

DEFENDANT

PETE DONATHAN

DOCKET NO.

79-CR-42-C

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	DAY	YEAR
3	28	79

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

Larry McSoud

(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, 21, U.S.C., Sections 111, 120, 122 & Title, 18, U.S.C., Section 2.

Interstate transportation of brucellosis affected cattle without permit

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

sentenced to pay fine in the sum of \$250.00

FILED

MAR 28 1979

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

By

( ) CLERK

U.S. Magistrate

Date

3-28-79

( ) DEPUTY

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

United States of America

vs.

PETE DONATHAN and  
DEAN REED,

Criminal No. 79-CR-17-B

FILED

MAR 28 1979

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

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal  
Procedure and by leave of court endorsed hereon the United States  
Attorney for the Northern District of Oklahoma  
hereby dismisses the Indictment against  
(indictment, information, complaint)  
Pete Donathan & Dean Reed defendants.

*Kenneth P. Smock*  
Asst. United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

*John Salebrook*  
United States District Judge

Date: *March 28, 1979*

DEFENDANT

BRUCE BALDWIN

DOCKET NO.

79-CR-20-C

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 3 DAY 20 YEAR 79

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

Larry Oliver, Retained

(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, his bond is exonerated and Count 1 of the Indictment is dismissed, as to this defendant.

GUILTY.

Defendant has been convicted as charged of the offense(s) of

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

FILED

MAR 20 1979

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

SIGNED BY

U.S. District Judge

H. DALE COOK

THIS DATE

By

CLERK

DEPUTY

U.S. Magistrate

Date 3-20-79

DEFENDANT

MERRY GLENN McFARLAND

DOCKET NO. 79-CR-20-C

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	DAY	YEAR
3	20	79

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

Thomas Dee Frasier, Retained

(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, HIS bond is exonerated and Count 2 of the Indictment is dismissed, as to this defendant.

Defendant has been convicted as charged of the offense(s) of

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

FILED

MAR 20 1979

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

H. DALE COOK

Date 3-20-79

By

( ) CLERK

( ) DEPUTY

U.S. Magistrate

DEFENDANT

THOMAS JEROME GRESHAM

DOCKET NO.

79-CR-20-C

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	DAY	YEAR
3	20	79

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

Thomas Dee Frasier, Retained

(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, his bond is exonerated and Count 3 of the Indictment is dismissed, as to this defendant.

GUILTY.

Defendant has been convicted as charged of the offense(s) of

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

MAR 20 1979

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

E. DALE COOK

Date 3-20-79

By

( ) CLERK

( ) DEPUTY

U.S. Magistrate

DEFENDANT

RONALD PRESTON HERWIG

DOCKET NO. 79-CR-20-C

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 3 DAY 20 YEAR 79

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 Thomas Dee Frasier, Retained (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, his bond is exonerated and Counts 1 and 2 of the Indictment are dismissed, as to this defendant.

Defendant has been convicted as charged of the offense(s) of

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

FILED

MAR 20 1979

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

H. DALE COOK

By

( ) CLERK

U.S. Magistrate

Date 3-20-79

( ) DEPUTY

DEFENDANT

GENE PAUL KING

DOCKET NO.

79-CR-20-C

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 3 DAY 20 YEAR 79

[X] 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

Larry Oliver, Retained

(Name of counsel)

PLEA

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

[ ] NOLO CONTENDERE,

[X] NOT GUILTY

FINDING & JUDGMENT

There being a ~~guilty~~ verdict of

[X] NOT GUILTY. Defendant is discharged, his bond is exonerated and Count 1 of the Indictment is dismissed as to this defendant. [ ] GUILTY.

Defendant has been convicted as charged of the offense(s) of

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

FILED

MAR 20 1979

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

[X] U.S. District Judge

H. DALE COOK

[ ] U.S. Magistrate

Date 3-20-79

By

( ) CLERK

( ) DEPUTY

FILED

UNITED STATES DISTRICT COURT

MAR 16 1979

Northern District of Oklahoma

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

United States of America

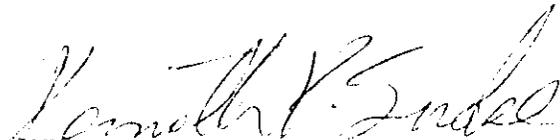
Criminal No. 79-CR-19-B

vs.

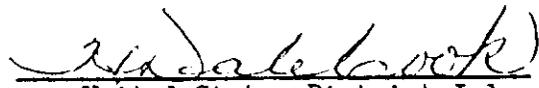
DAVID MARK KATZ

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses the Indictment against (indictment, information, complaint) David Mark Katz defendant.

  
Asst. United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

  
United States District Judge

Date: March 15, 1979

FILE

MAR 16 1979

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

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

United States of America )  
vs. )  
ANDREW CARNOT EASLEY )

Criminal No. 75-CR-88

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses the Indictment against (indictment, information, complaint) Andrew Carnot Easley, defendant.

HUBERT H. BRYANT

Hubert H. Bryant  
United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

W. Dale Cook  
United States District Judge

Date: March 16, 1979

DOJ

/mt

FORM OBD-113

8-27-74

FILED

UNITED STATES DISTRICT COURT

MAR 16 1979

Northern District of Oklahoma

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

United States of America  
vs.  
OWEN BEN POLLEY

Criminal No. 71-CR-43

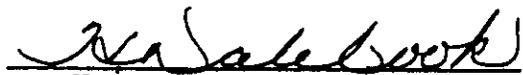
ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses the Indictment against (indictment, information, complaint) Owen Ben Polley, defendant.

HUBERT H. BRYANT

  
United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

  
United States District Judge

Date: March 16, 1979

DOJ

/mt

FORM OBD-113

8-27-74

v

MAR 15 1979

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-406
	)	77-CR-139
DONA MARIE HERRINGTON,	)	
Defendant-Movant.	)	

O R D E R

The Court has for consideration the motion pursuant to 28 U.S.C. § 2255 filed pro se by Dona Marie Herrington. The cause has been assigned civil Case No. 78-C-406 and docketed in her criminal Case No. 78-CR-19.

Movant is a prisoner at the Federal Correctional Institution, Fort Worth, Texas, serving a sentence of three years' imprisonment following conviction on a plea of guilty to Counts One, Four and Nine of a nine-count indictment. Counts One and Four, each, charged possession of a check knowingly stolen from the mail in violation of 18 U.S.C. § 1708, and Count Nine charged uttering and publishing a check known to be falsely made and forged in violation of 18 U.S.C. § 495. She was sentenced April 6, 1978, to the maximum for study and report pursuant to 18 U.S.C. § 4205. After receipt of the § 4205 report, definitive sentence was imposed July 11, 1978, to three years' imprisonment as to each of Counts One and Four, the sentence on Count Four to run concurrently with the sentence on Count One. On Count Nine, the imposition of sentence was suspended and she was placed on three years' probation to follow her incarceration on Counts One and Four.

As grounds for her § 2255 motion, Movant claims that she is being deprived of her liberty in violation of her rights guaranteed by the Constitution of the United States in that:

1. Her plea was unlawfully induced and not made voluntarily with her understanding of the nature of the charge or consequences of the plea.
2. She was denied compulsory process to obtain witnesses favorable to her.
3. The sentence imposed is cruel and unusual.

The United States District Judge who conducted the plea and sentencing proceedings is deceased, but as a regularly assigned judge of

this Court having carefully reviewed the motion, response and supplement thereto, file and transcript of the plea and sentence, and being fully advised in the premises, the Court finds that no evidentiary hearing is required and the § 2255 motion is without merit and should be overruled.

Review of the plea and sentencing transcript supports that Movant had sufficient present ability to consult with her lawyer with a reasonable degree of rational understanding and she had a rational, as well as, a factual understanding of the proceedings against her. Her plea of guilty was in full conformity with Rule 11, Federal Rules of Criminal Procedure, and constitutional safeguards. The charges and maximum possible sentence were fully explained to the Movant by the sentencing court. She, under oath to answer truthfully, stated that she understood her right to jury trial, at which she had a right to counsel, to confront and cross-examine the witnesses against her, and not to be compelled to incriminate herself; and she freely and knowingly waived those rights, understanding that by the waiver she would have no trial but that her innocence or guilt would be determined by the Court. She was in no way denied compulsory process to obtain witnesses in her favor, but chose to plead guilty while represented by able and competent counsel rather than have a trial. She admitted that her plea of guilty was made voluntarily and completely of her own free choice, that she had not been forced or threatened in any way to plead guilty, and that she was satisfied with the services of her attorney. The plea agreement that upon the Court's acceptance of Movant's plea of guilty to Counts One, Four and Nine, the other six counts would be dismissed appears of record and Movant admitted that the agreement was as she understood it. Further, Movant appeared before the Court for plea with a broken leg and she made known to the Court that she was taking Codeine for pain, and claimed that she had taken Mellaril and Benadryl for some time because she suffered from "leukemia". The Court examined as to whether the medication was in any way affecting her ability to understand the plea proceedings. Movant admitted that the checks involved were taken from a mailbox, signed and cashed as charged in the indictment with her knowing it was against the law to do so. Movant as a final admission

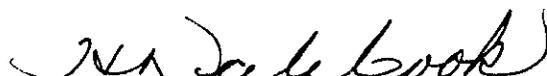
stated, "Well, I did it because I was forced to." without further explanation as to the reason for her commission of the crimes. (See, plea transcript pp. 4-14)

Statements given at a Rule 11 proceeding should be given conclusive effect in the absence of a believable reason justifying a departure from the apparent truth of those statements. Hedman v. United States, 527 F.2d 20 (10th Cir. 1975); United States v. Bambulos, 571 F.2d 525 (10th Cir. 1978). See also, United States v. Stassi, 583 F.2d 122 (3rd Cir. 1978). A plea of guilty is a solemn act not to be disregarded because of belated misgivings about the wisdom of the same. United States v. Woosley, 440 F.2d 1280 (8th Cir. 1971); Chaney v. United States, No. 76-1116 Unreported (10th Cir. filed Jan. 4. 1977).

The sentence imposed was well within the maximum provided by law. Such a sentence is not subject to attack on the ground of severity in a direct appeal or a collateral proceeding. Randall v. United States, 324 F.2d 726 (10th Cir. 1963).

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

Dated this 15<sup>th</sup> day of March, 1979, at Tulsa, Oklahoma.

  
H. DALE COOK, CHIEF JUDGE  
UNITED STATES DISTRICT COURT

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

MAR 15 1979

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

MITCHELL K. START, )  
 )  
 ) Defendant-Movant, )  
 )  
 ) v. )  
 )  
 ) UNITED STATES OF AMERICA, )  
 )  
 ) Plaintiff-Respondent. )

NOS. 79-C-1  
78-CR-96

O R D E R

The court has for consideration a motion filed pro se by Mitchell K. Stark. The cause has been assigned civil Case No. 79-C-1 and docketed in his criminal Case No. 78-CR-96.

Movant is a prisoner at the Stringtown Correctional Center, Stringtown, Oklahoma, serving a sentence from the State of Oklahoma. Movant states on page No. 6 of his motion, "I am not being held unlawfully, I am merely asking the Court to run my Federal Sentence concurrent with my State Sentence". To support this request, he asserts that he entered his pleas of guilty to the federal charges upon agreement with the U. S. Attorney that if he pled guilty to Counts V and VI of the indictment the first four counts would be dismissed and the U. S. Attorney would agree not to oppose defendant's request that any federal sentence run concurrently with the state sentence he was serving. Movant contends that this concurrency part of the plea agreement was not kept in that it was not mentioned to the court at sentencing.

The United States District Judge who conducted the plea and sentencing proceedings is deceased, but as a regularly assigned judge of this court and having carefully reviewed the file and proceedings to date, the court finds that no response or evidentiary hearing is required herein. The motion considered as a request for reduction of sentence pursuant to Rule 35, Federal Rules of Criminal Procedure, is timely filed within 120 days of the date of sentence. The motion, giving it the liberal construction required of pro se proceedings, McKinney v. Taylor, 344 F.2d 854 (10th Cir. 1965); Chase v. Crisp, 523 F.2d 595 (10th Cir. 1975) cert. denied 424 U. S. 947 (1976), may be and is also considered as a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. As either, a § 2255 or Rule 35 motion, it is without merit and should be overruled.

Movant in the federal prosecution was charged by six-count indictment with false statements in the acquisition of a firearm in violation of 18 U.S.C. § 922(a)(6) in each of Counts I, III and VI; and with receiving a firearm transported in interstate commerce after conviction of a felony in violation of 18 U.S.C. §§ 922(h) and 924(a) in each of Counts II, IV and V. He pled guilty to Counts V and VI, and Counts I, II, III and IV were dismissed upon the U. S. Attorney's motion pursuant to Rule 48(a), Federal Rules of Criminal Procedure. Movant was sentenced November 15, 1978, on Count V to five years, eligible for parole as the Parole Commission might determine pursuant to 18 U.S.C. § 4205(b)(2) after one year which Movant should use to learn a trade. On Count VI, the imposition of sentence was suspended and the Movant was placed on three years' probation to commence on expiration of the sentence in Count V. There was no appeal.

At the plea of guilty on October 10, 1978, the government and defense attorneys informed the trial court of the plea agreement, and the Defendant (Movant herein) admitted that the agreement was accurately stated by counsel and as he understood it. The agreement of record was that in return for the plea of guilty to Counts V and VI of the indictment, and the court's acceptance thereof, the government would move for dismissal of Counts I, II, III and IV. Further, the prosecutor admitted that the government had agreed not to oppose the recommendation of the defense for a sentence to no more than seven years to run concurrently with a seven-year sentence the Defendant was serving in the State of Oklahoma, but both counsel recognized in the presence of the Defendant in open court that the court was not bound by any agreement regarding the sentence to be imposed. Immediately upon this colloquy, the sentencing judge explained to the Defendant that the court had not participated in any way in the plea bargaining and was not bound by any plea agreement. The court stated in part:

"I'll say this, I'll accept on the record your part of the plea agreement that the government will not suggest any particular sentence, and you may suggest a particular sentence, but I'll say at this time the court is not going to accept the plea agreement until I see his presentence report."

The Defendant was given the opportunity to proceed with his plea or withdraw it. Defendant chose to go forward with the plea knowing and understanding that the agreement as to sentence was not binding on the court

and thereby freely, with knowledge and understanding, waived the sentencing recommendation part of the plea agreement by the government.

Nevertheless, at sentencing, defense counsel again requested a sentence as set out in the plea agreement stated of record at the change of plea. Government counsel did not oppose this recommendation, but stated the government would stand on the presentence report. It might well have been better for government counsel to have reiterated that pursuant to the plea agreement of record at the change of plea the government was bound not to oppose the recommendation, and such failure of exact or specific performance would usually require vacation of the judgment and sentence and permit the Defendant to plead anew. See, Santobello v. New York, 404 U. S. 257 (1971). However, in the circumstances before the court, where Rule 11, Federal Rules of Criminal Procedure, and constitutional safeguards were fully met, where the Defendant was advised by the court prior to his plea that the recommended sentence part of the plea agreement was not binding on the court, was informed of the maximum sentence for the crimes charged, was advised that the court could impose any sentence so long as it did not exceed the maximum provided by law, and the Defendant was given the opportunity to withdraw his plea of guilty or go forward as he chose, this court finds no breach of the plea agreement that would invalidate the plea.

Although sentences on federal charges in separate counts, or in separate cases, are presumed to run concurrently absent specific provisions to the contrary, Owensby v. United States, 385 F.2d 58 (10th Cir. 1967); Subas v. Hudspeth, 122 F.2d 85 (10th Cir. 1941), this rule of "presumptive concurrence" is not applicable where one sentence is imposed by a state court and the other by a federal court. Verdigo v. Willingham, 198 F.Supp. 748 (M.D.Pa. 1961) affirmed 295 F.2d 506 (3rd Cir. 1961); Gomori v. Arnold, 533 F.2d 871 (3rd Cir. 1976); also see, Joslin v. Moseley, 420 F.2d 1204 (10th Cir. 1969). Further, pursuant to 18 U.S.C. § 3568 and § 4082(A), the Attorney General has the exclusive power to designate the place where federal sentences shall be served. Stillwell v. Looney, 207 F.2d 359 (10th Cir. 1953); Werntz v. Looney, 208 F.2d 102, 103 n. 2 (10th Cir. 1953). The Tenth Circuit Court of Appeals has held that the place of confinement is no part of the sentence, but is a matter for the determination of the Attorney General; and therefore, that it is

beyond the power of a federal court to order that its sentence be served concurrently with a state sentence. The concurrency language is surplusage or a recommendation as to place of confinement. Bowen v. United States, 174 F.2d 323 (10th Cir. 1949); Joslin v. Moseley, 420 F.2d 1204 (10th Cir. 1969); Sluder v. Malley, No. 77-1454 unpublished (10 Cir. filed Dec. 22, 1977). The Attorney General has the discretion, may, and frequently does, honor the recommendation that the federal sentence be served concurrently with a state sentence in a state institution. See, Stillwell v. Looney, Supra.; Werntz v. Looney, Supra. However, the Attorney General is under no obligation to do so and could disregard the sentencing court's recommendation. See, Bowen v. United States, Supra. Therefore, in the matter before the court, the sentencing judge having been fully informed as to the plea agreement, and the intent of his sentence being clear from the proceedings that he wished the federal sentence to follow the state sentence in hopes that the Movant would become skilled in a trade and be able to avoid future conflicts with the law, this court declines to reduce the sentence.

IT IS, THEREFORE, ORDERED that the motion of Mitchell K. Stark considered as pursuant to 28 U.S.C. § 2255 to vacate sentence as well as considered pursuant to Rule 35, Federal Rules of Criminal Procedure, for reduction of sentence be and it is hereby overruled.

Dated this 14<sup>th</sup> day to March, 1979, at Tulsa, Oklahoma.

  
H. DALE COOK, CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DEFENDANT

RANDALL R. MILLER

DOCKET NO. 78-CR-135-C

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 3 DAY 14 YEAR 79

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

P. Thomas Thornbrugh, Retained

(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, his bond is

exonerated, and the Indictment is dismissed.

SENTENCE OR PROBATION ORDER

FILED

MAR 14 1979

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

H. DALE COOK

THIS DATE

By

U.S. Magistrate

Date 3-14-79

( ) CLERK ( ) DEPUTY

DEFENDANT

WILLIAM LYNN ADAMS

DOCKET NO.

78-CR-104-02-C

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 3 DAY 13 YEAR 79

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 John Tanner, Retained (Name of counsel)

FILED

PLEA

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

MAR 13 1979

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 Title 21, U.S.C., Section 841(a)(1), as charged in Count Four 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:

Count Four - The imposition of sentence is hereby suspended and the defendant is placed on probation for a period of Five (5) Years from this date.

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

Date 3-13-79

By

( ) CLERK

( ) DEPUTY

U.S. Magistrate

DEFENDANT

LEOBARDO MARQUEZ-SALAZAR

DOCKET NO. 77-CR-39-C

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 3 DAY 13 YEAR 79

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.

X WITH COUNSEL

Michael L. Fought, Retained

(Name of counsel)

FILED

PLEA

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

NOLO CONTENDERE,

NOT GUILTY

MAR 13 1979

There being a finding of

NOT GUILTY. Defendant is discharged

X 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 8, U.S.C., Section 1326, as charged in the Information.

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 imposition of sentence is hereby suspended and the defendant is placed on probation for a period of Five (5) Years from this date.

SPECIAL CONDITIONS OF PROBATION

A special condition of probation is that the defendant shall return to his native country, Mexico, within six (6) months from this date, and in the event during that period of time the Immigration Authorities determine that the defendant is entitled to remain in this country, the Court will reconsider the Order 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

H. DALE COOK

U.S. Magistrate

THIS DATE

By

Date 3-13-79

( ) CLERK

( ) DEPUTY

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

United States of America

vs.

EASKER J. BROOKS

Criminal No. 79-CR-28-B ✓

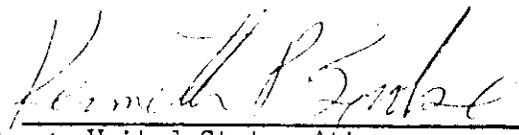
ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses the Counts I and III of Indictment against (indictment, information, complaint) Easker J. Brooks defendant.

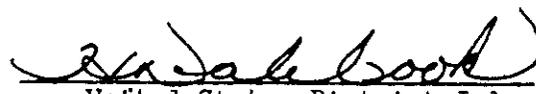
FILED

MAR 12 1979 ✓

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

  
Asst. United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

  
United States District Judge

Date: March 12, 1979

DOJ

FORM OBD-113

8-27-74

V  
V

UNITED STATES DISTRICT COURT

NORTHERN District of OKLAHOMA

United States of America )  
vs. )  
William James Reeder, )  
et. al. )

Criminal No. 78-CR-90 ✓

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses the Indictment against (indictment, information, complaint) Robert Henderson (only) defendant.

FILED

MAR 12 1979

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

*Kenneth P. Smith*  
Asst United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

*W. Dale Book*  
United States District Judge

Date: *March 12, 1979*

DEFENDANT

WALTER RAYMOND MULLINS

DOCKET NO. 78-CB-98-C

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 3 DAY 12 YEAR 79

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

Jim Lindsey, Retained

(Name of counsel)

FILED

PLEA

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

NOLO CONTENDERE,

NOT GUILTY

MAR 12 1979

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 Title 26, U.S.C., Section 5861(d), as charged in the Indictment.

THE COURT FINDS that the defendant was 19 years of age at the time of conviction but does not now need to be committed for treatment.

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

treatment and supervision pursuant to Title 18, U.S.C., Section 5010(b) until discharged by the U. S. Parole Commission as provided by law; the execution of sentence is hereby suspended and the defendant is placed on probation for Two (2) Years from this date.

SPECIAL CONDITIONS OF PROBATION

In addition to the usual conditions of probation, the defendant is to be referred to a Community Treatment Center or some other appropriate treatment center.

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

H. DALE COOK

THIS DATE

By

Date 3-12-79

( ) CLERK

( ) DEPUTY

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

United States of America

vs.

RED M. CAIN, et al.,

Criminal No. 78-CR-128 ✓

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses the Indictment against (indictment, information, complaint) Leon Johnson defendant.

FILED

MAR 12 1979

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

Kenneth P. Simko  
Asst. United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

W. Dale Book  
United States District Judge

Date: March 12, 1979

DEFENDANT

HOWARD C. THORSTON

DOCKET NO.

79-CR-23-C

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
3	12	79

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 S. Thomas Coleman, Ct. appointed FILED (Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea, NOLO CONTENDERE, NOT MARTYR 1979

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., Sections 1708 and 495, as charged in Counts one and 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

Counts 1 and 2 - The imposition of sentence is suspended and the defendant is hereby placed on probation for a period of Three (3) years as to each count, count two to run concurrently with probation imposed in Count one.

SPECIAL CONDITIONS OF PROBATION

A SPECIAL CONDITION of probation is that the defendant make restitution.

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

3-12-79

Date

By

( ) CLERK

( ) DEPUTY

U.S. Magistrate

DEFENDANT

JAMES MATTHEW PEBSWORTH

DOCKET NO. 79-CR-22

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

Table with columns MONTH, DAY, YEAR and values 3, 12, 79

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 David Ashbaugh, Retained (Name of counsel)

FILED

PLEA

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

MAR 12 1979

There being a finding 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 26, U.S.C., Sections 5861(d), 5871 and 5861(f), as charged in Counts One and Two of the Indictment.

IT IS THE FINDING OF THE COURT that the defendant was 18 years of age at the time of conviction but does not now need to be committed for treatment.

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

Counts 1 and 2 - For treatment and supervision pursuant to Title 18, U.S.C., Section 5010(b) until discharged by the U. S. Parole Commission as provided by law; the execution of sentence is hereby suspended and the defendant is placed on probation as to Counts 1 and 2 for a period of Two (2) Years from this date; said probation imposed in Count 2 to run concurrently with the probation imposed in Count 1.

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

( ) CLERK

U.S. Magistrate

Date 3-12-79

( ) DEPUTY

DEFENDANT

JERRY LAVON BORDEN

79-CR-2-C

DOCKET NO. →

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 DAY YEAR  
3 12 79

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 Robert W. Booth, Retained

(Name of counsel)

FILED

PLEA

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

NOLO CONTENDERE,

NOT GUILTY

MAR 12 1979

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 Title 18, U.S.C.,  
Section 471, 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

**TWO (2) YEARS.**

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  
RECOMMEN-  
DATION

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. Mar-  
shal or other qualified officer.

CERTIFIED AS A TRUE COPY ON

THIS DATE \_\_\_\_\_

SIGNED BY

U.S. District Judge

By \_\_\_\_\_

U.S. Magistrate

Date 3-12-79

( ) CLERK

( ) DEPUTY

DEFENDANT

BERNARD JOHN HINDERMAN

DOCKET NO. 78-CR-112-C

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 3 DAY 12 YEAR 79

COUNSEL

[X] 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 Mr. Hinderman appeared pro se (Name of counsel)

PLEA

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

FINDING & JUDGMENT

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

Defendant has been convicted as charged of the offense(s) of having violated Title 26, U.S.C., Section 7205, 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

SIX (6) MONTHS

FILED

MAR 12 1979

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 [X] U.S. District Judge

By

[ ] U.S. Magistrate

Date 3-12-79

( ) CLERK ( ) DEPUTY

*Copy*

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

United States of America

Criminal No. 79-CR-28-B

vs.

EASKER J. BROOKS

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses the Counts I and III of Indictment against (indictment, information, complaint) Easker J. Brooks defendant.

**FILED**

**MAR 12 1979**

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

*Kenneth F. Snobe*  
Asst. United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

*W. Dale Brooks*  
United States District Judge

Date: *March 12, 1979*





DEFENDANT

FANNIE HURT

DOCKET NO.

79-CR-27-C

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 3 DAY 12 YEAR 79

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

Bruce Harlton, Retained

(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 1001, 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 Imposition of sentence is suspended and the defendant is hereby placed on probation for a period of Four (4) years from this date.

SPECIAL CONDITIONS OF PROBATION

A SPECIAL CONDITION of probation is that the defendant make full restitution.

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

Date

3-12-79

By

( ) CLERK

( ) DEPUTY

60



imprisonment not to exceed five years, or both fine and imprisonment. In addition, the Court would be required to impose a special parole term of two years. Do you understand?

Heller: Yes Sir.

Court: Is this a first offense?

Heller: No Sir.

Court: Is there a previous offense, is that true Mr. Snoke?

Snoke [Prosecutor]: I don't believe a drug offense.

Heller: Not a drug offense.

Court: I am saying if this is the first drug offense.

Snoke: Yes Sir.

Court: All right, how old are you Mrs. Heller?

Heller: Twenty-three.

Court: I would want you to also know because of your age, being 23, there is another section of the statute that the Court might, I don't know what the Court would do, but it's possible the Court might decide to sentence under what we call the Youth Corrections Act, and you should be informed that the maximum period of imprisonment that could be imposed under that Act is six years, six years. Under the substantive act as I just told you, the maximum period of imprisonment would be five years. If the Court chose to utilize the Youth Corrections Act, it could be six years. That's maximum, do you understand?

Heller: Yes sir.

Court: All right, do you have any questions now concerning what the maximum penalty could be or the consequence of a plea could be?

Heller: No, I have no questions."

It appears from the above proceedings that petitioner voluntarily entered a plea of guilty after being fully informed of the maximum penalty, contrary to her contentions in the § 2255

motion now before the Court.

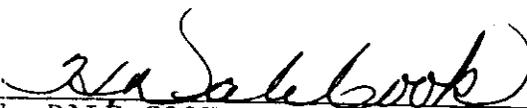
The Ninth Circuit considered a similar situation in U.S. v. Tweedy, 419 F.2d 192 (9th Cir. 1969):

"Normally, an evidentiary hearing must be held where a § 2255 motion raises factual allegations, unless the 'files and records of the case conclusively show that the prisoner is entitled to no relief.' [citations omitted] Moreover, the transcript of the proceedings on plea and sentence may not be conclusive. [citations omitted] Thus, a defendant might solemnly affirm to the court that his plea had not been induced by promises of leniency because he thought that this was all part of the game, and that honest answers would destroy the deal. He might even keep silent after the judge had pronounced a more severe sentence than expected because he might think that it was then too late to withdraw his plea.  
. . .

On the other hand, where the question is, was he given certain information, and the transcript unequivocally shows that he was, this can normally be treated as conclusive." Id. at 193.

The challenge raised by petitioner is that she was not given certain information, but the record of the proceedings shows that she was. Thus, petitioner's bare (and incorrect) allegation that she was not given this information is insufficient to move this Court to act further on her behalf. Accordingly, her motion to vacate her sentence in the above-styled cause of action is hereby overruled.

It is so Ordered this 7<sup>th</sup> day of March, 1979.

  
H. DALE COOK  
United States District Judge

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

United States of America

vs.

BEATRICE RUBINOWITZ,

Criminal No. 79-CR-18-B

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses the Indictment against (indictment, information, complaint) Beatrice Rubinowitz defendant.

**FILED**

MAR 6 1979

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

Al Kenneth P. Inoke  
Asst. United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

W.H. Dale Cook  
United States District Judge

Date: March 6, 1979

FILED

UNITED STATES DISTRICT COURT

MAR 2 1979

NORTHERN District of OKLAHOMA

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

United States of America )  
vs. )  
Freddie D. Smith )

Criminal No. 74-CR-86

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses ~~the~~ Count II only of the Indictment against (indictment, information, complaint) Freddie D. Smith defendant, pursuant to the opinion of the Tenth Circuit Court of Appeals filed January 18, 1979, in Case No. 78-1760.

*S/ Hubert W. Bryant*  
United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

(Signed) H. Dale Cook

United States District Judge

Date: March 2, 1979

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

FILED

MAR 2 1979

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
RANDALL R. MILLER, )  
 )  
Defendant. )

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

CRIMINAL NO. 78-CR-135-B

O R D E R

This Court has for consideration defendant's pretrial Motion to Dismiss the Indictment. The Court has reviewed the file, the briefs and all of the recommendations concerning the motions, and being fully advised in the premises, finds:

That the defendant's Motion to Dismiss the Indictment should be denied for the following reasons:

Counsel for defendant was heard on his Motion to Dismiss the Indictment. There has been no showing that the Government singled the defendant out for prosecution based upon "arbitrary, invidious and unjustifiable standards." The Court finds there is no basis for finding that the indictment was based upon unreliable evidence or that the Government did or did not present exculpatory evidence to the grand jury as no evidence was taken at the hearing on the Motion to Dismiss. The Court finds that the defendant was invited to appear before the grand jury and availed himself of that opportunity and thus was provided with the opportunity to present exculpatory evidence on his behalf.

IT IS, THEREFORE, ORDERED that the Motion to Dismiss the Indictment be and is hereby denied.

Dated this 2<sup>ND</sup> day of March, 1979.

(Signed) H. Dale Cook

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

FILED

UNITED STATES DISTRICT COURT

MAR 2 1979

Northern District of Oklahoma

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

United States of America

Criminal No. 79-CR-7-B

vs.

Debra Richaun Redic

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses ~~the~~ Counts II and III of the indictment against (indictment, information, complaint)  
Debra Richaun Redic defendant.

*William H. Bryant*  
United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

*Ed Salebrook*  
United States District Judge

Date: March 2, 1979

FILED

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

MAR 2 1979

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

United States of America  
vs.  
Elaine Oakley

Criminal No. 79-CR-8-B

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses ~~the~~ Counts II and III of the indictment against (indictment, information, complaint) Elaine Oakley defendant.

*William H. Bennett*  
United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

*W. Dale Cook*  
United States District Judge

Date: *March 2, 1979*

FILED

UNITED STATES DISTRICT COURT

Northern District of Oklahoma

MAR 2 1979

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

United States of America  
vs.  
Gary Wayne McClain

Criminal No. 79-CR-9-B ✓

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses ~~the~~ Counts II, III and IV of the indictment against (indictment, information, complaint) Gary Wayne McClain defendant.

*William H. Benjamin*  
United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

*W. Dale Cook*  
United States District Judge

Date: MARCH 2, 1979

FILED

UNITED STATES DISTRICT COURT

MAR 2 1979

Northern District of Oklahoma

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

United States of America  
vs.  
Charles Eugene Griffin

Criminal No. 79-CR-9-B ✓

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon the United States Attorney for the Northern District of Oklahoma hereby dismisses ~~the~~ Counts II and III of the indictment against (indictment, information, complaint) Charles Eugene Griffin defendant.

*William H. Bryant*  
United States Attorney

Leave of court is granted for the filing of the foregoing dismissal.

*W. Dale Cook*  
United States District Judge

Date: March 2, 1979