

ORIGINAL

Approved: Michael K. Krouse 18 MAG 3025  
MICHAEL K. KROUSE  
Assistant United States Attorney

Before: HONORABLE ROBERT W. LEHRBURGER  
United States Magistrate Judge  
Southern District of New York

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	:	
UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
	:	
- v. -	:	Violations of
	:	21 U.S.C. §§ 841(a)(1),
ULTIMO MONTILLA,	:	841(b)(1)(C), and 846;
	:	18 U.S.C. § 2
Defendant.	:	
	:	COUNTY OF OFFENSE:
- - - - -	x	BRONX

SOUTHERN DISTRICT OF NEW YORK, ss.:

CHRISTOPHER R. COOKE, being duly sworn, deposes and says that he is a Task Force Officer with the Drug Enforcement Administration ("DEA"), and charges as follows:

COUNT ONE

1. From at least in or about November 2017 through in or about February 2018, in the Southern District of New York and elsewhere, ULTIMO MONTILLA, 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.

2. It was a part and an object of the conspiracy that ULTIMO MONTILLA, the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

3. The controlled substance that ULTIMO MONTILLA, the defendant, conspired to distribute and possess with intent

to distribute was oxycodone, in violation of Title 21, United States Code, Section 841(b)(1)(C).

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

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

4. I am a Task Force Officer with the DEA and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with law enforcement agents, witnesses, and others, as well as 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 that 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.

5. As explained in greater detail below, I have learned, based on my participation in this investigation, review of law enforcement reports, physical surveillance, and conversations with other law enforcement officers, that ULTIMO MONTILLA, the defendant, provided oxycodone pills to a co-conspirator ("CC-1"), who resided in an apartment (the "Apartment") located within a building in the Bronx, New York (the "Building"). CC-1 in turn supplied these pills to another co-conspirator ("CC-2"). CC-2 sold these pills in various locations, including in Connecticut and Massachusetts.

6. On or about February 7, 2018, I and other law enforcement agents conducted physical surveillance in the vicinity of the Building, and observed the following:

a. At approximately 6:24 p.m., CC-2 arrived at the Building and parked his car (the "CC-2 Car"). CC-2 entered the Apartment carrying a black satchel bag (the "Bag"). Approximately 20 minutes later, CC-2 exited the Building without the Bag and drove away in the CC-2 Car. I and other law enforcement agents continued physical surveillance on the Building. At approximately 7:34 p.m., CC-2 returned to the Building in the CC-2 Car and entered the Apartment.

b. At approximately 8:55 p.m., a car registered to another co-conspirator ("CC-3") parked in front of the Building (the "CC-3 Car"). Shortly thereafter, CC-1 exited the Building and engaged in a brief conversation with the occupants of the CC-3 Car. About one minute later, CC-1 re-entered the Building and the CC-3 Car remained parked. At approximately 9:33 p.m., CC-1 exited the Building again, this time carrying a transparent plastic bag (the "Plastic Bag") with what appeared to be a black square-shaped object inside. CC-1 gave the Plastic Bag to the occupants of the CC-3 Car and returned to the Apartment. The CC-3 Car drove away. Based on the appearance of the black square-shaped object, and on my training and experience, it appeared that the Plastic Bag contained bundled currency.

c. At approximately 9:40 p.m., CC-2 exited the Building with the Bag, entered the CC-2 Car, and drove away. As CC-2 was leaving the parking lot, the CC-2 Car failed to signal a right turn. I stopped the CC-2 Car at approximately 9:45 p.m. CC-2 gave consent to search the CC-2 Car and the Bag. Inside the Bag were nine individual zip lock bags. Each zip lock bag contained approximately 100 pills. Based on my training and experience, it appeared that the pills were packaged for distribution. Based on the distinctive markings on the pills, and on my training and experience, it appeared that all 900 pills were 30-milligram oxycodone pills.<sup>1</sup> CC-2 was then placed under arrest.

d. At approximately 9:55 p.m., I and other law enforcement officers searched the Apartment pursuant to a warrant. Inside the Apartment, we recovered an empty 30-milligram oxycodone pill bottle prescribed to a person other than CC-1 and CC-2. We also recovered drug paraphernalia, such as plastic twist bags, from the garbage can in the kitchen, and \$1,000 in currency from the jacket that CC-1 was wearing when CC-1 met with the CC-3 Car in the parking lot earlier that evening. Finally, we recovered what appeared to be a drug ledger and a cellular phone belonging to CC-1 (the "CC-1 Phone"). CC-1 was then placed under arrest.

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<sup>1</sup> Based on my training and experience, 30-milligram oxycodone pills are illegally sold for approximately \$30-\$40 per pill. Accordingly, the 900 pills that were seized from CC-2 have an estimated street value of approximately \$27,000 to \$36,000.

7. On or about February 14, 2018, United States Magistrate Judge Debra Freeman of the Southern District of New York signed a warrant authorizing the search of the CC-1 Phone. Based on a search of the CC-1 Phone, I learned that a phone number subscribed to ULTIMO MONTILLA, the defendant, was stored under the name "Will."

8. A search of the CC-1 Phone revealed the following text messages<sup>2</sup> between CC-1 and ULTIMO MONTILLA, the defendant:

11/29/17, 3:07 p.m.	MONTILLA to CC-1	For tomorrow we have work.
11/29/17, 3:08 p.m.	CC-1 to MONTILLA	All good what is the number?
11/29/17, 3:22 p.m.	MONTILLA to CC-1	210. The same one that we are going to have. Where are you?
11/29/17, 3:25 p.m.	CC-1 to MONTILLA	Okay for today??
11/29/17, 3:34 p.m.	MONTILLA to CC-1	Yes, so I could pick it up and have it for tomorrow.
11/29/17, 4:07 p.m.	CC-1 to MONTILLA	Ok at 9am. Good bring me the tickets.
11/29/17, 4:19 p.m.	MONTILLA to CC-1	Ok.

9. Based on my training and experience, and my participation in this investigation, it appears that in these messages, ULTIMO MONTILLA, the defendant, tells CC-1 that he has "work," which, based on my training and experience, is a slang term for drugs. CC-1 then asks MONTILLA how much he has, and he says 210, which, based on my participation in this investigation, appears to mean 210 oxycodone pills. CC-1 then tells MONTILLA to "bring me the tickets." Based on my training and experience, I have learned that "tickets" is a slang term for oxycodone pills.

10. A search of the CC-1 Phone also revealed the following text messages between CC-1 and ULTIMO MONTILLA, the defendant, and between CC-1 and another co-conspirator ("CC-4"):

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<sup>2</sup> Some of these text messages were originally in Spanish. Draft translations into English were used in the transcripts provided below.

12/27/17, 7:44 p.m.	CC-1 to MONTILLA	What time are you coming tomorrow so [CC-4] could be ready?
12/27/17, 7:47 p.m.	MONTILLA to CC-1	At 9:00 a.m. Or at 10, you tell me.
12/27/17, 7:49 p.m.	CC-1 to MONTILLA	Ok, 10 tomorrow I will let [CC-4] know.
12/27/17, 7:49 p.m.	MONTILLA to CC-1	Ok
12/27/17, 11:20 p.m.	CC-1 to CC-4	63581 . . . I think that's the code when u get home. And get 4 stacks rubber band.
12/27/17, 11:21 p.m.	CC-4 to CC-1	Okay got it.
12/27/17, 11:22 p.m.	CC-1 to CC-4	He will be there in morning 10 a.m. please be u.
12/27/17, 11:25 p.m.	CC-4 to CC-1	Okay I will be.
12/28/17, 1:13 a.m.	CC-1 to CC-4	Let me know when you['re] home
12/28/17, 1:13 a.m.	CC-4 to CC-1	I'm home
12/28/17, 1:21 a.m.	CC-1 to CC-4	U took 4 stacks
12/28/17, 1:21 a.m.	CC-4 to CC-1	Yeah.
12/28/17, 1:21 a.m.	CC-1 to CC-4	I'll tell you what to do in the morning.
12/28/17, 1:21 a.m.	CC-4 to CC-1	Okay.

11. Based on my training and experience, and my participation in this investigation, it appears that in these text messages, CC-1 arranges for ULTIMO MONTILLA, the defendant, to come over to her apartment around 10:00 a.m. the next morning - i.e., December 28, 2017. CC-1 then tells CC-4 to prepare "4 stacks" to give to MONTILLA. Based on my training and experience, I have learned that "4 stacks" is slang for \$4,000. The conversation continues as follows:

12/28/17, 10:41 a.m.	MONTILLA to CC-1	Good morning. I am going to pass by.
12/28/17, 10:44 a.m.	CC-1 to MONTILLA	Okay. [CC-4] is waiting, yes this is his number.
12/28/17, 10:49 a.m.	CC-1 to CC-4	He's on the way

12/28/17, 10:50 a.m.	CC-4 to CC-1	Okay.
12/28/17, 10:51 a.m.	CC-1 to CC-4	One of the packs that out \$80 then fold it with rubber band to let him know that's the short one.
12/28/17, 10:52 a.m.	CC-1 to <b>MONTILLA</b>	3920
12/28/17, 10:52 a.m.	CC-4 to CC-1	Okay
12/28/17, 10:54 a.m.	CC-1 to <b>MONTILLA</b>	Don't park at the johnny pump they will tow your car, they towed my car the other day.
12/28/17, 11:15 a.m.	<b>MONTILLA</b> to CC-1	Ok.
12/28/17, 2:06 p.m.	<b>MONTILLA</b> to CC-1	T 189
12/28/17, 2:08 p.m.	CC-1 to <b>MONTILLA</b>	I'm in with that, in my time
12/28/17, 2:41 p.m.	CC-1 to <b>MONTILLA</b>	Send me a photo
12/28/17, 2:41 p.m.	<b>MONTILLA</b> to CC-1	Ok

12. Based on my training and experience, and my participation in this investigation, it appears that in these messages, CC-1 tells CC-3 that, of the "4 stacks," there is one stack that is short \$80. CC-1 then tells ULTIMO MONTILLA, the defendant, "3920" - meaning that she will give him \$3920 (which is \$4,000 minus \$80). MONTILLA then sends CC-1 a message that simply reads "T 189." Based on my training and experience, I know that "T 189" is a stamp for a 30-milligram oxycodone pill made by Camber Pharmaceutical. The conversation continues as follows:

12/28/17, 6:22 p.m.	CC-1 to <b>MONTILLA</b>	Hey [CC-4] is waiting for the tickets
12/28/17, 7:24 p.m.	<b>MONTILLA</b> to CC-1	I am leaving now
12/28/17, 7:25 p.m.	CC-1 to <b>MONTILLA</b>	Ok
12/29/17, 10:46 a.m.	CC-4 to CC-1	Did u lock up the tickets
12/29/17, 11:37 a.m.	CC-1 to CC-4	I put in the drawer you want me to move it
12/29/17, 11:39 a.m.	CC-4 to CC-1	Yes lock it

12/29/17, 11:42 a.m.	CC-1 to CC-4	Ok
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13. Based on my training and experience, and my participation in this investigation, it appears that in these messages, CC-1 tells MONTILLA that CC-3 is "waiting for the tickets" - *i.e.*, waiting for the oxycodone pills. After MONTILLA provides the "tickets" to CC-3 in exchange for the \$3,920, CC-1 asks CC-3 if he locked the "tickets" up. CC-3 says no, and CC-1 tells CC-3 to lock them up.

14. Based on physical surveillance conducted by me and other law enforcement agents, and my review of surveillance video, it appears that ULTIMO MONTILLA, the defendant, traveled to the Apartment and to a previous apartment occupied by CC-1 (the "Previous Apartment") in order to supply CC-1 with Oxycodone on several occasions. For instance:

a. On or about January 10, 2017, MONTILLA entered the Previous Apartment and exited it approximately 7 minutes later. After exiting the Previous Apartment, MONTILLA entered the elevator, pulled out what appeared to be a stack of money from his pants' pocket, examined the money, and then put the money back into his pocket.

b. On or about January 11, 2017, a BMW driven by MONTILLA (the "BMW") pulled into the parking lot for the Previous Apartment. MONTILLA entered the Previous Apartment and exited approximately 25 minutes later.

c. On or about February 8, 2017, MONTILLA arrived in the BMW and entered the Previous Apartment, which he exited approximately seven minutes later. About 15 minutes after MONTILLA left, CC-2 arrived and entered the Previous Apartment. This pattern of conduct is consistent with MONTILLA supplying oxycodone pills to CC-1, which CC-1 then supplied to CC-2.

d. On or about May 3, 2017, MONTILLA entered the Previous Apartment and exited approximately 11 minutes later.

e. On or about October 17, 2017, MONTILLA entered the Apartment and exited approximately six minutes later.

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



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Christopher R. Cooke  
Task Force Officer  
Drug Enforcement Administration

Sworn to before me this  
April 10, 2018



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THE HONORABLE ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK