

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

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

18 FEB 21 PM 2:33  
CLERK-LAS CRUCES *VR*

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

**JOSIAS GARCIA and**  
**EDUARDO CHAVEZ,**

Defendants. )

CRIMINAL NO. 18-534RB

Counts 1 and 7: 21 U.S.C. §§ 841(a)(1)  
and (b)(1)(D): Possession With Intent to  
Distribute Marijuana; 18 U.S.C. § 2:  
Aiding and Abetting;

Count 2: 18 U.S.C. § 1203(a): Conspiracy  
to Take a Hostage;

Counts 3-5: 18 U.S.C. § 1203(a): Hostage  
Taking; 18 U.S.C. § 2: Aiding and  
Abetting;

Count 6: 21 U.S.C. §846: Conspiracy;

Count 8: 18 U.S.C. § 924(c): Using,  
Carrying, and Brandishing a Firearm  
During and in Relation to a Drug  
Trafficking Crime and a Crime of  
Violence, and Possessing a Firearm in  
Furtherance of Such Crimes;

Counts 9 and 11: 8 U.S.C.  
§ 1324(a)(1)(A)(v)(I): Conspiracy to  
Transport Illegal Aliens;

Counts 10 and 13: 18 U.S.C. § 922(g)(1):  
Felon in Possession of a Firearm and  
Ammunition;

Count 12: 18 U.S.C. § 924(c): Using,  
Carrying, and Brandishing a Firearm  
During and in Relation to a Crime of  
Violence, and Possessing a Firearm in  
Furtherance of Such Crime;

Count 14: 18 U.S.C. § 371: Conspiracy;

Count 15: 18 U.S.C. § 554(a):  
Transportation of Goods Intended to Be

- ) Smuggled; 18 U.S.C. § 2: Aiding and
- ) Abetting;
- )
- ) Count 16: 18 U.S.C. § 554(a): Attempt to
- ) Smuggle Goods From the United States;
- ) 18 U.S.C. § 2: Aiding and Abetting;
- )
- ) Counts 17-20: 18 U.S.C. § 1512(b)(1):
- ) Tampering With a Witness by Intimidation
- ) or Threat.

INDICTMENT

The Grand Jury charges:

Count 1

On or about September 9, 2017, in Luna County, in the District of New Mexico, the defendant, **JOSIAS GARCIA**, unlawfully, knowingly and intentionally possessed with intent to distribute a controlled substance, marijuana.

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

Count 2

From on or about November 6, 2017, and continuing to on or about November 9, 2017, in Luna County, in the District of New Mexico, and elsewhere, the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, 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 seize and detain and threaten to kill, to injure, and to continue to detain another person in order to compel a third person to do any act, specifically, to pay a sum of United States currency, as an explicit and implicit condition for the release of the person detained.

In violation of 18 U.S.C. § 1203(a).

Count 3

From on or about November 6, 2017, and continuing to on or about November 9, 2017, in Luna County, in the District of New Mexico, the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, intentionally seized and detained, and threatened to kill, to injure, and to continue to detain another person, specifically, J.S.M., in order to compel a third person to do any act, specifically, to pay a sum of United States currency, as an explicit and implicit condition for the release of the person detained.

In violation of 18 U.S.C. §§ 1203(a) and 2.

Count 4

From on or about November 6, 2017, and continuing to on or about November 9, 2017, in Luna County, in the District of New Mexico, the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, intentionally seized and detained, and threatened to kill, to injure, and to continue to detain another person, specifically, E.C.T., in order to compel a third person to do any act, specifically, to pay a sum of United States currency, as an explicit and implicit condition for the release of the person detained.

In violation of 18 U.S.C. §§ 1203(a) and 2.

Count 5

From on or about November 6, 2017, and continuing to on or about November 9, 2017, in Luna County, in the District of New Mexico, the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, intentionally seized and detained, and threatened to kill, to injure, and to continue to detain another person, specifically, S.M.A., in order to compel a third person to do any act, specifically, to pay a sum of United States currency, as an explicit and implicit condition for the release of the person detained.

In violation of 18 U.S.C. §§ 1203(a) and 2.

Count 6

On or about November 6, 2017, in Luna County, in the District of New Mexico and elsewhere, the defendant, **JOSIAS GARCIA**, unlawfully, knowingly and intentionally combined, conspired, confederated, agreed, and acted interdependently 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) and (b)(1)(D), specifically, distribution of marijuana.

In violation of 21 U.S.C. § 846.

Count 7

On or about November 6, 2017, in Luna County, in the District of New Mexico, the defendant, **JOSIAS GARCIA**, unlawfully, knowingly and intentionally possessed with intent to distribute a controlled substance, marijuana.

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

Count 8

From on or about November 6, 2017, and continuing to on or about November 8, 2017, in Luna County, in the District of New Mexico, the defendant, **JOSIAS GARCIA**, knowingly used, carried, and brandished a firearm, during and in relation to a crime of violence for which the defendant may be prosecuted in a court of the United States, specifically, conspiracy to take a hostage, as charged in Count 2 of this Indictment, and hostage taking, as charged in Counts 3 through 5 of this Indictment, and during and in relation to a drug trafficking crime for which the defendant may be prosecuted in a court of the United States, specifically, conspiracy to distribute marijuana, as charged in Count 6 of this Indictment, and possession with intent to distribute marijuana, as charged in Count 7 of this Indictment, and in furtherance of such crimes, possessed said firearm.

In violation of 18 U.S.C. § 924(c).

Count 9

On or about November 6, 2017, in Luna County, in the District of New Mexico, and elsewhere, the defendant, **JOSIAS GARCIA**, combined, conspired, confederated, agreed, and acted interdependently with other persons whose names are known and unknown to the Grand Jury to commit an offense defined in 8 U.S.C. §§ 1324(a)(1)(A)(ii) and (a)(1)(B)(i), specifically, transporting illegal aliens.

In violation of 8 U.S.C. § 1324(a)(1)(A)(v)(I).

Count 10

From or about November 6, 2017, and continuing to on or about November 8, 2017, in Luna County, in the District of New Mexico, the defendant, **JOSIAS GARCIA**, having been convicted of the following felony crime punishable by imprisonment for a term exceeding one year: possession with intent to distribute a controlled substance, marijuana, knowingly possessed, in and affecting commerce, a firearm.

In violation of 18 U.S.C. § 922(g)(1).

Count 11

On or about November 8, 2017, in Luna County, in the District of New Mexico, and elsewhere, the defendant, **JOSIAS GARCIA**, combined, conspired, confederated, agreed, and acted interdependently with other persons whose names are known and unknown to the Grand Jury to commit an offense defined in 8 U.S.C. §§ 1324(a)(1)(A)(ii) and (a)(1)(B)(i), specifically, transporting an illegal alien.

In violation of 8 U.S.C. § 1324(a)(1)(A)(v)(I).

Count 12

On or about November 8, 2017, in Luna County, in the District of New Mexico, the defendant, **JOSIAS GARCIA**, knowingly used, carried, and brandished a firearm, during and in

relation to a crime of violence for which the defendant may be prosecuted in a court of the United States, specifically, conspiracy to take a hostage, as charged in Count 2 of this Indictment, and hostage taking, as charged in Counts 3 through 5 of this Indictment, and in furtherance of such crimes, possessed said firearm.

In violation of 18 U.S.C. § 924(c).

Count 13

On or about November 8, 2017, in Luna County, in the District of New Mexico, the defendant, **JOSIAS GARCIA**, having been convicted of the following felony crime punishable by imprisonment for a term exceeding one year: possession with intent to distribute a controlled substance, marijuana, knowingly possessed, in and affecting commerce, a firearm and ammunition.

In violation of 18 U.S.C. § 922(g)(1).

Count 14

On or about November 8, 2017, in Luna County, in the District of New Mexico, and elsewhere, the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, knowingly, unlawfully and willfully combined, conspired, confederated, agreed, and acted interdependently with one another and with others unknown to the Grand Jury to smuggle goods from the United States, contrary to 18 U.S.C. § 554(a).

Overt Acts

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed in the District of New Mexico, and elsewhere:

Overt Act One

On or about November 8, 2017, **JOSIAS GARCIA** and **EDUARDO CHAVEZ** traveled to Gun Central, in El Paso, Texas, and they purchased an M70, 7.62 semi auto rifle; 47 high capacity magazines; and 2,000 rounds of 7.62 x 39 ammunition.

Overt Act Two

On or about November 8, 2017, **JOSIAS GARCIA** and **EDUARDO CHAVEZ** traveled to D.A.M. Ammo, in Las Cruces, New Mexico, and purchased two AK-47 magazines and 2,000 rounds of 7.62 x 39 ammunition.

Overt Act Three

On or about November 8, 2017, **JOSIAS GARCIA** and **EDUARDO CHAVEZ** drove a vehicle containing an M70, 7.62 semi auto rifle; 4,070 rounds of 7.62 x 39 rifle ammunition; 39 high capacity magazines; and one 60 round magazine toward the Columbus, New Mexico, Port of Entry, and turned from the Port of Entry approximately twenty yards away when a customs officer stepped out.

In violation of 18 U.S.C. § 371.

Count 15

On or about November 8, 2017, in Luna County, in the District of New Mexico, the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, fraudulently and knowingly did receive, conceal, buy, sell, and facilitate the transportation, concealment, and sale of merchandise, articles, and objects, specifically, an M70, 7.62 semi auto rifle; 4,070 rounds of 7.62 x 39 rifle ammunition; 39 high capacity magazines; and one 60 round magazine, which are defense articles as defined under the United States Munitions List, knowing the same to be intended for exportation from the United States to the Republic of Mexico, contrary to any law and regulation of the United States, in that the defendants, **JOSIAS GARCIA** and **EDUARDO**

**CHAVEZ**, had not obtained a license and written authorization for such export, in violation of 22 U.S.C. §§ 2778(b)(2) and 2778(c), and in violation of 22 C.F.R. §§ 121.1, 123.1, and 127.1.

In violation of 18 U.S.C. §§ 554(a) and 2.

Count 16

On or about November 8, 2017, in Luna County, in the District of New Mexico, the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, fraudulently and knowingly attempted to export, and send, from the United States to the Republic of Mexico, merchandise, articles, and objects, specifically, an M70, 7.62 semi auto rifle; 4,070 rounds of 7.62 x 39 rifle ammunition; 39 high capacity magazines; and one 60 round magazine, which are defense articles as defined under the United States Munitions List, contrary to any law and regulation of the United States, in that the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, had not obtained a license and written authorization for such export, in violation of 22 U.S.C. §§ 2778(b)(2) and 2778(c), and in violation of 22 C.F.R. §§ 121.1, 123.1, and 127.1.

In violation of 18 U.S.C. §§ 554(a) and 2.

Count 17

On or about November 13, 2017, in Doña Ana County, in the District of New Mexico, the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, knowingly attempted to intimidate, threaten and corruptly persuade J.M.S., with the intent to influence, delay, and prevent the testimony of J.M.S. in an official proceeding relating to the commission of a federal offense.

In violation of 18 U.S.C. § 1512(b)(1).

Count 18

On or about November 13, 2017, in Doña Ana County, in the District of New Mexico, the defendant, **JOSIAS GARCIA**, knowingly attempted to intimidate, threaten and corruptly



persuade E.C.T., with the intent to influence, delay, and prevent the testimony of E.C.T. in an official proceeding relating to the commission of a federal offense.

In violation of 18 U.S.C. § 1512(b)(1).

Count 19

On or about November 13, 2017, in Doña Ana County, in the District of New Mexico, the defendant, **JOSIAS GARCIA**, knowingly attempted to intimidate, threaten and corruptly persuade S.M.A., with the intent to influence, delay, and prevent the testimony of S.M.A. in an official proceeding relating to the commission of a federal offense.

In violation of 18 U.S.C. § 1512(b)(1).

Count 20

On or about November 16, 2017, in Doña Ana County, in the District of New Mexico, the defendant, **JOSIAS GARCIA**, knowingly attempted to intimidate, threaten and corruptly persuade L.A.A., with the intent to influence, delay, and prevent the testimony of L.A.A. in an official proceeding relating to the commission of a federal offense.

In violation of 18 U.S.C. § 1512(b)(1).

FORFEITURE ALLEGATION

Counts 1 through 16 of this indictment are incorporated as part of this section of the indictment as if fully re-alleged herein for the purpose of alleging forfeiture to the United States pursuant to 21 U.S.C. § 853, 18 U.S.C. § 924(d)(1), 18 U.S.C. § 981(a)(1)(C), and 28 U.S.C. § 2461(c).

Upon conviction of any offense in violation of 21 U.S.C. §§ 841 or 846, the defendant, **JOSIAH GARCIA**, shall forfeit to the United States pursuant to 21 U.S.C. § 853 any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of each offense

for which the defendant is 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 to the United States includes, but is not limited to, the following:

1. MONEY JUDGMENT

A sum of money representing the proceeds obtained, directly or indirectly, as a result of the offenses set forth in Counts 1, 6 and 7.

Upon conviction of any offense in violation of 18 U.S.C. §1203(a), the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) by 28 U.S.C. § 2461(c), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of each offense for which each defendant is convicted, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offenses of conviction.

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

MONEY JUDGMENT

A sum of money representing the proceeds obtained, directly or indirectly, as a result of the offenses set forth in Counts 2, 3, 4 and 5.

Upon conviction of any offense in violation of 18 U.S.C. § 922(g)(1), the defendant, **JOSIAS GARCIA**, shall forfeit to the United States pursuant to 18 U.S.C. § 924(d)(1) by 28 U.S.C. § 2461(c) any interest the defendant may have in the firearms and ammunition listed below.

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

**FIREARM AND AMMUNITION:**

- (1) an M70, 7.62 semi auto rifle; and
- (2) 4,070 rounds of 7.62 x 39 rifle ammunition.

Upon conviction of any offense in violation of 18 U.S.C. § 924(c), the defendant, **JOSIAS GARCIA**, shall forfeit to the United States pursuant to 18 U.S.C. § 924(d)(1) by 28 U.S.C. § 2461(c) any interest each defendant may have in the firearms and ammunition listed below.

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

**FIREARM AND AMMUNITION:**

- (1) an M70, 7.62 semi auto rifle; and
- (2) 4,070 rounds of 7.62 x 39 rifle ammunition.

Upon conviction of any offense in violation of 18 U.S.C. § 554(a), the defendants, **JOSIAS GARCIA** and **EDUARDO CHAVEZ**, shall forfeit to the United States pursuant to 18 U.S.C. § 924(d)(1) by 28 U.S.C. § 2461(c) any interest the defendants may have in the firearm and ammunition listed below.

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

**FIREARM AND AMMUNITION**

- (1) an M70, 7.62 semi auto rifle;
- (2) 4,070 rounds of 7.62 x 39 rifle ammunition;

