AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Middle District of Florida

United States of America
v.
BERNANDINO GAWALA BOLATETE

Case No. 3:17-mj- 1430-JBT

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 December 1, 2017 in the county of Duval in the Middle District of Florida, the defendant(s) violated:

Code Section	*Offense Description*
26 U.S.C. §§ 5861(d), 5871	knowingly receiving and possessing a silencer, not registered to him in the National Firearms Registration and Transfer Record

This criminal complaint is based on these facts:

See Attached Affidavit

☑ Continued on the attached sheet.

Complainant's signature

Christa Hocutt, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 12/01/2017

Judge's signature

City and state: Jacksonville, Florida

Joel B. Toomey, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Christa Hocutt, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of a Complaint charging BERNANDINO GAWALA BOLATETE with knowingly receiving and possessing a silencer, not registered to him in the National Firearms Registration and Transfer Record in violation of 26 U.S.C. §§ 5861(d) and 5871. Under 26 U.S.C. § 5861(d), it is unlawful for any person to receive or possess a firearm which is not registered to that person in the National Firearms Registration and Transfer Record, and under 26 U.S.C. § 5871, upon conviction, that person can be imprisoned for ten years. In this context, under 26 U.S.C. § 5845(a), the term "firearm" is defined by statute to include "any silencer."

2. I am a Special Agent (SA) for the Federal Bureau of Investigation (FBI). I have been an SA since January 2017, and an FBI employee for more than four years. I am currently assigned to the FBI Jacksonville Field Office, which is responsible for investigating violations of federal law.

3. Information contained in this affidavit is based upon personal knowledge arising from my participation in this investigation and upon information and belief. Sources of information include statements made to me by representatives of law enforcement agencies and other subjects/witnesses of the investigation. I have not included all facts known to me concerning this investigation. I have set

forth facts I believe establish probable cause to believe that BOLATETE illegally received and possessed a silencer.

INVESTIGATION BACKGROUND

4. On December 1, 2017, I read a typed statement taken by the Jacksonville Sheriff's Office (JSO) from a concerned citizen (herein referred to as C1) and learned the following. C1 contacted JSO regarding statements made to C1 by subject BERNANDINO GAWALA BOLATETE, date of birth May 20, 1948, a 69-year-old Asian male residing at 13225 Eucalyptus Drive, Jacksonville, Florida (the "Eucalyptus Drive residence"). According to C1, BOLATETE expressed a hatred for Muslims and made a specific threat to "shoot up" a mosque.

5. From my conversations with the JSO officers assigned to the investigation, I learned that after receiving the information from C1, JSO successfully introduced an undercover officer (UC) to BOLATETE. Since the introduction, BOLATETE and the UC have met on several occasions to shoot various weapons at local shooting ranges. During these meetings, BOLATETE repeatedly expressed his hatred of Muslims, and told the UC about his medical condition involving his kidney. According to the UC, BOLATETE told the UC that he (BOLATETE) used to be a "Rangemaster" at a shooting range in the Philippines. BOLATETE stated that years ago, he was accidentally shot in the back while working on the range, and as a result lost one of his kidneys. On December 1, 2017, I spoke with the UC, who explained that BOLATETE also told the UC that he was

shot by a drunken police officer in the Philippines. BOLATETE stated that he was arguing with a police officer about a parking spot, and the police officer shot BOLATETE. BOLATETE stated that he shot the police officer and killed him. According the UC, BOLATETE told the UC that he had an upcoming doctor's appointment and was concerned about his prognosis. During one of the early meetings between BOLATETE and the UC, BOLATETE provided the UC with his cell phone number.

6. On December 1, 2017, I spoke with SA Robert Schwinger who read a transcript of a consensually recorded meeting that occurred on November 10, 2017, between the UC and BOLATETE. I learned that on November 10, 2017, the UC picked up BOLATETE at the Eucalyptus Drive residence to travel together to shoot at the St. Johns County FOP Lodge 113 Range, located at 5050 Inman Road, St. Augustine, Florida 32084. The UC observed BOLATETE carry several weapons from the Eucalyptus Drive residence and load them into the UC's vehicle. On their way to the range, the UC drove BOLATETE past the Islamic Center of Northeast Florida, located at 2333 St Johns Bluff Road South, Jacksonville, Florida (the Mosque) and asked BOLATETE if that was in fact a mosque. BOLATETE told the UC it was a mosque and pointed out the Mosque tower to the UC. BOLATETE had the following conversation with the UC that began with a discussion about his upcoming doctor's appointment:

UC: So what are you going to do when…after you find that out.

BOLATETE (B): Uh..when uh..the doctor will tell me, oh, your..you're have to undergo dialysis already. Your uh..remaining kidney is uh, functioning uh, less and then…what is expected to, the limited time. I have to bring my ..my long guns there and uh, stay at that, uh, tower.

B: Keep shooting those Muslims, you know, on Friday. (laughing)

UC: Is Friday the day they go?

B: Yeah. They go on Friday. Thei..their..their Sunday for Christians is uh, Friday.

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B: Yeah [UI] a..and the Philippines we've got quite a lot of problems and uh, Muslims there. There quite a lot of Muslims there.

UC: You going to do that by yourself?

B: I'll do…I'll do that, uh, the doctor would say that I have to undergo dialysis so..oh well. Not much to say.

UC: But you got a long way before that happens though don't you?

B: Uhhh, I only have a…actually as of, uh, last examination that I had, uhh, three months ago, my kidney is only 31% functioning…

UC: Uh huh.

B: …in my remaining kidney. And if it goes less than 30, I have to undergo dialysis.

UC: Now when is you next check-up?

B: Uh, December 6th.

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B: So we'll try…we will try a Christian doing uh, terroristic [sic] act this time, hum, to the Muslims the, they [laughing] they doing it all the time. You know?

UC: Yeah. Yeah. What time…like so they…they do like do they have services like..like for Christians like the church I go to, we have like a morning and and evening service. How do they do it there or is it all day?

B: I don't know they do theirs. So, but uh, one thing I know is that, uh, their Sunday equivalent to us Christians is Friday.
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UC: Okay. You just going to climb up in the tower and…

B: Eh, the..go up to the tower and start shooting. [laughing] It will be…it will be great, right? [laughing]

UC: Have you already gone over there and know how to get in the tower, because it looks like its in the middle?

B: Yeah. I..I know. It's not in the middle. It's on the side.

UC: Oh okay. Oh so you have already been over here and looked at it?

B: Yeah.

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UC: Have you got a..how m..so what do you say? You got three rifles? Two rifles?

B: I've got five.

UC: You got five? Oh damn.

B: But I'm um, bringing um, now is the two in one.

UC: Okay.

B: The one I told you….

UC: Yeah.

B: …AR-15 that can be converted to the AR-47.

UC: Okay.

B: That's one then I have four more.

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7. On December 1, 2017, I spoke with SA Schwinger who read a transcript of a consensually recorded meeting which occurred on November 10, 2017, between the UC and BOLATETE. I learned that on November 14, 2017, the UC again picked up BOLATETE at the Eucalyptus Drive residence to travel to the shooting range. The UC observed BOLATETE carry several weapons from the Eucalyptus Drive residence and load them into the UC's vehicle. While in the vehicle together, BOLATETE again expressed his hatred of Muslims and discussed his plans for the attack on the Mosque. BOLATETE specifically mentioned that he did not plan to survive the attack. BOLATETE had the following conversation with the UC:

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UC: But I don't have many friends here. I need you to hang around.

B: [laughter] Well that's...that's just wishful thinking though. [pause] Because, uh, I just want to give these freaking people a taste of their own medicine, you know? They are the ones who are always doing these shootings, the killings. You know, [UI] let them try it themselves.
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B: [UI] If ever...if ever I decide to do that I'm not thinking of getting caught. I'll..I'll die there in that area. [laughter] They'll be some sort of suicide thing that..that, uh, it's what the term? Suicide by police?

UC: No, no suicide by cop [UI].

B: Yeah. Suicide by cops. It's one thing for sure..everybody will be there for you. SWAT, all those stuff, uh, special forces, whatever. [laughter]

UC: Well I hope that everything just goes good on the sixth.

B: Yeah I hope so.

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8. Based on SA Schwinger's review of the November 14, 2017 meeting transcript and my conversations with the JSO officers involved in the investigation, after shooting at the range, the UC dropped BOLATETE off at the Eucalyptus Drive residence. At this time, the UC observed BOLATETE carry his weapons into the Eucalyptus Drive residence.

9. On December 1, 2017, I learned from a conversation with the FBI SA Robert Schwinger that JSO officers involved with the investigation stated that during the November 14, 2017 meeting between BOLATETE and the UC, BOLATETE told the UC that he was upset because his sister had moved BOLATETE's vehicle. BOLATETE told the UC that he did not like his sister moving the vehicle because he always kept a rifle in the trunk.

10. I learned from conversations with the JSO officers involved in the investigation that the UC had told BOLATETE in the past that the UC had a friend who was not paid by a Muslim for contractor services. The UC also told BOLATETE that the UC's friend left expensive power tools at the Muslim's house and was prevented from coming onto the property to retrieve the tools. On December 1, 2017, I reviewed a copy of a text message string between the UC's

cellular telephone and the BOLATETE's cellular phone. The text string, which occurred on November 17, 2017, in part read as follows:

UC: I need to tell you what the Muslim guy did to us when we went to get our tool.

B: What happened buddy, were u able to get it?

UC: No buddy we could not. He would not let us on his property to get it. He is an asshole.

B: That's commonly how they are buddy, that's why I want to shoot those freaking idiots.

11. On December 1, 2017, I spoke with SA Schwinger, who read a transcript of a consensually recorded meeting which occurred on November 20, 2017 between the UC and BOLATETE. I learned that on November 20, 2017, the UC visited BOLATETE while he was working at the Wacko's Liquor Depot, 3701 Emerson Street, Jacksonville, Florida. The UC told BOLATETE that a "Muslim guy" was refusing to pay the UC and the UC's friend for work done at the Muslim's home, and was refusing to allow the UC's friend access to the Muslim's property to retrieve his expensive power tools. BOLATETE then had the following conversation with the UC:

B: You know, I had one asshole like that in the..in the Philippines? Shot him with a 22 with a silencer.

UC: Yeah.

B: But I..I did not uh..intentionally uh...kill him, you know?

UC: Yeah.

B: Just hit him in the stomach...just hit him in the stomach so that there will be a.. an operation...hospitalized...

UC: Yeah.

B: ..will be..in trouble, you know?

UC: Yeah.

B: My God ever since that happened to him...he lived..he lived man. But ever since that happened to him, you know what? He was really going straight, you know?

UC: Yeah.

B: Oh no he was not a good friend guy...

UC: Yeah.

B: [UI]...but he was also an asshole and..[UI].really an asshole.

UC: Yeah. And this...you know, this guy's just rubbing it in our face sayin' you know, this isn't our country he..you know, its not our shit. He's gonna tell us what we're doing. So, I understand, you know? I know we've had that talk before.

B: Uh..if uh...your uh...buddy would really want to get even with the freakin' guy, study his movements, you know? Study his movements. Then uh...uh..don't hit him near his house. Hit him somewhere else.

UC: Yeah.

B: Especially if the area is uh...sort of uh...just like this area..sort of crazy area.

UC: Yeah.

B: And hit him there. And uh...of course people will uh..say..will believe that uh...he was hit by somebody else, you know? And...to come out of the...so many recent..u/i..if you'd uh..let it come out that uh...he was robbed, then take his wallet or...really, rob him, you know?

UC: Yeah.

B: Really rob him…

UC: I didn't think about that.

B: Yeah. Really rob him so that the uh..the uh…investigation will focus on the robbery, you know?

UC: Mmm hmm..yeah..

B: Yeah..

UC: …yeah instead of us being mad at him.

B: Yeah instead of uh..somebody getting money before some robbery, you know?

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12. On December 1, 2017, SA Schwinger and I discussed a summary received from JSO of a consensually recorded meeting which occurred on November 24, 2017 between the UC and BOLATETE. I learned that on November 24, 2017, the UC picked up BOLATETE at the Eucalyptus Drive residence to travel to the shooting range. The UC again observed BOLATETE carry several weapons from the Eucalyptus Drive residence and place them in the UC's vehicle. While shooting at the range, the UC showed BOLATETE an AR-15 rifle and a suppressor (also known as a silencer) designed to be used with the AR-15. The UC told BOLATETE that the UC's friend had several weapons and silencers that he was trying to sell to the UC if the UC was interested in purchasing them. When the UC dropped

BOLATETE off at the Eucalyptus Drive residence, the UC observed BOLATETE carry several weapons into the home.

13. I also learned through conversations with JSO officers assigned to the investigation that during the conversation between BOLATETE and the UC on November 24, 2017, BOLATETE told the UC that he always keeps a forty-five caliber handgun in the door of his vehicle.

14. On November 29, 2017, I spoke to a JSO Officer assigned to the investigation and learned that on November 27, 2017, the UC visited BOLATETE while he was working at Wacko's Liquor Depot. BOLATETE asked the UC if the UC's friend had another silencer, as BOLATETE was interested in buying another silencer because he "might need it." BOLATETE told the UC that he did not want any paperwork associated with the silencer because filing such paperwork would give the government the right to search BOLATETE's property. The UC advised BOLATETE that his friend had another silencer and he would provide a price to the UC.

15. On November 28, 2017, I reviewed a copy of a text message received by the UC from BOLATETE regarding the silencer, which was received on November 28, 2017. The text message read as follows:

> Was thinking of putting that on a need basis on my pistolized AR, that we fired last time because that one is unregistered & it will be difficult to trace just in case, besides, it shorter to carry in a vehicle. Altho the suppressor is not really that "quiet" but it can be used on the 4th of July or New Year time, it can easily blend with the sound of fireworks. I think that's the right time you

> can hit that asshole that you have there. That's why at this point, don't ever display yourself arguing w/that asshole so that you'll not be considered a person of interest when you hit that guy. Better still, have a surveillance where he is frequenting & if you can point him to me, I'll take him for you guys. Pls delete this message after you read it so that it cant be found in your celfon just in case investigators will try to 'connect' us. Get what I mean buddy?

PROBABLE CAUSE

16. On November 30, 2017, I spoke with a JSO Officer assigned to the investigation and learned that earlier that day, the UC received a text message from BOLATETE advising the UC that BOLATETE would meet the UC at Academy Sports, 11901 Atlantic Avenue, Jacksonville, Florida, to purchase a silencer from the UC, and agreeing to pay $100 for the purchase.

17. On December 1, 2017, I was in the area of the Academy Sports with JSO officers assigned to the investigation, and listened to audio of a meeting between the UC and BOLATETE. During the meeting, BOLATETE paid the UC $100 and took possession of a silencer manufactured by Knights Armament, model QDSS-NT4. As requested by BOLATETE, there was no paperwork or registration associated with the silencer. That is, BOLATETE's possession of the silencer was not registered in the National Firearms Registration and Transfer Record.

18. On December 1, 2017, I learned from a conversation with the UC that BOLATETE asked the UC to step around to the side of his car. The UC opened the bag that the silencer was in and took the silencer out of the bag. BOLATETE took in his hand the attachment, the component of the silencer which connects the device

to the firearm. The UC explained how to use the silencer. BOLATETE asked the UC to place the silencer on the floorboard of BOLATETE's trunk. The UC complied.

19. The silencer purchased by BOLATETE from the UC was obtained by the FBI and provided to the UC. I examined the silencer prior to providing it to the UC and observed the model number, QDSS-NT4, engraved on the side of the silencer, along with the manufacturer's name, Knights Armament.

20. On December 1, 2017, I reviewed an email from Melissa Whilhem, Director of Contracts and Compliance, of Knights Armament in Titusville, Florida, to SA Schwinger. Director Willhelm sent the Knights Armament catalog which stated that the device manufactured by Knights Armament, model number QDSS-NT4, is a suppressor designed to reduce the noise signature of a gunshot.

21. On December 1, 2017, I reviewed a video of Special Agent (SA) Paxton Stelly, the Principal Firearms Instructor of the FBI Jacksonville office. The video was taken on November 30, 2017, and SA Stelly test fired the silencer later provided to the UC and sold to BOLATETE. SA Stelly advised that this device bearing model number QDSS-NT4 did in fact reduce the noise signature of gunshots, and was consistent with the operation of a silencer, as covered by 26 U.S.C. § 5861(d).

22. On December 1, 2017, I discussed with SA Schwinger a conversation that he had with Special Agent Mark Mutz of the Bureau of Alcohol Tobacco and Firearms (ATF). SA Mutz provided photos of the device purchased from the UC by BOLATETE to Elizabeth Gillis, a Firearms Enforcement Officers with ATF whose

job responsibilities include the inspection and classification of firearms and silencers, among other things. Ms. Gillis examined the photographs provided by SA Mutz and sent SA Mutz an email with the following statement: "A review of the submitted photos indicates that the device bears design and construction characteristics consistent with other firearm silencers."

CONCLUSION

23. Based on the foregoing, I have probable cause to believe that on December 1, 2017, BERNANDINO GAWALA BOLATETE knowingly received and possessed a silencer, not registered to him in the National Firearms Registration and Transfer Record in violation of 26 U.S.C. §§ 5861(d) and 5871.

Respectfully submitted,

Christa Hocutt
Special Agent
FBI

Subscribed and sworn to before me on December 1, 2017

Joel B. Toomey
United States Magistrate Judge