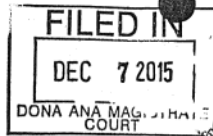


STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
IN THE MAGISTRATE COURT



Original

STATE OF NEW MEXICO

v.

CHRISTOPHER BARELA, Defendant

MEH-FR-2015-00899

CRIMINAL COMPLAINT

Crimes:

1. FRAUD (OVER \$20,000)

On or between July 1, 2010 through June 30, 2015, in Doña Ana County, New Mexico, the above-named Defendant did by words or conduct, misrepresent a fact(s) intending to deceive or cheat Doña Ana County Detention inmates or another, and because of Doña Ana County Detention Inmates' reliance on the promise or misrepresentation, the defendant obtained funds from the Inmate Welfare Fund, which had a market value over \$20,000, a second degree felony, contrary to Section 30-16-6, NMSA 1978.

OR, IN THE ALTERNATIVE:

2. EMBEZZLEMENT (OVER \$20,000)

On or about JULY 1, 2010 through JUNE 30TH 2015, in Doña Ana County, New Mexico, the above named Defendant did embezzle or convert to his own use funds from the Doña Ana County Detention Center Inmate Welfare Fund, which had a market value of over \$20,000, and with which Defendant had been entrusted, with intent at the time of conversion to fraudulently deprive the owners of their property, a second degree felony, contrary to Section 30-16-8, NMSA 1978.

AND:

3. BRINGING CONTRABAND INTO A JAIL

On or about July 4, 2012, in Dona Ana County, New Mexico, the above named defendant did carry, transport or deposit an AR-15 rifle, which was contraband into the confines of Doña Ana County Detention Center booking room, a county or municipal jail, a fourth degree felony, contrary to Section 30-22-14(B), NMSA 1978.

4. **WILLFUL NEGLECT OF DUTY**

On or between July 1, 2010 through June 30, 2015, in Dona Ana County, the above-named defendant did willfully neglect to perform a duty when enjoined by law upon any public officer, or upon any person holding public trust or employment, did willfully neglect to perform such duty, a misdemeanor contrary to Section 10-17-12, NMSA 1978.

The undersigned, under penalty of perjury complains and says that on or about the dates alleged above, in the county of Dona Ana, State of New Mexico, the above named defendant committed FRAUD OVER \$20,000 or, in the alternative, EMBEZZLEMENT OVER \$20,000, and BRINGING CONTRABAND INTO A JAIL (DEADLY WEAPON) and WILLFUL NEGLECT OF DUTY.

See Statement of Facts in Support of a Criminal Complaint for more information.

I swear or affirm under penalty of perjury that the facts above are true to the best of my information and belief.



Affiant

K. Roberts #1145

Detective

Dona Ana County Sheriff's Department

If Probable Cause Determination Required

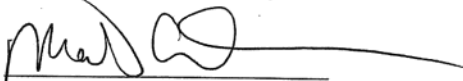
Probable Cause Found ☒ Not found ☐

(If not found, case dismissed)

Judge: CPH Telephonically (circle if applicable)

Date: 12/7/15 Time: 1700 hrs

Reviewed for legal sufficiency:



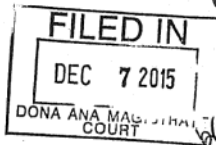
Mark D'Antonio

Third Judicial District Attorney

STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
IN THE MAGISTRATE COURT

STATE OF NEW MEXICO
v.

CHRISTOPHER BARELA, Defendant



2015-05260

Original

M-14-FR-2015-00899

STATEMENT OF FACTS IN SUPPORT OF A CRIMINAL COMPLAINT

AFFIANT BEING A FULL TIME, SALARIED, LAW ENFORCEMENT OFFICER WITH THE DONA ANA COUNTY SHERIFF'S DEPARTMENT CURRENTLY ASSIGNED TO THE CRIMINAL INVESTIGATIONS DIVISION STATES THE FOLLOWING:

A. AFFIANT LEARNED THE FOLLOWING INFORMATION IN MULTIPLE TAPED INTERVIEWS FROM CONFIDENTIAL SOURCE #1 WHOSE INFORMATION WAS CORROBORATED BOTH BY ADDITIONAL WITNESS STATEMENTS AND PHYSICAL EVIDENCE, BETWEEN THE MONTHS OF AUGUST AND OCTOBER, 2015, CONDUCTED AT THEIR RESIDENCE, WITHIN COUNTY OF DOÑA ANA, NM:

1. Defendant serves as the Jail Administrator for the Doña Ana County Detention Center.
2. Confidential Source #1 advised that Confidential Source #1 had knowledge of the misuse and or misappropriation of the Inmate Welfare Fund by Defendant.
3. The Confidential Source advised they had direct knowledge of the creation of the Inmate Welfare Fund and its specific sole intended use beginning in 1994. The Confidential Source designed the Inmate Welfare Fund program and its uses for the health and morale of the inmates as a whole.
4. Confidential Source #1 was in a position to review and observe all of the use of the Inmate Welfare Fund to include purchases of equipment, services, wages, and programs.
5. Confidential Source #1 observed the Inmate Welfare funding being used for budget line items, specifically found within the Doña Ana County Detention Center Budget. Defendant was inappropriately using Inmate Welfare Funds to pay for items required to be paid out of the Detention Center's budget, to include, clothing, bedding, hygiene care items, inmate labor, and multiple computerized kiosks designed for the reporting of conditions and events, county record tracking and point of sale.
6. Confidential Source #1 observed the Inmate Welfare Fund being used to pay for employee meals during special meetings, as well as other unlawful expenditures.
7. Confidential Source #1 confronted Defendant and advised Defendant that the funding within the Inmate Welfare Fund could not be used for such expenditures. Confidential Source #1 was disregarded and told to not get involved.
8. Confidential Source #1 reported Confidential Source #1's the misuse and inappropriate, unlawful use of funding within the Inmate Welfare Fund to the County's Internal Auditor, Milton Duran, as well as another Confidential Source.

9. After Confidential Source #1 reported the conduct noted above, an internal audit of the Dona Ana County Detention Center and Inmate Welfare Fund was conducted, where the Dona Ana County Internal Auditor Milton Duran identified misuse within the audit. Mr. Duran prepared a report and presentation for the Board of County Commissioners at the time which was also presented to Finance Director Bill Noland.

10. Confidential Source #1 advised the affiant in addition to the unlawful use of the funding by Defendant, specifically gym equipment purchased by the Inmate Welfare Fund for the inmates was removed from the inmates by the defendant's directive and placed for the Detention Center employees to use for a period of time. Then the Inmate Welfare Fund gym equipment valued at several thousands of dollars was donated to the Police Athletic League gym where the defendant is a boxing coach. This was in violation of County and State regulations involving procurement and disbursement of property.

11. Affiant's investigation retrieved specific documents related to above items and attached to this statement of facts. These documents are attached as addendums 1 and 2.

B. AFFIANT LEARNED THE FOLLOWING INFORMATION IN A TAPED INTERVIEW FROM CONFIDENTIAL SOURCE #2 WHOSE INFORMATION WAS CORROBORATED BOTH BY ADDITIONAL WITNESS STATEMENTS AND PHYSICAL EVIDENCE, OBTAINED ON SEPTEMBER 4, 2015 IN AN INTERVIEW CONDUCTED AT 845 NORTH MOTEL BLVD, LAS CRUCES, NM:

1. Confidential Source #2 advised they were contacted by Confidential Source #1 and told the Inmate Welfare Fund was being unlawfully misused for items within the Dona Ana County Detention Center's Budget, as well as other unlawful purposes.

2. Confidential Source #2 was shown several invoices documenting the reported misuse. Confidential Source #2 directed Confidential Source #1 to report to the County's Internal Auditor, Milton Duran.

3. Confidential Source #2 states Confidential Source #2 had several concerns about how the Inmate Welfare Fund was being misused. Confidential Source #2 was in a supervisory position to see its continual abuse.

4. Confidential Source #2 was advised of an incident which occurred within the Dona Ana County Detention Center booking area on July 4, 2012, involving an inmate who took a hostage in the booking area and Defendant took a loaded firearm into the restricted area.

5. Confidential Source #2 contacted Lieutenant Patrick Howie who is head of the Dona Ana County Detention Center Special Investigations Unit and asked to verify that Director Barela took a loaded AR-15 rifle into the booking area into a situation involving inmates.

6. Confidential Source #2 told Affiant that Lt. Howie acknowledged that he had heard of the incident and that Lt. Howie was concerned.

7. Confidential Source #2 advised Affiant that Lt. Howie had access to the video recording system, pulled the video of the incident and during the review they both observed the defendant carrying what appeared to be an AR-15 rifle in the restricted area. They observed there to be unrestrained inmates in the immediate area where Defendant carried the rifle.

8. Confidential Source #2 stated Confidential Source #2 reported the concerns of the ongoing and multiple illegal acts and unethical behavior being conducted by Defendant to the County Manager Julia Brown in a meeting with Brown between January and February 2014.

9. Affiant's investigation recovered specific documents related to above statements. Those documents are attached to this statement of facts as addendums 3 and 6.

C. AFFIANT HAS LEARNED THE FOLLOWING IN A TAPED INTERVIEW WITH INTERNAL AUDITOR MILTON DURAN, CONDUCTED IN EL PASO, TEXAS ON AUGUST 21st 2015:

1. Duran was employed at the County of Doña Ana as the Internal Auditor responsible for completing internal audits and reporting his findings to the Board of County Commissioners
2. Duran was advised of misuse of Inmate Welfare Funds within the Doña Ana County Detention Center.
3. Duran initiated an internal audit within the Doña Ana County Detention Center to include auditing of the use of the Inmate Welfare Fund during the period of December 1, 2008 through June 30, 2009.
4. Upon completion of the audit, Mr. Duran identified numerous documented misuses of the Inmate Welfare Fund and directed the appropriate corrections for this inappropriate activity. The findings were placed in an official audit format directed to the Board of County Commissioners and Doña Ana County Finance Manager Bill Noland.
5. Mr. Duran, when shown current information as to the use of the Inmate Welfare Fund several years after his audit, indicated the activity to include using the Inmate Welfare Fund to pay inmate labor and specific line item budget items to be misappropriation and illegal use of the Inmate Welfare Fund.
6. Duran's professional opinion was the continued use/misappropriation of the Inmate Welfare Fund after being formally identified within his audit was illegal activity.
7. Specific documents have been retrieved as related to above items. These documents are attached to this statement of facts as addendum 4.

D. AFFIANT HAS LEARNED THE FOLLOWING INFORMATION THROUGH A FORMAL INVESTIGATION BY THE REVIEW OF THE FINANCIAL INFORMATION RECORDED WITHIN THE DONA ANA COUNTY FINANCE BANNOR SYSTEM RELATED TO THE INMATE WELFARE FUND #25113:

1. The Inmate Welfare Fund is designated within the Doña Ana County Finance System as having a unique and specific fund number of 25113.
2. This unique and specific fund is found within Doña Ana County Account #72412
3. A review was made of, unique and specific Inmate Welfare Fund #25113 to identify all expenditures made using these funds during the past five budget years. During this review, the affiant observed numerous entries over the past five years shown to have been issued and used for required expenditures designated to be the responsibility of the Doña Ana County Detention Center Budget. Such expenditures were outlined within the Doña Ana County Detention Center internal audit within 2009 as being inappropriate.
4. Purchase Order #P130094 was issued July 18, 2012 to Bob Barker Company for jail supplies to include towels, mattresses, spoons, sports bras, and inmate razors for a total of \$5,179.80. This Purchase Order was paid from the Inmate Welfare Fund.
5. Purchase Order #P1303393 was issued January 17, 2013 to American Tex-Chem Corp for jail supplies to include Inmate Hygiene Package for a total of \$6,000.00. This Purchase Order was paid from the Inmate Welfare Fund.
6. Purchase Order #P1304923 was issued May 31, 2013 to ICS Jail Supplies Inc. for jail supplies to include body soap and inmate razors for a total of \$3,000.00. This Purchase Order was paid from the Inmate Welfare Fund.

