

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

23 MAG 7106

UNITED STATES OF AMERICA

v.

MAXIMO NUNEZ,

Defendant.

SEALED COMPLAINT

Violations of 18 U.S.C. §§ 371, 641, and 2

COUNTIES OF OFFENSE:
NEW YORK and BRONX

SOUTHERN DISTRICT OF NEW YORK, ss.:

DAVID FUSCO, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and charges as follows:

COUNT ONE

(Conspiracy to Commit Theft of Government Property)

1. From at least in or about January 2021 through in or about September 2022, in the Southern District of New York and elsewhere, MAXIMO NUNEZ, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, theft of government property, in violation of Title 18, United States Code, Section 641.

2. It was a part and object of the conspiracy that MAXIMO NUNEZ, the defendant, and others known and unknown, would and did embezzle, steal, purloin, and convert to his use and the use of another, and without authority sold, conveyed, and disposed of a record, voucher, money, and thing of value of the United States and a department and agency thereof, to wit, the United States Department of Housing and Urban Development ("HUD"), which exceeded the sum of \$1,000, and received, concealed, and retained the same with intent to convert it to his use and gain, knowing it to have been embezzled, stolen, purloined, and converted, in violation of Title 18, United States Code, Section 641.

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about January 14, 2021, MAXIMO NUNEZ, the defendant, participated in the theft of a construction utility vehicle from the Rangel Houses in New York, New York.

b. On or about May 3, 2022, NUNEZ participated in the theft of a construction utility vehicle from the Clinton Houses in New York, New York.

c. On or about September 16, 2022, NUNEZ participated in the theft of a construction utility vehicle from the Isaacs Houses in New York, New York.

COUNT TWO
(Theft of Government Property)

4. From at least in or about January 2021 through in or about September 2022, in the Southern District of New York and elsewhere, MAXIMO NUNEZ, the defendant, knowingly embezzled, stole, purloined, and converted to his use and the use of another, and without authority sold, conveyed, and disposed of a record, voucher, money, and thing of value of the United States and a department and agency thereof, to wit, HUD, which exceeded the sum of \$1,000, and received, concealed, and retained the same with intent to convert it to his use and gain, knowing it to have been embezzled, stolen, purloined, and converted, to wit, NUNEZ stole construction equipment utility vehicles from federally-funded New York City Housing Authority (“NYCHA”) facilities around New York City.

(Title 18, United States Code, Sections 641 and 2.)

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

5. I am a Special Agent with the United States Attorney’s Office for the Southern District of New York (“USAO-SDNY. I have been employed by USAO-SDNY for approximately four years and have worked in law enforcement since 2010.

Overview

6. I am investigating a pattern of thefts of valuable construction and utility equipment vehicles (“Utility Vehicles”) from NYCHA facilities throughout New York City.¹ The first known theft was in January 2021 and the last was in September 2022. The thefts generally follow a similar pattern. The perpetrators steal expensive Utility Vehicles—typically John Deere Gators or Bobcat Toolcats that retail for approximately \$20,000 to \$60,000—from NYCHA public housing facilities, usually in the middle of the night or late in the evening, when the Utility Vehicles are unattended. NYCHA uses these Utility Vehicles to maintain its facilities for residents. Some of the thefts are recorded on surveillance video, but others are not. The perpetrators often use common vehicles to commit the thefts, including a large, distinctive flatbed truck, and a rented blue pickup truck. Based on my investigation, I believe that the perpetrators then sell these Utility Vehicles to customers who are unaware that they are stolen. To date, at least several hundred thousand dollars’ worth of Utility Vehicles have been stolen. Some of the thefts are described in more detail below.

¹ Based on my training and experience and my review of records and manuals maintained by NYCHA, I know that NYCHA is a New York City public entity that provides housing to low- and moderate-income New York City residents. NYCHA’s operations are funded, in part, by grants from the United States Department of Housing and Urban Development (“HUD”). In 2021, HUD provided over \$2 billion in funding to NYCHA, making up a substantial portion of NYCHA’s budget. HUD provided a similar level of funding to NYCHA in 2022.

