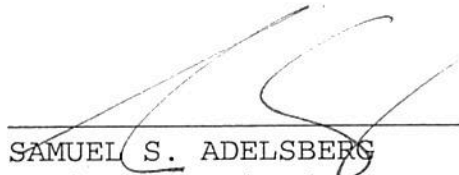


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Approved: 
SAMUEL S. ADELSBERG
Assistant United States Attorney

Before: THE HONORABLE JUDITH C. MCCARTHY
United States Magistrate Judge
Southern District of New York

- - - - - X *18 mag 4741*

UNITED STATES OF AMERICA	:	<u>COMPLAINT</u>
- v. -	:	Violations of
	:	18 U.S.C. §§ 111(a) and
	:	922(g)
HARRY QUINTANA-CRUZ,	:	
ALEJANDRO ORTIZ-CRUZ,	:	COUNTY OF OFFENSE:
	:	WESTCHESTER
Defendants.	:	
- - - - -	:	
	:	X

SOUTHERN DISTRICT OF NEW YORK, ss.:

PAO MEI FISHER, being duly sworn, deposes and says that she is a Special Agent with the Federal Bureau of Investigation, and charges as follows:

COUNT ONE

(Assaulting, Resisting, and Interfering with Arresting Officers)

1. On or about June 1, 2018, in the Southern District of New York, HARRY QUINTANA-CRUZ and ALEJANDRO ORTIZ-CRUZ, the defendants, willfully and knowingly did forcibly assault, resist, oppose, impede, intimidate, and interfere with persons designated in Title 18, United States Code, Section 1114, while such persons were engaged in and on account of the performance of their official duties, to wit, QUINTANA-CRUZ and ORTIZ-CRUZ forcibly assaulted, resisted, and interfered with the arresting Special Agents of the Federal Bureau of Investigation by colliding into their vehicle while evading arrest.

(Title 18, United States Code, Sections 111(a) and 1114.)

COUNT TWO
(Felon in Possession)

2. On or about June 1, 2018, in the Southern District of New York, HARRY QUINTANA-CRUZ, the defendant, after having been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, willfully and knowingly, did possess in and affecting commerce, a firearm, to wit, a Springfield Armory .40 caliber gun, which previously had been shipped and transported in interstate and foreign commerce.

(Title 18, United States Code, Section 922(g)(1).)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

3. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and I have been personally involved in the investigation of this matter. This affidavit is based upon my investigation, my interview with ALEJANDRO ORTIZ-CRUZ, the defendant, my conversations with two Special Agents of the FBI who were hit by a vehicle driven by ORTIZ-CRUZ ("Victim-1" and "Victim-2"), my conversations with a United States Probation Officer ("Probation Officer-1"), my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

4. Based on my review of a various records, my interview with ALEJANDRO ORTIZ-CRUZ, the defendant, and my conversations with Victim-1 and Victim-2, other law enforcement officers, and with Probation Officer-1, I have learned the following:

a. According to Probation Officer-1, HARRY QUINTANA-CRUZ, the defendant, met with Probation Officer-1 and another probation officer ("Probation Officer-2") on or about May 29, 2018 to address issues of non-compliance with the terms of his supervised release.

b. According to Probation Officer-1, at approximately 6:47 AM on or about June 1, 2018, Probation Officer-2 called QUINTANA-CRUZ in an effort to meet with him at

his residence. QUINTANA-CRUZ stated that he was in the Bronx and would meet the officers at his girlfriend's residence ("Residence-1") on Van Cortland Park Avenue in Yonkers, New York.

c. According to Victim-1 and Victim-2 - FBI Special Agents who were positioned outside of Residence-1 the morning of June 1, 2018 - at approximately 7:31 AM, QUINTANA-CRUZ arrived at Residence-1 with his girlfriend and began conversing with Victim-1 and Victim-2. At approximately 7:33 AM, Probation Officer-1 arrived at Residence-1 with two additional probation officers. Upon seeing Probation Officer-1, QUINTANA-CRUZ immediately fled the scene on foot and ignored the verbal commands of multiple law enforcement officers to stop.

d. According to QUINTANA-CRUZ's brother, ALEJANDRO ORTIZ-CRUZ,¹ at around the same time, ORTIZ-CRUZ received numerous phone calls from his brother, QUINTANA-CRUZ. According to ORTIZ-CRUZ, QUINTANA-CRUZ asked ORTIZ-CRUZ to pick him up in ORTIZ-CRUZ's vehicle ("Vehicle-1") at the intersection of Elm Street and Victor Street in Yonkers and to bring him a change of clothing.

e. According to ORTIZ-CRUZ, he picked up his brother, QUINTANA-CRUZ, at the agreed upon location a few minutes later. At some point during this interaction, QUINTANA-CRUZ told ORTIZ-CRUZ, in sum and substance, that the United States Probation Office was about to arrest him for violating the terms of his supervised release because he had previously failed a urine test. The two of them then drove to a motel in Yonkers ("Motel-1") and waited in Motel-1's parking lot for approximately a half hour with Vehicle-1 turned off. During this time period, ORTIZ-CRUZ overheard his brother, QUINTANA-CRUZ, calling two associates and asking them to remove an item from behind the bed in an apartment where he was residing. ORTIZ-CRUZ believed that his brother might have been referring to removing a firearm from his apartment based on his brother's history of owning firearms and of asking associates to remove contraband from his apartment in advance of possible law enforcement searches. While they were still in the parking lot

¹ After ORTIZ-CRUZ was arrested, he was brought to a Yonkers Police Department facility. ORTIZ-CRUZ was advised of his *Miranda* rights, waived those rights, and agreed to speak with law enforcement agents. He was then interviewed by myself and two other law enforcement personnel.

of Motel-1, ORTIZ-CRUZ noticed a marked Yonkers Police Department ("YPD") vehicle pulling up behind his car, Vehicle-1.

f. According to ORTIZ-CRUZ, once QUINTANA-CRUZ observed the YPD vehicle, he reached over from the passenger seat and turned on Vehicle-1's ignition and yelled "Go" to ORTIZ-CRUZ, the driver of Vehicle-1. ORTIZ-CRUZ then drove away and a police chase ensued.

g. According to Victim-1 and Victim-2 - both of whom were in an unmarked FBI car for the duration of the chase - Vehicle-1 drove away from Motel-1 at a high rate of speed and failed to stop despite being pursued by numerous marked and unmarked cars with their emergency lights and sirens activated. During the pursuit, Vehicle-1 continued to travel at a high rate of speed and failed to obey traffic regulations, including driving through red lights, not stopping at "Stop" signs, and driving the wrong way on one-way streets.

h. During my interview with ORTIZ-CRUZ, he stated that even though he heard the sirens of the law enforcement vehicles, he kept driving. ORTIZ-CRUZ, who mentioned that he has experience racing cars, described how he accelerated Vehicle-1 but was still unable to evade the pursuing law enforcement vehicles.

i. According to Victim-1 and Victim-2, after driving a few miles, Vehicle-1 approached two law enforcement vehicles that were blocking the intersection of McLean Avenue and East Sanford Street in Yonkers. Instead of stopping the car, ORTIZ-CRUZ collided with the vehicle driven by Victim-1 ("Vehicle-2"), a Special Agent of the FBI. Vehicle-2, which is owned by the FBI, was damaged as a result of the collision. Vehicle-1 then continued onto the sidewalk and ORTIZ-CRUZ drove for another few blocks before being hit by a YPD vehicle on Forest Avenue in Yonkers, which caused Vehicle-1 to stop. ORTIZ-CRUZ stated that he stayed in Vehicle-1 while QUINTANA-CRUZ exited the vehicle and proceeded to run on foot before being apprehended.

j. I also spoke to law enforcement agents that interviewed QUINTANA-CRUZ's girlfriend after her boyfriend fled the scene on Van Cortland Park Avenue. She confirmed her address on Chestnut Street in Yonkers ("Residence-2"), noted that she was the only person listed on Residence-2's lease, and signed a consent form allowing law enforcement officers to search Residence-2. According to Victim-1, who performed surveillance on QUINTANA-CRUZ earlier in the week, QUINTANA-CRUZ

was observed entering and leaving Residence-2 on or about May 29, 2018.


k. I spoke to law enforcement agents who then performed a search of Residence-2. During the search, the agents found mail addressed to QUINTANA-CRUZ and a New York State identification card for QUINTANA-CRUZ.

l. The agents also found a firearm in a suitcase filled with male clothing ("Firearm-1"). According to ORTIZ-CRUZ, no males other than QUINTANA-CRUZ resided in Residence-2. The recovered firearm is a Springfield Armory .40 caliber gun. In addition, the agents found seven live .40 caliber Smith and Wesson rounds in the magazine of the firearm.

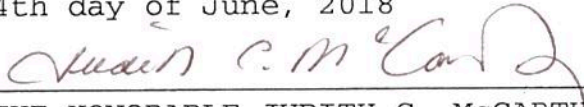
m. I spoke to Victim-1 who communicated with a Special Agent from the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"). The ATF Special Agent is familiar with the manufacturing of firearms and stated that Firearm-1 was not manufactured in New York State.

n. I have reviewed criminal history records pertaining to QUINTANA-CRUZ, which show that QUINTANA-CRUZ has previously been convicted of an offense punishable by imprisonment for more than one year, to wit, a conviction on or about July 17, 2013, in the Southern District of New York for Conspiracy to Distribute and Possess with Intent to Distribute at least 280g of Crack Cocaine and at least 50kg of Marijuana, in violation of 21 U.S.C. § 846 and 21 U.S.C. § 841(b)(1)(B), a class B felony.

WHEREFORE, deponent respectfully requests that HARRY QUINTANA-CRUZ and ALEJANDRO ORTIZ-CRUZ, the defendants, be imprisoned or bailed, as the case may be.


SPECIAL AGENT PAO MEI FISHER
Special Agent
Federal Bureau of Investigation

Sworn to before me this
4th day of June, 2018


THE HONORABLE JUDITH C. MCCARTHY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK