

an amateur basketball team controlled by AUGUSTINE.

A. CODE and DAWKINS Discuss the Involvement of University-7 Coaches in Funneling Payments to Player-12

44. On or about August 9, 2017, CHRISTIAN DAWKINS and MERL CODE, the defendants, discussed – on a telephone call intercepted over the Dawkins Wiretap – paying Player-12 and/or his family at the request of at least one coach at University-7 (“Coach-3”). During the call, DAWKINS and CODE discussed the involvement of Coach-3 in ensuring that Company-1 would funnel payments to Player-12 in order to secure Player-12’s commitment to play at University-7. In particular, on the call, DAWKINS told CODE that, according to JONATHAN BRAD AUGUSTINE, the defendant, “[Coach-3] knows everything,” and that they could “start the process” to funnel the payments to Player-12 in order to ensure that Player-12 would commit to attend University-7 upon his graduation in 2018. With respect to the need to funnel money to Player-12, DAWKINS further informed CODE that Coach-3 “knows something gotta happen for it to get done,” and CODE replied that he had just left a message for JAMES GATTO, a/k/a “Jim,” the defendant, regarding the payment.

B. The Defendants Discuss a \$150,000 Payment to Player-12 to Ensure That Player-12 Would Choose University-7 Over a Rival University

45. On or about August 11, 2017, JAMES GATTO, a/k/a “Jim,” and MERL CODE, the defendants, spoke twice on telephone calls that were intercepted pursuant to the Code Wiretap. During those calls, GATTO and CODE discussed, among other things, Coach-3’s request to GATTO that Company-1 make a \$150,000 payment to Player-12 in order to prevent Player-12 from committing to attend another NCAA Division I university sponsored by a rival athletic apparel company that allegedly had offered Player-12 a substantial sum of money. In particular, I have learned that:

a. On their initial call that day, CODE and GATTO discussed funneling payments from Company-1 to Player-12 in order to influence Player-12’s decision to attend University-7, a school sponsored by Company-1. In particular, on the call, CODE informed GATTO that they had “another [University-6] situation” – referring to the scheme described above in

paragraphs 27 to 35 involving Player-10 and University-6 – adding, “except it’s with [University-7] this time.” When GATTO inquired whether University-7 was “hot,” CODE explained that “[University-7] wants this kid named [Player-12].” GATTO confirmed that he knew already about University-7’s request for Player-12, and told CODE that he had spoken to Coach-3,¹² who had “just asked about the kid and then he said supposedly the kid was having a meeting with” Senior Executive-1 at a Company-1 sponsored program geared toward high school amateur athletes that occurred between on or about August 3 and August 7, 2017.

b. On a second call later the same day, CODE discussed with GATTO, in sum and substance, and in part, the involvement of CHRISTIAN DAWKINS and JONATHAN BRAD AUGUSTINE, the defendants, in the scheme to facilitate payments to Player-12 in order to secure Player-12’s commitment to attend University-7. CODE explained that another Division I university (“University-4”) was offering Player-12 \$150,000 “and we’re trying to keep him from going to one of their schools.”¹³ CODE further told GATTO that DAWKINS and AUGUSTINE had asked CODE whether GATTO “would be able to keep him at [University-7] because they really want the kid.” GATTO confirmed that Player-12 would be a rising senior in high school, and CODE assured GATTO that the payments need not be “all in one lump sum. I can, I can make it work . . .,” further noting that this situation was “not one of those where I need an answer today. You know what I am saying? I just wanted to put it on your plate.”

c. On the same call, GATTO inquired whether Company-1 would “have to match the [University-4] deal?,” and asked if the payments could be pushed to 2018 noting “if I have to pay it out in ‘18, that’s fine” but adding “I just don’t know if I, I just don’t know if I can do anything in ‘17 that’s what I’m

¹² Based on my review of call records for a cellphone used by GATTO, I am aware that, on or about August 6, 2017 (a few days before the call between CODE and GATTO discussed in this paragraph), GATTO had two telephone calls with a cellphone number believed to be used by Coach-3.


¹³ Based on publicly available information, I am aware that the University-4 athletic program, including its men’s basketball team, is sponsored by a rival athletic apparel company.

saying." Referring to the scheme involving Player-10 detailed above, GATTO further told CODE that he should "try to get it to, what did we do with [Player-10], a 100," which I believe is a reference to the \$100,000 payment to Player-10. CODE replied that he was not sure "they'll take that much less but if I can take it down at least twenty five," to which GATTO responded, "Alright, well let's just see."

46. I have reviewed a telephone call on or about August 12, 2017 between MERL CODE and CHRISTIAN DAWKINS, the defendants, that was intercepted pursuant to both the Dawkins Wiretap and the Code Wiretap. On the call, CODE relayed the substance of CODE's discussion with JAMES GATTO, a/k/a "Jim," the defendant, regarding payments by Company-1 to Player-12, including GATTO's request that CODE negotiate the \$150,000 asking price set by Player-12. According to CODE, however, if "[University-4]'s willing to" pay the full \$150,000, "then that's where the kid is going to go." Referring to GATTO's statement that he did not have sufficient funds to pay Player-12 in 2017, CODE stated that if Company-1 waited until January 2018 to commit to a payment amount, "by that point that number might be 200," i.e., \$200,000, adding that Company-1 "won't play if it's . . . at that level, we won't play." DAWKINS asked what would be the highest payment that GATTO and Company-1 would agree to, and CODE replied, "I think they do 150 if, if [Coach-3] stayed on it."

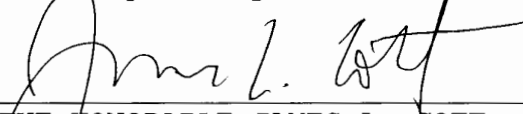
47. On or about August 19, 2017, MERL CODE and JONATHAN BRAD AUGUSTINE, the defendants, spoke on a telephone call that was intercepted pursuant to the Code Wiretap. During the call, CODE informed AUGUSTINE that he would do what was necessary "to make sure that we secure[] the kid" but that "budget-wise, everything was kind of strapped for '17. . . So '18 puts us in a better place to have that conversation."

WHEREFORE, deponent respectfully requests that warrants be issued for the arrests of JAMES GATTO, a/k/a "Jim," MERL CODE, CHRISTIAN DAWKINS, JONATHAN BRAD AUGUSTINE, and MUNISH SOOD, the defendants, and that they be imprisoned or bailed, as the case may be.



JOHN VOURDERIS
Special Agent
Federal Bureau of Investigation

Sworn to before me this
25th day of September, 2017



THE HONORABLE JAMES L. COTT
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK