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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

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

13 UNITED STATES OF AMERICA,)
14 Plaintiff,)
15 v.)
16 CORY JOHN MCGILLOWAY,)
17 Defendant.)

CASE NO. 21-CR-0091 MAG
APPLICATION FOR ARREST WARRANT
PURSUANT TO FED. R. CRIM. P. 9
[FILED UNDER SEAL]

18
19 The United States, under Federal Rule of Criminal Procedure 9, applies for an arrest warrant
20 against defendant Cory John McGilloway. McGilloway was charged by information on March 5, 2021,
21 with a misdemeanor violation of 16 U.S.C. §§ 1538(a)(1)(B), *see* Doc. 1 (under seal). That provision,
22 which is part of the Endangered Species Act, forbids the taking of endangered species.

23 Rule 9(a) provides that the Court must issue a warrant for a defendant named in an information
24 “if one or more affidavits accompanying the information establish probable cause to believe that an
25 offense has been committed and that the defendant committed it.” Attached to this application, as
26 Exhibit A, is the affidavit of Federal Bureau of Investigation Special Agent Chris Hickey.

27 The government believes that McGilloway is a fugitive from related state proceedings and
28 moreover the government has no information that would enable service of a summons in accordance

1 with Federal Rules of Criminal Procedure 4 and 9. *See* SA Hickey Affidavit, concurrently filed, at ¶ 15.
2 Therefore an arrest warrant is necessary for this proceeding.

3
4 DATED: March 8, 2021

Respectfully submitted,

5 STEPHANIE M. HINDS
6 Acting United States Attorney

7 */s Joseph Tartakovsky*
8 JOSEPH TARTAKOVSKY
9 Assistant United States Attorney

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) **CASE NO. 21-CR-0091-MAG**

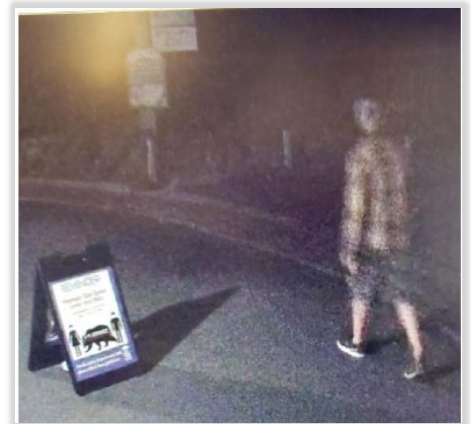
) **AFFIDAVIT OF FBI SPECIAL AGENT**
) **CHRIS HICKEY IN SUPPORT OF**
) **APPLICATION FOR ARREST WARRANT**
) **PURSUANT TO FED. R. CRIM. P. 9**

) **[FILED UNDER SEAL]**

18
19 1. I, Chris A. Hickey, a Special Agent of the Federal
20 Bureau of Investigation, being duly sworn, state as follows, in
21 support of an application for an arrest warrant.

22 2. The facts and conclusions set forth in this affidavit
23 are based on my own personal knowledge; knowledge obtained
24 from other individuals during my participation in this
25 investigation; my review of documents and records related to this
26 investigation; and communications with others who have personal

27 knowledge of the events, details, and circumstances described herein. Because this affidavit is
28 submitted for the limited purpose of establishing probable cause in support of an application for an arrest



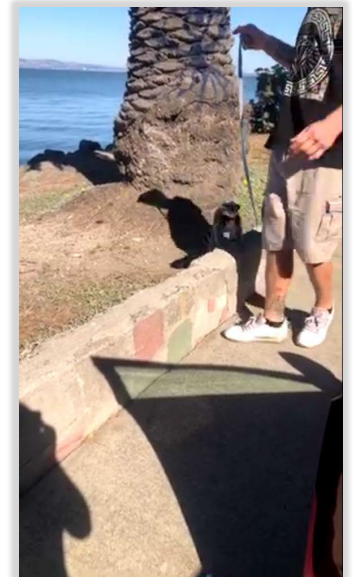
McGilloway enters the zoo

1 warrant, it does not set forth each and every fact that I have learned during the course of my personal
2 participation in this investigation.

3 3. The Endangered Species Act reflects Congress’s determination to halt the extinction of
4 rare animal species. The Endangered Species Act makes it a crime to “take” any protected species
5 within the United States. 16 U.S.C. §§ 1538(a)(1)(B), 1540(b)(1). The term “take” means (among other
6 things) to “harm,” “pursue,” “trap,” “capture,” or “collect,” or to “attempt to engage in any such
7 conduct.” 16 U.S.C. § 1532(19).

8 4. Around 7:45 p.m. on October 13, 2020, defendant Cory John McGilloway entered the
9 San Francisco Zoo, broke into the zoo’s lemur enclosure, and took 21-year-old Maki, one of four lemurs
10 there. A zoo horticulturalist discovered the burglary the next morning.

11 5. On October 15, the San Francisco Police Department
12 received a tip from a woman who said that, the prior afternoon, while on
13 Treasure Island, she saw a tattooed white male walking a lemur on a leash.
14 That man, who I believe was McGilloway, let the woman take a video of
15 him. The video captured images of the lemur as well as McGilloway’s
16 distinctive tattoos. The woman then saw him walk with the lemur to a
17 maroon car. San Francisco Police Sergeant Scott Hom later found traffic-
18 camera footage of a maroon car (later determined to be a Saab) driving
19 onto Treasure Island, and then off, around the time in the tipster’s video.



*McGilloway with Maki on
Treasure Island*

20 6. Around 5 p.m. on October 15, a lemur, which turned out to
21 be Maki, was rescued by zoo officials from a Daly City playground, after a
22 5-year-old boy spotted the unattended animal. A witness who phoned authorities in Daly City said that
23 she knew to call the police because Maki had been in the news.

24 7. Maki was hungry, dehydrated, and agitated, according to a zoo official.

25 8. Nearing midnight on October 15, McGilloway was arrested in San Rafael, California, after
26 San Rafael Police responded to call for service at Smart and Final Market regarding a shoplifter who fled
27 the scene. As the officers were at scene, another call for service occurred where a suspect stole a sanitary
28 dump truck. While officers were in the Smart and Final parking lot, they observed a male driving the

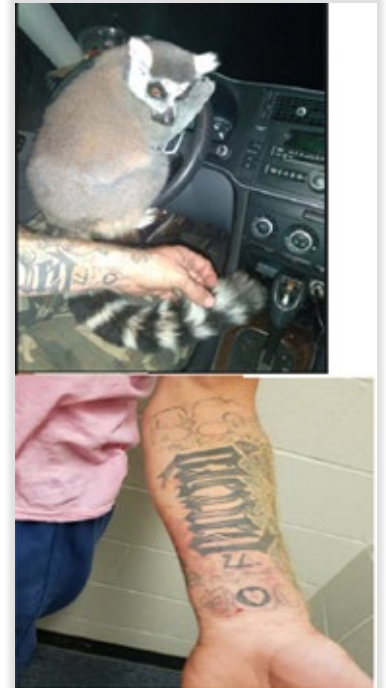
1 stolen sanitary dump truck. Officers were able to conduct a felony stop of the vehicle and arrested a white
2 male, later identified as Cory McGilloway with a date of birth 10/23/1989. McGilloway consented to a
3 police search of his phone, on which was found a video of the lemur drinking out of a bowl on the
4 floorboard of a maroon Saab (later determined to be McGilloway's) and photographs of a lemur on his
5 lap. Other photographs later found on his phone by San Francisco police show the lemur sitting on the
6 vehicle's steering wheel, next to an arm that features McGilloway's extensive arm tattooing. The
7 pictures are time-stamped with October 13, 2020, at around 10:20 p.m.

8 9. The maroon Saab was found near the Smart and Final. A stainless steel bowl, later
9 identified by lemur caregiver at the zoo as stolen from Maki's enclosure, was found on the car's floor.

10 10. DNA evidence links McGilloway to the damaged
11 enclosure at the zoo, to the maroon Saab, to the leash found in the car
12 and that appeared in the Treasure Island video, among other items.

13 11. Video footage of McGilloway's trespass at the zoo
14 shows him wearing distinctive clothes that were later found in his Saab.
15 Clothing identifiable in the video of McGilloway leading around the
16 lemur on Treasure Island were also found in McGilloway's car.

17 12. San Francisco police, after obtaining a search warrant,
18 found evidence of Google searches on McGilloway's phone. Some
19 searches sought information for the price that Maki could fetch: "how
20 much it is to buy a lemur," "how much is a lemur." Other searches
21 included: "foods to feed lemurs," "lemurs eat chocolate," "veterinary



Photographs showing Maki in McGilloway's car and McGilloway's tattoos

1 care for lemurs,” “names for monkey,” and “what is required to own a lemur.”

2 13. Ring-tailed lemurs (*Lemur catta*) are listed as an endangered species. 50 C.F.R. §



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A bowl found in McGilloway's car later identified as belonging to the zoo

17.11(h) (official FWS “List of Endangered and Threatened Wildlife,” which includes all members of *Lemuridae* family; citing regulations); *see also People for Ethical Treatment of Animals, Inc. v. Tri-State Zoological Park of W. Maryland, Inc.*, 424 F. Supp. 3d 404, 414 (D. Md. 2019) (ring-tailed lemurs covered under Endangered Species Act).

14. Lemurs are deemed endangered “[w]herever found.” 50 C.F.R. § 17.11(h).

15. On March 5, 2021, I was informed that McGilloway failed to appear for a state proceeding related to the events described in this affidavit and that, as a result, a California judge has issued a felony bench warrant for McGilloway’s arrest. For this reason, I believe that an arrest warrant is necessary to facilitate this prosecution. A summons would be ineffectual insofar as I have no information about where McGilloway personally is located or information about his residence or usual place of abode.

16. I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

/s/ Chris Hickey
Chris Hickey
Special Agent
Federal Bureau of Investigation