

CRIMINAL COMPLAINT

<p><b>United States District Court</b></p> <p>United States of America</p> <p>v.</p> <p><b>Marco Antonio De La Garza Jr.</b>          DOB: XX/XX/1980; Mexican Citizen</p>	<p><b>DISTRICT of ARIZONA</b></p> <p>DOCKET NO.</p> <hr/> <p>MAGISTRATE'S CASE NO.</p> <p style="font-size: 1.5em; font-weight: bold;">18-00065 MJ</p>
<p>Complaint for violation of Title 18, United States Code §§ 1001, 1542</p>	
<p><b>COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION:</b></p> <p>On or about October 24, 2016, in the District of Arizona, while employed as a Customs and Border Protection (CBP) Officer at the Douglas Port of Entry (POE), the defendant, Marco Antonio DE LA GARZA Jr., did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically that he was a United States citizen born in the United States when he knew that was not true, in violation of Title 18 United States Code, Section 1001.</p> <p>On or about October 16, 2017, at the Cochise County Superior Court, in the District of Arizona, the defendant, Marco Antonio DE LA GARZA Jr., knowingly and willfully made a false statement in an application for a passport with the intent to induce or secure the issuance of a passport under the authority of the United States for his own use contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws, in that while making an application for United States passport, the defendant swore under penalties of perjury that he was a United States Citizen, when he well knew he was not a United States Citizen, in violation of Title 18, United States Code, Section 1542.</p>	
<p><b>BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED:</b></p> <p>On October 24, 2016, in the District of Arizona, while employed as a CBP officer at the Douglas POE, Marco Antonio DE LA GARZA Jr., submitted his Electronic Questionnaire for Investigations Processing (e-QIP background check) for his five-year background check update. After acknowledging that he could be subject to penalties for inaccurate or false statements pursuant to 18 U.S.C. § 1001, DE LA GARZA stated he was born in Brownsville, Texas on December xx, 1980 and he was a United States citizen. DE LA GARZA knew these were false statements as he knew he was born in Mexico and that he had a Mexican birth certificate. These false statements were material to maintaining his employment as a CBP officer.</p> <p>On October 16, 2017, at the Cochise County Superior Court, in the District of Arizona, Marco Antonio DE LA GARZA Jr. submitted an application for a United States passport. In the application, he claimed to be a United States citizen and submitted a Texas birth certificate as part of his proof of identification and citizenship. The birth certificate listed Brownsville, Texas, as his place of birth and December xx, 1980, as his date of birth. The application is still pending and has not been granted.</p>	
<p><b>MATERIAL WITNESS(ES) IN RELATION TO THE CHARGE:</b></p>	
<p>DETENTION REQUESTED</p> <p>COMPLAINT REVIEWED by AUSA Lori L. Price </p> <p><i>Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.</i></p>	<p>SIGNATURE OF COMPLAINANT</p> <p></p> <p>OFFICIAL TITLE &amp; NAME: Special Agent Michael Presnall –DHS-OIG</p>
<p>Sworn to before me and subscribed in my presence.</p>	
<p>SIGNATURE OF MAGISTRATE JUDGE<sup>1)</sup></p> <p></p>	<p>DATE</p> <p>February 22, 2018</p>

<sup>1)</sup> See Federal rules of Criminal Procedure Rules 3 and 54  
 AUSA D.S.M. (2), P.T.S

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**BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED CONTINUED:**

Further investigation revealed that the midwife attesting to the homebirth in Brownsville, Texas on DE LA GARZA's Texas birth certificate was convicted for conspiracy to make false statements on birth certificates in 1984. Agents located a Mexican birth record for DE LA GARZA showing he was born in Matamoros, Tamaulipas, Mexico, on October xx, 1980 and the birth was registered on November xx, 1980. DE LA GARZA's school records from Mexico confirmed he was registered in school using the Mexican birth record and date of birth.

On February 21, 2018, DE LA GARZA participated in a voluntary interview at the Western Passport Center in Tucson, Arizona. During the interview, he admitted that around age 17, while still in Mexico, his parents confirmed to him that he was a Mexican citizen. DE LA GARZA also admitted that he knew he had a Mexican birth certificate that was the identification used to register him through his schooling in Mexico. Despite knowing he was born in Mexico and a Mexican citizen, DE LA GARZA used the false Texas birth certificate to enter the United States and assert United States' citizenship, including falsely claiming in his October 2016 e-QIP background check update and in his October 2017 passport application that he was a United States citizen.