

**FILED**  
Feb. 9, 2021  
  
SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

**UNITED STATES DISTRICT COURT**  
for the  
Northern District of California

United States of America )  
v. )  
Liliana Moreno )  
)  
)  
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)  
\_\_\_\_\_  
*Defendant(s)*

Case No. **CR 21-70248-MAG**

**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 March 17, 2018 in the county of Santa Clara in the  
Northern District of California, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 2232(d)	Unlawful Disclosure of Electronic Surveillance

This criminal complaint is based on these facts:

Please see the attached affidavit of Special Agent Andrew Howard, Department of Justice Office of the Inspector General

Continued on the attached sheet.

Approved as to form          /s/  
AUSA Casey Boome

/s/ Andrew Howard w/permission by VKD  
*Complainant's signature*  
Special Agent Andrew Howard, DOJ-OIG  
*Printed name and title*

Sworn to before me by telephone.

Date: 02/09/2021

*Virginia K. DeMarchi*  
*Judge's signature*

City and state: San Jose, CA

Virginia K. DeMarchi, U.S. Magistrate Judge  
*Printed name and title*

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Andrew R. Howard, being duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of a criminal complaint charging Liliana MORENO with one count of Unlawful Notice of Electronic Surveillance, in violation of 18 U.S.C. § 2232(d). In 2018, MORENO was employed as a U.S. Drug Enforcement Administration (“DEA”) contractor working as a linguist in connection with a drug trafficking investigation. During the investigation, MORENO monitored court-authorized wiretaps from the DEA wire room<sup>1</sup> in San Jose, California. As set forth below, I submit that there is probable cause to believe that MORENO unlawfully disclosed the existence of the wiretap investigation to a personal friend, with the intent to frustrate future interceptions.

2. I am a Special Agent of the Department of Justice, Office of the Inspector General (“DOJ OIG”) and have been so employed since July 2017. I am presently assigned to the Los Angeles Field Office of the DOJ OIG. I have participated in dozens of investigations of cases involving fraud, money laundering, human trafficking, narcotics trafficking, child pornography, immigration violations, bulk cash smuggling, introduction of contraband, and corruption of public officials. My current primary assignment is the investigation of fraud, waste, and abuse within the Department of Justice. I have received training at the Federal Law Enforcement Training Center in Glynco, Georgia, including training in white-collar crime, narcotics investigations, case management, and informant development. I have also attended basic and advanced trainings focused specifically on cellular data analysis and geo-location. Prior to my employment as a Special Agent with the DOJ OIG, I was a Special Agent with Immigration and Customs Enforcement and Homeland Security Investigations and was so employed for more than seven years.

3. The facts set forth in this affidavit are based on my own personal observations;

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<sup>1</sup> The “wire room” refers to a location where court-authorized intercepted phone calls are monitored and translated/transcribed as necessary.

knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers; physical surveillance conducted by law enforcement personnel; interviews of witnesses; my review of records related to this investigation; and my training and experience. This affidavit is intended to show merely that there is sufficient probable cause for the requested criminal complaint and does not set forth all my knowledge about this matter.

### **THE SUBJECT OFFENSE**

4. This investigation concerns alleged violations of 18 U.S.C. § 2232(d) committed in the Northern District of California and elsewhere. Title 18 U.S.C. § 2232(d) makes it an offense for an individual, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under chapter 119 to intercept a wire, oral or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person. I am informed that a person who discloses information about an expired wiretap still violates the statute so long as the disclosure is made “in order to obstruct, impede, or prevent” another “possible interception.” *United States v. Aguilar*, 515 U.S. 593, 605–06 (1995).

### **FACTS ESTABLISHING PROBABLE CAUSE**

#### **A. MORENO’s Role in the DEA Investigation**

5. The DEA initiated a series of court-authorized Title III wire intercepts in support of a DEA San Jose Regional Office investigation of a drug trafficking organization (“DTO”). Of particular relevance was a series of wiretaps of telephones used by Spanish-speaking “Wire Target 1”. In support of these intercepts, the DEA utilized a standing contract with “DEA Contractor”, who assigned the defendant, Liliana MORENO, as the head wire room monitor. DEA Contractor held a contract with the DEA to provide monitors who could listen to and translate a variety of foreign languages that might be encountered during a Title III wire intercept.

6. The schedule of Title III wiretap authorizations used during the time period relevant to the offenses alleged in the proposed criminal complaint are as follows:

- The First Wire (**12/19/2017 – 1/17/2018**) intercepted two phones used by “E.J.”, a member of the DTO
- The Second Wire (**01/20/2018 – 02/18/18**) intercepted the E.J. phones and the phone used by Wire Target 1
- The Third Wire (**02/15/2018 – 03/16/2018**) intercepted the E.J. phones, two Wire Target 1 phones, and a phone used by “V.G.”, another member of the DTO
- The Fourth Wire (**03/23/2018 – 04/21/2018**) intercepted the E.J. phone

7. As set forth below, Wire Target 2 and his/her fiancé/e were personal friends of MORENO. Wire Target 2 was first intercepted on February 6, 2018 over the wiretap of Wire Target 1’s phone. MORENO monitored the February 6, 2018 call. On or about March 12, 2018, DEA agents photographed Wire Target 2 during a surveillance operation and displayed the photo in the wire room where MORENO worked. Wire Target 2’s true name was displayed in the wire room with the photo. Contrary to MORENO’s agreement with DEA Contractor, MORENO did not immediately notify DEA about her personal association with Wire Target 2.<sup>2</sup>

8. As set forth in more detail below, on or about March 17, 2018, MORENO met with “Witness 1”, then the fiancé/e of Wire Target 2. MORENO disclosed to Witness 1 that Wire Target 2 was one of the targets of a DEA wiretap investigation.<sup>3</sup> After MORENO’s meeting with Witness 1, Wire Target 1 and Wire Target 2 terminated the use of their telephones, frustrating the wiretap investigation by preventing further interceptions. On or about March 20, 2018, MORENO informed the DEA that she was acquainted with Wire Target 2 and his/her

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<sup>2</sup> Section C.3.2.7.e of MORENO’s contract with DEA Contractor states that an "Analytic Linguist who has personal knowledge of a target (i.e., the target is a neighbor, acquaintance, relative, etc.), recognizes any target by name, or becomes aware that the intercepted parties are known to them either during or after minimization shall notify the supervising agent and Task Monitor immediately."

<sup>3</sup> On February 11, 2015, MORENO signed DEA Form 487, a non-disclosure agreement, which lists MORENO's name, and includes paragraphs stating that MORENO agrees never to disclose any DEA information to an unauthorized recipient without approval and to report any requests for information made outside of MORENO's official capacity. The nondisclosure agreement also includes a paragraph stating that MORENO acknowledges that unauthorized disclosure could be a violation of federal law and subject to prosecution as a criminal offense.

significant other, Witness 1. MORENO was subsequently removed from the investigation. Wire Target 2 was arrested on October 4, 2018, and revealed in a subsequent proffer interview that in mid-March 2018, s/he received notification from a DEA linguist that s/he was under investigation.

**B. Interview of Wire Target 2<sup>4</sup>**

9. On February 21, 2019, I interviewed Wire Target 2 in the presence of his/her attorney. Wire Target 2 stated that s/he was involved in drug trafficking and had been arrested on October 4, 2018. Wire Target 2 stated that his/her fiancé-e was Witness 1. Wire Target 2 stated that, prior to March 2018, Witness 1 was unaware of his/her narcotics-related activities.

10. Wire Target 2 stated that in January or February 2017, Witness 1 got a job as a part-time nurse in Turlock, California. Due to the distance from their home, Witness 1 rented a room in a condominium from a woman named "Liliana" (later identified to be Liliana MORENO, the defendant). Witness 1 rented the condominium until August or September 2017, when s/he got a new job closer to home. Wire Target 2 recalls briefly meeting Moreno when Wire Target 2 helped Witness 1 move into MORENO's condominium.

11. Wire Target 2 stated that in March of 2018, MORENO called Witness 1 and arranged to meet Witness 1 in person. MORENO and Witness 1 met at a restaurant in Tracy, CA. According to Wire Target 2, one or two days after Witness 1 met with MORENO, Witness 1 told Wire Target 2 what s/he had learned from MORENO, including the following: MORENO worked as a DEA linguist and had overheard Wire Target 2's name on a wiretap in a long-running DEA investigation. DEA was listening to a phone used by Wire Target 1, an associate of Wire Target 2 in the drug business. The name/alias "Shorty", which Wire Target 1 recognized, had also come up on the wiretap. Witness 1 also told Wire Target 2 that MORENO

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<sup>4</sup> After his/her arrest, Wire Target 2 pleaded guilty to a felony drug offense pursuant to a cooperation agreement under which Wire Target 2 hopes to receive a more lenient sentence in exchange for his/her cooperation. Prior to his/her conviction in that case, Wire Target 2 had sustained a separate felony drug conviction and a misdemeanor driving under the influence conviction. To date, Wire Target 2 has not provided any information to me that I have determined to be false or misleading.

had given Witness 1 the last four digits (7035) of the prepaid phone number Wire Target 2 was using at the time to conduct narcotics business.

12. Wire Target 2 stated that s/he found the information from MORENO to be credible because MORENO had conveyed the names of Wire Target 1 and “Shorty”, as well as the last four digits of Wire Target 2’s prepaid phone number, none of which Wire Target 2 had previously shared with Witness 1. As a result, Wire Target 2 ceased using his/her prepaid phone ending 7035 and informed Wire Target 1 that s/he was under investigation. Subsequently, Wire Target 1 also dropped his/her phone.

**C. Interviews of Witness 1<sup>5</sup>**

13. On April 17, 2019 and December 16, 2020, I interviewed Witness 1 in the presence of his/her attorney. Witness 1 confirmed that in 2017 s/he got a job as a nurse in Turlock, California and rented a room from MORENO, where s/he stayed several days a week. Witness 1 stated that s/he vacated the room in September 2017 after getting a new job in San Jose, California. Witness 1 stated that while renting a room from MORENO the two became socially acquainted. Witness 1 stated his/her understanding that MORENO worked for the DEA as a translator. Witness 1 added that MORENO and Wire Target 2 had met previously when Wire Target 2 visited Witness 1 in Turlock, and the three of them had dinner together in late 2017.

14. Witness 1 stated that in March 2018, MORENO contacted Witness 1 from a phone number that Witness 1 did not initially recognize and left a voicemail message asking Witness 1 to call him/her back. Witness 1 called the number back and MORENO answered the phone. Witness 1 recalls MORENO indicating that the phone number belonged to MORENO’s sister. Witness 1 stated that MORENO wanted to meet, and they arranged to meet at the Texas Roadhouse Restaurant in Tracy, California.

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<sup>5</sup> Witness 1 is a friend of the defendant and is the spouse of Wire Target 2, although (according to Witness 1) they are now separated. Witness 1 sustained three misdemeanor convictions between 2000 and 2008, including petty theft and driving under the influence.

15. Witness 1 stated that when they met at the restaurant, MORENO informed Witness 1 that Wire Target 2 had come up in a DEA investigation and that the DEA had a photograph of Wire Target 2. MORENO asked Witness 1 to tell Wire Target 2 not to associate with certain people, although Witness 1 stated that s/he does not recall MORENO conveying any names, phone numbers, or other specific information. Witness 1 stated that s/he does not recall any additional details of his/her conversation with MORENO. Witness 1 stated that, sometime after the meeting with MORENO, Witness 1 spoke with Wire Target 2 about what s/he had learned from MORENO, but Wire Target 2 denied or deflected his/her questions about Wire Target 2's involvement in drug-trafficking. Witness 1 said s/he did not notice a change in Wire Target 2's behavior and was not fully aware of Wire Target 2's narcotics-related activities until Wire Target 2 was arrested in October 2018.

**D. Corroborating Telecommunications Evidence**

16. During my investigation, I obtained subscriber records for the following relevant phone numbers:

a) Phone number ending 3967 a T-Mobile cellular phone number that was subscribed to Liliana Vazquez or Liliana MORENO from 2008 to 2019 at addresses in Patterson, California and Turlock, California (hereinafter "the MORENO Phone").

b) Phone number ending 1640, an AT&T cellular phone number subscribed to Witness 1 at an address in Hayward, California (hereinafter "the Witness 1 Phone"). The records indicate the account was activated on June 30, 2006, and was active as of July 28, 2020.

c) Phone number ending 7382 is an AT&T cellular phone number subscribed to "E.V" at an address in Turlock, California (hereinafter "the E.V. Phone"). The account was activated on December 15, 2017 and terminated on April 15, 2018. This number is believed to be the number used by MORENO's sister during the relevant time

period.<sup>6</sup>

17. I also obtained call detail records for the three phones referenced above. I observed a series of phone calls and text messages between the Moreno, Witness 1, and E.V. Phones in March of 2018, which is when Witness 1 said s/he met with MORENO and learned of the DEA investigation. For example, on March 15, 2018, at approximately 6:50 p.m., the E.V. Phone and the Witness 1 Phone exchanged SMS messages. At approximately 8:40 p.m., the E.V. Phone called the Witness 1 Phone and left a voicemail message. At approximately 9:20 p.m., the Witness 1 Phone called the E.V. Phone and left a voicemail message. Two minutes later, the E.V. Phone sent an SMS message to the Witness 1 Phone. According to call detail records, March 15, 2018, was the first time that the E.V. Phone contacted the Witness 1 Phone, corroborating Witness 1's statement that MORENO called Witness 1 in March of 2018 from a number that s/he did not initially recognize. Based on the investigation thus far and my previous investigative experience, I know that persons attempting to obscure their identities often use prepaid phones or use phones belonging to friends and associates to communicate. Based on these facts, it is my opinion that MORENO used the E.V. Phone, to contact Witness 1 without leaving a record of direct contact between the Witness 1 Phone and the MORENO Phone

18. On March 16, 2018, call detail records showed numerous calls and text messages between the Witness 1 Phone, the Moreno Phone, the E.V. Phone, and another phone number that I know to be associated with Witness 1's employer at the time ("the Employer Phone"). For example, at approximately 5:11 p.m., the MORENO Phone received two phone calls from the Employer Phone. At approximately 8:58 p.m., the E.V. Phone called the Employer Phone. Thirty minutes later, the Witness 1 Phone sent an SMS message to the E.V. Phone. Minutes

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<sup>6</sup> To date, I have been unable to demine the nature of the relationship between the subscriber "E.V." and MORENO or MORENO's sister. Toll records from the E.V. Phone, however, indicate that between December 20, 2017 and April 7, 2018, the E.V. Phone and the MORENO Phone exchanged more than 26 phone calls and 139 text messages. Further analysis revealed that the E.V. Phone and Moreno Phone exchanged one phone call approximately every four days and at least one text message per day, indicating an ongoing and likely personal association between the users.



later, the E.V. Phone sent an SMS message to the MORENO Phone. At approximately 10:10 p.m., the MORENO Phone called the Employer Phone.

19. On March 18, 2018, call detail records showed that the E.V. Phone called the MORENO Phone, and shortly thereafter, the two numbers exchanged SMS messages.

20. On May 28, 2020, I served search warrant number 3:20-mj-70641 TSH via the AT&T Global Legal Demand Center email address for records pertaining to the Witness 1 Phone, the E.V. Phone, and the MORENO Phone. That warrant directed AT&T to produce cell tower location data. Cell tower location data produced in response to the warrant showed that the Witness 1 Phone was in the vicinity of the Texas Roadhouse Restaurant in Tracy, California on March 17, 2018, corroborating Witness 1's memory of a meeting with MORENO at that restaurant in March of 2018. According to AT&T, no cell tower location data was available for the E.V. Phone or the MORENO Phone in response to the search warrant.


### **CONCLUSION**

21. Based on the foregoing, I respectfully submit that there is probable cause to believe that Liliana MORENO has committed a violation of 18 U.S.C. § 2232(d). I request therefore that this Court authorize the attached criminal complaint and summons for the defendant, Liliana MORENO.

Respectfully Submitted,

/s/ Andrew R. Howard w/permission by VKD  
ANDREW R. HOWARD  
Special Agent, DOJ OIG

*Sworn to before me over the telephone and signed by me pursuant to Fed.R.Crim.P. 4.1 and 4(d) on this 9 day of February, 2021.*

  
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HON. VIRGINIA K. DEMARCHI  
United States Magistrate Judge