

RTF:PC:SC
F.#2005R01773

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

- against -

S U P E R S E D I N G
I N D I C T M E N T

SALVATORE LOPRESTI,
SCOTT ROSEBERY,
KELLY TASSIO,
STEVEN PETERSON,
ALFRED SANTANA,
ELIZABETH TORRES,
GLEN CUMMINGS,
JACQUES LAMOUR,
JAMIE TORO,
FRANK MALDONADO and
ANGEL PEREZ,

Cr. No. 07-273 (S-1) (CBA)
(T. 18, U.S.C., §§ 241, 242,
1001(a)(2), 1001(a)(3),
1512(c)(2), 2 and 3551
et seq.)

Defendants.

- - - - - X

THE GRAND JURY CHARGES:

INTRODUCTION TO ALL COUNTS

At all times relevant to this Indictment, unless otherwise indicated:

1. The defendants SALVATORE LOPRESTI, SCOTT ROSEBERY, KELLY TASSIO, STEVEN PETERSON, ALFRED SANTANA, ELIZABETH TORRES, GLEN CUMMINGS, JACQUES LAMOUR, JAMIE TORO, FRANK MALDONADO and ANGEL PEREZ were employed by the Federal Bureau of Prisons ("BOP") and were assigned to the Metropolitan Detention Center ("MDC"), a BOP facility, in Brooklyn, New York.

2. The defendant SALVATORE LOPRESTI was employed as a Captain at the MDC. In that capacity, LOPRESTI had supervisory

authority over all of the correctional officers ("COs") at the facility, including the Lieutenants.

3. The defendants KELLY TASSIO, ELIZABETH TORRES and FRANK MALDONADO were Lieutenants at the MDC. In that capacity, TASSIO, TORRES and MALDONADO had supervisory authority over COs at the MDC.

4. The defendants SCOTT ROSEBERY, STEVEN PETERSON, ALFRED SANTANA, GLEN CUMMINGS, JACQUES LAMOUR, JAMIE TORO and ANGEL PEREZ were COs working under the command of the Captain and Lieutenants of the MDC.

5. On or about and between December 13, 2000 and April 30, 2005, Correctional Officer #1 ("CO #1") was employed at the MDC.

6. Since on or about December 15, 2002, Correctional Officer #2 ("CO #2") has been employed at the MDC.

7. On or about and between October 25, 2002 and December 12, 2002, John Doe #1 was incarcerated at the MDC as a pre-trial detainee.

8. On or about and between November 14, 2005 and April 12, 2006, John Doe #2 was incarcerated at the MDC as a pre-trial detainee.

COUNT ONE

(Conspiracy to Deprive Civil Rights - John Doe #1)

9. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

10. On or about November 13, 2002, within the Eastern District of New York, the defendants SALVATORE LOPRESTI, SCOTT ROSEBERY and KELLY TASSIO, together with others, while acting under color of the laws of the United States, did knowingly and willfully conspire to injure, oppress, threaten, and intimidate John Doe #1 in the free exercise and enjoyment of a right and privilege secured to him by the Constitution and laws of the United States, to wit: the right to Due Process of law under the Constitution, which includes the right to be free from excessive force by one acting under color of law, by agreeing to participate in a physical attack on John Doe #1.

(Title 18, United States Code, Sections 241 and 3551 et seq.)

COUNT TWO

(Deprivation of Civil Rights - John Doe #1)

11. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

12. On or about November 13, 2002, within the Eastern District of New York, the defendants SALVATORE LOPRESTI, SCOTT ROSEBERY, KELLY TASSIO, STEVEN PETERSON and ALFRED SANTANA,

together with others, while acting under color of the laws of the United States, did knowingly and willfully deprive John Doe #1 of a right and privilege secured and protected by the Constitution and laws of the United States, to wit: the right to Due Process of law under the Constitution, which includes the right to be free from excessive force by one acting under color of law, by striking and beating John Doe #1, resulting in bodily injury to John Doe #1.

(Title 18, United States Code, Sections 242, 2 and 3551 et seq.)

COUNT THREE

(False Statement - John Doe #1)

13. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

14. On or about November 13, 2002, within the Eastern District of New York, the defendant SALVATORE LOPRESTI, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that he falsely represented to the BOP that force was used on John Doe #1 while MDC officers were attempting to prevent John Doe #1 from hanging himself, when, in fact, as the defendant well knew and

believed, John Doe #1 had not attempted to hang himself and the use of force was not prompted by an attempted suicide by John Doe #1.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT FOUR

(False Statement - John Doe #1)

15. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

16. On or about November 13, 2002, within the Eastern District of New York, the defendant KELLY TASSIO, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that she falsely represented to the BOP that force was used on John Doe #1 while MDC officers were attempting to prevent John Doe #1 from hanging himself, when, in fact, as the defendant well knew and believed, John Doe #1 had not attempted to hang himself and the use of force was not prompted by an attempted suicide by John Doe #1.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT FIVE

(False Statement - John Doe #1)

17. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

18. On or about November 13, 2002, within the Eastern District of New York, the defendant SCOTT ROSEBERY, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that he falsely represented to the BOP that force was used on John Doe #1 while MDC officers were attempting to prevent John Doe #1 from hanging himself, when, in fact, as the defendant well knew and believed, John Doe #1 had not attempted to hang himself and the use of force was not prompted by an attempted suicide by John Doe #1.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT SIX

(False Statement - John Doe #1)

19. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

20. On or about November 13, 2002, within the Eastern District of New York, the defendant STEVEN PETERSON, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that he falsely represented to the BOP that force was used on John Doe #1 while MDC officers were attempting to prevent John Doe #1 from hanging himself, when, in fact, as the defendant well knew and believed, John Doe #1 had not attempted to hang himself and the use of force was not prompted by an attempted suicide by John Doe #1.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT SEVEN

(False Statement - John Doe #1)

21. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

22. On or about November 13, 2002, within the Eastern District of New York, the defendant ALFRED SANTANA, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP

Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that he falsely represented to the BOP that force was used on John Doe #1 while MDC officers were attempting to prevent John Doe #1 from hanging himself, when, in fact, as the defendant well knew and believed, John Doe #1 had not attempted to hang himself and the use of force was not prompted by an attempted suicide by John Doe #1.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT EIGHT

(Obstruction of Justice - Gun Memorandum)

23. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as if fully set forth in this paragraph.

24. On or about and between October 14, 2003 and April 8, 2004, both dates being approximate and inclusive, within the Eastern District of New York, the defendant SALVATORE LOPRESTI did knowingly, intentionally and corruptly obstruct, influence and impede an official proceeding, to wit: a Federal Grand Jury Investigation, and attempt to do so, by falsely stating and representing to a Special Agent of the Department of Justice, Office of the Inspector General ("DOJ/OIG") that the defendant had not signed a memorandum used by CO #1 to obtain an off-duty

weapon when, in fact, as the defendant well knew and believed, he had signed the memorandum.

(Title 18, United States Code, Sections 1512(c)(2) and 3551 et seq.)

COUNT NINE

(False Statement - Gun Memorandum)

25. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

26. On or about April 8, 2004, within the Eastern District of New York, the defendant SALVATORE LOPRESTI did knowingly and willfully make a materially false, fictitious and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit: the DOJ/OIG, in that LOPRESTI falsely stated and represented to a Special Agent of the DOJ/OIG that he had not signed a memorandum used by CO #1 to obtain an off-duty weapon when, in fact, as the defendant well knew and believed, he had signed the memorandum.

(Title 18, United States Code, Section 1001(a)(2) and 3551 et seq.)

COUNT TEN

(Deprivation of Civil Rights - John Doe #2)

27. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

28. On or about April 11, 2006, within the Eastern District of New York, the defendants SCOTT ROSEBERY, ELIZABETH TORRES, GLEN CUMMINGS, JACQUES LAMOUR and JAMIE TORO, together with others, while acting under color of the laws of the United States, did knowingly and willfully deprive John Doe #2 of a right and privilege secured and protected by the Constitution and laws of the United States, to wit: the right to Due Process of law under the Constitution, which includes the right to be free from excessive force by one acting under color of law, by striking and kicking John Doe #2, resulting in bodily injury to John Doe #2.

(Title 18, United States Code, Sections 242, 2 and 3551 et seq.)

COUNT ELEVEN

(False Statement - John Doe #2)

29. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

30. On or about April 11, 2006, within the Eastern District of New York, the defendant SCOTT ROSEBERY, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that he

falsely represented to the BOP that force was used on John Doe #2 after he became "assaultive" while being escorted by MDC officers, when, in fact, as the defendant well knew and believed, John Doe #2 had not been "assaultive" toward the officers while being escorted, and the use of force was not prompted by John Doe #2's "assaultive" conduct.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT TWELVE

(False Statement - John Doe #2)

31. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

32. On or about April 11, 2006, within the Eastern District of New York, the defendant GLEN CUMMINGS, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that he falsely represented to the BOP that force was used on John Doe #2 after he physically resisted being escorted by MDC officers and kicked one of the officers, when, in fact, as the defendant well knew and believed, John Doe #2 had not physically resisted being escorted by MDC officers and had not kicked one of the officers,

and the use of force was not prompted by John Doe #2's conduct toward the officers.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT THIRTEEN

(False Statement - John Doe #2)

33. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

34. On or about April 11, 2006, within the Eastern District of New York, the defendant JAMIE TORO, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that he falsely represented to the BOP that force was used on John Doe #2 after he became "combative" and "assaultive" while being escorted by MDC officers, when, in fact, as the defendant well knew and believed, John Doe #2 had not been "combative" and "assaultive" toward the officers while being escorted, and the use of force was not prompted by John Doe #2's "combative" and "assaultive" conduct.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT FOURTEEN
(False Statement - John Doe #2)

35. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

36. On or about April 11, 2006, within the Eastern District of New York, the defendant FRANK MALDONADO, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that he falsely represented to the BOP that force was used on John Doe #2 after he became "combative" while being escorted by MDC officers, when, in fact, as the defendant well knew and believed, John Doe #2 had not been "combative" toward the officers while being escorted, and the use of force was not prompted by John Doe #2's "combative" conduct.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT FIFTEEN
(False Statement - John Doe #2)

37. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

38. On or about April 11, 2006, within the Eastern District of New York, the defendant ANGEL PEREZ, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that he falsely represented to the BOP that force was used on John Doe #2 after he became "assaultive" while being escorted by MDC officers, when, in fact, as the defendant well knew and believed, John Doe #2 had not been "assaultive" toward the officers while being escorted, and the use of force was not prompted by John Doe #2's "assaultive" conduct.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT SIXTEEN

(False Statement - John Doe #2)

39. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

40. On or about April 14, 2006, within the Eastern District of New York, the defendant ELIZABETH TORRES, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP

Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that she falsely represented to the BOP that force was used on John Doe #2 after he became "assaultive" while being escorted by MDC officers, when, in fact, as the defendant well knew and believed, John Doe #2 had not been "assaultive" toward the officers while being escorted, and the use of force was not prompted by John Doe #2's "assaultive" conduct.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT SEVENTEEN

(False Statement - John Doe #2)

41. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

42. On or about April 21, 2006, within the Eastern District of New York, the defendant JACQUES LAMOUR, in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit, the BOP, did knowingly and willfully make a false writing and document, to wit: a BOP Incident Report, knowing the same to contain materially false, fictitious and fraudulent statements and entries, in that he falsely represented to the BOP that force was used on John Doe #2 after he became "combative" while being escorted by MDC officers, when, in fact, as the defendant well knew and believed, John Doe

#2 had not been "combative" toward the officers while being escorted, and the use of force was not prompted by John Doe #2's "combative" conduct.

(Title 18, United States Code, Sections 1001(a)(3) and 3551 et seq.)

COUNT EIGHTEEN

(False Statement - John Doe #1)

43. Paragraphs 1 through 8 are hereby realleged and incorporated by reference as though fully set forth in this paragraph.

44. On or about June 13, 2006, within the Eastern District of New York and elsewhere, the defendant KELLY TASSIO did knowingly and willfully make a materially false, fictitious and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, to wit: the DOJ/OIG, in that TASSIO falsely stated and represented to a Special Agent of the DOJ/OIG that the BOP Incident Report that she had written in connection with the John Doe #1 matter was accurate when, in fact, as the defendant well knew and believed, the report was inaccurate in two material respects, to wit: she had never witnessed John Doe #1 attempting

to hang himself, and she had never attempted to use life-saving methods on him.

(Title 18, United States Code, Section 1001(a)(2) and 3551 et seq.)

A TRUE BILL

FOREPERSON

ROSLYNN R. MAUSKOPF
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK