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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA

v.

FRANCISCO NICHOLAS BRITO,  
a/k/a "Nicholas Brito,"  
a/k/a "Jose"

: Hon. James B. Clark, III  
:  
: Magistrate No. 18-3171 (JBC)  
:  
: **CRIMINAL COMPLAINT**  
:  
:

I, Ian Patel, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement, and that this complaint is based on the following facts:

SEE ATTACHMENT B

  
\_\_\_\_\_  
Ian Patel  
Deportation Officer  
Immigration and Customs Enforcement  
U.S. Department of Homeland Security

Sworn to before me and subscribed in my presence,  
July 27, 2018 Newark, New Jersey

HONORABLE JAMES B. CLARK, III  
UNITED STATES MAGISTRATE JUDGE

  
\_\_\_\_\_  
Signature of Judicial Officer

**ATTACHMENT A**

On a date on or after August 5, 2004, and on or before June 25, 2018, in Passaic County, in the District of New Jersey, and elsewhere, the defendant,

FRANCISCO NICHOLAS BRITO,  
a/k/a "Nicholas Brito,"  
a/k/a "Jose,"

being an alien, and on or about November 6, 2001, having been convicted in the Eastern District of Pennsylvania for Conspiracy to Distribute Heroin, in violation of Title 21, United States Code, Section 846, an aggravated felony, and thereafter having been deported and removed and having departed from the United States while an order of deportation was outstanding, did knowingly and voluntarily enter, attempt to enter, and was found in the United States without the Attorney General or the Secretary of Homeland Security expressly consenting to the defendant's re-applying for admission to the United States prior to his re-embarkation at a place outside the United States.

In violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2).

## **ATTACHMENT B**

I, Ian Patel, am a Deportation Officer with the Department of Homeland Security, Immigration and Customs Enforcement ("ICE"). I am fully familiar with the facts set forth herein based on my own investigation, my conversations with other law enforcement officers, and my review of reports, documents, and items of evidence. Where statements of others are related herein, they are related in substance and part. Because this complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

1. The defendant, FRANCISCO NICHOLAS BRITO, a/k/a "Nicholas Brito," a/k/a "Jose" (the "Defendant"), is a citizen of the Dominican Republic, and he neither is a citizen nor a national of the United States.

2. On or about March 27, 2001, the Defendant was arrested by law enforcement officers in the Eastern District of Pennsylvania for Conspiracy to Distribute Heroin, in violation of Title 21, United States Code, Section 846, and for Use of a Telephone to Facilitate a Drug Transaction, in violation of Title 21, United States Code, Section 843(b).

3. On or about November 6, 2001, the Defendant pled guilty in the United States District Court for the Eastern District of Pennsylvania, to Conspiracy to Distribute Heroin, in violation of Title 21, United States Code, Section 846, and to Use of a Telephone to Facilitate a Drug Transaction, in violation of Title 21, United States Code, Section 843(b), and was subsequently sentenced to approximately forty-six months' imprisonment. The Conspiracy to Distribute Heroin charge is an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B).

4. Thereafter, on or about August 5, 2004, the Defendant was ordered removed from the United States to the Dominican Republic by an Immigration Judge sitting in Elizabeth, New Jersey.

5. On or about August 18, 2004, the Defendant was removed from the United States to the Dominican Republic. Shortly before his removal from the United States on or about August 18, 2004, an official from the ICE took a fingerprint from the Defendant.

6. At some point after his August 18, 2004 removal, the Defendant re-entered the United States without permission from either the Attorney General or the Secretary of Homeland Security.

7. On or about October 29, 2007, the Defendant was arrested by law enforcement officers in Monmouth County, New Jersey, for committing various

drug related offenses, including but not limited to, Conspiracy and Manufacturing/Distributing/Dispensing a Controlled Dangerous Substance in an amount greater than five ounces, in the Second Degree, in violation of Sections 2C:5-2 and 2C:35-5(b)(1), respectively, of the New Jersey Code of Criminal Justice.

8. On or about July 20, 2009, the Defendant pled guilty in the Superior Court of New Jersey, Monmouth County, to Conspiracy and Manufacturing/Distributing/Dispensing a Controlled Dangerous Substance in an amount greater than five ounces, in the Second Degree, in violation of Sections 2C:5-2 and 2C:35-5(b)(1), respectively, of the New Jersey Code of Criminal Justice, and was subsequently sentenced to approximately five years' imprisonment, the circumstances of which offense constitute an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(B).

9. On or about February 7, 2013, the Defendant was removed from the United States to the Dominican Republic. Shortly before his removal from the United States on or about February 7, 2013, an official from the ICE took a fingerprint from the Defendant.

10. At some point after his February 7, 2013 removal, the Defendant re-entered the United States without permission from either the Attorney General or the Secretary of Homeland Security.

11. On or about June 25, 2018, the Defendant was arrested by ICE in Paterson, New Jersey.

12. A fingerprint taken from the Defendant pursuant to his arrests for Conspiracy to Distribute Heroin and Use of a Telephone to Facilitate a Drug Transaction, and Conspiracy and Manufacturing/Distributing/Dispensing a Controlled Dangerous Substance were compared to his August 18, 2004 and February 7, 2013 deportation records, and the June 25, 2018 fingerprints that were taken after he entered ICE's custody. All the fingerprints were found to be identical.

13. Prior to the Defendant's reentries into the United States, neither the Attorney General nor the Secretary of Homeland Security consented to the Defendant re-entering the United States. The Defendant also did not receive a waiver allowing him to re-enter the United States.