

CBW:ps  
AO 91 (Rev. 11/11) Criminal Complaint

**UNITED STATES DISTRICT COURT**  
for the  
District of Minnesota

UNITED STATES OF AMERICA

v.

Case No. 12-mj-833-JSM

SERGIO VASQUEZ,  
a/k/a Oscar Vivar-Castillo

**CRIMINAL COMPLAINT**

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about December 6, 2012, in Hennepin County, in the State and District of Minnesota, defendant

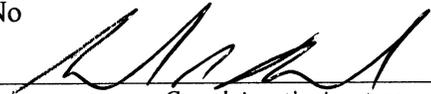
Knowingly and unlawfully re-enter the United States after deportation without having obtained the consent of the Attorney General of the United States, or his successor, the Secretary of Homeland Security, to reapply for admission into the United States

in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2) and Title 6, United States Code, Sections 202 and 557.

I further state that I am a Special Agent and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof:  Yes  No

  
Complainant's signature

Ricky R. Kriesel, Deportation Officer, ICE-HSCE  
Printed name and title

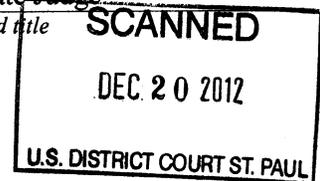
Sworn to before me and signed in my presence.

Date: 12/19/12

  
Judge's signature

City and state: St. Paul, MN

Janie S. Mayeron, U.S. Magistrate Judge  
Printed name and title



STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF RAMSEY )

**AFFIDAVIT OF Ricky R. Kriesel**

Ricky R. Kriesel, being duly sworn, deposes and states as follows:

1. I am and have been employed with Immigration and Customs Enforcement (ICE) since March of 2003. I began my career as a Detention Enforcement Officer with the Immigration Naturalization Service in July 2002. In September 2007 my position was upgraded to that of Immigration Enforcement Agent. In May 2008 I was promoted to that of Supervisory Immigration Enforcement Agent. In February 2009 I was promoted to Deportation Officer.
2. As a Deportation Officer, my duties and responsibilities include overseeing the removal proceedings of aliens. I am also responsible for making arrests of aliens, reviewing alien files (commonly known as "A-files") in connection with the detention and release of aliens in ICE custody, and making custody determinations.
3. This Affidavit is based on my training, experience, personal knowledge, discussions with other law enforcement officers and agents directly involved in this investigation, and my review of official reports and documents related to this investigation.
4. This Affidavit is made for the purpose of establishing probable cause in support of a federal arrest warrant, and therefore contains only a summary of relevant facts. Based upon all the facts and information set forth in this Affidavit, I believe that probable cause exists to support that, on or about December 4, 2012, in the city of Minneapolis, Hennepin County, in the State and District of Minnesota, Sergio VASQUEZ, a citizen and national of Mexico, unlawfully re-entered and was found in the United States after having been previously removed, without having obtained the

consent of the Attorney General or his successor, the Secretary of Homeland Security, to re-apply for admission to the United States, and that VASQUEZ's removal was subsequent to a conviction for commission of an aggravated felony, in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2) and Title 6, United States Code, Sections 202 and 557.

5. On December 4, 2012, Defendant was encountered by ICE Agent Jacob Onewokae at the Hennepin County, Minnesota Jail. VASQUEZ had been arrested by the Minneapolis Police Department on suspicion of Driving while Intoxicated. Agent Onewokae determined that Defendant was an alien present in the United States without proper immigration documents which would allow the Defendant to be in, pass through, or remain in the United States legally. ICE Agent Onewokae lodged a detainer with the Hennepin County MN Jail. On December 6, 2012 the Defendant was turned over to ICE officers pursuant to detainer and transported to the ICE office in Bloomington, MN for processing.
6. At the ICE facility, Defendant's fingerprints were rolled, scanned and electronically submitted into the Department of Homeland Security's Automated Biometric Identification System (IDENT) and the Federal Bureau of Investigations Integrated Automated Fingerprint Identification System (IAFIS). IDENT and IAFIS positively matched and linked Defendant's fingerprints to alien registration number A097 700 722, Federal Bureau of Investigations number 386138FB3, and DHS Fingerprint Identification number (FIN) 18400247, revealing Defendant's previous immigration and criminal history.

7. On or about September 17, 2003, Defendant was convicted in the Court of Common Pleas of Lackawanna County, PA Criminal Division, of Delivery of a Controlled Substance, in violation of Pennsylvania Statute 780-113a clause 30, Criminal Conspiracy Delivery of a Controlled Substance, in violation of Pennsylvania Statute 903 (a-1), and Possession of a Controlled Substance, in violation of Pennsylvania Statute 780-113a clause 16 and ordered confined for no less than 6 months and no more than 18 months imprisonment, concurrent on all counts, in Case Number 03-CR-0602.
8. Based on IAFIS and IDENT identification of Defendant's prior history, I reviewed Defendant's unique immigration alien file (hereinafter "A-file") A097 700 722. Defendant's A-file file contains photographs, fingerprints and immigration documents identifying Defendant as a citizen and national of Mexico, who has been ordered removed and physically removed from the United States to Mexico. Defendant was administratively ordered removed from the United States by an Immigration Customs Enforcement Official in York, Pennsylvania on February 16, 2006, and removed to Mexico on March 7, 2006.
9. Law enforcement has confirmed through fingerprints contained in Defendant's criminal history and immigration file that the individual named Sergio VASQUEZ, referenced in those records is, in fact, the same person who is currently in ICE custody and was encountered on December 4, 2012, by Immigration and Customs Enforcement Officers.
10. Defendant is subject to removal as an alien who re-entered the U.S. without

permission by the Attorney General or Secretary of Homeland Security as defined in INA Section 241(a)(5) codified under 8 USC 1231(a)(5). Defendant is currently detained in ICE custody as mandatory detention per INA Section 241(a)(2) codified under 8 USC 1231(a)(2) due to his illegal re-entry to the United States.

11. My investigation has revealed that Defendant is a citizen and national of Mexico who makes no claim to United States citizenship or lawful permanent residence status in the United States, nor does he have documents to enter, pass through, or remain in the United States.
12. My investigation has revealed that since his first removal from the United States on March 7, 2006, Defendant has not applied for, nor received, permission to enter the United States from the Attorney General, his successor, the Secretary of Homeland Security, or any other designated and authorized representative.
13. Based on these facts, I have reason to believe that Sergio VASQUEZ is in violation of 8 U.S.C. Section 1326(a) & (b)(2) and Title 6, United States Code, Sections 202 and 557, Re-entry after removal, in that Defendant was ordered removed, subsequently removed, and then found in the United States without consent of the Attorney General, or the Secretary of the Department of Homeland Security, following the conviction of an aggravated felony.
14. Further Your Affiant Sayeth Not.

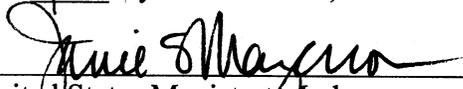


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Ricky R. Kriesel, Deportation Officer  
Immigration and Customs Enforcement

SUBSCRIBED and SWORN to Before Me

This 19<sup>th</sup> day of December, 2012.

  
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United States Magistrate Judge