

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

FILED ASHEVILLE, N.C.

MAY 02 2017

U.S. DISTRICT COURT W. DIST. OF N.C.

United States of America
v.
Phillip Sampson Armachain, Sr.
DOB: 08/13/1966

Case No. 1:17mjle7

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 12/04/2013 to present in the county of Jackson and Swain in the Western District of North Carolina, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Rows include Title 18 U.S.C. § 1589 (forced labor), Title 18 U.S.C. § 2243(a)(1) (sexual abuse of a minor in Indian Country), and Title 18 U.S.C. § 1153.

This criminal complaint is based on these facts:

See attached affidavit.

Continued on the attached sheet.

Signature of Andrew F. Romagnuolo, SA, FBI

Andrew F. Romagnuolo, SA, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 5/2/2017

Signature of Dennis Howell, US Magistrate Judge

Judge's signature

City and state: Asheville, NC

Dennis Howell, US Magistrate Judge

Printed name and title

Western Dist of North Carolina

AFFIDAVIT

Your affiant, Andrew F. Romagnuolo, being sworn to tell the truth, states the following:

1. Your affiant has been employed as a Special Agent with the Federal Bureau of Investigation ("FBI") since December 7, 1997. Beginning April, 1998, to the present, your affiant has been assigned to the FBI's Charlotte Division; Asheville Resident Agency with the assignment of investigating a variety of criminal violations including white collar crime and public corruption. Your affiant has been involved in numerous Indian Country, violent crime, white collar and public corruption investigations with evidence maintained both physically, in the form of business records and electronically on computers, cellular telephones, digital media and other digital storage equipment.
2. Your affiant is authorized to investigate violations of laws of the United States, and is a law enforcement officer with authority to execute arrest and search warrants issued under the authority of the United States.
3. The statements contained in this affidavit are based on your affiant's knowledge or information provided to your affiant by other law enforcement officers. This affidavit is being submitted in support of search warrants and a criminal complaint against Phillip Sampson Armachain, Sr. ("Armachain"). Your affiant has not included each and every fact known to him concerning this investigation. Your affiant has set forth only the facts necessary to establish probable cause that Armachain has committed violations of Title 18 U.S.C. § 1589, forced labor, and Title 18 U.S.C. § 2243(a)(1) and § 1153, sexual abuse of a minor, and that evidence of such offenses exists within electronic devices, digital media, and documents, located within the residences at the following locations:
 - a. Cabin on the Cherokee Indian Reservation (CIR) above Wrights Creek Road located at 83°15' 56.05 W, 35°30' 54.85 N
 - b. Phillip Armachain, Sr.'s residence at 154 Hayes Lossie Road, Cherokee, North Carolina (NC)
 - c. Armachain's son, Matthew Armachain's residence at 3919 Wrights Creek Road, Cherokee, NC
 - d. Armachain's rental property cabin at 75 Lakeside Lane, Cherokee, NC

RELEVANT DEFINITIONS

4. This investigation concerns alleged violations of: Title 18 U.S.C. § 1589, forced labor, Title 18 U.S.C. § 1592, Unlawful conduct with respect to documents in furtherance of forced labor, and Title 18 U.S.C. § 2243(a)(1) and § 1153, sexual abuse of a minor.

5. Based on my training and experience, I use the following technical terms to convey the following meanings:

- a. **Wireless telephone:** A wireless telephone (or mobile telephone, or cellular telephone) is a handheld wireless device used for voice and data communication through radio signals. These telephones send signals through networks of transmitter/receivers, enabling communication with other wireless telephones or traditional "land line" telephones. A wireless telephone usually contains a "call log," which records the telephone number, date, and time of calls made to and from the phone. In addition to enabling voice communications, wireless telephones offer a broad range of capabilities. These capabilities include: storing names and phone numbers in electronic "address books;" sending, receiving, and storing text messages and e-mail; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet. Wireless telephones may also include global positioning system ("GPS") technology for determining the location of the device.
- b. **SMS or Text Messaging** is a service component of phone, Internet, or mobile communication system. It uses standardized communication protocols to allow fixed line or mobile devices to exchange short text messages. Such messages can be stored electronically on the specific devices used to communicate or virtually on the service provider's network storage devices. SMS stands for "short message service."
- c. "DVR", Digital Video Recorder as used herein, is an electronic device that can collect, capture and store video.
- d. "Computer," as used herein, is defined pursuant to 18 U.S.C. § 1030(e)(1) as "an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device." This included modern day cellular telephone devices.
- e. The terms "records," "documents," and "materials," as used herein, include all information recorded in any form, visual or aural, and by any means, whether in handmade form (including, but not limited to, writings, drawings, painting), photographic form (including, but not limited to, microfilm, microfiche, prints, slides, negatives, videotapes, motion pictures, photocopies), mechanical form (including, but not limited to, phonograph records, printing, typing) or electrical, electronic or magnetic form (including, but not limited to, tape recordings, cassettes, compact discs, electronic or magnetic storage devices such as floppy diskettes, hard disks, CD-ROMs, digital video disks ("DVDs"), Personal Digital Assistants ("PDAs"), Multi Media Cards ("MMCs"), memory sticks, optical disks, printer buffers, smart cards, memory calculators, electronic dialers, or electronic notebooks, as well as digital data files and printouts or readouts from any magnetic, electrical or electronic storage device).
- f. "Computer hardware," as used herein, consists of all equipment which can

