

NO. _____

In The
Supreme Court of the United States

KENNETH MARQUISE RUFF,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Fifth Amendment's guarantee of procedural due process is violated where the Petitioner receives a sentencing enhancement in a Racketeer Influenced Corrupt Organization ("RICO") Conspiracy in violation of 18 U.S.C. § 1962(d) without clear evidence of a connection to the indicted conspiracy.

PARTIES TO THE PROCEEDING

Petitioner Kenneth Marquise Ruff the Defendant and Appellant below.

The United States of America was the Plaintiff and Appellee below.

CORPORATE DISCLOSURE STATEMENT

Petitioner is an individual and there are no corporate interests to disclose.

DIRECTLY RELATED CASES

The following proceedings are directly related to this case:

United States v. Addison, et al [82 Defendants], 3:17-cr-00134, United States District Court, District of Western North Carolina (Charlotte Division), judgments entered against most Defendants, Bradley Beauchamp (Def No. 6), Dricko Dashon Huskey (34), Tonney Horatio Kerbay (39), Renaire Roshique Lewis, Jr (43), Alandus Montrell Smith (69), and Jonathan Wray (82) pending.

United States v. Ronald Anthony Wofford, 3:18-cr-00320, United States District Court, District of Western North Carolina (Charlotte Division), Judgment entered February 14, 2019, Supervised Release Violation pending.

United States v. Montraya Antwain Atkinson, 18-4779, United States Court of Appeals for the Fourth Circuit, Appeal Briefed and Pending.

United States v. John Baxton, 18-4665, United States Court of Appeals for the Fourth Circuit, Appeal Briefed and Pending, Oral Argument Scheduled March 20, 2020 session, rescheduled due to coronavirus.

United States v. Renaldo Rodregus Camp, 18-4848, United States Court of Appeals for the Fourth Circuit, Appeal Briefed and Pending.

United States v. Shakira Monique Campbell, 18-4328, United States Court of Appeals for the Fourth Circuit, Appeal Dismissed by Appellant, September 25, 2018.

United States v. Adrian Nayron Coker, 18-4521, United States Court of Appeals for the Fourth Circuit, Unpublished per curium opinion filed, May 20, 2019.

United States v. Marquel Michael Cunningham, 20-4144, United States Court of Appeals for the Fourth Circuit, Appeal Pending, Appellant filed Motion to Dismiss Appeal, March 16, 2020.

United States v. Cynthia Gilmore, 18-4855, United States Court of Appeals for the Fourth Circuit, Appeal Briefed and Pending, Oral Argument Scheduled March 20, 2020 session, rescheduled due to coronavirus.

United States v. Shamon Monair Goins, 19-4328, United States Court of Appeals for the Fourth Circuit, Unpublished per curiam opinion filed, October 21, 2019.

United States v. Pedro Gutierrez, 18-4656, United States Court of Appeals for the Fourth Circuit, Appeal Briefed and Pending, Oral Argument Scheduled March 20, 2020 session, rescheduled due to coronavirus.

United States v. Lavaughn Antonio Hanton, 18-4672, United States Court of Appeals for the Fourth Circuit, Unpublished per curiam Opinion, April 23, 2019.

United States v. Quincy Delone Haynes, 181-4613, United States Court of Appeals for the Fourth Circuit, Unpublished per curiam Opinion issued, April 22, 2019.

United States v. Lamonte Kentrell Lloyd, 20-4153, United States Court of Appeals for the Fourth Circuit, Appellant's Motion to Dismiss Appeal Granted, March 18, 2020.

United States v. Christopher O'Brien Moore, 19-4093, United States Court of Appeals for the Fourth Circuit, Appeal Briefed and Pending.

United States v. Thomas Oliver, 20-4140, United States Court of Appeals for the Fourth Circuit, Appeal Pending.

United States v. Rashad Sattar, 18-4666, United States Court of Appeals for the Fourth Circuit, Appeal Dismissed by Appellant, March 4, 2019.

United States v. Twylain Wilson, 18-4566, United States Court of Appeals for the Fourth Circuit, Appeal Briefed and Pending.

United States v. Patrick Devon Wray, 19-4450, United States Court of Appeals for the Fourth Circuit, Unpublished per curiam opinion filed, January 28, 2020.

James Walter Dowdle v. United States, 3:19-cv-00614, United States District Court, District of Western North Carolina (Charlotte Division), Motion to Vacate pending

Isaiah Devon Stallworth v. United States, 3:19-cv-00495, United States District Court, District of Western North Carolina (Charlotte Division), Order to Vacate, Set Aside or Correct Sentence (2255) denied, Notice of Appeal filed.

United States v. Isaiah Devon Stallworth, 20-6064, United States Court of Appeals for the Fourth Circuit, Appeal Pending.

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PETITION FOR A WRIT OF CERTIORARI

KENNETH MARQUISE RUFF respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the Court of Appeals (App. 1a to 4a) is reported at 788 Fed. Appx. 211 (December 20, 2019). The Judgment was issued by the District Court regarding issues presented in this writ (App. 5a to 11a) (February 25, 2019).

JURISDICTION

The judgment of the Court of Appeals (App. 1a to 4a) was entered on December 20, 2019. This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment provides that “[n]o person shall... be deprived of life, liberty, or property, without due process of law.”

Section 1962(d) of Title 18 of the U.S. Code states “It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.”

Section 1962(a), (b), and (c) of Title 18 of the U.S. Code are included in the appendix at 155a

STATEMENT OF THE CASE

1. Criminal Offense. On May 16, 2017, the Petitioner, Kenneth Marquise Ruff was indicted along with 82 other defendants. His charge of conspiracy from the Grand Jury was an allegation of involvement in a Racketeer Influenced Corrupt Organization (“RICO”) Conspiracy as part of the United Blood Nation (“UBN”) in violation of 18 U.S.C. § 1962(d). On March 13, 2018, the First Superseding Indictment was filed against the remaining defendants, with Mr. Ruff’s charges remained unchanged. In addition to general allegations regarding membership in the UBN and the illicit acts committed by the UBN, the specific factual allegations against Mr. Ruff in the Indictment and the First Superseding Indictment were as follows:

OA-297. On or about November 23, 2016, (27) QUINCY DELONE HAYNES a/k/a "Black Montana" and (67) KENNETH MARQUISE RUFF a/k/a "Red Hot" conducted a gang meeting by telephone.

OA-300. On or about November 25, 2016, (67) KENNETH MARQUISE RUFF a/k/a "Red Hot" and (80) TWYLAIN WILSON a/k/a "5 Alive" conducted a gang meeting by telephone.

OA-314. On or about December 7, 2016 (27) QUINCY DELONE HAYNES a/k/a "Black Montana" and (67) KENNETH MARQUISE RUFF a/k/a "Red Hot" conducted a gang meeting by telephone.

The 134-page indictment of 82 individuals is one of the most complex, extensive single RICO prosecutions attempted in a single case. The indictment covered numerous individuals with varying involvement and culpability from the primary gang leaders in Riker’s Island in New York City facing capital offenses to

street-level members like the Petitioner in small rural town of Shelby, North Carolina (population 20,000) with minimal involvement.

2. Plea in District Court. This far-reaching indictment created voluminous discovery. After investigation and review of discovery including millions of pages of documents and tens of thousands of hours of video and audio recordings, Mr. Ruff filed a Notice to change his plea to guilty without the benefit of a plea agreement on July 23, 2018.

On September 12, 2018, a factual basis was filed by agreement between the Government and the Petitioner. The factual basis contained a general description of the conspiracy and a number of factual matters specific to Mr. Ruff. Specific allegations included an incident in 2011 (no month or day), where the Petitioner along with his brother, co-Defendant Twylain Wilson, assaulted another UBN member. The factual basis contained descriptions of drug transactions, including the sale of one-half ounce of marijuana for \$40 by Mr. Ruff on March 16, 2014, and the purchase marijuana by Mr. Ruff from another UBN member on October 18, 2014, with no quantity or price specified. The Factual Basis also contained the description of several recorded telephone conversations captured on a court-authorized Title III interception or on recorded telephone calls at the Cleveland County Jail, including the calls detailed in the indictment.

3. Sentencing. Following the publication of the presentence report and the filing of objections and an extensive sentencing memorandum on all issues by the Petitioner, the Court held an extensive sentencing hearing on February 12, 2019, to

consider three specific objections to the Presentence Report involving proposed enhancements. The enhancements included (1) an addition of two criminal history points under U.S.S.G. § 4A1.1(d), alleging the Petitioner committed the instant offense while under a criminal justice sentence (“Under criminal justice sentence”); (2) an enhancement under U.S.S.G. § 3C1.1, alleging the Petitioner willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice (“obstruction”); and a third enhancement not relevant for this Petition.

Petitioner’s evidence demonstrated that during the long period of this RICO conspiracy for numerous periods outside of the particularly described activity, the Petitioner was not involved with the activity of the United Blood Nation and was an otherwise law-abiding citizen. At the hearing the Court received evidence from the Government which was not included in the activity outlined in the indictment or the activity outlined in the factual basis. This evidence included an allegation the Petitioner was instructed by a higher-ranking member to assault a subordinate member if he cooperated with law enforcement against him, which was allegedly related to the enhancement for obstruction.

The Petitioner was sentenced on February 12, 2019, by the Honorable Judge Frank D. Whitney, United States District Court Judge for the Western District of North Carolina, who committed the Petitioner to the custody of the Bureau of Prisons sixty-three (63) months, among other conditions. During sentencing, the Court determined that the Petitioner was subject to the enhancement provisions of

U.S.S.G. § 4A1.1(d) (“Offense under criminal justice sentence”) and U.S.S.G. § 3C1.1 (“Obstruction”).

4. The Court of Appeals Decision. On Appeal the Petitioner argued that the District Court improperly applied the sentencing enhancement under U.S.S.G. § 4A1.1(d), alleging the Petitioner committed the instant offense while under a criminal justice sentence and the sentencing enhancement under U.S.S.G. § 3C1.1, alleging the Petitioner willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice.

Specifically, the Petitioner argued that a RICO conspiracy was unique because no affirmative act is required to join a RICO conspiracy, but the Circuit Courts have held that an affirmative act is required to withdraw from that conspiracy. The Petitioner argued that, absent an overt act indicating that his involvement in a RICO conspiracy is ongoing, the district court should not have concluded he was “under a criminal justice sentence” during the RICO conspiracy. Additionally, the Petitioner argued that the Government did not provide sufficient evidence that the obstruction of justice allegedly committed in a state charged crime against an individual who was not named in the Petitioner’s RICO conspiracy was in any way related to the Petitioner’s RICO conspiracy conviction. That relationship to the RICO conspiracy was required to impose the enhancement under the Guidelines.

In an unpublished *per curium* opinion, the Court of Appeals for the Fourth Circuit reviewed the issues involving obstruction of justice as a factual finding and

found no clear error. The Court did not address the legal issues raised by the Petitioner regarding withdrawal from a RICO conspiracy or alleged obstruction in crimes outside the conspiracy.

REASONS FOR GRANTING THE PETITION

“You can check out any time you like,
But you can never leave!”¹

Because the length and breadth of the Racketeer Influenced Corrupt Organization (“RICO”) Conspiracy under 18 U.S.C. § 1962(d) was undefined when he pled, the Petitioner’s procedural due process rights under the Fifth Amendment are implicated. The composition of this RICO conspiracy is unclear, because joining a RICO conspiracy does not require an overt act, but under the current law, withdrawing from the conspiracy does. But the Petitioner was subjected to sentencing enhancements and was sentenced as a result of a longer and broader conspiracy than alleged in the indictment or factual basis, and this implicated his procedural due process rights.

It is well-settled law that “the Due Process Clause prohibits the Government from taking away someone’s life, liberty, or property under a criminal law so vague that it fails to give ordinary people fair notice of the conduct it punishes, or so standardless that it invites arbitrary enforcement.” *Beckles v. United States*, ___ U.S. ___, ___, 137 S. Ct. 886, 892, 197 L. Ed. 145, 151-152 (2017). *Johnson v. United States*, 576 U.S. ___, ___, 135 S. Ct. 2551, 2555, 192 L. Ed. 2d 569,

¹ The Eagles, “Hotel California” (song), 1977.

577 (2015). *Kolender v. Lawson*, 461 U.S. 352, 357-358, 103 S. Ct. 1855, 75 L. Ed. 2d 903 (1983). A party may raise a vagueness challenge by arguing either that a statute is vague as applied to the facts at hand, or that a statute is void on its face. Only those who are not given fair warning of the criminality of his own conduct can raise a procedural due process claim. *Parker v. Levy*, 417 U.S. 733, 756, 94 S. Ct. 2547, 2561-62, 41 L. Ed. 2d 439, 457-58 (1974).

There have been numerous attacks on RICO on vagueness grounds, but this Court has never specifically addressed the issue directly. In a concurring opinion in *H.J., Inc. v Northwestern Bell Telephone Co.*, Justice Scalia wrote “No constitutional challenge to this law has been raised in the present case, and so that issue is not before us. That the highest Court in the land has been unable to derive from this statute anything more than today's meager guidance bodes ill for the day when that challenge is presented.” *Id.*, 492 U.S. 229, 255-56, 109 S. Ct. 2893, 2909, 106 L. Ed. 2d 195, 218 (1989). Circuit Courts have addressed constitutional attacks on RICO on vagueness grounds and upheld the law under a number of different theories. They have uniformly held that vagueness claims must be considered on the facts of the particular case in which the claim is asserted. *See e.g.*, *United States v. Angiulo*, 897 F.2d 1169, 1178-1180 (1st Cir. 1990); *United States v. Burden*, 600 F.3d 204 (2d Cir. 2010); *United States v. Pungitore*, 910 F.2d 1084, 1102-05 (3d Cir. 1990); *United States v. Borromeo*, 954 F.2d 245, 248 (4th Cir. 1992); *United States v. Krout*, 66 F.3d 1420, 1432 (5th Cir. 1995); *Columbia Natural Resources, Inc. v. Tatum*, 58 F.3d 1101, 1104-1109 (6th Cir. 1995); *United States v. Griffith*, 85 F.3d 284, 287-88

(7th Cir. 1996); *United States v. Keltner*, 147 F.3d 662, 667 (8th Cir. 1998); *United States v. Dischner*, 974 F.2d 1502, 1508-1510 (9th Cir. 1992); *United States v. Van Dorn*, 925 F.2d 1331, 1334 n. 2 (11th Cir. 1991).

These Courts have not been asked to address the unique and important situation at issue here: that is, where enhancements to an advisory guidelines sentence were based on a factual determination that a particular individual at a particular period of time was involved in the conspiracy, despite no evidence regarding that involve being available at the time of the plea. Nor have they considered the interplay of RICO and the Guidelines in the context of a conspiracy undefined in breadth and length. In the case at bar, the Petitioner's Guidelines sentence was enhanced as a direct result of an expansion of the RICO conspiracy in breadth and length beyond the conspiracy outlined in the Indictment and in the Factual Basis. These are the important questions at issue in this Petition, and Petitioner's procedural due process are implicated when the undefined bounds of the RICO conspiracy were applied at Petitioner's sentencing.

A. Entering and Leaving a RICO conspiracy

The alignment of unique circumstances in this case is due in part to the unique nature of a RICO conspiracy. While *violation* of 18 U.S.C. § 1962(c) requires proof of a pattern (defined as at least two acts) of racketeering activity, participation in a RICO *conspiracy* does not require that an overt act be undertaken by the convicted conspirator. “There is no requirement of some overt act or specific act in the statute before us, unlike the general conspiracy provision applicable to

federal crimes, which requires that at least one of the conspirators have committed an ‘act to effect the object of the conspiracy.’” *Salinas v. United States*, 522 U.S. 52, 62-65, 118 S. Ct. 469, 139 L. Ed. 2d 352 (1997). “The RICO conspiracy statute, § 1962(d), broadened conspiracy coverage by omitting the requirement of an overt act.” *Id.* A RICO conspiracy indictment thus encompasses persons who would not be included in within participation in a traditional criminal conspiracy, which requires proof of an overt act. *Id.* A Defendant “need only agree to advance a RICO undertaking.” *Id.* As this Court concluded, “so long as the purpose of the agreement is to facilitate commission of a crime, the actor need not agree ‘to commit’ the crime.” *Id.*, quoting American Law Institute, Model Penal Code, Tent. Draft No. 10, p. 117 (1960). Model Penal Code § 5.03(1)(a), 10 U.L.A. 501 (1974).

Despite this difference in the law that no overt act by a Defendant is required to *join* a RICO conspiracy, the Circuit Courts have merely adopted general conspiracy jurisprudence in a RICO conspiracy by requiring an overt act to *leave* a RICO conspiracy. *United States v. Leoner-Aguirre*, 939 F.3d 310 (1st Cir. 2019). *United States v. Minicone*, 960 F.2d 1099 (2d Cir. 1992). *United States v. Antar*, 53 F.3d 568 (3d Cir. 1995). *United States v. West*, 877 F.2d 281 (4th Cir. 1989). *United States v. Owens*, 724 F. App'x 289 (5th Cir. 2018) (quoting *United States v. Heard*, 709 F.3d 413 (5th Cir. 2013)). *United States v. Deitz*, 577 F.3d 672 (6th Cir. 2009). *United States v. Benabe*, 436 F. App'x 639 (7th Cir. 2011) (*citing United States v. Julian*, 427 F.3d 471 (7th Cir. 2005)). *United States v. LeQuire*, 943 F.2d 1554, 1564 (11th Cir. 1991).

The application of the rules governing a general conspiracy requiring an affirmative act to *withdraw* from a conspiracy² is at odds with the RICO statute which omits the requirement of an act to initially *join* the conspiracy. This Court has not examined the amorphous nature of a complex multi-level RICO conspiracy whose length and breadth is undefined at the time of the Petitioner's plea, as was the case here. Because a RICO conspiracy does not require an affirmative act to join, it is inherently unclear which individuals and which activities are within the realm of unindicted co-conspirators and unindicted conduct. Likewise, because the Circuit Courts have determined leaving a RICO conspiracy requires the affirmative act that joining the conspiracy does not, a member of a complex multi-level RICO conspiracy is held accountable for periods of time when he did not actually participate or support the conspiracy. In this unique circumstance, the evidence considered by the Court at sentencing was not limited by the terms of the Indictment and Factual Basis and did not reflect the conspiracy as defined in the Petitioner's plea.

² There is a singular exception to the general rule that an affirmative act is required to leave a conspiracy. When a juvenile is a member of a conspiracy, he is considered to withdraw from the conspiracy upon reach majority without further action. "Every court that has considered the issue has required post-eighteen participation in the conspiracy because only such conduct signals the adult individual's ratification of prior involvement in the conspiracy as a juvenile." *United States v. Thomas*, 324 U.S. App. D.C. 374, 114 F.3d 228, 264 (1997) citing *United States v. Tolliver*, 61 F.3d 1189 (5th Cir. 1995); *United States v. Wong*, 40 F.3d 1347, 1365 (2d Cir. 1994), cert. denied, 133 L. Ed. 2d 127, 116 S. Ct. 190 (1995); *United States v. Maddox*, 944 F.2d 1223, 1233 (6th Cir. 1991); *United States v. Doerr*, 886 F.2d 944, 969 (7th Cir. 1989); *United States v. Cruz*, 805 F.2d 1464, 1476 (11th Cir. 1986), cert. denied, 481 U.S. 1006, 95 L. Ed. 2d 204, 107 S. Ct. 1631 (1987).

B. Based on the RICO conspiracy in his plea, the Petitioner did not obstruct justice under the Guidelines

The Petitioner had his Guidelines sentence increased as the result of an obstruction of justice enhancement which requires a relationship between the act of obstruction and the Petitioner's offense of conviction; this relationship was absent. While the Guidelines are advisory, they must be considered at sentencing. "The district courts, while not bound to apply the Guidelines, must consult those Guidelines and take them into account when sentencing." *United States v. Booker*, 543 U.S. 220, 264, 125 S. Ct. 738, 767, 160 L. Ed. 2d 621, 663 (2005). While the Guidelines are not impermissibly vague on their own,³ an issue of procedural due process is implicated when these Guidelines provisions are applied to a RICO conspiracy under the facts of this case.

Specifically, U.S.S.G § 3C1.1 imposes a 2 level increase "If (1) the defendant willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice with respect to the investigation, prosecution, or sentencing of the *instant offense of conviction*, and (2) the obstructive conduct related to (A) the defendant's offense of conviction and any relevant conduct; or (B) a closely related offense." U.S.S.G § 3C1.1 (emphasis added).

In order to impose the enhancement, the Court must determine that (a) the Defendant obstructed or attempted to obstruct the administration of justice (b) with

³ This Court also found that the Guidelines themselves are not subject to a facial vagueness challenge under the Due Process Clause because "the advisory Guidelines do not fix the permissible range of sentences." *Beckles v. United States*, ___ U.S. ___, ___, 137 S. Ct. 886, 892, 197 L. Ed. 145, 152 (2017).

respect to the instant offense of conviction and (c) the obstructive conduct related to the defendant's offense of conviction or a closely related offense. If all are not present, the enhancement is improper.

This enhancement was imposed on the Petitioner on the allegation that he "was instructed by a higher-ranking member to assault a subordinate member if he cooperated with law enforcement against him." This accusation is based on the recorded telephone conversation on November 25, 2016, between Mr. Ruff and his brother, Twylain Wilson, an indicted member of the RICO conspiracy, who was in custody in the Cleveland County Detention Center. The conversation concerned an individual known only as "Chronic," who was a state-charged codefendant of Wilson in a state law crime of assault with deadly weapon and burglary.

While evidence is scant with regards to whether the Petitioner attempted to obstruct or actually obstructed justice, there is absolutely no evidence that the state law crime of assault with deadly weapon and burglary involved the Petitioner's instant offense of conviction.

The application of this language from the Guidelines is particularly problematic when applied to the RICO conspiracy in this case. Racketeering acts are related if they "have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events." *H.J. Inc.*, 492 U.S. at 240, 109 S. Ct. at 2901, 106 L. Ed. 2d at 208. The individual known as "Chronic" was not charged in

the RICO conspiracy, and there is no evidence in the record linking Mr. Wilson's or Chronic's state charges to the RICO conspiracy.

However, because Chronic could have joined the RICO conspiracy without an overt act and in the absence of a clear factual outline of the breadth of conspiracy based in the language of the indictment and additional filings prior to his plea, it is impossible for the Petitioner to know when he pled whether the state law offenses allegedly committed by his brother and Chronic were within the complex multi-level RICO conspiracy.

C. Based on the RICO conspiracy in his plea, the Petitioner did not commit a criminal act while under criminal justice sentence

Section 4A1.1(d) of the United States Sentencing Guidelines instructs "Add 2 points if the defendant committed the instant offense while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status." U.S.S.G. § 4A1.1(d).

The timing of the overt acts of the Petitioner detailed in the indictment, factual basis, and sentencing evidence occurred outside the periods when Mr. Ruff was under a criminal justice sentence. Because there was evidence promulgated at sentencing that the Petitioner refrained from advancing the RICO undertaking for long periods of time without any affirmative act in furtherance of the conspiracy, the Petitioner argued there is not sufficient evidence to demonstrate that he was under a criminal justice sentence while acting in the conspiracy. An examination of the timing of the Petitioner's alleged acts suggests there is no evidence in the record

which makes it more likely than not that the Petitioner committed any of his overt acts while under a criminal justice sentence.

As demonstrated by the Supreme Court's decision in *Salinas*, it is not necessary that the Petitioner "commit or agree to commit the predicate acts—rather, he need only agree to advance a RICO undertaking." Nevertheless, "an association-in-fact enterprise must have at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose." *Boyle v. United States*, 556 U.S. 938, 946, 129 S. Ct. 2237, 173 L. Ed. 2d 1265 (2009).

The Government has alleged,⁴ and the Court likely accepted that Mr. Ruff "was a member of the UBN throughout that time period between 2011 and 2017." The Petitioner argued at sentencing and in the Circuit Court that he had left the conspiracy for long periods of time when he committed no criminal acts and did not advance the criminal undertaking. Supporting this contention, a Federal investigator, who was Government witness at sentencing, admitted that some people just leave the UBN gang and quit associating the organization for long periods of time.

However, without a clear factual outline of the length of conspiracy based in the language of the indictment and additional filings prior to his plea, it is

⁴ Both the Government and the Probation Officer suggest that "in connection with the crime of conviction, that the defendant continued participation of RICO Conspiracy beginning in 2011 and continued while serving these criminal justice terms as the defendant did not affirmatively withdraw from the conspiracy prior to being imprisoned or placed on probation."

impossible for the Petitioner to know the offense to which he is pleading – what is the legal duration of his involvement in the conspiracy.

CONCLUSION

The petition for a writ of certiorari should be granted.

RESPECTFULLY SUBMITTED THIS the 19th day of March, 2019.

/s/ James W. Kilbourne, Jr.

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Attorney for the Petitioner
Appointed under the Criminal Justice Act

APPENDIX

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UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-4152

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENNETH MARQUISE RUFF, a/k/a Red Hot,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Frank D. Whitney, Chief District Judge. (3:17-cr-00134-FDW-DSC-67)

Submitted: November 27, 2019

Decided: December 20, 2019

Before GREGORY, Chief Judge, and MOTZ and RICHARDSON, Circuit Judges.

Affirmed by unpublished per curiam opinion.

James W. Kilbourne, Jr., DUNGAN, KILBOURNE & STAHL, PA, Asheville, North Carolina, for Appellant. R. Andrew Murray, United States Attorney, Charlotte, North Carolina, Amy E. Ray, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth Marquise Ruff appeals the 63-month sentence imposed after he pled guilty without a plea agreement to conspiracy to participate in racketeering activity (RICO), in violation of 18 U.S.C. §§ 1962(d), 1963(2) (2012). Ruff asserts that the district court erred in calculating his Sentencing Guidelines range. According to Ruff, the court should not have enhanced his criminal history score under U.S. Sentencing Guidelines Manual (USSG) § 4A1.1(d) (2018), because he argues that, absent an overt act indicating that a RICO conspiracy is ongoing, the district court should not have assumed he was “under a criminal justice sentence” during the RICO conspiracy. Ruff also assigns error to the court’s decision to increase his base offense level under: (1) USSG § 3C1.1 (2018), for obstruction of justice; and (2) USSG § 3B1.1(c) (2018), for his aggravating role in the conspiracy to which he pled guilty. Finding no error, we affirm.

In reviewing whether a sentencing court properly calculated a Guidelines range, including its application of a sentencing enhancement, we review the district court’s legal conclusions *de novo* and its factual findings for clear error. *United States v. Fluker*, 891 F.3d 541, 547 (4th Cir. 2018). Thus, whether a defendant obstructed justice warranting an offense level increase under USSG § 3C1.1 is a finding of fact that this court reviews for clear error. *See United States v. Andrews*, 808 F.3d 964, 969 (4th Cir. 2015). We also review for clear error a district court’s finding that a defendant committed an offense while under a criminal justice sentence, *see United States v. Brooks*, 524 F.3d 549, 564-65 (4th Cir. 2008), and that a defendant was a manager or supervisor of criminal activity, *see United States v. Steffen*, 741 F.3d 411, 415 (4th Cir. 2013). This court will find clear error

only if it is “left with the definite and firm conviction that a mistake has been committed.”

United States v. Cox, 744 F.3d 305, 308 (4th Cir. 2014) (internal quotation marks omitted).

We have reviewed the record and have considered the parties’ arguments and discern no clear error in the district court’s decision to adopt the Guidelines range as calculated in Ruff’s presentence report.

We thus affirm the district court’s judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: December 20, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-4152
(3:17-cr-00134-FDW-DSC-67)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

KENNETH MARQUISE RUFF, a/k/a Red Hot

Defendant - Appellant

JUDGMENT

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

UNITED STATES DISTRICT COURT
Western District of North Carolina

UNITED STATES OF AMERICA

v.

KENNETH MARQUISE RUFF

) **JUDGMENT IN A CRIMINAL CASE**
) (For Offenses Committed On or After November 1, 1987)
)
)
) Case Number: DNCW317CR000134-067
) USM Number: 33571-058
)
) James W. Kilbourne Jr.
) Defendant's Attorney

THE DEFENDANT:

- Pleaded guilty to count(s) 1s.
- Pleaded nolo contendere to count(s) which was accepted by the court.
- Was found guilty on count(s) after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

Title and Section	Nature of Offense	Date Offense Concluded	Counts
18:1962(d); 18:1963(2)	Conspiracy to Participate in Racketeering Activity – RICO Conspiracy	03/13/2018	1s

The Defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984, United States v. Booker, 125 S.Ct. 738 (2005), and 18 U.S.C. § 3553(a).

- The defendant has been found not guilty on count(s).
- Count(s) 1 (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the Defendant shall 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 monetary penalties, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: 2/12/2019

Signed: February 25, 2019



Frank D. Whitney
Chief United States District Judge


Defendant: Kenneth Marquise Ruff
Case Number: DNCW317CR000134-067

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IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of SIXTY-THREE (63) MONTHS.

- The Court makes the following recommendations to the Bureau of Prisons:
 1. Placed in a facility as close to Shelby or Grover, NC as possible, consistent with the needs of BOP.
 2. Participation in any available educational and vocational opportunities.
 3. Participation in the Federal Inmate Financial Responsibility Program.
 4. Defendant shall support all dependents from prison earnings.
- The Defendant is remanded to the custody of the United States Marshal.
- The Defendant shall surrender to the United States Marshal for this District:
 - As notified by the United States Marshal.
 - At _ on _.
- The Defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - As notified by the United States Marshal.
 - Before 2 p.m. on _.
 - As notified by the Probation 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 Marshal

Defendant: Kenneth Marquise Ruff
Case Number: DNCW317CR000134-067

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SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of TWO (2) YEARS.

The condition for mandatory drug testing is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

CONDITIONS OF SUPERVISION

The defendant shall comply with the mandatory conditions that have been adopted by this court.

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall not unlawfully possess a controlled substance.
3. 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 (unless omitted by the Court).
4. The defendant shall 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 shall cooperate in the collection of DNA as directed by the probation officer (unless omitted by the Court).

The defendant shall comply with the standard conditions that have been adopted by this court and any additional conditions ordered.

1. The defendant shall report to the probation office in the federal judicial district where he/she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
2. The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer.
3. The defendant shall not leave the federal judicial district where he/she is authorized to reside without first getting permission from the Court or probation officer.
4. The defendant shall answer truthfully the questions asked by the probation officer.
5. The defendant shall live at a place approved by the probation officer. The probation officer shall be notified in advance of any change in living arrangements (such as location and the people with whom the defendant lives).
6. The defendant shall allow the probation officer to visit him/her at any time at his/her home or elsewhere, and shall permit the probation officer to take any items prohibited by the conditions of his/her supervision that the probation officer observes.
7. The defendant shall work full time (at least 30 hours per week) at lawful employment, unless excused by the probation officer. The defendant shall notify the probation officer within 72 hours of any change regarding employment.
8. The defendant shall not communicate or interact with any persons engaged in criminal activity, and shall not communicate or interact with any person convicted of a felony unless granted permission to do so by the probation officer.
9. The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.
10. The defendant shall 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 shall not act or make any agreement with a law enforcement agency to act as a confidential informant without the permission of the Court.
12. If the probation officer determines that 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. The probation officer may contact the person and make such notifications or confirm that the defendant has notified the person about the risk.
13. The defendant shall refrain from excessive use of alcohol and shall not unlawfully purchase, possess, use, distribute or administer any narcotic or controlled substance or any psychoactive substances (including, but not limited to, synthetic marijuana, bath salts) that impair a person's physical or mental functioning, whether or not intended for human consumption, or any paraphernalia related to such substances, except as duly prescribed by a licensed medical practitioner.
14. The defendant shall participate in a program of testing for substance abuse if directed to do so by the probation officer. The defendant shall refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of the testing. If warranted, the defendant shall participate in a substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity) (unless omitted by the Court).
15. The defendant shall not go to, or remain at any place where he/she knows controlled substances are illegally sold, used, distributed, or administered without first obtaining the permission of the probation officer.
16. The defendant shall submit his/her person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), or other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer and such other law enforcement personnel as the probation officer may deem advisable, without a warrant. The defendant shall warn any other occupants that such premises may be subject to searches pursuant to this condition.
17. The defendant shall pay any financial obligation imposed by this judgment remaining unpaid as of the commencement of the sentence of probation or the term of supervised release in accordance with the schedule of payments of this judgment. The defendant shall notify the court of any changes in economic circumstances that might affect the ability to pay this financial obligation.
18. The defendant shall provide access to any financial information as requested by the probation officer and shall authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.
19. The defendant shall not seek any extension of credit (including, but not limited to, credit card account, bank loan, personal loan) unless authorized to do so in advance by the probation officer.
20. The defendant shall support all dependents including any dependent child, or any person the defendant has been court ordered to support.
21. The defendant shall participate in transitional support services (including cognitive behavioral treatment programs) and follow the rules and regulations of such program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity). Such programs may include group sessions led by a counselor or participation in a program administered by the probation officer.
22. The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

ADDITIONAL CONDITIONS:

23. The defendant shall not communicate, or otherwise interact, with any known member of the United Blood Nation (UBN) gang, without first obtaining permission of the probation officer.

Defendant: Kenneth Marquise Ruff
Case Number: DNCW317CR000134-067

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CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments.

ASSESSMENT	FINE	RESTITUTION
\$100.00	\$0.00	\$0.00

The determination of restitution is deferred until. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

FINE

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

- The court has determined that the defendant does not have the ability to pay interest and it is ordered that:
- The interest requirement is waived.
- The interest requirement is modified as follows:

COURT APPOINTED COUNSEL FEES

- The defendant shall pay court appointed counsel fees.
- The defendant shall pay \$0.00 towards court appointed fees.

Defendant: Kenneth Marquise Ruff
Case Number: DNCW317CR000134-067

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SCHEDULE OF PAYMENTS

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

- A Lump sum payment of \$0.00 due immediately, balance due
 - Not later than _____
 - In accordance (C), (D) below; or
- B Payment to begin immediately (may be combined with (C), (D) below); or
- C Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of \$50.00 to commence 60 (E.g. 30 or 60) days after the date of this judgment; or
- D Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of \$ 50.00 to commence 60 (E.g. 30 or 60) days after release from imprisonment to a term of supervision. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. Probation Officer shall pursue collection of the amount due, and may request the court to establish or modify a payment schedule if appropriate 18 U.S.C. § 3572.

Special instructions regarding the payment of criminal monetary penalties:

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court costs:
- The defendant shall forfeit the defendant's interest in the following property to the United States: Any property identified by the United States during the course of this investigation.

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States District Court Clerk, 401 West Trade Street, Room 210, Charlotte, NC 28202, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. All criminal monetary penalty payments are to be made as directed by the court.

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.

Defendant: Kenneth Marquise Ruff
Case Number: DNCW317CR000134-067

Judgment- Page 7 of 7

STATEMENT OF ACKNOWLEDGMENT

I understand that my term of supervision is for a period of _____ months, commencing on _____.

Upon a finding of a violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

I understand that revocation of probation and supervised release is mandatory for possession of a controlled substance, possession of a firearm and/or refusal to comply with drug testing.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____ Date: _____
Defendant

(Signed) _____ Date: _____
U.S. Probation Office/Designated Witness

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF AMERICA)
) DOCKET NO. 3:17 CR 134
 v.)
) FACTUAL BASIS
(67) KENNETH MARQUISE RUFF)
 a/k/a "Red Hot")
)

NOW COMES the United States of America, by and through R. Andrew Murray, United States Attorney for the Western District of North Carolina and David L. Jaffe, Chief, Organized Crime and Gang Section, United States Department of Justice, and hereby files this Factual Basis.

This Factual Basis is filed pursuant to Local Criminal Rule 11.2 and does not attempt to set forth all of the facts known to the United States at this time. By their signatures below, the parties expressly agree that there is a factual basis for the guilty plea(s) that the defendant will tender, and that the facts set forth in this Factual Basis are sufficient to establish all of the elements of the crime(s). The parties agree not to object to or otherwise contradict the facts set forth in this Factual Basis.

Upon acceptance of the plea, the United States will submit to the Probation Office a "Statement of Relevant Conduct" pursuant to Local Criminal Rule 32.4. The defendant may submit (but is not required to submit) a response to the Government's "Statement of Relevant Conduct" within seven days of its submission. The parties understand and agree that this Factual Basis does not necessarily represent all conduct relevant to sentencing. The parties agree that they have the right to object to facts set forth in the presentence report that are not contained in this Factual Basis. Either party may present to the Court additional relevant facts that do not contradict facts set forth in this Factual Basis.

The Enterprise

1. The United Blood Nation (UBN) is the East Coast off-shoot of the California-based criminal street gang commonly known as the "Bloods." The Bloods street gang was founded in Los Angeles in the 1970s in response to the rise and dominance of the Crips street gang. The UBN, which is only loosely affiliated with the West Coast Bloods street gang, began as a prison gang in 1993. Since its inception, the UBN has spread throughout the eastern and central United States, and is now present in at least eight states. The ultimate authority for gang decisions is maintained in New York State and the New York State prison system, described by UBN members as "up top."

2. Nationally, there are approximately ten groups—also called “Hoods,” or “sets”—in the UBN. These Hoods include: the Nine Trey Gangsters; the Valentine Bloods; the Gangster Killer Bloods; and the Ericket Hunters. According to the National Gang Intelligence Center (NGIC), the UBN is estimated to have between 7,000 to 15,000 members on the East Coast. The UBN gang leadership includes a national council, comprised of leaders, typically the “Godfathers,” of larger Hoods such as the Nine Trey Gangsters.

3. Several UBN Hoods, including the Nine Trey Gangster Hood, have a presence in the Western District of North Carolina.

4. The UBN has a hierarchical structure and every UBN member has a specific rank. Specific duties and responsibilities to the Hood are associated with each specific rank. The UBN ranking system (otherwise known as a “Line Up”) is often disguised with code names that indicate the leadership structure. Ranks in the Nine Trey Gangsters hierarchy starts with the leader of the Hood, who is called the “Godfather.” Below the Godfather, in descending order, are: “High,” “Low,” “5-Star General,” “4-Star General,” “3-Star General,” “2-Star General,” “1-Star General.” A general member is called a “Soldier” or a “Scrap.” Women may hold unique positions of authority in the UBN and are often responsible for record keeping, covert communications, and distribution of gang records.

5. UBN members are often identified by their use of the color red, and can also often be identified by common tattoos or burn marks. Examples include: a three-circle pattern, usually burned onto the upper arm, known as a “dog paw”; the acronym “M.O.B.,” which stands for “Member of Bloods”; the words “damu,” or “eastside”; the number five; the five-pointed star; and the five-pointed crown. UBN members have distinct hand signs and written codes, which are used to identify other members and rival gang members. Codes have been developed and are used in an effort to thwart scrutiny from law enforcement. For example, the Nine Trey Gangsters will often refer to themselves or their Hood within the UBN as “Billies.” Additionally, when communicating electronically or by written correspondence, UBN members will often replace the letter “c” with an “x” or “b,” as a show of disrespect to the “Crips,” a rival criminal street gang. For example, the word District may be spelled as “Distrixt.”

6. All Hoods of the UBN enterprise are governed by a common set of 31 rules, known as “The 31,” which were originally written by the founders of the UBN. Members of the UBN are expected to conduct themselves and their illegal activity according to rules and regulations set by their leaders. Prominent among these is a requirement to pay monthly dues to the organization, often in the amounts of \$31 or \$93. A percentage of these funds are transferred to UBN leadership in New York; these funds also are used locally for gang business.

7. The UBN's primary sources of income in the Western District of North Carolina area derive from illegal activity, including but not limited to: narcotics trafficking, wire fraud, robberies, and the sale and transfer of weapons. The UBN enterprise requires that a portion of these illegally-obtained profits be transferred to gang leaders through monthly dues or other monetary contributions.

8. The UBN, including its leadership, members and associates, in the Western District of North Carolina, and elsewhere, constitutes an "enterprise," as defined by Title 18, United States Code, Sections 1961(4) and 1959(b)(2): that is, a group of individuals associated in fact. The enterprise constitutes an ongoing organization whose members function as a continuing unit for a common purpose of achieving the objectives of the enterprise. The UBN enterprise engaged in, and its activities affected, interstate and foreign commerce.

The Racketeering Conspiracy

9. The UBN enterprise in North Carolina and elsewhere, through its members and associates, engages in racketeering activity as defined in Title 18, United States Code, Sections 1959(b)(1) and 1961(1), including multiple acts involving murder in violation of North Carolina Gen. Stat. §§ 14-17, 14-2.4, 14-2.5, and 14-5.2; and South Carolina Code of Laws §§ 16-3-10, 16-3-29, § 16-1-40; and robbery, in violation of North Carolina Gen. Stat. §§ 14-87, 14.87.1 14-2.4, 14-2.5, and 14-5.2; and South Carolina Code of Laws §§ 16-3-19 and 16-11-330; multiple offenses indictable under 18 U.S.C. §§ 1028, 1343, 1344, and 1951; and multiple offenses involving narcotics trafficking in violation of 21 U.S.C. §§ 841(a)(1), 843, and 846. It was part of the conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

Purposes of the UBN Enterprise

10. The purposes of the UBN enterprise include preserving and protecting the power, territory, reputation, respect and profits of the enterprise through the use of intimidation, violence, threats of violence, assaults, and murder; promoting and enhancing the enterprise and its members' and associates' activities, including, but not limited to, robberies, murders, and other criminal activities; keeping rivals, victims, potential victims, and community members in fear of the enterprise and its members and associates through violence and threats of violence; providing financial support and information to other gang members, including those incarcerated in the United States; providing assistance to other gang members who committed crimes for and on behalf of the gang; and to hinder, obstruct, and prevent law enforcement officers from identifying, apprehending, and successfully prosecuting and punishing the offenders.

11. All of the defendants named in the Indictment are members or associates of the UBN.

The Defendant

12. The Defendant, Kenneth Marquise RUFF a/k/a "Red Hot," is a member of the Nine Trey Gangster Hood of the UBN. RUFF has been validated by law enforcement as a member of the UBN. RUFF is depicted on social media with individuals displaying UBN gang hand signs.

13. RUFF participated in UBN gang meetings, to include the following:

On November 23, 2016, RUFF and (27) Quincy Delone HAYNES conducted a telephonic conversation, which was captured on a court-authorized Title III interception of HAYNES's mobile phone. RUFF asked HAYNES if HAYNES had spoken to (26) Bianca Kiashie HARRISON and stated that another UBN member had an issue with HAYNES. HAYNES states that he did not know why other UBN member had an issue with HAYNES. RUFF stated to HAYNES, "I don't know why they trying to throw shit on your name either but they shit on your name for Five Alive. Five Alive told me to do some investigation so I did." "Five Alive" is (80) Twylain WILSON. RUFF further stated that he spoke to (26) Bianca Kiashie HARRISON about the issue and informed her that HAYNES had done nothing wrong.

14. In 2011, RUFF, along with (80) Twylain WILSON, held down another UBN member, heated up a bottle cap, and burned the UBN member on the arm with it. Another UBN member was also present during this incident.

15. RUFF participated in racketeering acts in furtherance of the UBN enterprise, including drug trafficking.

On March 16, 2014, RUFF agreed to sell another UBN member one half ounce of marijuana for \$40.

On October 18, 2014, RUFF agreed to purchase marijuana from another UBN member in order to distribute the marijuana.

On November 11, 2016, RUFF and (27) Quincy Delone HAYNES conducted a telephonic conversation, which was captured on a court-authorized Title III interception of HAYNES's mobile phone. On the call, RUFF asked HAYNES whether HAYNES knew of any "licks" that RUFF could perform to raise money. RUFF stated, "I need a lick, man. My shoulder is fucked up, out of place and shit. I'm trying to go take somebody's shit. [I'll] get you some money and ... or do you got something for me?" HAYNES responded that he did not know of any robbery targets at that time.

On November 25, 2016, RUFF and (80) Twylain WILSON conducted a telephonic conversation. WILSON and RUFF discussed UBN gang leadership topics. During the call, RUFF advised that he intended to "dub" all of WILSON's "scraps" in order to create WILSON "another team." RUFF and WILSON discussed the collection of UBN gang dues from UBN subordinates, including in the symbolic \$31 amounts. RUFF informed WILSON regarding the current status of due collections from subordinate UBN members, including that one member owed gang dues for the last three months. RUFF stated that he put a UBN subordinate called Danger "on freeze," or on probation from the UBN. RUFF stated that he spoke to a UBN member who was given the "5 gauge" or Five-Star General position in the UBN, and that they gave that member the "enforcer position" for a particular reason. RUFF said that the enforcer had "the green light to do whatever." RUFF said the only two people in WILSON's line that were "pushing" the UBN were "Loyalty" and

“Draco.” WILSON instructed RUFF to tell a subordinate member to “tighten the fuck up” because they suspected that the member was considering cooperating with law enforcement against WILSON. WILSON instructed RUFF to “dp” that member, or assault the member, if he did not show loyalty to WILSON and RUFF and to have that member show RUFF that member’s court paperwork. WILSON told RUFF to tell the member that if that member gave a statement to the police, that he is a “fucking dub.”

On December 7, 2016, RUFF and (27) Quincy Delone HAYNES conducted a telephonic conversation, which was captured on a court-authorized Title III interception of HAYNES’s mobile phone. RUFF asked HAYNES why another UBN member, (80) Twylain WILSON, got his “rim snatched,” or his UBN rank removed. RUFF stated that he would “fire off” on those who said that WILSON lost his rank. RUFF referred to himself by his UBN gang name of “Red Hot.” RUFF informed HAYNES that one of HAYNES’S UBN subordinates, or “scraps,” was telling people that “Five Alive,” or (80) Twylain WILSON lost rank within the UBN. RUFF stated, “next time I run across one of y’all, I don’t give a fuck what kind of drugs they motherfucking got bro, I will smash his face ... I will smash on everybody.” RUFF stated that he “poured a drink” for HAYNES, which is UBN terminology for providing UBN-related information. RUFF stated that nobody had their rims snatched, and “nobody aint gonna snatched my rims.” HAYNES asked who was spreading the rumor about WILSON and RUFF responded that it was an individual in “LG Line.” RUFF stated “tell them [] to stay in their places because I don’t need no army, I’m a one man army my damn self they call me ghost, I’ll go out here and I’ll clap all those [people] man.” “Clap” means to shoot. RUFF stated that HARRISON told RUFF to tell other UBN members to stop talking about WILSON because those that spread rumors will get their rank taken away because HARRISON had the rank of “active low.” RUFF stated, “I got my own artillery ... like I told you I don’t need no army. I be goin to fire off on motherfuckers for no reason.”

On December 9, 2016, RUFF and (27) Quincy Delone HAYNES conducted a telephonic conversation, which was captured on a court-authorized Title III interception of HAYNES’s mobile phone. RUFF asked HAYNES if HAYNES had “heat,” or a firearm that RUFF could borrow. HAYNES responded that he did have a firearm. RUFF responded, “You gonna let me get it. I can bring it back to you.”

Conclusion

16. At all times relevant to the Indictment, the defendant was a member or associate of the UBN enterprise, knowingly and intentionally agreed to conduct or participate in the affairs of the UBN enterprise, and knowingly and intentionally agreed that he or some other member of the conspiracy would commit at least two racketeering acts.

R. ANDREW MURRAY
UNITED STATES ATTORNEY

DAVID L. JAFFE
CHIEF, ORGANIZED CRIME AND GANG SECTION
UNITED STATES DEPARTMENT OF JUSTICE

For ANDREW L. CREIGHTON
TRIAL ATTORNEY

MATTHEW T. WARREN
ASSISTANT UNITED STATES ATTORNEY

Defendant's Counsel's Signature and Acknowledgment

I have read this Factual Basis and the First Superseding Bill of Indictment in this case, and have discussed them with the defendant. Based on those discussions, I am satisfied that the defendant understands the Factual Basis the First Superseding Bill of Indictment. I hereby certify that the defendant does not dispute this Factual Basis with the exception of those facts to which I have specifically reserved the right to object, and understands that it may be used for the purposes stated above.

James W. Kilbourne, Jr., Attorney for Defendant

DATED: 9/12/18

FILED
CHARLOTTE, NC

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

MAR 13 2018

US DISTRICT COURT
WESTERN DISTRICT OF NC

UNITED STATES OF AMERICA

v.

(1) SHERMAN DEVANTE ADDISON
a/k/a "Ace"

(2) AARON DEMITRI ALEXANDER
a/k/a "A Dawg"

(4) FREDDREC DEANDRE BANKS
a/k/a "Drec"
a/k/a "Banga"

(5) JAMES BAXTON
a/k/a "Frank White"
a/k/a "Grown"

(6) BRADLEY BEAUCHAMP
a/k/a "Bizzy"

(8) ANTONIO DONTRE BROOKS
a/k/a "Montana"

(9) ANTARIOUS QAUSHARD BYERS
a/k/a "Bang"

(10) RENALDO RODREGUS CAMP
a/k/a "Rodeo"
a/k/a "Drop"

DOCKET NO. 3:17-CR-134-FDW

FIRST SUPERSEDING BILL OF
INDICTMENT

Violations:

18 U.S.C. § 2
18 U.S.C. § 513
18 U.S.C. § 922(g)(1)
18 U.S.C. § 924(c)
18 U.S.C. § 924(j)
18 U.S.C. § 1343
18 U.S.C. § 1344
18 U.S.C. § 1349
18 U.S.C. § 1028
18 U.S.C. § 1951
18 U.S.C. § 1959(a)(1)
18 U.S.C. § 1959(a)(3)
18 U.S.C. § 1959(a)(5)
18 U.S.C. § 1962(d)
21 U.S.C. § 841
21 U.S.C. § 846
26 U.S.C. § 5861

(11) SHAKIRA MONIQUE CAMPBELL
a/k/a "Lady Rage"

(14) ALEX LEVI COX
a/k/a "Quick"

(15) MARQUEL MICHAEL CUNNINGHAM

(16) RICHARD DIAZ
a/k/a "Damu"

(17) JAMES WALTER DOWDLE
a/k/a "Staxx"

(18) JOHN PAUL DURANT
a/k/a "JP"
a/k/a "Glock"
a/k/a "Gudda"

(19) CYNTHIA GILMORE
a/k/a "Cynthia Young"
a/k/a "Lady Bynt"

(20) SHAMON MOVAIR GOINS
a/k/a "Rugie"

(21) PEDRO GUTIERREZ
a/k/a "Magoo"
a/k/a "Light"
a/k/a "Inferno"

(22) JALEN RAEKWON HACKNEY
a/k/a "Menace"

(24) LAVAUGHN ANTONIO HANTON
a/k/a "Killem"

a/k/a "Billy-D"
a/k/a "Dutch"

(29) JASMIN REIKEEM HICKS
a/k/a "Rude"

(30) BOBBY EARL HINES
a/k/a "Swahili Red"

(32) WESLEY JAVON HOWZE
a/k/a "Drama"

(33) DONL LEQUINTIN HUNSUCKER
a/k/a "Remy"

(34) DRICKO DASHON HUSKEY
a/k/a "Drizzy"

(39) TONNEY HORATIO KERBAY
a/k/a "Rich Tonney"

(42) JUAN CRUZ LEON
a/k/a "Jefe"

(43) RENAIRE ROSHIQUE LEWIS, Jr.
a/k/a "Banz"
a/k/a "Esco"

(44) LAMONTE KENTRELL LLOYD
a/k/a "Murda Mo"
a/k/a "Moo"

(47) TERRY LAVON MADDOX
a/k/a "Turbo"

(49) TRAVIS CORDELL MCCLAIN

a/k/a "Fridaay Daa Thuurteenth"

(50) ROBERT ALLEN MCCLINTON

a/k/a "Trigga"

(53) CHRISTOPHER LASHON MILLER

a/k/a "Dro"

(54) JOHNNY THOMAS MITCHELL

a/k/a "Joker"

(55) CHRISTOPHER O'BRIEN MOORE

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a/k/a "Red Hot"

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a/k/a "Dinki"

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(75) JHAD ELIJAH THORBOURNE

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(78) QUITEZ LAMAR WATKINS

a/k/a "Bandana"

(79) DAVID EARL WATSON

a/k/a "Gunz"

a/k/a "Pullup"

(81) RONALD ANTHONY WOFFORD

(82) JONATHAN WRAY

a/k/a "Jon"

a/k/a "Yungin"

(83) PATRICK DEVON WRAY

a/k/a "Ike"

a/k/a "Murda"

THE GRAND JURY CHARGES:

COUNT ONE

(Racketeer Influenced Corrupt Organization-(RICO) Conspiracy)

(18 U.S.C. § 1962(d))

The Grand Jury for the Western District of North Carolina charges that:

Introduction

1. In the early 1970s, a group of seven individual street gangs united and formed a larger gang called "The Bloods." This gang was formed in Los Angeles, California, but quickly spread to surrounding areas. Thereafter, they expanded across the United States in conjunction

with the crack cocaine epidemic of the 1980s.

2. The Bloods are broken into individual units or “hoods,” each identified or affiliated with a certain street, neighborhood, or area. These hoods utilize common tattoos, communication codes, language, graffiti markings, and are identified by wearing the color red. Additionally, Bloods maintain a long-term and often lethal rivalry with the Crips gang, whose signature color is blue.

3. On July 16, 1993, at the George Mochan Detention Center on the east side of Rikers Island Prison, the “United Blood Nation” (UBN), a single Bloods entity, was created. It was determined by Omar “Original Gangster Mack” Portee and his partner Leonard “Dead Eye” McKenzie, both inmates on Rikers Island, that the Bloods hoods should unite in order to protect themselves from “The Almighty Latin King Nation,” the largest prison gang in the New York prison system at the time. The UBN was the East Coast offshoot of the California-based “Bloods” and its members are only loosely affiliated with West Coast Bloods. All of the Bloods gangs or “hoods” who unified under the UBN were allowed to keep their original names, such as “G-shine,” “Nine Trey Gangsters,” “Valentine Bloods,” and “Sex, Money, Murder.” These original hoods were formed based upon their affiliation with certain streets, neighborhoods, areas, or local gangs. As these members were released from prison and migrated, the UBN spread across the streets of New York and eventually down the East Coast of the United States.

4. Once the UBN began to spread from the prisons to the streets, the members devised codes in order to avoid detection from law enforcement. For instance, the Valentine Bloods became known as the “Tony Starks.” The Gangsta Killer Bloods became known by two names, the “G-Shine” and the “Julius B Sunny.”

5. The UBN has since spread across the East Coast of the United States; however, the ultimate authority for gang decisions is still maintained in New York and the New York prison system, described by UBN members as “up top.” The gang maintains a strict hierarchy or chain of command. Although called by different names, such as “the rims,” the “stain structure,” and/or “the empire structure,” the rules are strictly enforced through the chain of command. The UBN gang leadership includes a national council (“the Council”). Council members are selected from the leaders, typically the “Godfathers,” of the larger hoods such as the Nine Trey Gangsters.

6. The structure of the UBN is hierarchical in nature. Each member has a specific rank within the gang, and this rank comes with specific duties and responsibilities to the “Hood.” The UBN uses a ranking system (otherwise called a “Line Up”) often disguised with code names to label the leadership structure. A typical structure for a Nine Trey Gangsters or Valentine Blood “Line Up” would likely include the leader of the “Hood” who is called the “Godfather,” down through the “High,” the “Low,” “5-Star General,” “4-Star General,” “3-Star General,” “2-Star General,” “1-Star General,” to the unranked general member called a “Soldier” or a “Scrap.” Additionally, within the UBN, some females hold unique positions of authority, including that of a “First Lady” who is often responsible for record keeping, covert communications, and distribution of gang records. The UBN also utilizes basketball team positions as code to label a Hood’s hierarchy, to include “General Manager,” “Head Coach,” “Assistant Coach,” “Center,” “Power Forward,” “Small Forward,” “Shooting Guard,” and “Point Guard.”

7. All sets of the UBN organization are governed by a common set of rules. The rules were originally written by the UBN founders, Omar Portee and Leonard McKenzie. There are 31 UBN rules known as “The 31.” Examples of the rules are:

- a. Individual gang members are to operate and conduct themselves as defined by “The 31”;
- b. Individual gang members are to pay gang dues every month or face punishment;
- c. Procedures for infractions or disciplinary actions; and
- d. “Snitching,” or cooperating with law enforcement, is strictly prohibited.

8. The rules also set forth guidance for communications. The most common and accepted methods for communicating are “kites” (letters that are written from prison and are delivered to other prisoners, or smuggled in and out of prison facilities), cellular telephones, contraband cellular telephones, text messaging, prison visitation, face to face meetings, and social media. Inmates have access to telephones in prison, and it is also common for prisoners to have access to contraband cellular telephones smuggled into prison facilities which they use for gang communications.

9. UBN gang members use specific words or codes to communicate with each other in an attempt to avoid detection from law enforcement and rival gangs. Some commonly used words include:

- a. “Damu,” which means “blood” in Swahili;
- b. “Wood,” or “Inglewood,” to describe gang knowledge (rules, codes, and gang structure);
- c. “East Side,” to connote loyalty and affiliation to the UBN (the UBN was formed on the east side of Rikers Island);
- d. “Soo Woo,” which means “Bloods rule.” A greeting of “soo woo” is

returned with the greeting of “woo”;

- e. “Five” is a reference to a fellow UBN member;
- f. “Big homie” refers to a higher ranking member, while “big fool” generally refers to the senior ranking member present.
- g. “Tuition” and “Donation” refer to gang dues; and
- h. “031” refers to Blood love.

10. Code terms are also used to refer to specific actions carried out by UBN gang members or to communicate about intended or performed actions in a secure and covert manner.

For example:

- a. “Lick,” “Rip,” “Sunstroke” “Jug,” or “Grinding” refer to robbery;
- b. “On the wall” is a suspension of gang membership;
- c. “DNA” refers to an internal gang investigation;
- d. “Green light” means that permission has been granted by a higher ranking UBN member to a lower ranking member to do an act, including, depending on context, murder;
- e. “Food” and “on the plate” are gang terms which mean that the individual gang member or a non-gang member is targeted for some type of physical attack, up to and including murder;
- f. “Peter roll” is a gang term which means that an individual gang member or a non-gang member is targeted for murder;
- g. A “Pow Wow” and a “Nine” refer to a gang meeting. Meetings are the method by which members of the gang gather to discuss gang business, administer punishment, and discuss issues of common concern. A “Pow Wow” is called by the highest ranking member

of the local hood or his designee. There are rules which govern the activities to be performed during a "Pow Wow", which include: reciting oaths, collecting gang dues, communicating gang knowledge, discussing rule changes, and issuing punishment;

- h. "On freeze" means that a member is prevented from conducting gang business;
- i. "Behind the wall" refers to a member in prison;
- j. "Stain" or "Rims" refers to rank within the gang; and
- k. "Whip" means hood or set.

11. Each hood also has terms that are specific to that hood. For example, the Nine Trey Gangsters members use the terms "93," "Billy," "Billies," "Billy Bad Ass," "BBA," and "O Trey," among others, as a reference to their hood.

12. Gang dues are collected from each member for the benefit of the UBN organization. A portion of the dues are saved and utilized locally, while another portion is sent up the chain to gang leadership. The monies may be used locally for loans to gang members, as gifts to high-ranking members who are in jail as a form of respect, to buy cellular telephones for communication between members in and out of jail, and for other gang related purposes.

13. In order to become a UBN member, one must be introduced by an existing gang member. A potential new member is "beat in" (physically beaten for 31 seconds by gang members) and provided with a copy of the UBN history, oaths, and the 31 rules which must be memorized. This process is referred to as being "brought home." All gang members are required to "put in work," meaning that they must carry out the orders and activities as directed by gang leadership.

14. While UBN gang members can often be identified by the wearing of red clothing, tattoos are also an important method of membership identification. Common UBN tattoos include:

- a. The letters "M.O.B." which stands for "Member of Bloods";
- b. A five-pointed star (the points of the star represent the five points of knowledge within the UBN: life, love, loyalty, obedience, and respect and/or love, truth, justice, freedom, and peace);
- c. Three circular brands or burn marks upon the skin formed into a triangle, commonly known in the organization as "dog paws," which represent the UBN; and
- d. Tattoos that symbolize a particular hood.

15. At all times relevant to this Indictment, the following defendants were members and/or associates of the UBN:

- (1) SHERMAN DEVANTE ADDISON**
a/k/a "Ace"
- (2) AARON DIMITRI ALEXANDER**
a/k/a "A Dawg"
- (4) FREDDREC BANKS**
a/k/a "Drec"
a/k/a "Banga"
- (5) JAMES BAXTON**
a/k/a "Frank White"
a/k/a "Grown"
- (6) BRADLEY BEAUCHAMP**
a/k/a "Bizzy"
- (8) ANTONIO DONTRE BROOKS**
a/k/a "Montana"
- (9) ANTARIOUS QAUSHARD BYERS**
a/k/a "Bang"
- (10) RENALDO RODREGUS CAMP**
a/k/a "Rodeo"
a/k/a "Drop"
- (11) SHAKIRA MONIQUE CAMPBELL**

a/k/a "Lady Rage"
(14) ALEX LEVI COX
a/k/a "Quick"
(15) MARQUEL MICHAEL CUNNINGHAM
(16) RICHARD DIAZ
a/k/a "Damu"
(17) JAMES WALTER DOWDLE
a/k/a "Staxx"
(18) JOHN PAUL DURANT
a/k/a "JP"
a/k/a "Glock"
a/k/a "Gudda"
(19) CYNTHIA GILMORE
a/k/a "Cynthia Young"
a/k/a "Lady Bynt"
(20) SHAMON MOVAIR GOINS
a/k/a "Rugie"
(21) PEDRO GUTIERREZ
a/k/a "Magoo"
a/k/a "Light"
a/k/a "Inferno"
(22) JALEN RAEKWON HACKNEY
a/k/a "Menace"
(24) LAVAUGHN HANTON
a/k/a "Killem"
a/k/a "Billy-D"
a/k/a "Dutch"
(29) JASMIN REIKEEM HICKS
a/k/a "Rude"
(30) BOBBY EARL HINES
a/k/a "Swahili Red"
(32) WESLEY JAVON HOWZE
a/k/a "Drama"
(33) DONL LEQUINTIN HUNSUCKER
a/k/a "Remy"
(34) DRICKO DASHON HUSKEY
a/k/a "Drizzy"
(39) TONNEY HORATIO KERBAY
a/k/a "Rich Tonney"
(42) JUAN CRUZ LEON
a/k/a "Jefe"
(43) RENAIRE ROSHIQUE LEWIS, Jr.
a/k/a "Banz"
a/k/a "Esco"

(44) LAMONTE KENTRELL LLOYD
a/k/a "Murda Mo"
a/k/a "Moo"

(47) TERRY LAVON MADDOX
a/k/a "Turbo"

(49) TRAVIS CORDELL MCCLAIN
a/k/a "Fridaay Daa Thurteenth"

(50) ROBERT ALLEN MCCLINTON
a/k/a "Trigga"

(53) CHRISTOPHER LASHON MILLER
a/k/a "Dro"

(54) JOHNNY THOMAS MITCHELL
a/k/a "Joker"

(55) CHRISTOPHER O'BRIEN MOORE
a/k/a "Ratchet"

(57) THOMAS OLIVER
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a/k/a "Lady Recon"

(63) TYQUAN RAMONT POWELL
a/k/a "Savage"

(64) OMAR LIONEL REED
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(71) DENZEL LAMONT SPIKES
a/k/a "Dinki"
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a/k/a "Certified"

(74) PEATREZ LAMAR TEASTE
a/k/a "P-Wheezy"

(75) JHAD ELIJAH THORBOURNE
a/k/a "Flight"

(78) QUITEZ LAMAR WATKINS
a/k/a "Bandana"

(79) DAVID EARL WATSON
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(81) RONALD ANTHONY WOFFORD

(82) JONATHAN WRAY
a/k/a "Jon"
a/k/a "Yungin"

(83) PATRICK DEVON WRAY
a/k/a "Ike"
a/k/a "Murda."

At all times relevant to this Indictment, UBN members in North Carolina and elsewhere engaged in criminal activity, including, but not limited to: any act and threat involving murder, assaults, robbery, firearms possession, witness tampering, obstruction of justice, and conspiracy to commit these crimes, among other crimes. UBN members committed acts of violence to maintain membership and discipline, both within the gang and against non-gang members. Members committed acts of violence, including murder, in order to be promoted within the leadership structure of the gang, and committed various crimes, including robbery and narcotics trafficking, at least in part to raise money to pay UBN gang dues.

16. At all times relevant to this Indictment, UBN members met and conducted the business of the enterprise, including, but not limited to: the initiation of new members, providing punishment for violations of the rules of the enterprise (real or imagined), planning acts of violence, reporting on business related to the gang enterprise, and paying gang dues.

The Racketeering Enterprise

17. The UBN, including its leadership, members and associates, in the Western District of North Carolina, and elsewhere, constitutes an "enterprise" as defined by Title 18, United States Code, Section 1961(4): that is, a group of individuals associated in fact. The enterprise constitutes an ongoing organization whose members function as a continuing unit for a common purpose of achieving the objectives of the enterprise. The enterprise engaged in, and its activities affected, interstate and foreign commerce.

Purposes of the Enterprise

18. The purposes of the UBN enterprise include the following:

- a. Preserving and protecting the power, territory, reputation, respect, and profits of the enterprise through the use of intimidation, violence, threats of violence, assaults, and murder;
- b. Promoting and enhancing the enterprise and its members' and associates' activities, including, but not limited to, murders, robberies, narcotics distribution, and other criminal activities;
- c. Keeping the community and rivals in fear of the enterprise and its members and associates through violence and threats of violence;
- d. Providing financial support and information to gang members, including leaders who are incarcerated;
- e. Providing assistance to other gang members who committed crimes for and on behalf of the gang; and,
- f. Hindering, obstructing, and preventing law enforcement officers from identifying, apprehending, and successfully prosecuting and punishing members of the enterprise.

The Racketeering Conspiracy

19. Beginning on a date unknown to the Grand Jury, but from at least in or about 2009, and continuing to the present date, in the Western District of North Carolina and elsewhere, defendants,

(1) SHERMAN DEVANTE ADDISON
a/k/a "Ace"
(2) AARON DEMITRI ALEXANDER
a/k/a "A Dawg"
(4) FREDDREC BANKS
a/k/a "Drec"

a/k/a "Banga"
(5) JAMES BAXTON
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(43) RENAIRE ROSHIQUE LEWIS, Jr.
a/k/a "Banz"
a/k/a "Esco"
(44) LAMONTE KENTRELL LLOYD
a/k/a "Murda Mo"
a/k/a "Moo"
(47) TERRY LAVON MADDOX
a/k/a "Turbo"
(49) TRAVIS CORDELL MCCLAIN
a/k/a "Fridaay Daa Thuurteenth"
(50) ROBERT ALLEN MCCLINTON
a/k/a "Trigga"
(53) CHRISTOPHER LASHON MILLER
a/k/a "Dro"
(54) JOHNNY THOMAS MITCHELL
a/k/a "Joker"
(55) CHRISTOPHER O'BRIEN MOORE
a/k/a "Ratchet"
(57) THOMAS OLIVER
a/k/a "T.O."
(61) LAQUIDA SHUNTAE POSTON
a/k/a "Lady Recon"
(63) TYQUAN RAMONT POWELL
a/k/a "Savage"
(64) OMAR LIONEL REED
a/k/a "Omega"
(67) KENNETH MARQUISE RUFF
a/k/a "Red Hot"
(69) ALANDUS MONTRELL SMITH
a/k/a "Kadafia"
(71) DENZEL LAMONT SPIKES
a/k/a "Dinki"
a/k/a "Dino"

a/k/a "Certified"
(74) PEATREZ LAMAR TEASTE
a/k/a "P-Wheezy"
(75) JHAD ELIJAH THORBOURNE
a/k/a "Flight"
(78) QUITEZ LAMAR WATKINS
a/k/a "Bandana"
(79) DAVID EARL WATSON
a/k/a "Gunz"
a/k/a "Pullup"
(81) RONALD ANTHONY WOFFORD
(82) JONATHAN WRAY
a/k/a "Jon"
a/k/a "Yungin"
(83) PATRICK DEVON WRAY
a/k/a "Ike"
a/k/a "Murda"

together with others both known and unknown to the Grand Jury, each being a person employed by and associated with the United Blood Nation, an enterprise engaged in, and the activities of which affected, interstate and foreign commerce, did knowingly and intentionally conspire to violate Title 18, United States Code, Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the United Blood Nation enterprise through a pattern of racketeering activity, as defined in Title 18, United States Code, Sections 1961(1) and (5), which pattern of racketeering activity consisted of:

- i. multiple acts involving murder in violation of North Carolina Gen. Stat. §§ 14-17, 14-2.4, 14-2.5, and 14-5.2; New York Penal Law §§ 110.00, 105.15, 125.25, 125.27, and 20.00; and South Carolina Code of Laws §§16-3-10, 16-3-29, § 16-1-40; and robbery, in violation of North Carolina Gen. Stat. §§ 14-87, 14.87.1 14-2.4, 14-2.5, and 14-5.2; and South Carolina Code of Laws §§ 16-3-19 and 16-11-330; and
- ii. multiple acts indictable under 18 U.S.C. §§ 1028, 1343, 1344, 1503, 1512, and

1951; and

iii. multiple offenses involving narcotics trafficking in violation of 21 U.S.C. §§ 841(a)(1), 843, and 846.

20. It was part of the conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

Manner and Means of the Conspiracy

21. It was part of the manner and means of the conspiracy that the defendants, as gang members and associates of the UBN, were required to have and did have regular meetings with other UBN gang members to discuss, among other things: the structure and organization of the gang; past criminal acts committed against rival gang members and others; UBN members who were arrested or incarcerated; the discipline of UBN members; police interactions with UBN members; the identities of individuals suspected of cooperating with law enforcement and proposed actions to be taken against them; enforcement of gang rules and plans and agreements regarding the commission of future crimes, to include narcotics distribution, robbery, extortion, murder, illegal possession of firearms and assault, obstruction of justice, tampering with witnesses, victims, and informants, as well as ways to conceal these crimes.

22. It was further part of the manner and means of the conspiracy that the defendants and other members and associates of the UBN agreed to purchase, maintain, and circulate a collection of firearms for use in criminal activity by UBN members and associates.

23. It was further part of the manner and means of the conspiracy that the defendants and other members and associates of UBN agreed that acts of violence, including murder, attempted murder and assaults, would be committed by members and associates of the UBN

against rival gang members and others when it suited the enterprise's purposes. UBN members also used violence to impose discipline within the gang. UBN members engaged in acts of intimidation and violence to get respect from those who showed disrespect, to protect the gang, and to enhance its reputation. The UBN used direct threats of violence and acts of violence, as well as its reputation for violence, to discourage its members from "snitching" or cooperating with law enforcement.

24. It was further part of the manner and means of the conspiracy that the defendants and other members and associates of the UBN agreed to distribute narcotics; to use the telephone to facilitate narcotics distribution; to commit robberies, murders, and other crimes; and to conceal their criminal activities by obstructing justice, threatening or intimidating witnesses, and other means.

25. It was further part of the manner and means of the conspiracy that the defendants and other members and associates of UBN engaged in a scheme and artifice to defraud Branch Bank and Trust (BB&T), a federally insured financial institution, of money by depositing a fake, fraudulent and counterfeit check into an individual known to the Grand Jury's BB&T account, and then withdrawing the money before BB&T could detect that the check was fraudulent.

26. It was further part of the manner and means of the conspiracy that the defendants and other members and associates of the UBN engaged in a scheme and artifice to defraud credit card companies and retail stores by creating fraudulent and cloned credit cards and gift cards, using legitimate and stolen credit card numbers, and then using the fraudulent and cloned credit cards at retail locations to make and attempt to make purchases totaling over \$26,698 in furtherance of the scheme, and the UBN.

Overt Acts

27. In furtherance of the conspiracy and to achieve the object thereof, the conspirators performed or caused to be performed the following overt acts, among others, in Charlotte, Mecklenburg County; Shelby, Cleveland County; Gastonia, Gaston County, within the Western District of North Carolina, and elsewhere:

OA-1. On or about September 3, 2009, **(37) JOE TARPEH JOHNSON a/k/a "JR" a/k/a "Big Pusha" a/k/a "Kutthroat"** and others known to the Grand Jury robbed an individual known to the Grand Jury.

OA-2. On or about October 28, 2009, **(57) THOMAS OLIVER a/k/a "T.O." a/k/a "Recon"** possessed marijuana, with the intent to distribute, and a firearm.

OA-3. On or about March 21, 2010, **(73) CEDRIC LEXANDER SURRETT a/k/a "Hollywood" a/k/a "5-Star" a/k/a "Lingo"** possessed marijuana, with the intent to distribute it, and a firearm.

OA-4. On or about May 16, 2010, **(20) SHAMON GOINS a/k/a "Rugie"** and others known and unknown to the Grand Jury murdered Devon Clement.

OA-5. On or about August 17, 2010, **(41) BARRINGTON AUDLEY LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale"** sent gang dues to **(5) JAMES BAXTON a/k/a "Frank White."**

OA-6. On or about August 17, 2010, **(5) JAMES BAXTON a/k/a "Frank White"** wrote a letter to **(41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale"** discussing gang business.

OA-7. On or about October 29, 2010, (79) DAVID EARL WATSON a/k/a "Gunz" sent gang dues to (5) JAMES BAXTON a/k/a "Frank White."

OA-8. On or about November 30, 2010, (79) DAVID EARL WATSON a/k/a "Gunz" sent gang dues to (5) James BAXTON a/k/a "Frank White."

OA-9. On or about December 16, 2010, (79) DAVID EARL WATSON a/k/a "Gunz" sent gang dues to (5) JAMES BAXTON a/k/a "Frank White."

OA-10. On or about February 14, 2011, (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" sent a letter to (41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale" discussing gang business.

OA-11. On or about February 24, 2011, (41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (5) JAMES BAXTON a/k/a "Frank White."

OA-12. On or about March 3, 2011, (41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (5) JAMES BAXTON a/k/a "Frank White."

OA-13. On or about March 29, 2011, (41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (5) JAMES BAXTON a/k/a "Frank White."

OA-14. On or about April 17, 2011, (3) MONTRAYA ANTWAIN ATKINSON a/k/a "Hardbody" and others known and unknown to the Grand Jury assaulted an individual known to the Grand Jury.

OA-15. On or about May 8, 2011 (19) CYNTHIA GILMORE a/k/a "Cynthia Young" a/k/a "Lady Bynt" and (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" conducted a gang meeting inside the New York Department of Corrections.

OA-16. On or about June 15, 2011, (41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (5) JAMES BAXTON a/k/a "Frank White."

OA-17. On or about July 7, 2011, (17) JAMES WALTER DOWDLE a/k/a "Staxx" possessed marijuana with the intent to distribute.

OA-18. On September 12, 2011, (62) AUSTIN DEMONTRY POTTS a/k/a "Big Tek" a/k/a "B-Tek" and others known and unknown to the Grand Jury assaulted an individual known to the Grand Jury for falsely claiming to be a member of the UBN.

OA-19. On November 15, 2011, (41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-20. On or about December 22, 2011, (17) JAMES WALTER DOWDLE a/k/a "Staxx" possessed a firearm.

OA-21. On December 28, 2011, (19) CYNTHIA GILMORE a/k/a "Cynthia Young" a/k/a "Lady Bynt" sent gang dues to (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-22. On or about December 28, 2011, (41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (5) JAMES BAXTON a/k/a "Frank White."

OA-23. On or about February 2, 2012, (41) **BARRINGTON LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (21) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-24. On or about March 29, 2012, (41) **BARRINGTON LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (5) **JAMES BAXTON** a/k/a "Frank White."

OA-25. On or about March 31, 2012, (18) **JOHN PAUL DURANT** a/k/a "JP" a/k/a "Glock" a/k/a "Gudda," (34) **DRICKO DASHON HUSKEY** a/k/a "Drizzy," (71) **DENZEL SPIKES** a/k/a "Dinki" a/k/a "Dino," (82) **JONATHAN WRAY** a/k/a "Jon Jon" a/k/a "Yungin," and others known to the Grand Jury assaulted an individual known to the Grand Jury.

OA-26. On or about April 3, 2012, (41) **BARRINGTON LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (21) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-27. On or about April 13, 2012, (19) **CYNTHIA GILMORE** a/k/a "Cynthia Young" a/k/a "Lady Bynt" sent gang dues to (21) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-28. On or about April 15, 2012, (34) **DRICKO DASHON HUSKEY** a/k/a "Drizzy" possessed gang materials.

OA-29. On or about April 23, 2012, (41) **BARRINGTON LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (21) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-30. On or about April 23, 2012, (41) **BARRINGTON LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale" sent gang dues to (5) **JAMES BAXTON** a/k/a "Frank White."

OA-31. On or about May 8, 2012, (71) **DENZEL SPIKES** a/k/a "Dinki" a/k/a "Dino," (18) **JOHN PAUL DURANT** a/k/a "JP" a/k/a "Glock" a/k/a "Gudda," and others known and unknown to the Grand Jury assaulted, shot, and attempted to murder an individual known to the Grand Jury.

OA-32. On or about July 3, 2012, (27) **QUINCY DELONE HAYNES** a/k/a "Black Montana" possessed marijuana with the intent to distribute.

OA-33. On July 19, 2012, (54) **JOHNNY THOMAS MITCHELL** a/k/a "Joker" possessed gang materials.

OA-34. On or about November 26, 2012, (19) **CYNTHIA GILMORE** a/k/a "Cynthia Young" a/k/a "Lady Bynt" sent gang dues to (21) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-35. On or about January 2, 2013, (19) **CYNTHIA GILMORE** a/k/a "Cynthia Young" a/k/a "Lady Bynt" sent gang dues to (21) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-36. On or about February 6, 2013, (72) **ISAIAH DEVON STALLWORTH** a/k/a "Zay" a/k/a "Juice" and others known and unknown to the Grand Jury committed a robbery of a cell phone store and (72) **ISAIAH DEVON STALLWORTH** a/k/a "Zay" a/k/a "Juice" possessed a firearm.

OA-37. On or about April 11, 2013, (59) **JAMES BRANDIN PEGUES** possessed marijuana, with the intent to distribute, and a firearm.

OA-38. On or about April 14, 2013, (12) **ADRIAN NAYRON COKER** a/k/a "Gotti," (33) **DONL LEQUINTIN HUNSUCKER** a/k/a "Remy," (47) **TERRY LAVON MADDOX** a/k/a "Turbo," (54) **JOHNNY THOMAS MITCHELL** a/k/a "JOKER," (56) **MYQUAN LAMAR NELSON** a/k/a "Dripz," (73) **CEDRIC LEXANDER SURRATT** a/k/a "Hollywood" a/k/a "5-Star a/k/a "Lingo," and other UBN members attended a gang meeting in Shelby, North Carolina.

OA-39. On or about May 8, 2013, (3) **MONTRAYA ANTWAIN ATKINSON** a/k/a "Hardbody" and (21) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" conducted a gang meeting inside the New York Department of Corrections.

OA-40. On or about June 5, 2013, (53) **CHRISTOPHER LASHON MILLER** a/k/a "Dro" and (55) **CHRISTOPHER O'BRIEN MOORE** a/k/a "Ratchet" and others known and unknown to the Grand Jury committed an armed robbery of individuals known to the Grand Jury.

OA-41. On or about June 12, 2013, (60) **DESHAWN DEONTA PETERKIN** a/k/a "Proo" sold crack cocaine to a person known to the Grand Jury.

OA-42. On or about June 18, 2013, (60) **DESHAWN DEONTA PETERKIN** a/k/a "Proo" sold crack cocaine to a person known to the Grand Jury.

OA-43. On or about June 18, 2013, (8) **ANTONIO DONTRE BROOKS** a/k/a "Montana" possessed a firearm.

OA-44. On or about June 28, 2013, **(55) CHRISTOPHER O'BRIEN MOORE** a/k/a "Ratchet" and others known and unknown conspired to, attempted to, and did commit an armed robbery of an individual known to the Grand Jury.

OA-45. On or about July 3, 2013, **(53) CHRISTOPHER LASHON MILLER** a/k/a "Dro" engaged in a physical fight and possessed and discharged a firearm.

OA-46. On or about July 10, 2013, **(60) DESHAWN DEONTA PETERKIN** a/k/a "Proo" sold crack cocaine to a person known to the Grand Jury.

OA-47. On or about July 13, 2013, **(58) Christopher Lashon MILLER** a/k/a "Dro" and another UBN member known to the Grand Jury discussed committing a robbery.

OA-48. On or about August 12, 2013, **(60) DESHAWN DEONTA PETERKIN** a/k/a "Proo" maintained a dwelling for the distribution of crack cocaine.

OA-49. On or about August 28, 2013, **(65) OMARI ROSERO** a/k/a "Uno B" sent **(12) ADRIAN NAYRON COKER** a/k/a "Gotti" a letter discussing gang business.

OA-50. On or about September 17, 2013, **(65) OMARI ROSERO** a/k/a "Uno B" sent **(12) ADRIAN NAYRON COKER** a/k/a "Gotti" a letter discussing gang business.

OA-51. On or about September 29, 2013, **(57) THOMAS OLIVER** a/k/a "T.O." and others known and unknown to the Grand Jury robbed and shot a person known to the Grand Jury.

OA-52. On or about December 31, 2013, **(24) LAVAUGHN ANTONIO HANTON** a/k/a "Killem" a/k/a "Billy-D" possessed marijuana and cocaine, with the intent to distribute, and a firearm.

OA-53. On or about January 1, 2014, **(17) JAMES WALTER DOWDLE a/k/a "Staxx"** committed an armed robbery of a convenience store and gas station.

OA-54. On January 23, 2014, **(33) DONL LEQUINTIN HUNSUCKER a/k/a "Remy"** possessed a firearm.

OA-55. On or about February 5, 2014, **(59) JAMES BRANDIN PEGUES** possessed a firearm and marijuana.

OA-56. On or about February 20, 2014, **(80) TWYLAIR WILSON a/k/a "5 Alive"** possessed cocaine, with the intent to distribute, and a firearm.

OA-57. On or about March 29, 2014, **(27) QUINCY DELONE HAYNES a/k/a "Black Montana," (73) CEDRIC LEXANDER SURRETT a/k/a "Hollywood" a/k/a "5-Star" a/k/a "Lingo," (56) MYQUAN LAMAR NELSON a/k/a "Dripz," (69) ALANDUS MONTRELL SMITH a/k/a "Kadafia," and (46) CHARLES KENYON LYTLE a/k/a "Kam** attended a gang meeting.

OA-58. On or about March 31, 2014, **(1) SHERMAN DEVANTE ADDISON a/k/a "Ace" and (31) RAHEAM SHUMAR HOPPER a/k/a "Bone"** possessed marijuana, with the intent to distribute, and two firearms.

OA-59. On or about March 31, 2014, **(39) TONNEY HORATIO KERBAY a/k/a "Rich Tonney"** provided an individual known to the Grand Jury with a fake and counterfeited check for \$6,654 purported to be from the State of North Carolina, and a fake North Carolina driver's license, and directed that individual to cash the check at a Walmart store located in Union County.

OA-60. On or about February 13, 2014, (19) CYNTHIA GILMORE a/k/a "Cynthia Young" a/k/a "Lady Bynt" sent gang dues to (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-61. On or about April 1, 2014, (4) FREDDREC DEANDRE BANKS a/k/a "Drec" a/k/a "Banga" and (45) DAVID MATTHEW LOWE a/k/a "Gucci" possessed a firearm.

OA-62. On or about April 5, 2014, (54) JOHNNY THOMAS MITCHELL a/k/a "Joker" and (32) WESLEY JAVON HOWZE a/k/a "Drama" shot at Victims 7, 8, and 9.

OA-63. On or about April 24, 2014, (20) SHAMON MOVAIR GOINS a/k/a "Rugie," (33) DONL LEQUINTIN HUNSUCKER a/k/a "Remy," (46) CHARLES KENYON LYTLE a/k/a "Kam," (69) ALANDUS MONTRELL SMITH a/k/a "Kadafia," (56) MYQUAN LAMAR NELSON a/k/a "Dripz," (73) CEDRIC LEXANDER SURRETT a/k/a "Hollywood" a/k/a "5-Star" a/k/a "Lingo" conducted a gang meeting.

OA-64. On or about July 18, 2014, (39) TONNEY HORATIO KERBAY a/k/a "Rich Tonney" possessed and deposited a counterfeit, fake, and fraudulent Wells Fargo check purporting to be from company D.D. (Acct. #xxxx219) made payable to an individual known to the Grand Jury in the amount of \$14,305, into an individual known to the Grand Jury's BB&T account (Acct # xxxx061).

OA-65. On or about July 18, 2014, immediately after (39) TONNEY HORATIO KERBAY a/k/a "Rich Tonney" deposited the fake check, (39) TONNEY HORATIO KERBAY a/k/a "Rich Tonney" withdrew \$100 from an individual known to the Grand Jury's

BB&T account using an individual known to the Grand Jury's debit card attached to the BB&T account.

OA-66. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a purchase of \$23.53 at an unknown business.

OA-67. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a purchase of \$500.00 at State Employees Credit Union.

OA-68. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a payment of \$503.00 to Wells Fargo Bank.

OA-69. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a purchase of \$1,000.92 at Food Lion.

OA-70. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a purchase of \$1,101.40 at Wal-Mart.

OA-71. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a purchase of \$2,001.84 at Food Lion.

OA-72. On or about July 19, 2014, an individual known to the Grand Jury withdrew \$9,000 from his BB&T account leaving approximately \$74.31 in the account.

OA-73. On or about September 6, 2014, (23) **CHRISTOPHER DENTRE HAMRICK a/k/a "Red Dot"** possessed marijuana and crack cocaine with the intent to distribute.

OA-74. On or about September 10, 2014, (33) **DONL LEQUINTIN HUNSUCKER a/k/a "Remy"** discussed gang business with a person known to the Grand Jury.

OA-75. On or about September 12, 2014, (1) **SHERMAN DEVANTE ADDISON a/k/a "Ace"** possessed cocaine, with the intent to distribute, and a firearm.

OA-76. On September 13, 2014, (5) JAMES BAXTON a/k/a "Frank White" and (26) BIANCA KIASHIE HARRISON a/k/a "Lady Gunz" conducted a gang leadership meeting inside the New York Department of Corrections.

OA-77. On or about September 22, 2014, (19) CYNTHIA GILMORE a/k/a "Cynthia Young" a/k/a "Lady Bynt" sent gang dues to (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-78. On or about September 30, 2014, (20) SHAMON MOVAIR GOINS a/k/a "Rugie" sold a stolen firearm to a person known to the Grand Jury.

OA-79. On or about October 2, 2014, (79) DAVID EARL WATSON a/k/a "Gunz," (26) BIANCA KIASHIE HARRISON a/k/a "Lady Gunz," and (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" conducted a gang meeting inside the New York Department of Corrections.

OA-80. On or about October 21, 2014, (20) SHAMON MOVAIR GOINS a/k/a "Rugie" sold a firearm to a person known to the Grand Jury.

OA-81. On or about October 24, 2014, (63) TYQUAN RAMONT POWELL a/k/a "Savage" and others known and unknown to the Grand Jury committed an armed robbery of an individual known to the Grand Jury.

OA-82. On or about October 28, 2014, (56) MYQUAN LAMAR NELSON a/k/a "Dripz," sent gang dues to (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-83. On or about October 31, 2014, (20) SHAMON MOVAIR GOINS a/k/a "Rugie," (46) CHARLES KENYON LYTLE a/k/a "Kam," (52) D'ANGELO DE'MARA

MCNEIL a/k/a “Dutch,” and other members of the UBN known and unknown conducted a gang meeting in order to initiate new members into the UBN.

OA-84. On or about November 13, 2015, **(41) BARRINGTON AUDLEY LATTIBEAUDIERE a/k/a “Bandana” a/k/a “Bobby Seale,”** rented a car in so that he and **(6) BRADLEY BEAUCHAMP**, could conduct a retail shopping spree using fraudulent and cloned credit cards.

OA-85. In or about and between November 13, 2015 and November 22, 2016, in Pensacola; Gulf Breeze; Pace; and Cantonment, Florida, **(41) BARRINGTON AUDLEY LATTIBEAUDIERE a/k/a “Bandana” a/k/a “Bobby Seale,” and 6) BRADLEY BEAUCHAMP** made numerous retail purchases at various stores using multiple fraudulent and cloned credit cards, causing one or more wires to be sent in interstate commerce.

OA-86. On November 14, 2014, **(46) CHARLES KENYON LYTLE a/k/a “Kam”** sold a firearm to a person known to the Grand Jury.

OA-87. On or about November 18, 2014, **(19) CYNTHIA GILMORE a/k/a “Cynthia Young” a/k/a “Lady Bynt”** sent gang dues to **(21) PEDRO GUTIERREZ a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno.”**

OA-88. On or about November 21, 2014, **(33) DONL LEQUINTIN HUNSUCKER a/k/a “Remy” and (20) SHAMON MOVAIR GOINS a/k/a “Rugie”** associated with each other for gang purposes.

OA-89. On or about November 26, 2014, **(15) MARQUEL MICHAEL CUNNINGHAM** and others known and unknown to the Grand Jury committed an armed robbery of an individual known to the Grand Jury.

OA-90. On or about November 28, 2014 **(15) MARQUEL MICHAEL CUNNINGHAM** and others known and unknown to the Grand Jury shot at and attempted to murder Victim No. 1.

OA-91. On or about November 28, 2014, **(19) CYNTHIA GILMORE** a/k/a "Cynthia Young" a/k/a "Lady Bynt" and **(2) PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" conducted a gang meeting inside the New York Department of Corrections

OA-92. On or about November 29, 2014, **(20) SHAMON MOVAIR GOINS** a/k/a "Rugie," **(56) MYQUAN LAMAR NELSON** a/k/a "Dripz," **(73) CEDRIC LEXANDER SURRETT** a/k/a "Hollywood" a/k/a "5-Star" a/k/a "Lingo," and **(76) LAVON CHRISTOPHER TURNER** a/k/a "Hungry" had a gang related conversation regarding kicking a member out of the gang for cooperating with law enforcement.

