

United States District Court

WESTERN DISTRICT OF TEXAS

FILED

DEC 20 2007

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

UNITED STATES OF AMERICA

V.

- 1) Humberto HERNANDEZ Jr.
- 2) Aaron MARQUEZ-Banderas
- 3) Heber MARTINEZ-Garcia
- 4) Jorge TREJO-Torres

CRIMINAL COMPLAINT

CASE NUMBER:

07-M-5838G
(1-4)

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 December 19, 2007, in El Paso County, in the Western District of Texas, the defendant(s) did,

Knowingly and intentionally possess with the intent to distribute approximately 10,907.16 pounds of marijuana, a Schedule I Controlled Substance, in violation of Title 21 United States Code, Section(s) 841(a)(1); and did knowingly and intentionally conspire to possess with the intent to distribute approximately 10,907.16 pounds of marijuana, a Schedule I Controlled Substance, in violation of Title 21 United States Code, Section(s) 846.

I further state that I am a U.S. Immigration and Customs Enforcement Special Agent and that this complaint is based on the following facts:

See Attached Affidavit

Continued on the attached and made a part of this complaint: Yes No

[Signature]

Signature of Complainant

Marco Reta, Special Agent
Printed Name of Complainant

Sworn to before me and signed in my presence,

December 20, 2007
Date

At El Paso, Texas
City and State

Norbert J. Garney, U.S. Magistrate Judge
Name & Title of Judicial Officer

[Signature]
Signature of Judge

AFFIDAVIT

On December 19, 2007, Immigration and Customs Enforcement (ICE) Special Agents (SA) were conducting surveillance of buildings located on Quail Spring St., Horizon City, Texas. The agents observed several individuals at a tin building located at 1301 Quail Spring St., Horizon, Texas, utilizing a forklift to place unknown objects into the back of a white cargo van. The van subsequently left the location. An El Paso County Sheriff's Deputy followed and performed a traffic stop on the van at Interstate 10 Westbound lane near exit 35 in El Paso, Texas. The Deputy approached the vehicle and observed through the rear windows, in plain view, large black tape-wrapped bales that were consistent with the smuggling and transportation of marijuana. The Deputy approached the driver's side window and immediately smelled what he believed was the odor of marijuana. The driver, later identified as Humberto HERNANDEZ Jr, stated "Damn it you got me". The vehicle was later searched and found to contain 413 taped wrapped bales each containing a green leafy substance which field tested positive for the properties of marijuana. The total gross weight of the marijuana was approximately 1,459.24 pounds.

ICE SA Mike Randel read Humberto HERNANDEZ the Miranda warnings in the English language as witnessed by SA David Ortiz. HERNANDEZ stated that he knew he was picking up and transporting marijuana and believed there was more marijuana located in the warehouse located at 1301 Quail Spring, Horizon City, Texas. HERNANDEZ told the SAs that he was going to be paid approximately \$5,000 for transporting the shipment of marijuana from the warehouse to his residence, located at 1608 Ronnie Reif, El Paso, Texas. Additionally, he was going to store the marijuana at his residence for a couple of days until he received further instructions on who and where

to deliver the marijuana to. HERNANDEZ identified Jorge TREJO-Torres, Heber MARTINEZ-Garcia and Aaron MARQUEZ-Banderas as individuals that assisted in loading the white van with the shipment of marijuana he was arrested with.

After the van had been stopped and the marijuana discovered, a red Ford Taurus departed 1301 Quail Spring, El Paso, Texas. SAs Roberto Soria and Peter Loera performed a traffic stop on the vehicle. The driver and sole occupant of the vehicle was identified as Aaron MARQUEZ-Banderas. MARQUEZ-Banderas immediately asked why he was being detained and he was told by one of the agents that he was being detained because he was leaving a warehouse where a van had left with a large amount of marijuana. MARQUEZ-Banderas stated he was never at the warehouse and that he was driving into the warehouse as he was told by unknown individuals, who were driving a black Nissan, to leave the area. MARQUEZ-Banderas then asked the agents if the two subjects in the black Nissan had been stopped. MARQUEZ-Banderas stated he could help catch those guys. MARQUEZ-Banderas stated that there was a telephone underneath the seat of his vehicle and that he could call the subjects in the black Nissan. The agents retrieved the telephone and MARQUEZ-Banderas, utilizing the "Push to Talk" feature of the telephone, contacted an individual listed on the telephone as "GORDO". MARQUEZ-Banderas told GORDO that his car broke down and he had to flee the warehouse on foot and needed GORDO to pick him up by the mailboxes located in the immediate area. Initially, GORDO responded that he would, but later stated that they would not go back and get MARQUEZ-Banderas.

SA Marco Reta read MARQUEZ-Banderas the Miranda warnings in the Spanish language as witnessed by SAs Pete Castillo and Nicolas Marcus. MARQUEZ-Banderas

indicated that he was contacted by a man named GORDO and asked if he wanted to do a job for him and make some money. GORDO asked MARQUEZ-Banderas if he could operate a forklift and he indicated that he could only operate automatic Forklifts. He accepted the offer and was going to be paid \$1000 for the job. Once at the location, he moved six pallets off of a trailer located on the premises. GORDO instructed MARQUEZ-Banderas to remove the contents out of the boxes. MARQUEZ-Banderas then started to take out waded paper and black tape bundles from within the boxes. While unloading the boxes he was then told by GORDO to run and get out of there. MARQUEZ-Banderas indicated to the agents that he suspected there was something wrong and that it could be drugs.

The agents then contacted the El Paso County Sheriffs Office with the description of the black Nissan. An El Paso County Sheriff's Deputy performed a vehicle stop on a black Nissan matching the description provided by MARQUEZ-Banderas. The driver, Jorge TREJO-Torres and passenger Heber MARTINEZ-Garcia (AKA: Gordo) were subsequently interviewed by SAs Soria and SA Gabriel Aguirre.

MARTINEZ-Garcia was read the Miranda warnings in the Spanish language by SA Soria. MARTINEZ-Garcia requested the presence of an attorney and the interview was terminated.

SA Soria read Jorge TREJO-Torres the Miranda warnings in the Spanish language as witnessed by SA Aguirre. TREJO-Torres stated that he saw numerous additional pallets in the warehouse. The description provided by TREJO-Torres of the pallets, matched the description of the bales seized from the white cargo van earlier. Additionally, TREJO-Torres stated that he thought the bundles contained "marijuana".

TREJO-Torres indicated that he would be paid \$500 for unloading pallets from a trailer into the warehouse. TREJO-Torres stated that he, MARTINEZ-Garcia, and an individual only known to him as FLACO were inside the warehouse unloading the pallets.

TREJO-Torres indicated that FLACO was a forklift operator. TREJO-Torres further explained that he was at the warehouse the day before (December 18, 2007) and that he and MARTINEZ-Garcia arrived at the warehouse together after he had picked up MARTINEZ-Garcia in Ciudad Juarez, Chihuahua, Mexico, and that they had driven the black Nissan to the warehouse.

Based on the information gathered by the agents, a search warrant for the premises located at 1301 Quail Spring, Horizon City, Texas, was obtained. The search of the premises resulted in the seizure of 4,333 taped wrapped bundles/bales each containing a green leafy substance which field tested positive for the properties of marijuana. The total gross weight of the marijuana was approximately 9,447.24 pounds. The total gross weight for both seizures amounted to approximately 10,907.16 pounds of marijuana contained in 4,746 taped wrapped bundles/bales.

CASE AGENT: SA Marco Reta