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Magistrate Judge Weinberg

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AT SEATTLE  
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WESTERN DISTRICT OF WASHINGTON  
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05-MJ-00027-CMP

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
CHRISTOPHER W. McINTOSH,  
  
Defendant.

MAGISTRATE'S DOCKET NO.  
CASE NO. 05-27M  
  
COMPLAINT for VIOLATION  
  
Title 18, United States Code,  
Section 844(i)

BEFORE John L. Weinberg, United States Magistrate Judge,  
United States Courthouse, 700 Stewart Street, Seattle, Washington.

COUNT 1  
(Arson)

On or about January 20, 2003, at Seattle, in the Western District of Washington,  
CHRISTOPHER W. McINTOSH maliciously damaged and attempted to damage and  
destroy by means of fire and explosive materials a McDonald's restaurant at 222 5th  
Avenue North, Seattle, Washington used in interstate commerce.

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

And the complainant states that this Complaint is based on the following  
information:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI). I am  
assigned to the Domestic Terrorism Squad in the FBI's Seattle Office. I have been  
employed as a Special Agent for approximately five years and currently am responsible

1 for investigating cases involving crimes committed by groups known as the Earth  
2 Liberation Front (ELF) the Animal Liberation Front (ALF). This affidavit is based on my  
3 own investigation, as well as on information provided to me, and my review of reports  
4 prepared by, other law enforcement personnel.

5 2. On January 20, 2003, at approximately 1:50 a.m., an off-duty Seattle Police  
6 Department (SPD) Officer reported a fire at the McDonald's restaurant at 222 5th Avenue  
7 North, Seattle, Washington. The officer reported flames approximately twenty feet in the  
8 air, rising from the roof. The Seattle Fire Department (SFD) responded and extinguished  
9 the fire. Damage to the restaurant was estimated to be five thousand dollars (\$5,000).

10 3. A witness was standing with friends in the parking lot located on the South  
11 side of the McDonald's restaurant at the time of the fire. The witness reported seeing  
12 flames rising from the roof of the restaurant. The witness reported that an individual  
13 appeared out of the middle of the flames and scurried down the McDonald's roof-access  
14 ladder. The witness described this individual as a white male, approximately 15-22 years  
15 old, approximately 5'8" tall with a thin build, weighing perhaps 150 pounds, wearing a  
16 black or gray hooded jacket or sweatshirt with black pants, and carrying a black backpack  
17 over his shoulder.

18 4. SFD arson investigators who investigated the fire concluded that the fire  
19 had originated on the roof of the restaurant, and that it was the result of arson. SFD arson  
20 investigators determined that the fire was started by an improvised incendiary device.  
21 Investigators found a broken lock on a gate in the fence that secures access to the roof-  
22 access ladder on the South side of the restaurant and concluded that the arsonist gained  
23 access to the roof through this gate and ladder.

24 5. Investigators collected numerous items of evidence from the rooftop,  
25 including melted red plastic material that investigators concluded was the remnant of the  
26 fire bomb, and a fibrous herbaceous material wrapped in duct tape that investigators  
27 concluded was intended to be part of a fuse. Investigators also collected a sports-style  
28 gym bag that contained, among other items, a red plastic gas can containing a small

1 amount of liquid, believed to be gasoline, a can of black spray paint, a hack-saw, and a  
2 pair of sunglasses with a case. Investigators concluded, based on the contents of the gym  
3 bag, that it likely had been left by the arsonist.

4 6. On January 20, 2003, at approximately 10:39 a.m., the Seattle arson tip line  
5 received a voicemail message. The message was transcribed as follows:

6 "There was an E-L-F-A-L-F hit at McDonald's across from  
7 the Space Needle. There will be more. The fire was set on  
8 the 'M.' Four gallons of gas. There was a broken lock, not  
9 cut. Broken. There will be more. As long as mother earth is  
10 pillaged, raped, destroyed. As long as McDonald's keeps  
11 hurting our furry brothers, there will be more. [Unintelligible]  
12 will be more."

13 7. I know that the ELF is a group that supposedly is dedicated to protecting the  
14 environment. I also know that the ALF supposedly is dedicated to advancing the cause of  
15 animal rights. Since 1996, ELF and ALF have claimed responsibility for numerous  
16 arsons that ostensibly were committed to further the causes of the environment and  
17 animal rights. Damage from those arsons has totaled tens of millions of dollars.

18 8. The McDonald's restaurant located at 222, 5th Avenue North, Seattle,  
19 Washington is a few blocks from the Space Needle, a famous Seattle landmark. The  
20 voicemail message contained information that only a person involved in the arson would  
21 have known. For example, this particular McDonald's has an "M" painted on the roof top  
22 that can be observed only from above. Moreover, crime scene investigators found that  
23 the lock that secured the roof-access ladder at the restaurant was indeed broken, rather  
24 than cut.

25 9. Investigators subsequently determined that the telephone call to the arson  
26 tip line had been placed from a payphone in downtown Seattle. After identifying the  
27 telephone from which the call had been placed, investigators collected two telephone  
28 books from the bank of payphones from which the telephone call to the arson tip line had  
been placed.

1           10.    The FBI laboratory analyzed the evidence in this case. Although most of  
2 the evidence is clear of fingerprints or DNA, the laboratory has made a number of  
3 significant findings. Specifically, the laboratory found "Caucasian head hairs suitable for  
4 microscopic comparison purposes" on the sunglasses and sunglass case found in the gym  
5 bag recovered from the roof of McDonald's. The FBI laboratory also found DNA  
6 suitable for comparison purposes on the sunglasses found in that bag. The FBI laboratory  
7 determined that this DNA came from more than one individual. It also determined that at  
8 least one of those persons was a male.

9           11.    The FBI laboratory also has found a number of fingerprints in this case.  
10 First, although SPD previously had examined the can of black spray paint found in the  
11 gym bag on the roof of McDonald's and had failed to locate any latent prints of  
12 comparison quality, the FBI laboratory conducted additional testing and found three latent  
13 fingerprints on the spray paint can. Second, the FBI found a number of latent prints on  
14 the telephone books recovered near the telephone from which the arson tip line call had  
15 been placed.

16           12.    The FBI laboratory submitted the latent fingerprints found on the can of  
17 spray paint to the Automatic Fingerprint Identification System (AFIS) and determined  
18 that the fingerprints match the fingerprint record of CHRISTOPHER WELLS  
19 McINTOSH, a Caucasian male born July 17, 1982. According to his NCIC record,  
20 McINTOSH is 5'10" tall and weighs 150 pounds. The FBI Laboratory compared  
21 McINTOSH'S fingerprint record with the latent prints recovered from the phone books,  
22 but with negative results.

23           13.    According to arrest and other records, since 2000, McINTOSH, has been  
24 arrested in various states, including Oregon, California, Wisconsin, and Illinois. In  
25 particular, McINTOSH was arrested in Portland, Oregon, on February 26, 2003 and  
26 March 5, 2003, approximately a month after the McDonald's arson. (McINTOSH  
27 supplied the alias, David Lester McIntosh, McINTOSH's brother's name, and provided a  
28 date of birth of October 30, 1984, during these arrests). Officer James Stegmeyer of the

1 Portland Police Department, who participated in the March 5, 2003 arrest, recalls that  
2 McINTOSH was wearing a black jacket and had a backpack.

3 14. On September 23, 2004, I interviewed McINTOSH'S parents, Ronald and  
4 Kathryn McIntosh in Maple Shade, New Jersey. I told his parents that I was investigating  
5 an assault that had taken place in Portland, Oregon, and asked McINTOSH's parents to  
6 have McINTOSH contact me if they heard from him.

7 15. McINTOSH'S parents told me that McINTOSH was not a committed  
8 animal rights activist, but recalled that McINTOSH had become involved in causes, like  
9 animal rights, based upon the girls that he dated. McINTOSH'S parents confirmed that,  
10 when they last saw him the week before, McINTOSH had a black backpack and a grey  
11 hooded sweatshirt, and that McINTOSH often wore black clothing. McINTOSH'S  
12 parents knew that McINTOSH had been in Seattle, Washington, but could not recall the  
13 month or the year.

14 16. On October 2, 2004, McINTOSH was arrested in Arcata, California, for  
15 disorderly conduct and impersonating another person to avoid prosecution. (McINTOSH  
16 supplied the officers the alias, David Lester McIntosh, with a date of birth of October 30,  
17 1984.) Following his arrest, McINTOSH was held at the Humboldt County Detention  
18 Facility, in California. FBI agents subsequently obtained a search warrant from the  
19 United States District Court, Northern District of California, for blood, hair samples, and  
20 major case prints from McINTOSH, and, on October 6, 2004, executed that warrant at the  
21 Humboldt County Detention Facility.

22 17. The FBI laboratory has compared the evidence found at the sight of the  
23 arson with the samples taken from McINTOSH. It has determined that McINTOSH is  
24 "the major contributor" of the DNA found on the sunglasses recovered at the scene of the  
25 arson. It has determined that no conclusion can be made as to whether McINTOSH is the  
26 source of two hairs found at the scene. (The laboratory report notes that approximately  
27 20 months passed between the crime and collection of known head hair samples from  
28

1 McINTOSH and that hair characteristics can change over time.) It has determined that  
2 McINTOSH is not the source of other hairs found at the scene.

3 18. After executing the warrant, agents told McINTOSH that they wished to  
4 interview him and advised McINTOSH of his Miranda rights. McINTOSH signed an  
5 advice of rights form and agreed to speak with the agents. The agents asked McIntosh  
6 where he was in January 2003. McINTOSH told agents that he had arrived in Seattle on  
7 Christmas Eve of 2002 and that he had left Seattle in early March of 2003. McINTOSH  
8 further stated that he had signed in at a youth center located in Seattle and that he had  
9 done so using his brother's name, David McIntosh.

10 19. I have reviewed records obtained pursuant to subpoena from a youth center  
11 in Seattle, Washington. Sign in logs for January 14, 15, 16, and 21, 2003, show that  
12 someone signed in on those dates using the name using the name David McIntosh, David  
13 M., or just David, and, in each case, the date of birth October 30, 1984. I showed a staff  
14 member from the youth center a photograph of McINTOSH. The staff member  
15 confirmed that McINTOSH was the person who had signed in under these names on these  
16 dates. The staff member also told me that McINTOSH had been dating an individual  
17 named Maria. The name Maria or Maria G appears next to McINTOSH'S alias on the  
18 logs for each of the four dates in January 2003.

19 20. On October 23, 2004, I received a phone call from an individual who  
20 identified himself as CHRISTOPHER McINTOSH. McINTOSH told me that he had  
21 learned that FBI Agents had visited his parent's house. McINTOSH wanted to make it  
22 clear that he had not been involved in the Portland, Oregon, assault. I then told  
23 McINTOSH that his fingerprints had been linked to the arson of a McDonald's restaurant  
24 in Seattle, Washington. McINTOSH became quiet and offered no explanation as to why  
25 his fingerprints were found on evidence left at the crime scene. McINTOSH did state at  
26 one point that he did not know what I was talking about. I asked McINTOSH to tell me  
27 his side of the story. McINTOSH stated repeatedly that "this was a new development"

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1 and told me that he would have to get back to me on this. McINTOSH has not re-  
2 contacted me.

3 21. On November 19, 2004, another FBI Special Agent interviewed an ex-  
4 girlfriend of McINTOSH's, who was incarcerated at the Coffee Creek Correctional  
5 Facility, Wilsonville, Oregon. She said that she had started dating McINTOSH  
6 approximately one month after the arson. She met McINTOSH while panhandling in  
7 Portland, Oregon, and lived with McINTOSH in various shelters. In February or March  
8 of 2003, McINTOSH asked her to travel with him to New York. During their two-week  
9 long trip to New York, McINTOSH told her that he intentionally had burned down a  
10 McDonald's restaurant in Seattle, Washington. McINTOSH told her that he had started  
11 the fire in the restroom by accessing some wiring in a fan or electrical outlet.

12 22. On December 29, 2004, I interviewed McINTOSH's former girlfriend a  
13 second time. She told me that she had recalled some additional details that she had not  
14 provided during her original interview. Most significantly, she recalled that the  
15 McDonald's restaurant which McINTOSH claimed to have burned down was located next  
16 to the Space Needle in Seattle. She also recalled that McINTOSH wore black clothing,  
17 and that one article of McINTOSH's clothing appeared to be burned.

18 23. I have talked with Captain David Pagan of the Seattle Fire Department's  
19 Fire Investigation Unit about other fires or attempted fires at McDonald's restaurants in  
20 the Seattle area. Captain Pagan has reviewed SFD's records and has told me that the fire  
21 that occurred on January 20, 2003 at the McDonald's restaurant by the Space Needle is  
22 the only known Seattle-area McDonald's restaurant fire in recent years. I also have talked  
23 with an owner/operator of five McDonald's restaurants in the Seattle area, and with the  
24 Security Manager for McDonald's' Seattle-area stores. Neither was aware of any fire at a  
25 Seattle McDonald's other than the January 2003 fire at the restaurant located at 222 5th  
26 Avenue North, Seattle, Washington, or of any incident involving tampering with fans or  
27 electrical outlets in a McDonald's restroom.

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1           24.    On January 18, 2005, I interviewed Maria Gardner. Gardner identified  
2 McINTOSH as Gardner's former boyfriend. Gardner stated that she dated McINTOSH in  
3 Seattle, Washington in January of 2003. Gardner stated that McINTOSH planned and  
4 committed the arson at the McDonald's restaurant and admitted that Gardner, herself, had  
5 served as the lookout during the arson. Gardner stated that she was present when  
6 McINTOSH called the arson tip line. Gardner listened to the recording of that call and  
7 identified the voice as McINTOSH's.

8           25.    During the course of this investigation, I have investigated a number of  
9 suspects other than McINTOSH, including some who have a history of targeting  
10 McDonald's or other fast food restaurants, and some who were rumored to have been  
11 involved in the arson. DNA samples and fingerprint records from many of these suspects  
12 have been compared with evidence from this case, all with negative results. Based upon  
13 my investigation, I have ruled out each of the other persons whom I have investigated as a  
14 viable suspect in the case.

15           26.    I am aware that McDonald's is a national restaurant chain headquartered in  
16 Illinois that operates both company-owned and franchised stores throughout the United  
17 States. The McDonald's store at 222 5th Avenue North, Seattle, Washington is owned by  
18 a franchisee who owns five Seattle-area stores. McDonald's has a national distribution  
19 system that supplies menu items to both company and franchised stores around the  
20 country. Franchisees in turn pay fees to the corporation. Because of its location near the  
21 Space Needle, the Experience Music Project, and Seattle Center, all of which are popular  
22 tourist destinations, many of the customers of the McDonald's restaurant at 222 5th  
23 Avenue, North, Seattle, Washington are tourists, including, in many cases, tourists from  
24 other states and countries. As a result of these facts, the McDonald's restaurant is a  
25 building used in interstate commerce.

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