

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA * CRIMINAL NO. 10-295

V. * SECTION: "I"

MARC DAVID MACIERA * Migratory Bird Treaty Act
a/k/a/ MARCOS MACEHUATL of July 3, 1918, as amended
* (16 U.S.C. §§ 703-718)

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* * *

FACTUAL BASIS

Should this matter proceed to trial, both the Government and the defendant, **MARC DAVID MACIERA, a/k/a/ MARCOS MACEHUATL** (hereinafter “Defendant” or “Maciera”) do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crimes to which the defendant is pleading guilty. The Government and the defendant further stipulate that the Government would have proven, through the introduction of competent testimony and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the Bill of Information now pending against the defendant:

The Government would establish through the introduction of evidence and competent expert testimony that the anhinga (sometimes called the snakebird, waterbird, darter, American darter, or water turkey) is a bird similar in size and weight to a cormorant. The anhinga is native to the southern United States, among other places, and is recognizable by its long, fan-shaped, white-tipped tail feather. The anhinga is a migratory bird and, as such, is included within the terms of the Conventions between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, the United States and the United Mexican States for the protection of migratory birds and game animals, concluded February 7, 1936. It is protected in the United States under the Migratory Bird Treaty Act of 1918.

The Government would present competent testimony that **MACIERA** was a resident of Slidell, Louisiana, in the Eastern District of Louisiana. **MACIERA** subscribed to and used the following e-mail accounts: [“tonatiu7777@hotmail.com”](mailto:tonatiu7777@hotmail.com) and [“maciera74@yahoo.com.”](mailto:maciera74@yahoo.com)

The Government would establish, through witness testimony and evidence, that on or about March 28, 2008, **MACIERA** sent an email, using the account [“tonatiu7777@hotmail.com”](mailto:tonatiu7777@hotmail.com) to **P.S.**, stating that he was in possession of anhinga feathers and inquiring whether **P.S.** wished to purchase them. On or about March 29, 2008, **P.S.** responded via e-mail that he was interested, and he requested pictures of the feathers and the price **MACIERA** was asking for the feathers. On or about March 30, 2008, **MACIERA** responded via e-mail that he would sell **P.S.** each set of anhinga feathers (consisting of approximately 12 feathers) for \$300.00. **MACIERA** attached to the e-mail a picture of five “sets” of anhinga feathers that he claimed were in his possession and were available for sale. On or about March 31, 2008, **P.S.** responded via e-mail, identifying the set of anhinga feathers he wished to

purchase and inquiring about the method of payment. Over the next eight days, **P.S.** and **MACIERA** corresponded via e-mail over one dozen times, discussing the method of shipping and method of payment. On or about April 2, 2008, **MACIERA** sent an e-mail to **P.S.** stating that, for purposes of paying for the set of anhinga feathers, his “checking account number is XXXXXX1161, last name is Maciera.” On or about April 6, 2008, **MACIERA** sent **P.S.** the set of feathers via United States mail, Priority mail, from a location within the Eastern District of Louisiana; in exchange, **P.S.** traveled to a Bank of America branch in Flagstaff, Arizona, and deposited a check in the amount of \$300.00 made out to “Marcos Maciera” directly into **MACIERA’S** Bank of American checking account, with account number XXXXXX1161.

The Government would further establish, through witness testimony and evidence, that on or about April 17, 2008, **P.S.** contacted **MACIERA** via e-mail and inquired whether **MACIERA** had any more anhinga tail feathers for sale. Over the next thirty-three days, **P.S.** and **Maciera** discussed and negotiated the sale of a second set of anhinga feathers from **MACIERA** to **P.S.** via e-mail. **P.S.** and **MACIERA** agreed on a set of feathers that **MACIERA** would send to **P.S.** They also agreed that **P.S.** would pay **MACIERA** \$300 for the set of anhinga feathers. On or about May 13, 2008, **MACIERA** sent **P.S.** an invoice, via e-mail, from e-mail account maciera74@yahoo.com, for \$300.00 (plus \$5.00 shipping) via PayPal for the set of anhinga feathers, requesting that payment be made to: Marc Maciera, 1478 Briarwood Drive, Slidell, Louisiana 70458. **MACIERA** sent the set of anhinga feathers to **P.S.** on or about May 16, 2008, from a location within the Eastern District of Louisiana. **P.S.** paid **MACIERA** approximately \$300 via PayPal at approximately the same time.

Competent testimony and admissible evidence would demonstrate that, during both sales of anhinga feathers described above, **MACIERA** corresponded with **P.S.** via e-mail, using two e-mail accounts: “tonatiu7777@aol.com” and “maciera74@yahoo.com.”

The above facts come from an investigation conducted by agents from the United States Fish and Wildlife Service, documents of the United States Fish and Wildlife Service, evidence and testimony obtained in the course of the investigation by the United States Fish and Wildlife Service, and statements of the defendant, **MARC DAVID MACIERA**, to agents from the United States Fish and Wildlife Service.

APPROVED AND ACCEPTED:

MARC DAVID MACIERA Date
Defendant

GARY SCHWABE Date
(Louisiana Bar No. _____)
Attorney for Defendant Maciera

JORDAN GINSBERG
(Illinois Bar No. 6282956)
Assistant United States Attorney