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AO 106A (08/18) Application for a Warrant by Telephone or Other Reliable Electronic Means

UNITED STATES DISTRICT COURT

for the  
Southern District of California

In the Matter of the Search of  
*(Briefly describe the property to be searched  
or identify the person by name and address)*  
Silver Microsoft Tablet  
2025250600002001-0008  
("Target Device 3")

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Case No. **24-mj-03888**

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

See Attachment A-3, incorporated herein by reference.

located in the Southern District of California, there is now concealed *(identify the person or describe the property to be seized)*:

See Attachment B, incorporated herein by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

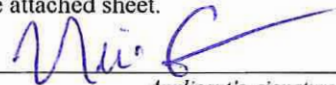
The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
21 USC Sec. 952 and 960	Importation of a Controlled Substance
21 USC Sec. 963	Conspiracy to Import

The application is based on these facts:

See Attached Affidavit, incorporated herein by reference.

- Continued on the attached sheet.
- Delayed notice of        days *(give exact ending date if more than 30 days: \_\_\_\_\_)* is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

  
\_\_\_\_\_  
*Applicant's signature*

Nicole Caughey, HSI Special Agent  
\_\_\_\_\_  
*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: October 10, 2024

  
\_\_\_\_\_  
*Judge's signature*

City and state: San Diego, California

Hon. Daniel E. Butcher, United States Magistrate Judge  
\_\_\_\_\_  
*Printed name and title*

**ATTACHMENT A-3**

PROPERTY TO BE SEARCHED

The following property is to be searched:

Silver Microsoft Tablet  
Seizure No. 2025250600002001-0008  
(**"Target Device 3"**)

**Target Device 3** is currently in the possession of Homeland Security Investigations, located at 880 Front Street, Suite 3200, San Diego, California 92101 .

**ATTACHMENT B**  
**ITEMS TO BE SEIZED**

Authorization to search the electronic devices described in Attachments A-1, A-2, and A-3 includes the search of disks, memory cards, deleted data, remnant data, slack space, and temporary or permanent files contained on or in the electronic devices for evidence described below. The seizure and search of the electronic devices shall follow the search methodology described in the affidavit submitted in support of the warrant.

The evidence to be seized from the electronic devices will be electronic records, communications, and data such as emails, text messages, chats and chat logs from various third-party applications, photographs, audio files, videos, and location data, for the period of September 25, 2024 up to and including October 9, 2024:

- a. tending to indicate efforts to import controlled substances from Mexico into the United States;
- b. tending to identify accounts, facilities, storage devices, and/or services—such as email addresses, IP addresses, and phone numbers—used to facilitate the importation of controlled substances from Mexico into the United States;
- c. tending to identify co-conspirators, criminal associates, or others involved in importation of heroin and methamphetamine, or some other federally controlled substance, from Mexico into the United States;
- d. tending to identify travel to or presence at locations involved in the importation of controlled substances from Mexico into the United States, such as stash houses, load houses, or delivery points;
- e. tending to identify the user of, or persons with control over or access to, the **Target Devices**; and/or
- f. tending to place in context, identify the creator or recipient of, or establish the time of creation or receipt of communications, records, or data involved in the activities described above;

which are evidence of violations of Title 21, United States Code, Sections 952, 960 and 963.

**AFFIDAVIT**

I, Special Agent Nicole Caughey, being duly sworn, hereby state as follows:

**INTRODUCTION**

1. I submit this affidavit in support of an application for a warrant to search the following electronic devices, (Collectively, the “**Target Devices**”):

Dark Gray Samsung Cellphone  
Seizure No. 2025250600002001-0006  
 (“**Target Device 1**”)

Purple iPhone  
Seizure No. 2025250600002001-0007  
 (“**Target Device 2**”)

Silver Microsoft Tablet  
Seizure No. 2025250600002001-0008  
 (“**Target Device 3**”)

as further described in Attachments A-1, A-2, and A-3, and to seize evidence of crimes, specifically violations of Title 21, United States Code, Sections 952, 960, and 963 as further described in Attachment B. The requested warrant relates to the investigation and prosecution of Eddy Yulberto GARCIA Macal (“**Defendant**”) for importing approximately 4.82 kgs (10.63 lbs.) of heroin and 20.54 kgs (45.28 lbs.) of methamphetamine and from Mexico into the United States. The **Target Devices** are currently in the custody of Homeland Security Investigations and located at 880 Front Street, Suite 3200, San Diego, California 92101.

2. The information contained in this affidavit is based upon my training, experience, investigation, and consultation with other members of law enforcement. Because this affidavit is made for the limited purpose of obtaining a search warrant for the **Target Devices**, it does not contain all the information known by me or other agents regarding this investigation. All dates and times described are approximate.

**BACKGROUND**

1  
2  
3 3. I have been employed as a Special Agent with Homeland Security  
4 Investigations (HSI) since April of 2007. I am currently assigned to the HSI Office of the  
5 Special Agent in Charge, in San Diego, California. I am a graduate of the Federal Law  
6 Enforcement Training Center in Glynco, Georgia.

7 4. During my tenure with HSI, I have participated in the investigation of various  
8 narcotics trafficking organizations involved in the importation and distribution of  
9 controlled substances into and through the Southern District of California. Through my  
10 training, experience, and conversations with other law enforcement officers experienced in  
11 narcotics trafficking investigations, I have gained a working knowledge of the operational  
12 habits of narcotics traffickers, in particular those who attempt to import narcotics into the  
13 United States from Mexico at Ports of Entry.

14 5. I am aware that it is common practice for narcotics traffickers to work in  
15 concert utilizing cellular telephones and electronic devices. A common tactic utilized by  
16 narcotics traffickers is to smuggle controlled substances into the United States from  
17 Mexico by concealing the controlled substances in vehicles or on persons entering the  
18 United States at Ports of Entry such as the San Ysidro Port of Entry, Otay Mesa Port of  
19 Entry, and Tecate Port of Entry. With respect to the importation of narcotics in this manner,  
20 I am aware that narcotics traffickers in Mexico frequently communicate with the individual  
21 responsible for importing the concealed narcotics into the United States. These  
22 communications can occur before, during and after the narcotics are imported into the  
23 United States. For example, prior to the importation, narcotics traffickers frequently  
24 communicate with the transporter(s) regarding arrangements and preparation for the  
25 narcotics importation. When the importation is underway, narcotics traffickers frequently  
26 communicate with the transporter(s) to remotely monitor the progress of the narcotics,  
27 provide instructions and warn accomplices about law enforcement activity. When the  
28 narcotics have been imported into the United States, narcotics traffickers may  
communicate with the transporter(s) to provide further instructions regarding the delivery

1 of the narcotics to a destination within the United States.

2 6. Based upon my training, experience, and consultations with law enforcement  
3 officers experienced in narcotics trafficking investigations, and all the facts and opinions  
4 set forth in this affidavit, I am aware that cellular telephones and electronic devices  
5 (including their SIM card(s)) can and often do contain electronic evidence, including, for  
6 example, phone logs and contacts, voice and text communications, and data, such as  
7 emails, text messages, chats and chat logs from various third-party applications,  
8 photographs, audio files, videos, and location data. This information can be stored within  
9 disks, memory cards, deleted data, remnant data, slack space, and temporary or permanent  
10 files contained on or in the cellular telephone. Specifically, searches of cellular telephones  
11 and electronic devices of individuals involved in the importation of narcotics may yield  
12 evidence:

- 13 a. tending to indicate efforts to import controlled substances from Mexico  
14 into the United States;
- 15 b. tending to identify accounts, facilities, storage devices, and/or services—  
16 such as email addresses, IP addresses, and phone numbers—used to  
17 facilitate the importation of controlled substances from Mexico into the  
18 United States;
- 19 c. tending to identify co-conspirators, criminal associates, or others involved  
20 in importation of controlled substances from Mexico into the United  
21 States;
- 22 d. tending to identify travel to or presence at locations involved in the  
23 importation of controlled substances from Mexico into the United States,  
24 such as stash houses, load houses, or delivery points;
- 25 e. tending to identify the user of, or persons with control over or access to,  
26 the **Target Devices**; and/or
- 27 f. tending to place in context, identify the creator or recipient of, or establish  
28 the time of creation or receipt of communications, records, or data involved  
in the activities described above.

**FACTS SUPPORTING PROBABLE CAUSE**

1  
2  
3 7. On October 9, 2024, at approximately 10:30 AM, Eddy Yulberto GARCIA  
4 Macal, (“GARCIA”), a Lawful Permanent Resident, applied for entry into the United  
5 States from Mexico through the Otay Mesa POE in vehicle lane #6. GARCIA was the  
6 driver, sole occupant, and registered owner of a 2006 Jeep Liberty (“the vehicle”) bearing  
7 California license plates.

8 8. A Canine Enforcement Team was conducting pre-primary operations when  
9 the Human and Narcotic Detection Dog alerted to the gas tank of the vehicle.

10 9. A Customs and Border Protection Officer (CBPO) walked to the rear of the  
11 vehicle and felt the gas tank tapped consistent with narcotics smuggling. The vehicle was  
12 referred for further inspection.

13 10. A CBPO operating the Z-Portal X-Ray machine detected anomalies in the  
14 gas tank and rear passenger side quarter panel of the vehicle.

15 11. A CBPO received two negative Customs declarations from GARCIA.  
16 GARCIA stated he was crossing the border to go to San Diego, California.

17 12. Further inspection of the vehicle resulted in the discovery of 30 total  
18 packages concealed in the right rear quarter panel and gas tank of the vehicle; 4 of the  
19 packages contained a substance, a sample of which field tested positive for the  
20 characteristics of heroin, with a total approximate weight of 4.82 kgs (10.63 lbs.); 26 of  
21 the packages contained a substance, a sample of which field tested positive for the  
22 characteristics of methamphetamine, with a total approximate weight of 20.54 kgs (45.28  
23 lbs.).  
24

25 13. GARCIA was placed under arrest at approximately 1:42 PM.

26 14. GARCIA was charged with a violation of Title 21, United States Code, 952  
27 and 960, importation of a controlled substance.  
28

1 15. The **Target Devices** were found and seized by a Customs and Border  
2 Protection Officer (CBPO) who was tasked to perform a secondary inspection of the  
3 Vehicle and inventory all the property seized from the Defendant and his Vehicle. **Target**  
4 **Device 1** was found by the CBPO on the passenger seat of the vehicle. **Target Device 2**  
5 was found by the CBPO in the pocket of jacket located on the passenger side seat. **Target**  
6 **Device 3** was found by the CBPO in the vehicle on the floor behind the driver side seat.

7 16. Based upon my experience and training, consultation with other law  
8 enforcement officers experienced in narcotics trafficking investigations, and all the facts  
9 and opinions set forth in this affidavit, I believe that telephone numbers, contact names,  
10 electronic mail (email) addresses, appointment dates, messages, pictures, and other digital  
11 information are stored in the memory of the **Target Devices**. In light of the above facts and  
12 my experience and training, there is probable cause to believe that the Defendant was using  
13 the **Target Devices** to communicate with others to further the importation of illicit  
14 narcotics into the United States. Further, in my training and experience, narcotics  
15 traffickers may be involved in the planning and coordination of a drug smuggling event in  
16 the days and weeks prior to an event. Co-conspirators are also often unaware of a  
17 defendant's arrest and will continue to attempt to communicate with a defendant after their  
18 arrest to determine the whereabouts of the narcotics.

19 17. Based upon my training and experience, it is also not unusual for individuals,  
20 such as the Defendant, to attempt to minimize the amount of time they were involved in  
21 their smuggling activities, and for the individuals to be involved for weeks and months  
22 longer than they claim. Accordingly, I request permission to search the **Target Devices** for  
23 data beginning on September 25, 2024 up to and including October 9, 2024.

24  
25 **METHODOLOGY**

26 18. It is not possible to determine, merely by knowing the cellular telephone's or  
27 the electronic device's make, model and serial number, the nature and types of services to  
28 which the device is subscribed and the nature of the data stored on the device. Cellular and



1 electronic devices today can be simple cellular telephones and text message devices, can  
2 include cameras, can serve as personal digital assistants and have functions such as  
3 calendars and full address books and can be mini-computers allowing for electronic mail  
4 services, web services and rudimentary word processing. An increasing number of cellular  
5 service providers now allow for their subscribers to access their device over the internet  
6 and remotely destroy all of the data contained on the device. For that reason, the device  
7 may only be powered in a secure environment or, if possible, started in “flight mode” which  
8 disables access to the network. Unlike typical computers, many cellular telephones and  
9 electronic devices do not have hard drives or hard drive equivalents and store information  
10 in volatile memory within the device or in memory cards inserted into the device. Current  
11 technology provides some solutions for acquiring some of the data stored in some cellular  
12 telephone and electronic device models using forensic hardware and software. Even if  
13 some of the stored information on the device may be acquired forensically, not all of the  
14 data subject to seizure may be so acquired. For devices that are not subject to forensic data  
15 acquisition or that have potentially relevant data stored that is not subject to such  
16 acquisition, the examiner must inspect the device manually and record the process and the  
17 results using digital photography. This process is time and labor intensive and may take  
18 weeks or longer.

19       19. Following the issuance of this warrant, I will collect the **Target Devices** and  
20 subject them to analysis. All forensic analysis of the data contained within the telephone  
21 and electronic devices and its memory cards will employ search protocols directed  
22 exclusively to the identification and extraction of data within the scope of this warrant.

23       20. Based on the foregoing, identifying and extracting data subject to seizure  
24 pursuant to this warrant may require a range of data analysis techniques, including manual  
25 review, and, consequently, may take weeks or months. The personnel conducting the  
26 identification and extraction of data will complete the analysis within ninety (90) days of  
27 the date the warrant is signed, absent further application to this court.

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