

UNITED STATES DISTRICT COURT
for the
Northern District of California

FILED
Aug 11 2020
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

United States of America
v.
FERNANDO MADRIGAL,
a/k/a "Nando,"
Defendant(s)

Case No. 3-20-71117 MAG

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(s) of July 8, 2019 in the county of San Francisco in the Northern District of California, the defendant(s) violated:

Code Section 18 U.S.C. §§ 924(j)(1) and 2
Offense Description Use of a Firearm in Furtherance of a Crime of Violence Resulting in Death

This criminal complaint is based on these facts:
See attached Affidavit of FBI Special Agent Keigan Park.

Continued on the attached sheet.

Approved as to form /s/
AUSA Patrick O'Brien

s/
Complainant's signature
Keigan Park, FBI Special Agent
Printed name and title

Sworn to before me by telephone.

Date: August 10, 2020

Judge's signature

City and state: San Francisco, California

Hon. Joseph C. Spero, U.S. Chief Magistrate Judge
Printed name and title

**AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR A
CRIMINAL COMPLAINT AND ARREST WARRANT**

I, Keigan Park, a Special Agent with the Federal Bureau of Investigation in San Francisco, California, being duly sworn, state:

INTRODUCTION AND EXECUTIVE SUMMARY

1. I am submitting this affidavit in support of an application for a criminal complaint and arrest warrant charging FERNANDO MADRIGAL, a/k/a “Nando,” with Use of a Firearm in Furtherance of a Crime of Violence Resulting in Death, in violation of 18 U.S.C. §§ 924(j)(1) and 2.

2. This affidavit relates to the July 8, 2019 murder of VICTIM 1. Just after midnight on that date, VICTIM 1 was shot in the back and killed near the intersection of 24th and Capp Streets in San Francisco’s Mission District. There is probable cause that MADRIGAL, along with other members of the San Francisco Mission District (SFMD) Norteños, each aided and abetted by the other, shot and killed VICTIM 1.

3. As explained in more detail below, the scene of the murder of VICTIM 1 is territory claimed by the SFMD Norteños, a criminal enterprise responsible for, among other crimes, murders, attempted murders, and drug trafficking in the Northern District of California. Several individual Norteño cliques make up the SFMD Norteño enterprise. One such clique, Locos North Side or LNS, treats the intersection at 24th and Capp Streets as the clique’s main hub. MADRIGAL is an admitted Norteño and a member of the LNS clique. One of the SFMD Norteños’ main rivals is the Army Street gang, which claims the territory around the Bernal Dwellings Apartments near 26th Street in San Francisco. VICTIM 1 lived in the territory claimed by the Army Street gang.

4. Multiple eyewitnesses reported that shortly before the murder, they were confronted near the 24th and Capp Street intersection by one or more suspects with guns. The suspects were asking where people were from, which the witnesses took to be a question about what gang they claimed. Multiple eyewitnesses reported seeing a dark sedan fleeing the murder

scene, which is corroborated by grainy security video. Within minutes of the murder of VICTIM 1, another shooting occurred several blocks away near the Bernal Dwellings Apartments. Casings recovered from the scene of VICTIM 1's murder and the scene of the second shooting were determined by a San Francisco Police Department forensic examiner to have been fired from the same gun. The caliber of the casings is consistent with a rifle being used in both shootings. Officers with the San Francisco Police Department witnessed the second shooting and saw that it came from the front passenger-side of a black Honda sedan. The black Honda sedan then led officers on a high-speed chase on Highway 101 and Highway 280, but it got away from police in the vicinity of John Daly Boulevard. Law enforcement officers later determined that property surveillance cameras captured part of the license plate of the black Honda sedan on the evening of the shootings, and cameras captured the same car with the full plate driving in the same area days earlier. MADRIGAL was the registered lessee of the black Honda sedan. MADRIGAL was also stopped for a traffic violation while driving the same black Honda sedan on July 19, 2019, with at least three other SFMD Norteños in the car with him. The historical cell-site location information for MADRIGAL's cell phone is consistent with being in the area of the murder of VICTIM 1 and the route taken by the black Honda sedan in the high-speed chase following the two shootings. Finally, a series of Instagram videos and messages from the 48-hour period leading up to the murder show MADRIGAL possessing a black rifle and ammunition consistent with the ammunition casings recovered from the two July 8, 2019 crime scenes. A video shows MADRIGAL loading that ammunition with a gloved hand.

5. This affidavit is submitted for the limited purpose of securing the requested criminal complaint and arrest warrant. I have not included every fact known to me concerning this investigation. Accordingly, where I refer to conversations and events, I often refer to them in substance and in relevant part rather than in their entirety or verbatim, unless otherwise noted. This affidavit also reflects my current understanding of facts relating to this investigation, but my understanding may change in the future as the investigation proceeds.

6. I have set forth only the facts necessary to establish probable cause that violations of the federal laws identified above have occurred. I have based my statements in this affidavit on my training and experience as an FBI Special Agent, personal knowledge of the facts and circumstances obtained through my participation in this investigation, information provided by witnesses, information provided by other agents and law enforcement officers, information provided by law enforcement reports and databases, and business records.

AFFIANT BACKGROUND

7. I am a Special Agent with the FBI, currently assigned to the San Francisco Division. As a Special Agent with the FBI, I am authorized to investigate violations of the laws of the United States. My primary responsibilities as a Special Agent are the investigation of violent crimes, including bank robberies, narcotics trafficking, stalking, harassment, firearms and explosive offenses, and homicide, and the execution of arrest and search warrants under the authority of the United States.

8. My training consisted of twenty-one weeks of New Agent Training at the FBI Academy in Quantico, Virginia, during which I received instruction on various aspects of federal investigations. During my training to become an FBI Special Agent, I studied a variety of criminal and national security investigations, including criminal enterprises, terrorism, Internet fraud, extortion, violent crime, and other federal crimes.

9. Before becoming a Special Agent with the FBI in October 2012, I spent two years working for the National Dairy Council as a Director of Nutrition Research and one year working for X-GEN Pharmaceuticals as a Technical Writer. In these positions, I was responsible for managing a research portfolio, accounting for 2 million dollars in research funding, and communicating the research findings. I have also received a Bachelor of Science in Biochemistry and Molecular Biology from the Pennsylvania State University and a Master of Science and Doctorate of Philosophy in Pharmacology from the University of Rochester.

10. Throughout my law enforcement career, and as part of my participation in this

investigation, I have spoken with, worked with, and gained knowledge from numerous experienced federal, state, and local investigators who have written affidavits for, or participated in, the application for and execution of hundreds of search and arrest warrants over the course of their careers.

11. As part of my investigation of this matter, I have reviewed other law enforcement reports of interviews and conversations with SFMD Norteño members and associates. I have also reviewed police reports documenting prior gang activity. In preparing this affidavit and in conducting this investigation, I have also consulted with members of the San Francisco Police Department's Gang Task Force ("GTF"), who, as relevant here, have specialized knowledge regarding Norteño street gangs. GTF has investigated hundreds of incidents involving Norteños in the Mission District, including numerous incidents relating to the rivalry between the SFMD Norteños and the Army Street gang. GTF has gained further expertise on and information about the SFMD Norteños from numerous interviews of and informal conversations with gang members and associates, monitoring of social media, and consultations with other law enforcement personnel, including with officers responsible for jail and prison facilities, where gang activity is often active.

12. Consequently, as part of my investigation of MADRIGAL and other SFMD Norteños, and after consulting extensively with members of GTF, I have become familiar with the structure and organization of the gang, its method of operation, territory it claims to control, its terminology and symbols, and its use of social media applications to communicate. I have learned that members and associates of the SFMD Norteños are required or expected to commit acts of violence—including murders and shootings—in order to maintain or increase their position in the gang. Insofar as a rival gang member is identified as, or suspected of, "trespassing" through SFMD Norteño territory, an SFMD Norteño would be expected to retaliate violently against such rival gang members or persons perceived as rival gang members. Failure to retaliate would be perceived as weakness and could lead to discipline by the gang.

Additionally, one's status and prestige in the gang is enhanced by the commission of violent acts, including murder.

APPLICABLE LAW

13. Title 18, United States Code, Section 924(c) provides criminal penalties for persons who possess a firearm in furtherance of, or use or carry a firearm during and in relation to, a crime of violence prosecutable in a court of the United States. I am aware that murder in aid of racketeering, as defined in 18 U.S.C. § 1959(a)(1), is a crime of violence prosecutable in federal court. Title 18, United States Code, Section 924(j)(1), in turn, provides enhanced penalties for “[a] person who, in the course of a violation of [§ 924(c)], causes the death of a person through the use of a firearm . . . if the killing is a murder.” These statutes, taken together, provide that use of a firearm causing murder, where the underlying crime of violence is murder in aid of racketeering, is a distinct federal criminal offense punishable by the penalties set forth in § 924(j).

14. I understand that the elements of the § 924(j) offense charged in the proposed complaint are: (1) The defendant committed a crime of violence – the murder in aid of racketeering of the victim; (2) The defendant used or carried a firearm during and in relation to the murder in aid of racketeering, or the defendant knowingly possessed a firearm in furtherance of such crime; (3) In the course of using or carrying the firearm or in knowingly possessing it, the defendant caused the death of the Victim through the use of a firearm; (4) The defendant unlawfully killed the Victim; (5) The defendant killed the Victim with malice aforethought. I understand that the elements of the underlying crime of violence, murder in aid of racketeering, are: (1) an enterprise affecting interstate or foreign commerce existed; (2) the enterprise engaged in racketeering activity; (3) the defendant committed murder (unlawfully killing a person with malice aforethought), as defined by California Penal Code Sections 187, 188, 189, and 31; and (4) the defendant's general purpose in committing the murder was to gain entrance to, or to maintain or increase his position in, the enterprise. I am aware that racketeering activity includes

an act “involving murder.” 18 U.S.C. § 1961(1)(A). Racketeering activity also includes the “felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States.” 18 U.S.C. § 1961(1)(D).

STATEMENT OF PROBABLE CAUSE

**The San Francisco Mission District Norteños
Are an Enterprise Engaged in Racketeering Activity**

15. Broadly speaking, Norteño gang members recognize the primacy of the Nuestra Familia prison gang, doing the bidding and following the orders of Nuestra Familia members. Norteños generally claim the area along 24th Street in the Mission District of San Francisco as their territory, with a western border of Mission Street and an eastern border of Potrero Street. For symbols, Norteños claim the color red and the number 14 (N is the 14th letter of the alphabet). Rivals to the Norteños in San Francisco are the Sureño and Army Street gangs. Sureños recognize the primacy of the Mexican Mafia prison gang, doing the bidding and following orders of the Mexican Mafia members. Sureños claim the area between roughly 16th through 20th Streets along Mission Street. For symbols, Sureños claim the color blue and the number 13 (M is the 13th letter of the alphabet). Army Street is a separate gang and does not report up to another organization or enterprise. Army Street claims the area around the Bernal Dwellings Apartments (26th Street between Folsom and Harrison Streets) as its territory. As symbols, Army Street claims camouflage, the color green, and the number 26.

16. These rivalries—between Norteños and Sureños and between Norteños and Army Street—have resulted in acts of violence, including murders, attempted murders, drive-by shootings, stabbings, and beatings. Many of these acts of violence involve Norteños and other gang members possessing and using firearms.

17. For example, on September 2, 2014, JUVENILE 1, a/k/a “Nito,” who was an associate of the Army Street gang, was stabbed outside a market located at 26th and Folsom Streets, which is next to the Bernal Dwellings Apartments claimed by the Army Street gang.

Park Aff. ISO App. for Crim. Complaint

[Under Seal]

JUVENILE 1 subsequently died from his stab wounds. JUVENILE 2, who associated with the SFMD Norteños, was originally arrested and charged, but the charges were dropped when video suggested another person may have wielded the knife. I know the other person suspected of being involved in the stabbing incident was JUVENILE 3, a/k/a “Lil Panch,” who was another Norteño associate. JUVENILE 2 and JUVENILE 3 were both subsequently shot and killed, with JUVENILE 2’s murder happening in September 2019. JUVENILE 1’s younger sibling, an associate of the Army Street gang, has been charged with the murder of JUVENILE 2.

18. Norteño gangs are divided into various “sets” or “cliques,” each of which claim a neighborhood as their own. Various Norteño cliques have been prosecuted in the Northern District of California under the federal racketeering laws. For example, in 2018, fifteen members of the Nuestra Familia/Salinas Norteños were charged with, among other crimes, racketeering conspiracy, in violation of 18 U.S.C. § 1962(d), and conspiracy to commit murder and attempted murder in aid of racketeering, in violation of 18 U.S.C. § 1959(a)(5). *See* 18-CR-00466-BLF. Also in 2018, members of the Monterey County Regiment Enterprise, which consists of various Norteño street gangs operating in and around Monterey County, were charged with, among other things, murder in aid of racketeering, in violation of 18 U.S.C. § 1959(a)(1), and racketeering conspiracy. *See* 18-CR-00506-BLF. In 2014, two members of a San Francisco Norteño clique were charged with conspiracy to commit murder and attempted murder in aid of racketeering as well as using a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c). *See* 14-CR-00232-VC. In 2013, eight defendants from the Santa Rosa Norteño Varrio South Park Gang were charged with, among other crimes, racketeering conspiracy and violent crimes in aid of racketeering. *See* 13-CR-0794-WHA. And in May of 2012, more than a dozen members of the South San Francisco Norteño 500 Block/C Street Gang were charged with, among other crimes, racketeering conspiracy as well as with violent crimes in aid of racketeering. *See* 12-CR-0119-SI.

19. In San Francisco, cliques tend to claim particular streets or intersections. Two such San Francisco cliques are LNS, mentioned above in paragraph 3, and 22nd and Bryant Street Norteños. 22nd and Bryant Street Norteños also refer to themselves as “22B,” “BSL,” and “Bryant Street Locos.” 22nd and Bryant Street is closely aligned with LNS. Various graffiti, tattoos, and social media posts use the letters “BSLNS” to represent the alliance.

20. Copied below are examples of graffiti discovered by law enforcement in December 2017 and April 2020. The December 2017 graffiti is an example of, among other things, the “BSLNS” alliance between 22B and LNS as well as the Norteño-Army Street rivalry, which is signified by crossing out the word “ARMY” and “NITO,” which I understand from conversations with GTF to be a reference to an Army Street affiliate who was murdered, as described above in paragraph 17. The graffiti also shows that the letter “S” is crossed out or turned into a dollar sign to indicate the Norteño rivalry with Sureños. The graffiti was in La Raza Park, which is near the eastern end of the 24th Street corridor claimed by SFMD Norteños. The April 2020 graffiti is from 24th and Mission Streets, approximately one block from 24th and Capp Streets where the July 8, 2019 murder of VICTIM 1 occurred. This example includes “415 NORTE SFMD,” a clear reference to the SFMD Norteños, and “24 LNS X4,” which refers to 24th Street, the LNS clique, and the number 14.

December 2017





April 2020



21. The SFMD Norteños engage in racketeering activity, that is, multiple acts

involving murder, robbery, and drug dealing. I have included some examples of such racketeering activity below.

22. In a January 20, 2017 incident, MADRIGAL and two juveniles assaulted and robbed a victim at the McDonald's at 24th and Mission Streets.¹ According to the SFPD incident report, MADRIGAL, the juveniles, and others repeatedly confronted the victim inside the McDonald's. MADRIGAL then walked outside and took the victim's bike, and when the victim walked after MADRIGAL, one of the juveniles hit the victim with an expandable baton and shouted "Pura Norte!" The victim sustained injuries to his² arm, jaw, and neck. MADRIGAL was arrested. After waiving his Miranda rights, MADRIGAL admitted he took the victim's bike. MADRIGAL further admitted he associated as a Northerner but said he had not been jumped in as a gang member. MADRIGAL said he got along with all the different Norteño sets in the Mission but said he did not get along with Army Street, who he blamed for the murder of his friend. MADRIGAL was not convicted for this conduct.

23. According to an April 10, 2017 SFPD incident report, MADRIGAL approached a victim sitting in his car on that date and asked the victim what gang he claimed. The victim said he did not belong to a gang. MADRIGAL responded saying he was from LNS. MADRIGAL then punched the victim in the face with a closed fist through the open driver's window. The victim saw MADRIGAL reaching toward MADRIGAL's waist, which the victim feared meant MADRIGAL was reaching for a gun. MADRIGAL jumped on the hood and smashed the windshield. The victim got out of the car, fearing for his personal safety. MADRIGAL ran to

¹ This is the same McDonald's referenced below that is located near the scene of the July 8, 2019 murder.

² This affidavit refers to witnesses using the pronouns he, him, and his to make the text more readable and to protect the witnesses' identities. The use of those pronouns is not a statement of the witnesses' actual genders.

the driver seat and drove away. In April 2018, MADRIGAL was convicted of carjacking for this incident in violation of California Penal Code § 215(a) and received a sentence of 3 years probation and 313 days in jail.³

24. On September 3, 2017, a victim was shot in the leg in a drive-by shooting just outside of the Bernal Dwellings Apartments. MADRIGAL was originally arrested and charged in San Francisco for this shooting, but the case was dismissed and MADRIGAL was not convicted. Officers who reviewed security video of the incident believed they could identify MADRIGAL as the shooter based in part on the way the shooter was limping in the video. At the time, MADRIGAL had been the victim in a recent stabbing incident and was still recovering from his injuries. During a post-arrest interview, MADRIGAL denied being involved in the shooting and also denied having problems with the Army Street gang.⁴

25. On February 18, 2019, INDIVIDUAL 1, who GTF has informed me is a known SFMD Norteño and a close associate of MADRIGAL's, was arrested after a probation search in which officers found a gun, marijuana, and suspected cocaine. During the probation search, officers found a pistol between the mattress and box spring. Officers also located multiple small plastic baggies, a scale, and several baggies with white powder, suspected to be cocaine, which is consistent with narcotics distribution.

26. MADRIGAL's own involvement in dealing controlled substances is clear from

³ I understand from SFPD that MADRIGAL's state felony probation was terminated early in July 2020 and his felony conviction was set aside at the same time, but as of the submission of this affidavit, I do not know the exact circumstances or details of what occurred in MADRIGAL's state case.

⁴ Another example of a crime involving murder comes from one of the cases prosecuted in this District described in paragraph 18. On December 2, 2012, two Norteños shot and attempted to kill suspected Sureños in San Francisco's Mission District. *See United States v. Avila et al.*, No. 14-CR-00232-VC. In March 2016, the Norteño defendants pled guilty to attempted murder in aid of racketeering, using a firearm during and in relation to a crime of violence, and other crimes. The defendants were sentenced to a total term of imprisonment of 216 months.

MADRIGAL's social media. During the course of its investigation into the July 8, 2019 murder, the FBI applied for and obtained several search warrants for various Instagram accounts associated with active Norteños. One such account was Instagram account "nando.needitall" (Instagram ID: 9199485615). Based on the warrant returns received from Instagram, I believe the account "nando.needitall" was controlled and operated by MADRIGAL before and after the July 8, 2019 murder. First, GTF has told me that MADRIGAL goes by the name "Nando," and the account "nando.needitall" includes that nickname in the username. Second, the account "nando.needitall" posted numerous images and videos featuring MADRIGAL. MADRIGAL appears to be holding the camera and filming himself. I know, based on my training and experience, that people often post images and videos of themselves on their own social media accounts.

27. On May 14, 2019, MADRIGAL, using the Instagram account "nando.needitall," messaged with another Instagram user and discussed MADRIGAL sending marijuana to the other user in Texas. MADRIGAL also sent an image of what appeared to be marijuana. MADRIGAL discussed sending two "packs" for \$800.

MADRIGAL Is a San Francisco Mission District Norteño

28. Prior to the July 8, 2019 murder, law enforcement had already identified MADRIGAL as a known SFMD Norteño.

29. As noted in paragraph 22, following the January 2017 robbery at the McDonald's, MADRIGAL told law enforcement he associated as a Northerner, which I know to be another term for Norteño. The location of the robbery (24th and Mission Streets) is also significant. I know from conversations with GTF and other law enforcement officers that 24th and Mission Streets is among the most active gathering places for Norteños in San Francisco. It is also very close to the intersection at 24th and Capp Streets claimed by the LNS clique.

30. In the carjacking incident described in paragraph 23, MADRIGAL told the victim that MADRIGAL represented LNS. During this incident, MADRIGAL also asked the victim

what gang he claimed. Moreover, I know from speaking with GTF and reviewing other SFPD incident reports that MADRIGAL's felony probation arising from the carjacking incident included a broad stay-away order that prohibited MADRIGAL from entering large sections of San Francisco, including the Mission District.

31. I have reviewed photographs of MADRIGAL from a June 2018 arrest in San Francisco for violating his stay away order, which covered most of San Francisco's Mission District at the time. Officers took photos of MADRIGAL's tattoos. In one photo, MADRIGAL displays a tattoo on his arm for "LIL PANCH." I know from speaking with members of GTF that "Lil Panch" was a Norteño and former LNS recruit who died in 2015, as described above in paragraph 17. Norteños, including MADRIGAL, believe "Lil Panch" was killed by Army Street members. Indeed, MADRIGAL said he believed Army Street members killed his best friend following his January 2017 arrest for the robbery at the McDonald's. I also know from speaking with members of GTF that common Norteño tattoos include memorial references to former SFMD Norteños who have been killed.

32. During the course of the FBI's investigation, the FBI has uncovered additional evidence of MADRIGAL's gang membership through his social media, particularly his use of Instagram.

33. On June 7, 2019, "nando.needitall" sent another Instagram user two messages that said "LAVISH NORTEÑOS SUCCEEDING" and "LNS." I believe this is a reference to the LNS clique within the SFMD Norteño enterprise.

34. In two Instagram videos posted by "nando.needitall" on May 19, 2019, MADRIGAL appears to be filming himself and discusses being in a car by himself in rival territory. MADRIGAL also raps to a song and says he will commit murder. Specifically, MADRIGAL says he is in "your section" repeatedly, and points the camera to a particular street corner, 21st and Alabama Streets, which I know to be territory claimed by a Norteño set (21st and Alabama) which is aligned with the Army Street gang. In one of the videos, MADRIGAL

also said “I told you I was going to fucking slide.” From my experience, gang members use the term “slide” to refer to coming to a particular area or to perform a drive-by shooting. In another video, MADRIGAL says he is still there by himself “waiting to catch a nigga slipping,” and says “it’s going to be a murder.” I also know, based on my training and experience and conversations with GTF members, that SFMD Norteños and other gang members use social media to threaten or intimidate rivals.

35. In a series of Instagram videos and photos posted on May 11 and May 12, 2019, by “nando.needitall,” MADRIGAL displays multiple firearms with high-capacity drum magazines, says “they come through with a whole drum on your ass,” and offers guns for sale. MADRIGAL also says he “upgrade[s] every single time” when talking about the drum magazines. I know, based on my training and experience and conversations with GTF members, that SFMD Norteños arm themselves with firearms to commit acts of violence. I also know, based on my training and experience and conversations with GTF members, that SFMD Norteños and other gang members use social media to sell or otherwise distribute firearms. The videos posted by MADRIGAL with multiple firearms and high-capacity magazines is consistent with what I have learned about and experienced with SFMD Norteños.



The July 8, 2019 Murder

36. On July 8, 2019, at approximately 12:10 a.m., SFPD officers responded to a **Park Aff. ISO App. for Crim. Complaint** [Under Seal]

ShotSpotter activation near the intersection of 24th and Capp Streets, in the Mission District of San Francisco. ShotSpotter is an acoustic sensor system used to triangulate the location of gunfire. When the officers arrived at the scene, they found an African American victim who appeared to be between 15 and 20 years old laying face up on the sidewalk in front of 3216 24th Street (VICTIM 1). I know 3216 24th Street is on 24th Street between Capp Street and South Van Ness Avenue. Officers observed blood on the sidewalk, as well as on VICTIM 1's t-shirt and jacket. VICTIM 1 was not breathing and was not conscious or alert, so officers attempted to resuscitate VICTIM 1. An ambulance responded to the scene and VICTIM 1 was pronounced dead at 12:20 a.m. The San Francisco Medical Examiner determined the death to be a homicide by gunshot wound. There was an entry wound on VICTIM 1's back and an exit wound on VICTIM 1's front.

37. VICTIM 1 was identified by a student identification card in his pocket. SFPD later confirmed VICTIM 1 was 15 years old and lived in the area claimed by the Army Street gang described in paragraphs 3 and 15. As of the submission of this affidavit, I do not have reason to believe that VICTIM 1 actually was a member of the Army Street gang.

38. Multiple witnesses reported to SFPD that they saw or heard something related to the murder of VICTIM 1. Some witness statements are inconsistent with others and the statements are of unknown reliability. I am not summarizing every witness statement made to SFPD in this affidavit. Moreover, my review of the eyewitness statements to SFPD remains ongoing, and I have not personally interviewed any of the following witnesses.⁵

39. I have reviewed interviews of WITNESS 1. In summary, WITNESS 1 stated he traveled to the area of 24th and Mission in the presence of VICTIM 1. WITNESS 1 observed an individual, SUBJECT 1, leave the McDonalds located at the intersection of 24th and Mission,

⁵ As stated above, this affidavit refers to witnesses using the pronouns he, him, and his to make the text more readable and to protect the witnesses' identities. The use of those pronouns is not a statement of the witnesses' actual genders.

and confront WITNESS 2, someone known to VICTIM 1 who was also present on 24th Street. SUBJECT 1 asked WITNESS 2 “where are you from?” to which WITNESS 2 said he was from a street-gang familiar to law enforcement, but “I fuck with my Army Street niggas.” WITNESS 1 observed that when WITNESS 2 said this, WITNESS 2 looked at VICTIM 1. WITNESS 1 believed this was what directed the attention of the shooter towards VICTIM 1. WITNESS 1 observed SUBJECT 1 having a gun; however, SUBJECT 1 was not the individual WITNESS 1 observed as the shooter. WITNESS 1 observed another individual come from the McDonald’s parking lot and start shooting. VICTIM 1 told WITNESS 1 to start running and WITNESS 1 lost sight of VICTIM 1. WITNESS 1 believed the shooter ran back to a white Honda, which later approached WITNESS 1 after the shooting. WITNESS 1 did not believe he would recognize the shooter if he saw the shooter again, but described the shooter as wearing a red hoodie and a black mask. When WITNESS 1 was approached by the white Honda, at least one of the occupants of the vehicle asked WITNESS 1 why he was running and where he was going. WITNESS 1 was fearful of saying he was going to Army Street, so WITNESS 1 told them that he lived around the corner. WITNESS 1 believed there were approximately 8 people in the white vehicle. WITNESS 1 described the occupants of the vehicle as all wearing masks and believed the driver of the vehicle was female.

40. I have reviewed an interview of an individual who law enforcement believes to be WITNESS 2. At the time of the interview, WITNESS 2 was a juvenile and, consistent with SFPD policy, was read his Miranda Rights. WITNESS 2 was also interviewed in the presence of a family member. WITNESS 2 was on his way to 24th and Mission to get something to eat. WITNESS 2 recalled seeing VICTIM 1 with a group of people who WITNESS 2 did not know. WITNESS 2 went to say “what’s up to them.” WITNESS 2 was approached by two individuals, whom he did not know, who asked him “where you from?” WITNESS 2 told them he was from nowhere. WITNESS 2 then turned around and heard gunshots. WITNESS 2 then started running. During the interview, WITNESS 2 stated that he had traveled to the area alone, and I

am aware of evidence that suggests WITNESS 2 may not have been truthful when making that statement.

41. I have reviewed an interview of WITNESS 3, who was assisted in the interview by an interpreter. WITNESS 3 reported that approximately 10 minutes before the murder, WITNESS 3 was walking on 24th Street near the parking lot at the intersection of Lilac Street, which I know to be the same parking lot described in paragraph 39. WITNESS 3 observed several individuals exit a vehicle in the parking lot. A person with a short, black rifle approached WITNESS 3 and asked in English, “where are you from?” The person then pointed the rifle at WITNESS 3 through a fence separating the parking lot and 24th Street. WITNESS 3 responded with a statement basically saying he was not with any gang. At the same time, at least three other individuals in the vicinity of Lilac Street were saying something to WITNESS 3; however, WITNESS 3 did not understand what the other individuals were saying. The person with the rifle lowered the rifle and started walking towards Lilac Street. WITNESS 3 then immediately ran from the area and observed the individuals run back to the parking lot. Approximately 10 minutes later, WITNESS 3 reported hearing gunshots. WITNESS 3 knew the individual with the rifle had exited either the front or rear passenger side of a vehicle in the parking lot. The witness estimated the person with the rifle was approximately 22 years old, 5’8” tall, 180 pounds, and of an average build. The person with the black rifle appeared to be Hispanic but due to their English, WITNESS 3 believed the person with the black rifle was likely American born. The person with the rifle was wearing a red beanie hat, a white t-shirt, a black jacket, and gray pants. WITNESS 3 described the rifle as short and black with an ammunition “clip” attached to the rifle. WITNESS 3 described the other individuals near Lilac Street as being Hispanic, but also likely American born due to their English. SFPD also showed WITNESS 3 a picture of an individual they believed may have been involved; however,

WITNESS 3 was unable to identify him.⁶ I know from reviewing DMV records that MADRIGAL had recently turned 21 at the time of the July 8, 2019 murder and is approximately 5'11" and 200 pounds. WITNESS 3's description of the individual who brandished the rifle generally matches MADRIGAL's age, height, and build.

42. I have reviewed an interview of WITNESS 4, who was assisted by an interpreter during the interview. WITNESS 4 was waiting at a stop light while driving on Capp Street towards 24th Street when they heard seven to eight gunshots. WITNESS 4 observed a male running on 24th Street, enter the parking lot, and get into a vehicle. The vehicle then exited the parking lot via Capp Street and made an immediate right turn on 24th Street. WITNESS 4 described the vehicle as a black, four-door Honda Accord. WITNESS 4 indicated the vehicle was a relatively new model. WITNESS 4 indicated all of the vehicle's windows were tinted. WITNESS 4 described the individual who ran to the vehicle as wearing a light gray beanie, a gray hooded sweatshirt, white pants, and white shoes. I have also reviewed a report of an interview of WITNESS 4 conducted at the scene of the shooting. During that interview, WITNESS 4 described the individual who ran to the car as a Hispanic male, 5'00, 150 pounds, and approximately 20 years old. As stated above in paragraph 41, I believe MADRIGAL to be approximately 5'11" in height and the model of MADRIGAL's vehicle to be a Honda Civic.

43. I have also reviewed SFPD interviews of several other witnesses, some of which contained conflicting information. Several eyewitnesses reported hearing gunshots and then

⁶ I understand that the picture shown to WITNESS 3 was a photograph of a security video captured earlier in the evening of July 7, 2019. According to SFPD, the security video showed someone who an SFPD officer at the time believed may have been a Norteño gang member wearing red in the area of 24th and York Streets earlier in the evening of July 7, 2019. To see if the person wearing red may have been involved in the murder of VICTIM 1, an SFPD officer showed WITNESS 3 a photograph the officer took of the individual in the security video. I have not seen the photograph or the underlying security video, and it is not currently available to me. SFPD is currently trying to locate the photograph for the FBI. I do not know whether the photograph actually depicts MADRIGAL or any other Norteño known to law enforcement.

seeing a black car fleeing the parking lot at the corner of 24th and Capp Streets, the same parking lot as discussed above. At least one other witness reported seeing a white sedan fleeing from the scene at a high rate of speed after the murder. Some eyewitnesses reported seeing just one person running from the scene around the time of the murder of VICTIM 1, while other witnesses reported seeing or hearing multiple people running away. At least one witness recalled hearing a loud argument right before the shooting, and another eyewitness reported that they saw a white male under the age of 40 running on the street after the shooting.

44. SFPD officers located nine spent cartridges, which the officers believed may have been fired from a rifle because the caliber appeared to be .223 or 5.56 NATO, in the vicinity of 3231 24th Street. I know that 3231 24th Street is across 24th Street to the south from 3216 24th Street, where the victim was found, between Capp Street and South Van Ness Avenue. SFPD officers also located two additional cartridges of a different caliber near the intersection of 24th and Capp Streets. Further, SFPD officers located damage to several windows and at least one door, in the vicinity of the homicide, which they believed was caused by bullets.

45. I have reviewed surveillance video captured from security cameras at a McDonald's restaurant at 24th and Mission Streets. The video is grainy, the parking lot is dark in the video, and the video does not clearly show any individual faces. However, from this review, I have made several observations, which I believe to be related to the murder of VICTIM 1 and to the above witness statements. From the video, I observed a dark sedan arriving, at approximately 11:37 pm, and parking in the lot. At approximately 11:46 pm, a white two-door vehicle parks in the same parking lot. Between the time when these two vehicles park and the shooting, there are multiple individuals who appear to be loitering in the lot, walking towards 24th Street as well as Lilac Street, and returning to the area near the vehicles. From the video, I observed various clothing items which match some of the witness descriptions, including a red shirt, a white shirt, a black jacket, and a gray shirt or jacket. Several people can be seen returning to the parking lot at approximately 12:09 am, which is the approximate time that the

shooting occurred. Of note, one of these individuals appears to be wearing a red shirt or jacket and the others appear to be wearing dark clothing. The dark sedan then exits the parking lot. At approximately 12:16 am, the white vehicle exits the parking lot. This information is consistent with some (but not all) of the eyewitness testimony, as described in paragraphs 39 through 43.

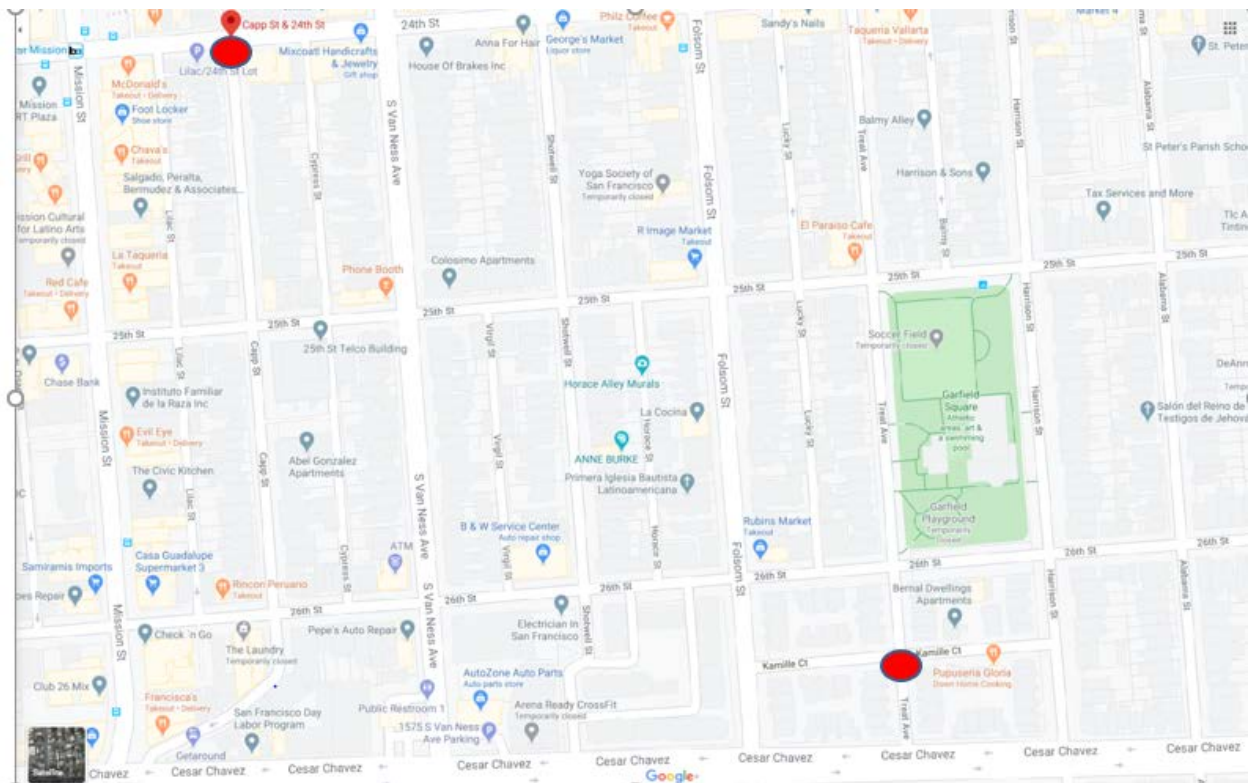
46. I am aware that, on July 30, 2019, a San Francisco Supervisor held a rally at City Hall, seeking a plan to eliminate homicides and incidents of gun violence. <https://www.sfweekly.com/news/supervisor-proposes-ambitious-plan-to-eliminate-homicides-violent-crimes-citywide/>. According to press coverage of the rally, the mother of VICTIM 1 spoke at the rally. The press reported that MADRIGAL was also at the rally and spoke to at least the reporter about being a victim of gun violence, saying he could not feel his left hand after having been shot in the head the prior month.

The July 8, 2019 Army Street Shooting

47. Also on July 8, 2019 at approximately 12:10 a.m., different SFPD officers in an unmarked vehicle stopped at a red light at Mission Street and Cesar Chavez Street reported hearing rapid gunfire. I know that the intersection of Mission and Cesar Chavez Streets is several blocks away from the 24th and Capp Street intersection. The officers then learned there had been a receipt of ShotSpotter activation in the area of 3236 24th Street, which again I know is in the vicinity of 24th and Capp Streets. The officers turned on Cesar Chavez Street, then Folsom Street travelling toward 26th Street, in an attempt to search for a possible getaway vehicle. Near the intersection of Folsom and 26th Streets, the officers saw a black Honda Civic sedan travelling east on 26th Street at a high rate of speed. The black Honda failed to perform a complete stop at the four-way stop sign at Folsom and 26th Streets.

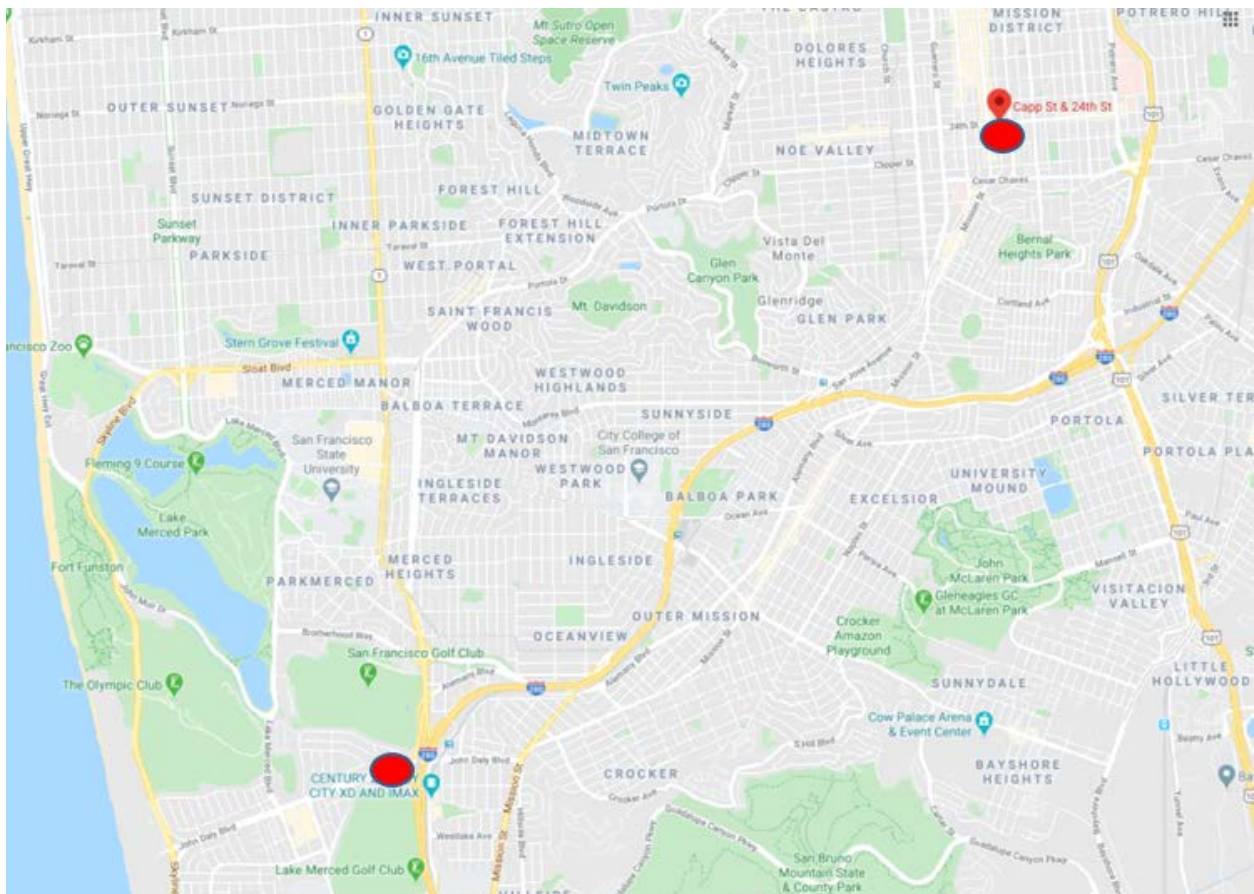
48. The black Honda drove eastbound on 26th Street and turned southbound onto Treat Avenue. This is the location of the Bernal Dwellings Apartments. I know, from my training and experience, as well consultation with GTF and other law enforcement officers, that this area is a territory claimed by Army Street, which, as stated above in paragraphs 3 and 15, is

a rival of SFMD Norteños. The officers then observed the black Honda slow down and almost come to a complete stop in the intersection of Kamille Court and “Treat Way.” The officers then saw one round fired from the front passenger window in a western or southwestern direction toward the Bernal Dwellings Apartments. The officers did not know who or what was targeted at the time the events were witnessed. This affidavit refers to this second shooting as the Army Street shooting. I am familiar with this part of San Francisco and have included a map of the area depicting the intersection at 24th and Capp Streets, which is the approximate location of the July 8, 2019 murder of VITCTIM 1 (red oval in the upper left), and the intersection at Treat Avenue and Kamille Court, which is the approximate location of the July 8, 2019 Army Street shooting (red oval in the lower right).



49. Immediately after the shooting, the black Honda began driving away from the scene, and officers pursued it. The black Honda traveled southbound on Harrison Street and turned eastbound on Cesar Chavez Street. The officers followed the black Honda as it traveled southbound on Highway 101. During this pursuit, the officers observed the driver of the black **Park Aff. ISO App. for Crim. Complaint**
[Under Seal]

Honda display a willful and wanton disregard for public safety by running several red lights and traveling at a high rate of speed, at times reaching speeds of approximately 110-120 miles per hour. Sometime later, the SFPD officers lost sight of the black Honda as it traveled on Highway 280 somewhere in the vicinity John Daly Boulevard. I am familiar with this part of San Francisco and have included a map of the area depicting the approximate location of the July 8, 2019 murder of VITCTIM 1 (red oval in the upper right) and the approximate location of John Daly Boulevard (red oval in the lower left).



50. When the officers in the unmarked car were watching the black Honda around the time of the second shooting, the officers saw that it had a rear temporary license plate beginning with the letters “AS,” but they were unable to copy the license plate in its entirety. One of the officers also initially reported to headquarters that the black Honda was a 2-door Honda Accord

but clarified in the incident report that the officer believed the car was a Honda Civic and may have had 4 doors. Further, during the pursuit of the black Honda after the shooting, officers in a marked police car observed the front passenger to be a male, of an unknown race, possibly white or Hispanic, wearing a red ball cap.

51. The SFPD Incident Report also indicates that a single cartridge was recovered in the intersection of Kamille Court and "Treat Way," in the area that the officers had witnessed the drive-by shooting earlier. The cartridge was described as a .223 Remington or a 5.56 NATO. Based on my training and experience, I believe this type of cartridge to be most often fired from a rifle.

The July 8, 2019 Murder of VICTIM 1 and the Army Street Shooting Are Related

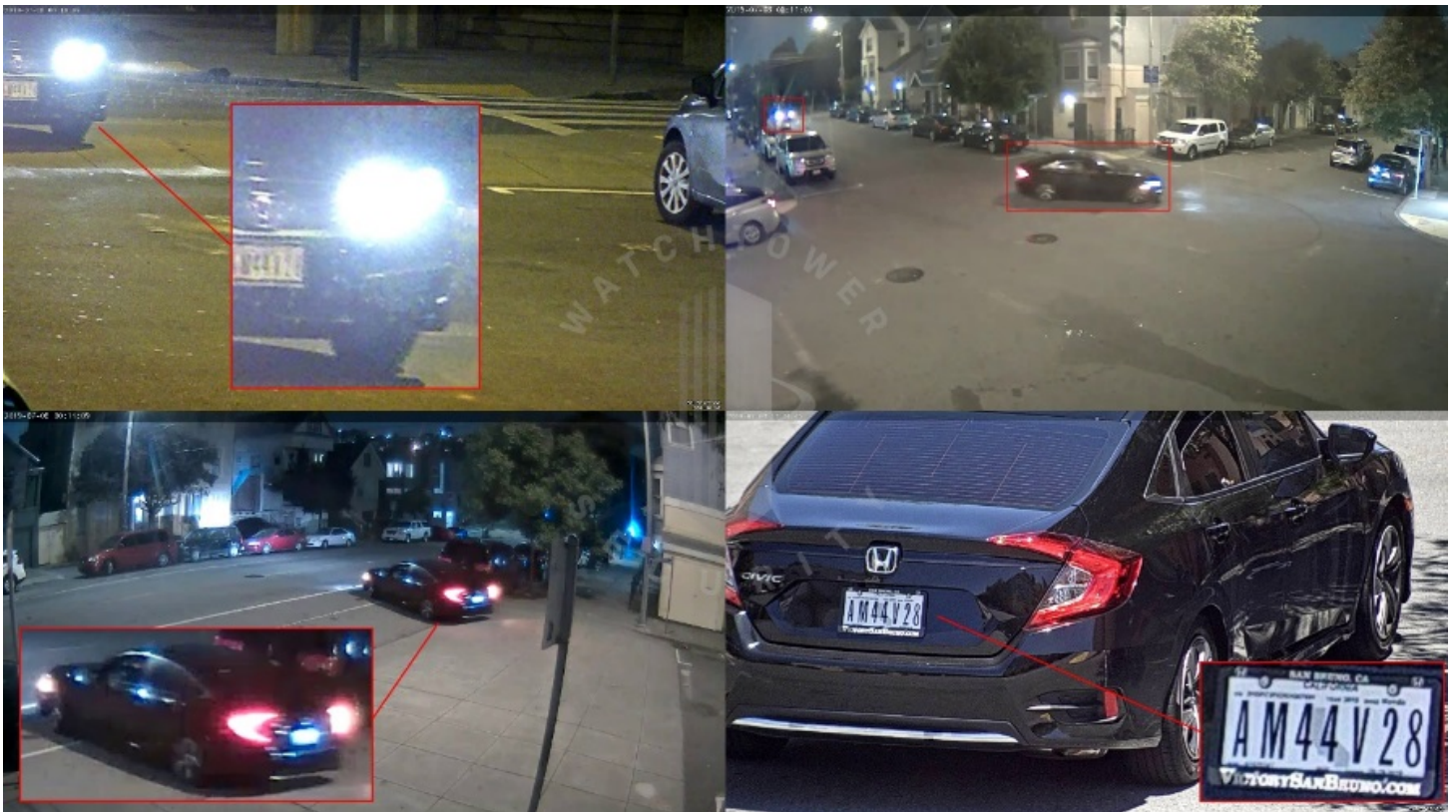
52. Law enforcement believes the July 8, 2019 shootings are related. Nine casings were recovered from the scene of VICTIM 1's murder and were identified by SFPD as 5.56 x 45 mm (.223 Remington) caliber Lake City cartridge casings. These nine casings recovered from the scene of VICTIM 1's murder are consistent with the description of the single casing recovered from the Army Street shooting, as described in paragraph 51. More significantly, an SFPD forensic examiner analyzed casings from the scene of VICTIM 1's murder and compared one of those casings to the casing from the Army Street shooting. The examiner concluded that the casings from the two scenes were fired from the same gun. In addition to the same gun being used in both shootings, the two shootings occurred close in time to, and within several blocks of, each other. Moreover, the security video described in paragraph 45 shows a dark sedan arriving in the parking lot at 24th and Capp Streets before the murder and leaving around the time of the murder, multiple eyewitnesses reported consistent information, and law enforcement saw a black Honda involved in, and fleeing the scene of, the second shooting.

53. Moreover, for all the reasons explained above, including the historic rivalry between the SFMD Norteños and Army Street, the location of the two shootings, and the fact that suspects asked several people where they were from, the FBI and GTF believe the shootings

to be part of an ongoing rivalry between the SFMD Norteños and Army Street.

The Black Honda Was MADRIGAL's Car

54. Watchtower Security, which provides surveillance cameras in multifamily housing sites, captured video footage of the black Honda and the unmarked police vehicle described above in paragraphs 48 and 49 in the vicinity of the Bernal Dwellings Apartments on July 8, 2019, around the time of the shooting discussed above. Watchtower Security also reviewed historical video in an effort to identify the vehicle. Watchtower Security observed a matching vehicle (a 4-door Honda Civic) driving in the daylight on July 3, 2019, and they were able to capture the temporary license plate number as "AM44V28." Images of the car at night and in daylight (bottom right) are copied below. The first set of images includes three pictures from the night of the shootings, the partial plate (upper left), and the matching car with the full plate during the daytime (bottom right).



55. SFPD informed the FBI that the temporary plate number "AM44V28" was

registered to a leasing company and that the leaseholder was MADRIGAL.

56. MADRIGAL was also stopped while driving this car by SFPD on July 19, 2019, for a traffic violation. On that date, MADRIGAL was driving with at least three other known SFMD Norteños.

57. I am aware that MADRIGAL reported his black Honda civic was stolen on November 15, 2019. According to an Oakland Police Department Incident Report, MADRIGAL's black Honda was located on November 15, 2019.

Instagram and Historical Location Evidence

58. Based on my training, experience, and consultation with other law enforcement officers, I know that persons who commit crimes together often use social media to communicate with co-conspirators. I know that persons who own or possess guns often take photographs and videos of themselves while armed and/or while posing with firearms. Such "trophy shots" are often kept as mementos or novelties and are often shared with friends, sometimes via social media. Photographs and videos of criminal associates, including fellow gang members, are also found on social media accounts, as are communications discussing gang rivals. I know that criminals frequently utilize social media to facilitate criminal activities, as well as document their criminal acts. Specifically, to message associates, contact suppliers of firearms, broker firearms transactions, and communicate the disposal of firearms used in crimes.

59. Based upon my training, experience, and consultation with other law enforcement officers, I have learned that Instagram is often used by individuals to arrange, communicate and coordinate with co-conspirators of criminal organizations, through either direct messages, or posting photographs and/or messages on their own accounts or the accounts belonging to co-conspirators. Additionally, I know from training and experience that individuals involved in illegal operations often utilize social media to coordinate, and/or to take pictures. I also know based on my training and experience that individuals who commit crimes frequently do so with relatives or friends whom they can trust not to reveal their activities to law enforcement.

60. As I noted above in paragraph 26, part of the FBI's investigation into the July 8, 2019 murder involved obtaining search warrants for certain Instagram accounts, including MADRIGAL's "nando.needital1" account.

61. Approximately three days before the murder, on July 5, 2019, the account "nando.needital1" posted a direct story of a picture, which appears to be from the parking lot at the intersection of 24th and Capp Streets, the same one that the shooter and others appeared to park and congregate in on the night of the July 8, 2019 murder of VICTIM 1. MADRIGAL included a caption "Capp Street." I know from conversations with GTF members that SFMD Norteños, particularly SFMD Norteños from the LNS clique, also refer to LNS using the terms "Capp Street," "Capp," and 900 (for the 900 block of Capp Street south of 24th Street).



62. On July 6, 2019, the account "nando.needital1" posted a direct story in which the operator of the camera holds a black short-barreled rifle with an inserted magazine, saying "Straight thugging. Didn't want to bring out the Glock, so I brought the mini chop." I am **Park Aff. ISO App. for Crim. Complaint**
[Under Seal]

familiar with MADRIGAL’s voice from other Instagram videos in which MADRIGAL’s face is visible and from law enforcement interviews of MADRIGAL, and I believe the speaker in this video is MADRIGAL. The camera then pans across the room and captures footage of three individuals sitting at a table.⁷ The account “nando.needitall” posted another video referring to “riding around with the mini chopper,” which, based on the post above referring to the assault rifle as a “mini chop,” appears to be a reference to riding around with a short-barreled rifle. I know from my training and experience that the ammunition casings recovered from the scene of VICTIM 1’s murder (described in paragraph 52) are often used with rifles, such as the black short-barreled rifle featured in the video.



63. On July 6, 2019, another Instagram user sent a video via direct Instagram story focused on MADRIGAL loading a magazine with ammunition, a black rifle on a bed, and a

⁷ Images of these individuals’ faces are blacked out to protect their privacy.

“Glock” gun case. The ammunition in the video is consistent with the .223 caliber casings recovered from the scene of VICTIM 1’s murder, as described in paragraph 52 above.

MADRIGAL is wearing a gloved hand to load the ammunition in the video. I know from my training and experience that at least one reason to load ammunition using a gloved hand is to avoid leaving evidence such as DNA or fingerprints on the ammunition.



64. On July 7, 2019, at approximately 1:18 pm, which is less than 12 hours before the murder, “nando.needitall” sent a direct message to another individual known to FBI and GTF as a Norteño, in which “nando.needitall” said he could not come inside because he “got ar.” Based on my training and experience and MADRIGAL’s other Instagram messages, I believe “ar” is a reference to an assault rifle, such as the black rifle seen in the videos described in paragraphs 62 and 63, or an AR-15, which is a particular model of rifle.

65. In a group chat on July 7 and July 8, 2019, “nando.needitall” and other Instagram users discuss events that suggest at least some of these users were meeting and spending the day together on July 7, 2019.

66. At 1:51 a.m. on July 8, 2019, two Instagram users who also participated in the group chat exchanged various messages, in which one user sent the other user messages that said, "Delete this," and "This too," and "Delete this too."

67. Later in the day on July 8, 2019, after the murder, Instagram user "nando.needitall" acknowledged on Instagram that his "whip" "got hit." I know from my training and experience and conversations with other law enforcement officers that "whip" is a slang term for a car. Instagram user "nando.needitall" also noted "it's hot rn." I know from my training and experience that criminals often use the term "hot" when referring to the fact that they believe law enforcement may be on to them.

68. On July 13, 2019, an Instagram user sent MADRIGAL a series of messages saying: "Be safe erryone 24 k now 😬," "Harbor army ohunnid," "Sunny dale," "Hella people all bc of the lil black nigga who died niggas from the zone." Based on my training and experience, including consultation with GTF, I believe the "24 k" reference means that people want to kill Norteños from 24th Street. MADRIGAL replies: "He lived in army." Based on my training and experience, I believe that when MADRIGAL said he knew the victim lived in "army," he meant in or near the Bernal Dwellings Apartments. Based on my training and experience, my investigation into this incident, and conversations with other law enforcement officers, I further believe this exchange is about the July 8, 2019 murder of VICTIM 1.

69. As part of its investigation into the July 8, 2019 murder, I obtained a search warrant for historical cell-site data for a phone number associated with MADRIGAL ending in -4326. I identified MADRIGAL's phone number using IP address information provided by Instagram for the account "nando.needitall" during particular time periods, determining the Wireless provider for that IP address, and determining the subscriber information, including the cell phone number, for individual customers allotted the specific IP address. I further corroborated the number identified using this process as associated with MADRIGAL because the "nando.needitall" account had previously provided the same phone number to Instagram.

The subscriber for the number identified as MADRIGAL's is N.M., who I believe to be a relation of MADRIGAL's. I know from my training and experience that it is not uncommon for individuals to belong to a family member's cellular phone plan or to provide the name of a family member when registering.

70. FBI reviewed historical location data provided by AT&T in response to the warrant for historical cell-site data referenced in paragraph 69. MADRIGAL's phone number connected to a cell phone tower located in the Mission District at 11:33:28 p.m. on July 7, 2019. The phone also connected to a cell phone tower located in the area of Park Merced at 12:22:36 a.m., on July 8, 2019. Importantly, this phone tower is close to where SFPD officers lost sight of the black Honda that fled the scene of the Army Street shooting on July 8, 2019. The connection to this phone tower was approximately 12 minutes after the shootings.

71. Based on my training and experience, including consultation with GTF, I believe that MADRIGAL's standing within the SFMD Norteños would increase by shooting and killing a suspected rival spotted in an active center of Norteño territory.

REQUEST TO SEAL

72. Because this is an ongoing criminal investigation, and in order to guard against the suspect fleeing arrest, destruction of evidence, collusion among potential witnesses, and safety of witnesses and law enforcement during the execution of any arrest, I respectfully request that this Affidavit, the requested Warrant, and any other documents relating to this application be filed under seal. Premature disclosure of the contents of this affidavit and related documents may have a significant and negative impact on the continuing investigation and may severely jeopardize its effectiveness. I understand that the United States Attorney's Office will submit a sealing application and proposed order with the application for the complaint and arrest warrant.

//

//

//

CONCLUSION

73. Based on foregoing facts, I respectfully submit that there is probable cause to believe that MADRIGAL committed the offense of Use of a Firearm in Furtherance of a Crime of Violence Resulting in Death, in violation of 18 U.S.C. §§ 924(j)(1) and 2.

s/

Keigan M. Park, Special Agent
Federal Bureau of Investigation

Sworn to before me over the telephone and signed by me pursuant to Fed. R. Crim. P. 4.1 and 4(d) on this 10th day of August 2020. This application and warrant are to be filed under seal.



The Honorable Joseph C. Spero
United States Chief Magistrate Judge