

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED

2009 APR -8 PM 3: 12

CLERK, US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA)

SUPERSEDING INDICTMENT

BY Fm
DEPUTY

Plaintiff,)

v)

Cause No. EP 07-CR-0087-KC

LUIS POSADA CARRILES,)

Cts 1 &2: 18:1621(1)-Perjury

a/k/a "Ramon Medina")

Ct 3: 18:1505-Obstruction of Proceedings

a/k/a "LOBO,")

Before Department and Agencies

a/k/a "SOLO,")

Ct 4: 18:1425(a)-Naturalization Fraud

Cts 5-11: 18:1015(a)-False Statement in

Naturalization Proceeding

Defendant.)

GENERAL ALLEGATIONS

THE GRAND JURY CHARGES THAT:

1. At all times materials to the charges alleged herein, defendant LUIS POSADA CARRILES, also known as "Ramon Medina," also known as "Lobo," also known as "Solo," was a Cuban national and citizen of Venezuela, without legal immigration status or otherwise lawfully authorized to be present or remain in the United States.

2. On or about March 18, 2005, defendant POSADA entered the United States without inspection, and thereafter began attempts to obtain legal immigration status or otherwise lawfully remain in the United States.

3. On or about April 19, 2005, defendant POSADA filed an application for asylum, under pain and penalty of perjury, and was scheduled to appear for an interview on that application on May 17, 2005. Defendant failed to appear for his interview, claiming he was too ill, and held a press conference instead. On May 17, 2005, defendant also withdrew his application for asylum. Defendant was detained by immigration authorities on May 17, 2005, and removal proceedings

against him were commenced on May 18, 2005.

4. On or about June 13, 2005, defendant POSADA filed a sworn application for asylum and withholding of removal as defenses in his removal proceedings. Asylum and withholding of removal are forms of protection granted to individuals in the United States which require an applicant to affirmatively prove his eligibility. An applicant is barred by statute from receiving asylum or withholding of removal under certain conditions, including if there is serious reason to believe the alien committed a serious non-political crime outside the United States prior to arrival, if there are reasonable grounds for regarding the alien as a danger to the security of the United States, or if the alien has committed or been involved with terrorist activity.

5. On or about August 30, 2005, defendant POSADA testified under oath in Immigration Court in El Paso, in the Western District of Texas, in removal proceedings held to determine whether he should be removed from the United States or granted asylum or other relief, pursuant to the laws and regulations of the United States. Defendant testified under oath in support of his application for asylum and withholding from removal. Defendant was scheduled to continue cross-examination and redirect examination under oath in Immigration Court on August 31, 2005, but withdrew his claims for asylum and withholding of removal rather than continuing his testimony under oath. Defendant was ordered removable on September 26, 2005, but was granted deferral of removal as to Cuba and Venezuela. Thereafter, defendant POSADA was and remains removable from the United States.

6. On or about September 22, 2005 defendant POSADA filed an application for naturalization in El Paso, in the Western District of Texas, under pain and penalty of perjury. Naturalization is the process by which U.S. citizenship is conferred upon a foreign citizen or national. A naturalized citizen is no longer subject to removal from the United States. Certain

general requirements and qualifications must be met in order to become a U.S. citizen by naturalization, including demonstrable good moral character. On or about April 26 and 27, 2006, in the Western District of Texas, defendant was interviewed on his application for naturalization, during which interview defendant testified under oath, in order to attempt to obtain such status in the United States. Defendant's application for naturalization was denied on or about August 24, 2006, and defendant POSADA was and remains removable from the United States.

COUNT ONE
(Perjury, 18 U.S.C. § 1621(1))

On or about August 30, 2005, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

having duly taken an oath before a competent tribunal, officer and person, in a case in which a law of the United States authorizes an oath to be administered, that he would testify, declare, depose and certify truly, did willfully and contrary to such oath state a material matter that he then and there did not believe to be true, that is to say:

At the time and place alleged, before an Immigration Judge, in an Immigration Court of the United States, an oath was administered to the defendant LUIS POSADA CARRILES, that he would testify truthfully during removal proceedings to consider whether he should be removed from the United States or granted asylum or other relief, pursuant to the laws and regulations of the United States;

At the time and place alleged, the Immigration Court was conducting removal proceedings to consider whether defendant should be removed from the United States or granted asylum or other

relief pursuant to the laws and regulations of the United States. It was material to such proceedings to determine whether defendant had been involved in soliciting other individuals to carry out certain bombings in and around Havana, Cuba;

At the time and place alleged, the defendant POSADA, appearing as a witness under oath at a proceeding before the Immigration Judge, was questioned in English and the questions were translated for him by an interpreter into Cuban Spanish. POSADA's answers were in Cuban Spanish, and they were translated into English;

At the time and place alleged, the defendant POSADA, appearing as a witness under oath at a proceeding before the Immigration Judge, knowingly made the following declarations in response to questions with respect to the material matters as follows, which false declarations, made in Cuban Spanish, are translated from Cuban Spanish into English. Set forth below in regular type are the questions in English and responses of the witness as they were translated into English by the interpreter during the defendant's testimony in Immigration Court. Set forth in italics is a subsequent translation into English from the tape recording of the testimony of defendant POSADA in Immigration Court, of the responses of POSADA as he stated them in Cuban Spanish in Immigration Court:

Question in English: Well, were you involved in soliciting other individuals to carry out the bombing in, the bombings in Cuba?

*English translation of POSADA's response
in Cuban Spanish: No.*

Interpreter's contemporaneous translation of
POSADA's response: No.

Question in English: Now, you... do you... are you stating that the comments made by [a named reporter whose identity is known to the Grand Jury] in the New York Times article, that you were involved in soliciting others, other individuals to engage in these bombings is not true?

English translation of POSADA's response
in Cuban Spanish: I am saying that it is not true.

Interpreter's contemporaneous translation of
POSADA's response: I am saying that it is not true.

The declarations of defendant POSADA, which are underscored above, which are translated from Cuban Spanish, were false, as POSADA then and there well knew and believed, in that defendant had been involved in soliciting other individuals to carry out said bombings in Cuba, as he himself had told a reporter whose identity is known to the Grand Jury and as was written in said *New York Times* article.

All in violation of Title 18, United States Code, Section 1621(1).

COUNT TWO
(Perjury, 18 U.S.C. § 1621(1))

On or about August 30, 2005, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

having duly taken an oath before a competent tribunal, officer and person, in a case in which a law of the United States authorizes an oath to be administered, that he would testify, declare, depose and certify truly, did willfully and contrary to such oath state a material matter that he then and there did not believe to be true, that is to say:

At the time and place alleged, before an Immigration Judge, in an Immigration Court of the United States, an oath was administered to the defendant, LUIS POSADA CARRILES, that he would testify truthfully during removal proceedings to consider whether he should be removed from the United States or granted asylum or other relief pursuant to the laws and regulations of the United States;

At the time and place alleged, the Immigration Court was conducting removal proceedings to consider whether defendant should be removed from the United States or granted asylum or other relief pursuant to the laws and regulations of the United States. It was material to such proceedings to determine whether defendant had arranged for Raul Cruz Leon to transport or carry explosives into Cuba in 1997;

At the time and place alleged, the defendant POSADA, appearing as a witness under oath at a proceeding before the Immigration Judge, was questioned in English and the questions were translated for him by an interpreter into Cuban Spanish. POSADA's answers were in Cuban Spanish, and they were translated into English;

At the time and place alleged, the defendant POSADA, appearing as a witness under oath at a proceeding before the Immigration Judge, knowingly made the following declaration in response to questions with respect to the material matters as follows, which false declaration, made in Cuban Spanish, is translated from Cuban Spanish into English. Set forth below in regular type is the question in English and response of the witness as it was translated into English by the interpreter during the defendant's testimony in Immigration Court. Set forth in italics is a subsequent translation into English from the tape recording of the testimony of defendant POSADA in Immigration Court, of the response of POSADA as he stated it in Cuban Spanish in Immigration

Court:

Question in English: Did you arrange for Raul Cruz Leon to transport or carry explosives into Cuba in 1997?

English translation of POSADA's response
in Cuban Spanish: I have never seen nor met Raul Cruz and I have not done any arrangement to send him to another place.

Interpreter's contemporaneous translation of
POSADA's response: I have never seen nor met Raul Cruz nor have I sent him to any place.

The declaration of defendant POSADA, which is underscored above, which is translated from Cuban Spanish, was false, as POSADA then and there well knew and believed, in that defendant had arranged to send and sent an individual named Raul Cruz Leon to Cuba to transport and carry explosives into Cuba to carry out said bombings in 1997.

All in violation of Title 18, United States Code, Section 1621(1).

COUNT THREE

(Obstruction of Proceedings Before Department and Agencies, 18 U.S.C. § 1505)

From on or about May 18, 2005, through on or about August 31, 2005, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

did corruptly influence, obstruct, and impede, and endeavor to influence, obstruct and impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, said offense involving international terrorism, as defined in Section 2331 of Title 18, United States Code, that is:

In connection with a pending matter before an Immigration Judge in Immigration Court, and in connection with removal proceedings and the application by the defendant for asylum and withholding of removal, under the immigration laws and regulations of the United States, the defendant, LUIS POSADA CARRILES, knowingly and willfully gave false, evasive and misleading testimony, and withheld information while testifying under oath in Immigration Court, and provided false information in written submissions and in response to questions during interviews, to immigration officials, including but not limited to responses as set forth in Counts One and Two, which are realleged and incorporated herein as though fully set forth herein, as well as claiming on numerous occasions that he did not recall certain statements he made during an interview with a named reporter whose identity is known to the Grand Jury, and that he did not understand the English language, when in fact said false, evasive and misleading testimony, withholding of information, and false denials of recall and false denials of comprehension, were intended to evade having to truthfully answer material questions posed of him during his testimony.

All in violation of Title 18, United States Code, Section 1505.

COUNT FOUR
(Naturalization Fraud, 18 U.S.C. § 1425(a))

On or about April 26 and 27, 2006, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

knowingly attempted to procure and obtain for himself naturalization as a United States citizen which was contrary to law, specifically, in violation of Title 18, United States Code, Section 1015(a),

in that on or about September 22, 2005, he knowingly subscribed and filed as true under penalty of perjury on his written "Application for Naturalization" (Form N-400), and then on or about April 26 and 27, 2006, he knowingly made under oath during his naturalization interview with, among others, an adjudications officer of the Department of Homeland Security, Bureau of Citizenship and Immigration Services certain false statements, to wit:

- (a) During his naturalization interview, he stated that, in March 2005, he had traveled by motor vehicle from Honduras through Mexico, and entered the United States over land near Matamoros, Mexico, continuing to Houston, Texas, with the assistance of an unidentified alien smuggler when, in fact, he entered the United States at that time by sea at Florida aboard the motor vessel "Santrina";
- (b) During his naturalization interview, he stated that, in March 2005, while traveling in or through Mexico en route to the United States, he was never in Cancun or Isla Mujeres when, in fact, he traveled to Cancun or Isla Mujeres at that time;
- (c) During his naturalization interview, he stated that, in March 2005, while traveling in or through Mexico en route to the United States, he never saw the motor vessel "Santrina" in Mexico when, in fact, he boarded that vessel in Mexico at that time and traveled thereon to the United States;
- (d) During his naturalization interview, he stated that, in March 2005, while traveling in or through Mexico en route to the United States, he never saw Santiago Alvarez, Osvaldo Mitat, Ruben Lopez-Castro or Jose Pujol in Mexico when, in fact, each of these four individuals was with him in Isla Mujeres and with him aboard the motor vessel "Santrina" during his passage aboard that motor vessel from Mexico to the United States at that time;
- (e) During his naturalization interview, he stated that he had never given false or misleading information to a United States government official to prevent deportation, exclusion or removal, other than when questioned on a Greyhound bus when riding from Houston to Miami soon after arrival in the United States, when, in fact, he had testified falsely and given misleading testimony in Immigration Court in support of his claim for asylum and withholding of removal, as alleged in Counts One through Three herein, which are incorporated and realleged as if set forth fully herein;

- (f) During his naturalization interview, he stated that he had never had any type of documentation, passport or identification from the Republic of Guatemala when, in fact, he had a passport issued by that nation bearing his photograph in the name of "Manuel Enrique Castillo Lopez"; and
- (g) At Part 1 (Your Name) of the N-400, he stated that the only names he had used other than "Luis Clemente Posada Carriles" were "Ramon Medina" and "Franco Rodriguez" when, in fact, he possessed a passport issued by the Republic of Guatemala bearing his photograph but in the name "Manuel Enrique Castillo Lopez."

All in violation of Title 18, United States Code, Section 1425(a).

COUNT FIVE

(False Statement in Naturalization Proceeding, 18 U.S.C. § 1015(a))

On or about April 26 and 27, 2006, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

did unlawfully and knowingly make a false statement under oath in a case, proceeding and matter relating to, under, and by virtue of a law of the United States relating to naturalization, in that, while under oath in connection with an Application for Naturalization (Form N-400), the defendant falsely stated to, among others, an adjudications officer of the Department of Homeland Security, Bureau of Citizenship and Immigration Services that, in March 2005, he had traveled by motor vehicle from Honduras through Mexico, and entered the United States over land near Matamoros, Mexico, continuing to Houston, Texas, with the assistance of an unidentified alien smuggler when, in fact, he entered the United States at that time by sea at Florida aboard the motor vessel "Santrina".

All in violation of Title 18, United States Code, Section 1015(a).

COUNT SIX

(False Statement in Naturalization Proceeding, 18 U.S.C. § 1015(a))

On or about April 26 and 27, 2006, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

did unlawfully and knowingly make a false statement under oath in a case, proceeding and matter relating to, under, and by virtue of a law of the United States relating to naturalization, in that, while under oath in connection with an Application for Naturalization (Form N-400), the defendant falsely stated to, among others, an adjudications officer of the Department of Homeland Security, Bureau of Citizenship and Immigration Services that, in March 2005, while traveling in or through Mexico en route to the United States, he was never in Cancun or Isla Mujeres when, in fact, he traveled to Cancun or Isla Mujeres at that time.

All in violation of Title 18, United States Code, Section 1015(a).

COUNT SEVEN

(False Statement in Naturalization Proceeding, 18 U.S.C. § 1015(a))

On or about April 26 and 27, 2006, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

did unlawfully and knowingly make a false statement under oath in a case, proceeding and matter relating to, under, and by virtue of a law of the United States relating to naturalization, in that, while

under oath in connection with an Application for Naturalization (Form N-400), the defendant falsely stated to, among others, an adjudications officer of the Department of Homeland Security, Bureau of Citizenship and Immigration Services that, in March 2005, while traveling in or through Mexico en route to the United States, he never saw the motor vessel "Santrina" in Mexico when, in fact, he boarded that vessel in Mexico at that time and traveled thereon to the United States.

All in violation of Title 18, United States Code, Section 1015(a).

COUNT EIGHT

(False Statement in Naturalization Proceeding, 18 U.S.C. § 1015(a))

On or about April 26 and 27, 2006, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

did unlawfully and knowingly make a false statement under oath in a case, proceeding and matter relating to, under, and by virtue of a law of the United States relating to naturalization, in that, while under oath in connection with an Application for Naturalization (Form N-400), the defendant falsely stated to, among others, an adjudications officer of the Department of Homeland Security, Bureau of Citizenship and Immigration Services that, in March 2005, while traveling in or through Mexico en route to the United States, he never saw Santiago Alvarez, Osvaldo Mitat, Ruben Lopez-Castro or Jose Pujol in Mexico when, in fact, each of these four individuals was with him in Isla Mujeres and was with him aboard the motor vessel "Santrina" during his passage aboard that motor vessel from Mexico to the United States at that time.

All in violation of Title 18, United States Code, Section 1015(a).

COUNT NINE

(False Statement in Naturalization Proceeding, 18 U.S.C. § 1015(a))

On or about April 26 and 27, 2006, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

did unlawfully and knowingly make a false statement under oath in a case, proceeding and matter relating to, under, and by virtue of a law of the United States relating to naturalization, in that, while under oath in connection with an Application for Naturalization (Form N-400), the defendant falsely stated to, among others, an adjudications officer of the Department of Homeland Security, Bureau of Citizenship and Immigration Services that he had never given false or misleading information to a United States government official to prevent deportation, exclusion or removal, other than when questioned on a Greyhound bus when riding from Houston to Miami soon after arrival in the United States, when, in fact, he had testified falsely and given misleading testimony in Immigration Court in support of his claim for asylum and withholding of removal, as alleged in Counts One through Three herein, which are incorporated and realleged as if set forth fully herein.

All in violation of Title 18, United States Code, Section 1015(a).

COUNT TEN

(False Statement in Naturalization Proceeding, 18 U.S.C. § 1015(a))

On or about April 26 and 27, 2006, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

did unlawfully and knowingly make a false statement under oath in a case, proceeding and matter relating to, under, and by virtue of a law of the United States relating to naturalization, in that, while under oath in connection with an Application for Naturalization (Form N-400), the defendant falsely stated to, among others, an adjudications officer of the Department of Homeland Security, Bureau of Citizenship and Immigration Services that he had never had any type of documentation, passport or identification from the Republic of Guatemala when, in fact, he had a passport issued by that nation bearing his photograph in the name of "Manuel Enrique Castillo Lopez."

All in violation of Title 18, United States Code, Section 1015(a).

COUNT ELEVEN

(False Statement in Naturalization Proceeding, 18 U.S.C. § 1015(a))

On or about September 22, 2005, at El Paso, in the Western District of Texas, the defendant,

LUIS POSADA CARRILES
a/k/a/ "Ramon Medina,"
a/k/a "Lobo,"
a/k/a "Solo,"

did unlawfully and knowingly make a false statement under oath in a case, proceeding and matter relating to, under, and by virtue of a law of the United States relating to naturalization, in that, he knowingly subscribed as true and filed under penalty of perjury on his written "Application for

Naturalization” (Form N-400) in Part 1 (Your Name) the statement that the only names he had used other than “Luis Clemente Posada Carriles” were “Ramon Medina” and “Franco Rodriguez” when, in fact, he possessed a passport issued by the Republic of Guatemala bearing his photograph but in the name “Manuel Enrique Castillo Lopez.”


All in violation of Title 18, United States Code, Section 1015(a).

A TRUE BILL

FOREPERSON



MICHAEL MULLANEY
ACTING UNITED STATES ATTORNEY



JOHN W. VAN LONKHUYZEN
REBEKAH L. SITTNER
TRIAL ATTORNEYS, NATIONAL SECURITY DIVISION
UNITED STATES DEPARTMENT OF JUSTICE