

**FILED**

SEP 29 2016

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY [Signature]  
DEPUTY CLERK

UNITED STATES DISTRICT COURT

FOR THE

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANGEL GILBERTO GARCIA-AVALOS,  
aka Angel Gilbert Garcia,

Defendant.

CASE NO. 5:16-MJ-00036-JLT

VIOLATIONS: 16 U.S.C. § 551, 36 C.F.R. § 261.5(c) – Causing Timber, Trees, Slash, Brush and Grass to Burn [Class B Misdemeanor]; 16 U.S.C. § 551, 36 C.F.R. § 261.3(b) – Giving False Information to Forest Officer [Class B Misdemeanor] (2 Counts)

CRIMINAL COMPLAINT

COUNT ONE: [16 U.S.C. § 551, 36 C.F.R. § 261.5(c) – Causing Timber, Trees, Slash, Brush and Grass to Burn]

The United States Attorney charges: T H A T

ANGEL GILBERTO GARCIA-AVALOS,  
aka Angel Gilbert Garcia,

defendant herein, on or about August 16, 2016, in the County of Kern, State and Eastern District of California, upon lands under the jurisdiction of the United States, west of Cedar Creek Campground in the Sequoia National Forest, at approximately 35° 44' 38.28" North Latitude/118° 35' 18.36" West Longitude, did cause timber, trees, slash, brush and grass to burn without having authorization by permit to do so, by driving a motor vehicle off road and causing a fire, known as the Cedar Fire, covering approximately 29,332 acres, a portion of which was property of the United States administered by the United States Forest Service in the Sequoia National Forest in the Counties of Kern and Tulare, all in violation of Title 16, United States Code, Section 551, and Title 36, Code of Federal Regulations, Section 261.5(c).

1 COUNT TWO: [16 U.S.C. § 551, 36 C.F.R. § 261.3(b) – Giving False Information to Forest Officer]

2 The United States Attorney charges: T H A T

3 ANGEL GILBERTO GARCIA-AVALOS,  
4 aka Angel Gilbert Garcia,

5 defendant herein, on or about August 16, 2016, in the Sequoia National Forest in the County of Kern,  
6 within the State and Eastern District of California, did knowingly give materially false and fictitious  
7 information to a Forest Officer, namely, Law Enforcement Officer D.C., who was engaged in the  
8 performance of his official duties, by stating that the vehicle the defendant had been driving on August  
9 16, 2016, on California State Route or Highway 155 had been stolen after he parked it on the side of the  
10 road, when in truth and in fact, as defendant knew, his vehicle had not been stolen, all in violation of  
11 Title 16, United States Code, Section 551, and Title 36, Code of Federal Regulations, Section 261.3(b).  
12

13 COUNT THREE: [16 U.S.C. § 551, 36 C.F.R. § 261.3(b) – Giving False Information to Forest  
14 Officer]

15 The United States Attorney charges: T H A T

16 ANGEL GILBERTO GARCIA-AVALOS,  
17 aka Angel Gilbert Garcia,

18 defendant herein, on or about August 29, 2016, in the County of Kern, within the State and Eastern  
19 District of California, did knowingly give materially false and fictitious information to a Forest Officer,  
20 namely, Special Agent B.A., who was engaged in the performance of his official duties, by stating that  
21 the vehicle he had been driving on August 16, 2016, on California State Route or Highway 155 was  
22 taken when it was parked on the paved road and denying that he (Garcia) had driven the car from  
23 California State Route or Highway 155 onto a dirt road, when in truth and in fact, as defendant knew, his  
24 vehicle had not been taken and he had driven the car off the State Route or Highway 155 onto a dirt  
25 road, all in violation of Title 16, United States Code, Section 551, and Title 36, Code of Federal  
26 Regulations, Section 261.3(b).  
27  
28

1 This criminal complaint is based on these facts:

2 *See* Affidavit, attached hereto and incorporated herein by reference.

3  
4 \_\_\_\_\_  
5 BRIAN A. ADAMS  
6 Special Agent, U.S. Forest Service

7 Sworn to before me and signed in my presence.

8 Date: \_\_\_\_\_

9 \_\_\_\_\_  
10 JENNIFER L. THURSTON  
11 U.S. Magistrate Judge

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City and state: Bakersfield, California



1 wildfire suppression and was assigned to a fire prevention/suppression job prior to becoming a  
2 law enforcement officer. I have also received training in the investigation of drug offenses and  
3 training in the identification of controlled substances. I have arrested and/or cited hundreds of  
4 persons for possession, manufacturing, transportation and sales of various controlled substances  
5 and illegal drug paraphernalia. I have received over 300 hours of formal training relating to the  
6 enforcement of controlled substance laws. This training has been provided to me by the Kern,  
7 Fresno and Tulare County Sheriffs' Offices, U.S. Drug Enforcement Administration (DEA),  
8 California Highway Patrol, California Narcotics Officers' Association (CNOA), California  
9 Department of Justice, USFS, and private organizations. I have been a member of the CNOA  
10 since 2004. I am a trained Drug Recognition Expert and have made numerous arrests for  
11 subjects being under the influence of and driving under the influence of various controlled  
12 substances.

13 2. Throughout my thirty-year career with the Forest Service, I have been required to  
14 track people through the mountains and desert in a variety of conditions in both law  
15 enforcement and search and rescue situations. I have many hours of on the job training from  
16 experienced trackers in the area of tracking humans and have trained others in tracking skills. I  
17 have spent hundreds of hours tracking suspects and lost subjects. Over the years, I have  
18 developed skills in recognizing shoe patterns and differentiating them from other shoe prints. I  
19 have also developed skills in determining the approximate age of shoe prints differentiating  
20 fresh prints from older prints. In addition to tracking humans, I routinely track vehicles on dirt  
21 roads and have spent hundreds of hours tracking vehicles and differentiating between the tire  
22 tracks left by subject vehicles and unrelated vehicles.

23 Based upon this knowledge and experience, I state the following:

24 **II.**

25 **PURPOSE OF AFFIDAVIT**

26 5. This affidavit is submitted in support of a criminal complaint and arrest warrant for  
27 **ANGEL GILBERTO GARCIA-AVALOS, aka Angel Gilbert Garcia ("GARCIA")**. Based  
28 upon your affiant's training, experience and conversations with other law enforcement officers, I

1 submit there is probable cause to find that the above-named subject caused timber, trees, slash,  
2 brush and grass to burn, in violation of Title 36, Code of Federal Regulations, Sections 551 and  
3 261.5(c) and gave false information to Forest Officers (2 counts), in violation of Title 36, Code  
4 of Federal Regulations, Sections 551 and 261.3(b).

5 6. The facts set forth in this affidavit are based on my training and experience and  
6 information obtained from other witnesses and Law Enforcement Officers, including incident  
7 reports. This affidavit is intended to show that there is sufficient probable cause for the  
8 requested complaint and arrest warrant and does not purport to set forth all of my knowledge of,  
9 or the investigation into, this matter.

10 **III.**

11 **STATEMENT OF PROBABLE CAUSE**

12 *•The Day the Cedar Fire Started*

13 7. On August 16, 2016, at 4:30 p.m.,<sup>1</sup> the Greenhorn Summit Wildland Fire Station in  
14 the Sequoia National Forest received a report of a fire off of California State Route or Highway  
15 155 (“Highway 155”) near Cedar Creek Campground in Kern County in the Sequoia National  
16 Forest within the State and Eastern District of California. The fire later became known as the  
17 Cedar Fire.

18 8. At 6:15 p.m., a neighbor of the owners of a ranch camp about 3 miles west of Cedar  
19 Creek Campground, contacted 911 about a possible suspect. Dispatch contacted USFS Law  
20 Enforcement Patrol Captain Joseph Sadowski, who contacted the neighbor. The neighbor  
21 reported that a “guy,” later identified as **Garcia**, and his son, a four-year-old named G.G., were  
22 at the ranchers’ residence. According to the neighbor, the ranchers believed the guy had started  
23 the fire and requested that an officer be dispatched to their residence.

24 9. Earlier in the day, the ranchers had noticed smoke over the ridge to the east. They  
25 drove east on Highway 155 to see where the smoke was coming from. They saw a large fire in  
26 the Cedar Creek area. They also saw **Garcia** carrying G.G. on his shoulders walking west on  
27 Highway 155 away from the fire. They offered to help **Garcia**, but he said he did not need help

28 \_\_\_\_\_  
<sup>1</sup> All dates and times referenced herein are to approximate dates and times.

1 and said he was ok. After speaking briefly with **Garcia**, the ranchers thought **Garcia** was  
2 evasive and acting in a suspicious manner. They therefore recorded their conversation with  
3 **Garcia** on an iPhone. The ranchers asked if **Garcia** was aware of the obvious fire behind him.  
4 **Garcia** said he did not know there was a fire in the area. Rancher 1 pointed to the large column  
5 of smoke behind **Garcia** and said, "That fire." **Garcia** also could not answer why he was in the  
6 area and claimed he did not know anyone to call for assistance. When asked where his car was,  
7 **Garcia** said it had been stolen and that his son had seen the guy who took it. He also said he was  
8 walking home to Delano. Delano is more than 42 miles away from where **Garcia** was walking.  
9 The ranchers told **Garcia** that they lived nearby and convinced him to make a call from their  
10 residence.

11 10. According to the ranchers, while at their residence, **Garcia** said he did not know any  
12 phone numbers for anyone. Eventually, he remembered the phone number for someone named  
13 Rodriguez and called him. The ranchers asked if he needed to call anyone else, like the young  
14 boy's mother. **Garcia** said, "No," and added that she would then believe he started the fire.  
15 Rancher 1 then asked **Garcia** if he had started the fire. **Garcia** replied, "How am I going to start  
16 that fire?" Rancher 1 reported that **Garcia** became very defensive and said, "Does it look like I  
17 would do that?" According to Rancher 1, **Garcia** did not seem concerned about his son, the fire,  
18 or his car. While speaking to Rodriguez, **Garcia** was laughing and laughed that he did not have  
19 a car. Rancher 2 added that she saw a very thin, white glass cylindrical object fall out of  
20 **Garcia's** pants pocket, and **Garcia** quickly picked it up. I believe, based on my training and  
21 experience in investigating drug offenses and having seen hundreds of methamphetamine pipes,  
22 that the description of the object, along with **Garcia's** quick action to retrieve it, was consistent  
23 with the appearance of a methamphetamine pipe and an effort to conceal it. I know that  
24 methamphetamine pipes are usually glass and that the stem of a methamphetamine pipe typically  
25 turns white after consistent usage.

26 •*Statement to LEO Crims*

27 11. On August 16, 2016, LEO Crims was initially dispatched to the Cedar Creek  
28 Campground. When Crims arrived in the Cedar Creek area, the fire encompassed only several

1 acres but was growing at a rapid rate. Crims believed the fire had started down a dirt road off of  
2 Highway 155 and went to investigate. As he walked down the dirt road, he saw and  
3 photographed shoe prints that appeared to be from a small child. The shoe prints had a diamond  
4 in the center of the soles.

5 12. Crims was subsequently dispatched to the ranchers' residence. At 7 p.m., Crims  
6 arrived at the ranchers' residence and interviewed **Garcia** outside. The interview was audio and  
7 video recorded on Crims' body camera. **Garcia** identified himself as **Angel Garcia** and  
8 provided a McFarland address and a phone number with a (661) area code. He did not have any  
9 identification documents. His identification was later verified by law enforcement databases and  
10 his probation officer.

11 13. Crims advised **Garcia** he was not under arrest and did not have to speak with him.  
12 Crims also advised that **Garcia** could stop at any time, if he chose to answer questions. **Garcia**  
13 indicated that he understood and agreed to talk to Crims. Crims asked him about his day.  
14 **Garcia** said that he and his boy had come to the mountains to "watch the view." When asked  
15 where his vehicle was, **Garcia** said it had been stolen. He said the vehicle did not belong to him.  
16 (It was later determined it belonged to his girlfriend's mother.) He described the vehicle as a  
17 four-door beige Nissan Maxima without a license plate.

18 14. **Garcia** said the vehicle was stolen "up there," pointing to the east where the fire was.  
19 He said he had parked the car on the side of the road but he did not know exactly where he  
20 stopped. He left his son and walked off the pavement to find water. (There is no water source in  
21 the area, other than at the Cedar Creek Campground.) He then heard his son yelling that  
22 someone was stealing the car. When **Garcia** ran back up to the car, he saw someone driving it  
23 away. His son told him that the person who had stolen the car was "a guy with long hair."  
24 Crims then told **Garcia** he would call a sheriff's deputy to come take a stolen vehicle report.  
25 Initially, **Garcia** agreed to report the matter but later declined to make one, stating that he did not  
26 have a driver's license.

27 15. When Crims asked if he had seen the fire, **Garcia** said he had not and denied starting  
28 one. Crims asked if he could see the bottom of his shoes and **Garcia** said he could. **Garcia** then

1 held up his foot. Crims took a photograph of the soles of **Garcia's** shoes. Crims then asked if  
2 **Garcia** could give him one of his son's shoes. **Garcia** then picked up his son and showed  
3 Crims' the sole of G.G.'s shoe, while Crims took a photograph. The size and diamond pattern  
4 appeared to match the size and diamond pattern of the shoe prints that Crims had earlier seen on  
5 the dirt road.

6 16. Crims then took **Garcia** and his son to meet Jose Rodriguez. Before Rodriguez  
7 drove **Garcia** and his son away, Crims asked **Garcia** for his and his son's shoes. **Garcia**  
8 complied and Crims took the shoes as evidence. The vehicle that Rodriguez was driving was  
9 registered to Lorena Rodriguez at a McFarland address.

10 17. LEO Crims has basic training in detecting signs of intoxication or being under the  
11 influence of a controlled substance. He also has training in administering standard field sobriety  
12 tests. Based on his training and experience, Crims did not believe that **Garcia** was under the  
13 influence of alcohol or a controlled substance at any time during his encounter with him.

14 •*Fire Origin*

15 18. On August 16, at 7:20 p.m., Patrol Captain Sadowksi, a certified wildland fire  
16 investigator with law enforcement training in accident reconstruction, responded to the area of  
17 the Cedar Fire. The fire was rapidly advancing and changing course. After ensuring that the  
18 general origin area was secure, Sadowksi left and returned the next day. Sadowski found a  
19 burned out Nissan Maxima off Highway 155 at the geo-coordinates set forth in the criminal  
20 complaint, attached hereto. The Maxima had travelled down a rough dirt road or trail. He  
21 determined that Cedar Fire had originated at the Maxima and was caused by close contact  
22 between the vehicle's exhaust system and vegetation. The vehicle had apparently attempted to  
23 drive over a berm on the dirt road but rolled back hitting a tree, where it got stuck.

24 19. Sadowski found and photographed footprints near the burned car and leading away  
25 from it on the rough dirt road. There were also tire tracks on the dirt road that led to the  
26 Maxima's location. Sadowksi observed only one set of tire tracks on the dirt road in the vicinity  
27 of the Maxima. The footprints appeared to have been left by two different sized pairs of shoes—  
28 one consistent with an adult and the other much smaller, consistent with a young child. Some of

1 the larger footprints led in a wide circle from the burned car's driver's side to its passenger side  
2 and then to the rear of the car to a location perpendicular to where the rear bumper had hit a tree.  
3 Those tracks were consistent with someone exiting the driver's seat and checking the damage  
4 from the rear bumper's impact with the tree. Both sets of footprints—larger and smaller—led  
5 away from the car toward Highway 155. The footprints were consistent in size and appearance  
6 with the shoes worn on August 16 by **Garcia** and his son, including a diamond pattern on the  
7 soles of the son's shoes.

8 20. On August 18, I went to the area of origin of the Cedar Fire. I saw what appeared to  
9 be a burned out Nissan Maxima. I also saw the footprints that Sadowski had seen (where  
10 Sadowski had left white fire evidence marker flags). I saw two sets of footprints, including a set  
11 obviously made by a child, around the vehicle and leading back up to Highway 155. I also saw  
12 tire tracks made by the vehicle, including tracks consistent with repeated attempts to make it up  
13 the hill and sliding backward into the tree.

14 21. On September 8, I returned to the area of origin of the Cedar Fire to take follow-up  
15 photographs. Based on macro indicators that I observed, I concur with Sadowksi's findings  
16 regarding the fire's point of origin. I found the Maxima about one quarter of a mile south of  
17 Highway 155. I saw that the muffler and catalytic converter of the Maxima were in direct  
18 contact with tall, dead grass. I have also personally watched a vehicle start an exhaust-related  
19 fire in less than 1 minute in dead grass that was shorter and less dense than the grass adjacent to  
20 the point of origin of the Cedar Fire. Burn pattern indicators showed that the fire started at the  
21 vehicle and moved quickly uphill to the northeast and east and backed slowly downhill to the  
22 south and southwest.

23 •*Statement to Probation Officer*

24 22. On August 29, Kern County Adult Probation contacted me and advised that **Garcia**  
25 had reported for a probation check and was at the probation office in Bakersfield. The  
26 defendant's probation officer documented his contact with **Garcia**. **Garcia** stated that he had  
27 had prior law enforcement contact and showed the officer a property receipt for his and his son's  
28 shoes. **Garcia** said that he and his son were driving on Highway 155 "just looking around." He

1 said he parked his car with the windows rolled down and the stereo playing music while he and  
2 his son went down the hill. At one point, **Garcia** indicated he did not hear the music anymore  
3 and climbed back up the hill to check on his car and it was gone.

4 •*Statement to Deportation Officers*

5 23. On August 29, at 3:30 p.m., Immigration and Customs Enforcement (“ICE”)  
6 deportation officers responded to the probation office and detained **Garcia** for deportation  
7 proceedings. They took **Garcia** to an ICE office in Bakersfield. At 4:15 p.m., the ICE officers  
8 advised **Garcia** of his Miranda rights and obtained a signed and sworn Miranda waiver and  
9 statement. **Garcia** stated his true name is **Angel Garcia Avalos** and admitted to using other  
10 names in the past. He stated he was born in Mexico and had previously entered the United States  
11 illegally. He also admitted to prior convictions for stealing a car, traffic violations, and burglary.  
12 ICE records show that **Garcia’s** name is **Angel Gilberto Garcia-Avalos** and that **Garcia** does  
13 not have permission to be in the United States. ICE records also show that in 2012 at the San  
14 Ysidro Port of Entry to the United States **Garcia** was a passenger in a car driven by his  
15 girlfriend. **Garcia** presented to immigration officers a California birth certificate and California  
16 identification card bearing the name of Gerardo Madrigal Padilla. At a secondary location,  
17 immigration officers determined **Garcia’s** true identity. **Garcia** admitted to being a Mexican  
18 national without the legal documents to enter, reside or pass through the United States. He also  
19 stated that if he made it through inspection he would pay his smuggler \$5,000.

20 •*Statement to SA Adams, HSI SA Javier Hanson, Patrol Captain Sadowski, and a Kern*  
21 *County Arson Investigator*

22 24. On August 29, at 4:44 p.m., Special Agent Javier Hanson of the Homeland Security  
23 Investigations (“HSI”) of ICE, a Kern County Arson Investigator, and I, later joined by Patrol  
24 Captain Sadowski interviewed **Garcia** at the ICE office. The interview was audio recorded.

25 25. I reminded **Garcia** at the outset of the interview that **Garcia** had already been  
26 advised of his Miranda rights and that he said he understood everything. I then asked **Garcia**,  
27 whether with those rights in mind, **Garcia** had any problem talking to us. **Garcia** agreed to  
28 make a statement. I asked **Garcia** what happened before he was picked up at the mountains.  
**Garcia** said he had driven to the mountains with his son to “look at the view.” He said he

1 stopped two times when he was there. At the second stop, he told his son to stay in the car while  
2 he went "a little bit down." After he went down, he heard his son yelling that someone was  
3 taking the car. **Garcia** returned to the car and his son told him that a man with long hair had  
4 taken the car. **Garcia** said he saw the vehicle leave the area on the paved road heading away  
5 from Delano. **Garcia** said he and his son then started walking when they encountered some  
6 people who offered to give him water. When I asked **Garcia** why his and his son's footprints  
7 were found leading from the car to the highway, **Garcia** shrugged his shoulders and did not  
8 answer. When we confronted him with the fact that the vehicle he had been driving was found  
9 stuck on a dirt road after sliding into a tree, **Garcia** said he was not driving the car when it went  
10 off the road and slid into a tree. We also advised **Garcia** that his girlfriend had previously  
11 indicated that the vehicle got stuck on a dirt road after sliding into a tree. **Garcia** eventually  
12 said, "I got nothing else to say."

13 **IV.**

14 **CONCLUSION**

15  
16 24. Based on the foregoing, I submit that there is probable cause to charge and arrest  
17 **ANGEL GILBERTO GARCIA-AVALOS, aka Angel Gilbert Garcia**, for causing timber,  
18 trees, slash, brush and grass to burn, in violation of Title 36, Code of Federal Regulations,  
19 Sections 551 and 261.5(c), and two counts of giving false information to Forest Officers LEO  
20 Crims and Special Agent Adams, in violation of Title 36, Code of Federal Regulations, Sections  
21 551 and 261.3(b).

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1 Your affiant swears under penalty of perjury that the facts presented are true and accurate  
2 to the best of my knowledge.

3   
4 BRIAN ADAMS  
5 Special Agent  
6 United States Forest Service

7   
8 JENNIFER L. THURSTON  
9 United States Magistrate Judge

10 Reviewed and Approved as to Form  
11 this 28th day of September, 2016

12 /s/ Karen A. Escobar  
13 KAREN A. ESCOBAR  
14 Assistant U.S. Attorney

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KAE  
AUSA INITIALS

PENALTY SLIP

DEFENDANT: ANGEL GILBERTO GARCIA-AVALOS,  
aka Angel Gilbert Garcia

COUNT ONE:

VIOLATION: 16 U.S.C. § 551, 36 C.F.R. § 261.5(c) -  
Causing Timber, Trees, Slash, Brush and  
Grass to Burn

PENALTY: 6 mos/\$500 fine pursuant to the regulations  
and up to a \$5,000 fine pursuant to 18  
U.S.C. § 3571(b)(6); 1 year term of  
supervised release; 5 year term of  
probation; \$10 special assessment

COUNT TWO:

VIOLATION: 16 U.S.C. § 551, 36 C.F.R. § 261.3(b) -  
Giving False Information to Forest Officer

PENALTY: 6 mos/\$500 fine pursuant to the regulations  
and up to a \$5,000 fine pursuant to 18  
U.S.C. § 3571(b)(6); 1 year term of  
supervised release; 5 year term of  
probation; \$10 special assessment

COUNT THREE:

VIOLATION: 16 U.S.C. § 551, 36 C.F.R. § 261.3(b) -  
Giving False Information to Forest Officer

PENALTY: 6 mos/\$500 fine pursuant to the regulations  
and up to a \$5,000 fine pursuant to 18  
U.S.C. § 3571(b)(6); 1 year term of  
supervised release; 5 year term of  
probation; \$10 special assessment

FORFEITURE ALLEGATION: NA