

UNITED STATES DISTRICT COURT

for the

Northern District of California

United States of America)

v.)

RAUL MURILLO DIAZ)

Case No.)

Defendant(s)

16 70820

MAG

FILED
JUL 01 2016
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

CRIMINAL COMPLAINT

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 May 19, 2016 in the county of Santa Clara in the
Northern District of California, the defendant(s) violated:Code Section
18 U.S.C. 844(i)

Arson

Offense Description

MAXIMUM PENALTIES: maximum prison term of 20 years (minimum prison term of 5 years); maximum fine of \$250,000; maximum term of supervised release of 3 years; mandatory special assessment fee of \$100

REQUESTED PROCESS: No bail warrant

This criminal complaint is based on these facts:

Please see attached affidavit of Michael Nuttall of the ATF.

Approved as to form:

John C. Bostic, AUSA

☒ Continued on the attached sheet.

Complainant's signature

Michael Nuttall, ATF Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

6/30/16

City and state:

San Jose, California


Judge's signature

Hon. Howard R. Lloyd, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

Your affiant, Michael T. Nuttall, is a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), being duly sworn, hereby declares as follows:

I. INTRODUCTION, TRAINING AND EXPERIENCE

1. Your affiant is Special Agent ("SA") with the Bureau of Alcohol Tobacco, Firearms and Explosives ("ATF") and he has been so employed since January 2015. Prior to joining ATF, your affiant served in the United States (U.S.) Army as a Military Police Officer from 2010 to 2016. From 2013 to 2015, your affiant was employed as a Training and Operations Officer with the Homeland Response Force, a Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) response team. Your affiant has a Bachelors of Science in Criminal Justice and a Masters of Science in Emergency Management. Your affiant has completed twenty-six weeks of training, which was comprised of the Criminal Investigator Training Program and the ATF Special Agent Basic Training program, at the Federal Law Enforcement Training Center in Glynco, Georgia. Your Affiant is currently assigned to the San Francisco Field Division in the San Jose Field Office. As part of my duties, I investigate criminal violations relating to firearms, explosives, arson, violent crime, criminal street gangs and narcotics.

2. Your affiant has participated in or spoken to law enforcement officers who have participated in all aspects of criminal investigations, including, but not limited to; interviews, physical surveillance, the execution of search warrants, and the arrest of criminals. Your affiant has conducted investigations and assisted other agents and officers in their investigations of cases involving violations of Title 18, United States Code, Section 922(g)(1), possession of a firearm by prohibited persons; Title 18, United States Code, Section 924(c), use and/or possession of a firearm during and in furtherance of a drug trafficking crime; Title 21, United States Code, Section 841(a)(1), the manufacture of, distribution of and possession with intent to distribute controlled substances. Your affiant has extensive formal and on-the-job training, regarding federal statutes relating to firearms (Chapter 44, Title 18, U.S.C., and Chapter 53, Title 26, U.S.C.), explosives and arson (Chapter 40, Title 18, U.S.C.). Your affiant knows that incendiary weapons are 'destructive devices' as that term is defined in Title 26, United States Code, Section 5845 (f). the evidence collected at the crime scene and determined that the

materials recovered are consistent with six improvised incendiary weapons, commonly known as 'Molotov Cocktails' and as defined in Title 26, United States Code, Section 5845(f)

3. I am familiar with the facts and circumstances of the investigation through my personal participation; from discussions with fellow ATF Agents and other law enforcement agencies; and from my personal review of records and reports relating to the investigation. Unless otherwise noted, wherever in this affidavit I assert that a statement was made, the information was provided by myself, another ATF Special Agent, a law enforcement officer with another agency, or witness who may have had either direct or hearsay knowledge of that statement and to whom I or others have spoken, or whose reports I have read and reviewed. Such statements are among many statements made by others and are stated in substance and in part unless otherwise indicated;

II. PURPOSE OF AFFIDAVIT

4. This affidavit is being submitted in support of the following: (1) a criminal complaint and warrant for the arrest of RAUL MURILLO DIAZ, date of birth August 28, 1985 for a violation of 18 U.S.C. § 844(i) – Malicious damage by explosive to building or vehicle; and (2) search warrants for the residence and vehicle of RAUL MURILLO DIAZ. DIAZ's residence is located at 1317 92nd Street, Oakland, California. The vehicle we seek permission to search is a 2004 gray Volkswagen Touareg bearing California license plate 7DAX565 with vehicle identification number WVGBC67L74D036071. The vehicle is currently registered to RAUL MURILLO DIAZ, and is located at the Mountain View Police Department, 1000 Villa Street, Mountain View, California.

5. The facts stated in this affidavit are based on your affiant's personal knowledge, review of reports prepared by other law enforcement officers and records prepared by others, and conversations with other law enforcement officers involved in this investigation. Because this affidavit is being submitted for the limited purpose of a criminal complaint and securing search warrants, your affiant has not included each and every fact known concerning this investigation. Rather, I have set forth only those facts that I believe are necessary to establish probable cause. I believe that the SUBJECT PREMISES contains and will contain evidence, fruits, and instrumentalities of violations of Title 18 U.S.C. § 844(i) – Malicious damage by explosive to building or vehicle; and 26 U.S.C. § 5861 – Manufacture, possession, or transfer of a firearm /

destructive device not registered in the National Firearms Registration and Transfer Record, which evidence is particularly described in Attachment B.

6. The relevant statutes provide as follows:

a. Title 18 U.S.C. § 844(i) provides, in pertinent part, that: “Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both....”

b. Title 26 U.S.C. § 5861 provides, in pertinent part, that: “It shall be unlawful for any person... (d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or... (f) to make a firearm in violation of the provisions of this chapter.” In turn, 26 U.S.C. § 5845 defines “firearm” as including a “destructive device,” which is defined to include any explosive or incendiary bomb.

III. BACKGROUND OF THE INVESTIGATION

7. On 5/19/16 at approximately 2252 hours, Mountain View Police Department (MVPD) officers responded to 1501 Salado Drive, one of several Google buildings in the city of Mountain View, to investigate a report of an arson. A fire had broken out near one of the Google Street View vehicles that was parked in front of this Google building. The Street View vehicle did not catch on fire, but the ground to the rear of the vehicle had sustained fire damage. Officers located two separate broken beer bottles (both were Blue Moon, one of which had a wick still in the neck of the broken beer bottle. Officers also recovered a lighter near the Street View vehicle. The lighter appeared to have been recently left there because it was clean and did not have any dirt or other debris on top of it.

8. A Google employee (hereinafter, “RP1”), was in his office on the first floor of 1501 Salado Drive at the time the fire broke out. RP1 saw a male throw a beer bottle at the Street View vehicle. After the male threw the beer bottle at the vehicle, the area burst into flames and RP1 called 911. RP1 described the suspect as a male (unknown race), approximately 5’10” with a thin build. Surveillance video of the incident showed the suspect vehicle was a dark colored SUV. The suspect exited the driver’s seat of the SUV, stood approximately 15 feet away

from the Street View vehicle, lit two devices (later to be determined two Molotov cocktails), and threw the Molotov cocktails at the vehicle. Both Molotov cocktails bounced off the hood/windshield area of the vehicle. One Molotov cocktail landed at the rear of the Street View vehicle and burst into flames. The second Molotov cocktail landed on the driver's side of the vehicle and the beer bottle did not break. The suspect ran to the second Molotov cocktail, picked it up, and threw it onto the ground a second time. The Molotov cocktail landed on the rear driver's side of the vehicle and burst into flames. The suspect ran back to the dark colored SUV and fled the scene. RP1's description of the suspect appeared to be consistent with the suspect seen in the surveillance video

9. On 6/4/16 at approximately 2230 hours, a shooting occurred at 2700 Garcia Avenue, which is a different Google building. This building is approximately 0.5 miles from 1501 Salado Drive (the address of the arson on 5/19/16). A nearby citizen (hereinafter, "RP2") was loading a trailer across the street from 2700 Garcia Avenue. RP2 saw a vehicle similar to a GMC Trailblazer (possibly gold in color) pulled to the side of the road near the intersection of Garcia Avenue and Bayshore Parkway. RP2 looked at the driver in the eye and then heard several "popping" sounds. The vehicle turned onto northbound Bayshore Parkway and pulled over again. RP2 heard another series of "popping" sounds. RP2 described the suspect as a Hispanic male in his 20s or 30s with a thin build, short black hair, and he was unshaven. RP2's boyfriend said that he believed the "popping" sounds he and RP2 heard were from a .22 caliber handgun. He also believed that the number of shots fired was consistent with someone emptying a ten round magazine. RP2's boyfriend stated he is an "avid hunter" and thus knows that the sound he heard was consistent with a .22 caliber handgun.

10. MVRPD officers responded to the scene and discovered broken glass, indentations in metal frames surrounding the broken glass, and five circular holes approximately 1" in diameter in other glass windows. The investigating officers believed that this damage was caused by high velocity projectiles (possibly bullets or pellets). No bullet casings were located at the scene. Officers recovered fragments of the projectiles that were still lodged in the windows but were unable to determine what type of firearm the projectiles were shot from. There was also an unknown white powdery substance around the holes where the projectiles entered the windows. The projectile fragments and powder were collected and submitted to the Santa Clara County Crime Lab for analysis, but we have yet to receive results.

11. Detective Beraha was advised by Google employees that there was surveillance video of the shooting. Detective Beraha watched the surveillance video and saw that the suspect vehicle appeared to be the same vehicle as the suspect vehicle in the arson from 5/19/16.

12. On 6/10/16 at approximately 0154 hours, MVPD officers responded to a vehicle fire at 1098 Alta Avenue, a third Google building. This building is approximately 0.5 miles from 1501 Salado Avenue, the address of the first vehicle arson on 5/19/16. Responding officers found a small vehicle (later determined to be one of Google's self-driving cars) on fire. Officers saw broken glass near the self-driving vehicle. The vehicle was destroyed in the fire.

13. Surveillance video showed a Hispanic male with a goatee wearing a dark hooded sweatshirt. The male was holding a squirt gun upside down (presumably to keep the liquid from coming out). The squirt gun was a long tube that operates similar to a syringe. There is a handle that pulls back at one end of the tube and when the handle is pushed forward, water (or whatever liquid is inside) is expelled out the other end. In the surveillance video, the male was holding the squirt gun perpendicular to the ground with the handle towards the ground (keeping the liquid inside). Based on the fact that there was no evidence of a Molotov cocktail or other incendiary device, it is believed that the liquid inside the squirt gun was an accelerant. The suspect was also wearing dark Nike shoes with a white Nike logo and white soles. The surveillance video was from before this arson occurred and it was from a building near where the arson occurred. Additional surveillance video showed when the fire started. There was a flash of light similar to the light emitted by the Molotov cocktails on 5/19/16. There was a dark colored (possibly gray) SUV that drove past 1098 Alta Avenue immediately after the fire started. There were no other vehicles (other than Google security vehicles) that drove past that building around the time of the fire. The same gray SUV was seen on surveillance video at 1501 Salado Drive (the address of the arson on 5/19/16) shortly after the Molotov cocktail was thrown at 1098 Alta Avenue. The gray SUV parked in the exact same spot as the SUV when the Molotov cocktails were thrown at the Street View vehicle.

14. On 6/15/16, MVPD officers, Google security personnel, and agents from ATF held a meeting to discuss the case. Surveillance video from all three incidents showed that the vehicle appeared to be the same in each of the three surveillance videos. ATF Special Agent Cynthia Chang stated in the meeting that she was able to identify the suspect vehicle as a 2004 or

2005 Volkswagen Touareg SUV. She was able to narrow down the year of the vehicle based on the unique roof rack that this vehicle had. SA Chang confirmed with a mechanic at Volkswagen that this vehicle had to be either a 2004 or 2005 Volkswagen Touareg.

IV. STATEMENT OF PROBABLE CAUSE

15. On 6/30/16 at approximately 0004 hours, MVPD officers responded to the area of San Antonio Road at Bayshore Parkway to investigate a suspicious vehicle. This area contains several Google buildings and is not far from 1501 Salado Drive and 2700 Garcia Avenue. Google security officers saw a 2004 gray Volkswagen Touareg (CA license plate 7DAX565) driving through the Google campus, including the parking lot of 1600 Amphitheatre Parkway (Google headquarters main building). Google security officers followed the gray Volkswagen and it started taking evasive maneuvers, including pulling into random driveways and slamming on its brakes for no apparent reason. Google security officers never lost sight of the gray Volkswagen and advised MVPD dispatch of its location. Sergeant Vieyra caught up to the gray Volkswagen and saw it was speeding. Officers conducted a traffic stop on the gray Volkswagen and detained Raul Diaz, the driver and sole occupant. Sergeant Vieyra recognized DIAZ to be the possible suspect from the surveillance video and saw that DIAZ was wearing shoes similar to the shoes worn by the suspect in the surveillance video. Officers saw a firearms case in plain view as well as a cylindrical object with wires coming out of it. Officers believed the cylindrical object was a pipe bomb, so they called the bomb squad. The bomb squad advised MVPD officers that device was not a functional bomb in its present state, but it could be made functional if it were to be filled with flash powder or a flammable substance. The gray Volkswagen was subsequently towed to MVPD pursuant to California Vehicle Code 22655.5(b), evidence tow.

