

UNITED STATES DISTRICT COURT

for the

District of New Mexico



United States of America
v.

Zachary BABITZ
(year of birth 1986)

Case No. MJ 24-1173 SCY

Mitchell R. Elfers
Clerk of Court

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 August 6, 2024 in the county of Santa Fe in the District of New Mexico, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 2119	Carjacking
18 U.S.C. § 924(c)	Discharge of a firearm in furtherance of a crime of violence

This criminal complaint is based on these facts:

See the attached affidavit.

Continued on the attached sheet.

Erica Rosenblum

Complainant's signature

Erica Rosenblum ATF Agent

Printed name and title

Signed electronically and sworn telephonically

Date: 08/13/2024

Steve Yarbrough
Judge's signature

City and state: Albuquerque, NM

Hon. Steven C. Yarbrough, U.S. Magistrate Judge

Printed name and title

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1. I, Erica Rosenblum, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), being duly sworn, depose and state:
2. I am a Special Agent with the ATF. Beginning in September of 2020, I attended a 26-week ATF academy in Glynco, Georgia that certified me as an ATF Special Agent.
3. Through the ATF, I attended the Criminal Investigator Training Program at the Federal Law Enforcement Training Center, as well as the Special Agent Basic Training Program at the ATF National Academy. During these programs, I received instruction in and practiced the investigation of violations of federal firearms, explosives, and arson statutes. My training and experience has involved, among other things: (1) the debriefing of defendants, witnesses and informants, as well as others who have knowledge of the purchase, possession, distribution, and transportation of firearms and of the laundering and concealment of proceeds of firearms and drug trafficking; (2) surveillance; (3) analysis and processing of documentary, electronic, and physical evidence; (4) the legal and illegal purchase of firearms; (5) the execution of arrest and search warrants seeking firearms and narcotics; and (6) firearms trafficking.
4. I am an investigative or law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7), in that I am an officer of the United States who is empowered by law to conduct investigations and make arrests for the offenses enumerated in Titles 18, 21, and 26, United States Code.
5. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.
6. The statements contained in this affidavit are based, in part, on information provided by Special Agents and/or Task Force Officers of the ATF and other law enforcement officers, and on my background and experience as a Special Agent of the ATF.

PROBABLE CAUSE

7. On August 6, 2024, at approximately 10:25 a.m., Santa Fe Police Department (SFPD) officers responded to a call for service in reference to a male who was shot in the parking lot of the Best Buy, located at 3533 Zafarano Dr, Santa Fe, NM 87507.
8. Once SFPD officers arrived on scene, the male was found lying on the ground with what appeared to be a single gunshot wound to the chest. Medics arrived on scene and attempted life saving measures but were unsuccessful. While processing the shooting scene, a spent 9mm caliber cartridge casing was located near the victim's body.
9. According to SFPD Detectives, SFPD officers were able to locate witnesses in the parking lot and were able to obtain cellphone video and photographs related to the

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incident from the witnesses. The suspect in the photographs was observed wearing a blue shirt over a light-colored long sleeve shirt, black pants, black shoes, a khaki hat, and black glasses. Photos of the suspect were disseminated by SFPD through social media and elsewhere.

10. According to SFPD Detectives, video surveillance was obtained from the nearby Famous Footwear, located at 3537 Zafarano Dr., Santa Fe, New Mexico 87507. Famous Footwear shares a parking lot with the above-mentioned Best Buy. The video surveillance shows the victim driving into the Best Buy parking lot in a Jeep Grand Cherokee where he parked and exited the vehicle. As the victim exited the vehicle, he was approached by the suspect and a physical altercation can be seen. The victim can be seen falling to the ground. The suspect entered the Jeep Grand Cherokee, then exited the vehicle and approached the victim who was still laying on the ground. The suspect can be seen bending over the victim and it appeared the suspect touched the victim as he laid on the ground. The suspect then reentered the Jeep Grand Cherokee and drove out of the parking lot toward Zafarano Drive.
11. It was learned the Jeep Grand Cherokee was registered to the victim, John Doe,¹ and is more fully identified as a blue 2020 Jeep Grand Cherokee bearing New Mexico license plate CRM-142. The Jeep was entered into NCIC as stolen. The Jeep bears VIN 1C4RJFBT2LC141766 and was manufactured in Michigan. Based on my training and experience, this means that the vehicle had to cross state lines before arriving in New Mexico.
12. According to SFPD Detectives, SFPD officers canvassed the area and were able to obtain additional video surveillance from Panera Bread, located at 3535 Zafarano Dr., Santa Fe, New Mexico 87507. The video surveillance shows what appears to be the suspect sitting at a table outside with an unknown male shortly before the shooting occurred. The male sitting with the suspect was identified as Witness 1.² Law enforcement made contact with Witness 1. According to SFPD Detective Eccles, Witness 1 indicated he had never seen the suspect before. The suspect approached him and suggested they “rob a place” and asked him (Witness 1) if he wanted to “hit a lick”. Based on my training and experience, “hit a lick” refers to committing a robbery. Witness 1 declined and they both parted ways. Witness 1 informed Detective Eccles, when he (Witness 1) crossed Zafarano Dr., he heard a gunshot. Witness 1 described the male as white, with tattoos, and “dorky” looking.

¹ John Doe’s full identify is known to law enforcement but anonymized here to protect the ongoing investigation.

² Witness 1, as well as the other witnesses included in this affidavit, are known to law enforcement but anonymized here to protect the ongoing investigation.

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13. SFPD Detectives continued to canvas the area and learned from Loss Prevention at the Albertson's Market, located at 3542 Zafarano Dr., Santa Fe, New Mexico 87507, that a male matching the subject depicted in the photos disseminated by SFPD had been in earlier that day. Store video surveillance was obtained and the male appeared to be wearing a khaki hat, black pants, black shoes, black rimmed eyeglasses, with a long sleeve button up shirt, and a dark blue shirt underneath. The shirts appeared to be the same as those depicted in the surveillance video but when the male was at the self-checkout counter, the dark blue shirt appeared to be on top of the long sleeve shirt. The male also appeared to have pierced ears with ear gauges and multiple tattoos on his neck. The male purchased a bottle of water and used a pre-paid debit card.
14. On August 6, 2024, at approximately 1645 hours, SFPD Detective Rebecca Hilderbrandt was contacted by the Adult Probation and Parole Office (APPO) from Moriarty, New Mexico regarding an absconder that matched the suspect photographs that were disseminated by SFPD. APPO believed the photograph of the suspect that was taken from the SFPD social media page depicted BABITZ. APPO provided a photograph of Zachary BABITZ and also provided contact information for one of BABITZ's family members, Jane Doe. APPO also indicated they reached out to Jane Doe to ask if the man in the picture was BABITZ, to which Jane Doe stated yes.
15. According to APPO, on August 1, 2024, BABITZ cut his electronic monitoring device off and left a note for law enforcement on the door of his residence in Edgewood, New Mexico. The note stated, "To Law Enforcement this needs to be very clear. My wife had absolutely no clue as to what I planned or am about to do. These were my decisions, and I hid them from her signed this day 8-1-24 10:55am Zachary Babitz".
16. SFPD Detective Drury obtained a search warrant for the Sirius XM radio within the 2020 Jeep Grand Cherokee for location purposes. On August 6, 2024, at approximately 9:45 p.m., SFPD Detective Richard Hilderbrandt was contacted by Sirius XM and was informed the Jeep Grand Cherokee registered to John Doe was at 5502 Eastern Ave SE, Albuquerque, New Mexico 87108. APD Detectives were contacted for assistance and the vehicle was located at the address, but the vehicle was unoccupied. The vehicle was sealed and towed to the Metropolitan Forensic Science Center, located at 5350 2nd St. NW, Albuquerque, NM 87107.
17. On August 7, 2024, APD received a called for service near 1024 Alvarado SE in reference to a bald male with tattoos and a firearm that was acting "crazy." Law enforcement responded and the caller stated the man was talking about doing something "crazy" in Santa Fe and described in detail a face tattoo depicting a six-point star under his right eye, consistent with BABITZ's tattoos. Law enforcement noted the location of the call for service was approximately one block away from the location of where the

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Jeep had been recovered the day prior. SFPD Detectives also learned that the tattooed man, now believed to be BABITZ, had been staying at an apartment at 1014 Valencia Dr. SE, Albuquerque, NM 87108.

18. Later that same day, SFPD Detective Rebecca Hilderbrandt obtained a search warrant for the apartment at 1014 Valencia Dr. and interviewed the occupants.
19. SFPD Detective Rebecca Hilderbrandt spoke with Witness 2, an occupant of the apartment. Witness 2 identified BABITZ as his friend, but only knew him by the moniker "gun slinger". After being asked about the incident in Santa Fe, Witness 2 indicated his friend (BABITZ) stated, the "motherfucker tried to grab the gun, so he shot him". Detective Hilderbrandt asked if BABITZ had been referring to the victim as the one who tried to grab the gun and Witness 2 stated "yes". When asked if BABITZ still had the firearm and whether it was a 9mm, Witness 2 nodded his head in an up and down motion. Witness 2 identified the handgun as a "GX9". When asked why his friend (BABITZ) was stealing the car, Witness 2 indicated his friend (BABITZ) wanted to rob a bank.
20. SFPD Detective Rebecca Hilderbrandt also spoke with the owner of the apartment, Witness 3. Witness 3 identified the suspect as "Zach". Witness 3 indicated "Zach" had arrived at his residence the night before (August 6, 2024). Witness 3 indicated he remembered "Zach" wearing dark colored pants when he arrived at the apartment. Witness 3 also indicated "Zach" was from southern California and had a lot of tattoos, including facial tattoos. Witness 3 also indicated "Zach" had previously done 20 years in prison. Witness 3 also indicated he had found out what "Zach" had done and indicated "Zach" told him he ("Zach") had done something in Santa Fe and shot someone. Witness 3 indicated "Zach" had a dark gray semi-automatic, 9mm handgun.
21. I confirmed BABITZ has been convicted of the following felony crimes in New Mexico: Armed Robbery (six counts) and Receiving/ Transferring a Stolen Motor Vehicle (Cause No. D-202-CR-2018-03528); Possession of a Controlled Substance (Cause No. D-202-CR-2018-03448), and Possession of a Deadly Weapon or Explosive by a Prisoner (Cause No. D-202-CR-2018-04311). BABITZ was also convicted of Carjacking out of San Bernardino County in California in 2008. I also confirmed that BABITZ received an extensive consolidated sentence of 21 years' incarceration for his New Mexico state cases and was released from prison in March 2024.
22. I contacted APPO and spoke with BABITZ's direct supervising probation officer regarding the identification of BABITZ as perpetrator of the carjacking resulting in the death of John Doe. The probation officer has supervised BABITZ since March 2024 and has seen him in person on numerous occasions. BABITZ supervising officer stated he had reviewed photos of the perpetrator and recognized the individual as BABITZ.

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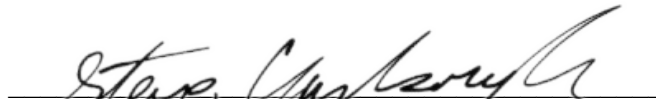
23. BABITZ was arrested in Las Cruces, New Mexico on August 10, 2024. At least one 9mm firearm was located at the scene of the arrest. Additional testing is pending to determine whether this was the same 9mm firearm used in the commission of the Santa Fe carjacking.
24. Based upon these facts, there is probable cause to believe that Zachary BABITZ committed the offense of carjacking in violation of 18 U.S.C. § 2119, and discharge of a firearm in furtherance of this offense, in violation of 18 U.S.C. § 924(c), on August 6, 2024, in Santa Fe County, New Mexico.
25. This affidavit has been reviewed and approved by Assistant United States Attorney Sarah Mease.

Respectfully submitted,

Erica Rosenblum

Erica Rosenblum
Special Agent
ATF

Electronically submitted and telephonically sworn
on August 13, 2024:


HONORABLE STEVEN C. YARBROUGH
UNITED STATES MAGISTRATE JUDGE