

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

*** DOCKET NO. 2:10-CR-336**

v.

*** SECTION: "I"**

JOSE FRANCISCO PADILLA-MENJIVAR *

a/k/a Halfi Acosta Rivera

a/k/a Halfi Acosta-Rivera

a/k/a Halfi A. Rivera

a/k/a Alfi Rivera

a/k/a Alfi

*** * ***

FACTUAL BASIS

Should this matter have gone to trial, the government would have proven, through the introduction of competent testimony and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the indictment now pending against the defendant:

The Defendant, **JOSE FRANCISCO PADILLA-MENJIVAR** (hereinafter "**PADILLA**") has agreed to plead guilty as charged to the two-count indictment charging him with illegal reentry of a removed alien in violation of Title 8, United States Code, Section 1326(a) and illegal use of a Social Security number, in violation of Title 42, United States Code, Section 408(a)(7)(B).

A Special Agent from United States Immigration and Customs Enforcement (hereinafter

“ICE”) would testify that on November 9, 2010, she responded to a call from a Jefferson Parish Sheriff’s Office deputy (hereinafter “JPSO deputy”) concerning the defendant. The defendant was encountered during a traffic stop, and he was suspected of being an illegal alien. The defendant presented the JPSO deputy with a Louisiana Identification Card in the name Halfi Acosta Rivera, containing a photograph of a person who appeared to be the defendant, and a Social Security card also in the name Halfi Acosta Rivera, bearing Social Security Number XXX-XX-6019. Upon encountering the defendant, the ICE Special Agent transported him to the ICE New Orleans Field Office for administrative processing.

Once at the ICE office, the defendant told the ICE Special Agent that his true name is **JOSE FRANCISCO PADILLA-MENJIVAR**. The ICE Special Agent would testify that she ran the defendant’s fingerprints through ICE databases, which confirmed that the defendant was illegally present in the United States and had previously been removed to Honduras.

The ICE Special Agent would testify that, upon questioning **PADILLA** under oath after being read his *Miranda* rights, the defendant stated that he was a citizen of Honduras, was illegally in the United States, and had previously been removed. The defendant said that he had used the alias Halfi Acosta-Rivera. **PADILLA** further stated that he received the Social Security card in the name Halfi Acosta Rivera and bearing number XXX-XX-6019 from an unknown person in Houston, Texas. **PADILLA** admitted that he used the Social Security card bearing number XXX-XX-6019, knowing that the card and Social Security number did not belong to him, for identification purposes in order to apply for and obtain his Louisiana state identification document in the identity of Halfi Acosta Rivera.

Documentation from the records of ICE, contained in the defendant’s Alien file, including

a Warrant of Removal/Deportation, complete with the defendant's fingerprints, photographs and signature, would demonstrate that the defendant, **PADILLA**, was removed from the United States to Honduras on or about February 7, 2007, at or near El Paso, Texas. A qualified ICE Fingerprint Specialist would testify that the fingerprints of the individual documented in the Alien file containing the Warrant of Removal/Deportation and the fingerprints of the defendant are the same. Documentation from the Alien file would further show that the defendant is an alien, and not a citizen or national of the United States.

Testimony of an official from United States Citizenship and Immigration Services regarding record checks conducted through the Computer Linked Application Information Management System would show that the defendant, **PADILLA**, did not receive consent from the United States Attorney General or his designated successor, the Secretary of the Department of Homeland Security, to apply for readmission or receive permission to reenter the United States since the time of the defendant's previous removal.

A records search of the Louisiana Office of Motor Vehicles revealed that **PADILLA** used Social Security number XXX-XX-6019 on his application for the Louisiana Identification Card bearing number 007413576 at the Office of Motor Vehicles in Jefferson Parish, Louisiana on May 18, 2009. An employee of the Louisiana Office of Motor Vehicles would testify that the defendant, **PADILLA**, within the Eastern District of Louisiana, presented Social Security number XXX-XX-6019 as his own when he applied for a Louisiana Identification Card. The defendant's application for the Louisiana Identification Card would be offered into evidence.

Records from the Social Security Administration would be introduced into evidence to show

that Social Security account number XXX-XX-6019 was not properly assigned to the defendant, **PADILLA.**

Finally, a forensic document examiner from the ICE Forensic Document Laboratory would testify that upon examination of the Social Security card bearing number XXX-XX-6019 found in the defendant's possession by the JPSO deputy and the ICE Special Agent, the card was determined to be genuine.

ROBERT WEIR
Special Assistant United States Attorney

Date

JOSE FRANCISCO PADILLA-MENJIVAR
Defendant

Date

IVAN ORIHUELA
Attorney for Defendant

Date