16. At approximately 0315 SA's Kim and Nuttall interviewed DIAZ. Agents Mirandized DIAZ and conducted an interview. DIAZ shared information about previous events and beliefs unrelated to the traffic stop. DIAZ mentioned Google, Facebook, and Larry Paige (CEO of Google) multiple times during the interview. At the conclusion of the interview DIAZ requested an attorney and Agents immediately stopped questioning DIAZ.

17. After the interview with ATF agents, Detectives Wong and Beraha of MVPD went in to gather administrative details from DIAZ. It was at this time that DIAZ stated he no

longer wished to speak to an attorney and wanted to talk. MVPD officers re-mirandized DIAZ and Under Miranda, DIAZ admitted to committing the two arsons and shooting into the Google building. DIAZ said he intended on shooting into another Google building before being stopped by MVPD on 6/30/16. DIAZ advised officers that he had a .22 caliber handgun in the gray Volkswagen. He was unsure if the gun was loaded, but he said he had ammunition at his home. DIAZ told officers that his motivation behind the attacks was that he felt Google was watching him and that made him upset. DIAZ said that he kept journals of the times that he felt Google had been watching him. He also confirmed he lives at 1317 92nd Avenue in Oakland. DIAZ said that he has a laptop computer and a tablet in his room. DIAZ said the cylindrical device in his vehicle was not a bomb. He said it was a tube filled with cotton and bullets. DIAZ claimed it was a target he used for target practice, even though the bomb squad advised it would be a fully functioning explosive device as soon as an accelerant or explosive powder was put into it.

V. RAUL MURILLO DIAZ'S REGISTERED VEHICLE

18. A DMV database check and ATF investigation reveals DIAZ's vehicle to be a 2004 Volkswagen Touareg bearing California license plate 7DAX565 with vehicle identification number WVGBC67L74D036071. The vehicle is a gray SUV with four doors. The vehicle is currently registered in California to Raul Murillo Diaz, with an address of 1317 92nd Avenue, Oakland, CA.

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VI. CONCLUSION

19. Based on the foregoing facts, the admission of the suspect, and the evidence found on scene, your affiant respectfully submits that there is probable cause to believe that Raul Diaz has violated Title 18, United States Code, Section §§ 844(i).

Michael T. Nuttall
Special Agent
Bureau of Alcohol, Tobacco, Firearms &
Explosives

Sworn to before me on this
_____ day of _____ 2016.

HONORABLE Howard R. Lloyd
United States Magistrate Judge

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☒ COMPLAINT ☐ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

Title 18, United States Code, Section 844(i) - Arson

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

 PENALTY: Maximum Prison Term of 20 years
 (Minimum Prison Term of 5 years)
 Maximum Fine of \$250,000
 Maximum Term of Supervised Release of 3 years
 Mandatory Special Assessment of \$100


Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

DEFENDANT - U.S.

RAUL MURILLO DIAZ

DISTRICT COURT NUMBER

16 70820 MAG

DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

 1) ☐ If not detained give date any prior summons was served on above charges

 2) ☐ Is a Fugitive

 3) ☐ Is on Bail or Release from (show District)
IS IN CUSTODY
 4) ☒ On this charge

 5) ☐ On another conviction

☒ Federal ☐ State

 6) ☐ Awaiting trial on other charges

 If answer to (6) is "Yes", show name of institution
 Currently in custody following PC arrest

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

 Month/Day/Year
 6/30/16

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Bureau of Alcohol, Tobacco, Firearms and Explosives

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

 SHOW
 DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

 MAGISTRATE
 CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form BRIAN J. STRETCH

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) John C. Bostic

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: No Bail

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: Before Judge:

Comments: