

AFFIDAVIT OF JUANITA FIELDEN

On this day personally appeared Juanita Fielden, who after having been duly sworn, stated upon oath, the following:

"My name is Juanita Fielden. At all times during the following statement I was an Assistant United States Attorney assigned to the Organized Crime Drug Enforcement Task Force (OCDETF) in El Paso, Texas. I am over the age of twenty-one (21) and competent to make statement under oath. I am familiar with the allegations set forth in the Complaint filed in the above-referenced matter. I have personal knowledge of the facts and matters stated herein. The facts and matters set forth herein are true and correct to the best of my knowledge.

On the evening of June 28, 2003, I was contacted by I.C.E. group supervisor ("GS") Todd Johnson who advised me that a confidential informant (SA913-EP, hereinafter referred to as the "CI") had been stopped at a U.S. Border Patrol checkpoint in Las Cruces, New Mexico in possession of approximately 100 pounds of marijuana which was concealed in his vehicle. This was unauthorized criminal activity on the part of the CI. The CI was arrested by Las Cruces, New Mexico D.E.A. Special Agent Mike Garcia and the case was referred to the State prosecutor. The next week a meeting was held at the United States Attorney's Office regarding the ramification of the CI's arrest. Attending this meeting were members of I.C.E. management (ASAC Fred Schroeder, GS Todd Johnson and GS Curtis Compton) and AUSAs Margaret Leachman, Jose Luis Gonzales and me. After a lengthy discussion, the consensus was that if the CI was closely monitored he could continue to be effective and provide significant information on both the El Paso investigations, as well as a Chicago investigation. The I.C.E. agents indicated that, pursuant to I.C.E. policy, they would attempt to get the approval of the Special Agent in Charge (at the time it was an Acting SAC) to continue to use the CI. If the agents obtained approval to continue to utilize the CI, I would call the State prosecutor in New Mexico and ask that they suspend prosecution based upon the CI's continued cooperation. GS Todd Johnson called me later and said that he had obtained the Acting SAC's approval to continue to use the CI. I then called the State prosecutor who agreed to defer prosecution as long as the CI cooperated. The State charge was eventually dropped in December of 2003, at my request.

On July 25, 2003, United States District Judge Phillip Martinez for the Western District of Texas signed an order authorizing an anticipatory interception of a cellular telephone (915-892-8888) which was to be given to Santillan-Tabares by the CI. The court was notified of the CI's arrest at that time.

On or about August 5, 2003, I was contacted at home by I.C.E. GS Curtis Compton and advised of a murder that had taken place in Juarez, Chihuahua, Mexico in which Santillan-Tabares was involved. The incident had been recorded by the CI. I, in turn, contacted my supervisor, Assistant United States Attorney Margaret Leachman. She later told me that she had advised Richard Durbin, Chief of the Criminal Division for the Western District of Texas, of the incident. The next morning I spoke with my OCDETF

advisor, Greg Surovic and told him of the incident. It was some time later that I learned that the individual murdered was identified as Fernando Reyes.

On or about August 25, 2003, I was provided I.C.E. memo prepared by SA Luis Garcia which detailed an August 6, 2003 interview of the CI wherein he discussed the events surrounding the murder of Fernando Reyes on August 5, 2003. The CI stated he feared for his life during this event. It was my understanding that from August 6, 2003 until August 21, 2003, Santillan-Tabares was in the interior of Mexico. I am aware that the El Paso I.C.E. agents notified I.C.E. management in Washington, D.C. and Mexico City, Mexico of the murder which occurred on August 5, 2005 and that I.C.E. management in El Paso and in Washington, D.C. approved the continued use of the CI and the continued investigation of Santillan-Tabares.

On September 4, 2003 United States District Judge Phillip Martinez, Western District of Texas signed an order authorizing the continued interception of a cellular telephone (915-892-8888). The affidavit for the continued wire interception discussed the murder of Fernando Reyes on August 5, 2003. This affidavit was prepared by I.C.E. Special Agent David Ortiz, reviewed and approved by his chain-of-command, reviewed by me and the Office of Enforcement Operations Attorney Nancy Brinkac and her supervisor and approved by Deputy Assistant Attorney General, John G. Malcolm.

In late September 2003, the investigation revealed that Santillan-Tabares had again traveled to the interior of Mexico where he remained for several weeks, returning to Juarez, Mexico sometime in mid-November 2003. During this time, I began preparing a grand jury indictment of Santillan-Tabares and five other defendants for the March 2003 cocaine transaction. On December 10, 2003 a Federal grand jury returned the indictment. Pursuant to Department of Justice policy, in order to lure an individual from Mexico into the United States to arrest him, authorization must be obtained from the Department of Justice (DOJ) - Office of International Affairs (OIA), after the agency has obtained approval from the ranking U.S. official in Mexico. I finally obtained DOJ OIA authorization on January 15, 2004. On January 14, 2004, I was called at home by I.C.E. GS Compton who requested that I come to the I.C.E. office because of an incident that had occurred in Juarez, Mexico that day. I notified AUSA Leachman and then went to the I.C.E. office where I met with I.C.E. agents, their ASAC Patty Kramer, the Juarez D.E.A. agents and an El Paso D.E.A. Crisis Management Team. I then sat in on a meeting with these individuals and the CI. This is the first time I had met or spoken to the CI. After this meeting I learned general details of some of the murders and burials.

On January 15, 2004, after obtaining DOJ OIA approval, Heriberto Santilan-Tabares was arrested in the United States on the December 2003 indictment.


On January 28 and 29, 2004 I interviewed the CI. This was the first time I became aware of any further involvement in any murders by the CI other than the August 5, 2003 murder.

With respect to the rules or policies concerning the use of confidential informants, I reviewed the Attorney General's 2002 Confidential Informant Guidelines, specifically, Section IV(B) - Notification of Unauthorized Illegal Activity. However, the final decision to continue to operate this particular informant, after his arrest in June 2003, was made by I.C.E. Acting SAC, pursuant to their department guidelines. As noted previously, the I.C.E. El Paso SAC, as well as I.C.E. management in Washington, D.C., also authorized agents to proceed with the investigation after the August 5, 2003 murder.

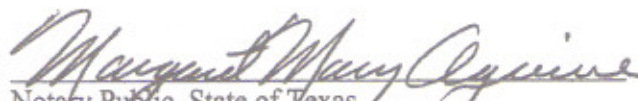
At no time prior to January 14, 2004 did I have access to the informant. At no time during this or any other investigation, did I directly or indirectly supervise the informant. In fact, I stated previously, first time I met the informant was on January 14, 2004.

I.C.E. managers supervised the investigation. I, as the OCDETF prosecutor, was consulted on various aspects of the investigation, supported the investigation by obtaining authorization for the wire interceptions, discussed options for prosecution, obtained the indictment and the DOJ portion of the lure approval.

At all times, I acted in my professional capacity and in accordance with Department of Justice guidelines. I consulted with my superiors and sought their advice whenever I was made aware of any problems in the investigation."


Juanita Fielden

SUBSCRIBED and SWORN TO before me by the said Juanita Fielden, Affiant, on this the 12th day of September, 2006.


Notary Public, State of Texas

