

4. A controlled substance involved in the offense was mixtures and substances containing a detectable amount of marijuana in violation of 21 U.S.C. § 841(b)(1)(D).

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

The bases for my knowledge and for the foregoing charges are, in part, as follows:

5. I am currently employed as a Special Agent with the Department of Homeland Security, Office of the Inspector General, and I am one of the officers with primary responsibility for this investigation. I have been personally involved in the investigation of this matter, and I base this affidavit on that personal experience, as well as on my conversations with law enforcement agents and others, and my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of establishing 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

6. I know from documents available to me through my position at DHS-OIG that KORDELL NESBITT, the defendant, is a Immigration Enforcement Agent with Immigration and Customs Enforcement, within the United States Department of Homeland Security. In his position, NESBITT is responsible for, among other things, escorting detained aliens both within the United States and internationally to foreign countries. As a result of his position with Immigration and Customs Enforcement, NESBITT is authorized to carry a firearm at all times, and is able to avoid screening measures at airports to which civilian travelers are typically subjected. I also know from documents available to me through DHS-OIG that NESBITT has listed a specific telephone number (the "Nesbitt Number") as being his on numerous documents in his personnel file, including his application for federal employment.

7. I have reviewed records of financial transactions involving KORDELL NESBITT, the defendant, using a database available to law enforcement. According to these records, on May 6, 2013, NESBITT withdrew over \$12,000 in cash. On the same

day, and among other transactions, NESBITT (1) received over \$16,000 in cash via a wire transfer at a Pay-O-Matic branch in the Bronx and (2) sent an outgoing wire transfer of over \$11,000 in cash to CHRISTOPHER SINCENO, the defendant. SINCENO'S phone number (the "Sinceno Number") was listed among the wire transfer recipient's information. NESBITT also listed the Nesbitt Number as his on paperwork for the same transactions.

8. On June 19, 2013, the United States Attorney's Office applied for an order authorizing the use of a pen register (the "Pen Register") on the Nesbitt Number. Since on or about that date, I have received transmissions from the Pen Register indicating the existence of calls and text messages to and from the Nesbitt Number. From my review of these transmissions, I have learned the following:

a. The Nesbitt Number has engaged in frequent calls and text message exchanges with a number with the Sinceno Number. For example, the Nesbitt Number had 85 communications, namely telephone calls and text messages, between June 25, 2013 and July 11, 2013 with the Sinceno Number.

THE TEXT MESSAGES

9. On July 3, 2013, July 11, 2013, and July 16, 2013, I obtained search warrants (the "Search Warrants") for the contents of the text messages sent to and from the Nesbitt Number in the custody of the Nesbitt Number's telephone service provider. The text messages covered by the Search Warrants together spanned a period between June 18, 2013 and July 16, 2013. From my review of these text messages, I have learned that the user of the Nesbitt Number frequently discussed what appear to be drug transactions with the user of the Sinceno Number. Among other examples:

a. On or about June 24, 2013, the Nesbitt Number sent the following text message to the Sinceno Number: "OK... Do you know when? And do you know when the rest will be flying out?" The Sinceno Number responded: "Imma try send 2 at a time." The Nesbitt Number then replied: "I need at least 2 lbs at a time..."

b. Later that day, the Nesbitt Number sent the following text message to the Sinceno Number, "Plates right...?? Not zips...". The Sinceno Number responded: "Some snow as well...". The Nesbitt Number then replied: "Snow? How much? And how much green?"

c. On or about June 18, 2013, the Sinceno Number sent the following text messages to the Nesbitt Number: "we got 4 lbs comin 2 us plus da cash. I got this" and "hell yeah! lol. Imma start sendin it myself. remember i don't have da guy who smell proofs shit no more. Imma do it on my day off 4 sure."

d. Also on or about June 18, 2013, the Sinceno Number sent the following text messages to the Nesbitt Number: "4sure this week. They fired by boss yesterday. Im pressed 4 my gig now. I got u 4 sure nephew dont worry" and "3 and change." The Nesbitt Number sent the following text to the Sinceno Number in reply: "How Unk... When I only received 1plate of regular that was free from what he said and the last one was a QP for 900 and I sent out 11k last month."

e. On or about June 25, 2013, the Nesbitt Number sent the following texts to the Sinceno Number: "Whatever you send I'm gone make disappear ASAP!!!" and "I'm hungry and the streets are starving..."

f. On or about June 25, 2013, the Sinceno Number sent the following text to the Nesbitt Number: "4 zips of veggies 1 zip of primo 20 oxy80s."

g. On or about July 4, 2013, the Sinceno Number sent the following message to the Nesbitt Number: "On wats good fam I know its late busy day at work for me but I cldnt get intouch wit my boy who got the vacuum sealer but ill try again tomorrow mayb."

h. On or about July 7, 2013, the Nesbitt Number sent the following message to the Sinceno Number: "Ok, tryna see when to expect the package... I know you said monday or Tuesday just was tryna make sure."

i. On or about July 8, 2013, the Sinceno Number sent the following message to the Nesbitt Number: "I just woke up. Im still im beverly hills. Im headim into da valley 2day to meet up wit da veggie man. I just called u but no answer."

i. On or about July 10, 2013, the Nesbitt Number sent the following message to the Sinceno Number: "Ok, how many plates are coming my way next week?"

j. Between July 6, 2013 and July 16, 2013, the Sinceno Number also sent the Nesbitt Number several texts stating, in sum and substance, that the user of the Sinceno Number was in California and would send the user of the Nesbitt Number a package.

10. From my training and experience as a law enforcement officer, and from speaking to other agents with experience in narcotics-related law enforcement, I have learned the following:

a. Among illegal drug dealers and users, "green" and "veggies" are terms frequently used to refer to marijuana.

b. Among illegal drug dealers and users, "snow" is a term frequently used to refer to cocaine.

c. Among illegal drug dealers and users, "oxy" is a term frequently used to refer to Oxycontin, a Schedule II Controlled Substance as designated by the Controlled Substance Act regulations at 21 (C.F.R.) §§ 1308.11 through 1308.15.

d. Among illegal drug dealers and users, "plates" is a term frequently used to refer to a one-pound quantity of marijuana and "zips" is a term frequently used to refer to an ounce-quantity of marijuana, frequently transmitted in ziplock-style plastic bags.

e. Among illegal drug dealers, "smellproofing" is a term frequently used to refer to a practice of packaging illegal drugs in a fashion that would render them undetectable by scent from the exterior by people or drug-sniffing dogs. Smellproofing may, but does not always, involve vacuum-sealing.

THE PACKAGE

11. From my review of the text messages sent to and from the Nesbitt Number, I know that on or about July 13, 2013, the Sinceno Number sent the Nesbitt Number a message containing a tracking number (the "Tracking Number"), which I understand to be a number used to keep track of the location of an individual package while it is in transit. Specifically, the Sinceno Number sent the following text message to the Nesbitt Number: "fed ex #[number] trackin num. 8:30am 2morrow. must sign. call me asap." Just under an hour later, the Sinceno Number sent the following text message to the Nesbitt Number: "Im buggin. it

will be there mon morn. I 4got its saturday. Still half sleepin..."

12. I have spoken to a representative of Federal Express, the carrier. From my conversations with this individual, I have learned the following:

a. The Tracking Number corresponds to a package (the "Package") that was sent via Federal Express from California to the an apartment in the Bronx (the "Premises") and delivered on or about July 15, 2013. The package was sent from the Los Angeles area, and the listed sender was "Men's Wearhouse." The package was received by a specific person ("Resident-1").

b. According to Federal Express's records, the Package weighed approximately six pounds.

13. Using a database available to law enforcement, I have learned that Resident-1 is the listed occupant of the Premises.

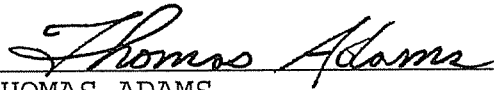
14. From my review of the text messages sent to and from the Nesbitt Number, I believe that there is probable cause to believe that the Package contains narcotics that were dealt out of the Premises. Among other examples:

a. On or about July 16, 2013, the Nesbitt Number sent the following text messages to a telephone number with a New York City area code (the "Buyer Number"): "What s good bro I m tryn to get some sour but if I do it s been a Lil costly cause I m about to pay these NY numbers I would need 300 a zip for it." The Buyer Number responded: "That's wat I'm talkin bout iGht cool imam hit you in 30 mins to give her time so at 10.30 should be good right". Shortly after the Buyer Number's response, the Nesbitt Number sent the following text message to another telephone number (the "Inside Number"): "I know your tired..."

b. Also on or about July 16, 2013, the Nesbitt Number sent the following text messages to another telephone number with a New York City area code (the "Second Buyer Number"): "Hit me when you @ the door so I can have her come to the door...", "Ok, I'll have her listen for your knock on the door", "2 zips?", "Ok, give a min... Let me tell her what to do... Stand by" and "Go to 1A." I understand "1A" to be the apartment number of the Premises.

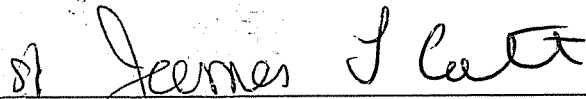
15. Between on or about July 16, 2013 and July 18, 2013, the Pen Register has recorded the exchange of over 130 communications, namely text messages and calls, between the Nesbitt Number and the Inside Number. This represents a significant increase in communications between these numbers than before the Sinceno Number sent the Nesbitt Number the Tracking Number.

WHEREFORE, deponent prays that defendants be imprisoned, or bailed, as the case may be.



THOMAS ADAMS
Special Agent
Department of Homeland Security
Office of the Inspector General

Sworn to before me this
18 day of July, 2013



THE HONORABLE JAMES L. COTT
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK