

UNITED STATES DISTRICT COURT
 for the
 Northern District of California

United States of America)
 v.)
 KENY ALDUVI ROMERO-LOPEZ) Case No. 4:21-mj-70903-MAG
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Defendant(s)

FILED

May 26 2021

SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND

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 May 25, 2021 in the county of Alameda in the
Northern District of California, the defendant(s) violated:

| <i>Code Section</i> | <i>Offense Description</i> |
|-----------------------------------|--|
| 21 U.S.C. § 841(a)(1) & (b)(1)(B) | Possession with Intent to Distribute More than 40 Grams of Fentanyl Maximum penalties: 40 years prison with a mandatory minimum 5 years, \$5,000,000 fine, lifetime supervised release, with a mandatory minimum 4 years supervised release, \$100 mandatory special assessment, forfeiture, mandatory and discretionary denial of federal benefits |

This criminal complaint is based on these facts:

See attached affidavit of FBI TFO Joshua Gilfry.

Continued on the attached sheet.

Approved as to form /s/ Noah Stern
AUSA Noah Stern

/s/ Joshua Gilfry

Complainant's signature

Joshua Gilfry, FBI TFO

Printed name and title

Sworn to before me by telephone.

Date: 05/26/2021


Kandis A. Westmore
Judge's signature

City and state: Oakland, California

Hon. Kandis A. Westmore, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Joshua Gilfry, a Task Force Officer (“TFO”) of the Federal Bureau of Investigation (“FBI”), being duly sworn, state:

I. INTRODUCTION

1. I submit this affidavit in support of an application under Rule 4 of the Federal Rules of Criminal Procedure for a complaint and arrest warrant authorizing the arrest of Keny Alduvi ROMERO-LOPEZ (“ROMERO-LOPEZ”) for possession with intent to distribute more than 40 grams of a mixture and substance containing a detectable amount of N-phenyl-N- [1- (2-phenylethyl) -4-piperidinyl] propanamide (commonly known and hereinafter referred to as “fentanyl”), in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(B)(vi) on or about May 25, 2021 in the Northern District of California.

II. SOURCES OF INFORMATION

2. This affidavit is submitted for the limited purpose of securing a criminal complaint and arrest warrants. I have not included every fact known to me concerning this investigation. Instead, I have set forth only the facts necessary to establish probable cause that the violations of the federal laws identified above have occurred.

3. I have based my statements in this affidavit on my training and experience, personal knowledge of the facts and circumstances obtained through my participation in this investigation, information provided by other agents, law enforcement officers, and draft translations of intercepted communications prepared by Spanish-speaking monitors, information provided by reports of other law enforcement officers, information gathered through law enforcement surveillance efforts, information provided by photographic and/or video-recorded evidence, and information provided by records and databases. I believe these sources to be reliable. Where I refer to conversations and events, I often refer to them in substance and in relevant part rather than in their entirety or verbatim, unless otherwise noted. This affidavit also reflects my current understanding of facts relating to this investigation, but my understanding may change in the future as the investigation proceeds.

III. AFFIANT BACKGROUND

4. Your affiant, Joshua Gilfry, has been a police officer since September 24, 2012. I am employed with the Concord Police Department (“CPD”) and I am a sworn peace officer within the meaning of California Penal Code Section 830.1. I am currently assigned to the Federal Bureau of Investigation (hereinafter “the FBI”) Safe Streets Violent Gang Taskforce. I am cross designated as a Special Federal Officer / Special Deputy US Marshal of the United States Department of Justice, deputized pursuant to Title 21 and Title 18. My primary responsibilities as a Safe Streets Taskforce Officer is to identify and investigate trends in violent crimes committed by members of criminal street gangs throughout Contra Costa County.

5. Since being sworn as a FBI Task Force Officer (hereinafter “TFO”), I have received training and/or gained professional experience in: basic narcotic investigations, familiarization with U.S. narcotics laws, financial investigations and money laundering, identification and seizure of drug-related assets, organized crime investigations, physical and electronic surveillance, informant development, Title III investigations, and undercover operations.

6. During the course of my law enforcement career, I have been involved in investigations of numerous federal and state criminal offenses. I have participated in numerous investigations of illicit drug trafficking organizations. These investigations have included the use of confidential sources (CSs), undercover agents, and sources of information (collectively “Sources”); toll records; physical surveillances; and the execution of search warrants. These investigations have also included the unlawful importation of controlled substances, possession with intent to distribute controlled substances, and the distribution of controlled substances, and the related laundering of monetary instruments, the conducting of monetary transactions involving the proceeds of specified unlawful activities, and conspiracies associated with criminal narcotics offenses. These investigations have resulted in numerous state and/or federal prosecutions of individuals who have possessed, imported, or distributed controlled substances, as well as the seizure of those illegal drugs and the proceeds from the sale of those illegal drugs.

7. I have participated in surveillance of narcotics traffickers. During these surveillances, I have personally observed narcotics transactions, counter-surveillance techniques, and the methods that narcotics traffickers use to conduct clandestine meetings. I have participated in state and federal investigations in which court-authorized wire interceptions were used.

8. I have participated in Organized Crime Drug Enforcement Task Force (OCDETF) investigations. The OCDETF program is part of the United States Attorney General's drug strategy to reduce the availability of drugs by disrupting major trafficking organizations through joint-agency collaboration.

9. I have been involved in the execution of numerous state and/or federal narcotics-related search warrants. As a result, I have encountered and become familiar with the various tools, methods, trends, paraphernalia, and related articles used by drug traffickers and trafficking organizations in their efforts to import, conceal, manufacture, and distribute controlled substances. I am familiar with the appearance of fentanyl, heroin, cocaine, methamphetamine, marijuana, MDMA, and other controlled substances. I am familiar with and aware of the terminology used by narcotics traffickers concerning narcotics and narcotics dealing.

10. I have interviewed numerous drug dealers, users, and confidential informants, and have discussed with them the lifestyle, appearances, and habits of drug dealers and users, the use and meaning of coded language and the concealment of assets. I have become familiar with the manner in which narcotics traffickers smuggle, transport, store, and distribute narcotics, as well as how they collect and launder drug proceeds. I am also familiar with the manner in which narcotics traffickers use telephones, cellular telephone technology, pagers, coded or slang-filled telephone conversations, false or fictitious identities, and other means to facilitate their illegal activities and thwart law enforcement investigations.

11. Prior to my transfer to the FBI Safe Streets Task Force, I was a detective in the CPD Violence Suppression Unit. My primary role in this capacity was to investigate narcotic and gang crimes within Contra Costa County.

12. Prior to my assignment in the Violence Suppression Unit, I served on the Special Enforcement Team (SET). SET's primary duties include street-level narcotics, prostitution, and gang crimes. I also worked uniform patrol and am a current member of the Special Weapons and Tactics (SWAT) team.

13. I attended the Contra Costa County Sheriff's Office P.O.S.T. Accredited Police Academy in Pittsburg, California. The P.O.S.T. Academy includes 1,020 hours of training, with roughly 40 hours devoted to identifying controlled substances and understanding the laws pertaining to controlled substances. I attended an 80-hour Robert Presley Investigation (ICI) Major Drug Investigation Course.

14. During my career, I have conducted preliminary and follow-up investigations into a variety of crimes. The investigations involved preparing police reports, collection of evidence, arresting suspects, interviewing victims and witnesses, interrogating suspects, and testifying in court proceedings. The crimes investigated include being under the influence of a controlled substance, possession of controlled substances, and possession and transportation of controlled substances.

15. I have written and assisted with the execution of search warrants that have resulted in the finding and collecting of the desired evidence sought in the warrants related to illegal narcotics possession and possession for sales. I have arrested numerous subjects for being under the influence of a controlled substance, possession of a controlled substance, and possession of a controlled substance for sales.

16. I have testified five times as an expert in the identification of heroin as well as the sale of heroin in Contra Costa County Superior Court, in California, and two occasions as an expert in the identification of methamphetamine, as well as the sale of methamphetamine. I have a good working knowledge of controlled substances and related crimes based upon the foregoing.

17. I am familiar with the facts and circumstances of the investigation through my personal participation. I have also learned other things about this investigation from fellow law

enforcement officers and agents. Unless otherwise noted, wherever, in this affidavit, I assert that a statement was made, the information was provided by a FBI agent or task force officer, law enforcement officer, or witness who may have had either direct or hearsay knowledge of that statement.

18. I am an investigator and law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7). I am empowered by law to conduct investigations, to execute search warrants, and to make arrests for offenses of Federal law, including the Target Offenses.

IV. APPLICABLE STATUTES

19. Title 21, United States Code, Section 841(a)(1) and (b)(1)(B)(vi) prohibits a person from knowingly possessing with intent to distribute forty grams or more of a mixture or substance containing a detectable amount of fentanyl.

20. The elements of a violation of possession with intent to distribute forty grams or more of fentanyl (21 U.S.C. § 841(a)(1) and (b)(1)(B)(vi)) are as follows: (1) the defendant knowingly possessed forty grams or more of a mixture or substance containing a detectable amount of fentanyl, and (2) the defendant possessed it with the intent to distribute it to another person.

V. STATEMENT OF PROBABLE CAUSE

A. Overview of Investigation

21. The FBI, Drug Enforcement Administration (“DEA”), and CPD (collectively, the “Investigative Agencies”), are investigating a drug trafficking organization (hereinafter referred to as the “DTO”), which distributes suspected fentanyl¹ in the Bay Area. The DTO’s drug trafficking activities are largely based in Oakland and San Leandro, California, but its re-

¹ During this investigation law enforcement intercepted numerous deliveries of suspected fentanyl, which later tested presumptively positive for the presence of the controlled substance, by the DTO and its re-distributors. However, when I refer generally to wiretap calls and the overall investigation, I will often use the term “suspected fentanyl” herein in an abundance of caution. Nevertheless, I believe the DTO operates either largely or exclusively in fentanyl trafficking based on the investigation to date. Further, I know that is unlikely that re-distributors/customers of the DTO would continue to place additional orders if the distributed substance was a sham substance

distributors/customers² are located in the Northern District of California and elsewhere.³

22. On April 21, 2021, the Honorable Jon S. Tigar signed an order authorizing the interception of wire and electronic communications over two telephone lines used by a member of the DTO (referred to herein as the “Target Telephones”). Agents subsequently began intercepting communications to and from a member of the DTO via the Target Telephones.

1. *Fentanyl is a Highly Potent and Dangerous Narcotic*

23. Based on my training and experience, I know that fentanyl, a Schedule II controlled substance, is a highly potent synthetic opioid. It is about 50 times stronger than heroin and about 100 times stronger than morphine. Fentanyl can be distributed in many forms, including, powder, patches, and mixed into counterfeit pills. Data compiled by the DEA shows that availability of fentanyl in the United States has drastically increased from 2013 to the present.⁴ According to the Centers of Disease Control and Prevention (“CDC”) in 2019, opioids were involved in 49,860 overdose deaths.⁵ Synthetic opioids, such as fentanyl, accounted for nearly 73% of all opioid-involved deaths in 2019. Two out of three of those overdoses involved synthetic opioids such as fentanyl.⁶ According to the CDC data, the largest increase in death rates from 2018 to 2019 involving synthetic opioids, 67.9%, occurred in the Western United States. As described below, the DTO supplies fentanyl in powder form and moves large

² The term “re-distributors” is used herein to reflect customers that purchased suspected fentanyl from the DTO in significant quantities or frequencies consistent with re-selling fentanyl to other customers, as opposed to user-quantities, during the wiretap investigation to date.

³ During the investigation, investigators identified one or more re-distributors traveled across state lines into California to purchase fentanyl from the DTO. Investigators determined that other re-distributors, however, were located within the Bay Area based on a variety of sources, including the execution of search warrants on their residences.

⁴ Drug Enforcement Administration. 2019 National Drug Threat Assessment, December 2019, pp. 9-11, available at <https://www.dea.gov/sites/default/files/2020-02/DIR-007-20%202019%20National%20Drug%20Threat%20Assessment%20-%20low%20res210.pdf> (last accessed Dec. 7, 2020).

⁵ Synthetic Opioid Overdose Data, Centers for Disease Control and Prevention, available at <https://www.cdc.gov/drugoverdose/data/synthetic/index.html> (last accessed May 20, 2020).

⁶ Drug Overdose Deaths, Centers for Disease Control and Prevention, available at <https://www.cdc.gov/drugoverdose/data/statedeaths.html> (last accessed May 20, 2020).

quantities of this narcotic.

24. Based on my training and experience, and my involvement in this investigation, I know that fentanyl is often referred to by drug traffickers by the color emitted when the drug is burnt. For example, some fentanyl emits a blue color when lit. This is often referred to by drug traffickers and users as “blue” or “azul” (i.e., the Spanish word for blue). I also know that other varieties/strength of fentanyl are commonly referred to by drug dealers as “yellow,” “pink,” “purple,” and “green.” This investigation revealed that the DTO sells blue, pink, purple, green, and yellow varieties of suspected fentanyl.

2. The DTO Sells Numerous Types of Fentanyl and Operates Primarily from Two Locations in the East Bay

25. The investigation has revealed that the DTO distributes fentanyl from two residences, which are located on 45th Avenue in Oakland, California and Washington Avenue in San Leandro, California.⁷ The investigation revealed the DTO worked to process and deliver orders of suspected fentanyl to buyers. Based on communications intercepted to and from the Target Telephones, I estimate that the DTO has filled over 100 orders for suspected fentanyl between approximately April 21, 2021 and May 19, 2021.

26. In a typical transaction, a re-distributor will place a phone call or text message to the DTO to request a specific amount of suspected fentanyl, often referred to by the weight, dollar amount and/or color(s) desired.⁸ The re-distributor and the DTO will then discuss a time and location for the delivery or pickup of the suspected fentanyl. The re-distributor will then meet a member of the DTO at the designated meeting location and engage in a hand-to-hand transaction.⁹

⁷ Oakland and San Leandro are both in the Northern District of California.

⁸ While the conversations with re-distributors are sometimes in code, in some phone calls the word “fent,” which I believe to be short for fentanyl, is explicitly stated.

⁹ A “hand-to-hand” transaction or drug-deal is typically an in-person exchange of narcotics for cash. Based on my training and experience, this is a common manner of transferring drugs to avoid involving third-parties and/or commercial delivery services, which run the risk of others uncovering the illegal conduct.

27. After observing multiple hand-to-hand transactions and intercepting communications about suspected drug trafficking, law enforcement conducted a vehicle stop on one of the suspected re-distributors. Inside the vehicle, they found powdery substance suspected to be fentanyl in the approximate quantity ordered in the intercepted communications. Subsequent presumptive testing on at least one of the seized items was positive for the presence of fentanyl.

B. Search Warrant Executed at Residence Used by the DTO

28. On or about May 24, 2021, a federal search warrant issued authorizing the search of several locations associated to the DTO, including a residence on Washington Avenue in San Leandro, California.

29. On or about May 25, 2021, FBI agents and task force officers executed the search warrant at the residence. Inside, they located ROMERO-LOPEZ and other individuals.¹⁰ Investigators spoke with ROMERO-LOPEZ and he admitted to living at the residence and identified his bedroom. ROMERO-LOPEZ said no one else had access to his bedroom, outside of his mother who only occasionally stayed with him. Along with other areas of the residence, investigators searched the bedroom belonging to ROMERO-LOPEZ.

C. Items Discovered in ROMERO-LOPEZ's Bedroom: Suspected Fentanyl Under the Bed and Dyes for Coloring Fentanyl Within a Locked Safe

30. Inside of the bedroom that ROMERO-LOPEZ stated belonged to him, investigators discovered a locked safe in the closet. ROMERO-LOPEZ told investigators that the safe belonged to him and the keys were in the bedroom. Investigators located the keys and opened the safe. They discovered several identification cards locked within it. These cards possessed multiple different names and, consequently, investigators suspected they were

¹⁰ Investigators were previously familiar with ROMERO-LOPEZ's name because the suspected leader of the DTO has been observed driving a car that is registered to ROMERO-LOPEZ at the Washington Avenue address. During the investigation, suspected members of the DTO used various vehicles to conduct suspected drug deliveries. I know, based on training and experience, that members of a DTO will often cycle through various vehicles in an effort to evade detection by law enforcement.

potentially fraudulent. Based on my training, experience, and common sense, I know that individuals do not typically possess identification cards with multiple different names for legitimate purposes.

31. The bedroom had two beds with drawers underneath. In one of the drawers, investigators found three approximately baseball-sized baggies that contained a white powdery substance. The investigators suspected the baggies contained fentanyl based on their training, professional experience, and involvement in this investigation. The baggies containing suspected fentanyl were later weighed and found to be approximately 209.7 grams gross. In another drawer, investigators found one approximately brick-sized plastic bag containing a pink powdery substance. Investigators suspected this substance was also fentanyl for the same, previously stated reasons. The bag was later weighed and found to be approximately 501 grams gross.

32. The quantities found within ROMERO-LOPEZ's bedroom are consistent with a distribution amount of the controlled substance based on my training and experience. Presumptive testing of the suspected fentanyl found in the bedroom is pending.

33. Inside the bedroom, investigators also located \$5,000 in bulk currency, which is consistent with drug trafficking activities. Based on my training and experience, individuals engaged in distributing drugs often carry large amounts of cash, which constitute proceeds of their illegal activity and/or they use to purchase additional narcotics for sale. In addition, investigators found multiple colors of food coloring, which were consistent with the colors of common varieties of fentanyl. Investigators also found a black digital scale in a dresser in the bedroom, which I know is often used by drug traffickers to ensure accurate measurements of narcotics sold and/or purchased.

34. In another portion of the residence, investigators found one or more blenders, which I know from training and experience can be used to mix dyes into fentanyl prior to distribution. The presence of fentanyl and dyes inside the bedroom indicates that ROMERO-LOPEZ is involved in drug trafficking activities, along with other members of the DTO. Based

on my training, experience, and the facts described herein, I believe there is probable cause to conclude that ROMERO-LOPEZ knowingly possessed the suspected fentanyl found in his bedroom for the purposes of distributing it to other people. This conclusion is based, in part, on ROMERO-LOPEZ's admitted control over the bedroom, his ability to access the locked safe within the room, the narcotics discovered inside, and ROMERO-LOPEZ's connection to other members of the DTO.

VI. CONCLUSION

35. Based on the information set forth in the paragraphs above, I submit that there is probable cause that, on or about May 25, 2021, in the Northern District of California, the defendant, Keny Alduvi ROMERO-LOPEZ, did knowingly and intentionally possess with intent to distribute more than forty grams of a mixture and substance containing a detectable amount of fentanyl, in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(B)(vi).

/s/ Joshua Gilfry

JOSHUA GILFRY
Task Force Officer
Federal Bureau of Investigation

Sworn to before me over the telephone and signed
by me pursuant to Fed. R. Crim. P. 4.1 and 4(d)
on this 26th day of May 2021.



HONORABLE KANDIS A. WESTMORE
United States Magistrate Judge