

UNITED STATES DISTRICT COURT

for the
Middle District of North Carolina

In the Matter of the Search of

(Briefly describe the property to be searched or identify the person by name and address)

One Apple iPhone, Model A1428, FCC ID: BCG-E2599A, IC: 579C-E2599A, IMFI: 013429009144615

Case No. 1:13-mj-172-1

APPLICATION FOR A SEARCH WARRANT

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

located in the Middle District of North Carolina, there is now concealed (identify the person or describe the property to be seized): See Attachment B (incorporated by reference)

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. Rows include 18 U.S.C. 371, 18 U.S.C. 472, Conspiracy to Commit an Offense Against the United States, Uttering Counterfeit Currency.

The application is based on these facts: Please see attached Affidavit of Postal Inspector Dustin C. Holland

- [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.

Handwritten signature of Dustin C. Holland

Dustin C. Holland, Postal Inspector
Printed name and title

Sworn to before me and signed in my presence.

Date: 09/04/2013

Handwritten signature of Judge L. Patrick Auld

United States Magistrate Judge L. Patrick Auld
Printed name and title

City and state: Greensboro, North Carolina

**AFFIDAVIT IN SUPPORT OF AN APPLICATION
FOR A WARRANT TO SEARCH AND SEIZE**

I, Dustin C. Holland, being duly sworn, hereby declare as follows:

IDENTITY AND EXPERIENCE OF AFFIANT

1. I am a Postal Inspector for the United States Postal Inspection Service ("USPIS") and have been so employed since March 2003. I am currently assigned to the Raleigh, North Carolina Field Office within the Charlotte Division. In my capacity as a Postal Inspector, I have been involved with the investigation of various forms of federal crimes, including mail fraud, mail theft, credit card fraud, identity theft, burglaries and robberies of Post Offices, and non-mailable items, such as hazardous materials, narcotics and threatening communications. I am currently involved in an ongoing investigation involving the use of counterfeit United States currency to purchase postal money orders, in violation of 18 U.S.C. §§ 371 and 472.

PURPOSE OF THE AFFIDAVIT

2. I make this affidavit in support of an application for a search warrant authorizing the examination of the following electronic device: one Apple iPhone, Model A1428, FCC ID: BCG-E2599A, IC: 579C-E2599A, IMFI: 013429009144615, which is currently in the possession of law enforcement, and the extraction from this property of electronically stored data

described in Attachment B.

3. This affidavit is based upon my personal knowledge, training, experience, and observations made during the course of the investigation, as well as information provided to me by other law enforcement officers and individuals who have knowledge of the facts of this case. Because this affidavit is being submitted for the limited purpose of securing a Search Warrant, I have not included details of every aspect of the investigation.

IDENTIFICATION OF THE DEVICE TO BE EXAMINED

4. The property to be searched was seized pursuant to consent search on July 30, 2013, following the arrest of CALVIN ANDREW HONEGAN for passing counterfeit obligations, in violation of 18 U.S.C. Section 472. As detailed below, this electronic device was located on HONEGAN's person when he committed the offense. The electronic device is currently located at the U.S. Postal Inspector's Greensboro Office and consists of the following:

- One Apple iPhone, Model A1428, FCC ID: BCG-E2599A, IC: 579C-E2599A, IMFI: 013429009144615

5. The applied-for warrant would authorize the forensic examination of this electronic device for the purpose of identifying electronically-stored data particularly described in Attachment B.

INVESTIGATION LEADING TO THE DEVICES TO BE EXAMINED

6. On July 30, 2013, law enforcement with the Carrboro Police Department responded to a 911 call from the Carrboro Main Post Office, located at 1500 W. Main Street. The caller, an employee of the post office, informed Orange County Communications that two black males were present in the lobby of the post office and attempting to pass counterfeit money. Upon arrival, Officer McKenzie detained a black male subject exiting the front door of the post office and Lieutenant Strowd attempted to locate the second subject but was unsuccessful. The detained suspect was later identified as CALVIN ANDREW HONEGAN. The second subject was later identified as Jesse James Baldwin, Jr.

7. Officer Barrett interviewed the 911 caller, Vincent Birchenough, who advised that he had been aware of a scam that had occurred at post offices in Virginia and in Chapel Hill and Durham, North Carolina, wherein subjects provided the post office with large sums of counterfeit money in exchange for money orders. When the two subjects approached one of the clerks at the Carrboro Main Post Office and requested money orders for \$4,200.00, the clerk brought the currency to Mr. Birchenough for inspection. He examined the currency that the subjects provided and determined it to be counterfeit, using a counterfeit money guide. Mr. Birchenough then called 911.

While he was making the phone call, one of the subjects, later identified as HONEGAN, exited the premises through the front door and the other subject, later identified as Baldwin, exited the premises through the side door on the northwest side of the building.

8. Officer Barrett recovered the currency that one of the subjects had handed to Mr. Birchenough when attempting to secure the money orders. Law enforcement also recovered currency and the above-identified electronic device on HONEGAN's person. HONEGAN was read his Miranda rights and interviewed. After initially providing a false form of identification, he admitted that his name was CALVIN ANDREW HONEGAN. He was then transported to the Carrboro Police Department.

9. Your affiant and Special Agent Terry Tate of the United States Secret Service met with HONEGAN at the Carrboro Police Department and read him his Miranda rights, which he waived. HONEGAN then stated the following: On July 29, 2013, an individual he knew only as "J-Vo" (later identified as Jovan Finch) arrived at his residence in Freeport, New York, and asked if HONEGAN wanted to accompany him to visit family located in Durham, North Carolina. HONEGAN agreed to join him and they then picked up an individual named Jesse James Baldwin, Jr. The three individuals then drove to Durham, stopping only to get gas. During the trip, Baldwin advised that he had counterfeit

funds and wanted to use them to purchase money orders. HONEGAN stated that he observed Baldwin enter the Shannon Plaza Post Office in Durham and the Chapel Hill Main Post Office in Chapel Hill and return both times with receipts for money orders and money orders, which he placed in the center console of the vehicle. When the three individuals stopped for gas in Carrboro at a gas station across the street from the Carrboro Main Post Office, Baldwin and HONNEGAN exited the vehicle, at which time Baldwin handed HONEGAN a PNC bank envelope containing several counterfeit \$100 bills. They then entered the Carrboro Main Post Office, wherein Baldwin requested to purchase money orders from a clerk. The clerk stated that she had to verify the authenticity of the bills. After several minutes, HONEGAN walked outside and was then detained by law enforcement from the Carrboro Police Department.

10. Surveillance photographs taken at the Carrboro Main Post Office on July 30, 2013 confirmed that both Baldwin and HONNEGAN were the suspects attempting to pass counterfeited obligations of the United States in exchange for United States Post Office money orders. Witness statements from employees at the Shannon Plaza Post Office in Durham, North Carolina and the Chapel Hill Main Post Office in Chapel Hill, North Carolina also identified Baldwin and HONEGAN as the individuals who had passed counterfeit obligations in exchange for postal money orders.

11. Through further investigation, your affiant determined that HONEGAN and Baldwin purchased the following postal money orders, all bearing a purchase date of July 30, 2013, at the following locations for the following amounts:

- (a) Shannon Plaza Post Office in Durham -- \$1,000
- (b) Shannon Plaza Post Office in Durham -- \$1,000
- (c) Chapel Hill Main Post Office in Chapel Hill -- \$1,000
- (d) Chapel Hill Main Post Office in Chapel Hill -- \$1,000
- (e) Chapel Hill Main Post Office in Chapel Hill -- \$500

12. HONEGAN and Baldwin were charged in a federal criminal complaint filed in the Middle District of North Carolina on August 1, 2013. Baldwin was arrested in the Eastern District of New York on August 6, 2013 on a federal warrant arising from this complaint. After his arrest, Baldwin waived his Miranda rights and provided a statement to law enforcement, wherein he admitted that Tiray Clemmons was his source of counterfeit notes for the trip to North Carolina.

13. Also on July 30, 2013, Postal Inspector James Hoke was advised that a group of individuals were currently in Raleigh, North Carolina, purchasing postal money orders at various post offices with what were believed to be counterfeit \$100 bills. An employee at the North Ridge Post Office provided a physical description of the vehicle the suspects were driving, as well as a physical description of the driver and one of the passengers of the vehicle. Soon thereafter, PI Hoke was advised that an

individual matching the description of the passenger was waiting in the customer line at the West Durham Post Office. Upon arriving there, PI Hoke observed the suspect walk out to the parking lot and enter a vehicle matching the description previously provided.

14. As the suspect vehicle left the parking lot, PI Hoke and assistance from local law enforcement affected a traffic stop. The suspects were identified as Jalil G. Burton, Jabaree Hasahn Perry, Demetrius J. Roberson and Raven J. Johnson. Your affiant then arrived on the scene. After receiving verbal consent to search the vehicle, PI Hoke did so and noticed a purse in the rear of the vehicle. After Johnson gave consent for PI Hoke to search her purse, he recovered from its contents \$2,285 in United States currency and a postal money order for \$350 with an accompanying receipt from a Raleigh, North Carolina post office, dated July 30, 2013.

15. PI Hoke and your affiant then searched the vehicle and located, in the front passenger side of the center console of the vehicle, thirty-eight (38) \$100 bills which were determined to be counterfeit. PI Holland located, hidden throughout the pages of a romance novel in the back seat, nine more postal money orders and corresponding customer receipts, all bearing a purchase date of July 30, 2013 that were purchased at the following locations for the following amounts:

- (a) Post Office 27705 in West Durham -- \$950
- (b) Post Office 27605 in Cameron Village Raleigh -- \$450
- (c) Post Office 27605 in Cameron Village Raleigh -- \$1,000
- (d) Post Office 27658 in North Ridge Raleigh -- \$450
- (e) Post Office 27658 in North Ridge Raleigh -- \$1000
- (f) Post Office 27609 in North Hills Raleigh -- \$450
- (g) Post Office 27609 in North Hills Raleigh -- \$1000
- (h) Post Office 27610 in Sunnybrook Raleigh -- \$975
- (i) Post Office 27704 in North Durham -- \$950

16. After the traffic stop, Roberson and Raven stated that all four individuals attended high school together in Freeport, New York. After arrest and waiver of his Miranda rights, Burton stated that Perry and Johnson picked him up that morning at approximately 3:00 a.m. in Freeport, New York and drove all night to North Carolina.

17. Postal employees at the Cameron Village, North Durham, North Hills and West Durham Post Offices identified Perry as the individual who purchased the postal money orders in their respective post offices that were hidden between the pages of the romance novel.

18. After these four individuals were placed under arrest,¹ PI Hoke learned that Perry purchased two additional postal money orders at the Millbrook Post Office in the amounts of \$1000 and \$450 with counterfeit United States currency. PI Hoke also learned that Roberson purchased the \$350 postal money order

¹ A federal criminal complaint was filed against all four individuals in the Eastern District of North Carolina on August 1, 2013, alleging violations of 18 U.S.C. § 472.

found in Johnson's purse and a \$1000 postal money order at the Brentwood Post Office with counterfeit United States currency.

19. Investigators with the United States Secret Service inspected all of the United States currency tendered to purchase the postal money orders from the Carrboro, Chapel Hill, Shannon Plaza Durham, Brentwood, Cameron Village, Millbrook, North Hills, North Ridge, North Durham, and West Durham Post Offices, as well as all of those found on HONEGAN's person, and identified them as counterfeit obligations related to Circular 23332-3, described in further detail below.

20. Your affiant has confirmed that all of the recovered counterfeit notes are of high quality and appear similarly manufactured. These notes have been designated by the United States Secret Service as CFT Circular 23332-3 and first appeared in October 2005 in Bronxville, New York. CFT Circular 23332-3 is one of the seventeen identified variations of the Russian/Israeli Note C-21558, which was first detected in 1999. Since its discovery, \$68.4 million of the Russian/Israeli note has been passed and/or seized. It is believed that these notes are being manufactured outside the United States, in Israel, Russia and the Republic of Georgia. Since this particular variation of the Russian/Israeli note was discovered, approximately \$7 million have been passed and/or seized.

21. Approximately two weeks before these fraudulent purchases took place, on July 17, 2013, Perry and Burton passed counterfeit obligations in exchange for postal money orders in and around Richmond, Virginia. Perry, Burton, Roberson and Jovan Finch were observed by law enforcement together in a hotel room in Chesterfield, Virginia later that night. On multiple occasions between July 18, 2013 and July 20, 2013, Baldwin cashed money orders purchased by Perry and Roberson in and around Richmond, Virginia on July 17, 2013. Baldwin provided a duly-issued New York driver's license bearing his name when cashing these postal money orders.

22. On July 24, 2013, law enforcement in Maryland affected a traffic stop of a vehicle driven by Perry. Burton and Johnson were passengers in the same vehicle. While executing a search of the vehicle, law enforcement discovered \$19,500 in United States currency concealed in a paper towel and secreted under the center console. All occupants of the vehicle denied ownership of the currency. None were able to provide an explanation for its origin. Burton stated that they were driving to North Carolina. Perry stated that they were "caravanning" with another group of individuals.

23. In November 2012, Burton's brother, Malik Burton, was arrested in the Eastern District of Pennsylvania, along with two other individuals from Freeport, New York, for passing CFT

Circular 23332-3 to purchase postal money orders. While he was incarcerated in the Bucks County prison, Secret Service listened to recordings of Malik Burton's telephone conversations. In one such conversation with a woman he referred to as "Mom," Malik Burton referred to his brother, Jalil, avoiding capture for passing counterfeit notes. Malik Burton subsequently pled guilty to one count of Conspiracy to Commit an Offense against the United States and one count of Passing Counterfeit Obligations, in violation of 18 U.S.C. §§ 371 and 472.

24. Secret Service has done further investigation into the aforementioned individuals and determined that Baldwin was identified on November 12, 2012 in Freeport, New York, as cashing multiple money orders purchased on November 9, 2012 with counterfeit United States currency. Roberson was likewise identified on November 13, 2012 in Freeport, New York, as cashing multiple money orders purchased on November 9, 2012.

25. On August 27, 2013, a grand jury sitting in the Middle District of North Carolina returned a five-count indictment arising from this investigation, alleging one count of conspiracy to commit an offense against the United States against HONEGAN, Baldwin, Finch and Clemmons, in violation of 18 U.S.C. § 371; three counts of passing counterfeit currency against HONEGAN, Baldwin, Finch and Clemmons, in violation of 18

U.S.C. §§ 472 and 2; and one count of false statements against HONEGAN, in violation of 18 U.S.C. § 1001.

**PROBABLE CAUSE TO BELIEVE THE DEVICES TO BE EXAMINED CONTAIN
EVIDENCE OF CRIMES**

26. Based upon my training and experience and conversations with agents from the Secret Service, I have learned and understand how counterfeit operations are enabled, the criminal methodology of Uttering those Counterfeit Instruments for criminal gain and the encompassing methodology of a criminal conspiracy that allows a major counterfeiting operation to sustain itself. In this situation, involving a Secret Service Circular Note (C-23332), there is strong reason to believe that there are multiple layers to this criminality and that many individuals and even other organizations, such as gangs, are indirectly affiliated with the financial gain derived from the manufacturing, distribution and uttering of the C-23332-3 CFT \$100 Federal Reserve Note (FRN). Based upon information derived from Secret Service historical files and investigations, counterfeiters typically wish to exchange their "product," that is, counterfeit notes, to obtain genuine legal currency, either through credit cards, money orders, or genuine cash. This specific investigation has thus far yielded numerous postal money orders purchased with counterfeit notes by various individuals at various locations within North Carolina, as well

as in other states. Thus, a communication network had to be established to permit all of the individuals engaged in this conspiracy to communicate regarding their criminal tasks. Accordingly, it is reasonable to believe that the seized cellular telephone was used, by HONEGAN and/or Baldwin or Finch, to communicate with others involved in the criminal enterprise.

27. Computers are commonly used to obtain and store compromised account numbers, photographs of currency, and navigational tools to obtain vulnerable locations to conduct a criminal scheme. It is reasonable to believe that electronic storage device listed in this affidavit could have been used to obtain victim locations (United States Post Offices), track the criminal success or vulnerability of particular areas, or allow the co-conspirators to organize their criminal scheme.

28. Additionally, due to the high quality and volume of the counterfeit notes that have been passed and located in the course of this investigation, it is reasonable to believe that the defendants received assistance from others to enact their criminal operations, and therefore needed to communicate with one another to coordinate their efforts and avoid detection by law enforcement. I believe that the electronically-stored data sought, as described in Attachment B, will also assist with the identification of unknown individuals that may have been party

to these communications and further confirm the criminal actions of those described in the affidavit.

29. The eight defendants arrested on July 30, 2013 are not local to either the Middle or Eastern Districts of North Carolina. Therefore, it is reasonable to believe that they required electronic assistance in obtaining the locations for their victim targets from a "smart" telephone such as the one that is referenced above.

TECHNICAL TERMS

30. Based upon my training and experience, I use the following technical terms to convey the following meanings:

- a. Computer - an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and including any data storage facility or communications facility directly related to or operating in conjunction with such device.
- b. Internet -- worldwide network of computer systems operated by governmental entities, corporations, and universities. In order to access the internet, an individual computer user must subscribe to an access provider, which operates a host computer system with direct access to the internet. The world wide web

("www") is a functionality of the internet which allows users of the internet to share information.

c. Personal Digital Assistant ("PDA") - A PDA is a handheld electronic device used for storing data and utilizing computer programs. Some PDAs also function as wireless communication devices and are used to access the internet and send and receive electronic mail ("email"). PDAs usually include a memory card or other removable storage media for storing data, and a keyboard and/or touch screen for entering data. Removable storage media include various types of flash memory cards or miniature hard drives. This removable storage media can store any digital data. Most PDAs run computer software, giving them many of the same capabilities as computers. For example, PDA users can work with word-processing documents, spreadsheets, and presentations. PDAs may also include GPS technology for determining the location of the device.

31. Based upon my training, experience and research, I know that the electronic device to be examined has capabilities that allow it to serve not only as a word processor, but also as a social media hub, device manager, digital camera, portable media player, and PDA. Examining data stored on this computer

can uncover, among other things, evidence that reveals or suggests who possessed or used it, how it was used, and when it was used.

ELECTRONIC STORAGE AND FORENSIC ANALYSIS

32. Based upon my training, experience and research, I know that electronic devices, including computers, can store information for long periods of time. Similarly, things that have been viewed via the internet are typically stored for some period of time on a device. This information can sometimes be recovered with forensic tools. The computer to be examined may contain digital data related to the passage of counterfeit currency in many electronic forms, e.g., electronic records, documents, text messages, etc., including those forms used to facilitate communications. These constitute both the means of committing and evidence of passing counterfeit currency. These materials are all therefore subject to search and seizure, pursuant to Rule 41 of the Federal Rules of Criminal Procedure, and may be retained as evidence and as instrumentalities used in the commission of a crime for a reasonable period of time and must be examined, analyzed, and tested to preserve their evidentiary value.

33. Forensic Evidence - As further described in Attachment B, this application seeks permission to locate not only electronically-stored data that might serve as direct evidence

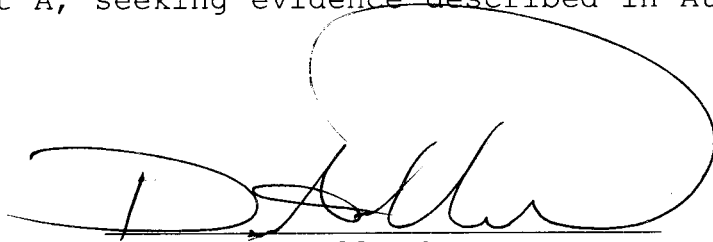
of the passage of counterfeit currency, but also forensic evidence that establishes how the cellular telephone was used, by whom, and when. Forensic evidence can indicate who used or controlled the cellular telephone, which is analogous to the search for "indicia of occupancy" while executing a search warrant for a residence. A person with appropriate familiarity with how these cellular telephones work may, after examining the forensic evidence in its proper context, be able to draw conclusions about how it was used, by whom, and when.

34. Nature of Examination - Based upon the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I seek would permit the examination of this computer consistent with the warrant. The examination may require authorities to employ techniques, including but not limited to, computer-assisted scans of the entire device and storage media, that might expose parts of the computer to human inspection in order to determine whether something is evidence described by the warrant.

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

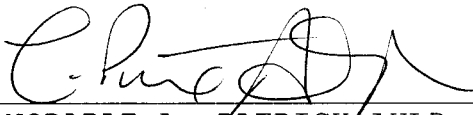
CONCLUSION

Based upon the information set forth above, I submit that this affidavit supports probable cause to believe that the property listed in Attachment A contains evidence of a Conspiracy to Utter Counterfeit United States Currency, in violation of Title 18, United States Code, Sections 371 and 472. Therefore, I respectfully request that a search warrant be issued authorizing the examination of the electronic device listed in Attachment A, seeking evidence described in Attachment B.



Dustin C. Holland
Postal Inspector
United States Postal Inspection Service

SUBSCRIBED and SWORN before me this 4th day of September, 2013



HONORABLE L. PATRICK AULD
United States Magistrate Judge

ATTACHMENT A

A. Property to be Searched

One Apple iPhone, Model A1428, FCC ID: BCG-E2599A, IC: 579C-E2599A, IMFI: 013429009144615 (on HONEGAN's person, claimed to belong to him)

This electronic device is currently located at the United States Postal Inspectors' Office in Greensboro, North Carolina.

This warrant authorizes the forensic examination of this electronic device for the purpose of identifying electronically-stored data described in Attachment B.

ATTACHMENT B

1. Any records on the electronic device described in Attachment A that refer to counterfeit United States currency, that is, legal tender that is not genuine United States currency and is made in any way or thought or represented as genuine United States currency but is not.

2. Any communications on the electronic device described in Attachment A by and between any of the following individuals: Jesse James Baldwin, Jr., Jovan Finch, Tiray Clemmons, Jalil G. Burton, Jabaree Hasahn Perry, Demetrius J. Roberson, Raven J. Johnson and Malik Burton, dating back to November 9, 2012.

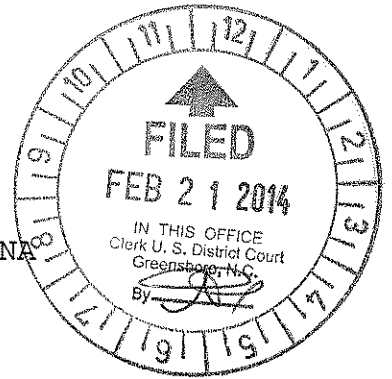
3. Any records on the electronic device described in Attachment A that refer to United States Post Offices located in North Carolina.

4. Any evidence of "user attribution" on the electronic device described in Attachment A showing who used or owned the electronic device being requested for forensic examination in this affidavit, such as internet logos, social media, email (including incoming email, outgoing email, and unsent email drafts), text documents, text messages, pictures messages, photographs, videos, contact lists, address books, and personal calendars, dating back to July 29, 2013.

5. Any evidence of "user attribution" on the electronic device described in Attachment A showing how the electronic

device was used such as installed programs, electronic files,
and internet history, dating back to July 29, 2013.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



In the Matter of the Search of : 1:13MJ172-1
One Apple iPhone, Model A1428, :
FCC ID: BCG-E2599A, :
IC: 579C-E2599A, :
IMFI: 013429009144615 :

APPLICATION UNDER THE ALL WRITS ACT REQUIRING APPLE INC. TO
ASSIST IN THE EXECUTION OF A PREVIOUSLY ISSUED SEARCH WARRANT

NOW COMES the United States of America, by and through Ripley Rand, United States Attorney for the Middle District of North Carolina, and moves the Court pursuant to the All Writs Act, codified at 28 U.S.C. § 1651, for an order requiring Apple Inc. to assist in the execution of a federal search warrant by making available the contents of one Apple iPhone, Model A1428, FCC ID: BCG-E2599A, IC: 579C-E2599A, IMFI: 013429009144615 (hereinafter the "Subject iPhone"), previously seized and authorized for search pursuant to a warrant issued by this Court in matter number 1:13MJ172-1.

I. BACKGROUND

The United States Secret Service ("USSS") currently has in its possession the Subject iPhone, which was seized pursuant to a search warrant issued by this Court in matter number 1:13MJ172-1.

The Subject iPhone was seized from the person of Calvin Andrew Honegan in the course of a criminal investigation arising in this district related to the passage of counterfeited obligations. Defendant Honegan recently pled guilty to Counts One and Four of an Indictment returned by a grand jury sitting in the Middle District of North Carolina under matter number 1:13CR318-1. A search warrant was granted based upon the showing of the affiant, Postal Inspector Dustin C. Holland of the United States Postal Inspection Service ("USPIS"), that there was probable cause to believe that the subject iPhone contained evidence of a crime, contraband, fruits of crime, or other items illegally possessed, and property designed for use, intended for use, or for committing a crime. The crimes in question were suspected violations of Title 18, United States Code, Sections 371 and 472. After issuance of the warrant, USSS Special Agent Terry Tate seized the Subject iPhone for search. However, due to a "locking" security feature on the Subject iPhone, Special Agent Tate was unable to search the Subject iPhone without the technical assistance of Apple Inc. Apple Inc., in turn, refuses to provide such technical assistance in the absence of a court order specifically directing it to do so.

II. DISCUSSION

The All Writs Act provides that "[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). As the Supreme Court has noted, "[t]he All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute." Pa. Bureau of Corr. v. U.S. Marshals Serv., 474 U.S. 34, 43 (1985). "The power conferred by the Act extends, under appropriate circumstances, to persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order or the proper administration of justice ... and encompasses even those who have not taken any affirmative action to hinder justice." United States v. N.Y. Tel. Co., 434 U.S. 159, 174 (1977). In N.Y. Tel. Co., the Supreme Court held that the All Writs Act permitted the district court to order a telephone company to effectuate a search warrant by installing a pen register. Likewise, this application seeks a court order directing Apple Inc. to effectuate a search warrant by unlocking the Subject iPhone.

The government's seizure of the Subject iPhone comported

with the strictures of the Fourth Amendment, that is, it was effected by application to this Court for a search warrant based upon a showing of probable cause. The Court should now issue the requested order so that law enforcement may search the subject iPhone for evidence identified by the warrant.

WHEREFORE, the United States of America respectfully requests that the Court issue an Order granting the Application Under the All Writs Act to require Apple Inc. to unlock the Subject iPhone.

This, the 21st day of February, 2014.

Respectfully submitted,

RIPLEY RAND
United States Attorney

A handwritten signature in black ink, appearing to read 'S. Inman', with a long horizontal line extending to the right.

STEPHEN T. INMAN
Assistant United States Attorney
NCSB # 26913
101 S. Edgeworth Street, 4th Floor
Greensboro, NC 27401

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

In the Matter of the Search of : 1:13MJ172-1
One Apple iPhone, Model A1428, :
FCC ID: BCG-E2599A, IC: :
579C-E2599A, IMFI: : ORDER
013429009144615 :

ORDER PURSUANT TO THE ALL WRITS ACT REQUIRING APPLE INC. TO ASSIST IN
THE EXECUTION OF A PREVIOUSLY ISSUED SEARCH WARRANT

This matter is before the Court pursuant to the government's application under the All Writs Act, codified at 28 U.S.C. § 1651, for an order requiring Apple Inc. to assist in the execution of a federal search warrant by making available the contents of one Apple iPhone, Model A1428, FCC ID: BCG-E2599A, IC: 579C-E2599A, IMFI: 013429009144615 (hereinafter the "Subject iPhone"), previously seized and authorized for search pursuant to a warrant issued by this Court in matter number 1:13MJ172-1. Having reviewed the government's submission and the authorities cited in support thereof, the Court finds that such an order is appropriate.

IT IS THEREFORE ORDERED that Apple Inc. assist law enforcement agents with conducting the search of the Subject iPhone, and that Apple Inc. shall provide reasonable technical assistance to enable law enforcement agents to obtain access to unencrypted data ("Data") on the Subject iPhone.

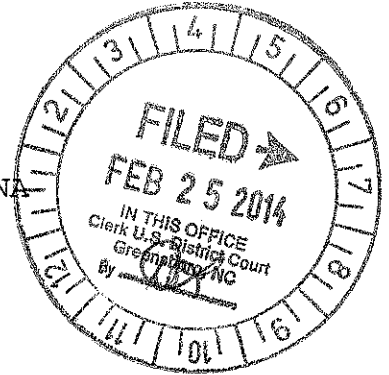
IT IS FURTHER ORDERED that, to the extent that data on the Subject iPhone is encrypted, Apple Inc. may provide a copy of the encrypted data to law enforcement but Apple Inc. is not required to attempt to decrypt, or otherwise enable law enforcement's attempts to access any encrypted data. Apple Inc.'s reasonable technical assistance may include, but is not limited to, bypassing the Subject iPhone user's passcode so that the agents may search the Subject iPhone, extracting data from the Subject iPhone and copying the data onto an external hard drive or other storage medium that law enforcement agents may search, or otherwise circumventing the Subject iPhone's security systems to allow law enforcement access to Data and to provide law enforcement with a copy of encrypted data stored on the Subject iPhone.

Although Apple Inc. shall make reasonable efforts to maintain the integrity of the data on the Subject iPhone, Apple Inc. shall not be required to maintain copies of any user data as a result of the assistance ordered herein; all evidence preservation shall remain the responsibility of law enforcement agents.

IT IS SO ORDERED, this the 21st day of February, 2014.

L. PATRICK AULD
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



In the Matter of the Search of : 1:13MJ172-1
One Apple iPhone, Model A1428, :
FCC ID: BCG-E2599A, IC: :
579C-E2599A, IMFI: : ORDER
013429009144615 :

ORDER PURSUANT TO THE ALL WRITS ACT REQUIRING APPLE INC. TO ASSIST IN
THE EXECUTION OF A PREVIOUSLY ISSUED SEARCH WARRANT

This matter is before the Court pursuant to the government's application under the All Writs Act, codified at 28 U.S.C. § 1651, for an order requiring Apple Inc. to assist in the execution of a federal search warrant by making available the contents of one Apple iPhone, Model A1428, FCC ID: BCG-E2599A, IC: 579C-E2599A, IMFI: 013429009144615 (hereinafter the "Subject iPhone"), previously seized and authorized for search pursuant to a warrant issued by this Court in matter number 1:13MJ172-1. Having reviewed the government's submission and the authorities cited in support thereof, the Court finds that such an order is appropriate.

IT IS THEREFORE ORDERED that Apple Inc. assist law enforcement agents with conducting the search of the Subject iPhone, and that Apple Inc. shall provide reasonable technical assistance to enable law enforcement agents to obtain access to unencrypted data ("Data") on the Subject iPhone.

IT IS FURTHER ORDERED that, to the extent that data on the Subject iPhone is encrypted, Apple Inc. may provide a copy of the encrypted data to law enforcement but Apple Inc. is not required to attempt to decrypt, or otherwise enable law enforcement's attempts to access any encrypted data. Apple Inc.'s reasonable technical assistance may include, but is not limited to, bypassing the Subject iPhone user's passcode so that the agents may search the Subject iPhone, extracting data from the Subject iPhone and copying the data onto an external hard drive or other storage medium that law enforcement agents may search, or otherwise circumventing the Subject iPhone's security systems to allow law enforcement access to Data and to provide law enforcement with a copy of encrypted data stored on the Subject iPhone.

Although Apple Inc. shall make reasonable efforts to maintain the integrity of the data on the Subject iPhone, Apple Inc. shall not be required to maintain copies of any user data as a result of the assistance ordered herein; all evidence preservation shall remain the responsibility of law enforcement agents.

IT IS SO ORDERED, this the 21st day of February, 2014.



L. PATRICK AULD
UNITED STATES MAGISTRATE JUDGE