

UNITED STATES DISTRICT COURT

for the

Middle District of Florida

United States of America
v.
Henry Alejandro Jimenez

Case No. 8:21MJ1115 AAS

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 February 3, 2021 in the county of Hillsborough in the Middle District of Florida, the defendant(s) violated:

Code Section 49 U.S.C. § 46307 Offense Description Violating National Defense Airspace

This criminal complaint is based on these facts:

See Attached Affidavit.

Continued on the attached sheet.

Deana M. Jones Complainant's signature

Deana M. Jones, Special Agent, FBI Printed name and title

Sworn to before me over the telephone and signed by me pursuant to Fed.R.Crim. P. 4.1 and 4(d).

Date: February 5, 2021

AMANDA A. SANSONE Judge's signature

City and state: Tampa, Florida

AMANDA A. SANSONE, U.S. Magistrate Judge Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Deana M. Jones, being duly sworn, depose and state the following:

I. INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”), having been so employed since 2019. As a Special Agent, my duties include the investigation of violations of the United States Code. I am currently assigned to the FBI Tampa Field Office. I am familiar with the laws concerning, and the operation of, unmanned aircraft systems (“UAS”). I am empowered by law to conduct investigations of, and to make arrests for, violations of federal statutes, including violations of 49 U.S.C. § 46307.

2. This affidavit is submitted in support of a criminal complaint charging **Henry Alejandro JIMENEZ** with knowingly and willfully violating national defense airspace, that is, by flying a UAS within a temporary flight restriction (“TFR”) zone, in violation of 49 U.S.C. § 46307.

3. The information contained in this affidavit is based on my personal knowledge and observations made during the course of this investigation, as well as information conveyed to me by other law-enforcement officials and civilian witnesses who have first-hand knowledge of the events described herein. As this affidavit is submitted for the limited purpose of supporting a criminal complaint, I have not included every fact known to me concerning this investigation. Unless specifically indicated otherwise, all conversations and statements described in this

affidavit are related only in substance and in part, and are not intended to be verbatim recitations. When a date is listed, I mean that the event occurred “on or about” that date.

II. DEFINITIONS

4. The following terms used in this affidavit are defined at 14 C.F.R. § 1.1:
 - a. “Aircraft” means a device that is used or intended to be used for flight in the air.
 - b. “Unmanned aircraft” means an aircraft operated without the possibility of direct human intervention from within or on the aircraft.
 - c. “Small unmanned aircraft” means an unmanned aircraft weighing less than 55 pound on takeoff, including everything that is on board or otherwise attached to the aircraft.
 - d. “Small unmanned aircraft system” (small UAS) means a small unmanned aircraft and its associated elements (including communication links and the components that control the small unmanned aircraft) that are required for the safe and efficient operation of the small unmanned aircraft in the national airspace system.

III. BACKGROUND AND APPLICABLE LAW

5. The Federal Aviation Administration (“FAA”) is an agency within the United States Department of Transportation that is responsible for the control and use of navigable airspace within the United States. The FAA created the National Airspace System (“NAS”) to protect persons and property on the ground, and to

establish a safe and efficient airspace for civil, commercial, and military aviation. The FAA Modernization and Reform Act of 2012 charged the FAA with safely integrating UAS, commonly referred to as “drones,” into the NAS.

6. The FAA offers a Remote Pilot Certificate program (Part 107), which is designed to establish an individual’s understanding of the regulations, operating requirements, and procedures for safely flying UAS. To obtain such a certificate, the individual must pass an aeronautical knowledge test that covers, among other topics, airspace classification and operating requirements, as well as flight restrictions affecting small unmanned aircraft operation.

7. 49 U.S.C. § 401303(b)(3) requires the Administrator of the FAA, in consultation with the Secretary of Defense, to establish areas in the airspace that the Administrator decides are necessary in the interest of national defense. That statute further permits the Administrator, by regulation or order, to restrict or prohibit the flight of civil aircraft that the Administrator cannot identify, locate, and control with available facilities in those areas. A TFR is a regulation that temporarily restricts certain aircraft from operating within a defined area in order to protect persons or property in the air or on the ground.

8. Pursuant to § 401303(b)(3), on February 3, 2021, the FAA issued a TFR that prohibited all unmanned aircraft from operating within a defined geographical zone within two nautical miles and 2,000 feet above ground level around the Cass

Street Bridge, in the city of Tampa, Florida, without prior approval from the FAA.¹ The hours of the TFR on this date were 9 a.m. EST to 11 p.m. EST. Pursuant to § 401303(b)(3), the FAA classified the airspace within this TFR as “National Defense Airspace” in NOTAM (written notification) 1/8102 and 1/8103.

9. 49 U.S.C. § 46307 prohibits a person from knowingly or willfully violating 49 U.S.C. §§ 401303(b)(3) or a regulation or order issued thereunder.

IV. PROBABLE CAUSE

10. On February 3, 2021, at approximately 15:20 p.m. EST, members of law enforcement observed a UAS in flight, approximately 150 to 200 feet off the ground, south of the Barrymore Hotel Tampa Riverwalk, near the 100 block of West Fortune Street, in Tampa—an area within the boundaries of the TFR that had been issued for that day. FBI Special Agent Michael Filippone and I located **JIMENEZ** near the vicinity of 1015 North Franklin Street. **JIMENEZ** was standing on the sidewalk holding what appeared to be a remote-control device attached to an iPhone, and he was apparently operating a UAS.

11. Special Agent Filippone and I asked **JIMENEZ** to safely land his UAS. **JIMENEZ** manipulated the remote control, and the UAS returned to a landing area right beside him. The UAS was identified as a DJI, Mavic 2 Pro, model L1P. Special Agent Filippone and I then interviewed **JIMENEZ**, who voluntarily agreed to speak

¹ This TFR (as well as other, related TFRs) was issued as part of a comprehensive security supplement designed to protect and secure the events leading up to, and including, Super Bowl 55.

with us. **JIMENEZ** said that he was aware there was a TFR in place for the Super Bowl, as he had received an email from the FAA approximately one week earlier. **JIMENEZ** also stated that he is an FAA-licensed remote pilot UAS operator. **JIMENEZ's** UAS was registered with the FAA. During a visual inspection of the UAS, the registration number "FA3CAMA7L9" was observed to be affixed to the top of the UAS.

12. **JIMENEZ** used a DJI software application on his iPhone to fly his UAS. **JIMENEZ** said that, when he powered on his UAS, he had received a message on the application that a flight restriction (i.e., TFR) was in place, but that he had accepted and acknowledged that condition in order to fly his UAS. **JIMENEZ** voluntarily showed me and Special Agent Filippone the warning screen on his iPhone, which stated, "Flight Restrictions: Your aircraft has entered an Authorization Zone that you are permitted to enter." The flight restriction offered two choices for the user to select: "I am qualified to fly in this zone" and "I agree to bear full responsibility for my flight in this zone." **JIMENEZ** said that he selected the box stating "I agree to bear full responsibility for my flight in this zone" to unlock his UAS for flight. The warning screen on **JIMENEZ's** phone is pictured here:



13. However, prior to flying, **JIMENEZ** had not obtained authorization or a waiver to fly his UAS in the relevant airspace during the TFR. Therefore, he was not permitted to fly his UAS in that zone, and, as a licensed UAS pilot, he was presumably aware of that restriction.

14. With **JIMENEZ**'s permission, Special Agent Filippone and I also reviewed a record of the flight path for **JIMENEZ**'s UAS, which his DJI application had captured, that showed that the UAS traveled within the boundaries of the TFR (see below):



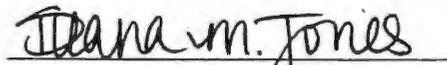
15. In the image above, the flight path shows that the UAS traveled from downtown Tampa (on the east side of the Hillsborough River), to Julian B. Lane Waterfront Park (on the west side of the Hillsborough River), and then back to its starting point. On February 3, 2021, Julian B. Lane Waterfront Park was hosting public events related to Super Bowl 55, and it was within the TFR as well.

16. Based on a review of the flight path and the location where **JIMENEZ** was encountered, **JIMENEZ** appears to have operated his UAS without maintaining an uninterrupted visual line of sight for the entire flight, as he was required to do pursuant to relevant FAA regulations (*see* 14 CFR § 107.31). Agents are also aware

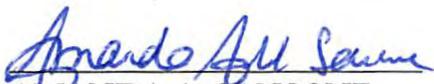
that JIMENEZ flew his UAS over people and moving vehicles during the course of its flight. JIMENEZ stated that he flew the drone to obtain footage that he might use for commercial purposes related to his business.

V. CONCLUSION

17. Based on the foregoing, I submit that there is probable cause to believe that JIMENEZ knowingly and willfully violated national defense airspace, that is, by flying a UAS within a TFR zone, in violation of 49 U.S.C. § 46307. Accordingly, I request that the Court issue a summons for JIMENEZ to appear to answer to that offense.


Deana M. Jones, Special Agent
Federal Bureau of Investigation

Affidavit submitted by email and attested to me as true and accurate by telephone, consistent with Fed. R. Crim. P. 4.1, before me this 5th day of February 2021, in Tampa, Florida.


AMANDA A. SANSONE
United States Magistrate Judge