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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
U.S. MAGISTRATE JUDGE
EL PASO DIVISION

UNITED STATES OF AMERICA) No. EP:12-CR-00849-KC-2
vs.) El Paso, Texas
ISMAEL ZAMBADA GARCIA)
) July 26, 2024

INITIAL APPEARANCE
Before the Honorable Anne T. Berton
United States Magistrate Judge

Proceedings reported by stenotype. Transcript produced by
computer-aided transcription.

A P P E A R A N C E S

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FOR THE GOVERNMENT:

UNITED STATES ATTORNEY'S OFFICE
BY: MR. KYLE MYERS
MR. STEVEN SPITZER

Assistant United States Attorney
700 E. San Antonio Avenue
El Paso, Texas 79901

FOR DEFENDANT:

BY: MR. FRANK PEREZ

9110 Scyene Road
Dallas, Texas 75227

1 THE COURT: Good morning, please be seated.

2 The Court calls the case of the United States of America
3 versus Ismael Zambada Garcia in EP:12-CR-849 for initial
4 appearance.

5 May I have announcements, please.

6 MR. MYERS: Your Honor, good morning. Kyle Myers and
7 Steven Spitzer for the Government.

8 THE COURT: Thank you.

9 MR. PEREZ: Good morning. Frank Perez for the
10 Defense, and also Mr. Ray Velarde will be joining.

11 THE COURT: Let me ask you this, Mr. Perez, because
12 you mentioned Mr. Ray Velarde. He has not made an entry of
13 appearance?

14 MR. PEREZ: Not at this point, Your Honor. This
15 happened so quickly. I just got hold of him last night. Mr.
16 Velarde works with me on my cases here in El Paso.

17 THE COURT: Before we do continue, I want to remind
18 the parties that as required by Rule 5(f) as amended by the Due
19 Process Protections Act, the United States is ordered to
20 produce all exculpatory evidence to the Defendant pursuant to
21 Brady versus Maryland.

22 Not doing so in a timely manner may result in sanctions,
23 including exclusion of evidence, adverse jury instructions,
24 dismissal of charges and contempt proceedings.

25 Now, we will need Mr. Zambada next to the microphone. If

1 you all can move him over, marshals, and put that microphone
2 down. Can you move him to the side and move the microphone --
3 okay. If we need to, we can put the wheelchair next to the
4 podium.

5 Is your client fine there, Mr. Perez?

6 MR. PEREZ: I think he is fine for just a couple of
7 minutes. He can stand here for a couple of minutes.

8 THE COURT: We can put him next to the podium.

9 Sir, are you Mr. Ismael Zambada Garcia?

10 THE DEFENDANT: Yes.

11 THE COURT: If you can move the microphone closer to
12 him, thank you.

13 Now, Mr. Zambada --

14 THE DEFENDANT: Yes, that's me.

15 THE COURT: If at any time you cannot hear or
16 understand the interpreter, or if you need to speak to your
17 lawyer privately, please let me know immediately.

18 Do you understand?

19 THE DEFENDANT: Yes.

20 THE COURT: We are here today to conduct your initial
21 appearance. At this hearing, I will advise you of your rights,
22 the charges against you, the information about your attorney,
23 the time and date of your next hearing and your situation
24 regarding bond.

25 In some cases I will set bond, but in other cases I cannot

1 set bond at this time because the Government has filed a motion
2 to detain you. What I do in those types of cases is I set your
3 case for a detention hearing, which is also known as a bond
4 hearing, in a few days where you can request a bond at that
5 time.

6 Now, you're here based on an indictment. In that charging
7 document, it tells you what crimes you have been accused of
8 committing, and you will be able to receive a copy of this
9 document from your attorneys in just a few days.

10 Do you understand so far?

11 THE DEFENDANT: Yes.

12 THE COURT: Now, if at any time you don't understand
13 something, Mr. Zambada, or if you are not feeling well and you
14 would like to sit down, please let me know immediately.

15 Do you understand?

16 THE DEFENDANT: Yes.

17 THE COURT: Now, I will go over the rights that you
18 have so I need you to listen carefully.

19 First, you have the right to remain silent. You do not
20 have to answer any questions about your case. Anything you say
21 can be used against you in court.

22 MR. PEREZ: Can I have a minute, Your Honor?

23 THE COURT: Yes.

24 MR. PEREZ: It is best if he sits down.

25 THE COURT: Let's have him sit down and then move the

1 wheelchair next to the podium on the side of the podium, thank
2 you. Move the wheelchair next to the podium, and then bend the
3 microphone down to Mr. Zambada. Thank you.

4 THE DEFENDANT: Yes.

5 MR. PEREZ: Thank you, Your Honor.

6 THE COURT: Thank you, Mr. Perez. Yes, Mr. Perez.

7 Mr. Zambada, I will go over the rights that you have so I
8 need you to listen carefully.

9 You have the right to remain silent. You do not have to
10 answer any questions about your case. Anything you say can be
11 used against you in court.

12 Do you understand your right to remain silent?

13 THE DEFENDANT: Yes.

14 THE COURT: I need you to speak up and speak loudly.

15 Now, you also have a right to a lawyer. You can hire one
16 of your choice or I will appoint one for you if you cannot
17 afford one.

18 Do you understand that you have the right to have a lawyer
19 represent you?

20 THE DEFENDANT: Yes.

21 THE COURT: Now, Mr. Zambada, you have your attorney
22 next to you, and he made an entry of appearance. Your attorney
23 is Mr. Frank Perez.

