

UNITED STATES DISTRICT COURT

FILED At Albuquerque NM

AUG 01 2011

MATTHEW J. DYKMAN CLERK

for the

Judicial District of New Mexico

In the Matter of the Search of (Briefly describe the property to be searched or identify the person by name and address)

Sprint/Nextel Cellular Phone Number 505-417-5796

Case No. 11-MR-499

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that there is now concealed on the following person or property located in the Judicial District of New Mexico (identify the person or describe property to be searched and give its location):

Please see Attachment A, attached hereto and incorporated herein by reference

The person or property to be searched, described above, is believed to conceal (identify the person or describe the property to be seized):

Please see Attachment B, attached hereto and incorporated herein by reference

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- Evidence of a crime; Contraband, fruits of crime, or other items illegally possessed; Property designed for use, intended for use, or used in committing a crime; A person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of Title 21 U.S.C. § 841, and the application is based on these facts:

Please see attached affidavit.

This search warrant application and attached affidavit have been reviewed and approved by AUSA Damon Martinez

- Continued on the attached sheet. Delayed notice of days (give exact ending date if more than 30 days) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's Signature Jeff Armijo, Special Agent Printed name and title

Sworn to before me and signed in my presence.

Date: 1 AUG 11

Judge's signature

City and state: Albuquerque, New Mexico

U.S. Magistrate Judge Daniel Schneider Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEARCH OF THE)
CELLULAR TELEPHONE ASSIGNED CALL)
NUMBER: (505) 417-5796 WITH SERIAL)
NUMBER 268435460013381000)

No.

SEALED

AFFIRMATION IN
SUPPORT OF
APPLICATION

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Jeffrey Armijo, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant under Federal Rule of Criminal Procedure 41 and 18 U.S.C. §§ 2703(c)(1)(A) for information about the location of the cellular telephone assigned call number (505)417-5796, subscribed to Omar Rojas, with serial number 268435460013381000 ("Target Cell Phone"), whose service provider is Sprint/Nextel, a wireless telephone service provider headquartered at 6480 Sprint Parkway, Overland Park, KS, 66251. The Target Cell Phone is described herein and in Attachment A, and the location information to be seized is described herein and in Attachment B.
2. I am a Special Agent with Drug enforcement Administration (DEA), and have been since May 2003. I am a criminal investigator for the United States within the meaning of Title 21, U.S.C., Section 878, and therefore I am empowered to conduct investigations of, and make arrests for, the offenses enumerated in Title 21 and Title 18. Accordingly, I am a "federal law enforcement officer" within the meaning of Federal Rule of Criminal

Procedure 41(a)(2)(C), that is, a government agent engaged in enforcing the criminal laws and duly authorized by the Attorney General to request a search warrant. I have been a Special Agent with the Drug Enforcement Administration (DEA) since May 2003. While employed by the DEA, I received nineteen weeks of training at the DEA Academy in Quantico, Virginia. This training included in part: identification of various types of controlled substances by sight and odor; the way in which controlled substances are packaged, marketed, and consumed; drug testing; informant handling; evidence handling; search and seizure law; law involving conspiracy; and surveillance and investigative techniques. I have been the affiant of, and/or participated in search warrants involving the seizure of controlled substances, documents associated with the sale of controlled substances, and proceeds from the sale of illicit drugs. From my experience, I know that it is essential that drug trafficking organizations have good communication to coordinate the transportation of drugs and to facilitate any financial transactions stemming from the sale of drugs.

3. I am a co-case agent of a court authorized wire/communications intercept. Your affiant knows that it is imperative for the organization to communicate with each other without detection by law enforcement. To accomplish this goal, telephones are usually subscribed under fictitious names or to people other than the actual user. Another technique commonly used is purchasing pre-paid telephones and to constantly obtain new cellular telephones or rotate between numerous telephones. Drug traffickers will purchase numerous telephones, but only purchase minutes for one telephone at a time; therefore, constantly rotating through telephones; once again, attempting to avoid detection by law enforcement.
4. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant

and does not set forth all of my knowledge about this matter.

5. Based on the facts set forth in this affidavit, there is probable cause to believe that violations of 21 U.S.C. § 841; possession with intent to distribute and distribution of a controlled substance; 21 U.S.C. § 841(a)(1); the unlawful use of a communication facility in committing or facilitating the commission of a Title 21, United States Code, felony offense, in violation of 21 U.S.C. § 843(b); and conspiracy to distribute and to possess with intent to distribute controlled substances in violation of 21 U.S.C. § 846 (“TARGET OFFENSES”), as well as the identification of individuals who are engaged in the commission of these offenses, have been committed, are being committed and will be committed by a individual known to DEA as **Angel Izarraga LOPEZ**. There is also probable cause to believe that the location information described in Attachment B will constitute evidence of these criminal violations and will lead to the identification of individuals who are engaged in the commission of these offenses.
6. I have personally participated in the investigation set forth below. I am familiar with the facts and circumstances of the investigation through my personal participation, from discussions with other agents of the DEA, other law enforcement officers and from my review of records and reports relating to the investigation. Since this affidavit is being submitted for the limited purpose of securing an order authorizing the acquisition of the Requested Information, I have not included details of every aspect of the investigation. Facts not set forth herein, or in the attached exhibits, are not being relied on in reaching my conclusion that the requested order should be issued. Nor do I request that this Court rely on any facts not set forth herein in reviewing this application.

PROBABLE CAUSE

7. Based on information obtained from a Federal authorized intercept of wire and electronic communications, as well as information from controlled purchases of evidence, and surveillance, target of investigation Angel Izarraga LOPEZ has been identified as a source

of supply of methamphetamine operating in Albuquerque, NM. Angel Izarraga LOPEZ, utilizes the Target Cell Phone to arrange for drug transactions, to maintain contact with his customers, and to coordinate the transfer of drug proceeds.

8. On July 12, 2011, a Federal authorized intercept of wire and electronic communications was initiated on cellular telephone number 505-264-2028, a cellular telephone utilized by Jose Rafael ZAZUETA, the target of the investigation. The intercept has provided valuable evidence of ZAZUETA's methamphetamine trafficking activities. Your affiant has learned that LOPEZ is a methamphetamine source of supply to ZAZUETA. The following will outline the synopsis of pertinent intercepts of ZAZUETA as it relates to LOPEZ and this investigation.
9. On July 14, 2011, at approximately 4:17 p.m., agents intercepted an outgoing call (call #44) from ZAZUETA to the Target Cell Phone. This conversation took place in the Spanish language and is summarized as the following: ZAZUETA asked LOPEZ, "What's up? Listen Angel...is there any way you can call your buddy and tell him to head out already? And that once they arrive here, I will complete that for them tomorrow." I believe based on the conversation when ZAZUETA asked LOPEZ "Is there any way you can call your buddy and tell him to head out already?" ZAZUETA was asking LOPEZ to ask his methamphetamine source of supply to travel to Albuquerque, NM as soon as possible for ZAZUETA to obtain more methamphetamine to distribute. Also when ZAZUETA stated, "...I will complete that for them tomorrow." ZAZUETA was implying he would have the money ready for LOPEZ's source of supply once they arrive.
10. On July 14, 2011, at approximately 4:21p.m., agents intercepted an incoming call (call# 45) to ZAZUETA from the Target Cell Phone. This conversation took place in the Spanish language and is summarized as the following: LOPEZ explained to ZAZUETA, "...the friend that, that, that comes...that comes to visit me...he is busy, but will head

over here tomorrow afternoon.” I believe LOPEZ is telling ZAZUETA that he is not able to deliver ZAZUETA the methamphetamine because his source of supply will not arrive until tomorrow afternoon. ZAZUETA responds, “So that means that they will not tend to us until tomorrow” meaning LOPEZ and ZAZUETA will not receive their methamphetamine until tomorrow. Later on in the conversation LOPEZ continues to state, “Yes, yes, no, but I’m saying so that...so that you don’t jump over somewhere else, I mean like that other time.” I believe LOPEZ is pleading with ZAZUETA not to look for another methamphetamine source of supply due to LOPEZ’s source of supply not arriving into Albuquerque, NM as scheduled. Towards the end of the conversation LOPEZ stated, “Do that for me because...I already talked to this guy right now, but the...the old man, it seems that one went out elsewhere.” I believe LOPEZ is explaining to ZAZUETA that he was in communication with the source (“the old man”) who had given the narcotics (“one went out”) to someone else.

11. On July 14, 2011, at approximately 7:44 p.m., agents intercepted an outgoing call (call # 60) from ZAZUETA to the Target Cell Phone. This conversation took place in the Spanish language and is summarized as the following: ZAZUETA asked LOPEZ, “Do you want some paper...do you want a...an advance on your salary?” meaning do you want me to advance you money. LOPEZ asked how much. ZAZUETA replies, “Well, a hand...well I’m saying you can be a bit more at ease” Meaning ZAZUETA will advance LOPEZ \$5000.00 for a future narcotic purchase. LOPEZ agrees to take the advancement of money from ZAZUETA.
12. On July 16, 2011, at approximately 9:40 a.m., agents intercepted an outgoing call (call# 122) from ZAZUETA to the Target Cell Phone. The conversation took place in the Spanish language and is summarized as the following: ZAZUETA asked, “Are they not checked? For...for the same weight each one, the same...it skips...like...” LOPEZ replies, “Two twenty six...two twenty six each one.” I believe ZAZUETA was asking if

LOPEZ verified the weight of the methamphetamine before ZAZUETA received them and LOPEZ is replying each of the "one" weighed 226 grams (approximately one half pound). ZAZUETA answers back, "Or are they just all mixed? Because the ones I took out right now are not... they are shorter than..." LOPEZ replies, "They are short...how much are you missing?" I believe ZAZUETA is upset because he has received less than what was anticipated, 226 grams of methamphetamine. ZAZUETA continues to state, "They are one hundred, one hundred sixty four." LOPEZ responds, "Oh shit!" Again ZAZUETA tells LOPEZ the methamphetamine is weighing 164 grams instead of 226 grams of methamphetamine. ZAZUETA responds, "It's very...it's very wrong...this is wrong, could it be that...hold on with the...or what?" LOPEZ states, "Well...well I apologize, if I weighed it wrong then...then later on I'll...I'll complete the rest." LOPEZ acknowledges he probably inaccurately measured the methamphetamine and assures ZAZUETA he will give ZAZUETA the difference in measurement of methamphetamine to him. ZAZUETA replies, "Because since...I'm going to...I'm going to check the other ones." LOPEZ responds, "No, because I...I measured them here, they came to...two twenty six, two twenty six." I believe ZAZUETA decides to measure the rest of the methamphetamine, but LOPEZ continues to state he measured the methamphetamine and all of "them" registered 226 grams (approximately one half pound). Further in the conversation LOPEZ asks ZAZUETA to measure another "one," ZAZUETA agrees, which are measuring at different weights and stated, "Well here it is, it measures one hundred forty...one hundred forty six...one hundred ninety six." ZAZUETA continues to state, "I grabbed one first at random and ...and...so I could do my work and no, no..." LOPEZ asks, "Are the other ones correct?" ZAZUETA responds, "Well I haven't looked, I'm going to see. I am going to see right now..." I believe ZAZUETA is confused by the weights of the "one" (methamphetamine) and the methamphetamine are not measuring 226 grams and ZAZUETA could not complete his repackaging ("work") of

the methamphetamine because they are not at the right weight given to him by LOPEZ for distribution.

13. On July 16, 2011, at approximately 9:51 a.m., agents intercepted an incoming call (call# 122) to ZAZUETA from the Target Cell Phone. The conversation took place in the Spanish language and is summarized as the following: LOPEZ asks, "Hey, are you sure that you are short on that?" ZAZUETA replies, "Yes, yes one has already come out right. It's because the fucking scal...that thing, was all...I just replaced batteries on it and one already came out right. I believe LOPEZ was asking ZAZUETA if the methamphetamine ("that") he received was not at the right measuring weight. ZAZUETA replied once he replaced the battery on the scale ("scal") the measurements of the methamphetamine were correct. LOPEZ continues to state, "Yes, because I saw them...I had them here. I measured them they are two twenty six, all of them together." Again, LOPEZ re affirms with ZAZUETA that the methamphetamine weighed 226 grams (approximately one half pound). Further in the conversation ZAZUETA explains to LOPEZ, "Here's another one that's right too. So there's something strange with this little scale then. I'm going to check the other ones." I believe ZAZUETA agreed with LOPEZ that each of the "one" (methamphetamine) are measuring correctly to 226 grams and that the scale is not operating correctly, giving ZAZUETA incorrect measurements of methamphetamine. LOPEZ continues to state, "All right, check it out again because here, here I'm also..." ZAZUETA responds, "They're all right now. They're all right now." Meaning ZAZUETA agrees with LOPEZ that the weight of the methamphetamine is correct in weight, 226 grams. LOPEZ continues to state, "I, I owe you a, a half right?" meaning one half pound of methamphetamine to be given to ZAZUETA. ZAZUETA concurs.
14. In my training and experience, I have learned that Sprint/Nextel is a company that provides cellular telephone access to the general public. I also know that providers of cellular telephone service have technical capabilities that allow them to collect and

generate at least two kinds of information about the locations of the cellular telephones to which they provide service: (1) E-911 Phase II data, also known as GPS data or latitude-longitude data, and (2) cell-site data, also known as “tower/face information” or cell tower/sector records. E-911 Phase II data provides relatively precise location information about the cellular telephone itself, either via GPS tracking technology built into the phone or by triangulating on the device’s signal using data from several of the provider’s cell towers. Cell-site data identifies the “cell towers” (i.e., antenna towers covering specific geographic areas) that received a radio signal from the cellular telephone and, in some cases, the “sector” (i.e., faces of the towers) to which the telephone connected. These towers are often a half-mile or more apart, even in urban areas, and can be 10 or more miles apart in rural areas. Furthermore, the tower closest to a wireless device does not necessarily serve every call made to or from that device. Accordingly, cell-site data is typically less precise than E-911 Phase II data.

15. Based on my training and experience, I know that Sprint/Nextel can collect E-911 Phase II data about the location of the Target Cell Phone, including by initiating a signal to determine the location of the Target Cell Phone on Sprint/Nextel’s network or with such other reference points as may be reasonably available.
16. Based on my training and experience, I know that Sprint/Nextel can collect cell-site data about the Target Cell Phone.

AUTHORIZATION REQUEST

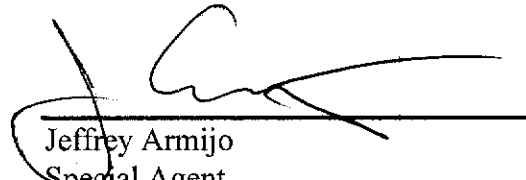
17. Based on the foregoing, I request that the Court issue the proposed search warrant, pursuant to Federal Rule of Criminal Procedure 41 and 18 U.S.C. § 2703(e).
18. I further request, pursuant to 18 U.S.C. § 3103a(b) and Federal Rule of Criminal Procedure 41(f)(3), that the Court authorize the officer executing the warrant to delay notice until 30 days after the collection authorized by the warrant has been completed. This delay is justified because there is reasonable cause to believe that providing

immediate notification of the warrant may have an adverse result, as defined in 18 U.S.C. § 2705. Providing immediate notice to the subscriber or user of the Target Cell Phone would seriously jeopardize the ongoing investigation, as such a disclosure would give that person an opportunity to destroy evidence, change patterns of behavior, notify confederates, and flee from prosecution. Moreover, to the extent that the warrant authorizes the seizure of any tangible property, any wire or electronic communication (as defined in 18 U.S.C. § 2510), or any stored wire or electronic information, there is reasonable necessity for the seizure for the reasons set forth above.

19. I further request that the Court direct Sprint/Nextel to disclose to the government any information described in Attachment B that is within the possession, custody, or control of Sprint/Nextel. I also request that the Court direct Sprint/Nextel to furnish the government all information, facilities, and technical assistance necessary to accomplish the collection of the information described in Attachment B unobtrusively and with a minimum of interference with Sprint/Nextel's services, including by initiating a signal to determine the location of the Target Cell Phone on Sprint/Nextel's network or with such other reference points as may be reasonably available, and at such intervals and times directed by the government. The government shall reasonably compensate Sprint/Nextel for reasonable expenses incurred in furnishing such facilities or assistance.
20. I further request that the Court authorize execution of the warrant at any time of day or night, owing to the potential need to locate the Target Cell Phone outside of daytime hours.
21. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that

investigation.

Respectfully submitted,



Jeffrey Armijo
Special Agent
Drug Enforcement Administration

Subscribed and sworn to before me on 1 AUG, 2011


UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

Property To Be Searched

1. The cellular telephone assigned call number (505) 417-5796, the "Target Cell Phone", whose wireless service provider is Sprint/Nextel, a company headquartered at **6480 Sprint Parkway, Overland Park, KS, 66251**.
2. Information about the location of the Target Cell Phone that is within the possession, custody, or control of Sprint/Nextel including information about the location of the cellular telephone if it is subsequently assigned a different call number

ATTACHMENT B

Particular Things To Be Seized

1. All information about the location of the Target Cell Phone described in Attachment A for a period of thirty days, during all times of day and night. "Information about the location of the Target Cell Phone" includes all available E-911 Phase II data, GPS data, latitude-longitude data, and other precise location information, as well as all data about which "cell towers" (i.e., antenna towers covering specific geographic areas) and "sectors" (i.e., faces of the towers) received a radio signal from the cellular telephone described in Attachment A.
2. To the extent that the information described in the previous paragraph (hereinafter, "Location Information") is within the possession, custody, or control of Sprint/Nextel, Sprint/Nextel is required to disclose the Location Information to the government. In addition Sprint/Nextel must furnish the government all information, facilities, and technical assistance necessary to accomplish the collection of the Location Information unobtrusively and with a minimum of interference with Sprint/Nextel's services, including by initiating a signal to determine the location of the Target Cell Phone on Sprint/Nextel's network or with such other reference points as may be reasonably available, and at such intervals and times directed by the government. The government shall compensate Sprint/Nextel for reasonable expenses incurred in furnishing such facilities or assistance.
3. To the extent that the Location Information includes tangible property, wire or electronic communications (as defined in 18 U.S.C. § 2510), or stored wire or electronic information, there is reasonable necessity for the seizure. See 18 U.S.C. § 3103a(b)(2).