

ATTACHMENT A

AFFIDAVIT of
Special Agent Joshua Evans
Drug Enforcement Administration
Bristol, Virginia

1. I, Special Agent Joshua Evans, being duly sworn, hereby depose and say:
2. The purpose of this affidavit is to secure an arrest warrant for Mark Watson SMITHERS for a violation of 18 U.S.C. § 1503, which relates to influencing a juror generally.
3. I am a Special Agent with the Drug Enforcement Administration (“DEA”) and have been so employed for approximately twelve years. During that employment, I have received comprehensive classroom and field training from the DEA in specialized investigative matters including, but not limited to, drug interdiction, drug detection, money laundering techniques and schemes, smuggling, and the investigation of individuals and organizations involving in smuggling, cultivation, manufacturing, and illicit trafficking of controlled substances and controlled substance precursors. I have participated in the investigations and subsequent arrests of numerous individuals involved in a variety of criminal activities, including crimes associated with obstruction of justice.
4. The facts set forth in this affidavit are known to me as a result of my participation in the investigation of Mark Watson SMITHERS and information provided to me by other law enforcement officers. The information set forth in

the affidavit is intended to establish probable cause for arrest and the issuance of an arrest warrant, but this affidavit does not include all of the information known to me about this matter.

5. The Honorable James P. Jones (“Judge Jones”) is currently presiding over the jury trial of Joel Smithers in the United States District Court for the Western District of Virginia (“the trial”). The trial began in early December 2024 and is taking place in the federal courthouse in Abingdon, Virginia. The jury is empaneled and has heard and seen evidence during the trial.
6. SMITHERS is the father of defendant Joel Smithers. SMITHERS was seen regularly observing the trial from the gallery in Courtroom One in the Abingdon federal courthouse.
7. On December 16, 2024, SMITHERS was overheard at a restaurant talking about the trial. SMITHERS was heard saying that he and his son’s attorneys were hoping for a mistrial so they could be home before Christmas.
8. On December 17, 2024, SMITHERS was seen approaching and having a conversation with a member of the jury panel (“the Juror”) during a lunch break.
9. When the jury was not in the courtroom, an Assistant U.S. Attorney who was involved in the trial informed Judge Jones, in open court, about SMITHERS’ contact with the Juror.
10. Judge Jones summoned the juror to the courtroom to inquire about the matter. With attorneys for the government and the defense present, the Juror indicated that he had indeed had a conversation with a man who had been sitting the gallery during the trial. The juror reported that the Juror and SMITHERS had

talked about the weather, and that SMITHERS had told the Juror something to the effect of “you should have some compassion.” Ultimately, Judge Jones dismissed the Juror from the jury panel.

11. Judge Jones then summoned SMITHERS to the courtroom. Judge Jones told SMITHERS that he was aware of SMITHERS’ contact with the Juror. Judge Jones excluded SMITHERS from the courtroom for the rest of the trial.

12. After SMITHERS left the courtroom, DEA Special Agent Robert Slease located SMITHERS and interviewed him regarding the incident with the Juror. SMITHERS admitted that he had a conversation with the Juror but denied he said anything regarding “compassion.”

13. On December 17th, Judge Jones granted authorization for the government to speak to the Juror regarding the incident.

14. On December 18th, I met in person with the Juror and interviewed the Juror. The Juror stated that on December 17, 2024, at approximately 1:00 p.m. while the Juror was returning from lunch break during the trial and walking on the sidewalk toward the front of the federal courthouse, he was approached by a white, male subject whom the Juror recognized as someone who had been sitting in the courtroom during the trial. I showed two photos of SMITHERS the Juror, and the Juror immediately identified SMITHERS as the person who had approached the Juror outside the courthouse. The Juror stated that SMITHERS approached the Juror on the sidewalk and began walking beside the Juror toward the courthouse and asked the Juror about the weather. SMITHERS told the Juror that the weather reminded him of east Texas weather. (Based on records I reviewed, SMITHERS resides in Texas.) SMITHERS then asked the Juror if he was in the trial, and the Juror told

SMITHERS that he was a juror. SMITHERS then asked the Juror to have compassion, which the Juror understood as relating to the trial.

15. On December 19, 2024, I observed security camera footage from the federal courthouse that showed the Juror and SMITHERS walking down the sidewalk, side by side, toward the federal courthouse on December 17, 2024, at approximately 1:00 p.m. In the footage, both the Juror and SMITHERS are turning toward each other while walking and appear to be having a conversation.

16. I understand that, under 18 U.S.C. § 1503(a), it is a felony to “corruptly . . . endeavor[] to influence, intimidate, or impede any . . . petit juror . . . in or of any court of the United States . . . in the discharge of his duty.” Such conduct is informally known as “jury tampering.”

17. Based upon the facts set forth above, I respectfully submit that there is probable cause for the issuance of an arrest warrant charging Mark Watson SMITHERS with a violation of 18 U.S.C. § 1503. Accordingly, I respectfully request the issuance of an arrest warrant for SMITHERS.


18. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on December ^{20 pms}~~19~~, 2024, in Abingdon, Virginia.



Joshua Evans
Special Agent, Drug Enforcement Administration

SWORN AND SUBSCRIBED TO BEFORE ME
THIS 20th DAY OF DECEMBER, 2024.



PAMELA MEADE SARGENT
UNITED STATES MAGISTRATE JUDGE
WESTERN DISTRICT OF VIRGINIA

Reviewed by: Whitney D. Pierce, AUSA