

AO 91 (Rev. 11/11) Criminal Complaint

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

UNITED STATES DISTRICT COURT

for the
District of New Mexico

AUG 07 2017

MATTHEW J. DYKMAN
CLERK

United States of America)

v.)

ABRAN APODACA)

Case No. MJ 17-2011

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 August 4, 2017 in the county of Bernalillo in the
District of New Mexico, the defendant(s) violated:

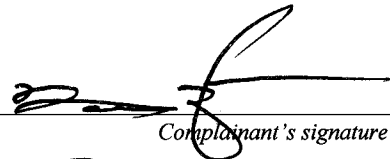
Code Section
18 U.S.C. 922(g)(1)

Offense Description
Felon in Possesion of a Firearm

This criminal complaint is based on these facts:

On August 4, 2017 law enforcement officers encountered Abran Jesus Apodaca in or near Albuquerque, NM. At that time Apocaca was in possession of a rifle. Prior to August 4, 2017, Apodaca had been convicted of a felony in New Mexico State court. That conduct is a violation of 18 U.S.C. sections 922(g)(1).

Continued on the attached sheet.


Complainant's signature

Ross ZUREK, SPECIAL AGENT - FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: 8/7/2017


Judge's signature

City and state: Albuquerque, NM

William P. Lynch
Printed name and title

AFFADAVIT FOR ARREST WARRANT

Your Affiant, Ross Zuercher, having been first duly sworn, does hereby depose and state as follows:

1. Your Affiant is a Special Agent employed by the Federal Bureau of Investigation (FBI). I am a "federal law enforcement officer" within the meaning of Federal Rule of Criminal Procedure 41(a)(2)(C). Your Affiant has been employed by the FBI since August 2012 and is a graduate of the FBI's New Agent's Training Course. Your Affiant is currently assigned to the Albuquerque Field Office, Violent Crime Program, which investigates violent crimes to include firearms violations.
2. This affidavit is based primarily upon an investigation conducted by your Affiant and other reliable law enforcement officers. Since this affidavit is being submitted for the limited purpose of securing an Arrest Warrant, Your Affiant has not included each and every fact known concerning this investigation but has set forth only the facts to establish probable cause that Abran Jesus APODACA has violated Title 18 United States Code § 922(g), possession of a firearm by a convicted felon.
3. Title 18 United States Code § 922(g) prohibits possession of any firearm or ammunition by a person who has been convicted of a crime punishable by imprisonment for more than one year.
4. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter. This affidavit will show that there is probable cause that APODACA violated Title 18 United States Code § 922(g).

PROBABLE CAUSE

5. On August 4, 2017, investigators determined that ABRAN APODACA had an active arrest warrant issued by the State of New Mexico for a probation violation. In 2008, APODACA was convicted of the felony offense of armed robbery (in violation of NMSA 30-16-02). A bench warrant for a probation violation with the State of New Mexico for the underlying felony was issued on June 5, 2017, and was outstanding on August 4, 2017.
6. On August 4, 2017, FBI Agents and task force officers conducted surveillance on the residence located at 5910 Lucca SW, Albuquerque, NM; APODACA's primary residence on file with New Mexico Probation and Parole.
7. During surveillance of the residence, Agents observed a gray Honda arrive at the residence. Two women were in the gray Honda with APODACA. The gray Honda parked and APODACA went inside the

residence. APODACA exited the residence and re-entered the gray Honda.

8. Agents approached the gray Honda to affect an arrest of APODACA. Agents engaged the emergency lights on their vehicles as they approached. In response, APODACA, who was driving the gray Honda, accelerated into one of the agent's vehicles, maneuvered around to the side of the agent's vehicle, raised and aimed a rifle at an agent, and fired the rifle out of the driver's side window of the grey Honda. Agents returned fire. APODACA's vehicle continued onto 61st SW where it came to a stop and he was taken into custody. APODACA was then taken to the hospital via ambulance due to a gunshot wound.
9. Following APODACA's arrest, a Ruger Rifle .223 AR-556, serial number 850-93063 was recovered adjacent to the gray Honda. Three Winchester .223 rounds of ammunition were recovered at the scene of the shooting on Lucca SW. The three Winchester .223 rounds of ammunition were consistent with what could be fired out of the Ruger Rifle recovered adjacent to the gray Honda.
10. Based on the aforementioned information, your Affiant believes there exists sufficient evidence that the Ruger .223 AR-556 recovered adjacent to the gray Honda driven by APODACA was in his possession. A function check was also performed on the Ruger .223 AR 556 and proved to be functioning firearm.
11. On August 6, 2017 and pursuant to a valid federal search warrant, Special Agents of the FBI conducted a search of grey Honda sedan driven by APODACA. No other weapons were discovered in the vehicle.

Prior Felony Conviction

12. The FBI learned of APODACA's judgement of conviction from New Mexico State District Court. Your Affiant has viewed certified copy of the judgment reflecting the following felony conviction:

Armed Robbery with a Deadly Weapon 1st Offense; Adjudicated guilty: 01/02/2008; Case Number: D-202-CR-200603689.

Interstate Nexus

13. The Ruger .223 AR-556 recovered at the scene was not manufactured in the State of New Mexico, thus establishing an effect upon interstate commerce and travel in interstate commerce.

Conclusion

14. Based on the fact outlined above, the Affiant submits there is probable cause to believe that ABRAN APODACA violated Title 18 United States Code § 922(g).
15. Assistant United States Attorney Alex Uballez has reviewed and approved this affidavit.
16. I swear that this information is true and correct to the best of my knowledge.



Ross Zuercher, Special Agent - FBI

SUBSCRIBED and SWORN to before
me this 7th day of August, 2017.



United States Magistrate Judge