

FILED  
At Albuquerque NM

FEB 19 2013

MATTHEW J. DYKMAN  
CLERK

## UNITED STATES DISTRICT COURT

for the  
District of New MexicoIn the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)51 Upper San Pedro Road  
Espanola, New Mexico

Case No.

13-MR-115

## APPLICATION FOR A SEARCH WARRANT

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):

51 Upper San Pedro Road, Espanola, New Mexico, further described in Attachment A of the attached Affidavit.

located in the \_\_\_\_\_ State \_\_\_\_\_ District of \_\_\_\_\_ New Mexico \_\_\_\_\_, there is now concealed (identify the person or describe the property to be seized):

Items as particularly described in Attachment B of the attached Affidavit.

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

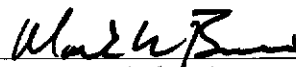
- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
Title 21 U.S.C. Section 841(a)(1) and (b)(1)(B)	Unlawful, knowing and intentional distribution of 500 grams or more of a mixture and substance containing a detectable amount of cocaine.

The application is based on these facts:

- ☒ 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.



Applicant's signature

Mark W. Buie, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 02/19/2013



Judge's signature

City and state: Albuquerque, New Mexico

Alan C. Torgerson, United States Magistrate Judge

Printed name and title

**ATTACHMENT A**

**PREMISES TO BE SEARCHED**

**Premises occupied by Aaron Sanchez aka "Grumpy"**

**at**

**51 Upper San Pedro Road, Espanola, New Mexico**

The premises to be searched is single family residence located at 51 Upper San Pedro Road, Espanola, New Mexico, as well as any garages, carports and outbuildings attached to the premises or on the property as well as a white Honda Accord and a 2007 Chevrolet Impala bearing NM tag 69UNM03 and any other automobiles or other motor vehicles parked on the premises. The premises is stucco, pitched roof single family residence with a stone wall in the front yard and connected to the front of the premises. The residence is clearly marked with a number "51" on the front side.

AF

**ATTACHMENT B**

**ITEMS TO BE SEIZED**

**All evidence of violations of 21 USC 841, including but not limited to the following items:**

- A. Controlled substances, such as cocaine and cocaine base;
- B. Paraphernalia for packaging, processing, diluting, weighing and distributing controlled substances, such as scales, funnels, sifters, grinders, glass panes and mirrors, razor blades, plastic bags and heat sealing devices;
- C. Books, records, receipts, notes, ledgers, cell phones or records in whatever form relating to the distribution of controlled substances;
- D. Personal books and papers reflecting names, addresses, telephone numbers, and other contact or identification information relating to the distribution of controlled substances;
- E. Cash, currency, and records relating to controlled substances income and expenditures of drug proceeds, for example, money orders, wire transfers, cashier's checks and receipts, bank statements, passbooks, checkbooks, and check registers, as well as precious metals such as gold and silver, and precious gems, such as diamonds;
- F. Documents or records establishing ownership or residency of the premises to be searched; and
- H. Firearms and other dangerous weapons.

AS

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF NEW MEXICO

IN RE:

51 Upper San Pedro Road  
Espanola, New Mexico

)  
)

AFFIDAVIT

I, Mark W. Buie, being duly sworn, depose and say as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) currently assigned to the Santa Fe Resident Agency of the Albuquerque Division, to investigate violations of Federal Laws, including Title 21, United States Code, Section 841(a). The information set forth in this affidavit has been derived from my own investigation or communicated to me by other sworn law enforcement officers or from other reliable sources.
2. This affidavit is made in support of an application for a search warrant for the residence located at 51 Upper San Pedro Road, Espanola, New Mexico, (*hereafter, Subject Residence*); which is further described in Attachment A.
3. Based on my training and experience, and on my consultation with other law enforcement officers experienced in investigations regarding conspiracy to manufacture, distribute and possess with intent to distribute controlled substances, I have learned the following:

a. Individuals involved in illegal trafficking of controlled substances often conceal evidence of their drug trafficking in their residences and businesses, or the residences of friends or relatives, and in surrounding areas to which they have ready access such as garages, carports and outbuildings. They also conceal evidence in vehicles, including vehicles outside of their residences, so that they have ready access to it and so that they can hide it from law enforcement, including law enforcement officers executing search warrants at their residences or businesses. Evidence also may be found in other areas to which a drug dealer has ready access, such as rented storage areas and safety deposit boxes, or buried underground on their property. This evidence, which is discussed in detail in the following paragraphs, including paraphernalia for weighing, packaging and distributing drugs, other contraband, records, documents, and evidence of drug transactions, proceeds from drug sales, and valuables obtained from proceeds. All such records as described in the paragraphs below can also be produced and/or stored on computers and other computer-related digital media such as a computer hard drive, external hard drives, thumb drives, secure digital cards and other types of flash memory cards, compact disks and floppy disks, digital cameras and cellular telephones.

b. Individuals involved in drug dealing commonly use certain paraphernalia to package and prepare controlled substances for distribution. The paraphernalia includes, but is not limited to, packaging materials (such as plastic baggies, wrapping paper, cellophane, vacuum sealers, condoms, and film canisters) and scales to weigh controlled substances. Drug dealers commonly store these items on their person, in their residences, in their businesses, in the residences of friends or relatives, in their vehicles, and in other areas to which they have ready access.

c. Drug dealers often maintain records of their transactions in a manner similar to the record keeping procedures of legitimate businesses. Even after the drugs are sold, documentary records are often maintained for long periods of time, even years, to memorialize past transactions, the status of accounts receivable and accounts payable, and the names and telephone numbers of suppliers, customers and co-conspirators. These records may be

maintained on paper, in the form of business and personal ledgers and diaries, calendars, memoranda, pay/owe sheets, IOUs, miscellaneous notes, money orders, customer lists and telephone address books. These records can reflect names, addresses and/or telephone numbers of associates and co-conspirators, the sale and purchase of controlled substances including precursors, customer lists and amounts of money owed to the trafficker by customers and by the trafficker to his/her suppliers.

d. Drug dealers often travel domestically and internationally to facilitate their trafficking. Evidence of foreign and domestic travel by persons engaged in illegal drug trafficking includes travel itineraries, airline tickets, receipts, and passports and visas and their contents. These items are stored by drug dealers on their person or in their business, residences and surrounding garages, outbuildings, carports and yards, the residences of relatives and in cars. Many of these items are accessible via the internet and can be downloaded and saved on the computer or other media.

e. Drug traffickers often use storage facilities for drugs and other items related to trafficking that are at a location away from their residences and businesses. These off-site storage facilities are often commercial storage lockers and rooms. These locations are often used to store or hide drugs, contraband, money and other valuables. Drug traffickers often keep documents and other items tending to show the existence of other stored drugs, contraband, money and other valuables in areas such as storage facilities. Those documents and other items include rental agreements, receipts, keys, notes and maps specifically concerning off-site storage rooms, lockers, and safety deposit boxes. This evidence may be found on their person or in their businesses, residences and surrounding garages, outbuildings, carports and yards, the residences of friends or relatives and cars. This type of documentation can be stored on digital media and concealed virtually anywhere.

f. Other evidence of transportation, ordering, possession and sale of drugs can include the following: telephone bills to show numbers called by the drug dealers (and hence potential associates), overnight mail receipts, bank statements, deposit and withdrawal slips,

savings books, investment statements, loan statements, other financial institution statements, and federal and state tax returns. The above items are stored by drug dealers on their person or in their business, residences and surrounding garages, outbuildings, carports and yards, the residences of friends or relatives, and cars. This type of documentation can be stored on digital media and concealed virtually anywhere.

g. Drug dealers usually sell their product for cash. Because large quantities of drugs can sell for thousands of dollars even at the wholesale level, dealers typically may have thousands of dollars in cash on hand both as proceeds of sales and to purchase their own supplies. In addition, drug dealers often have other assets generated by their drug business, or purchased with cash earned, such as precious metals and stones, jewelry, real estate, vehicles and other valuables.

h. Individuals involved in drug dealing often try to legitimize these profits from the sale of drugs. To accomplish these goals, drug traffickers utilize foreign and/or domestic banking institutions and their attendant services, real estate and businesses, both real and fictitious. They also try to secret, transfer and conceal the money by (a) placing assets in names other than their own to avoid detection while maintaining control, (b) laundering money through what appears to be a legitimate business or businesses, (c) hiding the money in their homes, safes and safety deposit boxes and/or (d) using the money to buy assets which are difficult to trace. This evidence is useful in a criminal prosecution, and it also is useful in identifying real and personal property that can be seized and forfeited by the government under existing laws. Documentation concerning this type of activity can be stored on digital media and concealed virtually anywhere.

i. Evidence of significant, unexplained income of drug dealers, or for the acquisition and concealment of money and assets of drug sales, can be found on banking and investment account statements, credit card account statements, canceled checks, money orders, deposit slips, check and savings books, business and personal ledgers, accounting records, safe deposit box records and keys, federal and state tax records, rental receipts, rental agreements,

utility bills, overnight mail receipts, telephone bills, loan statements records reflecting ownership of real or personal property (such as deeds of trust or vehicle registration, insurance, and ownership information), vehicle and property rental records, lease and purchase agreements, and canceled mail. These records can be maintained on paper, but also can be maintained as electronic data on computers and other digital media. The above items are typically kept by drug dealers on their person or in their businesses, residences and surrounding garages, outbuildings, carports, and yards, the residences of friends or relatives, and cars.

j. Drug dealers typically use telephones, pagers, two-way radio systems, fax machines, other communication systems, many of which can be accessed and controlled by computers or otherwise be communicated with by computers, counter-surveillance devices such as police radio scanners, and related devices in their drug trafficking activities. These items are stored by drug dealers on their person or in their businesses, residences or cars, or the residences of friends or relatives.

k. Information stored in electronic form on all of the above devices can provide evidence of drug trafficking and the identity of associates. For example, numbers stored in the telephones and cellular telephones (such as Caller ID lists reflecting recently received calls, speed dial lists of names and/or telephone numbers, and logs of outgoing and incoming calls) can provide evidence of whom the drug dealer is calling, and thus the identity of potential associates.

l. Drug dealers often take, or cause to be taken, photographs and/or videos of themselves, their associates, their property and their drugs. They usually maintain these photographs and/or videos on their person or in their businesses, residences or cars, on computers, cell phones or in the residences of friends or relatives. Digital still and video cameras may be used to record digital photographs or videos. Scanners may be utilized to convert older format photographs to digital format, and magnetic video can be transferred to digital format. All can be stored in computer hard drives and related digital media.

m. Drug dealers often maintain firearms and ammunition on their person or in their homes, businesses or cars to protect themselves and their drugs and their drug profits. They



also may maintain indicia of firearms such as receipts for firearms and ammunition, boxes for firearms and ammunition, firearms cleaning supplies, and instruction manuals and other documentation for firearms and ammunition.

n. Drug dealers often conceal evidence of drug dealing in vehicles outside of their residences for ready access and to prevent detection and seizure by officers executing search warrants at their residences. This evidence, which is discussed in detail in the preceding paragraphs, includes controlled substances, indicia such as packing documents and electronic storage devices (and their contents,) evidence tending to show the distribution of drugs (such as IOUs, pay-owe sheets, ledgers, lists of names and numbers, telephone address books, et cetera), cellular/mobile telephones (and their contents), and counter surveillance devices.

4. These same types of records, to include paper records scanned into digital format also can exist in electronic form on computers on the media described in paragraph 3a above. Further, data that is processed by a computer may be written to the computer hard drive or other storage media even if the user does not intentionally save the information. For example, a computer operating system may save temporary copies of files as backup copies or such files may remain on the hard drive or other media until overwritten by new data.

5. Electronic information can remain on computer storage media, such as hard drives, for an indefinite period of time. I am aware that even when a computer user attempts to delete records from computer storage media, the records may still exist and be recovered through computer forensic techniques.

6. Based on information provided to me by other Federal Bureau of Investigation Special Agents and computer forensic specialists, I know that computer users sometimes encrypt files, and that such users may keep the encryption passwords or encryption keys separately written in their residences or in a separate computer file, which may be maintained on other

portable media as described above.

7. Based upon my knowledge, training and experience, and consultation with other Special Agents and computer specialists, I know that in order to completely and accurately retrieve data maintained on computers and digital media by numerous software programs, to insure accuracy and completeness of such data, and to prevent the loss of the data from accidental or programmed destruction, it is often necessary that some of the computer equipment, peripherals, related instructions in the form of manuals and notes, as well as the software utilized to operate such a computer be seized and subsequently processed by a qualified computer specialist in a laboratory setting. This is true because of the following:

a. Computer storage devices as described above can store the equivalent of thousands of pages of information. Additionally, a user may try to conceal criminal evidence by storing it in random order with deceptive file names. This may require searching authorities to examine all the stored data to determine which particular files are evidence or instrumentalities of a crime. This sorting process can take weeks or months, depending on the volume of data stored, and it would be impractical to attempt this kind of data search on site.

b. Searching computer systems for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires computer experts to specialize in some systems and applications, so it is difficult to know before a search which expert is qualified to analyze the system and its data.

c. Data search protocols are scientific procedures designed to protect the integrity of the evidence and recover even "hidden," erased, compressed, password-protected or encrypted files. Since computer evidence is extremely vulnerable to inadvertent or intentional modification or destruction (either from external sources or from a destructive code embedded in the system as a "booby trap"), a controlled environment is essential to its complete and accurate analysis.

8. Because of the potential volume of the data at issue and the technical requirements set forth above, it is usually necessary for the above-referenced computer equipment, digital media and software and its related instructions to be seized and subsequently processed by qualified computer specialists in a laboratory setting.

9. Based upon my knowledge, training and experience and the experience of other law enforcement personnel, I know the searches and seizures of evidence from computers taken from the subject premises commonly require agents to seize most or all magnetic storage devices as well as the central processing units (CPUs). It is important that the analyst be able to properly re-configure the system as it now operates in order to accurately retrieve the evidence listed above. In addition, the analyst needs all the system software (operating systems or interfaces, and hardware drivers) and any application software, which may have been used to create the data (whether stored on hard drives or on external media), as well as all related instruction manuals or other documentation. Without these items, it may be difficult to recreate the computer environment in which the seized data was created. This is important both for thorough analysis and for establishing the ultimate integrity of the seized data.

10. Based upon my training and experience, as well as the training and experience of other law enforcement personnel and computer specialists, I believe that it is likely that contemporaneous analysis of hard drives, diskettes, CD-ROMS and other computer data storage media will be impractical and extremely time consuming. For that reason, it will be necessary to remove these items so as to facilitate an off-site analysis to locate evidence authorized to be seized by this search warrant. Thus, I request authorization to seize such items for off-site analysis to locate evidence authorized to be seized by the search warrant.

11. Often, telephone answering machines are used to take messages. Computers may also be utilized as answering machines. The incoming messages can provide evidence of drug

trafficking and the identity of associates while the outgoing messages can provide evidence of who controls the telephone line.

12. Documents showing who owns, occupies or controls the location being searched also show who is responsible for the items found on the premises, including contraband and other evidence seized. Documents and items showing the identity of the persons owning, residing in or controlling the area being searched include, but are not limited to, utility and telephone bills, canceled envelopes and correspondence, outgoing answering machine messages, tax returns, keys, deeds and mortgage receipts. These documents may also be produced on computers, downloaded from online accounts or scanned into digital format and stored on computers and related digital media.

#### **Probable Cause**

13. On October 29, 2012, Agent Thomas Maes (UCE-1) of the High Intensity Drug Trafficking Area (HIDTA), Region III Narcotics Task Force, was acting in an undercover capacity in order to purchase cocaine from Phil F. Benavidez. Prior to October 29, 2012, UCE-1 and Benavidez agreed to meet at a location in Espanola, New Mexico for the purchase of approximately one kilogram of cocaine for \$26,000.

14. At approximately 1:40 p.m. on October 29, 2012, UCE-1 met with Benavidez in a parking lot in Espanola, New Mexico. During this meeting, UCE-1 agreed to follow Benavidez to a second location, where Benavidez told UCE-1 that he (Benavidez) would pick up the cocaine to provide to UCE-1. UCE-1 then followed Benavidez to a residence located at 136A Jonathon Street, Espanola, New Mexico and pulled into the driveway of the residence. UCE-1 parked his vehicle on the street in front of 136A Jonathon Street and waited for Benavidez. Benavidez went to UCE-1's vehicle where UCE-1 showed Benavidez \$26,000 in U.S. Currency,

which was the agreed upon price for one kilogram of cocaine. Upon seeing the money, Benavidez exited UCE-1's vehicle and walked to the rear of 136A Jonathon Street. After several seconds, Benavidez returned from the rear of the residence carrying a white plastic shopping bag containing suspected cocaine. Upon receipt of the cocaine, FBI and HIDTA Region III Agents effected the arrest of Benavidez. The suspected cocaine was seized by the FBI and was later field tested for properties of cocaine, for which it tested positive. The approximate weight of the cocaine was 714.6 Grams.

15. After Benavidez was placed into custody, HIDTA Region III Agents went to the rear of 136A Jonathon Street, from whence Benavidez retrieved the cocaine that he provided to UCE-1, and knocked on the back door. When the occupant of the residence, Tinisha Sandoval, came toward the door, Agents entered the residence and conducted a security sweep for the safety of the Agents. Upon entering the living room, a male individual later identified as Aaron Sanchez, was observed walking out of the bathroom. Sandoval and Sanchez were both detained and all law enforcement officers then exited the residence. Two vehicles were observed in Sandoval's driveway at the time of the arrest. At the rear of the residence, a white Honda Accord was parked near the back door. This vehicle was later identified as Sanchez's vehicle. The second vehicle, a Pontiac PT Cruiser, was driven by Benavidez to the residence.

16. A short time later, after Tinisha Sandoval identified herself to the Agents as the occupant of the residence, I identified myself to Sandoval and informed her of the arrest of Benavidez after he appeared to obtain cocaine from her residence. Sandoval was advised that she was not being arrested and was asked for her consent to search her residence for illegal drugs. Sandoval was informed of her right to refuse consent and that any consent to search her residence was voluntary and she had the right to withdraw consent at any time during the execution of the search. Sandoval was also advised that if she refused consent, the Agents would apply for a Federal search warrant. Sandoval subsequently provided consent to the Agents to

search her home. During the search of Sandoval's residence, no illegal drugs were located but drug paraphernalia was observed. Also observed but not seized was approximately \$700.00 in U.S. Currency and a wallet with additional currency which was on the person of Sanchez when he was detained. Based on my training and experience, I know that drug dealers often maintain large amounts of currency, which are proceeds gleaned from drug sales, on their person.

17. During the execution of the search, Sandoval was interviewed by investigating Agents. Sandoval told the Agents that she was the sole occupant of 136A Jonathon Street, and that prior to the arrest of Benavidez, Aaron Sanchez, whom she only knew as "Aaron," arrived at her house unannounced, carrying a white plastic bag. Sanchez asked Sandoval if it was okay for him to leave the bag out behind the house, and when she consented, he placed it outside. Sandoval did not ask what was inside of the bag but she assumed it was drugs. Sandoval and Sanchez then began smoking marijuana on the couch in her living room and Sanchez told Sandoval that Benavidez was coming over. Sanchez did not tell Sandoval the purpose of his visit but Sandoval assumed it was related to a drug deal. Sandoval then received a phone call from Benavidez, who told her that he was going to come over to her house. Sandoval did not see Benavidez arrive, but heard the commotion from the arrest of Benavidez taking place in front of her home. She then heard a loud knocking on her door, at which time Sanchez ran into her bedroom. She answered the door and HIDTA Region III Agents entered her residence. Aaron Sanchez was also interviewed by the investigating Agents and denied any involvement with a drug transaction. After being interviewed, Sanchez was released.

18. On February 12, 2013, I interviewed a cooperating witness (CW-1) with knowledge of the above transaction. CW-1 advised that on the morning of the above transaction, CW-1 went to Sanchez's residence (Subject Residence) and observed Sanchez reconstitute, or "cut" cocaine with chemicals, then put the reconstituted cocaine into plastic bags, which he then placed in a white plastic grocery bag. Based on my training and experience, I know that drug

dealers often reconstitute or "cut" illegal drugs with chemicals in order to increase the perceived amount of the illegal drug and thereby increasing their profits. CW-1 also advised that Sanchez was nervous about doing a large cocaine deal in public so Sanchez decided to conduct the transaction at Tinisha Sandoval's residence, which was a location at which Sanchez often conducted drug transactions. According to CW-1, Sanchez told CW-1 that he (Sanchez) would put the bag of cocaine on the back porch of Tinisha's (Sandoval) residence and that Sanchez would be in the house during the transaction.

19. CW-1 has been associated with Sanchez for approximately five years. During the entire time that CW-1 knew Sanchez, CW-1 did not know Sanchez's real name and only knew him as "Grumpy." CW-1 advised that on the day of Benavidez's arrest, "Grumpy" was the man who was with Tinisha Sandoval in her residence. This man, who was the only person with Sandoval in her residence when Benavidez was arrested, identified himself to law enforcement officers as Aaron Sanchez. CW-1 believes that Sanchez sells approximately four or five ounces of cocaine per week and has several younger males distributing cocaine for him. Sanchez often bragged to CW-1 about how Sanchez has been selling cocaine for twenty years and has never been caught by law enforcement. Sanchez owns at least three vehicles, to include a custom Chevrolet Impala, a Ford pickup truck and a white Honda Accord which Sanchez drives on most days. Sanchez also told CW-1 that none of his vehicles are registered in his name. Based on my training and experience, I know that drug dealers often register their vehicles in the names of friends or relatives in an effort to hide their assets from potential seizure by law enforcement. CW-1 has never known Sanchez to have a legitimate job and Sanchez makes his living by selling cocaine. CW-1 stated that Sanchez owns at least two firearms and that Sanchez had once offered to give CW-1 one of his firearms to take along to a drug transaction.

20. During my interview of CW-1, CW-1 told me that Sanchez resides at 51 Lower San Pedro Road, Espanola, New Mexico. CW-1 described Sanchez's residence as a single

family residence with a large number "51" on the front of the residence and advised that Sanchez had been living in the residence for approximately six months. On February 13, 2013, I conducted an Accurant public source database query on Aaron Sanchez. Results of this query indicated that an Aaron Sanchez (not further identified) lived at 51 *Upper* San Pedro Road, Espanola, New Mexico (Subject Residence). On February 14, 2013, I drove to Espanola in order to locate Sanchez's residence on *Lower* San Pedro Road but was unable to locate any residence with a house number of 51. I then drove to Upper San Pedro Road and located a single family residence that fit the description of the residence described by CW-1 (Subject Residence). Sergeant Chris Valdez of the New Mexico State Police and I knocked on the door of a neighbor that lives near Subject Residence and asked if the neighbor knew who lived at Subject Residence. The neighbor advised that he/she did not know the occupants of the residence but that the occupants had been living in Subject Residence for approximately six months. The neighbor also advised that recently, a package addressed to Subject Residence was mistakenly delivered to his/her residence. The neighbor did not remember the full name written on the package but remembered that the last name written on the package was, "Sanchez." Also on February 14, 2013, Sergeant Valdez and I observed a custom 2007 Chevrolet Impala parked in the driveway of Subject Residence bearing New Mexico license plate number, 69UNM03<sup>1</sup>. Sergeant Valdez, who works as a New Mexico State Police Officer in the Espanola area and who is familiar with Sanchez, recognized the vehicle as one he knew to be owned by Sanchez. Sergeant Valdez also conducted an informal query with New Mexico Gas Company to see who paid for the natural gas at Subject Residence. Results of this query indicated that Aaron Sanchez was the account holder for Subject Residence. Later on February 14, 2013, I drove by Subject Residence a second time and observed a white Honda Accord parked at Subject Residence. This vehicle matches the description of the white Honda Accord described to me by CW-1 and which was also identified as Sanchez's vehicle parked in Sandoval's driveway on October 29, 2012.

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<sup>1</sup> An NCIC query of this vehicle indicated that this vehicle was registered to Victor Olivas of 395 County Road #84, Santa Fe, New Mexico

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Based on the above, I believe that CW-1 confused *Lower* San Pedro Road with *Upper* San Pedro Road and that Subject Residence is in fact, 51 Upper San Pedro Road, Espanola, New Mexico. I also believe based on the above, that Aaron Sanchez resides at Subject Residence.

21. Based on the above information, I believe that probable cause exists that there is evidence of a crime, specifically, Title 21 United States Code, Section 841, possession with intent to distribute or dispense a controlled substance, specifically, cocaine, at Subject Residence. I believe that items of the type mentioned in paragraphs 3-12 above will be found at Subject Residence. Items being sought in the search of the above mentioned residence are: See Attachment B.

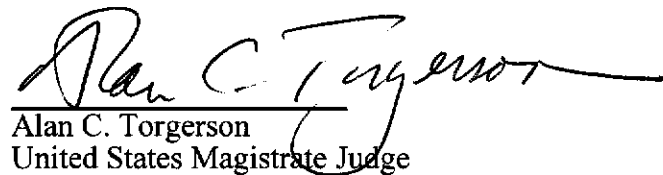
I swear that this information is true to the best of my knowledge and belief.

Respectfully submitted,



Mark W. Buie  
Special Agent,  
Federal Bureau of Investigation

Subscribed and sworn to before me this 19th day of February 2013.



Alan C. Torgerson  
United States Magistrate Judge

**ATTACHMENT A**

**PREMISES TO BE SEARCHED**

**Premises occupied by Aaron Sanchez aka "Grumpy"**

**at**

**51 Upper San Pedro Road, Espanola, New Mexico**

The premises to be searched is single family residence located at 51 Upper San Pedro Road, Espanola, New Mexico, as well as any garages, carports and outbuildings attached to the premises or on the property as well as a white Honda Accord and a 2007 Chevrolet Impala bearing NM tag 69UNM03 and any other automobiles or other motor vehicles parked on the premises. The premises is stucco, pitched roof single family residence with a stone wall in the front yard and connected to the front of the premises. The residence is clearly marked with a number "51" on the front side.

**ATTACHMENT B**

**ITEMS TO BE SEIZED**

**All evidence of violations of 21 USC 841, including but not limited to the following items:**

- A. Controlled substances, such as cocaine and cocaine base;
- B. Paraphernalia for packaging, processing, diluting, weighing and distributing controlled substances, such as scales, funnels, sifters, grinders, glass panes and mirrors, razor blades, plastic bags and heat sealing devices;
- C. Books, records, receipts, notes, ledgers, cell phones or records in whatever form relating to the distribution of controlled substances;
- D. Personal books and papers reflecting names, addresses, telephone numbers, and other contact or identification information relating to the distribution of controlled substances;
- E. Cash, currency, and records relating to controlled substances income and expenditures of drug proceeds, for example, money orders, wire transfers, cashier's checks and receipts, bank statements, passbooks, checkbooks, and check registers, as well as precious metals such as gold and silver, and precious gems, such as diamonds;
- F. Documents or records establishing ownership or residency of the premises to be searched; and
- H. Firearms and other dangerous weapons.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

**FILED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

JUL 15 2013

**MATTHEW J. DYKMAN**  
CLERK

IN RE ORDER REQUIRING GOOGLE, INC.  
TO ASSIST IN THE EXECUTION OF A  
SEARCH WARRANT ISSUED BY THIS  
COURT

Case No. 13-666 MV

APPLICATION

Filed Under Seal

**INTRODUCTION**

The United States of America hereby moves this Court under the All Writs Act, 28 U.S.C. § 1651, for an order requiring Google, Inc. ("Google") to assist in the execution of a federal search warrant by bypassing the lock screen of an Android device, specifically, a Samsung Galaxy cellular telephone ("the Android device").

**FACTS**

The Federal Bureau of Investigation (FBI) currently has in its possession an Android device that was seized pursuant to a search warrant issued by this Court. Initial inspection of the Android device reveals that it is locked. Because the Android device is locked, law enforcement agents are not able to examine the data stored on the Android device as commanded by the search warrant.

The Android device is a Samsung Galaxy cellular telephone, model SCH-S950C (GP). It has serial number 268435461704381396. The IMEI # is A000003942DAD4. The markings GPSAS 950CB and 12.08 are also found on the phone.

Google, the creator of the Android operating system and producer of the Android device, may have the capability of bypassing the Android device's lock and thereby retrieving data stored on the Android device that is not currently accessible to the FBI. This Application seeks

an order requiring Google to use any such capability, so as to assist agents in complying with the search warrant.

The United States requests that the Court order that Google, if necessary, must reactivate the Google account associated with the Android Device for the limited purpose of complying with the search warrant.

Further, the United States requests that Google be directed to: (1) provide a single password reset for the Android device; (2) provide the new password to the law enforcement officer executing the search warrant; and (3) upon unlocking the target Android device, again reset the Google account password promptly upon notice that the imaging of the phone is complete, without providing it to the law enforcement officer or agency so as to prevent future access.

Further, the United States represents that the reset process may not be unobtrusive to the subject and that the subject may receive notice to one or more accounts of the reset. Accordingly, the United States requests that the Court order that any such notice is not a violation of any seal or nondisclosure requirement.

Finally, the United States does not seek authority to use the new password to attempt to access the subject's online accounts other than as synchronized on, and stored in, memory within the target device at the time of execution of the warrant, and does not object to the Court prohibiting such use of the password to be provided by Google.

### **DISCUSSION**

The All Writs Act provides that "[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). As the Supreme Court

explained, “[t]he All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute.” *Pennsylvania Bureau of Correction v. United States Marshals Service*, 474 U.S. 34, 43 (1985). “The power conferred by the Act extends, under appropriate circumstances, to persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order or the proper administration of justice... and encompasses even those who have not taken any affirmative action to hinder justice.” *United States v. New York Tel. Co.*, 434 U.S. 159, 174 (1977). Specifically, in *United States v. New York Tel. Co.*, the Supreme Court held that the All Writs Act permitted district courts to order a telephone company to effectuate a search warrant by installing a pen register. Under the reasoning of *New York Tel. Co.*, this Court has the authority to order Google to use any capabilities it may have to assist in effectuating the search warrant for the Android device by unlocking the Android Device.

The government is aware, and can represent, that in other cases, courts have ordered Google to assist in effectuating a search warrant by unlocking other Android devices under the authority of the All Writs Act. Additionally, Google has complied with such orders.

The requested order would enable agents to comply with this Court’s warrant commanding that the Android device be examined for evidence identified by the warrant. Examining the Android device without Google’s assistance, if it is possible at all, would require significant resources and may harm the Android device. Moreover, the order is not likely to place any unreasonable burden on Google.

Respectfully submitted,

KENNETH J. GONZALES  
United States Attorney

A handwritten signature in black ink, reading "Paige Messec". The signature is written in a cursive, flowing style.

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**FILED**

UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

IN THE UNITED STATES DISTRICT COURT

JUL 15 2013

FOR THE DISTRICT OF NEW MEXICO

**MATTHEW J. DYKMAN**  
CLERK

IN RE ORDER REQUIRING GOOGLE, INC.  
TO ASSIST IN THE EXECUTION OF A  
SEARCH WARRANT ISSUED BY THIS  
COURT

Case No. 13-666 MV

**ORDER**

Before the Court is the Government's motion for an order requiring Google, Inc. ("Google") to assist law enforcement agents in the search of an Android Device. Upon consideration of the motion, and for the reasons stated therein, it is hereby

IT IS ORDERED that Google assist law enforcement agents in the examination of the Android Device, acting in support of a search warrant issued separately by this Court. The device is described as a Samsung Galaxy cellular telephone, model SCH-S950C (GP). It has serial number 268435461704381396. The IMEI # is A000003942DAD4. The markings GPSAS 950CB and 12.08 are also found on the phone. It is unknown whether the device is associated with a Gmail account.

IT IS FURTHER ORDERED that Google shall, if necessary, reactivate the Google account associated with the Android Device;

IT IS FURTHER ORDERED that Google shall: (1) provide a single password reset for the mobile device; (2) provide the new password to the law enforcement officer executing the search warrant; and (3) upon unlocking the target mobile device, again reset the Google account password promptly upon notice that the imaging of the phone is complete, without providing it to the law enforcement officer or agency so as to prevent future access;



IT IS FURTHER ORDERED that the reset process need not be unobtrusive to the subject, the subject may receive notice to one or more accounts of the reset, and such notice is not a violation of any seal or nondisclosure requirement;

IT IS FURTHER ORDERED that the law enforcement agent executing the search warrant is prohibited from using or attempting to use the new password to attempt to access the subject's online accounts other than as synchronized on and stored in memory within the target device at the time of execution of the warrant.

Signed,

  
ALAN C. TORGERSON  
UNITED STATES MAGISTRATE JUDGE

Date: 7/15/13