



UNITED STATES DISTRICT COURT

for the

Central District of California



United States of America

v.

Andrew Rene Hernandez,

Defendant(s)

Case No. 2:20-mj-05644

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(s) of September 18, 2020 in the county of Los Angeles in the Central District of California, the defendant(s) violated:

Code Section

18 U.S.C. § 39B(a)(2)

Offense Description

Unsafe Operation of Unmanned Aircraft

This criminal complaint is based on these facts:

Please see attached affidavit.

Continued on the attached sheet.

/s/

Complainant's signature

William Richau, Special Agent FBI

Printed name and title

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

Date: November 18, 2020


Judge's signature

City and state: Los Angeles, California

Hon. Alicia G. Rosenberg, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, William Richau, being duly sworn, declare and state as follows:

I. INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and have been so employed since 2006. Since 2016, I have been assigned to the Los Angeles International Airport ("LAX") Office of the FBI, where I investigate violations of federal law occurring within the airport environment and involving aircraft, as well as violations of federal law involving Unmanned Aircraft Systems ("UASs"), commonly referred to as "drones." Since July 2020, I have been a member of the newly-formed FBI Wildland Fire Counter-Unmanned Aircraft System ("CUAS") Team, for which I received training specific to drones.

II. PURPOSE OF AFFIDAVIT

2. This affidavit is made in support of a criminal complaint against, and arrest warrant for, Andrew Rene HERNANDEZ ("HERNANDEZ") for a violation of Title 18, United States Code, Section 39B(a)(2): Unsafe Operation of Unmanned Aircraft.

3. 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 warrant and does not purport to set forth all of my knowledge of or 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.

III. STATEMENT OF PROBABLE CAUSE

A. Technical Terminology

4. Based on my training and experience, and that of other investigators with whom I have conferred, I use the following technical terms to convey the following meanings:

a. A UAS, commonly referred to as a "drone," is defined by the Federal Aviation Administration ("FAA") as "an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft."

14 C.F.R. § 107.3.

b. The FAA defines a UAS as "an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the pilot in command to operate safely and efficiently in the national airspace system." FAA Modernization and Reform Act of 2012 § 331(9).

5. An "SD" card is a Secure Digital memory device that is used to store digital information in portable devices. Some SD cards are fixed to electronic devices while others are removable.

B. Applicable Law

6. The FAA is an agency within the United States Department of Transportation that is responsible for the

safety of civil aviation by regulating the safe and efficient use of navigable airspace within the United States.

7. Title 18, United States Code, Section 39B criminalizes the knowing or reckless interference or disruption of the operation of an aircraft carrying one or more occupants while operating an unmanned aircraft where the action poses an imminent safety hazard to the manned aircraft or its occupants.

C. Statement of Facts

1. A Drone Crashes into a LAPD Helicopter

8. Based on my training, experience, and knowledge of the investigation, including my review of law enforcement reports, I am aware of the following:

a. On September 18, 2020, at approximately 12:18 a.m., the Los Angeles Police Department ("LAPD") was alerted to a burglary at a pharmacy in Hollywood, California ("the Pharmacy"). LAPD dispatched a patrol unit to the Pharmacy, and the patrol officers requested an air support unit to respond. At approximately 12:35 a.m., LAPD Officers Lomax and Ornelas flew a LAPD helicopter toward the Pharmacy.

b. While flying above the Pharmacy, Officer Lomax observed what appeared to be a drone and pulled the helicopter up in an attempt to put the helicopter out of the drone's flight path. Despite Officer Lomax's efforts to avoid the drone, the drone struck the bottom of the LAPD helicopter. Officer Lomax initiated an emergency landing at Hooper Heliport. After colliding with the police helicopter, the drone fell out of the sky and Officer Ornelas requested that the LAPD officers on the

ground search the area for the drone. Officer Lomax safely landed the helicopter and observed damage to the helicopter's nose, antenna, and the bottom cowlings.

c. LAPD Officers Morse and Gonzalez searched the area near the Pharmacy for the fallen drone and found a white 2020 Toyota Corolla with a broken rear windshield parked near the Pharmacy that appeared to have been hit by the drone as it fell. From the street and inside the damaged vehicle, they recovered gray plastic pieces of the drone that had crashed into the helicopter. On the street, they also recovered portions of the drone, which included a serial number (08Q3G9KP01W033) printed on the inside of the drone, and the drone's camera.

9. On September 18, 2020, I interviewed LAPD Flight Safety Officer J. Coley Maddigan. Officer Maddigan is an LAPD Officer and a pilot with LAPD assigned to the LAPD Air Support Division. Officer Maddigan stated that, based on his observations of the LAPD helicopter after it was hit by the drone, he believed that, if the drone had struck the helicopter's main rotor instead of the fuselage, it could have brought the helicopter down. The main rotor is attached to the top of the fuselage and extends outward. The drone could have easily hit and damaged the rotor or other critical parts of the helicopter like the windshield, which could have caused the helicopter to crash or distract the pilot.

2. LAPD Identifies HERNANDEZ as the Drone's Pilot

10. On September 18, 2020, LAPD Officer Gonzalez interviewed Witness #1, an individual who resided near the

Pharmacy. According to my review of Officer Gonzalez's interview report, Witness #1 told Officer Gonzalez that that the residents of a nearby house frequently flew "drones." Witness #1 described the house and its location in detail.

11. According to California Department of Motor Vehicles ("DMV") records, the residence Witness #1 described is the residence where HERNANDEZ resides ("HERNANDEZ's Residence").

12. On October 1, 2020, the Honorable John E. McDermott, United States Magistrate Judge, issued a warrant in Case Number 20-MJ-4707 (C.D. Cal.), authorizing the search of the digital contents of the drone's camera and SD card. I seized the following images from the SD card that show HERNANDEZ operating the drone at HERNANDEZ's Residence and near a vehicle registered to him, including:

a. A photograph dated May 9, 2020, showing HERNANDEZ operating a black drone controller and leaning against a black vehicle with California license plate 8DVU871. According to CA DMV vehicle registration information, the vehicle is registered to HERNANDEZ at HERNANDEZ's residence.



b. Two photographs dated May 16, 2020 that show HERNANDEZ holding a drone controller at a location I recognize to be HERNANDEZ's Residence.

c. A photograph dated May 28, 2020, depicted below, which shows HERNANDEZ holding a black drone controller with a black smart phone attached below it. The logo of the drone that crashed into the LAPD helicopter is visible on the controller.



d. A photograph dated September 15, 2020 - three days before the drone struck the LAPD helicopter - taken from the air showing the Pharmacy and other nearby businesses.

13. According to the manufacturer, the drone that struck the LAPD helicopter uses a "flight controller" that attaches to an Android or Apple smart phone and users may download a smart phone application to operate the drone. The following

photographs display the flight controller mounted to a smart phone.



3. HERNANDEZ Confesses to Flying the Drone into the LAPD Helicopter

14. On October 20, 2020, the Honorable Charles F. Eick, United States Magistrate Judge, issued warrants in Case Numbers 20-MJ-5060, 20-MJ-5061, and 20-MJ-5062 (C.D. Cal.), authorizing the search of HERNANDEZ's Residence, his person, and his vehicle.

15. On October 21, 2020, I and other law enforcement officers executed the search warrants. HERNANDEZ was present, and I and other law enforcement officers informed him that we had federal search warrants to search his residence, his vehicle, and his person. Additionally, I and other law enforcement officers advised HERNANDEZ of his Miranda rights. HERNANDEZ waived his Miranda rights and agreed to speak with me and other law enforcement officers. HERNANDEZ stated the following:

a. On September 18, 2020, a little after midnight, HERNANDEZ was at his residence with his son when he heard police vehicles and a helicopter approaching.

b. HERNANDEZ was curious, got his drone, and flew his drone to see what was going on. HERNANDEZ launched his drone above his residence. He stated that it is hard to see the drone at night, but that he recalled seeing the drone's green light facing him as it was ascending. As the drone was ascending, HERNANDEZ looked down for a couple seconds at the drone controller, which was attached to his phone. As HERNANDEZ looked up again at his drone, he saw the drone being "smacked" by the helicopter, which was hovering. HERNANDEZ stated that the drone went down and landed at a nearby residence.

c. HERNANDEZ stated that the helicopter appeared to be a police helicopter. After the collision, the helicopter left the area and HERNANDEZ heard more police vehicles responding to the area with sirens. Moments later, HERNANDEZ walked around the block to look for his drone, but he did not find it. HERNANDEZ then saw multiple police vehicles at the Pharmacy across the street from his residence.

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IV. CONCLUSION

16. For the reasons described above, I respectfully submit there is probable cause to issue the requested criminal complaint and arrest warrant.

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone on this 18th day of November, 2020.

Alicia L. Rosenberg

UNITED STATES MAGISTRATE JUDGE