

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA

v.

VICTOR AVILES,
aka "BABY A,"
aka "PEDRO AVILES," and
aka "JOSE ABILES"

UNDER SEAL

CRIMINAL COMPLAINT

CASE NUMBER:

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about November 21, 2007 in the Northern District of Illinois and elsewhere, defendant,

having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate commerce a firearm, namely, a .22 caliber Ruger model 22/45 pistol, serial number 220-72869, which firearm had been transported in interstate commerce prior to AVILES's possession of the firearm,

in violation of Title 18 United States Code, Section 922(g); and

On or about January 17, 2008, in the Northern District of Illinois, defendant,

having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate commerce a firearm, namely, a Heckler & Koch USP Compact 9 mm pistol, serial number 27-000378, which firearm had been transported in interstate commerce prior to defendant's possession of the firearm,

in violation of Title 18 United States Code, Section 922(g)

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

See attached affidavit.

Continued on the attached sheet and made a part hereof: Yes No

Sworn to before me and subscribed in my presence,

September 23, 2008 at _____
Date

MARIA VALDEZ, U.S. Magistrate Judge
Name & Title of Judicial Officer

Signature of Complainant

Chicago, Illinois
City and State

Signature of Judicial Officer

STATE OF ILLINOIS)
)
COUNTY OF C O O K) SS

A F F I D A V I T

I. INTRODUCTION

I, Patrick W. Staehely, being duly sworn, state as follows:

1. I am a Special Agent (SA) of the United States Department of Justice, Federal Bureau of Investigation (FBI). I have been so employed for approximately two and one half years. I am currently assigned to a FBI/Chicago Police Department (CPD) Joint Task Force on Gangs, FBI Chicago Field Division, and have been so assigned for the past two years. As a part of my official duties, I investigate criminal violations of the federal narcotics laws, including, but not limited to, Title 21, United States Code, Sections 841, 843 and 846. I have received special training in the enforcement of laws concerning controlled substances and gang-related activities. I have also been involved in various types of electronic surveillance, in the debriefing of defendants, witnesses, and informants, as well as others who have knowledge of the distribution of controlled substances.

2. The following information is based upon my personal observations, knowledge and information I received from other Federal Law Enforcement Officers, CPD, and others, and Cooperating Witnesses (CWs) who have proven reliable and provided information which has been independently corroborated, as set forth in part herein.

3. My understanding and interpretation of conversations set forth in this affidavit

are based on my knowledge of the investigation to date, the context of the conversations, consensual audio and video recordings made in this investigation, my training and experience, conversations I have had with other agents and officers experienced in narcotics and gang investigations, and on information provided by a cooperating individual in this investigation.

4. Because this affidavit is being submitted for the limited purpose of establishing probable cause for the issuance of a complaint charging VICTOR AVILES, aka “Baby A,” aka “Pedro Aviles,” aka, “Jose Abiles,” with violations of Title 18, United States Code (USC), Section 922(g), it does not contain all the information known to me concerning this investigation.

II. BACKGROUND

5. This is an investigation involving the unlawful activities engaged in by members of the Latin Kings street gang, including the unlawful possession of firearms. As part of this investigation, FBI agents have worked with Cooperating Witness 1 (“CW1”).¹

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CW1 has agreed to cooperate with the government thinking that the government may be investigating him/her. Affiant is aware of no additional criminal charges pending against CW1 at this time. CW1 has been arrested over ten times for offenses which include narcotics offenses, firearms offenses, home invasion, and armed robbery. CW1 has two felony convictions. In 1999, CW1 was convicted of a firearms offense and was sentenced to a term of imprisonment and probation. In 2004, CW1 was convicted of possession of a controlled substance and sentenced to a term of probation. CW1 has received payment in the amount of \$42,800 from the FBI for services and \$78,401.30 for expenses incurred (in large measure for relocation expenses for CW1 and multiple family members) in conjunction with this and other criminal matters under investigation by either the FBI or the CPD.

6. According to CW1, he/she has known AVILES for approximately five years. According to CW1, AVILES is a member of the Latin Kings street gang. CW1 reported that AVILES does not currently hold a leadership position, however, between approximately the Spring of 2007 and the Spring of 2008, AVILES held the position of Nation Enforcer for the 26th Street Latin Kings street gang. CW1 further reported that AVILES previously held the position of Cacique for the 21st and Albany Section of the 26th Street Latin Kings street gang. Prior to the firearms transactions described below, CW1 positively identified VICTOR AVILES, aka "Baby A," aka "Pedro Aviles," aka, "Jose Abiles," from a photograph.

III. FACTUAL BASIS SUPPORTING PROBABLE CAUSE

October 19, 2007 Meeting Between AVILES and CW1

7. According to CW1, during an unrecorded conversation on approximately October 17 or 18, 2007, AVILES told CW1 that AVILES would sell him/her a .22 caliber pistol and a 9 millimeter pistol for \$700. On October 19, 2007, CW1 had a consensually recorded meeting with AVILES inside CW1's vehicle. During this meeting, CW1 asked AVILES, "what's up with those toys? You get a hold of them?"² Based on my training and experience your Affiant knows that the word "toys" is commonly used to refer to firearms.

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The recorded conversations throughout this Affidavit have been summarized, and parentheses have been placed around language that represent my or other Agents' understanding of what is being said during the recordings, based on the contents and context of the conversations, my experience as a law enforcement officer, and the experience of other law enforcement officers in this investigation. In addition, language that is quoted from the recorded conversations throughout this Affidavit is based upon Agents' review of the recorded conversations. Quoted material is not intended to be a final transcription of the audio recordings from which the quotes are taken.

AVILES replied, "Yeah, they gonna come right now. At nine." CW1 asked, "How many?" AVILES replied, "two." AVILES told CW1 to give him a half hour and that he would be right there. AVILES and CW1 did not ultimately engage in a gun transaction on that day.

November 16, 2007 Consensual Recordings Between AVILES and CW1 Discussing the Sale of Firearms

8. On November 16, 2007, at approximately 3:04 p.m., CW1 placed a consensually recorded telephone call to AVILES. When AVILES answered the call, CW1 asked, "He wants seven for both?" AVILES replied in the affirmative. Affiant understood CW1's question to be a reference to a conversation on October 19, 2007 (see paragraph 7) between CW1 and AVILES during which CW1 agreed to pay AVILES \$700 for two firearms. When CW1 asked why the firearms were so expensive, AVILES replied that he did not know. CW1 offered to pay \$600 for both guns. AVILES told CW1 that he wanted to speak to his source and would get back to CW1 regarding the price. AVILES told CW1 that he had to get the guns, which would take approximately twenty minutes. CW1 then expressed frustration that the source of the firearms could impose a "tax" on them. When CW1 referred to a "tax," I understood him/her to mean a higher price charged for the sale of guns. CW1 told AVILES that if he/she was not a felon, then he/she would "be all good." Affiant understood that because CW1 is a convicted felon, it is illegal for him to purchase or possess firearms and, therefore, CW1 had to purchase firearms in a manner that was more costly than purchasing firearms legitimately.

9. At approximately 7:31 p.m., CW1 placed another consensually recorded

telephone call to AVILES. CW1 greeted AVILES as "BABY A." AVILES told CW1 that his guy "had them for sure, bro." Affiant understands that AVILES was referring to the firearms that CW1 and AVILES had discussed in the previous conversation. When CW1 asked AVILES how much the supplier of the firearms wanted for both weapons, AVILES replied, "seven." Your affiant understands "seven" to mean \$700. AVILES stated that the supplier had a "thirteen deuce deuce...and he said he's got a Ruger thirteen." Your affiant understood "deuce deuce" to be a reference a .22 caliber firearm. Your affiant believes that "Ruger thirteen" may be a reference to Ruger firearms having a thirteen round capacity. When CW1 asked AVILES if the Ruger pistol was old, AVILES replied that it was a "new one." CW1 arranged to purchase the Ruger pistol from AVILES.

November 21, 2007 Purchase of a Firearm and Ammunition from Aviles

10. During an unrecorded conversation between CW1 and AVILES, AVILES told CW1 to come to AVILES's residence later that evening in order to purchase the firearms which the two had previously discussed.

11. Prior to the meeting, CW1 and his/her vehicle were searched for the presence of contraband, with negative results. CW1 was subsequently provided \$320 in undercover funds for the purchase of a firearm and was equipped with digital audio and video recording equipment and a transmitter.

12. Surveillance units observed as CW1 drove to AVILES's residence at 2214 South Troy Avenue in Chicago, Illinois. Surveillance saw CW1 as he/she arrived at the residence at approximately 6:39 p.m and parked his/her vehicle. As CW1 approached the

residence, he/she stated for agents to hear, "2214," referring to the house number of the street on which AVILES resided.

13. AVILES entered CW1's vehicle. Your Affiant has listened to consensually recorded audio recording and watched the video recording from November 21, 2007 between CW1 and AVILES that were covertly recorded by CW1. The following summary is based on Affiant's review of the audio and video recordings. Inside the vehicle, AVILES³ and CW1 exchanged the Latin King handshake. CW1 stated, "BABY A finally come through for me!" AVILES took a Ruger pistol from his waistband and box of ammunition from his jacket pocket, and placed both items on the floor of CW1's vehicle between himself and CW1. CW1 asked AVILES if "it," referring to the firearm, came with any "shells," meaning bullets. AVILES responded, "yeah." CW1 asked AVILES, "here, open this, yeah?" According to CW1, he/she was referring to the slide action on the firearm. AVILES asked CW1, "you like it?" AVILES said, "That's eleven shots, he said." CW1 asked, "Eleven?" AVILES replied, "Yeah." Affiant understood that "eleven shots" means that the firearm is capable of carrying eleven rounds at a time. CW1 asked AVILES whether there was a round in the chamber. AVILES replied, "no, nothing in there. It's clean." AVILES asked CW1 if he/she had ever seen one of them, and CW1 asked if it was a "Ruger or a Luger?" AVILES responded that it was a "Ruger." AVILES told CW1, "I can just imagine how much damage that motha-fucker does even though it's a twenty two. If you could go up to them

³ Affiant has positively identified AVILES by comparing the person he observed in the video to a Chicago Police Department photograph of AVILES.

and be like this, pow, pow, pow, you could get 'em real good." CW1 asked if the pistol was "three twenty (\$320)." AVILES said, "yeah." AVILES told CW1, "He said he got two more. You want 'em or what?" Your affiant understood that AVILES was referring to his source of the firearm when he said "he." CW1 gave AVILES \$320 in undercover funds.

14. The video recording equipment captures AVILES as he fanned through the money given to him by CW1 and placed it in his pocket. CW1 told AVILES not to tell two particular individuals, also known to be members of the Latin Kings street gang, or anyone else what CW1 was buying. AVILES, referring to the Ruger pistol, told CW1, "I think this one's the best." CW1 told AVILES that if AVILES could get more firearms, CW1 wanted two pistols for his house, one for the front door and one for the back door. AVILES stated that the guy that got him the Ruger was "...gonna bring a three-eighty and a twenty-two and wants six for 'em." Affiant understood this to mean that the supplier of the Ruger pistol also possessed a .380 caliber pistol and a .22 caliber pistol which he was willing to sell for \$600. CW1 replied that he/she would buy them. AVILES said that the guy told him to give him until Friday or Saturday. AVILES exchanged the Latin King handshake with CW1 and exited the vehicle at approximately 6:41 p.m. AVILES replied, "King Love" and closed the car door.

15. Following the meeting between AVILES and CW1, CW1 returned to a pre-determined location as directed. Upon arriving at the pre-determined location, CW1 provided SA James G. McDonald with a .22 caliber Ruger model 22/45 pistol, serial number 220-72869, a magazine belonging to the Ruger pistol which contained ten .22 caliber

cartridges, and a yellow Remington box containing ninety .22 caliber cartridges. SA McDonald subsequently deactivated the recording equipment. Agents searched CW1 and CW1's vehicle for the presence of contraband with negative results.

January 15, 2008 Consensual Recordings between AVILES and CW1

16. On January 15, 2008, at approximately 10:05 a.m., AVILES, using telephone number (773) 440-6313, called CW1 at telephone number (773) 426-7477. During this consensually-recorded conversation, AVILES told CW1, "I got two right now. One my brother has in his house and then the other one, my boy, he came through." CW1 asked how much they would cost and AVILES responded, "Both of them, we're looking at seven." Affiant believes that AVILES was referring to two firearms that he wanted to sell to CW1 for \$700. CW1 asked what kind of pistols they were. AVILES replied, "a four-fin and the other one's a nina." Affiant understood this to mean that one of the pistols was a .45 caliber and the other pistol was a 9 millimeter. AVILES told CW1 that Individual A had asked for a pistol and that CW1 could "grab one for you and grab one for [Individual A]." CW1 told AVILES not to do anything with the pistols and to hang on to them. AVILES replied, "I know. I got them for you."

17. At approximately 10:13 a.m., CW1, using telephone number (773) 426-7477, received an incoming call from AVILES using telephone number (773) 440-6313. During this consensually-recorded conversation, CW1 stated, "if you give me both of 'em, I'll give you eight for it and you can make a bill for yourself." Affiant understood that CW1 told AVILES that he/she would pay AVILES \$800 for both firearms, thereby allowing AVILES

to make a profit for himself of \$100 on the sale. AVILES replied, "Ok. I won't say nothin' then. It'll be between me and you." CW1 asked, "This is for sure, right?" AVILES replied, "yeah, I already have them in my hands." Affiant understood that AVILES told CW1 that he already had the firearms in his possession.

18. At approximately 7:39 p.m., CW1, using telephone number (773) 426-7477, received an incoming call from AVILES, using telephone number (773) 440-6313. During this consensually-recorded conversation, AVILES asked CW1, "you ready or what?" CW said that he/she had to work and asked if they could do the deal tomorrow at AVILES' work. AVILES stated, "I don't want to be driving with it," which your affiant understood to mean that AVILES did not want to drive with the firearm. After further discussion, AVILES told CW1, "Okay look, I'll bring one." When CW1 questioned AVILES why he would not bring both firearms, AVILES stated that he needed to have the money in hand to get the other pistol before he could deliver it to CW1. CW1 stated he/she thought AVILES already had both firearms. AVILES replied, "I had one in my hand already, but the other one is right there, right there. Not that far away from my house." AVILES further stated, "I got one in my hands already, for sure." Your affiant understood that when AVILES used the word "one," he was referring to a firearm. AVILES told CW1 that he would call his guy and see if he could get both pistols.

19. At approximately 8:12 p.m., CW1, using telephone number (773) 426-7477, received an incoming call from AVILES, using telephone number (773) 440-6313. CW1 asked AVILES, "we gonna do that tomorrow or what?" AVILES replied, "yeah, I'm already

picking them up." CW1 asked AVILES whether he wanted to meet near AVILES' work, to which AVILES replied, "yeah." CW1 said that he/she would be there between 1:00 p.m. and 2:30 p.m. AVILES told CW1 that he worked near 34th Street and Ashland Avenue and gave CW1 further directions. AVILES added, "tomorrow for sure."

January 16, 2008 Undercover Purchase of a Firearm from AVILES

20. On January 16, 2008, in anticipation of a meeting between AVILES and CW1, agents equipped CW1 with recording devices and \$400 in undercover funds. Agents searched CW1 and CW1's vehicle for contraband with negative results. Agents conducted surveillance as CW1 drove to ACME REFINING, located at 3357 South Justine Avenue in Chicago, Illinois.

21. Surveillance observed CW1 as he/she arrived and parked near ACME REFINING at approximately 3:18 p.m.. Based on a review of the video recording and CW1's account of the events, AVILES opened the door of CW1's vehicle, reached in, and placed a red rag between the front seats. AVILES then entered CW1's vehicle. CW1 grabbed a pistol hidden within the red rag, examined it, and said, "it's a little old." CW1 asked AVILES whether he had "shells," meaning ammunition, for the weapon. AVILES replied, "yeah, we got our shells." CW1 asked if they were AVILES' personal "shells." AVILES replied, "No, our shells, [Individual A's] and our shells." AVILES told CW1, "We got a whole bunch of shells, four-five, three five seven, four four." Affiant understood this to mean that AVILES had .45 caliber ammunition, .357 caliber ammunition, and .44 caliber ammunition. When CW1 asked, "where at," AVILES replied, "at my house." CW1 asked

AVILES why he did not bring any ammunition with him, to which AVILES replied that he did not know that CW1 wanted ammunition. CW1 said, "You know I'm a fuckin' felon. I can't get no shells." AVILES said, "right" and told CW1 to go by his house and pick some up from his brother. CW1 asked, "have you shot this yet?" AVILES replied, "Man, trust me." When CW1 asked, "does it work," AVILES replied, "yeah." CW1 told AVILES that he/she was only going to give AVILES \$400 today in case CW1 did not like the other gun. AVILES said, "The other one? It's even more beautiful." AVILES said that he was going to use the money that CW1 just gave him to buy the other gun and would sell it to CW1 the following day. CW1 said he/she would buy the other gun from AVILES as long as AVILES said it was nice. AVILES and CW1 exchanged the Latin King handshake and AVILES exited the vehicle.

22. Following this meeting, CW1 returned to a pre-determined meeting location. An FBI Special Agent recovered from CW1 a 1911 Model .45 caliber styled pistol wrapped in a red rag. Affiant further deactivated the recording equipment at approximately 3:25 p.m. Agents searched CW1 and CW1's vehicle for the presence of contraband with negative results.

23. The pistol was subsequently inspected by an FBI Chicago Division Firearms Instructor who, upon further examination of the firearm, reported that the .45 caliber pistol was not functioning in that it lacked a firing pin.

January 16, 2008 Consensual Recordings Between AVILES and CW1

24. On January 16, 2008, at approximately 10:29 p.m., CW1, using telephone

number (773) 426-7477, received a consensually recorded incoming call from AVILES, using telephone number (773) 440-6313. CW1 asked, "how we looking? Are we good?" AVILES replied, "yeah, we're good. Everything's good. I got it." CW1 asked AVILES, "Can you bring me some Chiclas for tomorrow?" AVILES replied, "Yeah. Both of 'em? I'll see what I can do." Affiant understood that CW1 was confirming the purchase of a firearm from AVILES the following day. CW1 explained to agents the word "Chiclas" is a common code word among Latin Kings meaning ammunition for a firearm.

25. At approximately 11:28 p.m., CW1, using telephone number (773) 426-7477, received a consensually-recorded incoming call from AVILES, using telephone number (773) 440-6313. AVILES told CW1 that he had to be at work at 6:00 in the morning. CW1 replied that he/she would meet AVILES' at his workplace between 9:30 and 10:00 a.m. AVILES stated, "that's even better," and told CW1 to call when he/she was close.

Undercover Purchase of A Firearm From AVILES on January 17, 2008

26. On January 17, 2008, at approximately 8:57 a.m., CW1, using telephone number (773) 426-7477, received a consensually recorded incoming call from AVILES, using telephone (773) 440-6313. AVILES instructed CW1, "the door's open and it's under my seat...just grab it." CW1 understood this to mean that the pistol was being stored under the seat of AVILES' vehicle and that CW1 was to retrieve it him/herself without AVILES present. CW1 replied that he/she did not want to do that because CW1 did not feel comfortable leaving the money under the car seat. AVILES subsequently agreed to meet CW1 instead.

27. At approximately 9:41 a.m., AVILES telephoned CW1 and told CW1 in a consensually recorded conversation that he was working in a different scrap metal yard and gave CW1 directions to get to the yard. CW1 asked if he/she was supposed to pick AVILES up. AVILES replied, "yeah."

28. In anticipation of the meeting between CW1 and AVILES, agents met with CW1 and equipped him with recording devices and \$400 in undercover funds. Agents searched CW1 and CW1's vehicle for illegal contraband, with negative results. Agents conducted surveillance of CW1 as he/she drove to meet AVILES at a scrap yard in the vicinity of ACME REFINING, located at 3357 South Justine Avenue in Chicago, Illinois.

29. At approximately 9:57 a.m., surveillance saw CW1 arrive at the scrap metal yard. An individual later identified as AVILES⁴ was observed on the video recording as he entered CW1's vehicle wearing a dark colored coat and cap. AVILES entered CW1's vehicle at approximately 9:57 a.m. CW1 stated, "Let me ask you a couple of questions about the pistol I bought from you yesterday." CW1 asked AVILES whether he "ever used it." AVILES asked, "Why? It look like it won't shoot or what?" CW1 asked, "Well, should it shoot?" AVILES replied, "yeah." AVILES said he never used it but "they told me it was good." CW1 asked AVILES who he got the pistol from. AVILES answered that he got the firearm from his brother. CW1 again asked, "You know it's good right?" AVILES said, "Yep." CW1 asked if AVILES was sure and AVILES said, "positive." CW1 said he/she

⁴Affiant has positively identified AVILES by comparing the person he observed in the video to a Chicago Police Department photograph of AVILES.

found some .45 caliber shells and AVILES asked, "And it won't shoot?" CW1 replied that the bullets would not fit in the gun. CW1 also said that there was no "shooting pin" in it and that it was not a real gun. AVILES replied, "get the fuck out of here." AVILES said he was going to have to smack his brother around. CW1 stated, "I was kinda disappointed bro 'cause I paid four bills (\$400) for it and it's a fake-ass gun." CW1 told AVILES to tell whoever AVILES got it from that it was a fake gun and AVILES said, "I'm gonna tell [Individual B] bro." CW1 parked the vehicle he/she was driving and asked AVILES whether it was okay to do the deal there because there was a truck driver nearby. AVILES replied, "I'm just gonna grab it and put it right here and then we'll leave." Affiant understood that when AVILES used the term "it," he was referring to the firearm.

30. At approximately 10:00 a.m., the video recording captured AVILES as he exited CW1's vehicle. CW1 advised agents that "we're sittin' right by his car." The video recording reflects that there was a white-colored vehicle parked next to CW1. According to CW1, AVILES walked to the driver's side of the white vehicle and opened the door. At approximately 10:02 a.m., the video recording captured AVILES as he closed the door to the white vehicle and opened the passenger door to CW1's vehicle. AVILES reached in and handed CW1 a black colored pistol. CW1 asked, "No shells?" AVILES replied, "No, but that motherfucker I know is guaranteed, bro." CW1 showed AVILES where the firing pin was located on the pistol and asked if AVILES could see the little hole. AVILES replied that he could. CW1 told AVILES that he/she could tell that the pistol was real. CW1 then showed AVILES the non-functioning pistol that AVILES had sold to CW1 the previous day

and pointed out that the firing pin was missing. AVILES asked if CW1 had tried shooting the gun and CW1 said that the bullets and magazine clip wouldn't fit in the gun. CW1 told AVILES that he/she was going to keep the gun without the firing pin and try to sell it to make back some money. AVILES showed CW1 a 9 millimeter pistol and CW1 said, "I love black pistols." AVILES told CW1, "man, this motherfucker's bad. I ain't even want to sell it to you." CW1 asked how many shots were in the firearm. AVILES replied that he did not know, but was in love with this pistol. CW1 handed AVILES \$400 in undercover funds and stated, "here, four bills." AVILES took the money and placed it in his coat pocket. CW1 said, "Four bills for fuckin' a gun that don't work and for a gun that does work." CW1 began driving AVILES back to the scrap metal yard. CW1 asked, "That's a nine, right," referring to the caliber of the pistol CW1 had just purchased from AVILES. AVILES replied, "Yeah that's a nine." CW1 asked what brand the pistol was and asked if it said "USP" on it. AVILES replied, "HECKLER AND KOCH." Referring to the non-functioning pistol that AVILES sold to CW1 the previous day, CW1 stated, "I saw that it said 'US Army' on it and I'm like, man, this thing's a fuckin' gunner you know?" AVILES asked, "So what is it? A display or what?" CW1 said it might be a prop or replica that is used in movies or hung on someone's wall. AVILES said, "man, he wanted five hundred but I told him, 'you told me four hundred...too bad you already told me.'" Affiant understood that AVILES was referring to the price of the firearm that AVILES sold to CW1 that day. After CW1 parked his vehicle, the video recording reflects that CW1 and AVILES exchanged the Latin King handshake and AVILES exited CW1's vehicle.

31. Following the undercover meeting between AVILES and CW1, CW1 returned to a predetermined meeting location. Affiant recovered from CW1 a black- colored Heckler & Koch USP Compact 9mm pistol, serial number 27-000378 along with a magazine clip. Affiant deactivated the recording equipment. CW1 and CW1's vehicle were searched for the presence of contraband with negative results.

32. AVILES was previously convicted on September 24, 1999, in Cook County, Illinois of the felony offense of unlawful carrying/possession of a firearm, and sentenced to one year imprisonment.

33. A "Firearms Trace Summary" provided by the Bureau of Alcohol, Tobacco and Firearms was conducted on the Ruger handgun bearing serial number 220-72869. Based on the results of the trace, the Ruger handgun was purchased on August 16, 1996, from Favres Gun Shop at 520 N. 42nd Street, Terre Haute, Indiana.

34. According to the results of a firearms trace on the Heckler and Koch handgun, bearing serial number 27-000378, the Heckler and Koch handgun was manufactured in Germany and imported by Heckler and Koch Incorporated located in Sterling, Virginia.

CONCLUSION

35. Based on the foregoing, there is probable cause that on November 21, 2007, VICTOR AVILES, aka “Baby A,” aka “Pedro Aviles,” aka, “Jose Abiles,” having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate commerce a firearm, namely, a .22 caliber Ruger model 22/45 pistol, serial number 220-72869, which firearm had been transported in interstate commerce prior to AVILES’s possession of the firearm, in violation of Title 18, United States Code, Section 922(g)(1). There is further probable cause that on January 17, 2008, VICTOR AVILES, aka “Baby A,” aka “Pedro Aviles,” aka, “Jose Abiles,” having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate commerce a firearm, namely, a Heckler & Koch USP Compact 9mm pistol, serial number 27-000378, which firearm had been transported in interstate commerce prior to AVILES’s possession of the firearm, in violation of Title 18, United States Code, Section 922(g)(1).

PATRICK W. STAEHELTY, Special Agent
Federal Bureau of Investigation

SUBSCRIBED AND SWORN TO
this ___ day of September 2008.

MARIA VALDEZ, United States Magistrate