

FILEDUNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

JUL 28 2010 *ll*

for the

District of New Mexico

MATTHEW J. DYKMAN
CLERK

United States of America)

v.)

Case No. *10MJ2106*

Jaroslaw KOWALCZYK)

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 July 21, 2010 in the county of Bernalillo in the
 District of New Mexico, the defendant(s) violated:*Code Section**Offense Description*

8 USC 1324(a)

Alien Smuggling

This criminal complaint is based on these facts:

Jaroslaw KOWALCZYK transported two undocumented Polish nationals from Chicago, Illinois to Albuquerque, New Mexico to facilitate fraudulent procurement of New Mexico driver's licenses in exchange for \$1,000.00 per person. This act constitutes a violation of Title 8, United States Code, Section 1324a. See Attachment "A" incorporated reference herein.

☒ Continued on the attached sheet.*Alton E. Hightower**Complainant's signature*

Alton Hightower, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

*July 28, 2010**Lorenzo F. Garcia**Judge's signature*

City and state:

Albuquerque, New Mexico*Printed name and title*LORENZO F. GARCIA
United States Magistrate Judge

ATTACHMENT "A"

AFFIDAVIT IN SUPPORT OF WARRANT OF ARREST

I, Alton E Hightower, being duly sworn, hereby declare and state as follows:

I am a Special Agent employed by Immigration Customs Enforcement (ICE), Homeland Security Investigations, Office of Resident Agent in Charge, Albuquerque, New Mexico. I have more than seven years experience as a federal law enforcement agent. I have successfully graduated from several law enforcement academies including ICE Special Agent Training, Criminal Investigation Training Program, and the United States Border Patrol Academy. I have successfully earned a Bachelor of Science degree in Criminal Justice Administration. I have investigated variety of cases including those involving alien smuggling and document fraud.

The following information relating to the arrest of Jaroslaw KOWALCZYK is personally known to me based on my own investigation, training and experience, including my review of investigative reports, or has been related to me by other individuals, including law enforcement officers involved in the investigation. Based on the following information, there is probable cause to believe that Jaroslaw KOWALCZYK transported aliens within the United States, knowingly or in reckless disregard to the fact that the aliens remained in the United states in violation of law, which is a violation of Title 8 United States Code §1324(a).

Summary of Investigation

Recent joint investigations conducted by Immigration and Customs Enforcement (ICE), Resident Agent in Charge, Albuquerque, New Mexico (RAC/AL) and State of New Mexico, Taxation and Revenue Department, Tax Fraud Investigations Division (NMTFID) have identified numerous schemes by which undocumented immigrants are being smuggled to Albuquerque, New Mexico from various states to obtain driver's licenses by falsely claiming New Mexico residency. The State of New Mexico will currently issue a driver's license to foreign nationals without regard to immigration status. The state of New Mexico does, however, require that applicants reside in New Mexico in order to be issued a driver's license. Residents of New Mexico are required to present two documents to substantiate their residency within the state. Recent fraud schemes investigated by RAC/AL have involved a smuggler transporting an undocumented alien or aliens to New Mexico in order to fraudulently obtain a driver's license. Under most circumstances, the smuggler will then assist the undocumented alien obtain local lease agreements, local bank accounts and/or insurance documents to substantiate residency.

RAC/AL and NMTID have arrested a significant number of undocumented aliens who have been present in Albuquerque, New Mexico fraudulently obtain New Mexico driver's licenses. Recent arrests have involved citizens of Mexico, Poland, Brazil, Ecuador, El

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Salvador and Guatemala. Smuggled individuals have consistently used their true identities. The majority have been domiciled in Georgia, Florida, New York and Illinois.

On July 21, 2010, NMTFID Special Agent (SA) Larry Gilbert was contacted on his cellular telephone by Piotr STELMACH. STELMACH explained that his friend Rafal MARZEC was having problems obtaining a New Mexico driver's license at the New Mexico Motor Vehicles Division office (MVD), located at 4575 San Mateo, NE, Albuquerque, New Mexico. STELMACH advised SA Gilbert that there was a problem with the "stamp" on MARZEC's birth certificate, but claimed that the birth certificate was good.

NMTFID SA Shaun Ward and Larry Gilbert responded to the aforementioned MVD location and made contact with Rafal MARZEC, date of birth February 18, 1983, and STELMACH, date of birth December 31, 1961. MARZEC and STELMACH agreed to speak with SAs Ward and Gilbert. SA Ward interviewed STELMACH while SA Gilbert interviewed MARZEC in separate rooms.

The following paragraphs is includes a summary of statements that STELMACH made to SA Ward during her interview.

After initially claiming to have arrived in New Mexico on his own, STELMACH admitted that he had arrived with the help of Jaroslaw KOWALCZYK. STELMACH explained that KOWALCZYK brought both he and MARZEC from Chicago to Albuquerque, New Mexico to obtain New Mexico driver's licenses. KOWALCZYK had taken both STELMACH and MARZEC around Albuquerque to secure residency documents. STELMACH stated that he had agreed to pay KOWALCZYK \$1,000.00 for his assistance in obtaining a New Mexico driver's license. The \$1,000.00 would be paid after STELMACH had obtained his temporary license. STELMACH said the person waiting for him in the lobby was KOWALCZYK. STELMACH called KOWALCZYK after he read an advertisement in a Polish newspaper. STELMACH did not recall the name of the newspaper, however, he said that KOWALCZYK's phone number was listed in the ad (773-865-0194). STELMACH stated that he did not know MARZEC prior to their trip to Albuquerque New Mexico. STELMACH also admitted that once they received their driver's license they would be returning to Chicago.

The following paragraph is includes a summary of statements that MARZEC made to SA Gilbert during his interview.

MARZEC identified the man that brought them to Albuquerque, New Mexico as Jaroslaw KOWALCZYK. MARZEC said that KOWALCZYK goes by the name of "Jarek" and that he took them to the motel and drove them to the MVD office. MARZEC said that KOWALCZYK told him and STELMACH that they would have to pay him \$1,000.00 each to be brought to New Mexico to obtain the driver's license. MARZEC said that KOWALCZYK took them to the insurance office to purchase auto insurance and to the property leasing office to rent an apartment. MARZEC said that KOWALCZYK also

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took them to Turner's Driving School to take the written and driving test. MARZEC said that KOWALCZYK lives in Chicago, Illinois.

Upon SA Gilbert's completion of his interview of MARZEC, SA Ward conferred with SA Gilbert and compared the information derived from interviews of MARZEC and STELMACH. SA Ward then asked MARZEC about the newspaper where he obtained information he used to contact KOWALCZYK. MARZEC wrote the name of the newspaper that ran the ad: *Dziennik Zwaizkowy – Polish Daily News*. MARZEC stated the newspaper is printed weekly and the ad listed KOWALCZYK's phone number: 773-865-0194. MARZEC said that he and STELMACH responded to the ad, agreed to pay the \$1,000.00, and made arrangements to ride with KOWALCZYK to Albuquerque, New Mexico.

SAs Gilbert and Ward determined that KOWALCZYK was still in the MVD lobby where he was waiting for MARZEC and STELMACH. SA Gilbert located KOWALCZYK in the lobby and advised KOWALCZYK that agents wanted to speak with him. SAs Ward and Gilbert met with KOWALCZYK in the MVD conference room where they identified themselves and informed KOWALCZYK that they wanted to ask him some questions about the two individuals whose documents agents had been reviewing. KOWALCZYK agreed to speak with agents.

SA Ward asked KOWALCZYK how much he charged MARZEC and STELMACH to bring them to New Mexico to obtain a driver's license. KOWALCZYK initially claimed that MARZEC and STELMACH were his friends and denied charging them any money. KOWALCZYK eventually stated that MARZEC and STELMACH would each pay him \$1,000.00. When asked how he knew MARZEC and STELMACH, KOWALCZYK replied that he had advertised in the newspaper two to three times.

TNMTFID Special Agents asked KOWALCZYK who else was involved in the scheme, as NMTFID has detected a recent involving Polish nationals coming to New Mexico using the same motel, apartment company and insurance companies used by KOWALCZYK. KOWALCZYK stated he was the driver and has been paid \$150 for every person that he brought to New Mexico. KOWALCZYK said that the remaining \$850 went to "Alexander" also known as "Alex", last name unknown (LNU). KOWALCZYK further stated that Alex (LNU) also paid for KOWALCZYK's cell phone, gas and for the ad in the newspaper. KOWALCZYK stated the car he drove to Albuquerque is his father's car, a silver Nissan Maxima, bearing Illinois tag, G31-3862). KOWALCZYK stated that he believes that he is the only driver working for Alex (LNU). KOWALCZYK stated he has come to New Mexico five to six times with three to four Polish nationals on each trip to obtain driver's licenses.

Based on the interviews, NMTFID agents determined that the three individuals were involved in a conspiracy to fraudulently obtain New Mexico driver's licenses. New Mexico Department of Public Safety Sgt. Rey and Officer Michael Champion arrested the MARZEC, STELMACH and KOWALCZYK. The three subjects were charged with:

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Forged License 66-5-18 (C); Forgery 30-16-10 A (1) B ; and Conspiracy 30-28-2B(3). The three subjects were booked into the Albuquerque Metropolitan Detention Facility.

On July 22, 2010, SA Ward contacted the Dziennik Zwaizkowy – Polish Daily News and spoke with the Supervisor of the Classified Department. SA Ward faxed a request to the newspaper requesting any information on the ad listing the telephone number 773-865-0194.

On July 23, 2010, Pluzyczka confirmed that 22 ads were purchased beginning on January 15, 2010 until July 1, 2010. The ads were all purchased by Jaroslaw KOWALCZYK, 1313 Webford, Des Plaines, Illinois 60016. KOWALCZYK paid with a credit card. Pluzyczka stated the ad was in Polish, however, she translated the advertisement as follows: "Drivers license in the State of New Mexico. Social security not necessary. 100% guarantee. 773-865-0194".

On July 22, 2010, Immigration and Customs Enforcement, Office of Enforcement and Removal, Immigration Enforcement Agent (IEA) Mathew Salcido encountered and interviewed MARZEC, STELMACH, and KOWALCZYK at the Albuquerque Metropolitan Detention Facility. Based on the results of the interview, IEA Salcido determined that the three were natives and citizens of Poland who were not in possession of immigration documents allowing them to be or remain in the United States legally.

MARZEC and STELMACH are natives and citizens of Poland who last entered the United States with legitimately issued visitor's visa. Both subjects stayed beyond their permitted period of admission and established residency in the United States, in violation of the terms of their admission. MARZEC and STELMACH are both currently aliens unlawfully present in the United States. MARZEC and STELMACH travelled from Chicago, Illinois to Albuquerque, New Mexico to obtain a driver's license in order to further their illegal presence in the United States. KOWALCZYK transported MARZEC and STELMACH from Chicago, Illinois to Albuquerque, New Mexico in anticipation of receiving financial gain with gross disregard to the fact that MARZEC and STELMACH are unlawfully present in the United States.

Conclusion

Based upon the foregoing information contained in this affidavit, your affiant has probable cause to believe that Jaroslaw KOWALCZYK transported aliens in violation of Title 8, United States Code, § 1324(a). Prosecution of KOWALCZYK was approved by Assistant United States Attorney Norman Cairns.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NOT.

Atan Knightman
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Alton E. Hightower

Special Agent
Immigration and Customs Enforcement

Subscribed and sworn before me this 28 day of July 2010, at 8:54 hours.

Lorenzo F. Garcia

United States Magistrate Judge

LORENZO F. GARCIA
United States Magistrate Judge