

Presented to the Court by the foreman of the Grand Jury in open Court, in the presence of the Grand Jury and FILED in the U.S. DISTRICT COURT at Seattle, Washington.

August 28 20 19

WILLIAM M. McCOOL, Clerk

By [Signature] Deputy

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN ANDREW WILKE, and SHAWN EDWARD WILLIAMS, a/k/a "THOR,"

Defendants.

CR19-5364 BHS

INDICTMENT

The Grand Jury charges that:

OVERVIEW

1. This case involves defendant JUSTIN ANDREW WILKE's ignition of a forest fire in the Olympic National Forest. The fire, which is known as the "Maple Fire," consumed approximately 3,300 acres of federal and state land, and required the expenditure of approximately \$4,500,000 in fire suppression costs.

2. WILKE ignited the Maple Fire in furtherance of his illegal maple-poaching activities. As described below, during the spring and summer of 2018, defendants WILKE, SHAWN EDWARD WILLIAMS, and others, conspired to identify high-value maple trees growing in the Olympic National Forest; to secretly and unlawfully fell the trees and remove portions of them from the forest; and to sell the wood to a mill under

1 the false pretense that the maple had been harvested lawfully on private land with the
2 consent of the landowner.

3 **COUNT 1**

4 **(Conspiracy to Steal and Commit Depredation of Public Property, and to Traffic in
5 Unlawfully Harvested Timber)**

6 **A. Background**

7 3. The big leaf maple is a deciduous tree native to the Western District of
8 Washington, including the Olympic National Forest. As is the case with all trees growing
9 on federal land, big leaf maples growing in the Olympic National Forest are the property
10 of the United States and may not be damaged or harvested without the consent of the
11 United States government. 36 C.F.R. § 261.6. The United States does not issue permits
12 or otherwise authorize the harvest of maple from the Olympic National Forest.

13 4. Some big leaf maples develop patterned wood that is highly prized for
14 woodworking, and particularly for manufacturing musical instruments. This type of
15 wood is known as “figured maple” or “music wood.” Mill owners in the Western District
16 of Washington purchase maple blocks and sell the maple to manufacturers of musical
17 instruments and others in interstate commerce.

18 5. The Washington Specialized Forest Products Act, RCW 76.48 (the “Act”),
19 is intended to protect natural resources in Washington and to prevent the theft of forest
20 products, including big leaf maple. RCW 76.48.021(21). The Act prohibits the harvest,
21 possession, and transportation of big leaf maple without a state-issued permit known as a
22 “specialized forest products permit” or certain other documentation described in the Act.
23 RCW 76.48.031. Further, it is unlawful for a maple purchaser (such as a mill) to
24 purchase big leaf maple unless the seller first displays a valid specialized forest products
25 permit identifying the location where the tree was harvested. RCW 76.48.101.

26 **B. The Conspiracy**

27 6. Beginning at a time unknown, but no later than April 25, 2018, and
28 continuing through at least August 4, 2018, in the Olympic National Forest, within the
Western District of Washington, and elsewhere, JUSTIN ANDREW WILKE and

1 SHAWN EDWARD WILLIAMS, together with others known and unknown to the grand
2 jury, did knowingly conspire, confederate and agree, together and with each other, to:

3 a. Willfully and knowingly steal, purloin and convert to their own use,
4 and the use of another, big leaf maple timber, property of the United States with a value
5 in excess of \$1,000, and thereby commit the offense of Theft of Public Property in
6 violation of Title 18, United States Code, Section 641;

7 b. Willfully and knowingly cut, and cause to be cut, without
8 authorization, big leaf maple trees belonging to the United States, causing damage in
9 excess of \$1,000, and thereby commit the offense of Depredation of Public Property in
10 violation of Title 18, United States Code, Section 1361;

11 c. Knowingly transport and sell plants with a market value in excess of
12 \$350, knowing that the plants had been taken, possessed and transported in violation of
13 federal law, and thereby commit the offense of Trafficking in Unlawfully Harvested
14 Plants in violation of the Lacey Act, Title 16, United States Code, Sections 3372 and
15 3373; and

16 d. Willfully and without authority set on fire timber, underbrush, grass
17 and other inflammable material upon lands owned by the United States within the
18 Olympic National Forest in violation of Title 18, United States Code, Section 1855.

19 7. The object of the conspiracy was to identify high-value timber growing in
20 the Olympic National Forest; to secretly fell and remove the timber from the National
21 Forest; and to transport the timber to a mill where it could be sold based on the false
22 pretense that the wood had been harvested from private land.

23 **C. Manner and Means**

24 8. It was part of the conspiracy that WILKE, WILLIAMS, and others traveled
25 to the Olympic National Forest, including areas of the National Forest known as “Elk
26 Lake” and “Lena Lake,” and surrounding areas. The defendants and their co-conspirators
27 sometimes camped for several days in the chosen area.

1 9. WILKE, WILLIAMS, and others scouted the National Forest for high-
2 value trees, including figured maple. The defendants identified trees containing figured
3 maple by “checking” the trees, that is, using an axe to peel back the bark to expose the
4 pattern of the wood. The defendants sometimes engaged in this activity at night to avoid
5 detection.

6 10. After identifying maples with figured wood, WILKE and others used a
7 chainsaw to fell the targeted maples. WILKE and others cut the trees into smaller rounds
8 or blocks, which they then removed from the National Forest.

9 11. WILKE, WILLIAMS, and others transported the wood to private property
10 near Lilliwaup, Washington, where WILKE, WILLIAMS, and others were at times
11 staying. WILKE and WILLIAMS then cut the maple into smaller, salable blocks.

12 12. WILKE, WILLIAMS, and others transported the blocks to mills, including
13 a mill in Tumwater, Washington (the “Tumwater Mill”). Defendants presented the mill
14 owner with specialized forest products permits authorizing the harvest of maple from
15 private land, and represented that the maple had been harvested from private land
16 pursuant to those permits when, as defendants well knew, the wood had not been
17 harvested from the land listed on the permits.

18 **D. Overt Acts**

19 13. In furtherance of the conspiracy, and to accomplish one or more of its
20 objects, WILKE, WILLIAMS, and others known and unknown to the grand jury, caused
21 to be committed one or more of the following overt acts in the Western District of
22 Washington:

23 a. Between about April 2018 and about June 2018, WILKE felled and
24 caused to be felled big leaf maples trees near the Elk Lake Lower Trailhead in the
25 Olympic National Forest.

26 b. On four dates in April 2018, and six dates in May 2018, WILKE, at
27 times joined by another person known to the Grand Jury (“Person 1”), transported maple
28 blocks to the Tumwater Mill. The maple blocks included maple from a tree Wilke had
felled near Elk Lake and other trees in the Olympic National Forest. WILKE falsely
represented that the maple had been harvested on private land pursuant to a specialized

1 forest products permit issued to a Lilliwaup, Washington, resident with the initials
2 "M.H." WILKE and Person 1 sold the maple to the Tumwater Mill for a total of
3 approximately \$7,000.

4 c. Between approximately July 2, 2018, and approximately July 4,
5 2018, WILKE, Person 1, and others, camped near the Lower Elk Lake Trailhead.
6 WILKE removed portions of trees from the National Forest.

7 d. On 10 dates in July 2018, WILKE, at times joined by Person 1,
8 transported maple blocks to the Tumwater Mill. WILKE falsely represented that all of
9 the maple had been harvested pursuant to a specialized forest products permit issued to a
10 Hoodspert, Washington, resident with the initials "C.B." WILKE and Person 1 sold the
11 maple to the Tumwater Mill for a total of approximately \$6,000.

12 e. On August 2, 2018, WILKE, and WILLIAMS transported maple
13 blocks to the Tumwater Mill. WILKE, WILLIAMS and Person 1 represented that the
14 maple had been harvested pursuant to the permit issued to "C.B." The group sold the
15 maple blocks to the Tumwater Mill for approximately \$400.

16 f. On or about August 2, 2018, WILKE, WILLIAMS, Person 1, and
17 another person known to the Grand Jury ("Person 2"), along with others known and
18 unknown to the Grand Jury, traveled to the Elk Lake area of the Olympic National Forest
19 and occupied several dispersed campsites near the Elk Lake Lower Trailhead.

20 g. On or about August 2, 3, and 4, 2018, WILKE, WILLIAMS, and
21 Person 2 scouted the woods near the Elk Lake Lower Trailhead for figured maple.
22 WILKE checked big leaf maple trees to determine whether the trees contained figured
23 maple.

24 h. On or about August 3, 2018, WILKE checked a big leaf maple tree
25 (hereafter, the "Origin Tree") and found that the tree contained figured maple. WILKE
26 told WILLIAMS and Person 2 that they should fell the Origin Tree.

27 i. WILKE, WILLIAMS, and Person 2 determined that the Origin Tree
28 contained a bee's nest that made it difficult or impossible to fell the Origin Tree. After
unsuccessfully attempting to remove the bees with wasp killer, WILKE, WILLIAMS,
and Person 2 agreed that WILKE would kill the bees by burning the nest. WILKE
poured gasoline onto the nest and lit the nest and tree on fire. WILKE, WILLIAMS, and
Person 2 unsuccessfully attempted to extinguish the fire using water bottles. The fire
grew to become a forest fire that burned and otherwise damaged approximately 3,300
acres of public land in and around the Olympic National Forest.

1 j. On or about August 4, 2018, a Forest Service law enforcement
2 officer questioned WILKE about the forest fire and WILKE's timber-poaching activity.
3 WILKE falsely told the law enforcement officer that he had not been cutting timber, did
4 not have a chain saw, and did not know anything about the fire. WILKE concealed his
chain saw to prevent it from being discovered by investigators.

5 k. Also on or about August 4, 2018, Person 1 was questioned by a
6 Forest Service law enforcement officer. Person 1 falsely told the officer that WILKE no
longer cut timber on forest land, and further, that WILKE did not have a chain saw.

7 All in violation of Title 18, United States Code, Section 371.

8 **COUNT 2**

9 **(Theft of Public Property)**

10 14. The grand jury hereby incorporates Paragraphs 1-13 of this Indictment as if
11 fully set forth herein.

12 15. Between on or about April 25, 2018, and on or about June 15, 2018, in the
13 Olympic National Forest, within the Western District of Washington, and elsewhere,
14 JUSTIN ANDREW WILKE did knowingly and willfully steal, purloin and convert to his
15 own use, and the use of another, big leaf maple timber, property of the United States,
16 which he cut and removed from the Olympic National Forest, with the value of the timber
17 exceeding \$1,000.

18 All in violation of Title 18, United States Code, Section 641 and Section 2.

19 **COUNT 3**

20 **(Depredation of Public Property)**

21 16. The grand jury hereby incorporates Paragraphs 1-13 of this Indictment as if
22 fully set forth herein.

23 17. Between on or about April 25, 2018, and on or about June 15, 2018, in the
24 Olympic National Forest, within the Western District of Washington, and elsewhere,
25 JUSTIN ANDREW WILKE did knowingly and willfully injure, and commit depredation
26 against, property of the United States, by knowingly damaging and causing to be
27 damaged, without authorization, big leaf maple timber, which was property of the United
28 States, thereby causing damage in excess of \$1,000 to said property.

1 All in violation of Title 18, United States Code, Section 1361 and Section 2.

2 **COUNT 4**
3 **(Trafficking in Unlawfully Harvested Timber)**

4 18. The grand jury hereby incorporates Paragraphs 1-13 of this Indictment as if
5 fully set forth herein.

6 19. Between on or about April 25, 2018, and on or about June 15, 2018, at
7 Tumwater, within the Western District of Washington, and elsewhere, JUSTIN
8 ANDREW WILKE did knowingly transport and sell plants with a market value in excess
9 of \$350, knowing that the plants had been taken, possessed, and transported in violation
10 of federal law in that JUSTIN ANDREW WILKE transported and sold big leaf maple
11 timber that, as JUSTIN ANDREW WILKE knew, had been unlawfully cut and removed
12 from the Olympic National Forest.

13 All in violation of Title 16, United States Code, Sections 3372(a)(1) and 3373(d)
14 and Title 18, United States Code, Section 2.

15 **COUNT 5**
16 **(Depredation of Public Property)**

17 20. The grand jury hereby incorporates Paragraphs 1-13 of this Indictment as if
18 fully set forth herein.

19 21. On or about August 3, 2018, in the Olympic National Forest, within the
20 Western District of Washington, and elsewhere, JUSTIN ANDREW WILKE and
21 SHAWN EDWARD WILLIAMS did knowingly and willfully injure and commit
22 depredation, and attempt to do so, against property of the United States, by knowingly
23 damaging and attempting to damage, without authorization, big leaf maple timber, which
24 was property of the United States, thereby causing and attempting to cause damage in
25 excess of \$1,000 to said property.

26 All in violation of Title 18, United States Code, Section 1361 and Section 2.
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COUNT 6

(Attempt to Traffic in Unlawfully Harvested Timber)

22. The grand jury hereby incorporates Paragraphs 1-13 of this Indictment as if fully set forth herein.

23. On or about August 3, 2018, in the Olympic National Forest, within the Western District of Washington, and elsewhere, JUSTIN ANDREW WILKE and SHAWN ANDREW WILLIAMS did knowingly attempt to transport and sell plants with a market value in excess of \$350, knowing that the plants would be taken, possessed, and transported in violation of federal law, in that JUSTIN ANDREW WILKE and SHAWN ANDREW WILLIAMS attempted to cut and remove big leaf maple timber from federal land in violation of federal law, for the purpose of attempting to transport and sell the timber.

All in violation of Title 16, United States Code, Sections 3372(a)(1) and (4), 3373(d), and Title 18, United States Code, Section 2.

COUNT 7

(Setting Timber Afire)

24. The grand jury hereby incorporates Paragraphs 1-13 of this Indictment as if fully set forth herein.

25. On or about August 3, 2018, in the Olympic National Forest, within the Western District of Washington, and elsewhere, JUSTIN ANDREW WILKE willfully and without authority set on fire, and caused to be set on fire, timber, underbrush, grass and other inflammable material upon lands owned by the United States within the Olympic National Forest.

All in violation of Title 18, United States Code, Section 1855 and Section 2.

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COUNT 8

(Using Fire in Furtherance of a Felony)

26. The grand jury hereby incorporates Paragraphs 1-13 of this Indictment as if fully set forth herein.

27. On or about August 3, 2018, in the Olympic National Forest, within the Western District of Washington, and elsewhere, JUSTIN ANDREW WILKE knowingly used fire to commit felonies for which he could be prosecuted in a court of the United States, namely: (1) Conspiracy to Steal and Damage Public Property, and to Traffic in Unlawfully Harvested Timber, in violation of Title 18, United States Code, Section 371; (2) Depredation of Public Property, and attempt to do the same, in violation of Title 18, United States Code, Section 1361; and (3) Attempt to Traffic in Unlawfully Harvested Timber in violation of Title 16, United States Code, Sections 3372(a)(4) and 3373(d); as well as aiding and abetting the foregoing offenses in violation of Title 18, United States Code, Section 2.

All in violation of Title 18, United States Code, Section 844(h)(1) and Section 2.

FORFEITURE ALLEGATIONS

The allegations contained in Count 1 of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture. Upon conviction for the offense charged in Count 1, defendants JUSTIN ANDREW WILKE and SHAWN EDWARD WILLIAMS shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all property, real or personal, that constitutes or is derived from proceeds traceable to the offense, including but not limited to sums of money reflecting the proceeds each defendant obtained as a result of the offense.

The allegations contained in Counts 2 and 3 of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture. Upon conviction for either of the offenses charged in Counts 2 and 3, the defendant JUSTIN ANDREW WILKE shall forfeit to the United States, pursuant to Title 18, United States

1 Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all
2 property, real or personal, that constitutes or is derived from proceeds traceable to the
3 offenses, including but not limited to a sum of money reflecting the proceeds the
4 defendant obtained as a result of the offense.

5 The allegations contained in Count 4 of this Indictment are hereby re-alleged and
6 incorporated by reference for the purpose of alleging forfeiture. Upon conviction for the
7 offense charged in Count 4, the defendant JUSTIN ANDREW WILKE shall forfeit to the
8 United States, pursuant to Title 16, United States Code, Section 3374 and Title 28, United
9 States Code, Section 2461(c), all property, real or personal that was involved in and/or
10 facilitated the offense.

11 The allegations contained in Count 5 of this Indictment are hereby re-alleged and
12 incorporated by reference for the purpose of alleging forfeiture. Upon conviction for the
13 offense charged in Count 5, the defendants JUSTIN ANDREW WILKE and SHAWN
14 EDWARD WILLIAMS shall forfeit to the United States, pursuant to Title 18, United
15 States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all
16 property, real or personal, that constitutes or is derived from proceeds traceable to the
17 offenses, including but not limited to sums of money reflecting the proceeds each
18 defendant obtained as a result of the offense.

19 The allegations contained in Count 6 of this Indictment are hereby re-alleged and
20 incorporated by reference for the purpose of alleging forfeiture. Upon conviction for the
21 offense charged in Count 6, the defendants JUSTIN ANDREW WILKE and SHAWN
22 EDWARD WILLIAMS shall forfeit to the United States, pursuant to Title 16, United
23 States Code, Section 3374 and Title 28, United States Code, Section 2461(c), all
24 property, real or personal that was involved in and/or facilitated the offense.

25 The allegations contained in Count 8 of this Indictment are hereby re-alleged and
26 incorporated by reference for the purpose of alleging forfeiture. Upon conviction for the
27 offense charged in Count 8, the defendant JUSTIN ANDREW WILKE shall forfeit to the
28 United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title

1 28, United States Code, Section 2461(c), all property, real or personal, that constitutes or
2 is derived from proceeds traceable to the offenses, including but not limited to a sum of
3 money reflecting the proceeds he obtained as a result of the offense.

4 **Substitute Assets.** If any of the property described above, as a result of any act or
5 omission of the defendants:

- 6 a. cannot be located upon the exercise of due diligence;
- 7 b. has been transferred or sold to, or deposited with, a third party;
- 8 c. has been placed beyond the jurisdiction of the court;
- 9 d. has been substantially diminished in value; or
- 10 e. has been commingled with other property which cannot be divided
11 without difficulty,

12 it is the intent of the United States to seek the forfeiture of any other property of the

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1 defendants up to the value of the above-described forfeitable property pursuant to Title
2 21, United States Code, Section 853(p).

4 DATED: August 28, 2019

5 A TRUE BILL:

6 (Signature of Foreperson redacted pursuant to
7 policy of the Judicial Conference)

8 FOREPERSON

8 

9
10 BRIAN T. MORAN
United States Attorney

11 

13 ANDREW FRIEDMAN
Assistant United States Attorney

15 

16 SETH WILKINSON
Assistant United States Attorney

18 

19 WILLIAM DREHER
Assistant United States Attorney