

COUNTY COURT Rio Grande County , STATE OF COLORADO Court Address: 925 6th Street, Room 204, Del Norte, CO 81132		DATE FILED: August 11, 2022 12:55 PM
THE PEOPLE OF THE STATE OF COLORADO Plaintiff: Vs. Emiliano Vargas DOB: 02/19/2001 Defendant: HT: 5'7", WT: 130, EYES: BRO, HAIR: BLK RACE: W, GENDER: M		COURT USE ONLY Case Number: 2022CR44 Div.: 7 Ctrm:
CRYSTAL LITTRELL , Senior Assistant Attorney General 426 San Juan Ave. Alamosa, CO 81101 Phone: (719) 589-3691 Fax: (719) 589-2734 Attorney Reg.#		
AFFIDAVIT AND APPLICATION FOR ARREST WARRANT		

Detective Ezekiel Sisneros, the Affiant, being duly sworn, upon oath deposes and says:

1. That the Affiant is a peace officer employed by the Monte Vista Police Department, County of Rio Grande, State of Colorado. That in the course of the Affiant's duties as a peace officer, the Affiant had occasion to investigate a complaint of Secure Firearm Storage Required, Unlawfully Providing or Permitting a Juvenile to Possess a Handgun, alleged to have occurred within the County of Rio Grande, State of Colorado. The Affiant conducted an investigation, including questioning witnesses. Based on the Affiant's investigation, the Affiant believes to the best of his/her knowledge, information and belief, that there is probable cause to believe the above named defendant has committed the crime(s) of; Secure Firearm Storage Required, Unlawfully Providing or Permitting a Juvenile to Possess a Handgun
2. That the facts known to the Affiant which establish probable cause to believe (1) that said criminal offense was committed, and (2) that said offense was committed by the above-named defendant, are the following:

See Appendix "A" ATTACHED HERETO AND INCORPORATED HEREIN

Det. Ezekiel Sisneros #1403 Affiant

APPENDIX "A"

1. Your affiant has been duly employed as a law enforcement officer for 4 years, and is currently employed with Monte Vista Police Department. Your affiant compiled the information in this affidavit during the course of a criminal investigation. All locations in this affidavit are within Rio Grande County, Colorado unless specifically noted otherwise.
2. Affiant states the following, which establishes probable cause:

Introduction

Your affiant, Ezekiel Sisneros, is a commissioned Police Officer with the Monte Vista Police Department and is currently assigned as a Detective within the department. Where not otherwise indicated, your affiant obtained the following information through personal observation, talking to other officers, talking to witnesses and interviews with suspected suspects involved in the case.

Summary of Incident and Investigation

On August 7, 2022, at approximately 1526 hours, Sgt. Michael Martinez and Officer Josh Hill with the Monte Vista Police Department were dispatched to 333 Monroe Street for a shooting that occurred and the victim was unconscious and not breathing. Dispatch initially aired information that a [REDACTED] shot [REDACTED]

Both Sgt. Martinez and Officer Hill arrived on scene and were met by two [REDACTED] juveniles and homeowner Madelyn Padilla. Sgt. Martinez and Officer Hill were directed to a room on the west side of the residence, where a [REDACTED] juvenile was found lying on the floor (southwest corner) with blood and other fluid coming out of [REDACTED] head. Officer Hill and Sgt. Martinez checked the [REDACTED] hands and the immediate area around the [REDACTED], but were not able to locate a firearm. Officer Hill and Sgt. Martinez later observed a firearm (Glock 19-9mm) on the bed that was in the room near where the [REDACTED] party was laying. (To Note: through Officer Hill's observations the distance of the firearm from the body was not consistent with the victim holding the firearm when [REDACTED] fell.) Sgt. Martinez asked Madelyn who moved the gun and she said one of the juveniles had to have moved it and she was not sure exactly what happened, as she was in the other room. The firearm was photographed where it lay, and made safe by Sgt. Martinez by removing the magazine and clearing one chambered round. Sgt. Martinez asked Madelyn and both juveniles who owned the firearm. It was determined that [REDACTED] and Madelyn's grandson Emiliano (Emilio) Vargas had legally purchased the firearm. According to Madelyn, Emilio and [REDACTED] both reside at the residence in the same room. Sgt. Martinez was advised that [REDACTED] has been living there with permission from [REDACTED] parents, as [REDACTED] is almost 18. When Sgt. Martinez began collecting preliminary information from the juveniles, he was advised that the juveniles were handling the gun and making videos on "TikTok."