24 Is that your attorney?

25 THE DEFENDANT: Yes.

1 THE COURT: Now, I need to let you know about your
2 right -- before I continue with that, I do need to discuss one
3 more issue with you, Mr. Zambada.

4 Your lawyer has indicated that Attorney Ray Velarde will
5 also be serving as one of your attorneys. He has not filed any
6 paperwork yet, but I need to let you know something, Mr.
7 Zambada. That is, that Ray Velarde is listed as having a
8 conflict in this case.

9 Let me ask the Government, is he currently representing any
10 of those defendants in the indictment or is there just some
11 sort of conflict, Mr. Myers?

12 MR. MYERS: Your Honor, I do not believe he
13 represented anybody in the indictment that I can recall.

14 THE COURT: But he's on the conflict list?

15 MR. MYERS: He's on the conflict list, yes.

16 THE COURT: Okay, thank you.

17 Mr. Zambada, Mr. Ray Velarde, excellent attorney, but there
18 is a conflict. What that means is that there is a problem with
19 him representing you based on the information the Government
20 has so there might be a conflict in completely representing
21 your interests.

22 I want to make sure that you understand that you do not
23 have to agree to have a lawyer who has a conflict in your case,
24 but if you are willing to, you can waive that conflict.

25 Do you understand?

1 THE DEFENDANT: Yes.

2 THE COURT: I know you will likely want to talk to
3 your lawyer about this. There is no entry of appearance yet.
4 Since your attorney did mention that Mr. Ray Velarde will be
5 working on your case as an attorney, I want to make sure that
6 you understand that.

7 Do you understand that if Mr. Ray Velarde does make an
8 entry of appearance and serves as one of your lawyers, there is
9 a conflict, but you can waive that conflict and allow Mr.
10 Velarde to function as one of your attorneys? Do you
11 understand?

12 THE DEFENDANT: Yes.

13 THE COURT: But you also can refuse that and not allow
14 Mr. Velarde to serve as one of your attorneys.

15 Do you understand?

16 THE DEFENDANT: Yes.

17 THE COURT: Now, I need to let you know about your
18 right to consular notification. If you're not a citizen of the
19 United States, I need to let you know that you do have the
20 right to have an attorney for the Government or some other
21 federal law enforcement official to notify your country of
22 nationality that you have been arrested.

23 But even without such a request, a treaty or some other
24 international agreement may require consular notification that
25 you have been arrested.

1 Do you understand?

2 THE DEFENDANT: Yes.

3 THE COURT: Now, I will go over some details of your
4 case with you, Mr. Zambada.

5 Now, you have been charged in an indictment, and I will go
6 over the charges with you.

7 You have been charged in Count One with Conspiracy to
8 Conduct the Affairs of an Enterprise through a Pattern of
9 Racketeering Activity.

10 You have been charged in Count Two of the indictment with
11 Conspiracy to Possess with the Intent to Distribute Controlled
12 Substances involving five kilograms or more of a mixture or
13 substance containing a detectable amount of cocaine.

14 And in Count Three with -- also in Count Two, excuse me,
15 you also are charged with Conspiracy to Possess with the Intent
16 to Distribute Controlled Substances involving 1,000 kilograms
17 or more of a mixture or substance containing a detectable
18 amount of marijuana.

19 And in Count Three with Conspiracy to Import Controlled
20 Substances involving five kilograms or more of a mixture or
21 substance containing a detectable amount of cocaine and 1,000
22 kilograms or more of a mixture or substance containing a
23 detectable amount of marijuana.

24 You have also been charged in Count Four with Conspiracy to
25 Launder Monetary Instruments.

1 You have been charged in Count Five with Conspiracy to
2 Possess Firearms in Furtherance of Drug Trafficking Crimes and
3 Aiding and Abetting.

4 And in Count Eleven with Murder While Engaging In or
5 Working in Furtherance of a Continuing Criminal Enterprise or
6 Drug Trafficking.

7 And in Count Twelve with Engaging in a Continuing Criminal
8 Enterprise in Furtherance of Drug Trafficking.

9 Do you understand?

10 If you would like, Mr. Zambada, I can give you some time to
11 speak with your attorney.

12 Would you like to speak to your attorney?

13 THE DEFENDANT: Yes, I understand.

14 THE COURT: For the record, I went over the charges in
15 the indictment against you.

16 Do you understand?

17 THE DEFENDANT: Yes.

18 THE COURT: Now, as I said before, Mr. Zambada, you
19 have retained Attorney Frank Perez, and he made an entry of
20 appearance as your attorney. That is your attorney.

21 Now, your next hearings are -- I will go over that to what
22 is scheduled.

23 First, I will let you know that no bond is being set in
24 your case today. Your District Court arraignment and detention
25 hearings are set for Wednesday, July 31 at 11 in the morning.

1 Do you understand?

2 THE DEFENDANT: Yes.

3 THE COURT: Now, Mr. Zambada, you are going to be
4 meeting with your lawyers very soon. They will go over
5 everything I discussed with you today and, of course, much
6 more.

7 At this time, you will be turned over to the custody of the
8 marshals.

9 Have you understood everything I have gone over with you
10 today?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you have any questions at this point?

13 THE DEFENDANT: No.

14 THE COURT: With that, anything else on this case at
15 this time, Mr. Myers?

16 MR. MYERS: No, Your Honor, thank you.

17 THE COURT: Mr. Perez, anything else?

18 MR. PEREZ: No, Your Honor, thank you.

19 THE COURT: Thank you very much. We'll be in recess
20 on this case. All of you may be excused.

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CERTIFICATION

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Date: July 26, 2024

/s/ Walter A. Chiriboga, Jr.

Walter A. Chiriboga, Jr.