

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT**

2010 FEB 18 PM 3:31

<b>UNITED STATES OF AMERICA</b>	)	<b>CASE NO. 2:03-CR-54</b>
	)	
<b>v.</b>	)	
	)	
<b>JORGE TORRES</b>	)	
<b>a/k/a GEORGE SIMARD</b>	)	
<b>a/k/a JORGE TORRES PUELLO</b>	)	

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DEPUTY CLERK

**PROSECUTOR'S AFFIDAVIT  
IN SUPPORT OF REQUEST FOR EXTRADITION**

I, William B. Darrow being duly sworn, hereby depose and state:

1. I am a citizen of the United States of America and a resident of the State of Vermont.
2. In 1984 I graduated from Northeastern University Law School with a degree in law. From August 1990 to the present, I have been employed by the United States Department of Justice as an Assistant United States Attorney for the District of Vermont. My duties are to prosecute persons who violate criminal laws of the United States. During my practice as an Assistant United States Attorney, I have become knowledgeable about the criminal laws and procedures of the United States. Based upon my training and experience, I am an expert in the criminal laws and procedures of the United States.
3. I am the prosecuting attorney in this case and am familiar with the charges and evidence. The case arose from a joint investigation by the Royal Canadian Mounted Police and the United States Border Patrol. The investigation revealed that from approximately August through November, 2002, JORGE TORRES, a/k/a GEORGE SIMARD, a/k/a JORGE TORRES PUELLO (hereafter "TORRES") was involved in smuggling aliens into the United States from Canada. TORRES worked with several other individuals to transport over twenty illegal aliens into the United States during this time frame. TORRES's role was to

manage the operation by bringing aliens to a hotel in Canada before they illegally entered the United States, renting vehicles to transport the aliens, and recruiting drivers to drive the aliens for a fee. The investigation led to the arrest of other conspirators who implicated TORRES in the smuggling and the seizure of documents corroborating this information, as well as TORRES's own admissions to law enforcement officers that he was a member of the smuggling group.

#### **UNITED STATES CRIMINAL PROCEDURE**

4. Under United States law, a criminal prosecution may be commenced by the filing of a criminal complaint. A criminal complaint is a written statement of the essential facts constituting the offense or offenses charged. The complaint also sets forth the charge or charges and the statutory citation for each offense alleged in the complaint. The complaint is presented to a judicial officer who makes a determination whether the written statement of facts constitutes probable cause to believe that an offense has been committed and the person named as the defendant in the complaint committed the offense or offenses. If the judicial officer is satisfied that the complaint establishes probable cause to believe that an offense has been committed and the defendant committed it, the judge may issue an arrest warrant for the defendant.
5. Under the laws of the United States, a criminal prosecution may also be commenced by a grand jury on its own decision to return and file an indictment with the Clerk of the United States District Court. A case initially charged by complaint must then be presented to a grand jury. A grand jury is composed of not less than sixteen (16) people whom the United States District Court selects at random from the residents of its district. The grand jury is an

independent body empaneled by the court. The purpose of the grand jury is to review the evidence of crimes presented to it by United States law enforcement authorities. After independently reviewing the evidence, the grand jury determines if there is probable cause to believe that a crime has been committed and that the particular defendant committed the crime or crimes. After at least twelve (12) jurors affirmatively vote that the defendant committed the crime or crimes, the grand jury may return an indictment. An indictment is a document that formally charges the defendant with a crime or crimes, describes the specific laws that the defendant is accused of violating, and describes the acts of the defendant that are alleged to be violations of the law. After the grand jury returns the indictment, a warrant for the arrest of the defendant may issue at the discretion of a United States District Court Judge or Magistrate Judge.

**THE CHARGES AND PERTINENT UNITED STATES LAW**

6. On March 18, 2003, United States Magistrate Judge Jerome J. Niedermeier signed a Criminal Complaint and issued an arrest warrant for TORRES. The Criminal Complaint charged TORRES with alien smuggling crimes. On April 17, 2003, a federal Grand Jury in the District of Vermont returned an Indictment charging TORRES and Angel G. Arias (hereafter "Arias") with: conspiring with others to bring to the United States persons who are aliens, at places other than a designated port of entry, knowing that such persons are aliens and knowingly transporting illegal aliens within the United States, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(v)(I) and (II) (Count 1); and knowingly attempting to bring illegal aliens into the United States, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(i) and Title 18, United States Code, Section 2 (Counts 2 and 3).

7. On April 18, 2003, a warrant for the arrest of TORRES was issued by the Clerk of the Court on the order of Judge Niedermeier, and based on the charges in the Indictment. The warrant to arrest TORRES for the crimes charged in the Indictment remains valid and executable.
8. It is the practice of the United States District Court for the District of Vermont to retain the original indictment and file it with the records of the court, and to provide the original arrest warrant to the United States Marshals Service (“USMS”). The USMS maintains the original arrest warrant in their files. I have obtained certified true and accurate copies of the Indictment and arrest warrant from the Clerk of the Court, and have appended them to this affidavit as **Exhibit A** and **Exhibit B**, respectively.
9. TORRES is charged in Count 1 of the Indictment with conspiring with Arias and others to bring aliens into the United States at other than a designated port of entry and to transport aliens within the United States.
10. Under United States law a conspiracy is simply an agreement between two or more persons to violate other criminal statutes, in this instance the laws prohibiting alien smuggling crimes. Under United States law, the act of combining and agreeing with one or more persons to violate United States law, where a member of the conspiracy engages in some act in furtherance of the conspiracy is a crime in and of itself. Such an agreement need not be formal, and may be simply a verbal or non-verbal understanding. A conspiracy is deemed to be a partnership for criminal purposes in which each member or participant becomes the agent or partner of every other member.
11. To prove the conspiracy charge, the United States must show 1) that TORRES came to an agreement with one or more persons to accomplish a common and unlawful plan, as charged

in the Indictment, 2) that he knowingly and willfully became a member of the conspiracy; and 3) that a member of the conspiracy knowingly committed an act in furtherance of the conspiracy. A defendant need not be aware of all of the acts of his co-conspirators in order to be held liable for these acts, provided that he is a knowing member of the conspiracy, and the acts of the co-conspirators were foreseeable and within the scope of the conspiracy. A person may become a member of a conspiracy without full knowledge of all the details of the unlawful scheme or the names and identities of all of the other alleged conspirators. Accordingly, if a defendant has an understanding of the unlawful nature of a plan and knowingly and willfully joins in that plan on one occasion, that is sufficient to convict him for conspiracy even if he had not participated before and even if he played only a minor part.

12. Specifically, as to the alien smuggling conspiracy alleged in Count One, the United States must show that TORRES reached an agreement to commit one of the listed offenses, namely 1) the bringing of illegal aliens into the United States at places other than a designated port of entry; or 2) the transporting of illegal aliens within the United States. The United States is not required to prove that TORRES agreed to commit each offense alleged in the scope of the conspiracy. The maximum punishment for Count 1 is ten (10) years imprisonment pursuant to Title 8, United States Code, Section 1324(a)(1)(B)(i).
13. TORRES is charged in Count Two and Three of the Indictment with attempting to bring in aliens into the United States. In order to prove this offense the United States must show: 1) that the defendant brought or attempted to bring aliens to the United States; 2) that entry was, or attempted, at a place other than at a designated port of entry; 3) that the defendant knew that the person was an alien; and 4) that the defendant intended to commit a criminal act by bringing an alien into the United States at a place other than a designated port of entry. The

maximum punishment for Count 2 and 3 is ten (10) years imprisonment pursuant to Title 8, United States Code, Section 1324(a)(1)(B)(i) as to each count.

14. TORRES can also be criminally liable for the crimes charged in the Indictment as a principal in the commission of the offense by aiding and abetting the crimes as provided by Title 18, United States Code, Section 2, or Title 8, United States Code, Section 1324(a)(1)(A)(v)(II). These laws provide that whoever commands, procures, assists in, or causes the commission of a crime shall be held accountable and punished in the same manner as the principal, or the person who actually carried out the task. This means that the guilt of the defendant may also be proved even if he did not personally perform every act involved in the commission of the crime charged. The law recognizes that, ordinarily, anything a person can do for himself may also be accomplished through direction of another person as an agent, or by acting together with, or under the direction of, another person or persons in a joint effort. So, if the acts or conduct of an agent, employee or other associate of the defendant were willfully directed or authorized by the defendant, or if the defendant aided and abetted another person by willfully joining together with that person in the commission of a crime, then the law holds the defendant responsible for the conduct of that other person just as though the defendant had engaged in such conduct himself.
15. The relevant portions of the statutes cited above are appended to this affidavit as **Exhibit C**. The statutes were each duly enacted and in force at the time the offenses were committed and at the time the Indictment was returned. They remain in full force and effect. All of the crimes alleged in the three counts of the Indictment are felonies under United States law.
16. I have also included as part of **Exhibit C** the true and accurate text of Title 18, United States

Code, Section 3282, which is the statute of limitations for prosecuting the crimes charged in the Indictment. The statute of limitations requires that a defendant be formally charged within five years of the date that the offense or offenses were committed. Once an indictment is filed with the court, the statute of limitations is tolled and no longer runs. This prevents a criminal from escaping justice by simply fleeing apprehension and remaining a fugitive for an extended period of time. Moreover, under the laws of the United States, the statute of limitations for a continuing offense, such as conspiracy, begins to run upon the conclusion of the conspiracy, not upon the commencement of the conspiracy.

17. I have reviewed the applicable statute of limitations, and the prosecution of the charges in this case is not barred by the statute of limitations. Since the applicable statute of limitations is five years, and the Indictment, filed in April, 2003, charges criminal violations up to and including November, 2002, TORRES was charged within the prescribed five-year time period.
18. The United States will prove its case against TORRES through various means including eyewitness testimony, and documentary and physical evidence.

#### **SUMMARY OF THE FACTS OF THE CASE**

19. In late 2002 there were several episodes in which illegal aliens from Haiti, the Dominican Republic, and other countries were smuggled from Canada into the state of Vermont in the United States which produced evidence implicating TORRES.
20. On August 28, 2002, Arias and Lady Antonia Artiga-Lopez (hereafter "Lopez") were encountered by United States border authorities in Rouses Point, New York operating a Ford Windstar rental van with a Costa Rican alien. The Costa Rican did not have permission to enter the United States. The investigators determined by checking rental records that the van

was rented under the name "Puello Torres" in Dorval, Quebec, Canada on August 25, 2002. The investigators also determined that Puello is the maiden name of TORRES's mother, and TORRES used the name "Puello Torres" on other business documents. The van's rental agreement listed an address of 825 Rosemont in Montreal, Canada. The investigators learned that this address is for the parents of TORRES's girlfriend, Ana Ramirez. Arias was not taken into custody at that time.

21. On October 14, 2002, Arias was arrested near Alburg, Vermont, after driving one undocumented alien from the Dominican Republic into the United States from Canada. Arias was driving a car registered to TORRES. Arias pleaded guilty to transporting an illegal alien, but absconded while he was pending sentencing. On March 5, 2003, Arias was arrested again near Alburg, after entering the United States from Canada with three illegal aliens from the Dominican Republic.
22. On October 21, 2002, Lopez was arrested driving several illegal aliens into Vermont from Canada. She was in a Ford Windstar van rented on October 14, 2002 in Montreal purportedly by a "Pablo Rodriguez." The investigators determined the following. The address on the rental form was the address of Oscar Santana (hereafter "Santana"), who was later determined to be working with TORRES in the smuggling of aliens into the United States. Additionally, the phone number on the rental car contract was TORRES's home phone in Montreal. The investigators located this same number in the contact portion of Lopez's cellular telephone as a number for "Jorge." Lopez pleaded guilty to alien smuggling.
23. On November 12, 2002, police in Montreal operating a traffic checkpoint found an abandoned Jeep Cherokee near the checkpoint. The driver appeared to have abandoned the Jeep to avoid the checkpoint. The police found ten (10) Dominican Republic and Costa



Rican passports in the vehicle. The investigators verified that the Jeep was registered to TORRES.

24. On November 22, 2002, the Royal Canadian Montreal Police (hereafter "RCMP") initiated a week long surveillance of TORRES, Arias and Santana as the three men organized the smuggling of approximately 25 aliens into the United States. TORRES, Arias, and Santana were seen repeatedly by investigators in and near the Excel Hotel in Montreal, where they housed the aliens in several rooms. TORRES was observed picking up one alien at Dorval International Airport, and two others elsewhere, and bringing all three to the Excel. Santana was observed dropping off five Hispanic males at the hotel, driving a rented Chevrolet Impala. The agents also saw TORRES with another accomplice, later identified as Sergio Francisco Chacon Gomez (hereafter "Gomez"), near the Excel. During the surveillance the investigators saw two vans drive into the hotel parking lot: a Ford and a Dodge minivan. The investigators checked rental records and discovered that the two vans were rented on November 21, 2002 under the name "George Simard." George Simard is the name TORRES used when he gained Canadian citizenship.
25. On November 26, 2002, the RCMP agents saw the Ford van leave the hotel with what were suspected to be 10 to 13 illegal aliens. The Dodge minivan led the Ford van out of the parking lot. The RCMP agents were not able to maintain surveillance and lost sight of both vans. That same night the agents saw the minivan return to the hotel. As further discussed in this summary, the agents learned that the Ford made it into the United States from Canada with its load of aliens. The Ford returned to the hotel on November 29, 2002 and the agents saw it leave later that day with a second load of suspected aliens. The Dodge minivan once again led the way. RCMP agents maintained surveillance to the border of the United States.

They saw the Dodge turn around while the Ford avoided the designated port of entry and crossed into the United States on a secondary road without inspection. United States Border agents working with the RCMP on the investigation lawfully stopped the Ford about five miles south of the border with Canada. The Border Patrol agents discovered 14 illegal aliens in the Ford. Gomez was the driver of the van. At least two of the aliens identified a photograph of TORRES from a photo array as the primary person that arranged their illegal entry into the United States from Canada.

26. Back in Canada, the RCMP lawfully stopped the Dodge minivan a few miles north of the border and arrested Arias and Rafael Santana, a cousin of Santana. Santana was also arrested. The agents found a two-way radio, hotel registration papers from the Excel, and the rental agreement in the minivan. The rental papers showed that the minivan was rented under the name of George Simard. The hotel registration papers were in the name of one of the aliens arrested on November 29, 2002. The hotel registration papers listed the alien's address as a Post Office box in Champlain, New York. The agents checked the Post Office records and determined that the address is subscribed to by TORRES. The RCMP arrested TORRES at another motel in Montreal. He told the agents he was assisting a smuggling operation run by Santana. In a separate interview, Santana claimed to be assisting an alien smuggling operation run by TORRES. In the pockets of TORRES's coat was \$14,000 in Canadian currency and \$1,500 in United States currency.

27. Gomez was interviewed at the Border Patrol station after being arrested for driving the illegal aliens. He initially identified himself as Miguel Bosque, although he later admitted his true identity. Gomez provided the following information to the Border Patrol. He reported that he lived illegally at an address in New Jersey. Several weeks before he had flown to Costa

Rica for his mother's funeral. Returning through Toronto, he arranged with TORRES to smuggle him back into the United States. He knew TORRES as "George," and had been given his number by a contact in New Jersey. While Gomez was waiting at the Excel to be smuggled into the United States from Canada, TORRES offered him \$1,000 to drive the Ford with illegal aliens to New Jersey on November 26, 2002. Gomez agreed with TORRES to drive 13 Costa Rican aliens. In New Jersey he phoned TORRES for his money. TORRES told him to come back for another load of aliens for another \$1,000. He drove north, spending the night in Derby, Vermont until he was caught with the second load of illegal aliens on November 29, 2002. Gomez identified photographs of TORRES and Santana as the men who directed the alien smuggling. Gomez was later convicted for his role in the alien smuggling. Arias was also convicted.

#### IDENTIFICATION

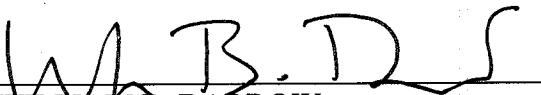
28. JORGE TORRES, who is also known as "George Simard" and "Jorge Torres Puello" is a citizen of the United States, born in New York, New York, United States of America on October 15 or 17, 1977. He obtained Canadian citizenship under the name George Simard. He is described as a white male, standing approximately six feet (185 centimeters), tall, weighing approximately 200 pounds, with brown hair and brown eyes. A photograph and fingerprints of TORRES are attached to this extradition request respectively as **Exhibit D** and **Exhibit E**. The photograph at **Exhibit D** was taken when TORRES was arrested in an unrelated case. Gomez has identified a photograph of TORRES as the man involved in the alien smuggling crimes. Law enforcement agents involved in the investigation have also

identified a photograph of TORRES. TORRES has not been tried or convicted of any of the offenses charged in this Indictment nor has he been sentenced to serve any sentence in connection with this case.

**CONCLUSION**

29. I have reviewed the evidence in this case, and I attest that the evidence is sufficient according to the laws of the United States to justify the committal for trial of TORRES for the offenses for which extradition is sought.

Dated this 18<sup>th</sup> day of February, 2010.



WILLIAM B. DARROW  
Assistant United States Attorney  
District of Vermont

Subscribed and sworn to before me this 18<sup>th</sup> day of February, 2010.

  
JOHN M. CONROY  
United States Magistrate Judge