

AB:KCB

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

SCOTT ALLAN SMITH,

Defendant.

COMPLAINT AND AFFIDAVIT
IN SUPPORT OF
APPLICATION FOR AN
ARREST WARRANT

(18 U.S.C. § 875(c))

No. 19-MJ-736

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EASTERN DISTRICT OF NEW YORK, SS:

KERRY CALNAN, being duly sworn, deposes and states that she is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

Upon information and belief, on or about August 3, 2019, within the Eastern District of New York and elsewhere, the defendant SCOTT ALLAN SMITH did transmit in interstate or foreign commerce communications containing threats to injure the person of another.

(Title 18, United States Code, Section 875(c))

The source of your deponent's information and the grounds for her belief are as follows¹:

¹ Because this affidavit is being submitted for the limited purpose of establishing probable cause to arrest, I have not set forth every fact learned during the course of this investigation.

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have been since 2017. I am currently assigned to the Violent Crimes Task Force. In that position, I have had significant training and experience investigating a wide range of crimes involving violence and threats of violence, including threats made by telephone, online, and through other electronic means. The information in this Complaint comes from, among other things, a review of documents and reports provided by other law enforcement officers and personnel. Unless specifically indicated, all conversations and statements described in this affidavit are related in sum and substance and in part only. Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all of the relevant facts and circumstances of which I am aware.

2. On or about October 2, 2015, a Callaway County, Missouri, Circuit Court Judge sentenced the defendant SCOTT ALLAN SMITH to seven years in the Missouri Department of Corrections following his conviction, by guilty plea, of Assault in the Second Degree, in violation of Missouri Stat. § 565.060, and Felonious Restraint, in violation of Missouri Stat. § 565.120 (the “2015 Case”). See State v. Scott Allan Smith, 14CW-CR01413-01 (Callaway Cty.). SMITH was released from custody on February 22, 2019.

3. On or about August 3, 2019, JANE DOE, a former Callaway County Assistant Prosecuting Attorney who led the defendant SCOTT ALLAN SMITH’s prosecution in the 2015 Case, received a telephone call from a number bearing a Missouri area code (the “Missouri Number”). Upon answering the telephone call, JANE DOE heard a voice say JANE DOE’s first name. After JANE DOE confirmed her name, SMITH informed her that he was the caller, and stated, in sum and substance and in part, “You remember me, don’t you?” He then stated, in sum and substance and in part, “I just want to tell you, you are

about to die . . . that little girl in the background is going to watch you die.” JANE DOE has a five-year-old daughter, who was present with her at the time of the telephone call. JANE DOE ended the phone call.

4. JANE DOE subsequently received a series of threatening text messages from the defendant SCOTT ALLAN SMITH. Specifically, at 9:33 a.m. on August 3, 2019, SMITH, using the Missouri Number, sent the following text messages to JANE DOE:

Did you really think you were going to smirk at me in the court room for keeping me locked up for a crime I didn't commit and get away with it? 5 years I've been waiting for what's about to happen. I've fantasized about it every single night for years. DO you know what I went through because you? You will feel my pain.

Scott Allan Smith

My life for your life. I swear it to God. Good bye, [JANE DOE's name].

Your life and the life of [the victim in the 2015 Case].

5. SMITH then sent JANE DOE, using the Missouri Number, a text message listing JANE DOE's residential address. SMITH subsequently sent the following additional text messages, using the Missouri Number, to JANE DOE:

Just like the “domestic violence” officer you conspired with to fuck my life up. . . . The deep-seated hatred I have for you is so intense that I can't stand to live with it. So, my life to watch [sic] you die, bitch. I'll happily sit in a cell and await the needle for your life. . . .

You love your 5 year old? I loved mine. He doesn't know me now. He did, but doesn't now. You did that. . . .

I can [sic] wait to see the look on your face when you feel EXACTLY the way I do. Then I'll end your misery, as I could

never do to a human being what you've done to me. I fucking hate you beyond comprehension. . . .

I can't wait ti [sic] watch you die. . . .

Watch out. I [sic] close. You'll see me. I'll make sure you do. . . .

It's my calling. I am a martyr for this.


6. Also on or about August 3, 2019, JANE DOE received a voicemail from the defendant SCOTT ALLAN SMITH, who had used the Missouri Number. The voicemail stated, in sum and substance and in part, that SMITH planned to “put a bullet in a child right in front of [JANE DOE],” and that, for his actions, he would “get the needle,” but that he “did not care about that.” The defendant stated, in sum and substance and in part, and in a calm, clear tone of voice, that he expected the incident would make “national news” and that “every prosecutor in the United States would think twice about telling a lie in this country.” He stated that to effectuate this, JANE DOE would have to “give [her] life,” and that SMITH would “have to give [his life].” He observed, in sum and substance and in part, that JANE DOE was “just a little bit older than” the defendant, and also referenced the age of the victim in the 2015 Case. Finally, the defendant stated, “It won't be in vain. Just know that.” At the time JANE DOE received the communications from SCOTT described herein, she was located outside of the State of New York.

7. On or about August 3, 2019, Missouri investigators determined, based on Missouri records, that the Missouri Number is associated with the defendant SCOTT ALLAN SMITH. That same day, a Missouri Associate Circuit Court Judge authorized a Missouri state warrant for cell site and subscriber records for the Missouri Number. Further, Missouri law enforcement submitted an exigent circumstances form to obtain coordinates of

the location of the phone using the Missouri Number (the "Missouri Phone") from the Missouri Phone's service provider. That information revealed that the Missouri Phone was located in Brooklyn, New York, and had been at that location throughout the day on August 3, 2019.

8. Based on the Missouri Phone location information, as well as other information known to law enforcement, law enforcement identified the defendant SCOTT ALLAN SMITH's residence (the "Residence"). On or about August 3, 2019, officers with the New York City Police Department ("NYPD") conducted surveillance on the Residence. After observing SMITH at the Residence, NYPD officers arrested the defendant, who is currently in New York State custody pursuant to a parole warrant issued by the Missouri Department of Corrections.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant SCOTT ALLAN SMITH so that he may be dealt with according to law.


KERRY CALNAN
Special Agent, Federal Bureau of Investigation

Sworn to before me this
15th day of August, 2019


THE HONORABLE
UNITED STATES
EASTERN DISTRICT OF

s/ Scanlon