

ORIGINAL

Approved: /s/ Daniel H. Wolf
 DANIEL H. WOLF
 Assistant United States Attorney

Before: HONORABLE SARAH L. CAVE
 United States Magistrate Judge
 Southern District of New York

20 MAG 7858

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UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
	:	
- v. -	:	Violation of 21 U.S.C.
	:	§ 846
ANDREW JOSEPH,	:	
	:	COUNTY OF OFFENSE:
Defendant.	:	NEW YORK
	:	
-----X		

STATE OF NEW YORK) ss:
 SOUTHERN DISTRICT OF NEW YORK)

KENNETH MCGRAIL, being duly sworn, deposes and says that he is a Special Agent with the Drug Enforcement Administration ("DEA"), and charges as follows:

COUNT ONE

(Narcotics Conspiracy)

1. From at least in or about September 2019, up to and including in or about July 2020, in the Southern District of New York and elsewhere, ANDREW JOSEPH, the defendant, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree, together and with each other, to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that ANDREW JOSEPH, the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

3. The controlled substance that ANDREW JOSEPH, the defendant, conspired to distribute and possess with intent to distribute was a quantity of mixtures and substances containing a

detectable amount of oxycodone, in violation of Title 21, United States Code, Section 841(b)(1)(C).

(Title 21, United States Code, Section 846.)

The bases for my knowledge of the foregoing charge are, in part, as follows:

4. I am a Special Agent with the DEA and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation, my examination of reports and records, and my conversations with other law enforcement agents and other individuals. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

BACKGROUND ON OXYCODONE AND OXYCODONE DIVERSION

5. I have personally participated in the investigation and prosecution of multiple schemes to illegally divert oxycodone for resale. Based on my participation in those investigations, and my training and experience, I have learned the following, in substance and in part:

a. Oxycodone is a highly addictive, narcotic-strength opioid used to treat severe and chronic pain conditions, such as post-operative pain, serious back and orthopedic injuries, as well as pain associated with certain forms of cancer and other terminal illnesses. Oxycodone is a Schedule II narcotic, meaning that it is a "controlled substance" under the Controlled Substances Act ("CSA"). Oxycodone can be legitimately obtained from most pharmacies with a prescription written by a treating physician (or treating physician assistant or nurse practitioner), and is typically dispensed to patients in tablet form, with dosages varying between 5 milligram ("mg") and 30 mg pills.

b. Every year, millions of Americans abuse oxycodone, with the misuse of prescription painkillers such as oxycodone leading to hundreds of thousands of annual emergency room visits nationwide. In addition, studies show that misuse of prescription medication, such as oxycodone, can lead to an increased rate of heroin use. As a result, the distribution of oxycodone is heavily regulated. For example, prescriptions for oxycodone cannot exceed

a 30-day supply, and cannot allow for "refills." Instead, a patient who has exhausted his or her initial prescription must see a treating physician again each month and be re-evaluated before obtaining a new prescription from the doctor. Similarly, to curb any potential for abuse, pharmacies are required to track and report all prescriptions filled for oxycodone, and by law, no patient is supposed to be able to fill a prescription for oxycodone more than once every 30 days, even if written by a different doctor.

c. Oxycodone prescriptions have significant cash value to drug dealers. Oxycodone prescriptions can be filled at virtually any pharmacy and the oxycodone tablets can be resold on the street for thousands of dollars. For example, 30 mg oxycodone pills, which are popular among street-level drug dealers, have a street value of approximately \$30 per pill in New York City, with prices ranging even higher in other parts of the country. In other words, a single 30-day prescription for 180 30 mg pills of oxycodone could net a street-level dealer in New York City approximately \$5,400 in cash or more.

