
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : **CRIMINAL COMPLAINT**

v. :

PHILLIP MONTGOMERY : Mag No. 06-5036

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

SEE ATTACHMENT A

I further state that I am a Special Agent of the Federal Bureau of Investigation, and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.

James Diorio, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

September ____, 2006, at Trenton, New Jersey

HONORABLE TONIANNE BONGIOVANNI
UNITED STATES MAGISTRATE JUDGE

Signature of Judicial Officer

CONTENTS APPROVED
UNITED STATES ATTORNEY

By: _____
John J. Hoffman, AUSA

Date: _____

ATTACHMENT A

Count One

From on or about July 31, 2006, through on or about August 3, 2006, at Asbury Park, New Jersey, in the District of New Jersey, and elsewhere, defendant

PHILLIP MONTGOMERY

did knowingly and wilfully intimidate, threaten and corruptly persuade and attempt to intimidate, threaten and corruptly persuade another person, namely VA, with intent to cause and induce VA to withhold an object from an official proceeding, and to conceal an object with intent to impair the object's integrity and availability for use in an official proceeding; to wit, a federal grand jury proceeding.

In violation of Title 18, United States Code, Sections 1512(b)(2)(A) and (b)(2)(B), and 2.

Count Two

From on or about July 31, 2006, through on or about August 3, 2006, at Asbury Park, New Jersey, in the District of New Jersey, and elsewhere, defendant

PHILLIP MONTGOMERY

did knowingly and wilfully intimidate, threaten and corruptly persuade and attempt to intimidate, threaten and corruptly persuade another person, namely VA, with intent to hinder, delay and prevent the communication to a law enforcement officer of information relating to the commission and possible commission of a Federal offense.

In violation of Title 18, United States Code, Sections 1512(b)(3) and 2.

ATTACHMENT B

I, James Diorio, am a Special Agent with the Federal Bureau of Investigation (“FBI”). I have knowledge of the following facts from my own investigation and discussions with and review of reports of other law enforcement officers. Because this Affidavit is submitted for the sole purpose of establishing probable cause to support the issuance of a Complaint, I have not included each and every fact known by the Government concerning this investigation. All conversations are recounted in sum and substance.

A. 2003

1. On February 27, 2003, law enforcement officers from the Monmouth County Prosecutor’s Office (“MCPO”) and the Asbury Park Police Department (“APPD”), including Asbury Park Police Officer PHILLIP MONTGOMERY, executed an arrest warrant for a fugitive, JT, at JT’s mother’s apartment in Asbury Park, New Jersey. At the scene, JT’s mother reported that a watch and necklace were missing. The watch was a “Lockman” with a unique yellow band and customized diamonds, valued at over \$2,000. Several days later, JT’s watch was identified at a jewelry store in Monmouth County by friends of JT, who were informed, by the manager of the store, that the watch recently had been brought to the jewelry store to have the band switched.

B. 2006

1. July 31, 2006

2. On July 31, 2006, FBI Special Agents James Diorio and Robert Cooke served a subpoena on the manager of the aforementioned jewelry store, VA, for documentation related to business transactions conducted with Asbury Park Police Officers. Soon thereafter, at approximately 6:30 p.m., law enforcement officers intercepted a telephone message from VA to MONTGOMERY, during which VA told MONTGOMERY to “give me a call.”¹ At approximately 9:12 pm, MONTGOMERY returned the call, and VA told MONTGOMERY to “Come here.” At approximately 10:03 p.m., law enforcement surveilled MONTGOMERY meeting with VA inside VA’s jewelry store, which closed at 9:30 p.m. Both individuals exited the store at approximately 10:20 p.m. At approximately 10:26 pm, law enforcement officers intercepted a call from an individual identified herein as Target 1 to MONTGOMERY,² during which MONTGOMERY made plans to stop by and see Target 1. At approximately 10:33 p.m., law enforcement officers intercepted an outgoing call from MONTGOMERY that confirmed that MONTGOMERY and Target 1 were meeting.

¹ On July 14, 2006, law enforcement obtained a court order to intercept conversations on the cellular telephone utilized by PHILLIP MONTGOMERY. The quoted conversations are provided in substance and in part.

² Target 1 has two prior felony convictions: a 1994 conviction for assault; and a 2001 conviction for contempt.

2. August 1, 2006

3. At approximately 1:54 pm, on August 1, 2006, law enforcement officers intercepted a call from MONTGOMERY to Target 1, during which Target 1 asked, "Did you do what you had to do last night, or did you do it this morning?"; MONTGOMERY responded "Nah, I did it last night when I came in the house."

3. August 2, 2006

4. At approximately 2:15 p.m., on August 2, 2006, law enforcement interviewed VA, who agreed to cooperate fully with law enforcement. Thereafter, in substance and in part, VA informed law enforcement of the following:

a. About three years ago, PHILLIP MONTGOMERY brought VA a unique "Lockman" watch and asked that VA replace the yellow watch band with a black watch band. VA put the watch in his display window until he could perform the replacement. Later that day, several young men came into the jewelry store and identified that watch as belonging to one of their friends. At that point, VA pulled the watch out of the cabinet, and stored it in his safe. Later that evening, another young male along with an older female, who VA assumed to be the parent of the younger male, came to the store and questioned VA about the watch. Eventually mall security responded and advised the older female to report her complaint to the police.

b. The following day, VA received a call from an individual identifying himself as an Asbury Park Police Officer, who asked if VA had the watch, and told VA to hold onto it, and that he would come to retrieve the watch. That individual never called again, nor did he or anyone else come to retrieve the watch. That same day, MONTGOMERY called VA and stated, in substance and in part, "don't put that the watch came from me . . . tell him some 'chick' brought it in." The next day, VA received a call from MONTGOMERY who asked VA if he still had the watch, and told VA, in substance and in part, to "keep it there." At or around the same time, MONTGOMERY asked VA to make MONTGOMERY a duplicate watch, which VA had made in New York, and MONTGOMERY paid for the watch in cash. Approximately one year later, VA asked MONTGOMERY what VA should do with the original "Lockman" watch, and MONTGOMERY told VA, in substance and in part, to "hold onto it."

c. On July 31, 2006, while meeting with MONTGOMERY at approximately 10:00 p.m., at VA's jewelry store (see above at ¶ 3), VA showed MONTGOMERY the federal subpoena, and while discussing the federal subpoena and the watch, MONTGOMERY stated to VA, in substance and in part, "you are going to tell them a chick brought it in, right?", to which VA responded "of course."

5. At approximately 3:56 pm, on August 2, 2006, law enforcement intercepted a call from VA to MONTGOMERY, during which VA informed MONTGOMERY that "[t]hey were here again with another subpoena, specifically about a watch. . . . I got to come up with it by Friday." MONTGOMERY said, "well that's not a problem, why don't you give it to them today." VA, said, "Cause I'm real fucking nervous." Later in the conversation, MONTGOMERY asked, "What are they telling you?"; VA stated, "They are saying they have

information on me," and MONTGOMERY responded, "man, you know they have nothing on you. You don't do anything." MONTGOMERY again asked VA about the type of information the FBI is requesting. VA said, "they're not telling me shit. They're just fucking intimidating." There is a long pause in conversation, then MONTGOMERY said, "I'm thinking, I'm thinking." The call ends shortly thereafter.

6. At approximately 4:06 pm, law enforcement intercepted a call from VA to MONTGOMERY, during which VA said, "hey, there is no way they can trace this fucking watch back to me right?"; MONTGOMERY said, "No," and VA said, "Cause I'm gonna fucking chuck it." MONTGOMERY said "Do me a favor." VA said "yea". MONTGOMERY said "Um, but you told Asbury you had it." VA said "yea." MONTGOMERY said "remember that." Soon thereafter, VA informed law enforcement that he expected a visit from MONTGOMERY. At approximately 5:45 pm, law enforcement officials intercepted a call from VA to MONTGOMERY, during which VA told MONTGOMERY: "Where are you, I'm just chucking it." MONTGOMERY said, "Yo, hold on, let me call you back in two minutes."

7. At approximately 5:00 p.m., law enforcement established surveillance outside the jewelry store. At approximately 6:45 p.m., VA called law enforcement and informed them that a stocky Hispanic male had entered the store, approached VA, and produced a note that said: "Give me Phil's watch."³ VA responded, "I can't," and, after mumbling several words, the Hispanic male departed the store. At approximately 6:46 pm, law enforcement officers intercepted a call from Target 1 to MONTGOMERY during which Target 1 stated "Yo, he was just on the phone and he's scared to death. He's fucked up. I think he made a phone call." MONTGOMERY said, "Think so?" Target 1 said, "Yea, yea. He's buggin out, yo. He's flipping. Yo, he's on a flip, flip mode right now. Just saw me, just shook his head like, psssw. Yea, he's on some whole different shit right now. You ain't getting that watch back." MONTGOMERY then hung up. At approximately 8:47 pm, law enforcement officials intercepted a call from VA to MONTGOMERY, during which VA said, "You sent this guy over here with a fucking note, okay. I just got rid of the fucking thing, okay. I don't want no part of it. I want nothing to do with it, and that's it. I can't fucking do this. I don't have the watch, I got rid of it, and that's it." MONTGOMERY said, "yo, why don't you give me a call tomorrow." VA agreed.

8. From approximately 7:00 p.m., until approximately 9:30 p.m., law enforcement surveilled MONTGOMERY in his vehicle outside the jewelry store. Soon thereafter, law enforcement surveilled VA exit the jewelry store and head east on Route 36. MONTGOMERY, likewise, exited the parking lot and followed VA. At approximately 9:38 pm, law enforcement officials intercepted a call to MONTGOMERY from Target 1, which verified that they were following VA. At approximately 9:55 p.m., MONTGOMERY was surveilled following VA into a local Shop Rite grocery store, and Target 1 was surveilled waiting out in the parking lot. At

³ At approximately 6:42 pm, law enforcement intercepted a call from Target 1 to MONTGOMERY, during which Target 1 stated: "Yo, where you at?", MONTGOMERY said, "outside," Target 1 stated "I'm trying to find you;" MONTGOMERY said "I see you."

approximately 10:03 p.m., VA was surveilled leaving the Shop Rite parking lot. At approximately 10:05 p.m., VA informed law enforcement, via cellular telephone, that he was confronted by MONTGOMERY in the Shop Rite, at which time he told MONTGOMERY that he no longer had the watch, and MONTGOMERY stated, in substance and in part, "you should have given it to me Monday night." MONTGOMERY also asked VA if he was wearing a "wire," to which VA responded "no." MONTGOMERY was surveilled leaving the parking lot at approximately 10:23 p.m., after speaking with Target 1 in the parking lot. Law enforcement surveilled MONTGOMERY and Target 1 staring at VA as VA departed the Shop Rite.