

A P P E N D I X

APPENDIX

Decision of the Court of Appeals for the Eleventh Circuit, <i>United States v. Carlos Miguel Perez</i> , 815 Fed. Appx. 410 (11th Cir. June 1, 2020)	A-1
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815 Fed.Appx. 410

This case was not selected for publication in West's Federal Reporter.

See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also U.S. Ct. of App. 11th Cir. Rule 36-2.

United States Court of Appeals, Eleventh Circuit.

UNITED STATES of America, Plaintiff-Appellee,

v.


Carlos Miguel **PEREZ**, Defendant-Appellant.

No. 18-14388


Non-Argument Calendar

(June 1, 2020)

Plain error that occurred when indictment charging defendant with being a felon in possession of firearm failed to allege that defendant had the knowing mens rea of his status as a felon or when jury was not instructed to find and government was not required to prove that he knew he was a felon when he possessed the firearm did not affect his substantial rights or fairness, integrity, or public reputation of his trial, and thus, did not warrant reversal of his conviction; a post-arrest recording of defendant's telephone call he admitted that immediately before his arrest he hid the firearm from the police demonstrating he knew he was prohibited from possessing it, and defendant had an extensive criminal history which included five prior felony convictions.

 18 U.S.C.A. § 922(g)(1).

Synopsis



Background: Defendant was convicted in the United States District Court for the Southern District of Florida, No. 1:18-cr-20359-RNS-1, Robert N. Scola, J., of being a felon in possession of a firearm and possession of a firearm in furtherance of a drug trafficking crime. Defendant appealed. The Court of Appeals,  772 F.Appx. 791, affirmed. Certiorari was granted. The United States Supreme Court, 140 S.Ct. 397, vacated and remanded.

[Holding:] The Court of Appeals held that failure to allege that defendant had the knowing mens rea of his status as a felon or to instruct jury to find and government to prove he knew he was a felon was not reversible error.

Affirmed.

Procedural Posture(s): Appellate Review.

West Headnotes (1)

- [1] **Criminal Law**  Requisites and sufficiency of accusation
Criminal Law  Failure to instruct in general

Attorneys and Law Firms

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Margaret Y. Foldes, Federal Public Defender's Office, Fort Lauderdale, FL, Anthony John Natale, Michael Caruso, Federal Public Defender, Federal Public Defender's Office, Miami, FL, for Defendant - Appellant

Appeal from the United States District Court for the Southern District of Florida, D.C. Docket No. 1:18-cr-20359-RNS-1

Before JORDAN, TJOFLAT and MARCUS, Circuit Judges.

**ON REMAND FROM THE UNITED STATES
SUPREME COURT**

PER CURIAM:

*411 **Carlos Perez** has appealed from his conviction, by jury, for being a felon in possession of a firearm under 18 U.S.C. § 922(g)(1) and possession of a firearm in furtherance of a drug trafficking crime under 18 U.S.C. § 924(c)(1)(A)(i). In his initial appeal to this Court, we rejected **Perez's** claims that: (1) the government had failed to prove, beyond a reasonable doubt, that he knowingly possessed a firearm and that the firearm was possessed in furtherance of a drug trafficking crime; and (2) the district court had erroneously counted **Perez** as a career offender under the Sentencing Guidelines. **United States v. Perez**, 772 F. App'x 791, 792 (2019). Thereafter, the Supreme Court vacated and remanded this case to us for further consideration in light of **Rehaif v. United States**, — U.S. —, 139 S. Ct. 2191, 204 L.Ed.2d 594 (2019), which held that a defendant must have a knowing mens rea of his status as a felon to be convicted of knowingly possessing a firearm after a felony conviction. On remand, **Perez** argues that, in light of **Rehaif**, he was wrongfully convicted because his indictment failed to allege, his jury was not instructed to find, and the government was not required to prove that he knew he was a felon when he possessed the firearm. After careful review of the entire record, including the supplemental briefs we requested of the parties on remand, we affirm.





We review for plain error **Perez's** new challenges to his indictment. **United States v. Sperrazza**, 804 F.3d 1113, 1118–19 (11th Cir. 2015), the jury instructions, **United States v. Joseph**, 709 F.3d 1082, 1093 (11th Cir. 2013), and the sufficiency of the evidence, **United States v. Baston**, 818 F.3d 651, 664 (11th Cir. 2016).¹ To establish plain error, **Perez** must show (1) an error, (2) that is plain, and (3) that affected his substantial rights. **United States v. Turner**, 474 F.3d 1265, 1276 (11th Cir. 2007). If **Perez** satisfies these conditions, we may exercise our discretion to recognize the error only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings. **Id.** To show the error affected **Perez's** substantial rights, he must show a reasonable probability that without the error the outcome of the proceeding *412 would have been different. **Molina-Martinez v. United States**, — U.S. —, 136 S. Ct. 1338, 1343, 194 L.Ed.2d 444 (2016). We may consult the whole record when considering the effect of any error on **Perez's** substantial rights, and Federal Rule of Criminal Procedure 52(b) “authorizes the Courts of Appeals to correct only particularly egregious errors.” **United States v. Reed**,








941 F.3d 1018, 1021 (11th Cir. 2019).




¹ In district court and in his initial direct appeal to this Court, **Perez** never made any of the **Rehaif** claims he now raises -- that is, he never objected to or otherwise challenged the sufficiency of the indictment, the elements of the jury instructions, nor the sufficiency of the evidence to show that he did not know that he was prohibited from possessing a firearm, nor did he ever argue that he did not know that he was prohibited from possessing a firearm. Thus, we review these claims on remand for plain error review, just as our Court did in **United States v. Reed**, 941 F.3d 1018, 1020 (11th Cir. 2019). As for **Perez's** claim that *de novo* review should govern because the claim was not “reasonably available” before **Rehaif** issued, we disagree. Among other things, the Supreme Court granted certiorari in **Rehaif** a full two weeks before **Perez** filed his initial brief. As for the government’s argument that **Perez** abandoned these claims on remand, we need not resolve this issue because even when we review them under plain error review, they fail.




