

United States District Court
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America

v.
Dannie Mae Cooper

No. 68-CR-93

FILED

OCT 11 1968

M. M. EWING
Clerk, U. S. District Court

On this 11th day of October, 1968, came the attorney for the government and the defendant appeared in person and by James O. Goodwin, counsel.

her
It IS ADJUDGED that the defendant upon his plea of guilty

has been convicted of the offense of having violated Title 18, U.S.C., 1702, in that on or about May 1, 1968, at Tulsa, Oklahoma, she unlawfully took a letter addressed to Mary Lou Jeanne Neal, 1123 N. Main, Apt. 12, Tulsa, Oklahoma, which had been in a post office and an authorized depository for mail and in the custody of a letter and mail carrier before it had been delivered to the person to whom it was directed, and embezzled the contents consisting of State of Oklahoma Public Welfare Commission Check No. 0258697, dated May 1, 1968, in the amount of \$120.00,

as charged in Count 1 of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It IS ADJUDGED that the defendant is guilty as charged and convicted.

It IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years; and on the condition that the defendant be confined in a jail type or treatment institution for a period of One (1) Year, the execution of the remainder of the sentence of imprisonment is hereby suspended and the defendant placed on probation for a period of one (1) Year.

XXXXXXXXXXXXXXXXXX
It IS ADJUDGED that

It IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant. APPROVED:

/s/ JAMES E. RITCHIE

/s/ LUTHER BOHANON

United States District Judge.

The Court recommends commitment to:

Ass't. U. S. Attorney

Clerk.

A True Copy. Certified this 11th day of October, 1968.
(Signed) M. M. EWING Clerk. (By) Murel Hanna Deputy Clerk.

United States District Court
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America
v.
Betty Jean Pitts

No. 68-CR-93

FILED

OCT 11 1968

M. M. EWING
Clerk, U. S. District Court

On this 11th day of October, 1968, came the attorney for the government and the defendant appeared in person and by counsel, Amos Hall.

her
It Is ADJUDGED that the defendant upon his plea of guilty

has been convicted of the offense of having violated Title 18, U.S.C., 1702 and 18 U.S.C., 2, in that on or about May 1, 1968, at Tulsa, Oklahoma, she did unlawfully aid and abet Dannie Mae Cooper in the embezzlement of a letter addressed to Mary Lou Jeanne Neal, 1123 North Main, Apt. 12, Tulsa, Oklahoma, containing State of Oklahoma Welfare Commission Check No. 0258697, dated May 1, 1968, in the amount of \$120.00, which had been in a post office and an authorized depository for mail matter and in the custody of a letter and mail carrier before it had been delivered to the person to whom it was directed.

as charged in Count Two of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is ADJUDGED that the defendant is guilty as charged and convicted.

It Is ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of 4

Three (3) Years; and on the condition that the defendant be confined in a jail type or treatment institution for a period of One (1) Year, the execution of the remainder of the sentence of imprisonment is hereby suspended and the defendant placed on probation for a period of Two (2) Years.

XXXXXXXXXXXXXXXXX
It Is ADJUDGED that 5

It Is ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

APPROVED:
/s/ JAMES E. RITCHIE

/s/ LUTHER BOHANNON

United States District Judge.

XXXXXXXXXXXXXXXXX
The Court recommends commitment to: 6

Ass't. U. S. Attorney

Clerk.

A True Copy. Certified this 11th day of October, 1968
(Signed) M. M. EWING Clerk. (By) [Signature] Deputy Clerk.

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

v.

Ina Lou Foley

No.

68-CR-95

FILED

OCT 11 1968

M. M. EWING
Clerk, U. S. District Court

On this 11th day of October, 1968, came the attorney for the government and the defendant appeared in person, and with counsel, John P. Kerr.

It IS ADJUDGED that the defendant has been convicted upon his plea of guilty,

of the offense of having violated T. 18, U.S.C., 1708, in that on or about April 19, 1968, at Tulsa, Oklahoma, in the Northern District of Oklahoma, she unlawfully did have in her possession a certain check, to-wit: Check drawn on the Fourth National Bank, Tulsa, Oklahoma, in the amount of \$23.00, payable to Jean Burton and Signed L.L. Burnett, and being the contents of a letter addressed to Jean Burton, 12 East Independence Street, Tulsa, Oklahoma, which had been stolen from and out of an authorized mail receptacle, knowing the same to have been stolen, as charged in the Indictment, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the court,

It IS ADJUDGED that the defendant is guilty as charged and convicted.

