

DEC 29 1978

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

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff-Respondent,)
v.)
)
PHILLIP BRADLEY POLK,)
)
Defendant-Movant.)

NOS. 78-C-413-B
76-CR-13

O R D E R

The Court has for consideration a motion pursuant to 28 U.S.C. § 2255 filed pro se, in forma pauperis, by Phillip Bradley Polk. The cause has been assigned civil Case No. 78-C-413-B and docketed in his criminal Case No. 76-CR-13.

Movant is a prisoner in the Oklahoma State Penitentiary, McAlester, Oklahoma, and a detainer is filed pursuant to conviction and sentence in this Federal Court. His Federal conviction is upon jury conviction of Count One, conspiracy in violation of 18 U.S.C. § 371, and on Counts Two and Three, the substantive offenses, of causing interstate transportation of forged securities in violation of 18 U.S.C. § 2314. He was sentenced March 11, 1976, to 10 years' imprisonment on each Count Two and Three, the sentence on Count Three to run concurrently with the sentence on Count Two. On Count One, the imposition of sentence was suspended and he was placed on 5 years' probation, to commence on expiration of the sentence on Counts Two and Three, and it is a condition of probation that he make restitution of \$235.00 within the first three years of probation, payable at the rate of \$8.00 per month. The conviction and sentence were affirmed on direct appeal. United States v. Polk, 550 F.2d 1265 (10th Cir. 1977) cert. denied 434 U. S. 838 (1977).

In his § 2255 motion, Movant demands his release from custody and as grounds therefor claims that he is being deprived of his liberty in violation of his rights guaranteed by the Constitution of the United States of America. In particular, Movant claims:

1. The Trial Court's failure to give cautionary instruction on testimony of accomplices is plain error requiring reversal of conviction.
2. Defendant's conviction violates the Supreme Court mandate of Giglio v. United States, 405 U. S. 150 (1972) in that it was not made known to the jury when co-defendant testified that he had been promised leniency for his testimony. Further, defense counsel was not advised prior to the trial that co-defendant was entering a plea of guilty causing prejudice to Movant.

3. There was insufficient evidence to prove the essential elements of the crimes charged.

The Court has carefully reviewed the motion, supplement, letters from the Movant, and criminal file. Being fully advised in the premises, the Court finds that the claims presented are without merit, there is no necessity for response or evidentiary hearing, and the § 2255 motion should be denied.

Movant's first claim is without merit, as the jury was instructed:

"An accomplice is one who unites with another person in the commission of a crime, voluntarily and with common intent. An accomplice does not become incompetent as a witness because of participation in the crime charged. On the contrary, the testimony of an accomplice alone, if believed by the jury, may be of sufficient weight to sustain a verdict of guilty, even though not corroborated or supported by other evidence. However, the jury should keep in mind that such testimony is always to be received with caution and weighed with great care.

"You should never convict a defendant upon the unsupported testimony of an alleged accomplice, unless you believe that unsupported testimony beyond a reasonable doubt.

"The plea of guilty of one alleged to be an accomplice with reference to the charges involved herein is no evidence of the guilt of the defendant on trial and gives rise to no inference against the defendant on trial."

Movant's second claim is not true and is unsupported by fact. There was a plea-bargain by Movant's co-defendant, but it was not entered to obtain the co-defendant's testimony at Movant's trial. The plea bargain appears of record in the trial transcript. The co-defendant pled guilty to Counts One and Two, Count Three was dismissed, and the Government stated of record that it interposed no objection to Defendant's request that the sentence imposed by the Federal Court be recommended to run concurrently with a sentence he faced in the State Court. The co-defendant was duly sentenced for his crime. Further, the plea was entered at the last minute before the trial commenced, and defendant and his counsel were present. The jury, of course, was excused for the plea proceedings to avoid any possible prejudice to the Movant. This second claim is without merit.

Movant's third claim that there was insufficient evidence to prove the essential elements of the crime is also without merit. The transcript clearly shows that the jury's verdict of guilty was not so devoid of evidentiary support that a due process issue is raised. Lorraine v. United States, 444 F.2d 1 (10th Cir. 1971); Williams v. United States, 371 F.2d 536 (10th Cir. 1967).

IT IS, THEREFORE, ORDERED that the motion pursuant to 28 U.S.C. § 2255 of Phillip Bradley Polk be and it is hereby overruled and dismissed.

Dated this 29th day of December, 1978, at Tulsa, Oklahoma.

Allen E. Brown

CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

DEC 28 1978 *nm*

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

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff-Respondent,)

v.)

PAUL WAYNE JACKSON,

Defendant-Movant.)

NOS. 78-C-357-B
75-CR-21

ORDER

The Court has for consideration a motion pursuant to 28 U.S.C. § 2255 of Paul Wayne Jackson. The motion has been assigned civil Case No. 78-C-357 and docketed in his criminal Case No. 75-CR-21.

Having carefully reviewed the motion and file and being fully advised in the premises, the Court finds that upon recommendation of his Probation Officer, and for good cause shown, the Movant has been granted an early termination of probation pursuant to 18 U.S.C. § 5021(b). Thereby, his § 2255 motion is moot and should be overruled.

IT IS, THEREFORE, ORDERED that the motion pursuant to 28 U.S.C. § 2255 of Paul Wayne Jackson be and it is hereby overruled as moot and dismissed.

Dated this 28th day of December, 1978, at Tulsa, Oklahoma.

Allen E. Barron
CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

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

DEC 13 1973
Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
v.) Plaintiff-Respondent,)
)
RICHARD ZACK MASON,)
)
) Defendant-Movant.)

NOS. 78-C-471-B
74-CR-28

O R D E R

The Court has for consideration a motion pursuant to 28 U.S.C. § 2255 filed pro se by Richard Zack Mason. The cause has been assigned civil Case No. 78-C-471-B and docketed in his criminal Case No. 74-CR-28.

Movant is a prisoner in the Oklahoma State Penitentiary, McAlester, Oklahoma, and a detainer is filed pursuant to conviction and sentence in this Federal Court. His Federal conviction is on a plea of guilty to Counts Two and Three of a three-count information charging firearms offenses in violation of 18 U.S.C. § 922(a)(6). He was sentenced April 2, 1974, to the maximum period on each count under 18 U.S.C. § 4208(b) for study and report to the Court pursuant to 18 U.S.C. § 4208(c). Thereafter, at definitive sentence on July 24, 1974, the sentence was reduced to five years' imprisonment eligible for parole in the discretion of the Parole Board pursuant to 18 U.S.C. § 4208(a)(2) on Count Two; and on Count Three, imposition of sentence was suspended and the Defendant (Movant herein) was placed on two years' probation to commence upon expiration of the sentence in Count Two. Movant was at all times before the Federal Court on ad prosequendum writ borrowed from the State of Oklahoma, and when definitive sentence was imposed July 24, 1974, he was returned in accordance with said writ to Oklahoma for completion of his State sentence.

In his § 2255 motion, Movant demands his release from custody and as grounds therefor claims that he is being deprived of his liberty in violation of his rights guaranteed by the Constitution of the United States of America. In particular, Movant claims that the sentence imposed April 2, 1974, was the actual sentence of the Court which was suspended by his return to State custody after commencement of the sentence in the Federal Correctional Institution, Oxford, Wisconsin. He contends the Federal authorities lost control over his custody by releasing him to the State authorities and that his Federal sentence has been fully served and he must be released therefrom and the detainer removed.

Having carefully reviewed the motion and file, and being fully advised in the premises, the Court finds that the § 2255 motion is without merit and should be denied without requiring response or an evidentiary hearing. Further, Movant's motion for appointment of counsel should be overruled.

Frequently, a State waives its right to exclusive custody of a state prisoner in order that the United States might try him upon a Federal charge. Then, the Defendant, on a plea of guilty, is sentenced by the Federal District Court and returned to the custody of the State. Thereafter, he is turned over to a United States Marshal by the State authorities and delivered to the warden of the Federal penitentiary, pursuant to commitment under the Federal sentence. The Federal sentence begins to run on such delivery to the United States Marshal. Rohr v. Hudspeth, 105 F.2d 747 (10th Cir. 1939); Lunsford v. Hudspeth, 126 F.2d 653 (10th Cir. 1942). The Interstate Agreement on Detainers Act, 22 O.S.A. § 1345, et seq., was effective October 1, 1977, long after Movant's conviction and sentence in 1974, and the provisions of that Act do not apply herein and have not been considered.

As provided by 18 U.S.C. § 4208(b), "The term of the sentence shall run from date of original commitment under this section." Movant shall receive credit on his Federal sentence for the study period when he starts service of his Federal sentence, but there has been no suspension of sentence that would support the relief under § 2255 he seeks.

IT IS, THEREFORE, ORDERED that the motion for appointment of counsel is overruled and the motion pursuant to 28 U.S.C. § 2255 of Richard Zack Mason be and it is hereby overruled and dismissed.

Dated this 28th day of December, 1978, at Tulsa, Oklahoma.


CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

DEC 19 1978

Jack C. Silver, Clerk
U. S. DISTRICT COURT

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

NO. 75-CR-155-B ✓

REGINALD EUGENE ROBINSON,

Defendant.

NUNC PRO TUNC ORDER

The Court at hearing on revocation of probation the 19th day of December, 1978, became aware of the error in the sentence of August 17, 1977, at a prior probation revocation proceeding of Reginald Eugene Robinson. The Court finds that said illegal sentence should be corrected pursuant to Rule 35, Federal Rules of Criminal Procedure.

The sentence of August 17, 1977, should be corrected to extend the probationary period imposed December 3, 1975, on Count Two of the indictment for two years, with the condition that six months be served in the Halfway House, Oklahoma City, Oklahoma. Further, the Defendant, Reginald Eugene Robinson, is to resume payments of the \$197.50 restitution the first month after release from the halfway house.

IT IS SO ORDERED this 19th day of December, 1978, at Tulsa, Oklahoma.



CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

DEFENDANT

SALLY FAYE BURCH GARDNER

DOCKET NO.

78-CR-120-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO-245 (5/75)

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH	DAY	YEAR
12	19	78

COUNSEL

WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

WITH COUNSEL

Terry P. Malloy, Appt.

(Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea,

NOLO CONTENDERE,

NOT GUILTY

FINDING & JUDGMENT

There being a finding of

NOT GUILTY. Defendant is discharged

GUILTY.

Defendant has been convicted as charged of the offense(s) of having violated Title 18, U.S.C., Section 495, as charged in Count two of the Indictment.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Count 2 - Sixty (60) months, and on the condition that the defendant be confined in a jail type institution for period of Six (6) months, the execution of the remainder of the sentence of imprisonment is hereby suspended and the defendant is placed on probation for Fifty-four (54) months.

IT IS FURTHER ADJUDGED that the execution of the sentence is deferred to January 3, 1979, at 4:00 P.M., at which time the defendant is to present herself to the U. S. Marshal.

SPECIAL CONDITIONS OF PROBATION

The special condition of probation is that the defendant is to make restitution in the amount of \$800.40, to the U. S. Court Clerk, for payment to the U. S. Treasury. Payments to commence the second month after release from institution, at \$15.50 a month until paid in full.

FILED

DEC 19 1978

Jack G. Silver, Clerk U. S. DISTRICT COURT

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

SIGNED BY U.S. District Judge

THIS DATE

U.S. Magistrate

By

Date 12-19-78

() CLERK

() DEPUTY

IN THE UNITED STATES DISTRICT COURT FOR THE ^{DEC 15 1978}
 NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
 U. S. DISTRICT COURT

UNITED STATES OF AMERICA,
 Plaintiff,
 vs.
 CLARISSA CROSBY,
 Defendant.)

No. 78-CR-107-³

ORDER SUSTAINING DEFENDANT'S MOTION
 TO REDUCE SENTENCE PURSUANT TO RULE 35

On this, the 14th day of December, 1978, there comes on before me, the undersigned Chief Judge of this Court, pursuant to the Notice given by the Clerk of this Court, dated the 8th day of December, 1978, and filed herein, Defendant's Motion to Reduce Sentence Pursuant to Rule 35, and the above-named Plaintiff, United States of America, being represented by Hubert H. Bryant, United States Attorney, by George Carrasquillo, Assistant United States Attorney, and the above-named Defendant-Movent, Clarissa Crosby, being present in open Court and represented by her attorney, T. Gavin King.

Thereupon, the Court, having read Defendant's Motion to Reduce Sentence Pursuant to Rule 35 and Brief in Support Thereof and having heard Defendant's statement in open Court of her contrition and firm purpose of amendment, and the Court, being well and truly advised in the premises.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Defendant's Motion to Reduce Sentence Pursuant to Rule 35 should be, and the same is hereby, sustained and granted.

IT IS, FURTHER, ORDERED, ADJUDGED, AND DECREED that the sentence heretofore, to-wit, on the 7th day of November, 1978, imposed on said Defendant, to-wit:

on Court I: eighteen, (18), months in the custody of the Attorney General;

on Court II: eighteen, (18), months in the custody of the Attorney General, to run concurrently with the sentence imposed relative to Court I;

on Court III: eighteen, (18), months in the custody of the Attorney General, to run concurrently with the sentences imposed relative to Counts I and II; and

on Court IV: Five, (5), years on probation,

should be, and the same is hereby, reduced to the time served by Defendant in the custody of the Attorney General and that said reduction, as aforesaid, includes Defendant's being released from being on probation.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Defendant should be, and she is hereby, ordered released forthwith.

IT IS, FURTHER, ORDERED, ADJUDGED, AND DECREED that Defendant's bond should be, and the same is hereby, released and exonerated.

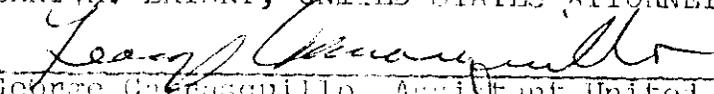


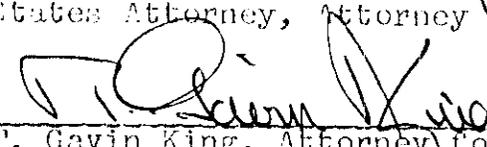
Allen E. Barrow, Chief Judge

OKED AS TO FORM:

HUBERT H. BRYANT, UNITED STATES ATTORNEY,

By


George Carrasquillo, Assistant United States Attorney, Attorney for Plaintiff


T. Gavin King, Attorney for Defendant

DEFENDANT

LEROY JONES a/k/a "RIP"

DOCKET NO. 77-CR-42

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO-245 (5/75)

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH 12 DAY 15 YEAR 78

WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

WITH COUNSEL

James W. Franswin, Retained

(Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea,

NOLO CONTENDERE,

NOT GUILTY

FILED

DEC 15 1978

Jack C. Silver, Clerk U. S. DISTRICT COURT

FINDING & JUDGMENT

There being a finding/verdict of

NOT GUILTY. Defendant is discharged

GUILTY.

Defendant has been convicted as charged of the offense(s) of having violated T. 21, U.S.C., Section 843(b), as charged in Count Three of the Indictment.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Count 3 - Two (2) Years

It is ordered that the execution of sentence is deferred until December 27, 1978, at 9:00 a.m., at which time the defendant shall report to the United States Marshal.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

THIS DATE

SIGNED BY

U.S. District Judge

H. DALE COOK

By

12-15-78

() CLERK

() DEPUTY

U.S. Magistrate

Date

DEFENDANT

BILLY GENE TRAMMELL

DOCKET NO.

78-CR-111-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO-245 (5/75)

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR
12 14 78

COUNSEL

WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

WITH COUNSEL

James Fransein, Ret.

(Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea,

NOLO CONTENDERE,

NOT GUILTY

FINDING & JUDGMENT

There being a ~~finding~~ verdict of

NOT GUILTY. Defendant is discharged
 GUILTY.

Defendant has been convicted as charged of the offense(s) of **having violated Title 18, U.S.C., Section 2315, as charged in the indictment.**

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

FOUR AND ONE-HALF (4 & 1/2) YEARS.

FILED

DEC 14 1978

Jack C. Silver, Clerk
U. S. DISTRICT COURT

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

THIS DATE

SIGNED BY

U.S. District Judge

XXXXXXXXXX

U.S. Magistrate

Date

12-14-78

By

CLERK

DEPUTY

DEFENDANT

JAMES CARREL LUMAN

DOCKET NO.

78-CR-111-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO-245 (5/75)

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH 12 DAY 14 YEAR 78

COUNSEL

WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

WITH COUNSEL James Fransein, Ret. (Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea, NOLO CONTENDERE, NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of NOT GUILTY. Defendant is discharged. GUILTY.

Defendant has been convicted as charged of the offense(s) of having violated Title 18, U.S.C., Section 2315, as charged in the indictment.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

EIGHT and ONE-HALF (8 & 1/2) YEARS.

FILED

DEC 14 1978

Jack C. Silver, Clerk U. S. DISTRICT COURT

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

THIS DATE

SIGNED BY

U.S. District Judge

XXXXXXXXXX U.S. Magistrate

Date

12-14-78

By

() CLERK

() DEPUTY

DEFENDANT

VERNON JOHNS LANE

DOCKET NO. 78-CR-110-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (5/75)

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH 12 DAY 14 YEAR 78

COUNSEL

WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

WITH COUNSEL Paul Weinstein, Ret. (Name of counsel)

FILED

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea, NOLO CONTENDERE, NOT GUILTY 4 1978

There being a finding/verdict of NOT GUILTY. Defendant is discharged GUILTY.

Jack C. Silver, Clerk U. S. DISTRICT COURT

FINDING & JUDGMENT

Defendant has been convicted as charged of the offense(s) of having violated Title 18; U.S.C., Section 2312, 2, as charged in the indictment.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for

Treatment and supervision until discharged by the Adult Federal Youth Correction Act as provided in Title 18, U.S.C., Section 4216:5010(b).

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

SIGNED BY

U.S. District Judge

XXXXXXXXXX U.S. Magistrate

Date 12-14-78

THIS DATE

By

() CLERK

() DEPUTY

DEFENDANT

JAMES ALAN WALTRIP

DOCKET NO. 78-CR-110-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (5/75)

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH 12 DAY 14 YEAR 78

COUNSEL

WITHOUT COUNSEL. However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel. WITH COUNSEL Tony L. Waller, Ret. (Name of counsel)

FILED

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea, NOLO CONTENDERE, NOT GUILTY

Jack C. Silver, Clerk U. S. DISTRICT COURT

FINDING & JUDGMENT

There being a finding of GUILTY.

Defendant has been convicted as charged of the offense(s) of having violated Title 18, U.S.C., Section 2312, 2, as charged in the Indictment.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Forty-eight (48) months, and on the condition that the defendant be confined in a jail type institution for period of Three (3) months, the execution of the remainder of the sentence of imprisonment is hereby suspended and the defendant is placed on probation for forty-five (45) months.

IT IS FURTHER ADJUDGED that the execution of sentence is deferred to January 3, 1979, at 10:00 A.M., at which time the defendant is to present himself to the U. S. Marshal.

SPECIAL CONDITIONS OF PROBATION

The special conditions of probation are that the defendant not associate with known criminals; stay employed with his father and support family.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

THIS DATE

SIGNED BY

U.S. District Judge

By

() CLERK

() DEPUT

Date 12-14-78

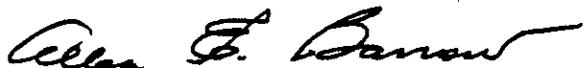
U. S. 956; Williams v. New York, 337 U. S. 241 (1949) reh. denied 337 U. S. 961, 338 U. S. 841; Andrus v. Turner, 421 F.2d 290 (10th Cir. 1970); United States v. Baer, 575 F.2d 1295 (10th Cir. 1978).

