



Overt Acts

In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, the following overt acts, among others, were committed on or about April 6, 2010 in Chaves County, in the District of New Mexico:

Overt Act One

**JEREMY RAY CONDE** and **TOMMY PEÑA** armed themselves with firearms.

Overt Act Two

**JEREMY RAY CONDE** and **TOMMY PEÑA** placed pantyhose on their heads.

Overt Act Three

**JEREMY RAY CONDE** and **TOMMY PEÑA** drove in a vehicle to the home of Arthur and Collette Lacey.

Overt Act Four

**JEREMY RAY CONDE** and **TOMMY PEÑA** forcibly entered the home of Arthur and Collette Lacey.

Overt Act Five

**JEREMY RAY CONDE** and **TOMMY PEÑA** each pointed a firearm at Arthur and Collette Lacey.

Overt Act Six

**JEREMY RAY CONDE** pointed a firearm at the juvenile daughter of Arthur and Collette Lacey as their daughter tried to stand between **JEREMY RAY CONDE** and Collette Lacey.

Overt Act Seven

**TOMMY PEÑA** took the keys to Arthur and Collette Lacey's Cadillac Eldorado and drove away in the Cadillac Eldorado.

Overt Act Eight

**JEREMY RAY CONDE** drove away from the Lacey home in the vehicle in which **JEREMY RAY CONDE** and **TOMMY PEÑA** had arrived.

In violation of 18 U.S.C. § 371.

Count 2

On or about April 6, 2010, in Chaves County, in the District of New Mexico, the defendants, **JEREMY RAY CONDE** and **TOMMY PEÑA**, with the intent to cause death and serious bodily harm, did take a motor vehicle, to wit: a 2000 Cadillac Eldorado, bearing New Mexico license plate KYX875, that had been shipped, transported, and received in interstate commerce, from the person and presence of another, by force, violence, and intimidation.

In violation of 18 U.S.C. §§ 2119 and 2.

Count 3

On or about April 6, 2010, in Chaves County, in the District of New Mexico, the defendant, **JEREMY RAY CONDE**, knowingly used and carried a firearm of unknown make, model, caliber, or serial number, during and in relation to a crime of violence for which the defendant may be prosecuted in a court of the United States, as alleged in Count 2 of the Indictment, to wit: Carjacking, contrary to 18 U.S.C. § 2119.

In violation of 18 U.S.C. § 924(c)(1)(A)(i).

Count 4

On or about April 6, 2010, in Chaves County, in the District of New Mexico, the defendant, **TOMMY PEÑA**, knowingly used and carried a firearm of unknown make, model, caliber, or serial number, during and in relation to a crime of violence for which the defendant may be prosecuted in a court of the United States, as alleged in Count 2 of the Indictment, to wit: Carjacking, contrary to 18 U.S.C. § 2119.

In violation of 18 U.S.C. § 924(c)(1)(A)(i).

Count 5

On or about April 6, 2010, in Chaves County, in the District of New Mexico, the defendant, **JEREMY RAY CONDE**, a person who had previously been convicted of felony crimes punishable by imprisonment for a term exceeding one year, to wit: Shooting at a Dwelling, Criminal Damage to Property over \$1000.00, and Tampering with Evidence, in Case No. CR 2005-294, in the Fifth Judicial District Court, Chaves County, State of New Mexico, did knowingly possess, in and affecting commerce, a firearm of unknown make, model, caliber, or serial number.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count 6

On or about April 6, 2010, in Chaves County, in the District of New Mexico, the defendant, **TOMMY PEÑA**, a person who had previously been convicted of felony crimes punishable by imprisonment for a term exceeding one year, to wit: Shooting at a Dwelling, Criminal Damage to Property over \$1000.00, and Tampering with Evidence in Case No. CR 2005-260, in the Fifth Judicial District Court, Chaves County, State of New Mexico; and

Aggravated Assault with Firearm Enhancement, and Shooting at a Dwelling or Occupied Structure, in Case No. CR 2005-499, in the Fifth Judicial District Court, Chaves County, State of New Mexico, did knowingly possess, in and affecting commerce, a firearm of unknown make, model, caliber, or serial number.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count 7

On or about April 10, 2010, in Chaves County, in the District of New Mexico, the defendant, **JEREMY RAY CONDE**, a person who had previously been convicted of felony crimes punishable by imprisonment for a term exceeding one year, to wit: Shooting at a Dwelling, Criminal Damage to Property over \$1000.00, and Tampering with Evidence, in Case No. CR 2005-294, in the Fifth Judicial District Court, Chaves County, State of New Mexico, did knowingly possess, in and affecting commerce, a firearm, to wit: a Bryco .380 caliber pistol bearing serial number 881132.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count 8

On or about April 10, 2010, in Chaves County, in the District of New Mexico, the defendant, **TOMMY PEÑA**, a person who had previously been convicted of felony crimes punishable by imprisonment for a term exceeding one year, to wit: Shooting at a Dwelling, Criminal Damage to Property over \$1000.00, and Tampering with Evidence in Case No. CR 2005-260, in the Fifth Judicial District Court, Chaves County, State of New Mexico; and Aggravated Assault with Firearm Enhancement, and Shooting at a Dwelling or Occupied Structure, in Case No. CR 2005-499, in the Fifth Judicial District Court, Chaves County,

State of New Mexico, did knowingly possess, in and affecting commerce, firearms, to wit: a Bryco .380 caliber pistol bearing serial number 881132, and a Keltec 9 mm pistol bearing serial number 90055, and ammunition, to wit: ten (10) rounds of Remington 9 mm ammunition, and nine (9) rounds of Winchester .380 ammunition.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count 9

On or about April 18, 2010, in Chaves County, in the District of New Mexico and elsewhere, the defendants, **JEREMY RAY CONDE** and **TOMMY PEÑA**, unlawfully, knowingly and intentionally did combine, conspire, confederate and agree with each other and with other persons whose names are known and unknown to the grand jury to commit the following offense against the United States, to wit: carjacking, contrary to 18 U.S.C. § 2119.

Overt Acts

In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, the following overt acts, among others, were committed on or about April 18, 2010 in Chaves County, in the District of New Mexico:

Overt Act One

**JEREMY RAY CONDE** and **TOMMY PEÑA** armed themselves with firearms.

Overt Act Two

**JEREMY RAY CONDE** and **TOMMY PEÑA**, while driving in a vehicle at a high rate of speed, approached from behind a Chevrolet pickup truck driven by Fred Luna.

Overt Act Three

Either **JEREMY RAY CONDE** or **TOMMY PEÑA** fired a bullet into the cab of the Chevrolet pickup truck while Fred Luna was driving it.

Overt Act Four

**JEREMY RAY CONDE** and **TOMMY PEÑA** followed Fred Luna into a church parking lot and each pointed a firearm at Fred Luna.

Overt Act Five

**JEREMY RAY CONDE** and **TOMMY PEÑA** verbally threatened Fred Luna.

Overt Act Six

Either **JEREMY RAY CONDE** or **TOMMY PEÑA** took the keys to the Chevrolet pickup truck Fred Luna had been driving and drove away in the Chevrolet pickup truck.

Overt Act Seven

Either **JEREMY RAY CONDE** or **TOMMY PEÑA** followed in the vehicle in which **JEREMY RAY CONDE** and **TOMMY PEÑA** had arrived.

In violation of 18 U.S.C. § 371.

Count 10

On or about April 18, 2010, in Chaves County, in the District of New Mexico, the defendants, **JEREMY RAY CONDE** and **TOMMY PEÑA**, with the intent to cause death and serious bodily harm, did take a motor vehicle, to wit: a 1982 Chevrolet pickup truck, bearing New Mexico license plate 3477AR, that had been shipped, transported, and received in interstate commerce, from the person and presence of another, by force, violence, and intimidation.

In violation of 18 U.S.C. §§ 2119 and 2.

Count 11

On or about April 18, 2010, in Chaves County, in the District of New Mexico, the defendant, **JEREMY RAY CONDE**, knowingly used and carried a firearm of unknown make, model, caliber, or serial number, during and in relation to a crime of violence for which the defendant may be prosecuted in a court of the United States, as alleged in Count 10 of the Indictment, to wit: Carjacking, contrary to 18 U.S.C. § 2119.

In violation of 18 U.S.C. §§ 924(c)(1)(A)(i) and (c)(1)(C).

Count 12

On or about April 18, 2010, in Chaves County, in the District of New Mexico, the defendant, **TOMMY PEÑA**, knowingly used and carried a firearm of unknown make, model, caliber, or serial number, during and in relation to a crime of violence for which the defendant may be prosecuted in a court of the United States, as alleged in Count 10 of the Indictment, to wit: Carjacking, contrary to 18 U.S.C. § 2119.

In violation of 18 U.S.C. §§ 924(c)(1)(A)(i) and (c)(1)(C).

Count 13

On or about April 18, 2010, in Chaves County, in the District of New Mexico, the defendant, **JEREMY RAY CONDE**, a person who had previously been convicted of felony crimes punishable by imprisonment for a term exceeding one year, to wit: Shooting at a Dwelling, Criminal Damage to Property over \$1000.00, and Tampering with Evidence, in Case No. CR 2005-294, in the Fifth Judicial District Court, Chaves County, State of New Mexico, did knowingly possess, in and affecting commerce, a firearm of unknown make, model, caliber, or serial number.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).



Count 14

On or about April 18, 2010, in Chaves County, in the District of New Mexico, the defendant, **TOMMY PEÑA**, a person who had previously been convicted of felony crimes punishable by imprisonment for a term exceeding one year, to wit: Shooting at a Dwelling, Criminal Damage to Property over \$1000.00, and Tampering with Evidence in Case No. CR 2005-260, in the Fifth Judicial District Court, Chaves County, State of New Mexico; and Aggravated Assault with Firearm Enhancement, and Shooting at a Dwelling or Occupied Structure, in Case No. CR 2005-499, in the Fifth Judicial District Court, Chaves County, State of New Mexico, did knowingly possess, in and affecting commerce, a firearm of unknown make, model, caliber, or serial number.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count 15

On or about April 19, 2010, in Chaves County, in the District of New Mexico, the defendant, **TOMMY PEÑA**, a person who had previously been convicted of felony crimes punishable by imprisonment for a term exceeding one year, to wit: Shooting at a Dwelling, Criminal Damage to Property over \$1000.00, and Tampering with Evidence in Case No. CR 2005-260, in the Fifth Judicial District Court, Chaves County, State of New Mexico; and Aggravated Assault with Firearm Enhancement, and Shooting at a Dwelling or Occupied Structure, in Case No. CR 2005-499, in the Fifth Judicial District Court, Chaves County, State of New Mexico, did knowingly possess, in and affecting commerce, firearms, to wit: a Maverick, Model 88, 12 gauge shotgun bearing serial number MV86313L, and a Mossberg, Model 500A, 12 gauge shotgun bearing serial number P152130, and ammunition, to wit: seventy-three (73) rounds of R-P 9 mm ammunition, fifteen (15) rounds

of S&B 9 mm ammunition, five (5) rounds of Winchester 12 gauge ammunition, and one (1) round of Remington 12 gauge ammunition.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count 16

On or about April 19, 2010, in Chaves County, in the District of New Mexico, the defendant, **TOMMY PEÑA**, unlawfully, knowingly and intentionally did possess a mixture and substance containing a detectable amount of methamphetamine.

In violation of 21 U.S.C. § 844(a).

Count 17

On or about May 1, 2010, in Chaves County, in the District of New Mexico, the defendant, **JEREMY RAY CONDE**, a person who had previously been convicted of felony crimes punishable by imprisonment for a term exceeding one year, to wit: Shooting at a Dwelling, Criminal Damage to Property over \$1000.00, and Tampering with Evidence, in Case No. CR 2005-294, in the Fifth Judicial District Court, Chaves County, State of New Mexico, did knowingly possess, in and affecting commerce, a firearm, to wit: a ROMARM/CUGIR, Model GP WASR 10/63, 7.62x39 mm rifle, bearing serial number KV-2565-80, and ammunition, to wit: forty (40) rounds of Golden Bear 7.62x39 mm ammunition.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

A TRUE BILL:

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FOREPERSON OF THE GRAND JURY

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Assistant United States Attorney  
July 20, 2010 12:52 a.m.