

AO 91 (Rev. 08/09) Criminal Complaint

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

UNITED STATES DISTRICT COURT

for the  
District of New Mexico

11 MAR 14 AM 9:07

CLERK-LAS CRUCES

United States of America  
v.  
Gabriela GUTIERREZ

Case No.

11MJ579

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 February 14th, 2011 in the county of Dona Ana in the  
District of New Mexico, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
Title 18 USC Section 924(a)(1)(A)	False statement in connection with the acquisition of firearms.
Title 18 USC Section 2(a)	Aiding and Abetting.
Title 18 USC Section 371	Conspiracy.

This criminal complaint is based on these facts:

See Attached

Continued on the attached sheet.



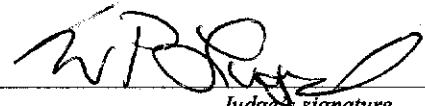
Complainant's signature

Moises Maldonado, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 3/14/11



Judge's signature

WILLIAM P. LYNCH  
U.S. MAGISTRATE JUDGE

Printed name and title

City and state: Las Cruces, nm

## AFFIDAVIT

I, Moisés Maldonado, being duly sworn, state as follows under oath:

1. That I, the Affiant, am a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Las Cruces, New Mexico, and have been so employed since October 2009. The Affiant has been employed in law enforcement (LE) since September 1988. Prior to my employment with ATF: The Affiant was employed as a Federal Air Marshal with the Federal Air Marshal Service; The Affiant was a Border Patrol Agent with the United States Border Patrol; The Affiant was a Police Officer with the City of El Paso, Texas; and, the Affiant began his LE career as a Military Police Officer with the US Army. The Affiant maintains a Bachelor of Science degree in Criminal Justice from Troy University, Troy, Alabama. The Affiant has received formal law enforcement training in both a general and specific nature, as it pertains to investigating and enforcing violations of Federal law, including violations of Federal firearms and explosives laws. This training includes the: US Army Military Police Investigation School, located at Fort McClellan, Alabama; United States Border Patrol Agent Training Program located at the Federal Law Enforcement Training Center, Charleston, South Carolina; Federal Air Marshal Training Program located at The FAA William J. Hughes Technical Center in Atlantic City, New Jersey; Criminal Investigator Training Program located at the Federal Law Enforcement Training Center, Glynco, Georgia; and Special Agent Basic Training, located at the ATF National Academy, Glynco, Georgia.
2. The Affiant am an investigative law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code (U.S.C.); that is, an officer of the United States who is empowered by law to conduct investigations of or to make arrests for offenses enumerate in Section 2516 of Title 18, United States Code.
3. As a result of my experience and training, the Affiant knows that firearms traffickers often

employ a number of straw purchasers to buy firearms from licensed firearms dealers to avoid traceable firearms back to the firearms trafficker (actual buyer). Firearms purchased on behalf of these firearms trafficking organizations are usually purchased with cash to further conceal the true buyer and source of the funds.

4. As a result of experience and training, the Affiant knows under federal law, pursuant to Title 18, United States Code, Section 924(a)(1)(A), states it shall be unlawful for whoever knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter.
5. As a result of experience and training, the Affiant knows it is a violation of 18 U.S.C. § 371, for a person to conspire with persons known or unknown to commit any offense against the United States.
6. As a result of experience and training, the Affiant knows it is a violation of 18 U.S.C. § 2(a), for whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principle.
7. On March 8<sup>th</sup>, 2011, Blas GUTIERREZ (DOB 01/1981), Eddie ESPINOZA (DOB 01/1960), Alberto RIVERA (DOB 07/1970), Ricardo GUTIERREZ (DOB 07/1985), Miguel Carrillo (DOB 01/1981); Eva GUTIERREZ (DOB 06/1989), Ignacio VILLALOBOS (DOB 08/1986), Manuel ORTEGA (DOB: 08/1985), Vicente CARREON (DOB:06/1984), and Angelo VEGA (DOB 05/1970) were indicated by the Grand Jury and arrest warrants were issued for:
  - Title 18 USC 924(a)(1)(A) – False statement in connection with acquisition of Firearms.
  - Title 18 USC 2 – Aiding and Abetting.
  - Title 18 USC 554 – Smuggling Goods from the United States.

- Title 18 USC 371 – Conspiracy.
8. On March 10<sup>th</sup>, 2011, a “Confidential Source” (CS1) was arrested on the mentioned federal arrest warrant. At approximately 1145 hours ATF Special Agent (SA) Moises Maldonado and HSI Special Agent Hector Huerta met with CS1 at the Federal Court House located in Las Cruces, New Mexico. At approximately 1205 hours, SA Maldonado advised CS1 of the Miranda Warning via ATF Form 3200. CS1 waived his/her rights and spoke with the SA agents in regards to the CS1’s role in straw purchasing firearms at the request of Blas and Gabriela GUTIERREZ, on 02/12/2011.
  9. CS1 stated to the Affiant that Gabriela GUTIERREZ (Blas GUTIERREZ’s wife) called the CS1 on the morning of February 12<sup>th</sup>, 2011 and asked him/her if CS1 would sign for some guns for Blas GUTIERREZ. CS1 stated that CS1 had told Gabriela GUTIERREZ CS1 would think about it. CS1 further stated that later in the afternoon, Gabriela and Blas both spoke with CS1 and convinced CS1 to go along with purchasing the firearms by telling CS1 they (Gabriela and Blas) would not ask CS1 to do anything that would get CS1 in trouble. CS1 stated he/she agreed to meet Gabriela and Blas GUTIERREZ, where they would then all travel together to purchase the firearms. CS1 related to the SAs THAT CS1 met with Blas and Gabriela GUTIERREZ as planned. CS1 advised he/she then got into Blas GUTIERREZ’s car, at which time they (CS1, Blas and Gabriela GUTIERREZ) traveled to a gun store in Chaparral, New Mexico. CS1 confessed to the SAs he/she had straw purchased 10 AK-47 type pistols at the direction of Blas GUTIERREZ from the Chaparral gun store.
  10. During the interview CS1 informed the SAs that while CS1, Blas GUTIERREZ, and Gabriela GUTIERREZ were returning to where CS1 parked his/her car, Blas GUTIERREZ asked Gabriela GUTIERREZ if she had paid CS1 yet. CS1 stated to the SAs that Gabriela GUTIERREZ then turned towards CS1 and paid CS1 \$1,000 in cash for completing the straw purchase of 10 AK-47 type pistols for Blas GUTIERREZ.

11. On February 12<sup>th</sup>, 2011 a Court Authorized Title III telephone monitoring conducted by the Special Agents, corroborates that CS1 was contacted by Gabriela and Blas GUTIERREZ and agreed to “meet” before they went to purchase the firearms. Once at they met, all three persons traveled, together, to Ian Garland, dba Chaparral Guns, in chaparral, NM. Mobile surveillance by the SAs revealed CS1 was dropped off at his/her vehicle after they left Chaparral Guns.
  
12. Agents then followed Blas and Gabriela GUTIERREZ back to the Colinas Del Sol apartment, located at 945 S. Mesa Hills, where after a brief stop they split up. Blas GUTIERREZ and GABRIELA GUTIERREZ departed the area, each driving their own vehicles. Agents then followed Blas GUTIERREZ and GABRIELA GUTIERREZ as they drove, in separate vehicles, towards Columbus, NM. At approximately 9:45 pm, the New Mexico State Police initiated a traffic stop of Blas GUTIERREZ’s vehicle. Blas GUTIERREZ, who was driving an unmarked Village of Columbus police vehicle, gave the officer consent to search the vehicle. The officer found and subsequently seized ten (10) AK-47 type pistols inside Blas GUTIERREZ’s vehicle. Investigation later revealed these were the same pistols purchased by CS1 at the direction of Blas GUTIERREZ.
  
13. After the firearms were seized by State Police and Blas GUTIERREZ is released, Blas GUTIERREZ is heard on the phone with his wife Gabriela GUTIERREZ. It was apparent to the Affiant that Blas GUTIERREZ was upset at Gabriela for letting other people know Blas GUTIERREZ was stopped by the police and the firearms were seized. Gabriela tried to explain that she was afraid the police would come to their house and search the “Jeep” so she asked Poncho to take the Jeep.
  
14. On the March 10<sup>th</sup>, 2011, SAs from several federal and local law enforcement agencies served a federal search warrant at the residence of Blas and Gabriela GUTIERREZ. During the search, Gabriela was found attempting to hide bulk cash on her person and within her

children's shoes. It is the affiant's belief Gabriela GUTIERREZ was attempting to keep the Special Agents searching her residence from seizing the bulk cash.

15. I respectfully submit that the facts outlined above exceed probable cause and rise to the level of probable cause to believe that the actions of Gabriela GUTIERREZ in this affidavit, represent the fruits, instrumentalities and evidence of criminal offenses against the United States, namely, Title 18, United States Code: Section 924(a)(1)(A); Section 2(a), and Section 371. Based on the information contained in this affidavit, I request the issuance of a Criminal Complaint for Gabriela GUTIERREZ, DOB 03/1980.



Moises Maldonado, Special Agent  
Bureau of Alcohol, Tobacco, Firearms and Explosives

Sworn to and subscribed before me this 14~~th~~ day of March, 2011.



UNITED STATES MAGISTRATE JUDGE <sup>William P. Lynch</sup>

DISTRICT OF NEW MEXICO