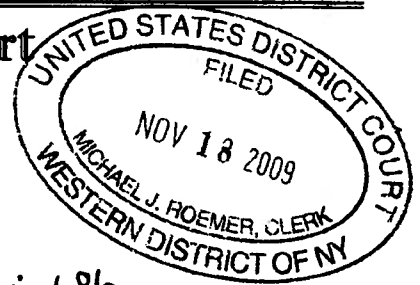


United States District Court
for the
Western District of New York



United States of America

v.

LAMAR DONALD and
JEANETTA JOHNSON

Defendant

Case No. 09- MJ-686

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 of June 12, 2009, in the Western District of New York, the defendant, Larmar DONALD, maliciously damaged and destroyed, and attempted to damage and destroy, by means of fire, the building and contents at 602 Dewey Avenue, City of Rochester, Monroe County, New York, real and personal property affecting interstate commerce and in an activity affecting interstate commerce.

On or about the date of October 14, 2009, in the Western District of New York, the defendants, Lamar DONALD and Jeanetta JOHNSON, maliciously damaged and destroyed, and attempted to damage and destroy, by means of fire, the building and contents at 466 Driving Park Avenue, City of Rochester, Monroe County, New York, real and personal property affecting interstate commerce and in an activity affecting interstate commerce.

This criminal complaint is based on these facts:

- Continued on the attached sheet.

Complainant's signature

M. Dixon Robin, Special Agent
Bureau of Alcohol, Tobacco & Explosives

Printed name and title

Sworn to before me and signed in my presence.

Date: November 18, 2009

Judge's signature

City and State: ROCHESTER, NEW YORK

Honorable Jonathan W. Feldman
United States Magistrate Judge

Printed name and title

09 MJ 686

AFFIDAVIT

IN SUPPORT OF A CRIMINAL COMPLAINT

State of New York)
County of Monroe) SS:
City of Rochester)

I, M. Dixon Robin, being duly sworn, deposes and says that:

1. Your affiant, Special Agent M. Dixon Robin, is a Criminal Investigator with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and has been so employed for the past eleven years. The affiant also has prior experience as a Criminal Investigator with both the National Aeronautics and Space Administration Office of Inspector General and the National Science Foundation Office of Inspector General. Additionally, the affiant holds a Bachelor of Arts degree in History and a Masters of Arts degree in Forensics (with an emphasis in Crime in Commerce). The affiant has received over 1,000 hours of law enforcement training from the Federal Law Enforcement Training Center, the ATF National Academy, and various other law enforcement sources. The affiant is the ATF case agent in charge of the investigation of the case of United States of America vs. Lamar DONALD and Jeanetta JOHNSON for a violation of Federal arson laws, to wit: Title 18, United States Code, Section 844(i).

2. In addition, your affiant is an ATF Certified Fire Investigator (CFI). In this position, your affiant is primarily responsible for conducting origin and cause investigations of fire and explosion incidents affecting interstate commerce and other fires in which assistance from state and local agencies has been requested. In order to obtain this certification, your affiant successfully completed several courses of fire investigation training at the ATF National Academy and the United States Environmental Protection Agency, and successfully completed fire investigation training sponsored by the University of Maryland/University College. In furtherance of obtaining this certification, your affiant completed various assignments as assigned by the ATF Arson and Explosives Training Branch and completed a research paper concerning an aspect of fire investigation. Your affiant has conducted or participated in over 200 fire and explosion origin and cause determinations. Your affiant has coordinated and/or instructed in 4 training sessions pertaining to the investigation of fire and explosion incidents to various Federal, state and local entities. Lastly, your affiant is a member of ATF's National Response Team (NRT). As a member of the NRT, your affiant responds to fire and explosion incidents around the United States, along with a select cadre of other ATF Certified Fire Investigators and other experts in order to assist with large scale origin and cause

determinations.

3. On November 9 and 10, 2009, your affiant met with Rochester Fire Department (RFD) Fire Investigation Unit (FIU) Investigator Thomas Dorrer at the RFD FIU Office, Rochester, New York, and received information concerning incendiary (intentionally set) fires at 602 Dewey Avenue, Rochester, New York on June 12, 2009, and 466 Driving Park Avenue, Rochester, New York on October 14, 2009.

4. Investigator Dorrer explained that on June 12, 2009, RFD responded to the report of a rental apartment on fire at 602 Dewey Avenue, Rochester, New York. Upon arrival, RFD units suppressed a fire in the interior of the apartment. The fire caused serious damage to the interior and the exterior of the structure. At the time of the fire, the tenant of the apartment, Rashanda MONTGOMERY, was not at home. As part of RFD's response, members of the RFD FIU also traveled to the fire scene. Based on a systematic investigation of the fire scene and witness interviews, RFD FIU investigators concluded that the fire was incendiary (intentionally set) and that the fire's area of origin was in the area of the couch inside the apartment.

