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

FILED

FEB 28 1996

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 95-CR-55-C
	)	
LARRY NATHAN GASS,	)	
	)	
Defendant.	)	

ENTERED ON DOCKET

FEB 29 1996

ORDER

Currently pending before the Court is the motion filed by the government seeking reconsideration of the Court's order granting Gass' motion for judgment of acquittal.

On April 7, 1995, a twenty-seven Count Indictment was filed against Gass and an associate charging them with conspiracy in violation of 18 U.S.C. § 371, and sale or modification of devices intended for unauthorized interception and publication of radio communications, in violation of 47 U.S.C. §§ 605(a) and 605(e)(4). Gass filed a motion for judgment of acquittal on July 24, 1995, which was taken under advisement by the Court. A jury trial was held on July 24 through July 28, 1995. On July 28, the jury returned a verdict of guilty on each of the seventeen Counts charged against Gass. On August 3, Gass again moved for judgment of acquittal. On February 12, 1996, the Court granted Gass' motion for judgment of acquittal, finding that certain issues should have been presented to the jury during Gass' trial.

The government requests that the Court reconsider its order granting Gass' motion for judgment of acquittal. In support of its motion, the government now raises many issues for the first time. Specifically, the government seeks to address the effect of the 1986 amendments to Chapter

119, 18 U.S.C. § 2510 *et seq.*[1] The Court is cognizant of the fact that the government has not previously responded to Gass' motions and briefs concerning the 1986 amendments to Chapter 119. Gass mentioned the 1986 amendments several times prior to the Court's order granting judgment of acquittal, and Gass even commented on a few occasions that it was curious that the government never made mention of these amendments, nor responded to Gass' reliance upon them. Now, six months after the jury returned its verdict, the government apologetically asks the Court to excuse its failure to respond to Gass' reliance upon the 1986 amendments. In its present motion, the government informs the Court that the government "incorrectly and unfortunately anticipated that the Court would afford the parties a hearing on the motion for judgment of acquittal prior to the issuance of a final order, and regretfully the government did not, therefore, apprise the Court" of information concerning the 1986 amendments which "may have been of assistance in resolving the issue at bar." The Court has much difficulty understanding why the government did not bring these matters to the Court's attention at some point during the last six months, especially when Gass explicitly raised these issues in support of his motion for judgment of acquittal. To remain virtually idle in an unjustified anticipation of a hearing for a period of months, while neglecting to brief the effect of the 1986 amendments at some point during that time period in the hope that such matters may be addressed at an "assumed" hearing, is unreasonable. Surely, the government must have known that after several months of considering Gass' motions for judgment of acquittal, a final order was imminent.[2]

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[1] The 1986 Amendments specifically provide that it shall not be unlawful to intercept readily accessible governmental radio communications. Hence, these amendments specifically extend the coverage of Chapter 119 (also known as the Wiretap Act) to *radio* transmissions.

[2] The government now offers legislative history in an effort to show that this Court's rationale in its order granting judgment of acquittal runs counter to Congressional intent. However, the legislative history respecting 18 U.S.C. § 2511(2)(g)(ii) states that the exceptions contained therein

The government asserts that 18 U.S.C. § 2512, like 47 U.S.C. § 605(e), criminalizes the manufacture and/or sale of electronic devices, knowing such devices render it primarily useful for the purpose of the surreptitious interception of electronic communication.[3] The government therefore seems to suggest that since the jury, in finding Gass guilty under § 605(e), determined that Gass committed certain activities, and since these same activities may similarly constitute a violation of

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"relate to specific types of radio communications which have *traditionally* been free from prohibitions on mere interception. Thus, it is *permissible* to intercept any radio communication which is transmitted . . . by any governmental . . . communications system, readily accessible to the general public." H.R. 99-647, 99th Congress 2d Session (June 19, 1986), pp.41-42. Additionally, as explained, infra, Chapter 119 does not prohibit the divulgence of such legally intercepted communications. Since this Court concluded in its order granting judgment of acquittal that it would be anomalous to *specifically* exempt from punishment certain conduct in one statute while punishing that same conduct in a separate, but related statute, the Court declines to accept the government's contention that legislative history mandates a reversal of the judgment of acquittal. For further discussion concerning legislative intent, see, Edwards v. State Farm Ins. Co., 833 F.2d 535, 540, n.7 and 8, (5th Cir. 1987) ("We think the 1986 amendments to the Wiretap Act also indirectly support our conclusion that Congress, even in 1968, intended that Act to apply to voice communications transmitted by radio waves . . .." Commentators have interpreted Chapter 119 as modifying § 605(a) in its entirety.); U.S. v. Rose, 669 F.2d 23, 26 (1st Cir. 1982), cert. denied, 459 U.S. 828 (1982) (radio communications previously protected by § 605 are now governed by Title III); Kim, Twenty-Second Annual Review of Criminal Procedure: United States Supreme Court and Courts of Appeals 1991-92, 81 Geo. L.J. 953, 980 n.407 (1993) (Title III has largely superseded § 605, and § 605 does not apply to communications intercepted and disclosed under Title III).

[3] The government seems to suggest that since Gass was convicted of manufacturing and selling devices, rather than intercepting and divulging the communications, Gass' conviction should stand because "federal law is replete with examples of statutes which criminalize the manufacture of items while leaving legal the use of such items." However, this argument fails to recognize that § 605(e) does not make it criminal to manufacture and sell devices unless the defendant knows or has reason to know that such device is intended for a use that is prohibited by § 605(a). Thus, if the interception and divulgence of certain communications is not prohibited § 605(a), then the manufacture and sale of devices designed to intercept such communications is not prohibited by § 605(e). As such, contrary to the government's suggestion, this is not a case in which the particular federal law "criminalize[s] the manufacture of items while leaving legal the use of such items." Rather, § 605(e)'s prohibition on manufacturing is inextricably linked to § 605(a)'s prohibitions on intercepting and disclosing. Hence, if the communications at issue are protected by § 605(a), then § 605(e) prohibits Gass from manufacturing and selling items designed to intercept and disclose such communications, and, furthermore, Gass, himself, cannot legally use the item for such purposes.

§ 2512 under Chapter 119, Gass' conviction should stand under § 605(e) even if Chapter 119 applies. This argument is meritless. Gass was not charged under § 2512, the jury did not convict Gass under § 2512, and this Court cannot now find Gass guilty of violating § 2512. This Court must focus on the statute under which Gass was convicted and determine if Gass' conviction is permissible under that statute. In the instant case, Gass was convicted under 47 U.S.C. § 605. For the reasons stated below, the Court concludes that Gass' conviction under § 605 must be set aside. Hence, the fact that Gass' activities may have amounted to a violation under 18 U.S.C. § 2512 is irrelevant. If the government desired to proceed against Gass under § 2512, it should have done so.

The Court, in its order granting judgment of acquittal, concluded that § 605(a) and Chapter 119 are inconsistent, and that, especially in light of § 605(a)'s introductory clause, Chapter 119 qualifies § 605(a). The government, however, argues that § 605(a) and Chapter 119 can be readily reconciled.[4] The government states that "§ 2511(2)(g)(ii)(II) permits interception, and only when the radio communications are readily accessible to the general public. Section 605(a) . . . criminalizes interception only when there is an actual divulgence or publication. The wiretap provisions are not in conflict with section 605(a) because section 605(a) requires proof of the additional element of divulgence or publication." The government therefore contends that since the jury found Gass guilty of engaging in conduct with the purpose of intercepting *and* divulging radio communications, Gass'

[4] The government, however, concedes that the "issue before the Court is decidedly close and complex." Thus, the government necessarily acknowledges that a good deal of doubt remains as to whether its interpretation of the law is correct in this case. It is well-settled that criminal statutes, especially when ambiguity exists, must be strictly construed against the government, and any doubts must be resolved in favor of the defendant. See, for example, U.S. v. Bramblett, 348 U.S. 503, 509 (1955) (the proposition that criminal statutes are to be strictly construed is one that calls for the citation of no authority); U.S. v. Bass, 404 U.S. 336, 348 (1971) (where ambiguity exists in a criminal statute, doubts are resolved in favor of the defendant).

activities went beyond the scope of the interception exception contained in § 2511(2)(g)(ii)(II). Thus, since the act of divulging the communications at issue is not an excepted activity under Chapter 119, § 605(a)'s prohibitions remain unqualified in the instant case. The Court does not agree.

Chapter 119 generally prohibits the interception of any oral or electronic communication, which, by definition, includes radio signals. 18 U.S.C. §§ 2510 and 2511(1)(a). Chapter 119 also generally prohibits the intentional disclosure or use of oral or electronic communications where the person knows or has reason to know that the communication was intercepted in violation of subsection 2511(1). 18 U.S.C. § 2511(1)(c) and (d). Conversely, § 2511 does not generally prohibit the divulgence of communications which are legally intercepted. *Any* "electronic communication" that is "readily accessible to the general public"[5] may be intercepted.[6] 18 U.S.C. § 2511(2)(g)(i). Moreover, any governmental "radio communication" that is "readily accessible" to the general public may be intercepted, regardless of any expectation of privacy.[7] 18 U.S.C. § 2511(2)(g)(ii)(II). Since

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[5] "Readily accessible to the general public" is a defined phrase in 18 U.S.C. § 2510(16).

[6] Since the exception contained in § 2511(2)(g)(i) applies only to "electronic communications," the exception does not apply to any "oral communications," including radio signals, where there is a subjective and objective expectation of privacy. 18 U.S.C. § 2510(2) and (12). Hence, if an operator of a radio has a subjective and objective expectation of privacy, then § 2511(2)(g)(i) would not permit interception.

[7] Section 2511(2)(g)(ii) uses the language "radio communication" rather than "electronic communication." The phrase "electronic communication" includes radio communications in general, but it does not include "oral communications," which are defined as communications exhibiting an objective and subjective expectation of privacy. Section 2511(2)(g)(i) does not therefore permit interception of "oral communications." However, it is significant that § 2511(2)(g)(ii) refers to "radio communications," rather than "electronic communications." Congress apparently did not intend for the expectation of privacy issue to apply to governmental radio communications. If Congress had intended such a result, it would have used the phrase, "electronic communications," when carving out the exception for the interception of governmental transmissions, rather than using the phrase, "radio communications." Hence, it is not unlawful to intercept any governmental "radio communication" that is readily accessible, even if the speaker had an objective and subjective

it is not a violation under § 2511 to intercept readily accessible governmental radio communications, § 2511(1)(c) and (d) do not prohibit divulgence or use of such communications.

If a governmental radio communication is "readily accessible to the general public," then where is the harm in intercepting it and divulging the contents of the communication? Chapter 119 recognizes this by not prohibiting the interception and divulgence of such "readily accessible" governmental "radio communications." Furthermore, whenever a "readily accessible" message is sent out over the airways, it is essentially "divulged" to the public.[8] Presumably, anyone using a lawful device, in a lawful manner, can receive "readily accessible" radio communications.[9] Section 2511(1)(e) is also noteworthy in that it prohibits the *disclosure* of certain communications which are otherwise legally intercepted. Significantly, § 2511(1)(e) does not prohibit the disclosure of communications legally intercepted under the exceptions contained in § 2511(2)(g). If Congress desired to prohibit the divulgence of radio communications legally intercepted pursuant to § 2511(2)(g), it could have easily done so in § 2511(1)(e).

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expectation of privacy.

[8] The use of the phrase "readily accessible to the *general public*" in § 2511(2)(g)(ii)(II)'s exception also connotes Chapter 119's recognition that if a governmental radio signal is made accessible to the *general public*, then such signal is, in essence, divulged to the general public. As such, the radio signal is afforded no protection against interception, nor is further divulgence prohibited. If governmental operations desire protection in the transmission of radio signals, all that is required is some form of mechanism to take the signal out of the definition of being "readily accessible to the general public."

[9] Thus, the Court does not accept the government's argument that interception is permissible but divulgence is unlawful. It would make little sense to expressly permit "any person" to intercept a readily accessible governmental radio communication, but then prohibit further divulgence of that communication to others who could have easily, and lawfully, intercepted that communication in the first place, had they been utilizing proper equipment.

Since this Court has accepted the position taken by the First, Fifth, and Eighth Circuits[10] that Chapter 119 qualifies § 605(a), and that these two statutes must be read together,[11] the question of whether the governmental communications at issue were "readily accessible to the general public" should have been presented to the jury.[12] This conclusion comports with the language in Edwards v. State Farm Ins. Co., 833 F.2d 535, 540 (5th Cir. 1987), that "the *interception and divulgence* of a voice communication transmitted by radio waves is not prohibited by section 605 unless the communication also falls within the protections of the Wiretap Act" (emphasis added).[13] Since the Court recognizes that "readily accessible" governmental "radio communications" *do not* fall within the protections of Chapter 119, as they are expressly excepted from that Chapter's general prohibitions, the interception and divulgence of such communications is not prohibited by virtue of § 605. Hence, the jury should have been presented with the question of whether the communications

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[10] See this Court's Order granting judgment of acquittal, pages 5-6.

[11] The House Report states that the "Committee has drafted the present Act (18 U.S.C. § 2510 *et seq.*) with an eye to its interplay with Section 705(a) of the Communications Act of 1934." H.R. 99-647, 99th Congress 2d Session (June 19, 1986), p.41.

[12] As the jury found, § 605(a), read in isolation, prohibits the interception and divulgence of the communications at issue. However, reading § 605 together with Chapter 119 leads to the conclusion that the interception and divulgence of readily accessible governmental radio communications are excepted from § 605(a)'s prohibitions. As the Court previously determined, this conclusion is necessary both in light of § 605(a)'s introductory clause and in order to avoid anomalous results.

[13] See also, U.S. v. Rose, 669 F.2d 23, 26-27 (1st Cir. 1982), cert. denied, 459 U.S. 828 (1982). The First Circuit held that "§ 605 does not apply to communications that may be intercepted and disclosed under Title III." The court noted that although "Congress did not explicitly recognize that the amendment [to 605(a)] would allow the interception and disclosure of radio communications previously protected, the legislative history states clearly that 'The regulation of the interception of wire or oral communications in the future is to be governed by the proposed new (Title III).'" The court additionally stated that " the statutory mandate contained in `except as authorized by (Title III)' cannot be avoided."

at issue were "readily accessible to the general public," as that phrase is defined in Chapter 119. The Court cannot, and need not, make the determination as to whether such communications were, in fact, readily accessible. It is sufficient to sustain the Court's order granting judgment of acquittal that the jury was not presented with this issue.

Accordingly, the government's request that the Court reinstate Gass' convictions is hereby DENIED.

IT IS SO ORDERED this 27th day of February, 1996.

H. DALE COOK
U.S. District Judge

Entered on Docket: 2-28-96

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED
FEB 28 1996
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA
v.
ANDRE LAMONT GREEN
Defendant.

Case Number 95-CR-077-001-K

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

The defendant, ANDRE LAMONT GREEN, was represented by Craig Bryant.

The defendant was found guilty on counts 1-6 and 8-11 of the Indictment on October 5, 1995 after a plea of not guilty. On January 30, 1996, the conviction in count 5 was vacated by order of the Court. Accordingly, the defendant is adjudged guilty of such counts 1 through 4, 6, and 8 through 11, involving the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 846, 841(a)(1), and 841(b)(1)(A)(iii)	Conspiracy to Distribute and to Distribute Cocaine Base	06/07/95	1
21 USC 856(a)(1) and 18 USC 2	Maintaining a Place for Distribution of a Controlled Substance and Aiding & Abetting	04/01/95	2
21 USC 841(a)(1), 841(a)(1), 841(b)(1)(iii), and 18 USC 2	Possession With Intent to Distribute Cocaine Base	03/13/95	3 & 9
21 USC 844(a) and 18 USC 2	Possession of Marijuana and Aiding & Abetting	03/03/95	4
18 USC 922(g)(1), and 924(c)(1), and 2	Possession of a Firearm After Prior Felony Conviction	03/13/95	6 & 11
21 USC 844(a) and 18 USC 2	Possession of Cocaine Base and Aiding & Abetting	03/10/95	8
18 USC 924(c) & 2	Possession of a Firearm During a Drug Trafficking Crime and Aiding & Abetting	03/13/95	10

As pronounced on February 16, 1996, 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 $ 400.00, for counts 1 through 4, 6, and 8 through 11 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 27 day of February, 1996.

Terry C. Kern
The Honorable Terry C. Kern
United States District Judge

Defendant's SSN: 445-00-0069
Defendant's Date of Birth: 05/04/71
Defendant's residence and mailing address: 6318 N. Boulder, Tulsa, OK 74115

Defendant: ANDRE LAMONT GREEN
Case Number: 95-CR-077-001-K

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 420 months. 360 months as to counts 1, 3 and 9, all counts to run concurrently, each with the other; 240 months as to Count 2, to run concurrently to the term imposed in Counts 1, 3, and 9; 24 months as to Counts 4 and 8, both counts to run concurrently, each with the other, and concurrent to the term imposed in Counts 1 through 3 and 9; 120 months in Counts 6 and 11, both counts to run concurrently, each with the other, and concurrent to the term imposed in Counts 1 through 4, 8 and 9; 60 months as to Count 10, to run consecutively to the sentence imposed in Counts 1 through 4, 6, 8, 9, and 11.

The Court makes the following recommendations to the Bureau of Prisons: That the defendant be designated to serve his sentence in El Reno, Oklahoma.

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

RETURN

I have executed this Judgment as follows:

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_____

_____

_____

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

_____
United States Marshal

By _____
Deputy Marshal

Defendant: ANDRE LAMONT GREEN
Case Number: 95-CR-077-001-K

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years in Counts 1, 3, and 9, to run concurrently, each with the other; 3 years in Counts 2, 6, 10, and 11, to run concurrently, each with the other, and concurrently with Counts 1, 3, and 9; 1 year in Counts 4 and 8, to run concurrently, each with the other, and concurrently with Counts 1 through 3, 6, and 9-11.

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 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: ANDRE LAMONT GREEN
Case Number: 95-CR-077-001-K

FINE

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.

The defendant shall pay a fine of $ 3,000.00 on Count 1. 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.

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: ANDRE LAMONT GREEN
Case Number: 95-CR-077-001-K

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:	37
Criminal History Category:	III
Imprisonment Range:	360 months to life - Cts. 1,2,3,4,6,8,9, & 11 60 months on Ct. 10
Supervised Release Range:	5 years - Cts. 1,3, & 9 2 to 3 years - Cts. 2,6,10, & 11 1 year - Cts. 4 & 8
Fine Range:	$20,000 to $12,500,000
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 exceeds 24 months, and the sentence is imposed for the following reasons: Sentence at the low end of the guidelines is imposed because all factors have been considered in its application and the defendant faces a mandatory 60 month consecutive term.

FILED

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FEB 27 1996

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

UNITED STATES OF AMERICA

v.

Case Number 95-CR-118-001-BU

MARK ALLEN WINGO
Defendant.

ENTERED ON DOCKET
DATE 2-27-96

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

The defendant, MARK ALLEN WINGO, was represented by Everett R. Bennett and Warren Gotcher.

On November 9, 1995 the court dismissed count(s) 2 of the Indictment.

The defendant was found guilty on count(s) 1 of the Indictment on November 16, 1995 after a plea of not guilty. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 922(g)	Possession of Firearm After Former Conviction of a Felony	03/24/95	1

As pronounced on February 23, 1996, 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 $ 50.00, for count(s) 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 27th day of February, 1996.

Michael Burrage

The Honorable Michael Burrage
United States District Judge

Defendant's SSN: 446-68-9047
Defendant's Date of Birth: 08/20/60
Defendant's residence and mailing address: Rt. 2, Box 205-1, Beggs, OK 74421

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Defendant: MARK ALLEN WINGO
Case Number: 95-CR-118-001-BU

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 20 months.

The Court makes the following recommendations to the Bureau of Prisons: That the defendant be designated to serve this sentence at FCI, El Reno, OK.

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: MARK ALLEN WINGO
Case Number: 95-CR-118-001-BU

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 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: MARK ALLEN WINGO
Case Number: 95-CR-118-001-BU

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report except the Court finds that the defendant possessed two (2) weapons, not five (5) as presented in the report. Accordingly, the offense level is reduced 2 levels.

Guideline Range Determined by the Court:

Total Offense Level:	14
Criminal History Category:	II
Imprisonment Range:	18 months to 24 months - Ct. 1
Supervised Release Range:	2 to 3 years - Ct. 1
Fine Range:	$ 4,000 to $ 40,000 - Ct. 1
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.

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED
FEB 27 1996
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

v.

Case Number 95-CR-112-002-BU

ALAMIN WILKINSON
Defendant.

ENTERED ON DOCKET
DATE 2-27-96

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

The defendant, ALAMIN WILKINSON, was represented by Mike Abel.

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

The defendant pleaded guilty to count(s) 2 of the Indictment on November 9, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 924(c)	Possession of a [illegible] n During Commission of a Violent C[illegible]	05/24/91	2

As pronounced on Feb[illegible] [illegible]ndant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is i[illegible] [illegible]tencing Reform Act of 1984.

It is ordered tha[illegible] [illegible] United States a special assessment of $ 50.00, for count(s) 2 of the Indictment, [illegible]

EOD copy

It is further ordere[illegible] [illegible]shall notify the United States Attorney for this district within 30 days of any change of name, residen[illegible] [illegible]address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 27th day of February, 1996.

Michael Burrage

The Honorable Michael Burrage
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: 563-19-8106
Defendant's Date of Birth: 05/25/72
[illegible]efendant's residence and mailing address: C/O Tulsa County Jail, 500 So. Denver, Tulsa, OK 74103

Defendant: ALAMIN WILKINSON
Case Number: 95-CR-112-002-BU

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.

The Court makes the following recommendations to the Bureau of Prisons: That the Bureau of Prisons designate a facility in the state of California as the place of confinement.

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: ALAMIN WILKINSON
Case Number: 95-CR-112-002-BU

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.

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: ALAMIN WILKINSON
Case Number: 95-CR-112-002-BU

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of $2,038 on Count Two.

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

Name of Payee	Amount of Restitution
Moody's Jewelry Attn: Ernest Moody 3350 E. 51st St. Tulsa, OK 74112	$ 500
Jeweler's Mutual Attn: Ernest Moody 3350 E. 51st St. Tulsa, OK 74112	$1,538

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 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.

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

Defendant: ALAMIN WILKINSON
Case Number: 95-CR-112-002-BU

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 - Ct. 2
Supervised Release Range:	2 to 3 years - Ct. 2
Fine Range:	$ 0 to $ 250,000 - Ct. 2
Restitution:	$ 20,382 - Ct. 2

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): 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 FEB 27 1996

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
FEB 23 1996
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

United States of America, Plaintiff	)	
v.	)	Case No.: 96-CR-007-001-B
Tanner, Matthew Defendant	)	

JUDGMENT AND COMMITMENT ORDER ON REVOCATION OF SUPERVISED RELEASE

Now on this 21st day of February, 1996, this cause comes on for sentencing after a previous finding that the defendant violated conditions of supervised release as set out in the Petition on Probation and Supervised Release filed on January 30, 1996. The defendant is present in person and with his attorney, Regina Stephenson. The Government is represented by Assistant United States Attorney James Swartz, and the United States Probation Office is represented by Randall Drew.

The defendant was heretofore convicted on his plea of guilty to Count One of a one-count Indictment charging Theft of a Motor Vehicle on Indian Land. On November 30th, 1994, Tanner was sentenced to seven months in the custody of the U.S. Bureau of Prisons to be followed by a three year term of supervised release. He was ordered to make restitution in the amount of $805.97 and required to participate in a substance abuse program. Tanner was

3

also ordered to totally abstain from the use of alcoholic beverages.

Also on February 21st, 1996, a revocation hearing was held regarding the allegations contained in the Petition on Probation and Supervised Release. The defendant stipulated to all allegations contained in the petition, and the defendant requested that the Court proceed directly to sentencing at that time.

As a result of the sentencing hearing, the Court finds that the instant offense occurred after November 1, 1987, and that Chapter Seven of the U. S. Sentencing Commission Guidelines is applicable. In accordance with U.S.S.G. § 7B1.1(a)(2), the Court finds that the violations of supervised release constitute a Grade C violation. Further, in accordance with U.S.S.G. § 7B1.4(a), the defendant's original Criminal History Category of III is now applicable for determining the imprisonment range of five to eleven months. Pursuant to U.S. v. Lee, 957 F.2d 770 (10th Cir., 1992), the policy statements in Chapter Seven are not mandatory, but must be considered by the Court. The Court further finds that the maximum term of imprisonment for revocation of a class C felony is two years pursuant to 18 U.S.C. § 3583(e)(3). Further, the Court finds that a term of Supervised Release is not permissible upon completion of any custody sentence on revocation of Supervised Release pursuant to U.S. v. Rockwell, 984 F.2d 1112, 1115-17(10th Cir., 1992). Therefore, the following sentence is ordered.

The defendant is committed to the custody of the U. S. Bureau of Prisons to be imprisoned for a term of twelve months. The previous order of restitution remains in effect and the balance is now $705.97. The Court recommends to the Bureau of Prisons that the defendant be designated to a facility that will provide alcohol and drug treatment. The Court recommends that the Federal Corrections Facility in El Reno Oklahoma be the designated institution if this facility can provide the recommended treatment.

The defendant is remanded to the custody of the U.S. Marshal.

The Honorable Thomas R. Brett
Chief United States District Judge

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED
FEB 23 1996
chard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 95-CR-103-001-B

JERRY GARCIA
Defendant.

ENTERED ON DOCKET
DATE FEB 26 1996

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

The defendant, JERRY GARCIA, was represented by Reuben Davis.

On motion of the United States the court has dismissed count(s) 1-4, 6-23 of the Indictment.

The defendant pleaded guilty to count(s) 5 and 24 of the Indictment on November 27, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1343 & 2(b)	Wire Fraud and Causing Criminal Act	09/21/94	5
18 USC 1341 & 2(b)	Mail Fraud and Causing a Criminal Act	10/05/94	24

As pronounced on February 15, 1995, 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 $ 100.00, for count(s) 5 and 24 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 23rd day of February, 1996.

The Honorable Thomas R. Brett, Chief
United States District Judge

Defendant's SSN: 448-84-0486
Defendant's Date of Birth: 02/02/70
Defendant's residence and mailing address: 5301 W. 53rd St., Tulsa, OK 74127

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Defendant: JERRY GARCIA
Case Number: 95-CR-103-001-B

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 20 months as to each of counts 5 and 24, counts to run concurrently, each with the other.

The Court makes the following recommendations to the Bureau of Prisons: That the defendant serve his term at the Intensive Confinement Center in Lewisburg, PA, to participate in the Shock Incarceration Program.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 11:00 a.m. on March 20, 1996.

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: JERRY GARCIA
Case Number: 95-CR-103-001-B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to each of counts 5 and 24, 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 abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

6. The defendant shall obtain the permission of the U.S. Probation Officer before gaining employment.

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: JERRY GARCIA
Case Number: 95-CR-103-001-B

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of $17,418.57.

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

Name of Payee	Amount of Restitution
Please See Attachment	

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 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.

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

Defendant: JERRY GARCIA
Case Number: 95-CR-103-001-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:	14
Criminal History Category:	II
Imprisonment Range:	18 months to 24 months - Cts. 5 and 24
Supervised Release Range:	2 to 3 years - Cts. 5 and 24
Fine Range:	$ 4,000 to $ 40,000 - Cts. 5 and 24
Restitution:	$ 24,418.57

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): 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: JERRY GARCIA
Case Number: 95-CR-103-001-B

ATTACHMENT

The victims outlined below have suffered a financial loss totalling $24,418.57:

James Johnson P.O. Box 1287 Dolan Springs, AZ 86441	$4,298.00	Clarie Schnicking 150 W. 2nd St. Apt. 253 Bayonne, New Jersey 07002	$198.00
Donald Coupler P.O. Box 418 Onekama, MI	$298.00	Miss Izell Brown or Joseph E. Wilkenson, Jr. 1740 Holtville Rd. Wetumpka, AL 36092	$298.00
Mrs. Ida L. Gardner 9660 Lewis St. Baton Rouge, LA 70807-3852	$298.00	Lillian M. Miller 3814 N. West St. Wichita, KS 67205	$298.00
Irma M. Hedgpeth 301 Woodside Dr., NE Grand Rapids, MI	$200.00	Lena Olthoff 821 5th Ave. S.W. Pipestone, MN 56164	$100.00
Katherine T. and Frank Stanczyk, Jr. 369 Boston Ave. Youngstown, OH 44507	$498.00	Mr. or Mrs. Dorsey D. Wood 1400 Hunt Ct. Columbia, MO 65203	$298.00
Jean or Blaine E. Blakeley 715 - 37th Street Ogden, UT 84403	$298.00	Gladys B. Ortega Loma Verde Lane Rohnert Park, CA 94928	$298.00
Harvey Hammen 408 Edgewood Ave. Adell, WI 53001	$796.00	Martha Wurtsmith 513 S. Albany Yuma, CO 80759	$98.00
Betty or Lewis Taylor 829 Pohdon Lane Healdsburg, CA 95448	$198.00	James V. Johnson P.O. Box 1287 Dolan Springs, AZ 86441	$98.00
Pat McKinney 41 Varni RD Watsonville, CA 95076	$198.00	Jessie Robinson SR 1, Box 58 Birch River, WV 26610	$448.00
Lydia Rust Shirley Stehling Rt. 1, Box 1800 Comfort, TX 78013	$298.00	Dorothy G. King 135 S. 9th, Apt. 4 Springfield, OR 97477-5204	$298.00
Larence F. or Mildred Aves 18 Meadow LN Lake Ozark, MO 65049	$298.00	R.A. Virgen, Sr. Rt. 1, 415 Lakeview Catawissa, MO 63015	$398.00

Dorris E. Sirmons Rt. 1, Box 210 Pitts, GA 31072	$398.00
Lois M. Roberts or Kathryn W. McCarrell 433 Roosevelt St. Midvale, UT 84047	$295.00
Evelyn Ann Hutting 2531 Barkley West Palm Beach, FL 33415	$298.00
Mrs. A. R. Crumpton 4008 N. 49th Ter. Birmingham, AL 35217	$198.00
Vanada V. Walters & Barbara Bullard 1119 West Drive Bluffs, IL 62621	$298.00
L.C. Fitzgerald, D.C. 210 O'Malley St., Apt. 204 Waunakee, WI 53597-1300	$298.00
Jean or Blaine Blakely 775 - 37th St. Ogden, UT 84403	$298.00
Elizabeth Evans 100 White Hampton Lane Pittsburg, PA 16286	$198.00
Wesley Meade P.O. Box 065 Printer, KY 41656-0006	$398.00
Charolette MacMillian 2801 N. 33rd Ave. Phoenix, AZ 85027	$200.00
J.O. Jenkins, O.D. 209 West Circle Dr. North Platte, NE 59101	$494.57
Florine Brown 422 Railroad Ave. Johnson, SC 29832	$298.00
Mary Weaver C/O Coos Bay Western Bank P.O. Box 1728 Coos Bay, OR 97420	$298.00
W.E. or Myrtle Keep 111 Sherry Dr. Whitehouse, TX 75791	$298.00
Mrs. J.W. Spilker 8135 Beechmond Ave. Cincinnati, OH 46255	$298.00

Ruth H. Rowland Rt. 3 Box 1091 Dubach, LA 71235	$298.00
Francis Cook 246 Park St. Buckeye Lake, OH 43008	$298.00
Mellvina Wells C/O Trust Company Bank P.O. Box 4418 Atlanta, GA 30302	$399.00
Winona Russo C/O Sommerset Turst Company P.O. Box 147 Flemington, NJ 08822	$510.00
Helen B. McFarland Box 65 Conssville, OH 43811	$298.00
Mrs. Ruth B. Arnold P.O. Box 2211 Prairie View, TX 77445	$298.00
Mildred Shufeldt or Charles Shufeldt 215 East Elm Street Salem, IL 62881	$298.00
Barbara Rodgers 10719 W. 25th Odessa, TX 79762	$100.00
Grace Potts Rt. 1, Box 167 Dike, TX 75437	$98.00
Thomas Montgomery RR 2 Box 2 Skidmore, MO 644879401	$189.00
Bernice F. Mackey C/O Marion and Polk Schools Credit Union P.O. Box 12396 Salem, OR 93709	$198.00
Floyd Fennig 1456 St. Anthony Rd. Coldwater, OH 46828	$298.00
Anette Paschall Rt. 2, Box 106-B Petersburg, TN 37144-9206	$298.00
Louise Vaughn Rose Trust 1003 Myrtle Scott City, KS 67871	$298.00
Stella Davis 8709 Anvil Ct. Fort Worth, TX 78179	$100.00

Kathryn Lawhon 1281 North Road Churchville, NY 14428	$100.00
Clarence E. and Myrtle Byron 10312 - 126th SE Renton, WA 98056	$496.00
Ralph P. Botti 10129 Citrustree Rd. Whittier, CA 90603	$100.00
William O'Neal Berry 2222 Waterford Place Birmingham, AL	$150.00
Alice Hipple Rt. 1, Box 20 Bloomington, NE 68929	$298.00
Alice M. Smith P.O. Box 362 Flatonia, TX 78941	$100.00
Mrs. Georgia L. Greene 6592 Watson Price Rd. Morganton, NC 28665	$298.00
Lloyd G. Sowers 123 Hudson St. Pineville, LA 71360	$283.00
Lottie May Fraizer 319 Spaulding St. Aliquippa, PA 15001-3140	$298.00
L.M. or Annetta Dunn 5890 Lakeshore Rd. Port Huron, MI 48060	$298.00
Doug or Lee McBee 1202 Logan Corpus Christi, TX 78404	$100.00
Dale M. Rosene 731 F St., No. 38 West Sacramento, CA 96591	$498.00
Leota Rogers RD 9 Canadagua, NY 14424	$398.00
Martha McAllister South Wexford Ct Gastonia, NC 28154	$510.00
Florence Clemens 414 E. Beverkey St. Staunton, VA 24401	$396.00
Idella C. Wallace 511 E. 10th St. - No. 14 Delta, CO 814162547	$150.00
Lou M. Watson 317 Cape Cod Corpus Christi, TX 78412	$298.00
Virginia B. Thompson P.O. Box 100 Tipton, TN 38071	$298.00
Eileen C. Brown 447 State St. Curwensville, PA 18833	$298.00
Claire Schmicking 150 W. 2nd St., Apt. 253 Bayonne, NJ 07002	$198.00

FILED

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FEB 2 1996

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

UNITED STATES OF AMERICA

v.

Case Number 92-CR-095-001-C

VIRGINIA L. TERNES
Defendant.

ENTERED ON DOCKET
DATE 2-23-96

(AMENDED PURSUANT TO 28 USC § 2255)

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

The defendant, VIRGINIA L. TERNES, was represented by Bud Byars.

The defendant was found guilty on count(s) One and Three of the Superseding Indictment on January 21, 1993 after a plea of not guilty. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 371, 5861(d), and 5871	Conspiracy to Possess an Unregistered Firearm	06/10/92	1
18 USC 1512(b)(1)	Attempting to Influence a Witness	05/28/92	3

As pronounced on February 14, 1996, 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 $ 100.00, for count(s) One and Three 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 20th day of Feb, 1996.

The Honorable H. Dale Cook
United States District Judge

Defendant's SSN: 488-48-3838
Defendant's Date of Birth: 12/10/45
Defendant's mailing address: Rt. 4, Box 1101, Afton, OK 74331
Defendant's residence address: In custody of U.S. Bureau of Prisons

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: VIRGINIA L. TERNES
Case Number: 92-CR-095-001-C

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 60 months on Count One, and 63 months on Count Three, both counts to run concurrently, each with the other.

The Court makes the following recommendations to the Bureau of Prisons: That the Bureau of Prisons recover no more than 33 per cent of defendant's earnings per month toward payment of the fine.

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: VIRGINIA L. TERNES
Case Number: 92-CR-095-001-C

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 2 years in each of Counts One and Three, 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 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 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.
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.

FINE

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.

The defendant shall pay a fine of $ 1,500.00. This amount is the total of the fines imposed on individual counts, as follows: $750.00 on Count One and $750.00 on Count Three. 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.

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: VIRGINIA L. TERNES
Case Number: 92-CR-095-001-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:	24
Criminal History Category:	III
Imprisonment Range:	63 months to 78 months - Cts. 1 & 3
Supervised Release Range:	2 to 3 years - Cts. 1 & 3
Fine Range:	$ 10,000 to $ 100,000 - Cts. 1 & 3
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.

FILED

FEB 23 1996

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

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

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	No. 92-CR-54-E
KEIR SPROUTS,	)	
Defendant.	)	

ENTERED ON DOCKET
DATE FEB 23 1996

O R D E R

Before the Court is the Motion to Modify Sentence filed by Defendant Keir Sprouts. Defendant complains that he was fined $3000.00 as part of the sentence imposed by this Court, although he was advised that there would be no fine. Defendant does not identify the source of this advice, but cites a Rule 11(e)(1)(c) plea agreement letter of August 25, 1995 pursuant to which the government and the defendant agreed to the government's recommendation of a sentence of imprisonment of twelve (12) years on Count One, Conspiracy to Possess with Intent to Distribute and to Distribute Cocaine, and five (5) years on Count Two, Conspiracy in violation of 18 U.S.C. §371.

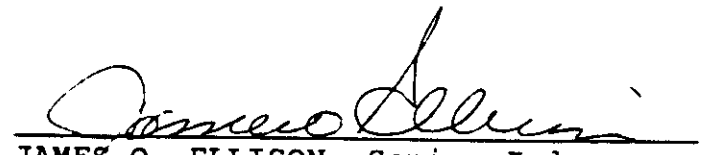
The government denies that it advised defendant or his counsel that no fine would be imposed by the Court, denies that such is in the plea agreement, and notes that the following provision in the plea agreement precludes defendant's claim to such an understanding:

> It is further understood that there are no agreements or understandings other than those set forth in this

document. Further it is understood that the sentence your client receives pursuant to this plea is within the total discretion of the sentencing court.

The Court agrees that nothing in the plea agreement supports defendant's claim that the government agreed to recommend to the Court that no fine be imposed and that the plea agreement evidences the complete understanding of the parties. The Court imposed the $3000.00 fine, a fine far shy of the statutory maxima, in the exercise of its sole discretion. Therefore, defendant's motion is denied.

ORDERED this 23 day of February, 1996.



JAMES O. ELLISON, Senior Judge
UNITED STATES DISTRICT COURT

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

FEB 21 1996

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 92-CR-86-1-C
	)	
DANNY RAY PAYNE,	)	
	)	ENTERED ON DOCKET
Defendant.	)	DATE FEB 22 1996

ORDER

Currently pending before the Court is the motion filed by defendant, Danny Ray Payne, seeking to correct alleged errors contained in his presentence report ("PSI").

On November 19, 1992, Payne pled guilty to Distribution of Cocaine, Aiding and Abetting, and Use of Communication Facility to Facilitate Commission of a Felony, in violation of 18 U.S.C. § 2, and 21 U.S.C. §§ 841(a) and 843(b). Payne was sentenced on January 20, 1993, to a term of imprisonment of seventy months on two counts, to run concurrently with forty-eight months imprisonment on the other count.

Payne now seeks to correct alleged factual inaccuracies contained in his PSI. The Court denies this request for the reasons stated below.

In paragraph One of Payne's motion, Payne objects to a reference in the PSI regarding Payne's involvement in the "Trey 9 gang." Payne now claims that there is no "Trey 9 gang," and that this is actually the title of his rap album. Payne did not object to the PSI at the time of sentencing, nor did he appeal his conviction or sentence.

It is well-settled that failure to challenge factual inaccuracies contained in a PSI at sentencing or on direct appeal acts as a waiver of those issues, unless the defendant can show that a fundamental

miscarriage of justice will occur if his claim is not addressed. U.S. v. Warner, 23 F.3d 287 (10th Cir. 1994); U.S. v. Saucedo, 950 F.2d 1508, 1518 (10th Cir. 1991), cert. denied, 507 U.S. 942 (1993); U.S. v. Craig, 827 F.2d 393 (8th Cir. 1987). Payne has made absolutely no showing that the reference to the "Trey 9 gang" in his PSI resulted in any prejudice whatsoever, and his untimely objection is therefore dismissed

Payne also makes a general objection to the PSI "in that the facts and the matters contained therein are based on speculation and are not reliable evidence, but merely form a review of the Governments files." Payne further alleges that the "inconsistencies and unreliability of the information" contained in the PSI are "highly biased, prejudicial, and unfair." Aside from such general allegations, Payne fails to direct the Court's attention to any specific information which he finds inaccurate and objectionable. As such, his claim must fail. As noted above, even if Payne pointed to specific, factual inaccuracies, his claims must nevertheless be denied. Payne's "attempt . . . many years after his conviction, to dredge up claimed inaccuracies in the [PSI] . . . is untimely." U.S. v. Willeford, 1991 WL 97634 (10th Cir. 1991).

Accordingly, Payne's motion to correct his PSI is hereby DENIED.

IT IS SO ORDERED this 20 day of February, 1996.

H. DALE COOK
U.S. District Judge

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED

FEB 21 1996

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

UNITED STATES OF AMERICA

v.

Case Number 93-CR-156-002-E

JOYCE SIXKILLER
Defendant.

ENTERED ON DOCKET
DATE FEB 22 1996

AMENDED

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

Modification of Imposed Term of Imprisonment for Retroactive Amendment to the Sentencing Guidelines (18 USC § 3582(c)(2)).

The defendant, JOYCE SIXKILLER, was represented by Curtis Biram.

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

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 841(a)(1), 841(b)(1)(B)(vii), and 18 USC 2	Manufacture By Production More Than 100 Marijuana Plants and Aiding and Abetting	08/11/93	1

As pronounced on February 21, 1996, 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 $ 50.00, for count(s) 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 21st day of February, 1996.

The Honorable James O. Ellison
United States District Judge

Defendant's SSN: 447-46-8719
Defendant's Date of Birth: 03/01/48
Defendant's mailing address: 3202 North 194th West Ave., Sand Springs, OK 74036
Defendant's residence address: Presently incarcerated with Bureau of Prisons

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: JOYCE SIXKILLER
Case Number: 93-CR-156-002-E

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 24 months.

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: JOYCE SIXKILLER
Case Number: 93-CR-156-002-E

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 4 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.
6. 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: JOYCE SIXKILLER
Case Number: 93-CR-156-002-E

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the revised presentence report pursuant to USSG § 1B1.10 and 18 USC § 3582(c)(2).

Guideline Range Determined by the Court:

Total Offense Level:	17
Criminal History Category:	I
Imprisonment Range:	24 months to 30 months
Supervised Release Range:	4 to 5 years
Fine Range:	$ 5,000 to $ 2,000,000
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.

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED
FEB 21 1996
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

v.

Case Number 95-CR-057-002-C

STEPHEN RAMONT HARDRIDGE
Defendant.

ENTERED ON DOCKET
DATE 2-21-96

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

The defendant, STEPHEN RAMONT HARDRIDGE, was represented by Paul Brunton.

The defendant pleaded guilty to count(s) One of the Indictment on August 15, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 846, 841(a)(1), and 841(b)(1)(B)(ii)(I)	Conspiracy to Possess Cocaine With Intent to Distribute	03/24/95	1

As pronounced on February 14, 1996, 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 $ 50.00, for count(s) One 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 20th day of Feb, 1996.

The Honorable H. Dale Cook
United States District Judge

Defendant's SSN: 448-70-8435
Defendant's Date of Birth: 12/27/69
Defendant's residence and mailing address: 529 East Tyler, 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 R. Miller
Deputy

62.

Defendant: STEPHEN RAMONT HARDRIDGE
Case Number: 95-CR-057-002-C

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.

The Court makes the following recommendations to the Bureau of Prisons: That the defendant be confined in a facility capable of providing substance abuse treatment, and upon successfully completion of this program, to be considered for a sentence reduction pursuant to 18 USC § 3621(e)(2)(B).

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: STEPHEN RAMONT HARDRIDGE
Case Number: 95-CR-057-002-C

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 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: STEPHEN RAMONT HARDRIDGE
Case Number: 95-CR-057-002-C

FINE

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.

The defendant shall pay a fine of $ 2,000.00. 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.

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: STEPHEN RAMONT HARDRIDGE
Case Number: 95-CR-057-002-C

RESTITUTION AND FORFEITURE

FORFEITURE

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

$34,730 in U.S. Currency

Defendant: STEPHEN RAMONT HARDRIDGE
Case Number: 95-CR-057-002-C

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report except: The Court determined that the two point enhancement pursuant to USSG 2D1.1(b)(1), was not applicable in this case and reduced the total offense level from 27 to 25.

Guideline Range Determined by the Court:

Total Offense Level:	25
Criminal History Category:	I
Imprisonment Range:	60 months to 71 months
Supervised Release Range:	4 to 5 years
Fine Range:	$ 10,000 to $ 2,000,000
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.

FILED
FEB 16 1996
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

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

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	Case No. 90-CR-87-E
WAYMOND CLINTON WATKINS,	)	
Defendant.	)	

ENTERED ON DOCKET
DATE FEB 20 1996

O R D E R

Now before the Court is the Motion to Vacate and Set Aside Judgment (Docket #428) of the Defendant Waymond Clinton Watkins.

Watkins was charged with conspiracy to commit mail fraud, mail fraud, and aiding and abetting in violation of 18 U.S.C. §§371, 1341, and 1342. Watkins pled guilty, and on February 7, 1992, was sentenced to serve eight months in prison, pay $150,000 in restitution, and serve three years supervised release. Watkins has served his terms of incarceration and supervised release, and has paid his restitution. He now claims that the sentence requiring incarceration, restitution, and supervised release violated the double jeopardy clause, and that the sentence should be vacated and the court should order the return of his personal property confiscated by the government.[1] Watkins relies on United States v. Halper, 109 S.Ct. 1892 (1989) for his double jeopardy argument.

---

[1] Watkins does not explain what property was confiscated by the government, or give the circumstances of the "confiscation." Rather, he complains that he was ordered by the probation office to sell his personal property to satisfy the restitution requirement.

Watkins, however, has several problems with his allegation that he has been subjected to double jeopardy. First, Halper does not support Watkins' assertion that restitution and incarceration constitute double jeopardy. Second, Restitution may be properly imposed as part of a sentence "in addition to . . . any other penalty authorized by law." See 18 U.S.C. §3663. Third, Watkins does not assert that he was deprived of his property in a separate proceeding, but instead admits that the "multiple punishments" all stem from this one criminal proceeding. Lastly, the Court notes that Watkins did not raise this issue on direct appeal, and in fact did not pursue a direct appeal.

Watkins' Motion to Vacate and Set Aside Judgment (Docket #428) is denied.

IT IS SO ORDERED THIS 15th DAY OF FEBRUARY, 1996.

JAMES O. ELLISON, SENIOR JUDGE
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

Entered on Docket 3-16-96

UNITED STATES OF AMERICA

v.

Case Number 95-CR-134-001-K

FILED

JAMIL AHMED
Defendant.

FEB 16 1996

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

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

The defendant, JAMIL AHMED, was represented by Chadwick R. Richardson.

On motion of the United States the court has dismissed count(s) 2 and 3 of the Indictment.

The defendant pleaded guilty to count(s) 1 of the Indictment on November 16, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
7 USC 2024(b)	Unauthorized Acquisition and Possession of Food Stamps	03/31/95	1

As pronounced on February 14, 1996, 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 $ 50.00, for count(s) 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 15 day of February, 1996.

The Honorable Terry C. Kern
United States District Judge

Defendant's SSN: 446-84-3502
Defendant's Date of Birth: 04/25/64
Defendant's residence and mailing address: 9835 S. 94th E. Ave., Tulsa, OK 74133

9

Defendant: JAMIL AHMED
Case Number: 95-CR-134-001-K

PROBATION

The defendant is hereby placed on probation for a term of 3 year(s).

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.

The Court suspends the requirements for mandatory urine screening as dictated by 18 USC § 3608, but specifically retains the probation office's authority to administer such tests for cause as permitted by the standard conditions of supervision.

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: JAMIL AHMED
Case Number: 95-CR-134-001-K

FINE

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.

The defendant shall pay a fine of $ 5,000.00. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation.

The defendant is ordered to pay costs of supervision in the amount of $195.30 per month during the term of probation. Upon completion of the three (3) year term of probation, the total punitive financial obligations imposed by the court (fine and costs of supervision) shall not exceed $12,030.80.

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: JAMIL AHMED
Case Number: 95-CR-134-001-K

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:	4
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months - Ct. 1
Supervised Release Range:	2 to 3 years - Ct. 1
Fine Range:	$ 250 to $ 5,000 - Ct. 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.

FILED
FEB 15 1996
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 95-CR-133-001-H

ENTERED ON DOCKET

DATE FEB 15 1996

LESLIE RALPH KEELER
Defendant.

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

The defendant, LESLIE RALPH KEELER, was represented by Oliver W. Arbogast.

On motion of the United States the court has dismissed count(s) 2 and 3 of the Indictment.

The defendant pleaded guilty to count(s) 1 of the Indictment on November 13, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
7 USC 2024(b)	Unauthorized Acquisition and Possession of Food Stamps	05/17/95	1

As pronounced on February 13, 1996, 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 $ 50.00, for count(s) 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 14TH day of FEBRUARY, 1996.

The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 529-54-5187
Defendant's Date of Birth: 08/05/41
efendant's residence and mailing address: 4815 South Jackson, Tulsa, Oklahoma 74107

Defendant: LESLIE RALPH KEELER
Case Number: 95-CR-133-001-H

PROBATION

The defendant is hereby placed on probation for a term of 3 year(s).

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 3 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. The entire cost of this program shall be paid by the defendant.

4. The defendant shall participate in a program of testing for alcohol abuse, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer. If the probation office determines that alcohol treatment is necessary, based on testing or other cause, the defendant shall successfully participate in alcohol abuse treatment, including inpatient treatment, until the defendant is released from such program by the U.S. Probation Officer.

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: LESLIE RALPH KEELER
Case Number: 95-CR-133-001-H

FINE

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.

The defendant shall pay a fine of $ 1,000.00. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid 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: LESLIE RALPH KEELER
Case Number: 95-CR-133-001-H

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:	6
Criminal History Category:	III
Imprisonment Range:	2 months to 8 months - Ct. 1
Supervised Release Range:	2 to 3 years - Ct. 1
Fine Range:	$ 500 to $ 5,000 - Ct. 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.

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

FILED

FEB 14 1996

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

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	No. 93-CR-35-5-C
PATRICK JONES,	)	
Defendant.	)	

ENTERED ON DOCKET
DATE FEB 15 1996

ORDER

Currently pending before the Court is the motion filed by defendant, Patrick Jones, seeking to vacate judgment.

On May 20, 1993, Jones was convicted by a jury on Count One, Conspiracy, Count Two, Armed Robbery of a Credit Union, and Count Three, Use of a Firearm, in violation 18 U.S.C. §§ 371, 2113(a) and (d), and 924(c). On July 20, 1993, Jones was sentenced to fifty-seven months imprisonment on Counts One and Two, to be served concurrently, and sixty months on Count Three, to be served consecutively to Counts One and Two.

Jones seeks to vacate judgment on the following grounds: 1) ineffective assistance of counsel, 2) perjury by omissions, 3) conspiracy, and 4) failure to provide government witness names. The Court finds no merit in Jones' allegations.

With respect to the ineffective assistance claim, Jones makes the conclusory statement that "counsel's failure to do proper research violates Sixth Amendment rights to the constitution of the United States of America." The only specific item which Jones offers in support of this allegation concerns Jones' assertion that his "attorney failed to do legal research or due process research to determine the legal status of the financial institution." Jones argues that the "alleged financial

institution involved has not shown compliance to Oklahoma Business and Commercial Laws nor has it registered to conduct business in the State of Oklahoma."

The government provided Jones' attorney with a certificate showing that Communications Federal Credit Union was a federally insured financial institution, and was chartered in accordance with law. The credit union was also shown to be eligible to transact business in Oklahoma. Based upon the government's furnishing of such documentation, Jones' attorney stipulated that the credit union was federally insured. Jones' attorney agreed that the credit union fell within the definition of federal credit unions, pursuant to 18 U.S.C. § 2113(g).

Jones offers no evidence that the credit union is not a federally insured institution. Jones offers no factual support for his contention that his attorney failed to adequately investigate the legal status of the credit union. Jones simply has not come close to satisfying the rigid standard espoused by the Supreme Court in Strickland v. Washington, 466 U.S. 668, 688, 694 (1984). A defendant claiming ineffective assistance of counsel must show that, 1) his counsel's performance fell below an objective standard of reasonableness, and 2) there is a reasonable probability that, but for counsel's errors, the result would have been different. Jones' unsupported allegations are clearly insufficient to maintain an ineffective assistance claim.

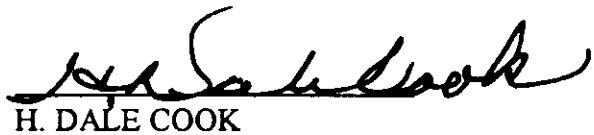
Jones alleges that the "District Attorney failed to bring forth discovery" respecting the "financial status of the financial institution." The Court assumes that Jones is referring to the United States Attorney's Office, rather than the District Attorney. As noted above, the government provided Jones with evidence indicating that the credit union was federally insured, and the defense stipulated to such. Hence, Jones' allegation fails.

Jones contends that the government failed to produce the names of persons with knowledge of facts relevant to this case, and that such failure impaired the preparation of an adequate defense. Jones further alleges that "the names of Government witnesses, or other persons having knowledge of facts regarding the case, should be discoverable by the defense prior to trial." This statement is incorrect. The Tenth Circuit in U.S. v. Metropolitan Enterprises, Inc., 728 F.2d 444, 451 (10th Cir. 1984), held that "a defendant in a non-capital case has no right to discover lists of prospective government witnesses." Furthermore, Jones makes no showing that the government withheld any information in violation of Brady v. Maryland, 373 U.S. 83 (1963). The government represents to the Court that no Brady material was provided prior to trial because there was no such material. Moreover, aside from his general allegations, Jones offers no specific information to support his claims. As such, Jones' claims must be dismissed.

The Court does not understand Jones' claims of "perjury by omissions" and "conspiracy." Jones offers absolutely no support for these contentions.

Accordingly, Jones' motion to vacate judgment is hereby DENIED.

IT IS SO ORDERED this 14th day of February, 1996.



H. DALE COOK
U.S. District Judge

FILED

FEB 1 4 1996

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

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 95-CR-115-001-B

STEVEN GREENSPAN aka: STEVEN A. GREENSPON
Defendant.

ENTERED ON DOCKET
DATE FEB 1 4 1996

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

The defendant, STEVEN GREENSPAN aka: STEVEN A. GREENSPON, was represented by R. Lynn Thompson.

On motion of the United States the court has dismissed count(s) 2 and 3 of the Indictment.

The defendant pleaded guilty to count(s) 1, 4, and 5 of the Indictment on November 8, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 841(a)(1); 841(b)(1)(B)(viii)	Possession With Intent to Distribute a Quantity of Methamphetamine	11/11/94	1
18 USC 922(g)(1); 924(a)(2)	Possession of a Firearm After Former Conviction of a Felony	06/08/95 06/12/95	4 5

As pronounced on February 9, 1996, 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 $ 150.00, for count(s) 1, 4, and 5 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 13 day of February, 1996.

The Honorable Thomas R. Brett
Chief United States District Judge

Defendant's SSN: 326-68-9256
Defendant's Date of Birth: 08/03/66
Defendant's residence and mailing address: 1916 N. Atlanta Place, Tulsa, OK 74110

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: STEVEN GREENSPAN aka: STEVEN A. GREENSPON
Case Number: 95-CR-115-001-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 Counts 1, 4, and 5, to be served concurrently, each with the other.

The Court makes the following recommendations to the Bureau of Prisons: That fifty (50) per cent of employment earnings, while incarcerated, be paid towards the fine imposed in this case.

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 GREENSPAN aka: STEVEN A. GREENSPON
Case Number: 95-CR-115-001-B

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 4 years as to Count 1, 3 years as to Counts 4 and 5; said terms to be served 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 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.
3) 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.

FINE

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.

The defendant shall pay a fine of $ 5,000.00 as to Count One. This fine shall be paid in full immediatelty. 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.

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: STEVEN GREENSPAN aka: STEVEN A. GREENSPON
Case Number: 95-CR-115-001-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:	24
Criminal History Category:	II
Imprisonment Range:	60 months to 71 months - Cts. 1, 4, & 5
Supervised Release Range:	4 to 5 years - Ct. 1
	2 to 3 years - Cts. 4 & 5
Fine Range:	$ 10,000 to $ 2,000,000 - Cts. 1, 4, & 5
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.

FILED

FEB 12 1996

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,	)	
vs.	)	Case No. 95-CR-158-BU
ALLEN DALE TUCKER, Defendant.	)	

ENTERED
DATE FEB 13 1996

ORDER

Now on this 12th day of February, 1996, this cause comes on to be heard in the matter of the plaintiff's motion to dismiss the Indictment only in the above styled cause. The Court finds that said motion should be granted and the Indictment only is dismissed without prejudice.

IT IS SO ORDERED.

MICHAEL BURRAGE
UNITED STATES DISTRICT JUDGE

6

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

ENTERED ON DOCKET
DATE FEB 13 1996

UNITED STATES OF AMERICA

v.

Case Number 95-CR-117-001-H

DANIEL RAY DEAN
Defendant.

FILED
FEB 8 1996
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

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

The defendant, DANIEL RAY DEAN, was represented by Stephen Knorr.

On motion of the United States the court has dismissed count(s) 2 of the Indictment.

The defendant pleaded guilty to count(s) 1 of the Indictment on November 3, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 922(a)(6)	False Statement in Connection With Purchase of Firearm	12/14/94	1

As pronounced on February 6, 1996, 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 $ 50.00, for count(s) 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 7TH day of FEBRUARY, 1996.

The Honorable Sven Erik Holmes
United States District Judge

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 D. Ballard
Deputy

Defendant's SSN: 445-62-1831
Defendant's Date of Birth: 07/05/67
Defendant's residence and mailing address: Route 3, Box 4900, Bartlesville, OK 74003

8

Defendant: DANIEL RAY DEAN
Case Number: 95-CR-117-001-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 53 months.

The Court makes the following recommendations to the Bureau of Prisons: That the defendant be incarcerated at the Federal Correctional Institution, El Reno, 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

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 substance 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: DANIEL RAY DEAN
Case Number: 95-CR-117-001-H

FINE

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.

The defendant shall pay a fine of $ 1,000.00. 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.

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: DANIEL RAY DEAN
Case Number: 95-CR-117-001-H

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:	17
Criminal History Category:	VI
Imprisonment Range:	51 months to 63 months
Supervised Release Range:	2 to 3 years
Fine Range:	$ 5,000 to $ 50,000
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.

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

ENTERED ON DOCKET
DATE FEB 13 1996

UNITED STATES OF AMERICA

v.

Case Number 95-CR-133-002-H

FILED
FEB 13 1996
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

PATRICIA LYNN STEPICH
Defendant.

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

The defendant, PATRICIA LYNN STEPICH, was represented by Regina Stephenson.

The defendant pleaded guilty to count(s) 1 of the Indictment on November 6, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
7 USC 2024(b)	Unauthorized Acquisition and Possession of Food Stamps	03/30/95	1

As pronounced on February 7, 1996, 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 $ 50.00, for count(s) 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 12TH day of FEBRUARY, 1996.

The Honorable Sven Erik Holmes
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 D. Williams
Deputy

Defendant's SSN: 448-72-2474
Defendant's Date of Birth: 07/12/60
Defendant's residence and mailing address: 911 N. Quaker, Tulsa, OK 74106

Defendant: PATRICIA LYNN STEPICH
Case Number: 95-CR-133-002-H

PROBATION

The defendant is hereby placed on probation for a term of 1 year(s).

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: PATRICIA LYNN STEPICH
Case Number: 95-CR-133-002-H

FINE

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.

The defendant shall pay a fine of $ 1,000.00. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid 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: PATRICIA LYNN STEPICH
Case Number: 95-CR-133-002-H

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:	4
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	$ 250 to $ 5,000
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.

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

FILED
FEB 12 1996
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	No. 95-CR-55-C
LARRY NATHAN GASS,	)	
Defendant.	)	

ENTERED ON DOCKET
DATE FEB 1996

ORDER

Currently pending before the Court is the motion filed by defendant, Larry Nathan Gass, seeking judgment of acquittal under Rule 29 of the Federal Rules of Criminal Procedure.

On April 7, 1995, a twenty-seven Count Indictment was filed against Gass and an associate charging them with conspiracy in violation of 18 U.S.C. § 371, and sale or modification of devices intended for unauthorized interception and publication of radio communications, in violation of 47 U.S.C. §§ 605(a) and 605(e)(4). Gass filed a motion for judgment of acquittal on July 24, 1995, which was taken under advisement by the Court. A jury trial was held on July 24 through July 28. On July 28, the jury returned a verdict of guilt on each Count charged against Gass. On August 3, Gass again moved for judgment of acquittal. Sentencing has been set for February 14, 1996.

Gass moves this Court to enter judgment of acquittal on several grounds, but, in disposing of the motion, the Court need only focus upon one issue. Gass contends that his conviction is improper given the language contained in Chapter 119 of Title 18, 18 U.S.C. § 2510 *et seq*. The Court finds merit in this argument.

45

Gass was indicted for modifying radio equipment and selling the devices to news organizations in Tulsa, for the purpose of eavesdropping on Tulsa's trunked radio system, including *all* of Tulsa's police frequencies and fire department communications. When the trunked system was implemented, the City of Tulsa gave specific media businesses access to certain "patrol" frequencies, but did not authorize access to "tactical" radio communications of the Tulsa police department. There is no dispute that the communications charged in the Indictment involve solely governmental communications.

Gass was charged under 47 U.S.C. § 605(e)(4), making it a crime to manufacture, assemble, modify, import, export, sell, or distribute any electronic, mechanical, or other device, knowing or having reason to know that the device is intended for any activity prohibited by 47 U.S.C. § 605(a). The government charged that Gass violated the second sentence of § 605(a), which provides that "[n]o person not being authorized by the sender shall intercept any radio communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person." The applicability of Chapter 119 of Title 18 was not contained in the Indictment, nor was an instruction given to the jury concerning its application.

Chapter 119 of Title 18 (known as the "Wiretap Act") governs wire and electronic communications and the interception of such communications. Gass relies upon 18 U.S.C. § 2511(2)(g)(ii)(II), which provides that it shall not be unlawful to intercept any radio

communication which is transmitted "by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public." Gass maintains that Chapter 119 necessarily qualifies the reach of § 605(a).

Section 605(a) begins with the introductory clause, "Except as authorized by chapter 119, Title 18, ..." The government argues that this introductory clause only modifies the first sentence of § 605(a) and not the second sentence, under which Gass was charged. Gass contends that the introductory clause modifies each and every sentence contained in § 605(a). The government suggests that if Chapter 119 applied to every sentence, an additional element would be added to § 605(a) in its entirety, requiring proof that the sender had both a subjective and objective expectation of privacy. The government argues that such would run afoul of precedent, as well as the purpose of § 605(a). The government argues that § 605(a) was intended to broaden the protection of radio communications, and that applying Chapter 119 to § 605(a) in its entirety would only serve to negate these protections. The government further maintains that Congress intended wire communications to be governed solely by Chapter 119, while leaving radio communications under the control of § 605(a).

The government does not cite any authority directly supporting its position, except for one scholarly article written in 1985 by

Bruce E. Fein.[1] Fein wrote that Congress likely intended § 605(a) as opposed to Chapter 119 to govern the legality of the interception or divulgence of radio communications by persons not involved in the regular transmission of such communications. Hence, Fein asserted that § 605(a)'s introductory clause only applied to the first sentence of § 605(a), and not to the remaining sentences.[2] The government does cite some cases which tend to hold that § 605 was intended to provide considerable protection to users of radio communication devices. The same can be said, however, about the Wiretap Act, although to a more limited extent.

Gass takes the position that Chapter 119 qualifies the entire paragraph of § 605(a), thereby permitting the interception of radio communications transmitted by governmental communications systems that are readily accessible to the general public. Gass notes that Chapter 119 was amended in 1986 to specifically authorize the interception of readily accessible governmental *radio* communications. Gass contends that this amendment necessarily nullifies the government's argument that Congress did not intend that the interception and divulgence of *radio* communications would be subject to the wiretap laws contained in Chapter 119.

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[1] Fein, Regulating the Interception and Disclosure of Wire, Radio, and Oral Communications: A Case Study of Federal Statutory Antiquation, 22 Harv.J. on Legis. 47, 60 & 88-90 (1985).

[2] It should be noted that Fein's article was written prior to the 1986 Amendments to Chapter 119. Included in these amendments is 18 U.S.C. § 2511(2)(g), which permits the interception of governmental *radio* communications that are readily accessible to the general public.

Gass cites three Circuit cases for support, all of which hold that Chapter 119 qualifies the entire paragraph of § 605(a). In U.S. v. Rose, 669 F.2d 23, 26-27 (1st Cir. 1981), cert. denied, 459 U.S. 828 (1982), the First Circuit held that Chapter 119 applied to radio communications otherwise protected by § 605(a), by virtue of § 605(a)'s introductory clause. The court recognized that "the protective shield of § 605 is significantly diminished in scope by incorporating the requirements of [Chapter 119]." The court noted, however, that it was significant that Congress simultaneously added § 605(a)'s introductory clause when it passed Chapter 119 in 1968. The court cited legislative history which clearly states that "The regulation of the interception of wire or oral communications in the future is to be governed by the proposed new [Title III]." Id.

In Edwards v. State Farm Ins. Co., 833 F.2d 535 (5th Cir. 1987), the Fifth Circuit held that while "the phrase could be interpreted to preface only the first sentence of section 605, . . . we think the better interpretation limits each of section 605's prohibitions to activities not authorized by the Wiretap Act." Id. at 540. The court went on to note that

> Under the former interpretation, activity permissible under the Wiretap Act could be prohibited under section 605 of the Communications Act. Since Congress added the introductory phrase to section 605 at the same time that it enacted the Wiretap Act, we believe Congress likely intended to make the same statutes consistent. The latter interpretation has this effect by ensuring that the interception and divulgence of a voice communication transmitted by radio waves is not prohibited by section 605 unless the communication also falls within the protections of the Wiretap Act. . . . [W]e

> acknowledge that neither the language of section 605 nor the relevant legislative history makes it entirely clear whether Congress intended this result . . .. Id.

The Fifth Circuit reasoned that the 1986 amendments to the Wiretap Act add much support to that court's conclusion, as these amendments expressly govern voice communication transmitted by *radio* waves. The court rejected the argument contained in Bruce Fein's law review article that Chapter 119 only applies to the first sentence of § 605(a). The court noted that "[e]ven this commentator . . . suggested as an alternative interpretation the one adopted by the First Circuit in Rose." Id. at 540 n.7.[3] Additionally, the Eighth Circuit followed the lead of the First and Fifth Circuits in Tyler v. Berodt, 877 F.2d 705 (8th Cir. 1989), cert. denied, 493 U.S. 1022 (1990), which held that the requirements of Chapter 119 apply to § 605.

This Court adopts the sound position taken by these circuit courts. The Court cannot accept the arguments espoused by the government that Chapter 119 only qualifies the first sentence § 605(a). To do so would produce anomalous results, which Congress could not have intended. Thus, especially in light of the 1986 amendments to Chapter 119, the Wiretap Act does, in fact, limit the applicability of § 605(a) with respect to *radio* communications, contrary to the government's position.

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[3] The Fifth Circuit also noted that other commentators have implicitly read the introductory clause of § 605(a) to modify that section in its entirety. Edwards, 833 F.2d at 540 n.7. See also, Kim, Twenty-Second Annual Review of Criminal Procedure: United States Supreme Court and Courts of Appeals 1991-92, 81 Geo. L.J. 953, 980 n.407 (1993) (Title III has largely superseded § 605).

The government's reading of § 605(a) contradicts the express language of Chapter 119. If this Court were to give effect to the government's argument, then the governmental radio interception exception contained in Chapter 119 makes no sense; a person would be permitted under Chapter 119 to intercept police radio transmissions only to be subject to criminal prosecution under § 605. Why would Congress impose a ban on the interception and divulgence of radio communications in one statute, while allowing for a specific exception in another, if it did not intend for the statutes to be read together? The only way to avoid absurdity in such a case is to interpret the conflicting statutes in a manner which permits the statutes to complement one another, thereby giving effect to the specific exception.

It would seem that the maxim "specific over general" is especially applicable here. As the Supreme Court noted, a "more specific statute will be given precedence over a more general one." Busic v. U.S., 446 U.S. 398, 406 (1980). Since Chapter 119 specifically addresses radio communications transmitted by the government, it must control § 605(a)'s general prohibition with respect to such radio transmissions. As such, § 605(a) is qualified by the exception contained in Chapter 119 for the interception of governmental radio transmissions.

The government's fear that such an interpretation will seriously undermine the protections contained in § 605(a) is largely unfounded. Chapter 119 does serve the purpose of providing protection to radio communications, but it also contains several

exceptions and additional qualifications. Concededly, § 605(a)'s protections are minimized by Chapter 119's applicability, but this result is mandated in order to harmonize two otherwise conflicting statutes.

Hence, given that this Court has determined that Chapter 119 qualifies the second sentence of § 605(a), the issue at trial should have been directed to the exception contained in 18 U.S.C. § 2511(2)(g). That is, under that section, the activities charged in the indictment against Gass cannot be criminal unless the government proves that the radio communications which Gass sought to intercept were not readily accessible to the general public.

Accordingly, since the exception contained in Chapter 119 was not presented to the jury at trial, the Court concludes that Gass' motion for judgment of acquittal must be and hereby is Granted.[4]

IT IS SO ORDERED this 12th day of February, 1996.

H. DALE COOK
U.S. District Judge

[4] The Court is of the opinion that the most appropriate course of action in the instant case is to proceed with a new trial in which the applicability of Chapter 119 is presented to the jury. While this is certainly the most desirable method of resolving the issues presented herein, it is not permissible in this case. Gass did not move for a new trial, and this Court is unable to order a new trial sua sponte. The Advisory Notes accompanying Rule 33 of the Federal Rules of Criminal Procedure state that the "amendments to the first two sentences make it clear that a judge has no power to order a new trial on his own motion, that he can act only in response to a motion timely made by a defendant. Problems of double jeopardy arise when the court acts on its own motion." See also, U.S. v. Smith, 331 U.S. 469 (1947).

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED
FEB 9 1996
Richard M. Lawrence, Cle
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

v.

Case Number 89-CR-077-001-C

BILLY JOE MALONEY
Defendant.

ENTERED ON DOCKET
DATE 2-9-96

AMENDED PURSUANT TO 28 USC § 2255
JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, BILLY JOE MALONEY, was represented by Robert S. Durbin.

On motion of the United States the court has dismissed count(s) 1 of the Superseding Indictment.

The defendant pleaded guilty to count(s) 2, 5, and 6 of the Superseding Indictment on November 9, 1989. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 841(b)(1)(C)	Possession With Intent to Distribute Amphetamine	05/12/89	2
21 USC 856(a)	Maintaining a Place for Drug Manufacturing	05/12/89	5
18 USC 924(c)	Use of Firearm During a Drug Trafficking Crime	05/12/89	6

As pronounced on January 25, 1996, 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 $ 150.00, for count(s) 2, 5, and 6 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 8th day of February, 1996.

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

Defendant's SSN: 555-33-3748
Defendant's Date of Birth: 04/13/59
Defendant's residence and mailing address: Rt. 1, Box 409, Sunset, Texas 76270

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

2.

Defendant: BILLY JOE MALONEY
Case Number: 89-CR-077-001-C

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 87 months; 27 months on Counts 2 and 5, to run concurrently, each with the other; 60 months on Count 6, to run consecutively to the sentence imposed in Counts 2 and 5.

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: BILLY JOE MALONEY
Case Number: 89-CR-077-001-C

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years in Counts 2, 5, and 6, as to each count 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 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: BILLY JOE MALONEY
Case Number: 89-CR-077-001-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:	16
Criminal History Category:	III
Imprisonment Range:	27 months to 33 months - Cts. 2 & 5
	60 months - Ct. 6
Supervised Release Range:	3 years - Ct. 2
	2 to 3 years - Cts. 5 & 6
Fine Range:	$ 5,000 to $ 1,500,000 - Cts. 2, 5, & 6
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.

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED
FEB 8 1996
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 96-CR-013-001-W

KELVIN M. EAST
Defendant.

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

The defendant, KELVIN M. EAST, was represented by Regina Stephenson.

The defendant pleaded guilty to count(s) 1 of the Information on February 6, 1996. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 2113(b)	Theft of Bank Monies, Misdemeanor	02/09/93	1

As pronounced on February 6, 1996, the defendant is sentenced as provided in pages 2 through 3 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 $ 25.00, for count(s) 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 8th day of February, 1996.

The Honorable John Leo Wagner
United States Magistrate 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 [signature]
Deputy

ENTERED ON DOCKET
DATE 2-8-96

Defendant's SSN: 434-13-1734
Defendant's Date of Birth: 11/30/60
Defendant's residence and mailing address: 3302 Memorial Park Drive, #174, Algiers, LA 70014

Defendant: KELVIN M. EAST
Case Number: 96-CR-013-001-W

FINE

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.

The defendant shall pay a fine of $ 500.00. This fine shall be paid in full immediately.

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: KELVIN M. EAST
Case Number: 96-CR-013-001-W

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:	6
Criminal History Category:	III
Imprisonment Range:	2 months to 8 months
Supervised Release Range:	1 year
Fine Range:	$ 500 to $ 5,000
Restitution:	$ 9,645.34

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

The sentence departs from the guideline range for the following reason(s): Pursuant to USSG § 5141.4 - Physical Condition, the court departs based on the defendant's extraordinary physical impairment.

FILED
FEB 7 1996
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 95-CR-060-002-H

ENTERED ON DOCKET
DATE FEB 07 1996

MICHAEL PAUL DALE SINCLAIR
Defendant.

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

The defendant, MICHAEL PAUL DALE SINCLAIR, was represented by Keith Ward.

The defendant was found guilty on count(s) 1 and 5 of the Superseding Indictment on September 5, 1995 after a plea of not guilty. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 371	Conspiracy	03/22/95	1
18 USC 1623	False Statement Before Court	03/22/95	5

As pronounced on January 23, 1996, 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 $ 100.00, for count(s) 1 and 5 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 7TH day of FEBRUARY, 1996.

The Honorable Sven Erik Holmes
United States District Judge

Defendant's SSN: 337-56-4353
Defendant's Date of Birth: 08/09/60
Defendant's residence and mailing address: 2540 S. Birmingham Place, Tulsa, OK 74114

36

Defendant: MICHAEL PAUL DALE SINCLAIR
Case Number: 95-CR-060-002-H

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 22 months on each of the two counts of conviction. The sentence imposed in Counts 1 and 5 shall run concurrently, each with the other.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 11:00 a.m. on February 22, 1996.

RETURN

I have executed this Judgment as follows:

_____

_____

_____

_____

Defendant delivered on _____ to _____
at _____, with a certified copy of this Judgment.

_____
United States Marshal

By _____
Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years on each of Counts 1 and 5, said 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 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: MICHAEL PAUL DALE SINCLAIR
Case Number: 95-CR-060-002-H

FINE

The defendant shall pay a fine of $ 4,000.00 on Count 5. 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.

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: PAUL DEO SINCLAIR
Case Number: 95-CR-060-002-H

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:	15
Criminal History Category:	I
Imprisonment Range:	18 months to 24 months
Supervised Release Range:	2 to 3 years
Fine Range:	$ 4,000 to $ 40,000
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.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB - 2 1996

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

UNITED STATES OF AMERICA Plaintiff VS ANTHONY SAVIANO Defendant	)))))))	Case Number: 92-CR-119-001-C

ENTERED ON DOCKET
DATE 2-6-96

ORDER REVOKING COUNT ONE OF SUPERVISED RELEASE

Now on this 23rd day of January 1996, this cause comes on for sentencing concerning allegations that the defendant violated conditions of supervised release as set out in the Petition on Probation and Supervised Release filed on January 22, 1996. The defendant is present in person and represented by counsel, Jack Short. The Government is represented by Assistant U.S. Attorney Charles McLoughlin, and the United States Probation Office is represented by J. Mark Ogle.

On February 16, 1993, the defendant was heretofore convicted on his plea of guilty to Count One and Count Two of a two-count Indictment which charged him with Bank Fraud and Fraudulent Use of a Social Security Number, in violation of 18 U.S.C. § 1344(1) and 42 § 408(a)(7)(B). On April 26, 1993, Saviano was committed to the custody of the

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. Muller
Deputy

U. S. Bureau Prisons for a term of fifteen months. In addition, he was ordered to pay a $100 Special Monetary Assessment and complete a four year term of supervised release on Count One and a three year term of supervised release on Count Two, both to run concurrently with each other. As a special condition of supervised release, Saviano was ordered to participate in a drug and alcohol testing and treatment, in a program of mental health treatment, and pay restitution in the amount of $3,521.92.

On November 1, 1993, Saviano was released from the custody of the U.S. Bureau of Prisons to serve his term of supervised release. On December 1, 1993, a Petition was filed ordering the conditions of the defendant's supervised release be modified to require that Saviano successfully participate in the Oklahoma Halfway House residential program.

On February 8, 1994, a revocation hearing was held regarding the allegations noted in the Petition on Probation and Supervised Release, filed on December 28, 1993. The defendant stipulated to all violations at the hearing, and sentencing was set for February 9, 1994.

On February 9, 1994, as a result of the sentencing hearing, the defendant was sentenced to serve nine 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.

On November 9, 1995, the defendant was released from the custody of the U.S. Bureau of Prisons. He reported to the U.S. Probation Office to recommence his term of supervised

release on Count One.

As a result of his substance abuse, on December 13, 1995, a Petition on Probation and Supervised Release was presented and signed adding electronic monitoring/home detention and alcohol abstinence to the defendant's supervision.

On January 22, 1996, a Petition on Probation and Supervised Release was filed regarding alleged violations committed by Saviano. On January 23, 1996, Saviano stipulated to these alleged violations, as noted in the Petition. On the same date, January 23, 1996, as a result of the Sentencing Hearing, the Court found that the violation occurred after November 1, 1987, and that Chapter 7 of the U. S. Sentencing Guidelines is applicable. Further, the Court found that the violation of supervised release constituted a Grade C violation in accordance with U.S.S.G. 7B1.1(a)(3), and that the defendant's original Criminal History Category of V was applicable for determining the imprisonment range. In addition, the Court found that a Grade C violation and a Criminal History Category of V establish a revocation imprisonment range of seven to thirteen months. In consideration of these findings and pursuant to U.S. vs. Lee, 957 F2d 770 (10th Cir. 1992), in which the Circuit determined that the policy statements in Chapter 7 were not mandatory, but must be considered by the Court, the following was ordered:

The defendant is committed to the custody of the U. S. Bureau of Prisons to be imprisoned for a term of thirteen months. The previous order of restitution remains in effect and part

of this order. The Court made a recommendation to the Bureau of Prisons that the defendant be designated to a facility that will provide alcohol and drug treatment.

The defendant is remanded to the custody of the U.S. Marshal.

The Honorable H. Dale Cook
United States District Judge

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

FILED
FEB - 2 1996
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

MICHAEL ANTHONY YOUNGPETER,	)	
Petitioner,	)	
vs.	)	No. 91-CR-50-C
UNITED STATES OF AMERICA,	)	
Respondent.	)	

ENTERED ON DOCKET
DATE FEB 0 6 1996

ORDER

Currently pending before the Court is a motion, filed by petitioner, Michael Anthony Youngpeter, seeking modification of his sentence pursuant to 18 U.S.C. § 3582(c)(2).

A jury found Youngpeter guilty of Conspiracy to Manufacture, Possess and Distribute Methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846. On December 11, 1991, Youngpeter was sentenced to 188 months imprisonment, five years of supervised release, and ordered to pay a special assessment of $50. Youngpeter was sentenced pursuant to § 2D1.1, and was assessed a total offense level of 36 with a criminal history category of I.

Youngpeter moves this Court for a two point reduction of his offense level from 36 to 34, based upon application of § 1B1.10 of the United States Sentencing Guidelines. Section 1B1.10 provides for the retroactive application of certain guideline ranges which have been lowered as a result of an amendment subsequent to a defendant's sentencing. However, § 1B1.10 only gives retroactive effect to certain enumerated guideline amendments, and provides that if "none of the amendments listed in subsection (c) is applicable, a reduction in the defendant's term of imprisonment

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under 18 U.S.C. § 3582(c)(2) is not consistent with this policy statement and thus is not authorized." Id.

An amendment to § 2D1.1 went into effect on November 1, 1995. As amended, § 2D1.1(b)(4) provides for a two level decrease if the defendant meets a certain criteria. This provision was not contained in § 2D1.1(b) when Youngpeter was sentenced. Even assuming that Youngpeter meets the criteria required for a two level adjustment under § 2D1.1(b), as amended, the Court is forced to conclude that Youngpeter is not entitled to the adjustment.

Section 2D1.1(b)(4) was inserted by amendment number 515, contained in Appendix C of the 1995 Guidelines Manual. Section 1B1.10(c) does not list amendment 515 as one of the amendments covered by § 1B1.10's retroactive policy. As such, pursuant to § 1B1.10(a), a reduction of Youngpeter's offense level is not authorized under 18 U.S.C. § 3582(c)(2).

Accordingly, Youngpeter's motion for modification of sentence under 18 U.S.C. § 3582(c)(2) is hereby DENIED.

IT IS SO ORDERED this 30th day of January, 1996.

H. DALE COOK
U.S. District Judge

FILED

FEB - 6 1996

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

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 95-CR-126-001-B

EDGAR WILLIAM MAASS
Defendant.

ENTERED ON DOCKET
DATE FEB - 6 1996

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

The defendant, EDGAR WILLIAM MAASS, was represented by Craig Bryant.

The defendant pleaded guilty to count(s) 1 of the Amended Information on November 3, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
42 USC 408(a)(7)(B)	Use of a Fraudulent Social Security Number	09/01/95	1

As pronounced on February 2, 1996, 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 $ 50.00, for count(s) 1 of the Amended 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 6th day of February, 1996.

The Honorable Thomas R. Brett, Chief
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 _____ Deputy

Defendant's SSN: 137-36-8129
Defendant's Date of Birth: 10/02/42
Defendant's residence and mailing address: 800 West Utica, Broken Arrow, OK 74011

Defendant: EDGAR WILLIAM MAASS
Case Number: 95-CR-126-001-B

IMPRISONMENT

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

The Court makes the following recommendations to the Bureau of Prisons: That the Bureau of Prisons designate the Freedom House in Tulsa, Oklahoma, as the place of incarceration. In addition, should the Bureau of Prisons comply with this recommendation, the Court orders that the defendant be confined to the facility 24 hours a day, and that he not be given any leaves or passes.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 11:00 a.m. on March 1, 1996.

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: EDGAR WILLIAM MAASS
Case Number: 95-CR-126-001-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 be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of five (5) months and 15 days, to commence within 72 hours of release from confinement. 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. The entire cost of this program shall be paid by the U.S. Probation Office.

5. 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: EDGAR WILLIAM MAASS
Case Number: 95-CR-126-001-B

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of $6,854.63.

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

Name of Payee	Amount of Restitution
Local America Bank Attn: Mary Dean (loss on acct. #030368604, Edgar Maass) P.O. Box 26020 Oklahoma City, OK 73126	$ 464.97
State Bank Attn: Charles Pilkington, Asst. Vice-President (collection acct. of Edgar Maass) 502 South Main Mall Tulsa, OK 74103	$2,789.66
First National Bank of Broken Arrow Attn: Teresa Fleming 121 South Main Broken Arrow, OK 74012	$3,600.00

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 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.

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

Defendant: EDGAR WILLIAM MAASS
Case Number: 95-CR-126-001-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:	9
Criminal History Category:	II
Imprisonment Range:	6 months to 12 months
Supervised Release Range:	2 to 3 years
Fine Range:	$ 1,000 to $ 10,000
Restitution:	$ 6,854.63

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.

ef

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED
FEB - 2 1996
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA Plaintiff VS THOMAS ANTHONY MORQUECHO Defendant	)))))))	Case Number: 91-CR-040-001-B ENTERED ON DOCKET DATE FEB 0 5 1996

ORDER REVOKING SUPERVISED RELEASE

Now on this 31st day of January 1996, this cause comes on for sentencing concerning allegations that the defendant violated conditions of supervised release as set out in the Petition on Supervised Release filed on November 20, 1995. The defendant is present in person and represented by counsel, Curtis Biram. The Government is represented by Assistant U.S. Attorney Kenneth P. Snoke, and the United States Probation Office is represented by Larry Morris.

The defendant was heretofore Convicted on his plea of guilty to a three-count Indictment charging him with Conspiracy To Distribute Cocaine, Possession With Intent To Distribute Cocaine and Carrying A Firearm During A Drug Felony, in violation of 21 §§ 846 and 841(b)(1)(c), 21 §§ 841(a)(1) and 841(b)(1)(c) and 18 § 924(c), respectively. On September 12, 1991, Morquecho was committed to the custody of the U.S. Bureau of

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Prisons for a term of thirty (30) months to be followed by a three (3) year term of supervised release. In addition to the standard conditions of supervised release, Morquecho was ordered to participate in a substance abuse program as deemed necessary by the Probation Office.

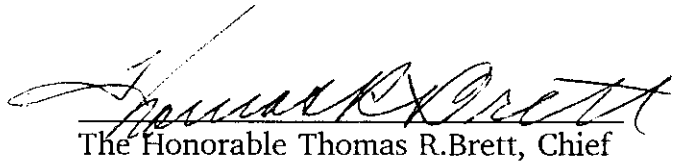
On January 12, 1996, a revocation hearing was held regarding the allegations noted in the Petition on Supervised Release, filed on November 20 1995, said allegations being that on January 27, 1994, July 25, 1994 and July 21, 1995, Morquecho submitted urine specimens which tested positive for Morphine, Benzodiazepines and Cocaine Metabolite, respectively. On October 17, 1994, Morquecho was arrested in Tulsa, Oklahoma for Driving Under The Influence Of Alcohol and pled guilty to that offence on October 24, 1994. On October 14, 1995, the defendant committed an assault on Carlos Langston and his spouse. The defendant stipulated to submitting the positive urine specimens and committing the offense of Driving Under The Influence of Alcohol and the Court found that there was sufficient evidence to substantiate the allegation of assault as alleged in the Petition. Sentencing was set for January 31, 1996.

On January 31, 1996, as a result of the sentencing hearing, the Court found that the defendant was in possession of controlled substances. In addition, the Court found that the violations occurred after November 1, 1987, and that Chapter 7 of the U. S. Sentencing Guidelines is applicable. Further, the Court found that the violations of supervised release constituted Grade C violations in accordance with U.S.S.G. § 7B1.1(a)(3), and that the defendant's original criminal history category of I was applicable for determining the

imprisonment range. In addition, the Court found that Grade C violations and a criminal history category of I establish a revocation imprisonment range of three (3) to nine (9) months. In consideration of these findings and pursuant to U.S. vs. Lee, 957 F2d 770 (10th Cir. 1992), in which the Circuit determined that the policy statements in Chapter 7 were not mandatory, but must be considered by the Court, the following was ordered:

The defendant, Thomas Anthony Morquecho, is hereby committed to the custody of the U.S. Bureau of Prisons to be imprisoned for a term of twelve months. The Court recommends that the defendant be placed in the Bureau Of Prisons' five hundred (500) hour Comprehensive Drug Treatment Program.

The defendant is ordered to report to the designated Bureau Of Prisons institution no later than February 28, 1996, at 11:00 a.m.



The Honorable Thomas R.Brett, Chief
United States District Judge

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

ENTERED ON DOCKET

DATE FEB 01 1996

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	No. 95-CR-31-K
DANNY RAY EVANS, a/k/a Danny Taylor, and MONSON LEE DURHAM, JR., a/k/a Lee Durham, Jr.,	)	
Defendants.	)	

FILED

JAN 31 1996

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

O R D E R

On October 31, 1995, a jury returned its verdict, finding defendant Danny Ray Evans ("Evans") guilty of one count of a drug conspiracy in violation of 21 U.S.C. §846 and one count of a firearms charge in violation of 18 U.S.C. §924(c)(1). By Order of December 8, 1995, this Court sua sponte requested the government and Evans to brief the effect, if any, of Bailey v. United States, 116 S.Ct. 501 (1995) on the firearms conviction. The government filed its brief in a timely fashion, while Evans' brief was filed over ten days past the deadline set by the Court. In view of the importance of the issue, the Court will consider both briefs.

Count 2 of the Superseding Indictment charged Evans with knowingly carrying a firearm "in furtherance of, and during and in relation to" the drug conspiracy charged in Count 1. A conviction under 18 U.S.C. §924(c)(1) requires the government to prove (1) the defendant used or carried a firearm and (2) the use or carrying was during and in relation to a crime of violence or drug trafficking crime. Smith v. United States, 113 S.Ct. 2050, 2053 (1993).

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At the time of Evans' trial, the governing rule in the Tenth Circuit was that a conviction for "use" was supported if the government established: (1) the defendant had "ready access" to the firearm; and (2) the firearm was an "integral part" of the criminal undertaking and increased the likelihood that the undertaking would succeed. To show that a firearm was readily accessible, the government needed to show only that the firearm was available to the defendant in the vicinity where the drug trafficking offense took place. United States v. Wacker, ____ F.3d ____ (10th Cir.)(Dec.26, 1995). In Bailey, the Supreme Court held that "[t]o sustain a conviction under the 'use' prong of § 924(c)(1), the Government must show that the defendant actively employed the firearm during and in relation to the predicate crime." 116 S.Ct. at 509.

The evidence at trial was that on June 21, 1994, Evans picked up the profits of crack cocaine sales ($14,000 in United States Currency) and was transporting the currency in his pickup truck toward his home in the Dallas-Ft. Worth, Texas area. Evans was stopped by Oklahoma Highway Patrol Trooper Larry Saxon, who seized the currency and a loaded Ruger 9mm semi-automatic pistol from the passenger compartment of the truck. The defendant argues, and the government does not contest, the facts of this case do not support a conviction for "use" under the Bailey standard. Consequently, both parties have discussed the application of the "carry" prong of the statute.

In United States v. Parrish, 925 F.2d 1293, 1297 (10th

Cir.1991), the court noted that a crime denounced in the statute disjunctively may be alleged in an indictment in the conjunctive, and thereafter proven in the disjunctive. The court concluded a conviction under §924(c)(1) would be upheld if there is sufficient evidence the firearm was used or carried in violation of the statute. The Superseding Indictment in the present case charged the crime in the conjunctive.

In United States v. Cardenas, 864 F.2d 1528 (10th Cir.), cert. denied, 491 U.S. 909 (1989), the court held that, when a motor vehicle is used, carrying a weapon takes on a "less restrictive meaning" than carrying on a person. Id. at 1535. "The means of carrying is the vehicle, itself, rather than the defendant's hands or pocket. . . " Id. at 1535-36. Citing Cardenas, the Tenth Circuit Court of Appeals recently stated "[w]e have held that when a firearm is carried in a vehicle and the defendant knows it is there, the 'carrying' element of 18 U.S.C. § 924(c) is satisfied." United States v. Dirden, 38 F.3d 1131, 1142 n.15 (10th Cir.1994). In the case at bar, Evans admitted at the time of the stop the gun was his. Under these pre-Bailey Tenth Circuit opinions, defendant Evans could rationally have been found guilty of "carrying" the firearm.

Does Bailey have any impact upon the "carry" prong of §924(c)? In United States v. Riascos-Suarez, 1996 WL 11015 (6th Cir.)(Jan.12, 1996), the court said Bailey "provides some guidance" in a correct interpretation of the "carry" prong. In Riascos-Suarez, the defendant was arrested driving a car containing a large

amount of cash, empty bags covered with cocaine residue, and a loaded weapon near the driver's seat. The appellate court said the defendant could not be convicted under the "use" prong, but upheld his conviction under the "carry" prong, holding that, after Bailey, to be convicted of carrying a weapon, the firearm must be "immediately available for use--on the defendant or within his or her reach. Such availability takes the weapon beyond simple possession or storage." In the case at bar, the firearm was in the passenger compartment of the truck with the defendant, and thus "available." Even if the Tenth Circuit modifies its post-Bailey "carrying" cases along the lines of the Sixth Circuit, defendant Evans still falls within the "carry" prong. Had the firearm been stored in a car's trunk, for example, the outcome might well be different.

The defendant makes a second argument which must be addressed. Having proven use or carriage of the firearm, "[t]he government must also link the use or carrying of the firearm to the drug trafficking." United States v. Jones, 49 F.3d 628, 632 (10th Cir.1995). This refers to the statute's requirement that the gun be used or carried "during and in relation to" a drug trafficking crime. Evans points out no drugs were present in the truck at the time of the stop, merely drug proceeds. He contends any drug trafficking crime was over, and therefore the firearm could not have been carried "during and in relation to" such a crime.

In United States v. Edwards, 994 F.2d 417 (8th Cir.1993), cert. denied, 114 S.Ct. 701 (1994), firearms were seized from

defendant's home, in which large amounts of cash, but no drugs, were found. The court said "[p]rotection of drug proceeds furthers a drug trafficking crime, and use of a firearm to guard such proceeds therefore violates § 924(c)." Id. at 421. In United States v. Reyes, 930 F.2d 310 (3d Cir.1991), defendant was arrested while driving, and a subsequent search of his car disclosed a gym bag inside the trunk. Within the bag was over $9,000 in cash and a firearm. The court held:

> Based upon the evidence noted above, the jury could have reasonably concluded that Reyes had collected $9,020 in drug proceeds; that he was transporting those proceeds at the time of his arrest; that this activity was in furtherance of the drug conspiracy; that Reyes intended to have the firearm available for use or possible use; and that the pistol's location, within inches of the drug proceeds, made it readily accessible to Reyes while he was engaged in activities furthering the conspiracy. Thus, we hold that the evidence was sufficient to prove illegal use in violation of 18 U.S.C. § 924(c).

However, in United States v. Clemis, 11 F.3d 597 (6th Cir.1993), cert. denied, 114 S.Ct. 1858 (1994), defendant was arrested and the search of his two residences revealed weapons in one and large amounts of cash in the other, but no drugs or drug paraphernalia. The court overturned his §924(c) conviction, stating "the firearms were not found in the same room, or even in the same house as any drugs or drug paraphernalia." Id. at 602. The court rejected the government's argument that the purpose of the weapons was to protect drug proceeds, thereby facilitating the drug transaction. Id. Although these cases are pre-Bailey, they are cited in Riascos-Suarez as pertinent authority.

The position argued by defendant Evans is not illogical, but the facts of this case lead the Court to adopt the Edwards-Reyes position. In Clemis, it appears the guns and the money were in separate residences. Here, the gun and the admitted drug proceeds were in the same vehicle. In Bailey, the Supreme Court stated the question before it as whether "evidence of the proximity and accessibility of a firearm to drugs or drug proceeds is alone sufficient" to support a §924(c) conviction. 116 S.Ct. at 503 (emphasis added). The Supreme Court thus did not foreclose the possibility that the presence of drug proceeds, even in the absence of drugs or drug paraphernalia, might support a conviction. Such is the case here.

It is the Order of the Court that, having raised sua sponte the application of Bailey v. United States to this case, the conviction of defendant Danny Ray Evans in Count 2 is hereby affirmed and is not altered by this Order.

ORDERED this 30 day of January, 1996.

TERRY C. KERN
UNITED STATES DISTRICT JUDGE

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

ENTERED ON DOCKET
DATE FEB 0 1 1996

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	No. 95-CR-77-K
ANDRE LAMONT GREEN and MARQUITA LATICE HANKINS,	)	
Defendants.	)	

FILED
JAN 31 1996
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT

ORDER

On October 5, 1995, the jury returned its verdict, finding defendant Andre Lamont Green guilty of Counts 1-6 and 8-11 of the Indictment in this case. By Order of December 8, 1995 the Court directed the government and defendant Green to brief the issue of the effect, if any, of Bailey v. United States, 116 S.Ct. 501 (1995) on the convictions in Counts 5 and 10, both alleging violations of 18 U.S.C. §924(c)(1). This supplemental briefing has been completed.

A conviction under 18 U.S.C. §924(c)(1) requires the government to prove (1) the defendant used or carried a firearm and (2) the use or carrying was during and in relation to a crime of violence or drug trafficking crime. Smith v. United States, 113 S.Ct. 2050, 2053 (1993).

At the time of Green's trial, the governing rule in the Tenth Circuit was that a conviction for "use" was supported if the government established: (1) the defendant had "ready access" to the firearm; and (2) the firearm was an "integral part" of the criminal undertaking and increased the likelihood that the undertaking would

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succeed. To show that a firearm was readily accessible, the government needed to show only that the firearm was available to the defendant in the vicinity where the drug trafficking offense took place. United States v. Wacker, ____ F.3d ____ (10th Cir.)(Dec.26, 1995). In Bailey, the Supreme Court held that "[t]o sustain a conviction under the 'use' prong of § 924(c)(1), the Government must show that the defendant actively employed the firearm during and in relation to the predicate crime." 116 S.Ct. at 509.

In Count 5, both defendants were charged with using and carrying two magnum revolvers during and in relation to a drug trafficking crime on or about March 3, 1995. The evidence at trial was that the two firearms were found by police officers on March 3, 1995 during a search of the house at 526 East 52nd Street North. One of the weapons was found on the cushion of a sofa in the living room, while the other was found directly underneath the sofa. Officers had observed Green leaving the house earlier in the day, and personal effects found during the search linked Green to the house. The officers found 50 grams of crack cocaine, drug paraphernalia and packaging material inside the house. One of the officers testified that, in his opinion, the 52nd Street North residence was being maintained as a "crack house."

Count 10 of the Indictment charged Green with using and carrying a .38 revolver during and in relation to a drug trafficking crime on or about March 13, 1995. The evidence at trial was that the .38 revolver described in the indictment was

recovered by officers during a search of a home at 6318 North Boulder, which was the residence of Green's mother. The firearm was found inside a bedroom closet. Officer Bill Yelton testified that when the officers approached the house to serve the search warrant, he looked through a window and saw Green running through the house with a firearm in his hand. Green did not have physical possession of the firearm when the officers entered the house and confronted him. In addition to the firearm, the officers found 55 grams of crack cocaine and $1,440.00 in cash during the search.

The jury was instructed under the former broad definition of "use." Since that definition is no longer viable, the convictions under Counts 5 and 10 cannot stand so far as "use" is concerned. However, §924(c)(1) has a second prong. The statute defines the offense as either "using or carrying" a firearm, the indictment alleges both, and the jury was instructed as to both.[1] Where, as here, the jury returned a general verdict, the verdict must be upheld if the evidence was sufficient to support either theory. See United States v. Parrish, 925 F.2d 1293, 1297 (10th Cir.1991); United States v. Morris, 977 F.2d 617, 620 n.1 (D.C.Cir.1992). The Court must next consider (1) the "carry" prong of §924(c)(1) and (2) whether the Bailey decision alters its application.

Under Tenth Circuit jurisprudence, the contention that carrying is narrowly restricted to weapons carried on the person or in a pocket was rejected in favor of a broader, more pragmatic

[1]The Court's instruction tends to describe the two terms as largely synonymous or overlapping, a circumstance also placed in doubt by Bailey.

test. Instead, carrying involves two elements: possession of the weapons through the exercise of dominion or control; and transportation or movement of the weapon. United States v. Martinez, 912 F.2d 419, 420 (10th Cir.1990)(citing United States v. Cardenas, 864 F.2d 1528 (10th Cir.), cert. denied, 491 U.S. 909 (1989)). The second element derives from the fact that a vast majority of the Tenth Circuit cases discussing the "carry" prong involve situations of firearms in automobiles. Otherwise stated, a defendant must knowingly have the power to exercise dominion and control over the firearm and must perform an act by which that power is manifested and implemented. See Cardenas, 864 F.2d at 1533.

The government has not argued Green's conviction under Count 5 can be sustained under the "carry" prong, and, upon the Court's independent review, the Court finds no basis to do so. Green was not present at the house when the firearms were found. He performed no act manifesting and implementing control over them. In United States v. Riascos-Suarez, 1996 WL 11015 (6th Cir.)(Jan.12, 1996), the Sixth Circuit held that Bailey, while discussing the "use" prong, "provides some guidance regarding the correct application of the 'carry' prong of section 924(c)(1)." As relevant here, the Sixth Circuit said that to be convicted under the "carry" prong, "a defendant must do more than possess or store a weapon." Specifically, "the firearm must be immediately available for use--on the defendant or within his or her reach. Such availability takes the weapon beyond simple possession or

storage." The standard as described by the Sixth Circuit post-Bailey arguably places less burden on the government than the pre-Bailey Tenth Circuit cases do. This Court need not resolve the question, because it is clear Green did not "carry" the firearms described in Count 5, under either standard.

As to Count 10, as already noted, Officer Yelton testified that when officers arrived at the North Boulder residence to execute a search warrant, he observed Green running down a hallway inside the house, carrying a firearm in his hand. During their search of the residence, the officers found the firearm in a closet. The search of the residence also revealed 55 grams of crack cocaine and $1,440.00. The government does not argue Green's holding of the weapon constituted "use", but contends he did "carry" the weapon.

Green argues that, because it is reasonable to conclude he was carrying the gun in order to hide it from the officers, its carriage was not "during and in relation to" a drug trafficking offense. The Court disagrees. One of the predicate offenses alleged in Count 10 is possession with intent to distribute crack cocaine. The drugs were found within the house, in an amount large enough to infer intent to distribute. The jury could have reasonably concluded the gun was present and was being carried to protect the drugs. Sufficient evidence was presented to support a conclusion the firearm furthered the purpose or effect of the crime and that its presence or involvement was not the result of coincidence. See Smith v. United States, 113 S.Ct. 2050, 2058-59

(1993). This was not the mere "inert presence of a firearm" held by Bailey as insufficient to trigger §924(c)(1). See 116 S.Ct. at 508. It is ironic, to say no more, that defendant might have escaped conviction on this Count had the evidence been he never touched the weapon, but the Court must interpret the law as it stands. The conviction under Count 10 remains valid under the "carry" prong of the statute.

Finally, the Court must resolve the following question: should the conviction in Count 5 be vacated for a new trial under the Bailey standard or should judgment of acquittal be granted? The conviction of Green under Count 5 is a paradigmatic example of conviction for "use" under the pre-Bailey standard. Evidence was presented of the proximity and accessibility of the two guns to drugs. The Supreme Court has now made clear "[a] defendant cannot be charged under § 924(c)(1) merely for storing a weapon near drugs or drug proceeds." Bailey, 116 S.Ct. at 508. The government argues (1) the guns were placed in the house for the "active employment" of protecting the drugs, (an argument which makes Bailey meaningless), and (2) both firearms were "displayed" within the house.

The Supreme Court did state "[t]he active-employment understanding of 'use' certainly includes brandishing, displaying, bartering, striking with, and most obviously, firing or attempting to fire, a firearm." Id. (emphasis added). What the Court had in mind is revealed earlier in the opinion as follows: "Under the interpretation we enunciate today, a firearm can be used without

being carried, e.g., when an offender has a gun on display during a transaction. . ." Id. at 507. In other words, "display" means intentionally placing in the view of another. One does not display a firearm to an empty house, and the circumstance of police officers entering the empty house does not put the firearm on display. In sum, the evidence which was presented at trial could not support a rational verdict of guilty on Count 5 under the Bailey standard. Accordingly, acquittal is appropriate.

It is the sua sponte Order of the Court that the verdict of guilty as to defendant Andre Lamont Green on Count 5 is hereby VACATED, and a judgment of acquittal is hereby entered as to Count 5. The convictions of defendant Green on the remaining Counts are unaffected by this Order.

ORDERED this 30 day of January, 1996.

TERRY C. KERN
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET
DATE 2-1-96

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 95-CR-113-K

MARK ALAN SCOTT
Defendant.

FILED
FEB 01 1996
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT

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

The defendant, MARK ALAN SCOTT, was represented by Jack Winn.

On motion of the defendant, the court has dismissed count(s) 4 of the Superseding Indictment.

The defendant pleaded guilty to count(s) 1, 2, 3, and 4 of the Superseding Indictment on October 11, 1995. On January 25, 1996, the court dismissed Count 4 of the Superseding Indictment. Accordingly, the defendant is adjudged guilty of count(s) 1, 2, and 3 of the Superseding Indictment, involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 841(a)(1) (b)(1)(D)	Possession of Marijuana With Intent to Distribute	08/28/95	1, 3
21 USC 856(a)(1)	Maintaining a Place for the Purpose of Manufacturing and Distributing Marijuana	08/28/95	2

As pronounced on January 25, 1996, 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 $ 150.00, 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 31 day of January, 1996.

Terry C. Kern
The Honorable Terry C. Kern
United States District Judge

Defendant's SSN: 446-68-4858
Defendant's Date of Birth: 06/24/59
efendant's residence and mailing address: Route 4, Box 234, Bixby, OK 74008

Defendant: MARK ALAN SCOTT
Case Number: 95-CR-113-K

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 12 months as to Counts 1, 2, and 3, each count to run concurrently, each with the other.

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: MARK ALAN SCOTT
Case Number: 95-CR-113-K

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to Counts 1, 2, and 3, each count 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 drugs, 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: MARK ALAN SCOTT
Case Number: 95-CR-113-K

FINE

The defendant shall pay a fine of $ 3,000.00 on Count 1. 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.

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: MARK ALAN SCOTT
Case Number: 95-CR-113-K

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 - Cts. 1, 2, & 3
Supervised Release Range:	2 to 3 years - Cts. 1, 2, & 3
Fine Range:	$ 2,000 to $ 500,000 - Cts. 1, 2, & 3
Restitution:	$ N/A

The sentence departs from the guideline range for the following reasons: The Court departs from the prescribed guideline range pursuant to USSG § 5K2.6 - Weapons and Dangerous Instrumentalities. In the commission of the offenses, the defendant possessed a high capacity, semiautomatic firearm, an especially dangerous weapon not contemplated by the sentencing commission in the weapons enhancement application of §2D1.1(b)(1). Accordingly, the court adds two points for this weapons possession, resulting in an offense level of 12, for a guideline departure range of 10 - 16 months.

ENTERED ON DOCKET
DATE 2-1-96

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

FILED
FEB 01 1996
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 95-CR-106-002-K

CHANIN CHILDRESS
Defendant.

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

The defendant, CHANIN CHILDRESS, was represented by Chadwick Richardson.

The defendant pleaded guilty to count(s) 1 of the Information on October 10, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1343 and 2(b)	Wire Fraud and Causing a Criminal Act	11/04/94	1

As pronounced on January 24, 1996, 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 $ 50.00, for count(s) 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 31 day of January, 1996.

Terry C. Kern
The Honorable Terry C. Kern
United States District Judge

Defendant's SSN: 440-86-2216
Defendant's Date of Birth: 04/05/69
Defendant's residence and mailing address: 1991 S. Jackson, #364, Tulsa, OK 74107

Defendant: CHANIN CHILDRESS
Case Number: 95-CR-106-002-K

IMPRISONMENT

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

The Court makes the following recommendations to the Bureau of Prisons: Classification provisions permitting, the Court recommends that Bureau of Prisons designate the Freedom House Community Corrections Center as the place of service of said sentence.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 p.m. on February 26, 1996.

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: CHANIN CHILDRESS
Case Number: 95-CR-106-002-K

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 be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 5 months, to commence within 72 hours of release from incarceration. 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. The entire cost of this program shall be paid by the defendant.

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: CHANIN CHILDRESS
Case Number: 95-CR-106-002-K

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of $7,000.00 on Count 1.

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

Name of Payee	Amount of Restitution
(Please see Attachment A)	

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 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.

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

Defendant: CHANIN CHILDRESS
Case Number: 95-CR-106-002-K

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report except: The Court finds that evidence does not support a 2 point enhancement provided by USSG § 2F1.1(b)(3)(A), and that defendant is a minor participant and a 2 level reduction is applicable pursuant to USSG § 3B1.2. The Court also reduces the offense level by 2 levels rather than 3 levels for acceptance of responsibility as proposed in the Presentence Investigation Report, for a total offense level of 10.

Guideline Range Determined by the Court:

Total Offense Level:	10
Criminal History Category:	II
Imprisonment Range:	8 months to 14 months
Supervised Release Range:	2 to 3 years
Fine Range:	$ 2,000 to $ 20,000
Restitution:	$ 38,140.00

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): 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 form the sentence called for by application of the guidelines.

Defendant: CHANIN CHILDRESS
Case Number: 95-CR-106-002-K

ATTACHMENT A

RESTITUTION AND FORFEITURE

Name of Payee	Amount of Restitution	Name of Payee	Amount of Restitution
		C.F.D.	
Donald Coupler P.O. Box 418 Onekama, MI	$ 54.69	Miss Izell Brown or Joseph E. Wilkenson, Jr. 1740 Holtville Rd. Wetumpka, AL 36092	$ 54.69
Elsie R. Caldwell Box 27 Walnut Grove, AL 35990	$ 54.69	Iva Harthoorn 205 8th Ave. Sully, IA 50251	$ 56.89
Mrs. Ida L. Gardner 9660 Lewis St. Baton Rouge, LA 70807-3852	$ 54.69	Lillian M. Miller 3814 N. West St. Wichita, KS 67205	$ 54.69
Irma M. Hedgpeth 301 Woodside Dr., NE Grand Rapids, MI	$ 36.71	Lena Olthoff 821 5th Ave. S.W. Pipestone, MN 56164	$ 18.34
Katherine T. and Frank Stanczyk, Jr. 369 Boston Ave. Youngstown, OH 44507	$ 91.35	Mr. or Mrs. Dorsey D. Wood 1400 Hunt Ct. Columbia, MO 65203	$ 54.69
Jean or Blaine E. Blakeley 715 - 37th Street Ogden, UT 84403	$ 54.69	Gladys B. Ortega Loma Verde Lane Rohnert Park, CA 94928	$ 54.69
Harvey Hammen 408 Edgewood Ave. Adell, WI 53001	$147.05	Martha Wurtsmith 513 S. Albany Yuma, CO 80759	$ 17.98
Betty or Lewis Taylor 829 Pohdon Lane Healdsburg, CA 95448	$ 36.33	James V. Johnson P.O. Box 1287 Dolan Springs, AZ 86441	$ 17.98
Pat McKinney 41 Varni RD Watsonville, CA 95076	$ 36.33	Jessie Robinson SR 1, Box 58 Birch River, WV 26610	$ 82.22
Lydia Rust Shirley Stehling Rt. 1, Box 1800 Comfort, TX 78013	$ 54.69	Dorothy G. King 135 S. 9th, Apt. 4 Springfield, OR 97477-5204	$ 54.69
Larence F. or Mildred Aves 18 Meadow LN Lake Ozark, MO 65049	$ 54.69	R.A. Virgen, Sr. Rt. 1, 415 Lakeview Catawissa, MO 63015	$ 73.05
Dorris E. Sirmons Rt. 1, Box 210 Pitts, GA 31072	$ 73.05	Ruth H. Rowland Rt. 3 Box 1091 Dubach, LA 71235	$ 54.69

Lois M. Roberts or Kathryn W. McCarrell 433 Roosevelt St. Midvale, UT 84047	$ 54.13
Evelyn Ann Hutting 2531 Barkley West Palm Beach, FL 33415	$ 54.69
Mrs. A. R. Crumpton 4008 N. 49th Ter. Birmingham, AL 35217	$ 36.33
Vanada V. Walters & Barbara Bullard 1119 West Drive Bluffs, IL 62621	$ 54.69
L.C. Fitzgerald, D.C. 210 O'Malley St., Apt. 204 Waunakee, WI 53597-1300	$ 54.69
Margaret C. Smith 14236 N.E. Eugene Ct. Portland, OR 97230	$ 81.12
Jean or Blaine Blakely 775 - 37th St. Ogden, UT 84403	$ 54.69
Elizabeth Evans 100 White Hampton Lane Pittsburg, PA 16286	$ 36.33
Wesley Meade P.O. Box 065 Printer, KY 41656-0006	$ 73.05
Charolette MacMillian 2801 N. 33rd Ave. Phoenix, AZ 85027	$ 36.71
J.O. Jenkins, O.D. 209 West Circle Dr. North Platte, NE 59101	$ 90.77
Florine Brown 422 Railroad Ave. Johnson, SC 29832	$ 54.69
Mary Weaver C/O Coos Bay Western Bank P.O. Box 1728 Coos Bay, OR 97420	$ 54.69
W.E. or Myrtle Keep 111 Sherry Dr. Whitehouse, TX 75791	$ 54.69
Mrs. J.W. Spilker 8135 Beechmond Ave. Cincinnati, OH 46255	$ 54.69
Francis Cook 246 Park St. Buckeye Lake, OH 43008	$ 54.69
Mellvina Wells C/O Trust Company Bank P.O. Box 4418 Atlanta, GA 30302	$ 73.23
Winona Russo C/O Sommerset Trust Company P.O. Box 147 Flemington, NJ 08822	$ 93.60
Helen B. McFarland Box 65 Conssville, OH 43811	$ 54.69
Mrs. Ruth B. Arnold P.O. Box 2211 Prairie View, TX 77445	$ 54.69
Irene Hatfield Imogene Nordman 16708 Mail Route Rd. Little Rock, AR 72206	$ 54.69
Mildred Shufeldt or Charles Shufeldt 215 East Elm Street Salem, IL 62881	$ 54.69
Barbara Rodgers 10719 W. 25th Odessa, TX 79762	$ 18.34
Grace Potts Rt. 1, Box 167 Dike, TX 75437	$ 17.98
Thomas Montgomery RR 2 Box 2 Skidmore, MO 644879401	$ 34.69
Bernice F. Mackey C/O Marion and Polk Schools Credit Union P.O. Box 12396 Salem, OR 93709	$ 36.33
Floyd Fennig 1456 St. Anthony Rd. Coldwater, OH 46828	$ 54.69
Anette Paschall Rt. 2, Box 106-B Petersburg, TN 37144-9206	$ 54.69
Louise Vaughn Rose Trust 1003 Myrtle Scott City, KS 67871	$ 54.69
Stella Davis 8709 Anvil Ct. Fort Worth, TX 78179	$ 18.34

Kathryn Lawhon 1281 North Road Churchville, NY 14428	$ 18.34	Doug or Lee McBee 1202 Logan Corpus Christi, TX 78404	$ 18.34
Clarence E. and Myrtle Byron 10312 - 126th SE Renton, WA 98056	$ 91.02	Dale M. Rosene 731 F St., No. 38 West Sacramento, CA 96591	$ 91.40
Ralph P. Botti 10129 Citrustree Rd. Whittier, CA 90603	$ 18.34	Leota Rogers RD 9 Canadagua, NY 14424	$ 73.05
William O'Neal Berry 2222 Waterford Place Birmingham, AL	$ 27.52	Martha McAllister South Wexford Ct Gastonia, NC 28154	$ 93.60
Alice Hipple Rt. 1, Box 20 Bloomington, NE 68929	$ 54.69	Florence Clemens 414 E. Beverkey St. Staunton, VA 24401	$ 72.67
Alice M. Smith P.O. Box 362 Flatonia, TX 78941	$ 18.34	Idella C. Wallace 511 E. 10th St. - No. 14 Delta, CO 814162547	$ 27.52
Mrs. Georgia L. Greene 6592 Watson Price Rd. Morganton, NC 28665	$ 54.69	Lou M. Watson 317 Cape Cod Corpus Christi, TX 78412	$ 54.69
Lloyd G. Sowers 123 Hudson St. Pineville, LA 71360	$ 51.93	Virginia B. Thompson P.O. Box 100 Tipton, TN 38071	$ 54.69
Lottie May Fraizer 319 Spaulding St. Aliquippa, PA 15001-3140	$ 54.69	Eileen C. Brown 447 State St. Curwensville, PA 18833	$ 54.69
L.M. or Annetta Dunn 5890 Lakeshore Rd. Port Huron, MI 48060	$ 54.69	Claire Schmicking 150 W. 2nd St., Apt. 253 Bayonne, NJ 07002	$ 36.33

C.P.A.

Lawrence Deppe 526 - 13th Ave. Dyersville, Iowa 52040	$ 54.69	Mrs. Olga L. Marshall 1850 Columbia Pike No. 313 Arlington, WA 22204	$ 36.33
W.R. or Morjorie Wills 324 Meadow Park Fort Worth, TX 76108	$ 18.34	Howard P. Rockafellow Floriene P. Rockafellow P.O. Box 440 Sublette, IL 61367	$ 36.33
Loretta M. Krug Lawrence or Laverne Krug 306 N. Clay Ave. Fowler, IN 47944	$ 36.33	William T. Jackson 1703A East St. Lockport, IL 60441	$ 54.69
Hazel J. Martin 3200 Bensalem Blvd #E209 Bensalem, PA 19020-1949	$ 36.33	James V. Johnson P.O. Box 1287 Dolan Springs, AZ 86441	$ 36.33
Delores K. Jones 2724 W. Rosevine Rd. Peoria, IL 61615	$ 36.33	Victoria M. Johnson 287 Athol Ave. Oakland, CA 94606	$ 36.33

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Lucy Mercado 5130 Saxon Houston, TX 77092	$ 18.34	Bernard D. Gividen 1836 Lakeland Rylvan Lake, MI	$ 36.33
Maurine Ridout 2775 Marsh Ave. Haverhill, LA 50120-9714	$ 18.34	Homer E. Allen 116 Jones St. Athens, TN 37303	$ 36.33
Anita R. Hundley 1737 Braeburn Dr., Apt. C-17 Salem, VA 24153	$ 54.69	Alice Hipple Rt. 1, Box 20 Bloomington, NE 68929	$ 72.67
Mary E. Sullivan P.O. Box 106 Meadow Grove, NE 68752	$ 54.69	Leo E. Nikolas Mrs. Leo Nikolas 1404 Quarry Road Floyd, IA 50436-8063	$ 73.05
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Natalie B. Thornton 39 W. Emerson St., Apt. 2 Melrose, MA 02176	$ 18.34
Geo J. Smith 1115 Polk St. No. 30 San Francisco, CA 94109	$ 73.04
Louise A. Pratt Charles O. Pratt, III 12191 Clipper Dr., Apt. 419 Lake Ridge, VA 22192	$ 18.43
Vona S. Tindle 415 Thigpen Dr., No. 801 Tyler, TX 75703	$ 36.71
Helen A. Mc Moyler 100 James Blvd Apt. S-514 Signal Mountain, TN 37377	$ 54.69

Doris I. Musso
James Musso
Harold B. Wagner
7216 Cartwright Ave.
Sun Valley, CA 91352

$ 54.69

Gayety Foth
959 Gillesbie Drive
Spring Valley, CO 91977

$ 45.88

Bonnie L. Swann
110 Buckingham Court
Goodlettsville, TN 37072-2146

$ 18.34

ENTERED ON DOCKET
DATE 2-1-96

UNITED STATES DISTRICT COURT
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 95-CR-106-001-K

FILED
FEB 01 1996
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT

JOE LESLEY MARTIN
Defendant.

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

The defendant, JOE LESLEY MARTIN, was represented by Chadwick Richardson.

The defendant pleaded guilty to count(s) 1 of the Information on October 10, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC 1343 and 2(b)	Wire Fraud and Causing a Criminal Act	11/04/94	1

As pronounced on January 24, 1996, 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 $ 50.00, for count(s) 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 31 day of January, 1996.

Terry C. Kern
The Honorable Terry C. Kern
United States District Judge

Defendant's SSN: 441-86-9162
Defendant's Date of Birth: 07/15/71
Defendant's residence and mailing address: 1911 South Jackson, No. 36H, Tulsa, OK 74107

Defendant: JOE LESLEY MARTIN
Case Number: 95-CR-106-001-K

IMPRISONMENT

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

The Court makes the following recommendations to the Bureau of Prisons: Classification provisions permitting, the Court recommends that the Bureau of Prisons designate the Freedom House Community Corrections Center as the place of service for this five month term.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 p.m. on February 26, 1996.

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: JOE LESLEY MARTIN
Case Number: 95-CR-106-001-K

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 be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 5 months, to commence within 72 hours of release from confinement. 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.

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: JOE LESLEY MARTIN
Case Number: 95-CR-106-001-K

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of $7,000.00.

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

Name of Payee	Amount of Restitution
(PLEASE SEE ATTACHMENT A)	

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 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.

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

Defendant: JOE LESLEY MARTIN
Case Number: 95-CR-106-001-K

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report except: The Court finds that the two level enhancement pursuant to USSG § 2F1.1(b)(3)(A) was not applicable in this case, and that the defendant should be afforded a two point reduction as a minor participant pursuant to USSG § 3B1.2(b), thereby reducing the offense level to 10.

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:	$ 38,140.23

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): 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: JOE LESLEY MARTIN
Case Number: 95-CR-106-001-K

ATTACHMENT A (Pages 1-6)

RESTITUTION AND FORFEITURE

Name of Payee	Amount of Restitution	Name of Payee	Amount of Restitution
		C.F.D.	
Donald Coupler P.O. Box 418 Onekama, MI	$ 54.69	Miss Izell Brown or Joseph E. Wilkenson, Jr. 1740 Holtville Rd. Wetumpka, AL 36092	$ 54.69
Elsie R. Caldwell Box 27 Walnut Grove, AL 35990	$ 54.69	Iva Harthoorn 205 8th Ave. Sully, IA 50251	$ 56.89
Mrs. Ida L. Gardner 9660 Lewis St. Baton Rouge, LA 70807-3852	$ 54.69	Lillian M. Miller 3814 N. West St. Wichita, KS 67205	$ 54.69
Irma M. Hedgpeth 301 Woodside Dr., NE Grand Rapids, MI	$ 36.71	Lena Olthoff 821 5th Ave. S.W. Pipestone, MN 56164	$ 18.34
Katherine T. and Frank Stanczyk, Jr. 369 Boston Ave. Youngstown, OH 44507	$ 91.35	Mr. or Mrs. Dorsey D. Wood 1400 Hunt Ct. Columbia, MO 65203	$ 54.69
Jean or Blaine E. Blakeley 715 - 37th Street Ogden, UT 84403	$ 54.69	Gladys B. Ortega Loma Verde Lane Rohnert Park, CA 94928	$ 54.69
Harvey Hammen 408 Edgewood Ave. Adell, WI 53001	$147.05	Martha Wurtsmith 513 S. Albany Yuma, CO 80759	$ 17.98
Betty or Lewis Taylor 829 Pohdon Lane Healdsburg, CA 95448	$ 36.33	James V. Johnson P.O. Box 1287 Dolan Springs, AZ 86441	$ 17.98
Pat McKinney 41 Varni RD Watsonville, CA 95076	$ 36.33	Jessie Robinson SR 1, Box 58 Birch River, WV 26610	$ 82.22
Lydia Rust Shirley Stehling Rt. 1, Box 1800 Comfort, TX 78013	$ 54.69	Dorothy G. King 135 S. 9th, Apt. 4 Springfield, OR 97477-5204	$ 54.69
Larence F. or Mildred Aves 18 Meadow LN Lake Ozark, MO 65049	$ 54.69	R.A. Virgen, Sr. Rt. 1, 415 Lakeview Catawissa, MO 63015	$ 73.05
Dorris E. Sirmons Rt. 1, Box 210 Pitts, GA 31072	$ 73.05	Ruth H. Rowland Rt. 3 Box 1091 Dubach, LA 71235	$ 54.69

Lois M. Roberts or Kathryn W. McCarrell 433 Roosevelt St. Midvale, UT 84047	$ 54.13
Evelyn Ann Hutting 2531 Barkley West Palm Beach, FL 33415	$ 54.69
Mrs. A. R. Crumpton 4008 N. 49th Ter. Birmingham, AL 35217	$ 36.33
Vanada V. Walters & Barbara Bullard 1119 West Drive Bluffs, IL 62621	$ 54.69
L.C. Fitzgerald, D.C. 210 O'Malley St., Apt. 204 Waunakee, WI 53597-1300	$ 54.69
Margaret C. Smith 14236 N.E. Eugene Ct. Portland, OR 97230	$ 81.12
Jean or Blaine Blakely 775 - 37th St. Ogden, UT 84403	$ 54.69
Elizabeth Evans 100 White Hampton Lane Pittsburg, PA 16286	$ 36.33
Wesley Meade P.O. Box 065 Printer, KY 41656-0006	$ 73.05
Charolette MacMillian 2801 N. 33rd Ave. Phoenix, AZ 85027	$ 36.71
J.O. Jenkins, O.D. 209 West Circle Dr. North Platte, NE 59101	$ 90.77
Florine Brown 422 Railroad Ave. Johnson, SC 29832	$ 54.69
Mary Weaver C/O Coos Bay Western Bank P.O. Box 1728 Coos Bay, OR 97420	$ 54.69
W.E. or Myrtle Keep 111 Sherry Dr. Whitehouse, TX 75791	$ 54.69
Mrs. J.W. Spilker 8135 Beechmond Ave. Cincinnati, OH 46255	$ 54.69
Francis Cook 246 Park St. Buckeye Lake, OH 43008	$ 54.69
Mellvina Wells C/O Trust Company Bank P.O. Box 4418 Atlanta, GA 30302	$ 73.23
Winona Russo C/O Sommerset Trust Company P.O. Box 147 Flemington, NJ 08822	$ 93.60
Helen B. McFarland Box 65 Conssville, OH 43811	$ 54.69
Mrs. Ruth B. Arnold P.O. Box 2211 Prairie View, TX 77445	$ 54.69
Irene Hatfield Imogene Nordman 16708 Mail Route Rd. Little Rock, AR 72206	$ 54.69
Mildred Shufeldt or Charles Shufeldt 215 East Elm Street Salem, IL 62881	$ 54.69
Barbara Rodgers 10719 W. 25th Odessa, TX 79762	$ 18.34
Grace Potts Rt. 1, Box 167 Dike, TX 75437	$ 17.98
Thomas Montgomery RR 2 Box 2 Skidmore, MO 644879401	$ 34.69
Bernice F. Mackey C/O Marion and Polk Schools Credit Union P.O. Box 12396 Salem, OR 93709	$ 36.33
Floyd Fennig 1456 St. Anthony Rd. Coldwater, OH 46828	$ 54.69
Anette Paschall Rt. 2, Box 106-B Petersburg, TN 37144-9206	$ 54.69
Louise Vaughn Rose Trust 1003 Myrtle Scott City, KS 67871	$ 54.69
Stella Davis 8709 Anvil Ct. Fort Worth, TX 78179	$ 18.34

Kathryn Lawhon 1281 North Road Churchville, NY 14428	$ 18.34	Doug or Lee McBee 1202 Logan Corpus Christi, TX 78404	$ 18.34
Clarence E. and Myrtle Byron 10312 - 126th SE Renton, WA 98056	$ 91.02	Dale M. Rosene 731 F St., No. 38 West Sacramento, CA 96591	$ 91.40
Ralph P. Botti 10129 Citrustree Rd. Whittier, CA 90603	$ 18.34	Leota Rogers RD 9 Canadagua, NY 14424	$ 73.05
William O'Neal Berry 2222 Waterford Place Birmingham, AL	$ 27.52	Martha McAllister South Wexford Ct Gastonia, NC 28154	$ 93.60
Alice Hipple Rt. 1, Box 20 Bloomington, NE 68929	$ 54.69	Florence Clemens 414 E. Beverkey St. Staunton, VA 24401	$ 72.67
Alice M. Smith P.O. Box 362 Flatonia, TX 78941	$ 18.34	Idella C. Wallace 511 E. 10th St. - No. 14 Delta, CO 814162547	$ 27.52
Mrs. Georgia L. Greene 6592 Watson Price Rd. Morganton, NC 28665	$ 54.69	Lou M. Watson 317 Cape Cod Corpus Christi, TX 78412	$ 54.69
Lloyd G. Sowers 123 Hudson St. Pineville, LA 71360	$ 51.93	Virginia B. Thompson P.O. Box 100 Tipton, TN 38071	$ 54.69
Lottie May Fraizer 319 Spaulding St. Aliquippa, PA 15001-3140	$ 54.69	Eileen C. Brown 447 State St. Curwensville, PA 18833	$ 54.69
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John Patrick R.R. 1, Box 217 Clarksville, MO 63336	$ 18.34
Elsie M. Shoemaker 4731 Talus Way Carmichael, CA 95608	$ 54.69
Natalie B. Thornton 39 W. Emerson St., Apt. 2 Melrose, MA 02176	$ 18.34
Geo J. Smith 1115 Polk St. No. 30 San Francisco, CA 94109	$ 73.04
Louise A. Pratt Charles O. Pratt, III 12191 Clipper Dr., Apt. 419 Lake Ridge, VA 22192	$ 18.43
Vona S. Tindle 415 Thigpen Dr., No. 801 Tyler, TX 75703	$ 36.71
Helen A. Mc Moyler 100 James Blvd Apt. S-514 Signal Mountain, TN 37377	$ 54.69

Doris I. Musso James Musso Harold B. Wagner 7216 Cartwright Ave. Sun Valley, CA 91352	$ 54.69
Gayety Foth 959 Gillesbie Drive Spring Valley, CO 91977	$ 45.88
Bonnie L. Swann 110 Buckingham Court Goodlettsville, TN 37072-2146	$ 18.34