

UNITED STATES DISTRICT COURT

for the
District of ColumbiaIn the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)CELL-SITE SIMULATOR TO LOCATE THE CELLULAR
DEVICE ASSIGNED CALL NUMBER (202)

Case No. 18-sw-353

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

SEE ATTACHMENT A.

located in the _____ District of _____ Columbia _____, there is now concealed (identify the person or describe the property to be seized):

SEE ATTACHMENT B.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. SECTION 924(c)	"Firearms Violations"
21 U.S.C. SECTION 841(a)(1)	"Possession with Intent to Distribute Controlled Substances and Unlawful Distribution of a Controlled Substance"

The application is based on these facts:

- ☒ Continued on the attached sheet.
- ☒ Delayed notice of 30 days (give exact ending date if more than 30 days: 02/06/2019) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

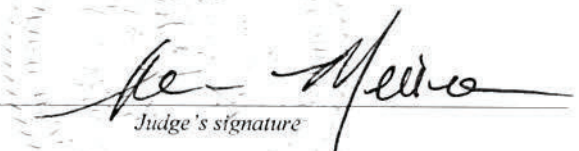


Applicant's signature

Kevin Smith, Special Agent, ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 12/26/2018City and state: Washington, DC

Judge's signature

Robin M. Meriweather, U.S. Magistrate Judge

Printed name and title

UNITED STATES DISTRICT COURT

for the
District of Columbia

In the Matter of the Search of

*(Briefly describe the property to be searched
or identify the person by name and address)*CELL-SITE SIMULATOR TO LOCATE THE CELLULAR
DEVICE ASSIGNED CALL NUMBER (202)

Case No. 18-sw-353

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search
of the following person or property located in the _____ District of _____ Columbia
(identify the person or describe the property to be searched and give its location):

SEE ATTACHMENT A.

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property
described above, and that such search will reveal *(identify the person or describe the property to be seized):*

SEE ATTACHMENT B.

YOU ARE COMMANDED to execute this warrant on or before JAN 09 2019 *(not to exceed 14 days)*☐ in the daytime 6:00 a.m. to 10:00 p.m. ☒ at any time in the day or night because good cause has been established.Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the
person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the
property was taken.The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory
as required by law and promptly return this warrant and inventory to Robin M. Meriweather*(United States Magistrate Judge)*☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C.
§ 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose
property, will be searched or seized *(check the appropriate box)*☒ for 30 days *(not to exceed 30)* ☐ until, the facts justifying, the later specific date of _____

Date and time issued:

12/26/2018 0:00 am *e3402*

City and state:

Washington, DC*Judge's signature*

Magistrate Robin M. Meriweather

Printed name and title

ReturnCase No.:
18-sw-353

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of :

Inventory of the property taken and name of any person(s) seized:

Certification

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date: _____

*Executing officer's signature*_____
Printed name and title

ATTACHMENT A

This warrant authorizes the use of the electronic investigative technique described in Attachment B to identify the location of the cellular device assigned phone number (202)

whose wireless provider is H20 Wireless (Locus Telecommunications, Inc.), a wireless telephone service provider at 2200 Fletcher Avenue, 6th Floor, Fort Lee, NJ 07024 and whose subscriber is unknown.

ATTACHMENT B

Pursuant to an investigation of THORNE for a violation of 18 U.S.C. § 924(c) and 21 U.S.C. § 841(a)(1), as well as his current status as a fugitive, this Warrant authorizes the officers, to include the United States Marshal Service (“USMS”) to whom it is directed to determine the location of the cellular device identified in Attachment A by collecting and examining:

1. radio signals emitted by the target cellular device for the purpose of communicating with cellular infrastructure, including towers that route and connect individual communications; and
2. radio signals emitted by the target cellular device in response to radio signals sent to the cellular device by the officers;

for a period of thirty days, during all times of day and night. This warrant does not authorize the interception of any telephone calls, text messages, other electronic communications, and this warrant prohibits the seizure of any tangible property. The Court finds reasonable necessity for the use of the technique authorized above. *See* 18 U.S.C. § 3103a(b)(2).

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN THE MATTER OF THE USE OF A
CELL-SITE SIMULATOR TO LOCATE
THE CELLULAR DEVICE ASSIGNED
CALL NUMBER (202)

Case No. __18-sw-353__

Filed Under Seal

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Kevin Smith, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant under Federal Rule of Criminal Procedure 41 to authorize law enforcement to employ an electronic investigative technique, which is described in Attachment B, to determine the location of the cellular device assigned call number (202) (the "Target Cellular Device"), which is described in Attachment A.

2. I have been a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") since August 2015. Since December 2015, I have been assigned to the ATF's WFD Group III, which conducts investigations relating to, among other things, the criminal possession and use of firearms, violent crimes, and narcotics violations. Your affiant has prior law enforcement experience as a Criminal Investigator with the United States Marshals Service, from April 2008 to August 2015. Since 2008, I have received training and experience in interviewing and interrogation techniques, arrest procedures, search and seizure, search warrant applications, and narcotics, white-collar crimes, and various other crimes. In the course of my training and experience, I have become familiar with the methods and techniques associated with the distribution of narcotics, the laundering of drug proceeds, and the organization of drug

conspiracies. In the course of conducting these investigations, I have been involved in the use of the following investigative techniques: interviewing informants and cooperating witnesses; conducting physical surveillance; supporting undercover operations; consensual monitoring and recording of both telephonic and non-telephonic communications; analyzing telephone pen registers and caller identification system data; conducting court-authorized electronic surveillance; and preparing and executing search warrants that have led to substantial seizures of narcotics, firearms, and other contraband.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. One purpose of applying for this warrant is to determine with precision the Target Cellular Device's location. However, there is reason to believe the Target Cellular Device is currently located somewhere within this district because the Target Cellular Device belongs to Linwood Thorne ("THORNE") and THORNE resided at 4215 Foote Street Northeast, Washington, D.C., on or about December 19, 2018. On that date, law enforcement associated with this investigation executed a search warrant and discovered, among other items, 48 kilograms of heroin potentially laced with fentanyl. After speaking to a different resident of the house, law enforcement confirmed that THORNE continued to use the Target Cellular Device as his own cell phone. Pursuant to Rule 41(b)(2), law enforcement may locate the Target Cellular Device outside the district provided the device is within the district when the warrant is issued.

5. Based on the facts set forth in this affidavit, there is probable cause to believe that violations of 18 U.S.C. § 924(c) (Firearms Violations), and 21 U.S.C. § 841(a)(1) (Possession with Intent to Distribute Controlled Substances and Unlawful Distribution of a Controlled Substances) have been committed, are being committed, and will be committed by THORNE and his unknown associates. There is also probable cause to believe that the location of the Target Cellular Device will constitute evidence of those criminal violations, including leading to the identification of individuals who are engaged in the commission of these offenses and identifying locations where the target engages in criminal activity.

6. Based on the facts set forth in this affidavit, there is also probable cause to believe that THORNE has violated the abovementioned statutes. On or about December 20, 2018, a grand jury sitting for the U.S. District Court of the District of Columbia returned an indictment against THORNE for such violations. THORNE is now the subject of an arrest warrant issued on December 20, 2018. There is also probable cause to believe that THORNE is aware of these charges and has fled. Specifically, THORNE's attorney contacted your affiant, attempting to arrange THORNE's safe apprehension on or about December 26, 2018. On or about December 25, 2018, THORNE's counsel spoke to your affiant, explaining that THORNE no longer would turn himself into law enforcement. There is also probable cause to believe that the Target Cellular Device's location will assist law enforcement in arresting THORNE, who is a "person to be arrested" within the meaning of Federal Rule of Criminal Procedure 41(c)(4).

7. Because collecting the information authorized by this warrant may fall within the statutory definitions of a "pen register" or a "trap and trace device," *see* 18 U.S.C. § 3127(3) & (4), this warrant is designed to comply with the Pen Register Statute as well as Rule 41. See 18

U.S.C. §§ 3121-3127. This warrant therefore includes all the information required to be included in a pen register order. See 18 U.S.C. § 3123(b)(1).

PROBABLE CAUSE

8. In July of 2018, agents associated with the FBI, the Metropolitan Police Department (“MPD”), and the ATF began investigating an individual named [REDACTED] for possible narcotics trafficking. The agents employed various legal investigatory techniques, including the use of pen register data, surveillance, and perhaps most importantly, undercover operations.

9. Specifically, between August 6, 2018 and November 29, 2018, agents utilized an undercover ATF agent (“UC”) to conduct several transactions with [REDACTED]. In total, [REDACTED] provided the UC with eight firearms, approximately 1.5 kilograms of marijuana, approximately 260 grams of heroin, several firearms magazines, and other firearms accessories, in exchange for over \$20,000 of prerecorded agent cashier funds.

10. On November 29, 2018—the last controlled purchase with [REDACTED]—agents were able to identify [REDACTED] as heroin supplier, an individual identified as Linwood THORNE (“THORNE”). Based on THORNE’s conduct and the circumstances of the last buy, the Honorable Magistrate Judge Robin M. Meriweather authorized a search warrant of THORNE’s known residence, located at 4215 Foote Street Northeast, Washington, D.C. (18-sw-341) (RMM) (12-17-18).

11. On December 19, 2018, agents executed a search of this location and seized approximately 48 kilograms of heroin (potentially laced with fentanyl), 55 pounds of marijuana, and six firearms. Based on the training and experience of the law enforcement agents associated with this investigation, the approximate value of the seized heroin is over four million dollars.

One of the six firearms found at the residence was registered to _____, who was the owner of the residence (and THORNE's girlfriend). _____ was present when law enforcement executed the search of the residence. _____ told law enforcement that THORNE was her boyfriend and lived at the residence with her and her two children. _____ denied ownership of the contraband found in the home and stated that it belonged to THORNE. _____ also explained that five of the firearms located also belonged to THORNE. Additionally, _____ advised law enforcement that THORNE's telephone number was (301) _____.¹

12. Upon information and belief, THORNE is a convicted felon who has previously been convicted of Distribution of Cocaine (July 14, 1995).

13. On or about the week of December 20, 2018 to December 26, 2018, I have had multiple conversations with two different attorneys claiming to represent THORNE. According to counsel, THORNE wanted to turn himself in, but on his own time. First, law enforcement tried to have THORNE turn himself in on December 21, 2018. THORNE did not turn himself in. Second, law enforcement tried to have THORNE turn himself in on December 26, 2018. Thorne did not turn himself in on that date. Specifically, his counsel indicated that THORNE did not wish to turn himself in anymore and that his counsel has advised him of the legal consequences of his failure to report. I have been unable to speak with THORNE directly during this time.

14. On or about December 26, 2018, after THORNE indicated that he would not turn himself into law enforcement, THORNE's first counsel contacted me and provided me THORNE's telephone number that THORNE was using to contact him on or about December 20, 2018. The number he provided was (202) _____

¹ This is the same telephone number referenced in the affidavit for 18-sw-341 (RMM).

MANNER OF EXECUTION

15. In my training and experience, I have learned that cellular phones and other cellular devices communicate wirelessly across a network of cellular infrastructure, including towers that route and connect individual communications. When sending or receiving a communication, a cellular device broadcasts certain signals to the cellular tower that is routing its communication. These signals include a cellular device's unique identifiers.

16. To facilitate execution of this warrant, law enforcement may use an investigative device or devices capable of broadcasting signals that will be received by the Target Cellular Device or receiving signals from nearby cellular devices, including the Target Cellular Device. Such a device may function in some respects like a cellular tower, except that it will not be connected to the cellular network and cannot be used by a cell phone to communicate with others. The device may send a signal to the Target Cellular Device and thereby prompt it to send signals that include the unique identifier of the device. Law enforcement may monitor the signals broadcast by the Target Cellular Device and use that information to determine the Target Cellular Device's location, even if it is located inside a house, apartment, or other building.

17. The investigative device may interrupt cellular service of phones or other cellular devices within its immediate vicinity. Any service disruption to non-target devices will be brief and temporary, and all operations will attempt to limit the interference with such devices. In order to connect with the Target Cellular Device, the device may briefly exchange signals with all phones or other cellular devices in its vicinity. These signals may include cell phone identifiers. The device will not complete a connection with cellular devices determined not to be the Target Cellular Device, and law enforcement will limit collection of information from

devices other than the Target Cellular Device. To the extent that any information from a cellular device other than the Target Cellular Device is collected by the law enforcement device, law enforcement will delete that information, and law enforcement will make no investigative use of it absent further order of the court, other than distinguishing the Target Cellular Device from all other cellular devices.

AUTHORIZATION REQUEST

18. Based on the foregoing, I request that the Court issue the proposed search warrant, pursuant to Federal Rule of Criminal Procedure 41. The proposed warrant also will function as a pen register order under 18 U.S.C. § 3123.

19. I further request, pursuant to 18 U.S.C. § 3103a(b) and Federal Rule of Criminal Procedure 41(f)(3), that the Court authorize the officer executing the warrant to delay notice until 30 days from the end of the period of authorized surveillance. This delay is justified because there is reasonable cause to believe that providing immediate notification of the warrant may have an adverse result, as defined in 18 U.S.C. § 2705. Providing immediate notice to the subscriber or user of the Target Cellular Device would seriously jeopardize the ongoing investigation, as such a disclosure would give that person an opportunity to destroy evidence, change patterns of behavior, notify confederates, and continue to flee from prosecution. *See* 18 U.S.C. § 3103a(b)(1). There is reasonable necessity for the use of the technique described above, for the reasons set forth above. *See* 18 U.S.C. § 3103a(b)(2).

20. I further request that the Court authorize execution of the warrant at any time of day or night, owing to the potential need to locate the Target Cellular Device outside of daytime hours.

21. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

22. A search warrant may not be legally necessary to compel the investigative technique described herein. Nevertheless, I hereby submit this warrant application out of an abundance of caution.

Respectfully submitted,



Kevin Smith
Special Agent
ATF

Subscribed and sworn to before me
On: 12/26/2018



UNITED STATES MAGISTRATE JUDGE

Robin M. Meriweather
U.S. Magistrate Judge