

Approved: Zachary Feingold  
ZACHARY FEINGOLD  
Assistant United States Attorney

Before: HONORABLE MICHAEL H. DOLINGER  
United States Magistrate Judge  
Southern District of New York

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UNITED STATES OF AMERICA : SEALED COMPLAINT  
- v. - : Violation of  
JORGE ARBAJE-DIAZ, : 18 U.S.C. §§ 1951  
MIGUEL NUNEZ, : COUNTY OF OFFENSE:  
a/k/a "Maletica," : NEW YORK  
DIONICIO URENA, :  
a/k/a "Dioni," :  
ALEX TIRADO, :  
LEONARDO DELGADO, :  
a/k/a "Leo," :  
LUIS MINAYA, :  
a/k/a "Robert," :  
HENRY MINAYA, :  
Defendants. :

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SOUTHERN DISTRICT OF NEW YORK, ss.:

JOSEPH MERCURIO, being duly sworn, deposes and says that he is a special agent with the Drug Enforcement Administration (DEA), and charges as follows:

COUNT ONE

1. On or about August 26, 2008, in the Southern District of New York and elsewhere, JORGE ARBAJE-DIAZ, MIGUEL NUNEZ, a/k/a "Maletica," DIONICIO URENA, a/k/a "Dioni," ALEX TIRADO, LEONARDO DELGADO, a/k/a "Leo," LUIS MINAYA, a/k/a "Robert," and HENRY MINAYA, the defendants, and others known and unknown, unlawfully, willfully, 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, ARBAJE-DIAZ, NUNEZ, URENA, TIRADO, DELGADO, LUIS MINAYA, and HENRY MINAYA

agreed with others, known and unknown, to commit a robbery of a suspected narcotics trafficker in Manhattan.

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

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

2. I am a Special Agent with the DEA, and I have been personally involved in the investigation of this matter. This affidavit is based in part upon my conversations with other law-enforcement agents 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 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.

3. I have spoken with a confidential source ("CS-1")<sup>1</sup> regarding a robbery crew (the "Crew") that targets suspected drug dealers for robberies and burglaries. CS-1 has personally participated in robberies and burglaries, and attempted robberies and attempted burglaries, with the Crew in the past, including the incident described below. CS-1 explained that the Crew regularly uses force to subdue their victims and take money and drugs, and regularly uses BB guns (which they presented as real guns) for their protection and to intimidate victims. According to CS-1, the members of the Crew include the defendants named herein, specifically, JORGE ARBAJE-DIAZ (whom CS-1 knew as "Jorge"), MIGUEL NUNEZ (whom CS-1 knew as "Maletica"), DIONICIO URENA (whom CS-1 knew as "Dioni"), ALEX TIRADO (whom CS-1 knew as "Alex"), LEONARDO DELGADO (whom CS-1 knew as "Leo"), LUIS MINAYA (whom CS-1 knew by both his real name and as "Robert"), and HENRY MINAYA (whom CS-1 knew by his real name).

THE ROBBERY AT 515 WEST 183rd STREET ON AUGUST 26, 2008

4. According to CS-1, on or about August 26, 2008, the Crew targeted a suspected drug dealer ("Victim #1") at 515 183<sup>rd</sup> Street, Apartment 3C, in New York, New York (the "Apartment"), for a robbery. The Crew believed that Victim #1 had approximately \$25,000 in narcotics proceeds in the Apartment,

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<sup>1</sup> CS-1 has provided extensive information to law enforcement in the past, which has proven reliable and been corroborated by other independent evidence.

as well as cocaine and other narcotics. The Crew's plan called for JORGE ARBAJE-DIAZ, the defendant, and a co-conspirator not named as a defendant herein ("CC-1"), to knock on the door and gain entrance to the Apartment by showing law enforcement credentials. Upon gaining entry, ARBAJE-DIAZ and CC-1 planned to forcibly restrain Victim #1 and find the drugs and money.

5. According to CS-1, however, on the day of the robbery, no one answered when JORGE ARBAJE-DIAZ, the defendant, and CC-1 knocked on the door to the Apartment. ARBAJE-DIAZ and CC-1 returned to the area outside Victim #1's Apartment building and rejoined other members of the Crew. The Crew then decided to use a hydraulic pump to open the door to the Apartment. However, almost immediately after DIONICIO URENA, a/k/a "Dioni," ALEX TIRADO, and LEONARDO DELGADO a/k/a "Leo," the defendants, and another co-conspirator not named as a defendant herein ("CC-2") entered the Apartment building in anticipation of using the hydraulic pump, Victim #1 entered the building. URENA, TIRADO, DELGADO, and CC-2 then followed Victim #1 and forced their way into the Apartment as Victim #1 opened the door with his key. Members of the Crew restrained Victim #1 inside his Apartment by "hog-tying" him on the floor.

