

UNITED STATES DISTRICT COURT

for the

Judicial District of New Mexico

United States of America)
v.)
Andres Garcia)
Defendant)

Case No.

10-MJ-884

FILED At Albuquerque NM

MAR 29 2010

MATTHEW J. DYKMAN CLERK

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 of 03-27-2010 in the county of McKinley in the Judicial District of New Mexico, the defendant violated Title 21 U.S.C. § 841 (a)(1), 841 (b)(1)(A), an offense described as follows:

knowingly possess with intent to distribute five or more kilograms of cocaine.

This criminal complaint is based on these facts:

See attached affidavit.

This Criminal Complaint has been reviewed and approved by AUSA James Braun.

[X] Continued on the attached sheet.

Nicholas Sanders signature

Nicholas Sanders, TFO Printed name and title

Sworn to before me and signed in my presence.

Date: 3/29/10

City and state: Albuquerque, New Mexico

Alan C. Torgerson signature Alan C. Torgerson U.S. Magistrate Judge Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Nicholas Sanders, 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 Andres GARCIA-GARCIA, and charging him with violating Title 21 USC 841(a)(1), 841(b)(1)(A), to wit: possession with intent to distribute five (5) kilograms or more of cocaine.

On March 27, 2010, Motor Transportation Division Inspector Kenneth Homer was doing inspections at the Port of Entry in Gallup, New Mexico. At approximately 3:45 pm, while Inspector Homer was doing inspections, a white Freightliner belonging to Desert Sun Logistics licensed in Arizona entered the Port of Entry through the Pre Pay Pass. The Desert Sun Logistics Freightliner was randomly flagged for an inspection through the Pre Pay Pass system. Inspector Homer instructed the driver to drive to an inspection Bay, because the Inspection Selection System (ISS) requested an inspection be done. Inspector Homer began the inspection of the Freightliner in Bay #1 at the Port of Entry in Gallup, New Mexico. Bay #1 includes a walk in pit that allows Officer Homer to inspect the undercarriage of the Freightliner. Inspector Homer noticed a lowered floor of the sleeper cab area. Inspector Homer knew through his training and experience this meant the sleeper was lower on the inside. Inspector Homer contacted Motor Transportation Division Patrolman James Smid for additional assistance. Patrolman Smid further inspected the area of the Freightliner. Patrolman Smid could see black overspray that showed from the new compartment to the old floor


of the sleeper. Patrolman Smid asked the driver, identified as Andres GARCIA-GARCIA, if he could look inside the sleeper. GARCIA-GARCIA agreed and Patrolman Smid was able to see weld marks under the bunk in the sleeper. Patrolman Smid told GARCIA-GARCIA that he observed what he believed to be a compartment under the sleeper. At this time GARCIA-GARCIA was leaning up against a wall, with arms crossed. GARCIA looked away from Officer Smid and stated "YEAH". Patrolman Smid then asked for consent to search the tractor and trailer for anything illegal. GARCIA-GARCIA agreed and was provided a consent to search form to which he read and signed. Patrolman Smid moved several items in the sleeper area and was able to locate a hinged door leading into the false compartment. Patrolman Smid opened the compartment and was able to see grey duct taped bundles. Patrolman Smid recognized this packaging to be consistent with the means on transporting bulk contraband. Patrolman Smid cut into one of the bundles and was able to see a white powdery substance that is consistent with powder cocaine. Patrolman Smid field tested one of the bundles and obtained a positive reaction for the presence of cocaine. Patrolman Smid continued to search the compartment and located fifty-two (52) bundles of cocaine with a total weight of 114.4 pounds (approximately 52 kilograms).

Immediately following his arrest in Gallup, New Mexico, GARCIA-GARCIA asked to speak with a lawyer. While at the ADC, SA David Smith, as witnessed by SA Kevin Small, was explaining to GARCIA-GARCIA that he was facing mandatory minimum of ten years due to the amount of cocaine in his possession. SA Smith then explained that he would see a Judge on Monday morning and the Judge would explain his charges and possible penalties. GARCIA-GARCIA then asked SA Smith if he could plead guilty and start serving his sentence on Monday.

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

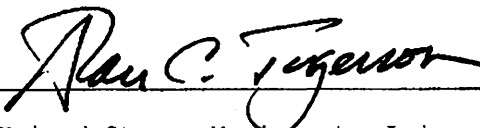
fact learned during the course of this investigation in the above affidavit. Affiant respectfully requests the approval of this criminal complaint for Andres GARCIA-GARCIA, charging him with violating Title 21 USC 841(a)(1), 841(b)(1)(A), to wit: possession with intent to distribute five (5) kilograms or more of cocaine.

FURTHER AFFIANT SAYETH NOT:



Nicholas Sanders
Task Force Officer
Drug Enforcement Administration
Albuquerque District Office

Sworn before me on this 29th day of March, 2010



United States Magistrate Judge
New Mexico Judicial District
Albuquerque, New Mexico