

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X
UNITED STATES OF AMERICA :

INDICTMENT

- v. - :

S2 11 Cr. 1054

JOSE EVARISTO LINARES CASTILLO, :
a/k/a "Don Evaristo," :
a/k/a "Don Eva," :
a/k/a "Eva," :

Defendant. :

- - - - -X

BACKGROUND TO THE CONSPIRACY

1. JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, led a drug trafficking organization that distributed ton-quantities of cocaine obtained in Colombia, transported through the Apure region of Venezuela and ultimately sold in the United States and other locations. From Venezuela, the majority of the cocaine was flown to Honduras, and from there was subsequently sent to the United States via Mexico. In order to transport its cocaine into the Apure region of Venezuela, CASTILLO's organization made regular monetary payments to the Fuerzas Armadas Revolucionarias de Colombia (the "Revolutionary Armed Forces of Colombia" or "FARC"), which has significant control over the Apure region and requires narcotics traffickers that operate there to make payments to the FARC in order to move narcotics into and out of the area. From in or about 1964 until on or about the date of filing of this Indictment, the FARC has been and is an

international terrorist organization dedicated to the violent overthrow of the democratically elected Government of Colombia. To further its terrorist activities, the FARC actively engages in narcotics trafficking as a financing mechanism and has evolved into the world's largest supplier of cocaine. The FARC was designated as a foreign terrorist organization ("FTO") in October 1997 by the United States Secretary of State and remains so designated as of the date of the filing of this Indictment. The FARC has directed violent acts against United States persons and commercial and property interests in foreign jurisdictions, including, but not limited to, Colombia.

COUNT ONE

(Narcotics Importation Conspiracy)

The Grand Jury charges:

2. From at least in or about 2006 through in or about 2011, in Venezuela and elsewhere, JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, who will be arrested and first brought to the Southern District of New York, and others known and unknown, intentionally and knowingly did combine, conspire, confederate and agree together and with each other to violate the narcotics laws of the United States.

3. It was a part and an object of the conspiracy that JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don

Eva," a/k/a "Eva," the defendant, and others known and unknown, would and did possess with the intent to distribute a controlled substance, to wit, five kilograms and more of a mixture and substance containing a detectable amount of cocaine, on board an aircraft owned by a United States citizen and registered in the United States, in violation of Sections 812, 959(b), and 960(b)(1)(B) of Title 21, United States Code.

4. It was further a part and an object of the conspiracy that JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, and others known and unknown, would and did import into the United States from a place outside thereof five kilograms and more of a mixture and substance containing a detectable amount of cocaine, in violation of Sections 812, 952(a), and 960(b)(1)(B) of Title 21, United States Code.

5. It was further a part and an object of the conspiracy that JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, and others known and unknown, would and did distribute a controlled substance, to wit, five kilograms and more of a mixture and substance containing a detectable amount of cocaine, intending and knowing that such substance would be imported into the United States from a place outside thereof, and into waters within a distance of 12 miles of the coast of the United States, in

violation of Sections 959(a), 960(a)(3) and 960(b)(1)(B) of Title 21, United States Code.

OVERT ACTS

6. In furtherance of the conspiracy, and to effect the illegal objects thereof, the following overt acts, among others, were committed:

a. In or about 2009, on multiple occasions, JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, arranged for the transport of a number of airplanes carrying 500 to 1,000 kilograms of cocaine each from Venezuela to Honduras.

b. In or about 2010, JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, authorized payments worth at least several million dollars to the FARC to secure permission to use clandestine airstrips in the Apure region of Venezuela to launch airplanes transporting cocaine.

c. In or about December 2010, JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, caused approximately \$250,000 in cash to be delivered in connection with a narcotics transaction.

d. In or about October 2011, a co-conspirator not named as a defendant herein sent a text message to JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva,"

a/k/a "Eva," the defendant, with a photograph of an airplane registered in the United States.

(Title 21, United States Code, Sections 959(c) and 963, and Title 18, United States Code, Section 3238.)

COUNT TWO

(Narco-Terrorism Conspiracy)

The Grand Jury further charges:

7. From at least in or about 2008, up to and including in or about 2011, JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, who will be first brought to and arrested in the Southern District of New York, and others known and unknown, unlawfully, intentionally and knowingly did combine, conspire, confederate and agree together and with each other to violate Title 21, United States Code, Section 960a.

8. It was a part and an object of said conspiracy that JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, and others known and unknown, would and did engage in conduct occurring in and affecting foreign commerce that would be punishable under Title 21, United States Code, Section 841(a), if committed within the jurisdiction of the United States, to wit, the manufacture, distribution, and possession with intent to manufacture and distribute, of five kilograms and more of a substance containing a detectable amount of cocaine, knowing and intending to provide, directly and

indirectly, something of pecuniary value to a person and organization that has engaged and engages in terrorist activity (as defined in section 1182(a)(3)(B) of Title 8), and terrorism (as defined in section 2656f(d)(2) of Title 22), to wit, the Fuerzas Armadas Revolucionarias de Colombia (the "FARC"), and members, operatives and associates of the FARC, which was designated by the United States Secretary of State as a foreign terrorist organization on October 1997, pursuant to Section 219 of the Immigration and Nationality Act; which has remained on the list of designees since that time; whose most recent designation as a foreign terrorist organization was issued on October 2, 2003, and which is currently designated as such, as of the date of filing of this Indictment; having knowledge that said persons and organization have engaged in and engage in terrorism and terrorist activity, which activity violates the criminal laws of the United States, and occurs in and affects foreign commerce, in violation of Title 21, United States Code, Section 960a.

OVERT ACT

9. The allegations set forth in Paragraph 6 above are incorporated by reference as if set forth fully herein.

(Title 21, United States Code, Sections 963 and 960a(a), (b)(1), (b)(2) & (b)(5).)

COUNT THREE

(Material Support Conspiracy)

The Grand Jury further charges:

10. From at least in or about 2008, up to and including in or about 2011, in an offense in and affecting interstate and foreign commerce, begun and committed outside of the jurisdiction of any particular State or District of the United States, JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, who will be first brought to and arrested in the Southern District of New York, and others known and unknown, unlawfully and knowingly did combine, conspire, confederate and agree together and with each other to provide "material support or resources," as that term is defined in Title 18, United States Code, Section 2339A(b), to wit, currency or monetary instruments, to a foreign terrorist organization, to wit, the Fuerzas Armadas Revolucionarias de Colombia (the "FARC"), which was designated by the United States Secretary of State as a foreign terrorist organization on October 1997, pursuant to Section 219 of the Immigration and Nationality Act; which has remained on the list of designees since that time; whose most recent designation as a foreign terrorist organization was issued on October 2, 2003, and which is currently designated as such, as of the date of filing of this Indictment.

11. It was a part and an object of the conspiracy that JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, and others known and unknown, would and did provide the FARC with payments of money in United

States and Colombian currency, and other support and resources, knowing that the FARC had engaged and was engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), and knowing that the FARC had engaged and was engaging in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989), in violation of Title 18, United States Code, Section 2339B.

OVERT ACT

12. The allegations set forth in Paragraph 6 above are incorporated by reference as if set forth fully herein.

(Title 18, United States Code, Section 2339B(a)(1).)

FORFEITURE ALLEGATIONS

13. As a result of committing the controlled substance offenses alleged in Counts One and Two of this Indictment, JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, shall forfeit to the United States, pursuant to Title 21, United States Code, Sections 853 and 970, any and all property constituting and derived from any proceeds that the defendant obtained directly and indirectly as a result of the offenses and any and all property used and intended to be used in any manner or part to commit and to facilitate the commission of the offenses alleged in Counts One and Two of this Indictment, including, but not limited to, a sum of money

representing the amount of proceeds obtained as a result of these offenses.

14. As a result of committing the material support offense alleged in Count Three of this Indictment, JOSE EVARISTO LINARES CASTILLO, a/k/a "Don Evaristo," a/k/a "Don Eva," a/k/a "Eva," the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(G) and Title 28, United States Code, Section 2461, the following:

- a. all right, title, and interest in all assets, foreign and domestic;
- b. all right, title, and interest in all assets, foreign and domestic, affording a source of influence over the FARC;
- c. all right, title and interest in all assets, foreign and domestic, acquired and maintained with the intent and for the purpose of supporting, planning, conducting, and concealing a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property; and
- d. all right, title and interest in all assets, foreign and domestic, derived from, involved in, and used and intended to be used to commit a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property;

including, but not limited to, a sum of money representing the value of the property described above as being subject to forfeiture.

(Title 18, United States Code, Section 981(a)(1)(G) and 2332b(g)(5) and Title 28, United States Code, Section 2461.)


Substitute Assets Provision

15. If any of the property described in paragraphs 13 or 14 above as being subject to forfeiture, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- 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 divided without difficulty;

it is the intention of the United States, pursuant to Title 21, United States Code, Sections 853(p) and 970, to seek forfeiture of any other property of the defendant up to the value of the forfeitable property.

(Title 21, United States Code, Sections 853 and 970.)



FOREPERSON

Preet Bharara

PREET BHARARA
United States Attorney

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Defendant.

INDICTMENT

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21 U.S.C. § 963,
18 U.S.C. § 2339B

PREET BHARARA
United States Attorney.

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