

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

UNITED STATES OF AMERICA

v.

INDICTMENT

5:10 CR 39 RS/2B

RAMIRO GOMEZ-GOMEZ

a/k/a "Carnal"

a/k/a "Ticas"

a/k/a "Tgre"

a/k/a "Nona"

a/k/a "Jenaro Cora Gonzalez,"

JULIAN GARCIA-PENALOZA

a/k/a "Alberto Moreno-Garza"

a/k/a "Martin Ramirez-Rodriguez"

a/k/a "Machin Aguilar-Gaona"

a/k/a "Primo,"

SANTIAGO VALDEZ-GOMEZ

a/k/a "Juan Mendoza-Sanches"

a/k/a "Adolfo Yrias-Celis"

a/k/a "Adolfo Yrias-Selis"

a/k/a "Guicho,"

JOSE BARAJAS

a/k/a "Tortugo,"

PASCUAL MONTOR-TORRES

a/k/a "Toloche"

a/k/a "Cacheton,"

MARIA CIFUENTES-ESPINOZA

a/k/a "Claudia,"

and

FLORENCIO BARRIOS-HERNANDEZ

THE GRAND JURY CHARGES:

Filed 06/22/10 USDF in 1 PM 0217

as/m

COUNT ONE

I. INTRODUCTION

At all times relevant to this Indictment:

1. Mexico is a transshipment point for narcotics flowing into the United States and also is a location for the manufacturer of narcotics.
2. Mexican drug cartels are responsible for the exportation of narcotics into the United States from Mexico. The drug cartels control their narcotics-supply routes through the use of violence against rival cartels and government forces.
3. Handguns and rifles are heavily restricted in Mexico. Therefore, to arm themselves, the drug cartels have sought to have firearms purchased in the United States and smuggled to Mexico.
4. The Arms Export Control Act ("AECA"), as amended, and codified at 22 U.S.C. §§2751 to 2799aa-2, authorizes the President to control the export of commodities, services, and technologies designated as "defense articles" and "defense services," in furtherance of the security and foreign policy interests of the United States. The articles and services so designated constitute the U.S. Munitions List ("USML"), which is published at 22 C.F.R. § 121. The AECA provides that individuals or entities seeking to export articles or services listed in the USML must first register with and obtain an export license from the U.S. Department of State Directorate of Defense Trade Controls ("DOS"). The President has delegated to DOS the authority to designate

defense articles and defense services and to issue regulations governing the licensing of designated materials.

5. The DOS regulations implementing the provisions of the AECA are entitled the International Traffic in Arms Regulations ("ITAR"), Title 22 Code of Federal Regulations, Sections 120-130 (Subchapter M). The ITAR identify by category the defense-related articles and services that are covered by the USML and establish the requirements and procedures for registering with and obtaining a license from DOS for the export of any such materials. Among other requirements, the ITAR requires an applicant for an export license to identify the ultimate and final destination of the goods or services.

6. Category I of the USML covers several classifications of firearms, including fully automatic firearms up to .50 caliber. *See* 22 C.F.R. § 121.1, Category I (b). An Arsenal Co., Model AKMS, 7.62 x 39 mm machinegun is a weapon covered by Category I of the USML and is a defense article that could not be exported from the United States without a license issued by the DOS.

II. CHARGE

That between in or about April 2009, and on or about May 28, 2010, in the Northern District of Florida and elsewhere, the defendants,

RAMIRO GOMEZ-GOMEZ
a/k/a "Carnal"
a/k/a "Ticas"
a/k/a "Tgre"
a/k/a "Nona"

**a/k/a "Jenaro Cora Gonzalez,"
JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"
a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"**

did knowingly and willfully combine, conspire, confederate and agree together and with other persons to export and cause to be exported from the United States to Mexico defense articles, that is, Arsenal Co., Model AKMS, 7.62 x 39 mm machineguns, which were designated as a defense article on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export, in violation of Title 22, United States Code, Sections 2778(b)(2) and 2778(c), and Title 22, Code of Federal Regulations, Sections 121.1, 123.1, 127.1(a), and 127.3.

III. OVERT ACTS

In furtherance of the conspiracy, and to accomplish the objects of the conspiracy, at least one of the co-conspirators committed or caused to be committed at least one of the following overt acts, among others, in the Northern District of Florida and elsewhere:

1. In or around April 2009, the defendant, **RAMIRO GOMEZ-GOMEZ**, spoke to a person who unbeknownst to him was cooperating with law enforcement (the "CI"). During this conversation, **GOMEZ-GOMEZ** told the CI that **GOMEZ-GOMEZ** was interested in purchasing assault weapons, bullet-proof vests, and hand grenades to

protect members of the Mexican drug cartel with whom **GOMEZ-GOMEZ** was affiliated and whom **GOMEZ-GOMEZ** referred to as his "raza."

2. On or about January 11, 2010, the defendant, **JULIAN GARCIA-PENALOZA**, spoke to the CI and told the CI that **GARCIA-PENALOZA** wanted twenty (20) AK-47 assault rifles and bullet proof vests for others and that he wanted one (1) AK-47 assault rifle for himself.

3. On or about March 29, 2010, the defendant, **RAMIRO GOMEZ-GOMEZ**, spoke to the CI and told the CI that **GOMEZ-GOMEZ** wanted to purchase AK-47 assault rifles and ballistic vests from the CI and that **GOMEZ-GOMEZ** needed the same type of weapons used by "the enemy" in Mexico. **GOMEZ-GOMEZ** also told the CI that **GOMEZ-GOMEZ** wanted as many bullets for the firearms as the CI could supply.

4. On or about April 14, 2010, the defendants, **RAMIRO GOMEZ-GOMEZ**, and **JULIAN GARCIA-PENALOZA**, met with the CI. During this meeting, **GOMEZ-GOMEZ** told the CI that **GOMEZ-GOMEZ** knew someone who wanted to purchase eight-hundred (800) AK-47 assault rifles because things had been tough in Mexico. **GOMEZ-GOMEZ** also told the CI that **GOMEZ-GOMEZ** wanted three (3) fully-automatic firearms for himself.

5. On or about April 23, 2010, the defendant, **RAMIRO GOMEZ-GOMEZ** spoke to the CI and told the CI that **GOMEZ-GOMEZ** was ready to purchase one-

hundred (100) AK-47 firearms, as well as hand grenades that **GOMEZ-GOMEZ** referred to as “apples.”

6. On or about April 23, 2010, the defendant, **RAMIRO GOMEZ-GOMEZ**, spoke to the CI. During the conversation, **GOMEZ-GOMEZ** and the CI agreed that the CI would provide **GOMEZ-GOMEZ** with fifty (50) AK-47 firearms at a price of \$800 each for a total of \$40,000 and ten (10) hand grenades at a price of \$300 each for a total of \$3000. **GOMEZ-GOMEZ** and the CI further agreed in the conversation that **GOMEZ-GOMEZ** would pay the CI a down payment of one-half of the total amount owed for the firearms and grenades with the balance due upon delivery.

7. On or about April 26, 2010, the defendant, **RAMIRO GOMEZ-GOMEZ** spoke to the CI. During the conversation, **GOMEZ-GOMEZ** asked the CI to travel to Atlanta, GA and then to Tampa, FL to pick up money to be used as the down payment on the firearms. The CI refused to travel to get the money, but confirmed with **GOMEZ-GOMEZ** that the CI was getting fifty (50) “fully-automatic” AK-47 machineguns for **GOMEZ-GOMEZ**. The CI also told **GOMEZ-GOMEZ** that it would take the CI two or three weeks to deliver the weapons after the down payment was received. **GOMEZ-GOMEZ** told the CI that a two-to-three-week turnaround time was acceptable, but that **GOMEZ-GOMEZ**’s “people” wanted them as soon as possible.

8. On or about April 26, 2010, the defendant, **RAMIRO GOMEZ-GOMEZ** again spoke to the CI. During this conversation, **GOMEZ-GOMEZ** told the CI that

GOMEZ-GOMEZ no longer wanted hand grenades, but that he still wanted the firearms.

9. On or about April 28, 2010, the defendant, **RAMIRO GOMEZ-GOMEZ**, spoke to the CI. During this conversation, **GOMEZ-GOMEZ** arranged for another person ("Individual A") to meet with the CI to provide the CI with the down payment on the purchase of fifty (50) AK-47 machineguns.

10. On or about April 28, 2010, the defendant, **RAMIRO GOMEZ-GOMEZ**, caused Individual A to meet with the CI in or around Chipley, Florida and to deliver to the CI approximately \$23,000 as the down payment on the purchase of fifty (50) fully-automatic AK-47 machineguns.

11. On or about May 17, 2010, the defendants **RAMIRO GOMEZ-GOMEZ**, **JULIAN GARCIA-PENALOZA**, and **SANTIAGO VALDEZ-GOMEZ**, arranged for and delivered to the CI approximately one (1) pound of methamphetamine as the final payment for the fifty (50) fully automatic AK-47 machineguns.

12. On or about May 28, 2010, the defendants, **JULIAN GARCIA-PENALOZA**, **SANTIAGO VALDEZ-GOMEZ**, and **FLORENCIO BARRIOS-HERNANDEZ**, drove from the Dothan, Alabama area to Panama City, Florida, where they met with the CI at a storage facility, which housed the fifty (50) fully automatic AK-47 machineguns, specifically Arsenal Co., Model AKMS, 7.62x39 mm machineguns.

GARCIA-PENALOZA, VALDEZ-GOMEZ, and BARRIOS-HERNANDEZ had taken possession of ten (10) of the machineguns.

13. At no point did the defendants, **RAMIRO GOMEZ** and **JULIAN GARCIA-PENALOZA** obtain a license from DOS for the export of Arsenal Co., Model AKMS, 7.62x39 mm machineguns.

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

COUNT TWO

I. INTRODUCTION

Section I, Paragraphs 1 through 6, of Count One of this Indictment are hereby realleged and incorporated by reference herein.

II. CHARGES

That between in or about April 2009, and on or about May 28, 2010, in the Northern District of Florida and elsewhere, the defendants,

RAMIRO GOMEZ-GOMEZ
a/k/a "Carnal"
a/k/a "Ticas"
a/k/a "Tgre"
a/k/a "Nona"
a/k/a "Jenaro Cora Gonzalez,"
and
JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"
a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"

did knowingly combine, conspire, confederate and agree together and with other persons

to possess and transfer machineguns, that is, fifty (50) Arsenal Co., Model AKMS, 7.62x39mm machineguns, in violation of Title 18, United States Code, Sections 922(o), 924(a)(2), and 2.

III. OVERT ACTS

In furtherance of this conspiracy, and to accomplish the objects of the conspiracy, at least one of the co-conspirators committed or caused to be committed at least one of the following overt acts, among others, in the Northern District of Florida and elsewhere:

The Overt Acts described in Section III, paragraphs 1 through 13 of Count One of the Indictment are realleged and incorporated herein.

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

COUNT THREE

That on or about May 28, 2010, in the Northern District of Florida and elsewhere, the defendants,

RAMIRO GOMEZ-GOMEZ
a/k/a "Carnal"
a/k/a "Ticas"
a/k/a "Tgre"
a/k/a "Nona"
a/k/a "Jenaro Cora Gonzalez,"
and
JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"
a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"

did knowingly possess and transfer machineguns, that is, ten (10) Arsenal Co., Model

AKMS, 7.62x39 mm machineguns, in violation of Title 18, United States Code, Sections 922(o), 924(a)(2), and 2.

COUNT FOUR

That on or about May 28, 2010, in the Northern District of Florida and elsewhere, the defendants,

RAMIRO GOMEZ-GOMEZ
a/k/a "Carnal"
a/k/a "Ticas"
a/k/a "Tgre"
a/k/a "Nona"
a/k/a "Jenaro Cora Gonzalez,"
and
JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"
a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"

did knowingly possess firearms, as defined in Title 26, United States Code, Section 5845(a), that is, ten (10) Arsenal Co., Model AKMS, 7.62x39 mm machineguns, which firearms were not registered to them in the National Firearms Registration and Transfer Record, as required by Title 26, United States Code, Chapter 53.

All in violation of Title 26, United States Code, Sections 5861(d) and 5871 and Title 18, United States Code, Section 2.

COUNT FIVE

That on or about May 28, 2010, in the Northern District of Florida and elsewhere, the defendants,

RAMIRO GOMEZ-GOMEZ
a/k/a "Carnal"
a/k/a "Ticas"
a/k/a "Tgre"
a/k/a "Nona"
a/k/a "Jenaro Cora Gonzalez,"
JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"
a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"
SANTIAGO VALDEZ-GOMEZ,
a/k/a "Juan Mendoza-Sanches"
a/k/a "Adolfo Yrias-Celis"
a/k/a "Adolfo Yrias-Selis"
a/k/a "Guicho,"
and
FLORENCIO BARRIOS-HERNANDEZ,

then being aliens illegally and unlawfully in the United States, did knowingly possess in and affecting interstate and foreign commerce firearms, that is ten (10) Arsenal Co., Model AKMS, 7.62x39 mm machineguns, in violation of Title 18, United States Code, Sections 922(g)(5)(A), 924(a)(2), and 2.

COUNT SIX

That between in or about April 2009 and on or about May 28, 2010, in the Northern District of Florida and elsewhere, the defendants,

RAMIRO GOMEZ-GOMEZ
a/k/a "Carnal"
a/k/a "Ticas"
a/k/a "Tgre"
a/k/a "Nona"
a/k/a "Jenaro Cora Gonzalez,"
JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"

a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"
SANTIAGO VALDEZ-GOMEZ
a/k/a "Juan Mendoza-Sanches"
a/k/a "Adolfo Yrias-Celis"
a/k/a "Adolfo Yrias-Selis"
a/k/a "Guicho,"
JOSE BARAJAS
a/k/a "Tortugo,"
PASCUAL MONTOR-TORRES
a/k/a "Toloche"
a/k/a "Cacheton,"
MARIA CIFUENTES-ESPINOZA
a/k/a "Claudia,"
and
FLORENCIO BARRIOS-HERNANDEZ,

did knowingly and willfully combine, conspire, confederate and agree together and with other persons to distribute and possess with intent to distribute controlled substances, in violation of Title 21, United States Code, Section 841(a)(1), and that this offense involved more than five (5) kilograms of a mixture and substance containing cocaine, and more than five-hundred (500) grams of a mixture and substance containing methamphetamine, in violation of Title 21, United States Code, Sections 841(b)(1)(A)(ii) and 841(b)(1)(A)(viii).

All in violation of Title 21, United States Code, Section 846.

COUNT SEVEN

That on or about May 28, 2010, in the Northern District of Florida, the defendants

RAMIRO GOMEZ-GOMEZ
a/k/a "Carnal"
a/k/a "Ticas"

a/k/a "Tgre"
a/k/a "Nona"
a/k/a "Jenaro Cora Gonzalez,"
JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"
a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"

during and in relation to, and in furtherance of, a drug trafficking crime for which they may be prosecuted in a court of the United States, that is, conspiracy to distribute and possess with intent to distribute cocaine, as charged in Count Six of this Indictment, did knowingly use, carry, and possess firearms, namely, ten (10) Arsenal Co., Model AKMS, 7.62X39 mm machineguns.

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

COUNT EIGHT

That on or about January 11, 2010, in the Northern District of Florida, the defendant,

JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"
a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"

did knowingly and intentionally distribute and possess with intent to distribute controlled substances, and that this offense involved a mixture and substance containing cocaine and

a mixture and substance containing methamphetamine, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT NINE

That on or about May 23, 2010, in the Northern District of Florida and elsewhere,
the defendant,

JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"
a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"
'and
JOSE BARAJAS
a/k/a "Tortugo,"

did knowingly and intentionally distribute and possess with intent to distribute controlled substances, and that this offense involved more than five-hundred (500) grams of a mixture and substance containing cocaine, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(c), and Title 18, United States Code, Section 2.

COUNT TEN

That on or about May 28, 2010, in the Northern District of Florida, the
defendant,

JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"
a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"

an alien who had previously been denied admission, excluded, deported, and removed, and had departed the United States while an order of exclusion, deportation, and removal was outstanding, thereafter was found in the United States having not obtained the consent of the Secretary of the Department of Homeland Security to reapply for admission to the United States on or after March 1, 2003, in violation of Title 8, United States Code, Sections 1326(a) and (b)(2).

COUNT ELEVEN

That on or about May 28, 2010, in the Northern District of Florida, the
defendant,

SANTIAGO VALDEZ-GOMEZ
a/k/a "Juan Mendoza-Sanches"
a/k/a "Adolfo Yrias-Celis"
a/k/a "Adolfo Yrias-Selis"
a/k/a "Guicho,"

an alien who had previously been denied admission, excluded, deported, and removed, and had departed the United States while an order of exclusion, deportation, and removal was outstanding, thereafter was found in the United States having not obtained the consent of the Secretary of the Department of Homeland Security to reapply for admission to the United States on or after March 1, 2003, in violation of Title 8, United States Code, Sections 1326(a) and (b)(2).

CRIMINAL FORFEITURE

The allegations contained in Counts Six, Eight and Nine of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 21, United States Code, Section 853.

From their engagement in the violations alleged in Counts Six, Eight and Nine of this Indictment, each of which is punishable by imprisonment for more than one year, the defendants,

RAMIRO GOMEZ-GOMEZ
a/k/a "Carnal"
a/k/a "Ticas"
a/k/a "Tgre"
a/k/a "Nona"
a/k/a "Jenaro Cora Gonzalez,"
JULIAN GARCIA-PENALOZA
a/k/a "Alberto Moreno-Garza"
a/k/a "Martin Ramirez-Rodriguez"
a/k/a "Machin Aguilar-Gaona"
a/k/a "Primo,"
SANTIAGO VALDEZ-GOMEZ
a/k/a "Juan Mendoza-Sanches"
a/k/a "Adolfo Yrias-Celis"
a/k/a "Adolfo Yrias-Selis"
a/k/a "Guicho,"
JOSE BARAJAS
a/k/a "Tortugo,"
PASCUAL MONTOR-TORRES
a/k/a "Toloche"
a/k/a "Cacheton,"
MARIA CIFUENTES-ESPINOZA
a/k/a "Claudia,"
and
FLORENCIO BARRIOS-HERNANDEZ,

shall forfeit to the United States, pursuant to Title 21, United States Code, Sections 853, all of their interests in:

A. Property constituting or derived from any proceeds the defendants obtained directly or indirectly, as the result of such violations; and

B. Property used in any manner or part to commit or to facilitate the commission of such violations.

If any of the property subject to forfeiture as a result of any act or omission of the defendants:

- i. cannot be located upon the exercise of due diligence;
- ii. has been transferred or sold to, or deposited with, a third person;
- iii. has been placed beyond the jurisdiction of this Court;
- iv. has been substantially diminished in value; or
- v. 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 said defendants up to the value of the above forfeitable property.

All in violation of Title 21, United States Code, Section 853.

A TRUE BILL:

REDACTED

FOREPERSON

June 22, 2010
DATE

Thomas F. Kirwin

THOMAS F. KIRWIN
United States Attorney

Gayle E. Littleton

GAYLE E. LITTLETON
Assistant United States Attorney