7. Purchase Order #P1403066 issued December 20, 2013 to Shoes For Crews Inc. for Kitchen inmate shoes for a total of \$2,796.00. This Purchase Order was paid from the Inmate Welfare Fund.
8. Purchase Order #P1403867 issued to Aramark Corp DBA Inmate Trust ACCT for Inmate Labor from February 19, 2014 to March 18, 2014 (one month or 30 day period) for total amount of \$3,915.51. This Purchase Order was paid from the Inmate Welfare Fund.
9. The Doña Ana County BANNOR Finance report depicting Fiscal Year 2015 Account 72412 with the unique and specific fund # 25113 assigned to Inmate Welfare Fund was reviewed and representative expenditures for inmate labor and jail supplies were observed and calculated in excess of \$71,896.00 for line items required to be provided for by Doña Ana County as regular budget line items.
10. Specific documents have been retrieved as related to above items four through nine. They are attached as addendum 5.

E. AFFIANT LEARNED THE FOLLOWING IN A TAPED INTERVIEW WITH LIEUTENANT PATRICK HOWIE, CONDUCTED AT 1850 COPPER LOOP, DOÑA ANA COUNTY DETENTION CENTER, LAS CRUCES, NM ON SEPTEMBER 16, 2015 AT 1343 HOURS:


1. Lt. Howie was aware of an incident which took place within the Doña Ana County Detention Center booking area involving one inmate taking another inmate hostage.
2. Lt. Howie acknowledged he was approached and asked about the incident and if it was true that Defendant had taken a loaded AR-15 rifle into the restricted area.
3. Lt. Howie said he reviewed the video log and was asked about it and observed the defendant bring the AR-15 rifle into the restricted area.
4. Lt. Howie advised he has 29 years of experience within the Detention Center and 15 of the past years have been within the rank of Lieutenant. When asked if there was an issue with what he observed on the video, he acknowledged that taking lethal force into a less lethal situation and then to discard the weapon and someone else to watch over was concerning.

F. AFFIANT LEARNED THE FOLLOWING INFORMATION THROUGH A FORMAL INVESTIGATION INTO DOÑA ANA COUNTY SHERIFF'S DEPARTMENT CASE #2012-07218:


1. Doña Ana County Sheriff's Department Case #2012-07218 was initiated in relation to an incident which occurred on July 4, 2012 at the Doña Ana County Detention Center.
2. The case was in reference to an incident where an inmate took another inmate hostage in the part of the booking area within the Doña Ana County Detention Center.
3. A review of the case file by the affiant revealed, the reports associated with the incident as well as a TDK CD-R80 disc marked Facility Video.
4. A review of the video evidence corroborated information provided by the Confidential Source #2 and Lt. Howie. A portion of the video showed Defendant carrying what appears to be a black AR-15 rifle with a collapsible stock.
5. Upon watching the video there are multiple unsecured inmates in the close proximity of Defendant and clearly within Defendant's field of vision and within arm's reach of the AR-15 rifle.

6. Further review shows Defendant take the AR-15 rifle into multiple rooms each with what appears to be unrestrained inmates as well as civilian employees and detention personnel.
7. Specific documents have been retrieved as related to above items and are attached to this statement of facts as addendums 7 and 8.

Subscribed and sworn to before me
This 15 day of December 2015.



Magistrate Judge


Reviewed for legal sufficiency


Affiant
K. Roberts #1145
Criminal Investigator
Doña Ana County Sheriff's Department

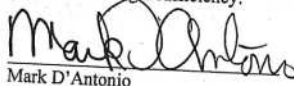
6. Further review shows Defendant take the AR-15 rifle into multiple rooms each with what appears to be unrestrained inmates as well as civilian employees and detention personnel.
7. Specific documents have been retrieved as related to above items and are attached to this statement of facts as addendums 7 and 8.

Subscribed and sworn to before me
This 7th Day of December 2015.


Magistrate Judge


Affiant
K. Roberts #1145
Criminal Investigator
Doña Ana County Sheriff's Department

Reviewed for legal sufficiency:


Mark D'Antonio
Third Judicial District Attorney