

AO 91 (Rev. 9/01) Criminal Complaint

UNITED STATES DISTRICT COURT

for the District of New Mexico

FILED U.S. DISTRICT COURT DISTRICT OF NEW MEXICO

2009 DEC 16 AM 8:58

CLERK-LAS CRUCES

UNITED STATES OF AMERICA v. Luis Alberto GUTIERREZ-CARDENAS

Case No. 09-3475 MJ

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief that,

On or about the date of 12/15/2009 in the county of Hidalgo in the State and District of New Mexico, the defendant violated, 21 U.S.C. § 841 & 846 and 8 U.S.C. § 1326 (b)(1), an offense described as follows:

unlawfully, knowingly and intentionally possess with intent to distribute, 270.2 pounds (122.8 Kilograms), of Marijuana a Schedule 1 controlled substance: and did unlawfully, knowingly and intentionally combine, conspire and confederate and agree with one another (and with other persons) to possess with intent to distribute the same:

did knowingly and unlawfully re-enter the United States, being an alien, who had been previously arrested and deported from the United States, subsequent to being convicted of a Felony, to wit: Assault with a Deadly Weapon:

This criminal complaint is based on these facts:

[X] Continued on the attached sheet.

Matthew Wlodarczak Complainant's signature

Matthew Wlodarczak Special Agent Printed name and title

Sworn to before me and subscribed in my presence,

Date: 12/16/2009

Lourdes Martinez Judge's signature

Lourdes A. Martinez

City and state: Las Cruces, New Mexico

United States Magistrate Judge Printed name and title

United States of America

V.

Luis Alberto GUTIERREZ-CARDENAS

On December 14, 2009, at approximately 2245 hours, Lordsburg Border Patrol (BP) Agents De La O and Hector Gonzalez were on McCarty road on all terrain vehicles when they encountered northbound foot tracks of several individuals. At approximately 2300 hours BP Agent Reed saw approximately six individuals about 2 miles east of mile marker 23 ½ of New Mexico Highway 80 with the assistance of RICON. Shortly thereafter, agents responded and proceeded towards the subjects on foot. Agent Reed advised BP agents on foot that the subjects were getting ready to run. As the agents approached, the subjects took off running in different directions. BP agents apprehended one individual under some brush approximately 2 miles east of mile marker 23 ½ of New Mexico Highway 80. BP agents indentified themselves and questioned the subject as to his citizenship. A field interview and later at the Lordsburg BP Station the subject was identified as Luis Alberto GUTIERRES-CARDENAS a citizen and national of Mexico in the United States illegally. In proximity to GUTIERRES-CARDENAS apprehension and by retracing his foot prints BP Agents encountered six backpacks wrapped in burlap, a marijuana packaging method consistent with that of other Marijuana seizures made by Lordsburg BP.

Upon returning to the Lordsburg, New Mexico, BP Station agents reported to your affiant that on further inspection of the backpacks they discovered 14 bundles wrapped in brown tape. The 14 bundles weighed 270.20 pounds and contained a green leafy substance which was subsequently field tested positive for marijuana.

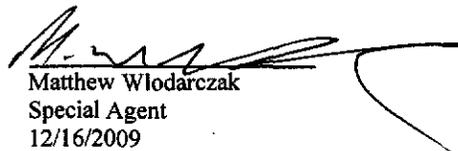
On December 15, 2009, your affiant went to the Lordsburg BP Station and took samples for laboratory testing from the 14 bundles. Your affiant, based upon seven years of law enforcement experience, observed that the samples were consistent in both appearance and odor with marijuana. Your affiant obtained documents from BP Agents identifying the subject apprehended as Luis Alberto GUTIERRES-CARDENAS.

Your affiant examined the records provided by the BP Agents. According to the records, after having been given his Miranda warning in Spanish, Luis Alberto GUTIERRES-CARDENAS stated that he agreed to participate in the smuggling scheme to transport six burlap backpacks containing marijuana from Agua Prieta, Sonora, Mexico to an unknown location on Interstate 10 near Forks Road, in New Mexico. In exchange for transporting marijuana Luis Alberto GUTIERRES-CARDENAS was to be smuggled to Los Angeles to reside with his wife and four U.S.C. children. Luis Alberto GUTIERRES-CARDENAS said he had been traveling approximately four days prior to his arrest.

Your affiant examined computerized records of Luis Alberto GUTIERRES-CARDENAS. Using finger print records obtained by BP, your affiant was able to verify that Luis Alberto GUTIERRES-CARDENAS had been deported to Mexico via El Paso, Texas, on July 25, 2008, subsequent to a conviction in the Superior Court, Riverside, California, for Assault with a Deadly Weapon. Luis Alberto GUTIERRES-CARDENAS was convicted of that felony on April 6, 1995.



United States Magistrate Judge
12/16/2009


Matthew Wlodarczak
Special Agent
12/16/2009