

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America)

v.)

Brandon Fleury,)

Case No.)

19-8026-SNOW)

Defendant(s)

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(s) of December 25, 2018 - January 11, 2019 in the county of Broward in the Southern District of Florida, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. 875(c)	Transmitting in interstate commerce a communication containing a threat to kidnap a person;
18 U.S.C. 2261A(2)(B)	With the intent to harass and intimidate another person, using an interactive computer service and electronic communication system of interstate commerce to engage in a course of conduct that caused, attempted to cause, or would be reasonably expected to cause substantial emotional distress to that person.

This criminal complaint is based on these facts:

See attached Affidavit.

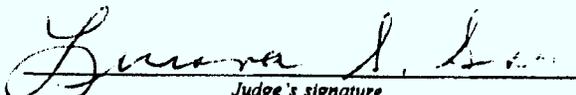
Continued on the attached sheet.


Complainant's signature

Cameron McDowell, Special Agent, FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: 1/18/19


Judge's signature

City and state: Fort Lauderdale, Florida

Lurana S. Snow, United States Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Cameron McDowell, being duly sworn, declare and state as follows:

I. INTRODUCTION

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), currently assigned to the Violent Crimes and Fugitive Task Force of the FBI's Miami Division. My duties involve the investigation of a variety of federal offenses, including bank robberies, Hobbs Act robberies, extortion, interstate threats and other violations of federal law. I was hired by the FBI in May of 2017 and have been assigned to the Miami Division since October 2017.

II. PURPOSE OF AFFIDAVIT

2. This Affidavit is submitted in support of a criminal complaint charging BRANDON FLEURY (FLEURY) with violations of Title 18, United States Code, Sections 875(c) (threats in interstate communications) and 2261A(2)(B) (cyberstalking). Based on the facts set forth below, I respectfully submit that there is probable cause to believe that, on or about December 25, 2018, FLEURY did transmit in interstate commerce a communication containing a threat to kidnap a person, in violation of Title 18, United States Code, Section 875(c). I also submit that there is probable cause to believe that, between on or about December 22, 2018, and January 11, 2019, FLEURY did, with the intent to harass and intimidate another person, use an interactive computer service and electronic communication system of interstate commerce to engage in a course of conduct that caused, attempted to cause, or would be reasonably expected to cause substantial emotional distress to that person, in violation of Title 18, United States Code, Section 2261A(2)(B).

3. The statements contained in this Affidavit are based on my personal knowledge, as well as information relayed to me by other law enforcement officials in this investigation. I have not included in this Affidavit each and every fact known to me. Rather, I have included only the facts that are necessary to establish probable cause.

III. SUMMARY OF PROBABLE CAUSE

4. Between on or about December 22, 2018, and January 11, 2019, FLEURY made a series of threatening and harassing posts through the social media application Instagram.¹ These messages all “mentioned” Instagram accounts used by relatives and friends of students who were killed in the mass shooting at Marjory Stoneman Douglas High School (MSD), in Parkland, Florida, on February 14, 2018 (“the MSD shooting”).² Because the posts “mentioned” the Instagram accounts of these relatives and friends, they received notifications, including the contents of the messages, when they accessed their Instagram accounts. One post threatened to kidnap the message recipients, while others sought to harass the recipients by repeatedly taunting the relatives and friends of the MSD victims, cheering the deaths of their loved ones and, among other things, asking them to cry.

5. While the posts were made through several different Instagram accounts and usernames, records for at least five of the accounts³ show that they were all using the same IP address, which was assigned to an address in Santa Ana, California (the Santa Ana address) at the time of relevant posts. FLEURY resides at the Santa Ana address with his father and brother.

¹Instagram owns and operates a free-access social-networking website of the same name that can be accessed at <http://www.instagram.com>. Users can access Instagram through the Instagram website or by using a special electronic application (“app”) created by the company that allows users to access the service through an electronic mobile device. Upon creating an Instagram account, an Instagram user must create a unique Instagram username and an account password. Instagram allows its users to create their own profile pages, post photos, post comments on other users’ photos, and send direct messages to other Instagram users.

