

No. 20-mj-5479-AFF

**AFFIDAVIT OF SPECIAL AGENT STEVEN A. KIMBALL IN SUPPORT OF
CRIMINAL COMPLAINT**

I, Steven A. Kimball, being duly sworn, depose and state as follows:

INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have been so employed since 2005. I am currently assigned to one of the Boston Field Office’s counter-terrorism squads. Among other things, as a member of the Joint Terrorism Task Force (“JTTF”), I am responsible for conducting national security investigations of potential violations of federal criminal laws. During my tenure as an agent, I have participated in numerous national security investigations, including some involving violent extremists and those engaged in domestic terrorism. I am familiar with the symbols and ideology of domestic extremists and similar groups that seek to further their political or social goals wholly or in part through activities involving force or violence in violation of criminal law. I have extensive training and experience in the conduct of national security investigations, as well as matters involving domestic and international terrorism. I have participated in the execution of numerous federal search and arrest warrants in a variety of criminal investigations. From 2005 until 2008, I worked as a Special Agent in the FBI’s Newark office conducting both domestic and international terrorism investigations. From 2008 to 2012, I worked at FBI headquarters on domestic and international terrorism matters; during a portion of that time, I served as a supervisor for terrorism cases. Since 2012, I have served in FBI’s Boston office and primarily conducted domestic terrorism investigations. Prior to joining the FBI, I served for about seven years in the United States Navy.

2. Along with other agents, I am currently investigating PEPO HERD EL a/k/a PEPO WAMCHAWI HERD (“EL”) and I am submitting this affidavit in support of an application for a

criminal complaint charging EL, a convicted felon, with possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(1).

3. As described below, based upon the evidence gathered to date in this ongoing investigation, I have probable cause to believe, and do in fact believe, that on or about November 26, 2020, EL, knowing that he was previously convicted in a court of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess, in and affecting commerce, a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(1).

4. The information in this affidavit is based upon my training and experience, my personal knowledge of this investigation, and information conveyed to me by other agents and law enforcement officials who have assisted in this investigation. Because this affidavit is submitted for the sole purpose of seeking issuance of a criminal complaint, it does not include every fact known to me concerning the investigation. Instead, I only have included those facts that I believe are needed to establish the requisite probable cause to support the criminal complaint.

RELEVANT LEGAL AUTHORITY

5. Title 18, United States Code, Section 922(g)(1), makes it unlawful for any person who has been convicted of a crime punishable by more than one year in prison “to possess in or affecting commerce, any firearm or ammunition.” As used in this section, the word firearm includes “any weapon ... which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.” 18 U.S.C. § 921(a)(3). The term ammunition includes “ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.” 18 U.S.C. § 921(a)(17).

FACTS SUPPORTING PROBABLE CAUSE

6. EL is a 47-year-old man currently residing at 53 McLellan Street, Boston, Massachusetts who I believe was born in Florida. He has a Florida issued driver's license and I believe he is using two different social security numbers. As reported by the Massachusetts Bureau of Prisons, a jury convicted EL on October 25, 2004, of two felony counts of possessing firearms without permits. On the same day, the jury also convicted EL of discharging a firearm, possessing firearms without identification, possessing a stun gun, and resisting arrest. A Massachusetts District Court judge sentenced EL to two years' imprisonment in the Massachusetts House of Corrections.

7. Based on our investigation to date as well as my training and experience, I believe EL adheres to the anti-government/anti-authority sovereign citizen extremist ideology. The FBI defines sovereign citizens as U.S. citizens who claim to have special knowledge or heritage rendering them immune from government authority and laws. While this ideology is not illegal, sovereign citizen extremists sometimes express their ideology through physical force or violence; sovereign citizens can also use their beliefs to justify nonviolent fraud or theft. In the past, sovereign citizen extremists have engaged in shootings and armed standoffs with law enforcement officers.

8. Among other things, through open source research, we have identified various social media accounts associated with EL, which demonstrate that he adheres to a sovereign citizen ideology. Additionally, during his detention by FBI Special Agents based upon the search warrant issued by this Court (described below), EL challenged the authority of law enforcement and the validity of the search warrant. After being advised of his Miranda rights, EL was asked to sign a property receipt for the items seized from his person (including the Glock 27 described below). In

addition to his name, EL signed “UCC 1308.” I am aware from my training and experience that it is common for sovereign citizens to file numerous frivolous lawsuits and file claims using the Uniform Commercial Code (“UCC”). Section 1-308 of the UCC is a method of reserving one’s rights in a contract.

Probable Cause to Believe a Crime Has Been Committed

9. In November 2020, we obtained eBay and Amazon records for three accounts registered to a man named “Pepo Herd EL.” I have reviewed the records, which indicate that, since 2019, a person named El (who I believe to be the same as EL, the target of this investigation) has used these accounts to purchase, among other things, several accessories for a Glock 27 and various materials that could be used to manufacture explosives.

EL’s eBay and Amazon Accounts

10. According to records I have reviewed, eBay holds two accounts registered in EL’s name. Amazon also has an account registered in EL’s name.

11. Using his eBay and Amazon accounts, EL has made more than 350 purchases since January 1, 2019, and these purchases total more than \$10,000. This purchase history has been analyzed by JTTF special agents with specialized knowledge of explosives and the construction of improvised explosive devices. These analyses lead me to believe that approximately half of these purchases relate to firearms, chemicals, security, or other concerning items.

Firearms-Related Purchases

12. Using his eBay and Amazon accounts, EL has purchased various firearms accessories, including several magazines, a laser sight, and a concealable shoulder holster. Many of these accessories are designed for, or are compatible with, a Glock 27. A Glock 27 is a subcompact pistol with a small frame and a short barrel.

13. A detailed list of EL's firearms-related purchases is below. Of particular significance is a January 31, 2020 order in which EL purchased two Glock extended magazine plates. Each of these allows the user to convert a standard 10-round magazine to a 15-round magazine. On January 31, EL also purchased a Glock firing pin safety. This product reduces the force required to pull a trigger and, thus, to fire a round. Manufacturers claim that installing this modification will decrease the fatigue that a user may experience when firing several rounds and, thereby, increase his shot accuracy. Furthermore, on or about December 2, 2019, EL purchased ammunition sealant, which is commonly used to create ammunition.

Date	Vendor	Purchase
10/31/19	Amazon	Green laser sight for subcompact pistols
10/31/19	Amazon	Picatinny rail compatible with Glock 26/27
10/31/19	Amazon	Laser-engraved back plate for Glock Gen 1-5
10/31/19	Amazon	Concealed shoulder holster for pistols
12/02/19	eBay	Ammo primer bullet sealer
01/04/20	eBay	Glock 27 ten-round magazine
01/31/20	eBay	Glock 27 nine-round magazine
01/31/20	eBay	Glock extended magazine plate, 2 purchased
01/31/20	eBay	Gen 3/4 Glock enhanced firing pin safety
09/04/20	eBay	Glock 27 nine-round magazine

14. Based upon this information, I know that that, within the last year, EL has ordered at least three Glock magazines, two Glock extended magazine plates, a laser sight, a concealable shoulder holster, and other firearm accessories.

Explosives-Related Purchases

15. EL has also purchased several chemicals through his eBay and Amazon accounts. Each of these chemicals has an innocent household or industrial use. However, several can also be used or combined to create incendiary or explosive compounds.

16. For example, I have been advised that EL has purchased all of the chemical precursors necessary to produce black powder, an explosive that can detonate an improvised

explosive device. Black powder requires three chemicals. The first is potassium nitrate, which is found in Hi-Yield Stump Remover, a commercial product designed to remove tree stumps from soil. EL used his eBay account to purchase this product on or about June 2, 2020. The second ingredient is sulfur, which EL purchased in powder form on that same day via eBay. The third ingredient is charcoal, which EL purchased using his Amazon account on or about December 2, 2019. Based on my training and experience, combining these three ingredients in specific ratios creates a low explosive chemical reaction.

17. I further note that, on or about July 31, 2020, EL used his Amazon account to purchase 20 feet of model rocketry fuse. This material could be used to initiate black powder. When black powder is contained and initiated, it can detonate. Additionally, adding fragmentation to this mixture could increase the damage it causes when it detonates. Air rifle pellet ammunition could serve this purpose. According to EL's eBay records, between in or about May and July 2020, EL purchased at least 800 air rifle pellets, in addition to a pellet gun. Based on the substances and quantities listed above, explosive experts have informed me that EL has enough material to produce at least a pound of black powder, which could be used as an explosive in an improvised explosive device, such as a pipe bomb.

18. EL's purchase history includes other fuels, oxidizers, and solvents. Some of these – such as magnesium, potassium permanganate, and iron oxide, all of which he purchased through his eBay account on or about June 2, 2020 – could produce incendiary compounds. EL also purchased a hot plate and stir bars, which are used to heat chemicals and to mix chemicals while they are heating. These are common techniques for increasing the speed and efficiency of chemical reactions.

19. A more complete list of the EL's chemical purchases is below.

Date	Vendor	Purchase
04/26/19	Amazon	Potassium hydroxide flakes, 2 pounds
12/02/19	Amazon	Activated carbon charcoal, 5 pounds
04/04/20	eBay	Solid round copper bars, 3mm diameter, 100mm length
04/04/20	eBay	Zinc rod, 0.25-inch diameter, 12-inch length
04/04/20	eBay	Citric acid, anhydrous, granular, 2 pounds
04/04/20	eBay	Gold wire, 30-gauge, 6-inch length
04/20/20	eBay	High purity zinc rods, 0.4-inch x 4-inch
04/20/20	eBay	High purity magnesium metal rod, 16mm x 90mm
06/02/20	eBay	Sulfur powder, 2 ounces
06/02/20	eBay	Pure copper rod
06/02/20	eBay	Potassium permanganate, 4 ounces
06/02/20	eBay	Magnesium metal shavings, 1 ounce, 3 purchased
06/02/20	eBay	Iron oxide pigment powder, 16 ounces
06/02/20	eBay	Hi-Yield stump remover
06/03/20	eBay	Magnesium metal negative potential particle ball set, 50g/100g
06/03/20	eBay	Copper trace mineral, 2 ounces
06/03/20	eBay	Calcium chloride, 4 ounces
06/03/20	eBay	Copper oxide, 8 ounces
06/03/20	eBay	Hot plate with magnetic stir function for lab
07/01/20	eBay	Spherical titanium powder, 2 pounds
07/05/20	eBay	Pure tungsten powder
07/31/20	eBay	Bernzomatic 3336666 fuel cylinder, oxygen, 1.4 ounces
07/31/20	eBay	Isopropyl alcohol, 30 ounces
07/31/20	eBay	300mm copper bar
07/31/20	eBay	Magnesium ribbon, 25g, 75 feet
07/31/20	Amazon	Green fuse for model rocketry, 20 feet, 2mm, 3 purchased
09/03/20	eBay	Magnetic stir bars, 1-inch
10/02/20	eBay	Isopropyl alcohol, 64 ounces
11/04/20	eBay	Dextrin, 8 ounces
11/04/20	eBay	300mm copper round tube

Other Selected Purchases

20. EL's purchase history shows orders for several other suspicious and concerning items, which could evidence an intention to threaten public safety. Some are uniform accessories. Others are pieces of body armor. Still others relate to surveillance. Each of these

purchases has an innocent and lawful use. However, taken together, they could be used for impersonating company personnel, protecting the user from force, and surveilling police activity.

21. Some of EL's most concerning Amazon and eBay purchases are listed in the table below. For example, in or about January and March 2020, EL used his eBay account to purchase four rifle-rated hard body armor plates and a concealed vest for wearing at least one of these plates. I know from my training and experience that AR500 is a common, low-cost but high-strength material that is used in body armor and that prevents injury from handgun and rifle ammunition.

Date	Vendor	Purchase
01/05/19	Amazon	Solar, LED, motion-activated floodlight, 2 purchased
01/06/19	Amazon	Ring floodlight camera, motion-activated
01/12/19	Amazon	Mini wifi spy camera
01/12/19	Amazon	Brickhouse Security vehicle GPS tracking device
01/14/19	Amazon	CCTV pinhole security camera
01/17/19	Amazon	Wifi home security alarm system
01/18/19	Amazon	Easy laser alarm kit, 3 purchased
01/30/19	Amazon	Solar, LED, motion-activated floodlight
02/01/19	Amazon	Emergency blue grille light head
02/01/19	Amazon	Car siren horn with mic PA speaker
08/30/19	Amazon	High power, compact binocular
12/02/19	eBay	Security rain jacket, black with hood
01/31/20	eBay	Level III AR500 steel body armor, single 11x14 curved plate, 2 purchased
01/31/20	eBay	Tactical scorpion AR500 bobcat concealed body armor plates carrier vest 11x14
03/02/20	eBay	Level III AR500 steel body armor, pair 6x6 flat plate
04/04/20	eBay	The Home Depot knit beanie
04/04/20	eBay	AT&T employee uniform knit beanie
04/29/20	eBay	Black waterproof security rain jacket with hood
04/30/20	Amazon	Amtrak train logo beanie
04/30/20	Amazon	Amtrak train logo baseball hat
05/04/20	eBay	Night-vision monocular
09/03/20	eBay	Kia hat
10/02/20	eBay	Velcro police patch 3 x 2

Interstate Commerce Nexus

22. I know from my training and experience that no Glock handgun is manufactured within Massachusetts. Therefore, any Glock firearm within the Commonwealth has necessarily crossed state lines.

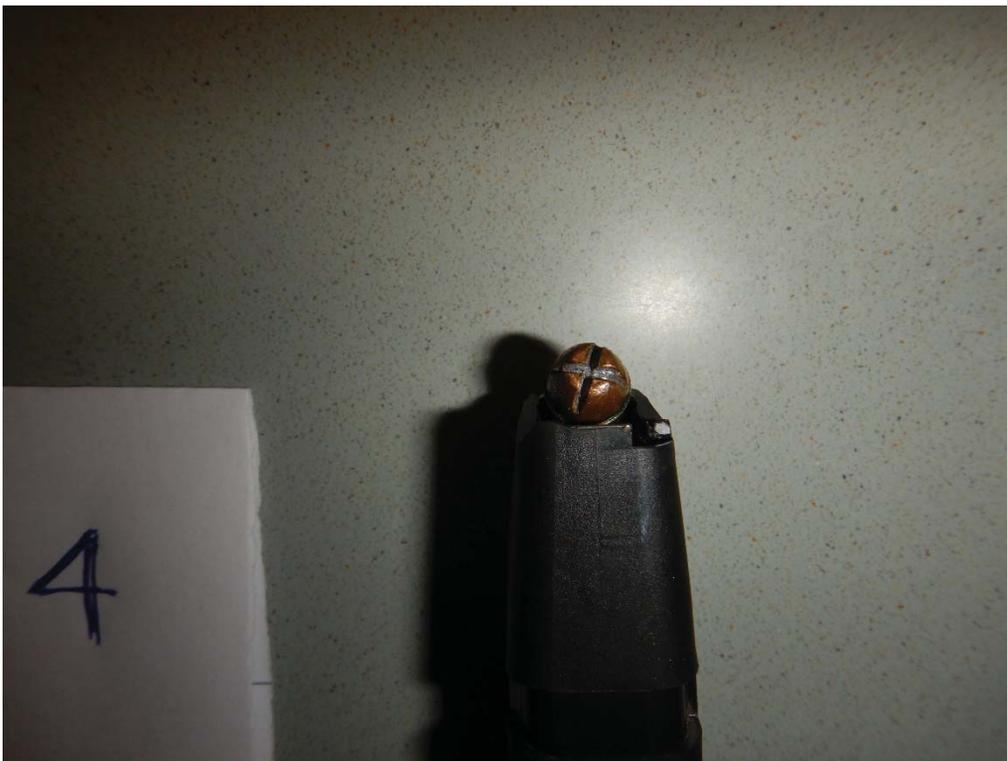
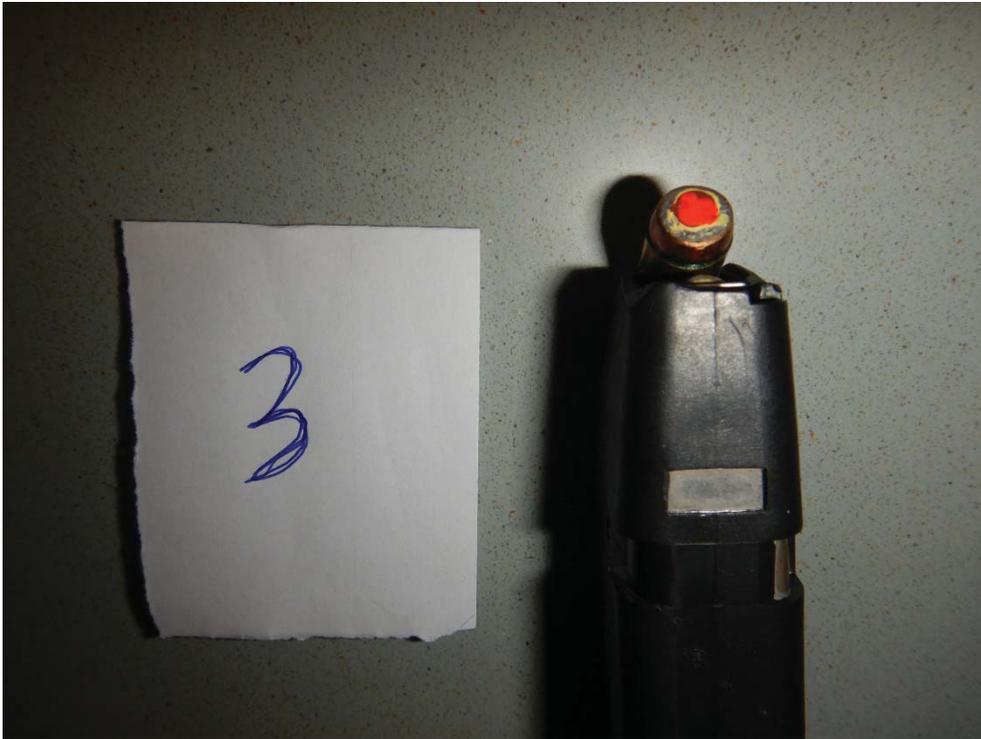
Events of November 26, 2020

23. On November 20, 2020, based in part on the information set forth above, I sought and obtained search warrants from this Court to search EL's person and his residence. On November 26, 2020, at approximately 1:09 p.m., EL left his house, got on a bus, and went to the Ruggles train station. When EL got to Ruggles, at approximately 1:40 p.m., agents detained him and executed the search warrant for his person. When he was stopped, EL was wearing a waist or fanny pack. In the fanny pack, searching officers found a Glock 27 pistol loaded with a magazine of ammunition and a round of ammunition in the chamber. On the Glock 27, EL had mounted a laser-sight that matched the Glock 27 laser-sight purchased from Amazon on October 31, 2019, as described above. A photograph of the pistol, showing its make (Glock), serial

number and country of manufacture (Austria), is below.

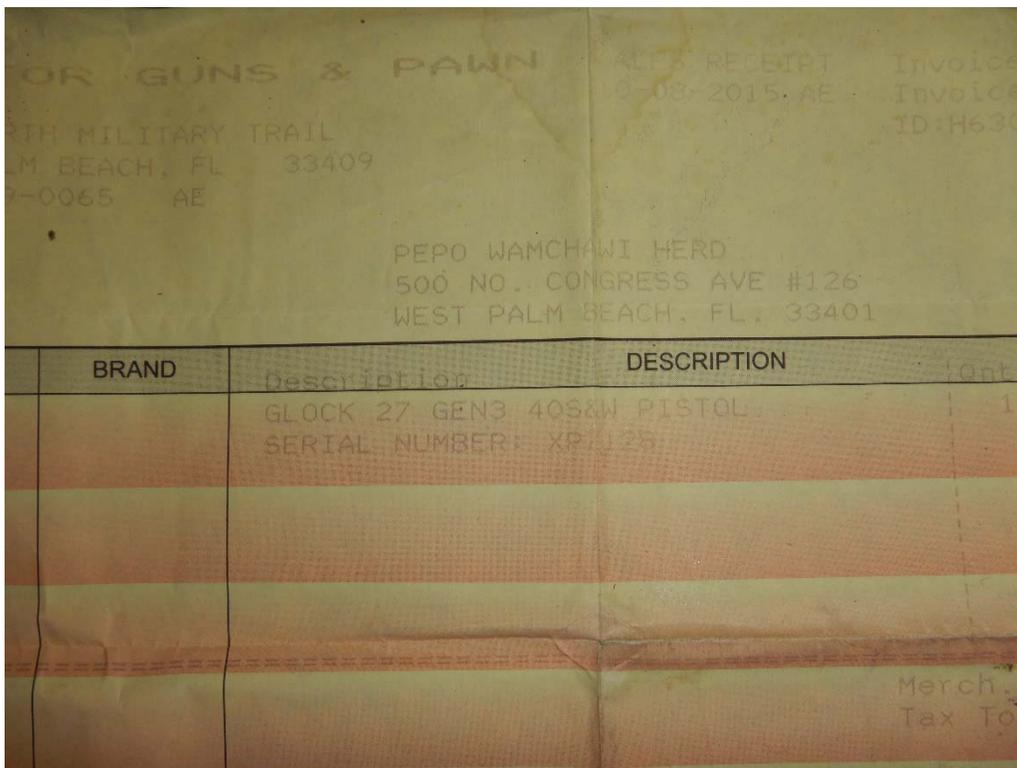


24. In addition to the magazine inserted in the pistol, there were three magazines in the fanny pack, all of which appear to be fully loaded with .40 caliber pistol ammunition. As of the time of the submission of this affidavit, investigators have not unloaded the magazines because we do not want to damage latent fingerprints that may be on the ammunition. However, to render the Glock 27 safe when it was seized, agents removed the round in the chamber. On the headstamp of the round in the Glock 27 chamber was stamped "S & W," which I know, based on my training and experience, stands for Smith & Wesson. I also know, based on my training and experience that Smith & Wesson ammunition is not manufactured in Massachusetts. Upon preliminary visual inspection, it appeared that some of the ammunition had been modified. Photographs of those modifications are below.



25. At the time of his detention, EL was also wearing a bullet-proof vest under his clothing and a jacket that read “security.” EL was also carrying a fixed-blade knife in a sheath.

26. In his wallet, EL had a receipt from “Gator Guns and Pawn,” at 2489 N. Military Trail, W. Palm Beach, Florida 33409. The receipt shows a September 29, 2015, purchase listed as XPZ128, Glock 27 Gen. 3, .40 S & W pistol, for \$604.15. The pistol found in the fanny pack, which EL was carrying, bears serial number XPZ128. On the bottom of the receipt there is a signature that appears to read “Pepo.” The customer listed on the receipt is “Pepo Wamchawi Herd” at “500 N. Congress Avenue, Apt. 126, W. Palm Beach, Florida 33401.” Based on my investigation, I know that Pepo Wamchawi Herd is the name listed on EL’s birth certificate. Also based on my investigation, I know that EL’s family members have listed 500 N. Congress Avenue, Apt. 126, W. Palm Beach, Florida, as a residence. A photograph of the receipt is below.



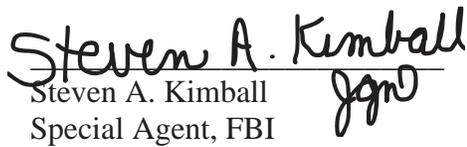
Ongoing Search of EL’s Residence

27. In the afternoon of November 26, 2020, in addition to searching EL’s person, agents initiated the search of EL’s residence, 53 McLellan Street. Special Agent Bomb Technicians (“SABT”s) made entry to ensure the residence is safe for agent search teams and for

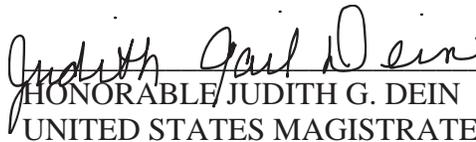
the community. In the residence, SABTs saw what appeared to be several of the chemicals that EL purchased from Amazon and eBay but did not immediately see any explosives or black powder. According to the Special Agents who made entry into the residence, EL is the only person living there. The residence is also disorganized and cluttered, making the search difficult and time-consuming, especially considering the added safety precautions that have to be taken where agents are concerned about the possibility of explosives. The bomb technicians on-site determined that a search would be safer in daylight and secured the residence yesterday around 4:30 p.m., and resumed the search this morning at approximately 7:00 a.m. Therefore, as of the time of the submission of this affidavit, it is unclear whether there is additional contraband in EL's residence and the search is ongoing.

CONCLUSION

28. Based on the foregoing facts and on my experience, training, and discussions with other individuals involved in this investigation, I believe there is probable cause to believe, and do in fact believe that EL possessed a firearm and ammunition in violation of 18 U.S.C. § 922(g)(1).


Steven A. Kimball
Special Agent, FBI

Subscribed and sworn to before me via telephone on November 27, 2020


HONORABLE JUDITH G. DEIN
UNITED STATES MAGISTRATE JUDGE