

AO 91 (Rev. 08/09) Criminal Complaint

MAR 18 2010

**UNITED STATES DISTRICT COURT**

for the  
District of New Mexico

**MATTHEW J. DYKMAN**  
CLERK

United States of America )  
v. )  
Homer Gonzales Jr. )  
)  
)  
)  
)

Case No. 10MS 765

Defendant(s)

**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 March 13, 2010 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*

SEV  
ACJA

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT OF SSA Frank Ortiz III INCORPORATED HEREIN.

Continued on the attached sheet.



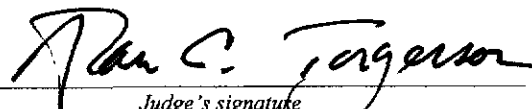
Complainant's signature

Frank Ortiz III, ATF Senior Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 03/18/2010



Judge's signature

Alan C. Torgerson

U.S. Magistrate Judge

Printed name and title

City and state: Albuquerque, New Mexico

**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, in violation of the Federal firearms laws. Your Affiant respectfully requests that a Federal Arrest Warrant be issued for Homer GONZALES Jr., based on the following facts your Affiant believes to be true and accurate:

On March 13, 2010, the Jicarilla Apache Police Department (JAPD) received a call from a citizen reporting shots fired from the window of a white Ford crew cab truck bearing New Mexico License Plate KNE-121, in the Dulce Springs area of highway U.S. 64. Upon finding this motor vehicle, JAPD police officers found Homer GONZALES Jr. to be driving the Ford truck, was observed by the officers to be in possession of a .22 caliber rifle lying beside GONZALES on the driver's side of the truck cab. During contact with police subject GONZALES stated that he was not "supposed to have a gun." Two other identified subjects that were passengers of the truck told police that GONZALES both possessed and fired the rifle. Subject GONZALES is known to be a convicted felon, having been convicted of criminal sexual felony crimes and was arrested on Felon in Possession of Firearm charges. Upon being booked into jail, thirteen (13) REMINGTON .22 LR caliber cartridge ammunition were found in the pockets of Homer GONZALES Jr.

On March 16, 2010, your Affiant traveled to the Jicarilla Apache Police Department in Dulce, New Mexico and examined and identified the firearm possessed by Homer GONZALES Jr. as a RUGER, model 10/22, .22 LR caliber, rifle, **serial number 354-49094**. The examination determined that STRUM, RUGER & Company; Newport, New Hampshire manufactured the RUGER rifle, **serial number 354-49094**. The firearm was stamped with *Newport, New Hampshire* as the place of manufacture, this firearm having been shipped and transported in Interstate Commerce.

On March 16, 2010, your Affiant test-fired the RUGER, model 10/22, .22 LR caliber, rifle, **serial number 354-49094** and found it to function as designed and to be a 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 March 16, 2010, your Affiant obtained Consent to Search for the Ford crew cab truck bearing New Mexico License Plate Number KNE-121 THAT Gonzales was driving, from Kelly A. Dedios, owner of the truck, who had lent the truck to GONZALES. During the conduct of the search, your Affiant found forty-five (45) .22 Long rifle (LR) caliber and one (1) .223 caliber cartridge ammunition. The ammunition and a pair of ear plugs were seized as evidence and placed in the custody of the JAPD evidence vault.

On March 16, 2010, your Affiant examined ammunition found in the possession of Homer GONZALES Jr. and identified the ammunition to be one hundred and six (106) REMINGTON .22 LR caliber cartridge ammunition and one (1) REMINGTON .223 caliber cartridge ammunition. The examination determined that Remington Arms Company Incorporated; Lonoke, Arkansas manufactured the one hundred and six (106) REMINGTON .22 LR caliber cartridge ammunition and the one (1) .223 caliber cartridge ammunition, this cartridge ammunition having been shipped and transported in Interstate Commerce. The examination further determined that the REMINGTON 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 RUGER rifle.

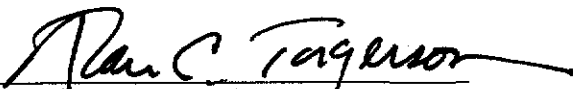
*Jev*  
*Ann* On March 17, 2010, your Affiant researched the criminal history of American Indian male Homer GONZALES Jr., date of birth (DOB) 02/10/1982. GONZALES, Federal Bureau of Investigation (FBI) number 697303XB0, was found to have been convicted in U.S. District Court in and for the District of New Mexico in Criminal Case Number **02CR 2041**, having pleaded guilty on April 8, 2003 to the felony offense of Sexual Abuse, contrary to and in violation of 18 U.S.C. Section 2242 (2)(B) and 18 U.S.C. Section 1153 Crime in Indian Country.

Therefore Your Affiant believes that there is probable cause for the Federal arrest of Homer GONZALES Jr., who possessed a RUGER .22 LR caliber rifle 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 18<sup>th</sup> day of March, 2010.



United States Magistrate Judge  
District of New Mexico