

DATE: 2/28/94

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
SHAWNA T. WHITE,)
Defendant.)

No. 93-CR-176-E

Handwritten initials and a court stamp: '28' and 'LEWIS, CLERK DISTRICT COURT NORTHERN DISTRICT OF OKLAHOMA'

MOTION AND ORDER OF 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 moves to dismiss without prejudice the Information filed December 8, 1993, against Shawna T. White, defendant.

STEPHEN C. LEWIS
United States Attorney

Handwritten signature of Kevin C. Leitch
KEVIN C. LEITCH, OBA #5366
Assistant United States Attorney

Leave of court is granted for the filing of the foregoing motion to dismiss and the Court hereby orders dismissal without prejudice of the Information.

S/ JAMES O. ELLISON

JAMES O. ELLISON
United States District Judge

Date: 2/28/94
KCL:ssg

Handwritten signature of B.M. Callough
Deputy

MW
2/28

FILED

ENTERED ON DOCKET

DATE FEB 28 1994 IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

MB

FEB 28 1994

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 JEFFERY TODD GRAEFE,)
)
 Defendant.)

No. 93-CR-161-B ✓

AMENDED ORDER OF DISMISSAL WITHOUT PREJUDICE

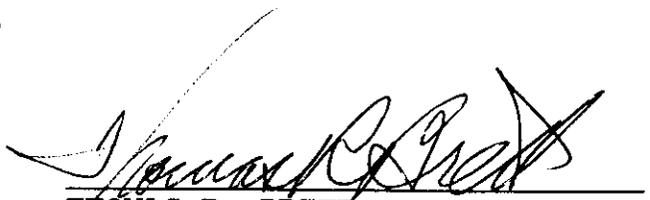
Now on this 28th day of February, 1994, this cause comes on to be heard on the motion of the plaintiff, the United States of America, for dismissal of the instant Indictment, without prejudice. From that motion, and other matters and things, the Court finds as follows:

1. The plaintiff and the defendant, along with the United States Probation Office, have entered into an agreement effecting a program of pretrial diversion for defendant, Jeffery Todd Graefe. A copy of said agreement, signed by all parties, is attached hereto.
2. The said defendant has waived his rights to Speedy Trial in accordance with said supervision agreement.
3. The defendant and his attorney, Robert Nigh, Jr., Assistant Federal Public Defender, have no objection to this cause being dismissed, without prejudice.

It is, therefore, ORDERED, ADJUDGED AND DECREED that, pursuant to Rule 48(a), Federal Rules of Criminal Procedure, the above cause is dismissed, without prejudice.

IT IS SO ORDERED.

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
COURT CLERK


THOMAS R. BRETT
United States District Judge

H. D.
06.77

Jeffery Graefe

JTG

AGREEMENT FOR PRETRIAL DIVERSION

THIS AGREEMENT, made and entered into as of this 25 day of February, 1994, between JEFFERY SCOTT GRAEFE, the CHIEF UNITED STATES PROBATION OFFICER for the Northern Judicial District of Oklahoma, and the UNITED STATES ATTORNEY for the Northern Judicial District of Oklahoma.

The United States Grand Jury for the Northern Judicial District of Oklahoma has returned an Indictment, charging Jeffery Scott Graefe with mail fraud and false use of social security numbers, in connection with the attempted acquisition of credit cards in the names of other persons.

Based upon Graefe's acceptance of responsibility for his conduct, Graefe's signature on this Agreement, the investigation and report of the United States Probation Office concerning Graefe's suitability to participate in a pretrial diversion program, and Graefe's background, it is in the interest of the parties, including Graefe and the United States, and in the interest of justice, that the prosecution of Graefe be deferred.

DEFERRAL OF PROSECUTION

On the authority of the Attorney General of the United States, by the United States Attorney for the Northern District of Oklahoma, prosecution of Jeffery Scott Graefe for these offenses in the Northern Judicial District of Oklahoma shall be deferred for the period of twenty-four (24) months from the date of execution of this agreement, subject to the following:

976

described below. If he loses his job or is unable to attend school, he shall notify his pretrial diversion supervisor at once. He shall notify his pretrial diversion supervisor prior to changing jobs or schools.

3. He shall report to his supervisor as directed, and shall keep his supervisor informed of his whereabouts.

4. He will comply with all special conditions described below.

SPECIAL CONDITIONS

1. Written Statement.

a. Prior to signing this Agreement for pretrial diversion, Graefe has made, under oath, a full, truthful, candid and complete written statement describing his complicity in the events set forth in the indictment.

b. This statement shall not be subject to the limitations contained in Federal Rule of Criminal Procedure 11 or any other constitutional, judicial or statutory limitation, including but not limited to the privilege against self-incrimination contained in the Fifth Amendment to the Constitution of the United States. By signing this Agreement, Graefe waives any such objection.

c. This statement shall be admissible against Graefe for all purposes whatsoever, in any trial or other legal or administrative proceedings, including but not limited to any



application Graefe may make for admission to practice law in any State or Federal Court. The statement shall be furnished by this office to the Oklahoma Bar Association and to the Dean of the University of Oklahoma School of Law, and may be used by them for any purposes they deem proper.

d. Should Graefe not be completely truthful and candid in making the statement described in the preceding paragraphs, the United States shall be relieved of any obligations incurred under this Agreement, and shall be empowered to proceed against Graefe on the charges set forth in the original indictment, or on such other charges as may be warranted, including for perjury or false statement. Graefe agrees to waive any objections on the grounds of speedy trial or statute of limitations, to any such charge. The determination as to whether Graefe has been completely truthful and candid in his statement is a matter solely within the discretion of the Office of the United States Attorney for the Northern District of Oklahoma.

2. Plea of Guilty. Before the instant Indictment is dismissed without prejudice, Graefe will enter a plea of guilty to an appropriate misdemeanor charge in the District Court of Tulsa County, Oklahoma. Sentencing on such charge will be entirely within the discretion of that Court.

3. Bar Examination.

a. Graefe agrees that he will not apply for admission to the Bar of any State or Federal Court, or present himself for

examination for admission to the Bar of any State or Federal Court, until summer, 1996.

b. Graefe agrees that the record of these proceedings, including without limitation this agreement, the statement described in paragraph 1 of this section entitled Special Conditions, and a transcript of the proceeding had in the United States District Court for the Northern District of Oklahoma, Case No. 93-CR-161-B, on February 25, 1994, shall be made available to any bar association or other body governing the practice of law, including bar examiners, of any State or Federal jurisdiction to which Graefe makes application for admission.

4. Disclosure. Graefe agrees that, during the term hereof, he will reveal the existence of this Agreement to any prospective law-related employer, or other school or educational program to which he applies for employment or admission.

5. Psychological Evaluation. Graefe agrees that, during the term of this agreement, he will seek a psychological or psychiatric evaluation in regard to the events giving rise hereto. If in the opinion of that psychologist or psychiatrist treatment is required, Graefe agrees to undergo such treatment. The parties recognize and agree that the cost of any such evaluation and/or treatment shall be borne solely by Graefe.

QTG

REPRESENTATIONS

By executing this Agreement, Graefe:

1. Agrees to comply and abide by each and every condition and obligation of this Agreement; and
2. Requests that the United States Attorney for the Northern Judicial District of Oklahoma defer his prosecution.

WAIVER

In the event the United States Attorney for the Northern Judicial District of Oklahoma revokes this Agreement and initiates prosecution, Graefe waives any and all claims or defense that:

1. He was prejudiced by delay in the commencement of his prosecution;
2. He was deprived of his right to a speedy trial as guaranteed by the Sixth Amendment of the Constitution of the United States; and
3. His prosecution is barred by any statute of limitation.

Nothing contained in this paragraph shall be construed so as to limit any other waiver made by Graefe hereunder.

Graefe acknowledges that he and his attorney, Robert Nigh, have read and discussed this Agreement. Graefe further acknowledges that he understands that he has not been forced or coerced in any way to enter into this agreement, and that he agrees to each and every term hereof.

DATE 2/24/94

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 93-CR-108-001-E

F I L E D

FEB 24 1994

Richard M. Laine, Clerk
U.S. District Court
Northern District of Oklahoma

CEDRIC SEBASTIAN STUBBS
Defendant.

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

The defendant, CEDRIC SEBASTIAN STUBBS, was represented by Stephen J. Greubel.

On motion of the United States the court has dismissed count 1 of the Indictment.

The defendant pleaded guilty to count 2 of the Indictment. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 924(c)	Possession Of A Firearm During Commission Of A Drug Trafficking Crime	01/13/93	2

As pronounced on February 18, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 2 of the Indictment, which shall be due immediately.

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.

Signed this the 24th day of February, 1994.


The Honorable James O. Ellison, Chief
United States District Judge

Defendant's SSN: 260-02-7582
Defendant's Date of Birth: 08/10/66
Defendant's residence and mailing address: 5117 North Kenosha, Tulsa, Oklahoma 74110

Richard M. Laine, Clerk
U.S. District Court
Northern District of Oklahoma
By B. McCallum
Deputy

Defendant: CEDRIC SEBASTIAN STUBBS
Case Number: 93-CR-108-001-E

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 60 months as to count 2 of the Indictment. Said sentence shall run consecutively to any sentence imposed in Tulsa County case CF93-0235; and in addition that the defendant be given credit for time served.

The Court makes the following recommendations to the Bureau of Prisons: That the defendant be confined at FCI - El Reno or an alternate facility close to Tulsa, Oklahoma.

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

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

Defendant: CEDRIC SEBASTIAN STUBBS
Case Number: 93-CR-108-001-E

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to count 2 of the Indictment.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: CEDRIC SEBASTIAN STUBBS
Case Number: 93-CR-108-001-E

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	N/A
Criminal History Category:	N/A
Imprisonment Range:	60 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 0 to \$ 250,000
Restitution:	\$ N/A

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

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.

DATE 2/24/94

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

F I L E D

FEB 24 1994

Richard M. Lawrence
U.S. District Court
Northern District of Oklahoma
Clerk

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 REGINA WEBB,)
)
 Defendant.)

No. 93-CR-120-E

O R D E R

Defendant's sentence imposed October 13, 1993 is hereby amended from a 12-month term of imprisonment to a term of 12 months and one day.

ORDERED this 23^d day of February, 1994.



JAMES C. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

United States District Court)
Northern District of Oklahoma) SS
I hereby certify that the foregoing)
is a true and correct enginal on file)
in this Court.)
Richard M. Lawrence, Clerk
By BM Callahan
Deputy

aw

ENTERED ON DOCKET
DATE FEB 24 1994

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED

FEB 24 1994

UNITED STATES OF AMERICA

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

v.

Case Number 93-CR-091-001-B

RICHARD LEE SMITH
Defendant.

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

The defendant, RICHARD LEE SMITH, was represented by Charles Whitman.

The defendant was found guilty on count 1 of the Indictment after a plea of not guilty. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

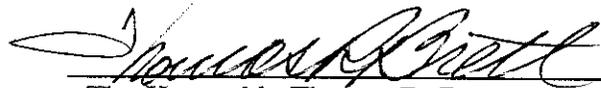
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 922(g)(1) and 924(e)(1)	Possession Of A Firearm After Former Conviction Of A Felony	08/20/92	1

As pronounced on February 18, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 1 of the Indictment, which shall be due immediately.

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.

Signed this the 24 day of February, 1994.



The Honorable Thomas R. Brett
United States District Judge

Defendant's SSN: Unknown
Defendant's Date of Birth: 01/04/69
Defendant's mailing address: 3417 Third Street, Los Angeles, California 90018
Defendant's residence address: Tulsa County Jail, % United States Marshal

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.
Richard M. Lawrence, Clerk
By  Deputy

Defendant: RICHARD LEE SMITH
Case Number: 93-CR-091-001-B

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 210 months. The sentence shall commence on this date and it shall run concurrently with the sentence previously imposed in the State of California.

The Court makes the following recommendations to the Bureau of Prisons: While in state custody, the court recommends to the Bureau of Prisons that the State of California be designated as the place he will serve this sentence until such time the state sentence expires or he is released on state parole. At that time, he will be transferred to the Bureau of Prisons to serve the balance of this federal sentence. In addition, the court recommends that his facility of confinement be in Southern California, or at least in the State of California.

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

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

Defendant: RICHARD LEE SMITH
Case Number: 93-CR-091-001-B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient, if deemed necessary) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: RICHARD LEE SMITH
Case Number: 93-CR-091-001-B

FINE

The defendant shall pay a fine of \$ 2,000. This fine includes any costs of incarceration and supervision.

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release, as directed by the U. S. Probation Office.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: RICHARD LEE SMITH
Case Number: 93-CR-091-001-B

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	33
Criminal History Category:	V
Imprisonment Range:	210 months to 262 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 17,500 to \$ 175,000
Restitution:	\$ N/A

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

The sentence departs from the guideline range for the following reason(s): The defendant's age and the finding that a sentence of 210 months provides sufficient punishment for this offense.

FILED

ENTERED ON DOCKET
 FEB 24 1994
 DATE _____

UNITED STATES DISTRICT COURT
 Northern District of Oklahoma

FEB 24 1994

Richard M. Lawrence, Court Clerk
 U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 93-CR-154-001-B

MARIAN CYRILLA PETERS
 Defendant.

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

The defendant, MARIAN CYRILLA PETERS, was represented by John D. Echols.

On motion of the United States the court has dismissed counts 1 and 2, 5, 6, 7, and 8 of the Indictment.

The defendant pleaded guilty to counts 3 and 4 of the Indictment. Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1341	Mail Fraud	02/03/92	3
18 USC 1341	Mail Fraud	03/12/92	4

As pronounced on February 18, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for count 3 and 4 of the Indictment, which shall be due immediately.

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.

Signed this the 24 day of February, 1994.


 The Honorable Thomas R. Brett
 United States District Judge

Defendant's SSN: 444-52-0252
 Defendant's Date of Birth: 06/02/50
 Defendant's residence and mailing address: 1712 North Cypress, Broken Arrow, Oklahoma 74012

United States District Court)
 Northern District of Oklahoma) SS
 I hereby certify that the foregoing)
 is a true and correct copy of the original on file)
 in the Court.)
 Richard M. Lawrence, Clerk)
 By  Deputy

Defendant: MARIAN CYRILLA PETERS
Case Number: 93-CR-154-001-B

PROBATION

The defendant is hereby placed on probation for a term of 4 years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm or destructive device.
3. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF PROBATION

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: MARIAN CYRILLA PETERS
Case Number: 93-CR-154-001-B

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution as to count 3 of the Indictment in the total amount of \$10,000.

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

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Blue Cross/Blue Shield of Virginia P.O. Box 27401 Richmond, Virginia 23279	\$10,000

Payments of restitution are to be made to the United States Attorney for transfer to the payee.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation, as directed by the U. S. Probation Office.

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

Defendant: MARIAN CYRILLA PETERS
Case Number: 93-CR-154-001-B

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report except the court does not consider acts in the State of Virginia as constituting relevant conduct and, therefore, finds the loss amount does not exceed \$10,000, for a total offense level of 8.

Guideline Range Determined by the Court:

Total Offense Level:	8
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 1,000 to \$ 10,000
Restitution:	\$ 10,000

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

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.

ENTERED ON DOCKET

DATE 2-23-94

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 MYJUAN TARICO BROWN,)
)
 Defendant.)

No. 93-CR-68-C

FILED

FEB 22 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Before the Court is the motion of the defendant for judgment of acquittal pursuant to Rule 29 F.R.Crim.P. The jury not having been sworn, the Court shall treat the motion as one to dismiss the Indictment. Based upon the findings and conclusions made orally by the Court, the motion is sustained.

It is the Order of the Court that the Indictment is hereby dismissed without prejudice.

IT IS SO ORDERED THIS 22nd day of February, 1994.


H. DALE COOK
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 93-CR-152-001-E

DANNY WILLIAM MURPHY
Defendant.

FILED

FEB 22 1994

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

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

The defendant, DANNY WILLIAM MURPHY, was represented by Stephen J. Knorr.

On motion of the United States the court has dismissed count 1 of the Information.

The defendant pleaded guilty to count 2 of the Information. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 1708	Possession Of Stolen Mail	02/16/93	2

As pronounced on February 11, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 1 of the Information, which shall be due immediately.

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.

Signed this the 16th day of February, 1994.

James O. Ellison
The Honorable James O. Ellison, Chief
United States District Judge

Defendant's SSN: 570-74-4452
Defendant's Date of Birth: 06/24/47
Defendant's mailing address: 1002 Lexington, Lamar, Missouri 64759
Defendant's residence address: Oklahoma Department of Corrections

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.

Richard M. Lawrence, Clerk
By *B.M. Bell*
Deputy

Defendant: DANNY WILLIAM MURPHY
Case Number: 93-CR-152-001-E

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 21 months to be served concurrently with the sentence imposed in Oklahoma case number CRF93-70.

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

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

Defendant: DANNY WILLIAM MURPHY
Case Number: 93-CR-152-001-E

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
6. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: DANNY WILLIAM MURPHY
Case Number: 93-CR-152-001-E

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution as to Count 2 of the Information in the total amount of \$825.

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

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Roschill State Bank Attn.: Lisa Gimble P.O. Box 68 Rosehill, Kansas 67133	\$825.00

Payments of restitution are to be made to the United States Attorney for transfer to the payee.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, as directed by the U. S. Probation Office.

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

Defendant: DANNY WILLIAM MURPHY
Case Number: 93-CR-152-001-E

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	7
Criminal History Category:	VI
Imprisonment Range:	15 months to 21 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 500 to \$ 5,000
Restitution:	\$ 825

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

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.

ENTERED ON DOCKET

DATE 2-18-94

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JOSHUA ALAN AVEN,)
)
 Defendant.)

No. 90-CR-91-C ✓

F I L E D

pm FEB 17 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Before the Court is the motion of the defendant to vacate sentence. Defendant pled guilty to two counts of unauthorized use of access devices in violation of 18 U.S.C. §1029(a). His challenge to his sentence was affirmed on appeal by Order and Judgment of April 28, 1993.

Defendant now raises two grounds in seeking to withdraw his plea of guilty or otherwise vacate the sentence. He first contends that his attorney (the Federal Public Defender's Office) "failed to investigate the charges and prepare a defense for movant." Defendant thus contends that he pled guilty under duress, because of ineffective assistance of counsel. The Court has a clear memory of this case. Defendant first elected to proceed to trial, which was commenced. After the presentation of several witnesses' testimony, he conferred with his counsel and elected to plead guilty. The evidence which had been presented demonstrated that the government had a strong case against the defendant. If defense counsel advised that a change of plea might be appropriate, such advice did not constitute ineffective assistance of counsel under these facts. Moreover, at the plea

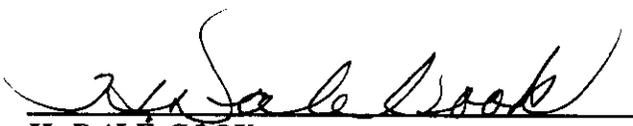
proceeding itself, the Court went to great lengths to assure that defendant was changing his plea freely and voluntarily. Defendant also stated orally and in his written Petition to Enter Plea of Guilty that he was satisfied with his attorney. Defendant has not asserted a sufficient factual basis to justify relief.

As a second ground, defendant asserts that the government obtained his financial records in violation of the Right to Financial Privacy Act (RFPA), 12 U.S.C. §§ 3401-3422. Upon review, the Court finds no violation of the RFPA for the reasons stated in the government's response to the present motion. Even if the Court did find such a violation, suppression of evidence or dismissal of an indictment are not available remedies. See United States v. Davis, 953 F.2d 1482, 1496 (10th Cir.), cert. denied, 112 S.Ct. 2286 (1992).

It is the Order of the Court that the motion of the defendant pursuant to 28 U.S.C. §2255 is hereby denied.

It is the further Order of the Court that the motion of the defendant for appointment of counsel is hereby denied.

IT IS SO ORDERED this 16TH day of February, 1994.



H. DALE COOK
UNITED STATES DISTRICT JUDGE

DATE 2-18-94

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ERIC MICHAEL ANDERSON,)
)
 Defendant.)

Case No. 88-CR-91-C

F I L E D

ORDER

FEB 17 1994 *jm*

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

Before the Court is the motion for consideration of additional day added to defendant's sentence. Defendant pled guilty to one count of making false statements in violation of 18 U.S.C. §1001. He was sentenced on January 10, 1989 to a term of 15 months imprisonment and a term of three years supervised release. On May 24, 1993 an Order was entered by this Court finding that defendant had violated the conditions of supervised release, revoking defendant's supervised release and sentencing him to the custody of the Bureau of Prisons for a term of twelve months.

By the present motion, filed on December 1, 1993, defendant asks the Court to add one day to the imposed sentence, apparently on the theory that this would allow defendant to receive good time credit for the sentence imposed. The Court carefully considered the sentence at the time of its imposition and is not persuaded that it should be altered months after the fact.

It is the Order of the Court that the motion of the defendant for consideration of additional day added to defendant's sentence is hereby denied.

IT IS SO ORDERED this 16th day of February, 1994.

A handwritten signature in cursive script, appearing to read "H. Dale Cook", written over a horizontal line.

H. DALE COOK

UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 2-18-94

FILED

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA FEB 17 1994**

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA)

vs.)

ANTHONY D. SAVIANO)

) Docket No. 92-CR-119-001-C
)
)
)
)
)
)

ORDER REVOKING COUNT TWO OF THE
TERM OF SUPERVISED RELEASE

Now on this 9th day of February, 1994, this cause comes on for sentencing after a previous finding that the defendant violated his term of supervised release (TSR) conditions as set out in the Petition of Probation and Supervised Release filed on December 28, 1993. The defendant is present in person and with his attorney, Federal Public Defender, Rob Nigh. The Government is represented by Assistant United States Attorney Charles McLoughlin, and the United States Probation Office is represented by Ann Farley.

The defendant heretofore, on February 16, 1993, pled guilty to Bank Fraud - Count One, and Fraudulent Use of a Social Security Number - Count Two, in violation of 18 U.S.C. § 1344(1) and 42 U.S.C. § 408(a)(7)(B), respectively. On April 26, 1993, the defendant was sentenced to fifteen (15) months imprisonment, followed upon his release by a four (4) year Term of Supervised Release for Count One and a three (3) year Term of Supervised Release for Count Two, to run concurrently with each other.

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.

Richard M. Lawrence, Clerk
By R. Miller
Deputy

Special conditions included participation in drug and alcohol testing and treatment participation in a mental health program, and restitution payment of \$3,521.92. The standard conditions of probation recommended by the U. S. Sentencing Commission were imposed.

On February 8, 1994, a Revocation Hearing was held regarding the allegations listed in the Petition, said allegations being that on December 25, 1993, the defendant assaulted an Oklahoma Halfway House resident by spaying her with a fire extinguisher, refused a breath test, and walked away from the facility, thereby violating the special condition that he successfully participate in this drug and alcohol abuse residential program. The defendant stipulated to all violations at the hearing, and sentencing was set for February 9, 1994.

As a result of the Sentencing Hearing, the Court finds that the instant conviction occurred after November 1, 1987, and that Chapter 7 of the U.S.S.G. is applicable. Further, the Court finds that the TSR violations constitute Grade C violations, in accordance with U.S.S.G. § 7B1.1(a)(3). The defendant's original Criminal History Category of V is now applicable for determining the imprisonment range of 7 to 13 months, in accordance with U.S.S.G. § 7B1.4(a) and 18 U.S.C. § 3565(a)(2).

In consideration of these findings and pursuant to U.S. vs Lee, 957 F.2d 770 (10 Cir. 1992), in which the Circuit determined that policy statements in Chapter 7 of the U.S.S.G. were not mandatory, but must be considered by the Court, the following sentence is ordered.

It is adjudged by the Court that the defendant shall be sentenced to serve nine (9) months in the custody of the Bureau of Prisons on Count Two only, with recommended placement in an adequate substance abuse and psychiatric treatment facility. Upon his release, the Term of Supervised Release remaining on Count One will recommence, to include the previously imposed standard and special conditions of supervision. Restitution is continued on both counts.

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


The Honorable H. Dale Cook
United States District Judge

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

F I L E D

FEB 17 1994 *rm*

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 CLARENCE REED,)
)
 Defendant.)

No. 89-CR-31-C

ORDER

Before the Court is the motion of the defendant pursuant to 28 U.S.C. §2255. Defendant was tried and convicted in June, 1989, of various offenses. He appealed to the United States Court of Appeals for the Tenth Circuit and the conviction was affirmed by Order and Judgment dated September 20, 1990. His petition for writ of certiorari was denied by the Supreme Court. The present motion raises four issues, which shall be addressed in turn.

First, defendant contends that the Court incorrectly applied the Sentencing Guidelines. This issue was not raised on appeal and is not cognizable under a §2255 motion absent a heightened showing. See Schneider v. United States, 981 F.2d 989 (8th Cir. 1992). As discussed below, defendant has not demonstrated cause and prejudice, or a miscarriage of justice. See United States v. Allen, ___ F.3d ___ (10th Cir.) (Feb. 9, 1994). Even considering the claim on the merits, the Court sees no error.

Second, he asserts that the transfer of his case from state court to federal court for

prosecution violated his right to due process. Again, this issue was not raised on direct appeal. Therefore, defendant may not obtain relief unless he demonstrates both "cause" excusing his procedural default and "actual prejudice" resulting from the alleged errors. United States v. Hall, 843 F.2d 408, 409-10 (10th Cir. 1988). Defendant has made no attempt to satisfy the "cause and prejudice" standard, other than the "open sesame" tactic of alleging ineffective counsel. Attorney error may constitute "cause" if it amounts to ineffective assistance of counsel. See Murray v. Carrier, 477 U.S. 478, 488 (1986). As explained below, the Court does not believe that defendant has established ineffective assistance of counsel, although it is raised as his fourth ground for relief. Therefore, the transfer issue is arguably not cognizable. Nevertheless, the Court has reviewed the arguments presented and denies the motion on its merits. The Supreme Court has invoked a presumption of vindictiveness involving a successful appeal and a harsher sentence upon retrial. United States v. Goodwin, 457 U.S. 368 (1982). However, in the pretrial context, the particular circumstances must be examined. United States v. Miller, 948 F.2d 631, 633 (10th Cir. 1991). Upon review, the Court concludes that defendant has not shown either actual vindictiveness or a realistic likelihood of vindictiveness which will give rise to a presumption of vindictiveness. See United States v. Raymer, 941 F.2d 1031, 1040 (10th Cir. 1991). Assuming arguendo that he has, the government has responded with articulable, objective reasons, id., namely that defendant was believed to be substantially involved in dealing cocaine and possessed and used several firearms in connection therewith. Such belief would also justify the failure to transfer any co-defendants to a federal forum. The claim is denied. See also United States v. Andersen, 940 F.2d 593, 596

(10th Cir. 1991).

Third, defendant challenges evidence seized pursuant to a search warrant allegedly containing false statements. This search warrant was challenged on direct appeal on the basis that it failed to establish probable cause. The Tenth Circuit Court of Appeals rejected the argument. This Court will not re-hear what the appellate court has decided. The Court will not consider this non-cognizable issue.

Finally, defendant raises the issue of ineffective assistance of counsel. Such a challenge may be raised by collateral attack under §2255. Beaulieu v. United States, 930 F.2d 805, 806 (10th Cir. 1991). Defendant must show that counsel's performance was constitutionally inadequate and that counsel's inadequacy prejudiced the defense. Strickland v. Washington, 466 U.S. 668, 687 (1984). There exists a strong presumption that the challenged actions of counsel reflect professionally reasonable strategic decisions. Id. at 689. In its affirmance of this case, the Tenth Circuit Court of Appeals stated that "Reed was represented adequately in federal court by the [Federal Public Defender] and expressed confidence in the FPD's performance." Order and Judgment at 4. Upon review, this Court agrees. Mr. David Booth had vast criminal defense experience and made all legally justifiable arguments in his client's behalf. The decisions made by trial counsel were well within the range of professional competence.

It is the Order of the Court that the motion of the defendant pursuant to 28 U.S.C. §2255 is hereby denied.

It is the further Order of the Court that the application of the defendant for oral argument is denied as moot.

IT IS SO ORDERED this 17th day of February, 1994.

A handwritten signature in cursive script, appearing to read "H. Dale Cook", written over a horizontal line.

H. DALE COOK
UNITED STATES DISTRICT JUDGE

CW

ENTERED ON DOCKET
DATE FEB 17 1994

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED
FEB 17 1994

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 93-CR-095-B

BRIAN GERARD YOUNG
Defendant.

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

The defendant, BRIAN GERARD YOUNG, was represented by James Goodwin.

The defendant pleaded guilty to count 1 of the Indictment. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

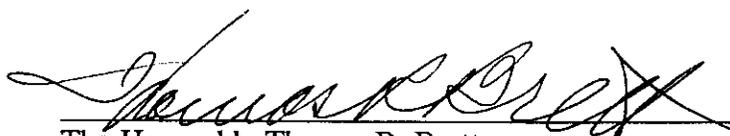
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 875(c)	Utilizing A Communication Facility To Transmit A Threat To Injure The Person Of Another	05/20/93	1

As pronounced on February 14, 1994, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 1 of the Indictment, which shall be due immediately.

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.

Signed this the 17th day of February, 1994.



The Honorable Thomas R. Brett
United States District Judge, Northern District of Oklahoma) SS

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

Richard M. Lawrence, Clerk

By [Signature]
Deputy

Defendant's SSN: 440-84-6405

Defendant's Date of Birth: 09/17/71

Defendant's residence and mailing address: 740 Sidney Marcus Blvd., Atlanta, Georgia 39324

Defendant: BRIAN GERARD YOUNG
Case Number: 93-CR-095-B

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 27 months as to count 1 of the Indictment.

The Court makes the following recommendations to the Bureau of Prisons: That the defendant be placed near Atlanta, Georgia, if possible.

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

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

Defendant: BRIAN GERARD YOUNG
Case Number: 93-CR-095-B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall participate in a program of mental health treatment (to include inpatient), as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Officer.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: BRIAN GERARD YOUNG
Case Number: 93-CR-095-B

FINE

The defendant shall pay a fine as to count 1 of the Indictment of \$ 500. This fine includes any costs of incarceration and supervision.

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release, as directed by the U. S. Probation Office.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: BRIAN GERARD YOUNG
Case Number: 93-CR-095-B

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution as to count 1 of the Indictment in the total amount of \$650.

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

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Natalie and John Ontiveros 1927 North Denver Tulsa, Oklahoma 74103	\$650.00

Payments of restitution are to be made to the United States Attorney for transfer to the payee.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, as directed by the U. S. Probation Office.

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

Defendant: BRIAN GERARD YOUNG
Case Number: 93-CR-095-B

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report except the defendant entered a guilty plea and is afforded a two level reduction for acceptance of responsibility, resulting in a total offense level of 16.

Guideline Range Determined by the Court:

Total Offense Level:	16
Criminal History Category:	II
Imprisonment Range:	24 months to 30 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 6,000 to \$ 60,000
Restitution:	\$ 650

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

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.

F I L E D

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

FEB 17 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA)

vs.)

DAVID LOUIS HALEY)

) Docket No. 92-CR-096-001-C
)
)
)
)

Order on Modification of
Conditions of Supervised Release

Now on this 9th day of February, 1994, this cause comes on for hearing on Modification of Conditions of Supervised Release as set out in the Petition filed on January 31, 1994. The defendant is present in person and with his attorney, John Echols. The Government is represented by Assistant United States Attorney Charles McLoughlin, and the United States Probation Office is represented by Ann Farley.

The defendant heretofore, on December 15, 1992, pled guilty to Count One of an Information, which charged him with Possession of a Firearm After a Former Conviction of a Felony, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). On March 9, 1993, the defendant was subsequently sentenced to an eight month period of confinement, followed by a three year term of supervised release (TSR).

This date a hearing was held regarding the facts noted in the Petition, said information being that the defendant's criminal history and past behavior necessitated the addition of special

conditions, to include search of the defendant's person, residence, vehicle, office and/or business, and mandating no direct or indirect contact with Lisa Breen.

As a result of the hearing and pursuant to 18 U.S.C. § 3583(e)(2) and (d)(3), the Court finds that conditions should be modified, and the following is ordered:

It is adjudged by the Court that the following special conditions shall supplement the standard and special conditions previously ordered, to wit:

1) You shall abide by the Northern District of Oklahoma "Special Search and Seizure condition," filed with the Court Clerk in Miscellaneous Order 128 on February 22, 1993, which states:

You shall submit to a search conducted by a United States Probation Officer of your person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. You shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition, and without having obtained written acknowledgement of an agreement to allow such searches from other residents. This acknowledgement shall be provided to the U. S. Probation Office prior to residency;

2) You shall have no direct or indirect contact with Lisa Breen.


The Honorable H. Dale Cook
U. S. District Judge

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED

UNITED STATES OF AMERICA

FEB 17 1994

v.

Case Number 93-CR-104-001-G
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FRED ASHLEY BUCKLEY
Defendant.

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

The defendant, FRED ASHLEY BUCKLEY, was represented by Stephen J. Greubel.

The defendant pleaded guilty to count 1 of the Indictment. Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 922(g)(1) and 924(a)(2)	Possession Of A Firearm After Former Conviction Of A Felony	12/01/92	1

As pronounced on February 9, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for counts 1 of the Indictment, which shall be due immediately.

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.

Signed this the 16th day of Feb, 1994.

H. Dale Cook
The Honorable H. Dale Cook
United States District Judge

Defendant's SSN: 447-74-8302
Defendant's Date of Birth: 02/21/65
Defendant's residence and mailing address: 7415 N. Victor, Tulsa, Oklahoma 74126

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.
Richard M. Lawrence, Clerk
By *R. Miller*
Deputy

Defendant: FRED ASHLEY BUCKLEY
Case Number: 93-CR-104-001-C

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 46 months.

The defendant is to remain free on bond, pending appeal.

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

Defendant: FRED ASHLEY BUCKLEY
Case Number: 93-CR-104-001-C

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: FRED ASHLEY BUCKLEY
Case Number: 93-CR-104-001-C

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	19
Criminal History Category:	IV
Imprisonment Range:	46 months to 57 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 6,000 to \$ 60,000
Restitution:	\$ N/A

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

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.

aw

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

ENTERED ON DOCKET

DATE 2-17-94

UNITED STATES OF AMERICA

v.

Case Number 93-CR-142-001-C

LEON RUPERT BROOKS
Defendant.

F I L E D

FEB 17 1994

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

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

The defendant, LEON RUPERT BROOKS, was represented by Stephen J. Greubel.

On motion of the United States the court has dismissed counts 2 through 14 of the Indictment.

The defendant pleaded guilty to count 1 of the Indictment. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

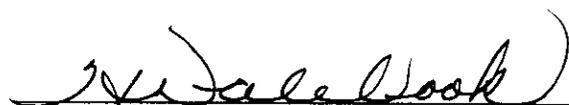
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
42 USC 408(a)(4)(2)	Concealing A Material Event	06/03/93	1

As pronounced on February 9, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 1 of the Indictment, which shall be due immediately.

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.

Signed this the 16th day of Feb., 1994.


The Honorable H. Dale Cook
United States District Judge

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.

Richard M. Lawrence, Clerk

By R. Miller
Deputy

Defendant's SSN: 226-72-7272

Defendant's Date of Birth: 05/30/51

Defendant's residence and mailing address: 7952 East 60th Street, Apt. 85-1, Tulsa, Oklahoma 74114

Defendant: LEON RUPERT BROOKS
Case Number: 93-CR-142-001-C

PROBATION

The defendant is hereby placed on probation for a term of 5 years.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm or destructive device.
3. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 6 months, to commence within 72 hours of sentencing date. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office.

STANDARD CONDITIONS OF PROBATION

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: LEON RUPERT BROOKS
Case Number: 93-CR-142-001-C

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution as to count 1 of the Indictment in the total amount of \$20,000.

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 SEPSC/DMS/RAU Acct. No. SSA# 230-76-4738-C1 P.O. Box 830580 Birmingham, Alabama 35283	\$20,000

Payments of restitution are to be made to the United States Attorney for transfer to the payee.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation, as directed by the U. S. Probation Office.

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

Defendant: LEON RUPERT BROOKS
Case Number: 93-CR-142-001-C

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	9
Criminal History Category:	I
Imprisonment Range:	4 months to 10 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 1,000 to \$ 10,000
Restitution:	\$ 65,092.20

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

Full restitution is not ordered for the following reasons: Due to the defendant's inability to pay the full amount as evidenced by the defendant's financial profile and his earning ability.

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.

OW

ENTERED ON DOCKET UNITED STATES DISTRICT COURT
 DATE FEB 17 1994 Northern District of Oklahoma

FILED
 FEB 17 1994
 Richard M. Lawrence, Court Clerk
 U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 93-CR-167-B

MARILYN CRUZ
 Defendant.

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

The defendant, MARILYN CRUZ, was represented by R.J. STUBBLEFIELD.

On motion of the United States the court has dismissed count(s) 2,3,5,6,7 & 8 of the Indictment.

The defendant pleaded guilty to count(s) 1 & 4 of the Indictment. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

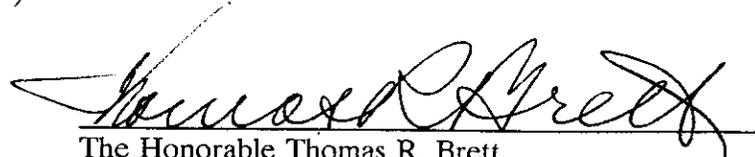
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18:1029(a)(2)	Use of Unauthorized Access Devices to Obtain Items of an Aggregate Value of More Than \$1,000	06-29-93	1
18:1029(a)(2)	Use of Unauthorized Access Devices to Obtain Items of an Aggregate Value of More than \$1,000	01-15-93	4

As pronounced on February 10, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 100, for count(s) 1 & 4 of the Indictment, which shall be due immediately.

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.

Signed this the 17th day of February, 1994.



The Honorable Thomas R. Brett
 United States District Judge

Defendant's SSN: 449-29-2049
 Defendant's Date of Birth: 11-02-58
 Defendant's residence and mailing address: 1004 North Mockingbird Circle, Cedar Creek, TX 78612

Defendant: MARILYN CRUZ
Case Number: 93-CR-167-B

PROBATION

The defendant is hereby placed on probation for a term of three (3) years as to each count to run concurrently.

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm or destructive device.
3. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 4 months, to commence within one week of sentencing date. Electronic monitoring shall continue until such time as the probation officer deems appropriate, up to the full 4 months. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office.
4. The defendant shall not incur new credit charges or open additional lines of credit without the approval of the Probation Office. The defendant will also be ordered to attend credit counseling as directed by the U.S. Probation Office.

STANDARD CONDITIONS OF PROBATION

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: MARILYN CRUZ
Case Number: 93-CR-167-B

RESTITUTION AND FORFEITURE
RESTITUTION

The defendant shall make restitution in the total amount of \$10,000. This amount is the total of the restitution imposed on individual counts, as follows: \$8,742.39 on Count 1 and \$1,257.61 on Count 4.

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

<u>Name of Payee</u>	<u>Count 1</u>	<u>Amount of Restitution</u>
Moody's Jewelry 1137 South Harvard Tulsa, Oklahoma 74112		\$ 4,585.66
Bank One Columbus, N.A. Attn: Shelia Thompson Post Office Box 24057 Columbus, Ohio 43224		\$ 1,745.14
Stillwater National Bank & Trust Co. Attn: Gigi Abt Post Office Box 1988 Stillwater, Oklahoma 74076	(Visa)	\$ 871.58
	(Master Card)	\$ 869.40
United Bank Card Services Attn: Mrs. Hart Post Office Box 12000 Oklahoma City, OK 73157		\$ 374.80
Norwest Financial Credit Card Services Attn: Cindi Tuttle 1200 Northwest Avenue Sioux Falls, South Dakota 57104		\$ 295.81
	<u>Count 4</u>	
Citicorp Credit Card Services Attn: Terry Gearhard 2201 N. Central Expressway, Suite 201 Richardson, Texas 75080		\$ 1,257.61

Payments of restitution are to be made to the United States Attorney for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation, as directed by the U. S. Probation Office.

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

Defendant: MARILYN CRUZ
Case Number: 93-CR-167-B

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	9	
Criminal History Category:	1	
Imprisonment Range:	4 months to 10 months	Counts 1 & 4
Supervised Release Range:	2 to 3 years	Counts 1 & 4
Fine Range:	\$ 1,000 to \$ 10,000	Counts 1 & 4
Restitution:	\$ 18,096.61	

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

Full restitution is not ordered for the following reason(s): Defendant's inability to pay.

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.

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.

Richard M. Lawrence, Clerk

By  Deputy

FILED

ENTERED ON DOCKET **UNITED STATES DISTRICT COURT**
 DATE FEB 15 1994 Northern District of Oklahoma

FEB 15 1994

Richard M. Lawrence, Court Clerk
 U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 92-CR-130-001-B

MONTE MORRIS FRIESNER
 Defendant.

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

The defendant, MONTE MORRIS FRIESNER, was represented by Robert Nigh and Stephen J. Greubel.

On motion of the United States the court has dismissed count 1 of the Indictment. The defendant has been found not guilty on count 13 of the Superseding Indictment and is discharged as to such count. IT IS ORDERED that the Defendant is acquitted and discharged, and any bond is exonerated.

The defendant was found guilty on counts 1 through 12 and 14 through 22 of the Superseding Indictment after a plea of not guilty. Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

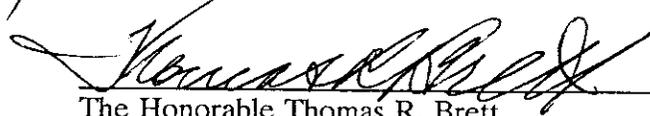
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 1343 and 2(b)	Wire Fraud And Causing A Criminal Act	01/13/92	1, 2, 4-7,11, 12,14, and 16
18 USC 1956(a)(2)(A) and 2(b)	Money Laundering And Causing A Criminal Act	01/13/92	3 and 15
18 USC 1956(a)(1)(A)(i), (a)(1)(B)(i), and 2(b)	Money Laundering And Causing A Criminal Act	01/13/92	8 through 10
18 USC 2314 and 2(b)	Interstate Transportation Of Money Taken By Fraud; Interstate And Foreign Travel In Furtherance Of Fraud And Causing A Criminal Act	04/13/90	17 and 18
18 USC 2314	Interstate Transportation Of Money Taken By Fraud; Interstate And Foreign Travel In Furtherance Of Fraud	12/26/91	19 through 22

As pronounced on February 10, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 1,050, for counts 1 through 12 and 14 through 22 of the Superseding Indictment, which shall be due immediately.

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.

Signed this the 15th day of February, 1994.


 The Honorable Thomas R. Brett
 United States District Judge

Defendant's SSN: 404-15-5970
 Defendant's Date of Birth: 09/15/42
 Defendant's residence and mailing address: Tulsa County Jail

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.

Richard M. Lawrence, Clerk
 By 
 Deputy

Defendant: MONTE MORRIS FRIESNER
Case Number: 92-CR-130-001-B

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 84 months as to counts 3, 8, 9, 10, 15, and 17 through 22, and 60 months as to counts 1, 2, 4, 5, 6, 7, 11, 12, 14 and 16, all counts to run concurrently for a total of 84 months.

The Court makes the following recommendations to the Bureau of Prisons: That the defendant be allowed to serve his term of custody in a facility near Fort Worth, Texas, and be required to pay towards his restitution as least one half of any money earned during custody, through the Inmate Financial Responsibility Program.

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

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

Defendant: MONTE MORRIS FRIESNER
Case Number: 92-CR-130-001-B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to all counts to run concurrent each with the other.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: MONTE MORRIS FRIESNER
Case Number: 92-CR-130-001-B

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution as to the Superseding Indictment in the total amount of \$10,000.

This amount is the total of the restitution imposed on individual counts, as follows: \$1,600 on Count 1, \$2,000 on Counts 3, 5, and 6, \$1,500 on Count 12, \$3,800 on Counts 8, 9, and 10, and \$1,100 on Counts 15 and 16.

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

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Faye Fraser-Dryce 34 Walmer Road, Suite 305, Toronto, Ontario, Canada	\$ 1,600
David Yacoob 175 Dalewood Crescent, Hamilton, Ontario, Canada	2,000
Keith McDowell 250 Cedar Valley, Oshawa, Ontario, Canada	1,500
Colin Ager 519 Fountain Street, Cambridge, Ontario, Canada	3,800
Jai Gupta and Harpal Dhillon 1173 Dolley Madison Blvd., McLean, Virginia 22101	1,100
Total:	<u>\$10,000</u>

Payments of restitution are to be made to the United States Attorney for transfer to the payees.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, as directed by the U. S. Probation Office.

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

Defendant: MONTE MORRIS FRIESNER
Case Number: 92-CR-130-001-B

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	28	
Criminal History Category:	I	
Imprisonment Range:	78 months to 97 months	Cts. 1-12 & 14-22
Supervised Release Range:	2 to 3 years	Cts. 1-12 & 14-22
Fine Range:	\$ 12,500 to \$ 125,000	Cts. 1-12 & 14-22
Restitution:	\$ 1,254,501	

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

Full restitution is not ordered for the following reasons: Due to defendant's inability to pay.

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.

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

FILED

FEB 14 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
LYMAN BRADSHAW,)
)
Defendant.)

Case No. 88-CR-88-C
Case No. 89-C-101-C

ORDER

Before the Court is an "Application for Release of Personal Property Being Held By Departments Under the Jurisdiction of the United States" filed by a Ms. Bonnie Warren who purports to be the Attorney in Fact for the defendant herein, Lyman Bradshaw. Ms. Warren attaches an inventory of property seized by governmental agencies in connection with the criminal indictment issued in 88-CR-88-C against Bradshaw.

On September 30, 1988 pursuant to a plea agreement with the United States, the defendant Lyman Bradshaw plead guilty to a one count information charging the defendant with violation of 21 U.S.C. §841(a)(1). Judgment and conviction was entered on November 23, 1988.

Of the items contained on the inventory list, Government advises that four firearms were returned to defendant's wife and a computer returned to the defendant. The government commenced administrative forfeiture proceedings against the remaining items of property pursuant to 19 U.S.C. §1607(a).

An administrative forfeiture proceeding begins with publication by the Drug Enforcement Agency (DEA) of a notice of seizure and intent to forfeit property and transmission of written notice of seizure to "each party who appears to have an interest in the seized property." See, 19 U.S.C. §1607. The DEA also publishes notice of the seizure for three successive weeks thereafter pursuant to 21 C.F.R. §1316.75. Once an administrative forfeiture proceeding has commenced, a claimant has twenty days from the first publication of notice to contest the forfeiture by filing a claim and cost bond. See, 28 C.F.R. §9.1-9.7, 21 C.F.R. §1316.71-.81. The filing of the claim and cost bond halts the administrative process and converts the proceeding into a civil forfeiture action in federal district court. See, 19 U.S.C. § 1608, 21 C.F.R. §1316.78. If no timely claim and cost bond is filed within the twenty day period, however, the property is administratively forfeited, pursuant to 19 U.S.C. §1608, 21 C.F.R. § 1609. Thereafter, the claimant's sole recourse is to petition the DEA's Asset Forfeiture Section, within thirty days of receiving notice, for "remission" of the forfeiture. 28 C.F.R. § 9.3.

Once this administrative process begins and the defendant fails to file a claim or cost bond, a federal court lacks jurisdiction to review the merits of any administrative forfeiture decision. See, United State v. One 1987 Jeep Wrangler, 972 F.2d 472, 480 (2nd Cir. 1992), unless the administrative forfeiture proceeding is procedurally deficient. See, Onwubiko v. United States, 969 F.2d 1392 (2nd Cir. 1992).

Based on the exhibits and briefs filed in the instant case, the DEA commenced administrative forfeiture proceedings against the currency and the remaining sixteen

firearms¹. The DEA sent Bradshaw notice and published notice of the seizure for each of the items listed in the Declaration of Forfeiture. Thereafter, Bradshaw filed a claim only as to \$1,608 in United States currency. Since Bradshaw or any other interested person failed to file a claim and cost bond as to the other assets subject to the Declaration of Forfeiture within the allotted twenty day period, or to submit a petition for remission, the administrative process is complete and the forfeiture is final. See, Onwubiko v. United States, 969 F.2d at 1398. Thus, this Court lacks jurisdiction to review the DEA's final administrative decision.

As to the \$1,608 in currency in which defendant Bradshaw filed a claim, the government thereafter sent notice and commenced herein a civil forfeiture proceeding which was assigned Case No. 89-C-101-C. The civil forfeiture case was dismissed by this Court on June 27, 1990 for failure of Bradshaw to cooperate in government's discovery requests. Judgment of forfeiture was entered on July 19, 1990. Bradshaw did not appeal following entry of judgment and thus the action is final and not subject to review. In her application, Ms. Warren misstates that the government destroyed the sixteen firearms prior to the time that the original indictment was issued against Lyman Bradshaw on July 13, 1988. From a review of the Report of Destruction, the certification of the authorizing officer indicates that the sixteen firearms were destroyed on June 6, 1989. Clearly this date is after the indictment was returned and after judgment and conviction was entered on November 23, 1988.

¹ *Other miscellaneous property was destroyed by the government as either documentary evidence or drug paraphernalia.*

The Court finds no merits to the claims raised by Ms. Warren. In addition, it would appear from the pleadings filed by the government that Ms. Warren lacks proper standing to assert this application on behalf of Lyman and Marilyn Bradshaw.

It is therefore the order of the Court that the application for return of seized property filed by Ms. Bonnie Warren is hereby DENIED.

IT IS SO ORDERED this 17th day of February, 1994.



H. DALE COOK

UNITED STATES DISTRICT JUDGE

ENTERED ON COURT
DATE 2/14/94

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

RESENTENCING PURSUANT TO GOVERNMENT'S
RULE 35 MOTION FOR REDUCTION IN SENTENCE
Case Number 92-CR-028-002-E

v.

DANNY JOE DUVALL
Defendant.

FILED

FEB 14 1994

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

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

The defendant, DANNY JOE DUVALL, was represented by Richard D. White.

On motion of the United States the court has dismissed counts 1, 3, and 4 of the Indictment.

The defendant pleaded guilty to count 2 of the Indictment. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

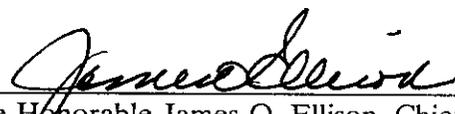
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 2	Aiding And Abetting In Assault With Intent To Rob A Postal Employee	01/30/92	2

As pronounced on February 4, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 2 of the Indictment, which shall be due immediately, if not already paid.

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.

Signed this the 10th day of February, 1994.

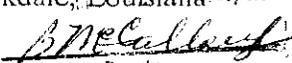

The Honorable James O. Ellison, Chief
United States District Judge

Defendant's SSN: 441-52-9996

Defendant's Date of Birth: 05/19/48

Defendant's residence and mailing address: Oakdale Federal Correctional Institution, Oakdale, Louisiana

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

By 
Deputy Clerk

Defendant: DANNY JOE DUVALL
Case Number: 92-CR-028-002-E

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 37 months as to count 2 of the Indictment. Credit given for time already served.

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

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

Defendant: DANNY JOE DUVALL
Case Number: 92-CR-028-002-E

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years as to count 2 of the Indictment.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: DANNY JOE DUVALL
Case Number: 92-CR-028-002-E

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of \$6,103.30 as to count 2 of the Indictment.

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

<u>Name of Payee</u>	<u>Amount of Restitution</u>
U. S. Postal Service Attn.: Postmaster Tulsa, Oklahoma 74101	\$5,339.94
Talala, Oklahoma Post Office Talala, Oklahoma	\$ 763.36
	<u>\$6,103.30</u>

The defendant is held jointly and severally liable with his two codefendants for the total restitution of \$6,103.30.

Payments of restitution are to be made to the United States Attorney for transfer to the payees.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, as directed by the U. S. Probation Office.

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

Defendant: DANNY JOE DUVALL
Case Number: 92-CR-028-002-E

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	23
Criminal History Category:	III
Imprisonment Range:	57 months to 71 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 10,000 to \$ 100,000
Restitution:	\$ 6,103.30

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

The sentence departs from the guideline range for the following reasons: pursuant to the government's Rule 35 motion for reduction of sentence due to substantial assistance. Upon the government's recommendation that the court depart downward to an offense level of 19, the court imposed a sentence of 37 months, a sentence within the guideline range that corresponds with an offense level of 19 and a Criminal History Category of III.

DATE 2/11/94

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 93-CR-129-001-B

SCOTT ALLEN CROSS
Defendant.

FILED
FEB 09 1994
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

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

The defendant, SCOTT ALLEN CROSS, was represented by Stephen J. Greubel.

On motion of the United States the court has dismissed counts 3 and 5 of the Indictment.

The defendant pleaded guilty to counts 1, 2, 4, and 6 of the Indictment. Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

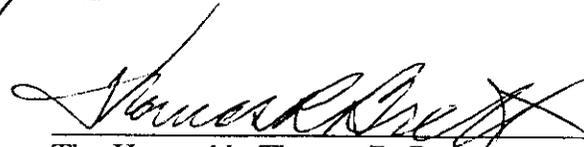
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
42 USC 408(a)(7)(B)	Use Of A Fraudulent Social Security Number	12/04/92	1
18 USC 1344(1)	Bank Fraud	12/04/92	2
18 USC 1344(1)	Bank Fraud	01/19/93	4
18 USC 1344(1)	Bank Fraud	01/19/93	6

As pronounced on February 4, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50 as to each count 1, 2, 4, and 6 of the Indictment, \$200 total, which shall be due immediately.

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.

Signed this the 9th day of February, 1994.


The Honorable Thomas R. Brett
United States District Judge

Defendant's SSN: 495-80-6251
Defendant's Date of Birth: 11/26/64
Defendant's residence and mailing address: 16031 Meadow Lane, Stillwell, Kansas 66085

United States District Court)
Northern District of Oklahoma) SS
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
BY B.M. Callaway

Defendant: SCOTT ALLEN CROSS
Case Number: 93-CR-129-001-B

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 10 months on each count, all to run concurrently, each with the other. The defendant shall receive credit for time served in custody.

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

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

Defendant: SCOTT ALLEN CROSS
Case Number: 93-CR-129-001-B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years as to counts 2, 4, and 6 of the Indictment and 3 years as to count 1 of the Indictment, all counts to run concurrently each with the other.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall pay restitution that is imposed by this judgment in regular monthly installment payments, as directed by the U. S. Probation Officer.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: SCOTT ALLEN CROSS
 Case Number: 93-CR-129-001-B

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of \$6,495.37.

The defendant shall make restitution to the following persons in the following amounts:
 This amount is the total of the restitution imposed on individual counts, as follows: \$4,584.33 on Count 2,
 \$1,911.04 on Count 6.

<u>Name of Payee</u>	<u>Amount of Restitution</u>
<u>As to Count 2:</u>	
Delta Airlines Attn: Commercial Credit, Dept. 855 P.O. Box 20534, Atlanta, Georgia 30320-2534	\$3,593.00
Paymaster Attn: Gary Lipperd P.O. Box 580095, Tulsa, Oklahoma 74158-0095	\$ 160.71
Telecheck of Tulsa, Inc. 10159 East 11th Street, Tulsa, Oklahoma 74128	\$ 217.50
Homeland Stores, Incorporated Attn: Flora Vanderingly (Collection bad checks) P.O. Box 25008, Oklahoma City, Oklahoma 73135	\$ 91.62
Drysdales Western Wear 3220 South Memorial, Tulsa, Oklahoma 74145	\$ 397.22
Drury Inn 10951 Metcalf Avenue, Overland Park, Kansas 66210	\$ 124.28
	\$4,584.33
<u>As to Count 6:</u>	
Bank of Oklahoma Attn: Lowell Faulkenberry P.O. Box 2300, Tulsa, Oklahoma 74192	\$1,425.04
Southwest Airlines Attn: Fred Grobe, Collection Account 0331301 P.O. Box 36611, Dallas, Texas 75235	\$ 486.00
	\$1,911.04

Payments of restitution are to be made to the United States Attorney for transfer to the payees.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, as directed by the U. S. Probation Office. Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: SCOTT ALLEN CROSS
Case Number: 93-CR-129-001-B

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	8	
Criminal History Category:	III	
Imprisonment Range:	6 months to 12 months	counts 1, 2, 4, & 6
Supervised Release Range:	2 to 3 years	count 1
	3 to 5 years	counts 2, 4, & 6
Fine Range:	\$ 1,000 to \$ 3,000,000	counts 1, 2, 4, & 6
Restitution:	\$ 6,495.37	

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

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.

DATE 2/10/94

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

RESENTENCING PURSUANT TO
10TH CIRCUIT MANDATE
Case Number 91-CR-024-003-B

v.

STEVEN RAY YOUNG
Defendant.

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

FILED
FEB 10 1994
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

The defendant, STEVEN RAY YOUNG, was represented by Steve Stidham.

On motion of the United States the court has dismissed counts 2, 3, and 5 through 15 of the Indictment.

The defendant pleaded guilty to counts 1 and 4 of the Indictment. Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

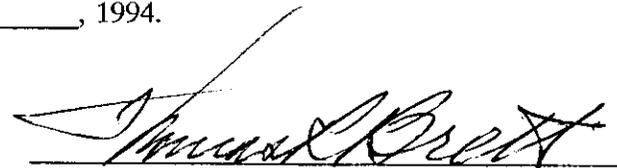
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 371	Conspiracy To Committing Wire Fraud	05/01/90	1
18 USC 1343 and 2	Wire Fraud and Aiding and Abetting	05/01/90	4

As pronounced on February 4, 1994, 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.

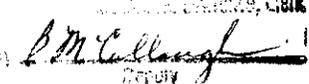
It is ordered that the defendant shall pay to the United States a special assessment of \$100, for counts 1 and 4 of the Indictment, which shall be due immediately.

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.

Signed this the 9th day of February, 1994.


The Honorable Thomas R. Brett
United States District Judge

Defendant's SSN: 440-56-4611
Defendant's Date of Birth: 12/24/53
Defendant's residence and mailing address: Oklahoma Department of Corrections,
James Crabtree Correctional Center, Route 1, Box 8, Helena, Oklahoma 73741


Richard M. Lawrence, Clerk


Defendant: STEVEN RAY YOUNG
Case Number: 91-CR-024-003-B

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 30 months to run concurrent on counts 1 and 4.

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

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

Defendant: STEVEN RAY YOUNG
Case Number: 91-CR-024-003-B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to each count, to run concurrently.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall participate in vocational training and job placement programs as recommended 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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: STEVEN RAY YOUNG
Case Number: 91-CR-024-003-B

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of \$2,500.

The defendant shall make restitution as to counts 1 and 4 of the Indictment to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
<u>As to Count 1:</u>	
Mable E. Kluchesky 4515 W. Powell Gresham, Oregon 97030	\$1,442.00
Dorothy L. Peek 406 E Magnolia Centralia, Washington 98531	\$ 537.76
Jewell Walton 308 Chestnut Bloomfield, New Mexico	\$ 208.57
	\$2,188.33
<u>As to count 4:</u>	
Bernice M. Nixon 2014 Summitt Avenue Everett, Washington 98201	\$ 311.67

Payments of restitution are to be made to the United States Attorney for transfer to the payees.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, as directed by the U. S. Probation Office.

Defendant: STEVEN RAY YOUNG
Case Number: 91-CR-024-003-B

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	10	
Criminal History Category:	VI	
Imprisonment Range:	24 months to 30 months	count 1 and 4
Supervised Release Range:	2 to 3 years	counts 1 & 4
Fine Range:	\$2,000 to \$20,000	
Restitution:	\$ 2,500	

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

Full restitution is not ordered for the following reasons: Defendant's inability to pay.

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.

aw
F I L E D

ENTERED ON DOCKET
FEB 10 1994
DATE _____

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FEB 10 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

v.

Case Number 93-CR-170-001-B

ANTHONY WAYNE RUSSELL
Defendant.

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

The defendant, ANTHONY WAYNE RUSSELL, was represented by Roy W. Byars.

The defendant pleaded guilty to count 1 of the Indictment. Accordingly, the defendant is adjudged guilty of such count, involving the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 USC 841(a)(1) and 841(b)(1)(C)	Manufacturing 50 Or More Marijuana Plants By Cultivation	08/13/93	1

As pronounced on February 10, 1994, 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.

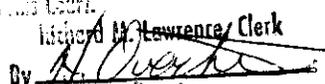
It is ordered that the defendant shall pay to the United States a special assessment of \$50, for count 1 of the Indictment, which shall be due immediately.

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.

Signed this the 10TH day of February, 1994.


The Honorable Thomas R. Brett
United States District Judge

Defendant's SSN: 447-54-2906
Defendant's Date of Birth: 05/19/54
Defendant's residence and mailing address: Box 2, Twin Oaks, Oklahoma 74368

United States District Court) SS
Northern District of Oklahoma)
I hereby certify that the foregoing
is a true copy of the original on file
in this Court.
Richard M. Lawrence, Clerk
By  Deputy

Defendant: ANTHONY WAYNE RUSSELL
Case Number: 93-CR-170-001-B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: ANTHONY WAYNE RUSSELL
Case Number: 93-CR-170-001-B

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	19
Criminal History Category:	I
Imprisonment Range:	30 months to 37 months
Supervised Release Range:	3 years
Fine Range:	\$ 6,000 to \$ 1,000,000
Restitution:	\$ N/A

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

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.

Defendant: ANTHONY WAYNE RUSSELL
Case Number: 93-CR-170-001-B

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 30 months.

The Court makes the following recommendations to the Bureau of Prisons: That the defendant be confined in a facility capable of monitoring the defendant's significant health problems. (See Paragraph #31 of the Presentence Report)

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

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

2/10/94

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 93-CR-149-004-E

JACKSON, LAURA LEE
Defendant.

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

FILED
FEB 11 1994
Richard H. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

The defendant, JACKSON, LAURA LEE, was represented by Paul D. Brunton.

The defendant pleaded guilty to count 1 of the Information. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

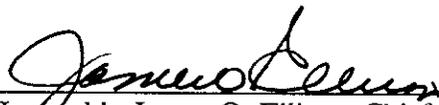
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 656 and 2(a)	Misapplication Of Financial Institution Funds And Aiding And Abetting	07/07/92	1

As pronounced on January 14, 1994, continued to February 2, 1994 for correction of issues relating to the original sentencing, 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.

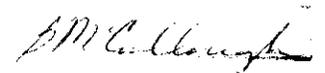
It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 1 of the Information, which shall be due immediately.

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.

Signed this the 9th day of February, 1994.


The Honorable James O. Ellison, Chief
United States District Judge

Defendant's SSN: 440-72-6355
Defendant's Date of Birth: 09-17-61
Defendant's residence and mailing address: 2148 East 55th Street, Tulsa, Oklahoma 74105



Defendant: JACKSON, LAURA LEE
Case Number: 93-CR-149-004-E

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 0 months.

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

Defendant: JACKSON, LAURA LEE
Case Number: 93-CR-149-004-E

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall be placed on home detention immediately to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 6 months, to commence by January 19, 1994. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified 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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: JACKSON, LAURA LEE
Case Number: 93-CR-149-004-E

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution as to count 1 of the Information in the total amount of \$2,069.

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

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Bank of Oklahoma Attn.: Lowell Faulkenberry One Williams Center P.O. Box 2300 Tulsa, Oklahoma 74103	\$2,069

Payments of restitution are to be made to the United States Attorney for transfer to the payee.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of supervised release, as directed by the U. S. Probation Office, to be paid jointly and severally with co-defendant Todd Bachman.

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

Defendant: JACKSON, LAURA LEE
Case Number: 93-CR-149-004-E

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report, except the court determined that the defendant was a minor participant pursuant to United States Sentencing Guidelines 3B1.2(b), and reduced the offense level by two points to level 3.

Guideline Range Determined by the Court:

Total Offense Level:	3
Criminal History Category:	VI
Imprisonment Range:	3 months to 9 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 100 to \$ 1,000,000
Restitution:	\$ 2,069

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

The sentence departs from the guideline range for the following reasons: The court finds the defendant's involvement in this offense is essentially the same as co-defendants Janell Akin, Lee DeLaTorre, and Dawn Vericat. In order to achieve equitable sentences among the defendants, excluding Bachman, the court departs downward to zone A of the sentencing table, which provides for guideline range of imprisonment of zero to 6 months.

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 93-CR-149-003-E

LEE DeLaTORRE
Defendant.

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

FILED
FEB 11 1994
U.S. District Court
Northern District of Oklahoma
Clerk

The defendant, LEE DeLaTORRE, was represented by Stanley Monroe.

The defendant pleaded guilty to count 1 of the Information. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 656 and 2(a)	Misapplication Of Financial Institution Funds And Aiding And Abetting	08/19/92	1

As pronounced on January 14, 1994, continued to February 2, 1994, for correction of issues related to the original sentencing, 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.

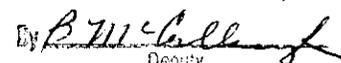
It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 1 of the Information, which shall be due immediately.

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.

Signed this the 9th day of February, 1994.


The Honorable James O. Ellison, Chief
United States District Judge

Defendant's SSN: 560-13-7883
Defendant's Date of Birth: 07/19/64
Defendant's residence and mailing address: 3630 Maplewood, Tulsa, Oklahoma 74135

United States District Court
Northern District of Oklahoma
I hereby certify that the foregoing
is a true and correct copy
of the original as filed
in this Court.
By 
Deputy

Defendant: LEE DeLaTORRE
Case Number: 93-CR-149-003-E

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 0 months.

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

Defendant: LEE DeLaTORRE
Case Number: 93-CR-149-003-E

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall be placed on home detention immediately to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 6 months, to commence by January 19, 1994. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified 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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: LEE DeLaTORRE
Case Number: 93-CR-149-003-E

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution as to count 1 of the Information in the total amount of \$23,002.34.

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

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Bank of Oklahoma Attn.: Lowell Faulkenberry One Williams Center P.O. Box 2300 Tulsa, Oklahoma 74103	\$23,002.34

Payments of restitution are to be made to the United States Attorney for transfer to the payee.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid as a condition of supervised release, as directed by the U. S. Probation Office, to be paid jointly and severally with codefendant Todd Bachman.

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

Defendant: LEE DeLaTORRE
Case Number: 93-CR-149-003-E

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report except the court finds that the two level increase for "more than minimal planning" is not warranted, resulting in a base offense level of 8.

Guideline Range Determined by the Court:

Total Offense Level:	8
Criminal History Category:	II
Imprisonment Range:	4 months to 10 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 1,000 to \$ 1,000,000
Restitution:	\$ 23,002.34

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

The sentence departs from the guideline range for the following reason: The court finds this defendant's involvement in the offense is essentially the same as codefendants Janell Akin, Laura Lee Jackson, and Dawn Vericat. In order to maintain the same level of punishment for each defendant, except for Bachman, the defendant's offense level is Zone A which provides for a range of imprisonment of 0 - 6 months.

DATE 2/10/94

cw

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 93-CR-149-002-E

JANELL MARIE AKIN
Defendant.

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

FILED
FEB 11 1994
Richard M. Lawrence, Clerk
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

The defendant, JANELL MARIE AKIN, was represented by Keith Ward.

The defendant pleaded guilty to count 1 of the Information. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

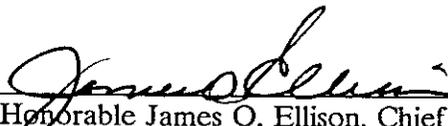
Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 656 and 2(a)	Misapplication Of Financial Institution Funds And Aiding And Abetting	08/19/92	1

As pronounced on January 14, 1994, continued to February 2, 1994, for correction of issues relating to the original sentencing, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 1 of the Information, which shall be due immediately.

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.

Signed this the 9th day of February, 1994.


The Honorable James O. Ellison, Chief
United States District Judge

Defendant's SSN: 444-64-7231
Defendant's Date of Birth: 05/13/70
Defendant's residence and mailing address: 3630 Maplewood, Apartment D, Tulsa, Oklahoma 74135

United States District Court)
Northern District of Oklahoma) SS
I hereby certify that the foregoing
is a true copy of the original as it is
Richard M. Lawrence, Clerk
By B.M. Callough
Deputy

Defendant: JANELL MARIE AKIN
Case Number: 93-CR-149-002-E

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 0 months.

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

Defendant: JANELL MARIE AKIN
Case Number: 93-CR-149-002-E

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall be placed on home detention immediately to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 6 months, to commence by January 19, 1994. During the electronic monitoring time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office.
6. The defendant shall pay restitution imposed in this sentence as a condition of supervised release 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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: JANELL MARIE AKIN
Case Number: 93-CR-149-002-E

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution as to count 1 of the Information in the total amount of \$43,524.38.

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

<u>Name of Payee</u>	<u>Amount of Restitution</u>
Bank of Oklahoma Attn.: Lowell Faulkenberry P.O. Box 2300 Tulsa, Oklahoma 74103	\$43,524.38

Payments of restitution are to be made to the United States Attorney for transfer to the payee(s).

Restitution shall be paid in full immediately. The defendant is held jointly and severally liable for the restitution with other codefendants order to pay restitution in this case. Any amount not paid immediately shall be paid during the period of supervised release, as directed by the U. S. Probation Office.

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

Defendant: JANELL MARIE AKIN
Case Number: 93-CR-149-002-E

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report except that the court finds that more than minimal planning does not exist in this case and the offense level should not include an increase for this specific offense characteristic. This results in a reduction of the total offense level to 9.

Guideline Range Determined by the Court:

Total Offense Level:	9
Criminal History Category:	1
Imprisonment Range:	4 months to 10 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 1,000 to \$ 1,000,000
Restitution:	\$ 43,524.38

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

The sentence departs from the guideline range for the following reasons: The court finds that this defendant's involvement in this offense is essentially the same as codefendants Lee DeLaTorre, Laura Lee Jackson, and Dawn Vericat and that in order to achieve equitable sentences among these defendants, the court departs downward to Zone A of the sentencing table. This provides a guideline range of imprisonment of 0 to 6 months.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
KERRY CHAPLIN,)
)
Defendant.)

No. 93-CR-184-C

F I L E D

FEB 8 1994

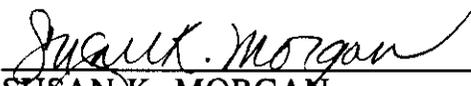
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

MOTION TO DISMISS

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 without prejudice the Indictment against KERRY CHAPLIN, defendant.

Respectfully submitted

STEPHEN C. LEWIS
United States Attorney



SUSAN K. MORGAN
Assistant United States Attorney
3460 U.S. Courthouse
333 W. 4th Street
Tulsa, OK 74103
(918) 581-7463

ORDER OF DISMISSAL

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

(Signed) H. Dale Cook

United States District Judge

Date:

FILED

ENTERED ON DOCKET **UNITED STATES DISTRICT COURT**
DATE FEB - 8 1994 **Northern District of Oklahoma**

FEB 8 1994

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 93-CR-133-001-B

JESSE LEE WILLS
Defendant.

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

The defendant, JESSE LEE WILLS, was represented by Phil Frazier.

The defendant was found guilty on Count 1 of the Indictment after a plea of not guilty. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 924(c)	Possession of a Firearm During Drug Trafficking Crime	06/03/93	1

As pronounced on February 4, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for Count 1 of the Indictment, which shall be due immediately.

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.

Signed this the 8 day of February, 1994.


The Honorable Thomas R. Brett
United States District Judge

Defendant's SSN: 324-24-6733
Defendant's Date of Birth: 11-22-28
Defendant's residence and mailing address: 4690 N. Hartford, Tulsa, OK 74126

United States District Court) SS
Northern District of Oklahoma)
I hereby certify that the foregoing
is a true copy of the original on file
in this Court.
Richard M. Lawrence, Clerk
By [Signature]
Deputy

Defendant: JESSE LEE WILLS
Case Number: 93-CR-133-001-B

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 60 months as to Count 1. Imprisonment is to run consecutively to the sentence imposed in Tulsa County Case Number 93-4138, unless the Tulsa County case is ordered to run concurrently with the instant offence.

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

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

Defendant: JESSE LEE WILLS
Case Number: 93-CR-133-001-B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to Count 1.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
5. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: JESSE LEE WILLS
Case Number: 93-CR-133-001-B

FINE

The defendant shall pay a fine of \$ 1,000 as to Count 1. This fine includes any costs of incarceration and supervision.

