

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

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CLERK-LAS CRUCES

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 DEBBIE AYALA and)
 DAVID ROGELIO LEYVA,)
)
 Defendants.)

CRIMINAL NO. 11-2911
Count 1: 18 U.S.C. § 371: Conspiracy
Count 2: 18 U.S.C. § 201(b)(1)(C): Bribery;
18 U.S.C. § 2: Aiding and Abetting

INDICTMENT

The Grand Jury charges:

Count 1

From on or about January 10, 2010 to on or about March 1, 2010, in Luna and Doña Ana Counties, in the District of New Mexico and elsewhere, and within the jurisdiction of the Court, the defendants, **DEBBIE AYALA** and **DAVID ROGELIO LEYVA**, knowingly and willfully conspired and agreed together and with each other, and with other persons unknown to the grand jury, to commit an offense against the United States, that is, the defendants did directly and indirectly corruptly offer and promise a thing of value to a public official with intent to induce a public official to do an act and omit to do an act in violation of his or her official duty, that is the defendants offered money, to public officials to assist the defendants in crossing individuals into the United States at a place other than a designated port of entry and to assist the defendants in importing into the United States from Mexico contraband including but not limited to ten (10) kilograms of cocaine in exchange for a fee of \$500.00 per kilogram.

In furtherance of the conspiracy and to effect the objects of the conspiracy, the following overt acts, among others, were committed in the District of New Mexico and elsewhere.

Introduction

For purposes of the Overt Acts below, Public Officials Numbers One, Two, and Three were at all times relevant to this indictment public officials as that term is defined 18 U.S.C. § 201(a)(1), namely an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof. Public Official Number One is a United States Border Patrol Agent assigned to the Deming, New Mexico Border Patrol station. Public Official Number Two is a United States Border Patrol Agent. At all times relevant to this indictment Public Official Number Three was an employee of a separate federal law enforcement agency and was working in an undercover capacity.

Overt Act One

On or about January 10, 2010, in the Western District of Texas, the defendant, **DEBBIE AYALA**, contacted a public official (Public Official Number One) at the public official's residence in San Elizario, Texas. Defendant **DEBBIE AYALA** offered the public official money to smuggle into the United States at a place other than a designated port of entry a person defendant **DEBBIE AYALA** identified as her cousin. Defendant **DEBBIE AYALA** told the public official that she (**AYALA**) thought it would be easier to smuggle the person in the Deming, New Mexico area. When Public Official Number One initially refused defendant **DEBBIE AYALA**'s offer, defendant **DEBBIE AYALA** asked the Public Official Number One if he knew how to get into contact with Public Official Number Two. Defendant **DEBBIE AYALA** had gone to school with both Public Officials Number One and Number Two.

Overt Act Two

On or about January 12, 2010, in the District of New Mexico, Public Official Number One called defendant **DEBBIE AYALA**. During the conversation defendant **DEBBIE AYALA** told Public Official Number One that she (**AYALA**) would pay \$700 to \$800 to get her cousin smuggled into the United States. During the conversation Public Official Number One told defendant **DEBBIE AYALA** that she (Public Official Number One) had a co-worker (Public Official Number Three) who would probably be willing to smuggle the cousin into the United States. Defendant **DEBBIE AYALA** agreed to meet with the co-worker (Public Official Number Three).

Overt Act Three

On or about January 12, 2010, in the District of New Mexico, Public Official Number One received a text message from defendant **DEBBIE AYALA** who said her (**AYALA's**) cousin would also be willing to pay \$1,000 to \$2,000 to smuggle in contraband. Defendant **DEBBIE AYALA** also offered to pay that fee up front to Public Official Number One or another public official.

Overt Act Four

On or about January 16, 2010, in the Western District of Texas, Public Official Number One sent a text message to defendant **DEBBIE AYALA**. The message sent by Public Official Number One was in response to a text message sent by defendant **DEBBIE AYALA**, who wanted to know if Public Official Number One had talked to her co-worker (Public Official Number Three) about smuggling in defendant **DEBBIE AYALA's** cousin and/or narcotics. In the text message Public Official Number One advised defendant **DEBBIE AYALA** that she (Public Official Number One) had not seen her co-worker (Public Official Number Three) that day.

Overt Act Five

On or about January 26, 2010, in the District of New Mexico, Public Official Number One received a text message from defendant **DEBBIE AYALA**. This text message was in response to a phone call placed by Public Official Number One to defendant **DEBBIE AYALA**. The text message and conversations were to the effect that defendant **DEBBIE AYALA** and Public Official Number One agreed to talk later.

Overt Act Six

On or about January 26, 2010, in the District of New Mexico, Public Official Number One called defendant **DEBBIE AYALA**. During the conversation Public Official Number One told Defendant **DEBBIE AYALA** that she (Public Official Number One) would like to introduce Public Official Number Three to defendant **DEBBIE AYALA**. Defendant **DEBBIE AYALA** and Public Official Number One agreed to meet at a business establishment in El Paso, Texas later that day.

Over Act Seven

On or about January 26, 2010, in the Western District of Texas, Public Official Number One received a text message from defendant **DEBBIE AYALA**. In the message defendant **DEBBIE AYALA** said she was on her way to the business establishment in El Paso, Texas.

Overt Act Eight

On or about January 26, 2010, in the Western District of Texas, Public Official Number One introduced Public Official Number Three to defendants **DEBBIE AYALA** and **DAVID ROGELIO LEYVA**. Public Official Number Three and defendants **DEBBIE AYALA** and **DAVID ROGELIO LEYVA** had a discussion regarding smuggling in defendant **DEBBIE AYALA**'s cousin. This conversation included an offer to pay money to Public Official Number Three for this

service as well as where Public Official Number Three should drop off the cousin. Defendant **DEBBIE AYALA** complained that the price set to smuggle in her cousin was too high. Later in the conversation defendant **DEBBIE AYALA** asked Public Official Number Three if he would smuggle in marijuana. Public Official Number Three said that it was much easier to smuggle in cocaine. Defendant **DAVID ROGELIO LEVYA** then discussed with Public Official Number Three the price he (Public Official Number Three) would charge to smuggle in cocaine. After discussing the matter Public Official Number Three agreed to smuggle in ten (10) kilograms of cocaine for a fee of \$500 per kilogram. During the conversation defendant **DAVID ROGELIO LEVYA** told Public Official Number Three that he (**DAVID ROGELIO LEVYA**) worked with a group of drug traffickers based in Mexico.

Overt Act Nine

On or about January 26, 2010, in the Western District of Texas, Public Official Number One received a text message from defendant **DEBBIE AYALA** stating that the meeting with Public Official Number Three had concluded.

Overt Act Ten

On or about February 3, 2010, in the District of New Mexico, Public Official Number Three had a telephone conversation with defendant **DAVID ROGELIO LEVYA**. Defendant **DAVID ROGELIO LEVYA** and Public Official Number Three agreed to meet again later to finalize the agreement.

In violation 18 U.S.C. 371.

Count 2

From on or about January 10, 2010 to on or about February 3, 2010, in Dofia Ana and Luna

Counties, in the District of New Mexico and within the jurisdiction of the Court, the defendants, **DEBBIE AYALA** and **DAVID ROGELIO LEYVA**, did, directly and indirectly, corruptly give, offer, and promise a thing of value to a public official, with intent to induce a public official to do an act and omit to do an act in violation of his/her official duty, that is the defendants offered money, to public officials to assist the defendants in crossing individuals into the United States at a place other than a designated port of entry and to assist the defendants in importing into the United States from Mexico contraband including but not limited to ten (10) kilograms of cocaine in exchange for a fee of \$500.00 per kilogram.

In violation of 18 U.S.C. 201(b)(1)(C) and 18 U.S.C. 2.

A TRUE BILL:

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FOREPERSON OF THE GRAND JURY



Assistant United States Attorney

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