

AO 91 (Rev 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Western District of Michigan

United States of America)

v.)

REED STANLEY BERRY)

Case No. 1:11-MJ-00082

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 September 9, 2011 in the county of Berrien in the Western District of Michigan, the defendant(s) violated:

Code Section

Offense Description

18 USC 111(a)(1) and (b)

Forcibly assault, impede, intimidate or interfere with an officer or employee of the United States, using a dangerous weapon, while that officer was engaged in or on account of the performance of official duties

This criminal complaint is based on these facts:

See attached Continuation of Complaint

Continued on the attached sheet.

Samuel J Moore
Complainant's signature

SAMUEL J. MOORE, SPECIAL AGENT FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: 9/23/11

Hugh W. Brenneman, Jr.
Judge's signature

City and state: Grand Rapids, Michigan

Hugh W. Brenneman, Jr., U.S. Magistrate Judge
Printed name and title

CONTINUATION OF CRIMINAL COMPLAINT

1. I, Samuel J. Moore, am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), assigned to the Grand Rapids office of the Detroit Division. I have been an SA for approximately twelve years, and my primary assignment for the past several years has been the investigation of terrorism and terrorism-related offenses. The following information is known personally to me, or was provided to me by other FBI special agents and law enforcement officers. Because it is submitted for the limited purpose of establishing probable cause to arrest for violation of 18 U.S.C. § 111 [Assault on Federal Agent], this summary does not necessarily include all the facts known to me or to other FBI agents.

2. On 9 March 2011, the FBI executed a search warrant issued by this Court in Case No. 1:11-MJ-308 for the residence of Reed Stanley BERRY in the City of St. Joseph, in Berrien County, Michigan. That search warrant was issued based on a demonstration of probable cause to believe that evidence of material support of a foreign terrorist organization (FTO) by BERRY would be found, because the FBI's investigation to date had developed information that BERRY was using the Internet both to contact and to provide affirmative support to one or more FTO's. A significant volume of digital media was seized during the search, and the media was submitted for forensic analysis by the computer analysis response team (CART) at the FBI's Detroit office. On 11 May 2011, this Court issued a second search warrant in the FBI's investigation of BERRY, in Case No. 1:11-MJ-31, authorizing the FBI to obtain and search the contents of BERRY's Yahoo! e-mail account. Yahoo! complied with the warrant in good time, and the FBI then reviewed the stored content from that account.

3. Based on its review of the materials and data seized during the two search warrants, as well as on other investigative activities, the FBI expanded and continued its investigation of BERRY and numerous known associates of his in several other Federal districts. The investigation remained very active as the weekend of 11 September 2011 approached.

4. Prior to the weekend of 11 September, the FBI decided to maintain around-the-clock knowledge of BERRY's whereabouts over that weekend. That surveillance commenced the morning of 9 September. The operation plan for the required surveillance was that agents would maintain constant awareness of BERRY's location and public movements, even if detected by him, but would avoid direct contact or any sort of confrontation with him.

5. I was assigned to participate in the surveillance, as was Task Force Officer (TFO) Larry Dyksterhouse, a detective sergeant with the Michigan State Police who has been assigned full-time to the Joint Terrorism Task Force (JTTF) of the FBI Grand Rapids

office since 2004. TFO Dyksterhouse and I were assigned to the nighttime surveillance shift for Friday, 9 September 2011. During the shift changeover, TFO Dyksterhouse and I were briefed by FBI SA Roberta Bero, who was the team leader for the day shift, that SA Melanie Kersey had been forced to break contact with BERRY during the day when he noticed SA Kersey following him, got out of his vehicle, and ran directly at her parked vehicle while staring directly at her. SA Bero also informed us that it was apparent to the day shift that BERRY was very surveillance-conscious, and that he had detected their surveillance.

6. Shortly after 2130 hours on 9 September, TFO Dyksterhouse followed Berry to a location in Benton Harbor. BERRY parked his vehicle and exited it, while TFO Dyksterhouse parked a distance away and remained in his vehicle. Repeating the acts that had been described to us by SA Bero, BERRY aggressively ran towards TFO Dyksterhouse's vehicle, looking directly at him and shouting angrily as he ran. TFO Dyksterhouse immediately disengaged contact with BERRY by driving away, with BERRY initially running after the vehicle.

7. A short time later and a short distance away, TFO Dyksterhouse and I re-established surveillance of BERRY, each of us in separate vehicles. We followed BERRY as he drove out of Benton Harbor and in the direction of his residence. BERRY then stopped at an intersection at a stop sign, idling there for several minutes before shutting off his vehicle's lights. I remained in my vehicle behind BERRY, approximately 50 feet back with my headlights on, waiting for TFO Dyksterhouse to pull up behind me, and also waiting to see what BERRY was going to do. TFO Dyksterhouse caught up and pulled in behind me, and then BERRY turned his headlights back on and began to drive again.

8. BERRY proceeded to drive in the direction of his residence for a few minutes, turning left onto Woodland Drive in St. Joseph while I followed at a distance of about 50 feet. He then stopped in the middle of the road, and I also stopped. Without warning, and while I was sitting in my vehicle behind him with my headlights on, BERRY suddenly put his vehicle in reverse and drove it directly at my vehicle at a high rate of speed. I have received Tactical Emergency Vehicle Operator's Course (TEVOC) training by the FBI, and am experienced in emergency driving techniques and maneuvers. The high rate of speed that Berry was driving was apparent to me because of the rapid frequency of the left and right wobble the rear of his vehicle was making as it was backing at me, and the speed with which he closed the distance between us. As soon as I realized what BERRY was doing, I immediately accelerated forward and to the hard left, avoiding a direct collision only as a result of this maneuver that put me out of the way of BERRY's vehicle. BERRY brought his vehicle to a halt when he was parallel with me, and looked directly at me for a moment. After that pause, I pulled away and Berry followed me closely with his high beam lights on, maintaining a distance of only about half of a car length. This continued until I reached the next stop

sign and turned left, at which point he turned right and drove in the direction of his residence.

9. Based upon my direct observation, and on my training and experience, I believe that BERRY's actions created a violent and dangerous situation that would have directly resulted in a vehicular collision, and possible injury to my person, if I had not executed instantaneous and forceful evasive maneuvering. In fact, in the same instant that I realized what BERRY was doing and began to maneuver out of his way, and before I was sure that I would be able to move out of his way, I clearly remember wondering to myself how severe the impact was going to be if I was not able to get out of the way.

10. I have been informed by the U.S. Attorney's Office that it is a violation of 18 U.S.C. § 111 for a person to assault a Federal law enforcement officer when that officer is in the performance of official duties, regardless whether the person is aware of the officer's status and duty performance. See United States v. Feola, 420 U.S. 671, 684 (1975); United States v. Boone, 738 F.2d 763 (6th Cir. 1984). Even so, under the circumstances described, I believe that BERRY clearly knew that he was under FBI surveillance, and that I was an on-duty FBI agent conducting such surveillance.