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AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

8

United States of America,

Plaintiff,

v.

KHALIL ABU RAYYAN

Defendant(s).

Case: 2:16-mj-30039
Assigned To : Unassigned
Assign. Date : 2/4/2016
Description: CMP USA v. SEALED MATTER (SO)

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 October 5, 2015, in the county of Wayne in the Eastern District of Michigan, the defendant(s) violated:

Code Section	*Offense Description*
18 USC Section 922(g)(3)	Possession of a Firearm by an unlawful user of a controlled substance.

This criminal complaint is based on these facts:
See attached AFFIDAVIT.

☐ Continued on the attached sheet.

Complainant's signature

Alan Southard, Special Agent, FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: FEB 0 4 2016

Judge's signature

City and state: Detroit, Michigan

Elizabeth A. Stafford, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT

I, Alan K. Southard, being first duly sworn, hereby depose and state as follows:

1. I make this affidavit in support of a criminal complaint against KHALIL ABU-RAYYAN (DOB 04/21/1994) for being an unlawful user of a controlled substance (marijuana) who possessed a firearm which travelled in interstate commerce, in violation of Section 922(g)(3) of Title 18 of the United States Code.

2. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since August of 2006. Previously, I was an Illinois State Trooper from February, 2002 to August, 2006. My duties and responsibilities and training as a Special Agent with the FBI include investigating violations of federal criminal law. I have participated in the investigation and prosecution of individuals involved in the illegal possession of firearms.

3. The information in this affidavit is based on my personal knowledge and on information provided to me by other law enforcement officers and witnesses and is provided for the limited purpose of demonstrating probable cause to support the issuance of a criminal complaint. This affidavit, therefore, does not summarize all of the facts known to me or other law enforcement agents and officers at this time.

4. Since May of 2015, the FBI has been conducting an investigation of KHALIL ABU-RAYYAN regarding increasingly violent threats he has made to others about committing acts of terror and martyrdom---including brutal acts against police officers, churchgoers and others---on behalf of the foreign terrorist organization Islamic State of Iraq and Levant. This investigation has involved a number of investigative steps, including review of ABU-RAYYAN's social media postings, surveillance, and consensually monitored telephone conversations and electronic communications with an undercover employee.

5. On October 5, 2015, based upon records of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), your affiant is aware that KHALIL ABU-RAYYAN purchased a .22 caliber revolver made by Heritage Manufacturing Incorporated from a sporting goods store in Dearborn Heights, Michigan. To purchase the firearm, ABU-RAYYAN completed

ATF Form 4473. Question 11.e on that form asks, "Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?" ABU-RAYYAN checked "No" and signed the form.

6. Your affiant has learned that Heritage Manufacturing Incorporated, headquartered in Miami Lakes, Florida, does not manufacture any firearms in the State of Michigan. As such, any Heritage Manufacturing Incorporated firearm located or sold in the State of Michigan travelled in and affected interstate commerce.

7. On October 7, 2015, officers of the Detroit Police Department pulled over a 2001 Buick Century, driven by KHALIL ABU-RAYYAN, after observing him exceed the posted speed limit. As the officers approached the Buick, they observed ABU-RAYYAN, while still seated in his car, make several movements and bend down as if he was trying to hide something within his car. ABU-RAYYAN was then ordered to show his hands to the officers. As the officers neared the Buick, they could smell a strong order of suspected marijuana. ABU-RAYYAN was ordered out his car. As ABU-RAYYAN was getting out of the car, he was asked by an officer if there was anything in the car. ABU-RAYYAN replied "Yes, my gun is in there." When asked if he has a Concealed Pistol License (CPL), ABU-RAYYAN stated "No."

8. According to the Detroit Police Department report the officers recovered a black Heritage .22 caliber revolver from the driver's side floor board. A drug detecting canine was brought to the scene and discovered a plastic bag under the dashboard behind the ashtray, which contained a black vial with four baggies of suspected marijuana. ABU-RAYYAN was thereafter arrested for carrying a concealed weapon in an automobile and possession of marijuana.

9. After his arrest, ABU-RAYYAN waived his *Miranda* rights and gave a statement regarding the circumstances leading to his arrest. As to his carrying the concealed gun, ABU-RAYYAN admitted that he realized that he had his gun with him. He went on to say:

> "I tried to hide it under my seat because I panicked. I think my fidgeting made him nervous because he ordered me out of the car. That's when I told him 'Hey man, I got a pistol.'"

When asked if he had been issued a Concealed Pistol License (CPL), ABU-RAYYAN stated:

> "No, I was open carrying at work but I knew when I got in the car with it I was wrong. I just forgot to put it in the trunk…"

As to the possession of the marijuana and other drugs ABU-RAYYAN stated:

> "The cop said he smelled marijuana and ordered a drug dog. The dog came and found my weed in a compartment of my dash. He also found 3 sleeping pills and my pipe with the weed."

10. When asked about the marijuana and the sleeping pills, ABU-RAYYAN admitted he did not have a medical marijuana card or a prescription for the sleeping pills. ABU-RAYYAN was eventually released on bond pending the issuance of a warrant and the filing of criminal charges by the Wayne County Prosecutor's Office.

11. On November 15, 2015, ABU-RAYYAN attempted to purchase another pistol. This time, ABU-RAYYAN used a different sporting goods store than he used for his first firearm purchase. On this second occasion, ABU-RAYYAN completed ATF Form 4473 and again falsely responded, "no," to the question asking whether he was an unlawful user of marijuana or any other controlled substance. Because of pending case related to his October 7th arrest, ABU-RAYYAN was unable to purchase the second pistol. Also on the same date ABU-RAYYAN, and another individual went to a local firing range. While at the firing range ABU-RAYYAN rented a firearm.

12. On November 17, 2015, the Wayne County Prosecutor's Office issued a warrant charging ABU-RAYYAN with Carrying a Concealed Weapon and Possession of a Controlled Substance (Marijuana).

13. On November 30, 2015, ABU-RAYYAN was arrested on the warrant. After his arrest, ABU-RAYYAN waived his *Miranda* rights and gave a statement regarding his case. ABU-RAYYAN stated that he had stopped smoking marijuana since his arrest. However, while asserting that he previously smoked marijuana on a recreational basis, he admitted that he had been smoking for the past two years, since he was 18 or 19 years old, and that he typically smoked about "four to five blunts" a week.

14. On January 15, 2016, ABU-RAYYAN pleaded guilty to possession of marijuana. He is currently scheduled for trial on February 16, 2016 on the charge of carrying a concealed weapon.

15. The Islamic State of Iraq and Levant (formerly al-Qa'ida in Iraq), commonly abbreviated as ISIL, is a foreign terrorist organization. The terrorist organization is also known as ISIS, IS, Islamic State, Daesh, and Dawlah. The U.S. Department of State designated ISIL as a terrorist organization on April 10, 2014.

16. ABU-RAYYAN previously used the Twitter username, "@khalilray21." After his October 7, 2015 arrest, ABU-RAYYAN told DPD officers that his Twitter account was "@khalilray21." In addition, the profile photo for this account showed a photo of ABU-RAYYAN, which depicts the same individual as on his Michigan driver's license photo, standing in the driveway of his residence in Dearborn Heights, Michigan, raising one index finger vertically.

17. In June, 2015, the FBI reviewed ABU-RAYYAN's @khalilray21 Twitter account and determined that ABU-RAYYAN had been re-tweeting, liking, and commenting on ISIL propaganda on his Twitter account at least as early as November, 2014. The propaganda included videos of a Jordanian fighter pilot being burned alive, men being thrown from a high-rise building to execute them, the beheading of Christians in Egypt, and news of ISIL victories.

18. As of November, 2015, ABU-RAYYAN began using Twitter account, "@khalilaburay21." FBI agents observed that, on November 29, 2015, ABU-RAYYAN posted a notification on this account indicating that his previous twitter account had been suspended. ABU-RAYYAN's new Twitter account also has the same profile photo showing ABU-RAYYAN standing in the driveway of his residence in Dearborn Heights, Michigan, raising one index finger vertically.

19. On February 19, 2015, ABU-RAYANN, using his @khalilray21 Twitter account, posted a photo of three individuals wearing camouflage. One of the individuals depicted is ABU-RAYYAN, who is holding what appears to be a semi-automatic pistol in his right hand, and holding his index finger vertical with his left hand.

20. Raising a single index finger is a gesture commonly found in images of ISIL supporters. According to an article titled, "ISIS Sends a Message" in the journal *Foreign Affairs*, the gesture symbolizes the "tawhid," or the oneness of God. The article compared this gesture to the salute used by the Nazis.

21. In December 2015, ABU-RAYYAN engaged in conversations with an undercover FBI employee (UC). Over the course of several weeks, ABU-RAYYAN and the undercover employee had daily conversations using online social media. During these conversations, ABU-RAYYAN consistently expressed support for ISIL and repeatedly expressed his desire to commit a martyrdom operation.

22. ABU-RAYYAN told the UC that he had an AK-47 with a 40-round magazine. ABU-RAYYAN described the AK-47 as the type of machine gun ISIL fighters carry.

23. ABU-RAYYAN also told the UC, "I tried to shoot up a church one day. I don't know the name of it, but it's close to my job. It's one of the biggest ones in Detroit. Ya, I had it planned out. I bought a bunch of bullets. I practiced a lot with it. I practiced reloading and unloading. But my dad searched my car one day and he found everything. He found the gun and the bullets and a mask I was going to wear."

24. ABU-RAYYAN said he targeted a church because, "It's easy, and a lot of people go there. Plus people are not allowed to carry guns in church. Plus it would make the news. Everybody would've heard. Honestly I regret not doing it. I if can't go do jihad at the Middle East, I would do my jihad over here."

25. The Investigation has identified a church that fits the description ABU-RAYYAN gave. The church is less than half of a mile from ABU-RAYYAN's place of employment. The church property covers approximately two blocks, and according to the church's website, the venue can accommodate up to 6000 members.

26. ABU-RAYYAN told the UC the firearm he purchased in October was a "cowboy gun." He described it as "10 inches long, very powerful." ABU-RAYYAN said he did not commit the church shooting with that firearm because it only held six shots and he would have to keep reloading. ABU-

RAYYAN said this was the firearm seized by the police when he was arrested.

27. On or about November 29, 2015, ABU-RAYYAN tweeted photos of himself firing an AK-47 type and AR-15 type rifles at a local firing range. Based upon closer inspection of the photos posted by ABU-RAYYAN it appears that the photographs were taken at the same firing range where ABU-RAYYAN and another individual went to on November 15, 2015 and rented a firearm. ABU-RAYYAN captioned one of the photos, "Sahwat hunting". Your affiant is aware that "Sahwat" is a term for Iraqis who oppose ISIL.

28. On or about January 21, 2016, ABU-RAYYAN told the UC that he wanted to kill the officer who arrested him in October. ABU-RAYYAN said his trial was delayed because the officer had a heart attack, and was in the hospital. ABU-RAYYAN explained he wanted to do a martyrdom operation at the hospital, killing the police officer in the process.

29. On or about January 22, 2016, ABU-RAYYAN told the UC the he carries a large knife or a sword in his car in case he gets into a fight. ABU-RAYYAN also said hearing about shootings and death make him excited. He continued, "I would gladly behead people if I needed to…It is my dream to behead someone…."

30. Title 18 United States Code Section 922(g)(3) prohibits an individual "who is an unlawful user of or addicted to any controlled substance" from possessing a firearm which has travelled in interstate commerce. I submit that this affidavit supports probable cause to believe that KHALIL ABU-RAYYAN, being an unlawful user of a controlled substance (marijuana), possessed a firearm which travelled in interstate commerce in violation of Title 18 United States Code Section 922(g)(3).

Respectfully submitted,

Alan K. Southard
Special Agent, Federal Bureau of Investigation

Subscribed and sworn to before me

on February 4, 2016:

ELIZABETH A. STAFFORD
UNITED STATES MAGISTRATE JUDGE