
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

v.

CASE NUMBER:

JOSE M. LOPEZ,
also known as "Baby J"

UNDER SEAL

I, the undersigned complainant, being duly sworn on oath, state that the following is true and correct to the best of my knowledge and belief: On or about January 17, 2013, at Chicago, in the Northern District of Illinois, Eastern Division JOSE M. LOPEZ, also known as "Baby J," defendant herein:

having previously been convicted of a crime punishable by a term of imprisonment exceeding one year, did knowingly possess in and affecting interstate commerce a firearm, namely, an Intratec model TEC-22 .22 caliber handgun bearing serial number 048745, which firearm had traveled in interstate commerce prior to the defendant's possession of the firearm;

in violation of Title 18, United States Code, Section 922(g)(1). I further state that I am a Special Agent with the Federal Bureau of Investigation, and that this complaint is based on the facts contained in the Affidavit which is attached hereto and incorporated herein.

Signature of Complainant
MATTHEW SAUL
Special Agent, Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

July 29, 2013
Date

at Chicago, Illinois
City and State

Arlander Keys, U.S. Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

UNITED STATES DISTRICT COURT)
) ss
NORTHERN DISTRICT OF ILLINOIS)

AFFIDAVIT

I, MATTHEW SAUL, being duly sworn, state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation, and have been so employed for approximately 4 years. I am currently assigned to the FBI Chicago Field Office, Criminal Enterprise Squad. I have received training in the enforcement of federal narcotics laws. I have also been involved in a number of narcotics trafficking and gang investigations, including multiple long-term investigations.

2. This affidavit is submitted in support of a criminal complaint alleging that JOSE M. LOPEZ, also known as “Baby J,” has violated Title 18, United States Code, Section 922(g)(1). Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint charging LOPEZ with possession of a firearm by a felon, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

3. This affidavit is based on my personal knowledge, information provided to me by other law enforcement agents, my review of reports, information provided by confidential informants, consensually recorded telephone calls and in-person meetings, communications intercepted pursuant to court-authorized wiretaps, my training and experience, and the training and experience of other law enforcement officers with whom I have consulted.

4. At various points in this Affidavit, I will offer my interpretation of certain conversations in brackets. My interpretation of these conversations is based on my knowledge of the investigation to date, conversations with other law enforcement officers and agents, conversations with confidential sources, and my experience and familiarity with these types of investigations. The summaries of conversations do not include all potentially criminal conversations during this investigation, or all statements or topics covered during the course of a conversation. They do not represent finalized transcripts and may not represent the entire conversation that occurred between the identified individuals.

5. On November 28, 2012, Chief Judge James F. Holderman authorized the interception of wire and electronic communications over telephone number (773) 704-9645, bearing International Mobile Equipment Identity number ("IMEI") 354340050871146, subscribed to the name "Willy none Wonka," believed to be used by JOSE LOPEZ aka "Baby J," and operated on the network of T-Mobile ("**Target Phone 2**"). On January 2, 2013, Chief Judge Holderman authorized the continued interception of wire and electronic communications over **Target Phone 2**. Each of the calls and text messages to or from **Target Phone 2** described in this affidavit were intercepted and recorded pursuant to those Court authorizations.

6. On January 7, 2013, at approximately 8:11 p.m. (Session # 3258), LOPEZ, who was using **Target Phone 2**,¹ received an incoming phone call from Individual A. During the

¹ LOPEZ has been identified as the user of **Target Phone 2** based in part on the following: (1) law enforcement has compared the voice of the user of **Target Phone 2** to

phone call, Individual A asked, "Do you want to buy a TEC-22 [did LOPEZ want to buy a TEC-22 firearm]?" LOPEZ asked, "How much?" Individual A responded, "They said it got a 90 shot clip, TEC-22 for five bills [\$500]." LOPEZ asked, "Who, the bitch [who was selling the gun]?" Individual A stated, "Nah. Well [Individual B] said 90 shots [the gun was capable of shooting 90 rounds]." LOPEZ asked, "What brand is it [who manufactured the gun]?" Individual A stated, "Yeah, I don't know. I could tell him and shit but they want \$500 for a 90 shot TEC-22." LOPEZ stated, "You should . . . we should just get it just for the block, fuck it [they should buy the gun to be used by the Latin Saints to defend their gang territory]."² Individual A stated, "Yeah. That's a lot of shots." LOPEZ stated, "So what. Someone will use it." Individual A stated, "Let me see if he can send me a picture of it alright? Oh, I got to go over there . . . let me see . . . I'll tell him [Individual B] to send a picture of it [the TEC-22]." LOPEZ stated, "If it's a good brand I'll do it [buy it]. But if it's a stupid brand, I don't want that shit." Individual A stated, "Alright. Let me call him back. Let me text him right now."

