

APPENDIX A

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

January 3, 2012

No. 10-10103

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

COREY DEYON DUFFEY, also known as Keyno, also known as Calvin Brown; ANTONYO REECE, also known as Seven; CHARLES RUNNELS, also known as Junior; JARVIS DUPREE ROSS, also known as Dookie, also known as Dapree Dollars, also known as Fifty; TONY R. HEWITT,

Defendants - Appellants

Appeals from the United States District Court
for the Northern District of Texas
USDC No. 3:08-CR-167-1

Before JOLLY, DEMOSS, and PRADO, Circuit Judges.

E. GRADY JOLLY, Circuit Judge:*

Corey Duffey, Tony Hewitt, Antonyo Reece, Jarvis Ross, and Charles Runnels devoted their respective talents to the enterprise of robbing banks. They were convicted of multiple counts of armed robbery, attempted robbery, and conspiracy and received prison sentences ranging, respectively, from a minimum of 140 years, to a twenty-nine life sentence imposed on one defendant.

* Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 10-10103

Although their criminal enterprise enjoyed some success, the enterprise of appealing their convictions is likely of marginal value to them, given the extensive sentences they will have to serve. First, the Appellants argue that there was only one, overarching conspiracy to rob banks and that their multiple conspiracy convictions are duplicative, violating the Double Jeopardy Clause. Second, they argue that their convictions on two counts of attempted bank robbery are not supported by the evidence, because there was no showing of “actual force and violence, or intimidation,” which is required to support a conviction under the first paragraph of 18 U.S.C. § 2113(a) and (d). Because the government did not establish the underlying offense of attempted bank robbery on these two counts, they further argue that the two § 924(c)(1) counts for use of a firearm during the alleged attempted robberies are invalid. Finally, Hewitt, individually, raises a sentencing issue contending that the presentence report exaggerates his total offense level, which we reject. For the reasons that follow, we AFFIRM the convictions except for the two attempted robbery and the two concomitant § 924(c)(1) convictions under Counts Three, Four, Eighteen, and Nineteen, which we REVERSE and VACATE. Given that we vacate these convictions with respect to all Appellants, we VACATE all sentences and REMAND to the district court to re-sentence all defendants in the light of this opinion.

I.

A.

From January to June of 2008, Corey Duffey, Tony Hewitt, Antonyo Reece, Jarvis Ross, and Charles Runnels (collectively, “Appellants”), as well as two co-conspirators — Darobie Stenline and Yolanda McDow — constituted a loose confederacy of bandits who, with varying degrees of success, robbed five banks in the Dallas-Fort Worth area. Four other individuals — referred to as Nitty,

No. 10-10103

T.S., Kenny, and J.T. — participated in one or more of the robberies, but were not indicted for their alleged crimes.

Both Duffey and Hewitt assumed leadership roles of their co-defendants. They would case banks, invite potential partners to join in the crimes, delegate roles and responsibilities to their co-conspirators, and participate in the robberies.

The confederacy made its debut on January 28, 2008 at the Citi Bank in Garland, Texas. Duffey, Hewitt, Ross, Runnels, Stenline, Nitty, and T.S. were the actors in this robbery. Hewitt organized the robbery and gave instructions to the “takeover team” via walkie talkie. The robbers stole a white Oldsmobile (or Buick) sedan for transportation. This enterprise yielded about \$5,000. The robbers netted a disappointingly paltry sum, because the bank was too large for the robbers and raiders to control effectively, even with their assortment of guns. Consequently, they planned for a new, smaller undertaking a few days later.

The group launched their second strike on February 1, 2008 at the Comercia Bank in Desoto, Texas. Duffey, Hewitt, Runnels, Stenline, McDow, Nitty, Kenny, and T.S. worked this job and made travel arrangements by stealing a Ford Explorer. This venture netted a handsome \$245,000. Stenline, T.S., and Hewitt acted as lookouts, while the other participants, bearing an array of guns, acted as the “takeover team.”

At 1:15 p.m. on March 28, 2008, Duffey, Hewitt, Ross, Runnels, Stenline, McDow, Nitty, and J.T. ganged up on the Century Bank in Dallas, Texas, choosing for transportation a stolen white Chevy Suburban on this occasion. Before this operation, Hewitt sent McDow a text message asking whether she “wanted to make some money.” Obviously ambitious, McDow put her considerable talents to work for Hewitt by casing the bank and reporting her observations to Hewitt. The robbery was captured on the bank’s security cameras, which showed several men wearing masks and armed with handguns

No. 10-10103

and a taser. Stenline, Hewitt, and McDow acted as lookouts. As the risk-takers were making their getaway, a dye-pack stowed with the stolen bills exploded, rendering almost all of the money tainted. Recognizing that all business undertakings are not successful, the gang quickly abandoned the tainted funds and the getaway car in a local apartment complex. After this failure, Hewitt met McDow at a drug store and told her that the bandits had not made any money because the money bag had broken. McDow, who testified for the government, was not informed of any future plans to rob a bank that day.

Because the Century Bank robbery failed, Duffey and Hewitt were discouraged, but only temporarily. Indeed, they decided to rob another bank the same day. Hewitt called Stenline at home that afternoon and invited him to join a job in Garland. At 4:00 p.m., the same dye-stained group that victimized the Century Bank, except for McDow and J.T., robbed the State Bank of Texas in Garland. Because the group needed another getaway car, Nitty hoped to reverse their loss with a different colored stolen Suburban — lucky-blue. Stenline and Hewitt acted as lookouts while the others robbed the bank at gunpoint. The robbers took small, but worthwhile profit of about \$14,700 from the State Bank of Texas.

On April 24, all five Appellants, along with Stenline and McDow, robbed a Bank of America in Irving, Texas. Both Stenline and McDow agreed to work the robbery that day. The group traveled in the same stolen, lucky-blue Suburban that served them well in the State Bank of Texas job a month earlier. This time, instead of just threatening the bank's employees with guns, the robbers used a taser to stun bank tellers. Hewitt, Stenline, and McDow acted as lookouts for the robbery. This worthwhile venture yielded \$84,000. It was, however, the last productive showing of this loosely coordinated gang of bandits.

It was May 15 that FBI agents, on high alert because of the gang's crime spree, observed Stenline and Hewitt near the Bank of America in Fort Worth,

No. 10-10103

Texas. Based on Hewitt and Stenline's suspicious behavior, the agents believed that the men were casing a bank in the area. The following day, FBI agents once again observed Hewitt, Stenline, McDow, and other suspected bandits in the same area. The bank takeover team, armed with guns, drove to the bank and parked. The team waited for Duffey to give the sign. But, no signal came. Outside the bank, a man seemed to give Duffey a knowing wink, which led Duffey to think the man indicated some knowledge of what was happening. He immediately canceled the robbery. The rest of the group dispersed and returned to Dallas. McDow testified that she "was prepared" but then she got a message from Hewitt "saying it wasn't going to happen, and everybody basically went their separate ways."

On May 21, an FBI surveillance team spotted Duffey, Ross, and Stenline casing the two, different Bank of America locations in Richardson, Texas. FBI agents, in short order, initiated an emergency wiretap. On May 22, information gathered from the wiretap suggested that a robbery was imminent. The robbers abandoned the plan to rob the banks in Richardson, however, because they believed that the "alphabet boys," also known as the FBI, were on to the plan. Stenline testified that the robbery scheme included plans to kidnap a bank manager. At trial, the government introduced a purple notebook in which Duffey had recorded details about the Bank of America branches, including bank employee names, employee vehicle descriptions and license plate numbers, and employee home addresses. When asked at trial why they abandoned the scheme to rob these banks, Stenline said: "I guess the plan didn't come together."

Finally, through telephone intercepts, FBI agents learned that the Appellants, along with Stenline and McDow, were planning a robbery venture at the Regions Bank in Garland, Texas on June 2. On June 1, Duffey followed the usual plan and stole a Suburban — this time, silver in color. FBI agents overheard Duffey saying that he had called for all hands at the ready and the

No. 10-10103

response was full participation, at least by our Appellants, for this particular job. The FBI was also ready. Near the Regions Bank, FBI agents observed Duffey and Ross parking the stolen, silver Suburban. They saw the two men meet with Hewitt and McDow in the bank's parking lot. The co-conspirators, Runnels and Reece, parked behind the stolen Suburban in Runnels's vehicle. Law enforcement officials then moved in to arrest the gathered gang. Stenline and McDow were arrested without incident, but Appellants — all of whom were heavily armed — turned their attention from their crime to flight, at which point the FBI and police turned their attention from arrest to pursuit. The Appellants were ultimately apprehended after high-speed chases, hostage-taking, kidnaping, police stand-offs, and collisions. But in the end, this confederacy of bandits lay down their arms — if not voluntarily — and were given transportation in a government Suburban to their new residence.

B.

In July and August of 2009, the case was tried before a jury. The jury convicted the Appellants, in various combinations contingent upon their involvement in each particular offense, of nine counts of Conspiracy to Commit Bank Robbery,² two counts of Attempted Bank Robbery under 18 U.S.C. § 2113(a) and (d),³ and five counts of Bank Robbery and Aiding and Abetting.⁴ The Appellants were also convicted of multiple 18 U.S.C. § 924(c)(1) firearm charges appurtenant to their violent federal crimes, which carried with them five to

² Duffey and Hewitt were convicted of nine conspiracy counts, Reece was convicted of three counts, Ross was convicted of eight counts, and Runnels was convicted of seven counts.

³ All of the Appellants were convicted of both attempted robbery counts under 18 U.S.C. § 2113(a) and (d).

⁴ Runnels, Hewitt, and Duffey were convicted of five bank robbery counts, and Reece was convicted of one count. Ross was convicted of four counts.

No. 10-10103

twenty-five year mandatory minimum sentences.⁵ Additionally, Hewitt, Ross, and Runnels were convicted as felons in possession of a firearm; and Ross was convicted of kidnaping. Runnels was also convicted of assaulting a federal officer.

Consequently, the district court sentenced Duffey to 4,253 months (354 years) of imprisonment, Hewitt to 4,260 months (355 years) of imprisonment, Ross to 3,960 months (330 years) of imprisonment, and Recce to 1,680 months (140 years) of imprisonment. Based upon a violent recidivist enhancement, Runnels was sentenced to twenty-nine life sentences and, should he complete those sentences, to an additional 120 months in prison for being a convicted felon in possession of a firearm.

II.

Each of the Appellants raise essentially the same arguments: that the evidence supports only one conspiracy and, thus, the multiple conspiracy counts in the indictment are duplicative, violating the Double Jeopardy Clause; second, that the evidence is insufficient to support their convictions on two counts of attempted bank robbery; and, finally, that the § 924(c)(1) firearm convictions incidental to the two attempted robbery counts are void for want of an underlying offense, that is, the attempted robbery charges. Hewitt, individually, raises a sentencing issue, contending that the PSR inflates his total offense level, rendering his prison sentence too lengthy.

III.

We begin our consideration of this appeal by addressing whether the evidence shows only a single conspiracy to commit the multiple bank robberies, as opposed to separate conspiracies for each robbery. If there is only one conspiracy, the Appellants' sentences would be significantly reduced.

⁵ Runnels, Hewitt, Duffey were convicted of fourteen § 924(c) counts. Ross was convicted of thirteen counts, and Reece was convicted of six counts.

No. 10-10103

Courts may look to circumstantial evidence in order to determine the conspiracy's scope. *United States v. Kalish*, 690 F.2d 1144, 1151 (5th Cir.1982), *cert. denied*, 459 U.S. 1108, 103 S.Ct. 735, 74 L.Ed.2d 958 (1983). Unless the evidence presented at trial establishes separate conspiracies as a matter of law, whether a single conspiracy or multiple conspiracies existed is a question for the jury to determine.⁶ *United States v. Elam*, 678 F.2d 1234, 1245 (5th Cir.1982); *United States v. Michel*, 588 F.2d 986 (5th Cir.), *cert. denied*, 444 U.S. 825 (1979). We follow a five-step analysis, commonly referred to as the "Marable factors," *United States v. Marable*, 578 F.2d 151, 154 (5th Cir.1978), to ascertain whether the record demonstrates that a criminal venture constitutes one or more conspiracies: (1) the time frame during which the alleged conspiracies occurred; (2) the extent to which the same persons were involved and the nature of their involvements; (3) whether the statutory offenses charged in the indictments were the same; (4) whether the nature and scope of the defendants' activities charged in connection with each alleged conspiracy were repetitive and continuous; and (5) whether the locations where the events alleged as part of each conspiracy took place were the same. *United States v. Atkins*, 834 F.2d 426, 432-33 (1987); *Kalish*, 690 F.2d at 1151-52. No single *Marable* factor is outcome determinative, and the Government bears the burden of proving that separate offenses occurred by a preponderance of the evidence. *United States v. Greer*, 939 F.2d 1076, 1087 n.11 (5th Cir. 1991) (citing *United States v. Levy*, 803 F.2d 1390, 1393-94 (5th Cir.1986)). In evaluating the five factors, the Court must consider the evidence in the light most favorable to the jury's verdict. *Elam*, 678 F.2d at 1247.

⁶ The jury was not instructed to find whether a single conspiracy or multiple conspiracies exist here. The jury was, however, instructed on nine conspiracy counts, requiring the prosecution to present proof of nine, separate agreements. Presumably, if the prosecution failed to meet this burden, then the jury would not have returned convictions on nine, different conspiracies.

No. 10-10103

1. Time Frame. The robberies occurred over the course of six months in 2008. This inquiry is informed not only by the temporal duration of the conspiracy but also whether there was any chronological overlap in the planning of the crimes, i.e. whether two or more conspiracies were planned or conducted during the same time period. *See Levy*, 803 F.2d at 1394-95; *United States v. Goff*, 847 F.2d 149, 172 (5th Cir. 1988).

Two robberies occurred on March 28, 2008. The Government presented evidence, however, that the group planned the second robbery only after the first robbery was unsuccessful, because they had not netted sufficient loot. McDow testified at trial that she only knew of the first robbery that day and was not invited to take part in the second crime. Additionally, Stenline went home after the first robbery and was not aware that there was going to be a second robbery until after Hewitt called him at home. Thus, the evidence shows that two separate agreements were reached, hours apart, to rob different banks on the same day; and, consequently, agreements relating to these two robberies did not exist in any overlapping or simultaneous time frame.

Although the Appellants contend that their agreement was a single, six-month-long, conspiracy to rob banks, the Appellants presented no evidence showing that there was an overarching plan connecting one robbery to another. Furthermore, they presented no evidence supporting the existence of a single, umbrella-agreement, covering their myriad of criminal escapades. Indeed, the planning and agreement for the respective robberies and attempted robberies appears to have been from day-to-day and bank-to-bank.

2. Personnel. This court has said that “where the membership of two criminal endeavors overlap, a single conspiracy may be found.” *Elam*, 678 F.2d at 1246. We have also noted that a “mere shuffling of personnel in an otherwise on-going operation with an apparent continuity will not, alone, suffice to create multiple conspiracies.” *United States v. Nichols*, 741 F.2d 767, 772 (5th Cir.

No. 10-10103

1984). Here, all of the robberies had three men in common: Duffey, Hewitt, and Stenline. Moreover, the evidence suggests that both Hewitt and Duffey had major responsibilities in the planning of the crimes. *See United States v. Therm-All Inc.*, 373 F.3d 625, 637 (5th Cir. 2004) (“A single conspiracy exists where a ‘key man’ is involved in and directs illegal activities, while various combinations of other participants exert individual efforts toward a common goal.”) (quoting *United States v. Richerson*, 833 F.2d 1147, 1154 (5th Cir. 1987)); *see also Richerson*, 833 F.2d at 1154 (“Parties who knowingly participate with core conspirators to achieve a common goal may be members of an overall conspiracy.”). Furthermore, although the same people did not participate in each and every bank robbery, there was regular similarity in the group’s actors. Thus, because Hewitt and Duffey acted as key men in organizing the crimes and because the band of robbers on each occasion appears to have been drawn from the same general group of outlaws, this consideration indicates a single conspiracy.

3. *Offense Charged.* All nine conspiracy counts relate to the violation of 18 U.S.C. § 2113(a) and (d), which is indicative of a single conspiracy.

4. *Overt Acts.* Although all of the conspiracy counts related to bank robbery, there was no duplicating evidence presented as proof of each crime. *See Kalish*, 690 F.2d at 1152 (requiring that different, non-overlapping acts be presented as evidence of separate conspiracies). Here, separate and distinct evidence supports each conspiracy count. Still further, the evidence shows a separate agreement for each robbery. For instance, Stenline and McDow testified that the agreement to rob a bank would often be made mere days before the intended robbery. Thus, because the evidence presented to prove each conspiracy did not overlap, the absence of a unifying plan weighs in favor of multiple conspiracies.

No. 10-10103

5. *Geography*. The Appellants assert that because all robberies occurred in the Dallas Metroplex, the conspiratorial acts took place in one geographic location. The robberies, however, took place at different banks throughout the Dallas area, with no two banks robbed twice. Our geographic analysis can be guided by a consideration of how the crime at issue is usually committed. Given the episodic nature of the crime of bank robbery, as opposed to other criminal schemes; the sporadic nature of these robberies; and the jury's verdict of multiple conspiracy convictions, we find that each bank served as a separate and distinct location for the purposes of *Marable*. *Compare United States v. Greer*, 939 F.2d at 1087-88 (holding that when white supremacists committed sporadic hate crimes, blocks away from each other, in a park and in a synagogue, the evidence supported a finding of different locations, which endorsed the existence of multiple conspiracies); *with United States v. Nichols*, 741 F.2d 767, 772 (5th Cir. 1984) (holding that, in the case of a massive, established drug importation scheme, New Orleans and Raceland, Louisiana; Belize; and Colombia were the same geographic location, supporting the existence of one conspiracy).

Applying the *Marable* factors to the instant facts, we conclude that the evidence is sufficient to establish multiple conspiracies. Although the conspiracies had a certain continuity of personnel and a certain similarity in method, the jury's return of multiple conspiracy convictions is supported by the evidence: there were separate and distinct agreements for each robbery; the actual acts in the separate counts of the indictment, both alleged and proved, were different; the geographic locations of the individual crimes were sufficiently distinct, and the timing of the conspiracy was sufficiently long to suggest the existence of separate agreements. Stated differently, although a loose confederacy committed the crimes and the crimes underlying the conspiracies were the same, the evidence relating to the other *Marable* factors is substantial, so as to support the jury's finding of multiple conspiracies.

No. 10-10103

IV.

A.

We come now to the Appellants' challenge to the sufficiency of the evidence relating to their two attempted robbery convictions under the first paragraph of 18 U.S.C. § 2113(a) and (d).⁷ Each Appellant was convicted under the same federal statutes for attempted robbery, as they were for armed robbery; that is to say that the crime of attempted bank robbery is enfolded in the same statutory paragraphs as the crime of actual bank robbery, and one subsection can reference another in stating the requirements of a particular crime.

The jury convicted all Appellants of two attempted robbery counts, when the actual robbery plan was abandoned: first, based on their plan to rob the Bank of America in Fort Worth and, second, based on their gathering at the Regions Bank in Garland. At the Bank of America in Fort Worth, the takeover team, armed with guns, drove to the bank and waited in a stolen Suburban for Duffey to initiate the robbery. Duffey called off the plan at the last minute because a bank patron winked at him, leading him to believe that the patron was aware of the impending robbery. The Appellants left the bank parking lot without any incident. There was no attempt to enter the bank or take the bank by force that day.

Similarly, at the Regions Bank in Garland, an FBI surveillance team observed the Appellants parking both a stolen silver Suburban and maroon pick-

⁷ The Appellants were not indicted under the second paragraph of 18 U.S.C. § 2113(a), nor would the evidence in this case support an indictment against the Appellants under the second paragraph of 2113(a). *See* 18 U.S.C. § 2113(a) ("Whoever enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank, credit union, or as a savings and loan association, with intent to commit in such bank, credit union, or in such savings and loan association, or building, or part thereof, so used, any felony affecting such bank, credit union, or such savings and loan association and in violation of any statute of the United States . . . [s]hall be fined under this title or imprisoned not more than twenty years, or both."). Here, under the counts at issue, the Appellants did not enter or attempt to enter the bank.

No. 10-10103

up truck. After hearing Duffey say that he was ready to rob the bank, the agents moved in to arrest the Appellants. At no point in time during this transaction did the Appellants attempt to take the bank by force, enter the bank, or brandish a firearm.

We start our sufficiency of the evidence analysis by differentiating between the first paragraph of subsection (a) and subsection(d) of the federal bank robbery statute. Whereas 18 U.S.C. § 2113(a)⁸ makes bank robbery and attempted bank robbery a federal crime, § 2113(d)⁹ relates to armed robbery and serves as an enhancement to the crimes under § 2113(a), when they are accompanied by the use of firearms or an assault.¹⁰

The Appellants argue that § 2113(d), by its own terms, requires proof of all of the elements of § 2113(a) plus the use of a firearm; and, thus, § 2113(a) is a lesser-included offense of § 2113(d). This is true. Comparing the statutes set out in the margins below, the plain language of the first paragraph of subsection

⁸ Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association

...
Shall be fined under this title or imprisoned not more than twenty years, or both.

18 U.S.C. § 2113(a).

⁹ Whoever, in committing, or in attempting to commit, any offense described in subsections (a) or (b) of this section assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined under this title or imprisoned for not more than twenty-five years or both.

18 U.S.C. § 2113(d).

¹⁰ The punishment for bank robbery is a maximum of twenty years in prison. 18 U.S.C. § 2113(a). The punishment for armed bank robbery is a maximum of twenty-five years in prison. 18 U.S.C. § 2113(d).

No. 10-10103

(a) specifically requires proof of the defendant's actual use of "force and violence" or "intimidation" as an element of attempted robbery; and subsection (d) only applies to defendants who have committed all of the elements of an offense outlined in subsections (a) or (b). Because the first paragraph of § 2113(a) requires evidence of the use of "force and violence" or "intimidation," charges under § 2113(d), premised upon violations of the first paragraph of subsection (a), *ipso facto* require evidence of the use of "force and violence" or "intimidation." The Appellants further argue that the Government failed to offer any evidence that they acted with "force and violence" or "intimidation," while attempting to rob the Bank of America in Fort Worth and the Regions Bank in Garland. Thus, the Government's failure to prove all of the statutory elements of the first paragraph of § 2113(a) and (d) renders the Appellant's attempted robbery convictions invalid as a matter of law. We agree.

To be candid, the Government's counter argument is without the slightest merit. Essentially, the Government contends that the phrase "in attempting to commit" in § 2113(d) excuses the Government of its burden of proving the elements of the first paragraph of § 2113(a), including the defendants' use of "force and violence" or "intimidation." The Government advances this argument notwithstanding unanimous precedent to the contrary and the plain language of the statute making it unequivocally clear that an attempt crime under § 2113(d) requires proof of the elements of § 2113(a) or (b).

Indeed, we have previously confirmed that the "natural reading of the text" of the first paragraph of § 2113(a) requires that the evidence show an actual use of "force and violence, or intimidation." *United States v. Bellew*, 369 F.3d 450, 454 (5th Cir. 2004). Furthermore, the natural language of § 2113(d) enfolds all of the elements of § 2113(a), rendering § 2113(a) a lesser-included offense of § 2113(d). *Burger v. United States*, 454 F.2d 723 (5th Cir. 1972) (per curiam) ("Section 2113(a) is a lesser included offense of Section 2113(d).")

No. 10-10103

(brackets omitted); *see also United States v. Fletcher*, 121 F.3d 187, 193 (5th Cir. 1997) (“[T]he elements of § 2113(d) include all of the elements of § 2113(a), plus the additional element of assault.”), *overruled on other grounds by United States v. Cotton*, 535 U.S. 625 (2002); *United States v. Davila-Nater*, 474 F.2d 270 (5th Cir. 1973); *Rose v. United States*, 448 F.2d 389 (5th Cir. 1971); *United States v. White*, 440 F.2d 978 (5th Cir.), *cert. denied* 404 U.S. 839 (1971). Indeed, the Supreme Court has described § 2113(a) as “the same offense as § 2113(d) without the elements of aggravation.” *Green v. United States*, 365 U.S. 301, 303 (1961); *see also Prince v. United States*, 352 U.S. 322, 327, 327 n.6 (1957) (explaining that, in enacting the Bank Robbery Act, “[i]t was manifestly the purpose of Congress to establish lesser offenses,” and noting that § 2113(d) is “a special provision for increased punishment for aggravated offenses”).

Thus, in order for the Appellants’ attempted robbery convictions to survive a sufficiency of the evidence review, the Government must have presented evidence that the Appellants acted with “force and violence, or intimidation” during the incidents at the Bank of America in Fort Worth and the Regions Bank in Garland. *See United States v. Stracener*, 959 F.3d 31, 33 (5th Cir. 1992). The Government, however, does not offer any proof of “force and violence, or intimidation” to support of either attempted robbery count. Instead, it concedes that, “[u]nder *Bellew* [Fifth Circuit case interpreting § 2113(a)][,] . . . the defendants here would likely prevail.” Appellee br. at 48. Because the Government acknowledges that the defendants did not act with “force and violence, or intimidation,” as required by the first paragraph of 18 U.S.C. § 2113(a) and (d) during the incidents at the Bank of America in Fort Worth and the Regions Bank in Garland, we reverse and vacate both attempted robbery convictions and sentences.

B.

No. 10-10103

We next examine the two, separate § 924(c)(1)¹¹ charges appurtenant to the two attempted robbery charges. Section 924(c)(1) punishes the use of a firearm in the commission of a federal crime of violence. *Id.* We held in *United States v. Munoz-Fabela* that in order for the Government to convict a defendant under § 924(c)(1), “it is only the fact of the offense . . . that is needed to establish the required predicate.” 896 F.2d 908, 911 (5th Cir.), *cert. denied*, 498 U.S. 824 (1990). The Government failed to establish “the fact of the offense” when it failed to establish the elements of attempted robbery were present during the incidents at the Bank of America in Fort Worth and the Regions Bank in Garland. Thus, the § 924(c)(1) charges are not predicated upon behavior that constitutes the predicate federal offense. *See id.* We therefore reverse and vacate the Appellants’ two § 924(c)(1) convictions and sentences.

V.

Finally, Hewitt challenges his sentence, asserting that the presentence report overstates his total offense level; and, thus, his sentence is excessive. First, Hewitt challenges the inclusion of multiple conspiracy counts in his sentence. This issue has already been addressed and has no merit.

¹¹ 18 U.S.C. § 924(c)(1)(I) provides:

“Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime . . . be sentenced to a term of imprisonment of not less than 5 years”

No. 10-10103

Second, Hewitt asserts that the presentence report exaggerates his leadership role in the robberies and thereby improperly assigns multiple, four-point enhancements to his sentences. When a sentencing judge, in the exercise of discretion, imposes a sentence “within a properly calculated Guideline range, in our reasonableness review we will infer that the judge has considered all the factors for a fair sentence set forth in the Guidelines” and that “it will be rare for a reviewing court to say such a sentence is ‘unreasonable.’” *United States v. Mares*, 402 F.3d 511, 519 (5th Cir. 2005). Hewitt fails to provide a factual or legal basis explaining why these enhancements were erroneous; this issue is thus waived. Even if the challenge to the enhancements has not been waived, there is ample evidence that Hewitt took a leadership position in the confederacy of robbers. Thus, we find no merit to Hewitt’s challenges to the presentence report.

VI.

To sum up, we reject the Appellants’ assertions (1) that the Government violated the double jeopardy clause by charging multiple conspiracies instead of a single conspiracy, and (2) that the presentence report overstates Hewitt’s offense level. We hold, however, that the Government presented insufficient evidence to convict the Appellants on the counts of attempted robbery and the corresponding § 924(c)(1) counts.

Thus, we AFFIRM all of the Appellants’ convictions, with the exception of the Appellants’ two attempted robbery and two accompanying firearm offenses. We REVERSE and VACATE the convictions of all Appellants on Counts Three, Four, Eighteen, and Nineteen. Accordingly, we REMAND for resentencing in accordance with this opinion.

AFFIRMED in part, REVERSED and VACATED in part, and
REMANDED for resentencing.

APPENDIX B

REVISED September 30, 2019

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-11078

United States Court of Appeals
Fifth Circuit

FILED

September 9, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTONYO REECE, also known as Seven,

Defendant-Appellant.

Appeals from the United States District Court
for the Northern District of Texas

Before SMITH, DENNIS, and OWEN, Circuit Judges.

JERRY E. SMITH, Circuit Judge:

Antonyo Reece stands convicted of four counts of using and carrying a firearm during and in relation to a crime of violence (“COV”), in violation of 18 U.S.C. § 924(c). For three of those four counts, the underlying COV was conspiracy to commit bank robbery. After his convictions were affirmed on direct appeal, Reece filed a federal habeas corpus petition seeking vacatur of

No. 17-11078

his three conspiracy-predicated § 924(c) convictions on the ground that *Johnson v. United States*, 135 S. Ct. 2551 (2015), and *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018), rendered § 924(c)(3)(B) unconstitutionally vague. The district court denied his petition, and Reece appealed. While his appeal was pending, the Supreme Court held § 924(c)(3)(B) unconstitutional. *See United States v. Davis*, 139 S. Ct. 2319 (2019). We therefore vacate and remand for resentencing.

I.

Reece, a member of the “Scarecrow Bandits,” was charged with twelve crimes connected to a series of bank robberies. Specifically, Reece was charged with three counts of conspiracy to commit bank robbery, two counts of attempted bank robbery, one count of bank robbery, and six counts—one pertaining to each of the six aforementioned charges—of using and carrying a firearm during and in relation to a COV.

Section 924(c) subjects to criminal liability “any person who, during and in relation to any [COV] . . . uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm.” Section 924(c) offenses do not stand alone—they require a predicate COV. The statute contains two clauses defining COV. The first, the so-called “elements clause,” defines a COV as a felony that “has as an element the use, attempted use, or threatened use of physical force against the person or property of another.” 18 U.S.C. § 924(c)(3)(A). The second, the so-called “residual clause,” defines a COV as a felony “that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.” *Id.* § 924(c)(3)(B).

Reece was convicted on all charges and sentenced to 1,680 months’ imprisonment. He appealed, and his convictions for the attempted robberies

No. 17-11078

and the related firearms charges were reversed. On remand, he was sentenced to 1,080 months, of which 960 related to the remaining four § 924(c) charges—60 months for the first count and 300 months for each additional count.¹ Reece again appealed, and his sentence was affirmed. He did not challenge § 924(c)(3)(B)'s constitutionality in either of his direct appeals.

Reece filed a timely motion under 28 U.S.C. § 2255, claiming, *inter alia*, that his § 924(c) convictions were unconstitutional because bank robbery and conspiracy to commit bank robbery no longer constituted COVs after *Johnson* and *Dimaya*.² The magistrate judge recommended that Reece's claims for relief from his § 924(c) convictions be denied because both federal bank robbery and conspiracy to commit bank robbery constituted § 924(c) COVs under *United States v. Sealed Appellant 1*, 591 F.3d 812 (5th Cir. 2009). The district court accepted the magistrate judge's report and denied the § 2255 motion. The

¹ Initial violations of § 924(c) carry a mandatory five-year minimum sentence to run consecutively to any sentence received. 18 U.S.C. § 924(c)(1)(A)(i). Repeat violations are punished by a mandatory twenty-five-year sentence to run consecutively. *Id.* § 924(c)(1)(C)(i). At the time that Reece was convicted, that mandatory twenty-five-year penalty could be imposed for additional violations of the statute that were charged in the same prosecution. *See Davis*, 139 S. Ct. at 2324 n.1. The First Step Act of 2018 amended § 924(c)(1)(C) to apply only after a “prior conviction under this subsection has become final.” Pub. L. 115–391, § 403(a), 132 Stat. 5194, 5222.

² Reece's reliance on *Johnson* and *Dimaya* is misplaced. Neither announced a new rule of constitutional law regarding § 924(c)(3)(B). *See United States v. Tolliver*, 772 F. App'x 144, 146 n.1 (5th Cir. 2019) (“[T]he right ‘recognized by the Supreme Court’ in *Dimaya* is not the same right *yet to be recognized* in § 924(c)(3)(B)—no matter how similar the provisions may seem.”); *United States v. Williams*, 897 F.3d 660, 662 (5th Cir. 2018) (“Though the Court has instructed the courts of appeals to *reconsider* § 924(c)(3)(B) cases in light of *Dimaya*, that instruction does not amount to a determination that the provision is unconstitutional.” (internal citations omitted)).

In his reply brief, however, Reece also relied on *United States v. Davis*, 903 F.3d 483, 486 (5th Cir. 2018), *aff'd in part, vacated in part, remanded*, 139 S. Ct. 2319 (2019), which held § 924(c)(3)(B) unconstitutionally vague. That was the first chance he had to invoke *Davis* after it was issued. “[W]e liberally construe briefs of *pro se* litigants and apply less stringent standards to parties proceeding *pro se* than to parties represented by counsel. . . .” *Grant v. Cuellar*, 59 F.3d 523, 524 (5th Cir. 1995) (per curiam). As a result, we consider Reece's petition in light of the Supreme Court's affirmation of our holding in *Davis*.

No. 17-11078

court also denied a certificate of appealability (“COA”).

Reece appealed the latter denial, and this court issued a COA limited to three questions: (1) whether *Dimaya* rendered § 924(c)(3)(B) unconstitutionally vague, (2) whether *Dimaya* applied retroactively to § 924(c) cases on collateral review, and (3) whether, in the wake of *Dimaya*, a conviction for conspiracy to commit a COV itself qualifies as a COV.

II.

“When considering challenges to a district court’s decisions under 28 U.S.C. § 2255, this court reviews questions of law *de novo*.” *United States v. Taylor*, 873 F.3d 476, 479 (5th Cir. 2017). Each of the three certified issues is a question of law.

A.

A habeas applicant may file a § 2255 motion where a constitutional “right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review.” 28 U.S.C. § 2255(f)(3). Therefore, before we consider the merits of Reece’s petition, we address (1) whether *Davis* announced a new rule of constitutional law, and (2) if so, whether *Davis* retroactively applies to cases on collateral review.

1.

“A case announces a new rule . . . when it breaks new ground or imposes a new obligation on the government”—in other words, “if the result was not dictated by precedent existing at the time the defendant’s conviction became final.” *In re Williams*, 806 F.3d 322, 324 (5th Cir. 2015). “[A result] is not so dictated . . . unless it would have been apparent to all reasonable jurists.” *Chaidez v. United States*, 568 U.S. 342, 347 (2013) (internal quotations marks omitted). Merely applying an existing rule to a different set of facts does not

No. 17-11078

create a new rule. *Yates v. Aiken*, 484 U.S. 211, 216–17 (1988). A new rule may be created, however, by extending an existing rule to a new legal setting not mandated by precedent. *Stringer v. Black*, 503 U.S. 222, 228 (1992).

Davis easily meets those criteria.³ In holding that the residual clause of § 924(c)(3) was unconstitutionally vague, the Court extended its holdings in *Johnson* and *Dimaya*—which invalidated different (but similarly worded) provisions in other statutes—to § 924(c)(3)(B).⁴ The *Davis* ruling resolved a circuit split regarding the residual clause’s constitutionality, which evidences that the result in *Davis* was not apparent to all reasonable jurists.

2.

Because Reece was convicted before *Davis*’s rule was recognized, *Davis* must apply retroactively for Reece to avail himself of its protection. Generally, new rules of constitutional law do not provide a basis for post-conviction relief. *See Teague v. Lane*, 489 U.S. 288, 310 (1989). Because Reece “seeks the benefit of a new rule, we must decide whether the rule falls within one of the narrow

³ The government contends that Reece’s petition is procedurally barred because he did not raise a constitutional challenge to § 924(c)(3)(B) in either of his direct appeals. “[A] collateral challenge may not do service for an appeal.” *United States v. Shaid*, 937 F.2d 228, 231 (5th Cir. 1991) (en banc) (internal quotation marks and citation omitted). “A section 2255 movant who fails to raise a constitutional or jurisdictional issue on direct appeal waives the issue for a collateral attack on his conviction, unless there is cause for the default and prejudice as a result.” *United States v. Kallestad*, 236 F.3d 225, 227 (5th Cir. 2000). That standard imposes “a significantly higher hurdle than the plain error standard” that governs direct appeals. *United States v. Pierce*, 959 F.2d 1297, 1301 (5th Cir. 1992) (internal quotation marks and citation omitted). The “cause and prejudice” test applies absent an “extraordinary case” of actual innocence. *See Murray v. Carrier*, 477 U.S. 478, 496 (1986).

Here, however, the cause and prejudice standard does not apply. As *Davis* reaffirmed, “a vague law is no law at all.” *Davis*, 139 S. Ct. at 2323. If Reece’s convictions were based on the definition of [COV] articulated in § 924(c)(3)(B), then he would be actually innocent of those charges under *Davis*. The government’s brief recognizes as much.

⁴ And in so holding, the Court expressly rejected the “case-specific approach” for which the government here advocates because such an approach could not “be squared with [§ 924(c)(3)’s] text, context, and history.” *Davis*, 139 S. Ct. at 2324, 2327.

No. 17-11078

exceptions to the non-retroactivity principle” established in *Teague*. *Burdine v. Johnson*, 262 F.3d 336, 341 (5th Cir. 2001). Two types of rules typically apply retroactively: (1) “new substantive rules,” *Welch v. United States*, 136 S. Ct. 1257, 1264 (2016) (alteration, emphasis, and citation omitted), and (2) “new watershed rules of criminal procedure,” *id.* (internal quotation marks and citation omitted).

“Substantive rules include rules forbidding criminal punishment of certain primary conduct, as well as rules prohibiting a certain category of punishment for a class of defendants because of their status or offense.” *Montgomery v. Louisiana*, 136 S. Ct. 718, 728 (2016) (internal quotation marks and citation omitted). “In contrast, rules that regulate only the manner of determining the defendant’s culpability are procedural.” *Schrirro v. Summerlin*, 542 U.S. 348, 353 (2004) (emphasis omitted).

The Court did not state whether *Davis* would apply retroactively. *See* 139 S. Ct. at 2354 (Kavanaugh, J., dissenting) (“And who knows whether the ruling will be retroactive?”).⁵ Nevertheless, the rule announced in *Davis* meets the standard for a new substantive rule. The Court observed that § 924(c)(3)’s residual clause “sweeps more broadly than the elements clause—potentially reaching offenses, like burglary, that do not have violence as an *element* but that arguably create a substantial *risk* of violence.” *Id.* at 2334 (internal quotation marks and citation omitted). In other words, the residual clause allows for punishment of certain offenses that the elements clause cannot otherwise reach. Consequently, the residual clause’s invalidation narrows the scope of conduct for which punishment is now available.

⁵ The government concedes that “*Dimaya* announced a new, substantive rule, and it therefore applies retroactively on collateral review.”

No. 17-11078

This conclusion is reinforced by *Welch*. There, the Court considered whether *Johnson*—which invalidated the residual clause in the Armed Career Criminal Act (“ACCA”), a provision whose text closely resembles that of § 924(c)(3)(B)—applied retroactively. *Welch*, 136 S. Ct. at 1265–68. Holding that *Johnson* established a substantive rule with retroactive application, the Court stated that “*Johnson* changed the substantive reach of the [ACCA], altering the range of conduct or the class of persons that the [Act] punishes.” *Id.* at 1265 (some alterations in original) (internal quotation marks and citation omitted). The rule announced in *Davis* operates in much the same way.

B.

Having decided that *Davis* announced a new rule of constitutional law retroactively applicable on a first habeas petition, we consider the merits of Reece’s petition. Because *Davis* rendered 18 U.S.C. § 924(c)(3)’s residual clause unconstitutional, Reece’s three firearms convictions predicated on conspiracy to commit bank robbery can be sustained only if conspiracy to commit bank robbery can be defined as a COV under § 924(c)(3)’s elements clause.⁶ Reece contends that his conspiracy-predicated § 924(c) convictions do not qualify as COVs under the elements clause because conspiracy to commit bank robbery does not require “the use, threatened use, [or] attempted use of physical force.”⁷ We agree.

