

GTR

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

08 JUL -3 AM 10:04
BY: EC

UNITED STATES OF AMERICA,

Plaintiff,

v.

Martin AVALOS-Aguilar,

Defendant

) Magistrate Docket No.

) '08 MJ 2032


) COMPLAINT FOR VIOLATION OF:

) Title 8, U.S.C., Section 1326
) Deported Alien Found in the
) United States

The undersigned complainant, being duly sworn, states:

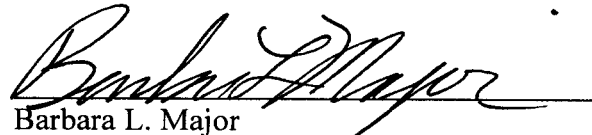
On or about **July 2, 2008** within the Southern District of California, defendant, **Martin AVALOS-Aguilar**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 3rd DAY OF JULY, 2008.



Barbara L. Major
UNITED STATES MAGISTRATE JUDGE

(ftr)

**CONTINUATION OF COMPLAINT:
Martin AVALOS-Aguilar**

PROBABLE CAUSE STATEMENT

On July 2, 2008, Supervisory Border Patrol Agent B. Beales was assigned to line watch duties in Tecate, California near the Tecate Port of Entry. This area is approximately one mile north of the Tecate, California Port of Entry. At approximately 8:10 a.m. Agent Beales observed an individual walking along Emery Road. When the individual observed Agent Beales he attempted to hide behind a tree. Agent Beales identified himself as a Border Patrol Agent and questioned him to determine his citizenship and immigration status. The individual later identified as the defendant, **Martin AVALOS-Aguilar**, admitted to being a citizen and national of Mexico without any immigration documents that would allow him to remain in the United States legally. The defendant was arrested and transported to the Brown Field Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **June 27, 2008** through **Calexico, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally. He also stated he was going to San Bernardino, California.