

FILED by *[Signature]* D.C.
MAY - 5 2010
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - W.P.B.

United States District Court

SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

vs.

GILBERTO JORDAN,

CASE NUMBER: 10-8127-JMH

Defendant.

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

On or about August 25, 1999, in Palm Beach and Miami-Dade Counties, in the Southern District of Florida, and elsewhere, the defendant,

GILBERTO JORDAN,

did knowingly procure naturalized United States citizenship, contrary to law;

in violation of Title 18, United States Code, Section 1425(a).

I further state that I am a Special Agent with U.S. Immigration and Customs Enforcement, and that this Complaint is based on the following facts:

Please see attached Affidavit

Continued on the attached and made a part hereof.

[Signature]

Jon A. Longo / Special Agent
U.S. Immigration and Customs Enforcement

Sworn to before me, and subscribed in my presence, upon my finding of probable cause.

May 5, 2010
Date

at West Palm Beach, Florida
City and State

JAMES M. HOPKINS
UNITED STATES MAGISTRATE JUDGE

[Signature]

Signature of Judicial Officer

AFFIDAVIT

1. I, Jon A. Longo, a Senior Special Agent (SSA) of the United States Department of Homeland Security, Immigration & Customs Enforcement (ICE), Office of the Resident Agent in Charge in West Palm Beach, Florida, being duly sworn, depose and state as follows:

2. I have been employed as a sworn federal Special Agent with Immigration and Customs Enforcement (ICE) since July 2006. As a federal agent, I am authorized to investigate violations of laws of the United States, including those related to immigration and benefit fraud, and to execute warrants issued under the authority of the United States. I have received 23 weeks of training at the Federal Law Enforcement Training Center, which included the application of federal statutes, federal court procedures, and the techniques required to insure the admissibility of evidence at trial.

3. This affidavit is submitted in support of a criminal complaint charging that GILBERTO JORDAN (DOB: 02/20/1956, Alien # 092 364 540) ("JORDAN"), did knowingly procure naturalized United States citizenship, contrary to law, in violation of Title 18, United States Code, § 1425(a).

4. The information contained in this Affidavit is based on Guatemalan investigative and court records regarding the massacre at Las Dos Erres, Peten, Guatemala, interviews of acquaintances of GILBERTO JORDAN, official United States' immigration documents, certified documents received from the Government of Guatemala through the Mutual Legal Assistance Treaty (MLAT), the interview of JORDAN, as well as on my

training and experience, and on the training and experience of other law enforcement officers. Since this Affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not contain all of the information known to me and/or other law enforcement officers involved in this investigation.

5. In or around 1982, the Guatemalan military maintained an elite special forces unit known as the "Kaibiles," who were trained at a facility located in La Pólvara, El Petén, Guatemala, known as "the Kaibil School." In 1982, for a period of several months, the Kaibil School was closed as an instruction facility. During this period, the Kaibiles at the school engaged in activities designed to locate, interrogate, and remove suspected guerrillas and guerrilla sympathizers from the local population. JORDAN was a member of the Guatemalan military who was attached to the Kaibil unit during this period and was present at the School.

6. In or around November 1982, the Guatemalan guerrilla group known as "Fuerzas Armadas Revolucionarias" ambushed a Guatemalan military convoy near Las Cruces, Guatemala, killing soldiers and taking a number of rifles. In response, the Guatemalan military ordered a special patrol of approximately twenty Kaibiles from the Kaibil School to find the suspected guerrillas and recover the stolen weapons. The special patrol deployed to a small village near Las Cruces named Dos Erres.

7. On or about December 7, 1982, the special patrol entered Dos Erres with the support of approximately forty additional Kaibiles, who created a security perimeter around

the village so that no one could escape. The members of the special patrol searched all the houses for the missing weapons, forced the villagers from their homes, and separated the women and children from the men. Members of the special patrol interrogated villagers regarding the guerrillas and the stolen rifles.

8. During the interrogation, the special patrol proceeded to systematically kill the civilian men, women, and children at Dos Erres by, among other methods, hitting them in the head with a hammer and then pushing them into the village well. Members of the special patrol also forcibly raped many of the women and girls at Dos Erres before killing them. GILBERTO JORDAN participated in the crimes committed at Dos Erres, including murder.

9. Pursuant to the Guatemalan Penal Code that was in effect in 1982, a person “commits murder if they kill a person: with treachery, . . . with premeditation, with cruelty, [or] with the impulse of perverse brutality.” Under Guatemalan law, it is no defense to criminal prosecution that a person was operating under military orders, if the orders “were manifestly illegal.”


10. On June 15, 1994, a Guatemalan judge ordered the exhumation of the corpses at Dos Erres and appointed the Argentine Forensic Anthropology Team (Equipo Argentino de Antropología Forense, hereinafter “EAAF”) and a local forensic physician to complete the task.

11. On September 28, 1995, the EAAF delivered their report on the excavations performed at Las Dos Erres. Approximately 162 skeletal remains were exhumed at the

village's well, whose deaths were presumed to have occurred in December 1982, as a result of traumatic injuries and gunshot wounds.

12. On or about September 10, 1996, in Palm Beach County, in the Southern District of Florida, GILBERTO JORDAN, applied to naturalize as a United States citizen. Specifically, GILBERTO JORDAN submitted an Application for Naturalization (Form N-400) to the Palm Beach Gardens, Florida, office of the Immigration and Naturalization Service which application GILBERTO JORDAN affirmed under penalty of perjury was true and correct.

13. On or about July 19, 1999, in Palm Beach County, in the Southern District of Florida, GILBERTO JORDAN, appeared before a naturalization examiner for an interview based on his Form N-400 Application, at which time he was placed under oath and affirmed under penalty of perjury that the statements he had earlier provided on the N-400 form were true and correct.

14. On his Form N-400 Application at Part 7, Question 15(a), and in his subsequent interview under oath, GILBERTO JORDAN, falsely stated that he had never, "knowingly committed any crime" for which he had not been arrested, when in truth and in fact, and as the defendant then and there knew, he had committed crimes, including, but not limited to ~~and~~ murder, for which he had not been arrested. 

15. On his Form N-400 Application at Part 9, "Memberships and organizations," when asked to list his present and past membership in or affiliation with every organization,

association, fund, foundation, party, club, society or similar group in the United States or any other place, including military service, GILBERTO JORDAN, wrote "N/A." In his subsequent interview under oath, GILBERTO JORDAN, again claimed no past affiliations and denied military service, when in truth and in fact, and as the defendant then and there knew, he was formerly a soldier in the Guatemalan army and a member of the Kaibil special forces unit.

16. It is a violation of United States law to knowingly make false statements or make false writings in any matter within the jurisdiction of the executive branch of the United States Government, which includes the former Immigration and Naturalization Service. It is also a violation of United States law to knowingly make any false statement under oath in any proceeding or matter relating to naturalization or citizenship. Furthermore, it is a violation of United States law to knowingly subscribe as true any false statement with respect to a material fact in any application or other document required by the immigration laws.

17. On August 25, 1999, GILBERTO JORDAN became a naturalized United States citizen in a ceremony conducted by the United States Immigration and Naturalization Service in Miami Beach, Florida.

18. On April 4, 2000, the judge of the Criminal Court of First Instance of Petén, Guatemala ordered the arrest of GILBERTO JORDAN and other Kaibiles for the crime of murder committed to the residents of Las Dos Erres.

19. In March and June of 2009, your Affiant interviewed a cooperating witness (“CW1”) regarding his involvement in the murders at Las Dos Erres. CW1 is an admitted former member of an elite Guatemalan military unit known as the Kaibiles. CW1 stated that he was present at Las Dos Erres on the day of the massacre, however, he was assigned to a Support Group and was to stay on the village perimeter to provide security and not allow anyone to depart the village.

20. CW1 stated that there were two assault groups of Kaibiles designated “Alpha” and “Bravo” which were selected to enter the village. CW1 identified by name JORDAN, among several others, as being assigned to the “Alpha” assault group.

21. In November 2009, CW1 was interviewed again and admitted to being more deeply involved in the massacre, including participating in the killing of civilians. In that interview, CW1 stated that during the massacre, CW1 went to the village’s well for further orders and saw members of the Alpha assault group present. Members of the Alpha assault group were positioning villagers on their knees in front of the well and interrogating them as to the location of the rifles stolen from the Guatemalan military by Guerrillas in October 1982 in the attack that left a number of Guatemalan military soldiers dead.

22. CW1 stated JORDAN, among others, was present at the well interrogating villagers on their knees when another Alpha assault group member walked up behind a villager, hit him in the head with a large hammer, and then pushed the villager into the well. Following this, an Alpha assault group Lieutenant ordered CW1 to push a young, blindfolded

girl of approximately fourteen years of age into the well, and CW1 complied with the order. At this time, CW1 stated he could see the well was almost full of villagers and he could hear their voices coming from the well. CW1 stated another Alpha assault group member fired his shotgun into the well, causing the villagers in the well to yell. CW1 stated that the same Alpha assault group member also threw a fragmentation grenade into the well.

23. In March and June of 2009, your Affiant interviewed a second cooperating witness ("CW2") regarding his involvement in the murders at Las Dos Erres. CW2 is an admitted former member of an elite Guatemalan military unit known as the Kaibiles who provided testimony to government investigators about the massacre at Las Dos Erres. CW2 stated that he was present at Las Dos Erres on the day of the massacre. CW2 named JORDAN as one of the individuals assigned to an assault group on the day of the massacre.

24. CW2 stated that, while taking a break in the village, he observed JORDAN carrying a live baby to the village well, and subsequently drop the child into the well.

25. Both CW1 and CW2 have been repeatedly interviewed by individuals involved in the investigation of the Dos Erres massacre. In some of their statements, they each minimized their own involvement in the massacre. However, the other portions of their statements, including the portions related to JORDAN's involvement in the massacre have been consistent. Furthermore, factual assertions in their statements regarding details of the events have been corroborated.

26. On or about July 20, 2009, and March 19, 2010, the United States received official government of Guatemala documents through the Mutual Legal Assistance Treaty. Among those documents was information from a national identification registration or cedula that had originally been issued to GILBERTO JORDAN with a date of birth of February 20, 1956.

27. The cedula lists GILBERTO JORDAN's mother as SALVADORA JORDAN.

28. The place of birth listed on the cedula is the hamlet of Trapiche Abajo, Asuncion Mita.

29. The cedula also has the question, "Served in the military?" to which an affirmative response of "yes" is written.

30. United States immigration databases list GILBERTO JORDAN's date of birth as February xx, 1956 (the same date that appears on the cedula).

31. United States immigration databases list GILBERTO JORDAN's mother's name as "SALVADORA".

32. A copy of a Guatemalan marriage certificate contained in the United States immigration Alien File (A# 092 364 540) for GILBERTO JORDAN lists his place of birth as the hamlet of Trapiche Abajo, Asuncion Mita.

33. The same marriage certificate lists GILBERTO JORDAN's mother as "SALVADORA JORDAN."

34. In an attempt to confirm that the naturalized GILBERTO JORDAN in question

is the same GILBERTO JORDAN who was a member of the Guatemalan military, a fingerprint comparison was attempted. The comparison used fingerprints from United States immigration records and from a copy of a fingerprint obtained from the Guatemalan cedula. The examination proved to be inconclusive at this time due to the poor quality of one of the fingerprints.

35. Photographs from GILBERTO JORDAN's Guatemalan cedula, Florida Driver's License, and United States' Alien File were reviewed and compared by your Affiant. The photographs appear to be of the same individual.

36. On May 4, 2010, your Affiant and others went to the home of GILBERTO JORDAN to interview him regarding these events. JORDAN agreed to be interviewed in his home. JORDAN's wife was also present for a portion of the interview. The interview was conducted in Spanish and English. JORDAN admitted that he had served in the Guatemalan military and identified himself in the photograph contained in the cedula. JORDAN also identified a number of other individuals who were in the military with him at the same time. Your Affiant then questioned him regarding the events at Dos Erres. JORDAN readily admitted that he threw a baby into the well and participated in killing people at Dos Erres, as well as bringing them to the well where they were killed.

37. Following these admissions, a Supervisory Special Agent with ICE conferred with the U.S. Attorney's Office. JORDAN was then provided with written *Miranda* warnings in the Spanish language, in the presence of his wife. The warnings were reviewed

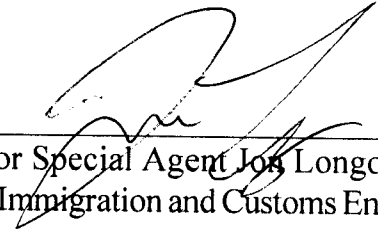
in detail, and JORDAN agreed to waive his *Miranda* rights and signed a written *Miranda* waiver form that was written in the Spanish language. Thereafter, JORDAN was asked additional questions, during which he again admitted that he was a Kaibil in the Guatemalan military and had participated in the unlawful killing of villagers at Dos Erres. JORDAN specifically admitted that the first person he killed was a baby, whom JORDAN murdered by throwing into the village well. JORDAN was shown his N-400 Form and asked why he did not admit to being in the military on the form. JORDAN answered that he “did not know why” he answered the question that way.

38. Based on the foregoing, your Affiant submits that there is probable cause to believe that on or about August 25, 1999, GILBERTO JORDAN did knowingly procure naturalized United States citizenship, contrary to law; in violation of Title 18, United States Code, Section 1425(a).

39. I understand that, according to 18 U.S.C. § 3291, the statute of limitations under 18 U.S.C. § 1425 is ten years. Prior to the expiration of the original period, the United States made a Mutual Legal Assistance Treaty (“MLAT”) request and filed a sealed motion to suspend the statute of limitations pursuant to 18 U.S.C. § 3292. United States District Judge Marra granted that motion. Following receipt of the Final Action from the Government of Guatemala, the United States notified the Court and requested that the Court terminate the suspension of the statute of limitations. Judge Marra entered an order terminating the suspension and finding that the statute of limitations was suspended for a

period of 309 days. Accordingly, the statute of limitations on JORDAN's offense will expire on June 30, 2010.

FURTHER YOUR AFFIANT SAYETH NAUGHT.



Senior Special Agent Jon Longo
U.S. Immigration and Customs Enforcement

Sworn and subscribed to before me
this 5 day of May, 2010.



JAMES M. HOPKINS
UNITED STATES MAGISTRATE JUDGE