

UNITED STATES DISTRICT COURT

for the

Northern District of Ohio

FILED

3:25 pm Jun 18 2018

Clerk U.S. District Court Northern District of Ohio Cleveland

United States of America v.

Nicholas J. Powell,

Case No.

1:18mj3159-TMP

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 October 2013 to present in the county of Cuyahoga in the Northern District of Ohio, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Row 1: 21 U.S.C. § 846 and; 18 U.S.C § 1956(h) | Conspiracy to Distribute Controlled Substances, such as Xanax (alprazolam), marijuana, and steroids, and Money Laundering Conspiracy

This criminal complaint is based on these facts:

See Attached Affidavit

Continued on the attached sheet.

Handwritten signature of Michael J. Grote Jr.

Complainant's signature

Special Agent Michael J. Grote, HSI/DHS

Printed name and title

Sworn to via telephone after submission by reliable electronic means. Fed. R. Crim. P. 4.1 and 41(d)(3).

Date: 06/18/2018

Handwritten signature of Thomas M. Parker

Judge's signature

City and state: Cleveland, Ohio

Thomas M. Parker, United States Magistrate Judge

Printed name and title



IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

I, Michael J. Grote, DO HEREBY DEPOSE AND SAY:

1. I am currently employed as a Special Agent of the Homeland Security Investigations (HSI) within the U.S. Department of Homeland Security (DHS). I am a graduate of the Criminal Investigator Training Program at the Federal Law Enforcement Training Center at Glynco, Georgia. I have received additional law enforcement training (Immigration Officer Basic Training Program 1998) at the Federal Law Enforcement Training Center and with the Huron County Sheriff's Office (Correction Officer Academy 1997). I have held other positions in Law Enforcement as an Immigration Inspector with the Immigration and Naturalization Service, a Customs and Border Protection Officer (CBPO), and a Deputy Sheriff/Corrections Officer with the Huron County Sheriff's Office in Norwalk, Ohio. I have a total of 20 years law enforcement experience. I am a graduate of Bluffton University with a double major in Criminal Justice and Sociology and was the Outstanding Scholar of both programs.

2. I am an "Investigative or Law Enforcement Officer" of the United States within the meaning of Title 18, United States Code, Section 2510(7), and am empowered by law to conduct investigations and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516. I also am empowered under Title 19, United States Code, Section 1589a to serve any warrant under the authority of the United States and make warrantless felony arrests for any crime against the United States. I also am a Customs Officer as defined by Title 19 of the United States Code, and am authorized to conduct warrantless searches at the United States Border or the Functional Equivalent of the United States Border.

3. I have received specialized training at the Federal Law Enforcement Training Facility, located in Glynco, Georgia, regarding the identification of narcotic substances and the operation of drug trafficking organizations. As part of my training, I have received specialized instruction about narcotics, narcotics trafficking, money laundering, and various techniques for investigating persons and organizations engaged in this unlawful conduct. I have participated on search

warrants and have executed search warrants that have resulted in the seizure of illegal drugs and evidence of drug violations.

4. Through investigation and training, I have become familiar with the types and amounts of profits made by drug traffickers and the methods, language, and terms that are used to disguise their illegal activity. I know that persons engaged in drug trafficking require expedient forms of communication to maintain an adequate and consistent supply of drugs from sources, and to effectively market those drugs to customers.
5. Your Affiant knows based on training and experiences those individuals who traffic in one controlled substances such as Xanax often traffic and possesses other controlled substances and controlled substance analogues, particularly synthetic narcotics.
6. Furthermore, based on my training and experience that individuals who engage in unlawful activity on the internet (including the dark net) sometimes also use the expertise that they learn to engage in other criminal activity online.
7. Based upon my training and experience and discussions with other agents and law enforcement officers concerning the distribution of controlled substances, I am aware that anabolic steroids, Alprazolam, Gamma-Hydroxybutyric Acid (GHB) and other commonly abused drugs are being mailed from China, Hong Kong, and other foreign countries and that Internationally mailed parcels provides traceability and reliable delivery. Your affiant is also aware that anabolic steroids, Alprazolam, GHB, and other commonly abused drugs mailed from China, Hong Kong, and other foreign countries are often mailed to Mexico and Canada, prior to entering the United States, by mail and other border smuggling methods. Further, the expected timeliness of International Mailing Parcels places time pressures on law enforcement agents to identify, search and deliver these drug parcels in a timely manner. Further, tracking of international parcels is difficult

do to law enforcement agent's limited tracking capabilities associated with foreign parcels.

8. This Affidavit is submitted in support of a criminal complaint against NICHOLAS J. POWELL, a.k.a. "BONNIENCLYDE", "BNC," "BCPHARMA," "THE SOURCE," and "MONEY TS" and MICHAEL GONZALES. As further detailed below, your Affiant submits that there is probable cause to believe that from on or about October 1, 2013 to the present, POWELL and GONZALES knowingly and intentionally committed offenses in violation of United States Code 21 U.S. Code § 846 – Conspiracy to Distribute Controlled Substances, such as Xanax (a Schedule IV controlled substance), marijuana (a Schedule I controlled substance), and steroids (a schedule III controlled substance); and Title 18, United States Code, Section 1956(h) – Money Laundering Conspiracy.
9. The facts set forth below are based upon your Affiant's personal knowledge learned through the course of the investigation as well as information obtained from law enforcement and additional sources.
10. This Affidavit is being submitted for the limited purpose of informing the court of the evidence establishing probable cause for a violation of federal criminal law. Since this affidavit is for this limited purpose, your Affiant has not included each and every fact known concerning this investigation.

BACKGROUND CONCERNING DARK NET AND CRYPTOCURRENCY INVESTIGATIONS

11. The "clear" or "surface" web is part of the internet accessible to anyone with a standard browser and that standard web search engines can index. The deep web is the part of the internet whose contents are not indexed by standard web search engines. The dark net is a part of the deep web that not only cannot be discovered through a traditional search engine, but also has been intentionally hidden and is inaccessible through standard browsers and methods.
12. The dark net is accessible only with specific software, configurations, and/or

authorization, including non-standard communications protocols and ports, such as a TOR (“The Onion Router”) browser. A TOR browser is designed specifically to facilitate anonymous communication over the internet. In order to access the TOR network, a user must install TOR software either by downloading an add-on to the user’s web browser or by downloading the free “TOR browser bundle.” Use of the TOR software bounces a user’s communications around a distributed network of relay computers run by volunteers all around the world, thereby masking the user’s actual IP address, which could otherwise be used to identify a user. Because of the way TOR routes communications through other computers, traditional IP identification techniques are not viable. When a user on the TOR network accesses a website, for example, the IP address of a TOR “exit node,” rather than the user’s actual IP address, shows up in the website’s IP log. An exit node is the last computer through which a user’s communications were routed. There is no practical way to trace the user’s actual IP address back through that TOR exit node IP address. A criminal suspect’s use of TOR makes it extremely difficult for law enforcement agents to detect a host, administrator, or user actual IP address or physical location.

13. Dark net marketplaces operate on the dark net. These sites are generally only accessible through the input of specific addresses in a TOR browser. The dark net marketplaces function primarily as black markets, selling or brokering transactions involving drugs, cyber-arms, weapons, counterfeit currency, stolen credit card details, forged documents, unlicensed pharmaceuticals, steroids, and other illicit goods as well as the occasional sale of legal products. Dark net vendors (also known as distributors) operate on these dark net markets as sellers of these goods. They provide detailed information about their wares on these sites, including listings of their drugs for sale, (contact information such as TOR-based email or encrypted messaging applications), and the prices and quantities of drugs for sale in bitcoins. Customers purchase these goods using a computer or smartphone.

14. Your affiant is aware that some dark net marketplace vendors conduct the entirety

of their transactions on the marketplace. Other vendors use the sites as an advertising base and messaging system and conduct their financial business in peer-to-peer transactions in order to avoid using third party escrow systems that they believe could be subject to law enforcement seizures as well as thefts, hacks, and scams.

15. Bitcoin (BTC)¹ is a type of virtual currency, circulated over the internet. Bitcoin are not issued by any government, bank, or company, but rather are controlled through computer software operating via a decentralized, peer-to-peer network. Bitcoin is just one of many varieties of virtual currency. Other currency includes Bitcoin Cash (“BCH”), Litecoins (“LTC”), Ethereum (“ETH” or “ether”), and Ripple (XRP). For ease of reference, the analysis below relating to Bitcoin generally applies to other types of cryptocurrencies (often collectively referred to as “Altcoins”).

16. Bitcoin are sent to and received from BTC “addresses.” A Bitcoin address is somewhat analogous to a bank account number and is represented as a multi-character-long and case-sensitive string of letters and numbers. Each Bitcoin address is controlled through the use of a unique corresponding private key. This key is the equivalent of a password, or PIN, and is necessary to access the Bitcoin address. Only the holder of an address’ private key can authorize any transfers of bitcoin from that address to other Bitcoin addresses. Users can operate multiple BTC addresses at any given time and may use a unique Bitcoin address for each and every transaction.

17. To acquire bitcoin, a typical user purchases them from a virtual² currency exchange. A virtual currency exchange is a business that allows customers to trade virtual currencies for other forms of value, such as conventional fiat money (*e.g.*, U.S. dollars, Russian rubles, euros). Exchanges can be brick-and-mortar

¹ Since Bitcoin is both a currency and a protocol, capitalization differs. Accepted practice is to use “Bitcoin” (singular with an uppercase letter B) to label the protocol, software, and community, and “bitcoin” (with a lowercase letter b) to label units of the currency. That practice is adopted here.

² Bitcoins and Altcoins can accurately be referred to as a virtual, digital, and/or cryptographic currency.

businesses (exchanging traditional payment methods and virtual currencies) or online businesses (exchanging electronically transferred money and virtual currencies). Virtual currency exchanges doing business in the United States are regulated under the Bank Secrecy Act and must collect identifying information about their customers and verify their clients' identities.

18. To transfer bitcoin to another Bitcoin address, the sender transmits a transaction announcement, which is electronically signed with the sender's private key, across the peer-to-peer BTC network. To complete a transaction, a sender needs only the Bitcoin address of the receiving party and the sender's own private key. This information on its own rarely reflect any identifying information about either sender or recipient. As a result, little-to-no personally identifiable information about the sender or recipient is transmitted in a Bitcoin transaction itself. Once the sender's transaction announcement is verified by the network, the transaction is added to the blockchain, a decentralized public ledger that records every Bitcoin transaction. The blockchain logs every Bitcoin address that has ever received bitcoin and maintains records of every transaction for each Bitcoin address.
19. While a Bitcoin address owner's identity is generally anonymous within the blockchain (unless the owner opts to make information about the owner's Bitcoin address publicly available), investigators can use the blockchain to identify the owner of a particular Bitcoin address. Because the blockchain serves as a searchable public ledger of every Bitcoin transaction, investigators can trace transactions to third party companies that generally collect identifying information about their customers and are responsive to legal process.
20. In addition to Bitcoin and other cryptocurrencies, there are also tokens. Like Bitcoin and Altcoins, tokens use blockchain technology. Tokens are digital assets that are powered through smart contracts. While tokens theoretically can be used to represent any assets that are fungible and tradeable, they are often used as a commodity similar in some ways to stocks or options. In these scenarios, tokens

are created and distributed through an Initial Coin Offering (ICO). Through an ICO, a venture offers a stock of specialized crypto tokens for sale with the promise that those tokens will operate as the medium of exchange when accessing services on a digital platform developed by the venture. The sale of tokens provides capital to fund the initial development of the digital platform, although no commitment is made as to the price of future services (in tokens or otherwise). In this sense, tokens are a fungible and potentially highly volatile unit of value that can be easy to obtain. Your affiant is aware that dark net distributors are increasingly using tokens as a means of laundering their illicit gains

21. Dark net marketplace buyers and sellers generally use bitcoin or some other form of cryptocurrency to conduct their transactions. Bitcoin is a decentralized digital/virtual currency that uses cryptography to secure the transactions and to control the creation of additional units of the currency. The digital currency gives the vendor and customer a perceived sense of anonymity. However, before a customer can make a purchase on a dark net marketplace, they must first convert fiat currency, such as United States Dollars, into the digital currency accepted on the market place. Dark net marketplace vendors also often have to convert the bitcoins that they earn through their sales into legal currency. These conversions generally take place on bitcoin exchangers, businesses who take bitcoin and give a certain amount of legal currency (such as the U.S. dollar) back at a set exchange rate and for a certain fee.

FACTS AND CIRCUMSTANCES REGARDING PROBABLE CAUSE

22. In or about October 2016, Homeland Security Investigations (HSI) in New York City, USPIS, the United States Secret Service, and the NASA Office of Inspector General, among other agencies, apprehended a Cryptocurrency Exchanger/Unlicensed Money Remitter hereinafter referred to as Target Subject-1. With Target Subject-1's cooperation, agents began investigating Target Subject-1's customers. From the limited subset of customers for whom Target Subject-1 saved any kind of personal information (such as the names and addresses to which Target Subject-1 had shipped the customers' cash), agents

identified a number of vendors selling illegal goods and services on the dark net.

23. With Target Subject-1's permission, agents took control of Target Subject-1's online accounts and identity, initiating an undercover operation using that identity to create new accounts (the "UC Vendor Accounts") targeting dark net drug vendors who utilized Target Subject-1s services to launder their illicit proceeds. Since in or about January 2017, agents have advertised the UC Vendor Accounts' services on AlphaBay, HANSA, and other dark net marketplaces, which has led to hundreds of bitcoin-for-cash exchanges. Because Target Subject-1's original business model involved sending cash to physical addresses, each UC Vendor Account transaction has provided agents with leads on the identities and locations of their counterparties. Individuals who used the UC Vendor Account were charged a fee that is notably higher than the fee charged by Bitstamp and other exchanges with Know Your Customer (KYC) protocols. This and other evidence helped establish that many of these "customers" are likely dark net vendors of controlled substances and other illicit goods. Furthermore, and as explained below, in some instances, agents have successfully utilized undercover buyer accounts on dark net marketplaces to conduct undercover drug buys from vendors believed to be the UC Vendor Accounts' customers.

24. In March 2017 at the request of HSI New York, HSI Cleveland opened an investigation into suspected local Dark Net Marketplace (DNM) vendors. This operation, conducted by Special Agent Grote (hereinafter, "your affiant"), United States Postal Inspection Service (USPIS) Inspectors and supported by Customs and Border Protection Office of Field Operation (CBP) and the Cuyahoga County Sheriff's Office operating as a part of the Border Enforcement Security Taskforce (BEST) began investigating POWELL and GONZALEZ. Based on evidence obtained from Target Subject-1 and his accounts, agents identified POWELL and GONZALES as suspected DNM Vendors. Agents identified POWELL a/k/a "The Source," as a potential dark net vendor of controlled substances. As detailed below, when voluntarily interviewed, both POWELL and GONZALEZ gave a complete admission of their crimes. Agents also uncovered documentary and

other evidence corroborating their incriminating statements, including communications to and from Target-Subject 1's account.

25. On May 16, 2017, local law enforcement utilized a confidential informant (CI) to conduct a purchase of 14 grams of cocaine from GONZALEZ, who was at that time operating a drug distribution operation.
26. On March 15, 2018, your affiant and other law enforcement had a consensual and non-custodial interview with GONZALES about his cocaine trafficking and dark net activities. GONZALES stated that approximately one year ago POWELL had GONZALEZ fulfil orders for Xanax placed on POWELL's dark net vendor account. GONZALES stated POWELL would exchange bitcoin proceeds into U.S. Currency and GONZALES would receive the currency in mailed packages on POWELL's behalf. GONZALEZ stated that POWELL used "someone" in New York (i.e., Target Subject-1) to pay GONZALEZ for his services.
27. GONZALES stated that he oversaw weighing out the drugs, making up false return addresses, preparing the shipping labels, and mailing out shipments. GONZALES estimated he shipped out approximately 500 grams of Xanax powder. GONZALES claimed that once the 500 grams was gone, his business relationship with POWELL ceased. GONZALES estimated that he made a few thousand dollars for his role in the distribution of Xanax. GONZALES also stated that POWELL used to receive marijuana via the dark net prior to embarking on the Xanax venture. According to GONZALES, POWELL was frightened about being caught using the dark net prior to moving to Florida.
28. On May 18, 2018, your affiant and other law enforcement agents re-interviewed GONZALES in a consensual and non-custodial interview. GONZALES corroborated government obtained information to include the fact that he received seven payments from "a guy in New York" (i.e., Target Subject-1 and/or Target Subject-1's account) for a total of \$10,570, with payments ranging from \$620 dollars to \$2,850. POWELL used this intermediary to pay GONZALEZ for

moving Xanax powder on his behalf. GONZALES advised that POWELL was significantly involved in the distribution of anabolic steroids that POWELL received in the form of bulk powder from China and then converted into vials for distribution.

29. GONZALES stated he mailed Xanax powder for POWELL from early December 2016 through March 2017. GONZALES stated that in early December 2016, POWELL approached him and expressly asked if he would mail Xanax for him. GONZALES agreed to mail and ship for POWELL, who told him "I'll help you out, if you help me out." GONZALES indicated that he knew this to mean that he would be paid for his efforts. He advised that he started with approximately 500 grams of Xanax in a clear Ziploc baggy in powder form and white in color. GONZALES stated that some of the Xanax was already prepackaged, but once gone, that he would weigh out and mail orders on behalf of POWELL. He stated that most mailings were one to two grams each. GONZALES stated that POWELL would send him the addresses on an encrypted message service Signal.org, and that GONZALES would fulfil the orders. He stated that when the powder was gone, that that was it, the job was done. According to GONZALES, POWELL advised him that the dark net was dangerous, and that receiving orders in the mail was equally dangerous. GONZALES also stated that POWELL told him that he made the majority of his money through Bitcoins.

30. Your Affiant also learned from a confidential source whose information has proven to be reliable in the past that POWELL distributed steroids that he acquired from vendors in China. The source similarly stated that POWELL also sold marijuana online.

31. On Tuesday May 22, 2018, your Affiant and other law enforcement interviewed Nick POWELL at his residence located at 5283 Bevans Ave, Spring Hill, Florida. The interview was consensual and non-custodial. While POWELL at first suggested he wanted to speak to an attorney, he agreed to speak to law enforcement after they began talking about Target Subject-1, POWELL's money

launderer. This interview was in POWELL's home, was non-custodial, and POWELL was not charged with any crimes at that time. Agents showed POWELL partial excerpts of numerous transactions and communications he had exchanged with Target Subject-1. Agents advised that this evidence of POWELL's criminal activity spoke for itself, and the Agents were willing to depart without his cooperation. POWELL advised that he was still on probation and was trying to move on the right path now.

32. Agents showed POWELL some of the evidence the government had pertaining to his involvement. POWELL stated that he previously was dealing with dope on the dark net, selling primarily steroids and weed, and that his product came from overseas. POWELL stated that he began selling steroids in 2006. He further advised that he was also a drop shipper, meaning he arranged for products to be sent direct from China to POWELL's customers. POWELL asked to see some of the communications between him and Target Subject-1. Agents showed POWELL communications involving him using the monikers BCPHARMA, The SOURCE, MONEY TS and others. POWELL stated that he operated on the Dark net starting with Silkroad 2, and stated he has always kind of sold steroids. POWELL stated that his vender name on Silk Road 2 was Bonniencyde and that he sold Steroids and GHB by the liter that he was getting directly from China. POWELL stated that he cashed out his Bitcoins though Target Subject-1 from the very beginning. He stated that he found Target Subject-1 online though an advertisement on Silkroad, Silkroad 2, Alphabay, and others. POWELL stated he had signed up as a vender on HANSA, but never used that particular Dark net Marketplace. He stated he sold on Agora, as BONNIENCYDE, or BNC. POWELL stated that he was operating on Alphabay as BONNIENCYDE and/or BNC. POWELL admitted that he also sold drugs on the Evolution Markets, as BONNIENCYDE, or BNC, and stated that he purposely destroyed his computer that he had used to sell drugs on the Dark net Marketplaces. He stated that he might have emails that he stored from Target Subject-1 on another computer, and that he would attempt to locate those, but he thought he deleted all his information, and then destroyed his two Apple computers that he "did stuff on."

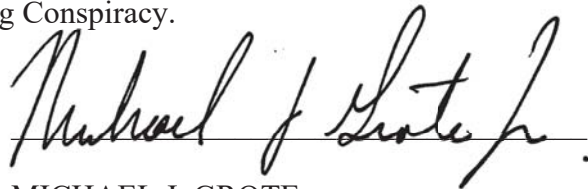
33. POWELL stated that he communicated with Target Subject-1 at a SIGAINT email address,³ and that he would send up to and between \$10,000 to \$40,000 in digital currency to be converted into U.S. Currency at a time. POWELL stated that he would receive currency via USPS Express, and that he would communicate with Target Subject-1 via “off market communications” (i.e., third party communication providers rather than the DNM’s messaging system) with an exception once or twice on Alphabay. He stated that he sold Xanax and steroids on AlphaBay. POWELL stated he thought he sent Target Subject-1 a few hundred thousand dollars in digital currency in total, but that he did not keep track, as his local sales of drugs in Cleveland were also extremely profitable. POWELL stated that he sold the BONNIENCLYDE moniker to a Canadian Xanax vendor, but that the Canadian vendor was suspicious of the moniker, and decided not to use it. Therefore, POWELL was able to reassume possession of the account using his passwords that were not changed and made approximately \$100,000 for essentially nothing. POWELL stated that his purchases of Chinese chemicals were done via direct deals with Chinese vendors.

34. POWELL stated that he had Target Subject-1 send some money to Florida, because he had some leftover bitcoins. He also stated that he had some leftover Xanax from when he got in trouble and that the Xanax shipped out from Cleveland. POWELL stated that he had approximately 750 grams of leftover Xanax from China, that he had GONZALES ship out the remaining powder for him, and that he would use Target Subject-1 to send GONZALES payment for his services. The money POWELL had Target Subject-1 send to Florida was cryptocurrency tied to his criminal activities. POWELL stated that he possessed bitcoins and some alternative digital currencies including Stratus and Komodo, and that the aggregate amount of currency that he possessed was worth approximately \$400,000. POWELL stated that he never mined digital currency.

³ Your affiant is aware that SIGAINT was a Tor hidden service that allowed users to exchange peer-to-peer encrypted emails.

35. Subsequently, Agents returned and POWELL signed an Agreement to abandonment and forfeit Cryptocurrencies worth approximately \$438,000. This resulted in the seizure of various cryptocurrencies valued at \$438,574. POWELL stated to Agents that he tried not to spend the money because it was “dirty money.” He stated that it was obtained from his criminal misdeeds, and that he did not plan to petition for the return of the forfeited digital currency. He also stated he knew he would be indicted for his crimes.

36. For the foregoing reasons, your Affiant submits that there is probable cause to believe that NICHOLAS J. POWELL, a.k.a. “BONNIENCLYDE”, “BnC,” “BCPHARMA,” “THE SOURCE,” and “MONEY TS” and MICHAEL GONZALES have violated the following federal criminal statutes: United States Code 21 U.S. Code § 846 – Conspiracy to Distribute Controlled Substances, such as Xanax (alprazolam), marijuana, and steroids and; Title 18, United States Code, Section 1956(h) – Money Laundering Conspiracy.



MICHAEL J. GROTE
SPECIAL AGENT
HOMELAND SECURITY
INVESTIGATIONS

Sworn to via telephone after
submission by reliable electronic
means. Crim.Rules. 4.1; 41(d)(3)



Thomas M. Parker
United States Magistrate Judge
3:17 PM, Jun 18, 2018