

CLIENT COPY

**United States Court of Appeals
for the Fifth Circuit**

No. 22-11007

United States Court of Appeals

Fifth Circuit

FILED

February 26, 2024

UNITED STATES OF AMERICA,

Lyle W. Cayce
Clerk

Plaintiff—Appellee,

versus

ANDREW OCANAS GARZA,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:21-CR-120-1

Before JOLLY, ENGELHARDT, and OLDHAM, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and was argued by counsel.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

The judgment or mandate of this court shall issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion

CLIENT COPY

for stay of mandate, whichever is later. *See FED. R. APP. P. 41(b).* The court may shorten or extend the time by order. *See 5TH CIR. R. 41 I.O.P.*

CLIENT COPY

No. 22-11007

I. FACTUAL AND PROCEDURAL BACKGROUND**A. Relevant Factual Background**

Garza has a long history of drug and violent offences, including involvement as a high-volume distributor of black-market marijuana. The DEA obtained a warrant to search Garza's home after several months of observing behavior consistent with continued black-market participation during the summer of 2021. They executed that warrant on September 16, 2021. Officers arrived, saw Garza backing his truck into his driveway, and immediately ordered him to exit the vehicle and surrender peaceably, which he did. While prone and handcuffed, Garza informed officers that his wife, Cassandra Ortiz, was inside the house, in response to being asked if there was anyone within. As some officers helped Garza off the ground, others surrounded the house and trained their pistols and rifles on it.

When asked to hand over his keys, Garza responded that the house was unlocked, that his dogs were inside, and said "don't kill my dogs this time." Officers moved Garza away from the house and called Ortiz several times, but she never answered. Garza re-urged his concerns for his dogs, saying that "last time" his dogs were killed and that he currently owned two pit bulls and a shih tzu. Officers spotted movement in a window and confirmed that the dogs, not Ortiz, were the movement's source. When first asked whether any guns were inside the house that Ortiz could access for the first time, Garza said no.

Officers then took Garza to the front door, flanked by the breach team and other officers who had their weapons trained on the house's doors and windows. Officers then asked Garza whether Ortiz could secure the dogs, to which he responded yes and warned that the dogs could become aggressive upon seeing the officers. Officers then knocked on the door, Ortiz answered, and both she and Garza were taken to the side of the house. Ortiz told the

CLIENT COPY

No. 22-11007

officers that the big dogs were in the backyard, the small dog was inside, and no one else was in the home.

As the breach team entered the house, Garza was again asked if there was a firearm in the home by a DEA agent on scene. This time, Garza responded in the affirmative: there was a small firearm in the master bedroom. The agent Garza informed relayed that information to the breach team, and they spotted a pistol on a dresser in the master bedroom during the secondary safety sweep. The house secured, the search team moved in and found approximately 1.75kg of marijuana in vacuum-sealed bags, a drug ledger resembling one seized from Garza in a prior investigation, over \$80,000 in cash, and a .32 caliber pistol.

B. Relevant Procedural Background

A grand jury charged Garza with four counts: (1) conspiracy to possess with intent to distribute and to distribute marijuana, (2) possession with intent to distribute marijuana, (3) possession of a firearm in furtherance of a drug-trafficking crime, and (4) unlawful possession of a firearm by a felon. Garza moved pretrial to suppress the Bedroom Gun statement, which the government conceded was made un-Mirandized but asserted fell within the public safety exemption. The District Court issued a thorough opinion where it ultimately denied Garza's motion, holding that the statement fell within the public safety exemption.

Garza went to trial on all four counts. During trial, the defense affirmatively elicited the very statement it attempted to suppress when cross-examining Sgt. Macias in front of the jury:

Q: You're aware, right as the entry team was coming in, they did get word that, oh, yeah, there was some firearm on a dresser. Right?

A: I was made aware of that at the suppression hearing, yes, sir.

CLIENT COPY

No. 22-11007

Q: So at some point, you're aware that Mr. Garza did tell officers, oh, yeah, there's something in there. Right?

A: I don't have firsthand knowledge of that.

Q: You don't?

A: No sir.

Q: But you learned that at a previous hearing that was – that's what some officer testified to?

A: That's correct.

Before this, the Bedroom Gun statement had *not* been brought into the trial; it was Garza who opened the door to it by discussing it first. The jury ultimately returned a split verdict: guilty on all counts save count 3.

Onward to sentencing. Garza's PSR noted two 2016 final federal convictions from New Mexico for conspiracy to possess with intent to distribute at least 50kg of marijuana. This led to an advisory guideline range of 188–235 months after accounting for the consequent felony drug offence enhancement. Garza objected, arguing that his 2016 federal convictions did not qualify as felony drug offenses because the AIA included hemp in the definition of marijuana at the time he was convicted, but was removed after the AIA's 2018 amendments were enacted. According to Garza, the AIA's 2018 amendment excluding hemp meant that using the pre-amendment definition of marijuana (which *did not* exclude hemp) couldn't qualify as a "felony drug offense" at the time of sentencing.

The government responded that, while this circuit had yet to speak on this specific issue, sister courts of appeal that had reviewed it rejected Garza's approach. Garza conceded that no courts of appeal accepted his argument at this time but blamed it on failures to preserve the issue. The District Court disagreed with Garza, noting that its reading of the law revealed that other courts of appeal addressed the issue without relying on

CLIENT COPY

No. 22-11007

plain error analyses. Overruling Garza's objection, the District Court agreed with the PSR's recommended range of 188–235 months.

The District Court then moved on to Garza's sentencing factors. It began with his repeated drug-dealing activity concerning tens of kilograms of black-market marijuana, refusal to accept responsibility, and a pretrial finding that Garza directed a relative to confront a cooperating witness (which he/she did) then post a picture of the witness on Facebook to identify him/her as a "snitch." This conduct was, to the District Court, "completely inexcusable [and] an affront to the dignity of this Court and to the rule of law." It then considered Garza's (very extensive) criminal history, including the above-mentioned felony drug convictions, evading arrest, assault, possession of between two to four hundred pounds of cocaine, possession of between two to four hundred pounds of meth, associated criminal conspiracy charges, and revocation of supervised release. The District Court concluded that it was clear that Garza was "going to do what [he] want[ed] to do regardless of what the law says."

The District Court then sentenced Garza to 235 months, applying the felony drug offense enhancement while doing so. It then explained that, even if the felony drug offense enhancement did not apply, it would have exercised its discretion to impose the same sentence by fully stacking the first two guilty counts (both of which possess a 60-month statutory max if the felony drug enhancement does not apply) and partially stacking the third (which possesses a 120-month statutory max) to reach the same 235-month sentence imposed. Garza timely appealed.

CLIENT COPY

No. 22-11007

II. DISCUSSION**A. Garza Invited Error by Affirmatively Injecting the Bedroom Gun Statement into Trial in Front of the Jury.**

Normally, pretrial motions to suppress preserve a defendant's exclusion arguments, so that the defendant need not reassert those arguments at trial. *See, e.g., United States v. Cruz*, 581 F.2d 535, 542 (5th Cir. 1978) (en banc), *overruled on other grounds by United States v. Causey*, 834 F.2d 1179, 1184 (5th Cir. 1987) (en banc); *see also United States v. Ahedo*, 453 F. App'x 544, 547 (5th Cir. 2011). Indeed, a defendant who moves for pretrial suppression can engage that evidence at trial when it is admitted and do "his best to turn that evidence to his favor" without risking waiver. *Cruz*, 581 F.2d at 542 (5th Cir. 1978). But an exception exists.

The Supreme Court notes that "th[is] rule is one of practice and is not without exceptions, nor is it to be applied as a hard-and-fast formula to every case regardless of its special circumstances." *Lawn v. United States*, 355 U.S. 339, 353 (1958). In *Lawn*, the Supreme Court held that the defendant waived the issues he raised in a denied pretrial motion to suppress by making use of the arguably objectionable evidence at trial. *Id.* at 353–55. *See also, e.g., United States v. Davis*, 487 F.2d 112, 121 (5th Cir. 1973) ("Reference to or use by a defendant of an erroneously admitted line of evidence ordinarily cures or waives error.").

This is not a case where the government introduced Garza's complained-of statement and he did his "best to turn that evidence to his favor." *Cruz*, 581 F.2d at 542. Indeed, the government did *not* discuss the Bedroom Gun statement with the agent to whom Garza uttered it when he was tendered as a witness. Instead, the jury heard *nothing* about the Bedroom Gun statement before Garza's counsel brought it up during Sgt. Macias's cross examination, even doing so over Sgt. Macias's warning that he lacked firsthand knowledge.

CLIENT COPY

No. 22-11007

Garza's affirmative, unprompted injection of the Bedroom Gun statement by drawing it out of Sgt. Macias in the jury's presence opened the door to its use at trial; Garza cannot complain of this "invited error." See *United States v. Green*, 272 F.3d 748, 754 & n.19 (5th Cir. 2001) (observing that "[t]he doctrine of invited error provides that 'when injection of inadmissible evidence is attributable to the actions of the defense, the defense cannot later object to such "invited error."'"') (quoting *United States v. Raymer*, 876 F.2d 383, 388 (5th Cir. 1989))). Put more broadly, Garza's unprompted, affirmative introduction of the Bedroom Gun statement into a trial where it had not appeared is inconsistent with a belief that it should not have been before the jury. See *Berghuis v. Thompkins*, 560 U.S. 370, 385 (2010) ("As a general proposition, the law can presume that an individual who, with a full understanding of his or her rights, acts in a manner inconsistent with their exercise has made a deliberate choice to relinquish the protection those rights afford."); *see also Hemphill v. New York*, 595 U.S. 140, 157 (2022) (Alito, J., concurring) (observing defendants can waive a right when they "engage[] in a course of conduct that is incompatible with a demand" to enforce that right). Garza thus waived this issue through invited error.¹

¹ Even if Garza did not waive this issue through invited error, the District Court's comprehensive opinion denying Garza's motion to suppress the Bedroom Gun statement under the public safety exception was correct.

CLIENT COPY

No. 22-11007

B. The District Court Correctly Applied the Felony Drug Offense Enhancement to Garza's Sentence.

The District Court, lacking binding guidance, implemented the “backward-looking” test that three of our sister circuits employ when evaluating whether a prior drug offense qualifies for the felony drug offense sentencing enhancement. *See United States v. Diaz*, 838 F.3d 968 (9th Cir. 2016); *United States v. Santillan*, 944 F.3d 731 (8th Cir. 2019); and *United States v. Brown*, 47 F.4th 147 (3d Cir. 2022). The key inquires for that test as applied here are whether Garza’s 2016 drug offenses were (1) felonious at the time Garza was convicted for them and (2) final at the time he was being sentenced for the crimes at issue. *See id.* They undisputedly were, so the District Court applied the enhancement. It did so correctly.

21 U.S.C. § 841(b)(1)(D) (the statute Garza was convicted under) provides that, if a person commits an offense involving less than 50kg of marijuana “after a prior conviction for a felony drug offense has become final,” the maximum punishment doubles to ten years. 21 U.S.C. 802(44) defines “felony drug offense” as “an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, anabolic steroids, or depressant or stimulant substances.” Garza received his 21 U.S.C. § 851 notice that his prior felony convictions qualified him for this enhancement.

Garza argues that, because his 2016 convictions *could* have laid on a conspiracy involving hemp (which then fell within the AIA’s definition of marijuana but was removed after the AIA’s 2018 amendment), he is not eligible for the “felony drug offence” enhancement predicated on those offenses. Garza offers no on-point precedent in support of this position.

CLIENT COPY

No. 22-11007

In contrast, the government offers, the District Court considered, and we find persuasive three cases from sister courts of appeal which militate against Garza's position, particularly in this context: *Diaz*, 838 F.3d 968; *Santillan*, 944 F.3d 731; and *Brown*, 47 F.4th 147. The Ninth, Eighth, and Third Circuits employed the same inquiry as the District Court: whether the prior drug offense was (1) a felony at the time of the defendant's prior conviction and (2) final at the time of sentencing the defendant for the crime(s) currently in question. *See Diaz*, 838 F.3d at 971–74; *Santillan*, 944 F.3d at 733; *see also Brown*, 47 F.4th at 150–51. For these circuits employing this “backward-looking inquiry,” “a prior conviction qualifies as a ‘felony drug offense’ if it was punishable as a felony *at the time of conviction*.” *Santillan*, 944 F.3d at 733 (emphasis added).

Applying the “backward-looking” test here, Garza cannot (and does not) dispute (1) that his prior drug convictions qualified as felony drug offenses *at the time he was convicted of them* in 2016 and (2) that those convictions were final at the time the District Court sentenced him in this case. The 2016 felony drug offenses thus served as sufficient foundation Garza's felony drug offense sentencing enhancement.²

III. CONCLUSION

We AFFIRM the District Court's judgment and sentence for the reasons discussed above.

² Even if the District Court had erred, such error was harmless. There is ample “evidence in the record . . . that the district court had a particular sentence in mind and would have imposed it, notwithstanding [an] error made in arriving at [Garza]’s guideline range,” *United States v. Delgado-Martinez*, 564 F.3d 750, 753 (5th Cir. 2009), and it did not abuse its discretion in sentencing Garza as it did. *United States v. Smith*, 440 F.3d 704, 708 (5th Cir. 2006).

CLIENT COPY

**United States Court of Appeals
for the Fifth Circuit**

No. 22-11007

United States Court of Appeals

Fifth Circuit

FILED

February 26, 2024

UNITED STATES OF AMERICA,

Lyle W. Cayce
Clerk

Plaintiff—Appellee,

versus

ANDREW OCANAS GARZA,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:21-CR-120-1

Before JOLLY, ENGELHARDT, and OLDHAM, *Circuit Judges.*

PER CURIAM:

Andrew Ocanas Garza's latest brush with the law included an un-*Mirandized* statement: he was asked and then told officers that he had a gun in his bedroom as they were about to execute a search warrant based on months of drug trafficking activities observed at his house. Garza attempted but ultimately failed to suppress this "bedroom gun" statement (hereafter referred to as the "Bedroom Gun" statement) pretrial after the District Court found that *Miranda*'s public safety exemption applied. Garza nevertheless affirmatively injected this statement into his trial in front of the



CLIENT COPY

No. 22-11007

jury, even though the government never brought it up with the witness who would have testified about it.

After conviction on all but one count at trial, Garza received a 235-month sentence. The District Court employed a felony drug offence sentencing enhancement when it imposed its sentence based on two finalized 2016 federal convictions Garza had for trafficking over 50kg of marijuana. Garza claims this is error because a 2018 amendment to the Agricultural Improvement Act (“AIA”) removed “hemp” from marijuana’s definition, his 2016 convictions could have been based on hemp, and so these convictions should not be used as a foundation for the felony drug offense sentencing enhancement. He also claims the District Court erred by not suppressing the Bedroom Gun statement.

Garza stands at the losing end of these arguments. Garza waived his right to complain of the Bedroom Gun statement by affirmatively eliciting it at trial in front of the jury, and regardless the public safety exemption applies for the reasons noted in the District Court’s thorough opinion. As for the felony drug offense sentencing enhancements, the weight of precedent militates against Garza’s post-conviction definitional parsing. What matters is that, *at the time Garza was convicted in 2016*, hemp was included in marijuana’s definition and those convictions were final at the time the District Court sentenced him here. Finalized felony drug convictions serve as the prototypical basis for implementing a felony drug offense sentencing enhancement. Even if the District Court erred by imposing this enhancement, such error was harmless: it still would have imposed the same sentence by stacking Garza’s counts, and the evidence demonstrates that the District Court did not abuse its discretion in weighing out the relevant sentencing factors. We therefore AFFIRM the District Court’s judgment and sentence.

United States Court of Appeals for the Fifth Circuit

No. 22-11007

United States Court of Appeals
Fifth Circuit

FILED

June 26, 2024

UNITED STATES OF AMERICA,

Lyle W. Cayce
Clerk

Plaintiff—Appellee,

versus

ANDREW OCANAS GARZA,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:21-CR-120-1

ON PETITION FOR REHEARING EN BANC

Before JOLLY, ENGELHARDT, and OLDHAM, *Circuit Judges.*

PER CURIAM:

Treating the petition for rehearing en banc as a petition for panel rehearing (5TH CIR. R. 35 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 35 and 5TH CIR. R. 35), the petition for rehearing en banc is DENIED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

June 26, 2024

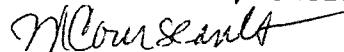
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-11007 USA v. Garza
USDC No. 5:21-CR-120-1

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: Melissa B. Courseault, Deputy Clerk
504-310-7701

Mr. Andrew Ocanas Garza
Mr. Brian W. McKay

CLIENT COPY

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

February 26, 2024

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 22-11007 USA v. Garza
USDC No. 5:21-CR-120-1

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 35, 39, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 and Fed. R. App. P. 35 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

I certify I sent these 14 page(s) to Client
on 2-27-24
by mail email MyCase
 cert. mail hand-delivery
Signed: M. Johnson

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

ANDREW GARZA

— PETITIONER

(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

APPENDIX OF EXHIBITS

PL-36 - 36000 feet City of Kansas 72336
C.I.-medium forest City of Kansas 72336

1. *Thysanococcidae* 18/10/2004

Wabash Division, U.S.A.
CR-00120-H-BG-T
James Westley Hurd
U.S. District Court Clerk

Specs of Sulfur from the Gulf of Mexico, 1960.

Andrew O'Connor, Gairzagh Appeal Court.

11

Apple,

Yours truly

By the United States Supreme Court

TABLE OF CONTENTS

Table Of Contents	Page i
EXHIBIT A Ineffective Assistance of Counsel	Page 1
EXHIBIT B Elements of Case Not Proven	Page 7
EXHIBIT C Government's Witness (Cannon)	Page 9
EXHIBIT D 2nd Amendment Violation	Page 11
EXHIBIT E Fourth Amendment Violation	Page 13
EXHIBIT F Fifth Amendment	Page 16
EXHIBIT G Sixth Amendment	Page 18
EXHIBIT H Eighth Amendment	Page 20
EXHIBIT I Proffer by Defendant in Seeking to Challenge Warrant Affidavit	Page 22
EXHIBIT J Application for Warrant	Page 44
EXHIBIT K DEA Report of Investigation	Page 45

EXHIBIT A

Case number 5:21-CR-00120-H-BQ

Andrew Garza# 49422177

Lubbock, TX, Northern District Courts of Lubbock, TX

Ineffective assistance of counsel (Lorfing attorney)

1. When attorney was hired was advised of coming in on an on going trial and was told by "Garza" that there was a hearing coming up for a motion to suppress and he needed to look into the motion and prepare for the hearing that was coming up. He advised me, that is great and will do. The hearing was considered "deemed" because the new attorney did not bring it up in the motion he filed for the Fifth amendment of "Mirandas statement". Attorney Lorfing was to have brought up the "motions" that were already filed and not for a hearing on an on going trial. Doing so would have proved that agent Cumberland submitted false statements for probable cause of search warrant. Everyone that was used on "probable causes" contacted attorneys to write a statement of agents false statements. Everyone in the probable cause were never involved nor arrested and were willing to testify to agent Cumberland's false statements, in probable causes submitted for the search warrant.
2. "Lorfing" gave evidence of phone calls to the "government" which was then used against me in trial. The phone call was brought into evidence by the government during trial.
3. Denied me for filing a Frank Motion.
4. Denied my witnesses to show proof of money and false statements.
5. Making me sign a piece of paper during the trial of acknowledge of the gun and gave the sheet of paper during trial to the government.

EXHIBIT A

This was then used against me to show the jury that I did have "knowledge" of the gun. Told me witness can't be used because they smoked marijuana and that its the burden of the government to prove their case.

6. Advised me wrong by telling me that the maximum sentence I can receive was 60 months due to the statutory maximum was in fact 60 months. The government offered me a plea of 37 months and said the judge will probably go with the maximum sentence of 60 months due to a previous federal charge.

7. For helping the government prove her burdens of no facts, or evidence.

8. Not objecting to my criminal history points, beyond 15 years.

9. Lorfing advised me to not send my letter and objections to the courts. (I have a copy of the letter)

10. For allowing the government to coerce governments witness and knowing that the only thing that tied me to the governments witness was her testimony in trial. Asked the judge to have the witness needed to be exempt because he was getting way to much of a deal in order to proffer against me.

11. For bringing up the governments evidence first about the unshown bodycam statements, (about the bedroom gun).

12. Giving the government the phone call information after client and attorney privilege, got eight points for the phone call, two points for the coercion, threatening, and etc.

13. Did not appeal the decision of no testing was proven for the weight of the determined by jury. Only position of 3 pounds was ever

EXHIBIT A

proving no possession, controlled buys, videos, statements from government witness, money laundering, dirty money, no evidence other than the testimony from the governments witness (which was coerced). Witness coerced.

14. Not allowing me to submit my witnesses, i was told it is the governments burden to prove the case.

15. Not showing my evidence to prove I was not what the government portrayed me to be. Multiple kilogram drug dealer, however, nothing other than a mere three pounds that were tested, position was all proven within it.

16. Knowing that I never said the statement, Agents nor the government could prove false statements in the hearing.

17. Not bringing up the fact that the government did not show that I knew in fact that the marijuana was not CBD instead of THC. I never said that the suspected marijuana was in fact marijuana (I claimed that it was under my knowledge that the marijuana was actually CBD). "knowing".

18. Government nor the DEA lab can verify the difference between illegal marijuana and legal marijuana it all tests the same.

19. Violated my second amendment rights, being necessary to the security of a free state, the right "of the people" to keep and bare arms, shall not be restricted or infringed.

20. Knowing that the government did not prove all the elements on every charge like the "knowing" and three other elements.

21. Knew the government used a false statement by Cumberland to show knowledge of the firearm found in the bedroom(bedroom gun). Brought up the statement before the government could use their own evidence.

EXHIBIT A

22. Knew the gun was an antique, being over fifty years old, and I knew I never made the statement, couldn't even show it on the body cam footage, the footage was used for the statement hearing. Statement of the second statement agent Cumberland hearing another officer by the name agent Sajudes ask me again? Why did the agent testify to the actual facts of me saying the statement to him; have the right to face you accuser. Agent Sajudes did not testify to the statement that was told to him (however it was brought up during the court preceeding)

23. Have the right to face my accuser in trial. Agent Sajudes said that he was the agent who asked me the second time about a gun being inside the house and that I told them there was a gun in the master bedroom. Agent Sajudes did not testify to the asking and knowledge of the knowledge of the statement, that agent Cumberland said that he heard me tell agent Sajudes that there was a gun on top of the dresser (showing Knowledge) statements from me that is not on the body cam footage, used in the hearing of the statement. Body cam footage never shows agent Sajudes asking me questions nor threats. Agent Sajudes does not testify in trial to actual statement that was supposedly said by me directly to him. Have the right the face my accuser?

24. Knowing that illegal and legal marijuana could not be proven fact, the differnce between CBD and THC marijuana every agent that testified to the fact they could not tell the difference between the two types of marijuana. The Drug Enforcement Agency (DEA) expert even said that I could not have had knowledge of the difference between CBD (legal form of marijuana) and the illegal form known as (marijuana THC). Dallas DEA lab does not have to right kind of equiptment to test the difference between CBD (legal) and illegal (THC) marijuana.

EXHIBIT A

25. Knowing the government did not prove the four elements that are required by the courts. (knowledge of the plant in fact being marijuana no facts of distribution or an agreement between myself and the conspiracy nothing was ever tested to show facts that what and if I was selling was in fact marijuana and not CBD (legal marijuana)

26. Knowing the evidence and false statements made by agent Cumberland were never shown on the body cam footage used in the hearing of the bedroom gun that received the maximum sentence for the false statement Cumberland said he heard another agent that did not testify in trial (Agent Sajedes), why doesn't the body cam footage used show not only the statement that was used to convict me, however, instead where the bedroom gun was actually found? Why isn't that on any of the body cam footage that the agents had on their body? Only one body cam out of ten agents, must always have a body cam out of the ones who searched my house. It has become law that every law enforcement officer or agent must always have a body cam to prove situations and the documented outcome. Safety is an important factor, the government could not show the statement that was used to convict me. (showed knowledge).

27. If agent Cumberland had two reliable information for the search warrant, why didn't agent Cumberland come with the arrest warrant in hand? The reason being the informants were not considered reliable witnesses. No evidence, the assumptions of the charges on the face of the search warrant were never charged on the indictment. Position of the controlled substance unknown what the substance or money laundering agent Cumberland filed the probable cause for the search warrant

EXHIBIT A

under innocent people about cocaine trafficking and traffickers.

Got telephonic search warrant on the sixteenth. No other person has been under investigation or was there no arrest for agent Cumberland these so called facts under oath were all false. Agent Cumberland submitted false statements about cocaine and guns seen inside of my residence for the search warrant to be applied during the trial.

Government witness said in trial; under oath, never told agent Cumberland or no other agent anything about cocaine or any gun. (violating my second amendment rights, fourth, fifth, sixth, and eighth as well.

28. Denied the right to hire my own lab analysis in order to re-test the drug weight and the purity. Denied my right to hire an actual marijuana vs. CBD scientific report from a licensed scientist that would tell the actual difference between the legal (CBD) and illegal (thc) marijuana plant. Agent Cumberland lied about hearing the asking agent Sajadas about hearing me tell him that there was a gun on top of the dresser in "plain view", please view the body cam footage used in the hearing.

EXHIBIT B

Elements of case not proven

(count 1)- Conspiracy to distribute with the intent to posess and distribute marijuana.

1. Government did not put on the evidence pertaining to the furtherance of drug trafficking activity and or distribution.

(count 1 & 2) Not giving the jury proper instruction of how to determine the difference bewteen hemp/ CBD, legal marijuana and illegal marijuana plants(a person cannot determine the differncesto

2. No aspect of constructive posession that advance an intent to control the firearm by the defendant, 922(G)(1) (count 4).

(count 1&2) 3. No evidence of the defendant's specific knowledge of the plant being in fact marijuana not that of CBD.

4. An agreement between the conspiritors to prove a conspiracy.

5. Did not prove evidence of facts of interstate commerce is what makes a marijuana case a federal charge, interstate commerce, "no actual evidence".

6. The jury could not even have an idea of what was the difference between legal and illegal marijuana. The jury asked, for proper instructions on how to determine the difference, however, the government could not provide the instructions that were asked of them by the jury. There were five law enforcement officers and expert agents in which took the stand, experienced drug cops and agents that said in their ten to fifteen year careers they could not determine the difference between hemp/CBD and "cannabis", even the government expert scientist of the Dallas D.E.A lab said there is no way for a person to discern the difference between the two marijuanas without a mass spectrometer test. In fact she said there are three tests in which two of them cannot discern the differnence between legal and

EXHIBIT B

illegal marijuana.

7. Never tested from people that were pulled over in a traffic stop to show in fact that what Garza had was in fact legal cannabis.

8. Government witness statement versus evidence of actual facts (none)

9. Witness testified to agent Cumberland false statements in probable cause that he never told agents of anything about a gun or cocaine.

False statements used by agent Cumberland for the search warrant, probable cause.

10. Agent Cumberland and expert Cumberland, did not get Test to show fact for probable cause if the marijuana was in fact cannabis legal or showing the facts of what was going to be in the residence.

EXHIBIT C

Government's Witness (Cannon)

Not credible. Testimony versus the factual evidence. Government's witness used in trial was not a reliable witness. No actual or proven facts, no testing, no text messages, no video, no phone calls the witness was not in my work notebooks, was never pulled over by agents leaving my house with a black travel bag. No evidence of facts of distribution, the only thing that tied me to the government's witness was his statement in trial that the government and D.E.A. agents, including agent Cumberland coerced him for hours the week before trial.

1. Witness admits to lying and stealing 2,000 dollars from the agent's money. Witness was looking at a potential life sentence but now is going to give the agents what they wanted to hear and receive less than one year of probation. Witness never mentioned Andrew Garza (Drew) when he was questioned by the agents.
2. Mr. Garza is not listed anywhere in the paperwork on the conspiracy for Mr. Cannon's government witness. There are other conspirators mentioned as someone he cooperated with. In fact, the government's "plea" documents that can be reviewed never mentions that Garza was a conspirator.
3. Showing of government credibility, not being credible. Mr. Cannon said in trial that he never was told it was marijuana, no controlled buys, no text messages, no phone calls, and the government had both of our phones. Witness could not even confirm that Andrew Garza knew in fact what he was selling, or if in which fact the marijuana was illegal cannabis. The witness did controlled buys with four other people, however, could not do a controlled buy with (Drew).
4. Testified to being coerced by agents and government witness met

EXHIBIT C

multiple times with law enforcement and the government. No personal knowledge or evidence of distribution or an agreement.

5. The pole camera that was setup in front of my house would have caught the government's witness going to my house for the last seven months, one picture was shown and never was Mr. Cannon pulled over leaving Mr. Garza's residence.

6. The Government's witness testified to agent Cumberland's false statements of telling or writing any statement to agents about a gun or cocaine, false statement used by agent Cumberland of guns and cocaine in probable cause are false, used for the search warrant.

EXHIBIT D

2ND Amendment violation

Well regulated militia, being able to or necessary to the security of the free state, " the right of the people", to keep and bare arms shall not be infringed.

1. False statements that agent Cumberland hearing another agent ask me questions of guns and drugs being in the bedroom.
2. Witness testified in the trial under oath that he never told the agents about there being or seeing a gun on me or in my home.
3. Agents put the gun on top of the dresser in plain view to show I had "knowledge" after I was threatened and interviewed by agents and not willing to snitch or talk, I chose to plead the fifth amendment right about people, cocaine, money, in which I did not know. Put the gun on top of the dresser.
4. Body Cam that was used in my statement hearing could have and did not show the facts of questioning and where the bedroom gun was really found, (Agent Yandal found the gun she stated). Statement of knowledge of gun was not shown on the body cam footage nor was it ever proven that statement was even made in the first place. Agents good faith and false statements were used to show public safety factors, footage did not show a volatile situation in the case.
5. Out of ten agents only one heard agent Sajuez ask me about guns and drugs in the house.

Drug quantity and purity

- 5 (cont). No other agent was even stated in the trial or throughout statements written by agents that they heard agent Sajuez ask me, nor did they ever show it on the body cam footage me telling agents that I had knowledge of the gun being on top of the dresser or even making the statements to agent Sajuez about the bedroom gun. Why

EXHIBIT D

didn't the asking agent testify to the statement of having knowledge of the gun being on the dresser in plain view?

6. Agent Cumberland lied about the witness saying he seen a gun for probable cause. Also lied on the government probable cause about seeing an ounce quantity of cocaine the governments witness said he never told agents that nor never seeing a gun.

7. Not proven the drug quantity and drug purity did not or could not give the government proper guidelines or sentencing guidance or the jury the option to determine.

8. 922(G)(1) Violates the second amendment as applied to myself, a non-violent offender who has served his time in prison and re-entered society, I was a very successful business owner and no threat to the public.

9. If agent Cumberland had evidence and facts of "known" why did he get a search warrant? For Andrew Garza?

EXHIBIT E

Fourth Amendment Violation

The rights of the people to be secure in their houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall be issued but upon probable cause, supported by oath or affirmation, and describing the place to be searched and the person or things to be seized.

Agent Cumberland did not show Facts of the Testing of what was going to be found in the house or Testing showing more than 0-3. Levels to get probable cause search warrant

1. It was a telephonic search warrant filed by agent Cumberland along with false statements using innocent people for the probable cause of the search warrant.
2. Did not give me a copy of the search warrant because it was sealed for sixty days afterwards. The search warrant was not written up and filed for sixty days after the search was done.
3. Cumberland searched the house without taking the proper procedures in getting the search warrant lawfully. Through the judge and jury
4. Search warrant was bad on it's face as well as false charges in the search warrant that I was never charged with, no charges that stated in search warrant, nor has anyone else on probable causes been arrested or investigated for any crimes or assumptions.
5. Every statement used as probable cause was flawed under oath by agent Cumberland and can show by proving the persons that were the probable cause, written statements against agent Cumberland were in fact flawed. Agent Cumberland used innocent people and flawed statements to cover his tracks of illegally getting a search warrant with no evidence or facts, (telephonic search warrant).
6. False statements can be shown to the courts that were used by agent Cumberland to get the telephonic search warrant.
7. Agent Cumberland never went in front of the judge nor the grand jury

EXHIBIT E

7. Agent Cumberland never went in front of the judge or grand jury to swear under oath or affirmation.
8. Ten agents that showed up to the search house were all equipped with body cameras and full police gear. Only one body cam was used in the hearing. Agent Cumberland stated that he was not issued a body camera; he was the main case agent and did indeed have a body camera on his body during the search.
9. Could not in fact show any statement or where the gun was really found, in the bedroom, was not in plain view, it was found in my wife's panty drawer.
9. No violent situation was ever written in the agent's police reports to prove that the public safety factor does not apply in my case. After agent Cumberland was able to use flawed statements of hearing another agent ask me questions of the bedroom gun, in fact said in his own words under oath that he cannot show any evidence of why my case is a violent case to be able to use the "public safety factor). To excuse the agents for violating my fourth amendment rights and not reading me the proper miranda rights before questioning and threatning me. The gun was placed on the top dresser after being found in my wife's panty drawer in plain view after not wanting to snitch on people about cocaine and guns I had no knowledge of. To be able to show I had knowledge of the unloaded, no ammunition, or finger prints bedroom gun. Agent Sajudez was doing the ping of cocaine.
10. Someone walking out of the house with a bag in not enough evidence for probable cause. No evidence or facts showing what was in the bags. Never pulled over or tested evidence to show facts of what was in the bag and no finger prints on the bag were found.

EXHIBIT E

11. Government document 600 filed 4/25/2022 page 1 of 10, page I.D 216, states in the factual and procedural background says Lubbock county Sheriff's deputy Michael Macias was equipped with a body camera that captured agents initial interactions with Garza during the warrant execution. There were no showing of agent and threats as well of where the gun was proven to be found on body cam footage used in the statement hearing. Statements of me telling agent of having knowledge of the gun being on top of the dresser in plain view, the body cam footage used does not show agents Sajudez and Cumberland telling their team through the door that I told them there was a gun on top of the dresser to show knowledge, after the facts of not willing to snitch on people I have no knowledge of. Body cam footage did not show anything violent to excuse agents from reading me my miranda rights before questioning me. Doesn't the actual part of the questioning of me or even me telling the statement of the gun being on the top of the dresser in the master bedroom and having "knowledge" of the gun. The only one body cam that was used out of ten agents did not show any actual evidence or facts of what the government used to find me guilty of a 922(g)(1)

13. When agents put me on the ground and put me in hand cuffs with no arrest warrant , I was not free to go.

14. Agent cumberland did not follow the Laws and did not have probable cause to Arrest me. Never showed Nothing for facts of Testing and showing the content to be in fact legal Cannabis or Eligible canabas. Before Search warrant to show proper Testing.(see probable Causes)

EXHIBIT F

Fifth Amendment

No person shall be held to answer for capital or otherwise infamous crime, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without a due process of law, nor shall private property be taken for public use without just compensation.

Agent/Expert Dea Cumberland, did not show no testings to the judge for probable cause of fact of what substance was going to be found in 1928 674 (Legal or illegal cannabis.)

1. Used statement of "knowledge" of gun against me. "Knowledge" or facts of actual statement and guessing as well as threats were never shown facts on the agent's body cameras. Every other agent's body cam were not issued or shown them being on out of ten agents only one had body cam footage that was shown. There was no statement shown (false statements) or statements made not proven or shown on not one of the ten agent's body cam footage for the federal search warrant.
2. Took my property with no evidence or facts of distributing marijuana the government distributed the hard working, tax paying, no charges of "money laundering" proven but still took all of my property and money and used it towards my "weight".
3. Was arrested on assumptions and lack of knowledge of agent's that could not tell the difference between legal (CBD) marijuana and the (THC) "plant" that is illegal.
- * 4. Was arrested without evidence or testing of what the plant really was. The humans look, smell, even the expert, nor Dallas Texas lab science test expert claimed that humans cannot detect main facts of legal or illegal marijuana, five experts could not tell the differences
5. Was arrested for suspected marijuana, for possession with intent with no factual basis, and no lab test. Agent's lack of experience and knowledge of what legal compared to illegal marijuana really is,

EXHIBIT F

without testing the substance or sending the "plant" for lab testing to be able to determine the facts of what the plant contains that is illegal. Only the admission of the person who smoked the plant is the only way to prove guilt or one's knowledge. If agent Cumberland had all this evidence as in probable cause and months of investigating that were never proven but questions remain, why didn't the investigation D.E.A. agent come with a federal search warrant, not just a federal arrest warrant? Why were'nt the actual controlled substances on the faces of the search warrant, that the agents were looking for?

EXHIBIT G

Sixth Amendment

1. Did not allow me to put my own witness on the stand to show facts of agent Cumberland's false statements of innocent people used in the probable cause search warrant or witnesses to prove all of my money was in fact all from my hard work and not from distributing or selling drugs. Facts that every witness wanted to testify to show facts of my property not being from illegal activities, where large amounts of money was paid to me, 100's of thousands of dollars could have been proven, my own lab tech expert witness was not given " to me after I repeatedly asked my attorney for my own. (Government burden to prove the case).
2. In all criminal prosecution the accused shall have the right to a speedy trial and a public trial.
3. Did not put agent Sajudez on the stand to show and prove false statement that was told to him after questioning me, the second time without miranda right, proven by the D.E.A or the government, miranda rights were never given by agents, or to prove actual facts of the statement of " knowledge" of gun. That I did tell him there was a gun in the master bedroom on top of the dresser.
4. To be informed of the nature and cause of the accusation to be confronted with the witness against him.
5. Government did not put the asking agent (D.E.A. agent Sajudez) of statement of bedroom gun, that got me convicted of a 922.(G)(1) and the maximum sentence of 120 months (Harsh punishment) for a fifty year old, 32 danger that was restored, no bullets, or fingerprints, showing of any statement or witness to say they had ever seen me with a gun. No proof of myself in posession of a gun or ever seen a gun in my home. My step sister testified to the gun being passed down to her by her father, grandma , etc, the gun was a peice of history.

EXHIBIT G

The government did not put him on the stand during trial of the asking agent, question and statement that could not be shown as facts on the "body cam footage" used to prove the statement that was used to convict me.

6. There was a police pole camera installed to violate my rights of privacy without a federal warrant or probable cause.

7. Government did not show any actual THC levels in the testing of the plant, the government only tested the THC content and not proven actual THC percentages. 0.3 grams cannot be shown, for facts to show the differences between legal and illegal marijuana.

EXHIBIT H

Eighth Amendment

For taking the government to trial and expressing my due process, excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.) ^{8th Amendment}

1. Started with charges of posession with intent to distribute marijuana 922(G)(1) felon in posession of a firearm, on the criminal complaint, that was filed by agent Cumberland. Then the government superceeded me with more charges five months later for conspiracy and, once again the government never proved distribution nor an agreement between two people. No phone calls, messages, controlled buys, videos or etc, to show evidence or facts of even knowing the government witness was reliable. Proving the only thing that was tied to me and the government's witness was his testimony in trial after being coerced by agent Cumberland and the government. No grand jury or statement of facts were ever shown for charges that were added.
2. The government's charge of "conspiracy" and the superceding indictment, it being a "variance" from the original indictment five months later because I have the right to a trial and a due process. The government giving me a harsh sentence of 235 months for expressing my due process and right to a fair trial. Plea offer was 30-37 months, 60 if the judge decided to give me an upward departure of the maximum sentence of 60 months. I was sentenced without proper federal guidelines in order to give me the harsh sentence .
3. "public safety factor" was used with no violent situation in statements from investigation expert, rresting was proven with

EXHIBIT H

no actual facts on the body camera . The investigation not only ever put the police report in about a violent and hectic situation. No other agent that testified said anything about a violent situation in my case. Agent Cumberland also stated in the trial examination that there was nothing violent about my case- 5:21-CR-00120-H-BQ the government used an unproven statement used by agent Cumberland stating that he heard agent Sajudez ask me questions and heard me tell agent Sajudez there was a gun in the bedroom on top of the dresser, nothing was shown on the body cam footage. The government stated there was a gun in the bedroom also stated that MR. Macias' body camera footage captured all agents, "initial interaction Gahza", during the search warrant execution.

EXHIBIT I

Case 5:21-cr-00120-H-BQ

• Proffer by Defendant in seeking
to Challenge, Warrant affidavit.

Franks Vs. D.E.A, special, expert, investigation
agent Cumberland

- 1) Agent Cumberland lied bout going in front of the judge to show probable causes for search warrant. The search warrant was Dated on the September 16, 2022. The Telephonic search warrant is Dated September 16th, 2022. If agent Cumberland got the "Search Warrant Under Oath" why would agent Cumberland need a Telephonic search ^{warrant} Warrant, Dated on September 16, 2022. (Application for a)
- 2) Agent Cumberland lied bout the "knowing" of what control substance being in the house in search warrant to look for. Marijuana/ Cocain ect/ legal/ illegal See the face of search warrant states control substances and money laundering. Criminal complaint filed;
- 3) Agent Cumberland lied bout having actual fact Evidence to arrest me for (Cannabis) First he didn't have nothing tested to show in fact the Cannabis was not CBD legal. No video's no texted messages, no control Buys, no social Before Search Media, Before the Search warrant, No Written Statement
- 4) Every statement sworn under Oath were Flawed by Agent Cumberland used for probable cause, NO Testing
 - 1) contains conclusory statements without sufficient supporting information, 2) is based upon information from cooperating sources for whom there is no indication of reliability or trustworthiness, 3) Upon information

and Belief that is demonstrably False or inaccurate, 4) Upon information and belief that contains material misrepresentations or omissions. The affidavit as probable cause for the search warrant for 1928 67th St Lubbock, Texas was "insufficient on its face. The Fourth Amendment requires that Probable cause support each warrant issued. Probable cause to search is "a fair probability that contraband or evidence of a crime will be found in a "particular place" Illinois v. Gates, 462 U.S. 214, 238 (1983) There must not only be probable cause to believe that a federal crime has been committed, but also a substantial basis to conclude that the instrumentalities of a crime will be found on the premises to be searched.

United States v. Locket, 674 F.2d 843, 846 (11th Cir 1982). The exclusionary rule guarantees this principle by prohibiting the introduction into evidence of tangible materials seized during an illegal search. See Murray v. United States, 487 U.S. 533, 536 (1988). In addition, a trial judge must exclude all evidence derived from exploitation of the original Constitutional violation up to the point at which the connection with the illegality, Testing's becomes "so attenuated as to dissipate the taint" Id; Nardone v. United States, 308 U.S. 338, 341 (1939).

The United States Supreme Court and the United States Court of Appeals for the Fifth Circuit

have unequivocally held that a magistrate's determination of probable cause must be meaningful. See Illinois v. Gates, 462 U.S. 213, 239 (1983) (affidavit must provide "substantial basis" for determining probable cause), United States v. Barrington 806 F.2d 529, 532 (5th Cir. 1986) (magistrate must have sufficient information to make determination of probable cause) In Gates, the supreme Court set forth the standard to be applied when determining whether an affidavit offered in support of a request for a warrant can support a meaningful determination. There the Court held that "sufficient information must be presented to the magistrate to allow that official to determine probable cause; his action cannot be a "mere" ratification of the bare conclusions of others" Gates, 462 U.S. 213, 239. The affidavit supporting an application for a search warrant must provide the magistrate "sufficient information" "to allow that official to determine probable cause", a wholly conclusory statement unsubstantiated by underlying facts is not sufficient to support a determination of probable cause. United States v. Settegast, 755 F.2d 1117, 1121 (5th Cir. 1985)

The good faith exception to the probable cause requirement cannot be applied here. See United States v. Leon, 468 U.S. 897 (1984) The exception is not available to an officer who relies on a warrant based on an affidavit so lacking in probable cause testing

EXHIBIT I

cause as to render belief in its existence entirely unreasonable. See *United States v. Chenna*, 184 F.3d 403, 407-08 (5th Cir 1999) (same). The good faith exception is also inapplicable where, as here an officer obtains a warrant and conducts a search based on the inadequate information he himself provides to a magistrate. See *Barrington*, 806 F.2d 529, 532.

First, the affidavit in support of the search warrant, in the instant case is insufficient on its face, because it contains only conclusory statements, with no particularized information whatsoever about the premises to be searched. For example, paragraph 9, simply states "investigators know" 1928 67th St, Lubbock, Texas, "is the residence of Andrew Ocanas Garza" See paragraph 9. There is no information whatsoever provided to confirm at that time this residence was under the care, custody, and control of Garza. Garza's ownership, possession or control of the residence was not confirmed or otherwise independently established at that point in the investigation, yet that was what the agent effectively represented to the Court in the probable cause affidavit. No trash collected with discarded mail to confirm Garza's residence was provided or otherwise referred to. Neither were any utilities in the name of Garza at 1928 67th St, Lubbock Texas confirmed.

No recitation of surveillance activity involving the coming and going with Garza using a key for entry at 1928 67th street Lubbock, Texas was given. Can be shown on Body Cam used in Body Cam "Garza did not give them a key, nor consent to go in and search. Garza stated on Body Cam "the door is unlocked" no key was never giving like Agent Cumberland testafied "that Andrew Garza gave them this key for entry. If Garza's residence was later confirmed throughout the course of the investigation that should have been so-stated. However that was not what was represented to the Court in paragraph 9.

Neither is there any information as to why the information provided by CD-1 enumerated in paragraph 9 "didn't even mention nothing whatsoever about Garza, was trustworthy or reliable, or indeed any information whatsoever why CD-1 should be considered a reliable source. Nevertheless, on assertion that "Isaac Ortiz was acting as a facilitator and runner for the Narvai's Cocain organization, "DTO" was relied upon to establish a connection to the property at 1928 67th St, Lubbock, Texas. Upon information and belief, Isaac Ortiz has not been charged with either conspiracy or possession in the instant case (or otherwise) and would contest his status as

a facilitator and runner for the Narvai's DTO Cocaine Organisation, will contest of Agent Cumberlands false statements used against him. This constitutes a conclusory statement, without independant corroboration or bases for reliability and as such should not have been relied upon as a basis for probable cause Search Warrant/ Telephonic search warrant and to Search 1928 67th street, Lubbock, Texas.

although it is sometimes permissible to presume reliability of an informant by virtue of the detailed nature of the information he supplies, the information in this affidavit is not sufficiently detailed to presume reliability with respects to 1928 67th street, Lubbock Texas.

Cassias v. State, 719 S.W.2d 585, 590 (Tex. Cr. App. 1986) A careful reading of all the information contained in paragraphs 9-19 reveals nothing provided by the four confidential informants listed in the affidavit rises to the level of sufficient detail where reliability may be presumed. In addition, there is no information provided in the affidavit anywhere to indicate why or how the four sources were trustworthy or reliable. As such, none of the information provided by these sources should have been considered as probable cause to support the search warrant at 1928 67th street, Lubbock Texas

EXHIBIT I

Paragraphs 11-13 related to Garza's association with Luis Vargas Jr. and his presence at the Garza residence walking out with a bag but never pulled him over to show the facts of what was in the bag was it CBD, Canabis ^{legally} ~~Eligible~~ or "Cocaine"? Vargas, well contest to false statements by agent Cumberland. Vargas has not been arrested for Conspiracy nor other charges. These paragraphs purport to rely upon information provided by unnamed source CD-2 (ones again never even mentioned Garza) provided over two years prior. Without any basis whatsoever to indicate why CD-2 is trustworthy and reliable, the affidavit contains the "conclusory statement" given by CD-2 given over two years prior that "Vargas was a multi-kilogram Cocaine broker" See Affidavit, paragraph 12 in Search warrant probably Causes. That same paragraph goes on to state that an undercover officer, again over 2.5 yrs ago (prior) was purportedly in contact with Vargas "in an attempt to purchase ten (10) kilograms of Cocaine" Presumably, the purchase was not completed otherwise that information would have been included in the affidavit. This information was inadequate, Flawed and stale, and should have not should not have been considered as probable cause to search at 1928 67th Lubbock Texas. In paragraph 13,

the affidavit states that "investigation & investigators observed Vargas exit Garza's residence carrying a silver plastic Wal-mart Bag which appeared to be weighted with "something" Investigators know through training and experience, this type of activity is indicative of a narcotics transaction" see Affidavit, paragraph 13. Although it was suspected Vargas left the purported Garza residence "with contraband, no pretext stop was conducted to confirm same, although that was well within the power of law, no testing enforcement, as demonstrated elsewhere in the affidavit. In addition, the Vargas residence was purportedly surveilled after that, but presumed no information to confirm Vargas' status as an alleged trafficker was obtained, otherwise that would have been provided as a basis to support probable cause.

In addition to the information purportedly provided by CD-2 being stale because it was provided over 25 years ago, upon information and belief, Luis Vargas Jr was in fact employed by "Drew's Home Improvements and Upgrades" L.L.C. was also a close family friend of Garza's. In light of the preceding Flawed antecedent basis, the likelihood of an innocent explanation of an alleged nefarious-looking activity is just as

probable as not, and, therefore, should not have been considered as probable cause to support the search at 1928 67th street, Lubbock Texas.

Paragraph 15 contains information provided by CD-3 (anon) the idea that this source observed almost 8100,000 in cash inside the Garza's residence is not credible assertion, without any indication of the underlying facts and circumstances delineated. CD-3 in fact under oath, in trial he never told agents bout seeing large amounts of cash without any indication of the underlying, the trustworthiness and reliability of the source explained or sufficient detail related to the observation. Where was the cash observed? How was it wrapped or packaged? In what denominations? During the search executed at 1928 67th street, Lubbock, Texas. The most significant amount of cash was kept, in the normal course of Garza's business operations, in the floor safe in the kitchen inside a pantry Room. Presumably, any amount of cash as significant as that attributed by CD-3 would be kept in that same floor safe in the kitchen. But CD-3 did not describe the location of the safe, the color or size or other information. Similarly, CD-3 allegedly saw up to 90 pounds

to contain any implication of Garza. Purportedly CD-4 "stated that he had been purchasing two to three pounds of Marijuana from his supplier, whom agents know is Garza", every two weeks since 2020 "see Affidavit, paragraph 16. First, "two - three pounds" not tested is a broad range without sufficient detail, and "every two weeks" is unlikely given sickness, and holiday. "Since 2020" is a broad range of time, insufficiently detailed to indicate inherent reliability. Moreover, CD-4 did not identify Garza. Instead, agent Cumberland simply concludes that agents know Garza is his supplier! This is exactly the type of conclusion statement, without substantiation, that is not permitted as a basis to support probable cause. There is no indication that CD-4 bought the drugs from Garza, or that if he did, there is no indication that CD-4 bought the drugs from Garza, or that if he did, there was any thing else inside after that left to be seized. The information in paragraph 16 was Flawed and inadequate, and should not have been without testing considered as probable cause to support the search at 1928 67th street, Lubbock, Texas. Rojedo Gaggas (CD-4) well testify that in fact he didn't get pulled over living Garza's residence and to all the false statements agent Cumberland

lied bout him even or ever written ^a statements nor never talked to agents, Nothing was never tested to determine the "plants" being legal or Eligale Marijuana, no video or ^{pictures} of CP-4 actually loading "Bag" into the back of his SUV under spear tire. In Fact was "pulled over after living a rehab builder" and was arrested on a warrant for parol violations. Well Contest to all of agent Cumberland False statements (Never charged with Conspiracy)

Paragraph 17 details a pretext stop of Juan Manriquez, who worked for Garza as a Rooster, as well nothing was never tested to confirm what the plant was, CBD legal Cannabis or Eligale Cannabis. During the stop, 16 Grams of Suspected Marijuana was recovered from Garcia-Manriquez's person. However, no where does Garcia-Manriquez indicate the suspected marijuana was obtained from, or otherwise implicated, Garza. This represents a material omission from the Affidavit. Upon information and belief, the information in paragraph 18 contains a material omission that excludes this warrant from the good faith exception of Leon. No statements or Testings was done, nor was Garcia arrested on conspiracy or other charges in this case. Agent Cumberland did not Test to determine Facts

Paragraph 18 contains information related to Garza's wife removing "Bags" the trunk of her car, taking them inside the house, and closing the trunk between trips. There is a

plethora of innocent explanation for all the information of paragraph 18' Garza's wife has not been charged or otherwise implicated, and elsewhere law enforcement has represented That she is not even a suspect. Nevertheless, SA Cumberland has used completely innocent conduct of Garza's wife, who was not even a suspect, nor was she ever arrested or charged with conspiracy, possession, no charges at all. In fact when Cumberland testafy's in Courts "He says himself himself under oath that he didn't even ask my wife Questions about what was even in the house or who's stuff could it have been. People walking out Garza's house with "Bags" isn't enough evidence or basis for probable cause to support the search at 1928 67th street, Lubbeck, Texas.

Similary, paragraph 19 describes pole Camera footage, There were no facts on agent Cumberland even getting a ^{warrant} to invade Garza's privacy and comfort of the "Home" no actual video's of such or whatsoever was used for, no actual video's shown or used camera pole video's in case to show facts and evidence of all these suspected Marijuana, pounds Multi Kilo gram Distributor. Nothing was used for the actual purpose to prove Distribution,

or Facts of Case. For which there is just as likely a completely innocent explanation as a nefarious one. Each and every paragraph of the affidavit to support probable cause is ~~not~~ either inadequate and "Flawed to support probable cause or contains a material omission such that no reasonable officer could have believed this affidavit was sufficient to establish probable cause to search 1928 67th street, Lubbock, Texas. Every person that was used for probable cause for search warrant reached out to attorney's and tell this day will contest to all false statements used in probable cause of search warrant, agent Cumberland lied and used False statements, with no actual Facts, statements, video's or Body Cam, no evidence was showed, and therefore this warrant falls outside the good faith exception established by United States v. Leon, 468 U.S. 897 (1984)

Moreover, upon information and belief, the affidavit contains material omissions which exclude it from the "Leon" good faith exception.

5.) Agent Cumberland lied, about Government's cause witness statements used in the probable for Search Warrant, Document 42-1 Filed 02/07/22 page 8 of 17 page ID 156, paragraph 15. states, In July of 2021, LRO investigation and investigated

arrested CD-3 for drug charges. Subsequent to CD-3's arrest, he/she debrief with investigators and informed that Garza was a distributor of marijuana and Cocaine. CD-3 informed that Garza sold pound quantities of marijuana. CD-3 confirmed that the large "Bag" he/she was observed retrieving from Garza's residence in June of 2021 contained ten (10) pounds of marijuana. CD-3 advised they could purchase five (5) to twenty (20) pounds at a time. CD-3 also was able to identify Garza's residence and the white 2009 GMC Sierra that investigator's have observed Garza driving. CD-3 stated that he/she has observed up to 90 pounds at a time of Marijuana inside of Garza's residence at a time and has observed close to \$100,000 in currency inside of the residence. CD-3 stated that he/she also has observed the presence of ounce quantities of cocaine at the residence. CD-3 added that Garza travels to Colorado to pick up marijuana to bring back to Lubbock to distribute and stated that Cassandra Ortiz frequently goes with Garza to pick up the Marijuana and that she facilitates his drug tracking activities. "No evidence"

CD-3 was in fact (Cannan) the government's witness who Testified Under Oath in trial transcripts, cross examination, Say's he never wrote a statement nor did he ever tell agent Cumberland or any other

agent nothing about "Cocain" or that he never seen or observed the presence of ounce quantities of Cocain at the residence of Garza, CD-3 contested and said under oath that he never said nor wrote anything about "Cocain" to agent Cumberland or any agent. See CD-3 (Cannan) Government's witness testimony where stated more than once CD-3 never told agent Cumberland nor any other agent he seen or said nothing bout "Cocain", or seeing a large amount of "Cocain" money, \$100,000 in U.S. currency in Garza's residence also testified under oath bout the seeing any guns in the residence of Garza, nor never seen Garza posses a firearm. See Document Trial transcript's pages of 338 Government witness Cannan's reliable statement under oath.

6. The Falls statement that was never proven or shown on "Body Cam" used to show knowledge in Trial, a false statement that found me guilty of 922(G)(1) and showed knowledge of Garza's gun inside the house. Agent Cumberland stated he heard (SA Suarez) question me, Garza, the second time, If there was any weapons inside the residence Garza advise that there was a small gun on top of the dresser in the master bedroom. Of course to show "knowledge" in Trial, after the fact of being Questioned and threatened by (SA Suarez) bout people and Cocain dealers / Cocain organization.

that Garza had no knowledge of and Agent Suarez than keep doing questioning Garza and threats of taking my kids and so forth cause I didn't want to snitch on people / ^{snitch} Cocaine Dealer and others. Told me (SA Suarez), if I didn't cooperate with them he was going to call the Public News and tell them ^{every} I was cooperated with agents, not only that, but if I don't snitch he was going to do everything in his power to convict Garza, with the Gun that was found in my wife's panty ^{now} so Agent Suarez, got the antique Gun that was found in my wife's panty ^{now} after being restored Agent Suarez, the questioning agent, grabbed the Gun, agent Suarez and agent Cumberland placed it on top of the dresser in planview and asked the agent that was taking pictures to come and take a picture of the gun in planview on top of the dresser, to show "knowledge" of Drew knowing that Gun was in planview so theres no denying the fact. See Body Cam used in Statement hearing of no facts shown on Body Cam of Agent Suarez Questioning Garza nor does the body Cam that was used out of 15 Body Cams on agents Body. Not one Body Cam showed the statement of Garza telling agent SA Suarez that there was a small Gun on top of the dresser in the master bedroom. That's exactly why there

Agent Cumberland's "Body Cam" nor was the questioning agent (S.A. Suarez's) "Body Cam" ever never used to prove the fact of agent (S.A. Suarez) Questioning Garza or at Agent Cumberland's hearing Agent Suarez or Garza saying there was a small gun on top of the dresser in the master bedroom. Agent Cumberland lied about his "expertise" of his "Knowing" bout Marijuana and Disturibution, knowledge, assumptions, looks, the smell, the statements of "the people" can not determine the difference "between" the legal Cannabis VS Illegal Cannabis the "Plant" has been proven in this case that the People can not tell the difference between legal Cannabis and Illegal Cannabis. The "People" can not determine the actual Facts of the "Plant" to say the "Plant" is in Fact Illegal, "Without" Cannabis Scientist Lab Testing for the analysis of the THC content of the "Plant" THC levels of THC Percentage must be shown 0-3% to actually qualify as Marijuana under federal Law. "Agent Cumberland" did not test nothing in the pretext stop to determine the actuality of what the substance being seen is or was in Fact Illegal Cannabis or Legal Cannabis. "Garza acknowledged" to agent "that the substance is a CBD Legal Cannabis and was Legal Cannabis. See "Body Cam" used or the transfer officer's Garcia's Police Vehicle Cam." all agents infractions with Garza in Search Warrant were caught on the Body Cam of SA Macias, unless the Government

EXHIBIT I

"tampered or altered, the Body Cam that was used in the hearing was in fact Altered by the Government in the hearing of Garza's Statement of bedroom Gun. It doesn't show the Questioning of Agent Suarez, nor does the Body Cam "show Agent Cumberland hearing me, tell the asking of Questioning Agent Suarez about the statement of that was used to find me guilty of the charge 922(c)(1) "showed I had Knowledge" (Agent Suarez) never Testified in the statement hearing or in Trial to the facts of Garza telling Suarez the statements and acknowledge of the Gun. Agent Suarez "was in fact in the court room for the days of trial, but never took Oath. Agent Macia testified in Facts shown in his Body. Cam that Garza ^{Did not} acknowledge the statement of firearm being inside house. Agent Cumberland Testified to hearing Garza tell the questioning agent Suarez. That there was a Gun inside the house. The Questioning agent Suarez never testified to facts being said to agent Suarez in the statement hearing nor did the Questioning agent Suarez Testify in trial under Oath, to the Questioning or statements of agent Cumberland hearing. Every agent that testified with 10 to 15 yrs of experience in the Marijuana Laws. Every agent and Government witness could not tell the actuality and facts of the Cannabis being legal or illegal. Cannabis, as well as agent Cumberland being an

"Experet" could not tell you or show what was legal Cannabis or Eligale Cannabis. Marijuana is really based a legal conclusion Based on scientific Testing with a gas chromatograph/mass spectrometer machine. The people can not determine the Fact of knowing what plant really is. The Government could never put on evidence of the specific knowledge, or even ability to discern the specific knowledge that this was marijuana as opposed to CBD. Fact that the "experet scientetance" used for the Government from the Dallas D.E.A Lab confirmed that there's no way "People" or "Garza" could know that what he was selling/possessing was in Fact CBD legal or Eligale Cannabis. "Cumberland" gave no testing's for Probable cause Agent Cumberland lied, about his "expertise" in knowing how to show actual fact evidence of "Distribution" in cases, as this one. Agent Cumberland, did not give no evidence specifically as to Furtherance of drug trafficking activity. Evidence speaks for itself. No videos, no phone calls, social media, no Text messages, no written statements, No Body Cam, most important, No control Buys and no testing of Plant whats so ever for search. no finger prints or DNA, no actual facts evidence of Enter state trafficking, never pulled over on Highway or evidence showing where the Cannabis was in Fact coming from, Every state that surrounds Texas, sell legal Marijuana, Cannabis over the Federal

EXHIBIT I

Content of Q-39. "Legally" Justice for all is just a statement "Used by the People" in Government. If DEB agents Probable Cause were intact True why would and come to arrest Garza with only a Search Warrant, not an Arrest Warrant. Lack of ^{Credibility} ^{Reliability} and ^{or} ~~trustworthiness~~ in witnesses used for Probable Cause. No Facts ^{or} Evidence to get an Arrest Warrant or to charge and arrest Garza on September 16 2021, without probable cause, and with False statements used to convict "Garza" on probable cause for Search warrant/Trial. No Testing was done to determine what was going to be found. I declare under penalty of perjury that statements and facts above are true and correct to the best of my knowledge.

Signed on this 23rd day
of September 2024

Andrew Garza
Andrew Garza

REPORT OF INVESTIGATION

Page 1 of 8

1. Program Code	2. Cross File	Related Files	3. File No.	4. G-DEP Identifier
5. By: B.E Cumberland, SA At LUBBOCK, TX RESIDENT OFFICE	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>	
7. <input type="checkbox"/> Closed <input type="checkbox"/> Requested Action Completed <input type="checkbox"/> Action Requested By:			6. File Title	<input type="checkbox"/> <input type="checkbox"/>
9. Other Officers: See paragraph #22.			8. Date Prepared	09-17-2021

10. Report Re: Acquisition of Exhibits 57-60, N-47, N-48 and N-49 and arrest of Andrew GARZA during the execution of a search warrant at 1928 67th Street on 09/16/21.

SYNOPSIS

*Warrant filed on
September 16th this is
September 14/21*

On September 16, 2021, Special Agents (SA) / Task Force Officers (TFOs) with DEA Lubbock Resident Office (LRO) / Caprock HIDTA, investigators with Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Homeland Security Investigations (HSI), Texas Department of Public Safety (TXDPS), Lubbock County Sheriff's Office (LCSO), Lubbock County Police Department (LPD) and the Texas Anti-Gang Center (TAG) executed a federal search warrant at 1928 67th Street Lubbock, Texas.

DETAILS

*without showing the judge no test results
of what in fact was going to be found in
my house. No test to Show what was in the house*

1. On September 14, 2021, U.S. Magistrate Judge D. Gordon Bryant Jr., Northern District of Texas, issued a federal search warrant under case number 5-21MJ0094 for 1928 67th Street Lubbock, Texas, the primary residence of Andrew GARZA.

2. On September 16, 2021, at approximately 7:15 a.m., Special Agents (SA) / Task Force Officers (TFOs) with DEA Lubbock Resident Office (LRO) / Caprock HIDTA, investigators with Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Homeland Security Investigations (HSI), Texas Department of Public Safety (TXDPS), Lubbock County Sheriff's Office (LCSO), Lubbock County Police Department (LPD) and the Texas Anti-Gang Center (TAG) established surveillance on 1928 67th Street.

11. Distribution: Division District Other	12. Signature (Agent) <i>/s/ Brantley E Cumberland, SA</i>	13. Date 09-27-2021
	14. Approved (Name and Title) <i>/s/ Daryl D Walker, RAC</i>	15. Date 09-28-2021

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4 Page 2 of 8		3. File Title [REDACTED]	
5. Program Code		6. Date Prepared 09-17-2021	

3. At approximately 7:30 a.m., SA Brantley Cumberland observed GARZA exit the residence and enter in the driver's seat of a maroon 2019 GMC Sierra bearing Texas temporary license plate 28046G3 that was parked in the front driveway of the residence. SA Cumberland then observed the vehicle depart the residence. Surveillance was maintained on the vehicle. (Agent's Note: A query of the license plate number returned to Andrew Ocanas GARZA, at 1928 67th Street in Lubbock, Texas).

4. At approximately 7:40 a.m., investigators observed that GARZA was pulling back into the driveway of 1928 67th Street. Investigators subsequently made contact with GARZA in the driveway of the residence in an attempt to execute the federal search warrant. GARZA was detained in the driveway of the residence without incident. All investigators were wearing marked and identifiable police gear. Upon detaining GARZA, SA Cumberland located a black Samsung flip cell phone that GARZA was holding. The black Samsung flip cellphone was seized by SA Cumberland, as witnessed by SA Jovanni Suarez.

5. While GARZA was being detained, contact was made with Cassandra ORTIZ at the front door of the residence. ORTIZ was subsequently detained without incident. GARZA and ORTIZ were then advised to walk to and sit down at an outdoor table in front of the residence.

6. Upon detaining GARZA and ORTIZ, for the safety of investigators, SA Suarez asked GARZA if there were any weapons inside of the residence. GARZA advised that there was a small firearm in the master bedroom. Lubbock County Sheriff's Office personnel subsequently conducted a safety sweep of the residence to verify that there were no other occupants inside.

7. At approximately 8:10 a.m., LSO personnel informed DEA LRO/HIDTA personnel that the residence was secure. At that time, investigators approached the residence and commenced a search, pursuant to the federal search warrant.

8. Upon conducting a search of the master bedroom, TFO Martha Castillo, as witnessed by ATF SA Jaclyn Yandell, located in plain view, a loose green leafy substance on top of a dresser on the west side of the room, later

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4. Page 3 of 8		3. File Title [REDACTED]	
5. Program Code		6. Date Prepared 09-17-2021	

identified as Exhibit 57. Upon continuing a search of the master bedroom, SA Yandell, as witnessed by TFO Castillo, located an unloaded silver Davis Industries .32 caliber handgun (serial number:183218) in plain view on a dresser on the south side of the room, as GARZA had previously described to investigators. SA Cumberland as witnessed by SA Suarez, seized the firearm and the exhibit...

9. Upon searching a closet in the master bedroom, SA Yandell, as witnessed by TFO Castillo, located three (3) vacuum sealed plastic packages containing a green leafy substance, later identified as Exhibit 58. Upon a further search of the closet, SA Yandell, as witnessed by TFO Castillo, located three additional vacuum sealed packages containing a green leafy substance, later identified as Exhibit 59. SA Cumberland, as witnessed by SA Suarez, seized the exhibits. SA Cumberland observed that both Exhibit 58 and Exhibit 59 were in packaging indicative of large-scale distribution.

10. A further search of the closet resulted in SA Yandell, as witnessed by TFO Castillo, locating an undetermined amount of United States currency wrapped in black rubber bands, later producing Exhibit N-47.

SA Cumberland, as witnessed by SA Suarez, seized this currency and sealed it inside of a DEA SSEE (S001097737) on scene. While searching the kitchen of the residence, SA Yandell, as witnessed by TFO Castillo, also located a black safe built into the floor. Upon conducting a search of the safe, SA Yandell, as witnessed by TFO Castillo, located a large undetermined amount of United States currency wrapped in black rubber bands and vacuum sealed in plastic packaging, also producing Exhibit N-47. SA Suarez, as witnessed by SA Cumberland, seized this currency and sealed it inside of a separate DEA SSEE (M000194065) while on scene.

11. While continuing a search of the kitchen and living room area of the residence, TFO Bobby Rios, as witnessed by SA Cumberland, located a loose green leafy substance on a shelf in the kitchen. TFO Chris Miller, as witnessed by SA Cumberland, located two suspected marijuana cigarettes on the living room table, all later producing Exhibit 60. SA Cumberland, as witnessed by SA Suarez, seized the exhibit.

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4. Page 4 of 8	5. Program Code	3. File Title [REDACTED]	
		6. Date Prepared 09-17-2021	

12. Upon conducting a search of the red GMC Sierra, SA Sam Rivera, as witnessed by TFO Rios, located a second black Samsung cell phone. SA Cumberland, as witnessed by SA Suarez, seized the cell phone. The Lubbock County Sheriff's Office ultimately seized the vehicle and maintained care, custody and control of it, thus producing Exhibit N-48.

13. GARZA was arrested on the State of Texas charges of Possession of Marijuana Greater than Four Ounces less than Five Pounds and Unlawful Possession of a Firearm by a Felon. GARZA was ultimately transported to the Lubbock County Detention Center by the LPD Officer Garcia. (Agent's Note: Reference is made to Lubbock Police Department report # 21-36355).

14. TFO Russell Galyean took photographs of the residence prior to, during and at the conclusion of the search, later producing Exhibit N-49. The search of the residence was concluded at approximately 10:40 a.m.

15. On the same date, SA Cumberland and SA Suarez transported drug exhibits 57, 58, 59, 60, N-47 and all other items seized to the Lubbock RO, for processing and safekeeping. SA Cumberland processed and sealed Exhibit 57 in SSEE S001097735, Exhibit 58 in SSEE M000204465, Exhibit 59 in SSEE M000204466 and SSEE M000204315 and Exhibit 60 in SSEE M000229693. Exhibit 57 weighed approximately 73.3 gross grams, Exhibit 58 weighed approximately 461.4 gross grams, Exhibit 59 weighed approximately 1514.6 gross grams and Exhibit 60 weighed approximately 44.5 gross grams. On this same date, SA Cumberland mailed Exhibit 57, Exhibit 58, Exhibit 59 and Exhibit 60 to the South Central Laboratory for analysis. FedEx tracking number: 816710898220.

16. On the same date, SA Suarez, as witnessed by SA Cumberland, secured the Davis Industries .32 caliber firearm, the two Samsung cells phone in temporary non-drug locker number 1 at the LRO for safekeeping.

17. On the same date, SA Suarez, as witnessed by SA Cumberland secured Exhibit N-47 in the temporary high value vault at the LRO for safekeeping.

18. On September 17, 2021, SA Suarez, as witnessed by SA Cumberland removed Exhibit N-47 from the LRO temporary high value vault. On the same

DEA Form - 6a
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

22-11007.209

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4. Page 5 of 8		3. File Title [REDACTED]	
5. Program Code		6. Date Prepared 09-17-2021	

date, SA Suarez and SA Cumberland transported Exhibit N-47 to Loomis Armored US, located at 515 N, I-27 Lubbock, Texas. SA Suarez and SA Cumberland relinquished custody of Exhibit N-47 to Loomis employee Natalie Zarazua via a DEA-48a. Loomis personnel conducted an official count of Exhibit N-47, which totaled \$82,995.00.

19. On September 21, 2021, SA Jovanni Suarez downloaded the digitally stored evidentiary photos taken by TFO Galyean on September 16, 2021 to a compact disc, producing Exhibit N-49. On that same date, SA Suarez placed and sealed Exhibit N-49 in a DEA SSEE, as witnessed by TFO Bobby Rios, before relinquishing custody of the Exhibit to the LRO Non-Drug Evidence Custodian for storage and safekeeping.

20. On September 22, 2021, SA Suarez, as witnessed by SA Rivera, relinquished custody of the Davis Industries .32 caliber firearm to ATF SA Sam Ragsdale, via DEA-12 at the LRO.

21. On September 23, 2021, SA Suarez, relinquished custody of the second black Samsung cell phone to TXDPS SA Gerald Barrios via DEA-12, at the TXDPS Regional Office, located at 1404 Lubbock Business Park Boulevard Lubbock, Texas.

22. Other Officers: SA Jovanni Suarez, SA Samuel Rivera, SA Bradley Cluxton, RAC Daryl Walker, ATF SA Jaclyn Yandell, HSI SA Tim Raymond, TFO Justin King, TFO Martha Castillo, TFO Carlos Perez, TFO John Waits, TFO Russell Galyean, TFO Chris Miller, TXDPS Lt. Thomas Wilson LSO K9 Sgt. Michael Macias, LSO Sgt. Jared Oliver, LSO Deputy Tracey Siegfried. *agents* *15*

CUSTODY OF EVIDENCE

1. **Exhibit 57** - Exhibit #57, is approximately 73.3 gross grams of suspected marijuana, consisting of a DEA SSEE containing an additional SSEE, which further contains loose green leafy substances suspected of being marijuana. On September 16, 2021, agents from the LRO and Lubbock HIDTA conducted a federal search warrant at 1928 67th Street, a residence of Andrew Ocanas GARZA. During the search warrant, investigators located Exhibit #57. The Exhibit was relinquished to Evidence Custodian SA Brantley Cumberland at the residence. Upon culmination of the search, SA

DEA Form - 6a
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

22-11007.210

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4. Page 6 of 8		3. File Title [REDACTED]	
5. Program Code		6. Date Prepared 09-17-2021	

Cumberland and SA Jovanni Suarez transported the Exhibit to the LRO, where the Exhibit was placed and sealed in DEA SSEE: S001097735 by SA Cumberland, as witnessed by SA Suarez. On that same date, the Exhibits were mailed to the South Central Laboratory via FedEx; tracking number: 8167 1089 8220.

2. **Exhibit 58** - Exhibit #58, is approximately 461.4 gross grams of suspected marijuana, consisting of a DEA SSEE containing three (3) vacuum heat sealed plastic packages, each containing a green leafy substance suspected of being marijuana. On September 16, 2021, agents from the LRO and Lubbock HIDTA conducted a federal search warrant at 1928 67th Street, a residence of Andrew Ocanas GARZA. During the search warrant, investigators located Exhibit #58. The Exhibit was relinquished to Evidence Custodian SA Brantley Cumberland at the residence. Upon culmination of the search, SA Cumberland and SA Jovanni Suarez transported the Exhibit to the LRO, where it was placed and sealed in DEA SSEE M000204465 by SA Cumberland, as witnessed by SA Suarez. On that same date, the Exhibit was mailed to the South Central Laboratory via FedEx; tracking number: 8167 1089 8220.

3. **Exhibit 59** - Exhibit #59, is approximately 1,514 gross grams, consisting of two individual DEA SSEEs, one (M000204466) containing two (2) vacuum sealed plastic packages further containing a leafy green substance suspected of being marijuana, and a second (M000204315) containing one (1) vacuum sealed plastic package further containing a leafy green substance. On September 16, 2021, agents from the LRO and Lubbock HIDTA conducted a federal search warrant at 1928 67th Street, a residence of Andrew Ocanas GARZA. During the search warrant, investigators located Exhibit #59. The Exhibit was relinquished to Evidence Custodian SA Brantley Cumberland at the residence. Upon culmination of the search, SA Cumberland and SA Jovanni Suarez transported the exhibit to the LRO, where it was placed and sealed in respective DEA SSEEs by SA Cumberland, as witnessed by SA Suarez. On that same date, the Exhibits were mailed to the South Central Laboratory via FedEx; tracking number: 8167 1089 8220.

4. **Exhibit 60** - Exhibit #60, is approximately 44.5 gross grams of suspected marijuana, consisting of a one (1) white envelope containing,

DEA Form - 6a
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

22-11007.211

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4. Page 7 of 8		3. File Title [REDACTED]	
5. Program Code		6. Date Prepared 09-17-2021	

loose particles of suspected marijuana, as well as two (2) suspected marijuana cigarettes. On September 16, 2021, agents from the LRO and Lubbock HIDTA conducted a federal search warrant at 1928 67th Street, a residence of Andrew Ocanas GARZA. During the search warrant, investigators located Exhibit #60. The Exhibit was relinquished to Evidence Custodian SA Brantley Cumberland at the residence. Upon culmination of the search, SA Cumberland and SA Jovanni Suarez transported the Exhibit to the LRO, where it was placed and sealed in DEA SSEE: M000229693 by SA Cumberland, as witnessed by SA Suarez. On that same date, the Exhibit was mailed to the South Central Laboratory via FedEx; tracking number: 8167 1089 8220.

4. **Exhibit N-47** - Exhibit N-47, is an aggregate sum of United States currency, some of which is both wrapped in black rubber bands and vacuum sealed in plastic packaging and some of which is only wrapped in black rubber bands. On September 16, 2021, agents from the LRO and Lubbock HIDTA conducted a federal search warrant at 1928 67th Street, a residence of Andrew Ocanas GARZA. During the search warrant, investigators located Exhibit #N-47. The Exhibit was relinquished to SA Jovanni Suarez and SA Brantley Cumberland at the residence where it was sealed in two different SSEEs, the currency that was wrapped in black rubber bands and vacuumed sealed in plastic packaging was sealed in DEA SSEE: M000194065 by SA Suarez as witnessed by SA Cumberland. The currency that was only wrapped in black rubber bands was sealed in DEA SSEE: S001097737 by SA Cumberland, as witnessed by SA Suarez. Upon culmination of the search, SA Suarez and SA Cumberland transported the Exhibit to the LRO, where it was placed inside of the LRO temporary high value vault. On September 17, 2021, SA Suarez, as witnessed by SA Cumberland removed Exhibit N-47 from the LRO temporary high value vault. On the same date, SA Suarez and SA Cumberland transported Exhibit N-47 to Loomis Armored US, located at 515 N, I-27 Lubbock, Texas. SA Suarez and SA Cumberland relinquished custody of Exhibit N-47 to Loomis employee Natalie Zarazua via a DEA-48a. Loomis personnel conducted an official count of Exhibit N-47 which totaled \$82,995.00.

5. **Exhibit N-48** - Exhibit N-48 (INFORMATION ONLY), is a maroon 2019 GMC Sierra bearing temporary Texas license plate 28046G3 (VIN:1GTU9FEL2KZ255342) which was seized from Andrew GARZA during

DEA Form - 6a
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

22-11007.212

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
		3. File Title [REDACTED]	
Page 8 of 8		4. Date Received [REDACTED]	
5. Program Code [REDACTED]		6. Date Prepared 09-17-2021	

the execution of a federal search warrant at 1928 67th Street on September 16, 2021. The vehicle was seized by the Lubbock County Sheriff's Office pending State of Texas forfeiture proceedings. The Lubbock County Sheriff's Office retained care, custody and control of the vehicle.

6. **Exhibit N-49** - Exhibit N-49, consists of a compact disc containing evidentiary & documentary photos obtained during a federal search warrant. On 09/16/2021, a federal search warrant was conducted at 1928 67th Street in Lubbock, Texas, a residence of Andrew Ocanas GARZA. During the search warrant, evidentiary photos were taken by TFO Russell Galyean. On 09/21/2021, SA Jovanni Suarez downloaded the digitally stored evidentiary photos to a compact disc, producing Exhibit N-49. On that same date, SA Suarez placed and sealed Exhibit N-49 in a DEA SSEE, as witnessed by TFO Bobby Rios, before relinquishing custody of the Exhibit to the LRO Non-Drug Evidence Custodian for storage and safekeeping.

DEA Form - 6a
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency, to which loaned.

Previous edition dated 8/94 may be used.

22-11007.213

UNITED STATES DISTRICT COURT

for the
Northern District of Texas

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

1928 67th Street
Lubbock, Texas 79412

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (Identify the person or describe the property to be searched and give its location):

See Attachment A

located in the Northern District of Texas, there is now concealed (Identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

evidence of a crime;
 contraband, fruits of crime, or other items illegally possessed;
 property designed for use, intended for use, or used in committing a crime;
 a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
21 U.S.C. Sec. 841(a)(1)

Offense Description
Distribution and Possession with Intent to Distribute Controlled Substances

18 U.S.C. Sec. 1956(a)(1) Money Laundering

The application is based on these facts:
See attached Affidavit in Support of an Application for a Search Warrant

Continued on the attached sheet.
 Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.
 No-Knock Entry Requested: (Grounds set forth in attached Affidavit)


Applicant's signature

Brantley Cumberland, DEA Special Agent

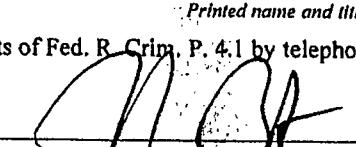
Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 41 by telephone this 14th day of

September, 2021

Date: 9/14/21

City and state: Lubbock, Texas


D. Gordon Bryant, Jr., United States Magistrate Judge

Printed name and title

*Cumberland does not show Test of
Cannabis for probable cause or on
any documents of the testing of
illegal or legal Cannabis to be found
in Garza house 1928 67th*

GOVERNMENT
EXHIBIT
A
22-14007-158

REPORT OF INVESTIGATION

Page 1 of 8

1. Program Code	2. Cross File	Related Files	3. File No.	4. G-DEP Identifier
5. By: B.E Cumberland, SA At LUBBOCK, TX RESIDENT OFFICE	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		6. File Title	
7. <input checked="" type="checkbox"/> Closed <input type="checkbox"/> Requested Action Completed <input type="checkbox"/> Action Requested By:			8. Date Prepared	09-17-2021
9. Other Officers: See paragraph #22.				

10. Report Re: Acquisition of Exhibits 57-60, N-47, N-48 and N-49 and arrest of Andrew GARZA during the execution of a search warrant at 1928 67th Street on 09/16/21.

SYNOPSIS

On September 16, 2021, Special Agents (SA) / Task Force Officers (TFOs) with DEA Lubbock Resident Office (LRO) / Caprock HIDTA, investigators with Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Homeland Security Investigations (HSI), Texas Department of Public Safety (TxDPS), Lubbock County Sheriff's Office (LCSO), Lubbock County Police Department (LPD) and the Texas Anti-Gang Center (TAG) executed a federal search warrant at 1928 67th Street Lubbock, Texas.

Well also see
where this case was
not violent to use
public safety factor

DETAILS

1. On September 14, 2021, U.S. Magistrate Judge D. Gordon Bryant Jr. Jr. issued a federal search warrant under case number 5-21MJ0094 for 1928 67th Street Lubbock, Texas, the primary residence of Andrew GARZA.

2. On September 16, 2021, at approximately 7:15 a.m., Special Agents (SA) / Task Force Officers (TFOs) with DEA Lubbock Resident Office (LRO) / Caprock HIDTA, investigators with Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Homeland Security Investigations (HSI), Texas Department of Public Safety (TxDPS), Lubbock County Sheriff's Office (LSO), Lubbock County Police Department (LPD) and the Texas Anti-Gang Center (TAG) established surveillance on 1928 67th Street.

11. Distribution: Division District Other	12. Signature (Agent) /s/ Brantley E Cumberland, SA	13. Date 09-27-2021
	14. Approved (Name and Title) /s/ Daryl D Walker, RAC	15. Date 09-28-2021

DEA Form - 6
(Jul.1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

22-11007.206

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4. Page 2 of 8	5. Program Code	3. File Title [REDACTED]	
		6. Date Prepared	09-17-2021

3. At approximately 7:30 a.m., SA Brantley Cumberland observed GARZA exit the residence and enter in the driver's seat of a maroon 2019 GMC Sierra bearing Texas temporary license plate 28046G3 that was parked in the front driveway of the residence. SA Cumberland then observed the vehicle depart the residence. Surveillance was maintained on the vehicle. (Agent's Note: A query of the license plate number returned to Andrew Ocanas GARZA, at 1928 67th Street in Lubbock, Texas).

4. At approximately 7:40 a.m., investigators observed that GARZA was pulling back into the driveway of 1928 67th Street. Investigators subsequently made contact with GARZA in the driveway of the residence in an attempt to execute the federal search warrant. GARZA was detained in the driveway of the residence without incident. All investigators were wearing marked and identifiable police gear. Upon detaining GARZA, SA Cumberland located a black Samsung flip cell phone that GARZA was holding. The black Samsung flip cellphone was seized by SA Cumberland, as witnessed by SA Jovanni Suarez.

5. While GARZA was being detained, contact was made with Cassandra ORTIZ at the front door of the residence. ORTIZ was subsequently detained without incident. GARZA and ORTIZ were then advised to walk to and sit down at an outdoor table in front of the residence.

6. Upon detaining GARZA and ORTIZ, for the safety of investigators, SA Suarez asked GARZA if there were any weapons inside of the residence. GARZA advised that there was a small firearm in the master bedroom. Lubbock County Sheriff's Office personnel subsequently conducted a safety sweep of the residence to verify that there were no other occupants inside.

7. At approximately 8:10 a.m., LSO personnel informed DEA LRO/HIDTA personnel that the residence was secure. At that time, investigators approached the residence and commenced a search, pursuant to the federal search warrant.

8. Upon conducting a search of the master bedroom, TFO Martha Castillo, as witnessed by ATF SA Jaclyn Yandell, located in plain view, a loose green leafy substance on top of a dresser on the west side of the room, later

DEA Form - 6a
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

22-11007.207

REPORT OF INVESTIGATION

(Continuation)

4
Page 3 of 8

5. Program Code

1. File No. [REDACTED] 2. G-DEP Identifier [REDACTED]

3. File Title [REDACTED]

6. Date Prepared
09-17-2021

identified as Exhibit 57. Upon continuing a search of the master bedroom, SA Yandell, as witnessed by TFO Castillo, located an unloaded silver Davis Industries .32 caliber handgun (serial number:183218) in plain view on a dresser on the south side of the room, as GARZA had previously described to investigators. SA Cumberland as witnessed by SA Suarez, seized the firearm and the exhibit.

9. Upon searching a closet in the master bedroom, SA Yandell, as witnessed by TFO Castillo, located three (3) vacuum sealed plastic packages containing a green leafy substance, later identified as Exhibit

58. Upon a further search of the closet, SA Yandell, as witnessed by TFO Castillo, located three additional vacuum sealed packages containing a green leafy substance, later identified as Exhibit 59. SA Cumberland, as witnessed by SA Suarez, seized the exhibits. SA Cumberland observed that both Exhibit 58 and Exhibit 59 were in packaging indicative of large-scale distribution.

10. A further search of the closet resulted in SA Yandell, as witnessed by TFO Castillo, locating an undetermined amount of United States currency wrapped in black rubber bands, later producing Exhibit N-47.

SA Cumberland, as witnessed by SA Suarez, seized this currency and sealed it inside of a DEA SSEE (S001097737) on scene. While searching the kitchen of the residence, SA Yandell, as witnessed by TFO Castillo, also located a black safe built into the floor. Upon conducting a search of the safe, SA Yandell, as witnessed by TFO Castillo, located a large undetermined amount of United States currency wrapped in black rubber bands and vacuum sealed in plastic packaging, also producing Exhibit N-47. SA Suarez, as witnessed by SA Cumberland, seized this currency and sealed it inside of a separate DEA SSEE (M000194065) while on scene.

11. While continuing a search of the kitchen and living room area of the residence, TFO Bobby Rios, as witnessed by SA Cumberland, located a loose green leafy substance on a shelf in the kitchen. TFO Chris Miller, as witnessed by SA Cumberland, located two suspected marijuana cigarettes on the living room table, all later producing Exhibit 60. SA Cumberland, as witnessed by SA Suarez seized the exhibit.

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4. Page 4 of 8		3. File Title [REDACTED]	
5. Program Code		6. Date Prepared 09-17-2021	

12. Upon conducting a search of the red GMC Sierra, SA Sam Rivera, as witnessed by TFO Rios, located a second black Samsung cell phone. SA Cumberland, as witnessed by SA Suarez, seized the cell phone. The Lubbock County Sheriff's Office ultimately seized the vehicle and maintained care, custody and control of it, thus producing Exhibit N-48.

13. GARZA was arrested on the State of Texas charges of Possession of Marijuana Greater than Four Ounces less than Five Pounds and Unlawful Possession of a Firearm by a Felon. GARZA was ultimately transported to the Lubbock County Detention Center by the LPD Officer Garcia. (Agent's Note: Reference is made to Lubbock Police Department report # 21-36355).

14. TFO Russell Galyean took photographs of the residence prior to, during and at the conclusion of the search, later producing Exhibit N-49. The search of the residence was concluded at approximately 10:40 a.m.

15. On the same date, SA Cumberland and SA Suarez transported drug exhibits 57, 58, 59, 60, N-47 and all other items seized to the Lubbock RO for processing and safekeeping. SA Cumberland processed and sealed Exhibit 57 in SSEE S001097735, Exhibit 58 in SSEE M000204465, Exhibit 59 in SSEE M000204466 and SSEE M000204315 and Exhibit 60 in SSEE M000229693. Exhibit 57 weighed approximately 73.3 gross grams, Exhibit 58 weighed approximately 461.4 gross grams, Exhibit 59 weighed approximately 1514.6 gross grams and Exhibit 60 weighed approximately 44.5 gross grams. On this same date, SA Cumberland mailed Exhibit 57, Exhibit 58, Exhibit 59 and Exhibit 60 to the South Central Laboratory for analysis. FedEx tracking number: 816710898220.

16. On the same date, SA Suarez, as witnessed by SA Cumberland, secured the Davis Industries .32 caliber firearm, the two Samsung cells phone in temporary non-drug locker number 1 at the LRO for safekeeping.

17. On the same date, SA Suarez, as witnessed by SA Cumberland secured Exhibit N-47 in the temporary high value vault at the LRO for safekeeping.

18. On September 17, 2021, SA Suarez, as witnessed by SA Cumberland removed Exhibit N-47 from the LRO temporary high value vault. On the same

DEA Form - 6a
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

22-11007-209

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4. Page 5 of 8		3. File Title [REDACTED]	
5. Program Code		6. Date Prepared 09-17-2021	

date, SA Suarez and SA Cumberland transported Exhibit N-47 to Loomis Armored US, located at 515 N, I-27 Lubbock, Texas. SA Suarez and SA Cumberland relinquished custody of Exhibit N-47 to Loomis employee Natalie Zarazua via a DEA-48a. Loomis personnel conducted an official count of Exhibit N-47, which totaled \$82,995.00.

19. On September 21, 2021, SA Jovanni Suarez downloaded the digitally stored evidentiary photos taken by TFO Galyean on September 16, 2021 to a compact disc, producing Exhibit N-49. On that same date, SA Suarez placed and sealed Exhibit N-49 in a DEA SSEE, as witnessed by TFO Bobby Rios, before relinquishing custody of the Exhibit to the LRO Non-Drug Evidence Custodian for storage and safekeeping.

20. On September 22, 2021, SA Suarez, as witnessed by SA Rivera, relinquished custody of the Davis Industries .32 caliber firearm to ATF SA Sam Ragsdale, via DEA-12 at the LRO.

21. On September 23, 2021, SA Suarez, relinquished custody of the second black Samsung cell phone to TXDPS SA Gerald Barrios via DEA-12, at the TXDPS Regional Office, located at 1404 Lubbock Business Park Boulevard Lubbock, Texas.

22. Other Officers: SA Jovanni Suarez, SA Samuel Rivera, SA Bradley Cluxton, RAC Daryl Walker, ATF SA Jaclyn Yandell, HSI SA Tim Raymond, TFO Justin King, TFO Martha Castillo, TFO Carlos Perez, TFO John Waits, TFO Russell Galyean, TFO Chris Miller, TXDPS Lt. Thomas Wilson LSO K9 Sgt. Michael Macias, LSO Sgt. Jared Oliver, LSO Deputy Tracey Siegfried. *15 agents*

CUSTODY OF EVIDENCE

1. **Exhibit 57** - Exhibit #57, is approximately 73.3 gross grams of suspected marijuana, consisting of a DEA SSEE containing an additional SSEE, which further contains loose green leafy substances suspected of being marijuana. On September 16, 2021, agents from the LRO and Lubbock HIDTA conducted a federal search warrant at 1928 67th Street, a residence of Andrew Ocanas GARZA. During the search warrant, investigators located Exhibit #57. The Exhibit was relinquished to Evidence Custodian SA Brantley Cumberland at the residence. Upon culmination of the search, SA

DEA Form - 6a
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

22-11007.210

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4. Page 6 of 8		3. File Title [REDACTED]	
5. Program Code		6. Date Prepared 09-17-2021	

Cumberland and SA Jovanni Suarez transported the Exhibit to the LRO, where the Exhibit was placed and sealed in DEA SSEE: S001097735 by SA Cumberland, as witnessed by SA Suarez. On that same date, the Exhibits were mailed to the South Central Laboratory via FedEx; tracking number: 8167 1089 8220.

2. **Exhibit 58** - Exhibit #58, is approximately 461.4 gross grams of suspected marijuana, consisting of a DEA SSEE containing three (3) vacuum heat sealed plastic packages, each containing a green leafy substance suspected of being marijuana. On September 16, 2021, agents from the LRO and Lubbock HIDTA conducted a federal search warrant at 1928 67th Street, a residence of Andrew Ocañas GARZA. During the search warrant, investigators located Exhibit #58. The Exhibit was relinquished to Evidence Custodian SA Brantley Cumberland at the residence. Upon culmination of the search, SA Cumberland and SA Jovanni Suarez transported the Exhibit to the LRO, where it was placed and sealed in DEA SSEE M000204465 by SA Cumberland, as witnessed by SA Suarez. On that same date, the Exhibit was mailed to the South Central Laboratory via FedEx; tracking number: 8167 1089 8220.

3. **Exhibit 59** - Exhibit #59, is approximately 1,514 gross grams, consisting of two individual DEA SSEEs, one (M000204466) containing two (2) vacuum sealed plastic packages further containing a leafy green substance suspected of being marijuana, and a second (M000204315) containing one (1) vacuum sealed plastic package further containing a leafy green substance. On September 16, 2021, agents from the LRO and Lubbock HIDTA conducted a federal search warrant at 1928 67th Street, a residence of Andrew Ocañas GARZA. During the search warrant, investigators located Exhibit #59. The Exhibit was relinquished to Evidence Custodian SA Brantley Cumberland at the residence. Upon culmination of the search, SA Cumberland and SA Jovanni Suarez transported the exhibit to the LRO, where it was placed and sealed in respective DEA SSEEs by SA Cumberland, as witnessed by SA Suarez. On that same date, the Exhibits were mailed to the South Central Laboratory via FedEx; tracking number: 8167 1089 8220.

4. **Exhibit 60** - Exhibit #60, is approximately 44.5 gross grams of suspected marijuana, consisting of a one (1) white envelope containing

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
4. Page 7 of 8		3. File Title [REDACTED]	
5. Program Code		6. Date Prepared 09-17-2021	

loose particles of suspected marijuana, as well as two (2) suspected marijuana cigarettes. On September 16, 2021, agents from the LRO and Lubbock HIDTA conducted a federal search warrant at 1928 67th Street, a residence of Andrew Ocanas GARZA. During the search warrant, investigators located Exhibit #60. The Exhibit was relinquished to Evidence Custodian SA Brantley Cumberland at the residence. Upon culmination of the search, SA Cumberland and SA Jovanni Suarez transported the Exhibit to the LRO, where it was placed and sealed in DEA SSEE: M000229693 by SA Cumberland, as witnessed by SA Suarez. On that same date, the Exhibit was mailed to the South Central Laboratory via FedEx, tracking number: 8167 1089 8220.

4. **Exhibit N-47** - Exhibit N-47, is an aggregate sum of United States currency, some of which is both wrapped in black rubber bands and vacuum sealed in plastic packaging and some of which is only wrapped in black rubber bands. On September 16, 2021, agents from the LRO and Lubbock HIDTA conducted a federal search warrant at 1928 67th Street, a residence of Andrew Ocanas GARZA. During the search warrant, investigators located Exhibit #N-47. The Exhibit was relinquished to SA Jovanni Suarez and SA Brantley Cumberland at the residence where it was sealed in two different SSEEs, the currency that was wrapped in black rubber bands and vacuumed sealed in plastic packaging was sealed in DEA SSEE: M000194065 by SA Suarez as witnessed by SA Cumberland. The currency that was only wrapped in black rubber bands was sealed in DEA SSEE: S001097737 by SA Cumberland, as witnessed by SA Suarez. Upon culmination of the search, SA Suarez and SA Cumberland transported the Exhibit to the LRO, where it was placed inside of the LRO temporary high value vault. On September 17, 2021, SA Suarez, as witnessed by SA Cumberland removed Exhibit N-47 from the LRO temporary high value vault. On the same date, SA Suarez and SA Cumberland transported Exhibit N-47 to Loomis Armored US, located at 515 N, I-27 Lubbock, Texas. SA Suarez and SA Cumberland relinquished custody of Exhibit N-47 to Loomis employee Natalie Zarazua via a DEA-48a. Loomis personnel conducted an official count of Exhibit N-47 which totaled \$82,995.00.

5. **Exhibit N-48** - Exhibit N-48 (INFORMATION ONLY), is a maroon 2019 GMC Sierra bearing temporary Texas license plate 28046G3. (VIN:1GTU9FEL2KZ255342) which was seized from Andrew GARZA during

DEA Form - 6a
(Jul. 1996)

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

22-11007.212

REPORT OF INVESTIGATION <i>(Continuation)</i>		1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
		3. File Title [REDACTED]	
4.			
5. Page 8 of 8		6. Date Prepared 09-17-2021	
7. Program Code [REDACTED]			

the execution of a federal search warrant at 1928 67th Street on September 16, 2021. The vehicle was seized by the Lubbock County Sheriff's Office pending State of Texas forfeiture proceedings. The Lubbock County Sheriff's Office retained care, custody and control of the vehicle.

6. **Exhibit N-49** - Exhibit N-49, consists of a compact disc containing evidentiary & documentary photos obtained during a federal search warrant. On 09/16/2021, a federal search warrant was conducted at 1928 67th Street in Lubbock, Texas, a residence of Andrew Ocanas GARZA. During the search warrant, evidentiary photos were taken by TFO Russell Galyean. On 09/21/2021, SA Jovanni Suarez downloaded the digitally stored evidentiary photos to a compact disc, producing Exhibit N-49. On that same date, SA Suarez placed and sealed Exhibit N-49 in a DEA SSEE, as witnessed by TFO Bobby Rios, before relinquishing custody of the Exhibit to the LRO Non-Drug Evidence Custodian for storage and safekeeping.

A high-contrast, black and white image showing a series of horizontal black bars of varying lengths. The bars are set against a white background with some dark, textured vertical patterns on the left and right sides. The bars are arranged in a staggered, non-linear fashion, creating a sense of depth or a grid-like structure. The overall effect is abstract and geometric.

DEA Form
(JUL 1996)

. 63

DEA SENSITIVE
Drug Enforcement Administration

This report is the property of the Drug Enforcement Administration.
Neither it nor its contents may be disseminated outside the agency to which loaned.

Previous edition dated 8/94 may be used.

22-11007 213