

Approved: *J.P.*
KINGDAR PRUSSIEN / T. JOSIAH PERTZ
Assistant United States Attorneys

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

----- X *22my7874*
: **COMPLAINT**
UNITED STATES OF AMERICA :
: Violations of 18 U.S.C.
- v. - : §§ 2119, 1951, 1201,
: 924(c), and 2
DIANTE FERNANDES, and :
MARK FRANCIS, :
: COUNTIES OF OFFENSE:
Defendants. : WESTCHESTER AND BRONX
: X
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SOUTHERN DISTRICT OF NEW YORK, ss.:

JUSTIN GRAY, 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 Conspiracy)

1. On or about September 26, 2022, in the Southern District of New York and elsewhere, DIANTE FERNANDES and MARK FRANCIS, the defendants, and others known and unknown, unlawfully and knowingly did combine, conspire, confederate, and agree together and 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, FERNANDES and FRANCIS and others known and unknown agreed to commit a gunpoint robbery of two individuals ("Victim-1" and "Victim-2"), in Yonkers, New York, and robbed Victim-1 and Victim-2 of their cell phones, wallets containing money and debit cards, and Victim-1's car and car keys, after meeting Victim-1 and Victim-2 under the guise of a purported car sale via the Facebook Marketplace website.

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

COUNT TWO
(Hobbs Act Robbery)

2. On or about September 26, 2022, in the Southern District of New York and elsewhere, DIANTE FERNANDES and MARK FRANCIS, the defendants, and others known and unknown, unlawfully and knowingly did commit robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), 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), and did aid and abet the same, to wit, FERNANDES and FRANCIS committed a gunpoint robbery or Victim-1 and Victim-2 of their cell phones, wallets containing money and debit cards, and Victim-1's car and car keys, in Yonkers, New York, after meeting Victim-1 and Victim-2 under the guise of a purported car sale via Facebook Marketplace.

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

COUNT THREE
(Carjacking)

3. On or about September 26, 2022, in the Southern District of New York, DIANTE FERNANDES and MARK FRANCIS, the defendants, with the intent to cause death and serious bodily harm, knowingly took a motor vehicle that had been transported, shipped and received in interstate and foreign commerce from the person and presence of another by force and violence and by intimidation, and did aid and abet the same.

(Title 18, United States Code, Sections 2119 and 2.)

COUNT FOUR
(Possession of a Firearm
During and In Relation to a Crime of Violence)

4. On or about September 26, 2022, in the Southern District of New York and elsewhere, DIANTE FERNANDES and MARK FRANCIS, the defendants, and others known and unknown, during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, namely, the carjacking charged in Count Three of this Complaint, knowingly did use and carry a firearm, and, in furtherance of such crime, did possess and brandish a firearm, to wit: a black Sarsilmaz model Sar 9 semiautomatic pistol.

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

COUNT FIVE
(Kidnapping)

5. On or about September 26, 2022, in the Southern District of New York and elsewhere, DIANTE FERNANDES and MARK FRANCIS, the defendants, and others known and unknown, knowingly did seize, confine, inveigle, decoy, kidnap, abduct, and carry away and hold for ransom and reward and otherwise a person when FERNANDES and FRANCIS and others known and unknown traveled in interstate and foreign commerce and used the mail and a means, facility, and instrumentality of interstate and foreign commerce in committing and furtherance of the commission of the offense, to wit, FERNANDES, FRANCIS, and others known and unknown lured Victim-1 and Victim-2 to a particular location in Yonkers, New York by posting a purported ad for a used car on the Facebook Marketplace website, and then, after the two victims arrived, forced the victims into a car at gunpoint, drove the car around Yonkers and held the victims against their will.

(Title 18, United States Code,
Sections 1201(a)(1) and (c), and 2.)

COUNT SIX
(Hobbs Act Robbery Conspiracy)

6. On or about September 27, 2022, in the Southern District of New York and elsewhere, DIANTE FERNANDES and MARK FRANCIS, the defendants, and others known and unknown, unlawfully and knowingly did combine, conspire, confederate, and agree together and 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, FERNANDES and FRANCIS, and others known and unknown, agreed to commit a gunpoint robbery of two individuals ("Victim-3" and "Victim-4"), in the Bronx, New York, and robbed Victim-3 and Victim-4 of their cell phones, debit cards, and Victim-3's car keys, after meeting Victim-3 and Victim-4 under the guise of a purported car sale via Facebook Marketplace.

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

COUNT SEVEN
(Hobbs Act Robbery)

7. On or about September 27, 2022, in the Southern District of New York and elsewhere, DIANTE FERNANDES and MARK FRANCIS, the defendants, and others known and unknown, unlawfully and knowingly did commit robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), 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), and did aid and abet the same, to wit, FERNANDES and FRANCIS committed a gunpoint robbery of Victim-3 and Victim-4 of their cell phones, debit cards, and Victim-3's car keys, in the Bronx, New York.

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

COUNT EIGHT
(Carjacking)

8. On or about September 27, 2022, in the Southern District of New York, DIANTE FERNANDES and MARK FRANCIS, the defendants, with the intent to cause death and serious bodily harm, knowingly took a motor vehicle that had been transported, shipped and received in interstate and foreign commerce from the person and presence of another by force and violence and by intimidation, and did aid and abet the same.

(Title 18, United States Code, Sections 2119 and 2.)

COUNT NINE
(Possession of a Firearm
During and In Relation to a Crime of Violence)

9. On or about September 27, 2022, in the Southern District of New York and elsewhere, DIANTE FERNANDES and MARK FRANCIS, the defendants, and others known and unknown, during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, namely, the carjacking charged in Count Ten of this Complaint, knowingly did use and carry a firearm, and, in furtherance of such crime, did possess and brandish a firearm, to wit: a black Sarsilmaz model Sar 9 semiautomatic pistol.

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

COUNT TEN
(Kidnapping)

10. On or about September 27, 2022, in the Southern District of New York and elsewhere, DIANTE FERNANDES and MARK FRANCIS, the defendants, and others knowns and unknown, knowingly did seize, confine, inveigle, decoy, kidnap, abduct, and carry away and hold for ransom and reward and otherwise a person when FERNANDES and FRANCIS and others known and unknown traveled in interstate and foreign commerce and used the mail and a means, facility, and instrumentality of interstate and foreign commerce in committing and furtherance of the commission of the offense, to wit, FERNANDES, FRANCIS, and others known and unknown lured Victim-4 to a particular location in the Bronx, New York by posting a purported ad for a used car on the Facebook Marketplace website, and then, after Victim-4 arrived, forced Victim-4 into a car at gunpoint, drove the car around and held Victim-4 for several hours.

(Title 18, United States Code,
Sections 1201(a)(1) and (c), and 2.)

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

11. I am a Special Agent with the FBI and a member of its Westchester County Safe Streets Task Force. 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 other law enforcement officers, and 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 participation in the 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.

The Robbery and Kidnapping of Victim-1 and Victim-2

12. Based on my training, experience, discussions with law enforcement officers, review of publicly available information, and participation in this investigation, I have learned, in substance and in part, the following regarding Facebook Marketplace:

a. Facebook Marketplace is an internet-based platform that allows users to connect in order to buy and sell items. Sellers use Facebook Marketplace to list items for sale, along

with prices, and connect with buyers interested in purchasing those times.

b. Facebook Marketplace can be utilized either through a computer or other device equipped with an internet browser. Accordingly, buyers and sellers connect with each other and coordinate their purchases using the internet.

13. Based on my training, experience, review of law enforcement reports, discussions with law enforcement officers, review of sworn statements from Victim-1 obtained on September 26 and 27, 2022, by the Yonkers Police Department ("YPD"), and participation in this investigation, I have learned the following, in substance and in part:

a. On or about September 26, 2022, at approximately 7:00 p.m., Victim-1 and Victim-2 drove Victim-1's Honda to a particular address on Highland Avenue in Yonkers, New York (the "Highland Avenue Location"), to view a red 2019 Hyundai Ioniq (the "Hyundai") that Victim-2 found online through a seller on Facebook Marketplace with a username of "Tagem." Victim-2 spoke on the phone with a male to coordinate the location of where to meet.

b. At the Highland Avenue Location, Victim-1 and Victim-2 were met by three Black males who were with the Hyundai (the "September 26 Robbers"). Victim-1 and Victim-2 entered the Hyundai, with Victim-1 sitting in the front passenger seat next to the driver, and Victim-2 sitting in the middle backseat with two of the September 26 Robbers sitting in the window seats.

c. After driving around for a few minutes, the September 26 Robbers, Victim-1 and Victim-2 returned back to the Highland Avenue Location, and everyone exited the Hyundai. While the group discussed purchasing the Hyundai, one of the September 26 Robbers seated in the back seat pointed a black handgun at Victim-1 and Victim-2, and told them to get back into the Hyundai, which they did. The Hyundai then drove away from the Highland Avenue Location.

d. As the Hyundai drove around Yonkers, both Victim-1 and Victim-2 were forced at gunpoint to give up their cell phones, wallets containing money and debit cards, and Victim-1's car key for his Honda. Additionally, as the Hyundai drove around Yonkers, the September 26 Robbers threatened to kill Victim-1 and Victim-2 by shooting them. The Hyundai returned to the Highland Avenue Location and Victim-1 and Victim-2 were told to stay in the Hyundai as one of the September 26 Robbers from the backseat exited the Hyundai and entered Victim-1's Honda. The September 26 Robbers

then drove away with both vehicles. The September 26 Robbers told Victim-1 and Victim-2 to get out of the Hyundai in the area of Nepperhan Avenue and Yonkers Avenue, which they did.

e. Immediately thereafter, Victim-1 and Victim-2 went into a store, where Victim-1 called 911.

The Robbery of Victim-3 and Victim-4 and Kidnapping of Victim-4

14. Based on my training, experience, review of law enforcement reports, discussions with law enforcement officers, review of sworn statements from Victim-3 and Victim-4 obtained on September 27, 2022, by the YPD, and participation in this investigation, I have learned the following, in substance and in part:

a. On or about September 27, 2022, at approximately 11:30 a.m., Victim-3 and Victim-4 drove Victim-3's Toyota to a particular address on Sycamore Avenue in the Bronx, New York (the "Sycamore Avenue Location"), to view a red 2019 Hyundai Ioniq that Victim-4 found online through a seller on Facebook Marketplace with a username of "Tagem." Victim-4 exchanged Facebook messages with Tagem to coordinate the meeting place. Before meeting, Victim-4 noticed that the username was changed from "Tagem" to "Slieem."

b. At the Sycamore Avenue Location, Victim-3 and Victim-4 were met by two Black males who were with the Hyundai (the "September 27 Robbers"). Victim-3 and Victim-4 entered the Hyundai, with Victim-3 sitting in the back seat with one of the September 27 Robbers, and Victim-4 sitting in the driver's seat with one of the September 27 Robbers sitting in the front passenger seat. In the Hyundai, the September 27 Robber sitting in the back seat pointed a black handgun at Victim-3 and Victim-4, demanding their money, phone and car keys. Victim-3 handed Victim-3's keys and phone to the September 27 Robber, and Victim-4 handed Victim-4's wallet and phone to the September 27 Robber.

c. Immediately thereafter, the two September 27 Robbers exited the Hyundai and took Victim-4 to Victim-3's Toyota. Using Victim-3's keys, the September 27 Robbers drove away with the Toyota and Victim-4. Victim-3 then ran to find a bystander who called 911 for Victim-3.

d. As the September 27 Robbers drove the Toyota and Victim-4 around the New York City area, the September 27 Robbers drove to an ATM and forced Victim-4 to withdraw \$2,000, then drove to a bank and forced Victim-4 to withdraw an additional \$4,000.

Victim-4 was later dropped off by a flower shop near the bank, and Victim-4's credit card was returned to him. Victim-4 then walked to a restaurant and called Victim-3 for help.

e. Victim-4 reported being held in the Toyota with the September 27 Robbers for approximately 3 hours.

The Arrest and Statements of FERNANDES and FRANCIS

15. Based on my participation in this investigation, I have learned the following, in substance and in part:

a. On or about the morning of September 27, 2022, law enforcement identified a location in the Bronx where the Hyundai had parked and went to that location, where law enforcement identified the stolen Honda. Law enforcement surveilled the Honda and during this time learned that the Toyota had been stolen, and that the Hyundai had been used in said carjacking.

b. At approximately 2:30 p.m., the Toyota arrived at the location and inside were DIANTE FERNANDES and MARK FRANCIS, the defendants. Law enforcement arrested FERNANDES and FRANCIS. Law enforcement searched the Toyota and found a black semiautomatic 9mm Sarsilmaz model Sar 9 handgun with a loaded magazine, as well as cash and four phones - including Victim-4's. Law enforcement searched FRANCIS incident to arrest, and found he was carrying keys later identified as belonging to Victim-1's Honda.

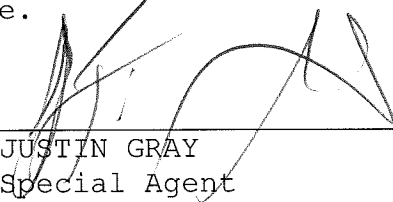
16. Also on or about September 27, 2022, DIANTE FERNANDES and MARK FRANCIS, the defendants, each waived his *Miranda* rights and each, separately, agreed to an interview. Based on my participation in those interviews, I learned the following, in substance and in part:

a. FERNANDES stated, in substance and in part, that he had participated in the carjackings, robberies and kidnappings on or about September 26, 2022 and September 27, 2022, as described above. FERNANDES admitted that he used a gun to take the cars and other personal property of the victims. FERNANDES's account was substantially consistent with the victims' accounts.

b. FRANCIS stated, in substance and in part, that he had participated in the carjackings, robberies and kidnappings on or about September 26, 2022 and September 27, 2022, as described above. FRANCIS admitted that he used a gun to take the cars and other personal property of the victims. FRANCIS's account was substantially consistent with the victims' accounts.

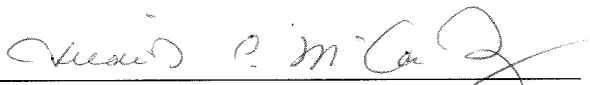
17. Based on my training and experience, I know that neither Toyota, Hyundai nor Honda manufacture cars in New York State.

WHEREFORE, deponent respectfully requests that DIANTE FERNANDES and MARK FRANCIS, the defendants, be imprisoned or bailed, as the case may be.



JUSTIN GRAY
Special Agent
Federal Bureau of Investigation

Sworn to before me this
28th day of September 2022.



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