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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No. 06-569 (SDW)
	:	
v.	:	
	:	21 U.S.C. § 846;
ARSENIO ARZOLA,	:	18 U.S.C. §§ 111(a)(1),
BENJAMIN ARZOLA,	:	111(b), 922(g)(1),
MISAEL ARZOLA,	:	924(c) and 2
a/k/a "Wilson,"	:	
DOMINGO HERNANDEZ,	:	
MAXIMINO NIEVES,	:	
NELSON REYES,	:	S E C O N D
a/k/a "Danny," and	:	S U P E R S E D I N G
RUBEN SOTO	:	I N D I C T M E N T

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges:

COUNT ONE

(Conspiracy to Distribute and Possess with Intent to Distribute a Controlled Substance)

1. From in or about October 1999 through on or about June 30, 2005, in Hudson County, in the District of New Jersey and elsewhere, defendants

ARSENIO ARZOLA,
BENJAMIN ARZOLA,
MISAEL ARZOLA,
a/k/a "Wilson,"
DOMINGO HERNANDEZ,
MAXIMINO NIEVES,
NELSON REYES,
a/k/a "Danny," and
RUBEN SOTO

did knowingly and intentionally conspire with each other and with others to distribute and to possess with intent to distribute 5 kilograms or more of cocaine, a Schedule II narcotic drug

controlled substance, contrary to Title 21, United States Code, Sections 841(a) and (b)(1)(A).

MANNER AND MEANS

2. It was part of the conspiracy that ARSENIO ARZOLA, BENJAMIN ARZOLA, MISAEL ARZOLA, DOMINGO HERNANDEZ, MAXIMINO NIEVES, NELSON REYES, RUBEN SOTO and others ("the Arzola Organization") obtained cocaine from one another and others.

3. It was further a part of the conspiracy that members of the Arzola Organization stored cocaine at various locations, including locations in Essex and Hudson Counties, in the District of New Jersey and elsewhere.

4. It was further a part of the conspiracy that members of the Arzola Organization distributed cocaine at various locations, including locations in Essex and Hudson Counties, in the District of New Jersey and elsewhere.

5. It was further a part of the conspiracy that members of the Arzola Organization collected and stored the proceeds of their narcotics sales.

6. It was further a part of the conspiracy that members of the Arzola Organization possessed, stored and used firearms and firearms ammunition to protect the Arzola Organization's narcotics trafficking activities.

7. It was further a part of the conspiracy that members of the Arzola Organization communicated using telephones

and conducted meetings in person to discuss narcotics sales, the collection of narcotics proceeds and other business related to the trafficking of narcotics.

In violation of Title 21, United States Code, Section 846.

COUNT TWO

(Assaulting, Resisting, or Impeding
Certain Officers or Employees)

On or about June 30, 2005, in Jersey City, in the District of New Jersey and elsewhere, defendant

ARSENIO ARZOLA

did knowingly, willfully and forcibly assault, resist, oppose, impede, intimidate and interfere with a Drug Enforcement Administration agent, a person designated by Title 18, United States Code, Section 1114 as an officer and employee of an agency of the United States, while that agent was engaged in and on account of the performance of his official duties, by discharging a firearm in the direction of the Drug Enforcement Administration agent during the execution of a search warrant.

In violation of Title 18, United States Code, Sections 111(a)(1) and (b) and 2.

COUNT THREE

(Possession of a Firearm in Furtherance of a Crime of Violence)

On or about June 30, 2005, in the District of New Jersey and elsewhere, defendant

ARSENIO ARZOLA

during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, namely, assaulting a federal agent as set forth in Count TWO of this Indictment, contrary to Title 18, United States Code, Sections 111(a)(1) and (b) and 2, did knowingly and willfully use, carry, and in furtherance of such crime, possess a firearm, namely, a loaded AMP Backup .380 caliber semi-automatic pistol, bearing serial number AA7939, which firearm was discharged.

In violation of Title 18, United States Code, Sections 924(c)(1)(A)(iii) and 2.

COUNT FOUR

(Possession of a Firearm in Furtherance of a Drug Trafficking Crime)

On or about June 30, 2005, in the District of New Jersey and elsewhere, defendant

ARSENIO ARZOLA

during and in relation to a drug trafficking crime for which he may be prosecuted in a court of the United States, namely, conspiracy to distribute and possess with intent to distribute five kilograms or more of cocaine as set forth in Count ONE of this Indictment, contrary to Title 21, United States Code, Section 846, did knowingly and willfully use, carry, and in furtherance of such crime, possess a firearm, namely a loaded AMP Backup .380 caliber semi-automatic pistol, bearing serial number AA7939, which firearm was discharged.

