

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT
for the
District of New Mexico

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

MAR 25 2020

MITCHELL R. ELFERS
CLERK

United States of America
v.

William WESTFALL

Case No.

20-MJ-986

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 May 9th, 2019 in the county of Bernalillo in the
District of New Mexico, the defendant(s) violated:

Code Section 18 U.S.C §§ 922(g)(1) and 924 Offense Description Felon in possession of a firearm

This criminal complaint is based on these facts:

Please see attached affidavit

Continued on the attached sheet.

[Signature]

Complainant's signature

Paul Montoya, FBI Task Force Officer

Printed name and title

TELEPHONICALLY ELECTRONICALLY
Sworn to before me and signed in my presence.

Date: 3/25/20

City and state: Albuquerque, New Mexico

[Signature]

Judge's signature

Steven C. Yarbrough, US Magistrate Judge

Printed name and title

**Affidavit In Support Of Criminal Complaint & Arrest Warrant**

I, Paul Montoya, being duly sworn, depose and say:

1. I am a Detective with the Bernalillo County Sheriff's Office (BCSO) and have been a law enforcement officer for eight years. I am currently assigned as a Task Force Officer with the Federal Bureau of Investigation (FBI) Violent Crime Task Force (VCTF), where I investigate armed repeat offenders and federal drug and firearm offenses.

2. This affidavit is submitted in support of a criminal complaint and arrest warrant charging WILLIAM WESTFALL (WESTFALL) with being a felon in possession of a firearm and ammunition in violation of 18 U.S.C. §§ 922(g)(1) and 924.

**Relevant Criminal History:**

3. In 2010, WESTFALL shot a Bernalillo County Sheriff's Deputy and was convicted of aggravated battery with a deadly weapon and aggravated assault with a deadly weapon (2-counts), Bernalillo County Case No. D202CR201004434. WESTFALL was sentenced to state prison as a result of his conviction.

**Statement of Probable Cause:**

4. In March of 2020, I was assigned follow-up investigation into a matter involving WESTFALL being in possession of a firearm. By way of background, on May 9, 2019, BCSO patrol deputies responded to the area of 1901 Five Points SW in Albuquerque, New Mexico, due to reports of a hit-and-run accident involving a motorcycle. Deputies were provided with an update indicating the offender had possibly left the scene and was northbound on Five Points Road SW. Deputy Walker responded to the scene of the crash and observed property damage to a fence. The property owner told Deputy Walker a male motorcycle rider had crashed into her fence and then tried to restart his motorcycle and flee. The motorcycle would not start and the rider, along with a second motorcyclist, pushed their motorcycles northbound from the scene.

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5. Meanwhile, Deputy Levison located the two motorcyclists and the presumed riders standing around a black pick-up truck in the parking lot of 562 Atrisco SW, which is about a quarter mile from the crash site. As Deputy Levison approached the parking lot, the two men got into the truck. Deputy Levison activated his emergency lights and illuminated the truck with a spotlight. Deputy Levison noted the occupants of the truck moving around rapidly. Deputy Levison contacted the occupants of the vehicle (four men) and requested they roll down their windows. While speaking with the driver, Deputy Levison smelled a strong odor of alcohol coming from within the truck. Deputy Levison also noted one of the motorcycles on scene had front-end damage and he suspected it had been involved in the earlier hit-and-run crash. Additional deputies arrived on scene and noted the damaged motorcycle's engine was hot and the damage to the motorcycle looked recent. The damaged motorcycle, license NM526071, was registered to WESTFALL, who was one of the passengers in the truck.

6. As deputies looked at the damaged motorcycle, they noted the occupants of the truck to moving about and appear nervous. Deputies requested the occupants of the vehicle exit the truck to enhance officer safety, as well as check the men for injuries related to the motorcycle crash. As the subjects exited the truck, Deputy Candelaria observed two pistols inside the truck. The driver of the truck, RLG, was subsequently arrested and the truck was impounded. During a search of the truck, the following firearms were located within:

- a. Springfield XD-40, serial number GM166048 (located in coat on the rear seat)
- b. Smith & Wesson M&P .45, serial number HVT4439 (located in front of truck under folding seat/console)
- c. Ruger P90 .45, serial number 660-25835 (located under driver's seat)

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- d. .38 Mag Revolver, serial number 1743247 (located inside Bandidos vest on rear seat)
- e. Springfield XD-40, serial number XD439967 (located in rear pocket of the front passenger seat)
- f. Glock 23 .40, serial number EKM643US (located near lock box in the center console)

7. Deputies on scene interviewed all occupants of the vehicle, to include WESTFALL. BCSO Detective Donald Hix responded to the scene to assist with the investigation. WESTFALL was read his Miranda Rights and agreed to speak with deputies. WESTFALL said he had been involved in a motorcycle crash earlier in the evening and denied knowledge of any firearms being inside the truck. Detective Hix spent a little more time speaking with WESTFALL, and, during their conversation, WESTFALL requested Hix not charge him with having a gun because he (WESTFALL) “would do ten years” for having a gun. WESTFALL asked that HIX charge him with anything but being a felon in possession of a firearm.

8. Detective Hix subsequently confirmed WESTFALL was a convicted felon and sent the firearms seized from the truck to the New Mexico Department of Public Safety Laboratory for DNA analysis. Detective Hix also obtained search warrants to collect DNA samples from the four occupants of the truck. Detective Hix served those warrants and WESTFALL complied with the search warrant.

9. On October 1, 2019, the New Mexico Department of Public Safety Laboratory issued a report indicating WESTFALL’s DNA had been identified on the Springfield XD-40.40 caliber pistol, serial number XD439967. With respect to the comparative analysis, the laboratory concluded the probability of selecting an unrelated individual was 1 in 76 sextillion individuals.

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The laboratory also eliminated the other three samples (occupants of the truck) as sources of the major DNA profile.

**Interstate Nexus**

10. The Springfield XD-40 .40 caliber pistol, serial number XD439967, was test fired and it functioned as designed. As such, I believe the pistol meets the federal definition of a firearm. I am aware that the Springfield XD-40 firearm, serial number XD439967, was manufactured in Croatia and imported by Springfield.

**Conclusion:**


11. Based on the information contained herein, I believe probable cause exists to charge WESTFALL with violations of 18 U.S.C. §§ 922(g)(1) and 924. This criminal complaint has been authorized by Supervisory Assistant U.S. Attorney Jack Burkhead of the District of New Mexico.

Respectfully submitted,



Paul Montoya  
FBI Task Force Officer

*TELEPHONE ONLY*  
SUBSCRIBED AND SWORN TO BEFORE ME ON MARCH 25, 2020



THE HONORABLE STEVEN C. YARBROUGH  
UNITED STATES MAGISTRATE JUDGE  
DISTRICT OF NEW MEXICO