

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of New Jersey

United States of America

v.

JOSE COLON

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Case No.

20-mj-1026 (AMD)

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 2/19/2019 and 7/15/2019 in the county of Camden in the

District of New Jersey, the defendant(s) violated:

Code Section

Description of Offenses

21 USC § 841(a)(1) and (b)(1)(C)

See Attachment A hereto.

This criminal complaint is based on these facts:

See Attachment B.

Continued on the attached sheet.

Complainant's signature

James Smith, Special Agent, FBI

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by

telephone (specify reliable electronic means).

Date: 6/15/2020

Judge's signature

City and state: Camden, New Jersey

Hon. Ann Marie Donio, U.S. Magistrate Judge

Printed name and title

CONTENTS APPROVED
UNITED STATES ATTORNEY

By: /s/ Jeffrey Bender
Jeffrey B. Bender, Assistant U.S. Attorney

Date: June 15, 2020

ATTACHMENT A

Between on or about February 19, 2019 and July 15, 2019, in Camden County, in the District of New Jersey and elsewhere, the defendant,

JOSE COLON,

who was not a registrant authorized to dispense controlled substances, knowingly and intentionally distributed a mixture and substance containing a detectable amount of Oxycodone, a Schedule II controlled substance, to J.B.

In violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(C).

ATTACHMENT B

AFFIDAVIT

1. I, James Smith, (the “affiant”), state that I am a Special Agent with the Federal Bureau of Investigation (“FBI”). I have knowledge of the following facts based upon both my investigation and discussions with other law enforcement personnel and others. Because this Affidavit is being submitted for the sole purpose of establishing probable cause to support the issuance of a complaint, I have not included each and every fact known to the government concerning this matter. Where statements of others are set forth herein, these statements are related in substance and in part. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

2. At all relevant times, Jose Colon (“COLON”) resided in Sicklerville, New Jersey. COLON worked at a medical practice based in Mount Holly, New Jersey. COLON is not a medical provider, nor does he have a DEA number that would permit him to prescribe controlled substances in any form.

3. Doctor 1, Doctor 2, and Advanced Practice Nurse 1 (“APN 1”) are medical providers who worked at the same medical practice as COLON and had DEA numbers that permitted them to prescribe controlled substances for legitimate medical purpose.

4. During 2018, 2019, and 2020, COLON used the means of identification of Doctor 1, Doctor 2, APN 1, and others to make and sell fraudulent prescriptions for Oxycodone, Adderall, and Alprazolam (a/k/a “Xanax”). Oxycodone and Adderall are Schedule II controlled substances; Xanax is a Schedule IV controlled substance.¹ Based on my training and experience, I know that Oxycodone, Adderall, and Xanax are commonly sought and used by people who lack a legitimate medical need for those controlled substances.

5. In early 2019, somebody who had purchased fraudulent prescriptions from COLON agreed to become a Confidential Human Source (“CHS”) after previously being criminally charged for trying to fill a fraudulent prescription that was purportedly authorized by Doctor 1 but actually sold by COLON. I have been able to corroborate information provided to me by the CHS through records and interviews of other witnesses. The CHS is therefore reliable and credible.

6. On a date in mid-2019, while working at the direction of law enforcement, the CHS participated in a controlled purchase of paper prescriptions from COLON in exchange for cash. The purchase was audio and video recorded. The purchase took place in COLON’s car in

¹ Schedule II through Schedule IV controlled substances may be lawfully dispensed pursuant to a valid prescription. 21 U.S.C. § 829. For a prescription for a controlled substance to be valid, it must be issued for a legitimate medical purpose by a registered practitioner acting in the usual course of his or her professional practice. 21 C.F.R. § 1306.04.

a parking lot in Cape May County, New Jersey. COLON instructed the CHS to go to the pharmacy to fill the prescriptions around 5:00 p.m. or 6:00 p.m. because Doctor 1's office is closed at that time. COLON would be available to answer any phone calls from the pharmacy questioning the validity of the prescriptions. The CHS told COLON that the CHS would be using the prescriptions to obtain Adderall and Xanax. The CHS left COLON's car with two prescriptions in the name of Doctor 1 that COLON tore off a prescription pad.

7. On a date in Fall 2019, while working at the direction of law enforcement, the CHS participated in a consensually monitored and recorded telephone call for the purpose of arranging COLON to electronically submit fraudulent prescriptions to a pharmacy. COLON explained that he has the ability to log into the medical practice's systems and electronically send prescriptions to any pharmacy utilizing doctors' information. COLON specifically uses a doctor who used to work at the medical practice, is very old, and would not know the prescriptions were being sent. After the CHS filled the prescriptions, the CHS was to wire the money to COLON via MoneyGram. On the same date, a pharmacy in New Jersey received the two electronic prescriptions COLON agreed to submit for Adderall and Xanax in the agreed-upon patient name (which was not the CHS's actual name). The prescriptions were purportedly authorized by Doctor 2.

[CONTINUED ON FOLLOWING PAGE.]

8. In a subsequent non-custodial interview, Doctor 2, who is 82-years old, told me that he had previously worked at the same practice as Doctor 1 but had left the practice years earlier and retired from the practice of medicine earlier in 2019. Doctor 2 did not write electronic prescriptions during the time he worked at the same practice as Doctor 1.²

9. The CHS indicated that the CHS primarily communicated with COLON using phone number 609-738-8914 (“Target Number”). Subscriber information indicates that the Target Number was assigned on November 20, 2016 to a user with a self-identified name of “Not Now,” a date of birth of January 1, 1987, and an email address of “yessir12334567@gmail.com.”³ In my training and experience, I know that people create and use new phone numbers and email addresses using other identities in order to conceal their true identity while engaged in criminal activities.

² During the interview, Doctor 2 denied recognizing the names of several other patients who had filled prescriptions purportedly authorized by Doctor 2 at New Jersey pharmacies in 2019, including S.S. and M.W.

In July and August 2019, prescriptions purportedly from Doctor 2 for S.S. were filled for Adderall twice, Oxycodone once, and Xanax once. On July 1, 2019, the same day as the first Adderall prescription, COLON sent the following messages to a number whose user identified herself as S.S.: “FYI I just did it / Let me know once you pick it up so I know all is good.” Additional text messages between COLON and S.S. show coordination for additional prescriptions and payments for those prescriptions.

On July 10, 2019, M.W. filled a prescription purportedly from Doctor 2 for a five-day supply of Oxycodone-Acetaminophen (a/k/a Percocet), also a Schedule II controlled substance. The same day, COLON exchanged over 100 messages with 856-431-6230. The messages included COLON offering to “bring you a few percs or any medication” after he canceled a massage appointment; COLON denying he was law enforcement; COLON requesting her full name as it appears on her insurance card because he was sending “that” to CVS; and COLON messaging “Go ahead and call, let me know what they say, if they ask the doctors name [Doctor 2].” The user indicated the following day that M.W. was her sister’s identity because the user was “nervous.”

All of the text messages described in this Affidavit as being sent or received by COLON, including those in the preceding paragraphs, were sent or received by the Target Number, *see* ¶ 9.

³ According to Google records, that yessir12334567@gmail.com was created on July 27, 2011 by a user who self-identified as “Bob Nobody.”

10. On March 11, 2020, the Honorable Karen M. Williams issued a search warrant for the content of text messages sent and received by the Target Number. Several text messages show COLON confirming himself as the user of the Target Number, including the following:

<u>Date</u>	<u>From</u>	<u>To</u>	<u>Content of Message</u>
11/14/18	609-795-6168	Target Number	"Yes at 3. I asked for your information to send you the money u never sent it"
	Target Number	609-795-6168	"You have my information, I sent it to you last time, I'll send someone to get it at 3"
	609-795-6168	Target Number	"I delete my messages"
	Target Number	609-795-6168	"deleting messages doesnt explain blowing me off for hours / if you'll be home at 3 they'll be there to get it from you / Jose Colon Sicklerville, NJ 08081"
5/14/19	Target Number	609-408-1767	"I would appreciate if you would wire me what[]s owed this morning."
	609-408-1767	Target Number	"Ok. What name"
	Target Number	609-408-1767	"Jose Colon"
9/3/19	Target Number	609-424-7014	"yeah thats perfect, and FYI my email changed it's JColon@[domain name of medical practice].com lol"
9/6/19	609-741-1475	Target Number	"I'm gonna send it thru the check cashing place I think it's western union."
	Target Number	609-741-1475	"Got it, Jose Colon, 08081"

[CONTINUED ON FOLLOWING PAGE.]

11. Text messages also show COLON using the Target Number to direct J.M. to send money to a particular Venmo account. Venmo records show that this Venmo account is in the name of “Jose Colon” and linked to jhcolon@gmail.com, a cellular telephone number subscribed in the name of COLON’s wife, and COLON’s bank account.

- a. On October 21, 2019, COLON and J.M. exchanged messages in which J.M. requested that COLON send a prescription to a CVS pharmacy in J.M.’s name for Adderall in exchange for a \$200 Venmo payment from J.M.’s friend R.B. Venmo records show that COLON’s Venmo account received \$200 the same day from R.B. Prescription records show that prescriptions purportedly authorized by APN 1 for J.M. for Adderall and Xanax were submitted and filled the same day at CVS in Cape May Courthouse, New Jersey.⁴
- b. Then, on October 25, 2019, COLON and J.M. exchanged additional messages in which J.M. requested that COLON send a prescription to a CVS pharmacy in J.B.’s name for Xanax in exchange a \$200 Venmo payment. Venmo records show that COLON’s Venmo account received \$200 the same day from J.M. with a memo indicating “fruits and vegetables.” The following day, J.M. directed that COLON instead put the prescription in the name of R.F. because “[J.B.] won’t pay me back. [R.F.] will.” Prescription records show that a prescription purportedly authorized by APN 1 for R.F. for Xanax was submitted and filled the same day at CVS in Cape May Courthouse, New Jersey.⁵

12. Additional text messages show COLON using the Target Number to solicit others to purchase prescriptions from him; arrange meetings to hand-deliver fraudulent paper prescriptions to the purchasers; confirm his submission of fraudulent electronic prescriptions on behalf of the purchasers; provide instructions to the purchasers on filling the prescriptions; receive updates from the purchasers as they interacted with pharmacies to fill the prescriptions; coordinate his receipt of funds and other compensation from the purchasers in exchange for the fraudulent prescriptions; and the purchasers’ subsequent distribution of the controlled substances obtained from the fraudulent prescriptions.

⁴ Prescription records further show that between June 2018 and October 2019, J.M. filled approximately 23 prescriptions for Oxycodone, Adderall, and Xanax that were purportedly authorized by Doctor 1 or APN 1. J.M. died of a drug overdose in November 2019.

⁵ Prescription records show that R.F. filled six additional prescriptions for Adderall and Xanax between August 2019 and November 2019, all of which were purportedly authorized by APN 1. Prescription records further show that J.B. filled seven prescriptions for Adderall and Xanax between June 2019 and October 2019, all of which were purportedly authorized by Doctor 1 or APN 1.

13. For instance, between February 2019 and November 2019, the Target number exchanged more than 400 messages with a phone number utilized by J.B.⁶ Prescription records show that J.B. filled the following prescriptions for Oxycodone that were purportedly authorized by Doctor 1 but actually sold to her by COLON:

- a. On February 21, 2019, J.B. filled a prescription dated February 19, 2019 for 90 pills of 15 mg Oxycodone at Rite-Aid in Sicklerville, New Jersey. J.B. and COLON exchanged approximately 80 messages between February 19th and February 22nd describing the transaction, including messages in which they arranged to meet in Sicklerville on February 19th for COLON to deliver the prescription to J.B.; J.B. explaining that she was unsuccessful in her initial attempt to fill the prescription on February 19th because the pharmacy was out of stock; J.B. describing her return to the same pharmacy two days later to successfully fill the prescription; and J.B. arranging to meet COLON to pay him \$50.
- b. On March 21, 2019, J.B. filled a prescription dated March 20, 2019 for 90 pills of 15 mg Oxycodone at Rite-Aid in Sicklerville, New Jersey. Text messages between J.B. and COLON explain how J.B. unsuccessfully attempted to fill the prescription on March 20th; J.B. indicating that the pills were ready for pick up the following day; COLON asking J.B. if J.B. knew anyone else who would be interested in the same deal as her; and J.B. indicating that she was ready to pay COLON.
- c. On April 19, 2019, J.B. filled a prescription dated April 18, 2019 for 90 pills of 15 mg Oxycodone at Rite-Aid in Sicklerville, New Jersey. Text messages show that on April 17th, J.B. offered to give her sister (S.B.) money to give to COLON for the prescription; on April 18th, J.B. thanked COLON for meeting S.B.; and on April 20th, J.B. confirmed that she was able to “get that.”
- d. On June 16, 2019, J.B. filled a prescription dated June 14, 2019 for 90 pills of 15 mg Oxycodone at Rite-Aid in Sicklerville, New Jersey. Text messages show that COLON indicated he would be meeting J.B.’s sister (S.B.) on the 14th and could drop off J.B.’s prescription then, to which J.B. agreed and responded that she sent her sister the money for COLON.

⁶ Between February 2019 and June 2019, the Target Number exchanged more than 1,000 messages with a phone number subscribed to S.B, who is the sister of J.B. Prescription records show that S.B. filled several prescriptions for Oxycodone during this period that were purportedly authorized by Doctor 1. In a non-custodial interview, S.B. confirmed that she received the prescriptions from COLON and that she had observed COLON sign the prescriptions in the name of Doctor 1.

- e. On July 15, 2019, J.B. filled a prescription dated the same day for 90 pills of 20 mg Oxycodone at Rite-Aid in Sicklerville, New Jersey. Text messages the same day show that J.B. asked COLON whether he would be meeting her sister (S.B.); J.B. indicated to COLON that she sent her sister the money for COLON; and J.B. asked whether COLON could write the prescription “for 120 of them [because] it’s been like 6 months now.” Although COLON did not increase this prescription from 90 pills to 120 pills, COLON increased the potency of the pills on this prescription from 15 mg to 20 mg.

14. In a non-custodial interview, J.B. explained that she met COLON in a parking lot, she observed COLON write out the prescriptions while in his car, she paid COLON for the prescriptions, and she sometimes received prescriptions from COLON for S.B. and another person, too.

Respectfully submitted,



James Smith
FBI Special Agent

Pursuant to Fed. R. Crim. P. 4.1, Agent James Smith was sworn and attested to the contents of this affidavit in support of the criminal complaint.



HON. ANN MARIE DONIO
United States Magistrate Judge

Date: June 15, 2020