

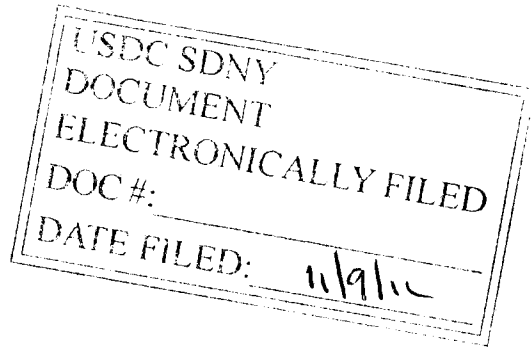
ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA
:
- v. -
:
DIEGO VALLEJO-REYES,
a/k/a "Don Jesus," and
ELVER HERNAN ROA-AVILA,
a/k/a "Juan Carlos,"
:
Defendants.
:
-----x

SUPERSEDING INDICTMENT

S5 11 Cr. 793



COUNT ONE

(Narcotics Conspiracy)

The Grand Jury charges:

Background of the Conspiracy

1. At all times relevant to this Indictment, DIEGO VALLEJO-REYES, a/k/a "Don Jesus," and ELVER HERNAN ROA-AVILA, a/k/a "Juan Carlos," the defendants, were involved in trafficking ton-quantities of cocaine, typically by airplane from the Apure region of Venezuela to Central America and the Carribean. Operating principally in Colombia, VALLEJO-REYES and ROA-AVILA would, among other things, procure the airplanes used to transport the cocaine, including airplanes registered in the United States or owned by United States persons or entities; pilots to fly the airplanes; suppliers to provide the cocaine; and clandestine airstrips to be used to load and dispatch the cocaine-laden airplanes.

Statutory Allegations

2. From at least in or about 2011 up to and including on or about October 10, 2012, in Colombia, Venezuela, and elsewhere, DIEGO VALLEJO-REYES, a/k/a "Don Jesus," and ELVER HERNAN ROA-AVILA, a/k/a "Juan Carlos," the defendants, who will be arrested and first brought to the Southern District of New York, and others known and unknown, intentionally and knowingly did combine, conspire, confederate and agree together and with each other to violate the narcotics laws of the United States.

3. It was a part and an object of the conspiracy that DIEGO VALLEJO-REYES, a/k/a "Don Jesus," and ELVER HERNAN ROA-AVILA, a/k/a "Juan Carlos," the defendants, and others known and unknown, would and did possess with the intent to distribute a controlled substance, to wit, five kilograms and more of a mixture and substance containing a detectable amount of cocaine, on board an aircraft owned by a United States citizen and registered in the United States, in violation of Sections 812, 959(b), and 960(a)(3) & (b)(1)(B) of Title 21, United States Code.

4. It was further a part and an object of the conspiracy that DIEGO VALLEJO-REYES, a/k/a "Don Jesus," and ELVER HERNAN ROA-AVILA, a/k/a "Juan Carlos," the defendants, and others known and unknown, would and did import into the United States from a place outside thereof five kilograms and more of a mixture

and substance containing a detectable amount of cocaine, in violation of Sections 812, 952(a), and 960 (a)(1) & (b)(1)(B) of Title 21, United States Code.

5. It was further a part and an object of the conspiracy that DIEGO VALLEJO-REYES, a/k/a "Don Jesus," and ELVER HERNAN ROA-AVILA, a/k/a "Juan Carlos," the defendants, and others known and unknown, would and did distribute a controlled substance, to wit, five kilograms and more of a mixture and substance containing a detectable amount of cocaine, intending and knowing that such substance would be imported into the United States from a place outside thereof, in violation of Sections 812, 959(a), and 960(a)(3) & (b)(1)(B) of Title 21, United States Code.

Overt Acts

6. In furtherance of the conspiracy, and to effect the illegal objects thereof, the following overt acts, among others, were committed:

a. On or about January 12, 2011, DIEGO VALLEJO-REYES, a/k/a "Don Jesus," the defendant, spoke on the telephone with a co-conspirator not named as a defendant herein ("CC-1") regarding the tail number of an airplane with a U.S.-registration number.

b. On or about April 10, 2011, VALLEJO-REYES spoke on the telephone with ELVER HERNAN ROA-AVILA, a/k/a "Juan

Carlos," the defendant, regarding a 1,300 kilogram load of cocaine.

c. On or about May 30, 2011, VALLEJO-REYES spoke on the telephone with CC-1 regarding an airplane with a U.S.-registration number that had been seized by Venezuelan authorities.

d. On or about June 17, 2011, VALLEJO-REYES spoke on the telephone with a co-conspirator not named as a defendant herein ("CC-2") regarding a plane that had the capacity to carry 700 kilograms of cocaine.

e. On or about September 26, 2012, VALLEJO-REYES and ROA-AVILA met with confidential sources acting at the direction and control of law enforcement ("CS-1" and "CS-2") and discussed, among other things, transporting cocaine on board an airplane registered in the United States.

f. At the September 26, 2012 meeting referenced in subparagraph (e), VALLEJO-REYES and ROA-AVILA further discussed with CS-1 and CS-2 a transaction involving approximately 339 kilograms of cocaine that would ultimately be distributed in New York.

g. On or about October 5, 2012, ROA-AVILA delivered a sample of approximately one kilogram of cocaine to CS-1 in Bogota, Colombia.

h. On or about October 10, 2012, a co-conspirator not named as a defendant herein ("CC-3") acting on behalf of VALLEJO-REYES and AVILA-ROA delivered approximately 338 kilograms of cocaine in or around Bogota, Colombia.

(Title 21, United States Code, Sections 812, 952, 959 & 963; and Title 18, United States Code, Section 3238.)

COUNT TWO

(Distribution of Narcotics)

The Grand Jury further charges:

7. On or about October 5, 2012, in Bogota, Colombia, DIEGO VALLEJO-REYES, a/k/a "Don Jesus," and ELVER HERNAN ROA-AVILA, a/k/a "Juan Carlos," the defendants, intentionally and knowingly did distribute a controlled substance, to wit, 500 grams and more of a mixture and substance containing a detectable amount of cocaine, and aided and abetted the same, intending and knowing that such substance would be imported into the United States from a place outside thereof, in violation of Title 21, United States Code, Sections 959(a) and 960(b)(2)(B).

(Title 21, United States Code, Sections 959(a) & 960(b)(2)(B), and Title 18 United States Code, Sections 2 & 3238.)

COUNT THREE

(Distribution of Narcotics)

The Grand Jury further charges:

8. On or about October 10, 2012, in or around Bogota, Colombia, DIEGO VALLEJO-REYES, a/k/a "Don Jesus," and ELVER

HERNAN ROA-AVILA, a/k/a "Juan Carlos," the defendants, intentionally and knowingly did distribute a controlled substance, to wit, five kilograms and more of a mixture and substance containing a detectable amount of cocaine, and aided and abetted the same, intending and knowing that such substance would be imported into the United States from a place outside thereof, in violation of Title 21, United States Code, Sections 959(a) and 960(b)(1)(B).

(Title 21, United States Code, Sections 959(a) & 960(b)(1)(B), and Title 18 United States Code, Sections 2 & 3238.)

FORFEITURE ALLEGATION

9. As a result of committing the controlled substance offenses alleged in Counts One, Two, and Three of this Indictment, DIEGO VALLEJO-REYES, a/k/a "Don Jesus," and ELVER HERNAN ROA-AVILA, a/k/a "Juan Carlos," the defendants, shall forfeit to the United States, pursuant to Title 21, United States Code, Sections 853 and 970, any and all property constituting or derived from any proceeds the defendants obtained directly or indirectly as a result of the said violations and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the violations alleged in Counts One, Two, and Three of this Indictment.

Substitute Asset Provision

10. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants -

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 21, United States Code, Sections 853(p) and 970, to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(Title 21, United States Code,
Sections 853 and 970.)

FOREPERSON

Preet Bharara
PREET BHARARA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

DIEGO VALLEJO-REYES,
a/k/a "Don Jesus,"
ELVER HERNAN ROA-AVILA,
a/k/a "Juan Carlos

Defendants.

SUPERSEDING
INDICTMENT

21 U.S.C. § 963

PREET BHARARA
United States Attorney.

Foreperson.

11/9/12 - Filed superseding indictment.
JC

Judge Peck
U.S.M.J.

11-13-12
of

Case assigned to Judge Carter

Francis
U.S.M.J.