EMS (Emergency Medical Services) arrived on scene and confirmed there were no vital signs or signs of life from the [REDACTED] victim identified as [REDACTED]. Officer Hill and Sgt. Martinez advised all parties on scene that the residence at 333 Monroe Street was now a crime scene and everyone was escorted out of the house to maintain the integrity of the scene.

At this time the two juvenile [REDACTED] parties were identified as [REDACTED]. [REDACTED] resides at the home with Emilio and his grandparents, but [REDACTED] and [REDACTED]

██████████ were just visiting. ██████████ and ██████████ said they were in the room with ██████████ when the shooting incident occurred. Both ██████████ and ██████████ were eventually transported to the Monte Vista Police Department to be interviewed more in depth.

At approximately 1620, your affiant was contacted by Sgt. Michael Martinez and was advised of this possible homicide that had occurred at 333 Monroe Street and was asked to come on duty to help with the investigation.

I met with Sgt. Martinez at the PD and was advised a juvenile ██████████ identified as ██████████ had been fatally shot inside of the residence at 333 Monroe Street. Sgt. Martinez advised there were two other ██████████ parties in the room with ██████████ when the incident occurred. The ██████████ parties were identified as ██████████ and ██████████ and were being transported to the PD for questioning at this time.

At approximately 1732 hours, Sgt. Martinez and I met with ██████████. ██████████ was advised of and acknowledged ██████████ Miranda Rights and agreed to speak with Sgt. Martinez and I. I started off asking ██████████ if ██████████ could tell me how ██████████ day started. ██████████ advised ██████████ did ██████████ normal routine of cleaning ██████████ face and brushing ██████████ teeth and was waiting for a package to arrive. I asked ██████████ if ██████████ could tell me how ██████████ afternoon started. ██████████ advised ██████████ was contacted on Snapchat by ██████████ at approximately 1330. ██████████ stated ██████████ asked if ██████████ could come over to ██████████ residence at 333 Monroe Street.

██████████ said ██████████ arrived at the residence and the three were just hanging out watching T.V. and laying around. ██████████ and ██████████ were making TikTok videos (TikTok is a social media platform). ██████████ advised ██████████ had taken the gun off the top shelf that ██████████ boyfriend Emilio owned. ██████████ said ██████████ were excited to see it and wanted to hold the gun, so ██████████ provided it. Sgt. Martinez asked ██████████ if the gun was loaded. ██████████ said ██████████ took the "clip" out of the gun before ██████████ handed the gun to ██████████. ██████████ stated ██████████ looked at the gun and then ██████████ took the gun from ██████████. ██████████ said after ██████████ took the gun from ██████████ "it just happened". Sgt. Martinez asked ██████████ what just happened. ██████████ stated ██████████ just shot ██████████. ██████████ stated ██████████ did not see ██████████ pick up the gun, but ██████████ saw ██████████ getting shot and falling to the ground.

Sgt. Martinez asked ██████████ if ██████████ was holding the gun when ██████████ was shot. ██████████ said no ██████████ was next to ██████████ when ██████████ was shot. Sgt. Martinez asked ██████████ if ██████████ may have been holding the gun when ██████████ got shot. ██████████ stated the gun was on the floor and ██████████ grabbed the gun and threw it on the bed. Sgt. Martinez asked ██████████ if ██████████ or ██████████ helped ██████████ after ██████████ had been shot. ██████████ stated "no", ██████████ could just see ██████████ "leaking" and all of the blood. ██████████ stated ██████████ started to freak out and ran out of the room to get ██████████ boyfriend's grandmother. ██████████ stated the grandmother (Madelyn) told ██████████ to call 911.

Sgt. Martinez had ██████████ draw a picture of the room and show where ██████████ and ██████████ were standing when ██████████ was shot. ██████████ drew a diagram, which shows the three ██████████ standing in a triangle formation, facing northeast. ██████████ said this was a dance formation for their videos.

