

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ORIGINAL FILED
OCT 30 2008
WILLIAM T. WALSH, CLERK

UNITED STATES OF AMERICA

:

CRIMINAL COMPLAINT

v.

:

Magistrate No. 08-2110 (JS)

ANGEL NIEVES

:

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. Between on or about July 29, 2008, and on or about August 20, 2008, in Camden County, in the District of New Jersey and elsewhere, defendant did:

SEE ATTACHMENT A

in violation of Title 18, United States Code, Section(s) 922(a)(1), 922(g)(1), 922(k) and 924(a).

I further state that I am a Special Agent for the Federal Bureau of Investigation and that this complaint is based on the following facts:

SEE ATTACHMENT B



Signature of Complainant
ROBERT BARBIERI
Special Agent, FBI

Sworn to before me and subscribed in my presence,

October 30, 2008
Date

at

Camden, New Jersey
City and State

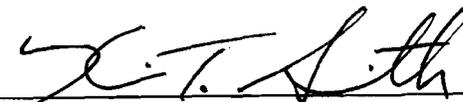
HONORABLE JOEL SCHNEIDER
United States Magistrate Judge
Name & Title of Judicial Officer



Signature of Judicial Officer

CONTENTS APPROVED

UNITED STATES ATTORNEY

By: 
KEVIN T. SMITH, AUSA

Date: 10-29-08

ATTACHMENT A

COUNT 1

Between on or about July 29, 2008, and on or about August 20, 2008, at Camden, in the District of New Jersey, defendant

ANGEL NIEVES

did knowingly and willfully engage in the business of dealing in firearms without a license by selling and transferring the following firearms:

1. an SKS 7.62x39 mm caliber rifle bearing serial number 01482;
2. an SKS 7.62x39 mm caliber rifle bearing serial number 02949;
3. a Remington .45 caliber pistol with an obliterated serial number; and
4. an SKS 7.62x39 mm caliber rifle bearing serial number 54142.

In violation of Title 18, United States Code, Sections 922(a)(1)(A) and 924, and Title 18, United States Code, Section 2.

COUNT 2

On or about July 29, 2008, at Camden, in the District of New Jersey, defendant

ANGEL NIEVES

having been convicted of a crime punishable by imprisonment for a term exceeding one year in a court in the State of New Jersey, did knowingly possess in and affecting commerce a firearm, namely, one SKS 7.62x39 mm caliber rifle bearing serial number 01482.

In violation of Title 18, United States Code, Section 922(g)(1) and Title 18, United States Code, Section 2.

COUNT 3

On or about August 1, 2008, at Camden, in the District of New Jersey, defendant

ANGEL NIEVES

having been convicted of a crime punishable by imprisonment for a term exceeding one year in a court in the State of New Jersey, did knowingly possess in and affecting commerce a firearm, namely, one SKS 7.62x39 mm caliber rifle bearing serial number 02949.

In violation of Title 18, United States Code, Section 922(g)(1) and Title 18, United States Code, Section 2.

COUNT 4

On or about August 5, 2008, at Camden, in the District of New Jersey, defendant

ANGEL NIEVES

knowingly possessed a firearm, to wit, a Remington .45 caliber pistol, which had the importer's or manufacturers serial number removed, obliterated, or altered, and which had been shipped in interstate or foreign commerce.

In violation of Title 18, United States Code, Sections 922(k) and 924(a), and Title 18, United States Code, Section 2.

COUNT 5

On or about August 20, 2008, at Camden, in the District of New Jersey, defendant

ANGEL NIEVES

having been convicted of a crime punishable by imprisonment for a term exceeding one year in a court in the State of New Jersey, did knowingly possess in and affecting commerce a firearm, namely, one SKS 7.62x39 mm caliber rifle bearing serial number 54142.

In violation of Title 18, United States Code, Section 922(g)(1) and Title 18, United States Code, Section 2.

ATTACHMENT B

AFFIDAVIT

1. I, Robert Barbieri, am a Special Agent with the Federal Bureau of Investigation and have been so employed since January 2004. I am assigned to the Violent Crimes Task Force of the South Jersey Resident Agency, Philadelphia Division, which is investigating homicides and violent crimes related to drug trafficking organizations in the City of Camden, New Jersey. I have personally participated in this investigation and am aware of the facts contained herein based upon my own investigation as well as my discussions with other law enforcement officers having knowledge of the case from their participation in the investigation as well. I have not included all of the facts known to me in this affidavit, just those facts which I believe necessary to establish probable cause to support this Complaint.
2. I have received information that ANGEL NIEVES, NJSBI# 979599B, who resides at 817 North 5th Street, Camden, New Jersey, was in possession of certain firearms and was offering these firearms for sale. A review of the criminal history of ANGEL NIEVES revealed that on February 2, 2001, he was sentenced in Superior Court of New Jersey to 3 years confinement for possession of a handgun. NIEVES was also sentenced in Superior Court of New Jersey on February 2, 2001, for a separate offense of aggravated assault. All of the offenses discussed above are crimes punishable by more than 1 year imprisonment under the laws of the State of New Jersey. Accordingly, federal law prohibits NIEVES from possessing a firearm.
3. On or about July 29, 2008, at approximately 1:45 p.m., Undercover Officer (hereinafter "UCO#1") drove to NIEVES' residence at 817 North 5th Street in Camden with the purpose of buying certain weapons.
4. On or about July 29, 2008, at approximately 2:45 p.m., UCO#1 entered the residence of ANGEL NIEVES at 817 North 5th Street, Camden, New Jersey, with the intention of purchasing an SKS rifle for \$1,000 cash. UCO#1 entered the Subject Property through the front door and proceeded through the residence to the basement where the deal was consummated. While inside the residence, UCO#1 inspected the SKS rifle, which was wrapped in a blue blanket. The rifle had a black, plastic stock and fore end. UCO#1 offered NIEVES \$1,000 for the SKS rifle, a 30 round magazine containing 10 rounds of 7.62x39 mm ammunition, and approximately 453 rounds of 7.62x39 mm ammunition. NIEVES accepted this offer. This meeting between NIEVES and UCO#1 occurred in NIEVES' bedroom located in the basement of 817 North 5th Street, Camden, New Jersey.
5. UCO#1 exited the residence and waited for NIEVES to bring the items outside. A short time later, NIEVES exited the rear of the residence carrying the SKS rifle, still wrapped in a blue blanket, and blue gym bag containing the ammunition and the magazine. NIEVES handed the items over a chain link fence in the rear of the residence to the UCO#1 and in return, UCO#1 handed NIEVES \$1,000.

6. The weapon received by UCO#1 from NIEVES on July 29, 2008, is more fully described as an SKS 7.62x39 mm caliber rifle bearing serial number 01482. The weapon has an affixed bayonet which collapses under the weapon when not in use. Consistent with SKS rifles manufactured in China, this particular weapon is imprinted with writing believed to be Chinese. By virtue of its presence in New Jersey, this SKS was transported in interstate or foreign commerce at some time subsequent to its manufacture.
7. On or about August 1, 2008, at approximately 3:00 p.m., UCO#1 drove to NIEVES' residence at 817 North 5th Street in Camden with the purpose of buying certain weapons.
8. On or about August 1, 2008, at approximately 3:45 p.m., UCO#1 and a second Undercover Officer (hereinafter "UCO# 2") drove to the residence of ANGEL NIEVES at 817 North 5th Street, Camden, New Jersey, with the intention of purchasing a SKS rifle for \$1,000 cash. NIEVES met UCO#1 and UCO#2 outside of his residence at 817 North 5th Street in Camden. While outside of the residence, NIEVES indicated to UCO#1 that he (NIEVES) did not want to deal with UCO#2. Accordingly, UCO#2 remained in the vehicle while UCO#1 entered NIEVES' residence. UCO#1 entered the Subject Property through the front door and proceeded through the residence to the basement where the deal was consummated.
9. While inside the residence UCO#1 inspected the SKS rifle which was located on NIEVES' bed [NIEVES' bedroom was located in the basement of 817 North 5th Street, Camden, New Jersey]. The rifle had a wood stock and fore end. UCO#1 offered NIEVES \$1,000 for the SKS rifle and approximately 352 rounds of 7.62x39 mm ammunition. NIEVES accepted this offer.
10. UCO#1 exited the residence and re-joined UCO#2 at the rear of 817 North 5th Street and waited for NIEVES to bring the items outside. A short time later, NIEVES exited the rear of the residence carrying the SKS rifle, which was wrapped in a blue towel, and a red and black plastic bag containing the ammunition. NIEVES handed the items over a chain link fence in the rear of the residence to the UCO#1 and in return, the UCO#1 handed NIEVES \$1,000.
11. The weapon received by UCO#1 from NIEVES on August 1, 2008, is more fully described as an SKS 7.62 x 39 mm caliber rifle bearing serial number 02949. The weapon has an affixed bayonet which collapses under the weapon when not in use. Consistent with SKS rifles manufactured in China, this particular weapon is imprinted with writing believed to be Chinese. By virtue of its presence in New Jersey, this SKS was transported in interstate or foreign commerce at some time subsequent to its manufacture.
12. On or about August 5, 2008 at approximately 4:30 p.m., UCO#1 drove to NIEVES' residence at 817 North 5th Street in Camden with the purpose of buying certain weapons.
13. On or about August 5, 2008, at approximately 5:00 p.m., UCO#1 entered the residence of

ANGEL NIEVES at 817 North 5th Street, Camden, New Jersey, with the intention of purchasing a .45 caliber pistol for \$750.00 cash. UCO#1 entered the Subject Property through the front door and proceeded through the residence to the basement where the deal was consummated. While inside the residence, NIEVES removed a chrome colored .45 caliber pistol from a gray metal box, unloaded the pistol and gave it to UCO#1 to inspect. UCO#1 offered NIEVES \$750.00 cash for the pistol, two magazines and approximately 10 rounds of ammunition. NIEVES accepted this offer and placed the pistol, magazines and ammunition in a small, black plastic grocery bag, gave it to UCO#1 and in return UCO#1 gave NIEVES \$750.00. This meeting between NIEVES and UCO#1 occurred NIEVES' bedroom located in the basement of 817 North 5th Street, Camden, New Jersey.

14. UCO#1 exited the residence with the small, black plastic bag containing the pistol, two magazines and approximately 10 rounds of ammunition.
15. The weapon received by UCO#1 from NIEVES on August 5, 2008, is more fully described as a Remington .45 caliber pistol with an obliterated serial number. According to the revised 9th edition of Modern Guns Identification and Values, I am aware that Remington handguns are manufactured in New York. Therefore, I have reason to believe that the weapon traveled in interstate and/or foreign commerce for it to be found in New Jersey.
16. On or about August 20, 2008 at approximately 5:08 p.m., NIEVES was contacted via telephone to arrange the sale of certain weapons. NIEVES directed UCO#1 to meet at his residence at 817 North 5th Street in Camden.
17. On or about August 20, 2008 at approximately 5:15 p.m., UCO #1 entered the residence of ANGEL NIEVES at 817 North 5th Street, Camden, New Jersey, with the intention of purchasing an SKS rifle for \$1,000 cash. UCO#1 entered the Subject Property through the front door and proceeded through the residence to the basement where the deal was consummated. While inside the residence, UCO#1 inspected the SKS rifle, which was in a purple gym bag. The rifle had a wood stock and for end and a black shoulder strap. UCO#1 offered NIEVES \$1,000 for the SKS rifle, a 30 round magazine and approximately 62 rounds of 7.62x39 mm ammunition. NIEVES accepted this offer. This meeting between NIEVES and UCO#1 occurred in the basement of the residence.
18. UCO#1 exited the residence and waited for NIEVES to bring the items outside. A short time later, NIEVES exited the rear of the residence carrying the purple gym bag which contained SKS rifle, magazine and ammunition. NIEVES handed the bag over the chain link fence in the rear of the residence to the UCO#1 and in return UCO#1 handed NIEVES \$1,000.
19. The weapon received by UCO#1 from NIEVES on August 20, 2008, is more fully described as a SKS 7.62x39 mm rifle with a wood stock and for end and a black shoulder strap bearing serial number 54142. The weapon has an affixed bayonet which collapses under the weapon when not in use.

20. UCO#1 subsequently placed several calls to NIEVES seeking to purchase additional firearms. During one conversation, NIEVES indicated that he presently did have any additional firearms for sale but would contact UCO#1 if other firearms became available.
21. Law enforcement, as recent as October 27, 2008, surveilled NIEVES at the Subject Property.
22. A review of records maintained by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives revealed that ANGEL NIEVES has not been issued a Federal Firearms License which would authorize him to engage in the business of selling firearms.
23. Based upon the foregoing, there is probable cause to believe that ANGEL NIEVES has violated federal firearms laws, including, but not limited to, 18 U.S.C. § 922(a)(1) [selling firearms without a license], 18 U.S.C. § 922(g)(1) [felon in possession of a firearm], and 18 U.S.C. § 922(k) [possession of a firearm with an obliterated serial number].