

**FILED**

# United States District Court

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

JUL - 1 2008

Judicial

DISTRICT OF

New Mexico

## In the Matter of the Search of

(Name, address or brief deposition of person, property or premises to be searched)

one silver and black Motorola cell phone  
(V265, HEX: 1E1A3568)

## MATTHEW J. DYKMAN APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

CASE NUMBER: 08-MR-224

I, SA David Howell

being duly sworn depose and say:

I am a(n) Special Agent, Drug Enforcement Administration and have reason to believe

that ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)

one silver and black Motorola cell phone (V265, HEX: 1E1A3568)

in the Judicial District of New Mexico

there is now concealed a certain person or property, namely (describe the person or property to be seized)

Information and/or records relating to illegal drug trafficking, including but not limited to names, addresses, telephone numbers, voice mail, text or picture messages, any other records relating to secret codes or passwords.

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)  
evidence of a crime.

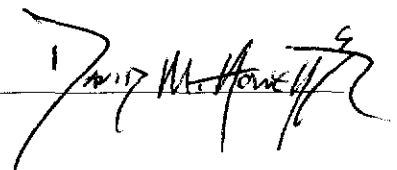
concerning a violation of Title 21 United States Code, Section(s) 841 and 846

The facts to support a finding of Probable Cause are as follows:

Please see attached affidavit.

Approved by AUSA Larry Gomez.

Continued on the attached sheet and made a part thereof:

☒ Yes ☐ NoDavid Howell, SA  
Signature of Affiant

Sworn to before me, and subscribed in my presence,

July 1st, 2008  
Dateat Albuquerque, New Mexico  
City and StateAlan C. Torgerson  
United States Magistrate Judge  
Name and Title of Judicial OfficerAlan C. Torgerson  
Signature of Judicial Officer

AFFIDAVIT OF DEA SPECIAL AGENT DAVID HOWELL

The Affiant, Special Agent David Howell, United States Department of Justice, Drug Enforcement Administration, being first duly sworn, hereby states as follows:

Affiant's Background

1. The Affiant has been employed by the United States Department of Justice, Drug Enforcement Administration (DEA) since August 2006. During this time the Affiant has accumulated the following training and experience:

(a) The Affiant graduated from the DEA Academy in Quantico, Virginia. The Affiant received approximately 500 hours of specialized narcotics related training. The training included controlled substances identification, narcotics related investigative techniques, interview and interrogation training, preparation of search warrants, tactical application of narcotics enforcement, surveillance and electronic monitoring techniques and money laundering investigations.

(b) As a DEA agent, the Affiant has participated in approximately 5 search warrants at the residences of narcotic traffickers, safe houses, and has participated in at least 8 arrests for drug related offenses.

(c) Based upon the affiant's training and experience and participation in investigations involving additional controlled substances, the affiant is aware that drug traffickers often conceal drug ledgers with the names, addresses, numbers, contact information for their sources of supply, their customers, and other co-conspirators. In addition, drug traffickers maintain their records relating to the transportation, ordering, sale and distribution of controlled substances, including secret codes and passwords. Drug traffickers often keep the aforementioned items by concealing them in various manners, including, but not limited to, storing the information electronically.

Relevant Facts

2. On 06-24-2008, at approximately 9:40 am while traveling eastbound on Interstate 40 near milepost 131 New Mexico State Police (NMSP) Officer Arcenio Chavez noticed a white RV (motor home, with a Michigan plate of BWS3943) travel off the freeway three times. Officer Chavez engaged his emergency equipment and stopped the vehicle near milepost 132.

3. After stopping the RV, Officer Chavez identified the driver of the RV as Mr. Michael Faustina. The vehicle documents showed the registered owner of the RV as Alicia Booker (who was not traveling with Mr. Faustina). Officer Chavez asked Mr. Faustina to step back to his patrol unit. Through general conversation Mr. Faustina told Officer Chavez he had traveled to California, he then quickly corrected himself and said he was traveling to Phoenix, Arizona where he had taken his grandkids to visit his grandmother. Mr. Faustina explained to Officer Chavez his children were going to spend

the summer in Phoenix. Officer Chavez asked Mr. Faustina who the owner of the RV was, to which he replied that his niece had let him use the vehicle to take his family to Phoenix. During this time of the conversation Officer Chavez noticed that Mr. Faustina's hands were shaking nervously and that Mr. Faustina seemed to be acting excessively friendly. Mr. Faustina told Officer Chavez that he drove about 600 miles to Michigan to pick up the RV and then drove the RV from Michigan to Phoenix.

4. After checking the RV's vehicle identification numbers (VIN), Officer Chavez returned to Mr. Faustina and issued a NMSP traffic citation warning, for roadways lane for traffic. After Mr. Faustina signed the warning citation, Officer Chavez returned all of Mr. Faustina's documentation back to Mr. Faustina and advised Mr. Faustina that he was free to leave.

5. As Mr. Faustina was walking away from Officer Chavez and back to his RV, Officer Chavez asked Mr. Faustina if he could ask him some more questions. Mr. Faustina turned back to Officer Chavez and walked back to Officer Chavez's patrol unit. Officer Chavez proceeded to ask Mr. Faustina other questions concerning Mr. Faustina's travel. Officer Chavez noticed several oddities concerning Mr. Faustina's statements, including the fact that while staying in Phoenix Mr. Faustina stated he spent two nights at the Ramada Inn hotel (in order to save money) instead of sleeping in the new RV for far cheaper. Officer Chavez subsequently asked Mr. Faustina if he could search the RV for illegal drugs/weapons or large amounts of currency. Mr. Faustina replied, "Yes". Officer Chavez explained to Mr. Faustina the NMSP written consent to search form, which Mr. Faustina subsequently read and signed (in English).

6. Officer Chavez conducted a pre-search of the RV by checking Mr. Faustina for weapons. After no weapons were found on Mr. Faustina, Officer Chavez deployed his canine "Chica" who is trained to detect the odors of marijuana, cocaine, methamphetamine, heroin and their derivatives to the exterior and interior of the RV. "Chica" subsequently alerted to the floor and bed inside of the RV. Upon further searching the vehicle, Officer Chavez opened the underneath portion of the bed where he located three packages wrapped in grey duct tape hidden underneath the bed which appeared to be altered with hydraulic lifting devices.

7. After making the discovery of what Officer Chavez believed to be illegal contraband, Officer Chavez departed from the RV and placed Mr. Faustino under arrest. Officer Chavez arranged for the RV to be towed from mile post 132 to the NMSP District 5 building. As the RV was being towed, Officer Chavez followed the RV to maintain a visual custody. Upon arrival at the NMSP District 5 building, Officer Chavez completed the search of the RV and while doing so Officer Chavez located several other altered compartments including, under the bench seats, cabinets, and natural cargo areas, all of which contained electronic latches. A total of 31 separate packages (all wrapped in grey duct tape) were removed from the hidden compartments of the RV. Through Officer Chavez's training and experience, Officer Chavez believed the suspected contraband to be marijuana. The marijuana was subsequently weighed by DEA as approximately

111.35 gKgs and a field test resulted with a positive response for the presence of marijuana.

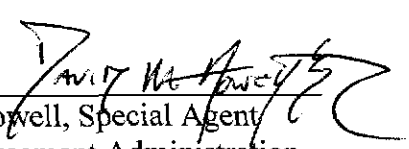
8. A silver and black Motorola cell phone (V265, HEX: 1E1A3568) was seized by DEA as evidence from Mr. Faustina on 06-24-2008. It is the affiant's experience that individuals trafficking in narcotics will maintain contact names and telephone numbers for those individuals involved, either directly or indirectly in drug trafficking. In addition, the affiant believes that the cell phone seized from Mr. Faustina may contain information, which may further reveal the magnitude and complexity of the marijuana trafficking organization that Mr. Faustina is a part of. In addition, the affiant believes information contained in the cell phone would also demonstrate telephone contact between other co-conspirators both on and before the date of Mr. Faustina's arrest. The affiant believes he has probable cause that Mr. Faustina's cell phone will reveal crucial information and insight into Mr. Faustina's drug trafficking activities and also reveal several other co-conspirators.

Conclusion

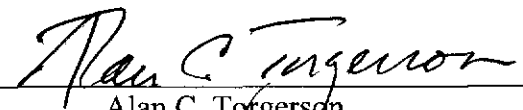
9. Based upon the aforementioned facts, the Affiant believes there is probable cause for the issuance of a search warrant for one silver and black Motorola cell phone (V265, HEX: 1E1A3568) to be issued for violations of Title 21 USC 841 & 846.

10. The aforementioned facts do not include every fact known to the Affiant, only that which is sufficient to establish probable cause.

I declare under penalty of perjury that the facts contained herein are true and correct to the best of my information and knowledge.

  
David Howell, Special Agent  
Drug Enforcement Administration

SWORN and SUBSCRIBED to before me  
this 1st day of July, 2008

  
Alan C. Torgerson  
United States Magistrate Judge