

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA

INDICTMENT

-v.-

S1 13 Cr. 134 (NRB)

GERARDO ENMANUEL LUNA MARMOLEJOS,
a/k/a "Jorge Rodriguez Burgos," and

YOHAURIS RODRIGUEZ HERNANDEZ,
a/k/a "Joana Esquilin,"
a/k/a "Joana Esquilin Ramirez,"
a/k/a "Carla Nunos,"

Defendants.

- - - - - x

COUNT ONE
(Conspiracy to Steal Government Funds)

The Grand Jury charges:

1. From at least in or about December 2011 up to an including on or about September 29, 2014, in the Southern District of New York and elsewhere, GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," and YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to commit an offense against the United States, to wit, to violate Title 18, United States Code, Section 641.

2. It was a part and an object of the conspiracy that GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," and YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendants, and others known and unknown, would and did embezzle, steal, purloin, and knowingly convert to their use and the use of another, and without authority, did sell, convey, and dispose of records, vouchers, money and things of value of the United States and a department and an agency thereof, to wit, the United States Treasury Department, the value of which exceeded \$1,000, and would and did receive, conceal, and retain the same with intent to convert it to their use and gain, knowing it to have been embezzled, stolen, purloined and converted, to wit, LUNA MARMOLEJOS and RODRIGUEZ engaged in a scheme to steal the names, dates of birth, and Social Security Numbers of individuals to use in filing fraudulent income tax returns to obtain tax refunds to which they were not entitled.

Overt Acts

3. In furtherance of said conspiracy and to effect the unlawful object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

(a) On or about February 1, 2013, in the Bronx, New York, GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," and YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin,"

a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendants, agreed with a co-conspirator not named herein to obtain laptop computers and tax return software to file fraudulent tax returns.

(b) On or about September 29, 2014, in New Jersey, GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," and YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendants, were found in possession of in excess of 40,000 names, dates of birth, and Social Security Numbers used or to be used to file fraudulent tax returns to generate fraudulent refunds.

(Title 18, United States Code, Section 371.)

COUNT TWO
(False Claims Conspiracy)

The Grand Jury further charges:

4. From at least in or about December 2011 up to and including on or about September 29, 2014, in the Southern District of New York and elsewhere, GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," and YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendants, and others known and unknown, knowingly entered into an agreement, combination, and conspiracy to defraud the United States, and a department and agency thereof, by obtaining and aiding to obtain the payment and allowance of false, fictitious and fraudulent claims, to wit, LUNA MARMOLEJOS and RODRIGUEZ

HERNANDEZ engaged in a scheme to steal the names, dates of birth, and Social Security Numbers of individuals to use in filing fraudulent income tax returns to obtain tax refunds to which they were not entitled.

(Title 18, United States Code, Section 286.)

COUNT THREE
(Conspiracy to Commit Wire Fraud)

The Grand Jury further charges:

5. From at least in or about December 2011 up to and including on or about September 29, 2014, in the Southern District of New York and elsewhere, GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," and YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other, to violate Title 18, United States Code, Section 1343.

6. It was a part and an object of the conspiracy that GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," and YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendants, and others known and unknown, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and

promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, LUNA MARMOLEJOS and RODRIGUEZ HERNANDEZ caused fraudulent tax returns to be electronically filed.

(Title 18, United States Code, Section 1349.)

COUNT FOUR
(Aggravated Identity Theft)

The Grand Jury further charges:

7. From at least in or about December 2011 up to and including on or about September 29, 2014, in the Southern District of New York and elsewhere, GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," and YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendants, knowingly did transfer, possess, and use, without lawful authority, a means of identification of another person, during and in relation to a felony violation enumerated in Section 1028A(c), to wit, LUNA MARMOLEJOS and RODRIGUEZ HERNANDEZ, used the names and personal identifying information, including Social Security Numbers, of other persons during and in relation to the offenses charged in Counts One and Three of this Indictment.

(Title 18, United States Code, Sections 1028A and 2.)

COUNT FIVE
(Violation of Terms of Release)

The Grand Jury further charges:

8. From at least in or about February 2013 up to and including on or about September 29, 2014, in the Southern District of New York and elsewhere, GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," the defendant, having been released on bail in connection with an offense punishable by imprisonment for a term of five years or more, knowingly did fail to appear before a court as required by the conditions of his release, to wit, LUNA MARMOLEJOS failed to appear before a United States Magistrate Judge in the Southern District of New York on or about February 27, 2013, or any time thereafter, in the matter of United States v. Gerardo Enmanuel Luna Marmolejos, 12 Mag. 300.

