

AO 91 (Rev. 11/11) Criminal Complaint

FILED

UNITED STATES DISTRICT COURT

APR 16 2019

for the

Northern District of Alabama

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

United States of America)

v.)

Marshall Plotka, MD)

Case No.)

19-mj-164-SGC)

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 1/1/2015 through 4/15/2019 in the county of Madison in the Northern District of Alabama, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
21 U.S.C. § 856(a)(2)	Maintaining a Drug-Involved Premises

This criminal complaint is based on these facts:

See attached affidavit.

Continued on the attached sheet.

[Redacted Signature]

Complainant's signature

[Redacted Name], Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 04/16/2019

[Signature of Staci G. Cornelius]

Judge's signature

City and state: Birmingham Alabama

Staci G. Cornelius, United States Magistrate Judge

Printed name and title

FILED

APR 16 2019

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)
)
 v.) **Mag. No. 19-mj-164-SGC**
)
) **UNDER SEAL**
 MARSHALL PLOTKA, M.D.)

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, [REDACTED], being first duly sworn, state that the following is true to the best of my knowledge and belief:

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been since June 2016. I am currently assigned to the Huntsville, Alabama, Resident Agency, where I investigate matters involving violations of federal criminal law, including bank robberies, narcotics violations, fraud, crimes against children, theft, public corruption, health care fraud, and others.

2. I make this affidavit in support of an application under Rules 3 and 4 of the Federal Rules of Criminal Procedure for a warrant authorizing the arrest of Marshall Plotka, M.D. (“Dr. Plotka”). As a Federal law enforcement officer, I am authorized to execute arrest warrants under Rule 4(c)(1) of the Federal Rules of Criminal Procedure.

3. I seek this warrant because, as explained below, there is probable cause to believe that an offense has been committed and that Marshall Plotka committed it. *See* Fed. R. Crim. P. 4(a).

4. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other law enforcement officers and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

APPLICABLE LAW

5. This investigation concerns alleged violations of 21 U.S.C. § 856(a)(2), relating to maintaining a drug-involved premises.

6. Title 21, United States Code, Section 856(a)(2) makes it a Federal crime to control a place and knowingly and intentionally make it available for use by others for the purpose of using a controlled substance. The elements of a violation of 21 U.S.C. § 856(a)(2) are as follows:

- a. The defendant managed or controlled a place as an owner, lessee, agent, employee, occupant, or mortgagee; and
- b. The defendant knowingly and intentionally rented, leased, profited from, or made the place available for use for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

7. The Controlled Substances Act (“CSA”) governs the manufacture,

distribution, and dispensing of controlled substances in the United States. The CSA and its implementing regulations set forth which drugs and other substances are defined by law as “controlled substances,” and assign those controlled substances to one of five schedules (schedule I, II, III, IV, or V) depending on their potential for abuse, likelihood of physical or psychological dependency, accepted medical use, and accepted safety for use under medical supervision.

8. Pursuant to the CSA and its implementing regulations, the following are schedule I controlled substances:

- a) Heroin
- b) Marijuana

9. Pursuant to the CSA and its implementing regulations, the following are schedule II controlled substances:

- a) Cocaine
- b) Methamphetamine (also known as “meth” or “ice”)

10. Pursuant to the CSA and its implementing regulations, Suboxone is a schedule III controlled substance.

11. Pursuant to the CSA and its implementing regulations, alprazolam (also known by brand name Xanax) is a schedule IV controlled substance.

PROBABLE CAUSE SHOWING

12. I believe, and have summarized in this affidavit key facts in support of this belief, that there is probable cause to believe that between January 1, 2015 and April

15, 2019, Marshall Plotka unlawfully and knowingly managed and controlled [REDACTED] [REDACTED] as an owner, occupant, or mortgagee, and knowingly and intentionally made it available for use for the purpose of unlawfully storing, distributing, or using a controlled substance, in violation of Title 21, United States Code, Section 856(a)(2).

13. This affidavit establishes that Dr. Plotka has made his house, at [REDACTED] [REDACTED], available to others for the purpose of using controlled substances, including heroin, methamphetamine, cocaine, and marijuana. The drug users at [REDACTED] [REDACTED] were often women that Dr. Plotka hired as prostitutes. He allowed these young women (and sometimes their siblings and associates) to live at [REDACTED], and he provided for their basic needs, including food, clothing, and money. He gave them money for anything they needed, including drugs. He also recruited them as patients at his clinic.

14. Pursuant to the investigation, and relevant to this affidavit, agents have executed search warrants on the following premises:

- a) Apple, Inc., for Dr. Plotka's iCloud account. Among other evidence, agents have obtained text communications to and from Dr. Plotka going back to January 1, 2013.
- b) CompuGroup Medical, for Dr. Plotka's electronic medical records. Agents have obtained medical records for some of Dr. Plotka's patients.
- c) [REDACTED].

15. In or about December 2018, I was notified by Huntsville Police Department

(HPD) officers regarding suspicious activity at Dr. Plotka's residence, [REDACTED] [REDACTED]. Since October 2015, HPD has had 35 calls for service at [REDACTED].

16. On February 25, 2018, HPD was dispatched to [REDACTED] in reference to a drug overdose. Upon arrival, officers found that E.S, a 30-year-old female who was spending the night at the residence, had overdosed on heroin while at [REDACTED]. She was transported to Huntsville Hospital by paramedics. According to CompuGroup Medical records, E.S. has been Dr. Plotka's patient on and off since December 2013.

17. Dr. Plotka's iCloud account contains messages between Dr. Plotka and E.S. going back to 2013. The communications between Dr. Plotka and E.S. include discussions of E.S's illicit drug use, her prostitution, and her role as a patient at Dr. Plotka's clinic. E.S. and Dr. Plotka also discussed Dr. Plotka purchasing illicit drugs for E.S. less than two months after her overdose at his house. On April 1, 2018, E.S. sent a message to Dr. Plotka that started with "Hey babe, surprising news : The two points you bought me are insufficiently packaged, Within the two little packaged papers there is an estimate of one point not two the powder wasn't positioned as usual and looked as if it was tampered with. I have less than a point to keep from being sick" Based on my training and experience, I know that a "point" refers to a tenth of one gram (0.1g) of a drug, such as heroin. A "point" (one-tenth of a

gram) is a typical dose of drugs such as heroin. Dr. Plotka's response to E.S. was "I'm trying to help with Suboxone, but apparently I need to be a dope dealer." Approximately 50 minutes later, Dr. Plotka asked E.S. "How much \$?" She replied, "75. 3." Dr. Plotka responded to E.S. with "FUCK!!! Last time?" E.S. replied, "Yes babe I should make sum money today but I'm not sure who or where or when and I need appointment for weds morning asap I'm gonna figure out bitcoin for temporary work .." Based on the conversation, I have probable cause to believe that Dr. Plotka had purchased two doses measuring a total of two-tenths of a gram (0.2 grams, hence "two points") of heroin for E.S.; and, when those two doses did not satisfy E.S., Dr. Plotka purchased her three more doses measuring a total of three-tenths of a gram (0.3 grams) of heroin for \$75.

18. On April 29, 2018, HPD officers were dispatched to the home of Dr. Plotka. Officers encountered T.L.R. and B.N.R. in a car in Dr. Plotka's driveway. As officers approached the car, they observed T.L.R. open the driver's door and drop something on the ground. When officers approached the car, they saw a firearm between the driver's seat and the center console, and a digital scale in a bag in the back seat. In a search of the car, officers discovered approximately 26 grams of crystal meth, approximately 3.3 grams of heroin, approximately 5 grams of cocaine (powder and crack), approximately five alprazolam pills, and a .22 caliber rifle. B.N.R. told HPD Officer Blake Dean that she was in T.L.R.'s car because she was

buying heroin for someone in the house ([REDACTED]). HPD officers seized the drug evidence but did not arrest T.L.R. that night.

19. Dr. Plotka’s iCloud account contains over a hundred messages between Dr. Plotka and T.L.R.. Shortly following T.L.R.’s encounter with HPD on April 29, 2018, T.L.R. and Dr. Plotka had the following exchange:

T.L.R.	4/30/2018 4:24:10 AM(UTC+0)	Unc I'm not mad at u it's my fault for being friendly tryna help people. I don't have shit no more and I'm probably going to get life in prison. I feel as though I'm going to go into Kamikaze mode because I refuse to snitch on anybody and I ain't going back to prison. I got 40 bucks to my name. Is there any kind of way u could loan me a \$1000? If not it's OK and I'd still kill someone for u.i really need it.
Dr. Plotka	4/30/2018 4:27:54 AM(UTC+0)	[T.L.R.]. I'm so sorry. I had no idea. [B.N.R.] wreaks havoc & skips right on through oblivious to what she is doing. I don't have that \$ now, but I might could raise it by midweek.


20. On May 23, 2018, T.L.R. and Dr. Plotka again discussed what happened at [REDACTED] on April 29, 2018:

T.L.R.	5/23/2018 8:05:51 PM(UTC+0)	Ah unc would u please stop telling people about the incident at your place
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Dr. Plotka	5/23/2018 8:26:56 PM(UTC+0)	Don't worry, [T.L.R.]. I haven't. BUT [K.M.] TEXTED ME & ASKED me What Happened at my House! I told her I couldn't text about it, but would tell her in person. Then she blocked me. Today was the first time I talked to her since. Otherwise, I haven't talked to anyone about it who wasn't there.
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21. Also on May 23, 2018, HPD officers and Huntsville Emergency Medical Services, Inc. (HEMSI) were dispatched to the home of Dr. Plotka; there they found a 22-year-old male, B.J.R., who had overdosed on heroin and methamphetamine. HEMSI paramedics administered intranasal Narcan on B.J.R., which they reported as successful. HEMSI then transported B.J.R. to Huntsville Hospital. When interviewed, witnesses who were present that day stated that multiple lines of heroin were cut out on the kitchen island for B.J.R. to snort. Witnesses stated that Dr. Plotka was home at the time of the overdose and were confident Dr. Plotka knew the drugs were lined out on his kitchen counter.

22. In a text message exchange on June 9, 2018, with B.N. (a prostitute and Dr. Plotka's ex-girlfriend), Dr. Plotka acknowledges that his house is a place where people purchase, sell, store, and use illicit controlled substances:

B.N.	6/19/2018 4:44:50 PM(UTC+0)	Can u get any Xanax I know u know some I can't get high from anyone's boy:(
Dr. Plotka	6/19/2018 5:11:16 PM(UTC+0)	What makes you think I know a Xanax source? 

BN	6/19/2018 5:25:52 PM(UTC+0)	Ur pad
Dr. Plotka	6/19/2018 5:26:51 PM(UTC+0)	You mean, Dr Plotka's Fun House?

Based on my training and experience, I know that “boy” is slang term for heroin.

23. On November 15, 2018, HPD officers were called to the vicinity of Dr. Plotka’s residence in reference to a white female “behaving delusional” and pointing to people who were not present. The female, who was identified as 20-year-old B.N.R., told officers and paramedics that she had been doing methamphetamine and that individuals at Dr. Plotka’s residence were “after her.” B.N.R. was living with Dr. Plotka at the time and sharing his bedroom. According to CompuGroup Medical records, B.N.R. has been Dr. Plotka’s patient since 2015. Officers reported to [REDACTED] and found multiple individuals at the residence, including 19 year-old A.P. A.P. told officers she had only been staying at Dr. Plotka’s house for a couple of days. She was in a bedroom with M.B. when officers arrived. She stated that she and M.B. had exited the room when officers arrived and that M.B. had thrown some Xanax while trying to hide from police. Officers searched the premises and located two rocks of methamphetamine in the master bedroom that B.N.R. shared with Dr. Plotka. Officers also found empty plastic baggies with methamphetamine residue in the master bathroom, a plastic cellophane wrapper

containing nine Xanax pills in the laundry room, and one plastic bag of methamphetamine in the bedroom where A.P. was staying.

24. Also during the search, A.P. showed officers her cellular phone, showing iMessages she had exchanged with Dr. Plotka. Officers took photographs of the iMessage exchange. In the iMessage exchange, A.P. asked Dr. Plotka for \$40 so that she and B.N.R. could get some Xanax. A.P. stated, “[B.N.R.] just needs to calm down[;] I just wanna love on both of y’all man.” Dr. Plotka responded “Come get it;” to which A.P. responded “I love you.” The iMessage shows the conversation is with a contact saved as “Marshall” with heart and blushing emojis.

25. Examination of A.P.’s contact list showed that this contact is for the number [REDACTED], which is known to be Dr. Plotka’s telephone number. In response to a subpoena, Apple confirmed that telephone number [REDACTED] is registered to Marshall Plotka at [REDACTED].

26. On March 27, 2019, FBI agents executed a search warrant at [REDACTED]. During the search, agents found the following drug paraphernalia items indicating sustained illicit drug use at [REDACTED]:

- a) A used syringe, along with empty cellophane baggie and measuring spoons, found on the kitchen island;
- b) A box of used needles, found in the master bathroom;
- c) A used spoon, found in the master bathroom;
- d) A piece of foil that had been used to cook an unknown substance, found in an upstairs bedroom;
- e) Two small baggies containing residue of an unknown substance, found in an

upstairs room;

- f) A pipe containing residue, found in an upstairs bathroom;
- g) A container with needles, found in a downstairs bathroom.

27. I know from my training and experience that these found items are used to store and administer scheduled drugs such as heroin, cocaine, and methamphetamine.

28. Special Agent Matthew Bitterman interviewed K.B. at [REDACTED] during the execution of the search warrant on March 27, 2019. According to K.B., [REDACTED] is a known location where people use drugs. K.B. identified at least two young women—B.N. and K.M.—who Dr. Plotka has supplied with money for drugs. Dr. Plotka's iCloud account corroborates K.B.'s characterization of his relationship with B.N. and K.M.

29. Special Agent Bitterman also interviewed J.C. at [REDACTED] during the execution of the search warrant on March 27, 2019. J.C. reported that people regularly used illicit drugs at [REDACTED] and that Dr. Plotka always had needles on hand. According to J.C., when drug users came to [REDACTED], they would ask Plotka for needles to use for shooting up heroin. J.C. recalled one occasion in which he asked Dr. Plotka for a needle for heroin.

30. I interviewed Dr. Plotka on March 27, 2019, during the execution of the search warrant at [REDACTED]. After waiving his *Miranda* rights, Dr. Plotka admitted that he has seen syringes in his house and knows that people use illegal

drugs in his house. Dr. Plotka further admitted that nearly all of his spoons have gone missing, and that he concluded that the spoons were being used for illegal drug use at his house.

31. I interviewed Witness 1, a former associate and patient of Dr. Plotka who has known Dr. Plotka since at least 2015. According to CompuGroup Medical records, Witness 1 was Dr. Plotka's patient in 2015 and 2016. Witness 1 reported seeing B.N.R. overdose at [REDACTED]. Witness 1 also said that she witnessed Dr. Plotka's ex-girlfriend, A.S. overdose on opioids at [REDACTED] multiple times. According to Witness 1, Dr. Plotka repeatedly gave B.N.R. and A.S. money to purchase drugs. Plotka's iCloud account contains a video recorded on June 1, 2016 that was taken by Dr. Plotka (his voice, which I recognize from interviewing him, is heard on the recording and individuals in the room refer to him as "Marshall"). The video shows A.S. (who Dr. Plotka calls by a nickname in the video) under the influence of drugs. A.S. is sitting at a table and appears to be drifting in and out of consciousness. On the table in front of her is a knife, spoon, small baggie, lighter, and a needle. A.S. is heard saying "one more shot and then we can go." Dr. Plotka responds "how you gonna do a shot? You're gonna fucking kill yourself." A few seconds later, Dr. Plotka states "[A.S.], you really think you need some more of anything right now?" The video ends before she takes another "shot." According to CompuGroup Medical records, A.S. has been Dr. Plotka's patient since

2015.

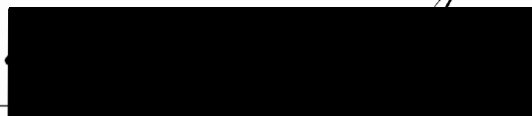

32. Witness 1 also reported smoking marijuana with Dr. Plotka and seeing him give out Suboxone and Lortab (a Schedule II controlled substance containing hydrocodone and acetaminophen) at [REDACTED]. According to Witness 1, Dr. Plotka placed Suboxone strips on postage stamps to get Suboxone to T.L.R. while he was incarcerated in jail.

33. I interviewed Witness 2, another former patient of Dr. Plotka's. Witness 2 reported using drugs at [REDACTED], including marijuana and cocaine.


34. FBI agents interviewed Witness 3, a third former patient of Dr. Plotka's. Witness 3 reported that she was a long-time heroin addict, but has been clean for approximately four years. According to Witness 3, Dr. Plotka hired her as a prostitute as early as 2014. Dr. Plotka's iCloud account corroborates Witness 3's account—communications between Dr. Plotka and Witness 3 go back to at least January 2014. Witness 3 reported that she has been to [REDACTED] on numerous occasions. She said that there was always evidence of drug use at [REDACTED] including used needles and spoons. Witness 3 stated Dr. Plotka has given her money for drugs, and that she has used drugs, including heroin, at [REDACTED] on multiple occasions. Witness 3 also said that Dr. Plotka admitted to her that he had used heroin and crack cocaine with B.N.R.. Witness 3 reported seeing A.S. use heroin at [REDACTED] in front of Dr. Plotka.

CONCLUSION

35. Based on the foregoing, I have probable cause to believe that Marshall Plotka, M.D. has committed the offense of maintaining a drug-involved premises, in violation of Title 21, United States Code, Section 856(a)(2), as charged in the accompanying criminal complaint.


Special Agent 
Federal Bureau of Investigation

Sworn to me this 16th day of April 2019.


Staci G. Cornelius
United States Magistrate Judge
Northern District of Alabama