

UNITED STATES DISTRICT COURT

for the

Eastern District of California

FILED

Nov 30, 2022

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

In the Matter of the Search of)
Five electronic devices seized from Michael)
David PUNZAL, CURRENTLY LOCATED)
AT FBI Evidence Control Room, 2001)
Freedom Way, Roseville, CA 95678)

Case No. 2:22-sw-0879 AC

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (*identify the person or describe the property to be searched and give its location*):

SEE ATTACHMENT A, attached hereto and incorporated by reference.

located in the Eastern District of California, there is now concealed (*identify the person or describe the property to be seized*):

SEE ATTACHMENT B, attached hereto and incorporated by reference

The basis for the search under Fed. R. Crim. P. 41(c) is (*check one or more*):

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. § 922(g)(1)	Felon in Possession of a Firearm

The application is based on these facts:

SEE AFFIDAVIT, attached hereto and incorporated by reference.

- ☒ Continued on the attached sheet.
- ☐ Delayed notice days (give exact ending date if more than 30 days:) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

/s/ Brendan Wright

Applicant's signature

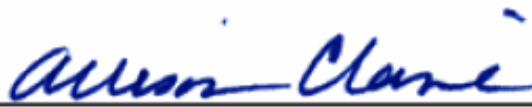
FBI Special Agent Brendan Wright

Printed name and title

Sworn to me and signed telephonically.

Date: November 30, 2022

City and state: Sacramento, California


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

AFFIDAVIT IN SUPPORT OF APPLICATION FOR SEARCH WARRANT

I, Brendan S. Wright, Special Agent of the United States Department of Justice, Federal Bureau of Investigation, being duly sworn, hereby declare as follows:

I. INTRODUCTION

1. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for issuance of a search warrant authorizing the search of:

- a. A Red iPhone, with IMEI 53007114693730
- b. A Black Alcatel Flip Phone, with IMEI 015565004041633
- c. A Black iPhone, with IMEI 352901119947334
- d. A Red iPhone inside a Red Phone Case, with IMEI 353063100470419, and
- e. An iPad, with serial number DMPXF77UJF8J

(collectively, the “SUBJECT DEVICES”). As set forth herein, I believe there is probable cause that evidence of violations of Title 18, United States Code, Section 922(g) will be found in a search of the SUBJECT DEVICES.

2. On November 2, 2022, the Honorable Kendall J. Newman authorized a rollover search warrant for the above-listed devices. (2:22-sw-0794-KJN.) However, the United States was unable to execute the search warrants within the authorized time frame. The search warrants were returned unexecuted. Accordingly, the United States is seeking renewed search warrants for the above-identified devices based on the same probable cause. The devices are still in FBI custody and are stored in a manner such that the passage of time will not alter the contents of the digital devices.

II. AFFIANT BACKGROUND

3. I have been employed with the FBI as a Special Agent since May of 2016. As an FBI Special Agent, I am authorized to investigate violations of federal law. My primary responsibilities are to investigate violent crimes (including bank robberies, kidnappings, human trafficking, narcotics trafficking, and firearms and explosive offenses), and to execute arrest and search warrants under the authority of the United States.

4. Prior to being assigned to the Sacramento FBI office, I was assigned to the Chicago division of the FBI. In Chicago, I was assigned to the Safe Streets Gang Task Force for approximately four years. At the outset of my employment with the FBI, I attended 22 weeks of training at the FBI Academy in Quantico, Virginia. Part of that training included courses addressing basic criminal law, federal court procedures, investigative techniques, firearms training, and executing search warrants.

5. My daily duties as an FBI Special Agent include the investigation of criminal violations relating to gangs and violent crimes including violations pertaining to felon in possession of firearm cases in violation of 18 U.S.C. §§ 922(g). During my career I have participated in and charged felon in possession of firearm and ammunition cases. The investigations involved reviewing police reports, reviewing body worn camera footage, collecting and analyzing evidence, writing and executing search warrants, conducting interviews, arresting suspects, working with local and state partners, and testifying before grand juries.

6. Because this affidavit is being submitted for the limited purpose of securing the requested search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to demonstrate that there is probable cause to believe that evidence of violations of Title 18, United States Code, Section 922(g) will be found in the SUBJECT DEVICES. The statements contained in this affidavit are based on my own investigation, information provided to me by law enforcement officers, and my training, experience, and knowledge of this investigation. Unless otherwise noted, wherever in this affidavit I assert that a statement was made, the information was provided by another FBI agent, law enforcement officer, or individual who may have had either direct or hearsay knowledge of that statement and to whom I or others have spoken, or whose reports I have read and reviewed. Such statements are among many statements made by others and are stated in substance and in part unless otherwise indicated.

III. FACTS SUPPORTING PROBABLE CAUSE

7. On August 30, 2022, law enforcement executed a federal search warrant at 1111

Alaska Avenue, Apartment 14, in Fairfield, California 94533 (the “Fairfield apartment”). The search warrant set forth probable cause to believe Michael David PUNZAL violated 18 U.S.C. § 922(g)(1) by being a felon in possession of a firearm. (2:22-sw586-AC.)

8. At the time of the search, PUNZAL also had an outstanding Supervised Release Violation arrest warrant out of the Northern District of California (Case No. 13-CR-654-WHO).

9. While executing the search warrant at the Fairfield apartment, law enforcement officers found PUNZAL and arrested him on the outstanding Supervised Release Violation warrant. Law enforcement also found a firearm, a magazine, and ammunition in the bedroom where PUNZAL had been staying. Specifically, law enforcement officers seized one Glock pistol, Model 22, .40-caliber with an obliterated serial number, one magazine containing approximately fifteen (15) rounds of ammunition, and one box labeled Magtech which contained approximately eleven (11) rounds of ammunition. These items were seized in a bedroom that had indicia of PUNZAL’s occupancy, including, for example, baseball caps that law enforcement had observed PUNZAL wearing in photographs that he had posted on Instagram, as well as documents with PUNZAL’s name, including Visa debit cards.¹

10. Law enforcement also seized five electronic SUBJECT DEVICES:

- a. A Red iPhone, with IMEI 53007114693730
- b. A Black Alcatel Flip Phone, with IMEI 015565004041633
- c. A Black iPhone, with IMEI 352901119947334
- d. A Red iPhone inside a Red Phone Case, with IMEI 353063100470419, and
- e. An iPad, with serial number DMPXF77UJF8J.

11. The devices are currently in the lawful possession of the FBI after law enforcement seized the devices pursuant to a federal search warrant. Therefore, while the FBI might already have all necessary authority to examine the devices, I seek this additional warrant out of an abundance of caution to be certain that an examination of the SUBJECT DEVICES will

¹ On October 27, 2022, a federal grand jury returned an indictment charging PUNZAL with being a felon in possession of a firearm on August 30, 2022. (2:22-CR-216-DAD, ECF 1.)

comply with the Fourth Amendment and other applicable laws.

12. The SUBJECT DEVICES are currently in storage at the FBI Evidence Control Room, 2001 Freedom Way, Roseville, CA 95678. In my training and experience, I know that the SUBJECT DEVICES have been stored in a manner in which their contents are, to the extent material to this investigation, in substantially the same state as they were when the SUBJECT DEVICES first came into the possession of the FBI.

13. Based on my training and experience, I know that individuals who possess firearms, including those who possess them illegally, commonly possess items associated with firearms including but not limited to, gun cases, ammunition, ammunition cases, holsters, magazines, spare parts for firearms, firearms cleaning equipment, photographs (often stored on electronic devices, such as cell phones, laptops, and tablets), instructional material, catalogues, tools, or other firearms accessories. Such items are typically maintained on their persons or in their residences, businesses, and/or vehicles, where they are concealed from law enforcement and readily available. Through my training and experience, I know that electronic devices can store information for long periods of time. Similarly, things that have been viewed via the internet are typically stored for some period of time on the devices. This information can sometimes be recovered with forensic tools.

14. Individuals who engage in illegal gun possession often obtain the guns they possess through the use of communication devices such as cell phones and tablets. These cell phones and tablets often store communication through text, voicemail, contact lists, geolocation data, social media applications, and notes features. People who negotiate the illegal sale of firearms often use cell phones and tablets to contact their sources of supply to obtain additional quantities of firearms. Similarly, they will use cell phones and tablets to contact their customers to facilitate these illegal transactions, specifically to discuss quantity and price, and arrange meeting locations. Further, people who negotiate these illegal sales will often have their records of telephone calls, text messages, SMS messages, and voicemails stored within the devices and with the electronic communications storage for the mobile telephone service provider.

15. I also know that those who illegally possess firearms often communicate and coordinate their criminal activity using cellular devices and tablets to make calls or exchange messages to arrange meeting times and other details related to the planned criminal activity, including, for example, what firearms may be available, as well as to discuss price and a location for the sale/exchange.

16. In this investigation, law enforcement officers discovered that PUNZAL posted pictures of firearms on his Instagram account. For example, in a short Instagram video posted on PUNZAL's Instagram account on or about April 13, 2022, a firearm can be seen in the top center-right. A still shot from the video is set forth here:



17. I believe that PUNZAL possessed the firearm in the video because other items in the video that are indicia of PUNZAL. For instance, there are two decorated cookies wrapped in cellophane. On one cookie, the phrase “Happy Birthday Capo” can be seen. One of PUNZAL’s nicknames is “Capo.” On the other cookie, the decoration includes street signs with “Towerside” and “312” written on the signs. Towerside is an area of San Francisco where PUNZAL has been known to frequent, and “312” is a number associated with the Towerside criminal street gang.

PUNZAL is a known Towerside gang member—he has a “312” tattooed on his stomach and the word “Towerside” tattooed on the back of his neck—and law enforcement considers PUNZAL a documented and active participant in the Towerside criminal street gang.

18. Additionally, a beige baseball hat is captured in the video. On the right side of the baseball hat is the word “P-Mode.” Another video discovered in PUNZAL’s Instagram account depicts PUNZAL wearing that hat. A screenshot from that video is set forth below:



19. Another short Instagram video posted on PUNZAL's Instagram account on or about March 11, 2022, contains a firearm with an extended magazine. A screenshot from the video depicting the firearm is set forth below:



20. There is probable cause to believe that the person in the video posted on or about above is PUNZAL because in the above-referenced still shot, a tattoo on the subject's right index finger can be seen. This tattoo matches the tattoo in other photographs posted on PUNZAL's Instagram account where his face can be seen. For example, a short video posted on PUNZAL's Instagram of PUNZAL, which shows the same tattoo, is set forth below:



21. Attached below are zoomed-in captures of PUNZAL's right hand, which depict the tattoo on his right index finger from the above referenced still shots. I believe the tattoos in both photographs to be the same, and that they provide further reason to believe that PUNZAL is the individual depicted in the still shot in Paragraph 17 who is in possession of the firearm and extended magazine.



22. Therefore, I believe there is probable cause that the SUBJECT DEVICES contain digital evidence of PUNZAL possessing firearms.

23. Nature of examination. Based on the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I am applying for would permit the examination of the devices consistent with the warrant. The examination may require authorities to employ techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of the devices to human inspection to determine whether it is evidence described by the warrant.

24. Manner of execution. Because this warrant seeks only permission to examine devices already in law enforcement's possession, the execution of this warrant does not involve the physical intrusion onto a premises. Consequently, I submit there is reasonable cause for the Court to authorize execution of the warrant at any time in the day or night.


///

IV. CONCLUSION


25. Based on my participation in this investigation and the information summarized above, I have probable cause to believe the SUBJECT DEVICES contain evidence that Punzal violated Title 18, United States Code, Section 922(g). Accordingly, I request that the Court issue the warrant authorizing the examination of the SUBJECT DEVICES described in Attachment A to seek the items described in Attachment B.

/s/ Brendan S. Wright
BRENDAN S. WRIGHT
Special Agent
Federal Bureau of Investigation

Sworn to before me over the telephone and signed by me pursuant to Fed.R.Crim.P. 4.1 and 4(d) on November 30, 2022.


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

Approved as to form by:


AUSA Emily G. Sauvageau

ATTACHMENT A

Property to be Searched

The property to be searched is:

- a. A Red iPhone, with IMEI 53007114693730
- b. A Black Alcatel Flip Phone, with IMEI 015565004041633
- c. A Black iPhone, with IMEI 352901119947334
- d. A Red iPhone inside a Red Phone Case, with IMEI 353063100470419, and
- e. An iPad, with serial number DMPXF77UJF8J

The SUBJECT DEVICES are currently located at 2001 Freedom Way, Roseville, CA 95678.

This warrant authorizes the forensic examination of the SUBJECT DEVICES for the purpose of identifying the electronically stored information described in Attachment B.

ATTACHMENT B

Description of Items to be Seized

1. All records on the SUBJECT DEVICES described in Attachment A that relate to violations of 18 U.S.C. § 922(g)(1) and involve PUNZAL, including:
 - a. Records of incoming or outgoing calls, which would include the number associated with the phone, last numbers dialed, last calls received, time of calls and duration of calls;
 - b. Incoming and outgoing voicemail messages;
 - c. Incoming and outgoing text messages;
 - d. Photographic, electronic, or video images;
 - e. Email messages or note files accessible through, or stored in, the devices;
 - f. Contact lists within email accounts accessible on the devices;
 - g. Audio recordings;
 - h. Documents in electronic format;
 - i. Deleted records and contents;
 - j. Records of “contacts” stored in the devices, including names, addresses, telephone numbers, email addresses, and other contact information;
 - k. Records of appointments and/or reminders annotated on a calendar;
 - l. Any power cords, memory cards or data storage devices, data security devices, and passwords for the devices; and
 - m. Contextual information necessary to understand the evidence described in this Attachment.
2. Evidence of user attribution showing who used or owned the SUBJECT DEVICES at the time the things described in this warrant were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history;
3. This warrant authorizes a review of electronic storage media and electronically stored information seized or copied pursuant to this warrant in order to locate evidence, fruits,

and instrumentalities described in this warrant. The review of this electronic data may be conducted by any government personnel assisting in the investigation, who may include, in addition to law enforcement officers and agents, attorneys for the government, attorney support staff, and technical experts. Pursuant to this warrant, the investigating agency may deliver a complete copy of the seized or copied electronic data to the custody and control of attorneys for the government and their support staff for their independent review.

UNITED STATES DISTRICT COURT

for the

Eastern District of California

In the Matter of the Search of

Five electronic devices seized from Michael David
PUNZAL, CURRENTLY LOCATED AT FBI
Evidence Control Room, 2001 Freedom Way,
Roseville, CA 95678

Case No. 2:22-sw-0879 AC

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the _____ Eastern _____ District of _____ California
(identify the person or describe the property to be searched and give its location):

SEE ATTACHMENT A, attached hereto and incorporated by reference.

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal (identify the person or describe the property to be seized):

SEE ATTACHMENT B, attached hereto and incorporated by reference.

YOU ARE COMMANDED to execute this warrant on or before _____ December 13, 2022 (not to exceed 14 days)

☐ in the daytime 6:00 a.m. to 10:00 p.m. ☒ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.


The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to: any authorized U.S. Magistrate Judge in the Eastern District of California.

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box)

☐ for _____ days (not to exceed 30) ☐ until, the facts justifying, the later specific date of _____.

Date and time issued: November 30, 2022 @ 8:57 a.m.

City and state: Sacramento, California


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

[illegible]