(Title 18, United States Code, Sections 3146(a)(1) and
(b)(1)(A)(ii).)

COUNT SIX
(Visa Fraud)

The Grand Jury further charges:

9. In or about March 2014, in the Southern District of New York, YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendant, knowingly did make under oath, and knowingly did subscribe as true, false statements with respect to material facts in an application, affidavit, and other document required by the immigration laws and

regulations prescribed thereunder, and knowingly presented such application, affidavit, and other document which contained such false statements and which failed to contain any reasonable basis in law or fact, to wit, RODRIGUEZ HERNANDEZ submitted an Application to Register Permanent Residence or Adjust Status, Form I-485, by fraudulently asserting a legitimate marriage to a United States citizen when, in truth and in fact, the marriage was a sham.

(Title 18, United States Code, Sections 1546(a) and 2.)

COUNT SEVEN
(Visa Fraud)

The Grand Jury further charges:

10. In or about May 2012, in the Southern District of New York, GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," the defendant, knowingly did make under oath, and knowingly did subscribe as true, false statements with respect to material facts in an application, affidavit, and other document required by the immigration laws and regulations prescribed thereunder, and knowingly presented such application, affidavit, and other document which contained such false statements and which failed to contain any reasonable basis in law or fact, to wit, LUNA MARMOLEJOS submitted an Application to Register Permanent Residence or Adjust Status, Form I-485, by fraudulently asserting a legitimate marriage to a United States citizen when, in truth and in fact, the marriage was a sham.

(Title 18, United States Code, Sections 1546(a) and 2.)

COUNT EIGHT

(False statement in application for passport)

The Grand Jury further charges:

11. On or about July 24, 2009, in the Southern District of New York, YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendant, willfully and knowingly did make a false statement in an application for a passport with intent to induce and secure the issuance of a passport under the authority of the United States, for her own use and the use of another, contrary to the laws regulating the issuance of passports and the rules prescribed pursuant to such laws, to wit, RODRIGUEZ HERNANDEZ submitted an application for a United States passport containing false information about her identity, including a false name, date of birth, and Social Security Number.

(Title 18, United States Code, Sections 1542 and 2.)

FORFEITURE ALLEGATIONS

12. As the result of committing the offenses alleged in Counts One through Three of this Indictment, GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," and YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all

property, real or personal, constituting or derived from proceeds traceable to the offense.

13. As the result of committing the offenses alleged in Counts Six through Eight of this Indictment, GERARDO ENMANUEL LUNA MARMOLEJOS, a/k/a "Jorge Rodriguez Burgos," and YOHAURIS RODRIGUEZ HERNANDEZ, a/k/a "Joana Esquilin," a/k/a "Joana Esquilin Ramirez," a/k/a "Carla Nunos," the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(6), all property, real or personal, constituting or derived from or traceable to the proceeds obtained directly or indirectly from the commission of the offense of which the person is convicted.

SUBSTITUTE ASSET PROVISION

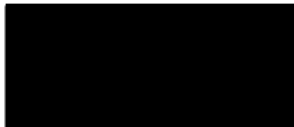
14. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- (1) cannot be located upon the exercise of due diligence;
 - (2) has been transferred or sold to, or deposited with, a third person;
 - (3) has been placed beyond the jurisdiction of the Court;
 - (4) has been substantially diminished in value;
- or

(5) has been commingled with other property which cannot be subdivided 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.

(Title 18, United States Code, Section 981; Title 18, United States Code, Section 982; Title 21, United States Code, Section 853; and Title 28, United States Code, Section 2461.)




PREET BHARARA
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

GERARDO ENMANUEL LUNA MARMOLEJOS,
a/k/a "Jorge Rodriguez Burgos,"
and
YOAHAURIS RODRIGUEZ HERNANDEZ,
a/k/a "Joana Esquilin,"
a/k/a "Joana Esquilin Ramirez,"
a/k/a "Carla Nunos,"

Defendants.

INDICTMENT


S1 13 Cr. 134 (NRB)

(18 U.S.C. §§ 371, 286, 1349, 1028A,
3146(a)(1) and (b)(1)(A)(ii), 1546, 1542
and 2.)

PREET BHARARA

United States Attorney.

A TRUE BILL

 Foreperson.
