

Approved: Russell Capone
CARRIE H. COHEN / RUSSELL CAPONE
Assistant United States Attorneys

Before: HONORABLE HENRY B. PITMAN
United States Magistrate Judge
Southern District of New York

-----X
UNITED STATES OF AMERICA :

- v. - : SEALED COMPLAINT

AUSTIN ROMAIN, : Violations of 21 U.S.C.
a/k/a "Steve Smith," and : §§ 846, 841
KHALIF PHILLIPS, :
Defendants. : COUNTIES OF OFFENSE:
: BRONX, NEW YORK
-----X

SOUTHERN DISTRICT OF NEW YORK, ss.:

PAUL J. STRAFACI, 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 in or about March 2012 up to and including in or about June 2013, in the Southern District of New York and elsewhere, AUSTIN ROMAIN, a/k/a "Steve Smith," and KHALIF PHILLIPS, 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.

2. It was a part and an object of the conspiracy that AUSTIN ROMAIN, a/k/a "Steve Smith," and KHALIF PHILLIPS, the defendants, 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 involved in the offense

was less than 50 kilograms of marijuana, in violation of Title 21, United States Code, Section 841(b)(1)(D).

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

COUNT TWO

4. On or about April 18, 2013, in the Southern District of New York and elsewhere, AUSTIN ROMAIN, a/k/a "Steve Smith," the defendant, intentionally and knowingly did distribute and possess with the intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

5. The controlled substance involved in the offense was less than 50 kilograms of marijuana, in violation of Title 21, United States Code, Section 841(b)(1)(D).

(Title 21, United States Code, Sections 841(a) and 841(b)(1)(D); Title 18, United States Code, Section 2.)

COUNT THREE

6. On or about December 23, 2012, in the Southern District of New York and elsewhere, KHALIF PHILLIPS, the defendant, intentionally and knowingly did distribute and possess with the intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

7. The controlled substance involved in the offense was less than 50 kilograms of marijuana, in violation of Title 21, United States Code, Section 841(b)(1)(D).

(Title 21, United States Code, Sections 841(a) and 841(b)(1)(D); Title 18, United States Code, Section 2.)

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

8. I have been a Task Force Officer with the DEA for the past 5 years. I have been personally involved in the investigation of this matter. This Affidavit is based upon my investigation, my examination of reports and records, and my conversations with other law enforcement agents and officers and other individuals. Because this Affidavit is being submitted for the limited purpose of demonstrating 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.

Background of the Investigation

9. Rikers Island is the site of ten correctional facilities that house inmates charged with committing felony crimes in New York City. The George R. Vierno Center (the "GRVC") and the Otis Bantium Correctional Center (the "OBCC") are two of those correctional facilities, which house, among other inmates, inmates in need of maximum security. The GRVC and the OBCC both are located in the Bronx, New York.

10. Inmates at the GRVC, the OBCC, and other Rikers Island correctional facilities are guarded by Department of Correction ("DOC") Officers ("Correction Officers"). Correction Officers are responsible for, among other things, ensuring the care, custody, and control of the inmate population at Rikers Island. In order to carry out this responsibility, among other things, Correction Officers conduct inspections and searches of inmates and Rikers Island facilities and engage in intelligence gathering and administrative functions.

11. AUSTIN ROMAIN, a/k/a "Steve Smith," the defendant, has been a Correction Officer since in or about August 2007. Since late November 2012, ROMAIN has been assigned to work at the OBCC, and previously was assigned to work at the GRVC. KHALIF PHILLIPS, the defendant, has been a Correction Officer since in or about February 2006, during which time he has been assigned to work at the GRVC.

12. As explained in more detail below, since in or about 2012, the New York City Department of Investigation ("DOI") and the DEA have been investigating AUSTIN ROMAIN, a/k/a "Steve Smith," and KHALIF PHILLIPS, the defendants, for abusing their positions as Correction Officers by selling marijuana to inmates in the GRVC and the OBCC. In general, ROMAIN and PHILLIPS obtained the marijuana from wives or girlfriends of inmates they were supplying, although ROMAIN also supplied his own marijuana to an inmate. ROMAIN and PHILLIPS were paid by the inmates' wives or girlfriends, either in cash or by Western Union wire transfers. In addition, ROMAIN and PHILLIPS have sold scalpels and tobacco to inmates.

13. This investigation has relied, in part, on the use of two confidential sources ("CS-1" and "CS-2") who were inmates at Rikers Island during all relevant times. CS-1 has pleaded guilty to New York State crimes related to the distribution of narcotics, and is providing information to the Government in the hope of obtaining leniency both at sentencing in his state case and in any federal prosecution brought against CS-1 for narcotics trafficking in the GRVC and the OBCC. CS-2 has pleaded guilty to a New York State attempted robbery offense and already has been sentenced. CS-2 is providing information to the Government in the hope of both obtaining a reduction in his state sentence and obtaining leniency in any federal prosecution brought against him for narcotics trafficking in the GRVC. CS-1's and CS-2's information has been reliable and has been corroborated by independent evidence obtained in the course of the investigation.¹

ROMAIN's Marijuana Dealing Inside the GRVC and the OBCC

14. Based on my review of DOC records, I have learned that CS-1 was an inmate at the GRVC until November 2012, at which point CS-1 was transferred to the OBCC.

15. Based on my interviews of CS-1, I have learned the following:

a. Since at least early 2012, AUSTIN ROMAIN, a/k/a "Steve Smith," the defendant, has supplied CS-1 with marijuana inside both the GRVC and the OBCC. CS-1 identified a photograph of ROMAIN as a Correction Officer who has provided him with marijuana and other contraband inside the GRVC and the OBCC.

b. ROMAIN typically obtained his own marijuana and then sold it to CS-1, demanding between \$300 and \$800 an ounce, depending on the quality of the marijuana.

c. After CS-1 bought the marijuana from ROMAIN, CS-1 and inmates who worked for CS-1 sold the marijuana to other inmates inside the GRVC and the OBCC.

¹ CS-1 began meeting with the DOI in or about August 2012. Subsequently, CS-1 purchased marijuana from AUSTIN ROMAIN, a/k/a "Steve Smith" and KHALIF PHILLIPS, the defendants, on multiple occasions without the authorization of DOI or the Government, including on certain occasions described herein. Nevertheless, CS-1's information continued to be corroborated by independent evidence and has proven reliable.

d. As instructed by ROMAIN, CS-1 paid ROMAIN for the marijuana by directing his girlfriend ("Girlfriend-1") to send Western Union wires to ROMAIN under the alias "Steve Smith."

e. Inmates paid CS-1 for the marijuana CS-1 subsequently sold them by directing their relatives to send Western Union wires to Girlfriend-1.

f. ROMAIN also has provided tobacco and scalpels to CS-1 inside the OBCC. Specifically, in or about March 2013, ROMAIN provided CS-1 with a package containing six scalpels, which were wrapped inside of bubble wrap and placed in balloons or fingers of latex gloves. According to CS-1 and based on my investigation, I have learned that inmates buy scalpels for protection in the event of a physical altercation with other inmates.

16. Based on my review of records and surveillance photographs from Western Union and my interviews of a representative from Western Union, I have learned the following:

a. Individuals who pick up a Western Union wire in an amount that is \$500 or less are not required to show identification to pick up the money. Rather, they are only required to provide the answer to a security question previously provided by the sender of the wire.

b. Between in or about March 2012 and in or about March 2013, Girlfriend-1 sent more than 20 Western Union wires to "Steve Smith." The wires were typically between \$200 and \$500.

i. For example, on March 7, 2013, Girlfriend-1 sent a \$200 Western Union wire to "Steve Smith." At approximately 3:30 p.m. on March 7, 2013, "Steve Smith" picked up a \$200 wire at a Western Union terminal at a grocery store in Long Island. AUSTIN ROMAIN, a/k/a "Steve Smith," the defendant, was scheduled to begin his shift as a Correction Officer at 3:00 p.m. on March 7, 2013, but arrived two and a half hours late to work that day. I have compared a surveillance photograph of "Steve Smith" picking up the wire on March 7, 2013 to the DOC identification card photograph for ROMAIN, and I believe that "Steve Smith" and ROMAIN are the same person.

ii. As another example, on March 15, 2013, Girlfriend-1 sent two Western Union wires – one for \$500 and one for \$499 – to "Steve Smith." At approximately 5:00 p.m. on March 15, 2013, "Steve Smith" picked up a \$500 wire sent on March 15, 2013 from a Western Union terminal at a check cashing store in Brooklyn, New York. I have compared a surveillance photograph of "Steve Smith" picking up the wire on March 15, 2013 to the DOC identification card photograph for ROMAIN, and I believe that "Steve Smith" and ROMAIN are the same person.

