



**U.S. Department of Justice
U.S. Attorney's Office
Western District of Texas**

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November 1, 2011

STATEMENT RE: U.S. v. JESUS ENRIQUEZ DIAZ, JR.

On October 20, 2011, in case number DR-09-CR-1469-AM, former U.S. Border Patrol Agent Jesus Enrique Diaz, Jr., was sentenced to two years in federal prison followed by three years of supervised release per count based upon his conviction for a Civil Rights violation and five counts of making false statements, all to run concurrently. In addition, the Court also ordered Diaz to pay a \$6,000 fine, a \$600 special assessment and \$270.00 restitution to the victim in this case.

The case was originally indicted by a federal grand jury in November 2009, and superseded by the federal grand jury on March 3, 2010. On February 24, 2011, following a two-day trial, a federal jury seated in Del Rio, Texas, convicted Diaz of one count of deprivation of Civil Rights with bodily injury and five counts of making a false statement to federal agents.

The United States Attorney's Office offers the following statement concerning the basis of these convictions:

Evidence presented during trial revealed that the defendant, Jesus E. Diaz, Jr., was a Border Patrol Agent stationed in Eagle Pass, Texas, on October 16, 2008. On that date, (M.B.E), who was fifteen years old and weighed 110 pounds, was caught illegally entering the United States from Mexico. Arresting agents testified that when M.B.E. was apprehended it was obvious to them that the M.B.E. and his accomplice had been carrying backpacks (which are often used to smuggle marijuana) due to visible abrasions and strap marks on their shoulders. Eventually two bags of marijuana were found nearby. During trial, M.B.E. has admitted that he was smuggling marijuana at the time he was apprehended.

Court testimony also revealed that agents other than Agent Diaz initially apprehended and detained M.B.E., placing him in handcuffs and had him lie on the ground on his stomach. These agents testified they had M.B.E. fully under control when Diaz arrived on the scene. It was Diaz's fellow Border Patrol Agents on the scene who testified they witnessed his misconduct, which they found shocking, and complained about it to their supervisor. During trial, those agents testified to the following facts: M.B.E. had been handcuffed and placed on his stomach before Diaz arrived. Upon his arrival at the scene, Agent Diaz began to interrogate M.B.E., asking him where the drugs were located. Agent Diaz lifted M.B.E. off the ground, then swept his feet out from under him. Witnesses said that M.B.E. had not tried to run and appeared to have been dropped to the ground without provocation. Once M.B.E. was back on the ground, Diaz knelt on M.B.E.'s back. One of the agents who was present testified that Diaz also kicked M.B.E. on the side.

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Courtroom testimony offered by Border Patrol agents on the scene also revealed Agent Diaz again began to question M.B.E. about the location of the drugs. He told an agent in training to hold M.B.E.'s feet, with M.B.E. again laying face down, while Agent Diaz began extending his handcuffed arms from behind his back until they were in their furthest, upmost position (perpendicular to his body). Agent Diaz held M.B.E.'s arms in this position while he continued to question M.B.E.. The agent in training testified he immediately released M.B.E.'s feet when he realized that Agent Diaz was employing what the trainee described as improper tactics intended to cause pain in order to gain information. M.B.E. screamed throughout this assault. Agent Diaz finally released tension on M.B.E.'s arms after asking other agents if they were convinced that M.B.E. did not know where the marijuana was located. Multiple witnesses testified that Diaz then told the trainee agents to take a walk.

Trial testimony also revealed that after being advised of his Miranda rights to remain silent and have a lawyer present, Agent Diaz told investigators that M.B.E. tried to run, that he never questioned M.B.E., that he did not use excessive force, that he never made the statement "Trainees take a walk," and that he never instructed anyone to hold M.B.E.'s legs. All of these statements were contrary to the accounts of three or more Border Patrol witnesses."

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