

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Criminal No. 15 –
	:	
v.	:	18 U.S.C. § 371
	:	
KIRBY C. SANTOS	:	<u>INFORMATION</u>

The defendant having waived in open Court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

A. Introduction

At all times material to this Information:

1. In furtherance of the security and foreign policy interests of the United States, the United States regulated and restricted the export of arms, munitions, implements of war and defense articles, pursuant to the Arms Export Control Act (hereinafter, "AECA"). See 22 U.S.C. § 2778.
2. The regulations which governed such exports were entitled the International Traffic in Arms Regulations (hereinafter, "ITAR"). See 22 C.F.R. §§ 120-130.
3. The ITAR contained a list of defense articles subject to control by these regulations, which list was called the United States Munitions List (hereinafter, "USML"). See 22 C.F.R. § 121.1.
4. According to the AECA, no defense article could be exported or otherwise transferred to a foreign country without a license from the United States Department of State, Directorate of Defense Trade Controls (hereinafter, "DDTC"). See 22 U.S.C., § 2778(b).

5. Defendant KIRBY C. SANTOS was a resident and citizen of the Philippines who purchased defense articles, i.e., firearm parts, from suppliers in the United States and directed the suppliers to deliver the firearm parts to addresses in the United States including addresses in Toms River, New Jersey (hereinafter, the “New Jersey Address”), Lynnwood, Washington, (hereinafter, the “Washington Address”), and the Bronx, New York (hereinafter, the “New York Address”).

6. Abelardo Delmundo, a/k/a “Larry,” who is named as a co-conspirator but not as a defendant herein, was a resident of New Jersey who lived at the New Jersey Address. Delmundo received packages containing defense articles, i.e., firearm parts, from suppliers in the United States which defendant KIRBY C. SANTOS purchased while in the Philippines. At the direction and on behalf of SANTOS, Delmundo re-packaged and falsely labeled the contents of the packages of the firearm parts and exported the firearm parts to co-conspirators in the Philippines. When shipping the firearm parts to the Philippines on behalf of SANTOS, Delmundo used the fake name “Teng Flores” to conceal his true identity.

7. Co-Conspirator 1 was a resident of Washington who lived at the Washington Address. Co-Conspirator 1 received defense articles, i.e., firearm parts from suppliers in the United States which defendant KIRBY C. SANTOS purchased while in the Philippines. Co-Conspirator 1 re-packaged and falsely labeled the contents of the packages, and either: (a) mailed the packages of firearm parts to Abelardo Delmundo at the New Jersey Address for additional re-packaging and eventual reshipment to SANTOS in the Philippines; or (b) exported the firearm parts to the Philippines for delivery to SANTOS. When SANTOS requested that Co-Conspirator 1 send the packages of firearm parts to the New Jersey Address, Co-Conspirator 1 addressed the packages to “Teng Flores.” Also, at times when shipping the firearm parts to the

Philippines at the direction and on behalf of SANTOS, Co-Conspirator 1 used the fake name “Nathan Drake” to conceal his true identity.

8. Co-Conspirator 2 was a resident of New York who lived at the New York Address. Co-Conspirator 2 received defense articles, i.e., firearm parts, from suppliers in the United States which defendant KIRBY C. SANTOS purchased while in the Philippines. On at least one occasion, Co-Conspirator 2 arranged for the firearm parts to be delivered to SANTOS in the Philippines.

9. Forum A was an on-line forum (“Forum A”) used by defendant KIRBY C. SANTOS, Abelardo Delmundo, and others to meet electronically, discuss the sales and shipment of firearm and firearm parts from the United States to the Philippines, and otherwise facilitate communication between SANTOS, Delmundo, and others.

10. 5.56 mm rifle upper receivers were firearm parts and were USML Category (I) defense articles.

11. .40 caliber rifle barrels and .9mm pistol barrels were USML Category (I) defense articles.

12. At no time during the conspiracy did defendant KIRBY C. SANTOS, Abelardo Delmundo, Co-Conspirator 1, or Co-Conspirator 2, apply for or obtain a license or written authorization from DDTC to export defense articles from the United States to the Philippines.

B. The Conspiracy

13. Beginning as early as 2008 and continuing through October 2013, in the District of New Jersey and elsewhere, the defendant,

KIRBY C. SANTOS,

did knowingly and intentionally conspire and agree with Abelardo Delmundo, Co-Conspirator 1,

Co-Conspirator 2, and others to violate the laws of the United States; to wit, the following statutes and regulations:

- a. Title 22, United States Code, Section 2778, and 22, Code of Federal Regulations, Section 127.1, knowingly and willfully exporting defense articles from the United States without first obtaining an export license or written approval from DDTC; and,
- b. Title 18, United States Code, Section 554, smuggling goods from the United States.

C. Object of the Conspiracy

14. It was the object of the conspiracy that the conspirators caused firearm parts purchased in the United States to be shipped to the Philippines without the required license from DDTC.

D. Manner and Means

The manner and means used to accomplish the objects of the conspiracy included, among others, the following:

15. It was part of the conspiracy that defendant KIRBY C. SANTOS used credit cards and other forms of payment to purchase firearm parts from suppliers located in the United States and directed the suppliers to send the firearm parts to addresses in the United States in order to make it appear that the sales were domestic sales.

16. It was further part of the conspiracy that, to facilitate their illicit transactions with the Philippines, the conspirators used Forum A, electronic mail, social media, and other electronic means to facilitate communication with each other.

17. It was further part of the conspiracy that the co-conspirators often used false identities when shipping firearm parts (either within the United States or from the United States to

the Philippines) and when communicating on Forum A.

18. It was further part of the conspiracy that the conspirators exported from the United States at least \$200,000 worth of defense articles, the exact sum total unknown, without first obtaining the required export license from DDTC.

E. Overt Acts In Furtherance of the Conspiracy

19. In furtherance of the conspiracy and to effect its unlawful object, the defendant, KIRBY C. SANTOS, Abelardo Delmundo, Co-Conspirator 1, Co-Conspirator 2, and others, committed and caused to be committed the following overt acts within the District of New Jersey and elsewhere, which are described in substance below:

- a. On or about August 23, 2010, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle barrels, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$1,826.80 for the shipment.
- b. On or about October 5, 2010, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle barrels, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$1,825.43 for the shipment.
- c. On or about December 3, 2010, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle barrels and "flattop" 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to

Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$4,600.00 for the items.¹

- d. On or about February 8, 2011, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle barrels, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and and paid approximately \$750 for the items.
- e. On or about February 14, 2011, defendant KIRBY C. SANTOS purchased firearm parts, including "flattop" 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$3,600 for the items.
- f. On or about April 4, 2011, defendant KIRBY C. SANTOS purchased firearm parts, including "flattop" 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$3,600 for the items.
- g. On or about June 3, 2011, defendant KIRBY C. SANTOS purchased firearm parts, including "flattop" 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$3,600 for the items.
- h. On or about July 1, 2011, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle barrels, from a distributor located in Kentucky, requested

¹ A "flattop" upper receiver has a flat accessory rail between the buttstock and forward grips in place of the traditional carrying handle. The rail is typically used to mount optics like telescopic sites.

that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$1,670 for the items.

- i. On or about July 1, 2011, defendant KIRBY C. SANTOS purchased firearm parts, including a 5.56mm caliber rifle barrel, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$185.57 for the items.
- j. On or about August 8, 2011, defendant KIRBY C. SANTOS purchased firearm parts, including "flattop" 5.56mm caliber rifle upper receivers from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$1080.00 for the items.
- k. On or about August 16, 2011, defendant KIRBY C. SANTOS purchased firearm parts, including "flattop" 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$2,576.85 for the items.
- l. On or about June 27, 2012, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle barrels, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$1,855.00 for the items.
- m. On or about August 4, 2012, defendant KIRBY C. SANTOS purchased firearm parts, including "flattop" 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$1,400.00 for the items.

- n. On or about August 24, 2012, defendant KIRBY C. SANTOS purchased firearm parts, including “flattop” 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo’s false name (“Teng Flores”) at the New Jersey Address, and paid approximately \$6,408.00 for the items.
- o. On or about October 26, 2012, defendant KIRBY C. SANTOS purchased firearm parts, including “flattop” 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo’s false name (“Teng Flores”) at the New Jersey Address, and paid approximately \$792.00 for the items.
- p. On or about August 26, 2012, defendant KIRBY C. SANTOS purchased firearm parts, including “flattop” 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo’s false name (“Teng Flores”) at the New Jersey Address, and paid approximately \$1,800.00 for the items.
- q. On or about January 15, 2013, defendant KIRBY C. SANTOS purchased firearm parts, including “flattop” 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo’s false name (“Teng Flores”) at the New Jersey Address, and paid approximately \$4,150.00 for the items.
- r. On or about April 9, 2013, defendant KIRBY C. SANTOS purchased firearm parts, including “flattop” 5.56mm caliber rifle upper receivers, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo’s false name (“Teng Flores”) at the New Jersey Address, and paid approximately \$2,490.00 for the items.
- s. On or about May 23, 2013, defendant KIRBY C. SANTOS purchased firearm parts, including “flattop” 5.56mm caliber rifle upper receivers, from a distributor located in

- Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$1,660.00 for the items.
- t. On or about August 19, 2013, defendant KIRBY C. SANTOS purchased firearm parts, including "flattop" 5.56mm caliber rifle upper receivers and 5.56mm caliber rifle barrels, from a distributor located in Kentucky, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$5,799.00 for the items.
 - u. On or about August 1, 2013, Co-Conspirator 1, on behalf of defendant KIRBY C. SANTOS, purchased firearm parts, including 9mm caliber pistol barrels, from a distributor located in Missouri. At the request of defendant KIRBY C. SANTOS, Co-Conspirator 1 then sent the parts to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address. Defendant KIRBY C. SANTOS paid approximately \$693.02 for the items.
 - v. On or about August 25, 2013, Co-Conspirator 1, on behalf of defendant KIRBY C. SANTOS, purchased firearm parts, including 9mm caliber pistol barrels, from a distributor located in Missouri. Defendant KIRBY C. SANTOS then requested that Co-Conspirator 1 send the parts to the New Jersey Address addressed to Abelardo Delmundo's false name ("Teng Flores"), and defendant KIRBY C. SANTOS paid approximately \$550.03 for the items.
 - w. On or about September 2013, Abelardo Delmundo received a package from a distributor located in Missouri containing firearm parts, including 5.56mm caliber rifle upper receivers. On or about September 2013, Delmundo sent a package containing firearm

- parts, including 5.56mm caliber rifle upper receivers, to the Philippines at the request of, and for ultimate delivery to, defendant KIRBY C. SANTOS.
- x. On or about April 19, 2012, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle upper receivers, from a distributor located in Washington, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$4,955.18 for the items.
 - y. On or about June 26, 2012, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle upper receivers, from a distributor located in Washington, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$3,450.00 for the items.
 - z. On or about July 23, 2012, defendant KIRBY C. SANTOS purchased firearm parts, including barrels and 5.56mm caliber rifle upper receivers, from a distributor located in Washington, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$2,406.82 for the items.
 - aa. On or about January 16, 2013, defendant KIRBY C. SANTOS purchased firearm parts, including barrels, from a distributor located in Washington, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$500.00 for the items.
 - bb. On or about May 14, 2013, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle upper receivers, from a distributor located in Washington, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$1753.08 for the items.

cc. In or about May 2013, Abelardo Delmundo received a package containing 5.56mm rifle upper receivers purchased by defendant KIRBY C. SANTOS from a firearms distributor. Documentation was sent with the package containing the firearm parts and included an export compliance notice as follows:

Rainier Arms Export Compliance - Products sold by Rainier Arms, LLC may be subject to export controls administered by the U.S. Department of Commerce or the U.S. Department of State and require an export license to be shipped outside of the United States. Export or re-export without prior authorization from the U.S. Government is prohibited. For additional information, please contact the Rainier Arms Export Compliance Team by calling 1-253-218-2999 or emailing sales@rainierarms.com.

dd. In or about May 2013, Abelardo Delmundo sent these 5.56mm rifle upper receivers to the Philippines for ultimate delivery to defendant KIRBY C. SANTOS.

ee. On or about May 30, 2013, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle upper receivers, from a distributor located in Washington, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$1,825.00 for the items.

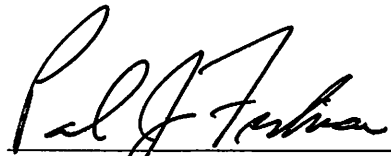
ff. On or about July 31, 2013, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm rifle upper receivers, from a distributor located in Washington, requested that the parts be sent to Abelardo Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$861.88 for the items.

gg. On or about August 31, 2013, defendant KIRBY C. SANTOS purchased firearm parts, including 5.56mm caliber rifle upper receivers and 5.56mm caliber rifle barrels, from a distributor located in Washington, requested that the parts be sent to Abelardo

Delmundo's false name ("Teng Flores") at the New Jersey Address, and paid approximately \$2,290.00 for the items.

20. In furtherance of the conspiracy, defendant KIRBY C. SANTOS paid co-conspirator Abelardo Delmundo and Co-Conspirator 1 for their role in the conspiracy by providing them with cash payments, by paying money to relatives in the Philippines, and through other methods.

All in violation of Title 18, United States Code, Section 371.


PAUL J. FISHMAN
United States Attorney