AO106(Rev 5/85) Affidavit for Search Warrant

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

In the Matter of the Search of
(Name, address or brief description of person, property, or premises to be searched)

Electronic mail stored in account jimmyflathead@yahoo.com, controlled by Yahoo! Inc., 701 First Avenue, Building D, Sunnyvale, CA 94089

(Further described below)

FILED
SEP 24 2008
NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

APPLICATION AND AFFIDAVIT
SEARCH WARRANT

CASE NUMBER: 08-494 M-01

I **Marlo Arredondo** being duly sworn depose and say:

I am a(n) **Special Agent with the Federal Bureau of Investigation** and have reason to believe
(Official Title)

that (name, description and or location)
on the property or premises known as email account jimmyflathead@yahoo.com, controlled by Yahoo! Inc., 701 First Avenue, Building D, Sunnyvale, CA 94089

in the Northern District of California, there is now concealed a certain person or property, namely (describe the person or property to be searched)

all information pertaining to this account, including stored data, IP addresses, and electronic mail, described more fully in Attachment A.

which is (state one or more bases for search and seizure set forth under Rule 41(c) of the Federal Rules of Criminal Procedure)

evidence relevant to the commission of an act of terrorism, including the use of a weapon of mass destruction (anthrax) and the murder and attempt to murder officers and employees of the United States, and threats to witnesses to that investigation.

concerning a violation of **Title 18 United States Code United States Code, Section(s) 2332a, 1114, and 1512(a)(2)**. The facts to support a finding of Probable Cause are as follows:

SEE ATTACHED AFFIDAVIT HEREIN INCORPORATED BY REFERENCE AS IF FULLY RESTATED HEREIN

Continued on the attached sheet and made a part hereof. x YES ☐ NO

Rachel Carlson Lieber, AUSA
US Attorney's Office; Washington, DC
(202)202-353-8055

Signature of Affiant
Marlo Arredondo, Special Agent
Federal Bureau of Investigation

Sworn to before me, and subscribed in my presence

AUG 07 2008
Date

at Washington, D.C. (Pursuant to the domestic terrorism search Warrant provisions of Rule 41(b)(3))

Name and Title of Judicial Officer

CHIEF JUDGE ROYCE C. LAMBERTH
Signature of Judicial Officer

AO93(Rev 5/85)Search Warrant

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

I, Marlo Arredondo, being first duly sworn, hereby depose and state as follows:

I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed for approximately three years. As a Special Agent of the FBI, I am investigating a crime involving the dissemination of a Weapon of Mass Destruction (anthrax) in violation of Title 18 U.S.C. Sections 2332(a), 1114, and 1512(a) (2). The definitions provided herein are based on my knowledge and experience as an FBI Agent, and consultations with other criminal investigators.

This affidavit is respectfully submitted in support of an application for warrants to search the following e-mail accounts, pursuant to the domestic terrorism search warrant provision found at Rule 41(b)(3) of the Federal Rules of Criminal Procedure, in that it involves a domestic terrorism investigation, pending in the District of Columbia.

I make this affidavit in support of an application for a search warrant for certain accounts controlled by the free web-based electronic mail service provider known as (1) Yahoo!, Inc. (Yahoo!), located at 701 First Avenue, Building D, Sunnyvale, California 94089; (2) America Online, Inc. (AOL), 2200 AOL Way, Dulles, VA 20166; and (3) MSN Hotmail Microsoft Corp. (MSN Hotmail), 1065 La Avenida, Building 4, Mountain View, California 94043. The accounts to be searched at Yahoo! are:

jimmyflathead@yahoo.com
[redacted]
bruceiv@yahoo.com
stanfordhawker@yahoo.com

The account to be searched at AOL is:

kingbadger7@aol.com

The accounts to be searched at MSN Hotmail is:

goldenphoenix111@hotmail.com
Kathrynpricefan@hotmail.com

These accounts are further described in the following paragraphs and in Attachment A. As set forth herein, there is probable cause to believe that a search of the aforementioned accounts may result in the collection of evidence relevant to an ongoing criminal investigation into the dissemination of a Weapon of Mass Destruction (anthrax) through the U.S. mail system in September 2001 and October 2001 in violation of Title 18, United States Code, Sections 2332(a) and 1114, which killed five people and infected at least 17 others, and into potential additional threats to witnesses in connection with that ongoing domestic terrorism investigation, in violation of Title 18, United States Code Section 1512(a)(2).

Overview

The Federal Bureau of Investigation and the U.S. Postal Inspection Service (hereinafter "Task Force") investigation of the anthrax attacks led to the identification of Dr. Bruce Edwards Ivins, an anthrax researcher at the U.S. Army Medical Research Institute of Infectious Diseases, Fort Detrick, Maryland (hereinafter "USAMRIID"), as a person necessitating further investigation for several reasons: (1) At the time of the attacks, he was the custodian of a large flask of highly purified anthrax spores that possess certain genetic mutations identical to the anthrax used in the attacks; (2) Ivins has been unable to give investigators an adequate explanation for his late night laboratory work hours around the time of both anthrax mailings; (3) Ivins has claimed that he was suffering serious mental health issues in the months preceding the attacks, and told a coworker that he had "incredible paranoid, delusional thoughts at times" and feared that he might not be able to control his behavior; (4) Ivins is believed to have submitted false samples of anthrax from his lab to the FBI for forensic analysis in order to mislead investigators; (5) at the time of the attacks, Ivins was under pressure at work to assist a private company that had lost its FDA approval to produce an anthrax vaccine the Army needed for U.S. troops, and which Ivins believed was essential for the anthrax program at USAMRIID; and (6) Ivins sent an email to a friend [redacted] a few days before the anthrax attacks warning [redacted] that "Bin Laden terrorists for sure have anthrax and sarin gas" and have "just decreed death to all Jews and all Americans," language similar to the anthrax letters warning "WE HAVE THIS ANTHRAX ... DEATH TO AMERICA ... DEATH TO ISRAEL."

Factual Background

Over the course of the past few years, Dr. Ivins had become aware that the Task Force considered him a person who warranted further investigation in connection with the anthrax attacks. He has been interviewed a number of times by law enforcement throughout the course of the nearly seven-year investigation, and three times in 2008 alone, most recently in the presence of his attorney on June 9, 2008. In addition, on November 1, 2007, Task Force agents executed search warrants at his residence, his office at USAMRIID, and his vehicles, for evidence linking him to the anthrax attacks, and seized a number of items, including numerous letters to members of Congress and the media, along with handguns. In recent months in particular, he has told co-workers and friends that he is a suspect in the investigation, even revealing to one friend a few weeks ago that his attorney has told him to prepare to be indicted for the anthrax attacks. On July 12, 2008, in response to the threats Dr. Ivins had made (described further in this affidavit), a search of Dr. Ivins' house, cars, office, and wallet was conducted. Recovered in that search were numerous rounds of ammunition, a bullet proof vest, a homemade body armor plate, computers, and other case related items.

Over the course of the investigation, Ivins has been known to use at least eight email addresses, including the six that are the subject of this affidavit. Based on pen register data and other sources, investigators know that email is his most common method of communication, sending numerous email messages each week. Investigation has further revealed that the anthrax investigation is a common topic of his email messages.

In January 2008, Dr. Ivins admitted to the FBI that he has used the following e-mail address names: kingbadger7, jimmyflathead, and goldenphoenix111. Ivins did not mention [redacted] The use of this account was first discovered in a review of Ivins's finances. Ivins listed this account on an order he placed. Subpoenaed information from Yahoo! revealed the following user identification for the e-mail address:

Login Name:	[redacted]
Alternate E-mail Address:	goldenphoenix111@hotmail.com
Name:	[redacted]
Address:	[redacted]
Account Created:	November 01, 2006

Goldenphoenix111@hotmail.com is a known e-mail address for Dr. Ivins, however, the name [redacted] was listed in the account information. It should be noted that [redacted] account [redacted]

In February and March of 2008, search warrants were served on all four of the above e-mail accounts. [redacted] had one e-mail that was not "junk" mail; it read as follows:

> "Subject: Finally! I know Who mailed the anthrax!
> From: KingBadger7@aol.com <KingBadger7@aol.com>
> Date: Fri, 7 Sep 2007 17:49:01 EDT
> To: [redacted]
>
> Hi, [redacted]
>
> Yes! Yes! Yes!!!!!!! I finally know who mailed the anthrax letters in the fall of 2001. I've pieced it together! Now we can finally get all of this over and done with. I have to check a couple of things to make sure...absolutely sure...and then I can turn over info. I'll probably turn it over to my lawyer, and then he'll turn the info over to the authorities. I'm not looking forward to everybody getting dragged through the mud, but at least it will all be over. Finally! I should have it TOTALLY nailed down within the month. I should have been a private eye!!!!
>
> -bruce"

This e-mail is to/from himself. Pen registers have revealed that Ivins frequently sends e-mails to himself. In addition, Ivins has sent at least one other email to himself that details his opinion of who may have been the anthrax mailer. The investigation has further revealed that Ivins routinely uses the names and identifiers of other individuals in order to disguise his identity.

Most recently, investigators recovered from his trash a piece of paper in Dr. Ivins's handwriting containing two previously unknown email addresses: stanfordhawker@yahoo.com and bruceiv@yahoo.com, along with their passwords. Subscriber information for stanfordhawker@yahoo.com is Mr. Stanford Hawker, with a a zipcode of 21702. Subscriber information for bruceiv@yahoo.com is Mr. Bruce I, zipcode 21702, alternate email address kingbadger7@aol.com, a known email address of Dr. Ivins.

In addition, the investigation has revealed Ivins's use of the name "bruceivi." An internet search of "bruceivi" revealed postings on You Tube with the screen name, "bruceivi." The dialogue was in reference to the reality TV show, The Mole, Season 1, Episode 7, part 4, referencing Kathryn Price, the winner of that season. Ms. Price attended college at the University of Kansas – mascot the Jayhawks – and law school at Stanford University, the likely source of "StanfordHawker." This was discovered on July 15, 2008, and all the postings had the time frame of "1 week ago." They are as follows:

> "bruceivi (1 week ago)
>
> Steve had a great chance to Kill Kathryn that would go down as the primo moment in reality TV. After the fake fainting he'd say, 'Kathryn, do you know what a mole is? It's a blind useless animal that humans hate. And do you know what we do to moles? We kill them!'
>
> bruceivi (1 week ago)
>
> With that he should have taken the hatchet and brought it down hard and sharply across her neck, severing her carotid artery and jugular vein. Then when she hits the ground, he completes the task on the other side of the neck, severing her trachea as well. The 'Blind' mole is dead and Steve is a hero among heroes! I personally would have paid big money to have doe it myself.
>
> bruceivi (1 week ago)
>
> Maybe something really dreadful will happen to Kathryn Price. If so, she will richly deserve it! The least someone could do would be to take a sharp ballpoint pin or letter opener and put her eyes out, to complete the task of making her a true mole!"

On July 9, 2008, approximately the same time as the above posting, Ivins attended a group therapy session in Frederick, Maryland, hosted by a licensed Clinical Social Worker, where he was later described as agitated, angry, and hostile. Ivins stated that he had been walking around the "ghetto" areas of Frederick late at night hoping that someone would try to hurt him so that he could stab them with a sharp writing pen, similar to his Youtube posting. Ivins had the pen with him and made the social worker feel it.

Most importantly, at this same meeting, Ivins stated that he was a suspect in the anthrax investigation and that he was angry at the investigators, the government, and the system in general. He said he was not going to face the death penalty, but instead had a plan to kill co-workers and other individuals who had wronged him. He said he had a bullet-proof vest, and a list of co-workers, and added that he was going to obtain a Glock firearm from his son within the next day, because federal agents are watching him and he could not obtain a weapon on his own. Based on these statements, the Social Worker called the Frederick, Maryland, police department, and they took custody of Bruce Edwards Ivins on Thursday, July 10, 2008, for a forensic evaluation at Frederick Memorial Hospital. Ivins was then sent to Sheppard Pratt Health Systems in Towson, Maryland, for further evaluation, where he remained until on or about Thursday, July 24, 2008, when he was released.

Upon his release from Sheppard Pratt Health Systems, Ivins went to the Frederick Public Library in Frederick, Maryland, where he was observed using a stand-alone computer terminal. He visited the web-site www.anthraxinvestigation.com, a web site dedicated to the investigation of the Fall 2001 anthrax attacks. He also utilized email on that terminal. Ivins left the library, and went home in the evening of Thursday, July 24, 2008., and wasn't seen again, though he was under 24-hour surveillance. At approximately 1:15 a.m., on Sunday, July 26, 2008, paramedics were summoned to the Ivins residence, located at [redacted] Frederick, Maryland, because he was unconscious. He was taken to Frederick Memorial Hospital, where he remained in critical condition due to an overdose of Tylenol and Valium, until he died on Tuesday, July 29, 2008.

In the early morning hours of July 31, 2008, investigators conducted a search of the trash outside the Ivins residence. Among other items of interest, they recovered a hand-written list in Ivins's handwriting, with the following information: letters@washingtonpost.com, letters@baltimoresun.com, www.cardin.senate.gov, www.mikulski.senate.gov, and www.bartlett.house.gov. They also recovered notes Ivins had made while at Sheppard Pratt in Towson, Maryland, in which he detailed various stressors in his life, including that he was facing possible incarceration. Finally, they recovered a note in Ivins's handwriting with a previously-unknown email address: kathrynpricefan@hotmail.com, along with the password to that account [redacted] and the following information: [redacted] (Ivins's address). Agents logged into that account and saw an email from Ivins to Kathryn Price, dated July ,8, 2008, in which he stated:

Dear Ms. Price, I am very sorry to bother you, but I wanted to ask you if you are the same Kathryn Price that starred in the Mole reality TV series. I've been a fan of yours/hers since then, and I wondered if you are going to have any public appearances where people could meet you [possibly a book signing?] and get your autograph. If you are a different Kathryn Price, I sincerely apologize. I look forward to a reply of some kind. Thank you very much!!!! Cindy Wood

The Task Force submits that a search of the Subject e-mail accounts may reveal documentary evidence that will assist the investigation into these threats to witnesses related to the anthrax investigation, including any plans that Dr. Ivins may have set in motion prior to his death. It bears emphasis that there was a nearly one-month gap between the time that the anthrax letters were mailed and the first letter was discovered. In addition, a search of the subject email accounts may reveal statements by Dr. Ivins concerning the anthrax attacks which would further the investigation into those attacks. The search is for any writings identifying a plan to kill witnesses or names of intended victims, any statements regarding the anthrax attacks, or any other relevant documents and/or notes, as more fully described in the Attachment to this affidavit.

Conclusion

Based on the foregoing, I submit that there is probable cause to believe that a search of the Subject e-mail accounts may result in collection of evidence relevant to the investigation of threats to witnesses in, and obstruction of, the investigation into the dissemination of a weapon of mass destruction (anthrax) through the U.S. mail system in September and October 2001 in violation of 18 U.S.C., Sections 1512(a)(2), 2332a and 1114. Specifically, there is probable cause to believe that a search of the Subject e-mail accounts as described in the Attachment to this affidavit, may reveal writings identifying a plan to kill witnesses, names of intended victims, photographs, and other relevant documents, along with statements regarding the anthrax attacks themselves..

Because this affidavit is part of an ongoing investigation that would be jeopardized by premature disclosure of information, I further request that this Affidavit, the accompanying Order, and other related documents be filed under seal until further order of the Court.

The statements contained in this Affidavit are based in part on information provided by FBI Special Agents and U.S. Postal Inspectors, on observations made by

law enforcement agents, and on my experience and background as a FBI Special Agent. I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish the necessary foundation for the search warrant.

MARLO ARREDONDO
Special Agent
Federal Bureau of Investigation

AUG 0 5 2008

Sworn to before me this
____ day of _____

CHIEF
JUDGE ROYCE C. LAMBERTH
U.S. MAGISTRATE JUDGE
United States District Court
for the District of Columbia

LAMBERTH, C.J. DCL

ATTACHMENT A

I. Search Procedure

a. These search warrants will be presented to Yahoo! personnel by law enforcement agents. Yahoo! personnel will be directed to isolate those accounts and files described in Section II below;

b. In order to minimize any disruption of computer service to innocent third parties, Yahoo! employees will create exact duplicates of the computer accounts and files described in Section II below, including an exact duplicate of all information stored in the computer accounts and files described therein:

c. Yahoo! employees will provide the exact duplicates in electronic form of the accounts and files described in Section II below and all information stored in those accounts and files to law enforcement agents who need not be present during the duplication of the files;

II. Files and Accounts to be Copied by Yahoo! Employees

a. All electronic mail stored and presently contained in, or on behalf of, the following electronic mail addresses and/or individual accounts:

jimmyflathead@yahoo.com
[redacted]
bruceiv@yahoo.com
stanfordhawker@yahoo.com

b. All existing printouts from original storage of all of the electronic mail described above in Section II(a);

c. All transactional information of all activity of the electronic mail addresses and/or individual accounts described above in Section II(a), including log files, dates, times, methods of connecting, ports, IP addresses, dial-ups, and/or locations;

d. All business records and subscriber information, in any form kept, pertaining to the electronic mail addresses and/or individual accounts described above Section II(a), including applications, subscribers' full names, all screen names associated wit the subscribers and/or accounts, all account names associated with the subscribers, methods of payment, telephone numbers, addresses, and detailed billing records; and

e. All records indicating the services available to subscribers of the electronic mail addresses and/or individual accounts described above in Section II(a).

f. All stored electronic communications, existing print outs, and other files reflecting communications to or from the above-referenced accounts, including electronic communications in electronic storage.