

UNITED STATES DISTRICT COURT

for the

Northern District of California

United States of America
v.

Xin Wang

Case No.

3:20-mj-70720-MAG

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 March 26, 2019 in the county of San Francisco in the Northern District of California, the defendant(s) violated:

Code Section 18 U.S.C. § 1546(a) Offense Description Fraud and misuse of visas, permits, and other documents

This criminal complaint is based on these facts:

See Affidavit.

Continued on the attached sheet.

/s Patrick Fogerty

Complainant's signature

FBI Special Agent Patrick Fogerty

Printed name and title

Sworn to before me and signed in my presence.

Date: 06/07/2020

Handwritten signature of Laurel Beeler in blue ink.

Judge's signature

City and state: San Francisco, CA

Laurel Beeler, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT PRESENTED IN SUPPORT FOR A CRIMINAL COMPLAINT

I, Patrick Fogerty, Special Agent of the Federal Bureau of Investigation (“FBI”), being duly sworn, hereby declare as follows:

INTRODUCTION AND AGENT BACKGROUND

1. This affidavit is presented in support of a criminal complaint charging WANG XIN (“Wang”) with the crime of visa fraud, in violation of Title 18, United States Code, Section 1546(a).

2. 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, that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Title 18, United States Code, Section 1546.

3. I have been employed as a Special Agent of the FBI since January 2019 and am currently assigned to the San Francisco Division. In my capacity as a Special Agent, I have received training in, and my duties include the investigation of, violations of federal criminal law, including matters related to acting as an illegal agent of a foreign government and counterintelligence-related offenses.

4. The facts set forth in this affidavit are based upon the following: my own investigation; information obtained from other law enforcement agencies; my review of documents and records related to this investigation; oral and written communications with others who have personal knowledge of the events and circumstances described herein; review of public information, including information available on the Internet; and my experience and background as a Special Agent of the FBI. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that violations of U.S. law occurred. Also, where I refer to conversations and events, I often refer to them in substance and in relevant part rather than in their entirety or verbatim, and figures and calculations set forth in this affidavit are approximate, unless otherwise noted.

APPLICABLE STATUTE

5. The FBI is investigating alleged violations of Title 18, United States Code, 1546(a), Fraud and Misuse of Visas, Permits, and Other Documents, which states in part: Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or . . .

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—

Shall be fined under this title or imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense), or both.

FACTS SUPPORTING PROBABLE CAUSE

6. Based upon the information below, my training and experience, and the training and experience of agents and investigators involved in this investigation, I believe that there is probable cause to believe that Wang committed the crime of visa fraud in violation of Title 18, United States Code, Section 1546(a), when he submitted a visa application containing false statements and then entered the United States on the visa issued as a result of that application.

7. WANG was issued a multiple entry J1 non-immigrant visa on December 17, 2018. The visa application stated that he was employed by the Air Force Military University and the purpose of his visit was to conduct research at the University of California, San Francisco (UCSF). In his visa application, he stated that he had previously served as an Associate Professor in Medicine in the Chinese Army, also known as the People's Liberation Army (PLA). His listed dates of service for the army were from September 1, 2002 through September 1, 2016. On March 26, 2019, WANG entered the United States through San Francisco International Airport.

8. On June 7, 2020, WANG was interviewed by Customs and Border Protection (CBP) at the Los Angeles International Airport upon at attempt to depart the United States for Tianjin, China. During this interview, he stated that he was currently a "Level 9" technician within the PLA, had received a scholarship from the China Scholarship Council and had received a stipend from the PLA while he was studying in the United States. In addition, WANG stated that he intentionally made false statements about his military service in his visa application in order to increase the likelihood that he would receive his J1 visa.

9. Based upon the foregoing, my training and experience, and the training and experience of agents and investigators involved in this investigation, I believe that there is probable cause to believe that WANG has committed the crime of fraud and misuse of visas in violation of Title 18, United States Code Section 1546(a).

REQUEST FOR SEALING

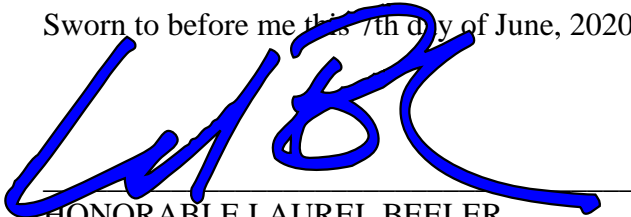
10. Because this investigation is continuing, disclosure of the Complaint, this affidavit, and/or this application will jeopardize the progress of the investigation. Disclosure of the Complaint at this time would seriously jeopardize the investigation; as such, a disclosure would give the target an opportunity to destroy evidence, change patterns of behavior, notify confederates, or flee from prosecution. Accordingly, I request that the Court issue an order that

the Complaint and this affidavit in support of application for the Complaint, be filed under seal until further order of this Court.

/s Patrick Fogerty

Patrick Fogerty
Special Agent
Federal Bureau of Investigation

Sworn to before me this 7th day of June, 2020.



HONORABLE LAUREL BEELER
United States Magistrate Judge