

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

**IN RE PETITION FOR WRIT OF
MANDAMUS OF LOS ANGELES
TIMES COMMUNICATIONS LLC**

Misc. Action No. _____

Related Cases:

No. 1:21-sw-00028

No. 1:21-mj-00009

**DECLARATION OF NATHAN FENNO
IN SUPPORT OF LOS ANGELES TIMES COMMUNICATIONS, INC.'S
PETITION FOR WRIT OF MANDAMUS COMPELLING UNSEALING OF
JUDICIAL RECORDS IN CASE NO. 1:21-SW-00028 OR, IN THE
ALTERNATIVE, MOTION TO INTERVENE AND UNSEAL**

I, Nathan Fenno, hereby declare as follows:

1. I am over the age of 18 years old. I make this Declaration in support of the Los Angeles Times Communications, LLC's Petition for Writ of Mandamus Compelling Unsealing of Judicial Records in Case No. 1:21-SW-00028 or, in the Alternative, Motion to Intervene and Unseal. The following facts are true to the best of my knowledge and belief and, if called and sworn in as a witness, I could and would testify competently to them.

2. I am a sports enterprise reporter for the *Los Angeles Times*, where I focus on investigations, features and in-depth stories. I have held this position since February 2014.

3. As a sports enterprise reporter for the *Los Angeles Times*, I have followed and covered the arrest of Klete Keller (“Keller”), a former U.S. swimmer and Olympic gold medalist who has been charged with federal crimes for his alleged participation in the January 6, 2021 riot at the U.S. Capitol.

4. In connection with my reporting about Keller, on February 23, 2021, I located and reviewed the docket sheet in Case No. 1:21-SW-00028, which reflected a search warrant that had been returned executed on January 14, 2021 (the day of Keller’s arrest), as to 3172 West Pikes Peak Avenue in Colorado Springs, Colorado (an address I knew through my reporting to be the address of Keller’s residence). I printed a copy of the docket sheet, which was then publicly available via the Public Access to Court Electronic Records (“PACER”) website. A true and correct copy of that docket sheet is attached hereto as Exhibit A.

5. That same day, the *Los Angeles Times* published a story I wrote entitled *Federal agents searched Klete Keller’s home on day he was arrested*. A true and correct copy of that article is attached hereto as Exhibit B.

6. When I attempted to access the docket in Case No. 1:21-SW-00028 via PACER again, later on February 23, 2021, it was no longer publicly available.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 27, 2021 in Pasadena, California.

Nathan Fenno
Nathan Fenno

EXHIBIT A

2/23/2021

CM/ECF - U.S. District Court:cod

R Create an Alert for This Case on RECAP

TERMED

U.S. District Court - District of Colorado
District of Colorado (Denver)
CRIMINAL DOCKET FOR CASE #: 1:21-sw-00028-MEH All Defendants

Case title: USA v. SEALED

Date Filed: 01/14/2021

Date Terminated: 01/21/2021

Assigned to: Magistrate Judge Michael E.
Hegarty

Defendant (1)**3172 West Pikes Peak Avenue**

Colorado Springs, CO 80904-2034, more
fully described in Attachment A, attached
hereto, to include all out-buildings and
vehicles located thereon and to include the
person of Klete Derik Keller, if he is present
at the time of the search warrant execution
TERMINATED: 01/21/2021

Pending Counts

None

Disposition**Highest Offense Level (Opening)**

None

Terminated Counts

None

Disposition**Highest Offense Level (Terminated)**

None

Complaints

None

Disposition**Plaintiff**

USA

represented by **Peter Andrew McNeilly**
U.S. Attorney's Office-Denver
1801 California Street
Suite 1600
Denver, CO 80202

303-454-0127

Email: Peter.McNeilly@usdoj.gov

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: Federal Agency Attorney

Date Filed	#	Docket Text
01/14/2021	<u>1</u>	APPLICATION and Affidavit for Search Warrant by Affiant Brandon Kimble as to 3172 West Pikes Peak Avenue. (jtorr,) (Entered: 01/15/2021)
01/14/2021	<u>2</u>	Search and Seizure Warrant Issued in case as to 3172 West Pikes Peak Avenue by Magistrate Judge Michael E. Hegarty. (jtorr,) (Entered: 01/15/2021)
01/14/2021	<u>3</u>	MOTION to Restrict Case by USA as to 3172 West Pikes Peak Avenue. (jtorr,) (Entered: 01/15/2021)
01/14/2021	<u>4</u>	ORDER granting <u>3</u> Motion to Restrict Case as to 3172 West Pikes Peak Avenue (1) by Magistrate Judge Michael E. Hegarty on 1/14/2021. (jtorr,) (Entered: 01/15/2021)
01/21/2021	<u>5</u>	Search Warrant Returned Executed on 1/14/2021 in case as to 3172 West Pikes Peak Avenue (cmadr,) (Entered: 01/21/2021)
01/21/2021	<u>6</u>	MAGISTRATE CASE TERMINATED as to 3172 West Pikes Peak Avenue on 21 January 2021. Text Only Entry (cmadr,) (Entered: 01/21/2021)
02/16/2021	<u>7</u>	Partial MOTION to Unrestrict Case by USA as to 3172 West Pikes Peak Avenue. (Attachments: # <u>1</u> Proposed Order (PDF Only) Order to Unrestrict)(McNeilly, Peter) (Entered: 02/16/2021)
02/17/2021	<u>8</u>	ORDER granting <u>7</u> as to 3172 West Pikes Peak Avenue (1) by Magistrate Judge Michael E. Hegarty on 17 February 2021. (cmadr,) (Entered: 02/17/2021)

PACER Service Center			
Transaction Receipt			
02/23/2021 09:29:03			
PACER Login:	nathan1234:3924164:0	Client Code:	
Description:	Docket Report	Search Criteria:	1:21-sw-00028-MEH
Billable Pages:	1	Cost:	0.10

EXHIBIT B

5/19/2021

Federal agents searched Klete Keller's home on day he was arrested - Los Angeles Times



Los Angeles Times

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OLYMPICS

Federal agents searched Klete Keller's home on day he was arrested



Federal agents searched the home of Klete Keller, the five-time Olympic medalist swimmer from USC charged in the Capitol riot, on the same day he was arrested last month. (Donald Miralle / Getty Images)

By NATHAN FENNO | STAFF WRITER

FEB. 23, 2021 5:04 PM PT



Federal agents searched the home of [Klete Keller](#), the five-time Olympic medalist swimmer from [USC](#) charged in the [U.S. Capitol riot](#), on the same day [he was arrested](#) last month.

5/19/2021

Federal agents searched Klete Keller's home on day he was arrested - Los Angeles Times

According to federal court records, authorities executed a search and seizure warrant at Keller's residence in Colorado Springs, Colo., on Jan. 14.

A docket entry said the search encompassed the home and "all out-buildings and vehicles located thereon and to include the person of Klete Derik Keller, if he is present at the time of the search warrant execution."

Last week, Magistrate Judge Michael E. Hegarty granted a "partial motion to unrestrict" the case by the government, but a spokesman for the U.S. District Court in Denver said the documents, including the affidavit in support of the warrant and the return, remain sealed.

The docket was removed from public view Tuesday following inquiries from The Times.



SPORTS

Olympic swimmer Klete Keller arrested for involvement in riot at U.S. Capitol

Jan. 14, 2021

Keller's attorney, Edward B. MacMahon Jr., didn't respond to a request for comment.

The [FBI arrested Keller](#) in Denver last month in connection with the riot. He was first identified amid the chaos in the Capitol rotunda Jan. 6 through a video recorded by a journalist. Keller stood out thanks to his 6-foot-6 frame and distinctive U.S. Olympic team jacket.

A grand jury returned a seven-count indictment against Keller this month. The charges include disorderly conduct in a restricted building, civil disorder and obstruction of an official proceeding.

Keller, who is free on a personal recognizance bond, hasn't made a public statement since the riot or entered a plea. His next hearing is scheduled for Thursday.

5/19/2021

Federal agents searched Klete Keller's home on day he was arrested - Los Angeles Times

Keller competed in three Olympics, winning gold medals in the 800-meter freestyle relay in 2004 and gold in the same event in 2008.

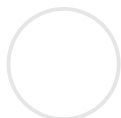
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Nathan Fenno

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Nathan Fenno is a sports enterprise reporter for the Los Angeles Times focused on investigations, features and in-depth stories.

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Federal agents searched Klete Keller's home on day he was arrested - Los Angeles Times

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