

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

UNITED STATES DISTRICT COURT

for the
District of New Mexico

OCT 22 2009

United States of America)
v.)
Christopher Lee Ramirez and)
Gudberto Chavez)
Defendant

Case No. **MATTHEW J. DYKMAN**
09-MJ-3049 CLARK

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 10-21-2009 in the county of Dona Ana in the Judicial District of New Mexico, the defendant violated 21 U. S. C. § 841(a)(1)(b)(1)(A),

an offense described as follows:

knowingly and willingly Possess With Intent to Distribute one kilogram or more of a mixture or substance containing a detectable amount of heroin, a controlled substance.

This criminal complaint is based on these facts:

See attached Affidavit

Continued on the attached sheet.

Thomas A. Bantusink, SA
Complainant's signature
Thomas A. Bantusink, SA
Printed name and title
[Signature]
Judge's signature
[Signature]
Printed name and title

Sworn to before me and signed in my presence.

Date: 10-22-2009

City and state: Albuquerque, New

AFFIDAVIT

I, Tom Bartusiak, Special Agent of the Drug Enforcement Administration (DEA), being duly sworn, depose and state:

I am a Special Agent of the Drug Enforcement Administration and have been so employed since January, 1991. I am currently assigned to the Albuquerque District Office, of the DEA, specifically assigned to investigate federal narcotics offenses.

I am familiar with the information contained in this affidavit through information that was described to me by other agents and officers as well as personal contact with the defendants described herein.

This affidavit is made in support of the issuance of a Criminal Complaint charging Gudberto Chavez and Christopher Lee Ramirez with violation of Title 21 U.S.C. Section 841(a)(1), (b)(1)(A), possession with intent to distribute more than one kilogram of heroin, a controlled substance.

On 10-21-2009 at Las Cruces/Dona Ana Metro Narcotics Agent Arnulfo Flores was conducting domestic highway interdiction activities on U.S. Interstate I-25.

At approximately 4:55pm Agent Flores, while traveling southbound on I-25, noticed a gray colored Chevrolet Trailblazer(subject vehicle) bearing NM personalized license "CASTILLO", traveling northbound on I-25. Utilizing moving radar, Agent Flores determined that the subject vehicle was traveling over the posted speed limit. At that time Agent Flores proceeded to turn around to try to follow the subject vehicle northbound on I-25. Upon turning around and traveling northbound on I-25, Agent Flores encountered the subject vehicle which had already pulled over near mile marker 48. Upon parking behind the subject vehicle, Agent Flores contacted the two male subjects who had exited the subject vehicle as Agent Flores was approaching. Agent Flores first made contact with the driver of the subject vehicle, who identified himself as Gudberto CHAVEZ. Agent Flores told CHAVEZ that he had been speeding and CHAVEZ acknowledged that he was in a hurry because he had to urinate. Agent Flores told CHAVEZ that he was free to urinate off in the shoulder of the road and CHAVEZ said he would. Agent Flores noticed that CHAVEZ walked off to the shoulder of the Interstate but never urinated. When CHAVEZ returned to the vehicle, Agent Flores advised him that he was going to issue a citation because CHAVEZ was driving at a speed above the posted limit and also because CHAVEZ was driving with no valid driver's license. After writing CHAVEZ the citation, he told CHAVEZ that he was free to leave. Agent Flores then asked CHAVEZ if he was willing to answer some questions and CHAVEZ agreed. Agent Flores also asked CHAVEZ if he could talk to the passenger and CHAVEZ consented. Agent Flores then approached the subject vehicle and spoke with the passenger who identified himself as Christopher RAMIREZ. After a brief conversation with RAMIREZ, Agent Flores determined that CHAVEZ and RAMIREZ gave conflicting stories regarding the details of their trip. At that time Agent Flores requested back-up from a Dona Ana County Sheriff's (DASO) deputy. When the DASO deputy arrived, Agent Flores asked both CHAVEZ and RAMIREZ for consent to search the subject vehicle. Both CHAVEZ and RAMIREZ granted Agent Flores and the DASO deputy consent to search the subject vehicle. Agent Flores then asked RAMIREZ to step out of the vehicle, which he did. Agent Flores told RAMIREZ that he was going to do a cursory search of his person for officer safety, to which RAMIREZ consented. As Agent Flores started to search RAMIREZ for weapons, he noticed that RAMIREZ's shoes appeared abnormal, in that they looked extra thick. Agent Flores also noticed that RAMIREZ's shoes had odd colored stains across the shoestrings. Agent Flores then asked RAMIREZ if he

could search his shoes and RAMIREZ removed one of his shoes and handed it to Agent Flores. Agent Flores noticed that RAMIREZ's shoe seemed very heavy and asked RAMIREZ what he had in his shoe. RAMIREZ put his head down and stated "chiva", which Agent Flores recognized as a slang term for heroin. CHAVEZ then told Agent Flores that CHAVEZ was the "main guy" and that CHAVEZ also had shoes containing heroin. RAMIREZ told Agent Flores that there were more shoes in the back passenger compartment that the driver(CHAVEZ) had removed. RAMIREZ again reiterated that CHAVEZ was the "main guy" and that he(RAMIREZ) was forced to act as a courier with CHAVEZ to deliver the heroin. Agent Flores and the DASO deputy noticed two additional shoes in the back passenger compartment of the subject vehicle. Agent Flores then recovered the other two shoes from the subject vehicle and noticed that they seemed extra heavy also. Agent Flores cut into the inner sole of one of the shoes and observed a brown powder substance. Agent Flores noticed a strong smelling odor coming from the shoe that he had cut into. At that time both CHAVEZ and RAMIREZ were placed in Agent FLORES' vehicle.

After being placed in custody, RAMIREZ and CHAVEZ agreed to cooperate with law enforcement and participate in a controlled delivery of the heroin to the intended recipient in Albuquerque, NM. Upon arriving in Albuquerque with Agent Flores and other agents, both CHAVEZ and RAMIREZ decided that they were afraid to participate in a controlled delivery. At that time both CHAVEZ and RAMIREZ were placed under arrest.

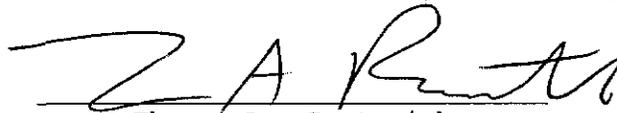
Subsequent to arrest, SA Joe Mata read RAMIREZ his Miranda warnings in English. RAMIREZ understood and waived his rights and told SA's Mata and Godier that he and CHAVEZ traveled from Albuquerque to El Paso on 10-19-2009 and stayed at a hotel in El Paso. On 10-20-2009 CHAVEZ and RAMIREZ met with two unidentified teenagers at a flea market in El Paso and those teenagers handed RAMIREZ a bag which contained two pairs of shoes containing heroin. RAMIREZ stated that both he and CHAVEZ had knowledge that the shoes contained heroin. RAMIREZ further stated that both he and CHAVEZ were going to be paid \$1200 each for delivering the heroin to Albuquerque.

Subsequent to arrest, SA Joe Mata read CHAVEZ his Miranda warnings in Spanish. CHAVEZ understood and waived his rights and told SA's Mata and Godier that he had traveled to El Paso on 10-20-2009 via bus. CHAVEZ further stated that he had traveled to El Paso to pick up items for his flea market business. CHAVEZ stated that RAMIREZ traveled to El Paso on 10-21-2009 to pick him up to take him back to Albuquerque. When SA Mata asked CHAVEZ if RAMIREZ had traveled from Albuquerque wearing the same shoes that he was arrested with, CHAVEZ stated that he wanted his attorney. No further questions were asked.

Special Agent Tom Bartusiak performed a field test on one of the shoes containing the suspected heroin. This field test did react positive for the presence heroin. The four shoes containing suspected heroin were weighed by GS Mayfield and have an approximated gross weight of 3427.1 grams. Based on my training and experience this amount is consistent with distributable amount of heroin.

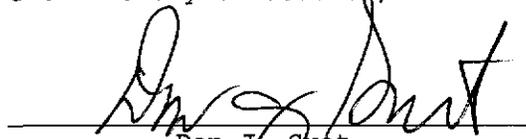
Based on the aforementioned information, I believe that CHAVEZ and RAMIREZ illegally possessed with the intent to distribute over one kilogram of heroin in violation of Title 21 USC Section 841(a)(1), (b)(1)(A), possession with intent to distribute more than one kilogram of a mixture and/or substance containing heroin, a controlled substance.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Thomas A. Bartusiak
Special Agent
Drug Enforcement Administration
Albuquerque District Office

Sworn before me on this the 22nd day of October, 2009.



Don J. Svet
United States Magistrate Judge
New Mexico Judicial District
Albuquerque, New Mexico