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Approved: B
Hagan Scotten/Benjamin Allee
Assistant U.S. Attorneys

Before: THE HONORABLE JUDITH C. MCCARTHY
United States Magistrate Judge
Southern District of New York

UNITED STATES OF AMERICA

* Kony 4626
: SEALED COMPLAINT

- v. -

MALCOLM KINYON,
a/k/a "Angel Rafael Rios-Zayas"
a/k/a "Sean Williams"

Defendant.

: Violations of
21 U.S.C. §§ 812,
841(a)(1), and
841(b)(1)(B),
841(b)(1)(A), 846, and
18 U.S.C. §§ 2, and
1956(a)(1)(B)(2)

: COUNTY OF OFFENSE:
Dutchess

----- X

SOUTHERN DISTRICT OF NEW YORK, ss.:

ALLEN DAVIS, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation, and charges as follows:

COUNT ONE

(Conspiracy to Distribute Controlled Substances)

1. From in or about June 2013, through on or about July 19, 2016, in the Southern District of New York and elsewhere, MALCOLM KINYON, a/k/a "Angel Rafael Rios-Zayas," a/k/a "Sean Williams," the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that MALCOLM KINYON, a/k/a "Angel Rafael Rios-Zayas," a/k/a "Sean Williams," the defendant, and others known and unknown, would and did distribute and possess with intent to distribute controlled substances in violation of 21 U.S.C. § 841(a)(1).

3. The controlled substance that MALCOLM KINYON, a/k/a "Angel Rafael Rios-Zayas," a/k/a "Sean Williams," the defendant, conspired to distribute and possess with 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 TWO

(Possession with Intent to Distribute Controlled Substances)

4. On or about May 31, 2016, in the Southern District of New York and elsewhere, MALCOLM KINYON, a/k/a "Angel Rafael Rios-Zayas," a/k/a "Sean Williams," the defendant, intentionally and knowingly did distribute and possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

5. The controlled substance involved in the offense was approximately 2.7 kilograms of mixtures and substances containing a detectable amount of cocaine base, in violation of Title 21, United States Code, Section 841(b)(1)(B).

(Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(B) and Title 18, United States Code, Section 2.)

COUNT THREE

(Money Laundering)

6. From in or about June 2013, through in or about January 2016, in the Southern District of New York and elsewhere, MALCOLM KINYON, a/k/a "Angel Rafael Rios-Zayas," a/k/a "Sean Williams," the defendant, and others known and unknown, in an offense involving and affecting interstate and foreign commerce, knowing that the property involved in certain financial transactions, to wit, the transfer of hundreds of thousands of dollars in cash, represented the proceeds of some form of unlawful activity, to wit, the proceeds of illegal narcotics transactions, conducted and attempted to conduct such financial transactions which in fact involved the proceeds of specified unlawful activity knowing that the transactions were designed in whole and in part to avoid a transaction reporting requirement under State and Federal law, to wit, the reporting requirements of Title 31, United States Code, Sections 5313, 5324, and the regulations promulgated thereunder.

(Title 18, United States Code, Sections 1956(a)(1)(B)(ii) and 2.)

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

7. I am a Special Agent with the FBI. I have been personally involved in the investigation of this matter, and I have spoken with another Special Agent with the FBI ("Agent-1") who has also been personally involved in the investigation. I base this affidavit on that personal experience, as well as on my conversations with other law enforcement agents including Agent-1 and my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause for the offenses cited above, it does not include all the facts that I have learned during the course of the investigation. Where the contents of conversations of others are reported herein, they are reported in substance and in part.

8. Agent-1 has spoken with law enforcement officers operating in and around Los Angeles County, California (the "California Officers"). From the California Officers, Agent-1 and I have learned the following, in substance and in part:

a. On or about June 1, 2016, a dog trained to detect narcotics alerted to the presence of narcotics in a large cardboard box ("Package-1") that had been delivered to a UPS Store ("Store-1") located in the vicinity of 23679 Calabasas Road, Calabasas, California. Package-1 was addressed to a recipient in Poughkeepsie, New York.

b. The California Officers requested, obtained, and executed a search warrant for Package-1. Inside Package-1 was a karaoke machine—that is, an electronic device that plays music in a manner suitable for performing karaoke. Hidden inside the karaoke machine was approximately 2.7 kilograms of a white, powdery substance that the California Officers recognized, based on their training and experience, to be cocaine. The California Officers subsequently conducted a field test that confirmed the substance was in fact cocaine.

9. I have reviewed surveillance video taken at Store-1 on or about May 31, 2016, depicting an individual Agent-1 believes to be MALCOLM KINYON, a/k/a "Angel Rafael Rios-Zayas," a/k/a "Sean Williams," the defendant, entering the Store-1, placing Package-1 on the counter of the Store-1, and

departing. I recognize KINYON based on my review of photographs of KINYON's New York State Driver's License and arrest record, among other things.

10. Agent-1 has spoken with law enforcement officers (the "Surveillance Officers") who have conducted surveillance of MALCOLM KINYON, a/k/a "Angel Rafael Rios-Zayas," a/k/a "Sean Williams," the defendant, at Agent-1's request. The Surveillance Officers have stated, in substance and in part, that they have observed KINYON travelling to and from a residence at 13360 Burbank Boulevard, Apartment #4, Van Nuys, California (the "Van Nuys Residence") in a manner that indicated to the Surveillance Officers that KINYON was residing there. On or about July 18, 2016, at a time when KINYON appeared to be within the Van Nuys Residence, another individual ("Individual-1") departed the Van Nuys Residence carrying a package ("Package-2"). Individual-1 traveled to a UPS Store ("Store-2") and left Package-2 at Store-2 for shipment. After Individual-1 left Store-2, the Surveillance Officers observed Package-2. Package-2 is generally similar to Package-1 in its size and appearance, is also addressed to a location in Poughkeepsie, New York, and has the same sending address as Package-1.

11. Agent-1 has spoken with a law enforcement officer (the "Financial Analysis Officer") who has reviewed and analyzed financial records, including bank records, credit card statements, and other documents, concerning MALCOLM KINYON, a/k/a "Angel Rafael Rios-Zayas," a/k/a "Sean Williams," the defendant. These records currently run from June 2013, the earliest date as of which financial records have been received and analyzed, up through January 2016, the latest date as of which financial records have been received and analyzed (the "Record Period"). From the Financial Analysis Officer, Agent-1 and I have learned, in substance and in part, that:

a. KINYON is the owner of Outta They League ("OTL"), a Nevada corporation with property in the Bronx, New York that is purportedly organized to produce music. OTL, however, produced negligible or no commercially sold music during the Record Period. During the record period, OTL's total payroll expenses were approximately \$2,000.

b. KINYON is the sole signatory on a bank account in OTL's name ("OTL Account-1"). During the Record Period, approximately \$100,000 per month, on average, has passed through the OTL account, for a total of approximately \$1,178,568. Substantially all of the deposits into the OTL

account were by means of cash deposit, either over-the-counter at banks or through automated teller machines. These cash deposits were typically under the \$10,000 threshold that triggers legal requirements that banks report the transaction to government authorities. Based on bank surveillance video, the persons making deposits to OTL Account-1 do not appear to be KINYON, but rather other individuals making cash and ATM deposits in and around New York and New Jersey.

c. During the Record Period, KINYON withdrew money rapidly after its deposit in OTL Account-1, such that the typical monthly balance for OTL Account-1 is minimal, and sometimes negative. In total, during the Record Period, KINYON withdrew approximately \$313,000 in cash, \$137,000 in wire transfers to numerous other banks, \$102,000 in debit card payments for air travel, \$85,000 in credit card payments, \$65,000 in payments for leased or purchased vehicles (including a Bentley, four Mercedes, and several other vehicles), and \$63,000 in wire transfers to other persons or Western Union locations, among other expenditures.

d. KINYON has no apparent legitimate source of income.

e. In addition to OTL Account-1, during the Record Period, KINYON maintained at least approximately eight other bank accounts in his name, OTL's name, or both.


f. Among credit cards issued in KINYON's name, KINYON maintains a credit card that until in or about 2014 was issued in the name "Angel Rafael Rios-Zayas."

12. Agent-1 has reviewed law enforcement records, including arrest reports and court documents, and spoken with New York State law enforcement officers. From those sources, Agent-1 and I have learned, in substance and in part, that:

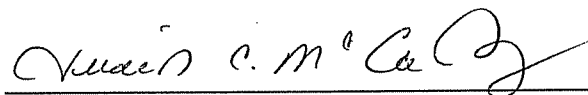
a. On or about July 22, 2012, MALCOLM KINYON, a/k/a "Angel Rafael Rios-Zayas," a/k/a "Sean Williams," the defendant, was arrested in Miami, Florida, for disorderly conduct. At that time, a bench warrant had been issued for KINYON's arrest in connection with a violation of probation arising from a prior felony narcotics conviction in New York. KINYON initially identified himself to the arresting officers as "Angel Rafael Rios-Zayas," but was subsequently identified as himself based on fingerprint analysis.

b. On or about June 24, 2014, KINYON was stopped for a traffic infraction in the vicinity of Yonkers, New York. During the traffic stop, KINYON was found to be in possession of three driver's licenses: his own New York State license, a Pennsylvania license bearing that name "Angel Rafael Rios-Zayas," and an Ohio license bearing the name "Sean Williams."

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of MALCOLM KINYON, a/k/a "Angel Rafael Rios-Zayas," a/k/a "Sean Williams," the defendant, and that he be arrested and imprisoned or bailed, as the case may be.


Allen Davis
Special Agent
FBI

Sworn to before me this
19 day of July, 2016


THE HONORABLE JUDITH C. MCCARTHY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK