

AO 91 (Rev. 11/11) Criminal Complaint

FILED
At Albuquerque NM
OCT 24 2018

UNITED STATES DISTRICT COURT

for the

District of New Mexico

United States of America)

v.)

Michael Weber)

Case No. 18-mj-3458

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 January 16, 2018 in the county of Curry and elsewhere in the District of New Mexico, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. 1030(a)(5)(A)	Fraud and related activities in connection with computers

This criminal complaint is based on these facts:

See Affidavit of Special Agent Jacob vanBrandwijk, attached hereto and incorporated by reference herein.

Continued on the attached sheet.

Complainant's signature

Special Agent Jacob vanBrandwijk, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/24/2018

Judge's signature

City and state: Albuquerque, New Mexico

Hon. Karen B. Molzen, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

1. I, Jacob vanBrandwijk, being first duly sworn, hereby depose and state as follows:

Introduction and Agent Background

2. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). I have been employed as a special agent since March 2017. During this time, I have conducted many investigations of violations of federal law, especially criminal offenses involving sophisticated technology and cyber crime. I have gained extensive experience in these kinds of investigations through formal and on-the-job training and everyday work experience. In the instant investigation, I am supervised by Acting Supervisory Special Agent Aaron Cravens, who has more than 14 years of experience as a special agent with the FBI. I have routinely consulted with Special Agents Jeffery Moon and Heath Parvis during the course of this investigation.

3. Before joining the FBI, I earned a bachelor's degree in computer science and a master's degree in information assurance. I also worked in the field of information security for approximately thirteen years. I am a federal law enforcement officer who is engaged in the enforcement of federal criminal law. As such, I am authorized by the Attorney General and statutory law to file criminal complaints and request arrest warrants.

4. The information I have set forth in this affidavit is derived from my own investigation and/or was communicated to me by other sworn law enforcement officers. This affidavit is intended to show only that there is sufficient probable cause for the requested criminal complaint and arrest warrant and does not set forth all of my knowledge about this matter. I have only provided those facts that I believe are necessary to establish probable cause for a criminal complaint and arrest warrant for Michael Joel Weber (hereinafter, "Weber"), for

committing the offense of fraud and related activities in connection with computers, in violation of 18 U.S.C. § 1030(a)(5)(A).

Probable Cause

5. I am currently participating in an investigation of Weber, a former enlisted member of the United States Air Force, and others, for suspected violations of federal law, including offenses committed using computers. During this investigation, I obtained a warrant to search a Facebook account in Weber's name.¹ I believe this Facebook account belongs to Weber. I have viewed the profile for this Facebook account online and observed a photograph of the purported user. The person in this photograph looks like Weber based on my observations of other photographs of him during this investigation. In particular, I recognize the person in the Facebook account photographs from photographs of Weber's military identification and of Weber's New Mexico driver's license.

6. The search warrant authorized me to search for evidence of computer fraud and related activities, in violation of 18 U.S.C. § 1030. I provided this search warrant to Facebook. Facebook responded by providing content from Weber's Facebook account on October 8, 2018.

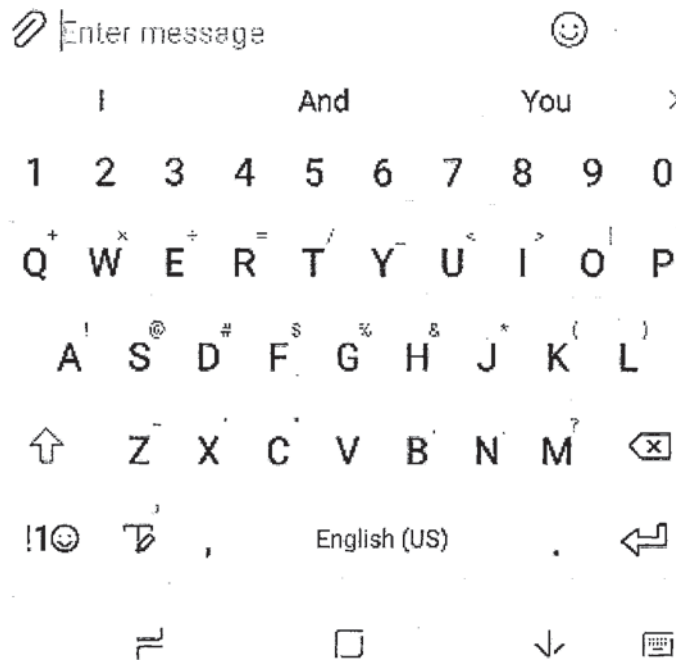
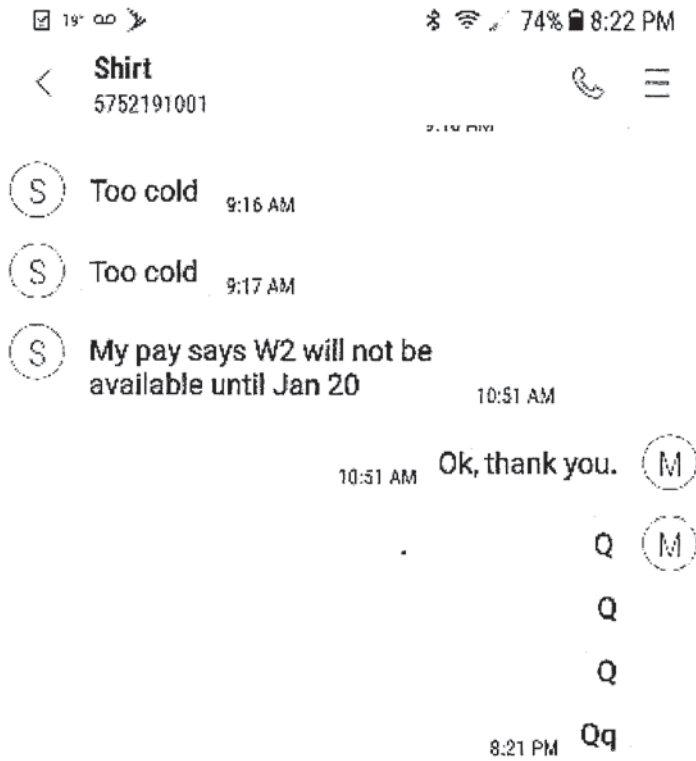
7. When I reviewed Weber's Facebook account, I found numerous Facebook Messenger communications between Weber and other Facebook users, including people identified in their profiles as Tyler Dion (hereinafter, "Dion") and Austin McGowan (hereinafter, "McGowan"). These communications included a series of messages sent and received on

¹ I obtained this search warrant (18-MR-910) from the Honorable Karen B. Molzen, United States Magistrate Judge, on September 26, 2018.

January 16, 2018.² In these communications, Weber discussed putting a “spam bot” on the wireless telephone of his military supervisor.

8. Weber sent an image of a purported text conversation with someone using telephone number (575) 219-1001, as shown below. This image showed a series of text messages reading “Q” and “Qq[.]” Weber sent a message with this image reading, “Got a spam bot going on the [S]hirt [right now.]” Dion replied with a message reading, “Very nice[.]”

² Facebook provided the dates and times of these messages in Coordinated Universal Time (“UTC”). One message was sent at 3:17 a.m. UTC, which is 8:17 p.m. Mountain Standard Time (“MST.”)



9. Weber then sent another image showing a long string of text messages reading “Q” and “Qq[.]” Weber messaged, “[I]t just keeps on going” and “[Q] takes up a lot of space in

binary talk.” Dion replied, “She’s going to be so pissed[.]” Weber then sent a message reading, “Make her gov[ernment] phone freeze[.]”

10. Through further investigation, I have identified the telephone assigned telephone number (575) 219-1001 (hereinafter, the “Shirt Phone”) as property of the Air Force that is assigned to the First Sergeant of Weber’s former unit at Cannon Air Force Base, New Mexico. Indeed, I recently interviewed the current First Sergeant, Master Sergeant C.S., about this matter. She told me that she did not supervise Weber as of January 16, 2018, when he sent the messages described above. However, she stated that the Shirt Phone belongs to her now as the current First Sergeant of the unit. According to MSgt C.S., the Shirt Phone is used for interstate and foreign telephonic communications, to access the internet, and to send and receive official military email. She further explained to me that “Shirt” is a term Air Force members commonly use when referring to supervisors of her rank and authority. I have also interviewed MSgt J.H., who confirmed that she served as First Sergeant of Weber’s former unit at the time of the messages described above.

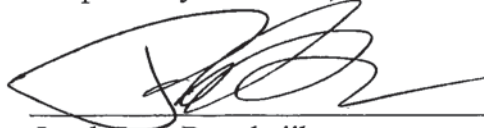
11. Based on this evidence, I believe there is probable cause to believe Weber committed the offense of fraud or related activities in connection with computers, in violation of 18 U.S.C. § 1030(a)(5)(A). Specifically, I believe this evidence shows Weber knowingly caused the transmission of a program, information, code, or command when he activated what he described as a “spam bot” on the Shirt Phone. I further believe Weber intended to cause damage without authorization to a protected computer because he stated that his purpose in activating the “spam bot” was to make the Shirt Phone “freeze[.]” The Shirt Phone is a protected computer within the meaning of the law because it is Air Force property used by military members for official purposes, including communication in and affecting interstate and foreign commerce. A

person can be punished for violating 18 U.S.C. § 1030(a)(5)(A) when they attempt or conspire to commit this offense, but do not actually complete it. Therefore, I believe Weber is criminally responsible for this offense even if he did not succeed in damaging the Shirt Phone.

Conclusion

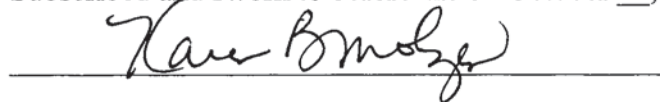
12. Based on all of the information I have described above, I submit that there is probable cause to believe that on or about January 16, 2018, Michael Joel Weber committed the offense of fraud and related activities in connection with computers, in violation of 18 U.S.C. § 1030(a)(5)(A), in the District of New Mexico and elsewhere. I respectfully request an arrest warrant based upon the criminal complaint in this matter. I swear that this information is true and correct to the best of my knowledge.

Respectfully submitted,



Jacob J vanBrandwijk
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me on October ^{24th} , 2018



UNITED STATES MAGISTRATE JUDGE