

Approved:



Benjamin M. Burkett  
Assistant United States Attorney

Before:

THE HONORABLE GABRIEL W. GORENSTEIN  
United States Magistrate Judge  
Southern District of New York

UNITED STATES OF AMERICA

v.

MALCOLM HOGUE,  
a/k/a "Roach,"

Defendant.

**SEALED COMPLAINT**

Violation of 18 U.S.C. §§ 922(g)(1) and 2

COUNTY OF OFFENSE:  
BRONX

SOUTHERN DISTRICT OF NEW YORK, ss.:

CHRISTOPHER HARPER, 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**

**(Possession of Ammunition After a Felony Conviction)**

1. On or about June 18, 2023, in the Southern District of New York and elsewhere, MALCOLM HOGUE, a/k/a "Roach," the defendant, knowing he had previously been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed ammunition, to wit, a 9mm FC Luger shell casing, and the ammunition was in and affecting commerce.

(Title 18, United States Code, Sections 922(g)(1) and 2.)

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

2. I have been involved in the investigation of this matter, and I base this affidavit on that experience, my conversations with other law enforcement agents, and my examination of various reports, records, and recordings, including body-worn camera footage and surveillance video. 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.

### The Defendant's Criminal History

3. Based on my review of criminal history records pertaining to MALCOLM HOGUE, a/k/a "Roach," the defendant, I have learned, in substance and in part, the following:

a. On or about October 6, 2021, HOGUE was convicted in the United States District Court for the Eastern District of New York, Brooklyn, New York, of Conspiracy to Distribute Narcotics in violation of 21 U.S.C. § 841(b)(1)(C), under 21 U.S.C. § 846, a felony punishable by imprisonment for more than one year, for which HOGUE was sentenced to a term of 65 months' imprisonment.

b. On or about December 15, 2011, HOGUE was convicted in Bronx County Supreme Court, Bronx, New York, of Attempted Murder in the Second Degree, in violation of New York Penal Law § 125.25, a felony punishable by imprisonment for more than one year, for which HOGUE was sentenced to a term of six years' imprisonment.

c. Also on or about December 15, 2011, HOGUE was convicted in Bronx County Supreme Court, Bronx, New York, of Criminal Possession of a Weapon in the Second Degree, in violation of New York Penal Law § 265.03, a felony punishable by imprisonment for more than one year, for which HOGUE was sentenced to a term of 42 months' imprisonment.

d. On or about October 6, 2010, HOGUE was convicted in Bronx County Supreme Court, Bronx, New York, of Criminal Sale of a Controlled Substance, in violation of New York Penal Law § 220.39, a felony punishable by imprisonment for more than one year, for which HOGUE was sentenced to a term of three years' imprisonment.

### The Defendant Carried Out a Shooting on June 18, 2023

4. For the reasons that follow, I believe that MALCOLM HOGUE, a/k/a "Roach," the defendant, carried out a shooting on or about June 18, 2023, in which he fired four gunshots, one of which struck an individual ("Victim-1") in the left ankle. Specifically, based on my participation in the investigation of this matter, my conversations with other law enforcement agents, my review of reports prepared by officers of the New York City Police Department ("NYPD"), and my review of body-worn camera footage and surveillance video, I have learned, in substance and in part, the following:

a. As captured by surveillance video from 1409 Webster Avenue, on or about June 18, 2023, at approximately 4:00 a.m., a group of at least 20 individuals, one of whom was later identified as HOGUE were gathered in the vicinity of 1409 Webster Avenue, Bronx, New York. Below is a still image, as captured by surveillance video, depicting the gathering:



b. As captured by surveillance video from 1409 Webster Avenue, HOGUE was wearing a white t-shirt, blue jeans, a blue cap featuring a Toronto Blue Jays emblem, and white and blue Nike sneakers. Below are still images, as captured by surveillance video, depicting HOGUE as he appeared on or about June 18, 2023:



c. As captured by surveillance video from 1409 Webster Avenue, at approximately 4:19 a.m., HOGUE began walking northbound on the west sidewalk of Webster Avenue while holding what appears to be a firearm in his right hand. While walking past 1409 Webster Avenue, HOGUE pulled — or “racked” — the slide of the apparent firearm, seemingly feeding a bullet into the apparent firearm’s chamber. HOGUE then walked outside the frame of the surveillance video from 1409 Webster Avenue. Below are still images, as captured by surveillance video, depicting HOGUE carrying and racking the apparent firearm:



d. Based on my participation in this investigation and my knowledge, training, and experience regarding the Bronx, New York, I know that 1409 Webster Avenue is just south of a Blink Fitness located at 1421 Webster Avenue (the “Blink Fitness”), and that the Blink Fitness is just south of 1439A Webster Avenue. All three locations are on the west side of Webster Avenue.

e. As captured by surveillance video from 1439A Webster Avenue, portions of which include audio, an apparent gunshot can be heard at approximately 4:20:16 a.m. (the “First Gunshot”) — *i.e.*, just after HOGUE racked the apparent firearm he was carrying and walked outside the frame of the surveillance video from 1409 Webster Avenue.

f. As captured by surveillance video from 1439A Webster Avenue, after the First Gunshot was fired, bystanders began fleeing northbound, past 1439A Webster Avenue and in the opposite direction of 1409 Webster Avenue and the Blink Fitness, indicating, based on my training and experience, that the First Gunshot had been fired by someone to the south of 1439 Webster Avenue, in the direction of 1409 Webster Avenue and the Blink Fitness — *i.e.*, approximately where the surveillance video described above indicates HOGUE would have been located just after he racked the apparent firearm.

g. Based on the proximity in time between when HOGUE racked the apparent firearm and when the First Gunshot was fired, and based on the direction in which bystanders were fleeing (*i.e.*, away from the area where surveillance video indicates HOGUE was located just after racking the apparent firearm), I believe that HOGUE fired the First Gunshot.

h. As captured by surveillance video from 1439A Webster Avenue, at approximately 4:20:42 a.m., HOGUE, while running toward 1439A Webster Avenue in a northbound direction — *i.e.*, away from the Blink Fitness — and aiming the apparent firearm northbound in the direction of the fleeing bystanders, fired the apparent firearm a second time (the “Second Gunshot”). The Second Gunshot can be heard in certain of the surveillance video from 1439A Webster Avenue, and certain of the surveillance video from 1439A Webster Avenue depicts the apparent firearm

emitting what appears to be gun smoke. Below are still images, as captured by surveillance video, depicting HOGUE as he fired the Second Gunshot:



i. As captured by surveillance video from 1439A Webster Avenue, HOGUE continued running past 1439A Webster Avenue in a northbound direction.

j. As captured by surveillance video from 1439A Webster Avenue, a third gunshot can be heard at approximately 4:20:58 a.m. (the “Third Gunshot”), at which point HOGUE had run past 1439A Webster Avenue. Certain of the surveillance video from 1439A Webster Avenue depicts HOGUE running and appearing to raise his right arm, consistent with how an individual would hold their arm when discharging a firearm, as the Third Gunshot sounded. Accordingly, I believe that HOGUE fired the Third Gunshot.

k. As captured by surveillance video from 1439A Webster Avenue, a fourth gunshot can be heard at approximately 4:21:47 a.m.

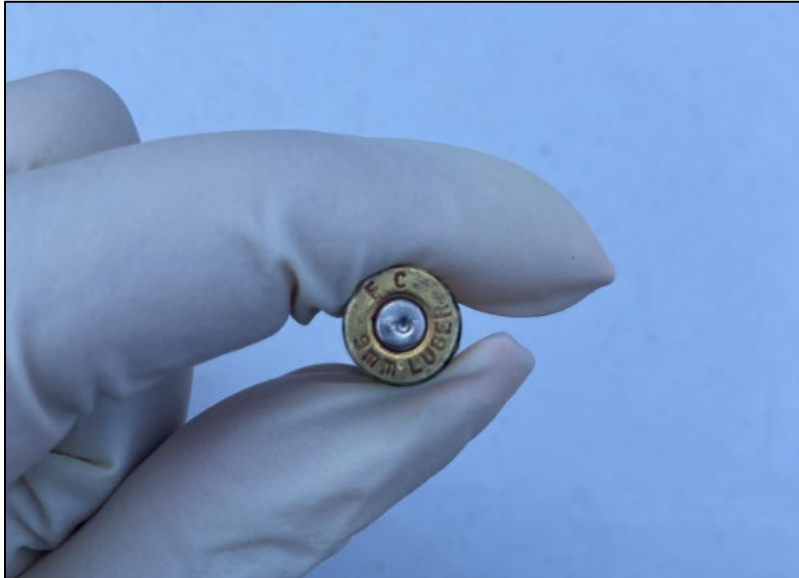
l. As captured by surveillance video from 1439A Webster Avenue, HOGUE returned to the vicinity of 1439A Webster Avenue at approximately 4:22 a.m. HOGUE looked around the ground in the vicinity of 1439A Webster Avenue and, as captured by surveillance video, appears to have picked up certain items from the ground. Based on my training and experience, I believe that HOGUE was searching for and picking up bullet fragments and/or shell casings.

m. Officers of the NYPD (the “NYPD Officers”) arrived at the scene at approximately 4:24 a.m., where they found Victim-1 standing on the street in front of the Blink Fitness. Victim-1 had been shot once in his left ankle. Victim-1 explained, in substance and in part, that there had been a crowd of approximately 20 people gathered south of the Blink Fitness in the direction of 1409 Webster Avenue and that he, *i.e.*, Victim-1, had been standing in front of the Blink Fitness when he was shot. Victim-1 indicated to the NYPD Officers, in substance and in part, that the individual who shot him had been located just south of the Blink Fitness in the direction of 1409

Webster Avenue — *i.e.*, approximately where the surveillance video described above indicates HOGUE would have been located when he fired the First Gunshot.

n. The NYPD Officers recovered a bullet fragment that had been lodged in Victim-1's left ankle.

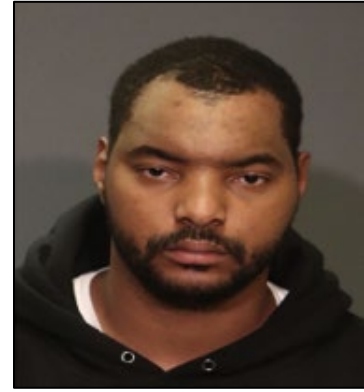
o. The NYPD Officers also recovered one 9mm FC Luger shell casing from the sidewalk in front of the Blink Fitness, in approximately the same location where HOGUE appears to have discharged a firearm. Below is an image of the recovered 9mm FC Luger shell casing:



5. Based on communications I have had with a Special Agent from the Bureau of Alcohol, Tobacco, Firearms and Explosives, who is familiar with the manufacturing of firearms and ammunition, I know that the 9mm FC Luger shell casing was not manufactured in the State of New York.

#### Identification of MALCOLM HOGUE

6. Based on my comparison of still images, as captured by the surveillance video described above, depicting the face of the individual wearing the white t-shirt, blue jeans, blue cap featuring a Toronto Blue Jays emblem, and white and blue Nike sneakers, on or about June 18, 2023 (the "Shooter"), with images of MALCOLM HOGUE, a/k/a "Roach," the defendant, in law enforcement databases, I believe that HOGUE and the Shooter are the same person. The first two images on the left below are still images, as captured by surveillance video, of the Shooter, and the image on the right is a picture of HOGUE from law enforcement databases:



7. Also, as captured by the surveillance video described above, the Shooter has distinctive tattoos on each of his forearms, including, in particular, four tattoos, each in the shape of a star, on his right forearm. Based on my comparison of the Shooter’s tattoos as they appear in the surveillance video described above with tattoos visible on MALCOLM HOGUE, a/k/a “Roach,” the defendant, as they appear in images of HOGUE in law enforcement databases, I believe that HOGUE and the Shooter are the same person.

8. Additionally, based on my conversations with other law enforcement agents and my review of reports prepared by officers of the NYPD, I have learned, in substance and in part, that, on or about July 11, 2023, an NYPD officer (“NYPD Officer-1”) reviewed portions of the surveillance video described above, including portions depicting the Shooter, and NYPD Officer-1 recognized the Shooter as MALCOLM HOGUE, a/k/a “Roach,” the defendant, based on having previously interacted with HOGUE.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of MALCOLM HOGUE, a/k/a/ “Roach,” the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.

/s/ sworn telephonically  
 CHRISTOPHER HARPER  
 Special Agent  
 Federal Bureau of Investigation

Sworn to me through the transmission of this  
 Affidavit by reliable electronic means,  
 pursuant to Federal Rules of Criminal Procedure  
 41(d)(3) and 4.1 this 9th day of August, 2023

THE HONORABLE GABRIEL W. GORENSTEIN  
 United States Magistrate Judge  
 Southern District of New York