

Approved:

JACOB H. GUTWILLIG / MATTHEW J. LAROCHE / KIMBERLY J. RAVENER
BENJAMIN W. SCHRIER / KYLE A. WIRSHBA
Assistant United States Attorneys

Before: THE HONORABLE ONA T. WANG
United States Magistrate Judge
Southern District of New York

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----- X	:	<u>SEALED COMPLAINT</u>
UNITED STATES OF AMERICA	:	Violations of 18 U.S.C.
- v. -	:	§§ 875 and 2.
ROBERT LEMKE,	:	COUNTY OF OFFENSE:
Defendant.	:	BRONX
----- X		

SOUTHERN DISTRICT OF NEW YORK, ss.:

TODD ECKERT, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE

(Threatening Interstate Communications)

1. On or about January 6, 2021, in the Southern District of New York and elsewhere, ROBERT LEMKE, the defendant, knowingly transmitted in interstate and foreign commerce a communication containing a threat to injure the person of another, to wit, LEMKE sent threatening text messages to family members of a New York City-based U.S. Congressman ("Congressman-1") and a New York City-based family member of a journalist ("Journalist-1").

(Title 18, United States Code, Sections 875(c) and 2.)

The bases for my knowledge and the foregoing charge are, in part, as follows:

2. I am a Special Agent with the FBI, and I have been personally involved in the investigation of this matter. This affidavit is based in part upon my conversations with law enforcement agents and other people, and my examination of reports

and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all of the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. Based on my training, experience, involvement in this investigation, discussions with other law enforcement agents, interviews of victims, and review of open source materials, I learned the following:

a. On January 6, 2021, a group of individuals purporting to protest the 2020 Presidential Election gathered in Washington, D.C. and stormed the Capitol Building. The group breached the Capitol Building, assaulting law enforcement officers and damaging federal property. The group occupied the Capitol Building and disrupted the certification of election results by the U.S. Congress for a period of several hours. Members of Congress sheltered in place during the occupation. Multiple individuals have been arrested in connection with these events for offenses including illegal weapons possession.

b. Also on or about January 11, 2021, the office of Congressman-1 informed the FBI that, on or about January 6, 2021, Congressman-1's brother ("Victim-1") had received the following text messages from a particular phone number (the "Lemke Phone"), which also included a picture of a home in the same neighborhood as Victim-1's home:

Your brother is putting your entire family at risk with his lies and other words. We are armed and nearby your house. You had better have a word with him. We are not far from his either. Already spoke to [Congressman-1's son] and know where his kids are.

. . . your words have consequences. Stop telling lies; Biden did not win, he will not be president. We are not[] white supremacists. Most of us are active/retired law enforcement or military. You are putting your family at risk. We have armed members near your home Don't risk their safety with your words and lies.

c. Also on or about January 6, 2021, Congressman-1's sister-in-law and the wife of Victim-1 ("Victim-2") exchanged the following messages with the Lemke Phone:

Lemke Phone: [Victim-2] calm your husband down

Victim-2: Who is this? Your number is only coming up not your name

Lemke Phone: Does that matter? We saw on the hidden camera, he was quite stirred up. You need to have him talk to [Congressman-1]. Thanks.

d. Also on or about January 6, 2021, while in the Bronx, New York, a relative of Journalist-1 ("Victim-3"), received the following message from the Lemke Phone: "[Journalist-1's] words are putting you and your family at risk. We are nearby armed and ready. Thousands of us are active/retired law enforcement, military, etc. That's how we do it."

e. Based on my review of records for the Lemke Phone, I learned that the Lemke Phone is subscribed to username "realestaterus1," under the name "Alameda County Sheriffs Department," and with an email address "info@acgov.org," the domain of which is used by the Alameda County government.

f. Based on my review of subpoena returns, I learned that the email address "realestaterus1@gmail.com," which incorporates the username for the Lemke Phone, is subscribed in the name "Robert Lemke."

g. Based on my review of the publicly available portions of a Facebook account (the "Lemke Facebook Account"), I learned the following:

i. The Lemke Facebook Account has a username of "Robert Lemke" and, as its profile picture, a photograph of an individual whose face is partially blocked by the words "Trump 2020" and "U.S. Air Force Veteran." In addition, the Lemke Facebook Account has as its background image a photograph of Mark and Patricia McCloskey, who I know from open source information were charged with criminal offenses this summer after they pointed firearms at Black Lives Matter demonstrators near their home in St. Louis, Missouri, and later appeared at the 2020 Republican National Convention in which Donald Trump was nominated for President. A screenshot of the profile picture for the Lemke Facebook Account is below:



ii. Publicly available information from the Lemke Facebook Account further indicates that ROBERT LEMKE, the defendant, was a Captain in the United States Air Force and that he is a retired Sergeant with the Alameda County Sheriff's Office, which is also the name of the subscriber of the Lemke Phone.

iii. On or about March 3, 2019, the Lemke Facebook Account posted, "These people are LIARS stop believing their words. They really hate you," linking to a New York Post article entitled "Gas-guzzling car rides expose AOC's hypocrisy amid Green New Deal pledge."

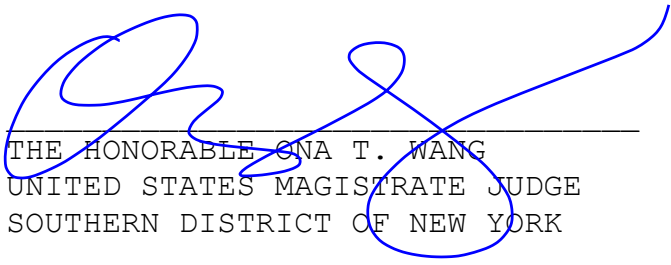
iv. On or about November 9, 2020, the Lemke Facebook Account posted a picture with the text, "If you have a 'Congratulations Joe Biden Kamala Harris' post celebrating a non-existent victory, please self-identify and unfriend/block me. Thanks."

v. On or about November 7, 2020, the Lemke Facebook Account posted, "Folks. Be ready for war. Trump has refused to cede. Evidence shows fraud occurred and the Supreme Court cases will be successful. We blockchained and watermarked ballots in 16 states. Trump will prevail.. Spread this message. . . . FAITH my fellow Republicans. Do not give up. Keep an eye out for a variety of protests, and Stop The Steal Facebook groups for updates."

WHEREFORE, your deponent respectfully requests that a warrant be issued for the arrest of ROBERT LEMKE, the defendant, and that he be arrested and imprisoned, or bailed, as the case may be.

S/ Todd Eckert /otw Cred. No. 26603
SPECIAL AGENT TODD ECKERT
Federal Bureau of Investigation

Sworn to me through the transmission of this Affidavit by reliable electronic means, pursuant to Federal Rule of Criminal Procedure 4.1, 14th day of January, 2021



THE HONORABLE CNA T. WANG
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK