

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

United States District Court

SEP 13 2008

DISTRICT OF New Mexico

In the Matter of the Search of

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

908 Sunbird RD SW
ALBUQUERQUE, NEW MEXICO
(See Attachment A)

MATTHEW J. DYKMAN

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

CASE NUMBER:

08-MR-363

I SA David Smith

being duly sworn depose and say:

I am a(n) Special Agent

and have reason to believe

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

in the District of New Mexico

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

See Attachment B

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(a)(1), (b)(1)(C), and 846

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

See attached affidavit.

Continued on the attached sheet and made a part thereof:

☒ Yes ☐ No

SA David Smith *David Smith*
Signature of Affiant

Sworn to before me, and subscribed in my presence,

13 SEP 08
Date

at Albuquerque, New Mexico
City and State

W. DANIEL KENNEDY US MARSHAL
Name and Title of Judicial Officer JUDGE

W. Daniel Kennedy
Signature of Judicial Officer

AFFIDAVIT OF DEA SPECIAL AGENT DAVID SMITH

I, Special Agent David Smith, United States Department of Justice, Drug Enforcement Administration (DEA), being first duly sworn state as follows:

Introduction

1. This Affidavit is in support of an application for a search warrant for **908 Sunbird Road SW, ALBUQUERQUE, NEW MEXICO, (BERNALILLO COUNTY)**, as fully described in Attachment A.
2. I am currently investigating the distribution of marijuana by Filimon MANTILLA and associates in Albuquerque, NM. The facts and information set forth in this Affidavit are based upon my personal knowledge obtained during this investigation, conversations with other officers, and other documents and records obtained as a result of this investigation.

Affiant's background

3. I have been employed by the United States Department of Justice, Drug Enforcement Administration (DEA) since September 2004. Prior to employment with the DEA, I was employed as a Special Agent for the Internal Revenue Service, Criminal Investigation (IRS-CI). During this time I have accumulated the following training and experience:
 - (a) I graduated from the DEA Academy (Quantico, Virginia). I received approximately 500 hours of specialized narcotics-related training. The training included controlled substance identification, narcotics-related investigative techniques, interview and interrogation training, preparation of search warrants, tactical applications of narcotics enforcement, surveillance and electronic

monitoring techniques, money laundering investigations and various forensic subjects including latent fingerprint collection and analysis.

(b) As a DEA agent, I have participated in investigations targeting individuals and organizations trafficking heroin, cocaine, cocaine base ("crack"), marijuana, methamphetamine and other controlled substances as defined of Title 21 United States Code Section 801.

(c) Prior to becoming an IRS agent, I graduated from the Criminal Investigators Training Program. I received ten (10) weeks of general investigation and techniques, and an additional sixteen (16) weeks of training which specialized in money laundering and criminal tax law.

Case background/relevant facts

4. In March 2007, the DEA Albuquerque District Office started an investigation into the drug trafficking activities of Filimon MANTILLA in the Albuquerque, NM area. The investigation is ongoing and being worked jointly with other DEA Offices in Tulsa, OK, and Indianapolis, IN. Agents learned that Filimon MANTILLA resided in Albuquerque, NM, and was the leader of a major marijuana distribution network importing marijuana from the Republic of Mexico to Albuquerque, NM, and then distributing the marijuana in New Mexico, Oklahoma and Indiana. To date, over 1500 pounds of marijuana and over \$140,000 has been seized from the MANTILLA Drug Trafficking Organization (DTO) as a direct result of this investigation. Since March 2005, agents have also been able to document eleven marijuana seizures totaling over 3400 pounds of marijuana which are related to the MANTILLA DTO.

5. On August 13, 2008, at approximately 12:10 PM, during a Court authorized interception of TARGET TELEPHONE #3 (505-353-7350), call #710 was intercepted between MANTILLA and his two sons, Cesar MANTILLA and Omar MANTILLA. MANTILLA asked Omar MANTILLA where "that was that Vianey (SANDOVAL)¹, got yesterday." Omar MANTILLA informed MANTILLA that it was at his Aunt Bola's house. MANTILLA asked Omar MANTILLA where exactly, and then told Omar MANTILLA to go over to his Aunt Bola's house and he (MANTILLA) will meet them (Cesar and Omar) there.
6. During the course of this investigation, investigative agents have determined that Vianey SANDOVAL is a money launderer and money courier for the MANTILLA DTO. In call #710, on August 13, 2008, when MANTILLA asked Omar MANTILLA where "that was that Vianey (SANDOVAL) got yesterday" is, I believe that MANTILLA was asking Omar MANTILLA where the US Currency that Vianey SANDOVAL got the previous day was stored. Omar MANTILLA informed MANTILLA that it was at Aunt Bola's house. MANTILLA then told Omar MANTILLA to meet him at Aunt Bola's house. At approximately 12:20 PM, agents observed MANTILLA, Omar MANTILLA, Cesar MANTILLA and an unknown male meeting at 908 Sunbird Road SW, Albuquerque, NM. Therefore, I believe that when Omar MANTILLA referred to Aunt Bola's house, Omar MANTILLA was talking about 908 Sunbird Road SW, Albuquerque, NM. Based on call #710 and

¹ During this investigation, agents have been in contact with Immigration and Customs Enforcement and have reviewed MANTILLA's immigration file. MANTILLA indicated in the immigration file that Vianey MANTILLA-SANDOVAL is MANTILLA's sister.

surveillance, I believe that the MANTILLA DTO stores bulk amounts of US Currency at Aunt Bola's house, 908 Sunbird Road SW, Albuquerque, NM.

7. I believe that "Aunt Bola" is Maria ENRIQUEZ because MANTILLA, Cesar MANTILLA, and Omar MANTILLA referred to meeting at "Aunt Bola's" house and shortly thereafter Filimon, Omar and Cesar all met at 908 Sunbird Road. On August 13, 2008, surveillance officers observed Omar MANTILLA, Cesar MANTILLA, and MANTILLA all meet at 908 Sunbird Road, Albuquerque, NM immediately after call #710 was intercepted. Filimon MANTILLA had to go to "Aunt Bola's" house to get some of the US Currency that had been picked up by SANDOVAL.
8. Bernalillo County records indicate that 908 Sunbird Road SW, Albuquerque, NM, is owned by Maria ENRIQUEZ. Accordingly, I believe that Maria ENRIQUEZ is MANTILLA's sister.
9. On June 22, 2004, Maria ENRIQUEZ purchased a 2004 Cadillac Escalade from Galles & Davis Motor Company. The total purchase price of the Escalade was \$55,925. As a down payment, ENRIQUEZ paid \$9,900.00² in US Currency. In the purchase contract for the Escalade, ENRIQUEZ listed an address of 908 Sunbird Road SW, Albuquerque, NM.
10. Based on my experience in this investigation, I know that Irving ENRIQUEZ is Maria ENRIQUEZ's son. On May 15, 2006, Irving ENRIQUEZ purchased a 2002 Chevrolet Avalanche from Cross Country Auto Sales. The total purchase price of the

² Based on my training and experience, the affiant knows that it is common practice for individuals involved in narcotics trafficking to conduct business with large amounts of currency. Affiant also knows that when conducting monetary transactions with US Currency, individuals involved in drug trafficking will use less than \$10,000 in currency to avoid governmental reporting requirements, such as currency transaction reports.

vehicle was \$19,350. Irving ENRIQUEZ listed an address of 908 Sunbird Road SW, Albuquerque, NM. On May 15, 2006, Irving ENRIQUEZ made a down payment on the Chevrolet Avalanche with \$9,450 US Currency. The remaining balance of \$9,900 was paid on May 19, 2006, with a cashier's check in the amount of \$9,900. This cashier's check was purchased on May 15, 2006, with \$9,900 US Currency. On June 23, 2006, Adrian Michael Lopez was arrested driving the Chevrolet Avalanche purchased by Irving ENRIQUEZ. Lopez was arrested for possession with intent to distribute approximately 269 pounds of marijuana that was located concealed inside of the Chevrolet Avalanche that he was driving.

11. Agents have observed SANDOVAL at the 908 Sunbird Road SW residence and believe that 908 Sunbird Road SW is currently SANDOVAL's residence. Based on my knowledge of this investigation, I believe that 908 Sunbird Road SW is utilized as a stash house for currency for the MANTILLA DTO. MANTILLA has utilized SANDOVAL to run money loads several times throughout the investigation. For example, on August 5, 2008 and August 6, 2008, agents intercepted telephone conversations, (Call # 4 from TARGET TELEPHONE #4 and call #'s 186 and 188 from TARGET TELEPHONE #3) that indicate that Vianey SANDOVAL traveled to Tulsa, OK, to pick up bulk cash from co-conspirator Troy SALLIS. Additionally, on June 24, 2008, agents intercepted a series of telephone calls in which MANTILLA instructed SANDOVAL to deposit US Currency into a Bank of America account.
12. Based on my training and experience, and on my consultation with other law enforcement officers experienced in investigations regarding conspiracy to

manufacture, distribute, and possession with intent to distribute controlled substances,

I have learned the following:

- a. Individuals involved in illegal trafficking of controlled substances often conceal evidence of their drug trafficking in their residences, garages, carports and outbuildings. They also conceal evidence in vehicles, including vehicles outside of their residences, so that they have ready access to it and so that they can hide it from law enforcement, including law enforcement officers executing search warrants at their residences. This evidence, which is discussed in detail in the following paragraphs, includes drug paraphernalia, paraphernalia for weighing, packaging, and distributing drugs, other contraband, records and evidence of drug transactions, proceeds from drug sales, and valuables obtained from proceeds.
- b. Individuals involved in drug dealing commonly use certain paraphernalia to package and prepare controlled substances for distribution. The paraphernalia includes packaging materials (such as plastic baggies, wrapping paper, cellophane, condoms, and film canisters) and scales to weigh controlled substances. Even after drugs are sold, these items are kept available for use in future drug trafficking activity. Drug dealers commonly store these items on their person, in their residences, in their vehicles, and in other areas to which they have ready access.

- c. Drug dealers often maintain records of their transactions in a manner similar to the record keeping procedures of legitimate businesses. Even after the drugs are sold, documentary records often remain for long periods of time, even years, to memorialize past transactions, the status of accounts receivable and accounts payable, and the names and telephone numbers of suppliers, customers, and co-conspirators. These records can be maintained on paper, in the form of business and personal ledgers and diaries, calendars, memoranda, pay-owe sheets, IOU's, miscellaneous notes, money orders, customer lists, and telephone address books.
- d. These records can reflect names, addresses and/or telephone numbers of associates and co-conspirators, the sale and purchase of controlled substances, customer lists, and amounts of money owed to the trafficker by his customers, and by the trafficker to his suppliers.
- e. Records often indicate locations and distribution points of controlled substances, and the purchase of materials, supplies and articles used by the trafficker and co-conspirators in the distribution of controlled substances.
- f. Records frequently include the identification of properties such as real property or vehicles owned, rented, leased, controlled, or otherwise utilized by the trafficker and his co-conspirators in the distribution of controlled substances. These records include

property rental and ownership records such as deed of trust and lease and purchase agreements, and vehicle registration, rental and ownership information.

- g. These items are stored by drug dealers on their person, in their residences and surrounding garages, outbuildings, carports, yards and cars.
- h. Drug dealers often travel *domestically and internationally* to facilitate their trafficking. Evidence of foreign and domestic travel by persons engaged in illegal drug trafficking includes travel itineraries, airline tickets, receipts related to travel such as rental car receipts, fuel receipts and hotel receipts, and passports and visas and their contents. These items are stored by drug dealers on their person, residences and surrounding garages, outbuildings, carports, yards and cars.
- i. Drug traffickers often use storage facilities for drugs and other items related to trafficking that are at a location away from their residences. These off-site storage facilities are often commercial storage lockers and rooms. These locations are often used to store or hide drugs, contraband, money, and other valuables. Drug traffickers often keep documents and other items tending to show the existence of other stored drugs, contraband, money, and other valuables in areas such as storage. Those documents and other items include rental agreements, receipts, keys, notes, and maps

specifically concerning off-site storage rooms, lockers, and safety deposit boxes. This evidence may be found on their person, residences and surrounding garages, outbuildings, carports, yards and cars.

- j. Other evidence of transportation, ordering, possession, and sale of drugs can include the following: telephone bills to show numbers called by the drug dealers (and hence potential associates), overnight mail receipts, bank statements, deposit and withdrawal slips, savings books, investment statements, loan statements, other financial institution statements, and federal and state tax returns.
- k. The above items are stored by drug dealers on their person, residences and surrounding garages, outbuildings, carports, yards and cars.
- l. Drug dealers usually sell their product for cash. Because pound quantities can sell for thousands of dollars even at the wholesale level, dealers typically may have thousands of dollars in cash on hand both as proceeds of sales and to purchase their own supplies. In addition, drug dealers often have other assets generated by their drug business, or purchased with cash earned, such as precious metals and stones, jewelry, real estate, vehicles, and other valuables.
- m. Individuals involved in drug dealing often try to legitimize these profits from the sale of drugs. To accomplish these goals, drug

traffickers utilize foreign and/or domestic banking institutions and their attendant services, real estate and businesses, both real and fictitious. They also try to secrete, transfer, and conceal the money, by (a) placing assets in names other than their own to avoid detection while maintaining control, (b) laundering money through what appears to be a legitimate business or businesses, (c) hiding the money in their homes, safes, and safety deposit boxes, or (d) using the money to buy assets which are difficult to trace. This evidence is useful in a criminal prosecution, and it also is useful in identifying real and personal property that can be seized and forfeited by the government under existing laws.

- n. Evidence of significant, unexplained income of drug dealers, or for the acquisition and concealment of money and assets of drug sales, can be found on banking and investment account statements, credit card account statements, canceled checks, money orders, deposit slips, check and savings books, business and personal ledgers, accounting records, safe deposit box records and keys, federal and state tax records, rental receipts, rental agreements, utility bills, overnight mail receipts, telephone bills, loan statements records reflecting ownership of real or personal property (such as deeds of trust or vehicle registration, insurance, and ownership information), vehicle and property rental records, lease and purchase agreements, and cancelled mail.

- o. The above items are typically kept by drug dealers on their person or in their residences and surrounding garages, outbuildings, carports, yards and cars.
- p. Often, telephone answering machines are used to take messages. The incoming messages can provide evidence of drug trafficking and the identity of associates while the outgoing message can provide evidence of who controls the telephone line.
- q. Documents showing who owns, occupies, or controls the location being searched also show who is responsible for the items found on the premises, including contraband and other evidence seized. Documents and items showing the identity of the persons owning, residing in, or controlling the area being searched include, but are not limited to, utility and telephone bills, canceled envelopes and correspondence, outgoing answering machine messages, tax returns, keys, deeds, and mortgage receipts.
- r. Drug dealers often take, or cause to be taken, photographs and/or videos of themselves, their associates, their property, and their drugs. They usually maintain these photographs and/or videos on their person or in their residences or cars.
- s. Drug dealers often maintain firearms and ammunition on their person or in their homes, or cars to protect themselves and their drugs and their drug profits. They also may maintain indicia of firearms such as receipts for firearms and ammunition, boxes for


firearms and ammunition, and instruction manuals and other documentation for firearms and ammunition.

- t. As discussed above, drug dealers often conceal evidence of drug dealing in vehicles outside of their residences for ready access and to prevent detection and seizure by officers executing search warrants at their residences. This evidence, which is discussed in detail in the preceding paragraphs, includes indicia such as packaging, documents and evidence tending to show the distribution of narcotics (such as IOU's, pay-owe sheets, ledgers, lists of names and numbers, telephone address books, et cetera).

Conclusion

13. Based upon the totality of the facts set forth in this Affidavit, there is probable cause to believe that evidence of narcotics distribution offenses, as further described in Attachment B, will be found at 908 Sunbird Road SW, Albuquerque, NM, as fully described in Attachment A to this Affidavit. I respectfully request the issuance of a search warrant, authorizing any agent of the Drug Enforcement Administration, with the assistance of other law enforcement officers, to enter and search the premises of the property described in Attachment A for items more particularly described in Attachment B, all of which are evidence of and fruits and instrumentalities of violations of Title 21 United States Code Section 841.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.



David Smith
Special Agent
Drug Enforcement Administration

Sworn and subscribed to before me

this 13th day of September, 2008



United States Magistrate Judge

ATTACHMENT A

PREMISES TO BE SEARCHED

908 Sunbird Road SW, ALBUQUERQUE, NM

The premises to be searched consist of a single-story residence which is the second house south of the corner of Sunbird Road SW and Sunburst Road on the east side of the street. The residence is a peach/light tan-colored stucco building with a white-colored garage door. The front door to the residence faces west. There are iron bars on the windows on the west side of the residence. The numbers 908 are posted in black above the garage which faces west. A photograph of the residence is attached to Attachment A.

The premises to be searched also include all vehicles located at the premises deemed to be involved. These vehicles include, but are not limited to, a silver Jeep Liberty with a temporary license plate from Oklahoma.



ATTACHMENT B

Items To Be Seized

1. Records of Money Laundering and drug records, in particular, ledgers, drug transactions, account books, notes, names and/or code names or nicknames and/or identifying information reflecting customers, amounts of drugs bought and sold, amounts of money paid, owed or collected and all appointment calendars.
2. Large amounts of U.S. currency, financial instruments, precious metals, jewelry and other items of value and/or proceeds of drug transactions.
3. Any and all drug customer lists, dealers lists, or any notes *containing the individual names* of such persons, telephone numbers and/or addresses of these customers or dealers and any corresponding records of accounts receivable, money paid or received, drugs supplied or received, or cash received to pay for controlled substances or intended to pay for controlled substances.
4. Telephone and address books or notes containing telephone numbers and addresses of co-conspirators.
5. Indications of ownership or control of these premise and/or other premises used in unlawful drug trafficking activity, including but not limited to, utility bills, cancelled checks, or envelopes and deeds or leases.
6. Indications of ownership or control over any vehicles located at the place to be searched, including but not limited to, titles, registration, gas receipts, repair bills and keys belonging to that vehicle.
7. Any and all paging devices, cellular phones and bills or receipts relating to the leasing/renting of the paging devices and cellular telephones.
8. Records, receipts, bank statements and records, money drafts, letters of credit, money orders and cashier's checks received or sent, passbooks, bank checks, safe deposit box key(s), vault key(s), safes and other items evidencing the obtaining, secreting and/or concealment, and or expenditures of money.
9. Any and all financial or other instruments evidencing placement of assets in the names other than the names of the drug traffickers themselves.
10. Records, receipts, diaries, notes ledgers, airlines tickets, cashier's checks, money orders and other papers relating to the transportation, ordering, sale and distribution of controlled substances and the outstanding debts and collections from controlled substances that have been distributed;
11. Photographs or video movies of Filimon MANTILLA, Filimon MANTILLA Jr., Elvia MANTILLA, Cesar MANTILLA, Vianey SANDOVAL, Maria ENRIQUEZ and their co-conspirators and the property and assets purchased with drug proceeds.
12. Other financial records which may include bus tickets receipts, credit card receipts, rental car receipts and luggage tags reflecting points of travel.
13. Firearms and ammunition, including but not limited to handguns, rifles, shotguns and automatic weapons.

DEA

CASE FILE: FILIMON ENRIQUEZ MANTILLA

CASE: MM-07-0119

PHONE: 505-353-7350

CALL: 710

DIRECTION: INCOMING

NUMBER: IMSI=316010159214456

SUBSCRIBER: NEXTEL

DATE: AUGUST 13, 2008

TIME: 12:10:54 - 12:11:42

TRANSCRIBED BY: JG

REVIEWED BY: TM

PARTICIPANTS: FILIMON ENRIQUEZ MANTILLA aka FILI, MORO

CESAR MANTILLA

OMAR MANTILLA

NOTATIONS: [U/I] = UNINTELLIGIBLE

[PH] = PHONETIC

CONVERSATION WAS HELD IN SPANISH.

ITALICIZED TEXT WAS SPOKEN IN ENGLISH.

[BEGINNING OF CALL]

MANTILLA: Hey. [ASIDE: That way.]

[BACKGROUND: UM: [U/I]]

MANTILLA: [ASIDE: Yeah, if not...here at the light...at the light...at the light..at the light. It's logical...]

CESAR: [U/I]...

MANTILLA: Uh...Cesar. Where is Omar?

CESAR: He's here with me.

MANTILLA: Put him on.

OMAR: What's up?

MANTILLA: Where is that... that your Aunt Vianey got yesterday?

OMAR: It's there at my Aunt Bola's house.

MANTILLA: Where at exactly... or go over to your Aunt Bola's house... go over there right away... I'm on my way there now.

OMAR: Okay. Dad.

[END OF CALL]