

United States District Court

SOUTHERN

DISTRICT OF

FLORIDA

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

KIRBY ARCHER

CASE NUMBER: 07-3200RLD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. Beginning on or about January 27, 2007 and continuing through on or about September 25, 2007, in Miami-Dade County, in the Southern District of Florida, the defendant, KIRBY ARCHER, did knowingly and willfully move or travel in interstate or foreign commerce with the intent to avoid prosecution in the State of Arkansas for the crime of Theft of Property, A Class "B" Felony, in violation of Title 18, United States Code, Section 1073.

I further state that I am a Special Agent with the Coast Guard Investigative Service and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT


RICHARD BLAIS, SPECIAL AGENT
COAST GUARD INVESTIGATIVE SERVICE

Sworn to before me, and subscribed in my presence,

SEPTEMBER 26, 2007
Date

at Miami, Florida
City and State

ROBERT L. DUBÉ
UNITED STATES MAGISTRATE JUDGE
Name and Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

I, RICHARD BLAIS, being duly sworn, depose and state:

1. I am a Special Agent of the Coast Guard Investigative Service assigned to a joint task force with the Federal Bureau of Investigation ("FBI"). I have been employed with the Coast Guard since 1984 and tasked to the FBI since November 2004. Prior to my current service, I served as a Federal Air Marshal and as a special agent with the Drug Enforcement Administration. I am currently assigned to the Miami Division of the FBI. My responsibilities as a special agent include, among other things, conducting investigations that involve, but are not limited to, terrorism, counter-terrorism, high seas crimes, and locating missing persons. I have received training in the investigation of homicides, hijackings, kidnappings, assaults, and batteries, among other things.
2. The statements contained in this affidavit are based upon my own personal knowledge, as well as information provided to me by other law enforcement officials and employees of the United States Coast Guard and the FBI. I have not included in this affidavit each and every fact and circumstance known to me, but only the facts and circumstances that I believe are sufficient to establish probable cause that on or about January 26, 2007, Kirby Logan ARCHER unlawfully moved and traveled in interstate commerce to avoid prosecution, in violation of 18 U.S.C. § 1073.

BACKGROUND

3. On or about September 21, 2007, at the Miami Beach Marina, two males later identified as Kirby Logan ARCHER and Guillermo ZARABOZO approached a representative of Sissy Baby, a charter vessel business. ARCHER and ZARABOZO sought to charter Sissy Baby's vessel, the *F/V Joe Cool*, for a trip to Bimini on September 22nd. The

representative directed ARCHER and ZARABOZO to Sissy Baby's corporate telephone number.

4. On or about September 22nd, at about 3:15 p.m., ARCHER and ZARABOZO arrived at the Miami Beach Marina. The two men spoke with Sissy Baby's owner. ARCHER stated that he and ZARABOZO worked for a survey company and that they had finished early. According to ARCHER, the pair were planning to meet with their girlfriends on a yacht at the Big Game Resort and Yacht Club in Bimini. ARCHER stated that he was unable to fly to Bimini because his girlfriend had packed away his passport. ARCHER said that he planned to meet his girlfriend at the dock in order to retrieve the passport.
5. The owner helped bring ARCHER's and ZARABOZO's luggage on-board the vessel, which consisted of a total of six black bags. ARCHER then paid the owner \$4,000 in \$100 denominations. The owner gave \$1,000 to the *F/V Joe Cool's* captain, Jake Branam.
6. At about 3:22 p.m., the vessel's first mate bought bait and tackle from a Miami Beach Marina shop. The first mate stated to a shop clerk that the company was going to take two passengers on a last-minute booking to Bimini and drop off the passengers at a yacht. The mate also indicated that the company was to be paid \$4,000. On the return trip, according to the first mate, the crew was planning to fish for yellow fin tuna.
7. The vessel departed on September 22nd at about 4:30 p.m. with the following people on-board: (a) Captain Jake Branam; (b) Kelley Sue Branam, the captain's wife; (c) Scott Michael Gamble, a member of the Branam family; (d) Samuel Kairy, the first mate; (e) ARCHER; and (f) ZARABOZO.
8. The *F/V Joe Cool* charted a course for Bimini. According to investigation, the vessel traveled half the distance from Miami to Bimini when the vessel then turned to a course

of 190 degrees. At some point, the *F/V Joe Cool* then turned to a course of 170 degrees and traveled to a point near Dog Rocks in the Bahamas. From that location, the vessel appeared to drift.

9. On or about September 23rd, at approximately 6:00 p.m., Sissy Baby's owner contacted the Coast Guard to report the *F/V Joe Cool* as overdue. According to the owner, the last contact he had with the vessel's crew was on September 22nd at about 3:30 p.m.
10. The Coast Guard initiated a search and discovered the *F/V Joe Cool* adrift 11 nautical miles southwest of Anguilla Cay, Bahamas, on September 23rd at about 6:00 p.m. The Coast Guard initiated a search-and-rescue of the the vessel and found its condition in disarray. The search revealed, among other things, ZARABOZO's Florida identification card, six marijuana cigarettes, multiple half-opened packs of cigarettes, a laptop computer, computer accessories, luggage, a daily planner, clothing, cameras, and a cellular telephone. A handcuff key was also found on the vessel's bow, as well as a substance on the vessel's stern that appeared to be blood.
11. A short distance south near Dog Rocks, the Coast Guard located an orange life raft carrying ARCHER, ZARABOZO, and several pieces of luggage and other personal effects.

STATEMENTS

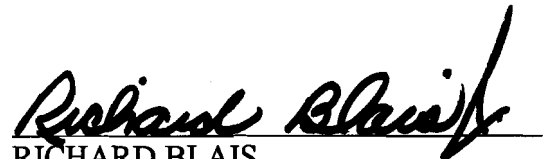
12. As part of its search-and-rescue, the Coast Guard interviewed ZARABOZO, who advised that unknown subjects hijacked the vessel at sea. ZARABOZO advised that upon boarding, the hijackers immediately shot and killed the captain. According to ZARABOZO, the hijackers then shot the captain's wife because she was hysterical. ZARABOZO stated that the hijackers then directed another one crew member to throw

the bodies overboard. ZARABOZO advised that the hijackers shot and killed him when he refused. The hijackers then directed the last crew to throw the bodies overboard; however, he was also shot when he refused. According to ZARABOZO, the hijackers directed him to throw the bodies over board. He complied.

13. Once upon the Coast Guard's vessel, ARCHER and ZARABOZO were provided with their *Miranda* warnings, which they waived. The pair agreed to be interviewed. On September 25th, as the Coast Guard towed the *F/V Joe Cool*, law enforcement pointed to the *F/V Joe Cool* and asked ZARABOZO if he recognized it. ZARABOZO responded that he did not recognize it. He stated that he was not on that vessel (the *F/V Joe Cool*). A short time later, law enforcement asked ZARABOZO again if he recognized the *F/V Joe Cool*. ZARABOZO again stated that he did not recognize it, despite the fact that the Coast Guard had discovered his identification onboard the vessel.
14. During an interview of ARCHER, ARCHER stated that he knew a warrant had been issued previously for his arrest and that, as a result, he could not fly. Investigation revealed that the Circuit Court of Independence County, Arkansas, issued a bench warrant for ARCHER's arrest on January 27, 2007, on a felony charge of property theft.

15. WHEREFORE, based upon the foregoing, your affiant submits that there is probable cause to believe that, on or about January 26, 2007, Kirby Logan ARCHER unlawfully moved and traveled in interstate commerce to avoid prosecution, in violation of 18 U.S.C. § 1073.

FURTHER AFFIANT SAYETH NAUGHT.


RICHARD BLAIS
SPECIAL AGENT
UNITED STATES COAST GUARD
INVESTIGATIVE SERVICE

Sworn and subscribed before me this
26th day of September, 2007.


ROBERT L. DUBÉ
UNITED STATES MAGISTRATE JUDGE