THE DEFENDANT'S TRAFFICKING OF OXYCODONE

CC-1, CC-2 and Doctor-1

6. Based on my review of data from the DEA and the New York State Bureau of Narcotic Enforcement ("BNE"), my review of phone records, my review of law enforcement records, and my training, experience, and involvement in this investigation, I have learned the following, in substance and in part:

a. From in or about July 2018 to June 2020, two individuals ("CC-1" and "CC-2") who are, as described herein, co-conspirators of ANDREW JOSEPH, the defendant, received prescriptions on a monthly basis for oxycodone from a doctor ("Doctor-1") whose office is in Manhattan, New York. CC-1 and CC-2 are related to each other. As set forth below, JOSEPH obtained large quantities of oxycodone pills from CC-1 and CC-2 for resale.

b. From in or about August 2018 to July 2020, CC-1 and CC-2 consistently received oxycodone prescriptions from Doctor-1 on the same day or within days of each other. CC-1 and CC-2 have also consistently filled such prescriptions on the same day or within days of each other.

c. From in or about July 2018 to June 2020, Doctor-1 has issued prescriptions (the "Doctor-1 Prescriptions") to CC-1 and CC-2 for approximately 10,485 30 mg oxycodone pills, 510 time-

released 80 mg oxycodone pills, and 180 time-released 60 mg oxycodone pills.¹

d. During the 14-month period between approximately April 2019 and June 2020, Doctor-1 issued to CC-1 on a monthly basis a prescription for 240 30 mg oxycodone pills, and during the same 14-month period, Doctor-1 issued to CC-2 prescriptions in 12 of the 14 months for 240 30 mg oxycodone pills² and prescriptions in two of the 14 months for 120 30 mg oxycodone pills. Based on my training and experience, I understand the quantity and dosage of a monthly prescription for 240 30 mg oxycodone pills would be associated with taking eight 30 mg oxycodone pills per day.

e. Based on my training and experience, I know that individuals who obtain oxycodone pills for the purpose of diverting them for resale typically pay for such pills with cash rather than through insurance, to avoid detection and maximize profit. From in or about summer 2018 through in or about June 2020, CC-1 and CC-2 have paid for oxycodone obtained pursuant to the Doctor-1 Prescriptions in cash on approximately 46 occasions and through insurance on only approximately 14 occasions. Since in or about July 2019, CC-1 and CC-2 have exclusively used cash to purchase oxycodone pills obtained pursuant to the Doctor-1 Prescriptions.

7. Based on my training and experience, I believe that the significant number (well over 10,000) of oxycodone pills that CC-1 and CC-2 have been prescribed over multiple years, the high dosages of those pills, and the method of payment for those pills (typically cash) indicate that CC-1 is unlawfully diverting for resale oxycodone prescribed to CC-1 and CC-2.

¹ Based on my training and experience, I know that 30 mg oxycodone pills are the most commonly diverted prescription opioid and have enormous cash value for drug dealers.

² BNE records indicate that Doctor-1 issued to CC-2 on April 2, 2019, one prescription for 210 30 mg oxycodone pills and another prescription for 30 30 mg oxycodone pills (together, totaling 240 30 mg oxycodone pills) rather than a single prescription for 240 30 mg oxycodone pills.

JOSEPH's Partnership with CC-1 to Divert Oxycodone

8. Based on my judicially authorized search of two cellphones ("CC-1 Cellphone-1" and "CC-1 Cellphone-2") seized from the person of CC-1, incident to his arrest by the DEA on or about June 30, 2020, my review of DEA and BNE data, my review of the results of a DEA audit of a particular pharmacy in Staten Island ("Pharmacy-1"), my review of surveillance reports relating to CC-1 and CC-2, my review of video recordings of certain incidents described herein, my conversations with other law enforcement agents who engaged in surveillance of CC-1 and CC-2, and my training and experience, I have learned, in substance and in part, that CC-1 appears to have been unlawfully diverting for resale a substantial portion of the oxycodone prescribed to CC-1 and CC-2 by Doctor-1 to, among others, a particular individual who law enforcement has identified as ANDREW JOSEPH, the defendant, as described below (see ¶ 10, *infra*), including as follows:

October 2019 Pills

a. On or about October 18, 2019, CC-1 Cellphone-1, which I believe was used by CC-1,³ sent a text message to a contact saved in CC-1 Cellphone-1 and associated with a phone number ending in 3065 ("Joseph Phone Number"), which I believe was used by JOSEPH for the reasons described below (see ¶ 10, *infra*), stating, in substance and in part, "Hey next Thursday or Friday we will hang out." The same day, JOSEPH responded, in substance and in part, "Perfect." Based on my training, experience, and involvement in this investigation, I believe that in the foregoing exchange, JOSEPH and CC-1 were agreeing to meet the following Thursday or Friday for, as described below, the purpose of JOSEPH purchasing oxycodone pills from CC-1 so that JOSEPH could re-sell those pills.⁴

³ I believe that CC-1 was the user of CC-1 Cellphone-1 based, in part, on the fact that CC-1 Cellphone-1 was seized incident to CC-1's arrest from his person on or about June 30, 2020, and a review of the contents of CC-1 Cellphone-1, which includes several applications saved to the phone for which the user or account name is the first and last name of CC-1 and chats in which third parties refer to the user of CC-1 Cellphone-1 by the first name of CC-1.

⁴ Text messages recovered from CC-1 Cellphone-1 exchanged with the Joseph Phone Number begin on or about October 18, 2019. A log of phone calls recovered from CC-1 Cellphone-1 shows phone calls between CC-1 Cellphone-1 and the Joseph Phone Number as early as on or about September 16, 2019, leading me to believe

b. The following Thursday, on or about October 24, 2019, between approximately 11:14 a.m. and 12:39 p.m., CC-1 Cellphone-1 exchanged the following consecutive text messages with the Joseph Phone Number, which I believe for the reasons described below was used by JOSEPH, in substance and in part:

Sender	Recipient	Message
CC-1	JOSEPH	I have 480
JOSEPH	CC-1	Damn lol ok im at work till 9:30 ish then will come take what I can
CC-1	JOSEPH	Ok i will be home about 10:45

Based on my training, experience, and involvement in this investigation, I believe that in the foregoing text message exchange, CC-1 confirmed CC-1 had obtained 480 oxycodone pills ("I have 480"), and JOSEPH agreed to purchase from CC-1 as many pills as JOSEPH could afford ("will come take what I can").

c. That same day, on or about October 24, 2019, CC-1 and CC-2 were each issued prescriptions by Doctor-1 for 240 30 mg oxycodone pills - together, a total of 480 pills (the "October Pills"). BNE data shows that those prescriptions were filled on that day, October 24, 2019, and I believe - based on my training and experience, and the facts set forth herein - that CC-1 was referring to the October Pills when he sent a text message to JOSEPH on that day stating "I have 480."

d. Later that day, on or about October 24, 2019, at approximately 2:04 p.m., CC-1 Cellphone-1 received a text message from the Joseph Phone Number stating, in substance and in part, "Hockey tickets too or no." The user of CC-1 Cellphone-1 responded, in substance and in part, "No." Based on my training, experience, and participation in this investigation, I believe that JOSEPH was asking whether CC-1 had Xanax available for resale, as I know through my training and experience that "hockey" is a slang term for Xanax.

e. Later that day, between approximately 7:44 p.m. and 10:02 p.m., CC-1 Cellphone-1 exchanged the following consecutive text messages with the Joseph Phone Number, in substance and in part:

that CC-1 and JOSEPH began conspiring to divert illicit oxycodone for resale at least as of in or about September 2019.

Sender	Recipient	Message
CC-1	JOSEPH	We on for tonight
JOSEPH	CC-1	Yeah grabbing as much as I can and then if you can save da rest I take in day or two
JOSEPH	CC-1	Ok
JOSEPH	CC-1	Be home 10:45

Based on my training, experience, and involvement in this investigation, I believe that in the foregoing text message exchange, JOSEPH reaffirmed that he would purchase "as much as I can" of the oxycodone pills CC-1 had obtained and would then attempt to purchase the remainder of the oxycodone pills that CC-1 had available for sale "in [a] day or two." At the conclusion of the exchange, CC-1 asked JOSEPH to "[t]ext me on my other phone when you are coming."

f. On or about November 1, 2019, CC-1 Cellphone-1 exchanged the following consecutive text messages with the Joseph Phone Number, in substance and in part:

Sender	Recipient	Message
CC-1	JOSEPH	Whats up
JOSEPH	CC-1	Nothing jus been havin trouble gettin em Off so been slow
CC-1	JOSEPH	Its that hard to move
JOSEPH	CC-1	Yeah there on some bullshit
JOSEPH	CC-1	I'm still gunna so my thing jus need time

