

Approved:



MARGARET GARNETT and DAVID ABRAMOWICZ
Assistant United States Attorneys

Before: THE HONORABLE GABRIEL W. GORENSTEIN
United States Magistrate Judge
Southern District of New York

16 MAG 3352

----- x
UNITED STATES OF AMERICA

- v. -

MARC HENRY JOHNSON and
JAMES HOLDER,
a/k/a "Pepsi,"

Defendants.
----- x

SEALED COMPLAINT

Violations of
21 U.S.C. § 846 and
18 U.S.C. §§ 3 and 2

COUNTY OF OFFENSE:
NEW YORK

SOUTHERN DISTRICT OF NEW YORK, ss.:

KENNETH S. LOUVAR, being duly sworn, deposes and says that he is a Special Agent with the Drug Enforcement Administration ("DEA"), and charges as follows:

COUNT ONE

(Attempted Narcotics Distribution)

1. On or about October 4, 2015, in the Southern District of New York, MARC HENRY JOHNSON, the defendant, intentionally and knowingly attempted to distribute and possess with the intent to distribute a controlled substance, in violation of 21 U.S.C. § 841(a)(1).

2. The controlled substance involved in the offense was mixtures and substances containing a detectable amount of cocaine, in violation of 21 U.S.C. § 841(b)(1)(C).

(Title 21, United States Code, Section 846,
and Title 18, United States Code, Section 2.)

COUNT TWO
(Narcotics Conspiracy)

3. From in or about 2003 up to and including at least in or about January 2016, in the Southern District of New York and elsewhere, JAMES HOLDER, a/k/a "Pepsi," the defendant, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

4. It was a part and an object of the conspiracy that JAMES HOLDER, a/k/a "Pepsi," the defendant, and others known and unknown, would and did distribute and possess with the intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

5. The controlled substance that JAMES HOLDER, a/k/a "Pepsi," the defendant, conspired to distribute and possess with the intent to distribute was five kilograms and more of mixtures and substances containing a detectable amount of cocaine, in violation of Title 21, United States Code, Section 841(b)(1)(A).

(Title 21, United States Code, Section 846.)

COUNT THREE
(Accessory After the Fact)

6. On or about October 4, 2015, in the Southern District of New York, MARC HENRY JOHNSON, the defendant, knowing that an offense against the United States had been committed, namely, the offense described in Count Two, intentionally and knowingly did receive, relieve, comfort, and assist the offender in order to hinder and prevent his apprehension, trial, and punishment, to wit, JOHNSON helped move a woman's unresponsive body out of an apartment where the offender distributed narcotics.

(Title 18, United States Code, Section 3.)

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

7. I am a Special Agent with the DEA, and I have been involved in the investigation of the above-described offense. The information contained in this Complaint is based upon my personal knowledge and participation in this investigation, as well as on my conversations with other law enforcement agents and my examination of reports and records. Because this

affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated. Where figures, calculations, and dates are set forth herein, they are approximate, unless stated otherwise.

Background

8. The DEA has been investigating the death of a 38-year-old woman ("Individual-1") that occurred on or about October 4, 2015. As set forth below, Individual-1 was found unresponsive in the vestibule of an apartment building in the Chelsea neighborhood of New York, New York (the "Chelsea Building"). Her death was attributed to, among other things, cocaine use. During the course of the investigation, the DEA learned, among other things, that several hours before she died, Individual-1 arrived with MARC HENRY JOHNSON, the defendant, at the Chelsea Building, where JAMES HOLDER, a/k/a "Pepsi," the defendant, resided in a third-floor apartment (the "Chelsea Apartment"), and that hours later, JOHNSON and HOLDER dragged Individual-1's body into the Chelsea Building's vestibule.

JAMES HOLDER's Distribution of Cocaine

9. From interviews I and other law enforcement agents conducted with witnesses, including more than ten witnesses who said they have personally obtained or seen others obtain cocaine from JAMES HOLDER, a/k/a "Pepsi," the defendant, I have learned, among other things, the following:

a. From in or about 2003 up to and including on or about October 4, 2015, HOLDER resided in and sold cocaine from the Chelsea Apartment. He also delivered cocaine to customers at other locations. HOLDER generally sold cocaine for money, charging \$100, for example, for bags of cocaine known as "hundreds." HOLDER routinely traveled to what he described as "uptown" to replenish his supply of cocaine.

b. HOLDER and MARC HENRY JOHNSON, the defendant, are longtime friends. JOHNSON regularly bought cocaine from HOLDER, used cocaine, and provided cocaine to others in social situations.

c. On multiple occasions, JOHNSON introduced HOLDER to other individuals as a potential supplier of cocaine. HOLDER then provided cocaine to those individuals in exchange for money, and those individuals, in turn, introduced still more cocaine buyers to HOLDER. For example:

i. One individual ("Individual-2") obtained HOLDER's phone number from JOHNSON in or about 2011, so that Individual-2 could purchase cocaine from HOLDER. Individual-2 then purchased cocaine from HOLDER at the Chelsea Apartment and elsewhere multiple times over approximately five years--sometimes once every few months, sometimes monthly, and sometimes twice per week. Individual-2 typically bought \$100 to \$200 worth of cocaine in each transaction. In addition, Individual-2 introduced HOLDER as a cocaine supplier to several other individuals who then also obtained cocaine from HOLDER.

ii. In or about 2015, JOHNSON and several individuals gathered for a small party at JOHNSON's home in New York, New York. Individuals openly used cocaine during the party. At one point, JOHNSON called HOLDER and ordered more cocaine. Two individuals ("Individual-3" and "Individual-4") then traveled to the Chelsea Apartment, where HOLDER provided cocaine to Individual-4, who Individual-3 understood would take it back to JOHNSON's home. Individual-3 remained at the Chelsea Apartment and used cocaine with HOLDER, provided by HOLDER.

d. HOLDER distributed a total of more than five kilograms of cocaine from in or about 2003 up to and including on or about October 4, 2015. One witness estimated having personally obtained more than five kilograms of cocaine from HOLDER during that period. Another witness described buying approximately \$200 worth of cocaine¹ from HOLDER on multiple occasions over a period of three to four years.

e. HOLDER moved out of the Chelsea Apartment after October 4, 2015, but continued to sell cocaine in New York, New York, up to and including at least in or about January 2016.

JOHNSON's Attempted Distribution of Cocaine

10. From my review of phone records, text messages, and other materials, and from interviews I and other law enforcement

¹ Witnesses described paying HOLDER \$200 for approximately 3 to 3.5 grams of cocaine.

agents conducted with witnesses, including multiple witnesses who said MARC HENRY JOHNSON, the defendant, offered them cocaine on or about October 4, 2015, I have learned, among other things, the following:

a. During the night of October 3 and the early morning hours of October 4, 2015, MARC HENRY JOHNSON, the defendant, communicated with an individual ("Individual-5"). JOHNSON learned that Individual-5 was at a bar in New York, New York ("Bar-1"), with, among others, Individual-1. JOHNSON sent Individual-5 a text message stating, "I am little too tipsy to leave right now. I may go to Pepsi for a pickup." Individual-5 wrote back, "Where?" and JOHNSON responded, in part, "Me friend Pepsi" and "Pepsi is in chelsea." Based on my participation in this investigation, I believe "Pepsi" was a reference to JAMES HOLDER, a/k/a "Pepsi," the defendant, and the location JOHNSON described as "in chelsea" was the Chelsea Apartment.

b. Approximately 30 minutes after sending the "Me friend Pepsi" and "Pepsi is in chelsea" messages, JOHNSON sent a text message to Individual-5 stating, "If you're still there, I ready to roll."

c. JOHNSON arrived at Bar-1 later that night and met up with Individual-5 and Individual-1, among others. Before JOHNSON arrived, Individual-1 had been using cocaine.

d. JOHNSON told Individual-1 and others at Bar-1 that he had a significant amount of cocaine, which he offered to share.

e. Later, JOHNSON and Individual-1 left Bar-1 together in a taxi.

Individual-1's Death

11. From my review of video surveillance footage recorded by cameras at the Chelsea Building, 911 call logs and audio recordings, and phone records, and from interviews I and other law enforcement agents conducted with witnesses, I have learned, among other things, the following:

a. Individual-1 and MARC HENRY JOHNSON, the defendant, arrived at the Chelsea Building together at approximately 4:25 a.m. on or about October 4, 2015. They walked upstairs to the Chelsea Apartment.

b. Hours later, JOHNSON and JAMES HOLDER, a/k/a "Pepsi," the defendant, dragged Individual-1's apparently unconscious body along a hallway to the first-floor vestibule of the Chelsea Building. HOLDER then left the Chelsea Building, carrying an object as he walked away.

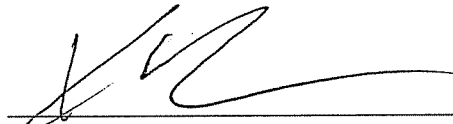
c. At approximately 8:30 a.m., after HOLDER left the Chelsea Building, JOHNSON called 911 and summoned an ambulance to the Chelsea Building. JOHNSON declined to provide his name to a 911 operator, and neither identified Individual-1, nor described his relationship to her, nor explained what had happened to her or why she needed medical assistance.

d. EMTs responded to the Chelsea Building and found Individual-1 unresponsive in the vestibule. JOHNSON left the Chelsea Building soon after the EMTs arrived.

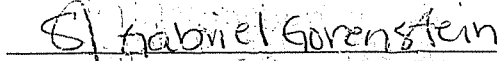
e. Individual-1 was taken to a hospital and pronounced dead later on or about October 4, 2015.

12. From information provided by the Office of Chief Medical Examiner, I have learned, among other things, that Individual-1's death was caused by, among other things, her use of cocaine.

WHEREFORE, I respectfully request that arrest warrants be issued for MARC HENRY JOHNSON and JAMES HOLDER, a/k/a "Pepsi," the defendants, and that they be imprisoned or bailed, as the case may be.


KENNETH S. LOUVAR
Special Agent
Drug Enforcement Administration

Sworn to before me this
24th day of May 2016


THE HONORABLE GABRIEL W. GORENSTEIN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK