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F.# 2019R01097

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

- against -

MARCELO ESQUIVEL,  
also known as "Profugo"  
and "Baby,"

Defendant.

- - - - - X

THE GRAND JURY CHARGES:

INDICTMENT

Cr. No. **CR 20 250**  
(T. 18, U.S.C., §§ 924(d)(1), 924(j)(1),  
1959(a)(1), 2 and 3551 et seq.; T. 21,  
U.S.C., § 853(p); T. 28, U.S.C., § 2461(c))

**BRODIE, J.**

**J. ORENSTEIN, M.J.**

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

The Enterprise

1. La Mara Salvatrucha, also known as the "MS-13" (hereinafter the "MS-13" or the "enterprise"), was a transnational criminal organization comprised primarily of immigrants from Central America, with members located throughout Queens, New York, Long Island, New York, and elsewhere, divided into local chapters, or "cliques."

2. The MS-13 routinely held meetings to plan criminal activity, and members paid dues into a treasury. The treasury funds were used to purchase firearms, ammunition and other weapons for use in criminal activity. Additionally, treasury funds were sent to MS-13 members in Central America. Members of the MS-13 sometimes

signified their membership with the colors of blue and white, and with graffiti and tattoos reading, among other things, “13,” “MS” and “MARA SALVATRUCHA,” frequently written in gothic lettering.

3. Members of the MS-13 engaged in acts of violence, including acts involving murder, assault, robbery, witness tampering and witness retaliation, as well as other criminal activity, including narcotics trafficking. Participation in criminal activity by a member, especially violence directed at rival gangs or MS-13 members or associates believed to have violated the enterprise’s rules, increased the respect accorded to the member and could result in promotion to a leadership position. Members of the MS-13 purchased, maintained and circulated a collection of firearms and other weapons for use in criminal activity.

4. The MS-13, including its leadership, members and associates, constituted an “enterprise” as defined by Title 18, United States Code, Section 1959(b)(2), that is, a group of individuals associated in fact that was engaged in, and the activities of which affected, interstate and foreign commerce. The enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise.

5. The MS-13, through its members and associates, engaged in racketeering activity, as defined in Title 18, United States Code, Sections 1959(b)(1) and 1961(1), that is, acts and threats involving murder, robbery and dealing in controlled substances chargeable under New York Penal Law and punishable by imprisonment for more

than one year, acts indictable under Title 18, United States Code, Section 1512 (witness tampering) and offenses involving narcotics trafficking punishable under Title 21, United States Code, Sections 841 and 846.

Purposes of the Enterprise

6. The purposes of the enterprise included the following:

(a) Promoting and enhancing the prestige, reputation and position of the enterprise with respect to rival criminal organizations.

(b) Preserving and protecting the power, territory and criminal ventures of the enterprise through the use of intimidation, threats of violence and acts of violence, including assault and murder.

(c) Keeping victims and rivals in fear of the enterprise and its members and associates.

(d) Enriching the members and associates of the enterprise through criminal activity, including robbery and narcotics trafficking.

(e) Ensuring discipline within the enterprise and compliance with the enterprise's rules by members and associates through threats of violence and acts of violence.

Means and Methods of the Enterprise

7. Among the means and methods by which members of the MS-13 and their associates conducted and participated in the conduct of the affairs of the enterprise were the following:

(a) Members of the MS-13 and their associates committed, attempted to commit and threatened to commit acts of violence, including acts involving murder, robbery and assault, to enhance the enterprise's prestige and protect and expand the enterprise's criminal operations.

(b) Members of the MS-13 and their associates used and threatened to use physical violence against various individuals, including members of rival criminal organizations and against MS-13 members or associates believed to have violated the enterprise's rules.

(c) Members of the MS-13 and their associates used, attempted to use and conspired to use robbery and narcotics trafficking as means of obtaining money.

The Defendant

8. The defendant MARCELO ESQUIVEL, also known as "Profugo" and "Baby," was a member of the MS-13.

COUNT ONE  
(Murder In-Aid-Of Racketeering)

9. The allegations contained in paragraphs one through eight are realleged and incorporated as if fully set forth in this paragraph.

10. On or about July 2, 2012, within the Eastern District of New York and elsewhere, the defendant MARCELO ESQUIVEL, also known as “Profugo” and “Baby,” together with others, for the purpose of gaining entrance to, and maintaining and increasing position in, the MS-13, an enterprise engaged in racketeering activity, did knowingly and intentionally murder Daniel Licon-Gonzalez, in violation of New York Penal Law Sections 125.25(1) and 20.00.

(Title 18, United States Code, Sections 1959(a)(1), 2 and 3551 et seq.)

COUNT TWO  
(Causing Death Through Use of a Firearm)

11. On or about July 2, 2012, within the Eastern District of New York and elsewhere, the defendant MARCELO ESQUIVEL, also known as “Profugo” and “Baby,” together with others, in the course of a violation of Title 18, United States Code, Section 924(c), to wit: the use of a firearm during and in relation to a crime of violence, to wit: the crime charged in Count One, did knowingly and intentionally cause the death of a person through the use of a firearm, which killing is a murder as defined in Title 18, United States Code, Section 1111(a), in that ESQUIVEL, together with others, with malice aforethought, did unlawfully kill, and cause the killing of, Daniel Licon-Gonzalez willfully, deliberately, maliciously and with premeditation.

(Title 18, United States Code, Sections 924(j)(1), 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION

12. The United States hereby gives notice to the defendant that, upon his conviction of either of the offenses charged herein, the government will seek forfeiture in



accordance with Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c), which require the forfeiture of any firearm or ammunition involved in or used in any knowing violation of Title 18, United States Code, Section 924 or any other violation of any criminal law of the United States.

13. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (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 divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 924(d)(1); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))


A TRUE BILL



FOREPERSON

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RICHARD P. DONOGHUE  
UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

BY:   
ACTING UNITED STATES ATTORNEY  
PURSUANT TO 28 C.F.R. O.136

No. \_\_\_\_\_

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**UNITED STATES DISTRICT COURT**

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

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THE UNITED STATES OF AMERICA

vs.

*MARCELO ESQUIVEL, aka "Profugo" and "Baby," et al.,*

Defendants.

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**INDICTMENT**

(T. 18, U.S.C., §§ 924(d)(1), 924(j)(1),  
1959(a)(1), 2 and 3551 et seq.; T. 21, U.S.C., § 853(p); T. 28, U.S.C., § 2461(c))

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\_\_\_\_\_ *erson*

Filed in open court this \_\_\_\_\_ day,

of \_\_\_\_\_ A.D. 20 \_\_\_\_\_

\_\_\_\_\_  
*Clerk*

Bail, \$ \_\_\_\_\_

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*Nadia E. Moore, Assistant U.S. Attorney (718) 254-6362*