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prison's Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release, as directed by the U. S. Probation Office.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: JESSE LEE WILLS
Case Number: 93-CR-133-001-B

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	N/A	
Criminal History Category:	N/A	
Imprisonment Range:	60 months	Count 1
Supervised Release Range:	2 to 3 years	Count 1
Fine Range:	\$ 0 to \$ 250,000	Count 1
Restitution:	\$ N/A	

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.

DATE 2-3-94

FILED

FEB 3 1994

**Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 V.)
)
 GEORGE MICHAEL MALONE)
 a/k/a MIKE MALONE)
)
 Defendant.)

CASE NO. 91-CR-106-B

ORDER

This matter comes on for consideration of Defendant's Motion pursuant to 28 U.S.C. § 2255 (docket entry # 96).

Defendant George Michael Malone (Malone) was convicted, on November 19, 1991, of bank robbery and the use of a firearm in the commission of a crime of violence in connection with the robbery of the Cimmaron Federal Savings & Loan, in Vinita, Oklahoma, on July 19, 1991.

Malone appealed, contending that: (1) the district court erred by refusing to suppress evidence obtained in a warrantless search; (2) the district court failed to adequately answer a jury question; and (3) the evidence was insufficient to support the conviction. The Tenth Circuit Court of Appeals affirmed the conviction by Order and Judgment entered January 26, 1993.

Thereafter, and on March 11, 1993, Malone filed the instant § 2255 motion, alleging eight issues, all within the broad area of ineffective assistance of counsel, which issues are: (1) an alleged

conflict of interest on the part of his trial counsel, Kevin C. Leitch; (2) that the District Court and the Court of Appeals overruled Malone's pretrial motion to suppress certain incriminating evidence; (3) that Malone's defense counsel failed to seek a continuance of the trial, after the District Court overruled his motion to suppress; (4) that Malone's trial counsel failed to object to the prosecutor's incorrect assertion during opening statements, which was later withdrawn, that a witness saw Malone outside the bank after it was robbed; (5) that Malone's trial counsel allegedly failed to rebut the government's case in any way; (6) that Malone's trial counsel allegedly failed to call witnesses requested by Malone; (7) that Malone's trial counsel was unable to "converse" with Malone's family, and did not follow through on suggestions apparently made by Malone as to the conduct of the defense; and (8) that Malone's subsequent counsel, appointed for Malone after the withdrawal of Kevin Leitch, was uninformed and unable to adequately present post-trial motions. The Court will consider Malone's issues *seriatim*.

(1)

In the Court's view, Malone's conflict of interest issue is more apparent than real. The crux of this issue centers around trial counsel Kevin Leitch accepting employment with the United States Attorney's office for the Northern District of Oklahoma shortly after the Malone trial and that, further, Leitch was made aware of the staff opening during the Malone trial by one or more Assistant United States attorneys. The Court first notes that Malone does not allege the government's trial counsel in the Malone

case, Neal Kirkpatrick, was in any way involved with attorney Leitch being made aware, during the Malone trial, of a job opening in the United States Attorney's office.

Malone's essential argument is that Leitch was considering employment with the U.S. Attorney's office before and during the Malone trial and that his interest was reaffirmed, during the trial, by one or more Assistant United States attorneys who wanted to know if Leitch "still wanted his name in the hat for the position that was coming up?". The affidavit of Assistant U.S. Attorney Charles M. McLoughlin, who conveyed the job-opening information to Leitch, does not comport with Malone's interpretation. AUSA McLoughlin stated in his affidavit that he first had the idea to inform Leitch of the job opening while observing the Malone trial as an interested spectator. Further, nothing in either Leitch affidavit¹ indicates that Leitch "still" wanted his name in the hat for the position that was coming up. Malone's use of the word "still", in a purported quote of the conversation between McLoughlin and Leitch, is disingenuous.

The Court concludes Leitch's past associations with prosecutors McLoughlin, Assistant United States Attorney Allen Litchfield, Tulsa County Assistant District Attorney John Kelson, Assistant United States Attorney F.L. "Rick" Dunn, III and Assistant United States Attorney David O'Meilia, stemming from experiences in various state and federal prosecutors' offices, provided the basis which prompted McLoughlin's initial contact with

¹ Leitch filed two Affidavits, one, docket entry #100, filed in the open record, and one, docket entry #101, filed under seal.

Leitch. These past associations formulated into a deserved reputation of Leitch by McLoughlin and others as a competent criminal prosecutor.

It is the frequent observation of this Court that most outstanding criminal defense lawyers were, at one time in their careers, prosecutors. It is also an observation of this Court that trial counsel Leitch expended a commendable effort in defending the Defendant herein before, during and after trial. The Court perceives no conflict of interest on the part of trial counsel Leitch and concludes Malone's motion on this issue should be denied.

(2)

Malone argued, in motions post and prior to trial, that the Court erred in failing to suppress as evidence \$10,000 in cash discovered in an air filter box which box was located inside a 1979 Thunderbird automobile. Malone currently argues his trial counsel "failed to know, and apply, the law which governed and controlled Movant's Fourth Amendment Violation Claim" and "failed to produce a witness, or allow Movant to testify; so as to determine ownership of the vehicle and the property which was involved in the illegal search and seizure."

This issue has been raised pre- and post-trial, was raised on appeal to the Tenth Circuit Court of Appeals and is now raised again. The Court will set forth portions of its earlier ruling on this issue:

Defendant was arrested on July 30, 1991, in Ruleville, Mississippi, while visiting in the home of his mother-in-law. Special Agent Gerald Peralta testified he arrived in Ruleville on or about July 30, 1991 and that

Defendant had already been arrested on a federal warrant by local police, and was incarcerated in the Ruleville jail; that the 1979 Thunderbird was parked in Mrs. Miller's yard. Agent Peralta testified that he requested and received from Mrs. Miller consent to search the Thunderbird, the Lincoln Continental and Mrs. Miller's premises.

Agent Peralta testified that he and Deputy United States Marshal McSpadden searched the Thunderbird; that McSpadden discovered an unsealed box in the Thunderbird and joined Peralta inside the Miller premises, bringing the box. Agent Peralta testified that Frances Malone, Defendant's wife, gave consent to the officers to open the box; that the box flaps were then opened and therein was found air filters and, under a loose cardboard dust cover, \$10,000 in \$100 bills. Agent Peralta testified that several of the \$100 bills were sequentially numbered and were later identified as having been taken from the Vinita, Oklahoma robbery.

As to the search of the Thunderbird and the box within, the Court again concludes under the record before the Court there is a lack of evidence to establish that Defendant, or anyone, owned the Thunderbird or the box in issue. Defendant has failed to establish any standing to claim the Thunderbird or the box in issue. Malone could have testified at the evidentiary hearing without waiving any self-incrimination rights at trial. U.S. v. Delguyd, 542 F.2d 346 (C.A. 6 1976); People v. Smith, 67 Ill.App.3rd 952 (1978). Malone chose not to testify in support of his attorney's argument in the briefs that the 1979 Thunderbird belonged to Malone as well as the box located therein. The Court concludes Malone, if he in fact owned the box in question, had no heightened privacy expectation in an unsealed container, presumably left by him within the interior of the car (i.e. not locked in the truck), in an unlocked automobile with the keys in the ignition, to which three persons had access. California v. Acevedo, 111 S.Ct. 1982 (1991).

The Government correctly argues that complaints regarding the allegedly illegal seizure of evidence properly should be raised by direct appeal rather than by § 2255 motion, citing Houser v. United States, 508 F.2d 509 (8th Cir. 1974), Garcia v. United States, 492 F.2d 395 (10th Cir. 1974), and Porth v. Templar, 453 F.2d 330 (10th Cir. 1971).

The Court concludes Movant had a full and fair opportunity to

litigate his Fourth Amendment claims at trial, post-trial and on direct appeal and that such issues are not properly reviewable in a § 2255 motion. United States v. Hearst, 638 F.2d 1190 (9th Cir. 1980); United States v. Frady, 456 U.S. 152 (1981); United States v. Byers, 740 F.2d 1104 (DC Cir. 1984).

The Court, after reviewing trial counsel Leitch's sealed affidavit, is persuaded that Leitch did not deny Movant the right to testify at the suppression hearing nor does Malone aver this. The Court concludes Malone was not denied effective assistance of counsel at his trial on the search and seizure issues.

The Court further concludes Movant's §2255 motion on this issue should again be denied.

(3)

In this issue Malone asserts that his trial counsel "was ineffective in that he failed to seek proper continuance motion that would have delayed the trial long enough to correct mistakes, or his negligence--that allowed evidence obtained by an illegal search and seizure to be used against Movant at his trial."

Malone fails to specify what "mistakes" needed correcting unless such is a reference to the search and seizure issues which were resolved essentially against Malone. As to trial counsel's alleged negligence by allowing evidence "obtained by an illegal search and seizure to be used against" him, Movant retreads an issue already discussed and decided on several occasions. The Court concludes this issue fails to establish ineffective assistance of trial counsel and should be denied.

(4)

Malone avers that errors occurred during the trial, specifically that Government counsel inadvertently stated in opening argument that Malone would be identified "as the man with a paper sack in the bank's vicinity", an incorrect statement.

The Government responds that, once it was made aware of the error, the statement was withdrawn.

Malone laments trial counsel Leitch's failure to object to the improper statement during opening statements. Whether or not to object to a specific statement in the opposition's opening remarks, and thereby perhaps place emphasis on the presumed erroneous statement, is typically a matter of trial tactics. The statement having been withdrawn by the Government, the Court fails to see how this inadvertently made erroneous statement would have altered the outcome of the trial, particularly in view of the overwhelming evidence of guilt of the Defendant Malone.

The Court concludes this issue is not well taken and should be denied.

(5) & (6)

In these issues Malone charges that his defense counsel "was ineffective when he failed to call witnesses to build a proper and requested defense for his client" (5), and "was ineffective in that he was either Unable--and/or--Unwilling to develop a Proper--OR ANY DEFENSE for his client." (6)

The Court, having reviewed both of trial counsel Leitch's affidavits, and the record herein including the pleadings of the parties, is persuaded that trial counsel did an admirable job in presenting what defense was available. In view of the damaging

evidence discovered by Malone's wife², particularly the "recipe" identified as typical of Malone's habitual note-making,³ the Court was and is of the opinion that trial counsel Leitch's task was formidable indeed. As adequately explained in Leitch's sealed affidavit, Malone's failure to supply factual support for his assertions regarding an explanation of unfavorable points against him in the case, limited trial counsel's choices in presenting a viable defense. Again, under these circumstances trial counsel rendered effective assistance and the Court concludes Malone's motion as to these issues should be denied.

(7)

In this issue Malone asserts that his trial counsel was unable to "converse" with Malone's family, and did not follow through on suggestions apparently made by Malone as to the conduct of the defense.

The Government first points out that Malone's family members, when called as witnesses, were witnesses for the prosecution, not the defense. The Court well remembers, and the record supports,

² Special Agent Charles Taylor testified that on July 30, 1991, he received a telephone call from Mrs. Malone; that Mrs. Malone informed Taylor she had discovered, in open view, in a briefcase in her house, a plastic bag containing some \$2,600.00 which Mrs. Malone thought was "ill-gotten".

³ Agent Peralta testified that on or about August 6, 1991, he was contacted by Mrs. Miller and Mrs. Malone, who informed him they had found "something he needed to see". Peralta testified that, upon arriving at the Miller residence, he was voluntarily given by Mrs. Malone a yellow piece of paper containing, allegedly in the Defendant's handwriting, a "outline" or "recipe" for the Vinita robbery; that Mrs. Malone advised Peralta she had gotten the document from some legal pads which the Defendant had left in open view on the table in the room commonly shared by all three.

that these witnesses supplied a most damaging scenario that obviously contributed to the conviction of Malone. It is hardly conceivable to the Court that any trial counsel could have "conversed" hostile or at least harmful witnesses into more ameliorative posture. Again, trial counsel, in the face of somewhat staggering circumstantial evidence, did a creditable job in presenting a defense under the circumstances herein.

As stated in an earlier Order, it was apparent to the Court that the jury, in light of the overwhelming evidence of the guilt of Malone, correctly rendered a proper verdict.

(8)

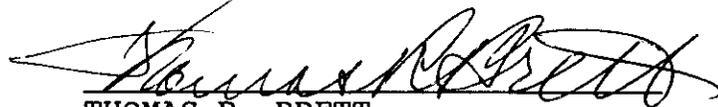
In this issue Malone complains of "inadequate, ineffective post trial motions--by uninformed, substitute counsel". Malone charges that after defense counsel Leitch was relieved of his responsibilities "[N]ewly appointed attorney, Mr. C.W. Hack, [who] was not present at trial AND WAS NOT EVEN GIVEN A COPY OF THE TRIAL TRANSCRIPT TO STUDY! He primarily, could only expand on earlier motions, that were made by my FIRST ineffective counsel; was reluctant to make additional claims for lack of record, or first hand knowledge."

The Court concludes Movant has offered nothing of substance with which to establish ineffective assistance of counsel on this issue. Attorney Hack's affidavit fails to substantiate and in fact refutes Malone's charges that post-trial efforts or strategy were lacking. The Court further concludes this issue is without substance and should be denied.

In summary the Court concludes Defendant's § 2255 Motion, on

these eight issues, should be and the same is hereby DENIED.

IT IS SO ORDERED, this 3rd day of February, 1994.

A handwritten signature in black ink, appearing to read "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET
DATE 2-3-94

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 V.)
)
 MICHAEL J. MORRIS,)
)
 Defendant.)

CASE NO. 92-CR-60-B

FILED

FEB 3 1994 *rm*

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

This matter comes on for consideration of the Defendant Michael J. Morris' Motion To Reconsider (docket # 26) the Court's Order of January 4, 1994, wherein the Court denied Morris' pro se motion for appointment of counsel to assist in the preparation of a 28 U.S.C. §2255 motion.¹

The Court notes that Morris filed, on January 12, 1994, a Notice of Appeal to the United States Court of Appeals for the Tenth Circuit of the Court's January 4, 1994 Order above alluded to. It is inappropriate for this Court to reconsider the merits of matters presently on appeal.

The Court concludes Morris' Motion To Reconsider should be and the same is hereby DENIED.

IT IS SO ORDERED, this 3rd day of February, 1994.

Thomas R. Brett
THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

¹ The Court considered Morris' letter of December 21, 1993 to the Court as a motion for appointment of counsel.

ENTERED ON DOCKET

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

DATE 2/2/94

UNITED STATES OF AMERICA

v.

Case Number 93-CR-125-003-E

BILLIE DEE STINGLEY
Defendant.

FILED
FEB 7 1994
Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

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

The defendant, BILLIE DEE STINGLEY, was represented by Brian T. Hermanson.

On motion of the United States the court has dismissed count 1 of the Indictment.

The defendant pleaded guilty to count 2 of the Indictment. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 1955	Operating An Illegal Gambling Business	08/04/93	2

As pronounced on January 28, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 2 of the Indictment, which shall be due immediately.

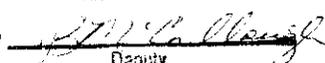
It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 1st day of February, 1994.


The Honorable James O. Ellison, Chief
United States District Judge

Defendant's SSN: 440-30-4502
Defendant's Date of Birth: 12/31/30
Defendant's residence and mailing address: Route 3, Box 386; Ponca City, Oklahoma 74604

United States District Court)
Northern District of Oklahoma) SS
74604 hereby certify that the foregoing
is a true copy of the original on file
in this Court.

Richard M. Lawrence, Clerk
By 
Deputy

Defendant: BILLIE DEE STINGLEY
Case Number: 93-CR-125-003-E

PROBATION

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

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm or destructive device.
3. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF PROBATION

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: BILLIE DEE STINGLEY
Case Number: 93-CR-125-003-E

FINE

The defendant shall pay a fine of \$ 7,500. This fine includes any costs of incarceration and supervision.

This amount is the total of the fines imposed on individual counts, as follows:
\$7,500 on count 2 of the Indictment.

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

This fine shall be paid in full immediately. Any amount not paid immediately shall be paid as directed by the U. S. Probation Office during the period of probation.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: BILLIE DEE STINGLEY
Case Number: 93-CR-125-003-E

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	13
Criminal History Category:	I
Imprisonment Range:	12 months to 18 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 3,000 to \$ 30,000
Restitution:	\$ N/A

The sentence departs from the guideline range for the following reason(s): Upon motion of the government, as a result of defendant's substantial assistance.



UNITED STATES DISTRICT COURT
Northern District of Oklahoma

ENTERED ON DOCKET

DATE 2/2/94

UNITED STATES OF AMERICA

v.

Case Number 93-CR-125-001-E

FILED

BOBBY EUGENE STINGLEY
Defendant.

FFB 2 1994

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

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

The defendant, BOBBY EUGENE STINGLEY, was represented by Brian Hermanson.

On motion of the United States the court has dismissed count 1 of the Indictment.

The defendant pleaded guilty to count 2 of the Indictment. Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 1955	Operating An Illegal Gambling Business	08/04/93	2

As pronounced on January 28, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50, for count 2 of the Indictment, which shall be due immediately.

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.

Signed this the 1st day of February, 1994.


The Honorable James O. Ellison, Chief
United States District Judge

Defendant's SSN: 444-32-8419

Defendant's Date of Birth: 06/01/32

Defendant's residence and mailing address: Route 3, Box 386; Ponca City, Oklahoma 74604

B.M. Callough

Defendant: BOBBY EUGENE STINGLEY
Case Number: 93-CR-125-001-E

PROBATION

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

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm or destructive device.
3. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

STANDARD CONDITIONS OF PROBATION

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: BOBBY EUGENE STINGLEY
Case Number: 93-CR-125-001-E

FINE

The defendant shall pay a fine of \$ 7,500. This fine includes any costs of incarceration and supervision.

This amount is the total of the fines imposed on individual counts, as follows:
\$7,500 on count 2 of the Indictment.

The Court has determined that the defendant does not have the ability to pay interest, and it is accordingly ordered that the interest requirement is waived.

This fine shall be paid in full immediately. Any amount not paid immediately shall be paid as directed by the U. S. Probation Office during the period of probation.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

Defendant: BOBBY EUGENE STINGLEY
Case Number: 93-CR-125-001-E

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	10
Criminal History Category:	I
Imprisonment Range:	6 months to 12 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 2,000 to \$ 20,000
Restitution:	\$ N/A

The sentence departs from the guideline range for the following reason: upon motion of the government, as a result of defendant's substantial assistance.

OW

FILED

ENTERED ON DOCKET
 FEB - 2 1994
 DATE _____

UNITED STATES DISTRICT COURT
 Northern District of Oklahoma

FEB 1 1994

Richard M. Lawrence, Court Clerk
 U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 93-CR-088-002-B

DWAYNE BUFORD REED
 Defendant.

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

The defendant, DWAYNE BUFORD REED, was represented by Richard Couch.

The defendant was found guilty on count(s) 1, 2, and 3 of the Superseding Indictment after a plea of not guilty. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

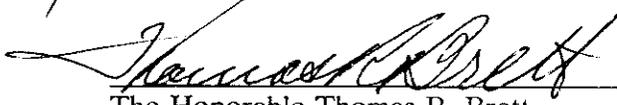
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 371 and 2113(a) & (d)	Conspiracy to Commit Armed Robbery Credit Union Robbery	05/13/93	1
18 USC 2113(a) and (d) and 2	Entering a Federally Insured Credit Union With the Intent to Commit Armed Robbery and Aiding and Abetting	05/13/93	2
18 USC 924(c)(1) and 2	Use of a Firearm During the Commission of a Crime of Violence and Aiding and Abetting	05/13/93	3

As pronounced on January 28, 1994, 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.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 150, for count(s) 1, 2, and 3 of the Superseding Indictment, which shall be due immediately.

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.

Signed this the 1st day of February, 1994.



The Honorable Thomas R. Brett
 United States District Judge

Defendant's SSN: 443-72-4850
 Defendant's Date of Birth: 01-20-73
 Defendant's residence and mailing address: 4143 N. Johnstown, Tulsa, OK 74106

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.

Richard M. Lawrence, Clerk
 By [Signature]
 Deputy

Defendant: DWAYNE BUFORD REED
Case Number: 93-CR-088-002-B

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 48 months as to each of Counts 1 and 2. Said counts to run concurrently, each to the other. Count 3 requires a 60 month custody sentence to be served consecutively to Counts 1 and 2.

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

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

Defendant: DWAYNE BUFORD REED
Case Number: 93-CR-088-002-B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years as to Count 2, and 3 years as to Counts 1 and 3, each to run concurrently with the others.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. 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.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.

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 seventy-two 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 testing as directed by the U. S. Probation Office.

Defendant: DWAYNE BUFORD REED
Case Number: 93-CR-088-002-B

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution as to Count 1 to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
1. Cumis Insurance Society, Inc. P. O. Box 1221 Madison, Wisconsin 53701	\$ 717
2. Robert Buckner 4416 S. 112th E. Avenue, #2610 Tulsa, OK 74146	<u>380</u>
	Total \$1,097

Payments of restitution are to be made to the United States Attorney for transfer to the payee(s).

Payments to be made jointly and severally with Demareo Davis.

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid as a condition of supervised release, as directed by the U. S. Probation Office.

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

Defendant: DWAYNE BUFORD REED
Case Number: 93-CR-088-002-B

STATEMENT OF REASONS

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

Guideline Range Determined by the Court:

Total Offense Level:	22	
Criminal History Category:	I	
Imprisonment Range:	41 months to 51 months	Counts 1 & 2
	60 months	Count 3, to run consecutively to Counts 1 & 2
Supervised Release Range:	2 to 3 years	Counts 1 & 3
	3 to 5 years	Count 2
Fine Range:	\$ 7,500 to \$ 75,000	Counts 1, 2, and 3
Restitution:	\$ 1,097	Count 1

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

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.

ENTERED ON DOCKET

DATE 2-1-94

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

FILED

JAN 31 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JERRY STEVEN THURMAN,)
)
 Defendant.)

Case No. 90-CR-74-C

ORDER

Before the Court is the motion of the defendant, Jerry Steve Thurman, to vacate sentence pursuant to 28 U.S.C. §2255. The Court has carefully reviewed the arguments and supporting authority, and finds that defendant's motion is without merit for the following reasons.

Defendant asserts that the sentence imposed against him is illegal as being based upon a miscalculation of the Sentencing Guidelines. Specifically the defendant asserts error in the Court imposing the statutory maximum sentence of five years as to each count of his conviction and ordering that the sentences run consecutively. Defendant asserts that the Court misapplied the Guidelines by asserting that the two counts must be treated as a "single offense" for sentencing purposes, thus limiting the maximum permissible sentence under the Guidelines to that of five years as authorized in a single count.

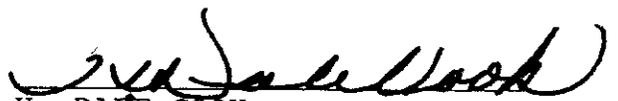
Defendant's application of the Guidelines is incorrect. In his brief, the defendant acknowledges that the Court properly determined that under the Guidelines defendant's sentencing range

was 168 to 210 months. This range was based on the defendant's total offense level of 30 and his criminal history category of VI. The defendant was convicted of two counts in violation of 18 U.S.C. §1952(a), each count carries a statutory maximum penalty of five years. Section 5G1.1(a) of the Guidelines provides that "where the statutorily authorized maximum sentence is less than the minimum of the applicable guideline range, the statutorily authorized maximum sentence shall be the guideline sentence." In this instance, the statutory maximum sentence of imprisonment is 60 months as to each count, for a combined total of 120 months. The Court imposed the maximum as to each count and ordered the sentences to run consecutive since the combined statutory maximum was less than the Guideline range of 168 to 210 months.

Under §5G1.2(d), since the sentence imposed on the count carrying the highest statutory maximum is less than the total punishment determined under the Guidelines, the sentence imposed on one or more of the other counts is to run consecutively. A consecutive sentence is authorized to the extent necessary to produce a combined sentence equal to the total punishment under the statute.

The Court finds defendant's motion is without merit and is accordingly denied.

IT IS SO ORDERED this 31st day of January, 1994.


H. DALE COOK
United States District Judge