² According to Instagram’s website, one Instagram user can “mention” another Instagram user in a comment or post by typing the “@” symbol, followed immediately by the other user’s username. When one user “mentions” another, the “mentioned” user receives a notification in their Activity feed, which will show the comment or post. *See* [https://help.instagram.com/627963287377328/?helpref=hc_fnav&bc\[0\]=368390626577968&bc\[1\]=898918476885209&bc\[2\]=1771676186445020](https://help.instagram.com/627963287377328/?helpref=hc_fnav&bc[0]=368390626577968&bc[1]=898918476885209&bc[2]=1771676186445020) (last accessed January 10, 2019).

³ The similar substance of the relevant posts, including repeated use of the same language and emojis, indicates that the posts came from the same individual, regardless of the fact that he is using multiple different Instagram accounts and usernames. Because Fleury continually changed accounts and usernames, the government has not yet obtained IP address records for every account and username described herein. However, all of the accounts for which the government has obtained records have reflected the same IP address.

6. FBI agents and other law enforcement officers obtained and executed a search warrant on the Santa Ana address. During execution of the search warrant, the executing officers identified FLEURY as the subject who made the online threats. FLEURY provided a post-*Miranda* statement admitting to creating at least some of the Instagram profiles and posting the messages in an attempt to taunt or “troll” the victims and gain popularity. FLEURY admitted to targeting family members who were “activists” who had a large social media presence. FLEURY admitted to creating multiple Instagram profiles because he knew his comments would result in the profiles being reported to, and removed by, Instagram.

IV. STATEMENT OF PROBABLE CAUSE

A. Friends and Family of the MSD Shooting Receive Harassing and Threatening Messages in December 2018 and January 2019

9. Between December 22, 2018 and up to January 11, 2019, friends and family of the MSD shooting received harassing and threatening messages (via posts in which they were “mentioned”) on Instagram from various Instagram handles. Those Instagram messages traced back to the same IP address.

December 22, 2018 Messages

10. On or about December 22, 2018, several individuals, who are siblings, friends, and parents of victims of the MSD shooting, filed a harassment and threatening communication report with the Broward County Sheriff’s Office (BSO), in Broward County, Florida. Among the reporting individuals were “JG,” “FG,” and “LS,” the brother, father, and best friend, respectively, of “Jamie,” who was killed in the MSD shooting. Another of the reporting individuals was “MS,” the father of another student killed in the shooting.

The reporting individuals showed BSO screenshots of message notifications they had received on Instagram. The notifications showed posts made by other Instagram accounts that had “mentioned” the Instagram accounts of JG, LS, MS, and others, as well as another Instagram username that contained the name of (but did not actually belong to) FG. As described below,

the reporting individuals continued to receive similar notifications at least up to and through January 11, 2019, screenshots of which they similarly provided to law enforcement.

11. On or about December 22, 2018, from approximately 3:00 a.m. - 4:11 a.m. (EST) the victims were mentioned in posts made by Instagram username “nikolas.killed.your.sister.” Notably, Nikolas Cruz is the name of the admitted perpetrator of the MSD shooting; he is currently in law enforcement custody in Broward County, Florida. The posts from “nikolas.killed.your.sister” that “mentioned” JG included the following messages (among others) in quick succession:

- a. “I killed your loved ones hahaha”
 - b. “Cry for me”
 - c. “Your grief is my joy”
 - d. “With the power of my AR-15, I erased their existence.” This message was followed by smiling, applause, and handgun emojis.⁴
 - e. “I gave them no mercy”
 - f. “They had their whole lives ahead of them and I fucking stole it from them.” This message was followed by three “crying while laughing” emojis and the words “hahaha.”
 - g. “I took Jaime away from you.” This message was followed by a string of “blowing a kiss” emojis.
 - h. “I took Jaime away from you. You’ll never see her again hahaha.”
 - i. “I took a shit on your sister’s grave.” This message was followed by a “crying while laughing” emoji, an applause emoji, and three “poop” emojis.
12. Other posts by “nikolas.killed.your.sister” that were directed at LS included:
- a. “I killed your friends, baby girl”
 - b. “I’m a murderer”

⁴ Emojis are small pictures or symbols used in text messaging or posts on social media to convey emotions or represent things or ideas.

c. “Did you like my Valentines gift? I killed your friends.”