It IS ADJUDGED that imposition of sentence is suspended and the defendant is placed on probation for a period of One (1) year from this date, pursuant to the Federal Youth Correction Act, Title 18, U.S.C. 5010(a), and one of the conditions of probation is that the defendant return to her home in Kansas City, Missouri.

It IS FURTHER ORDERED that during the period of probation the defendant shall conduct himself as a law-abiding, industrious citizen and observe such conditions of probation as the Court may prescribe. Otherwise the defendant may be brought before the court for a violation of the court's orders.

It IS FURTHER ORDERED that the clerk deliver three certified copies of this judgment and order to the probation officer of this court, one of which shall be delivered to the defendant by the probation officer.

Approved:

Hubert H. Bryant

Hubert H. Bryant, Asst. U.S. Attorney

LUTHER BOHANON

United States District Judge.

Clerk.

A True Copy. Certified this 11th day of October, 1968

(Signed) M.M. EWING

Clerk.

(By)

Deputy Clerk.

United States District Court
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America

v.

Granville Taylor

No. 68-CR-103

FILED

OCT 11 1968

M. M. EWING
Clerk, U. S. District Court

On this 11th day of October, 1968, Bert M. Jones, Jr., came the attorney for the government and the defendant appeared in person and Bert M. Jones, Jr., court appointed counsel.

It Is ADJUDGED that the defendant upon his plea of guilty

has been convicted of the offense of having violated Title 18, U.S.C., 1708, in that on or about July 1, 1968, he did steal from the mail receptacle at Rural Route 9, Box 610, Tulsa, Oklahoma, an authorized depository for mail matter, a certain letter addressed to Irene Payton, Route 9, Box 610, Tulsa, Oklahoma, 74107, containing Oklahoma Public Welfare Commission Check, dated July 1, 1968, in the amount of \$142.00, payable to Irene Payton,

as charged in the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is ADJUDGED that the defendant is guilty as charged and convicted.

It Is ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for ~~custody and supervision~~ treatment and supervision pursuant to 18 U.S.C.A. 5010(b) until discharged by the Federal Youth Correction Division of the Board of Parole.

~~IT IS ADJUDGED that~~

It Is ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

APPROVED: /a/ ~~JAMES~~ HUBERT H. BRYANT

/s/ LUTHER BOHANON

United States District Judge.

~~The Court recommends commitment to:~~
Ass't. U. S. Attorney

Clerk.

A True Copy. Certified this 11th day of October, 1968
(Signed) M. M. EWING Clerk. *Marcel Hanna* Deputy Clerk.

United States District Court
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America

v.

Richard Allen Wise

No. 68-CR-105

FILED

OCT 11 1968

M. M. EWING
Clerk, U. S. District Court

On this 11th day of October, 1968, came the attorney for the government and the defendant appeared in person and by Lewis C. Johnson, Court appointed counsel.

It Is ADJUDGED that the defendant upon his plea of² guilty

has been convicted of the offense of having violated Title 18, USC 2312, in that on or about August 19, 1968, he transported in interstate commerce from Vicksburg, Mississippi, to Tulsa, Oklahoma, a stolen 1965 Cadillac, Vehicle Identification No. B5103211, he then knowing such automobile to have been stolen,

as charged³ in the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is ADJUDGED that the defendant is guilty as charged and convicted.

It Is ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of⁴

Five (5) Years

~~It Is ADJUDGED THAT~~⁵

It Is ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

APPROVED:

/s/ LUTHER BOHANON

/s/ JAMES E. RITCHIE

United States District Judge.

The Court recommends commitment to:⁶

Ass't. U. S. Attorney

Clerk.

A True Copy. Certified this 11th day of October, 1968
(Signed) M. M. EWING

Clerk.

(By)

Deputy Clerk.

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA

v.

Judith Ann McCarroll

No. 68-CR-109

OCT 11 1968

M. M. EWING
Clerk, U. S. District Court

On this 11th day of October, 1968, came the attorney for the government and the defendant appeared in person, and by counsel, James M. Springer, Jr.

her

It IS ADJUDGED that the defendant has been convicted upon ~~his~~ plea of guilty

of the offense of having violated Title 18, U.S.C., 1952, in that on or about December 10, 1967, she did knowingly travel and cause travel in interstate commerce from the State of Texas, to Tulsa, Oklahoma, with intent to promote, establish and carry on an unlawful activity involving prostitution in violation of the laws of the State of Oklahoma, and thereafter to about December 24, 1967, knowingly performed and caused to be performed acts facilitating the carrying on of said unlawful activity, as charged in the Indictment;

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the court,

It IS ADJUDGED that the defendant is guilty as charged and convicted.

It IS ADJUDGED that imposition of sentence is suspended and the defendant is placed on probation for a period of Three (3) Years from this date, pursuant to the Federal Youth Correction Act, Title 18, U.S.C.A. 5010(a); one of the conditions of probation is that the defendant live with her parents in Dallas, Texas, and refrain from the use of liquor or any form of drugs.

It IS FURTHER ORDERED that during the period of probation the defendant shall conduct himself as a law-abiding, industrious citizen and observe such conditions of probation as the Court may prescribe. Otherwise the defendant may be brought before the court for a violation of the court's orders.

It IS FURTHER ORDERED that the clerk deliver three certified copies of this judgment and order to the probation officer of this court, one of which shall be delivered to the defendant by the probation officer.

APPROVED:

/s/ LAWRENCE A. McSOD
United States Attorney

/s/ LUTHER BOHANON

United States District Judge.

Clerk.

A True Copy. Certified this 11th day of October, 1968

(Signed) M. M. EWING

Clerk.

(By)

Maurice Hamra
Deputy Clerk.

United States District Court
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America

v.

William Bruce Smith

No. 68-C-112

FILED

OCT 11 1968

M. M. EWING
Clerk, U. S. District Court

On this 11th day of October, 1968, came the attorney for the government and the defendant appeared in person and by Joe Lapan, counsel.

It Is ADJUDGED that the defendant upon his plea of guilty

has been convicted of the offense of having violated Title 26, U.S.C., 4744(a)(1), in that on or about July 16, 1968, at Tulsa, Oklahoma, being a transferee of marihuana required to pay the tax imposed by Section 4741(a), Title 26, U.S.C., he did acquire and obtain approximately 362 grams of marihuana without having paid such tax,

as charged in Count One of the Indictment; and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is ADJUDGED that the defendant is guilty as charged and convicted.

It Is ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for ~~imprisonment for a period of~~ treatment and supervision pursuant to 18 U.S.C.A. 5010(b) until discharged by the Federal Youth Correction Division of the Board of Parole.

~~IT IS ORDERED THAT THE CLERK DELIVER A CERTIFIED COPY OF THIS JUDGMENT AND COMMITMENT TO THE UNITED STATES MARSHAL OR OTHER QUALIFIED OFFICER AND THAT THE COPY SERVE AS THE COMMITMENT OF THE DEFENDANT.~~

It Is ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

APPROVED: /s/ JAMES E. RITCHIE

/s/ LUTHER BOHANON

United States District Judge.

~~The Court recommends commitment to:~~

Ass't. U. S. Attorney

Clerk.

A True Copy. Certified this 11th day of October, 1968
(Signed) M. M. EWING Clerk. (By) *Muriel Hanna* Deputy Clerk.

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

v.

Lonnell Sylvester Colbert

No. 68-CR-114

FILED

Oct 11, 1968

M. M. EWING
Clerk, U. S. District Court

On this 11th day of October, 1968, came the attorney for the government and the defendant appeared in person, and with counsel, John B. Johnson, Jr.

It is ADJUDGED that the defendant has been convicted upon his plea of guilty,

of the offense of having violated T. 18, USC 1709 and 495, in that on or about May 24, 1968, in the Northern District of Oklahoma, at that time an employee of the Postal Service, he did wilfully, knowingly and unlawfully embezzle a letter addressed to Darline Graham containing a U.S. Treasury Check in the amount of \$103.40; that said defendant did utter and publish as true said check knowing the endorsement therein to be forged, as charged in Counts One and Two of the Information.

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the court,

It is ADJUDGED that the defendant is guilty as charged and convicted.

It is ADJUDGED that imposition of sentence as to Counts One and Two is suspended and the defendant is placed on probation for a period of Three (3) years from this date; pursuant to the Federal Youth Correction Act, T. 18 U.S.C.A. 5010(a) on the condition that he make restitution in the sum of One Hundred Three Dollars and Forty Cents (\$103.40) payable within Six months.

It is FURTHER ORDERED that during the period of probation the defendant shall conduct himself as a law-abiding, industrious citizen and observe such conditions of probation as the Court may prescribe. Otherwise the defendant may be brought before the court for a violation of the court's orders.

It is FURTHER ORDERED that the clerk deliver three certified copies of this judgment and order to the probation officer of this court, one of which shall be delivered to the defendant by the probation officer.

Approved as to form:

Hubert H. Bryant

Hubert H. Bryant, Asst. U.S. Attorney

LUTHER BOHANON

United States District Judge.

Clerk.

A True Copy. Certified this 11th day of October 1968
(Signed) M.M. Ewing Clerk. (By) *[Signature]* Deputy Clerk.

United States District Court
 FOR THE
 NORTHERN DISTRICT OF OKLAHOMA

FILED

1113
 M. M. EWING
 Clerk, U. S. District Court

UNITED STATES OF AMERICA
 v.
 Suzanne Virginia Hays

No. 68-CR-119

On this 10th day of October 19 68, came the attorney for the government and the defendant appeared in person, and

It Is ADJUDGED that the defendant has been convicted upon his plea of guilty having violated Title 18, U.S.C., Sec. 1952, in that on or about 9-9-68, she did travel and cause travel in interstate commerce from State of Texas to Tulsa, Okla., to engage in unlawful activity, being a business enterprise involving prostitution, and thereafter, on or about 9-9-68, to on or about 9-19-68, in the Northern District of Okla., she did unlawfully, wilfully and knowingly perform and cause to be performed acts facilitating the carrying on of said unlawful activity

as charged' in the Information and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the court,

It Is ADJUDGED that the defendant is guilty as charged and convicted.

It Is ADJUDGED that imposition of sentence is suspended and the defendant is placed on probation for a period of Three (3) Years from this date, as provided by Title 18, U.S.C. Section 5010(a), and on the condition that she returns to the State of Washington and resides with her parents.

It Is FURTHER ORDERED that during the period of probation the defendant shall conduct himself as a law-abiding, industrious citizen and observe such conditions of probation as the Court may prescribe. Otherwise the defendant may be brought before the court for a violation of the court's orders.

It Is FURTHER ORDERED that the clerk deliver three certified copies of this judgment and order to the probation officer of this court, one of which shall be delivered to the defendant by the probation officer.

APPROVED AS TO FORM:

Hubert H. Bryant
 Asst. U. S. Attorney

LUTHER BOHANON

United States District Judge.

Clerk.

A True Copy. Certified this 10th day of October, 19 68

(Signed) M.M. Ewing

Clerk.

(By)

Deputy Clerk.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
IN OPEN COURT

OCT 14 1968

M. M. EWING
CLERK, U. S. DISTRICT COURT

United States of America,

Plaintiff,

vs.

Marvin Dee Christmas,

Defendant.

No. 68-CR-49

DISMISSAL OF INDICTMENT

On this 8th day of October, 1968, pursuant to Rule 48 of the Federal Rules of Criminal Procedure and by authorization of the Assistant Attorney General, Criminal Division, Department of Justice, James E. Ritchie, Assistant United States Attorney for the Northern District of Oklahoma, hereby dismisses the indictment against Marvin Dee Christmas, the defendant herein.

James E. Ritchie
JAMES E. RITCHIE
Assistant U. S. Attorney

Leave of court is granted for the filing of the foregoing Dismissal of Indictment.

Fred Daugherty
UNITED STATES DISTRICT JUDGE

United States District Court
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America

v.

