

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

United States District Court

MAY 24 2007

Judicial

DISTRICT OF

New Mexico

MATTHEW J. DYKMAN
CLERK

UNITED STATES OF AMERICA
V.

Norman Washington BERRY

CRIMINAL COMPLAINT

CASE NUMBER: 07-MJ-1108

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or May 23, 2007 in McKinley County, in the Judicial District of New Mexico defendant(s) did, (Track Statutory Language of Offense) knowingly possess with intent to distribute one hundred (100) kilograms or more of marijuana.

in violation of Title 21 United States Code, 841 (a) (1), 841(b) (1) (B)

I further state that I am a(n) Task Force Officer and that this complaint is based on the following facts:

Official Title

facts:

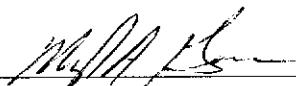
See Attached Affidavit

Reviewed and Approved by AUSA Jim Tierney

Continued on the attached sheet and made a part

Yes No

TFO Mizel A. Garcia
Signature of Complainant

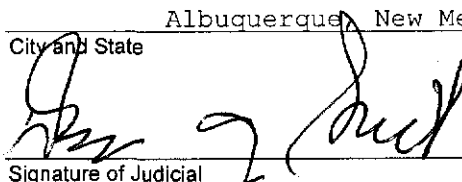


Sworn to before me, and subscribed in my presence,

Thursday, May 24, 2007
Date

at Albuquerque, New Mexico
City and State

Don J. Svet, U.S. Magistrate Judge
Name and Title of Judicial Officer


Signature of Judicial

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Mizel A. Garcia, being duly sworn do hereby depose and swear as follows:

I am employed as a Task Force Officer with the Drug Enforcement Administration (DEA) currently assigned to the Albuquerque District Office, Albuquerque, New Mexico.

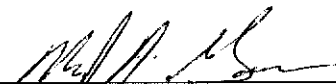
This affidavit is made in support of a criminal complaint being filed against Norman Washington BERRY, and charging him with violating Title 21 USC 841(a)(1), 841(b)(1)(B), to wit: possession with intent to distribute one hundred kilograms or more of marijuana.

On May 23, 2007, Motor Transportation Division K-9 Officer Hermilio Lucero was conducting inspections at the Port of Entry in Gallup, New Mexico. At approximately 6:40 am, while Officer Lucero was conducting inspections, a blue 2007 Freightliner tractor with Georgia license plate IC29W2 driven by Norman Washington BERRY entered the Port of Entry. Officer Lucero asked for BERRY's logbook. Officer Lucero stated that BERRY handed Officer Lucero the logbook. Officer Lucero noticed that BERRY had spent about a day and a half in Phoenix, AZ. BERRY advised Lucero that he was heading to Massachusetts with a load of cantaloupes. Officer Lucero asked BERRY when BERRY had picked up the load. BERRY responded that he picked up the cantaloupes on Monday night. Officer Lucero noticed that BERRY had not logged the shipper on his log book, which is required by Federal Law (395.8). BERRY had also not logged down the total miles driven which is also required by Federal Law (395.8). Officer Lucero had BERRY drive around to Inspection Bay #2 for a Level Two Safety Inspection. Among other requirements, a Level Two Safety Inspection requires a cargo check which matches the product with the bill of lading and ensures that the cargo is

properly secured. During the cargo check, Officer Lucero observed the load of cantaloupes had shifted to the left and fallen over. Officer Lucero also observed several large boxes marked "UPS" at the rear of the trailer. Officer Lucero asked BERRY what was in the boxes. BERRY started to act in a nervous manner and relined with a crackle in his voice. BERRY responded that the items in the boxes were kitchen items and other household items he was moving from one of his residences to another residence. Officer Lucero climbed into the trailer and noted that it appeared that the entire load been moved. At this time, Officer Lucero opened one of the eight boxes marked "UPS" and observed what appeared to be bundles of illegal narcotics. At this time, BERRY was placed in custody by MTD Officer Peter Murphy. Officer Lucero and MTD Officer Murphy removed eight boxes marked "UPS" which contained thirty-three bundles of suspected illegal narcotics. Officer Lucero opened on of the bundles which revealed a green leafy substance which smelled in his training and experience as marijuana. At a later time, Officer Lucero conducted a field test of the green leafy material which tested positive for marijuana. The total weight of the thirty-three bundles was 175.25 Gross Kilograms (approximately 381 pounds).


This affidavit is submitted for the limited purpose of providing probable cause to support the attached criminal complaint. I have not set forth each and every fact learned during the course of this investigation in the above affidavit. Affiant respectfully requests the approval of this criminal complaint for Norman Washington BERRY, charging him with violating Title 21 USC 841(a)(1), 841(b)(1)(B), to wit: possession with intent to distribute one hundred (100) kilograms or more of marijuana.

FURTHER AFFIANT SAYETH NOT:



Mizel A. Garcia
Task Force Officer
Drug Enforcement Administration
Albuquerque District Office

Sworn before me on this 24th day of May, 2007



Don J. Sver
United States Magistrate Judge
New Mexico Judicial District
Albuquerque, New Mexico