

Approved: *Daniel Richenthal*
DANIEL C. RICHENTHAL
Assistant United States Attorney

Before: THE HONORABLE JAMES L. COTT
United States Magistrate Judge
Southern District of New York

14 MAG 1140

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UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
	:	
- v. -	:	Violations of
	:	18 U.S.C. §§ 1029(a)(5),
JOHN L. MONTANEZ,	:	1341, and 1028A
a/k/a "Lenny,"	:	
	:	
Defendant.	:	COUNTY OF OFFENSE:
	:	BRONX
----- X	:	

SOUTHERN DISTRICT OF NEW YORK, ss.:

RUSSELL R. LEHNES, 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
(Access Device Fraud)

From at least in or about 2011, up to and including at least in or about March 2014, in the Southern District of New York and elsewhere, JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, knowingly and with intent to defraud, effected transactions, with one and more access devices issued to another person and persons, to receive payment and any other thing of value during any one-year period the aggregate value of which was equal to and greater than \$1,000, to wit, MONTANEZ used, attempted to use, and caused another to use and attempt to use fraudulently obtained, funded, and/or stolen credit cards and debit cards to purchase personal items.

(Title 18, United States Code, Sections 1029(a)(5), 1029(b)(1), and 2.)

COUNT TWO
(Mail Fraud)

At least in or about March 2014, in the Southern District of New York and elsewhere, JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice, and attempting to do so, did deposit and cause to be deposited a matter and thing to be sent and delivered by private and commercial interstate carrier, and did knowingly cause to be delivered by such carrier according to the direction thereon, such matter and thing, and aided and abetted such conduct, to wit, MONTANEZ attempted to defraud a credit card issuer by using a credit card, which he believed to be stolen, to purchase merchandise, and caused such merchandise to be delivered by commercial carrier to his residence.

(Title 18, United States Code, Sections 1341, 1349, and 2.)

COUNT THREE
(Aggravated Identity Theft)

From at least in or about 2011, up to and including at least in or about March 2014, in the Southern District of New York and elsewhere, JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, willfully and knowingly did transfer, possess, and use, without lawful authority, a means of identification of another person, during and in relation to a felony violation enumerated in Section 1028A(c), to wit, MONTANEZ used and caused another to use credit cards in the names of others, and traded names of others and their personal identifying information, including driver's license identification numbers, in return for credit and debit cards, during and in relation to the offenses charged in Counts One and Two of this Complaint.

(Title 18, United States Code, Sections 1028A and 2.)

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

1. I am a Special Agent with the FBI and have been employed by the FBI since 2008. I have participated in the investigation of this matter, and I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of documents and recordings, and conversations that I have had with other law enforcement agents and

other individuals. 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 and statements of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

2. Based on my speaking with a sergeant (the "Sergeant") with the New York City Police Department (the "NYPD"), Internal Affairs Bureau (the "NYPD-IAB"), and my review of documents, I have learned that JOHN L. MONTANEZ, a/k/a "Lenny," has been a police officer with the NYPD since in or about 2007. MONTANEZ is currently assigned to the 43rd Precinct in the Bronx, New York.

3. Based on my speaking with the Sergeant and other law enforcement officers, and my review of documents I have learned that in early 2014, a cooperating witness (the "CW"), who has been found to be credible based in part on corroborating evidence, and who has pleaded guilty to state charges principally arising from his participation in credit card fraud, and who has pending state charges against him principally arising from providing a false name to law enforcement in connection with an arrest, and who is cooperating with law enforcement in the hope of obtaining leniency with respect to his state charges, informed law enforcement, in substance and in part, of the following:

a. In or about 2011, CW informed JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, that the CW had a suspended and/or revoked driver's license. In response, MONTANEZ offered to provide the CW with the name and driver's license number of a real person--so that if the CW were stopped by law enforcement, the CW could pretend to be someone else--in return for one or more personal electronic items, which MONTANEZ stated he understood the CW could purchase with fraudulently obtained or stolen credit cards.

b. The CW and JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, traveled together to a retail store in Yonkers, New York. Once there, the CW purchased for MONTANEZ an Apple iPad using a credit card in the name of another person. Subsequently, in return, MONTANEZ gave the CW \$300, and the name, date of birth, and driver's license identification number of another person ("Victim-1"). MONTANEZ explained to the CW that the CW should not have any trouble if the CW were stopped by law enforcement and pretended to be Victim-1, because Victim-1 was a police officer.

c. Thereafter, the CW and JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, met on multiple occasions so that the CW could purchase gasoline for ~~the~~ MONTANEZ using credit cards in the names of other persons. In return, MONTANEZ gave to the CW the name, date of birth, and driver's license identification number of another person ("Victim-2").

d. In or about June 2013, the CW was arrested in Westchester County, New York. The CW provided to law enforcement the name and identifying information of Victim-2.

e. After the CW was arrested, in or about Summer 2013, JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, gave to the CW a new name, date of birth, and driver's license identification number, belonging to another person ("Victim-3").

f. In or about December 2013, during a meeting that took place in the apartment of JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, in the Bronx, New York (the "MONTANEZ Apartment"), the CW gave to MONTANEZ the number of a credit card ("Credit Card Number-1"), belonging to another person, so that MONTANEZ could purchase personal items without paying for them. Subsequently, MONTANEZ informed the CW, in substance and in part, that MONTANEZ made at least one purchase using Credit Card Number-1.

4. Based on my speaking with the Sergeant, my speaking with an Assistant District Attorney in the Bronx County District Attorney's Office, and my review of documents, I have learned of the following, in substance and in part:

a. Victim-1 is a police officer with the NYPD, who has been and is assigned to the same precinct as JOHN L. MONTANEZ, a/k/a "Lenny," the defendant.

b. When the CW was arrested in or about June 2013, the CW provided to law enforcement the name and identifying information of Victim-2. Victim-2 is an individual to whom an NYPD officer who was the partner^{of} JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, gave a summons, prior to the CW being arrested in or about June 2013.

c. Victim-3 is an individual whom JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, queried in NYPD databases in August 2013.

d. Text messages between the CW and MONTANEZ downloaded from the CW's cellphone and/or provided to law enforcement by the CW, review of records of the purchase(s) referred to in paragraph 3(f) above, and an interview with the authorized user of Credit Card Number-1 reflect that JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, purchased merchandise, costing hundreds of dollars, from multiple stores/merchants, using Credit Card Number-1, without the authorization of the authorized user of Credit Card Number-1.

5. Based on my speaking with the Sergeant, and my review of documents, including draft transcripts of consensually-recorded meetings, I have learned of the following, in substance and in part:

a. In or about late February 2014, the CW and JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, met in the MONTANEZ Apartment. During the meeting, which was consensually-recorded, the CW gave to MONTANEZ the number of a credit card ("Credit Card Number-2") so that MONTANEZ could purchase personal items without paying for them. MONTANEZ then attempted to purchase motorcycle parts, worth approximately \$250, over the phone using Credit Card Number-2, but the purchase did not go through, because it appeared that Credit Card Number-2 had been canceled or blocked. The CW informed MONTANEZ that the CW expected to be able to obtain additional credit card numbers. In the same meeting, in connection with discussing the CW looking to obtain from MONTANEZ additional names and/or personal identification information of other persons, MONTANEZ stated, among other things, "I can go into the precinct in plain clothes. It's going to take me a couple of minutes. I can go inside, and do whatever."

b. In or about early March 2014, the CW and JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, met in the MONTANEZ Apartment. During the meeting, which was consensually-recorded, the CW informed MONTANEZ that the CW had obtained for MONTANEZ a pre-paid American Express debit card (the "American Express Card") that could be used to charge up to \$250. The CW explained that the CW obtained the card from an individual ("Individual-1"), who would load the card with double the amount of cash that that Individual-1 was provided, i.e., for \$125 in cash, Individual-1 had loaded the American Express Card with \$250. MONTANEZ responded that that amount was too little to purchase what MONTANEZ wanted--motorcycle parts--so the CW and MONTANEZ should instead just get gasoline for MONTANEZ's car. MONTANEZ explained, in part, "\$250 ain't doing nothing for me." MONTANEZ and the CW then went to a gas station in the Bronx, New York, where they used the American Express Card to purchase gasoline.

c. Approximately two days later, JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, called the CW and stated that he wanted to get more gasoline. Thereafter, MONTANEZ and the CW met. During the meeting, which was consensually recorded, MONTANEZ and the CW went to a gas station in the Bronx, New York, where they used the American Express Card to purchase gasoline.

d. In or about mid-March 2014, the CW and JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, met in the MONTANEZ Apartment. During the meeting, which was consensually-recorded, the CW handed to MONTANEZ a piece of paper with a credit number ("Credit Card Number-3") and address, so that MONTANEZ could purchase personal items without paying for them. The CW stated, in part, that the CW's friend had "stole some credit cards" and that's how the CW obtained Credit Card Number-3. MONTANEZ then attempted to purchase motorcycle parts over the phone using Credit Card Number-3, but the purchase did not go through. In MONTANEZ's presence and at his direction, the CW called another retailer, and purchased motorcycle tires, costing approximately \$250, for delivery to the MONTANEZ Apartment. In response to an inquiry from the retailer, the CW stated aloud that his name was "Jose Mendez," which was neither the CW's name nor a name used by MONTANEZ for the CW. The CW then asked MONTANEZ for the name and personal identification information of another person, as compensation. MONTANEZ responded that he would go to the precinct later to obtain that information for the CW. During the meeting, MONTANEZ also stated, among other things, "I'm not the cop you think I am. I am a piece of shit."

e. On or about the following day, the CW and JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, met at a retail store in the Bronx, New York. During the meeting, which was consensually-recorded, MONTANEZ stated that the CW should focus on getting Visa or MasterCard credit/debit cards and/or credit/debit card numbers for MONTANEZ, as opposed to one issued by American Express, because, in MONTANEZ's view, those would be less likely to be blocked or canceled.

f. Later the same day, the CW and JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, met in the MONTANEZ Apartment. During the meeting, which was consensually-recorded, MONTANEZ sent to the CW a text message containing a photograph of an authentic New York State driver's license in another person's name ("Victim-4"). The CW responded that Victim-4 appeared to be too old for the CW to pretend to be Victim-4. MONTANEZ stated that he would therefore try to get the personal information of another person for the CW, but that, in

his view, the best name for CW to use generally was Victim-1, because, as he'd previously told the CW, Victim-1 was a police officer. MONTANEZ explained, "It's the best, cleanest, guaranteed name you can ever have." He added, "He's one year older than us, one year older than you. . . . It's the best one, bro. I don't know why you don't want to use that one. It's the best. . . . You know, he's good. No warrants. Never been arrested. No points on his license. No nothing. Arrested, suspended, nothing. Clean . . . as a whistle."

6. Based on my speaking with the Sergeant, and my review of documents, I have learned that, on or about March 22, 2014, the motorcycle tires that the CW had ordered, at the direction of JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, as discussed in paragraph 5(d) above, were delivered by Federal Express to the building housing the MONTANEZ Apartment, in the name "Jose Mendez." Soon thereafter, video footage shows that MONTANEZ picked up the delivery, looked inside the package, and took it into the MONTANEZ Apartment.

7. Based on my speaking with the Sergeant, my interview of the CW, and my participation in monitoring of the call, I have learned that, on or about May 22, 2014, the CW called JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, from the Bronx County's District Attorney's office in Bronx, New York. During the call, which was consensually-recorded, MONTANEZ informed the CW, in part, that MONTANEZ had another name and personal identification information for the CW, which the CW could pick up from MONTANEZ at the MONTANEZ Apartment that day.

8. Based on my speaking with the Sergeant, I have learned that later the same day, the CW and JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, met at a barbershop in the Bronx, New York (the "Barbershop"). The CW and MONTANEZ met at the Barbershop, rather than at the MONTANEZ Apartment, because by the time the CW arrived, MONTANEZ had already left the MONTANEZ Apartment. During the meeting, which was consensually-recorded, the CW gave MONTANEZ \$350 in cash. MONTANEZ then provided to the CW a name, driver's license identification number, date of birth, and address of another person ("Victim-5").

WHEREFORE, deponent respectfully requests that a warrant

be issued for the arrest of JOHN L. MONTANEZ, a/k/a "Lenny," the defendant, and that he be imprisoned, or bailed, as the case may be.

SA 

RUSSELL R. LEHNES
Special Agent
FBI

Sworn to before me this
23rd day of May, 2014



THE HONORABLE JAMES L. COTT
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK