

UNSWORN DECLARATION IN SUPPORT OF FORFEITURE COMPLAINT

INTRODUCTION

Pursuant to Title 28, United States Code, Section 1746, I, Ricardo E. Gutierrez, Special Agent, Immigration and Customs Enforcement, United States Department of Homeland Security (“ICE-HSI”), declare under penalty of perjury that the foregoing is true and correct:

BACKGROUND

1. I am a Special Agent of the ICE-HSI, San Juan, Puerto Rico and have been so employed since February, 2006. I am an investigative or law enforcement officer of the United States who is empowered to conduct investigations of or to make arrests for offenses enumerated in Title 18 United States Code. As a Special Agent, my responsibilities include conducting investigations of the alleged manufacture, distribution and possession of controlled substances, importation of controlled substances, smuggling of goods into the United States and other related offenses.
2. I have attended the Immigration and Customs Enforcement Special Agent Training Course (ICESAT) at the Federal Law Enforcement Training Center in Glynco, Georgia. I was trained in conducting investigations related to firearms violations, narcotics smuggling, interdiction and distribution activities. I am currently assigned to the Illicit Trade Enforcement Group, where investigations commonly conducted are related to violations of Titles 8, 18, 19, 21 and 31 of the United States Code (USC).
3. This Unsworn Declaration is submitted in support of a verified complaint of forfeiture in rem. I have not included each and every fact known to me or other law enforcement officers concerning this investigation. I have set forth only those facts which I believe are necessary to establish probable cause to believe that **Ehbrin CASTRO-Correa** committed federal offenses, as further described in the criminal complaint. The information contained in this unsworn

declaration is based on my participation in the investigation described herein as well as from information provided by other agents, officers, and individuals connected with this investigation.

PROPERTY SUBJECT TO FORFEITURE

- Female dog, Pit Bull Terrier breed, named Tami, Color White and Brown, Approximately One (1) year and Nine (9) months old.



BASIS FOR FACTS CONTAINED IN THIS UNSWORN DECLARATION

4. On March 4, 2016, at approximately 4:48 p.m., Ehbrin CASTRO-Correa (hereinafter CASTRO-Correa) arrived at the Pan American Dock (PAD) in a 2005 white Dodge Dakota pickup truck. Federal agents observed several canines being transported inside crates located within the pickup truck's bed area.

5. At approximately 5:45 p.m., HSI Agents then observed when CASTRO-Correa placed six (6) crates – each containing a canine - in the luggage drop off area before he went to present his boarding pass to board the Caribbean Fantasy Ferry. CASTRO-Correa presented documentation showing he was the owner of the six (6) canines.

6. CORREA-Castro then went to check in to board the ferry at the PAD in San Juan, Puerto Rico. CASTRO-Correa possessed and showed the CBP Officers a boarding pass. The boarding

pass indicated that CASTRO-Correa was traveling to the Dominican Republic along with pets.

7. The CBP officers referred CASTRO-Correa to a secondary inspection in which he was going to be subject to a more thorough search of his belongings as it is customarily done during secondary inspection.¹

8. During the secondary inspection, Agents were able to inspect CASTRO-Correa's cellular phone. The cellphone is described as a black LG G Vista cellular phone identified with IMEI number 01487-00-002524-4. HSI Agents conducted a border search of the cellular phone and observed three (3) videos. Two videos are clips from the original video. The video file name the original video is 20160124_12355.mp4.

- a. The Original Video – lasts approximately six (6) minutes. It was created on January 24, 2016 at approximately noon. Two (2) men appear in the video and a third man that is not seen is making the recording. It appears that the men are located in a rustic area of a residence but CASTRO-Correa indicated that it was taken in a “finca” (farm) in Juncos, Puerto Rico. In the video two (2) female canines – that appear to be pit bulls – are fighting. One canine has dark brown and white hair, while the other has reddish hair. It is observed that the most aggressive and vicious of the two canines is the dark brown one. She is observed relentlessly biting the other female canine in the neck and her muzzle. She is heard growling aggressively while the reddish canine is heard squealing. While the fight is ongoing, the three (3) men are moving around the room. One of them is observed with a sharp object and neither of the men make any attempts to stop the fight. On the contrary, the men encourage the fight. One or more of them are heard in the recording yelling: “que se esten agarrando puñeta” (that they be grabbing each other fuck); “acho, callate la boca y pelea cabrona” (man, shut up and fight bitch) and “ninguna

¹ Every person that was travelling with canines also underwent secondary inspection.

de las dos quiere hacer 'na" (none of the two want to do anything). Throughout the six-minute video, what appears to be blood, can clearly be seen throughout the entire room where the canines are fighting. Large and several blood drops appear on the surface area where the canines are fighting. It can also be observed when the canines are fighting that blood from one of them is transferred to a carton box when the canines rubbed against it during the fight.

9. The Clips from the Original Video – The first and second clips that come from the original video are each approximately two (2) minutes and forty-five (45) seconds long. A review of each clip appears to be divided segments from the original six-minute video. The clips were found inside the *Whatsapp*² communication application in the "Sent" folder. The clips' file names are VID-2016124-WA0264.mp4 and VID-2016124-WA0266.mp4. A review of the properties revealed that clip ending in 264 was created and sent on January 24, 2016 at approximately 5:10 p.m. and the clip ending in 266 was created and sent on January 24, 2016 a few minutes later at approximately 5:15 p.m. The WhatsApp communication application "Sent" folder is a location where the application stores data that has been transmitted through the application.

10. On March 04, at approximately 6:35 p.m., HSI Agents advised CASTRO-Correa of his constitutional rights (Miranda) in his native language (Spanish). CASTRO-Correa knowingly and voluntarily waived his rights orally and by signing a waiver form and decided to speak with your affiant and another HSI agent.

11. During the interview, CASTRO-Correa admitted that the dark brown and white canine was his property and that he filmed the six-minute video. CASTRO-Correa further admitted that

² WhatsApp is a means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce.

that the canines in the video were in training for upcoming dog competitions but did not specify where the competitions were taking place. CASTRO-Correa also admitted that the canines in the video were put up to fight each other in order to teach the canines to bite other canines, but not to bite their handlers. CASTRO-Correa also described how the dog fight competitions are handled. For instance, CASTRO-Correa indicated that during a dog fight competition, the dogs are trained to be in front of each other and the Judge will be in between them without fear of being attacked by a dog because the dogs are trained to know the difference between a dog and a human. CASTRO-Correa also admitted that he trained dogs for competition.

12. During the interview, CASTRO-Correa indicated that he was transporting the canines to the Dominican Republic, that he was paid \$800.00 and that the canines belonged to an individual known to him as "Dionis". CASTRO-Correa stated that he received the canines from Miguel LNU. Castro-Correa stated that he communicated with Miguel LNU via mobile phone at 787-938-0453. CASTRO-Correa indicated that he uses Facebook to communicate during the transportation of canines to the Dominican Republic.

13. CASTRO-Correa agreed and signed a consent form allowing the officers to enter his residence. As a result, HSI Agents went to CASTRO-Correa's residence which is located at HC25 or HC2³ Calle Estancia, Sector Estancia del Sol *situado* in Barrio La Dolores Casiano Cepeda, Rio Piedras, Puerto Rico, which is described as grey concrete structure. In front of the structure, there is a white metal gate that gives access to the concrete structure.

14. At approximately 11:30 p.m., CASTRO-Correa, guiding HSI Agents, arrived at his

³ According to CASTRO-Correa, the address of the residence is HC25, Calle Estancia, Sector Estancia del Sol *situado* in Barrio La Dolores Casiano Cepeda, Rio Piedras, Puerto Rico. However, we found an electrical bill at the residence showing the following address: HC2, Calle Estancia, Sector Estancia del Sol *situado* in Barrio La Dolores Casiano Cepeda, Rio Piedras, Puerto Rico. Notwithstanding this, it was CASTRO-Correa who personally guided the agents to the residence where the additional dogs and evidence was located. We also found under CASTRO-Correa's mattress a high school diploma with his name, a birth of certificate with his name, and a copy of a driver's license with his name and photograph.

residence. A preliminary search of the residence revealed the several man-made structures made either of concrete or wood with chicken wire that were used as cages. Others were simply made-man pits that did not have any overhead cover exposing the dogs to the elements. We observed dogs inside such cages. The dogs inside the cages appeared to be adult dogs that could barely fit inside the cages. In order for the dog to turn around in the cage, the dog had to bend because he or she cannot comfortable turn around inside the cage given the limited room inside the cage.

15. We found a total of twenty-five (25) dogs in back area of the residence. There were approximately nine (9) puppies out of the twenty-five (25) found. Some were chained or tied to a structure, or a cement cylinder block or pallet, while others were caged, and/or exposed to the elements. The water containers from which the dogs were expected to drink were dirty.

16. The first dog we observed was a brown dog on the ground with scars in his muzzle area. The dog was extremely frightened by us and shaking. The dog is best described as an adult pit bull-like dog, brown in color. The dog would not even stand up but would keep shaking and appeared to retreat afraid of us.

17. The majority of the dogs appeared to be pit bull-like dogs. One of the dogs we observed was very similar to the dark brown and white dog seen fighting in the video seized from CASTRO-Correa's cellular phone. This dog appeared to have several scars around its muzzle area and face. This dog was also exposed to the elements.

18. Case Dog # 10 (TAMI), was found in the backyard exposed to the elements, besides a yellow bucket filled with dirty water. TAMI was chained to a pole which was inside a cement block. TAMI showed facial scars.

19. Inside the residence, we found a man-made treadmill designed for training dogs. The treadmill is similar to the one seen in a video found in CASTRO-Correa's cellular phone.

20. In the master bedroom, aside from the personal documents belonging to CASTRO-Correa, we also found under the mattress old newspaper articles of dog fights. We also found in the same room, in a corner, behind a cabinet, a bag containing what appeared to be medications such as antibiotics, iron and calcium supplements for dogs with images depicting pit bulls, and dressing compounds, among other items.

21. Also seized was what appeared to be medication that requires the use of syringes. We also found in the kitchen that was under construction an open bag containing several syringes.

22. The statutory provisions pursuant to which CASTRO-Correa's assets are subject to seizure and forfeiture are as follows:

- a) Title 18, United States Code, Section 49(a) – **Enforcement of Animal Fighting Prohibition.** – “Whoever violates subsection (a)(1), (b), (c), or (e) of section 26 of the Animal Welfare Act shall be fined under this title, imprisoned for not more than 5 years, or both, for each violation.”
- b) Title 7, United States Code, Section 2156(a)(1) – **Animal Fighting Venture Prohibition** – “Except as provided in paragraph (3), it shall be unlawful for any person to knowingly sponsor or exhibit an animal in an animal fighting venture.”
- c) Title 7, United States Code, Section 2156(f) – **Investigation of Violations by Secretary; Assistance by Other Federal Agencies; Issuance of Search Warrant; Forfeiture; Costs Recoverable in Forfeiture or Civil Action** - “Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal is found and upon a judgment of forfeiture shall be disposed of by sale for lawful purposes or by other humane means,

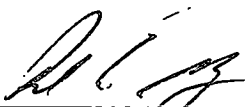
as the court may direct.”

CONCLUSION

23. Based upon my training and experience, participation in other investigations, and facts concerning this investigation, I believe there is probable cause to seize the dogs for violations of Title 18, United States Code, Section 49(a), that is, a violation of Title 7, United States Code, Section 2156(a)(1), that prohibits the sponsoring and exhibiting of an animal in an animal fighting venture. I further believe that there is evidence to establish the forfeitability of all items seized pursuant to Title 7, United States Code, Section 2156(f).

I, Ricardo E. Gutierrez, Special Agent of the Immigration and Customs Enforcement, United States Department of Homeland Security (“ICE-HSI”), do declare the above as provided by Title 28, United States Code, Section 1746.

In San Juan, Puerto Rico this 25th of October, 2016.



Ricardo E. Gutierrez
ICE-HSI Special Agent