

UNITED STATES DISTRICT COURT

for the

Northern District of California

FILED

Oct 31 2022

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

United States of America
v.

David Wayne Depape

Case No. 3:22-mj-71419 MAG

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 28, 2022 in the county of San Francisco in the Northern District of California, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Rows include -18 U.S.C. § 115(a)(1)(A), (b) and -18 U.S.C. § 1201(d).

This criminal complaint is based on these facts:

Please see the attached affidavit of FBI SA Stephanie Minor

Continued on the attached sheet.

Approved as to form /s/ Laura Vartain
AUSA Laura Vartain

/s/ Stephanie Minor

Complainant's signature

FBI Special Agent Stephanie Minor

Printed name and title

Sworn to before me by telephone.

Date: 10/31/2022

Handwritten signature of Thomas S. Hixson

Judge's signature

City and state: San Francisco, California

Hon. Thomas S. Hixson, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR COMPLAINT AND ARREST
WARRANT**

I, Stephanie Minor, a Special Agent of the Federal Bureau of Investigation (“FBI”) being duly sworn, declare and state as follows:

INTRODUCTION

1. I make this affidavit in support of an application under Federal Rules of Criminal Procedure 3 and 4 for a criminal complaint and arrest warrant for DAVID WAYNE DEPAPE (“DEPAPE”). For the reasons set forth below, I submit that there is probable cause to believe that DEPAPE violated the following: Title 18 U.S.C. §§ 115(a)(1)(A) by assaulting Paul Pelosi, an immediate family member of a United States official, to wit, Nancy Pelosi, the Speaker of the United States House of Representatives, with intent to retaliate against such official on account of the performance of official duties; and Title 18 U.S.C. § 1201(d) by attempting to seize or kidnap a United States official, to wit, Nancy Pelosi, the Speaker of the United States House of Representatives. In summary, and as set out in more detail below, the facts of the investigation to date reveal that DEPAPE was prepared to detain and injure Speaker Pelosi when he entered the Pelosi residence in the early morning of October 28, 2022. DEPAPE had zip ties, tape, rope, and at least one hammer with him that morning. The evidence further shows that DEPAPE assaulted Mr. Pelosi with DEPAPE’s own hammer.

2. I submit this affidavit for the limited purpose of securing a criminal complaint and arrest warrant. I have not included every fact known to me concerning this investigation. Instead, I have set forth only the facts to establish probable cause that violations of the federal laws identified have occurred.

3. I have based my statements in this affidavit on my training and experience, personal knowledge of the facts and circumstances obtained through my participation in this investigation, information provided to me by other agents and law enforcement officers, information provided by reports of other law enforcement officers, information provided by

audio recording evidence, as well as video and photographic evidence, and information provided by records and databases. Where I refer to conversations and events, I often refer to them in substance and in relevant part rather than in their entirety or verbatim, unless otherwise noted. This affidavit also reflects my current understanding of facts relating to this investigation. That understanding may change as the investigation proceeds. In addition, my experience and training as an FBI Special Agent also forms the basis of the opinions and conclusions set forth below,

AFFIANT BACKGROUND

4. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have been an FBI Special Agent since 2019. I am currently assigned to the San Francisco Field Office, Oakland Resident Agency, where I specialize in investigations of domestic terrorism. I primarily investigate United States persons who commit violent criminal acts in furtherance of their political or social ideology. I have participated in several investigations of individuals that committed criminal acts in furtherance of ideological goals, to include militia violent extremists. I successfully completed the approximately 21-week New Agent Training at the FBI Academy in Quantico, Virginia. During that time, I received training in physical surveillance, legal statutes and procedures, confidential source management, and electronic surveillance techniques. I have also assisted with the execution of search warrants in numerous domestic terrorism investigations.

5. As an FBI agent, I am authorized to investigate violations of United States law and am a law enforcement officer with the authority to execute warrants issued under the authority of the United States.

6. I am an investigator and law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7). I am empowered by law to conduct investigations, to execute search warrants, and to make arrests for offenses of Federal law.

APPLICABLE STATUTES

7. Title 18, United States Code, Section 115(a)(1)(A) in relevant part states:

“Whoever assaults, kidnaps, or murders, or attempts or conspires to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official...with intent to impede, intimidate, or interfere with such official...while engaged in the performance of official duties, or with intent to retaliate against such official...on account of the performance of official duties, shall be punished as provided in subsection (b).”

8. Title 18, United States Code, Section 1201(a) and 1201(a)(5), in relevant part states: “Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor or by the parent thereof, when -- ... (5) the person is among those officers and employees described in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties, shall be punished...” Further, in relevant part, Title 18 U.S.C. 1201(d) states: “Whoever attempts to violate subsection (1) shall be punished by imprisonment for not more than twenty years.”

FACTS SUPPORTING PROBABLE CAUSE

Events at the Pelosi House in San Francisco, California on October 28, 2022

9. On October 28, 2022, at 2:23 a.m., San Francisco Dispatch received a 9-1-1 call from Paul Pelosi (“Pelosi”) located at the Pelosi residence in San Francisco, California. Pelosi stated words to the effect of there is a male in the home and that the male is going to wait for Pelosi’s wife. Pelosi further conveyed that he does not know who the male is. The male said his name is David.

10. At 2:31 a.m., San Francisco Police Department (“SFPD”) Officer Colby Wilmes responded to the Pelosi residence, California and knocked on the front door. When the door was opened, Pelosi and DEPAPPE were both holding a hammer with one hand and DEPAPPE had his other hand holding onto Pelosi’s forearm. Pelosi greeted the officers. The officers asked them what was going on. DEPAPPE responded that everything was good. Officers then asked Pelosi and DEPAPPE to drop the hammer.

11. DEPAPE pulled the hammer from Pelosi's hand and swung the hammer, striking Pelosi in the head. Officers immediately went inside and were able to restrain DEPAPE. While officers were restraining DEPAPE, Pelosi appeared to be unconscious on the ground. Officers removed a cell phone, cash, clipper cards, and an unidentified card from DEPAPE's right shorts pocket. DEPAPE provided officers his first and last name. After officers asked DEPAPE if he had an ID on him, DEPAPE said it might be in his backpack on the back porch and later stated his backpack was near the broken glass. When officers removed DEPAPE from Pelosi's residence, police body worn camera footage showed a glass door that appeared to be laminated glass, broken near the door handle. San Francisco Police Department recovered zip ties in Pelosi's bedroom and in the hallway near the front door of the Pelosi residence. In addition, law enforcement searched DEPAPE's backpack at the Pelosi residence, and they found, among other things, a roll of tape, white rope, one hammer, one pair of rubber and cloth gloves, and a journal.

Witness Statements

12. SFPD Officer Colby Wilmes was able to interview a witness, Witness 1, who saw an individual in all black, carrying a large black bag on his back, walking near the Pelosi residence where Witness 1 was parked. Witness 1 was working private security at an address nearby. Witness 1 then heard what sounded like banging on either a door or car and then heard the sirens within a minute or two.

13. Pelosi was interviewed by SFPD Officer Ariane Starks in the ambulance during transport to San Francisco General Hospital. Pelosi stated he had never seen DEPAPE before. Pelosi was asleep when DEPAPE came into Pelosi's bedroom and stated he wanted to talk to "Nancy."¹ When Pelosi told him that Nancy was not there, DEPAPE stated that he would sit and

¹ I understand that when DEPAPE refers to "Nancy," he means Nancy Pelosi, Paul Pelosi's wife, and the Speaker of the House of Representatives of the United States. Because DEPAPE referred

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wait. Pelosi stated that his wife would not be home for several days and then DEPAPE reiterated that he would wait. Pelosi was able to go into the bathroom which is when he was able to call 9-1-1. Pelosi stated that when the officers arrived, that was when DEPAPE struck him with the hammer.

14. In a subsequent interview with law enforcement officers on October 30, 2022, Paul Pelosi stated that DEPAPE had a hammer with him during the events described above at the Pelosi residence. Further, the hammer did not belong to the Pelosi family.

DEPAPE'S Interview on October 28, 2022:

15. In a Mirandized and recorded interview of DEPAPE by San Francisco Police Department Officers, DEPAPE provided the following information:

- a. DEPAPE stated that he was going to hold Nancy hostage and talk to her. If Nancy were to tell DEPAPE the "truth," he would let her go, and if she "lied," he was going to break "her kneecaps." DEPAPE was certain that Nancy would not have told the "truth." In the course of the interview, DEPAPE articulated he viewed Nancy as the "leader of the pack" of lies told by the Democratic Party. DEPAPE also later explained that by breaking Nancy's kneecaps, she would then have to be wheeled into Congress, which would show other Members of Congress there were consequences to actions. DEPAPE also explained generally that he wanted to use Nancy to lure another individual to DEPAPE.
- b. DEPAPE stated that he broke into the house through a glass door, which was a difficult task that required the use of a hammer. DEPAPE stated that Pelosi was in bed and appeared surprised by DEPAPE. DEPAPE told Pelosi to wake up. DEPAPE told Pelosi that he was looking for Nancy. Pelosi responded that she was not present. Pelosi asked how they could resolve the situation, and what

to Speaker Pelosi as "Nancy" at various times, I refer to her by the same in the facts supporting probable cause.

DEPAPE wanted to do. DEPAPE stated he wanted to tie Pelosi up so that DEPAPE could go to sleep as he was tired from having had to carry a backpack to the Pelosi residence. Around this time, according to DEPAPE, DEPAPE started taking out twist ties from his pocket so that he could restrain Pelosi. Pelosi moved towards another part of the house, but DEPAPE stopped him and together they went back into the bedroom.

- c. While talking with each other, Pelosi went into a bathroom, where Pelosi grabbed a phone to call 9-1-1. DEPAPE stated he felt like Pelosi's actions compelled him to respond.
- d. DEPAPE remembered thinking that there was no way the police were going to forget about the phone call. DEPAPE explained that he did not leave after Pelosi's call to 9-1-1 because, much like the American founding fathers with the British, he was fighting against tyranny without the option of surrender. DEPAPE reiterated this sentiment elsewhere in the interview.
- e. DEPAPE stated that they went downstairs to the front door. The police arrived and knocked on the door, and Pelosi ran over and opened it. Pelosi grabbed onto DEPAPE's hammer, which was in DEPAPE's hand. At this point in the interview, DEPAPE repeated that DEPAPE did not plan to surrender and that he would go "through" Pelosi.
- f. DEPAPE stated that he pulled the hammer away from Pelosi and swung the hammer towards Pelosi. DEPAPE explained that Pelosi's actions resulted in Pelosi "taking the punishment instead."

Items Found at DEPAPE's Residence

16. On October 29, 2022, law enforcement determined that DEPAPE lived in the garage of a residence on Shasta Street in Richmond, California, by interviewing the owner of the premises who confirmed that DEPAPE has resided in the garage for approximately two years.

17. On October 29, 2022, law enforcement searched the garage at the Shasta Street residence pursuant to a federal search warrant. Among other things, agents seized two hammers, a sword, and a pair of rubber and cloth gloves. The agents also found evidence that DEPAPE lived in the garage, including DMV paperwork, IRS letters, and Paypal credit cards.

CONCLUSION

18. Based on the information above, there is probable cause to believe that David DEPAPE intentionally assaulted Paul Pelosi in violation of 18 U.S.C. §§ 115(a)(1)(A) and attempted to kidnap Speaker Nancy Pelosi in violation of Title 18 U.S.C. §1201(d). Therefore, I respectfully request that the Court issue a criminal complaint and arrest warrant against DEPAPE.

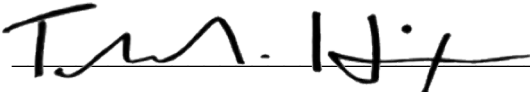
/s/ Stephanie Minor

STEPHANIE MINOR

Special Agent

FEDERAL BUREAU OF INVESTIGATION

Sworn to before me over the telephone and signed by me pursuant to Fed.R.Crim.P. 4.1 and 4(d) on this 31st day of October 2022.

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HONORABLE THOMAS S. HIXSON

United States Magistrate Judge