receive, capture, collect, analyze, create, display, convert, store, conceal, or transmit electronic, magnetic, or similar computer impulses or data. Computer hardware includes any data-processing devices (including, but not limited to, central processing units, internal and peripheral storage devices such as fixed disks, external hard drives, floppy disk drives and diskettes, and other memory storage devices); peripheral input/output devices (including, but not limited to, keyboards, printers, video display monitors, and related communications devices such as cables and connections), as well as any devices, mechanisms, or parts that can be used to restrict access to computer hardware (including, but not limited to, physical keys and locks).

SPECIFICS OF SEARCH AND SEIZURE OF COMPUTER SYSTEMS

6. Based upon my training and experience and information related to me by agents and others involved in the forensic examination of computers, cellular telephones and other electronic devices and storage media, I know that electronic data can be stored on a variety of systems and storage devices including computer hard disk drives, floppy disks, compact disks, magnetic tapes and memory chips, tablets and cellular telephone devices. I also know that during the search of the premises it is not always possible to search all such electronic equipment and/or storage devices for data for a number of reasons, including the following:

- a. Searching such electronic devices is a highly technical process which requires specific expertise and specialized equipment. There are so many types of computer hardware and software in use today that it is impossible to bring to the search site all of the technical manuals and specialized equipment necessary to conduct a thorough search. In addition, it may also be necessary to consult with computer personnel who have specific expertise in the type of computer, software application or operating system that is being searched;
- b. Searching such electronic devices requires the use of precise, scientific procedures which are designed to maintain the integrity of the evidence and to recover "hidden," erased, compressed, encrypted or password-protected data. Computer hardware and such electronic devices along with storage devices may contain "booby traps" that destroy or alter data if certain procedures are not scrupulously followed. Since electronic data is particularly vulnerable to inadvertent or intentional modification or destruction, a controlled environment, such as a law enforcement laboratory, is essential to conducting a complete and accurate analysis of the equipment and storage devices from which the data will be extracted;
- c. The volume of data stored on many computer and electronic devices will typically be so large that it will be highly impractical to search for data during the execution of the physical search of the premises; and
- d. Computer users can attempt to conceal data within computer equipment and storage devices through a number of methods, including the use of innocuous or misleading filenames and extensions. For example, files with the extension ".jpg"

often are image files; however, a user can easily change the extension to “.txt” to conceal the image and make it appear that the file contains text. Computer users can also attempt to conceal data by using encryption, which means that a password or device, such as a “dongle” or “keycard,” is necessary to decrypt the data into readable form. In addition, computer users can conceal data within another seemingly unrelated and innocuous file in a process called “steganography.” For example, by using steganography a computer user can conceal text in an image file which cannot be viewed when the image file is opened. Therefore, a substantial amount of time is necessary to extract and sort through data that is concealed or encrypted to determine whether it is evidence, contraband or instrumentalities of a crime.

7. Based on my own experience and my consultation with other agents who have been involved in computer searches, searching computerized information for evidence or instrumentalities of a crime often requires the seizure of all of a computer system’s input and output peripheral devices, related software, documentation, and data security devices (including passwords) so that a qualified computer expert can accurately retrieve the system’s data in a laboratory or other controlled environment. There are several reasons that compel this conclusion:

- a. The peripheral devices that allow users to enter or retrieve data from the storage devices vary widely in their compatibility with other hardware and software. Many system storage devices require particular input/output devices in order to read the data on the system. It is important that the analyst be able to properly re-configure the system as it now operates in order to accurately retrieve the evidence listed above. In addition, the analyst needs the relevant system software (operating systems, interfaces, and hardware drivers) and any applications software which may have been used to create the data (whether stored on hard drives or on external media), as well as all related instruction manuals or other documentation and data security devices; and
- b. In order to fully retrieve data from a computer system, the analyst also needs all magnetic storage devices, as well as the central processing unit (CPU). In cases like the instant one where the evidence consists partly of image files, the monitor and printer are also essential to show the nature and quality of the graphic images which the system could produce. Further, the analyst again needs all the system software (operating systems or interfaces, and hardware drivers) and any applications software which may have been used to create the data (whether stored on hard drives or on external media) for proper data retrieval.

8. Based on my knowledge, training, and experience, I know that computer storage devices, such as a computer hard drive or media cards, can store information for long periods of time. Even when a user deletes information from a device, it can sometimes be recovered with forensics tools. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the device. This information can sometimes be recovered with forensics tools.

BUSINESS DOCUMENTS

9. Based on your affiant's training, experience, consultation with other agents and participation in other investigations involving persons engaged in financial crimes, including loan fraud, false statements on loan applications, bank fraud, embezzlement, program fraud and other white collar violations, your affiant asserts that such persons often keep records of their illegal activities and/or their past, present or future financial transactions in their place of business and in their residence, and that essentially all of their personal and business financial records (bank records, investment records, charge card records, records of income and expenditure, computer records, budgets, time sheets, travel vouchers, meeting minutes and recordings, ect.) may be evidence of their disposition to continue their criminal activities or document the underlying violations.

PROBABLE CAUSE

10. Phillip Sampson Armachain, Sr. (Armachain) is a bail bondsman and an enrolled member of the Eastern Band of Cherokee Indians (EBCI). The Cherokee Indian Police Department (CIPD) and the Federal Bureau of Investigation (FBI) have learned that enrolled members of the EBCI doing business with Armachain are sending their per capita casino distribution checks to Armachain as collateral for personal loans and to repay bond fees. Additionally, three women have disclosed that they participated in sexual intercourse or other sexual acts with Armachain in return for their bond fees or to have their personal loans from Armachain paid. Armachain is also known to loan money at an interest rate of one hundred percent. Armachain directs individuals that receive loans to change the address the delivery of their per capita casino distribution check is to his Post Office Box (P.O. Box) 1091, Cherokee, NC. Armachain also requests power of attorney from the loan recipients in order to cash the per capita checks.

11. During 2015, over one hundred and fifty enrolled members of the EBCI listed a delivery address of P.O. Box 1091, Cherokee, NC, as the location their EBCI per capita casino distribution check be mailed to. The distribution occurs twice a year in June and December. Approximately 300 per capita checks were mailed to P.O. Box 1091, Cherokee, NC, in 2015.

12. Credit database checks associate P.O. Box 1091, Cherokee, NC 28719 with Phillip Sampson Armachain, Sr. as recently as March of 2017.

13. Victim Number One (V1) was interviewed by CIPD on 04/10/2017. V1 stated that Armachain collected double what he loaned to V1 for a per capita bail bond (in other words, if the loan amount were for \$1,000, the borrower would be required to pay back \$2,000). In 2016, V1 was bonded out of the Swain County Jail in Bryson City, North Carolina (NC) by Armachain. Armachain gave V1 a ride back to the Cherokee Indian Reservation. During the ride Armachain talked about paying him for the bond sexually. Armachain transported V1 to his cabin on Old Number Four Road (later identified as 75 Lakeside Lane, Cherokee, NC). V1 went inside the cabin with Armachain but they did not have sexual intercourse on that occasion because V1 was pregnant.
14. In August of 2016, V1 participated in sexual intercourse with Armachain in return for a \$400 loan. Due to the sexual intercourse, Armachain did not make V1 repay the loan.
15. In December of 2016, Armachain bonded V1 out of Swain County Jail in Bryson City, NC. Armachain gave V1 a per capita bond and a cash loan the same day of the bond. V1 and Armachain made an additional agreement for a \$200 loan and V1 performed oral sex on Armachain to avoid repayment of the loan.
16. Victim Number Two (V2) was interviewed by the CIPD on 04/19/2017. Approximately two months ago, Armachain bonded V2 out of the Cherokee Indian Jail located on the CIR. During the bonding process V2 asked how to pay for the bond because she did not have the money. Armachain told V2 that they would work something out. Armachain transported V2 to his residence just off of Wrights Creek Road on the CIR and V2 participated in sexual intercourse with Armachain to pay for the bond. V2 never had to pay for the bond and Armachain told V2 to "keep it between you and me" and that "maybe we can do this again sometime".
17. A North Carolina Department of Motor Vehicle (NCDMV) check of Phillip Sampson Armachain, Sr. lists his residence as 154 Hayes Lossie Road, Cherokee, NC.
18. Armachain's residence at 154 Hayes Lossie Road, Cherokee, NC, is on a side road off of Wrights Creek Road. The residence has a sign attached to the porch that advertises "Armachain Bail Bonds, telephone: 497-1717." An internet search of the telephone number lists a www.b2yellowpages.com listing for Armachain Bail Bonds, Hayes Lossie Rd in Cherokee, NC 828-497-1717. **Attachment A** contains directions from the CIPD to 154 Hayes Lossie Road, Cherokee, NC with photographs of the residence.
19. Victim Number Three (V3) was interviewed by the CIPD on 04/20/2017. V3 stated that she participated in sexual intercourse with Armachain "so I would not have to pay loans and bonds". V3 has been to Armachain's son's residence on Wrights Creek Road and a house off of Old Number Four Road by a lake or river to have sexual intercourse with Armachain. V3 would try to avoid having sexual intercourse with Armachain but told investigators "He made me do it". Armachain also transported V3 to a hotel in Maggie Valley, NC to participate in sexual intercourse. Armachain's son, Matthew Armachain lives at 3919 Wrights Creek Road,

Cherokee, NC. **Attachment B** contains directions from the CIPD to 3919 Wrights Creek Road, Cherokee, NC with photographs of the residence.

20. CIPD provided that the neighbor residing at 3923 Wrights Creek Road confirmed Matthew Armachain resides at the 3919 Wrights Creek Road address. There is also a sign in front of the 3919 Wrights Creek Road address that reads in part "Armachain Mountain Farms".

21. In the summer of 2016, Cooperating Witness Number One (CW1) audio-recorded Armachain in person as he negotiated bonds and loans for her in exchange for sex. The recording was collected by CIPD from CW1's cellular telephone. Armachain told CW1 that he had "been wanting some of that pussy for a long time" and asked how they were going to work this out. Armachain told CW1 that she did not have to participate in sexual intercourse but CW1 would have to pay for what CW1 owed Armachain. CW1 wanted a \$200 loan but Armachain would not provide the money to CW1 because CW1 owed Armachain from pervious bonds and/or loans. Armachain stated, "I told you what I want. I want some pussy". The recorded conversation took place while Armachain was attempting to take CW1 to a small cabin approximately a half a mile beyond a gravel road at the end of Wrights Creek Road.

22. On April 7, 2017, the CIPD located and photographed the outside of a cabin based upon Armachain's description of it to CW1 during the audio recorded conversation, and CW1's description from a previous visit to that location with Armachain's son, Matthew Armachain. The cabin is located in the vicinity of GPS latitude and longitude at 83°15' 56.05 W, 35°30' 54.85 N. **Attachment C** contains directions from the CIPD to the cabin above 3923 Wrights Creek Road described by CW1.

23. In 2016, Victim Number Four (V4), a minor who had not obtained the age of 16, and who was more than four years younger than Armachain, was transported to Armachain's Wrights Creek residence and his property on Old Number Four Road (later identified as 75 Lakeside Lane) by her mother on numerous occasions. Armachain would not loan money to the mother unless she brought V4 to pick up the money. The mother waited in the vehicle and sent V4 inside to obtain the loan money. While inside, Armachain would digitally penetrate V4 and touch V4's breasts underneath V4's clothing. When finished, Armachain would give V4 the loan money for her mother. V4 disclosed the sexual abuse during an audio and video recorded Child Medical Examination (CME) on 11/10/2016. V4 stated that the sexual abuse happened every time she was dropped off to obtain loan money from Armachain. V4 described the locations as Armachain's residence and Armachain's property by the lake.

24. The mother of V4 was interviewed by the FBI and CIPD on 03/29/2017 and confirmed that she would take V4 to both Armachain's residence and a location Armachain owns with cabins on the property off of Old Number Four Road, Cherokee, NC, to get cash loans from Armachain at a one hundred percent interest rate. Armachain would instruct that the mother bring V4 and send her inside alone to obtain the loan money. V4 went and met with Armachain alone every time the mother borrowed money from Armachain. V4's mother went to the EBCI Enrollment Office at the direction of Armachain to change the delivery of her per capita casino

distribution check to Armachain's P.O. Box. Armachain would hold her per capita check as collateral. The mother would meet Armachain at his business on Highway 441 on the CIR and walk to the bank with Armachain, or one of his employees, to cash the per capita check and pay the loan money back.

25. The mother of V4 stated that Armachain would revoke bail bonds if people did not pay him back for loans. Armachain would also take people's cars for non-payment. The mother of V4 was told by other women that Armachain would bail women out of jail in return for sex.

26. Armachain's residence is located at 154 Hayes Lossie Road, Cherokee, NC and Armachain owns a rental property at 75 Lakeside Lane, Cherokee, NC which is located on a river with a dam. The CIPD provided that area of the river by Old Number Four Road and Lakeside Lane is referred to as a lake. **Attachment D** contains directions from the CIPD to 75 Lakeside Lane, Cherokee, NC, which is Armachain's cabin by the lake off of Old Number Four Road.

27. V4 described the room at Armachain's residence where one of the incidents of digital penetration occurred as a "man cave" with a punching bag in it.

28. The CIPD has identified over ten additional females that Armachain flirted with after being bonded out of jail. The interviews are consistent, describing Armachain telling them that they are pretty and touching their leg during the conversation.

29. The CIPD has identified over ten additional females that have borrowed money at one hundred percent interest rate from Armachain and have changed the delivery address for their per capita casino distribution check to P.O. Box 1091, Cherokee at Armachain's direction. Some have given Armachain Power of Attorney to cash the checks.

30. Based upon the CIPD interviews, Armachain has a reputation as a "pervert" and "creepy". Many of the females interviewed expressed fear of being alone with Armachain and displayed emotional pain regarding the extortion of sexual acts to get out of jail or to pay off loans.

31. The FBI interviewed a former employee of Armachain, Cooperating Witness Two (CW2) on 04/03/2017. CW2 provided that Armachain leased out his business space to another business person located on US 441, Cherokee, NC. In March 2017, Armachain moved all of the business records, vehicles and other business equipment to Armachain's residence on 154 Hayes Lossie Road, Cherokee, NC off of Wrights Creek Road on the CIR. CW2 assisted Armachain in the process of cashing the per capita checks Armachain received as collateral for loans and bonds. CW2 would receive a manilla folder with the per capita check and the loan amount owed to Armachain written on it. CW2 would escort groups of enrolled members to the First Citizens Bank on Highway 441, observe them cash the check and receive the amount they owed

Armachain. The enrolled members would receive the balance from their checks to keep. CW2 indicated that Armachain maintained records of loans, of bail bonds, and other business records at his home.

32. Based upon the above, there is probable cause to believe that evidence exists in violation of Title 18 U.S.C. § 1589, forced labor; and Title 18 U.S.C. § 2243(a)(1) and § 1153, sexual abuse of a minor. It is respectfully requested that a search warrant be issued for:

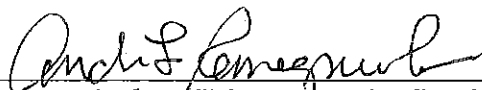
- a. Cabin on the Cherokee Indian Reservation (CIR) above Wrights Creek Road located at 83°15' 56.05 W, 35°30' 54.85 N
- b. Phillip Armachain, Sr.'s residence at 154 Hayes Lossie Road, Cherokee, North Carolina (NC)
- c. Armachain's son, Matthew Armachain's residence at 3919 Wrights Creek Road, Cherokee, NC
- d. Armachain's rental property cabin at 75 Lakeside Lane, Cherokee, NC

in order to collect evidence listed in **Attachment E**, "Items To Be Seized."

33. Also based on the above, your affiant submits that there is probable cause to believe that Phillip Sampson Armachain, Sr., has committed the offense of Sexual Abuse of a Minor, in violation of Title 18 U.S.C. § 2243(a)(1) and § 1153, in that he, an enrolled member of the Eastern Band of Cherokee Indians, knowingly engaged in a sexual act, that is, the digital penetration of V4's vagina, with a victim who had reached the age of twelve years but had not yet reached the age of sixteen years, that the victim was at least four years younger than Armachain, and that the offense took place on the Qualla Boundary in the Western District of North Carolina.

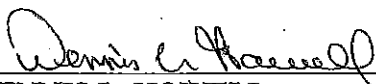
34. Also based on the above, your affiant submits that there is probable cause to believe that Phillip Sampson Armachain, Sr., has committed the offense of Obtaining Forced Labor, in violation of Title 18 U.S.C. § 1589(a), in that he obtained sexual services of V1, V2, and V3 through the abuse and threatened abuse of legal process, that is, the legal process involving the

payment or cancellation of release bonds in the courts of the State of North Carolina and in the Cherokee Tribal Court.



Andrew F. Romagnuolo, Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me
this 2 day of May, 2017, in Asheville, N.C.



DENNIS L. HOWELL
UNITED STATES MAGISTRATE JUDGE
WESTERN DISTRICT OF NORTH CAROLINA