

employee, by means of actual and threatened force, violence, and fear of injury to his person.

Overt Acts

In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, the following overt acts, among others, were committed on or about August 17, 2011, in Chaves County, in the District of New Mexico:

Overt Act One

JESSE ANTHONY LEYBA armed himself with a firearm equipped with a laser sight.

Overt Act Two

JESSE ANTHONY LEYBA and **ADAM ELLIOTT CRUZ** entered the Allsup's Convenience Store with the intention of robbing the store.

Overt Act Three

ADAM ELLIOTT CRUZ walked behind the clerk's counter in the store, accosted an Allsup's employee, and physically removed a watch and ring from an Allsup's employee's person.

Overt Act Four

JESSE ANTHONY LEYBA cocked his firearm and pointed the firearm at an Allsup's employee, training the firearm's red laser sight on the employee.

Overt Act Five

JESSE ANTHONY LEYBA and **ADAM ELLIOTT CRUZ** ordered an Allsup's employee to open the cash register.

Overt Act Six

ADAM ELLIOTT CRUZ reached into the cash register and stole money from the cash register.

Overt Act Seven

JESSE ANTHONY LEYBA and **ADAM ELLIOTT CRUZ** left the Allsup's store taking without permission the money from the cash register and two cases of beer.

In violation of 18 U.S.C. § 1951(a).

Count 2

On or about August 17, 2011, in Chaves County, in the District of New Mexico and elsewhere, the defendants, **JESSE ANTHONY LEYBA** and **ADAM ELLIOTT CRUZ**, did unlawfully obstruct, delay and affect commerce, as that term is defined in Title 18, United States Code, Section 1951, and the movement of articles and commodities in such commerce by robbery, as that term is defined in Section 1951, in that the defendants did unlawfully take and obtain personal property consisting of United States currency and commodities of commerce from the presence of an employee of the Allsup's Convenience Store, located at 520 E. Second Street, Roswell, New Mexico, a business engaged in interstate commerce, against the will of the Allsup's Convenience Store employee, by means of actual and threatened force, violence, and fear of injury to his person.

In violation of 18 U.S.C. § 1951(a) and 18 U.S.C. § 2.

Count 3

On or about August 17, 2011, in Chaves County, in the District of New Mexico, the defendant, **JESSE ANTHONY LEYBA**, knowingly used and carried a firearm during and in relation to a crime of violence for which the defendant may be prosecuted in a court of the United States, namely, Conspiracy to Commit Interference with Interstate Commerce by Robbery and Violence, and Interference with Interstate Commerce by Robbery and Violence, as charged in Counts 1 and 2.

In violation of 18 U.S.C. § 924(c).

A TRUE BILL:

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FOREPERSON OF THE GRAND JURY

Alnee S. Camach
Assistant United States Attorney
rc 12/16/11 11:17am