

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

v.

CASE NUMBER:

ESGAEL SANCHEZ,
also known as "Negro"

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 March 7, 2013, at Chicago, in the Northern District of Illinois, Eastern Division, ESGAEL SANCHEZ, also known as "Negro," 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, a Ruger Model P95 nine millimeter handgun bearing serial number 316-44850, 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 at _____
Date

Chicago, Illinois
City and State

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

Signature of Judicial Officer

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

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 four 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 ESGAEL SANCHEZ, also known as “Negro,” 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 SANCHEZ 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, 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 interpretations of these conversations are 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.

FACTS ESTABLISHING PROBABLE CAUSE

I. SANCHEZ Sells an FM Hi-Power 9mm Handgun to a Confidential Source

5. On or about February 6, 2013, a confidential source (“CS-5”)¹ placed a

¹ CS-5 has a prior narcotics-related conviction. CS-5 also has multiple prior arrests for drug-related crimes, an arrest for knowing damage to property, and an arrest for a traffic offense. CS-5 also is facing a pending firearms-related charge in state court. Law enforcement has not provided CS-5 any benefit thus far in connection with that charge. The government previously contacted one of the state prosecutors and CS-5's attorney handling the state case to inquire whether the trial of that charge could be postponed to allow CS-5 to continue to cooperate. The federal government has explained to CS-5's attorney that while it is possible that CS-5's cooperation might be taken into account in relation to the state charge, the federal government cannot make any promises on behalf of the state prosecuting authorities, and CS-5 ultimately may receive no benefit in the state case for his/her assistance in this investigation. State authorities also have advised CS-5's attorney that the state charges will not be dropped in exchange for CS-5's cooperation, but that in the event that CS-5 is convicted, any cooperation will be made known to the sentencing judge. Thus far, CS-5 has been paid approximately in excess of \$13,000 in exchange for his/her truthful cooperation, for controlled purchases of narcotics and firearms conducted under the supervision of law enforcement, and for relocation expenses. As is described below, on February 8, 2013, acting at the direction of law enforcement, CS-5 participated in a controlled purchase of a firearm from SANCHEZ. During this transaction, SANCHEZ had a marijuana cigarette with him.

consensually recorded telephone call to SANCHEZ, who was using Sanchez Phone 1.² During this call, SANCHEZ asked, “You want to buy one [a firearm]?” CS-5 responded, “Yeah, I want to buy one.” SANCHEZ stated, “Shit, I can do [sell a firearm] between three hundred [\$300] and three-fifty [\$350].” SANCHEZ and CS-5 agreed to talk again later.

6. On or about February 7, 2013, CS-5 placed another consensually recorded telephone call to SANCHEZ, who was using Sanchez Phone 1. During this call, CS-5 asked, “Tomorrow you gonna’ have that [firearm]?” SANCHEZ stated, “They got like a, they gotta a 45 [caliber firearm].” CS-5 stated that he needed to “get some bullets, you know what I mean?” SANCHEZ stated, “We’ll probably get a nine [millimeter firearm], bro. Don’t even trip [worry]. Whatever I get for you, dog, it’s gonna’ be straight [good quality]. I got the batteries [bullets], don’t trip.” SANCHEZ and CS-5 agreed to talk again later.

7. On or about February 8, 2013, at approximately 3:29 p.m., CS-5 placed another consensually recorded telephone call to SANCHEZ, who was using Sanchez Phone 1. During this call, CS-5 stated, “I wanna’ get the toy, the 45 [caliber firearm].” SANCHEZ

During the controlled purchase, CS-5 asked to smoke the marijuana cigarette. When confronted by law enforcement about the unauthorized illegal activity, CS-5 stated that he/she did so because he/she wanted to act like he/she normally would have acted when meeting with SANCHEZ and did not want to arouse suspicion. Law enforcement admonished CS-5 that he/she was not permitted to engage in such illegal conduct.

² SANCHEZ has been identified as the user of Sanchez Phone 1 based in part on the following: (1) law enforcement has compared the voice of the user of Sanchez Phone 1 to in-person consensually recorded meetings with SANCHEZ and found them to be the same voice; and (2) SANCHEZ has been observed by surveillance and through consensual recordings arriving at meetings at times consistent with communications recorded over Sanchez Phone 1.

stated, "Alright, cool. . . . Give me, like, an hour, dog." CS-5 stated, "I'm gonna' go pick the money [for the firearm] up right now from the guy [the purchaser]." SANCHEZ stated, "Alright, cool." SANCHEZ and CS-5 agreed to talk again later.

8. On or about February 8, 2013, at approximately 4:58 p.m., CS-5 placed another consensually recorded telephone call to SANCHEZ, who was using Sanchez Phone 1. During this call, SANCHEZ stated, "I'll bring the 45 [caliber firearm], bro." SANCHEZ also confirmed that the purchase price was "350 [dollars]."

9. At approximately 5:32 p.m., CS-5 met with SANCHEZ at a beauty salon located at 4326 South Ashland Avenue in Chicago. Prior to this meeting, agents (1) outfitted CS-5 with a concealed audio and video recording device; (2) searched CS-5 for firearms, money, and contraband with negative results; and (3) gave CS-5 \$350 to use to purchase a firearm from SANCHEZ. CS-5 traveled to this meeting under constant surveillance. The video of this meeting captures SANCHEZ. During this meeting:

a. CS-5 asked, "You got it [the firearm] right here?" SANCHEZ stated, "You know Chino? On Hermitage [street]? It's [the firearm is] in the back of his crib [house]. One of his [Chino's] shorties [associates] is gonna' give it [the firearm] to you." SANCHEZ stated, "It's a ten shot nine [9 millimeter handgun]. . . . It's straight [good quality]."

b. CS-5 asked, "Go right there [to Chino's residence] or what? Give you the money?" SANCHEZ stated, "Yeah, give it [the buy money] to me and my boy is gonna'

give it [the 9mm firearm] to you. . . . You want me to go with you [to Chino's residence]?" CS-5 responded, "Yeah." SANCHEZ and CS-5 then exited the salon.

c. At approximately 5:33 p.m., agents conducting surveillance ("surveillance") observed SANCHEZ and CS-5 exit the salon, walk to a parking lot, enter a white Honda Accord ("Sanchez Vehicle 1"), and drive away from the salon. Surveillance observed SANCHEZ in the driver's seat and CS-5 in the front passenger seat.

d. SANCHEZ stated, "It's a straight strap [high quality firearm], dog. High power." SANCHEZ continued, "Just be careful, dog. It's not hot-hot [previously used in a violent crime] like that, but it's been around, you know what I'm saying?" CS-5 asked, "It's been used?" SANCHEZ responded, "Yeah, it's been used in the hood, but nobody got hurt with it, but it's been used. Just be careful."

e. "It's [the 9mm firearm is] the only shit the boys [SANCHEZ's associates] gonna' sell, dog. And I told them, they didn't even want to sell me it, and I was like, 'Man, it's for my guy, man.' And anyways, the boys got straps [other guns], man. . . . I was like, 'Mother fucker [CS-5] says he needs it.' I tried to tell them you had to take care of something."

f. CS-5 counted out the purchase money aloud, and stated, "350."

g. At approximately 5:36 p.m., surveillance observed SANCHEZ and CS-5 in Sanchez Vehicle 1 enter an alley behind the 4400 block of South Hermitage Street.

h. After entering the alley, SANCHEZ beeped the car horn three times. About one minute later, CS-5 stated, "Somebody right there. Right there in the gangway."

Right here. Up ahead, up ahead, right here.” SANCHEZ stated, “Alright man.” SANCHEZ then pulled the car over.

i. SANCHEZ and an unidentified man (“UM-1”) exchanged a brief greeting, and less than 15 seconds after he had stopped the car, SANCHEZ began to drive away. According to CS-5, UM-1 handed SANCHEZ a firearm, which SANCHEZ in turn handed to CS-5.

j. SANCHEZ stated, “It’s loaded, man.” CS-5 stated, “Yep,” and held the firearm in front of the video recording device. SANCHEZ asked, “45 [caliber firearm]? Nine [millimeter firearm]? Oh, that’s a nine, that’s a nine.” CS-5 stated, “Negro [SANCHEZ’s alias], I told you the 45,” meaning that CS-5 wanted to purchase a 45 caliber handgun. SANCHEZ stated, “No, the 45, you don’t want that shit, nigger. You don’t want that shit, man.” CS-5 asked, “Why?” SANCHEZ stated, “It’s hot [previously used in a violent crime], nigger. You don’t want that shit.” SANCHEZ stated, “That one’s [the 9 millimeter is] better than the four-five. The four-five was a cheap ass brand, nigger. That one’s a Hi-Point, nigger. That one’s better, nigger. The four-five, nigger, was a fucking Jennings [firearm brand]. I wasn’t gonna’ give you no bullshit gun. I know about straps [guns], nigger.”

k. SANCHEZ stated, “You tell that *Paisa* [Mexican, referring to the man for whom CS-5 was purportedly purchasing the firearm] like this, ‘The 45 was a piece of shit.’ This one is fucking good. It’s a HiPoint. Go to Google and type it in and it will tell you how much it’s worth it.”

10. At approximately 5:39 p.m., surveillance observed SANCHEZ and CS-5 return in Sanchez Vehicle 1 to the parking lot of the beauty salon at 4326 South Ashland Avenue. Surveillance observed CS-5 exit the car, depart the area on foot, and walk to a debriefing location where he/she met with agents.

11. Upon meeting the agents at the debriefing location, CS-5 handed the agents the firearm that he/she purchased from SANCHEZ. After examining the firearm, agents determined that it was an FM Hi-Power, Detective Model, nine millimeter handgun, bearing serial number 360559, and loaded with eight rounds of nine millimeter ammunition. Agents searched CS-5 for the presence of money and contraband and found none.

12. According to a trace report conducted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the FM Hi-Power, Detective Model, nine millimeter handgun, bearing serial number 360559 was manufactured outside the state of Illinois and had been transported in interstate commerce prior to coming into SANCHEZ's possession.

13. According to a criminal records check, SANCHEZ has at least one prior felony conviction, including a conviction in April 2005 for conspiracy to sell controlled substances to a person under 18 and the manufacture/delivery of between 30 and 500 grams of cannabis.

II. SANCHEZ Sells a Ruger 9mm Handgun to CS-5

14. On or about March 4, 2013, CS-5 placed a consensually recorded telephone call to SANCHEZ, who was using Sanchez Phone 1. During this call, CS-5 asked, "You still got those two peas? Them two straps [firearms]?" SANCHEZ responded, "I already sold one. I only got one, bro." CS-5 asked, "You only got one left?" SANCHEZ stated, "Yeah."

CS-5 stated, "I'm gonna' get [buy] it off of you by Wednesday [March 6, 2013]." SANCHEZ stated, "It's a 15 shot nine [millimeter handgun]. They want five [\$500] for it, though." CS-5 asked, "What kind [of gun] is it?" SANCHEZ stated, "A Ruger nine [millimeter]." SANCHEZ stated, "It's a 15 shot." CS-5 arranged to purchase the gun from SANCHEZ on Wednesday, March 6, 2013.

15. On or about March 6, 2013, CS-5 placed a consensually recorded telephone call to SANCHEZ, who was using Sanchez Phone 1. During this call, SANCHEZ and CS-5 agreed to push the gun purchase back to the following day.

16. On or about March 7, 2013, at approximately 3:00 p.m., CS-5 consensually recorded a telephone call with SANCHEZ, who was using Sanchez Phone 1. During this call, SANCHEZ directed CS-5 to "go to 47 and Damen gas station in like 15, 20 minutes." SANCHEZ and CS-5 then agreed to meet at 3:10 p.m.

17. After CS-5 made arrangements to meet SANCHEZ, agents (1) outfitted CS-5 with a concealed audio and video recording device; (2) searched CS-5 for firearms, money, and contraband with negative results; and (3) gave CS-5 \$500 to use to purchase a firearm from SANCHEZ. CS-5 traveled under constant surveillance to a gas station at the intersection of 47th Street and Damen Avenue in Chicago.

18. Surveillance observed CS-5 arrive at the gas station at approximately 3:10 p.m. After he/she arrived at the gas station, CS-5 called SANCHEZ. Only CS-5's side of the conversation is recorded. During this call, CS-5 stated, "Where you at? . . . Where do you want me to go? 46th and Wood? I'll walk there right now." According to CS-5, during this

call, SANCHEZ instructed him/her to meet SANCHEZ at a Church's Chicken restaurant located at the intersection of 46th Street and Wood.

19. Surveillance observed CS-5 arrive at the Church's Chicken at the intersection of 46th Street and Wood at approximately 3:15 p.m. After he/she arrived at the Church's Chicken, CS-5 saw SANCHEZ standing inside the partially open front door of the residence located at 4633 South Wood Street in Chicago. CS-5 walked under constant surveillance to the residence and approached SANCHEZ. The video captures SANCHEZ standing in the front door.

20. After arriving at the residence 4633 South Wood Street, CS-5 followed SANCHEZ up a flight of stairs to the living area of the residence. According to CS-5, there were three other men inside the residence, in addition to SANCHEZ. During this meeting:

a. As he/she ascended the stairs, CS-5 told SANCHEZ, "Count this shit. Count your money [for the purchase of the Ruger handgun]."

b. After reaching the top of the stairs, CS-5 asked, "What is it [the firearm]? You said it was a nine [millimeter] Ruger, right?" The video captures SANCHEZ as he states, "It's a Ruger, right here," and appears to hand something to CS-5 outside the view of the video recording device. Before SANCHEZ pulled away from CS-5, CS-5 stated, "Here," referring to the \$500 in buy money. CS-5 asked, "Is it [the Ruger] loaded?"

c. Referring to the buy money, CS-5 asked, "Is that five [\$500]?" SANCHEZ responded, "Yeah."

21. At approximately 3:22 p.m., surveillance observed CS-5 depart the residence at 4633 South Wood Street and walk to a debriefing location where he/she met with agents.

22. Upon meeting the agents at the debriefing location, CS-5 handed the agents the firearm that he/she purchased from SANCHEZ. After examining the firearm, agents determined that it was a Ruger Model P95 nine millimeter handgun bearing serial number 316-44850, and loaded with 12 rounds of nine millimeter ammunition. Agents searched CS-5 for the presence of money and contraband and found none.

23. According to a trace report conducted by the ATF, the Ruger Model P95 nine millimeter handgun bearing serial number 316-44850 was manufactured outside the state of Illinois and had been transported in interstate commerce prior to coming into SANCHEZ's possession.

III. SANCHEZ Sells Approximately Three Ounces of Cocaine to CS-5

24. On or about March 26, 2013, CS-5 placed a consensually recorded telephone call to SANCHEZ, who was using Sanchez Phone 1. During this call, CS-5 asked, "Is this Negro [SANCHEZ]?" SANCHEZ responded, "Yeah, dog." CS-5 asked, "Can you get me two, three white girls [three ounces of cocaine] for Thursday [March 28, 2013]?" SANCHEZ responded, "Yeah." CS-5 asked, "How much you gonna' charge me for each bitch [ounce of cocaine]?" SANCHEZ stated, "Shit, I could do 11 [\$1,100 per ounce]." CS-5 stated, "Alright. Make sure you get them three [ounces of cocaine] on the spot, by three o'clock Thursday [one March 28, 2013]." SANCHEZ stated, "Alright, cool."

25. On or about March 27, 2013, CS-5 placed a consensually recorded telephone call to SANCHEZ, who was using Sanchez Phone 1. During this call, CS-5 and SANCHEZ moved the transaction to 3:00 p.m. on “Friday,” March 29, 2013. CS-5 asked, “How much you tell me [for the cocaine purchase price]?” SANCHEZ responded, “I told you 11 [\$1,100 per ounce of cocaine].”

26. On or about March 29, 2013, at approximately 3:20 p.m., CS-5 met with SANCHEZ near 4537 South Hermitage in Chicago. Surveillance observed two men double park Sanchez Vehicle 1 on the street in front of 4537 South Hermitage, the passenger of the car exit the vehicle, and CS-5 enter the front passenger seat of the car. Prior to this meeting, agents (1) outfitted CS-5 with a concealed audio and video recording device; (2) searched CS-5 for money and contraband and found none; and (3) gave CS-5 \$3,300 to use to purchase three ounces of cocaine from SANCHEZ. CS-5 traveled to this meeting under constant surveillance.

27. Before SANCHEZ arrived, the video recording device malfunctioned, but the audio recording device continued to record. During this meeting inside Sanchez Vehicle 1, SANCHEZ stated, “You said two [ounces of cocaine], right?” CS-5 responded, “Three, dog.” SANCHEZ stated, “I thought you said two.” CS-5 then twice counted to 11 aloud, each time counting out \$1,100 for each of the two ounces of cocaine at a purchase price of \$1,100 per ounce. According to CS-5, during this meeting, SANCHEZ handed him/her a package containing what appeared to be cocaine. CS-5 then exited the vehicle, and SANCHEZ and his passenger departed to get the other ounce of cocaine for CS-5.

28. Approximately 15 minutes later, surveillance observed two men return to the street in front of 4537 South Hermitage in Sanchez Vehicle 1 and meet with CS-5. CS-5 remained outside the vehicle. According to CS-5, SANCHEZ handed him/her another package containing what appeared to be cocaine, in exchange for \$1,100 cash.

29. After this meeting, CS-5 walked under constant surveillance to a debriefing location where he/she met with agents. Upon meeting the agents at the debriefing location, CS-5 handed the agents the two packages that he/she purchased from SANCHEZ. Agents searched CS-5 for the presence of money and other contraband and found none. Agents submitted the substances contained in those packages to the DEA lab, which determined that the substances contained 61.5% purity level of cocaine hydrochloride, and weighed approximately 82.6 grams.

CONCLUSION

30. Based on the facts set forth above, there is probable cause to believe that ESGAEL SANCHEZ, 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, a Ruger Model P95 nine millimeter handgun bearing serial number 316-44850, 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).

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