

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

JUL 11 2007

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

JAMES W. MCCORMACK, CLERK
By *[Signature]*
DEP. CLERK

UNITED STATES OF AMERICA	)	NO. 4:06CR00041 GTE
	)	18 U.S.C. 2
v.	)	18 U.S.C. 922 (g)(1)
	)	18 U.S.C. 924 (c)
ANTOINE DEMETRIS BAKER	)	18 U.S.C. 1512 (a)(1)(A)
a/k/a B.A.	)	18 U.S.C. 1512 (a)(1)(C)
	)	18 U.S.C. 1512 (c)(2)
	)	18 U.S.C. 1512 (k)
	)	21 U.S.C. 841
	)	21 U.S.C. 846
	)	18 U.S.C. 1512 (a)(2)(A)
	)	18 U.S.C. 1512 (i)
	)	18 U.S.C. 1512 (b)(1)
	)	18 U.S.C. 3591 (a)(2)(c)
	)	18 U.S.C. 3591 (a)(2)(C)
	)	18 U.S.C. 3592 (c)(2)
	)	18 U.S.C. 3592 (c)(3)
	)	18 U.S.C. 3592 (c)(9)
	)	21 U.S.C. 853(p)

THIRD SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

COUNT 1

That prior to January 13, 2006, ANTOINE DEMETRIS BAKER a/k/a B.A. had previously been convicted of the following felony:

- (1) On April 21, 1999, in the Circuit Court of Pulaski County, Arkansas, a felony offense of theft by receiving, criminal case no. CR97003736.

That on or about November 10, 2005, in the Eastern District of Arkansas, the defendant,
ANTOINE DEMETRIS BAKER a/k/a B.A.

did knowingly possess a firearm that had been transported in interstate commerce to-wit, a Glock .45 caliber pistol, serial number 30674RSR, thereby violating Title 18, U.S.C. § 922(g)(1).

COUNT 2

That prior to January 13, 2006, the defendant, ANTOINE DEMETRIS BAKER a/k/a B.A., had previously been convicted of the following felony:

- (1) On April 21, 1999, in the Circuit Court of Pulaski County, Arkansas, a felony offense of theft by receiving, criminal case no. CR97003736.

That on or about November 22, 2005, in the Eastern District of Arkansas, the defendant,

ANTOINE DEMETRIS BAKER a/k/a B.A.

did knowingly possess a firearm that had been transported in interstate commerce to-wit, a Ruger, 9mm pistol, model number P95DC, with serial number 31105021, thereby violating Title 18, U.S.C. § 922(g)(1).

COUNT 3

That prior to January 13, 2006, the defendant, ANTOINE DEMETRIS BAKER a/k/a B.A. had previously been convicted of the following felony:

- (1) On April 21, 1999, in the Circuit Court of Pulaski County, Arkansas, a felony offense of theft by receiving, criminal case no. CR97003736.

That on or about January 13, 2006, in the Eastern District of Arkansas, the defendant,

ANTOINE DEMETRIS BAKER a/k/a B.A.

did knowingly possess a firearm that had been transported in interstate commerce to-wit, a Smith and Wesson, 9mm pistol, model number 469, with serial number A872547, thereby violating Title 18, U.S.C. § 922(g)(1).

COUNT 4

That from in or about the Spring of 2002 through in or about December, 2005, in the Eastern District of Arkansas, and elsewhere, the defendant,

ANTOINE DEMETRIS BAKER a/k/a B.A.

knowingly and intentionally conspired with other persons, known and unknown to the Grand Jury, to distribute cocaine base, a/k/a crack, a Schedule II controlled substance, in violation of Title 21, United States Code § 841, and that during the course of the conspiracy, more than 50 grams of cocaine base was distributed, thereby violating Title 21, United States Code § 846.

COUNT 5

That from in or about the Spring of 2002 through in or about December, 2005, in the Eastern District of Arkansas, and elsewhere, the defendant,

ANTOINE DEMETRIS BAKER a/k/a B.A.

knowingly and intentionally possessed with the intent to distribute cocaine, a Schedule II controlled substance, and that more than 5 kilograms of cocaine was possessed, thereby violating Title 21, United States Code § 841.

COUNT 6

That from in or about the Spring of 2002 through in or about December, 2005, in the Eastern District of Arkansas, the defendant,

ANTOINE DEMETRIS BAKER a/k/a B.A.

during and in relation to the drug trafficking crimes alleged in Counts 5 and 6 of this Indictment, and in furtherance of such crimes, used and carried and possessed a firearm, all in violation of Title 18, United States Code § 924(c).

COUNT 7

That in or about December 2002, in the Eastern District of Arkansas, the defendant

ANTOINE DEMETRIS BAKER a/k/a B.A.

conspired with Willie Lee Davis, Jr. a/k/a Woo, and other persons, known and unknown to the Grand Jury, to kill Jerry Otis, with the intent to prevent the attendance and testimony of Jerry Otis in an official proceeding, that is, the criminal case against ANTOINE DEMETRIS BAKER a/k/a B.A., and thereby violate Title 18, United States Code § 1512(a)(1)(A).

In furtherance of the conspiracy, the defendants and other co-conspirators committed the following overt acts in the Eastern District of Arkansas:

1. In or about December 2002, Willie Lee Davis, Jr. a/k/a Woo, Mario Dednam, and another person visited ANTOINE DEMETRIS BAKER a/k/a B.A. at the Pulaski County Jail. BAKER was incarcerated as a result of his arrest by the Little Rock Police Department SWAT for assaulting and robbing Jerry Otis of \$250. During this meeting at the jail, ANTOINE DEMETRIS BAKER a/k/a B.A. told Davis and Dednam to kill Otis.

2 On or about December 4, 2002, Mario Dednam visited ANTOINE DEMETRIS BAKER a/k/a B.A. again at the Pulaski County Jail.

3. On December 4, 2002, Willie Lee Davis, Jr. a/k/a Woo had a female friend call Otis to arrange to meet Otis near a park or trailer park on Barwood Circle in Little Rock.

4. On December 4, 2002 at approximately 10:15 P.M., Dednam shot Otis as Willie Lee Davis, Jr. a/k/a Woo stood nearby, resulting in Jerry Otis dying on December 6, 2002.

All in violation of Title 18, United States Code § 1512 (k).

COUNT 8

That on or about December 4, 2002, in the Eastern District of Arkansas, the defendant

ANTOINE DEMETRIS BAKER a/k/a B.A.

aided and abetted by Willie Lee Davis, Jr. a/k/a Woo, and other persons, known to the Grand Jury, in the killing of Jerry Otis, which killing is a murder as defined in Title 18, United States Code § 1111, in that the murder was done with malice aforethought, willfully, deliberately, maliciously, and with premeditation, with the intent to prevent the attendance and testimony of Jerry Otis in an official proceeding, that is, the criminal case against ANTOINE DEMETRIS BAKER a/k/a B.A. All in violation of Title 18, United States Code § 1512(a)(1)(A) and Title 18, United States Code § 2.

COUNT 9

That in or about December 2002, in the Eastern District of Arkansas, the defendant

ANTOINE DEMETRIS BAKER a/k/a B.A.

conspired with Willie Lee Davis, Jr. a/k/a Woo, and other persons, known and unknown to the Grand Jury, to kill Jerry Otis, with the intent to prevent the communication by Otis to a law enforcement officer of information relating to the commission and possible commission of a Federal offense, that is, the drug trafficking activities of ANTOINE DEMETRIS BAKER a/k/a B.A., and thereby violate Title 18, United States Code § 1512(a)(1)(C).

In furtherance of the conspiracy, the defendant and other co-conspirators committed the following overt acts in the Eastern District of Arkansas:

1. In or about December 2002, Willie Lee Davis, Jr. a/k/a Woo, Mario Dednam, and another person visited ANTOINE DEMETRIS BAKER a/k/a B.A. at the Pulaski County Jail. BAKER was incarcerated as a result of his arrest by the Little Rock Police Department

SWAT for assaulting and robbing Jerry Otis of \$250. During this meeting at the jail, ANTOINE DEMETRIS BAKER a/k/a B.A. told Davis and Dednam to kill Otis.

2 On or about December 4, 2002, Mario Dednam visited ANTOINE DEMETRIS BAKER a/k/a B.A. again at the Pulaski County Jail.

3. On December 4, 2002, Willie Lee Davis, Jr. a/k/a Woo had a female friend call Otis to arrange to meet Otis near a park or trailer park on Barwood Circle in Little Rock.

4. On December 4, 2002 at approximately 10:15 P.M., Dednam shot Otis as Willie Lee Davis, Jr. a/k/a Woo stood nearby, resulting in Jerry Otis dying on December 6, 2002.

All in violation of Title 18, United States Code § 1512 (k).

COUNT 10

That on or about December 4, 2002, in the Eastern District of Arkansas, the defendant

ANTOINE DEMETRIS BAKER a/k/a B.A.

aided and abetted by Willie Lee Davis, Jr. a/k/a Woo, and other persons, known to the Grand Jury, in the killing of Jerry Otis, which killing is a murder as defined in Title 18, United States Code § 1111, in that the murder was done with malice aforethought, willfully, deliberately, maliciously, and with premeditation, with the intent to prevent the communication by Otis to a law enforcement officer of information relating to the commission and possible commission of a Federal offense, that is, the drug trafficking activities of ANTOINE DEMETRIS BAKER a/k/a B.A., and thereby violate Title 18, United States Code § 1512(a)(1)(C) and Title 18, United States Code § 2.

COUNT 11

That in or about late January or early February, 2006, in the Eastern District of Arkansas, the defendant,

ANTOINE DEMETRIS BAKER a/k/a B.A.

corruptly attempted to obstruct, influence, and impede an official proceeding, specifically, the case against the defendant, by directing another person, known to the Grand Jury, to contact a person who the defendant believed was a witness against him and have the witness state that she lied to the law enforcement authorities and was threatened by law enforcement authorities, all in violation of Title 18, United States Code § 1512(c)(2).

COUNT 12

That on or about December 12, 2006, in the Eastern District of Arkansas, the defendant

ANTOINE DEMETRIS BAKER a/k/a B.A.

did knowingly use intimidation, threats, and attempted to corruptly persuade another person, with intent to influence, delay, and prevent the testimony of another person in this case, to-wit, the defendant instructed a person, known to the Grand Jury, to tell the person's wife not to talk to the police about the defendant, all in violation of 18 U.S.C. § 1512(b)(1).

COUNT 13

That in or about January 2007, in the Eastern District of Arkansas, the defendant,

ANTOINE DEMETRIS BAKER a/k/a B.A.

made threats of physical force against a person, known to the Grand Jury, with the intent to prevent the testimony of that person in an official proceeding, that is, the case of United States vs. Antoine Baker, Case No. 4:06CR00041 GTE. Specifically, the defendant made threats of

physical force against a law enforcement officer in this case, in violation of Title 18, U.S.C. § 1512(a)(2)(A).

NOTICE OF SPECIAL FINDINGS

The allegations of Counts 7, 8, 9, and 10 of this Indictment are hereby re-alleged as if set forth word for word. As to Counts 7, 8, 9, and 10 of this Indictment:

A. ANTOINE DEMETRIS BAKER a/k/a B.A. was 18 years of age or older at the time of the offense. Title 18, United States Code § 3591(a).

B. ANTOINE DEMETRIS BAKER a/k/a B.A. intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a result of the act. Title 18, United States Code § 3591(a)(2)(c).

C. ANTOINE DEMETRIS BAKER a/k/a B.A. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act. Title 18, United States Code § 3591(a)(2)(d).

D. ANTOINE DEMETRIS BAKER a/k/a B.A. has previously been convicted of a State offense punishable by a term of imprisonment of more than one year, involving the use and attempted use of a firearm against another person. Title 18, United States Code § 3592(c)(2).

E. ANTOINE DEMETRIS BAKER a/k/a B.A. has previously been convicted of another State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute. Title 18, United States Code § 3592(c)(3).

F. ANTOINE DEMETRIS BAKER a/k/a B.A. committed the offense after substantial planning and premeditation to cause the death of a person. Title 18, United States Code § 3592(c)(9).

FORFEITURE ALLEGATION ONE

Upon conviction of one or more of the offenses alleged in Counts 1, 2 or 3 of this Indictment, defendant, ANTOINE DEMETRIS BAKER a/k/a B.A. shall forfeit to the United States pursuant to Title 18 United States Code § 924(d) and Title 28 United States Code § 2461(c), all firearms and ammunition involved in the commission of the offense, including but not limited to the following:

- (a) a Glock .45 caliber pistol, serial number 30674RSR;
- (b) a Ruger, 9mm pistol, model number P95DC, with serial number 31105021; and
- (c) a Smith and Wesson, 9mm pistol, model number 469, with serial number A872547.

If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty,

it is the intent of the United States, pursuant to Title 21 United States Code § 853(p) as incorporated by Title 28 United States Code § 2461(c), to seek forfeiture of any other property of said defendant(s) up to the value of the forfeitable property described above.

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