

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Claire C. Cecchi
: :
v. : Mag No. 10-4117 (CCC)
: :
YUNIOR LOPEZ : **CRIMINAL COMPLAINT**

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. From in or about March 2009 to in or about August 2010, at Newark Liberty International Airport, in the District of New Jersey and elsewhere, defendant YUNIOR LOPEZ, did:

knowingly and intentionally agree and conspire with others to distribute and possess with intent to distribute 5 kilograms or more of a mixture and substance containing a detectable amount of cocaine, a Schedule II controlled substance, contrary to Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A)(ii).

In violation of Title 21, United States Code, Section 846.

I further state that I am a Special Agent with Immigration and Customs Enforcement, and that this complaint is based on the following facts:

SEE ATTACHMENT A

continued on the attached page and made a part hereof.

Eric Gallagher, Special Agent
Immigration and Customs Enforcement

Sworn to before me and subscribed in my presence,

September 7, 2010, at Newark, New Jersey

HONORABLE CLAIRE C. CECCHI
UNITED STATES MAGISTRATE JUDGE

Signature of Judicial Officer

ATTACHMENT A

I, Eric Gallagher, a Special Agent with Immigration and Customs Enforcement (“ICE”), am fully familiar with the facts set forth herein based on my own investigation, my conversations with witnesses and other law enforcement officers, and my review of reports, documents, and items of evidence. Since this complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation.

1. At all times relevant to this Complaint:
 - a. Continental Airlines operated a daily non-stop flight between Santo Domingo, Dominican Republic and Newark Liberty International Airport (“the Airport”). This flight was known as number 751 (“Flight 751”).
 - b. The Dominican Republic was a known source from which drugs were shipped to the United States, and the airport in Santo Domingo was the largest airport in the Dominican Republic.
 - c. Defendant YUNIOR LOPEZ was employed by Continental Airlines as a baggage handler at the Airport.
2. Law enforcement investigation has uncovered evidence – including intercepted communications, drug seizures, and other information – which indicates that during the time period charged defendant LOPEZ and other conspirators distributed and possessed with intent to distribute over 5 kilograms of cocaine. In furtherance of the conspiracy, the conspirators, including defendant LOPEZ, facilitated: the transportation of cocaine on Flight 751 inside pieces of luggage; the removal of that cocaine from Flight 751 once it arrived at the Airport; and the distribution of that cocaine in and around the New Jersey and New York area.
3. During the course of this investigation, law enforcement officers have made four separate seizures of significant quantities of cocaine. All of the seizures have been made from items placed on Flight 751. Specifically, the seizures took place on or about the following dates:
 - a. on or about March 17, 2009, approximately 23 kilograms were seized;
 - b. on or about June 11, 2009, approximately 24 kilograms were seized;
 - c. on or about August 17, 2009, approximately two kilograms were seized; and
 - d. on or about October 29, 2009, approximately 29 kilograms were seized.
4. In three of the four seizures, the cocaine had been placed in medium-sized “gym” bags

with “gate check,” or hand-written, baggage tags. From my training and experience, I know that gate check tags indicate that luggage so tagged has been “checked” at the departing gate – in this case, in Santo Domingo by co-conspirators of defendant LOPEZ.

The March 17, 2009 Seizure

5. On or about March 17, 2009, law enforcement officers received information that a shipment of approximately twenty kilograms of cocaine was onboard Flight 751. Law enforcement officers met Flight 751 when it arrived at the Airport. When the officers arrived at Flight 751, defendant LOPEZ was inside the aircraft unloading luggage.
6. Law enforcement officers located a black and gray Everlast bag with a gate check baggage tag. Inside the bag were approximately twenty bricks of cocaine, weighing approximately 23 kilograms in total.
7. Subsequently, law enforcement obtained the telephone numbers used by defendant LOPEZ and two co-conspirators: CC-1 and CC-2. Defendant LOPEZ’s telephone was assigned to a number ending in 6687 (the “LOPEZ 6687 Number”). CC-1’s telephone was assigned to a number ending in 9459 (the “CC-1 9459 Number”). CC-2’s telephone was assigned to a number ending in 2810 (the “CC-2 2810 Number”).
8. Law enforcement officers subsequently analyzed the activity of the telephone facilities assigned those numbers on and around the March 17, 2009 seizure. This toll analysis supports the conclusion that defendant LOPEZ, CC-1, CC-2, and others were working together on or about March 17, 2009 to conduct illegal drug business. Specifically, this analysis revealed that:
 - a. the LOPEZ 6687 Number was in contact with the CC-2 2810 Number zero times on March 16, 2009, seven times on March 17, 2009, and zero times on March 18, 2009; and
 - b. the CC-1 9459 Number was in contact with the CC-2 2810 Number zero times on March 16, 2009, two times on March 17, 2009, and zero times on March 18, 2009.

The June 11, 2009 Seizure

9. On or about June 11, 2009, the Dominican Republic National Police seized approximately three kilograms of cocaine from Flight 751 before it left the Dominican Republic.
10. Law enforcement officers met Flight 751 when it arrived at the Airport and found that defendant LOPEZ had been assigned to work the international gates that day, which include the gate for Flight 751. Defendant LOPEZ was nowhere to be found, however –

law enforcement officers learned from Continental Airlines Corporate Security that defendant LOPEZ had gone home, claiming to be ill. Further investigation revealed that defendant LOPEZ left the Airport after the seizure had been made in the Dominican Republic but before Flight 751's arrival at the Airport.

11. When law enforcement officers examined the luggage of Flight 751, they discovered approximately 21 kilograms of cocaine inside of a red and blue duffle bag with a gate check baggage tag.
12. Law enforcement officers then conducted toll analysis for the days surrounding the June 11, 2009 seizure. This analysis revealed a dramatic increase in call activity between the LOPEZ 6687 Number, the CC-1 9859 Number, and the CC-2 2810 Number on or about June 11, 2009 – an increase similar to that surrounding the March 17, 2009 seizure. This toll analysis, which revealed a remarkably similar pattern of communications between the co-conspirators as did the analysis of the communications surrounding the March 17, 2009 seizure, supports the conclusion that defendant LOPEZ, CC-1, CC-2, and others were working together on or about June 11, 2009 to conduct illegal drug business. Specifically, this analysis revealed that:
 - a. the LOPEZ 6687 Number was in contact with the CC-2 2810 Number zero times on June 10, 2009, 5 times on June 11, 2009, and zero times on June 12, 2009;
 - b. the LOPEZ 6687 Number was in contact with the CC-1 9459 Number 1 time on June 10, 2009, 10 times on June 11, 2009, and 1 time on June 12, 2009; and
 - c. the CC-1 9459 Number was in contact with the CC-2 2810 Number 0 times on June 10, 2009, 18 times on June 11, 2009, and 13 times on June 12, 2009.

The August 17, 2009 Seizure

13. On or about August 17, 2009, defendant LOPEZ was working at the Airport without his Port Authority-issued identification badge. In particular, defendant LOPEZ was in the area where Flight 751 was to land that day. Because of this possible security breach, defendant LOPEZ was escorted off Airport premises.
14. When Flight 751 arrived that day, law enforcement officers seized approximately 2 kilograms of cocaine that were secreted within two back support belts lying in the baggage hold of the plane.
15. Further investigation revealed that CC-1 had been inside the baggage hold of Flight 751 after the flight had arrived. CC-1 was not assigned to work on Flight 751 that day. During a subsequent interview with law enforcement officers, CC-1 admitted that CC-1 was not assigned to work Flight 751 and was not specifically asked to assist in unloading luggage from Flight 751. CC-1 stated, however, that CC-1's supervisor gave verbal

authorization for CC-1 to work on Flight 751. Law enforcement then interviewed the supervisor, who disputed CC-1's account.

16. CC-1 also provided law enforcement with consent to search his phone, which was assigned the CC-1 9459 Number. This search revealed that defendant LOPEZ was in contact with CC-1 approximately ten minutes after law enforcement effected the seizure of the approximately two kilograms of cocaine. Given the circumstances, this communication is consistent with an attempt by defendant LOPEZ and CC-1, and others, to conduct illegal drug activity on or about August 17, 2009.
17. Law enforcement officers then conducted toll analysis for the days surrounding the August 17, 2009 seizure. Again, this analysis revealed a spike in communication between defendant LOPEZ, CC-1, and CC-2 on the days surrounding the August 17, 2009 seizure, similar to the pattern established around the March and June seizures. Once again, this pattern of communications supports my conclusion that defendant LOPEZ, CC-1, CC-2, and others were engaged in illegal drug activity on or about August 17, 2009.
18. Law enforcement officers subsequently obtained a search warrant for text messages sent to and from defendant LOPEZ's phone. The results of this search warrant demonstrated that:
 - a. On or about August 16, 2009, defendant LOPEZ received a text message at approximately 10:50:52 PM. The message, which was written in Spanish, translated to "Cousin the deposit has been deposited let me know early." From my training and experience, there is probable cause to believe that in this text message, defendant LOPEZ was being informed that the approximately two kilograms of cocaine found in Flight 751 on or about August 17, 2009 were ready to be put on Flight 751.
 - b. On or about August 17, 2009, at approximately 7:34:15 AM, defendant LOPEZ received a second text message from the same number. This text message translated to "Cousin call me so that I can know yes or no now." This text message, a follow-up to the August 16, 2009, message, indicates that the sender needed to know whether defendant LOPEZ and his co-conspirators would be in place, so that the cocaine could be brought into the airport in the Dominican Republic for placement on Flight 751 later that day.

The October 29, 2009 Seizure

19. Or about October 29, 2009, law enforcement officers seized approximately 29 kilograms of cocaine from Flight 751. Two Continental employees, CC-3 and CC-4, who were not scheduled to work Flight 751, were found at Flight 751 when it landed. Both were arrested at the scene.
20. CC-3 and CC-4 were charged with knowingly and intentionally agreeing and conspiring with others to distribute and possess with intent to distribute 5 kilograms or more of a mixture and substance containing a detectable amount of cocaine, a schedule II controlled substance, contrary to Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A)(ii), in violation of Title 21, United States Code, Section 846.
21. Toll analysis conducted by law enforcement officers of defendant LOPEZ's phone revealed no calls to CC-3 on October 28, 2009 and at least 6 calls between CC-3 and defendant LOPEZ on October 29, 2009. Toll analysis also revealed at least 2 calls between defendant LOPEZ and CC-4 on October 28, 2009 and at least 1 call between CC-4 and defendant LOPEZ on October 29, 2009. None of the three (Defendant LOPEZ, CC-3, or CC-4) had any telephone contact with one another on October 30, 2009. Analysis further revealed that defendant LOPEZ was in contact with the CC-2 2810 Number zero times on October 28, 2009, 3 times on October 29, 2009, and zero times on October 30, 2009.

The Intercepted Communications

22. Law enforcement officers have confirmed that defendant LOPEZ's cellular telephone facilities have been utilized to make and receive large numbers of calls to the Dominican Republic. As noted above, the Dominican Republic is a transshipment location for the international smuggling of illegal drugs. Moreover, the drugs in this case are being shipped on Flight 751, a daily flight from the Dominican Republic to the Airport.
23. From on or about April 28, 2010 through on or about June 27, 2010, and from on or about July 23, 2010 through on or about August 21, 2010, wire and electronic communications of defendant LOPEZ were intercepted pursuant to court orders authorizing the interception of such communications. Examples of some of these calls are set forth below. The descriptions of the intercepted conversations set forth below are partial, non-verbatim summaries based on descriptions of the conversations prepared by monitors. In these descriptions, comments enclosed in parentheses are based upon my knowledge, training, and experience, the knowledge, training, and experience of other law enforcement agents with whom I have spoken, and the results of the investigation to date. All times ascribed to conversations and other events are approximate.
24. On or about April 29, 2010, defendant LOPEZ received a telephone call from CC-4. Defendant LOPEZ immediately began chastising CC-4 for calling, stating, "you wait

until you see me in person. What's wrong with you? I don't know you. You got the wrong number." (Defendant LOPEZ is attempting to dissuade CC-4 from contacting defendant LOPEZ over his telephone, as defendant LOPEZ is fearful of law enforcement monitoring of his illegal activities.) Defendant LOPEZ continued to berate CC-4, saying "Don't ever do that again. Change the conversation. . . . No names okay? Copy?" (Defendant LOPEZ tells CC-4 not to use names, so that law enforcement will not be able to identify co-conspirators.) Defendant LOPEZ stated, "What the fuck is wrong with you, saying shit on my fucking voice mail nigga! What the fuck wrong with you nigga? Don't [you] know that the fucking phone is a fucking human enemy?" (Defendant LOPEZ is warning CC-4 about the dangers of using telephones, as telephone interceptions can be used to build criminal cases.) When CC-4 protested that CC-4 was not using CC-4's own phone to contact defendant LOPEZ, defendant LOPEZ became even more incensed, saying, "Anybody's phone nigga! What the fuck! And you leave me a voicemail, what the fuck is wrong with you? you know that there's a satellite recording that shit?" (Defendant LOPEZ is angry because he does not want his words recorded by law enforcement.) Defendant LOPEZ went on to state "Don't leave me no shit like that. What the hell is wrong with you you got to wait until you see me in my house. Don't say shit like that." Defendant LOPEZ continued that CC-4 used extremely poor judgment to call defendant LOPEZ because defendant LOPEZ's phone was not registered in his own name: "you know this shit is not under my name. So it's even worse." (Defendant LOPEZ is acknowledging that registering phone numbers in names other than one's own name is a tactic used by drug traffickers to thwart law enforcement, and that leaving messages regarding the drug conspiracy on such a phone is particularly dangerous.) When CC-4 replied, "Exactly! It's not!" Defendant LOPEZ retorted, "That's even worse. Exactly! Exactly! So what that means motherfucker! Conspiracy!" (Defendant LOPEZ acknowledges that CC-4's actions have demonstrated the existence of the drug conspiracy in operation between defendant LOPEZ, CC-4, and others.)

25. On or about May 2, 2010, defendant LOPEZ received a call from CC-2. CC-2 told defendant LOPEZ, "there's a problem here," which CC-2 stated related to difficulties CC-2 was having with CC-1 regarding fallout from the drug conspiracy. CC-2 reported to defendant LOPEZ that a "Pete" had called CC-2, and that "you know Pete don't want to fuck with him and shit. Pete said that he knows [CC-1 is] a snitch." CC-2 stated, "So Pete went and told him that I said that nigga [CC-1] is a snitch." (CC-2 is saying that he believes CC-1 has been cooperating with authorities.) CC-2 continued, regarding CC-1, that "He's shooting reckless, taking it out because he said he stood quiet with some bullshit about us and my fault and because of that they want to lock him up and he's staying shut for that." (CC-2 is saying that CC-1 is protesting that CC-1 did not cooperate with the authorities when questioned regarding a drug seizure that occurred on or about August 17, 2009.)
26. Also on or about May 2, 2010, defendant LOPEZ and CC-1 exchanged text messages regarding CC-1's feelings towards CC-2 and their respective actions in conspiring to distribute cocaine. For example, CC-1 sent a text to defendant LOPEZ stating that CC-2

“told Pete that I was a shit and a snitch and now he’s denying it.” (CC-1 is stating that CC-2 told “Pete” that CC-1 had informed on the other conspirators.) CC-1 also texted to defendant LOPEZ, “I want to break his head.” (CC-1 is expressing his anger at CC-2.) For, CC-1 stated, “That guy,” (meaning CC-2) “planned everything.” (CC-1 is stating that CC-2 was responsible for planning the August 17, 2009 drug shipment.) For this, CC-1 texted to defendant LOPEZ, “I just want to hit [CC-2].” Defendant LOPEZ advised CC-1 to “just take it easy,” but CC-1 had other ideas: “fuck that,” he texted. Defendant LOPEZ, though, cautioned CC-1 to remember what was really at stake: “Listen the job is more important then [sic] that.” (LOPEZ is telling CC-1 that the continued viability of the drug conspiracy is more important than the disputes of its members.) But for CC-1, it was critical that defendant LOPEZ explain what really happened with regard to the August 17 shipment: “I just need for us to go talk to Pete so you can tell him who is the real snitch.” (CC-1 is alleging that it was CC-2, not CC-1, who alerted the authorities to the August 17, 2009 drug shipment.)

27. On or about June 8, 2010, defendant LOPEZ received a telephone call on the First LOPEZ Facility from a female caller (“UF”) located in or around Costa Rica. During the call, defendant LOPEZ discussed his participation in the cocaine conspiracy. UF asked defendant LOPEZ, “Were you working on that when you came here?” (UF is asking whether LOPEZ was involved in the cocaine conspiracy when he visited Costa Rica.) Defendant LOPEZ replied, “Yes, yes. But no . . . How could I tell you this? Yes but no. I was more in the street than working at the airport.” (Defendant LOPEZ is telling UF that he was, and that he was more involved in drug smuggling than working at the Airport when he saw her last.) Later in the conversation, defendant LOPEZ stated that he “might go see you this month,” but that he can only go for one day. When UF asked why, defendant LOPEZ stated, “Because I don’t have I don’t manage money like I used to. So now I only earn what I make here at the airport, and I don’t earn a lot.” (Defendant LOPEZ is stating that his only current source of income is what he makes from legitimate sources.) UF then asked, “What happened to your other friends? You don’t talk to them any more? Your cousin?” Defendant LOPEZ replied, “Two of them got arrested.” (Here defendant LOPEZ is referring to CC-3 and CC-4.)
28. On or about June 17, 2010, defendant LOPEZ received a call from a female caller who identified herself as “Fianny.” Fianny asked defendant LOPEZ about the source of tension between defendant LOPEZ and CC-2, to whom defendant LOPEZ had earlier referred. Defendant LOPEZ replied that “[t]he problem between me and [CC-2] started like that because of [CC-4]. Because he had a responsibility and he never came through like a man.” (LOPEZ is stating that CC-2 reneged on CC-2’s word to assist CC-4 if CC-4 got into legal trouble based on CC-4’s participation in the drug conspiracy.) Defendant LOPEZ continued that CC-2 “never stood behind his word with [CC-4]. He was supposed to be responsible for him, and he never did. So you can just imagine, if it would have been me in the place of [CC-4] who was going to help me?” (Defendant LOPEZ here refers to an agreement, made as part of the drug conspiracy, that CC-2 would take responsibility for other members of the conspiracy if they were arrested.

LOPEZ notes that if he had been the one arrested for his own role in the conspiracy, that RS would likewise abandon LOPEZ.) Fianny then gives defendant LOPEZ “a word of advice”: “to see that as an example, and not to do stupid things out in the street.” (Fianny is telling LOPEZ not to get arrested for drug trafficking or other crimes.) LOPEZ replies, “Well thank God that I have my job, and that I am not into crazy things like I was before. Now is from work to my house.”

29. Defendant LOPEZ has also indicated that he would flee the United States rather than face criminal penalties for his role in the cocaine conspiracy: On or about May 6, 2010, defendant LOPEZ exchanged text messages over the First LOPEZ Facility with his girlfriend. Defendant LOPEZ began by stating that he “hope[s] that there are a lot of good things coming my way.” The girlfriend, “and if not.” Defendant LOPEZ replied that he wanted the girlfriend to “prepare me for what ever coming.” (Defendant LOPEZ is concerned about going to prison for his role in the Specified Federal Offenses.) And defendant LOPEZ indicated that he was prepared to flee if necessary: he stated, “If things are bad, I am going over to Hati [sic] or Cuba for a cleansing bath.” (Defendant LOPEZ is stating that he will flee rather than subject himself to prison.)