

SEALED BY ORDER OF THE COURT

UNITED STATES DISTRICT COURT

for the

Northern District of California

FILED

May 25 2021

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

United States of America

v.

ROBERT TINSLEY NEWT

Case No.3:21-mj-70899 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 May 15, 2021 in the county of San Francisco in the Northern District of California, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Row 1: 18 U.S.C. § 922(g)(1), Felon in possession of ammunition. Penalties: Imprisonment: 10 years, Fine: \$250,000, Supervised Release: 3 years, Special Assessment: \$100 special assessment.

This criminal complaint is based on these facts:

Please see attached affidavit of ATF Task Force Officer Sean Griffin.

Continued on the attached sheet.

Approved as to form /s/ Amani S. Floyd
AUSA Amani S. Floyd

/s/
Complainant's signature
Sean Griffin, Task Force Officer, ATF
Printed name and title

Sworn to before me by telephone.

Date: 05/25/2021

Judge's signature

City and state: San Francisco, California

Hon. Thomas S. Hixson, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

I, Sean Griffin, Task Force Officer (“TFO”) with the United States Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), being duly sworn, state:

INTRODUCTION

1. I make this affidavit in support of an application under Rule 4 of the Federal Rules of Criminal Procedure for a criminal complaint and arrest warrant authorizing the arrest of Robert Tinsley **NEWT** (**/**/1988) for felon in possession of ammunition, in violation of Title 18, United States Code, Section 922(g)(1) (hereafter, the “Target Offense”), on or about May 15, 2021 in the Northern District of California.

SOURCES OF INFORMATION

2. This affidavit is submitted for the limited purpose of securing a criminal complaint and arrest warrant. I have not included every fact known to me concerning this investigation. Instead, I have set forth only the facts necessary to establish probable cause that violations of the federal law identified above have occurred.

3. I have based my statements in this affidavit on my training and experience; personal knowledge of the facts and circumstances obtained through my participation in this investigation; information provided by other agents and law enforcement officers, including officers from the San Francisco Police Department (“SFPD”); information provided by reports prepared by other agents and law enforcement officers; and information provided by records and databases, including regarding **NEWT**’s criminal history. Where I refer to conversations and events, I refer to them in substance and in relevant part rather than in their entirety or verbatim, unless otherwise noted. This affidavit also reflects my current understanding of facts relating to this investigation, but my understanding may change in the future as the investigation proceeds.

AFFIANT BACKGROUND

4. I am a TFO with the ATF and have been so employed since 2019. My duties include the investigation of criminal violations of federal firearms, explosives, and arson laws, as well as those involving violent crime. I currently work in the San Francisco Metro Field Office, which combats gun trafficking, narcotics trafficking, violent crime, organized crime, and street gangs. I have participated in undercover operations during which I have observed transactions involving narcotics and firearms. As an ATF TFO, I have participated in numerous federal and state investigations involving individuals engaged in the illegal sale and possession of firearms and narcotics.

5. As a TFO, I have been trained to conduct and participate in both state and federal investigations involving the trafficking of firearms. I have received training and participated in various types of investigative techniques, including using electronic surveillance and undercover agents and informants. I have participated in physical surveillance operations and have participated in the execution of federal arrest and search warrants.

APPLICABLE STATUTES

6. Title 18, United States Code, Section 922(g)(1) provides: “It shall be unlawful for any person . . . who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.”

7. The elements of the Target Offense are as follows: (1) the defendant knowingly possessed a firearm or ammunition; (2) the firearm or ammunition had been shipped or transported from one state to another, or between a foreign nation and the United States; (3) at the time that

the defendant possessed the firearm or ammunition, the defendant had been convicted of a crime punishable by imprisonment for a term exceeding one year; and (4) at the time that the defendant possessed the firearm or ammunition, the defendant knew that he had been convicted of a crime punishable by imprisonment for a term exceeding one year.

FACTS SUPPORTING PROBABLE CAUSE

A. NEWT's Possession of a Firearm and Ammunition on or about May 15, 2021

Homicide #1

8. On or about May 15, 2021, at approximately 1010 hours, SFPD officers were dispatched to 25th Street and Connecticut Street, located in the City and County of San Francisco, in the Northern District of California, regarding a three-round ShotSpotter activation. Dispatch updated the call to a report of a shooting victim.

9. Officers arrived on the scene and located Victim #1, partially on the sidewalk and partially in the street. Officers began CPR when they found Victim #1 and noticed that he had multiple gunshot wounds to his torso and was not breathing and had no pulse. Victim #1 was transported to San Francisco General Hospital by San Francisco Fire Department medics where he was ultimately pronounced deceased.

10. Officers later canvassed the homicide scene and located two spent casings—specifically, one (1) fired Frontier .223 cartridge casing and one (1) unknown (illegible) fired cartridge casing.

Homicide #2

11. On the same date, at approximately 1225 hours, officers were at the homicide scene on 25th Street and Connecticut Street when they heard multiple gunshots coming from the area of 23rd Street and Dakota Street. SFPD officers responded to the area of 23rd Street and Dakota

Street. Dispatch informed the officers that ShotSpotter activated 6 rounds in the area of 1801 23rd Street. Dispatch also received a call from a reporting party who stated that he and his friend had been shot at XX Dakota Street.

12. Officers responded to XX Dakota Street, which is a vacant unit in the Potrero Hill Housing development, located in the City and County of San Francisco, in the Northern District of California. Upon the officers' arrival they made contact with Victim #2 who opened the front door and stated that he and his friend had been shot.

13. Officers rendered medical aid to Victim #2 who was conscious and breathing, but who had been shot in his left abdomen and upper right back. Officers entered XX Dakota Street and contacted Victim #3 who was lying faceup in the living room of the unit. Victim #3 was semi-conscious and breathing, but had multiple gunshot wounds to his right thigh, testicles, and right arm. Officers searched the vacant unit for possible suspects or more victims with negative results and then rendered medical aid to Victim #3. Officers applied a tourniquet on Victim #3's upper right thigh to control the bleeding. Victim #3 was unable to tell officers what happened nor could he provide a description of the suspect.

14. While on scene, officers discovered fired cartridge casings outside of XX Dakota Street on the sidewalk in front of the front door and fired cartridge casings inside of XX Dakota Street near the front door. The cartridges were later determined to be fourteen (14) LC fired cartridge casings. A bullet fragment was also recovered from the scene. Officers made contact with Victim #2 who stated that someone opened the metal door to the unit and started shooting at him and Victim #3.

15. Ambulances arrived on scene and transported Victim #2 and Victim #3 to San Francisco General Hospital. Victim #2 was treated for two gunshot wounds to his left abdomen

and a gunshot wound to his upper back. Victim #3 was treated for gunshot wounds to his right thigh, testicles, and right arm.

16. SFPD CSI officers responded to XX Dakota Street to process the scene. During this time, officers were flagged down by Reportee #1 who resides in the same building as XX Dakota Street. Reportee #1 showed officers a black leather, “Kenneth Cole” trench coat that was wedged in the open front window of Reportee #1’s residence and a loaded assault pistol on the other side of the window, on the floor inside the kitchen. The assault pistol was later determined to be an un-serialized privately manufactured firearm (PMF) also known “ghost gun.” The firearm was loaded with twelve (12) LC unfired cartridges, seventeen (17) Frontier .223 unfired cartridges, and one unfired cartridge of unknown make in the magazine, and one (1) LC unfired cartridge in the chamber.

17. Below is a photo of the loaded firearm recovered from Reportee #1’s residence:



18. Officers spoke to Reportee #1 who stated that she was not in her residence when the shooting took place. Reportee #1 stated that the coat and rifle were not hers and that they were

not inside of her residence prior to her leaving. Officers seized the fired cartridges, loaded assault pistol, coat, and the victims' clothing as evidence. Officers were later informed that Victim #3 was pronounced deceased by San Francisco General Hospital staff.

Surveillance Video Review

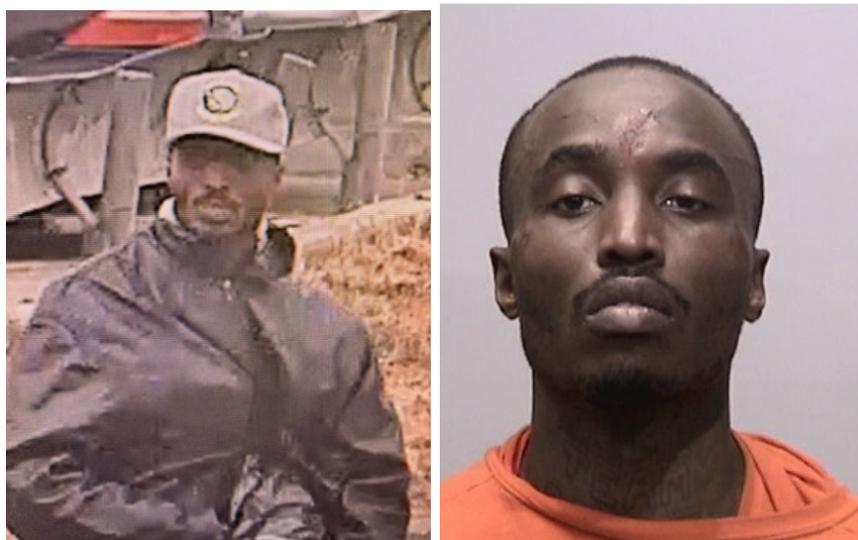
19. SFPD officers and SFPD Homicide investigators reviewed the Watchtower surveillance video from the area and time of both shootings and homicides. The surveillance video from the first homicide shows Victim #1 and two other people on the street where the shooting and homicide took place. The video shows a gray Honda vehicle driving westbound on 25th Street from Connecticut Street and slowing down as it approaches Victim #1 and the two other subjects. One of the subjects in the group, later identified as **NEWT** raises his arms holding a white bag. **NEWT**'s arms are extended and pointed towards Victim #1. Victim #1 falls to the ground and the gray Honda drives away westbound on 25th Street. **NEWT** then runs after the Honda and then runs towards Connecticut Street. Upon review of the video, officers and Homicide investigators believe that **NEWT** was the subject who shot Victim #1.

20. Below is a still photo of **NEWT** fleeing the scene of the first homicide and a recent booking photo of **NEWT**:



21. Officers were able to track **NEWT**'s movements after the first homicide. Video shows **NEWT** going to the area of 900 Connecticut Street, where he appears to enter a utility room. **NEWT** later leaves the utility room after changing clothes. **NEWT** is seen on video holding what appears to be a black plastic bag. Upon review of the video, it appears that **NEWT** is holding a firearm, consistent with an assault pistol in the bag. **NEWT** is then observed on surveillance video on the unit block of Dakota Street. **NEWT** appears to still be in possession of what is believed to be the assault pistol. **NEWT** is then seen walking towards the area of XX Dakota Street. Video surveillance loses **NEWT** behind the building, but **NEWT** is then seen again on surveillance video leaving the area of XX Dakota Street, crossing over to the west side of the street, and running from the area into the housing projects.

22. Two SFPD officers, including this affiant, were contacted by SFPD Homicide investigators who provided still images and video from the two incidents with **NEWT**. Both officers, including this affiant, believe that **NEWT** is the subject in the surveillance video and still images and who is believed to have committed the two homicides and an attempted homicide. Below is a still photo of **NEWT** across the street from scene of the second homicide and a recent booking phot of **NEWT**:



23. SFPD Homicide investigators interviewed several witnesses—two of which positively identified **NEWT**. One witness identified **NEWT** as being armed after the first homicide and the other witness positively identified **NEWT** as the shooter in the second homicide.

24. The events described above also occurred just short of a month after **NEWT** was arrested on April 21, 2021, with an assault pistol in the back of a vehicle that he was driving. That incident did not result in charges against **NEWT** at that time. However, the firearm that was seized on April 21, 2021 was of a similar style as the one that was recovered from the homicide and shooting scene on Dakota Street on May 15, 2021.

25. Based on all of the above, I believe that there is probable cause to believe that on or about May 15, 2021, **NEWT** was in possession of the recovered firearm and ammunition.

B. Interstate Nexus of Ammunition

26. An ATF nexus expert was provided the head stamps of the spent casings located at both homicides and the unfired cartridges in the recovered firearm, specifically LC and Frontier ammunition. The ATF nexus expert determined that the spent casings and unfired cartridges were manufactured outside of the state of California. Based on this information, I believe that the recovered ammunition was shipped or transported from one state to another state or from a foreign country to the United States before **NEWT** possessed it.

C. NEWT's Prior Felony Convictions

27. Prior to May 15, 2021, **NEWT** had been convicted of several crimes that were punishable by imprisonment for terms exceeding one year. For instance, on or about May 21, 2009, **NEWT** was convicted of the felony offense of violating California Penal Code § 12021(a)(1), felon in possession of a firearm, in San Francisco Superior Court, and was sentenced to serve 16 months in prison.

28. Additionally, on or about November 29, 2011, **NEWT** was convicted of violating 18 U.S.C. § 922(g)(1), felon in possession of a firearm and ammunition, in the Northern District of California, and was subsequently sentenced to serve 27 months in prison and 36 months of supervised release.

29. And on or about January 6, 2015, **NEWT** was convicted of violating 21 U.S.C. § 844(a), possession of a controlled substance, in the Northern District of California, and was subsequently sentenced to serve 24 months in prison and 12 months of supervised release.

D. NEWT's Knowledge of His Pervious Felony Convictions

30. In both his 2011 and 2015 Northern District of California cases, **NEWT** entered a plea agreement in which he agreed that the maximum prison term for his crimes were more than one year. Based on this information, I believe that there is probable cause to believe that on May 15, 2021, when **NEWT** was in possession of a firearm and ammunition, he knew that he had been convicted of a crime punishable by imprisonment for a term exceeding one year.

REQUEST TO SEAL

31. Based on my training and experience, the disclosure of the existence of this affidavit, the corresponding complaint and the arrest warrant, and any related documents may cause **NEWT** or other co-conspirators, known and unknown at this time, to destroy evidence or to conceal ongoing criminal activity, jeopardizing the progress of the ongoing investigation. Furthermore, disclosure of the specified documents might jeopardize the defendant's arrest and pose a safety risk to arresting agents and officers. I therefore request that the Court seal this affidavit, the complaint, the arrest warrant, and all related documents, except that copies should be made available to the United States Attorney's Office, the ATF, and other law enforcement and intelligence agencies, including foreign law enforcement and intelligence agencies, as necessary

