

FILEDUNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

APR 28 2010

for the

District of New Mexico

MATTHEW J. DYKMAN

CLERK

United States of America
v.
Leonardo Valentino Gonzales

Case No.

10-MJ-1249

Defendant(s)

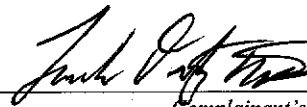
Amended
CRIMINAL COMPLAINT

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 December 21, 2008 in the county of Rio Arriba in the
District of New Mexico, the defendant(s) violated:*Code Section*18 U.S.C. Section 922 (g)(1) -
Felon in Possession of a Firearm
and Ammunition*Offense Description*

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT OF SSA Frank Ortiz III INCORPORATED HEREIN.

☒ Continued on the attached sheet.

Complainant's signature

Frank Ortiz III, ATF Senior Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 04/28/2010City and state: Albuquerque, New Mexico

Judge's signature

RICHARD L. PIQUERO

Printed name and title

AFFIDAVIT of SSA Frank Ortiz III

Your Affiant, Frank Ortiz III, being duly sworn, states that I am a sworn Senior Special Agent (SSA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), assigned to the Albuquerque, New Mexico Field Office. Your Affiant having been employed by ATF for the past twenty-five (25) years, during which time your Affiant has investigated numerous violations of the Federal criminal statutes; to include violations of the Federal firearms laws including the possession of firearms and ammunition by convicted felons and other prohibited possessors, in violation of the Federal firearms laws. Your Affiant respectfully requests that a Federal Arrest Warrant be issued for Leonardo Valentino GONZALES, based on the following facts your Affiant believes to be true and accurate:

On December 21, 2008, the Jicarilla Apache Police Department (JAPD) received information from a victim of an aggravated assault with a deadly weapon, reporting that Leonardo Valentino GONZALES also known as (AKA) "Tino" GONZALES had assaulted victim David Dean MARTINEZ on December 21, 2008, with a shotgun. According to victim David Martinez, GONZALES had pointed a shotgun at him, after Martinez had been physically assaulted by GONZALES. On December 21, 2008, it was reported to police who were taking a report from Martinez, that GONZALES had just left in his truck with the shotgun and was presently leaving the Martinez residence. On December 21, 2008, upon getting an alert over the radio that a "Tino" GONZALES had pointed a weapon at victim David Martinez, and was last seen driving past the Martinez residence and towards the police department, JAPD Sgt. Steven Martinez began to patrol the area attempting to locate GONZALES. On that date, while driving North on U.S. Highway 64, Sgt. Martinez observed GONZALES' white Ford truck heading east on Narrow gauge drive in front of the Game and Fish Department. Sgt. Martinez engaged his emergency equipment and stopped GONZALES' truck. GONZALES came out of his truck with his hands in the air, following police orders to do so. Upon being arrested, JAPD officers observed a 20 gauge shotgun and two boxes of ammunition lying beside GONZALES on the driver's side of the truck cab. Another individual who was the passenger identified as John Lucero was taken into custody by police as he was intoxicated. Sgt. Martinez documented in his report that because the aggravated assault had occurred off of the Jicarilla Apache Reservation, JAPD could not charge GONZALES with the aggravated assault against victim David Martinez. GONZALES was charged and booked for Driving Under the Influence (DUI) as GONZALES admitted to consuming alcohol and had been found operating the truck.

On April 27, 2010, your Affiant researched the criminal history of Leonardo Valentino GONZALES, date of birth (DOB) 01/14/1976. GONZALES, Federal Bureau of Investigation (FBI) number 482530CB2, was found to have been convicted in the 1st Judicial District Court in Criminal Case Number **D-0117-CR-2001-0789**, having pleaded guilty on 02/01/02 to the felony offense of Aggravated Assault Against a Household Member, a New Mexico State 4th Degree Felony Conviction, contrary to and in violation of NMSA 1978, Section 30-3-13A (1995).

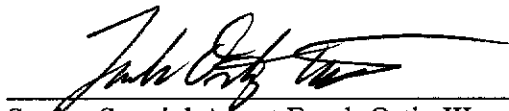
On April 28, 2010, your Affiant spoke with Steven Martinez about any additional detail he could remember about his arrest of Leonardo Valentino GONZALES on December 21, 2008. Martinez related that after he had retrieved the 20 gauge shotgun from GONZALES' truck and secured it as evidence, GONZALES claimed ownership of the shotgun.

On April 28, 2010, your Affiant spoke with Jicarilla Apache Police Department Investigator Alan Tafoya, who examined the firearm seized from GONZALES on December 21, 2008. Investigator Tafoya identified the firearm as a SAVAGE, model STEVENS 9478, 20 gauge, shotgun, **serial number E493393**. Tafoya stated that the firearm had Westfield, Massachusetts stamped on it as the place of manufacture. Your affiant verified that this firearm was manufactured by the Savage Arms Corporation; Westfield, Massachusetts, this firearm having been shipped and transported in Interstate Commerce.

On April 28, 2010, your affiant examined three (3) black and white copies of photographs of this firearm taken by the Jicarilla Apache Police Department, and determined that the firearm appears to be a functioning firearm as defined in Chapter 44, Title 18, U.S.C., Section 921 (a) (3) (A) (B) as the firearm is a weapon which will or is designed to or may be readily converted to expel a projectile by the action of an explosive; and contains the receiver of any such weapon.

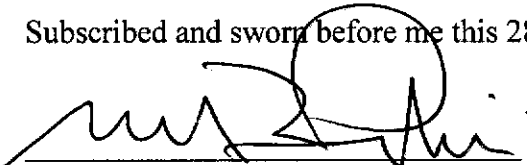
On April 28, 2010, your Affiant spoke with Jicarilla Apache Police Department Investigator Alan Tafoya, who examined the ammunition found in the possession of Leonardo Valentino GONZALES and identified the ammunition to be two (2) boxes containing twenty (20) WINCHESTER 20 gauge cartridge ammunition. Your Affiant determined that Winchester-Western Cartridge Company; East Alton, Illinois manufactured twenty (20) WINCHESTER 20 gauge cartridge ammunition, this cartridge ammunition having been shipped and transported in Interstate Commerce. The description examination further determined that the WINCHESTER ammunition is ammunition as defined in Chapter 44, Title 18, U.S.C., Section 921 (17) (A) as the ammunition contain cartridge cases, primers, bullets and propellant powder designed for use in the SAVAGE shotgun.

Therefore Your Affiant believes that there is probable cause for the Federal arrest of Leonardo Valentino GONZALES, who possessed a 20 gauge, shotgun and ammunition in violation of **Title 18, U.S.C., Section 922 (g) (1)**.



Senior Special Agent Frank Ortiz III
Bureau of Alcohol, Tobacco, Firearms & Explosives

Subscribed and sworn before me this 28th day of April, 2010.



United States Magistrate Judge
District of New Mexico