

UNITED STATES DISTRICT COURT
for the
Middle District of Florida

United States of America
v.
Brandon Albanito

Case No. 2:23-mj-

1016

Defendant(s)

CRIMINAL COMPLAINT

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

On or about the date(s) of January 24, 2023 in the counties of Lee in the
Middle District of Florida, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Rows include 21 U.S.C. §§ 841(a)(1) & (b)(1)(C) and 21 U.S.C. § 331(i)(2).

This criminal complaint is based on these facts:

See Attached Affidavit.

Continued on the attached sheet.

/s/ James Kejonen

Complainant's signature

Special Agent James Kejonen, FDA

Printed name and title

Sworn to before me over the telephone and signed by me pursuant to Fed. R. Crim. P. 4.1 and 4(d).

Date: 01/24/2023

Handwritten signature of Kyle C. Dudek

Judge's signature

City and state: Fort Myers, FL

Kyle C. Dudek, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT FOR CRIMINAL COMPLAINT**

I, James Kejonen, being first duly sworn, hereby depose and state as follows:

1. I am currently employed as a Special Agent with the United States Food and Drug Administration (FDA) Office of Criminal Investigations (OCI) and have been employed as a Special Agent for over sixteen years. Throughout my career, I have gained experience investigating violations of Titles 18 and 21 of the United States Code (USC). During my tenure at FDA OCI, I have been assigned to narcotics investigations including investigations that involved the manufacture of narcotics and other prohibited drugs and substances. I have been the affiant on search warrants in support of investigations involving the narcotics manufactured and distributed through the dark web. I have also received training provided by FDA OCI on international shipments of controlled substance, prohibited drugs and substances through the various ports of entry into the United States.

2. This affidavit is submitted in support the issuance of a criminal complaint charging Brandon ALBANITO with possession with intent to distribute a controlled substance in violation 21 U.S.C. § 841(a)(1) and (b)(1)(C) and possessing a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark to render a drug counterfeit in violation of 21 U.S.C. § 331(i)(2). The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is

sufficient probable cause for the issuance of an arrest warrant and does not set forth all of my knowledge about this matter.

3. The United States Food and Drug Administration (FDA) is the federal agency responsible for protecting the health and safety of the American public by ensuring, among other things, that drugs are safe and effective for their intended uses and bear labeling that contains true and accurate information. FDA's responsibilities include regulating the manufacture and distribution of drugs, including prescription drugs, shipped or received in interstate commerce, as well as the labeling of such drugs. FDA carries out its responsibilities by enforcing the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 *et seq* (FDCA), and other pertinent laws and regulations.

4. The FDCA defines a "drug" to include "articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man," and "articles (other than food) intended to affect the structure or any function of the body of man." 21 U.S.C. § 321(g)(1)(B) and (C).

5. Under the FDCA, a "counterfeit drug" is defined as: "a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed such drug and which thereby falsely purports or is represented to be the product of, or to have been packed or

distributed by, such other drug manufacturer, processor, packer, or distributor.” 21 U.S.C. §321(g)(2).

6. The FDCA also prohibits the “making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit drug.” 21 U.S.C. § 331(i)(2).

7. On January 24, 2022, a federal search warrant was executed at 1425 NW 10<sup>th</sup> Terrace, Cape Coral, Florida permitting the seizure of evidence and other items related to bank fraud and false statement to a financial institution. Surveillance in the months leading up to the search established that the residence was the home of ALBANITO, adult female M.G., and two young children.

8. At the time of the execution of the search, law enforcement found the residence occupied by ALBANITO, M.G., and the two children. In the garage of the residence, law enforcement officers found eight United States Postal Service Priority Mail envelopes, each containing multiple blue pills with the marking “A 215”. In total, the envelopes contained over 300 such pills. The envelopes were sealed but contained no markings or labels for shipment. I know based on my training and experience and my review of reliable drug reference materials, that such pills are consistent with Oxycodone Hydrochloride 30 milligram manufactured by

Activis Pharma (now part of Allergan), which is a Schedule II controlled substance.

9. While present on scene, I conducted a field test of the blue pills with a test kit issued to officers in the Cape Coral Police Department for use of ascertaining the chemical make-up of controlled substances encountered in the field by law enforcement. The test, which was configured to test for the presence of heroin or other opioids, returned a positive result when a pill was tested.

10. Also in the garage, law enforcement found a large pill press. I know, from my training and experience, that a pill press is a mechanical device used to mold substances into a pill or tablet form and is often used by drug traffickers in the manufacture and distribution of counterfeit drugs and controlled substances. Law enforcement also found dies (*i.e.* tooling used in a pill press to create pills of a certain shape, size, and with certain markings) for the pill press concealed within a table in the dining room of the residence. Twenty of the recovered dies had the marking “A-215,” consistent with the suspected oxycodone pills found within the envelopes in the garage. The same table contained a five-gallon bucket filled over half full with what appeared to me to be alprazolam tablets (commonly known as Xanax bars). I know based on my training and experience that alprazolam is a controlled substance under federal law and is commonly used in counterfeited drugs.

11. In a room believed to be the children’s playroom in the house, an additional five-gallon bucket containing a white powdery substance was found by law enforcement. An officer with the Cape Coral Police Department used an agency

issued field-test kit on the substance which returned a positive result for fentanyl, a Schedule II controlled substance which is commonly used in counterfeited drugs.

12. While on scene, I spoke with M.G. and asked her who the pill press belonged to and she indicated that ALBANITO had obtained it approximately one year ago, and when she asked him what it was for, ALBANITO told her “don’t worry about it.” M.G. further stated that she had no knowledge of any controlled substances within the residence.

13. Law enforcement also found two firearms in a safe located in the master bedroom of the residence. The safe was locked at the time law enforcement found it, but law enforcement found that it matched a key on a keychain which was found in the cupholder of a vehicle believed to belong to ALBANITO and opened the safe. That keychain also held the key to the vehicle law enforcement knows belongs to ALBANITO through repeated observation and driving and motor vehicle records. During a subsequent interview with ALBANITO, he stated that the keys to that vehicle belonged to him. I know from training and experience that drug distributors often possess firearms to protect their illegal product and proceeds.

14. In an interview with law enforcement regarding the controlled substances and pill presses found in the house, ALBANITO denied knowing about any controlled substances within the house or the presence of a pill press, however, he admitted to manufacturing “CBD oils” in the past which he sold to others. I know from training and experience that CBD oil is manufactured from the cannabis

plant, which is regulated under federal and Florida law.

15. According to information obtained by me from the Drug Enforcement Agency and my own personal knowledge, on January 20, 2021, an individual cooperating with the DEA and FDA (Cooperating Witness – 1) provided the DEA with a parcel containing multiple pill dies. The dies contained markings which I believe were consistent with the markings of 2 mg alprazolam tablets manufactured by a legitimate pharmaceutical company. According to Cooperating Witness – 1, the pill dies were to be shipped to ALBANITO at his request. I believe Cooperating Witness – 1 was credible in this regard because, amongst other things, he/she also provided copies of his/her communications with whom law enforcement believes was ALBANITO corroborating his/her account. It is believed that Cooperating Witness – 1 provided law enforcement with this information in an attempt to obtain leniency for a third-party who had been charged with controlled substance-related offenses.

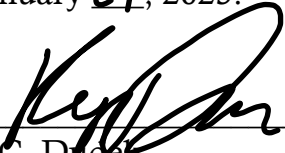
16. Based on the above information, I believe there is probable cause that Brandon ALBANITO violated 21 U.S.C. § 841(a)(1) and (b)(1)(C), by possessing with intent to distribute a controlled substance (oxycodone) and 21 U.S.C. § 331(i)(2) by possessing a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark to render a drug counterfeit

Respectfully submitted,

/s/ James Kejonen

James Kejonen  
Special Agent United States Food and  
Drug Administration – Office of  
Criminal Investigation

Subscribed and sworn to me via telephone  
on January 24, 2023.

  
\_\_\_\_\_  
Kyle C. Dudek  
United States District Judge