Further, treating the § 2255 motion as a motion for discretionary modification of sentence conjointly with the pending motion for such relief, the Court finds that under the circumstances before the Court the sentence imposed was lenient, proper, and within the range provided by the law violated. The sentence should not be set aside or reduced.

IT IS, THEREFORE, ORDERED that the motion pursuant to 28 U.S.C. § 2255 of R. D. Brown be and it is hereby overruled and dismissed.

IT IS FURTHER ORDERED that the Rule 35, Federal Rules of Criminal Procedure, motion for discretionary modification of sentence be and it is hereby overruled.

Dated this 14th day of December, 1978, at Tulsa, Oklahoma.


CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

DEC 14 1978

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

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)	
	Plaintiff-Respondent,)
v.)	NOS. 78-C-426-B
)	76-CR-158
LACY LEE PARKER,)	
	Defendant-Movant.)

O R D E R

The Court has for consideration the motion pursuant to 28 U.S.C. § 2255 of Lacy Lee Parker. The cause has been assigned civil Case No. 78-C-426-B and docketed in the criminal Case No. 76-CR-158. Movant also has a pending motion pursuant to Rule 35, Federal Rules of Criminal Procedure, seeking discretionary modification of sentence.

Movant is a prisoner in the United States Penitentiary, Leavenworth, Kansas, pursuant to conviction by jury of five counts of an indictment charging conspiracy and substantive counts of transporting in interstate commerce forged securities in violation of 18 U.S.C. § 371 and §§ 2314 and 2. He was sentenced on Count One to two years' imprisonment and on Counts Two, Three, Four and Five, the imposition of sentence was suspended and he was placed on five years probation as to each count, Counts Three, Four and Five to run concurrently with Count Two. It was a special condition of probation that Movant make \$12,439.00 restitution at the rate of \$230.35 a month. The Tenth Circuit Court of Appeals affirmed the conviction by mandate filed July 24, 1978, and received by this United States District Court on August 17, 1978.

Movant asserts as grounds for his § 2255 motion that there is a wide disparity in sentencing between this Movant, Lacy Lee Parker, and his co-conspirators. He further asserts that rehabilitation and deterrence may be achieved through the present probation restrictions and requirement of restitution without the necessity of incarceration.

The Court having carefully reviewed the pending motions and file, and being fully advised in the premises, finds that there is no need for response or evidentiary hearing and the § 2255 motion should be denied. A claim of excessive sentence as compared to that of co-defendants is without merit and will not support a § 2255 motion, as identical punishment for like crimes is not required by the Fourteenth Amendment; and,

there is no constitutional requirement that prisoners charged under the same statute, or different statutes, should receive like or comparable sentences so long as each sentence imposed is within the range provided by law. Williams v. Oklahoma, 358 U. S. 576, 585 (1959) reh. denied 359 U. S. 956; Williams v. New York, 337 U. S. 241 (1949) reh. denied 337 U. S. 961, 338 U. S. 841; Andrus v. Turner, 421 F.2d 290 (10th Cir. 1970); United States v. Baer, 575 F.2d 1295 (10th Cir. 1978).

Further, treating the § 2255 motion as a motion for discretionary modification of sentence conjointly with the pending motion for such relief, the Court finds that under the circumstances before the Court the sentence imposed was lenient, proper, and within the range provided by the laws violated. The sentence should not be set aside or reduced.

IT IS, THEREFORE, ORDERED that the motion pursuant to 28 U.S.C. § 2255 of Lacy Lee Parker be and it is hereby overruled and dismissed.

IT IS FURTHER ORDERED that the Rule 35, Federal Rules of Criminal Procedure, motion for discretionary modification of sentence be and it is hereby overruled.

Dated this 14th day of December, 1978, at Tulsa, Oklahoma.



CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

DEFENDANT

SALLY FAYE BURCH GARDNER

DOCKET NO.

78-CR-120-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO-245 (5/75)

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH 12 DAY 12 YEAR 78

COUNSEL

WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

WITH COUNSEL Terry P. Malloy, Appt. (Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea, NOLO CONTENDERE, NOT GUILTY

FINDING & JUDGMENT

There being a finding of NOT GUILTY. Defendant is discharged, and the Indictment is dismissed as to Count One.

Defendant is not guilty as to Count One, as found by the court.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had any thing to say in mitigation of punishment... hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

FILED

DEC 12 1978

Jack C. Silver, Clerk U. S. DISTRICT COURT

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

THIS DATE

SIGNED BY

U.S. District Judge

XXXXXXXXXX U.S. Magistrate

Date 12-12-78

By

() CLERK

() DEPUTY

FILED

DEC 12 1978

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

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

v.

NO. 78-CR-104-B

KENNETH RUSSELL BUTTERWORTH, JR.,
et al.,

Defendants.

NUNC PRO TUNC ORDER

The scrivener's error in the Order of the Court dated and filed December 11, 1978, should be corrected to reflect that the sentence of Kenneth Russell Butterworth, Jr., imposed November 29, 1978, was to thirty-six months on the condition that the said Defendant be confined in a jail-type institution for a period of three months and the execution of the remainder of the sentence was suspended and the Defendant placed on probation for thirty-three months. Execution of the sentence was deferred until 9:30 a.m. Wednesday, December 6, 1978. Said sentence was incorrectly transcribed from a co-defendant's Judgment and Commitment Order in the Order of December 11, 1978.

The Court has reviewed the motion, file, and objection by the Government to the Rule 35 motion for modification of sentence of Kenneth Russell Butterworth, Jr., and being fully advised in the premises finds that under the circumstances before the Court the sentence as originally imposed November 29, 1978, is lenient and proper and should not be reduced.

IT IS, THEREFORE, ORDERED that the scrivener's error in the Court's Order of December 11, 1978, regarding the sentence imposed November 29, 1978, upon Kenneth Russell Butterworth, Jr., be and it is hereby corrected.

IT IS FURTHER ORDERED that the motion for discretionary modification of sentence pursuant to Rule 35, Federal Rules of Criminal Procedure, of Kenneth Russell Butterworth, Jr., be and it is hereby overruled.

Dated this 12th day of December, 1978, at Tulsa, Oklahoma.

Allen E. Barrow

CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

DEC 11 1978

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

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)	
	Plaintiff,)
v.)	NO. 78-CR-104-B
)	
KENNETH RUSSELL BUTTERWORTH, JR.,)	
et al.,)	
	Defendants.)

ORDER

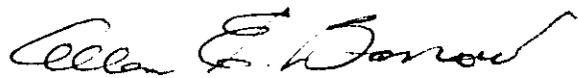
The Court has for consideration the motion for discretionary modification of sentence pursuant to Rule 35, Federal Rules of Criminal Procedure, made by counsel on behalf of the Defendant, Kenneth Russell Butterworth, Jr.

Having carefully reviewed the motion, file, and opposition of the prosecution, the Court, being fully advised in the premises, finds that the Rule 35 motion should be overruled.

Defendant Butterworth was sentenced November 29, 1978, to the maximum period of fifteen years pursuant to 18 U.S.C. § 4205(d) for study and report to the Court, said sentence subject to modification at the time of definitive sentence in accordance with 18 U.S.C. § 4205(c). Execution of the sentence was deferred to December 6, 1978. The Court declines to reduce the sentence prior to review of the § 4205 report and definitive sentence.

IT IS, THEREFORE, ORDERED that the motion for discretionary modification of sentence pursuant to Rule 35, Federal Rules of Criminal Procedure, of Kenneth Russell Butterworth, Jr., be and it is hereby overruled.

Dated this 11th day of December, 1978, at Tulsa, Oklahoma.



CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA