

4. I have investigated this case with agents from the North Dakota Bureau of Criminal Investigation and the Morton County Sheriff's Department.

5. I have spoken to other agents, law enforcement officials, and other interested individuals about this investigation, and have read reports concerning the progress of the investigation. The statements contained in this affidavit are based on information that has been provided to me directly or indirectly by other law enforcement officers and agents, and law enforcement data. The information and conclusions expressed are also based upon my own experience and training as a law enforcement officer, and my personal involvement and knowledge gained during the course of this investigation.

6. I have not stated each and every fact known to myself and other investigators involved in this investigation, but have described those significant facts related to Red Fawn Fallis (a.k.a. – Red Fawn Janis, Red Fawn Martin).

IV. Arrest of Red Fawn Fallis

A. October 27, 2016 Firearm Possession/Discharge

7. On October 27, 2016, Deputies with the Pennington County, SD Sheriff's Department were in Morton County, ND assisting with law enforcement functions for the Dakota Access Pipeline (DAPL) protest. On October 27, 2016, an operational plan had been made which was going to consist of law enforcement removing individuals whom had set up a camp on private land owned by DAPL on the east side of Highway 1806, where the pipeline was supposed to be laid, as they were trespassing on private land.

8. At approximately 6:00 p.m., Pennington County Sheriff's Department deputies Rusty Schmidt and Thadius Schmit were assisting with moving protesters south on Highway 1806 as part of an arrest team. Deputy Rusty Schmidt and Deputy Thadius Schmit were going to arrest a female who was later identified as Red Fawn Fallis as they stated Red Fawn Fallis was being an instigator and acting disorderly. Deputy Schmit approached Fallis and took Fallis to the ground. Fallis struggled as Deputy Schmidt and Deputy Schmit tried to get Fallis into handcuffs. Fallis had her hands tucked under her body and was lying face down on the ground. Deputy Schmidt was kneeling on the ground near Fallis's right shoulder and they were able to get Fallis's right arm behind her back. Fallis kept her left arm tucked under her body. During this entire encounter, law enforcement was instructing Fallis to stop resisting.

9. Deputy Schmit briefly stopped pulling on Fallis' left arm so as to make it easier for Deputy Schmidt to place Fallis' right hand into a flex handcuff. As Deputy Schmit let up on Fallis' left arm, two gunshots occurred in a quick succession. Deputy Schmidt saw the ground near his left knee "explode". Officers then lunged towards Fallis' left hand and controlled her left hand and struggled with Fallis, who would not let go of the handgun she had in her possession. With the assistance of other law enforcement, Fallis was disarmed and taken into custody. The firearm was identified as a Ruger, model LCR, .38 Special revolver, and bearing serial number 543-47899. Fallis was taken into the custody and was turned over for transport. During transport, Fallis made the statement that she was trying to pull the gun out of her pocket and the deputies jumped her and the gun went off. Fallis also made the statement that they are lucky she didn't shoot "all you fuckers."

B. Review of Fallis' Criminal History

10. On November 8, 2016, I reviewed a criminal history for Red Fawn Fallis. The record showed Fallis has a felony conviction out of Colorado. On December 1, 2003, Fallis was sentenced in the District Court, Arapahoe County, Colorado to 30 months of probation for the crime of Accessory to Crime (Class 6 Felony). The Arapahoe County case was documented under docket #D0032003CR002961. This conviction prohibits Fallis from legally possessing a firearm under Colorado state law and United States federal law.

11. Upon reviewing the criminal history for Fallis, I noted several aliases for Fallis to include Red Fawn Martin, Red Fawn Janis and several others. The criminal history also lists Fallis' birthplace as South Dakota.

C. Interstate Nexus Determination

12. On November 9, 2016, I spoke with ATF Special Agent Randel Probst, who is an Interstate Nexus Expert for ATF. SA Probst was provided with the make, model and serial number of the firearm that was recovered from Fallis. SA Probst determined the Ruger, model LCR, .38 Special revolver, bearing serial number 543-47899 was not manufactured in the State of North Dakota. Furthermore, the trace information for the firearm revealed the last documented destination of the firearm was to a Federal Firearms Licensee in Mobridge, South Dakota. Based on this information, and the fact that the firearm was possessed in North Dakota, the firearm has at some time traveled in or affected interstate commerce.


D. Stolen Firearm Report

13. On October 28, 2016, the Mandan Police Department was dispatched to an address in Mandan, North Dakota to take a report on

the theft of a gun. Officers spoke with Heath Harmon, who told officers that his gun had been stolen sometime in the last 2 to 3 weeks. Harmon further stated that he had been dating Red Fawn Fallis for the past couple of months and he believes the gun she was in possession of when she was arrested was his as his is now missing. Harmon described the missing gun as being a Ruger, model LCR, snub-nosed .38 caliber revolver.


V. CONCLUSION

14. Based on my training and experience with various criminal investigations, my participation in this investigation, and the facts set forth in this Affidavit, I believe as it pertains to Red Fawn Fallis (a.k.a. – Red Fawn Janis, Red Fawn Martin) that a violation of Title 18, Unites States Code, Chapter 44, Section 922(g)(1), Felon in Possession of a Firearm has occurred and I formally request the issuance of an arrest warrant authorizing agents to arrest Red Fawn Fallis (a.k.a. – Red Fawn Janis, Red Fawn Martin).



Derek J. Hill
Special Agent with ATF

SUBSCRIBED and SWORN to before me this 9th day of
November, 2016, in Bismarck, North Dakota.



Charles S. Miller, Jr.
United State Magistrate Judge