

AO 91 (Rev. 02/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
District of Colorado

United States of America
v.
Jeffery Allan Johnston

Case No. 13-mj-01108-MJW

Defendant

AMENDED CRIMINAL COMPLAINT

I am the undersigned complainant in this case, and state that the following is true to the best of my knowledge and belief.

On or about the date of 07/19/2013 in the county of Douglas in the District of Colorado, the defendant violated Title 21 U. S. C. § 841(a)(1) & 856 and 18 USC 924(c) an offense described as follows:

Possession of a mixture and substance containing a detectable amount of MDMA with intent to distribute, in violation of Title 21 USC 841(a)(1) and (b)(1)(C);

Maintaining drug-involved premises, in violation of Title 21 USC 856(a)(1) and (2) and (b);

Possessing a firearm in furtherance of drug trafficking crime, in violation of Title 18 USC 924(c)(1)(A)(i);

Using a telephone to facilitate a drug trafficking felony, in violation of Title 21 USC 843(b).

This criminal complaint is based on these facts:

See Affidavit attached hereto and hereby incorporated by reference.

Continued on the attached sheet.

s/Beth A. Boggess

Complainant's signature

SA Beth A. Boggess, FBI

Printed name and title

Sworn to before me and : signed in my presence; submitted, attested to, and acknowledged by reliable electronic means.

Date: 22 Jul 2013

City and state: Denver, CO

[Handwritten signature of Kristen L. Mix]

Judge's signature

Kristen L. Mix, U.S. Magistrate Judge

Printed name and title

AMENDED AFFIDAVIT

I, Special Agent Beth A. Boggess, being duly sworn, hereby depose and state that the following is true to the best of my information, knowledge and belief:

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI) and have been so employed for approximately eight years. Prior to my employment with the FBI, I was employed by the Charlotte Mecklenburg Police Department in Charlotte, North Carolina from 1992 through 2005. During my employment, I held the position of Officer, Homicide Detective and Detective Sergeant over the Robbery/Fugitive Unit and Gang Unit. I have had training and experience in working drug trafficking investigations while working for over four years as an Agent assigned to the Metro Gang Task Force. I am currently assigned to the public corruption squad in the Denver Division.

2. On or about July 15, 2013, Jeffery Allan JOHNSTON contacted an FBI Confidential Human Source (CHS) via telephone and left a voicemail message. In the message, JOHNSTON asked CHS if he was going to a show (at Red Rocks Amphitheater in Morrison, Colorado) on Saturday night (July 20, 2013). JOHNSTON said he was trying to "catch up" with CHS. CHS and JOHNSTON have known each other for approximately two years. CHS is a narcotics trafficker who has been invited to JOHNSTON's residence on at least three occasions to distribute narcotics to JOHNSTON's guests. On several occasions in the past, according to information provided by the CHS, the CHS has provided persons attending parties at JOHNSTON's residence with a Schedule I controlled substance known as **3,4-methylenedioxy methamphetamine (MDMA)**("Ecstasy") or ("X").

3. On July 16, 2013, CHS placed consensually monitored and recorded telephone call to JOHNSTON. During the call, JOHNSTON said, "So. Yeah. So umm you know I was just calling, I don't know, uhh would you be interested in meeting up with me or [laughing]."

CHS said, "Yeah that's fine." JOHNSTON said, "Okay cool." CHS said, "It's all good. What uh..." JOHNSTON said, "So." CHS said, "What uh were you thinking CD's or..." JOHNSTON said, "Umm yeah, yeah. The . . . oh I'm trying to uh . . . [laughing] . . . [unintelligible]." CHS said, "Kim, Kim mentioned you guys hung out umm..." JOHNSTON said, "Yeah and you know I guess you had loaned her some of those CDs or what ever before." CHS said, "Yeah." JOHNSTON said, "Something like that." CHS, "Okay, yeah." JOHNSTON said, "But you know like probably a few more you know and you know some of, some of my friends that wanna uh listen to that music too. But . . ." CHS said, "Okay." Your affiant knows from CHS and consensually monitored telephone calls in this investigation, that CDs refers to MDMA pills.

4. Later in the conversation, JOHNSTON said, "I might, I might be interested in like 50? Depends. You know, 40. I mean? Is that possible?" CHS said, "Yeah I can do that." JOHNSTON said, "Okay. Cause uh you know, I don't know what, what you're thinking or what they would run?" CHS said, "Umm, well uh we could do . . . they start out at 20 and then go down so . . ." JOHNSTON said, "Okay." CHS said, "I don't know. Um, that many... Probably, I don't know. I could probably do them for 15. I guess." JOHNSTON said, "Okay. Alright and, uhh it's not the . . . There's been some other stuff running around that we've had access and it's just yucky." CHS said, "Oh yeah. I know." JOHNSTON said, "The "A." Yeah . . . It's missing. It's missing a bunch of stuff. Ah, it's missing the "M"... (laughing)... in it." CHS said, "Oh yeah I know what you're talking about. Nah, this is legit." JOHNSTON said, "Yeah." CHS said, "This is legit." JOHNSTON said, "Yeah." CHS said, "Good stuff." JOHNSTON said, "Okay, have you tested it at all or cuz I have a test kit but you know but..." CHS said, "Yeah, yeah you can test it out too if you want. So . . ." CHS explained that the narcotic JOHNSTON was

referring to was “MDA” and JOHNSTON wanted to purchase the Schedule I controlled substance MDMA from CHS.

5. Your affiant submits that JOHNSTON was calling the CHS and used his cellular telephone to speak with the CHS to further an agreement JOHNSTON has with a number of other persons to acquire MDMA pills, a Schedule I Controlled Substance, from the CHS and thereafter share the MDMA pills. Transferring the MDMA pills to other persons would constitute a violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(C), unlawful to distribute a quantity of a substance and mixture containing a detectable amount of MDMA.

6. On or about July 19, 2013, an FBI Confidential Human Source (CHS) traveled to the residence of Jeffery Allan JOHNSTON [REDACTED]. Through consensually monitored and recorded telephone conversations before the meeting, the CHS had agreed to deliver 75 pills of the Schedule I controlled substance known as **3,4-methylenedioxy methamphetamine (MDMA)** (“Ecstasy”) or (“X”). During the drug transaction, JOHNSTON received 10 grams of MDMA in the form of 37 pills and 6.3 grams of powder MDMA. JOHNSTON provided a Plexiglass-type sheet with drilled holes. JOHNSTON showed the CHS how he used the sheet to fill caplets with powder MDMA in the kitchen area. JOHNSTON paid the CHS \$1300 for the MDMA pills and powder MDMA. The exchange of money and MDMA took place in the kitchen of the residence on a large granite island. Following the drug transaction, JOHNSTON was taken into custody and a Federal search warrant was executed at the residence.

7. During the search of the residence, the 10 grams of MDMA sold to JOHNSTON were recovered in a drawer in the kitchen next to the refrigerator. A stainless steel Colt Officers Model .45 caliber pistol was located in a small black bag on the counter above the drawer. The

pistol was loaded with seven .45 rounds of ammunition in the magazine and one .45 round in the chamber. Investigators eventually located suspected cocaine, suspected steroids, hundreds of suspected prescription pills, additional firearms, and hundreds of rounds of ammunition in the residence.

8. Additionally, evidence of drug trafficking was located in the kitchen drawer, cabinet and island to include empty pill pouches, a drug test kit and a scale.

9. Your affiant submits that JOHNSTON was in the possession of a mixture and substance containing a detectable amount of MDMA with the intent to distribute, in violation of Title 21 USC 841(a)(1) and (b)(1)(C) and also was maintaining a drug-involved premises in violation of Title 21 USC 856(a)(1) and (2) and (b). Additionally, JOHNSTON was in the possession of a firearm in furtherance of a drug trafficking crime, in violation of Title 18 USC 924(c)(1)(A)(i).

The foregoing is true and correct to the best of my knowledge, information and belief.

Dated this 22nd day of July, 2013.

s/Beth A. Boggess
Special Agent Beth A. Boggess
Federal Bureau of Investigation

Submitted, attested to, and acknowledged by reliable electronic means before me this 22nd day of July, 2013, at Denver, Colorado.


UNITED STATES MAGISTRATE JUDGE

Criminal Complaint and Application for Arrest Warrant was reviewed and is submitted by Guy Till, Assistant United States Attorney.