

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

RECALDO FRAY,

Defendant.

SEALED COMPLAINT

Violations of 18 U.S.C. §§ 1951,
924(c)(1)(A)(i) and (ii), 1512(b)(1),
and (2)

COUNTY OF OFFENSE:
ORANGE

SOUTHERN DISTRICT OF NEW YORK, ss.:

THOMAS L. ANDERSON being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE
(Hobbs Act Robbery)

1. On or about December 4, 2023, in the Southern District of New York and elsewhere, RECALDO FRAY, the defendant, knowingly committed robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), and thereby obstructed, delayed, and affected commerce and the movement of articles and commodities in commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), and aided and abetted the same, to wit, FRAY and another person robbed at gunpoint a home in the vicinity of South Clark Street, Newburgh, New York.

(Title 18, United States Code, Sections 1951 and 2.)

COUNT TWO
(Firearms Use, Carrying, and Possession)

2. On or about December 4, 2023 in the Southern District of New York and elsewhere, REYCALDO FRAY, the defendant, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, namely, the Hobbs Act robbery charged in Count One of this Complaint, knowingly used and carried a firearm, and in furtherance of such crime,

possessed a firearm, and aided and abetted the use, carrying, and possession of a firearm, which was brandished.

(Title 18, United States Code, Sections 924(c)(1)(A)(i) and (ii), and 2.)

COUNT THREE
(Witness Tampering)

3. On or about December 16, 2023, in the Southern District of New York and elsewhere, RECALDO FRAY the defendant, knowingly used intimidation, threatened, or corruptly persuaded another person, and attempted to do so, and engaged in misleading conduct toward another person with intent to influence, delay, and prevent the testimony of any person in an official proceeding, and cause and induce any person to withhold testimony from an official proceeding, to wit, on or about December 16, 2023, FRAY approached a victim of the Hobbs Act Robbery described in Count One in front of the victim's home, also the location of the robbery, and displayed an item that the victim recognized as his own driver's license as an individual the victim recognized as the other person which whom FRAY committed the Hobbs Act Robbery described in Count One attempted to enter the victim's vehicle, before the victim fled.

(Title 18, United States Code, Sections 1512(b)(1) and 2.)

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

4. I am a Special Agent with the FBI, and I have been personally involved in the investigation of this matter. This affidavit is based in part on my conversations with other law enforcement officers and others, and my examination of correspondence, video surveillance, reports, and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during my investigation. Where the contents of documents or the actions, statements, and conversations of

others are reported herein, they are reported in substance and in part, except where otherwise indicated.

5. Based on my review of reports and records in this investigation, sworn statements from the victims and a witness, License Plate Recognition (“LPR”) data, GPS and cellphone location records, and video surveillance footage, as well as my conversations with other law enforcement officers, and my own participation in this investigation, I know that the FBI and the City of Newburgh Police Department (“CNPd”) have been investigating the armed robbery of a known marijuana-dealing location in the City of Newburgh, New York by RECALDO FRAY, the defendant, and at least one co-conspirator, and the attempted witness intimidation of a victim of the robbery, also by FRAY and at least one co-conspirator.

The Report of the Robbery

6. In or about the early morning hours of December 5, 2023, two individuals reported an armed robbery of a residence on South Clark Street in Newburgh, New York (the “Residence”).¹

Victim-1's Report of the Robbery

7. One individual, who represented that he lives at, and also sold marijuana out of, the Residence (“Victim-1”) was interviewed by CNPD and provided the following information:

a. He was sitting in the Residence when he heard a knock at the front door, which he knew had trouble closing and locking. After going to the door and looking through the peep hole, he attempted to move his sofa to block the door. An individual on the other side of the door was able to open the door enough to stick a gun into the crack in the door and prevent it from closing.

b. The individuals on the other side of the door were able to overpower him, and three individuals entered the Residence: two unknown men (the “Intruders”), both of whom

¹ The Residence is known to law enforcement in Newburgh as a marihuana-dealing location.

had guns, and one Hispanic man who Victim-1 recognized as a regular customer of his and who Victim-1 understood had come to the Residence to buy marihuana from him (“Victim-2”).

c. The Intruders yelled not to look at them and forced him and Victim-2, at gunpoint, into the bedroom and to kneel down facing the bed. The Intruders then placed fabric bags over Victim-1 and Victim-2’s heads and placed handcuffs on Victim-1.

d. One of the Intruders stood over him and Victim-2, while the other went through the Residence, taking things.

e. The Intruders “kept asking where the money was, where the safe was, and told [him] that they would kill [him].” Victim-1 told the Intruders that he only had \$1,000 in his pocket, and they took that money.

f. At one point, one of the Intruders hit him over the head approximately three times with a gun. He also stated that at one point, one of the intruders placed the barrel of a gun to the back of his neck and said, “I feel like you are lying to me.” The Intruder who was holding the gun to Victim-1’s neck then moved the gun down his neck, and back, and onto his left thigh.

g. The Intruders told him “they know who [he is] and are coming back for [him].”

h. Before the Intruders left, they removed the fabric bag from his head, duck taped his mouth, removed the handcuffs to replace them with duct tape, and tied his legs up with a belt.

i. He instructed Victim-2 to call the police, because the Intruders had taken his phone.

j. Victim-1 reported the following items stolen:

(i) A FedEx envelope containing his birth certificate, immigration paperwork, social security card, and Jamaican passport;

- (ii) His phone, a Samsung Galaxy 6 that corresponds to the cellphone number ending in 6229;
- (iii) Approximately $\frac{3}{4}$ of a pound of marijuana;
- (iv) Approximately \$1,000 in cash, representing the proceeds of marijuana sales;
- (v) A gold-plated watch;
- (vi) A blue jug filled with quarters;
- (vii) A plastic food container filled with coins; and
- (viii) A gallon bottle filled with coins, worth approximately \$2,000.

k. Victim-1 reported that he only saw one of the Intruders and described him as black. He identified both as men and reported that one was taller than the other and that one was wearing black Nike Air Max shoes. Victim-1 reported that he was not familiar with the Intruders.

l. Victim-1 also reported that both of the Intruders had guns – that one had a small revolver and the other had a black semi-automatic, and that the semi-automatic gun was the one used to get into the door of the Residence.

Victim-2's Report of the Robbery

8. Victim-2 was interviewed by CNPD and provided the following information:

a. He was on the sidewalk in front of the Residence when a light-skinned black male grabbed him (“Intruder-1”), and then, after Victim-2 had shaken him off, pointed a gun at him and dragged him inside the common hallway of the building in which the Residence is located.

b. There he saw a darker-skinned black male inside (“Intruder-2” and, together with Intruder-1, the “Intruders”), who had two guns. The Intruders instructed Victim-2 to knock on the door of the Residence, and when he initially refused, both Intruders pointed guns at Victim-

2's head. Intruder-1 then struck Victim-2 on the neck with the butt of his gun. Victim-2 fell, and Intruder-1 then held Victim-2 in a headlock with the gun pointed at Victim-2's head. Intruder-2 then rang the doorbell and announced "delivery" before beginning to kick down the door to the Residence.

c. Once inside, Intruder-2 pistol-whipped Victim-1 before putting Victim-1 in handcuffs. The Intruders brought Victim-2, along with Victim-1, into a dark room and threw Victim-2 to the ground. At this point, Victim-2 observed Victim-1 was knelt over the bed with his hands handcuffed behind him. Intruder-1 had a gun pointed at Victim-2 and repeated "don't look at me." The Intruders went through Victim-2's pockets and took his rent money and his phone.

d. Victim-2 believed that a notification had popped up on his phone while the Intruders were looking at it, and that because of his immigration status, his phone has GPS tracking. Victim-2 believed that this upset the Intruders, and Intruder-1 then hit Victim-2 with the butt of a gun once again. At this point, the Intruders placed pillowcases over Victim-2 and Victim-1's heads and instructed Victim-2 to kneel beside Victim-1.

e. The Intruders then ransacked the Residence and continued to yell at him and Victim-1 the whole time.

f. Before the Intruders left, they removed the handcuffs from Victim-1, duct taped Victim-1's hands and mouth and tied together Victim-1's legs with a belt. The Intruders also tied Victim-2's legs with a belt.

g. The Intruders told Victim-2 and Victim-1 that they were going to come back and kill the two of them because both he and Victim-1 had seen their faces.

h. Victim-2 reported that the Intruders stole \$1,600 from him.

i. Victim-2 further described Intruder-1 as tall and stocky, wearing a black jacket with a black hoodie underneath, black pants, a black beanie, and black Nike shoes. Victim-2 estimated that Intruder-1 was in his late twenties.

j. Victim-2 further described Intruder-2 as tall and skinnier, wearing a black coat, black hoodie, and black sweatpants and as having a tight, groomed beard. Victim-2 estimated that Intruder-2 was older than Intruder-1, perhaps in his thirties.

k. Victim-2 stated that the Intruders spoke English and used what he understood to be Jamaican words at times.

l. Victim-2 noted that Intruder-2 had two guns and Intruder-1 had one gun. He described all three as black guns and noted that they appeared to him to look like law enforcement weapons.

The Intimidation of Victim-1

9. On or about December 16, 2023, Victim-1 returned to a CNPD precinct to report an incident.

Victim-1's Report of the Intimidation Incident

10. Victim-1 stated that at approximately 11:45 am on or about December 16, 2023, he was sitting in his car in front of the Residence, when he saw a newer style Acura drive past him, do a U-turn, and then drive back towards him before stopping next to his car.

11. Victim-1 reported that the driver of the Acura rolled down the driver's side window halfway, allowing Victim-1 to observe half of the driver's face, which Victim-1 described as a dark-skinned, black male, who wore glasses and had a beard. The driver of the Acura then held up what Victim-1 recognized as his own driver's license with the photo facing the driver as he looked at Victim-1 and instructed Victim-1 to roll down his window. Victim-1 was able to recognize his driver's license because it is discolored in a particular and identifiable way.

12. Victim-1 stated that as he rolled down his window, another man, a light-skinned black man, exited the passenger side of the Acura and came around to the passenger door of Victim-1's vehicle, as both men, the driver and the passenger, instructed Victim-1 to open the door. Victim-1 did not open the door and drove away quickly.

13. Victim-1 reported that he recognized both men, the driver and the passenger of the Acura, as the Intruders from the night of the robbery.

14. Victim-1 reported that as he drove away, he observed the Acura following him and so he drove towards the CNPD precinct and pulled into the CNPD precinct parking lot.

15. As Victim-1 was waiting in the lobby of CNPD, a construction worker (the "Witness" walked into the precinct and asked Victim-1 if he was being chased by an Acura. When Victim-1 responded in the affirmative, the Witness told Victim-1 that he had gotten the license plate of the Acura and provided it to Victim-1 before walking away. The license plate number provided was New York State Tag ("NYST") KJM 7196.

The Witness's Report of the Intimidation Incident

16. The Witness reported that on or about December 16, 2023, at approximately 11:45 am, he was driving his truck when he observed two other vehicles – a BMW and a gray Acura – run a red light.

17. The Witness further reported that he watched as the BMW pulled into the CNPD parking lot, and the gray Acura made a U-turn and drove away. As this happened, the Witness made note of the license plate of the gray Acura. The Witness then walked into the CNPD and spoke with the driver of the BMW, providing him the license plate number.

18. The Witness confirmed that the license plate number that he provided was KJM 7196.

Identification of Recaldo Fray

Video Footage

19. Video footage from the late evening hours of on or about December 4, 2023 collected from surveillance cameras owned by residents near the Residence shows the following:

a. At approximately 10:55 pm on December 4, 2023, a male individual (“Suspect-1”) exits a light-colored sedan vehicle (the “Robbery Suspect Vehicle”) parked on the southeast corner of South Clark Street and Renwick Street. Suspect-1 walks east on Renwick Street out of the camera’s view. Shortly thereafter, someone who appears to be Suspect-1, crosses South Clark Street going east on Renwick Street before again exiting the camera’s view.

b. Approximately one minute later, someone who appears to be Suspect-1 re-enters the camera’s frame, walking east on Renwick Street, before turning right on South Clark Street and walking down the west side of the street towards the camera’s view. Suspect-1 continues walking directly in front of the camera, before walking out of the camera’s view.

i. On or about January 12, 2024, the video footage described in Paragraph 19b, above, was shown to an individual familiar with RECALDO FRAY, the defendant.²

ii. The individual viewed the footage and immediately stated that he recognized Suspect-1 as RECALDO FRAY.

c. At approximately 10:57 pm, an individual who appears to be Suspect-1 crosses South Clark Street and enters the Robbery Suspect Vehicle.

² The individual described in Paragraphs 19a(i) and (ii) above served as FRAY’s instructor and trainer for a 12-week training program that began in April of 2023, prior to FRAY beginning his work with his current employer, Westchester County Department of Corrections. During this 12-week period, the individual observed and interacted with FRAY on a near-daily basis.

d. At approximately 11:00 pm, the Robbery Suspect Vehicle pulls away from its parking spot, briefly driving north on South Clark Street before turning right on Renwick Street and out of camera view.

e. At approximately 11:11 pm, the Robbery Suspect Vehicle is observed driving north on South Clark Street before slowly turning right on Renwick Street and out of camera view.

20. Video footage from the late evening hours of on or about December 4, 2023 collected from Newburgh City Street cameras shows that at approximately 11:11 pm, a vehicle comes from South Clark Street and makes a right onto Renwick Street before parking on the south side of Renwick Street.

a. This vehicle matches the Robbery Suspect Vehicle observed as described in Paragraph 19 above, and as the video is in color, shows that the vehicle is light gray or silver in color.

21. Based on my training and experience, the behavior described in Paragraphs 19 and 20 above is consistent with casing behavior – observation and exploration of a location in preparation for and in advance of a burglary or robbery of that location.

22. Video footage from the late evening hours of on or about December 4, 2023 collected from surveillance cameras owned by residents near the Residence further shows the following:

a. At approximately 11:15 pm on December 4, 2023, two individuals are observed walking west on Renwick Street before turning right onto South Clark Street and walking north on South Clark Street, on the eastern side of the street, headed towards Benkard Avenue.

b. Shortly thereafter, and from another camera angle, at approximately 11:16 pm, two males, including one male who appears to be Suspect-1 and male individual (“Suspect-

2”) are observed walking north on the eastern side of South Clark Street, in front of the Residence as they pass out of the view of the camera.

c. At approximately 11:32 pm, an individual who appears to be Suspect-2 is seen walking south on the eastern side of South Clark Street, just outside of the Residence, carrying a medium sized item in his left hand and a smaller item in his right hand.

d. At approximately 11:35 pm, a vehicle that appears to be the Robbery Suspect Vehicle is observed driving west on Renwick Street before turning right on South Clark Street and parking shortly thereafter on the northeast corner of South Clark Street and Renwick Street, approximately a half of a block south of the Residence. An individual exits the driver’s side of the vehicle and walks north on the eastern side of South Clark Street.

e. At approximately 11:46 pm, an individual who appears to be Suspect-2 is seen walking south on the eastern side of South Clark Street, just outside of the Residence, carrying what appears to be a suitcase in his left hand before loading the item into the trunk of vehicle that appears to be the Robbery Suspect Vehicle and is parked on the northeast corner of South Clark Street and Renwick Street approximately a half of a block south of the Residence. Suspect-2 then walks back toward the Residence, walking on the eastern side of South Clark Street. At approximately 11:47 pm, the individual who appears to be Suspect-2 reappears, again walking south on the eastern side of South Clark Street, just outside of the Residence, carrying what appears to be a 5-gallon water cooler jug in his right hand, before loading the item into the trunk of the Robbery Suspect Vehicle. The nature of Suspect-2’s gait suggests that the item in his right hand is quite heavy, as Suspect-2 is seen holding out his left arm for balance. Suspect-2 then returns towards the residence, walking north on the eastern side of South Clark Street.

f. At approximately 11:51 pm, two individuals who appear to be Suspect-1 and Suspect-2 are seen walking south on the eastern side of South Clark Street just outside of the

Residence. Suspect-2 appears to be carrying a clear plastic gallon jug. Suspect-2 loads the item in his hand into the trunk of what appears to be the Robbery Suspect Vehicle, before entering the passenger side, as Suspect-1 enters the driver's side of the vehicle. At approximately 11:52 pm, the Robbery Suspect Vehicle pulls away, driving north on South Clark Street and out of the camera's view.

g. At approximately 11:52 pm, another camera angle picks up what appears to be the Robbery Suspect Vehicle driving north on South Clark Street before making a left onto Benkard Avenue and out of camera view.

23. Video footage from the late evening hours of on or about December 4, 2023 collected from Newburgh City Street cameras shows that at approximately 11:52 pm, a vehicle comes off of Benkard Avenue and goes south on William Street, where the vehicle appears to stop for a red light before making a right, either onto Renwick Street or Bridge Street, and driving out of camera view.

24. Video footage from the late evening hours of on or about December 4, 2023 collected from the local school district shows a vehicle that appears to be the Robbery Suspect Vehicle traveling south towards New Windsor at approximately 11:53 pm.

License Plate Recognition Information & Cellphone Location Data

25. On or about December 8, 2023, law enforcement showed stills from the video described above that showed the Suspect Robbery Vehicle to a Sales Manager at a local Acura dealership. This individual confirmed that the vehicle in the images was indeed an Acura, and advised that it was a 2009-2014 Acura TSX.

26. A check of License Plate Recognition ("LPR") information for the Town of New Windsor showed only one Acura traveling between 11:53 pm on or about December 4, 2023 and 12:00 am on or about December 5, 2023. That vehicle – a 4 door 2009 gray Acura TSX with

NYST KZP 2935 (the “Acura Sedan”) – passed through a New Windsor LPR on Route 9W south towards New Windsor at approximately 11:54 pm on or about December 4, 2023.

27. According to New York State DMV records, the Acura Sedan is registered to RECALDO FRAY, the defendant, with a particular date of birth in 1992, at a particular address in Mount Vernon, New York (the “Subject Address”).

28. Based on my review of paperwork submitted by RECALDO FRAY, the defendant, to his current employer, the Westchester County Department of Corrections, I have learned, among other things, that FRAY listed his phone number as one ending in 1320 (the “1320 Number”) and listed his prior address as a particular residence on North 6th Avenue in Mount Vernon (the “Prior Address”). Based on my review of subscriber records for the cellphone assigned the 1320 Number (the “Fray Phone”), I know that it is subscribed to another individual, who I believe is a relative of FRAY³ at the Prior Address.

29. Cellsite location data for the Fray Phone shows that the Fray Phone was in the Newburgh area at approximately 10:22 pm on or about December 4, 2023.

30. LPR data from New Windsor shows that the Acura Sedan was near Route 9W traveling north towards Newburgh at approximately 10:31 pm on or about December 4, 2023. As noted above, the same data shows the Acura Sedan traveling south on Route 9W towards New Windsor at approximately 11:54 pm on or about December 4, 2023.

31. LPR data for the Governor Mario Cuomo Bridge (“MCB”) shows that the Acura Sedan was traveling southbound on the MCB at approximately 12:31 am on or about December 5, 2023.

³ The subscriber is listed as FRAY’s relative on FRAY’s birth certificate, which he submitted to his current employer as part of the paperwork discussed in Paragraph 28 above.

32. Based on my training and experience, this data is consistent with an individual traveling in a vehicle from Mount Vernon, New York to the City of Newburgh, and then back to Mouth Vernon.

33. The vehicle with a NYST KJM 7196 – the license plate number provided by Victim-1 and the Witness – is a 2020 Acura MDX in gray (the “Acura SUV”), which is also registered to RECALDO FRAY, the defendant, with the same date of birth in 1992 and at the Subject Address.

34. Location data for the Fray Phone shows that the device was in the vicinity of the Subject Address at approximately 10:36 am on or about December 16, 2023. The same location data shows that the Fray Phone was traveling north between approximately 10:57 am and 11:32 am on or about December 16, 2023.

35. LPR data from Briarcliff, New York shows that the Acura SUV was traveling north on Route 9A, near North State Road at approximately 11:13 am on or about December 16, 2023.

36. Location data for the Fray Phone shows that the device was at or near the Residence between approximately 11:41 am and 12:06 pm on or about December 16, 2023. The same location data shows that the Fray Phone was traveling south, away from Newburgh between 12:10 pm and 12:31 pm on or about December 16, 2023.

37. LPR data for the MCB shows that the Acura SUV was traveling southbound on the MCB at approximately 12:45 pm on December 16, 2023.

38. Location data for the Fray Phone shows that the device continued to travel south on the eastern side of the Hudson River between approximately 12:53 pm and 12:57 pm on or about December 16, 2023, before arriving in Yonkers, New York at approximately 1:15 pm on or about December 16, 2023.

39. LPR data from Yonkers confirms that the Acura SUV had arrived in Yonkers by approximately 12:58 pm on or about December 16, 2023.

40. LPR data from Mount Vernon shows that at approximately 1:37 pm on or about December 16, 2023, the Acura SUV was traveling south on Fleetwood Avenue at Broad Street. This location is approximately 0.6 miles from the Current Address.

41. Based on my training and experience, this data is consistent with an individual traveling in a vehicle from Mount Vernon, New York to the City of Newburgh, and then back to Mouth Vernon.

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

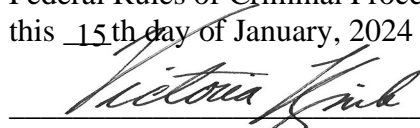
/s/ Thomas L. Anderson (signed by VR with permission)

THOMAS L. ANDERSON

Special Agent

Federal Bureau of Investigation

Sworn to me through the transmission of this
Complaint by reliable electronic means, pursuant to
Federal Rules of Criminal Procedure 41(d)(3) and 4.1,
this 15th day of January, 2024



THE HONORABLE VICTORIA REZNIK
United States Magistrate Judge
Southern District of New York