

LODGED CLERK, U.S. DISTRICT COURT
11/13/2020
CENTRAL DISTRICT OF CALIFORNIA BY: <u>DM</u> DEPUTY

UNITED STATES DISTRICT COURT

FILED CLERK, U.S. DISTRICT COURT
November 13, 2020
CENTRAL DISTRICT OF CALIFORNIA BY: <u>IM</u> DEPUTY

United States of America

v.

ARMANDO GARCIA,

Defendant(s)

Case No. 2:20-mj-05538

**CRIMINAL COMPLAINT BY TELEPHONE
OR OTHER RELIABLE ELECTRONIC MEANS**

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 November 9, 2020 in the county of Los Angeles in the Central District of California, the defendant(s) violated:

Code Section

18 U.S.C. § 641

Offense Description

Theft of United States Government Property

This criminal complaint is based on these facts:

Please see attached affidavit.

Continued on the attached sheet.

Complainant's signature

Joseph E. Talamantez, FBI Special Agent*Printed name and title*

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone.

Date:

November 13, 2020

*Patricia Donahue**Judge's signature*City and state: Los Angeles, California

Hon. Patricia Donahue, U.S. Magistrate Judge*Printed name and title*

AFFIDAVIT

I, Joseph E. Talamantez, being duly sworn, declare and state as follows:

I. PURPOSE OF AFFIDAVIT

1. This affidavit is made in support of a criminal complaint and arrest warrant against ARMANDO GARCIA ("GARCIA") for violation of 18 U.S.C. § 641 (Theft of United States Government Property).

2. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from various law enforcement personnel and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested complaint and arrest warrant and does not purport to set forth all of my knowledge of or investigation into this matter. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only.

II. BACKGROUND OF AGENT

3. I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI"), United States Department of Justice, and have been so employed since August 24, 2003. As an FBI SA, I have received training on a multitude of federal offenses at the FBI Academy and other law enforcement training venues. I received a Bachelor of Science Degree in Computer Science, with a concentration in software engineering and algorithm design, from Trinity University in San Antonio, Texas. As an FBI SA, my

duties include the investigation of federal criminal violations. I am currently assigned to the Los Angeles Division, West Covina Resident Agency, of the FBI. During my employment with the FBI, I have participated in investigations involving individuals illegally possessing narcotics and/or firearms, the illegal distribution of narcotics, acts of public corruption, money laundering and structuring, and violations of immigration laws. I have also participated in investigations involving the theft of government property, including investigations into stolen/lost government tracking devices, police cars, law enforcement badges/credentials, and laptops containing classified information.

4. Since 2008, I have been assigned to the San Gabriel Valley Safe Streets Gang Task Force ("SSTF"). The SSTF is currently comprised of law enforcement personnel from the FBI, Pomona Police Department, Drug Enforcement Administration, Los Angeles County Sheriff's Department, the El Monte Police Department, and the California Department of Corrections and Rehabilitation. The primary mission of the SSTF is to investigate violations of federal law by gang members and narcotics dealers. The SSTF also investigates violent serial offenders, violent fugitives, illegal weapons, and the illegal distribution, manufacturing, trafficking, and the possession and sales of controlled substances. Part of the mission of the SSTF is to assist other federal, state, or local law enforcement agencies within the San Gabriel Valley with investigations of gang members, narcotics trafficking, violent crime, or

violations of federal law. In 2010, I became the lead investigator for the SSTF. In this assignment, my duties include supervising all investigations being conducted by the SSTF.

III. SUMMARY OF PROBABLE CAUSE

5. At approximately 12:01 p.m. on November 9, 2020, in a residential area in Pomona, California, Pomona Police Department ("PPD") Officer Chavez attempted to initiate a traffic stop of a militarized High Mobility Multipurpose Wheeled Vehicle ("Humvee") M1151 A1 semi-armored combat vehicle, with a turret mount, that had no license plates displayed. Instead of stopping, the Humvee continued driving, and the PPD initiated pursuit. During the pursuit, which lasted approximately four minutes, the Humvee traveled at excessive speeds, drove on the wrong side of the street (in the direction of oncoming traffic), failed to stop at multiple red lights and stops signs, and failed to signal for turns. The driver of the Humvee, later identified as GARCIA, stopped the Humvee in front of a residence on East Kingsley Avenue in Pomona, and got out of the car. PPD officers arrested GARCIA without further incident.

6. PPD officers searched the Humvee, which had the identifier "A34" painted on the front and rear bumpers and bore serial number 802907. In the Humvee, the officers found a large pair of bolt cutters and an Army-approved 52-series padlock, which appeared to have been cut. The padlock had secured a steel mesh wire used to prevent the steering wheel from turning.

Because GARCIA is on active state parole for a 2019 conviction for burglary and theft, he is presently on a state parole hold.

7. The Humvee was taken without authorization from the United States Army Reserve Center (the "Reserve Center") in Upland, California, approximately six and a half miles from where PPD attempted to initiate a traffic stop of GARCIA. On that same day, Sergeant First Class Wittekind, who oversees the Reserve Center's vehicle fleet, had been at the Reserve Center from about 9:00 a.m. to 11:00 a.m. Upon his arrival, he conducted a visual inspection of the motor pool lot and did not notice that any vehicles were missing. At about 12:23 p.m., Sergeant Wittekind received a phone call from Sergeant Myers, alerting him that one of their Humvees had been found in Pomona and possibly stolen. Sergeant Wittekind returned to the Reserve Center and saw that the Humvee from stall A-34 was missing.

8. Sergeant Wittekind confirmed that no Humvees, including the Humvee designated for stall A-34, were authorized to leave the Reserve Center that day. Army personnel confirmed that GARCIA is not military personnel and that he was not authorized to be on the Reserve Center or to take any vehicles. Supervisory Staff Administrator Flores valued the Humvee at over \$200,000. A review of surveillance videos showed the Humvee leaving the Reserve Center at approximately 11:33 a.m. that day, or less than 30 minutes before PPD officers saw GARCIA driving the Humvee in the residential area in Pomona.

IV. STATEMENT OF PROBABLE CAUSE

9. Based on my review of law enforcement reports and video footage from security cameras, police body worn cameras, and police mobile audio and video cameras, conversations with other law enforcement agents, and my own involvement in and knowledge of this investigation, I am aware of the following:

A. Pomona Police Department Officers Attempt to Initiate a Traffic Stop of a Militarized Humvee and a Pursuit Ensues

10. At approximately 12:01 p.m. on November 9, 2020, in Pomona, California, PPD Officer Chavez saw a Humvee that appeared militarized, with a turret mount, driving through a narrow alley on Abbey Lane and Karesh Avenue. This is a residential area of Pomona with single-family residences and apartments. Officer Chavez noticed that the military Humvee appeared out of place and did not have any license plates.

11. Officer Chavez attempted to conduct a traffic stop by activating his overhead lights and sirens. The driver, later identified as GARCIA, did not stop. GARCIA continued driving on Kingsley Avenue, and Officer Chavez pursued.

12. During the pursuit, which lasted approximately four minutes, GARCIA continually traveled at excessive speeds, drove on the wrong side of the street (in the direction of oncoming traffic), failed to stop at multiple red lights and stops signs, and failed to signal for turns, all while driving the Humvee through several narrow alleys. GARCIA turned onto Kingsley Avenue, turned left into an alley, then turned left onto Mindo Street, without signaling. GARCIA turned the Humvee onto East

End Avenue, traveling on the wrong side of the street (in the direction of oncoming traffic), before he turned onto Pasadena Street. From Pasadena Street, GARCIA turned into the narrow west alley of Karesh Avenue, traveling at speeds up to 42 miles per hour, before turning onto Kingsley Avenue without signaling. GARCIA then turned again onto Karesh Avenue, again without signaling and without stopping at a stop sign. GARCIA drove at speeds up to 50 miles per hour traveling northbound in southbound lanes (in the direction of oncoming traffic). GARCIA then turned left onto Lincoln Avenue (without signaling) and traveled westbound in the eastbound lanes at speeds up to 47 miles per hour. GARCIA ran the stop sign at Sheridan Avenue at speeds of 53 miles per hour before turning left onto Washington Avenue. GARCIA drove southbound in the northbound lanes (yet again in the direction of oncoming traffic) at speeds up to 39 miles per hour. GARCIA ran the stop sign at Columbia Avenue and then ran a red light at Kingsley Avenue, before turning and continuing at speeds up to 40 miles per hour. GARCIA made a left-hand turn on a solid red light onto San Antonio Avenue, traveling southbound in the northbound lanes before turning onto Reeves Place without signaling. GARCIA then turned into a residential alley, reaching speeds up to 35 miles per hour. GARCIA turned back onto San Antonio Avenue and traveled northbound in the southbound lanes.

13. GARCIA then turned onto Kingsley Avenue where he stopped the Humvee in front of the residence on Kingsley Avenue. GARCIA got out of the Humvee and appeared to be wearing a black

hoodie and orange safety vest (commonly worn by construction workers), with his arms raised. PPD officers arrested GARCIA without further incident.

14. PPD officers searched the Humvee, which had the identifier "A34" painted on the front and rear bumpers and bore serial number 802907. Inside the Humvee, PPD officers found a large pair of bolt cutters and an Army-approved 52-series padlock which appeared to have been cut. The padlock had secured a steel mesh wire running from a bolt on the floor to the steering wheel and acted to prevent the steering wheel from turning. PPD officers also found a "Master" padlock that appeared to have been pried open.

B. GARCIA's Statements

15. GARCIA was transported to the Pomona City Jail. Officer Chavez gave GARCIA the Miranda advisements, which GARCIA acknowledged. GARCIA told Officer Chavez that he had seen an older Asian male, approximately 70 years old, with the Humvee in the area of Holt Avenue and Indian Hill Boulevard. GARCIA claimed that he asked the Asian male if he could buy the Humvee for \$15,000. GARCIA stated that the older Asian male gave him the Humvee without paperwork.

C. The U.S. Army Reserve Center Confirms the Humvee Was Stolen

16. Law enforcement determined that the Humvee had been taken from the United States Army Reserve Center on East 7th Street in Upland, California.

17. That same day, at approximately 1:20 p.m., Upland Police Department Officer Clesceri interviewed United States Army Sergeants First Class Wittekind and Myers. Sergeant Wittekind advised Officer Clesceri of the following:

a. Sergeant Wittekind arrived at the Reserve Center at approximately 9:00 a.m. that day. Sergeant Wittekind visually inspected the vehicle fleet at the motor pool lot and did not notice any vehicles missing. Sergeant Wittekind left the Reserve Center at approximately 11:00 a.m.

b. At approximately 12:33 p.m., Sergeant Wittekind received a phone call from Sergeant Myers, who advised him that one of their Humvees had been found and possibly stolen. Sergeant Wittekind returned to the Reserve Center and, upon inspecting the fleet, he saw that a tan Humvee M1151 A1, semi-armored combat training vehicle, with a turret mount, was missing from stall A-34 of the motor pool lot. Sergeant Wittekind walked the perimeter gate but did not locate any signs of forced entry.

c. The vehicles have a chain linked to a rubber wheel chock on the outer driver's side and a padlock under the steering column. The vehicles are started by a hidden switch on the passenger side. The only item left behind in stall A-34 was the wheel chock.

d. The Humvee that had been taken from stall A-34 was valued at approximately \$150,000.

18. On November 12, 2020, FBI SA Melissa Whalen and I spoke with Sergeants Wittekind and Meyers at the Reserve Center.

Sergeant Wittekind advised that he is tasked with approving the use of the Humvees. If approved, Sergeant Wittekind will issue a written authorization, with which the driver must travel while he/she is utilizing the Humvee. Sergeant Wittekind confirmed that, on November 9, 2020, no authorization was given to anyone for the use of any of the Humvees, including the Humvee with serial number 802907 that was assigned to stall A-34. No Humvees were approved to be driven or to leave the Reserve Center.

19. Sergeant Wittekind was shown a photograph taken from a surveillance video (with a timestamp of November 9, 2020, at 11:34:00 a.m.) depicting a Humvee about to leave through the entry/exit gate of the Reserve Center on 7th Street. Sergeant Wittekind stated that no individual had permission to use any Humvee from the Reserve Center at that time.

20. Sergeants Wittekind and Meyers were shown a photograph, with biographical information omitted, of GARCIA. Sergeants Wittekind and Meyers stated they did not recognize GARCIA and that GARCIA did not have permission to utilize any of the vehicles at the Reserve Center, including the Humvee with serial number 802907 assigned to stall A-34.

21. SA Whalen and I spoke with Supervisory Staff Administrator ("SSA") Flores. Using identifying information for GARCIA, SSA Flores searched the Unit Manning Roster for the base. SSA Flores advised that there was no record of GARCIA being a soldier assigned to the United States Army Reserve Center, or any other United States Army Base.

22. SSA Flores stated that the Reserve Center is part of the United States Military and constitutes federal property.

SSA Flores further stated that the Humvee with serial number 802907 is property of the United States government.

23. A further review of Army records provided by SSA Flores revealed that the Humvee taken from stall A-34 was valued at approximately \$213,578.

D. Surveillance Video of the Reserve Center

24. I reviewed surveillance video from a security camera belonging to a commercial building across the street from the Reserve Center. The camera was pointed towards the Reserve Center's only entrance and exit gate, which is located on 7th Street. In the video, at approximately 11:29 a.m. on November 9, 2020, the Humvee is seen attempting to make a right-hand turn out of the motor pool lot and onto a path on the Reserve Center that leads to the entry/exit gate. It took the Humvee at least five attempts before it successfully completed the right-hand turn out of the motor pool lot.¹ At approximately 11:34 a.m., the Humvee is seen driving down the path towards the entry/exit gate leading out onto 7th Street, a two-lane road. The Humvee is seen making three attempts to complete a left-hand turn into the far lane of 7th Street before it drove westbound down 7th Street.²

¹ The Humvee can be seen driving forward, reversing, and driving forward again multiple times before it is able to clear the right-hand turn. This lasted approximately three minutes.

² The Humvee can be seen inching out perpendicular to both lanes of traffic, then reversing back toward the gate to allow

E. Additional Investigation of GARCIA

22. According to California Department of Corrections and Rehabilitation ("CDCR") records, as of November 9, 2020, GARCIA was on active state parole for a conviction on or about April 30, 2019 for burglary and theft in the Superior Court for the State of California, County of Los Angeles (Pomona), Case Number KA120871³, with search and seizure conditions. According to SSTF Task Force Officer Rene Ramos, the CDCR records also identify GARCIA as a member of the Southside gang. From reviewing computerized PPD Field Interview ("FI") cards, I learned that during two separate contacts with PPD officers (one on September 8, 2008 and one on April 2, 2009), GARCIA admitted that he was a Pomona 12th Street Sharkies associate, with a moniker of "Dice" or "Mando," but stated that he no longer associated with the gang.

25. A query of GARCIA through the Los Angeles Sheriff's Department database revealed that GARCIA had approximately 32 arrests in Los Angeles County from June 6, 2007 through November 9, 2020 (the date of the instant offense). I reviewed GARCIA's criminal history records and learned that he has at least 15

oncoming traffic to pass, then inching forward again towards the far lane (causing an oncoming car to stop and wait), and finally reversing once more before straightening the Humvee into the far lane and driving off. This lasted approximately one minute.

³ I also reviewed the associated Pomona Police Department Report 19-047507. From reviewing the arrest report, I learned that GARCIA was arrested for tampering with a marked black and white police motorcycle from the PPD. GARCIA broke a side compartment and stole a PPD-issued tourniquet and an electronic device utilized to gain entrance to the PPD station. GARCIA also damaged the RADAR holder on the motorcycle as well as the buffer tube and back plate of the patrol rifle secured to the motorcycle.

prior criminal convictions, including felony convictions for taking a vehicle without consent (2013), auto theft with prior and evading a peace officer (2014), obstructing/resisting executive officer (2018), and burglary (2019). GARCIA also has a number of misdemeanor convictions, including for burglary (2009), vandalism (2009), battery of a spouse/partner (2011), trespassing (2014 and 2015), and drug-related offenses (2013 and 2014).

V. CONCLUSION

23. For all the reasons described above, there is probable cause to believe that GARCIA has committed a violation of Title 18, United States Code, Section 641 (Theft of United States Government Property).

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone on this 13th day of November, 2020.



HONORABLE PATRICIA DONAHUE
UNITED STATES MAGISTRATE JUDGE