

Approved: _____
David J. Robles
Assistant United States Attorney

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

20 MAG 12714

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	:	<u>SEALED COMPLAINT</u>
UNITED STATES OF AMERICA	:	
	:	Violations of 18
- v. -	:	U.S.C. §§ 1951,
	:	924(c)(1)(A), and 2.
SHAWN GARCIA,	:	
a/k/a "Ralph Porter,"	:	COUNTY OF OFFENSE:
OSCAR RIOS,	:	BRONX
a/k/a "Oski," and	:	
SUTHA TAYLOR,	:	
a/k/a "Sutha Colon,"	:	

Defendants.

- - - - - X
SOUTHERN DISTRICT OF NEW YORK, ss.:

Special Agent John Kaczor, being duly sworn, deposes and says that he is a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), and charges as follows:

COUNT ONE
(Conspiracy to Commit Hobbs Act Robbery)

1. On or about August 29, 2020, in the Southern District of New York and elsewhere, SHAWN GARCIA, a/k/a "Ralph Porter," OSCAR RIOS a/k/a "Oski," and SUTHA TAYLOR, a/k/a "Sutha Colon," the defendants, knowingly did conspire with others known and unknown, 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, GARCIA, RIOS, and TAYLOR conspired to rob an individual in the Bronx, New York.

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

Count Two
(Hobbs Act Robbery)

2. On or about August 29, 2020, in the Southern District of New York and elsewhere, SHAWN GARCIA, a/k/a "Ralph Porter," OSCAR RIOS a/k/a "Oski," and SUTHA TAYLOR, a/k/a "Sutha Colon," the defendants, did knowingly 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), to wit, GARCIA, RIOS, and TAYLOR robbed, assaulted, and shot an individual("Victim-1") in Victim-1's apartment in the Bronx, New York, and stole, among other items, cash proceeds from Victim-1's liquor and marijuana sales, and Victim-1's cellular telephone (the "Victim-1 Cellphone").

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

COUNT THREE
(Firearms Use, Carrying, and Possession)

3. On or about August 29, 2020, in the Southern District of New York and elsewhere, SHAWN GARCIA, a/k/a "Ralph Porter," and SUTHA TAYLOR, a/k/a "Sutha Colon," the defendants, during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, namely, the robbery charged in Count Two of this Complaint, knowingly did use and carry firearms, and, in furtherance of such crime, did possess firearms, and did aid and abet the use, carrying, and possession of firearms, one of which was discharged, during the robbery charged in Count Two of this Complaint.

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

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

4. I am a Special Agent with the ATF. I have been personally involved in the investigation of this matter, and I base this affidavit on that experience, on my conversations with other law enforcement officials, and on my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of demonstrating probable

cause, it does not include all the facts 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.

Overview

5. As described more fully below, on or about August 29, 2020, at approximately 2:34 a.m., SHAWN GARCIA, a/k/a "Ralph Porter," OSCAR RIOS, a/k/a "Oski," and SUTHA TAYLOR, a/k/a "Sutha Colon," the defendants, together with others known and unknown, robbed and shot Victim-1 inside of Victim-1's Bronx apartment (the "Robbery").

6. Minutes before the Robbery, OSCAR RIOS, a/k/a "Oski," the defendant, coordinated with certain co-conspirators not named herein to get Victim-1 to open the door to Victim-1's apartment, under the guise that one of the unnamed co-conspirators wanted to buy liquor from Victim-1.

7. Once RIOS learned that Victim-1 was about to exit the apartment, RIOS immediately informed SHAWN GARCIA, a/k/a "Ralph Porter," and SUTHA TAYLOR, a/k/a "Sutha Colon," the defendants, and instructed them to commit the Robbery. GARCIA, TAYLOR, and another unnamed co-conspirator (collectively referred to herein as the "Robbery Suspects") then entered Victim-1's apartment and proceeded to physically assault Victim-1, including by striking him several times with at least one gun and also shooting Victim-1 one time. The Robbery Suspects also demanded to know where Victim-1 kept a safe within the apartment. The Robbery Suspects then fled with, among other items, a safe (containing cash proceeds from Victim-1's marijuana sales), cash proceeds from Victim-1's liquor sales, Victim-1's cellular phone (the "Victim-1 Cellphone"), and marijuana.

The Robbery

8. Based on my conversations with Victim-1, and my review of law enforcement reports and records documenting interviews of Victim-1 and another individual who has also a victim of the Robbery ("Victim-2"), I have learned the following, in substance and in part:

a. Victim-1 and Victim-2 live in a building located in the vicinity of Tinton Avenue in the Bronx, New York (the

"Building") and within a particular apartment inside the Building (the "Apartment").

b. Starting in or around the summer of 2020, Victim-1 began selling bottles of alcohol, which Victim-1 obtained from a liquor wholesaler, from the Apartment. Victim-1 kept certain of the cash proceeds from Victim-1's liquor sales within the Apartment. Victim-1 also sold marijuana and kept the proceeds from the marijuana sales in a safe in the Apartment.

c. On or about August 29, 2020, sometime around approximately 2:33 a.m., Victim-1 received a call from, and exchanged text messages with, a female co-conspirator not named herein(hereinafter "CC-1") seeking to purportedly purchase liquor from Victim-1.

d. Shortly thereafter, Victim-1 opened the door to the Apartment to conduct the above-mentioned liquor transaction. Upon opening the door to the Apartment, the Robbery Suspects forced their way into the Apartment and began physically assaulting Victim-1, including by striking Victim-1 several times in the head with at least one firearm.

e. Victim-2, who had been asleep in Victim-2's bedroom, woke up and attempted to enter the living room of the Apartment to see what was going on. Upon attempting to exit the bedroom, one of the Robbery Suspects pointed a firearm at Victim-2 and held Victim-2's head down. Victim-2 was thrown into the bathroom of the Apartment and ordered to remain there.

f. Shortly thereafter, while the assault on Victim-1 was still in progress and Victim-2 was in the bathroom, one of the Robbery Suspects shot Victim-1 in the buttocks. Victim-2 heard the gunshot and also heard Victim-1 calling for help.

g. After Victim-1 had been shot, one of the Robbery Suspects returned to the bathroom of the Apartment and asked Victim-2, in sum and substance, "Where's the safe." Victim-2 directed the Robbery Suspects to the bedroom in the Apartment. The Robbery Suspects then placed a black garment over Victim-2's head, dragged Victim-2 from the bathroom to the bedroom, and ordered Victim-2 to open the safe. Victim-2 was unable to open the safe, and instead, pointed the Robbery Suspects to a set of keys that Victim-2 believed included the key to the safe. The Robbery Suspects then took the safe (which contained cash proceeds earned through Victim-1's marijuana sales), the set of keys, cash proceeds from Victim-1's dresser, earned through Victim-1's liquor

sales, the Victim-1 Cellphone, and marijuana, and fled the Apartment.

h. Shortly after the Robbery Suspects fled the Apartment, Victim-2 saw Victim-1 in the living room covered in blood and called 911. Victim-1 was transported to a hospital, where Victim-1 was treated for significant facial trauma and a gunshot wound. Victim-1 remained hospitalized for approximately ten days after the Robbery.

Video Surveillance of the Robbery

9. Based on my review of video surveillance and still images taken from the Building and its surrounding area, as well as my review of law enforcement reports describing the video surveillance, I have learned the following, in substance and in part:

a. At approximately 2:24 a.m. on August 29, 2020, a male individual wearing a black baseball cap with a red crown, later identified as OSCAR RIOS, a/k/a "Oski," the defendant, as well as three individuals believed to be the Robbery Suspects described above, approached the entrance of the Building. RIOS and one of the Robbery Suspects (wearing a confetti-patterned dark hoodie) ("Robbery Suspect-1") walked to the back of the Building, where they were able to gain entry into the Building. The two other Robbery Suspects – one wearing a distinctive Nike hoodie with white trim along the shoulders ("Robbery Suspect-2"), later identified as SHAWN GARCIA, a/k/a "Ralph Porter," the defendant, and the other wearing a dark sweatshirt with the word "Hilfiger" imprinted on the left sleeve ("Robbery Suspect-3")– waited in front of the Building. RIOS then opened the front door to the Building from inside the lobby, allowing them to enter.

b. The Robbery Suspects then got into the elevator of the Building together. Around this time, RIOS fled the Building on foot and entered another building located in the vicinity of Tinton Avenue in the Bronx (the "Tinton Avenue Building"), which is next to the Building.

c. Video surveillance from the Building shows that, starting at approximately 2:41 a.m., the Robbery Suspects began running down the stairwell of the Building and fled in different directions. During this time, Robbery Suspect-1 can be seen on the video surveillance carrying a rectangular black object, believed to be a safe, down the stairs and out of the rear entrance of the Building. Robbery Suspect-2 fled from the front entrance of the Building and towards the Tinton Avenue Building.

Video Surveillance Before and After the Robbery

10. Based on my review of video surveillance taken from a building located in the vicinity of Westchester Avenue in the Bronx, New York (the "Westchester Avenue Building"), as well as my familiarity with the Bronx, New York, I have learned the following, in substance and in part:

a. The Westchester Avenue Building is located in the immediate vicinity of the Building where the Robbery occurred.

b. Video surveillance from within the Westchester Avenue Building shows that, approximately three hours prior to the Robbery, an individual believed to be OSCAR RIOS, a/k/a "Oski," the defendant, entered the Westchester Avenue Building behind an individual believed to be SUTHA TAYLOR, a/k/a "Sutha Colon," the defendant. TAYLOR was wearing the same black and red hat that RIOS wore during the Robbery described above.

c. Minutes before the Robbery, starting at approximately 2:19 a.m., individuals believed to be the Robbery Suspects and RIOS - wearing the same clothing worn by the Robbery Suspects and RIOS during the Robbery - can be seen exiting the Westchester Avenue Building.

d. Immediately after the Robbery, starting at approximately 2:48 a.m., Robbery Suspect-1 can be seen entering the Westchester Avenue Building carrying a large box, believed to be containing the safe that was stolen during the Robbery. Robbery Suspect-1 then entered the elevator in the Westchester Avenue Building carrying the box. Approximately eight minutes later, RIOS can be seen entering the Westchester Avenue Building wearing the same clothing he wore during the Robbery, including the black and red hat described above.

11. Based on my review of video surveillance taken from a building located in the vicinity of Trinity Avenue in the Bronx, New York (the "Trinity Avenue Building") and the Tinton Avenue Building, I have learned the following, in substance and in part:

a. Shortly after the Robbery, at approximately 3:06 a.m., OSCAR RIOS a/k/a "Oski," the defendant, returned to the Trinity Avenue Building wearing the same clothing he wore during the Robbery. Upon returning to the Trinity Avenue Building, RIOS rode the elevator up to the sixth floor. Based on my review of

law enforcement records, I know that RIOS resides in a particular apartment of the sixth floor of the Trinity Avenue Building.

b. Moreover, shortly after the Robbery, Robbery Suspect-2, later identified as SHAWN GARCIA, a/k/a "Ralph Porter," the defendant, entered the Tinton Avenue Building and got into the elevator. Video surveillance shows that RIOS allowed Robbery Suspect-2 into the Tinton Avenue Building immediately after the Robbery and before RIOS went back home to the Trinity Avenue Building, as described above. Then, at approximately 3:08 a.m., GARCIA can be seen exiting the Tinton Avenue Building wearing different clothing, namely, a white tee shirt and dark shorts. Based on my involvement in this investigation, I believe that GARCIA changed clothing inside of the Tinton Avenue Building after the Robbery.

Visual Identification of the Defendants

12. Based on my conversations with law enforcement officers familiar with SHAWN GARCIA, a/k/a "Ralph Porter," OSCAR RIOS, a/k/a "Oski," and SUTHA TAYLOR, a/k/a "Sutha Colon," the defendants, from prior law enforcement encounters and investigations (the "NYPD Officers"), and my review of law enforcement records, I have learned the following, in substance and in part:

a. GARCIA, RIOS, and TAYLOR are believed to be part of the "Jackson Avenue Gunnas," which is a Bronx-based crew associated with the nationwide Bloods gang. The Jackson Avenue Gunnas have been involved in robberies and other crimes in and around the Bronx, New York.

b. The NYPD Officers reviewed the video surveillance from the Building and the Tinton Avenue Building, taken during the time of the Robbery and shortly after the Robbery. Based on their prior personal observations of GARCIA and RIOS, the NYPD Officers recognized Robbery Suspect-2 as GARCIA and also recognized RIOS as the individual wearing the black baseball cap with the red crown described above during the Robbery.

13. Based on my conversations with law enforcement officers who have spoken with a parole officer for SHAWN GARCIA, a/k/a "Ralph Porter," the defendant, ("Parole Officer-1"), I have learned that Parole Officer-1 reviewed still images of the video surveillance from the Building taken around the time of the Robbery. Based on his personal observations of GARCIA, Parole Officer-1 recognized Robbery Suspect-2 as likely being GARCIA.

14. Based on my review of photographs maintained on a law enforcement database, and my comparison of those photographs to the video surveillance described above, I believe that (i) SHAWN GARCIA, a/k/a "Ralph Porter," the defendant, is the individual described above as Robbery Suspect-2; (ii) OSCAR RIOS, a/k/a "Oski," the defendant, is the individual who can be seen exiting the Trinity Avenue Building before the Robbery, opening the door to the Building for the Robbery Suspects, and wearing the black and red baseball cap described above during the Robbery; and (iii) SUTHA TAYLOR, a/k/a "Sutha Colon," the defendant, is the individual who can be seen walking into the Westchester Avenue Building with RIOS approximately three hours prior to the Robbery and is one of either Robbery Suspect-1 or Robbery Suspect-3.

Communications During the Robbery

15. Based on my conversations with law enforcement officers who have reviewed the contents of the iCloud accounts belonging to OSCAR RIOS, a/k/a "Oski," (the "RIOS iCloud Account") and SHAWN GARCIA, a/k/a "Ralph Porter," (the "GARCIA iCloud Account"), the defendants, obtained pursuant to search warrants, I have learned the following, in substance and in part:

a. Approximately thirty minutes prior to the Robbery, RIOS sent a series of text messages to GARCIA stating, in part, "Stay in the krib till I call ya," "Ya moving dumb already," and "I never said come out." Based on my training and experience, I believe that RIOS was warning GARCIA to stay inside until RIOS could determine when it was time to commit the Robbery.

c. A few minutes later, RIOS began exchanging text messages with a co-conspirator not named herein ("CC-2"), discussing, in sum and substance, when an unnamed male individual would be returning to a particular location. Between approximately 2:24 a.m. and 2:34 a.m., CC-2 told RIOS, in part, "He there. . . . Going out right now." Based on my training and experience, I believe that RIOS and CC-2 were discussing Victim-1's whereabouts, and that CC-2 was informing RIOS that Victim-1 was about to leave the Apartment.

c. Within a few seconds of receiving the above described messages from CC-2, at approximately 2:34 a.m., RIOS texted both GARCIA and a cellphone number used by SUTHA TAYLOR, a/k/a "Sutha Colon," the defendant, (the "TAYLOR Cellphone"),¹

¹ Based on my conversations with law enforcement officers who have reviewed the contents of RIOS' Instagram account (the "RIOS

stating, in sum and substance, "He going out [right now]." RIOS then also immediately texted TAYLOR, "Be there." Based on my training and experience, I believe that RIOS was informing GARCIA and TAYLOR that Victim-1 was about to leave the Apartment and that they should go commit the Robbery immediately.

d. Between approximately 2:34 a.m. and 2:40 a.m., while the Robbery was in progress, RIOS sent text messages to GARCIA and TAYLOR stating, in part, "Everything clear down here," "Everything good still," and "Everything still good down here." Based on my training and experience, I believe that RIOS was informing GARCIA and TAYLOR that the lobby of the Building and the surrounding area was clear for them to flee. Indeed, as described above, about one minute later, at approximately 2:41 a.m., video surveillance from the Building shows the Robbery Suspects fleeing the Building.

e. At approximately 2:48 a.m., in response to a text from RIOS asking TAYLOR, "Ya good[?]," TAYLOR responded "Na." RIOS then immediately texted TAYLOR, "Where you at?," "I'm trynna help," "I'm walking to you," and "Send me a address." TAYLOR did not respond. Based on my training and experience, I believe that TAYLOR was likely informing RIOS that he was not "good" after the Robbery had just been committed and that RIOS was attempting to locate TAYLOR so that RIOS could help the Robbery Suspects.

Historical Cell Site Data and Toll Records

16. Based on my review of historical cell site data and toll records for a cellphone number used by OSCAR RIOS, a/k/a "Oski" (the "RIOS Cellphone"), and a cellphone number used by SHAWN GARCIA, a/k/a "Ralph Porter" (the "GARCIA Cellphone"), as well as toll records for the TAYLOR Cellphone, the defendants, in the communications described above, as well as my review of historical

Instagram Account") obtained pursuant to a search warrant issued by the Honorable Robert W. Lehrburger, I have learned that on or about August 7, 2020, an Instagram user named "Sutha_ek" provided RIOS with the TAYLOR Cellphone as the contact number for "Sutha_ek." Based on my review of publicly available photographs for the "Sutha_ek" Instagram account, as well as my review of arrest photographs of TAYLOR maintained in a law enforcement database, I believe that the "Sutha_ek" Instagram account belongs to TAYLOR, and, accordingly, that TAYLOR was the user of the TAYLOR Cellphone. Indeed, the TAYLOR Cellphone was saved in the Rios iCloud Account under the contact name "Su," which I believe to be short for "Sutha," TAYLOR's first name.

cell site data for the Victim-1 Cellphone, I have learned the following, in substance and in part:

a. The RIOS Cellphone and GARCIA Cellphone were in the vicinity of the Building around the time of the Robbery. Based on my training and experience, I believe that this historical cell site data shows that GARCIA and RIOS were likely at and around the Building during the Robbery and, together with the video surveillance and communications described above, that they participated in the Robbery.

b. The historical cell site data for the Victim-1 Cellphone shows that, shortly after the Robbery, the Victim-1 Cellphone was in the vicinity of a particular address on West 142nd Street, New York, New York (the "West 142nd Street Address"). Based on my review of law enforcement records, I know that TAYLOR has previously provided the West 142nd Street Address to his parole officer as his primary residence. Thus, I believe that the Victim-1 Cellphone, which was stolen during the Robbery, was likely in TAYLOR's possession after the Robbery and that TAYLOR was one of the Robbery Suspects.

c. In addition, toll records for the RIOS Cellphone, the GARCIA Cellphone, and the TAYLOR Cellphone show that these three numbers exchanged several calls and messages in the hours prior to and after the Robbery. Based on my training and experience, I believe that these calls and text messages were likely about the Robbery.

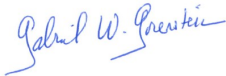
17. Based on the foregoing, I believe that SHAWN GARCIA a/k/a "Ralph Porter," OSCAR RIOS, a/k/a "Oski," and SUTHA TAYLOR, a/k/a "Sutha Colon," the defendants, together with others known and unknown, committed the Robbery described above.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of SHAWN GARCIA, a/k/a "Ralph Porter," OSCAR RIOS, a/k/a "Oski," and SUTHA TAYLOR, a/k/a "Sutha Colon," the defendants, and that they be arrested, and imprisoned or bailed, as the case may be.

/s/ sworn telephonically

Special Agent John Kaczor
Bureau of Alcohol, Tobacco, Firearms,
and Explosives

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 25th day of November, 2020



THE HONORABLE GABRIEL W. GORENSTEIN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK