

AO 106 (Rev. 04/10) Application for a Search Warrant

UNITED STATES DISTRICT COURT

for the Southern District of Ohio

FILED
RICHARD M. MAGEL
CLERK OF COURT
17 FEB -3 PM 1:46
U.S. DISTRICT COURT
SOUTHERN DISTRICT OHIO
WEST OF CINCINNATI

In the Matter of the ~~Search of~~
(Briefly describe the property to be searched
or identify the person by name and address)

Use of a Cell-Site Simulator to Locate the Cellular Device
Assigned Call Number 513-815-0029

Case No.

1:17MJ -94

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the Southern District of Ohio, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
21 U.S.C. 841(a)(1)	Possession with Intent to Distribute Controlled Substances

The application is based on these facts:

See Attached.

- Continued on the attached sheet.
- Delayed notice of ___ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

[Handwritten Signature]

Applicant's signature

Peter A. Lakes, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 2/3/17

[Handwritten Signature]

Judge's signature

City and state: Cincinnati, Ohio

Hon. Karen L. Litkovitz, U.S. Magistrate Judge

Printed name and title

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

FILED
RICHARD J. MAGEL
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U.S. DISTRICT COURT
SOUTHERN DIST OHIO
WEST CITY CINCINNATI

IN THE MATTER OF THE USE OF A CELL-
SITE SIMULATOR TO LOCATE THE
CELLULAR DEVICE ASSIGNED CALL
NUMBER 513-815-0029

Case No. 1:17MJ-94

Filed Under Seal

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Peter A. Lakes being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant under Federal Rule of Criminal Procedure 41 to authorize law enforcement to employ an electronic investigative technique, which is described in Attachment B, to determine the location of the cellular device assigned call number 513-815-0029, (the "Target Cellular Device"), which is described in Attachment A.

2. I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been since April 16, 1995. I have conducted investigations into criminal enterprises, narcotics investigations, organized crime, and violent crimes to include the unlawful possession, possession with the intent to distribute, and actual distribution of controlled substances, as well as the associated conspiracies in violation of Title 21, United States Code, Sections 841(a)(1) and 846. Your affiant has also participated in the execution of federal search warrants and federal arrest warrants in relation to these investigations. Additionally, your affiant has participated in the installation and monitoring of tracking devices for vehicles in order to determine the whereabouts of believed drug traffickers and their illicit merchandise. Your affiant has also been

involved with the administrative duties and monitoring responsibilities of Title III Wire intercepts, and analysis of pen registers related to narcotics and gang investigations. Your affiant is familiar with their methods of concealing the whereabouts of their illegal drugs, the methods they use to keep law enforcement officers from finding evidence of drug trafficking operations as well as the methods they use to prevent others unfamiliar with their criminal conduct from observing things indicative of drug trafficking. Your affiant is also familiar with the paranoia surrounding most drug traffickers and the common ways in which wholesale drug distributors attempt to conceal their assets, their purchases, and other financial dealings that could be traced to them.

3. Through my training and experience, I am aware that drug traffickers often communicate with their customers, couriers, and/or associates through the use of standard hard-line telephones, cellular telephones and digital display paging devices, or use of multiple telephones or other devices, to avoid detection by law enforcement.

4. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

5. One purpose of applying for this warrant is to determine with precision the Target Cellular Device's location. However, there is reason to believe the Target Cellular Device is currently located somewhere within this district. A recorded telephone call with a CW indicated that the user of the Target Cellular Device, who frequently uses the Target Cellular Device as an instrumentality to conduct narcotics transactions within the Southern District of Ohio, would be

transporting another shipment of illegal narcotics on or about February 4, 2017. Pursuant to Rule 41(b)(2)(4) and (5), law enforcement may locate the Target Cellular Device.

6. Based on the facts set forth in this affidavit, there is probable cause to believe that violations of 21 U.S.C. § 841(a)(1) have been committed, are being committed, and will be committed by “CARLOS”, the user of the Target Cellular Device. There is also probable cause to believe that the location of the Target Cellular Device will constitute evidence of those criminal violations, including leading to the identification of individuals who are engaged in the commission of these offenses and identifying locations where the target engages in criminal activity.

7. Because collecting the information authorized by this warrant may fall within the statutory definitions of a “pen register” or a “trap and trace device,” *see* 18 U.S.C. § 3127(3) & (4), this warrant is designed to comply with the Pen Register Statute as well as Rule 41. *See* 18 U.S.C. §§ 3121-3127. This warrant therefore includes all the information required to be included in a pen register order. *See* 18 U.S.C. § 3123(b)(1).

PROBABLE CAUSE

8. The Cincinnati FBI started an investigation after the Warren County Drug Task Force executed a warrant at 808 Birch Grove, Morrow, Ohio, the residence of an upper level Heroin trafficker, on January 31, 2017.

9. On January 31, 2017, the Warren County Drug Task Force executed a search warrant at 808 Birch Grove, Morrow, Ohio. The search warrant was obtained for the residence of an upper level Heroin trafficker. After executing the search warrant, a cooperating witness (hereinafter referred to CW1), was interviewed and asked about his/her drug trafficking activities. CW1 advised that his/her source of supply was a Mexican who goes by “CARLOS”.

CW1 advised that he/she believes that his real name is not "CARLOS". CW1 also advised officers that the phone number he/she utilizes to contact "CARLOS" is **513-815-0029 (Subject Telephone)**. Law enforcement searched the number through Facebook and found it to be associated with the Facebook page of Armando ANAYA. The page advised that ANAYA is from Mexico City, Mexico. However, the page indicates that ANAYA currently resides in Cincinnati, Ohio. CW1 stated that he/she regularly purchases 1 Kilogram of Heroin from "CARLOS" for \$75,000 and that "CARLOS" also purchases a half Kilogram of Cocaine for \$17,500. CW1 advised that he/she usually purchases 1 Kilogram of Heroin and a half Kilogram of Cocaine approximately every two weeks from "CARLOS". CW1 stated that he/she meets "CARLOS" in the parking lot of the Mexican restaurant "El Jinete" off Montgomery Rd, within the Southern District of Ohio. CW1 advised that "CARLOS" indicated he would be going out of town to pick up Heroin and Cocaine which he would transport back into the Southern District of Ohio. However, CW1 is not aware of when "CARLOS" left town, if at all. The current location of "CARLOS" is currently unknown. CW1 stated that if "CARLOS" is out of town, which is unknown, that he/she expects "CARLOS" to return no later than February 4, 2017, if not sooner. CW1 stated that "CARLOS" drives a white Jeep Liberty and that when he/she met "CARLOS" to pick up a Kilogram of Heroin, he/she saw at least four Kilograms of Heroin in the vehicle.

10. CW1 placed a controlled call to "CARLOS" utilizing the **Subject Telephone**. "CARLOS" answered and CW1 asked where he was. "CARLOS" advised that he was still out of town and wanted to know why CW1 was calling. CW1 advised he/she was wanting to know if "CARLOS" was going to be bringing back "what we talked about," meaning Heroin and Cocaine. "CARLOS" advised that he would be back this weekend and it would be Sunday at the latest. This phone call was recorded. The actual location of where "CARLOS" was at the time

CW1 placed the controlled call is currently unknown to law enforcement. Based on the travel patterns of "CARLOS", he travels frequently between the Southern District of Ohio and other jurisdictions for the purpose of engaging in narcotics trafficking.

11. Based on Agents training and experience, along with their knowledge of this investigation, and the information included above, it is reasonable to conclude that the **Subject Telephone** is currently being utilized in furtherance of narcotics offenses and communications with drug suppliers to further those offenses.

12. The requested information will assist law enforcement in identifying the location of the **Subject Telephone**, which is relevant in locating a source of supply, identifying locations where narcotics are stored, and identifying additional subjects.

MANNER OF EXECUTION

13. In my training and experience, I have learned that cellular phones and other cellular devices communicate wirelessly across a network of cellular infrastructure, including towers that route and connect individual communications. When sending or receiving a communication, a cellular device broadcasts certain signals to the cellular tower that is routing its communication. These signals include a cellular device's unique identifiers.

14. To facilitate execution of this warrant, law enforcement may use an investigative device or devices capable of broadcasting signals that will be received by the Target Cellular Device or receiving signals from nearby cellular devices, including the Target Cellular Device. Such a device may function in some respects like a cellular tower, except that it will not be connected to the cellular network and cannot be used by a cell phone to communicate with others. The device may send a signal to the Target Cellular Device and thereby prompt it to send signals that include the unique identifier of the device. Law enforcement may monitor the

signals broadcast by the Target Cellular Device and use that information to determine the Target Cellular Device's location, even if it is located inside a house, apartment, or other building.

15. The investigative device may interrupt cellular service of phones or other cellular devices within its immediate vicinity. Any service disruption to non-target devices will be brief and temporary, and all operations will attempt to limit the interference with such devices. In order to connect with the Target Cellular Device, the device may briefly exchange signals with all phones or other cellular devices in its vicinity. These signals may include cell phone identifiers. The device will not complete a connection with cellular devices determined not to be the Target Cellular Device, and law enforcement will limit collection of information from devices other than the Target Cellular Device. To the extent that any information from a cellular device other than the Target Cellular Device is collected by the law enforcement device, law enforcement will delete that information, and law enforcement will make no investigative use of it absent further order of the court, other than distinguishing the Target Cellular Device from all other cellular devices.

AUTHORIZATION REQUEST

16. Based on the foregoing, I request that the Court issue the proposed search warrant, pursuant to Federal Rule of Criminal Procedure 41. The proposed warrant also will function as a pen register order under 18 U.S.C. § 3123.

17. I further request, pursuant to 18 U.S.C. § 3103a(b) and Federal Rule of Criminal Procedure 41(f)(3), that the Court authorize the officer executing the warrant to delay notice until 30 days from the end of the period of authorized surveillance. This delay is justified because there is reasonable cause to believe that providing immediate notification of the warrant may have an adverse result, as defined in 18 U.S.C. § 2705. Providing immediate notice to the

subscriber or user of the Target Cellular Device would seriously jeopardize the ongoing investigation, as such a disclosure would give that person an opportunity to destroy evidence, change patterns of behavior, notify confederates, and flee from prosecution. *See* 18 U.S.C. § 3103a(b)(1). There is reasonable necessity for the use of the technique described above, for the reasons set forth above. *See* 18 U.S.C. § 3103a(b)(2).

18. I further request that the Court authorize execution of the warrant at any time of day or night, owing to the potential need to locate the Target Cellular Device outside of daytime hours.

19. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

20. A search warrant may not be legally necessary to compel the investigative technique described herein. Nevertheless, I hereby submit this warrant application out of an abundance of caution.

Respectfully submitted,



Peter A. Lakes
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me on this 2 day of February 2017



HONORABLE KAREN L. LITKOVITZ
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

This warrant authorizes the use of the electronic investigative technique described in Attachment B to identify the location of the cellular device assigned phone number **513-815-0029**, whose wireless provider is T-Mobile US, Inc. and whose listed subscriber is unknown.

ATTACHMENT B

Pursuant to an investigation of the user of telephone number **513-815-0029** for a violation of 21 U.S.C. § 841(a)(1), this Warrant authorizes the officers to whom it is directed to determine the location of the cellular device identified in Attachment A by collecting and examining:

1. radio signals emitted by the target cellular device for the purpose of communicating with cellular infrastructure, including towers that route and connect individual communications; and
2. radio signals emitted by the target cellular device in response to radio signals sent to the cellular device by the officers;

for a period of thirty (30) days, during all times of day and night. This warrant does not authorize the interception of any telephone calls, text messages, other electronic communications, and this warrant prohibits the seizure of any tangible property. The Court finds reasonable necessity for the use of the technique authorized above. *See* 18 U.S.C. § 3103a(b)(2).

AO 106 Attachment

See Affidavit in Support of an Application for a Search Warrant. To ensure technical compliance with the Pen Register Statute, 18 U.S.C. §§ 3121-3127, this warrant also functions as a pen register order. Consistent with the requirement for an application for a pen register order, I certify that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by The Federal Bureau of Investigation. See 18 U.S.C. §§ 3122(b), 3123(b).

I declare under penalty of perjury that the foregoing is true and correct.

02/01/2017 _____
DATE

s/Christy L. Muncy
CHRISTY L. MUNCY (KY 88236)
Assistant United States Attorney