

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 06-20001-CR-LENARD/TORRES(s)

UNITED STATES OF AMERICA

v.

JULIO CESAR LOPEZ,
a/k/a "HERNAN ALBERTO MEDINA OCHOA,"

Defendant.

**GOVERNMENT'S FACTUAL PROFFER
IN SUPPORT OF DEFENDANT LOPEZ'S GUILTY PLEA**

Had this case gone to trial, the government would have proved with competent evidence and beyond a reasonable doubt that, from approximately November 10, 2005, through January 3, 2006, Julio Cesar Lopez ("Lopez") conspired to provide material support and resources to the Revolutionary Armed Forces of Colombia (the "FARC"), in violation of 18 U.S.C. § 2339B. The FARC is a designated foreign terrorist organization under 18 U.S.C. § 2339B(g)(6).

I. Elements of the Offense

Count One of the superseding indictment charges the defendant with Conspiracy to Provide Material Support or Resources to a Foreign Terrorist Organization in violation of 18 U.S.C. § 2339B. To find Mr. Lopez guilty of Count 1, it must be determined that the government could have proved each of the following beyond a reasonable doubt:

1. That between November 10, 2005, and January 3, 2006, Mr. Lopez agreed with another person(s);
2. To provide material support or resources;^[1]
3. To a foreign terrorist organization;
4. Knowing that the organization
 - a. Is a designated terrorist organization;
 - b. Has engaged or engages in terrorist activity;^[2] or
 - c. Has engaged or engages in terrorism.^[3]
5. That Mr. Lopez knowingly and voluntarily participated in the agreement; and
6. That a conspirator committed an overt act in furtherance of the agreement.

The government must also prove beyond a reasonable doubt that a jurisdictional element under 18 U.S.C. § 2339B(d)(1) is satisfied. Generally, there is extraterritorial federal jurisdiction over the offense of Conspiracy to Provide Material Support or Resources to a Designated Foreign Terrorist Organization. 18 U.S.C. § 2339B(d)(2). Furthermore, this Court has jurisdiction of Mr. Lopez's offense because (i) after the conduct required for the offense occurred, the defendant was brought into the United States, even if the conduct required for the offense occurred outside the United States (18

^[1] "Material support or resources" is defined as, among other things: "any . . . service, . . . training, expert advice or assistance, . . . false documentation or identification, . . . and transportation." 18 U.S.C. § 2339A(b)(1). "Training" is defined as "instruction or teaching designed to impart a specific skill, as opposed to general knowledge." 18 U.S.C. § 2339A(b)(2). "Expert advice or assistance" is defined as "advice or assistance derived from scientific, technical or other specialized knowledge." 18 U.S.C. § 2339A(b)(3).

^[2] "Terrorist Activity" is defined as any activity unlawful under the laws of the place where it is committed and which involves, among other things, highjacking or sabotage, threatening to kill others in order to compel a third person to do or abstain from doing an act, violent attacks upon internationally protected persons, assassination, bombings, and threats, attempts, or conspiracies to do these things. INA § 212(a)(3)(B)(iii).

^[3] "Terrorism" is defined as "[p]remeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents." Foreign Relations Authorization Act § 140(d)(2) (1989).

U.S.C. § 2339B(d)(1)(C)); (ii) the conspiracy ultimately occurred in part within the United States (18 U.S.C. § 2339B(d)(1)(D)); (iii) the offense affected interstate or foreign commerce (18 U.S.C. § 2339B(d)(1)(E)); and (iv) the defendant conspired with persons over whom jurisdiction exists (18 U.S.C. § 2339B(d)(1)(F)), i.e. co-conspirator Salamanca, who was charged with Alien Smuggling and Money Laundering.

II. The Government's Proof

On November 10, 2005, in a consensual audio/video recording, Victor Daniel Salamanca ("Salamanca") called Lopez to explain that he had clients who wanted to move between two and three hundred thousand dollars from the United States to Colombia. Salamanca told his clients, who were USG cooperating witnesses referred to as "Henri" and "John Jairo," that Lopez would travel to Bogota, Colombia, to discuss the venture in person if the clients would pay for the trip.

On November 15, 2005, Lopez arrived in Bogota to meet with Salamanca, who introduced him to "Henri" and "John Jairo." In a meeting that was consensually audio/video recorded, "John Jairo" told Lopez that they needed assistance moving money from Miami, Florida, to Bogota, Colombia. "John Jairo" indicated that they were working directly on behalf of the FARC and that the money they sought to move was dirty money from FARC "merchandise." Salamanca told Lopez that the job was to be continued for two or three years.

At that time, Lopez knew that the FARC engaged in terrorism and terrorist activity. As a frequent visitor of Bogota, Colombia, and resident of neighboring Venezuela, Lopez was familiar with the FARC because of its widespread prevalence within Colombian, and more generally South American, culture and society. Lopez knew

that the FARC engaged in, among other things, highjackings, assassinations, bombings, and politically motivated violence against noncombatants.

Nonetheless, Lopez immediately agreed to assist and provided several options to launder bulk quantities of cash. Among other options, Lopez offered (i) to roll the currency into a negotiable guarantee of funds known as "M.T.N.'s" or Medium Term Notes, which can be purchased by U.S. brokers and then used for future business transactions; and (ii) to launder up to \$100,000 per day by funneling funds through various exchange houses in California and Mexico.

Lopez asked "John Jairo" and "Henri" what they planned to do with the money once they received the cash in Bogota. "John Jairo" told him that the money would be used to buy weapons and "merchandise," which was code language for "drugs." Lopez responded that he could instruct them how to obtain weapons through buying stocks in publicly traded companies and then exchanging shares for American-made weapons. Lopez stated that he had successfully participated in this type of exchange in Africa.

Due to the complexities of these various transactions, Lopez offered to act as "Henri" and "John Jairo's" financial adviser. Lopez suggested that they communicate by email so that, as Lopez believed, the police would not interfere with them. At the end of the meeting, Lopez expressed his hope that "John Jairo," "Henri," and Salamanca understood the possibilities available in working with him.

On November 16, 2005, Lopez met with Salamanca, "Henri," and "John Jairo" in meetings that were consensually audio/video recorded. During the meetings, Lopez offered other money laundering options, including (i) the possibility of moving \$5,000,000 per week through a religious/ charitable organization, and (ii) the possibility

of moving money through Miami and Bogota-based electronics businesses. Lopez also dictated the procedures that they would use in picking up the money, i.e. pickup times, type of bills to be used, and the need of obtaining money counters. He stressed, however, that because they would be dealing in cash, they must be careful to alter their laundering routines so they are not identified by U.S. law enforcement. He also stressed that his money laundering contacts were not interested in knowing that the FARC was participating in the transactions. Furthermore, Lopez told "Henri" and "John Jairo" that "their guys" were responsible for coming up with security plans when cash was delivered in Bogota.

Ultimately, "Henri" and "John Jairo" suggested to Lopez that they begin their business with a \$50,000 money drop in Miami with payout in Bogota in Colombian pesos as a test run. Lopez agreed and in a consensually monitored email message, he provided detailed instructions that "John Jairo" should meet and deliver the cash to Lopez's contact in Miami named "Pedro." Lopez had agreed that as soon as he received confirmation of the money transfer, Lopez would pay out to "Henri" in Colombian pesos in Bogota, minus Lopez and Salamanca's commissions.

On November 23, 2005, after Salamanca and his contacts had smuggled "John Jairo" out of Colombia and to the United States, "John Jairo" met with "Pedro" in Miami. "John Jairo" told him that he needed to move 200 to 300 million dollars of FARC money from Miami to Colombia. Two days later, Lopez spoke to "John Jairo" on a consensually monitored telephone call. Lopez rebuked "John Jairo" for revealing to "Pedro" that they were attempting to move FARC money. Lopez stated that when his contacts found out who they were dealing with, they all left the scene. Therefore, Lopez

directed "John Jairo" to quit talking about where the money was coming from. Lopez mandated that from then on, "[o]ut with those four letters" – meaning F-A-R-C.

On November 29, 2005, Lopez directed "John Jairo" to split the Miami delivery of \$50,000 between a new contact named "Edgar" and two sub-\$10,000 bank deposits in an Ocean Bank account that he provided. That afternoon, "John Jairo" met with "Edgar" to deliver the cash. In Edgar's presence, "John Jairo" called Lopez to confirm his delivery and Edgar's receipt of the money.

That same afternoon, Lopez called "John Jairo" to confirm that the transaction was complete. Lopez delivered approximately \$56,000,000 Colombian pesos, which was \$30,000, at a Colombian peso exchange rate of 2100 pesos per dollar, minus Lopez and Salamanca's commission of 11% and 4%, respectively, for the transaction.

On December 2, 2005, and December 5, 2005, in response to Lopez's directives, two deposits of \$9,000 each were made into the Ocean Bank account that Lopez had identified. After each deposit, "John Jairo" advised Lopez that the deposits had been made. In an email to "John Jairo" on December 6, 2005, Lopez explained that he was sending checks to the United States to pay for business debts for third parties in order to obtain pesos in Bogota from those debtors. The pesos he obtained would then be used to pay the obligations to "John Jairo" that were created from the Ocean Bank transactions. Because of the time consuming and labor intensive nature of such practice, Lopez suggested that he come to the United States to set up a sham businesses for the FARC to facilitate large and frequent money laundering transactions.

In December 2005 and January 2006, to account for the two \$9,000 Ocean Bank deposits, Lopez paid "Henri" an aggregate of 15.1 million Colombian pesos and \$140. Based on a currency exchange rate of approximately 2,150 Colombian pesos to \$1, this was roughly \$9,533 less than originally agreed upon, with commission fees of 11% and 3% intended for Lopez and Salamanca, respectively. The discrepancy is attributable to the fact that Lopez and Salamanca were arrested before they fully serviced their criminal obligations.

III. Conclusion

Based on the foregoing, the government respectfully submits that it would have proved at trial beyond a reasonable doubt that between November 10, 2005, and January 3, 2006, Julio Cesar Lopez, a/k/a "Hernan Alberto Medina Ochoa," knowingly agreed to provide material support or resources to a designated foreign terrorist organization, namely the FARC, within the extraterritorial jurisdiction of the United States, in violation of 18 U.S.C. § 2339B. This proffer is being submitted in support of Mr. Lopez's guilty plea. As such it does not contain all the information known either to the United States or Mr. Lopez.

Respectfully submitted,

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