

1136

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

UNITED STATES OF AMERICA,

Plaintiff,

v.

Cesar GUTIERREZ-Valcazar,

Defendant

Magistrate Docket No

08 AUG 21 2008 15 395

COMPLAINT FOR VIOLATION OF

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

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: [Signature] DEPUTY

The undersigned complainant, being duly sworn, states:

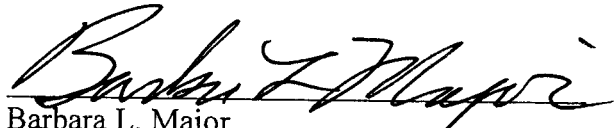
On or about **August 20, 2008** within the Southern District of California, defendant, **Cesar GUTIERREZ-Valcazar**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, 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 21st DAY OF AUGUST, 2008



Barbara L. Major
UNITED STATES MAGISTRATE JUDGE

DOA
8/20/08
ECL

**CONTINUATION OF COMPLAINT:
Cesar GUTIERREZ-Valcazar**

PROBABLE CAUSE STATEMENT

August 20, 2008, Senior Patrol Agent T. Pacheco Jr., was performing uniformed linewatch duties in the Chula Vista Station's area of responsibility. At approximately 1:30 a.m., Agent Pacheco Jr. received a radio call from Senior Patrol Agent C. Loy, the scope operator, who observed a group of suspected illegal aliens north of the United States/Mexico International Border near an area known as "Murphy's Bowl." This area is located approximately two miles east of the Otay Mesa, California, Port of Entry and one mile north of the United States/Mexico International Border.

Agent Pacheco Jr. responded to the area where the individuals were last seen. After a brief search Agent Pacheco Jr. found six individuals attempting to hide in some brush. Agent Pacheco Jr. approached the individuals, identified himself as a Border Patrol Agent, and questioned the individuals as to their citizenship. All six individuals including an individual later identified as the defendant **Cesar GUTIERREZ-Valcazar**, admitted to being citizens and nationals of Mexico without any immigration documents allowing them to legally be or remain in the United States. At approximately 1:50 a.m. all six individuals, including the defendant were arrested and transported to the Chula Vista 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 February 26, 2008 through San Ysidro, 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.