

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
 :
 - v. - : SEALED SUPERSEDING INDICTMENT
 :
 FERNANDO RA, : S1 20 Cr. 601 (PKC)
 a/k/a "Fernando Diaz," :
 a/k/a "Fernando Diaz Briones," :
 KENNY BATISTA, :
 FERNANDO ROSARIO CRUZ, :
 a/k/a "Joel Reynoso," :
 a/k/a "Humitoo," :
 YONATHAN JUNIOR GARCIA VALDEZ, :
 a/k/a "9," :
 ANTTWAN CROSBIE, :
 a/k/a "Mooseygz," :
 ELMER GILL, :
 a/k/a "Elmernegro," and :
 MICHAEL ASHLEY, :
 a/k/a "Maya," :
 :
 Defendants. :
 :
----- X

COUNT ONE
(Narcotics Conspiracy)

The Grand Jury charges:

1. From at least in or about February 2020, up to and including at least in or about November 2020, in the Southern District of New York and elsewhere, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, and other 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 FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, and other 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).

3. The controlled substance that FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, and other known and unknown, conspired to distribute and possess with the intent to distribute was 40 grams and more of mixtures and substances containing a detectable amount of fentanyl, in violation of Title 21, United States Code, Section 841(b)(1)(B).

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

COUNT TWO

(Using, Carrying, and Possessing a Firearm During, in Relation to, and in Furtherance of a Drug Trafficking Crime)

The Grand Jury further charges:

4. From at least in or about October 2020, up to and including at least in or about November 2020, in the Southern District of New York and elsewhere, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," the defendant, during and in relation to a drug trafficking crime for which he may be prosecuted

in a court of the United States, namely, the narcotics conspiracy charged in Count One of this Superseding Indictment, knowingly did use and carry a firearm, and, in furtherance of such crime, did possess a firearm, and did aid and abet the use, carrying, and possession of a firearm.

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

COUNT THREE
(Felon in Possession of a Firearm)

The Grand Jury further charges:

5. On or about November 4, 2020, in the Southern District of New York and elsewhere, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," the defendant, knowing he had previously been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess, in and affecting commerce, two firearms, to wit, a German Sport Guns GSG-5 .22 caliber semi-automatic rifle, and a SIG Sauer P238 .380 caliber pistol, both of which previously had been shipped and transported in interstate and foreign commerce.

(Title 18, United States Code, Section 922(g)(1).)

COUNT FOUR
(Narcotics Conspiracy)

The Grand Jury further charges:

6. From at least in or about May 2020, up to and including at least in or about November 2020, in the Southern District of New York and elsewhere, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," ANTTWAN CROSBIE, a/k/a "Mooseygz," ELMER GILL, a/k/a "Elmernegro," and MICHAEL ASHLEY, a/k/a "Maya," the defendants, 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.

7. It was a part and an object of the conspiracy that FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," ANTTWAN CROSBIE, a/k/a "Mooseygz," ELMER GILL, a/k/a "Elmernegro," and MICHAEL ASHLEY, a/k/a "Maya," the defendants, 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).

8. The controlled substance that FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," ANTTWAN CROSBIE, a/k/a "Mooseygz," ELMER GILL, a/k/a "Elmernegro," and MICHAEL ASHLEY, a/k/a "Maya," the defendants, and others known and unknown, 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, its salts, optical and geometric isomers, and salts of isomers, in violation of Title 21, United States Code, Section 841(b)(1)(A).

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

COUNT FIVE
(Kidnapping Conspiracy)

The Grand Jury further charges:

9. From at least in or about September 2020, up to and including at least on or about October 3, 2020, in the Southern District of New York and elsewhere, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, and others known and unknown, unlawfully and knowingly did conspire to violate Title 18, United States Code, Section 1201(a)(1).

10. It was a part and an object of the conspiracy that FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, and others known and unknown, would and did unlawfully and knowingly seize, confine, inveigle, decoy, kidnap, abduct, and carry away and hold for ransom and reward and otherwise, a person, and would and did travel in interstate and foreign commerce, and use a means, facility, and instrumentality of interstate and foreign commerce, in committing and in furtherance of the commission of the offense, to wit, RA, BATISTA, ROSARIO, GARCIA, and CROSBIE agreed to lure two individuals ("Victim-1" and "Victim-2") to an unoccupied residence in Paterson, New Jersey ("Residence-1"), and to seize, confine, kidnap, abduct, beat, and rob Victim-1 and Victim-2 in Residence-1.

11. 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. From at least in or about September 2020, up to and including at least on or about October 3, 2020, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, while located in the Southern

District of New York, used cellphones to plan and coordinate the kidnapping of Victim-1 and Victim-2.

b. On or about October 3, 2020, RA, BATISTA, ROSARIO, and GARCIA, the defendants, traveled from the Southern District of New York to Paterson, New Jersey, to commit the kidnapping of Victim-1 and Victim-2.

(Title 18, United States Code, Section 1201(c).)

COUNT SIX
(Hobbs Act Robbery Conspiracy)

The Grand Jury further charges:

12. From at least in or about September 2020, up to and including at least on or about October 3, 2020, in the Southern District of New York and elsewhere, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, and others known and unknown, knowingly did combine, conspire, confederate, and agree together with each other to commit robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), and would and did thereby obstruct, delay, and affect 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), to wit, RA,

BATISTA, ROSARIO, GARCIA, and CROSBIE agreed to rob Victim-1 and Victim-2, who were narcotics traffickers, of narcotics proceeds.

(Title 18, United States Code, Section 1951(a).)

COUNT SEVEN
(Attempt to Commit Hobbs Act Robbery)

The Grand Jury further charges:

13. On or about October 3, 2020, in the Southern District of New York and elsewhere, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," and YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," the defendants, did knowingly attempt to commit robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), and would and did thereby obstruct, delay, and affect 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), to wit, RA, BATISTA, ROSARIO, and GARCIA attempted to rob Victim-1 and Victim-2, who were narcotics traffickers, of narcotics proceeds, and did aid and abet the same.

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

COUNT EIGHT
(Using, Carrying, and Brandishing a Firearm During, in Relation to, and in Furtherance of a Crime of Violence and a Drug Trafficking Crime)

The Grand Jury further charges:

14. On or about October 3, 2020, in the Southern District of New York and elsewhere, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a

"Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," and YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," the defendants, during and in relation to a crime of violence and a drug trafficking crime for which they may be prosecuted in a court of the United States, namely, the attempted Hobbs Act robbery charged in Count Seven of this Superseding Indictment and the narcotics conspiracy charged in Count Four of this Superseding Indictment, knowingly did use and carry a firearm, and, in furtherance of such crimes, did possess a firearm, which was brandished during such crimes, and did aid and abet the same, to wit, RA, BATISTA, ROSARIO, and GARCIA brandished a firearm, and aided and abetted the same, during the attempted robbery of Victim-1 and Victim-2 of narcotics proceeds.

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

COUNT NINE

(Conspiracy to Use, Carry, and Possess a Firearm During, in Relation to, and in Furtherance of a Crime of Violence and a Drug Trafficking Crime)

The Grand Jury further charges:

15. From at least in or about September 2020, up to and including at least on or about October 3, 2020, in the Southern District of New York and elsewhere, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, and other known and unknown, intentionally and knowingly did combine, conspire, confederate,

and agreed together and with each other to violate Title 18, United States Code, Section 924(c).

16. It was a part and an object of the conspiracy that FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, and others known and unknown, would and did, during and in relation to a crime of violence and a drug trafficking crime for which they may be prosecuted in a court of the United States, namely, the attempted Hobbs Act robbery charged in Count Seven of this Superseding Indictment and the narcotics conspiracy charged in Count Four of this Superseding Indictment, knowingly use and carry a firearm, and, in furtherance of such crimes, possess a firearm, in violation of Title 18, United States Code, Section 924(c)(1)(A)(i).

(Title 18, United States Code, Section 924(o).)

FORFEITURE ALLEGATIONS

17. As a result of committing the offense alleged in Count One of this Superseding Indictment, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of said offense and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, said offense,

including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

18. As a result of committing the offense alleged in Count Four of this Superseding Indictment, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," ANTTWAN CROSBIE, a/k/a "Mooseygz," ELMER GILL, a/k/a "Elmernegro," and MICHAEL ASHLEY, a/k/a "Maya," the defendants, shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of said offense and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

19. As a result of committing the offense alleged in Count Six of this Superseding Indictment, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," and ANTTWAN CROSBIE, a/k/a "Mooseygz," the defendants, shall forfeit to the United States,

pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

20. As a result of committing the offense alleged in Count Seven of this Superseding Indictment, FERNANDO RA, a/k/a "Fernando Diaz," a/k/a "Fernando Diaz Briones," KENNY BATISTA, FERNANDO ROSARIO CRUZ, a/k/a "Joel Reynoso," a/k/a "Humitoo," and YONATHAN JUNIOR GARCIA VALDEZ, a/k/a "9," the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

Substitute Assets Provision

21. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with,
a third person;

c. has been placed beyond the jurisdiction of the
Court;

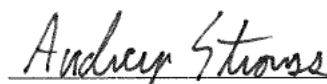
d. has been substantially diminished in value; or

e. has been commingled with other property which
cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United
States Code, Section 853(p), to seek forfeiture of any other
property of the defendants up to the value of the above forfeitable
property.

(Title 21, United States Code, Section 853.)


FOREPERSON



AUDREY STRAUSS
United States Attorney

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Defendants.


SEALED SUPERSEDING INDICTMENT

S1 20 Cr. 601 (PKC)

(21 U.S.C. § 846; 18 U.S.C.
§§ 922(g), 924(c), 924(o), 1201(c),
1951(a), and 2)

AUDREY STRAUSS

United States Attorney

 Foreperson