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FILED

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CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,) CASE NO. 2:13-CR-00353-TLN
12)
13 Plaintiff,) VIOLATIONS: 18 U.S.C. § 371 -
14 v.) Conspiracy to Unlawfully
15) Manufacture and Deal in Firearms;
16) 18 U.S.C. § 922(a)(1)(A) - Unlawful
17) Manufacturing and Dealing in
18) Firearms; 18 U.S.C. § 922(o) -
19) Possession of a Machine Gun (13
20) Counts); 26 U.S.C. § 5861 (d) -
21) Possession of an Unregistered
Firearm (18 Counts); 18 U.S.C. §
22) 922(g)(5) - Illegal Alien in
23) Possession of a Firearm (2 Counts);
24) 18 U.S.C. § 922(g)(1) - Felon in
25) Possession of a Firearm; 18 U.S.C.
26) § 924(d)(1); 26 U.S.C. § 5872; 28
27) U.S.C. § 2461(c); and 49 U.S.C.
28) § 80303 - Criminal Forfeiture

S U P E R S E D I N G I N D I C T M E N T

23 COUNT ONE: [18 U.S.C. § 371 - Conspiracy to Unlawfully
24 Manufacture and Deal in Firearms]

25 The Grand Jury charges: THAT

26)
27) *Garcia RA*
LUIS CORTEZ-GARCIA and
EMILIANO CORTEZ-GARCIA,

28 defendants herein, between on or about March 19, 2013, and continuing

1 until on or about February 26, 2014, in Sacramento County, in the
2 State and Eastern District of California and elsewhere, did conspire
3 with each other and with other persons known and unknown to the Grand
4 Jury, to willfully engage in the business of manufacturing and
5 dealing in firearms without a license.

6 In furtherance of the conspiracy and to effect the objects of
7 the conspiracy, the following overt acts, among others, were
8 committed in the Eastern District of California and elsewhere:

- 9 (a) On or about April 17, 2013, EMILIANO CORTEZ-GARCIA
10 manufactured an AR-15 pistol.
- 11 (b) On or about April 17, 2013, LUIS CORTEZ-~~GARCIA~~ ^{*Garcia RM*} sold an AR-15
12 pistol.
- 13 (c) On or about April 25, 2013, LUIS CORTEZ-~~GARCIA~~ ^{*Garcia RM*} called a person
14 known to the grand jury and arranged for the manufacture of
15 two AR-15 rifles.
- 16 (d) On or about August 28, 2013, LUIS CORTEZ-~~GARCIA~~ ^{*Garcia RM*} sold an AR-15
17 rifle.
- 18 (e) On or about September 23, 2013, EMILIANO CORTEZ-GARCIA
19 manufactured an AR-15 rifle.
- 20 (f) On or about September 23, 2013, EMILIANO CORTEZ-GARCIA sold an
21 AR-15 rifle.
- 22 (g) On or about October 3, 2013, EMILIANO CORTEZ-GARCIA
23 manufactured an AR-15 rifle.
- 24 (h) On or about October 3, 2013, EMILIANO CORTEZ-GARCIA sold an
25 AR-15 rifle.

26 in violation of Title 18, United States Code, Section 371.

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1 COUNT TWO: [18 U.S.C. § 922(a)(1)(A) - Unlawful Manufacturing and
2 Dealing in Firearms]

3 The Grand Jury further charges: THAT
4 *Garcia RMA*
5 LUIS CORTEZ-~~GARCIA~~ and
6 EMILIANO CORTEZ-GARCIA,

7 defendants herein, between on or about March 19, 2013, and continuing
8 until on or about February 26, 2014, in Sacramento County, in the
9 State and Eastern District of California and elsewhere, not being
10 licensed to manufacture and deal firearms as described in Title 18,
11 United States Code, Section 923, did willfully engage in the business
12 of manufacturing and dealing in firearms, all in violation of Title
13 18, United States Code, Section 922(a)(1)(A).

14 COUNTS THREE THROUGH TEN: [18 U.S.C. § 922(o) - Possession of a
15 Machine Gun]

16 The Grand Jury further charges: THAT
17 *Garcia RMA*
18 LUIS CORTEZ-~~GARCIA~~,

19 defendant herein, on or about October 9, 2013, in Sacramento County,
20 State and Eastern District of California, did knowingly possess a
21 machinegun, as defined in Title 18, United States Code, Section
22 921(a)(23) and Title 26, United States Code, Section 5845(b), as
23 identified more fully below:

Count	Make	Model	Serial Number	Item #
23	Colt AR-15	AR-15 SP1	SP45634	119
24	Poly Tech.	AK-47-type	P47-11097	138
25	Unknown	AK-47-type	AB380571	140
26	Bren	MKII	10T1531	144
27	Unknown	M16-type	No Serial #	199
28	Unknown	M16-type	No Serial #	2101

9	Unknown	M16-type	No Serial #	2109
10	Unknown	M16-type	No Serial #	2110

all in violation of Title 18, United States Code, Section 922(o).

COUNTS ELEVEN THROUGH TWENTY-ONE: [26 U.S.C. § 5861(d) - Possession of an Unregistered Firearm]

The Grand Jury further charges: THAT

Alicia R...
LUIS CORTEZ-GARICA,

defendant herein, on or about October 9, 2013, in Sacramento County, State and Eastern District of California, did knowingly possess a firearm not registered to him in the National Firearms Registration and Transfer Record, as identified more fully below:

Count	Make	Model	Serial Number	Item #
11	Colt AR-15	AR-15 SP1	SP45634	119
12	Poly Tech.	AK-47-type	P47-11097	138
13	Unknown	AK-47-type	AB380571	140
14	Bren	MKII	10T1531	144
15	Unknown	M16-type	No Serial #	199
16	Unknown	M16-type	No Serial #	2101
17	Unknown	M16-type	No Serial #	2109
18	Unknown	M16-type	No Serial #	2110
19	Unknown	Silencer	No Serial #	143a
20	Unknown	Silencer	No Serial #	143b
21	Unknown	AR-15-type	No Serial #	28

in violation of Title 26, United States Code, Section 5861(d).

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1 COUNT TWENTY-TWO: [18 U.S.C. § 922(g)(5)- Illegal Alien in
2 Possession of a Firearm]

3 The Grand Jury further charges: T H A T

4 LUIS CORTEZ-^{GARCIA R/V}GARCIA,

5 defendant herein, on or about October 9, 2013, in Sacramento County,
6 State and Eastern District of California, being an alien illegally
7 and unlawfully in the United States, did knowingly possess a firearm,
8 that is, a Springfield XDS .45-caliber pistol (serial number
9 US731566), in and affecting interstate commerce, in that said
10 firearms had been shipped and transported in interstate and foreign
11 commerce, in violation of Title 18, United States Code, Section
12 922(g)(5).

13 COUNTS TWENTY-THREE THROUGH TWENTY-SEVEN: [18 U.S.C. § 922(o)
14 Possession of a Machine
15 Gun]

16 The Grand Jury further charges: THAT

17 EMILIANO CORTEZ-GARCIA,

18 defendant herein, on or about October 9, 2013, in Fresno County,
19 State and Eastern District of California, did knowingly possess a
20 machinegun, as defined in Title 18, United States Code, Section
21 921(a)(23) and Title 26, United States Code, Section 5845(b), as
22 identified more fully below:

Count	Make	Model	Serial Number	Item #
23	Unknown	M16-type	No Serial #	1110
24	Unknown	M16-type	No Serial #	1127
25	Colt	M16	198155734	1128
26	Unknown	M16-type	No Serial #	1129
27	Colt	M16	198155732	1203

1 all in violation of Title 18, United States Code, Section 922(o).

2 COUNTS TWENTY-EIGHT THROUGH THIRTY-FOUR: [26 U.S.C. § 5861(d) -
 3 Possession of an
 4 Unregistered Firearm]

5 The Grand Jury further charges: THAT

6 EMILIANO CORTEZ-GARCIA,
 7 defendant herein, on or about October 9, 2013, in Sacramento County,
 8 State and Eastern District of California, did knowingly possess a
 9 firearm not registered to him in the National Firearms Registration
 and Transfer Record, as identified more fully below:

Count	Make	Model	Serial Number	Item #
28	Unknown	M16-type	No Serial #	1110
29	Unknown	M16-type	No Serial #	1127
30	Colt	M16	198155734	1128
31	Unknown	M16-type	No Serial #	1129
32	Colt	M16	198155732	1203
33	Unknown	Silencer	No Serial #	1215
34	Unknown	AR-15-type	No Serial #	30

18 in violation of Title 26, United States Code, Section 5861(d).

