

FILED
AUG 27 2010
[Signature]

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE GARCIA,
a/k/a "Maya," a/k/a "Moya";
JOSE ENRIQUE BURGOS-VALDEZ,
a/k/a Jose Enrique Burgos,
a/k/a "Feriche," a/k/a "Arturo";
MICHELLE MUNOZ;
JESUS FABEL DIAZ-PELLEGAUD,
a/k/a "Fael," a/k/a "Fabel";
MANUEL RAMIREZ, a/k/a Alfredo
Felix Pellagaud, a/k/a "Pachin"; and
BENJAMIN MELENDEZ-ROCHA,
a/k/a Roberto Barron, a/k/a "Enano,"
a/k/a "Nano," a/k/a "Seta,"

Defendants.

CR 09-40029-16, 21, 22, 23, 24, 27

JURY
INSTRUCTIONS

INSTRUCTION NO. 1

Members of the jury, the instructions I gave you at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because *all* are important. This is true even though some of those I gave you at the beginning of the trial are not repeated here.

The instructions I am about to give you now are in writing and will be available to you in the jury room. I emphasize, however, that this does not mean they are more important than my earlier instructions. Again, *all* instructions, whenever given and whether in writing or not, must be followed.

INSTRUCTION NO. 2

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

INSTRUCTION NO. 3

There is nothing particularly different in the way that you should consider the evidence in a trial from that in which any reasonable and careful person would treat any very important question that must be resolved by examining facts, opinions, and evidence. You are expected to use your good sense in considering and evaluating the evidence in the case for only those purposes for which it has been received and to give such evidence a reasonable and fair construction in the light of your common knowledge of the natural tendencies and inclinations of human beings.

Keep constantly in mind that it would be a violation of your sworn duty to base a verdict upon anything other than the evidence received in the case and the instructions of the Court. Remember as well that the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence because the burden of proving guilt beyond a reasonable doubt is always assumed by the government.

INSTRUCTION NO. 4

I have mentioned the word “evidence.” The “evidence” in this case consists of the testimony of witnesses, the documents and other things received as exhibits, and any facts that have been stipulated—that is, formally agreed to by the parties.

You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence in the case.

Certain things are not evidence. I will list those things again for you now:

1. Statements, arguments, questions, and comments by lawyers representing the parties in the case are not evidence.

2. Objections are not evidence. Lawyers have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.

3. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.

4. Anything you saw or heard about this case outside the courtroom is not evidence.

Finally, if you were instructed that some evidence was received for a limited purpose only, you must follow that instruction.

INSTRUCTION NO. 5

There are two types of evidence which are generally presented during a trial—direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who asserts or claims to have actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all the evidence in the case. After weighing all the evidence, if you are not convinced of the guilt of a defendant beyond a reasonable doubt, you must find him or her not guilty.

INSTRUCTION NO. 6

If any reference by the Court or by counsel to matters of testimony or exhibits does not coincide with your own recollection of that evidence, it is your recollection which should control during your deliberations and not the statements of the Court or of counsel.

You are the sole judges of the evidence received in this case.

INSTRUCTION NO. 7

The government and the defendants have stipulated to certain facts - that is, they have agreed that certain facts are as counsel has stated. You must therefore treat those facts as having been proved.

INSTRUCTION NO. 8

You have heard tape recordings of conversations . These conversations were legally recorded, and you may consider the recordings just like any other evidence.

INSTRUCTION NO. 9

You have heard evidence that witnesses were convicted of crimes. You may use that evidence only to help you decide whether to believe the witnesses and how much weight to give to their testimony.

INSTRUCTION NO. 10

You have heard evidence that witnesses have entered into plea agreements whereby they received or in other instances hope to receive more lenient sentences or reduction of their sentences in return for their cooperation with the Government in this case. The testimony of these witnesses was received in evidence and may be considered by you. You may give the testimony of each of these witnesses such weight as you think it deserves. Whether or not the testimony of each of these witnesses may have been influenced by their hope of receiving or maintaining a reduced sentence is for you to determine.

The guilty plea of any of these witnesses cannot be considered by you as evidence of any defendant's guilt of the charge in this case. Any witness's' guilty plea can be considered by you only for the purpose of determining how much, if at all, to rely upon the witnesses' testimony.

INSTRUCTION NO. 11

There is no burden upon a defendant to prove that he or she is innocent. Accordingly, the fact that a defendant did not testify must not be considered by you in any way, or even discussed, in arriving at your verdict.

INSTRUCTION NO. 12

You have heard testimony from persons described as experts. Persons who, by knowledge, skill, training, education or experience, have become an expert in some field may state their opinions on matters in that field and may also state the reasons for their opinion.

Expert testimony should be considered just like any other testimony. You may accept or reject it, and give it as much weight as you think it deserves, considering the witness's education and experience, the soundness of the reasons given for the opinion, the acceptability of the methods used, and all the other evidence in the case.

INSTRUCTION NO. 13

Witnesses have testified that they viewed photographs of some of the Defendants which were shown to them by the police. The police collect pictures of many people from many different sources and for many different purposes. The fact that the police had a defendant's picture does not mean that he or she committed the charged crime and it must have no effect on your consideration of the case.

INSTRUCTION NO. 14

If you took notes during the trial, your notes should be used only as memory aids. You should not give your notes precedence over your independent recollection of the evidence. If you did not take notes, you should rely on your own independent recollection of the proceedings and you should not be influenced by the notes of other jurors. I emphasize that notes are not entitled to any greater weight than the recollection or impression of each juror as to what the testimony may have been.

INSTRUCTION NO. 15

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider therefore whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

INSTRUCTION NO. 16

Your decision on the facts of this case should not be determined by the number of witnesses testifying for or against a party. You should consider all the facts and circumstances in evidence to determine which of the witnesses you choose to believe or not believe. You may find that the testimony of a smaller number of witnesses on one side is more credible than the testimony of a greater number of witnesses on the other side.

INSTRUCTION NO. 17

You must presume that the defendants are innocent of the crimes charged. The Fourth Superseding Indictment is only a formal method of beginning a criminal case. It does not create any presumption of guilt; it is merely an accusation. The fact that a person has been indicted does not create any inference, nor is it evidence, that he is guilty of any crime. The presumption of innocence alone is sufficient to acquit a defendant unless you as jurors are satisfied beyond a reasonable doubt of a defendant's guilt of each crime charged from all the evidence that has been introduced in the case.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. This burden never shifts to a defendant for the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. Unless the government proves, beyond a reasonable doubt, that a defendant committed each and every element of each offense charged against each defendant in the Fourth Superseding Indictment, you must find that defendant not guilty of that offense.

There is no burden upon a defendant to prove that he or she is innocent.

Eighth Circuit Manual of Model Jury Instructions Criminal, § 3.05 (2007), (modified); O'Malley, Grenig and Lee, Federal Jury Practice and Instructions, § 12.10, (5th ed. 2000), (modified).

INSTRUCTION NO. 18

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 19

This is a criminal case brought against the defendants, Jose Garcia, a/k/a “Maya,” a/k/a “Moya”; Jose Enrique Burgos-Valdez, a/ka Jose Enrique Burgos, a/k/a “Feriche,” a/k/a “Feruchi,” a/k/a “Arturo”; Michelle Munoz; Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel”; Manuel Ramirez, a/k/a Alfredo Felix Pellagaud, a/k/a “Pachin”; and Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” by the United States government. The charges are set forth in what is called a “Fourth Superseding Indictment.” You should understand that an Indictment is simply an accusation. It is not evidence of anything.

Count 1 of the Fourth Superseding Indictment in this case charges that from on or about 2003, and continuing to on or about July 2009, in the District of South Dakota and elsewhere, the defendants, Jose Garcia, a/k/a “Maya,” a/k/a “Moya”; Jose Enrique Burgos-Valdez, a/ka Jose Enrique Burgos, a/k/a “Feriche,” a/k/a “Feruchi,” a/k/a “Arturo”; Michelle Munoz; Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel”; Manuel Ramirez, a/k/a Alfredo Felix Pellagaud, a/k/a “Pachin”; and Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” did knowingly or intentionally combine, conspire, confederate, or agree together, with others known and unknown to the Grand Jury, to knowingly or intentionally distribute 500 grams or more of a mixture or substance containing methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. § § 841(a)(1) and 846.

Count 2 of the Fourth Superseding Indictment in this case charges that from on or about 2003, and continuing to on or about July 2009, in the District of South Dakota and elsewhere, Jose Garcia, a/k/a “Maya,” a/k/a “Moya”; Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel”; Manuel Ramirez, a/k/a Alfredo Felix Pellagaud, a/k/a “Pachin;” and Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” did knowingly or intentionally

INSTRUCTION NO. 19, continued

combine, conspire, confederate, or agree together, with others known and unknown to the Grand Jury, to knowingly or intentionally distribute 100 kilograms or more of a mixture or substance containing marijuana, a Schedule I controlled substance, in violation of 21 U.S.C. § § 841(a)(1) and 846.

Count 3 of the Fourth Superseding Indictment in this case charges that from on or about 2003, and continuing to on or about July 2009, in the District of South Dakota and elsewhere, the defendants, Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel”; and Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” did knowingly or intentionally combine, conspire, confederate, or agree together, with others known and unknown to the Grand Jury, to commit offenses against the United States in violation of 18 U.S.C. § 1956, to-wit:

(a) to knowingly conduct or attempt to conduct a financial transaction affecting interstate or foreign commerce, which involved the proceeds of a specified unlawful activity, that is knowingly or intentionally distributing controlled substances, with the intent to promote the carrying on of such specified unlawful activity, and that while conducting or attempting to conduct such financial transaction knew that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. § 1956(a)(1)(A)(i); or

(b) to knowingly conduct or attempt to conduct financial transactions affecting interstate commerce or foreign commerce, which transactions involved the proceeds of specified unlawful activity, that is, knowingly or intentionally distributing controlled substances, knowing that the transactions were designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds of specified unlawful activity; or that while conducting or

INSTRUCTION NO. 19, continued.

attempting to conduct such financial transactions, knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, in violation of 18 U.S.C. § 1956(a)(1)(B)(I); All in violation of 18 U.S.C. § 1956(h).

The defendants have pleaded not guilty to these charges. There is no burden upon a defendant to prove that he or she is innocent of any charge against him or her.

INSTRUCTION NO. 20

Section 841(a)(1) of Title 21 of the United States Code provides, in part, that:

(a) . . . it shall be unlawful for any person knowingly or intentionally -

(1) to . . . distribute . . . a controlled substance [.]

21 U.S.C. § 841(a)(1).

INSTRUCTION NO. 21

The Fourth Superseding Indictment charges that the offenses alleged were committed “on or about” a certain date. Although it is necessary for the government to prove beyond a reasonable doubt that each offense was committed on a date reasonably near the date alleged in the Fourth Superseding Indictment, it is not necessary for the government to prove that an offense was committed precisely on the date charged.

INSTRUCTION NO. 22

It is not necessary for the government to prove that a defendant knew the precise nature of the controlled substance that he or she conspired to distribute.

The government must prove beyond a reasonable doubt, however, that a defendant did know that some type of controlled substance was distributed.

INSTRUCTION NO. 23

You are instructed, as a matter of law, that methamphetamine and marijuana are controlled substances.

You are further instructed that an ounce is equal to 28.35 grams.

It is solely for you to determine, however, whether the government has proven beyond a reasonable doubt that a defendant conspired to distribute a mixture or substance containing methamphetamine or marijuana and the quantity of the drug involved in the particular offense.

INSTRUCTION NO. 24

The crime of conspiracy to distribute methamphetamine, as charged in Count 1 of the Fourth Superseding Indictment, has four essential elements, which are:

One, from on or about 2003 and continuing to on or about July 2009, two or more persons reached an agreement or came to an understanding to distribute a mixture or substance containing methamphetamine;

Two, the Defendant under consideration voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect;

Three, at the time the Defendant under consideration joined in the agreement or understanding, he or she knew the purpose of the agreement or understanding; and

Four, the agreement or understanding involved 500 grams or more of a mixture or substance containing methamphetamine.

If you find these four elements unanimously and beyond a reasonable doubt as to the Defendant under consideration, then you must find that Defendant guilty of the crime of conspiracy to distribute 500 grams or more of a mixture or substance containing methamphetamine. Record your determination on the Verdict Form that is submitted to you with these instructions.

If you do not find the Defendant under consideration guilty of this crime, and if the Verdict Form instructs you to do so, go on to consider whether that Defendant conspired to distribute 50 grams or more of a mixture or substance containing methamphetamine.

INSTRUCTION NO. 24, continued

If you find unanimously and beyond a reasonable doubt:

The first three elements set forth above; and

Fourth, you find that the agreement or understanding involved 50 grams or more of a mixture or substance containing methamphetamine, then you must find that Defendant guilty of the crime of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine. Record your determination on the Verdict Form.

If you do not find the Defendant under consideration guilty of this crime, go on to consider whether that Defendant conspired to distribute some amount of a mixture or substance containing methamphetamine. If you find the first three elements set forth above unanimously and beyond a reasonable doubt, you must find that Defendant guilty of the crime of conspiracy to distribute some amount of a mixture or substance containing methamphetamine. Otherwise, you must find that Defendant not guilty. Record your determination on the Verdict Form.

The quantity of mixture or substance containing methamphetamine involved in the agreement or understanding includes the mixture or substance containing methamphetamine the Defendants possessed for personal use or distributed or agreed to distribute. The quantity also includes the mixture or substance containing methamphetamine fellow conspirators distributed or agreed to distribute, if you find that those distributions or agreements to distribute were a necessary or natural consequence of the agreement or understanding and were reasonably foreseeable by the Defendant under consideration.

Eighth Circuit Manual of Model Jury Instructions Criminal, § 6.21.846A.1 (2007) (modified).

INSTRUCTION NO. 25

The crime of conspiracy to distribute marijuana, as charged in Count 2 of the Fourth Superseding Indictment, has four essential elements, which are:

- One, from on or about 2003 and continuing to on or about July 2009, two or more persons reached an agreement or came to an understanding to distribute a mixture or substance containing marijuana;
- Two, the Defendant under consideration voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect;
- Three, at the time the Defendant under consideration joined in the agreement or understanding, he knew the purpose of the agreement or understanding; and
- Four, the agreement or understanding involved 100 kilograms or more of a mixture or substance containing marijuana.

If you find these four elements unanimously and beyond a reasonable doubt as to the Defendant under consideration, then you must find that Defendant guilty of the crime of conspiracy to distribute 100 kilograms or more of a mixture or substance containing marijuana. Record your determination on the Verdict Form that is submitted to you with these instructions.

If you do not find the Defendant under consideration guilty of this crime, and if the Verdict Form instructs you to do so, go on to consider whether that Defendant conspired to distribute some amount of a mixture or substance containing marijuana. If you find the first three elements set forth above unanimously and beyond a reasonable doubt, you must find that Defendant guilty of the crime of conspiracy to distribute some amount of a mixture or substance containing marijuana. Otherwise, you must find that Defendant not guilty. Record your determination on the Verdict Form.

INSTRUCTION NO. 25, continued

The quantity of the mixture or substance containing marijuana involved in the agreement or understanding includes the mixture or substance containing marijuana the Defendants possessed for personal use or distributed or agreed to distribute. The quantity also includes the mixture or substance containing marijuana fellow conspirators distributed or agreed to distribute, if you find that those distributions or agreements to distribute were a necessary or natural consequence of the agreement or understanding and were reasonably foreseeable by the Defendant under consideration.

INSTRUCTION NO. 26

To prove a conspiracy the government must prove that a Defendant reached an agreement or understanding with at least one other person. It makes no difference whether that person is named in the Fourth Superseding Indictment. You do not have to find that all of the persons charged in the Fourth Superseding Indictment were members of any conspiracy charged in the Fourth Superseding Indictment.

The “agreement or understanding” need not be an express or formal agreement or be in writing or cover all the details of how it is to be carried out. Nor is it necessary that the members have directly stated between themselves the details or purpose of the scheme.

You should understand that merely being present at the scene of an event, or merely acting in the same way as others or merely associating with others, does not prove that a person has joined in an agreement or understanding. A person who has no knowledge of a conspiracy but who happens to act in a way which advances some purpose of one, does not thereby become a member.

But a person may join in an agreement or understanding, as required by this element, without knowing all the details of the agreement or understanding, and without knowing who all the other members are. Further, it is not necessary that a person agree to play any particular part in carrying out the agreement or understanding. A person may become a member of a conspiracy even if that person agrees to play only a minor part in the conspiracy, as long as that person has an understanding of the unlawful nature of the plan and voluntarily and intentionally joins in it.

You must decide, after considering all of the evidence, whether each of the conspiracies alleged in the Fourth Superseding Indictment existed. If you find that the alleged conspiracy in issue did exist, you must also decide whether the Defendant whose case you are considering voluntarily and intentionally joined the conspiracy in issue, either at the time it was first formed or at some later time while it was still in effect. In making that decision, you must consider only

INSTRUCTION NO. 26, continued

evidence of that Defendant's own actions and statements. You may not consider actions and pretrial statements of others, except to the extent that pretrial statements of others describe something that had been said or done by that Defendant.

INSTRUCTION NO. 27

In any of the charged conspiracies, it is not necessary for the government to prove that the conspirators actually succeeded in accomplishing their unlawful plan.

INSTRUCTION NO. 28

If you have found beyond a reasonable doubt that a conspiracy in issue existed and that a Defendant was one of its members, then you may consider acts knowingly done and statements knowingly made by that Defendant's co-conspirators during the existence of that conspiracy and in furtherance of it as evidence pertaining to that Defendant even though they were done or made in the absence of and without the knowledge of that Defendant. This includes acts done or statements made before that Defendant had joined the conspiracy in issue, for a person who knowingly, voluntarily, and intentionally joins an existing conspiracy is responsible for all of the conduct of the co-conspirators from the beginning of the conspiracy.

Acts and statements which are made before the conspiracy in issue began or after it ended are admissible only against the person making them and should not be considered by you against any other Defendant.

INSTRUCTION NO. 29

Title 18, United States Code, Section 1956, makes it a crime to conduct or attempt to conduct a financial transaction knowing that the property involved in the financial transaction represents the proceeds of some form of unlawful activity. This crime is also referred to as “money laundering.”

INSTRUCTION NO. 30

The crime of conspiracy to conduct or attempt to conduct an illegal financial transaction, as charged in Count 3 of the Fourth Superseding Indictment, has four elements, which are:

1. From on or about 2003 and continuing through on or about July 2009, two or more people reached an agreement or came to an understanding to conduct one or more financial transactions which involved the proceeds of some form of specified unlawful activity, which in any way affected interstate or foreign commerce; and

2. The defendant in question voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect; and

3. At the time the defendant in question joined in the agreement or understanding, he knew the purpose of the agreement or understanding, and knew that the agreement involved the proceeds of some form of specified unlawful activity; and

4. Either:

a. The financial transaction was conducted with the intent to promote the carrying on of a specified unlawful activity, e.g., unlawful distribution of a controlled substance; or

b. The financial transaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the proceeds of a specified unlawful activity, e.g., unlawful distribution of a controlled substance.

The crime of conspiracy to conduct or attempt to conduct an illegal financial transaction, as charged in Count 3 of the Fourth Superseding Indictment alleges two purposes for the crime, that is, the financial transaction was conducted with the intent to promote the carrying on of, unlawful distribution of a controlled substance, and, in the alternative, the financial transaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the

INSTRUCTION NO. 30, continued

unlawful distribution of a controlled substance. To find the defendant in question guilty of the offense of conspiracy to conduct or attempt to conduct an illegal financial transaction, as charged in Count 3 of the Fourth Superseding Indictment, you must agree unanimously that one or both of the purposes charged were proved beyond a reasonable doubt.

INSTRUCTION NO. 31

You are further instructed that regarding the crime of money laundering as alleged in Count 3 of the Fourth Superseding Indictment, the following definitions apply:

FINANCIAL TRANSACTION

The phrase “financial transaction,” as used in the money laundering instruction means a transaction which in any way or degree affects interstate or foreign commerce involving the movement of funds by wire or other means; or involving the transfer of title to any vehicle or vessel; or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree.

The term “transaction,” as used above, means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition of property; or with respect to a financial institution, a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means.

INTERSTATE AND FOREIGN COMMERCE

The phrase “interstate commerce,” as used above, means commerce between any combination of states, territories, and possessions of the United States, including the District of Columbia. The term “commerce” includes, among other things, travel, trade, transportation and communication.

It is not necessary for the Government to show that any of the defendants actually intended or anticipated an effect on interstate or foreign commerce. All that is necessary is that interstate or foreign commerce was affected as a natural and probable consequence of the defendants’ actions. You may find an effect on interstate commerce has been proven if you find from the evidence beyond a reasonable doubt that funds and property were moved, transported, or transferred between multiple states, including South Dakota.

INSTRUCTION NO. 31, continued

It is not necessary for the Government to show that the defendants' transaction or transactions with a financial institution, that is, with Wells Fargo Bank itself, affected interstate or foreign commerce. All that is necessary is that at the time of the alleged offense, Wells Fargo Bank was engaged in or had other activities which affected interstate or foreign commerce in any way or degree.

You may find that the transaction involved the use of a financial institution which engaged in or the activities of which affected interstate or foreign commerce in any way or degree if you find from the evidence beyond a reasonable doubt that Wells Fargo Bank has branches in multiple states, and that funds were transferred from one state to another during the course of the conspiracy.

PROCEEDS

The term "proceeds" means any property, or any interest in property, that someone acquires or retains as a result of the commission of unlawful distribution of a mixture or substance containing methamphetamine or marijuana. Proceeds can be any kind of property, not just money. It can include personal property, like a car or a piece of jewelry, or real property, like an interest in land. So, for example, if someone sells drugs for cash and uses the cash to buy a cashier's check, the cash received is proceeds and the cashier's check is still proceeds of the crime.

It does not matter whether or not the person who committed the underlying crime, and thereby acquired or retained the proceeds, was a defendant. It is a crime to conduct a financial transaction involving property that is the proceeds of a crime, even if that crime was committed by another person, as long as all of the elements of the offense are satisfied.

The Government is not required to trace the property it alleges to be proceeds of unlawful distribution of methamphetamine or marijuana to a particular underlying offense. It is sufficient if the Government proves that the property was the proceeds of unlawful distribution of a mixture or

INSTRUCTION NO. 31, continued

substance containing methamphetamine or marijuana generally. For example, in a case involving alleged drug proceeds, the Government need not trace the money to a particular drug offense, but could satisfy the requirement by proving that the money was the proceeds of drug trafficking generally.

The Government need not prove that all of the property involved in the transportation, transmission or transfer was the proceeds of unlawful distribution of a mixture or substance containing methamphetamine or marijuana. It is sufficient if the Government proves that at least part of the property represents such proceeds.

SPECIFIED UNLAWFUL ACTIVITY

The phrase “specified unlawful activity” means any one of a large variety of offenses defined by statute. You are instructed as a matter of law that unlawful distribution of a mixture or substance containing methamphetamine or marijuana falls within the definition.

KNOWLEDGE

The phrase “knew the property represented the proceeds of some form of unlawful activity” means that the defendant in question knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony offense under state or federal law. Thus, the Government need not prove that the defendant in question specifically knew that the property involved in the financial transaction represented the proceeds of unlawful distribution of a mixture or substance containing methamphetamine or marijuana or any other specific offense; it need only prove that he knew it represented the proceeds of some form, though not necessarily which form, of felony under state or federal law. You are instructed as a matter of law that unlawful distribution of methamphetamine or marijuana is a felony under federal law.

INSTRUCTION NO. 31, continued

Eighth Circuit Manual Model Jury Instructions Criminal, § 6.18.1956J (2009) (modified);
Government's Proposed Instruction No. 11 (modified).§ 6.18.1956J (modified)

INSTRUCTION NO. 32

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I will list those rules for you now.

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement if you can do so without violence to individual judgment, because your verdicts – whether guilty or not guilty – must be unanimous.

Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.

Third, if a Defendant is found guilty of any charge, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the government has proved its case beyond a reasonable doubt.

Fourth, if you need to communicate with me, you may send a note to me through the marshal, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone, including me, how your vote stands numerically.

INSTRUCTION NO. 32, continued

Fifth, your verdicts must be based solely on the evidence and on the law which I have given to you in my instructions. Nothing I have said or done is intended to suggest what your verdicts should be -- that is entirely for you to decide.

Finally, the verdict form is simply the written notice of the decisions that you reach in this case. You will take this form to the jury room, and when each of you has agreed upon the verdicts, your foreperson will fill in the form, sign and date it, and advise the marshal that you are ready to return to the courtroom.

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

UNITED STATES OF AMERICA,

CR 09-40029-16, 21, 22, 23, 24, 27

Plaintiff,

vs.

VERDICT FORM

JOSE GARCIA,
a/k/a "Maya," a/k/a "Moya";
JOSE ENRIQUE BURGOS-VALDEZ,
a/k/a Jose Enrique Burgos,
a/k/a "Feriche," a/k/a "Arturo";
MICHELLE MUNOZ;
JESUS FABEL DIAZ-PELLEGAUD,
a/k/a "Fael," a/k/a "Fabel";
MANUEL RAMIREZ, a/k/a Alfredo
Felix Pellagaud, a/k/a "Pachin"; and
BENJAMIN MELENDEZ-ROCHA,
a/k/a Roberto Barron, a/k/a "Enano,"
a/k/a "Nano," a/k/a "Seta,"

Defendants.

Please return your verdicts by placing an "X" or "√" in the spaces provided.

VERDICT ONE

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 500 grams or more of a mixture or substance containing methamphetamine, as charged in Count 1 of the Fourth Superseding Indictment, find the Defendant, Jose Garcia, a/k/a "Maya," a/k/a "Moya":

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya" guilty of the above crime, do not consider Verdicts Two and Three and go on to Verdict Four. If you unanimously find Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya," not guilty of the above crime, you must then consider in Verdict Two whether Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya" is guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Two whether the Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya," is guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine.

VERDICT TWO

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine, a lesser included offense of the crime charged as in Count 1 of the Fourth Superseding Indictment, find the Defendant, Jose Garcia, a/k/a "Maya," a/k/a "Moya":

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya," guilty of the above crime, do not consider Verdict Three and go on to Verdict Four. If you unanimously find Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya," not guilty of the above crime, you must then consider in Verdict Three whether Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya," is guilty of conspiracy to distribute some amount of a mixture or substance containing methamphetamine. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Three whether Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya," is guilty of conspiracy to distribute some amount of a mixture or substance containing methamphetamine.

VERDICT THREE

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute some amount of a mixture or substance containing methamphetamine, a lesser included offense of the crime charged in Count 1 of the Fourth Superseding Indictment, find the Defendant,

Jose Garcia, a/k/a "Maya," a/k/a "Moya":

_____ NOT GUILTY

_____ GUILTY

Go on to consider Verdict Four.

VERDICT FOUR

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 100 kilograms or more of a mixture or substance containing marijuana, as charged in Count 2 of the Fourth Superseding Indictment, find the Defendant, Jose Garcia, a/k/a "Maya," a/k/a "Moya":

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya," guilty of the above crime, do not consider Verdict Five and go on to Verdict Six. If you unanimously find Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya," not guilty of the above crime, you must then consider in Verdict Five whether Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya," is guilty of conspiracy to distribute some amount of a mixture or substance containing marijuana. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Five whether Defendant Jose Garcia, a/k/a "Maya," a/k/a "Moya," is guilty of conspiracy to distribute some amount of a mixture or substance containing marijuana.

VERDICT FIVE

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute some amount of a mixture or substance containing marijuana, a lesser included offense of the crime charged in Count 2 of the Fourth Superseding Indictment, find the Defendant, Jose Garcia, a/k/a "Maya," a/k/a "Moya":

_____ NOT GUILTY

_____ GUILTY

Go on to consider Verdict Six.

VERDICT SIX

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 500 grams or more of a mixture or substance containing methamphetamine, as charged in Count 1 of the Fourth Superseding Indictment, find the Defendant, Jose Enrique Burgos-Valdez, a/ka Jose Enrique Burgos, a/k/a “Feriche,” a/k/a “Feruchi,” a/k/a “Arturo”:

_____ NOT GUILTY

_____ GUILTY

Go on to consider Verdict Seven.

VERDICT SEVEN

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 500 grams or more of a mixture or substance containing methamphetamine, as charged in Count 1 of the Fourth Superseding Indictment, find the Defendant, Michelle Munoz:

_____ NOT GUILTY

_____ GUILTY

Go on to consider Verdict Eight.

VERDICT EIGHT

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 500 grams or more of a mixture or substance containing methamphetamine, as charged in Count 1 of the Fourth Superseding Indictment, find the Defendant, Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel”:

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” guilty of the above crime, do not consider Verdicts Nine and Ten and go on to Verdict Eleven. If you unanimously find Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” not guilty of the above crime, you must then consider in Verdict Nine whether Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” is guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Nine whether Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” is guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine.

VERDICT NINE

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine, a lesser included offense of the crime charged in Count 1 of the Fourth Superseding Indictment, find the Defendant, Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel” :

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” guilty of the above crime, do not consider Verdict Ten and go on to Verdict Eleven. If you unanimously find Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” not guilty of the above crime, you must then consider in Verdict Ten whether Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” is guilty of conspiracy to distribute some amount of a mixture or substance containing methamphetamine. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Ten whether Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” is guilty of conspiracy to distribute some amount of a mixture or substance containing methamphetamine.

VERDICT TEN

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute some amount of a mixture or substance containing methamphetamine, a lesser included offense of the crime charged in Count 1 of the Fourth Superseding Indictment, find the Defendant,

Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel”:

NOT GUILTY

GUILTY

Go on to consider Verdict Eleven.

VERDICT ELEVEN

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 100 kilograms or more of a mixture or substance containing marijuana, as charged in Count 2 of the Fourth Superseding Indictment, find the Defendant, Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel”:

NOT GUILTY

GUILTY

If you unanimously find Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” guilty of the above crime, do not consider Verdict Twelve and go on to Verdict Thirteen. If you unanimously find Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” not guilty of the above crime, you must then consider in Verdict Twelve whether Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” is guilty of conspiracy to distribute some amount of a mixture or substance containing marijuana. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Twelve whether Defendant Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel,” is guilty of conspiracy to distribute some amount of a mixture or substance containing marijuana.

VERDICT TWELVE

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute some amount of a mixture or substance containing marijuana, a lesser included offense of the crime charged in Count 2 of the Fourth Superseding Indictment, find the Defendant, Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel”:

NOT GUILTY

GUILTY

Go on to consider Verdict Thirteen.

VERDICT THIRTEEN

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to commit money laundering as charged in Count 3 of the Fourth Superseding Indictment, find the Defendant, Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a “Fabel”:

_____ NOT GUILTY

_____ GUILTY

If you found the Defendant, Jesus Fabel Diaz-Pellegaud, a/k/a “Fael,” a/k/a Fabel ” guilty of conspiracy to commit money laundering, indicate which purpose or purposes for the crime you unanimously agreed was proven beyond a reasonable doubt:

- _____ **The financial transaction was conducted with the intent to promote the carrying on of the unlawful distribution of a controlled substance; or**
- _____ **The financial transaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the unlawful distribution of a controlled substance; or**
- _____ **Both of the above purposes.**

Go on to consider Verdict Fourteen.

VERDICT FOURTEEN

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 500 grams or more of a mixture or substance containing methamphetamine, as charged in Count 1 of the Fourth Superseding Indictment, find the Defendant, Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin” :

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin,” guilty of the above crime, do not consider Verdicts Fifteen and Sixteen and go on to Verdict Seventeen. If you unanimously find Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin,” not guilty of the above crime, you must then consider in Verdict Fifteen whether Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin,” is guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine. If you are unable to reach a unanimous decision

on the above charge, leave the space blank and decide under Verdict Fifteen whether Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin,” is guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine.

VERDICT FIFTEEN

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine, a lesser included offense of the crime charged in Count 1 of the Fourth Superseding Indictment, find the Defendant, Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin” :

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin,” guilty of the above crime, do not consider Verdict Sixteen and go on to Verdict Seventeen. If you unanimously find Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin,” not guilty of the above crime, you must then consider in Verdict Sixteen whether Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin,” is guilty of conspiracy to distribute some amount of a mixture or substance containing methamphetamine. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Sixteen whether Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin,” is guilty of conspiracy to distribute some amount of a mixture or substance containing methamphetamine.

VERDICT SIXTEEN

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute some amount of a mixture or substance containing methamphetamine, a lesser included offense of the crime charged in Count 1 of the Fourth Superseding Indictment, find the Defendant, Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a “Pachin” :

_____ NOT GUILTY

_____ GUILTY

Go on to consider Verdict Seventeen.

VERDICT SEVENTEEN

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 100 kilograms or more of a mixture or substance containing marijuana, as charged in Count 2 of the Fourth Superseding Indictment, find the Defendant, Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a "Pachin" :

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a "Pachin," guilty of the above crime, do not consider Verdict Eighteen and go on to Verdict Nineteen. If you unanimously find Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a "Pachin," not guilty of the above crime, you must then consider in Verdict Eighteen whether Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a "Pachin," is guilty of conspiracy to distribute some amount of a mixture or substance containing marijuana. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Eighteen whether Defendant Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a "Pachin," is guilty of conspiracy to distribute some amount of a mixture or substance containing marijuana.

VERDICT EIGHTEEN

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute some amount of a mixture or substance containing marijuana, a lesser included offense of the crime charged in Count 2 of the Fourth Superseding Indictment, find the Defendant, Manuel Ramirez, a/k/a Alfredo Felix Pellegaud, a/k/a "Pachin," :

_____ NOT GUILTY

_____ GUILTY

Go on to consider Verdict Nineteen.

VERDICT NINETEEN

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 500 grams or more of a mixture or substance containing methamphetamine, as charged in

Count 1 of the Fourth Superseding Indictment, find the Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta”:

____ NOT GUILTY

____ GUILTY

If you unanimously find Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” guilty of the above crime, do not consider Verdicts Twenty and Twenty-One and go on to Verdict Twenty-Two. If you unanimously find Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” not guilty of the above crime, you must then consider in Verdict Twenty whether Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” is guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Twenty whether Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” is guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine.

VERDICT TWENTY

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine, a lesser included offense of the crime charged in Count 1 of the Fourth Superseding Indictment, find the Defendant, Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta” :

____ NOT GUILTY

____ GUILTY

If you unanimously find Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” guilty of the above crime, do not consider Verdict Twenty-One and go on to Verdict Twenty-Two. If you unanimously find Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” not guilty of the above crime, you must then consider in Verdict Twenty-One whether Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” is guilty of conspiracy to distribute some amount of a mixture or

substance containing methamphetamine. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Twenty-One whether Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” is guilty of conspiracy to distribute some amount of a mixture or substance containing methamphetamine.

VERDICT TWENTY-ONE

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute some amount of a mixture or substance containing methamphetamine, a lesser included offense of the crime charged in Count 1 of the Fourth Superseding Indictment, find the Defendant, Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta” :

_____ NOT GUILTY

_____ GUILTY

Go on to consider Verdict Twenty-Two.

VERDICT TWENTY-TWO

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 100 kilograms or more of a mixture or substance containing marijuana, as charged in Count 2 of the Fourth Superseding Indictment, find the Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta” :

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” guilty of the above crime, do not consider Verdict Twenty-Three and go on to Verdict Twenty-Four. If you unanimously find Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta,” not guilty of the above crime, you must then consider in Verdict Twenty-Three whether Defendant is guilty of conspiracy to distribute some amount of a mixture or substance containing marijuana. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Twenty-Three whether Defendant Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a

“Enano,” a/k/a “Nano,” a/k/a “Seta,” is guilty of conspiracy to distribute some amount of a mixture or substance containing marijuana.

VERDICT TWENTY-THREE

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute some amount of a mixture or substance containing marijuana, a lesser included offense of the crime charged in Count 2 of the Fourth Superseding Indictment, find the Defendant, Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta” :

_____ NOT GUILTY

_____ GUILTY

Go on to consider Verdict Twenty-Four.

VERDICT TWENTY-FOUR

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to commit money laundering as charged in Count 3 of the Fourth Superseding Indictment, find the Defendant, Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta” :

_____ NOT GUILTY

_____ GUILTY

If you found the Defendant, Benjamin Melendez-Rocha, a/k/a Roberto Barron, a/k/a “Enano,” a/k/a “Nano,” a/k/a “Seta” guilty of conspiracy to commit money laundering, indicate which purpose or purposes for the crime you unanimously agreed was proven beyond a reasonable doubt:

_____ **The financial transaction was conducted with the intent to promote the carrying on of the unlawful distribution of a controlled substance; or**

_____ **The financial transaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the unlawful distribution of a controlled substance; or**

_____ **Both of the above purposes.**

Have your foreperson sign and date the Verdict Form below.

Dated this _____ day of August, 2010.

Foreperson