

No. 2015-2438-5

Maxine Barton

THE STATE OF TEXAS

Versus

2015 HARLEY DAVIDSON,  
Texas License #T3D,  
Vin #1HD1KTM1XFB610406



IN THE DISTRICT COURT  
414TH  
JUDICIAL DISTRICT

MCLENNAN COUNTY, TEXAS

A handwritten signature in cursive, likely of the District Clerk Jon R. Gimble.

**PLAINTIFF'S NOTICE OF SEIZURE  
AND INTENDED FORFEITURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the State of Texas as Plaintiff by and through her Criminal District Attorney for McLennan County, Texas, and files this Notice of Seizure and Intended Forfeiture of a motorcycle, namely a 2015 HARLEY DAVIDSON, Texas License #T3D, VIN #1HD1KTM1XFB610406, and alleges the following:

I.

This case is subject to the provisions of Rule 190.2, Texas Rules of Civil Procedure, as a Level 1 discovery control plan case. Plaintiff affirmatively pleads that it seeks monetary relief aggregating \$50,000 or less, excluding costs, prejudgment interest and attorney's fees.

II.

This proceeding is brought under and by virtue of Chapter 59 of the Texas Code of Criminal Procedure.

III.

Jurisdiction is conferred upon this Court by virtue of Article V, Section 8 of the Texas Constitution and Article 59.04 of the Texas Code of Criminal Procedure, and the occurrences recited hereinafter.



IV.

Plaintiff complains of DAVID MARTINEZ, herein called "Claimant", who was the Possessor and Record Owner of said motorcycle. DAVID MARTINEZ may be served with process at 10535 CR 2466, Terrell, Texas 75160.

Lienholder of the motorcycle, the subject of this lawsuit, is Eaglemark Savings Bank. No service is requested at this time.

V.

Plaintiff alleges that the said 2015 HARLEY DAVIDSON that was seized on May 17, 2015 in McLennan County, Texas by officers or agents of the Waco Police Department is contraband as defined by Article 59.01 of the Texas Code of Criminal Procedure because said motorcycle was used or intended to be used to travel, transport person(s) and/or transport weapons in the commission of a felony offense under Chapter 71, Texas Penal Code, Section 71.02, to wit: Engaging in Organized Criminal Activity.

VI.

In support of this Original Notice of Seizure and Intended Forfeiture, Plaintiff attaches hereto as *Exhibit "A"* and incorporates herein by reference for all relevant purposes the Affidavit and sworn statement of the seizing agent.

VII.

The above-described 2015 HARLEY DAVIDSON is more particularly described in *Schedule "A"* of the seizing officer's sworn statement.

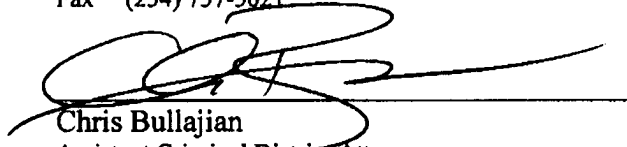
PRAYER

WHEREFORE, PREMISES CONSIDERED, the State of Texas prays that Claimants be served with process, and that upon hearing, this Court enter a finding that the said 2015 HARLEY DAVIDSON, Texas License #T3D, VIN #1HD1KTM1XFB610406 is contraband, and upon such

finding to order the forfeiture thereof to the State of Texas by and through the office of the Criminal District Attorney of McLennan County, Texas as agent for the State and in accordance with its local agreement with the Waco Police Department, and that all costs be taxed against Claimants in this cause and for such other relief at law and in equity as the Plaintiff shall be entitled to receive.

Respectfully Submitted:

Abelino "Abel" Reyna  
McLennan County Criminal District Attorney  
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**THE STATE OF TEXAS**

**COUNTY OF MCLENNAN**

**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Vincent Glenn, who being duly sworn, deposed as follows:

My name is Vincent Glenn. I am a certified peace officer under the laws of the State of Texas. I am an investigator with the S.A.F.E Unit of the Waco Police Department in Waco, McLennan County, Texas. I am over the age of eighteen (18) and of sound mind, have personal knowledge of the facts asserted below and am competent to testify to those facts.

On May 17, 2015 a Confederacy of Clubs & Independents, hereinafter identified as COC&I, Region 1 meeting was scheduled to take place at 1 p.m. at the patio of the Twin Peaks restaurant located in the Central Texas Market Place Shopping Center at 4671 S Jack Kultgen Expressway, Waco, McLennan County, TX.

Affiant has read police reports and law enforcement intelligence reports indicating that violence and tension between the Bandidos Outlaw Motorcycle gang, hereinafter identified as Bandidos, and the Cossacks Motorcycle Club, hereinafter identified as Cossacks, and both of their support clubs has been increasing for several months. Police reports and law enforcement intelligence reports indicate that during this time period, the Cossacks began wearing a bottom rocker, or patch displaying the territory of Texas rather than specific counties or towns. According to law enforcement intelligence reports, permission from the Bandidos is required to display the territory of Texas on the bottom rocker.

The following list of events occurred prior to the violent altercation at Twin Peaks Restaurant on May 17, 2015.

- On November 2, 2013 Curtis Jack Lewis, identified as an area president of the Bandidos, was arrested for stabbing two Cossack members outside a Logan's Roadhouse Restaurant in Abilene, Texas at approximately 1:30 p.m. Several Bandidos and Cossacks were involved in this fight after Bandidos damaged some of the Cossack's bikes in the parking lot. One Cossack victim stabbed by the Bandido president was Timothy Shane Satterwhite, a White Male DOB 11/5/67, who was also arrested for Engaging In Organized Criminal Activity at the Twin Peaks Restaurant in Waco on May 17, 2015. The other Cossack victim stabbed by the Bandido president was Edward Corley, whose black 2007 Dodge Ram, TX lp DTT8560, was also found in the parking lot of the Twin Peaks Restaurant in Waco on May 17, 2015. A witness to the stabbing at the Logan's Roadhouse Restaurant, Michael Don Baxley, a White Male, DOB 10/2/57 was also identified as a Cossack and arrested for Engaging In Organized Criminal Activity at the Twin Peaks Restaurant in Waco on May 17, 2015.

- On March 22, 2015 at 1:09 p.m. several members of a Bandidos support club attacked a lone Cossack who was getting gas at the Bar B Truck Stop located in Palo Pinto County, TX. The Bandidos support club members demanded that he remove the bottom rocker patch on his jacket or they would do so. The Cossack refused to remove the bottom rocker patch. The suspects beat the victim with a hammer and took his jacket.
- Also on March 22, 2015 at 3:15 p.m. approximately 6-7 Cossacks blocked in a Bandido riding on a motorcycle in heavy traffic on IH-35 in Lorena and then severely beat him with objects causing blunt force trauma to the head.
- On March 28, 2015 a Waco Police Department Gang Intelligence Officer received information that there were Bandidos at the Flying J Truck Stop and a large number of Cossacks at Legends Motorcycles in Waco. Flying J and Legends Motorcycles are within a mile from one another along the southbound access road of IH-35. A Waco Police Department Patrol Commander went to Legends Motorcycles and spoke with John Wilson, a White Male DOB 8/21/62. Wilson is the president of the Waco chapter of the Cossacks Motor Cycle Club. The Patrol Commander observed a semi-automatic rifle inside the business. Wilson stated that they knew trouble was possible between the two groups and that they were prepared. John Wilson was also arrested for Engaging In Organized Criminal Activity at the Twin Peaks Restaurant in Waco on May 17, 2015.
- On April 16, 2015, the Twin Peaks restaurant in Waco hosted a Bike Night event. Around fifty-five Cossacks were seen at the restaurant by law enforcement. Members of the Los Caballeros Motorcycle Club were also seen in the restaurant. Los Caballeros is a support club of the Bandidos. Central Texas law enforcement had a very large presence in the area of the restaurant that night, including Waco PD, Texas Department of Public Safety, Texas Game Wardens, McLennan County Constables and the McLennan County Sheriff's Department. No conflicts occurred on this night.
- The following Thursday, on April 23, 2015, Mark Allen White, a White Male DOB 12/13/73 was arrested for Unlawfully Carrying a Weapon in the parking lot of Joann's Fabrics behind Twin Peaks. Waco Police Officers saw White sitting in a vehicle in the parking lot of Joann's Fabrics. White appeared to be watching the police activity at Twin Peaks from a distance. White was wearing a Cossacks shirt and admitted to being a member of the Cossacks. White was in possession of a RG-31 .38 special 5 shot revolver, a knife and a bandana with a pad lock tied to it, which could act as a club. White was a documented member of the Los Caballeros Motorcycle Club, hereinafter identified as Caballeros, by the Texas Department of Public Safety Criminal Combination and Criminal Street Gang Intelligence Database. White admitted to being a former member of the Los Caballeros MC and a current member of the Cossacks. White stated that he was waiting for other members of the Cossacks MC to arrive before he entered Twin

**Peaks Restaurant. Mark Allen Whit was also arrested for Engaging In Organized Criminal Activity at the Twin Peaks Restaurant in Waco on May 17, 2015.**

After the assaults between the Bandidos and the Cossacks on March 22, 2015 in Lorena and Palo Pinto County, the Waco Police Department learned that the Region 1 COC&I meeting was moved from the Austin area to the Twin Peaks Restaurant in Waco. Affiant found that prior to May 17, 2015, the Region 1 COC& I meeting has always been held in the Austin area. The meetings usually occur every two to four months. The last Region 1 meeting on the COC&I calendar was on January 25, 2015 in Austin Texas. COC&I Region 1 is the Central Texas area and includes the United Clubs of Waco and the United Clubs of Austin. Sandra Lynch, of the Los Pirados Motorcycle Club, contacted the manager of Twin Peaks Restaurant, Brad Doan, and reserved the patio of the restaurant for the Region 1 COC&I meeting to be held on May 17, 2015. Sandra and Michael Lynch were contacted by the Bandidos to set up the Region 1 COC&I meeting at the Twin Peaks restaurant. Sandra and Michael Lynch are members of the Los Pirados Motorcycle Club.

The Confederacy of Clubs & Independents have divided the state of Texas into twelve different regions.

- Region 1 is in the Central Texas area
- Region 2 is in the Dallas/Ft. Worth area
- Region 3 is in the Houston area
- Region 4 is in the Beaumont area
- Region 5 is in West Texas
- Region 6 is in the El Paso area
- Region 7 is in the San Antonio area
- Region 8 is in the Corpus Christi area
- Region 9 is in the Tyler area
- Region 10 is in the Rio Grande Valley
- Region 11 is in the Pan Handle
- Region 12 is in the Big Bend area.

Each region has regularly scheduled meetings in their area. It is not common for members on one COC&I region to attend a meeting in another COC&I region.

Upon viewing the COC&I website, Affiant noticed that the Region 1 COC&I is chaired by a Bandido member nicknamed "Gimme Jimmy". The Region 1 COC&I chairman is also the Texas state chairman of the COC&I. Members of the United Clubs of Waco are also members of the Region 1 COC&I. The Bandidos are a member of the United Clubs of Waco. If a group of bikers wants to create a motorcycle club they have to present themselves to the United Clubs of Waco and the Bandidos for approval. To be a member of COC& I the biker group must also pay dues to the COC&I. In effect, new biker clubs must get permission from Bandidos through the United Clubs of Waco and pay dues to the COC&I to be able to operate as a biker club. The Cossacks, Bogatyr and Scimitars are not members of the COC&I or the United Clubs of Waco. A Waco Gang Intelligence Officer learned that the Cossacks were upset that the Bandidos changed the location of the Region 1 COC&I meeting to "their territory" and the Cossacks made the decision to take a stand and attend the meeting uninvited.

On May 17, 2015, three or more members of the Cossacks, Bogatyrs and Scimitars, were on the patio, sidewalk or in the parking lot of the Twin Peaks prior to the COC&I Region 1 meeting. Bogatyrs and Scimitars are both support motorcycle clubs of the Cossacks. Three or more members and associates of the Bandidos, Desgraciados, Escondidos, Machateros, Valerosos and Vaqueros arrived in the parking lot of the Twin Peaks restaurant, or were positioned along the perimeter of the Twin Peaks parking lot or inside the Twin Peaks restaurant. Desgraciados, Escondidos, Machateros, Valerosos and Vaqueros are all support motorcycle clubs of the Bandidos. These two groups then engaged in a violent altercation with each other. During the course of the violent altercation, members of the Bandidos, Cossacks and both of their support groups assaulted each other using firearms, knives, batons, clubs, brass knuckles and other weapons designed to cause death, serious bodily injury or blunt force trauma. Members of Waco PD in the area of Twin Peaks witnessed the violence swiftly erupt between these groups. During this violence in the parking lot of Twin Peaks Restaurant, Waco police officers were fired upon by individuals involved in the violent altercation.

After the violent altercation ended, nine people were dead and twenty people were transported to hospitals for treatment for their injuries. Hospitals treated individuals for gunshot wounds and knife wounds. Over four hundred-eighty weapons were recovered from the crime scene, including one hundred fifty-one firearms. Two-hundred thirty-nine people were detained and one-hundred seventy-seven people were arrested for Engaging in Organized Criminal Activity. Many of the individuals detained at the scene were wearing clothing that had common identifying signs or symbols that identified them as a member of a particular motorcycle club or gang. Many of these individuals were wearing clothing that had common identifying signs, symbols and identifiable leadership of specific motorcycle clubs or gangs that continuously or regularly associate in the commission of criminal activities and have been identified by the Texas Department of Public Safety as an organized criminal street gang.

Affiant has viewed surveillance videos from the Twin Peaks and Don Carlos restaurants that captured many of the events that occurred on May 17, 2015. Don Carlos Restaurant is located directly beside the Twin Peaks Restaurant at the Central Texas Market Place. Affiant also viewed surveillance videos and dash cam videos of Waco police officers responding to the scene of the shooting. Affiant was able to determine that the Cossacks, Bogatyrs and Scimitar motorcycle clubs arrived at Twin Peaks well over an hour before the scheduled Region 1 COC&I meeting. The Cossacks and their support clubs, the Bogatyrs and Scimitars, took over the patio area, which is the exact area of the restaurant that was reserved for the COC&I meeting. Although this was a COC&I meeting, the only motorcycle groups that could be seen on the patio were Cossacks, Bogatyrs and Scimitars. Affiant observed members of other motorcycle clubs inside the restaurant and standing along the perimeter of the Twin Peaks parking lot.

Affiant observed what appeared to be sentries or look outs posted on the sidewalk surrounding the patio by the Cossacks and their support groups. These sentries were standing facing away from the patio where the rest of the group of Cossacks, Bogatyrs and Scimitars were. Affiant also saw several Cossacks on the patio reach under their vests and appears to adjust their weapons or check their weapons. Affiant was able to see that some Cossacks had handguns and multiple fix-bladed knives on their person as they walked around the patio of Twin Peaks. Affiant was able to see Bandidos, Machateros, and Caballeros motorcycle club members

standing along the perimeter of the parking lot of Twin Peaks. Machateros, Valerosas and Caballeros are all documented support clubs of the Bandidos.

Waco Police Investigator J. Rogers, who was monitoring activity at the Twin Peaks restaurant on May 17, 2015, reported that when he arrived he observed a few Bandido support groups in the parking lot and the entire patio was occupied by Cossacks. Investigator Rogers reported that several were standing in seemingly posted position and some walking back and forth.

Affiant reviewed the video and noticed that as another group of Bandidos arrived in the parking lot of Twin Peaks, several Cossacks, Bogatyr and Scimitars began to climb over the patio railing and/or go out the exits towards the Bandidos who had just arrived. Several of the Cossacks pulled their weapons, including handguns as they stood on the patio and exited the patio. Scimitars motorcycle club members moved to the front entrance of the patio, appearing to take a "rear guard" position for the Cossacks. When the Bandidos arrived the Valerosos and other Bandido support groups walked towards the newly arrived Bandidos as well. Motorcycle club members that were in the parking lot also pulled weapons, including handguns prior to the violent altercation.

Affiant reviewed police reports that stated a Bandido nearly struck a Cossack prospect with his motorcycle in the Twin Peaks parking lot. The Cossack prospect was identified as Clifford Pierce, a White Male DOB 10/11/63. Members of both groups converged on the disturbance in the parking lot. One of the Bandidos struck a member of the Cossack in the head with his fist. Several Bandidos and Cossacks pulled out guns and knives, and shot and stabbed each other. These two groups then engaged in a violent altercation with each other. During the course of the violent altercation, members of the Bandidos, Cossacks and both of their support groups assaulted each other using firearms, knives, batons clubs, brass knuckles and other weapons designed to cause death, serious bodily injury or blunt force trauma. Members of the Waco Police Department in the area of Twin Peaks witnessed the violence swiftly erupt between these groups. During this violence in the parking lot of Twin Peaks, Waco police officers were fired upon by individuals involved in the violent altercation. The violent altercation continued until the Waco Police Department & other members of law enforcement was able to stop the violence and take control of the scene.

Affiant reviewed police reports of interviews of individuals who were detained after the violent encounter between the two groups. According to reports, the Cossacks had threatened Bandido support club members and United Clubs of Waco members at Twin Peaks about a month and a half prior to the violent encounter. Cossacks threatened that Waco was a "Cossack's town" and nobody else could ride there. The large number of Bandidos and their supporters showed up to the Region 1 COC&I meeting because the Bandidos wanted to have a show of force and make a statement that Waco was not the Cossack's town.

David Martinez was arrested by law enforcement at Hillcrest Hospital after the shooting at Twin Peaks Restaurant on May 17, 2015. David Martinez was wearing a vest that identified



him as a member of the Bandidos. The Bandidos has been identified by the Texas Department of Public Safety Criminal Combination and Criminal Street Gang Intelligence Database as an organized criminal street gang. The vest David Martinez wore to the Texas Region 1 COC&I meeting at the Twin Peaks Restaurant on May 17, 2015 identified him as the President of the Bandidos chapter in Dallas County. Martinez lives in Terrell, which is in Region 2 of the Texas COC&I. Waco is in Region 1 of the Texas COC&I. Each Texas COC&I region has regularly scheduled meetings. It is not common for members of one COC&I region to attend a regional meeting of another area of the Texas COC&I.

David Martinez drove this 2015 Harley Davidson motorcycle bearing license plate number T3D, hereinafter identified as suspect vehicle, to the Twin Peaks Restaurant in Waco, Texas on May 17, 2015. The suspect vehicle is registered to David Martinez and lists the address of 10535 CR 2466, Terrell, Kaufman, County, Texas. The suspect vehicle was located in the middle of the parking lot on the north side of the Twin Peaks. This is the area of the parking lot in which the many of the shootings and stabbings occurred.

The suspect vehicle had very identifiable markings on the bike indicating membership in the Bandidos, such as stickers that read, "1%er" and "BFFB". A search warrant was issued and completed on the suspect vehicle. A Glock Model 22 .40 caliber handgun with serial # BDS055US, a box of .40 cal Smith & Wesson Blaze Brass ammunition with only 44 of the 50 bullets inside, and a Gerber knife with sheath was found. The suspect vehicle was towed to 1601 E. Taylor Waco, Texas on 05/18/2015.

David Martinez also was not the only member from the Bandidos or their support clubs that traveled to the meeting in Waco, Texas that live in the Dallas area.

When Martinez was arrested at Twin Peaks, Martinez had in his possession a black Bandidos vest with a President Rocker, twelve Bad Reputation patches, one Brown Bandido belt with buckle, one white Bandido bracelet, four business cards and a Concealed Handgun License with #0156190.

Affiant reviewed Waco PD dash-cam videos and saw David Martinez shooting a handgun while standing behind a brown Chevy Suburban, license plate number BDV1723. Officers located a Berretta Tomcat .32 caliber in the hatchback area of that vehicle. During the video, while Martinez is seen shooting from behind that vehicle, the hatchback glass is shot out. Martinez is seen on video placing an object inside that vehicle.

David Martinez did commit the offense of Engaging in Organized Criminal Activity. David Martinez is the President of the Dallas County chapter of the Bandidos. On May 17, 2015 members of the Bandidos and their support clubs were seen violently attacking members of the Cossacks and their support clubs with guns, knives, and other weapons designed to kill or inflict serious bodily injury. David Martinez did use the 2015 Harley Davidson motorcycle to travel, transport himself and or others, and/or transport weapons described above from Terrell, TX to

the Twin Peaks Restaurant in Waco, TX to participate as a member of the Bandidos criminal street gang at the Twin Peaks Restaurant.

Based upon the foregoing, and based further upon my training and experience in law enforcement, it is my belief that the above-described 2015 Harley Davidson constitutes contraband under Chapter 59 of the Code of Criminal Procedures. Accordingly, I seized the above-described motorcycle in accordance with and pursuant to Chapter 59 of the Code of Criminal Procedures.

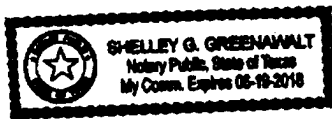
*VG #161*

Vincent Glenn #161

Waco Police Department

SWORN AND SUBSCRIBED before me on this the 5 day of June 2015.

*Shelley G. Greenawalt* NOTARY



**SCHEDULE "A"**  
**SEIZED**

**2015 Harley Davidson, Texas License Plate T3D, 1HD1KTM1XFB610406, Orange in Color,  
Motorcycle**