

SA:NEM/RTP
F. #2017R00089

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

JOSE GONZALEZ,
also known as "Flaco,"
KEVIN PANIAGUA,
also known as "Stomper," and
FRANCISCO RAMOS,

Defendants.

AFFIDAVIT AND COMPLAINT IN
SUPPORT OF APPLICATION FOR
ARREST WARRANT

(18 U.S.C. §§ 1959(a)(3), 1959(a)(5) and
2)

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EASTERN DISTRICT OF NEW YORK, SS:

ANTHONY E. WILLETT, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

On or about October 23, 2016, within the Eastern District of New York, the defendants JOSE GONZALEZ, also known as "Flaco," KEVIN PANIAGUA, also known as "Stomper," and FRANCISCO RAMOS, together with others, for the purpose of gaining entrance to and maintaining and increasing position in La Mara Salvatrucha, an enterprise engaged in racketeering activity, did knowingly and intentionally commit (1) assault with a

dangerous weapon and (2) assault resulting in serious bodily injury of John Doe, an individual whose identity is known to the undersigned, in violation of New York Penal Law Sections 120.05 and 20.

(Title 18, United States Code, Sections 1959(a)(3) and 2)

On or about October 23, 2016, within the Eastern District of New York and elsewhere, the defendants JOSE GONZALEZ, also known as “Flaco,” KEVIN PANIAGUA, also known as “Stomper,” and FRANCISCO RAMOS, together with others, for the purpose of gaining entrance to and maintaining and increasing position in La Mara Salvatrucha, an enterprise engaged in racketeering activity, did knowingly and intentionally attempt to murder an individual, to wit: John Doe, in violation of New York Penal Law Section 125.25 and 105.15.

(Title 18, United States Code, Sections 1959(a)(5) and 2)

On or about October 23, 2016, within the Eastern District of New York and elsewhere, the defendants JOSE GONZALEZ, also known as “Flaco,” KEVIN PANIAGUA, also known as “Stomper,” and FRANCISCO RAMOS, together with others, did knowingly and intentionally discharge a firearm during and in relation to one or more crimes of violence, to wit: the crimes set forth above.

(Title 18, United States Code, Sections 924(c)(1)(A)(i), 924(c)(1)(A)(iii), 2 and 3551 et seq.)

The source of your deponent’s information and the grounds for his belief are as follows:¹

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

1. I have been a Special Agent with the Federal Bureau of Investigation (“FBI”) for more than seventeen years. I am currently assigned to Squad C-13 in the New York Field Office, Brooklyn/Queens Resident Agency, where I investigate gangs, narcotics trafficking, firearms trafficking, fraud and other offenses. During my tenure working for the FBI, I have participated in numerous investigations of criminal enterprises. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendants’ criminal history records; and from reports of other law enforcement officers involved in the investigation.

The Enterprise

2. Based on information provided through the debriefing of cooperating witnesses and confidential informants, reviewing electronic surveillance, and speaking with other law enforcement agents, among others, I am aware of the following facts, among others, about La Mara Salvatrucha, also known as the “MS-13,” (hereinafter the “MS-13” or the “enterprise”).

3. MS-13 was a street gang comprised primarily of immigrants from Central America, with members located throughout Queens, New York, Long Island, New York, and elsewhere, divided into local chapters, or “cliques.” MS-13, including its leadership, members and associates, constituted an “enterprise” as defined by 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.

4. MS-13, 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, robbery and narcotics trafficking that are chargeable under New York Penal Law and punishable by imprisonment for more than one year, acts indictable under Title 18, United States Code, Section 1512 (witness tampering) and offenses involving narcotics trafficking punishable under Title 21, United States Code, Sections 841 and 846.

5. MS-13 routinely held meetings to plan criminal activity and members paid dues into a treasury. The treasury funds were used to purchase firearms, ammunition and to promote other illegal activity. Participation in criminal activity by a member, especially violence directed at rival gangs or MS-13 members or associates believed to have violated the gang's rules, increased the respect afforded to the member and could result in promotion to a leadership position. Members of the MS-13 sometimes signified their membership with the colors of blue and white, and with graffiti and tattoos reading, among other things, "13," "MS" and "MARA SALVATRUCHA," frequently written in gothic lettering. MS-13 members are frequently involved in violent altercations with members of rival gangs, including the 18th Street gang.

Purposes of the Enterprise

6. The purposes of the enterprise included the following:
- a. Promoting and enhancing the prestige, reputation and position of the enterprise with respect to rival criminal organizations.
 - b. 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 assault and murder.

c. Keeping victims and rivals in fear of the enterprise and its members and associates.

d. Enriching the members and associates of the enterprise through criminal activity, including robbery and narcotics trafficking.

e. Ensuring discipline within the enterprise and compliance with the enterprise's rules by members and associates through threats of violence and acts of violence.

Means and Methods of the Enterprise

7. Among the means and methods by which members of MS-13 and their associates conducted and participated in the conduct of the affairs of the enterprise were the following:

a. Members of MS-13 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.

b. Members of MS-13 and their associates used and threatened to use physical violence against various individuals, including members of rival criminal organizations and against MS-13 members or associates believed to have violated the enterprise's rules.

c. Members of MS-13 and their associates used, attempted to use and conspired to use robbery and narcotics trafficking as means of obtaining money.

The Defendants

8. The defendants JOSE GONZALEZ, also known as “Flaco,” and KEVIN PANIAGUA, also known as “Stomper,” were members of the MS-13. The defendant FRANCISCO RAMOS was an associate of the MS-13.

Assault and Attempt to Murder the Victim

9. Based on my training, experience and participation in the investigation, I believe that the 18th Street gang is a gang comprised primarily of immigrants from Central America, with members located throughout Queens, New York and elsewhere, divided into local chapters or “cliques.” I believe that MS-13 and 18th Street have an ongoing rivalry that has resulted in various historical acts of violence.

10. On or about October 23, 2016, in the vicinity of 179th Street and 90th Avenue in Queens, New York, the defendants, GONZALEZ, PANIAGUA and RAMOS, and a fourth coconspirator (“CC-1”) participated in a brutal attack on an individual (the “victim” or “John Doe”), known to the undersigned. Specifically, evidence shows that RAMOS drove GONZALEZ, PANIAGUA and CC-1 to the location where they carried out the assault. GONZALEZ, PANIAGUA and CC-1 punched and kicked the victim in the face and the body. During the attack, PANIAGUA removed a firearm from his person, shot the victim, and attempted to shoot him again in the head as he lay on the ground.

11. Based on records obtained from a hospital that treated the victim, as a result of the gunshot wound, the victim was paralyzed from the neck down.

12. Surveillance footage recovered from the vicinity of 179th Street and 90th Avenue in Queens, depicts GONZALEZ, PANIAGUA and CC-1 getting out of a vehicle and loitering on the street. The video further depicts the victim and at least three other individuals

walking east on 90th Avenue, between 179th Street and 180th Street. Thereafter, GONZALEZ, PANIAGUA and CC-1 can be observed verbally confronting and physically beating the victim. Shortly after the attack began, an individual who appears to be PANIAGUA can be observed producing a firearm and discharging it in the direction of the victim's head from close range. Thereafter, that individual (PANIAGUA) can be observed walking closer to the victim, who had fallen to the ground and attempting to shoot the victim again, at which time the gun appeared to malfunction.

13. On October 27, 2016, GONZALEZ was arrested by members of the New York City Police Department (“NYPD”) for the above-described crime.² Following his arrest, GONZALEZ waived his Miranda rights and agreed to be interviewed. During an interview, which was video recorded, law enforcement showed GONZALEZ a photograph of the victim and asked if GONZALEZ knew the victim. GONZALEZ responded, in substance and in part, that he believed that the victim was a member of the 18th Street gang and that GONZALEZ had had a prior confrontation with the victim, and a separate confrontation with members of the 18th Street gang. GONZALEZ indicated that approximately one month earlier, the victim and his 18th Street associates brandished a knife at GONZALEZ. GONZALEZ also explained that, on another occasion prior to the incident involving the victim, 18th Street members brandished a machete at GONZALEZ. When GONZALEZ was shown a still photo from the surveillance video – referred to above – in which his face was visible, GONZALEZ denied

² GONZALEZ is currently charged in Queens County Supreme Court with, among other things, attempted murder, in violation of New York Penal Law Sections 110.00 and 125.25(1). GONZALEZ is currently in custody on these charges remanded without bail.

being able to identify himself in the photograph. GONZALEZ also claimed that he had been in a bar at the time of the assault.

14. On November 6, 2016, while in the custody of the New York City Department of Corrections, GONZALEZ also confirmed that he was a member of MS-13 during a recorded telephone call.

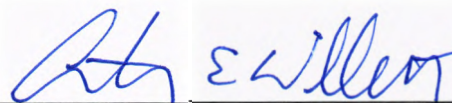
15. NYPD officers arrested FRANCISCO RAMOS on November 4, 2016 for the above-described crime.³ Following his arrest, RAMOS waived his Miranda rights and agreed to be interviewed. During an interview, RAMOS stated, in substance and part, that he knew that GONZALEZ, PANIAGUA and CC-1 were members of MS-13. RAMOS further stated that he had set up the victim to be “jumped” and that he had served as the driver for GONZALEZ, PANIAGUA and CC-1.

16. NYPD officers arrested KEVIN PANIAGUA on November 15, 2016 for the above-described crime.⁴ Following his arrest, KEVIN PANIAGUA waived his Miranda rights and agreed to be interviewed. During an interview with NYPD officers, which was video recorded, PANIAGUA stated, in substance and in part, that he shot the victim and tried to shoot the victim a second time, but that the firearm did not fire.

³ RAMOS is currently charged in Queens County Supreme Court with, among other things, attempted murder, in violation of New York Penal Law Sections 110.00 and 125.25(1). RAMOS is currently in custody on these charges remanded without bail.

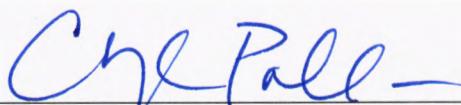
⁴ PANIAGUA is currently charged in Queens County Supreme Court with, among other things, attempted murder, in violation of New York Penal Law Sections 110.00 and 125.25(1). PANIAGUA is currently in custody on these charges remanded without bail.

17. WHEREFORE, your deponent respectfully requests that the defendants JOSE GONZALEZ, KEVIN PANIAGUA, and FRANCISCO RAMOS be dealt with according to law.



ANTHONY E. WILLETT
Special Agent, Federal Bureau of Investigation

Sworn to before me this
9th day of May, 2017



THE HONORABLE CHERYL L. POLLAK
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK