

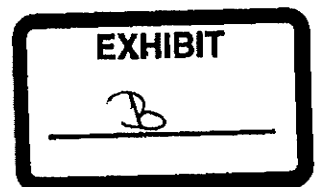
AFFIDAVIT OF JUANITA FIELDEN

On this day personally appeared Juanita Fielden, who after having been duly sworn, stated upon oath, the following:

“My name is Juanita Fielden. At all times encompassed by the following statement I was an Assistant United States Attorney assigned to the Organized Crime Drug Enforcement Task Force (OCDETF) in El Paso, Texas. I am over the age of twenty-one (21) and competent to make this statement under oath. I am familiar with the allegations set forth in the Second Amended Complaint filed in the above-referenced matter. I have personal knowledge of the facts and matters stated herein. The facts and matters set forth herein are true and correct to the best of my knowledge.

In 2003, I was the Assistant United States Attorney assigned to an joint Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI) and Immigration and Customs Enforcement (ICE) initiative, Operation Sky High, which targeted high-level drug traffickers in Mexico. Each agency conducted a separate OCDETF investigation, but assisted the other agencies in their investigation. DEA agents stationed in Juarez, Mexico worked closely with both the El Paso DEA and ICE. The FBI investigation resulted in the indictment of Juan Esparragosa-Moreno, known as the “Godfather” of Mexican drug traffickers, and several members of his organization. The ICE investigation resulted in the indictment of Heriberto Santillan-Tabares, a high-level member of the Vincente Carrillo-Fuentes drug trafficking organization, based in Ciudad Juarez, Mexico, as well as several other members of that organization. The DEA investigation, under the leadership of then Special Agent in Charge Sandalio Gonzalez, was much less successful and resulted only in the indictment of a low-level transportation organization based in El Paso.

As the prosecutor on the ICE investigation, I was consulted on various aspects of the investigation, supported the investigation by obtaining authorization for the wire interceptions, discussed options for prosecution, obtained the indictment and the Department of Justice’s (DOJ) portion of the lure approval. Immigration and Customs Enforcement managers supervised the investigation. Prior to the evening of January 14, 2004 I neither had access to, nor met with nor interviewed the informant. At no time during this or any other investigation, did I directly or indirectly supervise the informant or intercede with I.C.E. management in any aspect of the investigation.



As part of my duties, I prepared both the Indictment and the Superceding Indictment in Cause Number EP-03-CR-2291, styled United States of America vs. Heriberto Santillan Tabares, et al., and therefore I am familiar with the charges. Count Eight of the Superceding Indictment alleges that "On or about August 5, 2003 . . . Heriberto Santillan-Tabares . . . while engaging in and working in furtherance of Count Seven (Continuing Criminal Enterprise) . . . intentionally killed and counseled, commanded, induced procured and cause the intentional killing of Fernando Reyes and such killing resulted, and did aid, abet and assist others in the commission of such offense (citations omitted). Count Eleven of the Superceding Indictment alleges that "On or about January 14, 2004 . . . Heriberto Santillan-Tabares . . . while engaging in and working in furtherance of Count Seven (Continuing Criminal Enterprise) . . . intentionally killed and counseled, commanded, induced procured and cause the intentional killing of Luis Padilla and such killing resulted, and did aid, abet and assist others in the commission of such offense (citations omitted). The indictment does not, as alleged in Plaintiffs' Second Complaint, state that "the informant and the cartel" killed and counseled, commanded, induced procured and cause the intentional killing of Luis Padilla and Fernando Reyes.

On the evening of June 28, 2003, I was contacted by ICE group supervisor ("GS") Todd Johnson who advised me that a confidential informant (Eduardo Ramirez-Peyro, hereinafter referred to as "the informant") had been stopped at a U.S. Border Patrol checkpoint in Las Cruces, New Mexico in possession of approximately 100 pounds of marijuana which was concealed in his vehicle. This was unauthorized criminal activity on the part of the informant. The informant was arrested by Las Cruces, New Mexico DEA Special Agent Mike Garcia and the case was referred to the State prosecutor. The next week, a meeting was held at the United States Attorney's Office regarding the ramification of the informant's arrest. Attending this meeting were members of ICE management (ASAC Fred Schroeder, GS Todd Johnson and GS Curtis Compton) and AUSAs Margaret Leachman, Jose Luis Gonzales and me. After a lengthy discussion, the consensus was that if the informant was closely monitored he could continue to be effective and provide significant information on both the El Paso investigations, as well as an ongoing Chicago investigation. The ICE agents indicated that, pursuant to ICE policy, they would attempt to get the approval of the Special Agent in Charge (at the time it was an Acting SAC) to continue to use the informant. If the agents obtained approval to continue to utilize the informant, I would call the State prosecutor in New Mexico and ask that they suspend prosecution based upon the informant's continued cooperation. GS Todd Johnson called me later

and said that he had obtained the Acting SAC's approval to continue to use the informant. I then called the State prosecutor who agreed to defer prosecution as long as the informant cooperated. The State charge was eventually dropped in December of 2003, at my request.

On July 25, 2003, United States District Judge for the Western District of Texas Phillip Martinez signed an order authorizing an anticipatory interception of a cellular telephone (915-892-8888) which was to be given to Santillan-Tabares by the informant. The court was notified of the informant's arrest at that time.

I first learned of the murder committed on August 5, 2003, when I was contacted at home in the evening hours by ICE GS Curtis Compton who advised me that a murder had taken place in Juarez, Chihuahua, Mexico in which Santillan-Tabares was involved. The incident had been recorded by the informant. I, in turn, contacted my supervisor, Assistant United States Attorney Margaret Leachman. She later told me that she had advised Richard Durbin, Chief of the Criminal Division for the Western District of Texas, of the incident. The next morning I spoke with my OCDETF advisor, Greg Surovic, and told him of the incident. It was some time later that I learned that the individual murdered was identified as Fernando Reyes.

On or about August 25, 2003, I was provided ICE memo prepared by SA Luis Garcia which detailed an August 6, 2003 interview of the informant wherein he discussed the events surrounding the murder of Fernando Reyes on August 5, 2003. The informant stated he feared for his life during this event. It was my understanding, that beginning immediately after the murder and continuing until August 21, 2003, Santillan-Tabares was in the interior of Mexico. I am aware from conversations with the ICE agents that the El Paso I.C.E. agents notified ICE management in Washington, D.C. and Mexico City, Mexico of the murder which occurred on August 5, 2005, and that I.C.E. management in El Paso and in Washington, D.C. approved the continued use of the informant and the continued investigation of Santillan-Tabares. I neither took part in those notifications nor participated in the interview of the informant regarding the murder or subsequent events. I definitely did not have prior knowledge that a murder was going to occur on that or any other date.

On September 4, 2003, United States District Judge Phillip Martinez, signed an order authorizing the continued interception of a cellular telephone (915-892-8888). The affidavit for the continued wire interception discussed the

murder of Fernando Reyes on August 5, 2003. This affidavit was prepared by ICE Special Agent David Ortiz, reviewed and approved by his chain-of-command, reviewed by me and the Office of Enforcement Operations Attorney Nancy Brinkac and her supervisor and then approved by Deputy Assistant Attorney General, John G. Malcolm.

In late September 2003, the investigation revealed that Santillan-Tabares had again traveled to the interior of Mexico where he remained for several weeks, returning to Juarez, Mexico sometime in mid-November 2003. During this time, I began preparing a grand jury indictment of Santillan-Tabares and five other defendants for a March 2003 cocaine transaction. On December 10, 2003 a Federal Grand Jury in El Paso, Texas returned the indictment.

On January 14, 2004, I was called at home by ICE GS Compton who requested that I come to the ICE office because of an incident that had occurred in Juarez, Mexico that day. I notified AUSA Leachman and then went to the ICE office where I met with ICE agents, their ASAC Patty Kramer, the Juarez DEA agents and an El Paso DEA Crisis Management Team. I then sat in on a meeting with these individuals and the informant. This is the first time I had met or spoken to the informant. Immediately after this meeting, the DEA agents, the ICE agents and I reviewed the taped conversations from January 14, 2004 between the informant and Santillan. The DEA agents and the DEA Assistant Country Attache for Mexico were provided a copy of those tapes at a meeting which I attended on either January 15 or 16, 2004.

Pursuant to Department of Justice policy, in order to lure an individual from Mexico into the United States to arrest him, authorization must be obtained from the Department of Justice (DOJ) - Office of International Affairs (OIA), after the agency has obtained approval from the ranking U.S. official in Mexico. I finally obtained DOJ OIA authorization on January 15, 2004. After obtaining DOJ OIA approval, Heriberto Santilan-Tabares was arrested in the United States on the December 2003 indictment.

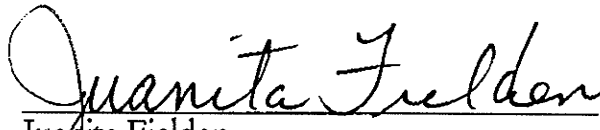
On January 28 and 29, 2004 I interviewed the informant. This was the first time I became aware the informant had any involvement in any murders, other than the August 5, 2003 murder.

With respect to the rules or policies concerning the use of confidential informants, I reviewed the Attorney General's 2002 Confidential Informant Guidelines, specifically, Section IV(B) - Notification of Unauthorized Illegal Activity. However, the final decision to continue to operate this particular

informant, after his arrest in June 2003, was made by the ICE Acting SAC, pursuant to ICE guidelines. As stated previously, the ICE El Paso SAC, as well as ICE management in Washington, D.C., authorized agents to proceed with the investigation after the August 5, 2003 murder.

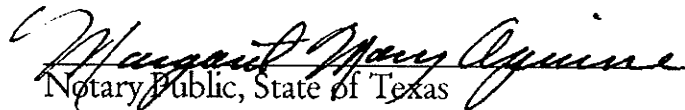
At all times, I acted in my professional capacity and in accordance with Department of Justice guidelines. I consulted with my superiors and sought their advice whenever I was made aware of any problems in the investigation."

Further affiant sayth not.

  
Juanita Fielden

SUBSCRIBED and SWORN TO before me by the said Juanita Fielden, Affiant, on this the 13th day of April, 2007.



  
Notary Public, State of Texas