

ALB:FJN/JPL/ADG
F. #2014R01920/OCDETF #NY-NYE-764

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

14-cr-00625(DLI)(VMS)

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UNITED STATES OF AMERICA

SUPERSEDING
INDICTMENT

- against -

DAIRO ANTONIO USUGA DAVID,
also known as "Otoniel," "Mao,"
"Gallo" and "Mauricio-Gallo," and
JOBANIS DE JESUS AVILA VILLADIEGO,
also known as "Chiquito" and "Chiquito
Malo,"

Cr. No. 14-625 (S-4) (DLI)
(T. 18, U.S.C., §§ 924(c)(1)(A)(i),
924(c)(1)(A)(ii), 924(c)(1)(A)(iii),
924(c)(1)(B)(ii), 924(d)(1), 3238, 2
and 3551 et seq.; T. 21, U.S.C.,
§§ 848(a), 848(c), 853(a), 853(p),
959(d), 960(b)(1)(B)(ii), 963 and 970;
T. 28, U.S.C., § 2461(c))

Defendants.

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THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Superseding Indictment, unless otherwise indicated:

1. The Clan del Golfo Drug Trafficking Organization (the "CDG"), formerly known as "Los Urabeños" and "Clan Usuga," was a cocaine trafficking and paramilitary organization based in Urubá, Colombia.
2. The CDG was involved in multi-ton shipments of cocaine from Colombia to Mexico and Central America for ultimate importation into the United States. The CDG coordinated the production, purchase and transfer of shipments of cocaine, as well as the receipt of shipments of cocaine in Mexico and Central America. The CDG also controlled territory in various areas in Colombia and imposed a "tax" on any drug traffickers operating in regions

under the CDG's control. Specifically, the CDG charged a set fee for every kilogram of cocaine that was manufactured, stored or transported through areas controlled by the CDG.

3. The CDG also employed "sicarios," or hitmen, who carried out various acts of violence, including murders, assaults, kidnappings and assassinations. The CDG utilized these acts of violence for a variety of reasons, including:

(a) Promoting and enhancing the prestige, reputation and position of the CDG with respect to rival criminal organizations;

(b) Preserving, protecting and expanding the power, territory and criminal venture of the CDG, including the CDG's control over drug manufacturing facilities and trafficking routes;

(c) Financing the CDG's operations and enriching its leaders including the defendants, by collecting drug debts;

(d) Maintaining discipline amongst its members and associates; and

(e) Protecting members of the CDG from arrest and prosecution by silencing potential witnesses and retaliating against law enforcement authorities and anyone who provided information or assistance to law enforcement authorities.

4. The defendant DAIRO ANTONIO USUGA DAVID, also known as "Otoniel," "Mao," "Gallo" and "Mauricio-Gallo," was a principal leader of the CDG.

5. The defendant JOBANIS DE JESUS AVILA VILLADIEGO, also known as "Chiquito" and "Chiquito Malo," was a commander of the CDG in charge of collecting drug taxes, managing armed combatants and maintaining control over specific territorial areas within Colombia.

COUNT ONE
(Continuing Criminal Enterprise)

6. The allegations contained in paragraphs one through five are realleged and incorporated as if fully set forth in this paragraph.

7. In or about and between June 2003 and October 2021, both dates being approximate and inclusive, within the extraterritorial jurisdiction of the United States, the defendants DAIRO ANTONIO USUGA DAVID, also known as “Otoniel,” “Mao,” “Gallo” and “Mauricio-Gallo,” and JOBANIS DE JESUS AVILA VILLADIEGO, also known as “Chiquito” and “Chiquito Malo,” together with others, did knowingly and intentionally engage in a continuing criminal enterprise, in that the defendants DAIRO ANTONIO USUGA DAVID and JOBANIS DE JESUS AVILA VILLADIEGO committed violations of Title 21, United States Code, Sections 841(a), 846, 952(a), 959(a), 960 and 963, including Violations One through Forty-Five set forth below, which violations were part of a continuing series of violations of those statutes undertaken by the defendants DAIRO ANTONIO USUGA DAVID and JOBANIS DE JESUS AVILA VILLADIEGO, in concert with five or more other persons, with respect to whom the defendants DAIRO ANTONIO USUGA DAVID and JOBANIS DE JESUS AVILA VILLADIEGO occupied supervisory and management positions, and from which continuing series of violations the defendants DAIRO ANTONIO USUGA DAVID and JOBANIS DE JESUS AVILA VILLADIEGO obtained substantial income and resources. The continuing series of violations, as defined by Title 21, United States Code, Section 848(c), included the following violations set forth below:

Violation One

(International Cocaine Manufacturing and Distribution Conspiracy)

8. In or about and between June 2003 and October 2021, both dates being approximate and inclusive, within the extraterritorial jurisdiction of the United States, the defendants DAIRO ANTONIO USUGA DAVID and JOBANIS DE JESUS AVILA VILLADIEGO, together with others, did knowingly and intentionally conspire to manufacture and distribute a controlled substance, intending, knowing and having reasonable cause to believe that such substance would be unlawfully imported into the United States from a place outside thereof, which offense involved a substance containing cocaine, a Schedule II controlled substance, contrary to Title 21, United States Code, Sections 959(a), 959(c), 960(a)(3), 960(b)(1)(B)(ii) and 963. The amount of cocaine involved in the conspiracy attributable to the defendants as a result of their own conduct, and the conduct of other conspirators reasonably foreseeable to them, was five kilograms or more of a substance containing cocaine.

Violations Two Through Forty-Four
(International Cocaine Distribution)

9. On or about the dates listed below, all dates being approximate and inclusive, within the extraterritorial jurisdiction of the United States, the defendants DAIRO ANTONIO USUGA DAVID and JOBANIS DE JESUS AVILA VILLADIEGO, together with others, did knowingly and intentionally distribute a controlled substance, intending, knowing and having reasonable cause to believe that such substance would be unlawfully imported into the United States from a place outside thereof, which offenses involved a substance containing cocaine, a Schedule II controlled substance, in the amounts listed below, contrary to Title 21,

United States Code, Sections 959(a), 959(c), 960(a)(3) and 960(b)(1)(B)(ii), and Title 18, United States Code, Section 2:

VIOLATION	APPROXIMATE AMOUNT OF COCAINE	APPROXIMATE DATE(S) OF OFFENSE
2	1,600 Kilograms	June 18, 2003
3	2,040 Kilograms	August 3, 2003
4	1,800 Kilograms	August 15, 2003
5	1,650 Kilograms	August 28, 2003
6	1,200 Kilograms	September 28, 2003
7	1,400 Kilograms	September 3, 2004
8	1,796 Kilograms	September 19, 2004
9	2,000 Kilograms	October 22, 2004
10	1,670 Kilograms	November 16, 2004
11	1,868 Kilograms	November 19, 2004
12	2,090 Kilograms	November 25, 2004
13	2,060 Kilograms	January 27, 2005
14	1,811 Kilograms	June 2, 2005
15	2,000 Kilograms	August 26, 2005
16	1,700 Kilograms	January 10, 2006
17	1,940 Kilograms	May 20, 2006
18	2,100 Kilograms	November 10, 2006
19	1,870 Kilograms	January 3, 2007
20	2,100 Kilograms	April 19, 2007
21	2,000 Kilograms	May 25, 2007

VIOLATION	APPROXIMATE AMOUNT OF COCAINE	APPROXIMATE DATE(S) OF OFFENSE
22	2,000 Kilograms	July 3, 2007
23	2,000 Kilograms	July 23, 2007
24	2,000 Kilograms	November 6, 2007
25	1,950 Kilograms	November 20, 2007
26	1,000 Kilograms	December 2009
27	12,000 Kilograms	January 2010 – January 2011
28	2,000 Kilograms	June 2011
29	2,000 Kilograms	September 2011
30	2,266 Kilograms	September 10, 2011
31	2,500 Kilograms	October 2011
32	2,000 Kilograms	November 10, 2011
33	1,400 Kilograms	January 2012
34	7,000 Kilograms	February 2012
35	2,500 Kilograms	March 2012
36	2,717 Kilograms	May 26, 2013
37	1,645 Kilograms	October 12, 2013
38	2,200 Kilograms	February 2014
39	3,250 Kilograms	February 2014 – June 2014
40	2,200 Kilograms	June 2014
41	2,200 Kilograms	September 2014
42	1,500 Kilograms	May 16, 2019
43	993 Kilograms	September 21, 2019

VIOLATION	APPROXIMATE AMOUNT OF COCAINE	APPROXIMATE DATE(S) OF OFFENSE
44	840 Kilograms	March 2021

Violation Forty-Five

(Murder Conspiracy – Persons Who Posed a Threat and Perceived Threat to the CDG)

10. In or about and between June 2003 and October 2021, both dates being approximate and inclusive, within the extraterritorial jurisdiction of the United States, the defendants DAIRO ANTONIO USUGA DAVID and JOBANIS DE JESUS AVILA VILLADIEGO, together with others, while engaged in one or more offenses punishable under Section 960(b)(1) of Title 21 of the United States Code, to wit: the crimes charged in Violations One Through Forty-Four, did knowingly and intentionally conspire to kill and cause the intentional killing of one or more persons, to wit: persons who posed a threat and a perceived threat to the CDG, and such killings did result, in violation of Title 21, United States Code, Sections 848(e)(1)(A) and 846.

(Title 21, United States Code, Sections 848(a) and 848(c); Title 18, United States Code, Sections 3238, 2 and 3551 et seq.)

COUNT TWO

(International Cocaine Manufacturing and Distribution Conspiracy)

11. The allegations contained in paragraphs one through five are realleged and incorporated as if fully set forth in this paragraph.

12. In or about and between June 2003 and October 2021, both dates being approximate and inclusive, within the extraterritorial jurisdiction of the United States, the defendants DAIRO ANTONIO USUGA DAVID, also known as “Otoniel,” “Mao,” “Gallo” and “Mauricio-Gallo,” and JOBANIS DE JESUS AVILA VILLADIEGO, also known as “Chiquito”

and “Chiquito Malo,” together with others, did knowingly and intentionally conspire to manufacture and distribute a controlled substance, intending, knowing and having reasonable cause to believe that such substance would be unlawfully imported into the United States from a place outside thereof, which offense involved a substance containing cocaine, a Schedule II controlled substance, contrary to Title 21, United States Code, Sections 959(a) and 960(a)(3). The amount of cocaine involved in the conspiracy attributable to the defendants as a result of their own conduct, and the conduct of other conspirators reasonably foreseeable to them, was five kilograms or more of a substance containing cocaine.

(Title 21, United States Code, Sections 963, 959(d) and 960(b)(1)(B)(ii); Title 18, United States Code, Sections 3238 and 3551 et seq.)

COUNT THREE

(Use of Firearms in Furtherance of Drug Trafficking)

13. The allegations contained in paragraphs one through five are realleged and incorporated as if fully set forth in this paragraph.

14. In or about and between June 2003 and October 2021, both dates being approximate and inclusive, within the extraterritorial jurisdiction of the United States, the defendants DAIRO ANTONIO USUGA DAVID, also known as “Otoniel,” “Mao,” “Gallo” and “Mauricio-Gallo,” and JOBANIS DE JESUS AVILA VILLADIEGO, also known as “Chiquito” and “Chiquito Malo,” together with others, did knowingly and intentionally use and carry one or more firearms during and in relation to one or more drug trafficking crimes, to wit: the crimes charged in Counts One and Two, and did knowingly and intentionally possess such firearms in

furtherance of said drug trafficking crimes, one or more of which firearms was brandished and discharged and one or more of which firearms was a machinegun.

(Title 18, United States Code, Sections 924(c)(1)(A)(i), 924(c)(1)(A)(ii), 924(c)(1)(A)(iii), 924(c)(1)(B)(ii), 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNT ONE

15. The United States hereby gives notice to the defendants that, upon their conviction of the offense charged in Count One, the government will seek forfeiture in accordance with Title 21, United States Code, Section 853(a), which requires any person convicted of such offense to forfeit: (a) any property constituting, or derived from, proceeds obtained, directly or indirectly as the result of such offense; (b) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offense, and (c) any of their interest in, claims against and property or contractual rights affording a source of control over, the continuing criminal enterprise.

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

- (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 intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 21, United States Code, Sections 853(a) and 853(p))

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNT TWO

17. The United States hereby gives notice to the defendants that, upon their conviction of the offense charged in Count Two, the government will seek forfeiture in accordance with Title 21, United States Code, Sections 853(a) and 970, which require any person convicted of such offense to forfeit: (a) any property constituting, or derived from, any proceeds obtained directly or indirectly as the result of such offense; and (b) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offense.

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

- (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 intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

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

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNT THREE

19. The United States hereby gives notice to the defendants that upon their conviction of the offense charged in Count Three, the government will seek forfeiture in accordance with Title 18, United States Code, Section 924(d)(1), and Title 28, United States Code, Section 2461(c), which require the forfeiture of any firearm or ammunition involved in or used in any knowing violation of such offense, or willful violation of any other criminal law of the United States.

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

- (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 intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 924(d)(1); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

A TRUE BILL



FOREPERSON



BREON PEACE
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

F. #2014R01920/OCDEF #NY-NYE-764
FORM DBD-34
JUN. 85

No. 14-CR-625 (S-4) (DLI)

UNITED STATES DISTRICT COURT

EASTERN District of NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

DAIRO ANTONIO USUGA DAVID,
also known as "Otoniel," "Mao," "Gallo" and "Mauricio-Gallo,"

and

JOBANIS DE JESUS AVILA VILLADIEGO,
also known as "Chiquito" and "Chiquito Malo,"

Defendants.

SUPERSEDING INDICTMENT

(T. 18, U.S.C., §§ 924(c)(1)(A)(i), 924(c)(1)(A)(ii), 924(c)(1)(A)(iii), 924(c)(1)(B)(ii), 924(d)(1), 3238, 2 and 3551 et seq.; T. 21, U.S.C., §§ 848(a), 848(c), 853(a), 853(p), 959(d), 960(b)(1)(B)(ii), 963 and 970; T. 28, U.S.C., § 2461(c))

A true bill.

_____ V _____
Foreperson

Filed in open court this _____ day of _____ A.D. 20 _____

_____ Clerk

Bail, \$ _____

Allen L. Bode, Francisco J. Navarro, Jonathan P. Lax, Andrew D. Grubin,
Assistant U.S. Attorneys, (718) 254-7000