

AL:MCM/JMS/JH
F. #2016R00170

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK

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U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

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UNITED STATES OF AMERICA

SUPERSEDING
INDICTMENT

- against -

FRANK SMITH,
also known as
“Fresh,” “Freez” and
“Freezee,” and
NABIU MANSARAY,
also known as
“Monchichi” and “Chich,”

Cr. No. 16-346 (S-1) (FB)
(T. 18, U.S.C., §§ 924(d)(1), 924(j)(1),
1959(a)(1), 1962(c), 1963, 1963(a),
1963(m), 2 and 3551 et seq.; T. 21, U.S.C.,
§ 853(p); T. 28, U.S.C., § 2461(c))

Defendants.

-----X

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Superseding Indictment (the “Indictment”), unless otherwise indicated:

The Enterprise

1. “Rival Impact,” also known as “R.I.,” the “Mermaid Boys,” “Mermaids,” and the “33rd Street Crew” (hereinafter “Rival Impact” or “enterprise”), was a gang comprised primarily of individuals residing in and around Brooklyn, New York; in particular the Coney Island area of Brooklyn, and elsewhere. Members and associates of the enterprise engaged in drug trafficking and acts of violence, including murder, attempted murder, kidnapping, robbery and assault, as well as other crimes.

2. Rival Impact, including its leadership, membership and associates, constituted an “enterprise” as defined by Title 18, United States Code, Sections 1959(b)(2) and 1961(4), that is, a group of individuals associated in fact that engaged in, and the activities of which affected, interstate and foreign commerce. The enterprise constituted an ongoing organization whose members functioned as a continuing unit for the common purpose of achieving the objectives of the enterprise.

Purposes of the Enterprise

3. The purposes of the enterprise included the following:

- (a) Enriching the members and associates of the enterprise through criminal activity, including drug trafficking and robbery;
- (b) Promoting and enhancing the prestige, reputation and position of the enterprise with respect to rival criminal organizations;
- (c) Preserving and protecting the power, territory and criminal ventures of the enterprise through the use of intimidation, threats of violence and acts of violence, including murder, attempted murder, robbery and assault; and
- (d) Keeping victims and rivals in fear of the enterprise and its members and associates.

Means and Methods of the Enterprise

4. Among the means and methods by which the defendants and their associates conducted and participated in the conduct of the affairs of the enterprise were the following:

- (a) Members of the enterprise and their associates used, attempted

to use and conspired to use drug trafficking and robbery as a means of obtaining money;

(b) Members of the enterprise and their associates committed, attempted to commit and threatened to commit acts of violence, including murder, attempted murder, robbery and assault, to enhance the enterprise's prestige and protect and expand the enterprise's criminal operations; and

(c) Members of the enterprise and their associates used and threatened to use physical violence against various individuals, including members of rival criminal organizations.

The Defendants.

5. At all times relevant to this Indictment, the defendant FRANK SMITH, also known as "Fresh," "Freez" and "Freezee," participated in the operation and management of the enterprise and was a member of the enterprise.

6. At all times relevant to this Indictment, the defendant NABIU MANSARAY, also known as "Monchichi" and "Chich," participated in the operation of the enterprise and was a member of the enterprise.

COUNT ONE
(Racketeering)

7. The allegations contained in paragraphs one through six are realleged and incorporated as if fully set forth in this paragraph.

8. In or about and between January 2000 and January 2014, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants FRANK SMITH, also known as "Fresh," "Freez" and "Freezee," and NABIU MANSARAY, also known as "Monchichi" and "Chich," together with others, being persons

employed by and associated with Rival Impact, an enterprise that engaged in, and the activities of which affected, interstate and foreign commerce, did knowingly and intentionally conduct and participate, directly and indirectly, in the conduct of the affairs of that enterprise through a pattern of racketeering activity, as that term is defined in Title 18, United States Code, Sections 1961(1) and 1961(5), consisting of the racketeering acts set forth below.

RACKETEERING ACT ONE
(Heroin Distribution Conspiracy)

9. In or about and between January 2000 and January 2014, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants FRANK SMITH and NABIU MANSARAY, together with others, did knowingly and intentionally conspire to distribute and possess with intent to distribute a substance containing heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 846 and 841(b)(1)(C).

RACKETEERING ACT TWO
(Possession of Heroin with Intent to Distribute)

10. On or about August 2, 2002, within the Eastern District of New York, the defendant FRANK SMITH, together with others, did knowingly and intentionally possess with intent to distribute a controlled substance, which offense involved a substance containing heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

RACKETEERING ACT THREE
(Possession of Heroin with Intent to Distribute)

11. On or about June 12, 2011, within the Eastern District of New York, the defendant FRANK SMITH, together with others, did knowingly and intentionally possess with intent to distribute a controlled substance, which offense involved a substance containing heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

RACKETEERING ACT FOUR
(Possession of Cocaine Base and Heroin with Intent to Distribute)

12. On or about August 20, 2011, within the Eastern District of New York, the defendant FRANK SMITH, together with others, did knowingly and intentionally possess with intent to distribute a controlled substance, which offense involved (a) a substance containing cocaine base, a Schedule II controlled substance, and (b) a substance containing heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

RACKETEERING ACT FIVE
(Possession of Heroin with Intent to Distribute)

13. On or about September 5, 2011, within the Eastern District of New York, the defendant FRANK SMITH, together with others, did knowingly and intentionally possess with intent to distribute a controlled substance, which offense involved a substance containing heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

RACKETEERING ACT SIX
(Conspiracy to Commit Murder – Members of Thirty-O)

14. In or about and between June 2009 and March 2011, both dates being

approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants FRANK SMITH and NABIU MANSARAY, together with others, did knowingly and intentionally conspire to cause the death of one or more other persons, to wit: members of the rival crew "Thirty-O," also known as the "30th Street Crew" and the "Coney Island Boys," including Terrance Serrano, also known as "Kwan" and "KK," and Rashawn Washington, also known as "Dollar," "Dollars" and "Ra Dollar," in violation of New York Penal Law Sections 125.25(1) and 105.15.

RACKETEERING ACT SEVEN
(Murder of Terrance Serrano)

15. On or about October 4, 2010, within the Eastern District of New York and elsewhere, the defendants FRANK SMITH and NABIU MANSARAY, together with others, did knowingly and intentionally cause the death of Terrance Serrano, also known as "Kwan" and "KK," with intent to cause his death, in violation of New York Penal Law Sections 125.25(1) and 20.00.

RACKETEERING ACT EIGHT
(Murder of Rashawn Washington)

16. On or about October 4, 2010, within the Eastern District of New York and elsewhere, the defendants FRANK SMITH and NABIU MANSARAY, together with others, did knowingly and intentionally cause the death of Rashawn Washington, also known as "Dollar," "Dollars" and "Ra Dollar," with intent to cause his death, in violation of New York Penal Law Sections 125.25(1) and 20.00.

(Title 18, United States Code, Sections 1962(c), 1963, 2 and 3551 et seq.)

COUNT TWO

(Murder of Terrance Serrano in Aid of Racketeering)

17. At all times relevant to this Indictment, Rival Impact, as more fully described in paragraphs one through six, which are realleged and incorporated as if fully set forth in this paragraph, including its leadership, members and associates, constituted an “enterprise” as defined in Title 18, United States Code, Section 1959(b)(2), that is, a group of individuals associated in fact that was engaged in, and the activities of which affected, interstate and foreign commerce. The enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise.

18. At all times relevant to this Indictment, Rival Impact, through its members and associates, engaged in racketeering activity, as defined in Title 18, United States Code, Sections 1959(b)(1) and 1961(1), that is, acts and threats involving murder and robbery that are chargeable under New York Penal Law and punishable by imprisonment for more than one year, and offenses involving drug trafficking, punishable under Title 21, United States Code, Sections 841 and 846

19. On or about October 4, 2010, within the Eastern District of New York and elsewhere, the defendants FRANK SMITH, also known as “Fresh,” “Freez” and “Freezee,” and NABIU MANSARAY, also known as “Monchichi” and “Chich,” together with others, for the purpose of maintaining and increasing position in Rival Impact, an enterprise engaged in racketeering, did knowingly and intentionally murder Terrance

Serrano, also known as “Kwan” and “KK,” in violation of New York Penal Law Sections 125.25(1) and 20.00.

(Title 18, United States Code, Sections 1959(a)(1), 2 and 3551 et seq.)

COUNT THREE

(Murder of Rashawn Washington in Aid of Racketeering)

20. The allegations contained in paragraphs 17 and 18 are realleged and incorporated as if fully set forth in this paragraph.

21. On or about October 4, 2010, within the Eastern District of New York and elsewhere, the defendants FRANK SMITH, also known as “Fresh,” “Freez” and “Freezee,” and NABIU MANSARAY, also known as “Monchichi” and “Chich,” together with others, for the purpose of maintaining and increasing position in Rival Impact, an enterprise engaged in racketeering, did knowingly and intentionally murder Rashawn Washington, also known as “Dollar,” “Dollars” and “Ra Dollar,” in violation of New York Penal Law Sections 125.25(1) and 20.00.

(Title 18, United States Code, Sections 1959(a)(1), 2 and 3551 et seq.)

COUNT FOUR

(Causing the Death of Terrance Serrano Through Use of a Firearm)

22. On or about October 4, 2010, within the Eastern District of New York and elsewhere, the defendants FRANK SMITH, also known as “Fresh,” “Freez” and “Freezee,” and NABIU MANSARAY, also known as “Monchichi” and “Chich,” together with others, in the course of a violation of Title 18, United States Code, Section 924(c), to wit: the use of a firearm during and in relation to one or more drug trafficking crimes and crimes of violence, to wit: the crimes charged in Counts One and Two, did knowingly and intentionally cause the death of a person through the use of a firearm, which killing is murder

as defined by Title 18, United States Code, Section 1111(a), in that SMITH and MANSARAY, with malice aforethought, did unlawfully kill, and cause the killing of, Terrance Serrano, also known as “Kwan” and “KK.”

(Title 18, United States Code, Sections 924(j)(1), 2 and 3551 et seq.)

COUNT FIVE

(Causing the Death of Rashawn Washington Through Use of a Firearm)

23. On or about October 4, 2010, within the Eastern District of New York and elsewhere, the defendants FRANK SMITH, also known as “Fresh,” “Freez” and “Freezee,” and NABIU MANSARAY, also known as “Monchichi” and “Chich,” together with others, in the course of a violation of Title 18, United States Code, Section 924(c), to wit: the use of a firearm during and in relation to one or more drug trafficking crimes and crimes of violence, to wit: the crimes charged in Counts One and Three, did knowingly and intentionally cause the death of a person through the use of a firearm, which killing is murder as defined by Title 18, United States Code, Section 1111(a), in that SMITH and MANSARAY, with malice aforethought, did unlawfully kill, and cause the killing of, Rashawn Washington, also known as “Dollar,” “Dollars,” and “Ra Dollar.”

(Title 18, United States Code, Sections 924(j)(1), 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION AS TO COUNT ONE

24. The United States hereby gives notice to the defendants that, upon their conviction of the offense charged in Count One, the government will seek forfeiture in accordance with Title 18, United States Code, Section 1963(a), which requires any person convicted of any such offense to forfeit: (a) any interest the person acquired or maintained in violation of Title 18, United States Code, Section 1962; (b) any interest in, security of,

claims against, or property or contractual right of any kind affording a source of influence over, any enterprise which the person has established, operated, controlled, conducted or participated in the conduct of, in violation of Title 18, United States Code, Section 1962; and (c) any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity in violation of Title 18, United States Code, Section 1962.

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

- (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 18, United States Code, Section 1963(m), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 1963(a) and 1963(m))

**CRIMINAL FORFEITURE ALLEGATION
AS TO COUNTS FOUR AND FIVE**

26. The United States hereby gives notice to the defendants that, upon their conviction of either of the offenses charged in Counts Four and Five, the government will seek forfeiture in accordance with Title 18, United States Code, Section 924(d)(1) and Title

28, United States Code, Section 2461(c), which require the forfeiture of any firearm or ammunition involved in or used in any knowing violation of Title 18, United States Code, Section 924.

27. If any of the above described forfeitable property, as a result of any act or omission of the defendants:

- (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, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 924(d)(1); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

A TRUE BILL

FOREPERSON

BRIDGET M. ROHDE
ACTING UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

F. #2016R00170
FORM DBD-34
JUN. 85

No. _____

UNITED STATES DISTRICT COURT

EASTERN District of NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

FRANK SMITH and NABIU MANSARAY,

Defendants.

SUPERSEDING INDICTMENT

(T. 18, U.S.C., §§ 924(d)(1), 924(j)(1), 1959(a)(1), 1962(c), 1963, 1963(a), 1963(m), 2 and 3551 et seq.; T. 21, U.S.C., § 853(p); T. 28, U.S.C., § 2461(c).)

A true bill.

Foreperson

Filed in open court this _____ *day,*

of _____ *A.D. 20* _____

Clerk

Bail, \$ _____

*Maria Cruz Melendez/Jennifer M. Sasso/Josh Hafetz, Assistant U.S. Attorney
(718) 254-6408/6402/6290*