

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the Eastern District of Kentucky

Eastern District of Kentucky FILED

JUN 22 2016

United States of America v. Mark Sawaf

Case No.

6:16-MJ-6041-HAI

AT LONDON ROBERT R. CARR CLERK U.S. DISTRICT COURT

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 March 2016 and June 21, 2016 in the county of Harlan in the Eastern District of Kentucky, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Includes entries for 26 U.S.C. § 5861(d) and 26 U.S.C. § 5861(f).

This criminal complaint is based on these facts:

See the Affidavit of Special Agent Richard McMahan, ATF

Continued on the attached sheet.

Richard O. McMahan (Signature)

Complainant's signature

Special Agent Richard McMahan, ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 6/22/16

City and state: London, Kentucky

(Signature)

Judge's signature

Hon. Hanly A. Ingram, United States Magistrate

Printed name and title

**AFFIDAVIT IN SUPPORT OF
A CRIMINAL COMPLAINT AS TO MARK SAWAF**

I, Richard A. McMahan, being duly sworn, depose and state as follows:

INTRODUCTION

1. I am currently a Special Agent (S/A) with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and have been so employed since July 1998. I am assigned to the ATF Lexington III and London Offices. Prior to my employment with ATF, I was employed as a Special Agent for the U.S.A.F. Office of Special Investigations from May 1992 until July 1998. I am a graduate of the Federal Law Enforcement Training Center and the ATF National Academy. My duties as an ATF Special Agent are to investigate violations of federal laws relating to alcohol, tobacco, firearms, and explosives.
2. As an ATF Special Agent, I have received training in explosives and explosive related investigations. Further, I have consulted with legal counsel as well as experienced investigators who have advanced training and experience in explosive violations and investigations, such as ATF Special Agent Certified Explosives Specialists (CES) and ATF Special Agent Bomb Technicians (SABT).
3. I have worked numerous cases involving violations of federal explosive and firearm laws and know that it is a violation of the following federal statutes:
 - a. Title 26, U.S.C., § 5861(d) – For any person to possess a firearm (destructive device) which is not registered in the National Firearms Registration and Transfer Record.
 - b. Title 26, U.S.C., § 5861(f) – For any person to make an illegal firearm (destructive device).
4. As set forth more fully below, there is probable cause to believe that MARK SAWAF has violated the statutory sections set forth above. This affidavit is offered only to establish probable cause and is not intended to be a complete presentation of all the facts of the investigation. The information and facts as set forth in the following paragraphs are known personally to me or provided to me by those individuals identified in the paragraphs below.

BACKGROUND

5. Previously (2014-2015), I received information from Harlan Police Department Officers that MARK SAWAF was involved in “exploding targets.” Exploding targets are used by shooting enthusiasts, and the targets explode when struck by a firearm projectile. I determined SAWAF was not a prohibited person from possessing firearms, and I determined there was no criminal violation if SAWAF was shooting “exploding targets.” The area SAWAF was allegedly exploding targets was in the vicinity of the property on Red Dog Road, Harlan County, Harlan, KY.
6. On or about June 06, 2016, ATF received information from investigators representing Duracell. The investigators informed ATF that they were conducting an investigation into an explosion involving a trail camera that occurred on May 05, 2016, resulting in the injury of DUSTIN HALL. DUSTIN HALL suffered damage to his torso and hand (including the loss of multiple fingers) when a trail camera that he attempted to operate exploded. The explosion occurred in HALL’s residence in Putney (Harlan County), KY. The Primos Blackout trail camera exploded after HALL inserted batteries into the camera. HALL had obtained two cameras from AARON NOE, who had found these cameras lying on a “four wheeling” trail on a mountain property at the end of Red Dog Road, Harlan County, Kentucky. NOE found these two cameras (one camouflage and one black in color) sometime in late March to mid-April 2016. Neither camera contained batteries nor SD (memory device) cards, both of which would be necessary for the trail cameras to function according to their designed purpose.
7. Continuing on or about June 06, 2016, ATF, Kentucky State Police and Lexington Police Department responded to Harlan County, Kentucky and examined the second trail camera HALL had obtained from NOE. The camera was a black Wild Game Innovations, Model M8-12132012, and UPC#396602582413 trail camera. The examination was conducted at HALL’s residence and resulted in the discovery of an explosive device secreted inside the trail camera housing. The device consisted of a spent 9mm Winchester brand shell casing that was filled with an unknown explosive material and sealed with hot glue. Inserted into the casing was a section of green in color hobby fuse. The hobby fuse was inserted into a suspected pyrotechnic initiation system that functions electrically. The initiation system consisted of a pair of two single-strand copper wires in a duplex configuration encased in a bonded orange insulator approximately 18” in length. One end was tied into the trail camera’s battery compartment. The other end, which consisted of a black or dark grey in color plastic connector, connected to the hobby fuse.
8. The device was re-configured by someone to function when batteries were inserted into the trail camera’s battery compartment. This type of improvised explosive device would be considered to be a victim activated device, meaning that the device would only function when someone inserted batteries into the trail camera’s battery compartment.
9. JOSEPH BENNETT and KEVIN JUMP, who are authorized users of the property where the trail cameras were found by NOE, told ATF personnel that they had encountered MARK SAWAF on the property on numerous occasions. This property is a rural mountainous area that is commonly used by hunters and outdoor enthusiasts and readily

accessible from several locations, including Red Dog Road and Horton Street, Harlan, KY.

10. JUMP told ATF personnel that the property where the cameras were allegedly found by NOE is owned by the BENNETT family, who did not give SAWAF permission to utilize that property. JUMP also stated that he and JOSEPH BENNETT have confronted SAWAF about his unauthorized presence on the property. In addition, JUMP and BENNETT stated to ATF personnel that they had seized multiple trail cameras that they cannot identify as belonging to people who have hunting rights on the property. In one incident, JUMP seized a trail camera that had an SD (memory) card containing a photograph of SAWAF. JUMP advised that the trail cameras they had taken were affixed to trees, and as far as he could recall all had batteries and memory cards. JUMP stated that he had been introduced to SAWAF in 2014 by WILL POPE and BRETT ROSS, who took JUMP to see a deer that SAWAF had killed. SAWAF subsequently engaged JUMP to provide taxidermy services on deer that he had killed.
11. ATF interviewed KSP Trooper Cadet WILL POPE, who related that he found four or five trail cameras belonging to SAWAF on or around this property, which he had entered with authorization for the purpose of hunting. He believed that the cameras belonged to SAWAF because they were marked with the initials "MS." POPE knew SAWAF personally through prior interaction with him. In addition, POPE advised SAWAF had "messed with" one of POPE's trail cameras. POPE explained that on the memory card of his camera were recorded photographs of SAWAF opening the trail camera, examining and closing the trail camera.
12. In September 2015, POPE had a deer stand and deer feeder on property on Red Dog Road. POPE went to check the feed plot, and he noticed something in the trees above the food plot, and upon examination he saw that it was the seat to his deer stand. He examined the tree where the stand had been affixed and saw that it was "blown off" the tree" because bark on the tree where the stand had been mounted was completely gone.
13. ATF interviewed TRACY MEDFORD and BETTINA TAYLOR, who reside at [REDACTED] and are neighbors of MARK SAWAF. According to MEDFORD and TAYLOR, in December 2015 or January 2016, they were up late at night (0100-0300) when they saw a "bluish white flash," and heard a loud explosion coming from the direction of MARK SAWAF's residence ([REDACTED]). They observed white colored smoke at SAWAF's residence on the left side (as facing the house).
14. On June 14, 2016, I interviewed JERRY HALL, the father of DUSTIN HALL, who was injured by the IED. JERRY HALL indicated that earlier on the night of June 14, 2016, MARK SAWAF had come to his residence and asked to speak with DUSTIN HALL. According JERRY HALL, SAWAF asked if DUSTIN HALL had his deer head.
15. On June 16, 2016, ATF/Lexington Police Department Bomb Technician Joe Duerson participated in a "trash pull" from a garbage receptacle that was put curbside at [REDACTED] Harlan, KY, which is the residence of MARK SAWAF. As a result of a

search of the discarded items, the following items were recovered by ATF Task Force Officer/Bomb Technician Joe Duerson:

- A Kentucky Farm Bureau News magazine addressed to MARAK SAWAF or Current Resident at [REDACTED] Harlan, KY. On the magazine cover was numerous pieces of previously melted hot glue. (Note: The previously melted glue deposits are indicative of someone having used this magazine as a work surface area.)
- A pair of two single-strand copper wires in a duplex configuration encased in a bonded orange insulator approximately 29" in length. One end of the wiring appears intact and the other end appears to have been cut. (Note: The physical appearance of the wire recovered during the trash pull is consistent with the wire that was part of the wiring utilized in the improvised explosive device recovered on 06/06/16 by ATF, KSP and Lexington Police Bomb Technicians).
- A 1" length of orange in color insulation from a single wire strand. Based on my training and experience, this section of insulation would likely result from a wire stripping operation conducted in order to expose insulated wire. (Note: The physical appearance of the insulation recovered during the trash pull is consistent in terms of coloring and diameter with the insulated wiring in the improvised explosive device recovered on 06/06/16 by ATF, KSP and Lexington Police Bomb Technicians).
- One metal screw 3/8" in length. TFO/Bomb Technician Duerson indicated that this screw is consistent in length, diameter, and type to the screws removed from the interior of the Wildlife Innovations trail camera that resulted in the recovery of the improvised explosive device that was rendered safe.
- One red in color product/ warranty registration card for a Primos Hunting Trail Camera. Of note, there is a piece of previously melted hot glue affixed to the card. Hot glue was used in sealing up the shell casing in the improvised explosive device.
- One user's manual for Wildlife Innovations, Model M8 Trail Camera. Of note, there are pieces of previously melted hot glue affixed to the manual. (Note: This is the same manufacture and model of trail camera from which the improvised explosive device was recovered from on 06/06/16 by ATF, KSP, and Lexington Police Bomb Technicians).
- One operating manual for a Cuddeback trail cam, Model Attack IR.
- Four shotgun shells that appear to have been cut and sustained thermal damage. Based on my training and experience as well as conversations with

explosive experts within the ATF, the damage to these shotgun shells is consistent with research, development, and experimentation often conducted by those involved in making improvised explosive devices.

- One rifle round that has sustained thermal and blast damage with one side having been completely ripped open. Based on my training and experience as well as conversations with explosive experts within the ATF, the damage to these shotgun shells is consistent with research, development, and experimentation often conducted by those involved in making improvised explosive devices.
- Two unexploded red in color firecrackers, measuring 1.5" in length.
- A hand written note saying "Broken camera for a broken soul"

16. I requested a copy of SAWAF'S (DOB [REDACTED] and SSN [REDACTED]) Kentucky driver's license image, License [REDACTED], from Investigative Assistant (IA) Mark Olivares, ATF Lexington, KY. IA Olivares obtained the image directly from a Kentucky computer terminal that he has access to. Associated with this License Number, SAWAF's listed address was [REDACTED] Harlan, KY [REDACTED]. The Driver's License was issued on 08/07/2013 and expires 12/07/17.

17. IA Olivares provided the image of SAWAF for use in this investigation. An image associated with this Driver's License was displayed to JUMP, POPE, MEDFORD and TAYLOR who all identified this as the person they know as MARK SAWAF.

18. On June 21, 2016, I interviewed MARK SAWAF. SAWAF admitted that he was the sole resident of [REDACTED] Harlan, KY [REDACTED]. SAWAF denied manufacturing the IED or setting off any devices in or around his residence. According to SAWAF his involvement with explosives was limited to the making and/or use of tannerite, which is also known as "exploding targets," and the burning of gun powder and black powder. SAWAF claimed to have made black powder as well. In pursuit of these activities SAWAF admitted that he had purchased ammonium nitrate pellets.

19. SAWAF advised during 2015 while making "home made black powder" he would place a portion of the powder as well as gun powder from cartridges/shells in a metal ashtray and ignite the powder. Sometimes he would place the powder inside a cooler to contain the powder burning. SAWAF claimed that on occasion the powder burned and others it "exploded." SAWAF said he would place powder in containers such as shell casings or prescription bottle and ignite the powder. SAWAF was specifically asked if he had made a seal, including using hot glue, on the containers filled with powder before igniting them as well as if he placed some sort of wick into the casing. SAWAF stated he had done neither of those.

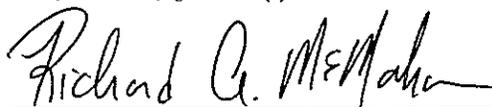
20. SAWAF was asked if he had ever researched how to make explosives, he stated he had not. SAWAF advised he had watched a YouTube video about making your own black

powder as well as a video on making tannerite. He claimed he did not research making explosives. SAWAF was asked if he had any books about making explosives he said he did not.

21. SAWAF advised he had a glue gun and he may have used the glue gun for some reason a few months prior but he did not recall for what purpose he had used the glue gun.
22. When asked about the note from the trash pull stating "Broken camera for a broken soul," SAWAF stated he did write that in the past after having trail cameras stolen. SAWAF advised he had a broken camera and thought about putting the note inside the camera and then placing the camera somewhere for a thief to steal.
23. SAWAF indicated that he came to visit DUSTIN HALL on June 14, 2016 because he believed that DUSTIN HALL had a deer head that belonged to him. SAWAF spoke with HALL's father and did not speak with DUSTIN HALL.
24. On June 21, 2016, ATF, Kentucky State Police, Kentucky Department of Fish and Wildlife, and Harlan Police Department executed a search warrant at [REDACTED] Harlan, KY, which is the residence of MARK SAWAF. As a result of a search of the residence, the following items were discovered:
 - A 410 shotgun shell containing a suspected explosive filler with hobby fuse protruding from the shell and sealed with hot glue. Though full analysis has not been completed, this is a suspected destructive device with the same general configuration as was found in the IED within the Wildgame Innovations Trail Camera as well as the shells found in the aforementioned trash pull that had sustained thermal damage consistent with having been exploded. This suspected destructive device was found on or around the work bench in the kitchen of the residence.
 - A green hobby fuse similar to the one in the IED within the Wildgame Innovations Trail Camera. This fuse was located at the work bench in the kitchen of the residence.
 - Pieces of orange insulation consistent with being stripped from wire. This insulation is the same type of insulation found in the IED within the Wildgame Innovations Trail Camera. This insulation was located at the work bench in the kitchen of the residence.
 - Miscellaneous parts and pieces from trail cameras. These items were found at the work bench in the kitchen of the residence.
 - Previously melted hot glue, a hot glue gun, and hot glue sticks. Hot glue was used to seal and connect the hobby fuse to the end of the IED within the Wildgame Innovations Camera. These items were found on or around the work bench in the kitchen of the residence.

