

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

United States of America)

v.)

ROLMAN BALCARCEL-BAVAGAS)

Case No. 3:22mj70



Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 1, 2022 in the city/county of Richmond in the Eastern District of Virginia, the defendant(s) violated:

Code Section

Offense Description

Title 8, United States Code, Section 1326(a)

On or about July 1, 2022, in the E.D. of VA, ROLMAN BALCARCEL-BAVAGAS, a noncitizen who had been ordered removed and was removed from the United States on or about 10/22/2013 and 8/8/2014, was found in the U.S., without having obtained the express consent of the Attorney General or the Secretary of Homeland Security, to re-apply for admission into the United States, in violation of 8 U.S.C. § 1326(a).

This criminal complaint is based on these facts:

See attached affidavit, fully incorporated by reference herein

[X] Continued on the attached sheet.

Reviewed by AUSA/SAUSA

Kashan K. Pathan, Assistant U.S. Attorney

Printed name and title

Complainant's signature

Derek M. Mullins, Special Agent HSI

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone (specify reliable electronic means).

Date: 8/1/2022

/s/ MRC Judge's signature

City and state: Richmond, Virginia

Hon. Mark R. Colombell, U.S. Magistrate Judge Printed name and title

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA)
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 v.)
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 ROLMAN BALCARCEL-BAVAGAS,)
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AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Derek M. Mullins, being duly sworn, depose and say:

1. I am a Special Agent with the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) and have been so employed since September 2019. Prior to that, I was employed as a Postal Inspector with the United States Postal Inspection Service (USPIS) from April 2015 to September 2019. Prior to becoming a Postal Inspector, I was employed by the Department of Homeland Security, Immigration and Customs Enforcement (“ICE”), Homeland Security Investigations (“HSI”) from August 2008 to April 2015. I am a graduate of the Federal Law Enforcement Training Center’s Criminal Investigators Training Program and the U.S. Immigration and Customs Enforcement Academy’s ICE Special Agent Training Program. Prior to my employment with HSI and USPIS, I was a Deputy Sheriff with the Wise County Sheriff’s Department in Wise County, Virginia from 2005 to 2008. I have received training in various aspects of federal law enforcement, including the investigation of immigration related offenses. I have participated in multiple investigations, seizures, and search warrants that have resulted in criminal arrests, seizures, and prosecutions. I

have also been the affiant on search, arrest, and seizure warrants that have resulted in successful arrests, seizures, and prosecutions.

2. My duties as a Special Agent for ICE include, but are not limited to, investigating violations of the Immigration and Nationality Act, United States customs laws, and the Federal Criminal Code. I have received training on how to investigate and enforce violations of criminal law, to include narcotics and firearms trafficking.

3. The facts and information contained in this affidavit are based upon my personal knowledge, as well as the observations of other agents involved in this investigation. All observations not personally made by me were relayed to me by the individuals who made them, or were conveyed to me by my review of records, documents, and other physical evidence obtained during the course of this investigation.

4. This affidavit contains information necessary to support probable cause for this application. This affidavit is not intended to include each and every fact and matter observed by me or known to the Government.

5. This affidavit is made in support of a criminal complaint charging ROLMAN BALCARCEL-BAVAGAS (BALCARCEL) with Reentry After Deportation/Removal, in violation of Title 8, United States Code, Section 1326(a). As described more fully below, BALCARCEL is a citizen of Guatemala and an alien who was previously removed from the United States on two occasions. These removals occurred on or about October 22, 2013 and on or about August 8, 2014. Sometime after his second removal from the United States, BALCARCEL reentered the United States and was found on or about July 1, 2022 in the Eastern District of Virginia, without having first obtained the express consent of the Attorney General or, his successor, the Secretary of Homeland Security to reapply for admission.

Birth in Guatemala

6. A review of ICE's files and computer records revealed that BALCARCEL was born in Guatemala on or about xx/xx/1984, and at all times relevant and material to this Criminal Complaint, BALCARCEL is a citizen of Guatemala.

