

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

United States of America
v.

Case No. 14-2027-white

FRANCISCO FERNANDO CRUZ,

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 9, 2014 in the county of Miami-Dade in the Southern District of Florida, the defendant(s) violated:

Code Section
18 U.S.C. § 875(c)

Offense Description
Transmitting a Threat in Interstate or Foreign Commerce

This criminal complaint is based on these facts:

AFFIDAVIT ATTACHED.

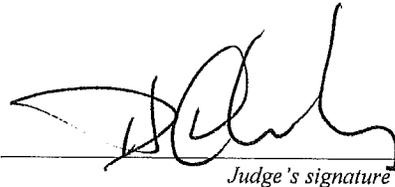
Continued on the attached sheet.


Complainant's signature

Special Agent Affell Grier, Jr., FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: January 10, 2014


Judge's signature

City and state: Miami, Florida

Patrick A. White, U.S. Magistrate Judge
Printed name and title

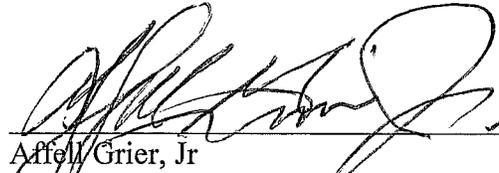
AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I Affell Grier, Jr., being duly sworn, depose and state:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed since January 1989. I am presently assigned to the FBI Miami Division's Airport Squad where I have participated in investigations involving crimes concerning airport security and aircraft transportation. My current duties and responsibilities also include investigating individuals who make false statements and threats.
2. The facts contained in this affidavit are based on my personal knowledge, as well as information relayed to me by other law enforcement personnel involved in this investigation. Because this affidavit is being submitted for the limited purpose of establishing probable cause for a criminal complaint, it does not contain every fact known to me as a result of this investigation.
3. On January 8, 2014, at approximately 2:02pm, an e-mail was sent from e-mail address sb.tam2014@gmail.com to the Miami Dade Police Department (MDPD) as well as TAM Airlines. The content of the e-mail made a specific threat against TAM Airlines Flight JJ8043 which was to depart on January 10, 2014, from Miami to Brasilia. The threat stated the following: "Flight must not take off. Targeted. It will go down. Retaliation. Cargo is dangerous. Be advised."
4. The MDPD was able to trace the origin of the e-mail and determined the e-mail originated from a computer at Montclair State University in Montclair, NJ. The university was able to capture video of the person that utilized the kiosk that sent the e-mail.
5. On January 9, 2014, at approximately 8:47am, a second e-mail was received from sb.tam2014@gmail.com, which reiterated the same threat against TAM Airlines Flight JJ8043. The second e-mail was traced back to a residence in Montclair, NJ. The FBI interviewed a witness at the address and it was determined that Francisco Fernando Cruz, dob 5/21/1991 (hereinafter Cruz), was the individual who would have been on the computer at the time the second e-mail was sent. Law enforcement was also able to establish that the individual that was captured on the video at Montclair State University was also Cruz, as identified by a person at the home where he was staying. Further, the witness told the agents that Cruz was traveling that day from New York via Miami to Brazil.
6. Based on the witnesses' statements, agents found airline records indicating that Cruz was ticketed to fly from La Guardia to Charlotte and then to Miami. Also, Cruz was on the passenger list for TAM flight 8043 from Miami to Brasilia on January 10, 2014.
7. On January 9, 2014, at approximately 11:40pm, law enforcement responded to U.S. Airways Flight #1919 arriving from Charlotte. Law Enforcement personnel interviewed passenger Cruz, regarding two e-mail threats sent MDPD and TAM Airlines from the Montclair, New Jersey area on January 8 and 9, 2014.

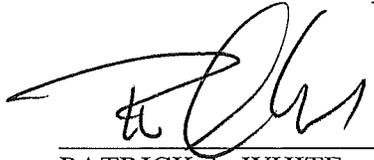
8. After waiving his Miranda rights, Cruz confessed to sending the two threatening e-mails. Cruz stated he was playing a dare game to see if would get a response to his e-mails.
9. Based on the foregoing, there is probable cause to believe that Francisco Fernando Cruz knowingly transmitted in interstate or foreign commerce a communication containing a threat to injure the person of another, violation of 18 USC 875(c).

FURTHER YOUR AFFIANT SAYETH NOT



Affell Grier, Jr
Special Agent, Federal Bureau of Investigation

Sworn to before me this 10th day of January, 2014.



PATRICK A. WHITE
Magistrate Judge
Southern District of Florida