7. I have identified at least four individuals—CC-1, CC-2, CC-3, and CC-4—who have been involved in these thefts. As described below, CC-1 has been identified as MAXIMO NUNEZ, the defendant.

The Utility Vehicle Thefts

8. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, photographs, and surveillance video, I have learned that one of the thefts occurred at approximately 1:48 a.m. on or about January 14, 2021, in the vicinity of the Rangel Houses in New York, New York (the “January 14 Theft”). Specifically:

a. On or about January 14, 2021, at approximately 1:48 a.m., at least two unknown individuals in hooded sweatshirts exited a grey vehicle and then took a Utility Vehicle (“Utility Vehicle-1) that was designated for use at the Rangel Houses.

b. A still image of one of the perpetrators driving away from the scene in Utility Vehicle-1, taken from the surveillance video, is depicted below:



c. Utility Vehicle-1 was purchased by NYCHA for approximately \$62,064.55.

9. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, photographs, and surveillance video, I have learned that one of the thefts occurred at approximately 3:40 a.m. on or about January 23, 2021, in the vicinity of the Dyckman Houses in New York, New York (the “January 23 Theft”). Specifically:

a. On or about January 22, 2021, at approximately 4:30 p.m., a NYCHA employee locked the facility’s maintenance garage, which contained a Utility Vehicle (“Utility Vehicle-2”).

b. When the employee returned on or about January 23, 2021, at approximately 8:30 a.m., the padlock on the maintenance garage was missing and Utility Vehicle-2 was no longer in the garage.

c. Surveillance video from the scene depicts an individual driving Utility Vehicle-2 out of the maintenance garage at approximately 3:40 a.m.:



d. A witness observed three unknown individuals in hooded sweatshirts participating in the theft.

e. On or about January 27, 2021, after canvassing the area for evidence of the theft, Utility Vehicle-2 was recovered in the vicinity of 781 East 133rd Street in the Bronx, as depicted in the image below:



f. Utility Vehicle-2 was purchased by NYCHA for approximately \$23,000.00.

10. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, I have learned that one of the thefts occurred at approximately 8:30 p.m. on or about March 21, 2021, in the vicinity of the Harlem River Houses in New York, New York (the “March 21 Theft”). Specifically:

a. In the evening of March 21, 2021, a Utility Vehicle (“Utility Vehicle-3”) was stolen from the employee parking lot of the Harlem River Houses.

b. In response to an increasing number of thefts of Utility Vehicles from NYCHA facilities, law enforcement officers had installed GPS tracking devices on certain Utility Vehicles throughout the NYCHA facilities, including Utility Vehicle-3.

c. On or about March 22, 2021, law enforcement officers tracked Utility Vehicle-3 to a driveway at a certain address in the vicinity of Castle Hill Avenue in the Bronx, New York (the “Castle Hill Address”).

d. Law enforcement officers then recovered Utility Vehicle-3 from the Castle Hill Address, as depicted in the photograph below:



e. Utility Vehicle-3 was purchased by NYCHA for approximately \$24,000.00.

11. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, I have learned that one of the thefts occurred sometime in between approximately 4:00 p.m. on or about March 30, 2022, and approximately 5:15 a.m. on or about March 31, 2022, in the vicinity of the Monroe Houses in the Bronx, New York (the “March 31 Theft”). Specifically:

a. Sometime in between 3:45 p.m. on or about March 30, 2022, and 5:15 a.m. on or about March 31, 2022, another Utility Vehicle (“Utility Vehicle-4”) was stolen from the Monroe Houses.

b. Law enforcement officers had installed a GPS tracking device on Utility Vehicle-4, but it was removed by the perpetrators before Utility Vehicle-4 was taken from the premises.

c. Utility Vehicle-4 was purchased by NYCHA for approximately \$40,000.00.

12. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, photographs, and surveillance video, I have learned that one of the thefts occurred at approximately 1:15 a.m. on or about May 3, 2022, in the vicinity of the Clinton Houses in New York, New York (the “May 3 Theft”). Specifically:

a. On or about May 3, 2022, at approximately 1:15 a.m., a Utility Vehicle (“Utility Vehicle-5”) was stolen from the parking lot of the Clinton Houses.

b. Three individuals dressed in dark hooded sweatshirts were observed on surveillance video loading Utility Vehicle-5 onto a large flatbed truck (the “Flatbed Truck”).

c. A still image of Utility Vehicle-5 on the Flatbed Truck, taken from the surveillance video, is depicted below:



d. The perpetrators immediately drove away from the premises after loading Utility Vehicle-5 onto the Flatbed Truck.

e. Utility Vehicle-5 was purchased by NYCHA for approximately \$44,000.00.

13. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, photographs, and surveillance video, I have learned that one of the thefts occurred at approximately 3:49 a.m. on or about May 6, 2022, in the vicinity of the St. Nicholas in New York, New York (the “May 6 Theft”). Specifically:

a. On or about May 6, 2022, at approximately 3:49 a.m., two unknown individuals loaded a Utility Vehicle (“Utility Vehicle-6”) onto the Flatbed Truck.

b. Moments later, the perpetrators fled the scene with Utility Vehicle-6 on the Flatbed Truck.

c. A still image of the Flatbed Truck just before Utility Vehicle-6 was stolen, taken from the surveillance video, is depicted below:



d. Utility Vehicle-6 was purchased by NYCHA for approximately \$44,000.00.

14. Based on my conversations with law enforcement officers and my review of law enforcement reports, I have learned that another Utility Vehicle (“Utility Vehicle-7”) was stolen at some point on May 12, 2022, in the vicinity of the Bronx Children’s Museum in New York, New York (the “May 12 Theft”).

a. Utility Vehicle-7 was purchased by NYCHA for approximately \$58,000.

15. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, photographs, and surveillance video, I have learned that one of the thefts occurred at approximately 1:30 a.m. on or about June 8, 2022, in the vicinity of the Highbridge Gardens Houses in the Bronx, New York (the “June 8 Theft”). Specifically:

a. On or about June 8, 2022, at approximately 1:30 a.m., a Utility Vehicle (“Utility Vehicle-8”) was stolen from the Highbridge Gardens Houses.

b. A still image of Utility Vehicle-8 being loaded on the Flatbed Truck, taken from the surveillance video, is depicted in the upper righthand corner of the image below:



c. A still image of Utility Vehicle-8 being driven by one of the perpetrators, just a few minutes before it was loaded onto the Flatbed Truck, is depicted below:



d. Utility Vehicle-8 was purchased by NYCHA for approximately \$40,000.00.

16. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, photographs, and surveillance video, I have learned that one of the thefts occurred between approximately 1:20 a.m. and 2:53 a.m. on or about June 22, 2022, in the vicinity of the Castle Hill Houses in the Bronx, New York (the "June 22 Theft"). Specifically:

a. On or about June 22, 2022, at approximately 1:20 a.m. and 2:53 a.m., respectively, two Utility Vehicles ("Utility Vehicle-9" and "Utility Vehicle-10") were stolen from the Castle Hill Houses.

b. At least three individuals participated in the theft.

c. Both Utility Vehicle-9 and Utility Vehicle-10 were loaded onto the Flatbed Truck before being transported from the scene.

d. A still image of the Flatbed Truck, taken from the surveillance video, is depicted below:



e. A still image of Utility Vehicle-9 being loaded onto the Flatbed Truck, taken from the surveillance video, is depicted below:



f. On or about June 27, 2022, that is, five days after the thefts, law enforcement officers recovered Utility Vehicle-9 and Utility Vehicle-10 in the vicinity of East 134th Street and Bruckner Boulevard in the Bronx, New York. While canvassing the area for further evidence, and as explained below in Paragraph 23, law enforcement officers also observed the Flatbed Truck parked nearby in the vicinity of East 134th Street and Locust Avenue in the Bronx, New York.

g. Utility Vehicle-9 and Utility Vehicle-10 were purchased by NYCHA for approximately \$40,000.00 and \$42,000.00, respectively.

17. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, photographs, and surveillance video, I have learned that one of the thefts occurred at approximately 5:00 a.m. on or about September 3, 2022, in the vicinity of the Laguardia Houses in New York, New York (the “September 3 Theft”). Specifically:

a. At approximately 5:00 a.m. on or about September 3, 2022, three unidentified individuals removed a Utility Vehicle (“Utility Vehicle-11”) from the employee parking lot of the Laguardia Houses.

b. The perpetrators loaded Utility Vehicle-11 onto a rented UHaul truck and were also assisted by an individual driving a blue pickup truck.

c. A still image of the UHaul truck and the blue pickup truck, taken from surveillance video, is depicted below:



d. Utility Vehicle-11 was purchased by NYCHA for approximately \$25,000.00.

18. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, photographs, and surveillance video, I have learned that one of the thefts occurred from approximately 1:18 a.m. through approximately 2:07 a.m. on or about September 13, 2022, in the vicinity of the Patterson Houses in the Bronx, New York (the “September 13 Theft”). Specifically:

a. Between approximately 1:18 a.m. and 2:07 a.m. on or about September 13, 2022, three Utility Vehicles (“Utility Vehicle-12,” “Utility Vehicle-13,” and “Utility Vehicle-14”) were stolen from the Patterson Houses.

b. The perpetrators committed the thefts using the Flatbed Truck and a large white box truck.

c. A still image of Utility Vehicle-12 being loaded onto the Flatbed Truck, taken from the surveillance video, is depicted below:



d. A still image of the box truck, taken from the surveillance video, is below:



e. Utility Vehicle-12, Utility Vehicle-13, and Utility Vehicle-14 were all purchased by NYCHA for approximately \$42,000.00 each.

19. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, photographs, and surveillance video, I have learned that one of the thefts occurred at approximately 2:33 a.m. on or about September 16, 2022, in the vicinity of the Isaacs Houses in New York, New York (the “September 16 Theft”). Specifically:

a. At approximately 2:33 a.m. on or about September 16, 2022, two unknown individuals loaded a Utility Vehicle (“Utility Vehicle-15”) onto the Flatbed Truck and drove it away from the Isaacs Houses.

b. A still image of the Flatbed Truck on the scene shortly before the theft, taken from the surveillance video, is depicted below:

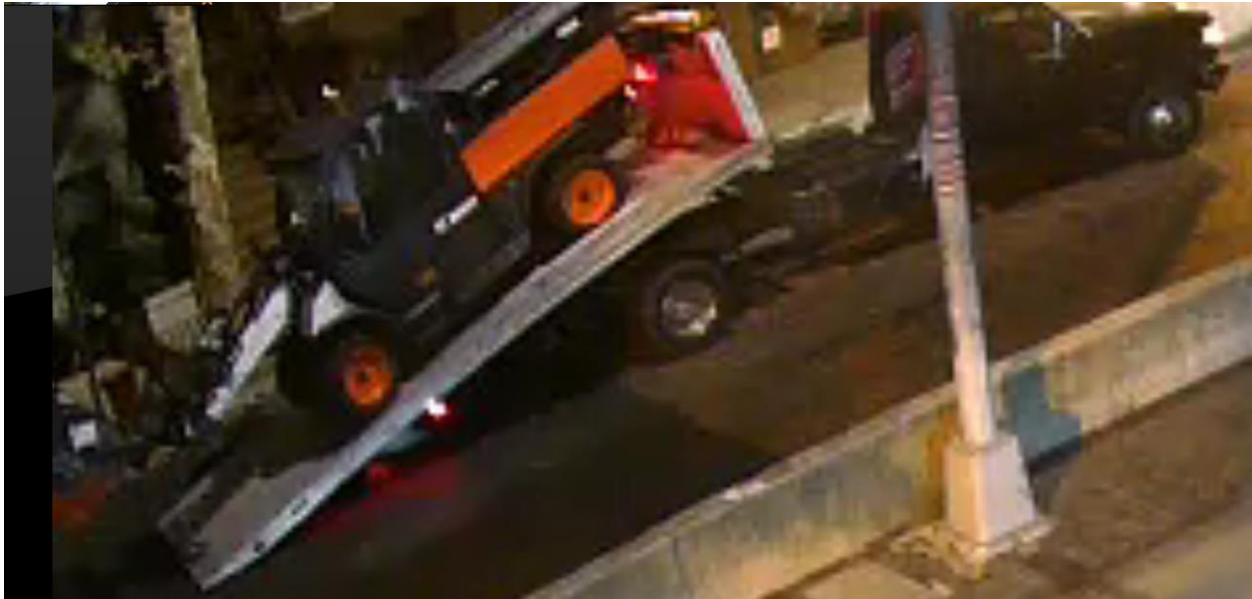


c. Utility Vehicle-15 was purchased by NYCHA for approximately \$8,000.

20. Based on my conversations with law enforcement officers and my review of law enforcement reports and records, photographs, and surveillance video, I have learned that one of the thefts occurred at approximately 3:20 a.m. on or about September 24, 2022, in the vicinity of the DeHostos Houses in New York, New York (the “September 24 Theft”). Specifically:

a. At approximately 3:20 a.m. on or about September 24, 2022, the perpetrators were observed loading a Utility Vehicle (“Utility Vehicle-16”) onto the Flatbed Truck before driving away from the DeHostos Houses.

b. A still image of Utility Vehicle-16 being loaded onto the Flatbed Truck, taken from the surveillance video, is depicted below:



- c. Utility Vehicle-16 was purchased by NYCHA for approximately \$42,000.00.

MAXIMO NUNEZ is CC-1

21. Based on my review of law enforcement reports and records, my conversations with other law enforcement officers, my review of surveillance footage, as well as my review of records provided to me by third-party sources in the course of my investigation, I believe, for the reasons described below, that CC-1 is MAXIMO NUNEZ, the defendant.

22. Based on my review of reports prepared by other law enforcement officers, my review of relevant documents, and my conversations with other law enforcement officers, I have learned the following:

- a. On or about March 23, 2021, law enforcement officers spoke with the owner (“Owner-1”) of the Castle Hill Address, that is, the location where Utility Vehicle-3 was recovered.

- b. Owner-1 related to law enforcement that he had recently rented the Castle Hill Address to two individuals: MAXIMO NUNEZ, the defendant, and CC-2, who described himself as a cousin of NUNEZ.

- c. On or about April 9, 2021, law enforcement officers also interviewed the superintendent (“Superintendent-1”) of Castle Hill Address. Law enforcement officers showed Superintendent-1 photographs of MAXIMO NUNEZ and CC-2, which were obtained from Department of Motor Vehicles records. Superintendent-1 identified NUNEZ and CC-2 as the two individuals who were currently renting the Castle Hill Address. Superintendent-1 stated that NUNEZ and CC-2 were the only two individuals with access to the Castle Hill Address at that time. Superintendent-1 also stated that he had observed NUNEZ store at least three other Utility Vehicles at the Castle Hill Address in the recent past.

d. Owner-1 provided law enforcement officers with rental application records relating to the Castle Hill Address, which confirm that MAXIMO NUNEZ and CC-2 were renting the Castle Hill Address at the time Utility Vehicle-3 was stolen from the Harlem River Houses.

23. Based on my review of surveillance video, law enforcement reports and records, license plate reader (“LPR”) data, cellphone subscriber records, text message records, and my conversations with other law enforcement officers, I have learned the following:

a. The Flatbed Truck used in several of the thefts has a few distinct features: a silver-colored flatbed with silver color guard rails on each side; orange emergency lights immediately behind the truck cab; a white visor affixed to the top of the windshield with an additional orange emergency light affixed to the top of said visor; and black mudflaps behind the rear wheels.

b. On or about June 27, 2022, law enforcement officers were doing routine surveillance in the vicinity of 134th Street and Bruckner Boulevard in the Bronx, New York, near the scene where Utility Vehicle-9 and Utility Vehicle-10 had recently been recovered. While canvassing the area, law enforcement officers discovered a flatbed truck parked near the side of the road. Upon examining the flatbed truck’s features, law enforcement officers believed it to be the Flatbed Truck, that is, the truck that was used for several of the thefts. Law enforcement officers then observed the Vehicle Identification Number, or “VIN,” of the truck, on the dashboard, which was visible from the exterior of the truck.

