

09-18-06 -- Montgomery, Phillip et al -- Criminal Complaints -- News Release

Former Asbury Park Cop and Accomplice Charged With Obstruction of Justice

-- Additional State Charges Filed --

TRENTON – A former Asbury Park Police Officer and another man were arrested on separate federal criminal complaints charging them with obstruction of justice in connection with the alleged theft of jewelry valued at over \$2,000 that occurred during the execution of an arrest warrant, U.S. Attorney Christopher J. Christie announced.

Phillip Montgomery, 43, of Ocean Township, a former Asbury Park Police Officer, and Efrin Rivera, 34, of West Long Branch, were arrested by law enforcement authorities on Sept. 13. Montgomery had an initial appearance in federal court before U. S. Magistrate Tonianne Bongiovanni on Sept. 13. Rivera had an initial appearance before Judge Bongiovanni on Sept. 14.

Additionally, the Monmouth County Prosecutor's Office today filed complaints against Montgomery charging second degree official misconduct and third degree theft.

According to the federal Criminal Complaints, which were issued under seal on Sept. 12 and unsealed on Sept. 15, law enforcement officers from the Monmouth County Prosecutor's Office and the Asbury Park Police Department, including Montgomery, executed an arrest warrant for a fugitive at an Asbury Park apartment where the fugitive's mother resided in February 2003.

According to the complaints, immediately following the police action the fugitive's mother reported that certain jewelry, including a watch valued at over \$2,000 was missing. Several days later the watch was spotted at a jewelry store in Monmouth County by friends of the fugitive, according to the complaints. The manager of the store purportedly told the friends that the watch recently had been brought to the jewelry store to have the band switched to a new one, according to the complaints.

Montgomery is charged federally with two counts of obstruction of justice for attempting to persuade the jewelry store manager lie to investigators regarding who gave him the watch and for attempting to regain possession of the watch after he became aware that FBI Special Agents were investigating the circumstances surrounding the theft.

Rivera is charged with one-count of obstruction of justice for attempting to assist Montgomery in his attempt to regain possession of the watch.

Each count of obstruction of justice carries a maximum statutory sentence of 10 years in prison and a fine of up to \$250,000.

The complaints filed by the Monmouth County Prosecutor's Office charge Montgomery with the theft of the watch from the Asbury Park resident and for committing the theft while he was on duty as a member of the Asbury Park Police Department and performing a police activity at a private residence in Asbury Park.

A state second degree crime carries with it a maximum penalty of up to 10 years in prison. A third degree crime carries with it a maximum penalty of up to 5 years in State prison.

Monmouth County Prosecutor Luis A. Valentin stated "Official Misconduct by any police officer undermines the public's confidence in our system of justice. The residents of Asbury Park are entitled to honorable and lawful service from their police officers." Prosecutor Valentin credited the United States Attorney's Office and the Federal Bureau of Investigation for their partnership efforts on this important investigation.

Despite the charges set forth in the complaints, every defendant is presumed innocent, unless and until found guilty beyond a reasonable doubt, following a trial at which the defendant has all of the trial rights guaranteed by the U.S. Constitution and federal law.

In determining an actual sentence, the judge to whom the case is assigned would, upon a conviction, consult the advisory U.S. Sentencing Guidelines, which provide appropriate sentencing ranges that take into account the severity and characteristics of the offense, the defendant's criminal history, if any, and other factors. The judge, however, is not bound by those guidelines in determining a sentence.

Parole has been abolished in the federal system. Defendants who are given custodial terms must serve nearly all that time.

Christie credited Special Agents of the Federal Bureau of Investigation's Newark Division, under the direction of Special Agent in Charge Leslie G. Wiser, Jr., and Investigators with the Monmouth County Prosecutor's Office, under the direction of Prosecutor Luis A. Valentin, with the investigation leading to the criminal complaints.

The U.S. Government is represented by Assistant U.S. Attorney John J. Hoffman of the Criminal Division in Trenton. The state criminal charges are being prosecuted by Assistant Monmouth County Prosecutor James E. Jones.

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