

United States District Court

NORTHERN

District of

OKLAHOMA

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Jean Simpson

Case Number: 90-CR-153-C

(Name of Defendant)

Richard Couch

Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) Three of the Indictment
- was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
42:408(e)	Conversion of Social Security Benefits	February 2, 1990	3

FILED

JUN 26 1991

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

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).
- Count(s) One and Two of the Indictment (is/are) dismissed on the motion of the United States.
- It is ordered that the defendant shall pay a special assessment of \$ 50, for count(s) Three of the Indictment, which shall be due immediately as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 444-50-2649

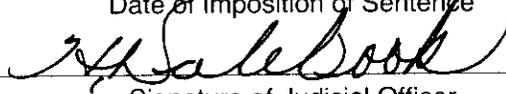
Defendant's Date of Birth: May 24, 1950

June 19, 1991

Date of Imposition of Sentence

Defendant's Mailing Address:

747 E. 34th Street North



Signature of Judicial Officer

Tulsa, Oklahoma

United States District Court)
Northern District of Oklahoma)

H. Dale Cook, Chief U. S. District Judge

Name & Title of Judicial Officer

Defendant's Residence Address:

I hereby certify that the foregoing is a true copy of the original on file in this Court.

June 19, 1991

Same

Jack C. Silver, Clerk

Date

By [Signature]
Deputy

Defendant: Jean Simpson
Case Number: 90-CR-153-C

Judgment—Page 2 of 5

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 15 months

The court makes the following recommendations to the Bureau of Prisons:

- The defendant is remanded to the custody of the United States marshal.
- The defendant shall surrender to the United States marshal for this district,

- at 9:00 ^{a.m.} ~~p.m.~~ on July 15, 1991
- as notified by the United States marshal.

- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,
 - before 2 p.m. on _____
 - as notified by the United States marshal.
 - as notified by the probation office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____

_____, with a certified copy of this judgment.

United States Marshal

By _____
Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of _____
three years

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.
- The defendant shall not possess a firearm or destructive device.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) You shall submit to urinalysis as directed by the U. S. Probation Officer.

Defendant: Jean Simpson
Case Number: 90-CR-153-C

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Social Security Administration P. O. Box 21558 Tulsa, Oklahoma 74121	\$7,819.00

Payments of restitution are to be made to:

- the United States Attorney for transfer to the payee(s).
- the payee(s).

Restitution shall be paid:

- in full immediately.
- in full not later than _____.
- in equal monthly installments over a period of _____ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.
- in installments according to the following schedule of payments:
as directed by the probation officer.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

FORFEITURE

The defendant is ordered to forfeit the following property to the United States:

Defendant: Jean Simpson
Case Number: 90-CR-153-C

Judgment—Page 5 of 5

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

OR

The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 9

Criminal History Category: IV

Imprisonment Range: 12 to 18 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 15,742 to \$ 48,726

Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ 7,819

Full restitution is not ordered for the following reason(s):

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

upon motion of the government, as a result of defendant's substantial assistance.

for the following reason(s):

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

FILED

JUN 26 1991 *jm*

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 CHARLES OWEN WILLIAMSON, JR.,)
)
 Defendant.)

No. 87-CR-138-C ✓

ORDER

Before the Court is the defendant's "traverse" to the Report and Recommendation of the United States Magistrate Judge, in which defendant's motion pursuant to 28 U.S.C. §2255 was recommended to be denied in part and set for evidentiary hearing as to the remainder.

Three issues are raised by the motion: (1) ineffective assistance of counsel; (2) movant was mentally incompetent at the time he entered his guilty plea, and (3) selective prosecution. Each issue will be addressed in turn.

Regarding ineffective assistance of counsel, the Magistrate Judge correctly set forth the two-part test of Strickland v. Washington, 466 U.S. 668 (1984), that movant must show both that his attorney's performance fell below an objective standard of reasonableness and that, but for the counsel's inadequacies, the result of the proceedings would have been different. See Tapia v. Tansy, 926 F.2d 1554, 1564 (10th Cir. 1991). The Strickland test

applies to guilty plea challenges based on ineffective assistance of counsel. Hill v. Lockhart, 474 U.S. 52, 58 (1985). Initially, the Court must determine if a counseled guilty plea is based on advice which "[is] within the range of competence demanded of attorneys in criminal cases." Id. at 56. The second part of the Strickland test is met if "there is a reasonable probability that, but for counsel's errors, [the defendant] would not have pleaded guilty and would have insisted on going to trial." Id. at 59. Defendant asserts that his court-appointed counsel should have raised defendant's documented mental conditions as a defense. The Magistrate Judge recommended denial of this aspect of the motion, based solely on the record. It is true that conclusory allegations cannot satisfy the prejudice prong of Strickland. See United States v. Mealy, 851 F.2d 890, 908 (7th Cir. 1988). Further, to receive an evidentiary hearing, movant must do more than make unsupported legal conclusions with no factual support. See Eskridge v. United States, 443 F.2d 440, 443 (10th Cir. 1971). The Magistrate Judge found it apparent from the transcript of the Change of Plea that defendant and his counsel had discussed the possible mental incompetency defense. Upon review of the record, the Court agrees. The decision not to present such a defense falls within the constitutionally protected independence of counsel to make tactical decisions. Further, there is insufficient evidence that the defense likely would have succeeded at trial. Hill, 474 U.S. at 59. See also Figueroa-Vazquez v. United States, 718 F.2d 511 (1st Cir. 1983).

