

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

FILED
U.S. DISTRICT COURT
DISTRICT OF NEW MEXICO

2018 AUG 22 PM 3:14

CLERK-LAS CRUCES

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**JESUS SALVADOR OTERO-
MARTINEZ, a.k.a. "Salvador Otero,"
a.k.a. "Otero Otero,"
ERIK DELEON,
MATTHEW TORRES, and
DONNIE EDWARD BACA,**

Defendants.

CRIMINAL NO. 18CR2755RB

Count 1: 21 U.S.C. § 846: Conspiracy;

Count 2: 21 U.S.C. §§ 841(a)(1),
(b)(1)(C): Distribution of Heroin; 18
U.S.C. § 2: Aiding and Abetting.

INDICTMENT

The Grand Jury charges:

Count 1

From on or about August 22, 2017, and continuing to on or about to June 20, 2018, in Doña Ana County, in the District of New Mexico, and elsewhere, the defendants, **JESUS SALVADOR OTERO-MARTINEZ, a.k.a. "Salvador Otero," a.k.a. "Otero Otero," ERIK DELEON, MATTHEW TORRES, and DONNIE EDWARD BACA**, unlawfully, knowingly and intentionally combined, conspired, confederated, agreed and acted interdependently with each other and with other persons whose names are known and unknown to the Grand Jury to commit an offense defined in 21 U.S.C. § 841(a)(1), specifically, distribution of a controlled substance, a mixture and substance containing a detectable amount of heroin.

Quantity of Heroin Involved in the Conspiracy

With respect to **JESUS SALVADOR OTERO-MARTINEZ, a.k.a. "Salvador Otero," a.k.a. "Otero Otero," ERIK DELEON, and MATTHEW TORRES**, the amount involved in

the conspiracy attributable to them as a result of their own conduct, and the conduct of other conspirators reasonably foreseeable to them, is 100 grams and more of a mixture and substance containing a detectable amount of heroin, contrary to 21 U.S.C. § 841(b)(1)(B).

Overt Acts

In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, the following acts, among others, were committed:

Overt Act 1

On August 22, 2017, Jesus Salvador Otero-Martinez, through Facebook Messenger, arranged to sell one ounce of heroin to an undercover agent in New Mexico for \$600.

Overt Act 2

On August 22, 2017, Jesus Salvador Otero-Martinez called the undercover agent and informed the undercover agent that Jesus Salvador Otero-Martinez would check to see if his friend "Erik" could serve as a runner for the undercover agent, meaning someone who could smuggle the heroin into the United States from Mexico.

Overt Act 3

On August 23, 2017, Jesus Salvador Otero-Martinez, through Facebook Messenger, informed the undercover agent that Jesus Salvador Otero-Martinez gave the undercover agent's telephone number to "Erik."

Overt Act 4

On August 23, 2017, Erik DeLeon called the undercover agent and the two agreed to conduct the heroin purchase on August 25, 2017.

Overt Act 5

On August 24, 2017, Jesus Salvador Otero-Martinez contacted the undercover agent through Facebook Messenger to confirm that the undercover agent and Erik DeLeon had agreed on a time for the heroin purchase.

Overt Act 6

On August 25, 2017, Erik DeLeon and Donnie Edward Baca met the undercover agent at a residence on La Reina Road in Las Cruces, New Mexico, and the three then traveled to the Ysleta Port of Entry in El Paso, Texas.

Overt Act 7

On August 25, 2017, Donnie Edward Baca obtained \$600 from the undercover agent to purchase the heroin from Jesus Salvador Otero-Martinez, and Donnie Edward Baca walked through the pedestrian lanes at the Ysleta Port of Entry into Ciudad Juarez, Mexico.

Overt Act 8

On August 25, 2017, after obtaining the heroin from Jesus Salvador Otero-Martinez, Donnie Edward Baca returned to the United States through the Ysleta Port of Entry, and the undercover agent then drove Donnie Edward Baca and Erik DeLeon to the Chevron gas station in Vado, New Mexico, so that Donnie Edward Baca could remove the heroin from his body cavity.

Overt Act 9

On August 25, 2017, inside the restroom of the Chevron gas station in Vado, New Mexico, Donnie Edward Baca removed 24.74 net grams of heroin from his body cavity and then returned to the undercover vehicle and gave the heroin to the undercover agent.

Overt Act 10

On August 29, 2017, Jesus Salvador Otero-Martinez informed the undercover agent through Facebook Messenger that "erik" was coming if the undercover wanted to come too, meaning that Erik DeLeon was going to Mexico to pick up heroin and asking if the undercover agent wanted to purchase more heroin too.

Overt Act 11

On August 29, 2017, Erik DeLeon and the undercover agent discussed whether Erik DeLeon could obtain two ounces of heroin for the undercover agent.

Overt Act 12

On August 29, 2017, after the undercover agent spoke with Erik DeLeon, Jesus Salvador Otero-Martinez used Facebook Messenger to confirm with the undercover agent the purchase of two ounces of heroin.

Overt Act 13

On August 29, 2017, Erik DeLeon and Donnie Edward Baca met the undercover agent at the Ysleta Port of Entry, where Donnie Edward Baca obtained \$1,200 from the undercover agent so that Donnie Edward Baca could obtain the two ounces of heroin from Jesus Salvador Otero-Martinez.

Overt Act 14

On August 29, 2017, Donnie Edward Baca crossed into Ciudad Juarez, Mexico, through the Ysleta Port of Entry and obtained 49.75 net grams of heroin from Jesus Salvador Otero-Martinez.

Overt Act 15

On August 29, 2017, Erik DeLeon instructed the undercover agent to drive Donnie Edward Baca to the Peter Piper Pizza on South Zaragoza in El Paso, Texas, so that Donnie Edward Baca could remove the 49.75 net grams of heroin from his body cavity.

Overt Act 16

On August 29, 2017, the undercover agent drove Donnie Edward Baca to the Peter Piper Pizza on South Zaragoza in El Paso, Texas, and Donnie Edward Baca went to the restroom, removed the 49.75 net grams of heroin from his body cavity and then gave the heroin to the undercover agent.

Overt Act 17

On August 29, 2017, Erik DeLeon asked the undercover agent for payment for arranging to have the 49.75 net grams of heroin smuggled into the United States, and the undercover agent gave Erik DeLeon \$200.

Overt Act 18

On September 25, 2017, Jesus Salvador Otero-Martinez, through Facebook Messenger, discussed with the undercover agent the sale of two ounces of heroin to the undercover agent, with the transaction to occur the next day.

Overt Act 19

On September 25, 2017, Erik DeLeon agreed to meet the undercover agent in El Paso, Texas, the next day.

Overt Act 20

On September 26, 2017, Erik DeLeon called the undercover agent and told the undercover agent to meet Erik DeLeon at the Carl's Jr. at 9701 Alameda in El Paso, Texas.

Overt Act 21

On September 26, 2017, Erik DeLeon and Matthew Torres met the undercover agent at the Carl's Jr. at 9701 Alameda in El Paso, Texas, and Matthew Torres traveled with the undercover agent to the Ysleta Port of Entry where Matthew Torres obtained \$1,200 from the undercover agent to purchase heroin from Jesus Salvador Otero-Martinez.

Overt Act 22

On September 26, 2017, after Matthew Torres entered the Ysleta Port of Entry to cross into Mexico, the undercover agent contacted Jesus Salvador Otero-Martinez through Facebook Messenger and informed Jesus Salvador Otero-Martinez that Matthew Torres was on his way.

Overt Act 23

On September 26, 2017, after Matthew Torres returned from Ciudad Juarez, Mexico, Matthew Torres traveled with the undercover agent to the Carl's Jr. at 9701 Alameda in El Paso, Texas, where Matthew Torres removed 49.9 net grams of heroin from his body cavity and then gave the 49.9 net grams of heroin to the undercover agent.

Overt Act 24

On March 6, 2018, Erik DeLeon agreed to go to Mexico to obtain three ounces of heroin for the undercover agent.

Overt Act 25

On March 7, 2018, Erik DeLeon met with the undercover agent at the Carl's Jr. at 9701 Alameda in El Paso, Texas, and obtained \$1,800 from the undercover agent to purchase the three ounces of heroin.

Overt Act 26

On March 7, 2018, Erik DeLeon counted the \$1,800 the undercover agent had given him, placed it in his shoe, and then traveled with the undercover agent to the Ysleta Port of Entry, where Erik DeLeon entered Ciudad Juarez, Mexico.

Overt Act 27

On March 7, 2018, after Erik DeLeon crossed into Ciudad Juarez, Mexico, Jesus Salvador Otero-Martinez learned from the undercover agent through Facebook Messenger that Erik DeLeon was on his way.

Overt Act 28

On March 7, 2018, Erik DeLeon returned from Ciudad Juarez, Mexico with 74.9 net grams of heroin he had obtained from Jesus Salvador Otero-Martinez.

