



UNITED STATES DISTRICT COURT

for the District of Rhode Island

United States of America

v.

KIPLAGATT STEWART, DOB: 1971

Defendant

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)  
)  
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Case No.

1:14-MJ-122-PAS

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 09/03/2012 in the county of \_\_\_\_\_ in the \_\_\_\_\_ District of Rhode Island, the defendant violated 18 U.S.C. § 1951(a), an offense described as follows:

- a) conspiracy to committ a Hobbs Act Robbery (or conspiracy to interfere with commerce by threats or violence), in violation of 18 U.S.C. § 1951(a);
- (b) interference with commerce by threats or violence, in violation of 18 U.S.C. § 1951(a) (Hobbs Act Robbery);
- (c) use of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c) and Pinkerton v. United States, 328 U.S.C. 640 (1946).

This criminal complaint is based on these facts:

See attached Affidavit of Edward Troiano, Special Agent, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

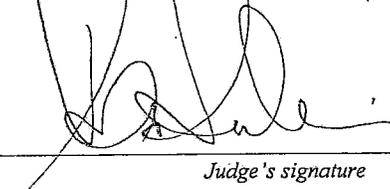
Continued on the attached sheet.

  
Complainant's signature

Edward Troiano, Special Agent - ATF  
Printed name and title

Sworn to before me and signed in my presence.

Date: June 13, 2014

  
Judge's signature

City and state: Providence, Rhode Island

Patricia A. Sullivan, U.S. Magistrate Judge  
Printed name and title

UNITED STATES DISTRICT COURT

for the District of Rhode Island

United States of America v.

ALLEN PROUT, DOB: 1972

Defendant

Case No. 1:14-MJ-1219-AS

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 09/03/2012 in the county of in the District of Rhode Island, the defendant violated 18 U.S.C. § 1951(a), an offense described as follows:

- (a) conspiracy to commit a Hobbs Act Robbery (or conspiracy to interfere with commerce by threats or violence), in violation of 18 U.S.C. § 1951(a);
(b) interference with commerce by threats or violence, in violation of 18 U.S.C. § 1951(a) (Hobbs Act Robbery);
(c) use of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c) and Pinkerton v. United States, 328 U.S.C. 640 (1946).

This criminal complaint is based on these facts:

See attached Affidavit of Edward Troiano, Special Agent, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

Continued on the attached sheet.

Signature of Edward Troiano

Complainant's signature

Edward Troiano, Special Agent - ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: June 13, 2014

Signature of Patricia A. Sullivan

Judge's signature

City and state: Providence, Rhode Island

Patricia A. Sullivan, U.S. Magistrate Judge

Printed name and title

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY:  INFORMATION  INDICTMENT  COMPLAINT

CASE NO. \_\_\_\_\_

Matter Sealed:  Juvenile  Other than Juvenile  
 Pre-Indictment Plea  Superseding  Defendant Added  
 Indictment  Charges/Counts Added  
 Information

USA vs.  
Defendant: ALLEN PROUT  
Address: [REDACTED]  
Providence, RI 02901

Name of District Court, and/or Judge/Magistrate Location (City)  
UNITED STATES DISTRICT COURT RHODE ISLAND  
DISTRICT OF RHODE ISLAND Divisional Office

Name and Office of Person Furnishing Information on THIS FORM  
PETER F. NERONHA  
 U.S. Atty  Other U.S. Agency  
Phone No. (401) 709-5039  
Name of Asst. U.S. Attorney (if assigned)  
Milind M. Shah

Interpreter Required Dialect: \_\_\_\_\_

Birth Date [REDACTED] 1972  Male  Alien  
 Female (if applicable)

Social Security Number \_\_\_\_\_

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)  
Bureau of Alcohol, Tobacco, Firearms and Explosives

person is awaiting trial in another Federal or State Court (give name of court)  
 this person/proceeding transferred from another district per (circle one) FRCP 20, 21 or 40. Show District  
 this is a reprosecution of charges previously dismissed which were dismissed on motion of:  
 U.S. Atty  Defense  
 this prosecution relates to a pending case involving this same defendant. (Notice of Related Case must still be filed with the Clerk.)  
 prior proceedings or appearance(s) before U.S. Magistrate Judge regarding this defendant were recorded under

SHOW DOCKET NO.  
13-CR-00174M

MAG. JUDGE CASE NO.  
14-MJ-00115-PAS

Place of offense RHODE ISLAND County

DEFENDANT

Issue:  Warrant  Summons

Location Status:  
Arrest Date \_\_\_\_\_ or Date Transferred to Federal Custody \_\_\_\_\_

Currently in Federal Custody  
 Currently in State Custody  
 Writ Required  
 Currently on bond  
 Fugitive

Defense Counsel (if any):  
 FPD  CJA  RET'D  
 Appointed on Target Letter

This report amends AO 257 previously submitted

OFFENSE CHARGED - U.S.C. CITATION - STATUTORY MAXIMUM PENALTIES - ADDITIONAL INFORMATION OR COMMENTS

Total # of Counts \_\_\_\_\_

Set	Title & Section/Offense Level (Petty = 1 / Misdemeanor = 3 / Felony = 4)	Description of Offense Charged	Felony/Misd.
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor

## AFFIDAVIT

I, Edward J. Troiano, being duly sworn, deposes and states:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"). I am assigned to ATF's Providence office. I have been a Special Agent with ATF for the past 20 years. Based on my training and experience as an ATF Special Agent, I am familiar with federal firearms and narcotics laws as well as the Hobbs Act, which criminalizes certain types of robberies and robbery conspiracies. As an ATF Special Agent, I have been involved, either as lead agent or as a member of an investigative team, in numerous Hobbs Act, firearms, and narcotics investigations.

2. This affidavit is submitted in support of an arrest warrant and criminal complaint charging Kiplagatt Stewart (born in 1971) ("Stewart") and Allen Prout (born in 1972) ("Prout") with

- a. interference with commerce by threats or violence, in violation of 18 U.S.C. § 1951(a) (Hobbs Act robbery),
- b. conspiracy to interfere with commerce by threats or violence, in violation of 18 U.S.C. § 1951(a) (conspiracy to commit Hobbs Act robbery),
- c. use of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c) and *Pinkerton v. United States*, 328 U.S.C. 640 (1946).

3. The information contained in this affidavit relates to ATF's investigation of Stewart and Prout and comes from my personal observations, my training and experience, and information obtained from other law enforcement agents and witnesses. This affidavit does not set forth all of my knowledge about this matter or all information known to law enforcement agents about this matter.

### Investigation

4. On September 3, 2012, in the early evening, the West Warwick Police Department received a report of shots having been fired in the vicinity of 225 Providence Street in West Warwick. Shortly thereafter, West Warwick police initiated an investigation and later ATF joined that investigation. As described below, over time the investigation revealed, among

other things, that there is probable cause to believe that Stewart and Prout planned and committed a robbery and that planned or actual robbery affected commerce:

- Alfredo Ortiz lived in the house at 225 Providence Street, and he and others had arranged to meet Stewart on September 3 at the house to purchase a quantity of oxycodone pills from Jennifer Tierney;
- soon after Jennifer Tierney came to Ortiz's house, Stewart and Prout arrived, and Prout had a gun;
- Stewart and Prout assaulted and threatened Ortiz and then stole from him the cash, approximately \$14,000, that he had gathered for the oxycodone purchase;
- after stealing the cash, Stewart and Prout fled the house, and Ortiz retrieved a gun from inside the house and shot and hit Stewart, but Stewart and Prout managed to leave the scene in a car;
- Ortiz, in arranging what he expected would be an oxycodone transaction, was acting as a middleman in that he had acquired the money for the purchase from another person and planned to pass along the purchased oxycodone to that other person;
- Stewart and Prout in arranging and committing this robbery used cellular telephones;
- Ortiz rented the home in which the robbery occurred; and
- Ortiz owns a small business that purchased products from places outside Rhode Island, and the injuries he suffered from the robbery temporarily limited his ability to work.

The paragraphs below describe portions of the investigation in greater detail.

5. On September 3, 2012, in response to the report of shots having been fired, West Warwick police were dispatched to the area of 225 Providence Street. At the home at that address, officers found Alfredo Ortiz. From the kitchen counter in the house, police retrieved a .380 caliber Smith and Wesson handgun. On the exterior of the house, a few feet from the front steps, officers found a .380 caliber shell casing. Police also found Jennifer Tierney and her daughter in the vicinity of 225 Providence Street. Both Ortiz and Tierney's cellular telephones were seized by police.

6. Police spoke to Ortiz at the scene and then spoke to him again at West Warwick police headquarters after he had been advised of his rights. Ortiz told police, among other things, that

- he had invited Jennifer Tierney and her daughter to his home at 225 Providence Street for a playdate with his children,
- after Tierney and her daughter arrived, two men entered his house, and he knew one of them by the nickname "K-9,"
- K-9 directed the other male, and that other male held a small silver semi-automatic handgun to Ortiz's head, and K-9 punched Ortiz in the face,
- the men told Ortiz that they knew he had money and demanded to know where it was;
- Ortiz led the men to approximately \$14,000 in cash in the house, and with cash in hand, the men fled the house;
- Ortiz retrieve a .380 caliber Smith and Wesson handgun from inside the house and shot K-9 in the butt as he was running across the front yard; and
- the men drove off in an older model black Infinity sedan.

At police headquarters, Ortiz eventually explained that he had set up a drug deal between Tierney and a woman who had been waiting upstairs with his children in a bedroom, and that that woman had fled as the robbery was unfolding. Ortiz identified by name the woman who fled. For the purposes of this affidavit, the woman is identified with the fictitious name "Jane Doe."

7. At police headquarters, Ortiz was presented with a photo array, and he identified the photograph of Kiplagatt Stewart as the person he knew as "K-9." I am familiar with Stewart. I have met and interviewed him on multiple occasions and know that his nickname is "K-9."

8. By September 7, 2012, West Warwick police had obtained a warrant to arrest Stewart, and on that day, he was arrested at 132 Oakland Avenue in Providence without incident. At the time of his arrest, police found a cellular telephone on his person and seized it. Police subsequently obtained a warrant to search Stewart's body for evidence of a gunshot wound and presented to warrant to Stewart. Stewart was then asked whether he had a gunshot wound; he replied that he did. He pulled down his pants and showed officers what appeared to be a gunshot wound in the area of his right hip. Subsequent x-rays of that area showed that

an object consistent with a bullet or bullet slug lodged in Stewart's body in the area of the wound.

9. On September 11, 2012, an anonymous caller told West Warwick police that the person who accompanied Stewart in the home invasion was Allen Prout. The caller also said that Prout lived at 51 Tanner Street in Providence, Rhode Island with his mother, and that he was presently hiding out with his girlfriend, "Pam Sylvester," of Cranston, Rhode Island. A check of address records indicated that an "Allen D. Prout," who had a criminal history, resided at 51 Tanner Street, and other address records showed that a Palmida Sylvester resided at 10 Oak Street in Cranston, Rhode Island.

10. On October 11, 2012, I, along with other law enforcement agents, met Ortiz. He was presented with another photo array and identified the photograph of Prout as the person who accompanied Stewart in the home invasion.

11. By October 16, 2012, warrants to search 10 Oak Street in Cranston and arrest Prout were obtained and executed. Prout was arrested at 10 Oak Street on that day, and police encountered Palmida Sylvester in the house. In conversation with police, Ms. Sylvester said that she had recently sold a dark green 1998 Infiniti i30 sedan to a person she knew only as "Swift" and that an add for the car had been placed on Craigslist. Ms. Sylvester also stated that Prout had a cellular telephone with call number 401-346-4353.

12. I checked records associated with Craigslist and found that a 1998 Infiniti i30 had been listed for sale. The listing stated, "Infinity i30 for sale need gone today...." I check records maintained by the Rhode Island Department of Motor Vehicles and found that 1998 Infiniti listed as belonging to Ms. Sylvester had been sold to another person on September 20, 2012. I contacted the buyer and arranged through him to have the Infiniti i30 examined. Traces of blood were found in the car, and samples of that blood were taken and the DNA from that blood was compared to a known exemplar of Stewart's DNA, which had earlier been obtained through a buccal swab. The comparison showed that the DNA from the blood taken from the Infiniti i30 matched Stewart's DNA. Furthermore, the driver or user of the car, advised me that

as he was cleaning the car after it had been purchased, he found inside the car a hospital pass bearing the name "Alan Prout." The driver or user of the car gave me the document that he said he found, and it was a Women and Infants Hospital visitors pass bearing the name "Alan Prout" and dated April 22, 2012.

13. Also on October 16, 2012, a search warrant was executed at 51 Tanner Street in Providence. Police encounter Diane Prout at that address and she identified herself as Allen Prout mother. She also told police that she had an account with Sprint and paid for three separate cellular telephone lines, including a line with call number 401-346-4353. Ms. Prout specified that that line was used by her son, Allen Prout.

14. Toll records for the cellular telephone found on Stewart at the time of his arrest were obtained by Federal subpoena. Those records indicate that from 4:49 pm to 6:15 pm on September 3, 2012, Stewart's cellular phone incoming or outgoing calls to only two number: 401-644-6983, which was the call number for Tierney's cellular telephone, and 401-346-4353, which was the call number for Prout's cellular telephone.

15. Pursuant to a federal search warrant, the data on Stewart's cellular telephone was examined. Tierney's cellular number was saved under "J" and Prout's cellular number was saved under "Rain." Text messages to Tierney's number were also recovered from Stewart's cellular telephone. One outgoing message from Stewart's telephone to Tierney's telephone states, "I did not know that was going to happen I got shot babe." One outgoing message message from Stewart's telephone to Prout's telephone states, "Im cool just kicking it I done heeled up like wolverein."

16. On November 16, 2012, I, along with other law enforcement agents, met Ortiz, who was accompanied by counsel. Ortiz provided the following additional details, among other details, about Jennifer Tierney, Jane Doe, the oxycodone transaction he had tried to arranged, and the home invasion:

- Ortiz had, prior to the home invasion, known Tierney for approximately 4 years, and knew that she knew a person who

went by the name "K-9," the person Ortiz identified in photographs as Stewart,

- Ortiz had, in the past, bought oxycodone pills from Tierney,
- Several months prior to the home invasion, Jane Doe had asked Ortiz whether he could obtain 1000 oxycodone pills for her, and in turn, Ortiz contacted Tierney to inquire whether she could sell that quantity of pills to Jane Doe,
- Tierney had, in turn, told Ortiz that she could have that amount supplied,
- on September 3, 2012, he arranged for Jane Doe to arrive at his home with the money for the pills and had arranged to have Tierney arrive with the pills,
- Jane Doe arrived with the money and brought the money into Ortiz's home,
- 45 minutes to an hour after Jane Doe arrived, Ortiz went to his back door, after he heard cars arrive, and opened the door for Tierney,
- Tierney entered and shortly thereafter, two men, the persons Ortiz identified in photographs as Stewart and Prout, entered the house,
- at the time Tierney, Stewart, and Prout all entered the house, Jane Doe was upstairs in a bedroom with Ortiz's children,
- Prout was carrying a gun, Stewart punched Ortiz, and Prout pointed a gun at Ortiz and said, "You know what time it is,"
- Tierney ran out of the house, and Stewart grabbed money from a table on the ground floor of the house, all money that Jane Doe had brought,
- at gun point, Prout led Ortiz upstairs, and Ortiz directed Prout to a location where Ortiz had stored the remainder of the money Jane Doe had brought,
- shortly thereafter, Prout left and Ortiz retrieved his gun and run downstairs,
- once downstairs, Ortiz opened his front door, and saw Stewart and fired and hit Stewart, and
- Stewart, though hit, hobbled to a dark Infinity sedan, and he and Prout drove off.

17. I located Jane Doe, and she told me that she had been at Ortiz's home on September 3, 2012. She explained that she had brought money in anticipation of acquiring oxycodone pills from Tierney at Ortiz's home. She also explained that as Tierney arrived, Ortiz had Jane Doe wait upstairs in a bedroom with his children. Jane Doe said that she had brought

approximately \$15,000 to the house but that about a \$1000 of it was to be kept as payment for her and others for arranging the purchase of the pills. Jane Doe explained that she was purchasing the pills at the behest of others. Jane Doe explained that from upstairs, she heard a door open downstairs and then soon after heard Ortiz screaming, heard a slapping sound, and then later heard a gunshot. As she heard these sounds, she and Ortiz children hid under a bed. Sometime after the gunshot, Ortiz came to the bedroom in which she and the children were hiding and explained that the money had been stolen.

18. Based on my training and experience, discussion with other knowledgeable agents, and research into the manufacturers of oxycodone pills, I know that oxycodone pills are manufactured outside Rhode Island. Therefore, the natural consequence of any effort to obtain oxycodone would involve the movement of oxycodone from outside Rhode Island into Rhode Island. In the course of my interactions with Ortiz, he advised that he owned a cleaning business that in its ordinary operations bought goods from other states and that following the robbery his work schedule and management of his business was disrupted. Ortiz also advised me that he rented his home at 225 Providence Street in West Warwick.

#### Conclusion

19. Based on the information in the aforementioned paragraphs, I believe there is probable cause to believe that Stewart and Prout conspired to rob Ortiz and others of money and did rob Ortiz and others of money. I also believe that there is probable cause to believe that Ortiz and Jane Done were engaged in an effort to obtain oxycodone, an enterprise the natural consequence of which would have been the movement of certain articles or commodities in interstate commerce and that therefore Stewart and Prout's robbery and robbery conspiracy in some degree obstructed, delayed, or affected commerce. Similarly, I believe that by virtue of Stewart and Prout using their cellular telephones prior to the home invasion, by virtue of the affect the robbery had on Ortiz's business that conducts some interstate transactions, and by virtue of the robbery having occurred in a home that is rented, there is probable cause to believe that the robbery in some degree obstructed, delayed, or affected commerce. Finally, I believe

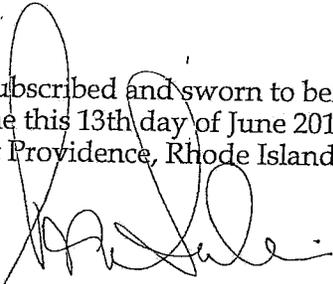
that there is probable cause to believe that Prout used a firearm during and in relation to the  
aforementioned Hobbs Act robbery, which is a crime of violence and that under the  
circumstances there is probable cause to believe that liability for that offense is shared, under  
*United States v. Pinkerton*, by Stewart.



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Edward J. Troiano  
Special Agent  
Bureau of Alcohol, Tobacco and Firearms

Subscribed and sworn to before  
me this 13th day of June 2014,  
at Providence, Rhode Island



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PATRICIA A. SULLIVAN  
United States Magistrate Judge  
District of Rhode Island