c. After running the VIN number in relevant databases, law enforcement officers learned that the truck was owned by a certain individual (“Owner-2”). Shortly thereafter, law enforcement officers conducted an interview with Owner-2. Owner-2 stated that he had sold the truck to MAXIMO NUNEZ, the defendant, on or about May 1, 2022, that is, two days before the first theft for which the Flatbed Truck was used.

d. Owner-2 provided law enforcement officers with text messages relating to the purchase of the Flatbed Truck. Those messages confirm that NUNEZ texted Owner-2 regarding the Flatbed Truck in or about May 2022 from a cellphone subscribed to him (the “Nunez Phone”). Those text messages also confirm that NUNEZ purchased the Flatbed Truck from Owner-2.

24. Based on my review of surveillance video, law enforcement reports and records, LPR data, records from a certain car rental company (“Rental Company-1”), and my conversations with other law enforcement officers, I have learned the following:

a. On or about September 3, 2022, that is, the date on which Utility Vehicle-11 was stolen, law enforcement officers observed on surveillance video a blue pickup truck assisting in the theft.

b. Some weeks earlier, on or about May 4, 2022, at approximately 2:10 a.m., the Flatbed Truck traveled into Manhattan via the Macombs Dam Bridge carrying a pickup truck with Massachusetts license plate 9GJ-472 (the “Blue Pickup Truck”).

c. According to records from Rental Company-1, MAXIMO NUNEZ, the defendant, rented the Blue Pickup Truck from Rental Company-1 from March 1, 2022, until September 13, 2022.

d. The Blue Pickup Truck's location on or about September 3, 2022, is consistent with its participation in the September 3 theft. Specifically, on or about September 3, 2022, the Blue Pickup Truck traveled from Manhattan into the Bronx via the Willis Avenue Bridge at approximately 5:35 a.m., that is, approximately 40 minutes after the theft of Utility Vehicle-11 at the Laguardia Houses in lower Manhattan.

25. Based on my review of law enforcement reports and records, vehicle identification information, cellphone subscriber records, call detail records, my conversations with other law enforcement officers, and my conversations with a certain individuals ("Customer-1" and "Customer-2") who purchased Utility Vehicles that were ultimately confirmed to have been stolen from NYCHA facilities, I have learned the following:

a. On or about February 15, 2023, Customer-1 brought a Utility Vehicle to a mechanic in Maine in order to have it repaired. Customer-1 had purchased the Utility Vehicle on or about June 1, 2022, from an online construction equipment vehicle retailer ("Retailer-1") located in New Jersey. After employees at the mechanic shop examined the Utility Vehicle, they informed Customer-1 that the Vehicle had been reported stolen from a NYCHA housing facility on or about May 12, 2022. Customer-1 was not aware that the Utility Vehicle had been stolen.

b. The Utility Vehicle purchased by Customer-1 from Retailer-1 is in fact Utility Vehicle-7, that is, the Utility Vehicle that was stolen from the Bronx Children's Museum on or about May 12, 2022.

c. On or about June 26, 2023, law enforcement officers recovered Utility Vehicle-13—that is, one of the Utility Vehicles that was stolen from the Patterson Houses on or about September 13, 2022—at a private residence in New Jersey. The purchaser of Utility Vehicle-13, Customer-2, indicated that she had purchased Utility Vehicle-13 from Retailer-1.

d. Retailer-1 does business using a certain phone number (the "Retailer-1 Phone"). On or about February 20, 2022, that is, some time before the May 12 and September 13 thefts, MAXIMO NUNEZ, the defendant, using the Nunez Phone, communicated at least one time with the Retailer-1 Phone.

26. Based on my review of information provided to me by Apple pursuant to a judicially authorized search warrant, law enforcement reports and records, as well as my review of vehicle identification information provided to me by a retailer of Utility Vehicles, I have learned the following:

a. MAXIMO NUNEZ, the defendant, is the subscriber of a certain iCloud account (the "Nunez iCloud Account").

b. During my review of the Nunez iCloud Account, I discovered a close-up photograph of the VIN number of a certain Utility Vehicle. That Utility Vehicle was purchased by the New York City Department of Parks and Recreation on or about January 2, 2019, and had been reported stolen some time thereafter.

c. The Nunez iCloud Account also contained other information and images consistent with NUNEZ's participation in the thefts, including pictures of Utility Vehicles; ads selling Utility Vehicles and parts of Utility Vehicles; and internet searches related to Utility Vehicles.

27. Based on my review of law enforcement reports and records, cellphone subscriber records, call detail records, open-source information, my conversations with other law enforcement officers, and my conversations with Retailer-1, I have learned the following:

a. Another individual, CC-3, has listed several Utility Vehicles for sale on an online marketplace forum using a social media account that I know, based on my investigation, to be used by CC-3.

b. One of those Utility Vehicles (“Utility Vehicle-17”) was listed for sale on about January 12, 2021.²

c. In the course of attempting to sell Utility Vehicle-17 and other Utility Vehicles, CC-3 communicated with Retailer-1, who, as further described below, has purchased several Utility Vehicles from another individual, CC-4, that were later reported to have been stolen from NYCHA facilities.

d. MAXIMO NUNEZ, the defendant, using the Nunez Phone, and CC-3, using a phone that is subscribed in his name, have communicated regularly at or around the time of many of the thefts. Specifically:

i. On or about January 14, 2021, that is, the date on which Utility Vehicle-1 was stolen, NUNEZ and CC-3 communicated approximately three times, including one phone call approximately 30 minutes after the theft.

ii. On or about January 23, 2021, that is, the date on which Utility Vehicle-2 was stolen, NUNEZ and CC-3 communicated approximately four times, including at approximately 2:48 a.m.; 2:57 a.m.; and 3:43 a.m.

iii. On or about March 22, 2021, that is, the day after which Utility Vehicle-3 was stolen, NUNEZ placed an outgoing call to CC-3 at approximately 1:30 a.m.

iv. On or about March 30, 2022, that is, the date on which Utility Vehicle-4 was stolen, NUNEZ placed an outgoing call to CC-3 at approximately 10:36 p.m.

v. On or about May 3, 2022, that is, the date on which Utility Vehicle-5 was stolen, NUNEZ and CC-3 communicated approximately four times, at approximately 12:22 a.m.; 12:23 a.m.; 12:45 a.m.; and 1:22 a.m.

vi. On or about May 13, 2022, that is, the day after which Utility Vehicle-7 was stolen, NUNEZ placed an outgoing call to CC-3 at approximately 2:39 p.m.

vii. On or about June 8, 2022, that is, the date on which Utility Vehicle-8 was stolen, NUNEZ and CC-3 communicated approximately 15 times, including at approximately 1:01 a.m.; 1:02 a.m.; 1:04 a.m.; 1:52 a.m.; 2:02 a.m.; 2:04 a.m.; 2:07 a.m.; 2:08 a.m.; and 2:09 a.m.

² Based on my review of law enforcement reports and records, I know that a Utility Vehicle was stolen from the Harlem River Houses at an unknown time on or about January 12, 2021.

viii. On or about September 3, 2022, that is, the date on which Utility Vehicle-11 was stolen, NUNEZ and CC-3 communicated approximately four times, including at approximately 12:13 a.m. and 12:19 a.m.

ix. On or about September 13, 2022, that is, the date on which Utility Vehicle-12, Utility Vehicle-13, and Utility Vehicle-14 were stolen, NUNEZ and CC-3 communicated approximately 4 times, including at approximately 12:05 a.m. and 12:41 a.m.

x. On or about September 16, 2022, that is, the date on which Utility Vehicle-15 was stolen, NUNEZ and CC-3 communicated approximately 9 times, including at approximately 12:35 a.m.; 12:38 a.m.; 12:46 a.m.; 12:47 a.m.; 2:27 a.m.; 2:43 a.m.; and 2:51 a.m.

xi. On or about the evening September 23, 2022, that is, shortly before Utility Vehicle-16 was stolen at approximately 3:20 a.m. on September 24, 2022, NUNEZ and CC-3 communicated approximately 4 times, at approximately 8:09 p.m.; 8:13 p.m.; 8:23 p.m.; and 9:58 p.m.

28. In total, NUNEZ and CC-3 communicated approximately 326 times between January 1, 2021, and April 5, 2021, and approximately 1,133 times between September 9, 2021, and September 23, 2022.

29. Based on my review of law enforcement reports and records, cellphone subscriber records, call detail records, my conversations with other law enforcement officers, and my conversations with Retailer-1, I have learned the following:

a. Retailer-1 has purchased several Utility Vehicles from a certain individual, CC-4, including Utility Vehicle-7, Utility Vehicle-13, and Utility Vehicle-16. Typically, Retailer-1 has met CC-4 in the Bronx, where he paid cash for each Utility Vehicle.³ Retailer-1 then resold each Utility Vehicle to individuals such as Customer-1 and Customer-2.

b. MAXIMO NUNEZ, the defendant, using the Nunez Phone, and CC-4, using a phone that I know to be used by him,⁴ have communicated regularly at or around the time of many of the thefts. Specifically:

i. On or about May 4, 2022, that is, the day after which Utility Vehicle-5 was stolen, NUNEZ texted CC-4 at approximately 7:14 p.m.

ii. On or about September 3, 2022, that is, the date on which Utility Vehicle-11 was stolen, NUNEZ received incoming voicemails from CC-4 at approximately 1:49 a.m. and 7:36 a.m. On or about September 4, 2023, that is, the day after which Utility Vehicle-11 was stolen, NUNEZ received an incoming voicemail from CC-4 at approximately 10:49 p.m.

³ Utility Vehicles are typically not registered with any state or city entity, which makes it difficult for a buyer to determine whether or not they are stolen.

⁴ CC-4 used this same phone to communicate regularly with Retailer-1.

iii. On or about the evening September 23, 2022, that is, shortly before Utility Vehicle-16 was stolen at approximately 3:20 a.m. on September 24, 2022, NUNEZ and CC-4 communicated approximately 4 times, including at approximately 5:14 p.m. and 5:16 p.m.

iv. In total NUNEZ and CC-4 communicated approximately 53 times between November 5, 2021, and October 10, 2022.

30. CC-3 and CC-4 have themselves communicated approximately 384 times between January 1, 2022, and October 5, 2022.

31. Based on my review of cellphone location information obtained pursuant to a judicially-authorized search warrant, I have learned that the location of the Nunez Phone on the dates and times of the January 12, January 14, January 23, March 21, March 31, May 3, May 6, June 8, June 22, September 13, and September 16 thefts is consistent with the involvement of MAXIMO NUNEZ, the defendant, those thefts. Specifically:

a. On or about January 12, 2021, at approximately 3:08 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-16 was stolen.

b. On or about January 14, 2021, at approximately 1:44 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-1 was stolen.

c. On or about January 23, 2023, at approximately 3:28 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-2 was stolen.

d. On or about March 21, 2021, at approximately 8:33 p.m., and on or about March 22, 2021, at approximately 12:06 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-3 was stolen.

e. On or about March 31, 2022, at approximately 1:13 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-4 was stolen.

f. On or about May 3, 2022, from approximately 12:45 a.m. through 1:22 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-5 was stolen.

g. On or about May 6, 2022, at approximately 3:32 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-6 was stolen.

h. On or about June 8, 2022, from approximately 1:01 a.m. through 2:09 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-8 was stolen.

i. On or about June 22, 2022, from approximately 12:12 a.m. through 2:04 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-9 and Utility Vehicle-10 were stolen.

j. On or about September 13, 2022, from approximately 12:41 a.m. through 3:09 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-12, Utility Vehicle-13, and Utility Vehicle-14 were stolen.

k. On or about September 16, 2022, at approximately 2:27 a.m., the Nunez Phone was located in the vicinity of where Utility Vehicle-15 was stolen.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of MAXIMO NUNEZ, the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.

/s authorized electronic signature

DAVID FUSCO
USAO-SDNY

Sworn to me through the transmission of this Complaint by reliable electronic means (telephone), this 6th day of November, 2023.



THE HONORABLE SARAH NETBURN
United States Magistrate Judge
Southern District of New York