10/9

# UNITED STATES DISTRICT COURT DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,

Plaintiff,

V

Sergio Cesar GUERRA-Chavez

AKA: None Known

YOB: 1978 A77 162 872

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Citizen of Mexico

Defendant

Magistrate Case No. 07 - 9000M

COMPLAINT FOR VIOLATION OF

Count I

Title 8, United States Code, Section 1326(a), enhanced by (b)(2) (Attempted Re-entry After Removal) Felony.

And

Count II

Title 8, United States Code, Section 1326(a), enhanced by (b)(2) (Re-entry After Removal) Felony.

The undersigned complainant being duly sworn states:

### COUNT I

That on or about October 8, 2007, Defendant Sergio Cesar GUERRA-Chavez, an alien, knowingly and intentionally attempted to enter the United States at or near San Luis, Arizona, within the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States to Mexico at or near San Ysidro, California on or about, October 9, 2003, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission.

In violation of Title 8, United States Code, Section 1326(a), enhanced by (b)(2) (Felony).

## **COUNT II**

That on or about October 8, 2007, Defendant Sergio Cesar GUERRA-Chavez, an alien, entered the United States and on or about October 8, 2007 was found in the United States at or near San Luis, Arizona within the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States to Mexico at or near San Ysidro, California on or about, October 9, 2003, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission.

In violation of Title 8, United States Code, Section 1326(a), enhanced by (b)(2) (Felony).

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And the complainant further states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

by AUSA

omplainant Nicholas Kingston Senior Patrol Agent

Sworn to before me and subscribed in my presence,

October 9, 2007

Jay R. Irwin, U.S. Magistrate
Name & Title of Judicial Officer

Yuma, Arizona

Judicial Officer

#### UNITED STATES OF AMERICA

V.

Sergio Cesar GUERRA-Chavez

AKA: None Known

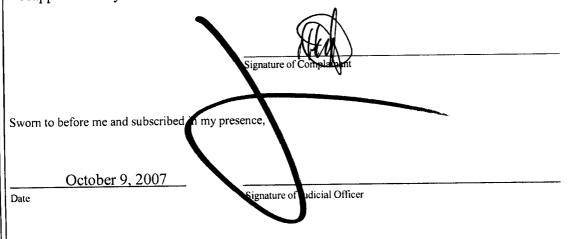
A77 162 872

## STATEMENT OF FACTUAL BASIS

The complainant states that this complaint is based upon the statements of the apprehending officers, that the Defendant was found and arrested on or about October 8, 2007, near San Luis, Arizona. Questioning of the Defendant by agents revealed that the Defendant was a citizen of Mexico, and was not in possession of valid documents allowing him to enter or remain in the United States.

By questioning the Defendant and through record checks, agents determined that on or about October 9, 2003, the Defendant had been removed from the United States through the port of San Ysidro, California, subsequent to a conviction in Superior Court, State of California, Alameda County, on or about July 6, 1998, for the crime of Transport/ Sell Narcotic/ Control Substance, an aggravated felony.

Agents determined that on or about October 8, 2007, the Defendant re-entered the United States without the Secretary of the Department of Homeland Security having consented to reapplication by the Defendant for admission into the United States.



## Probable Cause Statement

I, Senior Patrol Agent Nicholas Kingston, declare under penalty of perjury, the following is true and correct:

UNITED STATES OF AMERICA

V.

Sergio Cesar GUERRA-Chavez

AKA: None Known A77 162 872

#### STATEMENT OF FACTUAL BASIS

The complainant states that this complaint is based upon the statements of the apprehending officers, that the Defendant was found and arrested on or about October 8, 2007, near San Luis, Arizona. Questioning of the Defendant by agents revealed that the Defendant was a citizen of Mexico, and was not in possession of valid documents allowing him to enter or remain in the United States.

By questioning the Defendant and through record checks, agents determined that on or about October 9, 2003, the Defendant had been removed from the United States through the port of San Ysidro, California, subsequent to a conviction in Superior Court, State of California, Alameda County, on or about July 6, 1998, for the crime of Transport/ Sell Narcotic/ Control Substance, an aggravated felony.

Agents determined that on or about October 8, 2007, the Defendant re-entered the United States without the Secretary of the Department of Homeland Security having consented to reapplication by the Defendant for admission into the United States.

| Executed on: Date October 8, 2007 | Time: 7:53 A.M.     |
|-----------------------------------|---------------------|
| Signed:                           | Senior Patrol Agent |

## Finding of Probable Cause

On the basis of the facts presented in the foregoing Probable Cause Statement, consisting of one page(s), I find probable cause to believe that the defendant(s) named therein committed the offense on October 8, 2007 in violation of Title 8, United States Code, Section(s) 1326.

| Finding made on: Date OCTOBER 8, 2007 | 7 Time <u>9:57 AM</u>          |
|---------------------------------------|--------------------------------|
| Signed:                               | United States Magistrate Judge |
|                                       |                                |
|                                       |                                |