Overt Act 29

On March 7, 2018, after Erik DeLeon returned from Ciudad Juarez, Mexico with 74.9 net grams of heroin, the undercover agent drove Erik DeLeon to the Carl's Jr. at 9701 Alameda in El Paso, Texas, and Erik DeLeon removed the 74.9 net grams of heroin from his body cavity and gave it to the undercover agent.

Overt Act 30

On March 12, 2018, Jesus Salvador Otero-Martinez and the undercover agent arranged through Facebook Messenger for the undercover agent to purchase "seven morenas," meaning seven ounces of heroin.

Overt Act 31

On March 12, 2018, Matthew Torres through Facebook Messenger agreed to serve as the "runner" to obtain the seven ounces of heroin from Jesus Salvador Otero-Martinez.

Overt Act 32

On March 15, 2018, the Jesus Salvador Otero-Martinez through Facebook Messenger confirmed with the undercover agent that the heroin purchase would be the next day.

Overt Act 33

On March 16, 2018, Matthew Torres met the undercover agent at the Giant Gas Station on University Avenue in Las Cruces, New Mexico, and traveled with the undercover agent to the Ysleta Port of Entry.

Overt Act 34

On March 16, 2018, after the undercover agent and Matthew Torres arrived at the Ysleta Port of Entry, Matthew Torres obtained \$4,025 from the undercover agent to purchase the seven ounces of heroin, and Matthew Torres crossed into Ciudad Juarez, Mexico, through the Ysleta Port of Entry.

Overt Act 35

On March 16, 2018, approximately one hour after Matthew Torres entered Ciudad Juarez, Mexico, Jesus Salvador Otero-Martinez sent the undercover agent a message through Facebook Messenger that Matthew Torres was returning from Mexico.

Overt Act 36

On March 16, 2018, Matthew Torres returned from Ciudad Juarez, Mexico, through the Ysleta Port of Entry, and traveled with the undercover agent to the Carl's Jr. at 9701 Alameda in El Paso, Texas, where Matthew Torres removed 174 net grams of heroin from his body cavity and then gave the 174 net grams of heroin to the undercover agent.

Overt Act 37

On March 16, 2018, after Matthew Torres gave the undercover agent the 174 net grams of heroin, Matthew Torres received \$300 from the undercover agent for serving as the courier.

Overt Act 38

On June 18, 2018, Matthew Torres through Facebook Messenger agreed to serve as a courier for a heroin transaction.

Overt Act 39

On June 20, 2018, Matthew Torres met the undercover agent at the Chevron gas station on Valley and University in Las Cruces, New Mexico, and traveled with the undercover agent to the Ysleta Port of Entry, where the undercover agent gave Matthew Torres \$3,000 to purchase five ounces of heroin.

Overt Act 40

On June 20, 2018, after arriving at the Ysleta Port of Entry, Matthew Torres left the undercover vehicle and walked to Ciudad Juarez, Mexico, through the Ysleta Port of Entry.

Overt Act 41

On June 20, 2018, Matthew Torres entered the Ysleta Port of Entry from Ciudad Juarez, Mexico, with 120.38 net grams of heroin Matthew Torres had obtained from Jesus Salvador Otero-Martinez concealed in his body cavity.

In violation of 21 U.S.C. § 846.

Count 2

On or about August 25, 2017, in Doña Ana County, in the District of New Mexico, the defendants, **ERIK DELEON** and **DONNIE EDWARD BACA**, unlawfully, knowingly and intentionally distributed a controlled substance, a mixture and substance containing a detectable amount of heroin.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C), and 18 U.S.C. § 2.

FORFEITURE ALLEGATIONS

The allegations contained in Counts 1 and 2 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to 21 U.S.C. § 853.

Upon conviction of an offense in violation of 21 U.S.C. §§ 841 or 846, the defendants, **JESUS SALVADOR OTERO-MARTINEZ, a.k.a. "Salvador Otero," a.k.a. "Otero Otero," ERIK DELEON, MATTHEW TORRES, and DONNIE EDWARD BACA,** shall forfeit to the United States of America pursuant to 21 U.S.C. § 853 any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of each offense for which the defendants are convicted and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense(s) of conviction.

The property to be forfeited includes, but is not limited to, the following:

1. MONEY JUDGMENT

A sum of money equal to at least \$12,725 in U.S. currency, representing the proceeds obtained, directly or indirectly, as a result of the offenses set forth in Counts 1 and 2.

2. SUBSTITUTE ASSETS

If any of the property described above, 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 21 U.S.C. § 853(p), 18 U.S.C. § 982(b), and 28 U.S.C. § 2461(c), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

A TRUE BILL:



Assistant United States Attorney



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/s/
FOREPERSON OF THE GRAND JURY