

UNITED STATES DISTRICT COURT

for the Northern District of New York

FILED

MAR 29 2011

AT O'CLOCK Lawrence K. Baerman, Clerk - Syracuse

United States of America v. John Barney Defendant

Case No. 7.11-MJ-147 (ATB)

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 of 03/21/2011 in the county of Jefferson in the Northern District of New York, the defendant violated Title 8 U. S. C. § 1324(a)(1)(A)(iii), an offense described as follows:

From in or about March 20, 2011, up to and including March 21, 2011, in Jefferson County, in the Northern District of New York, the defendant, knowing and in reckless disregard of the fact that aliens had come to, entered and remained in the United States in violation of law, did conceal, harbor and shield from detection such aliens in buildings and other places, for the purpose of commercial advantage and private financial gain.

This criminal complaint is based on these facts:

Continued on the attached sheet.

Complainant's signature

Shawn Boutot, Special Agent Printed name and title

Sworn to before me and signed in my presence.

Date: 03/29/2011

Judge's signature

City and state: Syracuse, NY

Hon. George H. Lowe, U.S. Magistrate Judge Printed name and title

AFFIDAVIT IN SUPPORT OF A COMPLAINT FOR JOHN BARNEY

Shawn Boutot, being duly sworn, deposes and states
that:

1. I am a Special Agent employed by the United States Department of Homeland Security, Immigrations and Customs Enforcement (ICE). I have been an employee of ICE and its predecessor agency since 2001. I am currently assigned under the Resident Agent in Charge, Syracuse, New York. I am the principal case agent in the instant federal criminal investigation.

2. This affidavit is submitted in support of a request for a criminal complaint charging JOHN BARNEY with harboring illegal aliens, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii). Since this affidavit is being submitted for the limited purpose of providing probable cause for the foregoing violation, I have not included each and every fact regarding this investigation.

BACKGROUND OF INVESTIGATION

3. On March 20, 2011, at 9:43 pm, the Jefferson County Emergency Medical Services ("EMS") 911 Center received a call

requesting an ambulance to be dispatched to Butterville Farms at 11279 County Route 75 in Adams, New York. Thereafter, the Jefferson County Sheriff's Department (JCSD) deputies responded along with EMS. Butterville Farms, LLC is a large commercial dairy farming operation located near Adams, New York, in Jefferson County. It is owned and operated by John Barney and his brother Jesse Barney. Butterville Farms has approximately 1200 cows and covers many acres, including several barns and buildings. Jefferson County Deputies responding to the 911 call were informed that one of the farm's employees had been injured.

4. Upon arrival at the farm, the emergency personnel was directed to a Hispanic male later identified as "PL." EMS personnel from Henderson Ambulance attempted to treat PL, but determined that he had expired. A subsequent autopsy examination found multiple injuries to his head, neck and ribs, most likely sustained by a fall from a fence during dairying operations. To date, there have not been any New York State criminal charges filed in connection with his death, which appears to be accidental in nature. John A. Barney, the owner of the farm, confirmed that the deceased was one of his employees. ICE agents later determined that PL was a citizen of Guatemala and had illegally entered the United States.

5. Upon arrival at the scene, JCSD Sgt. Todd O'Brien spoke to John Barney. During the conversation, the first thing that

Barney stated to Sgt. O'Brien was, "I should have rounded them all up and got 'em out of here before I get in anymore trouble."

6. During the death investigation at the farm, JCSD personnel noticed that there were several Hispanic males present at the scene. Thereafter, Jefferson County Sheriffs Deputy Froehlich spoke in Spanish to three Hispanic males at the scene. During the interview, all three of the males stated they were illegal aliens. Thereafter, Sgt. O'Brien asked Barney for a list of his employees. Shortly thereafter, a female handed the "employee list" to Sgt. O'Brien. Sgt. O'Brien then asked Barney to identify the names of the illegal aliens on the list. In response, Barney went through the list and pointed to each Hispanic name on the list. After pointing to each Hispanic name he stated, "He is illegal." Thereafter, Sgt. O'Brien noticed that the deceased's name was not on the list. Therefore, O'Brien asked Barney if the deceased was also an illegal alien. In response, Barney stated, "Yes." Further, the remaining employees on the list with non-Hispanic names were identified by Barney as United States citizens.

7. On Monday, March 21, 2011, at approximately 4:30 a.m, a deputy from the JCSD executed a traffic stop on a taxi-cab that had been observed departing the Butterville Farm. Thereafter, the deputy located in the rear of the taxi a Hispanic male. During a conversation with the deputy, the Hispanic male stated that he was

illegally present in the United States and that he worked for John Barney. The alien also stated that he had been contacted by another alien that advised him to leave the farm because the police had been there. Thereafter, a records check confirmed that the Hispanic male was a citizen of Guatemala and had illegally entered the United States.

8. After learning that there were illegal aliens present at Barney's farm, the JCSD requested the assistance of U.S. Department of Homeland Security, Immigration and Customs Enforcement (ICE) special agents. At approximately 5:00 a.m, myself, other ICE agents, and JCSD Sgt. Todd O'Brien arrived at the Butterville Farm. Upon arrival, I spoke with John A. Barney outside one of the large barns. Upon meeting Mr. Barney, I advised him of my identity and displayed my credentials and badge. Upon learning that I was an ICE agent, Mr. Barney became upset. At that point, he stated to Sgt. O'Brien, in sum and substance, "I was cooperative and you do this to me." Thereafter, I told Mr. Barney that I wanted consent to search his property and could obtain a search warrant if necessary. In response, Barney stated, "What are you searching for?" In response I stated, "I want to search for people." In response Barney stated, "Why don't I just show you where they are."

9. Immediately thereafter, Barney escorted us over to a dairy barn. However, nobody was present inside the barn. At that

point, I asked Barney, "Where is he?" In response Barney stated, "He must be out towards the pasture. He will be right back." At this point, Barney stated, "I will take you to where the other two are." Immediately thereafter, Barney escorted us to a single-wide trailer that was approximately one-hundred fifty feet from the dairy barn. Upon arrival at the trailer, Barney opened the trailer door. Immediately after entering the trailer, Barney looked at us and pointed toward a bedroom and stated, "There they are." Inside the bedroom, we located two Hispanic males sleeping in two separate beds. The trailer appeared to contain their personal belongings which led me to believe that they had been living in the trailer. In addition to this trailer, I observed approximately three other similar trailers on the farm in close proximity to the barn. Thereafter, we learned that the two males in the bedroom were both Guatemalan citizens who had illegally entered the United States. Later that day, Barney contacted the JCSD and advised them to come to his farm to pick up another illegal alien employee that had fled the scene and then later returned to the farm. Thereafter, the JCSD responded and took custody of the illegal alien.

10. On March 21, 2011, ICE agents interviewed the suspected illegal aliens "VR," "FR," "JR," "CR," and "RV." Before conducting the interviews, all of these individuals waived their constitutional rights through a Spanish speaking interpreter and

provided a short statement. In sum and substance, they each stated that they were citizens of Guatemala, they were illegally in the United States, and that their employer, John Barney, was aware of the fact that they were illegal aliens.

The foregoing aliens statements are outlined in the subparagraphs below:

A. I, VR, have been working for John Barney at the Barney Farms, which is located at 11279 County Route 75, Adams, New York, for around two weeks. I was hired to work on the farm by John Barney and when I was hired by John, John did not ask for any documents.

John told me that he would pay me every week with a pay check. John told me that he would pay me seven dollars and twenty five cents an hour and he also pays my rent. John knows that I am in the United States illegally and he has several people that work for him that are not in the United States legally. I work 12 hour shifts for John at his farm, six days a week. The English people get paid more and they get more time off than I do. When John needs more workers, he will ask employees if they have any family that needs work.

B. I, FR, have been working for John Barney at the Barney Farms, which is located at 11279 County Route 75, Adams, New York, for around five years. I was hired to work on the farm by John Barney and when I was hired by John, John did not ask for any documents.

While I am working for John, John pays me every week with a pay check. John pays me eight dollars and twenty five cents an hour and he also pays my rent. John knows that I am in the United States illegally and he has several people that work for him that are not in the United States legally. I work 12 hour shifts for John at his farm.

The company does not take out taxes from my pay check because I did not give them a social security number. The company does take out medicaid from my pay check, but I do not know how because I never gave them a social security card or number.

C. I, JR, have been working for John Barney at the Barney

Farms, which is located at 11279 County Route 75, Adams, New York for around one year and four months. I was hired to work on the farm by John Barney and when I was hired by John, John did not ask for any documents. At one point I did give John a social security card, that did not belong to me and did not have my name on it. I do not remember the what the numbers or the name was that was on the social security card that I gave John.

While I am working for John, John pays me every week with a pay check. John pays me eight dollars an hour and he also pays my rent. John knows that I am in the United States illegally and he has several people that work for him that are not in the United States legally.

On March 21, 2011, I was contacted by Rudolpho, who is one of the farm workers, and he told me not to come into work today and that we do not do anything without the bosses permission.

D. I CR, have been working for John Barney at the Barney Farms, which is located at 11279 County Route 75, Adams, New York, for around one year. I was hired to work on the farm by John Barney and when I was hired by John, John did not ask for any documents.

While I am working for John, John pays me every week with a pay check and he does take out taxes and medicaid from my pay check. I do not know how the taxes and medicaid are taken out of my check because I did not give John a social security card. John knows that I am in the United States illegally and he has several people that work for him that are not in the United States legally. I work 12 hour shifts for John at his farm. The American workers get paid a lot more than I do and they get a lot more days off than I do. When I got to the doctors, I have to pay my doctor bills in full.

E. I RV, have been working for John Barney at the Barney Farms, which is located at 11279 County Route 75, Adams, New York, for around one year and six months. I was hired to work on the farm by John Barney and when I was hired by John, John did not ask for any documents.

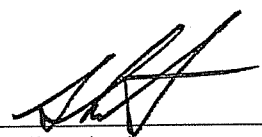
While I am working for John, John pays me every week with a pay check. John pays me seven dollars and seventy five cents an hour and he also pays my rent. John does take taxes out of my pay check and I do not know how he does it because I never provided him with a social security card. John knows that I am in the United States illegally and he has several

people that work for him that are not in the United States legally. I work 12 hour shifts for John at his farm. When we get are pay checks, John's wife, who I do not remember her name, takes our pay checks and cashes them for us.

11. During the interviews of the foregoing aliens, they provided me with additional information that was not included in their written statements. In sum and substance, they all stated that their housing is provided for them by Barney and that up to four aliens live in each trailer on Barney's farm. The also stated that they each worked twelve hour shifts six days per week milking cows. They further stated that occasionally Barney's wife cashed their checks and drove them to town to buy groceries. According to the deceased's son, he and his father had been living on Barney's farm working for him for the past four years and Barney never once asked them for their immigration documents.

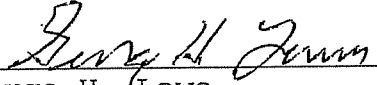
12. Based upon the foregoing, I believe that probable cause exists to believe that John Barney harbored illegal aliens in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii).

I swear under penalty of perjury that the foregoing is true to the best of my knowledge and belief.



Shawn Boutot
Special Agent

Sworn to before me this 29th
day of March, 2011



George H. Lowe
United States Magistrate Judge