The Magistrate Judge recommended that a hearing be held as to defendant's mental competence at the time of entering the plea. The Court disagrees. A defendant's incompetency at the time of pleading constitutes sufficient grounds for relief under section 2255. See Schutz v. United States, 432 F.2d 25, 29 (10th Cir. 1970), cert. denied, 401 U.S. 1002 (1971). An evidentiary hearing is required when the defendant's allegations of incompetence at the time of pleading amount to more than conclusory statements. See United States v. Gutierrez, 839 F.2d 648, 652 (10th Cir. 1988); Nolan v. United States, 466 F.2d 522, 524 (10th Cir. 1972). Here, defendant has merely repeated his past mental problems, which were fully explored at the plea hearing and which had exhibited themselves years prior to said hearing. Defendant presents no evidence of incompetence at the time of the plea. He signed under oath a petition to plead guilty which affirmatively stated that there was no question of competence. He also so stated under oath at the hearing, and his counsel joined in the statement. The plea record is not invariably an insurmountable barrier. See Gutierrez, 839 F.2d at 652. The court finds it so under the facts of this case.

Petitioner also suggests that the Court should now inquire into his competence at the time of the offense. By entering a plea of guilty, this defense was waived. United States v. Donohoe, 458 F.2d 237, 239 (10th Cir.), cert. denied, 409 U.S. 865 (1972).

Finally, the Magistrate Judge recommended denial of defendant's assertion of selective prosecution. Defendant has made

no showing of discrimination based upon his alleged mental handicap. The court agrees with the Magistrate Judge's conclusion.

It is the Order of the Court that the Report and Recommendation of the United States Magistrate Judge is hereby affirmed in part and reversed in part. The motion of the defendant pursuant to 28 U.S.C. §2255 is hereby denied.

IT IS SO ORDERED this 26th day of June, 1991.


H. DALE COOK
Chief Judge, U. S. District Court

United States District Court

NORTHERN

District of OKLAHOMA

FILED
JUN 26 1991

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

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Lisa R. Wallace

Case Number: 91-00028-001-B

(Name of Defendant)

Richard Couch

Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) One and Five of the Indictment
- was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18:USC:1708	Theft of Mail	09-10-90	One
18:USC:495	Uttering a Forged U.S. Treasury Check	09-13-90	Five

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).
- Count(s) Two, Three, and Four of Indictment (X)(are) dismissed on the motion of the United States.
- It is ordered that the defendant shall pay a special assessment of \$ 50.00 each, for count(s) One and Five of the Indictment, which shall be due immediately as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 448-74-0236

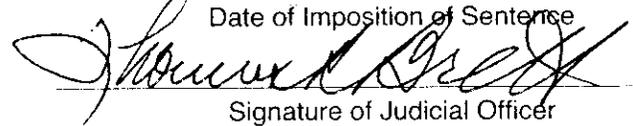
Defendant's Date of Birth: 02-18-71

Defendant's Mailing Address:
155 Cape Drive
Bristow, Oklahoma 74010

Defendant's Residence Address:
Same as above

June 26, 1991

Date of Imposition of Sentence



Signature of Judicial Officer

Thomas R. Brett, U.S. District Judge

Name & Title of Judicial Officer

6-26-91

Date

Defendant: WALLACE, Lisa
Case Number: 91-CR-00028-001-B

Judgment— Page 2 of 4

PROBATION

The defendant is hereby placed on probation for a term of three (3) years.

While on probation, the defendant shall not commit another Federal, state, or local crime, shall not illegally possess a controlled substance, and shall not possess a firearm or destructive device. The defendant also shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution. The defendant shall comply with the following additional conditions:

1. Restitution of \$1,249.24 to be paid as directed by the U.S. Probation Office.
2. Defendant to participate in a drug treatment program and/or mental health counseling as directed by the U.S. Probation Office.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) You shall submit to urinalysis as directed by the U.S. Probation Office.

Defendant: WALLACE, Lisa
 Case Number: 91-00028-001-B

Judgment—Page 3 of 4

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution to the following persons in the following amounts:

Name of Payee

Amount of Restitution

American National Bank
 Security Division
 111 W. 7th Street
 Bristow, Oklahoma 74010
 ATTN: Branch Manager

\$1,013.24

National Check Cashers
 1064 B E. 31st St.
 Tulsa, Oklahoma
 ATTN: Gary Wilson

\$ 236.00

Payments of restitution are to be made to:

- the United States Attorney for transfer to the payee(s).
 the payee(s).

Restitution shall be paid:

- in full immediately.
 in full not later than _____.
 in equal monthly installments over a period of _____ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.
 in installments according to the following schedule of payments:

As directed by the U.S. Probation Office.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

FORFEITURE

- The defendant is ordered to forfeit the following property to the United States:

Defendant: WALLACE, Lisa
Case Number: 91-00028-001-B

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

OR

The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 6

Criminal History Category: I

Imprisonment Range: 0 to 6 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 1,249.24 to \$ 5,000.00

Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ 1,249.24

Full restitution is not ordered for the following reason(s):

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

upon motion of the government, as a result of defendant's substantial assistance.

for the following reason(s):

United States District Court)
Northern District of Oklahoma) SS
I hereby certify that the foregoing
is a true copy of the original on file
in this Court.

Jack C. Silver, Clerk
By *[Signature]*
Deputy

United States District Court

Northern District of Oklahoma

UNITED STATES OF AMERICA

V.

Maria Teresa Malloy

(Name of Defendant)

JUDGMENT IN A CRIMINAL CASE (For Offenses Committed On or After November 1, 1987)

Case Number: 91-CR-011-001-C

Steve Greubel

Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) One of the Indictment
- was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
42:408(g)(2)	Use of a False Social Security Number	10-30-91	One

FILED

JUN 26 1991

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

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).
- Count(s) Two of the Indictment (is/are) dismissed on the motion of the United States.
- It is ordered that the defendant shall pay a special assessment of \$ 50.00, for count(s) One of the Indictment, which shall be due immediately as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 445-60-0644

Defendant's Date of Birth: 02-03-55

June 20, 1991

Date of Imposition of Sentence

Defendant's Mailing Address:

[Signature]
Signature of Judicial Officer

6018 Marion Ave.

Tulsa, Oklahoma 74135

United States District Court)
Northern District of Oklahoma)
I hereby certify that the foregoing
is a true copy of the original on file
in this Court.

SSI. Dale Cook, Chief U.S. District Judge

Name & Title of Judicial Officer

Defendant's Residence Address:

6018 Marion Ave.

Tulsa, Oklahoma 74135

Jack C. Silver, Clerk

Date

By *[Signature]*
Deputy

Defendant: Maria Teresa Malloy
Case Number: 91-CR-011-001-C

Judgment—Page 2 of 4

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of eight (8) months

Concurrent with six (6) months imposed on June 18, 1991, in Docket No. 89-CR-065-E, ND/OK.

The court makes the following recommendations to the Bureau of Prisons:

- The defendant is remanded to the custody of the United States marshal.
- The defendant shall surrender to the United States marshal for this district,

- at _____ a.m. _____ p.m. on _____
- as notified by the United States marshal.

- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,
- before 2 p.m. on July 15, 1991
- as notified by the United States marshal.
- as notified by the probation office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____

_____, with a certified copy of this judgment.

United States Marshal

By _____ Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of _____
24 months

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.
- The defendant shall not possess a firearm or destructive device.

SPECIAL CONDITIONS IMPOSED:

1. That the defendant be prohibited from incurring new credit charges or opening additional lines of credit without the approval of the U.S. Probation Officer.
2. That the defendant provide the U.S. Probation Officer with any requested financial information.
3. That the defendant participate in a mental health program approved by the U.S. Probation Office if deemed necessary.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) You shall submit to urinalysis as directed by the U.S. Probation Office.

Defendant: Maria Teresa Malloy
Case Number: 91-CR-011-001-C

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

OR

The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 6

Criminal History Category: IV

Imprisonment Range: 6 to 12 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 500.00 to \$ 5,000.00

Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ _____

Full restitution is not ordered for the following reason(s):

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

upon motion of the government, as a result of defendant's substantial assistance.

for the following reason(s):

United States District Court

Northern District of Oklahoma

UNITED STATES OF AMERICA

V.

Barbara Ann Hearn

(Name of Defendant)

JUDGMENT IN A CRIMINAL CASE (For Offenses Committed On or After November 1, 1987)

Case Number: 91-CR-014-001-C

Steve Greubel

Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) One of the Indictment after a
- was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18:656	Theft by Person Connected With Bank Insured by F.D.I.C.	11-13-90	One

FILED

JUN 26 1991

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

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).
- Count(s) _____ (is)(are) dismissed on the motion of the United States.
- It is ordered that the defendant shall pay a special assessment of \$ 50.00, for count(s) One of the Indictment, which shall be due immediately as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 431-08-9098

Defendant's Date of Birth: 12-30-53

Defendant's Mailing Address:

239 E. 52nd Pl. North

Tulsa, Oklahoma 74126

Defendant's Residence Address:

239 E. 52nd Pl. North

Tulsa, Oklahoma 74126

June 18, 1991
Date of Imposition of Sentence
[Signature]
Signature of Judicial Officer

United States District Court (H. Dale Cook, Chief U.S. District Judge
Northern District of Oklahoma) SS
Name & Title of Judicial Officer

I hereby certify that the foregoing is a true copy of the original on file in this Court.

Jack C. Silver, Clerk

Date

By *[Signature]*
Deputy

Defendant: Barbara A. Hearn
Case Number: 91-CR-014-001-C

Judgment—Page 2 of 5

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of five (5) months

Consecutive to four (4) months imposed on June 14, 1991, in Docket No. 88-CR-056-001-E, ND/OK.

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States marshal.

The defendant shall surrender to the United States marshal for this district,

- at _____ a.m. _____ p.m. on _____
- as notified by the United States marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,

- before 2 p.m. on _____
- as notified by the United States marshal.
- as notified by the probation office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____

_____, with a certified copy of this judgment.

United States Marshal

By _____
Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of _____

36 months

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.
- The defendant shall not possess a firearm or destructive device.

Defendant is to pay restitution of \$2,000.00 in monthly installments as directed by the U.S. Probation Office.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) You shall submit to urinalysis as directed by the U.S. Probation Office.

Defendant: Barbara A. Hearn
Case Number: 91-CR-014-001-C

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Commercial Bank & Trust Company 5780 So. Peoria Tulsa, Oklahoma 74105 ATTN: Larry Shafer, Bank Manager	\$2,000.00

Payments of restitution are to be made to:

- the United States Attorney for transfer to the payee(s).
- the payee(s).

Restitution shall be paid:

- in full immediately.
- in full not later than _____.
- in equal monthly installments over a period of _____ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.
- in installments according to the following schedule of payments:
As directed by the U.S. Probation Office.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

FORFEITURE

The defendant is ordered to forfeit the following property to the United States:

Defendant: **Barbara A. Hearn**
Case Number: **91-CR-014-001-C**

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

OR

The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 4

Criminal History Category: III

Imprisonment Range: 0 to 6 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 2,000.00 to \$ 1,000,000.00

Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ 2,000.00

Full restitution is not ordered for the following reason(s):

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

upon motion of the government, as a result of defendant's substantial assistance.

for the following reason(s):

United States District Court

JUN 24 1991

NORTHERN

District of OKLAHOMA

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

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

ROCKFORD BRENT BOLIN

Case Number: 91 CR-017-001-E

(Name of Defendant)

RICHARD COUCH

Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) Count Two of the Indictment

was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18:1708	Theft of Mail	1-2-91	2

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984..

The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).

Count(s) One of the Indictment (is) ~~(are)~~ dismissed on the motion of the United States.

It is ordered that the defendant shall pay a special assessment of \$ 50, for count(s) Two of the Indictment, which shall be due immediately as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 445-78-2135

Defendant's Date of Birth: 06-10-63

Defendant's Mailing Address:

Rt. 3, Box 339B

Muskogee, Oklahoma 74401

Defendant's Residence Address:

Same

18 June 1991

Date of Imposition of Sentence

James O. Ellison
Signature of Judicial Officer
James O. Ellison

U.S. District Judge

Name & Title of Judicial Officer

6-24-91

Date

United States District Court)
Northern District of Oklahoma)
I hereby certify that the foregoing)
is a true copy of the original on file)
in this Court.)

Jack C. Silver, Clerk

By B. McCallough
Secretary

Defendant: Bolin, Rockford
Case Number: 91-CR-017-001-E

Judgment—Page 2 of 5

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 18 months

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States marshal.

The defendant shall surrender to the United States marshal for this district.

at _____ a.m. / p.m. on _____

as notified by the United States marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.

before 2 p.m. on _____

as notified by the United States marshal.

as notified by the probation office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____

_____, with a certified copy of this judgment.

United States Marshal

By _____
Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 36 months

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.
- The defendant shall not possess a firearm or destructive device.
 1. Restitution as noted on page four.
 2. Participation in mental health counseling as directed by the Probation Office.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) the defendant shall submit to urinalysis as directed by the U.S. Probation Office.

Defendant: Bolin, Rockford
 Case Number: 91-CR-017-001-E

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Beall's Department Store, Specialty Retailers, Inc. Loss Prevention Office, P.O. Box 35167, Houston, Texas 77235-5167, Acct #135-094-518	\$ 815.19
Sears, Roebuck & Co., c/o Mark Govig, Loss Prevention Mgr 4330 Michoud Blvd., New Orleans, LA 70126, Acct #07-80840-74990-4	\$ 9,981.28
J.C. Penny's, c/o Mark Fix, Regional Credit Fraud Office, 8140 South Holly, Littleton, Colorado 80122 Acct #521-721-444-3	\$ 2,345.20
Citicorp Mastercard, c/o Terry Gearheart P.O. Box 830013, Richardson, Texas 75083, Acct #5424-1800-7161-2037	\$ 2,925.00
TOTAL	\$16,066.67

Payments of restitution are to be made to:

- the United States Attorney for transfer to the payee(s).
- the payee(s).

Restitution shall be paid:

- in full immediately.
- in full not later than _____.
- in equal monthly installments over a period of _____ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.
- in installments according to the following schedule of payments:

As directed by the probation office.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

FORFEITURE

The defendant is ordered to forfeit the following property to the United States:

Defendant: **Bolin, Rockford**
 Case Number: **91-CR-017-001-E**

Judgment—Page 5 of 5

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

OR

The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 11

Criminal History Category: 3

Imprisonment Range: 12 to 18 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 16,066.67 to \$ 32,133.34

Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ 16,066.67

Full restitution is not ordered for the following reason(s):

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

upon motion of the government, as a result of defendant's substantial assistance.

for the following reason(s):

FILED

United States District Court

JUN 24 1991

Northern District of Oklahoma

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

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE (For Offenses Committed On or After November 1, 1987)

Case Number: 90-CR-154-001-B

AUDREY JUNE FRANCE
(Name of Defendant)

Karin Chatfield
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) Four of the Indictment
- was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18:1001	False Statement on Document Presented to U. S. Government Agency	August 7, 1989	Four

United States District Court)
Northern District of Oklahoma) SS
I hereby certify that the foregoing
is a true copy of the original on file
in this Court.

Jack C. Silver, Clerk
By [Signature]
Deputy

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984..

- The defendant has been found not guilty on count(s) _____, and is discharged as to such count(s).
- Count(s) One, Two, and Three of the Indictment(s) (are) dismissed on the motion of the United States.
- It is ordered that the defendant shall pay a special assessment of \$ 50.00, for count(s) Four of the Indictment, which shall be due immediately as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: 446-36-3379

Defendant's Date of Birth: August 28, 1938

Defendant's Mailing Address:
3721 Charles Page Boulevard
Tulsa, Oklahoma 74127

Defendant's Residence Address:
3721 Charles Page Boulevard
Tulsa, Oklahoma 74127

June 21, 1991

Date of Imposition of Sentence

[Signature]
Signature of Judicial Officer

Thomas R. Brett, U. S. District Judge

Name & Title of Judicial Officer

June 24, 1991
Date

Defendant: France, Audrey June
 Case Number: 90-CR-154-001-B

Judgment—Page 2 of 4

PROBATION

The defendant is hereby placed on probation for a term of Four (4) years

While on probation, the defendant shall not commit another Federal, state, or local crime, shall not illegally possess a controlled substance, and shall not possess a firearm or destructive device. The defendant also shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution. The defendant shall comply with the following additional conditions:

That the defendant participate in substance abuse counseling and urinalysis as directed by the U. S. Probation Office.

That the defendant pay restitution in the amount of \$1,320 to the Social Security Administration as directed by the U. S. Probation Office.

That the defendant serve the first six months of probation in home confinement under rules and regulations set forth by the U. S. Probation Office.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) You shall submit to urinalysis as directed by the U. S. Probation Office.
- 15) You shall not possess a firearm or other dangerous weapon without the permission of the U. S. Probation Office.

Defendant: FRANCE, AUDREY JUNE
Case Number: 90-CR-154-001-B

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Social Security Administration Mid-America Program Service Center P. O. Box 15528 Kansas City, Missouri 64106	\$1,320.00

Payments of restitution are to be made to:

- the United States Attorney for transfer to the payee(s).
- the payee(s).

Restitution shall be paid:

- in full immediately.
- in full not later than _____.
- in equal monthly installments over a period of _____ months. The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.
- in installments according to the following schedule of payments:

as directed by the U. S. Probation Office.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

FORFEITURE

The defendant is ordered to forfeit the following property to the United States:

Defendant: FRANCE, AUDREY JUNE
Case Number: 90-CR-154-001-B

Judgment—Page 4 of 4

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

OR

The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 6

Criminal History Category: IV

Imprisonment Range: 6 to 12 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 1,320 to \$ 2,640

Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ 1,320.00

Full restitution is not ordered for the following reason(s):

The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

upon motion of the government, as a result of defendant's substantial assistance.

for the following reason(s):

FILED

United States District Court

JUN 20 1991

NORTHERN DISTRICT OF OKLAHOMA

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

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

PATRICIA MARIE MARCHANT
13110 East 31st Place, #516
Tulsa, Oklahoma 74134

Case Number: 91-CR-031-001-B

(Name and Address of Defendant)

Stephen Greubel

Attorney for Defendant

THE DEFENDANT ENTERED A PLEA OF:

guilty nolo contendere] as to count(s) One of the Indictment, and
 not guilty as to count(s) -

THERE WAS A:

finding verdict] of guilty as to count(s) One of the Indictment

THERE WAS A:

finding verdict] of not guilty as to count(s) ----
 judgment of acquittal as to count(s) ----

The defendant is acquitted and discharged as to this/these count(s).

THE DEFENDANT IS CONVICTED OF THE OFFENSE(S) OF:

False Statement to Social Security Administration, and
Fraudulent Receipt of Benefits
Title 42, United States Code, Section 408(c) & (d)

United States District Court)
Northern District of Oklahoma) SS
I hereby certify that the foregoing
is a true copy of the original on file
in this Court.

Jack C. Silver, Clerk
By H. Ouster
Deputy

IT IS THE JUDGMENT OF THIS COURT THAT:

The imposition of sentence is suspended, and the defendant is placed on probation for a term of five (5) years.

\$12,724.00 Restitution -- to be paid to the Social Security Administration, at a rate to be determined by the U. S. Probation Office.

In addition to any conditions of probation imposed above, IT IS ORDERED that the conditions of probation set out on the reverse of this judgment are imposed.

CONDITIONS OF PROBATION

Where probation has been ordered the defendant shall:

- (1) refrain from violation of any law (federal, state, and local) and get in touch immediately with your probation officer if arrested or questioned by a law-enforcement officer;
- (2) associate only with law-abiding persons and maintain reasonable hours;
- (3) work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. (When out of work notify your probation officer at once, and consult him prior to job changes);
- (4) not leave the judicial district without permission of the probation officer;
- (5) notify your probation officer immediately of any changes in your place of residence;
- (6) follow the probation officer's instructions and report as directed.

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 the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

IT IS FURTHER ORDERED that the defendant shall pay a total special assessment of \$ 50.00 pursuant to Title 18, U.S.C. Section 3013 for count(~~s~~) One of the Indictment as follows:

Count One: \$50.00 to be paid immediately.

IT IS FURTHER ORDERED THAT counts Two and Three of the Indictment are DISMISSED on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall pay to the United States attorney for this district any amount imposed as a fine, restitution or special assessment. The defendant shall pay to the clerk of the court any amount imposed as a cost of prosecution. Until all fines, restitution, special assessments and costs are fully paid, the defendant shall immediately notify the United States attorney for this district of any change in name and address.

IT IS FURTHER ORDERED that the clerk of the court deliver a certified copy of this judgment to the United States marshal of this district.

The Court orders commitment to the custody of the Attorney General and recommends:

June 19, 1991

Date of Imposition of Sentence

Signature of Judicial Officer

Thomas R. Brett, U. S. District Judge

Name and Title of Judicial Officer

Date

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____ at _____ Date

_____, the institution designated by the Attorney General, with a certified copy of this Judgment in a Criminal Case.

United States Marshal

By _____ Deputy Marshal

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

entered

JUN 19 1991 *MS*

JAMES H. COOK, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 VALVEETA BOYD,)
)
 Defendant.)

No. 88-CR-124-C ✓

ORDER

Before the Court is the motion of the defendant to be granted credit for time on bond as "in custody" time pursuant to 18 U.S.C. §3585.

Defendant's position has been rejected by the Tenth Circuit. See United States v. Woods, 888 F.2d 653, 655 (10th Cir. 1989), cert. denied, 110 S.Ct. 1301 (1990); Ortega v. United States, 510 F.2d 412 (10th Cir. 1975).

It is the Order of the Court that the motion of the defendant to be granted credit is hereby denied.

IT IS SO ORDERED this 19th day of June, 1991.

H. Dale Cook
H. DALE COOK
Chief Judge, U. S. District Court

04

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

FILED

JUN 17 1991



UNITED STATES OF AMERICA

v.

MICHEAL D. FINCH,

Movant.

)
)
)
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)
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)

90-C-1047-B

CLERK
U.S. DISTRICT COURT

89-CR-101-B ✓

O R D E R

This matter comes on for consideration upon a Motion pursuant to 28 U.S.C. §2255 filed by Micheal D. Finch, Movant.

Movant, Micheal D. Finch (Finch), entered a plea of guilty, pursuant to a plea agreement entered into September 20, 1989, to a single count Indictment charging under 21 U.S.C. § 846, 841 (a) (1), 841(b) (1) (A) (iii) a conspiracy to possess with intent to distribute and to distribute 50 grams or more of cocaine-base. Movant was sentenced to seven years imprisonment followed by five years of supervised release.

Movant now complains by motion under §2255 that his lawyer, Tom Bruner, Assistant U.S. Attorney John Morgan, F.B.I. Agent Patrick Lynch and Tulsa Police Department officer Kay Orndorff all had come to an agreement, prior to his plea agreement, that Finch "would be charged with a phone count along with a time cut after a year." All parties to this alleged agreement have, by written statement, denied the existence of such agreement. Because Movant is proceeding *pro se* the Court will interpret his pleadings as

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liberally as possible. Downing v. New Mexico State Supreme Court, 339 F.2d 435 (10th Cir. 1964).

The gravamen of Movant's Ground One (Conviction obtained without understanding of consequences of plea of guilty) is that Movant expected a lighter sentence than what he received. Movant entered a guilty plea as a result of a plea agreement with the government. The agreement was embodied in a letter prepared by and signed by the Assistant U.S. Attorney involved herein, John S. Morgan. The agreement was also signed by Finch and his two attorneys, William D. Lunn¹ and Tom Bruner. In the plea agreement Movant was advised that the punishment provided for by the applicable statute was not less than 10 years or more than life imprisonment, a \$4,000,000 fine, a \$50.00 special assessment, and a minimum term of three years to five years supervised release.

Movant was further advised he would be sentenced in accord with the Sentencing Guidelines. Finch was also advised that after an offense level was determined, "additional calculations, whether reductions or increases, will be left solely to the determination of the sentencing judge." Finch was advised that timely acceptance of responsibility would allow a two-point reduction of the offense level but that the sentencing judge (this Court) would make the determination of whether there had been such "timely acceptance". The agreement further provided:

Accordingly, the government is willing to enter into the following agreement with your client, Michael D. Finch concerning investigations being conducted by various law enforcement agencies. In return for your client's

¹ Lunn has also signed a written statement that denies the existence of the agreement alleged by Movant.

cooperation and truthful testimony before any federal grand jury investigating illegal matters, as well as truthful testimony in any trial, including the current charge, against any defendant, or in any trial that may arise out of any case or any investigation or related investigations in other federal districts, and his plea of guilty to the above referenced Indictment, the government will not subject him to additional federal criminal prosecutions for any criminal acts he committed in connection with such conspiracy, and will grant him immunity for the use of his disclosures and testimony. Additionally, the government agrees to advise the sentencing court, by motion before sentencing and/or after sentencing pursuant to Rule 35(b), F.R.C.P., that the defendant has made a good faith effort to provide substantial assistance (§5K1.1), if he has in fact done so, thereby allowing the court to a downward departure from the guidelines, which may in fact go below the 10 year minimum sentence.

The actual sentence rendered by the district court following your client's plea of guilty remains in the sole discretion of the trial judge and the government cannot predetermine what would be the final result of the court's evaluation and decision after all factors are considered.

At the hearing when Finch changed his plea to one of guilty, the plea agreement, with the above language therein, was presented to this Court. It is the consistent practice of this Court to make inquiry whether such agreement was the extent of the defendant's agreement with the government and such was done in this case. It is the further consistent practice of this Court to advise plea-agreement defendants that the ultimate determination of the sentence would be up to the Court, the Court not having to follow any recommendation of the government. That also was done in this case and Finch acknowledged his understanding thereof.²

Ground Two (Breach of Plea Agreement) and Ground Three (Ineffective Assistance of Counsel) relate essentially to the

² See Reporter's Transcript of Proceedings of Change of Plea Hearing on October 10, 1989, filed February 19, 1991.

matters discussed in Ground One. All three grounds are considered by the Court as one issue.

At sentencing, the government made a motion pursuant to Guideline § 5K1.1, advising this Court that Finch had given substantial assistance to the government in its investigation and prosecution of others who have committed federal offenses. The Court determined the guideline range was from 151 months to 188 months. Because of Finch's assistance to the Government this Court departed downward and imposed a sentence of 84 months followed by five years of supervised release. Finch said nothing at the hearing to indicate that he had been promised by the government, or anyone else, that he would receive a lesser sentence than that received.

Plea agreements are in essence contracts between parties and contract law analogies are appropriate. United States v. Calabrese, 645 F.2d 1379 (10th Cir. 1981) *cert.den.* 451 U.S. 1018, and *cert.den.* 454 U.S. 831; United States v. Stemm, 847 F.2d 636 (10th Cir. 1988); United States v. Reardon, 787 F.2d 512 (10th Cir. 1986). It is black letter contract law that the terms of a clear and unambiguous written contract cannot be changed by parol evidence. Schwartz v. Slawter, 751 F.2d 317 (10th Cir. 1984); Percival Constr. Co. v. Miller & Miller Auctioneers, 532 F.2d 166 (10th Cir. 1976). Plea agreements have been encompassed within that fundamental rule of contract law. United States v. Rutledge, 900 F.2d 1127 (7th Cir. 1990) *cert. den.* 1115 S.Ct. 203; United States v. Fry, 831 F.2d 664 (6th Cir. 1987); Hartman v. Blankenship, 825 F.2d 26 (4th Cir. 1987); Baker v. United States, 781 F.2d 85 (6th Cir., 1986) *cert. den.* 479 U.S. 1017 (1986); Blackledge v. Allison, 431 U.S. 63 (1977).

In Blackledge, the Supreme Court held that written contract provisions declaring that the contract contains the complete agreement of the parties, and that no prior or outside agreements exist, do not absolutely bar later proof that such additional agreements exist and should be validated. The Supreme Court concluded such provisions carry great weight but can and should be set aside on grounds of fraud, mistake, duress or any other sufficient ground for setting aside contracts. The instant matter does not fit within any Blackledge exception.

The Court concludes Finch's claim is completely refuted by the plea agreement itself and the records of the guilty-plea and sentencing proceedings.³ Movant cannot vary the plea agreement by self-serving parole evidence. The Court further concludes there is no need to hold an evidentiary hearing in this matter. United States v. Gamble, 917 F.2d 1280 (10th Cir. 1990).

It is the conclusion of the Court that Finch's §2255 Motion should be and the same is hereby DENIED.

IT IS SO ORDERED this 17th day of June, 1991.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

³ Finch entered a plea of guilty on October 10, 1989, and was sentenced on December 6, 1989.

FILED

JUN 17 1991

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,)
)
 vs.)
)
 JAMES OTIS FOWLKES)
)
 Defendant.)

No. 89-CR-28-01-B

ORDER

Currently before the Court is Defendant James Otis Fowlkes' Motion to Modify or Reduce Sentence pursuant to Fed.R.Cr.P. 35 (b). In its orders of May 18, 1990 and September 18, 1990, the Court denied earlier Rule 35(b) motions by the defendant. The Court reiterates its prior statements that the government must move for a reduction of sentence under Rule 35(b) before such motion can be entertained by the Court. As the government has not so moved, defendant's motion is denied.

IT IS SO ORDERED, this 17 day of June, 1991.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

JUN 17 1991

JACOB ... CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff)
)
 v.)
)
 JAMES CHARLES BOONE)
)
 Movant.)

89-C-957-B

957-B

88-CR-122-B ✓

SUPPLEMENTAL ORDER

This Order is supplemental to the Order entered herein by this Court on March 30, 1990, denying Movant's Motion under § 2255 as to all matters except Defendant's contention that the Government's attempted forfeiture of the real property (including the trailer) was a violation of the plea agreement entered into between Movant and the Government in 88-CR-122-B, Northern District of Oklahoma.

In the Court's earlier Order the following was stated:

As to Defendant's contention that the Government's attempted forfeiture of the real property (including the trailer), claimed by Defendant's wife and two mortgage lien holders, is a violation of the plea agreement, the Court will reserve ruling on this matter pending resolution of the civil forfeiture case. If the real property forfeiture is resolved in favor of Willadean Boone and the two mortgage holders and against the Government, the Court will consider that issue moot as it now DENIES all collateral issues raised by Defendant relative to the plea agreement as impacted by real property forfeiture attempt of the Government. Movant has listed 18 facts under paragraph 17 of the Motion. Among these facts Movant presents the argument that mere dropping of the real property forfeiture by the Government or a decision favorable to Willadean Boone is not sufficient. Movant urges he should be re-sentenced and given less time in view of the circumstances. The Court, at this time, does not share that view.

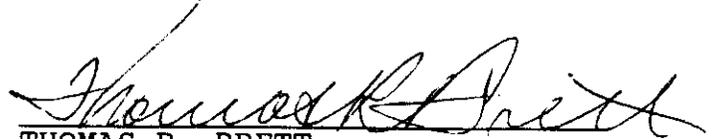
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In the forfeiture case before Judge Ellison a Stipulation For Compromise was entered May 17, 1990, wherein Wiladean Boone, individually and as Guardian ad litem for James Charles Boone, Jr., her attorney, John Mark Young, and Catherine Depew, Assistant United States Attorney, agreed *inter alia* that upon payment of \$2500 and waiver of any claim to \$10,000 in funds seized by the Government (part of the subject matter of the forfeiture action) by Wiladean Boone the Government would initiate no further prosecutions of a civil nature against James Charles Boone and/or Wiladean Boone for any activity occurring prior to the date of the signing of the settlement agreement. The parties further agreed that the Government would "initiate no confiscation, forfeiture or levies against all presently owned real or personal property of James Charles Boone, Wiladean Boone and James Charles Boone, Jr. for any activity occurring [prior] to the date of signing of this settlement agreement." An Agreed Judgment Of Forfeiture was entered in January, 1991, based upon the Stipulation for Compromise.

The Court is cognizant that James Charles Boone was not a signatory party to the Stipulation for Compromise nor did he approve the Agreed Judgment Of Forfeiture as did Wiladean Boone. Notwithstanding, the Court, in its earlier Order, denied all collateral issues raised by Movant relative to the plea agreement "as impacted by real property forfeiture attempt of the Government." The Court concluded then, and concludes now, that any disposition of the real property moots that issue and serves as no predicate for the imposition of a lessened or altered sentence of confinement.

The Court concludes Movant's §2255 Motion should be and the same is DENIED in all respects.

IT IS SO ORDERED this 17th day of June, 1991.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

E I L E D

JUN 10 1991

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 MARVIN DALE RODEN,)
)
 Defendant.)

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

No. 88-CR-90-001-B

ORDER REVOKING PROBATION

On the 24th day of May, 1991, this matter came on before me on an Application to Revoke Probation of defendant Marvin Dale Roden. Plaintiff represented by Assistant United States Attorney David E. O'Meilia and the defendant present and represented by Frank Greer, Attorney at Law. The court finds as follows:

On February 10, 1989, defendant Marvin Dale Roden was sentenced by this Court to four years in custody on Count One, followed by three years probation in reference to Count Two, to run consecutive to Count One. The Court, pursuant to Federal Rule of Criminal Procedure 35(a), modified the sentence on May 30, 1989, reducing the Count One confinement sentence from four years to three years. The probationary sentence of Count Two remained at three years to commence at the time of the completion of the service of the confinement sentence on Count One. The probationary sentence on Count Two commenced December 13, 1990.

The Court finds, pursuant to the stipulations by the parties in open court, that on or about May 12, 1991, the defendant

engaged in transactions involving the sale of various small quantities of cocaine to Raymond Stripling, as is reflected in the Court's Exhibit No. 1 of this hearing, the affidavit of FBI Special Agent Leslie H. Farris. On May 13, 1991, pursuant to a search warrant of defendant's business located in Ottawa County, Oklahoma, there was seized on said premises a baggie of approximately 30 grams of cocaine.

The Court finds that the above facts in reference to Roden's involvement with cocaine were in violation of condition number one of his probation and were during the term thereof. The Court also concludes that in dealing with Raymond Stripling in the manner aforesaid, condition of probation number ten was violated when Mr. Roden knowingly associated with and supplied cocaine to Stripling, a convicted felon.

For the reasons stated herein the Court hereby revokes the probation of Marvin Dale Roden and the defendant be and is ordered to the custody of the Bureau of Prisons to serve a period of three years from May 24, 1991.

ST THOMAS R. BRETT
THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:


FRANK GREER
Attorney for Defendant


DAVID E. O'MEILIA
Assistant United States Attorney