

United States Courts
Southern District of Texas

UNITED STATES DISTRICT COURT

FILED

for the

April 13, 2023

Nathan Ochsner, Clerk of Court

Central District of California

United States of America

v.

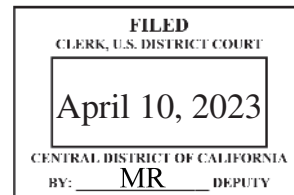
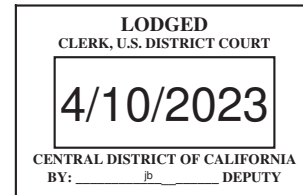
4:23-mj-716

BRIAN MICHAEL GAHERTY,

Case No.

2:23-mj-01708-DUTY

Defendant.



CRIMINAL COMPLAINT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

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 of February 9, 2023, in the county of Los Angeles in the Central District of California, the defendants violated:

Code Section

Offense Description

18 U.S.C. § 875(c):

Transmission of Threat to Injure the Person of Another in Interstate Commerce

This criminal complaint is based on these facts:

Please see attached affidavit.

Continued on the attached sheet.

/s/

Complainant's signature

Michael Guest, U.S. Capitol Police

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone.

Date: April 10, 2023

Judge's signature

City and state: Los Angeles, California

Hon. Pedro V. Castillo

Printed name and title

AFFIDAVIT

I, Michael Guest, being duly sworn, declare and state as follows:

I. PURPOSE OF AFFIDAVIT

1. This affidavit is made in support of a criminal complaint and arrest warrant against Brian Michael Gaherty ("GAHERTY") for a violation of 18 U.S.C. § 875(c) on or about August 8, 2022 (transmission of threat to injure the person of another in interstate commerce) (the "Subject Offense").

2. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from various law enforcement personnel and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested complaint and arrest warrant, and does not purport to set forth all of my knowledge of the investigation into this matter. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only and all dates and times are approximate.

II. BACKGROUND OF AFFIANT

1. I am a Special Agent with the United States Capitol Police ("USCP"), and have been so employed for approximately twelve years. I have been assigned to the Threat Assessment Section since 2021. I have received the following trainings and/or certifications: Federal Law Enforcement Criminal Investigator Training Program, Interview and Interrogation Techniques, Fraud Detection and National Security, Intelligence

Analyst Training Program, Uniformed Police Training Program, Digital Photo Metadata Fraud Training, Investigating Organized Groups Training, Internet Investigative Tool Training, Criminal Intelligence Training, Criminal Analysis, Domestic Terrorism and Hate Crimes, and Focused & District Adjudications Training.

2. The mission of the USCP is the protection of Congress's Members, employees, visitors, and facilities, so that Congress's Members can fulfill its constitutional and legislative responsibilities in a safe, secure and open environment. As a USCP Special Agent, I have participated in and conducted numerous investigations to fulfill this mission. For example, I have investigated several types of threats for violations of federal law, including offenses involving telephonic threats, social media threats and threats to commit targeted violence using firearms.

III. SUMMARY OF PROBABLE CAUSE

1. Since 1991, Congresswoman Maxine Waters, an 84-year-old African-American woman, has served as the United States Representative for California's 43rd Congressional District.

2. On November 16, 2022, an unidentified suspect called Congresswoman Waters' Hawthorne, California office, located in the Central District of California, and told a member of her staff that he was going to assault Congresswoman Waters. The suspect used the following phone number: (346) 803-9445 (the "target phone number").

3. Through review of T-Mobile and TracFone data related to the target phone number, as well as in-person and telephonic

interviews with the suspect, USCP agents identified the suspect as GAHERTY, a 60-year-old resident of Houston, Texas.

4. Further investigation by USCP agents revealed that GAHERTY used the same phone number to leave at least four racist voicemails threatening to kill or assault Congresswoman Waters between August and November 2022, including a threat to "cut your black ass throat nigga" on August 8, 2022.

5. GAHERTY has also threatened to assault at least two other Congresswomen of color. For example, between September 2022 and February 2023, GAHERTY used the target phone number to leave at least eleven voicemails that threatened to assault these public officials.

VI. STATEMENT OF PROBABLE CAUSE

3. Based on my review of law enforcement reports, conversations with other law enforcement agents, and my own knowledge of the investigation, I am aware of the following:

A. An Unidentified Suspect Calls Congresswoman Maxine Waters' Hawthorne, California District Office Using the Target Phone Number and Threatens to Assault Congresswoman Waters

4. On November 16, 2023, at 4:37 p.m. PST, a suspect, later identified as GAHERTY, called Congresswoman Maxine Waters' Hawthorne office from the target phone number and spoke to staff assistant N.W. The suspect stated, "Tell Congresswoman Maxine Waters when I see her on the street I'm going to bust her upside her head." N.W. asked this person who was calling, and the suspect replied, "fuck, who this is, tell that lying Bitch I'm looking for her."

5. The following day, the District Director of Congresswoman Waters' office, B.J., reported this threatening call to the U.S. Capitol Police ("USCP"). B.J. also provided the USCP with copies of two threatening voicemails received by Congresswoman Waters' office in August 2022.

6. USCP agents also conducted a one-time exigent ping of the target phone number, and contacted T-Mobile and requested historical cell-site records for the past 48 hours. USCP agents determined that the phone associated with target phone number was physically located in Houston, Texas at the time he called Congresswoman Waters' office on November 17, 2022.

7. Specifically, USCP agents determined that on November 17, 2022, the target phone number connected to a cellular tower located at 4325 2/3 W. Fuqua St #C, Houston, Texas 77045, at the time that the target phone number called Congresswoman Waters' Hawthorne, California office. This tower is approximately .7 miles away from GAHERTY's residence¹.

8. USCP agents also reviewed the historical cell-site data for the 48 hours preceding November 17, 2022 provided by T-Mobile, and learned that the target phone number made numerous calls, of lengthy durations, to phone numbers ending in -9401, -1209, and -2028, which open-source databases indicate are associated with GAHERTY's siblings, I.J. and J.B.G. Open-source databases also revealed that these individuals previously lived at GAHERTY's residence.

¹ USCP agents reviewed property records for this address and learned that GAHERTY owns the property.

9. Subscriber information provided by T-Mobile for the target phone number does not show a subscriber name or address for the target phone number, but indicates that the brand of the phone associated with the target phone number is TracFone, and the phone was activated on October 7, 2020. Subscriber information provided by TracFone for the target phone number also does not show a subscriber name or address for the target phone number, but indicates that the serial number associated with the target phone number is 016023003347899. As discussed below, during an interview, GAHERTY showed agents a receipt that showed the purchase of a TracFone with the same serial number.

b. Further Investigation Reveals That The Unidentified Suspect Also Used the Target Phone Number to Leave Four Voicemails Threatening to Assault and Kill Congresswoman Maxine Waters in August and November 2022

10. On August 8, 2022, at approximately 7:46 p.m. PST, an unidentified suspect called the phone number associated with Congresswoman Waters' Hawthorne, California district office from the target phone number, and left the following voicemail:

Hey, you black bitch. You fuck with my people man. All that racism shit bitch, you up in age, 80 years old and shit, trying to remember 1960 and all that bullshit. And causing controversy bitch. We got something for your ass now bitch, you black motherfucker. Yeah, we coming for you bro. You better. Hey, like you told them motherfuckers to go and and do what they had to do. We coming for your black ass, bitch ass now motherfucker. You hoe ass bitch. I'mma cut your throat, I'mma cut your black ass throat nigga.

11. A few minutes later, an unidentified suspect called Congresswoman Waters' Hawthorne, California district office again, from the target phone number, and left the following voicemail:

Maxine, you outta there (unintelligible) ay. What, you about 80 years old nigga? Look, you better go bye bye bitch. Nigga bitch, look, you got the wrong boys in the area, you got two days (unintelligible). We got a contract on your bitch ass, black ass, motherfucker ass. You better move man. You better God damn move (unintelligible). If not, we gonna put a cap between your motherfucking eyes hoe (unintelligible). I'm gonna stomp you bitch. We finna stomp you, bitch. We finna stomp you bitch.

12. On November 8, 2022, at approximately 6:02 p.m. PST, an identified suspect called the phone number associated with Congresswoman Waters' Hawthorne, California district office from the target phone number, and left the following voicemail:

Hey Maxine. You done fucked up (inaudible). This ain't no threat man. We're just gonna give you a present man. We're gonna meet you on the street, bitch and give you a fucking present. Like, like, like you told everybody else bitch like, uh, box them up. Be negative. Get in their face. We're finna get in your face bitch. You nigger, bitch, we finna get in your face bitch. You know what I'm saying? You fucking with a wrong crowd now, nigga. You affiliated now with, hey well that's a nigga man. We got a contract to take your ass out bitch.

13. On November 10, 2022, at approximately 7:50 p.m. PST, an identified suspect called the phone number associated with Congresswoman Waters' Hawthorne, California district office from the target phone number, and left the following voicemail:

I'm gonna listen to you, Maxine, uh, threatening people all across the goddamn country. Beat 'em up. You know, all this violent shit that you advocate, I'm gonna tell you right now, this ain't no threat. It's a goddamn promise. Gonna watch your fucking back bitch. Hey, why can't I say it? You say it, you black bitch. You wanna play games? You telling people, man, and beat them up and you chase the motherfuckers down. Good people, man. Fuck you. We can play goddamn gang too. Bitch. You better watch your back hoe.

14. I listened to recordings of the four voicemails referenced above, and I believe that the same person left these four voicemails because the tone and the accent of the voice is the same in each recording. As discussed in the following section, evidence shows that GAHERTY is the individual who made these threatening calls.

c. GAHERTY is Identified as the Suspect Who Used the Target Phone Number to Threaten to Assault and Kill Congresswoman Waters in August and November 2022

15. While investigating the threats received by Congresswoman Waters from the target phone number on November 17, 2022, I learned that the Houston Police Department ("HPD") investigated threats received by a Latina news reporter in Houston, Texas, also from the target phone number, on August 8, 2022. I reviewed the HPD report associated with this investigation, and spoke to the HPD detective who investigated the case, and learned the following:

a. On August 18, 2022, HPD Detective Andrew Carroll called the target phone number and interviewed the individual who answered the phone. HPD Detective Carroll recorded this

telephonic interview, and I have reviewed this recording. During this interview, the individual who answered the target phone number stated that his name was "Brad Beeler," the target phone number was his new phone number, and his old phone number was a number ending in -8451. The individual who answered the target phone number also stated that he was shot on June 23, 2016, and he spoke to HPD Detective Greene when this incident occurred.

b. On August 18, 2022, after speaking with the individual who answered the target phone number, HPD Detective Carroll called HPD Detective M. Greene, and asked Detective Greene if he spoke with the victim of a shooting on June 23, 2016. Detective Greene informed Detective Carroll that he investigated an aggravated robbery that took place in Houston, Texas on June 23, 2016, and the victim who was shot and reported the incident was Brian Michael GAHERTY.

16. I reviewed the HPD report associated with the June 23, 2016 aggravated robbery investigated by Detective Greene. This report indicates that GAHERTY provided his phone number, which ended in -8451, to Detective Greene on June 23, 2016. Other than the area code, the number provided was the same phone number that the individual who answered the target phone number described as his "old phone number" during Detective Carroll's August 18, 2022 telephonic interview of this individual.

17. On October 17, 2022, while investigating threats received by another Congresswoman from the target phone number, I called the target phone number and asked the individual who

answered the phone for their identity. This individual reported that his name was "Tommy Bealer." I searched law enforcement and open-source databases for the name "Tommy Bealer" as well as the name "Brad Beeler." I discovered that a Tommie Lee BEALER lived in Houston, Texas and died on March 4, 2003. A historical search of Tommie Lee Bealer's address indicates that from 1993 - 2003, he resided approximately 3.6 miles from GAHERTY'S residence. I also found a Thomas E. Beeler (78 years old) and a Thomas Mayes Beeler (24 years old), both having a reported address within approximately 15 miles of GAHERTY'S residence. No information linked GAHERTY to any of these individuals. Given the similarity of the names "Beeler" and "Bealer," I concluded that both "Brad Beeler" and "Tommy Bealer" are false names that were provided to Detective Carroll and myself by the person who owns and uses the target phone number to evade law enforcement.

18. I also believe that the person who answered the target phone number on October 17, 2022 and spoke with me is the same person who left threatening voicemails with Congresswoman Waters in August and November 2022, because the tone and accent of the voice of the person with whom I spoke matched the tone and accent of the voice that left the threatening voicemails with Congresswoman Waters.

19. On December 15, 2022, Federal Bureau of Investigations ("FBI") Task Force Officers M.D. Smith and G. Roberson interviewed GAHERTY at GAHERTY'S residence. This interview was recorded by TFO Smith's and TFO Roberson's body cameras, and I

reviewed this body camera video footage. During this interview, GAHERTY identified himself as Brian Michael GAHERTY, confirmed he was born in July 1962, with social security number ending in -1881, and that he is the only individual living at his residence. GAHERTY also stated, on two occasions, that his phone number is a number ending in -8351. GAHERTY told TFO Smith and TFO Roberson that he spoke to HPD Detective Greene when he was shot during a robbery that took place at his residence. GAHERTY also stated that he owns two firearms.

20. After approximately fifteen minutes, GAHERTY invited TFO Smith and TFO Roberson to enter his residence so that he could retrieve his phone. Once inside, GAHERTY showed TFO Smith and TFO Roberson a clear bag of cell phones, in various conditions, and represented to TFO Smith and TFO Roberson that these cell phones did not work.

21. GAHERTY showed TFO Smith and TFO Roberson two receipts from a Wal-Mart located at 11210 W. Airport Boulevard, Stafford, TX 77477, approximately fourteen minutes from his residence: (1) a June 3, 2022 receipt for the purchase of a Tracfone Alcatel MyFlip 2, model number 061696038408, cell phone, with serial number 840016023003090648; and (2) a July 1, 2022 receipt for the purchase a Tracfone Alcatel MyFlip 2, model number 061696038408, cell phone, with serial number 840016023003347899.

22. After reviewing the body camera footage of TFO Smith and TFO Roberson, as well as their report related to the interview, I determined that GAHERTY was the individual who called Congresswoman Waters' Hawthorne, California office using

the target phone number and threatened to assault and kill her in August and November 2022. I reached this conclusion because:

a. The receipt GAHERTY showed TFO Smith and TFO Roberson for a TracFone cell phone he purchased from Wal-Mart on July 1, 2022, showed that the serial number for this cell phone was 840016023003347899. The last 14 digits of the serial number of this cell phone match the serial number of the target phone number, which I learned by reviewing subscriber information provided by TracFone for the target phone number.

b. An individual who answered the target phone number and spoke with HPD Detective Carroll on August 18, 2022, regarding the investigation of threats received by C.D., indicated that he was the victim of a shooting on June 23, 2016, he spoke with HPD Detective Greene about this shooting, and provided his old phone number, which had a number ending in -8451. In his December 15, 2022 interview with TFO Smith and TFO Roberson, GAHERTY represented that he was the victim of a shooting at his residence, and he spoke with HPD Detective Greene about this incident. He also provided his current phone number, which matched the phone number he provided to Detective Carroll with the exception of one digit.

c. Location data provided by T-Mobile shows that the target phone number connected to a cellular tower located at 4325 2/3 W. Fuqua St #C, Houston, Texas 77045, which is approximately .7 miles from GAHERTY's residence, at the times that he left four threatening voicemails with Congresswoman Waters on August 8, November 8, and November 10, 2022. T-Mobile

toll records further show many calls between August and November 2022 from the target phone number to phone numbers associated with GAHERTY's siblings based on open-source information.

d. I listened to recordings of the four threatening voicemails left with Congresswoman Waters, as well as the recording of Detective Carroll's August 18, 2022 interview with the user of the target phone number. I also personally spoke to the user of the target phone number when I interviewed this person on October 17, 2022. The voice of the person who left the threatening voicemails with Congresswoman Waters matches the voice of the person who spoke with Detective Carroll on August 18, 2022, as well as the voice of the person I spoke with on October 17, 2022. The voice of this person matches the voice of GAHERTY, based on my review of the recording of GAHERTY's December 15, 2022 interview by TFO Smith and TFO Roberson.

d. Further Investigation Reveals That GAHERTY Frequently Threatens to Assault Other Congresswomen of Color

23. During my investigation into GAHERTY's threats to assault and kill Congresswoman Waters in August and November 2022, I learned that GAHERTY has a history of sending racist, violent threats to other Congresswomen using the target phone number. In addition to his threats targeting Congresswoman Waters, GAHERTY has called and left threatening voicemails with two other Congresswomen.

24. From September 2022 to February 2023, GAHERTY left ten voicemails for another Congresswoman ("Congresswoman 2") using the target phone number, threatening to assault her. For

example, on September 11, 2022, GAHERTY used the target phone number to leave the following voicemail:

I ain't threatening you fucking Latino whore. You fucking whore. My people going to do some damage on you. You know what I'm saying? Now we're not going to kill you. We're gonna make you suffer a bitch. You better act right, hoe.

25. After I called the target phone number on October 17, 2022 to interview GAHERTY about threats received by Congresswoman 2 from the target phone number, GAHERTY persisted in his threats to assault Congresswoman 2. In the voicemails left by GAHERTY on and after October 17, 2022, GAHERTY repeatedly references his belief that Congresswoman 2 reported previous threats by GAHERTY to the USCP. For example, on October 17, 2022, the same day that I telephonically interviewed GAHERTY, GAHERTY left the following voicemail for Congresswoman 2, using the target phone number:

I'm not threatening nobody You. Keep getting the Capitol police, man. You know what? You're gonna cause the problem for your fuck yourself dog. I'm not threatening nobody. I'm making a comment. Freedom of speech. . . . Fuck you [Name of Congresswoman]. Hey, hey, puta, puta, puta (inaudible) hey suck my dick, suck my white dick. Bitch, this is not no threat. Call the Capitol police. I'll tell them to suck my dick too.

26. Also, on November 8, 2022, GAHERTY left the following voicemail for Congresswoman 2, using the target phone number:

You fucked up man. You snitch motherfucker. Now we gotta come over here and take care of our fucking business. You know what I'm

saying? Be careful, bitch. Watch your back, man. We got you, man. You finito, man. Comprendo.

27. GAHERTY also left the following voicemail for another Congresswoman ("Congresswoman 3"), using the target phone number on November 8, 2022:

Yeah, this is a Texas syndicate. Your motherfucking ass is through. You better watch your fucking back bitch. Adios.

VII. CONCLUSION

28. For all of the reasons described above, there is probable cause to believe that GAHERTY committed the Subject Offense.

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone on this 10th day of April, 2023.



THE HONORABLE PEDRO V. CASTILLO
UNITED STATES MAGISTRATE JUDGE