

BRADLEY D. BILLHIMER
Ocean County Prosecutor

JOSEPH F. MITCHELL
Chief of Detectives



MICHAEL T. NOLAN, JR.
First Assistant Prosecutor

ROBERT J. ARMSTRONG
Deputy First Assistant Prosecutor

OFFICE OF THE PROSECUTOR

Courthouse Annex Building
119 Hooper Avenue
P.O. Box 2191
Toms River, New Jersey 08754-2191
732-929-2027

May 17, 2021

Via OPRA Machine: opra+request-22958-76bc2c47@requests.opramachine.com

Re: Open Public Records Act (OPRA) Request
OCPO Case# 21000848 – David Giordano

Dear Sir/Madam:

Enclosed please find the Complaint Summons, Affidavit and Preliminary Law Enforcement Incident Report pursuant to your request made under the New Jersey Open Public Records Act (OPRA). Personal identifying information has been redacted pursuant to N.J.S.A. 47:1A-1.1, et seq.

Please be advised that there are no responsive documents pursuant to your request for Global Subject Activity Reports, Arrest Report, Indictments, Plea Forms, Criminal Information Forms and Sentencing Information.

If I can be of further assistance, please do not hesitate to contact me directly at 732-929-2027, x3135.

Yours very truly,

Dina R. Khajezadeh

Dina R. Khajezadeh
Assistant Prosecutor

DRK/dp

Enclosures

Prestia , Donna

From: Khajezadeh, Dina
Sent: Wednesday, May 12, 2021 9:23 AM
To: Prestia , Donna
Subject: FW: OPRA request - Case reports

-----Original Message-----

From: Resident <opra+request-22958-76bc2c47@requests.opramachine.com>
Sent: Tuesday, May 11, 2021 10:18 PM
To: Khajezadeh, Dina <DKhajezadeh@co.ocean.nj.us>
Subject: OPRA request - Case reports

Dear Ocean County Prosecutor's Office,

This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

Records requested:

Any relevant arrest reports, global subject activity reports, preliminary law enforcement incident reports, complaint warrants, complaint summonses, affidavits, indictments, criminal information forms, plea forms, and sentencing information, where applicable, for the following defendants:

David Giordano (Case # 21000843, Case # 21000847, Case # 21000848 and Case # 21001138) Salomao Costa (Case # 21001116) Connor Critchley (Case # 21001131) Michael S. Mahan (arrested May 2021)

Yours sincerely,

Resident

Please use deliver records electronically via email to the below UNIQUE address for all replies to this request:
opra+request-22958-76bc2c47@requests.opramachine.com

Is DKhajezadeh@co.ocean.nj.us the wrong address for OPRA requests to Ocean County Prosecutor's Office? If so, please contact us using this form:

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fopramachine.com%2fchange_request%2fnew%3fbody%3docean_county_prosecutors_office&c=E,1,JkX5AevK85yBbiO4Pe0DUumHRRb7OxxS_wtQlrEvGA2DKeVMAjtnkB5Ea6fxalekc6RMdFuWUV6_JXu4saMkAIRAAyZzzbEgPhcL7_MCDRamwr1qmQ,,&typo=1

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fopramachine.com%2fhelp%2fofficers&c=E,1,O1BoLhONYqiYZMFCsUad_riE9UpVW-nNqhsY_TyUU2IUc5FdiNSSph5s1pzslMRCZoX2vXgKxC86kjGOW3UHuzOlms5OKI63TSvtL-y03yfKPqUJ81Hslxc,&typo=1

21000848

COMPLAINT - SUMMONS

COMPLAINT NUMBER				THE STATE OF NEW JERSEY VS. DAVID R GIORDANO ADDRESS: 64 MONROE AVE TOMS RIVER NJ 08755-0000	
1507	S	2021	000398		
COURT CODE	PREFIX	YEAR	SEQUENCE NO.		
TOMS RIVER MUNICIPAL COURT 255 OAK AVENUE TOMS RIVER NJ 08753-0000 732-797-3914 COUNTY OF: OCEAN				DEFENDANT INFORMATION SEX: M EYE COLOR: BLUE DOB: 10/17/1984 DRIVER'S LIC. #: [REDACTED] DL STATE: NJ SOCIAL SECURITY #: [REDACTED] SBI #: [REDACTED] TELEPHONE #: [REDACTED] (H) LIVSCAN PCN #: [REDACTED]	
# of CHARGES 1	CO-DEFTS	POLICE CASE #: 21-07481			
COMPLAINANT NAME: PTL. R. PARENTE POBX876/255OAKAVE ATTN WARRANTS TOMS RIVER NJ 08753					

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about **02/28/2021** in **TOMS RIVER TWP**, **OCEAN** County, NJ did: WITHIN THE JURISDICTION OF THIS COURT, WITH PURPOSE TO WITHOLD TEMPORARILY FROM THE OWNER; TAKES AND OPPEATES A MOTOR VEHICLE, NAMELY A LINK BELT CX145 EXCAVATOR WITHOUT THE CONSENT OF THE OWNER; FERNANDO MESSERCOLA, PRESIDENT OF MESSERCOLA CONSTRUCTION COMPANY OR OTHER PERSON AUTHORIZED TO GIVE CONSENT, BY TAKING AND OPERATING THE MOTOR VEHICLE FROM ITS ORIGINAL LOCATION' APPROXIMATELY 1500 FEET AWAY, TO HIS PERSONAL RESIDENCE AT 64 MONROE AVE, TOMS RIVER. MR GIORDANO THEN UTILIZED THE MACHINE TO PERFORM PROPERTY REPAIRS UNTIL THE FOLLOWING DAY MARCH 1, 2021

in violation of:

Original Charge	1) 2C:20-10B	2)	3)
Amended Charge			

CERTIFICATION:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Signed: PTL. R. PARENTE Date: 03/28/2021

The complaining witness is a law enforcement officer and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.

SUMMONS

YOU ARE HEREBY SUMMONED to appear before the Superior Court in the county of: **OCEAN**

at the following address: **OCEAN SUPERIOR COURT**

120 HOOPER AVE

TOMS RIVER

NJ 08753-0000

If you fail to appear on the date and at the time stated below, a warrant may be issued for your arrest.

Date of Arrest: Appearance Date: **03/28/2021** Time: **12:00PM** Phone: **732-504-0700**

Signature of Person Issuing Summons: PTL. R. PARENTE Date: 03/28/2021

☐ Domestic Violence – Confidential

☐ Related Traffic Tickets
or Other Complaints

☐ Serious Personal Injury/ Death
Involved

Special conditions of release:

- ☐ No phone, mail or other personal contact w/victim
☐ No possession firearms/weapons
☐ Other (specify):

ORIGINAL

COMPLAINT – SUMMONS (Court Action)

COMPLAINT NUMBER

1507**S****2021****000398****STATE V.****DAVID R GIORDANO**

COURT CODE PREFIX YEAR SEQUENCE NO.

FTA Bail Information

Date Bail Set: _____

Amount Bail Set: \$ _____

by: _____

☐ Bail Recog. AttachedReleased
on Bail

R.O.R.

Committed
DefaultCommitted
w/o Bail

Place Committed: _____

Date Referred to

County Prosecutor: _____

Date of First
Appearance: **03/28/2021**☐ Advised of Rights by _____

Defendant Desires Counsel:

☐ Yes ☐ No**Prosecuting Attorney Information****Defense Counsel Information****Name:****Name:**

State

County

Municipal

Other

None

Retained

Public Def

Assigned

Waived

Other

Original Charge

1) **2C:20-10B**

2)

3)

Amended Charge

Waiver Indt/Jury

Plea/Date of Plea

Plea:

Date:

Plea:

Date:

Plea:

Date:

Adjudication (* see code)

Finding
Code:

Date:

Finding
Code:

Date:

Finding
Code:

Date:

Jail Term

Jail time credit

Susp. Imp

Jail time credit

Susp. Imp

Jail time credit

Susp. Imp

Probation Term

Susp. Imp

Susp. Imp

Susp. Imp

Cond. Discharge Term

Community Service

D/L Suspension Term

Fines/Costs

Fines:

Costs:

Fines:

Costs:

Fines:

Costs:

VCCB/SNSF

VCCB:

SNSF:

VCCB:

SNSF:

VCCB:

SNSF:

DEDR/Lab Fee

DEDR:

LAB:

DEDR:

LAB:

DEDR:

LAB:

CD Fee/Drug Ed Fnd

CD:

DAEF:

CD:

DAEF:

CD:

DAEF:

DV Surch/Other Fees

DV:

Other:

DV:

Other:

DV:

Other:

Restitution

Beneficiary: _____

Miscellaneous Information, Adjournments, Companion Complaints, Co-Defendants, Case Notes:*** Finding Codes**

- 1 – Guilty
- 2 – Not Guilty
- 3 – Dismissed – Other
- 4 – Guilty but Merged
- 5 – Dismissed-Rule
- 6 – Dismissed Lack of Prosecution
- 7 – Dismissed – Pros Motion/Vic Req
- 8 – Conditional Discharge
- D – Dismissed- Prosecutor Discretion
- M – Dismissed- Mediation
- P – Dismissed-Plea Agreement
- S – Disposed at Superior
- W – Dismissed-False ID

Related Traffic Tickets and Complaints:**ORIGINAL - Court Action**

JUDGE'S SIGNATURE _____

DATE _____

Page 2 of 7

NJ/CDR1 1/1/2017

COMPLAINT - SUMMONS (DEFENDANT'S COPY)

COMPLAINT NUMBER

1507**S****2021****000398**

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

TOMS RIVER MUNICIPAL COURT**255 OAK AVENUE****TOMS RIVER****NJ 08753-0000****732-797-3914**COUNTY OF: **OCEAN**

of CHARGES

1

CO-DEFTS

POLICE CASE #:

21-07481

COMPLAINANT

NAME:

PTL. R.**PARENTE****THE STATE OF NEW JERSEY****VS.****DAVID R GIORDANO**

ADDRESS:

64 MONROE AVE**TOMS RIVER****NJ 08755-0000**

DEFENDANT INFORMATION

SEX: **M** EYE COLOR: **BLUE**DOB: **10/17/1984**

DRIVER'S LIC. #:

DL STATE: **NJ**

SOCIAL SECURITY #:

SBI #:

TELEPHONE #:

(H)

LIVESCAN PCN #:

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about **02/28/2021** in **TOMS RIVER TWP**, **OCEAN** County, **NJ** did: WITHIN THE JURISDICTION OF THIS COURT, WITH PURPOSE TO WITHOLD TEMPORARILY FROM THE OWNER; TAKES AND OPERATES A MOTOR VEHICLE, NAMELY A LINK BELT CX145 EXCAVATOR WITHOUT THE CONSENT OF THE OWNER; FERNANDO MESSERCOLA, PRESIDENT OF MESSERCOLA CONSTRUCTION COMPANY OR OTHER PERSON AUTHORIZED TO GIVE CONSENT, BY TAKING AND OPERATING THE MOTOR VEHICLE FROM ITS ORIGINAL LOCATION' APPROXIMATELY 1500 FEET AWAY, TO HIS PERSONAL RESIDENCE AT 64 MONROE AVE, TOMS RIVER. MR GIORDANO THEN UTILIZED THE MACHINE TO PERFORM PROPERTY REPAIRS UNTIL THE FOLLOWING DAY MARCH 1, 2021

in violation of:

Original Charge

1) **2C:20-10B**

2)

3)

Amended Charge

CERTIFICATION:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment

Signed: _____

PTL. R. PARENTE

Date: _____

03/28/2021

The complaining witness is a law enforcement officer and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.

SUMMONS

YOU ARE HEREBY SUMMONED to appear before the

Superior Court

in the county of:

OCEANat the following address: **OCEAN SUPERIOR COURT****120 HOOPER AVE****TOMS RIVER****NJ 08753-0000**

If you fail to appear on the date and at the time stated below, a warrant may be issued for your arrest.

Date of Arrest:

Appearance Date:

03/28/2021Time: **12:00PM**Phone: **732-504-0700**

Signature of Person Issuing Summons: _____

PTL. R. PARENTEDate: **03/28/2021**☐ **Domestic Violence – Confidential**☐ **Related Traffic Tickets
or Other Complaints**☐ **Serious Personal Injury/ Death
Involved**

Special conditions of release:

☐ **No phone, mail or other personal contact w/victim**☐ **No possession firearms/weapons**☐ **Other (specify):****COMPLAINT - SUMMONS (DEFENDANT'S COPY)****Page 3 of 7****NJ/CDR1 1/1/2017**

RETURN OF SERVICE INFORMATION

COMPLAINT NUMBER				THE STATE OF NEW JERSEY VS. DAVID R GIORDANO ADDRESS : 64 MONROE AVE TOMS RIVER NJ 08755-0000	
1507	S	2021	000398		
COURT CODE	PREFIX	YEAR	SEQUENCE NO.		
TOMS RIVER MUNICIPAL COURT 255 OAK AVENUE TOMS RIVER NJ 08753-0000 732-797-3914 COUNTY OF: OCEAN					
# of CHARGES 1	CO-DEFTS	POLICE CASE #: 21-07481		DEFENDANT INFORMATION SEX: M EYE COLOR: BLUE DOB: 10/17/1984 DRIVER'S LIC. #: SOCIAL SECURITY #: TELEPHONE #: LIVSCAN PCN #:	
COMPLAINANT NAME: PTL. R. PARENTE			DL STATE: NJ		
POBX876/255OAKAVE			SBI #:		
ATTN WARRANTS					
TOMS RIVER NJ 08753					

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about **02/28/2021** in **TOMS RIVER TWP**, **OCEAN** County, NJ did: WITHIN THE JURISDICTION OF THIS COURT, WITH PURPOSE TO WITHOLD TEMPORARILY FROM THE OWNER; TAKES AND OPPEATES A MOTOR VEHICLE, NAMELY A LINK BELT CX145 EXCAVATOR WITHOUT THE CONSENT OF THE OWNER; FERNANDO MESSERCOLA, PRESIDENT OF MESSERCOLA CONSTRUCTION COMPANY OR OTHER PERSON AUTHORIZED TO GIVE CONSENT, BY TAKING AND OPERATING THE MOTOR VEHICLE FROM ITS ORIGINAL LOCATION' APPROXIMATELY 1500 FEET AWAY, TO HIS PERSONAL RESIDENCE AT 64 MONROE AVE, TOMS RIVER. MR GIORDANO THEN UTILIZED THE MACHINE TO PERFORM PROPERTY REPAIRS UNTIL THE FOLLOWING DAY MARCH 1, 2021

in violation of:

Original Charge	1) 2C:20-10B	2)	3)
-----------------	---------------------	----	----

Check	Certification by Police Regarding Complaint-Summons
✓	I certify that I served the complaint-summons by delivering a copy to the defendant personally.
	I certify that I personally served the complaint-summons by leaving a copy at the defendant's usual place of abode with a competent member of the household of the age 14 or over _____ Name of family member over 14 years of age
✓	I certify that I mailed a copy of the complaint-summons by ordinary mail to the defendant at his or her last known address. 64 MONROE AVE, TOMS RIVER, NJ 08755 Defendant's last known address
	I certify that I served the complaint-summons by delivering a copy to a person authorized to receive service of process on the defendant's behalf. _____ Name and title of authorized person
	Other manner of service: I certify that I served the complaint-summons in the following manner: _____
	I certify that I was unable to serve the complaint-summons.

Signed: **PTL. R. PARENTE TOMS RIVER POLICE DEPT** Date of Action: **03/28/2021**
 Name, Title and Department of Officer

RETURN OF SERVICE INFORMATION

Affidavit of Probable Cause

COMPLAINT NUMBER				THE STATE OF NEW JERSEY VS. DAVID R GIORDANO ADDRESS: 64 MONROE AVE TOMS RIVER NJ 08755-0000	
1507	S	2021	000398		
COURT CODE	PREFIX	YEAR	SEQUENCE NO.		
TOMS RIVER MUNICIPAL COURT 255 OAK AVENUE TOMS RIVER NJ 08753-0000 732-797-3914 COUNTY OF: OCEAN					
# of CHARGES 1	CO-DEFTS	POLICE CASE #: 21-07481		DEFENDANT INFORMATION SEX: M EYE COLOR: BLUE DOB: 10/17/1984 DRIVER'S LIC. #. [REDACTED] DL STATE: NJ SOCIAL SECURITY #. [REDACTED] SBI #: TELEPHONE #. [REDACTED] (H) LIVESCAN PCN #.	
COMPLAINANT PTL. R. PARENTE NAME: POBX876/255OAKAVE ATTN WARRANTS TOMS RIVER NJ 08753					

Purpose: This Affidavit/Certification is to more fully describe the facts of the alleged offense so that a judge or authorized judicial officer may determine probable cause.

1. Description of relevant facts and circumstances which support probable cause that (1) the offense(s) was committed and (2) the defendant is the one who committed it:

On February 28 2021, I(Ptl. Parente) responded to 64 Monroe Ave, regarding the possible disruption and contamination of wetlands. Upon arrival, property representative David Giordano was witnessed operating a Link Belt CX145 excavator along the south east corner of the property. From a curb line view, the excavator appeared to be operating in the clear area of the property and not in the woods.

Mr. Giordano advised that he was attempting to satisfy a remediation order given to him by the D.E.P. to remove debris located along his property line stemming from a prior D.E.P. violation. Mr. Giordano stated that he was not operating the machine off of his property. Observing no violation of the wetlands as reported, patrol units proceeded to clear the scene.

As I was clearing the scene, Mr. Giordano was repositioning the machine in the yard. During this, I observed a large decal on the machine with the name Messercola Construction on the back of it. Messercola Construction is currently performing drainage work in the area of the Gardens of Pleasant Plains for the Township of Toms River.

Unit 175 MVR captured Mr. Giordano operating the excavator on the property of 64 Monroe Ave.

On March 1, 2021 Fernando Messercola, owner of Messercola Construction, contacted this agency regarding his Link Belt excavator. He advised that his Link Belt CX145 excavator was not parked on Fox Glove Run where it was left several weeks ago. He stated that an work supervisor located the excavator on the property of 64 Monroe Ave and was currently being driven by a male matching the description of Mr. Giordano in the direction of Fox Glove Run. The operator of the excavator parked it on Columbine Circle, which is adjacent to the property, and walked into the woods after he was confronted by the supervisor. Mr. Messercola advised that Mr. Giordano was never granted permission to utilized the excavator at any point in time by any authorized persons.

Affidavit of Probable Cause

Affidavit of Probable Cause

COMPLAINT NUMBER

THE STATE OF NEW JERSEY

1507

S

2021

000398

COURT CODE

PREFIX

YEAR

SEQUENCE NO.

VS.

DAVID R GIORDANO

2. I am aware of the facts above because: (Included, but not limited to: your observations, statements of eyewitnesses, defendant's admission, etc.)

Personal observations during the course of this investigation

3. If victim was injured, provide the extent of the injury:

No

Certification:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Signed: PTL. R. PARENTE LAW ENFORCEMENT OFFICER

Date: 03/28/2021

Affidavit of Probable Cause

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1/1/2017

Preliminary Law Enforcement Incident Report

COMPLAINT NUMBER				THE STATE OF NEW JERSEY VS. DAVID R GIORDANO ADDRESS: 64 MONROE AVE TOMS RIVER NJ 08755-0000	
1507	S	2021	000398		
COURT CODE	PREFIX	YEAR	SEQUENCE NO.		
TOMS RIVER MUNICIPAL COURT 255 OAK AVENUE TOMS RIVER NJ 08753-0000 732-797-3914 COUNTY OF: OCEAN					
# of CHARGES 1	CO-DEFTS	POLICE CASE #: 21-07481	DEFENDANT INFORMATION SEX: M EYE COLOR: BLUE DOB: 10/17/1984 DRIVER'S LIC. #. [REDACTED] DL STATE: NJ SOCIAL SECURITY #. [REDACTED] SBI #: TELEPHONE #: [REDACTED] (H) LIVESCAN PCN #.		
COMPLAINANT NAME: PTL. R. PARENTE POBX876/255OAKAVE ATTN WARRANTS TOMS RIVER NJ 08753					

Purpose: The Preliminary Law Enforcement Incident Report (PLEIR) is intended to document basic information known to the officer at the time of its preparation. It is recognized that additional relevant information will emerge as an investigation continues. The PLEIR shall be in addition to, not in lieu of, any regular police arrest, incident, or investigation reports. Note that the PLEIR is specific to each defendant charged in an investigation.

- The complaining officer personally observed the offense.
- The offense/incident was recorded using electronic/surveillance via:
 - Dash Camera/MVR/DIVR
- The defendant was known to the victim as:
 - Acquaintance

Certification:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Signed: PTL. R. PARENTE LAW ENFORCEMENT OFFICER Date: 03/28/2021

Preliminary Law Enforcement Incident Report

Page 7 of 7

7/20/2018