

out

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA

FILED

CRIMINAL COMPLAINT

UNDER SEAL

v.

CASE NUMBER:
JAN - 9 2008
1-9-08

08CR 0009

JAMES KENNEDY

MICHAEL W. DOBBINS

MAGISTRATE JUDGE DENLOW

CLERK, U.S. DISTRICT COURT

I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about January 8, 2008 in the Northern District of Illinois and elsewhere, defendant did

knowingly engage in conduct or threatening bodily injury to another person, with intent to retaliate against such person for giving information relating to the possible commission of a Federal offense communicated by such person to a law enforcement officer,

in violation of Title 18 United States Code, Section 1513(b)(2).

I further state that I am a Postal Inspector, United States Postal Inspection Service and that this complaint is based on the following facts:

See attached affidavit of John D. Donnelly

Continued on the attached sheet and made a part hereof: Yes No

John D. Donnelly
Signature of Complainant

Sworn to before me and subscribed in my presence,

January 9, 2008
Date

Chicago, Illinois
City and State

MORTON DENLOW, U.S. MAGISTRATE JUDGE
Name & Title of Judicial Officer

Morton Denlow
Signature of Judicial Officer

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

AFFIDAVIT

I, John D. Donnelly, being duly sworn on oath, hereby depose and state the following:

1. I have been employed as a Postal Inspector with the United States Postal Inspection Service since May 1996. Prior to May 1996, I worked as a United States Probation and Parole Officer for five years. As part of my duties as a Postal Inspector, I investigate financial crimes that utilize the mail in furtherance of schemes to defraud.

2. Since March 2006, the United States Postal Inspection Service and the Federal Bureau of Investigation have been investigating a scheme by James Kennedy to defraud consumers through the use of the mail and through interstate wires, in violation of 18 U.S.C. § 1341 and 1343. I have been the lead Postal Inspector in this investigation. The information included in this affidavit is limited to that needed to establish probable cause that James Kennedy violated 18 U.S.C. § 1513(b)(2), and does not include everything I know about these matters.

3. During the course of the investigation, I have had the cooperation of Individual A, a longtime personal acquaintance and business associate of James Kennedy. In cooperating, Individual A has provided information and under my supervision has had undercover meetings with James Kennedy. In these meetings Individual A wore an undercover audio recording device, and in some of the meetings Individual A also had an undercover video recording device. In addition, Individual A conducted many consensually


recorded undercover telephone calls with James Kennedy. This information tended to show the possible commission of a mail fraud or wire fraud by James Kennedy.

4. In January 2007, I approached Kennedy and made him aware of the investigation. Mr. Kennedy retained an attorney, Attorney B, to represent him in connection with the investigation. On December 21, 2007, I and the Assistant United States Attorneys assigned to the case met with Attorney B for the purpose of previewing for Attorney B some of the government's criminal evidence against Kennedy, in order to advance negotiations between the parties. Kennedy was not present; however, it was agreed with Attorney B that Attorney B would communicate with Kennedy the nature of the government's evidence against him. During the meeting I summarized documentary evidence against Kennedy, and I played some of the undercover audio and video recordings of Individual A and James Kennedy. The recordings made apparent the identity of Individual A and that he had cooperated in obtaining evidence against Kennedy.

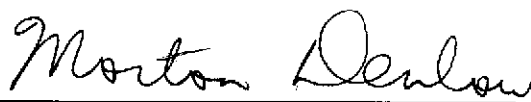
5. On the morning of January 8, 2008, I was contacted by Individual A, who advised that at approximately 9:14 a.m. central standard time James Kennedy had attempted to call Individual A's cellular phone. Individual A advised me that when Individual A did not answer, Kennedy left a message threatening Individual A with bodily harm in retaliation for cooperating with the government against Kennedy. Individual A was located in the Northern District of Illinois, Eastern Division when the call was made. Individual A provided me with Individual A's personal access code so that I could access the voicemail system and record the voicemail message. Based on my personal conversations with James Kennedy I am familiar with his voice and am able to identify it as the voice on the message.

6. I recorded and reviewed the voicemail message left on CS's cellular phone voicemail and it was as follows:

"Yeah [Individual A], I thought you were my friend. You're a dirty, lousy, no-good, cock-sucking, jagoff-bastard. You recorded me, and video taped me. You jagoff motherfucker. I'm gonna get you, baby. You're gonna, gonna, gonna go down big time now. Because I'm not fucking around with you anymore, Goddamn it. They told me everything you done. I heard it – and I didn't believe it. So there you go, don't ever fucking call me again. And if I see you, I'm going to beat the living piss out of you – you jagoff prick. And, by the way, I need my fifteen thousand dollars that you never sent me any art in fuckin' Florida, you jagoff, cheating, lying, prick, motherfucker."


JOHN D. DONNELLY
United States Postal Inspector

Sworn to before me and subscribed in my presence
this 9th day of January 2008.


MORTON DENLOW
United States Magistrate Judge