

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the District of New Mexico

FILED U.S. DISTRICT COURT DISTRICT OF NEW MEXICO 2010 NOV 16 PM 2:00 WPD CLERK-LAS CRUCES

United States of America v. Adelisio V. TORREZ

Case No. 10-2972 MJ

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 July 30th, 2010 in the county of Grant in the District of New Mexico, the defendant(s) violated:

Code Section Title 18 U.S.C. Section 922(g)(1)

Offense Description It shall be unlawful for any person, who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year, to possess any firearm or ammunition which has been shipped or transported in interstate or foreign commerce

This criminal complaint is based on these facts:

See Attached Affidavit

Continued on the attached sheet.

Complainant's signature

Complainant's signature

Moises Maldonado, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 11/16/10

Judge's signature

Judge's signature

City and state: Las Cruces, NM

William P. Lynch, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Moises Maldonado, Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice, being duly sworn, hereby state:

1. That I am a Special Agent (S/A) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Las Cruces, New Mexico, and have been so employed since October 2009. I have been employed in law enforcement since September 1988. Prior to my employment with ATF: I was employed as a Federal Air Marshal with the Federal Air Marshal Service for over 7 years; I was an Border Patrol Agent with the United States Border Patrol for over 2 years; I was a Police Officer with the City of El Paso, Texas for approximately 6 years; and, I was a Military Police Officer with the US Army for approximately 6 years. I maintain a Bachelor of Science degree in Criminal Justice from Troy University, Troy, Alabama. I have received formal law enforcement training in both a general and specific nature, as it pertains to investigating and enforcing violations of Federal law, including violations of Federal firearms and explosives laws. This training includes the: US Army Military Police Investigation School, located at Fort McClellan, Alabama; United States Border Patrol Agent Training Program located at the Federal Law Enforcement Training Center, Charleston, South Carolina; Federal Air Marshal Training Program located at The FAA William J. Hughes Technical Center in Atlantic City, New Jersey; Criminal Investigator Training Program located at the Federal Law Enforcement Training Center, Glynco, Georgia; and Special Agent Basic Training, located at the ATF National Academy, Glynco, Georgia.

2. This affidavit is made in support of a criminal complaint against Adelsio V. TORREZ, date of birth / /1952, for violations of Title 18, United States Code, Section 922(g)(1): Possession of a Firearm and/or Ammunition by a Felon. The statements set forth in this affidavit are based upon my training and experience, consultation with other experienced investigators and agents, and other sources of information relative to firearms investigations. This affidavit is intended to set forth probable cause in support of the criminal complaint and does not purport to set forth all of my knowledge regarding this investigation.

3. On July 27th, 2010, Special Agent Maldonado obtained a search warrant (Case No. 10-323MR) from US Magistrate Judge Karen B. Molzen, to search TORREZ's residence (1715 Fraser Road, Silver City, NM) and his vehicles for firearms to include but not limited to: ammunition, photographs of firearms, and receipts for the purchase of these items; other tangible properties as to the purchase, acquisition, ownership, maintenance, sale or transfer of firearms and any other items which constitute contraband; and records and documents, however stored, relating to violations of Title 18, United States Code, Section 922(g)(1).

4. On July 30, 2010, at approximately 0647 hours Special Agents from the Las Cruces field office arrived at TORREZ's residence to execute the Federal Search Warrant. SAs knocked and announce their intentions. There was no response

from any occupants within the residence. SAs entered TORREZ's residence and conducted a security sweep of the residence. The residence was found to be unoccupied.

5. A search of the residence was conducted by ATF agents. The search revealed the following:

a. Master bedroom:

i. One Revolver; Brand: Strum Ruger, Model: Blackhawk, Caliber: .357, Serial Number: 37-39729. The revolver was found loaded with six .38 caliber rounds and stored in a black holster. The revolver was found in between the mattress and box spring of the bed. The revolver and ammunition were seized.

ii. One Rifle (seized); Brand: Savage, Model 110, Caliber: 7mm, Serial Number: F866727. The rifle was found within a hard rifle case, which was on the floor of the south closet. The rifle was found loaded with two 7mm caliber rounds in the magazine. The rifle was equipped with a Simmons ATV scope, sling (with an addition 4 rounds of 7mm ammunition), and ammunition sleeve over the stock (with an additional 6 rounds of the same caliber ammunition). The rifle has a label affixed to the stock with "Jose Torres, 575 313 1264, 204 S Texas St, SL N.M" handwritten on it. The rifle and ammunition were seized.

- iii. One 2010 Hunting License issued to TORREZ by the NM Department of Game and Fish; License number 676279. The license was seized.
 - iv. Miscellaneous ammunition and ammunition components were seized from both closets.
- b. Workshop located within bedroom #2 (located along the northwest side of the residence):
- i. One "Master Mechanic" 3 drawer tool chest which had been converted into ammunition reloading work station. The work station had a flat work bench with a storage compartment underneath which was accessed when the bench top was lifted. Attached to the workstation was an (ammunition) reloading press. The work station also consisted of three drawers and one large open compartment beneath the drawers.
 - ii. Miscellaneous ammunition and ammunition components (seized) were found in the workbench, to include various reloading Die sets and a Lyman 1200 DPS Programmable Digital Powder (Dispensing) System. The Die sets and Lyman DPS were not seized.
- c. Bedroom #3 (located at northeastern end of the residence):
- i. Ammunition components (primers) were found in a backpack along with black power ammunition components. The primers were seized.

6. On August 2, 2010, SA Maldonado contacted the New Mexico Game and Fish department. It was explained to SA Maldonado that the "Hunt Code/Weapon" (DER-1-218) identifier on TORREZ's Hunting License (number 676279) is for Deer hunting ("DER") with a firearm/rifle ("1") and other information as it pertains to the hunt ("218") such as hunt dates, restrictions, type of deer, etc.

7. On Tuesday, August 31, 2010, ATF agents Moises Maldonado and Joel Marquez interviewed Adelsio Torrez (DOB: 04/01/1952) at the Silver City Police Department, in Silver City, New Mexico. Mr. Torrez met the agents on his own free will and was not under arrest. At about 1:50 PM, SA Maldonado read Mr. Torrez his Miranda rights whereby Mr. Torrez waived and signed ATF F 3200.4, Advice of Rights and Waiver.

8. Mr. Torrez made the following statements:
 - TORREZ said the Ruger .357 revolver and the 7mm rifle with scope that were found in his residence belong to his grandson, Jose Torrez, and were kept there because Jose Torrez's wife would not allow Jose to keep the guns at their residence; the 7mm rifle was purchased by Jose Torrez's grandmother at a pawn shop; Jose Torrez purchased the .357; the .357 is capable of changing out from a .38 caliber cylinder to a 9mm cylinder.
 - TORREZ said he kept this Ruger .357 under his mattress in the master bedroom of his mobile home for his own protection.

- TORREZ said that when he had to face the judge to answer for the restraining order against him from his ex-girlfriend, the judge did tell him that if he had firearms he had to give them to friends.
- TORREZ said his grandson (Jose Torrez) had also purchased two guns from Wal-Mart– a .22 rifle, a .242 rifle; he also bought a muzzle loader. Adelsio TORREZ stated he (Adelsio) took the mentioned rifles over to his friend's house in Quemado, New Mexico.
- TORREZ said all the reloading equipment and supplies at his residence belong to his grandson who reloads for his friends.
- TORREZ said no one else lives in his residence but him – he lives alone.
- TORREZ said he knows he is not supposed to have firearms but since he was approved for his hunting license he figured it was alright since he has been out of prison for over twenty-five years.
- TORREZ said he also thought it was alright to have ammo.
- TORREZ said he tried to get an attorney to get a governor's pardon but he found out later the attorney never filed the paperwork.
- TORREZ said he was in prison in Santa Fe, NM during the riot in the mid 80's for robbing a Pizza Hut delivery person.
- TORREZ said he goes hunting when he can with the 7mm rifle – likes the cow meat instead of the bull meat which is too gamey tasting to him.

12. On September 29, 2010 S/A Dennis King reviewed the descriptive information on the following firearms possessed by Adelisio TORREZ:

- a. One (1) Ruger, model Blackhawk, .357 caliber revolver bearing serial number 37-39729.
- b. One (1) Savage, model 110, 7mm rifle bearing serial number F866727.

SA King found that:

- a. The Ruger firearms are not and have never been manufactured in the State of New Mexico. Ruger firearms are manufactured in Arizona, Connecticut, and New Hampshire.
- b. The Savage firearms are not and have never been manufactured in the State of New Mexico. Savage firearms are manufactured in New York, Connecticut, and Massachusetts.
- c. Due to the fact that the above listed firearms were not manufactured in the State of New Mexico they did move in and affect interstate commerce.

4. On September 9th, 2010 SA Maldonado received an official copy of TORREZ's criminal history packet from the New Mexico State Penitentiary. The packet revealed:

- a. In September of 1979, TORREZ was found guilty in the District Court of Chaves County, Case # 8106, for:

- i. Burglary (count 1) and subsequently sentenced to 1-5 years;
 - ii. Larceny (count 2) and subsequently sentenced to 1-5 years to be served concurrently at the Santa Fe State Penitentiary.
 - b. On 15 November, 1979, TORREZ pled guilty in the District Court of Chaves County, Case # CR-79-128, for:
 - i. Commercial Burglary (count 1) and was sentenced to 1-5 years.
 - ii. Commercial Larceny (count 2) and was sentenced to 1-5 years to be served concurrently at the NM Santa Fe State Penitentiary.
 - c. On 16 May, 1983, TORREZ pled guilty in the District Court of Chaves County, Case # CR-83-118, for:
 - i. Count I - Armed Robbery; subsequently sentenced to 9 years enhanced by one year for the use of a firearm, followed by 2 years on parole.
 - ii. Count II – Conspiracy; subsequently sentenced to 3 years, followed by 2 years on parole.
 - iii. Counts III, IV, V, and VI – Aggravated Assault; subsequently sentenced to 18 months enhanced by 1 year for the use of a firearm, followed by 1 year on parole.
2. Based upon the aforementioned information and events, and my training and experience, I believe that there is probable cause that Adelsio V. TORREZ,

has committed a violation of the following federal firearms laws, which substantiates the issuance of an arrest warrant: **Title 18, USC, Section 922(g)(1)** – it shall be unlawful for any person, who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year, to possess any firearm or ammunition which has been shipped or transported interstate or foreign commerce.



Moises Maldonado, Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

Sworn to and subscribed before me this 16th day of November, 2010.



WILLIAM P. LYNCH
U. S. MAGISTRATE JUDGE