

JG/JNM/USAO2005R01185

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA	:	Hon. William J. Martini
	:	
v.	:	Criminal No. 09-369 (WJM)
	:	
PAUL BERGRIN	:	18 U.S.C. §§ 1512 & 2
	:	
-----X		

**SECOND SUPERSEDING INDICTMENT**

The Grand Jury in and for the District of New Jersey, sitting in

Newark, charges:

**COUNT ONE**

(Conspiracy to Murder a Witness Against Client Criminal W.B.)  
(Defendant Bergrin)

1. A co-conspirator who is referred to in this Second Superseding Indictment as H.C. was the leader of a drug trafficking organization that, among other things, sold kilogram quantities of cocaine.

2. Co-conspirators who are referred to in this Second Superseding Indictment as W.B., R.B., and A.Y. were members and associates of the drug trafficking organization headed by H.C.

3. H.C. obtained kilogram quantities of cocaine from Bergrin's Drug Trafficking Business.

4. From in or about January 2003 through in or about November 2003, Federal law enforcement agents conducted an investigation into the drug trafficking activities of W.B.

5. The person referred to in this Second Superseding Indictment as "K.D.M." provided information and assistance to Federal law enforcement agents in connection with the investigation into the drug trafficking activities of W.B. As part of the investigation, K.D.M., while acting as a cooperating confidential witness under the supervision and surveillance of Federal law enforcement agents, purchased crack cocaine from W.B. on six separate occasions.

6. On or about November 18, 2003, a United States Magistrate Judge for the District of New Jersey signed a criminal complaint and issued an arrest warrant charging W.B. with distributing five grams or more of crack cocaine in violation of Federal law ("W.B.'s Federal Drug Case").

7. The affidavit of a Federal law enforcement agent (the "Agent's Affidavit") submitted in support of the criminal complaint and arrest warrant set forth, in substance and in part, that K.D.M., identified in the Agent's Affidavit only as the "confidential witness," assisted law enforcement by making purchases of crack cocaine from W.B.

8. On or about November 25, 2003, W.B. was arrested on the above-described arrest warrant and appeared in United States Court for the District

of New Jersey. Defendant PAUL BERGRIN appeared as defense counsel for W.B. in connection with W.B.'s Federal Drug Case. At that Court proceeding, W.B. and defendant PAUL BERGRIN were informed of the crime with which W.B. was charged and received a copy of the criminal complaint and the Agent's Affidavit.

9. On that same day, after learning of the allegations in the criminal complaint and the Agent's Affidavit, W.B. determined that K.D.M. was the person identified in the Agent's Affidavit as the "confidential witness."

#### **The Conspiracy**

10. From on or about November 25, 2003 through on or about March 2, 2004, in the counties of Essex and Hudson, in the District of New Jersey and elsewhere, defendant

**PAUL BERGRIN**

did knowingly and intentionally conspire and agree with others to kill another person, namely, K.D.M., with malice aforethought and with intent to prevent the attendance and testimony of K.D.M. in an official proceeding, specifically, a criminal case, which killing is a murder as defined in Title 18, United States Code, Section 1111(a), in that in furtherance of the conspiracy, a co-conspirator did unlawfully kill K.D.M. willfully, deliberately, maliciously, and with premeditation, contrary to Title 18, United States Code, Sections 1512(a)(1)(A)

and (a)(3)(A).

**The Object of the Conspiracy**

11. It was the object of the conspiracy to kill K.D.M. to prevent his attendance and testimony at official proceedings pertaining to W.B.'s Federal Drug Case.

**Manner and Means of the Conspiracy**

12. It was part of the conspiracy that after W.B. determined the identity of the "confidential witness," W.B. informed defendant PAUL BERGRIN that the identity of the "confidential witness" was K.D.M.

13. It was further part of the conspiracy that defendant PAUL BERGRIN thereafter told other co-conspirators, including H.C., that the identity of the "confidential witness" was K.D.M.

14. It was further part of the conspiracy that defendant PAUL BERGRIN met with other co-conspirators, including H.C., R.B., and A.Y., reiterated to them that the identity of the "confidential witness" was K.D.M., stressed to the co-conspirators that if they did not kill K.D.M., W.B. would spend the rest of his life in jail, and told the co-conspirators that if they did kill K.D.M. defendant PAUL BERGRIN would win W.B.'s Federal Drug Case and W.B. would go free.

15. It was a further part of the conspiracy that on or about March 2, 2004, A.Y. shot K.D.M. and caused the death of K.D.M.

In violation of Title 18, United States Code, Section 1512(k).

**COUNT TWO**

(Murder of a Witness Against Client Criminal W.B.)  
(Defendant Bergrin)

1. Paragraphs one through nine and twelve through fifteen of Count One of this Second Superseding Indictment are hereby realleged and incorporated as though fully set forth herein.

2. From on or about November 25, 2003 through on or about March 2, 2004, in the counties of Essex and Hudson, in the District of New Jersey and elsewhere, defendant

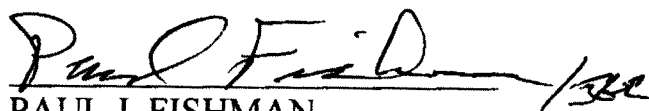
PAUL BERGRIN

did knowingly and intentionally aid, abet, counsel, and induce others to kill another person, namely, K.D.M., with malice aforethought and with intent to prevent the attendance and testimony of K.D.M. in an official proceeding, specifically, a criminal case, which killing is a murder as defined in Title 18, United States Code, Section 1111(a), in that such killing was done unlawfully, willfully, deliberately, maliciously, and with premeditation.

In violation of Title 18, United States Code, Section 1512(a)(1)(A), 1512(a)(3)(A) and Section 2.

A TRUE BILL

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FOREPERSON

  
PAUL J. FISHMAN  
UNITED STATES ATTORNEY