13. JG’s Instagram account also received a direct message from “nikolas.killed.your.sister,” which read: “I killed your sister. It was fun[.] She had her whole life ahead of her and I fucking stole it from her. Hahaha[.] Wanna beat my ass? Come on, [JG’s first name]. How fucking bad do you wanna beat the shit out of me? Want me to get the death penalty?”

14. According to records provided by Instagram in response to a subpoena, the person using the account with username “nikolas.killed.your.sister” provided Instagram with the name “Nikolas Jacob Cruz” and an email address of nikolastheshooter@gmail.com. The records also show that, at the time of the posts described above, on December 22, 2018, the account was accessed from IP address 68.5.103.67 (“the 67 IP address”).

15. During his post-*Miranda* statement on January 16, 2019, FLEURY admitted to using the “nikolas.killed.your.sister” Instagram username.

December 24, 2018 Messages

16. On or about December 24, 2018, from approximately 9:40 p.m.-9:50 p.m. (EST), JG and LS were “mentioned” in Instagram posts by another Instagram username, “bullseyetauntsyou_.” The posts included:

a. “Yoo-hoo! Nikolas took Jaime away from you so cry for me plz.” This message was followed by smiling face and applause emojis.

b. “You’ll never see Jaime again, little orphan. Nikolas took her from you.”

17. During his post-*Miranda* statement, FLEURY admitted to using nicknames that included the name “bullseye,” a reference to a movie villain.

18. Also on December 24, 2018, from approximately 9:45 p.m. - 11:13 p.m. (EST), JG and LS were “mentioned” in posts made by another Instagram username “angie.and.lola.” The posts included the following messages (among others) within the span of approximately 20 minutes:

a. “How’s Jamie, hun?”

- b. “Dead huh?”
- c. “Nikolas took your loved ones away from you, doll”
- d. “Nikolas stole Jaime’s future, boo”
- e. “Eat the poop for Jaime hun” (followed by four “poop” emojis).
- f. “Eat the poop for Jaime” (followed by several “poop” emojis).
- g. “Eat some poop for Jaime this holiday season” (followed by several poop emojis).

19. The name associated with the “angie.and.lola” account in Instagram’s records is “Angie & Lola.” Those records also show that the account was opened with, and used, the 67 IP address.

20. Continuing on or about December 24, 2018, from approximately 10:00 p.m. - 10:05 p.m. (EST), JG and LS continued receiving notifications of additional messages posted by Instagram name “nik.taunts_.” The posts included the following (among others):

- a. “I killed Jaime, fool.” This message was followed by “crying while laughing,” smiling, and handgun emojis.
- b. “I stole your sister’s future, buddy, With the power of my AR-15” (followed by smiling, handgun, and applause emojis).
- c. “I killed Jaime hahaha” and
- d. “I’m her murderer.”

21. According to records subpoenaed from Instagram, the name associated with the “nik.taunts_” account in Instagram’s records is “Nikolas.” However, those records show that, at the time of the messages described above, the account was being accessed by the 67 IP address.

December 25, 2018 Messages

22. On or about December 25, 2018, from approximately 7:59 p.m. - 8:02 p.m. (EST), JG and LS were mentioned in more posts from Instagram username “teddykillspeople.” These posts included:

a. “I’m your abductor [smile and applauding emojis] I’m kidnapping you fool” (followed by two emojis showing a lock, as well as applauding and “blowing a kiss” emojis).

b. “I killed Janice Ott and Denise Naslund.”

23. Notably, Janice Ott and Denise Naslund were abducted and murdered by serial killer Ted Bundy in 1974. Although FLEURY initially stated he did not recall using the “teddykillspeople” username, during his interview he admitted to having a strong interest in Ted Bundy and having researched him.

24. Continuing on or about December 25, 2018 from approximately 9:21 p.m. - 9:23 p.m., JG and LS were “mentioned” in Instagram posts from username “tedtheabductor.” The posts included:

a. “Nikolas murdered your friends and teachers but guess what? I murdered Janice Ott and Denise Naslund.”

b. “I kidnapped them and killed them both on July 14, 1974.”

25. Based on the threat to kidnap in the posts from “teddykillspeople,” Instagram voluntarily provided the IP address used by that account on an emergency basis to law enforcement. Instagram identified the 67 IP address as the IP address used by that account at the time of the threats.

December 31, 2018 Messages

26. On or about December 31, 2018, at approximately 12:37 a.m. (EST) JG was mentioned in posts by Instagram username “nikolasthemurderer.” The posts included:

a. “I took away Jaime’s future”; and

b. “Little [AS] will never play music again.” This message was followed by smiling, applauding, and handgun emojis. This message also mentioned “MS,” whose son, “AS,” was also killed in the MSD shooting.

January 9, 2019 Messages

27. On or about January 9, 2019, between approximately 12:00 - 2:00 a.m. (EST), JG, LS, and others were “mentioned” in additional posts by the “nik.taunts_” username and Instagram username “bullseyeteaseshisvictims.” The posts included:

- a. “WHOO!! I killed Jaime and Scott Beigel hehehaha”
- b. “I shoot through the window”
- c. “with my AR-15”
- d. “Hey orphan”
- e. “Nikolas took Scott away from you and his family” and
- f. “hey you! I killed Scott Beigel! Hahaha!” “Hey orphan.”⁵

28. Continuing on or about January 9, 2019, between approximately 8:13 p.m. and 9:00 p.m., JG and others were mentioned in posts by Instagram username “the.douglas.shooter.”

The posts included (among others):

- a. “I killed Scott Beigel I shot him dead”
- b. “I enjoyed it too”
- c. “With the power of my AR-15, you all die”
- d. “I’m a murderer. It’s what I do, fool”
- e. “I’m a murderer. Hahahaha!”
- f. “I killed Scott! Hahaha! With the power of my AR-15” and
- g. “I’m a homicidal outrage, mother***ers!”

January 10 – 11, 2019 Messages

29. On or about January 10, 2019, JG and others were mentioned in additional posts by the “nikolas.the.murderer_” username.

⁵ Scott Beigel was a teacher killed during the MSD shooting. When asked during his interview if he could name some of the MSD shooting victims, FLEURY first named Scott Beigel.

30. On or about January 11, 2019, from approximately 5:58 a.m. – 6:23 a.m. (EST), JG and others were mentioned in posts from Instagram username “dani.dont.give.two.fucks.” These posts included (among others):

- a. “Nikolas killed your loved ones huh?”
- b. “Nikolas killed Scott Beigel in cold blood.” This message was followed by three “crying while laughing” emojis.
- c. “Hehehaha! Mr. Beigel is dead!” and
- d. “I taunt you.”

31. Continuing on or about January 11, 2019, from approximately 6:26 a.m. – 6:29 a.m. (EST), JS and others were mentioned in posts from Instagram username “bullseye.taunts.and.teases.” These posts included (among others):

- a. “Hahaha, hey orphan!”
- b. “Come at me little orphan! I killed your father!” and
- c. “Yoo-hoo!! Orphan! Let’s play!”

32. Continuing on or about January 11, 2019, between approximately 5:58 a.m. and 6:23 a.m. (EST), JG and others were mentioned in additional posts from Instagram username the.douglas.shooter. These included (among others):

- a. “With the power of my AR-15, I take your loved ones away from you PERMANENTLY” and
- b. “Hahaha! I’m the Douglas shooter! SCREAM!!”

33. As a result of the threat of murder, Instagram voluntarily identified the IP address related to username “the.douglas.schooter” to law enforcement. The IP address used by this username was the 67 IP address.

34. On or about January 4, 2019, Detective Mealer of BSO and I interviewed JG, FG, LS, and MS. These individuals advised they received notifications via Instagram of the posts in which they were mentioned described above. All the victims viewed the posts and acknowledged they caused emotional distress. Specifically, the post made on December 25,

2018, by “teddykillspeople,” which stated “I’m your abductor I’m kidnapping you fool” placed JG, FG, LS, and MS in fear. On or about January 10, 2019, the Affiant spoke again with FG, who indicated that both he and JG remain in fear from the kidnapping threat and are afraid to respond to the repeated messages.

B. The IP Addresses Associated with the Harassing Instagram Posts Traces Back to the Santa Ana Address

35. A query of the 67 IP address revealed it was serviced by Cox Communications. Cox Communications informed law enforcement that this IP address was assigned to the subscriber account of Patrick Fleury (father of Brandon FLEURY), located at the Santa Ana address, from October 8, 2017, through December 27, 2018.⁶ According to queries of the law enforcement database CLEAR, the Santa Ana address is associated with FLEURY, his father, and his brother.

36. Law enforcement also conducted a check of the Wi-Fi signals accessible from the street outside the Santa Ana address. Four different Wi-Fi connections appeared. Law enforcement attempted to access all four Wi-Fi connections but discovered they were all password-protected and inaccessible without the password. Based on my training and experience, the fact that the Santa Ana address’s Wi-Fi is not public means that it is unlikely that an individual not living in the address would have the 67 IP address.

C. Execution of the Search Warrant

37. On January 11, 2018, U.S. Magistrate Judge Edward Infante, of the Central District of California, signed a Search Warrant for the Santa Ana address, under Case Number 8:18-MJ-00022.

38. On January 16, 2018, at approximately 6:00 a.m. (PST), FBI agents and other law enforcement officers executed the Search Warrant at the Santa Ana address. Upon execution, they found FLEURY, his father, and his brother in the home. FLEURY made spontaneous

⁶ Law enforcement requested this information prior to the posts made on December 31, 2018 and January 9-11, 2019. A request to Cox for information on the assignment of the 67 IP address on these later dates is currently pending.

statements to the effect that the agents were there because of “some stupid shit” he had done on the Internet.

39. Based on these statements and subsequent statements during his post-*Miranda* interview, law enforcement identified FLEURY as the subject who made the online threats. FLEURY admitted to creating multiple Instagram profiles, including using variations on nikolastheshooter and nikolas, the.douglas.shooter, and bullseye. FLEURY described his “fascination” with Nikolas Cruz, other mass shooters, Ted Bundy, and other serial killers. He further admitted to posting the messages in an attempt to “troll” the victims, trying to “get reactions” from people and be controversial. FLEURY stated he was motivated by gaining popularity and notoriety after posting the messages. FLEURY admitted to targeting shooting victim’s family members who were “activists” and who had large who had large social media presences. FLEURY admitted to creating multiple Instagram profiles because he knew his comments would result in the profiles being reported and removed. FLEURY did not show remorse for posting the comments but explained he would not follow through on the threats he communicated. He claimed that his messages were not threats, but were “more like taunts.” However, when asked whether he could see why a messages like “I am your abductor” and “I am kidnapping you, fool” would feel threatening to the message recipients, FLEURY responded, “I guess so.” He also explained that he established multiple Instagram accounts, anticipating that Instagram would shut down at least some of those accounts based on complaints about his messages.

40. FLEURY further admitted to using his tablet to author the taunting messages. The tablet was collected as evidence.⁷

V. CONCLUSION

41. Based on the foregoing facts, I respectfully submit that there is probable cause to believe that, on or about December 25, 2018, FLEURY did transmit in interstate commerce a

⁷ A search of this tablet, and other electronic devices found in the Santa Ana address, pursuant to the search warrant, is ongoing.

communication containing a threat to kidnap a person, in violation of Title 18, United States Code, Section 875(c). I also submit that there is probable cause to believe that, between on or about December 22, 2018, and January 11, 2019, FLEURY did, with the intent to harass and intimidate another person, use an interactive computer service and electronic communication system of interstate commerce to engage in a course of conduct that caused, attempted to cause, or would be reasonably expected to cause substantial emotional distress to that person, in violation of Title 18, United States Code, Section 2261A(2)(B).


Cameron McDowell
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before me
this 18 day of January, 2019.


LURANA S. SNOW
UNITED STATES MAGISTRATE JUDGE