AO 91 (Rev. 02/09) Criminal Complaint

United States District Court

for the
Western District of New York

UNITED STATES DISTRICT COURT
FILED
NOV 10 2022
MARY C. LOEWENGUTH, CLERK
WESTERN DISTRICT OF NY

United States of America

v.

OCTAVIO SMITH

Defendant

Case No. 22-mj-5101

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 November 9, 2022, in the County of Erie, in the Western District of New York, the defendant willfully and by means of throwing a brick at the front windows of the Buffalo Field Office of the Federal Bureau of Investigation, did injure, attempt to injure, and commit a depredation against property of the United States and of any department or agency thereof, specifically the front window of the Buffalo Field Office of the Federal Bureau of Investigation, and the resulting damage was greater than $1,000.

All in violation of Title 18, United States Code, Section 1361

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

ANDREW CLARK
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION
Printed name and title

Sworn to telephonically this
10th day of November 2022.

Judge's signature

City and State: Buffalo, New York

HONORABLE MICHAEL J. ROEMER
UNITED STATES MAGISTRATE JUDGE
Printed name and title

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE)
CITY OF BUFFALO) SS:

ANDREW CLARK, being duly sworn, deposes and says:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent of the Federal Bureau of Investigation ("FBI") of the United States Department of Justice. As such, I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States empowered by law to conduct investigations of and to execute search and seizure warrants for offenses enumerated in Title 18, United States Code, Section 2516.

2. I have served as an FBI Special Agent since March of 2018 and am currently assigned to the FBI Buffalo Division Joint Terrorism Task Force ("FBI-JTTF"). During that time, I have participated in investigations involving white collar crime, drug trafficking, firearms, child exploitation, and national security matters to include international and domestic terrorism. In addition, I have had the opportunity to work with several other FBI agents and other law enforcement agents and officers of varying experience levels, who have also investigated these crimes in the Western District of New York. My training and investigative experience detailed herein, and the experiences of other law enforcement agents, who are participating in this investigation, serve as the basis for the opinions and conclusions set forth herein.

3. I offer this affidavit in support of the criminal complaint charging OCTAVIO B. SMITH ("SMITH") with violations of Title 18, United States Code, Section 1361 (Depredation of Government Property).

4. I am familiar with the information contained in this affidavit based upon my participation in the investigation, and information provided to me by other law enforcement officers. Because this affidavit is submitted for the limited purpose of securing a criminal complaint, it may not contain all the information which I have learned during the course of this investigation. I have set forth only those facts that I believe are necessary to establish probable cause that SMITH has violated Title 18, United States Code, Section 1361.

PROBABLE CAUSE

5. On November 9, 2022, at approximately 1246 hours, SMITH was observed throwing a brick at a window of the FBI Buffalo Field Office located at 1 FBI Plaza, Buffalo, New York 14202 (the "FBI Building"). On-site security personnel immediately detained SMITH at the scene.

6. Officers with the Buffalo Police Department arrived on scene and attempted to interview SMITH. SMITH explained to Buffalo Police Officer Olejniczak that he wanted to talk to the FBI and that he did this to "get the FBI's attention." SMITH admitted to the officer that he threw the brick so he could talk to the FBI. Officer Olejniczak is certified in Critical Incident Training ("CIT") and asked SMITH if he was a danger to himself or others whereafter SMITH stated he was not. SMITH stated he was not under the influence of drugs

or alcohol. Based on SMITH's statements, Officer Olejniczak advised that SMITH did not meet the requirements for Section 9.41 of the New York Mental Hygiene Law. SMITH briefly spoke with the officer before stating he no longer wanted to talk and to take him to jail.

7. Federal Protective Services ("FPS") personnel also responded to the scene and, among other things, surveyed the damage to the window. The window was found to be severely cracked and needed to be covered with a sheet of plywood as a security precaution. An FPS Officer estimated that the damage to the window caused by SMITH is approximately five thousand dollars ($5,000).

8. After identifying ourselves, I and Special Agent Jason Kammeraad interviewed SMITH. After he was read his *Miranda* rights, SMITH admitted that he damaged the front window of the FBI building. SMITH stated that he threw a brick at the FBI building to "get the FBI's attention." SMITH stated that he knew the building was the property of the FBI and didn't use the intercom or call the FBI because "they knew I was coming." Furthermore, SMITH stated he was upset by organizations such as the Illuminati and Free Masons operating inside Erie County Medical Center ("ECMC") without the FBI knowing. SMITH stated that these organizations have been injecting him with "shit" for over four years. SMITH also claimed that people are playing with science and technology. SMITH also referenced the devil and God. SMITH stated that the FBI knows about all of the threats in the country and referred to himself saying "I'm a threat."

9. While SMITH was being prepared for transportation to the United States Marshal's Service, Special Agent Kammeraad asked SMITH if there was someone to be notified whereafter SMITH stated that he didn't want anyone to be notified because "they already know what I was going to do." SMITH further elaborated that he told two of his friends that he was going to carry out an attack on the FBI building.

CONCLUSION

WHEREFORE, I respectfully submit that the foregoing facts establish probable cause to believe that Octavio B. Smith willfully violated Title 18, United States Code, Section 1361.

ANDREW CLARK
Special Agent
Federal Bureau of Investigation

Sworn to telephonically
this 10th day of November 2022.

Hon. MICHAEL J. ROEMER
United States Magistrate Judge