

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

UNITED STATES OF AMERICA

v.

LUIS ALFREDO DAZA MORALES,
a/k/a "Fernando,"

Defendant.

**GOVERNMENT'S FACTUAL PROFFER
IN SUPPORT OF DEFENDANT DAZA'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 September 27, 2005, through January 3, 2006, Luis Alfredo Daza Morales ("Daza") 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. Daza 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 September 27, 2005, and October 31, 2005, Mr. Daza 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. Daza 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. Daza'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 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

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, hijacking 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).

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-conspirators Salamanca and Ulloa, who were charged with Material Support, Alien Smuggling, and, in Salamanca's case, Money Laundering.

II. The Government's Proof

On September 27, 2005, in Bogota, Colombia, co-defendants Jose Tito Libio Ulloa Melo and Victor Daniel Salamanca arranged Mr. Daza's introduction to "Henri" and "John Jairo." Daza, who described himself as a 19-year veteran analyst with the Department of Administrative Security ("DAS") (a Colombian federal law enforcement agency), offered to provide "Henri's" traveling associates with unencumbered passage through Bogota's International Airport for their trip to the United States. Daza stated that he had provided this service for others in the past.

Mr. Daza knew that the proposed travel to the United States was illegal because he had reviewed and then commented on the quality of the fraudulent Spanish passports that Salamanca and defendant Jalal Sadat had obtained for "Henri" and his associates. Nonetheless, Daza stated that he would arrange for an entire DAS team of airport immigration officials to coordinate the smuggling of Henri's associates through all immigration controls at Bogota's International Airport. Mr. Daza explained that the travelers would go to an airport waiting area where a DAS official would have their names ready. Daza promised that an entire shift of airport immigration officials would be in on the scheme, and he clarified that he would be responsible for all DAS coordination. In addition, he would arrange to pay their airport exit tax.

Mr. Daza stressed, however, that he needed to run the false passports through an Interpol database to ensure that the names were not listed on any international fugitive or watch lists. The problem, Daza explained, was "if the person who appears on the . . . document, on the passport, or the person that's going to travel, has a problem in the United States, they receive him with open arms and they grab him right away." Therefore, Daza required that he verify the names in order to avoid such a situation. Salamanca stated that "Henri" should give the passports to Jalal and that Salamanca would then give them to Daza for his review.

During the meeting, Daza also instructed "Henri" and his associates on the proper way to enter immigration screening points. He showed them how to hand a passport to an immigration officer so as to give the impression of being a European. He stressed that the travelers must also act confidently like Europeans as they approach the immigration officer, and advised them to take a small amount of clothing in a simple suitcase and a small carry on. He also told them not to use the phones to communicate because the authorities "have wire tapping all over."

On September 29, 2005, Daza met with Salamanca, Ulloa, "Henri," and "John Jairo." During the meeting, "Henri" explained to Daza, Salamanca, and Ulloa that he and his associates were conducting business on behalf of the FARC. In response, Daza jokingly said that the price would therefore double. Shortly thereafter, however, in all seriousness, he sought to convince "Henri" and "John Jairo" that he was able to complete the job and would ensure that their departure was handled carefully. "John Jairo" also clarified to Daza, Ulloa, and Salamanca that he and his associates were on a mission to launder money from the United States to Colombia for the FARC. Daza suggested that,

before traveling, "Henri" and "John Jairo" meet personally with the airport official that would directly facilitate their departure so that they would feel more comfortable with the deal.

At that time, Daza knew that the FARC engaged in terrorism and terrorist activity. As a resident of Bogota, Colombia, he was familiar with the FARC because of its widespread prevalence within Colombian culture and society. He knew that the FARC engaged in, among other things, hijackings, assassinations, bombings, and politically motivated violence against noncombatants.

On October 8, 2005, Daza introduced Salamanca, Ulloa, "Henri," and "John Jairo" to his airport immigration contact. During their meeting, the contact stated that he had reviewed the fraudulent passports and then made clear that "Henri" and his associates were only paying for passage through the Bogota airport. Passage through the Miami airport was not part of the deal.

Mr. Daza's contact told "Henri" and "John Jairo" that their travelers were in line behind others who were being smuggled through the airport in the coming week. The contact also instructed them that, on the day of travel, they should wait in a certain area of the terminal because it was not monitored by airport surveillance. He also told them that he would advise them which inspection line they should use when going through immigration, and that the names on their fraudulent passports had been cleared through Interpol.

On October 13, 2005, Mr. Daza and his airport contact again met with Salamanca, Ulloa, "Henri," and "John Jairo." The airport contact explained that he had been unable to facilitate the travelers' departures because of heightened security at the airport due to

recent threats to the Colombian government. He stated that flights to the United States are more closely scrutinized than other international flights. The contact also stated that he would not meet with "Henri" and "John Jairo" again because he thought it was too risky for him. He said that Daza would represent him in any future meetings.

On October 22, 2005, Daza, Ulloa, Salamanca, "Henri," and "John Jairo" again met to discuss the travelers' trip to the United States. Daza stated that he had picked the travel dates, and that on the day of travel, he would pay the airport tax and instruct them in detail where to wait and which immigration checkpoint to use. Mr. Daza also explained a contingency plan if the travelers were stopped at the airport. He stated that the airport officials participating in the travelers' departure would not know that the travelers were FARC members for added protection against leaks of the smuggling plan.

On October 28, 2005, Mr. Daza and another one of his airport DAS contacts picked up three of Henri's associates, all of whom he thought were working for the FARC, and began driving them to the airport. Daza's contact in the car asked to review the travelers' passports during a stop along the way. During the stop, Daza's contact mentioned that the immigration stamps in the passports were not sufficient and that they appeared to be under surveillance by the police. Daza's contact refused to continue to the airport. John Jairo then gave Daza the passports and Daza said he would correct the faulty immigration stamps.

On October 31, 2005, Mr. Daza met with his airport contact to coordinate another smuggling attempt through Bogota's International Airport. Daza's contact told him that the police were filming them and that the deal was off. Daza's ability to provide support to "Henri" and his associates therefore ceased to exist.

On February 21, 2006, Mr. Daza was arrested by Colombian authorities pursuant to a U.S. provisional arrest warrant. On March 19, 2007, after his extradition was approved by Colombian authorities, Daza was brought to the Southern District of Florida and made his appearance before U.S. Magistrate Judge Garber on March 20, 2007.

III. Conclusion

Based on the foregoing, the government respectfully submits that it would have proved at trial beyond a reasonable doubt that between September 27, 2005, and January 3, 2006, Luis Alfredo Daza Morales knowingly agreed to provide material support or resources to a designated foreign terrorist organization, within the extraterritorial jurisdiction of the United States, in violation of 18 U.S.C. § 2332D. This proffer is being submitted in support of Mr. Daza's guilty plea. As such it does not contain all the information known either to the United States or Mr. Daza.

Respectfully submitted,

ALICE S. FISHER
ASSISTANT ATTORNEY GENERAL

Date: 10.15.07

By: (s)
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