

SEALED

United States District Court

SOUTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

CASE NUMBER: 1:15-mj-531

ESKIVEL REYNOSO DE LA CRUZ,
GERARDO A. GARCIA,
WILLIAM DODD, and
CEROME HAYES

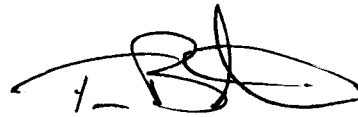
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I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

Count One - Commencing at a date unknown, continuing up to and including July 22, 2015, in the Southern District of Indiana, defendants ESKIVEL REYNOSO DE LA CRUZ, GERARDO A. GARCIA, WILLIAM DODD, and CEROME HAYES did conspire to possess with intent to distribute and to distribute 5 kilograms or more of cocaine, a schedule II substance, in violation of Title 21, United States Code, Sections 841 and 846.

I further state that I am a Special Agent with the Federal Bureau of Investigation, and that this complaint is based on the following facts: See attached Affidavit

Continued on the attached sheet and made a part hereof.



Timothy L. Bates, Special Agent
Federal Bureau of Investigation

Sworn to before me, and subscribed in my presence

July 22, 2015
Date

at Indianapolis, Indiana

Denise K. LaRue, U.S. Magistrate Judge
Name and Title of Judicial Officer



Signature of Judicial Officer

Exhibit A

AFFIDAVIT IN SUPPORT OF APPLICATION

Timothy L. Bates, being duly sworn under oath, states as follows:

TRAINING AND EXPERIENCE

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), United States Department of Justice. I am an investigative or law enforcement officer within the meaning of Section 2510(7) of Title 18, United States Code; that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Title 18, United States Code, Section 2516.

2. I have been employed as a Special Agent of the FBI since January 2009, and have been assigned to the Indianapolis Field Office since graduation from the FBI Academy. While working in the Indianapolis Field Office, I have been assigned to the Gang and Criminal Enterprise Squad, which encompasses the FBI Safe Streets Gang Task Force ("SSGTF"). Prior to being assigned to the SSGTF I was assigned to the Indianapolis Joint Terrorism Task Force ("JTTF"). Prior to my employment with the FBI, I was an infantry soldier in the U.S. Army.

3. In connection with my law enforcement duties, I investigate criminal violations of federal firearms and narcotics laws, including but not limited to, I investigate criminal violations of the federal drug laws, including, but not limited to Title 21, United States Code, Sections 841, 843, 846, and 848; money laundering laws, including Title 18, United States Code, Sections 1956 and 1957; and firearm laws, including Title 18, United States Code, Sections 922 and 924. I have received training in the enforcement of laws concerning controlled substances from the Federal Bureau of Investigation and Indianapolis Metropolitan Police Department. I have testified in judicial proceedings and prosecutions for violations of firearms and controlled substances laws. I have also been involved in various types of electronic surveillance and in the

debriefing of defendants, witnesses and informants, as well as others who have knowledge of the distribution and transportation of controlled substances, and the laundering and concealing of proceeds from drug trafficking. I have participated in investigations involving the manufacturing, trafficking, and distribution of illegal drugs. As an FBI Special Agent, I have utilized, and am therefore familiar with the following investigative techniques: consensual and court-ordered electronic surveillance; physical surveillance; pole or other covert camera surveillance; trash covers; the development and operation of informants; the execution of search warrants; consent searches; undercover agent operations; Global Positioning Systems; parcel package drug interdiction; motel drug interdiction; highway drug interdiction; and the debriefing of defendants, witnesses, informants, and others who have knowledge of drug trafficking and of the laundering and concealing of proceeds from drug trafficking. I have received specialized training in the utilization of these investigative techniques, and have also received specialized training regarding the investigation of criminal gangs and other criminal enterprises.

4. I have participated in federal electronic wiretap investigations involving individuals involved in the trafficking and distribution of controlled substances. I am familiar with the ways in which narcotics traffickers conduct their illicit business, including, but not limited to, their methods of importing and distributing controlled substances and their use of telephones and coded language to conduct their transactions.

5. I know from my training and experience that individuals involved in the trafficking of controlled substances often maintain possession and control of firearms to attempt to protect themselves and their illegal controlled substances enterprise (that is, both their drugs and drug proceeds). Furthermore, drug traffickers will utilize those firearms as a means to

intimidate or ensure the loyalty of their associates and/or subordinates and to prevent those with intimate knowledge of the organization from disclosing information to law enforcement.

PURPOSE OF THE AFFIDAVIT

6. This affidavit is submitted in support of the arrests of the following individuals, for committing the crime of conspiring to possess with intent to distribute and to distribute controlled substances, including five kilograms and more of cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841 and 846: William DODD; Eskivel Reynoso DE LA CRUZ; Gerardo GARCIA; and Cerome HAYES. This affidavit is also submitted in support of the application to search [REDACTED], Indianapolis, Indiana (the residence of Eskivel DE LA CRUZ, described further in Attachment A).

SUMMARY OF INVESTIGATION

7. On July 17, 2015, I submitted an affidavit in support of applications to search the following locations: [REDACTED], Indianapolis, Indiana (the residence of William DODD); [REDACTED], Indianapolis, Indiana (the residence of Gerardo GARCIA); [REDACTED], Indianapolis, Indiana (a 'stash house' utilized by William DODD); and William DODD's safe deposit box, located at JP Morgan Chase Bank 5236 North Keystone Avenue, Indianapolis, Indiana, more particularly described in Attachment A. I hereby incorporate my July 17, 2015 Affidavit by reference (hereinafter, my July 17, 2015 Affidavit).

8. As set forth in my July 17, 2015 Affidavit, since late 2014, the FBI Safe Streets Gang Task Force in Indianapolis have been investigating the drug trafficking activities of William DODD and others. Based upon investigation, I have learned that DODD has been

receiving multiple kilogram quantities of cocaine from DE LA CRUZ and GARCIA for more than a year. As set forth in my July 17, 2015 Affidavit, on multiple occasions, GARCIA, DODD, and DE LA CRUZ met at [REDACTED] beginning in January 2015. As set forth below, I have confirmed that the purpose of those multiple meetings at [REDACTED] was for the purpose of DE LA CRUZ and GARCIA distributing multiple kilogram levels of cocaine (five to ten kilograms of cocaine per occasion) to DODD.

9. In late June 2015, the FBI received judicial authorization to intercept oral communications and non-verbal communications (via close circuit television, or CCTV) that occurred at the attached garage located at [REDACTED]. Those intercepts have confirmed that DODD is continuing to engage in cocaine trafficking activity. Specifically, during the early morning hours of July 2, 2015, DODD arrived at [REDACTED] driving a white Honda Accord. At 3:24 a.m. that morning, DODD entered the garage from the interior house carrying a box. A short time later, DODD placed what appeared to be a wooden box on a pneumatic press which is located within the garage. The wooden box was consistent with a kilogram size brick. DODD was using this press to package/press narcotics. I know that kilogram-level drug dealers utilize pneumatic presses (such as the one I saw DODD use on July 2, 2015) to process drugs; that is, they utilize the press to compress the powder into a hard brick shape.

10. On July 22, 2015, federal agents executed search warrants at [REDACTED], [REDACTED], and Cerome HAYES' residence, [REDACTED] Indianapolis, Indiana. Agents found a loaded firearm and approximately \$10,000 in U.S. Currency at DODD's primary residence, [REDACTED]. I know that DODD is a previously convicted felon, having sustained three prior felony drug related

convictions. I also know that, per WorkForce Development, DODD has not had any reported employment income in the State of Indiana in the last eighteen months. Agents found a pneumatic press at DODD's stash house, [REDACTED] along with a food saver machine, which I know to be commonly used by drug traffickers in connection with the packaging of their controlled substances.

11. Agents found an unloaded shotgun, a loaded firearm, and a small amount of cocaine and heroin at [REDACTED] GARCIA was located at [REDACTED] GARCIA was informed of his *Miranda* rights, which he waived. In the interview that followed, GARCIA admitted his involvement in the conspiracy between himself, DE LA CRUZ, and DODD. GARCIA admitted that he assisted DE LA CRUZ on no fewer than four to five occasions in delivering cocaine (between five to ten kilograms per occasion) to DODD.

12. Agents found a loaded rifle, which was found next to three to five baggies containing a small amount of cocaine at Cerome HAYES' residence. I know that HAYES has previously been convicted of a drug related felony offense. Agents also found additional controlled substances in a different room in the house. HAYES was arrested inside the residence. He was informed of his *Miranda* rights, which he waived. In the interview that followed, HAYES admitted that he had, on multiple occasions, held kilogram quantities of cocaine for DODD. DODD paid him between \$700-\$800 on each occasion that HAYES held cocaine for DODD. Agents working on this investigation have seen DODD going to HAYES' residence on multiple occasions.

13. I know that DE LA CRUZ, DODD, and GARCIA continue their criminal association. DODD and DE LA CRUZ were most recently surveilled meeting together in a Dominican restaurant in Indianapolis, Indiana on July 17, 2015. DODD most recently went to

GARCIA's residence, [REDACTED] on July 21, 2015. Agents have learned from GARCIA that on that occasion, GARCIA told DODD that DE LA CRUZ had asked GARCIA to pass along that the police were following DODD; however, DODD did not believe GARCIA.

REQUESTS FOR SEARCH WARRANT

14. I know that DE LA CRUZ currently resides at [REDACTED] in Indianapolis, Indiana. DE LA CRUZ's vehicle has been surveilled there on numerous occasions, and DE LA CRUZ has reported this as his home residence to the Indiana Bureau of Motor Vehicles.

15. In a substantial number of residential searches executed in connection with the drug investigations in which the FBI SSGTF has participated, the following kind of drug-related evidence have typically been recovered:

- a. Currency, currency wrappers, and devices used to count currency;
- b. Drugs or money ledgers, drugs distribution or customer lists, drug supplier lists, correspondence, notations, logs, receipts, journals, books, records, and other documents noting the price, quantity, and/or times when drugs were obtained, transferred, sold, distributed, and/or concealed;
- c. Drug paraphernalia, such as scales, wrapping paper, plastic bags, and packing materials, and diluting agents, such as methylsulfonylmethane, commonly known as MSM;
- d. Financial instruments, precious metals, jewelry, other items of value, proceeds of drug transactions, and evidence of financial transactions relating to obtaining, transferring, secreting, or spending sums of money derived from drug trafficking activities;
- e. Articles of personal property and documents generated during their time trafficking drugs that establish and document the acquisition, movement, and spending of large sums of money generated from drug trafficking activities including: the purchase of real estate and conveyances, as well as shell corporations and business fronts to conceal the true ownership and illegal source of the proceeds, ledger books, financial instruments purchased with large

amounts of currency derived from the sale of heroin or other controlled substances, including wire transfers, traveler's checks, stock certificates, money orders, cashier's checks, and certificates of deposit, securities, letters of credit, and brokerage houses. Documents pertaining to foreign and domestic bank accounts and their attendant generated from the sale of controlled substances;

f. All state and federal income tax returns, whether individual or corporate returns, filed or not filed, and supporting work papers, summary sheets and analyses used in the preparation of the tax returns, or any other documents showing the employment or business history, whether or not such employment or business may be fictitious;

g. Personal telephone books, address books, telephone bills, photographs, letters, cables, telegrams, facsimiles, personal notes and documents, and other items, and reflecting names, addresses, telephone numbers, communications, and illegal activities of associates in drug trafficking activities;

h. Photographs and rolls of film;

i. Records of off-site locations to store records, including safe deposit boxes, rental agreements for storage facilities, and other such records and receipts;

j. Records and documents pertaining to assumed named aliases, including driver's licenses, passports;

k. Records or documents evidencing travel within or outside of the State of Indiana, within or outside the United States, including passports, airline records, bus and train tickets, hotel records, and car rental records;

l. Indicia of occupancy, residency, or ownership and control of the premises and other, off-site locations, including utility bills, telephone bills, loan payment receipts, rent receipts, trust deeds, lease of rental agreements, settlement statements, addressed envelopes, escrow documents, and keys;

m. Records of mail and communications services, telephone pagers, answering machines, electronic pagers, and cellular telephones, which evidence participation in a conspiracy to distribute controlled substances;

n. Cellular telephones, telephone pagers, electronic pagers, answering machines (including information contained within these devices, such as the telephone number and or direct connect number, and/or name and identity assigned to the phone; digital, cellular

and/or telephone numbers and direct connect numbers, and/or names and identities stored in the directory; telephone numbers and direct connect numbers dialed from or received by the phone and stored in memory; stored voice mail recordings sent to the phone; stored text messages sent to, or sent from, the phone; and any other electronic mail or any other electronic data stored within the phone and/or the memory of the phone);

o. As used above, the terms records, documents, programs, applications or materials includes records, documents, programs, applications or materials created, modified or stored in any form;

p. Any computer equipment and storage device (such as a DVR or media storage device) capable of being used to commit, further or store evidence of the offense listed above;

q. Any computer equipment used to facilitate the transmission, creation, display, encoding or storage of data, including word processing equipment, modems, docking stations, monitors, printers, plotters, encryption devices, and optical scanners;

r. Firearms and other dangerous weapons;

s. Any and all evidence of false and/or fictitious identification documents, to include, but not limited to, any state, federal, or international drivers licenses, birth certificates, passports, identification cards, credit cards or any other document utilized to conceal one's true identity; and

t. Controlled substances.

16. Based on my training and experience, I am aware that drug traffickers generally store their drug-related paraphernalia in their residences or the curtilage of their residences. Further, drug traffickers generally maintain records relating to their drug trafficking activities in their residences or the curtilage of their residences. Because drug traffickers often "front" (that is, sell on consignment) controlled substance to their customers, or alternatively, will be "fronted" controlled substances from their suppliers, such record keeping becomes necessary to keep track of amounts paid and owed, and drug traffickers typically maintain these records close at hand to readily ascertain current balances. Often, drug traffickers keep "pay and owe" records to show balances due for drug payments in the past ("pay") and for payments expected ("owe")

to and from the trafficker's supplier and the trafficker's dealers. Additionally, drug traffickers typically maintain telephone and address listings of customers and suppliers and keep them immediately available so that they can efficiently conduct their drug trafficking business.

17. It is also a common practice for traffickers to conceal large sums of money, either the proceeds from drug sales or monies to be used to purchase controlled substances, at their residences. In this connection, drug traffickers typically use wire transfers, cashier's checks, and money orders to pay for controlled substances. Drug traffickers also typically maintain evidence of such financial transactions and records relating to income and expenditure of money at their residences or the cartilage of their residence.

18. Typically, drug traffickers possess firearms and other dangerous weapons at their residences to protect their profits, supply of drugs, and themselves from others who might attempt to forcibly take the trafficker's profits or supply of drugs.

19. This affiant knows that computer hardware, software and electronic files may be important to a criminal investigation because the objects themselves may be contraband, evidence, instrumentalities, or fruits of crime in the form of electronic data. Rule 41 of the Federal Rules of Criminal Procedure permits the government to search for and seize computer hardware, software and electronic files that are evidence of crime, contraband, instrumentalities of crime, and or fruits of crime. In this case, the warrant application requests permission to search and seize records and documents relating to the trafficking of the substances identified in this investigation. These records constitute evidence of crime. This affidavit also requests permission to seize the computer hardware that may contain these records if it becomes necessary for reasons of practicality to remove the hardware and conduct a search offsite. This

affiant believes that, in this case, the computer hardware is a container for evidence and also an instrumentality of the crimes under investigation.

20. Based on this affiant's knowledge, training and experience, this affiant knows that searching and seizing information from computers often requires agents to seize most or all electronic storage devices (along with related peripherals) to be searched later by a qualified computer expert in a laboratory or other controlled environment. This is true because of the following:

a. The volume of evidence. Computer storage devices (like hard disks, diskettes, tapes, laser disks) can store the equivalent of millions of information. Additionally, a suspect may try to conceal criminal evidence; he or she might store it in random order with deceptive file names. This may require searching authorities to examine all the stored data to determine which particular files are evidence or instrumentalities of crime. This sorting process can take weeks or months, depending on the volume of data stored, and it would be impractical and invasive to attempt this kind of data search on-site.

b. Technical requirements. Searching computer systems for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems and applications, so it is difficult to know before a search which expert is qualified to analyze the system and its data. In any event, however, data search protocols are exacting scientific procedures designed to protect the integrity of the evidence and to recorder even "hidden," erased, compressed, password-protected, or encrypted files. Because computer evidence is vulnerable to inadvertent or intentional modification or destruction, a controlled environment may be necessary to complete an accurate analysis.

Further, such searches often requires the seizure of most or all of a computer system's input/output peripheral devices, related software, documentation, and data security devices so that a qualified computer expert can accurately retrieve the system's data in a laboratory or other controlled environment.

21. In light of these concerns, your affiant requests the Court's permission to seize the computer hardware (and associated peripherals) that are believed to contain some or all of the evidence described in the warrant, and to conduct an off-site search of the hardware for the evidence described, if, upon arriving at the scene, the agent executing the search concludes that it would be impractical to search the computer hardware on-site for this evidence.

22. This affiant knows that cellular telephones may be important to a criminal investigation because cellular telephones may be evidence or instrumentalities of crime, and/or may be used as storage devices that contain evidence of crimes in the form of electronic data. In this case, the warrant application requests permission to search and seize records relating to the trafficking of the substances identified in this investigation. These records constitute evidence of crime. This affiant also requests permission to seize the cellular telephones that may contain these records and search the memory of the cellular telephones. This affiant believes that, in this case, cellular telephones (including saved voice mails and text messages) are a container for evidence and instrumentalities of the crimes under investigation.

23. My awareness of these drug trafficking practices, as well as my knowledge of drug use and distribution techniques as set forth in this Affidavit, arises from the following: my involvement in prior drug investigations and searches during my career as a law enforcement officer, as previously described; my involvement on a number of accessions in debriefing confidential informants and cooperating individuals in prior drug investigations, as well as what

other agents have advised me when relating the substance of their similar debriefings and the results of their own drug investigations; and other intelligence information provided through law enforcement channels.

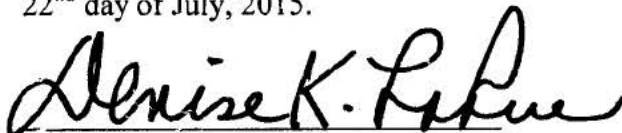
24. In a number of residential searches in prior investigations that I have been involved in, the types of evidence identified in Attachment "B" have typically been recovered from the main residence and from other structures and areas on the properties being searched, for example, other storage lockers/areas, detached closets, containers, and yard areas associated with the main residence and used in connection with or within the curtilage of said residence (including vehicles that are maintained and stored on the curtilage of a main residence).

WHEREFORE, based upon the information contained in this Affidavit, probable cause exists to believe that the articles identified on Attachment "B" are present at the premises to be searched, [REDACTED], Indianapolis, Indiana. Probable cause further exists to arrest the individuals named above at paragraph 6, for the crimes articulated in paragraph 6. I would request that this Affidavit and the Complaint remain under seal, as there are currently two individuals not yet in custody (DODD and DE LA CRUZ); I believe that if they become aware of this Complaint, they will flee from law enforcement, and will likely attempt to destroy evidence.



Tim Bates, Special Agent
Federal Bureau of Investigation

Sworn to and subscribed to me this
22nd day of July, 2015.



Denise K. LaRue
Magistrate Judge
Southern District of Indiana