C. Rampy Trucking Company, Inc.,
a corporation

No. 68-CR-116

FILED

OCT 16 1968

M. M. EWING
Clerk, U. S. District Court

On this 16th day of October, 1968, came the attorney for the government and the defendant appeared in person and by Vice President of the Corporation Raymond Clarence Busch:

IT IS ADJUDGED that the defendant upon ~~its~~ its plea of guilty,

has been convicted of the offense of having violated 49 U.S.C. 322(a) in that, on or about April 27, 1968 and May 22, 1968, at Tulsa, State and Northern District of Oklahoma, and within the jurisdiction of this court, the defendant, a corporation, a common carrier by motor vehicle with its principal place of business at Tulsa, Oklahoma, did knowingly and wilfully fail to make a report to the Regional Federal Highway Administrator, Bureau of Motor Carrier Safety, Federal Highway Administration, at Fort Worth, Texas, of two accidents occurring more than fifteen days prior thereto, in which motor vehicles operated by said defendant on public highways were involved and in which property damage to an apparent extent of \$250.00 each or more, as charged in Counts Eleven and Twelve of the Information.

~~and the court being asked the defendant whether he desired to have counsel appointed by the court and the defendant thereupon stated that he waived the right to the assistance of counsel.~~

~~IT IS ADJUDGED that the defendant is guilty of the charges and convicted.~~

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ~~60~~ pay unto the United States of America a fine in the amount of:

Count Eleven- Two Hundred (\$200.00) Dollars
Count Twelve- Two Hundred (\$200.00) Dollars

IT IS ADJUDGED that ⁵ that the defendant is granted Thirty (30) days from this date in which to pay the fine imposed.

IT IS FURTHER ADJUDGED that upon the motion of the government, counts One thru Ten are hereby dismissed.

~~IT IS ORDERED that the clerk of this court do certify a copy of this judgment and commitment to the United States Marshal for the Northern District of Oklahoma and that the copy so made be committed to the custody of the defendant.~~
Approved:

United States District Judge.

The Court recommends commitment to: ⁶

Hubert H. Bryant, Asst. U.S. Attorney

Clerk.

¹ Insert "[name of counsel], counsel" or "without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." ² Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. ³ Insert "in count(s) number" if required. ⁴ Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. ⁵ Enter any order with respect to suspension and probation. ⁶ For use of Court wishing to recommend a particular institution.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUBIE CHARLES JENKINS,

Defendant.

No. 68-CR-99

FILED

OCT 25 1968

M. M. EWING
Clerk, U. S. District Court

O R D E R

The Defendant herein has moved to dismiss the indictment charging him with a violation of 18 U.S.C.A. §2113(c), receiving property stolen from a federally-insured bank. The grounds of said motion are that the Federal Statute of Limitations respecting crimes, 18 U.S.C.A. §3282, has run and bars this prosecution, and double jeopardy.

The statute of limitations cited above provides:

"Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found . . . within five years next after such offense shall have been committed."

The present indictment was filed with the Court on September 6, 1968, more than five years after the date on which the indictment alleges the Defendant committed the offense charged therein. The date of return does not appear from the face of the indictment, nevertheless, for the purposes of this Order, it will be assumed that the date of return is the same as the date it was filed with the Court, which is outside the period of five years from the date the crime is alleged to have been committed. Beasley v. United States, 327 F.2d 566 (Tenth Cir. 1964), cert. den. 317 U.S. 944, 12 L.Ed.2d 307, 84 S.Ct. 1351.

This indictment is not the first one which has been found against the Defendant respecting this crime. Defendant was originally indicted in the District of Kansas for the same crime on ^{1/} September 10, 1962 and convicted after jury trial. An appeal was taken which resulted in reversal of the conviction because the trial court improperly instructed the jury that they could find the Defendant guilty of bank burglary as well as receiving stolen goods, the property being the same. Jenkins v. United States, 361 F.2d 615 (Tenth Cir. 1966). Defendant was retried under the same indictment in Kansas and convicted after jury trial. Appeal was again taken from the new judgment of conviction and a reversal obtained on the ground of improper venue. Jenkins v. United States, 392 F.2d 303 (Tenth Cir. 1968).

The Government contends that it is permitted to re-indict the Defendant after the period of five years from the date of the crime by the statutory authority of 18 U.S.C.A. §3288, which provides as follows:

"Whenever an indictment is dismissed for any error, defect, or irregularity with respect to the grand jury, or an indictment . . . is found otherwise defective or insufficient for any cause, after the period prescribed by the applicable statute of limitations has expired, a new indictment may be returned in the appropriate jurisdiction within six calendar months of the date of the dismissal of the indictment or information, or, if no regular grand jury is in session in the appropriate jurisdiction when the indictment or information is dismissed, within six calendar months of the date when the next regular grand jury is convened, which new indictment shall not be barred by any statute of limitations."

^{1/} The date which the original indictment alleges this crime to have occurred is different from the date in the present indictment, but Defendant does not contend that the crime alleged in the original indictment is not the same one as the crime alleged in the present indictment.

In connection with this statute, it is to be noted that in none of these prior proceedings involving Jenkins were the indictments found to be "defective" or "insufficient" in the ordinary sense of these words. The reversals were not predicated on anything intrinsic to the indictments. In the first reversal the same was based on an improper instruction and the second reversal was based on failure of the Government's evidence to establish venue in Kansas.

In the interesting case of United States v. Strewl, 99 F.2d 474 (Second Cir. 1938), cert. den. 306 U.S. 638, 83 L.Ed. 1039, 59 S.Ct. 489, the defendant Strewl was charged, along with two others, with the crime of posting letters demanding ransom for a kidnapped person. The letters were posted in 1933 and Strewl and his co-defendants were indicted in 1934. There were other persons involved in the crime who were not known or could not be found at the time this indictment was returned. The identity of the missing defendants was later learned and another indictment was returned in 1937 charging Strewl, the two original co-defendants and eight new defendants with the same crime. The previous indictment was never dismissed nor quashed. In order to obtain authority to seek the new indictment, the district attorney secured an ex parte order from the district court directing him to present his evidence to the grand jury and obtain the second indictment. This order was issued on the ground that the 1934 indictment had become "insufficient" because the identity of the other participants in the crime had been learned. As to Strewl, the 1937 indictment was returned outside the limitation period (then three years). Strewl was tried on the basis of the 1937 indictment. On appeal, Strewl argued that he could not be tried under the 1937 indictment because the 1934

indictment was not "insufficient" within the meaning of the statute.^{2/}
 Judge L. Hand concluded that Strewl was right, that the "insufficiency" contemplated by that statute was one which would subject the indictment to quashal or dismissal:

" . . . its [the statute's] prime purpose is clear; it is to prevent the failure of a prosecution because an indictment, found in season, proves insufficient in law. Its normal occasion will be after the defendant succeeds on demurrer, or motion to dismiss: if the error can be corrected, it will not discharge the accused." 99 F.2d 474 at p. 476.

Strewl did not escape, however, because Judge Hand held that it made no difference under which indictment Strewl was convicted, such error ". . . did not affect Strewl's 'substantial rights' in the slightest degree." 99 F.2d 474 at p. 477.

Ten years later Strewl attempted to secure vacation of his sentence, this time taking the opposite position that the 1934 indictment was "insufficient" and, as the 1937 indictment had been returned at the same term of court at which the 1934 indictment had been found "insufficient," the 1937 indictment was not covered by the predecessor to 18 U.S.C.A. §3288.^{3/} United States v. Strewl, 162 F.2d 819 (Second Cir. 1947), cert. den. 332 U.S. 801, 92 L.Ed. 381, 68 S.Ct. 92. This contention was rejected and, with respect to the purpose of the statute, the court again stated:

^{2/} At that time, 18 U.S.C.A. §587, now 18 U.S.C.A. §3288.

^{3/} The former versions of the limitations statute provided for re-indictment at the term succeeding that in which the prior indictment had been found defective. As terms of Federal Court have been abolished, the statute has been amended to provide that re-indictment must be made within six months of the date on which the prior indictment is found defective.

"The purpose was to extend the statute of limitations, so that a person who had been indicted under an indictment which, as it turned out, would not support a conviction, should not escape because the fault was discovered too late to indict him again." 162 F.2d 819 at p. 820.

The question is whether the "defect" required by 18 U.S.C.A. §3288, must be intrinsic or may be extrinsic to the indictment. In the Strewl case, supra, Judge Hand set the criteria for deciding whether an indictment was defective by measuring it against a motion to dismiss. The "defect" of venue in the Kansas indictment was first raised by the Defendant on his motion for a new trial. Prior to a trial in Kansas on this charge alone, the indictment would have withstood a motion to dismiss because venue was at that stage of the proceedings extrinsic to the indictment and a matter of proof at trial. An objection to venue would properly be made by motion for judgment of acquittal. See United States v. Gross, 276 F.2d 816 (Second Cir. 1960). Thus, it would appear that as the "defect" of venue, extrinsic to the Kansas indictment, cannot form the basis of a motion to dismiss in the circumstances of that case, it is not that type of defect which Judge Hand considered 18 U.S.C.A. §3288 to reach.

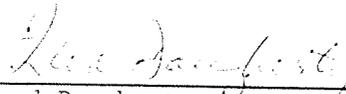
A plain reading of the statute supports the conclusion that it is concerned with legal defects in the indictment process or indictment itself and not with trial errors unrelated to either. This seems to be the way the courts understand the statute, although the Court finds no case other than the Strewl case, supra, dealing with the precise point.^{4/} Thus, the Court concludes that as the

^{4/} See, for example, Mande v. United States, 282 F.2d 881 (Ninth Cir. 1960), cert den. 364 U.S. 933, 5 L.Ed.2d 365, 81 S.Ct. 379; Hughes v. United States, 114 F.2d 285 (Sixth Cir. 1940).

Kansas indictment was not shown to be legally insufficient at any time, it was not "insufficient" or "defective" within the meaning of 18 U.S.C.A. §3288, so as to authorize the Defendant's present re-indictment thereunder.

Defendant's Motion to Dismiss the indictment is sustained and said indictment is dismissed by reason of its not having been found within five years next after the commission of the offense it alleges.

It is so ordered this 24 day of October, 1968.



Fred Daugherty
United States District Judge

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 28 1968

M. W. EWING
Clerk, U. S. District Court

UNITED STATES OF AMERICA

v.

Floyd C. Puckett

No. 68-CR-96

On this 28th day of October, 1968, came the attorney for the government and the defendant appeared in person, and by counsel, Robert B. Copeland

IT IS ADJUDGED that the defendant has been convicted upon his plea of 'not guilty, and a finding of guilty of the offense of having violated Title 18, USC 1708, in that on or about 4-3-68 at Tulsa, Okla., in the Northern District of Okla., Floyd C. Puckett unlawfully had in his possession a certain check, which check had theretofore been stolen from a mail box located at 420 East Easton, Tulsa, Oklahoma, an authorized depository for mail, he then knowing such check to have been so

as charged' in the Indictment and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that imposition of sentence is hereby suspended and the defendant is placed on probation for a period of One (1) Year from this date.

IT IS FURTHER ORDERED that during the period of probation the defendant shall conduct himself as a law-abiding, industrious citizen and observe such conditions of probation as the Court may prescribe. Otherwise the defendant may be brought before the court for a violation of the court's orders.

IT IS FURTHER ORDERED that the clerk deliver three certified copies of this judgment and order to the probation officer of this court, one of which shall be delivered to the defendant by the probation officer

Approved as to Form:

/s/ Hubert H. Bryant
Asst. U.S. Attorney

/s/ LUTHER BOHANON

United States District Judge.

Clerk.

A True Copy. Certified this 28th day of October, 1968

(Signed) M. M. EWING

Clerk.

(By)

Deputy Clerk.

United States District Court
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

United States of America
v.
Don Connelly Conroy

No. 68-CR-84

OCT 30 1968
M. M. EWING
Clerk, U. S. District Court

On this 30th day of October, 1968, came the attorney for the government and the defendant appeared in person and with counsel, John D. Harris.

It is ADJUDGED that the defendant upon his plea of guilty

has been convicted of the offense of having violated T. 18, USC 2314, in that, on or about August 5, 1967, in the District of Kansas and within the jurisdiction of that court, he, with unlawful and fraudulent intent caused to be transported in interstate commerce from Joplin, Missouri, to Columbus, Kansas, a falsely made and forged security, to-wit: a bank check drawn on the Columbus State Bank, Columbus, Kansas, dated August 5, 1967, in the amount of \$350.00, payable to Burtrum Brothers Motors and signed Charles Lawson, knowing the same to be falsely made and forged, as charged in the indictment.

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is ADJUDGED that the defendant is guilty as charged and convicted.

It is ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Ten (10) years.

It is ADJUDGED that

It is ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Fred Daugherty

United States District Judge.

Approved:

The Court recommends commitment to:

Hubert A. Marlow

Hubert A. Marlow, Asst. U.S. Attorney.

Clerk.

A True Copy. Certified this 30th day of October 1968
(Signed) M.M. Ewing Clerk. (By) Daniel Hanna Deputy Clerk.