

AFFIDAVIT OF SPECIAL AGENT

I, Scott P. McGaunn, being duly sworn, depose and state:

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have been so employed since 1995. I am currently assigned to the Boston Field Office’s Resident Agency in Lowell Massachusetts. Among other things, I am responsible for conducting national security investigations of potential violations of federal criminal laws as a member of the Joint Terrorism Task Force (“JTTF”). During my tenure as an agent, I have participated in numerous criminal and national security investigations. I have received extensive training and have experience in the conduct of national security investigations, and those matters involving domestic and international terrorism.

2. During my employment with the FBI, I have conducted and participated in many investigations involving violations of United States laws relating to terrorism and threats to do harm. I have participated in the execution of numerous federal search and arrest warrants in a variety of criminal investigations. I have had extensive training in many methods used to commit acts of terrorism contrary to United States law.

3. I am currently participating in the investigation of a fire and the discovery of several improvised devices attached to high-voltage power lines managed by the National Grid company in the vicinity of Locust Avenue in Tyngsborough, Massachusetts on March 30, 2016. As part of that investigation, this affidavit is submitted in support of a complaint charging DANNY M. KELLY (“Kelly”) with a violation of 18 U.S.C. § 844(i) (attempt to maliciously damage and destroy property used in interstate and foreign commerce and in an activity affecting interstate and foreign commerce by means of fire).

4. This affidavit is based upon information supplied to me by other law enforcement officers, including other special agents employed by the FBI, task force officers of the JTTF, representatives of National Grid, and the state and local personnel who are participating in the investigation of these events. It is also based upon my personal involvement in this investigation and on my training and experience. In submitting this affidavit, I have not included each and every fact known to me about the investigation, but instead have included only those facts that I believe are sufficient to establish the requisite probable cause.

STATUTORY BACKGROUND OF VIOLATIONS

5. Based on my training, experience, and discussions with the United States Attorney's Office for the District of Massachusetts, I have learned the following:

6. Title 18, United States Code, Section 844(i) provides as follows: "Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, ... real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not less than 5 years and not more than 20 years [.]"

FACTS AND CIRCUMSTANCES

A. The Tyngsborough Fire

7. On March 30, 2016, there was a brush fire in the fields near Locust Avenue in Tyngsborough, Massachusetts, in the vicinity of high-voltage power lines managed by the National Grid power company. The fire engulfed approximately three to four acres. National Grid is a multinational company based in the United Kingdom, that provides electric power to the northeastern United States. According to National Grid, these specific power lines were the

high-voltage lines that carry power to the Greater Boston area from Canada. According to National Grid, The Quebec – New England Transmission Phase II Line, is a long-distance high-voltage direct current (HVDC) line between Radisson, Quebec and Sandy Pond in Ayer, Massachusetts. The line operates at 450 kilovolts with a capacity of 2,000 megawatts through the town of Tyngsborough, Mass. The line is primarily used to import power from Canada into the United States. If the line were to be damaged or destroyed, the resulting unplanned loss of the line and electricity would require much higher cost electricity to compensate. In both the long and short term, the cost of electricity would go up and there would be fewer resources to meet the demand to the customers, and according to National Grid, there would be international ramifications because damage to the lines would disturb the flow of electricity from Quebec.

8. On the night of March 30, 2016, the Tyngsborough Fire department extinguished the fire. After the fire was extinguished, National Grid personnel inspected the HVDC line described above and detected an attempt to damage it, using several suspicious metallic cylindrical devices some of which were stuck on the power lines. These devices were not attached by authorized National Grid personnel. Fire personnel and local law enforcement also observed these devices, which they assessed could have been used to damage the lines.

9. As the fire scene was investigated, additional evidence was found identifying the cause as human intervention. Specifically a computer-generated printed note, described in greater detail below, was found at the scene which claimed responsibility for the devices designed to cut the lines. In addition, one of the cylindrical improvised devices, which appeared to have ignited the brush fire, was found on the ground, apparently having been burned.

10. The FBI and the Massachusetts State Police secured the improvised devices and

rendered them safe. The FBI has taken custody of the devices and is in the process of analyzing their contents. One of the recovered devices had a sticker of the UPS shipping company on it. The devices can be described as similar to a pipe bomb in appearance – a cylindrical metallic container, with a fuse, with chemical contents.

B. The Tyngsborough Fire Note

11. A computer generated printed note (titled [Untitled], which is the default titling convention of computer programs like Microsoft Notepad) was found on one of the high-voltage line poles at the top of a hill in the center of the crime scene. The note read as follows:

Untitled

If you found this letter, the cutters must have worked. Sorry it was necessary to cut your lines, but the good lord has given me no choice. Now you can do something dumb like tell the world your lines were cut. This will give credibility to the devices if I have to release them on the Internet.

I can assume you will go to the lying, bottom feeding, and corrupt organizations like the US attorney and FBI. Too bad these corrupt organizations refuse to do anything for the public good. All they care about is what they can steal from the public. If their oath was worth anything, we would not be in this position. If these bottom feeders bother me at all, or I feel they are out to get me, the cutters will be documented on the Internet. (I have picked out a couple of anarchist, free speech, sites.) Once that is done, I do not know what you and the other utilities are going to do! I will have no control over who uses them.

The cutter was tested by cutting through a 1 inch black pipe. So say goodbye to gas lines! I also noticed you patch where the grinder cut the 720k line before. Although the lines were too tough for the grinder, you know that method will take care of all the communication lines, and smaller electric lines. If that is not enough, I also know how to take out the transportation, sewerage, and water services, but they require a \$800 investment. So it is going to be an expensive war, if you want to play it. I see no way you can win!

Now I fully understand that I cannot win. That is not the point. The point is to get some of the damage our corrupt DOJ, Courts have done to my family[comma] in their goal to punish me for standing up for my rights. Unfortunately, I am still the dumb middle class American who trust people. I know that is stupid, but without

trust we have nothing. So the question is whether or not you will help me get the Courts to actually respect the law and undo the damage they did to my family. If not, I might as well do my part in destroying the society. (There is no question that our corrupt courts have destroyed the usa, and are destroying mankind. But all that no longer matters to me. I am only concerned about my family.)

So if you want to continue with the status quo, we need to open a communication channel. If not I know what the good lord wants me to do. To open a communication channel you need to get me a snail mail address, PO Box. Do this by posting a job position in craigslist for a Security EE in Tyngsboro. Snail mail address for resumes.

You can talk to me in this posting by putting comments between /***** “your message *****/ in the Html of the job posting.

C. Prior incidents

12. In 2004, approximately eighteen telephone and cable lines were cut by an individual who had communicated written threats to cut more lines unless he received payment. That investigation revealed the perpetrator to be Kelly, and he was prosecuted and pleaded guilty to extortion in this court. The Tyngsborough Fire Note takes credit for the improvised devices that the author calls “cutters”, threatens to publish the instructions on how to make the improvised devices on the internet, and lashes out at the U.S. attorney’s office, the FBI and the Courts. The author says that he is going to war, threatens future attacks on other critical infrastructure, and states that his goal is not to win, it is to do damage in retaliation for punishing him. The content and style of the note show that Kelly is the author. The note left at the Tyngsborough fire bore numerous similarities to the communications that Kelly made in 2004 in connection with his prior case.

13. For example, on January 28, 2005, Verizon telephone company received one of several letters from Kelly. Among the statements in this four-page letter were:

I cannot image [sic] that you hold any chance of stopping me from cutting your cables. There are just to [sic] many of them and to [sic] many opportunities.

The longest run I have made, not including commute time, has been under 20 minutes. I am home before anyone even knows a line has been cut. Therefore, the only true hope of catching or stopping me is to make the payoff!

After the 15th of February my goal will be to create enough problems that it will get media attention. If I can get the newspapers and TV to report the outages I think that the bulb will go on with others.

14. More specifically, in both the 2004/2005 episode and the Tyngsborough Fire

Note, Kelly used the phrase “corrupt” government and organizations as a motive for his attacks.

He also explained in both that he did not trust the FBI and others. He also explained that his

actions were necessary because he had no choice in the matter. He also referenced in both that

his lack of access to money affected the type of damage he can do. Kelly also explained that his

family had been damaged in both episodes.

15. In addition, during his 2005 prosecution, Kelly was interviewed by the FBI.

During a March 2005 interview, Kelly told the FBI that he was very familiar with electricity and

electric wires. Kelly said that cutting the electric wires would not kill him and he described how

the electricity would find the quickest route to the ground, which would not be through his body.

He also said that he could easily take out the power to Boston and it would not cost him anything

to do it. He said that taking out power would be much easier than cutting cables. In another

March 2005 interview, Kelly said he did not trust the FBI, that they were “a bunch of liars”. He

claimed that he had sought the FBI’s help for his case against his former employer Nortel.

16. In one of the letters Kelly authored in 2004, he said that he had no choice but to

make a stand and that he had been forced to take action. He blamed the corrupt government for

his troubles. He referenced his cutting lines several times, and complained that he would have

done more damage but for a cheap saw that he used. He complained that he had lost his home and his family had been destroyed, and that he was targeting the victim companies so that they would suffer, just like lying government employees.

17. In 2012, an unattributed attempt to cut a power line was reported by National Grid. On May 24, 2012, National Grid employees discovered a battery operated saw, similar to an angle “grinder”, entangled in a transmission line in Tyngsborough, MA. It appeared that the perpetrator had tied fishing line onto the saw and thrown it over the transmission line in an effort to hoist it up and cut the line. That crime was not solved at the time but appears to be referenced in the Tyngsborough Fire Note.

18. Kelly has also filed over a dozen civil lawsuits against various defendants, including the town of Chelmsford, many of them complaining about his property rights. For example, according to court records, he filed a suit in December 2015 complaining about the Town’s nativity scene at the intersection of School and Main Streets (which Kelly perceived to be a direct affront to his family), but quickly devolved into recapitulation of earlier complaints about eminent domain. More recently, on March 17, 2016 Kelly filed a suit against the Town of Chelmsford’s Sewer Department (16-10560-DJC), complaining about the “sewerage”, and focused on a requirement that Kelly hook up to the sewer line at his expense. This mirrored a theme from the Tyngsborough Fire Note where he threatened use of a similar device on “sewerage” lines. That civil complaint appears to have been word-processed and filed pro-se by Kelly in this court. In the complaint, Kelly states that he has stage four cancer and is dying that his family is being victimized and he is being punished, as he does in the Tyngsborough Fire Note. The complaint also asserts that the Court and DOJ are corrupt.

D. Chemical Shipment to 26 School St., Chelmsford, MA

19. According to Ebay, the internet auction/retail broker, in late January 2016, its website recorded a purchase by the account named “dannymkelly”, to purchase several chemicals from Alpha Chemicals, 802 Enterprise St., Cape Girardeau, Missouri for shipment to 26 School Street, Chelmsford, MA. According to Ebay, “dannymkelly” is subscribed to by Kelly. According to United Parcel Service (UPS), an interstate carrier, a delivery of chemicals was made from Alpha Chemicals, 802 Enterprise St., Cape Girardeau, Missouri to 26 School Street, Chelmsford, MA on or about February 2, 2016. According to the invoice from Alpha Chemicals, 20 pounds of iron oxide, described as “Thermite/Magnetic Silly Putty”, was ordered by “Danny Kelly” at his home address. In addition, Alpha Chemicals shipped 5 pounds of aluminum powder to Kelly at his home address.

20. I have conferred with FBI Special Agent Bomb Technicians familiar with improvised explosive and incendiary devices, and they have informed me that these two chemicals, iron oxide and aluminum powder together can constitute thermite, the basis for an incendiary device. Thermite can be used to cut objects, such as power lines. The improvised devices at the Tyngsborough fire appeared consistent with thermite devices. Technical experts have confirmed that the amount of iron oxide and aluminum powder that was delivered to Kelly’s home would be sufficient to create at least five thermite devices in the shape and size of those found at the Tyngsborough fire location.

E. The thermite devices

21. The five incendiary devices located at the Tyngsborough fire were constructed of metal pipes with notches cut on one end. The pipes were sealed with a white compound which

could possibly be plaster and/or, drywall, and screws and contained a black powder. The powder in one of the pipes appeared to have burned, and left behind a charred black residue. The pipes had white nylon-type rope attached to the notched end. The notches appear to have been designed to hang the devices on the high tension lines. When the FBI arrived on scene, two of the devices were still hanging on the power lines and were attached to a length of pink surveyor's line that appeared to have been used to pull each device up to the lines. According to an FBI Special Agent Bomb Technician, thermite is typically used to cut metal in commercial and military applications. According to experts at the FBI laboratory, the incendiary devices found on the power lines on March 30, 2016 contained a mixture that was determined to include iron oxide and aluminum that was consistent with thermite.

F. Danny M. Kelly

22. According to Registry of Motor Vehicles and court records, Danny M. Kelly, with a year of birth of 1954, lives at 26 School Street, Chelmsford, Massachusetts. He lived at the same address in 2004 and 2005, when he was convicted of extortion in this court in 05-CR-10173-JLT. That case involved repeated attacks on telephone and cable lines, in many cases prefaced and followed by computer-initiated communications with Verizon and Comcast demanding a response and ultimately money, under threat of future attacks. According to the court records, Kelly received a probationary sentence for five years, including a restitution order of \$378,041.00. According to the Financial Litigation Unit of the United States Attorney's Office, Kelly paid approximately \$25 per month for a total of \$3,103, and he continues to owe the balance in restitution. The felony conviction also means that Kelly is ineligible to possess or receive firearms, ammunition and explosives.

G. Prior Search of the Kelly's Residence

23. In 2004, pursuant to a search warrant issued from this court related to the investigation of Kelly's extortion of Verizon and Comcast, the FBI conducted a search of the Kelly's residence. At the time, numerous items of evidence related to the extortion scheme, including tools and computer devices related to the scheme were seized.

H. Interview of DANNY M. KELLY on April 2, 2016

24. On the morning of April 2, 2016, FBI agents and other law enforcement personnel established surveillance of Kelly and his residence at 26 School Street, Chelmsford, Massachusetts. They saw Kelly walking his dog, and then saw him at a neighbor's house. FBI Agents approached Kelly and asked if they could speak with him at the police station. Kelly did not ask what they wished to speak with him about, but he agreed to voluntarily go with the agents to the police station, because he had some things he wanted to discuss with them.

25. After driving his vehicle to the police station, Kelly spoke with the FBI. During the interview, Kelly complained about the court system in the context of the numerous civil lawsuits that he had filed. Kelly acknowledged that he had purchased chemicals for purposes of "playing" with them. He described the chemicals as "thermite", and explained that it cuts through things. Kelly said he didn't want to talk about the thermite, but that he had experimented with it. He said he still had thermite at his house. He told the FBI to research thermite on the internet to learn more about it.

26. When agents described how they found the Tyngsborough Fire Note, a fact that had not been made public, Kelly's reaction was, "Yeah". Kelly was told that the Tyngsborough Fire Note was the same as what he had written in 2004. Kelly asked what he had written in

2004. As part of what he wanted to talk about, Kelly complained about the program that allowed skilled workers to take American jobs. Kelly explained that he wanted to be compensated for what had been taken from him. Kelly explained that what he wanted was a hearing on the [civil] case that he had filed fifteen years previously, and that he was entitled to \$14.4 million, the value of the property that had been taken from him. Kelly complained about the courts, particularly because they described his prior case(s) as frivolous. After complaining about the status of the American middle class, Kelly was asked whether he considered himself a “dumb middle-class American”, a phrase written in Tyngsborough Fire Note but not described to Kelly as such. Kelly said, “Well ... I used to be middle-class, but we were wiped out naturally. But yes, we’re very dumb.” When he was told that the things he was saying were the same as that which he had written in the Tyngsborough Fire Note, Kelly said “Right” but then, appeared to catch himself and said that what he knew about the Tyngsborough fire was what he had seen on the news. The agents told Kelly that they knew it was him, and asked for his side of the story to which Kelly responded, “then arrest me”, and they did.

I. Search of 26 School Street

27. As Kelly was being interviewed by the FBI, other personnel were conducting a search of his residence at 26 School Street in Chelmsford pursuant to a warrant issued from this court. Among the items found during the search were an intact improvised incendiary device consistent with the devices found at the Tyngsborough Fire scene, White nylon string/rope that was consistent with that found at the Tyngsborough Fire scene, multiple packages of iron oxide and aluminum powder, opened shipping packages for the iron oxide and aluminum powder from Alpha Chemicals, drywall pieces with holes cut out of them that were consistent with the drywall

plugs in the Tyngsborough Fire incendiary devices, plaster that was consistent with that found in the devices, a socket set that was consistent with a socket used as part of the delivery system of the incendiary devices, and a long metal pipe that was consistent with an intact length of the same type as that used in the incendiary devices. Agents also found other items of significance at the residence, such as additional chemicals, what appeared to be live 25mm ammunition shells and various cutting tools.

CONCLUSION

28. Based on the foregoing, there is probable cause to believe that on or about March 30, 2016, **DANNY M. KELLY** violated 18 U.S.C. § 844(i) (attempt to maliciously damage and destroy property used in interstate and foreign commerce and in an activity affecting interstate and foreign commerce by means of fire). Accordingly, I respectfully request that the Court issue a complaint charging **DANNY M. KELLY** with this crime.



Scott P. McGaunn
Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this 3rd of April 2016



M. Page Kelley
UNITED STATES MAGISTRATE JUDGE