5. Investigator Dorrer stated that after examining the fire scene, RFD FIU investigators interviewed Rashanda

MONTGOMERY. MONTGOMERY stated that she had no knowledge as to how the fire started. MONTGOMERY stated that she had left the apartment just prior to the fire to visit her sister, Kizzie Lee, at 884 North Plymouth Avenue, Rochester, New York. MONTGOMERY denied that she was in the process of being evicted at the time of the fire.

6. Investigator Dorrer stated that RFD FIU investigators later interviewed Kizzie Lee. Kizzie Lee stated that on the day of the fire, her sister, MONTGOMERY, arrived at her apartment unexpectedly. Lee stated that MONTGOMERY was in the process of being evicted from her apartment and that she did live with her boyfriend Lamar DONALD. RFD FIU investigators were unable to locate DONALD to interview him concerning the fire.

7. Investigator Dorrer reported that two fire fighters were injured during suppression efforts at this fire scene.

8. Investigator Dorrer stated that, as is typical at many serious fire scenes, the American Red Cross responded to the fire scene to offer emergency assistance to the victims of the fire. This assistance may include housing and funds to replace clothing and other essential personal items.

9. Investigator Dorrer further reported that on October 14, 2009, RFD responded to 466 Driving Park Avenue, Rochester, New York, for a fire inside an occupied rental residence. The fire was suppressed by responding RFD units, but caused serious damage to the interior and exterior of the structure. At the time of the fire, the tenants of the apartment, Lamar DONALD and Jeanetta JOHNSON, were not at home. As part of RFD's response, members of the RFD FIU also traveled to the fire scene. Based on a systematic investigation of the fire scene and witness interviews, RFD FIU investigators concluded that the fire was incendiary (intentionally set) and that the fire's area of origin was on the couch inside the apartment.

10. Investigator Dorrer reported that, at some point during the incident, DONALD and JOHNSON arrived at the fire scene. Investigator Dorrer explained that DONALD and JOHNSON were interviewed by RFD FIU investigators and stated that they had just recently moved into the apartment. According to Investigator Dorrer, DONALD and JOHNSON denied any knowledge of how the fire started. DONALD and JOHNSON further stated to investigators that they had left their apartment just prior to the fire and had walked to a nearby grocery store to purchase a cigarette.

11. Investigator Dorrer stated that the American Red Cross (ARC) responded to the fire scene to offer emergency assistance to the victims of the fire.

12. On November 10, 2009, your affiant, along with Rochester Police Department (RPD) Investigator John Muller and Monroe County Assistant District Attorney Pat Farrell, interviewed a Confidential Informant (CI) at the Monroe County District Attorney's Office, Rochester, New York.

13. The CI stated that he/she has known Jeanetta JOHNSON and her boyfriend "Trey" (later identified as Lamar DONALD) for a while. The CI stated that JOHNSON and DONALD were living together at 466 Driving Park Avenue when the fire occurred there. The CI explained that he/she learned of the fire on October 14, 2009, and went to the scene while the fire department was still there.

14. The CI stated that when he/she got to the scene, he/she met JOHNSON and DONALD there. The CI stated that he/she, DONALD, and JOHNSON got into a van being operated by Asia HUNTER (also known as Asia WIMBUSH). Asia HUNTER was also present in the van at that time. While in the van, JOHNSON and DONALD admitted that they deliberately set fire to the couch inside 466 Driving Park Avenue in order to fraudulently obtain funds from Red Cross and

to obtain new housing from Rochester Department of Social Services (DSS). JOHNSON and DONALD stated that they stayed inside the apartment for a while, allowing the fire to grow. They then left the apartment and walked to the corner store while the fire was still growing inside the couch. The CI stated that during this conversation, HUNTER asked DONALD and JOHNSON to allow her to falsely claim to the American Red Cross that she (HUNTER) was living with them. This was so that HUNTER could also obtain monies and assistance from the American Red Cross. DONALD and JOHNSON said they would allow her to do so.

15. The CI stated that several days prior to the fire, he/she had overheard DONALD and JOHNSON discussing the scheme to intentionally set fire to the apartment in order to fraudulently obtain funds from the ARC and to obtain new housing from Rochester DSS.

16. The CI further stated that, in the past (perhaps approximately September 2009), DONALD admitted to him/her that he had intentionally set a fire in a couch in an apartment located on the 600 block of Dewey Avenue. The CI stated that DONALD admitted to lighting a shirt on fire and throwing it on the couch to set the apartment on fire. He then waited inside the apartment until the fire grew to a substantial size. DONALD did this in concert with his girlfriend at the time (identity unknown

by the CI), and that they did this in order to fraudulently obtain funds from the ARC and to obtain new housing from Rochester DSS. The CI explained that this conversation took place at his/her sister's residence and also present were Tyshawn Simmons, Danielle Mull, and JOHNSON.

17. The CI stated that DONALD told him/her during this conversation that he does not use "accelerants" while setting these fires because it will allow for investigators to more easily determine that the fire was an incendiary fire.

18. The CI reported that he/she has, in the past, spoken with DONALD concerning his willingness to be hired to set fire to the CI's house in order to commit the same fraudulent scheme. The CI reported that DONALD expressed his willingness to do so as long as he was paid for it.

19. During the interview, Investigator Muller showed the CI a photographic line-up containing several photographs, including that of Lamar DONALD. The CI pointed to the picture of Lamar DONALD and identified him as the person he/she knew as "Trey" and who lived with Jeanetta JOHNSON at 466 Driving Park Avenue.

20. On November 13, 2009, your affiant and Investigator Dorrer met with the Confidential Informant (CI) on Orchard

Street, Rochester, New York, and received further information concerning Jeanetta JOHNSON and Lamar DONALD. The CI reported that both JOHNSON and DONALD had stayed the night at his/her residence the previous evening and that all three of them had held discussions concerning one of the CI's relatives paying DONALD and JOHNSON to set fire to her house in order to obtain insurance proceeds. The CI reported that JOHNSON was still at the apartment, but that DONALD had left with a large bag of Crack Cocaine in an attempt to sell it. The CI reported that DONALD would return to the apartment later in the day. The CI was then provided with an electronic recording device and instructed to record further conversations with JOHNSON and DONALD.

21. Shortly after meeting with the investigators, that same day, the CI contacted your affiant via telephone. The CI acted as if your affiant was his/her relative and began discussing what he/she had planned with JOHNSON. Your affiant asked several questions regarding the arson-for-hire scheme that the CI relayed to JOHNSON. These questions included how to pay for the act and the amount of money she and DONALD wanted. Your affiant could hear JOHNSON's replies at that time. Your affiant then instructed the CI to meet the investigators at a pre-determined location to return the electronic recording device.

22. Later that same day, the CI met the investigators again on Orchard Street and provided them with the electronic recording device. The CI reported that DONALD would be returning to the apartment later that day.

23. Your affiant and Investigator Dorrer reviewed the recording and, on it, JOHNSON is recorded making statements about how she and DONALD committed the incendiary fire on Driving Park Avenue. JOHNSON stated that she and DONALD took down the smoke detectors in the apartment, and that DONALD lit a paper plate and threw it on the couch inside the apartment. JOHNSON stated that the fire grew as soon as they left the apartment. JOHNSON said that she heard the responding fire trucks as she and DONALD walked to the store. JOHNSON said that the fire department responded too quickly to the fire.

24. JOHNSON further stated that DONALD threw a lit shirt on a couch inside the apartment on Dewey Avenue. JOHNSON said she was not at that fire, but knows that DONALD has set three fires.

25. JOHNSON described how she could help broker the arson-for-hire scheme among her, DONALD, and the CI's relative. JOHNSON stated that she could take the initial payment for the arson-for-hire and provide it to "Trey" (Lamar DONALD). JOHNSON said that she got the ARC money that same day and offered advice

on how to fraudulently claim additional persons living at the apartment.

26. JOHNSON also said that Asia (HUNTER) attempted to claim to the American Red Cross that she was living at 466 Driving Park Avenue, Rochester, New York, and that she wanted to obtain financial assistance from them. JOHNSON stated that Asia (HUNTER) was denied assistance by the ARC and that it caused the ARC to review JOHNSON's assistance package. JOHNSON stated that she withdrew most of the money authorized by ARC before the meeting so that the ARC could not cut off her assistance.

27. On November 13, 2009, your affiant Investigator Dorrer met with the CI a second time on Orchard Street, Rochester, New York. The CI reported that both JOHNSON and DONALD were now at the apartment and wanting to discuss the arson-for-hire scheme.

28. The CI was provided with an electronic recording device and instructed to record further conversations with JOHNSON and DONALD. Shortly after meeting with the investigators, that same day, the CI contacted your affiant. The CI acted as if your affiant was his/her relative and began discussing what he/she had planned with DONALD and JOHNSON. Your affiant asked several questions regarding the arson-for-hire scheme that the CI relayed to DONALD. Your affiant could hear some of DONALD's replies at

this time. These questions included how to pay for the arson, the amount of money JOHNSON and DONALD wanted, and how to set up the "target location" for the arson. During the conversation, it is clear that DONALD and JOHNSON are agreeing to commit the arson for a pre-payment of \$500, and then a payment of \$2,000 following the pay-out of insurance proceeds. Your affiant then instructed the CI to meet the investigators at a pre-determined location to drop off the electronic recording device. Later that day, the CI met the investigators again on Orchard Street and provided them with the electronic recording device.

29. Your affiant and Investigator Dorrer returned to the Public Safety Building, 185 Exchange Street, Rochester, New York, and reviewed the recording. DONALD and JOHNSON are recorded making statements about how and where they committed the incendiary fire on Driving Park Avenue (on the couch using a paper plate), the incendiary fire on Dewey Avenue, how to fraudulently obtain funds from the ARC after a fire, and how to set up the arson-for-hire scheme among JOHNSON, DONALD, and the CI's relative.

30. DONALD further is heard on the recording to say that he used a paper plate to light the fire in the apartment in Driving Park Avenue because he did not have a lighter. DONALD admitted that he did something different for the fire at Dewey

Avenue. DONALD admitted that Asia HUNTER attempted to fraudulently claim ARC assistance from the Driving Park Avenue fire.

31. On November 16, 2009, your affiant and Investigator Dorrer met with the CI and showed him/her two photographic line-ups. Your affiant and Investigator Dorrer asked the CI whether he/she recognized anyone in the two photographic line-ups. The CI examined the first line-up and stated that the photograph labeled "4" (that of Lamar DONALD) was that of the individual he/she knew as "Trey". The CI then circled the photograph and placed his/her initials adjacent to it.

32. The CI then examined the second line-up and stated that the photograph labeled "6" (that of Asia HUNTER) was that of the individual he/she knew as Asia HUNTER. The CI then circled the photograph and placed his/her initials adjacent to it.

33. On November 12, 2009, your affiant and Investigator Dorrer met with Majorie Beldue, Assistant Director, Disaster and Emergency Services, American Red Cross, at her office, 50 Prince Street, Rochester, New York, and received information concerning an incendiary fire at 466 Driving Park Avenue, Rochester, New York, on October 14, 2009. Beldue provided the investigators with copies of various ARC documentation detailing the services

the ARC provided to Jeneatta JOHNSON and Lamar DONALD after the fire in their apartment on October 14, 2009. On a document entitled "Disaster Registration and Case Record", ARC volunteers, based on information supplied by JOHNSON and DONALD, noted that JOHNSON, DONALD and four children were the residents of 466 Driving Park Avenue. They provided an explanation to the ARC volunteers that they went for a walk and came back to the apartment to find it on fire. They further claimed that they left incense burning while they were gone on their walk. Various forms provided were signed by JOHNSON, and in one instance, DONALD.

34. Beldue stated that both JOHNSON and DONALD claimed to live at the location, in addition to four children. She explained that ARC provides a \$130 allowance per resident, in order to provide emergency assistance. She stated that these funds are to be used to purchase clothing and other essentials. Beldue stated that she provided a total of \$780 of ARC funds to JOHNSON and that it was provided to her in the form of an ATM card that could be used at a store or to withdraw cash from a bank machine. Beldue stated that the card was issued by Chase bank and paid out of a local Rochester bank account.

35. Beldue stated that on October 14, 2009, JOHNSON came to her office on Prince Street (following the fire) with another female who identified herself as Asia HUNTER. Beldue stated that JOHNSON and HUNTER attempted to claim that HUNTER lived at 466 Driving Park Avenue, and that HUNTER was in need of financial assistance from the ARC. Beldue stated that she denied any assistance to HUNTER because HUNTER could not provide any proof that she lived at 466 Driving Park Avenue. Beldue stated that both JOHNSON and HUNTER were upset with her decision.

36. Beldue stated that she has the capability to check the use of an issued ATM card, Beldue stated that JOHNSON had withdrawn all but \$16.00 from her \$780.00 allowance before arriving at the ARC with Asia HUNTER.

37. On November 16, 2009, your affiant and Investigator Dorrer again met with Beldue at her office. Beldue examined a photographic line-up bearing a photograph of Asia HUNTER and asked if he/she recognized anyone. Beldue pointed to the photograph labeled "6" (that of Asia HUNTER) and stated that he/she recognized that photograph as being that of Asia HUNTER.

38. Beldue provided your affiant and Investigator Dorrer with ARC records for any assistance for fire at 602 Dewey Av.

that occurred on June 12, 2009. The ARC records show that the tenant of the apartment, Rashanda Montgomery, received \$485 in emergency funds, and \$195 in lodging cost. The records further show that \$484 was removed via ATM card from June 12-16, 2009, leaving a balance of \$1 in the account.

39. On November 17, 2009, your affiant interviewed Patricia Dais, via telephone, concerning the fire at 602 Dewey Avenue. Dais explained that in June 2009, she owned the building that incorporated 600, 602, and 604 Dewey Avenue, Rochester, New York. Dais said that the building housed five rental apartments, and that she had owned it since February 2006. Dais stated that she always used the building as a rental property, and that her primary residence is in Stroudsburg, Pennsylvania. Dais stated that she used to receive approximately \$2,200 per month in rental income from the property, and that the rental checks were mailed to her in Pennsylvania. Dais stated that she only had \$45,000 worth of insurance on the building, and that her insurance company estimated the damages due to the fire to exceed \$200,000. Dais stated that she does not own the building any longer, and that she sold it approximately one month following the fire.

40. Dais stated that the tenant of 602 Dewey Avenue, Rashanda Montgomery, had allowed drug dealers to stay at her

apartment, and that she (Dais) had been receiving complaints regarding their activities. Dais explained that she had given Montgomery notice to move out and had ordered her to do so by the end of June 2009.

41. On November 18, 2009, your affiant interviewed Kathy Lu, via telephone, concerning the fire at 466 Driving Park Avenue, Rochester, New York, on October 14, 2009. Lu explained that in October 2009, she owned the building that incorporated two rental units at 466 Driving Park Avenue, Rochester, New York. Lu said that the building housed two rental apartments, and that she had owned it for approximately five years. Lu stated that she always used the building as a rental property, and that her primary residence is in Rochester, New York. Lu stated that if both apartments were occupied, she was to have received \$1,300 per month in rental income from the property. Interference with this property thus affects, interstate commerce.

42. Lu explained that on October 14, 2009, Jeanetta JOHNSON, the tenant, called her and asked for money. According to Lu, JOHNSON claimed that her sister's belongings were also in the house (because her sister was in the process of moving in) and were destroyed by the fire. JOHNSON wanted compensation for her sister's items allegedly destroyed by the fire. Lu stated


that she refused to give JOHNSON any money. Lu stated that she could not recall what name JOHNSON gave her for the sister.

43. Lu reported that on the day of the fire, the house at 466 Driving Park Avenue was to have been inspected by City of Rochester inspectors. This was scheduled for 2:00 p.m. (the fire was reported at approximately 9:23 a.m.) Lu stated that she spent over \$100 at Home Depot purchasing new smoke detectors to put in the property for the inspection. Lu stated that at the time of the fire, the new smoke detectors had been installed and that they were functioning.

44. Lu stated that sometime prior to the fire, she was at the property and had met an individual who claimed to be Jeanetta JOHNSON's boyfriend. Lu stated that Lamar DONALD gave her his name and his cellular telephone number (585-458-5564), and told her that he was living with JOHNSON in order to help raise her children. Lu stated that she wrote down DONALD's name and telephone number.

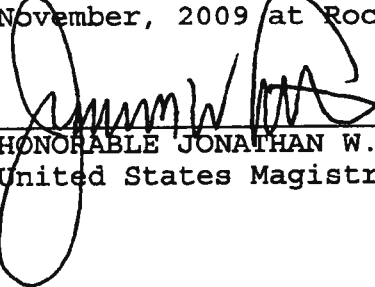
45. Based on the above information, I submit there is probable cause to believe that on June 12, 2009, in the City of Rochester, County of Monroe, New York, Western Judicial District of New York, Lamar DONALD was in violation of Title 18 U.S.C.

Section 844(i) (Damage or Destruction of Property Affecting Interstate Commerce). In addition, on October 14, 2009, in the City of Rochester, County of Monroe, New York, Western Judicial District of New York, Lamar DONALD and Jeanetta JOHNSON were in violation of Title 18, United States Code, Section 844(i) (Damage or Destruction of Property Affecting Interstate Commerce).



M. Dixon Robin
Special Agent
Bureau of Alcohol, Tobacco,
Firearms, and Explosives

Sworn to and subscribed to
before me this 18 day of
November, 2009 at Rochester, NY.



HONORABLE JONATHAN W. FELDMAN
United States Magistrate Judge