I asked ██████████ whose phone they were using to make the TikTok videos. ██████████ stated they were using ██████████ phone to make the videos. Sgt. Martinez asked ██████████ if there would be any videos on ██████████ phone. ██████████ said no, they didn't use ██████████ phone. ██████████ gave full permission and the pass code to ██████████ phone to locate the message(s) between ██████████ and to also locate any TikTok video's that three parties may have recorded together.

We ended the interview with [REDACTED] and had the Victims' Advocates come and talk with [REDACTED]. [REDACTED] was later asked to change out of [REDACTED] clothing for evidentiary purposes. Officer Brittany Martinez was asked to help in collecting the clothing from [REDACTED]. [REDACTED] was later released pending formal charges. At approximately 1756 hours, Sgt. Martinez and I met with [REDACTED] and [REDACTED] grandmother Rebecca Tonso. [REDACTED] stated [REDACTED] had something to tell us about [REDACTED] involvement. I read [REDACTED] and Rebecca the Miranda Rights advisement, and both [REDACTED] and Rebecca acknowledged the Miranda Rights and stated they needed to have a lawyer present before they would talk to myself and Sgt. Martinez. [REDACTED] was asked to change out of the clothing that [REDACTED] was wearing for evidentiary purposes. Officer B. Martinez helped collect the clothing. [REDACTED] was released to [REDACTED] grandmother (Rebecca Tonso) pending formal charges.

At approximately 1806 hours, Sgt. Martinez and I met with the owners (grandparents) of the residence at 333 Monroe identified as Padilla, Madelyn (DOB 10/17/1946) and Padilla, Waldo (DOB 04/27/1944). I advised both Madelyn and Waldo their Miranda Rights. Both Madelyn and Waldo acknowledged their Miranda Rights and agreed to talk with Sgt. Martinez and I.

I asked Madelyn and Waldo how [REDACTED] was related to them. Madelyn stated [REDACTED] is her [REDACTED]. I asked Madelyn how often [REDACTED] frequents the residence. Madelyn stated [REDACTED] had been going to the residence more often now that Emilio and [REDACTED] had moved to the residence. I asked Madelyn and Waldo if they saw or heard anything. Madelyn stated she wasn't paying attention as she was folding laundry. She stated she heard a loud noise and heard the [REDACTED] running and screaming, she said she couldn't tell what the [REDACTED] were saying. Madelyn stated she went into the hallway where the bedroom and the [REDACTED] were, and she saw [REDACTED] laying on the floor. Madelyn stated [REDACTED] had initially told her that [REDACTED] had shot [REDACTED]. Waldo stated he was in the bathroom and heard what sounded like a car back firing. Waldo stated he could hear the [REDACTED] crying and screaming, he said he told the [REDACTED] to call 911 and that is all he could say.

Officer Hill interviewed Emilio, who said he was working at Safeway when this incident occurred. Emilio said he had no clue what happened and did not know his [REDACTED] was playing with his firearm at that time.

The Colorado Bureau of Investigation Crime Scene Division arrived and helped process the scene. Sgt. Martinez and I assisted Crime Scene Investigator Dennis Honeycutt and Rio Grande County Deputy Coroner Art Wittner accompanied us. Investigator Honeycutt took digital scans of the home and photographed the body as well as the residence. Upon further examination of [REDACTED] body, we found one bullet defect in [REDACTED] left eye (at a leftward angle). As we rolled the body over, we found no signs of an exit wound. We also found no evidence of a projectile in the room, indicating that the bullet remains in the skull of the victim. This means that the point of entry is on the left side of the head. Investigator Honeycutt pointed out that this trajectory would be hard for a right handed shooter to accomplish, accident or not. Deputy Coroner Wittner told me that the family of [REDACTED] claimed [REDACTED] was right handed. The body was then removed from the scene and taken by Deputy Coroner Wittner. Investigator Honeycutt then located a spent 9mm shell casing near the hamper (northeast corner), which was taken for evidence.

On August 8, 2022, Sgt. Martinez and I reviewed [REDACTED] phone. Your affiant was able to locate the TikTok videos that [REDACTED] stated would not be on [REDACTED] phone. Your affiant was able to locate the TikTok videos that were made in the moments prior to [REDACTED] being shot. The last video filmed shows [REDACTED] dancing, while [REDACTED] can be seen in the background fiddling with something on the bed. In this video, the

position where [REDACTED] is standing in the room is exactly where [REDACTED] was laying when [REDACTED] was found deceased.

At approximately 1510 hours, I was contacted by [REDACTED] Gary Salazar. Gary stated he had some information about the shooting of his [REDACTED] and was on his way to the PD to meet with myself and Sgt. Martinez. A few minutes later Gary and his cousin identified as Gallindo, Yvonne (DOB 01/03/1969) and his oldest granddaughter identified as [REDACTED] arrived at the PD.

Gary stated [REDACTED] had received a phone call from a juvenile female party [REDACTED]. The female party told [REDACTED] that [REDACTED] was told that [REDACTED] was the one that shot [REDACTED]. The female party told [REDACTED] had been told that [REDACTED] were messing around with the gun and [REDACTED] had thrown the gun to [REDACTED] and [REDACTED] caught the gun and did not know how to hold the gun and the gun fired. [REDACTED] was able to provide a recorded video of the conversation [REDACTED] had with the other juvenile [REDACTED] party. The video shows [REDACTED] on the phone when [REDACTED] is telling [REDACTED] this information. During this time, [REDACTED] said that [REDACTED] plans to turn [REDACTED] in at some point, as [REDACTED] cannot sleep with all of the guilt. At the conclusion of this meeting, Sgt. Martinez asked Gary to clarify if [REDACTED] is right or left handed. Gary said that he has been [REDACTED] and knows for certain that [REDACTED] is right handed. This question was asked because the leftward angle of the entry wound on [REDACTED] is not consistent with a self-inflicted wound from a right handed shooter.

On August 9, 2022, Sgt. Martinez and I went to the 300 block of Monroe to follow up with neighbors around 333 Monroe to see if anyone had any more information about the event that occurred. We are unable to locate any neighbors that had any more information about the incident. Sgt. Martinez and I went to 333 Monroe to make contact with Madelyn. Waldo answered the door and advised Madelyn was not at the residence and that she was currently at the Nazarene thrift store where she worked. Waldo stated he didn't not have any more information about the incident.

At approximately 1210 hours, Sgt. Martinez and your affiant met with the [REDACTED] at [REDACTED] residence, in [REDACTED] mother's presence. [REDACTED] confirmed with Sgt. Martinez and I that [REDACTED] had talked to [REDACTED] and had told [REDACTED] that [REDACTED] was the one that shot and killed [REDACTED]. [REDACTED] reported that [REDACTED] had been told by another [REDACTED] party named [REDACTED] that [REDACTED] were messing around with the gun and brandishing it on social media. [REDACTED] had thrown the gun to [REDACTED] and [REDACTED] caught the gun but did not know how to hold it and the gun fired. [REDACTED] stated that [REDACTED] had been contacted by [REDACTED] and [REDACTED] told [REDACTED] that [REDACTED] had accidentally shot and killed [REDACTED]. Sgt. Martinez and I are currently attempting to follow-up with [REDACTED] to confirm the validity of this confession, however [REDACTED] lives out of state.

At approximately 1230 hours, Sgt. Martinez and your affiant met with Madelyn at her place of employment. Madelyn was asked if she had any more information about the incident. Madelyn stated she didn't not have any more information and she had not talked with [REDACTED] or Emilio about the incident. Sgt. Martinez advised Madelyn that he had reviewed the 911 audio recording from CSP dispatch. During his review of the audio Sgt. Martinez found a brief moment where the dispatcher put them on hold. At that time Madelyn can be heard asking [REDACTED] who had the gun. [REDACTED] could be heard saying "[REDACTED] did." Madelyn then asks why [REDACTED] had it in a disappointed tone. I asked Madelyn who [REDACTED] was referring to when [REDACTED] replied, "[REDACTED] did." Madelyn stated she was not able to remember what [REDACTED] said. Sgt. Martinez told Madelyn how important was that we got the truth. Madelyn advised she was going to go home after work and talk with [REDACTED] to see if [REDACTED] had any more information about the incident.

At approximately 1300 hours, there was a knock at the squad room door at the PD. Sgt. Martinez observed it was Madelyn and [REDACTED] at the door. As [REDACTED] entered the squad room I observed [REDACTED] was crying. Sgt. Martinez and I met with [REDACTED] and Madelyn in his office. [REDACTED] immediately began saying [REDACTED] wanted to tell the truth. Sgt. Martinez asked [REDACTED] to go on. [REDACTED] stated [REDACTED] was ready to say who shot [REDACTED]. [REDACTED] stated the reason [REDACTED] lied is that [REDACTED] was scared and did not want [REDACTED] to get into trouble. [REDACTED] stated [REDACTED] is [REDACTED] only friend and that [REDACTED] was afraid of losing [REDACTED]. Sgt. Martinez asked [REDACTED] to clarify if [REDACTED] accidentally pulled the trigger on the gun. [REDACTED] clarified "no it was [REDACTED]". [REDACTED] stated [REDACTED] didn't see [REDACTED] pick up the gun from the bed, but [REDACTED] did see [REDACTED] shoot [REDACTED]. Sgt. Martinez asked [REDACTED] if [REDACTED] shot [REDACTED] on accident. [REDACTED] said "it could be on accident." I asked [REDACTED] again if [REDACTED] saw [REDACTED] point the gun at [REDACTED] and pull the trigger. [REDACTED] said yes, [REDACTED] saw [REDACTED] point and fire the gun at [REDACTED]. [REDACTED] provided a written statement which reads the following:

[REDACTED] pick up the gun, pointed at [REDACTED] and shot [REDACTED]. I don't know if [REDACTED] knew the clip was in the gun, but right after [REDACTED] shot [REDACTED] threw the gun on the bed."

Sgt. Martinez asked [REDACTED] to go into more detail about how [REDACTED] has access to the gun. [REDACTED] said that Emilio lets [REDACTED] have access to it, because he trusts [REDACTED] and Madelyn said Emilio keeps it visible and unlocked on a top shelf, so it is inevitable that [REDACTED] would see it because they share the same room anyway. Sgt. Martinez specifically clarified with [REDACTED] that Emilio routinely lets [REDACTED] have access to his firearm(s) and [REDACTED] confirmed this. The only stipulation is that [REDACTED] is careful. It should be noted that after looking at [REDACTED] TikTok account, I did observe that in May of this year, [REDACTED] took a picture of [REDACTED] in the mirror, in which [REDACTED] is pointing a gun at [REDACTED].

Conclusion

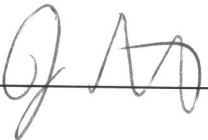
Your affiant has reviewed all of the information collected, to include police reports, as well as the interviews and statements made. Your affiant finds that the above information validates and adds credibility to the crimes of Secure Firearm Storage Required, and Unlawfully Providing or Permitting a Juvenile to Possess a Handgun as Emilio is required by law to lock restrict access to his firearms and is not allowed to permit a minor to use or possess them.

3. That your Affiant believes that probable cause exists to believe that Emiliano Vargas, DOB: 02/19/2001 committed the crimes of Secure Firearm Storage Required, C.R.S. § 18-12-114(2)(a)(I), Unlawfully Providing or Permitting a Juvenile to Possess a Handgun C.R.S. 18-12-108.7(1)(a) M2 F1
4. That your Affiant requests that your honorable judge grant the requested warrant for Emiliano Vargas, DOB: 02/19/2001 for the listed charges.

Respectfully submitted this 9th day of August, 2022.

Det. E. L. S. #1803
Signature of Affiant

Sworn to this 11th day of AUGUST, 2022

Before Judge 

MOTION

Crystal Littrell, Senior Assistant Attorney General, within and for the Twelfth Judicial District, State of Colorado, hereby moves that a warrant issue for the arrest of the defendant above named.



By: _____

Senior Assistant Attorney General on behalf of Crystal Littrell, Senior Assistant Attorney General
Attorney Reg. #36858