

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v. 15 CR 0174 (LGS)

5 FABIO PORFIRIO LOBO,
6 Defendant.

7 -----x

New York, N.Y.
March 6, 2017
10:03 a.m.

10 Before:

11 HON. LORNA G. SCHOFIELD
12 District Judge

14 APPEARANCES

15 PREET BHARARA
United States Attorney for the
16 Southern District of New York
EMIL J. BOVE III
17 MATTHEW J. LAROCHE
Assistant United States Attorney

18 RETURETA & WASSEM
19 Attorney for Defendant
MANUEL RETURETA

20 ALSO PRESENT:
21 ELIZABETH CARUSO
ANNA MARIA RISO
22 HUMBERTO GARCIA
ERIKA DE LOS RÍOS
23 Spanish Interpreters

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1 (In open court; case called)

2 THE COURT: Good morning everyone.

3 I just came out on the bench a couple minutes early so
4 I can set up.

5 (Defendant present; time noted: 11:51)

6 MR. BOVE: Good morning, your Honor.

7 Emil Bove and Matt Laroche for the government. We
8 have here with us Special Agent Sandy Gonzalez from the DEA and
9 Daniel Kim who is a paralegal at our office.

10 MR. RETURETA: Good morning, your Honor.

11 Manuel Retureta on behalf of Mr. Fabio Lobo, who is
12 putting on his headset and is with us right now.

13 THE COURT: Good morning.

14 Why don't we proceed. We are here for a Fatico
15 hearing and I'll let the government call your first witness.

16 MR. BOVE: Your Honor, if I could there are a few
17 housekeeping matters before we get to the first witness.

18 First, with respect to the PSR I just want to confirm
19 the paragraphs that are not disputed for purposes of
20 sentencing. The government's understanding is that those are
21 paragraphs 8, 9, 11, 23 through 29.

22 And then also with respect to paragraphs 13 through 15
23 of the PSR only the information set forth in section three of
24 our February 28 submission is undisputed.

25 THE COURT: Only the information in your section three

1 is undisputed?

2 MR. BOVE: Correct.

3 THE COURT: Okay.

4 MR. RETURETA: Your Honor, for the defense, that's
5 correct.

6 THE COURT: Okay. Thank you.

7 MR. BOVE: Second, your Honor, with respect to
8 exhibits.

9 THE COURT: Yes.

10 MR. BOVE: Government Exhibits 1 through 11 today are
11 translations and were applicable transcriptions of meetings and
12 BlackBerry communications involving the defendant.
13 Specifically Government Exhibits 8 and 11 relate to BlackBerry
14 communications and the remaining exhibits in that range relate
15 to meetings. I've had a chance to discuss those with defense
16 counsel and I offer them at this point as accurate
17 translations.

18 THE COURT: Any objection?

19 MR. RETURETA: No objection, your Honor.

20 THE COURT: Okay. They're admitted.

21 (Government's Exhibits 1 through 11 received in
22 evidence)

23 MR. BOVE: Government Exhibits 1A through 7A and also
24 11A are still images from recordings of meetings involving the
25 defendant.

1 THE COURT: 1A through 7A and 11A.

2 MR. BOVE: Yes, your Honor.

3 THE COURT: Okay.

4 MR. BOVE: And I offer those at this time.

5 THE COURT: Any objection?

6 MR. RETURETA: No objection, your Honor.

7 THE COURT: Those are admitted.

8 (Government's Exhibits 1A through 7A and 11A received
9 in evidence)

10 MR. BOVE: Government Exhibits 20 and 21 are maps. I
11 offer those.

12 THE COURT: Objections?

13 MR. RETURETA: No objection.

14 THE COURT: Those are admitted.

15 (Government's Exhibits 20 and 21 received in evidence)

16 MR. BOVE: Lastly, Government Exhibit 22 is an excerpt
17 from a chart prepared and released by OFAC in September of
18 2013, and I offer Government Exhibit 22.

19 THE COURT: Any objection?

20 MR. RETURETA: Your Honor, my only comment on that one
21 is that it is a portion of the entire sheet. I would ask that
22 the entire sheet be placed into evidence. It's the OFAC
23 organization diagram that was produced. This exhibit cuts out
24 the portion which includes the members of the organization. So
25 I would ask that it be an entire page.

1 MR. BOVE: Your Honor, the remaining portions of that
2 chart from OFAC reflect images of the cooperating witnesses in
3 this case and their relatives. I think unless there's a
4 specific relevance to having them listed -- I've made clear for
5 the record that the exhibit the government is offering is an
6 excerpt of that chart. If Mr. Retureta wishes to offer the
7 complete chart and there's a basis for doing so, we can address
8 that at that point.

9 MR. RETURETA: Your Honor, it's a public document. It
10 was produced by the United States Treasury, the OFAC Office.
11 Everyone knows what's on there. I'd be glad to introduce that
12 as defense evidence. And it goes to the witness's statements
13 regarding his truthfulness in terms of what he provided
14 government agents and law enforcement.

15 THE COURT: Why don't we wait until we get to your
16 case and then you can offer it on your case and the relevance
17 will be more evident and I will also be able to look at it
18 then.

19 MR. RETURETA: Very well.

20 THE COURT: Okay.

21 So 22 is admitted.

22 (Government's Exhibit 22 received in evidence)

23 MR. BOVE: Lastly, your Honor, so the government will
24 be calling one witness today. His name is Devis Leonel.

25 THE COURT: Devis?

1 MR. BOVE: D-E-V-I-S Leonel L-E-O-N-E-L Rivera
2 Maradiaga M-A-R-A-D-I-A-G-A.

3 That witness, Mr. Rivera, is referred to in the PSR as
4 CW2, for purposes of clarity.

5 His brother, Javier Rivera Maradiaga, is referred to
6 in the PSR and in our submissions as CW3.

7 And then there will be points today during the
8 anticipated testimony of Mr. Rivera where he refers to a
9 Colombian. At that point he's referring to the individual
10 identified in the PSR as CS1.

11 Lastly, later in his testimony he'll refer to someone
12 who he knew as Viejo and Viejo's son. Those individuals are
13 referred to in the PSR and in our submissions as CS2 and CS3.

14 THE COURT: Anything else?

15 MR. BOVE: No, your Honor. Thank you.

16 MR. RETURETA: Your Honor, if I may.

17 THE COURT: Yes.

18 MR. RETURETA: On behalf of the defense I want to
19 alert the court as to an objection that I think will be
20 continuing throughout the testimony. The individual that is
21 about to testify has pled to a superseding indictment. The
22 superseding indictment includes conduct from 2003 to 2013.

23 The individual has admitted to being part of an
24 organization that is vast, international, extremely violent,
25 importing vast sums of illegal narcotics throughout the world

1 and the United States.

2 The Fatico hearing that we are attempting today is --
3 relates to Mr. Lobo on four topics: Weapons, bribe, whether he
4 was directly involved in importation, and whether he had a
5 specific leadership role.

6 The indictment that he has been brought to the United
7 States on is 2009 to 2014. He was brought solely as a single
8 person in that indictment.

9 That indictment, as the Court well knows, was
10 modified, superseded subsequently and included six other
11 individuals, six police officers from Honduras who were alleged
12 to have participated with Mr. Lobo in the conduct that's
13 charged in there.

14 I get the impression that we will be hearing
15 information that is vast, which I don't think is appropriate
16 for the purposes of sentencing, especially for this Fatico
17 hearing for those specific reasons that we are disputing.

18 Essentially we're not disputing that certain events
19 happened, but we're disputing the scope of -- the magnitude of,
20 perhaps, the low responsibility.

21 So when there are instances that I think the defense
22 will feel it goes far afield of that. We're talking 2004.
23 We're talking 2007. I understand some groundwork.

24 But there's also going to be information that we
25 anticipate that will directly impact other people in Honduras.

1 And as much as we are concerned with the family of
2 Mr. Rivera Maradiaga and their photos being brought up, we're
3 about to hear from someone that we don't have the entire
4 protection of the rules of evidence. We've had 3500 material
5 which has been graciously provided by the government in
6 advance. But we don't have -- this gentleman is coming out
7 brand new to the world. So when he comes up and says, Well,
8 guess what, there was a president involved, or there was a
9 minister, we are extremely limited in our ability to counter
10 that because it's brand new to us.

11 So our objection is, after all that is said, anything
12 that goes far afield from those specific points that we have
13 disputed on the PSR we object to.

14 (Continued on next page)

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1 THE COURT: I assume you will object when the time
2 comes so that I can rule accordingly. I also assume that
3 Mr. Bove has every incentive, given the late hour, to proceed
4 as expeditiously and as narrowly as possible. Hopefully that
5 will all work out.

6 MR. RETURETA: Thank you, your Honor.

7 MR. BOVE: Your Honor, if I can just be heard briefly
8 in response to Mr. Retureta's points.

9 THE COURT: Yes.

10 MR. BOVE: Although the guidelines issues that he
11 referenced are certainly in dispute at this hearing, also, by
12 his own argument at the last conference, the extent of this
13 defendant's relationship and role with the Cachiros drug
14 trafficking organization is central from our perspective and
15 Mr. Retureta's, at least at the last conference, to this
16 sentencing and specifically the application of the 3553
17 factors.

18 As a matter of statute, under 18 U.S.C. 3661 and also
19 under the guidelines, U.S. guidelines at 1B1.4, the Court may
20 consider without limitation all of the nature and circumstances
21 of this offense and this defendant. The Second Circuit has
22 applied those provisions to allow evidence at sentencing
23 relating to acquitted conduct, unrelated violence, family
24 circumstances, foreign convictions in the underlying conduct.

25 On the basis of all that authority, your Honor, and

1 based on the arguments that are presented, we are going to stay
2 very focused during this presentation on the period between
3 2009 and 2013 and into 2014 during the portion of the DEA's
4 sting investigation. There is not a legal basis to limit the
5 presentation of evidence based on concerns about who the other
6 members in the conspiracy are.

7 THE COURT: I think given the hour and the fact that
8 the defendant was produced very late, I think we should just
9 proceed.

10 MR. BOVE: Absolutely.

11 Your Honor, the government calls Devis Leonel Rivera
12 Maradiaga.

13 DEVIS LEONEL RIVERA MARADIAGA,

14 called as a witness by the Government,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. BOVE:

18 Q. Where are you from, sir?

19 A. Honduras.

20 Q. Where in Honduras?

21 A. Tocoa, Colon.

22 Q. Where do you live right now?

23 A. Prison.

24 Q. How did you end up in prison?

25 A. I surrendered to the DEA.

1 Q. Was that in early 2015?

2 A. Yes.

3 Q. After you surrendered, did you plead guilty to federal
4 crimes?

5 A. Yes.

6 Q. Did you enter that guilty plea pursuant to a cooperation
7 agreement?

8 A. Yes.

9 Q. What are some of the crimes that you pleaded guilty to?

10 A. Murder, money laundering, head of a group of drug
11 traffickers, weapons.

12 Q. Did you also plead guilty to a drug trafficking conspiracy?

13 A. Yes.

14 Q. You mentioned that you pleaded guilty to murders. In
15 connection with your guilty plea, how many murders did you
16 admit to causing?

17 A. 78 murders.

18 Q. In connection with your guilty plea did you also admit to
19 causing attempted murders?

20 A. Yes.

21 Q. How many?

22 A. 15.

23 Q. When approximately did you get involved in drug
24 trafficking?

25 A. 2003 to 2013.

1 Q. Are you familiar with a drug trafficking organization known
2 as the Cachiros?

3 A. Yes.

4 Q. What, if any, role did you play in the Cachiros?

5 A. Leader, leader of the group.

6 Q. Do you have a brother named Javier?

7 A. Yes.

8 Q. What, if any, role did he play in the Cachiros?

9 A. Also head.

10 Q. I am going to ask you some questions about the period
11 between 2009 and 2013. All right?

12 A. Yes, sir.

13 Q. During that time period what types of drug trafficking
14 activities were the Cachiros involved in?

15 A. Drugs.

16 Q. What types of drug activities?

17 A. We were a group of drug traffickers in the area of
18 Atlantico, Colon. We started out by transporting on a small
19 scale using cars for transportation. And then my brother and I
20 started aligning ourselves with Colombians, Mexicans,
21 Hondurans, and Guatemalans.

22 Q. Did the Cachiros receive planes carrying cocaine in
23 Honduras?

24 A. Yes.

25 Q. What about go-fast vessels?

1 A. Yes.

2 Q. Were the Cachiros responsible for transporting cocaine
3 within Honduras?

4 A. Yes.

5 Q. Between 2009 and 2013, what is your best estimate of the
6 amount of cocaine that you and the Cachiros helped to
7 distribute?

8 A. Many tons of cocaine.

9 Q. More than 20 tons?

10 A. Yes, sir. More.

11 Q. What is your understanding of where that cocaine was being
12 sent?

13 A. From Colombia it was sent to Honduras, from Honduras it was
14 sent to Guatemala, from Guatemala it was sent to Mexico, and
15 from Mexico to the United States.

16 Q. Did you and other members of the Cachiros use weapons
17 during these activities?

18 A. Yes.

19 Q. What types of weapons?

20 A. AK47s, AR15 rifles, RPG7s, and grenade launchers.

21 Q. Did you and the Cachiros rely on members of Honduran law
22 enforcement to engage in these activities?

23 A. Yes.

24 Q. For what types of things?

25 A. For protection of the drugs and for murders that were paid

1 for.

2 Q. Did you and the Cachiros rely on Honduran military
3 personnel?

4 A. Yes.

5 Q. For what types of things?

6 A. For information from the police, radar information, and for
7 security.

8 Q. Did Honduran politicians assist the Cachiros?

9 A. Yes.

10 Q. Generally speaking?

11 THE COURT: I'm sorry. I just missed that question.

12 MR. BOVE: Did Honduran politicians assist the
13 Cachiros.

14 THE COURT: Thank you.

15 Q. Generally, how did you and the Cachiros obtain assistance
16 from Honduran politicians?

17 A. By paying them.

18 Q. You mentioned that you're from the Colon Department, right?

19 A. Yes, sir.

20 Q. Did the Cachiros receive assistance from politicians based
21 in Colon?

22 A. Yes.

23 Q. Who are some of them?

24 A. Osar Najera, he was a congressman; Juan Gomez; Adam Funes;
25 and Hidence Oqueli.

1 Q. Are all of those men that the Cachiros paid bribes to?

2 A. Yes.

3 Q. Are you familiar with a man named Porfirio Lobo Sosa, who
4 uses the nickname Pepe?

5 A. Yes.

6 MR. RETURETA: Your Honor, previous objection to this
7 line.

8 THE COURT: What is the objection?

9 MR. RETURETA: Outside of the field of Mr. Lobo Lobo
10 and the conspiracy that he had before.

11 MR. BOVE: Your Honor, that's a merits question. We
12 are presenting today evidence.

13 THE COURT: Are we talking about the defendant?

14 MR. BOVE: We are talking about the defendant's father
15 in the background of the conspiracy.

16 THE COURT: Thank you.

17 Q. You are familiar with Pepe Lobo?

18 A. Yes.

19 Q. Do you know if he ever held political positions in
20 Honduras?

21 A. Yes.

22 Q. What position did he hold most recently?

23 A. President of the country.

24 Q. Was that between approximately 2010 and approximately 2013?

25 A. Yes.

1 Q. Did you and the Cachiros receive assistance from Pepe Lobo
2 and the defendant during that time frame?

3 A. Yes.

4 Q. What did you do to get that assistance?

5 A. We paid them.

6 Q. More than once?

7 A. Yes.

8 Q. When approximately was the first bribe that was paid to
9 Pepe Lobo?

10 A. In 2009.

11 Q. Was that while he was preparing to run for the president of
12 Honduras?

13 A. Yes.

14 Q. Approximately how much money was paid?

15 A. Approximately between 250 and \$300,000.

16 Q. Was that for the first bribe?

17 A. Yes.

18 Q. What is your understanding of where that money came from?

19 A. From my brother Javier Rivera's drug trafficking.

20 Q. Were you present when the bribe was paid?

21 A. No.

22 Q. How did you first learn about it?

23 MR. RETURETA: Your Honor, if I may object.

24 Continuing objection. Also hearsay that he's about to provide
25 us.

1 THE COURT: Hearsay permitted during sentencing
2 hearings. You may proceed.

3 Q. You said the first way you found out about the bribe was
4 that Javier told you about it?

5 A. Yes.

6 Q. What were some of the things that Javier told you about the
7 first bribe?

8 A. He told me that the money was sent to Pepe Lobo by means of
9 my father, Isidro Rivera; his brother, Moncho Lobo, and Juan
10 Gomez.

11 Q. When you said his brother Moncho Lobo, whose brother is
12 Moncho Lobo?

13 A. Pepe Lobo.

14 Q. You heard of a Honduran official named Oscar Alvarez?

15 A. Yes.

16 Q. Were you aware of that name before Pepe Lobo became
17 president of Honduras?

18 THE COURT: I'm sorry. I don't have Live Note. Would
19 you just tell me the name again.

20 MR. BOVE: Sorry, your Honor. Oscar Alvarez.

21 THE COURT: Thank you.

22 A. Yes.

23 Q. Focusing on 2009, was Oscar Alvarez conducting
24 investigations of the Cachiros?

25 A. Yes.

1 Q. Have you ever heard of a Honduran official named Julian
2 Aristedes Gonzalez?

3 A. Yes.

4 Q. Did he hold the title of general at one point?

5 A. Yes.

6 Q. Were you aware of that name before Pepe Lobo became
7 president of Honduras?

8 A. Yes.

9 Q. Again, focusing on 2009, did you discuss General Aristedes
10 with other drug traffickers in Honduras?

11 A. Yes.

12 Q. Who were some of the other drug traffickers that you spoke
13 with about General Aristedes?

14 A. Fredy Najera, Neftali Duarte Mejia, Eliel Sierra, Moncho
15 Matta, Luis Valle, Arnulfo Valle, Wilter Blanco, Ton Montes,
16 Tito Montes, and Juan Carlos Montes.

17 Q. You mentioned somebody named Fredy Najera. Does he hold
18 any political positions in Honduras?

19 A. Yes.

20 Q. What position did he hold?

21 A. Congressman.

22 Q. After the conversations with the men that you just
23 described, what was decided?

24 A. The decision was made to kill him.

25 Q. Did you and other traffickers pay to have General Aristedes

1 murdered?

2 A. Yes, sir.

3 Q. As far as you know, how much was paid?

4 A. Approximately between 200 and \$300,000.

5 Q. Who were some of the people that carried out the murder?

6 A. A group of police officers.

7 Q. Members of the Honduran National Police?

8 A. Yes, sir.

9 Q. Around the time that you were helping to plan the
10 assassination of General Aristedes, did the Cachiros pay
11 another bribe to Pepe Lobo?

12 A. Yes.

13 Q. How did you first learn about the plan to pay that second
14 bribe?

15 A. From my brother, Javier Rivera.

16 Q. Did Javier ask you to travel anyplace?

17 A. Yes. He asked me to go to the capital, to Tegucigalpa.

18 Q. Did you go to Tegucigalpa?

19 A. Yes.

20 Q. Was this in approximately 2009 or 2010?

21 MR. RETURETA: Your Honor, I am going to object to the
22 leading. We have had leading just to lay the groundwork. But
23 we are providing specific dates to the witness. I don't think
24 that's appropriate.

25 THE COURT: Sustained.

1 Q. Did you travel to Tegucigalpa before Pepe Lobo became
2 president of Honduras?

3 A. Yes.

4 Q. What happened when you got to Tegucigalpa?

5 A. I called my brother as soon as I got to Tegucigalpa telling
6 him where I was. I asked him where he was. He told me he was
7 checked in at a hotel near the Congress building. He told me
8 to go to the hotel. I called my brother as soon as I got to
9 the hotel. He told me to check in. And then he told me to
10 come up to the room where he and Juan Gomez were.

11 Q. Did you meet with your brother Javier and Juan Gomez at the
12 hotel?

13 A. Yes, sir.

14 Q. Based on that meeting, was there a plan for a second
15 meeting?

16 A. Yes.

17 Q. What was the plan for the next meeting?

18 A. Juan Gomez was advising my brother, Javier Rivera, and me
19 about what we should say to Pepe Lobo as to what we wanted from
20 him at the meeting.

21 Q. Did you leave the hotel at some point?

22 A. Yes.

23 Q. Where did you go?

24 A. We went to Pepe Lobo's house.

25 Q. Was that in Tegucigalpa?

1 A. Yes.

2 Q. Who went with you to Pepe Lobo's house?

3 A. Juan Gomez and my brother, Javier Rivera.

4 Q. Did you meet with Pepe Lobo that day?

5 A. Yes.

6 Q. During that meeting did Pepe Lobo mention the previous
7 bribe that you testified about earlier?

8 A. Yes.

9 Q. What were some of the things that he said?

10 A. My brother started talking to him. We all said hello to
11 each other when we first got there. The first thing my brother
12 asked him, Pepe Lobo, was, had he received the money that my
13 dad, Moncho Lobo, and Juan Gomez had given him.

14 Q. How did Pepe Lobo respond to that question?

15 A. He said, oh, thank you, thank you for your support. I did
16 receive the money.

17 Q. What were some of the other topics that were discussed
18 during the meeting with you, Javier, Juan Gomez, and Pepe Lobo?

19 A. My brother started talking to Mr. Lobo about getting help
20 with respect to Oscar Alvarez. He was asking him for help
21 because this man was talking about him, had talked about him
22 several times on TV. He also talked to him about protection
23 for me, my brother, and the rest of the organization. He also
24 brought up the subject of extradition and some companies that
25 my brother wanted to set up with me to get government

1 contracts.

2 Q. You mentioned that extradition was discussed?

3 A. Yes.

4 Q. What were some of your concerns about extradition around
5 the time of this meeting?

6 A. Our fear was to be extradited to the United States.

7 Q. Did you see any payments made during the meeting that
8 you're describing right now?

9 A. Yes.

10 Q. Please describe what you saw.

11 A. At the point when we were all saying good bye at the end of
12 the meeting Juan Gomez spoke to Pepe Lobo and said, Mr.
13 President, this is from us for you.

14 Q. And did Juan Gomez hand anything to Pepe Lobo in your
15 presence that day?

16 A. Yes.

17 Q. What did he give him?

18 A. He gave him a package in lempiras, money?

19 Q. When you say package, what do you mean?

20 A. A package like this between eight to 12 inches,
21 approximately.

22 Q. Was there wrapping around the lempira?

23 A. Yes. In lempiras, it was like this.

24 MR. BOVE: Your Honor, if the record could reflect
25 that he has held his hands apart about 10 to 12 inches.

1 THE COURT: OK. Are you going to ask him how much
2 money that was in dollars?

3 Q. Did you get an opportunity to see the types of bills that
4 were in the packet?

5 A. Yes. In 500s -- 500 lempiras.

6 Q. Can you please estimate for the Court how many lempira you
7 think were in the packet that was 10 to 12 inches high?

8 A. I don't have an estimate, sir. I just saw the stack that
9 was like this of lempiras.

10 Q. Where did you go after the meeting with Pepe Lobo?

11 A. My brother, Juan Gomez, myself went back to the hotel.

12 Q. Did you and your brother Javier receive any deliveries at
13 the hotel?

14 A. Yes. So we received a suitcase, a suitcase of money.

15 Q. Approximately how much money was in the suitcase?

16 A. My brother told me that there were approximately between
17 200,000, \$250,000.

18 Q. Was your understanding that the money in that suitcase was
19 dollars or lempira?

20 A. Dollars.

21 Q. What was your understanding of where those dollars came
22 from?

23 A. From a drug trafficker that had lent the money to my
24 brother.

25 Q. What happened with that suitcase?

1 A. My brother gave it to Mr. Juan Gomez and Juan Gomez gave it
2 to the security detail of Mr. Lobo.

3 Q. After the payment that you just described with the
4 suitcase, did you meet with the defendant at some point?

5 A. Yes.

6 Q. Was that around the time of the election?

7 A. Yes.

8 MR. RETURETA: Your Honor, I am going to continue to
9 object. That whole line I'll object to in terms of relevance
10 in my previous objection. I am going to continue to object to
11 the leading, especially since we are still identifying specific
12 instances of time. The question should be when did you meet
13 with him. We are identifying right around the election, which
14 is easily identifiable.

15 THE COURT: I will allow the question, but to the
16 extent that you can prompt the witness to be more precise or to
17 give his own recollection of rough time frame, I would prefer
18 that.

19 MR. BOVE: Yes, your Honor. Thank you.

20 Q. Who introduced you to the defendant?

21 A. Jorge Lobo, his cousin.

22 Q. Did you speak with Jorge Lobo about the defendant first?

23 A. Yes.

24 Q. Whose cousin?

25 THE COURT: Whose cousin?

1 THE WITNESS: The defendant's.

2 Q. What were some of the things that Jorge Lobo said to you
3 about the defendant?

4 A. That his cousin, since his dad had won the election, was
5 looking for people to award contracts, roadway contracts,
6 several government contracts.

7 Q. Were you interested in government contracts at that point?

8 A. Yes.

9 Q. Why?

10 A. For money laundering.

11 Q. Did you meet with the defendant at some point after that
12 conversation with Jorge Lobo?

13 A. Yes.

14 Q. Approximately how much time passed?

15 A. About one week.

16 Q. Where did you meet the defendant?

17 A. In the city of Trujillo, Colon.

18 Q. Do you remember if anyone else was present at your meeting
19 with the defendant in Trujillo?

20 A. Yes.

21 Q. Who else do you remember being present?

22 A. Jorge Lobo was there, the defendant's cousin. There were
23 two other men. I remember the name of one of them, Manuel.
24 The other man, I don't remember his name. The two men were the
25 owners of a car wash there in Trujillo, Colon.

1 Q. What were some of the things that were discussed during
2 that meeting?

3 A. The defendants started telling me that he had several
4 contracts from SOPTRAVI, also from Fondo Vial, and ENEE.

5 Q. Did the defendant say whether he expected anything with
6 respect to those contracts?

7 A. Yes.

8 Q. What were some of the things that he said about his
9 expectations?

10 A. He was going to get the contracts through the government
11 companies in exchange of a bribe that we would give him for the
12 contracts, which was from 10 percent to 20 percent per
13 contract.

14 Q. Did you tell the defendant whether you had money available
15 for such bribes?

16 A. Yes.

17 Q. What did you say?

18 A. I said that I had a million dollars available for the
19 kickbacks.

20 Q. Did you have another meeting with Pepe Lobo after he became
21 president of Honduras?

22 A. Yes.

23 Q. Where was the meeting?

24 A. In Tegucigalpa, the capital.

25 THE COURT: This is another meeting with whom?

1 MR. BOVE: My question was about a meeting with Pepe
2 Lobo, your Honor.

3 A. Yes.

4 Q. You said that meeting was in Tegucigalpa?

5 A. Yes.

6 Q. As far as you know, who set up this meeting?

7 A. Mr. Juan Gomez.

8 Q. What did you do when you got to Tegucigalpa?

9 A. I told Juan Gomez where it was, to find out where he was.
10 He said to me that he was at the Plaza San Martin Hotel. So I
11 went towards the hotel. And he told me to come up to his room.
12 He was there with Mr. Oscar Najera.

13 Q. I think earlier you said that Oscar Najera was one of the
14 congressmen from Colon?

15 A. Yes, sir.

16 Q. What is your understanding of why he was at the hotel that
17 day?

18 A. In the conversation that he had with Juan Gomez, he was
19 going to come with us to the meeting because he wanted a
20 government position.

21 Q. Did you go to a meeting with Pepe Lobo that day?

22 A. Yes.

23 Q. Where was it?

24 A. At the president's house.

25 Q. Who were some of the people that participated in the

1 meeting?

2 A. Mr. Juan Gomez, Oscar Najera, Pepe Lobo, the defendant, and
3 myself.

4 Q. How did the meeting start?

5 A. Myself, Juan Gomez, Oscar Najera, we went to the
6 president's residence in the El Chimbo neighborhood. When we
7 got to his house, we went inside where the president was in.
8 We started shaking his hands. We gave each other a hug. He
9 was happy because he had won the elections. We hugged him and
10 we started talking to him.

11 Q. Did Pepe Lobo say anything during this meeting about
12 contracts from Honduran government agencies?

13 A. Yes.

14 Q. What were some of the things that he said about government
15 contracts?

16 A. He advised me, he told me to set up companies because he
17 was going to award us contracts from the government to pay us
18 in exchange of the bribes that we had given him for his
19 campaign.

20 Q. Was the defendant present when Pepe Lobo said those things?

21 A. Yes.

22 Q. Did Pepe Lobo say anything during the meeting about
23 extradition to the United States?

24 A. Yes.

25 Q. What were some of the things that were said about

1 extradition?

2 A. The president said to me to tell my brother not to worry
3 because during his four-year term nobody would get extradited.

4 Q. Was the defendant present at the meeting when Pepe Lobo
5 said that?

6 A. Yes, sir.

7 Q. Did Pepe Lobo say anything during the meeting about
8 protection for you and the Cachiros?

9 A. Yes.

10 Q. What were some of the things that he said about protection?

11 A. So he said not to worry, that if anything were to happen
12 that we should talk to Juan Gomez, that Juan Gomez in turn
13 would talk to the defendant, and then the defendant would get
14 in touch with General Pacheco Tinoco.

15 Q. Is General Pacheco a Honduran official?

16 A. Yes.

17 Q. Were there any phone calls placed during the meeting?

18 A. Yes.

19 Q. How many?

20 A. One.

21 Q. Who placed the call?

22 A. The defendant.

23 Q. About how long was the call?

24 A. It was brief.

25 Q. Did you hear the defendant say anything during the call?

1 A. Yes.

2 Q. What did you hear him say?

3 A. Chief, how are you. I am going to come later to your house
4 so that we can talk.

5 Q. What is your understanding of who the defendant was
6 speaking to at that point on the phone?

7 A. With General Pacheco Tinoco.

8 Q. How did you come to that understanding?

9 A. Because I approached Mr. Juan Gomez and I asked him who the
10 defendant was talking to, and he replied with Tinoco.

11 Q. I think you said that during the meeting President Lobo
12 mentioned Honduran government contracts?

13 A. Yes.

14 Q. I think you said that he asked you to set up a company to
15 receive the contracts?

16 A. Yes.

17 Q. Did you do that?

18 A. Yes.

19 Q. What was the name of the company that he set up for that
20 purpose?

21 A. INRIMAR.

22 Q. There is a binder in front of you. Could you turn to the
23 tab marked Government Exhibit 22, which is in evidence. If you
24 could please take a look at the graphic on the left of the
25 chart. Do you see the reference to a/k/a INRIMAR?

1 A. Yes, sir.

2 Q. Is that the company that you set up to receive the
3 government contracts?

4 A. Yes.

5 Q. What kind of money did you use to set up INRIMAR?

6 A. Drug trafficking money.

7 Q. I think you said earlier that some of these contracts were
8 for construction jobs and building things?

9 A. Yes.

10 Q. Did INRIMAR have equipment to do those tasks?

11 A. Yes.

12 Q. What kind of money did you use to purchase that equipment?

13 A. Drug trafficking proceeds.

14 Q. Was INRIMAR actually awarded contracts by Honduran
15 government agencies?

16 A. Yes.

17 Q. What were some of the agencies that contracted with
18 INRIMAR?

19 A. Fundo Vial, SOPTRAVI, ENEE.

20 Q. Did you pay kickbacks before those contracts were issued?

21 A. Yes.

22 Q. Approximately how much in total?

23 A. Approximately from 300 to \$350,000.

24 Q. What kind of funds did you use to pay those kickbacks?

25 A. Drug trafficking.

1 Q. What was your understanding of who the kickbacks were paid
2 to?

3 A. To the Lobos and to the heads of each of the government
4 offices.

5 Q. When you say the Lobos, was it your understanding that part
6 of the kickbacks were paid to the defendant?

7 A. Yes.

8 Q. Did you have any more meetings directly with the defendant
9 about getting government contracts in exchange for kickbacks?

10 A. Yes.

11 Q. When approximately was the next meeting?

12 A. Months later.

13 Q. Where was the meeting?

14 A. In Tegucigalpa.

15 Q. When you say months later, months after what?

16 A. Of our meeting with him, the president.

17 Q. So months after the meeting that you just described where
18 both Pepe Lobo and the defendant were present?

19 A. Yes, sir.

20 Q. Where was the meeting?

21 A. At an office in Tegucigalpa.

22 Q. To clarify, this is the meeting that you had with the
23 defendant regarding kickbacks?

24 A. Yes.

25 Q. What happened at this meeting?

1 A. He brought with him some contracts from ENEE and SOPTRAVI
2 and from Fundo Vial. I spoke to my associates, the ones from
3 INRIMAR, and I asked them to review them to pay him the
4 kickback he was asking for right then. The contracts were
5 reviewed but they ended up being repeated contracts. Other
6 companies had carried them out. They had been paid for. And
7 that's why we did not accept any contracts from him.

8 Q. Did you tell the defendant that INRIMAR would accept the
9 contracts that he proposed?

10 A. Yes.

11 Q. If you could return to Government Exhibit 22 in the binder.
12 The middle graphic relates to a zoo. Do you see that?

13 A. Yes.

14 Q. Did you set up a zoo in Honduras?

15 A. Yes, sir.

16 Q. What kind of funds did you use to establish the zoo?

17 A. Funds from drug trafficking.

18 (Continued on next page)

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1 Q. Now are the remaining three companies on this chart
2 Plabasa, Ganaderos, and the Mine, also companies established by
3 the Cachiros?

4 A. Yes.

5 Q. Why were those companies set up?

6 A. To launder money.

7 Q. And who was mainly responsible for managing the operations
8 of these other companies?

9 A. My brother, Javier Rivera.

10 MR. BOVE: So here, your Honor, I'm referring to
11 Plabasa, the second from the left; Ganaderos, the fourth from
12 the left, and Minera Esperanza, the fifth.

13 THE COURT: I see. Palbasa is the second one. Thank
14 you.

15 Q. Did you talk with your brother, Javier, about the
16 operations of those companies?

17 A. Yes.

18 Q. Did he say anything about whether President Lobo and the
19 defendant assisted them?

20 A. Yes.

21 Q. What were some of the things that your brother told you
22 about the assistance provided by the defendant and President
23 Lobo to these front companies?

24 A. I had a meeting with my brother, Javier Rivera. And he
25 told me that the defendant and President Pepe Lobo were helping

1 him with one of the companies, Palbasa, to get an oil
2 extraction plant for African palm oil. And the president and
3 the defendant were going to introduce him to some foreign
4 investors.

5 Q. Did Javier say anything to you about assistance provided by
6 President Lobo and the defendant with respect to the mine?

7 A. Yes. He told me the president and the defendant were
8 helping him with permits for the mine.

9 Q. If you could please turn in the binder to tab 23,
10 Government Exhibit 23.

11 This is a picture, correct?

12 A. Yes, sir.

13 Q. Do you recognize anyone in the picture.

14 A. Yes.

15 Q. Starting from the left please indicate which of the people
16 you recognize and to the extent you recognize them identify
17 them.

18 A. The first person is the defendant.

19 The next person I don't know who that is.

20 The following person is Andres Acosta.

21 The next person is the defendant's dad.

22 The next person is my brother, Javier Rivera.

23 The next person is Juan Gomez.

24 THE COURT: Can you tell me which one we're looking
25 at?

1 MR. BOVE: 23, your Honor.

2 BY MR. BOVE:

3 Q. Do you recognize the man to the right of Juan Gomez?

4 A. Wilfredo Medrano.

5 Q. Do you recognize the last man on the right side of the
6 photo?

7 A. No. I don't recognize him.

8 MR. BOVE: Your Honor, the government offers
9 Government Exhibit 23.

10 THE COURT: Any objection?

11 MR. RETURETA: No objection.

12 THE COURT: Sorry?

13 MR. RETURETA: No objection. I'm sorry.

14 THE COURT: It's admitted.

15 (Government's Exhibit 23 received in evidence)

16 BY MR. BOVE:

17 Q. If you could please now turn to the next tab in the binder,
18 Government Exhibit 24. This is also a photo, correct?

19 A. Yes, sir.

20 Q. Do you recognize anyone in this photo?

21 A. Yes, sir.

22 Q. Starting from the left, please identify the people that you
23 recognize.

24 A. I don't know who the first person is.

25 The second person is my brother, Javier Rivera.

1 I don't know who the third person is, or the fourth
2 one.

3 The last person is the defendant.

4 MR. BOVE: You can shut that now, the binder.

5 Q. Did you have any meetings with the defendant where you
6 discussed drug trafficking explicitly?

7 A. Yes, sir.

8 MR. BOVE: Your Honor, before we get to that topic the
9 government offers 24.

10 THE COURT: Any objection?

11 MR. RETURETA: No objection.

12 THE COURT: It's admitted.

13 (Government's Exhibit 24 received in evidence)

14 Q. You said that you did discuss drug trafficking with the
15 defendant?

16 A. Yes, sir.

17 Q. And when approximately was the first conversation that you
18 had after your meeting with Pepe Lobo and the defendant?

19 A. In approximately 2012.

20 Q. Who brought up the topic of drug trafficking?

21 A. The defendant did.

22 Q. Do you remember where you were at the time?

23 A. Yes, sir.

24 Q. Where were you?

25 A. In Catacamas.

1 Q. Were you physically with the defendant?

2 A. Yes.

3 Q. What were some of the things that the defendant said about
4 drug trafficking?

5 A. The defendant started out by telling me that his dad Pepe
6 Lobo wasn't helping him out because he said that my brother
7 Javier Rivera and I were helping him.

8 Q. When the defendant said "helping," what did you understand
9 him to mean?

10 A. Help him by inviting him to join in on drug shipments.

11 Q. Were there any specific drug trafficking activities
12 discussed during this meeting?

13 A. Yes.

14 Q. What was discussed?

15 A. The defendant told me that in Aguacate, San Esteban, in the
16 area of Olancho, well there was an airport there and work could
17 be done there by receiving planes.

18 Q. Is Aguacate the name of the airport?

19 A. Well, yes, Aguacate is the name of the city where the
20 airport is.

21 Q. And when the defendant said that work could be done there
22 by receiving planes, what did you understand him to mean?

23 A. We could do work there by having planes land there on the
24 airstrip.

25 Q. Was it your understanding that the planes would bring

1 anything to Aguacate?

2 A. Yes. Loaded with drugs.

3 Q. Did the defendant agree to speak with anyone about using
4 Aguacate for that purpose?

5 A. Yes.

6 Q. What did he agree to do?

7 A. He told me he was going to speak to the commander who was
8 assigned to the airport to see whether or not we could work
9 there by having planes land at that airstrip.

10 Q. Did the defendant later say anything to you about using
11 Aguacate for this purpose?

12 A. Yes.

13 Q. What were some of the things that he said to you next?

14 A. He later told me that he had spoken to the guy who was in
15 charge of the Aguacate landing strip but his answer to him was
16 that work could not be done there because a lot of work had
17 been done there during the previous administration and the
18 airstrip ended up getting caught. Because Fredy Najera and the
19 brother of former president Zelaya had worked there.

20 Q. When the defendant referred to "work" and "working" during
21 this conversation what did you understand him to be talking
22 about?

23 A. To the fact that planes would be received, planes loaded
24 with drugs on the airstrip.

25 Q. Did you and the defendant ever visit a clandestine airstrip

1 in the Olancho Department?

2 A. Yes, sir.

3 Q. When approximately did you do that?

4 A. Right after, months later.

5 Q. Months after your second conversation with the defendant
6 about Aguacate?

7 A. Yes, sir.

8 THE COURT: I'm sorry. What happened months later?

9 THE WITNESS: I met with the defendant in the capitol.
10 And one of the defendant's half-brothers. He told me he was
11 his half-brother. We went by helicopter to a landing strip
12 that was in between Catacamas and the Patuca River.

13 Q. Why did you travel to that landing strip?

14 A. Because the defendant told me that his half-brother had
15 told him that drug traffickers had worked there in the past.
16 And we should go out, measure it, and if I liked it then we
17 should use the landing strip to receive planes loaded with
18 drugs.

19 Q. Did you and the defendant inspect the landing strip during
20 this trip?

21 A. Yes, sir.

22 Q. What was it made out of?

23 A. It was just dirt in the middle of an open field.

24 Q. After you visited the airstrip did you discuss it with
25 anyone else?

1 A. Yes.

2 Q. Who?

3 A. I spoke to the pilot Andres. He was a Venezuelan guy.

4 Q. Had Andres assisted the Cachiros before?

5 A. Yes, sir.

6 Q. With what types of things?

7 A. Transporting drugs by plane. He was a pilot.

8 Q. Describe your conversation with Andres about this landing
9 strip that you visited with the defendant.

10 A. Yes. First I showed him the coordinates for the landing
11 strip. He said it wouldn't be possible to land a plane there
12 because there was a mountain in front of it and a mountain
13 behind it. He said that as he would land the plane it would be
14 as if he had to land in a hole and he might hit the mountain
15 that was in front of it or the mountain behind it and this is
16 why he, Andres, the pilot, did not like it.

17 Q. Did you convey that concern from Andres to the defendant?

18 A. Yes.

19 Q. Did you and the defendant ever use that landing strip for
20 purposes of drug trafficking?

21 A. No.

22 Q. Now I would like to direct your attention to 2012. Did the
23 Cachiros control a landing strip in the Cortes Department?

24 A. Yes, sir.

25 Q. Did the defendant ever help you with a cocaine shipment

1 that came to that landing strip?

2 A. Yes, sir.

3 Q. When approximately?

4 A. Months after we had met when Andres that pilot did not like
5 that landing strip.

6 Q. Now with respect to the drug shipment to the Cortes
7 Department where were the drugs sent from?

8 A. From Apure, Venezuela.

9 Q. Approximately how many kilograms were sent?

10 A. Approximately from 400 to 410 kilos.

11 Q. What kind of drugs are we talking about?

12 A. Cocaine.

13 Q. Who helped send the cocaine from Apure?

14 A. Some partners that we had, a Colombian Pama and Juancho who
15 is related to the Cachiros.

16 Q. You said the defendant helped with the shipment?

17 A. Yes, sir.

18 Q. What were some of the first things that you communicated to
19 the defendant about this cocaine shipment?

20 A. I called him over the phone. I asked him to come to the
21 San Pedro Sula area for him to call me once he got to the
22 scene.

23 Q. Did the defendant call you from San Pedro Sula?

24 A. Yes, sir.

25 Q. What were some of the things that were discussed during

1 that call?

2 A. When he called me I told him for him to bring his own
3 security because we're going to transport some drugs.

4 Q. Did you ask the defendant to go any place?

5 A. Yes.

6 Q. In the Cortes Department?

7 A. Yes, sir.

8 Q. Where in Cortes did you ask the defendant to travel?

9 A. For him to do to a hotel, the Playa Hotel.

10 Q. Where is that hotel?

11 A. In Puerto Cortes.

12 Q. Did you meet with the defendant at the hotel in Puerto
13 Cortes?

14 A. Yes. I went by taking him to the hotel.

15 Q. Did you pick the defendant up there?

16 A. Yes, sir.

17 Q. What did you do after you picked the defendant up from the
18 hotel?

19 A. We went to a house beach -- a beach house that I had in the
20 Omoa area, Chachaguala.

21 Q. Did you talk to the defendant on the way to Chachaguala?

22 A. Yes, sir.

23 Q. What were some of the things that were discussed?

24 A. The defendant was discussing in the car the fact that he
25 wanted to go to the land strip that was going to receive the

1 plane; that he wanted to feel the adrenaline what you
2 experience when you receive a plane loaded with drugs.

3 Q. How did you respond?

4 A. I said to him, Look, commander, that's dangerous because if
5 a plane is being followed by military then you know they start
6 shooting and with us being down there it's dangerous.

7 Q. During the drive to Chachaguala, did the defendant say
8 anything about police in the Cortes Department?

9 A. Yes.

10 Q. What were some of the things that he said about police?

11 A. He mentioned to me that he had spoke to the chief -- he had
12 spoken with the chief of police there at the Cortes Department;
13 that if there was any problem that could come up from the
14 airstrip to the CA-5 he would talk to this person and would
15 stop any police operation.

16 Q. Did the plane with the cocaine arrive in Honduras at some
17 point?

18 A. Yes, sir.

19 Q. How did you find out that the plane arrived?

20 A. The man in charge of receiving the drugs called me.

21 Q. Who was that?

22 A. Mr. Esvin Escalante.

23 Q. What did Esvin Escalante say to you?

24 A. That the plane had already landed on the airstrip without
25 any problems and that it was going to be transported to the

1 CA-5.

2 Q. Is the CA-5 another way of referring to the Pan-American
3 Highway?

4 A. Yes, sir.

5 Q. That heads south towards San Pedro Sula?

6 A. Yes, sir.

7 Q. After Escalante told you that the cocaine had arrived, what
8 happened next?

9 A. I told the codefendant that we had to go to the city of
10 Choloma so that we will be on the lookout because the truck
11 that was going to leave filled with drugs -- the truck was
12 going to leave from the airstrip towards the CA-5.

13 Q. So you and the defendant were in a separate vehicle?

14 A. No. We were together.

15 Q. A vehicle separate from the cocaine?

16 A. Yes, sir.

17 Q. Did you and the defendant meet up with the vehicle carrying
18 the cocaine at some point?

19 A. Yes. When the truck was going towards the CA-5, the
20 defendant and myself, we saw the truck go by.

21 Q. Did you escort the truck that day?

22 A. Yes, sir.

23 Q. Why did you want the defendant with you in the car while
24 you escorted the truck with the cocaine?

25 A. If there was any problem, then I felt safe that the

1 codefendant could talk to the police so that if there was any
2 problems he would be able to resolve it.

3 Q. Were there any problems that day with transporting the
4 cocaine towards San Pedro Sula?

5 A. No, sir.

6 Q. Did you and the defendant part ways at some point during
7 that trip?

8 A. Yes, sir.

9 Q. Where approximately?

10 A. In San Pedro Sula.

11 Q. What happened to the cocaine after it reached San Pedro
12 Sula?

13 A. It proceeded to Entrada de Copan.

14 Q. What's your best estimate of how much money you made from
15 this cocaine load?

16 A. Approximately 20 percent.

17 Q. And are you able to give us an estimate of what 20 percent
18 of 400 kilograms would have been worth at this point?

19 A. Approximately from eight hundred to one million dollars.

20 Q. Did you compensate the defendant for his assistance that
21 day?

22 A. Yes, sir.

23 Q. What were some of the things that you did to compensate the
24 defendant?

25 A. I gave him a gray Mitsubishi Lancer, armored; a modified

1 AR15 rifle, and between twenty thousand to thirty thousand
2 dollars in cash.

3 Q. Did you also compensate the defendant in connection with a
4 Land Cruiser?

5 A. Yes, sir.

6 Q. What did you do with respect to the Land Cruiser?

7 A. I gave some money, approximately between twenty to
8 twenty-five thousand dollars to Mr. Moncho Matta.

9 Q. Now before we talk about Mr. Matta, you said that the AR15
10 was modified.

11 A. Yes, sir.

12 Q. How?

13 A. It had a telescopic sight and a laser sight.

14 Q. Now you mentioned speaking with Moncho Matta, about putting
15 on armor for the defendant's Land Cruiser?

16 A. Yes, sir.

17 Q. Do you know Mr. Matta's first name?

18 A. Ramon Matta.

19 Q. Are you talking about Ramon Matta, the younger or his
20 father?

21 A. The younger.

22 Q. And have you participated in drug trafficking activities
23 with that man?

24 A. Yes, sir.

25 Q. Have you conspired to commit drug-related murders with

1 Matta?

2 A. Yes, sir.

3 Q. Who were some of the people that you and others agreed to
4 have killed with Matta?

5 A. General Aristides, the Grillos Group.

6 Q. What were some of the things that you and Matta spoke about
7 with respect to the defendant?

8 A. Matta called me over the phone and said to me that the
9 defendant had asked him to call me for the armor that -- to pay
10 for the armor that I had placed on the defendant's truck.

11 Q. How long after the four hundred kilogram drug load did
12 Matta call you about this?

13 A. Days -- some days after.

14 Q. How did you respond when Matta asked you about paying for
15 the armor on the Land Cruiser?

16 A. I said to him to go ahead and do the armoring, that I would
17 pay Matta.

18 Q. Did you pay him?

19 A. Yes, sir.

20 Q. Approximately how much?

21 A. Approximately from twenty to thirty thousand dollars.

22 Q. And where did those funds come from?

23 A. Drug trafficking, sir.

24 Q. Did you ever introduce the defendant to a drug -- another
25 drug trafficker in Honduras?

1 THE COURT: If we're going to another subject maybe we
2 could break for lunch.

3 MR. BOVE: Yes, your Honor. This is a good time.

4 THE COURT: It's 12:24. Why don't we come back at
5 2:15.

6 MR. BOVE: Yes, your Honor. Thank you.

7 (Luncheon recess)

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1 AFTERNOON SESSION

2 2:15 p.m.

3 THE COURT: I notice that we are on about page 7 of
4 your 20-page memo. Do you have an estimate of how long we will
5 go and is there any contingency planning?

6 MR. BOVE: Your Honor, over the break I tried to scale
7 back what I have left to cover. I'm aiming for 3:30, 4 at the
8 latest to be finished.

9 MR. RETURETA: The next question is, how long would
10 the Court --

11 THE COURT: I will sit here as long as you would like.
12 I'm also happy to reconvene another day, but I know you had
13 travel plans tomorrow. Either way. Happy to come back or
14 happy to keep going.

15 MR. RETURETA: With that in mind, I think we might
16 prefer to reconvene. I say that for two reasons.

17 THE COURT: You'll have a transcript, for one.

18 MR. RETURETA: This is an incredible amount of
19 information that has come out all at one time. Like I said, we
20 have been provided some of the 3500 material.

21 THE COURT: And the government's memo.

22 MR. RETURETA: And the government's memo, which is
23 very good writing. But to hear it from this individual who has
24 strayed from some of the reports I think for the purposes of
25 Mr. Lobo, it's a benefit to the defense that we have an

1 opportunity to at least run through some of that material,
2 given that testimony.

3 THE COURT: How soon could you reconvene?

4 MR. RETURETA: Your Honor is aware that I had previous
5 travel plans which I'm trying to change because there has been
6 a death in the family. So there was a death in the family last
7 night. I will be out all this week after today. I think we
8 can, taking out this week and maybe the following week, maybe
9 get the opportunity to get the transcript, at the end of the
10 month, early next month.

11 MR. BOVE: I'm mindful of that, our late start this
12 morning is personally my fault. I apologize to the Court and
13 the Court's staff and thank the marshals.

14 That said, we produced the 3500 material a week in
15 advance of the hearing. We summarized proof we expected to
16 adduce at this hearing in writing in narrative form almost a
17 week before the hearing, six days. I'm also mindful certainly
18 of the personal issues that Mr. Retureta discussed.

19 But I think, first of all, it was my understanding
20 before Mr. Retureta stood up, based on conversation that I just
21 had with him, that we were going to try to finish this today.
22 To the extent we are not, I would ask that we reconvene early
23 next week to finish this.

24 THE COURT: I'm prepared to go on today. I'm prepared
25 to adjourn it, but not for a lengthy period of time. You can

1 decide later if you want or we can look at the calendar now and
2 pick a time next week.

3 MR. RETURETA: Your Honor, if I could, I would ask the
4 Court to reconsider next week just because of the personal
5 circumstances. I'll be out all this week. Ceremonies are at
6 the end of the week. I would suggest the week of the 20th
7 because that would give me the following week to prepare.

8 THE COURT: How about the 15th, which would be the
9 middle of next week?

10 MR. RETURETA: I don't think it's enough time for me,
11 quite frankly, your Honor --

12 THE COURT: If you were going to be prepared to do it
13 today --

14 MR. RETURETA: Right.

15 THE COURT: That gives you two days next week to do it
16 before we reconvene on Wednesday.

17 MR. RETURETA: Right. But I don't have the
18 opportunity for a transcript at that point. I was prepared to
19 go today and I was prepared with the Court's instruction to go
20 today. But if there is that option, this man has said a great
21 deal that is not in that 3500 material. This man has varied
22 from the 3500 material. And, as I said --

23 THE COURT: I'll give you until Wednesday or Thursday
24 of next week or today.

25 MR. BOVE: Judge, can I have a moment to confer with

1 defense counsel.

2 THE COURT: That would be fine. Just for purposes of
3 your discussions, I have conferences all morning both days. We
4 are talking about the afternoon.

5 MR. RETURETA: Your Honor, if I may suggest to the
6 Court Thursday, the 16th.

7 THE COURT: Let's do 2:00.

8 MR. BOVE: I would at least set a time limitation on
9 the scope of this cross that the defendant is now being given a
10 substantial amount of time to plan. We could use some of the
11 time for cross perhaps this afternoon and there be a finite
12 period of time for confrontation. I think the issue that's
13 been raised by defense counsel is confrontation about prior
14 inconsistent statements. Perhaps we use the time this
15 afternoon and this evening for other issues and address that
16 issue.

17 I think, as I said to Mr. Retureta just now, he and I
18 will also use the time between now and that Thursday date to
19 discuss whether we might come to an agreement about the
20 admissibility of any extrinsic evidence he wants to offer for
21 prior inconsistent statements. I think to just postpone the
22 cross -- I understand that I messed up here. To postpone it
23 for two weeks is a pretty extraordinary --

24 THE COURT: He is not going to be doing anything. I
25 accept his personal circumstances for the remainder of this

1 week. I think we are not talking about two weeks. I think we
2 are talking one week.

3 Let me hear from Mr. Retureta.

4 MR. RETURETA: I am not sure what I'm responding to
5 right now. The 16th is what we would request.

6 THE COURT: 16th from 2 to 4:30.

7 MR. RETURETA: That would be fine, your Honor. As Mr.
8 Bove indicated, I would be more than happy to work with him on
9 the inconsistencies.

10 There is another factor to this and that is if given
11 his assault on President Lobo Sosa, we will need to touch base
12 with people in Honduras to see how and if there is a response
13 to that. This is an incredible attack of a foreign president.

14 THE COURT: Although it is admissible as background, I
15 frankly don't put a tremendous amount of weight on that for
16 purposes of figuring out what enhancements are relevant to this
17 defendant because there are two different people. It's
18 admissible, but I don't think it's critical for you to rebut or
19 address.

20 MR. RETURETA: Fair enough.

21 THE COURT: Your client wants to say something.

22 MR. RETURETA: Nothing further, your Honor. Thank
23 you.

24 THE COURT: Not to belabor it, I know mistakes happen
25 and I've been there myself many, many years ago. But obviously

1 if we had started on time this would not have become an issue.
2 I will accommodate the defendant, at least until next Thursday.

3 MR. RETURETA: Thank you, your Honor.

4 MR. BOVE: May I proceed, your Honor.

5 THE COURT: You may.

6 BY MR. BOVE:

7 Q. Mr. Rivera, before the lunch break you testified about a
8 drug load that you and the defendant escorted from the Cortes
9 Department down to San Pedro Sula. Do you recall that
10 testimony?

11 A. Yes, sir.

12 Q. And I believe you said that was in about 2012?

13 A. Yes, sir.

14 Q. Do you know a drug trafficker in Honduras named Carlos
15 Lobo?

16 A. Yes, sir.

17 Q. Around the time of the drug load to the Cortes Department,
18 did you introduce the defendant to Carlos Lobo?

19 A. Yes, sir.

20 Q. Why did you introduce Carlos Lobo to the defendant?

21 A. The defendant had asked me if I had other friends who were
22 drug traffickers, and as I helped him --

23 THE INTERPRETER: Interpreter correction.

24 A. As he had helped me, maybe he could help them and he asked
25 me to introduce them to him and, therefore, he could do the

1 same sort of operation he had done with me, which was to help
2 me.

3 Q. Before you made the introduction did you talk to Carlos
4 Lobo about the defendant?

5 A. Yes, sir.

6 Q. What were the some of the things that you and Carlos Lobo
7 discussed about the defendant?

8 A. I asked Mr. Lobo if he was interested in meeting the son of
9 the president. Because he had asked me to introduce him to
10 people like him who were in the business because he could help
11 them in their business.

12 Q. After your conversation with Carlos Lobo did you introduce
13 him to the defendant?

14 A. Yes, sir.

15 Q. Where was that meeting?

16 A. It was at a house that Carlos Lobo owned near the Extra
17 Bakery in San Pedro Sula.

18 Q. Did you participate in the meeting between the defendant
19 and Carlos Lobo?

20 A. Yes. But it was just briefly. I dropped him off at Carlos
21 Lobo's house.

22 Q. Dropped who off?

23 A. The defendant.

24 Q. Did you speak to Carlos Lobo after the meeting with the
25 defendant?

1 A. Yes, sir.

2 Q. What were some of the things that Carlos Lobo said about
3 his meeting with the defendant?

4 A. Carlos Lobo told me that he had given the defendant
5 \$100,000 because the defendant was going to help him with some
6 properties that had been seized from him from Mr. Carlos Lobo,
7 and he was going to introduce him to a lawyer, Oscar Alvarez's
8 secretary.

9 Q. Were payments discussed?

10 A. Yes.

11 Q. What was discussed?

12 A. Carlos Lobo told me he had given \$100,000 to the defendant.

13 Q. Did you ever talk with the defendant about Carlos Lobo?

14 A. Yes.

15 Q. What were some of the things that the defendant said about
16 Carlos Lobo?

17 A. The commander of the meeting with Mr. Lobo went well. We
18 are going to see if we can help him out with some property that
19 had been seized.

20 Q. Now, I would like to direct your attention to the fall of
21 2013. Did the defendant help with a cocaine load that arrived
22 in the Colon Department around that time?

23 A. Yes, sir.

24 Q. Approximately how much cocaine was involved in the
25 shipment?

1 A. Approximately between a thousand and a 1,050 kilos.

2 Q. What were some of the first things you said to the
3 defendant about this drug shipment?

4 A. I called the defendant and I said there was this drug job
5 about to happen that was larger than the first one and could he
6 help me out with it.

7 Q. Why did you ask the defendant for assistance with this
8 particular shipment?

9 A. Because it was a larger shipment. Because I needed his
10 protection. I knew that having him with me, everything would
11 go well and I felt better supported if I was with the
12 president's son.

13 Q. Did you ask the defendant --

14 THE COURT: I missed the date. What was the date of
15 the original question?

16 MR. BOVE: I believe he testified it was the fall of
17 2013, approximately.

18 THE COURT: Thank you.

19 Q. Did you ask the defendant to meet you some place in
20 connection with this shipment?

21 A. Yes, sir.

22 Q. Where did you ask the defendant to meet you?

23 A. To Tocoa Colon.

24 Q. At the time that you made that request, did the defendant
25 say where he was?

1 A. Yes, sir.

2 Q. Where did the defendant say that he was?

3 A. Catacamas.

4 Q. Did he say anything about how he would travel to Tocoa?

5 A. Yes.

6 Q. What were some of the things that he said?

7 A. The defendant told me he was in Catacamas. He was going to
8 stop in the capital, Tegucigalpa. Because he was going to pick
9 up the rest of his security detail there, because he was only
10 with some of them, and he needed to pick up the rest of them in
11 Tegus and then go on to Tocoa.

12 Q. When you say Tegus, do you mean Tegucigalpa?

13 A. Yes. The capital, yes.

14 Q. Did the defendant eventually meet you in person?

15 A. Yes, sir.

16 Q. Where?

17 A. To Tocoa, Colon.

18 Q. Did you see how the defendant traveled to Tocoa?

19 A. Yes, sir.

20 Q. How did he get there?

21 A. He was traveling with three blue SUV Prads.

22 Q. Is a Prado a type of SUV?

23 A. Yes. They are Toyotas.

24 Q. Did the three SUVs that you saw have any lights or sirens?

25 A. Sirens, sir.

1 Q. At the time the defendant got to Tocoa, did you talk to him
2 about the drug load?

3 A. Yes, sir.

4 Q. What were some of the things that you discussed with the
5 defendant about the drug load?

6 A. I told him, the defendant, to check into a hotel in Tocoa.
7 He asked me what were some good hotels in Tocoa. I told him
8 the Yadaly and the Sanabria were good, and we were going to
9 wait that night because the plane was supposedly supposed to
10 land, the plane comes from Venezuela, that is, so we could
11 leave the next day.

12 Q. What was the plane supposed to bring?

13 A. Cocaine.

14 Q. And where was it supposed to land?

15 A. In Farallones.

16 Q. Is that a part of Colon?

17 A. It's the Irone Department going to Colon.

18 Q. Near Iriona?

19 A. Iriona, yes.

20 Q. Who controlled the property in Farallones where the plane
21 was to land?

22 A. Ton Montes and his mother.

23 Q. Who is Ton Montes' mother?

24 A. Chinda Ramos.

25 Q. What type of landing strip were they using in Farallones?

1 A. A private landing strip owned by Mr. Facusse.

2 Q. A private airport?

3 A. Yes, sir.

4 Q. Did the plane eventually get to the private airport?

5 A. Yes, sir.

6 Q. Were you there when the plane arrived?

7 A. No, sir.

8 Q. Where were you?

9 A. I was in Tocoa, Colon.

10 Q. Where was the defendant when the plane with the cocaine
11 arrived?

12 A. Staying at the hotel in Tocoa, Colon.

13 Q. How did you find out that the plane had gotten to the air
14 strip?

15 A. The man I had in charge at the air strip was keeping me
16 informed.

17 Q. Were there any problems with the shipment after it arrived?

18 A. Yes, sir.

19 Q. What happened?

20 A. The police ended up in a raid there where the shipment was,
21 at Chinda Mondes' ranch because one of the copilots, Cachaco,
22 left his GPS on. And then Fortin, the radar guy, had sent a
23 picture to Pollo, who was one of the guys who I sent to provide
24 security there.

25 Q. Let's stop there for a minute. Pollo was assisting you?

1 A. Yes, sir.

2 Q. You mentioned someone named Fortin?

3 A. Yes, sir.

4 Q. Who is Fortin?

5 A. He is a military guy from the military police.

6 Q. And what, if any, information about this drug load did
7 Fortin provide to Pollo?

8 A. He sent him a picture of the radar.

9 Q. Were the drugs seized that day?

10 A. No, sir.

11 Q. Why not?

12 A. Because of the help Fortin was going to provide to alert
13 about the police, the drugs and the GPS.

14 Q. Was the defendant still in Tocoa while all of this was
15 happening?

16 A. Yes, sir.

17 Q. Did the drugs eventually arrive in the area of Tocoa?

18 A. Yes, sir.

19 Q. How did they get there?

20 A. They arrived in a truck.

21 Q. Approximately how many kilos were in the truck when it
22 arrived in Tocoa?

23 A. From 1,000 to 1,050 kilos, sir.

24 Q. What happened when the truck with the cocaine got to Tocoa?

25 A. I called the defendant.

1 Q. What did you discuss with the defendant?

2 A. I said to him that the truck filled with the drugs was
3 about to arrive to Tocoa. I asked him where he was at and he
4 told me he was at the Sanabria Hotel. So I went to the hotel
5 and I got into the SUV where he was -- there were three SUVs
6 there at the parking lot.

7 Q. When you got into the SUV with the defendant, was there
8 anybody else in the SUV?

9 A. Yes, sir.

10 Q. Who else besides you and the defendant was in the SUV?

11 A. There were two other people, sir.

12 Q. Where were they in the vehicle?

13 A. One was on the driver's side and the other one on the
14 passenger's side.

15 Q. What was the person in the driver's side of the vehicle
16 wearing?

17 A. Military uniform, a police uniform.

18 Q. What about the person on the passenger's side of the
19 vehicle?

20 A. He was a short guy. He was dressed with civilian clothes.

21 Q. Did you see any weapons in the SUV that day?

22 A. Yes, sir.

23 Q. What did you see?

24 A. I saw an AR15 rifle that was stuck on the seat and a pistol
25 that the military person had on.

1 Q. Did you have a weapon that day?

2 A. Yes, sir.

3 Q. What weapon did you have?

4 A. I had a gun.

5 Q. I think you said that you got into one SUV and that there
6 were the two other SUVs that had originally escorted the
7 defendant that were also there?

8 A. Yes, sir.

9 Q. At any point did you see the drivers of those other two
10 SUVs?

11 A. Yes, sir.

12 Q. What were they wearing?

13 A. Same as the driver that -- where the defendant was.

14 Q. So military uniforms?

15 A. Yes, sir.

16 Q. Did you and the defendant leave Tocoa at some point?

17 A. Yes, sir.

18 Q. Did the other two SUVs leave Tocoa with you?

19 A. Yes. They were behind the SUV where I was with the
20 defendant.

21 Q. Did the truck with the cocaine also leave around that time?

22 A. Yes, sir.

23 Q. What were some of the cities that you passed through that
24 day?

25 A. We passed through Ceiba, San Pedro Sula, and the final

1 destination, Entrada Copan.

2 Q. You said earlier that the SUVs had sirens?

3 A. Yes, sir.

4 Q. Were they used during this trip?

5 A. Yes, sir.

6 Q. Were there any police check points along the path that you
7 just described?

8 A. Yes, sir.

9 Q. How many?

10 A. There was one.

11 Q. What happened when you got to the police check point in the
12 SUV with the defendant?

13 A. The defendants told the driver to turn on the siren.

14 Q. What happened next?

15 A. He kind of lowered the windows a little bit and then
16 started talking with the police officers that were at the check
17 point, and at that time the drug truck went by.

18 Q. You said that you traveled from Tocoa to Ceiba?

19 A. Yes, sir.

20 Q. Then to San Pedro Sula?

21 A. Yes, sir.

22 Q. And then to La Entrada?

23 A. Final destination, yes, sir.

24 Q. Where did you and the defendant stop with the SUV when you
25 got to La Entrada?

1 A. We stop at the soup restaurant at Entrada on the right.

2 Q. What happened next?

3 A. I got out of the car where I was with the defendant, and I
4 went into another car and went towards the truck that had
5 arrived with the drugs.

6 Q. At the point that you left the restaurant where was the
7 truck with the cocaine?

8 A. At a ranch that belonged to Ms. Digna Valle.

9 Q. Did you go to the ranch that day?

10 A. Yes, sir.

11 Q. Did you speak with Ms. Valle?

12 A. Yes, sir.

13 Q. Did she express any concerns when you first got there?

14 A. Yes, sir.

15 Q. What were some of the things that she said?

16 A. When we arrived out there at the restaurant, the defendant
17 and I in the SUV, the military police that was with the
18 defendant, they got out at the restaurant, Ms. Digna Valle was
19 at the restaurant. She called me over and she said that she
20 was worried because many military people had arrived, and she
21 had a car there with some money that I had asked of her, at the
22 restaurant.

23 Q. How much money had you asked Ms. Valle to bring to the
24 restaurant?

25 A. \$50,000, sir.

1 Q. You said you went to the ranch where the cocaine was with
2 Ms. Valle?

3 A. Yes, sir.

4 Q. How did that meeting end?

5 A. A few hours after that I went back to where the defendant
6 was at the restaurant. I gave the defendant the \$50,000.

7 Q. That was the \$50,000 that had been brought to the
8 restaurant by Ms. Valle?

9 A. Yes, sir.

10 Q. What happened next?

11 A. I got into the SUV where the defendant was. We went back
12 to San Pedro Sula.

13 Q. During that trip back to San Pedro Sula, did the defendant
14 say anything about the money?

15 A. Yes, sir.

16 Q. What were some of the things he said about the money that
17 you had paid?

18 A. He wasn't too happy about the \$50,000 that I had given him
19 because he asked me whether I could pay him a little bit more
20 because he needed to give him -- give more money to the boss,
21 and I knew who that was.

22 Q. When the defendant referred to the boss, who did you
23 understand him to be talking about?

24 A. General Pacheco.

25 Q. Where did you and the defendant part ways that day?

1 A. At a disco club called Bailables de Occidente.

2 Q. What city is that in?

3 A. At the Angels of San Pedro Sula, sir.

4 Q. I would like you to focus on the period of 2010 and 2013.

5 OK.

6 A. OK, sir.

7 Q. Were there times when you provided the defendant with
8 advanced notice about an incoming drug shipment but didn't ask
9 him to actually physically help escort it?

10 A. Yes, sir.

11 Q. And what is your best estimate of how many times you gave
12 the defendant advanced notice of an incoming cocaine shipment?

13 A. Approximately between five and eight times.

14 Q. Why did you do that?

15 A. The reason why I did it is because I was wondering that if
16 we ever had any problems during our trip with the truck filled
17 with drugs or any problems with the guys of the organization,
18 because they were armed, I felt safe because I knew I could
19 call him and he would resolve the problem.

20 Q. Are you familiar with a part of the U.S. Government
21 referred to as OFAC?

22 A. Yes, sir.

23 Q. Did OFAC sanction you and the Cachiros at some point?

24 A. Yes, sir.

25 Q. How many times?

1 A. Twice.

2 Q. Was the second time in approximately September 2013?

3 A. Yes.

4 Q. Around that same time did you become concerned that the
5 Honduran government might try to seize some of your assets?

6 A. Yes, sir.

7 Q. Which part of the Honduran government were you concerned
8 about?

9 A. The OABI.

10 Q. Did you do anything based on your concerns about the
11 potential for seizures by OABI?

12 A. Yes, sir.

13 Q. What were some of the things that you did?

14 A. Talked to the defendant.

15 Q. What did you speak about with the defendant?

16 A. I called him on the phone and I asked him where he was at.
17 He said to me he was in Tegucigalpa, so I headed to the area of
18 Tegucigalpa to meet with the defendant.

19 Q. Where did you meet the defendant?

20 A. At the plaza San Martin Hotel in Tegucigalpa.

21 Q. Was there anyone else at the meeting?

22 A. Yes, sir.

23 Q. Who?

24 A. Oscar Najera, the congressman.

25 Q. During this meeting did you talk about your concerns about

1 OABI?

2 A. Yes, sir.

3 Q. Did Oscar Najera say anything in response?

4 A. Yes.

5 Q. What did he say?

6 A. He started talking with the defendant that they needed to
7 talk to Mr. Palacio Moya.

8 Q. Did Oscar Najera agree to speak with anyone else?

9 A. With the defendant's father.

10 Q. What did Oscar Najera say about speaking to the defendant's
11 father?

12 A. That he was going to talk to the president and ask him the
13 reason for the seizures and to ask him to help them with
14 gaining back the properties that had been seized.

15 Q. During this meeting how did the defendant act in response
16 to your concerns about OABI?

17 A. The defendant said to me that he would talk to his cousin,
18 Palacio Moya.

19 Q. What was your understanding at the time of where Palacio
20 Moya worked?

21 A. He was the head of the OABI.

22 Q. Did the defendant place a call during this meeting?

23 A. Yes, sir.

24 Q. What did he say after the call?

25 A. That he was going to meet with his cousin, Palacio Moya, at

1 his house.

2 Q. Did the defendant leave the hotel at some point?

3 A. Yes, sir.

4 Q. About how long was he gone?

5 A. Two hours.

6 Q. Did the defendant come back to the hotel?

7 A. Yes, sir.

8 Q. What happened when he got back?

9 A. The defendant told me that, yes, it was true, that the zoo
10 was going to be seized, and that other properties were going to
11 be seized.

12 Q. Did the defendant bring anything with him when he returned
13 to the hotel?

14 A. Yes, sir.

15 Q. What did he bring?

16 A. He had a list of the properties that were going to be
17 seized and several bank accounts where my brother and I had
18 money.

19 Q. Did you pay the defendant for that list?

20 A. Yes, sir.

21 Q. Approximately how much did you pay him?

22 A. Between 50 and \$70,000.

23 Q. Where was that money from?

24 A. Drug trafficking, sir.

25 Q. And was your understanding that some of that money was also

1 for Palacio Moya?

2 A. Yes. For the three of them: Palacio Moya, Oscar Najera,
3 and the defendant.

4 Q. Did the defendant suggest you take any steps based on the
5 list?

6 A. Yes, sir.

7 Q. What did he say?

8 A. We should take of our legal papers out of our companies,
9 computers, all sorts of papers.

10 Q. Did the defendant mention anything else from OABI during
11 this meeting at the hotel?

12 A. Yes, sir.

13 Q. Who else did he describe?

14 A. Cesar.

15 Q. What did the defendant say about Cesar?

16 A. He was the deputy director of the OABI in San Pedro Sula,
17 that he could -- well, he would help me if I wanted to go to
18 the zoo or to see the animals while it was under seizure.
19 There would be no problem. He would help me do that.

20 Q. What did you do after the meeting at the hotel?

21 A. I went back to the zoo immediately.

22 Q. What did you do there?

23 A. I took out papers, computers. I took several animals out
24 of there.

25 Q. Did you take any other steps to hide assets based on the

1 meeting at the hotel?

2 A. Yes, sir.

3 Q. What were some of the other things that you did?

4 A. We moved some cars out of the properties that were going to
5 be seized, according to the list he had shown me. We got out
6 weapons, money, and several life stock, cows and bulls.

7 Q. Did OABI ever eventually seize some of your assets?

8 A. Yes, sir.

9 Q. At some point after those seizures did you start to make
10 recordings of meetings with the defendant and others?

11 A. Yes, sir.

12 Q. Why?

13 A. To provide support.

14 Q. What do you mean?

15 A. As a means of support so that there would be a record of
16 him having received money in case he wanted to deny that.

17 Q. At the time you started to make these recordings, were you
18 cooperating with the DEA?

19 A. No.

20 Q. If you could take a look in the binder at Government
21 Exhibit 11A.

22 THE COURT: The binder seems to go from 10 to 20.

23 MR. BOVE: Your Honor, we can hand up a copy of 11A.

24 THE COURT: OK. Will I have a copy?

25 MR. BOVE: I do, your Honor. I'm handing up a copy of

1 11A.

2 THE COURT: That's fine. Thank you.

3 You may proceed.

4 MR. BOVE: Thank you, Judge.

5 Q. Is Government Exhibit 11A an image from a recording that
6 you made of a meeting with the defendant?

7 A. Yes, sir.

8 Q. Was this shortly after the OABI seizures?

9 A. Yes, sir.

10 Q. Where was the meeting?

11 A. In San Pedro Sula.

12 Q. What were some of the things that you and the defendant
13 discussed during the meeting in San Pedro Sula?

14 A. We started out by discussing -- well, I thanked him. I
15 thanked the defendant for the information he had given me about
16 the properties, and we also discussed the fact that he should
17 go through with his promise, the promise he had given me to my
18 brother and me while his father was in office.

19 Q. What promise are you referring to?

20 A. The extraditions, the protections, the protection that he
21 had promised to give the organization.

22 Q. If you look at government --

23 THE COURT: Could I ask a question. Was his father no
24 longer the president?

25 THE WITNESS: Yes, sir.

1 THE COURT: Then I misunderstood.

2 Q. At the time of this meeting, was the defendant's father
3 still president?

4 A. Yes, sir.

5 THE WITNESS: Yes, your Honor.

6 Q. If you look at Government Exhibit 11A there is a blue bag
7 toward the right of the photo in front of the defendant?

8 A. Yes, sir.

9 Q. What was in that bag?

10 A. Yes.

11 Q. How much?

12 A. Between 10 and \$30,000, approximately.

13 Q. How often when you met with the defendant --

14 THE COURT: I just want to stop again. Why did you
15 record the meeting with the defendant?

16 THE WITNESS: Because I was already considering
17 turning myself into the U.S. Government.

18 THE COURT: You may proceed.

19 Q. How often when you met with the defendant would you make a
20 payment like this?

21 A. I gave him a bribe almost every time I met with him.

22 Q. Following the meeting that's reflected in Government
23 Exhibit 11A, did you start to cooperate with the DEA?

24 A. Yes, sir.

25 Q. Is that in approximately December 2013?

1 A. Yes, sir.

2 Q. What were some of the reasons that you started to cooperate
3 with the DEA?

4 A. Because I was afraid for my life. I was afraid for my
5 family. I was afraid of getting arrested in Honduras, and I
6 was afraid of spending a long time in prison in Honduras.

7 (Continued on next page)

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1 Q. Why were you scared about being captured?

2 A. I could get killed because I had worked with politicians,
3 police officers. That was my fear.

4 Q. What types of things did you do when you first started to
5 cooperate with the DEA?

6 A. I started recording, making recordings and information.

7 Q. Did you participate in any recorded meetings with the
8 defendant at the direction of the DEA?

9 A. Yes, sir.

10 Q. Could you please turn to Government Exhibit 1A in the
11 binder.

12 Is this a photo from one of the recordings that you
13 made of a meeting with the defendant?

14 A. Yes, sir.

15 Q. Who do we see in the picture?

16 A. The defendant.

17 Q. Where was the meeting that's reflected in this photo?

18 A. In San Pedro Sula.

19 Q. Who was present at the meeting?

20 A. The defendant and me.

21 Q. If you could take a look at Government Exhibit 1, please,
22 in the binder. It's the next tab.

23 Please turn to page nine. At lines three and five on
24 page nine you ask the defendant about his security detail and
25 he responds "the same."

1 Do you see that?

2 A. Yes, sir.

3 Q. What did you understand the defendant to mean when he said
4 "the same"?

5 A. I understood him to mean the three SUVs he always went
6 around with. I also understood it was the military people I
7 had always seen him with that he went around with and the other
8 people.

9 Q. If you could take a look at lines 17 and 19 on this page.
10 Both you and the defendant referred to el chelito. Do you see
11 that?

12 A. Yes, sir.

13 Q. What is your understanding of who was being referred to
14 when you discussed el chelito?

15 A. The military guy who was driving the SUV that I got into
16 that day and took off.

17 Q. At line 21, the defendant refers to Carias. Do you see
18 that?

19 A. Yes.

20 Q. Who did you understand the defendant to be referring to
21 when he said Carias?

22 A. The guy who was in civilian clothes who was sitting right
23 next to the military guy.

24 Q. Are you talking about the drug load that you described from
25 Tocoa to Entrada and who was in the SUV that day?

1 A. Yes, sir.

2 Q. The SUV with you and the defendant?

3 A. Yes, sir.

4 Q. If you could take a look at line 25 on this page. The
5 defendant refers to Moncho's friend?

6 A. Yes.

7 Q. Who did you understand the defendant to be referring to
8 when he said Moncho?

9 A. To Ramon Matta, a drug trafficker.

10 Q. Is that the same Ramon Matta who put the armor on the Land
11 Cruiser that you described earlier?

12 A. Yes, sir.

13 Q. Please go to the next tab. It's Government Exhibit 2A.

14 THE COURT: I'm sorry. What did you refer him to?

15 MR. BOVE: Government Exhibit 2A.

16 THE COURT: Thank you.

17 Q. This is a photo, correct?

18 A. Yes, sir.

19 Q. Is it from one of the recordings?

20 A. Yes, sir.

21 Q. Who do we see in the picture?

22 A. The defendant.

23 Q. Were you present at this meeting?

24 A. Yes, sir.

25 Q. Where was it?

1 A. In a hotel in San Pedro Sula.

2 Q. Other than you and the defendant was there anybody else
3 present?

4 A. Yes, sir.

5 Q. Who else was there?

6 A. A Colombian man.

7 Q. How did you meet the Colombian?

8 A. He was the guy Special Agent Gonzalez sent.

9 Q. If you turn ahead in the binder to Government Exhibit 3A.

10 This is a photo, correct?

11 A. Yes, sir.

12 Q. Who do we see in the photo?

13 A. The defendant.

14 Q. Is this from another meeting you participated in?

15 A. Yes, sir.

16 Q. Where was the meeting?

17 A. In San Pedro Sula.

18 Q. And other than you and the defendant was there anybody else
19 there?

20 A. Yes, sir.

21 Q. Who else was there?

22 A. Viejo was there and his son.

23 Q. How did you meet Viejo and his son?

24 A. Special Agent Gonzalez sent them.

25 Q. After the meeting that we see in Government Exhibit 3A did

1 Viejo and his son leave Honduras?

2 A. Yes, sir.

3 Q. Did they come back at some point?

4 A. Yes.

5 Q. How long after the meeting that we see in Government
6 Exhibit 3A?

7 A. A few months afterwards.

8 Q. Have you ever heard of a man named Colonel Amaya?

9 A. Yes, sir.

10 Q. Did Viejo meet with Colonel Amaya in early June 2014?

11 A. Yes, sir.

12 Q. Where was that meeting?

13 A. At a hotel in San Pedro Sula.

14 Q. Who introduced Viejo to Colonel Amaya?

15 MR. RETURETA: If I could object, your Honor. Is this
16 personal knowledge of the witness? Or even --

17 THE COURT: You can ask the question but establish the
18 foundation.

19 BY MR. BOVE:

20 Q. Were you present for the meeting between Viejo and Colonel
21 Amaya?

22 A. Yes, sir.

23 Q. For all of it or just a part?

24 A. At the end of the recording.

25 Q. You said this was at a hotel in San Pedro Sula?

1 A. Yes, sir.

2 Q. Who else was at the hotel in this meeting when you got
3 there?

4 A. The defendant was there. Colonel Amaya, and a police
5 officer in charge of, the head of La Lima.

6 Q. What were some of the things that were said while you were
7 present at the meeting.

8 A. The defendant mentioned to me that we were going to travel
9 to Tocoa, Colon; that Colonel Amaya was going to introduce more
10 police officers to Viejo and his son.

11 Q. Around the time of this meeting in the San Pedro Sula was
12 there also a meeting with members of the Honduran National
13 Police?

14 A. Yes, sir.

15 Q. Where was the meeting?

16 A. In San Pedro Sula.

17 Q. Was that a particular place in San Pedro Sula?

18 A. Yes, sir. At a mechanic body shop.

19 Q. Who set up the meeting at the body shop in San Pedro Sula?

20 A. I did.

21 Q. How did you do that?

22 A. I called Mr. Carlos Valladares. He was is police officer.
23 So that he would call another police officer, his name is
24 Ludwig Zelaya. So they would tell all the police officers that
25 had worked previously with the organization whether they wanted

1 to be involved with some drugs that were coming from Colombia.

2 Q. Did Valladares set up that meeting at the body shop.

3 A. Yes, sir.

4 Q. Did you participate in the meeting?

5 A. No, sir.

6 Q. Did Viejo?

7 A. Viejo and his son.

8 Q. Did the defendant participate in the meeting at the body
9 shop with the Honduran National Police?

10 A. No, sir.

11 Q. How did Viejo and his son get to the body shop?

12 A. I took them in my car.

13 Q. Did you give Viejo anything before the meeting?

14 A. Yes. I gave him some money.

15 Q. Approximately how much money did you give to Viejo?

16 A. Between ten thousand to thirty-five thousand dollars.

17 Q. I believe you said you did not participate in the meeting
18 with the police.

19 A. I did not.

20 Q. Did Viejo and his son leave Honduras at some point after
21 this meeting at the body shop?

22 A. Yes, sir.

23 Q. Around the same time as the meeting with the police at the
24 body shop did you meet with the defendant at the body shop?

25 A. Yes, sir.

1 Q. Who participated in that meeting?

2 A. The defendant and myself.

3 Q. What were some of the things that were discussed during the
4 meeting between you and the defendant at the body shop in San
5 Pedro Sula?

6 A. He arrived at the body shop and we started talking to the
7 defendant. We started heading towards the back of the body
8 shop. He saw a white Hummer, a car that was there. And I told
9 the defendant -- and so I said to him, you know, look at the
10 car. If you think maybe you can offer that to a police officer
11 so that we could -- they can work and we can trust them and
12 that was part of the first bribe that we gave.

13 Q. Was Pacheco discussed during that meeting?

14 A. Yeah. The defendant said to me, Commander, look, that car
15 would be a good car to offer to General Pacheco. And then he
16 said to me, Wait, I'm going to call him, see what he says. He
17 made the call. And got a little bit far from me. There was --
18 the call was short and then he came back to me.

19 Q. What did the defendant say when he got back?

20 A. He said -- he told me that he had sent a picture of the car
21 to General Pacheco and that he was waiting together with the
22 people that he was going to introduce to him in Tegucigalpa.

23 Q. And did Viejo and his son return to Honduras again in late
24 June 2014?

25 A. Yes, sir.

1 Q. Did you talk to Valladares around that time?

2 A. Yes.

3 Q. What were some of the things that you said to Valladares
4 when Viejo and his son returned to Honduras?

5 A. I said to Mr. Carlos Valladares to meet with Valladares and
6 the police officers and my representative who was the defendant
7 in Tegucigalpa.

8 Q. Did you speak to the defendant around this time?

9 A. Yes.

10 Q. What were some of the things that you discussed with the
11 defendant?

12 A. That he had to be there at the meeting with the police
13 officers because he was my representative and he had to be
14 there present so that everything went fine regarding the maps
15 with the police.

16 Q. Do you know if there was a meeting in Tegucigalpa between
17 the defendant and the Honduran National Police?

18 A. Yes, sir.

19 Q. How do you know?

20 A. The defendant mentioned that to me.

21 Q. Did you go the meeting in Tegucigalpa?

22 A. No, sir.

23 Q. I'd like you to take a look at Government Exhibit 8 in the
24 binder.

25 Turn to page ten, please.

1 At line 11 on this page the defendant refers to Jefe.

2 Do you see that?

3 A. Yes.

4 Q. Who did you understand the defendant to be referring to
5 there?

6 A. The father.

7 Q. Whose father?

8 A. The defendant's father.

9 Q. The next entry, line 13 there's a reference to JO. Do you
10 see that?

11 A. Yes, sir.

12 Q. Who do you understand the defendant to have referred to
13 when he wrote JO?

14 A. To Juan Orlando, the current Honduras president.

15 Q. If you could go to page 16, line 1. There the defendant
16 wrote JOH. Do you see that?

17 A. Yes, sir.

18 Q. Who did you understand him to be referring to?

19 A. To Juan Orlando, the president of Honduras.

20 Q. Line three on this page. The defendant referred to "the
21 friend." Do you see that?

22 A. Yes, sir.

23 Q. Who did you understand him to be referring to?

24 A. To Viejo.

25 Q. Take a look at page 26.

1 THE COURT: Page 26?

2 MR. BOVE: Page 26 of Government Exhibit 8, please.

3 Q. At line 25 the defendant wrote that, "the General sends you
4 his greetings." Do you see that?

5 A. Yes.

6 Q. Who did you understand the defendant to be referring to
7 when he wrote "the General"?

8 A. To his father.

9 Q. Turn to page 28 of Government Exhibit 8.

10 In line 1 on this page you wrote "Moncho." Do you see
11 that?

12 A. Yes, sir.

13 Q. Who are you referring to?

14 A. Ramon Matta.

15 Q. If you could turn to Government Exhibit 11, please.

16 MR. BOVE: Judge, I can hand up a copy of Government
17 Exhibit 11.

18 THE COURT: Well I have this binder here. It seems to
19 have Government Exhibit 11 in it.

20 MR. BOVE: It does, your Honor.

21 Q. If you could turn to page 3, please. At line 3 the
22 defendant wrote that "Mendoza is there." Do you see that?

23 A. Yes, sir.

24 Q. And then at line 23 you asked for Mendoza's rank. Do you
25 see that?

1 A. Yes, sir.

2 Q. And the defendant responded at line 25 "Captain"?

3 A. Yes, sir.

4 Q. Who did you understand the defendant to be referring to?

5 A. To the police officer that was there that day in Tocoa,
6 Colon in the SUV when we transported the drugs from Tocoa to
7 Entrada Copan.

8 Q. Now at the beginning of your proceedings today you said you
9 pled guilty to five crimes?

10 A. Yes, sir.

11 Q. Right now as you sit there, what is the least amount of
12 jail time that you could get for those crimes?

13 A. Life plus 30 years, sir.

14 Q. You said earlier that you entered that plea agreement
15 pursuant to a cooperation agreement with the government?

16 A. Yes, sir.

17 Q. What are some of the things that you're required to do
18 under that agreement?

19 A. Tell the truth, not to commit any further crimes, and
20 testify when the government asks me.

21 Q. If you do what's required of you under the agreement what
22 is your understanding of what the government will do?

23 A. They'll write a 5K1 letter for me.

24 Q. Has anyone guaranteed that you're going to get a 5K1
25 letter?

1 A. No, sir.

2 Q. What is your understanding of what a 5K letter would
3 include if one is written?

4 A. All the crimes that I have committed and the cooperation
5 that I have provided the government.

6 Q. If the government writes the 5K letter for you how would it
7 impact your mandatory minimum sentence?

8 A. I don't understand the question.

9 Q. If you get a 5K letter, what is the least amount of jail
10 time that the judge could give you?

11 A. Whatever the judge decides.

12 Q. Would the judge be required to give you less jail time?

13 A. No.

14 Q. Has anyone made you any promises about what sentence you're
15 going to receive?

16 A. No, sir.

17 MR. BOVE: Nothing further, your Honor.

18 THE COURT: Okay. Would you like to start the cross
19 today?

20 MR. RETURETA: No, your Honor if we could start on the
21 16th that would be fine.

22 THE COURT: So we'll start at 2. Since you will have
23 time to confer before then and be organized and agree on any
24 exhibits, could we assume 2 to 4?

25 MR. RETURETA: Yes.

1 THE COURT: And less if you don't need it but no later
2 than 4?

3 MR. RETURETA: Indeed.

4 THE COURT: Okay. That's good.

5 Yes.

6 MR. BOVE: Your Honor, because the defendant will not
7 have started cooperation -- excuse me, cross-examination of
8 today's proceeding, is the government still permitted to meet
9 with him regarding his testimony in preparation for
10 cross-examination?

11 THE COURT: Yes.

12 Let me just make sure I'm clear too. As far as the
13 defense, is it your intent only to cross-examine this witness
14 and not to call any witnesses of your own?

15 MR. RETURETA: If I could have a couple days to
16 consider that, your Honor?

17 THE COURT: Okay. Could you let me know by the end of
18 the week as well as the government?

19 MR. RETURETA: Indeed.

20 THE COURT: And also tell us who it is.

21 MR. RETURETA: Indeed.

22 THE COURT: And you'll exchange any exhibits?

23 MR. RETURETA: Certainly.

24 THE COURT: Thank you.

25 MR. RETURETA: Thank you, your Honor. (Adjourn

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GOVERNMENT EXHIBITS

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