

AO 91 (Rev. 01/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
District of New Mexico

United States of America
v.

Gabriel SCOTT

Defendant(s)

Case No: 23-390 MJ

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date of February 28, 2023 in the county of Hidalgo in the State and District of New Mexico, the defendant violated 8 U.S.C. §1324(a)(1)(A)(v)(I)(Conspiracy to Violate 1324 - All subsections), an offense described as follows:

Knowingly, intentionally, and unlawfully conspired, combined, confederated and agreed with others known and unknown, to commit offenses against the United States, namely: to transport, move, and attempt to transport and move an alien within the United States by means of transportation and otherwise

This criminal complaint is based on these facts:

On February 28, 2023, United States Border Patrol Agent (BPA) One, was assigned patrol duties in the Lordsburg, New Mexico Border Patrol stations area of responsibility. BPA One was located near the 404 mile marker, when a blue Hyundai Elantra, bearing Arizona license plate passed by. BPA One witnessed the passenger of the vehicle duck down. BPA One got behind the vehicle and noted that it slowed down as he approached it. BPA One also noticed that the vehicle looked like the back end was riding low. BPA One attempted to conduct an immigration inspection and activated the emergency equipment. However, the driver accelerated the vehicle and began to pull away, failing to yield (FTY).

[X] Continued on the attached sheet.

Handwritten signature of Delilah Gell

Complainant's signature

Delilah Gell, Border Patrol Agent

Printed name and title

by telephone

Sworn to before me and signed in my presence.

Date: March 2, 2023

Handwritten signature of Kevin R. Sweazea

Judge's signature

City and state: Las Cruces, N.M.

Kevin R. Sweazea, U.S. Magistrate Judge

Printed name and title

CONTINUATION OF CRIMINAL COMPLAINT

STATE AND DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

V.

Gabriel SCOTT

**Continuation of Statement of Facts:**

Due to the dangers involved in traveling through the town of Rodeo at a high rate of speed, BPA One decided to stop the pursuit.

\*\*\*\* ADDENDUM BY BPA TWO \*\*\*\*

Border Patrol Agent (BPA) Two, was assigned to Zone 44 of Lordsburg Border Patrol Station's Area of Responsibility (AOR). BPA Two heard radio traffic coming from BPA One regarding the FTY and was positioned north of the vehicle. BPA One estimated the vehicle's speed to be over 120 mph based off the speed of his own patrol vehicle and how quickly the fleeing vehicle was pulling away from him.

At this time, Supervisory Border Patrol Agent (SBPA) One and BPA Two coordinated to prepare to deploy a Controlled Tire Deflation Device (CTDD) if the suspected smuggling vehicle continued northbound on New Mexico (NM HWY) 80. BPA Three advised moments later that he had spotted the vehicle traveling northbound on NM HWY 80 at a high rate of speed as it passed him at the NM HWY 9 and 80 intersection, and that he would be following the vehicle from a distance to call out its location to us. SBPA One advised BPA Two that the vehicle was approaching, and BPA Two visually confirmed a blue Hyundai sedan was approaching at a high rate of speed. BPA Two deployed the CTDD completely across the roadway. The vehicle struck the CTDD with all four tires, deflating the front two. The driver, later identified as Defendant SCOTT, Gabriel, then pulled the vehicle over near the 28-mile marker. Defendant SCOTT voluntarily stepped out of his vehicle when commanded with his hands up and was placed into handcuffs. BPA Three and SBPA One removed one subject from the rear of the vehicle, and then opened the trunk. Two subjects were concealed inside of the trunk, both were removed. All three subjects were questioned as to their citizenship and their legal status to be present within the United States. All subjects admitted to not being citizens of the United States, one from Mexico and from Guatemala, and also admitted to not having documents to be legally present within the United States. Defendant SCOTT and all three illegal aliens were placed into custody and transported to the Lordsburg Border Patrol Station for further questioning and processing.

\*\*\*\*\* ADDENDUM BY BPA FOUR \*\*\*\*\*

BPA Four and BPA Five conducted an interview with Defendant SCOTT, in reference to his apprehension. Prior to questioning Defendant SCOTT, he was advised of his Miranda rights via Government Form I-214. He signed the I-214 acknowledging he understood his rights and was willing to answer questions without the presence of an attorney. Defendant SCOTT stated he lives in Tucson, Arizona. Defendant SCOTT stated he was offered to pick up these illegal aliens through Craigslist for an undisclosed amount of money. He would only get paid if he successfully transported the aliens to Phoenix, Arizona. Defendant SCOTT stated he was taking the aliens to Phoenix, Arizona, but wasn't given a specific location.

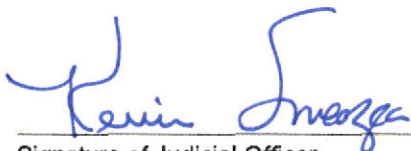
Defendant SCOTT stated he picked up the aliens near Nogales, Arizona close to the border. Defendant SCOTT stated he was given a location in advance. When he picked up the aliens, he told two of them to get in the trunk of the vehicle to avoid suspicion. Defendant SCOTT stated they never stopped driving when he picked them up, and he never picked up or dropped off anybody else. Approximate drive time from Nogales, Arizona to Road Forks, New Mexico is three and a half hours. SCOTT stated the bodies in the trunk were always in the trunk even when he was driving away from the Border Patrol.

BPA's asked Defendant SCOTT for consent to search his phone, but he declined.

CONCLUSION

1. Based on the aforementioned facts, your Affiant believes that there is probable cause to believe that Defendant Gabriel SCOTT along with others known and unknown did violate Title 8 United States Code, Sections 1324 (a)(1)(A)(ii) and 1324 (a)(A)(v)(I).
2. AUSA Marissa Ong was contacted and was presented the case for prosecution. The case was accepted based on the aforementioned facts; Defendant Gabriel SCOTT will be charged under 8 USC 1324 (conspiracy to transport).

**Continuation of Statutory Language:**



Signature of Judicial Officer



Signature of Complainant

Gell, Delliha

Filing Agent