

UNITED STATES DISTRICT COURT

for the

DISTRICT OF RHODE ISLAND

United States of America

v.

JOSE FUENTES, DOB 1971, Providence, RI

Defendant

Case No.

1:12 MJ 302 S

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested) JOSE FUENTES, DOB 1971, Providence, RI

who is accused of an offense or violation based on the following document filed with the court:

- Indictment, Superseding Indictment, Information, Superseding Information, Complaint, Probation Violation Petition, Supervised Release Violation Petition, Violation Notice, Order of the Court

This offense is briefly described as follows:

Felon in possession of a firearm, in violation of 18 U.S.C. § 922(g), and distribution of heroin, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

Date: 10/15/2012

Issuing officer's signature

City and state: Providence, Rhode Island

Patricia A. Sullivan, U.S. Magistrate Judge

Printed name and title

Return

This warrant was received on (date) and the person was arrested on (date) at (city and state)

Date:

Arresting officer's signature

Printed name and title

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DOB 1971
Providence, RI
Defendant

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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 10/12/2012 in the county of in the District of Rhode Island, the defendant violated 18 U.S.C. § 922(g), an offense described as follows:

Felon in possession of a firearm, in violation of 18 U.S.C. § 922(g), and distribution of heroin, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

This criminal complaint is based on these facts:

See attached affidavit of Special Agent Christian Jardin, Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Continued on the attached sheet.

Complainant's signature

Christian Jardin, Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: 10/15/2012

Judge's signature

City and state: Providence, Rhode Island

Patricia A. Sullivan, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT

I, Christian Jardin, being duly sworn, depose and say:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"). I am assigned to ATF's Providence office. I have been a Special Agent with ATF since 2001. Based on my training and experience as an ATF Special Agent, I am familiar with federal firearms and narcotics laws. As an ATF Special Agent, I have been involved, either as lead agent or as a member of an investigative team, in numerous investigations of firearms offenses and narcotics offenses.

2. This Affidavit is submitted in support of a criminal complaint charging Jose FUENTES (FUENTES), born in 1971, with a last known address in Providence, Rhode Island, with the following offenses:

- a. being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g), and,
- b. distribution of heroin, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

3. The facts contained in this affidavit come from my personal observations, my training and experience, and information obtained from other law enforcement agents and/or witnesses. This affidavit does not set forth all of my knowledge or all information known to law enforcement agents about this matter.

4. FUENTES criminal history includes the following Rhode Island Superior Court convictions:

- a. On August 26, 2009, FUENTES was convicted of one count of conspiracy to violate the controlled substances act and two counts of distribution or possession with intent to distribute narcotics counts. The Court sentenced FUENTES to a total term of ten years, with eighteen months to serve and 102 months suspended. The Court also placed FUENTES on 102 months of probation (P2-2009-2590A).
- b. On January 24, 2007, FUENTES was convicted of entering with the intent to commit a felony and was sentenced to a term of ten years, with two years to serve and eight years suspended. The Court also placed FUENTES on eight years of probation (P2-2006-3897B).
- c. On August 31, 2006, FUENTES was convicted of possession of a controlled substance and sentenced to a term of two years, with three months to serve and twenty-one months suspended. The Court also placed FUENTES on twenty-one months of probation (P2-2006-1731A).
- d. On January 13, 2006, FUENTES was convicted of felony larceny and sentenced to a term of three years, with five months to serve and the balance of thirty-one months suspended. The Court also placed FUENTES on thirty-one months of probation (P2-2005-3381A).

e. On March 22, 1996, FUENTES was convicted of felony assault and was sentenced to a term of six years suspended/probation (P2-1995-0519A).

5. On October 12, 2012, FUENTES met with ATF Special Agent Joseph Robitaille, who was acting in an undercover capacity, in a parking lot located on Plainfield Pike in Cranston, Rhode Island. The meeting occurred in Special Agent Robitaille's vehicle. FUENTES entered the vehicle and sat in the front seat. During the meeting, Special Agent Robitaille showed FUENTES a Bryco, .380 caliber, semi-automatic pistol (serial number 332861). FUENTES told Special Agent Robitaille "that shit's beautiful". Special Agent Robitaille explained to FUENTES that the firearm was a .380 and did not have a safety. FUENTES asked Special Agent Robitaille if he had bullets for the firearm. Special Agent Robitaille responded in the affirmative and informed FUENTES that the ammunition was located in the trunk of the vehicle.

6. FUENTES took possession of the firearm from Special Agent Robitaille and in turn FUENTES handed Special Agent Robitaille one hundred dollars in United States currency and one gram of suspected heroin. Soon after FUENTES took possession of the firearm he was placed into custody by ATF Special Agents. The meeting between Special Agent Robitaille and FUENTES was recorded (audio and video).

7. Following his arrest, I advised FUENTES of his *Miranda* rights. FUENTES waived those rights and agreed to speak with me. During the course of his statement, which was audio recorded by me, FUENTES admitted that he sold heroin and stated that he wanted the gun because he was recently shot at and robbed. FUENTES explained that he got involved in a dispute with one of his heroin customers, during which the customer pulled out a gun. A struggle ensued between FUENTES and the customer and the gun went off. FUENTES told me that he now needed a gun to protect himself. FUENTES further acknowledged that he had just purchased a firearm from Special Agent Robitaille in exchange for one hundred dollars and a gram of heroin.

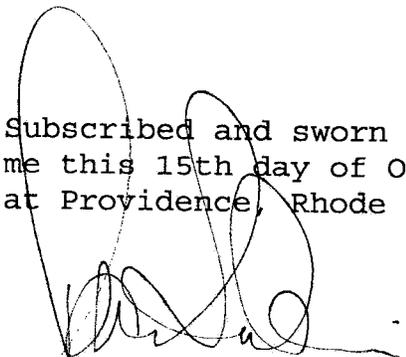
8. Special Agent Robitaille conducted a field test of a sample of the suspected heroin handed to him by FUENTES. That test resulted in a positive indication for the presence of the controlled substance heroin. Special Agent Robitaille determined the gross weight of the heroin to be one gram.

9. ATF Special Agent Kevin McNamara, who has received specialized training regarding the manufacture of firearms, examined the Bryco, .380 caliber, semi-automatic pistol (serial number 332861) that was recovered from FUENTES. Based upon his experience and training, Special Agent McNamara determined that it was a firearm as defined by federal statute and that it had been manufactured outside of the State of Rhode Island.



CHRISTIAN JARDIN  
Special Agent  
Bureau of Alcohol, Tobacco and Firearms

Subscribed and sworn to before  
me this 15th day of October, 2012,  
at Providence, Rhode Island

  
PATRICIA A. SULLIVAN  
United States Magistrate Judge