

UNITED STATES DISTRICT COURT


for the

Eastern District of California

FILED

AUG 09 2018

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY 
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United States of America
v.

Case No. 5:18-mj-00057-JLT

EARL JOHN VELASQUEZ

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 1, 2018 to present in the county of Kern in the
Eastern District of California, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. 2261A(2)	Cyberstalking

This criminal complaint is based on these facts:

See affidavit attached hereto and incorporated herein.

Continued on the attached sheet.


Complainant's signature

Shayne K. Thompson, FBI Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: 8/9/18


Judge's signature

City and state: Bakersfield, CA

Jennifer L. Thurston, U.S. Magistrate Judge
Printed name and title

1 witnesses to assess the validity of the threat and/or crime. I have also assisted members of the Criminal
2 and Counterintelligence Division within our regional agency on tasks such as interviews, search
3 warrants, arrests, seizures, surveillance, evidence collection and information collection.

4 5. Based upon my training and experience, I know that social media is a common way for
5 individuals to communicate with one another. I also know, from this and other investigations, that use
6 of social media to commit criminal violations, such as stalking, threatening communications, and other
7 acts, is becoming more common. I know that social media platforms are a common form of
8 communication. Commonly used social media platforms include Facebook, Twitter, and Instagram.
9 From my review of publicly available information, I know the following:

10 a) Facebook is a social networking website used to promote communication between
11 friends, family and colleges. To create an account, one registers with Facebook. During the
12 registration process or thereafter, Facebook asks users to provide basic contact and personal
13 identifying information. This may include the user's full name, date of birth, gender, contact e-
14 mail address, security questions and answers, physical address, telephone numbers, screen
15 names, websites, and other personal identifiers. Individuals connected to one another through
16 Facebook are referred to as "Friends." "Friends" can exchange communications or view
17 information about each other. Each Facebook user's account includes a list of that user's
18 "Friends" and a "News Feed," which includes posts by the user and the user's "Friends", and
19 highlights information about the user's "Friends," such as profile changes, upcoming events, and
20 birthdays. Facebook users can select different levels of privacy for communications and
21 information associated with his/her Facebook account. By adjusting these privacy settings, a
22 Facebook user can make information available only to himself/herself, to particular Facebook
23 users, or to anyone with access to the Internet, including people who are not Facebook users.

24 b) Instagram is a free-access social networking website that allows users to create
25 their own profile pages, which can include a short biography, a photo, and other information.
26 Upon creating an Instagram account, an Instagram user must create a unique Instagram username
27 and an account password. Instagram asks users to provide basic identity and contact information
28 upon registration and allows users to provide additional identity information for their user

1 profile. Once an account is created, users may adjust various privacy and account settings
2 associated with the user's account. Instagram allows users to have "friends," which are other
3 individuals with whom the user can share information without making the information public.
4 Instagram also allows users to "follow" another user, which means that the user will receive
5 updates about posts made by the other user." Instagram is centered on the sharing of photos and
6 short videos. When posting or sharing a photo and/or video on Instagram, a user can add to the
7 photo a caption, various "tags" for search purposes, location information, and other information.
8 Users can make comments on their own posted photos and videos, as well as those of other
9 users. Users can also "like" photos and videos.

10 c) Twitter owns and operates a free-access social networking website of the same
11 name that can be accessed at <http://www.twitter.com>. Twitter asks users to provide basic
12 identity and contact information, either during the registration process or thereafter. The
13 information may include the user's full name, e-mail address, physical address, date of birth,
14 gender, hometown, occupation, and other personal identifiers. Twitter allows its users to create
15 their own profile pages, which can include a short biography, a photo of themselves, and location
16 information. Twitter also permits users to create and read 140-character messages called
17 "Tweets," and to restrict their "Tweets" to individuals to whom they approve. Each "Tweet"
18 includes a timestamp that displays when the "Tweet" was posted to Twitter. Twitter users can
19 "favorite," "retweet," or reply to the Tweets of other users. Twitter users can include
20 photographs or images in their Tweets. Users are able to set their privacy setting under two
21 categories: public or protected. A public setting means the user's "Tweets" can be viewed by
22 anyone; whether or not they have a Twitter account. A protected account means the user's
23 "Tweets" are only viewable by the members who follow the user. Twitter users can also send
24 direct messages to one of his or her followers. These messages are typically visible only to the
25 sender and the recipient, and both the sender and the recipient have the power to delete the
26 message from the inboxes of both users.

1 described below.

2 11. Social media websites, such as Facebook, Instagram, and Twitter, can be accessed on
3 electronic devices that allow the user to access the internet. Some devices that allow access to the
4 internet are cellular telephones, personal electronic tablets, computers, smart televisions, and some video
5 game consoles. These social media websites often will have applications available for download to
6 allow the user to access the social media website through the associated application opposed to using an
7 internet browser.

8 12. VELASQUEZ told agents that he used at least two (2) cellular telephones to access his
9 social media accounts.

10 **C. Initial Contacts between VELASQUEZ and Victim, T.D.**

11 13. Fort Walton Beach Police Department (FWBPD) interviewed T.D. due to a series of
12 communications she received through social media from VELASQUEZ and an older woman whom
13 T.D. believed may be VELASQUEZ's mother. Below is a list of the social media communications
14 received that led to being contacted by FWBPD:

15 a) VELASQUEZ and T.D. had become "friends" on Facebook back in 2017. On
16 January 1, 2018, VELASQUEZ sent a private Facebook message to T.D. saying, "Idk you but
17 happy new years" in which T.D. responded, "You too pal".

18 b) On January 27, 2018, VELASQUEZ sent a private Facebook message to T.D. that
19 said, "yo" but T.D. did not respond.

20 c) On March 1, 2018, a direct message was sent from the Facebook account of
21 earlene.christian.9 to T.D. that said, "You better hope my son doesn't get any new charges he got
22 picked up by the FBI" but T.D. did not respond.

23 d) On March 5, 2018, a direct message was sent from VELASQUEZ's Facebook
24 account to T.D. that said, "I know you don't like people messaging you and you can delete me
25 for this I don't care I just wanted to apologize to you for being an idiot and you seem like a cool
26 person well anyway I'm sorry" but T.D. did not respond.

27 e) On March 7, 2018, a direct message was sent from VELASQUEZ's Facebook
28 account to T.D. of a smiley face with heart shaped eyes. T.D. did not respond to the message.

1 **D. Initial Report Concerning Twitter Posts**

2 14. On March 17, 2017, a resident of Minnesota contacted the Fort Walton Police
3 Department to report a potential threat of violence towards a tattoo parlor in Fort Walton Beach, Florida.
4 The reporter saw a public Twitter post to which “EarlJohnvelasq2” commented. VELASQUEZ wrote,
5 “You bring up a good point seeing as I’m planning to shoot up a tattoo parlor in fort Walton and I won’t
6 be using an ar15 either I’m going to use the guns pictured below to do it why I’m telling you this I don’t
7 know but #itwillhappenagain”.

8 15. Your affiant later viewed this Twitter account, and saw the following public posts from
9 February 28, 2018:

10 a) “I don’t care if the feds kick my door in lol it’s not like there watching this right
11 now #fuckflordia #itwillhappenagain besides I got plans on visiting Florida going to settle a old
12 grudge with somebody I might kill them”;

13 b) “I’m thinking becoming a contract killer I’ve already been offered money to kill
14 somebody I might actually do it lol it involves a trip to Florida I can settle my grudge and then
15 kill this other person #fuckflorida #imcoming for you”; and

16 c) “Step1 travel to Florida step 2 buy a ak47 step 3 settle my grudge step 4
17 #itsnotahatecrimeifpeoplearent innocent #street justice”.

18 16. On March 19, 2018, an officer from the FWBPD began contacting tattoo parlors to
19 determine whether any employees knew VELASQUEZ or had received threats from VELASQUEZ.
20 The officer learned that T.D. was employed by two tattoos parlors in the Fort Walton Beach area.

21 17. Upon initially receiving the Facebook Messenger messages and being advised of other
22 posts made by VELASQUEZ, T.D. was concerned for her safety. However, T.D. was ultimately told by
23 a FWBPD Officer that she should not worry because VELASQUEZ did not pose a real threat. T.D.
24 continued to feel “shitty” due to not understanding “why they would want to target” her.

25 **E. Continuing Contacts by VELASQUEZ**

26 18. On March 1, 2018, a direct message to a Facebook friend was made from
27 earlene.christian.9’s Facebook page that stated, “Hey it’s Earl I’m on my mom’s account I got reported”.
28 On March 1, 2018, another direct message to a Facebook friend from earlene.christian.9’s Facebook

1 page stated, "Hey it's Earl my account got reported so I'm on my mom's could you still help with that
2 ride?"

3 19. On March 11, 2018, T.D. removed VELASQUEZ (earlsmokesdank) as a friend on
4 Facebook. On the same day, several searches for T.D. were made from earlsmokesdank and
5 earlene.christian.9's Facebook page. A friend request was sent from earlene.christian.9's Facebook page
6 to T.D. but was subsequently rejected by T.D. The Facebook account of earlene.christian.9 was used to
7 send a picture to T.D. of a shotgun and with the caption, "You ever seen this gun".

8 20. On March 11, 2018, the Facebook page with vanity name "Paul Sanchez" was created. It
9 is your affiant's belief, based upon a review of Facebook records, that VELASQUEZ created the "Paul
10 Sanchez" account. The "Paul Sanchez" account was created using a telephone number that
11 VELASQUEZ admitted, during an interview on April 5, 2018, was his mother's cellular number. The
12 records also confirm that the Facebook page "Paul Sanchez" has the same registration IP address as
13 earlene.christian.9's Facebook page.

14 21. On March 11, 2018, "Paul Sanchez" conducted a search for T.D., sent a friend request to
15 T.D., and sent a private message to T.D. saying, "It's not over yet I know were you live now thanks to
16 this new technology and I even know more than that I told you didn't I'm one of those people who does
17 shit like this for fun why because I can and I know you don't enough about me to prove anything lol
18 good luck on getting the FBI to investigate I even out smart them but anyway just remember I got eyes
19 on you".

20 22. On March 13, 2018, T.D. received a direct message from the Facebook account of
21 earlene.christian.9 that displayed a picture of two AK-47s.

22 23. On March 16, 2018, T.D. received a direct message from the Facebook account of
23 earlene.christian.9 that said, "Hey I saw what my son sent you here's my number 6614933015 maybe
24 you can talk some sense into him he's been disrespectful lately and he won't stop talking about killing
25 you till you put him in his place."

26 24. On April 30, 2018, T.D. reported that T.D.'s friend who lived in Tennessee, posted a
27 picture of T.D. on the friend's Instagram account. The friend subsequently notified T.D. that
28 VELASQUEZ's Instagram account left a comment on the friend's Instagram post that read, "Im going

1 to kill that girl one day”.

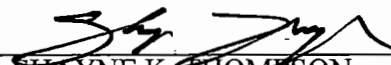
2 25. On May 25, 2018, a direct message was sent to T.D. from the Facebook account of
3 earlene.christian.9 that said, “Your going to die soon I’m going to say”.

4 26. On May 27, 2018, a comment was made by i_on3_sh0t_ho3s’s Instagram account that
5 said, “Is there any particular reason other than someones insecurity as to why a tattoo shop that i will
6 never get a tat from is following me ? . I bet she told you an exaggerated story and also I got in lot of
7 trouble for posting pictures of my guns. Also I don’t post my plans for other people anymore I write
8 them down 6614933015 @defiance_tattoo_co please unfollow or black me you wont find out my plans
9 and tell tailor to shut her mouth and ill leave her alone. Or even better call this number I know you wont
10 because your to much of a pussy to do it.6614933015”.


11 **IV. CONCLUSION**

12 27. Based on the foregoing, I submit there is probable cause to believe that VELASQUEZ is
13 in violation of 18 U.S.C. § 2261A(2)(B) as a result of his social media posts and messages sent through
14 these platforms which he accessed through cellular telephones, and I request the issuance of an arrest
15 warrant.

16 Dated:

17
18 
19 SHAYNE K. THOMPSON
20 FBI Special Agent

21 SWORN TO BEFORE ME, AND SUBSCRIBED
22 IN MY PRESENCE THIS 9th DAY OF
23 AUGUST, 2018.

24 
25 HONORABLE JENNIFER L. THURSTON
26 United States Magistrate Judge

27 Approved as to form and content:

28 /s/Melanie L. Alsworth
MELANIE L. ALSWORTH
Assistant United States Attorney