In violation of Title 18, United States Code, Sections 924(c)(1)(A)(iii) and 2.

COUNT FIVE

(Possession of a Firearm in Furtherance of a Drug Trafficking Crime)

On or about June 30, 2005, in the District of New Jersey and elsewhere, defendant

BENJAMIN ARZOLA

during and in relation to a drug trafficking crime for which he may be prosecuted in a court of the United States, namely, conspiracy to distribute and possess with intent to distribute five kilograms or more of cocaine as set forth in Count ONE of this Indictment, contrary to Title 21, United States Code, Section 846, did knowingly and willfully use, carry, and in furtherance of such crime, possess a firearm, namely, a loaded Glock .40 caliber semi-automatic handgun, bearing serial number APH513 US.

In violation of Title 18, United States Code, Sections 924(c)(1)(A)(i) and 2.

COUNT SIX

(Possession of a Firearm in Furtherance of a Drug Trafficking Crime)

On or about June 30, 2005, in the District of New Jersey and elsewhere, defendant

MISAEL ARZOLA,
a/k/a "Wilson"

during and in relation to a drug trafficking crime for which he may be prosecuted in a court of the United States, namely conspiracy to distribute and possess with intent to distribute five kilograms or more of cocaine as set forth in Count ONE of this Indictment, contrary to Title 21, United States Code, Section 846, did knowingly and willfully use, carry, and in furtherance of such crime, possess a firearm, namely, a loaded Lorcin .380 caliber pistol, bearing serial number 523750.

In violation of Title 18, United States Code, Sections 924(c)(1)(A)(i) and 2.

COUNT SEVEN

(Felon in Possession of a Firearm)

On or about June 30, 2005, in the District of New Jersey, and elsewhere, defendant

ARSENIO ARZOLA

having been previously convicted of a crime punishable by imprisonment for a term exceeding one year in a court in the State of New Jersey, did knowingly possess in and affecting commerce a firearm and ammunition, including (1) a loaded AMP Backup .380 caliber semi-automatic pistol, bearing serial number AA7939; (2) a loaded .32 caliber Walther semi-automatic pistol, bearing serial number 54172; (3) a loaded Smith and Wesson .44 caliber revolver, bearing serial number N69592; and (4) a loaded .32 caliber Colt revolver bearing serial number 137004.

In violation of Title 18, United States Code, Section 922(g)(1).

COUNT EIGHT

(Felon in Possession of a Firearm)

On or about June 30, 2005, in the District of New Jersey, and elsewhere, defendant

DOMINGO HERNANDEZ

having been previously convicted of a crime punishable by imprisonment for a term exceeding one year in a court in the State of New Jersey, did knowingly possess in and affecting commerce a firearm, namely a Hi-Point .380 caliber semi-automatic pistol, bearing serial number P743577.

In violation of Title 18, United States Code, Section 922(g)(1).

FORFEITURE ALLEGATION ONE

1. The allegations contained in this Indictment are incorporated by reference as though set forth in full herein for the purpose of noticing forfeiture pursuant to Title 21, United States Code, Section 853.

2. As a result of committing the controlled substance offense alleged in Count ONE of this Indictment, defendants Benjamin Arzola and Domingo Hernandez, shall forfeit to the United States: any and all property constituting, or derived from, any proceeds the said defendants obtained directly or indirectly as a result of the said violation; and any and all property used or intended to be used in any manner or part to commit or to facilitate the commission of the said violation, including but not limited to the following real property:

a. All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at 160 Harrison Avenue, Jersey City, New Jersey.

b. All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at 115 Highland Avenue, Unit Four, Jersey City, New Jersey.

3. If any of the above-described forfeitable property, as a result of any act or omission of the defendant(s):

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 intent of the United States to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

Pursuant to Title 21, United States Code, Section 853.

FORFEITURE ALLEGATION TWO

1. The allegations contained in Counts ONE through FOUR and Count SEVEN of this Indictment are incorporated by reference as though set forth in full herein for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Sections 924(d)(1) and 3665, Title 21, United States Code, 853 and Title 28, United States Code, Section 2461(c).

2. Upon conviction of the offense:

a. in violation of Title 21, United States Code, Section 846 set forth in Count ONE of this Indictment;

b. in violation of Title 18, United States Code, Sections 111(a)(1) and (b) set forth in Count TWO of this Indictment;

c. in violation of Title 18, United States Code, Section 924(c) set forth in Counts THREE and FOUR of this Indictment; or

d. in violation of Title 18, United States Code, Section 922(g)(1) set forth in Count SEVEN of this Indictment, the defendant,

ARSENIO ARZOLA,

shall forfeit to the United States any firearms and ammunition involved in or used in the commission of those offenses, including the following:

(1) AMP Backup .380 caliber semi-automatic pistol bearing serial number AA7939;

(2) Five rounds of .380 caliber ammunition;

(3) .32 caliber Walther semi-automatic pistol bearing serial number 54172;

(4) Eight rounds of .32 caliber ammunition;

(5) Smith and Wesson .44 magnum revolver bearing serial number N69592;

(6) Five rounds of .44 caliber ammunition; and

(7) .32 caliber Colt revolver bearing serial number 137004.

All pursuant to Title 18, United States Code, Sections 924(d) and 3665, Title 21 United States Code, Section 853, and Title 28, United States Code, Section 2461(c).

FORFEITURE ALLEGATION THREE

1. The allegations contained in Counts ONE and FIVE of this Indictment are incorporated by reference as though set forth in full herein for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 924(d)(1), Title 21, United States Code, 853 and Title 28, United States Code, Section 2461(c).

2. Upon conviction of the offense:

a. in violation of Title 21, United States Code, Section 846 set forth in Count ONE of this Indictment; or

b. in violation of Title 18, United States Code, Section 924(c) set forth in Count FIVE this Indictment, the defendant,

BENJAMIN ARZOLA,

shall forfeit to the United States any firearms and ammunition involved in or used in the commission of those offenses, including the following:

(1) Glock .40 caliber semi-automatic handgun bearing serial number APH513 US; and

(2) Eleven rounds of .40 caliber ammunition.

All pursuant to Title 18, United States Code, Section 924(d), Title 21 United States Code, Section 853, and Title 28, United States Code, Section 2461(c).

FORFEITURE ALLEGATION FOUR

1. The allegations contained in Counts ONE and SIX of this Indictment are incorporated by reference as though set forth in full herein for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 924(d)(1), Title 21, United States Code, 853 and Title 28, United States Code, Section 2461(c).

2. Upon conviction of the offense:

a. in violation of Title 21, United States Code, Section 846 set forth in Count ONE of this Indictment; or

b. in violation of Title 18, United States Code, Section 924(c) set forth in Count SIX this Indictment, the defendant,

MISAEL ARZOLA,
a/k/a "Wilson"

shall forfeit to the United States any firearms and ammunition involved in or used in the commission of those offenses, including the following:

(1) Lorcin .380 caliber pistol bearing serial number 523750; and

(2) Seven rounds of .380 caliber ammunition.

All pursuant to Title 18, United States Code, Section 924(d), Title 21 United States Code, Section 853, and Title 28, United States Code, Section 2461(c).

FORFEITURE ALLEGATION FIVE

1. The allegations contained in Counts ONE and EIGHT of this Indictment are incorporated by reference as though set forth in full herein for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 924(d)(1), Title 21, United States Code, 853 and Title 28, United States Code, Section 2461(c).

2. Upon conviction of the offense:

a. in violation of Title 21, United States Code, Section 846 set forth in Count ONE of this Indictment; or

b. in violation of Title 18, United States Code, Section 922(g)(1) set forth in Count EIGHT of this Indictment, the defendant

DOMINGO HERNANDEZ

shall forfeit to the United States any firearms and ammunition involved in or used in the commission of those offenses, including the following:

Hi-Point .380 caliber semi-automatic pistol bearing serial number P743577.

All pursuant to Title 18, United States Code, Section 924(d), Title 21 United States Code, Section 853, and Title 28, United States Code, Section 2461(c).

A TRUE BILL

Christopher J. Christie

CHRISTOPHER J. CHRISTIE
United States Attorney

CASE NUMBER: 06-569 (SDW)

United States District Court
District of New Jersey

UNITED STATES OF AMERICA

v.

ARSENIO ARZOLA,
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MAXIMINO NIEVES,
NELSON REYES,
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RUBEN SOTO

SUPERSEDING INDICTMENT FOR

21 U.S.C. §§ 841(a),
841(b)(1)(C) and 846;
18 U.S.C. §§ 111(a)(1),
111(b), 922(g)(1), 924(c) and 2

True Bill,

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