

AO 91 (Rev. 11/11) Criminal Complaint

FILED
U.S. DISTRICT COURT
DISTRICT OF NEW MEXICO
2017 MAR 13 AM 11:36
CLERK-LAS CRUCES

UNITED STATES DISTRICT COURT

for the

District of New Mexico

United States of America)

v. FERNANDO
Jose F. LUCERO)

Case No. 17-MJ-617)

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 March 10, 2017 in the county of Dona Ana in the
 District of New Mexico, the defendant(s) violated:

Code Section	Offense Description
21 U.S.C. § 841	Possession with intent to distribute approx. 24.4 lbs (11 kgs) of heroin
21 U.S.C. § 846	Conspiracy to possess with intent to distribute approx. 24.4 lbs (11 kgs) of heroin
21 U.S.C. § 841	Possession with intent to distribute approx. 2.45 lbs (1.1 kgs) of cocaine
21 U.S.C. § 846	Conspiracy to possess with intent to distribute approx. 2.45 lbs (1.1 kgs) of cocaine

This criminal complaint is based on these facts:

See attached "Affidavit"

Continued on the attached sheet.


Complainant's signature

Enoch J. Smith, Special Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: 3.13.2017


Judge's signature

City and state: Las Cruces, New Mexico

Gregory J. Fouratt, United States Magistrate Judge
Printed name and title

United States of America

v.

Jose F. Lucero

AFFIDAVIT

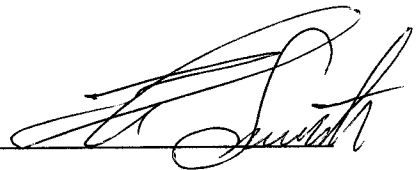
1. On March 10, 2017, at approximately 11:30 p.m., agents assigned to the U.S. Border Patrol checkpoint on I-25 north of Las Cruces, New Mexico, encountered a silver Hyundai sedan in the primary inspection area. The sole occupant and driver, identified later as Jose F. Lucero ("Lucero"), immediately appeared nervous to the inspecting Border Patrol agent, as Lucero would not make eye contact and had to be summoned to pull the car forward to speak to agents. When being questioned about his citizenship, Lucero stated that he was a United States citizen. During this time, Lucero nervously watched the nearby Border Patrol canine. When questioned as to his travel plans, Lucero stated that he was going to Albuquerque to play basketball, but he could not provide a location for the basketball game. When agents realized that the Hyundai sedan was a rental vehicle, the primary inspection agent asked Lucero to whom the vehicle was rented, but Lucero was unable to provide a name. Additionally, Lucero could not provide a driver's license.
2. At this time, a Border Patrol canine team in primary inspection was conducting a free air sniff of the exterior of the car and advised that his government issued canine had alerted to the vehicle. Lucero was then directed into the secondary inspection lane.
3. Agents requested consent to search the vehicle and Lucero granted consent, stating that the vehicle was not his. Agents conducted a hand search of the interior of the vehicle and located sixteen (16) black tape-wrapped packages concealed underneath the floor of the

trunk of the car, in and around the spare tire. Based on their training and experience, Border Patrol agents recognized the black tape-wrapped packages to be suspected narcotics. After locating the suspected narcotics, Lucero was taken into custody by Border Patrol agents.

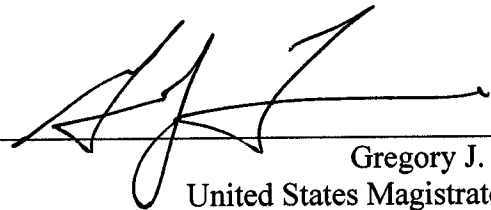
4. The contents of each of the black tape-wrapped packages were field tested. Fifteen of the sixteen packages, tested positive for the properties of heroin. The total weight of the fifteen packages of suspected heroin was approximately 24.4 pounds (11 kilograms). One of the sixteen packages tested positive for the properties of cocaine, and had a gross weight of approximately 2.45 pounds (1.1 kilograms).
5. Lucero was advised of his Miranda warnings by Border Patrol agents. Lucero acknowledged his rights, and initially, agreed to answer questions without an attorney present. However, prior to questioning, Lucero recanted and requested an attorney. At this time, all questioning ceased. Lucero, the narcotics, and his property were then transported to the Las Cruces Border Patrol main office. The vehicle was towed and returned to Enterprise Rental Company.
6. Later in the morning, on March 11, 2017, Lucero approached Border Patrol agents and requested to make a statement. Agents advised Lucero to wait for the arrival of Drug Enforcement Administration (“DEA”) agents.
7. On March 11, 2017, at approximately 9:00 a.m., Special Agent (“SA”) Enoch Smith (“Smith”) arrived and spoke to Lucero. SA Smith again advised Lucero of his Miranda rights. After being advised of his Miranda rights and prior to any questioning, Lucero requested an attorney and stated something to the effect of “An attorney could probably help get me out of this.” Following Lucero’s request, no interview was conducted.

However, while in transit from the Border Patrol station to the Las Cruces DEA office, Lucero initiated a conversation with SA Smith. SA Smith advised Lucero that if he wished to speak to SA Smith and make any statements without the presence of an attorney, Lucero must waive his rights to such. Lucero agreed and signed a waiver of rights form, as witnessed by SA Jason Kaunas, at approximately 10:20 a.m., on March 11, 2017.

8. Lucero advised that he was going to being paid \$400 to drive the car to Hatch, New Mexico. Lucero further stated that he had picked up the rental car (the silver Hyundai sedan) in Las Cruces, New Mexico, on March 10, 2017, and proceeded to the checkpoint where he was detained. Lucero advised that he figured there were narcotics inside the car because of the circumstances in which he received the vehicle, and that the subjects who had provided the vehicle to him were known drug traffickers.
9. The facts were presented to AUSA Selesia Winston, who approved prosecution of Lucero for violating 21 U.S.C. §§ 841 and 846. Lucero was booked into the Doña Ana County Detention Center pending court proceedings.



Enoch J. Smith, Special Agent
Drug Enforcement Administration



Gregory J. Fouratt
United States Magistrate Judge