

UNITED STATES DISTRICT COURT

for the

Eastern District of California

FILED
Jan 31, 2022
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

United States of America

v.

GIOVANI DE JESUS RODRIGUEZ-AGUIRRE

Case No. 2:22-mj-0015 CKD

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of Jan. 27, 2022 in the county of San Joaquin in the Eastern District of California, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Rows include 21 U.S.C. §§ 846, 841(a)(1) and 21 U.S.C. § 841(a)(1) with corresponding offense descriptions.

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT OF DEA Special Agent Jared Simmons

Continued on the attached sheet.

Complainant's signature: Jared Simmons, DEA Special Agent

Sworn to and signed before me telephonically.

Date: 01/31/2022 at 4:45 pm

Judge's signature: Carolyn K. Delaney

City and state: Sacramento, California

United States Magistrate Judge Carolyn K. Delaney

AFFIDAVIT OF DEA SPECIAL AGENT JARED SIMMONS

I, Jared Simmons, being duly sworn, hereby depose and state:

CRIMINAL COMPLAINT FOR ARREST WARRANT

1. This Affidavit is submitted in support of an arrest warrant and criminal complaint charging **GIOVANI DE JESUS RODRIGUEZ-AGUIRRE** with:

COUNT ONE: Conspiracy to distribute a controlled substance, in violation of 21 U.S.C. §§ 846 and 841(a)(1).

COUNT TWO: Possession with Intent to Distribute a Controlled Substance, in violation of 21 U.S.C. § 841(a)(1).

BACKGROUND AND EXPERTISE

2. I am a Special Agent with the Drug Enforcement Administration (“DEA”). I have been a DEA Special Agent since October 2020.
3. During the course of my employment as an DEA Special Agent, I have participated in several drug trafficking investigations. I have also participated in numerous investigations involving the use of federal and state search warrants to collect evidence, including controlled substances, the seizure of narcotics-related records, and other types of evidence that document the activities of criminal organizations in both the manufacturing and distribution of controlled substances and weapons. To successfully conduct these investigations, I have utilized a variety of investigative techniques and resources including physical and electronic surveillance, various types of infiltration (including undercover agents, informants, and cooperating sources), pen register and trap and trace devices, GPS and telephone tracking devices, trash covers, mail covers, pole cameras, stationary video recording vehicles, audio and audio/video recording devices.
4. Through these investigations, my training and experience, and conversations with other agents and law enforcement personnel, I have become familiar with the methods used by drug trafficking organizations to smuggle and safeguard controlled substances and weapons, to distribute, manufacture,

and transport controlled substances, and to collect and launder related proceeds.

5. I am an “investigative or law enforcement officer” of the United States within the meaning of 18 U.S.C. § 2510(7), in that I am an officer of the United States empowered by law to conduct criminal investigations and make arrests for offenses enumerated in 18 U.S.C. § 2516.
6. Because this affidavit is submitted for the limited purpose of establishing probable cause for the requested criminal complaint, I have not included each and every fact known to me about this case. Rather, I have set forth only the facts that I believe are necessary to support probable cause.
7. This affidavit is based upon my own personal knowledge but also the knowledge of other law enforcement officers involved in this investigation. Where I describe statements made by other people (including other special agents and law enforcement officers), the statements are described in sum, substance, and relevant part. Similarly, where I describe information contained in reports and other documents or records in this affidavit, this information is also described in sum, substance, and relevant part.

STATEMENT OF PROBABLE CAUSE

Rodriguez-Aguirre identified a sub-distributor for Mexico-based drug trafficker.

8. On December 2, 2021, a federal grand jury returned a nine-count indictment charging Oscar Fidel Ayon (“Nando”), Oscar Ayon Lopez, Olivia Reyes, and Travis Jordan Michael with conspiracy to distribute and possession with intent to distribute methamphetamine and fentanyl. 2:21-CR-00232-KJM.
9. Nando is a Mexico-based drug trafficker that advertises drugs for sale via Snapchat. In October 2020, a Spanish-speaking undercover law enforcement officer (hereafter UC) started communicating directly with Nando. During this investigation, the UC placed drug orders directly with Nando. Nando then caused US-based co-conspirators to deliver the drugs to the UC. During the course of this investigation, law enforcement has identified at least five separate co-conspirators who have delivered drugs on Nando’s behalf: Oscar Ayon Lopez, Olivia Reyes, Travis Jordan Michael, Angel Felix, Jr., and

Rodolfo Caro-Acosta. All five have been charged with federal drug trafficking charges. See 2:21-CR-00232-KJM; 2:22-MJ-0011-AC; 2:22-MJ-0012-AC.

10. As discussed below, in January 2022, the UC arranged to purchase fentanyl-based, counterfeit M-30 pills from Nando. Nando and his associate coordinated to have Rodriguez-Aguirre deliver the drugs.

UC orders drugs from Nando and Rodriguez-Aguirre attempts to deliver the drugs.

11. On January 20, 2022, the UC arranged with Nando to purchase 10,000 M-30 pills. On January 21, 2022, Nando told the UC that an individual would reach out to the UC to complete the agreed upon 10,000 pill deal. On January 21, an unidentified male utilizing telephone number 916-280-7763 contacted the UC and told the UC that he was contacting the UC on behalf of Nando. The unidentified male told the UC that he was “picking stuff up” and could drop off the agreed upon 10,000 pills. The UC deferred the deal until January 27, 2022. The UC and the unidentified male agreed to meet at the Burger King located at 4612 Kiernan Avenue, Salida, California.
 - a. M-30 is the marking applied to legitimately produced oxycodone. Based on my training and experience, I know that it is common for drug traffickers to manufacture counterfeit M-30 pills using fentanyl and attempt to mark the pills so that they appear similar to legitimately produced oxycodone pills.
 - b. During the course of the investigation of Nando, law enforcement has conducted prior controlled purchases of counterfeit M-30 pills ordered from Nando. Law enforcement has submitted several sample pills to the DEA drug lab for testing. In each instance, the counterfeit M-30 pills contained fentanyl. Throughout this investigation, all the M-30 pills that have been bought and seized from this DTO have all contained fentanyl. Based off my understanding of this DTO, all M-30 pills sold by this DTO have been counterfeit and contained fentanyl. Accordingly, based on my training and experience, and the communications between the UC and Nando during this case, I believe that when the UC orders M-30 pills, Nando supplies counterfeit M-30 pills made with fentanyl.

- c. Fentanyl is a Schedule II controlled substance.
12. On January 26, 2022, a California state search warrant was authored and approved for a pen register and geolocation information for telephone number 916-280-7763, the telephone number being used to facilitate the aforementioned 10,000 M-30 pill deal with the UC. Based on geolocation information for this phone, it appeared that the person using the phone lived at or near 9601 Elk Grove Boulevard in Elk Grove, California.
13. On January 27, 2022, at approximately 8:54 a.m., law enforcement surveillance was established in the vicinity of 9601 Elk Grove Boulevard. At this time, DEA Special Agent James Hartnett drove by 9601 Elk Grove Boulevard and observed a dark-colored Acura MDX at the open-gate of the driveway for 9601 Elk Grove Boulevard. Special Agent Hartnett recorded the California license plate of the aforementioned Acura SUV as 5PRM109. According to the California Department of Motor Vehicles, the Acura SUV is registered to Giovanni De Jesus Rodriguez-Aguirre at 9601 Elk Grove Boulevard, Elk Grove, California.
14. At approximately 9:40 a.m., DEA Group Supervisor Babak Ghazanfari drove by 9601 Elk Grove Boulevard and observed a Hispanic male adult with shoulder length black hair walking from the north side of the property with a backpack towards the Acura SUV.
15. At approximately 9:46 a.m., law enforcement surveillance observed the Acura SUV drive away from the residence at 9601 Elk Grove Boulevard. The Acura SUV was being driven by the same Hispanic male adult with long black hair and the backpack from earlier surveillance observations. Law enforcement surveillance followed the Acura SUV.
16. At approximately 10:11 a.m., the Acura SUV arrived and parked at 10004 Froom Circle, Sacramento, California. Surveillance was unable to identify anyone getting out of the Acura SUV. During this time, GPS pings for 916-280-7763 were consistent with the user of the phone being inside or near 10004 Froom Circle.
17. At 10:28 a.m., Special Agent Soto-Garcia observed two individuals exit 10004 Froom Circle and stand near the driver door of the Acura SUV. Shortly thereafter, Special Agent Soto-Garcia observed one of the two individuals get

into the driver seat of the Acura SUV and depart from the area. Law enforcement surveillance followed the Acura SUV.

18. At approximately 11:02 a.m., surveillance observed the Acura SUV stopping at the driveway gate at 12531 Rising Road, Wilton, California. Special Agent Soto-Garcia observed an individual exit the driver door of the Acura SUV, open the gate at the driveway, get back into the Acura SUV, drive forward past the gate and stop, get out of the Acura SUV, close the gate at the driveway, re-enter the Acura SUV, drive further onto the property and park the Acura SUV. Special Agent Garcia-Soto then observed the sole occupant of the Acura SUV exit the vehicle with a backpack and enter into an RV on the property.
19. At approximately 11:29 a.m., Special Agent Soto-Garcia observed the same individual exit the aforementioned RV, enter the Acura SUV, and drive off the property through the driveway gate. Law enforcement surveillance followed the Acura SUV.
20. At approximately 11:40 a.m., the user of 916-280-7763 contacted the UC and told the UC that he would be at the meet location in approximately 50 minutes to complete the previously agreed upon 10,000 M-30 pill deal.
21. Surveillance followed the Acura SUV, via Highway 99 South.

Traffic stop leads to the seizure of 10,000 counterfeit M-30 pills.

22. At approximately 12:15 p.m., the Acura SUV drove past California Highway Patrol K-9 Officer Greg Barker. Officer Barker was parked in a marked CHP patrol vehicle on Mariposa Road on-ramp to Highway 99. Officer Barker estimated the Acura SUV to be travelling at 75 miles per hour. The posted speed limit on Highway 99 is 65 mph. This is a violation of California Vehicle Code § 22349(a). Officer Barker then activated his patrol vehicle's radar which showed the Acura SUV to be travelling at 76 miles per hour. Officer Barker then conducted a traffic enforcement stop. During his pursuit of the SUV, Officer Barker noticed that the vehicle had excessively tinted windows in violation of California Vehicle Code § 26708(a)(1).
23. After Officer Barker activated his red and blue emergency lights, the Acura SUV yielded and parked at the Chevron service station off of Arch Road.

Officer Barker approached the vehicle and identified the driver and sole occupant of the vehicle as Giovanni De Jesus Rodriguez-Aguirre. Rodriguez Aguirre provided Officer Barker with an expired California driver's license. Officer Barker asked Rodriguez-Aguirre where he was going and he said that he was headed to Salida to do a tint job for a friend.

24. Officer Barker subsequently retrieved his certified narcotic detection canine "Olex" to conduct an exterior sniff of the Acura SUV. Olex alerted to the presence of narcotics. During exterior sniff of the vehicle, Rodriguez-Aguirre informed Officer Barker that there was some "weed" in the vehicle.
 - a. CHP Officer Barker was assigned as the handler for K-9 Olex in May 2020. The initial training took place at the CHP K-9 training facility at the CHP Academy in West Sacramento, CA. The training consisted of 200 hours of narcotic detection and 200 hours of handler protection. The narcotic detection consisted of training the K-9 to detect the odor of marijuana, methamphetamine, cocaine, and heroin. During training, the K-9 was successful in approximately 200 scenarios where the K-9 located and alerted to the odor of the above-mentioned narcotics. The K-9 met the requirements of both POST (Peace Officers Standards of Training) and the California Highway Patrol for the detection of controlled substances. In May 2020, K-9 Olex completed the initial training and was certified as a Narcotic Detection CHP K-9. Olex and Officer Barker then finished an 80-hour re-team and certification on June 24, 2020. Olex and Officer Barker have been deployed as a K-9 team for CHP Valley Division since June 25, 2020.
 - b. Officer Barker and K-9 Olex, train in both narcotic detection and handler protection on a daily, weekly, and monthly basis. The ongoing training consists of a minimum of 8 hours per week of narcotic detection and handler protection. The narcotic detection training consists of approximately six scenarios per week in which the K-9 is deployed and locates the odor of the various narcotics. Each month, Officer Barker and K-9 Olex are certified by a CHP Officer, K-9 trainer/coordinator, in both narcotic detection and handler protection. This certification takes place on a Division level. In addition to the above training and certification, Officer Barker and Olex are to be certified on a yearly basis at the CHP Academy by Field Support Section.

25. During a subsequent search of the Acura SUV, after the positive K-9 sniff, Officer Barker found a small amount of marijuana in the center console and approximately 10,000 M-30 pills - suspected fentanyl found in a clear plastic Zip-lock style bag, concealed in a grocery-style bag, inside a backpack on the rear passenger side floorboard. A photograph of the seized M-30 pills is depicted below:



26. Based on my training and experience, I believe the pills seized from Rodriguez-Aguirre were counterfeit by the way they were packaged, their color, and the quality (there was powder residue in the clear plastic baggies, meaning they were not pharmaceutical grade that would have a "shell" on the pill to keep it from degrading).

27. Rodriguez-Aguirre was subsequently advised of his Miranda rights and interviewed by Officer Barker. Rodriguez-Aguirre told Officer Barker that he had had the car for a few weeks. He admitted that everything in the car belonged to him and that no one else had driven the vehicle. When specifically asked about the black backpack containing the M-30 pills, Rodriguez-Aguirre stated that the backpack did not belong to him and he had no idea to whom the backpack belonged.

28. Rodriguez-Aguirre was searched incident to arrest. An Apple iPhone was located in the pocket of his pants. Law enforcement called 916-280-7763 and confirmed that the phone seized from Rodriguez-Aguirre was the phone used to call the UC to coordinate the drug transaction. In addition, the geolocation information for 916-280-7763 was consistent with the phone being located at the Chevron service station.

29. Rodriguez-Aguirre was born in Mexico and is not lawfully present in the United States. Rodriguez-Aguirre was previously deported from the United States on February 18, 2011.

///

///

///

///

///

///

///

///

///

///

///

///

///

///

CONCLUSION

30. Accordingly, based on the above facts, I believe that there is probable cause to believe that Rodriguez-Aguirre committed the following criminal offenses and therefore request that this court issue an arrest warrant for:

COUNT ONE: Conspiracy to distribute a controlled substance, in violation of 21 U.S.C. §§ 846 and 841(a)(1).

COUNT TWO: Possession with Intent to Distribute a Controlled Substance, in violation of 21 U.S.C. § 841(a)(1).

I swear, under the penalty of perjury, that the foregoing information is true and correct to the best of my knowledge, information, and belief.

/s/
JARED SIMMONS
DEA Special Agent

Sworn and Subscribed to me telephonically,
on January 31, 2022,

/s/ Carolyn K. Delaney
Hon. CAROLYN K. DELANEY
United States Magistrate Judge

Approved as to form:


JUSTIN LEE
Assistant United States Attorney

PENALTY SLIP

United States v. GIOVANI DE JESUS RODRIGUEZ-AGUIRRE

COUNT ONE: 21 U.S.C. §§ 846, 841(a)(1) – Conspiracy to Distribute a Controlled Substance

Fine of up to \$1,000,000, and
Imprisonment of up to 20 years, or both
Term of Supervised Release of at least 3 years and up to life
Mandatory \$100 Special Assessment

COUNT TWO: 21 U.S.C. § 841(a)(1) – Possession with Intent to Distribute a Controlled Substance

Fine of up to \$1,000,000, and
Imprisonment of up to 20 years, or both
Term of Supervised Release of at least 3 years and up to life
Mandatory \$100 Special Assessment