

AO 91 (Rev. 11/11) Criminal Complaint (Rev. by USAO on 3/12/20)

Original Duplicate Original

LODGED
CLERK, U.S. DISTRICT COURT
2/4/2021
CENTRAL DISTRICT OF CALIFORNIA
BY: _____ JB _____ DEPUTY

UNITED STATES DISTRICT COURT

FILED
CLERK, U.S. DISTRICT COURT
02/04/21
CENTRAL DISTRICT OF CALIFORNIA
BY: jm DEPUTY

for the

Central District of California

United States of America

v.

JASON SCOTT WALSH,

Defendant(s)

Case No. 2:21-mj-00629-DUTY

**CRIMINAL COMPLAINT BY TELEPHONE
OR OTHER RELIABLE ELECTRONIC MEANS**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 9, 2021 in the county of Los Angeles in the Central District of California, the defendant(s) violated:

Code Section

18 U.S.C. § 922(g)(1)

Offense Description

Felon in Possession of Ammunition

This criminal complaint is based on these facts:

Please see attached affidavit.

Continued on the attached sheet.

Travis Gibb

Complainant's signature

Travis Gibb, ATF Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 41 by telephone.

Date: 02/04/21

Judge's signature

City and state: Los Angeles, California

Hon. Maria A. Audero, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Travis Gibb, being duly sworn, declare and state as follows:

I. PURPOSE OF AFFIDAVIT

1. This affidavit is made in support of a criminal complaint and arrest warrant for JASON SCOTT WALSH ("WALSH") for a violation of 18 U.S.C. § 922(g)(1): Felon in Possession of Ammunition.

2. This affidavit is also made in support of an application for a warrant to search two digital devices (collectively, the "SUBJECT DEVICES"), in the custody of the Santa Monica Police Department in Santa Monica, California, as described more fully in Attachment A.

3. The requested search warrant seeks authorization to seize evidence, fruits, or instrumentalities of violations of 18 U.S.C. § 922(g)(1) (Felon in Possession of Ammunition), 26 U.S.C. §§ 5861(d) (Possession of Unregistered Firearms), and 5861(i) (Possession of Firearms without Serial Numbers) (the "Subject Offenses"), as described more fully in Attachment B. Attachments A and B are incorporated herein by reference.

4. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from various law enforcement personnel and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested criminal complaint, arrest warrant, and search warrant, and does not purport to set forth all of my knowledge of or investigation into this matter. Unless specifically indicated otherwise, all

conversations and statements described in this affidavit are related in substance and in part only.

II. BACKGROUND OF AFFIANT

5. I am employed by the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), United States Department of Justice, as a Special Agent. I have been employed in this capacity since 2014. I am currently assigned to the ATF Los Angeles Field Division and am charged with investigating violations of federal arson, explosives, and firearms laws and regulations. I regularly refer to these laws and regulations during the course of my official duties. During my employment with ATF, I have participated in various investigations involving individuals illegally possessing and/or trafficking firearms and silencers. I have also participated in several investigations involving the unlawful transportation, possession, and distribution of controlled substances, including crack cocaine, methamphetamine, and marijuana. Furthermore, I have participated in investigations involving street gangs engaged in criminal activities. I graduated from the Criminal Investigator Training Program at the Federal Law Enforcement Training Center, and I have completed specialized training at the ATF National Academy in the fields of arson, explosives and firearms.

6. Prior to being an ATF Special Agent, I was employed by Customs and Border Protection as a Border Patrol Agent for approximately two years. In that role, I attended and graduated from the Border Patrol Academy, where I received extensive

training in narcotics and human smuggling techniques and routes, fraudulent documents, and immigration law. Prior to being in law enforcement, I graduated from Humboldt State University where I received a Bachelor's of Science degree in Business Administration.

III. SUMMARY OF PROBABLE CAUSE

7. On January 9, 2021, Santa Monica Police Department responded to a "check the status" call from a party reporting "popping" sounds coming from the house directly to the east. The reporting party had also discovered a hole in his converted garage in his backyard and believed his neighbor was shooting a firearm into his garage. Officers arrived and learned from the reporting party that there had been sounds of people arguing, a "crash bang," and multiple "popping" noises throughout the evening coming from 422 20th Street. The reporting party also advised that he had peered into the backyard of 422 20th Street and saw a white male wearing a dark cap and dark clothing who looked to be "upset" and "brooding." After investigating the garage, officers concluded the hole had been caused by a bullet. Officers also learned from dispatch and other neighbors that JASON WALSH ("WALSH") was a resident of 422 20th Street, along with his parents. While officers were on the scene, they heard the sounds of what they believed to be active gunfire coming from a firearm with a suppressor/silencer; the sounds came from the direction of 422 20th Street.

8. Santa Monica Police Department prepared for an emergency response at 422 20th Street. While the officers were

outside the house, a white male wearing dark clothing and a dark hat, later identified as WALSH, walked out of the house. Officers detained WALSH and entered the house to check for injured victims. During the protective sweep, the officers saw in plain view a silencer, the collapsible buttstock of an AR-15 style rifle, a handgun magazine, and several expended cartridge casings. Once the officers confirmed there were no other persons in the house, they left without seizing any items. A state search warrant was obtained, which the officers executed very early on January 10, 2021. The officers recovered several firearms, approximately 360 rounds of ammunition, silencers, and other firearm parts and accessories, as well as the two SUBJECT DEVICES.

IV. STATEMENT OF PROBABLE CAUSE

9. Based on my review of law enforcement reports, body-worn video and photographs, conversations with other law enforcement agents, and my own knowledge of the investigation, I am aware of the following:

A. Santa Monica Police Respond to a Check the Status Call on 19th Street and Hear Gunfire From the Direction of 422 20th Street

10. On January 9, 2021, at approximately 9:20 p.m., Santa Monica Police Department responded to a house on 19th Street in Santa Monica, California for a "check the status" call. The reporting party ("R.P.") called the police to report that he had heard "popping" noises from the house directly behind R.P.'s house to the east. R.P. advised the police that he had checked the garage, which had been converted into a studio-like space,

in his backyard and saw a hole. R.P. also found broken-off pieces of his garage wall on the floor. R.P. believed that his neighbor who lived directly to the east, later identified as 422 20th Street, was shooting into R.P.'s garage.

11. After Santa Monica police arrived at R.P.'s residence, R.P. relayed the following:

a. R.P. had a dinner party with about eight guests, including children, in the backyard west of the converted garage. Food and drink were being served out of the garage.

b. At approximately 7:30 p.m., R.P. and his guests heard an argument coming from 422 20th Street. R.P. also heard a "crash, bang" from 422 20th Street. R.P. initially ignored the sounds and continued with his party.

c. At approximately 8:00 p.m., R.P. and his guests heard approximately eight to ten "popping" sounds coming from 422 20th Street. R.P. initially assumed they were fireworks.

d. At approximately 9:00 p.m., R.P. walked into his garage and saw a hole on the east wall. R.P. was not certain what caused the hole and tried to inspect the wall from the outside. As R.P. was examining the wall from the outside, he peered through the hedges and into the backyard of 422 20th Street, which is directly on the other side of R.P.'s fence. R.P. saw a white male in his early 40s with an average build wearing a dark cap, black top, and black bottoms. R.P. described the male as looking "upset" and "brooding." Shortly thereafter, R.P. called the police.

12. Santa Monica Police Department Officer Tavera arrived and inspected R.P.'s garage. Inside the garage, Officer Tavera located a pencil-shaped entrance hole on the east wall. He also saw a strike mark on the west interior garage wall. Based on Officer Tavera's training and experience, he formed the opinion that someone had fired a bullet from the east of R.P.'s garage and into R.P.'s garage through the outer east wall. Later in the night, police recovered a bullet from the floor of the garage.

13. Dispatch provided a premises history for 422 20th Street. The service history at that location included several prior reports and "check the status" calls. Dispatch identified WALSH as a past caller.

14. A request was then made for a supervisor, and Sergeant Cooper responded to R.P.'s residence. As Officer Tavera briefed Sergeant Cooper, Sergeant Cooper heard a muffled pop sound coming from the east, from the direction of 422 20th Street. Based on Sergeant Cooper's training and experience, he believed the sound was consistent with that of a suppressed firearm being discharged. Sergeant Cooper advised additional units to begin staging to the north of 422 20th Street for an emergency response.

15. Sergeant Cooper briefly spoke to R.P. While speaking to R.P., Sergeant Cooper heard another muffled, but louder, popping noise, again consistent with the sound of suppressed gunfire coming from the direction of 422 20th Street. Sergeant Cooper advised R.P. to evacuate his home for his safety. Other

officers advised other neighboring residents to evacuate in light of the ongoing situation.

B. Santa Monica Police Prepare for an Emergency Response at 422 20th Street and Detain WALSH

16. Santa Monica police officers began preparing an emergency response team near 422 20th Street.

17. Dispatch provided additional information confirming Jason WALSH was a resident of 422 20th Street. Santa Monica police also learned of additional possible occupants of 422 20th Street, including WALSH's parents who also reside there and WALSH's girlfriend, who occasionally stays with WALSH. Other neighboring residents advised police officers that they heard an argument between WALSH and his brother earlier in the day and saw the brother leave in a blue car. Approximately one and a half hours later, the residents heard approximately three popping noises that they believed sounded like gunfire coming from WALSH's residence.

18. As officers were still preparing outside 422 20th Street, a white male with average build, dressed in a dark baseball cap and dark clothes, walked out the front door. The male individual, later identified as WALSH, walked down near the top of the driveway when the officers instructed WALSH to raise his hands and walk backwards towards them. WALSH complied, and police detained him without incident. In response to officer questioning, WALSH identified himself and stated that he had no weapons on him or in the house. WALSH confirmed that he lived with his parents but stated they were out of town, and further

claimed no one else was inside. A pat-down of WALSH was conducted, and no weapons were found.

19. Given the facts that were known at that time¹, law enforcement conducted an immediate protective sweep of 422 20th Street to search for and rescue potential victims in distress, as well to ensure officer safety.

20. Using keys recovered from WALSH, law enforcement announced their presence and entered 422 20th Street. Officers checked the house for any persons. While officers were checking the various rooms, they saw, in plain view in the family room on the west side of the residence, what appeared to be the collapsible buttstock of an AR-15 style rifle protruding from a blanket on the couch, a silencer on the back of a recliner, a loaded handgun magazine, and several expended cartridge casings. No items were seized.

21. No individuals were found in the house. Once the police confirmed there were no victims or other persons, they exited the house and secured it to ensure no one entered while obtaining a warrant to search the home.

C. Police Execute a Search Warrant for 422 20th Street

22. On or about January 10, 2021, Superior Court Judge Frank M. Tavelman of the County of Los Angeles authorized a

¹ These facts included the neighbors' reports of multiple popping sounds and sounds of an argument coming from 422 20th Street; a bullet hole in the reporting party's garage; Sergeant Cooper's observation and conclusion that there was active gunfire coming from a suppressed firearm; and information that individuals, other than WALSH, possibly resided or visited 422 20th Street who were not accounted for.

search warrant for the residence of 422 20th Street in Santa Monica, California.

23. At approximately 1:30 a.m. on January 10, 2021, Santa Monica Police Department executed the search warrant. In the family room, which leads directly to the backyard patio deck, they found, among other things, the following:

a. a loaded, short-barreled, semi-automatic rifle, bearing no serial number, with a silencer attached, on the couch;

b. two loaded, semi-automatic handguns, bearing no serial numbers, one of which had a silencer attached, on the couch;

c. a silencer, bearing no serial number, on top of a recliner;

d. a loaded firearm magazine on a side table;

e. a loaded firearm magazine on an ottoman; and

f. brass knuckles on the couch.

24. In the family room, law enforcement also found two cellular telephones (the SUBJECT DEVICES)--one on the couch and one on the ottoman. Law enforcement also saw a package addressed to Jason WALSH on the floor of the family room.

25. On the backyard patio deck, immediately adjacent to the family room, police recovered a spent casing. Law enforcement observed that from the patio deck, the top of the east wall of the converted garage in R.P.'s backyard on 19th Street was visible.

26. In the bedroom located off of the family room, law enforcement found, among other things, the following:

- a. parts to a semi-automatic rifle lying in a laundry basket;
- b. an ammunition reloading device attached to a wood dresser; and
- c. a silencer on top of a dresser.

27. Law enforcement also saw a vehicle registration document in the name of Jason WALSH on top of a dresser in the same room.

28. Later that same day, Santa Monica Police Detective Haro spoke with WALSH's father. The father stated that he, his wife, and WALSH are the only people who live at 422 20th Street. He confirmed that he and his wife had been out of town starting on January 7, 2021. The father confirmed that WALSH's bedroom was the one located off the side of the family room. The father stated that the firearms did not belong to him, and he had been unaware that WALSH possessed the firearms.

D. WALSH's Criminal History and Registration Check

29. On January 11, 2021, I reviewed WALSH's criminal history information and found that on or about April 11, 2014, WALSH was convicted of a felony charge of Terrorist Threats, in violation of California Penal Code § 422(a).

30. On January 11, 2021, ATF searched the National Firearms Registration and Transfer Record and found no firearms registered to WALSH.

E. Firearms and Interstate Nexus

31. On January 29, 2021, ATF Firearms and Ammunition Interstate Nexus Expert Special Agent Alexander Liwienski examined the firearms and approximately 360 rounds of ammunition recovered from 422 20th Street.

32. Special Agent Liwienski confirmed that the rifle was an AR-15 type rifle having a barrel of less than 16 inches in length, consistent with the definition of a "firearm" under 26 U.S.C. § 5845(a). Special Agent Liwienski confirmed that two of the silencers were presumptively "silencers," consistent with the definition of a "firearm" under 26 U.S.C. § 5845(a) and 18 U.S.C. § 921(a)(24).

33. Special Agent Liwienski also confirmed that approximately 360 rounds of ammunition were manufactured outside of California. Because the ammunition was found in California, it is Special Agent Liwienski's opinion that the ammunition traveled in and affected interstate commerce.

V. TRAINING AND EXPERIENCE ON FIREARMS OFFENSES

34. From my training, personal experience, and the collective experiences related to me by other law enforcement officers who conduct firearms investigations, I am aware of the following:

a. Persons who possess, purchase, or sell firearms generally maintain records of their firearm transactions as items of value and usually keep them in their residence, or in places that are readily accessible, and under their physical control, such in their digital devices. It has been my

experience that prohibited individuals who own firearms illegally will keep the contact information of the individual who is supplying firearms to prohibited individuals or other individuals involved in criminal activities for future purchases or referrals. Such information is also kept on digital devices.

b. Persons who possess, purchase, or sell firearms also keep mementos of their firearms, including digital photographs or recordings of themselves possessing or using firearms on their digital devices. These photographs and recordings are often shared via social media, text messages, and over text messaging applications.

c. Those who illegally possess firearms often sell their firearms and purchase firearms. Correspondence between persons buying and selling firearms often occurs over phone calls, e-mail, text message, and social media message to and from smartphones, laptops, or other digital devices. This includes sending photos of the firearm between the seller and the buyer, as well as negotiation of price. In my experience, individuals who engage in street sales of firearms frequently use phone calls, e-mail, and text messages to communicate with each other regarding firearms that they sell or offer for sale. In addition, it is common for individuals engaging in the unlawful sale of firearms to have photographs of firearms they or other individuals working with them possess on their cellular phones and other digital devices as they frequently send these photos to each other to boast of their firearms possession and/or to facilitate sales or transfers of firearms.

d. Individuals engaged in the illegal purchase or sale of firearms and other contraband often use multiple digital devices.

VI. TRAINING AND EXPERIENCE ON DIGITAL DEVICES

35. As used herein, the term "digital device" includes the SUBJECT DEVICES.

36. Based on my training, experience, and information from those involved in the forensic examination of digital devices, I know that the following electronic evidence, inter alia, is often retrievable from digital devices:

a. Forensic methods may uncover electronic files or remnants of such files months or even years after the files have been downloaded, deleted, or viewed via the Internet. Normally, when a person deletes a file on a computer, the data contained in the file does not disappear; rather, the data remain on the hard drive until overwritten by new data, which may only occur after a long period of time. Similarly, files viewed on the Internet are often automatically downloaded into a temporary directory or cache that are only overwritten as they are replaced with more recently downloaded or viewed content and may also be recoverable months or years later.

b. Digital devices often contain electronic evidence related to a crime, the device's user, or the existence of evidence in other locations, such as, how the device has been used, what it has been used for, who has used it, and who has been responsible for creating or maintaining records, documents, programs, applications, and materials on the device. That

evidence is often stored in logs and other artifacts that are not kept in places where the user stores files, and in places where the user may be unaware of them. For example, recoverable data can include evidence of deleted or edited files; recently used tasks and processes; online nicknames and passwords in the form of configuration data stored by browser, e-mail, and chat programs; attachment of other devices; times the device was in use; and file creation dates and sequence.

c. The absence of data on a digital device may be evidence of how the device was used, what it was used for, and who used it. For example, showing the absence of certain software on a device may be necessary to rebut a claim that the device was being controlled remotely by such software.

d. Digital device users can also attempt to conceal data by using encryption, steganography, or by using misleading filenames and extensions. Digital devices may also contain "booby traps" that destroy or alter data if certain procedures are not scrupulously followed. Law enforcement continuously develops and acquires new methods of decryption, even for devices or data that cannot currently be decrypted.

37. Based on my training, experience, and information from those involved in the forensic examination of digital devices, I know that it is not always possible to search devices for data during a search of the premises for a number of reasons, including the following:

a. Digital data are particularly vulnerable to inadvertent or intentional modification or destruction. Thus,

often a controlled environment with specially trained personnel may be necessary to maintain the integrity of and to conduct a complete and accurate analysis of data on digital devices, which may take substantial time, particularly as to the categories of electronic evidence referenced above.

b. Digital devices capable of storing multiple gigabytes are now commonplace. As an example of the amount of data this equates to, one gigabyte can store close to 19,000 average file size (300kb) Word documents, or 614 photos with an average size of 1.5MB.

38. The search warrant requests authorization to use the biometric unlock features of a device, based on the following, which I know from my training, experience, and review of publicly available materials:

e. Users may enable a biometric unlock function on some digital devices. To use this function, a user generally displays a physical feature, such as a fingerprint, face, or eye, and the device will automatically unlock if that physical feature matches one the user has stored on the device. To unlock a device enabled with a fingerprint unlock function, a user places one or more of the user's fingers on a device's fingerprint scanner for approximately one second. To unlock a device enabled with a facial, retina, or iris recognition function, the user holds the device in front of the user's face with the user's eyes open for approximately one second.

f. In some circumstances, a biometric unlock function will not unlock a device even if enabled, such as when

a device has been restarted or inactive, has not been unlocked for a certain period of time (often 48 hours or less), or after a certain number of unsuccessful unlock attempts. Thus, the opportunity to use a biometric unlock function even on an enabled device may exist for only a short time. I do not know the passcodes of the devices likely to be found in the search.

g. The person who is in possession of a device or has the device among his or her belongings is likely a user of the device. Thus, the warrant I am applying for would permit law enforcement personnel to, with respect to any device that appears to have a biometric sensor and falls within the scope of the warrant: (1) depress JASON SCOTT WALSH's thumb- and/or fingers on the devices; and (2) hold the devices in front of JASON SCOTT WALSH's face with his eyes open to activate the facial-, iris-, and/or retina-recognition feature.

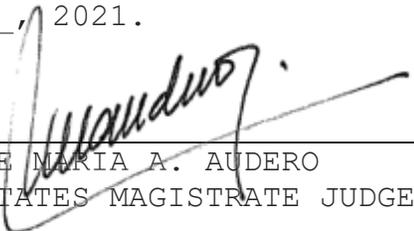
39. Other than what has been described herein, to my knowledge, the United States has not attempted to obtain this data by other means.

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VII. CONCLUSION

40. For the reasons described above, there is probable cause to believe that JASON SCOTT WALSH has committed a violation of 18 U.S.C. § 922(g)(1): Felon in Possession of Ammunition. There is also probable cause that the items to be seized described in Attachment B will be found in a search of the SUBJECT DEVICES described in Attachment A.

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone on this 4th day of February, 2021.



HONORABLE MARIA A. AUDERO
UNITED STATES MAGISTRATE JUDGE