When determining whether an offense is a COV under § 924(c)(3)’s elements clause, we “look[] only to the statutory definitions—the elements—of

⁶ The COA issued to Reece framed the issue in broader terms, asking “whether a conviction for a conspiracy to commit a [COV] itself qualifies as a [COV].” However, we need only address the question as it relates to conspiracy to commit bank robbery.

⁷ The government does not directly address whether Reece’s convictions can be sustained under § 924(c)(3)’s elements clause.

No. 17-11078

a defendant’s offense, and not to the particular facts underlying the convictions.” *United States v. Buck*, 847 F.3d 267, 274 (5th Cir.), *cert. denied*, 138 S. Ct. 149 (2017). To convict of conspiracy under 18 U.S.C. § 371, the government must prove three elements: “(1) an agreement between two or more persons to pursue an unlawful objective; (2) the defendant’s knowledge of the unlawful objective and voluntary agreement to join the conspiracy; and (3) an overt act by one or more of the members of the conspiracy in furtherance of the objective of the conspiracy.” *United States v. Coleman*, 609 F.3d 699, 704 (5th Cir. 2010).

Federal bank robbery constitutes a COV under § 924(c) “because the least culpable conduct under that statute requires, at a minimum, an implicit threat to use force.” *United States v. Cadena*, 728 F. App’x 381, 382 (5th Cir.), *cert. denied*, 139 S. Ct. 436 (2018). But conspiracy is a crime distinct from the crime that is the objective of the conspiracy.⁸

To convict Reece of conspiracy to commit bank robbery, the government was not required to prove any element regarding the use, attempted use, or threatened use of physical force. Therefore, Reece’s conviction for conspiracy to commit bank robbery cannot be a COV under § 924(c)(3)’s elements clause. That the object crime of the conspiracy constituted a COV is irrelevant. We reached similar conclusions in other conspiracy-predicated § 924(c) cases after *Johnson*, *Dimaya*, and *Davis*.⁹ Our sister circuits support this conclusion.¹⁰

⁸ See *United States v. Lewis*, 907 F.3d 891, 895 (5th Cir. 2018), *cert. denied*, 139 S. Ct. 2776 (2019); *accord Davis*, 903 F.3d at 485 (“[C]onspiracy to commit an offense is merely an agreement to commit an offense.”).

⁹ See, e.g., *United States v. Jones*, No. 18-30256, 2019 WL 3774078, at *2 (5th Cir. Aug. 12, 2019) (per curiam) (ruling that “RICO conspiracy is not a § 924(c) [COV]”); *Lewis*, 907 F.3d at 895 (holding that conspiracy to commit Hobbs Act robbery did not qualify as a COV under § 924(c)); *Davis*, 903 F.3d at 485 (same).

¹⁰ See, e.g., *United States v. Simms*, 914 F.3d 229, 233 (4th Cir. 2019) (“Simms’s offense—conspiracy to commit Hobbs Act robbery—does not categorically qualify as a [COV] under the elements-based categorical approach, as the United States now concedes.”).

No. 17-11078

After the Supreme Court’s decision in *Davis*, *Sealed Appellant 1* cannot provide a basis to sustain Reece’s convictions. *Sealed Appellant 1*, 591 F.3d at 820, stated that “[c]onspiracy to commit a [COV] also qualifies as a [COV].” In so holding, *Sealed Appellant 1* relied on *United States v. Greer*, 939 F.2d 1076 (5th Cir. 1991), *on reh’g*, 968 F.2d 433 (5th Cir. 1992) (en banc). *Greer* held “that conspiring to deprive citizens of their civil rights . . . [was] a [COV] within the meaning of section 924(c), because it create[d] ‘a substantial risk’ of violence.” *Id.* at 1099 (emphasis added). This “substantial risk” language appears only in § 924(c)(3)’s residual clause, not in the elements clause. Therefore, *Sealed Appellant 1*’s rule, insofar as it applies in this case, necessarily relies on § 924(c)(3)’s now constitutionally infirm residual clause.

III.

Because Reece’s conspiracy-predicated § 924(c) convictions must be set aside, we consider remedy. “In some cases, when we reverse convictions or sentences on fewer than all counts, the aggregate sentence must be unbundled, and the defendant must be resentenced on all counts.” *United States v. Clark*, 816 F.3d 350, 360 (5th Cir. 2016). Reece’s initial § 924(c) conviction allowed for an enhanced sentence on his other § 924(c) offenses.¹¹ Therefore, we VACATE the sentence and REMAND for resentencing. *See Lewis*, 907 F.3d at 895. We leave it to the district court’s sound discretion to determine an appropriate sentence. *See Dean v. United States*, 137 S. Ct. 1170, 1175 (2017); *Pepper v. United States*, 562 U.S. 476, 487–89 (2011).

¹¹ Reece was sentenced to 60 months on Count 2 and 300 months each on Counts 17, 21, and 23. Count 2’s predicate COV was conspiracy to commit bank robbery (Count 1).

APPENDIX C

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 16, 2021

Lyle W. Cayce
Clerk

No. 20-10319
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ANTONYO REECE,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:08-CR-167-6

Before HAYNES, WILLETT, and Ho, *Circuit Judges.*

PER CURIAM:*

In 2009, a jury convicted Antonyo Reece of multiple counts, including conspiracy to commit bank robbery, attempted bank robbery, bank robbery, and using and carrying a firearm during and in relation to a crime of violence. Since his trial, Reece has filed several appeals, and we have remanded his case

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-10319

for resentencing twice. At the third and most recent sentencing proceeding, the district court sentenced Reece above the Guidelines range to 395 months. Reece now challenges this sentence, arguing that the district court's imposition of an upward variance of 200 months was procedurally and substantively unreasonable. We disagree and thus AFFIRM the district court's sentence.

I

To provide context, we briefly describe the proceedings that led to this appeal. In 2008, Reece and several others committed armed robbery and planned robberies of several banks in the Dallas area. In 2009, a jury convicted Reece of three counts of conspiracy to commit bank robbery, two counts of attempted bank robbery, one count of bank robbery, and six counts of using and carrying a firearm during and in relation to a crime of violence. The district court sentenced Reece to 1,680 months in prison. On direct appeal, we reversed the convictions for the two attempted robbery charges and two associated firearm charges, affirmed the other convictions, and remanded for resentencing. *United States v. Duffey*, 456 F. App'x 434, 445 (5th Cir. 2012). At resentencing, the district court sentenced Reece to 1,080 months.

Reece then moved to vacate his sentence under 28 U.S.C. § 2255, arguing that his firearm convictions were unconstitutional because bank robbery and conspiracy to commit bank robbery were no longer crimes of violence under *Johnson v. United States*, 576 U.S. 591 (2015), and *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018). The district court denied the motion, but we granted a Certificate of Appealability. While Reece's appeal was pending, the Supreme Court held that 18 U.S.C. § 924(c)(3)(B)'s definition of "crime of violence" was unconstitutionally vague. *United States v. Davis*, 139 S. Ct. 2319, 2336 (2019). We therefore vacated three of Reece's § 924(c) firearms

No. 20-10319

convictions, which were predicated on his conspiracy convictions, and remanded for resentencing. *United States v. Reece*, 938 F.3d 630, 636 (5th Cir. 2019).

At the resentencing proceeding, the only convictions remaining from the jury trial were three counts of conspiracy to commit bank robbery, one count of bank robbery, and one firearm conviction. The district court assessed a within-Guidelines sentence of 60 months for each of the three conspiracy convictions and 135 months for the bank robbery conviction, all to run concurrently. By statute, the court was required to assess a minimum consecutive sentence of 60 months for the firearm conviction (with a statutory maximum sentence of life). The Government filed a motion for an upward variance, which Reece opposed. At sentencing, the district court added an upward variance of 200 months to the firearm conviction, resulting in a consecutive sentence of 260 months and a total sentence of 395 months. Reece now challenges the procedural and substantive reasonableness of this sentence.

II

We review the reasonableness of a criminal sentence in two steps. *Gall v. United States*, 552 U.S. 38, 51 (2007). We first determine whether the district court committed procedural error. *Id.* Under this step, we review the district court's factual findings for clear error and its application of the Sentencing Guidelines *de novo*. *United States v. Diehl*, 775 F.3d 714, 723 (5th Cir. 2015). If no procedural error is present, we proceed to the second step

No. 20-10319

and review the substantive reasonableness of the sentence for abuse of discretion. *Id.*

III

A

We begin with the first step of the reasonableness analysis, addressing Reece's arguments that the district court procedurally erred. Reece first argues that the district court selected a sentence based on three erroneous facts: (1) Reece was "pretty aggravated" and "difficult to get along with" at trial; (2) "[Reece] had a lot, and [Reece] committed several of them," which Reece reads as referring to multiple completed robberies when he was only convicted of one; and (3) Reece was "planning on robbing [two] banks with people that [he and his coconspirators] abducted from their homes."

The district court did not commit procedural error in selecting a sentence based on any of these facts because Reece misconstrues or takes the court's statements out of context. Regarding the first, the district court admonished Reece and his co-defendants during trial for their "disruptive behavior toward the Marshals" and for "giving the Marshals a hard time" during trial, so the court did not err in saying that Reece was "pretty aggravated" and "difficult to get along with." Turning to the second, when read in context, the district court's statement, "[y]ou had a lot," was a reference to the gear and weapons that Reece and his codefendants used during the robbery, not to the number of completed bank robberies, as Reece claims. Finally, wire intercept evidence confirms that Reece participated in conversations about the two bank robberies in which Reece and his coconspirators planned to kidnap bank managers and force them to open their respective banks' vaults. Even if Reece did not participate in the details of the kidnappings, the district court did not err in inferring that Reece participated in those plans based upon the evidence at trial. *See United States*

No. 20-10319

v. *Caldwell*, 448 F.3d 287, 290 (5th Cir. 2006). Because none of the factual statements that Reece challenges were erroneous, the district court did not commit procedural error when selecting Reece's sentence based on those facts.

Reece also claims that the district court procedurally erred by failing to explain its reasons for imposing a 135-month sentence for his conspiracy and robbery convictions when it imposed a 120-month sentence for those convictions at his two prior sentencing. However, between Reece's second and third sentencing, the base offense level for these convictions increased by five because Reece no longer faced separate firearm convictions predicated on the conspiracy convictions. *See U.S.S.G. § 2B3.1(b)(2)(C)* (adding five levels for possession of a firearm). Because Reece's base offense level at the third sentencing was higher than those at his two prior sentencing, the district court did not err by failing to explain the higher, 135-month sentence. Therefore, this challenge also fails.

B

Because we find no procedural error, we address Reece's arguments about the substantive reasonableness of his sentence. To do so, we consider the totality of the circumstances, including the extent of the variance, to determine if the § 3553(a) factors support the sentence. *Gall*, 552 U.S. at 50. A sentence above the Guidelines range is substantively unreasonable if it “(1) does not account for a factor that should have received significant weight, (2) gives significant weight to an irrelevant or improper factor, or (3) represents a clear error of judgment in balancing the sentencing factors.” *United States v. Warren*, 720 F.3d 321, 332 (5th Cir. 2013). However, “[e]ven a significant variance from the Guidelines does not constitute an abuse of discretion if it is commensurate with the individualized, case-specific reasons provided by the district court.” *Diehl*, 775 F.3d at 724.

No. 20-10319

Reece asserts that the district court did not give sufficient weight to his rehabilitation efforts or his non-leadership role in the robberies and placed too much weight on his juvenile murder conviction. However, the sentencing proceedings refute this claim. The district court read and considered Reece's sentencing memoranda, read letters and certificates of Reece's post-sentencing rehabilitation achievements, and heard argument about Reece's rehabilitation at sentencing. The court commended Reece for his rehabilitation efforts but explained that it was "very, very concerned" that he received a 30-year sentence for murder at age 14 and then, within a year of being released on parole, Reece joined an organized group to rob banks. The court also refused to discount the aggravated nature of Reece's completed robbery and conspiracy convictions. Thus, the court's sentence was not substantively unreasonable.

The district court also considered the § 3553(a) factors, providing specific reasons consistent with these factors to support its determination that a sentence above the Guidelines range was necessary to achieve the goals of sentencing. Moreover, we have concluded that sentences with a similarly significant upward variance were substantively reasonable. *See, e.g., United States v. Hebert*, 813 F.3d 551, 562–63 (5th Cir. 2015); *Diehl*, 775 F.3d at 726; *United States v. Smith*, 417 F.3d 483, 492–93. Because the totality of the circumstances and the district court's consideration and explanation of the § 3553(a) sentencing factors support the sentence imposed, Reece's sentence was substantively reasonable, and the court did not abuse its discretion.

Finally, Reece argues that the upward variance conflicts with the Supreme Court's *Davis* decision and Congress's First Step Act. *United States v. Davis*, 139 S. Ct. 2319 (2019); First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5195. However, neither *Davis* nor the First Step Act forbid the district court from imposing a sentence that the court believed was reasonable in light of the sentencing factors, and Reece does not contend that

No. 20-10319

the district court was legally constrained to select a within-guidelines sentence. This argument thus fails.

For these reasons, we AFFIRM Reece's sentence.

APPENDIX D

United States Court of Appeals
for the Fifth Circuit

No. 20-10319
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 16, 2021

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ANTONYO REECE,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:08-CR-167-6

Before HAYNES, WILLETT, and Ho, *Circuit Judges.*

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

APPENDIX E

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
NOV 19 2008
CLERK, U.S. DISTRICT COURT
By *[Signature]*
Deputy

UNITED STATES OF AMERICA

v.

COREY DEYON DUFFEY (01)

a.k.a. "Keyno"
a.k.a. "Calvin Brown"

TONY R. HEWITT (02)

a.k.a. "PricelessT"

JARVIS DUPREE ROSS (03)

a.k.a. "Fifty"
a.k.a. "Dapree Dollars"

DAROBIE KENTAY STENLINE (04)

a.k.a. "Fish"
a.k.a. "Dude White"

CHARLES RUNNELS (05)

a.k.a. "Junior"

ANTONYO REECE (06)

a.k.a. "Seven"

YOLANDA McDOW (07)

a.k.a. "Yo"

§

§

§ No. 3:08-CR-167-B

§ (Supersedes Indictment returned on June 3, 2008)

SUPERSEDING INDICTMENT

The Grand Jury Charges:

Count One
Conspiracy to Commit Bank Robbery
(Violation of 18 U.S.C. § 371)

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow** did knowingly, intentionally and unlawfully combine, conspire, confederate, and agree together with other persons known and unknown to the Grand Jury, to commit a certain offense against the United States, to-wit: Bank Robbery, in violation of 18 U.S.C. § 2113(a) and (d).

OBJECTS OF THE CONSPIRACY

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, Yolanda McDow** and others discussed and planned with each other the robbery of the Regions Bank at 2245 West Campbell Road, Garland, Texas. At all times during the course and scope of the conspiracy, the deposits of the Regions Bank referenced in this indictment were insured by the Federal Deposit Insurance Corporation.

MANNER AND MEANS

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, Yolanda McDow** and others formulated a plan and agreement which, among other things, included:

- a. the acquisition of United States currency;
- b. the use of weapons to intimidate bank employees and customers;
- c. the selection of the bank to be robbed in Garland, Texas;
- d. the acquisition and utilization of a stolen motor vehicle to commit the bank robbery;
- e. the role each robbery participant would play in the robbery; and
- f. plans to avoid detection and apprehension by law enforcement.

OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

On or about June 2, 2008, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, Yolanda McDow** and others traveled to the vicinity of the Regions Bank at 2245 West Campbell Road, Garland, Texas, armed with firearms, and parked a stolen motor vehicle that they intended to utilize nearby, with the express intent to rob the bank.

In violation of 18 U.S.C. § 371.

Count Two

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924 (c)(1)(A)(i))

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas,
Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline,
Charles Runnels, Antonyo Reece, and Yolanda McDow, the defendants, during and in
relation to a crime of violence, namely conspiracy to commit bank robbery, in violation of
18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 371, as alleged in Count One of this
indictment, for which they may be prosecuted in a court of the United States, did
knowingly use and carry a firearm, to wit: a DPMS Black Panther Arms, Model A-15,
.223 caliber rifle, bearing serial number F089313; and a Ruger, Model P85, 9 millimeter
pistol, bearing serial number 30372143, and the defendants knowingly possessed said
firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(A)(i).

Count Three
Attempted Bank Robbery
(Violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2)

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow**, the defendants, aiding and abetting one another, did knowingly and intentionally attempt to take, by force, violence and intimidation, from the person and presence of an employee of the Regions Bank located at 2245 West Campbell Road, Garland, Texas, United States currency belonging to and in the care, custody, control, management and possession of Regions Bank, a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and the defendants, in attempting to commit aforesaid act, were armed with a dangerous weapon, namely, a firearm, which they intended use to assault and put in jeopardy the lives of bank employees and customers.

In violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2.

Count Four

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas,

Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow, the defendants, during and in relation to a crime of violence, namely attempted bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d), as alleged in Count Three of this indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry a firearm, to wit: a Glock, Model 19, 9 millimeter pistol, bearing serial number LGE461; and a Taurus 9 millimeter pistol, bearing serial number TLC423310, and the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Five

Felon in Possession of a Firearm
(Violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2))

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Corey Deyon Duffey**, having being convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly and unlawfully possess in and affecting interstate and foreign commerce a firearm, to wit: a DPMS Black Panther Arms, Model A-15, .223 caliber rifle, bearing serial number F089313; a Mossberg 12 gauge shotgun (equipped with a collapsible stock, pistol grip, and flash suppressor), bearing serial number R812616; and a Taurus 9 millimeter pistol, bearing serial number TLC423310 .

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count Six
Felon in Possession of a Firearm
(Violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2))

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Tony R. Hewitt**, having being convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly and unlawfully possess in and affecting interstate and foreign commerce a firearm, to wit: a Glock, Model 19, 9 millimeter pistol, bearing serial number LGE461; and a Browning Hi-Power, .40 caliber pistol, bearing serial number 2WFNV57052.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count Seven

Felon in Possession of a Firearm
(Violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2))

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Jarvis Dupree Ross**, having being convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly and unlawfully possess in and affecting interstate and foreign commerce a firearm, to wit: a Glock, Model 32, .357 caliber pistol, bearing serial number KZG161.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count Eight
Felon in Possession of a Firearm
(Violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2))

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Charles Runnels**, having being convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly and unlawfully possess in and affecting interstate and foreign commerce a firearm, to wit: a Colt, Model MK4, .45 caliber pistol, bearing serial number FG07540.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count Nine
Assault on a Federal Officer
(Violation of 18 U.S.C. § 111)

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Charles Runnels**, knowingly, and by means and use of a dangerous weapon, that is a motor vehicle, did forcibly assault, resist, oppose, impede, intimidate, and interfere with Mark Marculec, a Task Force Officer for the Federal Bureau of Investigation, who was engaged in and on account of the performance of his official duties.

In violation of 18 U.S.C. § 111.

Count Ten
Assault on a Federal Officer
(Violation of 18 U.S.C. § 111)

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Charles Runnels**, knowingly, and by means and use of a dangerous weapon, that is a motor vehicle, did forcibly assault, resist, oppose, impede, intimidate, and interfere with Armando Lopez, a Task Force Officer for the Federal Bureau of Investigation, who was engaged in and on account of the performance of his official duties.

In violation of 18 U.S.C. § 111.

Count Eleven
Possession of a Firearm During in Furtherance of
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Charles Runnels**, in furtherance of a crime of violence, namely assault on a federal officer, in violation of 18 U.S.C. § 111, as alleged in Counts Nine and Ten of this indictment, for which he may be prosecuted in a court of the United States, did knowingly possess a firearm, to wit: a Colt, Model MK4, .45 caliber pistol, bearing serial number FG07540.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Twelve
Kidnapping
(Violation of 18 U.S.C. § 1201(a)(1))

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas and elsewhere, the defendant, **Jarvis Dupree Ross**, did willfully and unlawfully seize, confine, and inveigle T.M., the victim, for some purpose and benefit, and the defendant did use an instrumentality of interstate and foreign commerce in committing or in furtherance of the commission of this offense, to wit: a Glock, Model 32, .357 caliber pistol, bearing serial number KZG161.

In violation of 18 U.S.C. § 1201(a)(1).

Count Thirteen

Using, Carrying and Brandishing a Firearm
During and in Relation to a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about June 2, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Jarvis Dupree Ross**, during and in relation to a crime of violence, namely kidnapping, in violation of 18 U.S.C. § 1201(a)(1), as alleged in Count Twelve of this indictment, for which he may be prosecuted in a court of the United States, did knowingly use, carry, and brandish a firearm, to wit: a Glock, Model 32, .357 caliber pistol, bearing serial number KZG161.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Fourteen
Conspiracy to Commit Bank Robbery
(Violation of 18 U.S.C. § 371)

On or about May 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, and Darobie Kentay Stenline** did knowingly, intentionally and unlawfully combine, conspire, confederate, and agree together with other persons known and unknown to the Grand Jury, to commit a certain offense against the United States, to-wit: Bank Robbery, in violation of 18 U.S.C. § 2113(a) and (d).

OBJECTS OF THE CONSPIRACY

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline** and others discussed and planned with each other the robbery of the Bank of America at 1431 Spring Valley Road, Richardson, Texas. At all times during the course and scope of the conspiracy, the deposits of Bank of America referenced in this indictment were insured by the Federal Deposit Insurance Corporation.

MANNER AND MEANS

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline** and others formulated a plan and agreement which, among other things, included:

- a. the acquisition of United States currency;
- b. the use of weapons and restraining devices to advance the robbery of the bank;
- c. the selection of the bank to be robbed in Richardson, Texas;
- d. the kidnapping of the bank manager of the bank;
- e. the role each robbery participant would play in the robbery of the bank; and
- f. plans to avoid detection and apprehension by law enforcement.

OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

On or about May 2008, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline** and others cased the Bank of America at 1431 Spring Valley Road, Richardson, Texas, and obtained information about the manager of the bank, with the express intent to kidnap the manager in order to further the planned bank robbery.

In violation of 18 U.S.C. § 371.

Count Fifteen
Conspiracy to Commit Bank Robbery
(Violation of 18 U.S.C. § 371)

On or about May 2008, in the Dallas Division of the Northern District of Texas,

Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, and Darobie Kentay

Stenline did knowingly, intentionally and unlawfully combine, conspire, confederate, and agree together with other persons known and unknown to the Grand Jury, to commit a certain offense against the United States, to-wit: Bank Robbery, in violation of 18 U.S.C. § 2113(a) and (d).

OBJECTS OF THE CONSPIRACY

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline** and others discussed and planned with each other the robbery of the Bank of America at 534 Centennial Road, Richardson, Texas. At all times during the course and scope of the conspiracy, the deposits of Bank of America referenced in this indictment were insured by the Federal Deposit Insurance Corporation.

MANNER AND MEANS

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline** and others formulated a plan and agreement which, among other things, included:

- a. the acquisition of United States currency;
- b. the use of weapons and restraining devices to advance the robbery of the bank;
- c. the selection of the bank to be robbed in Richardson, Texas;
- d. the kidnapping of the bank manager of the bank;
- e. the role each robbery participant would play in the robbery of the bank; and
- f. plans to avoid detection and apprehension by law enforcement.

OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

On or about May 2008, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline** and others cased the Bank of America at 534 Centennial Road, Richardson, Texas, and obtained information about the manager of the bank, with the express intent to kidnap the manager in order to further the planned bank robbery.

In violation of 18 U.S.C. § 371.

Count Sixteen
Conspiracy to Commit Bank Robbery
(Violation of 18 U.S.C. § 371)

On or about May 16, 2008, in the Forth Worth Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow** did knowingly, intentionally and unlawfully combine, conspire, confederate, and agree together with other persons known and unknown to the Grand Jury, to commit a certain offense against the United States, to-wit: Bank Robbery, in violation of 18 U.S.C. § 2113(a) and (d).

OBJECTS OF THE CONSPIRACY

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, Yolanda McDow** and others discussed and planned with each other the robbery of the Bank of America at 4751 South Hulen Road, Fort Worth, Texas. At all times during the course and scope of the conspiracy, the deposits of Bank of America referenced in this indictment were insured by the Federal Deposit Insurance Corporation.

MANNER AND MEANS

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, Yolanda McDow** and others formulated a plan and agreement which, among other things, included:

- a. the acquisition of United States currency;
- b. the use of weapons to intimidate bank employees and customers;
- c. the selection of the bank to be robbed in Fort Worth, Texas;
- d. the acquisition and utilization of a stolen motor vehicle to commit the bank robbery;
- e. the role each robbery participant would play in the robbery; and
- f. plans to avoid detection and apprehension by law enforcement.

OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

On or about May 16, 2008, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, Yolanda McDow** and others traveled to the vicinity of the Bank of America at 4751 South Hulen Road, Fort Worth, Texas, armed with firearms, and parked a stolen motor vehicle that they intended to utilize nearby, with the express intent to rob the bank.

In violation of 18 U.S.C. § 371.

Count Seventeen

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about May 16, 2008, in the Fort Worth Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow**, the defendants, during and in relation to a crime of violence, namely conspiracy to commit bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 371, as alleged in Count Sixteen of this indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry a firearm, and the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Eighteen
Attempted Bank Robbery
(Violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2)

On or about May 16, 2008, in the Fort Worth Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow**, the defendants, aiding and abetting one another, did knowingly and intentionally attempt to take, by force, violence and intimidation, from the person and presence of an employee of the Bank of America at 4751 South Hulen Road, Fort Worth, Texas, United States currency belonging to and in the care, custody, control, management and possession of Bank of America, a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and the defendants, in attempting to commit aforesaid act, were armed with a dangerous weapon, namely, a firearm, which they intended use to assault and put in jeopardy the lives of bank employees and customers.

In violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2.

Count Nineteen

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about May 16, 2008, in the Fort Worth Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow**, the defendants, during and in relation to a crime of violence, namely attempted bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d), as alleged in Count Eighteen of this indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry a firearm, and the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Twenty
Conspiracy to Commit Bank Robbery
(Violation of 18 U.S.C. § 371)

On or about April 24, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow** did knowingly, intentionally and unlawfully combine, conspire, confederate, and agree together with other persons known and unknown to the Grand Jury, to commit a certain offense against the United States, to-wit: Bank Robbery, in violation of 18 U.S.C. § 2113(a) and (d).

OBJECTS OF THE CONSPIRACY

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, Yolanda McDow** and others discussed and planned with each other the robbery of the Bank of America at 7300 North MacArthur Boulevard, Irving, Texas. At all times during the course and scope of the conspiracy, the deposits of Bank of America referenced in this indictment were insured by the Federal Deposit Insurance Corporation.

MANNER AND MEANS

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, Yolanda McDow** and others formulated a plan and agreement which, among other things, included:

- a. the acquisition of United States currency;
- b. the use of weapons to intimidate bank employees and customers;
- c. the selection of the bank to be robbed in Irving, Texas;
- d. the acquisition and utilization of a stolen motor vehicle to commit the bank robbery;
- e. the role each robbery participant would play in the robbery; and
- f. plans to avoid detection and apprehension by law enforcement.

OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

On or about April 24, 2008, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, Yolanda McDow** and others traveled to the vicinity of Bank of America at 7300 North MacArthur Boulevard, Irving, Texas, armed with firearms, and robbed the bank at gunpoint.

In violation of 18 U.S.C. § 371.

Count Twenty-One

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about April 24, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow**, the defendants, during and in relation to a crime of violence, namely conspiracy to commit bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 371, as alleged in Count Twenty of this indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry a firearm, and the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Twenty-Two
Bank Robbery
(Violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2)

On or about April 24, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow**, the defendants, aiding and abetting one another, did knowingly and intentionally take, by force, violence and intimidation, from the person and presence of an employee of the Bank of America at 7300 North MacArthur Boulevard, Irving, Texas, United States currency belonging to and in the care, custody, control, management and possession of Bank of America, a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and the defendants, in committing aforesaid act, did assault and put in jeopardy the lives of bank employees and customers by use of a dangerous weapon, namely, a firearm.

In violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2.

Count Twenty-Three
Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about April 24, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow**, the defendants, during and in relation to a crime of violence, namely bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d), as alleged in Count Twenty-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 the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Twenty-Four
Conspiracy to Commit Bank Robbery
(Violation of 18 U.S.C. § 371)

On or about March 28, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow** did knowingly, intentionally and unlawfully combine, conspire, confederate, and agree together with other persons known and unknown to the Grand Jury, to commit a certain offense against the United States, to-wit: Bank Robbery, in violation of 18 U.S.C. § 2113(a) and (d).

OBJECTS OF THE CONSPIRACY

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Yolanda McDow** and others discussed and planned with each other the robbery of the State Bank of Texas at 517 West Interstate 30, Garland, Texas. At all times during the course and scope of the conspiracy, the deposits of State Bank of Texas referenced in this indictment were insured by the Federal Deposit Insurance Corporation.

MANNER AND MEANS

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Yolanda McDow** and others formulated a plan and agreement which, among other things, included:

- a. the acquisition of United States currency;
- b. the use of weapons to intimidate bank employees and customers;
- c. the selection of the bank to be robbed in Garland, Texas;
- d. the acquisition and utilization of a stolen motor vehicle to commit the bank robbery;
- e. the role each robbery participant would play in the robbery; and
- f. plans to avoid detection and apprehension by law enforcement.

OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

On or about March 28, 2008, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Yolanda McDow** and others traveled to the vicinity of the State Bank of Texas at 517 West Interstate 30, Garland, Texas, armed with firearms, and robbed the bank at gunpoint.

In violation of 18 U.S.C. § 371.

Count Twenty-Five

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about March 28, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow**, the defendants, during and in relation to a crime of violence, namely conspiracy to commit bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 371, as alleged in Count Twenty-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 the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Twenty-Six
Bank Robbery
(Violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2)

On or about March 28, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow**, the defendants, aiding and abetting one another, did knowingly and intentionally take, by force, violence and intimidation, from the person and presence of an employee of the State Bank of Texas at 517 West Interstate 30, Garland, Texas, United States currency belonging to and in the care, custody, control, management and possession of State Bank of Texas, a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and the defendants, in committing aforesaid act, did assault and put in jeopardy the lives of bank employees and customers by use of a dangerous weapon, namely, a firearm.

In violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2.

Count Twenty-Seven
Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about March 28, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow**, the defendants, during and in relation to a crime of violence, namely bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d), as alleged in Count Twenty-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 the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Twenty-Eight
Conspiracy to Commit Bank Robbery
(Violation of 18 U.S.C. § 371)

On or about March 28, 2008, in the Dallas Division of the Northern District of Texas, and elsewhere, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow** did knowingly, intentionally and unlawfully combine, conspire, confederate, and agree together with other persons known and unknown to the Grand Jury, to commit a certain offense against the United States, to-wit: Bank Robbery, in violation of 18 U.S.C. § 2113(a) and (d).

OBJECTS OF THE CONSPIRACY

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Yolanda McDow** and others discussed and planned with each other the robbery of the Century Bank at 3015 Frankford Road, Dallas, Texas. At all times during the course and scope of the conspiracy, the deposits of Century Bank referenced in this indictment were insured by the Federal Deposit Insurance Corporation.

MANNER AND MEANS

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Yolanda McDow** and others formulated a plan and agreement which, among other things, included:

- a. the acquisition of United States currency;
- b. the use of weapons to intimidate bank employees and customers;
- c. the selection of the bank to be robbed in Dallas, Texas;
- d. the acquisition and utilization of a stolen motor vehicle to commit the bank robbery;
- e. the role each robbery participant would play in the robbery; and
- f. plans to avoid detection and apprehension by law enforcement.

OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

On or about March 28, 2008, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Yolanda McDow** and others traveled to the vicinity of the Century Bank at 3015 Frankford Road, Dallas, Texas, armed with firearms, and robbed the bank at gunpoint.

In violation of 18 U.S.C. § 371.

Count Twenty-Nine

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about March 28, 2008, in the Dallas Division of the Northern District of Texas, and elsewhere, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow**, the defendants, during and in relation to a crime of violence, namely conspiracy to commit bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 371, as alleged in Count Twenty-Eight of this indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry a firearm, and the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Thirty
Bank Robbery
(Violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2)

On or about March 28, 2008, in the Dallas Division of the Northern District of Texas, and elsewhere, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow**, the defendants, aiding and abetting one another, did knowingly and intentionally take, by force, violence and intimidation, from the person and presence of an employee of the Century Bank at 3015 Frankford Road, Dallas, Texas, United States currency belonging to and in the care, custody, control, management and possession of Century Bank, a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and the defendants, in committing aforesaid act, did assault and put in jeopardy the lives of bank employees and customers by use of a dangerous weapon, namely, a firearm.

In violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2.

Count Thirty-One

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about March 28, 2008, in the Dallas Division of the Northern District of Texas, and elsewhere, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow**, the defendants, during and in relation to a crime of violence, namely bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d), as alleged in Count Thirty of this indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry a firearm, and the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Thirty-Two
Conspiracy to Commit Bank Robbery
(Violation of 18 U.S.C. § 371)

On or about February 1, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow** did knowingly, intentionally and unlawfully combine, conspire, confederate, and agree together with other persons known and unknown to the Grand Jury, to commit a certain offense against the United States, to-wit: Bank Robbery, in violation of 18 U.S.C. § 2113(a) and (d).

OBJECTS OF THE CONSPIRACY

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Darobie Kentay Stenline, Charles Runnels, Yolanda McDow** and others discussed and planned with each other the robbery of the Comerica Bank at 1483 North Hampton Road, Desoto, Texas. At all times during the course and scope of the conspiracy, the deposits of Comerica Bank referenced in this indictment were insured by the Federal Deposit Insurance Corporation.

MANNER AND MEANS

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Darobie Kentay Stenline, Charles Runnels, Yolanda McDow** and others formulated a plan and agreement which, among other things, included:

- a. the acquisition of United States currency;
- b. the use of weapons to intimidate bank employees and customers;
- c. the selection of the bank to be robbed in Desoto, Texas;
- d. the acquisition and utilization of a stolen motor vehicle to commit the bank robbery;
- e. the role each robbery participant would play in the robbery; and
- f. plans to avoid detection and apprehension by law enforcement.

OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

On or about February 1, 2008, **Corey Deyon Duffey, Tony R. Hewitt, Darobie Kentay Stenline, Charles Runnels, Yolanda McDow** and others traveled to the vicinity of the Comerica Bank at 1483 North Hampton Road, Desoto, Texas, armed with firearms, and robbed the bank at gunpoint.

In violation of 18 U.S.C. § 371.

Count Thirty-Three

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about February 1, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow**, the defendants, during and in relation to a crime of violence, namely conspiracy to commit bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 371, as alleged in Count Thirty-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 the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Thirty-Four
Bank Robbery
(Violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2)

On or about February 1, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow**, the defendants, aiding and abetting one another, did knowingly and intentionally take, by force, violence and intimidation, from the person and presence of an employee of the Comerica Bank at 1483 North Hampton Road, Desoto, Texas, United States currency belonging to and in the care, custody, control, management and possession of Comerica Bank, a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and the defendants, in committing aforesaid act, did assault and put in jeopardy the lives of bank employees and customers by use of a dangerous weapon, namely, a firearm.

In violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2.

Count Thirty-Five

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924 (c)(1)(C)(i))

On or about February 1, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Darobie Kentay Stenline, Charles Runnels, and Yolanda McDow**, the defendants, during and in relation to a crime of violence, namely bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d), as alleged in Count Thirty-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 the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Thirty-Six
Conspiracy to Commit Bank Robbery
(Violation of 18 U.S.C. § 371)

On or about January 28, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, and Charles Runnels** did knowingly, intentionally and unlawfully combine, conspire, confederate, and agree together with other persons known and unknown to the Grand Jury, to commit a certain offense against the United States, to-wit: Bank Robbery, in violation of 18 U.S.C. § 2113(a) and (d).

OBJECTS OF THE CONSPIRACY

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels** and others discussed and planned with each other the robbery of the Citi Bank at 2720 Beltline Road, Garland, Texas. At all times during the course and scope of the conspiracy, the deposits of Citi Bank referenced in this indictment were insured by the Federal Deposit Insurance Corporation.

MANNER AND MEANS

It was part of the conspiracy that **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels** and others formulated a plan and agreement which, among other things, included:

- a. the acquisition of United States currency;
- b. the use of weapons to intimidate bank employees and customers;
- c. the selection of the bank to be robbed in Garland, Texas;
- d. the acquisition and utilization of a stolen motor vehicle to commit the bank robbery;
- e. the role each robbery participant would play in the robbery; and
- f. plans to avoid detection and apprehension by law enforcement.

OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

On or about January 28, 2008, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels** and others traveled to the vicinity of the Citi Bank at 2720 Beltline Road, Garland, Texas, armed with firearms, and robbed the bank at gunpoint.

In violation of 18 U.S.C. § 371.

Count Thirty-Seven

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about January 28, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, and Charles Runnels**, the defendants, during and in relation to a crime of violence, namely conspiracy to commit bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 371, as alleged in Count Thirty-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 the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Thirty-Eight
Bank Robbery
(Violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2)

On or about January 28, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, and Charles Runnels**, the defendants, aiding and abetting one another, did knowingly and intentionally take, by force, violence and intimidation, from the person and presence of an employee of the Citi Bank at 2720 Beltline Road, Garland, Texas, United States currency belonging to and in the care, custody, control, management and possession of Citi Bank, a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and the defendants, in committing aforesaid act, did assault and put in jeopardy the lives of bank employees and customers by use of a dangerous weapon, namely, a firearm.

In violation of 18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2.

Count Thirty-Nine

Using and Carrying a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of,
a Crime of Violence
(Violation of 18 U.S.C. § 924(c)(1)(C)(i))

On or about January 28, 2008, in the Dallas Division of the Northern District of Texas, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, and Charles Runnels**, the defendants, during and in relation to a crime of violence, namely bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (d), as alleged in Count Thirty-Eight of this indictment, for which they may be prosecuted in a court of the United States, did knowingly use and carry a firearm, and the defendants knowingly possessed said firearm in furtherance of the commission of this offense.

In violation of 18 U.S.C. § 924(c)(1)(C)(i).

Count Forty
Felon in Possession of a Firearm
(Violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2))

On or about April 13, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Charles Runnels**, having being convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly and unlawfully possess in and affecting interstate and foreign commerce a firearm, to wit: a Ruger, Model P85, 9 millimeter pistol, bearing serial number 30372143.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count Forty-One
Felon in Possession of a Firearm
(Violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2))

On or about April 14, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Charles Runnels**, having being convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly and unlawfully possess in and affecting interstate and foreign commerce a firearm, to wit: a Llama, .45 caliber pistol, bearing serial number 71-04-08871-02.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count Forty-Two
Felon in Possession of a Firearm
(Violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2))

On or about April 25, 2008, in the Dallas Division of the Northern District of Texas, the defendant, **Jarvis Dupree Ross**, having being convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly and unlawfully possess in and affecting interstate and foreign commerce a firearm, to wit: a Hi-Point, Model C9, 9 millimeter pistol, bearing serial number P176287.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Count Forty-Three
Forfeiture Allegation
(18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c); 18 U.S.C. § 3665)

Upon conviction for the offenses alleged in Counts Two, Four, Five, Six, Seven, Eight, Eleven, Thirteen, Seventeen, Nineteen, Twenty-One, Twenty-Three, Twenty-Five, Twenty-Seven, Twenty-Nine, Thirty-One, Thirty-Three, Thirty-Five, Thirty-Seven, Thirty-Nine, Forty, Forty-One, or Forty-Two of this Superseding Indictment and pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow**, the defendants, shall forfeit to the United States of America any firearm and ammunition involved in the commission of the respective offense(s).

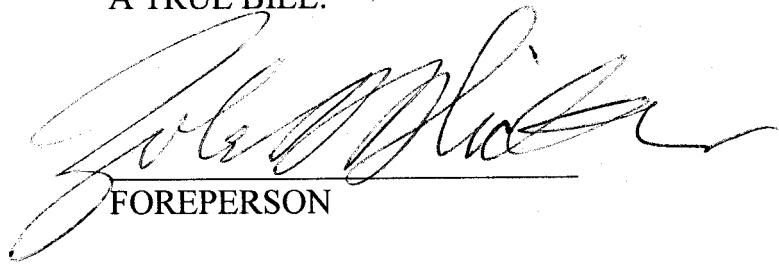
Upon conviction for any of the offenses alleged in Counts One through Forty-Two of this Indictment and pursuant to 18 U.S.C. § 3665, **Corey Deyon Duffey, Tony R. Hewitt, Jarvis Dupree Ross, Darobie Kentay Stenline, Charles Runnels, Antonyo Reece, and Yolanda McDow**, the defendants, shall forfeit to the United States of America all firearms and ammunition found in the possession of or under the immediate control of the respective defendant at the time of that defendant's arrest.

The above-referenced property subject to forfeiture concerning the previously-mentioned defendants includes, but is not limited to, the following:

- a. a DPMS Black Panther Arms, Model A-15, .223 caliber rifle bearing serial number F089313 with scope and drum magazine.
[sought from **Corey Deyon Duffey**]

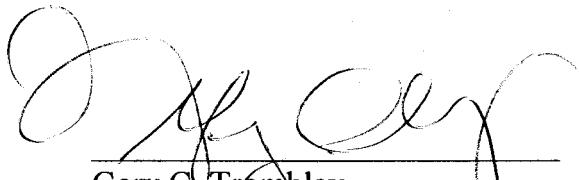
- b. a Ruger, Model P85, 9 millimeter pistol bearing serial number 30372143 with magazine.
[sought from **Antonyo Reece and Charles Runnels**]
- c. a Glock, Model 19, 9 millimeter pistol bearing serial number LGE461 with magazine.
[sought from **Tony R. Hewitt**]
- d. a Taurus 9 millimeter pistol bearing serial number TLC423310 with magazine.
[sought from **Corey Deyon Duffey**]
- e. a Mossberg 12 gauge shotgun (equipped with a collapsible stock, pistol grip, and flash suppressor) bearing serial number R812616.
[sought from **Corey Deyon Duffey**]
- f. a Browning Hi-Power .40 caliber pistol bearing serial number 2W5NV57052 with magazine.
[sought from **Tony R. Hewitt**]
- g. a Glock, Model 32, .357 caliber pistol bearing serial number KZG161 with magazine.
[sought from **Jarvis Dupree Ross**]
- h. a Colt, Model MK4, .45 caliber pistol bearing serial number FG07540 with magazine.
[sought from **Charles Runnels**]
- i. a Bryco Arms, Model Jennings 59, 9 millimeter pistol bearing serial number 796572 with magazine.
[sought from **Yolanda McDow**]
- j. a Llama, .45 caliber pistol, bearing serial number 71-04-08871-02 with magazine.
[sought from **Charles Runnels**]
- k. a Hi-Point, Model C9, 9 millimeter pistol, bearing serial number P176287 with magazine.
[sought from **Jarvis Dupree Ross**]
- l. Assorted firearm ammunition seized on April 14, 2008, April 25, 2008, and June 2, 2008.

A TRUE BILL.

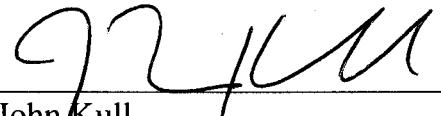


FOREPERSON

RICHARD B. ROPER
UNITED STATES ATTORNEY

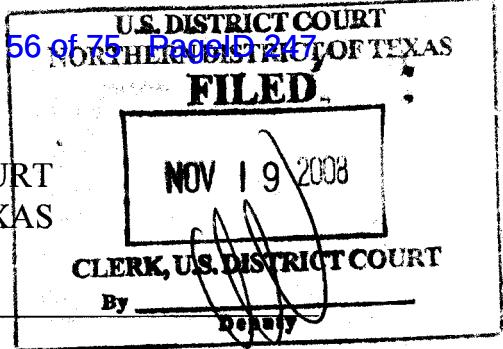


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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



THE UNITED STATES OF AMERICA

v.

COREY DEYON DUFFEY (01),
a.k.a. "Keyno", a.k.a. "Calvin Brown";
TONY R. HEWITT (02), a.k.a. "Priceless T";
JARVIS DUPREE ROSS (03),
a.k.a. "Dookie", a.k.a. "Dapree Dollars";
DAROBIE KENTAY STENLINE (04),
a.k.a. "Fish", a.k.a. "Dude White";
CHARLES RUNNELS (05), a.k.a. "Junior";
ANTONYO REECE (06), a.k.a. "Seven";
YOLANDA McDOW (07), a.k.a. "Yo"

3:08-cr-167-B

SUPERSEDING INDICTMENT

18 U.S.C. § 371
Conspiracy to Commit Bank Robbery

18 U.S.C. § 924(c)(1)(A)(i)
Using, Carrying, and Brandishing a Firearm During and in
Relation to, and Possessing a Firearm in Furtherance of, a Crime of Violence

18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2
Attempted Bank Robbery

18 U.S.C. §§ 922(g)(1) and 924(a)(2)
Felon in Possession of a Firearm

18 U.S.C. § 111
Assault on a Federal Officer

18 U.S.C. § 1201(a)(1)
Kidnapping

18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2
Bank Robbery

18 U.S.C. § 924(d) and 28 U.S.C. § 2461 (c); 18 U.S.C. § 3665
Forfeiture Allegation

43 Counts

A true bill rendered

DALLAS

Filed in open court this 19 day of November, 2008, A.D.

Clerk

WARRANTS TO BE ISSUED ~~ON~~

UNITED STATES MAGISTRATE/ DISTRICT JUDGE

Criminal # 3:08-CR-167-B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS1. **Defendant Information**

Juvenile: Yes No
 Yes No

If Yes, Matter to be sealed:

Defendant Name COREY DEYON DUFFEYAlias Name a.k.a Keyno; a.k.a. Calvin Brown

Address _____

Related Case Information

Superseding Indictment: Yes No New Defendant: Yes NoPending CR Case in NDTX: Yes No If Yes, number: 3:08-CR-167-B

Search Warrant Case Number _____

R 20 from District of _____

Magistrate Case Number: _____

RECEIVED

NOV 19 2008

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXASCounty in which offense was committed: DALLAS2. **U.S. Attorney Information**AUSA GARY C. TROMBLAYBar # LA Bar Roll No. 226653. **Interpreter** Yes No If Yes, list language and/or dialect: _____4. **Location Status**Arrest Date - No Warrant To Be Issued

Already in Federal Custody as of _____
 Already in State Custody _____
 On Pretrial Release _____

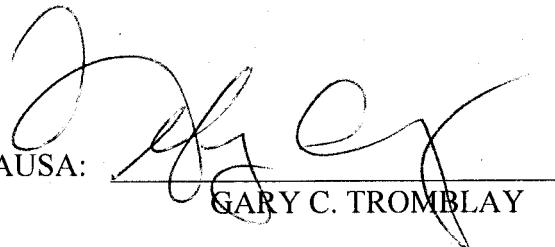
5. **U.S.C. Citations**Total # of Counts as to This Defendant: 32 Petty Misdemeanor Felony

Citation	Description of Offense Charged	Count(s)
18 U.S.C. § 371	Conspiracy to Commit Bank Robbery	1, 14, 15, 16, 20, 24 28, 32, 36
18 U.S.C. § 924(c)(1)(A)(i)	Using and Carrying a Firearm and in Relation to, and Possessing a Firearm in Furtherance of a Crime of Violence	2, 4, 17, 19, 21, 23 25, 27, 29, 31, 33, 35 37, 39

18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Attempted Bank Robbery	3, 18
18 U.S.C. §§ 922(g)(9)(1) and 924 (a)(2)	Felon in Possession of a Firearm	5
18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Bank Robbery	22, 26, 30, 34, 38
18 U.S.C. § 924(d) and 28 U.S.C. § 2461; 18 U.S.C. § 3665	Forfeiture	43

Date November 13, 2008

Signature of AUSA:



GARY C. TROMBLAY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

1. Defendant Information

Juvenile: Yes No

If Yes, Matter to be sealed:

 Yes No

Defendant Name

Related Case Information

Superseding Indictment: Yes No New Defendant: Yes NoPending CR Case in NDTX: YES No If Yes, number: 3:08-CR-167-B

Search Warrant Case Number _____

R 20 from District of _____

Magistrate Case Number: _____

RECEIVED

NOV 19 2008

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**TONY R. HEWITT**

Alias Name

a.k.a Priceless T

Address

County in which offense was committed:

DALLAS

2. U.S. Attorney Information

AUSA GARY C. TROMBLAY

Bar # LA Bar Roll No. 22665

3. Interpreter

 Yes No

If Yes, list language and/or dialect: _____

4. Location Status

Arrest Date - **No Warrant To Be Issued**

Already in Federal Custody as of _____
 Already in State Custody
 On Pretrial Release

5. U.S.C. Citations

Total # of Counts as to This Defendant: **32** Petty Misdemeanor Felony

Citation	Description of Offense Charged	Count(s)
18 U.S.C. § 371	Conspiracy to Commit Bank Robbery	1, 14, 15, 16, 20, 24 28, 32, 36
18 U.S.C. § 924(c)(1)(A)(i)	Using and Carrying a Firearm and in Relation to, and Possessing a Firearm in Furtherance of, a Crime of Violence	2, 4, 17, 19, 21, 23 25, 27, 29, 31, 33, 35 37, 39

18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Attempted Bank Robbery	3, 18
18 U.S.C. §§ 922(g)(1) and 924 (a)(2)	Felon in Possession of a Firearm	6
18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Bank Robbery	22, 26, 30, 34, 38
18 U.S.C. § 924(d) and 28 U.S.C. § 2461; 18 U.S.C. § 3665	Forfeiture	43

Date: 11/13/2008

Signature of AUSA:



GARY C. TROMBLAY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS1. **Defendant Information**Juvenile: Yes No

If Yes, Matter to be sealed:

 Yes No

Defendant Name

Alias Name

Address

County in which offense was committed:

DALLAS

2. **U.S. Attorney Information**AUSA GARY C. TROMBLAYBar # LA Bar Roll No. 226653. **Interpreter** Yes No

If Yes, list language and/or dialect: _____

4. **Location Status**Arrest Date: No Warrant To Be Issued

Already in Federal Custody as of



Already in State Custody



On Pretrial Release

5. **U.S.C. Citations**Total # of Counts as to This Defendant: 31 Petty Misdemeanor Felony**Citation****Description of Offense Charged****Count(s)**

18 U.S.C. § 371

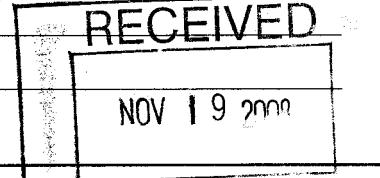
Conspiracy to Commit Bank Robbery

1, 14, 15,
16, 20, 24
28, 32, 36

18 U.S.C. § 924(c)(1)(A)(i)

Using and Carrying a Firearm and in Relation
to, and Possessing a Firearm in Furtherance of,
a Crime of Violence2, 4, 17,
19, 21, 23
25, 27, 29,
31, 33, 35
37, 39

Related Case Information	
Superseding Indictment:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
New Defendant:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Pending CR Case in NDTX:	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, number:	3:08-CR-167-B
Search Warrant Case Number	_____
R 20 from District of	_____
Magistrate Case Number:	_____

**DAROBIE KENTAY STENEINE**

DAROBIE KENTAY STENEINE

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NOV 19 2008

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NOV 19 2008

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NOV 19 2008

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NOV 19 2008

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NOV 19 2008

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NOV 19 2008

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NOV 19 2008

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

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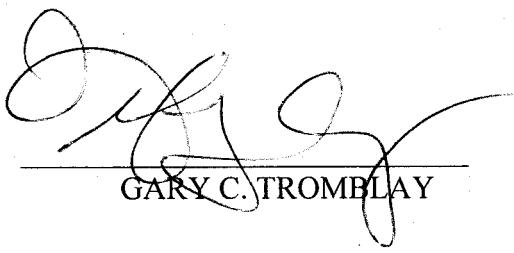
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

NOV 19 2008

18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Attempted Bank Robbery	3, 18
18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Bank Robbery	22, 26, 30, 34, 38
18 U.S.C. § 924(d) and 28 U.S.C. § 2461; 18 U.S.C. § 3665	Forfeiture	43

Date 14/13/2008

Signature of AUSA:



GARY C. TROMBLAY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

1. Defendant Information

Juvenile: Yes No

If Yes, Matter to be sealed:

 Yes No

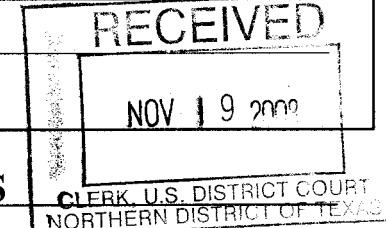
Related Case Information

Superseding Indictment: Yes No New Defendant: Yes NoPending CR Case in NDTX: Yes No If Yes, number: 3:08-CR-167-B

Search Warrant Case Number _____

R 20 from District of _____

Magistrate Case Number: _____

Defendant Name JARVIS DUPREE ROSSAlias Name a.k.a Dookie; a.k.a. Dapree Dollars

Address _____

County in which offense was committed: DALLAS

2. U.S. Attorney Information

AUSA GARY C. TROMBLAYBar # LA Bar Roll No. 22665

3. Interpreter

 Yes No

If Yes, list language and/or dialect: _____

4. Location Status

Arrest Date - No Warrant To Be Issued

Already in Federal Custody as of _____
 Already in State Custody _____
 On Pretrial Release _____

5. U.S.C. Citations

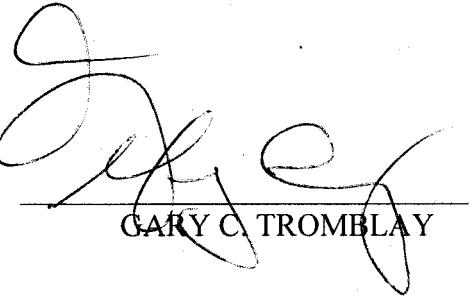
Total # of Counts as to This Defendant: 35 Petty Misdemeanor Felony

Citation	Description of Offense Charged	Count(s)
18 U.S.C. § 371	Conspiracy to Commit Bank Robbery	1, 14, 15, 16, 20, 24 28, 32, 36
18 U.S.C. § 924(c)(1)(A)(i)	Using and Carrying a Firearm and in Relation to, and Possessing a Firearm in Furtherance of, a Crime of Violence	2, 4, 13, 17, 19, 21, 23 25, 27, 29, 31, 33, 35 37, 39

18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Attempted Bank Robbery	3, 18
18 U.S.C. §§ 922(g)(91) and 924 (a)(2)	Felon in Possession of a Firearm	7, 42
18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Bank Robbery	22, 26, 30, 34, 38
18 U.S.C. § 1201(a)(1)	Kidnapping	12
18 U.S.C. § 924(d) and 28 U.S.C. § 2461; 18 U.S.C. § 3665	Forfeiture	43

Date 11/13/08

Signature of AUSA:



GARY C. TROMBLAY

~~ORIGINATING~~
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

1. **Defendant Information**Juvenile: Yes No

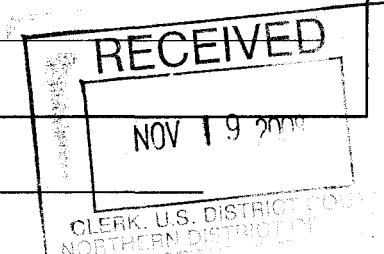
If Yes, Matter to be sealed:

 Yes No**Related Case Information**Superseding Indictment: Yes No New Defendant: Yes NoPending CR Case in NDTX: Yes No If Yes, number: 3:08-CR-167-B

Search Warrant Case Number _____

R 20 from District of _____

Magistrate Case Number: _____

Defendant Name CHARLES RUNNELSAlias Name a.k.a "Junior"

Address _____

County in which offense was committed: DALLAS2. **U.S. Attorney Information**AUSA GARY C. TROMBLAYBar # LA Bar Roll No. 226653. **Interpreter** Yes No If Yes, list language and/or dialect: _____4. **Location Status**Arrest Date - No Warrant To Be Issued

Already in Federal Custody as of
 Already in State Custody
 On Pretrial Release

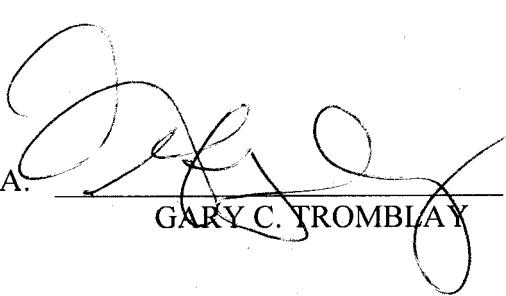
5. **U.S.C. Citations**Total # of Counts as to This Defendant: 35 Petty Misdemeanor Felony

Citation	Description of Offense Charged	Count(s)
18 U.S.C. § 371	Conspiracy to Commit Bank Robbery	1, 16, 20, 24 28, 32, 36
18 U.S.C. § 924(c)(1)(A)(i)	Using and Carrying a Firearm and in Relation to, and Possessing a Firearm in Furtherance of, a Crime of Violence	2, 4, 17, 19, 21, 23 25, 27, 29, 31, 33, 35 37, 39

18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Attempted Bank Robbery	3, 18
18 U.S.C. §§ 922(g)(1) and 924 (a)(2)	Felon in Possession of a Firearm	8, 9, 10, 11 40, 41
18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Bank Robbery	22, 26, 30, 34, 38
18 U.S.C. § 924(d) and 28 U.S.C. § 2461; 18 U.S.C. § 3665	Forfeiture	43

Date 11/13/2008

Signature of AUSA.



GARY C. TROMBLAY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

1. Defendant Information

Juvenile: Yes No

If Yes, Matter to be sealed:

 Yes No

Defendant Name

ANTONYO REECE

Alias Name

a.k.a "Seven"

Address

County in which offense was committed:

DALLAS

2. U.S. Attorney Information

AUSA GARY C. TROMBLAYBar # LA Bar Roll No. 22665

3. Interpreter

 Yes No

If Yes, list language and/or dialect: _____

4. Location Status

Arrest Date - No Warrant To Be Issued

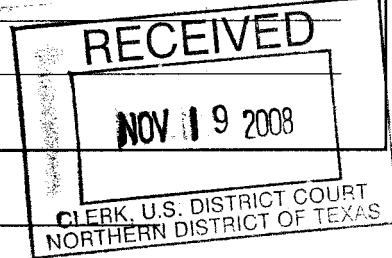
Already in Federal Custody as of
 Already in State Custody
 On Pretrial Release

5. U.S.C. Citations

Total # of Counts as to This Defendant: **15** Petty Misdemeanor Felony

Citation	Description of Offense Charged	Count(s)
18 U.S.C. § 371	Conspiracy to Commit Bank Robbery	1, 16, 20,
18 U.S.C. § 924(c)(1)(A)(i)	Using and Carrying a Firearm and in Relation to, and Possessing a Firearm in Furtherance of, a Crime of Violence	2, 4, 17, 19, 21, 23, 35,

Related Case Information		
Superseding Indictment:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Pending CR Case in NDTX:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If Yes, number: 3:08-CR-167-B		
Search Warrant Case Number		
R 20 from District of		
Magistrate Case Number:		



18 U.S.C. §§ 2113(a) and (d) and Attempted Bank Robbery

3, 18

18 U.S.C. § 2

18 U.S.C. §§ 922(g)(1) and
924 (a)(2)

Felon in Possession of a Firearm

18 U.S.C. §§ 2113(a) and (d)
and 18 U.S.C. § 2

Bank Robbery

22, 30,

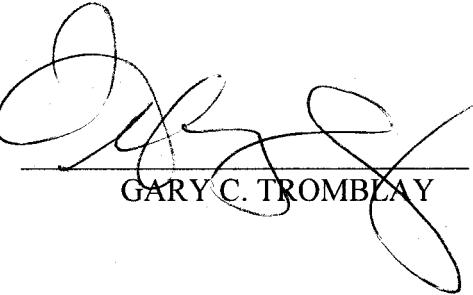
18 U.S.C. § 924(d) and
28 U.S.C. § 2461;
18 U.S.C. § 3665

Forfeiture

43

11/13/2008
Date _____

Signature of AUSA:


GARY C. TROMBLAY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

1. Defendant Information

Juvenile: Yes No

If Yes, Matter to be sealed:

 Yes No

Defendant Name

Related Case Information

Superseding Indictment: Yes No New Defendant: Yes NoPending CR Case in NDTX: Yes No If Yes, number: 3:08-CR-167-B

Search Warrant Case Number

R 20 from District of

Magistrate Case Number:

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**YOLANDA McDOW**

Alias Name

Address

County in which offense was committed:

DALLAS

2. U.S. Attorney Information

AUSA GARY C. TROMBLAY

Bar # LA Bar Roll No. 22665

3. Interpreter

 Yes No

If Yes, list language and/or dialect:

4. Location Status

Arrest Date - **No Warrant To Be Issued**

Already in Federal Custody as of
 Already in State Custody
 On Pretrial Release

5. U.S.C. Citations

Total # of Counts as to This Defendant: **29** Petty Misdemeanor Felony

Citation	Description of Offense Charged	Count(s)
18 U.S.C. § 371	Conspiracy to Commit Bank Robbery	1, 16, 20, 24 28, 32, 36
18 U.S.C. § 924(c)(1)(A)(i)	Using and Carrying a Firearm and in Relation to, and Possessing a Firearm in Furtherance of, a Crime of Violence	2, 4, 17, 19, 21, 23 25, 27, 29, 31, 33, 35 37, 39

18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Attempted Bank Robbery	3, 18
18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Bank Robbery	22, 26, 30, 34, 38
18 U.S.C. § 924(d) and 28 U.S.C. § 2461; 18 U.S.C. § 3665	Forfeiture	43

11/13/2008
Date _____

Signature of AUSA:



GARY C. TROMBLAY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

1. Defendant Information

ORIGINAL

Juvenile: Yes No

If Yes, Matter to be sealed:

 Yes No

Related Case Information

Superseding Indictment: Yes No New Defendant: Yes NoPending CR Case in NDTX: Yes No If Yes, number: 3:08-CR-167-B

Search Warrant Case Number _____

R 20 from District of _____

Magistrate Case Number: _____

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXASDefendant Name JARVIS DUPREE ROSSAlias Name a.k.a Dookie; a.k.a. Dapree Dollars

Address _____

County in which offense was committed: DALLAS

2. U.S. Attorney Information

AUSA GARY C. TROMBLAYBar # LA Bar Roll No. 22665

3. Interpreter

 Yes No

If Yes, list language and/or dialect: _____

4. Location Status

Arrest Date - No Warrant To Be Issued

Already in Federal Custody as of
 Already in State Custody
 On Pretrial Release

5. U.S.C. Citations

Total # of Counts as to This Defendant: 31 Petty Misdemeanor Felony

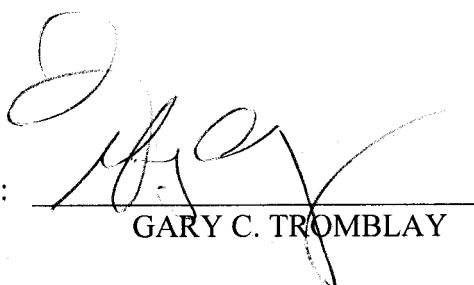
Citation	Description of Offense Charged	Count(s)
18 U.S.C. § 371	Conspiracy to Commit Bank Robbery	1, 14, 15, 16, 20, 24 28, 36
18 U.S.C. § 924(c)(1)(A)(i)	Using and Carrying a Firearm and in Relation to, and Possessing a Firearm in Furtherance of, a Crime of Violence	2, 4, 13, 17, 19, 21, 23 25, 27, 29, 31, 37, 39

18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Attempted Bank Robbery	3, 18
18 U.S.C. §§ 922(g)(91) and 924 (a)(2)	Felon in Possession of a Firearm	7, 42
18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Bank Robbery	22, 26, 30, 38
18 U.S.C. § 1201(a)(1)	Kidnapping	12
18 U.S.C. § 924(d) and 28 U.S.C. § 2461; 18 U.S.C. § 3665	Forfeiture	43

11/13/2008

Date _____

Signature of AUSA:



A handwritten signature in black ink, appearing to read "GARY C. TROMBLAY", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized 'G' at the beginning.

GARY C. TROMBLAY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS1. **ORIGINIAL** Defendant InformationJuvenile: Yes No

If Yes, Matter to be sealed:

 Yes No

Related Case Information

Superseding Indictment: Yes No New Defendant: Yes NoPending CR Case in NDTX: Yes No If Yes, number: 3:08-CR-167-B

Search Warrant Case Number _____

R 20 from District of _____

Magistrate Case Number: _____

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NOV 19 2008

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXASDefendant Name YOLANDA McDOW

Alias Name _____

Address _____

County in which offense was committed: DALLAS

2.

U.S. Attorney Information

AUSA GARY C. TROMBLAYBar # LA Bar Roll No. 22665

3.

Interpreter

 Yes No If Yes, list language and/or dialect: _____

4.

Location Status

Arrest Date - No Warrant To Be Issued

Already in Federal Custody as of
 Already in State Custody
 On Pretrial Release

5.

U.S.C. Citations

Total # of Counts as to This Defendant: 25 Petty Misdemeanor Felony

Citation	Description of Offense Charged	Count(s)
18 U.S.C. § 371	Conspiracy to Commit Bank Robbery	1, 16, 20, 24 28, 32,
18 U.S.C. § 924(c)(1)(A)(i)	Using and Carrying a Firearm and in Relation to, and Possessing a Firearm in Furtherance of, a Crime of Violence	2, 4, 17, 19, 21, 23 25, 27, 29, 31, 33, 35

18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Attempted Bank Robbery	3, 18
18 U.S.C. §§ 2113(a) and (d) and 18 U.S.C. § 2	Bank Robbery	22, 26, 30, 34,
18 U.S.C. § 924(d) and 28 U.S.C. § 2461; 18 U.S.C. § 3665	Forfeiture	43

11/18/2008

Date

Signature of AUSA:


GARY C. TROMBLAY