

SLM/2011R00759

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 11- 879 (JLL)
:
v. :
: 18 U.S.C. §§ 201(b)(1),
BYRON ZABALA, : 981(a)(1)(C) and 2, and
a/k/a "Bairon Zabala Torres" : 28 U.S.C. § 2461

INDICTMENT

The Grand Jury in and for the District of New Jersey,
sitting at Newark, charges:

RECEIVED

DEC 15 2011

Offering and Giving a Bribe Payment

1. At all times relevant to this Indictment:

AT 8:30 _____ M
WILLIAM T. WALSH, CLERK

a. Defendant BYRON ZABALA, a/k/a "Bairon Zabala Torres" ("defendant ZABALA"), was a Colombian national living in Blairstown, New Jersey, whose "Application For Permission to Reapply for Admission Into the United States after Deportation or Removal," filed with the U.S. Department of Homeland Security ("DHS"), U.S. Citizenship and Immigration Services ("USCIS"), had been denied by USCIS; and

b. Defendant ZABALA was in contact with a USCIS employee at the Newark, New Jersey office ("USCIS Employee 1") regarding his immigration status and related applications to USCIS.

2. At certain times relevant to the Indictment, defendant ZABALA also was in contact with an undercover law enforcement official employed by the DHS, Office of Inspector General, who was introduced to defendant ZABALA as a USCIS employee at the Newark office ("USCIS Employee 2") by USCIS Employee 1 as part of

federal law enforcement's investigation of defendant ZABALA'S conduct.

3. On or about June 6, 2011, defendant ZABALA sent an email to USCIS Employee 1 at the Newark office, using USCIS Employee 1's DHS email address, which stated, "In the event you were able to reverse the decision and issue my residency card, I would like to reward you with a gift of \$10,000."

4. On or about June 9, 2011, defendant ZABALA sent an email to USCIS Employee 1 at the Newark office, using USCIS Employee 1's DHS email address, increasing the "offer to \$20,000" in order to "resolve [his] situation."

5. On or about July 2, 2011, defendant ZABALA sent an email to USCIS Employee 1 at the Newark office, using USCIS Employee 1's DHS email address, offering "another \$10,000 on top of the twenty thousand dollars already offered [to USCIS Employee 1] . . . to get the residency card and to get back to work."

6. On or about July 14, 2011, defendant ZABALA received an email from USCIS Employee 1. Defendant ZABALA was informed that USCIS Employee 1 would transfer defendant ZABALA'S USCIS file to USCIS Employee 2, who would be able to reverse defendant ZABALA'S residency denial in exchange for the \$30,000 previously offered to USCIS Employee 1 by defendant ZABALA. Defendant ZABALA also was informed in the email that USCIS Employee 2 would share the \$30,000 payment with USCIS Employee 1.

7. On or about the morning of July 18, 2011, defendant

ZABALA sent an email to USCIS Employee 2 at a DHS email address explaining that the \$30,000 was in exchange for a "revers[all] [of] the decisions made on my case and of course to approve and issue my residency as well as re-instating the work permit." Defendant ZABALA also stated that he would give USCIS Employee 2 "the award which [USCIS Employee 2] would share with [USCIS Employee 1]."

8. On or about the evening of July 18, 2011, defendant ZABALA sent an email to USCIS Employee 2 at a DHS email address agreeing to complete a new set of applications related to his residency and stating that he would bring these applications, along with \$15,000, to USCIS Employee 2. With respect to the \$15,000 payment, defendant ZABALA offered a "bank check or cash, whichever you preffer [sic]."

9. On or about July 27, 2011, defendant ZABALA spoke by telephone to USCIS Employee 2, who was in Marlton, New Jersey. During this telephone call, defendant ZABALA agreed that he was not submitting newly completed applications "the regular way" and was not following a "legitimate process." Defendant ZABALA agreed to bring the newly completed applications and half of the \$30,000 bribe payment to meet the USCIS Employee 2 in person at a date and time to be arranged. Defendant ZABALA further acknowledged that defendant ZABALA could be arrested based on his offer to pay \$30,000 to USCIS Employees 1 and 2 in exchange for their official assistance in securing a reversal of defendant

ZABALA'S adverse residency decision and the issuance of a work permit.

10. On or about August 5, 2011, defendant ZABALA met USCIS Employee 2 at a restaurant in Newark. During this meeting, defendant ZABALA provided USCIS Employee 2 with newly completed immigration application forms. Defendant ZABALA also provided USCIS Employee 2 with a bank check in the amount of \$15,000, payable to USCIS Employee 2, in exchange for the official assistance of USCIS Employees 1 and 2 in reversing defendant ZABALA'S residency denial and in obtaining a work permit. Defendant ZABALA was given confirmation by USCIS Employee 2 that this \$15,000 payment would be split between USCIS Employees 1 and 2, to which defendant ZABALA responded, "That's wonderful."

11. Between in or about June 2011 and in or about August 2011, in the District of New Jersey and elsewhere, defendant

BYRON ZABALA,
a/k/a "Bairon Zabala Torres"

knowingly did directly and indirectly, corruptly give, offer and promise something of value, namely up to \$30,000, to USCIS Employees 1 and 2 with intent to: (A) influence official acts; (B) influence public officials to commit and aid in committing, and to collude in, and allow, a fraud, and make an opportunity for the commission of a fraud, on the United States; and (C) to induce such public officials to do and omit to do acts in violation of their lawful duties.

In violation of Title 18, United States Code, Section
201(b)(1) and Title 18, United States Code, Section 2.

Forfeiture Allegation

As the result of committing the aforementioned offense in violation of Title 18, United States Code, Sections 201(b)(1) and 2, as alleged in this Indictment, defendant BYRON ZABALA, a/k/a "Bairon Zabala Torres," shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense, including but not limited to, approximately \$15,000 in United States currency, in that such sum constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of bribery.

If any of the above-described forfeitable property, as a result of any act or omission of defendant BYRON ZABALA, a/k/a "Bairon Zabala Torres":

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third party;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of defendant

BYRON ZABALA, a/k/a "Bairon Zabala Torres," up to the value of the above forfeitable property.

In violation of Title 18, United States Code, Section 981 and Title 28 United States Code, Section 2461.

A TRUE BILL

A handwritten signature in cursive script, reading "Paul J. Fishman", is written over a horizontal line.

PAUL J. FISHMAN
UNITED STATES ATTORNEY

CASE NUMBER: 2011R00759

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District of New Jersey**

UNITED STATES OF AMERICA

v.

**BYRON ZABALA,
a/k/a "Bairon Zabala Torres"**

INDICTMENT

**18 U.S.C. §§ 201(b)(1), 981(a)(1)(C) and 2
28 U.S.C. § 2461**

PAUL J. FISHMAN
U.S. ATTORNEY NEWARK, NEW JERSEY

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(973) 645-2700*
