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AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT
~~ALBUQUERQUE, NEW MEXICO~~

UNITED STATES DISTRICT COURT

for the
District of New Mexico

MAY 10 2011

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MATTHEW J. BYKMAN
CLERK

United States of America)
v.)
JOSEPH STEVEN PADILLA)
DOB:04/16/1990)
SSAN:XXX-XX-0670)

Case No. 11-MJ-1237

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 04/12/11,04/15/11,04/21/11,5/04/11 in the county of Bernalillo in the
District of New Mexico, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
Title 21 U.S.C. 841 (a)(1) and (b)(1) (A)	Distribution 1 Kilogram or more of a mixture or substance containing a detectable amount of heroin
Title 21 U.S.C. 841 (a)(1) and (b)(1) (B)	Distribution 100 grams or more of a mixture or substance containing a detectable amount of heroin
Title 21 U.S.C. 841 (a)(1) and (b)(1) (C)	Distribution less than 100 grams or more of a mixture or substance containing a detectable amount of heroin
Title 21 U.S.C. 841 (a)(1) and (b)(1) (C)	Distribution less than 100 grams or more of a mixture or substance containing a detectable amount of heroin

This criminal complaint is based on these facts:

See Affidavit

Continued on the attached sheet.

Lennie Johnson, Jr.
Complainant's signature

Lennie Johnson, Jr.
Printed name and title

Sworn to before me and signed in my presence.

Date: MAY 10 2011

Lorenzo F. Garcia
Judge's signature

City and state: ALBUQUERQUE, NEW MEXICO

LORENZO F. GARCIA
United States Magistrate Judge
Printed name and title

CRIMINAL COMPLAINT

AFFIDAVIT IN SUPPORT OF APPLICATION FOR SEARCH WARRANT

I, the undersigned, being duly sworn, hereby depose and state as follows:

INTRODUCTION

1. I am a Special Agent of the Federal Bureau of Investigation and have been employed in that capacity since December 9, 2007. As such, I am a law enforcement officer of the United States.
2. I am currently assigned to the Albuquerque Division and investigate major crimes and investigations including but not limited to criminal enterprise matters. My experience includes but is not limited to, conducting surveillance; interviewing witnesses; participating in arrests; and working with undercover agents and informants. I have received training and have experience in the investigation of violations of the federal drug and money laundering laws, including the charges listed below. I have participated in investigations of drug trafficking conspiracies. Due to my training and experience, I am familiar with the matters including, but not limited to, the means and methods used by persons and drug trafficking organizations to purchase, transport, store, and distribute drugs and hide the profits generated by those transactions. The information set forth in this affidavit has been derived from my own investigation or communicated to me by other sworn law enforcement officers or from reliable sources. Based on my training and experience, conversations with other law enforcement officers and reading various intelligence reports about drug trafficking crimes, I know that those engaged in sustained, high-level sale and distribution of controlled substances often bury contraband as a technique to prevent law enforcement detection. This is particularly true in the Los Padillas section of Albuquerque. I also know that individuals engaged in sustained high-level delivery and sales of controlled substances usually keep records of such transactions, such as pay/owe records, weights of drug loads, dates and times of delivery, and other records related to their criminal enterprise. Based on my training and experience with search warrants for drug-related crimes, I have personally seized and analyzed these types of records, which include but are not limited to the items described in Attachment C. These records are usually kept in cars and houses and other locations such as storage facilities, sheds and outbuildings. I know that there is usually drug paraphernalia, packaging items, and scales near where the drugs are stored. Narcotics traffickers often possess handguns, shotguns, rifles and other firearms and ammunition which may be used to facilitate the distribution or possession of the

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illicit substance. Drug dealers commonly have large sums of money from their drug sale profits. Larger sums of cash are often kept in locked or secure containers. Narcotics traffickers also retain documents which indicate possession, ownership, and acquisition of these weapons. Based on my training and experience, and the following observations and facts, I believe at this time that at the above described premise there are certain items that are being concealed which constitute evidence of violations of Title 21, United States Code. Such property includes, but is not limited to the items described in Attachment C.

3. This affidavit is made in support of an application for a warrant to search one residence, namely 5392 Ciani Court Southwest, Albuquerque, New Mexico 87121, and outlying buildings, vehicles, containers, equipment, and all land located in the curtilage of the residential plot hereinafter referred to as the SUBJECT'S RESIDENCE. The SUBJECT'S RESIDENCE is more particularly described in ATTACHMENT A. Information set forth herein was obtained as a result of my investigation, that of other Special Agents, and sworn law enforcement officers.

