

October 16, 2009

at

Albuquerque, New Mexico

Date

City and State

Alan C. Torres U.S. Magistrate Judge
U.S. Magistrate Judge



Name & Title of Judicial Officer

Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

1 UNITED STATES OF AMERICA)
2)
3 VS.)
4)
5 Anthony J Mirabal)
6 Year of birth: 1980)
7 SSAN: XXX-XX-4720)

8 Kevin A Garner
9 Year of birth: 1988
10 SSAN: XXX-XX-2761

11 David Aguilar
12 Year of birth: 1980
13 SSAN: XXX-XX-8781

14 AFFIDAVIT

15 I, the undersigned, being duly sworn, hereby depose
16 and state as follows:

17 1. I am a Special Agent (SA) of the Federal Bureau of
18 Investigation (FBI) and have been employed in that capacity
19 since September of 2008. I am currently assigned to the
20 Albuquerque Division and have primary investigative
21 responsibilities in major crimes and federal violations. The
22 information set forth in this affidavit has been derived from
23 my own investigation or communicated to me by other sworn law
24 enforcement officers or from other reliable sources.

25 2. On or about October 15, 2009, Detective Danny
26 Porter, an Albuquerque Police Detective, now assigned to
27 the Middle Rio Grande Narcotics Task Force (Region 1 Narcotics
28 Task Force) obtained information from a Confidential Human

1 Source (CHS) concerning the illegal trafficking of cocaine by
2 Anthony J Mirabal (MIRABAL).

3
4 3. On or about October 15, 2009, members of the Region
5 1 Narcotics Task Force conducted surveillance in the vicinity
6 of 603 Smith Street SE, Albuquerque, New Mexico 87106. At
7 approximately 8:06 p.m., the surveillance team observed a
8 silver Chevrolet Cavalier arrive at 603 Smith Street SE. Four
9 males exited the vehicle, one of the males carrying a black in
10 color backpack, met with an Undercover Detective inside of the
11 residence.

12
13 4. Once inside the residence, the Undercover Detective
14 observed one male, later identified as Kevin A Garner
15 (GARNER), stood guard and took a position at the front door of
16 the residence. Another male, later identified as David
17 Aguilar (AGUILAR), stood guard and took a position at the rear
18 door of the residence. While MIRABAL and an unidentified male
19 proceeded to the rear of the residence to conduct a drug
20 transaction with the Undercover Detective.

21
22 5. Thereafter, the Undercover Detective observed
23 MIRABAL lay the black backpack on a table, took two white
24 brick-like substances out of the backpack and placed them on
25 the table. MIRABAL tested one of the white brick-like
26 substances in the presence of the Undercover Detective.

1
2 6. Once the Undercover Detective observed the white
3 brick-like substance being tested, he gave the arrest signal
4 for the members of the Region 1 Task Force to make entry into
5 the residence.

6
7 7. As the arrest team made entry into the residence,
8 GARNER went to the ground and surrendered. MIRABAL and the
9 unidentified male attempted to flee the scene but was
10 apprehended at the rear of the residence. AGUILAR fled
11 through the back door and was later apprehended approximately
12 one hundred yards from the residence.

13
14 8. Upon the search of GARNER, he informed the arrest
15 team that he was armed with a loaded handgun in his front left
16 pocket. Detectives searched GARNER and removed a silver and
17 black, Smith and Wesson, 9 millimeter handgun from his front
18 left pocket. Detectives took possession of the handgun and
19 rendered it safe.

20
21 9. Upon the search of AGUILAR, detectives found a
22 silver and black, Smith and Wesson, 9 millimeter handgun
23 located in AGUILAR's front waistband. Detectives took
24 possession of the handgun and rendered it safe.

25
26 10. Inside the residence, detectives located two white,
27 brick-like substances next to the backpack on the table.
28 Based on the training and experience of the arrest team

1 officers, the white brick-like substances were consistent with
2 what is commonly referred to as cocaine.

3

4 11. At that time, MIRABAL, GARNER, AGUILAR and the
5 unidentified male were placed under arrest.

6

7 12. Detective Danny Porter field tested the two white
8 brick-like substances and both tested positive for the
9 presence of cocaine. The white brick-like substances weighed
10 approximately 1075.1 grams and 1064.4 grams respectively.

11

12 13. Based on the information set forth in this
13 affidavit, your affiant submits that there is probable cause
14 to believe that ANTHONY J MIRABAL, KEVIN A GARNER and DAVID
15 AGUILAR did possess and intend to distribute a controlled
16 substance; to wit, cocaine base, did attempt or conspire to
17 distribute a controlled substance as described more fully
18 above, in violation of Title 21 U.S.C. 841(a)(1) and
19 (b)(1)(B), Title 21 U.S.C. 846 and Title 18 U.S.C. 924(c).

20 I swear that this information is true and correct to
21 be best of my knowledge.

22


MICHAEL DANIEL TALBERT SR.
Special Agent,
Federal Bureau of Investigation

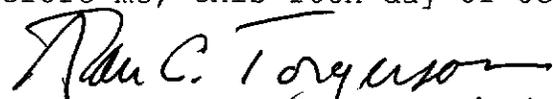
23

24

25 Subscribed to and sworn to
before me, this 16th day of October 2009

26

27


UNITED STATES MAGISTRATE Judge
Albuquerque, NM

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