

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

FILED

UNITED STATES OF AMERICA

v.

MICHAEL BENANTI and
BRIAN WITHAM

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CASE NO. 3:15-CR-177

JUDGES Varlan / Shirley

2015 DEC 15 P 4:00

INDICTMENT

COUNT ONE

The Grand Jury charges that on or about April 28, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, did attempt to obtain by bank extortion United States currency belonging to and in the care, custody, control, management and possession of the Y-12 Federal Credit Union, located at or near 501 Lafayette Drive, Oak Ridge, Tennessee, the deposits of which were then insured by the National Credit Union Administration Board, and in committing such offense, did assault and put in jeopardy the life of another person by the use of a dangerous weapon or device, and did force the wife and son of an employee of the Y-12 Federal Credit Union, without their consent, to accompany defendants MICHAEL BENANTI and BRIAN WITHAM in committing the offense.

[18 U.S.C. §§ 2113(a), (d), (e) and 2]

COUNT TWO

The Grand Jury further charges that, on or about April 28, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, took a motor vehicle, namely, a 2010 Lexus RX350, that had been transported and

shipped in interstate commerce, from the person and presence of another, by force, violence and intimidation, with intent to cause death and serious bodily harm.

[18 U.S.C. §§ 2119 and 2]

COUNT THREE

The Grand Jury further charges that on or about April 28, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, did knowingly use, carry and brandish a firearm, during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, that is a violation of 18 U.S.C. §§ 2113(a), (d), (e) and 2, as charged in Count One of this Indictment, and which is fully incorporated herein.

[18 U.S.C. §§ 924(c)(1)(A)(ii) and 2]

COUNT FOUR

The Grand Jury further charges that on or about April 28, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, did knowingly use, carry and brandish a firearm, during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, that is a violation of 18 U.S.C. §§ 2119 and 2, as charged in Count Two of this Indictment, and which is fully incorporated herein.

[18 U.S.C. §§ 924(c)(1)(A)(ii) and 2]

COUNT FIVE

The Grand Jury further charges that, on or about April 28, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, having previously been convicted in courts of crimes punishable by terms of

imprisonment exceeding one year, did knowingly possess, in and affecting commerce, a firearm.

[18 U.S.C. §§ 922(g)(1), 924(e) and 2]

COUNT SIX

The Grand Jury further charges that on or about July 7, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, did obtain by bank extortion United States currency belonging to and in the care, custody, control, management and possession of the SmartBank, located at or near 202 Advantage Place, Knoxville, Tennessee, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and in committing such offense, did assault and put in jeopardy the life of another person by the use of a dangerous weapon or device, and did force an employee of SmartBank, his wife and their infant son, without their consent, to accompany defendants MICHAEL BENANTI and BRIAN WITHAM in committing the offense.

[18 U.S.C. §§ 2113(a), (d), (e) and 2]

COUNT SEVEN

The Grand Jury further charges that, on or about July 7, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, took a motor vehicle, namely, a 2007 Mazda 6, that had been transported and shipped in interstate commerce, from the person and presence of another, by force, violence and intimidation, with the intent to cause death and serious bodily harm.

[18 U.S.C. §§ 2119 and 2]

COUNT EIGHT

The Grand Jury further charges that on or about July 7, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, did knowingly use, carry and brandish a firearm, during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, that is a violation of 18 U.S.C. §§ 2113(a), (d), (e) and 2, as charged in Count Six of this Indictment, and which is fully incorporated herein.

[18 U.S.C. §§ 924(c)(1)(A)(ii) and 2]

COUNT NINE

The Grand Jury further charges that on or about July 7, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, did knowingly use, carry and brandish a firearm, during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, that is a violation of 18 U.S.C. §§ 2119 and 2, as charged in Count Seven of this Indictment, and which is fully incorporated herein.

[18 U.S.C. §§ 924(c)(1)(A)(ii) and 2]

COUNT TEN

The Grand Jury further charges that, on or about July 7, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, having previously been convicted in courts of crimes punishable by terms of imprisonment exceeding one year, did knowingly possess, in and affecting commerce, a firearm.

[18 U.S.C. §§ 922(g)(1), 924(e) and 2]

COUNT ELEVEN

The Grand Jury further charges that on or about October 21, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, did attempt to obtain by bank extortion United States currency belonging to and in the care, custody, control, management and possession of the Northeast Community Credit Union located at or near 980 Jason Witten Way, Elizabethton, Tennessee, the deposits of which were then insured by the National Credit Union Administration Board, and in committing such offense, did assault and put in jeopardy the life of another person by the use of a dangerous weapon or device, and did force a Northeast Community Credit Union employee and her minor son, without their consent, to accompany defendants MICHAEL BENANTI and BRIAN WITHAM in committing the offense.

[18 U.S.C. §§ 2113(a), (d), (e) and 2]

COUNT TWELVE

The Grand Jury further charges that, on or about October 21, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, took a motor vehicle, namely, a 2007 Lincoln MKX, that had been transported and shipped in interstate commerce, from the person and presence of another, by force, violence and intimidation, with the intent to cause death and serious bodily harm.

[18 U.S.C. §§ 2119 and 2]

COUNT THIRTEEN

The Grand Jury further charges that on or about October 21, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, did knowingly use, carry and brandish a firearm, during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, that is a violation of 18

U.S.C. §§ 2113(a), (d), (e) and 2, as charged in Count Eleven of this Indictment, and which is fully incorporated herein.

[18 U.S.C. §§ 924(c)(1)(A)(ii) and 2]

COUNT FOURTEEN

The Grand Jury further charges that on or about October 21, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, did knowingly use, carry and brandish a firearm, during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, that is a violation of 18 U.S.C. §§ 2119 and 2, as charged in Count Twelve of this Indictment, and which is fully incorporated herein.

[18 U.S.C. §§ 924(c)(1)(A)(ii) and 2]

COUNT FIFTEEN

The Grand Jury further charges that, on or about October 21, 2015, in the Eastern District of Tennessee, the defendants, MICHAEL BENANTI and BRIAN WITHAM, aided and abetted by each other, having previously been convicted in courts of crimes punishable by terms of imprisonment exceeding one year, did knowingly possess, in and affecting commerce, a firearm.

[18 U.S.C. §§ 922(g)(1), 924(e) and 2]

A TRUE BILL.

SIGNATURE REDACTED

Grand Jury Foreperson

Nancy Stallard Harr
Acting United States Attorney

By: _____

David P. Lewen, Jr.
Assistant United States Attorney

CRIMINAL CASE COVER SHEET**U.S. ATTORNEY'S OFFICE**Defendant Name: Michael BenantiPlace of Offense (City & County): Knox CountyJuvenile: Yes ☐ No ☒ Matter to be Sealed: Yes ☐ No ☒Interpreter: No ☒ Yes ☐ Language: _____Total # of Counts: ☐ Petty ☐ Misdemeanor (Class ☐) ☒ 2 Felony

	ORIGINAL INDICTMENT U.S.C. Citation(s) and Description of Offense Charged	Count(s)
Set 1	18 U.S.C. §§ 2113 and 2 – attempt to obtain by bank extortion United States currency belonging to and in the care, custody, control, management and possession of the Y-12 Federal Credit Union, located at or near 501 Lafayette Drive, Oak Ridge, Tennessee, the deposits of which were then insured by the National Credit Union Administration Board, and in committing such offense, did assault and put in jeopardy the life of another person by the use of a dangerous weapon or device, and did force the wife and son of an employee of the Y-12 Federal Credit Union, without their consent, to accompany defendants committing the offense, aided and abetted by another.	1
Set 2	18 U.S.C. §§ 2113 and 2 – obtain by bank extortion United States currency belonging to and in the care, custody, control, management and possession of the SmartBank, located at or near 202 Advantage Place, Knoxville, Tennessee, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and in committing such offense, did assault and put in jeopardy the life of another person by the use of a dangerous weapon or device, and did force an employee of SmartBank, his wife and their infant son, without their consent, to accompany defendants committing the offense, aided and abetted by another.	6
Set 3	18 U.S.C. §§ 2113 and 2 – attempt to obtain by bank extortion United States currency belonging to and in the care, custody, control, management and possession of the Northeast Community Credit Union located at or near 980 Jason Witten Way, Elizabethton, Tennessee, the deposits of which were then insured by the National Credit Union Administration Board, and in committing such offense, did assault and put in jeopardy the life of another person by the use of a dangerous weapon or device, and did force a Northeast Community Credit Union employee and her minor son, without their consent, to accompany defendants committing the offense, aided and abetted by another.	11
Set 4	18 U.S.C. §§ 2119 and 2 – carjacking while aided and abetted by another	2, 7, 12
Set 5	18 U.S.C. § 924(c)(1)(A)(ii) and 2 – use carry and brandish a firearm in relation to a crime of violence while aided and abetted by another	3, 4, 8, 9, 13, 14
Set 6	18 U.S.C. §§ 922(g)(1) and 2 – felon in possession of a firearm, aided and abetted by another	5, 10, 15

(Use tab key after entering counts to create additional rows)

	SUPERSEDING INDICTMENT U.S.C. Citation(s) and Description of Offense Charged	New count? Y or N	New Count #	Old Count # (if applicable)
Set 1				

(Use tab key after entering counts to create additional rows)

Current Trial Date (if set): _____ before Judge _____

Criminal Complaint Filed: No X Yes _____ Case No. _____

Defendant on Supervised Release: Yes _____ No X _____

Violation Warrant Issued? No X Yes _____ Case No. _____

Related Case(s):

Case Number	Defendant's attorney	How related
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Criminal Informations:

Pending criminal case: No _____ Yes _____ Case No. _____

New Separate Case _____ Supersedes Pending Case _____

Name of defendant's attorney: _____

Retained: _____ Appointed: _____

Date: December 15, 2015 Signature of AUSA: 

CRIMINAL CASE COVER SHEET**U.S. ATTORNEY'S OFFICE**Defendant Name: Brian WithamPlace of Offense (City & County): Knox CountyJuvenile: Yes ☐ No ☒ Matter to be Sealed: Yes ☐ No ☒Interpreter: No ☒ Yes ☐ Language: Total # of Counts: Petty Misdemeanor (Class) 2 Felony

	ORIGINAL INDICTMENT U.S.C. Citation(s) and Description of Offense Charged	Count(s)
Set 1	18 U.S.C. §§ 2113 and 2 – attempt to obtain by bank extortion United States currency belonging to and in the care, custody, control, management and possession of the Y-12 Federal Credit Union, located at or near 501 Lafayette Drive, Oak Ridge, Tennessee, the deposits of which were then insured by the National Credit Union Administration Board, and in committing such offense, did assault and put in jeopardy the life of another person by the use of a dangerous weapon or device, and did force the wife and son of an employee of the Y-12 Federal Credit Union, without their consent, to accompany defendants committing the offense, aided and abetted by another.	1
Set 2	18 U.S.C. §§ 2113 and 2 – obtain by bank extortion United States currency belonging to and in the care, custody, control, management and possession of the SmartBank, located at or near 202 Advantage Place, Knoxville, Tennessee, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and in committing such offense, did assault and put in jeopardy the life of another person by the use of a dangerous weapon or device, and did force an employee of SmartBank, his wife and their infant son, without their consent, to accompany defendants committing the offense, aided and abetted by another.	6
Set 3	18 U.S.C. §§ 2113 and 2 – attempt to obtain by bank extortion United States currency belonging to and in the care, custody, control, management and possession of the Northeast Community Credit Union located at or near 980 Jason Witten Way, Elizabethton, Tennessee, the deposits of which were then insured by the National Credit Union Administration Board, and in committing such offense, did assault and put in jeopardy the life of another person by the use of a dangerous weapon or device, and did force a Northeast Community Credit Union employee and her minor son, without their consent, to accompany defendants committing the offense, aided and abetted by another.	11
Set 4	18 U.S.C. §§ 2119 and 2 – carjacking while aided and abetted by another	2, 7, 12
Set 5	18 U.S.C. § 924(c)(1)(A)(ii) and 2 – use carry and brandish a firearm in relation to a crime of violence while aided and abetted by another	3, 4, 8, 9, 13, 14
Set 6	18 U.S.C. §§ 922(g)(1) and 2 – felon in possession of a firearm, aided and abetted by another	5, 10, 15

(Use tab key after entering counts to create additional rows)

	<u>SUPERSEDING INDICTMENT</u> U.S.C. Citation(s) and Description of Offense Charged	New count? Y or N	New Count #	Old Count # (if applicable)
Set 1				

(Use tab key after entering counts to create additional rows)

Current Trial Date (if set): _____ before Judge _____

Criminal Complaint Filed: No X Yes _____ Case No. _____

Defendant on Supervised Release: Yes _____ No X _____

Violation Warrant Issued? No X Yes _____ Case No. _____

Related Case(s): _____

Case Number	Defendant's attorney	How related
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Criminal Informations:

Pending criminal case: No _____ Yes _____ Case No. _____

New Separate Case _____ Supersedes Pending Case _____

Name of defendant's attorney: _____

Retained: _____ Appointed: _____

Date: December 15, 2015 Signature of AUSA:  _____