Approved: Russell Capone 12 MAG 2072
RUSSELL CAPONE
Assistant United States Attorney

Before: HONORABLE RONALD L. ELLIS
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA	:	Sealed COMPLAINT
-v.-	:	Violations of 18 U.S.C. §§ 371, 2113, 2314 & 2
JANELL NELSON, KYONTA BAILEY WADNER PHILIPPE, and PEARL MCDOUGALD,	:	COUNTY OF OFFENSE: NEW YORK
Defendants.	:	

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SOUTHERN DISTRICT OF NEW YORK, ss.:

ANTHONY FOTO, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE

1. In or about August and September 2008, in the Southern District of New York, JANELL NELSON, KYONTA BAILEY, WADNER PHILIPPE, and PEARL MCDOUGALD, the defendants, and others known and unknown, knowingly did combine, conspire, confederate, and agree together and with each other to violate the laws of the United States.

2. It was a part and an object of the conspiracy that JANELL NELSON, KYONTA BAILEY, WADNER PHILIPPE, and PEARL MCDOUGALD, the defendants, and others known and unknown, willfully and knowingly, would and did take and carry away, with intent to steal and purloin, property and money and a thing of value exceeding $1,000 belonging to and in the care, custody, control, management and possession of a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and in so doing would and did put in jeopardy the life of a person by the use of a dangerous weapon, in violation of Title 18, United States Code, Sections 2113(b) and (d).

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed:

a. On or about September 30, 2008, JANELL NELSON, the defendant, walked into the lobby of a branch of the M&T Bank located at 397 1st Avenue, New York, New York (the "M&T Bank").

b. On or about September 30, 2008, while in Manhattan, KYONTA BAILEY, the defendant, placed a telephone call to a co-conspirator regarding the planned robbery.

c. On or about September 30, 2008, WADNER PHILIPPE, the defendant, drove BAILEY and others from Manhattan to New Jersey.

d. In or about August 2008, PEARL MCDOUGALD, the defendant, subscribed for service for a cellular telephone.

(18 U.S.C. § 371.)

COUNT TWO

4. On or about September 30, 2008, in the Southern District of New York, JANELL NELSON, KYONTA BAILEY, PEARL MCDOUGALD, and WADNER PHILIPPE, the defendants, willfully and knowingly took and carried away, with intent to steal and purloin, property and money and a thing of value exceeding $1,000 belonging to and in the care, custody, control, management and possession of a bank, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and in so doing put in jeopardy the life of a person by the use of a dangerous weapon, to wit, NELSON, BAILEY, MCDOUGALD and PHILIPPE planned and assisted in the execution of a robbery at a branch of the M&T Bank in Manhattan, during which robbery a firearm was possessed and displayed.

(Title 18, United States Code, Sections 2113(b) and (d), and 2)

COUNT THREE

5. On or about September 30, 2008, in the Southern District of New York and elsewhere, KYONTA BAILEY, PEARL MCDOUGALD, and WADNER PHILIPPE, the defendants, and others known and unknown, willfully and knowingly, did transport, transmit, and transfer in

interstate and foreign commerce goods, wares, merchandise, securities and money, of the value of $5,000 and more, knowing the same to have been stolen, converted and taken by fraud, to wit, BAILEY, MCDOUGALD and PHILIPPE took money and a firearm stolen during a bank robbery at a branch of the M&T Bank in Manhattan, and transported them from New York to New Jersey.

(Title 18, United States Code, Sections 2314 & 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

6. I am a Special Agent with the FBI, and I have been personally involved in the investigation of this matter. This affidavit is based in part upon my conversations with other law-enforcement agents and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

7. I have spoken to another FBI Agent ("Agent-1"), who informed me that on September 30, 2008, Agent-1, other FBI Agents and New York City Police Department ("NYPD") Officers responded to a call of a robbery at M&T Bank, located at 397 1st Avenue, New York, New York 10010 (hereinafter the "M&T Bank").

8. Witness interviews were conducted by FBI agents and NYPD officers who responded to the scene. Based on those interviews, I have learned the following:

(a) A teller at the M&T Bank indicated that at approximately 9:20 a.m. on September 30, 2008, one male, wearing a grey-hooded sweatshirt, approached a Dunbar Armored courier (later identified as JANELL NELSON, the defendant) in the vestibule of the bank, took her bag, and ran off.

(b) A security guard at the M&T Bank indicated that at approximately 9:20 a.m. on September 30, 2008, one male, wearing a grey-hooded sweatshirt, approached a Dunbar Amored courier (later identified as NELSON) in the vestibule of the bank, took her bag and her gun, and ran off.

9. Based on my discussions with M&T Bank, I know that the bag taken on September 30, 2008 contained $330,000 in cash.

10. I have interviewed an individual (the "CW") who has pled guilty to certain crimes in connection with the robbery discussed above and is providing information to the Government with the hope of receiving a benefit at sentencing. The CW's information has been reliable and has been corroborated by other information, including information from witnesses and from telephone records. Based on my discussions with the CW, I know the following:

(a) The CW is the male who robbed JANELL NELSON, the defendant, on September 30, 2008.

(b) The CW, NELSON, KYONTA BAILEY, WADNER PHILIPPE, and PEARL MCDOUGALD, the defendants, and another individual ("CC-1") planned the robbery as an "inside job." The CW, NELSON, BAILEY, PHILIPPE, MCDOUGALD and CC-1 met on several occasions in the summer of 2008 prior to the robbery to discuss the details of the robbery. During these meetings, NELSON provided the others with details regarding her route as a courier for Dunbar Armored. The CW and NELSON rehearsed the physical act of the CW robbing and disarming NELSON as she entered the vestibule of the M&T Bank.

(c) On the morning of September 30, 2008, the CW waited inside the vestibule of the M&T Bank. When NELSON entered the bank, the CW approached her from behind. The CW grabbed the bag NELSON was carrying which contained the money, and also grabbed NELSON's gun from her holster. After the gun was removed from NELSON's holster and before it was placed in the bag, it was visible to others inside the bank. The CW pushed NELSON aside, placed the gun in the bag, and left the M&T Bank.

(d) CC-1 was stationed nearby the M&T Bank during the robbery as a lookout.

(e) During and just prior to the robbery, BAILEY was stationed a few blocks away from the M&T Bank along the route that NELSON had identified as her route for Dunbar Armored. In addition to serving as a lookout, BAILEY called the CW when she saw NELSON's truck approaching, to alert the CW that NELSON was almost there.

(f) During and just prior to the robbery, MCDOUGALD was stationed in the vicinity of the M&T Bank. MCDOUGALD's role was to meet the CW immediately after the robbery to take possession of the bag containing the robbery proceeds. PHILIPPE was also stationed, in a car, in the vicinity of the M&T Bank. PHILIPPE's role was to pick the CW up after the CW gave the

proceeds to MCDOUGALD, and drive the CW away.

(g) After the CW left the M&T bank with the bag containing the money and the gun, the CW met with MCDOUGALD and gave her the bag. PHILIPPE then approached in the car. The CW decided that he did not want to leave MCDOUGALD alone with the money, and so both the CW and MCDOUGALD got into PHILIPPE's car. They subsequently picked up BAILEY and CC-1, and drove to New Jersey.

(h) After they arrived in New Jersey, the CW, MCDOUGALD, PHILIPPE, BAILEY and CC-1 went to the Spring Lane Motel in Elizabeth, New Jersey. PHILIPPE rented a room, and the co-conspirators went to the room to divide the proceeds of the robbery. CC-1 took NELSON's share of the proceeds to give to NELSON.

(i) Shortly before the day of the robbery, MCDOUGALD had obtained several of the cellphones that the participants would use during the robbery.

11. Based on my discussions with an NYPD Detective ("Detective-1") who was present at the M&T bank shortly after the September 30, 2008 robbery, I know the following:

(a) Detective-1 interviewed JANELL NELSON, the defendant, on September 30, 2008. At the time, NELSON was considered a victim of the robbery.

(b) Detective-1 asked NELSON for permission to search her cellphone (the "Nelson Phone"), and was given permission.

(c) Though Detective-1 returned the Nelson Phone to NELSON after reviewing it, Agent-1 made a record of calls to and from the Nelson Phone on September 30, 2008. Among those calls were calls made with telephone numbers listed in the Nelson Phone as belonging to "Kyonta Bailey" (the "Bailey Phone") and to a person with the same name as CC-1 (the "CC-1 Phone").

12. Based on my review of records provided by T-Mobile, I know the following:

(a) The subscriber for the Bailey Phone was JANELL NELSON, the defendant. The subscriber for the CC-1 Phone was PEARL MCDOUGALD, the defendant.

(b) As noted by Agent-1 during his review of the Nelson Phone, the Nelson Phone was in communication with both the

Bailey Phone and the CC-1 Phone on September 30, 2008.

(c) Based on cell site records for the CC-1 Phone, it appears that the CC-1 Phone was within three blocks or less of the M&T Bank at the time of the September 30, 2008 robbery.

13. Based on my review of documents provided to me by the Spring Lane Motel, I know that WADNER PHILIPPE, the defendant, booked a room at the Spring Lane Motel on September 30, 2008.

14. On or about April 26, 2011, CC-1 was arrested. After CC-1's arrest and in my presence, CC-1 agreed to place a recorded call to JANELL NELSON, the defendant. Based on my presence during the call and my review of the recording of the call, I know the following:

(a) During the call, CC-1 told NELSON that the FBI had approached CC-1's mother about the September 30, 2008 robbery and had asked CC-1's mother whether CC-1 and NELSON were involved in the robbery.

(b) NELSON told CC-1 that "I am, I'm not really doing nothing as far as like hiding. I mean my address, if they wanted to come to my house they could easily find out where I live. If they found out where your mom was at, shit like that. But uhm that shit is crazy; I'm about to call Kyonta right now and see if she know anything about anything."

15. The CW has identified photographs of JANELL NELSON, KYONTA BAILEY, PEARL MCDOUGALD, and WADNER PHILIPPE, the defendants.

16. Based on my review of records from Dunbar Armored, I know that at the time of the September 30, 2008 robbery in M&T Bank, the proceeds taken from JANELL NELSON, the defendant, belonged to M&T Bank.

17. Based on my discussions with a representative of M&T Bank, I know that on September 30, 2008, its deposits were insured by the Federal Deposit Insurance Corporation.

WHEREFORE, the deponent prays that JANELL NELSON, KYONTA BAILEY, PEARL MCDOUGALD, and WADNER PHILIPPE, the defendants, be arrested, and be imprisoned or bailed, as the case may be.

ANTHONY FOTO
Special Agent
Federal Bureau of Investigation

AUG 03 2012

Sworn to before me this
August 2, 2012

S/ Ronald L. Ellis

THE HONORABLE RONALD L. ELLIS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK