

Exhibit H

AO 91 (Rev. 11/11) Criminal Complaint

AUSA Cornelius Vandenberg (312) 353-5310

FILED

APR 06 2018

MAGISTRATE JUDGE
SHEILA M. FINNEGAN

UNITED STATES OF AMERICA

v.

BEN BAKER

CASE NUMBER
UNDER SEAL

18CR 216

MAGISTRATE JUDGE FINNEGAN

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Count One

On or about March 3, 2017, at Chicago, in the Northern District of Illinois, Eastern Division, the defendant violated:

Code Section

Title 21, United States Code, Section 841(a)(1)

Offense Description

Knowingly and intentionally distributed a controlled substance, namely a quantity of a mixture and substance containing a detectable amount of heroin, a Schedule I Controlled Substance

Count Two

On or about March 15, 2017, at Chicago, in the Northern District of Illinois, Eastern Division, the defendant violated:

Code Section

Title 21, United States Code, Section 841(a)(1)

Offense Description

Knowingly and intentionally distributed a controlled substance, namely a quantity of a mixture and substance containing a detectable amount of heroin, a Schedule I Controlled Substance

RECEIVED

APR 06 2018 *YJ*THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

Count Three

On or about March 28, 2017, at Chicago, in the Northern District of Illinois, Eastern Division, the defendant violated:

Code Section

Title 21, United States Code, Section 841(a)(1)

Offense Description

Knowingly and intentionally distributed a controlled substance, namely a quantity of a mixture and substance containing a detectable amount of heroin, a Schedule I Controlled Substance

Count Four

On or about May 3, 2017, at Chicago, in the Northern District of Illinois, Eastern Division, the defendant violated:

Code Section

Title 21, United States Code, Section 841(a)(1)

Offense Description

Knowingly and intentionally distributed a controlled substance, namely a quantity of a mixture and substance containing a detectable amount of fentanyl (N-phenyl-N-1 [1-(2-phenylethyl)-4-piperindinyl] propanamide), a Schedule II Controlled Substance; and a quantity of a mixture and substance containing furanylfentanyl, an analogue of fentanyl (N-phenyl-N-1 [1-(2-phenylethyl)-4-piperindinyl] propanamide), a Schedule II Controlled Substance

This criminal complaint is based upon these facts:

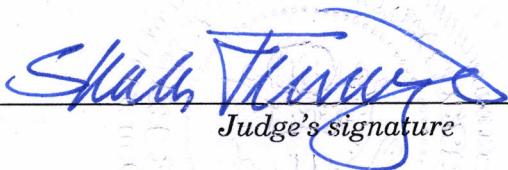
X Continued on the attached sheet.


JOHN GONZALEZ
Task Force Officer,
Drug Enforcement Administration (DEA)

Sworn to before me and signed in my presence.

Date: April 6, 2018

City and state: Chicago, Illinois


SHEILA FINNEGAN, U.S. Magistrate Judge
Printed name and Title

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS | ss

AFFIDAVIT

I, JOHN GONZALEZ, being duly sworn, state as follows:

1. I am a Task Force Officer with the Drug Enforcement Administration, and have been so employed for 5 years. Prior to becoming a Task Force Officer with the DEA, I was a police officer with the Chicago Police Department, Chicago, Illinois for 19 years. As a police officer, I investigated various criminal offenses, including narcotics offenses.

2. As part of my duties as a DEA Task Force Officer, I investigate criminal violations relating to narcotics trafficking offenses, including criminal violations of the Federal Controlled Substance laws, including, but not limited to Title 18, United States Code, Sections 1956, and 1957, and Title 21, United States Code, Sections 841, 843, 846, 848, 952 and 963. I have been involved with various electronic surveillance methods, the debriefing of defendants, informants, and witnesses, as well as others who have knowledge of the distribution, transportation, storage and importation of controlled substances.

3. This affidavit is submitted in support of a criminal complaint alleging that Ben BAKER has violated Title 21, United States Code, Section 841(a)(1). Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint charging BAKER with distribution of heroin, fentanyl and furanylfentanyl, an analogue of fentanyl, I have not included

each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

4. This affidavit is based on my personal knowledge, information provided to me by other law enforcement agents and in law enforcement records, review of recorded conversations, review of public records databases, and my training and experience, as well as the training and experience of other law enforcement agents.

I. FACTS SUPPORTING PROBABLE CAUSE

5. In summary, and as set forth in more detail below, on or about March 3, 2017, BAKER sold a total of 5.3 grams of heroin to CS-2¹; on or about March 15, 2017, BAKER sold approximately 4.9 grams of heroin to CS-2; on or about March 28, 2017, BAKER sold approximately 5 grams of heroin to CS-2; and on or about May 3, 2017, BAKER sold approximately 5 grams of fentanyl and furanylfentanyl, an analogue of fentanyl, to CS-2.

A. March 3, 2017: BAKER Sold CS-2 a Total of with Approximately 5.3 Grams of Heroin.

6. On or about March 1, 2017, CS-2 informed law enforcement that CS-2

¹ Confidential Source-2 (CS-2) has been a confidential source for CPD since March 2010 and has been an active confidential source for DEA since March 2017. Information provided by CS-2 has been reliable and credible, and certain information has been corroborated from external sources, including consensually recorded calls, surveillance, and the successful controlled purchases of narcotics. CS-2 has agreed to assist law enforcement in exchange for payments. Criminal records reflect that CS-2 has nine convictions, including multiple convictions for narcotics offenses, as well as convictions for invasion of privacy, prostitution and larceny. To date, CS-2 has received cash payments totaling approximately \$6,450 from law enforcement during the course of this investigation, and a total of approximately \$9,126 for assisting CPD in other investigations.

had known Ben BAKER and Individual A for years and was aware that BAKER and Individual A were engaged in the sale of heroin. According to CS-2, earlier that day, CS-2 had seen BAKER and Individual A and had discussed purchasing heroin from them.

7. On or about March 3, 2017, at approximately 9:30 a.m., law enforcement met with CS-2 at an area near the 6200 block of South Rhodes Street, in Chicago. Law enforcement discussed with CS-2 a plan for CS-2 to drop by BAKER's home, unannounced, to purchase 4 grams of heroin from BAKER. Law enforcement searched CS-2 and did not find any money or contraband. Law enforcement then supplied CS-2 with money to purchase heroin as well as a concealed audio and video recording device. Law enforcement officers maintained continuous surveillance of CS-2 from this meeting until they observed CS-2 enter an address on the 6200 block of South Rhodes Street, in Chicago, (the "Baker Residence")², at approximately 10:11 a.m.

8. According to CS-2, inside the Baker Residence, BAKER³ handed CS-2 a

² This was determined to be the Baker Residence at the time of these purchases for the following reasons: First, BAKER's Illinois driver's license listed this location as his residence as of March of 2017. Second, CS-2 has identified this as BAKER's home. Third, law enforcement officers observed BAKER at this residence on multiple occasions between March and June 2017. Fourth, as set forth in Paragraph 8, (773) 354-5774 was identified as Baker's Phone and Baker's Phone is registered to this address. Fifth, the Ben Baker Vehicle, identified in Paragraph 8, is registered to this residence, albeit under the name of a different person with the last name "Baker."

³ The identification of BAKER and his voice in this affidavit is based on the following: (1) CS-2 identified BAKER's photograph and voice; (2) agents have positively identified BAKER based on a comparison of his appearance in the video recordings made during the transactions set forth in this affidavit and BAKER's CPD database photograph and driver's

small Ziploc bag of user quantities of a white powdery substance that had the appearance of heroin. According to the recording, BAKER then stated, "He told me to tell you let him know what's to it.⁴" Based on my training and experience, and as understood by CS-2, this meant that BAKER wanted CS-2 or someone else test the quality of the heroin so BAKER could report back to his supplier. CS-2 then told BAKER, "Look, my brother [unintelligible] needs 4 grams [of heroin]. BAKER replied, "They [each gram of heroin] 70 dollars a piece." CS-2 replied, "What time can I get it?" BAKER responded, "I'm fin [plan] to call him [BAKER's heroin supplier], so I guess within the hour they will be here [to deliver heroin]." During the course of the conversation, BAKER told CS-2 to call (773) 354-5774⁵, ("Baker's Phone") later that day to set up the heroin purchase. After the transaction, CS-2 departed the Baker Residence.

license photograph; and (3) agents have also positively compared BAKER's voice in recorded meetings with CS-2 to the voice of the user of Baker's Phone.

⁴ Some of the consensually recorded conversations from this investigation are summarized in this Affidavit. The language that is quoted from the recorded conversations throughout this Affidavit is based upon a preliminary review of the recorded conversations, not final transcripts. These summaries do not include all statements or topics covered during the course of the recorded conversations. At various points in the Affidavit, I have indicated (sometimes in brackets) my interpretation of words and phrases used in the recorded conversations. My interpretations are based on information received from confidential sources, the contents and context of the recorded conversations, events that took place before and after the conversations, my knowledge of the investigation as a whole, my experience and training, and the experience and training of other law enforcement agents in this investigation.

⁵ According to documents from MetroPCS, this phone is subscribed to a woman with the last name "Baker," who is also the registered owner of a 2008 Cadillac STS with license plate XXXX824 (the "Baker Vehicle"), which is registered to the Baker Residence. Law enforcement conducting surveillance has witnessed BAKER driving the Baker Vehicle on several occasions, and it is frequently parked outside the Baker Residence.

9. Law enforcement officers conducting surveillance observed CS-2 exit the Baker Residence, at approximately 10:15 a.m., and walk to a pre-determined meeting location, where CS-2 provided law enforcement with the recording device and one small Ziploc bag containing a white powdery substance. A search of CS-2 revealed no cash or contraband.

10. The Illinois State Police Division of Forensic Services tested the substance in the bag recovered from CS-2 and found it to contain .4 grams of heroin.

11. At approximately 10:54 a.m., on March 3, 2017, CS-2 placed a recorded call to Baker's Phone, at the direction of law enforcement. According to a recording of that call, CS-2 asked BAKER whether his source had arrived. BAKER replied that he was still waiting to hear from his source.

12. At approximately 11:11 a.m., CS-2 received an unrecorded call from BAKER, who was using Baker's Phone. According to CS-2, BAKER said that the supplier was in the suburbs. CS-2 then asked BAKER to call CS-2 when the supplier arrived at the Baker Residence. CS-2 reported this call to law enforcement; CS-2's receipt of the call was verified by toll records for Baker's Phone.

13. At approximately 1:12 p.m., CS-2 received an unrecorded call from Baker's Phone, in which BAKER told CS-2 that the heroin supplier was 20 minutes away and that BAKER would call CS-2 back in 20 minutes. CS-2 reported this call to law enforcement; CS-2's receipt of the call was verified by toll records for Baker's Phone.

14. At approximately 2:06 p.m., at the direction of law enforcement, CS-2

placed a recorded call to Baker's Phone. According to that recording, BAKER said, "It [the heroin] will be here today, I don't want to keep people waiting. Well, these [expletive] ain't got it. It [the heroin] should be here by now." CS-2 responded, "I'm going to wait." BAKER responded, "You ain't tell me shit about that [quality of the heroin provided earlier]." CS-2 responded, "Oh, hell yes, it [the heroin] is real decent."

15. At approximately 3:38 p.m., CS-2 received an unrecorded call from Baker's Phone. CS-2 reported this call to law enforcement; CS-2's receipt of this call was verified by toll records for Baker's Phone. According to CS-2, BAKER told CS-2 to come back in an hour.

16. Shortly before 4:20 p.m., law enforcement met with CS-2 at an area near the 6200 block of South Rhodes Street, in Chicago. Law enforcement searched CS-2 and did not find any money or contraband. Law enforcement then supplied CS-2 with money to purchase drugs from BAKER as well as a concealed audio and video recording device. Law enforcement officers maintained continuous surveillance of CS-2 from this meeting until they observed CS-2 enter the Baker Residence at approximately 4:31 p.m.

17. According to CS-2, once inside the Baker Residence, CS-2 gave BAKER \$350. According to the recording, BAKER counted the money and stated, "This is \$350." According to CS-2, BAKER then walked to the back of the first floor residence. BAKER returned shortly thereafter and gave CS-2 a bag containing a rocklike substance. According to the recording, BAKER then stated, "I didn't goddamit, take nothing off that for you." Based on my training and experience, and CS-2's

understanding, this meant that BAKER did not add a cutting agent to dilute the quality of the heroin he provided to CS-2. As CS-2 and BAKER continued talking, BAKER stated that CS-2 needed to pay an additional \$100. CS-2 then gave BAKER an additional \$100. Later during the conversation BAKER asked CS-2, "You said that [the heroin BAKER gave CS-2 earlier in the day] was a decent." CS-2 replied, "That shit [sample of heroin] was the bomb [high quality]. I didn't even snort my other one." After the transaction, CS-2 departed the Baker Residence.

18. Law enforcement officers conducting surveillance observed CS-2 walk from the Baker Residence to a pre-determined meeting location, where CS-2 provided law enforcement with the recording device and one small Ziploc bag containing approximately 5 grams of a rock-like substance. A search of CS-2 revealed no cash or contraband.

19. The Illinois State Police Division of Forensic Services tested the substance in the bag recovered from CS-2 and found it to contain 4.9 grams of heroin.

B. March 15, 2017: BAKER Sold CS-2 Approximately 4.9 Grams of Heroin.

20. On or about March 15, 2017, shortly before 10:45 a.m., law enforcement met with CS-2 at an area near the 6200 block of South Rhodes Street, in Chicago. At approximately 10:55 a.m., at the direction of law enforcement, CS-2 placed a recorded call to Baker's Phone. BAKER answered the phone. CS-2 told BAKER, "I need you, I need you again." BAKER replied, "What's up?" CS-2 replied, 'Only you dig on 5 grams [can you sell me five grams of heroin]?" BAKER responded, "Well shit give me like 10 minutes [unintelligible] at the DMV [Illinois Department of Motor Vehicles].

I'll call you when I leave there."

21. At approximately 11:45 a.m., at the direction of law enforcement, CS-2 placed two recorded calls to Baker's Phone, but BAKER did not answer. Law enforcement searched CS-2 and did not find any money or contraband. Law enforcement then supplied CS-2 with money to purchase drugs from BAKER, as well as a concealed audio and video recording device. At approximately 12:39 p.m., law enforcement drove CS-2 nearer to the Baker Residence and dropped off CS-2.

22. At approximately 12:46 p.m., CS-2 made a recorded call to Baker's Phone. According to CS-2, and as verified by the recording, BAKER told CS-2 to come to the Baker Residence.

23. Law enforcement officers maintained continuous surveillance of CS-2 from the time CS-2 was dropped off at approximately 12:39 p.m., until they observed CS-2 enter the Baker Residence at approximately 1:05 p.m.

24. According to CS-2, once CS-2 was inside the Baker Residence, BAKER handed CS-2 a small hand knotted plastic bag containing a white powdery substance. CS-2 then handed BAKER \$400. According to the recording, CS-2 stated, "It's \$400, I um going to owe you fifty dollars. Alright?" According to the recording, BAKER did not respond, but did count the money provided by CS-2. After the transaction, CS-2 departed the Baker Residence.

25. Law enforcement officers conducting surveillance observed CS-2 walk from the Baker Residence to a pre-determined meeting location, where CS-2 provided law enforcement with the recording device and a small hand-knotted plastic bag

containing approximately 5 grams of a tan rock-like substance. A search of CS-2 revealed no cash or contraband.

26. The Illinois State Police Division of Forensic Services tested the substance in the bag recovered from CS-2 and found it to contain 4.9 grams of heroin.

C. March 28, 2017: BAKER Sold CS-2 Approximately 5 Grams of Heroin.

27. On or about March 28, 2017, shortly before 10:30 a.m., law enforcement met with CS-2 at an area near the 6200 block of South Rhodes Street, in Chicago. At approximately 11:05 a.m., at the direction of law enforcement, CS-2 placed a recorded call to Baker's Phone. BAKER answered the phone. CS-2 asked BAKER, "Please can I come slide on you [buy heroin from you]...the same number." BAKER replied, "For a five [5 grams of heroin]?" CS-2 replied, "Yeah." BAKER responded, "Sure, I guess. In about 20 minutes."

28. On or about March 28, 2017, shortly before 11:39 a.m., law enforcement searched CS-2 and did not find any money or contraband. Law enforcement then supplied CS-2 with money to purchase drugs from BAKER as well as a concealed audio and video recording device. Law enforcement maintained continuous surveillance of CS-2 from this meeting until they observed CS-2 enter the Baker Residence at approximately 11:39 a.m.

29. According to CS-2, once CS-2 was inside Baker Residence, BAKER handed CS-2 one small plastic bag of a tan rock-like substance. CS-2 then gave BAKER \$500. According to the recording, BAKER then counted the money given to him by CS-2. After the transaction, CS-2 departed the Baker Residence.

30. Law enforcement officers conducting surveillance observed CS-2 exit the Baker Residence at 11:41 a.m. and walk to a pre-determined meeting location, where CS-2 provided law enforcement with the recording device and one small plastic bag containing approximately 5 grams of a white powdery substance. A search of CS-2 revealed no cash or contraband.

31. The Illinois State Police Division of Forensic Services tested the substance in the bag provided by CS-2 and found it to contain 5.0 grams of heroin.

D. May 3, 2017: BAKER Provided CS-2 with Approximately 5 Grams of Fentanyl and Furanylfentanyl.

32. On or about May 3, 2017⁶, at approximately 10:30 a.m., law enforcement met CS-2 at an area near the 6200 block of South Rhodes Street, in Chicago. At approximately 11:05 a.m., at the direction of law enforcement, CS-2 placed a recorded call to Baker's Phone. BAKER answered the phone. In this call, CS-2 and BAKER agreed to meet at the Baker Residence. Law enforcement searched CS-2 and did not find any money or contraband. Law enforcement then supplied CS-2 with money to

⁶ Between the March 28, 2017, transaction and the May 3, 2017, transaction, BAKER provided controlled substances to CS-2 on two additional occasions:

- i.) On or about April 6, 2017, at the direction of law enforcement and in a manner consistent with the methods used for the narcotics transactions described in this affidavit, CS-2 purchased 4.9 grams of a white powdery substance from BAKER. The Illinois State Police Division of Forensic Services tested the substance and found it to contain 4.9 grams of a mixture and substance containing a detectable amount of fentanyl. Due to a mechanical failure of the recording devices used, no calls or meetings were recorded for the April 6, 2017 buy.
- ii.) On or about April 25, 2017, CS-2 reported that CS-2 unexpectedly ran into BAKER near the Baker Residence and BAKER offered CS-2 a sample of heroin. CS-2 informed law enforcement of the interaction and provided law enforcement with the baggie CS-2 had received from BAKER. The Illinois State Police Division of Forensic Services tested the substance and found it to contain .2 grams of heroin.

purchase drugs from BAKER as well as a concealed audio and video recording device.

33. Law enforcement officers maintained continuous surveillance of CS-2 from this meeting until they observed CS-2 enter Baker Residence at approximately 11:15 a.m.

34. According to CS-2, and as verified by the recording, CS-2 walked to the front porch of Baker Residence and called out, "I am on the porch, bring me the five [grams of heroin]." BAKER then opened the door and let CS-2 in the house. According to CS-2, BAKER then handed CS-2 one plastic bag containing a white powdery substance. CS-2 then handed BAKER \$450. According to the recording, after BAKER counted the \$450, BAKER asked CS-2, "Where's my \$20 [the remainder of the \$470 cost of the five grams of heroin]?" CS-2 responded, "What, I'll give it to you next time." After the transaction, CS-2 departed the Baker Residence.

35. Law enforcement officers conducting surveillance observed CS-2 walk from the Baker Residence to a pre-determined meeting location, where CS-2 provided law enforcement with one small plastic bag containing approximately 5 grams of a white rock-like substance that had the appearance of heroin. A search of CS-2 revealed no cash or contraband.

36. The Illinois State Police Division of Forensic Services tested the substance and found it to contain 5.004 grams of a mixture and substance containing detectable amounts of fentanyl and furanylfentanyl (an analogue of fentanyl).

37. At the direction of law enforcement, following CS-2's meeting with BAKER, at approximately 11:50 a.m. that same day, CS-2 texted BAKER at Baker's

Phone, "Got THE 20 [dollars still owed for heroin purchased that day] Bring it [the money to BAKER] or keep it." BAKER responded, "bring it."

38. Law enforcement searched CS-2 and did not find any money or contraband. Law enforcement then supplied CS-2 with money to pay to BAKER as well as a concealed audio and video recording device.

39. On or about May 3, 2017, at approximately 12:15 p.m., law enforcement observed CS-2 walk up to a black Lincoln SUV that was parked in front of the Baker Residence. According to CS-2, and as verified by the recording, CS-2 walked up to the passenger window of the Lincoln SUV and gave BAKER \$20.

40. Law enforcement officers conducting surveillance observed CS-2 walk from the Baker Residence to a pre-determined meeting location, where CS-2 provided law enforcement with the recording device. A search of CS-2 revealed no cash or contraband.⁷

⁷ After the May 3, 2017, transaction, BAKER provided controlled substances to CS-2 on two additional occasions:

- i.) On or about July 6, 2017, at the direction of law enforcement and in a manner consistent with the methods used for the narcotics transactions described in this affidavit, CS-2 purchased 4.9 grams heroin from BAKER. Due to a mechanical failure of the recording devices used, no calls or meetings were recorded for the July 6, 2017, buy. The heroin that CS-2 purchased was tendered to law enforcement officers after the purchase, tested by Illinois State Police and found to contain 4.9 grams of heroin.
- ii.) On or about August 17, 2017, at the direction of law enforcement and in a manner consistent with the methods used for the previous narcotics transactions, CS-2 purchased 4.9 grams heroin from BAKER. The heroin that CS-2 purchased was tendered to law enforcement officers after the purchase, tested by Illinois State Police and found to contain 4.9 grams of heroin.

II. Conclusion

41. Based on the foregoing, I respectfully submit there exists probable cause to believe that:

- a. on or about March 3, 2017 at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, BEN BAKER, did knowingly and intentionally distribute a controlled substance, namely a quantity of a mixture and substance containing a detectable amount of heroin, a Schedule I Controlled Substance;
- b. on or about March 15, 2017 at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, BEN BAKER, did knowingly and intentionally distribute a controlled substance, namely a quantity of a mixture and substance containing a detectable amount of heroin, a Schedule I Controlled Substance;
- c. on or about March 28, 2017 at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, BEN BAKER, did knowingly and intentionally distribute a controlled substance, namely a quantity of a mixture and substance containing a detectable amount of heroin, a Schedule I Controlled Substance; and
- d. on or about May 3, 2017 at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, BEN BAKER, did knowingly and intentionally distribute a controlled substance, namely a quantity of a mixture and substance containing a detectable amount of fentanyl (N-phenyl-N-1 [1-(2-

phenylethyl)-4-piperindinyl] propanamide), a Schedule II Controlled Substance; and a quantity of a mixture and substance containing furanylfentanyl, an analogue of fentanyl (N-phenyl-N-1 [1-(2-phenylethyl)-4-piperindinyl] propanamide), a Schedule II Controlled Substance;

in violation of Title 21, United States Code, Section 841(a)(1).

FURTHER AFFIANT SAYETH NOT.


JOHN GONZALEZ
Task Force Officer,
Drug Enforcement Administration

SUBSCRIBED AND SWORN to before me on April 6, 2018.


SHEILA FINNEGAN
United States Magistrate Judge