

AO 106A (08/18) Application for a Warrant by Telephone or Other Reliable Electronic Means

UNITED STATES DISTRICT COURT

for the Southern District of West Virginia

SEALED

In the Matter of the Search of
(Briefly describe the property to be searched or identify the person by name and address)
Facebook User Name "JJ Williams"
Facebook User ID: 100052197997697

Case No. 2:20-mj-00143

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

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.

located in the Southern District of West Virginia, there is now concealed (identify the person or describe the property to be seized):

See Attachment B.

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

- [x] evidence of a crime;
[x] contraband, fruits of crime, or other items illegally possessed;
[x] 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:

Table with 2 columns: Code Section, Offense Description. Row 1: 18 U.S.C. § 2, 18 U.S.C. § 1001; Aiding and abetting a false statement &. Row 2: 47 U.S.C. § 223 Sending harassing communications.

The application is based on these facts:

See attached Affidavit.

- [x] Continued on the attached sheet.
[] Delayed notice of \_\_\_ 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.

Applicant's signature
Jim Lafferty, FBI Special Agent
Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone. (specify reliable electronic means).

Date: Oct. 5, 2020

Judge's signature
Dwane L. Tinsley, United States Magistrate Judge
Printed name and title

City and state: Charleston, West Virginia

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

IN THE MATTER OF THE SEARCH OF  
INFORMATION ASSOCIATED WITH  
FACEBOOK USER NAME "JJ WILLIAMS"  
FACEBOOK USER ID: 100052197997697  
THAT IS STORED AT PREMISES  
CONTROLLED BY FACEBOOK INC.

Case No. 2:20-mj-00143

**Filed Under Seal**

**AFFIDAVIT IN SUPPORT OF  
AN APPLICATION FOR A SEARCH WARRANT**

I, Special Agent Jim Lafferty, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of an application for a search warrant for information associated with a certain Facebook user name that is stored at premises owned, maintained, controlled, or operated by Facebook Inc. ("Facebook"), a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the user name, JJ WILLIAMS, user ID 100052197997697.

2. I am a Special Agent with the Federal Bureau of Investigation and have been so employed for approximately eighteen years. I am current assigned to the Charleston, West Virginia, Resident Agency of the Pittsburgh Division. My primary experience as a FBI Special Agent is in investigations related to complex white-collar crime matters, including public corruption and civil rights matters. Prior to my employment with the FBI, I was employed as a

Certified Public Accountant with a public accounting firm for approximately four years.

Throughout my law enforcement career I have received training on the use of social media to perpetrate and further criminal misconduct. In addition, I have worked multiple cases involving the use of on-line activity to enact and further criminal activity.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of 18 U.S.C. § 2, 18 U.S.C. § 1001 and 47 U.S.C. § 223 have been committed by KEVIN COMER. There is also probable cause to search the information described in Attachment A for evidence of these crimes as described in Attachment B.

#### **STATUTORY AUTHORITY**

5. This investigation concerns alleged violations of 18 U.S.C. § 2, 18 U.S.C. § 1001 and 47 U.S.C. § 223, relating to aiding and abetting a false statement being made to the FBI, and sending harassing communications.

- a. 18 U.S.C. § 2(a) prohibits any person from aiding or abetting the commission of another crime.
- b. 18 U.S.C. § 1001(a)(2) prohibits any person from knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation in any matter within the jurisdiction of the executive, legislative, or judicial branch of government in the United States.
- c. 47 U.S.C. § 223(a)(1)(C) prohibits any person, in interstate or foreign communications, from knowingly making a telephone call or utilizing a telecommunication device, whether or not conversation or communication



ensues, without disclosing his identity and with intent to abuse, threaten, or harass any person.

### **JURISDICTION**

6. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A), & (c)(1)(A). Specifically, the Court is “a district court of the United States . . . that has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

### **INFORMATION ABOUT FACEBOOK**

7. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

8. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user’s full name, birth date, gender, contact e-mail addresses, Facebook passwords, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

9. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a “Friend Request.” If the recipient of a “Friend Request”



accepts the request, then the two users will become “Friends” for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user’s account includes a list of that user’s “Friends” and a “News Feed,” which highlights information about the user’s “Friends,” such as profile changes, upcoming events, and birthdays.

10. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create “lists” of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

11. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post “status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the events time, location, host, and guest list. In addition, Facebook users can “check in” to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

12. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It

also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

13. Facebook users can exchange private messages on Facebook with other users. Those messages are stored by Facebook unless deleted by the user. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a chat feature that allows users to send and receive instant messages through Facebook Messenger. These chat communications are stored in the chat history for the account. Facebook also has Video and Voice Calling features, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

14. If a Facebook user does not want to interact with another user on Facebook, the first user can “block” the second user from seeing his or her account.

15. Facebook has a “like” feature that allows users to give positive feedback or connect to particular pages. Facebook users can “like” Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become “fans” of particular Facebook pages.

16. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

17. Each Facebook account has an activity log, which is a list of the user’s posts and other Facebook activities from the inception of the account to the present. The activity log

includes stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user’s Facebook page.

18. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

19. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications (“apps”) on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

20. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

21. Social networking providers like Facebook typically retain additional information about their users’ accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts



between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

22. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user's IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to "tag" their location in posts and Facebook "friends" to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner's state of mind as it

relates to the offense under investigation. For example, information on the Facebook account may indicate the owner's motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

23. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

### PROBABLE CAUSE

#### BACKGROUND INFORMATION

24. The FBI is currently investigating alleged civil rights violations committed by ROSS MELLINGER, an employee with the Jackson County Sheriff's Department, in Jackson County, WV within the scope of his employment. To-date, several individuals in Jackson County have alleged they are victims of excessive force at the hands of MELLINGER dating back as far as September 2017.

25. MELLINGER is currently a candidate for sheriff in Jackson County, having secured the Democratic nomination for Sheriff. MELLINGER'S chief competition in the general election is NOEL BRALEY, the Republican nominee for Sheriff.

26. The FBI learned during its investigation that BRALEY was/is referring alleged victims of excessive force by MELLINGER to a civil attorney named MIKE CLIFFORD. CLIFFORD has filed two (2) federal civil lawsuits against MELLINGER and others based on these referrals.

27. It is with this backdrop that KEVIN COMER created a fictitious persona “JOSH WILLIAMS” (aka “JJ WILLIAMS”) (hereinafter “JOSH WILLIAMS” and “JJ WILLIAMS” will be used interchangeably and refer to the same person), and contacted BRALEY falsely claiming to be a victim of excessive force by MELLINGER in an apparent attempt to get BRALEY to commit an illegal act. BRALEY then repeated COMER’S false statement to the FBI, believing COMER’S statements to be true.

28. The FBI spent considerable resources following up on the false statements which BRALEY made to Special Agents concerning WILLIAMS being a victim of excessive force.

29. The FBI learned during the course of its investigation that COMER, and other known and unknown persons, maintained a Facebook account with the username “JJ WILLIAMS” in an effort to perpetuate this false story created by COMER.

30. Throughout this affidavit references to WILLIAMS are all actually COMER pretending to be the fictitious WILLIAMS.

31. During the investigation, the FBI learned that COMER, pretending to be WILLIAMS, would routinely make recorded phone calls to BRALEY discussing his fictitious complaint against MELLINGER, and other false information. Agents also discovered that the JJ WILLIAMS Facebook page posted out-of-context audio recordings from those conversations in an effort to harm BRALEY’S chance of being elected Sheriff.

32. The FBI further learned that COMER had previously called BRALEY and warned him to get out of the race for Sheriff or things were going to get “rough.”

33. During the investigation, FBI agents acquired the recordings described in paragraphs 31 and 32 and the quotations and references to those phone calls throughout this affidavit are from the actual recordings of those calls.



**THE INITIAL INVESTIGATION**

34. In July of 2019 the FBI was referred for investigation alleged civil rights violations committed by ROSS MELLINGER, an employee of the Jackson County Sheriff's Department. At that time, two (2) federal civil lawsuits had been filed against MELLINGER, and others, based on conduct within the scope of their employment. The lawsuits concerned three (3) alleged victims, spanning from September of 2017, to April of 2019.

**THE RACE FOR SHERIFF**

35. ROSS MELLINGER is currently a candidate for Sheriff in Jackson County, WV. MELLINGER secured the Democratic nomination in the primary, and will be the Democratic Party representative on the ballot in the general election on November 3, 2020.

36. NOEL BRALEY is currently a candidate for Sheriff in Jackson County, WV. BRALEY secured the Republican nomination in the primary, and will be the Republican Party representative on the ballot in the general election on November 3, 2020.

37. Since declaring his candidacy for Sheriff, BRALEY has referred/advised multiple alleged victims of excessive force by MELLINGER to speak with attorney MIKE CLIFFORD. CLIFFORD has filed at least two (2) federal civil rights lawsuits against MELLINGER, and others.

38. Based on the investigation to-date, there is no indication that BRALEY acted illegally when he made these referrals to CLIFFORD.

**THE PERSONAL ANIMOSITY**

39. KEVIN COMER is a resident of Kanawha County who has a personal animosity towards NOEL BRALEY. According to COMER, BRALEY is not qualified and/or corrupt, and should not be elected Sheriff of Jackson County, WV.

40. On or about October 9, 2019, COMER spoke to BRALEY in a recorded phone conversation. The phone call was in response to COMER creating a Facebook group designed to harm BRALEY'S chances of being elected Sheriff. In the recorded conversation, COMER tells BRALEY he is unqualified to be Sheriff and encourages him to drop out of the race. BRALEY inquires why he [Comer] is doing this. COMER says "*Here's the thing... Let me tell you the way out of this... Here's the way for you to get out of this... Before more comes out... the way for you to get out of this is to drop out of the race...*" Prior to hanging up, COMER says "*hang on buckle your seat belt hold on cause its gonna get rough, watch and see...*"

**THE FICTICIOUS PERSONA**

41. On March 10, 2020, KEVIN COMER made a recorded phone call to NOEL BRALEY purporting to be JOSH WILLIAMS. In the call, the fictitious WILLIAMS states his family is the victim of an unlawful use of force by ROSS MELLINGER. WILLIAMS states that he was pulled-over for no reason by MELLINGER, after which time his brother-in-law was arrested, and he was forced on his stomach and required to lay on the ground by MELLINGER for no valid reason. WILLIAMS stated that the event was recorded by his wife, and that he wanted to sue MELLINGER. BRALEY informed the fictitious WILLIAMS that he had a couple of other people with similar complaints about MELLINGER that he was going to provide to the FBI. WILLIAMS informed BRALEY he would tell the FBI anything he wanted him to say

regarding parts of the interaction that were not recorded. BRALEY informed WILLIAMS he (WILLIAMS) would be talking to an FBI agent so he needed to tell the truth.

42. A second recorded call was exchanged between BRALEY and the fictitious WILLIAMS on March 10, 2020. In the second call, BRALEY informed WILLIAMS that he was going to see the FBI the following day (March 11, 2020). BRALEY informed WILLIAMS the FBI would want to talk to him and he should tell the truth when speaking to the FBI. BRALEY informed WILLIAMS that what MELLINGER had done to him was an unlawful use of MELLINGER's authority to try to influence an election. WILLIAMS provided BRALEY with more details regarding what MELLINGER had done to him. WILLIAMS informed BRALEY he had been pulled over without cause. MELLINGER placed handcuffs on WILLIAMS after placing his hands behind his back and laid him on the ground face first. MELLINGER removed a can of mace and shook the can. WILLIAMS informed BRALEY he thought MELLINGER was going to mace him. MELLINGER then put his foot on WILLIAMS's head. MELLINGER also looked through WILLIAMS's wife purse without any probable cause. WILLIAMS informed BRALEY that his wife, children, and brother-in-law were in the car. WILLIAMS advised that his brother-in-law had an outstanding warrant but this information was not known to MELLINGER when he initiated the stop. BRALEY explained to WILLIAMS that this was unacceptable and that the FBI does not fool around and that they (the FBI) "police the police." BRALEY once again told WILLIAMS to tell the FBI the same thing he told him. BRALEY informed WILLIAMS that he had already spoken to one FBI agent from Columbus and that agent had given him the number for the Charleston FBI office. After discussing the false allegations made by WILLIAMS, BRALEY informed WILLIAMS that he did not want to have to shoot MELLINGER before he (BRALEY) won the election and that he



considered MELLINGER a rogue cop. WILLIAMS encouraged BRALEY to keep his gun handy considering what MELLINGER and the other deputies had done to him.

#### **THE FALSE STATEMENT**

43. On March 11, 2020, NOEL BRALEY gave a walk-in complaint to the FBI at their Charleston, West Virginia location. BRALEY provided information on at least three individuals who he alleged had their civil rights violated by ROSS MELLINGER. One of the individuals BRALEY discussed was JOSH WILLIAMS. BRALEY's account of what happened to WILLIAMS was consistent with the audio recordings made by WILLIAMS. BRALEY provided a telephone number for WILLIAMS.

44. After the complaint was taken, the FBI attempted to follow up on the information relayed by BRALEY. FBI Agents attempted to call WILLIAMS; however, the phone number did not work. FBI Agents attempted to locate a JOSH WILLIAMS in Ripley, West Virginia (Jackson County, WV), however there were multiple Josh Williams, and the Agents were unable to identify the WILLIAMS who was communicating with BRALEY.

#### **THE ON-GOING HOAX**

45. On March 11, 2020, NOEL BRALEY sent the fictitious JOSH WILLIAMS a text message alerting him that the FBI would probably be calling him.

46. Later on March 11, 2020, the fictitious WILLIAMS called BRALEY. WILLIAMS informed BRALEY the FBI had contacted him. WILLIAMS informed BRALEY he had told the FBI that ROSS MELLINGER had maced him during their interaction. BRALEY informed WILLIAMS that MELLINGER might have tested the mace canister which would have resulted in WILLIAMS feeling the effects of the pepper spray. WILLIAMS informed BRALEY

the FBI wanted to meet with him the following day but he would be unable to because he did not have the gas money to travel to Charleston. BRALEY agreed to provide WILLIAMS with the gas money he would need to travel to Charleston. WILLIAMS informed BRALEY he was not going to tell the FBI that he was seeing a civil attorney. BRALEY informed WILLIAMS the FBI did not care if he pursued a civil case against MELLINGER.

47. On March 14, 2020, WILLIAMS contacted BRALEY by phone and informed him he had visited with the FBI on Friday, March 13, 2020. WILLIAMS said he provided the phone recording his wife had made to the FBI. WILLIAMS informed BRALEY the FBI did not say if MELLINGER was going to go to jail but they did say he would probably lose his job. WILLIAMS further stated the FBI imaged the video and erased it from his wife's phone so that it would not accidentally be posted on social media.

48. On May 12, 2020, WILLIAMS contacted BRALEY by phone. The two discussed a recent incident where MELLINGER and another deputy had come to WILLIAMS's home. WILLIAMS indicated MELLINGER may have had a gun in his hand. BRALEY informed WILLIAMS that if he thought MELLINGER had a gun in his hand he should tell law enforcement. WILLIAMS asked BRALEY if he could borrow \$20 for gas money he would need to travel to Charleston, West Virginia, to meet with federal authorities. BRALEY informed WILLIAMS he could lend him \$100 which could be paid back when he reached a settlement with Jackson County. WILLIAMS informed BRALEY he was going to testify in front of a jury on Friday, May 15<sup>th</sup>.

49. On Friday, May 15, 2020, based on the report made by NOEL BRALEY, an agent with the FBI sent a text message to the phone number he had for WILLIAMS requesting that WILLIAMS contact him. The fictitious WILLIAMS responded on May 18, 2020 by asking

when he should call the agent. On Tuesday, May 19, 2020, the agent responded that WILLIAMS should call him after 4 p.m.

50. On May 18, 2020, the fictitious WILLIAMS contacted BRALEY by phone and informed him he had met with federal authorities earlier in the day. WILLIAMS also informed BRALEY he had testified in front of a jury. WILLIAMS reiterated that MELLINGER was going to be fired. WILLIAMS told BRALEY he had told them MELLINGER came to his house and tried to intimidate him. WILLIAMS also told BRALEY he had informed the jury that MELLINGER had maced him during their first interaction. On multiple occasions, WILLIAMS suggested he would fabricate MELLINGER brandishing a weapon. BRALEY instructed WILLIAMS that he needed to be careful and not perjure himself. When WILLIAMS informed BRALEY he was going to say MELLINGER had pointed a gun at him, BRALEY informed WILLIAMS to not do that. During this conversation, WILLIAMS and BRALEY discussed BRALEY lending WILLIAMS \$500. BRALEY said that he would lend WILLIAMS the money but he needed to understand this was not for his testimony. BRALEY pointed out that WILLIAMS had in fact already testified. BRALEY told WILLIAMS he could pay him back once a settlement was reached with Jackson County.

51. On May 19, 2020, WILLIAMS contacted BRALEY by phone and informed him he was meeting with federal authorities including someone from Washington, D.C. later in the day. WILLIAMS asked BRALEY for advice on what he should say. BRALEY informed WILLIAMS to tell the truth and to just tell them what happened. WILLIAMS informed BRALEY that he had been followed by MELLINGER and others in unmarked cars. MELLINGER informed BRALEY he was going to lie about the number of times he had been followed. BRALEY informed WILLIAMS to not do that.



**FBI'S FIRST COMMUNICATION WITH KEVIN COMER**

52. On May 19, 2020, an agent with the FBI received a phone call from KEVIN COMER. It was the first time COMER had tried to reach an FBI agent working this investigation. COMER informed the agent he had just recorded a conversation with NOEL BRALEY where BRALEY encouraged COMER to make false statements to the FBI. COMER wanted to provide a copy of the recording to the FBI. COMER provided a copy of the recording the same day.

53. On Wednesday, May 20, 2020, COMER sent a text message to the same FBI agent who was attempting to reach WILLIAMS advising that another federal law enforcement officer had asked him to contact the agent.

54. Later that day, two FBI agents spoke with COMER by telephone. COMER admitted he had been pretending to be an individual named JOSH WILLIAMS, and had been recording conversations with BRALEY. As such, there was no actual interaction, physical assault or corresponding video between WILLIAMS and ROSS MELLINGER. COMER stated he was acting alone and not under any direction of any law enforcement agency.

**COMER HOAX CONTINUES**

55. On May 20, 2020, WILLIAMS contacted BRALEY. WILLIAMS informed BRALEY federal authorities had alerted him that MELLINGER was in trouble and that MELLINGER knew what was going on. WILLIAMS implied MELLINGER had received a target letter.

56. On June 25, 2020, WILLIAMS contacted BRALEY by telephone with an update. WILLIAMS advised he had just heard from the FBI that MELLINGER was being indicted the

following week. WILLIAMS informed BRALEY he was afraid of MELLINGER and was carrying a gun for his protection. WILLIAMS added he had a concealed carry permit. BRALEY offered to give WILLIAMS a gun if he did not have one. WILLIAMS informed BRALEY he was short on money and laid off. BRALEY advised WILLIAMS he could give him a job if he needed one.

57. On July 7, 2020, WILLIAMS contacted BRALEY by phone. WILLIAMS informed BRALEY that MELLINGER had been “pulled in” by the FBI and they now want WILLIAMS to come back later in the day. WILLIAMS stated that MELLINGER was getting indicted or arrested later that week. WILLIAMS then informed BRALEY he needed \$500. BRALEY informed WILLIAMS to wait until after all of this is made public because he does not want law enforcement to get the wrong impression. After which, WILLIAMS discussed telling federal authorities he had been maced by MELLINGER. BRALEY again told WILLIAMS to just tell the truth, to not lie about what happened, and that if he told the truth he would have nothing to worry about.

58. On what is believed to be July 7, 2020, WILLIAMS and BRALEY shared the following text message exchange (below is the actual exchange, spelling errors are left as included in the copied exchange):

- WILLIAMS texted BRALEY: They changed my appointment I’m going in at 2.
- BRALEY responded: Now.
- WILLIAMS texted BRALEY: I’m scared Noel this was supposed to be safe. I don’t wanna go jail. She’s here. Have text. I’m fucked now.
- BRALEY responded: I don’t see the FBI do anything to you you’re the victim of a crime call Mike Clifford he’s a good attorney your civil rights were violated NO matter if FBI wants to do anything about him stopping your ior not.

- WILLIAMS responded: They no I lied though. I played it up like we talked. They said they knew we was talking to each other when I told them u and me dont talk.
- BRALEY responded: It's not illegal for you to talk to me I don't know why they're making a big deal out of it but they must not want to prosecute him right now.
- WILLIAMS responded: They said Mellinger didn't do anything wrong and they knew me and you was talking and said this was all to get you elected sheriff.
- BRALEY responded: They have plenty on Mellinger to arrest him if they want to there's several victims he can say all the stuff he wants but I don't make it true.
- WILLIAMS responded: Man Im worried.
- BRALEY responded: You called me out of the blue I went to the FBI or the next day and it's their job to investigate it. I Neva encouraged anyway to be dishonest.
- WILLIAMS responded: Can you or Mike Clifford still get me that money im broke big time. I just cant believe it man.
- BRALEY responded: I can see right now that I'm being set up.
- WILLIAMS responded: Who set u up. Im the one they want to put in jail now. I can't go to jail noel. What about my kids.
- BRALEY responded: If you want to talk to you face somewhere I'm not gonna be on his phone anymore. I said if you want to work for me I would pay you as a roofer.

59. On or about July 9, 2020, BRALEY contacted your affiant and wanted to know if he was in trouble with the FBI.

60. On or about July 11, 2020, the Facebook account for JJ WILLIAM posted a message alleging that BRALEY "is a joke" and wanted WILLIAMS to rig the election with a bogus lawsuit. The post alleged that BRALEY instructed WILLIAMS on how to make his story



believable to the FBI. The post ended stating, "I just hope they dont hate me but I just cant go thru with it like you wanted and now you just washed your hands of me when i needed you the most just because it didnt go your way."

61. In what appears to be another post from on or about July 11, 2020, the following was written: "I knew Noel was obsessed with his election but when he started talkin about killing mellinger I knew this was a whole new level and he just wont stop talking about it its like hes got a sickness or something."

62. In or around the time these posts were made to the JJ Williams Facebook page, three audio clips were posted to the same Facebook page lifted from the recordings WILLIAMS made with BRALEY.

#### **INTERVIEW WITH KEVIN COMER**

63. On July 23, 2020, KEVIN COMER was interviewed by your affiant and a second FBI agent familiar with the case. Prior to the meeting, FBI Agents had independently acquired and reviewed numerous recorded phone calls between COMER (pretending to be JOSH WILLIAMS) and NOEL BRALEY. KEVIN COMER brought to the interview his copies of these recordings and during the interview advised agents that it appeared the FBI already had copies of the provided recordings with the exception of one recording between him (WILLIAMS) and BRALEY.

64. During the interview, COMER advised that when he learned BRALEY was going to contact the FBI he reached out to a federal law enforcement officer who was familiar with BRALEY and COMER and requested that someone let the FBI know that BRALEY would be approaching them with the name of a victim who did not actually exist. The law enforcement officer told COMER to contact the FBI and tell them what had happened. It should be noted

(Ref paragraph 54) this contact by COMER did not occur until two months after BRALEY filed his complaint with the FBI. COMER also stated he could not tell BRALEY not to go to the FBI with his false complaint. Lastly, COMER advised he thought BRALEY was bluffing about going to the FBI because BRALEY is a criminal.

65. COMER informed your affiant he made these recordings with BRALEY because he wanted to expose his character and he wanted people to know the real BRALEY, a total criminal.

66. COMER acknowledged the JJ Williams Facebook page was “him” and the Facebook page was the on-line equivalent of his WILLIAMS persona. COMER advised that when asked about the Facebook page he would have to opt out of answering some questions because the Facebook page was “political” and several people have the password to this account. COMER advised there were more than three audio recordings that he had made with BRALEY on the Facebook page as of the date of the interview and some of the recordings were posted by COMER while some were not. COMER would not provide the name of the other individuals who had the password to the Facebook page and were posting to the site. COMER described one of these individuals as being a paramedic, last name JOHNSON. COMER advised he does not know if MELLINGER had access to the JJ Williams Facebook page.

67. COMER was shown a Facebook posting from the JJ Williams Facebook page that stated BRALEY “is a joke” and “he wanted me to help him rig his election with a bogus lawsuit”, as well as other allegations against BRALEY. COMER advised he did not create this post and does not know who did.

68. COMER was shown a Facebook posting from the JJ Williams Facebook page that stated BRALEY “was obsessed with his election but when he started talking about killing

mellinger I knew this was a whole new lever and he just wont stop talking about it its like hes got a sickness or something.” COMER advised he did not create this post and does not know who did.

69. During the investigation, FBI Agents confirmed through open source searching that the JJ WILLIAMS Facebook account referenced throughout this affidavit was assigned a unique user ID: 100052197997697.

70. On July 14, 2020, FBI Agents submitted a Preservation Letter to Facebook requesting preservation of the Facebook account JJ Williams, User ID: 100052197997697. Facebook responded indicating they were in receipt of the request, and the data would be preserved for a period of 90 days.

#### CONCLUSION

71. Based on the foregoing, there is probable cause to believe that KEVIN COMER aided and abetted NOEL BRALEY in unwittingly making a false statement to FBI agents in violation of 18 U.S.C. § 1001 concerning the misconduct of ROSS MELLINGER against the fictitious JOSH WILLIAMS. Moreover, there is probable cause to believe that evidence of the hoax perpetrated by KEVIN COMER, and potentially others, will be found on the Facebook account user name JJ WILLIAMS, user ID: 100052197997697.

72. Additionally, there is probable cause to believe that KEVIN COMER committed a violation of 47 U.S.C. § 223 by utilizing a telephone or telecommunication device without disclosing his identity with the intent to threaten and harass NOEL BRALEY beginning on or about March 10, 2020, and the subsequent posting of misleading information to the fictitious JJ WILLIAMS Facebook account in an effort to harm NOEL BRALEY’S campaign for sheriff.




Furthermore, there is probable cause to believe evidence of this will be found on the Facebook account user name JJ WILLIAMS, user ID: 100052197997697.

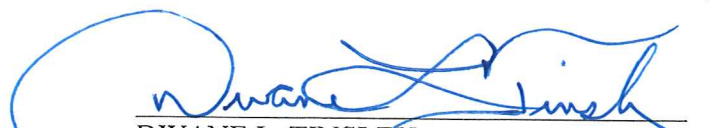
73. Accordingly, your Affiant requests that the Court issue the proposed search warrant.

74. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant. The government will execute this warrant by serving it on Facebook. Because the warrant will be served on Facebook, who will then compile the requested records at a time convenient to it, reasonable cause exists to permit the execution of the requested warrant at any time in the day or night.

Respectfully submitted,

  
\_\_\_\_\_  
Jim Lafferty  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me on Oct. 5, 2020, 2020.

  
\_\_\_\_\_  
DWANE L. TINSLEY  
UNITED STATES MAGISTRATE JUDGE

**ATTACHMENT A**

**Property to Be Searched**

This warrant applies to information associated with the Facebook username “JJ WILLIAMS, UID 100052197997697” that is stored at premises owned, maintained, controlled, or operated by Facebook Inc., a company headquartered in Menlo Park, California.

**ATTACHMENT B**

**Particular Things to be Seized**

**I. Information to be disclosed by Facebook**

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook Inc. (“Facebook”), regardless of whether such information is located within or outside of the United States, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user ID listed in Attachment A:

- (a) All contact and personal identifying information, including full name, user identification number, birth date, gender, contact e-mail addresses, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the account and all other documents showing the user’s posts and other Facebook activities from October 9, 2019, through October 1, 2020;
- (c) All photos and videos uploaded by that user ID and all photos and videos uploaded by any user that have that user tagged in them from October 9, 2019, through October 1, 2020, including Exchangeable Image File (“EXIF”) data and any other metadata associated with those photos and videos;
- (d) All profile information; News Feed information; status updates; videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends’ Facebook user identification numbers; groups and networks of which the user is a member, including the groups’ Facebook group identification



numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the user’s access and use of Facebook applications;

- (e) All records or other information regarding the devices and internet browsers associated with, or used in connection with, that user ID, including the hardware model, operating system version, unique device identifiers, mobile network information, and user agent string;
- (f) All other records and contents of communications and messages made or received by the user from October 9, 2019, through October 1, 2020, including all Messenger activity, private messages, chat history, video and voice calling history, and pending “Friend” requests;
- (g) All “check ins” and other location information;
- (h) All IP logs, including all records of the IP addresses that logged into the account;
- (i) All records of the account’s usage of the “Like” feature, including all Facebook posts and all non-Facebook webpages and content that the user has “liked”;
- (j) All information about the Facebook pages that the account is or was a “fan” of;
- (k) All past and present lists of friends created by the account;
- (l) All records of Facebook searches performed by the account from October 9, 2019, through October 1, 2020;
- (m) All information about the user’s access and use of Facebook Marketplace;
- (n) The types of service utilized by the user;

- (o) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);
- (p) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- (q) All records pertaining to communications between Facebook and any person regarding the user or the user's Facebook account, including contacts with support services and records of actions taken.

Facebook is hereby ordered to disclose the above information to the government within **fourteen days** of issuance of this warrant.

## II. Information to be seized by the government

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of 18 U.S.C. § 2, 18 U.S.C. §1001 and 47 U.S.C. § 223 involving JJ WILLIAMS, UID 100052197997697 since October 9, 2019, including, for each user ID identified on Attachment A, information pertaining to the following matters:

- (a) Communication (posts, private messages, etc.) regarding NOEL BRALEY, KEVIN COMER, JOSH WILLIAMS, JJ WILLIAMS, MIKE CLIFFORD and/or ROSS MELLINGER; any audio files posted to the Facebook page, references to the “Federal Bureau of Investigation (FBI)” and/or “federal civil lawsuits”; and references to the 2020 Jackson County Sheriff election.
- (b) Evidence indicating how and when the Facebook account was accessed or used, to determine the chronological and geographic context of account access, use, and events relating to the crime under investigation and to the Facebook account owner;
- (c) Evidence indicating the Facebook account owner’s state of mind as it relates to the crime under investigation;
- (d) The identity of the person(s) who created or used the user ID, including records that help reveal the whereabouts of such person(s).

This warrant authorizes a review of electronically stored information, communications, other records and information disclosed 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 FBI may deliver a complete copy of the disclosed electronic data to the custody and control of attorneys for the government and their support staff for their independent review.

**CERTIFICATE OF AUTHENTICITY OF DOMESTIC RECORDS PURSUANT TO  
FEDERAL RULES OF EVIDENCE 902(11) AND 902(13)**

I, \_\_\_\_\_, attest, under penalties of perjury by the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this certification is true and correct. I am employed by Facebook, and my title is \_\_\_\_\_ . I am qualified to authenticate the records attached hereto because I am familiar with how the records were created, managed, stored, and retrieved. I state that the records attached hereto are true duplicates of the original records in the custody of Facebook. The attached records consist of \_\_\_\_\_ **[GENERALLY DESCRIBE RECORDS (pages/CDs/megabytes)]**. I further state that:

a. all records attached to this certificate were made at or near the time of the occurrence of the matter set forth by, or from information transmitted by, a person with knowledge of those matters, they were kept in the ordinary course of the regularly conducted business activity of Facebook, and they were made by Facebook as a regular practice; and

b. such records were generated by Facebook's electronic process or system that produces an accurate result, to wit:

1. the records were copied from electronic device(s), storage medium(s), or file(s) in the custody of Facebook in a manner to ensure that they are true duplicates of the original records; and

2. the process or system is regularly verified by Facebook, and at all times pertinent to the records certified here the process and system functioned properly and normally.

I further state that this certification is intended to satisfy Rules 902(11) and 902(13) of the Federal Rules of Evidence.

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Date

Signature