

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

MARCELINO NUNEZ-HURTADO

CASE NUMBER:

UNDER SEAL**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 August 22, 2017, at Chicago, in the Northern District of Illinois, Eastern Division, the defendant(s) violated:

Code Section

Title 21, United States Code, Section
841(a)(1)

Offense Description

possession with intent to distribute a controlled substance, namely, 1 kilogram or more of a mixture and substance containing a detectable amount of heroin, a Schedule I Controlled Substance, and possession with intent to distribute a controlled substance, namely, 5 kilograms or more of a mixture and substance containing a detectable amount of cocaine, a Schedule II Controlled Substance

This criminal complaint is based upon these facts:

 X Continued on the attached sheet.

MATTHEW KAMPMAN

Special Agent, Homeland Security Investigations
(HSI)

Sworn to before me and signed in my presence.

Date: September 13, 2017

City and state: Chicago, Illinois

Judge's signature

MICHAEL T. MASON, U.S. Magistrate Judge*Printed name and Title*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

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AFFIDAVIT

I, MATTHEW KAMPMAN, being duly sworn, state as follows:

1. I am a Special Agent with the Internal Revenue Service, and have been so employed for eight years. My current responsibilities include the investigation of narcotics trafficking offenses.

2. This affidavit is submitted in support of a criminal complaint alleging that MARCELINO NUNEZ-HURTADO has violated Title 21, United States Code, Section 841(a)(1). Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint charging NUNEZ-HURTADO with possession with intent to distribute 1 kilogram or more of heroin and possession with intent to distribute 5 kilograms or more of cocaine, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

3. The statements in this affidavit are based on my personal knowledge, and on information I have received from other law enforcement personnel and from persons with knowledge regarding relevant facts.

I. FACTS SUPPORTING PROBABLE CAUSE TO SEARCH THE SUBJECT PHONES

4. In July 2017, HSI Chicago Narcotics group received information from a confidential informant¹ that MARCELINO NUNEZ-HURTADO was involved in trafficking large amounts of cocaine throughout the Chicago area.

5. According to Illinois Secretary of State records, NUNEZ-HURTADO has an Illinois Driver's license with the listed address in Chicago, Illinois. Illinois Secretary of State records also show a Cadillac Escalade bearing Illinois License Plate AH83935 (the "Escalade") as registered to NUNEZ-HURTADO at that same address.

6. On July 17, 2017, at 3:59 a.m., according to Chicago's license plate reader system, the Escalade was parked on South Maplewood Avenue, between West 52nd Street and West 53rd Street, in Chicago. According to Thomson Reuters CLEAR records, NUNEZ-HURTADO listed a South Maplewood Avenue in Chicago, Illinois, as his residence in December 2016 (the "Maplewood Residence").

7. On August 21, 2017, HSI initiated surveillance at the Maplewood Residence. At approximately 3:30 p.m., agents saw NUNEZ-HURTADO (identified by the photo on his Illinois Driver's License), driving a black Volkswagen Touareg bearing Illinois License Plate ZZ83307 (the "Touareg"), park in the alley behind the

¹ The CI has been an HSI source since approximately 2016. The CI's criminal record includes a misdemeanor charge for Disorderly Conduct that was later dismissed. The CI is not currently charged with any crime and is cooperating for financial compensation. The CI has been paid approximately \$141,880.00 in all HSI investigations since 2016. The CI's information has led to multiple arrests and the seizure of over 40 kilograms of cocaine, over 80 kilograms of heroin, over 1 million dollars in United States Currency, and multiple firearms.

detached garage of the Maplewood Residence. NUNEZ-HURTADO went in the garage and moments later came out and left the area in the Touareg. According to Illinois Secretary of State records, the Touareg is registered to Individual A at an address in Chicago, Illinois.

8. At approximately 3:50 p.m., agents saw the Touareg pull into the detached garage of the Maplewood Residence. Moments later, agents saw a male, later identified through an Illinois Driver's License photograph as Individual B, exit the front of the Maplewood Residence, and enter a silver Dodge minivan bearing Illinois License Plate AC34059 (the "Dodge"). Individual B departed the area in the Dodge. According to Illinois Secretary of State records, the Dodge is registered to Individual B at an address in Chicago, Illinois.

9. Agents resumed surveillance on August 22, 2017. At approximately 11:00 a.m., agents saw NUNEZ-HURTADO park the Touareg and enter a residence on Artesian Avenue (the "Artesian Residence"). Ten minutes later, NUNEZ-HURTADO left the Artesian Residence and walked into the alley while using a cell phone. NUNEZ-HURTADO looked up and down the alley repeatedly, continuing to talk on his phone. Moments later, Individual B, driving a red Nissan Altima bearing Illinois License Plate ZZ35750, pulled into the alley and backed into the garage of the Artesian Residence. Once the Nissan pulled into the garage, NUNEZ-HURTADO entered the garage and closed the garage door.

10. At approximately 11:47 a.m., NUNEZ-HURTADO exited the Artesian Residence and departed the area in the Touareg. Ten minutes later, agents saw the

Touareg park in the El Guero Supermarket located at 4023 South Archer Avenue in Chicago, Illinois. NUNEZ-HURTADO exited the Touareg and began to look under the Touareg. NUNEZ-HURTADO laid down in the parking lot with his back on the ground and looked under the driver's side of the Touareg. NUNEZ-HURTADO repeated this behavior on the front, back, and passenger sides of the Touareg, and then entered the Supermarket. Based on my training and experience, narcotics traffickers routinely check under their vehicles for GPS devices to ensure that they are not under surveillance by law enforcement. At approximately 12:16 p.m., agents saw NUNEZ-HURTADO exit El Guero Supermarket carrying two white plastic bags, get into the Touareg, and return to the Artesian Residence.

11. At approximately 1:26 p.m., agents saw Individual B pull the Nissan out of the Artesian Residence garage and park it nearby. Individual B then returned to the garage of the Artesian Residence.

12. Over the course of several hours that afternoon, agents saw NUNEZ-HURTADO travel back and forth repeatedly between the Maplewood and Artesian Residences. During this time, he was observed using a cell phone. At approximately 6:21 p.m., NUNEZ-HURTADO pulled the Touareg into the detached garage located on West 21st Place in Chicago, Illinois (hereinafter "West 21st Place Residence"). An hour later, the Escalade pulled up and parked parallel to the detached garage of the West 21st Place Residence. Individual B exited the front passenger door of the Escalade. Agents were unable to identify the driver of the Escalade. Individual B and NUNEZ-HURTADO both entered the Escalade, Individual B in the front passenger

seat and NUNEZ-HURTADO in the rear passenger seat, and traveled to the Artesian Residence. Once there, NUNEZ-HURTADO got out of the Escalade and entered the Artesian Residence alone.

13. Moments later, a pickup truck entered the alley behind the Artesian Residence and stopped parallel to the detached garage. NUNEZ-HURTADO exited the Artesian Residence, approached the pickup truck, and talked with the driver. The Escalade, which had been circling the block, turned south into the alley and stopped near NUNEZ-HURTADO and the pickup truck. NUNEZ-HURTADO passed a medium sized object, consistent with the size of a kilogram brick of cocaine, to Individual B, who was still in the Escalade. The Escalade then departed the alley.

14. At approximately 7:58 p.m., the Escalade pulled into the Advanced Auto-Parts parking lot located at 2320 West 47th Street in Chicago, and parked next to a dark blue Dodge Durango (the “Durango”), and a Silver Chevrolet Cruze (the “Cruze”). Individual B exited the Escalade and approached the Durango carrying a white plastic bag that appeared to be a standard sized grocery bag weighted at the bottom. The white plastic bag had a rectangular shape along the bottom of the bag, consistent with the size of a kilogram brick of cocaine. Individual B passed the bag through the passenger window of the Durango. Individual B returned to the Escalade and drove away.

15. At approximately 8:03 p.m., the passenger of the Durango, later identified through a driver’s license as Individual C, exited the Durango carrying a white plastic bag that looked identical to the white plastic bag Individual B delivered

to the Durango moments earlier. Individual C opened the trunk of the Cruze and placed the bag in the trunk. S/he then pulled up the trunk flooring to access the area where the spare tire is located and placed something from the trunk into the spare tire area, then placed the trunk flooring back down and closed the trunk. Individual C entered the driver's door of the Cruze.

16. At approximately 8:07 p.m., both vehicles attempted to back out of their parking spaces, and agents pulled their vehicle behind the two vehicles to keep them from leaving. Agents approached the vehicles and conducted an investigatory stop. A few moments later, agents moved their vehicle from behind the two vehicles so that they were no longer blocked in and traffic could pass. Agents approached the two individuals separately and identified themselves as law enforcement. The driver of the Durango, later identified through a driver's license as Individual D, consented to a search of the Durango, but no contraband was recovered.

17. Individual C consented to a search of the Cruze. During the search of the Cruze's trunk, a dark blue button down shirt was visible next to the spare tire. Inside the shirt was a brick of white powdery substance wrapped in many layers of plastic wrap. The white powdery substance later field tested positive for cocaine and was found to weigh 1.33 kilograms. Agents advised Individual C of his *Miranda* rights, and Individual C waived his/her rights and agreed to speak with agents. Individual C at first denied any knowledge of the substance, but then admitted that his/her cousin, Individual D, offered him/her \$600 to travel to Chicago with Individual D and pick-up a quantity of cocaine. Individual C stated that they drove to Chicago

in separate vehicles because Individual D was currently on probation and did not want to be caught with narcotics in his/her vehicle. Individual C stated that, after being handed the substance by Individual B, s/he removed it from the bag, wrapped it in a blue button down shirt, and placed it under the floor of the Cruze trunk near the spare tire. Agents advised Individual D of his Miranda rights, and Individual D waived his/her rights and agreed to speak with agents. Individual D initially denied any knowledge of the substance in the Cruze, then acknowledged his/her involvement in the transaction, but would not provide any additional details.

18. Individual C and Individual D were released without charges. Agents seized the Durango, the Cruze, the blue shirt, and the cocaine. From Individual C, agents seized a cell phone and \$730 of United States Currency. From Individual D, agents seized a cell phone and \$700 of United States Currency, and a piece of paper that appeared to be a ledger. The ledger was divided into a series of lettered columns. Each column had a list of numbers ranging from 100's to 1,000's. Many of the numbers in the columns were crossed out. Based on my training and experience, each column represented a specific narcotics customer, and the numbers in the customer's column showed the amount of money that customer owed for narcotics that were previously provided.

19. At approximately 8:15 p.m., the Escalade arrived back at the Artesian Residence. NUNEZ-HURTADO exited the Artesian Residence and walked through the alley towards the Escalade. NUNEZ-HURTADO entered the Escalade and departed the area. Agents temporarily lost surveillance on the Escalade, but shortly

thereafter, NUNEZ-HURTADO was seen pulling out of the detached garage of the West 21st Place Residence in the Touareg.

20. At approximately 8:56 p.m., agents stopped NUNEZ-HURTADO. A Spanish-speaking agent advised NUNEZ-HURTADO of his *Miranda* rights, and NUNEZ-HURTADO waived his rights and agreed to speak to agents. NUNEZ-HURTADO consented to a search of the Touareg. Agents recovered two cell phones from the center console of the Touareg, and seized them and the Touareg itself. NUNEZ-HURTADO told agents that he resided at the Maplewood Residence with his girlfriend and two daughters, and gave consent for agents to search it. NUNEZ-HURTADO then pulled a set of keys from his pocket and showed agents which keys to use to unlock the Maplewood Residence. Agents then asked NUNEZ-HURTADO about the Artesian Residence. NUNEZ-HURTADO initially told agents that he did not reside at the Artesian Residence and has never been there. Agents then informed NUNEZ-HURTADO that he had been under surveillance the entire day, and agents had seen him enter the Artesian Residence multiple times. NUNEZ-HURTADO told agents that he does not reside there but does rent the attic apartment, explaining that he uses the apartment as a place to bring his girlfriends, so that his wife does not find out. NUNEZ-HURTADO consented to a search of the attic apartment and told agents there were no narcotics, weapons or United States Currency in the apartment. NUNEZ-HURTADO then showed agents which keys opened the gangway gates, rear door, and attic apartment door.

21. Agents asked NUNEZ-HURTADO about what they had observed in the Advanced Auto-Parts parking lot. NUNEZ-HURTADO said, in Spanish, that he was not there and did not “hand off the work.” Based on my training and experience, the Spanish word NUNEZ-HURTADO used for “work” is a term used by narcotics traffickers to describe narcotics being held for sale.

22. At approximately 9:30 p.m., using the keys provided by NUNEZ-HURTADO, agents entered the Artesian Residence. They made contact with the first floor apartment residents, later identified as Neighbor 1 and Neighbor 2. Agents told them that someone had been arrested and had consented to the search of the attic apartment. Neighbor 1 indicated s/he rents the first floor apartment with Neighbor 2 and their child. Neighbor 1 indicated Neighbor 3 is also currently staying with them. Neighbor 1 stated his/her father, who lives in Mexico, owns the building. When asked about other tenants in the building, Neighbor 1 indicated the basement was not occupied, the second floor apartment was being rented, and the upstairs attic had been converted to an apartment, which was being rented by NUNEZ-HURTADO. No one answered the door when agents knocked on the door of the second floor apartment.

23. Agents entered the attic apartment using NUNEZ-HURTADO's keys and recovered (among other items) four small clear plastic bags containing a white powdery substance in a shelf of the bed headboard. The white substance later field tested positive for cocaine. In the kitchen, agents recovered two packages of rubber bands, rolls of FoodSaver vacuum-sealed clear plastic, one roll of clear plastic wrap,

one small digital scale, and one small spiral notebook containing handwritten numbers and names in ledger fashion. Based on my training and experience, individuals who are engaged in drug trafficking typically use plastic wrap, rolls of FoodSaver plastic and digital scales to measure and package narcotics. Agents also observed numerous portions of clear plastic wrappings consistent with kilogram quantities of narcotics that had been soaked in detergent. No clothing or items of personal hygiene such as toothpaste and deodorant were found. A refrigerator contained beer and small portions of food.

24. A Phillips-Head screwdriver was observed lying on the floor just inside the attic apartment. Agents exited the apartment and observed a small access panel held shut with Phillips screws in the corner of the third floor landing to the left of the attic apartment door. Upon closer examination, dust on the floor leading to the panel appeared to be disturbed. Agents used the Phillips-Head screwdriver to open the panel. Inside, agents recovered a bag containing compressed rectangular bricks of cocaine wrapped in plastic that were substantially similar to the kilogram of cocaine recovered from the trunk of the Cruze at the Advanced Auto Parts parking lot. These bricks weighed approximately 9.2 kilograms and a portion of the substance later tested positive for cocaine. Agents also recovered an open box that contained five compressed bricks wrapped in plastic, with one opened and a small portion removed. More boxes with the same type of compressed bricks were recovered. A portion of the substance later tested positive for heroin. The total weight of the bricks was approximately 41.43 kilograms. Agents also recovered a bag adjacent to the bricks of

cocaine heroin that contained a FoodSaver brand vacuum sealer, rolls of FoodSaver brand clear plastic packaging materials, and a small plastic bag.

25. NUNEZ-HURTADO was arrested for violation of United States Immigration law. Agents also searched the Maplewood Residence and recovered, among other things, a red spiral notebook located in the master bedroom closet inside a dresser drawer, a pay check stub dated October 28, 2016, for Marcelino NUNEZ at an address on West 47th Street in Chicago, the title for the Touareg located in the top dresser drawer in the master bedroom, and a brown spiral notebook in the middle dresser drawer in the master bedroom. Based on my training and experience, the appearance of the notebooks is consistent with the type of ledgers used by narcotics traffickers. The ledgers contained lists of names with bank account numbers and/or money transfer pin numbers, along with the amount of money that was sent. The ledger also listed various individuals by code names, such as “Gordito” or “Primo,” and under these names were what appeared to be amounts of money that were owed. It appeared that each time the individual made a payment it was tracked in the ledger and subtracted from the total.

26. Agents sent items recovered from the wall panel at the Artesian Residence, including the FoodSaver brand vacuum sealer, to the HSI Forensic Laboratory to be processed for fingerprints. According to a laboratory report dated September 6, 2017, a latent fingerprint was recovered from the FoodSaver vacuum sealer and compared to the fingerprints for NUNEZ-HURTADO. According to the

laboratory report, the fingerprint on the FoodSaver brand vacuum sealer was identified as the fingerprint of NUNEZ-HURTADO.

FURTHER AFFIANT SAYETH NOT.

MATTHEW KAMPMAN
Special Agent, Internal Revenue Service

SUBSCRIBED AND SWORN to before me on September 13, 2017.

MICHAEL T. MASON
United States Magistrate Judge