

UNITED STATES DISTRICT COURT

for the

Northern District of California

FILED

Feb 15 2022

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

United States of America

v.

DIXIS ARCHAGA-REYES

Case No. 3:22-mj-70188 MAG

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 22, 2021 in the county of San Francisco in the
Northern District of California, the defendant(s) violated:*Code Section**Offense Description*- 21 U.S.C. §§ 841(a)(1), (b)(1)(B)
(viii)

- Distribution of 5 grams or more of methamphetamine

- 21 U.S.C. §§ 841(a)(1), (b)(1)(B)
(vi)

- Distribution of 40 grams or more of fentanyl

Maximum penalties: 40 years' imprisonment (minimum 5 years' imprisonment); 5,000,000 fine; lifetime supervised release (minimum 4 years); \$100 special assessment; mandatory and discretionary denial of federal benefits upon conviction of drug offenses

This criminal complaint is based on these facts:

Please see the attached affidavit of DEA TFO Michael Cunnie.

☒ Continued on the attached sheet.Approved as to form /s/Andrew Paulson
AUSA Andrew Paulson

Sworn to before me by telephone.

Date: 02/15/2022City and state: San Francisco, California

/s/

Complainant's signature

DEA TFO Michael Cunnie

*Printed name and title**Judge's signature*

Hon. Laurel Beeler, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

I, Michael Cunnie, a Task Force Officer of the Drug Enforcement Administration (“DEA”), being duly sworn, hereby declare as follows:

INTRODUCTION

1. I make this affidavit in support of an application under Rule 4 of the Federal Rules of Criminal Procedure for a criminal complaint and arrest warrant charging Dixis ARCHAGA-REYES (**/**/1995) with violations of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(B) for (1) distribution of 5 grams or more of methamphetamine to another person and (2) distribution of 40 grams or more of fentanyl to another person, on or about December 22, 2021 in the Northern District of California.

SOURCES OF INFORMATION

2. Because this affidavit is submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included every fact known to me concerning this investigation. Instead, I have set forth only the facts necessary to establish probable cause that, on or about December 22, 2021, within the Northern District of California, ARCHAGA-REYES distributed to another person 5 grams or more of methamphetamine and 40 grams or more of fentanyl, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B).

3. I have based my statements in this affidavit on my training and experience, personal knowledge of the facts and circumstances obtained through my participation in this investigation, information provided by other agents and law enforcement officers, and information provided by records and databases. I believe these sources to be reliable. Where I refer to conversations and events, I refer to them in substance and in relevant part rather than in their entirety or verbatim, unless otherwise noted. This affidavit also reflects my current understanding of facts relating to this investigation, but my understanding may change in the future as the investigation proceeds.

AFFIANT BACKGROUND

4. I am an “investigator or law enforcement officer of the United States” within the

meaning of 18 U.S.C. § 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, the narcotics offenses enumerated in Title 21 of the United States Code.

5. I am employed by the San Francisco Police Department (SFPD) as a police officer and have been so employed since January 2, 2015. I am currently assigned as a case specific Task Force Officer (TFO) to the Drug Enforcement Administration (DEA) within the San Francisco Divisional Office in California. I have been assigned as a case specific DEA TFO since February 2022.

6. I graduated from the SFPD academy in January 2015. In the police academy, I received 40 hours of narcotics-related training. I also attended the SFPD Detective school where I received additional narcotics investigations training. The training curriculum covered all aspects of drug investigations, including identification of controlled substances, physical surveillance, utilization of confidential sources, interview techniques, undercover operations, and the general operation of drug trafficking organizations.

7. During the course of my employment as a police officer, I have participated in many controlled substance investigations either as a case agent or in a supporting role. I have debriefed confidential sources and witnesses who had personal knowledge regarding drug trafficking organizations. In addition, I have discussed with numerous law enforcement officers and confidential sources the methods and practices used by drug traffickers. I have also participated in many aspects of drug investigations including, but not limited to, undercover operations, telephone toll analysis, records research, and physical surveillance. I have also assisted in court-ordered wiretap investigations and in the execution of numerous federal and state search and arrest warrants related to illegal activities involving controlled substances that resulted in the arrest of suspects and seizure of controlled substances.

8. I have monitored, conducted surveillance, or otherwise participated in multiple investigations that utilized wire interceptions.

9. Through my training, education, experience, and my conversations with other

agents and officers who conduct drug investigations, I have become familiar with drug traffickers' use of mobile telephones, and their use of numerical codes and code words to conduct their business. I have also become familiar with drug traffickers' methods of operation, including, but not limited to, the manufacturing, distribution, storage, and transportation of controlled substances, and the methods used by drug traffickers to collect, transport, safeguard, remit, and/or launder drug proceeds. By virtue of my training and experience, and through my conversations with other agents and officers who conduct drug investigations, I have become familiar with the methods used by drug traffickers to import, transport, safeguard, and distribute drugs, and the methods used by drug traffickers to collect, transport, safeguard, remit, and/or launder drug proceeds.

10. I have participated in the investigation discussed in this Affidavit. I have also discussed the investigation with other DEA Special Agents and with other law enforcement agencies involved in it. I have reviewed records and reports relating to the investigation. Unless otherwise noted, wherever in this Affidavit I assert that a statement was made, the information was provided by another DEA agent, law enforcement officer, or witness who may have had either direct or hearsay knowledge of that statement and to whom I or others have spoken, or whose reports I have read and reviewed.

APPLICABLE LAW

11. Title 21, United States Code, Sections 841(a)(1) and (b)(1)(B)(viii) prohibit any person from knowingly or intentionally distributing 5 grams or more of methamphetamine, which is a Schedule II substance under the Controlled Substances Act.

12. The elements of a 21 U.S.C. §§ 841(a)(1), (b)(1)(B)(viii) violation are as follows: (1) the defendant knowingly distributed 5 grams or more of methamphetamine and (2) the defendant knew that it was methamphetamine or some other federally controlled substance. "Distributing" means delivering or transferring possession of methamphetamine to another person, with or without any financial interest in that transaction.

13. Title 21, United States Code, Sections 841(a)(1) and (b)(1)(B)(vi) prohibit any

person from knowingly or intentionally distributing 40 grams or more of N-phenyl-N- [1- (2-phenylethyl) -4-piperidiny] propenamide, commonly referred to as fentanyl, which is a Schedule I substance under the Controlled Substances Act.

14. The elements of a 21 U.S.C. §§ 841(a)(1), (b)(1)(B)(vi) violation are as follows: (1) the defendant knowingly distributed 40 grams or more of fentanyl and (2) the defendant knew that it was fentanyl or some other federally controlled substance. “Distributing” means delivering or transferring possession of fentanyl to another person, with or without any financial interest in that transaction.

FACTS ESTABLISHING PROBABLE CAUSE

A. ARCHAGA-REYES Sells Approximately 1 Gram of Methamphetamine and 1.9 Grams of Heroin to an Undercover Officer on November 2, 2021¹

15. On November 2, 2021, at approximately 7:50 p.m., officers assigned to the San Francisco Police Department’s (SFPD) Narcotics Division observed individuals engaged in illegal narcotics transactions at the intersection of 7th Street and Mission Street in the Tenderloin neighborhood in San Francisco. Based on recent arrests and investigations, as well as multiple citizen complaints, officers assigned to this investigation knew this area to be an area where narcotics are frequently bought and sold at all hours of the day.

16. On November 2, 2021, an SFPD officer assigned to the Narcotics Division was working in an undercover capacity (UC) to purchase narcotics on the street. Another SFPD officer was working as the UC’s close cover surveillance/protection officer. Three other SFPD officers were also in the area assisting in this investigation.

17. The UC walked northbound on the east sidewalk of 7th Street towards Mission Street. The UC then crossed to the west sidewalk of 7th Street just south of the intersection of 7th and Mission Streets towards a crowd of people who were standing on the sidewalk at the

¹ Though the complaint charges ARCHAGA-REYES with one count of distribution of methamphetamine and one count of distribution of fentanyl on December 22, 2021, the affidavit contains information regarding four narcotics transactions that ARCHAGA-REYES engaged in with an undercover officer.

southwest corner of the intersection. As the UC was crossing the street, a male who was standing on the west sidewalk of 7th Street looked at him and asked what he needed. Believing the male was asking him what type of narcotics the UC was looking to purchase, the UC responded, "Crystal." Based on my training and experience, "Crystal" is common vernacular used on the street to refer to methamphetamine. The male then said something in Spanish to another male who was standing on the sidewalk. The second male then approached the UC. The second male later identified himself as "Pepe." Based on a review of the SFPD booking photo database, SFPD officers were able to identify "Pepe" as Dixis ARCHAGA-REYES.

18. ARCHAGA-REYES asked the UC what he needed. The UC replied, "Crystal." ARCHAGA-REYES asked the UC, "How much?" The UC believed ARCHAGA-REYES was asking him how much money he wished to spend. The UC stated that he wanted \$20.00 worth of "Crystal." ARCHAGA-REYES then produced a clear plastic sandwich style bag which had several additional bags in it. These bags contained different colored powders and a clear crystal-like substance. The UC believed the powders to be fentanyl and the crystal-like substance to be methamphetamine. ARCHAGA-REYES then handed the UC some of the suspected methamphetamine from inside of the bag. The UC then handed ARCHAGA-REYES one marked twenty-dollar bill of San Francisco City funds.

19. As ARCHAGA-REYES was retrieving the suspected methamphetamine from inside of the bag, the UC asked him if he also had any heroin on him. ARCHAGA-REYES then spoke in Spanish to a third male who was also standing in the vicinity of ARCHAGA-REYES. This male approached ARCHAGA-REYES and the UC. ARCHAGA-REYES and the other male spoke briefly in Spanish. The UC recognized one of the Spanish words uttered by ARCHAGA-REYES as "chiva." Based on my training and experience, "chiva" is a Spanish slang word that refers to heroin. This unknown male then handed a piece of a dark tar-like substance wrapped in clear plastic to ARCHAGA-REYES. The UC believed the substance to be heroin. ARCHAGA-REYES then handed the suspected heroin to the UC. The UC gave ARCHAGA-REYES a second marked twenty-dollar bill of San Francisco City funds.

20. The UC then asked ARCHAGA-REYES if he was “out in that area a lot.” ARCHAGA-REYES stated that he was. The UC asked ARCHAGA-REYES if he could have his phone number so the UC could call him to conduct subsequent narcotics transactions. ARCHAGA-REYES provided the UC with his cellphone number. Using his department issued cellphone, the UC sent a text message to ARCHAGA-REYES’s cellphone. Just after the UC sent the text message, he observed a notification appear on the screen of ARCHAGA-REYES’s phone. The UC believed this was his text message arriving on ARCHAGA-REYES’s phone.

21. Following his interaction and narcotics transaction with ARCHAGA-REYES, the UC left the area.

22. SFPD officers subsequently weighed the suspected methamphetamine (1 gram gross) and the suspected heroin (1.9 grams gross). SFPD officers also conducted a presumptive test using an SFPD-issued TruNarc Analyzer on both the suspected methamphetamine and suspected heroin, with positive results for each.

B. ARCHAGA-REYES Sells Approximately 3.9 Grams of Methamphetamine and 30.9 Grams of Fentanyl to the UC on December 7, 2021

23. On December 2, 2021 at around 9:00 p.m., SFPD officers began conducting surveillance of ARCHAGA-REYES as he was loitering on the sidewalk at the southeast corner of 7th Street and Mission Street. Officers watched ARCHAGA-REYES while he loitered on this corner until approximately 12:00 a.m. on December 3, 2021. During this time, officers observed ARCHAGA-REYES make several suspected hand-to-hand narcotics transactions with people on the sidewalk.

24. On December 7, 2021, the UC texted ARCHAGA-REYES and arranged to purchase 1 ounce (approximately 28 grams) of fentanyl for \$500.00 and \$100.00 worth of methamphetamine in the area of the intersection of 7th and Mission Streets. At approximately 10:50 p.m. on December 7, 2021, the UC arrived at the agreed-upon location. The UC met with ARCHAGA-REYES on 7th Street just north of Minna Alley. The UC gave ARCHAGA-REYES \$600 in pre-marked bills of San Francisco City funds. ARCHAGA-REYES handed the

UC two clear plastic bags, each containing suspected fentanyl. ARCHAGA-REYES then used a digital scale to weigh out loose methamphetamine which he then handed to the UC. The UC wrapped the suspected methamphetamine in aluminum foil. After purchasing fentanyl and methamphetamine from ARCHAGA-REYES, the UC left the area.

25. Another SFPD officer who was in an elevated area of concealment video recorded the hand-to-hand narcotics transaction between ARCHAGA-REYES and the UC. The UC also made an audio recording of the entire meeting between him and ARCHAGA-REYES.

26. SFPD officers subsequently weighed the suspected fentanyl (30.9 grams gross) and the suspected methamphetamine (3.9 grams gross). Officers also conducted presumptive tests on the suspected fentanyl and the suspected methamphetamine using the TruNarc Analyzer. Both tests yielded positive results for fentanyl and methamphetamine, respectively.

C. COUNTS ONE AND TWO: ARCHAGA-REYES Sells Approximately 59 Grams of Methamphetamine and 61.1 Grams of Fentanyl to the UC on December 22, 2021

27. On December 22, 2021, the UC texted ARCHAGA-REYES and arranged to purchase 2 ounces of fentanyl for \$1,000.00 and 2 ounces of methamphetamine for \$500.00 from ARCHAGA-REYES in the area of 7th Street and Mission Street. At approximately 8:00 p.m., the UC met with ARCHAGA-REYES on 7th Street just north of Minna Alley. ARCHAGA-REYES got into the passenger side of the vehicle the UC was driving. The UC gave ARCHAGA-REYES \$1,500.00 in pre-marked bills of San Francisco City funds. ARCHAGA-REYES handed the UC numerous clear plastic bags containing suspected fentanyl and methamphetamine. Following the transaction, ARCHAGA-REYES exited the vehicle. The UC recorded this transaction on video.

28. SFPD officers subsequently weighed the suspected fentanyl (61.1 grams gross) and the suspected methamphetamine (59 grams gross). SFPD officers also conducted a presumptive test on the suspected fentanyl using a TruNarc Analyzer, which yielded positive results for fentanyl. SFPD officers also conducted a presumptive test on the suspected

methamphetamine using a TruNarc Analyzer, which yielded positive results for methamphetamine.

D. ARCHAGA-REYES Sells Approximately 119 Grams of Methamphetamine and 29.2 Grams of Fentanyl to the UC on February 4, 2022

29. On February 4, 2022, the UC texted ARCHAGA-REYES and arranged to purchase 1 ounce of fentanyl for \$500 and 4 ounces of methamphetamine for \$1,000 from ARCHAGA-REYES in the area of 7th Street and Mission Street. At approximately 4:39 p.m., the UC met with ARCHAGA-REYES on 7th Street just north of Minna Alley. ARCHAGA-REYES got into the passenger side of the vehicle the UC was driving. The UC gave ARCHAGA-REYES \$1,500.00 in pre-marked bills of San Francisco City funds. ARCHAGA-REYES handed the UC numerous clear plastic bags containing suspected fentanyl and methamphetamine. Following the transaction, ARCHAGA-REYES exited the vehicle. The UC recorded this transaction on video.

30. SFPD officers subsequently weighed the suspected fentanyl (29.2 grams gross) and the suspected methamphetamine (119 grams gross). SFPD officers also conducted a presumptive test on the suspected fentanyl using a TruNarc Analyzer, which yielded positive results for mannitol. Based on my training and experience, I know that fentanyl sold on the street is often cut with mannitol and will sometimes test presumptively positive for mannitol. SFPD officers also conducted a presumptive test on the suspected methamphetamine using a TruNarc Analyzer, which yielded positive results for methamphetamine.

SEALING REQUEST

31. Based on my training and experience, the disclosure of the existence of this affidavit, the complaint, arrest warrant, and/or all related documents may cause other co-conspirators, known and unknown at this time, to destroy evidence or to conceal ongoing criminal activity, jeopardizing the progress of this ongoing investigation. The disclosure of these documents may also jeopardize the safety of ARCHAGA-REYES. I therefore request that the Court seal this affidavit, the complaint, the summons and arrest warrant, and all related

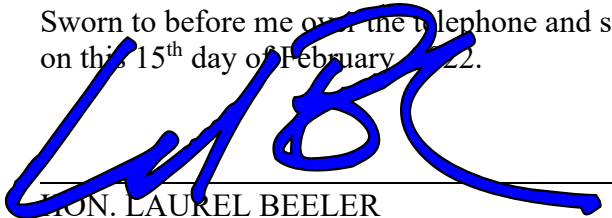
documents.

CONCLUSION

32. On the basis of my training and experience, my participation in this investigation, and the information summarized above, there is probable cause to believe that on or about December 22, 2021, in the Northern District of California, Dixis ARCHAGA-REYES committed a violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B)(viii), distribution of 5 or more grams of methamphetamine, and a violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B)(vi), distribution of 40 or more grams of fentanyl.

/s/ Michael Cunnie
MICHAEL CUNNIE
Task Force Officer
Drug Enforcement Administration

Sworn to before me over the telephone and signed by me pursuant to Fed.R.Crim.P 4.1 and 4(d) on this 15th day of February 2022.



HON. LAUREL BEELER
United States Magistrate Judge