

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 :
 UNITED STATES OF AMERICA, :
 :
 - v. - : S2 15 Cr. 765 (PAC)
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 EFRAIN ANTONIO CAMPO FLORES and :
 FRANQUI FRANCISCO FLORES DE FREITAS, :
 :
 Defendants. :
 :
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**DECLARATION OF JOHN T. ZACH IN SUPPORT OF DEFENDANTS’
JOINT MOTION TO SUPPRESS POST-ARREST STATEMENTS**

I, John T. Zach, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a partner with the law firm of Boies, Schiller & Flexner LLP, counsel for defendant Efrain Antonio Campo Flores, and respectfully submit this declaration in support of Defendants’ Joint Motion to Suppress Post-Arrest Statements. This declaration is for the sole purpose of providing the Court with true copies of documents relevant to the disposition of these motions.

2. Attached hereto as Exhibit A is a declaration of Efrain Antonio Campo Flores, dated June 30, 2016.

3. Attached hereto as Exhibit B is a true copy of the *Miranda* waiver form presented to Efrain Antonio Campo Flores.

4. Attached hereto as Exhibit C is a true copy of the Initial Appearance Form for Efrain Antonio Campo Flores, dated November 12, 2015.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
July 1, 2016

/s/ John T. Zach

John T. Zach

EXHIBIT A

floor and the barrel pointed at my head. I repeatedly asked the man to move the barrel away from me because I felt threatened by it. He refused to do so. My hands were cuffed in front and I used them to push the barrel away from me. The man then grabbed my throat and threatened me. Once inside the house, I was taken away from my cousin and told to remain quiet. I was still handcuffed. The men continued to not identify who they were and I was held for what seemed to be a number of hours in the house. During the time in the house, my fears that we were being kidnapped and were perhaps going to be killed grew.

4. Thereafter, the men who had seized us took me and my cousin to what appeared to be a police station. At the police station, my picture was taken by someone using a camera phone. The police also demanded that I sign a form. I refused to sign it because I did not know what it was for. I was then made to provide fingerprints. However, none of the police officers would tell me what was happening or why we had been seized. I asked the officers a number of questions, but they would not respond to me and instead remained silent. I was not permitted to make a phone call. While I was in the police station, a man in civilian clothes walked up to me and said, in English, "today is a bad day for you." He then started to laugh. I had no idea who the man was when he approached me at the police station, but I later learned that he was a DEA agent. I found all of this to be highly unusual and it further convinced me that this was likely a kidnapping.
5. We were then driven to the airport where there was a plane waiting. In front of the plane six additional men were present and wearing civilian clothes. These six individuals did not indicate who they were and I did not observe any markings indicating where they were from. The men who transported us to the airport did not tell us what was happening and they did not tell us who these six men were. This again added to my fear and disorientation. Someone then stated that we were being taken back to Venezuela. This caused me to further fear that I was being kidnapped.
6. We were then turned over to the six men who were at the airport. The handcuffs we had been restrained with were removed and we were placed in a new set of handcuffs. At this point, our waists were also restrained and our legs put in shackles. We were placed on the plane and the six men also boarded the aircraft.
7. The plane took off. My cousin and I remained shackled and handcuffed and no one was telling us where we were going or what would be done with us. My fear and confusion over what was happening grew and I began to tremble and shake. After we were in the air for what seemed to be a significant period of time, one of the men approached us and told us that they were agents from the DEA and that we had been charged with conspiring against the United States. The man, who I later learned was Special Agent Gonzalez, spoke to us in Spanish. He further told

us that we were facing ten years to life in prison and that we would likely die in prison if we did not cooperate.

8. Special Agent Gonzalez then asked me whether I would speak with them. I was petrified and in fact believed I might die in a United States prison if I did not talk to the agents. I was then taken away from my cousin and moved into a different part of the plane.
9. I was questioned by Special Agent Gonzalez for what seemed to me to be a substantial period of time. At this point, I was not advised of any of the rights set forth in the Miranda waiver that was later given to me. During this examination, I was questioned about, and gave answers to, a number of topics. Among other things, I was asked about various meetings I attended and statements that I made in connection with what the agents described as the conspiracy that I was charged with. I was asked about the roles of various individuals in that conspiracy. I was shown various photographs and asked to identify individuals who appeared in them. I was also asked about specific other individuals who the agents claimed were involved in narcotics trafficking in Venezuela. The agents also questioned me about my family and their involvement in Venezuelan politics. I was also asked various questions about my cousin's involvement in the events leading up to our arrest. After this questioning, I was told that I should cooperate with the agents.
10. In addition, prior to being advised of any Miranda warning, I was also told that if I did not cooperate I would not see my family for many years and that my infant children would not get to know me. The agents made a joke that my children did not need me around anyway. At this point I began to shake and cry out of fear. I did not understand what was happening to me, why I was being taken to the United States, nor how I had done anything wrong against the United States.

11. The agents then presented me with the Miranda form and I signed it. After I signed it, I spoke with them for what seemed again to be a substantial amount of time. During that time period, we discussed many of the same topics that we spoke about prior to me signing the form. I was handcuffed and shackled this entire time.
12. When the plane landed, we were in New York. I had never been to New York before in my life.

DATED: June ~~30~~, 2016



Efrain Antonio Campo Flores, Defendant

*Sworn and subscribed before
me this day June 30, 2016*




JOSEPH M. CAIAZZO

Notary Public, State of New York

NO. 01CA6194440

Qualified in Kings County

Commission Expires September 29, 2016



Nancy Adler, Interpreter

EXHIBIT B

E.A.C.F.

ADVERTENCIA DE DERECHOS

Lugar: leas
Fecha: 11-10-15
Hora: 5:15 pm

Antes de hacerle cualquier pregunta, usted tiene que entender sus derechos:

- Usted tiene el derecho de permanecer en silencio.
- Cualquier cosa que usted diga puede ser usada en su contra ante un tribunal.
- Antes de hacerle cualquier pregunta usted tiene el derecho de consultar un abogado.
- Usted tiene el derecho de tener un abogado presente durante el interrogatorio.
- De no poder pagar los servicios de un abogado, y si usted lo desea, se le nombrará uno antes de hacerle cualquier pregunta.

¿Ha entendido sus derechos?
¿Esta dispuesto a contestar algunas preguntas?

RENUNCIA DE DERECHOS

He leído o se me han leído los derechos arriba mencionados y entiendo cuales son mis derechos. En este momento estoy dispuesto a contestar libre y voluntariamente cualquier pregunta sin la presencia de un abogado.

Firma 



Testigo: 
Testigo: 
Hora: 5:15 pm

EXHIBIT C

DOCKET No. 5(2) 15 cr 765 DEFENDANT: W. EFRAIN A. CAMPO FLORES

AUSA Brennan (PAC) Dwyer DEF.'S COUNSEL John Reilly

RETAINED FEDERAL DEFENDERS CJA
 SPANISH INTERPRETER NEEDED DEFENDANT WAIVES PRE-TRIAL REPORT

Rule 5 Rule 9 Rule 5(c)(3) Detention Hrg. DATE OF ARREST 11/10/15 VOL. SURR.
 Other: TIME OF ARREST in Hall 1 ON WRIT
TIME OF PRESENTMENT 6:30 PM

BAIL DISPOSITION

- DETENTION ON CONSENT W/O PREJUDICE DETENTION: RISK OF FLIGHT/DANGER SEE ORDER
- DETENTION: HEARING SCHEDULED FOR _____
- AGREED CONDITIONS OF RELEASE
- DEFENDANT RELEASED ON OWN RECOGNIZANCE
- \$ _____ PRB
- _____ FRP
- SECURED BY \$ _____ CASH/PROPERTY: _____
- TRAVEL RESTRICTED TO SDNY/EDNY/ _____
- SURRENDER TRAVEL DOCUMENTS (& NO NEW APPLICATIONS)
- REGULAR PRETRIAL SUPERVISION STRICT PRETRIAL SUPERVISION
- DRUG TESTING/TREATMENT MENTAL HEALTH EVALUATION/TREATMENT
- HOME INCARCERATION HOME DETENTION CURFEW ELECTRONIC MONITORING
- OTHER CONDITIONS _____

- DEF. TO BE DETAINED UNTIL ALL CONDITIONS ARE MET
- DEF. TO BE RELEASED ON OWN SIGNATURE; REMAINING CONDITIONS TO BE MET BY _____
- DEF. TO BE RELEASED UPON SATISFACTION OF FOLLOWING CONDITIONS: _____
: REMAINING CONDITIONS TO BE MET BY _____

COMMENTS/ADDITIONAL PROCEEDINGS:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: NOV 12 2015

- DEF. ARRAIGNED; PLEADS NOT GUILTY CONFERENCE BEFORE D.J. ON 11/18/15
- SPEEDY TRIAL TIME EXCLUDED UNDER 18 U.S.C. § 3161(h)(7) UNTIL _____ @ 3 PM

FOR RULE 5(c)(3) CASES:

- IDENTITY HEARING WAIVED PRELIMINARY HEARING WAIVED
- DEFENDANT TO BE REMOVED ON DEFENDANT'S CONSENT

DATE FOR PRELIMINARY HEARING _____

DATE: 11/12/15

ON DEFENDANT'S CONSENT
[Signature]
UNITED STATES MAGISTRATE JUDGE, S.D.N.Y.