6. According to CS-1, shortly after Victim #1 entered the Apartment building, another co-conspirator not named as a defendant herein ("CC-3") entered the building with a bag containing a hydraulic pump. After entering the Apartment building and learning that members of the Crew had already forced their way into the Apartment, CC-3 exited the building with the bag containing the hydraulic pump.

7. CS-1 explained that, shortly after members of the Crew forcibly entered Victim #1's Apartment, JORGE ARBAJE-DIAZ, the defendant, entered the Apartment to join them. DIONICIO URENA, a/k/a "Dioni," ALEX TIRADO, LEONARDO DELGADO a/k/a "Leo," the defendants, and ARBAJE-DIAZ searched the Apartment but did not find the drugs or drug proceeds. ARBAJE-DIAZ, however, took a laptop computer from the Apartment and TIRADO took a bag that CS-1 believed contained cellular phones from the Apartment.

8. According to CS-1, while DIONICIO URENA, a/k/a "Dioni," ALEX TIRADO, LEONARDO DELGADO a/k/a "Leo," and JORGE ARBAJE-DIAZ, the defendants, and CC-1, CC-2 and CC-3 were in and around the Apartment building during the robbery, MIGUEL NUNEZ, a/k/a "Maletica," the defendant, drove around the area of the Apartment building in a black Ford Windstar, looking for any law enforcement presence and waiting for other members of the Crew to depart the building after the robbery. LUIS MINAYA, a/k/a

"Robert," the defendant, drove around the area of the Apartment building in a navy blue Chrysler Town & Country, also looking for any law enforcement presence and waiting for other members of the Crew to depart the building after the robbery. HENRY MINAYA, the defendant, drove around the area of the Apartment building in a blue-grey Chrysler Town & Country, also looking for any law enforcement presence and waiting for other members of the Crew to depart the building after the robbery. According to CS-1, the following members of the Crew participated in the planning and execution of this robbery: NUNEZ, URENA, TIRADO, DELGADO, ARBAJE-DIAZ, LUIS MINAYA, HENRY MINAYA, CC-1, CC-2, CC-3, and others.

CORROBORATION BY OTHER SOURCES AND IDENTIFICATION OF DEFENDANTS

9. I have reviewed police reports regarding a robbery that occurred at 515 West 183rd Street in New York, New York, on August 26, 2008, at approximately 2:00 p.m. According to the reports, an individual at that location reported that several Hispanic males wearing baseball caps tied him up and put a gun to his head. The reports state that the perpetrators took from the victim, among other things, a laptop computer. The reports also state that the victim observed from his bedroom window the perpetrators fleeing in a dark blue minivan.

10. I have also reviewed videotape footage from a surveillance camera at the front entrance to 515 West 183rd Street, from August 26, 2008 (the "August 26 Videotape"). The August 26 Videotape shows at least eight Hispanic males entering and exiting the Apartment building between approximately 2:00 p.m. and 2:20 p.m. The August 26 Videotape corroborates CS-1's account of how the robbery transpired, in several ways. For example, the August 26 Videotape shows four Hispanic males, all wearing baseball caps, entering the Apartment building, followed by an individual identified by law enforcement as Victim #1 a short time thereafter. The August 26 Videotape then shows another Hispanic male wearing a baseball cap entering the Apartment building with a large bag shortly after Victim #1 entered, and another Hispanic male wearing a baseball cap entering the Apartment building shortly thereafter. Moreover, the August 26 Videotape shows these Hispanic males leaving the Apartment building a short period after entering, and it shows one of these individuals carrying a laptop computer.

11. CS-1 has reviewed hundreds of photographs (containing no identifying information) of individuals' faces. From his review of these photos, CS-1 has identified: MIGUEL NUNEZ, the defendant, as "Maletica," with whom he has committed robberies and burglaries, including the 183<sup>rd</sup> Street robbery;

DIONICIO URENA, the defendant, as "Dioni," with whom he has committed robberies and burglaries, including the 183<sup>rd</sup> Street robbery; ALEX TIRADO, the defendant, as "Alex," with whom he has committed robberies and burglaries, including the 183<sup>rd</sup> Street robbery; LEONARDO DELGADO, the defendant, as "Leo," with whom he has committed robberies and burglaries, including the 183<sup>rd</sup> Street robbery; LUIS MINAYA, the defendant, as "Luis Minaya" and as "Robert," with whom he has committed robberies and burglaries, including the 183<sup>rd</sup> Street robbery; and HENRY MINAYA, the defendant, as "Henry Minaya," with whom he has committed robberies and burglaries, including the 183<sup>rd</sup> Street robbery.

12. CS-1 further informed me that a male Hispanic known to him as "Jorge" was another member of the Crew, who also committed the 183<sup>rd</sup> Street robbery with the Crew, and was in fact the person who stole the laptop computer from the Apartment during the robbery. According to CS-1, "Jorge" - with whom CS-1 participated in numerous robberies and burglaries of drug dealers - was an active-duty police officer with the New York City Police Department ("NYPD"), assigned to the 44<sup>th</sup> Precinct in the Bronx. CS-1 also informed me that "Jorge" drove a gray Acura MDX and a dark blue Ford Windstar. CS-1 was shown two photo-arrays, each containing six photos of people, one of which included JORGE ARBAJE-DIAZ, the defendant. CS-1 failed to identify ARBAJE-DIAZ in the photo-array, which I believe was due to the fact that (1) each array contained six photos of male police officers, each identically dressed in a blue police uniform against a green background, and (2) the photograph of ARBAJE-DIAZ was taken approximately three years earlier. Nevertheless, for the reasons set forth below, I believe that ARBAJE-DIAZ, the defendant, is the person known to CS-1 as "Jorge," described above, who participated in the 183<sup>rd</sup> Street robbery with the Crew.

13. First, I have reviewed videotape footage recorded by the NYPD's Internal Affairs Bureau ("IAB") of an individual identified by IAB as JORGE ARBAJE-DIAZ, the defendant, an NYPD officer assigned to Transit Division 11, which is located within the confines of the 44<sup>th</sup> Precinct in the Bronx. The videotape footage was recorded by the IAB on October 16, 2008 (the "October 16 Videotape") and October 18, 2008 (the "October 18 Videotape"), while ARBAJE-DIAZ worked on duty as an NYPD officer and while he was outside his house in Yonkers, New York. Based on my review of the two IAB-produced videotapes, in comparison to the August 26 Videotape, I believe that the person who appears in the October 16 and October 18 Videotapes, ARBAJE-DIAZ, is the same individual as the Hispanic male who appears in the August 26 Videotape and is depicted carrying a laptop computer out of the Apartment building during the 183<sup>rd</sup> Street robbery. In

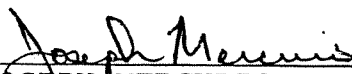
particular, and among many other features, in the August 26 and October 18 Videotapes, the individual has a distinctive large tattoo depicting the sun on his right upper-arm. The tattoo is viewable in full in the October 18 Videotape and is partly obscured by a t-shirt in the August 26 Videotape. Additionally, the October 16 and October 18 Videotapes show a dark blue Ford Windstar and a gray Acura MDX parked in the driveway of ARBAJE-DIAZ's house. The October 18 Videotape also shows ARBAJE-DIAZ driving a gray Acura MDX. These cars exactly match CS-1's description of the cars driven by the member of the Crew whom he knew as "Jorge."

14. I have also spoken with DEA agents and NYPD officers investigating violent robberies committed in the Eastern District of New York. One of the agents ("Agent-1") informed me that two cooperating witnesses ("CS-2" and "CS-3")<sup>2</sup> have each positively identified a photograph of JORGE ARBAJE-DIAZ, the defendant, as "Shorty," an individual with whom they both participated in numerous robberies and burglaries of drug dealers within the Eastern District of New York, and whom they both knew to be an NYPD officer in the Bronx. In addition, I have been advised by Agent-1 that a victim of one of the robberies in the Eastern District of New York that occurred in or around 2007 stated that one of the robbers who handcuffed her during the robbery had a distinctive large tattoo depicting the sun on one of his upper arms.


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<sup>2</sup> Both CS-2 and CS-3 have been charged with federal crimes and are cooperating with law enforcement in the hopes of obtaining leniency in their respective sentencing. Both CS-2 and CS-3 have provided extensive information to law enforcement in the past, which has proven reliable and been corroborated by other independent evidence.

WHEREFORE, deponent prays that JORGE ARBAJE-DIAZ, MIGUEL NUNEZ, a/k/a "Maletica," DIONICIO URENA, a/k/a "Dioni," ALEX TIRADO, LEONARDO DELGADO, a/k/a "Leo," LUIS MINAYA, a/k/a "Robert," and HENRY MINAYA, the defendants, be imprisoned or bailed, as the case may be.

  
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JOSEPH MERCURIO  
Special Agent  
Drug Enforcement Administration

Sworn to before me this  
30<sup>th</sup> day of October, 2008

  
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THE HONORABLE MICHAEL H. DOLINGER  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK