

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

v.

Case No. 23-mj-41

[REDACTED]

SEALED

Defendant.

COMPLAINT FOR VIOLATIONS OF
TITLE 18, UNITED STATES CODE, SECTION 844(i)

BEFORE United States Magistrate Judge
Stephen L. Crocker

United States District Court
120 North Henry Street
Madison, Wisconsin 53703

The undersigned complainant being duly sworn states:

On or about May 8, 2022, in the Western District of Wisconsin, the defendant,

[REDACTED]

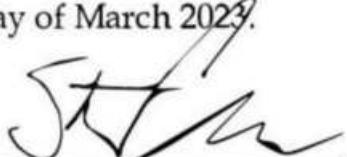
maliciously attempted to damage and destroy, by means of fire or an explosive, a building housing ORGANIZATION A, an organization involved in activity affecting interstate and foreign commerce.

(In violation of Title 18, United States Code, Section 844(i)).

This complaint is based on the attached affidavit of Cheryl Patty.

Cheryl Patty
Task Force Officer,
Federal Bureau of Investigation

Sworn to me telephonically this 27th day of March 2023.



HONORABLE STEPHEN L. CROCKER
United States Magistrate Judge

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

I, Cheryl Patty, being first duly sworn, hereby depose and state as follows:

1. I have been employed as a Wisconsin Law Enforcement Officer since November of 1995 as a Dane County deputy, and as a detective since June 2007. I have been assigned to the Federal Bureau of Investigation Madison Resident Agency as a Task Force Officer on the Joint Terrorism Task Force since May 2020. I have received basic law enforcement training and have attended numerous specialized law enforcement-training courses and schools, sponsored by the Wisconsin Department of Justice as well as other law enforcement agencies, relating to the investigation of a wide range of criminal activity. I have specialized training and experience including, but not limited to, homicide investigations, death investigations, fire investigations, sexual assault, stalking, domestic violence, battery, motor vehicle crashes, drug investigations, crimes against children, and other persons and property crimes. Over the course of numerous investigations, I have utilized data obtained through legal process related to cellular records, including location information. I have training and experience in interviewing witnesses and victims of crimes, developing and interviewing suspects and collecting and preserving physical evidence. These investigations often involve the forensic analysis of physical evidence.

2. In particular, I know the analysis of evidence for deoxyribonucleic acid (DNA) can play a critical role in these investigations. I have participated in dozens of

investigations in which DNA reference samples collected from suspects either voluntarily or through a search warrant were compared against DNA samples collected from physical evidence relevant to the cases. These comparisons can be of great value in either including or excluding suspects from cases but are not always dispositive on the issue of identification.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other law enforcement agents, agencies, and witnesses. It does not set forth all my knowledge about this matter. It is merely intended to show probable cause that [REDACTED] and persons unknown to investigators, have committed violations of Title 18 U.S.C § 844(i), causing damage by fire or an explosive, that occurred at Organization A, an organization located in Madison, Wisconsin.

PROBABLE CAUSE

4. On Sunday, May 8, 2022, at approximately 6:06 a.m., Madison Police Department police officers responded to an active fire at an office building located in Madison, Wisconsin. I know that the building is a multi-level office building located in an area consisting almost exclusively of commercial-use buildings.

5. The police responded to a 911 call from a civilian, who observed flames coming from a window.

6. Upon arrival at the location, the police observed a fire in an office on the Northwest corner of the building. On the north facing side of the building, the third

window from the west end, facing the driveway, was broken. The police observed that inside the office, a row of books was lined up adjacent to the window and were smoking and burning with small flames. The police observed a mason jar directly under the area where the books were on fire. A red handkerchief was wrapped around the edge of the windowpane glass as if it was used to pry the broken glass from the window.

7. The police walked the perimeter of the building. On the west side, the police observed large black words spray painted in cursive style writing, "If abortions aren't safe then you aren't either." On the south facing wall of an alcove of the building, the police observed black spray painting with a large "A" with a circle around it and the number "1312."

8. Madison Fire Department responded, extinguished the fire, and gained access to the interior of the building. The police also went inside the building.

9. Once inside the building, the police observed the mason jar under the window; the jar was broken, and the lid and screw top were burned black. The police also saw a purple disposable lighter near the mason jar. On the opposite wall from the window, the police saw another mason jar with the lid on, and a blue cloth tucked into the screw top, with one edge slightly singed. The jar was about half full of a clear fluid that smelled like an accelerant, possibly kerosene. A Special Agent/Certified Fire Investigator (SA/CFI) with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) later smelled the fluid and believed that it smelled like a flammable or combustible liquid.

10. The fire occurred in an office suite occupied by Organization A. The individual office affected by the fire belongs to the president of Organization A. Through this investigation, I have learned that Organization A maintains a website and uses social media to promote its goals.

11. The police spoke with the president of Organization A, who reported that while they previously received threats due to their positions on certain social issues, none of the threats were received over the last week. After the news of the potential Supreme Court decision in *Dobbs v. Jackson Women's Health Organization*, Organization A and its president have been vocal about their position on abortion rights. Organization A issued press releases and the president participated in interviews.

12. The ATF SA/CFI conducted an Origin and Cause investigation at the location, and the agent advised that the fire was caused by the application of an open flame to flammable/combustible vapors and was therefore classified as incendiary.

13. The ATF SA/CFI advised me that fire investigators collected a glass container with an attached fabric cloth, containing an unknown, clear liquid, consistent with the appearance and components of a Molotov cocktail, a breakable container, which contains a flammable/combustible liquid, and a wick. The devices are known to investigators to have initiated fires. The contents were sent to the ATF laboratory for further analysis.

14. Preliminary ATF laboratory results from a forensic biologist show that the forensic biologist discovered DNA on multiple pieces of evidence suitable for further testing. The forensic biologist obtained DNA profiles from three different individuals.

All the DNA profiles were located on evidence collected by investigators at the scene and sent to the ATF laboratory for analysis.

15. One DNA profile discovered during the forensic process indicates that a male profile, "Male 1," appears to be present on swabs from the top and bottom of the window glass, swabs from the exterior of the glass jar, swabs from the body of the lighter as well as swabs of the black and silver top of the lighter, including the ignition wheel and button of the lighter, and swabs from the exterior of the Molotov cocktail, and the blue cloth used in that Molotov cocktail.¹

16. The ATF Laboratory submitted all the DNA profiles to the Combined DNA Index System (CODIS) to determine if the DNA profiles were already in the system. The search of CODIS returned no hits/matches.

17. On January 21, 2023, Wisconsin State Capitol Police were monitoring the Wisconsin State Capitol exterior cameras overseeing a planned protest related to an officer-involved shooting in Atlanta, Georgia. During the protest at the Wisconsin State Capitol, law enforcement observed multiple individuals in various areas of the Capitol grounds spray painting graffiti.

18. On January 26, 2023, law enforcement continued to review surveillance camera footage from January 21, 2023, and observed two suspects, one who is seen spray painting "We will get revenge" with black spray paint in a cursive-style writing

¹ Additional DNA profiles were obtained from the scene and analyzed. Law enforcement has not yet been able to match them to a suspect.

on the Capitol grounds. The message appeared to have some visual similarities to the graffiti left at Organization A; the comparisons have been sent to the FBI for analysis.

19. On February 1, 2023, law enforcement conducted further review of surveillance camera footage from the Capitol exterior, and two suspects were observed arriving on the Capitol square at approximately 5:04 p.m. Law enforcement later observed the suspects leave the Capitol square at 5:25 p.m.

20. On February 3, 2023, law enforcement viewed surveillance footage for the Tenney Plaza Parking Ramp from January 21, 2023, from 4:55 p.m. to 7:05 p.m., to attempt to identify the men who spray painted the sidewalk at the Capitol. Law enforcement saw a white Toyota pickup truck enter the parking lot at 4:58 p.m. The vehicle had no front plate. Minutes later, at 5:03 p.m., law enforcement observed both suspects walk past the camera. At 6:54 p.m., law enforcement observed both suspects enter the parking ramp on foot, then walk out of camera view. At 6:58 p.m., law enforcement observed a white Toyota pickup truck leave the parking lot. That white pickup truck was a Toyota Tacoma and had a visible number on its rear license plate.

21. Law enforcement checks of the Wisconsin license plate returned to a white 2005 Toyota Tacoma pickup truck registered to Citizen 1 at a home in Madison, Wisconsin.

22. On February 22, 2023, law enforcement located an Instagram post that posted the flyer for the Stop Cop City event at the Capitol on January 21, 2023. In the "likes" this post received, law enforcement saw the Instagram profile [REDACTED]

(Display name: [REDACTED]). This Instagram user matched a person law enforcement had seen listed in Citizen 1's associated individuals.

23. Law enforcement checks revealed that [REDACTED] [REDACTED] currently resides at the same address as Citizen 1.

24. On March 1, 2023, law enforcement observed the white Toyota Tacoma with the same license plate as was seen leaving the parking ramp being driven by an individual law enforcement believed was [REDACTED]. He was alone in the vehicle. Law enforcement saw the vehicle pull into the Dutch Mill Park and Ride parking lot located at 46 Collins Court, Madison, Wisconsin.

25. Law enforcement observed [REDACTED] park the vehicle in one of the vacant parking spots and remain parked for approximately 10-15 minutes. Law enforcement kept the vehicle in direct sight the entire time. At 3:40 p.m., law enforcement observed [REDACTED] step out of the driver's door of the vehicle. Law enforcement could see [REDACTED] clearly from their location, approximately 100 feet away. [REDACTED]'s face was exposed and visible to law enforcement. Law enforcement identified the driver by comparing the person they saw to [REDACTED]'s Wisconsin driver's license photograph. After law enforcement observed [REDACTED] step out of the vehicle, law enforcement noticed him holding a brown fast food bag. Law enforcement saw [REDACTED] discard this bag on a pile of trash centered on a bin on a traffic island within the parking lot. Law enforcement then observed [REDACTED] get back into the vehicle and drive out of the parking lot.

26. Law enforcement had an unimpeded view of the brown paper bag [REDACTED] discarded. Law enforcement immediately walked up to the bin after [REDACTED] left the area. Law enforcement saw no other individuals near the bin, nor did law enforcement view anyone discard anything else in the bin between the time [REDACTED] discarded the brown paper bag to the point law enforcement walked up to it.

27. Law enforcement visually identified the bag as a fast food bag. The bag was crumpled shut near the top and appeared to have contents inside. Law enforcement further confirmed that this was the bag discarded by [REDACTED] because all the other trash beneath and surrounding it was water soaked from the precipitation earlier in the day. The fast food bag, however, was dry. And there was no other brown paper bag visible in the trash can.

28. Law enforcement retrieved the bag from the trash. The contents of the bag included a quarter portion of a partially eaten burrito wrapped in waxed paper, a soiled napkin, a crumpled napkin, a stack of napkins, the wrapper of the burrito, a crumpled food wrapper, four unopened hot sauce packets, and the brown paper bag itself.

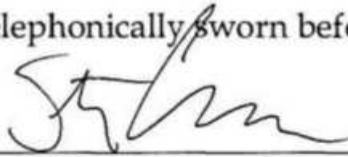
29. Law enforcement sent the collected evidence from the bag discarded by [REDACTED] to the ATF laboratory for analysis. Additionally, law enforcement swabbed the burrito for DNA and sent the swab to the ATF lab.

30. On March 17, 2023, the ATF laboratory advised that a forensic biologist with the ATF laboratory examined the evidence law enforcement submitted and located

a DNA profile. The results from the ATF laboratory indicate the DNA collected from the contents of the brown paper bag is a match to the DNA of "Male 1" that was recovered from evidence at the arson that occurred at Organization A. Because the items were taken after [REDACTED] discarded them, I believe the DNA is his.

Cheryl Patty
Detective, Dane County Sheriff's Office
Task Force Officer, Federal Bureau of
Investigation

Telephonically sworn before me this 27th day of March.



Honorable STEPHEN L. CROCKER
United States Magistrate Judge