Based on my training, experience, and involvement in this investigation, I believe that in the foregoing text message exchange, JOSEPH conveyed that JOSEPH had not yet resold a sufficient number of the oxycodone pills already supplied to him by CC-1 as described above on or about October 24, 2019 ("jus been havin trouble gettin em Off so been slow"), such that JOSEPH had not yet generated sufficient revenue to be used for purchasing additional pills from CC-1 for reselling. JOSEPH then affirmed his interest in purchasing the remaining available oxycodone pills from CC-1 once JOSEPH could sell his existing pill supply ("I'm still gunna [purchase the pills] jus need time").

g. On or about November 5, 2019, CC-1 Cellphone-1 exchanged the following consecutive text messages with the Joseph Phone Number, in substance and in part:

Sender	Recipient	Message
CC-1	JOSEPH	Whats up
JOSEPH	CC-1	Nothing at work finally running low on those
CC-1	JOSEPH	Do you want to meet up tonight or tomorrow
JOSEPH	CC-1	Tomorrow Most likely I'm off
CC-1	JOSEPH	I will give them to you for 20
CC-1	JOSEPH	But we have to do it tomorrow
JOSEPH	CC-1	Howmany left tho
JOSEPH	CC-1	Gotta make sure have mkney for all
CC-1	JOSEPH	150 to 180 not sure
JOSEPH	CC-1	Kk

Based on my training, experience, and involvement in this investigation, I believe the foregoing exchange of text messages is a continuation of the text messages discussed above regarding the October Pills. In particular, CC-1 was attempting to sell to JOSEPH the remaining October Pills ("Do you want to meet up tonight or tomorrow") that JOSEPH had not been able to purchase in the prior days. JOSEPH indicates he is able to purchase at least a portion of the remaining pills because JOSEPH had successfully sold the pills JOSEPH previously acquired from CC-1 ("finally running low on those"). CC-1 then agreed to sell JOSEPH additional pills for \$20 per pill ("I will give them to you for 20") but on the condition that JOSEPH purchase those pills the next day ("we have to do it tomorrow"). JOSEPH agreed ("Kk") to that condition upon confirming CC-1 had "150 to 180" remaining pills for sale.

November 2019 Pills

h. BNE data shows that on or about November 18, 2019, CC-1 and CC-2 were each issued prescriptions by Doctor-1 for 240 30 mg oxycodone pills - together, a total of 480 pills (the "November Pills"). The prescription issued to CC-2 was filled on or about November 18, 2019, and the prescription issued to CC-1 was filled on or about November 19, 2019.

i. On or about November 18, 2019, CC-1 Cellphone-1 exchanged the following consecutive text messages with the Joseph Phone Number, in substance and in part:

Sender	Recipient	Message
CC-1	JOSEPH	You want to hang out tonight i have 240 good ones
CC-1	JOSEPH	Tonight
CC-1	JOSEPH	You want them all tomorrow another 240
CC-2	CC-1	Yeah ima try take em all

Based on my training, experience, and involvement in this investigation, I believe that in the foregoing exchange of text messages, CC-1 was offering to sell JOSEPH the November Pills ("You want to hang out tonight"). Consistent with the above-described BNE data showing that CC-2's prescription for 240 30 mg oxycodone pills was filled on or about November 18, 2019 and that CC-1's prescription for 240 30 mg oxycodone pills was filled the next day, CC-1 told JOSEPH that CC-1 had 240 oxycodone pills available that day, November 18, 2019 ("I have 240 good ones"), and that CC-1 "tomorrow" would have "another 240." JOSEPH agreed to purchase all 480 of the November Pills ("ima try take em all").