OA-93. On or about November 30, 2014, **(33) DONL LEQUINTIN HUNSUCKER** a/k/a "Remy," **(46) CHARLES KENYON LYTLE** a/k/a "Kam," **(52) D'ANGELO DE'MARA MCNEIL** a/k/a "Dutch," **(56) MYQUAN LAMAR NELSON** a/k/a "Dripz," and **(81) RONALD ANTHONY WOFFORD** participated in a gang meeting.

OA-94. On or about December 18, 2014, **(3) MONTRAYA ANTWAIN ATKINSON** a/k/a "Hardbody" and **(21) PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" conducted a gang meeting inside the New York Department of Corrections.

OA-95. On or about December 20, 2014, **(49) TRAVIS CORDELL MCCLAIN** a/k/a "Fridaay Daa Thuurteenth" possessed a firearm.

OA-96. On or about December 31, 2014, **(12) ADRIAN NAYRON COKER a/k/a "Gotti"** possessed a firearm.

OA-97. On or about January 21, 2015 **(38) LATIF NAKIA ANTOINE JOHNSON a/k/a "Billy Solo," (46) CHARLES KENYON LYTLE a/k/a "Kam," (52) D'ANGELO DE'MARA MCNEIL a/k/a "Dutch,"** and **(56) MYQUAN LAMAR NELSON a/k/a "Dripz,"** associated with one another and other UBN members known and unknown to the Grand Jury at a vigil for a murdered UBN member.

OA-98. On or about January 21, 2015 **(38) LATIF NAKIA ANTOINE JOHNSON a/k/a "Billy Solo"** possessed and discharged a firearm.

OA-99. On or about January 28, 2015, **(56) MYQUAN LAMAR NELSON a/k/a "Dripz"** and **LAVAUGHN ANTONIO HANTON a/k/a "Billy Dee" a/k/a "Killem" a/k/a "Dutch"** associated with each other at a gas station and **LAVAUGHN ANTONIO HANTON a/k/a "Billy Dee" a/k/a "Killem" a/k/a "Dutch"** attempted to murder an individual he believed to be involved in the murder of another individual.

OA-100. On or about February 26, 2015, **(69) ALANDUS MONTRELL SMITH a/k/a "Kadafia"** sold crack cocaine to a person known to the Grand Jury.

OA-101. On or about March 15, 2015, **(2) AARON DEMITRI ALEXANDER a/k/a "A Dawg"** possessed marijuana, with the intent to distribute, and a firearm.

OA-102. On or about March 24, 2015, **(79) DAVID EARL WATSON a/k/a "Gunz"** sent gang dues to **(5) JAMES BAXTON a/k/a "Frank White."**

OA-103. On or about March 26, 2015, members of the UBN conducted a gang meeting attended by **(46) CHARLES KENYON LYTLE a/k/a "Kam"** and other members of

the UBN known and unknown to the Grand Jury and a member of the UBN known to the Grand Jury possessed a firearm registered to **(38) LATIF NAKIA ANTOINE JOHNSON a/k/a "Billy Solo."**

OA-104. On or about April 8, 2015, **(79) DAVID EARL WATSON a/k/a "Gunz"** sent gang dues to **(5) JAMES BAXTON a/k/a "Frank White."**

OA-105. On or about April 18, 2015, **(78) QUITEZ LAMAR WATKINS a/k/a "Bandana"** shot and attempted to murder Victim No. 2 and a person known to the Grand Jury.

OA-106. On or about April 19, 2015, **(42) JUAN CRUZ LEON a/k/a "Jefe"** and others known to the Grand Jury shot a person known to the Grand Jury.

OA-107. On or about May 4, 2015, **(19) CYNTHIA GILMORE a/k/a "Cynthia Young" a/k/a "Lady Bynt"** sent gang dues to **(21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."**

OA-108. On or about May 21, 2015, **(5) JAMES BAXTON a/k/a "Frank White"** and **(26) BIANCA KIASHIE HARRISON a/k/a "Lady Gunz"** conducted a gang leadership meeting inside the New York Department of Corrections.

OA-109. On or about June 9, 2015, **(19) CYNTHIA GILMORE a/k/a "Cynthia Young" a/k/a "Lady Bynt"** sent gang dues to **(21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."**

OA-110. On or about June 10, 2015, **(39) TERRANCE JOHNSOM a/k/a "Sypher"** sold heroin to a person known to the Grand Jury.

OA-111. On or about June 27, 2015, (78) **QUITEZ LAMAR WATKINS a/k/a "Bandana"** associated with (27) **QUINCY DELONE HAYNES a/k/a "Black Montana"** and pistol-whipped a person known to the Grand Jury.

OA-112. On or about June 30, 2015, (50) **ROBERT ALLEN MCCLINTON a/k/a "Trigga"** sold crack cocaine to a person known to the Grand Jury.

OA-113. On or about July 1, 2015, (50) **ROBERT ALLEN MCCLINTON a/k/a "Trigga"** sold crack cocaine to a person known to the Grand Jury.

OA-114. On or about July 8, 2015, (50) **ROBERT ALLEN MCCLINTON a/k/a "Trigga"** sold crack cocaine to a person known to the Grand Jury.

OA-115. On or about July 9, 2015, (2) **AARON DEMITRI ALEXANDER a/k/a "A Dawg"** associated with another UBN member known to the Grand Jury who possessed marijuana, with the intent to distribute, and a firearm.

OA-116. On July 14, 2015, (33) **DONL LEQUINTIN HUNSUCKER a/k/a "Remy"** sent gang dues to (21) **PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."**

OA-117. On or about July 29, 2015, (50) **ROBERT ALLEN MCCLINTON a/k/a "Trigga"** sold crack cocaine to a person known to the Grand Jury.

OA-118. On or about August 8, 2015, (2) **AARON DEMITRI ALEXANDER a/k/a "A Dawg"** told another member of the UBN that (2) **AARON DEMITRI ALEXANDER a/k/a "A Dawg"** needed that member's ecstasy supplier.

OA-119. On or about August 26 2015, (2) **AARON DEMITRI ALEXANDER a/k/a "A Dawg"** and (42) **JUAN CRUZ LEON a/k/a "Jefe"** associated with each other and

another UBN member known to the Grand Jury and (42) **JUAN CRUZ LEON** a/k/a “Jefe” possessed a firearm.

OA-120. On or about September 4, 2015, (19) **CYNTHIA GILMORE** a/k/a “Cynthia Young” a/k/a “Lady Bynt” sent gang dues to. (21) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno.”

OA-121. On or about September 14, 2015, (75) **JHAD ELIJAH THORBOURNE** a/k/a “Flight” possessed marijuana, with the intent to distribute, and a firearm.

OA-122. On or about September 28, 2015, (49) **TRAVIS CORDELL MCCLAIN** a/k/a “Fridaay Daa Thuurteenth” possessed marijuana, methamphetamine, liquid THC, with the intent to distribute, and a firearm.

OA-123. On or about September 29, 2015, (14) **Brandon Khalil COVINGTON** a/k/a “Blokka” told a drug customer that he had high grade marijuana, molly, and liquid codeine available for distribution.

OA-124. On or about October 5, 2015, (5) **JAMES BAXTON** a/k/a “Frank White” conducted a gang meeting with a person known to the Grand Jury inside the New York Department of Corrections.

OA-125. On or about October 6, 2015, (21) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno” conducted a gang meeting with a person known to the Grand Jury inside the New York Department of Corrections.

OA-126. On October 7, 2015, (33) **DONL LEQUINTIN HUNSUCKER** a/k/a “Remy” sent gang dues to (21) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno.”

OA-127. On or about October 13, 2015, **(22) JALEN RAEKWON HACKNEY** a/k/a "Menace" possessed a firearm with an altered serial number.

OA-128. On or about October 13, 2015, **(42) JUAN CRUZ LEON** a/k/a "Jefe" possessed a firearm and gang materials.

OA-129. On or about October 30, 2015, **(26) ANTHONY O'NEIL HARRISON** a/k/a "Ant" notified **(14) BRANDON KHALIL COVINGTON** a/k/a "Blokka" that he had a supply of marijuana ready for **(14) BRANDON KHALIL COVINGTON** a/k/a "Blokka."

OA-130. On or about November 23, 2015, **(69) ALANDUS MONTRELL SMITH** a/k/a "Kadafia," possessed MDMA pills and marijuana, with the intent to distribute, and a firearm.

OA-131. On or about November 27, 2015, **(82) JONATHAN WRAY** a/k/a "Jon Jon" a/k/a "Yungin" associated with **(27) QUINCY DELONE HAYNES** a/k/a "Black Montana" and **(31) RAHEAM SHUMAR HOPPER** a/k/a "Bone" at a club in Shelby, North Carolina where **(82) JONATHAN WRAY** a/k/a "Jon Jon" a/k/a "Yungin" murdered Christopher Oneal Odoms.

OA-132. On or about November 29, 2015, **(5) JAMES BAXTON** a/k/a "Frank White" discussed gang business with a person known to the Grand Jury.

OA-133. On or about December 3, 2015, **(24) LAVAUGHN ANTONIO HANTON** a/k/a "Killem" a/k/a "Billy-D" and **(76) LAVON CHRISTOPHER TURNER** a/k/a "Hungry" discussed a robbery that **(76) LAVON CHRISTOPHER TURNER** a/k/a "Hungry" was going to commit.

OA-134. On or about December 4, 2015, (14) **BRANDON COVINGTON** a/k/a “Blokka” possessed ecstasy and marijuana, with the intent to distribute, and a firearm.

OA-135. On or about December 18, 2015, (22) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno” and a person known to the Grand Jury conducted a gang meeting inside the New York Department of Corrections.

OA-136. On or about December 18, 2015, (79) **DAVID EARL WATSON** a/k/a “Gunz” sent gang dues to (5) **JAMES BAXTON** a/k/a “Frank White.”

OA-137. On or about December 28, 2015, (49) **Travis Cordell MCCLAIN** a/k/a “Fridaay Daa Thuurteenth” possessed methamphetamine, with the intent to distribute, and two firearms.

OA-138. On or about January 6, 2016, (19) **CYNTHIA GILMORE** a/k/a “Cynthia Young” a/k/a “Lady Bynt” and (22) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno” conducted a gang meeting inside the New York Department of Corrections.

OA-139. On or about January 6, 2016, (19) **CYNTHIA GILMORE** a/k/a “Cynthia Young” a/k/a “Lady Bynt” sent gang dues to (22) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno.”

OA-140. On or about January 9, 2016, (75) **JHAD ELIJAH THORBOURNE** possessed a firearm.

OA-141. On or about January 10, 2016, in Pensacola, Florida, (6) **BRADLEY BEAUCHAMP** and (68) **RASHAD SATTAR** made a retail purchase at a store using a fraudulent and cloned credit card, causing one or more wires to be sent in interstate commerce.

OA-142. On or about January 12, 2016, (22) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" and (66) **PORSHA TALINA ROSERO** a/k/a "Porsha Talina Gowdy" a/k/a "Lady Uno B" conducted a meeting inside the New York Department of Corrections.

OA-143. On or about January 17, 2016, (46) **Juan Cruz LEON** a/k/a "Jefe" posted on social media that he had high grade marijuana ready for distribution.

OA-144. On or about January 19, 2016, (24) **LAVAUGHN ANTONIO HANTON** a/k/a "Killem" a/k/a "Billy-D" possessed two firearms, one with an obliterated serial number.

OA-145. On or about January 25, 2016, (83) **PATRICK DEVON WRAY** a/k/a "Ike" a/k/a "Murda" sold marijuana and counterfeit crack cocaine to a person known to the Grand Jury.

OA-146. On or about January 26, 2016, (44) **LAMONTE KENTRELL LLOYD** a/k/a "Murda Mo" a/k/a "Moo" and (63) **TYQUAN RAMONT POWELL** a/k/a "Savage," in Halifax County, North Carolina, murdered Jimmy Ray Daniels and shot Victims 3 and 4.

OA-147. On or about February 2, 2016, (5) **JAMES BAXTON** a/k/a "Frank White" wrote a letter to (22) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" discussing gang business.

OA-148. On or about February 2, 2016, (19) **CYNTHIA GILMORE** a/k/a "Cynthia Young" a/k/a "Lady Bynt" sent a letter to (21) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" discussing gang business.

OA-149. On or about February 7, 2016, (44) **LAMONTE KENTRELL LLOYD** a/k/a "Murda Mo" a/k/a "Moo" and (63) **TYQUAN RAMONT POWELL** a/k/a "Savage" conspired to and attempted to rob Victim No. 5, and shot Victim No. 5 in the back of the head.

OA-150. On or about February 7, 2016, (4) **FREDDREC DEANDRE BANKS**, (31) **RAHEAM SHUMAR HOPPER** a/k/a "Bone" and (47) **TERRY LAVON MADDOX** a/k/a "Turbo" associated with one another and possessed and discharged a firearm.

OA-151. On or about February 12, 2016, (19) **CYNTHIA GILMORE** a/k/a "Cynthia Young" a/k/a "Lady Bynt" sent gang dues to (22) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-152. On or about February 13, 2016, in Pensacola, Florida, (51) **ISAAC NABAH MCINTOSH** a/k/a "Mac" rented a car so that he and (6) **BRADLEY BEAUCHAMP** and (68) **RASHAD SATTAR**, could conduct retail shopping using a fraudulent and cloned credit card.

OA-153. On or about February 13, 2016, in Pensacola, Florida, (51) **ISAAC NABAH MCINTOSH** a/k/a "Mac", (6) **BRADLEY BEAUCHAMP** and (68) **RASHAD SATTAR**, working in concert, made and attempted to make retail purchases at a store using a fraudulent and cloned credit card, causing one or more wires to be sent in interstate commerce.

OA-154. On or about February 19, 2016, (44) **LAMONTE KENTRELL LLOYD** a/k/a "Murda Mo" a/k/a "Moo" and (63) **TYQUAN RAMONT POWELL** a/k/a "Savage," conspired to and attempted to rob Cheeontah Howard, and shot and murdered Cheeontah Howard.

OA-155. On or about February 23, 2016, (22) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno” sent a letter to (66) **PORSHA TALINA ROSERO** a/k/a “Porsha Talina Gowdy” discussing gang business.

OA-156. On or about March 3, 2016, (22) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno” sent a letter to (19) **CYNTHIA GILMORE** a/k/a “Cynthia Young” a/k/a “Lady Bynt” discussing gang business.

OA-157. On or about March 9, 2016, in Loris, South Carolina, (74) **PEATREZ LAMAR TEASTE** a/k/a “P-Wheezy” and others known and unknown to the Grand Jury robbed and shot a person known to the Grand Jury.

OA-158. On or about March 11, 2016, (26) **BIANCA KIASHIE HARRISON** a/k/a “Lady Gunz” participated in a gang meeting with (5) **JAMES BAXTON** a/k/a “Frank White” inside the New York Department of Corrections.

OA-159. On or about March 11, 2016, (5) **JAMES BAXTON** a/k/a “Frank White” conducted a gang meeting with a person known to the Grand Jury inside the New York Department of Corrections.

OA-160. On or about March 11, 2016, (5) **JAMES BAXTON** a/k/a “Frank White” wrote a letter to (22) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno” discussing gang business.

OA-161. On or about March 12, 2016, in Madison, Florida, (6) **BRADLEY BEAUCHAMP**, (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a “Bandana” a/k/a “Bobby Seale,” and (68) **RASHAD SATTAR** possessed 163 gift cards and 18 credit cards, some of which were fraudulent and cloned, and all the necessary equipment used to clone credit

cards including, a credit card embossing machine, a credit card reader encoder, and a laptop computer. On this date, when law enforcement encountered the defendants during a traffic stop, they were in the process of cloning a credit card.

OA-162. On or about March 17, 2016, **(26) BIANCA KIASHIE HARRISON a/k/a "Lady Gunz," (33) DONL LEQUINTIN HUNSUCKER a/k/a "Remy," (52) D'ANGELO DE'MARA MCNEIL a/k/a "Dutch, (56) MYQUAN LAMAR NELSON a/k/a "Dripz" and other members of the UBN known and unknown to the Grand Jury conducted a gang meeting in Mecklenburg County, North Carolina.**

OA-163. On or about March 17, 2016, **(26) BIANCA KIASHIE HARRISON a/k/a "Lady Gunz," (80) TWYLAİN WILSON a/k/a "5 Alive," and other members of the UBN known and unknown to the Grand Jury conducted a gang meeting.**

OA-164. On or about March 18, 2016, **(4) FREDDREC DEANDRE BANKS a/k/a "Drec" a/k/a "Bang" associated with (9) ANTARIOUS QAUSHARD BYERS a/k/a "Bang" and possessed a firearm.**

OA-165. On or about April 5, 2016, **(19) CYNTHIA GILMORE a/k/a "Cynthia Young" a/k/a "Lady Bynt" sent gang dues to (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."**

OA-166. On or about April 15, 2016, **(47) TERRY LAVON MADDOX a/k/a "Turbo" possessed a firearm with an altered serial number.**

OA-167. On or about April 19, 2016, **(23) CHRISTOPHER DENTRE HAMRICK a/k/a "Red Dot" possessed cocaine and marijuana, with the intent to distribute, and a firearm.**

OA-168. On or about April 24, 2016, (39) **TERRANCE JOHNSOM** a/k/a “**Sypher**” sold heroin to a person known to the Grand Jury.

OA-169. On or about May 4, 2016, (39) **TERRANCE JOHNSOM** a/k/a “**Sypher**” sold heroin to a person known to the Grand Jury.

OA-170. On or about May 14, 2016, (48) **BRANDON THEODORE MANNING** a/k/a “**Billy B**” and (65) **OMARI ROSERO** a/k/a “**Uno B**” conducted a gang meeting inside the New York Department of Corrections.

OA-171. On or about May 16, 2016, in Charlotte, North Carolina (72) **ISAIAH DEVON STALLWORTH** a/k/a “**Zay**” a/k/a “**Juice**”, and (39) **TONNEY HORATIO KERBAY** a/k/a “**Rich Tonney**,” possessed and controlled multiple fraudulent cloned gift cards.

OA-172. On or about May 18, 2016, UBN members from South Carolina sent gang dues to (21) **PEDRO GUTIERREZ** a/k/a “**Magoo**” a/k/a “**Light**” a/k/a “**Inferno**.”

OA-173. On or about May 20, 2016, (57) **THOMAS OLIVER** a/k/a “**T.O.**” and (61) **LAQUIDA SHUNTAE POSTON** a/k/a “**Lady Recon**” possessed marijuana and crack cocaine, with the intent to distribute, a firearm and gang materials.

OA-174. On or about May 20, 2016, (56) **MYQUAN LAMAR NELSON** a/k/a “**Dripz**” and (77) **JESSE JAMES WATKINS** a/k/a “**Showtime**” sold heroin to a person known to the Grand Jury.

OA-175. On or about May 23, 2016, (27) **QUINCY DELONE HAYNES** a/k/a “**Black Montana**” and (78) **QUITEZ LAMAR WATKINS** a/k/a “**Bandana**” conducted a gang meeting by telephone.

OA-176. On or about May 23, 2016, (19) CYNTHIA GILMORE a/k/a "Cynthia Young" a/k/a "Lady Bynt," sent gang dues to (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno."

OA-177. On or about May 25, 2016, (39) TERRANCE JOHNSOM a/k/a "Sypher" sold heroin to a person known to the Grand Jury.

OA-178. On or about May 30, 2016, in Charlotte, North Carolina, (51) ISAAC NABAH MCINTOSH a/k/a "Mac" possessed and controlled a fraudulent and cloned credit card.

OA-179. On or about June 6, 2016, a UBN member known to the Grand Jury sent money to (48) BRANDON THEODORE MANNING a/k/a "Billy B" from (30) BOBBY EARL HINES a/k/a "Swahili Red" as a loan.

OA-180. On or about June 6, 2016, (21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno," sent a letter to (66) PORSHA TALINA ROSERO a/k/a "Porsha Talina Gowdy" a/k/a "Lady Uno B" requesting that (66) PORSHA TALINA ROSERO a/k/a "Porsha Talina Gowdy" a/k/a "Lady Uno B" provide a phone number to (65) OMARI ROSERO a/k/a "Uno B."

OA-181. On or about June 7, 2016, (48) BRANDON THEODORE MANNING a/k/a "Billy B" received a monetary wire transfer from a person known to the Grand Jury on behalf of (30) BOBBY EARL HINES a/k/a "Swahili Red" as a loan.

OA-182. On or about June 8, 2016, (39) TERRANCE JOHNSOM a/k/a "Sypher" sold heroin to a person known to the Grand Jury.

OA-183. On June 10, 2016, (83) PATRICK DEVON WRAY a/k/a "Ike" a/k/a "Murda" sold crack cocaine to a person known to the Grand Jury.

OA-184. On June 11, 2016, (31) **RAHEAM SHUMAR HOPPER a/k/a "Bone,"** (82) **JONATHAN WRAY a/k/a "Jon Jon" a/k/a "Yungin,"** and others known and unknown to the Grand Jury associated with one another at house party when one or more UBN members possessed and discharged a firearm.

OA-185. On or about June 13, 2016, (83) **PATRICK DEVON WRAY a/k/a "Ike" a/k/a "Murda"** sold crack cocaine to a person known to the Grand Jury.

OA-186. On or about June 17, 2016, (16) **RICHARD DIAZ a/k/a "Damu"** possessed a firearm.

OA-187. On or about June 20, 2016, (39) **TERRANCE JOHNSOM a/k/a "Sypher"** sold heroin to a person known to the Grand Jury.

OA-188. On or about June 28, 2016, (9) **ANTARIOUS QAUSHARD BYERS a/k/a "Bang"** and (31) **RAHEAM SHUMAR HOPPER a/k/a "Bone"** discussed committing robberies in order to obtain money to pay gang dues.

OA-189. On or about June 29, 2016, a person known to the Grand Jury sent gang dues to (66) **PORSHA TALINA ROSERO a/k/a "Porsha Talina Gowdy" a/k/a "Lady Uno B"** on behalf of (30) **BOBBY EARL HINES a/k/a "Swahili"** for (65) **OMARI ROSERO a/k/a "Uno B".**

OA-190. On or about July 1, 2016, (3) **MONTRAYA ANTWAINE ATKINSON a/k/a "Hardbody"** possessed marijuana and cocaine with the intent to distribute.

OA-191. On or about July 7, 2016, (39) **TERRANCE JOHNSOM a/k/a "Sypher"** possessed heroin with the intent to distribute.

OA-192. On or about July 10, 2016, (37) JOE TARPEH JOHNSON a/k/a

“JR” a/k/a “Big Pusha” a/k/a “Kutthroat,” (40) RASHAD MONTE KING a/k/a “Billy Kilo Montana,” (51) ISAAC NABAH MCINTOSH a/k/a “Mac,” (56) MYQUAN LAMAR NELSON a/k/a “Dripz,” (62) AUSTIN DEMONTRY POTTS a/k/a “Big Tek” a/k/a “B-Tek,” (72) ISAIAH DEVON STALLWORTH a/k/a “Zay” a/k/a “Juice,” and (76) LAVON CHRISTOPHER TURNER a/k/a “Hungry” conducted a gang meeting.

OA-193. On or about July 12, 2016, (1) SHERMAN ADDISON a/k/a “Ace” and (27) QUINCY DELONE HAYNES a/k/a “Black Montana” discussed attempting to determine whether a UBN member known to the Grand Jury was cooperating with law enforcement.

OA-194. On July 26, 2016, (33) DONL LEQUINTIN HUNSUCKER a/k/a “Remy” sent gang dues to (21) PEDRO GUTIERREZ a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno.”

OA-195. On July 26, 2016, (22) JALEN RAEKWON HACKNEY a/k/a “Menace,” (43) RENAIRE ROSHIQUE LEWIS, Jr. a/k/a “Banz” a/k/a “Esco,” (57) THOMAS OLIVER a/k/a “T.O.,” (61) LAQUIDA SHUNTAE POSTON a/k/a “Lady Recon,” and (71) Denzel SPIKES a/k/a “Dinki” a/k/a “Dino” robbed and murdered Malik Brown and shot Victim No. 6.

OA-196. On or about July 27, 2016, (64) OMAR LIONEL REED a/k/a “Omega” discussed gang business with a lower ranking member of the UBN.

OA-197. On or about July 28, 2016, (13) ADRIAN NAYRON COKER a/k/a “Gotti” sold cocaine to a person known to the Grand Jury.

OA-198. On or about August 4, 2016, in Concord, North Carolina, **(51) ISAAC NABAH MCINTOSH a/k/a “Mac” (37) JOE TARPEH JOHNSON a/k/a “JR” a/k/a “Big Pusha” a/k/a “Kutthroat,” and (72) ISAIAH DEVON STALLWORTH a/k/a “Zay” a/k/a “Juice,”** working in concert, made a purchase, and attempted additional purchases at stores using multiple fraudulent and cloned credit cards, causing one or more wires to be sent in interstate commerce.

OA-199. On or about August 10, 2016, **(10) RENALDO RODREGUS CAMP a/k/a “Rodeo” a/k/a “Drop”** told **(4) FREDDREC DEANDRE BANKS a/k/a “Drec” a/k/a “Banga”** that he had drugs available for distribution and to tell the other gang members to come see him.

OA-200. On or about August 13, 2016, in Concord, North Carolina **(76) LAVON CHRISTOPHER TURNER a/k/a “Hungry,” and (72) ISAIAH DEVON STALLWORTH a/k/a “Zay” a/k/a “Juice”** made purchases, and attempted others, at retail stores using multiple fraudulent and cloned credit cards, causing one or more wires to be sent in interstate commerce.

OA-201. On or about August 14, 2016, **(7) DESTINEE DANYELL BLAKENEY a/k/a “Lady Rude”** sent gang dues to a person known to the Grand Jury for **(30) BOBBY EARL HINES a/k/a “Swahili Red.”**

OA-202. On or about August 17, 2016, **(8) ANTONIO DONTRE BROOKS a/k/a “Montana”** possessed and discharged a firearm and possessed cocaine and marijuana.

OA-203. On or about August 17, 2016, **(56) MYQUAN LAMAR NELSON a/k/a “Dripz”** sold heroin to a person known to the Grand Jury.

OA-204. On or about August 17, 2016, **(34) DRICKO DASHON HUSKEY a/k/a “Drizzy”** shot and murdered Donnell Murray.

OA-205. On or about August 19, 2016, **(56) MYQUAN LAMAR NELSON a/k/a "Dripz"** sold heroin to a person known to the Grand Jury.

OA-206. On or about August 23, 2016, **(13) ADRIAN NAYRON COKER a/k/a "Gotti"** sold cocaine to a person known to the Grand Jury.

OA-207. On or about August 26, 2016, a person known to the Grand Jury sent gang dues to **(66) PORSHA TALINA ROSERO a/k/a "Porsha Talina Gowdy" a/k/a "Lady Uno B"** on behalf of **(30) BOBBY EARL HINES a/k/a "Swahili Red."**

OA-208. On or about August 26, 2016, **(13) ADRIAN NAYRON COKER a/k/a "Gotti"** sold crack cocaine to a person known to the Grand Jury.

OA-209. On or about August 29, 2016, in Charlotte, North Carolina, **(39) TONNEY HORATIO KERBAY a/k/a "Rich Tonney"** possessed and controlled a laptop computer, and a credit card reader encoder, that had been and were being used to clone credit and gift cards.

OA-210. On or about August 29, 2016, in Charlotte, North Carolina, **(39) TONNEY HORATIO KERBAY a/k/a "Rich Tonney," (37) JOE TARPEH JOHNSON a/k/a "JR" a/k/a "Big Pusha" a/k/a "Kutthroat", and (72) ISAIAH DEVON STALLWORTH a/k/a "Zay" a/k/a "Juice"** possessed and controlled multiple cloned credit and gift cards.

OA-211. On or about September 6, 2016, a UBN member known to the Grand Jury informed **(1) SHERMAN ADDISON a/k/a "Ace"** that the UBN member was going to commit a robbery and that he was in need of a gun.

OA-212. On or September 8, 2016, **(13) ADRIAN NAYRON COKER a/k/a "Gotti"** sold crack cocaine to a person known to the Grand Jury.

OA-213. On September 11, 2016, (37) **JOE TARPEH JOHNSON a/k/a "JR"** a/k/a "Big Pusha" a/k/a "Kutthroat," (39) **TONNEY HORATIO KERBAY a/k/a "Rich Tonney,"** (40) **RASHAD MONTE KING a/k/a "Billy Kilo Montana,"** (51) **ISAAC NABAH MCINTOSH a/k/a "Mac,"** (56) **MYQUAN LAMAR NELSON a/k/a "Dripz,"** and (76) **LAVON CHRISTOPHER TURNER a/k/a "Hungry"** participated in a gang meeting.

OA-214. On or about September 15, 2016, (48) **BRANDON THEODORE MANNING a/k/a "Billy B"** received a monetary wire transfer from (74) **PEATREZ LAMAR TEASTE a/k/a "P-Wheezy"** on behalf of (30) **BOBBY EARL HINES a/k/a "Swahili Red"** for gang dues.

OA-215. On or about September 17, 2016, (74) **PEATREZ LAMAR TEASTE a/k/a "P-Wheezy"** made a monetary wire transfer to a person known to the Grand Jury on behalf of (30) **BOBBY EARL HINES a/k/a "Swahili Red."**

OA-216. On or about September 22, 2016, (56) **MYQUAN LAMAR NELSON a/k/a "Dripz"** sold heroin to a person known to the Grand Jury.

OA-217. On or about September 23, 2016, (56) **MYQUAN LAMAR NELSON a/k/a "Dripz"** discussed told (62) **AUSTIN DEMONTRY POTTS a/k/a "Big Tek" a/k/a "B-Tek"** that (62) **AUSTIN DEMONTRY POTTS a/k/a "Big Tek" a/k/a "B-Tek"** needed to pay his gang dues.

OA-218. On or about September 23, 2016, (56) **MYQUAN LAMAR NELSON a/k/a "Dripz,"** discussed the payment of UBN gang dues with (46) **CHARLES KENYON LYTLE a/k/a "Kam."**

OA-219. On or about September 23, 2016, **(56) MYQUAN LAMAR NELSON a/k/a "Dripz,"** discussed the payment of UBN gang dues with **(40) RASHAD MONTE KING a/k/a "Billy Kilo Montana."**

OA-220. On or about September 23, 2016, **(4) FREDDREC DEANDRE BANKS a/k/a "Drec" a/k/a "Banga,"** **(45) DAVID MATTHEW LOWE a/k/a "Gucci,"** and another member of the UBN known to the Grand Jury broke into and entered a private residence.

OA-221. On or about September 26, 2016, **(56) MYQUAN LAMAR NELSON a/k/a "Dripz,"** participated in a marijuana transaction with **(25) ANTHONY ONEIL HARRISON a/k/a "Ant."**

OA-222. On or about September 28, 2016, **(24) LAVAUGHN ANTONIO HANTON a/k/a "Killem" a/k/a "Billy-D"** and **(56) MYQUAN LAMAR NELSON a/k/a "Dripz,"** discussed a subordinate UBN member they believed was cooperating with law enforcement.

OA-223. On or about September 30, 2016, **(28) DELONTE MAURICE HICKS a/k/a "BBB Shooter" a/k/a "Black"** received gang dues from a person known to the Grand Jury.

OA-224. On or about September 30, 2016, **(37) JOE TARPEH JOHNSON a/k/a "JR" a/k/a "Big Pusha" a/k/a "Kutthroat,"** **(41) BARRINGTON AUDLEY LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale,"** **(76) LAVON CHRISTOPHER TURNER a/k/a "Hungry"** and other UBN members known and unknown to the Grand Jury conducted a meeting in Raleigh, North Carolina to celebrate a fellow UBN member's release from prison.

OA-225. On or about October 2, 2016, (21) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno,” (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a “Bandana” a/k/a “Bobby Seale,” and (56) **MYQUAN LAMAR NELSON** a/k/a “Dripz,” conducted a gang meeting by telephone.

OA-226. On or about October 4, 2016, (25) **ANTHONY ONEIL HARRISON** a/k/a “Ant” and (56) **MYQUAN LAMAR NELSON** a/k/a “Dripz” discussed gang business.

OA-227. On or about October 5, 2016, (25) **ANTHONY ONEIL HARRISON** a/k/a “Ant” and (56) **MYQUAN LAMAR NELSON** a/k/a “Dripz” discussed firearms.

OA-228. On or about October 8, 2016, (56) **MYQUAN LAMAR NELSON** a/k/a “Dripz,” and (81) **RONALD ANTHONY WOFFORD** participated in a narcotics transaction.

OA-229. On or about October 8, 2016, (10) **RENALDO RODREGUS CAMP** a/k/a “Rodeo” a/k/a “Drop” sold cocaine to a person known to the Grand Jury.

OA-230. On or about October 8, 2016, (19) **CYNTHIA GILMORE** a/k/a “Cynthia Young” a/k/a “Lady Bynt” and (21) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno” conducted a gang meeting inside the New York Department of Corrections

OA-231. On October 8, 2016, (37) **JOE TARPEH JOHNSON** a/k/a “JR” a/k/a “Big Pusha” a/k/a “Kutthroat” made a purchase, and attempted others, at retail stores using a cloned credit card, causing one or more wires to be sent in interstate commerce.

OA-232. On or about October 9, 2016, (72) **ISAIAH DEVON STALLWORTH** a/k/a “Zay” a/k/a “Juice” packaged narcotics for distribution.

OA-233. On or about October 9, 2016, (56) **MYQUAN LAMAR NELSON** a/k/a “Dripz” distributed marijuana with (35) **MUHAMMAD JOHN JACKSON** a/k/a “Picasso.”

OA-234. On or about October 9, 2016, (9) ANTARIOUS Qaushard BYERS a/k/a "Bang," (27) QUINCY DELONE HAYNES a/k/a "Black Montana," and (32) WESLEY JAVON HOWZE a/k/a "Drama" associated with one another at house party where an individual known to the Grand Jury was murdered.

OA-235. On or about October 9, 2016, (9) ANTARIOUS QAUSHARD BYERS a/k/a "Bang" engaged in a physical fight with an individual known to the Grand Jury.

OA-236. On or about October 9, 2016, (32) WESLEY JAVON HOWZE a/k/a "Drama" possessed and discharged a firearm.

OA-237. On October 11, 2016, (56) MYQUAN LAMAR NELSON a/k/a "Dripz" disseminated UBN gang orders to (13) BRANDON KHALIL COVINGTON a/k/a "Blokka," (33) DONL LEQUINTIN HUNSUCKER a/k/a "Remy," (35) MUHAMMAD JOHN JACKSON a/k/a "Picasso," (37) JOE TARPEH JOHNSON a/k/a "JR" a/k/a "Big Pusha" a/k/a "Kutthroat," (40) RASHAD MONTE KING a/k/a "Billy Kilo Montana," (46) CHARLES KENYON LYTLE a/k/a "Kam, (52) D'ANGELO DE'MARA MCNEIL a/k/a "Dutch (62) AUSTIN DEMONTRY POTTS a/k/a "Big Tek" a/k/a "B-Tek" (73) CEDRIC LEXANDER SURRETT a/k/a "Hollywood" a/k/a "5-Star" a/k/a "Lingo," and (77) JESSE JAMES WATKINS a/k/a "Showtime."

OA-238. On or about October 11, 2016, (25) ANTHONY ONEIL HARRISON a/k/a "Ant" and (56) MYQUAN LAMAR NELSON a/k/a "Dripz" discussed (61) MYQUAN LAMAR NELSON a/k/a "Dripz" plans for a gang meeting.

OA-239. On or about October 13, 2016, (19) **CYNTHIA GILMORE** a/k/a “Cynthia Young” a/k/a “Lady Bynt” sent gang dues to (21) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno.”

OA-240. On or about October 14, 2016, (56) **MYQUAN LAMAR NELSON** a/k/a “Dripz,” and (72) **ISAIAH DEVON STALLWORTH** a/k/a “Zay” a/k/a “Juice” discussed gang business.

OA-241. On or about October 14, 2016, (25) **ANTHONY ONEIL HARRISON** a/k/a “Ant,” (33) **DONL LEQUINTIN HUNSUCKER** a/k/a “Remy,” (38) **LATIF NAKIA ANTOINE JOHNSON** a/k/a “Billy Solo,” (56) **MYQUAN LAMAR NELSON** a/k/a “Dripz,” and (77) **JESSE JAMES WATKINS** a/k/a “Showtime” conducted a gang meeting.

OA-242. On October 14, 2016, (74) **PEATREZ LAMAR TEASTE** a/k/a “P-Wheezy” sent gang dues to a person known to the Grand Jury on behalf of (30) **BOBBY EARL HINES** a/k/a “Swahili Red.”

OA-243. On or about October 15, 2016, (13) **BRANDON KHALIL COVINGTON** a/k/a “Blokka,” (16) **RICHARD DIAZ** a/k/a “Damu,” (25) **ANTHONY O’NEIL HARRISON** a/k/a “Ant,” (33) **DONL LEQUINTIN HUNSUCKER** a/k/a “Remy,” (35) **MUHAMMAD JOHN JACKSON** a/k/a “Picasso,” (38) **LATIF NAKIA ANTOINE JOHNSON** a/k/a “Billy Solo,” (40) **RASHAD MONTE KING** a/k/a “Billy Kilo Montana,” (46) **CHARLES KENYON LYITTLE** a/k/a “Kam,” (56) **MYQUAN LAMAR NELSON** a/k/a “Dripz,” (62) **AUSTIN DEMONTRY POTTS** a/k/a “Big Tek” a/k/a “B-Tek,” (73) **CEDRIC LEXANDER SURRATT** a/k/a “Hollywood” a/k/a “5-Star” a/k/a “Lingo,” (77) **JESSE JAMES WATKINS**

a/k/a "Showtime" and other UBN members known and unknown to the Grand Jury conducted a gang meeting.

OA-244. On or about October 15, 2016, (3) **MONTRAYA ANTWAIN ATKINSON** a/k/a "Hardbody" and (56) **MYQUAN LAMAR NELSON** a/k/a "Dripz" conducted a gang meeting.

OA-245. On or about October 16, 2016, (3) **MONTRAYA ANTWAIN ATKINSON** a/k/a "Hardbody" and (21) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" conducted a gang meeting inside the New York Department of Corrections.

OA-246. On October 18, 2016, (70) **ANTHONY BERNARD SMITH** a/k/a "Redd Lion" possessed three firearms.

OA-247. On or about October 19, 2016, (56) **MYQUAN LAMAR NELSON** a/k/a "Dripz" and (77) **JESSE JAMES WATKINS** a/k/a "Showtime" participated in the distribution of marijuana.

OA-248. On or about October 20, 2016, (27) **QUINCY DELONE HAYNES** a/k/a "Black Montana" sold cocaine to a person known to the Grand Jury.

OA-249. On or about October 20, 2016, (51) **ISAAC NABAH MCINTOSH** a/k/a "Mac" and (75) **JHAD ELIJAH THORBOURNE** a/k/a "Flight" sold marijuana.

OA-250. On or about October 21, 2016, (70) **ANTHONY BERNARD SMITH** a/k/a "Redd Lion" participated in cocaine distribution with (13) **ADRIAN NAYRON COKER** a/k/a "Gotti."

OA-251. On or about October 21, 2016, (56) **MYQUAN LAMAR NELSON** a/k/a "Dripz" participated in the distribution of marijuana.

OA-252. On or about October 22, 2016, **(56) MYQUAN LAMAR NELSON a/k/a "Dripz"** and **(81) RONALD ANTHONY WOFFORD** participated in a narcotics transaction.

OA-253. On or about October 22, 2016, **(56) MYQUAN LAMAR NELSON a/k/a "Dripz"** and **(35) MUHAMMAD JOHN JACKSON a/k/a "Picasso"** participated in a narcotics transaction.

OA-254. On or about October 22, 2016, **(81) RONALD ANTHONY WOFFORD** possessed a firearm and marijuana.

OA-255. On or about October 23, 2016, **(74) PEATREZ LAMAR TEASTE a/k/a "P-Wheezy"** sent gang dues to **(48) BRANDON THEODORE MANNING a/k/a "Billy B"** on behalf of **(30) BOBBY EARL HINES a/k/a "Swahili Red."**

OA-256. On or about October 23, 2016, **(13) BRANDON KHALIL COVINGTON a/k/a "Blokka"** and **(56) MYQUAN LAMAR NELSON a/k/a "Dripz"** discussed gang business.

OA-257. On or about October 23, 2016, **(56) MYQUAN LAMAR NELSON a/k/a "Dripz"** participated sold marijuana.

OA-258. On or about October 24, 2016, **(27) QUINCY DELONE HAYNES a/k/a "Black Montana"** sold cocaine to a person known to the Grand Jury.

OA-259. On October 26, 2016, **(65) OMARI ROSERO a/k/a "Uno B"** and **(41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale"** conducted a gang meeting by telephone.

OA-260. On or about October 26, 2016, **(41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale"** and **(79) DAVID EARL WATSON a/k/a "Gunz"** conducted a gang meeting by telephone.

OA-261. On October 26, 2016, (46) CHARLES KENYON LYTLE a/k/a "Kam" and (41) BARRINGTON LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale" conducted a gang meeting by telephone and discussed the need to murder a UBN member known to the Grand Jury for cooperating with law enforcement.

OA-262. On or about October 27, 2016, (3) MONTRAYA ANTWAIN ATKINSON a/k/a "Hardbody" and (56) MYQUAN LAMAR NELSON a/k/a "Dripz" discussed gang business.

OA-263. On or about October 27, 2016, (48) BRANDON THEODORE MANNING a/k/a "Billy B" transferred gang dues to (66) PORSHA TALINA ROSERO a/k/a "Porsha Talina Gowdy" a/k/a "Lady Uno B" for (30) BOBBY EARL HINES a/k/a "Swahili."

OA-264. On or about October 31, 2016, (56) MYQUAN LAMAR NELSON a/k/a "Dripz," and (73) CEDRIC LEXANDER SURRETT a/k/a "Hollywood" a/k/a "5-Star" a/k/a "Lingo" discussed gang business.

OA-265. On or about October 29, 2016, (41) BARRINGTON AUDLEY LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale" engaged in an interstate telephone conversation with (51) ISAAC NABAH MCINTOSH a/k/a "Mac" regarding the wire fraud scheme.

OA-266. On or about October 31, 2016, (56) MYQUAN LAMAR NELSON a/k/a "Dripz," instructed (59) JAMES BRANDIN PEGUES to collect UBN gang dues from subordinates.

OA-267. On or about November 1, 2016, (19) **CYNTHIA GILMORE** a/k/a “Cynthia Young” a/k/a “Lady Bynt” sent gang dues to (21) **PEDRO GUTIERREZ** a/k/a “Magoo” a/k/a “Light” a/k/a “Inferno.”

OA-268. On or about November 1, 2016, (79) **DAVID EARL WATSON** a/k/a “Gunz” and (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a “Bandana” a/k/a “Bobby Seale” conducted a gang meeting by telephone.

OA-269. On or about November 2, 2016, (79) **DAVID EARL WATSON** a/k/a “Gunz” and (41) **BARRINGTON LATTIBEAUDIERE** a/k/a “Bandana” a/k/a “Bobby Seale” conducted a gang meeting by telephone.

OA-270. On or about November 3, 2016, (71) **Omari ROSERO** a/k/a “Uno B” sent a message to (86) **David Earl WATSON** a/k/a “Gunz” discussing a UBN member known to the Grand Jury who may be cooperating with law enforcement.

OA-271. On or about November 5, 2016, (13) **ADRIAN NYRON COKER** a/k/a “Gotti” possessed a firearm.

OA-272. On or about November 5, 2016, (13) **ADRIAN NYRON COKER** a/k/a “Gotti” and another UBN member known to the Grand Jury discussed killing a person known to the Grand Jury.

OA-273. On or about November 8, 2016, (15) **MARQUEL MICHAEL CUNNINGHAM** discussed gang business with another UBN member known to the Grand Jury.

OA-274. On or about November 10, 2016, (15) **MARQUEL MICHAEL CUNNINGHAM** discussed gang business with another UBN member known to the Grand Jury.

OA-275. On or about November 10, 2016, (15) **MARQUEL MICHAEL CUNNINGHAM** and others known and unknown to the Grand Jury, while in the Cleveland County Jail, assaulted another UBN member known the Grand Jury.

OA-276. On or about November 11, 2016, (14) **ALEX LEVI COX a/k/a "Quick"** transferred gang dues to Bobby (30) **BOBBY EARL HINES a/k/a "Swahili."**

OA-277. On or about November 11, 2016, (14) **ALEX LEVI COX a/k/a "Quick,"** (28) **DELONTE MAURICE HICKS a/k/a "BBB Shooter" a/k/a "Black,"** (29) **JASMIN REIKEEM HICKS a/k/a "Rude,"** and (30) **BOBBY EARL HINES a/k/a "Swahili Red,"** and other UBN members known and unknown to the Grand Jury conspired to, attempted to, and did introduce contraband materials, including cell phones, marijuana, narcotic pills, and razor blades into Pasquotank Correctional Institution.

OA-278. On or about November 12, 2016, (31) **BOBBY EARL HINES a/k/a "Swahili Red"** and (53) **BRANDON THEODORE MANNING a/k/a "Billy B"** discussed (53) **BRANDON THEODORE MANNING a/k/a "Billy B"** distributing narcotic pills.

OA-279. On or about November 13, 2016, (74) **PEATREZ LAMAR TEASTE a/k/a "P-Wheezy"** made a monetary wire transfer in gang dues to a person known to the Grand Jury on behalf of (30) **BOBBY EARL HINES a/k/a "Swahili Red."**

OA-280. On or about November 14, 2016, (41) **BARRINGTON AUDLEY LATTIBEAUDIERE a/k/a "Bandana" "Bobby Seale"** conducted a gang meeting by telephone with another UBN member known to the Grand Jury.

OA-281. On or about November 15, 2016, (30) BOBBY EARL HINES a/k/a "Swahili" and (48) BRANDON THEODORE MANNING a/k/a "Billy B" discussed gang business.

OA-282. On or about November 15, 2016, (27) QUINCY DELONE HAYNES a/k/a "Black Montana" sold cocaine to a person known to the Grand Jury.

OA-283. On or about November 15, 2016, (27) QUINCY DELONE HAYNES a/k/a "Black Montana" and (78) QUITEZ LAMAR WATKINS a/k/a "Bandana" discussed gang business.

OA-284. On or about November 15, 2016, (16) RICHARD DIAZ a/k/a "Damu" and (30) BOBBY EARL HINES a/k/a "Swahili Red" conducted a gang meeting by telephone.

OA-285. On or about November 15, 2016, (30) BOBBY EARL HINES a/k/a "Swahili Red" and (60) DESHAWN DEONTA PETERKIN a/k/a "Proo" discussed gang dues.

OA-286. On or about November 15, 2016, (30) BOBBY EARL HINES a/k/a "Swahili Red" and (66) PORSHA TALINA ROSERO a/k/a "Porsha Talina Gowdy" discussed gang business.

OA-287. On or about November 15, 2016, (56) MYQUAN LAMAR NELSON a/k/a "Dripz" participated in the distribution of marijuana.

OA-288. On or about November 15, 2016, (11) SHAKIRA MONIQUE CAMPBELL a/k/a "Lady Rage" and (30) BOBBY EARL HINES a/k/a "Swahili Red" discussed gang business.

OA-289. On or about November 16, 2016. (14) ALEX LEVI COX a/k/a "Quick" sent gang dues to (30) BOBBY EARL HINES a/k/a "Swahili Red."

OA-290. On or about November 16, 2016, (7) **DESTINEE DANYELL BLAKENEY** a/k/a "Lady Rude" sent gang dues to (30) **BOBBY EARL HINES** a/k/a "Swahili Red."

OA-291. On or about November 18, 2016, (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale," engaged in an interstate telephone conversation with (68) **RASHAD SATTAR** regarding the wire fraud scheme.

OA-292. On or about November 18, 2016, (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale," engaged in an interstate telephone conversation with (51) **ISAAC NABAH MCINTOSH** a/k/a "Mac" regarding the wire fraud scheme.

OA-293. On or about November 19, (14) **ALEX LEVI COX** a/k/a "Quick" sent gang dues to (30) **BOBBY EARL HINES** a/k/a "Swahili Red"

OA-294. On or about November 19, 2016, (60) **DESHAWN DEONTA PETERKIN** a/k/a "Proo" sent gang dues to (14) **ALEX LEVI COX** a/k/a "Quick."

OA-295. On or about November 20, 2016, (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale" conducted a gang meeting by telephone with another member of the UBN.

OA-296. On or about November 21, 2016, (10) **RENALDO RODREGUS CAMP** a/k/a "Rodeo" a/k/a "Drop" sold cocaine to a person known to the Grand Jury.

OA-297. On or about November 23, 2016, (27) **QUINCY DELONE HAYNES** a/k/a "Black Montana" and (67) **KENNETH MARQUISE RUFF** a/k/a "Red Hot" conducted a gang meeting by telephone.

OA-298. On or about November 24, 2016, (48) BRANDON THEODORE MANNING a/k/a "Billy B" received an order from (30) BOBBY EARL HINES a/k/a "Swahili Red" to meet with (58) KOLAWOLE OLALEKAN OMOTOSHO a/k/a "Rugged Red" to determine whether giving (58) KOLAWOLE OLALEKAN OMOTOSHO a/k/a "Rugged Red" a higher rank within the UBN organization was appropriate.

OA-299. On or about November 24, 2016, (14) ALEX LEVI COX a/k/a "Quick" and (30) BOBBY EARL HINES a/k/a "Swahili Red" discussed gang business.

OA-300. On or about November 25, 2016, (67) KENNETH MARQUISE RUFF a/k/a "Red Hot" and (80) TWYLAIRN WILSON a/k/a "5 Alive" conducted a gang meeting by telephone.

OA-301. On or about November 25, 2016, (64) OMAR LIONEL REED a/k/a "Omega" and (28) QUINCY DELONE HAYNES a/k/a "Black Montana" conducted a gang meeting by telephone.

OA-302. On or about November 26, 2016, in Charlotte, North Carolina, (51) ISAAC NABAH MCINTOSH a/k/a "Mac" and (62) AUSTIN DEMONTRY POTTS a/k/a "Big Tek" a/k/a "B-Tek" made a purchase, and attempted others, at retail stores using a cloned credit card, causing one or more wires to be sent in interstate commerce.

OA-303. On or about November 26, 2016, (30) BOBBY EARL HINES a/k/a "Swahili Red" directed (58) KOLAWOLE OLALEKAN OMOTOSHO a/k/a "Rugged Red" to contact UBN Generals regarding UBN activities.

OA-304. On or about November 27, 2016, (30) BOBBY EARL HINES a/k/a "Swahili Red" directed (58) KOLAWOLE OLALEKAN OMOTOSHO a/k/a "Rugged Red" to contact UBN Generals and First Ladies regarding UBN activities.

OA-305. On or about November 27, 2016, (66) PORSHA TALINA ROSERO a/k/a "Porsha Talina Gowdy" sent (30) BOBBY EARL HINES a/k/a "Swahili Red" a text message about gang dues.

OA-306. On November 28, 2016, (14) ALEX LEVI COX a/k/a "Quick" transferred gang dues to (66) PORSHA TALINA ROSERO a/k/a "Porsha Talina Gowdy" for (65) OMARI ROSERO a/k/a "Uno B."

OA-307. On or about November 28, 2016, (14) ALEX LEVI COX a/k/a "Quick" transferred gang dues to (30) BOBBY EARL HINES a/k/a "Swahili Red."

OA-308. On or about November 29, 2016, (7) DESTINEE DANYELL BLAKENEY a/k/a "Lady Rude," (28) DELONTE MAURICE HICKS a/k/a "BBB Shooter" a/k/a "Black" and (29) JASMIN REIKEEM HICKS a/k/a "Rude" associated with other UBN members and possessed marijuana and cocaine, with the intent to distribute, a firearm and gang materials.

OA-309. On or about November 30, 2016, (27) QUINCY DELONE HAYNES a/k/a "Black Montana" and (54) JOHNNY THOMAS MITCHELL a/k/a "Joker" discussed gang business.

OA-310. On or about December 1, 2016, (9) ANTARIOUS QAUSHARD BYERS a/k/a "Bang" and (27) QUINCY DELONE HAYNES a/k/a "Black Montana" discussed gang business.

OA-311. On or about December 2, 2016, (47) **TERRY LAVON MADDOX** a/k/a "Turbo" possessed crack cocaine and marijuana with the intent to distribute.

OA-312. On or about December 4, 2016, (54) **JOHNNY THOMAS MITCHELL** a/k/a "Joker" and (27) **QUINCY DELONE HAYNES** a/k/a "Black Montana" discussed gang business.

OA-313. On or about December 7, 2016, (26) **BIANCA KIASHIE HARRISON** a/k/a "Lady Gunz" and (27) **QUINCY DELONE HAYNES** a/k/a "Black Montana" conducted a gang leadership meeting by telephone.

OA-314. On or about December 7, 2016 (27) **QUINCY DELONE HAYNES** a/k/a "Black Montana" and (67) **KENNETH MARQUISE RUFF** a/k/a "Red Hot" conducted a gang meeting by telephone.

OA-315. On or about December 10, 2016, (30) **BOBBY EARL HINES** a/k/a "Swahili Red" possessed gang materials.

OA-316. On or about December 28, 2016, (4) **FREDDREC DEANDRE BANKS** a/k/a "Drec" a/k/a "Banga" and another member of the UBN discussed robbing and attacking a person for "false claiming" to be a member of the UBN.

OA-317. On or about January 9, 2017, (21) **PEDRO GUTIERREZ** a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno" ordered the murder of another UBN member known to the Grand Jury within the New York Department of Corrections.

OA-318. On or about January 11, 2017, (2) **AARON DEMITRI ALEXANDER** a/k/a "A Dawg" possessed Xanax pills with the intent to distribute.

OA-319. On or about January 12, 2017, **(56) MYQUAN LAMAR NELSON a/k/a "Dripz"** possessed heroin, with the intent to distribute, and gang materials.

OA-320. On or about January 12, 2017, **(9) ANTARIOUS QAUSHARD BYERS a/k/a "Bang" and (27) QUINCY DELONE HAYNES a/k/a "Black Montana** discussed gang business.

OA-321. On or about January 26, 2017, **(13) ADRIAN NAYRON COKER a/k/a "Gotti,"** possessed a firearm and jail letters from **(65) OMARI ROSERO a/k/a "Uno B".**

OA-322. On or about February 5, 2017, **(4) FREDDREC DEANDRE BANKS a/k/a "Drec" a/k/a "Banga"** advertised on social media that he had high grade marijuana available for distribution.

OA-323. On or about February 8, 2017, **(14) BRANDON KHALIL COVINGTON a/k/a "Blokka"** posted on social media that he was in possession of an AK-47 magazine with bullets.

OA-324. On or about February 10, 2017, **(76) LAVON CHRISTOPHER TURNER a/k/a "Hungry"** possessed cloned credit cards.

OA-325. On or about March 1, 2017, **(41) BARRINGTON AUDLEY LATTIBEAUDIERE a/k/a "Bandana" a/k/a "Bobby Seale"** possessed gang materials.

OA-326. On or about March 21, 2017, **(21) PEDRO GUTIERREZ a/k/a "Magoo" a/k/a "Light" a/k/a "Inferno"** conducted a gang meeting with a person known to the Grand Jury inside the New York Department of Corrections.

OA-327. On or about April 7, 2017, **(26) BIANCA KIASHIE HARRISON a/k/a "Lady Gunz"** and a person known to the Grand Jury discussed **(26) BIANCA KIASHIE**

HARRISON a/k/a “Lady Gunz’s” attempt to locate a witness who cooperated with law enforcement against other members of the gang.

OA-328. On or about February 10, 2018, **(5) JAMES BAXTON a/k/a “Frank White” a/k/a “Grown”** threatened an individual in an attempt to dissuade that individual from cooperating with law enforcement against other members of the gang.

All in violation of Title 18, United States Code, Section 1962(d).

COUNT TWO

(Murder in Aid of Racketeering-Murder of Jimmy Ray Daniels, Jr.)
(18 U.S.C. §§ 1959(a)(1) and 2)

28. Paragraphs 1 through 18 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

29. The UBN, including its leadership, membership, and associates, constituted an enterprise as defined in Title 18, United States Code, Section 1959(b)(2), that is, a group of individuals associated in fact that engaged in, and the activities of which affected, interstate and foreign commerce. The enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise.

30. The UBN, through its members and associates, engaged in racketeering activity as defined in Title 18, United States Code, Sections 1959(b)(1) and 1961(1), namely, multiple acts involving murder and robbery in violation of North Carolina General Statutes; multiple acts indictable under 18 U.S.C. §§ 1028, 1343, 1344, and 1951; and multiple offenses involving narcotics trafficking in violation of 21 U.S.C. §§ 841, 843, and 846.

31. On or about January 26, 2016, within the Western District of North Carolina, the Eastern District of North Carolina, and elsewhere, the defendants,

(44) LAMONTE KENTRELL LLOYD
a/k/a "Murda Mo"
a/k/a "Moo"
(63) TYQUAN RAMONT POWELL
a/k/a "Savage,"

aided and abetted by each other and others known and unknown to the Grand Jury, for the purpose of gaining entrance to and maintaining and increasing position in the UBN, an enterprise engaged

in racketeering activity, unlawfully and knowingly murdered Jimmy Ray Daniels, Jr., in violation of N.C. Gen. Stat. § 14-17.

All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

COUNT THREE

**(Use or Carry of Firearm During and in Relation to a Crime of Violence and
Possession of Firearm in Furtherance of a Crime of Violence
Resulting in the Death of Jimmy Ray Daniels, Jr.)
(18 U.S.C. §§ 924(c) and 924(j))**

32. Paragraphs 1 through 18 of this Indictment are re-alleged and fully incorporated by reference as though fully set forth herein.

33. On or about January 26, 2016, within the Western District of North Carolina, the Eastern District of North Carolina, and elsewhere, defendants,

(44) LAMONTE KENTRELL LLOYD

a/k/a "Murda Mo"

a/k/a "Moo"

(63) TYQUAN RAMONT POWELL

a/k/a "Savage,"

aided and abetted by each other and by others known and unknown to the Grand Jury, during and in relation to a crime of violence, that being Murder in Aid of Racketeering, a violation of Title 18, United States Code, Section 1959, which is set forth in Count Two of this Indictment for which they may be prosecuted in a court of the United States, did knowingly use and carry a firearm, and, in furtherance of such crime of violence, did possess said firearm.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

It is further alleged that said firearm was discharged in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

It is further alleged that in the course of such use and possession, the defendants did cause the death of Jimmy Ray Daniels, Jr., said killing being murder as defined in Title 18, United States Code, Section 1111(a).

All in violation of Title 18, United States Code, Sections 924(c), 924(j)(1), and 2.

COUNT FOUR
(Murder in Aid of Racketeering-Murder of Cheeontah Howard)
(18 U.S.C. § 1959(a)(1) and 2)

34. Paragraphs 1 through 18 and 29 through 30 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

35. On or about February 19, 2016, in Gaston County, within the Western District of North Carolina and elsewhere, the defendants,

(44) LAMONTE KENTRELL LLOYD

a/k/a "Murda Mo"

a/k/a "Moo"

(63) TYQUAN RAMONT POWELL

a/k/a "Savage,"

aided and abetted by each other and by others known and unknown to the Grand Jury, for the purpose of gaining entrance to and maintaining and increasing position in the UBN, an enterprise engaged in racketeering activity, unlawfully and knowingly murdered Cheeontah Howard, in violation of N.C. Gen. Stat. § 14-17.

All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

COUNT FIVE

**(Use or Carry of Firearm During and in Relation to a Crime of Violence and
Possession of Firearm in Furtherance of a Crime of Violence
Resulting in the Death of Cheeontah Howard)
(18 U.S.C. §§ 924(c) and 924(j))**

36. Paragraphs 1 through 18 of this Indictment are re-alleged and fully incorporated by reference as though fully set forth herein.

37. On or about February 19, 2016, in Gaston County, within the Western District of North Carolina and elsewhere, the defendants,

(44) LAMONTE KENTRELL LLOYD
a/k/a "Murda Mo"
a/k/a "Moo"
(63) TYQUAN RAMONT POWELL
a/k/a "Savage"

aided and abetted by each other and by others known and unknown to the Grand Jury, during and in relation to a crime of violence, that being Murder in Aid of Racketeering, a violation of Title 18, United States Code, Section 1959, which is set forth in Count Four of this Indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry a firearm, and, in furtherance of such crime of violence, did possess said firearm.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

It is further alleged that said firearm was discharged in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

It is further alleged that in the course of such use and possession, the defendants did cause the death of Cheeontah Howard, said killing being murder as defined in Title 18, United States Code, Section 1111(a).

All in violation of Title 18, United States Code, Sections 924(c) and 924(j)(1).

COUNT SIX
(Murder in Aid of Racketeering-Murder of Malik Brown)
(18 U.S.C. § 1959(a)(1) and 2)

38. Paragraphs 1 through 18 and 29 through 30 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

39. On or about July 26, 2016, within the Western District of North Carolina, the Middle District of North Carolina and elsewhere, the defendants,

(22) JALEN RAEKWON HACKNEY
a/k/a "Menace"
(43) RENAIRE ROSHIQUE LEWIS, Jr.
a/k/a "Banz"
a/k/a "Esco"
(57) THOMAS OLIVER
a/k/a "T.O."
(61) LAQUIDA SHUNTAE POSTON
a/k/a "Lady Recon"
(71) Denzel SPIKES
a/k/a "Dinki"
a/k/a "Dino,"

aided and abetted by each other and by others known and unknown to the Grand Jury, for the purpose of gaining entrance to and maintaining and increasing position in the UBN, an enterprise engaged in racketeering activity, unlawfully and knowingly murdered Malik Brown, in violation of N.C. Gen. Stat. § 14-17.

All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

COUNT SEVEN

**(Use or Carry of Firearm During and in Relation to a Crime of Violence and
Possession of Firearm in Furtherance of a Crime of Violence
Resulting in the Death of Malik Brown)
(18 U.S.C. §§ 924(c) and 924(j))**

40. Paragraphs 1 through 18 of this Indictment are re-alleged and fully incorporated by reference as though fully set forth herein.

41. On or about July 26, 2016, within the Western District of North Carolina, the Middle District of North Carolina, and elsewhere, the defendants,

(22) JALEN RAEKWON HACKNEY
a/k/a "Menace"
(43) RENAIRE ROSHIQUE LEWIS, Jr.
a/k/a "Banz"
a/k/a "Esco"
(57) THOMAS OLIVER
a/k/a "T.O."
(61) LAQUIDA SHUNTAE POSTON
a/k/a "Lady Recon"
(71) Denzel SPIKES
a/k/a "Dinki"
a/k/a "Dino,"

aided and abetted by each other and by others known and unknown to the Grand Jury, during and in relation to a crime of violence, that being Murder in Aid of Racketeering, a violation of Title 18, United States Code, Section 1959, which is set forth in Count Six of this Indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry a firearm, and, in furtherance of such crime of violence, did possess said firearm.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

It is further alleged that said firearm was discharged in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

It is further alleged that in the course of such use and possession, the defendants did cause the death of Malik Brown, said killing being murder as defined in Title 18, United States Code, Section 1111(a).

All in violation of Title 18, United States Code, Sections 924(c), 924(j)(1), and 2.

COUNT EIGHT
(Attempted Murder in Aid of Racketeering Activity)
(18 U.S.C. §§ 1959(a)(5) and 2)

42. Paragraphs 1 through 18 and 29 through 30 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

43. On or about November 28, 2014, in Cleveland County, North Carolina, within the Western District of North Carolina, and elsewhere, defendant,

(15) MARQUEL MICHAEL CUNNINGHAM,

aided and abetted by others known and unknown to the Grand Jury, for the purpose of gaining entrance to and maintaining and increasing position in the UBN, an enterprise engaged in racketeering activity, unlawfully and knowingly attempted to murder an individual known to the Grand Jury, Victim No. 1, in violation of North Carolina law, N.C. Gen. Stat. §§ 14-17 and 14-2.5.

All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

COUNT NINE

**(Use or Carry a Firearm in Relation to a Crime of Violence
and Possession of Firearm in Furtherance of a Crime of Violence)
(18 U.S.C. §§ 924(c) and 2)**

44. Paragraphs 1 through 18 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

45. On or about November 28, 2014, in Cleveland County, North Carolina within the Western District of North Carolina, and elsewhere, defendant,

(15) MARQUEL MICHAEL CUNNINGHAM,

aided and abetted by others known and unknown to the Grand Jury, during and in relation to a crime of violence, that being Attempted Murder in Aid of Racketeering, a violation of Title 18, United States Code, Section 1959, which is set forth in Count Eight of this Indictment, for which he may be prosecuted in a court of the United States, did knowingly use and carry one or more firearms, and in furtherance of such crime of violence, did possess one or more firearms.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

It is further alleged that said firearm was discharged in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

All in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT TEN
(Attempted Murder in Aid of Racketeering Activity)
(18 U.S.C. §§ 1959(a)(5) and 2)

46. Paragraphs 1 through 18 and 29 through 30 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

47. On or about April 18, 2015, in Cleveland County, North Carolina, within the Western District of North Carolina, and elsewhere, defendant,

(78) QUITEZ LAMAR WATKINS
a/k/a "Bandana,"

aided and abetted by others known and unknown to the Grand Jury, for the purpose of gaining entrance to and maintaining and increasing position in the UBN, an enterprise engaged in racketeering activity, unlawfully and knowingly attempted to murder an individual known to the Grand Jury, Victim No. 2, in violation of N.C. Gen. Stat. §§ 14-17 and 14-2.5.

All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

COUNT ELEVEN

**(Use or Carry a Firearm in Relation to a Crime of Violence
and Possession of Firearm in Furtherance of a Crime of Violence)
(18 U.S.C. §§ 924(c) and 2)**

48. Paragraphs 1 through 18 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

49. On or about April 18, 2015, in Cleveland County, within the Western District of North Carolina, and elsewhere, defendant,

**(78) QUITEZ LAMAR WATKINS
a/k/a "Bandana,"**

aided and abetted by others known and unknown to the Grand Jury, during and in relation to a crime of violence, that being Attempted Murder in Aid of Racketeering, a violation of Title 18, United States Code, Section 1959, which is set forth in Count Ten of this Indictment, for which he may be prosecuted in a court of the United States, did knowingly use and carry one or more firearms, and in furtherance of such crime of violence, did possess one or more firearms.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

It is further alleged that said firearm was discharged in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

All in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT TWELVE
(Attempted Murder in Aid of Racketeering Activity)
(18 U.S.C. §§ 1959(a)(5) and 2)

50. Paragraphs 1 through 18 and 29 through 30 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

51. On or about January 26, 2016, within the Western District of North Carolina, the Eastern District of North Carolina, and elsewhere, the defendants,

(44) LAMONTE KENTRELL LLOYD
a/k/a "Murda Mo"
a/k/a "Moo"
(63) TYQUAN RAMONT POWELL
a/k/a "Savage,"

aided and abetted by each other and others known and unknown to the Grand Jury, for the purpose of gaining entrance to and maintaining and increasing position in the UBN, an enterprise engaged in racketeering activity, unlawfully and knowingly attempted to murder individuals known to the Grand Jury, Victim No. 3 and Victim No. 4, in violation of N.C. Gen. Stat. §§ 14-17 and 14-2.5.

All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

COUNT THIRTEEN
**(Use or Carry a Firearm in Relation to a Crime of Violence
and Possession of Firearm in Furtherance of a Crime of Violence)**
(18 U.S.C. §§ 924(c) and 2)

52. Paragraphs 1 through 18 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

53. On or about January 26, 2016, within the Western District of North Carolina, the Eastern District of North Carolina, and elsewhere, the defendants,

(44) LAMONTE KENTRELL LLOYD
a/k/a "Murda Mo"
a/k/a "Moo"
(63) TYQUAN RAMONT POWELL
a/k/a "Savage"

aided and abetted by each other and others known and unknown to the Grand Jury, during and in relation to a crime of violence, that being Attempted Murder in Aid of Racketeering, a violation of Title 18, United States Code, Section 1959, which is set forth in Count Twelve of this Indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry one or more firearms, and in furtherance of such crime of violence, did possess one or more firearms.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

It is further alleged that said firearm was discharged in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

All in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT FOURTEEN
(Attempted Murder in Aid of Racketeering Activity)
(18 U.S.C. §§ 1959(a)(5) and 2)

54. Paragraphs 1 through 18 and 29 through 30 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

55. On or about February 7, 2016 in Mecklenburg County, within the Western District of North Carolina, and elsewhere, the defendants,

(44) LAMONTE KENTRELL LLOYD

a/k/a "Murda Mo"

a/k/a "Moo"

(63) TYQUAN RAMONT POWELL

a/k/a "Savage"

aided and abetted by each other and by others known and unknown to the Grand Jury, for the purpose of gaining entrance to and maintaining and increasing position in the UBN, an enterprise engaged in racketeering activity, unlawfully and knowingly attempted to murder an individual known to the Grand Jury, Victim No. 5, in violation of N.C. Gen. Stat. §§ 14-17 and 14-2.5.

All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

COUNT FIFTEEN

**(Use or Carry a Firearm in Relation to a Crime of Violence
and Possession of Firearm in Furtherance of a Crime of Violence)
(18 U.S.C. §§ 924(c) and 2)**

56. Paragraphs 1 through 18 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

57. On or about February 7, 2016, in Mecklenburg County, within the Western District of North Carolina, and elsewhere, the defendants,

(44) LAMONTE KENTRELL LLOYD

a/k/a "Murda Mo"

a/k/a "Moo"

(63) TYQUAN RAMONT POWELL

a/k/a "Savage,"

aided and abetted by each other and by others known and unknown to the Grand Jury, during and in relation to a crime of violence, that being Attempted Murder in Aid of Racketeering, a violation of Title 18, United States Code, Section 1959, which is set forth in Count Fourteen of this Indictment, for which he may be prosecuted in a court of the United States, did knowingly use and carry one or more firearms, and in furtherance of such crime of violence, did possess one or more firearms.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

It is further alleged that said firearm was discharged in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

All in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT SIXTEEN
(Attempted Murder in Aid of Racketeering Activity)
(18 U.S.C. §§ 1959(a)(5) and 2)

58. Paragraphs 1 through 18 and 29 through 30 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

59. On or about July 26, 2016, in Orange County, within the Middle District of North Carolina, and elsewhere, the defendants,

(22) JALEN RAEKWON HACKNEY
a/k/a "Menace"
(43) RENAIRE ROSHIQUE LEWIS, Jr.
a/k/a "Banz"
a/k/a "Esco"
(57) THOMAS OLIVER
a/k/a "T.O."
(61) LAQUIDA SHUNTAE POSTON
a/k/a "Lady Recon"
(71) Denzel SPIKES
a/k/a "Dinki"
a/k/a "Dino,"

aided and abetted by one another and by others known and unknown to the Grand Jury, for the purpose of gaining entrance to and maintaining and increasing position in the UBN, an enterprise engaged in racketeering activity, unlawfully and knowingly attempted to murder an individual known to the Grand Jury, Victim No. 6, in violation of North Carolina law, N.C. Gen. Stat. §§ 14-17 and 14-2.5.

All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

COUNT SEVENTEEN

**(Use or Carry a Firearm in Relation to a Crime of Violence
and Possession of Firearm in Furtherance of a Crime of Violence)
(18 U.S.C. §§ 924(c) and 2)**

60. Paragraphs 1 through 18 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

61. On or about July 26, 2016, in Orange County, within the Middle District of North Carolina, and elsewhere, the defendants,

(22) JALEN RAEKWON HACKNEY
a/k/a "Menace"

(43) RENAIRE ROSHIQUE LEWIS, Jr.
a/k/a "Banz"
a/k/a "Esco"

(57) THOMAS OLIVER
a/k/a "T.O."

(61) LAQUIDA SHUNTAE POSTON
a/k/a "Lady Recon"

(71) Denzel SPIKES
a/k/a "Dinki"
a/k/a "Dino,"

aided and abetted by one another and by others known and unknown to the Grand Jury, during and in relation to a crime of violence, that being Attempted Murder in Aid of Racketeering, a violation of Title 18, United States Code, Section 1959, which is set forth in Count Sixteen of this Indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry one or more firearms, and in furtherance of such crime of violence, did possess one or more firearms.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

It is further alleged that said firearm was discharged in violation of Title 18, United States

Code, Section 924(c)(1)(A)(iii).

All in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT EIGHTEEN
(Assault with a Dangerous Weapon in Aid of Racketeering Activity)
(18 U.S.C. §§ 1959(a)(3) and 2)

62. Paragraphs 1 through 18 and 29 through 30 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

63. On or about April 5, 2014, in Cleveland County, within the Western District of North Carolina, and elsewhere, defendants,

(54) JOHNNY THOMAS MITCHELL
a/k/a "Joker"
(32) WESLEY JAVON HOWZE
a/k/a "Drama,"

aided and abetted by each other and by others known and unknown to the Grand Jury, for the purpose of gaining entrance to and maintaining and increasing position in the UBN, an enterprise engaged in racketeering activity, unlawfully and knowingly assaulted individuals known and unknown to the Grand Jury, with a dangerous weapon, that being a firearm, in violation of North Carolina law, N.C. Gen. Stat. § 14-33(c)(1).

All in violation of Title 18, United States Code, Sections 1959(a)(3) and 2.

COUNT NINETEEN
**(Use or Carry a Firearm in Relation to a Crime of Violence
and Possession of Firearm in Furtherance of a Crime of Violence)**
(18 U.S.C. §§ 924(c) and 2)

64. Paragraphs 1 through 18 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

65. On or about April 5, 2014, in Cleveland County, within the Western District of North Carolina, and elsewhere, defendants,

(54) JOHNNY THOMAS MITCHELL

a/k/a "Joker"

(32) WESLEY JAVON HOWZE

a/k/a "Drama,"

aided and abetted by each other and others known and unknown to the Grand Jury, during and in relation to a crime of violence, that being Assault with a Dangerous Weapon in Aid of Racketeering, a violation of Title 18, United States Code, Section 1959, which is set forth in Count Eighteen of this Indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry one or more firearms, and in furtherance of such crimes of violence, did possess one or more firearms.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

It is further alleged that said firearm was discharged in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

All in violation of Title 18, United States Code, Sections 924(c) and 2.

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COUNT TWENTY-TWO
(Hobbs Act Robbery-Attempt)
(18 U.S.C. §§ 1951)

69. On or about September 28 2013, in Cleveland County, within the Western District of North Carolina, and elsewhere, defendant,

(57) THOMAS OLIVER
a/k/a "T.O.,"

aided and abetted by others known and unknown to the Grand Jury, did knowingly and unlawfully obstruct, delay and affect commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), and the movement of articles and commodities in commerce, by robbery, in that the defendant planned to take marijuana from the person and in the presence of another, against their will and by means of actual and threatened force, violence, and fear of immediate and future injury.

All in violation of Title 18, United States Code, Sections 1951 and 2.

COUNT TWENTY-THREE

**(Use or Carry a Firearm in Relation to a Crime of Violence
and Possession of Firearm in Furtherance of a Crime of Violence)
(18 U.S.C. §§ 924(c) and 2)**

70. On or about September 28, 2013, in Cleveland County within the Western District of North Carolina, and elsewhere, the defendant,

**(57) THOMAS OLIVER
a/k/a "T.O.,"**

aided and abetted by others known and unknown to the Grand Jury, did knowingly use and carry 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, that is, attempted Hobbs Act robbery in violation of Title 18, United States Code, Section 1951, as set forth in Count Twenty-Two of this Indictment and did possess said firearm in furtherance of same.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)A(ii).

It is further alleged that said firearm was discharged, in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

All in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT TWENTY-FOUR
(Hobbs Act Robbery-Attempt)
(18 U.S.C. §§ 1951)

71. At all times material to this Indictment, Southern Convenience Store located at 400 W. Dixon Boulevard, Shelby, North Carolina was engaged in commercial activities within the Western District of North Carolina, and elsewhere, all of which said activities were in and affected interstate commerce in that, Southern Convenience Store sold gasoline and other products that traveled in interstate commerce.

72. On or about January 1, 2014, in Cleveland County, within the Western District of North Carolina, and elsewhere, defendant,

(17) JAMES WALTER DOWDLE
a/k/a "Staxx,"

aided and abetted by others known and unknown to the Grand Jury, did knowingly and unlawfully obstruct, delay and affect commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), and the movement of articles and commodities in commerce, by robbery, in that the defendant attempted to take the personal property of Southern Convenience Store located at 400 W. Dixon Boulevard, Shelby, North Carolina from the person and in the presence of another, against their will and by means of actual and threatened force, violence, and fear of immediate and future injury.

All in violation of Title 18, United States Code, Sections 1951 and 2.

COUNT TWENTY-FIVE

**(Use or Carry a Firearm in Relation to a Crime of Violence
and Possession of Firearm in Furtherance of a Crime of Violence)
(18 U.S.C. §§ 924(c) and 2)**

73. On or about January 1, 2014, in Cleveland County within the Western District of North Carolina, and elsewhere, the defendants,

**(17) JAMES WALTER DOWDLE
a/k/a "Staxx,"**

aided and abetted by others known and unknown to the Grand Jury, did knowingly use and carry 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, that is, attempted Hobbs Act robbery in violation of Title 18, United States Code, Section 1951, as set forth in Count Twenty-Four of this Indictment and did possess said firearm in furtherance of same.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)A(ii).

All in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT THIRTY-ONE
(Possession with the Intent to Distribute Cocaine Base)
(21 U.S.C. § 841)

79. On or about June 30, 2015, in Mecklenburg County, in the Western District of North Carolina, the defendant,

(50) ROBERT ALLEN MCCLINTON
a/k/a "Trigga,"

did knowingly and intentionally possess with the intent to distribute a controlled substance, that is, a mixture and substance containing a detectable amount of cocaine base, or "crack cocaine," a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT THIRTY-TWO
(Possession with the Intent to Distribute Cocaine Base)
(21 U.S.C. § 841)

80. On or about July 1, 2015, in Mecklenburg County, in the Western District of North Carolina, the defendant,

(50) ROBERT ALLEN MCCLINTON
a/k/a "Trigga,"

did knowingly and intentionally possess with the intent to distribute a controlled substance, that is, a mixture and substance containing a detectable amount of cocaine base, or "crack cocaine," a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT THIRTY-THREE
(Possession with the Intent to Distribute Cocaine Base)
(21 U.S.C. § 841)

81. On or about July 8, 2015, in Mecklenburg County, in the Western District of North Carolina, the defendant,

(50) ROBERT ALLEN MCCLINTON
a/k/a "Trigga,"

did knowingly and intentionally possess with the intent to distribute a controlled substance, that is, a mixture and substance containing a detectable amount of cocaine base, or "crack cocaine," a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT THIRTY-FOUR
(Possession with the Intent to Distribute Cocaine Base)
(21 U.S.C. § 841)

82. On or about July 29, 2015, in Mecklenburg County, in the Western District of North Carolina, the defendant,

(50) ROBERT ALLEN MCCLINTON
a/k/a "Trigga,"

did knowingly and intentionally possess with the intent to distribute a controlled substance, that is, a mixture and substance containing a detectable amount of cocaine base, or "crack cocaine," a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT THIRTY-FIVE
(Possession with the Intent to Distribute Marijuana)
(21 U.S.C. § 841)

83. On or about November 23, 2015, in Cleveland County, in the Western District of North Carolina, the defendant,

(69) ALANDUS MONTRELL SMITH
a/k/a "Kadafia,"

did knowingly and intentionally possess with the intent to distribute a controlled substance, that is, a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D).

COUNT THIRTY-SIX
(Possession with the Intent to Distribute MDMA)
(21 U.S.C. § 841)

84. On or about November 23, 2015, in Cleveland County, in the Western District of North Carolina, the defendant,

(69) ALANDUS MONTRELL SMITH
a/k/a "Kadafia,"

did knowingly and intentionally possess with the intent to distribute a controlled substance, that is, MDMA (ecstasy), a Schedule I controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT THIRTY-SEVEN

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

85. On or about November 23, 2015, in Cleveland County, within the Western District of North Carolina, and elsewhere, the defendant,

(69) ALANDUS MONTRELL SMITH
a/k/a "Kadafia,"

during and in relation to a drug trafficking crime, that is, possess with intent to distribute marijuana, and MDMA (ecstasy), a violation of Title 21, United States Code, Section 841, as charged in Counts Thirty-Five and Thirty-Six, for which he may be prosecuted in a court of the United States, did knowingly possess a firearm in furtherance of such drug trafficking crimes.

All in violation of Title 18, United States Code, Section 924(c)(1)(A).

COUNT THIRTY-EIGHT
(Possession of Firearm by Convicted Felon)
(18 U.S.C. § 922(g)(1))

86. On or about November 23, 2015, in Cleveland County, within the Western District of North Carolina, the defendant,

(69) ALANDUS MONTRELL SMITH
a/k/a "Kadafia,"

having been previously convicted of at least one crime punishable by imprisonment for a term exceeding one year, did knowingly possess a firearm, that is, Bryco Arms Model Jennings, .380 caliber pistol, in and affecting commerce.

All in violation of Title 18, United States Code, Section 922(g)(1).

COUNT FORTY-THREE
(Receipt or Possession of Firearm with Obliterated Serial Number)
(26 U.S.C. § 5861)

91. On or about April 15, 2016, in Cleveland County, within the Western District of North Carolina, and elsewhere,

(47) TERRY LAVON MADDOX
a/k/a "Turbo,"

knowingly received and possessed a firearm, a Ruger Sr9c .9mm pistol, which had the serial number and other identification, required by chapter 53 of Title 26, obliterated in violation of Title 26, United States Code, Sections 5842, 5861(h), and 5871.

All in violation of Title 26, United States Code, Section 5861(h).

COUNT FORTY-NINE
(Possession with the Intent to Distribute Marijuana-Conspiracy)
(21 U.S.C. §§ 841 and 846)

97. On or about May 20, 2016, in Cleveland County, in the Western District of North Carolina, the defendants,

(57) THOMAS OLIVER
a/k/a "T.O."
(61) LAQUIDA SHUNTAE POSTON a/k/a "Lady Recon,"

did knowingly and intentionally combine, conspire, confederate and agree with each other, and others, known and unknown to the Grand Jury, to possess with intent to distribute a controlled substance, that is, a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance, a violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(D) and 846.

COUNT FIFTY
(Possession with the Intent to Distribute Cocaine Base-Conspiracy)
(21 U.S.C. §§ 841 and 846)

98. On or about May 20, 2016, in Cleveland County, in the Western District of North Carolina, the defendants,

(57) THOMAS OLIVER
a/k/a "T.O."
(61) LAQUIDA SHUNTAE POSTON a/k/a "Lady Recon,"

did knowingly and intentionally combine, conspire, confederate and agree with each other, and others, known and unknown to the Grand Jury, to possess with intent to distribute a controlled substance, that is, a mixture and substance containing a detectable amount of cocaine base, or "crack cocaine," a Schedule II controlled substance, a violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C) and 846.

COUNT FIFTY-ONE
(Possession of a Firearm in Furtherance of a Drug Trafficking Crime)
(18 U.S.C. §§ 924(c) and 2)

99. On or about May 20, 2016, in Cleveland County, within the Western District of North Carolina, the defendants,

(57) THOMAS OLIVER
a/k/a "T.O."
(61) LAQUIDA SHUNTAE POSTON a/k/a "Lady Recon,"

during and in relation to a drug trafficking crimes, that is, conspiracy to possess with intent to distribute marijuana and conspiracy to possess with intent to distribute cocaine base, both a violation of Title 21, United States Code, Sections 841 and 846, as charged in Counts Forty-Nine and Fifty, for which they may be prosecuted in a court of the United States, did knowingly possess a firearm in furtherance of such drug trafficking crimes.

All in violation of Title 18, United States Code, Section 924(c)(1)(A) and 2.

COUNT FIFTY-FIVE
(Possession of Firearm by Convicted Felon)
(18 U.S.C. § 922(g)(1))

104. On or about June 17, 2016, in Mecklenburg County, within the Western District of North Carolina, the defendant,

(16) RICHARD DIAZ
a/k/a "Damu,"

having been previously convicted of at least one crime punishable by imprisonment for a term exceeding one year, did knowingly possess a firearm, that is, a Sig Sauer Model P250, .9mm semi-automatic pistol, in and affecting commerce.

All in violation of Title 18, United States Code, Section 922(g)(1).

COUNT SIXTY-TWO
(Distribution and Possession with the Intent to Distribute Cocaine)
(21 U.S.C. §§ 841)

111. On or about November 21, 2016, in Cleveland County, in the Western District of North Carolina, the defendant,

(10) RENALDO RODREGUS CAMP
a/k/a "Rodeo"
a/k/a "Drop,"

did knowingly and intentionally distribute and possess with intent to distribute a controlled substance, that is, a mixture and substance containing a detectable amount of cocaine, a Schedule II controlled substance, a violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT SIXTY-THREE
(Possession with the Intent to Distribute Cocaine Base)
(21 U.S.C. §§ 841)

112. On or about December 2, 2016, in Cleveland County, in the Western District of North Carolina, the defendant,

(47) TERRY LAVON MADDOX
a/k/a "Turbo,"

did knowingly and intentionally possess with intent to distribute a controlled substance, that is, a mixture and substance containing a detectable amount of cocaine base, or "crack cocaine," a Schedule II controlled substance, a violation of Title 21, United States Code, Section 841(a)(1).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNTS SIXTY-FIVE, SIXTY-SIX, SIXTY-SEVEN, SIXTY-EIGHT, and SIXTY-NINE

**Overt Acts in Furtherance of Conspiracy to Commit Financial Institution Fraud,
Conspiracy to Commit Wire Fraud, Aggravated Identity Theft, and
Possession of Counterfeit Check**

114. On or about March 31, 2014, (39) **TONNEY HORATIO KERBAY a/k/a "Rich Tonney"** provided an individual known to the Grand Jury with a fake and counterfeited check for \$6,654 purported to be from the State of North Carolina, and a fake North Carolina driver's license, and directed that individual to cash the check at a Walmart store located in Union County.

115. From in or about July 18, 2014, and continuing to in or about July 24, 2014, in Charlotte, North Carolina defendant (39) **TONNEY HORATIO KERBAY a/k/a "Rich Tonney"** and an individual known to the Grand Jury engaged in a scheme and artifice to defraud Branch Bank and Trust (BB&T), a federally insured financial institution, of money by depositing a fake, fraudulent and counterfeit check into an individual known to the Grand Jury's BB&T account, and then withdrawing the money before BB&T could detect that the check was fraudulent. In furtherance of the scheme, and the UBN, the defendants committed the following overt acts:

- a. On or about July 18, 2014, (39) **TONNEY HORATIO KERBAY a/k/a "Rich Tonney"** possessed and deposited a counterfeit, fake, and fraudulent Wells Fargo check purporting to be from company D.D. (Acct. #xxxx219) made payable to an individual known to the Grand Jury in the amount of \$14,305, into an individual known to the Grand Jury's BB&T account (Acct # xxxx061).
- b. On or about July 18, 2014, immediately after (39) **TONNEY HORATIO KERBAY a/k/a "Rich Tonney"** deposited the fake check, (39) **TONNEY HORATIO KERBAY a/k/a "Rich Tonney"** withdrew \$100 from an individual known to the Grand

Jury's BB&T account using an individual known to the Grand Jury's debit card attached to the BB&T account.

c. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a purchase of \$23.53 at an unknown business.

d. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a purchase of \$500.00 at State Employees Credit Union.

e. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a payment of \$503.00 to Wells Fargo Bank.

f. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a purchase of \$1,000.92 at Food Lion.

g. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a purchase of \$1,101.40 at Wal-Mart.

h. On or about July 23, 2014, an unknown individual utilized a debit card attached to the BB&T account to make a purchase of \$2,001.84 at Food Lion.

c. On or about July 19, 2014, an individual known to the Grand Jury withdrew \$9,000 from his BB&T account leaving approximately \$74.31 in the account.

116. From in or about November 13, 2015, and continuing to in or about February 10, 2017, in Charlotte and Concord, North Carolina; Mobile, Alabama; and various cities in Florida including Pensacola; Madison; Pace; Gulf Breeze; and Cantonment, defendants, **(6) BRADLEY BEAUCHAMP, and (37) JOE TARPEH JOHNSON a/k/a "JR" a/k/a "Big Pusha" a/k/a "Kutthroat," (39) TONNEY HORATIO KERBAY a/k/a "Rich Tonney," (41) BARRINGTON AUDLEY LATTIBEAUDIERE a/k/a "Bandana" "Bobby Seale," (51)**

ISAAC NABAH MCINTOSH, (68) RASHAAD SATTAR, (72) ISAIAH DEVON STALLWORTH a/k/a "Zay" a/k/a "Juice," and (83) LAVON CHRISTOPHER TURNER a/k/a "Hungry" engaged in a scheme and artifice to defraud credit card companies and retail stores by creating fraudulent and cloned credit cards and gift cards, using legitimate and stolen credit card numbers, and then using the fraudulent and cloned credit cards at retail locations to make and attempt to make purchases totaling over \$26,698. In furtherance of the scheme, and the UBN, the defendants committed the following overt acts:

- a. On or about November 13, 2015, (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale," rented a car in so that he and (6) **BRADLEY BEAUCHAMP**, could conduct a retail shopping spree using fraudulent and cloned credit cards.
- b. In or about and between November 13, 2015 and November 22, 2016, in Pensacola; Gulf Breeze; Pace; and Cantonment, Florida, (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale," and (6) **BRADLEY BEAUCHAMP** made numerous retail purchases at various stores using multiple fraudulent and cloned credit cards, causing one or more wires to be sent in interstate commerce.
- c. On or about January 10, 2016, in Pensacola, Florida., (6) **BRADLEY BEAUCHAMP** and (68) **RASHAD SATTAR** made a retail purchase at a store using a fraudulent and cloned credit card, causing one or more wires to be sent in interstate commerce.
- d. On or about February 13, 2016, in Pensacola, Florida, (51) **ISAAC NABAH**

MCINTOSH a/k/a “Mac” rented a car so that he and **(6) BRADLEY BEAUCHAMP**, and **(68) RASHAD SATTAR**, could conduct retail shopping using a fraudulent and cloned credit card.

e. On or about February 13, 2016, in Pensacola, Florida, **(51) ISAAC NABAH MCINTOSH a/k/a “Mac,”** **(6) BRADLEY BEAUCHAMP** and **(68) RASHAD SATTAR**, working in concert, made and attempted to make retail purchases at a store using a fraudulent and cloned credit card, causing one or more wires to be sent in interstate commerce.

f. On or about March 12, 2016, in Madison, Florida, **(6) BRADLEY BEAUCHAMP**, **(41) BARRINGTON AUDLEY LATTIBEAUDIERE a/k/a “Bandana” a/k/a “Bobby Seale,”** and **(68) RASHAD SATTAR** possessed 163 gift cards and 18 credit cards, some of which were fraudulent and cloned, and all the necessary equipment used to clone credit cards including, a credit card embossing machine, a credit card reader encoder, and a laptop computer. On this date, when law enforcement encountered the defendants during a traffic stop, they were in the process of cloning a credit card.

g. On or about May 16, 2016, in Charlotte, North Carolina **(72) ISAIAH DEVON STALLWORTH a/k/a “Zay” a/k/a “Juice”,** and **(39) TONNEY HORATIO KERBAY a/k/a “Rich Tonney,”** possessed and controlled multiple fraudulent cloned gift cards.

h. On or about May 30, 2016, in Charlotte, North Carolina, **(51) ISAAC NABAH MCINTOSH a/k/a “Mac”** possessed and controlled a fraudulent and cloned credit card.

i. On or about August 4, 2016, in Concord, North Carolina, **(51) ISAAC NABAH MCINTOSH a/k/a “Mac”** **(37) JOE TARPEH JOHNSON a/k/a “JR” a/k/a “Big**

Pusha” a/k/a “Kutthroat,” and (72) ISAIAH DEVON STALLWORTH a/k/a “Zay” a/k/a “Juice,” working in concert, made a purchase, and attempted additional purchases at stores using multiple fraudulent and cloned credit cards, causing one or more wires to be sent in interstate commerce.

j. On or about August 13, 2016, in Concord, North Carolina **(83) LAVON CHRISTOPHER TURNER a/k/a “Hungry,” and (72) ISAIAH DEVON STALLWORTH a/k/a “Zay” a/k/a “Juice”** made purchases, and attempted others, at retail stores using multiple fraudulent and cloned credit cards, causing one or more wires to be sent in interstate commerce.

k. On or about August 29, 2016, in Charlotte, North Carolina, **(39) TONNEY HORATIO KERBAY a/k/a “Rich Tonney”** possessed and controlled a laptop computer and a credit card reader encoder, that had been and were being used to clone credit and gift cards.

l. On or about August 29, 2016, in Charlotte, North Carolina **(39) TONNEY HORATIO KERBAY a/k/a “Rich Tonney,” (37) JOE TARPEH JOHNSON a/k/a “JR” a/k/a “Big Pusha” a/k/a “Kutthroat,” and (72) ISAIAH DEVON STALLWORTH a/k/a “Zay” a/k/a “Juice** possessed and controlled multiple cloned credit and gift cards.

m. On or about October 8, 2016, in Charlotte, North Carolina, **(37) JOE TARPEH JOHNSON a/k/a “JR” a/k/a “Big Pusha” a/k/a “Kutthroat”** made a purchase, and attempted others, at retail stores using a cloned credit card, causing one or more wires to be sent in interstate commerce.

n. On or about October 29, 2016, (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale" engaged in an interstate telephone conversation with (51) **ISAAC NABAH MCINTOSH** regarding the wire fraud scheme.

o. On or about November 19, 2016, (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale," engaged in an interstate telephone conversation with (51) **ISAAC NABAH MCINTOSH** a/k/a "Mac" regarding the wire fraud scheme.

p. On or about November 19, 2016, (41) **BARRINGTON AUDLEY LATTIBEAUDIERE** a/k/a "Bandana" a/k/a "Bobby Seale," engaged in an interstate telephone conversation with (68) **RASHAD SATTAR** regarding the wire fraud scheme.

q. On or about November 26, 2016, in Charlotte, North Carolina, (51) **ISAAC NABAH MCINTOSH** a/k/a "Mac" and (62) **AUSTIN DEMONTRY POTTS** a/k/a "Big Tek" a/k/a "B-Tek" made a purchase, and attempted others, at retail stores using a cloned credit card, causing one or more wires to be sent in interstate commerce.

r. On or about February 10, 2017, in Charlotte, North Carolina (83) **LAVON CHRISTOPHER TURNER** a/k/a "Hungry" possessed cloned credit cards.

COUNT SIXTY-FIVE
(Conspiracy to Commit Bank Fraud)
(18 U.S.C. § 1349)

117. Paragraphs 114 through 116 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

118. From in or about July 18, 2014, and continuing to in or about July 24, 2014, in Mecklenburg, County, within the Western District of North Carolina, and elsewhere, the defendant,

(39) TONNEY HORATIO KERBAY
a/k/a "Rich Tonney,"

did knowingly and intentionally conspire and agree with others known and unknown to the Grand Jury, to execute a scheme and artifice to defraud, and to obtain by means of false and fraudulent pretenses, representations and promises, money, funds, and credit under the custody and control of a federally insured financial institution in violation of Title 18, United States Code, Section 1344.

Object of the Conspiracy

119. It was a part and object of the conspiracy that the defendants, and others known and unknown to the Grand Jury, would and did execute and attempt to execute schemes and artifices to defraud financial institutions, in violation of Title 18, United States Code, Sections 1344.

Manner and Means

120. The defendants and others known and unknown to the Grand Jury carried out the conspiracy in the manner and means described in paragraphs 114 through 116 this Bill of Indictment, among others.

Overt Acts

121. In furtherance of the conspiracy, and to accomplish the objects thereof, the defendants and their co-conspirators committed one or more of the following overt acts as described in paragraphs 114 through 116 of this Bill of Indictment, among others

All in violation of Title 18, United States Code, Section and 1349.

COUNT SIXTY-SIX
(Conspiracy to Commit Wire Fraud)
(18 U.S.C. § 1349)

122. Paragraphs 114 through 116 of this indictment are re-alleged and incorporated by reference herein as though fully set forth.

123. From in or about November 13, 2015, and continuing to in or about February 10, 2017, in Mecklenburg, County, within the Western District of North Carolina, and elsewhere, the defendants,

(6) BRADLEY BEAUCHAMP
(39) TONNEY HORATIO KERBAY
a/k/a "Rich Tonney"

did knowingly and intentionally conspire and agree with each other and others known and unknown to the Grand Jury, to with the intent to defraud, did knowingly and intentionally devise the a scheme and artifice to defraud and obtain money by materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing such scheme and artifice to defraud, did cause to be transmitted by means of wire communication in interstate commerce writings, signals, or sounds in violation of Title 18, United States Code, Section 1343.

Object of the Conspiracy

124. It was a part and object of the conspiracy that the defendants, and others known and unknown to the Grand Jury, would and did execute and attempt to execute schemes and artifices to defraud financial institutions, in violation of Title 18, United States Code, Sections 1343.

Manner and Means

125. The defendants and others known and unknown to the Grand Jury carried out the conspiracy in the manner and means described in paragraphs 114 through 116 of this Bill of Indictment, among others.

Overt Acts

126. In furtherance of the conspiracy, and to accomplish the objects thereof, the defendants and their co-conspirators committed one or more of the following overt acts as described in paragraphs 114 through 116 of this Bill of Indictment, among others

All in violation of Title 18, United States Code, Section and 1349.

COUNT SIXTY-SEVEN
(18 U.S.C. § 1028A)
(Aggravated Identity Theft)

127. Paragraphs 114 through 116 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

128. On or about October 8, 2016, in Mecklenburg county, within the Western District of North Carolina, and elsewhere, the defendant,

(37) JOE TARPEH JOHNSON a/k/a “JR” a/k/a “Big Pusha” a/k/a “Kutthroat,” aided and abetted by others known and unknown to the Grand Jury, did knowingly use, without lawful authority, a means of identification of another person, to wit, the name, and unique Suntrust Bank credit card account number (xxx186) of victim C.K., during and in relation to the commission of one or more federal felony violations, to wit, Conspiracy to Commit Wire Fraud (18 U.S.C. §1343) as charged in Count Sixty-Six.

All in violation of Title 18, United States Code, Section 1028A (a)(1) and (b) and 2.

COUNT SIXTY-NINE
(Possession of a Counterfeit Check)
(18 U.S.C. § 513)

131. Paragraphs 114 through 116 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

132. In or about and between March 31, 2014, in Union County, within the Western District of North Carolina, and elsewhere, defendant,

(39) TONNEY HORATIO KERBAY
a/k/a "Rich Tonney"

aiding and abetting others known and unknown to the Grand Jury, did by others did knowingly make, utter and possess counterfeited and forged securities, to wit, a bank check, of a State, to wit the state of North Carolina, a State which operates in and the activities of which affect interstate or foreign commerce, with the intent to deceive the State of North Carolina and others, in violation of Title 18, United States Code, Sections 513(a) and 2.

COUNT SEVENTY
(Attempted Murder in Aid of Racketeering Activity)
(18 U.S.C. §§ 1959(a)(5) and 2)

42. Paragraphs 1 through 18 and 29 through 30 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

43. On or about January 28, 2015, in Mecklenburg County, North Carolina, within the Western District of North Carolina, and elsewhere, defendant,

(24) LAVAUGHN ANTONIO HANTON,

aided and abetted by others known and unknown to the Grand Jury, for the purpose of gaining entrance to and maintaining and increasing position in the UBN, an enterprise engaged in racketeering activity, unlawfully and knowingly attempted to murder an individual, whose identity is unknown to the Grand Jury, Victim No. 7, in violation of North Carolina law, N.C. Gen. Stat. §§ 14-17 and 14-2.5.

All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

COUNT SEVENTY-ONE

**(Use or Carry a Firearm in Relation to a Crime of Violence
and Possession of Firearm in Furtherance of a Crime of Violence)
(18 U.S.C. §§ 924(c) and 2)**

44. Paragraphs 1 through 18 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

45. On or about January 28, 2015, in Mecklenburg County, North Carolina within the Western District of North Carolina, and elsewhere, defendant,

(24) LAVAUGHN ANTONIO HANTON,

aided and abetted by others known and unknown to the Grand Jury, during and in relation to a crime of violence, that being Attempted Murder in Aid of Racketeering, a violation of Title 18, United States Code, Section 1959, which is set forth in Count Seventy of this Indictment, for which he may be prosecuted in a court of the United States, did knowingly use and carry one or more firearms, and in furtherance of such crime of violence, did possess one or more firearms.

It is further alleged that said firearm was brandished in violation of Title 18, United States Code, Section 924(c)(1)(A)(ii).

It is further alleged that said firearm was discharged in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

All in violation of Title 18, United States Code, Sections 924(c) and 2.

COUNT SEVENTY-TWO
(Hobbs Act Robbery-Attempt)
(18 U.S.C. §§ 1951)

69. On or about February 19, 2016, in Gaston County, within the Western District of North Carolina, and elsewhere, the defendants,

(44) LAMONTE KENTRELL LLOYD
a/k/a "Murda Mo"
a/k/a "Moo"
(63) TYQUAN RAMONT POWELL
a/k/a "Savage"

aided and abetted by each other, did knowingly and unlawfully obstruct, delay and affect commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), and the movement of articles and commodities in commerce, by robbery, in that the defendant planned to take marijuana from the person and in the presence of another, against their will and by means of actual and threatened force, violence, and fear of immediate and future injury.

All in violation of Title 18, United States Code, Sections 1951 and 2.

NOTICE OF SPECIAL SENTENCING FACTORS
COUNT ONE:

1. Murder of Devon Clement – North Carolina General Statute § 14-14

On or about May 16, 2010, in Charlotte, Mecklenburg County, North Carolina, **(20) SHAMON MOVAIR GOINS a/k/a “Rugie”** and others known and unknown to the Grand Jury conspired to violate 18 U.S.C. § 1962, and said violation is based upon a racketeering activity for which the maximum penalty includes life imprisonment, that racketeering activity being that **(20) SHAMON MOVAIR GOINS a/k/a “Rugie”** and others known and unknown to the Grand Jury killed Devon Clement willfully with malice and after premeditation and deliberation, and while committing or attempting to commit a felony in which a deadly weapon was used, in violation of North Carolina Gen Stat. §§ 14-17 and 14-5.2.

2. Murder of Christopher Oneal Odoms – North Carolina General Statute § 14-14

On or about November 27, 2015, in Shelby, Cleveland County, North Carolina, **(82) JONATHAN WRAY a/k/a “Jon” a/k/a “Yungin” a/k/a “Snoop Yungin”** and others known and unknown to the Grand Jury conspired to violate 18 U.S.C. § 1962, and said violation is based upon a racketeering activity for which the maximum penalty includes life imprisonment, that racketeering activity being that **(82) JONATHAN WRAY a/k/a “Jon” a/k/a “Yungin” a/k/a “Snoop Yungin”** and others known and unknown to the Grand Jury killed Christopher Oneal Odoms willfully with malice and after premeditation and deliberation in violation of North Carolina Gen Stat. §§ 14-17 and 14-5.2.

3. Murder of Jimmy Ray Daniels– North Carolina General Statute § 14-14

On or about or about January 26, 2016, in Scotland Neck, Halifax County, North Carolina, (44) **LAMONTE KENTRELL LLOYD a/k/a "Murda Mo" a/k/a "Moo,"** (63) **TYQUAN RAMONT POWELL a/k/a "Savage,"** and others known and unknown to the Grand Jury conspired to violate 18 U.S.C. § 1962, and said violation is based upon a racketeering activity for which the maximum penalty includes life imprisonment, that racketeering activity being that (44) **LAMONTE KENTRELL LLOYD a/k/a "Murda Mo" a/k/a "Moo,"** (63) **TYQUAN RAMONT POWELL a/k/a "Savage,"** killed Jimmy Ray Daniels willfully with malice and after premeditation and deliberation, and while committing or attempting to commit a felony in which a deadly weapon was used, in violation of North Carolina Gen Stat. §§ 14-17 and 14-5.2.

4. Murder of Cheeontah Howard– North Carolina General Statute § 14-14

On or about or about February 7, 2016, in Gastonia, Gaston County, North Carolina, (44) **LAMONTE KENTRELL LLOYD a/k/a "Murda Mo" a/k/a "Moo,"** (63) **TYQUAN RAMONT POWELL a/k/a "Savage,"** and others known and unknown to the Grand Jury conspired to violate 18 U.S.C. § 1962, and said violation is based upon a racketeering activity for which the maximum penalty includes life imprisonment, that racketeering activity being that (44) **LAMONTE KENTRELL LLOYD a/k/a "Murda Mo" a/k/a "Moo,"** (63) **TYQUAN RAMONT POWELL a/k/a "Savage"** killed Cheeontah Howard willfully with malice and after premeditation and deliberation, and while committing or attempting to commit the felony of robbery, in violation of North Carolina Gen Stat. §§ 14-17 and 14-5.2

5. Murder of Malik Brown – North Carolina General Statute § 14-14

On or about July 26, 2016, in Orange County, North Carolina, (22) **JALEN HACKNEY a/k/a "Menace,"** (43) **RENAIRE LEWIS a/k/a "Banz" a/k/a "Esco,"** (57) **THOMAS OLIVER**

a/k/a "T.O.," (61) LAQUIDA POSTON a/k/a "Lady Recon," and (71) DENZEL SPIKES a/k/a "Dinki" a/k/a "Dino," and others known and unknown to the Grand Jury conspired to violate 18 U.S.C. § 1962, and said violation is based upon a racketeering activity for which the maximum penalty includes life imprisonment, that racketeering activity being that (22) JALEN HACKNEY a/k/a "Menace," (43) RENAIRE LEWIS a/k/a "Banz" a/k/a "Esco," (57) THOMAS OLIVER a/k/a "T.O.," (61) LAQUIDA POSTON a/k/a "Lady Recon," and (71) DENZEL SPIKES a/k/a "Dinki" a/k/a "Dino," and others known and unknown to the Grand Jury killed Malik Brown willfully with malice and after premeditation and deliberation, and while committing or attempting to commit the felony of robbery, in violation of North Carolina Gen Stat. §§ 14-17 and 14-5.2.

6. Murder of Donnell Murray – North Carolina General Statute § 14-14

On or about or about August 17, 2016, in Cleveland County, North Carolina, (34) DRICKO DASHON HUSKEY a/k/a "Drizzy" and others known and unknown to the Grand Jury conspired to violate 18 U.S.C. § 1962, and said violation is based upon a racketeering activity for which the maximum penalty includes life imprisonment, that racketeering activity being that (34) DRICKO DASHON HUSKEY a/k/a "Drizzy" killed Donnell Murray willfully with malice and after premeditation and deliberation in violation of North Carolina Gen Stat. §§ 14-17 and 14-5.2.

COUNTS TWO AND THREE:

Murder of Jimmy Ray Daniels

At the time of the offense, (44) LAMONTE KENTRELL LLOYD a/k/a "Murda Mo" a/k/a "Moo" and (63) TYQUAN RAMONT POWELL a/k/a "Savage" were over the age of eighteen. In the course of the violation, (44) LAMONTE KENTRELL LLOYD a/k/a "Murda Mo" a/k/a "Moo," and (63) TYQUAN RAMONT POWELL a/k/a "Savage" intentionally killed Jimmy Ray Daniels; intentionally caused serious bodily injury that resulted in the victim's death; intentionally participated in an act contemplating that the life of a person would be taken and the victim died as a result; and, intentionally and specifically engaged in an act of violence knowing that the act created a grave risk of death to persons other than one of the participants in the offense such that participation in the act constituted a reckless disregard for human life, and the victim died as a direct result of the act, all in violation of North Carolina Gen Stat. §§ 14-17, Title 18, United States Code, Sections 924(c) and (j), 1959(a)(1) and 2.

COUNTS FOUR AND FIVE:

Murder of Cheeontah Howard

At the time of the offense, (44) LAMONTE KENTRELL LLOYD a/k/a "Murda Mo" a/k/a "Moo" and (63) TYQUAN RAMONT POWELL a/k/a "Savage" were over the age of eighteen. In the course of the violation, (44) LAMONTE KENTRELL LLOYD a/k/a "Murda Mo" a/k/a "Moo," and (63) TYQUAN RAMONT POWELL a/k/a "Savage" intentionally killed Cheeontah Howard; intentionally caused serious bodily injury that resulted in the victim's death; intentionally participated in an act contemplating that the life of a person would be taken and the victim died as a result; and, intentionally and specifically engaged in an act of violence knowing

that the act created a grave risk of death to persons other than one of the participants in the offense such that participation in the act constituted a reckless disregard for human life, and the victim died as a direct result of the act, all in violation of North Carolina Gen Stat. §§ 14-17, Title 18, United States Code, Sections 924(c) and (j), 1959(a)(1) and 2.

COUNTS SIX AND SEVEN:

Murder of Malik Brown

At the time of the offense, (22) JALEN HACKNEY a/k/a "Menace," (43) RENAIRE LEWIS a/k/a "Banz" a/k/a "Esco," (57) THOMAS OLIVER a/k/a "T.O.," (61) LAQUIDA POSTON a/k/a "Lady Recon," and (71) DENZEL SPIKES a/k/a "Dinki" a/k/a "Dino" were over the age of eighteen. In the course of the violation, (22) JALEN HACKNEY a/k/a "Menace," (43) RENAIRE LEWIS a/k/a "Banz" a/k/a "Esco," (57) THOMAS OLIVER a/k/a "T.O.," (61) LAQUIDA POSTON a/k/a "Lady Recon," and (71) DENZEL SPIKES a/k/a "Dinki" a/k/a "Dino" intentionally killed Malik Brown; intentionally caused serious bodily injury that resulted in the victim's death; intentionally participated in an act contemplating that the life of a person would be taken and the victim died as a result; and, intentionally and specifically engaged in an act of violence knowing that the act created a grave risk of death to persons other than one of the participants in the offense such that participation in the act constituted a reckless disregard for human life, and the victim died as a direct result of the act, all in violation of North Carolina Gen Stat. §§ 14-17, Title 18, United States Code, Sections 924(c) and (j), 1959(a)(1) and 2.

NOTICE OF FORFEITURE AND FINDING OF PROBABLE CAUSE

Pursuant to Fed. R. Crim. P. 32.2, notice is hereby given of 18 U.S.C. §§ 924, 982, and 1963, 21 U.S.C. § 853, and 28 U.S.C. § 2461(c). The following property is subject to forfeiture in accordance with Section 924, 982, 1963, 853, and/or 2461(c):

- a. All property which constitutes or is derived from proceeds obtained directly or indirectly as a result of violations of 18 U.S.C. §§ 1343, 1344, 1349, 1951, and 1962 set forth in this bill of indictment;
- b. Any interest acquired or maintained in violation of 18 U.S.C. § 1962;
- c. Any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which any person charged herein established, operated, controlled, conducted, or participated in the conduct of, in violation of 18 U.S.C. § 1962;
- d. all firearms and ammunition involved or used in the violations set forth in this bill of indictment; and
- e. If, as set forth in 18 U.S.C. § 1963(m) and 21 U.S.C. § 853(p), any property described above cannot be located upon the exercise of due diligence, has been transferred or sold to, or deposited with, a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property which cannot be divided without difficulty, all other property of the defendants to the extent of the value of the property described above.

The Grand Jury finds probable cause to believe that the property subject to forfeiture on one or more of the grounds stated above includes, but is not limited to, the following property:

- (a) All funds in the following accounts:
 - All funds in an inmate account held by or for the benefit of PEDRO GUTIERREZ, Inmate 96A4182, at the New York Department of Corrections;
 - All funds in an inmate account held by or for the benefit of JAMES BAXTON, Inmate 95A3238, at the New York Department of Corrections;
 - All funds in an inmate account held by or for the benefit of OMARI ROSEIRO, Inmate 98A5556, at the New York Department of Corrections; and

- All funds in an inmate trust account held by or for the benefit of OMAR REED, Inmate 80814, at the New Mexico Corrections Department.

(b) The following firearms seized on the following dates during the course of the investigation of the violations set forth herein:

- Armi Guiseppe Tanfolglia Titan unknown caliber pistol, serial number M143928 seized on October 28, 2009;
- Smith & Wesson of unknown model .38 caliber pistol, serial number unknown and ammunition seized on December 22, 2011;
- Smith & Wesson of unknown model 9mm pistol, serial number VAU3151 and ammunition seized on February 06, 2013;
- Smith & Wesson Model 36 .38 caliber pistol, serial number J190427 and ammunition seized on February 06, 2013;
- Lorcin L380 .380 caliber pistol, serial number 52316 seized on April 11, 2013;
- Bryco Arms of unknown model .380 Caliber pistol, serial number 1286603 and ammunition seized on December 31, 2013;
- Smith & Wesson Model 916 9mm pistol, serial number VAE1215 and ammunition seized on January 23, 2014;
- American Tactic M1911G1 .45 caliber pistol, serial number GI103285 and ammunition seized on February 05, 2014;
- Smith & Wesson of unknown model .38 caliber pistol, serial number AHD4635 and ammunition seized on February 20, 2014;
- Jimenez Arms J.A. 380 .380 caliber pistol, serial number 15502 seized on April 01, 2014;
- Bryco Arms of unknown model .380 caliber pistol, serial number 1203465 seized on April 01, 2014;
- Smith & Wesson of unknown model .32 caliber pistol, unknown serial number marked "Personal Property of San Luis Police Department" seized on April 05, 2014;

- Colt MK IV Series 80 Government Pistol .380 caliber pistol, serial number RC17988 and ammunition seized on December 20, 2014;
- Hi-Point Model C9 9 mm pistol, serial number P1596711 seized on December 31, 2014;
- Rossi of unknown model .38 caliber pistol, serial number 164452 and ammunition seized on March 15, 2015;
- Taurus of unknown model (revolver) .357 magnum pistol, serial number VF954011 and ammunition seized on September 14, 2015;
- AA Arms Inc. AP9 9 mm pistol, serial number 12683 and ammunition seized on September 28, 2015;
- Bryco Arms Model 58 .380 caliber pistol, noted as having “obliterated serial numbers,” seized on November 23, 2015;
- Taurus PT101 .40 caliber pistol, serial number SPF97748 seized on December 04, 2015;
- Ruger New Vaquero .45 caliber, serial number 58-84036 and ammunition seized on December 28, 2015;
- Smith & Wesson M&P9PC 9 mm pistol, serial number HVW3214 seized on December 28, 2015;
- Hi-Point Model C9 9mm pistol, with serial number scratched off and ammunition seized on January 19, 2016;
- Taurus PT809C 9mm pistol, serial number TGP62957 seized on January 19, 2016;
- Smith & Wesson SW40F .40 caliber pistol, serial number PAU0442 and ammunition seized on February 07, 2016;
- Taurus PT58S .380 caliber pistol, serial number KIH18836 seized on March 18, 2016;
- Ruger SR9C 9 mm pistol, with serial number scratched off and ammunition seized on April 15, 2016;
- Ruger of unknown model .45 caliber pistol, serial number unknown and ammunition seized on April 19, 2016;

- Smith & Wesson SD40 .40 caliber pistol, serial number FXE4578 and ammunition seized on May 20, 2016;
- Phoenix Arms of unknown model and unknown caliber pistol, serial number unknown, seized on June 09, 2016;
- Sig Sauer P250 9mm pistol, serial number EAK183756 and ammunition seized on June 17, 2016;
- EAA EA/R .357 magnum pistol, serial number 1709989 seized on October 18, 2016;
- Cobra CA-380 .380 caliber pistol, serial number CP054441 and ammunition seized on October 18, 2016;
- Rossi of unknown model .38 caliber pistol, serial number 102203 and ammunition seized on October 18, 2016;
- Smith & Wesson SW40GVE .40 caliber pistol, serial number PDC6194 and ammunition seized on October 22, 2016;
- Taurus PT24/7 PRO DS .40 caliber pistol with laser attachment, serial number SDN49283 and ammunition seized on November 06, 2016; and
- Jimenez Arms of unknown model 9mm pistol, serial number 260866 and ammunition seized on November 29, 2016.

R. ANDREW MURRAY
UNITED STATES ATTORNEY

DAVID L. JAFFE
ACTING CHIEF
ORGANIZED CRIME AND GANG SECTION
UNITED STATES DEPARTMENT OF JUSTICE


ANDREW L. CREIGHTON
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE


[Redacted]
FOREPERSON



MATTHEW T. WARREN
ASSISTANT UNITED STATES ATTORNEY

18 USC 1961: Definitions

Text contains those laws in effect on March 16, 2020

From Title 18-CRIMES AND CRIMINAL PROCEDURE

PART I-CRIMES

CHAPTER 96-RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

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§1961. Definitions

As used in this chapter—

(1) "racketeering activity" means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891–894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1351 (relating to fraud in foreign labor contracting), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461–1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1592 (relating to peonage, slavery, and trafficking in persons),¹ sections 1831 and 1832 (relating to economic espionage and theft of trade secrets), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), section 1960 (relating to illegal money transmitters), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341–2346 (relating to trafficking in contraband cigarettes), sections 2421–24 (relating to white slave traffic), sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B);

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

(3) "person" includes any individual or entity capable of holding a legal or beneficial interest in property;

(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6) "unlawful debt" means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

(7) "racketeering investigator" means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

(8) "racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter;

(9) "documentary material" includes any book, paper, document, record, recording, or other material; and

(10) "Attorney General" includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

(Added Pub. L. 91–452, title IX, §901(a), Oct. 15, 1970, 84 Stat. 941 ; amended Pub. L. 95–575, §3(c), Nov. 2, 1978, 92 Stat. 2465 ; Pub. L. 95–598, title III, §314(g), Nov. 6, 1978, 92 Stat. 2677 ; Pub. L. 98–473, title II, §§901(g), 1020, Oct. 12, 1984, 98 Stat. 2136, 2143; Pub. L. 98–547, title II, §205, Oct. 25, 1984, 98 Stat. 2770 ; Pub. L. 99–570, title I, §1365(b), Oct. 27, 1986, 100 Stat. 3207–35 ; Pub. L. 99–646, §50(a), Nov. 10, 1986, 100 Stat. 3605 ; Pub. L. 100–690, title VII, §§7013, 7020(c), 7032, 7054, 7514, Nov. 18, 1988, 102 Stat. 4395, 4396, 4398, 4402, 4489; Pub. L. 101–73, title IX, §968, Aug. 9, 1989, 103 Stat. 506 ; Pub. L. 101–647, title XXXV, §3560, Nov. 29, 1990, 104 Stat. 4927 ; Pub. L. 103–322, title IX, §90104, title XVI, §160001(f), title XXXIII, §330021(1), Sept. 13, 1994, 108 Stat. 1987, 2037, 2150; Pub. L. 103–394, title III, §312(b), Oct. 22, 1994, 108 Stat. 4140 ; Pub. L. 104–132, title IV, §433, Apr. 24, 1996, 110 Stat. 1274 ; Pub. L. 104–153, §3, July 2, 1996, 110 Stat. 1386 ; Pub. L. 104–208, div. C, title II, §202, Sept. 30, 1996, 110 Stat. 3009–565 ; Pub. L. 104–294, title VI, §§601(b)(3), (i)(3), 604(b)(6), Oct. 11, 1996, 110 Stat. 3499, 3501, 3506; Pub. L. 107–56, title VIII, §813, Oct. 26, 2001, 115 Stat. 382 ; Pub. L. 107–273, div. B, title IV, §4005(f)(1), Nov. 2, 2002, 116 Stat. 1813 ; Pub. L. 108–193, §5(b), Dec. 19, 2003, 117 Stat. 2879 ; Pub. L. 108–458, title VI, §6802(e), Dec. 17, 2004, 118 Stat. 3767 ; Pub. L. 109–164, title I, §103(c), Jan. 10, 2006, 119 Stat. 3563 ; Pub. L. 109–177, title IV, §403(a), Mar. 9, 2006, 120 Stat. 243 ; Pub. L. 113–4, title XII, §1211(a), Mar. 7, 2013, 127 Stat. 142 ; Pub. L. 114–153, §3(b), May 11, 2016, 130 Stat. 382 .)

REFERENCES IN TEXT

Section 102 of the Controlled Substances Act, referred to in par. (1)(A), (D), is classified to section 802 of Title 21, Food and Drugs.

The Currency and Foreign Transactions Reporting Act, referred to in par. (1)(E), is title II of Pub. L. 91–508, Oct. 26, 1970, 84 Stat. 1118, which was repealed and reenacted as subchapter II of chapter 53 of Title 31, Money and Finance, by Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31.

The Immigration and Nationality Act, referred to in par. (1)(F), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. Sections 274, 277, and 278 of the Act are classified to sections 1324, 1327, and 1328 of Title 8, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The effective date of this chapter, referred to in par. (5), is Oct. 15, 1970.

AMENDMENTS

2016-Par. (1). Pub. L. 114–153 inserted "sections 1831 and 1832 (relating to economic espionage and theft of trade secrets)," before "section 1951".

2013-Par. (1)(B). Pub. L. 113–4 inserted "section 1351 (relating to fraud in foreign labor contracting)," before "section 1425".

2006-Par. (1)(B). Pub. L. 109–177 inserted "section 1960 (relating to illegal money transmitters)," before "sections 2251".

Pub. L. 109–164 substituted "1581–1592" for "1581–1591".

2004-Par. (1)(B). Pub. L. 108–458 inserted "sections 175–178 (relating to biological weapons), sections 229–229F (relating to chemical weapons), section 831 (relating to nuclear materials)," before "(C) any act which is indictable under title 29".

2003-Par. (1)(B). Pub. L. 108–193, which directed amendment of par. (1)(A) of this section by substituting "sections 1581–1591 (relating to peonage, slavery, and trafficking in persons)." for "sections 1581–1588 (relating to peonage and slavery)", was executed by making the substitution in par. (1)(B) to reflect the probable intent of Congress.

2002-Par. (1)(G). Pub. L. 107–273 made technical amendment to directory language of Pub. L. 107–56. See 2001 Amendment note below.

2001-Par. (1)(G). Pub. L. 107–56, as amended by Pub. L. 107–273, which directed addition of cl. (G) before period at end, was executed by making the addition before the semicolon at end to reflect the probable intent of Congress.

1996-Par. (1)(B). Pub. L. 104–294, §604(b)(6), amended directory language of Pub. L. 103–322, §160001(f). See 1994 Amendment note below.

Pub. L. 104–294, §601(i)(3), substituted "2260" for "2258".

Pub. L. 104–208 struck out "if the act indictable under section 1028 was committed for the purpose of financial gain" before ", section 1029", inserted "section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers)," after "section 1344 (relating to financial institution fraud)", struck out "if the act indictable under section 1542 was committed for the purpose of financial gain" before ", section 1543", "if the act indictable under section 1543 was committed for the purpose of financial gain" before ", section 1544", "if the act indictable under section 1544 was committed for the purpose of financial gain" before ", section 1546", and "if the act indictable under section 1546 was committed for the purpose of financial gain" before ", sections 1581–1588".

Pub. L. 104–153 inserted ", section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks)" after "sections 2314 and 2315 (relating to interstate transportation of stolen property)".

Pub. L. 104–132, §433(1), (2), inserted "section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain," before "section 1029" and "section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant)".

Par. (1)(D). Pub. L. 104–294, §601(b)(3), substituted "section 157 of this title" for "section 157 of that title".

Par. (1)(F). Pub. L. 104–132, §433(3), (4), which directed addition of cl. (F) before period at end, was executed by making the addition before the semicolon at end to reflect the probable intent of Congress.

1994-Par. (1)(A). Pub. L. 103–322, §330021(1), substituted "kidnapping" for "kidnapping".

Pub. L. 103–322, §90104, substituted "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)" for "narcotic or other dangerous drugs".

Par. (1)(B). Pub. L. 103–322, §160001(f), as amended by Pub. L. 104–294, §604(b)(6), substituted "2251, 2251A, 2252, and 2258" for "2251–2252".

Par. (1)(D). Pub. L. 103–394 inserted "except a case under section 157 of that title" after "title 11".

Pub. L. 103–322, §90104, substituted "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)" for "narcotic or other dangerous drugs".

1990-Par. (1)(B). Pub. L. 101–647 substituted "section 1029 (relating to)" for "section 1029 (relative to)" and struck out "sections 2251 through 2252 (relating to sexual exploitation of children)," before ", section 1958".

1989-Par. (1). Pub. L. 101–73 inserted "section 1344 (relating to financial institution fraud)," after "section 1343 (relating to wire fraud)".

1988-Par. (1)(B). Pub. L. 100–690, §7514, inserted "sections 2251 through 2252 (relating to sexual exploitation of children)".

Pub. L. 100–690, §7054, inserted ", section 1029 (relative to fraud and related activity in connection with access devices)" and ", section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251–2252 (relating to sexual exploitation of children)".

Pub. L. 100–690, §7032, substituted "section 2321" for "section 2320".

Pub. L. 100–690, §7013, made technical amendment to directory language of Pub. L. 99–646. See 1986 Amendment note below.

Par. (10). Pub. L. 100–690, §7020(c), inserted "the Associate Attorney General of the United States," after "Deputy Attorney General of the United States".

1986-Par. (1)(B). Pub. L. 99–646, as amended by Pub. L. 100–690, §7013, inserted "section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant)," after "section 1511 (relating to the obstruction of State or local law enforcement)".

Pub. L. 99–570 inserted "section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)".

1984-Par. (1)(A). Pub. L. 98–473, §1020(1), inserted "dealing in obscene matter," after "extortion".

Par. (1)(B). Pub. L. 98–547 inserted "sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles)," and "section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts)".

Pub. L. 98–473, §1020(2), inserted "sections 1461–1465 (relating to obscene matter)".

Par. (1)(E). Pub. L. 98–473, §901(g), added cl. (E).

1978-Par. (1)(B). Pub. L. 95–575 inserted "sections 2341–2346 (relating to trafficking in contraband cigarettes)".

Par. (1)(D). Pub. L. 95–598 substituted "fraud connected with a case under title 11" for "bankruptcy fraud".

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, §4005(f)(1), Nov. 2, 2002, 116 Stat. 1813, provided that the amendment made by section 4005(f)(1) is effective Oct. 26, 2001.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(6) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103–394, set out as a note under section 101 of Title 11.

EFFECTIVE DATE OF 1978 AMENDMENTS

154a-

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

Amendment by Pub. L. 95-575 effective Nov. 2, 1978, see section 4 of Pub. L. 95-575, set out as an Effective Date note under section 2341 of this title.

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-473, title II, ch. III (§§301-322), §301, Oct. 12, 1984, 98 Stat. 2040, provided that: "This title [probably means this chapter, enacting sections 1589, 1600, 1613a, and 1616 of Title 19, Customs Duties and sections 853, 854, and 970 of Title 21, Food and Drugs, amending section 1963 of this title and sections 1602, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1618, 1619, and 1644 of Title 19, sections 824, 848, and 881 of Title 21, and section 524 of Title 28, Judiciary and Judicial Procedure, and repealing section 7607 of Title 26, Internal Revenue Code] may be cited as the 'Comprehensive Forfeiture Act of 1984'."

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-452, §1, Oct. 15, 1970, 84 Stat. 922, provided in part: "That this Act [enacting this section, sections 841 to 848, 1511, 1623, 1955, 1962 to 1968, 3331 to 3334, 3503, 3504, 3575 to 3578, and 6001 to 6005 of this title, and section 1826 of Title 28, Judiciary and Judicial Procedure, amending sections 835, 1073, 1505, 1954, 2424, 2516, 2517, 3148, 3486, and 3500 of this title, sections 15, 87f, 135c, 499m, and 2115 of Title 7, Agriculture, section 25 of Title 11, Bankruptcy, section 1820 of Title 12, Banks and Banking, sections 49, 77v, 78u, 79r, 80a-41, 80b-9, 155, 717m, 1271, and 1714 of Title 15, Commerce and Trade, section 825f of Title 16, Conservation, section 1333 of Title 19, Customs Duties, section 373 of Title 21, Food and Drugs, section 161 of Title 29, Labor, section 506 of Title 33, Navigation and Navigable Waters, sections 405 and 2201 of Title 42, The Public Health and Welfare, sections 157 and 362 of Title 45, Railroads, section 1124 of former Title 46, Shipping, section 409 of Title 47, Telecommunications, sections 9, 43, 46, 916, 1017, and 1484 of former Title 49, Transportation, sections 792 and 4555 of Title 50, War and National Defense, and former sections 643a, 1152, and 2026 of the former Appendix to Title 50, repealing sections 837, 895, 1406, and 2514 of this title, sections 32 and 33 of Title 15, sections 4874 and 7493 of Title 26, Internal Revenue Code, section 827 of former Title 46, sections 47 and 48 of former Title 49, and sections 121 to 144 of Title 50, enacting provisions set out as notes under this section and sections 841, 1511, 1955, preceding 3331, preceding 3481, 3504, and 6001 of this title, and repealing provisions set out as a note under section 2510 of this title] may be cited as the 'Organized Crime Control Act of 1970'."

Pub. L. 91-452, title IX, §901(a), Oct. 15, 1970, 84 Stat. 941, is popularly known as the "Racketeer Influenced and Corrupt Organizations Act". See also Short Title note below.

SHORT TITLE

This chapter is popularly known as the "Racketeer Influenced and Corrupt Organizations Act".

SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95-598 not to affect the application of chapter 9 (§151 et seq.), chapter 96 (§1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

SEPARABILITY

Pub. L. 91-452, title XIII, §1301, Oct. 15, 1970, 84 Stat. 962, provided that: "If the provisions of any part of this Act [see Short Title of 1970 Amendment note set out above] or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby."

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSE

Pub. L. 91-452, §1, Oct. 15, 1970, 84 Stat. 922, provided in part that:

"The Congress finds that (1) organized crime in the United States is a highly sophisticated, diversified, and widespread activity that annually drains billions of dollars from America's economy by unlawful conduct and the illegal use of force, fraud, and corruption; (2) organized crime derives a major portion of its power through money obtained from such illegal endeavors as syndicated gambling, loan sharking, the theft and fencing of property, the importation and distribution of narcotics and other dangerous drugs, and other forms of social exploitation; (3) this money and power are increasingly used to infiltrate and corrupt legitimate business and labor unions and to subvert and corrupt our democratic processes; (4) organized crime activities in the United States weaken the stability of the Nation's economic system, harm innocent investors and competing organizations, interfere with free competition, seriously burden interstate and foreign commerce, threaten the domestic security, and undermine the general welfare of the Nation and its citizens; and (5) organized crime continues to grow because of defects in the evidence-gathering process of the law inhibiting the development of the legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear on the unlawful activities of those engaged in organized crime and because the sanctions and remedies available to the Government are unnecessarily limited in scope and impact."

"It is the purpose of this Act [see Short Title of 1970 Amendment note above] to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime."

LIBERAL CONSTRUCTION OF PROVISIONS; SUPERSEDURE OF FEDERAL OR STATE LAWS; AUTHORITY OF ATTORNEYS REPRESENTING UNITED STATES

Pub. L. 91-452, title IX, §904, Oct. 15, 1970, 84 Stat. 947, provided that:

"(a) The provisions of this title [enacting this chapter and amending sections 1505, 2516, and 2517 of this title] shall be liberally construed to effectuate its remedial purposes.

"(b) Nothing in this title shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this title.

"(c) Nothing contained in this title shall impair the authority of any attorney representing the United States to-

"(1) lay before any grand jury impaneled by any district court of the United States any evidence concerning any alleged racketeering violation of law;

"(2) invoke the power of any such court to compel the production of any evidence before any such grand jury; or

"(3) institute any proceeding to enforce any order or process issued in execution of such power or to punish disobedience of any such order or process by any person."

PRESIDENT'S COMMISSION ON ORGANIZED CRIME; TAKING OF TESTIMONY AND RECEIPT OF EVIDENCE

Pub. L. 98-368, July 17, 1984, 98 Stat. 490, provided for the Commission established by Ex. Ord. No. 12435, formerly set out below, authority relating to taking of testimony, receipt of evidence, subpoena power, testimony of persons in custody, immunity, service of process, witness fees, access to other records and information, Federal protection for members and staff, closure of meetings, rules, and procedures, for the period of July 17, 1984, until the earlier of 2 years or the expiration of the Commission.

EXECUTIVE ORDER NO. 12435

Ex. Ord. No. 12435, July 28, 1983, 48 F.R. 34723, as amended Ex. Ord. No. 12507, Mar. 22, 1985, 50 F.R. 11835, which established and provided for the administration of the President's Commission on Organized Crime, was revoked by Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

¹ So in original.

18 USC 1962: Prohibited activities

Text contains those laws in effect on March 16, 2020

From Title 18-CRIMES AND CRIMINAL PROCEDURE**PART I-CRIMES****CHAPTER 96-RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS**

Jump To:

[Source Credit](#)[Amendments](#)**§1962. Prohibited activities**

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

(Added Pub. L. 91-452, title IX, §901(a), Oct. 15, 1970, 84 Stat. 942 ; amended Pub. L. 100-690, title VII, §7033, Nov. 18, 1988, 102 Stat. 4398 .)

AMENDMENTS

1988-Subsec. (d). Pub. L. 100-690 substituted "subsection" for "subsections".

PART C – OBSTRUCTION AND RELATED ADJUSTMENTS

Historical Note

Effective November 1, 1987. Amended effective November 1, 2006 (amendment 684).

§3C1.1. Obstructing or Impeding the Administration of Justice

If (1) the defendant willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense of conviction, and (2) the obstructive conduct related to (A) the defendant's offense of conviction and any relevant conduct; or (B) a closely related offense, increase the offense level by **2** levels.

Commentary

Application Notes:

1. **In General.**—This adjustment applies if the defendant's obstructive conduct (A) occurred with respect to the investigation, prosecution, or sentencing of the defendant's instant offense of conviction, and (B) related to (i) the defendant's offense of conviction and any relevant conduct; or (ii) an otherwise closely related case, such as that of a co-defendant.

Obstructive conduct that occurred prior to the start of the investigation of the instant offense of conviction may be covered by this guideline if the conduct was purposefully calculated, and likely, to thwart the investigation or prosecution of the offense of conviction.

2. **Limitations on Applicability of Adjustment.**—This provision is not intended to punish a defendant for the exercise of a constitutional right. A defendant's denial of guilt (other than a denial of guilt under oath that constitutes perjury), refusal to admit guilt or provide information to a probation officer, or refusal to enter a plea of guilty is not a basis for application of this provision. In applying this provision in respect to alleged false testimony or statements by the defendant, the court should be cognizant that inaccurate testimony or statements sometimes may result from confusion, mistake, or faulty memory and, thus, not all inaccurate testimony or statements necessarily reflect a willful attempt to obstruct justice.
3. **Covered Conduct Generally.**—Obstructive conduct can vary widely in nature, degree of planning, and seriousness. Application Note 4 sets forth examples of the types of conduct to which this adjustment is intended to apply. Application Note 5 sets forth examples of less serious forms of conduct to which this enhancement is not intended to apply, but that ordinarily can appropriately be sanctioned by the determination of the particular sentence within the otherwise applicable guideline range. Although the conduct to which this adjustment applies is not subject to precise definition, comparison of the examples set forth in Application Notes 4 and 5 should assist the court in determining whether application of this adjustment is warranted in a particular case.
4. **Examples of Covered Conduct.**—The following is a non-exhaustive list of examples of the types of conduct to which this adjustment applies:
 - (A) threatening, intimidating, or otherwise unlawfully influencing a co-defendant, witness, or juror, directly or indirectly, or attempting to do so;

- (B) committing, suborning, or attempting to suborn perjury, including during the course of a civil proceeding if such perjury pertains to conduct that forms the basis of the offense of conviction;
- (C) producing or attempting to produce a false, altered, or counterfeit document or record during an official investigation or judicial proceeding;
- (D) destroying or concealing or directing or procuring another person to destroy or conceal evidence that is material to an official investigation or judicial proceeding (e.g., shredding a document or destroying ledgers upon learning that an official investigation has commenced or is about to commence), or attempting to do so; however, if such conduct occurred contemporaneously with arrest (e.g., attempting to swallow or throw away a controlled substance), it shall not, standing alone, be sufficient to warrant an adjustment for obstruction unless it resulted in a material hindrance to the official investigation or prosecution of the instant offense or the sentencing of the offender;
- (E) escaping or attempting to escape from custody before trial or sentencing; or willfully failing to appear, as ordered, for a judicial proceeding;
- (F) providing materially false information to a judge or magistrate judge;
- (G) providing a materially false statement to a law enforcement officer that significantly obstructed or impeded the official investigation or prosecution of the instant offense;
- (H) providing materially false information to a probation officer in respect to a presentence or other investigation for the court;
- (I) other conduct prohibited by obstruction of justice provisions under Title 18, United States Code (e.g., 18 U.S.C. §§ 1510, 1511);
- (J) failing to comply with a restraining order or injunction issued pursuant to 21 U.S.C. § 853(e) or with an order to repatriate property issued pursuant to 21 U.S.C. § 853(p);
- (K) threatening the victim of the offense in an attempt to prevent the victim from reporting the conduct constituting the offense of conviction.

This adjustment also applies to any other obstructive conduct in respect to the official investigation, prosecution, or sentencing of the instant offense where there is a separate count of conviction for such conduct.

5. **Examples of Conduct Ordinarily Not Covered.**—Some types of conduct ordinarily do not warrant application of this adjustment but may warrant a greater sentence within the otherwise applicable guideline range or affect the determination of whether other guideline adjustments apply (e.g., §3E1.1 (Acceptance of Responsibility)). However, if the defendant is convicted of a separate count for such conduct, this adjustment will apply and increase the offense level for the underlying offense (i.e., the offense with respect to which the obstructive conduct occurred). See Application Note 8, below.

The following is a non-exhaustive list of examples of the types of conduct to which this application note applies:

- (A) providing a false name or identification document at arrest, except where such conduct actually resulted in a significant hindrance to the investigation or prosecution of the instant offense;
- (B) making false statements, not under oath, to law enforcement officers, unless Application Note 4(G) above applies;
- (C) providing incomplete or misleading information, not amounting to a material falsehood, in respect to a presentence investigation;
- (D) avoiding or fleeing from arrest (*see, however*, §3C1.2 (Reckless Endangerment During Flight));
- (E) lying to a probation or pretrial services officer about defendant's drug use while on pre-trial release, although such conduct may be a factor in determining whether to reduce the defendant's sentence under §3E1.1 (Acceptance of Responsibility).

6. **“Material” Evidence Defined.**—“*Material*” evidence, fact, statement, or information, as used in this section, means evidence, fact, statement, or information that, if believed, would tend to influence or affect the issue under determination.

7. **Inapplicability of Adjustment in Certain Circumstances.**—If the defendant is convicted of an offense covered by §2J1.1 (Contempt), §2J1.2 (Obstruction of Justice), §2J1.3 (Perjury or Subornation of Perjury; Bribery of Witness), §2J1.5 (Failure to Appear by Material Witness), §2J1.6 (Failure to Appear by Defendant), §2J1.9 (Payment to Witness), §2X3.1 (Accessory After the Fact), or §2X4.1 (Misprision of Felony), this adjustment is not to be applied to the offense level for that offense except if a significant further obstruction occurred during the investigation, prosecution, or sentencing of the obstruction offense itself (*e.g.*, if the defendant threatened a witness during the course of the prosecution for the obstruction offense).

Similarly, if the defendant receives an enhancement under §2D1.1(b)(16)(D), do not apply this adjustment.

8. **Grouping Under §3D1.2(c).**—If the defendant is convicted both of an obstruction offense (*e.g.*, 18 U.S.C. § 3146 (Penalty for failure to appear); 18 U.S.C. § 1621 (Perjury generally)) and an underlying offense (the offense with respect to which the obstructive conduct occurred), the count for the obstruction offense will be grouped with the count for the underlying offense under subsection (c) of §3D1.2 (Groups of Closely Related Counts). The offense level for that group of closely related counts will be the offense level for the underlying offense increased by the 2-level adjustment specified by this section, or the offense level for the obstruction offense, whichever is greater.

9. **Accountability for §1B1.3(a)(1)(A) Conduct.**—Under this section, the defendant is accountable for the defendant's own conduct and for conduct that the defendant aided or abetted, counseled, commanded, induced, procured, or willfully caused.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1989 (amendments 251 and 252); November 1, 1990 (amendment 347); November 1, 1991 (amendment 415); November 1, 1992 (amendment 457); November 1, 1993 (amendment 496); November 1, 1997 (amendment 566); November 1, 1998 (amendments 579, 581, and 582); November 1, 2002 (amendment 637); November 1, 2004 (amendment 674); November 1, 2006 (amendment 693); November 1, 2010 (amendments 746, 747, and 748); November 1, 2011 (amendments 750 and 758); November 1, 2014 (amendment 783); November 1, 2018 (amendment 807).
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CHAPTER FOUR

CRIMINAL HISTORY AND CRIMINAL LIVELIHOOD

PART A – CRIMINAL HISTORY

Introductory Commentary

The Comprehensive Crime Control Act sets forth four purposes of sentencing. (See 18 U.S.C. § 3553(a)(2).) A defendant's record of past criminal conduct is directly relevant to those purposes. A defendant with a record of prior criminal behavior is more culpable than a first offender and thus deserving of greater punishment. General deterrence of criminal conduct dictates that a clear message be sent to society that repeated criminal behavior will aggravate the need for punishment with each recurrence. To protect the public from further crimes of the particular defendant, the likelihood of recidivism and future criminal behavior must be considered. Repeated criminal behavior is an indicator of a limited likelihood of successful rehabilitation.

The specific factors included in §4A1.1 and §4A1.3 are consistent with the extant empirical research assessing correlates of recidivism and patterns of career criminal behavior. While empirical research has shown that other factors are correlated highly with the likelihood of recidivism, e.g., age and drug abuse, for policy reasons they were not included here at this time. The Commission has made no definitive judgment as to the reliability of the existing data. However, the Commission will review additional data insofar as they become available in the future.

Historical Note

Effective November 1, 1987.

§4A1.1. Criminal History Category

The total points from subsections (a) through (e) determine the criminal history category in the Sentencing Table in Chapter Five, Part A.

- (a) Add **3** points for each prior sentence of imprisonment exceeding one year and one month.
- (b) Add **2** points for each prior sentence of imprisonment of at least sixty days not counted in (a).
- (c) Add **1** point for each prior sentence not counted in (a) or (b), up to a total of **4** points for this subsection.

- (d) Add **2** points if the defendant committed the instant offense while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status.
- (e) Add **1** point for each prior sentence resulting from a conviction of a crime of violence that did not receive any points under (a), (b), or (c) above because such sentence was treated as a single sentence, up to a total of **3** points for this subsection.

Commentary

The total criminal history points from §4A1.1 determine the criminal history category (I–VI) in the Sentencing Table in Chapter Five, Part A. The definitions and instructions in §4A1.2 govern the computation of the criminal history points. Therefore, §§4A1.1 and 4A1.2 must be read together. The following notes highlight the interaction of §§4A1.1 and 4A1.2.

Application Notes:

1. **§4A1.1(a).** Three points are added for each prior sentence of imprisonment exceeding one year and one month. There is no limit to the number of points that may be counted under this subsection. The term “**prior sentence**” is defined at §4A1.2(a). The term “**sentence of imprisonment**” is defined at §4A1.2(b). Where a prior sentence of imprisonment resulted from a revocation of probation, parole, or a similar form of release, *see* §4A1.2(k).

Certain prior sentences are not counted or are counted only under certain conditions:

A sentence imposed more than fifteen years prior to the defendant’s commencement of the instant offense is not counted unless the defendant’s incarceration extended into this fifteen-year period. *See* §4A1.2(e).

A sentence imposed for an offense committed prior to the defendant’s eighteenth birthday is counted under this subsection only if it resulted from an adult conviction. *See* §4A1.2(d).

A sentence for a foreign conviction, a conviction that has been expunged, or an invalid conviction is not counted. *See* §4A1.2(h) and (j) and the Commentary to §4A1.2.

2. **§4A1.1(b).** Two points are added for each prior sentence of imprisonment of at least sixty days not counted in §4A1.1(a). There is no limit to the number of points that may be counted under this subsection. The term “**prior sentence**” is defined at §4A1.2(a). The term “**sentence of imprisonment**” is defined at §4A1.2(b). Where a prior sentence of imprisonment resulted from a revocation of probation, parole, or a similar form of release, *see* §4A1.2(k).

Certain prior sentences are not counted or are counted only under certain conditions:

A sentence imposed more than ten years prior to the defendant’s commencement of the instant offense is not counted. *See* §4A1.2(e).

An adult or juvenile sentence imposed for an offense committed prior to the defendant’s eighteenth birthday is counted only if confinement resulting from such sentence extended into the five-year period preceding the defendant’s commencement of the instant offense. *See* §4A1.2(d).

Sentences for certain specified non-felony offenses are never counted. *See* §4A1.2(c)(2).

A sentence for a foreign conviction or a tribal court conviction, an expunged conviction, or an invalid conviction is not counted. *See* §4A1.2(h), (i), (j), and the Commentary to §4A1.2.

A military sentence is counted only if imposed by a general or special court-martial. *See* §4A1.2(g).

3. **§4A1.1(c).** One point is added for each prior sentence not counted under §4A1.1(a) or (b). A maximum of four points may be counted under this subsection. The term “**prior sentence**” is defined at §4A1.2(a).

Certain prior sentences are not counted or are counted only under certain conditions:

A sentence imposed more than ten years prior to the defendant’s commencement of the instant offense is not counted. *See* §4A1.2(e).

An adult or juvenile sentence imposed for an offense committed prior to the defendant’s eighteenth birthday is counted only if imposed within five years of the defendant’s commencement of the current offense. *See* §4A1.2(d).

Sentences for certain specified non-felony offenses are counted only if they meet certain requirements. *See* §4A1.2(c)(1).

Sentences for certain specified non-felony offenses are never counted. *See* §4A1.2(c)(2).

A diversionary disposition is counted only where there is a finding or admission of guilt in a judicial proceeding. *See* §4A1.2(f).

A sentence for a foreign conviction, a tribal court conviction, an expunged conviction, or an invalid conviction, is not counted. *See* §4A1.2(h), (i), (j), and the Commentary to §4A1.2.

A military sentence is counted only if imposed by a general or special court-martial. *See* §4A1.2(g).

4. **§4A1.1(d).** Two points are added if the defendant committed any part of the instant offense (*i.e.*, any relevant conduct) while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status. Failure to report for service of a sentence of imprisonment is to be treated as an escape from such sentence. *See* §4A1.2(n). For the purposes of this subsection, a “**criminal justice sentence**” means a sentence countable under §4A1.2 (Definitions and Instructions for Computing Criminal History) having a custodial or supervisory component, although active supervision is not required for this subsection to apply. For example, a term of unsupervised probation would be included; but a sentence to pay a fine, by itself, would not be included. A defendant who commits the instant offense while a violation warrant from a prior sentence is outstanding (*e.g.*, a probation, parole, or supervised release violation warrant) shall be deemed to be under a criminal justice sentence for the purposes of this provision if that sentence is otherwise countable, even if that sentence would have expired absent such warrant. *See* §4A1.2(m).
5. **§4A1.1(e).** In a case in which the defendant received two or more prior sentences as a result of convictions for crimes of violence that are treated as a single sentence (*see* §4A1.2(a)(2)), one point is added under §4A1.1(e) for each such sentence that did not result in any additional points under §4A1.1(a), (b), or (c). A total of up to 3 points may be added under §4A1.1(e). For purposes of this guideline, “**crime of violence**” has the meaning given that term in §4B1.2(a). *See* §4A1.2(p).

For example, a defendant's criminal history includes two robbery convictions for offenses committed on different occasions. The sentences for these offenses were imposed on the same day and are treated as a single prior sentence. *See* §4A1.2(a)(2). If the defendant received a five-year sentence of imprisonment for one robbery and a four-year sentence of imprisonment for the other robbery (consecutively or concurrently), a total of 3 points is added under §4A1.1(a). An additional point is added under §4A1.1(e) because the second sentence did not result in any additional point(s) (under §4A1.1(a), (b), or (c)). In contrast, if the defendant received a one-year sentence of imprisonment for one robbery and a nine-month consecutive sentence of imprisonment for the other robbery, a total of 3 points also is added under §4A1.1(a) (a one-year sentence of imprisonment and a consecutive nine-month sentence of imprisonment are treated as a combined one-year-nine-month sentence of imprisonment). But no additional point is added under §4A1.1(e) because the sentence for the second robbery already resulted in an additional point under §4A1.1(a). Without the second sentence, the defendant would only have received two points under §4A1.1(b) for the one-year sentence of imprisonment.

Background: Prior convictions may represent convictions in the federal system, fifty state systems, the District of Columbia, territories, and foreign, tribal, and military courts. There are jurisdictional variations in offense definitions, sentencing structures, and manner of sentence pronouncement. To minimize problems with imperfect measures of past crime seriousness, criminal history categories are based on the maximum term imposed in previous sentences rather than on other measures, such as whether the conviction was designated a felony or misdemeanor. In recognition of the imperfection of this measure however, §4A1.3 authorizes the court to depart from the otherwise applicable criminal history category in certain circumstances.

Subsections (a), (b), and (c) of §4A1.1 distinguish confinement sentences longer than one year and one month, shorter confinement sentences of at least sixty days, and all other sentences, such as confinement sentences of less than sixty days, probation, fines, and residency in a halfway house.

Section 4A1.1(d) adds two points if the defendant was under a criminal justice sentence during any part of the instant offense.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1989 (amendments 259–261); November 1, 1991 (amendments 381 and 382); October 27, 2003 (amendment 651); November 1, 2007 (amendment 709); November 1, 2010 (amendment 742); November 1, 2013 (amendment 777); November 1, 2015 (amendment 795).
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