


United States District Court
WESTERN DISTRICT OF TEXAS

Filed 11-17-06
Clerk, U. S. District Court
Western District of Texas
By  Deputy

UNITED STATES OF AMERICA
v.
Benito HERNANDEZ
Herminio HERNANDEZ
Sandra SAENZ
Joannette GONZALES

CRIMINAL COMPLAINT

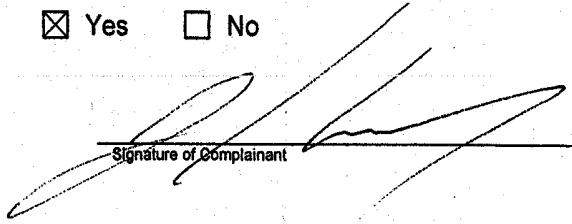
CASE NUMBER: SA 06-666M

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about April 12, 2006, April 19 2006, June 20, 2006, and September 02, 2006, in Bexar county, in the Western District of Texas defendant(s) did, (*Track Statutory Language of Defense*) in connection with the acquisition of a firearm from a licensed dealer, knowingly make false statements intended to deceive such firearms dealer with respect to any fact material to the lawfulness of the sale of such firearm in violation of Title 18 United States Code, Section(s) 922(a)(6) and Title 18, USC, Section 2 - Aiding and Abetting.

I further state that I am a(n) ATF Special Agent and that this complaint is based on the following facts:

Continued on the attached sheet and made part hereof: Yes No



Signature of Complainant

Sworn to before me and subscribed in my presence,

11-17-06

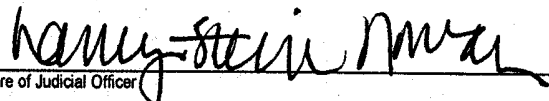
Date

at San Antonio, Texas

City and State

Nancy Stein Nowak, U.S. Magistrate Judge

Name and Title of Judicial Officer



Signature of Judicial Officer

Continuation of Criminal Complaint

Your affiant, being duly sworn does depose and say:

1. That I am currently employed as a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and have been so employed for more than three years. Prior to my employment with ATF, I was employed as a United States Border Patrol Agent for a period of five years. During the last three years, I have conducted and participated in dozens of investigations concerning persons in violation of Federal firearms laws, specifically in cases where persons who in connection with the acquisition of a firearm from a licensed dealer, knowingly make false statements intended to deceive such firearms dealer with respect to any fact material to the lawfulness of the sale of such firearm in violation of Title 18, USC, Section 922(a)(6). I also know that whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is in violation of Title 18, USC, Section 2.
2. Your affiant has been involved in an investigation regarding a Mexican National identified as Benito HERNANDEZ, during the course of this investigation, I have learned the following information:
3. On June 20, 2006, ATF Industries Operations Investigator (IOI) Rodgers Bean conducted a Federal Firearms License inspection at Cash America Pawn Shop located at 1114 Bandera, San Antonio, Texas. During his inspection, IOI Bean noticed a male (later identified as Benito HERNANDEZ) standing outside of the Pawn Shop and seemed to be waiting for someone inside the Pawn Shop. At the same time, IOI Bean noticed a female customer (later identified as Joannette GONZALES) inside the Pawn Shop purchasing a 12 gauge shotgun. After receiving the firearm, GONZALES left the store and got into a red SUV with HERNANDEZ. A registration check on the red SUV bearing Texas license plate number [REDACTED] came back to Benito Sanchez HERNANDEZ, [REDACTED] Boerne, Texas 78006.
4. After observing what IOI Bean believed to be a straw purchase, IOI Bean questioned Pawn Shop clerk Anna Estrada about the transaction for the shotgun. Estrada advised IOI Bean that the transaction he witnessed was actually the second firearm GONZALES had purchased that day. Estrada further stated that HERNANDEZ and GONZALES entered the Pawn Shop together and walked directly to the firearms display. After a few minutes of looking at the guns HERNANDEZ left the pawn shop and GONZALES stayed indicated to the pawn shop clerk that she wanted to purchase a Remington, Model 870 LW, 20 Gauge Shotgun, Serial Number V102327K. GONZALES filled out the ATF form 4473, purchased the firearm and left the pawn shop. Estrada said that a few minutes later, GONZALES came back into the store and purchased a Remington, Model 870 Express, 12 Gauge Shotgun, Serial Number D696863M.
5. Your affiant viewed the original ATF form 4473 signed by GONZALES. Form ATF 4473 is required to be completed by all persons purchasing a firearm from a licensed dealer.

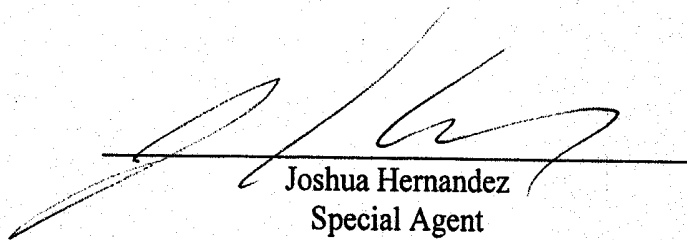
GONZALES answered all of the questions on ATF Form 4473 and wrote "Yes" to question 11(a) which asked "Are you the actual buyer of the firearm listed on the form? After the question, the following information is written in bold print: "Warning: You are not the actual buyer of the firearm if you are acquiring the firearm on behalf of another person".

6. On September 26, 2006, your affiant interviewed Joannette GONZALES, during the interview your affiant questioned the GONZALES about the two firearms she purchased on June 20, 2006. GONZALES acknowledged purchasing the firearms and provided the following statement.
7. Around the month of April of 2006, GONZALES was approached by her aunt Sandra SAENZ who asked GONZALES if she would be willing to purchase some firearms for some friends of hers. According to GONZALES, SAENZ told her that she buys guns for these friends at local pawn shops and they paid her good money for making the purchases. SAENZ told GONZALES that she had never been caught by the police for purchasing guns for them. SAENZ went on to say that these particular friends would also pay GONZALES for making the firearms transaction for them at the pawn shops. GONZALES stated that she agreed to do it because GONZALES needed the money. A few days later GONZALES was picked up by SAENZ and a man named Herminio or Herman HERNANDEZ. GONZALES stated that H. HERNANDEZ took her to Action Pawn located across the street from South Park Mall where H. HERNANDEZ identified to her which guns to purchase. H. HERNANDEZ then gave GONZALES the cash money to purchase the firearms. GONZALES stated that after receiving the cash she went into the Pawn Shop and filled out the ATF form 4473 and purchased the two shotguns that H. HERNANDEZ indicated for her to purchase. After receiving the firearms GONZALES stated that she gave them to HERNANDEZ and she was paid \$40.00 by HERNANDEZ for making the firearms transaction.
8. GONZALES further stated that on June 20, 2006, she was again approached by her aunt Sandra SAENZ who asked her to purchase more firearms for her friends. According to GONZALES, SAENZ stated that this time H. HERNANDEZ's brother "Benito" would be taking them to purchase the firearms. GONZALES agreed and stated that Benito HERNANDEZ picked her up at her apartment and went to where she believed was EZ Pawn on Bandera to purchase the firearms. GONZALES stated that Beniot gave her cash money to purchase firearms and was shown which firearms to purchase by Benito. GONZALES stated that she filled out the ATF form 4473 and purchased two firearms that Benito pointed out then gave them to Benito HERNANDEZ. GONZALES stated that she was paid \$50.00 by Benito HERNANDEZ for making the firearms transactions for him and was taken back to her apartment. GONZALES stated that she never saw Benito HERNANDEZ again after that.
9. GONZALES also stated that sometime in August or September of 2006, her aunt Sandra SAENZ contacted her GONZALES. SAENZ told GONZALES that law enforcement officers went to SAENZ' mothers residence located at [REDACTED] San Antonio, Texas looking for GONZALES. SAENZ mother is also GONZALES grandmother. GONZALES stated that SAENZ told her that they were probably looking for GONZALES because she purchased guns for the HERNANDEZ brothers. GONZALES stated that SAENZ told her if she talked to the police not to mention anything about SAENZ purchasing guns for the

HERNANDEZ brothers. SAENZ also told GONZALES that she better not tell police that GONZALES purchased guns for the HERNANDEZ brothers because they were "dangerous people and would take revenge on GONZALES if the police found out that they were paying GONZALES and SAENZ to purchase firearms for them". GONZALES indicated that she feared that the HERNANDEZ brothers would retaliate against her if they found out that she was cooperating with law enforcement. GONZALES provided your affiant a written statement in regards to her interview.

10. Your affiant verified GONZALES' statement about law enforcement officers going to GONZALES' grandmothers residence located at [REDACTED]. The law enforcement officers referred to by GONZALES in her statement to me were actually ATF Special Agent Darby Wheeler and me. We went to that residence in early September of 2006 and spoke with GONZALES' grandmother in an effort to locate GONZALES. Your affiant had never mentioned this visit to GONZALES prior to her statement regarding SAENZ telephone call to GONZALES about this visit.
11. You affiant also corroborated GONZALES story about purchasing firearms for H. HERNANDEZ in April of 2006. Your affiant checked pawn shop firearms transaction records at Action Pawn located at 2131 Military Rd. San Antonio, Texas, and verified that GONZALES purchased the following firearms on April 12, 2006:
 - a. Winchester, Model 120, 12 Gauge Shotgun, SN# L151627
 - b. Remington, Model 870 Exp. Mag, 12 Gauge Shotgun, SN# A452938.
12. On September 28, 2006, your affiant showed GONZALES pictures of Sandra SAENZ, DOB [REDACTED], Herminio HERNANDEZ, DOB [REDACTED] and Benito HERNANDEZ DOB [REDACTED]. GONZALES positively identified these photographs as the same Sandra SAENZ, Benito HERNANDEZ, and Hermino HERNANDEZ that she purchased firearms for.
13. After learning that Herminio HERNANDEZ and Benito HERNANDEZ were paying persons to purchase firearms for them, your affiant and ATF IOI's went to several Federal firearms license dealers, mainly pawn shops in the San Antonio area, to look for purchases made by Sandra SAENZ or Joannette GONZALES. After reviewing the original ATF form 4473's at each firearms dealer, your affiant learned that Sandra SAENZ completed and signed the ATF forms to purchase 43 firearms from twelve different pawn shops in the San Antonio, Texas area. The purchases were made in a span of ten months (11/15/2005-09/02/2006). Also during this check your affiant learned that Benito HERNANDEZ completed and signed the ATF forms to purchase 69 firearms from eight different local Federal firearms licensed dealers. These purchases were made in a span of approximately two and a half years (04/04/2004 - 09/02/2006). It is probable that SAENZ and HERNANDEZ purchased many more firearms from different Federal firearms dealers that were not checked by your affiant and ATF IOI's. It should be noted that the firearms purchased by GONZALES, SAENZ and Benito HERNANDEZ were the same type of firearms which were twelve or twenty gauge shotguns.

14. That on April 19, 2006, Sandra SAENZ purchased a firearm at EZ Pawn, 1400 Nogalitos, San Antonio, Texas. Your affiant was able to obtain pawn shop video of this firearms transaction. The video clearly shows Benito HERNANDEZ and Sandra SAENZ together inside the pawnshop. The video shows HERNANDEZ and SAENZ walk into the pawn shop and go directly to the firearms display. A short time later, Benito HERNANDEZ is shown walking out of the pawn shop. After HERNANDEZ walks out of the pawn shop SAENZ is shown indicating to the pawn shop employee the firearms she wanted to purchase SAENZ is then shown on the video filling out the ATF form 4473 for the purchase of the firearm. SAENZ then purchases a Mossberg, Model 88, 12 Gauge Shotgun, SN# MV93227J.
15. That on September 02, 2006, Sandra SAENZ purchased three firearms at Cash America Pawn, 2503 Bandera, San Antonio, Texas. Your affiant also obtained pawn shop video of this purchase. This video also shows Benito HERNANDEZ and Sandra SAENZ together inside the pawn shop. The subjects walk into the store separately, both subjects make their way to the firearms display and a short time later Benito HERNANDEZ leaves the store and Sandra SAENZ purchases the three firearms listed as follows:
 - a. Remington, Model 870, 12 Gauge Shotgun, SN# C379073M
 - b. Winchester, Model 120, 12 Gauge Shotgun, SN# L1587392
 - c. Stevens, Model 67E, 12 Gauge Shotgun, SN# C670444
16. That your affiant obtained the two original ATF form 4473 signed by SAENZ on April 19, 2006, and September 02, 2006. SAENZ answered all of the questions on ATF Form 4473 and wrote "Yes" to question 11(a) which asked "Are you the actual buyer of the firearm listed on the form?"
17. That based on the above-mentioned facts, your affiant believes probable cause exists for the issuance of arrest warrants for the following persons known as: Benito HERNANDEZ, DOB [REDACTED], Sandra SAENZ, DOB [REDACTED], Herminio HERNANDEZ, DOB [REDACTED] and Joannette GONZALES, DOB [REDACTED], for the violation of 18 USC 922 (a)(6) which makes it unlawful for any person in connection with the acquisition or attempted acquisition of any firearm from a licensed dealer to knowingly make any false or fictitious oral or written statements, intended or likely to deceive such dealer with respect to any fact material to the lawfulness of the sale or other disposition of such firearm and Title 18 USC 2 aiding and abetting each other to commit Title 18 USC 922 (a)(6).



Joshua Hernandez

Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS 17th DAY OF
November, 2006.



UNITED STATES MAGISTRATE JUDGE