

United States District Court **FILED**
UNITED STATES DISTRICT COURT
LAS CRUCES, NEW MEXICO

DISTRICT OF New Mexico

FEB 24 2006

UNITED STATES OF AMERICA

V.

MATTHEW J. DYKMAN

CLERK

CRIMINAL COMPLAINT

QUAINTANCE, Daruel D.
QUAINTANCE, Mary Helen
KRIPNER, Timothy Jason

CASE NUMBER:

06-3655m

(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 February 22, 2006 in Hidalgo County, in the District of New Mexico defendant(s) did, (Track Statutory Language of Offense)

knowingly and intentionally possess with attempt to distribute approximately 172 pounds of marijuana and conspire to do the same.

in violation of Title 21 United States Code, 841, 846

I further state that I am a(n) Task Force Officer and that this complaint is based on the following Official Title

facts:

(See attached Statement of Facts)

Continued on the attached sheet and made a part

Yes No

Ivan Zarate, TFO
Signature of Complainant

Sworn to before me, and subscribed in my presence,

2-24-06
Date

at Las Cruces, New Mexico
City and State

U.S. Magistrate Judge
Name and Title of Judicial Officer

[Signature]
Signature of Judicial

CONTINUATION OF STATEMENT OF FACTS

According to USBP Agent Jackson Lara that on February 22, 2006, at approximately 1:50 P.M., Senior Patrol Agent Bernardo M Ramirez III was at the Diamond Shamrock gas station in Lordsburg, New Mexico.

While Agent Ramirez was fueling up, he observed a Chrysler 300 parked next to the Diamond Shamrock, and a green minivan parked in the drive-thru area of the Kentucky Fried Chicken. Agent Ramirez then observed the passenger of the minivan, later identified as Danuel D. QUAINANCE exit the minivan and walk into the Diamond Shamrock. A short while later the minivan exited the drive through area of the Kentucky Fried Chicken and park in the Diamond Shamrock parking lot. Agent Ramirez then observed the driver of the Chrysler park next to the minivan. The driver of the Chrysler, later identified as Timothy Jason KRIPNER, exited the vehicle and engaged in a conversation with the driver of the minivan, later identified as Mary Helen QUAINANCE. Agent Ramirez then observed KRIPNER get a large quantity of food that was obviously purchased at the Kentucky Fried Chicken out of the minivan, and place it in the front passenger floorboard of the Chrysler. Agent Ramirez then observed Mr. QUAINANCE exit the Diamond Shamrock with two bags full of food items, and hand it to KRIPNER. KRIPNER and Mr. QUAINANCE then engaged in a short conversation. KRIPNER then placed the food items into the Chrysler. Agent Ramirez thought that this was rather odd since there were only three individuals traveling together and they were purchasing such large amounts of food. Through Agent Ramirez's past experience with alien and narcotic smuggling loads apprehended while working at the Lordsburg Station, he has noticed that it is common practice for smugglers to purchase large portions of food for drug backpackers or undocumented aliens.

Agent Ramirez observed that at approximately 1:55 P.M., both vehicles exited the Diamond Shamrock, and entered onto Interstate 10 traveling east from the 32-mile marker. Agent Ramirez began to follow all three individuals, which where driving the Grey Chrysler 300 and the green mini van, in order to maintain surveillance. Agent Ramirez continued to follow them for approximately 10 miles, when he observed the two vehicles exit and travel south on New Mexico Highway 113. In the past, NM Hwy 113 has proven to be a notorious area of travel for both alien and narcotic smugglers. As all three individuals traveled south, Agent Ramirez maintained

surveillance on them for approximately 5 miles with the use of binoculars until he lost sight of them. Agent Ramirez proceeded to travel south in the direction of where the individuals were last seen. Agent Ramirez traveled for approximately 13 miles when he encountered all three individuals traveling north from the 7-mile marker on NM Hwy 113. The 7-mile marker on Hwy 113 has proven to be a notorious delivery point for narcotic smugglers. In the past, Agents of the Lordsburg Station have apprehended numerous individuals in this area attempting to deliver narcotics.

Agent Ramirez advised Agent Jose Portillo of what had occurred and requested his assistance. Agent Portillo responded from the intersection of Interstate 10 and New Mexico highway 113. Agent Portillo began traveling south on highway 113 when he observed what appeared to be two vehicles northbound towards his location. Agent Portillo continued traveling south to confirm that it was the two vehicles that Agent Ramirez had observed traveling in tandem. At approximately the 15 mile marker Agent Portillo confirmed that it was the two vehicles that Agent Ramirez had observed. Agent Portillo turned around and began to follow the vehicle to get a better look at them. As Agent Portillo pulled behind the gray Chrysler 300 he noticed that KRIPNER, the driver of the gray Chrysler 300, began to swerve into the shoulder of the highway. Agent Portillo also observed that the trunk area of the vehicle appeared dusty and also observed what appeared to be hand prints all around the trunk area of the vehicle. Due to the above mentioned facts and Agent Portillo's past officer experiences he was able to recognize that a smuggling scheme was taking place.

Agent Portillo advised Agent Lara who at this time was position at the intersection of I-10 and highway 113 that he was going to conduct an immigration inspection of the gray Chrysler 300 bearing Arizona temporary tags. Agent Portillo requested Agent Lara to conduct an immigration inspection of the Pontiac mini van which appeared to be guiding the Chrysler 300.

Agent Portillo activated his emergency equipment and the gray Chrysler 300 came to a stop on New Mexico Highway 113 mile marker 17. Agent Portillo approached the vehicle and noticed what appeared to be a square backpack covered with a black shirt behind the passenger seat. Agent Portillo identified himself to KRIPNER, as a United States Border

Patrol Agent. Agent Portillo questioned KRIPNER as to his immigration status to which KRIPNER stated he was a United States Citizen. As Agent Portillo was conducting his immigration inspection he detected a scent of Marijuana coming from the inside of the vehicle. Agent Portillo requested that Agent Lara and his K-9 partner Shasja respond to his location for assistance.

Agent Lara had pulled over the Pontiac mini van bearing Arizona plate 792-PRC. The mini van came to a stop on the intersection of I-10 and NM Hwy 113, just a few miles north of Agent Portillo's location. Agent Lara identified himself as a United States Border Patrol Agent and questioned the driver and passenger as to their immigration status. The driver and passenger, later identified as Mary Helen QUAINANCE, Mary Helen and QUAINANCE, Daniel, both stated they were United States citizens. Agent Lara requested that Agent Ford who had arrived on scene stand by with the lead vehicle as he responded to Agent Portillo's location. Agent Lara believed that the van was involved in the smuggling scheme as it was scene leading the gray Chrysler 300.

Upon arriving at the scene, Agent Ford spoke with Agent Lara. Lara departed the scene to assist Agent Portillo approximately one mile south. Ford requested a stolen vehicle and registry check of the Arizona license plate. The registration check showed that the vehicle was registered to the driver, Mrs. QUAINANCE and the passenger, Mr. QUAINANCE.

Agent Lara arrived at Agent Portillo's location, at which time Agent Portillo briefed him of the situation. Agent Portillo stated that the driver of the Chrysler 300, KRIPNER, refused to give consent to search the vehicle. At this time, Agent Lara conducted a systematic canine sniff of the exterior of the vehicle. Canine Shasja alerted to the trunk area of the gray Chrysler 300. Agent Lara advised Agent Portillo of his findings. Agent Portillo requested that KRIPNER open the trunk of the vehicle. KRIPNER opened the trunk of the vehicle at which time Agent Lara and Portillo discovered three square burlap backpacks of Marijuana. While conducting an inventory of the interior of the vehicle, they found another burlap backpack of Marijuana and a handheld two-way radio set to channel six. These types of radios are only capable of transmitting within short distances.

Agent Michael Leyva arrived at the Agent Ford's location, and a few minutes later Agent Lara advised Ford by radio that they had found marijuana in the Chrysler sedan. Agent Ford then asked Mrs. QUAINANCE to exit the vehicle, secured her with handcuffs and advised her that she was being detained for further investigation of possession of marijuana. Agent Ford then asked Mr. QUAINANCE to exit the vehicle. QUAINANCE did so and then asked if Agent Ford enforced the law. Agent Ford replied that he did and Mr. QUAINANCE said "You are breaking the law, this is a hate crime." Mr. QUAINANCE handed Agent Ford a card identifying himself as a member of a church and told Agent Ford that he was in violation of 22 USC regarding the freedom of religion. Agent Ford told Mr. QUAINANCE to put his hands behind his back and he complied. Agent Ford then secured Mr. QUAINANCE with handcuffs. Mr. QUAINANCE said "You are in violation of 22 USC and I am going to sue you personally". Agent Ford told Mr. QUAINANCE that he should stop talking and that he was being detained. Agent Ford then read Mr. QUAINANCE his Miranda Rights and asked him if he understood. Mr. QUAINANCE said that he understood his rights. Mr. QUAINANCE continued to state about the hate crime and how he was going to sue everyone involved in his detention. Mr. QUAINANCE said "I am the head of my church and I have the right to have that marijuana." Agent Ford told Mr. QUAINANCE that he should stop talking and Mr. QUAINANCE said he wanted to talk. Mr. QUAINANCE continued to state about the hate crime, his religious freedom, and how he was going to sue everybody.

Agent Ford advised Mrs. QUAINANCE, of her Miranda Rights. Mrs. QUAINANCE advised Agent Ford she did not wish to make any statements without a lawyer.

The four bundles were weighed producing a weight of approximately 172 pounds of a green leafy substance. The bundles were also tested producing a positive result for Marijuana.

On arrival of TFC Hernandez re-read KRIPNER his Miranda Rights to which he advised that he fully understood his Miranda Rights and agreed to answer some questions. KRIPNER stated that he knew that the QUAINANCES had deposited some money into an ATM account so that his cousin could rent the Chrysler 300 which KRIPNER was subsequently arrested in. KRIPNER stated that the QUAINANCES had also purchased a cellular telephone for him so that he could use but also

throw away in case they were captured. KRIPNER stated that he was going to get paid to transport the Marijuana back to the QUAINTANCE'S residence in Pima, AZ. KRIPNER admitted to knowing the Marijuana was in the vehicle and stated that he was going to take it back to the QUAINTANCE'S residence in Pima, AZ.

On arrival of TFO Hernandez and Zarate Mr. QUAINTANCE asked through the holding cell door if they TFO's were DEA Agents. TFO Zarate advised Mr. QUAINTANCE that they were and Mr. QUAINTANCE immediately started shouting that they belong to a Cognizance Church and they are allowed to posses and transport Marijuana. Mr. QUAINTANCE stated that the TFOs were in violation of 22 USC which states freedom of religion and that is why they are allowed to have and transport the Marijuana. TFO Hernandez re-read Mr. QUAINTANCE his Miranda rights to which he advised that he wanted to answer some questions. Mr. QUAINTANCE stated that he was not going to admit ownership of the Marijuana but that he is allowed under his church to transport and posses Marijuana. Mr. QUAINTANCE then stated that he wanted a Lawyer. No more questions were asked of Mr. QUAINTANCE. Mr. QUAINTANCE went on to state once more with out any body asking him any questions that everybody was in violation of 22 USC and that everybody had been placed on notice for the Hate Crimes committed against him and his people. Mr. QUAINTANCE stated that the TFOs should look at thee identification cards that his church has issued where it states that they are allowed to transport and posses Marijuana due to freedom of religion and the Supreme Court allowing them the right to do so.

AUSA Clint Johnson authorized federal prosecution of Samuel QUAINTANCE, Mary Helen QUAINTANCE and Timothy KRIPNER.

Task Force Officer