

REC'D 18 AUG '20 12:41 USDC-ORP

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Oregon

United States of America)

v.)

DAKOTAH RAY HORTON)

Case No. 3:20-mj-209)

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 July 27, 2020 in the county of Multnomah in the

District of Oregon, the defendant(s) violated:*Code Section**Offense Description*

18 U.S.C. § 111(b)

Assault on Federal Agent

This criminal complaint is based on these facts:

See attached affidavit of DUSM Christopher Tamayo

☒ Continued on the attached sheet.*Complainant's signature*

Christopher Tamayo, DUSM USMS

Printed name and title

Sworn to before me and signed in my presence.

Date:

August 18, 2020

City and state:

Portland, Oregon*Judge's signature*

John Jelderks, U.S. Magistrate Judge

Printed name and title

2. The facts set forth in this affidavit are based on the following: my own personal knowledge, knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers, interviews of witnesses, my review of records related to this investigation, communication with others who have knowledge of the events and circumstances described herein, and information gained through my training and experience. Because this affidavit is submitted for the limited purpose of establishing probable

cause in support of the application for an arrest warrant, it does not set forth each fact that I or others have learned during this investigation.

3. I submit this affidavit in support of a criminal complaint and arrest warrant for Dakotah Ray HORTON for a violation of 18 U.S.C. § 111(b), Assault on Federal Agent. As set forth below, there is probable cause to believe, and I do believe, that Dakotah Ray HORTON committed the above listed offense.

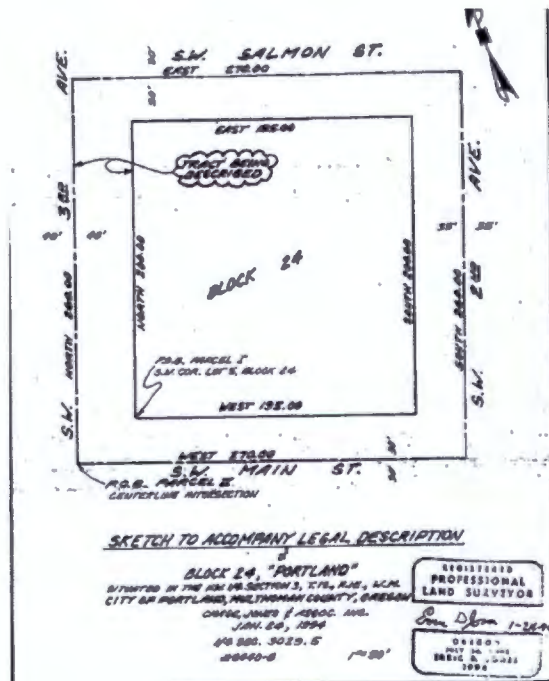
Applicable Law

4. 18 U.S.C. § 111(a) makes it an offense to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 while engaged in or on account of the performance of official duties. Persons designated in § 1114 include any officer or employee of the United States or of any agency in any branch of the United States government while such officer or employee is engaged in or on account of the performance of official duties, and any person assisting such an officer or employee in the performance of official duties. Under 18 U.S.C § 111(b), whoever, in commission of any acts described in subsection(a), uses a deadly or dangerous weapon or inflicts bodily injury, shall be fined under this title or imprisoned not more than 20 years, or both.

Statement of Probable Cause

5. Since on or about May 26, 2020, people have gathered in Portland public areas to protest. Three of these public areas are Lownsdale Square, Chapman Square and Terry Schrunk Plaza in downtown Portland, Oregon. The Portland Justice Center, which houses the Portland Police Bureau's (PPB) Central Precinct and the Multnomah County Detention Center (MCDC), borders these parks, as does the Mark O. Hatfield United States Courthouse. The United States

of America owns the entire city block (Block #24) occupied by the Hatfield Courthouse, as depicted below.¹



6. Daily protests have often been followed by nightly criminal activity in the form of vandalism, destruction of property, looting, arson, and assault. The Hatfield Courthouse has suffered significant damage. Additionally, mounted building security cameras and access control devices have been vandalized or stolen. The most recent repair estimate for the damage to the courthouse exceeds \$500,000. Federal law enforcement officers tasked with protecting the courthouse, including Federal Protective Service officers, U.S. Marshal Service deputies, U.S. Border Patrol agents, and others, have been assaulted with aerial fireworks used as mortars, high intensity lasers targeting their eyes, various projectiles (including rocks, frozen water bottles,

¹ As part of my duties, I am familiar with the property boundaries for federal facilities in the Portland area. The federal government owns the entire city block occupied by the Mark O. Federal Courthouse. Easements have been granted for the sidewalks surrounding the facility. The property boundary extends past the sidewalks and into the streets surrounding the courthouse.

glass bottles, and balloons filled with paint), and have been subjected to verbal threats and vulgar language from demonstrators while performing their duties.

Details of Criminal Offense and Arrest

7. On July 27, 2020, Dakotah Ray HORTON assaulted a federal law enforcement officer by striking him in the upper back, neck and shoulder area with a baseball bat while he was performing official duties at the Mark O. Hatfield Federal Courthouse.

8. On July 27, 2020, at approximately 1:10 AM, violent opportunists attempted to destroy the security fence in front of the Mark O. Hatfield Federal Courthouse with power tools. In response to this behavior the Federal Protective Service (FPS) declared an unlawful assembly multiple times in an attempt to disperse the crowd. During the declarations, violent opportunists proceeded to attack law enforcement officers by throwing hard objects, glass bottles and explosive devices at them. During the dispersal, the Deputy United States Marshal (DUSM) victim of the assault (VICTIM 1)² was dressed in a clearly marked police tactical uniform and was wearing protective equipment to include a gas mask, helmet, and body armor.

At approximately 01:20 hours, VICTIM 1 was walking with a group of United States Marshals Service Deputies when multiple subjects formed a line in front of them. These subjects were holding various items to include hockey sticks, bats, and shields. Using a loudspeaker FPS Officers ordered the subjects to disperse from the area, but the subjects did not comply. After the subjects ignored repeated orders to depart the area, the United States Marshals Service (USMS)

² The identity of the DUSM Victim (VICTIM 1) referred to in this affidavit is known to me. They are a federal agent for purposes of 18 U.S.C. § 1114. VICTIM 1 was working to help secure the Hatfield Courthouse on July 27, 2020, and was engaged in the performance of official duties. Their identity is being withheld from this affidavit at this time to protect their safety.

line moved forward to disperse the subjects.

9. As deputies approached, law enforcement officers attempted to apprehend Noelle MANDOLFO for assaulting an officer. VICTIM 1 was assisting with the arrest. As VICTIM 1 was kneeling on the ground, the assailant approached from behind. The assailant then struck VICTIM 1 in the upper back, neck and shoulder area with a wooden baseball bat. VICTIM 1 was facing the opposite direction when the assault occurred. However, when VICTIM 1 turned around, he observed the assailant pointing a wooden baseball bat at him. This assault was witnessed by multiple individuals who were present at the time and were live streaming the arrest of MANDOLFO on multiple internet feeds and in doing that they had captured the assailant attacking VICTIM 1.

10. I watched several of these live stream feeds which were posted on the internet by individuals as well as media outlets. I watched a feed posted by Ruptly media on their YouTube channel at: <https://www.youtube.com/watch?feature=youtu.be&v=xm-RSwmkxfc&app=desktop> While watching the feed I witnessed assault on Victim 1. The attack occurs at 0:09 mark in the video. I noted that during the assailant's assault on VICTIM 1, the assailant was wearing a distinct light gray sweatshirt with black long sleeves and a black hood. Additionally, the assailant was wearing a black bandana face covering, black jeans and black and white colored Converse "Chuck Taylor" style sneakers. I took several screen captures of the attack. They are depicted in Photos 1, 2, 3 and 4 below.

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11. In Photo 1, the screen capture is the moment right before the assault. Victim 1 is affecting the arrest of MANDOLFO and the assailant's arm is blurred but in frame.

Photo 1



12. Photo 2 captures the moment the wooden bat strikes Victim 1.

Photo 2



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13. In Photo 3, the gray portion of the assailant's sweatshirt is observed. Also the attacker's black and white Converse Chuck Taylor style athletic shoe can be observed.

Photo 3



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14. Photo 4 is the moment that Victim 1 turns to face the assailant. The image shows the bandana facial mask being worn by the assailant as well as a better picture of the assailant's clothing.

Photo 4



15. I was informed that following the assault, VICTIM 1 suffered severe bruising to the upper back and shoulder areas. VICTIM 1's injuries were photographed and documented as evidence.

16. Since the July 27, 2020, attack on VICTIM 1, myself and other investigators have reviewed hours of open source live feeds of the protests in Portland, Oregon. These live feeds

were captured by individuals on cellphones and other media storage devices which uploaded the video and audio feeds to the internet in real time (livestream). The live streams are posted on open source public social media platforms like YouTube, Facebook and Instagram.

During our review of the hours of posted streams from the early morning hours of July 27th through July 28th, we were able to see the assailant in different angles. By observing the same incident from different streamers, myself and other investigators were able to observe the attacker prior to the assault and after the assault. This was beneficial to the investigation as we were able to observe specific identifiers.

17. I was able to observe another streamer feed on YouTube located at:

<https://www.youtube.com/watch?v=egDAxcP8dtQ> I noted that at the 2:55:07 mark, a moment just after the assault, the view of the assailant shows a glimpse of the assailant's gray sweatshirt which reveals it has black lettering on the front. The assailant is still holding the bat. Photo 5 below depicts two frames of the video at the 2:55:07 mark. Photo 5:



18. On August 2, 2020, the U.S. Marshals Service distributed a bulletin to law enforcement agencies in the Portland Metropolitan area seeking assistance in identifying the wanted assailant. This bulletin included both the full body photo (Photo 7) and many close-ups of the assailant's face. As a result, other investigators provided assistance with the investigation. FPS SA James Wells provided me a picture he took of another feed which he observed on Facebook that documented the arrest of MANDOLFO. This image provided me a right side view of the assailant just after the assault. This angle is from the opposite side of the street from the original assault footage I watched. From this vantage point I noticed the assailant had gray drawstring back pack, black bandana face mask as well as the wooden bat. A closer inspection of the bat revealed that it appears to either have a white sticker or white paint on it.

Photo 6



19. During the review of the video feeds from the posted live streams, investigators discovered other images of the assailant from different angles and in different lighting. In Photo 7, the lighting is better which allows for me to see the detail in the facial mask as well as the gray draw string back pack's black stripes that the assailant was wearing.

Photo 7



20. In the photo (Photo 8) at right, which was taken from a feed that was on July 27, 2020, several hours after the attack, I was able to observe a closer view of the assailant's face and gray draw string backpack. I also observed a cellphone in the assailant's pocket which I circled in red. Photo 8 (at right).

21. From that same feed, I also observed a slightly blurred view of the assailant's face and lettering on his sweatshirt. HSI SA Guy Gino provided me with a picture from that feed which is depicted in Photo 9 (below):



22. On August 17, 2020, at approximately 11:50 PM DUSM Loguidice observed a male individual in the Rock Creek area wearing the exact same clothing as worn by the assailant on July 27, 2020. He exited an apartment wearing the same gray and black Hollister sweatshirt, dark jeans and black and white converse sneakers with white shoelaces and was carrying the same gray draw string backpack. As DUSM Loguidice and Lobell watched, they observed the individual get into the passenger seat of a silver 1993 Honda Accord bearing Washington license plate BSJ0288 drive away.

23. DUSMs Loguidice and Lobell followed the vehicle to 2281 NW 185th Ave where it pulled into park at the Chevron gas station. DUSM Lobell contacted the Washington County Sheriff's Office (WCSO) dispatch to request assistance. DUSM Lobell described the vehicle, the physical and clothing description of the passenger and explained there was probable cause to arrest the individual for Assault. A few minutes later, WCSO deputies pulled behind the Honda Accord and activated their emergency lights. DUSM Loguidice and Lobell approached the vehicle with WCSO deputies and upon looking at the passenger's face, they both immediately recognized the passenger as the assailant. The passenger stepped out of the vehicle and DUSM Loguidice and Lobell placed him into handcuffs without incident. The passenger was identified as Dakotah Ray HORTON, DOB: 08/12/1996.

24. After he was placed in handcuffs, DUSM Lobell conducted a search incident to arrest of HORTON and located a HiPoint 9mm semi-auto firearm in a holster inside HORTON's waistband concealed by his sweatshirt. DUSM Lobell also located a black Samsung Galaxy 7 phone in HORTON's back right pocket. Both were taken as evidence.

25. DUSM Lobell took the following photograph (Photo 10) of HORTON after his

August 17 arrest. Reviewing this photo, I believe HORTON to be the person who assaulted Victim 1 with a baseball bat.

Photo 10



26. DUSM Loguidice spoke to the driver of the Honda who informed that she had met HORTON on Facebook, and it was the first time they met in person. She stated that she came to pick up the HORTON because they were going to a wedding in Chehalis, Washington. DUSM Lobell asked the driver if HORTON had any other belongings in her vehicle. She stated that he had a backpack in the backseat. She retrieved the backpack from the back seat and handed it to DUSM Loguidice who recognized it as the same gray drawstring backpack the assailant was wearing when VICTIM 1 was assaulted with a baseball bat. DUSM Lobell seized the backpack as evidence. I took a photograph of the gray adidas draw string backpack which is depicted in Photo 11 below.


Photo 11



Conclusion

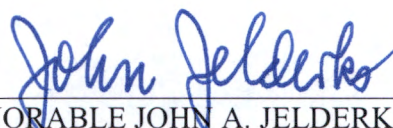
27. Based on the foregoing, I have probable cause to believe, and I do believe, that Dakota Ray HORTON violated Title 18 U.S.C § 111(b). I therefore request that the Court issue a criminal complaint and arrest warrant for Dakota Ray HORTON. Prior to being submitted to the Court, this affidavit, the accompanying complaint and the arrest warrant were all reviewed by

Assistant United States Attorney (AUSA) Leah K. Bolstad, and AUSA Bolstad advised me that in her opinion the affidavit and complaint are legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.



Christopher Tamayo
Deputy United States Marshal
United States Marshal Service

Subscribed and sworn to before me this 18 day of August 2020.



HONORABLE JOHN A. JELDERKS
United States Magistrate Judge