

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA	*	CRIMINAL NO. 10-24
v.	*	SECTION: "T"
ANTONIO ORTIZ		

* * *

FACTUAL BASIS

If this case were to proceed to trial, the United States would prove the following facts beyond a reasonable doubt:

In 2008, agents of the Drug Enforcement Administration (DEA) began an investigation into the drug trafficking activities of Arcesio Vanegas, James Gamboa, Lester Gonzalez-Marquez, **Antonio Ortiz**, and others in the Eastern District of Louisiana, Texas and elsewhere. The investigation included the use of information from task force agents, state and local law enforcement officers and confidential sources. Agents analyzed pen register information and telephone toll records, conducted surveillance and made seizures of heroin from members of this drug trafficking organization.

The DEA also utilized federal court ordered Title III wiretaps. On March 20, 2009, an affidavit was filed for the interception of wire communications over telephone number (773) 691-4509 and (832) 359-8483, telephones maintained and utilized by Arcesio Vanegas. On April 23,

2009, an affidavit was filed for the continued interception of wire communications to-and-from (773) 691-4509 and the interception of wire communications over telephone number (815) 585-3817, an additional telephone utilized by Vanegas.

During the existence of the conspiracy, Lester Gonzalez-Marquez, was a distributor of heroin in the New Orleans Metropolitan area. Gonzalez-Marquez obtained heroin from Vanegas and Gamboa, sources of supply who resided in Texas. Vanegas and Gamboa would utilize couriers, including **Antonio Ortiz**, to deliver the heroin to Gonzalez-Marquez and others in New Orleans and to deliver the drug proceeds back to Texas. During the interception of wire communications, the members of the organization had numerous coded telephone conversations in which they organized the delivery of quantities of heroin and coordinated the collection and delivery of proceeds from the sale of the illegal controlled substances.

On May 2, 2009, Vanegas asked **Gonzalez-Marquez** if he would be home because “a friend” would be there tomorrow. **Gonzalez-Marquez** said that he would be there. Vanegas told **Gonzalez-Marquez** that he would meet with “another friend.” In this call, Vanegas told **Gonzalez-Marquez** that he would be meeting with a new courier, later identified as **Ortiz**, the next day. Immediately after this call, Vanegas called Gamboa and told him to “go ahead man.” A few hours later, Vanegas asked Gamboa if he spoke to his “friend.” Gamboa said yes, he will send him out in the morning. Vanegas and Gamboa were referring to **Ortiz**, the courier, that would be sent to New Orleans with heroin for Gonzalez-Marquez.

On May 3, 2009, Gamboa asked Vanegas if he should call Gonzalez-Marquez and let him know that “the guy” (**Ortiz**) is an hour away. Vanegas responded that he would call him but would tell Gonzalez-Marquez that Gamboa would be calling him. Immediately thereafter, Vanegas called Gonzalez-Marquez and told him that the friend will be “eating” around there in about one hour. He also told Gonzalez-Marquez that a friend here (referring to Gamboa) will be calling you. “Eating” was code for delivering heroin. The pen register then showed calls from Gamboa to Gonzalez-Marquez, and then calls from **Ortiz** to Gonzalez-Marquez.

Later, Gonzalez-Marquez called and told Vanegas that he met the courier. Gonzalez-Marquez asked, “how much is it?” Vanegas replied, “640 pesos.” 640 pesos was code for 640 grams of heroin. Later, Gamboa called to tell Vanegas that **Ortiz** had arrived.

On May 7, 2009, Vanegas asked Gamboa for “two ladies.” Vanegas used “ladies” as code for two kilograms of heroin. Gamboa answered, “there are no good topless ones right now.” Gamboa then said that if he finds anything else, he will let Vanegas know. On May 8, 2009, Vanegas told Gonzalez-Marquez that his “friend,” the same one he saw last time (**Ortiz**) will be there tomorrow with a “lady.” Vanegas said that he would also be there, but was going separately. In this call, Vanegas explained that **Ortiz** would bring one kilogram of heroin, but Vanegas would be driving to New Orleans in a separate car. Gonzalez-Marquez asked, “Can I take you all to eat or are you leaving quickly?” Vanegas answered, “No give it to me. He is just going to take the lady.” Vanegas wanted Gonzalez-Marquez to give him the money. **Ortiz** would be delivering the heroin only.

On May 9, 2009, Gamboa called and told Vanegas to call Gonzalez-Marquez and let him know that the courier should be at the same place in about an hour. Vanegas then called Gonzalez-Marquez to tell him that **Ortiz** would be there in an hour and he, Vanegas, would be there in three hours. Gamboa called back and told Vanegas to tell Gonzalez-Marquez to bring the “instruments” he purchased last time. Gamboa was referring to the tools that were needed to remove the heroin from the hidden compartment. Vanegas then called and gave Gonzalez-Marquez the message. The toll records also show calls between Gonzalez-Marquez and **Ortiz**.

Antonio **Ortiz**, the courier, was surveilled by agents from Texas to New Orleans where he briefly met with Gonzalez-Marquez. Since the agents were not ready to take down the case, they requested that New Orleans Police Department (NOPD) officers conduct a wall-off stop of **Ortiz**. **Ortiz** was confronted by officers at 2420 Eagle St., New Orleans, Louisiana. The officers approached a vehicle parked in the driveway of an abandoned residence undergoing what appeared to be some type of maintenance by **Ortiz**. While confronting Ortiz about his presence at the abandoned residence, the officer observed **Ortiz** drop a package wrapped in black tape from underneath his arm. He also observed tools and a disassembled dashboard. The officer then saw another package wrapped in black tape under the passenger seat. The suspected heroin was sent to the Drug Enforcement Administration South Central Laboratory and an analysis by the lab confirmed that the substance was heroin. The two packages contained a total of 723.6 grams of heroin.

Antonio Ortiz admits that he agreed with at least one other person or persons, in the charged conspiracy and joined together to accomplish some unlawful purpose, that is, a conspiracy to

distribute and possess with the intent to distribute heroin. He knew that his actions were unlawful, joined in this agreement with other defendants /co-conspirators wilfully and with the intent to further the conspiracy's unlawful purpose. Although he may not have known all of the details of the unlawful scheme or the identities of all of the other defendants/co-conspirators, he did understand the unlawful nature of the plan to conspire to possess with the intent to distribute quantities of heroin and joined in that plan on at least one occasion and furthered its objectives. **Ortiz** also agrees that he was not merely present at the scene of the conspiracy but was a voluntary, knowing and active participant in the object of the conspiracy.

The undersigned prosecutor and DEA Special Agents assigned to this investigation have done a thorough review of all drug types and quantities provable during the entire course of the conspiracy. The amount of heroin that **Ortiz** is responsible for possessing with the intent to distribute or that was reasonably foreseeable to him as being distributed in this case includes a total quantity of at least one kilogram but less than three kilograms. This assessment was arrived at through careful analysis of all seizures, monitored telephone calls, law enforcement surveillance, telephone records analysis and witness interviews.

Read and Approved:

ANTONIO ORTIZ
Defendant

Date

SAMUEL SCILLITANI
Defense Counsel

Date

TRACEY N. KNIGHT
Assistant United States Attorney

Date