

**United States District Court****SOUTHERN****DISTRICT OF****FLORIDA****UNITED STATES OF AMERICA**  
**Plaintiff****vs.****CRIMINAL COMPLAINT****OSVALDO MITAT and**  
**SANTIAGO ALVAREZ**  
**Defendants****CASE NUMBER:** 05-3424-AMS

We, the undersigned complainants, being duly sworn, state the following is true and correct to the best of our knowledge and belief. On or about November 18, 2005, in Miami-Dade County, and elsewhere, in the Southern District of Florida, the defendants, OSVALDO MITAT and SANTIAGO ALVAREZ, did: (1) knowingly possess a firearm, that is, a silencer, which firearm was not registered to them in the National Firearms Registration and Transfer Record as required by Title 26, U.S. Code, Section 5841; in violation of Title 26, U.S. Code Sections 5861(d) and 5871 and Title 18 U.S. Code Section 2; (2) knowingly possess machine guns, that is, One RPB Industries M-11A-1, One E.A. Company Model J-15 machine gun, Two Colt AR-15 Model SP-1 machine guns, and One AK-47 type (manufacturer unknown) machine gun, serial number ES08016, in violation of Title 18, U.S. Code, Sections 922(o), 924(a)(2) and 2; and, (3) knowingly possess firearms, that is, 1 RPB Industries M-11A-1, 1 E.A. Company Model J-15 machine gun, and 2 Colt AR-15 Model SP-1 machine guns which have had the manufacturer's serial number removed, altered, or obliterated, in violation of Title 18 U.S. Code, Sections 922(k), 924(a)(1), and 2. And, on or about October 18, 2005, in Miami-Dade County, in the Southern District of Florida and elsewhere, the defendant SANTIAGO ALVAREZ did willfully and knowingly attempt to use an altered passport, that is, a Guatemalan passport bearing number 009436152 containing the defendant's picture, but issued to another, in violation of Title 18, U.S. Code, Sections 1543 and 2

We further state that we are Special Agents for the Department of Homeland Security, Immigration and Customs Enforcement and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, respectively, and that this complaint is based on the following facts:

**SEE ATTACHED AFFIDAVIT**  
Chris Cappannelli, Special Agent ICE  
Matthew May Special Agent ATF

Sworn to before me, and subscribed in my presence,

November 18, 2005  
Date

at

Miami, Florida  
City and State**ANDREA SIMONTON**  
**UNITED STATES MAGISTRATE JUDGE**

Name and Title of Judicial Officer

  
Signature of Judicial Officer

## AFFIDAVIT

1. We, Chris Cappannelli and Matt May, being duly sworn, hereby state the following:

Agent Cappannelli is a Special Agent employed by the Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE). He has been so employed for a period of 3 years and 3 months. In the course of his employment, he has directly managed or participated in numerous criminal cases regarding various violations of law. Prior to his employment as a Special Agent, he was an Inspector for both the legacy U.S. Customs Service (1992-2002) and the legacy U.S. Immigration and Naturalization Service (1990-1992). During his tenure in these positions, he has effected or participated in over 100 seizures and/or arrests to include a variety of contraband, including narcotics, currency, weapons and fraudulent travel documents.

2. Agent May is a Special Agent employed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). He has been so employed for seventeen (17) years. In the course of his employment Special Agent May has directly managed or participated in numerous criminal cases regarding various violations of federal firearms and explosives law.
3. This affidavit is submitted for the sole purpose of establishing probable cause for this complaint; it does not reflect all facts known to law enforcement as part of this investigation.

4. On or about November 2, 2005, your affiant SA Cappannelli learned that U.S. Customs and Border Protection (CBP) officers, on or about October 18, 2005, had intercepted and examined a Federal Express courier parcel bearing air waybill number 6422 4316 6821. This parcel was shipped by an individual cited on the air waybill as "Fernando VALDEZ" in Guatemala, and addressed to defendant "Santiago ALVAREZ," 305-588-4884 at "CARIBE", 4225 West 16<sup>th</sup> Avenue in Hialeah, Florida.
5. Upon examining this parcel, CBP officials initially noted it seemed only to contain a book titled Cuba Mia. Further examination of the book by the CBP officials however, revealed that, inserted inside the book, was a Guatemalan passport in the name of "Santiago ALVAREZ FERNANDEZ (ALVAREZ)," with a listed date of birth of June 12, 1941, and bearing the number 009436152. Additionally, a small, yellow envelope with the word "Barbero" written on it was also found secreted inside the book. Found inside the envelope was an incomplete Republic of Guatemala "cedula" (identification card) in ALVAREZ's name, numbered 9137546; a copy of the "cedula," along with instructions written in Spanish indicating where the signature and fingerprint should be placed. The photographs affixed to both the passport and the "cedula" are of ALVAREZ and appear to be identical.
6. On or about November 2, 2005, your affiant, SA Cappannelli, learned through CBP Senior Officer Al Feingold that another CBP Senior Officer, Herlinda Garcia-Boswell (Garcia), had examined the passport and "cedula" on or about October 23, 2005, and determined that the passport, while being a genuine

passport booklet, had a counterfeit biographical page insert, and that the cedula was wholly counterfeit. The passport, "cedula," and its other contents, were turned over to Agent Cappannelli for further investigation on November 2, 2005.

7. On November 4, 2005, affiant Cappannelli spoke to Senior Officer Garcia directly to discuss in detail her determination that the passport and "cedula" in ALVAREZ's name were fraudulent. Senior Officer Garcia stated that she had been examining documents in the course of her duties as an immigration officer for approximately five (5) years, and had encountered many documents, genuine and fraudulent during that time. With regard to the passport in question, Senior Officer Garcia stated that she believed that the biographical page was the result of a color copy, due to the "graininess" of the page and from its appearance that it had been glued onto the inside of the front cover of the genuine portion of the passport, rather than actually being an integral part of that document. With regards to the "cedula", Senior Officer Garcia stated to affiant Cappannelli that, given the newness of the document, it appears to be of inferior printing quality to that of a genuine cedula document.
8. On or about November 3, 2005, affiant performed an initial visual check of the address listed on the seized FEDEX parcel. Affiant Cappannelli found the address to be valid, and that it is office space situated within a "strip" shopping plaza. On the exterior door to the office is listed defendant ALVAREZ's name, with a subtitle of "General Contractor."
9. On or about November 4, 2005, affiant Cappannelli conducted law enforcement and public records queries of defendant ALVAREZ and the destination address

listed on the FEDEX parcel. Examination of defendant ALVAREZ's driver's license information as resident in the State of Florida Driver And Vehicle Identification Database (DAVID) revealed a photograph and date of birth matching the one contained in both the seized passport and "cedula."

10. Examination of the public Florida Division of Corporations website revealed that defendant ALVAREZ is listed as the treasurer and a director for a purportedly non-profit enterprise, the "CARIBE Foundation, Inc. (CARIBE)," which has a listed address of 4225 West 16<sup>th</sup> Avenue, 2<sup>nd</sup> Floor in Hialeah, Florida.

11. Affiant Cappannelli also examined the legacy U.S. Immigration and Naturalization Service Central Index System (CIS) on November 4, 2005. That computer database identified defendant ALVAREZ as a lawful permanent resident of the United States, assigned alien file number 11866226, and a native born citizen of Cuba.

12. On November 10, 2005, affiant Cappannelli conferred telephonically with Mdme. Cristy Andrino, Vice Consul of the Government of Guatemala in Miami, Florida. Mdme. Andrino stated that the following irregularities exist regarding the purported Guatemalan passport and "cedula" in defendant ALVAREZ's name:

- The folio (booklet) number of the passport, F 1370006, is actually registered to an individual identified as "Byron Novel Maldonado-Villatoro (Maldonado)";
- The passport and the "cedula" number should be the same. However, in this case, they are different;

- The pictures on the passport and "cedula" are identical. Passports and "cedulas" are issued by the Guatemalan government with differing photographs of the same individual;
- The notation on the "cedula" that defendant ALVAREZ became a Guatemalan national on January 9, 1994 has no support in the records of the Guatemalan Ministry of Foreign Affairs.

13. On November 14, 2005, affiant Cappannelli was able to contact security personnel at Federal Express concerning the FED EX package addressed to defendant Alvarez. FED EX Security personnel informed your affiant that they currently had the package tracking coded as available for clearance, but misplaced. Additionally, the Federal Express security personnel advised your affiant that several individuals had made inquiries about the FED EX package after it missed its intended delivery date to defendant ALVAREZ in mid-October. During one of those contacts, the inquiring party indicated that they had talked to "Santiago" and that he (Santiago) had stated that the package contained a book and a passport. Later, during another inquiry, the contents were identified to Federal Express personnel as a book, a letter, and a United States passport. Affiant Cappannelli was advised by Federal Express Security personnel that the last recorded inquiry about the package occurred on or about October 25, 2005.
14. On November 15, 2005, affiant Cappannelli was first able to access and examine defendant ALVAREZ's alien file in Miami, Florida. A review of the file revealed that defendant ALVAREZ did not state on any application contained within that

file, nor is it officially noted anywhere within the file, that defendant ALVAREZ has any claim to Guatemalan citizenship, nationality or residency.

15. On or about November 18, 2005, your affiant Cappannelli, other federal agents, and task force officers executed a federal search warrant at defendant Alvarez's business premises of 4225 West 16<sup>th</sup> Avenue, 2<sup>nd</sup> Floor in Hialeah, Florida. During their search of the premises federal agents discovered, among a plethora of other items, a hard copy of an e-mail dated October 4, 2005 which was addressed to SALVAREZCORP@aol.com. (This email address is the address which appears on defendant ALAVAREZ's personal business card that he uses to identify himself with as the executive director of Caribe Foundation).
16. In summary, the sender stated in the e-mail that he could coordinate obtaining identification documents for "Barbero" and that he had enlisted the support of the Chief of the Guatemalan Passport Office in the scheme to sell the documents to "Barbero." The sender further stated that he would discount his price because he was a friend, and that to get the documents legally, "Barbero" would have to wait four or more years. Additionally, the sender stated that "Barbero" should eliminate all references to being Cuban. A list of prices was also included in the e-mail which quoted "Barbero's" price, the price that others would pay, and a special price for Chinese Nationals. The sender also assured "Barbero" that the Guatemalan passport would be able to be used in Guatemala, and throughout Central America.
17. On the back of the e-mail copy was a handwritten note that, in part, stated that it was important to the writer that he be able retain the fact that he was Cuban.

18. Other items discovered in the course of the search included electrical switches and detonating cord for explosives.
19. As the search progressed, defendant ALVAREZ appeared at the search site and a copy of the search warrant was provided to ALVAREZ's attorney, who was present with him at that time. ALVAREZ departed from the search site thereafter.
20. Around noon on November 18<sup>th</sup>, federal agents received a report from a Confidential Source of Information (CS-1), of previous proven reliability, that defendant ALVAREZ and another individual had appeared at a location in Lauderhill, Florida. When defendant ALAVAREZ arrived at the Lauderhill location, according to CS-1, he appeared flustered, and quickly ordered CS-1 to transport a large white cooler that was being stored at the Lauderhill location to co-defendant OSVALDO MITAT at a location in Miami-Dade County.
21. CS-1 knew, at the time ALVAREZ issued this order, that the primary purpose of the room where the cooler was located, was to store weapons.
22. After CS-1 departed from the Lauderhill location, he contacted federal agents and advised that he was driving south with the cooler that defendant ALVAREZ had instructed him to transport to defendant MITAT. Additionally, during the course of that drive, CS-1 reported that he had held a coded conversation with defendant MITAT concerning the contents of the cooler. During this conversation between MITAT and CS-1 a Spanish code word that, roughly translated, means the "iron or irons" was used. In past conversations that CS-1 has had with MITAT concerning weapons, that same Spanish code word was used by MITAT to describe or refer to weapons.



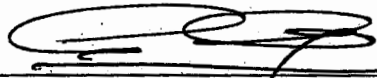
23. While CS-1 was driving south, agents asked him to stop and inspect the contents of the cooler. After receiving this request, CS-1, under the surveillance of federal agents, pulled over at a gas station and opened up the cooler. He reported that his inspection of the cooler's contents revealed that it in fact contained "rifles and grenades."
24. Eventually CS-1 arrived at the location in Miami established by defendant ALVAREZ where he (CS-1) was to meet MITAT and transfer to MITAT the white cooler.
25. Agents and task force officers surveilling the meeting site witnessed CS-1 drive to the rear of an apartment complex, and then return to the front of that complex. CS-1 then parked his vehicle in the middle of the street and, shortly thereafter MITAT, driving a white truck, emerged from an alleyway on the east side of the apartment complex. When MITAT appeared he was pulling a tree stump with his pick-up truck. MITAT, CS-1, and a passenger in MITAT's truck took the tree stump and pushed it to a debris pile. After disposing of the tree trunk, MITAT lowered the tailgate of his truck, reentered the cab of his truck, and then backed up his truck to the back of the vehicle (also a truck) that CS-1 was driving.
26. At that point MITAT emerged from his truck and waited while CS-1 pushed the cooler towards his truck. When it appeared that CS-1 was struggling in his effort to push the cooler into the bed of MITAT's truck, MITAT grabbed the handle of the cooler and assisted in placing the cooler in the bed of his truck. While MITAT was making a final tug to put the cooler in the bed of his truck, the lid of

the cooler appeared to surveilling agents to be ajar and slightly open. Shortly thereafter, officers effected an arrest.

27. Arresting agents observed the contents of the cooler. In the cooler were various long guns, a small briefcase, and what appeared to be three live grenades, as well as two training grenades. Inspection of the cooler's contents by Miami P.D. bomb squad personnel led the bomb squad personnel to suspect that the three "green" or live grenades were authentic. An examination of the contents of the briefcase led to the discovery of an RPB Industries M-11 pistol and a silencer.
28. The contents of the cooler were then transported to Miami Police Department for further examination. A more detailed inspection revealed that the "long guns" consisted of various fully, as well as semi-automatic, firearms. Altogether there were approximately 14 weapons and one silencer recovered. Of that number, four of the long guns, an EA Company, Model J-15, two Colt AR-15 SP-1s, and one AK-47 type (manufacturer unknown) model were, upon field testing, determined to be fully automatic machine guns. The RPB Industries M-11 pistol was also field tested and determined to be a fully automatic machine gun or submachine gun. Additionally, examination of these weapons revealed the serial numbers of the M-11 pistol, the EA J-15, and the two Colts had been obliterated. The silencer was found to bear no markings or serial number to permit required registration under the National Firearms Registration and Transfer Act.
29. In addition to these weapons, what appears to be a grenade launcher was also found as part of the contents of the cooler.

30. Your affiant, Special Agent May, subsequently caused a query to be made of the National Firearms Registration and Transfer Record. This query revealed that neither MITAT nor ALVAREZ had any firearms lawfully registered to them.
31. Following his arrest, MITAT made a spontaneous statement to a uniformed police officer. He told the officer in part, that, "unfortunately you guys are doing your jobs and we got caught with a bunch of guns. I love the United States and would never do anything to hurt this country. These guns were not meant to be used against this country."

**FURTHER AFFIANTS SAYETH NAUGHT.**

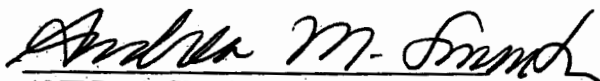


CHRIS CAPPANNELLI  
Special Agent



MATTHEW MAY  
Special Agent

Subscribed and sworn  
before me this 18<sup>th</sup> of November 2005



ANDREA SIMONTON  
United States Magistrate Judge