

UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

FILED**OCT 01 2018**PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY 1/1/18 DEP CLK

United States of America

v.

BERNAVE MILLAN-RASCON

Case No. 5:18-MJ-1883-RN

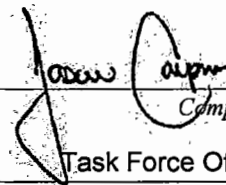
Defendant(s)**CRIMINAL COMPLAINT**

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 December 19, 2016 in the county of Johnston in the
Eastern District of North Carolina, the defendant(s) violated:*Code Section**Offense Description*21 U.S.C. § 841(a)(1) & 18 U.S.C.
§ 2
21 U.S.C. § 846Poss. with Intent to Distribute Five (5) Kilograms or More of Cocaine, Aiding
and Abetting
Conspiracy to Distribute and Possess with Intent to Distribute Five (5)
Kilograms or More of Cocaine

This criminal complaint is based on these facts:

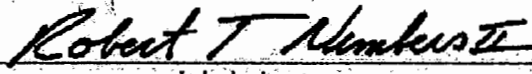
See attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Task Force Officer Jason Corprew, DEA

Printed name and title

Date: 10/1/2018 4:16 pmCity and state: Raleigh, North Carolina

Judge's signature

Robert T. Numbers II, United States Magistrate Judge

Printed name and title

AFFIDAVIT FOR CRIMINAL COMPLAINT

I, Jason Corprew, a Task Force Officer (TFO) duly deputized by the U.S. Drug Enforcement Administration (DEA), United States Department of Justice, being first duly sworn, depose and state under oath as follows:

INTRODUCTION

1. This affidavit is submitting in support of the Criminal Complaint filed against Bernave MILLAN-RASCON. (Other members of this conspiracy have already been convicted and sentenced, including Carlos LOPEZ, Malcolm HIRD, and Francisco Rascon-Millan. See 5:17-CR-0027-BO.)

2. I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7); that is, an officer of the United States who is employed by law to conduct investigations and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516. I am currently assigned as a Task Force Officer with the DEA, Atlanta Field Division, Raleigh Resident Office, and have been so assigned since October of 2013. I have been employed with the Wilson Police Department since 2008 as a sworn law enforcement officer. From 2008 to 2009 I was assigned to the Wilson Police Department's patrol division. The Wilson Police Department's patrol division is charged with the responsibility of responding to calls for service and conducting proactive enforcement actions

to include to not limited to narcotics violations. In May of 2009, I was assigned to the Wilson Police Department's Problem Oriented Response Team (PORT). PORT is charged conducting proactive law enforcement in designated high crime areas in addition to conducting street level narcotic investigations and vice related crimes. In March of 2010, I was assigned to the Wilson Police Department's Narcotics Unit in the capacity of a Narcotics Detective. The Wilson Police Department's Narcotics Unit is charged with the responsibility of investigating large-scale narcotics traffickers in the City of Wilson. In October of 2013, I was assigned to the U.S. Drug Enforcement Administration (DEA) in Raleigh, North Carolina as a Task Force Officer.

3. The facts contained in this affidavit are the product of information provided to me and of other law enforcement officers relating to this investigation and based on my own participation in this investigation. Additionally, every facet of this investigation has not been included in this affidavit only those facts deemed necessary to obtain probable cause.

PROBABLE CAUSE

4. A DEA investigation has shown that Bernave MILLAN-RASCON and others have been involved in the international trafficking of cocaine from Mexico into various parts of the United States, including locations in the Eastern District of North Carolina. Specifically, MILLAN-RASCON is a Mexican national with DOB

xx/xx/1978 who has been directing the smuggling of kilogram quantities of cocaine into the United States using hidden areas of trucks.

5. In September of 2016, Agents/TFOs received information from Agents/TFOs in Dallas, Texas and Houston, Texas regarding a DTO/MLO operating in the Eastern District of North Carolina.

6. Based on that information, and based on surveillance and intercepted electronic communications, agents were able to identify Carlos Miranda LOPEZ, who lived in North Carolina, as being involved in drug trafficking and money laundering.

7. The investigations in Texas and in the Eastern District of North Carolina have determined that the DTO/MLO ships narcotics from Mexico through Texas, and then to various distribution hubs around the United States, including the Raleigh, North Carolina.

