

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA )

v. )

Case No. 5:18-MJ- 202 (ATB)

MARCIAL DE LEON-AGUILAR A/K/A )

JESUS ADRIAN BONILLA-LOPEZ )

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 April 18, 2018 in the county of Oneida in the Northern District of New York the defendant(s) violated:

Code Section
18 U.S.C. §1326(a) & (b)(1)

Offense Description
Re-entry after deportation

This criminal complaint is based on these facts:
See attached affidavit

[X] Continued on the attached sheet.

[Handwritten signature of William M. Saunders]

Complainant's signature

William M. Saunders, Deportation Officer

Printed name and title

Sworn to before me and signed in my presence.

Date: 4/19/2018

[Handwritten signature of Andrew T. Baxter]

Judge's signature

City and State: Syracuse, New York

Hon. Andrew T. Baxter, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT**

**STATE OF NEW YORK)  
COUNTY OF ONONDAGA)           SS:  
CITY OF SYRACUSE)**

William M. Saunders, being duly sworn, deposes and says that:

1. I am currently a Deportation Officer with the United States Immigration and Customs Enforcement, hereafter referred to as ICE. I have been so employed with ICE for 20 years.

2. As a part of my duties during my employment with the ICE, I investigate violations of the Immigration and Nationality Act and violations of the United States Code, in particular Title 8, United States Code, Sections 1326(a) and (b)(1), regarding the re-entry of a previously removed or deported alien following a felony conviction.

3. This affidavit is based upon my own knowledge, my review of official records of Immigration & Customs Enforcement (ICE), and upon information that I obtained from other law enforcement officers involved with this investigation.

4. I make this affidavit in support of the annexed Criminal Complaint charging Marcial DE LEON-Aguilar ("DE LEON-Aguilar"), also known as Jesus Adrian BONILLA-Lopez, with a violation of Title 8, United States Code, Sections 1326(a) and (b)(1), regarding the re-entry of a previously removed or deported alien following a felony conviction.

5. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only facts that I believe are necessary to establish probable cause to demonstrate that DE LEON-Aguilar has violated Title 8, United States Code, Section 1326(a) and (b)(1).

6. On April 18, 2018, ICE was conducting a home visit for an Alternatives to Detention (ATD) participant, who resided at 8744 Thomas Road in Rome, New York, due to multiple missed appointments and conflicting and/or omitted information about family members residing with the participant. A review of publicly available information indicated that 8744 Thomas Road was a farm. Records checks of potential relatives resulted in a possible relationship of the participant with Marcial DE LEON-Aguilar, a native and citizen of Guatemala who had been previously removed. Photographs were obtained from the Alien File assigned to DE LEON-Aguilar and provided to the officers conducting the home visit. At approximately 0740 hours, Deportation Officer (DO) Notte and Supervisory Detention and Deportation Officer (SDDO) Hobart approached the milking parlor area in an attempt to locate an owner or manager of the farm. In the experience of the officers in the upstate New York region, the main public office is often located in or near the milking parlor. Upon opening a publicly accessible door, DO Notte and SDDO Hobart encountered a male matching the photograph of DE LEON-Aguilar. In addition, DE LEON-Aguilar was wearing a red shirt with the name Marcial displayed on the front chest area. DO Notte and SDDO Hobart identified themselves as ICE officers and asked to speak with DE LEON-Aguilar's employer. At this time, DE LEON-Aguilar attempted to flee, at which time he was physically restrained by DO Notte. A field interview was conducted in which DE LEON-Aguilar admitted to entering the United States without inspection and that he was not a United States Citizen. DE LEON-Aguilar was taken into custody and transported to the Syracuse ICE Office for processing and further investigation.

7. At the Syracuse ICE Office, a complete set of fingerprints were electronically captured from DE LEON-Aguilar and submitted to the Federal Bureau of Investigation, Identification

Division, in Clarksburg, West Virginia, via the Integrated Automated Fingerprint Identification System (IAFIS). This set of fingerprints produced a positive biometric match with an A# XXX XXX 244 and an FBI number XXXXXX-PC3 relating Marcial DE LEON-Aguilar, a native and citizen of Guatemala. A review of FBI records indicated that Marcial DE LEON-Aguilar was previously convicted in Hamilton County, Tennessee, of Reckless Aggravated Assault (a felony) and Leaving the Scene of an Accident (a misdemeanor).

8. A review of the documents contained in the A-File for DE LEON-Aguilar revealed the following:

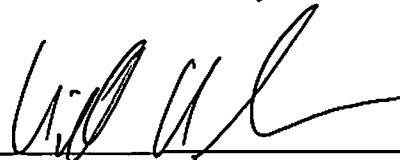
- a. On or about January 16, 2008, DE LEON-Aguilar was ordered removed by an Immigration Judge in Oakdale, Louisiana. On or about February 7, 2008, DE LEON-Aguilar was physically removed from the United States via the port of entry at New Orleans, Louisiana to Guatemala. DE LEON-Aguilar was provided with a Warning to Alien ordered Removed or Deported (Form I-294), advising him that he would be in violation of Title 8, United States Code, Section 1326 if he entered, attempted to enter, or were to be found in the United States without the permission of the United States Attorney General, or his Successor, the Secretary of Homeland Security.
- b. On or about August 18, 2010, DE LEON-Aguilar was arrested by the United States Border Patrol at or near Lukeville, Arizona and was issued a Notice of Intent/Decision to Reinstate Prior Order (Form I-871).
- c. On or about June 1, 2011, DE LEON-Aguilar, under the Alias of Jesus Adrian BONILLA-Lopez, plead guilty to violating Title 8, United States Code, Sections 1326(a) and (b)(1), Re-entry after Deportation in the United States District Court for the District of Arizona under docket number 4:2010cr02405.
- d. On or about June 17, 2011, DE LEON-Aguilar was again physically removed from the United States via the port of entry at Phoenix, Arizona to Guatemala. DE LEON-Aguilar was provided with a Warning to Alien ordered Removed or Deported (Form I-294), advising him that he would be in violation of Title 8, United States Code, Section 1326 if he entered, attempted to enter, or were to be found in the United States without the permission of the United States Attorney General, or his Successor, the Secretary of Homeland Security.
- e. On or about December 27, 2013, DE LEON-Aguilar was arrested by the United States Border Patrol at or near Roma, Texas and was issued a Notice

of Intent/Decision to Reinstate Prior Order (Form I-871). On or about January 3, 2014, DE LEON-Aguilar was again physically removed from the United States via the port of entry at Brownsville, Texas. DE LEON-Aguilar was provided with a Warning to Alien ordered Removed or Deported (Form I-294), advising him that he would be in violation of Title 8, United States Code, Section 1326 if he entered, attempted to enter, or were to be found in the United States without the permission of the United States Attorney General, or his Successor, the Secretary of Homeland Security.

Based on the above referenced immigration record checks; DE LEON-Aguilar has no valid immigration status in the United States and is illegally present. In addition, there is no evidence of any authorization or approval from the Attorney General of the United States, or the Secretary of the Department of Homeland Security, for DE LEON-Aguilar to have re-entered the United States after his last removal.

WHEREFORE, it is respectfully submitted that probable cause exists to believe that Marcial DE LEON-Aguilar did commit the offense of re-entry after deportation or removal subsequent to a felony conviction, in violation of Title 8, United States Code, Section 1326(a) and (b)(1), in that he, a citizen and native of Guatemala, having been ordered removed from the United States on or about January 16, 2008, and having been physically removed from the United States on February 7, 2008, June 17, 2011, and again on January 3, 2014, was thereafter found present in the Northern District of

New York on April 18, 2018, without prior authorization or approval from the Attorney General of the United States or the Secretary of the Department of Homeland Security.



\_\_\_\_\_  
William M. Saunders  
Deportation Officer  
Immigration and Customs Enforcement

Sworn to before me  
This <sup>18</sup>19<sup>th</sup> day of April, 2018



\_\_\_\_\_  
Hon. Andrew T. Baxter  
United States Magistrate Judge