

Approved: Nicholas S. Bradley
NICHOLAS S. BRADLEY
Assistant United States Attorney

Before: THE HONORABLE ANDREW E. KRAUSE
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA : COMPLAINT 21 mj 7760
- v. - : Violation of
PHYO HEIN HTUT, : 18 U.S.C. § 371
: COUNTIES OF OFFENSE:
: WESTCHESTER, NEW YORK
Defendant.

- - - - - X

SOUTHERN DISTRICT OF NEW YORK, ss.:

JUSTIN M. GRAY, 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

1. From at least in or about July 2021 through at least on or about August 5, 2021, in the Southern District of New York and elsewhere, PHYO HEIN HTUT, the defendant, and others known and unknown, unlawfully and knowingly did combine, conspire, confederate and agree together and which each other to commit an offense against the United States, in violation of Title 18, United States Code, Section 112(a).

2. It was a part and an object of the conspiracy that PHYO HEIN HTUT, the defendant, and others known and unknown, knowingly and intentionally would assault, strike, wound, imprison, and offer violence to a foreign official, to wit, the Myanmar Permanent Representative to the United Nations (the "Ambassador"), and make any other violent attack upon the person

or liberty of such person, in violation of Title 18, United States Code, Section 112(a).

Overt Acts

3. In furtherance of said conspiracy and to effectuate the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

a. In or about July 2021, an arms dealer referred to herein as "CC-1" contacted PHYO HEIN HTUT, the defendant, while HTUT was in the vicinity of New York, New York to offer HTUT money to hire attackers to injure or kill the Ambassador.

b. On or about July 23, 2021, an individual referred to herein as "CC-2" transferred approximately \$2,000 to HTUT as advance payment for the attack on the Ambassador, and further sent HTUT a text message confirming the same.

(Title 18, United States Code, Section 371.)

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

4. I am a Special Agent with the FBI, and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with law enforcement agents, witnesses, and others, as well as 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.

5. Based on my participation in this investigation, my review of reports and records in this investigation, and my discussions with others, including other law enforcement agents, I have learned the following, in part and in substance.

a. In or about February 2021, the Burmese military overthrew Myanmar's elected civilian government in a coup. The Ambassador, who is currently Myanmar's Permanent Representative to the United Nations, represents Myanmar's now-deposed civilian government. It is my understanding that the United Nations has

not acknowledged the military coup in Myanmar, and the Ambassador remains the country's ambassador to the United Nations despite the Burmese military's attempt to remove the Ambassador from his post.

b. As described below, on or about August 3, 2021, the FBI received information regarding a contract that had been paid to kill or injure the Ambassador. The Ambassador resides in Westchester County, New York and works in the Permanent Mission of the Republic of the Union of Myanmar to the United Nations, which is located in New York, New York (the "Mission").

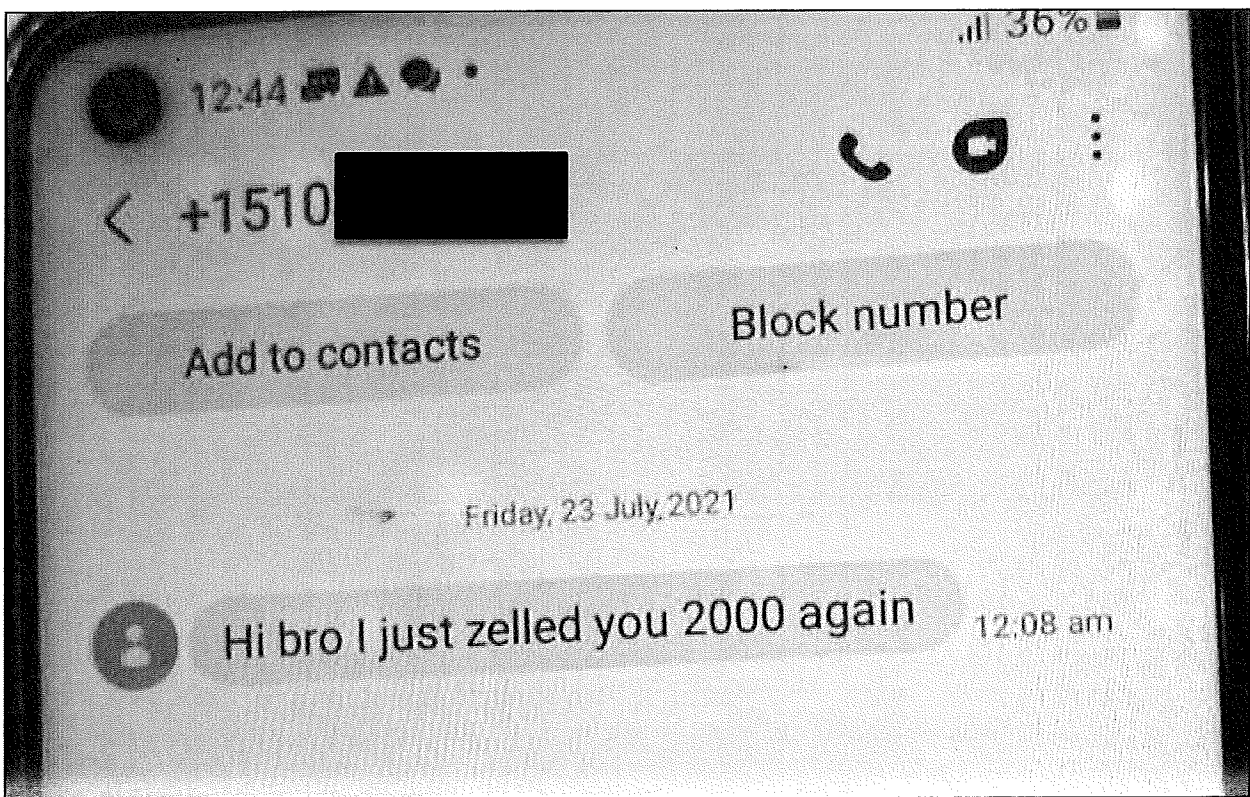
c. As part of the investigation, on or about August 3, 2021, law enforcement agents conducted an interview of an individual who works as part of the volunteer security detail for the Ambassador at the Mission ("Security Officer-1"). During the interview, Security Officer-1 described, in part and in substance, how an individual known to Security Officer-1 as PHYO HEIN HTUT, the defendant, had approached Security Officer-1 and described how HTUT had been in contact with an arms dealer in Thailand ("CC-1") who sells weapons to the Burmese military, which overthrew Myanmar's civilian government in or about February 2021. HTUT stated to Security Officer-1, in part and in substance, that CC-1 had an intermediary pay HTUT a sum of money to hire a hitman to kill or injure the Ambassador.

d. As part of the investigation, I and other law enforcement agents subsequently met with and conducted a *Mirandized* interview of PHYO HEIN HTUT on or about August 4, 2021 at FBI offices in the vicinity of Rye, New York. During the interview, HTUT stated, in part and in substance, that CC-1 had contacted HTUT over Facebook and FaceTime communications while HTUT was staying at the Mission in New York. During the ensuing communications with HTUT, CC-1 stated, in part and in substance, that he saw a picture of HTUT at the Mission and offered to give HTUT money so that HTUT could hire attackers to hurt the Ambassador in an attempt to force the Ambassador to step down from his post. If the Ambassador did not step down, then CC-1 proposed, in part and in substance, that the attackers hired by HTUT would kill the Ambassador. Following that discussion, HTUT and CC-1 agreed in substance on a plan for HTUT to hire others to tamper with the tires on the Ambassador's car to cause a crash while the Ambassador was inside.

e. As part of the interview, HTUT also explained, in part and in substance, that after agreeing on the plan with CC-1, an intermediary, described herein as "CC-2," contacted HTUT

on phone calls from a call number beginning with a 510 area code (the "510 Number"). HTUT then received on or about July 22, 2021 and July 23, 2021 two transfers of approximately \$2,000 each over the money transfer app Zelle from a user with the name of CC-2. As explained below, such transfers were consistent with the agreed-upon amount that CC-1 and HTUT negotiated for the attack.

f. According to HTUT, the agreement with CC-1 was for HTUT to receive approximately \$4,000 up front for the planned attack, and an additional \$1,000 after the attack on the Ambassador was completed. HTUT explained, in part and in substance, that the \$4,000 came in two transfers because of transfer limits on CC-2's Zelle account. After the second transfer, HTUT received the following text message from the 510 Number on or about July 23, 2021:



g. Contemporaneous with that text message from the 510 Number, HTUT received an automated message from Zelle showing a \$2,000 transfer had arrived from CC-2:

Friday, 23 July 2021



Send Money with Zelle message
from TD Bank @ 1-800-493-7562.

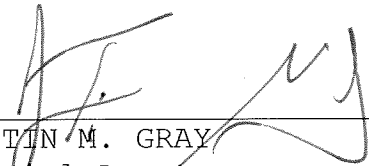
[REDACTED] sent you \$2,000.00.

We'll deposit this Send Money with
Zelle payment to your TD Bank
account. Reply HELP for help.
Reply STOP to cancel. Msg&Data
rates may apply.

12:08 am


6. As part of the investigation, I have reviewed the returns from a bank account associated with the above-described Zelle transaction. Based on that review, I have identified that the \$2,000 was sent on or about July 23, 2021 from a bank account in the name of CC-2 (the "Bank Account"). The account records further show that the Bank Account made two transfers of \$2,000 each (\$4,000 total) to a recipient named "Phyo," which matches the first name of PHYO HEIN HTUT, the defendant, on or about July 22, 2021 and July 23, 2021, respectively. As described above, this is consistent with the agreed-upon amount previously negotiated between CC-1 and HTUT.

WHEREFORE, deponent respectfully requests that PHYO HEIN HTUT, the defendant, be imprisoned or bailed, as the case may be.



JUSTIN M. GRAY
Special Agent
Federal Bureau of Investigation

Sworn to before me
this 6th day of August, 2021



THE HONORABLE ANDREW E. KRAUSE
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK