

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA

SEAL
INDICTMENT

-v.-

22 Cr.

ANDREW DONE,
a/k/a "Caballo,"
VICTOR ALMONTE,
a/k/a "Flaco Capone,"
MOISES FONTANEZ,
a/k/a "Goya,"
OLBENY DIAZ,
a/k/a "Sosobrito,"
FRAILYN CAPELLAN,
a/k/a "Freko,"
JOEL ORTIZ,
a/k/a "Brooklyn,"
EDWIN JIMENEZ,
a/k/a "Pac,"
MALVIN RESTITUYO,
a/k/a "Puto,"
ANDERSON BURDIER,
a/k/a "Canela," and
JOSEPH RIVERA,
a/k/a "Shorty,"

22 CRIM 192

Defendants.

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COUNT ONE
(Racketeering Conspiracy)

The Grand Jury charges:

The Enterprise

1. At all times relevant to this Indictment, ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN

CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," MALVIN RESTITUYO, a/k/a "Puto," and ANDERSON BURDIER, a/k/a "Canela," the defendants, and others known and unknown, were members and associates of the Shooting Boys (the "Shooting Boys" or the "Enterprise"), a criminal organization whose members and associates engaged in, among other activities, acts involving murder, robbery, and narcotics trafficking. The Shooting Boys operated in and around the Bronx, New York.

2. The Shooting Boys, including its leadership, its membership, and its associates, constituted an "enterprise," as defined by Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact, although not a legal entity. The Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the Enterprise. At all times relevant to this Indictment, the Enterprise was engaged in, and its activities affected, interstate and foreign commerce. ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," MALVIN RESTITUYO, a/k/a "Puto," and ANDERSON BURDIER, a/k/a "Canela," the defendants, participated in the operation of the Enterprise and

participated in unlawful and other activity in furtherance of the conduct of the Enterprise's affairs.

3. Members and associates of the Shooting Boys engaged in a series of violent disputes with rivals of the Shooting Boys. During these disputes, members and associates of the Shooting Boys committed multiple shootings, robberies, and assaults against their rivals.

4. Members and associates of the Shooting Boys sold heroin, cocaine, cocaine base, oxycodone, and marijuana in and around the Bronx, New York.

5. Members and associates of the Shooting Boys committed and agreed, attempted, and threatened to commit acts of violence to protect and expand their narcotics business, to protect fellow members and associates of the Enterprise, to otherwise promote the standing and reputation of the Shooting Boys amongst rival gangs, and to promote the standing and reputation of members of the Shooting Boys. These acts of violence included acts involving murder, acts involving robbery, and assault, intended to protect the Enterprise's narcotics business, and retaliate against members of rival gangs.

Purposes of the Enterprise

6. The purposes of the Enterprise included the following:

a. Preserving and protecting the power, territory, and profits of the Enterprise through acts involving murder, other acts of violence, and threats of violence.

b. Promoting and enhancing the Enterprise and the activities of its members and associates.

c. Keeping victims and potential victims in fear of the Enterprise and its members and associates through acts and threats of violence.

d. Providing assistance to members and associates who committed crimes for and on behalf of the gang.

e. Enriching the members and associates of the Enterprise through, among other things, robbery and the distribution and sale of narcotics, including heroin, cocaine, crack cocaine, marijuana, and oxycodone.

Means and Methods of the Enterprise

7. Among the means and methods employed by the members and associates in conducting and participating in the conduct of the affairs of the Enterprise were the following:

a. Members and associates of the Enterprise committed, conspired, attempted, and threatened to commit acts of violence, including acts involving murder, assault, and robbery, to protect and expand the Enterprise's criminal operations, and against rival gang members.

b. Members and associates of the Enterprise used threats of violence and physical violence against other members and associates of the Enterprise to enforce and maintain discipline within the Enterprise.

c. Members and associates of the Enterprise committed, conspired, attempted, and threatened to commit acts of violence, including acts involving murder and robbery against rival gang members and other individuals.

d. Members and associates of the Enterprise promoted and celebrated, on social media, the criminal conduct of the Enterprise, namely narcotics distribution, acts involving violence, and the use of firearms.

e. Members and associates of the Enterprise obtained, possessed, and used firearms.

f. Members and associates of the Enterprise distributed controlled substances, including heroin, cocaine, cocaine base, oxycodone, and marijuana.

g. Members and associates of the Enterprise committed robberies.

The Racketeering Conspiracy

8. From at least in or about 2017, up to and including the present, in the Southern District of New York and elsewhere, ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a

"Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," MALVIN RESTITUYO, a/k/a "Puto," and ANDERSON BURDIER, a/k/a "Canela," the defendants, and others known and unknown, being persons employed by and associated with the Enterprise described in Paragraphs One through Seven of this Indictment, namely, the Shooting Boys, which enterprise engaged in, and the activities of which affected, interstate and foreign commerce, knowingly combined, conspired, confederated, and agreed together and with each other to violate the racketeering laws of the United States, to wit, Section 1962(c) of Title 18, United States Code, that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the Shooting Boys through a pattern of racketeering activity, as that term is defined in Title 18, United States Code, Sections 1961(1) and 1961(5), consisting of:

a. multiple acts involving murder, chargeable under the following provisions of state law: New York Penal Law Sections 125.25 (murder), 110.00 (attempt), 105.15 (conspiracy), and 20.00 (aiding and abetting);

b. multiple acts involving robbery, chargeable under the following provisions of state law: New York Penal Law, Sections 160.00, 160.05, 160.10, 160.15 (robbery), 105.10 (conspiracy), 110.00 (attempt), and 20.00 (aiding and abetting);

c. multiple acts indictable under Title 18, United States Code, Section 1951 (relating to interference with commerce, robbery, or extortion); and

d. multiple offenses involving the distribution of controlled substances, including heroin, cocaine, cocaine base, oxycodone, and marijuana, in violation of laws of the United States, namely Title 21, United States Code, Sections 812, 841(a)(1), 841(b)(1)(A), 841(b)(1)(C), 841(b)(1)(D), and 846, and Title 18, United States Code, Section 2.

9. It was a part of the conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the Enterprise.

NOTICE OF SPECIAL SENTENCING FACTORS

Narcotics Trafficking

10. From at least in or about 2017, up to and including the present, in the Southern District of New York and elsewhere, ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," and ANDERSON BURDIER, a/k/a "Canela," the defendants, and others known and unknown, intentionally and knowingly did combine, conspire, confederate,

and agree together and with each other to violate the narcotics laws of the United States.

11. It was a part and an object of the conspiracy that ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," and ANDERSON BURDIER, a/k/a "Canela," the defendants, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

12. The controlled substances that ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," and ANDERSON BURDIER, a/k/a "Canela," the defendants, conspired to distribute and possess with intent to distribute were: one kilogram and more of mixtures and substances containing a detectable amount of heroin; five kilograms and more of mixtures and substances containing a detectable amount of cocaine; and 280 grams and more of mixtures and substances containing a detectable amount of cocaine base in a form commonly known as "crack cocaine," in violation of Title 21, United States Code, Section 841(b)(1)(A) and 846.

Murder

13. On or about November 5, 2020, in the Southern District of New York, ANDREW DONE, a/k/a "Caballo," the defendant, knowingly murdered and aided and abetted the murder of Angel Barreiro in the vicinity of 1365 Cromwell Avenue in the Bronx, New York, in violation of New York Penal Law, Sections 125.25 and 20.00, in that, (i) with intent to cause the death of another person, DONE caused the death of Barreiro, and aided and abetted the same, and (ii) under circumstances evincing a depraved indifference to human life, DONE recklessly engaged in conduct which created a grave risk of death to another person, and thereby caused the death of Barreiro, and aided and abetted the same, to wit, DONE shot and killed Barreiro, and aided and abetted the shooting and killing of Barreiro, in the vicinity of 1365 Cromwell Avenue in the Bronx, New York.

(Title 18, United States Code, Section 1962(d).)

COUNT TWO
(Murder in Aid of Racketeering)
(ANDREW DONE)

The Grand Jury further charges:

14. At all times relevant to this Indictment, the Shooting Boys, as described in paragraphs 1 through 7 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 that was engaged in, and the activities of which affected, interstate and foreign commerce. The Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the Enterprise.

15. At all times relevant to this Indictment, the Shooting Boys, 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 and robbery, in violation of New York Penal Law, acts indictable under Title 18, United States Code, Section 1951, and offenses involving the distribution of controlled substances, in violation of Title 21, United States Code, Sections 812, 841, and 846.

16. On or about November 5, 2020, in the Southern District of New York, ANDREW DONE, a/k/a "Caballo," the defendant, as consideration for the receipt of, and as consideration for a promise and agreement to pay, a thing of pecuniary value from the Shooting Boys, and for the purpose of gaining entrance to and maintaining and increasing position in the Shooting Boys, an enterprise engaged in racketeering activity, as described above, knowingly murdered and aided and abetted the murder of Angel Barreiro in the vicinity of 1365 Cromwell Avenue in the Bronx,

New York, in violation of New York Penal Law, Sections 125.25 and 20.00, in that, (i) with intent to cause the death of another person, DONE caused the death of Barreiro, and aided and abetted the same, and (ii) under circumstances evincing a depraved indifference to human life, DONE recklessly engaged in conduct which created a grave risk of death to another person, and thereby caused the death of Barreiro, and aided and abetted the same, to wit, DONE shot and killed Barreiro, and aided and abetted the shooting and killing of Barreiro, in the vicinity of 1365 Cromwell Avenue in the Bronx, New York.

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

COUNT THREE
(Murder Through the Use of a Firearm)
(ANDREW DONE)

The Grand Jury further charges:

17. On or about November 5, 2020, in the Southern District of New York, ANDREW DONE, a/k/a "Caballo," the defendant, and others known and unknown, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, namely, the murder in aid of racketeering charged in Count Two of this Indictment, willfully and knowingly did use and carry a firearm, and in furtherance of such crime of violence, did possess a firearm, and in the course of that offense 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, DONE shot and killed Angel Barreiro, and aided and abetted the shooting and killing of Barreiro, in the vicinity of 1365 Cromwell Avenue in the Bronx, New York.

(Title 18, United States Code, Sections 924(j)(1) and 2.)

COUNT FOUR
(Attempted Murder and Assault with a Dangerous Weapon in Aid of Racketeering)
(ANDREW DONE, VICTOR ALMONTE, and FRILYN CAPELLAN)

The Grand Jury further charges:

18. At all times relevant to this Indictment, the Shooting Boys, as described in paragraphs 1 through 7 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 that was engaged in, and the activities of which affected, interstate and foreign commerce. The Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the Enterprise.

19. At all times relevant to this Indictment, the Shooting Boys, 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 and robbery, in violation of New York Penal Law, acts indictable under Title 18, United States Code, Section 1951, and offenses involving the distribution of controlled substances, in violation of Title 21, United States Code, Sections 812, 841, and 846.

20. On or about June 9, 2019, in the Southern District of New York, ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," and FRAILYN CAPELLAN, a/k/a "Freko," the defendants, as consideration for the receipt of, and as consideration for a promise and agreement to pay, a thing of pecuniary value from the Shooting Boys, and for the purpose of gaining entrance to and maintaining and increasing position in the Shooting Boys, an enterprise engaged in racketeering activity, as described above, intentionally and knowingly attempted to murder an individual and attempted to assault and assaulted that individual with a dangerous weapon, and aided and abetted the same, to wit, DONE, ALMONTE, and CAPELLAN shot at a drug dealer in the vicinity of Father Zeiser Place in the Bronx, New York, in violation of New York Penal Law Sections 125.25, 120.10, 120.05, 120.14, 120.15, 110.00 and 20.00.

(Title 18, United States Code, Sections 1959(a)(5), 1959(a)(6), 1959(a)(3) and 2.)

COUNT FIVE

**(Use of a Firearm in Furtherance of Crime of Violence)
(ANDREW DONE, VICTOR ALMONTE, and FRAILYN CAPELLAN)**

The Grand Jury further charges:

21. On or about June 9, 2019, in the Southern District of New York, ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," and FRAILYN CAPELLAN, a/k/a "Freko," 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, attempted murder, and assault with a dangerous weapon in aid of racketeering, as charged in Count Four of this Indictment, knowingly did use and carry a firearm, and in furtherance of such crime did possess a firearm, and did aid and abet the use, carrying and possession of a firearm, which was brandished and discharged.

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

COUNT SIX

**(Attempted Murder and Assault with a Dangerous Weapon in Aid of Racketeering)
(OLBENY DIAZ)**

The Grand Jury further charges:

22. At all times relevant to this Indictment, the Shooting Boys, as described in paragraphs 1 through 7 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 that was engaged in, and the activities of which affected, interstate and foreign commerce. The Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the Enterprise.

23. At all times relevant to this Indictment, the Shooting Boys, 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 and robbery, in violation of New York Penal Law, acts indictable under Title 18, United States Code, Section 1951, and offenses involving the distribution of controlled substances, in violation of Title 21, United States Code, Sections 812, 841, and 846.

24. On or about May 17, 2020, in the Southern District of New York, OLBENY DIAZ, a/k/a "Sosobrito," the defendant, as consideration for the receipt of, and as consideration for a promise and agreement to pay, a thing of pecuniary value from the Shooting Boys, and for the purpose of gaining entrance to and maintaining and increasing position in the Shooting Boys, an enterprise engaged in racketeering activity, as described above, intentionally and knowingly attempted to murder an individual and attempted to assault and assaulted that individual with a

dangerous weapon, and aided and abetted the same, to wit, DIAZ shot at a rival gang member in the vicinity of 2075 Grand Concourse in the Bronx, New York, in violation of New York Penal Law Sections 125.25, 120.10, 120.05, 120.14, 120.15, 110.00 and 20.00.

(Title 18, United States Code, Sections 1959(a)(5), 1959(a)(6), 1959(a)(3) and 2.)

COUNT SEVEN
(Use of Firearm in Furtherance of Crime of Violence)
(OLBENY DIAZ)

The Grand Jury further charges:

25. On or about May 17, 2020, in the Southern District of New York, OLBENY DIAZ, a/k/a "Sosobrito," the defendant, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, namely, attempted murder and assault with a dangerous weapon in aid of racketeering, as charged in Count Six of this Indictment, knowingly did use and carry a firearm, and in furtherance of such crime did possess a firearm, and did aid and abet the use, carrying and possession of a firearm, which was brandished and discharged.

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

COUNT EIGHT
**(Attempted Murder and Assault with a Dangerous Weapon in Aid of
Racketeering)**
(MALVIN RESTITUYO)

The Grand Jury further charges:

26. At all times relevant to this Indictment, the Shooting Boys, as described in paragraphs 1 through 7 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 that was engaged in, and the activities of which affected, interstate and foreign commerce. The Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the Enterprise.

27. At all times relevant to this Indictment, the Shooting Boys, 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 and robbery, in violation of New York Penal Law, acts indictable under Title 18, United States Code, Section 1951, and offenses involving the distribution of controlled substances, in violation of Title 21, United States Code, Sections 812, 841, and 846.

28. On or about June 23, 2019, in the Southern District of New York, MALVIN RESTITUYO, a/k/a "Puto," the defendant, as consideration for the receipt of, and as consideration for a promise and agreement to pay, a thing of pecuniary value from the Shooting Boys, and for the purpose of gaining entrance to and maintaining and increasing position in the Shooting Boys, an enterprise engaged in racketeering activity, as described above, intentionally and knowingly attempted to murder an individual and assaulted that individual with a dangerous weapon, and aided and abetted the same, to wit, RESTITUYO participated in the shooting of two rival gang members in the vicinity of East 181st Street and Grand Concourse in the Bronx, New York, in violation of New York Penal Law Sections 125.25, 120.10, 120.05, 120.14, 120.15, 110.00 and 20.00.

(Title 18, United States Code, Sections 1959(a)(5), 1959(a)(3) and 2.)

COUNT NINE
(Use of Firearm in Furtherance of Crime of Violence)
(MALVIN RESTITUYO)

The Grand Jury further charges:

29. On or about June 23, 2019, in the Southern District of New York, MALVIN RESTITUYO, a/k/a "Puto," the defendant, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, namely, attempted murder and assault with a dangerous weapon in aid of

racketeering, as charged in Count Eight of this Indictment, knowingly did use and carry a firearm, and in furtherance of such crime did possess a firearm, and did aid and abet the use, carrying and possession of a firearm, which was brandished and discharged.

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

COUNT TEN
(Attempted Murder and Assault with a Dangerous Weapon in Aid of Racketeering)
(MOISES FONTANEZ)

The Grand Jury further charges:

30. At all times relevant to this Indictment, the Shooting Boys, as described in paragraphs 1 through 7 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 that was engaged in, and the activities of which affected, interstate and foreign commerce. The Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the Enterprise.

31. At all times relevant to this Indictment, the Shooting Boys, 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 and robbery, in violation of New York Penal Law, acts indictable under Title 18, United States Code, Section 1951, and offenses involving the distribution of controlled substances, in violation of Title 21, United States Code, Sections 812, 841, and 846.

32. On or about July 31, 2020, in the Southern District of New York, MOISES FONTANEZ, a/k/a "Goya," the defendant, as consideration for the receipt of, and as consideration for a promise and agreement to pay, a thing of pecuniary value from the Shooting Boys, and for the purpose of gaining entrance to and maintaining and increasing position in the Shooting Boys, an enterprise engaged in racketeering activity, as described above, intentionally and knowingly attempted to murder an individual and assaulted that individual with a dangerous weapon, and aided and abetted the same, to wit, FONTANEZ participated in a shooting at rival gang members at which an innocent bystander was struck, in the vicinity of East 180th Street and Grand Concourse in the Bronx, New York, in violation of New York Penal Law Sections 125.25, 120.10, 120.05, 120.14, 120.15, 110.00 and 20.00.

(Title 18, United States Code, Sections 1959(a)(5), 1959(a)(3) and 2.)

COUNT ELEVEN
(Use of Firearm in Furtherance of Crime of Violence)
(MOISES FONTANEZ)

The Grand Jury further charges:

33. On or about July 31, 2020, in the Southern District of New York, MOISES FONTANEZ, a/k/a "Goya," the defendant, during and in relation to a crime of violence for which he may be prosecuted in a court of the United States, namely, attempted murder and assault with a dangerous weapon in aid of racketeering, as charged in Count Ten of this Indictment, knowingly did use and carry a firearm, and in furtherance of such crime did possess a firearm, and did aid and abet the use, carrying and possession of a firearm, which was brandished and discharged.

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

COUNT TWELVE
(Assault with a Dangerous Weapon in Aid of Racketeering)
(ANDREW DONE, MOISES FONTANEZ, OLBENY DIAZ, and JOEL ORTIZ)

The Grand Jury further charges:

34. At all times relevant to this Indictment, the Shooting Boys, as described in paragraphs 1 through 7 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 that was engaged in, and the activities of which affected, interstate and foreign commerce. The Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the Enterprise.

35. At all times relevant to this Indictment, the Shooting Boys, 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 and robbery, in violation of New York Penal Law, acts indictable under Title 18, United States Code, Section 1951, and offenses involving the distribution of controlled substances, in violation of Title 21, United States Code, Sections 812, 841, and 846.

36. On or about July 6, 2020, in the Southern District of New York and elsewhere, ANDREW DONE, a/k/a "Caballo," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," and JOEL ORTIZ, a/k/a "Brooklyn," the defendants, as consideration for the receipt of, and as consideration for a promise and agreement to pay, a thing of pecuniary value from the Shooting Boys, and for the purpose of gaining entrance to and maintaining and increasing position in the Shooting Boys, an enterprise engaged in racketeering activity, as described above, intentionally and knowingly assaulted an individual with a dangerous weapon, and

aided and abetted the same, to wit, DONE, FONTANEZ, DIAZ, and ORTIZ robbed at gunpoint a suspected drug dealer in the vicinity of South Bound Brook, New Jersey, in violation of New Jersey Code of Criminal Justice Sections 2C:12-1 and 2C:5-1.

(Title 18, United States Code, Sections 1959(a)(3) and 2.)

COUNT THIRTEEN

**(Use of Firearm in Furtherance of Crime of Violence)
(ANDREW DONE, MOISES FONTANEZ, OLBENY DIAZ, and JOEL ORTIZ)**

The Grand Jury further charges:

37. On or about July 6, 2020, in the Southern District of New York and elsewhere, ANDREW DONE, a/k/a "Caballo," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," and JOEL ORTIZ, a/k/a "Brooklyn," 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, assault with a dangerous weapon in aid of racketeering, as charged in Count Twelve of this Indictment, knowingly did use and carry a firearm, and in furtherance of such crime did possess a firearm, and did aid and abet the use, carrying and possession of a firearm, which was brandished.

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

COUNT FOURTEEN
(Narcotics Trafficking)

The Grand Jury further charges:

38. From at least in or about 2017, up to and including the present, in the Southern District of New York and elsewhere, ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," ANDERSON BURDIER, a/k/a "Canela," and JOSEPH RIVERA, a/k/a "Shorty," the defendants, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

39. It was a part and an object of the conspiracy that ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," ANDERSON BURDIER, a/k/a "Canela," and JOSEPH RIVERA, a/k/a "Shorty," the defendants, and others known and unknown, would and did distribute and possess with intent to distribute controlled substances, in violation of Title 21, United States Code, Section 841(a)(1).

40. The controlled substances that ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES

FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," ANDERSON BURDIER, a/k/a "Canela," and JOSEPH RIVERA, a/k/a "Shorty," the defendants, conspired to distribute and possess with intent to distribute were: (i) one kilogram and more of mixtures and substances containing a detectable amount of heroin; (ii) five kilograms and more of mixtures and substances containing a detectable amount of cocaine; (iii) 280 grams and more of mixtures and substances containing a detectable amount of cocaine base in a form commonly known as "crack cocaine," in violation of Title 21, United States Code, Section 841(b)(1)(A); (iv) a quantity of oxycodone, in violation of Title 18, United States Code, Section 841(b)(1)(C); and (v) less than fifty kilograms of marijuana, in violation of Title 21, United States Code, Section 841(b)(1)(D).

(Title 21, United States Code, Section 846.)

COUNT FIFTEEN
(Firearms Offense)

The Grand Jury further charges:

41. From at least in or about 2017 up to and including the present, in the Southern District of New York and elsewhere, ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a

"Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," ANDERSON BURDIER, a/k/a "Canela," and JOSEPH RIVERA, a/k/a "Shorty," the defendants, during and in relation to a drug trafficking crime for which they may be prosecuted in a court of the United States, namely, the narcotics conspiracy charged in Count Fourteen of this Indictment, 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, some of which were brandished and discharged.

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

FORFEITURE ALLEGATIONS

42. As a result of committing the offense alleged in Count One of this Indictment, ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," MALVIN RESTITUYO, a/k/a "Puto," and ANDERSON BURDIER, a/k/a "Canela," the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 1963, any and all interests the defendants acquired or maintained in violation of Title 18, United States Code, Section 1962; any and all interests in, securities of, claims against, and property or contractual rights of any kind affording a source of influence

over, the enterprise named and described herein which the defendant established, operated, controlled, conducted, and participated in the conduct of, in violation of Title 18, United States Code, Section 1962; and any and all property constituting and derived from proceeds obtained, directly and indirectly, from the racketeering activity alleged in Count One of this Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

43. As a result of committing the offense charged in Count Fourteen of this Indictment, ANDREW DONE, a/k/a "Caballo," VICTOR ALMONTE, a/k/a "Flaco Capone," MOISES FONTANEZ, a/k/a "Goya," OLBENY DIAZ, a/k/a "Sosobrito," FRAILYN CAPELLAN, a/k/a "Freko," JOEL ORTIZ, a/k/a "Brooklyn," EDWIN JIMENEZ, a/k/a "Pac," ANDERSON BURDIER, a/k/a "Canela," and JOSEPH RIVERA, a/k/a "Shorty," the defendants, shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of said offense and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

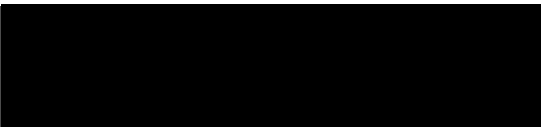
Substitute Assets Provision

44. If any of the property described above as subject to forfeiture, as a result of any act or omission of the above-named defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 1963(m), Title 21 United States Code, Section 853(p), and Title 28, United States Code, Section 2461(c) to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 981 and 1963;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)



Foreperson

Handwritten signature of Damian Williams in cursive script.

DAMIAN WILLIAMS
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

ANDREW DONE, a/k/a "Caballo," VICTOR
ALMONTE, a/k/a "Flaco Capone," MOISES
FONTANEZ, a/k/a "Goya," OLBENY DIAZ,
a/k/a "Sosobrito," FRAILYN CAPELLAN,
a/k/a "Freko," JOEL ORTIZ, a/k/a
"Brooklyn," EDWIN JIMENEZ, a/k/a "Pac,"
MALVIN RESTITUYO, a/k/a "Puto," ANDERSON
BURDIER, a/k/a "Canela," and JOSEPH
RIVERA, a/k/a "Shorty,"

Defendants.

SEALED
INDICTMENT

22 Cr.

(18 U.S.C. §§ 924(c), 924(j), 1959,
1962, and 2; 21 U.S.C. § 846.)

DAMIAN WILLIAMS

United States Attorney.


Foreperson
