

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA : CRIMINAL NO. 5:09-cr-390
 : (NAM)

v. :

MARION PEGESE, : VIOLATIONS:
 a/k/a "Dump," : 18 U.S.C. § 1951(a) (Conspiracy to
 a/k/a "Bill," : Interfere with Interstate Commerce by
 a/k/a "Amein," : Robbery - 1 count)

ROBERT WARD, : 18 U.S.C. § 1951(a) (Interference with
 a/k/a "RB," and : Interstate Commerce by Robbery - 1
 : count); 18 U.S.C. § 2 (Aiding and
 : Abetting)

TOUSSAINT DAVIS, : 18 U.S.C. § 924 (j)(1) (Murder as a Result
 a/k/a "Toot," : of Possession and Discharge of a Firearm
 a/k/a "John Healy," : in Furtherance of a Crime of Violence-1
 a/k/a "Toussaint Martin," : count)

Defendants

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

At all times material to this indictment:

1. The Lennon's-W.B. Wilcox Jewelers store located at Commercial Drive, New Hartford, New York ["Lennon's Jewelers"], was a business engaged in the retail sale of jewelry and watches in and affecting interstate and foreign commerce.

2. The Ballew Jewelers store located at West Main Street, Freehold, New Jersey ["Ballew Jewelers"], was a business engaged in the retail sale of jewelry and watches in and affecting interstate and foreign commerce.

THE ROBBERY CONSPIRACY

3. From in or about August 2005 until on or about May 2006, in Oneida County in the Northern District of New York, and elsewhere, defendants

MARION PEGESE,
a/k/a "Dump,"
a/k/a "Bill,"
a/k/a "Amein,"

ROBERT WARD,
a/k/a "RB,"

TOUSSAINT DAVIS,
a/k/a "Toot,"
a/k/a "John Healy,"
a/k/a "Toussaint Martin,"

did combine, conspire, confederate, and agree, with each other and others known and unknown to the grand jury, including Walter R. Richardson, Jr., to commit robberies, which robberies would unlawfully obstruct, delay, and affect commerce, and the movement of articles and commodities in such commerce, in that defendants MARION PEGESE, ROBERT WARD and TOUSSAINT DAVIS conspired to unlawfully take and obtain jewelry and Rolex watches from the person and presence of

others and against their will, by means of actual and threatened force, violence, and immediate fear of injury to their person and property, all in violation of Title 18, United States Code, Section 1951(a).

MANNER AND MEANS

It was part of the conspiracy that:

4. Defendants MARION PEGESE, ROBERT WARD, and TOUSSAINT DAVIS, along with Walter R. Richardson, Jr. and others known and unknown to the grand jury, engaged in robberies to steal jewelry and Rolex watches from jewelry stores during regular business hours.

5. The group traveled in one or more vehicles from Philadelphia, Pennsylvania to locations in New York and New Jersey to commit the robberies.

6. The group would commit "takeover-style" robberies of victim jewelry stores by holding store employees hostage at gunpoint while seizing Rolex watches and jewelry, which they put into bags before fleeing.

7. The defendants robbed the two victim stores listed in paragraphs 1 and 2 above and stole jewelry and Rolex watches with a retail value in excess of \$2 million.

OVERT ACTS

8. In furtherance of the conspiracy, defendants MARION PEGESE, ROBERT WARD, and TOUSSAINT DAVIS committed the following overt acts in the Northern District of New York and elsewhere:

Ballew Jewelers

a. On or about August 26, 2005, defendant MARION PEGESE entered Ballew Jewelers posing as a prospective customer, examined jewelry and watches in display cases, and engaged store employees in conversation.

b. On or about August 26, 2005, defendants ROBERT WARD and TOUSSAINT DAVIS, along with Eric Lane, entered Ballew Jewelers carrying bags a short time after defendant MARION PEGESE entered.

c. Defendant MARION PEGESE and Eric Lane displayed handguns and ordered the employees of Ballew Jewelers to enter a back room.

d. Defendant MARION PEGESE and Eric Lane unsuccessfully sought to disable the video surveillance system in Ballew Jewelers.

e. Defendants MARION PEGESE, ROBERT WARD, and TOUSSAINT DAVIS, along with Eric Lane, took Rolex watches and jewelry from their cases and put them into bags.

f. Defendants MARION PEGESE, ROBERT WARD, and TOUSSAINT DAVIS, along with Eric Lane, tied the hands and feet of the employees of Ballew Jewelers with duct tape and moved them to the basement of the store.

g. Defendants MARION PEGESE, ROBERT WARD, and TOUSSAINT DAVIS, along with Eric Lane, escaped through a rear door of Ballew Jewelers with stolen watches and jewelry worth in excess of \$1 million.

Lennon's Jewelers

h. On or about February 22, 2006, defendant TOUSSAINT DAVIS used a personal computer located at 1307 West Wishart, Philadelphia, Pennsylvania to obtain driving directions from that location to Lennon's Jewelers in New Hartford, New York.

i. On or about February 23, 2006, defendants TOUSSAINT DAVIS, MARION PEGESE, and ROBERT WARD, along with Walter R. Richardson, Jr., traveled from Philadelphia, Pennsylvania to New Hartford, New York in multiple vehicles.

j. While traveling to New Hartford, New York on or about February 23, 2006, defendants TOUSSAINT DAVIS, MARION PEGESE, and ROBERT WARD, along with Walter R. Richardson, Jr., remained in communication with each other through the use of mobile telephones.

k. Upon arriving in New Hartford, New York, on or about February 23, 2006, defendants TOUSSAINT DAVIS, MARION PEGESE, and ROBERT WARD, along with Walter R. Richardson, Jr., went to the vicinity of Commercial Drive and the Sangertown Mall, near Lennon's Jewelers, where they remained for approximately one to one and half hours, after which they returned to Philadelphia, Pennsylvania.

l. On or about February 27, 2006, defendants TOUSSAINT DAVIS, MARION PEGESE, and ROBERT WARD, along with Walter R. Richardson, Jr., traveled from Philadelphia, Pennsylvania to New Hartford, New York in more than one vehicle, remaining in communication with each other through the use of mobile telephones.

m. At approximately 8:15 p.m. on or about February 27, 2006, defendants TOUSSAINT DAVIS, MARION PEGESE, and ROBERT WARD, along with Walter R. Richardson, Jr., wearing masks and carrying at least one firearm, entered Lennon's Jewelers and ordered five employees of Lennon's Jewelers to the ground and secured their hands with handcuffs.

n. On or about February 27, 2006, one or more of the co-conspirators took the owner of Lennon's Jewelers at gun point to a vault area and ordered him to identify the video surveillance system, which one of the co-conspirators then disabled.

o. On or about February 27, 2006, defendants TOUSSAINT DAVIS, MARION PEGESE, and ROBERT WARD, along with Walter R. Richardson, Jr., stole jewelry and 31 Rolex watches worth approximately \$1 million dollars from Lennon's Jewelers.

p. On or about February 27, 2006, after police came to the scene of the robbery based on telephone calls made by a Lennon's Jewelry store employee who was hiding during the robbery, defendant TOUSSAINT DAVIS and Walter R. Richardson, Jr. fled from the scene in a blue Buick automobile driven by Richardson.

q. On or about February 27, 2006, after police came to the scene of the robbery in response to telephone calls made by a Lennon's Jewelry store employee who was hiding during the robbery, defendants MARION PEGESE and ROBERT WARD escaped undetected in WARD'S Cadillac.

r. On or about February 27, 2006, while being pursued by police, conspirator Walter R. Richardson, Jr., crashed a Buick automobile into gasoline pumps in front of a Byrne Dairy Store in the Town of Kirkland, New York.

s. On or about February 27, 2006, defendant TOUSSAINT DAVIS got out of a blue Buick automobile and unsuccessfully attempted to flee from police.

t. At approximately 8:27 p.m. on or about February 27, 2006, as Town of New Hartford Police Officer Joseph Corr conducted a search for suspects in the rear of a Byrne Dairy Store in Kirkland, New York, coconspirator Walter R. Richardson, Jr. shot and killed Officer Corr.

COUNT TWO

1. Paragraphs 1 through 8 and overt acts 8(a) through 8(t) of Count One are incorporated here.
2. On or about February 27, 2006, in the Northern District of New York and elsewhere, defendants,

MARION PEGESE,
a/k/a "Dump,"
a/k/a "Bill,"
a/k/a "Amein,"

ROBERT WARD,
a/k/a "RB,"

TOUSSAINT DAVIS,
a/k/a "Toot,"
a/k/a "John Healy,"
a/k/a "Toussaint Martin,"

aiding and abetting one another, did unlawfully obstruct, delay, and affect and attempt to obstruct, delay, and affect commerce, and the movement of articles and commodities in commerce, by robbery, in that defendants MARION PEGESE, ROBERT WARD, and TOUSSAINT DAVIS unlawfully took and obtained property, and aided and abetted the unlawful taking and obtaining of property, that is, jewelry and Rolex watches valued at approximately \$1 million, from the person and presence of employees of Lennon's Jewelry store against their will, by means of actual and threatened force, violence, and fear of immediate injury to their person and property, and property in their custody and possession belonging to the store, that is, by taking and obtaining jewelry and Rolex watches.

In violation of Title 18, United States Code, Sections 1951(a) and 2.

COUNT THREE

1. Paragraphs 1 through 8 and overt acts 8(a) through 8(t) of Count One are incorporated here.
2. On or about February 27, 2006 in the Northern District of New York and elsewhere, defendants,

MARION PEGESE,
a/k/a "Dump,"

a/k/a "Bill,"
a/k/a "Amein,"

ROBERT WARD,
a/k/a "RB,"

TOUSSAINT DAVIS,
a/k/a "Toot,"
a/k/a "John Healy,"
a/k/a "Toussaint Martin,"

during and in relation to a crime of violence for which they could be prosecuted in a court of the United States, specifically: (a) conspiracy to commit robbery which would unlawfully obstruct, delay, and affect commerce, and the movement of articles and commodities in commerce, in violation of Title 18, United States Code, Sections 1951, as charged in Count One of this indictment; and (b) robbery which would unlawfully obstruct, delay, and affect commerce, and the movement of articles and commodities in commerce, in violation of Title 18, United States Code, Section 1951, as charged in Count Two of this indictment, used and carried a firearm, specifically, a .40 caliber Smith & Wesson pistol, and, in furtherance of such crime of violence, possessed such firearm, and, through the use of that firearm, caused the death of New Hartford Police Officer Joseph Corr, which unlawful killing was murder in that the defendants acted with malice aforethought, and the killing was willful, deliberate, and premeditated, and committed during the perpetration of a robbery.

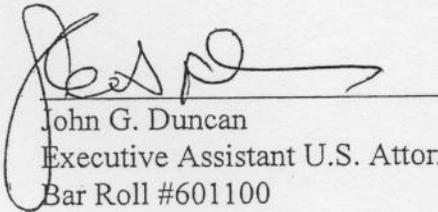
All in violation of Title 18, United States Code, Sections 924(c)(1), 924(j)(1), and Pinkerton v. United States, 328 U.S. 640 (1946) ("Pinkerton liability").

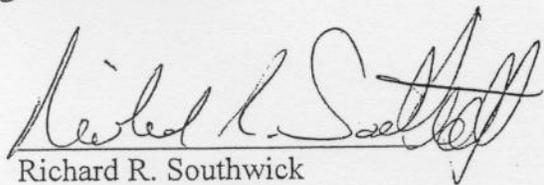
Dated: July 16 , 2009

A TRUE BILL,


Foreperson

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