

Approved: Samuel Raymond
SAMUEL RAYMOND
Assistant United States Attorney

Before: HONORABLE LISA MARGARET SMITH
United States Magistrate Judge
Southern District of New York

18 mag 6776

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UNITED STATES OF AMERICA	<u>SEALED COMPLAINT</u>
	:
- v. -	Violations of
	:
JASON NIEVES-PINO, and	21 U.S.C. §§ 841(a)(1),
ROLANDO NIEVES,	841(b)(1)(A), 841(b)(1)(C),
	:
	and 846
Defendants.	:
	COUNTY OF OFFENSE:
	SULLIVAN
----- X	

SOUTHERN DISTRICT OF NEW YORK, ss.:

CALEB TAYLOR, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation, and charges as follows:

COUNT ONE

1. From in or about November 2017 through at least in or about June 2018, JASON NIEVES-PINO and ROLANDO NIEVES, the defendants, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and object of the conspiracy that JASON NIEVES-PINO and ROLANDO NIEVES, the defendants, would and did distribute and possess with intent to distribute controlled substances, in violation of Title 21, United States Code, Section 841(a)(1).

3. The controlled substances that JASON NIEVES-PINO and ROLANDO NIEVES, the defendants, conspired to distribute and possess with intent to distribute were: (i) 280 grams and more of a mixture or substance containing cocaine base, in violation of Title 21, United States Code, Section 841(b)(1)(A); and (ii) mixtures or substances containing a detectable amount of

cocaine, in violation of Title 21, United States Code, Section 841(b)(1)(C).

(Title 21, United States Code, Section 846.)

The bases for my knowledge and the foregoing charges are, in part, as follows:

4. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and I have been personally involved in the investigation of this matter. This Affidavit is based upon my personal participation in the investigation, including my review of pertinent documents and recordings, my participation in surveillance, my examination of reports and records, and my conversations with other law enforcement officers and other individuals. Because this Affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

The Controlled Buys

5. I have learned that on fifteen separate occasions, from November 2017 through June 2018, a confidential informant (the "CI") made controlled purchases of narcotics from JASON NIEVES-PINO and ROLANDO NIEVES, the defendants.

6. I have reviewed a criminal history report that shows that the CI has four prior felony convictions, including one for attempted burglary, two for burglary, and one for sexual abuse. The CI also has eight prior misdemeanor convictions, including one for possession of stolen property, three for criminal possession of a controlled substance, three for petit larceny, and one for failure to report a change of address as a sex offender. Information provided by the CI has proven reliable and has been corroborated by independent evidence, including through surveillance of the controlled buys, some of which I have participated in.

7. From law enforcement records and discussions with other law enforcement officers, I have learned that in or about 2016, the CI began cooperating with law enforcement in the hope of obtaining leniency for a 2016 drug possession charge. As part of that cooperation, beginning in or about 2016, the CI

provided background information, including that he knew that JASON NIEVES-PINO and ROLANDO NIEVES, the defendants, as well as at least one other co-conspirator ("CC-1"), among others, were selling narcotics. He also informed law enforcement that JASON NIEVES-PINO and ROLANDO NIEVES are brothers. I have learned from law enforcement records that in or about 2017, law enforcement agents informed a District Attorney's Office of the CI's assistance but did not recommend a particular sentence on the 2016 drug possession charge, and the CI subsequently received a sentence of probation in that case. Following the imposition of that sentence in 2017, the CI became a registered confidential informant with a police department and has voluntarily cooperated with this investigation. The CI has not received any payment and is not currently facing any charges. To date, law enforcement has not offered to pay the CI for the time and transportation costs incurred during this investigation.

8. On or about November 8, 2017, February 14, 2018, February 20, 2018, March 6, 2018, March 14, 2018, March 20, 2018, April 3, 2018, April 6, 2018, April 11, 2018, April 20, 2018, May 2, 2018, May 14, 2018, June 1, 2018, June 4, 2018, and June 6, 2018, the CI, at the direction of and monitored by law enforcement officers, including myself on twelve of those occasions, conducted controlled buys from one of either JASON NIEVES-PINO or ROLANDO NIEVES, the defendants. Before nearly every buy, the CI would contact JASON NIEVES-PINO on his telephone number, ending in 6611 (the "6611 Number"), to arrange to meet; on some of those occasions, JASON NIEVES-PINO told the CI to go to a certain location to meet his brother, and the CI would complete the purchase with ROLANDO NIEVES at the arranged location. In total, from the fifteen controlled purchases, the CI purchased more than 280 grams of substances which field-tested positive for crack and more than 100 grams of powder cocaine.

9. I have spoken with law enforcement officers, including an FBI task force officer who is a detective with the Monticello Police Department ("Detective-1"), who told me that some time before November 8, 2017, the CI said he knew that CC-1, JASON NIEVES-PINO, and ROLANDO NIEVES, the defendants, among others, were selling narcotics in Sullivan County. He told law enforcement officers that he knew CC-1's telephone number. In the presence and at the direction of law enforcement including Detective-1, on November 8, 2017, the CI called CC-1's telephone number; the call was recorded.¹ The CI asked CC-1 if he could

¹ The call was in Spanish. A law enforcement agent who speaks

purchase five grams of cocaine. CC-1 responded that CC-1 needed to speak to "Rolando" and would call the CI back. Shortly thereafter, CC-1 called the CI back and said that the CI could purchase five grams for \$400 (this call was also recorded).

a. Law enforcement agents searched the CI and the CI's vehicle, and after confirming that the CI had no contraband on the CI's person or in the CI's vehicle, gave the CI \$400 of previously recorded buy money and a recording device.

b. The CI was then surveilled by law enforcement, including myself, driving to an apartment complex in Monticello, New York, parking, and entering a specific apartment (the "Apartment"). A short time later, law enforcement observed an individual they recognized from prior interactions as ROLANDO NIEVES park a car in the parking lot of the apartment complex and enter a different apartment (the "Second Apartment"). Law enforcement then observed ROLANDO NIEVES exit the Second Apartment and walk over to and enter the Apartment. A short time later, law enforcement observed ROLANDO NIEVES exit the Apartment, go back inside the Second Apartment for a brief period, and then return to the Apartment again. After this series of events, law enforcement observed two individuals² exit the Apartment, get into a van in the parking lot, and then drive over next to the surveillance vehicle. The surveillance team observed the occupants of the vehicle apparently attempting to see inside the surveillance vehicle before driving back, parking in front of the Apartment again, and reentering the Apartment. A short time later, law enforcement observed ROLANDO NIEVES exit the Apartment and walk around the outside of the apartment building. Subsequently, law enforcement observed the CI exit the Apartment, enter the CI's vehicle, and drive away to a safe location. At that location, the CI turned over to law enforcement a clear plastic bag containing approximately 5.7 grams of a white powdery substance, which field tested positive for cocaine.

c. The CI then informed law enforcement of the events that transpired while the CI was in the Apartment: Upon entering the Apartment, the CI met CC-1 and JASON NIEVES-PINO. A short time later, ROLANDO NIEVES arrived in the Apartment. Shortly thereafter, ROLANDO NIEVES left the Apartment and then returned quickly thereafter with a zip lock bag containing what

Spanish was present and interpreted and translated the call.

² The surveillance team was unable to get a clear view of these individuals.

appeared to be cocaine. JASON NIEVES-PINO then handed the CI the cocaine that the CI had asked to purchase, at which point the CI counted out the \$400 of prerecorded buy money and provided it to JASON NIEVES-PINO, who then handed it to CC-1. During this exchange, ROLANDO NIEVES expressed concern that law enforcement was surveilling the transaction and explained that in order to avoid detection, he hid the cocaine around the back of the apartment building behind a brick in the building's foundation. After the transaction was completed, ROLANDO NIEVES left the Apartment again, at which point the CI also left. I have spoken with Detective-1, who reviewed the audio/video recording from this purchase, and informed me that the recording was consistent with the CI's description.

10. I, along with Detective-1, participated in a controlled purchase on or about February 14, 2018, where the CI purchased approximately 11 grams of cocaine from JASON NIEVES-PINO, the defendant. Prior to the purchase, law enforcement agents met at a predetermined location with the CI, who made a controlled phone call to the 6611 Number, which was recorded, requesting to purchase ten grams of cocaine. JASON NIEVES-PINO responded that he would call the CI back. Law enforcement agents personally observed that the number dialed during this call was the 6611 Number. During this call, the CI and JASON NIEVES-PINO spoke in Spanish, and a bilingual law enforcement agent listened to the call and translated the call into English in real time. Following that first call, JASON NIEVES-PINO, using the 6611 Number, called the CI back, which call was also recorded, and stated that the CI could purchase ten grams of cocaine at a price of \$70 per gram. When the CI responded that the price was too high, JASON NIEVES-PINO agreed to lower the price to \$60 per gram. Law enforcement agents personally observed that the number calling the CI's phone during this call was the 6611 Number. During this call, the CI and JASON NIEVES-PINO spoke in Spanish, and a bilingual law enforcement agent listened to the call and translated the call into English in real time.

a. Law enforcement agents searched the CI and the CI's vehicle, and after confirming that the CI had no contraband on the CI's person or in the CI's vehicle, gave the CI \$600 of previously recorded buy money and a recording device. The CI was then surveilled by law enforcement driving to another apartment complex in Monticello, New York and parking. A short time later, law enforcement observed an individual they recognized from prior interactions as JASON NIEVES-PINO drive a blue car (the "JASON NIEVES-PINO Vehicle") into the same parking

lot, park, and then enter the CI's vehicle. Shortly thereafter, law enforcement observed a Ford F-150 drive into the same parking lot, at which point JASON NIEVES-PINO exited the CI's vehicle, walked over to the F-150, and then returned to the CI's vehicle. After a brief interaction, JASON NIEVES-PINO walked away from the CI's vehicle, at which point the CI drove away from the parking lot to a safe location. At that location, the CI turned over to law enforcement a clear plastic bag containing 11 grams of a white powdery substance, which field tested positive for cocaine.

b. The CI then informed law enforcement of the events that transpired during the purchase: Upon arriving in the parking lot, the CI was met by JASON NIEVES-PINO. Shortly thereafter, JASON NIEVES-PINO exited the CI's vehicle to meet another person who drove the F-150 into the parking lot and provided JASON NIEVES-PINO with cocaine. After returning to the CI's car, JASON NIEVES-PINO exchanged the cocaine for the \$600 of prerecorded buy money with the CI. I have spoken with Detective-1, who reviewed the audio/video recording from this purchase, and informed me that the recording was consistent with the CI's description.

11. I have spoken with Detective-1, who informed me that on or about February 20, 2018, the CI purchased approximately 10.6 grams of cocaine from JASON NIEVES-PINO, the defendant. Prior to the purchase, law enforcement agents met at a predetermined location with the CI, who informed agents that the CI had previously texted JASON NIEVES-PINO on the 6611 Number requesting to purchase ten grams of cocaine, and JASON NIEVES-PINO responded by calling the CI and saying he would have it ready. In the presence of agents, the CI placed a controlled phone call to JASON NIEVES-PINO on the 6611 Number, which was recorded, and asked where to go. In response, JASON NIEVES-PINO told the CI to go to the same place as last time. Law enforcement agents personally observed that the number dialed during this call was the 6611 Number. During this call, the CI and JASON NIEVES-PINO spoke in Spanish, and a bilingual law enforcement agent listened to the call and translated the call into English in real time. Based on my training and experience, I believe that during this call, the CI asked to meet JASON NIEVES-PINO in order to purchase cocaine. In response, JASON NIEVES-PINO agreed to meet the CI at the same location as the prior purchase.

a. Law enforcement agents searched the CI and the CI's vehicle, and after confirming that the CI had no

contraband on the CI's person or in the CI's vehicle, gave the CI \$600 of previously recorded buy money and a recording device. The CI was then surveilled by law enforcement driving to the same apartment complex in Monticello, New York and parking. Prior to the CI's arrival, a surveillance team that was already set up near the parking lot observed the JASON NIEVES-PINO Vehicle drive into the parking lot of the apartment complex. Once the CI's vehicle entered the parking lot, law enforcement surveillance observed an individual they recognized from prior interactions as JASON NIEVES-PINO exit the JASON NIEVES-PINO Vehicle and enter the CI's vehicle. Shortly thereafter, law enforcement observed JASON NIEVES-PINO walk away from the CI's vehicle, at which point the CI drove away from the parking lot to a safe location. At that location, the CI turned over to law enforcement a clear plastic bag containing approximately 10.6 grams of a white powdery substance, which field tested positive for cocaine.

b. The CI then informed law enforcement of the events that transpired during the purchase: Upon arriving in the parking lot, the CI was met by JASON NIEVES-PINO, who exchanged the cocaine for the \$600 of prerecorded buy money with the CI. The CI then asked JASON NIEVES-PINO if he could purchase another five grams of cocaine for \$55 per gram. In response, JASON NIEVES-PINO made a phone call and had a conversation, part of which the CI was able to overhear. Following that call, JASON NIEVES-PINO informed the CI that the man on the other end of the phone ("CC-2"), said he could not sell another five grams for \$55 per gram. I have spoken with Detective-1, who reviewed the audio/video recording from this purchase, and informed me that the recording was consistent with the CI's description.

12. On or about March 6, 2018, I participated in a controlled purchase, in which the CI purchased approximately 20.7 grams of cocaine from JASON NIEVES-PINO and ROLANDO NIEVES, the defendants. Prior to the purchase, law enforcement agents met at a predetermined location with the CI, who placed a controlled phone call to JASON NIEVES-PINO on the 6611 Number, which was recorded. During the call, the CI asked to purchase 20 grams of cocaine. JASON NIEVES-PINO responded that he would call the CI back. Law enforcement agents personally observed that the number dialed during this call was the 6611 Number. During this call, the CI and JASON NIEVES-PINO spoke in Spanish, and a bilingual law enforcement agent listened to the call and translated the call into English in real time. A short time later, JASON NIEVES-PINO, using the 6611 Number, called the CI (the call was recorded). NIEVES-PINO said that the parking lot

where the CI had purchased narcotics from NIEVES-PINO on February 14 and February 20 had a new camera system, so he did not want to meet there. Instead, JASON NIEVES-PINO told the CI to meet at another location in Monticello (the "Location"). Law enforcement agents personally observed that the number calling the CI's phone during this call was the 6611 Number. During this call, the CI and JASON NIEVES-PINO spoke in Spanish, and a bilingual law enforcement agent listened to the call and translated the call into English in real time.

a. Law enforcement agents searched the CI and the CI's vehicle, and after confirming that the CI had no contraband on the CI's person or in the CI's vehicle, gave the CI \$1200 of previously recorded buy money and a recording device. The CI was then surveilled by law enforcement driving to the Location and parking. Following the CI's arrival, law enforcement surveillance observed the JASON NIEVES-PINO Vehicle drive into the Location and park. Law enforcement then observed JASON NIEVES-PINO exit the JASON NIEVES-PINO Vehicle and enter the CI's vehicle. Shortly thereafter, law enforcement observed JASON NIEVES-PINO walk away from the CI's vehicle, at which point the CI drove away from the Location to a safe location. Law enforcement also observed the JASON NIEVES-PINO Vehicle exit the Location and recognized ROLANDO NIEVES as the driver of the Jason Nieves-Pino Vehicle. Subsequently, at the safe location, the CI turned over to law enforcement two clear plastic bags containing a total of approximately 20.7 grams of a white powdery substance, which field tested positive for cocaine.

b. The CI then informed law enforcement of the events that transpired during the purchase: Upon arriving at the Location, the CI was met by JASON NIEVES-PINO, who exchanged the two bags of cocaine for the \$1200 of prerecorded buy money with the CI and then left. I have spoken with Detective-1, who reviewed the audio/video recording from this purchase, and informed me that the recording was consistent with the CI's description.

13. Following these controlled purchases, I have participated in or reviewed reports written by Detective-1 describing, an additional 11 controlled purchases of narcotics by the CI, on March 14, March 20, April 3, April 6, April 11, April 20, May 2, May 14, June 1, June 4, and June 6, 2018.³ On

³ I participated in the controlled purchases on March 14, March 20, April 3, April 6, April 11, April 20, June 1, June 4, and June 6.


each of those 11 occasions, the CI called the 6611 Number, and arranged to purchase a quantity of narcotics from JASON NIEVES-PINO at the Location. During each call, the CI and JASON NIEVES-PINO spoke in Spanish, and a bilingual law enforcement agent listened to the call and translated. On each occasion, law enforcement agents searched the CI and the CI's vehicle, and after confirming that the CI had no contraband on the CI's person or in the CI's vehicle, gave the CI previously recorded buy money and a recording device: \$1200 on March 14, \$1200 on March 20, \$1200 on April 3, \$300 on April 6, \$1500 on April 11, \$1500 on April 20, \$1800 on May 2, \$2800 on May 14, \$1904 on June 1, \$3696 on June 4, and \$4200 on June 6. On March 14, June 1, June 4, and June 6, the CI spoke with JASON NIEVES-PINO about arranging a purchase of narcotics; on each date, when the CI arrived at the arranged meeting spot, he met with ROLANDO NIEVES, and law enforcement agents observed ROLANDO NIEVES at the Location meeting with the CI. On the other dates, JASON NIEVES-PINO was observed meeting with the CI. After each controlled purchase, the CI was observed driving back to a safe location, where he turned over to law enforcement substances in various plastic and zip lock bags.

a. On March 14, the substances field-tested positive for the presence of powder cocaine, which weighed, with the packaging, 21.5 grams; on March 20, the substances field-tested positive for the presence of powder cocaine, which weighed, with the packaging, 23.1 grams; on April 3, the substances field-tested positive for the presence of powder cocaine, which weighed, with the packaging, 21.9 grams; on April 6, the substance field-tested positive for the presence of crack cocaine, which weighed, with the packaging, 5.3 grams; on April 11, the substances field-tested positive for the presence, with the packaging, of 17.9 grams of crack cocaine and 8.8 grams of powder cocaine; on April 20, the substances field-tested positive for the presence of crack cocaine, which weighed, with the packaging, 27 grams; on May 2, the substances field-tested positive for the presence of crack cocaine, which weighed, with the packaging, 30 grams; on May 14, the substances field-tested positive for the presence of crack cocaine, which weighed, with the packaging, 52.7 grams; on June 1, the substances field-tested positive for the presence of crack cocaine, which weighed, with the packaging, 35.9 grams; on June 4, the substances field-tested positive for the presence of crack cocaine, which weighed, with the packaging, 69.8 grams; on June 6, the substances field-tested positive for the presence of crack cocaine, which weighed, with the packaging, 79 grams. In sum, the weight of the crack cocaine with packaging is

approximately 317 grams.

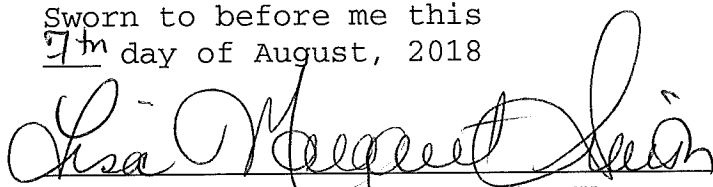
b. I have reviewed lab reports for the November 8, 2017, February 14, 2018, February 20, 2018, March 6, 2018, March 14, 2018, March 20, 2018, April 3, 2018, April 6, 2018, April 11, 2018, April 20, 2018, May 14, 2018, and June 1, 2018 controlled purchases. The lab has not yet determined the "form" (namely, whether the cocaine is cocaine base or powder) of all of the cocaine recovered from the CI during those purchases. I estimate, based on the completed testing, that the weight of the crack cocaine without the packaging is more than 280 grams.

WHEREFORE, deponent respectfully requests that JASON NIEVES-PINO and ROLANDO NIEVES, the defendants, be arrested and imprisoned or bailed, as the case may be.



CALEB TAYLOR
Special Agent
Federal Bureau of Investigation

Sworn to before me this
7th day of August, 2018



HONORABLE LISA MARGARET SMITH
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK