

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	<u>SUPERSEDING</u>
	:	<u>INDICTMENT</u>
	:	
- v. -	:	S1 19 Cr. 779 (AKH)
	:	
JOSE RODRIGUEZ,	:	
a/k/a "Hov,"	:	
a/k/a "Hov Goon," and	:	
KYLE MULLINGS,	:	
a/k/a "Kase,"	:	
	:	
Defendants.	:	
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COUNT ONE
(Conspiracy to Commit Murder in Aid of Racketeering)

The Grand Jury charges:

1. At all times relevant to this Indictment, JOSE RODRIGUEZ, a/k/a "Hov," a/k/a "Hov Goon," and KYLE MULLINGS, a/k/a "Kase," the defendants, and others known and unknown, were members and associates of the Beach Avenue Crew (the "Beach Avenue Crew" or the "Enterprise"), a criminal organization whose members and associates engaged in, among other activities, narcotics trafficking and acts involving murder. The Beach Avenue Crew operated principally in and around the Parkchester neighborhood of the Bronx, New York.

2. The Beach Avenue Crew, including its leadership, members, and associates, constituted an "enterprise," as defined by Title 18, United States Code, Section 1959(b)(2), that is, an

association in fact of individuals which was engaged in, and the activities of which affected, interstate and foreign commerce. The Beach Avenue Crew constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the Beach Avenue Crew. JOSE RODRIGUEZ, a/k/a "Hov," a/k/a "Hov Goon," and KYLE MULLINGS, a/k/a "Kase," the defendants, participated in unlawful and other activities in furtherance of the conduct of the Beach Avenue Crew's affairs.

3. From at least in or around 2008 up to and including or around February 2017, members and associates of the Beach Avenue Crew were engaged in a series of violent disputes with rival street gangs hailing from Taylor Avenue in the Bronx (the "Taylor Avenue Crew"), Leland Avenue in the Bronx (the "Leland Avenue Crew"); and the Parkchester Apartment housing complex in the Bronx (the "Parkchester Crew"), as well as with an individual based on Archer Street in the Bronx ("Rival-1") (collectively, the "Rivals"). During these disputes, members and associates of the Beach Avenue Crew committed multiple shootings and assaults against their Rivals.

4. Members and associates of the Beach Avenue Crew sold heroin, cocaine base in a form commonly known as "crack," and marijuana, primarily in or around Beach Avenue in the Parkchester neighborhood of the Bronx, New York.

5. Certain members and associates of the Beach Avenue Crew committed and agreed, attempted, and threatened to commit acts of violence to protect and expand their drug trafficking operation and to protect fellow members and associates of the Beach Avenue Crew. These acts of violence included acts involving murder and assault intended either to protect the Beach Avenue Crew's drug territory, retaliate against members of rival gangs who had encroached on the territory controlled by the Enterprise, or to otherwise promote the standing and reputation of the Beach Avenue Crew amongst rival gangs.

6. Some members and associates of the Beach Avenue Crew were also members and associates of the MacBalla Brims gang, which is a subset of the Bloods gang.

PURPOSES OF THE BEACH AVENUE CREW

7. The purposes of the Beach Avenue Crew included the following:

a. Preserving and protecting the power and territory of the Beach Avenue Crew and its members and associates through acts involving murder, other acts of violence, and threats of violence.

b. Keeping victims and potential victims in fear of the Beach Avenue Crew through acts and threats of violence.

c. Providing assistance to members and associates who committed crimes for and on behalf of the Beach Avenue Crew.

d. Enriching the members and associates of the Beach Avenue Crew through, among other things, robbery and the distribution and sale of narcotics, including heroin, cocaine base in a form commonly known as "crack," and marijuana.

e. Promoting and enhancing the Beach Avenue Crew and the activities of its members and associates.

MEANS AND METHODS OF THE BEACH AVENUE CREW

8. Among the means and methods employed by the members and associates in conducting and participating in the conduct of the affairs of the Beach Avenue Crew were the following:

a. Members and associates of the Beach Avenue Crew committed and conspired, attempted, and threatened to commit, acts of violence, including acts involving murder, to protect and expand the Beach Avenue Crew's criminal operations, and to retaliate against rival street gangs and other narcotics dealers.

b. Members and associates of the Beach Avenue Crew promoted and celebrated the criminal conduct of the enterprise, namely the narcotics distribution, acts involving violence, and firearm usage, in music and on social media websites such as YouTube and Facebook.

c. Members and associates of the Beach Avenue Crew sold narcotics, including heroin, cocaine base in a form commonly known as "crack," and marijuana.

d. Members and associates of the Beach Avenue Crew obtained, possessed, and used firearms.

9. At all relevant times to this Indictment, the Beach Avenue Crew, through its members and associates, engaged in racketeering activity, as that term is defined in Title 18, United States Code, Sections 1961(1) and 1959(b)(1), namely acts involving murder, in violation of New York Penal Law, Sections 20.00, 110.00, 105.15, 125.25, and offenses involving narcotics trafficking, in violation of Title 21, United States Code, Sections 812, 841, and 846.

10. From at least in or around November 2014 until at least on or about June 25, 2015, in the Southern District of New York, JOSE RODRIGUEZ, a/k/a "Hov," a/k/a "Hov Goon," the defendant, and others known and unknown, for the purpose of gaining entrance to and maintaining and increasing position in the Beach Avenue Crew, an enterprise engaged in racketeering activity, as described above, conspired to murder Daquan Cooper, in violation of New York Penal Law, Sections 125.25 and 105.15, to wit, RODRIGUEZ agreed with others to kill Daquan Cooper in the vicinity of 1595 Unionport Road in the Bronx, New York.

(Title 18, United States Code,
Sections 1959(a)(5).)

COUNT TWO
(Murder in Aid of Racketeering)

The Grand Jury further charges:

11. At all times relevant to this Indictment, the Beach Avenue Crew, as described in paragraphs 1 through 8 of Count One of this Indictment, which are repeated and incorporated by reference as though fully set forth herein, including its leadership, members, and associates, constituted an enterprise, as that term is defined in Title 18, United States Code, Section 1959(b)(2), that is, an association in fact of individuals which was engaged in, and the activities of which affected, interstate and foreign commerce. The Beach Avenue Crew constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the Beach Avenue Crew.

12. At all relevant times to this Indictment, the Beach Avenue Crew, through its members and associates, engaged in racketeering activity, as that term is defined in Title 18, United States Code, Sections 1961(1) and 1959(b)(1), namely acts involving murder, in violation of New York Penal Law, Sections 20.00, 110.00, 105.15, 125.25, and offenses involving narcotics

trafficking, in violation of Title 21, United States Code, Sections 812, 841, and 846.

13. On or about June 25, 2015, in the Southern District of New York, JOSE RODRIGUEZ, a/k/a "Hov," a/k/a "Hov Goon," and KYLE MULLINGS, a/k/a "Kase," the defendants, and others known and unknown, for the purpose of gaining entrance to and maintaining and increasing position in the Beach Avenue Crew, an enterprise engaged in racketeering activity, as described above, knowingly and intentionally murdered Daquan Cooper, and aided and abetted the same, in that, (1) with the intent to cause the death of Daquan Cooper, RODRIGUEZ and MULLINGS caused the death of Cooper, and, (2) under circumstances evincing a depraved indifference to human life, RODRIGUEZ and MULLINGS did recklessly engage in conduct which created a grave risk of death to another person, and thereby caused the death of Cooper, to wit, MULLINGS orchestrated the murder of Daquan Cooper and provided the firearms that RODRIGUEZ and others used to shoot and kill Cooper in the vicinity of 1595 Unionport Road in the Bronx, New York, in violation of New York Penal Law, Sections 125.25 and 20.00.

(Title 18, United States Code, Sections 1959(a)(1) and 2.)

COUNT THREE
(Murder Through the Use of a Firearm)

The Grand Jury further charges:

14. On or about June 25, 2015, in the Southern District

of New York, JOSE RODRIGUEZ, a/k/a "Hov," a/k/a "Hov Goon," and KYLE MULLINGS, a/k/a "Kase," the defendants, willfully and knowingly, during and in relation to (1) a crime of violence for which they may be prosecuted in a court of the United States, namely, the violent crime in aid of racketeering charged in Count Two of this Indictment, and (2) a drug trafficking crime for which they may be prosecuted in a court of the United States, namely, a conspiracy to distribute controlled substances, including marijuana and crack cocaine, did use and carry firearms, and, in furtherance of such crime, did possess firearms, and in the course of that crime did cause the death of a person through the use of a firearm, which killing is murder as defined in Title 18, United States Code, Section 1111(a), and did aid and abet the same, to wit, MULLINGS orchestrated the murder of Daquan Cooper and provided the firearms that RODRIGUEZ and others used to shoot and kill Cooper in the vicinity of 1595 Unionport Road in the Bronx, New York.

(Title 18, United States Code, Sections 924(j) and 2.)

COUNT FOUR
(Felon in Possession of Ammunition)

The Grand Jury further charges:

15. On or about June 25, 2015, in the Southern District of New York, JOSE RODRIGUEZ, a/k/a "Hov," a/k/a "Hov Goon," the defendant, knowing he had previously been convicted of a crime

punishable by imprisonment for a term exceeding one year, knowingly possessed ammunition, to wit, a 9mm Luger caliber Winchester cartridge, which had previously been shipped and transported in interstate and foreign commerce.

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


SPECIAL FINDINGS AS TO KYLE MULLINGS
REGARDING THE MURDER OF DAQUAN COOPER

16. Counts Two and Three of the Indictment are realleged and incorporated by reference as though fully set forth herein. As to Counts Two and Three of the Indictment, alleging the murder of Daquan Cooper; KYLE MULLINGS, a/k/a "Kase," the defendant:

a. was 18 years of age or older at the time of the offenses;

b. intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offenses, and Daquan Cooper died as a direct result of the act (Title 18, United States Code, Section 3591 (a) (2) (C)).


GRAND JURY FOREPERSON


AUDREY STRAUSS
Acting United States Attorney

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- v. -

JOSE RODRIGUEZ, and
KYLE MULINGS,

Defendants.

SUPERSEDING INDICTMENT

S1 19 Cr. 779 (AKH)
(18 U.S.C. §§ 922(g), 924(j), 1959,
and 2)

AUDREY STRAUSS

Acting United States Attorney


GRAND JURY FOREPERSON
