STATE OF NEW HAMPSHIRE

ROCKINGHAM COUNTY, SS SUPERIOR COURT

Case No. 218-2022-CV-00803

Eric Spofford

Plaintiff

v.

New Hampshire Public Radio, Inc., et al.

Defendants

NHPR Defendants' Motion to Vacate or Modify the Court's Discovery Order (Expedited Consideration Requested)

Defendants New Hampshire Public Radio, Inc. ("NHPR"), Lauren Chooljian, Jason Moon, and Dan Barrick ("NHPR Defendants") respectfully move to vacate or modify the Court's discovery order based on new developments related to this case. The NHPR Defendants also respectfully request expedited consideration of this motion.

ARGUMENT

On Friday, June 16, 2023, three men were charged in federal court in Boston with conspiring to commit interstate stalking in violation of 18 U.S.C. § 2261A in connection with acts of vandalism at homes associated with Defendants Lauren Chooljian and Dan Barrick.[1] The affidavit filed in support of the criminal complaint indicates that there is probable cause to believe the three defendants who were charged "conspired with each other and with at least one other person, identified . . . as 'Subject 2,' to harass and intimidate two [NHPR] employees . . . in retaliation for a news story that NHPR published in March 2022 detailing allegations of sexual

[1] The Affidavit in Support of Application for Criminal Complaint is attached as **Exhibit A**. The press release issued by the U.S. Attorney's Office, District of Massachusetts, dated June 16, 2023 ("Three New Hampshire Men Charged with Conspiring to Harass and Intimidate Two Journalists") is **Exhibit B**.

misconduct by a former New Hampshire businessperson and close, personal associate of Subject 2." (Exhibit A, Affidavit in Support of Application for Criminal Complaint, ¶ 3.) The NHPR employees are Chooljian and Barrick. The former New Hampshire businessperson and close, personal associate of Subject 2 about whom NHPR reported allegations of sexual misconduct—who is identified in the affidavit as "Subject 1"—appears to be Plaintiff Eric Spofford. The District of Massachusetts U.S. Attorney's Office Press Release explains:

> According to the charging document, after a year-long investigation, an NHPR journalist (Victim 1) published an article in March 2022 detailing allegations of sexual and other misconduct by a former New Hampshire businessperson, identified in the charging document as Subject 1. Another NHPR journalist (Victim 2) also contributed to the article, which appeared on NHPR's website during and after March 2022. Thereafter, it is alleged that [three New Hampshire men] conspired with each other and with at least one other individual – allegedly identified as a close personal associate of Subject 1 — to retaliate against NHPR and Victims 1 and 2 by vandalizing the victims' homes with bricks and large rocks, as well as spray-painting lewd and threatening language on the homes' exteriors.

See Exhibit B (press release).[2] The affidavit states that "Subject 2 and Subject 1 communicate with each other regularly, including around the time of the vandalisms." Exhibit A ¶ 15 (affidavit).

The NHPR Defendants understood the Court's discovery order as an exercise of its case-management authority designed to give a defamation plaintiff every possible opportunity to state a claim, after balancing what the Court described as "weighty considerations" raised by both sides. The NHPR Defendants do not believe there is a basis in law for ordering discovery after the Court dismissed Spofford's Complaint for failure to state a claim. But they decided not to pursue an appeal, as submission of records to the Court for *in camera* review appeared to be the

[2] Available at: https://www.justice.gov/usao-ma/pr/three-new-hampshire-men-charged-conspiring-harass-and-intimidate-two-journalists

surest and shortest path to ending this litigation. Much time and money is now being spent to identify, collect, redact, and review the materials the Court requested.

The criminal complaint calls into question key claims made in Spofford's Complaint against NHPR. Spofford's Complaint asserts that "[t]he NHPR Defendants knowingly weaponized a conspiratorial connection between Eric and the alleged vandalism," and that "[t]here was not a scintilla of evidence connecting Eric to the alleged vandalism . . . ." Compl. ¶ 7. The Complaint goes on to declare that "no law enforcement authority has ever asked Eric a single question about these vandalism incidents, presumably because it was clear to the authorities that Eric had nothing to do with them." *Id*. ¶ 369. But federal investigators have now determined that a close personal associate of Spofford's—with whom Spofford communicated regularly, including around the time of the vandalism—was part of a conspiracy to criminally harass and intimidate NHPR journalists for their reporting about Spofford. Because this is squarely at odds with a major contention in Spofford Complaint, the NHPR Defendants request that the Court consider whether Spofford is acting in good faith in continuing to pursue this lawsuit and whether the unusual procedure it has ordered is still warranted and appropriate.

NHPR believes that this lawsuit was filed, not because Spofford's claims have any conceivable merit, but instead to harass and retaliate against a news organization for its journalism. A substantial section of Spofford's Complaint (¶¶ 342–376) is devoted to accusing NHPR of having "weaponized a conspiratorial connection between Eric" and what Spofford dismisses as "the alleged vandalism" that has now given rise to federal criminal charges. *Id*. ¶ 7. Given that Spofford has been linked to criminal activity designed to punish NHPR personnel for exercising their First Amendment rights, the NHPR Defendants submit that the time for giving him the benefit of the doubt has passed. At this point, the balance between the NHPR

Defendants' First Amendment interests and any competing interests has shifted decidedly in favor of NHPR.

If the Court does not vacate its order, the criminal charges at least justify expanding the scope of cost-shifting. Given modern technologies, the universe of "communications" NHPR Defendants have to potentially review includes over 120,000 documents. Even after narrowing that down to a more manageable size with keyword searches, the estimated cost of this exercise is estimated to be about $15,000 (and possibly significantly more) to be paid to an e-discovery vendor and about $20,000 in attorney time. That is on top of the approximately $10,000 or greater cost of transcribing the many hours of interviews that the Court has ordered Spofford to pay. All these costs are necessary to comply with the Court's limited discovery order, but cost-shifting under the order is limited to the cost of preparing transcripts.

If the Court does not vacate its discovery order, Spofford should be required to pay the full cost of this exercise, including attorney's fees. Or the Court could narrow its order to require only the submission for *in camera* review of the voluminous interview transcripts. If Spofford's theory of the case were correct, the Court would presumably see evidence of that in the interviews, which would not match what NHPR reported, or would be not credible in obvious ways. Confining this limited discovery process to *in camera* review of the interview transcripts would at least reduce the intrusion into protected First Amendment interests, including NHPR's deliberative and editorial processes, and the associated cost.

CONCLUSION

Because the criminal complaint and supporting affidavit raise serious questions about Spofford's good faith in continuing to pursue this litigation, the Court should either (A) vacate its discovery order; or (B) require that Spofford agree to additional cost-shifting and narrow the

scope of the limited discovery it has ordered to the submission of anonymized transcripts only. Because additional costs are being incurred with each passing day, the NHPR Defendants request that the Court rule on this motion at the earliest opportunity.

Dated this 21st day of June, 2023.

Respectfully Submitted,
New Hampshire Public Radio, Inc., Lauren Chooljian, Jason Moon, Dan Barrick

By their Attorneys,
PRETI FLAHERTY BELIVEAU & PACHIOS, LLP

/s/ Sigmund D. Schutz

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CERTIFICATE OF SERVICE

I hereby certify that on this date this document was copied to all counsel via the electronic filing system.

/s/ Sigmund D. Schutz

Sigmund D. Schutz, Esq.

AO 91 (Rev. 11/11) Criminal Complaint

EXHIBIT A

UNITED STATES DISTRICT COURT

for the

District of Massachusetts

United States of America
v.
TUCKER COCKERLINE, KEENAN SANIATAN, and MICHAEL WASELCHUCK

Defendant(s)

Case No. 23-mj-8245-PGL

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 4/21/22 - 5/26/22 in the county of Middlesex in the _____ District of Massachusetts, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. § 371	Conspiracy to commit an offense against the United States, to wit, interstate stalking (18 U.S.C. § 2261A)

This criminal complaint is based on these facts:

See attached affidavit of FBI Special Agent Robert Erwin.

☑ Continued on the attached sheet.

Robert Erwin /by Paul G. Levenson
Complainant's signature

Robert Erwin, FBI Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: 06/15/2023

Judge's signature

City and state: Boston, MA

Hon. Paul G. Levenson
Printed name and title

AFFIDAVIT IN SUPPORT OF APPLICATION FOR CRIMINAL COMPLAINT

I, Robert Erwin, being sworn, depose and state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been so employed since 2011. I am currently assigned to the Boston Field Office's Public Corruption Squad. I have received training and have personally participated in numerous investigative techniques related to various offenses against the United States, to include consensual monitoring, confidential informants, and court ordered electronic surveillance, to include Title III interception of wire communications. My investigations have also included the use of surveillance techniques and the execution of search, seizure, and arrest warrants.

2. I submit this affidavit in support of a criminal complaint charging Tucker Cockerline ("COCKERLINE"), Keenan Saniatan ("SANIATAN") and Michael Waselchuck ("WASELCHUCK") with conspiracy to commit an offense against the United States, to wit, stalking through interstate travel (18 U.S.C. § 2261A), in violation of Title 18, United States Code, Section 371 (the "Target Offense").

3. Based on my training and experience and the facts set forth in this affidavit, there is probable cause to believe that COCKERLINE, SANIATAN, and WASELCHUCK conspired with each other and with at least one other person, identified below as "Subject 2," to harass and intimidate two New Hampshire Public Radio ("NHPR") employees—a journalist ("Victim 1") and a senior editor ("Victim 2")—in retaliation for a news story that NHPR published in March 2022 detailing allegations of sexual misconduct by a former New Hampshire businessperson and close, personal associate of Subject 2. The harassment and intimidation of the victims occurred in April 2022 and again in May 2022. It involved the vandalism of the Victim 2's home, Victim 1's home, and two other homes associated with Victim 1 (including Victim 1's parents' home) with bricks, rocks, and red spray paint.

4. The facts described in this affidavit come from my observations and review of records, my training and experience, information obtained from other law enforcement personnel, and information obtained through interviews of witnesses, legal process, court orders, and search warrants. This affidavit is intended only to show that there is sufficient probable cause for the requested complaint and arrest warrants and does not set forth all my knowledge about this matter.

THE STATUTES

5. Title 18, United States Code, Section 2261A, the interstate stalking statute, provides in pertinent part:

> Whoever—
>
> (1) travels in interstate or foreign commerce … with the intent to kill, injure, harass, intimidate … another person, and in the course of, or as a result of, such travel … engages in conduct that—…
>
> (B) causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to [that person; an immediate family member of that person; or a spouse or intimate partner of that person]

commits a felony punishable by up to five years in prison and a $250,000 fine. 18 U.S.C. § 2261(b)(5).

6. Under Title 18, United States Code, Section 371, if two or more persons conspire to commit any offense against the United States, including interstate stalking, and one or more of such persons do any act to effect the object of the conspiracy, each commits a felony punishable by five years in prison and a $250,000 fine.

FACTS SUPPORTING PROBABLE CAUSE

The Vandalisms

7. Victim 1 is a journalist employed by NHPR who, at all times relevant to this affidavit, lived in Melrose, Massachusetts. Between 2021 and 2022, as part of Victim 1's duties and responsibilities at NHPR, Victim 1 investigated reports of sexual harassment and other sexual misconduct by a prominent former New Hampshire businessperson (hereinafter, "Subject 1"). In March 2022, at the conclusion of Victim 1's investigation, NHPR published an article (the "Article") detailing Victim 1's findings including, among other things, various allegations of sexual misconduct by Subject 1. Victim 2, a senior editor at NHPR who lived in Concord, New Hampshire, also contributed to the Article, which appeared on NHPR's public website during and after March 2022.

8. In response to the Article, Subject 1 denied any wrongdoing through Subject 1's legal representatives and threatened to sue NHPR for defamation unless NHPR retracted the Article. Despite Subject 1's demands, NHPR declined to retract the Article or remove the Article from NHPR's website.

9. During the evening of April 24, 2022, and/or the early morning hours of April 25, 2022 — approximately one month after NHPR published the Article — Victim 2's home and two homes associated with Victim 1 were vandalized with bricks and red spray paint:

a. At approximately 11:00 p.m. on April 24, 2022, a brick was thrown through a front exterior window of Victim's 1's former residence in Hanover, New Hampshire. The word "CUNT" was spraypainted in large red letters on the front door. The home's occupants were asleep in the home at the time of the incident.

b. On the evening of April 24, 2022, or during the early morning hours of April 25, 2022, the word "CUNT" was spraypainted in large red letters on the front door of Victim 2's home in Concord, New Hampshire. The exterior of the home was also damaged by a large rock, which appeared to have been thrown at the house. Victim 2 did not know Victim 2's house had been vandalized until the following morning, when a neighbor alerted Victim 2 to the spray paint on Victim 2's front door.

c. Shortly before midnight on April 24, 2022, or during the early morning hours of April 25, 2022, a softball-sized rock was thrown through a front exterior window of Victim 1's parents' home in Hampstead, New Hampshire. The word "CUNT" was spraypainted in large red letters on one of the garage doors. Victim 1's parents were asleep in the home at the time of the incident.

10. After the April vandalisms and continuing until at least May 20, 2022, Subject 1's legal representatives continued to threaten NHPR with a defamation lawsuit unless NHPR retracted or materially altered the Article regarding Subject 1. Those efforts culminated in a meeting between representatives of Subject 1 and NHPR on May 20, 2022, during which NHPR once again declined to retract the Article or remove it from its website.

11. The following day, on May 21, 2022, two homes associated with Victim 1 were vandalized with bricks and red spray paint:

a. At approximately 12:54 a.m. on May 21, 2022, Victim 1's parents' home in Hampstead was vandalized a second time. The word "CUNT" was spraypainted in large red letters on one of the garage doors. Although no

windows were broken, a brick was discovered on the ground near the house's foundation as if it had been thrown at the house. A security camera installed by Victim 1's parents after the April vandalism captured video of the suspect: a male individual wearing a light-colored sweatshirt (the arms of which appear to be darker than the torso), a light-colored face covering, light-colored pants with darks patches on each knee, and dark colored shoes with a white or light-colored logo on the side. The suspect also appears to be carrying objects in both hands.

Hampstead Suspect

b. At approximately 5:54 a.m. on May 21, 2022, a brick was thrown through an exterior window of Victim 1's house in Melrose, Massachusetts. The phrase "JUST THE BEGINNING" was spraypainted in large red letters on the front of the home. The home's doorbell camera captured video of the suspect: a white male of average height and build wearing a blue raincoat,

a blue backpack, and dark gloves. The suspect appeared to be holding a cell phone in his right hand during the incident.

Melrose Suspect

12. Given the apparent connection of all four vandalized homes to Victim 1 or Victim 2 (both of whom work at NHPR and both of whom contributed to the Article), the relative timing of the vandalisms, and the similarities between the vandalisms (all involving either rocks or bricks and the use of red spray paint, among other similarities), there is probable cause to believe that all five vandalisms are connected. Furthermore, there is probable cause to believe that the vandalisms were retaliatory acts intended to harass and intimidate NHPR and its employees, including Victims 1 and 2, for publishing the Article concerning Subject 1.

The Investigation

Cockerline's and Saniatan's Suspicious Google Searches

13. To investigate the vandalisms, the FBI obtained a warrant to search the records of Google for users who, using either Google Search or Google Maps, queried the specific street addresses of one or more of the vandalized homes (the "Target Addresses") on either April 23,

April 24, May 20, or May 21, 2022. The results of that search revealed that two Google users—identified in Google subscriber records as COCKERLINE and SANIATAN—searched for multiple of the Target Addresses during the time period encompassed by the search. In fact, COCKERLINE and SANIATAN combined searched for the street addresses of *all five* vandalized homes, sometimes within hours or even minutes of the homes being vandalized:

a. *First*, on April 23, 2022, between approximately 3:01 p.m. and again at 9:10 p.m., SANIATAN's account searched multiple times for the address of Victim 1's parents' home in Hampstead, New Hampshire. The home at that address was vandalized shortly before midnight on April 24, 2022, or during the early morning hours of April 25, 2022. According to Google records, an Android operating system associated with a "moto g stylus 5G" phone was used to conduct this search. According to a basic internet search, a "moto g stylus 5G" is a type of smart phone manufactured and sold by Motorola.

b. *Second*, around 11:00 p.m. on April 24, 2022, COCKERLINE's account searched for the street address of Victim 1's former residence in Hanover, New Hampshire, around the same time the home there was vandalized. According to Google records, an Android operating system – a popular mobile operating system used in a variety of cell phones, including most Samsung phones – was used to conduct this search.

c. *Third*, at approximately 11:36 p.m. on April 24, 2022, SANIATAN's account searched for the street address of Victim 2's home in Concord, New Hampshire. The home at that address was vandalized late at night on April

24, 2022, or during the early morning hours of April 25, 2022. According to Google records, an Android operating system associated with a "moto g stylus 5G" phone was used to conduct this search.

d. *Fourth*, between approximately 9:50 p.m. and 11:30 p.m. on May 20, 2022, COCKERLINE's account searched for the street address of Victim 1's parents' home in Hampstead, New Hampshire. As noted above, the Hampstead residence was again vandalized shortly thereafter, around 12:54 a.m. on May 21, 2022. According to Google records, an Android operating system was used to conduct this search.

e. *Fifth*, between approximately 9:50 p.m. and 11:30 p.m. on May 20, 2022, COCKERLINE's account searched for the street address of Victim 1's home in Melrose, Massachusetts. That home was vandalized at approximately 5:50 a.m. on May 21, 2022. According to Google records, an Android operating system was used to conduct this search.

COCKERLINE's and SANIATAN's Suspicious Communications with a Known Associate of Subject 1

14. Shortly after May 22, 2022, numerous local and national news publications published articles about the vandalisms. *See, e.g.,* https://www.washingtonpost.com/nation/2022/06/01/new-hampshire-journalist-vandalism-attacks/. Many of these articles raised the possibility that Subject 1 was somehow involved in the vandalisms.

15. Subject 2 is a New Hampshire resident and close personal associate of Subject 1. Subject 2's cell phone and other communication records obtained in this investigation demonstrate that Subject 2 and Subject 1 communicate with each other regularly, including around the time of

the vandalisms. Other records obtained during this investigation, including various financial records, indicate that Subject 2 and Subject 1 have had various business and financial dealings with each other.

16. Subject 2's cellular communication records show that Subject 2 exchanged numerous voice calls with both COCKERLINE and SANIATAN in April 2022 in the days preceding and the day after the April vandalisms. The records further show that Subject 2 exchanged voice calls with COCKERLINE in the days before and after the May vandalisms, and that Subject 2 attempted to contact SANIATAN around the same time. The following is a detailed breakdown of these communications:

COCKERLINE & SUBJECT 2 – APRIL 2022					
Date	**Time**	**From**	**To**	**Duration**	**Type**
04/22/2022	8:03:47 AM	Subject 2	Cockerline	00:10:06	Regular Call
04/22/2022	3:45:59 PM	Subject 2	Cockerline	00:00:03	Regular Call
04/22/2022	4:55:35 PM	Cockerline	Subject 2	00:01:04	Regular Call
April Vandalisms Occur					
04/25/2022	9:31:27 AM	Subject 2	Cockerline	00:01:04	Regular Call
04/25/2022	12:07:50 PM	Subject 2	Cockerline	00:00:43	Regular Call
04/25/2022	12:41:24 PM	Cockerline	Subject 2	00:00:06	Voicemail
04/25/2022	12:46:43 PM	Cockerline	Subject 2	00:00:03	Voicemail
04/25/2022	12:50:40 PM	Cockerline	Subject 2	00:00:45	Regular Call

SANIATAN & SUBJECT 2 – APRIL 2022					
Date	**Time**	**From**	**To**	**Duration**	**Type**
04/21/2022	10:33:35 AM	Subject 2	Saniatan	00:01:17	Regular Call
04/21/2022	5:12:22 PM	Subject 2	Saniatan	00:00:37	Regular Call
04/22/2022	8:52:47 AM	Subject 2	Saniatan	00:00:18	Regular Call
April Vandalisms Occur					
04/25/2022	7:49:25 AM	Subject 2	Saniatan	00:01:56	Regular Call

COCKERLINE & SUBJECT 2 – MAY 2022					
Date	**Time**	**From**	**To**	**Duration**	**Type**
05/18/2022	5:49:25 PM	Subject 2	Cockerline	00:00:50	Regular Call
05/18/2022	7:27:37 PM	Cockerline	Subject 2	00:00:04	Voicemail
May Vandalisms Occur					
05/22/2022	8:51:33 AM	Subject 2	Cockerline	00:00:26	Regular Call
05/22/2022	9:13:52 AM	Subject 2	Cockerline	00:00:48	Regular Call
05/22/2022	9:42:30 AM	Cockerline	Subject 2	00:00:07	Voicemail
05/22/2022	9:43:51 AM	Cockerline	Subject 2	00:00:05	Voicemail
05/26/2022	5:50:28 PM	Subject 2	Cockerline	00:00:04	Regular Call
05/26/2022	6:00:28 PM	Subject 2	Cockerline	00:00:04	Regular Call

SANIATAN & SUBJECT 2 – MAY 2022[1]					
Date	**Time**	**From**	**To**	**Duration**	**Type**
05/18/2022	5:50:58 PM	Subject 2	Saniatan	00:00:06	Regular Call
05/18/2022	6:40:17 PM	Subject 2	Saniatan	00:00:04	Regular Call
May Vandalisms Occur					
05/25/2022	7:08:42 PM	Subject 2	Saniatan	00:00:05	Regular Call

17. Toll records associated with Subject 2, COCKERLINE, and SANIATAN do not suggest that they communicated regularly in and around April and May 2022. In fact, aside from the communications listed above, the toll records reviewed in this investigation do not reflect *any* other communications between Subject 2, COCKERLINE, and SANIATAN during this time. In light of the timing of these calls relative to the vandalisms and the fact that COCKERLINE and SANIATAN subsequently searched for the addresses of the vandalized homes using Google, there is probable cause to believe these communications concerned the vandalisms.

[1] It is unlikely that SANIATAN was able to answer or return these calls because, according to records that I have reviewed, SANIATAN was incarcerated in New Hampshire at this time.

18. According to records that I have reviewed, COCKERLINE and SANIATAN both appear to have known Subject 2 prior to April 2022. Records from the New Hampshire Department of Corrections from 2018, for example, indicate that COCKERLINE and Subject 2 were incarcerated together. Likewise, toll records reviewed in this investigation indicate that SANIATAN placed a three-and-a-half minute voice call to Subject 2 in February 2022.

Incriminating Cellular Location Data Associated with COCKERLINE and SANIATAN

19. In order to determine COCKERLINE and SANIATAN's whereabouts at the time of the vandalisms, the FBI obtained cellular location data associated with COCKERLINE's and SANIATAN's cell phones.

20. According to that location data, COCKERLINE's cell phone was in the vicinity of the Hanover, New Hampshire residence at approximately 11:00 p.m. on April 24, 2022, around the time that home was vandalized. According to the FBI's investigation, COCKERLINE lives in Salem, New Hampshire, near the Massachusetts border. Hanover, on the other hand, is located in northwestern New Hampshire. Consistent with COCKERLINE having traveled back and forth to Hanover from southern New Hampshire, the location data reflects COCKERLINE's phone traveling north along Interstates 93 and 89 through central and northern New Hampshire, arriving in the Hanover area around 11:00 p.m., and then heading south along the same route a short time later. Insofar as COCKERLINE also used Google to search for the address of the vandalized Hanover residence at the very same time he was arriving in Hanover, there is probable cause to believe that COCKERLINE is responsible for vandalizing the Hanover residence on the evening of April 24, 2022.

21. According to information obtained during this investigation, SANIATAN was living in Manchester, New Hampshire, on April 24, 2022. Location data associated with

SANIATAN's phone obtained via legal process by the FBI, therefore, places SANIATAN's phone in the Manchester area throughout the day on April 24th. Between approximately 8:35 p.m. and 11:55 p.m. on April 24th, however, there is no location data placing SANIATAN's phone in or around Manchester. In fact, the only location data associated with SANIATAN's phone during this time — at 10:56 p.m. — places the phone in Windham, New Hampshire, adjacent to Interstate 93 and near Route 111. Hampstead, New Hampshire is located off Route 111, approximately 9 miles east of Windham. In order to travel from Manchester to Hampstead — whether via Interstate 93 or Route 111 — it is necessary to first travel through Windham. Therefore, the fact that SANIATAN's phone was located in Windham around 11:00 p.m. on April 24th is consistent with SANIATAN having traveled to Hampstead that evening. This, coupled with his suspicious Google searches for the address of the Hampstead residence and his contacts with Subject 2 on April 21st, establishes probable cause to believe that SANIATAN is responsible for vandalizing the Hampstead residence on either April 24 or 25, 2022.[2]

Cellular Location Data Places COCKERLINE and WASELCHUCK Near the Hampstead and Melrose Crime Scenes on May 21, 2022

22. According to the cellular location data obtained by the FBI in this investigation, COCKERLINE's cell phone was also in the vicinity of the Hampstead residence between approximately 12:45 a.m. and 1:00 a.m. on May 21, 2022, around the time that home was vandalized. As noted above, COCKERLINE does not live in or near Hampstead. Furthermore, the suspect depicted in the Hampstead surveillance footage — a male of average height and build

[2] The location data associated with SANIATAN's phone is inconclusive regarding whether his phone was in the vicinity of Victim 2's residence in Concord around the time it was vandalized. However, given that SANIATAN searched for the address of the Concord residence at approximately 11:36 p.m. on April 24, 2022, *see* ¶ 13.c *supra*, and given the fact that the Hanover and Concord incidents both involved the use of a large rock (as opposed to a brick), there is probable cause to believe that SANIATAN is also responsible for vandalizing Victim 2's residence in Concord.

— is consistent with COCKERLINE. Insofar as COCKERLINE used Google to search for the address of the Hampstead residence several times between 9:50 p.m. and 11:30 p.m. on May 20, 2022 (between approximately two and three hours before the Hampstead residence was vandalized), there is probable cause to believe that COCKERLINE is responsible for vandalizing the Hampstead residence during the early morning hours of May 21, 2022.

23. Toll records reviewed in this investigation indicate that COCKERLINE's phone received a text message from WASELCHUCK's phone at 12:45 a.m. on May 21, 2022, around the very same time COCKERLINE appears to have vandalized the Hampstead residence. In addition to this text message, the toll records indicate that WASELCHUCK's phone and COCKERLINE's phone exchanged numerous voice calls between May 18 and May 22, 2022:

Date	**Time**	**From**	**To**	**Duration**	**Type**
05/18/2022	3:27:47 PM	Waselchuck	Cockerline	00:00:05	Regular Call
05/18/2022	3:28:34 PM	Waselchuck	Cockerline	00:00:03	Regular Call
05/18/2022	3:29:02 PM	Waselchuck	Cockerline	00:00:02	Regular Call
05/18/2022	3:31:19 PM	Waselchuck	Cockerline	00:00:02	Regular Call
05/18/2022	4:50:49 PM	Waselchuck	Cockerline	00:00:07	Regular Call
05/18/2022	4:51:37 PM	Waselchuck	Cockerline	00:01:01	Regular Call
05/20/2022	9:39:43 AM	Cockerline	Waselchuck	00:00:03	Regular Call
05/20/2022	7:32:05 PM	Cockerline	Waselchuck	00:00:02	Regular Call
May Vandalisms Occur					
05/21/2022	6:17:16 AM	Waselchuck	Cockerline	00:00:02	Regular Call
05/21/2022	7:20:36 AM	Waselchuck	Cockerline	00:00:08	Regular Call
05/21/2022	3:10:01 PM	Waselchuck	Cockerline	00:00:03	Regular Call
05/21/2022	7:04:34 PM	Waselchuck	Cockerline	00:00:02	Regular Call

05/22/2022	3:34:22 PM	Waselchuck	Cockerline	00:00:04	Regular Call
05/22/2022	3:37:17 PM	Waselchuck	Cockerline	00:00:08	Regular Call

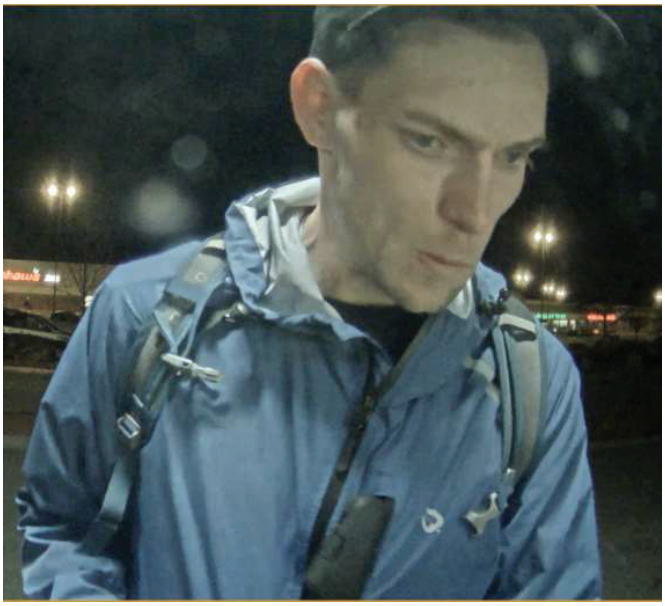
24. In order to investigate WASELCHUCK's whereabouts at the time of the May vandalisms, the FBI also obtained cellular location data associated with WASELCHUCK's phone from May 20 and 21, 2022.

25. To begin with, the records reveal that WASELCHUCK and COCKERLINE's cell phones were in the same vicinity in and around Salem, New Hampshire at various times between 9:00 a.m. and 11:00 p.m. on May 20, 2022. The cellular location data also revealed that WASELCHUCK's cell phone was in the vicinity of Victim 1's residence in Melrose, Massachusetts at approximately 5:50 a.m. on May 21, 2022, around the time that home was vandalized.

26. As described above, Victim 1's doorbell camera captured video of the Melrose suspect: an adult male wearing a blue rain jacket with a hood, a black zipper, a vertical breast pocket, a white logo next to the breast pocket, and reflective stripes on each shoulder. The suspect is also wearing a backpack.

27. The FBI obtained photographs and videos of WASELCHUCK during its investigation, including photographs and video of WASELCHUCK captured by an ATM camera in New Hampshire on April 2, 2022. In these photographs and videos, WASELCHUCK is wearing a blue rain jacket with a hood, a black zipper, a vertical breast pocket, a white logo next to the breast pocket, and diagonal reflective stripes on each shoulder. He is also wearing a backpack.

Melrose Suspect



Waselchuck – April 2, 2022

28. Given the similarities between WASELCHUCK's jacket and the jacket worn by the Melrose suspect, the fact that WASELCHUCK's cell phone was located near Victim 1's residence at the time of the vandalism, and the suspicious cell phone contacts between WASELCHUCK and COCKERLINE on and before May 21, 2022, there is probable cause to believe that WASELCHUCK vandalized Victim 1's home in Melrose on May 21, 2022. Furthermore, because WASELCHUCK appears to have traveled from New Hampshire (where his phone indicates he was at approximately 11:00 p.m. on May 20th) to Melrose to carry out the vandalism, there is probable cause to believe that WASELCHUCK traveled in interstate commerce with the intent to harass and intimidate Victim 1.

29. Likewise, there is also probable cause to believe that COCKERLINE traveled interstate from Massachusetts to New Hampshire to carry out the Hampstead vandalism on May 21, 2022. As noted above, COCKERLINE resides in Salem, New Hampshire, which is along the Massachusetts border adjacent to Methuen, Massachusetts. According to COCKERLINE's

financial records and records produced by Home Depot, COCKERLINE purchased two (2) bricks at Home Depot in Methuen, Massachusetts on May 20, 2022, just hours before he and WASELCHUCK vandalized the Victim 1's and Victim 1's parents' homes in Melrose and Hampstead, respectively. Location data associated with COCKERLINE's phone confirms that his phone was in the vicinity of the Methuen Home Depot at the time of this purchase. After purchasing the two (2) bricks in Massachusetts, COCKERLINE then traveled to New Hampshire and, several hours later, vandalized the Hampstead residence. There is probable cause to believe, therefore, that when COCKERLINE traveled from Massachusetts to New Hampshire on May 20, 2022, with the intent to harass and intimidate Victim 1 and the immediate family members of Victim 1.

SUMMARY AND CONCLUSION

30. Based on the forgoing facts, there is probable cause to believe that: (1) Subject 2—a known associate of Subject 1—solicited COCKERLINE and SANIATAN on or about April 21-22, 2022, to vandalize Victim 1's residence in Concord, Victim 1's parents' residence in Hampstead, and Victim 1's former residence in Hanover; (2) that COCKERLINE and SANIATAN, in fact, vandalized those three residences on or about April 24 or 25, 2022; (3) that Subject 2 solicited COCKERLINE and attempted to solicit SANIATAN on or about May 18, 2022, to vandalize Victim 1's residence in Melrose and Victim 1's parents' residence in Hampstead; (4) that COCKERLINE recruited WASELCHUCK to assist him in response to Subject 2's May solicitation[3]; (5) that COCKERLINE and WASELCHUCK, in fact, vandalized the Hampstead and

[3] As noted above, I believe SANIATAN was unable to participate in the May vandalisms because he was incarcerated.

Melrose residences on or about May 21, 2022; and (6) that COCKERLINE and WASELCHUCK traveled in interstate commerce with the intent to harass and intimidate the victims.

31. Therefore, based on the information described above, there is probable cause to believe that COCKERLINE, SANIATAN and WASELCHUCK committed the Target Offense. The requested Complaint and accompanying arrest warrants for all three men should issue.

Robert Erwin /by Paul G. Levenson
Robert Erwin
Special Agent
Federal Bureau of Investigation

Sworn and subscribed to me telephonically on June 15th, 2023.

PAUL G. LEVENSON
UNITED STATES MAGISTRATE JUDGE

Criminal Case Cover Sheet **U.S. District Court - District of Massachusetts**

Place of Offense: **Category No.** II **Investigating Agency** FBI

City Melrose, MA and NH **Related Case Information:**

County Middlesex Superseding Ind./ Inf. _____ Case No. _____

Same Defendant _____ New Defendant _____

Magistrate Judge Case Number 23-MJ-8245-PGL

Search Warrant Case Number Please see Additional Info section

R 20/R 40 from District of _____

Defendant Information:

Defendant Name Tucker Cockerline Juvenile: ☐ Yes ☑ No

Is this person an attorney and/or a member of any state/federal bar: ☐ Yes ☑ No

Alias Name _____

Address (City & State) 57A Brookwood Drive, Salem, NH

Birth date (Yr only): 1990 SSN (last4#): 6428 Sex M Race: _____ Nationality: _____

Defense Counsel if known: _____ Address _____

Bar Number _____

U.S. Attorney Information:

AUSA Jason Casey / Torey Cummings Bar Number if applicable _____

Interpreter: ☐ Yes ☑ No List language and/or dialect: _____

Victims: ☑ Yes ☐ No If yes, are there multiple crime victims under 18 USC§3771(d)(2) ☐ Yes ☑ No

Matter to be SEALED: ☑ Yes ☐ No

☑ Warrant Requested ☐ Regular Process ☐ In Custody

Location Status:

Arrest Date 06/16/2023

☐ Already in Federal Custody as of _____ in _____.

☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial

☐ On Pretrial Release: Ordered by: _____ on _____

Charging Document: ☑ Complaint ☐ Information ☐ Indictment

Total # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☑ Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

☑ **I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.**

Date: 06/15/2023 Signature of AUSA: TOREY CUMMINGS Digitally signed by TOREY CUMMINGS Date: 2023.06.15 11:15:43 -04'00'

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Tucker Cockerline

U.S.C. Citations

	Index Key/Code	Description of Offense Charged	Count Numbers
Set 1	18 U.S.C. § 371	Consipracy to commit interstate stalking in violation of 18 U.S.C. § 2261A	1
Set 2			
Set 3			
Set 4			
Set 5			
Set 6			
Set 7			
Set 8			
Set 9			
Set 10			
Set 11			
Set 12			
Set 13			
Set 14			
Set 15			

ADDITIONAL INFORMATION: Search Warrants: 22-8005-PGL, 22-8006-PGL, 22-8060-PGL, 22-8061-PGL, 22-8062-PGL, 22-8063-PGL, 23-8066-PGL, 23-8067-PGL, 23-8072-PGL, 23-8073-PGL, 23-8240-PGL

Criminal Case Cover Sheet **U.S. District Court - District of Massachusetts**

Place of Offense: **Category No.** II **Investigating Agency** FBI

City Melrose, MA and NH **Related Case Information:**

County Middlesex Superseding Ind./ Inf. _____ Case No. _____

Same Defendant _____ New Defendant _____

Magistrate Judge Case Number 23-MJ-8245-PGL

Search Warrant Case Number Please see Additional Info section

R 20/R 40 from District of _____

Defendant Information:

Defendant Name Keenan Saniatan Juvenile: ☐ Yes ☑ No

Is this person an attorney and/or a member of any state/federal bar: ☐ Yes ☑ No

Alias Name _____

Address (City & State) 328 Main Dunstable Road, Nashua, NH

Birth date (Yr only): 1986 SSN (last4#): 5281 Sex M Race: _____ Nationality: _____

Defense Counsel if known: _____ Address _____

Bar Number _____

U.S. Attorney Information:

AUSA Jason Casey / Torey Cummings Bar Number if applicable _____

Interpreter: ☐ Yes ☑ No List language and/or dialect: _____

Victims: ☑ Yes ☐ No If yes, are there multiple crime victims under 18 USC§3771(d)(2) ☐ Yes ☑ No

Matter to be SEALED: ☑ Yes ☐ No

☑ Warrant Requested ☐ Regular Process ☐ In Custody

Location Status:

Arrest Date 06/16/2023

☐ Already in Federal Custody as of _____ in _____.

☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial

☐ On Pretrial Release: Ordered by: _____ on _____

Charging Document: ☑ Complaint ☐ Information ☐ Indictment

Total # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☑ Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

☑ **I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.**

Date: 06/15/2023 Signature of AUSA: TOREY CUMMINGS Digitally signed by TOREY CUMMINGS Date: 2023.06.15 11:17:04 -04'00'

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Keenan Saniatan

U.S.C. Citations

	Index Key/Code	Description of Offense Charged	Count Numbers
Set 1	18 U.S.C. § 371	Consipracy to commit interstate stalking in violation of 18 U.S.C. § 2261A	1
Set 2			
Set 3			
Set 4			
Set 5			
Set 6			
Set 7			
Set 8			
Set 9			
Set 10			
Set 11			
Set 12			
Set 13			
Set 14			
Set 15			

ADDITIONAL INFORMATION: Search Warrants: 22-8005-PGL, 22-8006-PGL, 22-8060-PGL, 22-8061-PGL, 22-8062-PGL, 22-8063-PGL, 23-8066-PGL, 23-8067-PGL, 23-8072-PGL, 23-8073-PGL, 23-8240-PGL

Criminal Case Cover Sheet **U.S. District Court - District of Massachusetts**

Place of Offense: **Category No.** II **Investigating Agency** FBI

City Melrose, MA and NH **Related Case Information:**

County Middlesex Superseding Ind./ Inf. _____ Case No. _____

Same Defendant _____ New Defendant _____

Magistrate Judge Case Number 23-MJ-8245-PGL

Search Warrant Case Number Please see Additional Info section

R 20/R 40 from District of _____

Defendant Information:

Defendant Name Michael Waselchuck Juvenile: ☐ Yes ☑ No

Is this person an attorney and/or a member of any state/federal bar: ☐ Yes ☑ No

Alias Name _____

Address (City & State) 74 Cynthia Circle, Seabrook, NH

Birth date (Yr only): 1988 SSN (last4#): 8030 Sex M Race: _____ Nationality: _____

Defense Counsel if known: _____ Address _____

Bar Number _____

U.S. Attorney Information:

AUSA Jason Casey / Torey Cummings Bar Number if applicable _____

Interpreter: ☐ Yes ☑ No List language and/or dialect: _____

Victims: ☑ Yes ☐ No If yes, are there multiple crime victims under 18 USC§3771(d)(2) ☐ Yes ☑ No

Matter to be SEALED: ☑ Yes ☐ No

☑ Warrant Requested ☐ Regular Process ☐ In Custody

Location Status:

Arrest Date 06/16/2023

☐ Already in Federal Custody as of _____ in _____.

☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial

☐ On Pretrial Release: Ordered by: _____ on _____

Charging Document: ☑ Complaint ☐ Information ☐ Indictment

Total # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☑ Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

☑ **I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.**

Date: 06/15/2023 Signature of AUSA: TOREY CUMMINGS Digitally signed by TOREY CUMMINGS Date: 2023.06.15 11:16:29 -04'00'

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Michael Waselchuck

U.S.C. Citations

	Index Key/Code	Description of Offense Charged	Count Numbers
Set 1	18 U.S.C. § 371	Consipracy to commit interstate stalking in violation of 18 U.S.C. § 2261A	1
Set 2			
Set 3			
Set 4			
Set 5			
Set 6			
Set 7			
Set 8			
Set 9			
Set 10			
Set 11			
Set 12			
Set 13			
Set 14			
Set 15			

ADDITIONAL INFORMATION: Search Warrants: 22-8005-PGL, 22-8006-PGL, 22-8060-PGL, 22-8061-PGL, 22-8062-PGL, 22-8063-PGL, 23-8066-PGL, 23-8067-PGL, 23-8072-PGL, 23-8073-PGL, 23-8240-PGL

EXHIBIT B

Three New Hampshire Men Charged with Conspiring to Harass and Intimidate Two Journalists

Friday, June 16, 2023

For Immediate Release
U.S. Attorney's Office, District of Massachusetts

BOSTON – Three New Hampshire men have been charged in connection with a conspiracy to harass and intimidate two New Hampshire journalists employed by New Hampshire Public Radio (NHPR). The alleged harassment and intimidation of the victims included the vandalism – on five separate occasions – of the victims' homes, as well as the vandalism of the home of one of the victim's immediate family members with bricks, large rocks and red spray paint.

Tucker Cockerline, 32, of Salem, N.H., Michael Waselchuck, 35, of Seabrook, N.H. and Keenan Saniatan, 36, of Nashua, N.H. were each charged by criminal complaint with conspiring to commit stalking through interstate travel. Cockerline and Waselchuck were arrested this morning and, following an initial appearance in federal court in Boston this afternoon, were detained pending a hearing scheduled for June 20, 2023 at 2 p.m. Saniatan remains at large.

"The critical role that the press plays in our society goes back to the founding of our nation. Today's charges should send a clear message that the Department of Justice will not tolerate harassment or intimidation of journalists. If you engage in this type of vicious and vindictive behavior you will be held accountable," said Acting United States Attorney Joshua S. Levy.

"Freedom of the press is a cornerstone of any healthy democracy and these three men are now accused of infringing on that freedom by conspiring to harass and intimidate two New Hampshire journalists who were simply doing their jobs," said Christopher DiMenna, Acting Special Agent in Charge of the Federal Bureau of Investigation, Boston Field Division. "Everyone has a right to express their opinion, but taking it over the line and committing vandalism will not be tolerated."

According to the charging document, after a year-long investigation, an NHPR journalist (Victim 1) published an article in March 2022 detailing allegations of sexual and other misconduct by a former New Hampshire businessperson, identified in the charging document as Subject 1. Another NHPR journalist (Victim 2) also contributed to the article, which appeared on NHPR's website during and after March 2022. Thereafter, it is alleged that Cockerline, Waselchuck and Saniatan conspired with each other and with at least one other individual – allegedly identified as a close personal associate of Subject 1 — to retaliate against NHPR and Victims 1 and 2 by vandalizing the victims' homes with bricks and large rocks, as well as spray-painting lewd and threatening language on the homes' exteriors. It is alleged that the following acts of vandalisms occurred in April and May 2022:

- At approximately 11:00 p.m. on April 24, 2022, a brick was thrown through a front exterior window of Victim's 1's former residence in Hanover, N.H. The word "C*NT" was spray-painted in large red letters on the front door;
- On the evening of April 24, 2022 or during the early morning hours of April 25, 2022, the word "C*NT" was spray-painted in large red letters on the front door of Victim 2's home in Concord, N.H. The exterior of the home was also damaged by a large rock, which appeared to have been thrown at the house;
- Shortly before midnight on April 24, 2022 or during the early morning hours of April 25, 2022, a softball-sized rock was thrown through a front exterior window of Victim 1's parents' home in Hampstead, N.H. The word "C*NT" was spray-painted in large red letters on one of the garage doors;
- At approximately 12:54 a.m. on May 21, 2022, Victim 1's parents' home in Hampstead was vandalized a second time. The word "C*NT" was spray-painted in large red letters on one of the garage doors. Although no windows were broken, a brick was discovered on the ground near the house's foundation as if it had been thrown at the house; and
- At approximately 5:54 a.m. on May 21, 2022, a brick was thrown through an exterior window of Victim 1's house in Melrose, Mass. The phrase "JUST THE BEGINNING" was spray-painted in large red letters on the front of the home.

The charging documents allege that Cockerline, Saniatan and Waselchuck are responsible for committing all five of these vandalisms.

The charge of conspiracy to commit interstate stalking carries a sentence of up to five years in prison, three years of supervised release, a fine of up to $250,000 and restitution. Sentences are imposed by a federal district court judge based upon the U.S. Sentencing Guidelines and statutes which govern the determination of a sentence in a criminal case.

Acting U.S. Attorney Levy and FBI Acting SAC DiMenna made the announcement today. Valuable assistance was provided by the Concord, Hampstead and Hanover, New Hampshire Police Departments and the Melrose, Massachusetts Police Department. The U.S. Attorney's Office for the District of New Hampshire provided valuable assistance. Assistant U.S. Attorneys Jason A. Casey and Torey B. Cummings of Levy's Criminal Division are prosecuting the case.

The details contained in the charging documents are allegations. The defendants are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

Updated June 16, 2023