

AO 91 (Rev. 11/82)

CRIMINAL COMPLAINT

UNITED STATES DISTRICT COURT		CENTRAL DISTRICT OF CALIFORNIA	
UNITED STATES OF AMERICA v. MARIO MOYA JR., OMAR FLORES, and JEZRAHEL MERCADO PEREZ		DOCKET NO. MAGISTRATE'S CASE NO. 16-2464M	
Complaint for violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(A)(viii)			
NAME OF MAGISTRATE JUDGE HONORABLE MICHAEL WILNER		UNITED STATES MAGISTRATE JUDGE	LOCATION Los Angeles, California
DATE OF OFFENSE December 14, 2016	PLACE OF OFFENSE Riverside County	ADDRESS OF ACCUSED (IF KNOWN)	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> FILED CLERK U.S. DISTRICT COURT DEC 15 2016 </div>
COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION: <p style="text-align: center;">[21 U.S.C. §§ 841(a)(1), (b)(1)(A)(viii)]</p> <p>On or about December 14, 2016, in Riverside County, within the Central District of California, defendants MARIO MOYA JR., OMAR FLORES, and JEZRAHEL MERCADO PEREZ knowingly possessed at least 500 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, with the intent to distribute it to another person, in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A)(viii).</p>			CENTRAL DISTRICT OF CALIFORNIA BY
BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED: (See attached affidavit which is incorporated as part of this Complaint)			
MATERIAL WITNESSES IN RELATION TO THIS CHARGE: N/A			
Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.	SIGNATURE OF COMPLAINANT ANTHONY HERRERA JACOBS <i>15/</i>		
	OFFICIAL TITLE Postal Inspector - USPIS		
Sworn to before me and subscribed in my presence,			
SIGNATURE OF MAGISTRATE JUDGE ⁽¹⁾ MICHAEL R WILNER			DATE December 15, 2016

⁽¹⁾ See Federal Rules of Criminal Procedure 3 and 54

AFFIDAVIT

I, Anthony Herrera Jacobs, being duly sworn, declare and state as follows:

I. PURPOSE OF AFFIDAVIT

1. This affidavit is made in support of a criminal complaint against and arrest warrants for MARIO MOYA JR. ("MOYA"), OMAR FLORES ("FLORES"), and JEZRAHEL MERCADO PEREZ ("PEREZ") for violations of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A)(viii) (possession with intent to distribute at least 500 grams of a mixture or substance containing methamphetamine).

2. This affidavit is also made in support of an application for a warrant to search the digital devices described in Attachment A (the "SEIZED DEVICES"), which is incorporated by reference, for evidence, fruits, and instrumentalities of violations of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A) (possession with intent to distribute, or distribution of, a controlled substance) and 846 (conspiracy to possess with intent to distribute, or distribution of, a controlled substance), as described further in Attachment B, which is also incorporated by reference.

3. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from various law enforcement personnel and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested complaint and warrants and does not purport to set forth all of my knowledge

of or investigation into this matter. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only.

II. BACKGROUND ON POSTAL INSPECTOR ANTHONY HERRERA JACOBS

4. I am a United States Postal Inspector and have been so employed since August 2003. I have completed a twelve-week Postal Inspector basic training course, which included training in the investigation of narcotics trafficking via the United States Mail. I also have completed an advanced training course specifically designed for training investigators of narcotics mailers and shippers. I am currently assigned to the United States Postal Inspection Service ("USPIS") Los Angeles Division, Narcotics Team and Parcel Task Force ("PTF"), which is responsible for investigating drug trafficking organizations that use parcels to distribute illegal narcotics and/or narcotics proceeds. As part of my law enforcement duties, I have conducted numerous parcel investigations that have resulted in the arrest of individuals who have received and distributed controlled substances, as well as the seizure of the illegal drugs and proceeds from the sale of those illegal drugs.

III. SUMMARY OF PROBABLE CAUSE

5. On December 14, 2016, a law enforcement cooperating source (the "CS") arranged a controlled purchase of two pounds of methamphetamine from MOYA. Postal Inspectors set up surveillance near a Shell gas station in Cabazon, California, where MOYA had agreed to sell the drugs to the CS. There, Postal Inspectors arrested FLORES and PEREZ, who attempted to

deliver two pounds of methamphetamine to the CS on MOYA's behalf. MOYA, who had been monitoring the drug sale from afar, saw FLORES and PEREZ being arrested and then fled the scene in his car, leading law enforcement agents on a car chase at speeds over 100 miles per hour. MOYA ultimately escaped arrest.

6. During post-arrest, Mirandized interviews, both FLORES and PEREZ admitted that they had agreed to assist MOYA with his drug deal that day in exchange for compensation in cash and drugs. Incident to arrest, agents found the SEIZED DEVICES on FLORES and PEREZ.

IV. STATEMENT OF PROBABLE CAUSE

7. In September 2016, Postal Inspector William Marshall from Des Moines, Iowa, asked for my help with an investigation into the CS,¹ who was suspected of participating in a conspiracy to distribute several pounds of methamphetamine from California to Iowa using the U.S. Mail.

A. Setting Up the Controlled Drug Buy with MOYA

8. On or about December 9, 2016, I obtained a federal search warrant to search the CS's home. Based on my conversations with Inspector Marshall on or about December 14, 2016, I know the following:

a. On December 14, 2016, following the execution of the federal search warrant at the CS's home, Inspector Marshall

¹ The CS is currently facing federal drug conspiracy charges and has been cooperating with law enforcement in exchange for potential sentencing consideration. The CS was not made any promises or given any assurances by law enforcement in exchange for the CS's cooperation.

and Special Agent Lonny Namanny of the Drug Enforcement Administration ("DEA") conducted a Mirandized interview with the CS, during which the CS admitted s/he had engaged in prior drug deals with MOYA. The CS also recounted having observed MOYA conduct two drug transactions, one for approximately six pounds of methamphetamine, and the other for between nine and ten pounds of methamphetamine

b. The CS then showed agents MOYA's address on Camino Cortez in Coachella, California, from a "pin drop" on a map application saved on the CS's cellphone. Inspector Marshall ran a query for the Camino Cortez address in the CLEAR² database and obtained MOYA's full name, date of birth, and other personal identifying information. Based on that information, Inspector Marshall obtained a copy of MOYA's California Department of Motor Vehicles ("DMV") photo. He showed that photo to the CS, who identified the person depicted in the photo as MOYA.

c. During the interview, the CS agreed to make a consensual and monitored phone call to MOYA to set up a controlled purchase of two pounds of methamphetamine. The CS initially contacted MOYA via text message and asked if he could supply the CS with "two big ones."

d. Within approximately thirty seconds of the CS's message, the CS received a call from MOYA, who said he could supply the CS with two pounds of methamphetamine at a cost of

² CLEAR is a public information database, regularly used by law enforcement, that provides names, addresses, telephone numbers, and other identifying information.

\$2,100 per pound. Shortly thereafter, MOYA again called the CS and said he was planning to get more drugs from his source, and offered to sell the methamphetamine for \$2,000 per pound.

e. The CS arranged to meet MOYA at the Morongo Casino in Cabazon, California. Through a subsequent phone call to the CS, MOYA changed the location for the drug sale to a Shell gas station on Seminole Drive in Cabazon.

B. Surveillance at MOYA's Residence and at the Shell Gas Station

9. After learning from Inspector Marshall that the CS had agreed to participate in a controlled drug purchase with MOYA, I contacted the Riverside County Sheriff's Department's ("RSD") Special Investigation Bureau ("SIB") to obtain assistance in conducting surveillance. I contacted SIB Investigator Rod LaBrecque and told him the address of MOYA's residence.

10. Based on my own surveillance and observations, as well as my discussions with Investigator LaBrecque and other members of the surveillance team involved in monitoring the controlled purchase of drugs from MOYA, I know the following:

a. SIB personnel obtained a photograph of MOYA from a law enforcement database. At approximately 10:45 a.m. on December 14, 2016, SIB personnel began surveilling MOYA's address on Camino Cortez in Coachella.

b. A silver Nissan Altima drove up and parked in front of MOYA's residence. A Hispanic male wearing a long sleeved red-colored t-shirt exited the residence and approached the Nissan. Based on the photograph of MOYA that SIB had

obtained, members of the surveillance team believed that this man was MOYA.

c. MOYA retrieved a red-colored grocery bag from the passenger side of the Nissan Altima and walked back into the residence. He again exited the residence and then entered the passenger side of the Nissan Altima. The Nissan drove away, and a short while later, returned back to MOYA's residence, at which point MOYA and an unidentified Hispanic male driver exited the Nissan and entered the residence.

d. Later on, around 12:00 p.m., MOYA backed a white-colored Ford F-150 truck out of the garage, which was later determined (through a query of the truck's license plate on a law enforcement database) to be registered to MOYA at his residence on Camino Cortez. The truck stopped in the driveway, at which point MOYA exited the driver's side door holding what appeared to be a red-colored grocery bag. MOYA then raised the hood of the truck and placed the red bag inside the engine compartment area. He closed the hood and reentered the truck with an unidentified Hispanic male who was riding in the front passenger seat.

e. MOYA drove in the white truck to a 76 gas station on Monroe Street in Indio, California, where he parked in a stall alongside a gold-colored Jeep Cherokee, bearing paper license plates, with two Hispanic males inside. The driver of the Jeep Cherokee raised the tailgate. Members of the surveillance team could not, however, see if any items were exchanged given their obstructed vantage point.

f. Together, MOYA's truck and the Jeep Cherokee then drove down Monroe Street before merging onto the westbound I-10 freeway and heading towards the Shell gas station in Cabazon, where MOYA had arranged to sell drugs to the CS. In the parking lot of the Shell gas station, the CS was awaiting MOYA's arrival inside a rental car that Postal Inspectors had provided the CS for the controlled drug purchase.

g. MOYA's truck and the Jeep Cherokee took the Main Street exit off the I-10 freeway in Cabazon, as MOYA drove directly behind the Jeep. Then, the Jeep Cherokee turned into the Shell gas station as MOYA continued driving east.

h. After arriving at the gas station parking lot, one of the two Hispanic male occupants, later identified as FLORES, exited the Jeep Cherokee, approached the CS, and asked if the CS had the money. The other occupant of the Jeep Cherokee, later identified through DMV records as PEREZ, remained seated in the driver's seat. After approaching the CS, FLORES returned to the Jeep, raised the hood of the car, and removed a red bag from the engine compartment.

i. At that point, the CS exited and walked towards the back of the CS's own car, while law enforcement agents surrounded the area and placed FLORES and PEREZ under arrest.

j. Meanwhile, MOYA had turned around and began driving slowly back toward the Shell gas station. As he drove past the scene and saw that FLORES and PEREZ had been detained by law enforcement, MOYA quickly accelerated his truck and entered the westbound I-10 freeway. SIB investigators chased

MOYA, who fled at speeds exceeding 100 miles per hour, but ultimately lost sight of MOYA's truck near Banning, California.

k. Inside the red bag that FLORES had removed from the Jeep's engine compartment, agents found approximately two pounds (900 grams) of a white crystalline substance that field tested positive for methamphetamine. Incident to arrest, agents found, on each of FLORES and PEREZ, baggies containing approximately one half-ounce of a white crystalline substance that field tested positive for methamphetamine. Agents also found a white-colored Samsung cellphone and black-colored LG cellphone on FLORES, and a black-colored ZTE cellphone on PEREZ.

l. FLORES and PEREZ were transported to RSD's Cabazon substation to be interviewed.

m. I showed a photograph of the red-colored bag containing methamphetamine that agents had retrieved from FLORES and PEREZ to SIB Border Patrol Agent ("BPA") Ramiro Mendez, who was part of the surveillance team at MOYA's residence. BPA Mendez told me that the red bag depicted in the photograph looked like the same red bag that he had seen MOYA holding at MOYA's residence earlier that day.

C. Interview of FLORES

11. On December 14, 2016, Inspector Nonas-Truong and I conducted a recorded, Mirandized interview of FLORES. Having been present at the interview and having later listened to the recording of the interview, I know the following:

a. FLORES said that MOYA had called him, asking for his help to conduct a drug deal with a person in Cabazon. He

admitted that MOYA had placed the red-colored bag containing methamphetamine in the hood of the Jeep Cherokee. FLORES also admitted that he knew the red bag contained methamphetamine and that MOYA would collect \$4,200 from the woman for the drug deal.

b. Inspector Nonas-Truong showed FLORES a six-pack photo line-up with MOYA. FLORES positively identified MOYA and circled, dated, and signed the number next to the MOYA's photo.

c. FLORES further admitted that he had received a baggie of methamphetamine and cash in exchange for helping MOYA with the drug deal.

D. Interview of PEREZ

12. On December 14, 2016, Inspector Nonas-Truong and I conducted a recorded, Mirandized interview of PEREZ. Having been present at the interview and having later listened to the recording of the interview, I know the following:

a. PEREZ said that MOYA had called him, asking for his help to conduct a drug deal with a person in Cabazon. He admitted that he was the driver of the Jeep Cherokee, and that MOYA had placed a red-colored bag containing methamphetamine in the hood of the car. PEREZ also admitted that he knew the red bag contained methamphetamine. Although PEREZ said he did not know the CS, he acknowledged having assisted MOYA with previous drug sales.

b. Inspector Nonas-Truong showed PEREZ a six-pack photo line-up with MOYA. PEREZ positively identified MOYA and circled, dated, and signed the number next to the corresponding photo.

c. PEREZ further admitted that he received a baggie of methamphetamine in exchange for helping MOYA with the drug deal.

E. Search of MOYA's Residence

13. Based on my discussions with RPD Investigator Jason Chancellor on or about December 14, 2016, I know the following:

a. On December 14, 2016, Investigator Chancellor obtained a state search warrant, signed by the Honorable Dean Benjamini of the Riverside County Superior Court, for MOYA's residence.

b. During their search of MOYA's residence pursuant to the warrant, RPD investigators recovered a Smith & Wesson 9mm handgun, bearing serial number HRE1137, and a 9mm magazine loaded with seven rounds. Investigators also found a small red-colored bag similar to the one containing methamphetamine that was recovered at the Shell gas station.

**VIII. TRAINING AND EXPERIENCE REGARDING
DRUG TRAFFICKING OFFENSES**

14. Based on my training and experience and familiarity with investigations into drug trafficking, as well as my discussions with other law enforcement agents involved in drug trafficking investigations, I know the following:

a. Drug traffickers use telephones, portable cellular and digital telephones, pagers, and other communication devices, sometimes in fictitious and/or other individuals' names, and maintain in such devices telephone and other contact information which reflects names, addresses, and/or telephone

numbers of their associates in the narcotics trafficking organization, as well as customers of their narcotics business.

b. Drug traffickers frequently use digital devices to communicate by phone, text message, and e-mail with their suppliers and customers regarding matters such as quantity, price, arrival time, and meet location. Further, drug traffickers will also use text messages to send photographs as codes or actual pictures or videos of the contraband being trafficked as part of narcotics transactions. I know that the above-described information can be stored on digital devices carried by drug traffickers.

IX. TRAINING AND EXPERIENCE ON DIGITAL DEVICES

15. Based on my knowledge, training, and experience, as well as information related to me by agents and others involved in the forensic examination of digital devices, I know that it is not always possible to search digital devices for digital data in a single day or even over several weeks for a number of reasons, including the following:

a. Searching digital devices can be a highly technical process that requires specific expertise and specialized equipment. There are so many types of digital devices and software programs in use today that it takes time to conduct a thorough search. In addition, it may be necessary to consult with specially trained personnel who have specific expertise in the type of digital device, operating system, and software application being searched.

b. Digital data is particularly vulnerable to inadvertent or intentional modification or destruction. Searching digital devices can require the use of precise, scientific procedures that are designed to maintain the integrity of digital data and to recover "hidden," erased, compressed, encrypted, or password-protected data. As a result, a controlled environment, such as a law enforcement laboratory or similar facility, is essential to conducting a complete and accurate analysis of data stored on digital devices.

c. It is difficult to estimate the precise storage space contained on the devices listed in Attachment A before conducting a preliminary examination of these devices, but, based on my training and experience, I know that computers and cellular telephones can contain multiple gigabytes of storage space. A single megabyte of storage space is the equivalent of 500 double-spaced pages of text. A single gigabyte of storage space, or 1,000 megabytes, is the equivalent of 500,000 double-spaced pages of text.

d. Electronic files or remnants of such files can be recovered months or even years after they have been downloaded onto a hard drive, deleted, or viewed via the Internet. Electronic files saved to a hard drive can be stored for years with little or no cost. Even when such files have been deleted, they can be recovered months or years later using readily-available forensics tools. Normally, when a person deletes a file on a computer, the data contained in the file does not actually disappear; rather, that data remains on the hard drive

until it is overwritten by new data. Therefore, deleted files, or remnants of deleted files, may reside in free space or slack space, i.e., space on a hard drive that is not allocated to an active file or that is unused after a file has been allocated to a set block of storage space, for long periods of time before they are overwritten. In addition, a computer's operating system may also keep a record of deleted data in a swap or recovery file. Similarly, files that have been viewed on the Internet are often automatically downloaded into a temporary directory or cache. The browser typically maintains a fixed amount of hard drive space devoted to these files, and the files are only overwritten as they are replaced with more recently downloaded or viewed content. Thus, the ability to retrieve residue of an electronic file from a hard drive depends less on when the file was downloaded or viewed than on a particular user's operating system, storage capacity, and computer habits. Recovery of residue of electronic files from a hard drive requires specialized tools and a controlled laboratory environment. Recovery also can require substantial time.

e. Although some of the records called for by this warrant might be found in the form of user-generated documents (such as word processing, picture, and movie files), digital devices can contain other forms of electronic evidence as well. In particular, records of how a digital device has been used, what it has been used for, who has used it, and who has been responsible for creating or maintaining records, documents, programs, applications and materials contained on the digital

devices are, as described further in the attachments, called for by this warrant. Those records will not always be found in digital data that is neatly segregable from the hard drive image as a whole. Digital data on the hard drive not currently associated with any file can provide evidence of a file that was once on the hard drive but has since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has been deleted from a word processing file). Virtual memory paging systems can leave digital data on the hard drive that show what tasks and processes on the computer were recently used. Web browsers, e-mail programs, and chat programs often store configuration data on the hard drive that can reveal information such as online nicknames and passwords. Operating systems can record additional data, such as the attachment of peripherals, the attachment of USB flash storage devices, and the times the computer was in use. Computer file systems can record data about the dates files were created and the sequence in which they were created. This data can be evidence of a crime, indicate the identity of the user of the digital device, or point toward the existence of evidence in other locations. Recovery of this data requires specialized tools and a controlled laboratory environment, and also can require substantial time.

f. Further, evidence of how a digital device has been used, what it has been used for, and who has used it, may be the absence of particular data on a digital device. For example, to rebut a claim that the owner of a digital device was

not responsible for a particular use because the device was being controlled remotely by malicious software, it may be necessary to show that malicious software that allows someone else to control the digital device remotely is not present on the digital device. Evidence of the absence of particular data on a digital device is not segregable from the digital device. Analysis of the digital device as a whole to demonstrate the absence of particular data requires specialized tools and a controlled laboratory environment, and can require substantial time.

16. Other than what has been described herein, to my knowledge, the United States has not attempted to obtain this data by other means.

X. CONCLUSION

17. For all the reasons described above, there is probable cause to believe that MOYA, FLORES, and PEREZ violated Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A)(viii) (possession with intent to distribute at least 500 grams of a mixture or substance containing methamphetamine).

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18. Furthermore, there is probable cause to believe that evidence, fruits, and instrumentalities of the offenses

described in Attachment B will be found on the SEIZED DEVICES
described in Attachment A.

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ANTHONY HERRERA JACOBS
U.S. Postal Inspector, USPIS

Subscribed to and sworn before me
this 15th day of December 2016.

MICHAEL R WILNER

HONORABLE
UNITED STATES MAGISTRATE JUDGE