

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FILED

CRIMINAL COMPLAINT #2013

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____ DEPUTY CLERK

UNITED STATES OF AMERICA

v.)

SEALED

CASE NUMBER:

1:13 MJ 00054 - SKO

(If search warrant is issued regarding this complaint, indicate above the case number assigned.)

SERGIO PATRICK RODRIGUEZ,
aka Javier Rodrigues

I, Chet M. Johnston, being duly sworn, state the following is true and correct to the best of my knowledge and belief. Since on or about August 25, 2012, in Fresno County(ies), in the Eastern District of California, and elsewhere,

The defendant did willfully interfere, or attempt to interfere, with or disable or attempt to disable, with a reckless disregard for the safety of human life, anyone engaged in the authorized operation of any aircraft, as defined under Title 49, United States Code, Section 46501(2), or any civil aircraft used, operated, or employed in interstate commerce, to wit: a Fresno Police Department helicopter and Air George, an emergency transport helicopter of Children's Hospital of Central California, and did knowingly aim the beam of a laser pointer at such aircraft,

in violation of Title 18, United States Code, Section(s) 32(a)(5) and 32(a)(8) and 39A, respectively, with a maximum penalty of 20 years and 5 years imprisonment, respectively, and/or a fine of up to \$250,000 dollars, and \$100 penalty assessment per violation.

I further state that I am a(n) Special Agent, 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

Chet M. Johnston
Signature of Complainant
Chet M. Johnston

Sworn to before me and subscribed in my presence,

March 4 2013
(Date)

at

Fresno, California
(City and State)

SHEILA K. OBERTO

Sheila K. Oberto
Signature of Judicial Officer

AFFIDAVIT

1 I, Chet M. Johnston, a Special Agent (SA) with the Federal Bureau of Investigation
2 (FBI), Sacramento Division, being duly sworn, depose and state as follows:

3 I have been employed as a Special Agent of the FBI since December 2008, and am
4 currently assigned to the Sacramento Division, Fresno Resident Agency (RA). As a Special
5 Agent of the FBI, I investigate federal criminal violations related to wire fraud, financial
6 institution fraud, mortgage fraud, bankruptcy fraud, and transportation crimes. I have gained
7 experience through training at the FBI Academy and everyday work related to conducting these
8 types of investigations and others. I was also employed as a Northglenn Police Officer in
9 Colorado for approximately six years prior to joining the FBI.

10 As a federal agent, I am authorized to investigate violations of laws of the United States
11 and to execute arrest warrants issued under the authority of the United States.

12 I have educated myself by reading articles posted on the internet and a Congressional
13 Research Article dated January 26, 2005, related to laser devices and the effects laser devices can
14 have if exposed to the eyes. I have used handheld laser pointing devices and laser levels used in
15 construction work in professional and personal applications. I also know there is a requirement
16 for laser devices to have a danger warning label printed and affixed on all laser devices, and
17 operating instructions accompanying laser devices that I have seen or reviewed, including
18 instructions to avoid exposing lasers to eyes as the laser could cause serious injury to the eye.

19 This Affidavit is based upon my own personal knowledge of the events set forth herein,
20 as well as information provided to me by other law enforcement personnel. The purpose of this
21 affidavit is made to support a complaint charging that SERGIO PATRICK RODRIGUEZ, aka
22 Javier Rodrigues, violated Title 18, United States Code, Sections 39A, 32(a)(5) and (a)(8).

1 from discussion of this case with assisting agents and/or officers. I have detailed only the facts
2 that I believe are necessary and appropriate to establish the probable cause mandatory for an
3 authorization of the arrest of the subject identified hereinafter.

4 On or about August 25, 2012, in the evening hours, Air George, the emergency transport
5 ambulance helicopter of Children's Hospital of Central California, was struck multiple times by
6 a green laser, while transporting a patient from Bakersfield to Children's Hospital. The patient, a
7 pilot, and two other crew members were on board Air George at the time.

8 At approximately 9:06 p.m., Fresno Police Department helicopter, Air-1, was conducting
9 routine patrol maneuvers in Fresno, California when they received radio communication from
10 the Fresno-Yosemite International (FYI) Airport Air Traffic Control Tower regarding Air
11 George being struck by a laser as it flew near the FYI Airport. The Control Tower reported the
12 laser came from the area north of the west end of the runway.

13 When Air-1 arrived in the approximate area reported by the Control Tower, near the
14 intersection of Ashlan Avenue and Willow Avenue, Clovis, California, Fresno Police
15 Department Officer/Pilot Kenneth Schneider and Fresno Police Department Officer/Tactical
16 Flight Officer George Valdez were struck multiple times by a green laser beam. Air-1 was
17 approximately 500 feet above ground level (AGL) traveling in an eastbound direction when the
18 first laser strikes occurred. As Air-1 orbited the location, it was struck seven times by a green
19 laser beam. Officer Valdez reported that the laser strikes appeared to be intentional because as
20 Air-1 orbited, the beam tracked the helicopter for a few seconds each time. The laser beam
21 source was narrowed to the apartment complex located at 3131 North Willow Avenue, Clovis,
22 California. Officer Valdez contacted the Clovis Police Department via radio communication,
23 and led ground patrol units to the location of the laser source using Air-1's spotlight.

1 Clovis Police Officers K. Pennington and Christopher Peters were among the first
2 officers to arrive at the apartment complex at 3131 North Willow Avenue, Clovis, California.
3 They entered the complex north of the complex, so their patrol vehicles could not be seen. As
4 they got into position, they were advised by Air-1 that the suspect was still intermittently
5 pointing the bright green laser at the helicopter.

6 Officer Peters jumped over the wall and began walking the area of the apartment complex
7 to apprehend the suspect. Several neighbors asked Officer Peters who he was looking for and he
8 responded that he was looking for someone pointing a laser at a helicopter. One of the
9 individuals indicated that the person "in Apartment #117 is doing it, I saw him." When Officer
10 Peters approached Apartment #117, he observed a Hispanic male near the apartment and
11 immediately recognized him from prior contacts as SERGIO RODRIGUEZ. Officer Peters
12 knew that RODRIGUEZ was currently on probation and noticed that RODRIGUEZ was holding
13 a dark cylindrical object in his right hand. When RODRIGUEZ saw that Officer Peters was
14 approaching, he turned and started to run toward the front door of Apartment #117.

15 Officer Peters was able to detain RODRIGUEZ before he made it into the apartment and,
16 due to RODRIGUEZ's probationary status and the officer's observations, Officer Peters
17 conducted a pat-down search. Officer Peters felt a cylindrical object in RODRIGUEZ's left
18 front pocket of his shorts and retrieved a laser pointer device. Officer Peters activated the laser
19 pointer and determined it emitted a green laser beam.

20 At approximately 10:05 p.m., Clovis Police Officer Steve Cleaver arrived at Apartment
21 #117 and also knew the location to be the residence of RODRIGUEZ from past contacts relating
22 to a domestic disturbance. Officer Cleaver advised RODRIGUEZ of his Miranda rights, which
23 RODRIGUEZ indicated that he understood. As Officer Cleaver attempted to interview

1 RODRIGUEZ, Jennifer Lorraine Coleman (girlfriend and mother of RODRIGUEZ's children)
2 interrupted Officer Cleaver. Officer Cleaver escorted Coleman away from RODRIGUEZ and
3 explained that RODRIGUEZ was under arrest for aiming a laser at the police helicopter.

4 Coleman immediately took responsibility for aiming the laser into the sky but denied
5 intentionally pointing it at the helicopter. Coleman told Officer Cleaver that the entire incident
6 was recorded on the video surveillance system installed at their apartment, Apartment #117.
7 Officer Cleaver took Coleman into custody and placed her in the right rear seat of his patrol car.
8 RODRIGUEZ saw that Coleman had been arrested and told officers that she should be released,
9 because he was the one pointing the laser at the helicopter, and he possessed the laser when
10 officers arrived. RODRIGUEZ told Coleman not to say anything else and advised her that, as
11 long as she told the court she was only trying to see how far the laser reached, she would only
12 get a ticket. RODRIGUEZ was placed in the left rear seat of Officer Cleaver's patrol car.

13 Pursuant to the terms of RODRIGUEZ's probationary status, Officer Cleaver entered
14 Apartment #117 and recovered the DVD recorder, mentioned by Coleman, from under a
15 computer monitor on a desk in the master bedroom. The laser pointer and DVD recorder were
16 collected as evidence. RODRIGUEZ and Coleman were transported to the Clovis Police
17 Department for processing and subsequently released from the Fresno County Jail at a later time.

18 On September 6, 2012, I telephonically contacted Daniel Marquez, Base Aviation
19 Manager of Children's Hospital of Central California, who confirmed Air George is the
20 hospital's emergency transport helicopter. He further confirmed that Air George was
21 transporting a patient and was occupied by pilot Tim Chesonis and two flight crew members
22 when it was struck by the laser on or about August 25, 2012.

1 On September 24, 2012, Coleman telephonically contacted me to inquire about the DVD
2 recorder seized by the Clovis Police Department. During the course of the conversation,
3 Coleman admitted to shining the laser into the sky and accidentally striking the helicopter.
4 Coleman was aware a police helicopter was in the area but could not confirm the helicopter she
5 struck with the laser was a police helicopter or a medical one. Coleman said she allows her
6 young children to play with the laser as well, and the only rule was not to aim it inside anyone's
7 residence; only point it toward the sky. Coleman said she did not believe the laser would reach
8 the helicopter and apologized, stating it was a "stupid thing to do." Coleman confirmed she was
9 not drinking alcohol or intoxicated on August 25, 2012.

10 On September 25, 2012, I interviewed RODRIGUEZ at his apartment in the presence of
11 Coleman. RODRIGUEZ admitted he pointed a green laser beam at a helicopter on August 25,
12 2012, from the area in front of his apartment. RODRIGUEZ stated he was trying to see how far
13 the laser would reach and was aware he struck the helicopter approximately four times.
14 RODRIGUEZ said he could see and hear the helicopter which, from RODRIGUEZ's vantage
15 point, was flying behind a tree at the time. When RODRIGUEZ finished with the laser, he
16 provided it to Coleman and asked her to see if she could reach the helicopter.

17 RODRIGUEZ confirmed the surveillance system belonged to him, and the cameras
18 would have recorded both Coleman and him pointing the laser into the sky. The footage would
19 be video only, no audio, and probably not wide enough to capture the helicopter in flight, but
20 stores up to 30 days worth of footage. RODRIGUEZ voluntarily signed a consent-to-search
21 form granting me permission to search the DVD recorder for evidence of the crime.

22 On September 25, 2012, Coleman was also interviewed at her apartment in the presence
23 of RODRIGUEZ. Coleman apologized again for shining the laser at the helicopter and again

1 said they were only trying to see how far it reached. Coleman said they aimed the laser at
2 various objects in and around their apartment complex and noticed that the visible beam of the
3 laser expanded greatly depending on the distance of the object. Coleman confirmed she could
4 see and hear the helicopter at the time she pointed the laser toward it.

5 On September 28, 2012, I reviewed the DVD recorder pursuant to the consent granted by
6 RODRIGUEZ. No videos, or recordings of any kind, were found on the DVD recorder.

7 On November 1, 2012, I returned the DVD recorder to RODRIGUEZ at his apartment,
8 because it contained no evidentiary value. RODRIGUEZ advised that once the recorder is
9 disconnected from a power source, it no longer maintains a memory - meaning that all video
10 footage is lost. RODRIGUEZ said, as soon as the Clovis Police Officer disconnected the DVD
11 recorder, the videos were lost.

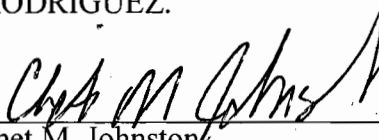
12 On January 30, 2013, I examined the laser pointer originally seized from RODRIGUEZ
13 by the Clovis Police Department on August 25, 2012. I activated the laser by depressing the
14 button on the side of the cylinder. The emitted laser was green in color. I photographed the
15 label affixed to the cylinder with the prominent warning, "DANGER" in bold capital letters
16 against a red background. The label also included a caution statement to avoid direct eye
17 exposure. The label indicated the laser was a Class IIIa laser product, with a wavelength of 532
18 nanometers, + or - 10 nanometers (making it green in color), and the maximum output was less
19 than 5 milliwatts. I know based on my review of pertinent literature and reports that a Class IIIa
20 laser device has the ability to cause visual interference to pilots of aircraft located several
21 kilometers away. When an aircraft is illuminated with a Class IIIa laser beam at dusk or at night,
22 visual interference is greater than if the exposure occurred during bright daylight, and the

1 interference is most pronounced for pilots during critical phases of flight, including flight
2 operations below 10,000 feet.

3 **CONCLUSION**

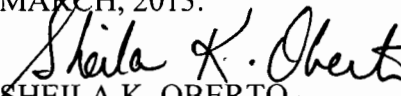
4 Based upon the foregoing, I respectfully submit that there is probable cause to believe
5 that SERGIO PATRICK RODRIGUEZ did knowingly aim the beam of a laser device at an
6 aircraft or its flight path, in violation of Title 18, United States Code, Section 39A; and did
7 willfully interfere, or attempt to interfere, or disable or attempt to disable, with reckless disregard
8 for the safety of human life, anyone engaged in the authorized operation of an aircraft in the
9 Special Aircraft Jurisdiction of the United States, defined at Title 49, United States Code,
10 Section 46501(2) , as any aircraft in flight in the United States, or any civil aircraft used,
11 operated, or employed in interstate commerce, in violation of Title 18, United States Code,
12 Sections 32(a)(5) and (a)(8).

13 Your affiant, therefore, respectfully requests that the attached warrant be issued
14 authorizing the arrest of SERGIO PATRICK RODRIGUEZ.



Chet M. Johnston
Special Agent,
Federal Bureau of Investigation

SWORN TO BEFORE ME, AND SUBSCRIBED
IN MY PRESENCE THIS 4th DAY OF
MARCH, 2013.


SHEILA K. OBERTO
United States Magistrate Judge

Reviewed and Approved as to Form and Content
This 4th Day of March, 2013

/s/ Karen A. Escobar
Karen A. Escobar
Assistant U.S. Attorney