

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee

U.S. DISTRICT COURT
GREENEVILLE TN

2010 SEP 24 A 8:30

United States of America)
 v.)
 JAMES LARRY McCARTER &)
 CODY DANIELLE IVEY)

Case No. 2:10-MJ- 183

Defendant(s)

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 September 21, 2010 in the county of Cocke in the
Eastern District of Tennessee, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
21 U.S.C. 846 & 841(b)(1)(C)	Conspiracy to distribute and possess with intent to distribute oxycodone, a Schedule II controlled substance
21 U.S.C. 841(a)(1) & (b)(1)(C)	Unlawful possession with intent to distribute oxycodone, a Schedule II controlled substance

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT

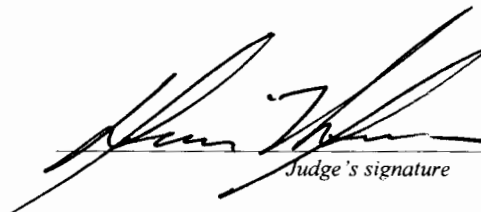
☒ Continued on the attached sheet.


Complainant's signature

KEVIN KIMBROUGH, TFO, DEA

Printed name and title

Sworn to before me and signed in my presence.

Date: 9-24-10City and state: Greeneville, Tennessee


Judge's signature

DENNIS H. INMAN, U.S. MAGISTRATE JUDGE

Printed name and title

AFFIDAVIT

STATE OF TENNESSEE)
)
COUNTY OF GREENE)

Your affiant, being duly sworn, states the following:

I, Kevin Kimbrough, am employed by the Tennessee Highway Patrol as a Trooper and am currently assigned as a Task Force Officer (TFO) with the Drug Enforcement Administration (DEA) at the Johnson City, Tennessee resident agency. I am personally familiar with the facts and circumstances surrounding this investigation, both from my own investigative activities and from information obtained from other law enforcement officers/agents, to include the Cocke County Sheriff's Office (CCSO), the Tennessee Bureau of Investigation (TBI), the Tennessee Highway Patrol (THP), and the Fourth Judicial District Drug Task Force (4DTF).

James Larry McCarter is a 63 year old white male residing at 121 Edwards Way, Newport, Tennessee. Cody Danielle Ivey is a 23 year old white female from Cosby, Tennessee.

On June 28, 2010, TBI agents received information from a cooperating individual (CI) that Ivey was distributing oxycodone pills (often referred to by the brand name Roxicodone®) in Cocke, Jefferson, and Sevier Counties. Ivey was reported to be part of a group which was traveling to "pain clinics" in Florida to obtain oxycodone and other prescription narcotics. The CI advised that Larry McCarter arranged for and financed the trips, paying for motel accommodations, fees for the doctor visits, the costs of filling the prescriptions, and transportation. In exchange, the members of the group provided McCarter with half of the drugs they obtained. The CI advised that McCarter, Ivey, and other members of the group would travel to the Florida pain clinics three to four times a month. On each trip, each member of the group would obtain approximately 120 oxycodone pills and turn over half of the pills to McCarter.

Ivey had offered to sell the CI oxycodone pills two days earlier, but the CI had declined to purchase the pills.

On July 14, 2010, a TBI agent, acting in an undercover capacity, and the CI met Ivey in the parking lot of a gas station in Newport, Tennessee. Ivey arrived driving a white Chevrolet pickup truck registered to McCarter. Ivey sold the TBI agent ten blue pills for \$200. Ivey said "I can get them any time." Ivey was observed to return to McCarter's residence after the transaction. Markings on the pills indicated the pills were generic 30 milligram oxycodone pills.

On July 21, 2010, the TBI agent, acting in an undercover capacity, met Ivey again at a gas station in Newport, Tennessee to purchase oxycodone pills. During a telephone call to set up the transaction, a male could be heard in the background speaking to Ivey. When the TBI agent arrived at the gas station, he observed a maroon Chevrolet Astro van registered to McCarter in the parking lot. The agent recognized the driver of the van as McCarter. The agent then observed a white Nissan automobile arrive and pull next to the van. Ivey got out of the Nissan and entered the passenger side of the van. Less than a minute later, Ivey exited the van and walked over to the agent's vehicle. Ivey handed the agent ten blue pills, and the agent paid Ivey \$200 in cash. Markings on the pills indicated they were generic 30 milligram oxycodone pills. Ivey indicated that "he" (her source of supply) would have more pills soon. Ivey said "he's got a thousand right now . . . yeah, and he's leaving tomorrow to go get more so." After Ivey exited the agent's vehicle, she walked back to the van and entered through the front passenger door. The undercover agent left in his vehicle. Other agents watched the van driven by McCarter follow the Nissan driven by Ivey out of the parking lot and both vehicles drove to McCarter's residence.

The TBI undercover agent arranged to purchase ten more oxycodone pills from Ivey on August 12, 2010. Ivey advised in a phone call that the price she was charging for the pills had increased to \$25 each because the price "he" had to pay at the pharmacy had increased. The agent met Ivey at the gas station in Newport. Ivey arrived in the white Nissan with two other persons in the car. Ivey said "he won't front me" (provide her the drugs to be paid upon sale). Ivey indicated "he" was making trips to Miami every three days and buying a thousand pills at a time. Ivey discussed getting pills through prescriptions from doctors in Florida, stating she could get 200 oxycodone 30 mg pills and up to 180 oxycodone 15 mg pills at a time. Ivey discussed getting "fake" MRI's to support the prescriptions for narcotics. Ivey eventually provided the agent with ten blue pills and was paid \$250 for the pills. Markings on the pills indicated the pills were generic 30 milligram oxycodone pills.

On September 21, 2010, at approximately 9:30 a.m., a THP trooper stopped a van registered to McCarter and driven by Ivey for speeding on Interstate 40 westbound in Cocke County. There were three other people in the van with Ivey and McCarter. Ivey claimed the group had been gambling in North Carolina. Ivey was issued a citation for speeding and the group was released.

The THP trooper advised a CCSO sergeant of the stop; the CCSO sergeant recognized McCarter and Ivey as persons known to be involved in pill trafficking and that the circumstances indicated that the group was returning from a trip to Florida to obtain pills. Officers were alerted to be on the lookout for the van.

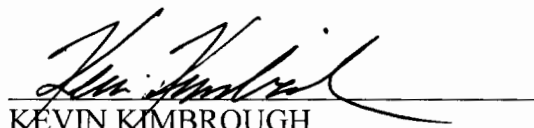
Another CCSO deputy observed the van on U.S. Highway 25/70 near McCarter's residence. The deputy observed that the driver, Ivey, was not wearing a seat belt in violation of

state law. The deputy initiated a traffic stop. The van did not stop immediately but proceeded on to McCarter's residence before stopping. Ivey and McCarter both got out of the van and McCarter started towards the residence. The deputy observed that McCarter was acting nervously. The deputy knew McCarter to have a history of violent criminal offenses and began to frisk McCarter for weapons for the safety of the officer. The deputy noticed a bulge in the right cargo pocket of McCarter's trousers. When the deputy attempted to pat down the pocket, McCarter tried to put his hand over the pocket to keep the deputy out of pocket and spontaneously stated "that's my pills." The deputy then retrieved three pill bottles from the right cargo pocket and two pill bottles from the left cargo pocket; the bottles contained what were later identified as 30 mg oxycodone pills and the labels on the bottles had been peeled off. McCarter was arrested. An inventory search of the van which had been seized lead to the discovery of a quantity of marijuana in a seat pocket which Ivey claimed as hers. Ivey was then arrested.

After being advised of his rights and signing a written rights waiver, McCarter admitted that he had bought the pills for a few thousand dollars; he estimated the quantity to be approximately 1,200 30 mg oxycodone pills. McCarter admitted that he had started going to Florida clinics to obtain pills about a year earlier. McCarter identified the others in the van and admitted that he had sponsored the trip to Coast To Coast Pain Clinic in the Fort Lauderdale, Broward County, Florida area and that he had taken half of everyone's pills for sponsoring the trip. McCarter also said "these people have been with me before. . . . I have taken a lot of people from Newport to the pain clinics. It's the way for me to pay for my medicine."

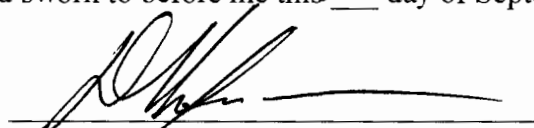
After being advised of her rights and signing a written rights waiver, Ivey also admitted that McCarter supplied her with drugs and that the group had been on a trip to Coast To Coast Pain Clinic to obtain pills. Ivey admitted making several trips to Florida to obtain pills which were sponsored by McCarter.

McCarter also executed a written consent to search his residence, and more pills were found inside the residence. Four rounds of ammunition were also found inside the residence as well as drug ledgers which were found on a kitchen counter. Other officers from the CCSO, the Jefferson County Sheriff's Office, and the Dandridge Police Department identified stolen property which had been taken in trade for pills.



KEVIN KIMBROUGH
Task Force Officer
Drug Enforcement Administration

Subscribed and sworn to before me this 24th day of September, 2010.



DENNIS H. INMAN
United States Magistrate Judge