

United States District Court

DISTRICT OF HAWAII

OCT 26 2005
at 6 o'clock and 45 min
SUE BEITIA, CLERK

UNITED STATES OF AMERICA

v.

NOSHIR S. GOWADIA

CRIMINAL COMPLAINT

CASE NUMBER: 05-00872 BMK

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about October 23, 2002 in Maui county, in the

 District of Hawaii and elsewhere defendant(s) did, (Track Statutory Language of Offense) having unauthorized possession of information related to the national defense, which information defendant had reason to believe could be used to the injury of the United States, or to the advantage of a foreign nation, did willfully communicate, deliver and transmit the same to a person not entitled to receive it.

in violation of Title 18 United States Code, Section(s) 793(e).

I further state that I am a(n) FBI Special Agent and that this complaint is based on the following
Official Title

facts:

See Affidavit Appended hereto as Exhibit "A"

Continued on the attached sheet and made a part hereof: Yes No

[Signature]
Signature of Complainant

Sworn to before me and subscribed in my presence,

10.26.05
Date

at Honolulu, Hawaii
City and State

Judge Helen Gillmor
United States District Judge
Name & Title of Judicial Officer

[Signature]
Signature of Judicial Officer

**WARNING: THIS IS A SEALED DOCUMENT CONTAINING
NON-PUBLIC INFORMATION**

AFFIDAVIT OF THATCHER P. MOHAJERIN

I, Thatcher P. Mohajerin, being duly sworn, depose and state as follows:

1. The affiant has been a Special Agent (SA) with the Federal Bureau of Investigation (FBI), United States Department of Justice, for approximately nine (9) years. The affiant is currently assigned to the FBI Honolulu Division's Foreign Counterintelligence Squad which works violations involving espionage and/or national security of the United States. The affiant is an investigative or law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code, and is empowered by law to conduct investigations of and to make arrests for offenses enumerated in Section 2516 of Title 18, United States Code.

I. BACKGROUND

2. On October 13, 2005, your affiant took part in a search warrant executed on the home of Noshir S. Gowadia located in the Haiku area of the island of Maui, Hawaii. Based upon the investigation of multiple federal agents, including the Federal Bureau of Investigation, the United States Air Force Office of Special Investigations, and the Bureau of Customs and Immigration Enforcement, substantial probable cause was developed revealing that Gowadia has been involved in an ongoing effort to willfully communicate, deliver, and transmit classified information relating to the national defense. This affidavit is offered in support of the attached criminal complaint alleging a single violation of Title 18, United States Code, Section 793(e) (willfully communicating national defense information to a person not entitled to receive it) on the grounds set forth herein.

3. Thus far, your affiant's investigation has revealed that Noshir S. Gowadia was an engineer employed by Northrop Corporation from November 1968 to April 1986. During this time period, Northrop was involved in the design and manufacture of the B-2 Spirit Bomber, a highly classified project. During his employment with Northrop, Gowadia held a position as a design engineer, and worked in the development of the B-2's propulsion system. This propulsion system featured a highly effective design methodology to suppress the infrared signature to shield its detection by enemy heat seeking missiles. When Gowadia became involved in the B-2 project he received briefings and signed documents indicating his agreement to the stringent requirements regarding the handling, storage, distribution,

transfer and communication of classified material. When Gowadia left Northrop in April of 1986, he again was briefed on his responsibilities regarding classified material, and signed an acknowledgment that he had been so briefed.

4. My investigation now reveals that there is substantial probable cause to believe that Gowadia has willfully communicated, delivered and transmitted information related to the national defense, ie. classified information pertaining to United States military systems and capabilities to persons not entitled to receive such information, specifically, foreign persons and officials. Your affiant's investigation has revealed that Gowadia markets an infrared suppression system for military aircraft and/or civilian aircraft, which may be designed or derived in whole or in part from his work on the B-2 Spirit bomber. Gowadia consistently markets himself to foreign military entities and other foreign persons to whom he wishes to sell his infrared suppression system as the "father" of the B-2's unique infrared suppressing propulsion system. I have been advised by Col. David Bujold, an Original Classification Authority (OCA) of the United States Air Force, that the B-2 Spirit Bomber's propulsion system and its infrared suppression techniques remain classified at the Top Secret and Secret levels. Your affiant's investigation has revealed that Gowadia, over the last several years, has marketed and disclosed United States military technology secrets related to the B-2 to foreign governments in order to "assist" them in obtaining a higher level of military technology. Your affiant's investigation has also revealed that Gowadia has been rewarded financially for his efforts. Gowadia's company, NSG, Inc., which is an S type corporation, has reported nearly \$750,000 in gross receipts from 1999 to 2003. However, your affiant believes Gowadia's actual income may be significantly greater, because your affiant's investigation reveals that he likely maintains several bank accounts, some of which are foreign and unreported.

II. APPLICABLE LAW

5. Title 18, United States Code, Section 793(e) provides: "[w]hoever, having unauthorized possession of, access to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted or attempts

to communicate, deliver, transmit or cause to be communicated, delivered or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it ... shall be fined under this title or imprisoned not more than 10 years, or both."

6. Classified information is defined by Executive Order No. 12,958, 60 Fed. Reg. 19,825 (1995), as amended by Executive Order No. 13,292, 68 Fed. Reg. 15,315 (2003), as follows: information in any form that (1) is owned by, produced by or for, or under the control of the United States government; (2) falls within one or more of the categories set forth in section 1.5 of the order (including intelligence sources and methods, cryptology, military plans, and vulnerabilities or capabilities of systems, installations, projects or plans relating to the national security); and (3) is classified by an original classification authority who determines that its unauthorized disclosure reasonably could be expected to result in damage to the national security that the original classification authority can identify or describe. Under the executive order, the designation "Confidential" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to national security. The designation "Secret" shall be applied to information, the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security. The designation "Top Secret" shall be applied to information, the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security.

7. As set forth above, on October 13, 2005, agents of the Federal Bureau of Investigation, Air Force Office of Special Investigations and Bureau of Immigration and Customs Enforcement executed a search warrant at Noshir S. Gowadia's residence. During the search, agents discovered a number of classified documents dating back from Gowadia's employment with Northrop, or to the early 1990s when Gowadia was a contract engineer at the Los Alamos National Laboratory in New Mexico. Based on a preliminary examination by the Air Force OSI, several of these documents remain classified at the "Secret" level. During the search, Gowadia voluntarily spoke with interviewing agents and admitted that he was fully aware of the requirements regarding the maintenance, handling, storage and communication of national defense information and/or classified information. During the first interview of Gowadia, which was conducted during the October 13 search, Gowadia displayed a full understanding of his responsibilities with respect to the maintenance and

dissemination of classified material. Gowadia denied possessing any classified material and stated he understood the responsibilities involved in storing classified material. On October 14, 2005, Gowadia was again interviewed by agents of the FBI and Air Force OSI. On this occasion Gowadia was confronted with the fact that documents marked as containing classified information had been retrieved from his residence during the search. During the questioning, Gowadia provided a written statement to agents. In the written statement, Gowadia admitted: "I disclosed classified information and material both verbally and in papers, computer presentations, letters and other methods to individuals in foreign countries with the knowledge that information was classified....the reason I disclosed this classified information to establish the technological credibility with the potential customers for future business. I wanted to help this (sic) countries to further their self aircraft protection systems. My personal gain would be business." During the interview Gowadia admitted that he provided classified information to approximately eight (8) named countries.

8. The investigation into Gowadia has shown through the use of court authorized search warrants, electronic surveillance and review of materials seized from Gowadia's residence and his computer that Gowadia has on multiple occasions transmitted documents and data containing classified information to foreign persons. On multiple occasions Gowadia has traveled to foreign countries to teach courses on low observable and stealth technologies as they relate to passive aircraft defense systems such as infrared suppression. I have been advised by Air Force personnel that following a preliminary review of items seized from Gowadia's residence that a large amount of the materials seized therein are classified, potentially classified and/or stamped classified. Moreover, I have personally viewed documents containing graphs and other technical information which Gowadia apparently traced from existing classified documents in two sections which individually are not classified, but which when transposed on top of each other so that the information on each could be viewed together would likely be categorized as classified. Air Force preliminary review of these documents supports this belief, but formal classification has not yet occurred. In his October 14, 2005 statement, Gowadia admitted that his intent in making the tracings was "to preserve the classified information into 2 forms which were separately unclassified but would be classified when combined."

9. Based on my review of documents obtained in the search as well as other information collected throughout this investigation, I have been able to document the following

instances of actual communication or transfer of classified information:

a. On or about October 23, 2002, Gowadia faxed a document containing details for developing infrared technology for a foreign military aircraft to a foreign official in Country "A". This document, which was a proposal for infrared suppression in Country "A", was determined to be classified at the Top Secret level by the Original Classification Authority of the United States Air Force, Col. David Bujold. Your affiant's investigation has revealed that this document was a proposal for the development of an infrared suppression system for a military aircraft. Contained within this proposal is specific mention of a classified defense system of the United States. Furthermore, your affiant's investigation has revealed that attached to this proposal was a letter, the contents of which have been determined to be classified at the Top Secret level as well.

b. On or about December 12 and 13, 1999, Gowadia taught a course to foreign persons in Country "B". A review of materials maintained by Gowadia on his laptop computer by the Air Force classification authority reveal the course to be classified at the "Secret" level. During his October 14, 2005 interview, Gowadia admitted that he taught this course in Country "B" in 1999 and that he disclosed classified information during the course. A review of the information seized from Gowadia's residence demonstrates that information developed from classified information to which Gowadia had access while working for Northrop Corporation and while employed as a subcontractor for Los Alamos formed the basis for the classified information disclosures to Country "B".

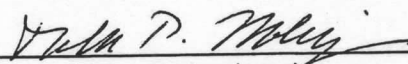
c. My investigation has also revealed that on multiple occasions Gowadia has provided extensive amounts of defense technology assistance, some of which contained classified information to individuals in Country "C". In his October 14, 2005 statement, Gowadia admits that classified information was disclosed in training sessions he conducted on low observable technology in Country "C". Gowadia stated to your affiant that "I used examples based on my B-2...experiences and knowledge. At that time I knew it was wrong and I did it for the money..."

III. CONCLUSION

Accordingly, your affiant believes there is probable cause for the issuance of an arrest warrant for the person of Noshir S. Gowadia for a violation of Title 18, United States Code, Section 793(e). This affidavit is offered in support of

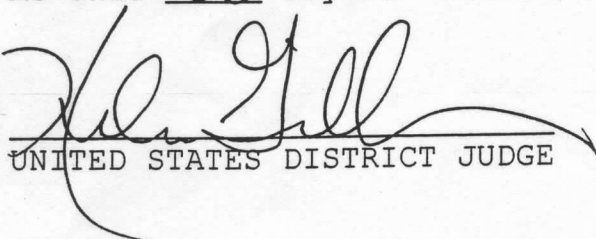
one count of willfully communicating, delivering or transmitting national defense information to a person not entitled to receive it, which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of a foreign nation, in this instance Country "A". This communication occurred by facsimile from Hawaii on or about October 23, 2002.

Executed on October 26, 2005, at Honolulu, Hawaii.



Thatcher Mohajerin
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before
me this 26 day of October, 2005.



UNITED STATES DISTRICT JUDGE