



U.S. Department of Justice

Criminal Division

VAA:WHG:JMO:RKP:mm
DOJ No.: CRM-95-100-28006

Office of International Affairs

Washington, D.C. 20530

October 31, 2019

By Email and FedEx

Director-General
Chief Directorate: International Legal Relations
Department of Justice and Constitutional Development
Private Bag X81, Pretoria, 0001
Momentum Centre, 329 Pretorius Street
Pretoria, Republic of South Africa

Re: **URGENT U.S. Request to the Republic of South Africa for the Provisional Arrest for Extradition of Byungsu KIM, alias, Byung Su KIM, alias Neo**

Dear Director-General:

The United States of America, through the U.S. Department of Justice, Office of International Affairs, requests the provisional arrest of Byungsu KIM, alias Byung Su KIM, alias Neo, pending presentation of the extradition request and supporting documentation. Provisional arrest is covered by Article 13 of the Extradition Treaty between the United States and the Republic of South Africa, signed on September 16, 1999, which entered into force on June 25, 2001 (Treaty).

Fugitive Name/Whereabouts/Status

The U.S. Department of Justice requests the provisional arrest for purpose of extradition of Byungsu KIM, alias Byung Su KIM, alias Neo (KIM). KIM is believed to be in custody Cape Town, South Africa, following his arrest on South African charges. The South African prosecutor is Adv. Ann Heeramun. Special Agent Ed Newcomer, Wildlife Law Enforcement Attaché for Southern Africa, at the U.S. Embassy in Pretoria, is the point of contact regarding this case. He can be reached at +27 76 098 8874 or by email at newcomerel@state.gov or ed_newcomer@fws.gov.

Urgency

KIM, a citizen of the Republic of Korea (South Korea), is wanted for prosecution in the United States. On October 8, 2019, KIM was arrested in South Africa on South African charges, and may be released from custody shortly. KIM is a flight risk because he was arrested in the

United States and was released on bail and then fled. It is urgently requested that KIM be detained on a provisional arrest warrant if he is released from custody on the South African charges.

Seizure of Articles

The U.S. Department of Justice also requests the seizure of all articles, instruments, objects of value, or documents in the possession of KIM, including electronic devices such as computers, laptops, cell phones, notebooks, etc., which may be related to the offense for which extradition is sought, so that such items can be surrendered to U.S. authorities at a later time. Surrender of articles is covered by Article 16 of the Treaty.

Charging Document/Jurisdiction/Offenses/Arrest Warrants

KIM is wanted to stand trial for exportation and environmental crimes charges in the United States District Court for the Central District of California (Federal Court). He is also wanted to stand trial for conspiracy, vandalism, and failure to appear charges in the California Superior Court, Del Norte County (California Court).

On May 31, 2019, a federal grand jury returned an Indictment in criminal case CR19-00329-GW, also referred to as 2:19-cr-00329-GW, in the Federal Court. KIM is charged in two counts with the following offenses:

- Count One: Conspiracy to unlawfully export plants to a foreign country, in violation of Title 18, United States Code (18 U.S.C.), Section 371 and 16 U.S.C. Sections 3372(a)(2)(B), (a)(4) and 3373(d)(1)). The maximum penalty for this offense is five years in prison.
- Count Two: Attempting to export plants taken in violation of state law and aiding and abetting and causing and act to be done, in violation of 16 U.S.C. Sections 3372(a)(2)(B), (a)(4) and 3373(d)(1) and 18 U.S.C. Section 2. The maximum penalty for this offense is five years in prison.

The Federal Court issued an arrest warrant for KIM on May 31, 2019, based on the charges in the Indictment. The warrant remains valid and executable to arrest KIM.

On May 7, 2019, KIM charged by Information in the California Court in Case No. CRF 18-9581, also referred to as DNSU-CRF-2018-9581-2, with the following offenses:

- Count 1: Conspiracy to commit a crime, specifically, cutting, destroying, or removing plant material that was growing upon public land, in violation of Penal Code Sections 182(a)(1) and 384a(a)(2). The maximum penalty for this offense is three years in prison.
- Count 2: Conspiracy to commit a crime, specifically, to pick, dig up, cut, mutilate, destroy, injure, disturb, move, molest or carry a plant, in violation of Penal Code Sections 182(a)(1) and California Code of Regulation Title 14,

section 4306(a). The maximum penalty for this offense is three years in prison.

Count 3: Conspiracy to commit a crime, specifically, transporting for sale malat material (Dudleyas) that was cut or removed from public land, in violation of Penal Code Sections 182(a)(1) and 384a(a)(3). The maximum penalty for this offense is three years in prison.

Count 4: Vandalism over \$400 in violation of Penal Code Sections 594(a). The maximum penalty for this offense is three years in prison.

KIM was first arrested on October 29, 2018, and released on bail on November 5, 2018. As a condition of his bail, KIM was required to appear in all court appearances including an appearance scheduled for June 12, 2019. Based on KIM's failure to appear, the State Court issued a bench warrant on June 13, 2019. The warrant remains valid and executable to arrest KIM on the above charges.

On June 25, 2019, KIM was charged by Complaint in Case Number CRF 19-9330 in the State Court for an additional felony:

Count 1: Failure to appear while on bail in violation of Penal Code Section 1320.5. The maximum penalty for this offense is three years in prison.

A separate criminal warrant was issued by the State Court on June 28, 2019. This warrant remains valid and executable to arrest KIM on the additional charge above.

Procedural History and Facts of the Case

California Federal Case

On May 31, 2019, KIM was charged by a federal Indictment as mentioned above. The facts supporting the charges are as follows:

From October 14 to October 25, 2018, California law enforcement authorities surveilled KIM, Youngin Back (Back), and Bong Jun Kim (Jun Kim) pulling hundreds of live Dudleya plants out of the ground at state parks along the coast of California. Dudleya plants are succulents that grow in fragile costal ecosystems and are very popular in Asia. Large and colorful varieties, especially the Dudleya Farinosa, grow in protected areas of state and federal parks where it is illegal to remove the plants. Much of this surveillance of KIM, Back, and Jun Kim, was captured on videotape. The California law enforcement authorities followed KIM, Back, and Jun Kim as they drove with the plants hundreds of miles to a nursery near San Diego, California. On October 29, 2018, the wardens tracked KIM, Back, and Jun Kim as they brought the Dudleya plants to an exporter in Los Angeles, where they attempted to ship the plants to Korea. Law enforcement officials then arrested KIM, Back, and Jun Kim and seized the 34 boxes full of more than 3,000 Dudleya plants with an estimated value of US \$602,000. Other items of evidence were also seized including electronic devices.

U.S. law enforcement authorities identified additional evidence incriminating KIM. A lawful search of KIM's smartphone revealed that KIM had conducted internet searches for "poaching succulents" and "dudleya" and a press release regarding the arrest and convictions of three other Dudleya poachers prior to his arrest by California law enforcement authorities. In addition, an analysis of KIM's travel history showed that his trips to and from the United States corresponded with several large shipments of Dudleya plants from the exporter in Los Angeles to Korea. U.S. law enforcement authorities also learned that, in order to obtain certificates to export the Dudleya plants, KIM had lied to agricultural inspectors about where he had obtained the plants. A botanist's analysis of the seized plants confirmed that they had been harvested from the ground (rather than grown in captivity) from locations in California that corresponded to where the surveillance had taken place.

California State Case

As described above, on October 29, 2018, KIM, Back and Jun Kim were arrested by California State law enforcement officials for violations of California law. California law enforcement officials observed KIM, Back, and Jun Kim unlawfully harvesting Dudleya plants from state parks in the Northern California area. KIM, Back, and Jun Kim were subsequently charged in an original complaint on October 30, 2018 that was amended on November 7, 2018 to add the vandalism charge. The controlling charging document is an Information filed on May 7, 2019. The charges are being prosecuted by the state of California in the Superior Court of California, Del Norte County, in Case No. CRF 18-9581.

After his arrest on the California State charges, KIM was released on bail in the amount of US \$70,000 on November 5, 2018. The conditions of KIM's bail required KIM to appear at future court proceedings. Thereafter, the California State case was delayed several times for various reasons, including changes of defense counsel and the lack of Korean interpreters in Del Norte County. On May 22, 2019 (or perhaps early in the morning on May 23, 2019), KIM and Back crossed into Mexico at the Tijuana-San Ysidro border crossing on foot. They then flew from Mexico to China on May 23, 2019, and then flew from China to the Republic of Korea.

Although California law enforcement officials had confiscated KIM's passport following his arrest on October 29, 2018, federal law enforcement officials learned on May 22, 2019, that KIM had fraudulently obtained a new Korean passport in January 2019 by falsely claiming to the Korean Consulate in Los Angeles that he had lost his passport and fled. KIM's flight resulted in the additional charges for failure to appear in the California State case number CRF 19-933.

Treaty Citations

The offenses with which KIM is charged is covered under Article 2(1) of the Treaty.

Statute of Limitations

The applicable statute of limitations does not bar prosecution of the offenses for which extradition is requested.

Physical Description/Identification Data/Location

Byungsu KIM, alias Buung Su Kim, alias Neo, is a citizen of Korea, born on March 6, 1975. He is described as an Asian male, standing approximately six feet tall and weighing approximately 150 pounds, with black hair and brown eyes. He holds Korean passport number M04792269 (expiration date January 14, 2024). He was last known to be in Cape Town, South Africa.


Please be assured that if KIM is detained, at the request of the United States, the U.S. Department of Justice will seek the extradition and provide the supporting documents required under the treaty within the time specified by the treaty for a formal request for the extradition.

Thank you in advance for your assistance in this matter. If you have any questions, please do not hesitate to contact me at 202-353-7540, or by email at Richard.Preston@usdoj.gov, or Mykola M. Murskyj, the International Affairs Specialist assigned to this case, at 202-307-0633, or by email at Mykola.Murskyj@usdoj.gov.

Sincerely,

Vaughn A. Ary
Director

By:



Richard Preston
Trial Attorney

Enclosures: Indictment, Information, Complaint, arrest warrants, and photographs

cc: Michael Jacobsohn, L/LEI, U.S. State Department, Washington
Ed Newcomer, Wildlife Law Enforcement Attaché, Pretoria



UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

January 2019 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

BYUNG SU KIM,
aka "Neo,"
YOUNGIN BACK, and
BONG JUN KIM,

Defendants.

CR 19-00329-GW

I N D I C T M E N T

[18 U.S.C. § 371: Conspiracy; 16 U.S.C. §§ 3372(a)(2)(B), (a)(4), 3373(d)(1): Attempting to Export Plants Taken in Violation of State Law; 18 U.S.C. § 2: Aiding and Abetting and Causing an Act to be Done]

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At times relevant to this Indictment:

1. Significant populations of Dudleya plants grew in the wild along the coastline of Northern California. Wild Dudleya plants from Northern California were highly valued in Asia by collectors who kept them as prized specimens. Smugglers covertly took wild Dudleya plants from public lands in Northern California and then exported the plants to Asia, where they were sold on the black market.

1 2. California law prohibited individuals from taking plants
2 from public lands, with limited exceptions. For example:

3 a. Section 384a(a)(2) of the California Penal Code
4 prohibited any person from cutting or removing plant material that
5 was growing upon public land without a written permit. Section
6 384a(a)(3) prohibited any person from knowingly selling, or offering
7 or transporting for sale, plant material that was cut or removed in
8 violation of Section 384a(a).

9 b. Title 14, California Code of Regulations, Section
10 4306(a), barred individuals from picking, digging up, cutting,
11 mutilating, destroying, injuring, disturbing, moving, molesting, and
12 carrying away plants unless it was specifically authorized and not
13 done for commercial purposes.

14 3. Before plants could be exported from the United States to
15 another country, an exporter was required to obtain a United States
16 Department of Agriculture Phytosanitary Certificate that showed that
17 the plants had been inspected and that they met the specified
18 phytosanitary import requirements. As part of the inspection process
19 prior to the issuance of a Phytosanitary Certificate, an exporter was
20 required to inform the government inspector of the "Place of Origin"
21 of the plants.

22 4. In San Diego County, Phytosanitary Certificates were issued
23 by San Diego County's Agriculture, Weights and Measures department
24 ("County Agriculture"). Inspectors at County Agriculture would not
25 issue Phytosanitary Certificates unless the "Place of Origin" was San
26 Diego County (or unless additional documents were provided regarding
27 the plants' origin).
28

1 5. These Introductory Allegations are incorporated into each
2 count of this Indictment.

COUNT ONE

[18 U.S.C. § 371]

[ALL DEFENDANTS]

A. OBJECT OF THE CONSPIRACY

1. Beginning on an unknown date and continuing to on or about October 29, 2018, in Los Angeles County, within the Central District of California, and elsewhere, defendants BYUNG SU KIM, also known as "Neo" ("KIM"), YOUNGIN BACK ("BACK"), and BONG JUN KIM ("BONG JUN KIM"), and others known and unknown to the Grand Jury, conspired and agreed with each other to knowingly export plants from the United States that had been taken in violation of California laws and regulations protecting plants and regulating the taking of plants, namely, California Penal Code Section 384a(a) and California Code of Regulations, Title 14, Section 4306(a), in violation of Title 16, United States Code, Section 3372(a)(2)(B).

B. MANNER AND MEANS OF THE CONSPIRACY

2. The object of the conspiracy was carried out, and was to be carried out, in substance, as follows:

a. Defendants KIM, BACK, and BONG JUN KIM would travel to the United States from South Korea, where they lived, in order to harvest wild Dudleya plants from coastal habitats in Northern California and ship them to South Korea.

b. After they arrived in the United States, defendants KIM, BACK, and BONG JUN KIM would drive to remote state parks and other protected areas in Northern California where wild Dudleya plants grew.

1 c. Defendants KIM, BACK, and BONG JUN KIM would covertly
2 pull large quantities of wild Dudleya plants out of the ground at
3 remote state parks and other protected areas in Northern California,
4 in violation of California law.

5 d. Defendants KIM, BACK, and BONG JUN KIM would transport
6 the harvested Dudleya plants from Northern California to a nursery
7 that defendant KIM operated in Vista ("the Vista nursery"), in San
8 Diego County, California.

9 e. Defendant KIM would misrepresent to officials at
10 County Agriculture that the harvested Dudleya plants had been grown
11 in San Diego County, in order to obtain the Phytosanitary
12 Certificates necessary for the exportation of the plants.

13 f. Defendants KIM, BACK, and BONG JUN KIM would transport
14 the harvested Dudleya plants to a commercial exporter in Compton,
15 California, where defendant KIM would present the fraudulently-
16 obtained Phytosanitary Certificates so that the plants could be
17 shipped to South Korea.

18 C. OVERT ACTS

19 3. On or about the following dates, in furtherance of the
20 conspiracy and to accomplish its object, defendants KIM, BACK, and
21 BONG JUN KIM, and other co-conspirators known and unknown to the
22 Grand Jury, committed, and willfully caused others to commit, various
23 overt acts within the Central District of California and elsewhere,
24 including, but not limited to, the following:

25 Overt Act No. 1: On or about October 4, 2018, defendant KIM
26 arrived in the United States on a flight from Korea without a return
27 reservation.

1 Overt Act No. 2: On or about October 4, 2018, defendant KIM
2 told a Customs and Border Protection ("CBP") Officer that he was
3 going to Mexico to purchase plants and export them to the United
4 States and then to Korea and China.

5 Overt Act No. 3: On or about October 4, 2018, defendant KIM
6 provided records to the CBP Officer, including a Phytosanitary
7 Certificate stating that the Vista nursery had shipped 5,731 Dudleya
8 plants (501 pounds) to South Korea on or about September 12, 2018,
9 and that the purported "Place of Origin" of the plants was San Diego
10 County.

11 Overt Act No. 4: On or about October 11, 2018, defendants KIM
12 and BACK rented a car at Los Angeles International Airport ("LAX")
13 and drove it to the Vista nursery.

14 Overt Act No. 5: On or about October 12, 2018, defendant BONG
15 JUN KIM arrived in the United States on a flight from South Korea to
16 Los Angeles.

17 Overt Act No. 6: On or about October 12, 2018, defendants KIM
18 and BACK drove their rental car from the Vista nursery to Los Angeles
19 to pick up defendant BONG JUN KIM at LAX.

20 Overt Act No. 7: On or about October 12, 2018, defendant KIM
21 rented a second car at LAX.

22 Overt Act No. 8: On or about October 12, 2018, defendants
23 KIM, BACK, and BONG JUN KIM drove the two rental cars from LAX to
24 Northern California, bringing with them rubber totes, empty
25 backpacks, and boxes.

26 Overt Act No. 9: On or about October 14, 2018, defendants
27 KIM, BACK, and BONG JUN KIM covertly harvested wild Dudleya plants at
28

1 DeMartin State Beach in Klamath, California and Del Norte Coast
2 Redwoods State Park.

3 Overt Act No. 10: On or about October 15, 2018, defendants
4 KIM, BACK, and BONG JUN KIM drove to DeMartin State Beach to harvest
5 additional Dudleya plants.

6 Overt Act No. 11: On or about October 15, 2018, defendants
7 KIM, BACK, and BONG JUN KIM waited for a National Park Service
8 vehicle to leave DeMartin State Beach prior to harvesting Dudleya
9 plants.

10 Overt Act No. 12: On or about October 16, 2018, defendants
11 KIM, BACK, and BONG JUN KIM harvested additional Dudleya plants at
12 DeMartin State Beach.

13 Overt Act No. 13: On or about October 17, 2018, defendants
14 KIM, BACK, and BONG JUN KIM drove to DeMartin State Beach to harvest
15 additional Dudleya plants.

16 Overt Act No. 14: On or about October 18, 2018, defendants
17 KIM, BACK, and BONG JUN KIM drove to DeMartin State Beach to harvest
18 additional Dudleya plants.

19 Overt Act No. 15: On or about October 19, 2018, defendants
20 KIM, BACK, and BONG JUN KIM drove to DeMartin State Beach to harvest
21 additional Dudleya plants.

22 Overt Act No. 16: On or about October 20, 2018, defendants
23 KIM, BACK, and BONG JUN KIM drove to DeMartin State Beach to harvest
24 additional Dudleya plants.

25 Overt Act No. 17: On or about October 22, 2018, defendants
26 KIM, BACK, and BONG JUN KIM drove from Northern California to the
27 Vista nursery.

1 Overt Act No. 18: On or about October 22, 2018, defendants
2 KIM, BACK, and BONG JUN KIM emptied tote bags containing Dudleya
3 plants from their vehicle at the Vista nursery.

4 Overt Act No. 19: On or about October 23, 2018, defendants
5 KIM, BACK, and BONG JUN KIM drove from Southern California to Sonoma
6 County.

7 Overt Act No. 20: On or about October 24, 2018, defendants
8 KIM, BACK, and BONG JUN KIM drove to Russian Gulch State Park in
9 Mendocino County.

10 Overt Act No. 21: On or about October 24, 2018, defendants
11 KIM, BACK, and BONG JUN KIM covertly harvested wild Dudleya plants at
12 Russian Gulch State Park.

13 Overt Act No. 22: On or about October 25, 2018, defendants
14 KIM, BACK, and BONG JUN KIM covertly harvested additional Dudleya
15 plants at Russian Gulch State Park.

16 Overt Act No. 23: On or about October 25, 2018, defendants
17 KIM, BACK, and BONG JUN KIM drove from Russian Gulch State Park to
18 Vista, California.

19 Overt Act No. 24: On or about October 26, 2018, defendants
20 KIM, BACK, and BONG JUN KIM drove to the Vista nursery and unloaded
21 items from their vehicle.

22 Overt Act No. 25: On or about October 26, 2018, defendant KIM
23 went to the County Agriculture office to request that the Dudleya
24 plants be inspected on October 29, 2018.

25 Overt Act No. 26: On or about October 29, 2018, defendants
26 KIM, BACK, and BONG JUN KIM drove from their hotel to the Vista
27 nursery.

1 Overt Act No. 27: On or about October 29, 2018, defendant KIM
2 informed the County Agriculture inspector who arrived at the Vista
3 nursery that the Phytosanitary Certificate should list 1,397 Dudleya
4 plants (259 pounds) for export to South Korea and that the "Place of
5 Origin" of the plants was San Diego County.

6 Overt Act No. 28: On or about October 29, 2018, in reliance on
7 defendant KIM's misrepresentation about the "Place of Origin" of the
8 Dudleya plants, the County Agriculture inspector approved the
9 Phytosanitary Certificate for the exportation of the Dudleya plants
10 to South Korea.

11 Overt Act No. 29: On or about October 29, 2018, defendants
12 KIM, BACK, and BONG JUN KIM drove from the Vista nursery to a
13 commercial exporter in Compton.

14 Overt Act No. 30: On or about October 29, 2018, at the loading
15 ramp of the commercial exporter in Compton, defendants KIM, BACK, and
16 BONG JUN KIM unloaded boxes of Dudleya plants, labelled "Rush" and
17 "Live Plants," from their vehicle.

COUNT TWO

[16 U.S.C. §§ 3372(a)(2)(B), (a)(4), 3373(d)(1);

18 U.S.C. §§ 2(a), (b)]

[ALL DEFENDANTS]

On or about October 29, 2018, in Los Angeles County, within the Central District of California, and elsewhere, defendants BYUNG SU KIM, aka "Neo," YOUNGIN BACK, and BONG JUN KIM, each aiding and abetting the others, knowingly attempted to export, and willfully caused the attempt to export, plants from the United States, namely, thousands of Dudleya plants, knowing that the plants had been taken in violation of California laws and regulations protecting plants and

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

1 regulating the taking of plants, namely, California Penal Code
2 Section 384a(a) and California Code of Regulations, Title 14, Section
3 4306(a).

4 A TRUE BILL

5
6 151
Foreperson

7
8 NICOLA T. HANNA
United States Attorney

9 *Brandon Fox*

10 BRANDON D. FOX
11 Assistant United States Attorney
Chief, Criminal Division

12 JOSEPH O. JOHNS
13 Assistant United States Attorney
Chief, Environmental and
14 Community Safety Crimes Section

15 MARK A. WILLIAMS
Assistant United States Attorney
16 Deputy Chief, Environmental and
Community Safety Crimes Section

17 DENNIS MITCHELL
18 MATTHEW W. O'BRIEN
Assistant United States Attorneys
19 Environmental and Community
Safety Crimes Section

I hereby attest and certify on 10/25/19
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA


DEPUTY CLERK



(1099)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

United States of America

Plaintiff(s)

v.

BYUNG SU KIM
aka Neo

Defendant(s)

CASE NUMBER:

CR19-00329-GW-1

WARRANT FOR ARREST

TO: UNITED STATES MARSHAL AND ANY AUTHORIZED UNITED STATES OFFICER

YOU ARE HEREBY COMMANDED to arrest BYUNG SU KIM, aka Neo

and bring him/her forthwith to the nearest Magistrate Judge to answer a(n): ☐ Complaint ☒ Indictment

☐ Information ☐ Order of Court ☐ Probation Violation Petition ☐ Violation Notice

Charging him/her with: (ENTER DESCRIPTION OF OFFENSE BELOW)

18 U.S.C. § 371: Conspiracy;

16 U.S.C. §§ 3372(a)(2)(B), (a)(4), 3373(d)(1): Attempting to Export Plants Taken in
Violation of State Law;

18 U.S.C. § 2: Aiding and Abetting and Causing an Act to be Done

in violation of the following Title, United States Code, Section(s)

SEE ABOVE

Kiry K. Gray
NAME OF ISSUING OFFICER

Clerk of Court
TITLE OF ISSUING OFFICER

Derek Davis



May 31, 2019 LOS ANGELES, CALIFORNIA
DATE AND LOCATION OF ISSUANCE

BY: FREDERICK F. MUMM
NAME OF JUDICIAL OFFICER

1100
RETURN

THIS WARRANT WAS RECEIVED AND EXECUTED WITH THE ARREST OF THE ABOVE-NAMED DEFENDANT AT (LOCATION):

DATE RECEIVED

NAME OF ARRESTING OFFICER

DATE OF ARREST

TITLE

DESCRIPTIVE INFORMATION FOR DEFENDANT
CONTAINED ON PAGE TWO

SIGNATURE OF ARRESTING OFFICER

WARRANT FOR ARREST

#94

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

United States of America

Plaintiff(s)

v.

BYUNGSU KIM
aka Neo

Defendant(s)

CASE NUMBER:

CR**1****WARRANT FOR ARREST****ADDITIONAL DEFENDANT INFORMATION**

RACE:	SEX:	HEIGHT:	WEIGHT:	HAIR:	EYES:	OTHER:
DATE OF BIRTH: 1975						
		SCARS, TATTOOS OR OTHER DISTINGUISHING MARKS:				
AUTO YEAR:	AUTO MAKE:	AUTO MODLE:	AUTO COLOR:		AUTO LICENSE NO.	ISSUING STATE
LAST KNOWN RESIDENCE:			LAST KNOWN EMPLOYMENT			
FBI NUMBER:						
ADDITIONAL INFORMATION:						
INVESTIGATIVE AGENCY NAME: USFWS			INVESTIGATIVE AGENCY ADDRESS:			

NOTES:

WARRANT FOR ARREST

I hereby attest and certify on 10/25/19
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Andrea Parker
DEPUTY CLERK



(1099)

DA#

Agency:

Officer:

DISTRICT ATTORNEY
County of Del Norte County
450 H Street, Room 171
Crescent City, CA 95531
(707) 464-7210

**ENDORSED
FILED**

MAY 07 2019

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF DEL NORTE**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF DEL NORTE**

THE PEOPLE OF THE STATE OF CALIFORNIA,

vs.

YOUNGIN BACK (04/28/1974),
BYUNG SU KIM (03/06/1975),
BONG JUN KIM (08/11/1974),
Defendant(s),

Case # CRF 18-9581

INFORMATION

Arraignment: 05-09-2019

I, the undersigned, state, on information and belief, that defendant(s) did, in Del Norte Judicial District, County of Del Norte, State of California, commit the following crime(s):

COUNT 1.

CONSPIRACY TO COMMIT A CRIME, in violation of Section PC182(a)(1), a felony.

On or about October 12, 2018 to October 22, 2018, the defendants did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of Cutting, Destroying, or Removing Plant Material That Was Growing Upon Public Land, in violation of Penal Code section 384a(a)(2); that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the county of Del Norte, state of California: (1) entered Del Norte County, California, (2) went to the area of DeMartin Beach parking lot in Del Norte County, (3) cut, destroyed, or removed plant material (Dudleyas) from Del Norte Coast Redwoods State Park, (4) cut, destroyed, or removed plant material (Dudleyas) from Redwood National Park in Del Norte County, and/or (5) loaded plant material (Dudleyas) into a vehicle.

COUNT 2.

CONSPIRACY TO COMMIT A CRIME, in violation of Section PC182(a)(1), a felony.

On or about October 12, 2018 to October 22, 2018, the defendants did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime to Pick, Dig up, Cut, Mutilate, Destroy, Injure, Disturb, Move, Molest or Carry a Plant, in violation of California Code of Regulation Title 14 section 4306(a); that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the county of Del Norte, state of California: (1) entered Del Norte County, California, (2) went to the area of DeMartin Beach parking lot in Del Norte County, (3) walked into Del Norte Coast Redwoods State Park, (4) picked, dug up, cut, mutilated, destroyed, injured, disturbed, moved, molested, or carried a plant (Dudleyas) in Norte Coast Redwoods State Park in Del Norte County, and/or (5) loaded a plant (Dudleyas) into a vehicle.

COUNT 3.

CONSPIRACY TO COMMIT A CRIME, in violation of Section PC182(a)(1), a felony.

On or about October 12, 2018 to October 22, 2018, the defendants did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of Transport for Sale Plant Material (Dudleyas) that was Cut or Removed from a Public Land, in violation of Penal Code section 384a(a)(3); that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the county of Del Norte, state of California: (1) entered Del Norte County, California, (2) went to the area of DeMartin Beach parking lot in Del Norte County, (3) cut, destroyed, or removed plant material (Dudleyas) from Del Norte Coast Redwoods State Park, (4) cut, destroyed, or removed plant material (Dudleyas) from Redwood National Park in Del Norte County, (5) loaded plant material (Dudleyas) into a vehicle, and/or (6) departed Del Norte County Del Norte County with the plant material (Dudleyas).

COUNT 4.

VANDALISM OVER \$400 DAMAGE-DAMAGE/DESTROY, in violation of Section PC594(a), a felony.

On or about October 14, 2018 to October 21, 2018, the defendants did unlawfully and maliciously damage and destroy real and personal property, to wit, Dudleyas, not his/her own, belonging to California Redwoods National and State Parks, the amount of said damage being over \$400.00.

I so swear, under penalty of perjury, on May 6, 2019, at Crescent City, California, that the foregoing is true and correct on information and belief.



Eric Bryant, Deputy District Attorney

MALE/ASIAN/0/0/BLK,BRO DOB: 03/06/1975 DL: CA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF DEL NORTE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

Plaintiff,)

vs.)

BYUNG SU KIM)

Defendant.)

NO: DNSU-CRF-2018-9581-2

BENCH WARRANT

TO ANY PEACE OFFICER OF THE STATE OF CALIFORNIA, GREETINGS:

WHEREAS, Defendant BYUNG SU KIM has been charged with a violation of section (s):

PC 182(a)(1)

PC 182(a)(1)

PC 182(a)(1)

PC 594(a)

And the Defendant:

☐ PROBATION ☐ PRCS ☐ MANDATORY SUPERVISION IS SUMMARILY
REVOKED: Defendant failed to comply with the conditions

XX

Failed to Appear in answer to a signed promise and/or an order to show cause.

Failed to comply with the Alcohol Program, Drug Court or Alternatives to Violence Program.

Failed to pay Court ordered fines, restitution, or complete community work service \$ _____.

Other: _____

NOW THEREFORE YOU ARE COMMANDED to arrest said defendant forthwith and bring the defendant to the above Court to be dealt with according to law. ☐ DO NOT CITE AND RELEASE.

Schedule Warrant Return: ☒ Department 1 Tuesday - Thursday at 8:30 a.m. or Friday at 9:30 a.m.
☐ Department 3 Monday - Friday at 1:10 p.m.

☐ Fingerprints and 8715 PC to be generated ☐ DAY SERVICE ☐ DAY AND NIGHT SERVICE

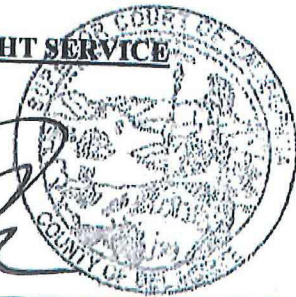
Cash bail posted by the defendant May Not be forfeited.

NO BAIL

BAIL IS FIXED AT \$ 100,000.00

DATE: 6/13/19


D. McELFRESH
JUDGE OF THE SUPERIOR COURT



DA#

Agency:

Officer:

DISTRICT ATTORNEY
County of Del Norte County
450 H Street, Room 171
Crescent City, CA 95531
(707) 464-7210

ENDORSED
FILED

JUN 25 2019

SUPERIOR COURT OF CALIFORNIA
COUNTY OF DEL NORTE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF DEL NORTE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

COMPLAINT

BYUNG SU KIM
(d.o.b. 03/06/1975),
Defendant

I, the undersigned, state, on information and belief, that defendant did, in Del Norte Judicial District, County of Del Norte, State of California, commit the following crime:

COUNT 1.

FAILURE TO APPEAR WHILE ON BAIL in violation of section PC1320.5, a felony.

On or about June 12, 2019, the defendant was a person who was charged with the commission of a felony, to wit, Conspiracy to Commit a Crime in violation of Section 182(a)(1) of the Penal Code and Vandalism in violation of Section 594(a) of the Penal Code of the State of California, who had been released from custody on bail and, in order to evade the process of the court, willfully and unlawfully failed to appear as required on or about June 12, 2019.

I so swear, under penalty of perjury, on June 24, 2019, at Crescent City, California, that the foregoing is true and correct on information and belief.



Eric T Bryant, Deputy District Attorney

DOB: 03/06/1975 Sex: M Race: A Ht: XXX Wt: XXX Hair: BLK Eyes: BRO
LKA: Korean National

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF DEL NORTE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

BYUNG SU KIM,

Defendant.

Case No. CRF19-9330

WARRANT OF ARREST

COPY

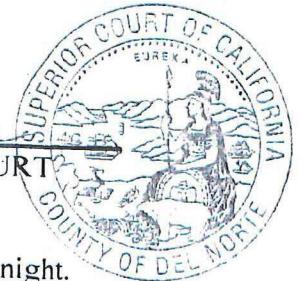
To any peace officer of this State:

A complaint upon oath was made before me on this date that the offense of Failure To Appear While On Bail PC1320.5 has been committed, and accusing defendant, Byung Su Kim, thereof. You are therefore ordered to arrest the defendant forthwith and bring him before me, or in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Bail is fixed in the total sum of \$ 70,000

Dated: 6/28/2019


JUDGE OF THE SUPERIOR COURT



ENDORSEMENT FOR NIGHT SERVICE

For good cause shown, I direct that this warrant be served at any hour of the day or night.

JUDGE OF THE SUPERIOR COURT

(seal)

RETURN OF PEACE OFFICER

I certify that I received the above warrant and that I served the same by arresting the defendant on _____ and bring him before the Judge of the _____ Judicial District, County of _____ on _____ booking him at the _____ jail, County of _____ on _____

Dated: _____

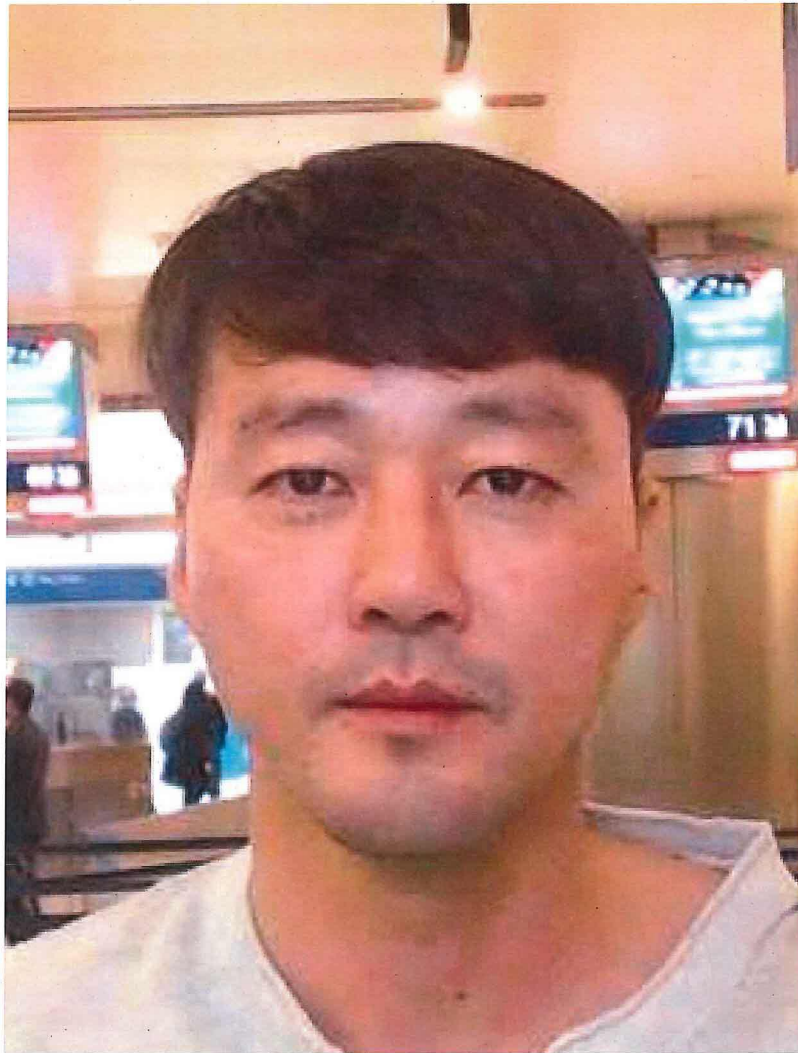
By: _____

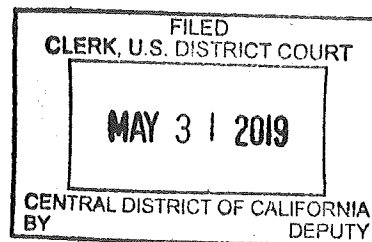
Signature

Print Name

WARRANT OF ARREST







UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

January 2019 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

BYUNGSU KIM,
aka "Neo,"
YOUNGIN BACK, and
BONG JUN KIM,

Defendants.

CR 19-00329-GW

I N D I C T M E N T

[18 U.S.C. § 371: Conspiracy; 16 U.S.C. §§ 3372(a)(2)(B), (a)(4), 3373(d)(1): Attempting to Export Plants Taken in Violation of State Law; 18 U.S.C. § 2: Aiding and Abetting and Causing an Act to be Done]

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At times relevant to this Indictment:

1. Significant populations of Dudleya plants grew in the wild along the coastline of Northern California. Wild Dudleya plants from Northern California were highly valued in Asia by collectors who kept them as prized specimens. Smugglers covertly took wild Dudleya plants from public lands in Northern California and then exported the plants to Asia, where they were sold on the black market.

1 2. California law prohibited individuals from taking plants
2 from public lands, with limited exceptions. For example:

3 a. Section 384a(a)(2) of the California Penal Code
4 prohibited any person from cutting or removing plant material that
5 was growing upon public land without a written permit. Section
6 384a(a)(3) prohibited any person from knowingly selling, or offering
7 or transporting for sale, plant material that was cut or removed in
8 violation of Section 384a(a).

9 b. Title 14, California Code of Regulations, Section
10 4306(a), barred individuals from picking, digging up, cutting,
11 mutilating, destroying, injuring, disturbing, moving, molesting, and
12 carrying away plants unless it was specifically authorized and not
13 done for commercial purposes.

14 3. Before plants could be exported from the United States to
15 another country, an exporter was required to obtain a United States
16 Department of Agriculture Phytosanitary Certificate that showed that
17 the plants had been inspected and that they met the specified
18 phytosanitary import requirements. As part of the inspection process
19 prior to the issuance of a Phytosanitary Certificate, an exporter was
20 required to inform the government inspector of the "Place of Origin"
21 of the plants.

22 4. In San Diego County, Phytosanitary Certificates were issued
23 by San Diego County's Agriculture, Weights and Measures department
24 ("County Agriculture"). Inspectors at County Agriculture would not
25 issue Phytosanitary Certificates unless the "Place of Origin" was San
26 Diego County (or unless additional documents were provided regarding
27 the plants' origin).

1 5. These Introductory Allegations are incorporated into each
2 count of this Indictment.

COUNT ONE

[18 U.S.C. § 371]

[ALL DEFENDANTS]

A. OBJECT OF THE CONSPIRACY

1. Beginning on an unknown date and continuing to on or about October 29, 2018, in Los Angeles County, within the Central District of California, and elsewhere, defendants BYUNG SU KIM, also known as "Neo" ("KIM"), YOUNGIN BACK ("BACK"), and BONG JUN KIM ("BONG JUN KIM"), and others known and unknown to the Grand Jury, conspired and agreed with each other to knowingly export plants from the United States that had been taken in violation of California laws and regulations protecting plants and regulating the taking of plants, namely, California Penal Code Section 384a(a) and California Code of Regulations, Title 14, Section 4306(a), in violation of Title 16, United States Code, Section 3372(a)(2)(B).

B. MANNER AND MEANS OF THE CONSPIRACY

2. The object of the conspiracy was carried out, and was to be carried out, in substance, as follows:

a. Defendants KIM, BACK, and BONG JUN KIM would travel to the United States from South Korea, where they lived, in order to harvest wild Dudleya plants from coastal habitats in Northern California and ship them to South Korea.

b. After they arrived in the United States, defendants KIM, BACK, and BONG JUN KIM would drive to remote state parks and other protected areas in Northern California where wild Dudleya plants grew.

1 c. Defendants KIM, BACK, and BONG JUN KIM would covertly
2 pull large quantities of wild Dudleya plants out of the ground at
3 remote state parks and other protected areas in Northern California,
4 in violation of California law.

5 d. Defendants KIM, BACK, and BONG JUN KIM would transport
6 the harvested Dudleya plants from Northern California to a nursery
7 that defendant KIM operated in Vista ("the Vista nursery"), in San
8 Diego County, California.

9 e. Defendant KIM would misrepresent to officials at
10 County Agriculture that the harvested Dudleya plants had been grown
11 in San Diego County, in order to obtain the Phytosanitary
12 Certificates necessary for the exportation of the plants.

13 f. Defendants KIM, BACK, and BONG JUN KIM would transport
14 the harvested Dudleya plants to a commercial exporter in Compton,
15 California, where defendant KIM would present the fraudulently-
16 obtained Phytosanitary Certificates so that the plants could be
17 shipped to South Korea.

18 C. OVERT ACTS

19 3. On or about the following dates, in furtherance of the
20 conspiracy and to accomplish its object, defendants KIM, BACK, and
21 BONG JUN KIM, and other co-conspirators known and unknown to the
22 Grand Jury, committed, and willfully caused others to commit, various
23 overt acts within the Central District of California and elsewhere,
24 including, but not limited to, the following:

25 Overt Act No. 1: On or about October 4, 2018, defendant KIM
26 arrived in the United States on a flight from Korea without a return
27 reservation.