January 2020 Pills

j. BNE data shows that on or about January 17, 2020, CC-1 and CC-2 were each issued prescriptions by Doctor-1 for 240 30 mg oxycodone pills - together, a total of 480 pills (the "January Pills"). Those prescriptions were filled on or about that day, January 17, 2020.

k. On or about January 17, 2020, CC-1 Cellphone-1 exchanged the following consecutive text messages with the Joseph Phone Number, in substance and in part:

Sender	Recipient	Message
CC-1	JOSEPH	We on for tonight
JOSEPH	CC-1	Ya what street again
CC-1	JOSEPH	480 hudson st
CC-1	JOSEPH	11 tonight good
JOSEPH	CC-1	Yes gunna grab as many as can

Based on my training, experience, and involvement in this investigation, I believe that in the foregoing exchange of text messages, JOSEPH and CC-1 used coded language to discuss the sale of the January Pills. Specifically, JOSEPH asked CC-1 how many pills CC-1 had available to sell ("what street again") and CC-1 responded that CC-1 had 480 pills available to sell ("480 hudson st"), i.e., the same quantity as the January Pills. JOSEPH expressed his intent to purchase "as many [of the January Pills] as [he] can."

February 2020 Pills

l. BNE data shows that on or about February 13, 2020, CC-1 and CC-2 were each issued prescriptions by Doctor-1 for 240 30 mg oxycodone pills - together, a total of 480 pills (the "February Pills"). The prescription issued to CC-1 was filled on or about February 15, 2020, and the prescription issued to CC-2 was filled on or about February 17, 2020.

m. On or about February 15, 2020, CC-1 Cellphone-1 exchanged the following consecutive text messages with the Joseph Phone Number, in substance and in part:

Sender	Recipient	Message
CC-1	JOSEPH	You want to meet up this afternoon
JOSEPH	CC-1	Howmany and when
CC-1	JOSEPH	200 or 240 not sute yet but at like 5:30
JOSEPH	CC-1	Got you
CC-1	JOSEPH	You around at 5:30
JOSEPH	CC-1	Yeah
CC-1	JOSEPH	Ok
JOSEPH	CC-1	What's final Number
JOSEPH	CC-1	Taking everything, "saved up" lol
CC-1	JOSEPH	220
CC-1	JOSEPH	Monday 240 more

Based on my training, experience, and involvement in this investigation, I believe that in the foregoing exchange of text messages, JOSEPH agreed to purchase from CC-1 a portion of the February Pills that CC-1 obtained pursuant to the prescription CC-1 filled on or about that same day, February 15, 2020 (JOSEPH: "What's final Number"; CC-1: "220"), and to purchase the remaining portion of the February Pills that CC-1 planned to obtain through the prescription issued to CC-2 that would be filled a couple days later, on or about February 17, 2020 ("Monday 240 more").

May 2020 Pills

n. BNE data shows that on or about May 6, 2020, CC-1 and CC-2 were each issued prescriptions by Doctor-1 for 240 30 mg oxycodone pills - together, a total of 480 pills (the "May Pills"). BNE data shows that those prescriptions were filled on that day, May 6, 2020.

o. On or about May 6, 2020, CC-1 Cellphone-2, which is an Apple iPhone and which I believe was used by CC-1,⁵ exchanged the following consecutive iMessage chats with a contact saved to CC-1 Cellphone-2 that was assigned the Joseph Phone Number and which I believe was used by JOSEPH for the reasons described below (see ¶ 10, *infra*), in substance and in part:

Sender	Recipient	Message
CC-1	JOSEPH	You want to hang out tonight
JOSEPH	CC-1	Howmany
CC-1	JOSEPH	400
JOSEPH	CC-1	And if not tnite def Tommorrow during day if u can but I def want em
JOSEPH	CC-1	Oh yeah keep em for me plz
CC-1	JOSEPH	Let me know about tonight
JOSEPH	CC-1	Alright 11?
JOSEPH	CC-1	Lmk
CC-1	JOSEPH	11 is fine tonight
JOSEPH	CC-1	Runnin little late just getting home , ru gunna be around at all Tommorrow during day or is it if I don't come now I gotta wait till 11 Tommorrow ?
CC-1	JOSEPH	I am around all day tomorrow

The next day, on or about May 7, 2020, at approximately 12:52 p.m., JOSEPH sent an iMessage chat to CC-1 stating, in substance and in part, "On way," and then sent another iMessage chat to CC-1 at approximately 1:18 p.m. stating "Here."

p. Based on my training, experience, and involvement in this investigation, I believe that in the foregoing exchange of

⁵ I believe that CC-1 was the user of CC-1 Cellphone-2 based, in part, on the fact that CC-1 Cellphone-2 was seized incident to CC-1's arrest from CC-1's person on or about June 30, 2020, and my review of the contents of CC-1 Cellphone-2, which includes several applications saved to the phone for which the user or account name is the first and last name of CC-1 and chats in which third parties refer to the user of CC-1 Cellphone-1 as the first name of CC-1. In addition, CC-1 Cellphone-2 is assigned a call number ("CC-1 Phone Number") which was identified as CC-1's phone number on an insurance claim filed in or about April 2018 in connection with a vehicular accident, and which transmitted electronic communications that were lawfully intercepted in or about summer and fall 2019 during which the user of that phone number was referred to as the first name of CC-1.

iMessage chats, JOSEPH agreed to purchase from CC-1 400 of the May Pills that CC-1 obtained pursuant to the prescriptions issued to CC-1 and CC-2 and filled on or about that same day the chats began, on or about May 6, 2020 (CC-1: "400"; JOSEPH: "Oh yeah keep em for me plz"). I further believe that JOSEPH executed their agreement the next day by meeting up with CC-1 to purchase the 400 pills ("On way"; "Here").

Early June 2020 Pills

q. On or about June 2, 2020, CC-1 Cellphone-2 sent a text message to the Joseph Phone Number, stating in substance and in part, "I go tomorrow so tomorrow [June 3] or Thursday." Based on my training, experience, and participation in this investigation, I believe CC-1 was informing JOSEPH that CC-1 was going to Doctor-1 the next day to obtain a prescription for oxycodone for the purpose of obtaining and supplying oxycodone to JOSEPH for resale.

r. BNE data shows that on or about June 3, 2020, CC-2 was issued a prescription by Doctor-1 for 240 30 mg oxycodone pills (the "Early June Pills"). The prescription issued to CC-2 was filled on or about the same day, June 3, 2020.

s. On or about June 3, 2020, between approximately 4:39 p.m. and 7:01 p.m., CC-1 Cellphone-2 and the Joseph Phone Number exchanged the following iMessage chats:

Sender	Recipient	Message
JOSEPH	CC-1	Yo, jus tryna be ready u think Tonight or tomorrow
CC-1	JOSEPH	Tonight 120
JOSEPH	CC-1	Ok
	
JOSEPH	CC-1	Ima Come now
CC-1	JOSEPH	Ok
JOSEPH	CC-1	Here

Based on my training, experience, and involvement in this investigation, I believe that in the foregoing exchange of text messages, JOSEPH agreed to purchase from CC-1 a portion of the Early June Pills that CC-1 obtained pursuant to the prescription CC-2 filled on or about June 3, 2020 (CC-1: "120"; JOSEPH: "Ok"), and later that day met in person with CC-1 to purchase the pills ("Here").

Late June 2020 Pills

t. Paper prescriptions obtained from Pharmacy-1 show that CC-1 and CC-2 were each issued prescriptions by Doctor-1 on or about June 25, 2020 (the "June 25 Prescriptions") for 240 30 mg oxycodone pills - together, a total of 480 pills.

u. On or about June 25, 2020, a Thursday (the same day the June 25 Prescriptions were issued), at approximately 4:12 p.m., CC-1 Cellphone-2 received an iMessage from the Joseph Phone Number stating, in substance and in part, "When's next." CC-1 responded approximately 49 minutes later, stating, in substance and in part, "Not sure yet will let you know Saturday [June 27, 2020]."

v. On or about June 27, 2020, CC-2 presented Pharmacy-1 with the June 25 Prescriptions and requested they be filled. On or about the same day, CC-1, using CC-1 Cellphone-1, exchanged the following consecutive text messages with the Joseph Phone Number, in substance and in part:

Sender	Recipient	Message
CC-1	JOSEPH	Hey have people getting them this week but the price would be 25 they are so in demand right now
JOSEPH	CC-1	Ok when
CC-1	JOSEPH	Monday or Tuesday the couldn't get them today

Based on my training, experience, and involvement in this investigation, I believe that CC-1 planned to resell the oxycodone pills prescribed through the June 25 Prescriptions, which CC-1 had presented to Pharmacy-1 that day. I further believe that in the foregoing exchange of text messages, CC-1 was expecting to obtain an unspecified quantity of oxycodone pills on "Monday" (June 29, 2020) or "Tuesday" (June 30, 2020) and that CC-1 planned to sell such pills for \$25 each ("the price would be 25 they are so in demand right now"), since oxycodone pills were "so in demand right now."

w. On or about June 29, 2020, at approximately 4:45 p.m., CC-1 Cellphone-1 received a text message from the Joseph Phone Number stating, in substance and in part, "Howmany tnite," which I believe, based on my training, experience, and involvement in this investigation, was an inquiry into the number of oxycodone pills CC-1 would have available that day to supply JOSEPH for resale. A review of CC-1 Cellphone-1 does not indicate whether

any response was sent from CC-1 Cellphone-1 to the foregoing text message.

x. Instead, beginning on or about June 29, 2020, between approximately 6:46 p.m. and 7:31 p.m., CC-1 Cellphone-2 and the Joseph Phone Number exchanged the following communications, in substance and in part:

Sender	Recipient	Message
JOSEPH	CC-1	Yo
CC-1	JOSEPH	Tomorrow
JOSEPH	CC-1	Damn
CC-1	JOSEPH	How many you want tomorrow
JOSEPH	CC-1	Whatever but why ? U gunna see someone else ?
JOSEPH	CC-1	I take em all
CC-1	JOSEPH	I am getting about 600 they are in damned big time
JOSEPH	CC-1	So what ru trying to say lol
CC-1	JOSEPH	I have to cash in now bought a pizzeria people are offering 25
JOSEPH	CC-1	Ok so I'll pay 25 jus save eveyrbjng for me if u can
CC-1	JOSEPH	Ok we will talk
JOSEPH	CC-1	Oh no lol
JOSEPH	CC-1	Don't sound good
CC-1	JOSEPH	It's ok your my boy first
JOSEPH	CC-1	Alright because I hope these kids aren't reachin out to our friend trying to ruin my thing of ours
JOSEPH	CC-1	But we will talk tkmmrwrw if I gotta oay 25 it is what it is
CC-1	JOSEPH	Np
JOSEPH	CC-1	So nothing comjn in tnite??
CC-1	JOSEPH	No

Based on my training, experience, and involvement in this investigation, I believe that in the foregoing exchange of iMessage chats, JOSEPH was inquiring with CC-1 whether the pills discussed on June 27, 2020 were yet available for JOSEPH to purchase. CC-1 informed JOSEPH that CC-1 expected to receive "about 600" oxycodone pills "tomorrow" and confirmed CC-1 would be selling the pills for \$25 per pill ("they are in damned [demand] big time people are offering 25"), which JOSEPH agreed to pay for the pills ("I'll pay 25 if I gotta oay 25 it is what it is"). JOSEPH further requested that CC-1 sell JOSEPH all of the pills ("about

600") CC-1 was expecting to obtain (*"jus save everyrbjng for me if u can"*) and expressed his view that he (JOSEPH) was one of CC-1's largest purchasers of oxycodone, and that he did not want other potential customers to interfere with their partnership (*"I hope these kids aren't reachin out to our friend trying to ruin my thing of ours"*).

y. On or about June 30, 2020, at approximately 2:22 p.m., CC-1 was arrested after law enforcement agents earlier in the day observed CC-2 purchase 240 oxycodone pills from Pharmacy-1, drive to meet with CC-1 in person, and then handoff to CC-1 a pharmacy bag containing the oxycodone pills. While detaining CC-1, law enforcement agents conducted a search of CC-1's person incident to arrest, and found on CC-1's person, among other items, CC-1 Cellphone-1 and CC-1 Cellphone-2, certain of the contents of which are discussed above.

z. Approximately 27 minutes after CC-1 was arrested and CC-1 Cellphone-1 and CC-1 Cellphone-2 were seized, CC-1 Cellphone-2 received an iMessage chat from JOSEPH stating, in substance and in part, "What time tonite."

9. Based on my review of phone records relating to the Joseph Phone Number, I have learned, in substance and in part, that the Joseph Phone Number received a phone call on or about July 1, 2020 (the day after CC-1 was arrested), at approximately 11:11 a.m., from a phone number for which the subscriber is CC-1's fiancée. That phone call lasted approximately two minutes.

The Identification of JOSEPH
as the User of the Joseph Phone Number

10. Based on my review of a commercial database reflecting insurance claims made in connection with motor vehicle accidents, my review of surveillance reports relating to ANDREW JOSEPH, the defendant, my conversations with another law enforcement agent who engaged in surveillance of JOSEPH, and my training and experience, I have learned the following, in substance and in part:

a. In or about May 2019, an insurance claim ("Claim") was made by an individual in the name of "Andrew T. Joseph" ("Claimant") in connection with a motor vehicle accident that occurred in or about April 2019. The listed year of birth for the Claimant on the Claim matches the year of birth that is listed for JOSEPH in law enforcement databases, and the Claimant's address matches the address of a residence ("Residence") where JOSEPH was

surveilled in or about July 2020. I therefore believe that JOSEPH is the Claimant.

b. The Claim lists as the Claimant's cellphone number the Joseph Phone Number. In addition, the Joseph Phone Number is saved in CC-1 Cellphone-1 and CC-1 Cellphone-2 under the first name "Drew," which I am aware is a nickname for JOSEPH's first name, "Andrew." I therefore believe that the Joseph Phone Number is used by JOSEPH.

c. As noted above, CC-1 Cellphone-2 is an Apple iPhone and exchanged iMessage chats with the Joseph Phone Number. Based on my training and experience, I am aware that an Apple iPhone can only exchange iMessage chats with another Apple iPhone; that is, non-Apple cellphones cannot send or receive iMessage chats. Accordingly, because the Joseph Phone Number was able to send and receive iMessage chats with CC-1 Cellphone-2, I believe that as of June 2020 the Joseph Phone Number was assigned to an Apple iPhone.

d. On or about July 22, 2020, at approximately 3:15 p.m., law enforcement agents were surveilling the Residence and observed an individual who appeared, based on the agents' familiarity with a law enforcement picture of JOSEPH, to be JOSEPH exiting the Residence and entering a vehicle ("Vehicle") parked in the driveway to the Residence.

e. The law enforcement agents then observed the Vehicle back out of the driveway to the Residence, hit another vehicle in the driveway, and then travel away from the Residence at a high rate of speed.

f. Shortly thereafter, law enforcement agents initiated a car stop of the Vehicle. When the agents approached the driver of the Vehicle, who they recognized as JOSEPH based on their familiarity with a law enforcement picture of JOSEPH, the driver of the Vehicle identified himself as JOSEPH. JOSEPH was the only person in the Vehicle. Law enforcement agents also observed a black Apple iPhone (the "Joseph iPhone"), with its base resting on JOSEPH's lap and its top resting against the steering wheel.

g. At approximately 3:17 p.m., one of the law enforcement agents called the Joseph Phone Number from a DEA-issued cellphone and observed the Joseph iPhone begin to ring in JOSEPH's lap. The screen to the Joseph iPhone identified the incoming caller as "Unknown," which is consistent - based on my training and experience - with how a caller ID functioning on an

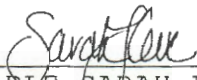
iPhone would display an incoming phone call from the DEA-issued cellphone used to call the Joseph Phone Number.

h. Accordingly, I believe the user of the Joseph Phone Number who was in communication with CC-1 concerning the sale and distribution of illicit oxycodone, as described above, is JOSEPH.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of ANDREW JOSEPH, the defendant, and that he be arrested and imprisoned, or bailed, as the case may be.

_____/S Kenneth McGrail (by Court
with authorization)_____
Kenneth McGrail
Special Agent
DEA

Sworn to me through the transmission of
this Affidavit by reliable electronic means,
pursuant to Federal Rules of Criminal Procedure 4.1 and
41(d)(3),
this 28th day of July, 2020



HONORABLE SARAH L. CAVE
United States Magistrate Judge
Southern District of New York