

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Nathan Jacobs, being duly sworn, state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of a criminal complaint charging Xavier Pelkey with the unregistered possession of firearms, specifically destructive devices, in violation of 26 U.S.C. § 5861(d).

2. As part of my duties as an FBI Special Agent, I investigate criminal violations relating to international and domestic terrorism and other threats to national security and public safety. In addition, I have conducted numerous investigations involving the use of the internet, email and social media to further criminal activity. I have participated in the execution of multiple federal search warrants.

3. I am an investigative or law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code, and am empowered by law to conduct investigations of and to make arrests for federal criminal offenses. I also am a “federal law enforcement officer” within the meaning of Rule 41 of the Federal Rules of Criminal Procedure.

4. The statements in this affidavit are based on my personal knowledge, and on information I have received from other law enforcement personnel and from persons with knowledge regarding relevant facts. This affidavit is intended to show merely that there is sufficient probable cause for the requested criminal complaint. Based on my training and experience and the facts as set forth in this affidavit, I submit that probable cause exists to believe that Xavier Pelkey knowingly possessed firearms which were not registered to him in the National Firearms Registration and Transfer Record, in violation of 26 U.S.C. § 5861(d).

FACTS SUPPORTING PROBABLE CAUSE

5. On February 10, 2022, I obtained search warrants for the residence and person of Xavier Pelkey. Among the items that were to be seized under the warrants were firearms, explosives and explosive components.

6. On February 11, 2022, other FBI agents and I executed the search warrants at 80 Front Street, Apartment 1, in Waterville, Maine. Xavier Pelkey was present at the residence when we arrived. He was informed that he was not under arrest.

7. We identified one of the rooms in the apartment as Pelkey's bedroom. In a backpack found in the corner of the bedroom, we found three items that appeared to be handmade explosive devices. Each device consisted of several fireworks items bundled together with tape. A photograph of the devices is on the following page:

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8. FBI Special Agent Bomb Technician Geoff Raby conducted an initial review of the devices on-scene. When he separated the components of the devices by cutting the tape binding them together, he found that staples, pins and thumb tacks had been inserted among the device components. In the opinion of SABT Raby, these small metal items were designed to increase the amount of shrapnel propelled by an explosion if the devices were detonated. The following are two pictures of the devices showing some of the metal items that were added:





9. When we first spoke with Pelkey, he told us he had “fireworks” in the apartment. After we found the three devices described above, I asked him why the fireworks were taped together, and he said he wanted to make a “bigger boom.” I then asked him why the metal items were in the devices, but he did not respond to my question.

10. Title 26, United States Code, Section 5861 prohibits an individual from receiving or possessing a firearm that is not registered to him in the National Firearms Registration and Transfer Record. “Firearm” is defined in 26 U.S.C. § 5845(a) to include a destructive device. A “destructive device” is in turn defined in 26 U.S.C. § 5845(f) to include “any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device.” Under § 5845(f), the definition of “destructive device” excludes “any device which is neither designed nor redesigned for use as a weapon.”

11. After reviewing the devices found at 80 Front Street, SABB Raby contacted the FBI’s Explosives Unit in Quantico, Virginia. He relayed a description of the devices found in Pelkey’s bedroom. According to the Explosives Unit, the devices found in the bedroom meet the definition of a “destructive device” under federal law. In particular, the Explosives Unit concluded that the addition of the metal items to the bundled fireworks indicates that the devices are explosives that are specifically designed as weapons.

12. On February 11, 2022, I requested a destructive devices registration check from the Bureau of Alcohol, Tobacco, Firearms and Explosives with respect to Xavier Pelkey. A search of the National Firearms Registration and Transfer Record revealed that Pelkey does not have any destructive devices registered in his name.

CONCLUSION

13. Based on the foregoing, I submit that probable cause exists to believe that Xavier Pelkey knowingly possessed firearms, specifically destructive devices, which were not registered to him in the National Firearms Registration and Transfer Record, in violation of 26 U.S.C. § 5861(d).

Dated at Bangor, Maine this 11th day of February, 2022.




Nathan Jacobs
Special Agent
Federal Bureau of Investigation

Sworn to telephonically and signed electronically in accordance with the requirements of Rule 4.1 of the Federal Rules of Criminal Procedure

Date: Feb 11 2022

City and state: Bangor, ME




Judge's signature
John C. Nimson U.S. Magistrate Judge

Printed name and title