in-person consensually recorded meetings with LOPEZ and found them to be the same voice; (2) LOPEZ has been observed by surveillance and through consensual recordings arriving at meetings at times consistent with communications intercepted over **Target Phone 2**; and (3) on November 14, 2012, law enforcement surveillance observed LOPEZ at a T-Mobile store at 4309 S. Ashland, and records from T-Mobile indicate that **Target Phone 2** was purchased at that T-Mobile store on that date.

² According to records from the Chicago Police Department, LOPEZ is a self-admitted member of the Latin Saints. Moreover, during the course of this investigation, law enforcement intercepted numerous communications wherein LOPEZ alluded to his gang affiliation and discussed acts of violence against rival gang members.

7. A short time later, at approximately 8:11 p.m. (Session # 3259), LOPEZ, who was using **Target Phone 2**, received an incoming phone call from Individual A. During the phone call, LOPEZ asked, "He send you a picture or no [did Individual B send a picture of the TEC-22 to Individual A]?" Individual A responded, "He told me he was going to get one." LOPEZ stated, "Alright." Individual A stated, "I texted him and he said alright."

8. On January 8, 2013, at approximately 12:40 p.m. (Session # 3295), LOPEZ, who was using **Target Phone 2**, received an incoming phone call from Individual A. During the call, Individual A stated, "[Individual B] called and asked what's up [did Individual A and LOPEZ want to buy the TEC-22]?" LOPEZ asked, "He's ready?" Individual A stated, "I guess he's ready. He goes to work at two [2:00 p.m.]. I told him to grab it."

9. At approximately 12:42 p.m. (Session # 3296), LOPEZ, who was using **Target Phone 2**, made an outgoing phone call to Individual A. During the call, LOPEZ and Individual A discussed using marijuana to pay for the TEC-22. Specifically, LOPEZ asked, "Do you think this boy [Individual B] would take work [drugs in exchange for the gun]?" Individual A responded, "I don't know and shit." LOPEZ stated, "It would be cheaper for me." Individual A stated, "This is that nigga that cried about that shit last time [they previously exchanged drugs for a gun and Individual B complained about it]." LOPEZ stated, "No, I'm talking about weed [LOPEZ would pay for the gun with marijuana not cocaine]." Individual A stated, "Oh, let me tell him." LOPEZ stated, "Nigga, I still got that green-green one." Individual A replied, "Okay, let me tell him . . . what like a half pound or something [they would give Individual B approximately one-half pound of marijuana for

the TEC-22]. LOPEZ responded, “Yeah. Nigga it’s still like, I’m gonna get it for fucking like” Before LOPEZ could finish his sentence, Individual A stated, “I know, I know, I know. Alright, let me call him.”

10. A short time later, at approximately 12:45 p.m. (Session # 3297), LOPEZ, who was using **Target Phone 2**, received an incoming phone call from Individual A. During the call, Individual A stated, “Dude says nobody messes with that gola and shit man . . . but if you want, he’ll take something if you throw it to him. He’s good for it [Individual B would sell drugs for LOPEZ if LOPEZ fronted the drugs to Individual B].” LOPEZ stated, “I don’t know. About how long will it take [how long would it take for Individual B to sell the drugs]?” Individual A replied, “About a week. Maybe a week and a half. He bags it up . . . all that little shit . . . but that’s for a P [pound of marijuana]. For half [one-half pound of marijuana] you could probably get it faster.” LOPEZ stated, “I’ll do it. Just give me a little bit ‘cause . . . I got to go grab it [marijuana] from ole girl’s crib later.” Individual A stated, “Yeah . . . I tell him tomorrow when we take the thing [TEC-22], when we go get it.” LOPEZ asked, “Why does he got to go to work right now?” Individual A responded, “Well at 2 o’clock. Let me see what time he’s going to grab it and if it’s before three [3:00 p.m.], . . . I’ll just tell him you’re going to go get it.” LOPEZ stated, “Alright, let me know.” Individual A replied, “Alright, I’ll call him right now.”

11. At approximately 1:48 p.m. (Session # 3298), LOPEZ, who was using **Target Phone 2**, received an incoming phone call from Individual A. During the call, Individual A stated, “[H]e said if you want, he can start heading that way.” LOPEZ asked, “Where is he?”

Over by that Mickey Ds [McDonald's] over there?" Individual A stated, "Yeah. This guy says he's got the same one . . . he said dude is on his way, so by the time you get there dude should have dropped it off already [another unknown individual would provide the gun to Individual B by the time LOPEZ arrived]."

12. At approximately 2:09 p.m. (Session # 3305), LOPEZ, who was using **Target Phone 2**, received an incoming phone call from Individual A. During the phone call, LOPEZ stated, "I'm on uh, 79th already." Individual A stated, "Alright. He said he got a case, three clips, and a half box of shells." LOPEZ responded, "Alright."

13. At approximately 2:19 p.m. (Session # 3306), LOPEZ, who was using **Target Phone 2**, made an outgoing call to Individual A. During the phone call, LOPEZ stated, "I'm in back." Individual A responded, "Go to 2C [apartment 2C]."

14. Agents concluded LOPEZ was likely in the area of 79th and Ashland based on his conversation with Individual A during Session 3305, described above in paragraph 12. A short time later, at approximately 2:51 p.m., enforcement officers from the Chicago Police Department's 9th District observed LOPEZ in a 2012 Mazda 5 near 51st and Ashland in Chicago. The officers activated the emergency lights and siren on their squad car and attempted to stop LOPEZ. LOPEZ, who was driving the car, failed to stop when the officers attempted to stop his car; instead, LOPEZ led police on a brief high-speed chase. The officers soon lost sight of LOPEZ, but found LOPEZ's car abandoned with the driver and passenger doors left open in an alley near 4509 S. Hermitage. Police who located LOPEZ's abandoned car found a black plastic high capacity .22 caliber magazine containing 30 live

.22 caliber rounds of ammunition near the center console area of LOPEZ's car. On the floor in front of the driver's seat, an officer recovered five \$100 bills. Those items have been inventoried with the FBI. The Mazda was left parked at the scene.

15. At approximately 2:57 p.m. (Session 3312), shortly after LOPEZ fled from the vehicle, he placed a call to Individual C. During the call, Individual C advised, "Hey 5-0 [the police] got the car and they are right there parked in the alley." Similarly, that same day, a few seconds later, at approximately 2:57 p.m. (Session 3313), LOPEZ received a call over **Target Phone 2** from an unknown male. The unknown male ("UM") advised that the police were "right there and on foot." The UM further stated that "Joe and Slick [nicknames for law enforcement]" were out there.

16. At approximately 3:09 p.m. (Session #3325), LOPEZ, who was using **Target Phone 2**, received an incoming phone call from Individual A. During the phone call, LOPEZ asked, "[Individual D] didn't call you?" Individual A responded, "No. What happened?" LOPEZ stated, "Nigga, I got in a sick-ass chase, I was about to turn into the Raza's [La Raza territory] with the thing [TEC-22 firearm]. Nigga, 5-O [police] chased us all sick. He [Individual D, who was a passenger in the blue Mazda 5 at the time of the chase] jumped out and ran and I took off on them all dirty nigga but I got away. I don't know where the fuck [Individual D] at." Individual A stated, "I'll try and call him right now." LOPEZ stated, "I hope he's straight [was not arrested]. He [Individual D] jumped out by Lowly's." Individual A stated, "Oh he's probably . . . he should be straight. Yeah so, did they [police] see you going in there [the location where LOPEZ and Individual D obtained the gun]?" LOPEZ

responded, "I don't think so. I left the bullets in there, halo ['halo' is a term used by members of the Latin Saints as a sort of affirmation of what is being said, similar to stating 'I swear']." Individual A asked, "He [Individual D] ran with the thing [TEC-22]?" LOPEZ responded, "Yeah, he ran with it."

17. At approximately 3:11 p.m. (Session 3328), LOPEZ received a call over **Target Phone 2** from the same UM, who advised, "There's one [police officer] on Wood and one [police officer] on Paulina."

18. On January 17, 2013, at approximately 11:43 a.m. (Session # 4171), CS-4,³ acting at the direction of law enforcement, sent a text message to LOPEZ on **Target Phone 2** for the purpose of attempting to conduct a controlled purchase of the TEC-22. The text message stated, "have u found something yet"? At approximately 11:44 a.m. (Session #

³ CS-4 has been cooperating with law enforcement since in or around October 2012. CS-4 has pled guilty to a narcotics violation previously. State authorities have advised that, between 2012 and 2013, CS-4 tested positive for cocaine on multiple occasions in violation of the terms of his/her probation. In 2013, CS-4 had his/her probation revoked and was taken into custody because of these violations. CS-4 also has violated the terms of probation by failing to appear for a court date. CS-4 has been arrested multiple times. CS-4 is cooperating in exchange for a financial benefit. Thus far, CS-4 has been paid over \$11,000 in exchange for his/her truthful cooperation, which figure includes a relocation payment and reimbursement for a cellphone. On November 30, 2012, agents intercepted CS-4 having unauthorized contact with JOSE LOPEZ. During one of the unauthorized contacts, it appeared that LOPEZ offered CS-4 a quantity of cocaine, which CS-4 refused. One of the unauthorized contacts also indicated that CS-4 was on his/her way to meet with LOPEZ without law enforcement approval. Law enforcement responded to the scene and intercepted CS-4 before he/she arrived at LOPEZ's residence. CS-4 was intoxicated and gave no reason for why he/she would be meeting with LOPEZ without law enforcement authority, but did later admit that he/she has a substance abuse problem. Law enforcement has instructed CS-4 to seek treatment for his/her substance abuse problem. CS-4 further has been advised that he/she was not to have any unauthorized contact with LOPEZ.

4172), LOPEZ sent a reply message to CS-4 stating, "A 22 tec with 2 30 shot clips." At approximately 11:46 a.m. (Session # 4173), CS-4 sent a text message to LOPEZ on **Target Phone 2** asking "For how much." A few seconds later, still at approximately 11:46 a.m. (Session # 4174), LOPEZ sent reply from **Target Phone 2** to CS-4 stating, "5 [\$500]."

19. At approximately 1:27 p.m. (Session # 4178), CS-4 placed a call to LOPEZ on **Target Phone 2** and asked, "You got that [the TEC-22]?" LOPEZ replied, "Yeah, one of my guys got it." CS-4 later asked, "You think we can do it [conduct the sale of the firearm] by five o'clock?" LOPEZ replied, "Yeah, hell yeah." LOPEZ then instructed CS-4 to "come over here by my crib." CS-4 further inquired whether LOPEZ had any clips for it. LOPEZ replied, "yeah, the two clips are full."

20. On the afternoon of January 17, 2013, law enforcement met with CS-4 in anticipation of a meeting with LOPEZ to conduct a controlled purchase of a firearm. Law enforcement searched CS-4's person for money and contraband and found none. Law enforcement provided CS-4 with \$500 for the purchase of a firearm. Law enforcement also provided CS-4 with an audio/video recording device.

21. A review of the audio/video recording from January 17, 2013, shows that CS-4 left the meeting with law enforcement and walked to LOPEZ's residence. CS-4 then went into the residence, and LOPEZ's face can be seen on the videorecording. During the meeting, LOPEZ can be heard saying, "Look at this, this thing goes like this." Around the same time, LOPEZ can be seen screwing a flash suppresser in to what appears to be the barrel of a firearm. During the meeting, LOPEZ also says, "One's a 30 shot and one's a 25

shot. I had another 30 shot but . . . I don't know where it went.” According to CS-4, during the meeting, LOPEZ placed the gun, flash suppressor, two clips, and a hard black plastic gun case into a brown plastic bag, and CS-4 gave LOPEZ \$500.

22. A review of the audio/video recording shows that CS-4 then left LOPEZ’s residence and walked back to a location where he/she met with law enforcement. When CS-4 returned from the meeting with LOPEZ, he/she had in his/her possession an Intratec model TEC-22 .22 caliber pistol bearing serial number 048745, a flash suppressor, two high-capacity magazines loaded with a total of 48 rounds of .22 caliber ammunition, and a hard black plastic gun case, all of which were inside a brown plastic bag. Law enforcement searched CS-4 for the presence of money and contraband and found none.

23. According to a criminal records check, LOPEZ has at least three prior felony convictions: (1) a felony conviction in 2007 for possession of a controlled substance; (2) a felony conviction in 2009 for aggravated battery in a public place; and (3) a felony conviction in 2010 for possession of cannabis.

24. According to a trace report conducted by the ATF, the Intratec model TEC-22 .22 caliber pistol bearing serial number 048745 was purchased from a licensed firearms dealer in Kissimmee, Florida in 2003.

25. On February 28, 2013, CS-4 placed a consensually recorded call to LOPEZ. During the call, CS-4 asked, “You think you can get another strap [gun]?” LOPEZ replied, “. . . probably, yeah. Let me see if my guy still got one I’ll see if he still has it.”

26. On March 3, 2013, CS-4 placed a consensually recorded call to LOPEZ. During the call, CS-4 asked, “You find out about that thing [gun]?” LOPEZ replied, “Yeah, I was trying to call you yesterday or the day before yesterday . . . but your phone was off . . . Well let me call my guy cause he has one a nice ass one too. Small. . . . Well let me see if he still got it.”

27. Later on March 3, 2013, CS-4 had another consensually recorded call with LOPEZ. During the call, LOPEZ stated, “Yeah, he said he’s got a 4-5 [.45 caliber handgun].” CS-4 asked, “How much?” LOPEZ responded, “Five [\$500].” CS-4 clarified, “Five?” LOPEZ replied, “Yeah, uh, it’s uh . . . Springfield Armory . . . Springfield Armory it’s a good ass one. . . .”

28. On March 6, 2013, CS-4 had another consensually recorded call with LOPEZ. During the call, they discussed a possible time to meet to conduct the gun transaction. During the call, LOPEZ stated that they should not meet until after 2:45, explaining, “He [the individual who was supplying the gun to LOPEZ] said when the kids were getting out of school is better cause there’s a lot of people outside.”

29. On March 7, 2013, in anticipation of a meeting with LOPEZ to conduct a controlled purchase of a firearm, law enforcement met with CS-4. Law enforcement searched CS-4's person for the presence of money and contraband and found none. CS-4 had another consensually recorded call with LOPEZ. During the call, LOPEZ and CS-4 agreed to meet near the intersection of 44th Street and Marshfield. Law enforcement provided CS-4 with an audio/video recording device and \$500 for the purchase of a firearm.

30. A review of the audio/video recording shows that CS-4 left the meeting with law enforcement and then walked to a residence. Law enforcement observed CS-4 meeting with LOPEZ outside of a residence in the 4400 block of South Marshfield and then approach that residence together. The audio/video recording shows that CS-4 went inside the residence with LOPEZ. Once inside the residence, LOPEZ can be seen on the videorecording holding up a firearm, and at one point LOPEZ appears to put the firearm into a brown paper bag. According to CS-4, while in the residence, LOPEZ gave CS-4 a handgun, and CS-4 gave LOPEZ \$500 as payment for the gun. The recording shows that CS-4 then left the residence and then walked back to a meeting with law enforcement.

31. When CS-4 returned from the meeting with law enforcement, he/she had in his/her possession a brown paper bag which contained a Springfield Armory ultra compact .45 caliber handgun, bearing serial number N444555.

32. The firearm was later analyzed for fingerprints, and the known fingerprints of LOPEZ were found on the gun.

33. A trace report from the ATF indicates that this firearm was manufactured by Imbel, which is a manufacturer located in Brazil. The trace report further shows that this firearm was sold at a firearms dealer in Greenville, Kentucky, in 2003.

FURTHER AFFIANT SAYETH NOT.

MATTHEW SAUL
Special Agent, Federal Bureau of Investigation

SUBSCRIBED AND SWORN to before me on July 29, 2013.

Arlander Keys
United States Magistrate Judge