

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
District of Connecticut

United States of America
v.
Patrick Ndaya Katambwa, a.k.a. "Patrick Katambwa
Ndaya," "Katambwa Patrick Ndaya,"
and "Kaseba Katambwa"

Case No. 319mj 181W1G

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 April 5, 2018 in the county of Fairfield in the
District of Connecticut, the defendant(s) violated:

Code Section
18 U.S.C. § 1546(a)

Offense Description
False statement with respect to a material fact in an immigration document

This criminal complaint is based on these facts:
SEE ATTACHED AFFIDAVIT.

Continued on the attached sheet.

[Handwritten signature]

Complainant's signature

SA Colin P. Hartnett, Homeland Security Investigat.
Printed name and title

Sworn to before me and signed in my presence.

/s/ William I. Garfinkel

Date: 01/30/2019

Judge's signature

City and state: BRIDGEPORT, CONNECTICUT

WILLIAM I. GARFINKEL, U.S. MAGISTR. JUDGE
Printed name and title

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

STATE OF CONNECTICUT : ss: Bridgeport, CT
: :
: :
COUNTY OF FAIRFIELD : January 30, 2019

AFFIDAVIT IN SUPPORT OF COMPLAINT AND ARREST WARRANT

COLIN P. HARTNETT, being duly sworn, deposes and states as follows:

1. I am employed as a Special Agent with Homeland Security Investigations (“HSI”) of the Department of Homeland Security (“DHS”) and have been so employed since October 2010 to the present. I am currently assigned to the Office of the Resident Agent in Charge (“RAC”), New Haven, Connecticut. I have received training in Titles 8, 18, 19, and 21 of the United States Code. I am a graduate of the Federal Law Enforcement Training Center’s Criminal Investigator Training Program and the Immigration and Customs Enforcement (“ICE”) Special Agent Training Program. I was previously assigned to the Border Enforcement Security Taskforce in Massena, New York, for six-and-a-half years where I primarily conducted narcotics and child exploitation investigations. I have been assigned to RAC New Haven for approximately one year where I have worked a wide variety of investigations.

2. I am an investigative or law enforcement officer of the United States and am empowered by law to conduct investigations and to make arrests for federal criminal offenses.

3. I make this affidavit in support of an application for a criminal complaint and a warrant to arrest Patrick Ndaya Katambwa (“Katambwa”), also known as “Patrick Katambwa Ndaya,” “Katambwa Patrick Ndaya,” and “Kaseba Katambwa.” Katambwa is an adult male believed to be a native and citizen of the Democratic Republic of the Congo (“DRC”).

4. Based on the facts set forth below, I submit that there is probable cause to believe, and I do believe, that Katambwa knowingly made a false statement with respect to a material fact in an immigration document in violation of 18 U.S.C. § 1546(a). Accordingly, I make this affidavit in support of a criminal complaint charging Katambwa with this offense, and requesting the issuance of an arrest warrant authorizing the arrest of Katambwa.

5. I am personally participating in an investigation of suspected violations of federal law by Katambwa. The facts comprising the basis for this affidavit are derived from the following sources, among others: (a) oral and written reports of other law enforcement officers; (b) records obtained from several different federal government computer databases; (c) information obtained from immigration files; and (d) reliable information received during the course of the investigation. Because this affidavit is being submitted for the limited purpose of a criminal complaint and arrest warrant, I have not included each and every fact that I know concerning the investigation. Rather, I have set forth only those facts that I believe are necessary to establish probable cause to support the issuance of a criminal complaint and the arrest warrant sought by this affidavit.

6. Title 18, United States Code, Section 1546(a) states in pertinent part: “Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—[s]hall be [guilty of a crime].”

7. On April 23, 2018, the U.S. Citizenship and Immigration Services (“USCIS”) of DHS received an Application for Asylum and for Withholding of Removal, commonly known as

Form I-589, that was submitted by Katambwa. In the section entitled “Part A.I. Information About You” of the Form I-589, Katambwa stated, among other things, that he resides at 140 Marigold Avenue, 2nd Floor, Bridgeport, Connecticut 06606; his date of birth is [REDACTED]; and his nationality is “Congolese.” In response to Question 1 of “Part B. Information About Your Application” of the Form I-589, Katambwa stated, among other things, that he had been beaten and tortured while living in the DRC; that his parents had been burnt, apparently to death; and that his wife had been tortured and raped.

8. In the section entitled Question 2 of “Part B. Information About Your Application” of the Form I-589, the following question was asked: “Have you or your family members ever been accused, charged, arrested, detained, interrogated, convicted and sentenced, or imprisoned in any country other than the United States?” Katambwa marked the “Yes” box and wrote in the following explanation by hand: “My father and myself were . . . accused, charged and arrested in 2016 of plot[t]ing to overt[h]row the government with the help of ethnic group, Hutu Rwandans . . . and encouraging and mobilizing the public to protest against the government and President Kabila to remain in power.” Other than this sentence, however, Katambwa provided no additional explanation about his prior criminal history.

9. In the section entitled “Part D. Your Signature” of the Form I-589, the following certification appears above a signature line: “I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it are all true and correct. Title 18, United States Code, Section 1546(a) provides in pertinent part: Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other

document which contains any such false statement or which fails to contain any reasonable basis in law or fact—shall be fined in accordance with this title or imprisoned up to 25 years. I authorize the release of any information from my immigration record that U.S. Citizenship and Immigration Services (USCIS) needs to determine eligibility for the benefit I am seeking.” Katambwa’s handwritten signature appears below this paragraph along with the name “Katambwa Patrick Ndaya” in typed print.

10. In the section entitled “Part F. To Be Completed at Asylum Interview, if Applicable” of the Form I-589, the following statement appears before a signature line: “NOTE: You will be asked to complete this part when you appear for examination before an asylum officer of the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS).” This section of the Form I-589 further states: “I swear (affirm) that I know the contents of this application that I am signing, including the attached documents and supplements, that they are all true or not all true to the best of my knowledge and that correction(s) numbered ____ to ____ were made by me or at my request. Furthermore, I am aware that if I am determined to have knowingly made a frivolous application for asylum I will be permanently ineligible for any benefits under the Immigration and Nationality Act, and that I may not avoid a frivolous finding simply because someone advised me to provide false information in my asylum application.” Katambwa executed his signature on the signature line, wrote his name in as “PATRICK KATAMBWA NDAYA,” and provided the date of “04-05-2018.”

11. On or about June 18, 2018, Katambwa appeared before a DHS asylum officer. In “Part F. To Be Completed at Asylum Interview, if Applicable” of the Form I-589, Katambwa re-executed his signature below the certification that the contents of his application were “all true,” subject to the corrections that he had identified in the application with the DHS asylum officer.

12. On or about September 14, 2018, USCIS approved Katambwa's application for asylum pursuant to section 208 of the Immigration and Nationality Act.

13. On or about the same date (September 14, 2018), however, DHS's Office of Biometric Identity Management ("OBIM") received certain digital fingerprints from a counterpart law enforcement agency of the United Kingdom ("UK"). The United States, UK, and Australia share data for immigration and border security purposes, including data relating to convicted felons removed from the United States, UK, or Australia due a conviction for a sex offense.

14. Subsequently, HSI determined that the digital fingerprints provided by the UK for "Kaseba Katambwa" matched the fingerprints on file for Patrick Ndaya Katambwa. In addition, the digital fingerprints for "Kaseba Katambwa" corresponded to a 2009 UK conviction for four counts of Rape of a Female Aged 16 Years or Over for which he had received, and apparently served, four concurrent sentences of 13 years of imprisonment in the UK. In addition, the date of birth of "Kaseba Katambwa" is [REDACTED] [REDACTED]—that is, one day after the birth date of [REDACTED], claimed by Patrick Ndaya Katambwa on the Form I-589.

15. On or about November 29, 2018, the U.S. Department of State ("DOS"), Diplomatic Security Service ("DSS"), provided a fingerprint card for Katambwa for comparison with the biometric records of the UK's official criminal records office, which is known as ACRO. DSS possessed Katambwa's fingerprint card because Katambwa had previously submitted a visa application to the DOS. On or about December 7, 2018, ACRO confirmed that the fingerprint card for Patrick Ndaya Katambwa provided by DSS matched the fingerprints associated with the UK criminal history record for "Kaseba Katambwa."

16. Based on the foregoing facts and my training and experience, there is probable cause to believe, and I do believe, that the individual claiming to Patrick Ndaya Katambwa is

actually "Kaseba Katambwa"; that "Kaseba Katambwa" was convicted in the United Kingdom of four counts of Rape of a Female Aged 16 Years or Over for which he received four sentences of 13 years of imprisonment that were served concurrently; and that Patrick Ndaya Katambwa, also known as "Kaseba Katambwa," knowingly made a false statement by omitting these prior rape convictions in his Application for Asylum and for Withholding of Removal (Form I-589), in violation of 18 U.S.C. § 1546(a).



SPECIAL AGENT COLIN P. HARTNETT
HOMELAND SECURITY INVESTIGATIONS
DEPARTMENT OF HOMELAND SECURITY

Subscribed and sworn to before me this 30th day of January, 2019, at Bridgeport, Connecticut.

S/William I. Garfinkel

HONORABLE WILLIAM I. GARFINKEL
UNITED STATES MAGISTRATE JUDGE