1 Overt Act No. 2: On or about October 4, 2018, defendant KIM
2 told a Customs and Border Protection ("CBP") Officer that he was
3 going to Mexico to purchase plants and export them to the United
4 States and then to Korea and China.

5 Overt Act No. 3: On or about October 4, 2018, defendant KIM
6 provided records to the CBP Officer, including a Phytosanitary
7 Certificate stating that the Vista nursery had shipped 5,731 Dudleya
8 plants (501 pounds) to South Korea on or about September 12, 2018,
9 and that the purported "Place of Origin" of the plants was San Diego
10 County.

11 Overt Act No. 4: On or about October 11, 2018, defendants KIM
12 and BACK rented a car at Los Angeles International Airport ("LAX")
13 and drove it to the Vista nursery.

14 Overt Act No. 5: On or about October 12, 2018, defendant BONG
15 JUN KIM arrived in the United States on a flight from South Korea to
16 Los Angeles.

17 Overt Act No. 6: On or about October 12, 2018, defendants KIM
18 and BACK drove their rental car from the Vista nursery to Los Angeles
19 to pick up defendant BONG JUN KIM at LAX.

20 Overt Act No. 7: On or about October 12, 2018, defendant KIM
21 rented a second car at LAX.

22 Overt Act No. 8: On or about October 12, 2018, defendants
23 KIM, BACK, and BONG JUN KIM drove the two rental cars from LAX to
24 Northern California, bringing with them rubber totes, empty
25 backpacks, and boxes.

26 Overt Act No. 9: On or about October 14, 2018, defendants
27 KIM, BACK, and BONG JUN KIM covertly harvested wild Dudleya plants at
28

DeMartin State Beach in Klamath, California and Del Norte Coast Redwoods State Park.

Overt Act No. 10: On or about October 15, 2018, defendants KIM, BACK, and BONG JUN KIM drove to DeMartin State Beach to harvest additional Dudleya plants.

Overt Act No. 11: On or about October 15, 2018, defendants KIM, BACK, and BONG JUN KIM waited for a National Park Service vehicle to leave DeMartin State Beach prior to harvesting Dudleya plants.

Overt Act No. 12: On or about October 16, 2018, defendants KIM, BACK, and BONG JUN KIM harvested additional Dudleya plants at DeMartin State Beach.

Overt Act No. 13: On or about October 17, 2018, defendants KIM, BACK, and BONG JUN KIM drove to DeMartin State Beach to harvest additional Dudleya plants.

Overt Act No. 14: On or about October 18, 2018, defendants KIM, BACK, and BONG JUN KIM drove to DeMartin State Beach to harvest additional Dudleya plants.

Overt Act No. 15: On or about October 19, 2018, defendants KIM, BACK, and BONG JUN KIM drove to DeMartin State Beach to harvest additional Dudleya plants.

Overt Act No. 16: On or about October 20, 2018, defendants KIM, BACK, and BONG JUN KIM drove to DeMartin State Beach to harvest additional Dudleya plants.

Overt Act No. 17: On or about October 22, 2018, defendants KIM, BACK, and BONG JUN KIM drove from Northern California to the Vista nursery.

1 Overt Act No. 18: On or about October 22, 2018, defendants
2 KIM, BACK, and BONG JUN KIM emptied tote bags containing Dudleya
3 plants from their vehicle at the Vista nursery.

4 Overt Act No. 19: On or about October 23, 2018, defendants
5 KIM, BACK, and BONG JUN KIM drove from Southern California to Sonoma
6 County.

7 Overt Act No. 20: On or about October 24, 2018, defendants
8 KIM, BACK, and BONG JUN KIM drove to Russian Gulch State Park in
9 Mendocino County.

10 Overt Act No. 21: On or about October 24, 2018, defendants
11 KIM, BACK, and BONG JUN KIM covertly harvested wild Dudleya plants at
12 Russian Gulch State Park.

13 Overt Act No. 22: On or about October 25, 2018, defendants
14 KIM, BACK, and BONG JUN KIM covertly harvested additional Dudleya
15 plants at Russian Gulch State Park.

16 Overt Act No. 23: On or about October 25, 2018, defendants
17 KIM, BACK, and BONG JUN KIM drove from Russian Gulch State Park to
18 Vista, California.

19 Overt Act No. 24: On or about October 26, 2018, defendants
20 KIM, BACK, and BONG JUN KIM drove to the Vista nursery and unloaded
21 items from their vehicle.

22 Overt Act No. 25: On or about October 26, 2018, defendant KIM
23 went to the County Agriculture office to request that the Dudleya
24 plants be inspected on October 29, 2018.

25 Overt Act No. 26: On or about October 29, 2018, defendants
26 KIM, BACK, and BONG JUN KIM drove from their hotel to the Vista
27 nursery.

1 Overt Act No. 27: On or about October 29, 2018, defendant KIM
2 informed the County Agriculture inspector who arrived at the Vista
3 nursery that the Phytosanitary Certificate should list 1,397 Dudleya
4 plants (259 pounds) for export to South Korea and that the "Place of
5 Origin" of the plants was San Diego County.

6 Overt Act No. 28: On or about October 29, 2018, in reliance on
7 defendant KIM's misrepresentation about the "Place of Origin" of the
8 Dudleya plants, the County Agriculture inspector approved the
9 Phytosanitary Certificate for the exportation of the Dudleya plants
10 to South Korea.

11 Overt Act No. 29: On or about October 29, 2018, defendants
12 KIM, BACK, and BONG JUN KIM drove from the Vista nursery to a
13 commercial exporter in Compton.

14 Overt Act No. 30: On or about October 29, 2018, at the loading
15 ramp of the commercial exporter in Compton, defendants KIM, BACK, and
16 BONG JUN KIM unloaded boxes of Dudleya plants, labelled "Rush" and
17 "Live Plants," from their vehicle.

COUNT TWO

[16 U.S.C. §§ 3372(a)(2)(B), (a)(4), 3373(d)(1);

18 U.S.C. §§ 2(a), (b)]

[ALL DEFENDANTS]

On or about October 29, 2018, in Los Angeles County, within the Central District of California, and elsewhere, defendants BYUNG SU KIM, aka "Neo," YOUNGIN BACK, and BONG JUN KIM, each aiding and abetting the others, knowingly attempted to export, and willfully caused the attempt to export, plants from the United States, namely, thousands of Dudleya plants, knowing that the plants had been taken in violation of California laws and regulations protecting plants and

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

1 regulating the taking of plants, namely, California Penal Code
2 Section 384a(a) and California Code of Regulations, Title 14, Section
3 4306(a).

4 A TRUE BILL

5
6 151
Foreperson

7
8 NICOLA T. HANNA
United States Attorney

9 

10 BRANDON D. FOX
11 Assistant United States Attorney
Chief, Criminal Division

12 JOSEPH O. JOHNS
13 Assistant United States Attorney
Chief, Environmental and
14 Community Safety Crimes Section

15 MARK A. WILLIAMS
16 Assistant United States Attorney
Deputy Chief, Environmental and
Community Safety Crimes Section

17 DENNIS MITCHELL
18 MATTHEW W. O'BRIEN
Assistant United States Attorneys
19 Environmental and Community
Safety Crimes Section

COPY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
PLAINTIFF,
v.
BYUNGSU KIM,
DEFENDANT(S)

**WARRANT FOR
ARREST**

ON COMPLAINT
CASE NO. **98MJ03349**

To: UNITED STATES MARSHAL AND ANY AUTHORIZED UNITED STATES OFFICER

YOU ARE HEREBY COMMANDED to arrest BYUNGSU KIM and bring him forthwith to the nearest Magistrate Judge to answer a complaint charging him with illegally attempting to export plants to a foreign country in violation of state law or regulation, in violation of Title 16, United States Code, Sections 3372(a)(2)(B), (a)(4).

REC: BY AUSA Matthew O'Brien Detention

12/19/18

Date

MICHAEL R WILNER

Magistrate Judge

MICHAEL R WILNER

Signature of Magistrate Judge

RETURN

This warrant was received and executed with the arrest of the above-named defendant at (location):

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

DESCRIPTIVE INFORMATION FOR DEFENDANT CONTAINED ON PAGE TWO

WARRANT FOR ARREST ON COMPLAINT

Page 1 of 2

ADDITIONAL DEFENDANT INFORMATION

RACE:	SEX:	HEIGHT:	WEIGHT:	HAIR:	EYES:	OTHER:	
DATE OF BIRTH:		PLACE OF BIRTH:		SOCIAL SECURITY NO.:		DRIVER'S LICENSE NO.	ISSUING STATE
ALIASES:		SCARS, TATTOOS OR OTHER DISTINGUISHING MARKS:					
AUTO YEAR:	AUTO MAKE:	AUTO MODEL:		AUTO COLOR:		AUTO LICENSE NO.:	ISSUING STATE
LAST KNOWN RESIDENCE:				LAST KNOWN EMPLOYMENT:			
FBI NUMBER:							
ADDITIONAL INFORMATION:							
INVESTIGATIVE AGENCY NAME:				INVESTIGATIVE AGENCY ADDRESS:			
NOTES:							

**United States District Court
Central District of California**

UNITED STATES OF AMERICA vs.

Docket No.

CR 19-329-GWJS 3Defendant BYUNGSU KIMSocial Security No. N O N Eakas: Neo

(Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared by VTC on this

MONTH	DAY	YEAR
01	20	2022

COUNSELJeremy I. Lessem, Ret.

(Name of Counsel)

PLEA**GUILTY**, and the court being satisfied that there is a factual basis for the plea.**NOLO
CONTENDERE****NOT
GUILTY****FINDING**

There being a finding/verdict of **GUILTY**, defendant has been convicted as charged of the offense(s) of:
**16 U.S.C. § 3372(a)(2)(B),(a)(4),3373(d)(1); 18:2(a),(b) ATTEMPTING TO EXPORT PLANTS TAKEN IN
 VIOLATION OF STATE LAW; AIDING AND ABETTING AND CAUSING AN ACT TO BE DONE as charged in
 Count 2 of the Indictment.**

**JUDGMENT
AND PROB/
COMM
ORDER**

The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of: **TWENTY-FOUR (24) MONTHS.**

It is ordered that the defendant shall pay to the United States a special assessment of \$100, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

Defendant shall pay restitution in the total amount of \$3,985 to victims as set forth in a separate victim list prepared by the probation office which this Court adopts and which reflects the Court's determination of the amount of restitution due to each victim. The victim list, which shall be forwarded to the fiscal section of the clerk's office, shall remain confidential to protect the privacy interests of the victims.

Restitution shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program. If any amount of the restitution remains unpaid after release from custody, nominal monthly payments of at least 10% of defendant's gross monthly income but not less than \$50, whichever is greater, shall be made during the period of supervised release and shall begin 90 days after the commencement of supervision. Nominal restitution payments are ordered as the Court finds that the defendant's economic circumstances do not allow for either immediate or future payment of the amount ordered.

Pursuant to 18 U.S.C. § 3612(f)(3)(A), interest on the restitution ordered is waived because the defendant does not have the ability to pay interest. Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

The defendant shall comply with Second Amended General Order No. 20-04.

Pursuant to Guideline § 5E1.2(a), all fines are waived as the Court finds that the defendant has established that he is unable to pay and is not likely to become able to pay any fine.

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant, Byungsu Kim, is hereby committed on Count 2 of the 2-Count Indictment to the custody of the Bureau of Prisons for a term of 24 months.

USA vs. **1. BYUNG SU KIM**Docket No.: **CR 19-329-GW**

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three years under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation & Pretrial Services Office and Second Amended General Order 20-04, including the conditions of probation and supervised release set forth in Section III of Second Amended General Order 20-04.
2. During the period of community supervision, the defendant shall pay the special assessment and restitution in accordance with this judgment's orders pertaining to such payment.
3. The defendant shall cooperate in the collection of a DNA sample from the defendant.
4. The defendant shall comply with the immigration rules and regulations of the United States, and if deported from this country, either voluntarily or involuntarily, not reenter the United States illegally. The defendant is not required to report to the Probation & Pretrial Services Office while residing outside of the United States; however, within 72 hours of release from any custody or any reentry to the United States during the period of Court-ordered supervision, the defendant shall report for instructions to the United States Probation Office located at: the 300 N. Los Angeles Street, Suite 1300, Los Angeles, CA 90012-3323.
5. The defendant shall apply all monies received from income tax refunds, lottery winnings, inheritance, judgments and any other financial gains to the Court-ordered financial obligation.

The Government's request to dismiss the remaining counts of the underlying Indictment is granted.

The Court advises defendant of his rights to an appeal.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

January 24, 2022

Date



HON. GEORGE H. WU, U. S. District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

January 24, 2022

Filed Date

By /s/ Javier Gonzalez

Deputy Clerk

The defendant must comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant must not commit another federal, state, or local crime;
2. The defendant must report to the probation office in the federal judicial district of residence within 72 hours of imposition of a sentence of probation or release from imprisonment, unless otherwise directed by the probation officer;
3. The defendant must report to the probation office as instructed by the court or probation officer;
4. The defendant must not knowingly leave the judicial district without first receiving the permission of the court or probation officer;
5. The defendant must answer truthfully the inquiries of the probation officer, unless legitimately asserting his or her Fifth Amendment right against self-incrimination as to new criminal conduct;
6. The defendant must reside at a location approved by the probation officer and must notify the probation officer at least 10 days before any anticipated change or within 72 hours of an unanticipated change in residence or persons living in defendant's residence;
7. The defendant must permit the probation officer to contact him or her at any time at home or elsewhere and must permit confiscation of any contraband prohibited by law or the terms of supervision and observed in plain view by the probation officer;
8. The defendant must work at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons and must notify the probation officer at least ten days before any change in employment or within 72 hours of an unanticipated change;
9. The defendant must not knowingly associate with any persons engaged in criminal activity and must not knowingly associate with any person convicted of a felony unless granted permission to do so by the probation officer. This condition will not apply to intimate family members, unless the court has completed an individualized review and has determined that the restriction is necessary for protection of the community or rehabilitation;
10. The defendant must refrain from excessive use of alcohol and must not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
11. The defendant must notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
12. For felony cases, the defendant must not possess a firearm, ammunition, destructive device, or any other dangerous weapon;
13. The defendant must not act or enter into any agreement with a law enforcement agency to act as an informant or source without the permission of the court;
14. The defendant must follow the instructions of the probation officer to implement the orders of the court, afford adequate deterrence from criminal conduct, protect the public from further crimes of the defendant; and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

USA vs. **1. BYUNG SU KIM**Docket No.: **CR 19-329-GW**

The defendant must also comply with the following special conditions (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant must pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment under 18 U.S.C. § 3612(f)(1). Payments may be subject to penalties for default and delinquency under 18 U.S.C. § 3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed before April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant must pay the balance as directed by the United States Attorney's Office. 18 U.S.C. § 3613.

The defendant must notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence address until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. § 3612(b)(1)(F).

The defendant must notify the Court (through the Probation Office) and the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. § 3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution under 18 U.S.C. § 3664(k). See also 18 U.S.C. § 3572(d)(3) and for probation 18 U.S.C. § 3563(a)(7).

Payments will be applied in the following order:

1. Special assessments under 18 U.S.C. § 3013;
2. Restitution, in this sequence (under 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid):
 - Non-federal victims (individual and corporate),
 - Providers of compensation to non-federal victims,
 - The United States as victim;
3. Fine;
4. Community restitution, under 18 U.S.C. § 3663(c); and
5. Other penalties and costs.

CONDITIONS OF PROBATION AND SUPERVISED RELEASE PERTAINING TO FINANCIAL SANCTIONS

As directed by the Probation Officer, the defendant must provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant must not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant must maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds must be deposited into this account, which must be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, must be disclosed to the Probation Officer upon request.

The defendant must not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____
Defendant noted on appeal on _____
Defendant released on _____
Mandate issued on _____
Defendant's appeal determined on _____
Defendant delivered on _____ to _____
at _____
the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

Date By _____
Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

Filed Date By _____
Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant Date

U. S. Probation Officer/Designated Witness Date

DA# Agency:

Officer:

DISTRICT ATTORNEY
County of Del Norte County
450 H Street, Room 171
Crescent City, CA 95531
(707) 464-7210

FILED

MAY 07 2019

SUPERIOR COURT OF CALIFORNIA

DEL NORTE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF DEL NORTE

THE PEOPLE OF THE STATE OF CALIFORNIA,

vs.

YOUNGIN BACK (04/28/1974),
BYUNG SU KIM (03/06/1975),
BONG JUN KIM (08/11/1974),

Defendant(s).

Case# CRF 18-9581

INFORMATION

Arrestment: 05-09-2019

I, the undersigned, state, on information and belief, that defendant(s) did, in Del Norte Judicial District, County of Del Norte, State of California, commit the following crime(s):

COUNT 1.

CONSPIRACY TO COMMIT A CRIME, in violation of Section PC182(a)(1), a felony.

On or about October 12, 2018 to October 22, 2018, the defendants did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of Cutting, Destroying, or Removing Plant Material That Was Growing Upon Public Land, in violation of Penal Code section 384a(a)(2); that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the county of Del Norte, state of California: (1) entered Del Norte County, California, (2) went to the area of DeMartin Beach parking lot in Del Norte County, (3) cut, destroyed, or removed plant material (Dudleyas) from Del Norte Coast Redwoods State Park, (4) cut, destroyed, or removed plant material (Dudleyas) from Redwood National Park in Del Norte County, and/or (5) loaded plant material (Dudleyas) into a vehicle.

COUNT 2.

CONSPIRACY TO COMMIT A CRIME, in violation of Section PC182(a)(1), a felony.

On or about October 12, 2018 to October 22, 2018, the defendants did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime to Pick, Dig up, Cut, Mutilate, Destroy, Injure, Disturb, Move, Molest or Carry a Plant, in violation of California Code of Regulation Title 14 section 4306(a); that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the county of Del Norte, state of California: (1) entered Del Norte County, California, (2) went to the area of DeMartin Beach parking lot in Del Norte County, (3) walked into Del Norte Coast Redwoods State Park, (4) picked, dug up, cut, mutilated, destroyed, injured, disturbed, moved, molested, or carried a plant (Dudleyas) in Norte Coast Redwoods State Park in Del Norte County, and/or (5) loaded a plant (Dudleyas) into a vehicle.

J

COUNT 3.

CONSPIRACY TO COMMIT A CRIME, in violation of Section PC182(a)(1), a felony.

On or about October 12, 2018 to October 22, 2018, the defendants did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of Transport for Sale Plant Material (Dudleyas) that was Cut or Removed from a Public Land, in violation of Penal Code section 384a(a)(3); that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the county of Del Norte, state of California: (1) entered Del Norte County, California, (2) went to the area of DeMartin Beach parking lot in Del Norte County, (3) cut, destroyed, or removed plant material (Dudleyas) from Del Norte Coast Redwoods State Park, (4) cut, destroyed, or removed plant material (Dudleyas) from Redwood National Park in Del Norte County, (5) loaded plant material (Dudleyas) into a vehicle, and/or (6) departed Del Norte County Del Norte County with the plant material (Dudleyas) .

COUNT 4.

VANDALISM OVER \$400 DAMAGE-DAMAGE/DESTROY, in violation of Section PC594(a), a felony.

On or about October 14, 2018 to October 21, 2018, the defendants did unlawfully and maliciously damage and destroy real and personal property, to wit, Dudleyas, not his/her own, belonging to California Redwoods National and State Parks, the amount of said damage being over \$400.00. J

I so swear, under penalty of perjury, on May 6, 2019, at Crescent City, California, that the foregoing is true and correct on information and belief.



Eric Bryant, Deputy District Attorney

FILED 12/29/18

MALE/ASIAN/0/0/BLK,BRO DOB: 03/06/1975 DL: CA

”

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF DEL NORTE**

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
Plaintiff,)
)
vs.)
)
BYUNG SU KIM)
)
Defendant.)

NO: DNSU-CRF-2018-9581-2

BENCH WARRANT

TO ANY PEACE OFFICER OF THE STATE OF CALIFORNIA, GREETINGS:

WHEREAS, Defendant BYUNG SU KIM has been charged with a violation of section (s):

PC 182(a)(1)
PC 182(a)(1)
PC 182(a)(1)
PC 594(a)

And the Defendant:

☐ **PROBATION OPRCS OMAL""WATORY SUPERVISION IS SUMMARILY
REVOKED: Defenda]]t failed to comply with the conditions**

XX

Failed to Appear in answer to a signed promise and/or an order to show cause.

Failed to comply with the Alcohol Program, Drug Court or Alternatives to Violence Program.

Failed to pay Court ordered fines, restitution, or complete community work service \$___

Other: _____

NOW THEREFORE YOU ARE COMMANDED to arrest said defendant forthwith and bring the defendant to the above Court to be dealt with according to law. DO NOT CITE AND RELEASE.

**Schedule Warrant Return: Department 1 Tuesday - Thursday at 8:30 a.m. or Friday at 9:30 a.m.
Department 3 Monday - Friday at 1:10 p.m.**

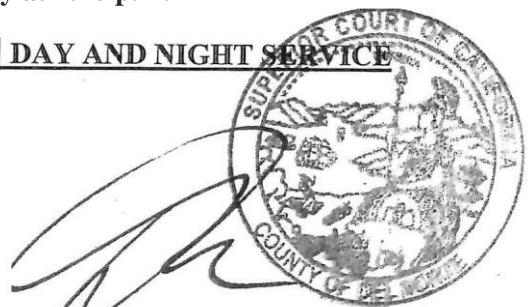
☐ Fingerprints and 8715 PC to be generated ☐ **DAY SERVICE** ☐ **DAY AND NIGHT SERVICE**

Cash bail posted by the defendant May Not be forfeited.

DATE:

This is to be filed in the County of Del Norte, California, at the Court of the County of Del Norte, California.

§)-4--1 J _J _2,,t)]-0



D. McELFRESH

JUDGE OF THE SUPERIOR COURT

DA# Agency:

Officer:

DISTRICT ATTORNEY
County of Del Norte County
450 H Street, Room 171
Crescent City, CA 95531
(707) 464-7210

Ff
JUN 25 2,11q
fERIUt(W.JoK1 un.;f\LifORN!
COtff iVOFOeNORTF

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF DEL NORTE

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

vs.

BYUNGSUKIM
(d.o.b. 03/06/1975),

Defendant

y\O\, c::r-S O
COMPLAINT

I, the undersigned, state, on information and belief, that defendant did, in Del Norte Judicial District, County of Del Norte, State of California, commit the following crime:

COUNT 1.

FAILURE TO APPEAR WHILE ON BAIL in violation of section PC1320.5, a felony.

On or about June 12, 2019, the defendant was a person who was charged with the commission of a felony, to wit, Conspiracy to Commit a Crime in violation of Section 182(a)(1) of the Penal Code and Vandalism in violation of Section 594(a) of the Penal Code of the State of California, who had been released from custody on bail and, in order to evade the process of the court, willfully and unlawfully failed to appear as required on or about June 12, 2019.

I so swear, under penalty of perjury, on June 24, 2019, at Crescent City, California, that the foregoing is true and correct on information and belief.



Eric T Bryant, Deputy District Attorney



Hi: OREGOING IS A CERTIFIED COPY OF
THE ORIGINAL ON FILE IN THIS OFFICE -

DATE:

ATT t

tl -r/-:lv
1tff!!;m1:/4e

RH12

DOB: 03/06/1975 Sex: M Race: A Ht: XXX Wt: XXX Hair: BLK Eyes: BRO
LKA: Korean National

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF DEL NORTE

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. BYUNG SU KIM, Defendant.	Case No. CRF19-9330 WARRANT OF ARREST
--	--

To any peace officer of this State:

A complaint upon oath was made before me on this date that the offense of Failure To Appear While On Bail PC1320.5 has been committed, and accusing defendant, Byung Su Kim, thereof. You are therefore ordered to arrest the defendant forthwith and bring him before me, or in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Bail is fixed in the total sum of \$ 10,000.00

Dated: 6/28/2019


JUDGE OF THE SUPERIOR COURT



ENDORSEMENT FOR NIGHT SERVICE

For good cause shown, I direct that this warrant be served at any hour of the day or night.

JUDGE OF THE SUPERIOR COURT

(seal)

RETURN OF PEACE OFFICER

I certify that I received the above warrant and that I served the same by arresting the defendant on _____ and bring him before the Judge of the _____ Judicial District, County of _____ on _____ booking him at the _____ jail, County of _____ on _____

Dated: _____

By: _____
Signature

Print Name

This is a certified copy of the original Warrant of Arrest
of the original Sheriff's office.
in the Del Norte County Jail

W

payment of restitution. The \$300.00 fine pursuant to PC1202.45 was not ordered, details read into the record. The Court made the finding that a split sentence would not be appropriate, and the defendant is a flight risk.

Defendant was prohibited to enter the United States without authorization, and stay out of local, state, and federal parks within the United States. Defendant ordered to forfeit any nursery license he may have in the United States, and stay out of any businesses within the United States involving plants.

Count 3 to be served consecutive to any and all other time defendant may be serving.