

## **APPENDIX A**

2022 WL 2287427

Only the Westlaw citation is currently available.  
United States Court of Appeals, Ninth Circuit.

UNITED STATES of America, Plaintiff-Appellee,  
v.

Hector **MARTINEZ-ROBOS**, Defendant-Appellant.  
United States of America, Plaintiff-Appellee,  
v.

Isela Rosa Acuna, Defendant-Appellant.

No. 20-50205, No. 20-50341

Argued and Submitted June 6, 2022 Pasadena, California

Filed June 24, 2022

Appeal from the United States District Court for the Southern District of California, Dana M. Sabraw, Chief District Judge, Presiding, D.C. No. 3:19-cr-00369-DMS-1, D.C. Nos. 3:19-cr-00369-DMS-2, 3:19-cr-00369-DMS

#### Attorneys and Law Firms

Eric Olah, Assistant U.S., Andrew Chiang, Owen Roth, Assistant U.S., Daniel Earl Zipp, Assistant U.S., Office of the US Attorney, San Diego, CA, for Plaintiff-Appellee.

Benjamin Lee Coleman, Benjamin L. Coleman Law, PC, San Diego, CA, for Defendant-Appellant in 20-50205.

Marisa Conroy, Law Office of Marisa L. D. Conroy, Encinitas, CA, for Defendant-Appellant in 20-50341.

Before: M. SMITH, BADE, and VANDYKE, Circuit Judges.

#### MEMORANDUM\*

\*1 Defendants Rosa Isela Acuna and Hector **Martinez-Robos** ask this court to vacate their convictions and **Martinez-Robos'** sentence for importation of cocaine in violation of 21 U.S.C. §§ 952, 960 and 18 U.S.C. § 2. The parties are familiar with the facts, and so we do not recount them here. We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742. We affirm.

1. Both defendants argue that the district court erred in not instructing the jury that their co-defendant's out-of-court statements could not be used against the non-declarant defendant pursuant to *United States v. Sauza-Martinez*, 217 F.3d 754 (9th Cir. 2000). However, *Sauza-Martinez* requires a limiting instruction in a joint trial when incriminating hearsay evidence is admissible against one defendant but not another. 217 F.3d at 760. Here, the defendants' statements were not hearsay because they were not offered for the truth of the matter asserted. *See* Fed. R. Evid. 801(c)(2). *Sauza-Martinez* does not apply, so no limiting instruction was required.

2. Both defendants contend that cell phone photos of a crystalline substance were inadmissible against them pursuant to Federal Rules of Evidence 403 and 404(b). We disagree. The photos tend to prove a material point and they are sufficiently similar to the charged offenses.

*See* *United States v. Vo*, 413 F.3d 1010, 1018 (9th Cir. 2005). The photos were taken and stored on Acuna's phone, and the case agent testified that the substance appeared to be methamphetamine. The district court was not required to give a limiting instruction that the photos were inadmissible against **Martinez-Robos**. The photos were permissibly admitted against **Martinez-Robos** because there was sufficient evidence of his involvement in the other act and there was no unfair prejudice.

3. The district court also did not plainly err in giving the jury instructions on the mens rea requirements for the 21 U.S.C. § 960(a) importation offense that did not follow *McFadden v. United States*, 576 U.S. 186 (2015). *McFadden* concerned a statute that is not at issue here. Neither the Supreme Court, this court, nor the model jury instructions has extended *McFadden* to the 21 U.S.C. § 960(a) importation offense charged here.

4. The prosecutor did not improperly rely on hearsay statements of **Martinez-Robos** in closing as evidence of Acuna's guilt. **Martinez-Robos'** statements were not offered for the truth of the matter asserted and so were not hearsay. *See* Fed. R. Evid. 801(c)(2). The Confrontation Clause does not apply to non-hearsay, and so the prosecutor was free to use **Martinez-Robos'** statements against Acuna. *See* *United States v. Mitchell*, 502 F.3d 931, 966 (9th Cir. 2007).

5. As to **Martinez-Robos**, the prosecutor did not violate **Griffin v. California**, 380 U.S. 609 (1965), make an improper argument, or misstate the evidence during summation. The prosecutor's reference to **Martinez-Robos**' decision not to testify was not improper because it did not suggest that the jury could use his decision as evidence of guilt. *See Lakeside v. Oregon*, 435 U.S. 333, 338 (1978). The prosecutor did not misstate the defense expert's testimony on cross examination, and permissibly asked the jury to make inferences from it.

\*2 6. No new trial is required for either defendant based on a theory of cumulative error. Because we find no errors, there is also no cumulative error.

7. Finally, we note that **Martinez-Robos** concedes that his sentence is correct under current law. *See United States v. Collazo*, 984 F.3d 1308, 1321-29 (9th Cir. 2021) (en banc). We express no view on whether his sentence must be reversed if the view of the *Collazo* dissent were governing law.

## AFFIRMED.

### All Citations

Not Reported in Fed. Rptr., 2022 WL 2287427

## Footnotes

\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

## **APPENDIX B**

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA  
 V.

ROSA ISELA ACUNA (2)

**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed On or After November 1, 1987)

Case Number: 19CR0369-DMS

USM Number 73514298

-

**THE DEFENDANT:**

pleaded guilty to count(s) \_\_\_\_\_

was found guilty on count(s) 1 of the Information

FILED
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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY <i>[Signature]</i> DEPUTY

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

<b>Title &amp; Section</b>	<b>Nature of Offense</b>	<b>Count Number(s)</b>
21 USC 952, 960 and 18 USC 2	IMPORTATION OF COCAINE AND AIDING AND ABETTING	1

The defendant is sentenced as provided in pages 2 through 5 of this judgment.  
 The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) \_\_\_\_\_

Count(s) \_\_\_\_\_ is dismissed on the motion of the United States.

Assessment : \$100.00

-

JVTA Assessment\*: \$

\*Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

No fine  Forfeiture pursuant to order filed \_\_\_\_\_, included herein.

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 any material change in the defendant's economic circumstances.

November 20, 2020

Date of Imposition of Sentence

*[Signature]*  
 HON. Dana M. Sabraw  
 UNITED STATES DISTRICT JUDGE

AO 245B (CASP Rev. 1/19) Judgment in a Criminal Case

DEFENDANT: ROSA ISELA ACUNA (2)  
CASE NUMBER: 19CR0369-DMS

Judgment - Page 2 of 5

## IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:  
**SEVENTY-TWO (72) MONTHS.**

- Sentence imposed pursuant to Title 8 USC Section 1326(b).
- The court makes the following recommendations to the Bureau of Prisons:  
Defendant be designated to a facility in the Southwest Region of the U.S.
  
- The defendant is remanded to the custody of the United States Marshal.
- The defendant must surrender to the United States Marshal for this district:
  - at \_\_\_\_\_ A.M. on \_\_\_\_\_
  - as notified by the United States Marshal.
  
- The defendant must surrender for service of sentence at the institution designated by the Bureau of Prisons:
  - on or before
  - as notified by the United States Marshal.
  - as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

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

UNITED STATES MARSHAL

By DEPUTY UNITED STATES MARSHAL

## AO 245B (CASP Rev. 1/19) Judgment in a Criminal Case

DEFENDANT: ROSA ISELA ACUNA (2)  
 CASE NUMBER: 19CR0369-DMS

Judgment - Page 3 of 5

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant will be on supervised release for a term of:  
 THREE (3) YEARS.

**MANDATORY CONDITIONS**

1. The defendant must not commit another federal, state or local crime.
2. The defendant must not unlawfully possess a controlled substance.
3. The defendant must not illegally possess a controlled substance. The defendant must refrain from any unlawful use of a controlled substance. The defendant must 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. Testing requirements will not exceed submission of more than 4 drug tests per month during the term of supervision, unless otherwise ordered by the court.
  - The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (check if applicable)
4.  The defendant must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. (check if applicable)
5.  The defendant must cooperate in the collection of DNA as directed by the probation officer. (check if applicable)
6.  The defendant must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where the defendant resides, works, is a student, or was convicted of a qualifying offense. (check if applicable)
7.  The defendant must participate in an approved program for domestic violence. (check if applicable)

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

## AO 245B (CASP Rev. 1/19) Judgment in a Criminal Case

DEFENDANT: ROSA ISELA ACUNA (2)  
 CASE NUMBER: 19CR0369-DMS

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### STANDARD CONDITIONS OF SUPERVISION

As part of the defendant's supervised release, the defendant must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for the defendant's behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in the defendant's conduct and condition.

1. The defendant must report to the probation office in the federal judicial district where they are authorized to reside within 72 hours of their release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when the defendant must report to the probation officer, and the defendant must report to the probation officer as instructed.
3. The defendant must not knowingly leave the federal judicial district where the defendant is authorized to reside without first getting permission from the court or the probation officer.
4. The defendant must answer truthfully the questions asked by their probation officer.
5. The defendant must live at a place approved by the probation officer. If the defendant plans to change where they live or anything about their living arrangements (such as the people living with the defendant), the defendant must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. The defendant must allow the probation officer to visit them at any time at their home or elsewhere, and the defendant must permit the probation officer to take any items prohibited by the conditions of their supervision that he or she observes in plain view.
7. The defendant must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment the defendant must try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about their work (such as their position or their job responsibilities), the defendant must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. The defendant must not communicate or interact with someone they know is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, they must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If the defendant is arrested or questioned by a law enforcement officer, the defendant must notify the probation officer within 72 hours.
10. The defendant must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. The defendant must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant must comply with that instruction. The probation officer may contact the person and confirm that the defendant notified the person about the risk.
13. The defendant must follow the instructions of the probation officer related to the conditions of supervision.

AO 245B (CASP Rev. 1/19) Judgment in a Criminal Case

DEFENDANT: ROSA ISELA ACUNA (2)  
CASE NUMBER: 19CR0369-DMS

Judgment - Page 5 of 5

**SPECIAL CONDITIONS OF SUPERVISION**

1. Participate in a cognitive behavioral treatment program as directed by the probation officer, and if deemed necessary by the probation officer. Such program may include group sessions led by a counselor, or participation in a program administered by the probation office. The defendant may be required to contribute to the cost of the service rendered (copayment) in the amount to be determined by the program officer, based on the defendant's ability to pay.
2. Not enter or reside in the Republic of Mexico without written permission of the Court or probation officer, and comply with both United States and Mexican immigration law requirements.
3. Report all vehicles owned or operated, or in which you have an interest, to the probation officer.
4. Submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. The offender must warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that the offender has violated a condition of his supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.
5. Participate in a program of mental health treatment as directed by the probation officer, take all medications as prescribed by a psychiatrist/physician, and not discontinue any medication without permission. The Court authorizes the release of the presentence report and available psychological evaluations to the mental health provider, as approved by the probation officer. Allow for reciprocal release of information between the probation officer and the treatment provider. The defendant may be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on the defendant's ability to pay.

## **APPENDIX C**

United States Code Annotated

Title 21. Food and Drugs (Refs & Annos)

Chapter 13. Drug Abuse Prevention and Control (Refs & Annos)

Subchapter II. Import and Export (Refs & Annos)

21 U.S.C.A. § 960

§ 960. Prohibited acts A

Effective: December 21, 2018

Currentness

**(a) Unlawful acts**

Any person who--

**(1)** contrary to section 825, 952, 953, or 957 of this title, knowingly or intentionally imports or exports a controlled substance,

**(2)** contrary to section 955 of this title, knowingly or intentionally brings or possesses on board a vessel, aircraft, or vehicle a controlled substance, or

**(3)** contrary to section 959 of this title, manufactures, possesses with intent to distribute, or distributes a controlled substance, shall be punished as provided in subsection (b).

**(b) Penalties**

**(1)** In the case of a violation of subsection (a) of this section involving--

**(A)** 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

**(B)** 5 kilograms or more of a mixture or substance containing a detectable amount of--

**(i)** coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

**(ii)** cocaine, its salts, optical and geometric isomers, and salts or isomers;

**(iii)** ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

**(iv)** any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

**(C)** 280 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

**(D)** 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

**(E)** 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

**(F)** 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

**(G)** 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana; or

**(H)** 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.<sup>1</sup>

the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than life and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than 20 years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$10,000,000 if the defendant is an individual or \$50,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person shall be sentenced to a term of imprisonment of not less than 15 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18 or \$20,000,000 if the defendant is an individual or \$75,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of Title 18, any sentence under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

**(2)** In the case of a violation of subsection (a) of this section involving--

**(A)** 100 grams or more of a mixture or substance containing a detectable amount of heroin;

**(B)** 500 grams or more of a mixture or substance containing a detectable amount of--

- (i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
- (ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;
- (iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
- (iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

- (C) 28 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;
- (D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);
- (E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);
- (F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;
- (G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana; or
- (H) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.<sup>1</sup>

the person committing such violation shall be sentenced to a term of imprisonment of not less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$5,000,000 if the defendant is an individual or \$25,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18 or \$8,000,000 if the defendant is an individual or \$50,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of Title 18, any sentence imposed under this paragraph shall, in the absence of such a prior conviction, include a term of supervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of supervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

**(3)** In the case of a violation under subsection (a) of this section involving a controlled substance in schedule I or II, gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillary J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000), or flunitrazepam, the person committing such violation shall, except as provided in paragraphs (1), (2), and (4), be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$1,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18 or \$2,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of Title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph which provide for a mandatory term of imprisonment if death or serious bodily injury results.

**(4)** In the case of a violation under subsection (a) with respect to less than 50 kilograms of marihuana, except in the case of 100 or more marihuana plants regardless of weight, less than 10 kilograms of hashish, or less than one kilogram of hashish oil, the person committing such violation shall be sentenced in accordance with section 841(b)(1)(D) of this title.

**(5)** In the case of a violation of subsection (a) involving a controlled substance in schedule III, such person shall be sentenced in accordance with section 841(b)(1) of this title.

**(6)** In the case of a violation of subsection (a) involving a controlled substance in schedule IV, such person shall be sentenced in accordance with section 841(b)(2) of this title.

**(7)** In the case of a violation of subsection (a) involving a controlled substance in schedule V, such person shall be sentenced in accordance with section 841(b)(3) of this title.

**(c) Repealed. Pub.L. 98-473, Title II, § 225, formerly § 225(a), Oct. 12, 1984, 98 Stat. 2030, as amended by Pub.L. 99-570, Title I, § 1005(c), Oct. 27, 1986, 100 Stat. 3207-6**

**(d) Penalty for importation or exportation**

A person who knowingly or intentionally--

**(1)** imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this subchapter or subchapter I;

(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this subchapter or subchapter I;

(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 971 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to paragraph (2) or (3) of section 971(f) of this title by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported;

(6) imports a listed chemical in violation of section 952 of this title, imports or exports such a chemical in violation of section 957 or 971 of this title, or transfers such a chemical in violation of section 971(d) of this title; or

(7) manufactures, possesses with intent to distribute, or distributes a listed chemical in violation of section 959 of this title.<sup>2</sup>

shall be fined in accordance with Title 18, imprisoned not more than 20 years in the case of a violation of paragraph (1) or (3) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (3) involving a list I chemical, or both.

#### CREDIT(S)

(Pub.L. 91-513, Title III, § 1010, Oct. 27, 1970, 84 Stat. 1290; Pub.L. 98-473, Title II, §§ 225, formerly 225(a), 504, Oct. 12, 1984, 98 Stat. 2030, 2070; renumbered § 225 and amended Pub.L. 99-570, Title I, §§ 1004(a), 1005(c), 1302, 1866(e), Oct. 27, 1986, 100 Stat. 3207-6, 3207-15, 3207-55; Pub.L. 100-690, Title VI, §§ 6053(c), 6475, Nov. 18, 1988, 102 Stat. 4315, 4380; Pub.L. 101-647, Title XII, § 1204, Title XXXV, § 3599J, Nov. 29, 1990, 104 Stat. 4830, 4932; Pub.L. 103-200, §§ 4(b), 5(b), Dec. 17, 1993, 107 Stat. 2338, 2339; Pub.L. 103-322, Title IX, § 90105(a), Title XXXIII, § 330024(d)(2), Sept. 13, 1994, 108 Stat. 1987, 2151; Pub.L. 104-237, Title I, § 102(c), Title III, § 302(b), Oct. 3, 1996, 110 Stat. 3100, 3105; Pub.L. 104-305, § 2(b)(2)(B), (C), Oct. 13, 1996, 110 Stat. 3807; Pub.L. 105-277, Div. E, § 2(b), Oct. 21, 1998, 112 Stat. 2681-759; Pub.L. 106-172, § 3(b)(2), Feb. 18, 2000, 114 Stat. 9; Pub.L. 107-273, Div. B, Title III, § 3005(b), Nov. 2, 2002, 116 Stat. 1806; Pub.L. 109-177, Title VII, §§ 716(b)(1)(A), 717, Mar. 9, 2006, 120 Stat. 267; Pub.L. 110-425, § 3(i), Oct. 15, 2008, 122 Stat. 4832; Pub.L. 111-220, §§ 2(b), 4(b), Aug. 3, 2010, 124 Stat. 2372; Pub.L. 113-260, § 3(b), Dec. 18, 2014, 128 Stat. 2931; Pub.L. 115-391, Title IV, § 401(b), Dec. 21, 2018, 132 Stat. 5221.)

### Footnotes

1 So in original. The period probably should be a semicolon.

2 So in original. The period probably should be a comma.

21 U.S.C.A. § 960, 21 USCA § 960

Current through P.L. 117-168. Some statute sections may be more current, see credits for details.

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## **APPENDIX D**

United States Code Annotated  
Constitution of the United States  
Annotated  
Amendment V. Grand Jury; Double Jeopardy; Self-Incrimination; Due Process; Takings

U.S.C.A. Const. Amend. V

Amendment V. Grand Jury Indictment for Capital Crimes; Double Jeopardy;  
Self-Incrimination; Due Process of Law; Takings without Just Compensation

Currentness

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

<Historical notes and references are included in the full text document for this amendment.>

<For Notes of Decisions, see separate documents for clauses of this amendment:>

<USCA Const. Amend. V--Grand Jury clause>

<USCA Const. Amend. V--Double Jeopardy clause>

<USCA Const. Amend. V--Self-Incrimination clause>

<USCA Const. Amend. V-- Due Process clause>

<USCA Const. Amend. V--Takings clause>

U.S.C.A. Const. Amend. V, USCA CONST Amend. V

Current through P.L. 117-168. Some statute sections may be more current, see credits for details.

United States Code Annotated  
Constitution of the United States  
Annotated  
Amendment VIII. Excessive Bail, Fines, Punishments

U.S.C.A. Const. Amend. VIII

Amendment VIII. Excessive Bail, Fines, Punishments

Currentness

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S.C.A. Const. Amend. VIII, USCA CONST Amend. VIII

Current through P.L. 117-168. Some statute sections may be more current, see credits for details.

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