

REQUEST FOR OIA TO OPEN PROVISIONAL ARREST/EXTRADITION RECORD - PANAMA

PLEASE NOTE THAT WE HAVE ENCOUNTERED SIGNIFICANT DIFFICULTIES WITH SUBMITTING THE FORMAL EXTRADITION REQUEST IN A TIMELY MANNER SUBSEQUENT TO PROVISIONAL ARREST. THEREFORE, STATE DEPARTMENT HAS REQUIRED THAT SUBMISSION OF ALL PROVISIONAL ARREST REQUESTS MUST BE ACCOMPANIED BY OIA RECEIPT OF DRAFTS OF THE PROSECUTOR AND AGENT EXTRADITION AFFIDAVITS AND COPIES OF THE ARREST WARRANTS AND CHARGING DOCUMENTS FILED. SAMPLE PROSECUTOR AND AGENT EXTRADITION AFFIDAVITS ARE AVAILABLE FROM OIA.

THE FINAL, COMPLETE EXTRADITION REQUEST, WITH ORIGINAL SIGNATURES AND ALL NECESSARY CERTIFIED COPIES OF ATTACHMENTS, MUST BE RECEIVED BY THIS OFFICE WITHIN THREE WEEKS OF FUGITIVE'S ARREST. PLEASE NOTE THAT YOU SHOULD NOT EXECUTE ANY AFFIDAVITS WITHOUT OIA APPROVAL. IF THE FUGITIVE IS CURRENTLY IN CUSTODY, PLEASE NOTE THE APPROXIMATE DATE OF RELEASE IN THE LOCATION SECTION.

Note any "take-down" date already scheduled for this case: _____

If a narcotics case, is this case designated as an OCDEF case? Yes __x__ No _____

OCDEF number: Operation Denial WC-ND-077

IDENTIFICATION OF FUGITIVE:

Name (include aliases): _____ DANIEL VIVAS CERON aka DANIEL VIVAS-CERON

Country(ies) of Citizenship: _____ COLUMBIA

Date of Birth: _____ 8/19/80 _____ Place of Birth: _____ COLUMBIA

Race: _____ HISPANIC _____ Sex: _____ MALE _____

Height: _____ 72 inches _____ Weight: _____ 220 _____ Hair Color: _____ Black _____ Eye
Color: _____ Brown _____

Scars/Other Characteristics: _____

Passport No.: _____ Date & Place Issued: _____

Driver's License No.: _____ Other Id.: _____

Cedula No. (if any/known): _____

Gang affiliation (if any/known): _____

LOCATION OF FUGITIVE:

Without SPECIFIC information such as a street address, the Panamanian authorities will not be able to find the fugitive. Provide all possible details, including information about your fugitive's relatives' addresses, workplace addresses, hangouts, etc. If you have an address, please try to tell us something about it, i.e, 'home of fugitive's parents', or 'home of a friend,' prison name, etc.)

Present Location of Fugitive: Drummond Institution, a medium security prison in Quebec, Canada. VIVAS CERON will be deported from Canada on July 17, 2015 to Columbia and will stop in Panama while en route to Columbia.

You must coordinate with a Federal law enforcement agency. Please provide the name, title and phone number of the US agent/official in the foreign country who provided the location information or who has direct knowledge of fugitive's location:

Name: Eric Hyer - Homeland Security Investigations - Country Attache' Panama

Phone: Office is (301) 985-8438 ext 5232 and cell is 011-507-6616-9425

Are photographs available? Yes ☒ No ☐ Are fingerprints available? Yes ☐ No ☐

If already in custody pursuant to charges filed in the foreign country, provide charges & anticipated date of release:

Drummond Institution, a medium security prison in Quebec, Canada. VIVAS CERON will be deported from Canada on July 17, 2015 to Columbia and will stop in Panama while en route to Columbia.

CHARGING DOCUMENT:

Check One: Indictment ☒ Superseding Indictment ☐ Complaint ☐
Other _____

Number: 2:15-cr-055 Date Filed: June 18, 2015

Name and Location of Court: Fargo, North Dakota

State or Federal District Requesting Extradition: North Dakota

(Please let us know if the docket number includes the temporary initials of a duty magistrate and whether the filing date of the indictment and warrant is subject to change once the case is assigned to a US District Judge)

List Criminal Offense(s), Number of Counts & Statute(s) Violated:
(include all statutory citations from your charging document)

Count One: Conspiracy to Distribute Controlled Substances and Analogue Controlled Substances Resulting in Serious Bodily Injury and Death in violation of Title 21 United States Code Sections 812, 813, 841(a)(1), 841(b)(1)(C), 846 and Title 18 United States Code Section 2.

Count Two: Conspiracy to Import Controlled Substances and Analogue Controlled Substances Into the United States Resulting in Serious Bodily Injury and Death in violation of Title 21 United States Code Sections 812, 813, 841(a)(1), 841(b)(1)(C), 952(a)(2), 960(a)(1), 960(b)(3), 963 and Title 18 Section 2.

Count Three: Aiding and Abetting Distribution of a Controlled Substance Resulting in Death in violation of Title 21 Sections 841(a)(1), 841(b)(1)(C) and Title 18 United States Code Section 2.

Count Four: Money Laundering Conspiracy in violation of Title 18 United States Code Section 1956(h)

Count Five: Continuing Criminal Enterprise in violation of Title 21 United States Code Sections 848(a) and 848(c).

If your fugitive has been convicted and/or sentenced, was it in absentia? _____ No _____

Please note the following points and provide the information requested below:

1) The Panamanian government requires assurances that a person being extradited from Panama will not receive the death penalty. If a charge against your fugitive(s) carries a possible sentence of death, you and your office will have to agree to the appropriate assurance language in order to obtain approval of the defendant's extradition from Panama. In a case in which death is an authorized penalty, the assurance language we must provide the Government of Panama is as follows: "Although the maximum statutory penalty for the charge for which extradition is sought is death, the Government of the United States assures the Government of Panama that a sentence of death will not be sought or imposed, if the fugitive is extradited to the United States." Once the prosecuting authority undertakes these assurances, that authority must ensure that the death penalty is not imposed or, if already imposed, is not carried out.

This case involves offenses punishable by death. _____ Yes ☒ No

I understand the assurances that must be provided to Panama with respect to the applicable penalty for each offense in this case. This office will abide by all assurances provided to Panama.

CM (Prosecutor's initials)

2) Please inform OIA immediately if you plan to supersede your indictment (or amend the complaint) after you have requested issuance of a provisional arrest warrant. If you supersede your indictment

after the fugitive is provisionally arrested, but before the formal submission of your extradition package, the superseding indictment should be included in the formal extradition package. Before you seek a superseding indictment after the formal extradition package has been submitted, you must contact OIA to discuss the matter. If you are thinking about superseding in a case in which we have filed the formal extradition request and supporting documents, or with respect to which Panama has already extradited the defendant to the United States, OIA must be consulted in advance so that we can discuss whether it is legally possible to supersede, as well as the approach and timing of any superseding indictment.

3) Please inform OIA immediately if you dismiss your indictment so that we can notify the Panamanian authorities that your fugitive no longer is wanted.

ARREST WARRANT:

Date Issued: June 18, 2015 Issued By (Name and Title): Lisa Clark – Deputy Clerk of Court

Wanted in U.S. to: X Stand Trial For Sentencing Serve Sentence Serve Remaining Sentence

STATUTE OF LIMITATIONS:

Verification that applicable statute of limitations does not bar prosecution of offenses: am (Prosecutor's initials)

FACTS OF THE CASE:

A United States law enforcement investigation determined that VIVAS CERON was the leader and organizer of the criminal conspiracy and did so while incarcerated in the Drummond Institution, a medium security prison facility in Quebec, Canada.

The investigation involved undercover investigations by the United States Drug Enforcement Administration and the Department of Homeland Security. The investigations began independently but when the agencies learned they were both targeting VIVAS CERON the investigations merged into a joint investigation.

DEA Undercover Investigation

In August of 2014, an undercover agent from the United States Drug Enforcement Administration (DEA) began to communicate with VIVAS CERON by electronic mail. From August 2014 through September 2014, the DEA undercover agent sent \$1,400 via Western Union money wire to a co-conspirator outside the prison. A shipment of fentanyl, acetyl fentanyl and ANPP, as confirmed by subsequent laboratory testing, was sent from Canada to the undercover agent in Florida.

In September through October, 2014 the DEA undercover agent negotiated another purchase from VIVAS CERON. The undercover agent sent \$2,700 via Western Union money wire to two additional co-conspirators outside the prison. A shipment of acetyl fentanyl, as confirmed by subsequent laboratory testing, was sent from Canada to the undercover agent in Florida.

The undercover agent continued to communicate with VIVAS CERON via e-mail and through a computer application called WICKR, which is designed to ensure communications remain secret.

In February 2015, the undercover agent negotiated a purchase of seven grams of beta-hydroxy-fentanyl with VIVAS CERON and sent \$1,000 via Western Union to another co-conspirator outside the prison. The shipment was sent from Canada to the undercover agent in Florida. The laboratory testing on this purchase is still pending.

Homeland Security Undercover Investigation

Homeland Security Investigations (HSI) started an investigation on January 3, 2015 after the fentanyl overdose death of Bailey Henke, age 18, in Grand Forks, North Dakota. The investigation revealed numerous co-conspirators in North Dakota and identified that the source for the fentanyl was B.C.H. in Portland, Oregon. Ultimately, B.C.H. was arrested and indicated that his source for fentanyl was in Canada. B.C.H. informed agents he had been communicating with the source via electronic mail and WICKR. A Homeland Security undercover agent assumed the identity of B.C.H. and began communicating with VIVAS CERON.

In February and March 2015, the HSI undercover agent negotiated a purchase of beta-hydroxy-fentanyl with VIVAS CERON. The undercover agent sent \$3,400 via bank wire to a co-conspirator and the shipment of beta-hydroxy-thiofentanyl, as confirmed by subsequent laboratory testing, was sent from Canada to the undercover agent in Oregon.

In April, 2015, the HSI undercover agent negotiated a purchase of fentanyl with VIVAS CERON. The undercover sent \$10,000 in Bitcoin virtual currency to a Bitcoin address as directed by VIVAS CERON. A shipment of fentanyl, as confirmed by subsequent laboratory testing, was sent from China to the undercover agent in Oregon.

In May, 2015 the HSI undercover agent negotiated another purchase of fentanyl with VIVAS CERON. The undercover agent sent partial payment to a Bitcoin address and \$7,000 cash via Fed-Ex to a co-conspirator in Canada. The shipment of fentanyl, as confirmed by subsequent laboratory testing, arrived in North Dakota from Canada.

The undercover investigations in the United States were conducted with the knowledge and assistance of the Royal Canadian Mounted Police (RCMP) in Canada. On June 3, 2015 officials from the Drummond Institution searched the jail cell of VIVAS CERON and recovered a phone, SIM cards and various documents. In the documents were found notes of the undercover names, undercover addresses and tracking numbers that correspond with shipments to both undercover agents.

The investigation has revealed that a fentanyl shipment arranged by VIVAS CERON resulted in the aforementioned death in North Dakota and three overdoses resulting in serious bodily injury and one death in Portland, Oregon in March of 2015.

AUTHORIZATION:

Name, title, address, telephone number, and signature of prosecutor authorizing extradition request, committing to prepare the formal extradition request within the specified time frame and agreeing to accept responsibility for costs of extradition (primarily translation of documents and transportation of the fugitive):

Name: Christopher C. Myers Title: Acting United States Attorney

Address: Quentin Burdick United States Courthouse 655 1st Avenue North Fargo, North Dakota

Telephone number: 701-297-7400 Fax number: 701-297-7405

Email Address: chris.c.myers@usdoj.gov

Federal Express account number: 1509-5680-3

Prosecutor's signature:  Date: 6/22/15
(Without a signature, OIA may be unable to process the request.)

PLEASE READ THIS NOTE CAREFULLY:

By signing above, the prosecutor seeking extradition commits to pay costs of extradition, and, upon arrest of fugitive in foreign country, to prepare formal extradition documents within the time specified by OIA. Moreover, if the fugitive is subject to the death penalty in the United States, the prosecutor understands that the foreign government may, in accordance with the extradition treaty, ask for as a condition of surrendering the fugitive, assurances that the death penalty will not be imposed. Accordingly, the prosecutor also agrees that, if requested by the foreign government, the prosecutor shall provide such assurances.

E-MAIL COMPLETED FORM, ALONG WITH DRAFTS OF THE PROSECUTOR'S AND AGENT'S AFFIDAVITS IN SUPPORT OF EXTRADITION TO:

Richard.preston@usdoj.gov

and

EMAIL (PREFERRED) OR FAX A COPY OF THE SIGNED AND DATED OPERATIVE CHARGING DOCUMENT (complaint, information, indictment or superseding indictment) and ARREST WARRANT TO:

**OFFICE OF INTERNATIONAL AFFAIRS
CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE
1301 New York Avenue, NW 9th Floor
Washington, D.C. 20005**

**Attn: Richard Preston
Richard.preston@usdoj.gov
202-353-7540**

FAX: 202-514-0080 TELEPHONE: 202-514-0000 (receptionist)