- A clear plastic jug containing a fine black powder suspected to be either an explosive mixture or explosive precursor material. This was found on or around the work bench in the kitchen of the residence.
- A rock tumbler containing a suspected explosive powder. Rock tumblers are commonly used to mix explosive precursors into an explosive mixture. This was found on or around the work bench in the kitchen of the residence.
- Ten flashlights. These flashlights were found on or around the work bench in the kitchen of the residence.
- One metal flashlight housing that has blast damage and what appears to be melted hot glue on the inside body of the flashlight housing. This was located in the front yard of the residence. Ten undamaged flash lights of the same or similar type were found on or around the work bench in the kitchen of the residence.
- A section of shotgun shell casing infused with hot glue that has sustained thermal damage. This shell was found in the front yard of the residence.
- A section of PVC pipe containing an unidentified powder, hot glue, and coins. This was found in the front yard of the residence.
- A section of two single-strand copper wires in a duplex configuration encased in a bonded orange insulator. This is the same type of wire as was found in the IED within the Wildgame Innovations Trail Camera. The design of the wire would have allowed it to tie into the battery of the trail camera, as was the case in the IED within the Wildgame Innovations Trail Camera. This wire was found in the basement of the residence in close proximity to wire cutters, which had hot glue on them.
- A box containing two bags labeled as "AN," which is a common term used to reference ammonium nitrate, weighing five pounds each. The box also contained an empty bag of the same size that is also labeled "AN." The same box contained one bag of iron oxide weighing approximately five pounds. According to Rob Young, ATF Certified Explosive Specialist, ammonium nitrate acts as oxidizer and iron oxide acts as the fuel in an ammonium-nitrate based explosive mixture. These items were found in the upstairs portion of the residence in close proximity to a plastic pan containing approximately three pounds of a suspected ammonium nitrate-based mixture.
- Six trail cameras of various makes and models that are intact. These cameras were found in the living room of the residence.
- A handwritten note detailing various explosive mixtures.

25. On June 6, 2016, ATF SA/CES Rob Young provided a detailed description of the suspected IED contained the Wild Game Innovations trail camera to Explosives Enforcement Officer Michael Eggleston, ATF Columbus Field Division. EEO Eggleston is a certified bomb technician for ATF and responsible for providing expert opinions and making destructive device determinations. Additionally, EEO Eggleston has been recognized as an explosives expert in U.S. District Court. Based on the description of the device and the facts provided to EEO Eggleston, it was his preliminary opinion that the device possessed by SAWAF would be identified as and consistent with improvised explosive devices, which are destructive devices as that term is defined in 26 U.S.C., § 5845(f). In addition, destructive devices are firearms as that term is defined in 18 U.S.C., § 921(a)(3)(D).
26. On June 21, 2016, EEO Eggleston was present during the search of the residence of MARK SAWAF and evaluated the 410 shotgun shell containing a suspected explosive filler with hobby fuse protruding from the shell and sealed with hot glue, which was referenced above. It was his preliminary opinion that this device is consistent with an improvised explosive device, which is a destructive device as that term is defined in 26 U.S.C., § 5845(f). In addition, destructive devices are firearms as that term is defined in 18 U.S.C., § 921(a)(3)(D).
27. On June 17, 2016, ATF SA/CES Rob Young initiated a search of the National Firearms Registration and Transfer Record through the Bureau of Alcohol, Tobacco, Firearms, and Explosives, National Firearms Act Branch in Washington D.C. The results of the search revealed there are no destructive devices or other NFA firearms registered to MARK S. SAWAF (DOB [REDACTED], and SSN: [REDACTED]).
28. Based on the foregoing, there is probable cause to believe that MARK S. SAWAF violated Title 26, U.S.C., § 5861(d), Title 26, U.S.C., § 5861(f).



Richard A. McMahan
Special Agent, ATF

Subscribed and sworn to before me this 22 day of June 2016.



Hanly A. Ingram
United States Magistrate Judge