

UNITED STATES DISTRICT COURT

for the Southern District of Florida

United States of America

v.

MALINSKY BAZILE,

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Case No. 13-2316-Dubé

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 January 2012-September 2012 in the county of Miami-Dade in the Southern District of Florida, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Rows include 18 U.S.C. § 1029(a)(2) Use of Unauthorized Access Devices, 18 U.S.C. § 1030(a)(4) Fraud and Related Activity in Connection with Computers, and 18 U.S.C. § 1028A(a)(1) Aggravated Identity Theft.

This criminal complaint is based on these facts: See attached affidavit.

Continued on the attached sheet.

Donald P. Morin Complainant's signature

Donald P. Morin, FBI Special Agent Printed name and title

Sworn to before me and signed in my presence.

Date: 03/06/2013

Judge's signature

City and state: Miami, Florida

U.S. Magistrate Judge Robert Dube Printed name and title

AFFIDAVIT

I, Donald Morin, being duly sworn, state the following is true and correct to the best of my knowledge:

Introduction

1. I am a Special Agent (“SA”) of the Federal Bureau of Investigation (“FBI”) and have been so employed since 1999. I am currently assigned to the Miami Division of the FBI where my investigative responsibilities include public corruption and civil rights matters. In my work with the FBI, I have conducted numerous investigations concerning violations of federal laws by public officials.

2. Based on my training and experience, and information provided by other law enforcement officers, I am aware that identity theft tax fraud schemes are prevalent in the Miami area. The basic scheme works as follows: (a) an identity thief obtains personal identification information (names, dates of birth, and Social Security numbers) of victims through a compromised source (e.g., an employee at a medical facility); (b) this personal identification information is used to file fraudulent U.S. income tax returns with the Internal Revenue Service for the purpose of obtaining a fraudulent tax refund; (c) the tax refunds are paid out by the Department of Treasury either in the form of U.S. Treasury checks or onto a pre-paid debit card; and (d) the identity thief then depletes the funds by cashing the checks or withdrawing money from the pre-paid debit cards.

3. This affidavit is submitted in support of a criminal complaint charging Malinsky BAZILE with a violation of Title 18, United States Code, Sections 1028A (aggravated identity theft), 1029(a)(2) (use of unauthorized access devices), and 1030(a)(4) (fraud and related activity in connection with computers).

4. The facts in this affidavit are based on my personal knowledge, information provided by other law enforcement officers, and information provided by witnesses, documents, and the sources described herein. This affidavit is submitted for the limited purpose of establishing probable cause that BAZILE committed the offenses set forth in the attached complaint. This affidavit does not include each and every fact known to law enforcement concerning this investigation.

Investigation

5. The FBI and the City of Miami Police Department (“MPD”) Internal Affairs (“IA”) have been conducting an investigation of MPD officer BAZILE regarding his involvement in an identity theft tax refund fraud conspiracy since 2011.

Part I: Initial Information on BAZILE

6. The investigation started based upon information indicating that BAZILE was likely a source of personal identifying information for an identity theft tax refund fraud scheme being perpetrated by his step-brother Jean-Baptiste Charles.

7. On March 11, 2011, a detective in the Fort Lauderdale Police Department (“FLPD”) conducted a traffic stop of Charles in a rented 2011 Mercedes. Because Charles was not the registered owner of the vehicle and the detective could not reach the owner, the detective towed the vehicle. An inventory search of the vehicle revealed the following: (a) 10 pre-paid debit cards; (b) multiple money order receipts; and (c) \$4,316.00 in U.S. currency. Records from the debit card companies revealed that the 10 pre-paid debit cards were each registered to different individuals. The detective contacted a number of these individuals. None of them had ordered the debit cards nor had they authorized Charles to have a pre-paid debit card in their name. On those cards, there were 25 different people’s tax refunds loaded onto them totaling

approximately \$31,000. Bank records showed numerous ATM withdrawals and money order purchases from those debit cards on March 11, 2011.

8. After this incident, FBI and MPD IA learned that BAZILE lived with Charles around this time. FBI and MPD IA also obtained a suspicious recorded call between Charles and BAZILE when Charles was in custody.

9. MPD IA conducted an investigation into BAZILE's Internet-based search queries and determined that BAZILE had run over one thousand people's personal information on the Florida Department of Highway and Safety Vehicle's driver's license record database ("DAVID") in a suspicious manner (as further explained below). DAVID is a protected database that provides law enforcement officers with information such as the name, date of birth, and Social Security number of individuals. It is to be used only for law enforcement purposes when accessed by law enforcement officials.

10. MPD IA noted that, among these queries, BAZILE had run the names of three of the ten individuals for whom Charles possessed debit cards. BAZILE had run these queries prior to the date that Charles possessed these debit cards.

Part II: Suspicious Queries by BAZILE

11. As part of its investigation, MPD IA installed a device on BAZILE's MPD-issued laptop that tracked his keystrokes. MPD policy allows the monitoring of usage of MPD-issued computers by MPD officers. The computer is password protected and officers are advised to prevent use by unauthorized persons.

12. On June 22 and 23, 2012, BAZILE logged onto his MPD-issued laptop. BAZILE utilized the DAVID system to conduct the following search queries: (1) the first search was for females between the age of 57 and 61 with the first name beginning with A and last name

Rogers; (2) the second search was for females between the age of 57 and 61 with the first name beginning with B and last name Rogers; and (3) the third search was for females between the ages of 57 and 61 with the first name beginning with C and the last name Rogers. For each of these searches, BAZILE clicked through to view the profile of many of these women. Once the profile is viewed, BAZILE had access to (among other information) the full name, date of birth, and Social Security number of the individual. Many of these women that the defendant clicked on were located outside the city of Miami in various cities in North Florida or Central Florida.

13. BAZILE was required to input the purpose of his DAVID inquiry, and he checked the box "Dispatch." MPD records have no police dispatch records for BAZILE on June 22, 2012 and BAZILE was on a scheduled vacation on this date.

14. BAZILE ran more suspicious queries over the next couple of months on multiple occasions. Below is a sample of the suspicious queries that were run:

Approximate Date	Query
July 3, 2012	Search on DAVID of females in Florida aged 57 to 61 with first names beginning with B, C, and D and last name Sanders
July 9, 2012	Search on DAVID of females in Florida aged 57 to 61 with first names beginning with A and last name Martinez
July 26, 2012 & July 27, 2012	Search on DAVID of females in Florida aged 57 to 61 with first names beginning with A, B, C and D and last name Gonzalez
August 22, 2012	Search on DAVID of females in Florida aged 57 to 61 with first name beginning with A and last name Lopez
August 25, 2012	Search on DAVID of females in Florida aged 57 to 61 with first names beginning with A, B, C and D and last name Harrison

For each of these searches, BAZILE clicked through to view the profile of several of these women and thereby had access to the date of birth and Social Security number of these women.

15. A name, with a corresponding date of birth and Social Security number, is very valuable to identity thieves. This information can be used, in conjunction with false and fictitious return information, to file a tax return seeking a refund with the Internal Revenue Service (“IRS”).

16. The IRS keeps a record of tax returns logged by name. IRS records show that there were fraudulent returns filed in the names queried by BAZILE just days after they were searched by BAZILE.

17. For example, on June 22 and 23, 2012, BAZILE searched the names of multiple women with the last name Rogers. From June 25 through 29, 2012, there were eight returns filed for women with the last name Rogers searched by BAZILE. All eight returns listed the income as unemployment compensation of \$6,500. Five of the returns sought identical refunds of \$1,700 and the remaining three sought an identical refund of \$1,142. All of the returns sought payment on a pre-paid debit card.

18. This pattern of fraudulent returns was repeated with respect to the names that BAZILE searched in the later months. A sample of this pattern of activity is outlined in the chart below:

Search Date	Query	Tax Return Date(s)	Number of Returns	Tax Return Pattern
July 3, 2012	Females with Last name Sanders	July 10, 2012 - July 22, 2012	8	All eight have identical compensation and refund amounts.
July 9, 2012	Females with last name Martinez	August 4, 2012	2	Both returns have identical compensation and refund amounts.
July 26, 2012 & July 27, 2012	Females with last name Gonzalez	August 11, 2012 & August 21, 2012	3	All three returns have nearly identical compensation and refund amounts

19. Pre-paid debit card records of individuals searched by BAZILE were subpoenaed during the course of the investigation. The debit card records showed tax refund deposits and withdrawals of money from these cards at ATMs in the Miami area. Investigators obtained numerous ATM photos from different dates in May, June, and July 2012. BAZILE was the person withdrawing the money in each of those photos. BAZILE withdrew thousands of dollars from these ATMs. Below is a sample image from an ATM withdrawal made by BAZILE in July 2012:



20. On October 1, 2012, an FBI agent and an FBI Task Force Officer (“TFO”) interviewed BAZILE at his residence. The FBI agent and the TFO presented the evidence against BAZILE. BAZILE agreed to cooperate with the investigation. BAZILE signed a written confession where he admitted (1) that he used DAVID on his MPD-issued computer to find personal information of victims to file fraudulent tax returns; (2) that he withdrew money from pre-paid debit cards loaded with fraudulent tax refunds of these victims at ATMs; and (3) that he

made approximately \$130,000 to \$140,000 in 2011 and 2012 from the scheme. BAZILE also consented to a search of his residence. Officers discovered in the residence ledgers with hundreds of people's personal identification information and pre-paid debit cards.

Investigation

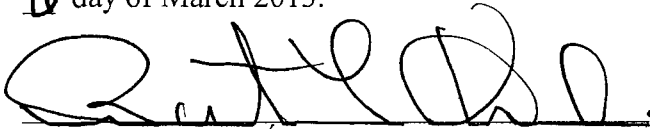
21. Based on the foregoing facts, I submit that there is probable cause to believe that:
- From in or around January 2012, continuing through in or around September 2012, in Miami-Dade County, the defendant, **MALINSKY BAZILE**, did knowingly, and with intent to defraud, use and traffic in one or more unauthorized access devices, that is, debit cards issued in other people's names, during any one-year period, and by such conduct did obtain anything of value aggregating \$1,000 or more during that period, said conduct affecting interstate and foreign commerce, in violation of Title 18, United States Code, Section 1029(a)(2).
 - From in or around January 2012, continuing through in or around September 2012, in Miami-Dade County, the defendant, **MALINSKY BAZILE**, did knowingly, and with intent to defraud, exceed his authorized access to a protected computer, and by means of such conduct, furthered an intended fraud, and obtained something of value, that is, personal identifying information of over 1,000 individuals, which were to be used in an identity theft tax refund fraud scheme, in violation of Title 18, United States Code, Section 1030(a)(4).

- On or about January 23, 2012, in Miami-Dade County, the defendant, **MALINSKY BAZILE**, during and in relation to a felony violation of Title 18, United States Code, Section 1029(a)(2), that is, knowingly, and with intent to defraud, using and trafficking in one or more unauthorized access devices, that is, debit cards in the names of other persons, during any one-year period, and by such conduct did obtain anything of value aggregating \$1,000 or more during that period, said conduct affecting interstate and foreign commerce, as charged in Count 1, did knowingly transfer, possess, and use, without lawful authority, the means of identification of another person, that is, the name and Social Security number of "B.R.," in violation of Title 18, United States Code, Section 1028A(a)(1).

FURTHER YOUR AFFIANT SAYETH NAUGHT.


DONALD P. MORIN
FBI SPECIAL AGENT

Subscribed and Sworn to before me in Miami, Florida, this
6 day of March 2013.


ROBERT L. DUBÉ
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF FLORIDA