

CR-07 00156

RMW

RS

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA A 7:53

E-filing

SAN JOSE DIVISION

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

THE UNITED STATES OF AMERICA

vs.

FRANCISCO TORRES-FELIX

SUPERSEDING

INDICTMENT

COUNT ONE: Title 21 United States Code, Sections 846, 841(a)(1) and 841(b)(1)(A)(ii) - Conspiracy to Possess with Intent to Distribute Cocaine

COUNT TWO: Title 21 United States Code, Sections 841(a)(1) - Possession with Intent to Distribute Cocaine; Title 18 United States Code, Section 2 - Aiding and Abetting

COUNT THREE: Title 18 United States Code, Section 924(c)(1)(A) - Carrying and Possessing of a Firearm During and In Relation to a Drug Trafficking Crime

COUNTS FOUR and FIVE: Title 18 United States Code, Section 922(g)(5)(A) - Possession of a Firearm by an Alien

COUNT SIX: Title 8 United States Code, Section 1326(a) - Illegal Re-entry Following Deportation

A true bill.

[Signature]
Foreperson

Filed in open court this 15th day of April

A.D. 2009

[Signature]
UNITED STATES MAGISTRATE JUDGE

DOCUMENT NO. 89
CSA's INITIALS
DISTRICT COURT
CRIMINAL CASE PROCESSING

Bail. \$ no process

A
RMW

1 JOSEPH P. RUSSONIELLO (CSBN 44332)
2 United States Attorney

FILED

3 2009 APR 16 A 7:53

4 RICHARD W. WELKING
5 CLERK
6 U.S. DISTRICT COURT
7 NO. DIST. OF CA. S.J.

8 E-filing

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12
13 UNITED STATES OF AMERICA,)
14 Plaintiff,)
15 v.)
16 FRANCISCO TORRES-FELIX,)
17 Defendant.)
18
19 _____)

No. 07-00106 RMW

20 VIOLATIONS: 21 U.S.C. §§ 846 and
21 841(a)(1)-Conspiracy to Possess with Intent
22 to Distribute Cocaine; 21 U.S.C. §§
23 841(a)(1)-Possession with Intent to
24 Distribute Cocaine; 18 U.S.C. §
25 924(c)(1)(A)-Carrying and Possessing a
26 Firearm During and In Relation to a Drug
27 Trafficking Crime; 18 U.S.C. § 2-Aiding
28 and Abetting; 18 U.S.C. § 922(g)(5)(A) -
Possession of a Firearm by an Alien; 8
U.S.C. § 1326(a)-Illegal Re-Entry Following
Deportation; and 18 U.S.C. § 924(d)-
Criminal Forfeiture

23 SUPERSEDING INDICTMENT

24 The Grand Jury charges:

25 COUNT ONE (21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(A)(ii)-Conspiracy to Possess with
26 Intent to Distribute Cocaine)

27 Beginning on a date unknown to the Grand Jury, but by no later than on or about February 6,
28 2007, and continuing until February 9, 2007, both dates being approximate and inclusive, in the

INDICTMENT

1 Northern District of California, the defendant,

2 FRANCISCO TORRES-FELIX

3 did knowingly and intentionally conspire with ALONSO RODRIGUEZ-CASTELLANOS and
4 others unknown to the Grand Jury to possess with intent to distribute a controlled substance, to
5 wit, approximately 15 kilograms of a mixture and substance containing a detectable amount of
6 cocaine, its salts, isomers, and salts of its isomers, in violation of Title 21, United States Code,
7 Sections 846, 841(a)(1) and 841(b)(1)(A)(ii).

8
9 COUNT TWO (21 U.S.C. § 841(a)(1) – Possession with Intent to Distribute Cocaine; 18 U.S.C.
10 §2-Aiding and Abetting)

11 On or about February 9, 2007, in the Northern District of California, the defendant,

12 FRANCISCO TORRES-FELIX,

13 did knowingly and intentionally possess with intent to distribute a controlled substance, to wit,
14 approximately 15 kilograms of a mixture and substance containing a detectable amount of
15 cocaine, its salts, isomers, and salts of its isomers, in violation of Title 21 United States Code,
16 Sections 841(a)(1) and 841(b)(1)(A)(ii), and Title 18, United States Code, Section 2.

17
18 COUNT THREE ^{18 PVT} (18 U.S.C. § 924(c)(1)(A) – Carrying and Possessing a Firearm During and In
19 Relation to a Drug Trafficking Crime)

20 On or about February 9, 2007, in the Northern District of California, the defendant,

21 FRANCISCO TORRES-FELIX,

22 did knowingly, during and in relation to a drug trafficking crime, namely, Conspiracy to
23 Distribute and Possession with Intent to Distribute Cocaine, as alleged in Counts One and Two of
24 this indictment, carry and in furtherance of said crimes, possess, a firearm to wit, a .25 caliber
25 Beretta semi-automatic pistol, in violation of Title 18, United States Code, Section 924(c)(1)(A).

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COUNT FOUR (21 U.S.C. § 922(g)(5)(A)–Possession of a Firearm by an Alien)

On or about February 9, 2007, in the Northern District of California, the defendant,

FRANCISCO TORRES-FELIX,

then being an alien illegally and unlawfully in the United States, did knowingly possess in and affecting interstate commerce, a firearm, to wit, a .25 caliber Beretta semi-automatic pistol, said firearm having been shipped and transported in interstate commerce, in violation of Title 18, United States Code, Section 922(g)(5)(A).

18 NT

COUNT FIVE (21 U.S.C. § 922(g)(5)(A)–Possession of a Firearm by an Alien)

On or about February 9, 2007, in the Northern District of California, the defendant,

FRANCISCO TORRES-FELIX,

then being an alien illegally and unlawfully in the United States, did knowingly possess in and affecting interstate commerce, a firearm, to wit, a .38 super caliber Tanfoglio semi-automatic pistol, said firearm having been shipped and transported in interstate commerce, in violation of Title 18, United States Code, Section 922(g)(5)(A).

COUNT SIX (8 U.S.C. § 1326(a) - Illegal Re-entry Following Deportation)

On or about February 9, 2007, the defendant,

FRANCISCO TORRES-FELIX,

an alien, previously having been arrested and deported from the United States on or about August 26, 2000, was found in the Northern District of California, the Attorney General of the United States and the Secretary for Homeland Security not having expressly consented to a re-application by the defendant for admission into the United States, in violation of Title 8, United States Code, Section 1326(a).

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FORFEITURE ALLEGATIONS: (18 U.S.C. § 924(d)-Criminal Forfeiture)

1. The allegations contained in Counts Three, Four, and Five of this Indictment are hereby realleged and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 924(d).

2. Upon conviction of the offense alleged in Count Three or Four of this Indictment, the defendant,

FRANCISCO TORRES-FELIX,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d), the firearm, to wit, a .25 caliber Beretta semi-automatic pistol, which was involved in the violations of Count Three and Four.

3. Upon conviction of the offense alleged in Count Five of this Indictment, the defendant,

FRANCISCO TORRES-FELIX,

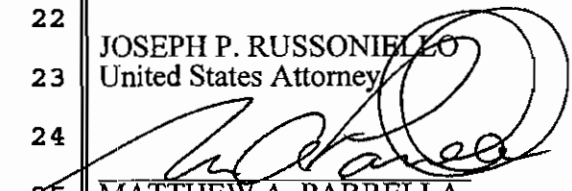
shall forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d), the firearm, to wit, a .38 super caliber Tanfoglio semi-automatic pistol, which was involved in the violations of Count Three and Four.

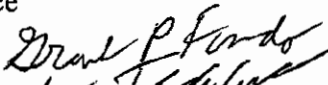
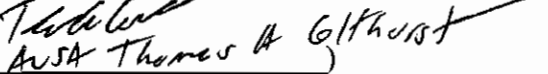
DATED: 4/15/09

A TRUE BILL


FOREPERSON

JOSEPH P. RUSSONIELLO
United States Attorney


MATTHEW A. PARRELLA
Chief, San Jose Office


by 
(Approved as to form: AUSA Thomas A. Gilchrist)
AUSA GRANT P. FONDO

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA

OFFENSE CHARGED

SEE ATTACHMENT

- Petty
- Minor
- Misdemeanor
- Felony

PENALTY:

SEE ATTACHMENT

DEFENDANT - U.S. DISTRICT COURT
 2009 APR 16 A 7:54
 FRANCISCO TORRES-BELIX, WIKING
 CLERK
 DISTRICT COURT NUMBER DISTRICT COURT
 CR 07-00106 RMW NO. DIST. OF CA, S. J.

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)
 S/A Michel Robinson - DEA

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCP 20, 21 or 40. Show District

this is a re prosecution of charges previously dismissed which were dismissed on motion of:

U.S. Atty Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM

JOSEPH P. RUSSONIELLO

U.S. Atty Other U.S. Agency

Name of Asst. U.S. Atty (if assigned)

AUSA GRANT FONDO

DEFENDANT

IS NOT IN CUSTODY

1) Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges

2) Is a Fugitive

3) Is on Bail or Release from (show District)

IS IN CUSTODY

4) On this charge

5) On another conviction

6) Awaiting trial on other charges } Fed'l State

If answer to (6) is "Yes", show name of institution
 Santa Clara County Jail

Has detainer been filed? Yes No } If "Yes" give date filed 4/20/2007

DATE OF ARREST 2/9/2007 Month/Day/Year

Or... If Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY Month/Day/Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT

Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

L

Date/Time: _____

Before Judge: _____

Comments: _____

ATTACHMENT TO PENALTY SHEET
UNITED STATES v. FRANCISCO TORRES-FELIX

INDICTMENT

COUNT ONE: Title 21 United States Code, Sections 846, 841(a)(1) and 841(b)(1)(A)(ii)
- Conspiracy to Possess with Intent to Distribute Cocaine

PENALTIES:

Maximum: Life imprisonment
10 year mandatory minimum incarceration sentence
\$4,000,000 fine
5 years supervised release
\$100 mandatory special assessment

COUNT TWO: Title 21 United States Code, Sections 841(a)(1) - Possession with Intent to Distribute Cocaine; Title 18 United States Code, Section 2 - Aiding and Abetting

PENALTIES:

Maximum: Life imprisonment
10 year mandatory minimum incarceration sentence
\$4,000,000 fine
5 years supervised release
\$100 mandatory special assessment

COUNT THREE: Title ¹⁸21 United States Code, Section 924(c)(1)(A) - Carrying and Possessing a Firearm During and In Relation to a Drug Trafficking Crime

PENALTIES:

Maximum: 5 year mandatory sentence imposed consecutive to the underlying offense(s) of conviction
\$250,000 fine
5 years supervised release
\$100 mandatory special assessment

ATTACHMENT TO PENALTY SHEET
UNITED STATES v. FRANCISCO TORRES-FELIX

COUNTS FOUR and FIVE: Title 21 United States Code, Section 922(g)(5)(A) -
Possession of a Firearm by an Alien

PENALTIES:

Maximum: 10 imprisonment
\$250,000 fine
3years supervised release
\$100 mandatory special assessment

COUNT SIX: Title 8 United States Code, Section 13262(a) - Illegal Re-entry Following
Deportation

PENALTIES:

Maximum: 2 imprisonment
\$250,000 fine
3years supervised release
\$100 mandatory special assessment