

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

NOV 20 2013

At _____ M
ROBERT N TRGOVICH, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA)	CAUSE NO. 2:13 CR 111 PPS
)	
v.)	
)	18 U.S.C. § 924(c)(1)(A) and (j)
)	18 U.S.C. § 1959(a)(1)
KIONTAY KYARE PENNINGTON;)	18 U.S.C. § 2
OSCAR COSME;)	
ADRON HERSCHEL TANCIL; and)	
JESUS VALENTIN FUENTES)	

SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

GENERAL ALLEGATIONS

THE RACKETEERING ENTERPRISE, THE TWO SIX NATION

1. At all times material to this superseding indictment, the defendants, KIONTAY KYARE PENNINGTON, ADRON HERSCHEL TANCIL and JESUS VALENTIN FUENTES were members of the "Two Six Nation" (hereinafter the "TWO SIX"), a criminal organization whose members engaged in acts of violence and other criminal activities involving murder, assault, kidnapping and narcotics trafficking. At all relevant times, the TWO SIX operated in the Northern District of Indiana and elsewhere.

2. The TWO SIX, including its leadership, membership, prospects ("shorties") and associates, constitutes an enterprise as defined in 18 U.S.C. § 1959(b)(2), that is, a group of individuals associated in fact, which is engaged in and the activities of which affect, interstate

and foreign commerce. The enterprise constitutes an ongoing organization whose members, prospects and associates functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise.

3. The TWO SIX are a Chicago-area criminal street organization whose members engage in drug trafficking and acts of violence. The Dark Side TWO SIX are a local "set" or affiliate of the TWO SIX, with local control and operation within the East Chicago, Indiana, area. The Dark Side TWO SIX are involved in murder, attempted murder, kidnapping and drug trafficking.

4. The TWO SIX's colors are black and beige. The TWO SIX's symbol is a cartoon depiction of a rabbit with its right ear bent.

5. The TWO SIX are affiliated with the "Folk Nation" of gangs. Rival street gangs of the TWO SIX have included the Imperial Gangsters and the Latin Kings.

MEMBERSHIP

6. In order to join the Dark Side TWO SIX prospective members or "shorties" are given the option of shooting someone at the direction of the leadership of the gang, or receiving a minute "violation," which entails high-ranking members of the gang punching the prospective member a certain number of times in the chest. While a "shorty" is attempting to join the gang his conduct is observed by the members of the Dark Side TWO SIX. While a "shorty" is attempting to join the gang, he is considered a part of the Dark Side TWO SIX family and entitled to the full protection of the enterprise. The "shorty" is also subject to the rules and orders of the enterprise.

LEADERSHIP STRUCTURE

7. The Dark Side TWO SIX have a leadership structure, but do not always utilize official titles or ranks. They at all times have an individual who serves as the leader and makes decisions regarding gang business. JESUS VALENTIN FUENTES served as one of the leaders of the Dark Side TWO SIX during the time period charged in the superseding indictment. The Dark Side TWO SIX have one or two individuals who control and train the "shorties" or prospective members. They have an individual who serves as a treasurer, who collects gang dues. They also have an individual who serves as the enforcer, who applies discipline for violations of the gang rules by meting out punishment.

PURPOSES OF THE ENTERPRISE

8. The purposes of the enterprise included, but were not limited to, the following:
- a. Enriching the leaders, members, and associates of the enterprise through, among other things, the illegal trafficking of controlled substances.
 - b. Preserving and protecting the power, territory, operations, and proceeds of the enterprise through the use of threats, intimidation, violence and destruction including, but not limited to, acts of murder, attempted murder, assault with a dangerous weapon and other acts of violence.
 - c. Promoting and enhancing the enterprise and its members' and associates' activities.
 - d. Keeping victims in fear of the enterprise and in fear of its leaders, members, and associates through threats of violence and violence. The leaders, members, and associates of the enterprise undertook all steps necessary to prevent the detection of their criminal activities, and sought to prevent and resolve the imposition of any criminal liabilities upon their leaders,

members, and associates, by the use of murder, violence, and intimidation directed against witnesses, victims, and others. As part of this practice, the enterprise enforced what it referred to as a "SOS" or shoot on sight order, or also known as "KOS" or, kill on sight, against TWO SIX members who were suspected of having cooperated with law enforcement.

e. Providing support to gang members who were charged with, or incarcerated for, gang-related activities.

MEANS AND METHODS OF THE ENTERPRISE

9. The members of the enterprise and their associates attended regular meetings at which they discussed, planned, and otherwise engaged in criminal activity, including murder, attempted murder, narcotics distribution, and obstruction of justice.

10. Members of the enterprise and their associates initiated new members through the practice of causing them to endure physical assaults conducted by members of the enterprise at various gang-related gatherings.

11. To enforce discipline and the rules of the enterprise, members of the enterprise and their associates engaged in a system of "violations," in which members of the enterprise attempted to murder, conspired to murder, and physically beat and threatened those members of the enterprise who violated rules, questioned authority, or posed a threat to the leaders or purposes of the enterprise.

12. Members of the enterprise and their associates employed and used gang-related terminology, symbols, gestures, and color schemes.

13. To perpetuate the enterprise and maintain and extend their power, members of the enterprise and their associates committed illegal acts, including murder, attempted murder,

aggravated battery, intimidation, and assault against individuals who posed a threat to the enterprise or jeopardized its operations, including rival gang members and witnesses to the illegal activities of the enterprise. Pursuant to gang policy, members of the enterprise and their associates were required to participate in such acts, received standing orders to shoot rival gang members, and were instructed to retaliate for gang-related attacks upon the members and associates of the enterprise.

14. Members of the enterprise and their associates managed the procurement, transfer, use, concealment, and disposal of firearms and dangerous weapons within the enterprise to protect gang-related territory, personnel, and operations, and to deter, eliminate, and retaliate against competitors and other rival criminal organizations and persons.

15. Members of the enterprise and their associates earned money for their members and regularly financed their activities through funds obtained in the illegal trafficking of controlled substances, including the distribution and possession with intent to distribute marijuana, cocaine and ecstasy.

16. Members of the enterprise and their associates operated and conducted their affairs, in part, through a financial system in which the leadership of the TWO SIX and others possessed, controlled, and otherwise maintained a monetary stash on behalf of the enterprise. As part of this practice, members of the enterprise and their associates paid requisite weekly or bi-weekly dues into the pot, which, in turn, the enterprise used to bail gang members out of jail, to help pay for the defense attorneys of gang members who had been charged with crimes, to send to commissary accounts of incarcerated gang members, and to purchase and sell firearms and controlled substances. At times, the members of the enterprise and their associates paid money

into the pot by selling narcotics supplied by members of the gang.

17. Members of the enterprise and their associates hid, misrepresented, concealed and caused to be misrepresented, concealed, and hidden, the objectives of acts done in furtherance of the conspiracy, and used coded language and other means to avoid detection and apprehension by law enforcement authorities.

18. Members of the enterprise recruited and used juveniles to commit acts for the benefit of the enterprise.

Overview

19. In or about September, 2002, Julio Cartagena, a member of the Dark Side TWO SIX and close associate of JESUS VALENTIN FUENTES, stole a large quantity of cocaine that had been "fronted" to JESUS VALENTIN FUENTES by members of a Mexican drug trafficking cartel. During the ensuing months JESUS VALENTIN FUENTES enlisted the help of fellow Dark Side Two Six gang members KIONTAY KYARE PENNINGTON, ADRON TANCIL and LOUIS HENDERSON, and long-time friend OSCAR COSME to locate Julio Cartagena and recover the stolen cocaine, or, if the cocaine had already been sold, the proceeds of the drug sales. JESUS VALENTIN FUENTES, who was residing in Mexico during this time period while trafficking narcotics and running a recording studio, directed his associates to place a tracking device on Julio Cartagena's vehicle in an effort to establish Cartagena's whereabouts. When this was not successful, JESUS VALENTIN FUENTES directed LOUIS HENDERSON, KIONTAY KYARE PENNINGTON and other members of the Dark Side Two Six to kidnap Julio Cartagena's children and the mother of Cartagena's children in order to pressure Cartagena

to return the drugs or the proceeds from the sale of the drugs. LOUIS HENDERSON, KIONTAY KYARE PENNINGTON and other members of the Dark Side Two Six committed an armed kidnapping in Hammond, Indiana on November 23, 2002 of Cartagena's children and the mother of his children. When this armed kidnapping failed to lead to the recovery of the stolen cocaine or the proceeds of the sale of the cocaine, JESUS VALENTIN FUENTES, who was in Mexico, utilized a telephone to direct LOUIS HENDERSON, KIONTAY KYARE PENNINGTON, ADRON TANCIL and OSCAR COSME to commit an armed kidnapping of Julio Cartagena. On May 16, 2003, during the course of attempting an armed kidnapping of Julio Cartagena in East Chicago, Indiana, LOUIS HENDERSON, KIONTAY KYARE PENNINGTON, ADRON TANCIL and OSCAR COSME shot and killed Julio Cartagena. During the course of the ensuing police chase, LOUIS HENDERSON crashed the vehicle that he was driving into an oncoming truck and expired on the scene.

COUNT 1

20. At all times relevant to this Superseding Indictment the TWO SIX, as more fully described in paragraphs one through twenty of the General Allegations which are re-alleged and incorporated by reference as though fully set forth herein, constituted an enterprise as defined in 18 U.S.C. § 1959(b)(2), that is, a group of individuals associated in fact which is engaged in and the activities of which affect, interstate and foreign commerce.

21. The above- described enterprise, through its members and associates, engaged in racketeering activity as defined in 18 U.S.C. §§ 1959(b)(1) and 1961(1), namely, acts involving murder, in violation of Indiana Penal Code, kidnapping, in violation of Indiana Penal Code and 18 U.S.C. § 1201, and narcotics trafficking in violation of 21 U.S.C. §§ 841 and 846.

22. On or about May 16, 2003, in Lake County, Indiana, within the Northern District of Indiana,

**KIONTAY KYARE PENNINGTON,
ADRON HERSCHEL TANCIL
and
JESUS VALENTIN FUENTES,**

defendants herein, for the purpose of gaining entrance to and maintaining and increasing position in the Two Six, an enterprise engaged in racketeering activity, did intentionally and knowingly murder Julio Cartagena, in violation of Indiana Penal Code, Section 35-42-1-1.

All in violation of 18 U.S.C. § 1959(a)(1) and 18 U.S.C. § 2.

THE GRAND JURY FURTHER CHARGES:

COUNT 2

On or around May 16, 2003, in Lake County, Indiana, within the Northern District of Indiana,

**KIONTAY KYARE PENNINGTON,
OSCAR COSME
ADRON HERSCHEL TANCIL
and
JESUS VALENTIN FUENTES,**

defendants herein, did knowingly carry, use, and discharge a firearm during and in relation to a drug trafficking crime, that is, a conspiracy beginning on a date unknown to the Grand Jury, but at least on or about September 29, 2002 and continuing until on or about May 16, 2003, between Kiontay Kyare Pennington, Oscar Cosme, Adron Herschel Tancil, Jesus Valentin Fuentes, and others known and unknown to the grand jury, to possess with intent to distribute and distribute five (5) kilograms or more of cocaine; and during and in relation to crimes of violence, that is Murder in Aid of Racketeering, as alleged in Count 1 of this Superseding Indictment, and Kidnapping, in violation of 18 U.S.C. § 1201, did cause the death of a person through the use of a firearm, which killing is a murder defined in 18 U.S.C. § 1111, in that the defendants, with malice aforethought, unlawfully killed a human being, that is Julio Cartagena, willfully, deliberately, and maliciously.

All in violation of Title 18, United States Code, Section 924(c) and 924(j), and Title 18, United States Code, Section 2.

NOTICE OF SPECIAL FINDINGS

1. The Grand Jury incorporates by reference and realleges the allegations contained in Counts 1 and 2 of this Superseding Indictment and makes the following special findings as to Counts 1 and 2 the defendant:

KIONTAY PENNINGTON

- a. was 18 years of age or older at the time of the offenses. [Title 18, United States Code, Section 3591(a)].
- b. intentionally killed the victim, Julio Cartagena. [Title 18, United States Code, Section 3591(a)(2)(A)].
- c. intentionally inflicted serious bodily injury that resulted in the death of the victim, Julio Cartagena. [Title 18, United States Code, Section 3591(a)(2)(B)].
- d. 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 offense, and the victim, Julio Cartagena, died as a direct result of the acts. [Title 18, United States Code, Section 3591(a)(2)(c)].
- e. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim, Julio Cartagena, died as a direct result of the act. [Title 18, United States Code, Section 3591(a)(2)(D)].
- f. the death and the injury resulting in death of Julio Cartagena occurred during the

commission or attempted commission of a kidnapping (18 U.S.C. § 1201). [Title 18, United States Code, Section 3592(c)(1)].

g. has previously been convicted of a State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm against another person. [Title 18, United States Code, Section 3592(c)(2)].

h. committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. [Title 18, United States Code, Section 3592(c)(8)].

i. committed the offense after substantial planning and premeditation to cause the death of Julio Cartagena. [Title 18, United States Code, Section 3592(c)(9)].

2. The Grand Jury incorporates by reference and realleges the allegations contained in Count 2 of this Superseding Indictment and makes the following special findings as to Count 2 the defendant:

OSCAR COSME

a. was 18 years of age or older at the time of the offenses. [Title 18, United States Code, Section 3591(a)].

b. intentionally killed the victim, Julio Cartagena. [Title 18, United States Code, Section 3591(a)(2)(A)].

c. intentionally inflicted serious bodily injury that resulted in the death of the victim, Julio Cartagena. [Title 18, United States Code, Section 3591(a)(2)(B)].

d. 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 offense, and the victim, Julio Cartagena, died as a direct result of the acts. [Title 18, United States Code, Section 3591(a)(2)(c)].

e. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim, Julio Cartagena, died as a direct result of the act. [Title 18, United States Code, Section 3591(a)(2)(D)].

f. the death and the injury resulting in death of Julio Cartagena occurred during the commission or attempted commission of a kidnapping (18 U.S.C. § 1201). [Title 18, United States Code, Section 3592(c)(1)].

g. has previously been convicted of a State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm against another person. [Title 18, United States Code, Section 3592(c)(2)].

h. committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. [Title 18, United States Code, Section 3592(c)(8)].

i. committed the offense after substantial planning and premeditation to cause the death of Julio Cartagena. [Title 18, United States Code, Section 3592(c)(9)].

3. The Grand Jury incorporates by reference and realleges the allegations contained in Counts 1

1. The first part of the document is a list of names and titles, including "The Hon. Mr. Justice G. D. C. O'Connell" and "The Hon. Mr. Justice J. J. O'Connell".

and 2 of this Superseding indictment and makes the following special findings as to Counts 1 and 2 the defendant:

ADRON HERSCHEL TANCIL

- a. was 18 years of age or older at the time of the offenses. [Title 18, United States Code, Section 3591(a)].
- b. intentionally killed the victim, Julio Cartagena. [Title 18, United States Code, Section 3591(a)(2)(A)].
- c. intentionally inflicted serious bodily injury that resulted in the death of the victim, Julio Cartagena. [Title 18, United States Code, Section 3591(a)(2)(B)].
- d. 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 offense, and the victim, Julio Cartagena, died as a direct result of the acts. [Title 18, United States Code, Section 3591(a)(2)(c)].
- e. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim, Julio Cartagena, died as a direct result of the act. [Title 18, United States Code, Section 3591(a)(2)(D)].
- f. the death and the injury resulting in death of Julio Cartagena occurred during the commission or attempted commission of a kidnapping (18 U.S.C. § 1201). [Title 18, United States Code, Section 3592(c)(1)].
- g. committed the offense as consideration for the receipt, or in the expectation of the

receipt, of anything of pecuniary value. [Title 18, United States Code, Section 3592(c)(8)].

h. committed the offense after substantial planning and premeditation to cause the death of Julio Cartagena. [Title 18, United States Code, Section 3592(c)(9)].

4. The Grand Jury incorporates by reference and realleges the allegations contained in Counts 1 and 2 of this Superseding Indictment and makes the following special findings as to Counts 1 and 2 the defendant:

JESUS VALENTIN FUENTES

a. was 18 years of age or older at the time of the offenses. [Title 18, United States Code, Section 3591(a)].

b. intentionally killed the victim, Julio Cartagena. [Title 18, United States Code, Section 3591(a)(2)(A)].

c. intentionally inflicted serious bodily injury that resulted in the death of the victim, Julio Cartagena. [Title 18, United States Code, Section 3591(a)(2)(B)].

d. 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 offense, and the victim, Julio Cartagena, died as a direct result of the acts. [Title 18, United States Code, Section 3591(a)(2)(c)].

e. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the

victim, Julio Cartagena, died as a direct result of the act. [Title 18, United States Code, Section 3591(a)(2)(D)].

f. the death and the injury resulting in death of Julio Cartagena occurred during the commission or attempted commission of a kidnapping (18 U.S.C. § 1201). [Title 18, United States Code, Section 3592(c)(1)].

g. procured the commission of the offense by payment, or promise of payment, or anything of pecuniary value. [Title 18, United States Code, Section 3592(c)(7)].

h. committed the offense after substantial planning and premeditation to cause the death of Julio Cartagena. [Title 18, United States Code, Section 3592(c)(9)].

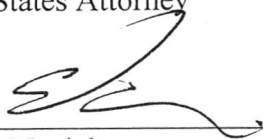
A TRUE BILL



FOREPERSON

DAVID A. CAPP
United States Attorney

By:



David J. Nozick
Assistant United States Attorney