

FILED 20 JUN '17 13:19 USDC-ORP

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION**

**UNITED STATES OF AMERICA**

**3:17-CR-**

**00226-JO**

**v.**

**W. JOSEPH ASTARITA,**

**Defendant.**

**INDICTMENT  
18 U.S.C. § 1001  
18 U.S.C. § 1512(b)(3)**

**UNDER SEAL**

**THE GRAND JURY CHARGES:  
INTRODUCTORY ALLEGATIONS**

At all times relevant to this Indictment:

1. Defendant W. JOSEPH ASTARITA was a Special Agent of the Federal Bureau of Investigation (FBI), and a member of the FBI's Hostage Rescue Team (HRT).
2. The FBI had a policy in place requiring that the Bureau's Shooting Incident Response Team investigate all agent-involved shooting incidents. Defendant W. JOSEPH ASTARITA was aware of that policy.
3. On January 26, 2016, defendant W. JOSEPH ASTARITA was one of a number of FBI agents assigned to the armed occupation of the Malheur National Wildlife Refuge in Harney County, Oregon, who were tasked with attempting to apprehend certain members and leaders of the occupation, including Robert LaVoy Finicum and Ryan Bundy, as they traveled from the Malheur National Wildlife Refuge to Grant County, Oregon.

4. During the attempt to arrest the leaders of the occupation, Robert LaVoy Finicum fled the scene of a traffic stop at a high rate of speed and was pursued by members of the FBI's HRT and the Oregon State Police (OSP). In an attempt to evade a roadblock set up by the FBI and OSP, Robert LaVoy Finicum drove off the road and into a snow bank, almost running over an FBI HRT member. After failing to follow multiple commands to put up his hands, Robert LaVoy Finicum was shot by Oregon State Police personnel while attempting to reach for a firearm inside his jacket.

5. The Deschutes County Major Incident Team, assisted by OSP Detectives, led the investigation of the officer-involved shooting by OSP.

6. The FBI Supervisory Special Agents identified in this indictment by their initials are all members of the HRT. Their full names are known to the grand jury. They are identified herein by their initials to protect their personal security.

**COUNT 1**  
**(False Statement)**  
**(18 U.S.C. § 1001)**

On or about January 26, 2016, within the District of Oregon, W. JOSEPH ASTARITA, defendant herein, in a matter within the jurisdiction of the Federal Bureau of Investigation, knowingly and willfully made a false statement to Supervisory Special Agent B.M., knowing that the statement was false and material to FBI's decision not to call the Shooting Incident Response Team to investigate the propriety of an agent-involved shooting. Specifically, defendant W. JOSEPH ASTARITA falsely stated he had not fired his weapon during the attempted arrest of Robert LaVoy Finicum, when he knew then and there that he had fired his weapon.

All in violation of Title 18, United States Code, Section 1001.

**COUNT 2**  
**(False Statement)**  
**(18 U.S.C. § 1001)**

On or about January 26, 2016, within the District of Oregon, W. JOSEPH ASTARITA, defendant herein, in a matter within the jurisdiction of the Federal Bureau of Investigation, knowingly and willfully made a false statement to Supervisory Special Agent I. M., knowing that the statement was false and material to the FBI's decision not to call the Shooting Incident Response Team to investigate the propriety of an agent-involved shooting. Specifically, defendant W. JOSEPH ASTARITA falsely stated he had not fired his weapon during the attempted arrest of Robert LaVoy Finicum, when he knew then and there that he had fired his weapon.

All in violation of Title 18, United States Code, Section 1001.

**COUNT 3**  
**(False Statement)**  
**(18 U.S.C. § 1001)**

On or between January 27, 2016, and February 6, 2016, within the District of Oregon, W. JOSEPH ASTARITA, defendant herein, in a matter within the jurisdiction of the Federal Bureau of Investigation, knowingly and willfully made a false statement to Supervisory Special Agent T.S., knowing that the statement was false and material to the FBI's decision not to call the Shooting Incident Response Team to investigate the propriety of an agent-involved shooting. Specifically, defendant W. JOSEPH ASTARITA falsely stated he had not fired his weapon during the attempted arrest of Robert LaVoy Finicum, when he knew then and there that he had fired his weapon.

All in violation of Title 18, United States Code, Section 1001.

**COUNT 4**  
**(Obstruction of Justice)**  
**(18 U.S.C. § 1512(b)(3))**

On or about January 26, 2016, within the District of Oregon, W. JOSEPH ASTARITA, defendant herein, did knowingly engage in misleading conduct toward another person, that is, officers of the Oregon State Police, by failing to disclose that he had fired two rounds during the attempted arrest of Robert LaVoy Finicum. In failing to make that disclosure, defendant acted with the intent to hinder, delay and prevent the communication of information from the Oregon State Police to the Federal Bureau of Investigation relating to the possible commission of a federal offense.

All in violation of Title 18, United States Code, Section 1512(b)(3).

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**COUNT 5**  
**(Obstruction of Justice)**  
**(18 U.S.C. § 1512(b)(3))**

On or about February 6, 2016, within the District of Oregon, W. JOSEPH ASTARITA, defendant herein, did knowingly engage in misleading conduct toward another person, that is, officers of the Oregon State Police, by failing to disclose that he had fired two rounds during the attempted arrest of Robert LaVoy Finicum. In failing to make that disclosure, defendant acted with the intent to hinder, delay and prevent the communication of information from the Oregon State Police to the Federal Bureau of Investigation relating to the possible commission of a federal offense.

All in violation of Title 18, United States Code, Section 1512(b)(3).

DATED this 20 day of June 2017.

A TRUE BILL.

OFFICIATING FOREPERSON

Presented by:

BILLY J. WILLIAMS  
United States Attorney



PAMALA R. HOLSINGER

GARY Y. SUSSMAN  
Assistant United States Attorneys