one of the leaders of a militia group to
7 which he belongs. That man’s first response was “crap,” as in, ‘oh crap, that’s not good.’ He then
8 advised COPELAND to switch communications platforms (from one encrypted messaging application
9 to another), and to “delete all. Jarrod, this sucks but we will get through it,” he said.

10 Officers searched COPELAND’s residence the next day and seized his cell phone. COPELAND
11 had indeed “deleted all” – his messages with Rogers were gone. Officers also seized three pistols (one
12 of which belonged to Rogers), an assault rifle and another assault rifle lower, as well as a hunting rifle.
13 They also found COPELAND’s “go bags,” bags of supplies he thought he would need in an emergency.
14 The “go bags” contained clothing, identification, food, a tactical helmet, elbow and knee pads, rifle and
15 pistol magazines, and the zip tie handcuffs mentioned above. The officers also found, and seized, at
16 least two different kinds of anabolic steroids.

17 On July 7, 2021, a grand jury charged Rogers and COPELAND with conspiring to maliciously
18 destroy a building by fire, in violation of 18 U.S.C. § 844(i) and (n). The Indictment also charges
19 Rogers with possession of pipe bombs and machine guns, and charges COPELAND with obstruction of
20 justice, in violation of 18 U.S.C. § 1512(c), for his destruction of his communications with Rogers. One
21 week later, agents from the Federal Bureau of Investigation arrested COPELAND at his residence in
22 Sacramento. At the time of the arrest, agents recovered the zip tie handcuffs COPELAND previously
23 told Rogers were for use in their plot. The fact that he still had them six months later indicates that he
24 still believed a situation would arise where he would need to take prisoners. They also found more
25 anabolic steroids.

26 ///

27 ///

28 ///

1 **III. DISCUSSION**

2 **A. Legal Standard**

3 The Bail Reform Act of 1984 requires a detention hearing, upon the government’s motion, where
4 the case involves a crime of violence, or possession of a destructive device. 18 U.S.C. § 3142(f)(1).
5 The grand jury found probable cause to believe that COPELAND conspired to maliciously destroy a
6 building by fire. That crime is considered a “crime of violence” under the Bail Reform Act. 18 U.S.C.
7 § 3156(a)(4); United States v. Mitchell, 23 F.3d 1, 2 n.3 (1st Cir. 1994); United States v. Varnes, 2010
8 WL 2035573, at *1 (D. Ariz. May 20, 2010) (“The Court finds that the malicious burning of any
9 building, vehicle, or other real or personal property proscribed by 18 U.S.C. § 844(i) is a ‘crime of
10 violence’ as defined by 18 U.S.C. § 3156(a)(4).”); United States v. Marzullo, 780 F. Supp. 658, 659
11 (W.D. Mo. 1991) (“This Court CONCLUDES that the crime of ‘arson’ as set forth in 18 U.S.C. § 844,
12 amounts to a ‘crime of violence’ for the purposes of 18 U.S.C. §§ 3142, 3143 and 3156.”). In addition,
13 COPELAND’s co-conspirator is charged with possession of destructive devices. Accordingly, the
14 government is entitled to a detention hearing.

15 The Court may detain a defendant where “no condition or combination of conditions will
16 reasonably assure the appearance of the person as required and the safety of any other person and the
17 community.” Id. § 3142(e)(1). Detention is appropriate where the defendant is either a danger to the
18 community or a flight risk; it is not necessary to prove both. United States v. Motamedi, 767 F.2d 1403,
19 1406 (9th Cir. 1985). The government must prove danger by clear and convincing evidence, and flight
20 risk by a preponderance. 18 U.S.C. § 3142(f)(2)(B); Motamedi, 767 F.2d at 1406. Categorical grants or
21 denials of bail—untethered from an individualized determination—are impermissible. See United States
22 v. Diaz-Hernandez, 943 F.3d 1196, 1199 (9th Cir. 2019).

23 In a case like this, there is a presumption that COPELAND should be detained. The Act creates
24 a rebuttable presumption that no conditions of release can reasonably assure the defendant’s appearance
25 as directed and the safety of the community in cases where the person is charged with an offense listed
26 in 18 U.S.C. § 2332b(g)(5)(B), for which the maximum statutory penalty is 10 years or more. 18 U.S.C.
27 § 3142(e)(3)(C). COPELAND is charged with conspiring to destroy a building by arson, in violation of
28 18 U.S.C. §§ 844(i) and (n). That is one of the offenses listed in § 2332b(g)(5)(B), and the statutory

1 maximum is 20 years in prison. Accordingly, there is a presumption of detention in this case.

2 The presumption of detention shifts the burden of production to the defendant. See United States
 3 v. Hir, 517 F.3d 1081, 1086 (9th Cir. 2008). The defendant must show “some credible evidence” to
 4 rebut the presumption. United States v. Chen, 820 F. Supp. 1205, 1207 (N.D. Cal. 1992). Even if the
 5 defendant provides that evidence however, the presumption retains evidentiary weight. Hir, 517 F.3d at
 6 1086. Close cases should result in release. Chen, 820 F. Supp. at 1208 (citing United States v.
 7 Motamedi, 767 F.2d 1403, 1405-06 (9th Cir. 1985)).

8 The Court considers four factors in determining whether the pretrial detention standard is met:
 9 (1) the nature and circumstances of the offense charged, “including whether the offense is . . . a Federal
 10 crime of terrorism, or involves a . . . destructive device”; (2) the weight of the evidence against the
 11 defendant; (3) the history and characteristics of the defendant, including the defendant’s character,
 12 physical and mental condition, family and community ties, past conduct, history relating to drug or
 13 alcohol abuse, criminal history, and record concerning appearance at court proceedings, as well as
 14 whether the crime was committed while the defendant was on probation or parole; and (4) the nature and
 15 seriousness of the danger to any person or to the community that would be posed by the defendant’s
 16 release. 18 U.S.C. § 3142(g); United States v. Winsor, 785 F.2d 755, 757 (9th Cir. 1986). Considering
 17 factors outside of those set forth in Section 3142 is disfavored. Diaz-Hernandez, 943 F.3d at 1199.

18 **1. COPELAND Was Planning Acts of Violence.**

19 As described above, COPELAND and Rogers were planning violent attacks that they themselves
 20 understood were acts of terrorism. Indeed, their plot to destroy the Democratic Headquarters was an act
 21 of domestic terrorism: it was intended to influence or affect the conduct of government by intimidation
 22 or retaliate against government conduct; and it involved arson as a means to accomplish that goal. See
 23 18 U.S.C. § 2332b(g)(5). As their own words make clear, their goal was to undo the results of a national
 24 election and install their preferred candidate in the Presidency. On November 27, 2020, they had the
 25 following exchange:

26	Rogers	But it will send a fucking message man
	Rogers	Scare the whole country
27	Rogers	Can you imagine cnn covering this haha !
	Rogers	I’ll leave a envelope with our demands and intentions
28	Rogers	Basically saying we declare war on the Democratic Party and all traitors to the republic

1 COPELAND That's some expendables stuff

Rogers We need to send a message

2 COPELAND Yep I agree

3 * * *

Rogers I've had enough, time to wake people up man

4 COPELAND I know man this is serious

COPELAND Let's see what trump is going to do

5 Rogers He needs our help

COPELAND I know

6 Rogers The deep state is disgusting

Rogers 2 men can change the world if we want too

7 COPELAND We don't need to win over 50,000 people we need 500 pissed off patriots
that want America back

8
9 They selected their target because of its affiliation with the opposing candidate's political party,
10 and they hoped to both terrify members of that political party, and inspire others to join them in
11 committing similar acts of violence. They talked about writing a manifesto (which it appears they never
12 did) to explain their purpose. They discussed, repeatedly, the need to recruit others to their cause. On
13 November 30, 2020, Rogers told COPELAND, "I just hope our actions will make others to get involved
14 , we need help , that's all I hope for". COPELAND responded, "[thumbs up emoji] that's what every
15 patriot hopes". On January 4, 2021, Rogers said, "We need help though and I don't know how to get
16 more people involved". COPELAND responded, "Proud boys and 3%" and "I emailed proud boys".
17 Indeed, agents discovered a URL in the internet history on COPELAND's laptop that appears to indicate
18 COPELAND filled out and submitted a form on the Proud Boys' website on or about December 28,
19 2020. This suggests COPELAND was trying to recruit others to join the plot, as he told Rogers. Then
20 on January 13, 2021, just two days before Rogers's arrest, COPELAND told him "I got a few guys that
21 are with us but they moved out of California".

22 COPELAND's messages with Rogers also suggest his willingness to leave California. Though
23 he has lived in California since approximately 2007 (according to his statements to Rogers), he
24 discussed leaving to live in a more conservative state. On December 15, 2020, after Rogers talked about
25 leaving California, which he often referred to as "commie land," for a "red state," COPELAND said, "I
26 wanna move but I like my job". On December 17, 2020, Rogers again talked about leaving California
27 for Wyoming if Congress certified the election results on January 6, 2021. COPELAND again said that
28 his job was awesome, but "I'm gonna try my best to move next year". Agents arrested COPELAND in

1 Sacramento in July 2021, so it may be that his plans changed. But he contemplated leaving California
2 before he was facing federal criminal charges. Now that he is facing charges and a lengthy prison
3 sentence, he has an even greater incentive to flee.

4 These facts indicate that COPELAND is both a danger to the community and a flight risk, and
5 that he should be detained.

6 **2. The Evidence of COPELAND's Guilt is Strong.**

7 The Court does not attempt to pre-judge guilt at the bail hearing. But the Court still must
8 consider the weight of the evidence as it can help establish dangerousness, Hir, 517 F.3d at 1090
9 (finding that “the weight of the evidence clearly and convincingly establishe[d]” a likelihood that the
10 defendant would pose a danger if released), and the possibility that the defendant will abscond if
11 released, United States v. Gebro, 948 F.2d 1118, 1122 (9th Cir. 1991).

12 Here, the evidence against COPELAND is strong. His own statements – seized from Rogers’s
13 phone – demonstrate his participation in the conspiracy and his willingness to commit acts of violence.
14 Further, he admitted to law enforcement that he’d had those conversations with Rogers, though he
15 attempted to minimize their seriousness. And the complete absence of those communications in
16 COPELAND’s own phone, together with his statements to others and his admissions to law
17 enforcement, are strong evidence that he deleted all his communications with Rogers after he discovered
18 Rogers had been arrested because, as he told his friend, “we talk about some shit bro”.

19 The strength of the evidence against COPELAND favors detention.

20 **3. COPELAND Deserted from the U.S. Army, Joined an Anti-Government** 21 **Militia Group, and Abuses Steroids.**

22 The Court also considers the defendant’s background and personal characteristics. COPELAND
23 has a steady job that he appears to like, and he has no prior criminal convictions. He does not have an
24 unblemished past, however. He joined the military in December 2013 and began basic training in
25 January 2014, but was arrested for desertion in May 2014. He was arrested for desertion again in
26 October 2016. He separated from the military in November 2016, and received an “Other than
27 Honorable” discharge. His discharge code indicates that he was discharged in lieu of court martial.

28 When COPELAND entered active duty, he took an oath to support and defend the Constitution

1 of the United States against all enemies foreign and domestic” and that he would “bear true faith and
2 allegiance to the same.” See Oath of Enlistment at <https://www.army.mil/values/oath.html> (last visited
3 July 15, 2021). After he was discharged, he joined an anti-government militia group, a “3%” affiliate.
4 COPELAND later told law enforcement that his group were just “preppers” and were not preparing for
5 civil war. But the ethos of groups like the so-called “3%-ers” is armed rebellion against the federal
6 government, which they liken to a tyrannical occupying power.² Moreover, whereas COPELAND
7 deserted from his U.S. military unit, he has ascended the ranks within the militia group. As of January
8 2021, he told Rogers that he had been offered an officer position as either “[c]ommunication or
9 security.” But, he said, “my communication consists of fists and bullets sooooo”, perhaps meaning that
10 he was a better fit for the security position.

11 To be clear, the government is not prosecuting COPELAND and Rogers because of their views.
12 They are being prosecuted because they planned violent attacks. Cf. United States v. Mahon, 2009 WL
13 2450466, at *5 (D. Ariz. Aug. 11, 2009) (“The information described above suggests that Daniel and
14 Dennis believe in the use of violence to further their political and social views. This is not a case of
15 mere personal beliefs or First Amendment expression. . . . The evidence suggests that Defendants
16 intended to act violently, not merely express their views.”); United States v. Dodge, 842 F. Supp. 643,
17 646 (D. Conn. 1994) (“It is fundamental that a person cannot be prosecuted for holding unpopular
18 beliefs, for speaking unpopular words, or for belonging to an unpopular organization. The First
19 Amendment to our Federal Constitution safeguards us from this. The court, however, cannot accept Mr.
20 Dodge’s argument that he is being prosecuted because of his unpopular political beliefs and his
21 membership in the Ku Klux Klan. In reality, the court finds that Mr. Dodge is being prosecuted for his
22 action in acquiring a bomb and a silencer, which, by his very words, he intended to use on innocent
23 people in violation of state and federal law.”).

24
25 ² The “3%” is an allusion to the claim that three percent of the population of the American
26 colonies fought to overthrow British rule in the 18th Century. It is not clear that this has any basis in
27 fact. But it is clear that Rogers and COPELAND subscribed to that belief. They repeatedly finished
28 messages with the exclamation “Wolverines!” which is a reference to the 1984 movie “Red Dawn,”
which is about a group of high school kids in Colorado who form a guerilla resistance force and carry
out attacks against a Soviet-backed occupying foreign army. That exclamation gives the Court some
insight into both their lack of maturity and how deeply threatened they feel, which is a volatile
combination.

1 COPELAND's membership in an anti-government militia, and his motivations for planning these
2 attacks are relevant because they are not fleeting or the product of a single, but past, perceived affront.
3 His sentiments are deeply felt and long-standing and reflect a belief that the government is illegitimate.
4 He is not likely to obey rules imposed on him by someone he views as part of a tyrannical government.
5 Indeed, the Court should scrutinize any assertion he may make that he will abide the Court's orders. His
6 ascent within the ranks of an anti-government militia indicates that he is unlikely to respect the Court's
7 authority to order him to do anything. That he considered himself a "patriot" for planning acts of
8 violence is a measure of how little respect he has for the basic functions of government, including the
9 courts. For a person who has expressed his willingness to die for what he thinks is a noble cause, the
10 prospect of remand and forfeiture of a sum of money holds no power of suasion.

11 Moreover, COPELAND is a steroid abuser. He and Rogers purchased about \$1,200 worth of
12 steroids (including testosterone, dianabol and oxandrolone) in late December 2020, and officers seized
13 COPELAND's portion of the steroids when they searched his residence on January 17, 2021. It appears
14 he replenished his stock – when agents arrested him on July 14, 2021, they found more apparent steroids
15 in his apartment. Steroids increase irritability and aggression. See "Steroids and Other Appearance and
16 Performance Enhancing Drugs (APEDs) Research Report," Nat'l Inst. On Drug Abuse (rev. Feb. 2018)
17 at 14.³ "People who misuse anabolic steroids report more anger than nonusers, as well as more fights,
18 verbal aggression, and violence toward their significant others, sometimes called 'roid rage.'" Id.
19 COPELAND used steroids to get bigger – he and Rogers spoke constantly about working out and using
20 steroids. COPELAND's own statements show that the steroids have the same mood-altering effects the
21 studies described above found. On January 13, 2021, he told Rogers (following another discussion
22 about the political situation in the United States), "the roids make me very angry".

23 ///

24
25 ³ The report is available at: <https://www.drugabuse.gov/download/815/steroids-other-appearance-performance-enhancing-drugs-apeds-research-report.pdf?v=b864e9e791bbde96f1c35024bc52084f> (last visited July 14, 2021). The report notes that the research results may be confounded by personality traits more common among steroid abusers. In other words, maybe people who are more prone to certain anti-social behaviors seek out steroids. It doesn't matter for our purposes whether the steroids make COPELAND more violent and aggressive, or he seeks out steroids because he tends to be more violent and aggressive. Either way, he is a greater danger to the community.

1 **4. COPELAND Poses a Danger to the Community.**

2 The final factor the Court considers is the nature and seriousness of the danger the defendant
3 poses to any other person in the community. COPELAND was planning violent attacks against political
4 targets, and every indication is that he would have carried out his plan had law enforcement not
5 intervened and disrupted the plot. Indeed, the violent insurrection at the Capitol on January 6, 2021
6 inspired him. He sent Rogers excited messages, “REVOLUTION” “REVOLUTION”
7 “REVOLUTION” “I’m fucking juiced!!!!” “I’m bout to throw my gear on and drive around and punish
8 sombitces” “Bro I’m juiced” “I have my g19 in my hand,” he said, referring to his Glock 19-style
9 polymer 80 pistol. COPELAND was eager to get in on the action: “Damn it I wanna roll into sac geared
10 up” he said, referring to his military-style tactical gear and weapons, “Drink 4 Red Bull’s and fuck shit
11 up”. He is an extremist who abuses steroids and fantasizes about violence. The danger he poses to
12 anyone with opposing political views is obvious.

13 Strict conditions of release might be able to mitigate the risk that he would flee, but they cannot
14 mitigate the danger that he will cause damage or injury to others or their property.

15
16 **IV. CONCLUSION**

17 For the reasons set forth above, COPELAND cannot rebut the presumption that he is both a
18 danger and a flight risk. The government asks that he be detained pending trial.

19 DATED: July 15, 2021

Respectfully submitted,

STEPHANIE M. HINDS
Acting United States Attorney

/s/ Frank J. Rielli
FRANK J. RIEBLI
Assistant United States Attorney