4. I am involved in an investigation being conducted by the FBI and other law enforcement agencies into the illegal activities of JOSEPH STEVEN PADILLA. As a result of this investigation and based on the Affiant's training and experience, there is probable cause to believe that at the SUBJECT RESIDENCE, there is concealed evidence, which will include, but is not limited to, the following instrumentalities of illegal drug trafficking:

- a. Books, records, receipts, notes, ledgers, designated codes, and other papers relating to the transport, ordering, purchase, and distribution of a controlled substance, specifically heroin;
- b. Papers, tickets, notes, schedules, receipts, and other items relating to domestic travel by PADILLA;
- c. Books, records, receipts, bank statements and records, financial statements, insurance records, loan applications and records, wills, real estate records, business records, money drafts, letters of credit, money orders and cashier's checks, safe deposit box keys, records and agreements, and other documents evidencing the obtaining, secreting, transfer, and/or concealment of assets and the obtaining and/or secreting currency equivalents by PADILLA;
- d. United States currency; precious metals; precious stones; jewelry; financial instruments, including stocks and bonds; and money counters;

[Handwritten initials]

- e. Photographs, video tapes, and slides of the PADILLA and/or his associates or assets, and/or depicting controlled substances and gang involvement, including, but not limited to, a controlled substances, such as heroin, as well as other notes, records, diaries, journals, and papers that make specific references to PADILLA;
- f. Records indicating occupancy, residency, and/or ownership of the premises, including, but not limited to, utility and telephone bills, cancelled envelopes, and keys;
- g. Firearms and ammunition;
- h. Sales receipts for items evidencing the expenditure of currency or currency equivalents;
- i. Paraphernalia of packaging, weighing, and distributing heroin and other controlled substances, including, but not limited to, scales, plastic bags, balloons, electrical tape, trash compactors, and chemical test kits;
- j. Documents, books, and papers reflecting names, addresses, and/or telephone numbers pertaining to, but not limited to, the individual listed above;
- k. Books, records, receipts, notes, ledgers, bank records, diaries, purchase records, cash receipts and disbursement journals, inventory records, and other records relating to the operation of controlled substance sales, repackaging, and redistribution;
- l. Records, journals, promissory notes, receipts, and other documents reflecting loans and loan repayment by and between any financial institution and other individuals and entities below; all of which are fruits, evidence, and instruments of crimes against the United States Government;
- m. Property constituting evidence of the commission of the criminal offenses of possession with the intent to distribute heroin, and property designed and intended for use as the means for committing the criminal offenses of possession with the intent to distribute heroin, as well as paraphernalia used to prepare controlled substance for distribution and personal use, as well as machinery and/or devices used for the preparation of controlled substances for distribution and personal use;
- n. Equipment used to detect police activities and surveillance, including radio scanners, sensors, and tape and wire transmitter detectors;
- o. Receipts, records, and documents depicting subscriber data and itemized telephone calls to other potential drug traffickers from the residential telephone, cellular telephones, and pagers utilized or associated with PADILLA;

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- p. Receipts, records, and documents indicating ownership, association, and utilization of vehicles by PADILLA, to include maintenance and improvements to the vehicles;
- q. Computers, computer software, mass storage devices, digital memory devices, and/or hand-held electronic devices used by PADILLA.

FACTS AND CIRCUMSTANCES

7. In approximately April, 2011, the FBI initiated an investigation on JOSEPH STEVEN PADILLA, hereinafter referred to as PADILLA, based on reporting from a reliable confidential human source (CHS) that corroborated with other law enforcement intelligence. The initial reporting from the CHS indicated that PADILLA was distributing significant amounts of heroin in Albuquerque, New Mexico.

8. On April 12, 2011, at approximately 10:00 a.m., CHS met with FBI Special Agent (SA) Lennie Johnson, Jr., and APD Detective Ryan Nelson in preparation to conduct a controlled drug transaction with PADILLA. CHS'S person and vehicle were subsequently searched for money and controlled substances with negative results. CHS was followed by agents to the meet location. At approximately 10:50 a.m., Special Agent (SA) Carlos Zamora and SA Geoff Raby observed PADILLA arrive at the meet location in the Northwest section of Albuquerque, New Mexico, in a black Infiniti QX56 sports utility vehicle(SUV) with Texas license plate 762MLL. At approximately 11:22 a.m., SA Zamora observed PADILLA open the passenger door and exit the black Infiniti SUV and then enter into the CHS'S vehicle. Shortly thereafter, SA Zamora observed PADILLA exit the CHS'S vehicle and enter into the passenger seat of the black Infiniti SUV and depart the area. At approximately 11:43 a.m., SA Lennie Johnson, Jr. and Detective Ryan Nelson followed the CHS to a predetermined location. The CHS stated that PADILLA gave him/her a sample of heroin. SA Lennie Johnson, Jr. took possession of the drug evidence which is a black rock like substance wrapped in a small piece of plastic. CHS'S person and vehicle was searched again for money and contraband with negative results. At approximately 12:20 p.m., SA Lennie Johnson, Jr. and Detective Ryan Nelson arrived at the offices of the Albuquerque FBI and field tested the drug evidence utilizing the NIK Scott reagent drug evidence kit and showed positive results for heroin. The drug evidence weighed approximately one gram.



9. On April 15, 2011, at approximately 8:30 a.m., CHS met SA Lennie Johnson, Jr. and Detective Ryan Nelson in preparation to conduct a controlled drug transaction with PADILLA. CHS'S person and vehicle were subsequently searched for money and controlled substances with negative results. The CHS was provided \$2,400.00 in United States currency to pay PADILLA for approximately four ounces of heroin. The CHS was followed by agents to the meet location. Before the meeting, PADILLA telephonically contacted the CHS from telephone number 505-348-6470 and stated he was ready to meet. At approximately 8:47 a.m., APD Detective Andrew Feist observed three vehicles at the SUBJECT'S RESIDENCE. The vehicles were a black Ford F150 Quad cab pickup truck, a black Infiniti QX56 SUV and a white Chevrolet Impala. At approximately 9:01 a.m., SA Carlos Zamora observed a Chevrolet Impala with New Mexico license plate HPZ759 arrive at the meet location in the Northwest section of Albuquerque, New Mexico in a public area. The windows on the Chevrolet Impala were tinted black. A records check on New Mexico license plate HPZ759 did not return to any vehicle. At approximately 9:03 a.m., SA Carlos Zamora observed the CHS arrive at the meet location and enter into the white Chevrolet Impala. Shortly thereafter, the CHS exited the white Chevrolet Impala and both vehicles departed the location. At approximately 9:13 a.m., SA Lennie Johnson, Jr. and Detective Ryan Nelson followed the CHS to a predetermined location. CHS stated that PADILLA gave him/her the heroin and the CHS counted the \$2,400.00 in United States currency and handed it to PADILLA. Detective Ryan Nelson took possession of the drug evidence which was plastic zip lock bags that contained a brown powder like substance with particles of dirt on the outside of the zip lock bags. CHS'S person and vehicle were searched again for contraband and money with negative results. At approximately 9:45 a.m., SA Lennie Johnson, Jr. and Detective Ryan Nelson arrived at the offices of the Albuquerque FBI with the drug evidence. SA Lennie Johnson, Jr. weighed and field tested the drug evidence utilizing a NIK Scott reagent drug evidence kit and showed positive results for heroin. The drug evidence weighed approximately 107 grams in its original packaging.

10. On April 21, 2011, at approximately 8:21 a.m., while conducting physical surveillance in the vicinity of the SUBJECT'S RESIDENCE, APD Detective Andrew Feist observed PADILLA walk to back yard of the residence from the south side. Detective Andrew Feist observed PADILLA pick up a shovel and dig into a pile of dirt. PADILLA unearthed a long plastic bag and shook the dirt off the bag and put the contents of the bag inside the front of his pants. At approximately 8:25 a.m., SA Lennie Johnson, Jr. and Detective Ryan Nelson met with the CHS in preparation to conduct a controlled drug buy. CHS'S person and vehicle were subsequently searched for money and controlled substances with negative results. The CHS was given \$4,800.00 in United

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States currency to purchase eight ounces of heroin from PADILLA. The CHS was followed by agents to the meet location. Before the meeting PADILLA telephonically contacted the CHS and advised he was en route. At approximately 8:37 a.m., Detective Andrew Feist observed PADILLA enter into a black Ford F150 pickup truck with New Mexico license plate number HPZ759 and depart the SUBJECT'S RESIDENCE. A records check on New Mexico license plate HPZ759 did not return to any vehicle. At approximately 8:53 a.m., SA Jeffrey Pelaez observed PADILLA arrive at the meet location, a public area in the Northwest section of Albuquerque, New Mexico. At approximately 8:57 a.m., SA Carlos Zamora observed the CHS arrive at the meet location and PADILLA entered into the CHS'S vehicle. SA Carlos Zamora observed the CHS drive around the parking and park next to PADILLA'S black Ford F150 pickup truck and PADILLA exited the vehicle. PADILLA entered into his vehicle and departed the area. At approximately 9:09 a.m., SA Lennie Johnson, Jr. and Detective Ryan Nelson followed the CHS to a predetermined location. The CHS stated that PADILLA entered into the vehicle and placed the heroin between the seats of the vehicle and took the \$4,800.00 in United States currency. Detective Ryan Nelson took possession of the drug evidence which was a plastic bag wrapped in duct tape containing a brown substance. CHS'S person and vehicle were searched again for money and contraband with negative results. At approximately 9:40 a.m., SA Lennie Johnson, Jr. and Detective Ryan Nelson arrived at the offices of the Albuquerque FBI with the drug evidence. SA Lennie Johnson, Jr. took photographs of the drug evidence. Detective Andrew Feist field tested the drug evidence utilizing a NIK Scott reagent drug evidence kit and showed positive results for heroin. Detective Ryan Nelson weighed the drug evidence and it weighed approximately 220.4 grams in its original packaging.

11. On May 4, 2011, at approximately 8:20 a.m., SA Lennie Johnson, Jr. and Detective Ryan Nelson met the CHS in preparation for a controlled drug transaction. The CHS'S person and vehicle were subsequently searched for money and controlled substances with negative results. The CHS was given \$12,000.00 in United States currency to purchase three pounds of heroin from PADILLA. At approximately 8:49 a.m., while conducting physical surveillance in the vicinity of the SUBJECT'S RESIDENCE, Detective Andrew Feist observed PADILLA walk to the back of the SUBJECT'S RESIDENCE and grab a shovel. PADILLA walked toward a propane tank located in the rear of the SUBJECT'S RESIDENCE. Detective Feist observed PADILLA begin to dig and shift dirt but stopped and began looking toward the sky. Detective Andrew Feist observed PADILLA put the shovel down and go into the SUBJECT'S RESIDENCE. Detective Andrew Feist observed PADILLA exit the SUBJECT'S RESIDENCE with an unknown female and they both began to look toward the sky. Prior to the meeting, the CHS placed a telephone call to PADILLA at telephone number 505-333-5714. PADILLA told the CHS that he was in Belen, New Mexico and that he would be ready after 10:00 a.m. At approximately 9:39 a.m., Detective Andrew Feist observed

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PADILLA and a female enter into the black Infiniti QX56 SUV and depart the residence. At approximately 10:05 a.m., Detective Andrew Feist observed the vehicle travel to Whole Foods located at Carlisle Boulevard Northeast and Indian School Road. Detective Andrew Feist observed a female exit the vehicle and walk into the store. At approximately 10:07 a.m., Detective Andrew Feist observed the black Infiniti QX56 SUV pull up the front of the store and the female entered into the vehicle and the vehicle departed the location. At approximately 10:28 a.m., SA Jeremy Clegg observed the black Infiniti QX56 SUV travel toward the SUBJECT'S RESIDENCE. The CHS called PADILLA and PADILLA advised he was on his way. At approximately 10:52 a.m., the controlled drug transaction was cancelled. The CHS returned the \$12,000.00 to SA Lennie Johnson, Jr. The CHS telephonically contacted Detective Ryan Nelson and advised that PADILLA wanted to meet and explain why he did not meet earlier. At approximately 12 noon, SA Lennie Johnson, Jr. and Detective Ryan Nelson met the CHS at a predetermined location in preparation for a controlled drug transaction. The CHS'S person and vehicle were subsequently searched for money and controlled substances with negative results. The CHS was given \$12,000.00 in United States currency to purchase three pounds of heroin from PADILLA. The CHS was followed by agents to the meet location. PADILLA telephonically contacted the CHS and stated he was at the meet location, a public area in the Northwest section of Albuquerque, New Mexico. At approximately 12:06 p.m., SSA Sonya Chavez observed PADILLA'S black Infiniti QX56 SUV at the meet location. At approximately 12:09 p.m., Detective Ryan Nelson observed PADILLA exit the CHS'S vehicle and return to the black Infiniti QX56 SUV. Both vehicles departed the meet location. At approximately 12:15 p.m., SA Lennie Johnson, Jr. and Detective Ryan Nelson followed the CHS to a predetermined meet location. The CHS stated that Padilla came into his/her vehicle and gave him/her three pounds of heroin and the CHS gave PADILLA \$12,000.00 in United States currency. PADILLA stated that the heroin would cost the CHS \$9,600.00 per pound. PADILLA also told the CHS that he always has the heroin but on this date he had trouble accessing it. Detective Ryan Nelson took possession of the drug evidence which was a white trash bag wrapped in duct tape that contained a clear vacuumed sealed bag that contained a brown substance. CHS'S person and vehicle was searched again for money and contraband with negative results. At approximately 12:33 p.m., SA Lennie Johnson, Jr. and Detective Ryan Nelson arrived at the offices of the Albuquerque FBI with the drug evidence. SA Lennie Johnson, Jr. took photographs of the drug evidence. Detective Andrew Feist field tested the drug evidence utilizing a NIK Scott reagent drug evidence kit and showed positive results for heroin. SA Lennie Johnson, Jr. weighed the drug evidence and it weighed approximately 1,233 grams in the vacuumed sealed clear bag.

Lennie Johnson, Jr.

*Larry F. Garcia
U.S. Magistrate Judge
May 10, 2011*

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