

UNITED STATES DISTRICT COURT

for the Northern District of Ohio

FILED

2013 NOV 14 AM 11:31

CLERK U.S. DISTRICT COURT
Mag. Judge White

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

five (5) cellular telephones and one (1) Apple iPad as
described in the attachment as described in the the
attachements.

Case No.

1:13 MJ 3163

APPLICATION FOR A SEARCH WARRANT

I, a Jennifer Kiesel 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 & B

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

See Attachments A & 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:

Code Section 21 U.S.C. §§841(a)(1) and 846 Offense Description Conspiracy to possess with intent to distribute and to distribute cocaine

The application is based on these facts:

See attached Affidavit

[x] Continued on the attached sheet.

[x] Delayed notice of 30 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.

Jennifer Kiesel Applicant's signature

Jennifer Kiesel, Special Agent (FBI) Printed name and title

Sworn to before me and signed in my presence.

Date: 11/14/2013

Greg White Judge's signature

City and state: Cleveland, Ohio

Greg White, U.S. Magistrate Judge Printed name and title

Mag. Judge White

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

IN RE ORDER REQUIRING APPLE, INC.
TO ASSIST IN THE EXECUTION OF A
SEARCH WARRANT ISSUED BY THIS
COURT

Case No. **1:13 MJ 3163**

APPLICATION

~~Filed Under Seal~~ 

FILED
2013 NOV 14 AM 11:27
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
COLUMBUS, OHIO

INTRODUCTION

The United States of America, by and through Stephen Dettelbach, United States Attorney, and Linda Barr, Assistant United States Attorney, hereby moves this Court under the All Writs Act, 28 U.S.C. § 1651, for an order requiring Apple, Inc. (“Apple”) to assist in the execution of a federal search warrant by bypassing the lock screen of four (4) iOS devices, specifically, three (3) Apple iPhones and one (1) Apple iPad.

FACTS

The Federal Bureau of Investigation (FBI) currently has in its possession four (4) iOS devices that were seized pursuant to a search warrant issued by this Court. Initial inspection of the iOS devices reveals that they are locked. Because the iOS devices are locked, law enforcement agents are not able to examine the data stored on the iOS devices as commanded by the search warrant.

The iOS devices are:

1. A white Apple iPhone. It has Model #A1428, IMEI 013329001101417, FCC ID: BCG-E2599A and IC: 579C-E2599A.
2. A black Apple iPhone. It has Model A1332, IC:, EMC 380a, FCC ID: BCG-E2380A, IC: 579C-E2380A.
3. A white Apple iPhone. It has Model A1429, IMEI: 990002755503982, ID: BCG-E2599A and IC: 579C-E2610A.
4. An Apple iPad. It has Model A1219, Serial HW113BHLZ3A, EMC 2311, FCC ID: BCG E2381A, IC: 579C-E2381A.

Apple, the creator of the iOS operating system and producer of the iOS device, may have the capability retrieving data stored on the iOS device that is not currently accessible to the FBI because the iOS device is locked. This Application seeks an order requiring Apple to use any such capability, so as to assist agents in complying with the search warrant.

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 explained, “[t]he All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute.” *Pennsylvania Bureau of Correction v. United States Marshals Service*, 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. New York Tel. Co.*, 434 U.S. 159, 174 (1977).

Specifically, in *United States v. New York Tel. Co.*, the Supreme Court held that the All Writs Act permitted district courts to order a telephone company to effectuate a search warrant by installing a pen register. Under the reasoning of *New York Tel. Co.*, this Court has the authority to order Apple to use any capabilities it may have to assist in effectuating the search warrant.

The government is aware, and can represent, that in other cases, courts have ordered Apple to assist in effectuating search warrants under the authority of the All Writs Act. Additionally, Apple has complied with such orders.

The requested order would enable agents to comply with this Court's warrant commanding that the iOS device be examined for evidence identified by the warrant. Examining the iOS device without Apple's assistance, if it is possible at all, would require significant resources and may harm the iOS device. Moreover, the order is not likely to place any unreasonable burden on Apple.

Respectfully submitted,


AUSA Linda Barr

Date: 11-14-2013

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

Mag. Judge White

IN RE ORDER REQUIRING APPLE, INC.
TO ASSIST IN THE EXECUTION OF A
SEARCH WARRANT ISSUED BY THIS
COURT

Case No. 1:13 MJ 3163

ORDER

FILED
NOV 14 AM 11:51
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
COLUMBUS, OHIO

Before the Court is the Government's motion for an order requiring Apple, Inc.

("Apple") to assist law enforcement agents in the search of an Apple iOS device. Upon consideration of the motion, and for the reasons stated therein, it is hereby

ORDERED that Apple assist law enforcement agents in the examination of four (4) iOS devices, specifically, three (3) Apple iPhones and one (1) Apple iPad (the "IOS Devices"), acting in support of a search warrant issued separately by this Court;

The iOS devices are:

1. A white Apple iPhone. It has Model #A1428, IMEI 013329001101417, FCC ID: BCG-E2599A and IC: 579C-E2599A.
2. A black Apple iPhone. It has Model A1332, IC:, EMC 380a, FCC ID: BCG-E2380A, IC: 579C-E2380A.
3. A white Apple iPhone. It has Model A1429, IMEI: 990002755503982, ID: BCG-E2599A and IC: 579C-E2610A.
4. An Apple iPad. It has Model A1219, Serial HW113BHLZ3A, EMC 2311, FCC ID: BCG E2381A, IC: 579C-E2381A.

FURTHER ORDERED that Apple shall provide reasonable technical assistance to enable law enforcement agents to obtain access to unencrypted data ("Data") on the iOS Devices.

FURTHER ORDERED that, to the extent that data on the iOS Devices is encrypted, Apple may provide a copy of the encrypted data to law enforcement, but Apple is not required to attempt to decrypt, or otherwise enable law enforcement's attempts to access any encrypted data;

FURTHER ORDERED that Apple's reasonable technical assistance may include, but is not limited to, bypassing the iOS Devices user's passcode so that the agents may search the iOS

Devices, extracting data from the iOS Devices and copying the data onto an external hard drive or other storage medium that law enforcement agents may search, or otherwise circumventing the iOS Device's security systems to allow law enforcement access to Data and to provide law enforcement with a copy of encrypted data stored on the IOS Devices;

FURTHER ORDERED that although Apple shall make reasonable efforts to maintain the integrity of data on the iOS Devices, Apple 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.

Signed,



GREGORY A. WHITE
UNITED STATES MAGISTRATE JUDGE
NORTHERN DISTRICT OF OHIO

Date:

11-13-14