8. Agents determined that LOPEZ was employed at a tile company in the Raleigh area, but court-authorized interceptions showed that LOPEZ was managing the DTO/MLO's trafficking activities in the Raleigh area.

9. Through these court-authorized interceptions, Agents/TFOs were able to identify the telephone number (919) 437-4652, hereinafter referred to as TARGET TELEPHONE #1, as the telephone number being used by to LOPEZ.

10. Law enforcement issued an administrative subpoena for TARGET TELEPHONE #1 and learned that TARGET TELEPHONE #1 was

served through Verizon Wireless and subscribed to Evelin LOPEZ-LOPEZ with a listed address of 47 Pepperstone Court, Clayton, North Carolina. Agents learned that service to TARGET TELEPHONE #1 was initiated on October 28, 2015. A search of law enforcement databases was unable to locate an Evelin LOPEZ-LOPEZ with the address 47 Pepperstone Court, Clayton, North Carolina. Based on your Affiant's training and experience, your Affiant knows that cellular telephones are routinely subscribed to fictitious names or parties not involved in the criminal activity. This technique is commonly used by drug traffickers and individuals involved in criminal activity in an attempt to avoid law enforcement detection.

11. On September 27, 2016, Honorable Judge Robert T. Numbers, United States Magistrate Judge for the Eastern District of North Carolina, issued a search warrant for historical text message content to and from TARGET TELEPHONE #1. See 5:16-MJ-1849. On September 30, 2016, Verizon Wireless provided historical text message content for TARGET TELEPHONE #1 for the period of September 16, 2016 to September 27, 2016.

12. On November 15, 2016, Honorable James C. Dever III, Chief United States District Judge for the Eastern District of North Carolina, filed in 5:16-MJ-1976-D, authorized the initial interception of wire and electronic communication of the cellular telephone with assigned call number 919-437-4652 (TARGET TELEPHONE #1). The monitoring of TARGET TELEPHONE #1 began on November 16,

2016.

13. Through the interceptions of TARGET TELEPHONE #1, agents/TFOs were able to identify Malcolm HIRD as a co-conspirator of LOPEZ. HIRD was responsible for selling narcotics for LOPEZ and/or collecting United States currency for LOPEZ. To illustrate and support these beliefs, some of the intercepted communications between LOPEZ, who is using TARGET TELEPHONE #1, and HIRD are listed below in the following paragraphs.

14. On November 16, 2016, at 9:19:55, LOPEZ and HIRD had a telephone conversation over TARGET TELEPHONE #1. A portion of this telephone call has been transcribed and detailed below.

HIRD: Hey

LOPEZ: Where you at? I got it

HIRD: I'm behind you.

a. Based on this interception between LOPEZ and HIRD, and based on their knowledge, training, and experience, Agents/TFOs believe that LOPEZ was attempting to meet with HIRD in an attempt to provide HIRD with narcotics. This is evident by LOPEZ advising HIRD that he had "it."

15. On November 20, 2016, a series of electronic messages and voice calls between LOPEZ and HIRD were intercepted starting at 1:31:00 p.m. and ending at 9:04:07 p.m. These communications are displayed below.

(Text Messages) 1:31:00 p.m.

LOPEZ: I have my other phone off let me know if you will come today.

HIRD: Ok I am trying my best boss uhg slow day damn.

LOPEZ: Ok

(Text Messages) 7:14:21 p.m.

HIRD: Damn man slow day one friend at maybe 11 tonight would it be really bad if I had to wait until tomorrow? I'm trying really hard

LOPEZ: Ok

LOPEZ: Please try to make cause they asking me for more (money emoji).

HIRD: I know boss I am even trying other people too. I will find a way, I know some time tonight my guy will come with half just waiting for him to finish and trying to find more people.

LOPEZ: Ok thanks

HIRD: No Problem I'm rushing but carefully

a. Based their training and experience, Agents/TFOs believe that when HIRD told LOPEZ that it was a "slow day," HIRD was referring to the inability to sell large amounts of narcotics. In later communications, LOPEZ and HIRD continued to discuss the fact that LOPEZ was in need of money. For example, LOPEZ stated, "Please try to make cause they asking me for more (money emoji)."

Agents/TFOs know, based on other interceptions, that LOPEZ was being required to provide United States currency to the DTO/MLO, and I believe that LOPEZ was requesting HIRD to provide him (LOPEZ) with drug proceeds. Agents/TFOs also believe that these communications were only captured because LOPEZ's alternate telephone (later determined to be TARGET TELEPHONE #2) was not working.

16. On December 12, 2016, Honorable James C. Dever III, Chief United States District Judge for the Eastern District of North Carolina, filed in 5:16-MJ-1976-D, authorized the continued interception of wire and electronic communications of TARGET TELEPHONE #1 and the authorized the initial interception of wire and electronic communication of TARGET TELEPHONE #2. TARGET TELEPHONE #2 is a cellular telephone that was identified through additional interceptions occurring over TARGET TELEPHONE #1, and TARGET TELEPHONE #2 was identified as an alternate cellular telephone for LOPEZ.

17. On December 14, 2016, a series of electronic communications were intercepted on TARGET TELEPHONE #1. These communications were between LOPEZ and HIRD; they began at 9:30:55 and are detailed below.

December 14, 2016 (9:30:55 p.m.)

LOPEZ: I need the picture of the empty bag please.

LOPEZ: Okay, thanks, man, u save my ass.

HIRD: Remember, with the numbers on the scale it's 1000+ the plastic... that's why some are 1100.

LOPEZ: Ok

LOPEZ: Thank you

HIRD: Of course man no problem so it's 5 big and 1 small

December 14, 2016 (9:33:58 p.m.)

During this series of communications, HIRD sent LOPEZ the below photographs to TARGET TELEPHONE #1.





18. Based on the series of communication between LOPEZ and HIRD, it is evident that LOPEZ was requesting HIRD to send him (LOPEZ) photographs of kilogram quantities of cocaine. Agents believe that LOPEZ made this request for proof either for LOPEZ's own purposes or at the request of two other co-conspirators, including Bernave MILLAN-RASCON and Target #2 (who will remain unnamed in this affidavit to avoid compromising the investigation). Based on this series of communications, agents also believe that HIRD is responsible for the storage of the kilogram quantities of cocaine on behalf of the organization.

19. During surveillance, HIRD has was observed leaving the residence of 603 E. Main Street, Benson, North Carolina 27504, and HIRD was observed meeting with a truck driver behind a CVS Pharmacy in Benson, North Carolina. Agents continued to follow HIRD, who left the meeting with the truck driver and traveled to a gas station parking lot, where he remained inside the vehicle for an extended period of time. Agents also followed the truck driver, and a traffic stop was conducted for a traffic violation in Harnett

County, North Carolina. The driver of the vehicle was identified as Clarence Kevin PENDERGRAFT. During the traffic stop, PENDERGRAFT consented to a search of the cabin of his truck, and officers observed a strong odor of air fresheners and a natural void behind the seat that appeared to have been used frequently to store unknown items. PENDERGRAFT admitted during the traffic stop that he has been responsible for the transportation of narcotics in the past, but he did not mention his meeting with HIRD.

20. On December 16, 2016, TARGET TELEPHONE #1 began communicating with Target #2, who resides in Mexico, regarding how much U.S. Currency LOPEZ was in possession of. These communications were via electronic messages and are transcribed below.

TARGET #2: Send me a message when you are not busy to see how much paper there is.

LOPEZ: 127

TARGET #2: Are you sure?

LOPEZ: Yes

TARGET #2: You must have 136

TARGET #2: $59+71+64+16=210$

TARGET #2: Yes, and they are going to give you 136. They are going to call you to hand them over. And you are missing 11500 from the 70 for tomorrow, right?

21. Based on this series of communications, agents believe that TARGET #2 was asking for the quantity of drug proceeds LOPEZ

was in possession of. LOPEZ advised him/her that he (LOPEZ) was in possession of \$127,000 U.S. currency. This is evident from LOPEZ's reply "127." Agents also believe that LOPEZ is preparing for a bulk money transfer of drug proceeds to an unknown courier.

22. On December 17, 2016, a telephone call was intercepted over TARGET TELEPHONE #1 between LOPEZ and Bernabe MILLAN-RASCON, who also resides in Mexico. The content of that telephone call has been summarized below.¹

LOPEZ and MILLAN-RASCON greeted each other. LOPEZ asked how MILLAN-RASCON was. MILLAN-RASCON said it was calm and asked how LOPEZ was. LOPEZ said he was at a store with his family. MILLAN-RASCON asked if LOPEZ had a place to park a big trailer with a platform. LOPEZ asked if it would be for a long time. MILLAN-RASCON said for a day. LOPEZ said he had. LOPEZ said where the guy that helped him because he, as he had told his wife, was a truck driver and could take it home. MILLAN-RASCON asked LOPEZ to give him the address to park it there and then see what to do with it. LOPEZ told MILLAN-RASCON to let him call him and he would send MILLAN-RASCON the address. MILLAN-RASCON said fine. LOPEZ said fine. LOPEZ asked if to this number. MILLAN-RASCON said yes. LOPEZ said fine.

a. Based on this telephone call between LOPEZ and MILLAN-RASCON, agents believe that MILLAN-RASCON was asking LOPEZ to provide a location for a trailer to be dropped off and stored temporarily. Agents/TFOs are familiar that this particular DTO/MLO utilizes tractor trailers to move and distribute narcotics and collect bulk currency. Agents are also aware that DTOs/MLOs of

¹ This summary was provided by Spanish-speaking wire monitors. A full transcription is not yet available.

this magnitude utilizes tractor trailers, and concealment methods within those tractor trailers, to secret large amount of drug proceeds and/or narcotics.

23. Immediately following the aforementioned telephone call, LOPEZ places a telephone call to HIRD. A summary of this conversation is detailed below.

LOPEZ asked where HIRD was. HIRD said he was at his house. LOPEZ told HIRD to get off the speaker that he needed to tell him something. LOPEZ said the boss woman called him (LOPEZ) and she asked if they (LOPEZ and HIRD) could park the trailer at HIRD's house. HIRD said yes. LOPEZ asked that everybody including the neighbors knew that HIRD was a truck driver. HIRD said yes. LOPEZ asked if they could park the trailer there by HIRD's house. HIRD said yes, of course. LOPEZ asked HIRD to text him (LOPEZ) the address. HIRD said yes. LOPEZ said to text it to him (LOPEZ) now that he was going to send it to him (a third party). HIRD asked what kind of trailer LOPEZ meant. LOPEZ said it was an 18 wheeler. HIRD said okay and that he was going to say that was his work truck. LOPEZ said yes. HIRD said they had to park it all the way in the back, but yes. LOPEZ said okay and that was fine.

24. Based on the above conversation between LOPEZ and HIRD, agents believe that LOPEZ was orchestrating the delivery of a tractor trailer so that a detached trailer could be left at HIRD's residence, 603 E. Main Street, Benson, North Carolina 27504. Agents believe that this tractor trailer is being used as an avenue to transport narcotics and/or drug proceeds based on their training, experience, and their knowledge that this modus operandi matches the transportation patterns used by the DTO.

25. On December 17, 2016, following the conversation between LOPEZ and HIRD, HIRD sent LOPEZ an electronic message stating:

HIRD: 603 E Main St Benson NC

HIRD: 27504

LOPEZ in turn sent electronic messages MILLAN-RASCON stating:

LOPEZ: 603 E Main St Benson NC

LOPEZ: 27504

26. Based on the series of electronic messages to LOPEZ from HIRD and then from LOPEZ to MILLAN-RASCON, it is evident that LOPEZ was preparing to receive and store a trailer at HIRD's residence with consent of HIRD at the request of MILLAN-RASCON.

27. On December 17, 2016, while conducting surveillance of HIRD's residence, 603 E. Main Street, Benson, North Carolina 27504, agents observed a white tractor trailer pulling a flatbed trailer arrive and park the trailer at HIRD's residence. While attempting to park the trailer, agents observed HIRD outside directing the trailer onto the property. Agents then observed the tractor and driver leave and agents followed the tractor until it reached South Carolina, leaving the trailer behind.

28. On December 19, 2016, Agents conducted surveillance on HIRD's residence and observed LOPEZ arrive with a Hispanic male, later identified as Francisco Javier RASCON-MILLAN (believed to be a relative of Bernave MILLAN-RASCON). Agents observed LOPEZ, HIRD, and Francisco RASCON-MILLAN as they began to perform mechanical

work on the trailer, specifically the area surrounding the axle portion of the trailer. Agents observed HIRD make several trips to a mechanical store in the immediate area of his residence and observed LOPEZ and Francisco RASCON-MILLAN leave the residence and travel to several mechanic stores. Agents then observe LOPEZ and Francisco RASCON-MILLAN arrive back at the residence and begin working on the trailer more. Agents observed HIRD retrieve a blue cooler and place it near the trailer as LOPEZ and Francisco RASCON-MILLAN working on the trailer. Based on the observations of agents, coupled with intercepted communications regarding Francisco RASCON-MILLAN traveling from Texas to North Carolina, arriving on December 18, 2016, agents believe that Francisco RASCON-MILLAN arrived in North Carolina for the sole purpose of accessing a hidden compartment or contraband secreted inside the axle of the trailer.

29. Agents approached and detained HIRD, LOPEZ, and Francisco RASCON-MILLAN as they were working on the trailer. A search of HIRD's person revealed a small amount of cocaine contained inside a cigarette box.

30. Federal search warrants were obtained for 603 East Main Street, Benson, North Carolina and a search warrant was obtained for 3400 Sanders Road, Willow Springs, North Carolina. Both search warrants were executed and the following items were located and seized.

31. At 603 E. Main St. Benson, NC 5 bundles (approximately one kilogram per bundle) of an off white powdery substance that field tested positive for cocaine was located in a burgundy Chrysler Pacifica. An additional 5 bundles (approximately one kilogram per bundle) of an off white powdery substance, believed to be cocaine, was located inside the axle of the trailer that was identical to the 5 located in the Pacifica. Inside the Chevrolet Cobalt, located parked in the rear of the residence, agents located a fire extinguisher that was cut in half that contained approximately 2 kilograms of suspected cocaine. This substance was field tested and tested positive for the presence of cocaine. Inside the residence, agents located approximately 3 kilograms of suspected cocaine under the master bedroom bed that was wrapped in blue Christmas paper. This substance was field tested and tested positive for the presence of cocaine.

32. At 3400 Sanders Rd. Willow Springs, NC, agents located thousands of dollars of U.S. Currency in the master bedroom. Some of the currency was located under the bed in boxes, in a purse, and in a Dewalt drill box. Also, during the search of this bedroom, agents located a Springfield Armory 45 caliber gun with serial number NM89858 and a SKS style rifle, 7.62 caliber, with serial number 1805146J.

33. One of the defendants ("CD-1") cooperated with law enforcement, pursuant to a plea agreement, in the form of a series

of debriefings. During the debriefings, CD-1 admitted that he worked for the drug trafficking organization (DTO) and Money Laundering Organization (MLO) since 2016. CD-1 identified the leaders of this DTO/MLO as being TARGET #2 and Bernave MILLAN-RASCON. CD-1 stated that TARGET #2 and Bernave MILLAN-RASCON receive their cocaine from Oaxaca, Mexico, and that Bernave MILLAN-RASCON is missing an arm. CD-1 said that TARGET #2 and Bernave MILLAN-RASCON have been involved in the drug trade for at least 15 years. CD-1 admitted to receiving in excess of 20 kilograms of cocaine at the direction of MILLAN-RASCON.

34. Carlos LOPEZ, Malcolm HIRD, and Francisco Rascon-Millan have been convicted and sentenced. See 5:17-CR-0027-BO.

CONCLUSION

35. Based on the forgoing investigation, I have probable cause to believe and do believe that Bernave MILLAN-RASCON has committed violations of Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Section 2, Possession with Intent to Distribute Five Kilograms or More of Cocaine and Aiding and Abetting, and Title 21, United States Code, Section


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846, Conspiracy to Possess with Intent to Distribute Five
Kilograms or More of Cocaine.



DEA TFO Jason Corprew
Wilson Police Department

Pursuant to Rule 4.1 of the Federal Rules of Criminal Procedure, the affiant appeared before me via
reliable electronic means, was placed under oath, and attested to the contents of this written affidavit.
Dated: October 1, 2018



Robert T. Numbers, II
United States Magistrate Judge