

SEARCH WARRANT ON WRITTEN AFFIDAVIT

United States District Court UNITED STATES OF AMERICA v. One green duffel bag	DISTRICT	
	DOCKET NO.	MAGISTRATE'S CASE NO.
TO:		

Affidavit(s) having been made before me by the below-named affiant that he/she has reason to believe that (on the person of) (on the premises known as) _____

in the Northern District of California there is now being concealed certain property, namely

Personal effects and belongings of Thomas A. Shay (DOB 11-3-71) including: address book, identification, letters, photographs, coorespondance, newspaper clippings, credit cards, monatory instruments, travel documents.

and as I am satisfied that there is probable cause to believe that the property so described is being concealed on the person or premises above-described and the grounds for application for issuance of the search warrant exist as stated in the supporting affidavit(s).

YOU ARE HEREBY COMMANDED to search on or before 4-3-92 (not to exceed 10 days) the person or place named above for the property specified, serving this warrant and making the search (in the daytime — 6:00 A.M. to 10:00 P.M.) (at any time in the day or night)* and if the property be found there to seize it, leaving a copy of this warrant and receipt for the property taken, and prepare a written inventory of the property seized and promptly return this warrant to _____ as required by law. U.S. Judge or Magistrate

NAME OF AFFIANT Dennis P. Leahy	SIGNATURE OF JUDGE OR US MAGISTRATE <i>Wayne D. Boyd</i>	DATE/TIME ISSUED 3/26/92 10:00
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*If a search is to be authorized "at any time in the day or night" pursuant to Federal Rules of Criminal Procedure Rule 41(c), show reasonable cause therefor.

AFFIDAVIT

DENNIS P. LEAHY, being duly sworn do here by depose and state;

1. I am a Special Agent with the Bureau of ATF, Boston Field Division, and have been so employed for approximately 16 years. I have extensive experience in the investigation and prosecution of firearms and explosives offenses. Information contained herein is from my personal knowledge and information communicated to me by other officers who have personal knowledge of these events.

2. I am presently involved in a joint federal/state investigation in the District of Massachusetts involving the death by explosive of a Boston Police Officer. One of the primary suspects in this investigation is Thomas A. Shay (DOB 11-3-71) (hereinafter "Shay").

3. On October 28, 1991, Thomas A. Shay's father, Thomas L. Shay, backed his car, which travels regularly in interstate commerce, out of the driveway of his residence dropping a bomb on the driveway. Two members of the Boston Police Bomb Squad were making a preliminary examination of the bomb when it detonated killing one officer and maiming the other. Shay has been identified as purchasing components consistent with those in the bomb. Further, on October 29, 1991, he admitted to the media knowledge of details of the bomb which were neither public nor known to the experts at the time.

4. In addition to being a subject in the above described investigation, Shay is also charged with an unrelated state offense of communicating a false bomb threat which is a felony in violation of Massachusetts law. On or about November 1, 1991, Shay was arrested in Boston, Massachusetts on an outstanding default warrant in connection with the above described charge concerning the bomb threat. This arrest took place approximately three days after an explosion occurred on the premises of Shay's father's residence which resulted in the death of a Boston Police officer.

5. While in custody shortly after his arrest, Shay admitted to two fellow inmates his involvement in the explosion. In addition, Shay informed these same two inmates that if and when he was released on bail he intended to flee from the state of Massachusetts rather than face the prospect of a murder charge and a lengthy prison term.

6. During the later part of December, 1991, Shay was released on bail on the pending charge of communicating a false bomb threat. Within a matter of weeks thereafter, Shay did in fact flee from Massachusetts. A further default warrant was issued for Shay by the Boston Municipal Court based upon his failure to comply the conditions of his release.

7. Within the last few weeks agents working on the above described murder investigation received information that Shay had fled to the San Francisco area and was living under a false name. On March 20,

1992, U. S. Magistrate Judge Joyce London Alexander issued a federal arrest warrant for Shay for the offense of unlawful flight to avoid prosecution (to wit, the underlying state bomb threat charge).

8. On Monday, March 23, 1992, during the early morning hours Shay was arrested by federal agents in San Francisco on the federal arrest warrant. At the time of his arrest Shay was found to be in possession of various forms of false identification. At the present time Shay is being held in the custody of the San Francisco Police Department awaiting rendition back to the state of Massachusetts.

9. Further investigation led federal agents to the home of Frederick Burke of 545 Sanchez Street, San Francisco. Shay had given San Francisco Police Department 545 Sanchez Street as his address when he was cited for jaywalking recently. ~~Police as Shay was cited for jaywalking recently.~~ According to Mr. Burke, he first met Shay, using the false name "James Keough", on about February 21, 1992. Mr. Burke informed us that he agreed to give Shay (who he knew as Keough) a place to stay in the basement area of his residence.

10. Mr. Burke further informed us that over the course of the past month Shay (or Keough) came and stayed at his residence only from time to time. According to Mr. Burke approximately two weeks after meeting the subject he learned that his true name was Thomas Shay, rather than James Keough. Mr. Burke went on to state that in recent weeks Shay had discussed with him (Burke) the bombing incident which, Shay relayed, occurred in Boston sometime in late October 1991.

11. Mr. Burke has informed us that on those occasions when Shay has stayed at his residence he has brought with him a duffel bag which he described as follows: Army green canvas bag, with a strap, and opening at one end use to carry numerous items. It is Mr. Burke's belief that Shay carries nearing all of his personal effects and belongings in this duffel bag. Including letters, address book, identification, and other paper work.

12. When Deputy United States Marshal Frank Armstrong and I interviewed Mr. Burke at approximately 4:00 P. M. on March 26, 1992, he told us that Shay's duffel bag was presently in the basement area of his residence. He permitted us into the residence and pointed out the same duffel bag to us. At the time of the signing of this affidavit Deputy United States Marshal Frank Armstrong continues to observe the green duffel bag with the permission of Mr. Burke.

13. Based on my experience in investigating explosive cases and cases of flight by fugitives, I believe that it is probable that contained within Shay's duffel bag is evidence of his flight from justice, any his involvement in the attempt to transport in interstate commerce an explosive with the intent to kill or injure

which is presently under investigation in Boston. Further when Shay was arrested in Boston on November 1, 1991, as described above at that time he carried a knapsack or backpack containing many of his personal effects including address book, letters, identification, newspaper clippings concerning the bombing and other items.

14. Based on the above there is probable cause to believe that contained within the above described duffel, bag located at the Fred Burke's residence, 545 Sanchez Street, San Francisco is property that constitutes evidence of the commission of a criminal offense, to wit Shay's involvement in the killing of a public safety officer by means of explosives in violation of 18 U.S. C. §§ 844 (d) (i).

Dennis P. Leahy
Bureau of Alcohol, Tobacco and Firearms

Sworn to and subscribed before me this
_____ of March 1992

UNITED STATES MAGISTRATE JUDGE

1
2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA

MAR 31 3 55 PM '92
U.S. DISTRICT COURT
NO. 3-92-195 JSB

4
5 UNITED STATES OF AMERICA)
6 Plaintiff,)
7 v.)
8 ONE GREEN DUFFLE BAG,)
9 Defendant.)
10

NO. 3-92-195 JSB
ORDER
(UNDER SEAL)

11 The United States of America, by and through the United States
12 Attorney for the Northern District of California, has moved this
13 Court for an Order sealing and impounding the application for,
14 affidavit in support of, and warrant for arrest of the above
15 property and all other related papers on the grounds that the
16 subjects mentioned in the affidavit are under investigation by the
17 grand jury in the District of Massachusetts. Finding that the
18 request is reasonable, it is

19 HEREBY ORDERED that the application for, affidavit in support
20 of, and warrant for arrest of the above property and all other
21 related papers are impounded and sealed until further order of this
22 Court.
23

24
25 March 30, 1992
26

Wayne D. Best
UNITED STATES MAGISTRATE JUDGE