

FILED

AUG 21 2009

D. Collins, Deputy Clerk

United States District Court

DISTRICT OF KANSAS

UNITED STATES OF AMERICA

V.

CASE NUMBER: 09-5082M-01-KGS

JOHN PHILIP BARKER

CRIMINAL COMPLAINT

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief:

COUNT 1

On or about August 19, 2009, in the District of Kansas, the defendant,

JOHN PHILIP BARKER,

unlawfully, knowingly, and intentionally engaged in conduct, to wit: Barker mailed a letter postmarked 8-18-2009 to David C. Smith, 500 State Avenue, Room 260, Kansas City, Kansas, 66101, with the envelope containing a white substance and a scrap of notebook paper bearing the handwritten words,

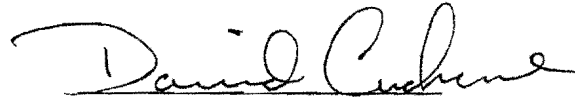
**YOU HAVE BEEN EXPOSED
TO ANTRAX
DIE**

with the intent to convey false and misleading information under circumstances

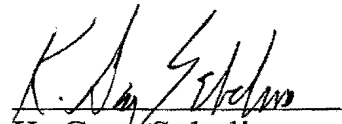
DIE

4. The white substance was tested but determined to be harmless, despite the unfortunate expenditure of time and money by the F.B.I. HazMat team that had to respond to the courthouse.
5. The spelling of ANTRAX in the letter was consistent with the spelling of "antrax" that was employed by defendant Barker in the last case where he mailed threats to the I.R.S.

Wherefore Affiant requests that a warrant issue for the arrest of John Philip Barker for a violation of 18 U.S.C. 1038.


DAVID CUDMORE
S.A., F.B.I.

Subscribed and sworn to under oath before me this 21 day of August, 2009.


K. Gary Sebelius
United States Magistrate Judge

United States District Court

DISTRICT OF KANSAS

UNITED STATES OF AMERICA

V.

CASE NUMBER: 09-5082 M-01-KGS

JOHN PHILIP BARKER

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, David Cudmore, Special Agent, Federal Bureau of Investigation, sworn upon my oath depose and state that I have received the following information from recently conducted interviews and other investigation:

1. District of Kansas Assistant United States Attorney David C. Smith offices at the Office of the United States Attorney, Federal Courthouse, 500 State Avenue, Kansas City, Kansas, a federal facility that houses numerous federal and court agencies.
2. Smith recently prosecuted John Philip Barker in case 08-20119 involving mailed anthrax threats to the IRS. This case was assigned to the Honorable John Lungstrum, who also offices in the same federal building. The sentencing in that case occurred on August, 10, 2009.
3. On August 19, 2009, the United States Post Office delivered to the consolidated mail facility at the federal courthouse a letter which bore the return address of John Barker, 100 Highway Terrace, Leavenworth, Kansas. This is the address of the Corrections Corporation of America federal prisoner holding facility. The addressee of the letter was David C. Smith, 500 State Avenue, Room 260, KCK 66101. The letter was taken to the office of the United States Attorney, where it was discovered to contain a white substance and a handwritten note on note paper, bearing the words:

**YOU HAVE BEEN EXPOSED
TO ANTRAX**

where such information may reasonably be believed, and where such information indicates that the activity has taken place, and such activity would constitute a violation of Chapter 3, Title 18, United States Code, (relating to biological weapons), all in violation of Title 18, United States Code, Section 1038.

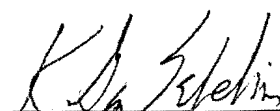
I further state that I am a Special Agent, F.B.I. and that this complaint is based on the following facts: SEE ACCOMPANYING AFFIDAVIT INCORPORATED BY REFERENCE AS THOUGH SET OUT IN FULL



David Cudmore
Special Agent, F.B.I.

Sworn to before me and subscribed in my presence 08/21/09 at Topeka, Kansas.
Date

K. GARY SEBELIUS
U.S. Magistrate Judge
Name & Title of Judicial Officer


Signature of Judicial Officer