

AO91 (Rev. 12/03) Criminal Complaint

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

U. S. DISTRICT COURT CRIMINAL COMPLAINT
Eastern District of Louisiana

ASHTON R. O'DWYER, JR.

FILED JAN 30 2010

Case Number: 10-14

LORETTA G. WHYTE Clerk BB

(Name and Address of Defendant)

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about January 29, 2010 in Orleans Parish County, in the Eastern District of Louisiana defendant(s) did,

(Track Statutory Language of Offense)

transmitted in interstate commerce a communication containing a threat to injure the person of another

in violation of Title 18 United States Code, Section(s) 875

I further state that I am a(n) FBI Special Agent and that this complaint is based on the following facts:

See attached Affidavit

Fee Process X Dktd CtRmDep Doc. No.

Continued on the attached sheet and made a part of this complaint: [X] Yes [] No

Signature of Complainant

Special Agent Christopher DiMenna Printed Name of Complainant

Sworn to before me and signed in my presence,

1/30/2010 Date

at New Orleans Louisiana City State

Honorable Daniel E. Knowles, III U.S. Magistrate Judge Name of Judge Title of Judge

Signature of Judge

AFFIDAVIT

1. I, Christopher DiMenna, being duly sworn, do hereby depose and state:
2. That I am a Special Agent with the Department of Justice, Federal Bureau of Investigations (FBI), and have been so employed since May, 2002. For the past Nine (9) months, I have been assigned to the FBI New Orleans Violent Crime Task Force (NOVCTF).
3. I am personally familiar with the facts and circumstances surrounding this investigation from my own investigative activities and from information obtained from other law enforcement officers with personal knowledge of the facts. The following information was obtained by me personally or has been provided to me by Special Agents and Task Force Officers assigned to the FBI New Orleans Violent Crime Task Force (NOVCTF).
4. This affidavit is submitted for the limited purpose of securing a criminal complaint; therefore, I am not setting forth each and every fact known to me concerning this investigation. I am including what I believe are facts sufficient to establish probable cause for the complaint sought.
5. As set forth below, I am conducting an investigation of the transmisson in interstate or foreign commerce a communication containing a threat to injure the person of another, in violation of Title 18 United States Code Section 875.
6. I am informed ASHTON R. O'DWYER has engaged in an escalating course of conduct, which culminated in a threat to the United States Courthouse, Hale Boggs Federal Building, Eastern District of Louisiana, 500 Poydras Street, New Orleans, Louisiana, on January 29, 2010.
7. The following is a chronological account of actions perpetrated by ASHTON R. O'DWYER JR;
8. On August 30, 2007, O'DWYER sent a fax to Attorney Harry C. Cabral's office, located at 3939 North Causeway Blvd., Metairie, Louisiana, threatening his flesh if the advice he provided his client should cause financial ruin. Cabral is representing O'DWYER'S wife in divorce proceedings.
9. The letter stated: Yesterday evening, your client disclosed to me that she recently had lunch with you and a friend you had referred to her as a "financial advisor." How cozy. For years, my former portfolio had been with a boyhood friend, who works for Smith Barney. My relationship with my boyhood friend and my portfolio have an excellent "track record."
10. I converted all of my portfolio to cash in the aftermath of KATRINA. Let this be your notice, and notice to your friend, the yet unidentified "financial advisor," that if any portion of your client's cash portfolio is put at risk, or if one penny from the cash portfolio is lost as a result of any recommendations from you or the unidentified financial advisor, Ashton R. O'Dwyer, Jr. "will exact retribution from both of you in flesh. This is not a threat; it's a promised" [sic] signed

by O'DWYER.

11. On October 27, 2008 the United States Marshall's Service (USMS), opened an inappropriate communications investigation based on the civil lawsuit filed by O'DWYER naming Eastern District of Louisiana (EDLA), United States District Judge (USDJ) Stanwood R. Duval as a defendant. The lawsuit alleges civil rights violations, abuse of power, and legal malpractice by Judge Duval. The lawsuit also names former Louisiana Attorney General Charles Foti as well as several New Orleans officials.

12. The lawsuit was filed due to O'DWYER'S arrest and detention post Hurricane Katrina. EDLA, United States District Court, Judge Martin Feldman was assigned the lawsuit and administratively closed the lawsuit due to pending disciplinary actions against O'DWYER. The actions are related to O'DWYER'S legal status as an attorney.

13. When O'DWYER learned his lawsuit had been dismissed he authored and sent e-mails stating something to the effect "they really want to get me, which proves that I'm 100% right."

14. On November 27, 2008, EDLA, USDJ, Duval's wife, Janet Daley, who is a staff member for Judge Duval advises the USMS that a federal ruling had been issued that prevents/bans O'DWYER from practicing law in federal court. Due to the sanctions in EDLA Federal Court the case will also be sent to the Louisiana State Bar. Additionally, the Louisiana State Supreme Court is monitoring O'DWYER based on allegations he has made concerning Louisiana Supreme Court Justice Catherine Kimball. Based on O'DWYER'S behavior his concealed carry hand gun permit was not renewed by the Louisiana State Police (LSP).

15. On February 26, 2009, a lawsuit filed by O'DWYER was dismissed by the United States Fifth Circuit Court of Appeals. The basis of the lawsuit alleges that remarks made about O'DWYER by Chief Justice Kimball and Louisiana Lawyer Disciplinary Counsel Charles Plattsmier and others orchestrated a conspiracy that resulted in O'DWYER'S arrest post Hurricane Katrina. O'DWYER claims that he was arrested by the LSP for public intoxication because of his heated post Hurricane Katrina comments to the national media.

16. On March 9, 2009, EDLA, USDC, canceled O'DWYER'S license to practice law in that court. This new order states O'DWYER cannot apply to get his federal district court law license back for a full five years. The previous penalty called for two year's suspension and three year's probation, provided O'DWYER completed anger management counseling and paid thousands of dollars in court imposed sanctions.

17. O'DWYER reacted angrily to the order and vowed to appeal, stating "these kangaroo court decisions, which denied me due process of law and didn't even give me the opportunity for and oral hearing. What did John Paul Jones, the father of the American Navy, say? I have not yet begun to fight!"

18. On April 1, 2009, O'DWYER e-mailed Robin Smith, an attorney with the United States Department of Justice (DOJ), who is temporarily assigned to the EDLA civil section assigned to

the Hurricane Katrina class action. O'DWYER states in the e-mail "we all know what Eric HOLDER is (and he knows what he is, too). Ted STEVENS looks like he is going to walk, but the USDOJ lawyers who prosecuted him are liable for misconduct. If THEY are liable for misconduct charges, then what the FUCK are you liable for? DO YOUR FUCKING JOB, AND APPEAL DUVAL-DALEY-FAYARD's latest travesty and COUNTERCLAIM AGAINST THE STATE in Civil Action No. 075040."

19. On April 1, 2009, O'DWYER sends a second e-mail to Robin Smith stating he and his colleagues are "a fucking disgrace." By allowing the corruption of the "Victims of Katrina" litigation to occur under you're very noses, and doing NOTHING about it, you are accomplices and co-conspirators in my book. The appellation that comes to mind is "gutless dogs." O'DWYER further states SMITH won't even appeal the Order and Reasons of 03/20/2009, which would at least "shut up that dago-wop grease ball and Mr. Under-Indictment Pierce O'DONNELL." O'DWYER further poses the question "What is the USA's position regarding the corrupt and fraudulent proposed settlement with the levee boards? By allowing this to happen, YOU and your colleagues are part of the problem. How do you sleep at night? How do you look yourself in the mirror? FUCK YOU!"

20. On April 2, 2009, O'DWYER attended a hearing in the court room of U.S. District Judge Duval. The nature of the hearing was in regard to damages sustained in EDLA as a result of Hurricane Katrina and the levee breaches, which occurred after the hurricane. The USMS met with O'DWYER prior to the hearing and admonished him regarding any outburst. O'DWYER complied, however, at the end of the hearing, as per the USMS, O'DWYER approached one of the attorneys and in a confrontational manner suggested they step outside to settle a disagreement. However, when the attorney agreed to go outside, O'DWYER quickly rescinded the offer.

21. On April 3, 2009, O'DWYER again e-mails Robin Smith addressing the hearing held by Judge Duval on April 02, 2009. The e-mail states O'DWYER "witnessed perjury, obstruction of justice and honest services fraud in a Federal Courtroom. It's a real problem when the fucking judge is part of the problem. If I ever get a bully pulpit from the local or national media, I'm letting you and the Department of "Injustice" know that you are both in the cross-hairs."

22. On April 6, 2009, O'DWYER again e-mails Robin Smith stating he has an "obligation to the citizenry to get substantive legal rights resolved," particularly in a litigation in which the presiding Judge has "favored his close personal friend of long standing." The federal government's failure to indict "Duval-Daley-Fayard" and his "friend, Calvin FAYARD is a DISGRACE. If you do not file a Notice of Appeal to Duval-Daley-Fayard's Order and Reasons of 03/20/09" then I plan to "sue the piss out of you" and the "Jew-Nighted" States of "Amerika" (the OBAMA nation) for a number of abrogations of legal duties and deprivations of Constitutional rights." O'DWYER states this e-mail is an administrative claim made in his name and in the name of each of his clients. "Please inform the Attorney General of the perfection of this administrative claim," contingent on you not committing "legal malpractice" as a government attorney."

23. On April 11, 2009, O'DWYER had a chance meeting with United States District Judge Martin Feldman at a local business in New Orleans, Louisiana. O'DWYER began berating Judge Feldman about "the scum bags" the judge serves with and he was going to "have some impeached." As Judge Feldman was walking in the business O'DWYER screamed at the Judge "tell the FBI about me and tell them to bring guns."

24. On April 14, 2009, O'DWYER e-mails Robin Smith again stating "Judge Duval-Daley-Fayard" and his close personal friend of long-standing, Calvin, fed the government a "juicy shit sandwich" in the referenced document. O'DWYER further states he hopes the government has plenty of "lubricant" handy, because if Robin Smith does not file a notice of appeal, then the "government is going to get fucked in the ass."

25. On April 15, 2009, O'DWYER sends yet another e-mail to Robin Smith stating "you know the way the wind's blowing in Section K. "(Judge Duval's section)" "I do and have just gotten a whiff of another "shit sandwich" coming your way. Where's the Notice of Appeal?"

26. On April 17, 2009, O'DWYER sends his final e-mail to Robin Smith stating what has happened recently would cause "reasonable minds" to question whether the "Jew -Nighted States" can get a fair trail in Section K. "Nothing which Stanwood has done in the litigation, or will do, has gotten him off course from the goal from day one" to benefit Calvin. "Your are about to get fucked in the ass. Where is the Notice of Appeal?"

27. On July 27, 2009, O'DWYER hand delivered a letter to Court Security personnel. The document was an EDLA court order related to an entry of default judgment concerning O'DWYER signed by Judge Lemelle. On the opposite side of the order was a handwritten letter addressed to Judge Lemelle. O'DWYER'S letter opened by addressing Judge Lemelle as a "blue gum nigger bastard" and said "if you want to do anything about this, you know where I live."

28. On August 21, 2009, FBI, New Orleans receives certified mail from O'DWYER regarding his arrest in the fall of 2007 for Cyber Stalking. "I have never been arraigned on this charge and if I had intended bodily harm, then the cocksucker would already be dead." "I still maintain that your office (New Orleans) has a conflict of interest regarding me and my complaint's (sic) because AUSA Michael Magner was directly involved in my abduction, brutalization, torture and false imprisonment."

29. "You asked me what I want you to do: But in addition to interviewing Judge Duval-Daley-Fayard, his wife law clerk, Judge Lemelle, Fayard, Becnel, Louisiana Supreme Court Justice Kimball, Plattsmier and Guidry, among others, you need to issue Grand Jury subpoenas, and obtain indictments, and make arrests, without further fucking around."

30. "If the FBI/USDOJ will not "FIX" the problem, then you are part of the problem, and I fully intend to "go public," which will embarrass the Bureau and the "FUCKIN" federal government. This isn't a threat, it's a promise." See my e-mail communications with AG Holder, enclosed, which already are in the hands of the "MEDIA." "DO Something, for Christ sakes."

31. "I have no words to describe Judge Duval-Daley-Fayard, but his wife/law clerk is a CUNT. And Ivan L.R. Lemelle is a "blue-gum nigger bastard, in addition to being a criminal, Lazy, stupid and corrupt."

32. On August 22, 2009, FBI, New Orleans received a certified letter from O'DWYER stating: Gentlemen: Well, I'm a little "slow," and just realized that I failed to point out your most obvious "conflict of interests." The "FUCKING FBI" has been missing-in-action in the CORRUPT "Victims of Katrina" litigation, because the "FUCKING Jew-nighted states of America" is pulling your fucking strings, and doesn't want you to investigate the corruption, in which the fucking jew-nighted states is complicit."

33. O'DWYER further added in the letter "But the REAL reason I'm writing you to bring your attention to the fact that, that lazy, stupid and corrupt "blue-gum nigger bastard" Lemelle was plotting, as early as March 2009, that he would strike my answer and defenses and enter default against me."

34. On August 24, 2009, O'DWYER gained entry to the courthouse with a USMS escort for the purpose of filing bankruptcy. While at the courthouse, O'DWYER made several disparaging comments about the FBI and Judges Lemelle and Duval. O'DWYER'S comments took on an angry, confrontational tone and escalated into a rant. O'DWYER again repeated the vulgar, racist comments he had made regarding Judge Lemelle in his written letter.

35. On September 22, 2009, FBI, New Orleans receives a letter signed by O'DWYER addressed to the "FEDERAL BUREAU OF CONSTIPATION." The letter opens with "Plattsmier (you cocksucking mother fucker): By continuing to pursue my cousin, Mr. Hecker, you just make it worse for yourself (and that little "prick" tweed) in my and my cousin's civil rights action(s) against you and others. You are abusing the power of your office and should recuse yourself and your office, and follow the Very Rules you enforce against others." O'DWYER goes on to refer to Judge Lemelle as a "Gorilla" and then apologizes to all gorillas for associating their name with Judge LEMELLE.

36. O'DWYER concludes the letter stating "You should be pursuing Mr. Wall, who allowed the illegal default judgement to be entered against me by Lemelle, who also holds a license you could pursue if you were not a dishonest cocksucking mother-fucker." "You I'll tell you what I told the "goons" who you and that CUNT you "pimp" for sicked on me: "You're going to have to kill me now, because Ashton O'DWYER is now a liability issue for you." "Try to kill me, you cocksucking mother-fucker; I dare you."


37. On 01/29/2010, O'DWYER sent an electronic communication to United States Bankruptcy Court, Eastern District of Louisiana, which read as follows;

From: "Ashton O'Dwyer" <arod@odwyerlaw.com>
To: <Sean_McGinn@laeb.uscourts.gov>
Date: 01/29/2010 12:22 PM
Subject: RE: Debtor's Reorganization Plan in Case No. 09-12627

Well, please convey to Judge Brown my belief that he can "try" to protect the CRIMINALS Duval, Lemelle and Dennis, but he can't protect them from themselves, and the 'damage" is already done. As is the case with Judge Porteous, their impeachment is "just a matter of time". Also convey to Judge Brown a reminder that I have been totally without money since the weekend of January 8, 9 and 10, and that I have been without my anti-depressant medication, for which I have sought leave to pay Walgreen's from my most recent Social Security check, since last weekend. I could not sleep last night, which I attribute to the effects of abruptly stopping my medication on Sunday, the 24th (my pills "ran out", and I have no money to purchase more). Maybe my creditors would benefit from my suicide, but suppose I become "homicidal"? Given the recent "security breach" at 500 Poydras Street, a number of scoundrels might be at risk if I DO become homicidal. Please ask His Honor to consider allowing me to refill my prescription at Walgreen's, and allowing me to pay them, which is a condition for my obtaining a refill. Please communicate this missive to creditors and their counsel. Thank you.

38. On 01/29/2010, after making arrangements to meet with the USMS, O'DWYER was found to be in possession of a loaded Smith & Wesson, .38 caliber revolver, serial number DBU3463. The gun was seized upon his arrest.

39. Based upon the above, it is hereby alleged, ASHTON R. O'DWYER, transmitted a communication, specifically an email which travelled in interstate or foreign commerce communication containing a threat to injure the person of another, in violation of Title 18 United States Code Section 875.



Christopher DiMenna
Special Agent, Federal Bureau of Investigation

Sworn to and subscribed before me this 30th day of January, 2010, at New Orleans, Louisiana.



HONORABLE DANIEL E. KNOWLES, III
United States Magistrate Judge