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For Immediate Release

Indictment Unsealed in the Assault and Robbery of U.S. Federal District Court Judge Terrance Berg

An indictment issued last week, on December 8, 2015 by a one man grand jury, was unsealed today by Wayne County Third Circuit Judge Timothy M. Kenny against Kevin Smith, 23 (DOB: 6/28/92), of Detroit, in connection with the assault and robbery of United States Federal District Court Judge Terrance Berg. Defendant Smith was arraigned before Judge Kenny today on charges of Conspiracy to Commit Armed Robbery from January to May 2015, Armed Robbery, Assault with Intent to Murder, Felon in Possession of a Firearm and Felony Firearm.

Allegations

On March 5, 2015, shortly after 9:00 p.m., Judge Berg was outside of his home located on the corner of a street in the University District of Detroit. As he walked to his front door, he was approached by two men. Defendant Smith walked onto the front porch behind the judge and told him that he had a gun. He then stated that he and the other man wanted to enter the judge's home. When Judge Berg refused, it is alleged that Smith pulled out a large semi-automatic handgun and shot him one time in his right leg; the two assailants then fled the scene without taking any property. Judge Berg was treated at a local hospital for the life threatening gunshot wound to his leg.

The second defendant will not be named at this time, as he is a cooperating witness with an agreement for special consideration. He has resolved two outstanding armed robbery cases; a sentence hearing is pending.

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Investigation of Robberies in the University District and Nearby Areas of Detroit

In March 2015, the Detroit Police Department, the Wayne County Prosecutor's Office Special Investigations Unit, and the Federal Bureau of Investigation Violent Crime Task Force conducted an investigation into a series of robberies that occurred in the University District and other nearby areas of Detroit that led to the indictment of Kevin Smith in the assault and robbery of Judge Berg. The related cases are listed below:

(1) 15-004929: *People v. Timothy Russell and Unnamed Defendant No.2*

- Date: April 1, 2015
- Time: 8:30 PM
- Location: Washburn Street in Detroit
- Charges: (1) Armed Robbery, (2) Armed Robbery, (3) Home Invasion 1st Degree, (4) Felon in Possession (Defendant Russell Only), (5) Felony Firearm
- Status:
 - Defendant Russell: Under the terms of a plea and sentence agreement, Russell pled guilty to Armed Robbery and Felony Firearm on November 17, 2015. As a part of that agreement, on December 8, 2015 he was then sentenced to 13-30 years for Armed Robbery and two years consecutively for Felony Firearm. This sentence is to run concurrently with a sentence of 13-30 years plus two years on Case No. 15-004784 (described below). As a part of the agreement the People also agreed to dismiss Case # 15-004930 and all other remaining charges.
 - Defendant No. 2: This case is subject to the Agreement with a plea on another armed robbery case. Sentence pending.

(2) 15-004930: *People v. Kevin Smith, Timothy Russell and Unnamed Defendant No. 2*

- Date: April 15, 2015
- Time: 11:15 PM
- Location: West Hildale Street in Detroit
- Charges: (1) Armed Robbery, (2) Armed Robbery, (3) Home Invasion 1st Degree, (4) Felon in Possession (Defendants Smith and Russell Only), (5) Felony Firearm
- Status:
 - Defendant Smith: Under the terms of a plea and sentence agreement, Smith pled guilty to Armed Robbery and Felony Firearm on November 17, 2015. As a part of that agreement, on December 14, 2015 he will be sentenced to 13-30 years for Armed Robbery and two years consecutively for Felony Firearm. As a part of the agreement the People also agreed to dismiss the other counts pending as to this case.
 - Defendant Russell: This case was dismissed against Russell under the plea and sentence agreement reached on Case No.15-04929 and Case No.15-004784.

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- Defendant No. 2: This case is subject to the Agreement with a plea on another armed robbery case. Sentence pending.

(3) 15-004784: ***People v. Timothy Russell***

- Date: May 11. 2015
- Time: 10:05 PM
- Location: Faust Street in Detroit
- Charges: (1) Armed Robbery, (2) Home Invasion 1st Degree, (3) Felon in Possession, (4) Felony Firearm
- Status: Under the terms of a plea and sentence agreement, Russell pled guilty to Armed Robbery and Felony Firearm on November 17, 2015. As a part of that agreement, on December 8, 2015, he was then sentenced to 13-30 years for Armed Robbery and two years consecutively for Felony Firearm. This sentence is to run concurrently with a sentence of 13-30 years plus two years on Case No. 15-004929 (described above). As part of the agreement, the People also agreed to dismiss Case # 15-004930 and all other remaining charges.

(4)15-008322: ***People v. Dondiego Adams (remains pending)***

- Date: May 11. 2015
- Time: 10:05 PM
- Location: Faust Street in Detroit
- Charges: (1) Armed Robbery, (2) Home Invasion 1st Degree, (3) Felony Firearm

Prosecutor Worthy said, "These cases represent a string of as many as 13 robberies. Many of the victims in these cases were senior citizens who had worked hard all of their lives, only to be assaulted and robbed in their homes. Each of the victims who participated in the investigations had to re-live the harrowing experience, causing great emotional distress. We owe them a debt of gratitude, for without their help, the prosecutions would not have been possible."

Prosecutor Worthy continues: "These cases represent the tenacious and unflagging work of the Detroit Police Department, the Wayne County Prosecutor's Office Special Prosecutions Division and the FBI Violent Crimes Task Force. Their dedication and commitment to taking these predators off the street is to be commended."

"I appreciate the coordinated efforts between the Detroit Police Department and the Wayne County Prosecutor's Office in bringing closure to this case. I want to thank them for the determined and relentless follow up work by our investigators." said Detroit Police Chief James Craig.

FBI Detroit Division Special Agent in Charge, David P. Gelios said, "I'm extremely proud of the work of the members of the FBI's Violent Crime Task Force in this investigation. Their commitment, along with the dedicated efforts of the Wayne County Prosecutor's Office, has

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resulted in the identification, capture and prosecution of the subjects charged today for this callous and senseless act of violence.”

Background Information on the One Man Grand Jury

The Petition

The Prosecutor files a petition with the circuit court alleging why there is probable cause to suspect that a crime has been committed and that a person or persons may be able to give material evidence regarding the crime or offense. (MCLA 767.4) The judge then signs an order directing that an inquiry be made relating to the formal complaint. The petition is for six months and can be renewed for an additional six months. (MCLA 767.3)

Subpoenas

When the judge issues a subpoena, the person called before the grand jury is entitled to legal counsel; no delay is permitted in appearing before the judge. All matters revealed are subject to secrecy provisions. (MCLA 767.4)

Penalties - Contempt

Witnesses neglecting or refusing to appear can be found in contempt of court. After a hearing in court, such witnesses can be fined \$1,000 and/or imprisoned for up to one year. Witnesses can “purge” themselves of the contempt by offering to appear before the court. The judge may then commute or suspend the sentence. (MCLA 767.5)

Penalties - Disclosure of Proceedings

Except in cases of prosecutions for contempt or perjury against witnesses, any judge conducting the inquiry, or any prosecuting attorney and other persons admitted to such inquiry at the discretion of the judge, who disclose information from the grand jury, are guilty of a misdemeanor punishable by imprisonment not more than a year or by fine not less than \$100 or more than \$1,000 or both. (MCLA 767.19 f)

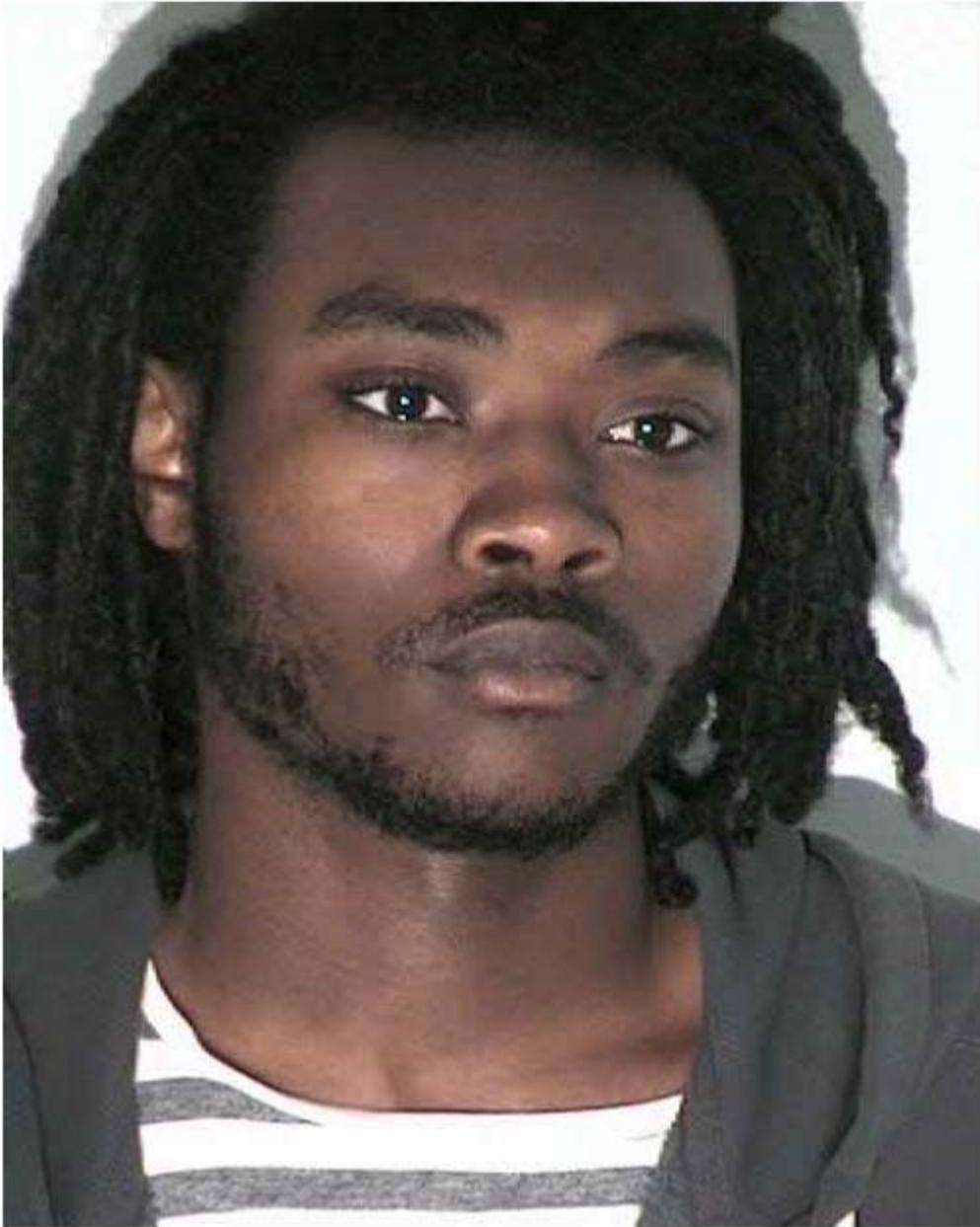
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KEVIN ANDRE SMITH JR.



TIMOTHY RUSSELL



DONDIEGO ADAMS