

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEW MEXICO

IN THE UNITED STATES DISTRICT COURT

2019 AUG 21 PM 2:56

FOR THE DISTRICT OF NEW MEXICO

LAS CRUCES

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**MARTIN PEÑA ASTORGA,**  
**JESSE ADEL DUNLAP,** and  
**ALEJANDRA GOMEZ, a.k.a. "Smokey,"**

Defendants.

CRIMINAL NO. 19-2747 KG

Count 1: 21 U.S.C. § 846: Conspiracy;

Count 2: 21 U.S.C. §§ 841(a)(1) and (b)(1)(A): Distribution of 50 Grams and More of Methamphetamine;

Counts 3, 4, 6, and 8: 21 U.S.C. §§ 841(a)(1) and (b)(1)(C): Distribution of Fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide);

Count 5 and 7: 21 U.S.C. §§ 841(a)(1) and (b)(1)(C): Distribution of Heroin;

Count 9: 21 U.S.C. § 843(b): Use of a Communication Facility to Further the Commission of a Drug Trafficking Crime;

Count 10: 21 U.S.C. §§ 841(a)(1) and (b)(1)(B): Distribution of 5 Grams and More of Methamphetamine;

Count 11: 21 U.S.C. §§ 841(a)(1) and (b)(1)(B): Possession With Intent to Distribute 5 Grams and More of Methamphetamine;

Count 12: 21 U.S.C. §§ 841(a)(1) and (b)(1)(B): Possession With Intent to Distribute 100 Grams and More of Heroin; 18 U.S.C. § 2: Aiding and Abetting;

Count 13: 21 U.S.C. §§ 841(a)(1) and (b)(1)(B): Possession with Intent to Distribute 40 Grams and More Fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide); 18 U.S.C. § 2: Aiding and Abetting.

INDICTMENT

The Grand Jury charges:

Count 1

From on or about August 24, 2018, and continuing to on or about August 21, 2019, in Doña Ana County, in the District of New Mexico, and elsewhere, the defendants, **MARTIN PEÑA ASTORGA, JESSE ADEL DUNLAP, and ALEJANDRA GOMEZ, a.k.a. “Smokey,”** unlawfully, knowingly, and intentionally combined, conspired, confederated, agreed, and acted interdependently with each other and with other persons whose names are known and unknown to the Grand Jury to commit an offense defined in 21 U.S.C. § 841(a)(1), specifically, distribution of controlled substances.

Type and Quantity of Controlled Substances Involved in the Conspiracy

With respect to **MARTIN PEÑA ASTORGA**, the amount of methamphetamine involved in the conspiracy attributable to him as a result of his own conduct, and the conduct of other conspirators reasonably foreseeable to him, is 50 grams and more of methamphetamine, contrary to 21 U.S.C. §§ 841(a)(1) and (b)(1)(A).

With respect to **ALEJANDRA GOMEZ, a.k.a. “Smokey,”** the amount of methamphetamine involved in the conspiracy attributable to her as a result of her own conduct, and the conduct of other conspirators reasonably foreseeable to her, is 5 grams and more of methamphetamine, contrary to 21 U.S.C. §§ 841(a)(1) and (b)(1)(B).

With respect to **MARTIN PEÑA ASTORGA and JESSE ADEL DUNLAP**, the amount of heroin involved in the conspiracy attributable to each of them as a result of their own conduct, and the conduct of other conspirators reasonably foreseeable to them, is 100 grams and more of heroin, contrary to 21 U.S.C. §§ 841(a)(1) and (b)(1)(B).

With respect to **MARTIN PEÑA ASTORGA and JESSE ADEL DUNLAP**, the amount

of fentanyl involved in the conspiracy attributable to each of them as a result of their own conduct, and the conduct of other conspirators reasonably foreseeable to them, is 40 grams and more of fentanyl, contrary to 21 U.S.C. §§ 841(a)(1) and (b)(1)(B).

Overt Acts

In furtherance of the conspiracy and to accomplish the objectives thereof, the following overt acts were committed:

Overt Act 1

On August 25, 2018, Martin Peña Astorga agreed to deliver methamphetamine and fentanyl to an undercover agent on August 27, 2018.

Overt Act 2

On August 27, 2018, Martin Peña Astorga delivered 201 net grams of pure methamphetamine and 200 pills (weighing 21.4 net grams) containing fentanyl to an undercover agent in exchange for \$4,500.

Overt Act 3

On November 6, 2018, Martin Peña Astorga told an undercover agent that Martin Peña Astorga found a new source of supply for narcotics after learning of the death of his previous source of supply.

Overt Act 4

On November 7, 2018, Martin Peña Astorga discussed with an undercover agent the prices and quality of the narcotics Martin Peña Astorga could obtain from his new source of supply.

Overt Act 5

On November 7, 2018, Martin Peña Astorga described to an undercover agent how

Martin Peña Astorga's source of supply would mail narcotics to a residential address in Las Cruces, New Mexico, so that the owner of the residence could deny knowledge of the package if it was intercepted by law enforcement.

Overt Act 6

On December 17, 2018, Martin Peña Astorga agreed through a series of text messages to sell an undercover agent fentanyl pills.

Overt Act 7

On December 17, 2018, Martin Peña Astorga sold 100 pills (weighing 10.7 net grams) containing fentanyl to an undercover agent for \$1,400.

Overt Act 8

On February 19, 2019, Martin Peña Astorga agreed over the phone to sell an undercover agent a half-ounce of heroin and fentanyl pills.

Overt Act 9

On February 20, 2019, Martin Peña Astorga sold an undercover agent 12.4 net grams of heroin and 102 pills (weighing 10.9 net grams) containing fentanyl for \$1,800.

Overt Act 10

On March 21, 2019, Martin Peña Astorga agreed over the phone to sell an ounce of heroin and 100 fentanyl pills to an undercover agent.

Overt Act 11

On March 21, 2019, Martin Peña Astorga sold an undercover agent 25.0 net grams of heroin and 100 pills (weighing 10.8 net grams) containing fentanyl for \$2,100.

Overt Act 12

On March 21, 2019, Martin Peña Astorga told an undercover agent that he had large

amounts of heroin at his house and that his wife, Jesse Adel Dunlap, had complained about the smell of the heroin.

Overt Act 13

On May 17, 2019, Martin Peña Astorga sent text messages to Alejandra Gomez asking her to “make some cash” by selling narcotics that Martin Peña Astorga had previously provided to Alejandra Gomez.

Overt Act 14

On May 17, 2019, Martin Peña Astorga agreed over the phone to sell Alejandra Gomez \$50 to \$60 worth of narcotics and subsequently met with her at a Pic-Quik gas station in Las Cruces, New Mexico, to provide her with the narcotics.

Overt Act 15

On May 22, 2019, Martin Peña Astorga agreed to send his source of supply a mailing address so that the source of supply could ship Martin Peña Astorga eight ounces of heroin and 500 fentanyl pills.

Overt Act 16

On May 23, 2019, Martin Peña Astorga texted a mailing address to his source of supply for the shipment of the eight ounces of heroin and 500 fentanyl pills.

Overt Act 17

On May 28, 2019, Alejandra Gomez asked Martin Peña Astorga for methamphetamine for a customer that wanted a “big one,” and Martin Peña Astorga responded by telling Alejandra Gomez to meet him at the Pic-Quik gas station.

Overt Act 18

On May 28, 2019, Martin Peña Astorga provided Alejandra Gomez with 5.675 grams of methamphetamine at the Pic-Quik gas station.

Overt Act 19

On May 28, 2019, Alejandra Gomez possessed 5.675 grams of methamphetamine during a traffic stop conducted by officers with the Las Cruces Police Department.

Overt Act 20

On May 31, 2019, Martin Peña Astorga told his source of supply that Martin Peña Astorga expected the package of narcotics to arrive at his sister-in-law's address at 4:30 p.m.

Overt Act 21

On May 31, 2019, Martin Peña Astorga told his sister-in-law that he would be at her house at 4 p.m. to pick up the package and that he would compensate her for allowing Martin Peña Astorga to use her address.

Overt Act 22

On May 31, 2019, at approximately 3:46 p.m., Martin Peña Astorga arrived at his sister-in-law's residence to await the arrival of a package containing 201.2 net grams of heroin and 500 pills (weighing 53.2 net grams) containing fentanyl, which had been interdicted by law enforcement agents prior to delivery.

Overt Act 23

On May 31, 2019, Martin P. Astorga called Jesse A. Dunlap and told her that his source of supply was going to track the package online and that the package might have been delayed "like last time."

Overt Act 24

On June 1, 2019, Martin Peña Astorga asked his source of supply why the package of narcotics was delayed.

Overt Act 25

On June 13, 2019, Martin Peña Astorga offered to drive to Phoenix to pick up narcotics from his source of supply because Martin Peña Astorga's customers were upset about the delay.

Overt Act 26

On June 17, 2019, Martin Peña Astorga agreed to travel to Colorado Springs, Colorado, to pick up narcotics after learning that the Phoenix package would not arrive.

Overt Act 27

On June 19, 2019, Martin Peña Astorga and Jesse Adel Dunlap traveled from Las Cruces, New Mexico, to Colorado Springs, Colorado, to pick up heroin and fentanyl.

Overt Act 28

On June 19, 2019, Martin Peña Astorga and Jesse Adel Dunlap met with a female at a Colorado Springs apartment complex and obtained heroin and fentanyl.

Overt Act 29

On June 20, 2019, Martin Peña Astorga and Jesse Adel Dunlap transported heroin and fentanyl by vehicle from Colorado into New Mexico.

Overt Act 30

On June 20, 2019, Jesse Adel Dunlap admitted to possessing heroin and pills after New Mexico State Police officers located 124.6 net grams of heroin and 480 pills (weighing 50.0 net grams) containing fentanyl in her purse during a traffic stop of the vehicle occupied by Jesse Adel Dunlap and Martin Peña Astorga.

Overt Act 31

On June 20, 2019, Martin Peña Astorga told his source of supply “we got caught” and subsequently requested another package be mailed in order to “help out” Jesse Adel Dunlap in the event she was charged based on the seizure of the heroin and fentanyl from her purse.

In violation of 21 U.S.C. § 846.

Count 2

On or about August 27, 2018, in Doña Ana County, in the District of New Mexico, the defendant, **MARTIN PEÑA ASTORGA**, unlawfully, knowingly and intentionally distributed a controlled substance, and the offense involved 50 grams and more of methamphetamine.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A).

Count 3

On or about August 27, 2018, in Doña Ana County, in the District of New Mexico, the defendant, **MARTIN PEÑA ASTORGA**, unlawfully, knowingly, and intentionally distributed a controlled substance, and the offense involved a mixture and substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide).

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

Count 4

On or about December 17, 2018, in Doña Ana County, in the District of New Mexico, the defendant, **MARTIN PEÑA ASTORGA**, unlawfully, knowingly, and intentionally distributed a controlled substance, and the offense involved a mixture and substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide).

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).



Count 5

On or about February 20, 2019, in Doña Ana County, in the District of New Mexico, the defendant, **MARTIN PEÑA ASTORGA**, unlawfully, knowingly and intentionally distributed a controlled substance, and the offense involved a mixture and substance containing a detectable amount of heroin.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

Count 6

On or about February 20, 2019, in Doña Ana County, in the District of New Mexico, the defendant, **MARTIN PEÑA ASTORGA**, unlawfully, knowingly, and intentionally distributed a controlled substance, and the offense involved a mixture and substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide).

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

Count 7

On or about March 21, 2019, in Doña Ana County, in the District of New Mexico, the defendant, **MARTIN PEÑA ASTORGA**, unlawfully, knowingly and intentionally distributed a controlled substance, and the offense involved a mixture and substance containing a detectable amount of heroin.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

Count 8

On or about March 21, 2019, in Doña Ana County, in the District of New Mexico, the defendant, **MARTIN PEÑA ASTORGA**, unlawfully, knowingly, and intentionally distributed a controlled substance, and the offense involved a mixture and substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide).

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

Count 9

On or about May 17, 2019, in Doña Ana County, in the District of New Mexico, and elsewhere, the defendants, **MARTIN PEÑA ASTORGA** and **ALEJANDRA GOMEZ**, did unlawfully, knowingly and intentionally use a communication facility, specifically, a cellular phone, to further the commission of a drug trafficking crime, specifically, conspiracy to distribute 5 grams and more of methamphetamine, contrary to 21 U.S.C. §§ 841(a)(1) and (b)(1)(B).

In violation of 21 U.S.C. § 843(b).

Count 10

On or about May 28, 2019, in Doña Ana County, in the District of New Mexico, the defendant, **MARTIN PEÑA ASTORGA**, unlawfully, knowingly and intentionally distributed a controlled substance, and the offense involved 5 grams and more of methamphetamine.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B).

Count 11

On or about May 28, 2019, in Doña Ana County, in the District of New Mexico, the defendant, **ALEJANDRA GOMEZ**, unlawfully, knowingly and intentionally possessed with intent to distribute a controlled substance, and the offense involved 5 grams and more of methamphetamine.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B).

Count 12

On or about June 20, 2019, in Guadalupe County and elsewhere, in the District of New Mexico, the defendants, **MARTIN PEÑA ASTORGA** and **JESSE ADEL DUNLAP**,

unlawfully, knowingly and intentionally possessed with intent to distribute a controlled substance, and the offense involved 100 grams and more of a mixture and substance containing a detectable amount of heroin.

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B), and 18 U.S.C. § 2.

Count 13

On or about June 20, 2019, in Guadalupe County and elsewhere, in the District of New Mexico, the defendants, **MARTIN PEÑA ASTORGA** and **JESSE ADEL DUNLAP**, unlawfully, knowingly, and intentionally possessed with intent to distribute a controlled substance, and the offense involved 40 grams and more of a mixture and substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide).

In violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B), and 18 U.S.C. § 2.

FORFEITURE ALLEGATION

Counts 1 through 13 of this indictment are incorporated as part of this section of the indictment as if fully re-alleged herein for the purpose of alleging forfeiture to the United States pursuant to 21 U.S.C. § 853.

Upon conviction of any offense in violation of 21 U.S.C. §§ 841 or 846, the defendant, **MARTIN PEÑA ASTORGA**, shall forfeit to the United States pursuant to 21 U.S.C. § 853 any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of each offense for which the defendant is convicted, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offense(s) of conviction.

The property to be forfeited to the United States includes, but is not limited to, the following:

MONEY JUDGMENT

- a. A sum of money equal to at least \$9,800 of United States currency, including any interest accruing to the date of the judgment, representing the proceeds derived from or involved in the offenses set forth in Counts 2 through 8.

A TRUE BILL:

    /s/      
FOREPERSON OF THE GRAND JURY



Assistant United States Attorney

*BLC*

08/19/19 1:21PM