

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

No. 16-3627-mj-white

UNITED STATES OF AMERICA

vs.

ABRAHAN JOSE AGUILAR SANCHEZ,

Defendant.

_____ /

CRIMINAL COVER SHEET

1. Did this matter originate from a matter pending in the Northern Region of the United States Attorney's Office prior to October 14, 2003? _____ Yes x No
2. Did this matter originate from a matter pending in the Central Region of the United States Attorney's Office prior to September 1, 2007? _____ Yes x No

Respectfully submitted,

WIFREDO A. FERRER
UNITED STATES ATTORNEY

BY:



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AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America

v.

ABRAHAN JOSE AGUILAR SANCHEZ,

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Case No. 16-3627-mj-White

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 June 24, 2016 in the county of Miami-Dade in the Southern District of Florida, the defendant(s) violated:

Code Section
18 U.S.C. Sect. 554

Offense Description
Smuggling of goods from the United States contrary to law or regulation of the United States

This criminal complaint is based on these facts:

See attached affidavit.

Continued on the attached sheet.


Complainant's signature

Elvis Corrales, Special Agent, HSI
Printed name and title

Sworn to before me and signed in my presence.

Date: 12/01/2016


Judge's signature

City and state: Miami, Florida

Hon. Patrick A. White, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF COMPLAINT

I, Special Agent Elvis Corrales, first being duly sworn, hereby state as follows:

1. I am a Special Agent with Homeland Security Investigation (HSI), currently assigned to the Miami Field Office and have been so employed since 2006. Among my duties as an HSI Special Agent, I am responsible for the investigation of violations of federal law, including investigating the illegal export from the United States of commodities, information, and services that are regulated by the United States Government, such as goods that have military application and whose export is prohibited without a license from the Department of State. As a result of my training and experience, I have knowledge of the means and methods used by weapon traffickers and weapon-trafficking organizations to communicate with each other, to purchase, transport, store, and distribute weapons, and to conceal profits generated from those transactions.

2. I am an investigative or law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18 of the United States Code; that is, an officer of the United States who is empowered by law to conduct investigations and make arrests for offenses enumerated in Titles 8, 18, 19, 21 and 22 of the United States Code.

3. I know, through training and experience, that; (a) it is common for weapon traffickers to utilize numerous concealment methods within various shipment commodities to transport weapons, munitions, and proceeds for the export, sale, and distribution of weapons and munitions; (b) it is common for weapon traffickers to conceal weapons and munitions within freight and utilize shipment consolidators, freight forwards, and commercial carriers (land, sea and air); (c) it is common for weapons traffickers to conceal and commingle weapons and munitions within other shipments to avoid customs and carrier shipment inspections in order to export weapons and munitions in violation of 18 U.S. Code § 554, (smuggling goods from the

United States), and 22 U.S. Code § 2778 (control of arms exports and imports).

4. My knowledge of the facts alleged in this affidavit arises from my personal knowledge and observations, my training and experience, and information obtained from other law enforcement officers. This affidavit does not include every fact known to me concerning this ongoing investigation. I have included only those facts and circumstances that I believe are sufficient to establish probable cause for the arrest of Abraham Jose AGUILAR SANCHEZ (herein after “AGUILAR”), a citizen of Venezuela who was recently admitted into the United States on a B1/B2 visitor visa.

RELEVANT STATUTES

5. 22 U.S. Code § 2778(c) provides, in relevant part: “Any person who willfully violates any provision of this section, section 2779 of this title, a treaty referred to in subsection (j)(1)(C)(i), or any rule or regulation issued under this section or section 2779 of this title, including any rule or regulation issued to implement or enforce a treaty referred to in subsection (j)(1)(C)(i) or an implementing arrangement pursuant to such treaty . . . shall upon conviction be . . . imprisoned not more than 20 years...” 22 U.S. Code § 2778 also provides that all persons who broker the export or import of any “defense article” must register with the United States Government, pay a registration fee, and obtain a license. An attempt to export firearms or ammunition without first obtaining the necessary registration and license constitutes a violation of 22 U.S. Code § 2778(c). 22 Code of Federal Regulations § 121.1 provides that ammunition and firearms such as pistols and semi-automatic rifles constitute “defense articles.”

5. 18 U.S. Code § 554 provides, in relevant part that “whoever fraudulently or knowingly exports or sends from the United States, or attempts to export or send from the United States, any merchandise, article, or object contrary to any law or regulation of the United States, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or

sale of such merchandise, article or object, prior to exportation, knowing the same to be intended for exportation contrary to any law or regulation of the United States, shall be . . . imprisoned not more than 10 years....” Exporting or attempting to export firearms or ammunition without a license as provided in 22 U.S. Code § 2778 would constitute an exportation or attempted exportation contrary to a law or regulation of the United States, and would therefore also constitute a violation of 18 U.S. Code § 554.

6. 18 U.S. Code § 2 provides, in relevant part: “Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.”

Facts Establishing Probable Cause for Arrest

7. On or about April 16, 2016, your Affiant and U.S. Customs and Border Protection Officers at Miami International Airport (MIA), DHL international hub intercepted a shipment containing twenty-five (25) empty vehicle battery cases with glue residue, modified compartments, and carbon paper. This shipment was sent from Maracaibo, Venezuela to Miami, Florida, by an individual identified on the shipping paperwork Ender SOTO, who had listed a telephone number of 4246412612. The listed consignee was as Colombian female identified as Martha CRUZ, at residential address 3835 SW 132 Avenue, Miami, Florida (hereinafter "CRUZ's property").

8. On or about May 14, 2016, Customs and Border Protection Officers at MIA selected AGUILAR, who had arrived on board a flight from Maracaibo, Venezuela, for a secondary inspection. Upon inspection pursuant to the Border Search authority, AGUILAR's cellular telephone was reviewed and searched. AGUILAR's cell phone contacts list contained a number of contact pertinent to the ongoing investigation, including Ender SOTO's. This cell phone contained, among other things, a contact listing for a 4246412612 number, associated with

the following description: "Ender Karina," which, as stated above, also happened to be the contact number for the shipper of the twenty-five (25) empty vehicle battery cases on or about April 16, 2016.

9. Your affiant is aware, based on video footage and other evidence, that on or about June 5, 2016, AGUILAR went to MIA to pick up an individual named Jose Alexander GUTIERREZ Morales (hereinafter "GUTIERREZ"), who had flown in from Venezuela to Miami. On his travel documents presented to customs upon arrival into the United States, GUTIERREZ listed AGUILAR's residence as his place of stay while in the United States.

10. Some time later, federal law enforcement initiated surveillance on GUTIERREZ. On or about October 21, 2016, your Affiant arrested GUTIERREZ and Alfredo A. MONTILLA Hernandez (hereinafter "MONTILLA") after the two individuals caused to be delivered boxes containing eight (8) handguns and over 23,500 rounds of ammunition – hidden within the same aforementioned empty vehicle battery cases that arrived on or about April 16, 2016 -- to a shipping company in Miami called Conavenca. Your affiant found five (5) assault rifles, two (2) handguns, and over 1,700 rounds of ammunition in MONTILLA's vehicle. On December 1, 2016, the United States Attorney's Office filed a one-count Information against GUTIERREZ and MONTILLA charging them with attempting to illegally export the rifles, handguns and ammunition in violation of 18 U.S.C. § 554.

11. Also on or about December 1, 2016, AGUILAR went to MIA in an effort to depart the United States to Venezuela. At this time, Customs and Border Protection conducted an outbound border search on AGUILAR. Your Affiant was contacted by Customs and Border Protection about the border search and responded to MIA to conduct an interview. Your Affiant approached AGUILAR, to gather information regarding the recent events of GUTIERREZ, MONTILLA and attempted illegal export of weapons and ammunition. After waiving his

Miranda rights in writing, and agreeing to speak to Your Affiant without an attorney, AGUILAR stated that he knew about the empty battery cases and the attempted export of weapons and ammunition. AGUILAR acknowledged that he knowingly and willfully agreed with GUTIERREZ to assist in the procurement and export of ammunition and two (2) assault rifles during GUTIERREZ's stay at his residence in June of 2016. AGUILAR continued to state that he witnessed GUTIERREZ conceal the weapons and ammunition for export to Venezuela and understood it was against the law to do so.

12. Your affiant is aware that on or about June 24, 2016, GUTIERREZ and others, caused two pallets containing two (2) assault rifles and approximately 15,000 rounds of ammunition – hidden inside electrical generators -- to be delivered to the Conavenca shipping company, the same company to which GUTIERREZ and MONTILLA delivered the October 21, 2016 shipment of weapons and ammunition. Specifically, neither GUTIERREZ nor any others had obtained an export license to export this particular shipment of weapons and ammunition. As such, this exportation of weapons and firearms was contrary to law and regulation of the United States.

13. During the process of AGUILAR's December 1, 2016, interview at MIA, AGUILAR provided Your Affiant with consent to search his cellular telephone. Your affiant observed photos of electrical generators which match the description of the electrical generators used to hide the June 24, 2016, shipment of assault rifles and ammunition illegally exported to Venezuela.

Conclusion

14. Based upon the foregoing, your Affiant submits there is probable cause to believe that **AGUILAR** did aid and abet the smuggling goods from the United States contrary to law or

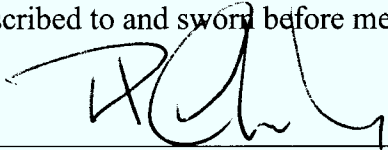
regulation of the United States, in violation of 18 U.S. Code §§ 554 and 2.

FURTHER AFFIANT SAYETH NAUGHT.



Elvis Corrales
Special Agent, Homeland Security Investigations

Subscribed to and sworn before me on this 2nd day of December, 2016:



HONORABLE PATRICK A. WHITE
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF FLORIDA