Initial Entry into the United States

7. BALCARCEL initially entered the United States at an unknown location and unknown time, without admission, inspection, or parole. BALCARCEL was not granted permission to enter the United States by the Secretary of Homeland Security or the United States Attorney General. BALCARCEL has previously claimed to law enforcement that he entered the United States in 2006.

8. On or about September 13, 2007, BALCARCEL was encountered by ICE Enforcement and Removal Operations (ERO) officers at the Carbon County Jail in Carbon County, Wyoming. At the time, BALCARCEL was being detained for the offense of Driving Under the Influence. BALCARCEL was issued a Notice to Appear in Immigration Court and was transported to ICE's facilities in Denver, Colorado.

First Removal to Guatemala

9. On or about September 13, 2007, BALCARCEL was released on a \$10,000 bond.

10. On or about August 25, 2011, BALCARCEL was ordered removed to Guatemala by an Immigration Judge in Denver, Colorado. BALCARCEL was given until September 26, 2011 to appeal the decision.

11. On or about September 16, 2011, BALCARCEL filed an appeal through his immigration attorney.

12. On or about February 4, 2013, the Board of Immigration Appeals dismissed BALCARCEL's appeal. Thereafter, BALCARCEL was issued a final order of removal.

13. On or about August 23, 2013, BALCARCEL was given permission to depart the United States voluntarily on or before October 23, 2013.

14. On October 30, 2013, the Immigration Court in Denver, Colorado received an executed I-392 indicating that BALCARCEL had departed the United States on October 22, 2013.

Second Entry into the United States

15. On or about July 31, 2014, BALCARCEL was encountered by the United States Border Patrol in the Rio Grande Valley, Texas Border Patrol Sector. A Border Patrol Agent determined that BALCARCEL had unlawfully entered the United States from Mexico. BALCARCEL was transported to the Weslaco Border Patrol Station to be fingerprinted and processed.

Second Removal to Guatemala

16. After BALCARCEL's transport to the Weslaco Border Patrol Station, Border Patrol agents discovered that BALCARCEL had previously been deported from the United States. BALCARCEL was processed for Reinstatement of Prior Order of Removal as per Section 241(a)(5) of the Immigration and Nationality Act.

17. On or about August 8, 2014, BALCARCEL was removed from the United States to Guatemala.

Found in the United States on July 1, 2022


18. On July 1, 2022, while investigating a tip line report, officers from the Richmond Police Department (RPD) encountered BALCARCEL at a residence located at xxxx Columbia Street, Richmond, Virginia, which is within the Eastern District of Virginia.

19. During the encounter with BALCARCEL on July 1, 2022, (1) RPD officers contacted ICE-HSI agents to determine the legal status of BALCARCEL and another individual present at the residence, and (2) HSI Richmond Special Agents conducted records and indices checks on BALCARCEL and determined that he had previously been removed from the United States on two occasions and did not have express consent from the Secretary of Homeland Security or the Attorney General to reenter the United States.

20. On or about July 6, 2022, ICE/ERO encountered BALCARCEL at the Albemarle County Jail in Albemarle County, Virginia. At the time, BALCARCEL was being detained on a state warrant issued in Richmond, Virginia for possession of a firearm by a prohibited person. After their encounter with BALCARCEL, ICE/ERO filed an immigration detainer on BALCARCEL.

21. Based on the facts and information set forth above, I respectfully submit that there is probable cause to believe that on or about July 1, 2022, in the Eastern District of Virginia, ROLMAN BALCARCEL-BAVAGAS, an alien who had previously been removed from the United States on or about October 22, 2013, and again on or about August 8, 2014, was found in the United States without having obtained the express consent of the Attorney General or his successor, the Secretary of Homeland Security, for reapplication for admission into the United States, in violation of Title 8, United States Code, Section 1326(a).

Sworn to and subscribed telephonically on August 1, 2022, in Richmond, Virginia.

/s/ 

Hon. Mark R. Colombell
U.S. Magistrate Judge



Special Agent Derek M. Mullins
Homeland Security Investigations