

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Date of Arrest: 12/02/2012

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3
4 UNITED STATES OF AMERICA)

12-2182M

5 Plaintiff,)

Magistrate's Case No.

6 v.)

COMPLAINT FOR VIOLATION OF

7 AARON ANAYA,)

21 U.S.C. §§ 841(a)(1)

8 Defendant.)

and(b)(1)(c) Possession of
a Controlled Substance with

9 YOB: 1987)

Intent to Distribute

10 U.S. Citizen)

Count One

11) 18 U.S.C. § 924(c),

Possession of a Firearm

12) During and in Relation to a

13) Drug Trafficking Offense

Count Two

14
15 I, the undersigned complainant, being duly sworn, state that
16 the following is true and correct to the best of my
17 knowledge and belief:

18 COUNT ONE

19
20 On or about December 2, 2012, in Yuma County, in the
21 District of Arizona, defendant, AARON ANAYA did knowingly
22 and intentionally possess with intent to distribute 50
23 kilograms, but less than 100 kilograms, or more of a mixture
24 or substance containing a detectable amount of marijuana, a
25 Schedule I Controlled Substance.
26

27 In violation of Title 21, United States Code,
28 Sections 841 (A) (1) and (b) (1) (C).
29

COUNT TWO

On or about December 2, 2012, in Yuma County, in the District of Arizona, AARON ANAYA, during and in relation to drug trafficking offenses as defined in Title 21, United States Code, Section 841 (a)(1), that is, Possession with Intent to Distribute more than 50 kilograms of Marijuana as alleged in Count 1 of this Complaint, did knowingly use, carry, and possess in furtherance of the drug trafficking offense a .40 caliber Heckler and Koch (HK) P2000 pistol and a .223 caliber Colt M4 rifle.

In violation of Title 18 United States Code, Section 924(c).

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2 And the complainant states that this complaint is based
3 on the attached Statement of Facts incorporated herein by
4 reference.

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6 Reviewed by: AUSA Fred Cocio for Howard Sukenic

7 *F. Cocio*

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9 
10 _____
11 Jesse Marotta
12 Special Agent
13 Federal Bureau of Investigation

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15 Sworn to before me and subscribed in my presence, December
16 3, 2012, at Yuma, Arizona.

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18 _____
19 James F. Metcalf
20 United States Magistrate Judge
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STATEMENT OF PROBABLE CAUSE

Your Affiant, Jesse Marotta, being duly sworn, deposes and states as follows:

INTRODUCTION AND BACKGROUND OF AFFIANT

1. I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI) and have been so employed since July 2010. I am currently assigned to the FBI Phoenix (Arizona) Division, Yuma Resident Agency. The FBI Yuma Resident Agency (YRA) conducts criminal investigations in Yuma County, Arizona. The YRA frequently coordinates its investigations with the Department of Homeland Security Office of Inspector General (DHS OIG), the Drug Enforcement Administration (DEA), Homeland Security Investigations (HSI), United States Border Patrol (USBP) and local law enforcement personnel designated as Task Force Officers (TFOs). In the course of my duties, I have investigated criminal violations involving the corruption of public officials, money laundering, bank robberies, assault on federal officers, violent crimes on Indian Reservations, drug trafficking and alien smuggling in the District of Arizona. Pursuant to my employment

with the FBI, I attended the FBI Academy, Quantico, Virginia, where I received extensive training on investigating various violations of federal law. While at the FBI Academy, I received specific training on large scale criminal enterprises, drug trafficking organizations and drug trafficking methods to elude law enforcement.

2. I have specialized training and experience in criminal investigations. During my career, I have participated in many criminal investigations as a case agent and/or in a subsidiary role. I have participated in federal search warrants, physical surveillance of targets of wiretaps, and listened and monitored conversations of criminal investigations in both English and Spanish.
3. I am an investigative or law enforcement officer of the United States within the meaning of Section 2510 (7) of Title 18, United States Code (USC) 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 Section 2516, Title 18, United States Code.
4. I make this affidavit in support of a criminal complaint for AARON ANAYA (ANAYA). The complaint alleges a violation of Title 21 U.S.C. Sections 841(a)(1) and

(b) (1) (C), Possession of Marijuana, a Controlled Substance, with Intent to Distribute and, a violation of Title 18 U.S.C. Section 924 (c), Possession of a Firearm in Furtherance of a Drug Trafficking Crime.

5. On December 2, 2012, agents assigned to the Southwest Border Corruption Task Force were conducting surveillance in the vicinity of milepost 192, between the cities of Yuma and Wellton, Arizona. Part of the surveillance was being conducted from air assets, specifically fixed wing and rotor aircraft.

6. At approximately 5:00 p.m. agents witnessed a U.S. Border Patrol (USBP) vehicle patrolling the international boundary with Mexico. At approximately 7:33 p.m. agents witnessed the USBP vehicle stop along the fence and witnessed three individuals approach the international boundary from Mexico. One of the individuals climbed the fence and facilitated the passing of what appeared to be large bales over the fence onto the U.S. side. The driver of the USBP vehicle appeared to pick up the packages and place them in the rear of the USBP vehicle.

The individual who had climbed the fence then returned to the Mexican side and all three individuals proceeded southbound away from the fence. At no time did it appear that any of the three individuals ever stepped onto U.S.

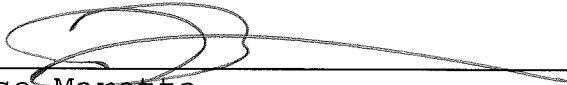
soil.

7. The surveillance agents maintained visual contact with the USBP vehicle for the next several hours. Agents were monitoring the USBP radio frequency utilized by the Wellton USBP Station and no radio traffic pertaining to the bales was reported by the operator of the USBP vehicle.
8. A short time later, the same USBP vehicle approached another USBP vehicle and both stopped adjacent to each other for several minutes. They then continued in opposite directions and the target vehicle continued with what appeared to be normal operations for several hours.
9. On several occasions the target vehicle activated seismic and/or magnetic sensors along the border fence, and USBP dispatch was notified by ANAYA, Star number W-290, that his assigned USBP vehicle had activated the sensors.
10. At approximately 10:40 p.m. agents detained and subsequently arrested USBP Agent ANAYA. ANAYA was wearing his service firearm a Heckler and Koch .40 P2000 caliber pistol on his belt and he also had his service issued semi-automatic rifle, a Colt M4 .223 caliber, in his vehicle. Agents located three black duffle bags containing six cellophane wrapped bales inside the back of the USBP vehicle that ANAYA was driving. The bales

appeared to have been spray painted with black paint. Agents subsequently cut open two sample bales and discovered a green leafy substance that, based on the affiant's training and experience, is believed to be marijuana. The bales were later weighed and determined to be 146.9 pounds. In the cab of the vehicle, agents found manufacturer labels which appeared to correspond to the bags which contained the bales.

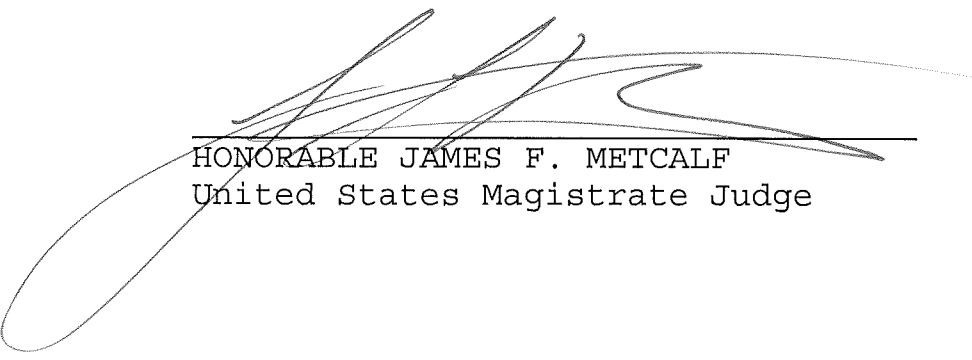
11. At 1:30 a.m. on December 3, 2012, ANAYA was read his rights per Miranda. Agents asked if ANAYA understood his rights, to which he responded in the affirmative. Agents then asked if he was willing to speak to them without an attorney present. ANAYA responded, "I'm fucked, you guys got me on video." ANAYA then declined to speak to agents without an attorney present.

12. Based upon the forgoing facts and upon my training and experience, I believe that there is probable cause that AARON ANAYA committed the aforementioned criminal offenses.



Jesse Marotta
Special Agent
Federal Bureau of Investigation

Sworn to the subscribed before me
This 3rd day of December, 2012



HONORABLE JAMES F. METCALF
United States Magistrate Judge