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CLERK US DISTRICT COURT
DISTRICT OF ARIZONA

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

UNITED STATES OF AMERICA,

CR-11-0150-TUC-DCB-JCG ^{BPV}

Plaintiff,

THIRD

v.

SUPERSEDING INDICTMENT

- (1) Manuel Osorio-Arellanes;**
aka Manuel Arellanes,
aka "Paye,"
- (2) Jesus Rosario Favela-Astorga;**
aka Jesus Rosario Fabela
Astorga,
- (3) Ivan Soto-Barraza,**
- (4) Heraclio Osorio-Arellanes;**
aka "Laco,"
- (5) Lionel Portillo-Meza**
aka "Lionel Meza-Portillo"
aka "Leonel Portillo-Meza"
aka "Leonel Meza-Portillo"
- (6) Rito Osorio-Arellanes**

Violations:

- 18 U.S.C. § 1111 and § 1114 (First Degree Murder);**
- 18 U.S.C. § 1111 and § 1114 (Second Degree Murder);**
- 18 U.S.C. § 1951 (Conspiracy to Interfere with Commerce by Robbery);**
- 18 U.S.C. § 1951 (Attempted Interference with Commerce by Robbery);**
- 18 U.S.C. § 924(c) (Use and Carrying a Firearm During a Crime of Violence);**
- 18 U.S.C. § 111 (Assault on a Federal Officer);**
- 18 U.S.C. § 922(g)(5)(A) (Possession of a Firearm by a Prohibited Person); and**
- 18 U.S.C. § 922(g)(1) (Possession of a Firearm by a Prohibited Person)**

Defendants.

1 **THE GRAND JURY CHARGES:**

2
3 **COUNT ONE**
4 **FIRST DEGREE MURDER**

5 On or about December 14, 2010, within the District of Arizona, during an attempt to
6 interfere with commerce by robbery, as alleged in Count Four of this Third Superseding
7 Indictment and incorporated herein by reference, defendants Manuel Osorio-Arellanes, aka
8 "Manuel Arellanes," aka "Paye," Jesus Rosario Favela-Astorga, aka "Jesus Rosario Fabela
9 Astorga," Ivan Soto-Barraza, Heraclio Osorio-Arellanes, aka "Laco," and Lionel Portillo-
10 Meza, aka "Lionel Meza-Portillo," aka Leonel Portillo-Meza," aka "Leonel Meza-Portillo,"
11 did unlawfully kill with malice aforethought United States Border Patrol Agent Brian Terry;
12 in violation of Title 18, United States Code, Sections 1111 and 1114 and Pinkerton v. United
13 States, 328 U.S. 640 (1946).

14 **COUNT TWO**
15 **SECOND DEGREE MURDER**

16 On or about December 14, 2010, within the District of Arizona, defendants Manuel
17 Osorio-Arellanes, aka "Manuel Arellanes," aka "Paye," Jesus Rosario Favela-Astorga, aka
18 "Jesus Rosario Fabela Astorga," Ivan Soto-Barraza, Heraclio Osorio-Arellanes, aka "Laco,"
19 and Lionel Portillo-Meza, aka "Lionel Meza-Portillo," aka Leonel Portillo-Meza," aka
20 "Leonel Meza-Portillo," did unlawfully kill with malice aforethought United States Border
21 Patrol Agent Brian Terry while Agent Terry was engaged in and on account of the
22 performance of his official duties; in violation of Title 18, United States Code, Sections 1111
23 and 1114 and Pinkerton v. United States, 328 U.S. 640 (1946).

24 **COUNT THREE**
25 **CONSPIRACY TO INTERFERE WITH COMMERCE BY ROBBERY**

26 Beginning at a date unknown and continuing up to and including December 14, 2010,
27 within the District of Arizona and elsewhere, defendants Manuel Osorio-Arellanes, aka

1 "Manuel Arellanes," aka "Paye," Jesus Rosario Favela-Astorga, aka "Jesus Rosario Fabela
2 Astorga," Ivan Soto-Barraza, Heraclio Osorio-Arellanes, aka "Laco," Lionel Portillo-Meza,
3 aka "Lionel Meza-Portillo," aka Leonel Portillo-Meza," aka "Leonel Meza-Portillo," and
4 Rito Osorio-Arellanes did knowingly and intentionally conspire with each other and with
5 other persons known and unknown to the grand jury to obstruct, delay, and affect commerce
6 and the movement of articles and commodities in commerce, as defined in Title 18, United
7 States Code, Section 1951, by robbery, in that the defendants unlawfully conspired to
8 interfere with the movement of drugs through the unlawful taking and obtaining of property
9 from a person and in the presence of another, against his will, by means of actual and
10 threatened force, violence and fear of injury, immediate and future, to his person and
11 property and to anyone in his company at the time of the taking and obtaining; in violation
12 of Title 18, United States Code, Section 1951.

13 **MANNER AND MEANS**

- 14 1. Defendants Manuel Osorio-Arellanes, aka "Manuel Arellanes," aka "Paye,"
15 Jesus Rosario Favela-Astorga, aka "Jesus Rosario Fabela Astorga," Ivan Soto-
16 Barraza, Heraclio Osorio-Arellanes, aka "Laco," Lionel Portillo-Meza, aka
17 "Lionel Meza-Portillo," aka Leonel Portillo-Meza," aka "Leonel Meza-
18 Portillo," and Rito Osorio-Arellanes traveled from the Republic of Mexico to
19 the United States for the purpose of robbing marijuana from others.
- 20 2. Upon unlawfully entering the United States from the Republic of Mexico, the
21 defendants planned to arm themselves with firearms.
- 22 3. The defendants intended to use the firearms to obtain marijuana from others by
23 committing or threatening to commit physical violence against the individuals
24 being robbed.

25 All in violation of Title 18, United States Code, Section 1951.

26 United States v. Manuel Osorio-Arellanes, et. al.

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COUNT SIX
ASSAULT ON A FEDERAL OFFICER

On or about December 14, 2010, within the District of Arizona, defendants Manuel Osorio-Arellanes, aka "Manuel Arellanes," aka "Paye," Jesus Rosario Favela-Astorga, aka "Jesus Rosario Fabela Astorga," Ivan Soto-Barraza, Heraclio Osorio-Arellanes, aka "Laco," and Lionel Portillo-Meza, aka "Lionel Meza-Portillo," aka Leonel Portillo-Meza," aka "Leonel Meza-Portillo," did intentionally and forcibly assault, resist, oppose, impede, intimidate and interfere with United States Border Patrol Agent William Castano, an officer of the United States, with a deadly and dangerous weapon, to wit: a firearm, while said officer was engaged in and on account of the performance of his official duties; in violation of Title 18, United States Code, Sections 111(a) and 111(b) and Pinkerton v. United States, 328 U.S. 640 (1946).

COUNT SEVEN
ASSAULT ON A FEDERAL OFFICER

On or about December 14, 2010, within the District of Arizona, defendants Manuel Osorio-Arellanes, aka "Manuel Arellanes," aka "Paye," Jesus Rosario Favela-Astorga, aka "Jesus Rosario Fabela Astorga," Ivan Soto-Barraza, Heraclio Osorio-Arellanes, aka "Laco," and Lionel Portillo-Meza, aka "Lionel Meza-Portillo," aka Leonel Portillo-Meza," aka "Leonel Meza-Portillo," did intentionally and forcibly assault, resist, oppose, impede, intimidate and interfere with United States Border Patrol Agent Gabriel Fragoza, an officer of the United States, with a deadly and dangerous weapon, to wit, a firearm, while said officer was engaged in and on account of the performance of his official duties; in violation of Title 18, United States Code, Sections 111(a) and 111(b) and Pinkerton v. United States, 328 U.S. 640 (1946).

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COUNT EIGHT
ASSAULT ON A FEDERAL OFFICER

On or about December 14, 2010, within the District of Arizona, defendants Manuel Osorio-Arellanes, aka "Manuel Arellanes," aka "Paye," Jesus Rosario Favela-Astorga, aka "Jesus Rosario Fabela Astorga," Ivan Soto-Barraza, Heraclio Osorio-Arellanes, aka "Laco," and Lionel Portillo-Meza, aka "Lionel Meza-Portillo," aka Leonel Portillo-Meza," aka "Leonel Meza-Portillo," did intentionally and forcibly assault, resist, oppose, impede, intimidate and interfere with United States Border Patrol Agent Timothy Keller, an officer of the United States, with a deadly and dangerous weapon, to wit, a firearm, while said officer was engaged in and on account of the performance of his official duties; in violation of Title 18, United States Code, Sections 111(a) and 111(b) and Pinkerton v. United States, 328 U.S. 640 (1946).

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COUNT NINE
USING AND CARRYING A FIREARM DURING A CRIME OF VIOLENCE

On or about December 14, 2010, within the District of Arizona, defendants Manuel Osorio-Arellanes, aka "Manuel Arellanes," aka "Paye," Jesus Rosario Favela-Astorga, aka "Jesus Rosario Fabela Astorga," Ivan Soto-Barraza, Heraclio Osorio-Arellanes, aka "Laco," and Lionel Portillo-Meza, aka "Lionel Meza-Portillo," aka Leonel Portillo-Meza," aka "Leonel Meza-Portillo," did knowingly and intentionally use and carry a firearm during and in relation to a crime of violence, to wit, the offenses alleged in Counts One through Eight of this Third Superseding Indictment and incorporated herein by reference, and did possess, brandish and discharge a firearm in furtherance of said crime of violence; in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i), 924(c)(1)(A)(ii) and 924(c)(1)(A)(iii).

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COUNT TEN
POSSESSION OF A FIREARM BY A PROHIBITED PERSON

On or about December 14, 2010, within the District of Arizona, defendant Manuel Osorio-Arellanes, aka "Manuel Arellanes," aka "Paye," an alien who was illegally and unlawfully in the United States, did knowingly and intentionally possess a firearm, to wit, a 7.62 x 39mm Romanian assault rifle, Model GP WASR-10/63, bearing serial number 1971CZ3775 and twenty-five 7.62 x 39mm rounds of ammunition, said firearm and ammunition being in and affecting commerce in that they were previously shipped and transported into the State of Arizona from another state or foreign country, in violation of Title 18, United States Code, Sections 922(g)(5)(A) and 924(a)(2).

COUNT ELEVEN
POSSESSION OF A FIREARM BY A PROHIBITED PERSON

On or about December 14, 2010, within the District of Arizona, defendant Manuel Osorio-Arellanes, aka "Manuel Arellanes," aka "Paye," having been convicted of the felony crime of Aggravated Assault on or about December 1, 2006, in Maricopa County, Arizona, did knowingly and intentionally possess a firearm, to wit, a 7.62 x 39mm Romanian assault rifle, Model GP WASR-10/63, bearing serial number 1971CZ3775 and twenty-five 7.62 x 39mm rounds of ammunition, said firearm and ammunition being in and affecting commerce in that they were previously shipped and transported into the State of Arizona from another state or foreign country, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

FORFEITURE ALLEGATION

Upon conviction of Counts One through Eleven of this Third Superseding Indictment, the defendants Manuel Osorio-Arellanes, aka "Manuel Arellanes," aka "Paye," Jesus Rosario Favela-Astorga, aka "Jesus Rosario Fabela Astorga," Ivan Soto-Barraza, Heraclio Osorio-Arellanes, aka "Laco," Lionel Portillo-Meza, aka "Lionel Meza-Portillo," aka Leonel

1 Portillo-Meza," aka "Leonel Meza-Portillo," and Rito Osorio-Arellanes shall forfeit to the
2 United States pursuant to Title 18, United States Code, Section 924(d) and Title 28, United
3 States Code, Section 2461(c), any firearms and ammunition involved in the commission of
4 said offenses, including, but not limited to:

- 5 1. Two (2) 7.62 x 39 mm Romanian assault rifles, model GP WASR 10/63,
6 bearing serial numbers, 1971CZ3775 and 1983AH3977, and seventy-five (75)
7 7.62 x 39 mm rounds of ammunition;
- 8 2. One (1) box of PMC Bronze .45 – 50 cartridges;
- 9 3. Two (2) boxes of PMC bronze .223 – 20 cartridges per box;
- 10 4. One (1) box of Golden Tiger, 7.62 x 39mm – 10 cartridges; and
- 11 5. Four (4) boxes of Brown Bear, 7.62 x 39mm – 20 cartridges per box.

12 If any of the property described above, as a result of any act or omission of the
13 defendants:

- 14 a. cannot be located upon the exercise of due diligence;
- 15 b. has been transferred or sold to, or deposited with, a third party;
- 16 c. has been placed beyond the jurisdiction of the court;
- 17 d. has been substantially diminished in value; or
- 18 e. has been commingled with other property which cannot be divided without
19 difficulty;
- 20
- 21

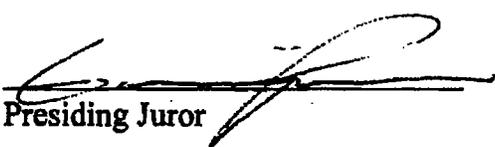
22 it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by Title
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28, United States Code, Section 2461(c), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property, including, but not limited to, all property, both real and personal, owned by the defendants.

All pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

A TRUE BILL


Presiding Juror

LAURA E. DUFFY
United States Attorney
Southern District of California

NOV 07 2011


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