

Approved: *Daniel Tracer*
PATRICK EGAN/DANIEL TRACER
Assistant United States Attorney

Before: THE HONORABLE JAMES C. FRANCIS, IV
United States Magistrate Judge
Southern District of New York

14 MAG 947

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UNITED STATES OF AMERICA

:
: SEALED
: COMPLAINT
:

-v.-

: Violation of 18 U.S.C.
: §§ 641 and 1920

LASHONNE TUGGLES,

:
: COUNTY OF OFFENSE:
: NEW YORK

Defendant.

:
: X

SOUTHERN DISTRICT OF NEW YORK, ss.:

BRYAN PASICHOW, being duly sworn, deposes and says that he is a Special Agent with the United States Postal Service, Office of Inspector General, and charges as follows:

COUNT ONE

1. From at least in or about August 2012, up to and including at least in or about March 2014, in the Southern District of New York, LASHONNE TUGGLES, the defendant, willfully and knowingly did falsify, conceal, and cover up material facts, and did make false, fictitious, and fraudulent statements and representations, and did make and use false statements and reports knowing the same to contain false, fictitious, and fraudulent statements and entries in connection with an application for and receipt of compensation and other benefits and payment under Title 5, United States Code, Sections 8102 et seq., which benefits exceeded \$1000, to wit, TUGGLES submitted applications for federal worker's compensation benefits in which she stated falsely that she did not have employment outside of her federal job during the time she claimed such benefits, when in fact she did.

(Title 18, United States Code, Section 1920.)

COUNT TWO

2. From at least in or about August 2012, up to and including at least in or about March 2014, in the Southern District of New York, LASHONNE TUGGLES the defendant, willfully and knowingly did embezzle, steal, purloin, and convert to her own use and the use of another, money and things of value of the United States and of a department and agency thereof, and did receive, conceal, and retain the same with intent to convert it to her own use and gain, knowing it to have been embezzled, stolen, purloined, and converted, to wit, TUGGLES fraudulently obtained federal worker's compensation benefits to which she was not entitled.

(Title 18, United States Code, Section 641.)

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

3. I am a Special Agent with the United States Postal Service, Office of Inspector General ("USPS-OIG"). 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 other law enforcement agents and my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause for the offenses cited above, it does not include all the facts that I have learned during the course of the investigation. Where the contents of conversations of others are reported herein, they are reported in substance and in part.

The Regulatory Scheme

4. Based on my knowledge and experience derived from this investigation and from my participation in prior investigations into federal worker's compensation fraud, I know the following:

a. The Federal Employees' Compensation Act ("FECA"), 5 U.S.C. § 8102 et seq., provides compensation to federal employees for injuries sustained during the performance of their workplace duties. An employee may be disabled, and therefore eligible to collect FECA benefits, either due to a sudden, "traumatic injury" or due to a physical or mental condition that develops over time (an "occupational disease").

b. Under the statute, an employee who is totally disabled due to a workplace injury and has no dependents is entitled to benefits equivalent to 66.66 percent of her federal salary during the period of her disability while a disabled employee with one dependent can get up to 75 percent of her federal salary. An employee is totally disabled if, following her injury, she has no capacity to earn wages or work in any position. If an employee without dependents is only partially disabled, her FECA benefits are limited to 66.66 percent of the difference between her federal salary and her residual wage-earning capacity. FECA benefits are untaxed.

c. FECA benefits are administered by the Office of Workers' Compensation Programs ("OWCP"), a division of the Department of Labor ("DOL"). The OWCP District Office that processes FECA claims for residents of New Jersey, New York, Puerto Rico, and the Virgin Islands is located in Manhattan, New York.

d. In order to receive FECA benefits, a federal employee who suffers a work-related occupational disease must first complete, sign, and submit to the OWCP a form entitled "Notice of Occupational Disease and Claim for Compensation" (a "Form CA-2"). The Form CA-2 requires the employee to describe the nature of their injury and how it relates to their federal employment. By signing the Form CA-2, the claimant certifies, "under penalty of law," inter alia, that the disease upon which the claim is based "was a result of my employment with the United States Government." Form CA-2 advises the employee who submits it that:

Any person who knowingly makes any false statement, misrepresentation, concealment of fact or any other act of fraud to obtain compensation as provided by the FECA or who knowingly accepts compensation to which that person is not entitled is subject to civil or administrative remedies as well as felony criminal prosecution and may, under appropriate criminal provisions, be punished by a fine or imprisonment or both.

e. Upon the filing of a Form CA-2, the federal employer must continue the disabled employee's regular pay during any periods of disability, up to a combined maximum of 45 calendar days for any single injury. In order to obtain compensation beyond this 45 day period, the employee must file a "Claim for Compensation Due to Traumatic Injury or Occupational

Disease" (a "Form CA-7"). The Form CA-7 does not permit the claimant to request benefits for prospective periods of disability. Thus, in order to receive benefits on a schedule that replicates her normal pay cycle, the claimant must generally file a new Form CA-7 every two weeks, although they can sometimes file a CA-7 covering a longer period of time. An employee receiving benefits in this manner is said to be on the "daily roll."

f. Section 3 of the Form CA-7 states: "You must report all earnings from employment (outside of your federal job)...Include self-employment...Fraudulent concealment of employment or failure to report income may result in forfeiture of compensation benefits and/or criminal prosecution." It then asks "Have you worked outside of your federal job for the period claimed" in the Form CA-2.

g. A claimant who has been receiving FECA benefits as part of the daily roll for a sustained period of time and is unlikely to return to work in the near future is placed on the "periodic roll." A claimant included on the periodic roll receives disability compensation automatically every 28 days and is not required to file a Form CA-7 on a bi-weekly basis.

h. Employees of the United States Postal Service ("USPS") are covered by FECA. In fact, the USPS is the largest FECA participant, paying more than one billion dollars in benefits and \$60 million in administrative fees every year.

THE PRESENT INVESTIGATION

TUGGLES Files for FECA Benefits

5. I have reviewed documents maintained by the United States Postal Service ("USPS") and OWCP regarding LASHONNE TUGGLES, the defendant. From these documents I know that:

a. Since 1989, TUGGLES has been employed by the USPS as a letter carrier. Most recently she was employed at the Planetarium Station in Manhattan.

b. On or about December 8, 2011, TUGGLES completed, signed, and filed with OWCP in Manhattan a Form CA-2. On that document, TUGGLES stated that she first became aware of an injury on March 23, 2011, and first realized that the injury was "caused or aggravated by [her] employment" on December 5,

2011. TUGGLES described the injury as "Lower back pain...Right knee pain...and left elbow tendinitis" that was caused by "22 years of daily lifting, carrying, sitting, standing, walking, climbing, kneeling, bending, stooping, twisting, pushing and pulling." On the Form CA-2, TUGGLES lists her home address in Manhattan (the "Address").

c. After filing her Form CA-2 in 2011, TUGGLES began to draw FECA benefits and stopped reporting to work. TUGGLES remains on disability status and has not returned to work.

d. During the time that she has not been reporting to work, TUGGLES has received FECA benefits totaling more than \$100,000.

e. TUGGLES has completed, signed and filed with the OWCP in Manhattan at least four Form CA-7s. These Forms are dated: August 27, 2012; February 25, 2013; March 22, 2013; and August 30, 2013. TUGGLES indicated on each form respectively that the August 27, 2012 form covers the period from September 10, 2010 to the date of the form; the February 25, 2013 form covers the period from September 10, 2010 to the date of the form; the March 22, 2013 form covers the period from March 23, 2011 until March 21, 2013; and the August 30, 2013 form covers the period from March 23, 2013 to the date of the form. On each of the four forms, TUGGLES indicated that she had not worked outside of her federal job and has not been self-employed during the applicable time period.

TUGGLES found to be operating a daycare center

6. In or about September 2013, USPS-OIG received an anonymous complaint via their website (the "Complaint"). The Complaint alleged that LASHONNE TUGGLES, the defendant, had been running a daycare out of her home at the Address for approximately five years. The Complaint further alleged that TUGGLES employed one or two people at the daycare and cared for approximately eight children. The Complaint further alleged that TUGGLES charged between \$500 and \$700 per week per child.

7. As part of my investigation, I conducted research on the internet to try to determine whether LASHONNE TUGGLES, the defendant, was operating a daycare. From my research I learned, among other things, the following:

a. A website called mychildcareguide.com has a listing for a daycare operated by "Lashonne Tuggles" at the Address. It provides the following description: "Lashonne

Tuggles is a licensed daycare provider serving the New York NY area."

b. Another website called childcarecenter.us has a listing for "Tuggles, Lashonne, a Group Family Day Care" that is located at the Address. It further states that the daycare has a capacity of 16 children. It further lists the initial license date as July 8, 2009.

8. I have reviewed documents from the New York City Bureau of Childcare relating to LASHONNE TUGGLES, the defendant. Based on this review, I have learned, among other things, the following:

a. TUGGLES owns and operates a daycare as at the Address and was officially licensed on or about July 8, 2009. The license was renewed on or about July 8, 2011. The license is currently set to expire July 7, 2015.

b. TUGGLES hired an individual ("Employee-1") to serve as an assistant at the daycare.

c. TUGGLES and Employee-1 both have a number of certifications in childcare related specialities.

9. I have reviewed a wage report from the Department of Labor ("DOL") for Employee-1. That report shows that Employee-1 has been paid by LASHONNE TUGGLES, the defendant, on a regular basis since at least the third quarter of 2012.

10. From in or about September 2013 until in or about December 2013, law enforcement agents, including myself, conducted surveillance at the Address on seven different occasions. From my own experience conducting such surveillance and from my discussions with other law enforcement agents who conducted such surveillance, I have learned, among other things, that on each occasion, individuals were seen dropping children off at the Address and/or picking children up at the end of the day. On several of the occasions LASHONNE TUGGLES, the defendant, and Employee-1 were seen with children outside the Address or meeting the children and leading them into the Address. Much of this activity was captured on video.

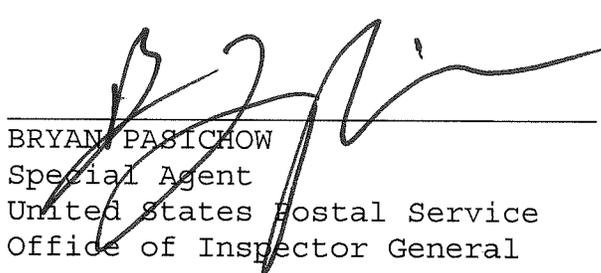
11. I have spoken with an agent ("Agent-1") who called LASHONNE TUGGLES, the defendant, in an undercover capacity on or about March 13, 2014 to inquire about the daycare. From my conversation from Agent-1 and from listening to the recording of that call I have learned, among other things, the following:

a. A woman answered the phone and identified herself as "Lashonne Tuggles."

b. When Agent-1 asked about the daycare, "Lashonne Tuggles" gave the phone to a person who identified themselves as Employee-1. Employee-1 provided details about the daycare while periodically talking to someone in the background.

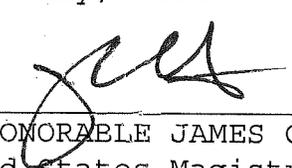
c. Children can clearly be heard in the background.

WHEREFORE, the deponent respectfully requests that a warrant issue for the arrest of LASHONNE TUGGLES, the defendant, and that she be arrested and imprisoned, or bailed, as the case may be.



BRYAN PASICHOW
Special Agent
United States Postal Service
Office of Inspector General

Sworn to before me this
5th of May, 2014



THE HONORABLE JAMES C. FRANCIS, IV
United States Magistrate Judge
Southern District of New York