

BOND PROFFER

Defendant: Jussie Smollett (DOB 6/21/82) – 36 years old
Charge: Disorderly Conduct-False Report (Class 4 Felony)

The Defendant Jussie Smollett is an Actor and Singer-Songwriter, who currently appears as a character on the Fox television show "Empire." Defendant Smollett currently resides in an Apartment in Chicago's Streeeterville neighborhood.

The People expect the evidence to show that:

On Tuesday, January 22, 2019, Defendant Smollett received a written letter at the Cinespace Chicago Film Studios, which is a facility on the Southwest Side of Chicago where the Empire Television Show is filmed. This letter contained written threats directed toward Defendant Smollett, and contained a then unknown white powdery substance. The letter also contained cut out letters pieced together which stated "Smollett Jussie you will die black f--", and the word "MAGA" was hand written on the envelope where the return address is typically located. This powdery substance has since been determined to be crushed ibuprofen tablets. The letter also contained a drawing of a stick figure, which appears to have a rope around the neck and a gun pointed at it. Law enforcement authorities were contacted, and the letter was turned over to the Federal Bureau of Investigation, which is currently conducting forensic analysis of the letter.

In January of 2019, and at all times relevant hereto, Defendant Smollett was close friends with an individual by the name of Abimbola "Abel" Osundairo, who is 25 years old. Smollett and Abel initiated their friendship in the fall of 2017. During the course of this friendship, Defendant Smollett and Abel socialized together, exercised together, as well as worked together on the Fox television series Empire. Within that working relationship, Abel was a stand-in for a character named "Kai", who is a love interest of Defendant Smollett's character on the Empire TV Show. Additionally, text messages between Defendant Smollett and Abel revealed that Abel was a source of designer drugs for Defendant Smollett. Specifically, since the spring of 2018, on several occasions, Defendant Smollett requested Abel to provide him with "Molly", which is a street name for the narcotic Ecstasy.

Text messages generated by Defendant Smollett to Abel, specifically starting on the morning of January 25, 2019, reveal Defendant Smollett asking Abel when he would be leaving on his upcoming trip to Nigeria. This trip was scheduled to take place on the evening of January 29, 2019, and it had been planned by Abel and his brother Olabinjo "Ola" Osundairo (27 years old) two months prior.

After Abel confirmed the date and time of his trip, Defendant Smollett texted Abel stating "**Might need your help on the low. You around to meet up and talk face to face?**" The two then made arrangements to meet at the Cinespace Studios that afternoon, where Defendant Smollett subsequently drove Abel home to Abel's apartment in the Lakeview neighborhood. During the ride, Defendant Smollett indicated to Abel his displeasure with

the Empire Studio's handling of the racist and homophobic letter he received three days prior. Defendant Smollett then stated that he wanted to stage an attack where Abel would appear to batter him. Defendant Smollett also suggested that Abel's older brother Ola assist him with the attack. Defendant Smollett had met Ola on several previous occasions through Abel. Additionally, Ola had also appeared as an extra of the Empire TV show. Abel and Ola are both dark skinned, black males, born in the United States, with Nigerian decent.

When Defendant Smollett and Abel reached Abel's apartment at approximately 5:00 PM on January 25, 2019, Ola, who was then living with Abel, was summoned into Defendant Smollett's vehicle. Once inside, Smollett asked Ola if he could trust him. When Ola said he could, Smollett detailed his plans of the attack to the brothers. Defendant Smollett stated that he wanted them to appear to attack him on the evening of January 28, 2019 near his apartment building in Streeterville. Defendant Smollett also stated that he wanted the brothers to catch his attention by calling him an "Empire F----- Empire N-----." Defendant Smollett further detailed that he wanted Abel to attack him, but not hurt him too badly and give him a chance to appear to fight back. Defendant Smollett also included that he wanted Ola to place a rope around his neck, pour gasoline on him and yell "This is MAGA country." Prior to the brothers getting out of Smollett's car, Smollett provided Abel with a \$100 bill to purchase the rope, gasoline, ski masks, gloves and red baseball caps which resemble the ones that say "Make America Great Again." The ride from Cinescape Studios to the Osundairo brothers' home and the meeting between Smollett and the brothers is corroborated by CPD POD videos and cellular phone tower data of Smollett's phone number.

On the late morning of Sunday January 27, 2019, Smollett drove his vehicle back to the Lakeview neighborhood to pick up the brothers and show them the scene where he wanted the staged attack to take place. Smollett then drove the brothers to the corner of New Street and North Water Street in Chicago where the staged attack was to take place. This was just outside Smollett's apartment building. Further details were provided by Smollett which included that the staged attack was to take place near the stairs on the southwest corner of New and NorthWater Streets at 10:00PM the following night. Smollett also instructed the brothers not to bring their cell phones with them. Smollett directed the brothers' attention toward a surveillance camera on the corner, which he believed would capture the incident. There was a change in the plan that bleach was going to be used rather than gasoline during the simulated attack. Smollett then drove the brothers home and provided them with a \$3500 personal check made payable to Abel, which was backdated to January 23, 2019.

On the morning of January 28, 2019, the date of the planned incident, the brothers purchased the clothing items at a local beauty supply store and the rope at a nearby hardware store, using the \$100 bill that Smollett had given them. These purchases were corroborated by surveillance video and a receipt. Abel also deposited Smollett's check that same day in his own bank account. Later that evening, the plan had changed and the time of the attack had to be pushed back because Smollett's flight into O'Hare Airport from New York had been delayed by four hours. Smollett's plane eventually landed at O'Hare at 12:30 AM on January 29, 2019. At 12:49 AM, there was a phone call between Smollett and Abel which lasted three minutes. During this call, Smollett told Abel the attack would take place at exactly 2:00 AM at the preset location. Minutes later Ola ordered an Uber ride share to his

home to leave for the crime scene. Cell phone records and Uber records confirm this call and the Uber ride.

The brothers then took the Uber to the 1400 block of North Wells where they exited the Uber and flagged down a taxi which took them to within three blocks of the arranged scene at approximately 1:22 AM. The taxi's in-car video captures the brothers flagging the cab and riding in the back seat.

From approximately 1:22A.M. until approximately 2:03A.M., video evidence showed the brothers on foot in an area bordered by Lake Shore Drive on the east, Columbus Drive on the west, Illinois Street to the north, and the Chicago River to the south. Video evidence also showed that Smollett returned back to his apartment from the airport at approximately 1:30 AM. At 1:45 AM, Smollett left his building to walk to a nearby Subway restaurant at Illinois Street and McClurg Court. At 2:00 AM, the brothers were at the intersection of New St. and North Water Street; however, Defendant Smollett did not arrive exactly at the preset time. The brothers then proceeded a quarter block north and waited near a bench until Smollett arrived, which was four minutes later. Surveillance cameras captured the brothers waiting at this location just prior to the staged attack. During Smollett's interview on ABC's Good Morning America which aired on February 14, 2019, he identified the people shown in a still of this surveillance video as his attackers. Also, during this interview, Smollett indicated that he was positive that these were his attackers. The two men in this video are in fact that Osundairo brothers.

It was at this time, that the brothers staged the attack of Defendant Smollett just how Smollett had instructed them. While the staged attack was occurring, a witness, who is an employee of NBC News Chicago, had just parked and exited her vehicle just around the corner from the location of the staged attack. This witness indicated that she heard nothing at the time the staged attack was occurring, despite the fact that Defendant Smollett told CPD detectives that his attackers were "yelling" racial and homophobic slurs at him, and he in turn was "yelling" back at them. The staged attack lasted 45 seconds, and it was just outside the view of the desired nearby camera that Smollett had pointed out to the brothers approximately 15 hours earlier.

Approximately one minute later, video evidence showed the brothers run from the location, southbound toward the Chicago River and westbound toward Columbus Drive. Video evidence also captured the brothers entering a taxi at the Hyatt Regency Hotel across the river at 02:10 A.M.

Video evidence then showed that at 2:25 AM, the brothers exit the taxi on the 3600 block of North Marshfield Ave. and walk northbound. This was only a few blocks from the brothers' Lakeview apartment, which was also the original Uber pick up location to the staged crime scene. Video shows the brothers walking from where they were dropped off toward their home. Two minutes after the brothers exited the taxi, at 2:27 A.M., Defendant Smollett's manager called the police to report the incident. At approximately 2:42 A.M., Chicago Police arrived at Smollett's apartment. Chicago Police Officers observed that Smollett had a rope draped around his neck. This was captured on police body worn camera. Seconds later,

Smollett asked the Police to shut off the cameras. Smollett then made a police report where he claimed he was the victim of an attack in which the offenders struck him while yelling racial and homophobic slurs. Smollett also reported that the offenders placed a rope around his neck, poured a liquid chemical on him, and told him this is "MAGA Country." Defendant Smollett also reported for the first time, that three days prior, on January 26, 2019, he received a phone call from an unidentified phone number in which an unidentified male caller stated, "Hey you little F----" before ending the call. Smollett also told police that the incident happened near a camera, which he stated should have captured the attack. This is the same camera that Defendant Smollett pointed out to the Osundairo brothers in preparation of this staged attack. Smollett also told police that the initial and primary attacker (now known to be Abel Osundairo) was wearing a ski mask which covered his entire face, with the exception of his eyes and the area all around his eyes. Smollett stated to the police that he could see that the area around this person's eyes was white-skinned. As stated earlier in this proffer, the Osundairo brothers are dark skinned male blacks. During the Good Morning America interview referenced earlier, Smollett stated "And it feels like if I had said it was a Muslim, or a Mexican, or someone black, I feel like the doubters would have supported me much more. A lot more..." These statements by Smollett further misled the police and the public to believe that his attackers were white.

On January 29, 2019 at 7:45 PM, just less than 18 hours following reported attack, Defendant Smollett placed a phone call to Abel and the duration of the call was five seconds. Two minutes later, Abel called back Smollett and the call lasted 1 minute and 34 seconds. The brothers then boarded their flight to Nigeria and left the country. On January 30, 2019 at 10:46 AM, Defendant Smollett called Abel, who was in Istanbul Turkey, and the duration of the call lasted 8 minutes and 48 seconds.

For the next two weeks, the Chicago Police Department investigated this matter as a Hate Crime. Chicago police were able to identify the Osundairo brothers as the alleged attackers through an extensive investigation using Surveillance Videos, Police Pod Videos, in-car taxi camera videos, rideshare records, credit card records, bank records, and a store receipt. On February 13, 2019, the brothers returned from Nigeria, landing at Chicago O'Hare International Airport, and they were detained by US Customs. Members of the Chicago Police Department then placed them into custody. That same evening, the Chicago Police executed a Search Warrant upon the Osundairo brothers' residence where they recovered evidence which linked Abel to the Empire TV show. Chicago Police already had determined that Ola was affiliated with the show as well.

Following their arrest and through consultation with their attorneys, the brothers agreed to cooperate in the investigation. As more evidence, such as text messages, phone records, social media records, bank records, surveillance video and the receipt from the purchase of the rope was obtained by investigators, the investigation shifted from a Hate Crime to a Disorderly Conduct investigation. The Cook County State's Attorney's Office approved charges of Disorderly Conduct against Defendant Smollett at 6:10 PM on February 20, 2019. At 5:00 AM this morning (January 21, 2019), Defendant Smollett was placed into custody at Area Central Chicago Police Headquarters.

SCOB

BACKGROUND