19 COUNT THIRTY-FIVE: [18 U.S.C. § 922(g)(5) - Illegal Alien in
 20 Possession of a Firearm]

21 The Grand Jury further charges: T H A T

22 EMILIANO CORTEZ-GARCIA, *Garcia RA*

23 defendant herein, on or about October 9, 2013, in Fresno County,
 24 State and Eastern District of California, being an alien illegally
 25 and unlawfully in the United States did knowingly possess, one or
 26 more firearms, that is,
 27

28 (1) a Colt Government Model pistol (serial number ELR074),

- 1 (2) a Colt Challenger Model pistol (serial number 27115-C), and
2 (3) an Izhmash Saiga model 12-gauge shotgun (serial number
3 12422181),

4 in and affecting interstate commerce, in that said firearms had been
5 shipped and transported in interstate and foreign commerce, in
6 violation of Title 18, United States Code, Section 922(g)(5).

7 COUNT THIRTY-SIX: [18 U.S.C. § 922(g)(1) - Felon in Possession of a
8 Firearm]

9 The Grand Jury further charges: T H A T

10 EMILIANO CORTEZ-^{*Parcia RA*}~~GARTICA~~,

11 defendant herein, on or about October 9, 2013, in Fresno County, in
12 the State and Eastern District of California and elsewhere, having
13 been convicted of a crime punishable by imprisonment for a term
14 exceeding one year, that is, Possession of an Assault Weapon, in
15 violation of California Penal Code Section 12280, on or about July 3,
16 2010, in Nevada County, California, did knowingly possess, one or
17 more firearms, specifically:

- 18 (1) a Colt Government Model pistol (serial number ELR074),
19 (2) a Colt Challenger Model pistol (serial number 27115-C), and
20 (3) an Izhmash Saiga model 12-gauge shotgun (serial number
21 12422181),

22 in and affecting interstate commerce, in that said firearms had been
23 shipped and transported in interstate and foreign commerce, in
24 violation of Title 18, United States Code, Section 922(g)(1).

25 FORFEITURE ALLEGATION: [18 U.S.C. § 924(d)(1); 26 U.S.C. § 5872;
26 28 U.S.C. § 2461(c); and 49 U.S.C. § 80303 -
Criminal Forfeiture]

27 1. Upon conviction of one or more of the offenses alleged in
28 Counts One through Ten, Twenty-Two through Twenty-Seven, Thirty-Five

1 and Thirty-Six of this Superseding Indictment, defendants LUIS
2 CORTEZ-^{GARCIA RA}~~GARCIA~~ and EMILIANO CORTEZ-GARCIA shall forfeit to the United
3 States pursuant to Title 18, United States Code, Section 924(d)(1)
4 and Title 28, United States Code, Section 2461(c), any firearms and
5 ammunition involved or used in the knowing or willful commission of
6 the offenses.

7 2. Upon conviction of one or more of the offenses alleged in
8 Counts Eleven through Twenty-One, and Twenty-Eight through Thirty-
9 Four of this Superseding Indictment, defendants LUIS CORTEZ-^{GARCIA RA}~~GARCIA~~
10 and EMILIANO CORTEZ-GARCIA shall forfeit to the United States
11 pursuant to Title 26, United States Code, Sections 5872, Title 28,
12 United States Code, Section 2461(c), and Title 49, United States
13 Code, Section 80303:

- 14 a. any firearms involved in the commission of the
15 offenses;
- 16 b. any property used, or intended to be used in the
17 commission of the offenses;
- 18 c. any aircraft, vehicle, or vessel involved in the
19 commission of the offenses.

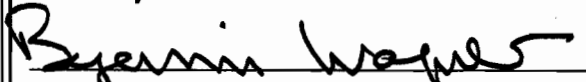
20 3. If any property subject to forfeiture, as a result of the
21 offenses alleged in Counts One through Thirty-Six of this Superseding
22 Indictment, for which the defendants are convicted:

- 23 a. cannot be located upon the exercise of due diligence;
- 24 b. has been transferred or sold to, or deposited with, a
25 third party;
- 26 c. has been placed beyond the jurisdiction of the Court;
- 27 d. has been substantially diminished in value; or
- 28 e. has been commingled with other property which cannot

1 be divided without difficulty;
2 it is the intent of the United States, pursuant to Title 28, United
3 States Code, Section 2461(c), to seek forfeiture of any other
4 property of defendants, up to the value of the property subject to
5 forfeiture.

6
7 A TRUE BILL.

8 /s/ Signature on file w/AUSA
9 FOREPERSON

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11 BENJAMIN B. WAGNER
12 United States Attorney
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No. _____

UNITED STATES DISTRICT COURT

Eastern District of California

Criminal Division

THE UNITED STATES OF AMERICA

vs.

Emilio
LUIS CORTEZ-GARCIA and **EMILIO CORTEZ-GARCIA**

INDICTMENT

VIOLATION(S): 18 U.S.C. § 371 – Conspiracy to Unlawfully Manufacture and Deal in Firearms; 18 U.S.C. § 922(a)(1)(A) – Unlawful Manufacturing and Dealing in Firearms; 18 U.S.C. § 922(o) – Possession of a Machine Gun (13 Counts); 26 U.S.C. § 5861 (d) – Possession of an Unregistered Firearm (18 Counts); 18 U.S.C. § 922(g)(5) – Illegal Alien in Possession of a Firearm (2 Counts); 18 U.S.C. § 922(g)(1) – Felon in Possession of a Firearm; 18 U.S.C. § 924(d)(1); 26 U.S.C. § 5872; 28 U.S.C. § 2461(c); and 49 U.S.C. § 80303 - Criminal Forfeiture

A true bill,

/s/ Signature on file w/AUSA

Foreman.

Filed in open court this *27th* day

of *February*, A.D. 20 *14*

[Signature]
Clerk

Bail, \$ **NO PROCESS NECESSARY** *as to both defendants*

[Signature]

PENALTY SLIP

United States v. Luis Cortez-Garcia et al.

Defendants Luis Cortez-Garcia & Emiliano Cortez-Garcia

COUNT 1: 18 U.S.C. § 371 – Conspiracy to Manufacture/Deal in Firearms
Fine of up to \$250,000, and/or
Imprisonment of up to 5 years, or both
Term of Supervised Release of up to 3 years

COUNT 2: 18 U.S.C. § 922(a)(1)(A) – Unlawful Manufacturing and
Dealing in Firearm
Fine of up to \$250,000, and/or
Imprisonment of up to 5 years, or both
Term of Supervised Release of up to 3 years

Defendant Luis Cortez-Garcia only

COUNTS 3 through 10: 18 U.S.C. § 922(o) – Possession of a Machinegun
Fine of up to \$250,000, and/or
Imprisonment of up to 10 years, or both
Term of Supervised Release of up to 3 years

COUNTS 11 through 21: 26 U.S.C. § 5861(d) – Possession of an Unregistered Firearm
Fine of up to \$10,000, and/or
Imprisonment of up to 10 years, or both
Term of Supervised Release of up to 3 years

COUNT 22: 18 U.S.C. § 922(g) - Possession of a Firearm by a
Prohibited Person
Fine of up to \$250,000, and/or
Imprisonment of up to 10 years, or both
Term of Supervised Release of up to 3 years

Defendant Emiliano Cortez-Garcia only

COUNTS 23 through 27: 18 U.S.C. § 922(o) – Possession of a Machinegun
Fine of up to \$250,000, and/or
Imprisonment of up to 10 years, or both
Term of Supervised Release of up to 3 years

COUNTS 28 through 34: 26 U.S.C. § 5861(d) – Possession of an Unregistered Firearm

Fine of up to \$10,000, and/or
Imprisonment of up to 10 years, or both
Term of Supervised Release of up to 3 years

COUNTS 35 and 36: 18 U.S.C. § 922(g) - Possession of a Firearm by a Prohibited Person

Fine of up to \$250,000, and/or
Imprisonment of up to 10 years, or both
Term of Supervised Release of up to 3 years

FORFEITURE: As set out in the Superseding Indictment.

COURT ASSESSMENT: \$100 (each count)