

Approved: Christian R. Everdell / Aimee Hector
CHRISTIAN R. EVERDELL/AIMEE HECTOR
Assistant United States Attorneys

Before: HONORABLE ~~GABRIEL W. GORENSTEIN~~
United States Magistrate Judge
Southern District of New York

THEODORE H. KATZ
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	<u>SEALED</u> <u>COMPLAINT</u>
- v. -	:	Violations of
ODED ORBACH,	:	18 U.S.C. §§ 2339A,
a/k/a "Dedy,"	:	2332g, 3238
a/k/a "Jesse,"	:	
Defendant.	:	COUNTY OF OFFENSE: NEW YORK

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SOUTHERN DISTRICT OF NEW YORK, ss.:

JAMES MOTTO, being duly sworn, deposes and says that he is an investigator with the United States Attorney's Office for the Southern District of New York, and charges as follows:

COUNT ONE: CONSPIRACY TO PROVIDE MATERIAL SUPPORT TO TERRORISTS

1. From at least in or about October 2010, up to and including the present, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, ODED ORBACH, a/k/a "Dedy," a/k/a "Jesse," the defendant, who will be first brought to and arrested in the Southern District of New York, and others known and unknown, unlawfully and knowingly did combine, conspire, confederate and agree together and with each other to violate Section 2339A of Title 18, United States Code.

2. It was a part and an object of the conspiracy that ODED ORBACH, a/k/a "Dedy," a/k/a "Jesse," the defendant, and others known and unknown, would and did agree to provide material support or resources, as that term is defined in Title 18, United States Code, Section 2339A(b) of Title 18, United States Code, to the Taliban, including, among other things, the provision of weapons, knowing and intending that such support and resources were to be used in preparation for, in carrying out, and in concealing an escape from the commission of conduct constituting

an offense against the United States: to wit (a) murdering, attempting to murder, and conspiring to murder a national of the United States, in violation of Section 2332(a)(1) and (b) of Title 18, United States Code; and (b) murdering and attempting to murder an officer and employee of the United States Government and its agencies (including members of the uniformed services) while such officer and employee is engaged in and on account of the performance of official duties, and a person assisting such officer and employee in the performance of such duties or on account of that assistance, in violation of Section 1114 of Title 18, United States Code.

(Title 18, United States Code, Sections 2339A and 3238.)

COUNT TWO: CONSPIRACY TO ACQUIRE AND TRANSFER
ANTI-AIRCRAFT MISSILES

3. From at least in or about October 2010, up to and including the present, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, ODED ORBACH, a/k/a "Dedy," a/k/a "Jesse," the defendant, who will be first brought to and arrested in the Southern District of New York, and others known and unknown, unlawfully and knowingly did combine, conspire, confederate and agree together and with each other to violate Section 2332g of Title 18, United States Code.

4. It was a part and an object of the conspiracy that ODED ORBACH, a/k/a "Dedy," a/k/a "Jesse," the defendant, and others known and unknown, produced, constructed, otherwise acquired, transferred directly and indirectly, received, possessed, imported, and used (1) an explosive and incendiary rocket and missile that is guided by a system designed to enable the rocket and missile to seek and proceed toward energy radiated and reflected from an aircraft and toward an image locating an aircraft, and otherwise direct and guide the rocket and missile to an aircraft; (2) a device designed and intended to launch and guide said rocket and missile; and (3) a part and combination of parts designed and redesigned for use in assembling and fabricating said rocket, missile, and device; to wit, ORBACH agreed to acquire and transfer surface-to-air missile systems to enable the Taliban to attack United States aircraft in Afghanistan, in violation of Title 18, United States Code, Section 2332g.

(Title 18, United States Code, Sections 2332g(a)(1) and 3238.)

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

5. I have been an investigator with the United States Attorney's Office for the Southern District of New York for over seven years. Prior to that, I was a Detective with the New York City Police Department for approximately eighteen years. During the course of my career, I have participated in investigations of unlawful narcotics trafficking and terrorism offenses, and have participated in wire and physical surveillance, the introduction and use of confidential sources, and reviews of taped conversations, among other things.

6. I make this affidavit, in part, based on my personal review of documents obtained in the course of the investigation and, in part, upon information and belief. The sources of my information and belief include, but are not limited to, conversations with other law enforcement officers; reviews of reports and other documents prepared by law enforcement personnel; reviews of email correspondence and various business records; and summaries of recorded conversations. Where the actions, statements and conversations of others, or the contents of documents, are recounted or described herein, they are related in substance and in part, unless otherwise indicated.

7. The facts and circumstances of this investigation have been summarized for the specific purposes of this affidavit. No attempt has been made to set forth the complete factual history of this investigation or all of its details.

Background to the Investigation

8. During 2010, the Narco-Terrorism Group of the Drug Enforcement Administration's ("DEA") Special Operations Division Bilateral Investigations Unit ("NTG") has been conducting a narco-terrorism and arms-trafficking investigation in West Africa and Eastern Europe.

9. During the initial stages of the investigation, the NTG used two confidential sources ("CS-1" and "CS-2").¹ CS-1 and CS-2 posed as representatives of the Taliban, the radical religious movement now conducting a violent insurgency in Afghanistan, which uses terrorist attacks to further its goal of

¹ CS-1 and CS-2 are both paid confidential sources working for the DEA. CS-1 and CS-2 have previously provided reliable and independently corroborated information to law enforcement agents.

driving the United States and its allies from the region. At the DEA's direction, the two confidential sources participated in numerous consensually recorded meetings in West Africa with, among others, a co-conspirator not named herein ("CC-1"). In those meetings, CS-1 and CS-2 sought CC-1's assistance in receiving, storing, and moving a large shipment of Taliban-owned heroin from Benin to Ghana so that it could be sent to the United States by commercial airplane. CS-1 and CS-2 also discussed with CC-1 the purchase of multi-kilogram quantities of cocaine that the Taliban could sell at a profit in the United States.

10. During the fall of 2010, CS-1 and CS-2 participated in additional consensually recorded meetings in West Africa with CC-1, among other co-conspirators not named herein. During these meetings, CS-1 and CS-2 explained that the proceeds from the sale of narcotics would be used by the Taliban to purchase weapons to fight the Americans. CC-1 responded that he could set up a subsequent meeting with weapons traffickers who were affiliated with Hezbollah to facilitate a weapons transaction. CS-1 explained that he would bring CS-3 and CS-4² to that meeting, who were described by CS-1 to be more senior representatives of the Taliban, responsible for weapons purchases on the Taliban's behalf.

Weapons Negotiation

11. On or about November 20, 2010, CS-1, CS-3, and CS-4 participated in a consensually recorded meeting with CC-1 and the two weapons traffickers, CC-2 and CC-3 (described above). At this meeting, which took place in West Africa, the participants discussed, among other things, in sum and substance, the following:

a. CS-3 explained that he/she worked for the Taliban and that the Taliban needed modern weapons to protect their heroin laboratories in the desert from air strikes and to destroy American tanks.

b. CC-2 discussed providing heat-seeking surface-to-air missiles ("SAMs"), anti-tank missiles, RPG launchers, night vision equipment, sniper rifles, AK-47s, M-16s, and other weapons. CC-2 also discussed pricing and delivery locations for the weapons.

² CS-3 and CS-4 are both paid confidential sources working for the DEA. CS-3 and CS-4 have previously provided reliable and independently corroborated information to law enforcement agents.

12. Law enforcement officers have obtained emails from an email account ("the Email Account") used by CC-2. The Email Account contains email correspondence between CC-2 and email addresses used by ODED ORBACH, a/k/a "Dedy," a/k/a "Jesse," the defendant. From my review of some of the emails from the Email Account, and based on my conversations with agents involved in this investigation, I have learned that CC-2 and ORBACH are jointly engaged in a business that deals in, among other things, the sale of weapons. As described below, the Email Account contains correspondence between CC-2 and ORBACH regarding the weapons transaction discussed during the November 2010 meeting.

13. On or about December 4, 2010, ODED ORBACH, a/k/a "Dedy," a/k/a "Jesse," the defendant, sent an email to CC-2 stating the following:

[First name of CC-2] the information as requested
Please let me know when you get it
Jesse.

An attachment to the December 4, 2010 email consists of a document from "Mr. Dedy Orbach" which states, in part, the following:

Mr. [initials of CC-2] below is your Information:
M82-.50 Cal are \$9,750 to 11,750 a unit (Cleaning Kit and Accessories included)
M107-.50 Cal are \$13,480 to 16,750 a unit (Cleaning Kit and Accessories included)
Leupold Mark 4 Long Range Tactical M1 Rifle Scope \$765-\$792.
BORS- Ballistic PC with Leupold Mark4 4.5-14x50mm \$2,600 each
ADVANCED COMBAT OPTICAL GUNSIGHTS "Standard and Night Vision include mounting brackets ranging in Price from \$1,275 to \$4,750.
ATN PS15-3A Dual Night Vision Goggles with Helmet Mounting Brackets \$5,750 Each.
Standard- MODEL # PVS-14 are \$ 3,250, helmet Mount \$275, rifle mount \$115 Each.

FIM 92 (Stinger) are \$49,000 a unit- Raytheon (General Dynamics)

The Javelin about \$87,000 (Also available as systems for \$57,000) The missile can cost from \$87,000 to \$110,000 depending on options and mission.

M47 Dragon cost about \$18,000 a pcs- its old tech

M16 about \$ 175 a unit

Older M16 for \$120-\$130
Glock 17,9X19 Pistol \$ 575 Each
Beretta Model 92F \$375 each
40 mm Grenade launcher \$ 2,750 Each

Based on my training and experience, and conversations with law enforcement agents involved in this investigation, I believe that ORBACH provided this weapons list and pricing to CC-2 so that it could thereafter be provided to CS-3, as is further evidenced below.

14. On or about December 9 and 10, 2010, CS-1 and CS-3 met with CC-2 in Kiev, Ukraine. During those meetings, which were consensually recorded, the participants further discussed the details of the weapons transaction. CC-2 explained that his job is to meet customers, finalize negotiations, and ultimately authorize the transaction. At that point, another individual would be introduced to handle the money and delivery of the weapons.

15. On or about December 10, 2010, following the conclusion of the in-person meeting in Kiev, CC-2 sent an email to CS-3 with the information contained in the December 4, 2010 email described above.

16. On or about December 17, 2010, ODED ORBACH, a/k/a "Dedy," a/k/a "Jesse," the defendant, sent an email to CC-2. The attachment to the email contained a detailed spreadsheet listing pricing and payment terms for various weapons, including automatic firearms and SAMs, such as an "FIM 92 (Stinger)" for \$49,000 and a "Javelin" for \$87,000.

17. Throughout January 2011, at the DEA's direction, CS-3 communicated with CC-2 by email to arrange a subsequent meeting.

18. Also throughout January 2011, email correspondence between CC-2 and ODED ORBACH, a/k/a "Dedy," a/k/a "Jesse," the defendant, indicates that, on several occasions, CC-2 emailed correspondence that he had received from CS-3 to ORBACH, who then drafted the responsive emails and sent them back to CC-2 to thereafter be sent to CS-3. For example:

a. On or about January 4, 2011, CC-2 sent an email to ORBACH, which consisted of an email previously sent from CS-3, which, in substance and in part, suggested a subsequent meeting in Bucharest, Romania and sought further clarification regarding "1. Form of payment and payment schedules 2. Delivery places of shipments 3. Training 4. Repeat orders for ammunition."

b. On or about January 5, 2011, ORBACH responded to CC-2 stating, "Dear . . . attached to your reply Text- check it and send it to him". The attachment consisted of a reply to CS-3 agreeing to "work on; (1) Payment, financials schedules (2) Deliveries & shipments (3) Training availability, first order quantities and repeat orders and duration of supplies" and to attend a subsequent meeting to finalize the negotiations.

19. On or about February 9, 2011, ODED ORBACH, a/k/a "Dedy," a/k/a "Jesse," the defendant, CC-2, and CS-3 participated in a consensually recorded meeting in Bucharest, Romania, at which the participants discussed the weapons transaction. The following topics, among others, were discussed, in sum and substance:

a. CS-3 told ORBACH and CC-2 that the Taliban needed SAMs to protect their heroin laboratories from attacks by Cobra and Blackhawk helicopters. CC-2 and ORBACH stated that they would give advice on which types of weapons to purchase. ORBACH described the capabilities of various SAMs. CC-2 discussed which types of weapons were suitable for use in the desert and the mountains.

b. CS-3 showed CC-2 and ORBACH a list of weapons that CC-2 had previously provided to CS-3 via the December 17, 2010 email, as described in paragraph 16. CS-3, CC-2, and ORBACH then discussed the pricing of the weapons. ORBACH later acknowledged that he had created the weapons list.

c. ORBACH offered to send a colleague to train CS-3 and his/her representatives on the equipment. ORBACH and CC-2 then told CS-3 that they were interested in establishing a long-term relationship.

d. CC-2 told CS-3 that ORBACH was in charge of the financing. ORBACH explained to CS-3 that he uses a private banking system and that he wanted the payments for the weapons to be placed in safe deposit boxes in different bank locations with two sets of keys to each box.

e. CS-3 asked CC-2 if he knew the source of the money that CS-3 would use to pay for the weapons. CC-2 responded that he knew the money was coming from drugs.

f. CS-3 told ORBACH and CC-2 that he/she could take receipt of the weapons at a particular port in Romania, which port CS-3 named. CC-2 told CS-3 that he needed a few hours to determine whether he could deliver the weapons there.

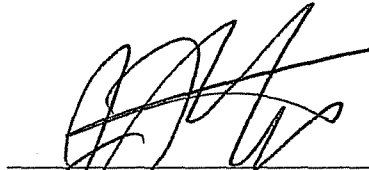
20. Shortly after the meeting ended, CC-2 received a text message from a telephone number in Lebanon, which was intercepted pursuant to a court-authorized wiretap in Romania, and which stated, in sum and substance, the following:

Dear Friend

Got approval for [name of port in Romania]. (Listed lat and long.) That is the FOB (free on board) (meaning for container no taxes). Right- I can do it no problem

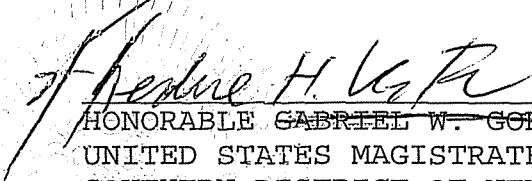
Based on my discussions with DEA agents who are familiar with the case, I believe that, in this text message, a co-conspirator located in Lebanon is telling CC-2 that he/she is capable of delivering the weapons shipment to the previously named port in Romania.

WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of ODED ORBACH, a/k/a "Dedy," a/k/a "Jesse," the defendant, and that he be arrested and imprisoned, or bailed, as the case may be.



JAMES MOTTO
Investigator
United States Attorney's Office
Southern District of New York

Sworn to before me this
9th day of February, 2011



HONORABLE GABRIEL W. GORENSTEIN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

THEODORE H. KATZ
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK