

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case number: 19-CR-00315-01/20-W-DGK

1. LADELE D. SMITH,
a/k/a “Dellio”
a/k/a “Dog”
[DOB: 12/5/1986],
2. ROY O. FRANKLIN, JR.,
a/k/a “Roy”
[DOB: 9/20/1990],
3. SIRRICO L. FRANKLIN,
a/k/a “Rico”
a/k/a “Chicco”
[DOB: 5/20/1991],
4. DAVID J. DUNCAN, IV,
a/k/a “Deej”
a/k/a “DJ”
[DOB: 8/5/1989],
5. MARTIN C. GARNER,
a/k/a “Looch”
a/k/a “LuLu”
[DOB: 2/22/1987],
6. TERRANCE GARNER
a/k/a “T-Dot”
[DOB: 11/13/1985],
7. JOSHUA MARCHBANKS
[DOB: 5/16/1990],
9. CARLEEON D. LOCKETT,
a/k/a “Tone”
[DOB: 8/21/1992],
10. GARY O. TOOMBS,

- [DOB: 6/5/1980],
13. CORDELL EDWARDS,
a/k/a “Duke”
[DOB: 4/25/1988],
14. VICTOR GONZALEZ,
a/k/a “Lil Vic”
a/k/a “El Chayo”
[DOB: 8/22/1989],
15. MICHAEL E. SIMS,
[DOB: 12/4/1985],
16. CORDARREL L. SCOTT,
[DOB: 8/25/1986],
17. MARCO R. MADDOX,
[DOB: 6/29/1984],
18. CORNELIUS PHELPS,
a/k/a “Tim Tim”
[DOB: 11/6/1985],
19. HERMAN G. BELL,
[DOB: 6/22/1955],
- Defendants.

SUGGESTIONS IN SUPPORT OF THE MOTION FOR PRETRIAL DETENTION

The United States of America offers the following suggestions in support of its Motion for Pretrial Detention (Doc. 4.) filed on October 2, 2019. On October 1, 2019, a grand jury returned a secret indictment charging the 20 defendants in this case with a conspiracy in violation of Title 21, United States Code Section 846. Defendants Ladele Smith, Roy Franklin, Sirrico Franklin, and Gary Toombs were also charged with a second count of maintaining a drug-involved premises at 4429 Kensington Avenue, Kansas City, Missouri. On October 2, 2019, investigators conducted a coordinated arrest operation and arrested 16 of the 20 defendants charged in this case. The arrest

operation was paired with arrests of defendants in two separate felon in possession of a firearm cases that related to the underlying investigation of this case. During the course of the arrest operation and accompanying search warrants investigators recovered 23 firearms¹, approximately 350 grams of heroin, \$75,000, cocaine, marijuana, scales, an apparent drug ledger, and drug packaging materials.

The indictment in this case is the result of a long term investigation by the Federal Bureau of Investigation, the Kansas City, Missouri Police Department, and the Internal Revenue Service into a group identifying itself as “246.” Investigators were advised that Ladele D. Smith (aka “Dellio” and “Dog[g]”) had achieved a leadership role in the organization of “246,” and was closely supported by David Duncan, IV (aka “DJ” or “Deej”), Cory Brown (aka “Twin”), and Martin Garner (aka “Looch”). Since that time, numerous additional members or supporters of “246” have been identified, to include Terrance Garner (aka “T-Dot” aka “Dot”), Carleeon Lockett (aka “Tone”), Roy Franklin (aka “Roy”), Sirrico Franklin (aka “Chicco” aka “Rico”), Cordarrel Scott and Gary Toombs.

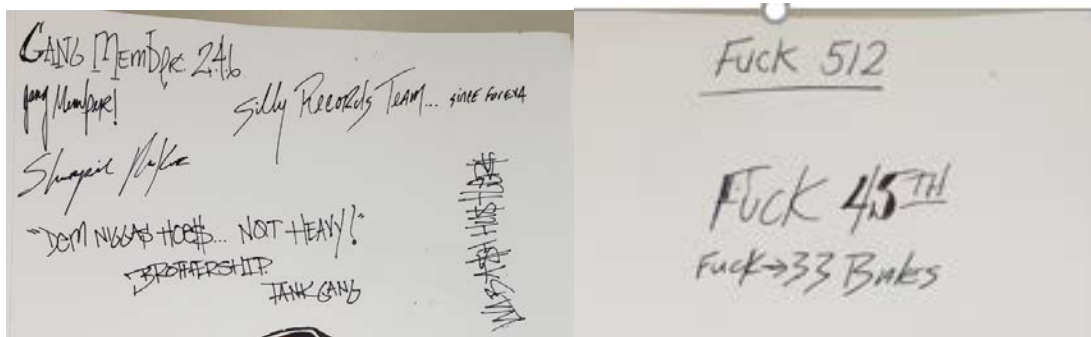
In addition to drug distribution and violent crime, investigators learned that several 246 members were also very active on social media, posting rap videos, Instagram photos, stories, and other publicly available media. On October 9, 2017, an interview of David Duncan was uploaded to YouTube. In that video, Duncan is wearing a hat that says, “2.4.6” and gold and diamond necklaces that say, “Deej” and “Tank” over the letters “T” and “G” (investigators believe this is a necklace for “Tank Gang”). In the interview, Duncan also refers to himself as “Heavy Pockets” and describes the formation of 246 by stating:

¹ During the arrests and subsequent search warrants, the following defendants were arrested with firearms either on their person, in their vehicle or residence: Smith, Duncan, Martin Garner, Gonzalez, Scott, Phelps, and Bell.

2-4-6. The mother fuckin' gang way. 24, 43rd, 68th the gang way. You know what I'm saying. That's what it is. My brother, my brother really came up with that though. My brother Dellio. He really came up with it though. You know what I'm saying. Cuz shit we we. You know what I'm saying. We together so much. And, you know what I'm saying. That's what he did. You know I'm from 24th. He from 43rd. Shit. My nigga Boobie 68th. Ah, Looch, for real, 68th. You know what I'm saying. I mean that just what it is. That just some hood shit. All of the homies from 68th. Shit. He from 43rd. I'm from 24th. We just put it together. 2 4 6. You can't go wrong. You know what I'm saying. You dig.



(Duncan bragging with large amount of U.S. currency and wearing 246 clothing in October 13, 2017 MO Pressure Youtube interview). Duncan was arrested in his apartment on October 2, 2019. During the course of Duncan's arrest, officers located three firearms under his mattress: a Zastava M92PV, a Glock Model 19, and a Norinco MAK90 AK-47. Investigators obtained a search warrant for Duncan's residence and obtained a seizure warrant for Duncan's Dodge Charger. During the course of executing the search warrants, investigators found approximately \$7,100, an apparent drug ledger on the nightstand listing nicknames and dollar amounts, and artwork (shown below) that said "Gang Member 246" and a series of expletives about other street gangs known to investigators in Kansas City, Missouri.



Smith was identified as a source of supply to a heroin investigation in the District of Kansas in 2017 and 2018. A District of Kansas grand jury returned a secret indictment and a coordinated arrest operation was planned for April 17, 2018. On April 17, 2018, shortly after the start of the coordinated operation to conduct arrests and search warrants in the District of Kansas case, investigators observed an Instagram account that appeared to be used by Smith. Smith's account posted a picture of Smith holding a Gucci brand bag with the caption "CHANGING MY NUMBERS AND GOING MISSIN." Investigators believe Smith was notified by an unknown person that several subjects of the District of Kansas heroin investigation had been arrested. Investigators believe Smith became worried, that he too was a target of the same investigation, and in response, posted that he was going to change his phone numbers, and leave the Kansas City area. Investigators learned that Smith booked a flight from Kansas City to Los Angeles, California on April 17, 2018, at 8:09 p.m. Smith then flew from Kansas City to Los Angeles, California on April 18, 2018. Smith returned to Kansas City sometime later. During a post-*Miranda* interview, one of the District of Kansas defendants identified "Dellio" and a photo of Smith as his heroin supplier. According to the Kansas defendant, he did not want to discuss the intricate details of the source of his heroin because if he got out, there would be a "hell of a gunfight."

Social Media and Online Statements

Smith utilizes a publicly available YouTube channel titled “Cartelelevision” under the moniker, “Dellio.” A review of some of the publicly available videos posted on that YouTube channel revealed the following references to 246:

- a. On August 29, 2017, Smith published a song titled “The Race.” During the video, Smith stated, “twenty-four, forty-third, sixty-eight” while making gang signs (using hand signals to establish his gang affiliation). Investigators believe this was referring to the “246” gang affiliation and specifically referring to the city blocks each key member of “246” hails from. Throughout the video, Duncan (“Deej”) and several unidentified males make gang signs (using hand signals to establish their gang affiliation) and Smith holds what appears to be an assault rifle.
- b. On December 25, 2017, Smith published a song titled, “Thuggin off the Drank” on his YouTube channel. In the song, Smith raps, “2-4-6, we don’t play fair, we’ll shoot your bitch. . . .” He also references other 246 members, to include “Looch” (Martin Garner) and “Deej” (Duncan). Throughout the video, Smith and others show what appear to be firearms. The video also shows a “rating” (as used by the Motion Picture Association of America) with the label “G.” The rating “G” is followed by “THE GANG WAY” in place of what should be “General Audiences.”
- c. On October 21, 2018, Smith posted a song titled “246” on his YouTube channel. In that video, he raps, “Fuck the other side, bitch, it’s 246. They scared to come outside because of 246. Tell a nigga now, I’m reppin’ 246. Even got your bride reppin’ 246. . . . fuck whoever got a problem with 246.”

- d. On July 28, 2019, Smith posted a song titled “Death to All rats.” In the song he raps, “Look, death to all rats. Death to all snitches, snitches, and to the snakes.” Later in the song, Smith says, “threaten my well being I’m grippin and bomb first.” Toward the end of the song, Smith says, “You got kids, you better kiss ‘em cause tomorrow you’ll prolly be ashes.”

Through the course of the investigation, investigators observed social media posts from 246 members. Some members of the gang use “246” in their vanity names on various social media websites, including Instagram. For example, the Instagram account “luwop_246,” appears to be used by M. Garner (aka “Looch”), and the Instagram account with vanity names “dogg_246” and “dellio_246” is used by Smith (aka “Dellio” and “Dog”). The social media posts revealed members wearing jewelry, watches, hats, and clothing that depicted gang affiliation. For example, on February 20, 2018, Smith posted a photo containing several gold and diamond necklaces to his Instagram account “dogg_246”. There was a necklace for “2.4.6” and “DOG.”

On March 25, 2018, Smith posted a photo of a logo stating, “246” with “The Family” written over it. The caption to the photo says, “U gone die u disrespect them numbers.” On November 21, 2018, M. Garner posted a photo of three wrists wearing what appeared to be luxury watches, likely purchased with drug proceeds, on his Instagram account “luwop_246”. Based on distinctive tattoos, investigators determined one of the wrists belonged to Smith. The wrists were also overlaid by text containing the Instagram vanity names “luwop_246,” “goodfolkz,” and “dogg_246.” The Instagram account with the vanity name “goodfolkz” is used by David Duncan (aka “Deej”). On December 10, 2018, investigators observed an image posted to Instagram by “dogg_246” and re-posted by “goodfolkz.” The image had “2.4.6” at the top, a logo containing a ship, anchor, and “the brotherhood” in the middle, and “PEuG” at the bottom. Investigators believe

“PEuG” stands for “Put ‘em up gang.” All of these logos have been observed on different memorabilia worn by members of 246, including hats and apparent bulletproof vests such as the photo shown below of Smith and Martin Garner wearing what appear to be bullet proof vests labeled “246” at a concert in December of 2018.



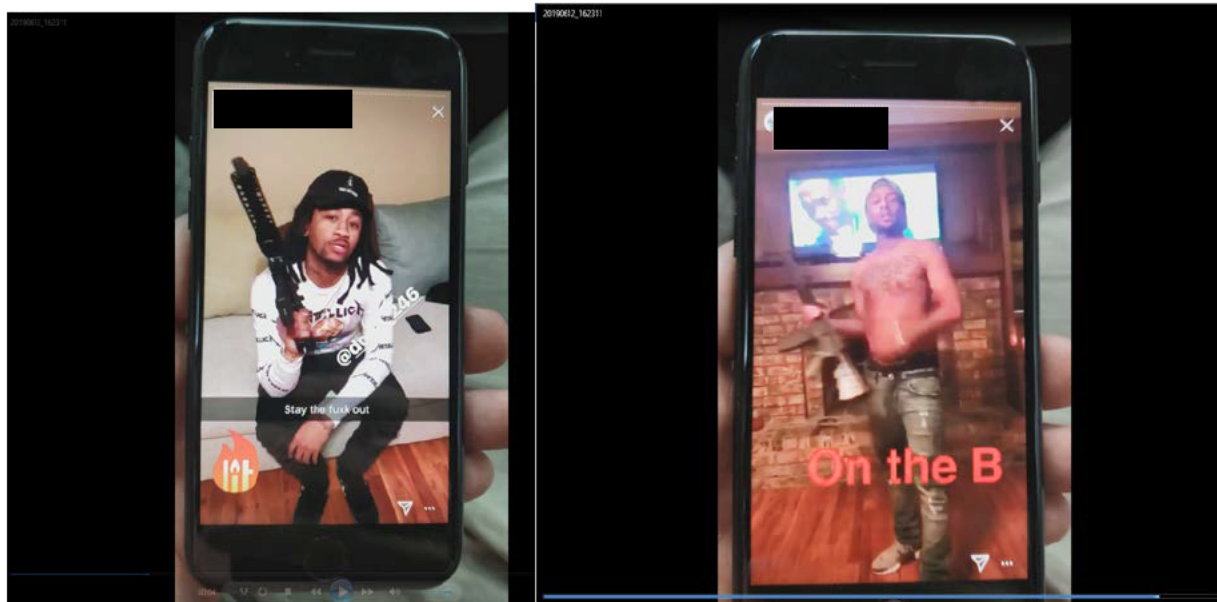
Investigators obtained search warrants for the Instagram accounts of several defendants and 246 associates. Investigators reviewed conversations between several defendants including Duncan, Scott, Roy Franklin, Lockett and others that appeared to discuss potential acts of violence toward other groups in Kansas City. Recent publicly available posts demonstrate the existence of firearms. On September 6, 2019, at approximately 10:00 p.m., a video was posted on the Instagram account “bigsauce4,” an account used by Sirrico Franklin. During the video story, S. Franklin, Errick Martin, Martin Garner, Smith, and Roy Franklin were observed in the living area of 4429

Kensington Avenue, Kansas City, Missouri. The video showed two pistols with extended magazines on the ottoman, and an assault rifle style pistol on the floor. During the video, Smith also showed the camera a large bundle of what appeared to be U.S. Currency. On September 7, 2019, at approximately 2:14 a.m., a video was posted to Smith's Instagram account "dogg_246". The video story showed an assault rifle style pistol next to Smith and he was flashing what appeared to be gang signs. A second story showed Smith holding a similar style firearm, although it was partially masked by an animated digital dog character. Smith was observed in this story wearing a gold medallion. A caption in this story said, "Y'all big hemie a bitch he ain't fucking with mines." The numbers and characters "27-43B" and "@dogg_246" were also visible in the post.

Shootout on June 9, 2019

On June 9, 2019, Martin Garner and Sirrico Franklin were shot at while riding in a rental car used primarily by Ladele Smith and rented by Smith's female companion. M. Garner was struck by a bullet and transported to the hospital by Joshua Marchbanks. Marchbanks and S. Franklin were not truthful with the Kansas City, Missouri Police Department about the circumstances of the shooting. Officers located the crime scene at 45th and Spruce Streets (less than a block from 4429 Kensington) in Kansas City, Missouri. Responding officers found the abandoned rental vehicle previously occupied by S. Franklin and M. Garner. The vehicle had several bullet holes in the body of the vehicle and through the windows and windshield. Officers recovered the following evidence from the scene: 32 .223mm caliber shell casings, 25 .40 caliber shell casings, 18 .357 caliber shell casings, and 6 5.56mm casings confirming a major gun battle took place. The vehicle was towed and investigators recovered 7 10mm caliber shell casings from inside the Impala.

M. Garner was treated and released from the hospital. S. Franklin was uninjured during the incident. On June 12, 2019, investigators reviewed Instagram posts from a female companion of M. Garner's that were posted on June 11, 2019. At approximately 11:23 p.m., on June 11, 2019, a video was posted of Smith holding an assault style rifle. Smith can be heard saying, "I'm coming, I'm shooting everything moving, bitches, niggers, stay the fuck away, we ain't goin'." The next video to play depicted M. Garner holding an assault style rifle. M. Garner can be heard saying, "You bitches better off fighting cancer or HIV than to fuck with me...ain't no leeway."



On June 20, 2019, at 5:24 p.m., investigators obtained information that led them to believe M. Garner was planning retaliation for the June 9, 2019, shooting prior to leaving the Kansas City area. Investigators learned that 246 members planned to meet at 4429 Kensington, Kansas City, Missouri. Investigators and tactical units from the KCPD and FBI began physical and electronic surveillance of the residence. During the course of the surveillance, Martin Garner, Sirrico Franklin, Roy Franklin, and Smith were seen entering 4429 Kensington at various times. The four subjects and an unknown fifth individual were then seen entering a dark gray Dodge Charger.

Smith appeared to enter the driver's seat. Pole camera surveillance footage confirmed at least one of the men was armed. The Charger was followed by investigators and surveillance was assisted by aerial support. The Charger was followed to 53rd and Woodland, Kansas City, Missouri, where the vehicle's speed and route of travel indicated a potential act of violence was imminent. A traffic stop by KCPD tactical units was attempted and the vehicle began driving at a high rate of speed. The KCPD tactical units initially gave chase, but terminated their pursuit to avoid creating additional danger to other motorists. The Charger, driven by Smith, struck a vehicle while fleeing and eventually ended up back at 4429 Kensington. Surveillance cameras and the air assets confirmed all five individuals re-entered the residence. Investigators maintained surveillance until the subjects went home or stayed at 4429 Kensington for the evening.

Shootout on September 9, 2019

On September 9, 2019, at approximately 7:00 p.m., video footage from an FBI covert pole camera captured R. Franklin arrive at 4429 Kensington Avenue in a Cadillac sedan. He then began transferring guns from the Cadillac sedan into a black Jeep Cherokee parked in the backyard. R. Franklin entered the driver's seat of the Jeep Cherokee and Smith entered the front passenger's seat, and they departed. A short time after the Jeep left the residence, KCPD received several calls for service reporting gun shots fired in the area of 35th Street and Woodland Avenue in Kansas City, Missouri.

When the crime scene was processed, several 7.62mm and .40 caliber shell casings were recovered. Investigators also found a black tinted piece of auto glass with bullet holes in it near the intersection of 35th Street and Woodland Avenue. Witnesses reported that the passenger of a black Jeep Cherokee was holding a firearm out of a window and shooting. License plate readers at the intersection of 35th Street and Woodland Avenue captured a black Jeep Cherokee bearing

Kansas dealer tag D4729AG arriving and departing the scene at times that coincide with the shooting. When the black Jeep Cherokee departed the intersection the second time, the back windshield was missing. A few minutes after the Jeep Cherokee was captured on the license plate reader at 35th Street and Woodland Avenue, investigators observed a black Jeep Cherokee arrive at 4429 Kensington Avenue. The pole camera footage shows the rear windshield of the Jeep Cherokee was missing. The Jeep Cherokee was parked in the backyard and Smith, R. Franklin, and an unknown male were seen entering the residence. An FBI Confidential Human Source (CHS) later met with R. Franklin and R. Franklin talked extensively about being involved in a shooting near “Woodland.” The CHS has been proven reliable through a series of controlled purchases in this case.

The CHS reported R. Franklin told the CHS that earlier in the night on September 9, “Deej” (Duncan) called R. Franklin and “Dog” (Smith) stating there were two people outside Duncan’s store at 35th Street and Woodland Avenue. The two males were wearing all black—including black hooded sweatshirts. Duncan and the others thought the men sitting outside the store were associated with “12th Street,” a criminal street gang. According to the CHS’s conversation with R. Franklin, Duncan suspected the two males were sitting outside the store in order to ambush and kill Duncan because Duncan had a \$50,000 reward or contract on “his head.” Upon seeing the males outside, Duncan called R. Franklin and Smith to come kill the men. Duncan also reportedly called “Twin” (Cory Brown), but “Twin” was asleep and never answered the phone.

According to the CHS, R. Franklin said that after they loaded up the black Jeep Cherokee with ammunition and firearms, he and Smith left 4429 Kensington Avenue and drove towards “Deej’s” store on Woodland. R. Franklin stated he was driving, Smith was a passenger, and an unknown third male (UM) who was recently released from prison was the backseat passenger. R.

Franklin went on to tell the CHS that when R. Franklin, Smith, and the UM arrived in the vicinity of 35th Street and Woodland Avenue, Smith and the UM exited the black Jeep Cherokee and began shooting into the vehicle occupied by the other two men. The two males fled on foot, but returned a few minutes later to close and lock the doors of their vehicle. R. Franklin, Smith, and the UM were still in the area and drove towards the males and shot at them again. R. Franklin believed the UM shot out the back window of the Jeep Cherokee, and Smith shot through one of the side windows or through the side of the Jeep Cherokee. During the shooting, R. Franklin also turned the Jeep Cherokee around in the middle of the street in order to return to shoot at the two males.

During the course of the investigation, Roy Franklin, Sirrico Franklin, and Ladele Smith were observed at 4429 Kensington most nights of the week for the last several months. As described above, Sirrico Franklin was posting videos from inside the residence with firearms and defendants Smith, Roy Franklin, Errick Martin, and Martin Garner on September 6, 2019. Gary Toombs has been observed at the residence on several occasions and the water bill to 4429 Kensington is in Toombs's name. On October 2, 2019, a search warrant was executed at 4429 Kensington. During the search of the residence investigators found approximately 350 grams of suspected heroin, a digital scale, packaging material, a Glock 22 handgun and a Glock 19 handgun, two Mico Draco AK-47 pistols, a Century Arms AK-47 pistol, an apparent bullet proof vest with "246" displayed among several other items (including the water bill for 4429 Kensington in Gary Toombs's name) inside the residence. Investigators also found the black Jeep hidden under the back deck at 4429 Kensington with the same license plate captured on video on September 9, 2019, near the time of the shooting. Investigators confirmed the Jeep was stolen. The back window was missing and there were bullet holes that appeared to originate from inside the vehicle, and bullet

holes that appeared to strike the vehicle from shots fired at the Jeep. Investigators also recovered live ammunition and shell casings recovered inside the vehicle.

Respectfully,

Timothy A. Garrison
United States Attorney

By */s/ Adam Caine*
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on October 7, 2019, to the CM-ECF system of the United States District Court for the Western District of Missouri.

/s/ Adam Caine
Adam Caine
Assistant United States Attorney