17. I have spoken with Girlfriend-1, who is providing information to the Government in the hope of obtaining leniency in any federal prosecution brought against her for narcotics offenses. Based on my interviews of Girlfriend-1, I have learned the following:

a. Girlfriend-1 provided payment on behalf of CS-1 to an individual she believed to be a Correction Officer and who she referred to as "Steve Smith."

b. Girlfriend-1 identified a photograph of AUSTIN ROMAIN, a/k/a "Steve Smith," the defendant, as the "Steve Smith" she has paid.

c. On several occasions from early 2012 through March 2013, Girlfriend-1 has sent money via Western Union wires to "Steve Smith" to pay for marijuana, scalpels, and tobacco that "Steve Smith" provided to her boyfriend, CS-1, at the GRVC and the OBCC.

d. Girlfriend-1 also picked up money via numerous Western Union wires from other individuals on behalf of and at the direction of CS-1. Girlfriend-1 understood from CS-1 that these wires of money represented payments to CS-1 for purchases made by GRVC and OBCC inmates of marijuana and tobacco that ROMAIN previously had supplied to CS-1 and that CS-1 had sold to those inmates.

e. Girlfriend-1 communicated with "Steve Smith" principally via cellphone calls and text messages. Among other numbers, "Steve Smith" used cellphones with call numbers ending in 1695 (the "1695 Phone") and 3636 (the "3636 Phone"). I have reviewed cellphone records for the 1695 Phone and the 3636 Phone and have confirmed that those cellphones were in contact with the cellphone used by Girlfriend-1.

18. I have reviewed a recording of a telephone conversation on March 31, 2013 between Girlfriend-1 and AUSTIN ROMAIN, a/k/a "Steve Smith," the defendant, who was using the 1695 Phone. The recording was made using a recording device provided to Girlfriend-1 by a DOI Investigator. I have also reviewed cellphone records for the 1695 Phone and confirmed that the telephone call recorded by Girlfriend-1 was made at the date and time indicated by Girlfriend-1. Based on my review of the recording, I have learned the following:

a. Girlfriend-1 asked ROMAIN if he had a "pen and piece of paper" and said "they're both for five."

b. Girlfriend-1 provided two confirmation numbers, and the answers to security questions for each of those numbers.

c. Girlfriend-1 then said, "Let me know when you pick those up and, you know, when you're able to go see him, all right? And he's gonna obviously need spinach and the brownies. All right?" ROMAIN responded "All right."

d. Based on my discussions with Girlfriend-1 and CS-1, I know that "spinach" is a code word for marijuana and "brownies" is a code word for tobacco. I believe that in the recorded call, Girlfriend-1 told ROMAIN that she had wired him money to pay him for the marijuana and tobacco that CS-1 wanted to be brought to him at the OBCC.

e. Based on my review of records from Western Union, I have learned that on March 30, 2013, Girlfriend-1 sent two \$500 wires to "Steve Smith," and that "Steve Smith" picked up one \$500 wire on April 1, 2013 and the other \$500 wire on April 2, 2013. I have compared the confirmation numbers for these wires provided by Western Union to the confirmation numbers given to ROMAIN by Girlfriend-1 in the recorded call, and they are the same numbers.

19. Based on my interviews of Girlfriend-1 and my review of text messages provided to me by Girlfriend-1 between her cellphone and the 1695 Phone, I have learned the following:

a. In or about April 2013, CS-1 told Girlfriend-1 that he had marijuana that he wanted Girlfriend-1 to bring to AUSTIN ROMAIN, a/k/a "Steve Smith," the defendant. CS-1 also told Girlfriend-1 that he owed ROMAIN \$1,500 and that

Girlfriend-1 should bring the money directly to ROMAIN rather than sending it by Western Union.

b. ROMAIN and Girlfriend-1 then arranged to meet in Bethlehem, Pennsylvania.

c. On April 16, 2013, ROMAIN, using the 1695 Phone, texted Girlfriend-1 an address in Bethlehem, Pennsylvania.

d. On April 17, 2013, ROMAIN, using the 1695 Phone, exchanged the following text messages with Girlfriend-1:

GIRLFRIEND-1: HELLO ? ?

ROMAIN: HEY U UP

GIRLFRIEND-1: YA

ROMAIN: HEY I'M N A TRAFFIC STOP LOL WATS UP

GIRLFRIEND-1: JUST WANT TO MAKE SURE U ARE ON YOUR WAY CUSS I AM ON MY WAY

ROMAIN: YA YA

ROMAIN: HEY

ROMAIN: MINUTES RAN OUT

ROMAIN: WHERE U AT

GIRLFRIEND-1: 30 MILES

ROMAIN: OK

GIRLFRIEND-1: AND U

ROMAIN: ABOUT 40

GIRLFRIEND-1: K SEE U SOON

GIRLFRIEND-1: WHAT KIND OF CAR SHOULD I BE LOOKING FOR?

ROMAIN: BLACK TRUCK

e. Shortly after this text exchange, Girlfriend-1 met ROMAIN on a street in Bethlehem, Pennsylvania. During the meeting, Girlfriend-1 handed ROMAIN \$1,500 in cash, as well as ten uninflated balloons, each containing marijuana inside them.

f. On April 18, 2013, ROMAIN, using the 1695 Phone, exchanged the following text messages, in relevant part, with Girlfriend-1:

ROMAIN: HEY TELL [CS-1] TO CHECK THE GARBAGE
WHEN HE CALLS U

GIRLFRIEND-1: OK I WILL

20. Based on my training, experience, participation in this investigation, and discussions with Girlfriend-1, I believe that in the text messages detailed above, AUSTIN ROMAIN, a/k/a "Steve Smith," the defendant, was telling Girlfriend-1 that he left the package containing marijuana in a particular garbage pail on the floor where CS-1 was housed at the OBCC.

21. Based on my review of DOC records, I have learned that the 3636 Phone is a phone number provided by AUSTIN ROMAIN, a/k/a "Steve Smith," the defendant, to the DOC as a number on which he can be contacted in the event of an emergency. As noted above, Girlfriend-1 identified the 3636 Phone as a phone she has used to communicate with "Steve Smith," which I have confirmed by reviewing cellphone records for the 3636 Phone.

PHILLIPS's Marijuana Dealing Inside the GRVC

Phillips Supplies Marijuana to CS-1

22. Based on my review of DOC records, I have learned that in or about August 2012, CS-1 was transferred from one floor of the GRVC to another floor, where KHALIF PHILLIPS, the defendant, was assigned as a Correction Officer.

23. Based on my interviews of CS-1, I have learned the following:

a. CS-1 identified a photograph of KHALIF PHILLIPS, the defendant, as another Correction Officer who has supplied marijuana to CS-1 inside the GRVC.

b. After CS-1 was moved to the same floor where PHILLIPS was assigned as a Correction Officer, CS-1 saw PHILLIPS having an interaction with another inmate ("Inmate-1") in a manner that led CS-1 to believe that PHILLIPS was supplying contraband to Inmate-1. CS-1 then spoke to Inmate-1, who told him that PHILLIPS was supplying marijuana and other contraband to Inmate-1.

c. After speaking to Inmate-1, in or about August 2012, CS-1 approached PHILLIPS and asked PHILLIPS to bring marijuana into the GRVC for CS-1. PHILLIPS agreed to do so and said he charged \$1,000 per package. CS-1 then put PHILLIPS in touch with Girlfriend-1 in order for Girlfriend-1 to provide marijuana to PHILLIPS and pay PHILLIPS to take it to CS-1 inside the GRVC.

d. PHILLIPS brought marijuana and tobacco into the GRVC for CS-1 on approximately five occasions from in or about August 2012, up to and including in or about December 2012. PHILLIPS also brought scalpels into the GRVC for CS-1. Girlfriend-1 paid PHILLIPS both by cash and via Western Union wire.

24. As noted above, I have interviewed Girlfriend-1. Based on those interviews, I have learned the following about KHALIF PHILLIPS, the defendant:

a. Girlfriend-1 identified a photograph of PHILLIPS as a Correction Officer with whom she has met at the request of CS-1.

b. Girlfriend-1 met PHILLIPS in Manhattan on two or three occasions and provided PHILLIPS with marijuana and tobacco to bring to CS-1 inside the GRVC.

c. Girlfriend-1 paid PHILLIPS to bring the marijuana and tobacco to CS-1 both in person and via Western Union transfer. PHILLIPS provided his real name for Girlfriend-1 to use to wire him money.

d. Girlfriend-1 communicated with PHILLIPS principally via cellphone calls and text messages. The

cellphone number used by PHILLIPS ended in call number 7109 (the "PHILLIPS Phone").

25. Based on information provided by Sprint/Nextel, I have learned the following:

a. During all times relevant to this Complaint, the PHILLIPS Phone was subscribed to in the name of an individual I believe based on DOC records to be the mother of KHALIF PHILLIPS, the defendant.

b. Between on or about September 29, 2012 through on or about October 24, 2012, the PHILLIPS Phone was in communication with Girlfriend-1's cellphone approximately 255 times.

26. I have reviewed copies of text messages between Girlfriend-1 and KHALIF PHILLIPS, the defendant, using the PHILLIPS Phone, which Girlfriend-1 provided to me. Based on my review, I have learned the following:

a. On October 26, 2012, Girlfriend-1 texted the PHILLIPS Phone "Hey your going to hate me but is it ok if I send you half right noe n the other half as soon as I get it." Girlfriend-1 explained that she had car problems and needed to use some money for her car.

b. On October 27, 2012, Girlfriend-1 exchanged the following text messages with KHALIF PHILLIPS, the defendant, in relevant part:

GIRLFRIEND-1: I EILL SEND U THE FIVE OUT RIGHT NOW IF THATS OK WITH YOU . . .

PHILLIPS: OK!!!

PHILLIPS: KHALIF PHILLIPS

PHILLIPS: BROOKLYN...!

GIRLFRIEND-1: LOL GOT IT. LEAVING NOW TO SEND IT OUT.

PHILLIPS: OK! OK!!

c. Later the same day, Girlfriend-1 texted a confirmation number to the PHILLIPS Phone.

d. On November 6, 2012, PHILLIPS texted Girlfriend-1 the following message:

ALSO WHEN YOU COME!!! JUST BRING A FEW CANDIES, NOT A LOT LIKE THE LAST TIME! I'M JUST TRYING TO MAKE ONE DELIVERY NOT TOO MANY BACK AND FORTH LIKE THE LAST TIME!! ;) I THINK THE LAST TIME YOU GAVE ME LIKE 20 CANDIES!! JUST BRING ME HALF OF THAT LIKE 10 CANDIES, SO ENOUGH FOR [CS-1] TO MAKE HIS CASH AND A SOME...!

27. Based on my training, experience, participation in this investigation, and discussions with Girlfriend-1, I believe that in the text messages referenced above, Girlfriend-1 asked KHALIF PHILLIPS, the defendant, if she could pay him less than the full amount she owed him for the time being, and PHILLIPS agreed. PHILLIPS then provided his name for Girlfriend-1 to send him money via wire on October 27, 2012, and Girlfriend-1 provided PHILLIPS with the confirmation number for the wire she just sent. Days later, after PHILLIPS had brought marijuana into the GRVC for CS-1, PHILLIPS texted Girlfriend-1 to tell her to make future packages of marijuana smaller so they would be easier for him to sneak into the GRVC ("JUST BRING A FEW CANDIES, NOT A LOT LIKE THE LAST TIME!").

28. Based on my review of records provided by Western Union, I have learned that on or about October 27, 2012, Girlfriend-1 sent a \$500 Western Union wire to "Khalif Phillips," and that a man I believe to be KHALIF PHILLIPS, the defendant, picked up the \$500 wire that day. The confirmation number for the \$500 wire is the same number that Girlfriend-1 texted to the PHILLIPS Phone.

Phillips Supplies Marijuana to CS-2, Inmate-2, and Inmate-3

29. CS-2 was an inmate at the GRVC from in or about January 2012 to in or about February 2013. Based on my interviews of CS-2, I have learned the following about KHALIF PHILLIPS, the defendant:

a. CS-2 identified a photograph of PHILLIPS as a Correction Officer who supplied him with marijuana inside the GRVC.

b. While at the GRVC, CS-2 saw PHILLIPS hand CS-1 a package. A short time later, CS-2 bought marijuana from CS-1 inside the GRVC, and paid CS-1 by having someone send money via Western Union wire to CS-1's girlfriend (as noted above, Girlfriend-1).

c. Because CS-2 saw PHILLIPS hand CS-1 a package and then CS-2 bought marijuana from CS-1, CS-2 believed that PHILLIPS was supplying CS-1 with marijuana. CS-2 then approached PHILLIPS and asked for PHILLIPS's assistance in bringing marijuana into the GRVC for CS-2.

d. On several occasions in 2012, PHILLIPS supplied marijuana to CS-2 inside the GRVC. At one point, PHILLIPS admonished CS-2 to make his packages smaller.

e. CS-2 provided the marijuana for PHILLIPS to bring into the GRVC by having CS-2's wife bring it to PHILLIPS. CS-2's wife also paid PHILLIPS, who charged approximately \$1,000 per package, to bring the marijuana into the GRVC.

30. Based on my review of DOC records, my discussions with CS-2, and my discussions with a DOI Investigator who interviewed another inmate ("Inmate-2"), I have learned the following:

a. CS-2 identified a photograph of Inmate-2 as an inmate who worked for CS-2 at the GRVC. Inmate-2 stored the marijuana that KHALIF PHILLIPS, the defendant, brought in for CS-2 before CS-2 sold it to other inmates.

b. On or about December 1, 2012, Inmate-2 was searched inside the GRVC and found to be in possession of 32 grams of a green leafy substance.

c. The green leafy substance was transported to a New York City Police Department ("NYPD") laboratory for drug testing, and it tested positive for marijuana.

d. Inmate-2 told the DOI Investigator that he worked for CS-2, was holding the marijuana for CS-2, and that the marijuana was supplied by a Correction Officer. Inmate-2 identified a photograph of PHILLIPS as the Correction Officer who supplied the marijuana to CS-2. Inmate-2 said that PHILLIPS

left the marijuana in a light fixture in a stairwell in the GRVC and then told Inmate-2 where to retrieve it from.

31. Based on my interviews of CS-2 and my review of surveillance footage, I have learned the following:

a. CS-2 identified a photograph of another inmate at the GRVC ("Inmate-3") as an inmate to whom KHALIF PHILLIPS, the defendant, frequently gave the marijuana and contraband that PHILLIPS brought into the GRVC, so that Inmate-3 could give it to the inmates, including CS-2, with whom PHILLIPS was working.

b. Inmate-3 worked in the intake area at the GRVC and therefore had easier access to PHILLIPS.

c. At one point, PHILLIPS told CS-2 not to send anything metal inside because Inmate-3 had to go through metal detectors after PHILLIPS provided him with packages.

d. The intake area at the GRVC is a reception area where new inmates wait in holding cells until they are placed in housing areas. The intake area also contains lockers used to store supplies and linens, among other things.

e. I have reviewed security camera footage from December 23, 2012 for the GRVC intake area. Based on my review, I have learned that the footage depicts the following:

i. At approximately 10:48 a.m., PHILLIPS, in his Correction Officer uniform, is seen inside the intake area carrying what appears to be a small bag in his hand.

ii. At approximately 10:49 a.m., PHILLIPS waves the bag in his hand in the direction of Inmate-3, who is several feet away.

iii. Next, Inmate-3 approaches the locker area near where PHILLIPS is standing and opens one of the lockers. PHILLIPS approaches Inmate-3 and both PHILLIPS and Inmate-3 look and reach into the locker. Inmate-3 then walks away from the locker, and PHILLIPS again puts his hand into the locker.

iv. PHILLIPS then walks away from the locker area. Seconds later, Inmate-3 brings a bucket to the same locker and opens the locker door. Inmate-3 removes small

packaged objects from the locker and places them into the bucket. Inmate-3 then places the bucket into another locker.

v. About an hour later, at approximately 11:54 a.m., Inmate-3 returns to the locker containing the bucket, opens it, and then opens his prison jumpsuit. Inmate-3 reaches into the bucket and removes certain objects that he stuffs inside his jumpsuit.

vi. About a half hour later, at approximately 12:23 p.m., other Correction Officers stopped and frisked Inmate-3, recovering two tightly wrapped brown paper bags in Inmate-3's groin area.

32. Based on my review of DOC records and my discussions with a DOI Investigator, I have learned that the paper bags seized from Inmate-3 on December 23, 2012, contained approximately 104 grams of a green leafy substance. DOI submitted the substance to the NYPD laboratory for drug testing, and it tested positive for marijuana.

PHILLIPS Supplies Marijuana to Inmate-1 and Inmate-4

33. As noted above, CS-1 is aware from speaking to Inmate-1 that Inmate-1 is another inmate to whom KHALIF PHILLIPS, the defendant, supplied marijuana inside the GRVC. Inmate-1 was an inmate at the GRVC from February 2012 to September 2012, before he was transferred to the OBCC.

34. I have reviewed recordings of calls made by Inmate-1 while inside the GRVC² to a woman whom I believe to be Inmate-1's girlfriend ("Girlfriend-2"), using three cellphones with call numbers ending in 2385 (the "2385 Phone"), 3929 (the "3929 Phone"), and 2745 (the "2745 Phone"), during the time period from in or about May 2012 through in or about August 2012, after which time Inmate-1 was moved out of the GRVC. I have also reviewed recordings of prison calls made by another inmate housed at the GRVC ("Inmate-4") to Girlfriend-2, using a telephone ending in call number 0344 (the "0344 Phone"). These recordings were made in or about December 2012, after Inmate-1 was no longer at the GRVC. Based on my review of these recordings, I believe that the user of the 2385 Phone, the 3929 Phone, the 2745 Phone, and the 0344 Phone is the same person, i.e., Girlfriend-2. In many of these calls, Inmate-1 and

² Prior to all calls made by an inmate at Rikers Island, the inmate is provided a warning stating, in sum and substance, that the call is being recorded and is not private.

Inmate-4 are directing Girlfriend-2 to pick up money via Western Union wires, which I believe represent the proceeds of marijuana dealing inside the GRVC.

35. Based on my review of records obtained from Sprint/Nextel, I have learned the following:

a. From on or about May 1, 2012 to on or about May 26, 2012, the 2385 Phone was in communication with the PHILLIPS Phone approximately 275 times.

b. From on or about May 8, 2012 through on or about July 8, 2012, the 3929 Phone was in communication with the PHILLIPS Phone approximately 130 times.

c. From on or about July 1, 2012 through on or about August 6, 2012, the 2745 Phone was in communication with the PHILLIPS Phone approximately 50 times.

d. From on or about December 5, 2012 through on or about December 24, 2012, the 0344 Phone was in communication with the PHILLIPS Phone approximately 30 times.

36. As noted above, on December 1, 2012, marijuana was seized from Inmate-2, who I believe had obtained the marijuana from KHALIF PHILLIPS, the defendant, on behalf of CS-2. Two days later, Inmate-4 placed a prison call from the GRVC to Girlfriend-2 on the 0344 Phone. I have listened to a recording of that call, during which Inmate-4 told Girlfriend-2 that someone attempted to deliver a package "not in the regular way," and that an inmate was caught with it. Inmate-4 told Girlfriend-2 to tell "her" not to deliver more unless it's done "in the regular way." Based on my training, experience, and participation in this investigation, I believe that in this call, Inmate-4 told Girlfriend-2 that PHILLIPS delivered marijuana to Inmate-2 in a different way than previous deliveries. Inmate-4 also told Girlfriend-2 to instruct PHILLIPS to make deliveries in the regular way in the future.

37. On December 13, 2012, Inmate-4 placed a prison call from the GRVC to Girlfriend-2 on the 0344 Phone. I have listened to a recording of that call, during which Inmate-4 told Girlfriend-2 to check on the status of several Western Union transactions. Girlfriend-2 told Inmate-4 that "she" called "at least six times" that day. Based on my training, experience, and participation in this investigation, I believe that Girlfriend-2 told Inmate-4 that KHALIF PHILLIPS, the

defendant, had called her approximately six times. I have reviewed telephone records for the PHILLIPS Phone, which show that the PHILLIPS Phone placed five telephone calls on December 13, 2012 to the 0344 Phone.

38. As noted above, on December 23, 2012, Inmate-3 was found in possession of approximately 104 grams of marijuana that I believe KHALIF PHILLIPS, the defendant, provided to him. The next day, Inmate-4 placed a prison call from the GRVC to Girlfriend-2 on the 0344 Phone. I have listened to a recording of that call, during which Inmate-4 says that "she didn't listen and she brought something in" and that another inmate got caught with it. Inmate-4 then told Girlfriend-2 to disconnect her phone.

39. Based on my review of records from AT&T/Cingular, I know that the 0344 Phone was disconnected on or about December 24, 2012.

WHEREFORE, the deponent respectfully requests that AUSTIN ROMAIN, a/k/a "Steve Smith," and KHALIF PHILLIPS, the defendants, be arrested and imprisoned, or bailed, as the case may be.



PAUL J. STRAFACI
Task Force Officer
Drug Enforcement Administration

Sworn to before me this
14th day of June, 2013.


THE HONORABLE HENRY B. PITMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK