

JAN 15 2003

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**

CLERK, U.S. DISTRICT COURT

By _____
Deputy

CRIMINAL COMPLAINT

UNITED STATES OF AMERICA

v.

THOMAS C. BUTLER (1)

Case No. 5:03-M-10

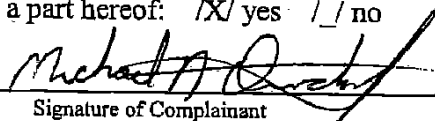
I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about January 14, 2003 in Lubbock county, in the Northern District of Texas defendant(s) did,

On or about January 14, 2003, at Lubbock, Texas, in the Lubbock Division of the Northern District of Texas, in a matter within the jurisdiction of the Federal Bureau of Investigation, an agency of the United States, **Thomas C. Butler**, defendant, knowingly and willfully made a false, fictitious, and fraudulent material statement and representation, in that the defendant stated to FBI Special Agents Michael Orndorff and Shannon Fish that 30 vials containing plague bacteria which were under his control at his TTUHSC laboratory were missing as of January 11, 2003, when in truth and fact he knew that he had destroyed the vials containing the plague bacteria before that date.

I further state that I am a Special Agent, Federal Bureau of Investigation, and that this complaint is based on the following facts:

See Attached Affidavit In Support of Criminal Complaint of Special Agent Michael Orndorff attached hereto and incorporated herein

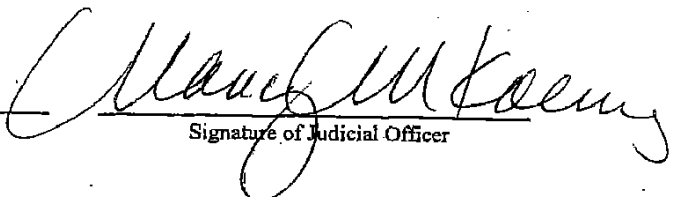
Continued on the attached sheet and made a part hereof: yes no


Signature of Complainant

Sworn to before me and subscribed in my presence,

January 15, 2003 at Lubbock, Texas
Date City and State

Nancy M. Koenig
U. S. Magistrate Judge
Name & Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

The Affiant, Michael Orndorff, having been duly sworn states as follows:

I. INTRODUCTION

1. I am a Special Agent (SA) of the United States Department of Justice, Federal Bureau of Investigation (FBI).
2. I have been employed as a SA of the FBI for approximately seven years. I have been extensively involved in the investigations involving Dr. Thomas C. Butler.
3. The statutory provision to which the present investigation relates is 18 U.S.C. § 1001, relative to the materially false, fictitious, or fraudulent statements.
4. On the basis of the entire contents of this Affidavit, Affiant believes there is probable cause for the issuance of a criminal complaint charging **Dr. Thomas C. Butler**, with a violation of 18 U.S.C. § 1001.

II. FACTS SUPPORTING PROBABLE CAUSE

5. On January 14, 2003, Dr. Thomas C. Butler was interviewed by Special Agents Michael Orndorff and Shannon Fish of the Federal Bureau of Investigation at the Texas Tech University Police Department, concerning 30 missing vials containing bubonic plague bacteria (*Yersinia Pestis*).
6. Dr. Butler told the agents that 30 vials containing plague bacteria (*Yersinia Pestis*) which were under his control at his Texas Tech University Health Sciences Center (TUHSC) laboratory were missing as of January 11, 2003. In truth and fact he well knew that he had destroyed the vials containing the plague bacteria before that date.

7. Evidence of the fact that the defendant well knew that his statement to the FBI agents was false, fictitious and fraudulent exists in a written statement given to Special Agent Dale Green of the Federal Bureau of Investigation, after advice of and written waiver of Miranda rights. Therein, Dr. Butler in a handwritten statement stated as follows:

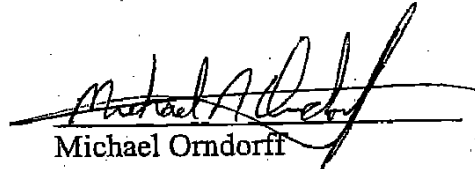
On January 13, 03, I met with the Laboratory Safety Officer Dr. Jones and told him that I had noticed for the first time that the 30 vials of the plague bacteria were missing. I gave him this explanation to demonstrate why I could not account for the plague bacteria that had been in my possession. I made a misjudgment by not telling him that the plague bacteria had been accidentally destroyed earlier rather than erroneously first found missing on January 11, 03. Because I knew that the pathogen was destroyed and there was no threat to the public, I provided an inaccurate explanation to Dr. Jones and did not realize it would require such an extensive investigation.

8. As further evidence of Dr. Butler's intentional, willful and knowing false statement, on January 14, 2003, prior to being interviewed by the FBI, Dr. Butler told Dr. Donald Wesson, Chairman of the Department of Internal Medicine and Dr. Butler's immediate supervisor, that while he could not account for many of the missing vials, he was "confident" that the missing vials had not been misplaced. This evidence shows Butler's knowledge and intent to deceive the FBI agents when he stated that the vials were missing, when he knew that he had destroyed them.

9. The FBI has jurisdiction to investigate the transfer and knowing possession of biological agents and toxins, and was conducting such an investigation when the false statements were made. The statements had a natural tendency and were capable of influencing a decision of the FBI. In fact, as a result of this false statement, the FBI

was misled and necessarily expended tremendous investigative resources.

The investigation caused a Task Force investigation including Federal, State and Local agencies, with approximately 60 law enforcement agents working throughout the night and throughout the day.



Michael Orndorff
Special Agent
Federal Bureau of Investigation

Subscribed to and Sworn before me this the 15th day of June, 2002.



NANCY M. KOENIG
United States Magistrate Judge