Before **Rehaif v. United States**, a conviction under 18 U.S.C. § 922(g)(1) required proof that: (1) the defendant knowingly possessed a firearm or ammunition; (2) the defendant was previously convicted of an offense punishable by a term of imprisonment over one year; and (3) the firearm or ammunition affected interstate commerce. **United States v. Palma**, 511 F.3d 1311, 1315 (11th Cir. 2008).


In **Rehaif v. United States**, the Supreme Court reversed a defendant’s conviction after a jury trial under § 922(g)(5)(A), which prohibits possession of a firearm by an unlawful alien, because the district court instructed the jury that it did not need to find that he knew he was in the country unlawfully. — U.S. —, 139 S. Ct. 2191, 2195, 204 L.Ed.2d 594 (2019). The Supreme Court held that in prosecuting an individual under 18 U.S.C. §§ 922(g) and 924(a)(2), the government must prove that he knew of his status as a person prohibited from possessing a firearm at the time of possession. **Id.** at 2200. The Supreme Court gave examples of defendants who might not know of their status, including “a person who was convicted of a prior crime but sentenced only to probation, who does not know that the crime is punishable



by imprisonment for a term exceeding one year.”  Id. at 2198 (quotations and emphasis omitted). The Supreme Court did not express what exactly the government must prove to establish knowledge of status concerning other  § 922(g) provisions that were not at issue.  Id. at 2200. The Supreme Court also expressed doubt that proving this element would be burdensome for the government, noting that circumstantial evidence could be used to infer knowledge.  Id. at 2198.

In  Reed, the defendant was convicted after a jury trial of possessing a firearm as a felon under  § 922(g)(1), and we affirmed his conviction on appeal.  941 F.3d at 1019-20. We then reconsidered the appeal after remand from the United States Supreme Court in light of  Rehaif.  Id. at 1019. We acknowledged that the failure of the indictment to allege that he had knowledge of his status, the fact that the government was not required to prove his knowledge, and the lack of an instruction that the jury was required to find that he had such knowledge were indeed plain errors under  Rehaif.  Id. at 1021.


But, considering the record as a whole, we concluded that Reed could not show a reasonable probability that the outcome of his trial would have been different had the knowledge requirement been included.  Id. Specifically, we noted that: (1) Reed had been convicted of eight felonies in state court at the time of his arrest for firearm possession; (2) he stipulated prior to trial that he had previously been convicted of a felony and had never had his right to possess a firearm restored; (3) he acknowledged during his trial testimony that he knew he was not supposed to have a gun; and (4) the presentence investigation report stated that he had been incarcerated for eighteen years prior to the firearm possession, which the defendant did not dispute.  Id. at 1020-22. We held that because the record established that Reed knew he was a felon, he failed to show that the errors affected his substantial rights or the fairness, integrity, or public reputation of his trial.  Id. at 1022.


*413 Here, just as in  Reed, Perez has not satisfied the plain error test. For starters, we recognize that plain error arose when the indictment did not allege the  Rehaif element, when the jury was not required to find it beyond a reasonable doubt, and when the government was not required to prove that Perez knew he was a felon.  Id. at 1021. Nevertheless, Perez cannot show a reasonable probability that the outcome of his trial would have been

different had these errors not occurred.  Id.

As the record reveals, there was more than enough evidence adduced at trial to establish that Perez knew he was a felon -- an element the Supreme Court has acknowledged is not burdensome to prove.  Rehaif, 139 S. Ct. at 2198. This evidence included a post-arrest recording of one of Perez’s jailhouse telephone calls, during which he admitted that immediately before his arrest in this case, he had hidden the firearm from the police. In the call, Perez declared that “when I saw [the police] I ran into the other room next to the refrigerator and [I] got rid of that shit.” Next to the refrigerator, law enforcement found the firearm. Thus, the jury reasonably was entitled to infer from Perez’s conduct in hiding the firearm that he knew that he was prohibited from possessing it because he was a convicted felon. See  Reed, 941 F.3d at 1022 (emphasizing that they jury could have inferred that the defendant knew he was a felon from his testimony that he knew he was not supposed to have a gun).

Nor can we say that the errors seriously affected the fairness, integrity, or public reputation of judicial proceedings, especially since other evidence in the record shows that Perez knew that he was a convicted felon at the time he possessed the firearm. As set forth in the presentence investigation report (“PSI”), Perez had an extensive criminal history. He was a career offender who had five prior felony convictions, all of which occurred before he possessed the firearm in this case. In fact, the evidence at trial included a certified copy of a 2013 Florida conviction for the sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver cocaine. Perez had placed his fingerprints on the conviction, and under the heading for the degree of the crime was the notation “2F,” which Perez was likely to have known, based on his criminal history, signified that the crime was a felony of the second degree. Perez also had dozens of prior arrests for traffic offenses, misdemeanor offenses, and felony offenses. In view of his conduct during his arrest and his extensive criminal record, we have little doubt, if any, that Perez knew that he had been convicted of at least one felony offense before he possessed the firearm in this case.

In short, Perez has not demonstrated that his substantial rights were prejudiced, nor that the fairness, integrity, or public reputation of judicial proceedings were seriously affected by any of the purported errors. See  Reed, 941 F.3d at 1021-22. Perez simply has not satisfied the plain error test.

Finally, as for Perez’s argument that the omission in the indictment of the knowledge element was a jurisdictional defect, we’ve recently rejected this argument. United States v. Moore, 954 F.3d 1322, 1337 (11th Cir. 2020). “Under the prior panel precedent rule, we are bound to follow a prior binding precedent unless and until it is overruled by this court en banc or the Supreme Court.”  United States v. Vega–Castillo, 540 F.3d 1235, 1236 (11th Cir. 2008) (quotations omitted).

AFFIRMED.

All Citations

815 Fed.Appx. 410

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A-2

UNITED STATES DISTRICT COURT
Southern District of Florida
Miami Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

Case Number: **18-20359-CR-SCOLA**

CARLOS MIGUEL PEREZ

USM Number: **18674-104**

Counsel For Defendant: AFPD Anthony J. Natale
Counsel For The United States: AUSA Joshua S. Rothstein
Court Reporter: Diane Peede

The defendant was found guilty on counts 1 through 5 of the indictment.

The defendant is adjudicated guilty of these offenses:

<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE ENDED</u>	<u>COUNT</u>
21 U.S.C. § 846	Conspiracy to possess with intent to distribute 28 grams or more of cocaine base.	02/01/2018	1
21 U.S.C. § 841(a)(1)	Possession with intent to distribute 28 grams or more of cocaine base.	03/01/2018	2
18 U.S.C. § 924(c)(1)(A)(i)	Possession of a firearm in furtherance of a drug trafficking crime.	03/01/2018	3
21 U.S.C. § 856(a)(1)	Maintaining a drug-involved premises.	02/01/2018	4
18 U.S.C. § 922(g)(1)	Possession of a firearm and ammunition by a convicted felon.	03/01/2018	5

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

DEFENDANT: **CARLOS MIGUEL PEREZ**
CASE NUMBER: **18-20359-CR-SCOLA**

Date of Imposition of Sentence: 10/10/2018

A handwritten signature in blue ink, appearing to read 'R. N. Scola, Jr.', written over a horizontal line.

ROBERT N. SCOLA, Jr.
United States District Judge

Date: 10/10/2018

DEFENDANT: **CARLOS MIGUEL PEREZ**
CASE NUMBER: **18-20359-CR-SCOLA**

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **180 months**. The sentence consists of 120 months as to each of Counts 1, 2, 4, and 5, all to be served concurrently with each other; and a consecutive term of 60 months as to Count 3.

The court makes the following recommendations to the Bureau of Prisons: (a) defendant be allowed to participate in a 500-hour Residential Drug Abuse Program (RDAP), and (b) defendant receive vocational training while in custody so he can have a trade when released from custody. If the Bureau of Prisons is able to offer the RDAP and vocational training in a South Florida facility, then the Court further recommends that he be designated to a facility in the South Florida area, otherwise the Court recommends the drug and vocational training are more important than the South Florida recommendation.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

DEPUTY UNITED STATES MARSHAL

DEFENDANT: CARLOS MIGUEL PEREZ
CASE NUMBER: 18-20359-CR-SCOLA

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **five years**. This term consists of five years as to each of Counts 1, 2, and 3 and three years as to each of Counts 4 and 5, all such terms to run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The defendant shall cooperate in the collection of DNA as directed by the probation officer.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first fifteen days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11. The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: CARLOS MIGUEL PEREZ
CASE NUMBER: 18-20359-CR-SCOLA

SPECIAL CONDITIONS OF SUPERVISION

Permissible Search - The defendant shall submit to a search of his/her person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Substance Abuse Treatment - The defendant shall participate in an approved treatment program for drug and/or alcohol abuse and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

Unpaid Restitution, Fines, or Special Assessments - If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

DEFENDANT: **CARLOS MIGUEL PEREZ**
CASE NUMBER: **18-20359-CR-SCOLA**

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$500.00	\$0.00	\$0.00

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>NAME OF PAYEE</u>	<u>TOTAL LOSS*</u>	<u>RESTITUTION ORDERED</u>	<u>PRIORITY OR PERCENTAGE</u>
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* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

**Assessment due immediately unless otherwise ordered by the Court.

DEFENDANT: CARLOS MIGUEL PEREZ
CASE NUMBER: 18-20359-CR-SCOLA

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A. Lump sum payment of \$500.00 due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

This assessment/fine/restitution is payable to the CLERK, UNITED STATES COURTS and is to be addressed to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 08N09
MIAMI, FLORIDA 33128-7716

The assessment/fine/restitution is payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

<u>CASE NUMBER</u> <u>DEFENDANT AND CO-DEFENDANT NAMES</u> <u>(INCLUDING DEFENDANT NUMBER)</u>	<u>TOTAL AMOUNT</u>	<u>JOINT AND SEVERAL</u> <u>AMOUNT</u>
---------------------------------------------------------------------------------------------------------------------------	----------------------------	---------------------------------------------------------

The Government shall file a preliminary order of forfeiture within 3 days.

The defendant shall forfeit the defendant's interest in the following property to the United States:

- a) \$3,633.50 in U.S. currency;
- b) one Glock 19, 9mm, semi-automatic pistol (serial no. WCP530) and ten rounds of 9mm ammunition.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

A-3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case Number
)	
v.)	1:18-cr-20359-RNS
)	
CARLOS MIGUEL PEREZ,)	
)	
Defendant.)	

Transcript of the jury trial - Volume I
before the Honorable Robert N. Scola
July 23, 2018; 9:01 a.m.
Miami, Florida

Appearances:

For the Plaintiff: JOSHUA S. ROTHSTEIN
YENEY HERNANDEZ
Assistant U.S. Attorneys
99 Northeast 4th Street
Miami, Florida 33132

For the Defendant: ANTHONY J. NATALE
Assistant Federal Public Defender
150 West Flagler Street, Suite 1500
Miami, Florida 33130

Proceedings recorded by mechanical stenography,
transcript produced by computer.

Diane Peede, RMR, CRR, CRC
Federal Official Court Reporter
400 North Miami Avenue, Eighth Floor
Miami, Florida 33128

1 Q This one. Right. When you say it's a fake wall, it was
2 a wall? It just wasn't stand-up equipment? It wasn't
3 originally put there?

4 A It was not supposed to be there.

5 Q But it was there?

6 A Yes, sir.

7 Q And when you would come in the door, the bedroom was
8 right here; wouldn't you agree?

9 A Yes, sir.

10 Q Okay. And that's where you found all of this stuff,
11 right?

12 A Yes, sir.

13 Q And you found the gun in a bedroom over here, right?

14 A The actual wall -- from your drawing, the actual wall,
15 the door would be right there.

16 Q Okay. I'll tell you what. Let me clear it. You tell
17 me where it would be, where the bedroom was.

18 A That would be the wall right there.

19 Q That would be the wall. So we'll take -- we'll scratch
20 that one out.

21 That's the wall, this is one apartment, this is the
22 other, right?

23 A Yeah.

24 Q And the bedroom would be?

25 A It's just one small room right here.

1 Q It's just -- that's all it is is just one small room?

2 A It doesn't have a bathroom. It doesn't have a kitchen.

3 Q It doesn't have anything. But the only way to really
4 get into that room would be through the outside door?

5 A Through the outside or if you wanted to hand something
6 over, you would do it from the inside by the window area.

7 Q Okay. But to actually physically get in there, you said
8 it was a six-inch gap, right?

9 A About.

10 Q About?

11 A Yeah. You would have to go through the outside.

12 Q You would have to go to the outside to physically get in
13 there?

14 A Yes, sir.

15 Q Now, one of the things that went on was when you did the
16 search warrant, one of the things necessary was to knock out
17 the security cameras, right?

18 A That wasn't me. That's part of the SWAT team. You
19 would have to ask them.

20 Q Would it refresh your recollection if you saw some
21 photographs of that?

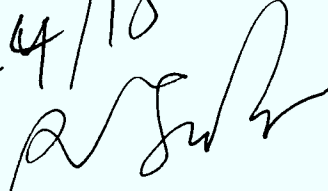
22 A Yes.

23 Q Okay.

24 MR. NATALE: Your Honor, just to see if this
25 refreshes his recollection.

A-4

United States District Court
for the
Southern District of Florida

Read
7/24/18


United States of America,
Plaintiff,

v.

Carlos Miguel Perez,
Defendant.

)
)
)
) Criminal Case No. 18-20359-CR-Scola
)
)
)

COURT'S INSTRUCTIONS TO THE JURY

Members of the Jury:

It is my duty to instruct you on the rules of law that you must use in deciding this case. After I have completed these instructions, you will go to the jury room and begin your discussions – what we call your deliberations.

You must decide whether the Government has proved the specific facts necessary to find the Defendant guilty beyond a reasonable doubt.

Your decision must be based only on the evidence presented here. You must not be influenced in any way by either sympathy for or prejudice against the Defendant or the Government.

You must follow the law as I explain it – even if you do not agree with the law – and you must follow all of my instructions as a whole. You must not single out or disregard any of the Court's instructions on the law.

The indictment or formal charge against a defendant is not evidence of guilt. The law presumes every defendant is innocent. The Defendant does not have to prove ^{his} ~~her~~ innocence or produce any evidence at all. The Government

must prove guilt beyond a reasonable doubt. If it fails to do so, you must find the Defendant not guilty.

Your decision must be based only on the evidence presented during the trial. You must not be influenced in any way by either sympathy for or prejudice against the Defendant or the Government.

You must follow the law as I explain it – even if you do not agree with the law – and you must follow all of my instructions as a whole. You must not single out or disregard any of the Court's instructions on the law.

The indictment or formal charge against a Defendant is not evidence of guilt. The law presumes every Defendant is innocent. The Defendant does not have to prove his innocence or produce any evidence at all. A Defendant does not have to testify, and if the Defendant chose not to testify, you cannot consider that in any way while making your decision. The Government must prove guilt beyond a reasonable doubt. If it fails to do so, you must find the Defendant not guilty.

The Government's burden of proof is heavy, but it does not have to prove a Defendant's guilt beyond all possible doubt. The Government's proof only has to exclude any "reasonable doubt" concerning the Defendant's guilt.

A "reasonable doubt" is a real doubt, based on your reason and common sense after you have carefully and impartially considered all the evidence in the case.

"Proof beyond a reasonable doubt" is proof so convincing that you would be willing to rely and act on it without hesitation in the most important of your

own affairs. If you are convinced that the Defendant has been proved guilty beyond a reasonable doubt, say so. If you are not convinced, say so.

As I said before, you must consider only the evidence that I have admitted in the case. Evidence includes the testimony of witnesses and the exhibits admitted. But, anything the lawyers say is not evidence and is not binding on you.

You should not assume from anything I have said that I have any opinion about any factual issue in this case. Except for my instructions to you on the law, you should disregard anything I may have said during the trial in arriving at your own decision about the facts.

Your own recollection and interpretation of the evidence is what matters.

In considering the evidence you may use reasoning and common sense to make deductions and reach conclusions. You should not be concerned about whether the evidence is direct or circumstantial.

“Direct evidence” is the testimony of a person who asserts that he or she has actual knowledge of a fact, such as an eyewitness.

“Circumstantial evidence” is proof of a chain of facts and circumstances that tend to prove or disprove a fact. There is no legal difference in the weight you may give to either direct or circumstantial evidence.

When I say you must consider all the evidence, I do not mean that you must accept all the evidence as true or accurate. You should decide whether you believe what each witness had to say, and how important that testimony was. In making that decision you may believe or disbelieve any witness, in

whole or in part. The number of witnesses testifying concerning a particular point does not necessarily matter.

To decide whether you believe any witness I suggest that you ask yourself a few questions:

- Did the witness impress you as one who was telling the truth?
- Did the witness have any particular reason not to tell the truth?
- Did the witness have a personal interest in the outcome of the case?
- Did the witness seem to have a good memory?
- Did the witness have the opportunity and ability to accurately observe the things he or she testified about?
- Did the witness appear to understand the questions clearly and answer them directly?
- Did the witness's testimony differ from other testimony or other evidence?
- ~~Was the witness convicted of a felony?~~

You should also ask yourself whether there was evidence that a witness testified falsely about an important fact. And ask whether there was evidence that at some other time a witness said or did something, or did not say or do something, that was different from the testimony the witness gave during this trial.

But keep in mind that a simple mistake does not mean a witness was not telling the truth as he or she remembers it. People naturally tend to forget some things or remember them inaccurately. So, if a witness misstated

something, you must decide whether it was because of an innocent lapse in memory or an intentional deception. The significance of your decision may depend on whether the misstatement is about an important fact or about an unimportant detail.

When scientific, technical or other specialized knowledge might be helpful, a person who has special training or experience in that field is allowed to state an opinion about the matter.

But that doesn't mean you must accept the witness's opinion. As with any other witness's testimony, you must decide for yourself whether to rely upon the opinion.

The Government must prove beyond a reasonable doubt that the Defendant was the person who committed the crime.

If a witness identifies a Defendant as the person who committed the crime, you must decide whether the witness is telling the truth. But even if you believe the witness is telling the truth, you must still decide how accurate the identification is. I suggest that you ask yourself questions:

1. Did the witness have an adequate opportunity to observe the person at the time the crime was committed?
2. How much time did the witness have to observe the person?
3. How close was the witness?
4. Did anything affect the witness's ability to see?
5. Did the witness know or see the person at an earlier time?

You may also consider the circumstances of the identification of the Defendant, such as the way the Defendant was presented to the witness for identification and the length of time between the crime and the identification of the Defendant.

After examining all the evidence, if you have a reasonable doubt that the Defendant was the person who committed the crime, you must find the Defendant not guilty.

During the trial, you heard evidence of acts allegedly done by the Defendant on other occasions that may be similar to acts with which the Defendant is currently charged. You must not consider any of this evidence to decide whether the Defendant engaged in the activity alleged in the indictment. This evidence is admitted and may be considered by you for the limited purpose of assisting you in determining whether the Defendant had the state of mind or intent necessary to commit the crime charged in the indictment, the Defendant had a motive or the opportunity to commit the acts charged in the indictment, the Defendant committed the acts charged in the indictment by accident or mistake.

Possession

The law recognizes several kinds of possession. A person may have actual possession, constructive possession, sole possession, or joint possession.

“Actual possession” of a thing occurs if a person knowingly has direct physical control of it.

“Constructive possession” of a thing occurs if a person doesn’t have actual possession of it, but has both the power and the intention to take control over it later.

“Sole possession” of a thing occurs if a person is the only one to possess it.

“Joint possession” of a thing occurs if two or more people share possession of it.

The term “possession” includes actual, constructive, sole, and joint possession.

Introduction to the Offense Instructions

The Indictment charges 5 separate crimes, called “counts,” against the Defendant. Each count has a number. You’ll be given a copy of the indictment to refer to during your deliberations.

Count 1 charges that the Defendant did knowingly and willfully combine, conspire, confederate, and agree with other persons known and unknown to the Grand Jury, to possess with the intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 846. The controlled substance involved in the conspiracy attributable to the Defendant as a result of his own conduct, and the conduct of other conspirators reasonably foreseeable to him, is 28 grams or more of a mixture and substance containing a detectable amount of cocaine base, commonly referred to as “crack cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(b)(1)(B)(iii). I will also give you specific instructions on conspiracy.

Count 2 charges that the Defendant did knowingly and intentionally possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2. Pursuant to Title 21, United States Code, Section 841(b)(1)(B)(iii), it is further alleged that this violation involved 28 grams or more of a mixture and substance containing a detectable amount of cocaine base, commonly referred to as “crack cocaine,” a Schedule II controlled substance.

Count 3 charges that the Defendant did knowingly possess a firearm in furtherance of a drug trafficking crime, a felony offense for which the defendant

may be prosecuted in a court of the United States, that is, a violation of Title 21, United States Code, Section 841(a)(1), as charged in Count 2 of this Indictment, in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i) and 2.

Count 4 charges that the Defendant did knowingly and intentionally lease, rent, use and maintain a place, that is, the premises located at 1500 SW 6th Street, Miami, Florida 33135, for the purpose of distributing a controlled substance, that is, cocaine base, commonly referred to as "crack cocaine," in violation of Title 21, United States Code, Section 856(a)(1) and Title 18, United States Code, Section 2.

Count 5 charges that the Defendant, having been previously convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess a firearm and ammunition in and affecting interstate and foreign commerce, in violation of Title 18, United States Code, Section 922(g)(1).

Controlled Substances Conspiracy

It's a separate Federal crime for anyone to conspire to knowingly possess with intent to distribute crack cocaine.

Title 21 United States Code Section 841(a)(1) makes it a crime for anyone to knowingly possess crack cocaine with intent to distribute it.

A "conspiracy" is an agreement by two or more persons to commit an unlawful act. In other words, it is a kind of partnership for criminal purposes. Every member of the conspiracy becomes the agent or partner of every other member.

The Government does not have to prove that all of the people named in the indictment were members of the plan, or that those who were members made any kind of formal agreement. The heart of a conspiracy is the making of the unlawful plan itself, so the Government does not have to prove that the conspirators succeeded in carrying out the plan.

The Defendant can be found guilty only if all the following facts are proved beyond a reasonable doubt:

- (1) two or more people in some way agreed to try to accomplish a shared and unlawful plan to possess crack cocaine;
- (2) the Defendant, knew the unlawful purpose of the plan and willfully joined in it; and
- (3) the object of the unlawful plan was to possess with the intent to distribute 28 grams or more of a mixture and substance containing a detectable amount of cocaine base, commonly referred to as "crack cocaine."

A person may be a conspirator even without knowing all the details of the unlawful plan or the names and identities of all the other alleged conspirators.

If the Defendant played only a minor part in the plan but had a general understanding of the unlawful purpose of the plan – and willfully joined in the plan on at least one occasion – that's sufficient for you to find the Defendant guilty.

But simply being present at the scene of an event or merely associating with certain people and discussing common goals and interests doesn't establish proof of a conspiracy. Also a person who doesn't know about a conspiracy but happens to act in a way that advances some purpose of one doesn't automatically become a conspirator.

The Defendant is charged with possessing and intending to distribute at least 28 grams of crack cocaine. But you may find the Defendant guilty of the crime even if the amount of the controlled substance for which he should be held responsible is less than 28 grams. So if you find the Defendant guilty, you must also unanimously agree on the weight of crack cocaine the Defendant possessed and specify the amount on the verdict form.

**Controlled Substances
Possession with Intent to Distribute**

It's a Federal crime for anyone to possess a controlled substance with intent to distribute it.

Cocaine base, commonly referred to as "crack cocaine" is a "controlled substance."

The Defendant can be found guilty of this crime only if all the following facts are proved beyond a reasonable doubt:

- (1) the Defendant knowingly possessed crack cocaine;
- (2) the Defendant intended to distribute the crack cocaine; and
- (3) the weight of the crack cocaine the Defendant possessed was more than 28 grams.

To "intend to distribute" is to plan to deliver possession of a controlled substance to someone else, even if nothing of value is exchanged.

The Defendant is charged with possessing and intending to distribute at least 28 grams of crack cocaine. But you may find the Defendant guilty of the crime even if the amount of the controlled substance for which he should be held responsible is less than 28 grams. So if you find the Defendant guilty, you must also unanimously agree on the weight of cocaine base the Defendant possessed and specify the amount on the verdict form.

**Possessing a Firearm in Furtherance of a
~~Violent Crime~~ or Drug-Trafficking Crime**

It's a separate Federal crime to possess a firearm in furtherance of a drug-trafficking crime.

The Defendant can be found guilty of this crime only if all the following facts are proved beyond a reasonable doubt:

- (1) that the Defendant committed the drug-trafficking crime charged in Count Two of the indictment; and
- (2) that the Defendant knowingly possessed a firearm in furtherance of that crime, as charged in the indictment.

A "firearm" is any weapon designed to or readily convertible to expel a projectile by the action of an explosive. The term includes the frame or receiver of any such weapon or any firearm muffler or silencer.

To "possess" a firearm is to have direct physical control of the firearm or to have knowledge of the firearm's presence and the ability and intent to later exercise control over the firearm.

Possessing a firearm "in furtherance of" a crime means that the firearm helped, promoted, or advanced the crime in some way.

Maintaining Drug-Involved Premises

It's a federal crime to knowingly maintain any place for the purpose of manufacturing, distributing, or using any controlled substance.

The Defendant can be found guilty of this crime only if all the following facts are proved beyond a reasonable doubt:

- (1) The Defendant opened, leased, rented, used, or maintained any place, either permanently or temporarily; and
- (2) The Defendant did so knowingly; and
- (3) The Defendant did so for the purpose of manufacturing, distributing, or using any controlled substance.

You are instructed that, as a matter of law, crack cocaine is a controlled substance as that term is used in these instructions and in the indictment and the statute I just read to you. You must, of course, determine whether or not the substance in question was, in fact crack cocaine.

Where the "place" in question is a residence, the defendant must have a substantial connection to the home and must be more than a casual visitor. However, it is not necessary that the defendant lease or own the "place." Acts that evidence "maintenance" are such matters as control, duration, acquisition of the site, renting or furnishing the site, repairing the site, supervising, protecting, supplying food to those at the site, and continuity.

"For the purpose of" means a significant or important reason.

Possession of a Firearm or Ammunition by a Convicted Felon

It's a Federal crime for anyone who has been convicted of a felony offense to possess a firearm or ammunition in or affecting interstate or foreign commerce.

The Defendant can be found guilty of this crime only if all the following facts are proved beyond a reasonable doubt:

- (1) the Defendant knowingly possessed a firearm or ammunition in or affecting interstate or foreign commerce; and
- (2) before possessing the firearm or ammunition, the Defendant had been convicted of a felony – a crime punishable by imprisonment for more than one year.

A "firearm" is any weapon designed to or readily convertible to expel a projectile by the action of an explosive. The term includes the frame or receiver of any such weapon or any firearm muffler or silencer.

The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

The term "interstate or foreign commerce" includes the movement of a firearm from one state to another or between the United States and any foreign country. It's not necessary for the Government to prove that the Defendant knew the firearm had moved from one state to another, only that the firearm did, in fact, move from one state to another.

You'll see that the indictment charges that a crime was committed "on or about" a certain date. The Government doesn't have to prove that the crime occurred on an exact date. The Government only has to prove beyond a reasonable doubt that the crime was committed on a date reasonably close to the date alleged.

The word "knowingly" means that an act was done voluntarily and intentionally and not because of a mistake or by accident.

The word "willfully" means that the act was committed voluntarily and purposely, with the intent to do something the law forbids; that is, with the bad purpose to disobey or disregard the law. While a person must have acted with the intent to do something the law forbids before you can find that the person acted "willfully," the person need not be aware of the specific law or rule that his conduct may be violating.

Each count of the indictment charges a separate crime. You must consider each crime and the evidence relating to it separately. If you find the Defendant guilty or not guilty of one crime, that must not affect your verdict for any other crime.

I caution you that the Defendant is on trial only for the specific crimes charged in the indictment. You're here to determine from the evidence in this case whether the Defendant is guilty or not guilty of those specific crimes.

You must never consider punishment in any way to decide whether the Defendant is guilty. If you find the Defendant guilty, the punishment is for the Judge alone to decide later.

You have been permitted to take notes during the trial. Most of you – perhaps all of you – have taken advantage of that opportunity.

You must use your notes only as a memory aid during deliberations. You must not give your notes priority over your independent recollection of the evidence. And you must not allow yourself to be unduly influenced by the notes of other jurors.

I emphasize that notes are not entitled to any greater weight than your memories or impressions about the testimony.

Your verdict, whether guilty or not guilty, must be unanimous – in other words, you must all agree. Your deliberations are secret, and you'll never have to explain your verdict to anyone.

Each of you must decide the case for yourself, but only after fully considering the evidence with the other jurors. So you must discuss the case with one another and try to reach an agreement. While you're discussing the case, don't hesitate to reexamine your own opinion and change your mind if you become convinced that you were wrong. But don't give up your honest beliefs just because others think differently or because you simply want to get the case over with.

Remember that, in a very real way, you're judges – judges of the facts. Your only interest is to seek the truth from the evidence in the case.

When you get to the jury room, choose one of your members to act as foreperson. The foreperson will direct your deliberations and will speak for you in court.

A verdict form has been prepared for your convenience.

Take the verdict form with you to the jury room. When you have all agreed on the verdict, your foreperson must fill in the form, sign it, date it, and carry it. Then you will return it to the courtroom.

If you wish to communicate with me at any time, please write down your message or question and give it to the court security officer. The court security office will bring it to me and I will respond as promptly as possible – either in writing or by talking to you in the courtroom. But I caution you not to tell me how many jurors have voted one way or the other at that time.

A-5

May 1, 2018

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
18-20359-CR-SCOLA/TORRES

CASE NO. _____

21 U.S.C. § 846

21 U.S.C. § 841(a)(1)

18 U.S.C. § 924(c)(1)(A)(i)

21 U.S.C. § 856(a)(1)

18 U.S.C. § 922(g)(1)

18 U.S.C. § 924(d)(1)

UNITED STATES OF AMERICA

v.

CARLOS MIGUEL PEREZ,

Defendant.

_____ /

INDICTMENT

The Grand Jury charges that:

COUNT 1

**Conspiracy to Possess With Intent to Distribute Controlled Substances
(21 U.S.C. § 846)**

Beginning at least as early as on or about February 1, 2018, and continuing through on or about March 1, 2018, in Miami-Dade County, in the Southern District of Florida, the defendant,

CARLOS MIGUEL PEREZ,

did knowingly and willfully combine, conspire, confederate, and agree with other persons known and unknown to the Grand Jury, to possess with the intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 846.

The controlled substance involved in the conspiracy attributable to **CARLOS MIGUEL PEREZ** as a result of his own conduct, and the conduct of other conspirators reasonably

foreseeable to him, is 28 grams or more of a mixture and substance containing a detectable amount of cocaine base, commonly referred to as “crack cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(b)(1)(B)(iii).

COUNT 2

**Possession With Intent to Distribute A Controlled Substance
(21 U.S.C. § 841(a)(1))**

On or about March 1, 2018, in Miami-Dade County, in the Southern District of Florida,
the defendant,

CARLOS MIGUEL PEREZ,

did knowingly and intentionally possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2.

Pursuant to Title 21, United States Code, Section 841(b)(1)(B)(iii), it is further alleged that this violation involved 28 grams or more of a mixture and substance containing a detectable amount of cocaine base, commonly referred to as “crack cocaine,” a Schedule II controlled substance.

COUNT 3

**Possession of a Firearm in Furtherance of a Drug Trafficking Crime
(18 U.S.C. § 924(c)(1)(A)(i))**

On or about March 1, 2018, in Miami-Dade County, in the Southern District of Florida,
the defendant,

CARLOS MIGUEL PEREZ,

did knowingly possess a firearm in furtherance of a drug trafficking crime, a felony offense for which the defendant may be prosecuted in a court of the United States, that is, a violation of Title

21, United States Code, Section 841(a)(1), as charged in Count 2 of this Indictment, in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i) and 2.

COUNT 4
Maintaining a Drug-Involved Premises
(21 U.S.C. § 856(a)(1))

Beginning at least as early as on or about February 1, 2018, and continuing through on or about March 1, 2018, in Miami-Dade County, in the Southern District of Florida, the defendant,

CARLOS MIGUEL PEREZ,

did knowingly and intentionally lease, rent, use and maintain a place, that is, the premises located at 1500 SW 6th Street, Miami, Florida 33135, for the purpose of distributing a controlled substance, that is, cocaine base, commonly referred to as “crack cocaine,” in violation of Title 21, United States Code, Section 856(a)(1) and Title 18, United States Code, Section 2.

COUNT 5
Felon in Possession of a Firearm
(18 U.S.C. § 922(g)(1))

On or about March 1, 2018, in Miami-Dade County, in the Southern District of Florida, the defendant,

CARLOS MIGUEL PEREZ,

having been previously convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess a firearm and ammunition in and affecting interstate and foreign commerce, in violation of Title 18, United States Code, Section 922(g)(1).

FORFEITURE ALLEGATIONS

1. The allegations of this Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **CARLOS MIGUEL PEREZ**, has an interest.

2. Upon conviction of any violation of Title 18, United States Code, Section 922(g)(1) or Title 18, United States Code, Section 924(c)(1)(A)(i) or any other criminal violation as alleged in this Indictment, the defendant shall forfeit to the United States any firearm or ammunition involved in or used in any such violation, pursuant to Title 18, United States Code, Section 924(d)(1).

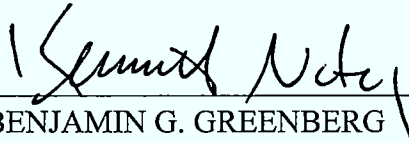
3. Upon conviction of a violation of Title 21, United States Code, Section 846 or Title 21, United States Code, Section 841(a)(1) as alleged in this Indictment, the defendant shall forfeit to the United States any property constituting or derived from any proceeds obtained, directly or indirectly as a result of such violation and any property used, or intended to be used, in any manner or part, to commit or to facilitate such violation, pursuant to Title 21, United States Code, Section 853.

4. The property subject to forfeiture includes, but is not limited to:

- a. One (1) Glock 19, 9MM, semi-automatic pistol (serial number WCP530);
and
- b. Ten (10) rounds of 9MM ammunition.

All pursuant to Title 18, United States Code, Section 924(d)(1) and Title 21, United States Code, Section 853.

A TRUE BILL



BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY



JOSHUA S. ROTHSTEIN
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. _____

v.

CERTIFICATE OF TRIAL ATTORNEY*

CARLOS MIGUEL PEREZ,
Defendant. /

Superseding Case Information:

Court Division: (Select One)

☒Miami
FTL☐

Key West

☐

WPB

☐

FTP

New Defendant(s)
Number of New Defendants
Total number of countsYes ☐No ☐_____

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
- Interpreter: (Yes or No) Yes
List language and/or dialect Spanish
- This case will take 3-4 days for the parties to try.
- Please check appropriate category and type of offense listed below:

(Check only one)

- I 0 to 5 days
II 6 to 10 days
III 11 to 20 days
IV 21 to 60 days
V 61 days and over

(Check only one)

☒
☐
☐
☐
☐Petty
Minor
Misdem.
Felony☐
☐
☐
☒

- Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge:

(Attach copy of dispositive order)

Case No. _____

Has a complaint been filed in this matter?

(Yes or No)

No

If yes:

Magistrate Case No. _____

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the District of _____

Is this a potential death penalty case? (Yes or No) No

- Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes ☐ No ☒


 JOSHUA S. ROTHSTEIN
 ASSISTANT UNITED STATES
 Court I.D. No. A5502111

*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: CARLOS MIGUEL PEREZ

Case No: _____

Count #: 1

Conspiracy to Possess with the Intent to Distribute Controlled Substances

Title 21, United States Code, Section 846

***Max. Penalty:** Life Imprisonment

Count #: 2

Possession with Intent to Distribute a Controlled Substance

Title 21, United States Code, Section 841(a)(1)

***Max. Penalty:** Life Imprisonment

Count #: 3

Possession of a Firearm in Furtherance of a Drug Trafficking Crime

Title 18, United States Code, Section 924(c)(1)(A)(i)

***Max. Penalty:** Life Imprisonment

Count #: 4

Maintaining a Drug-Involved Premises

Title 21, United States Code, Section 856(a)(1)

***Max. Penalty:** 20 Years' Imprisonment

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET (cont.)

Count #: 5

Possession of a Firearm and Ammunition by a Convicted Felon

Title 18, United States Code, Section 922(g)(1)

***Max. Penalty:** 10 Years' Imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**